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WEDNESDAY, MARCH 21, 1979



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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
| DOT/COAST GUARD | USDA/ASCS  |           | DOT/COAST GUARD | USDA/ASCS  |
| DOT/NHTSA       | USDA/APHIS |           | DOT/NHTSA       | USDA/APHIS |
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| DOT/OHMO        | USDA/FSQS  |           | DOT/OHMO        | USDA/FSQS  |
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| CSA             | MSPB*/OPM* |           | CSA             | MSPB*/OPM* |
|                 | LABOR      |           |                 | LABOR      |
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\*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

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## reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list, has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

### Next Week's Deadlines for Comments On Proposed Rules

#### AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—  
Importation of cattle exposed to splenic, southern or tick fever or fever ticks; comments by 3-29-79 ..... 60932; 12-29-78  
Commodity Credit Corporation—  
1979 Crop Honey Price support program; comments by 3-26-79 ..... 5456; 1-26-79  
Farmers Home Administration—  
Community facility loans; revision and redesignation of regulations; comments by 4-2-79 ..... 6351; 2-1-79  
Food and Nutrition Service—  
Audits of certain FNS programs; interim regulations; comments by 3-30-79 ..... 59823; 12-22-78  
School Breakfast Program; comments by 3-27-79 ..... 5449; 1-26-79

#### COMMERCE DEPARTMENT

Industry and Trade Administration—  
Short supply controls, need for validated licensing of petroleum coke exports; comments by 3-26-79 ..... 11239; 2-28-79  
National Oceanic and Atmospheric Administration—  
Tanner Crabs off Alaska; partial closure of fisheries; comments by 3-29-79 ..... 5885; 1-30-79

#### CONSUMER PRODUCT SAFETY COMMISSION

Hazardous aluminized polyester film kites; comments by 3-27-79 ..... 5459; 1-26-79

#### DEFENSE DEPARTMENT

Navy Department—  
New Regional Medical Center; availability of draft environmental impact statement; comments by 3-30-79 ..... 12477; 3-7-79

#### ENERGY DEPARTMENT

Economic Regulatory Administration—  
Powerplant and Industrial Fuel Use Act of 1978; implementation; comments by 3-26-79 ..... 5808; 1-29-79  
Powerplant and Industrial Fuel Use Act (existing facilities); implementation; comments by 3-26-79 ..... 5809; 1-29-79  
Standby petroleum product allocation regulations; notice of activation order to update the motor gasoline allocation base period; comments by 3-30-79 ..... 11202; 2-28-79

#### ENVIRONMENTAL PROTECTION AGENCY

Grants for restoring publicly owned freshwater lakes, state and local assistance; comments by 3-30-79 ..... 5685; 1-29-79  
Toxic substances control; premanufacture notification requirements; comments by 3-26-79 (2 documents) ..... 2242; 1-10-79; 6957; 2-5-79

#### FEDERAL COMMUNICATIONS COMMISSION

AM stereophonic broadcasting; standards for service; reply comments by 3-30-79 ..... 48659; 10-19-78; 1765; 1-8-79; 11568; 3-1-79  
Amateur radio services, handicapped operator license applicants, telegraphy examinations; comment period extended to 3-30-79 ..... 56251; 12-1-78 [Originally published at 43 FR 37729, 8-24-78]

#### FEDERAL DEPOSIT INSURANCE CORPORATION

Practice and procedure; rules of construction; comments by 3-29-79 ..... 11073; 2-27-79

#### FEDERAL TRADE COMMISSION

Advertising of veterinary goods and services; intent to temporarily forego proposed rulemaking; comments by 3-31-79 ..... 60954; 12-29-78  
General Motors Corp.; consent agreement with analysis to aid public comment; comments by 3-27-79 ..... 5457; 1-26-79  
Hearing aid industry; staff report and report of the Presiding Officer; comments by 3-29-79 ..... 15514; 3-14-79 [Originally published at 43 FR 54103, 11-20-78]

#### GENERAL SERVICES ADMINISTRATION

Federal property management; temporary rules on commercial products; comments by 3-30-79 ..... 12031; 3-5-79

#### HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—  
Financial assistance to local educational agencies to meet the special educational needs of educationally deprived, neglected and delinquent children; evaluation requirements; comments by 3-26-79 ..... 7914; 2-7-79  
Food and Drug Administration—  
Intent to establish standard for cocoa butters; comments by 3-26-79 ..... 10740; 2-23-79  
Pyrogen test for certain penicillin drugs; comments by 3-26-79 ..... 54623; 1-26-79  
Health Care Financing Administration—  
Medicare program, cost to related organizations; comments by 3-27-79 ..... 5479; 1-26-79  
Medicare program, reimbursement for radiological services furnished to a hospital inpatient by a physician in the field of radiology; comments by 3-26-79 ..... 5162; 1-25-79

#### Office of the Secretary—

Contract clauses; procurement forms; comments by 3-26-79 ..... 7763; 2-7-79  
Social Security Administration—  
Supplemental security income for the aged and disabled; revision and reorganization of rules; comments by 4-2-79 ..... 6429; 2-1-79

#### INTERIOR DEPARTMENT

Fish and Wildlife Service—  
Alaska National Wildlife Monuments, intent to propose rules; comments by 3-30-79 ..... 11247; 2-28-79  
Land Management Bureau—  
Outer Continental Shelf Mineral Leasing Program; implementation; comments by 4-2-79 ..... 6471; 2-1-79  
National Park Service—  
Alaska National Monument, notice of intent to propose rulemaking; comments by 3-30-79 ..... 11242; 2-28-79  
Big Cypress National Preserve, Fla.; establishment of special regulations; comments by 3-30-79 ..... 5680; 1-29-79

#### INTERSTATE COMMERCE COMMISSION

Tariffs and schedules; statements of intent by 3-28-79 ..... 12718; 3-8-79

#### JUSTICE DEPARTMENT

Immigration and Naturalization Service—  
Aliens, bringing in and harboring; illegal; seizure of vessels, vehicles, and aircraft; comments by 3-30-79 ..... 5671; 1-29-79  
Border crossing cards, nonresident alien; voidance on grounds of residence in Canada or Mexico; comments by 3-30-79 ..... 5668; 1-29-79  
Immigrant visa petitions for adopted alien children, implementation of Pub. L. 95-417; comments by 3-26-79 ..... 5059; 1-25-79  
Nonimmigrant classes; applications to accept employment by A-1 and A-2 aliens; comments by 3-30-79 ..... 5669; 1-29-79

#### LABOR DEPARTMENT

Occupational Safety and Health Administration—  
Access to employee exposure and medical records confidentiality and employee medical records; comments by 3-30-79 ..... 11096; 2-27-79

#### NATIONAL CREDIT UNION ADMINISTRATION

Revision of method of assessing fees on Federal credit unions; comments by 3-26-79 ..... 11785; 3-2-79

#### PERSONNEL MANAGEMENT OFFICE

Career and career-conditional employment, temporary and term employment, training, pay administration and retirement; comments by 3-26-79 ..... 4649; 1-23-79

#### POSTAL SERVICE

Revocation of special bulk third-class rate authorizations for nonuse; comments by 3-30-79 ..... 11246; 2-28-79

### REMINDERS—Continued

#### ARTS AND HUMANITIES, NATIONAL FOUNDATION

Dance Advisory Panel, Washington, D.C. (closed); 3-31 through 4-2-79 ..... 14652; 3-13-79  
Humanities Panel, Washington, D.C. (closed); 3-26 through 3-30-79 ..... 12301; 3-6-79  
Theater Advisory Panel, Washington, D.C. (closed); 3-30 through 4-1-79 ..... 14653; 3-13-79  
Visual Arts Advisory Panel (Services to the Field), Washington, D.C. (closed); 3-26 through 3-28-79 ..... 14653; 3-13-79

#### CIVIL AERONAUTICS BOARD

Computer Peripherals, Components and Related Test Equipment; Technical Advisory Committee, Memory and Media Subcommittee, Washington, D.C. (partially closed); 3-28-79 ..... 12725; 3-8-79

#### CIVIL RIGHTS COMMISSION

Advisory Committee, various states:  
Hawaii; Honolulu, Hawaii (open), 3-30-79 ..... 14612; 3-13-79  
Nebraska; Scottsbluff, Nebr. (open), 3-31-79 ..... 13058; 3-9-79

#### COMMERCE DEPARTMENT

Industry and Trade Administration—  
Computer Peripherals, Components and Related Test Equipment; Technical Advisory Committee, Washington, D.C. (partially open); 3-29-79 ..... 14613; 3-13-79  
National Oceanic and Atmospheric Administration—  
Gulf of Mexico and South Atlantic Fishery Management Council's Coral Reef Resources Subpanels, Tampa, Fla. (open), 3-29-79 ..... 13059; 3-9-79

#### COMMODITY FUTURES TRADING COMMISSION

State Jurisdiction and Responsibilities under the Commodity Exchange Act Advisory Committee, Washington, D.C. (open), 3-30-79 ..... 14618; 3-13-79

#### CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council, Washington, D.C. (open), 3-26 and 3-27-79 ..... 13061; 3-9-79

#### DEFENSE DEPARTMENT

Air Force Department—  
Air University Board of Visitors, Maxwell Air Force Base, Alabama (open), 3-27-79 ..... 11104; 2-27-79  
Scientific Advisory Board, Washington, D.C. 3-29 and 3-30-79 13558; 3-12-79  
Army Department—  
National Board for The Promotion of Rifle Practice, Arlington, Va. (partially open), 3-29-79 ..... 11821; 3-2-79  
Navy Department—  
Chief of Naval Operations Executive Panel Advisory Committee, Washington, D.C. (closed), 3-28 and 3-29-79 ..... 12726; 3-8-79  
Mojave "B" North and South Ranges, Naval Weapons Center, Washington, D.C. (open), 3-28-79 ..... 14620; 3-13-79  
Naval Research Advisory Committee, Washington, D.C. (closed), 3-26 and 3-27-79 ..... 12726; 3-8-79

Office of the Secretary—  
Defense Science Board Task Force on Naval Surface Ship Vulnerability, Washington, D.C. (closed), 3-27-79 ..... 12728; 3-8-79

#### ENERGY DEPARTMENT

Economic Regulatory Administration—  
Fuel Oil Marketing Advisory Committee, Washington, D.C. (open), 3-29-79 ..... 11161; 2-27-79

#### ENVIRONMENTAL PROTECTION AGENCY

Management Advisory Group to the Municipal Construction Division, Tempe, Ariz. (open), 3-27 through 3-29-79 ..... 12103; 3-5-79  
Science Advisory Board, Houston Air Quality Subcommittee, Houston, Texas (open), 3-30-79 ..... 15533; 3-14-79  
State FIFRA Issues Research and Evaluation Group, Washington, D.C. (open), 3-26-79 ..... 12494; 3-7-79

#### FINE ARTS COMMISSION

Washington, D.C. (open), 3-27-79 ..... 12080; 3-5-79

#### GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services, Auburn, Wash. (open), 3-30-79 ..... 15540; 3-14-79

#### HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—  
Board of Scientific Counselors, NIMH, Bethesda, Md. (partially closed), 3-29-79 ..... 10630; 2-22-79  
Disease Control Center—  
National Institute for Occupational Safety and Health, Cincinnati, Ohio (open), 3-27 through 3-29-79 ..... 14636; 3-13-79  
Education Office—  
Advisory Council on Developing Institutions, Washington, D.C. (open), 3-26 and 3-27-79 ..... 13083; 3-9-79  
Food and Drug Administration—  
Circulatory Devices Panel, Washington, D.C. (partially open), 3-30-79 ..... 10788; 2-23-79  
Consumer exchange meeting, Norfolk, Va. (open), 3-30-79 ..... 14637; 3-13-79  
Health Care Financing Administration—  
National Professional Standards Review Council, Washington, D.C. (open), 3-26 and 3-27-79 ..... 11271; 2-28-79  
National Institutes of Health—  
Board of Scientific Counselors, Bethesda, Md. (partially open), 3-26 through 3-28-79 ..... 9427; 2-13-79  
Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, Bethesda, Md. (partially open), 3-27 through 3-30-79 ..... 10550; 2-21-79  
Cancer Control Merit Review Committee, Bethesda, Md. (partially open), 3-26-79 ..... 7816; 2-7-79  
Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (partially open), 3-29 and 3-30-79 ..... 11125; 2-27-79  
Heart, Lung, and Blood Research Review Committee, A, Bethesda, Md. (partially open), 3-30-79 ..... 14642; 3-13-79

#### SECURITIES AND EXCHANGE COMMISSION

Exemption of acquisition of securities during the existence of underwriting syndicate; comments by 3-30-79 ..... 10580; 2-21-79

#### SMALL BUSINESS ADMINISTRATION

Small business and capital ownership development program; comments by 3-26-79 ..... 5320; 1-25-79

#### TRANSPORTATION DEPARTMENT

Coast Guard—  
Drawbridge operations:  
Atlantic Intracoastal Waterway, Atlantic Beach, N.C., comments by 3-26-79 ..... 10995; 2-26-79  
Tows navigating Pass Manchac, La.; comments by 3-28-79 ..... 5680; 1-29-79 [Originally published at 43 FR 59524, 12-21-78]  
Federal Aviation Administration—  
Aircraft loan guarantee program; comments by 3-25-79 ..... 5153; 1-25-79  
Rotocraft Regulatory Review Program; invitation to submit proposals for consideration; proposals by 3-31-79 ..... 3250; 1-15-79  
Federal Highway Administration—  
National maximum speed limit; maximum vehicle size and weight; certification of speed limit enforcement; comments by 3-20-79 ..... 59464; 12-20-78  
National Highway Traffic Safety Administration—  
Bumper standards; comments by 3-30-79 ..... 11569; 3-1-79  
National Highway Traffic Safety Administration—  
Bus window retention and release, motor vehicle safety standards; comments by 3-25-79 ..... 7961; 2-8-79

#### VETERANS ADMINISTRATION

Part-time career employment program; comments by 3-30-79 ..... 11245; 2-28-79

### Next Week's Meetings

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Informal Action Committee, Washington, D.C. (open), 3-26-79 ..... 14608; 3-13-79  
Rulemaking and Public Information Committee, Washington, D.C. (open), rescheduled from 3-23-79 to 3-30-79 ..... 11572; 3-1-79  
[Originally published at 44 FR 6167, Jan. 31, 1979]

#### AGING, FEDERAL COUNCIL

Aging Council, Washington, D.C. (open), 3-29 and 3-30-79 ..... 14636; 3-13-79  
Senior Services Committee, Cincinnati, Ohio (open), 3-27-79 ..... 12107; 3-5-79

#### AGRICULTURE DEPARTMENT

Forest Service—  
Uinta National Forest Grazing Advisory Board, Provo, Utah (open), 3-30-79 ..... 6485; 2-1-79



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Lipid Metabolism Advisory Committee, Bethesda, Md. (partially open), 3-28 and 3-29-79 ..... 10551; 2-21-79  
National Arthritis Advisory Board, Community Programs and Rehabilitation Work Group, Bethesda, Md. (open), 3-26 and 3-27-79 ..... 12764; 3-8-79  
President's Cancer Panel, Bethesda, Md. (open), 3-26-79 ..... 6785; 2-2-79  
Office of the Secretary—  
Board of Advisors to the Fund for the Improvement of Postsecondary Education, San Francisco, Calif. (open), 3-25 and 3-26-79 ..... 12109; 3-5-79

### INTERIOR DEPARTMENT

Land Management Bureau—  
California Desert Conservation Area Advisory Committee, Riverside, Calif. (open), 3-29 through 3-31-79 .. 11619; 3-1-79  
Initial wilderness inventory of public lands, Big Piney, Wyo. (open), 3-27-79 7820; 2-7-79  
Initial wilderness inventory of public lands, Kemmerer, Wyo. (open), 3-29-79 7820; 2-7-79  
Rawlins District Grazing Advisory Board, Rawlins, Wyo. (open), 3-30-79 .. 14644; 3-13-79  
Susanville District Grazing Advisory Board, Susanville, Calif. (open), 3-28-79 .. 11129; 2-27-79  
Winnemucca District Grazing Advisory Board, Winnemucca, Nev. (open), 3-27-79 ..... 12773; 3-8-79  
National Park Service—  
Indiana Dunes National Lakeshore Advisory Commission, Chesterton, Ind. (open), 3-30-79 ..... 12111; 3-5-79  
Office of the Secretary—  
Outer Continental Shelf Advisory Board, Mid-Atlantic Region Policy Committee, Trenton, N.J. (open), 3-28-79 ... 14646; 3-13-79

### INTERNATIONAL TRADE COMMISSION

Sunshine Act meeting, Washington, D.C. (partially open), 3-25-79 .. 12331; 3-6-79

### JUSTICE DEPARTMENT

Attorney General's Office—  
United States Circuit Judge Nominating Commission; Southern Ninth Circuit Panel, San Francisco, Calif. (closed), 3-30 and 3-31-79 ..... 14647; 3-13-79  
Prisons Bureau—  
National Institute of Corrections Advisory Board, Atlanta, Ga. (open), 3-25-79 .. 13088; 3-9-79

### LABOR DEPARTMENT

Labor Statistics Bureau—  
Business Research Advisory Council's Committee on Manpower and Employment, Washington, D.C. (open), 3-26-79 ..... 12287; 3-6-79

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council (NAC); Aeronautics Advisory Committee, Hampton, Va. (open), 3-29 and 3-30-79 ..... 13594; 3-12-79

### NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

Meeting, Washington, D.C. (open), 3-28 and 3-29-79 ..... 12784; 3-8-79—15814; 3-15-79

### NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Palo Verde Nuclear Generating Station, Units 4 and 5, Phoenix, Ariz. (partially open), 3-27 and 3-29-79 ..... 4056; 1-19-79—11279; 2-28-79—15545; 3-14-79  
Advisory Committee on Reactor Safeguards, Subcommittee on Power and Electrical Systems, Phoenix, Ariz., 3-30-79 .. 11279; 2-28-79

### SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council, Orlando, Fla. (open), 3-28-79 ..... 12791; 3-8-79  
Region VI Advisory Council, Little Rock, Ark. (open), 3-29-79 ..... 6242; 1-31-79  
Region VI Advisory Council, Lubbock, Tex. (open), 3-30-79 ..... 15553; 3-14-79

### STATE DEPARTMENT

Agency for International Development—  
Advisory Committee on the 1979 World Administrative Radio Conference, Washington, D.C. (open), 3-28-79 ..... 12792; 3-8-79  
Board for International Food and Agricultural Development, Washington, D.C. (open), 3-29-79 ..... 15554; 3-14-79

### TRANSPORTATION DEPARTMENT

Coast Guard—  
Chemical Transportation Advisory Committee, Subcommittee on Bulk Liquid Facilities, Washington, D.C. (open), 3-28-79 ..... 13617; 3-12-79  
Federal Aviation Administration—  
High Altitude Pollution Program Scientific Advisory Committee, Washington, D.C. (open), 3-28 through 3-30-79 .. 15822; 3-15-79  
Radio Technical Commission for Aeronautics; Special Committee 135—Environmental Conditions and Test Procedures for Electronic/Electrical Equipment and Instruments, Washington, D.C. (open), 3-27 through 3-30-79 .. 12792; 3-8-79  
Saint Lawrence Seaway Development Corporation—  
Advisory Board, Washington, D.C. (open), 4-6-79 ..... 15555; 3-14-79

### UNEMPLOYMENT COMPENSATION NATIONAL COMMISSION

Southfield, Michigan, 3-29 through 3-31-79 ..... 5542; 1-26-79

### VETERANS ADMINISTRATION

Administrator's Education and Rehabilitation Advisory Committee, Washington, D.C. (open), 3-29-79 ..... 13620; 3-12-79

### Next Week's Public Hearings

### AGING, FEDERAL COUNCIL

Senior Services Committee, Cincinnati, Ohio, 3-26-79 ..... 12107; 3-5-79

### COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—  
Precious coral fisheries of the Western Pacific Region, Pago Pago, American Samoa, 3-27-79 ..... 11573; 3-1-79

### DEFENSE DEPARTMENT

Air Force Department—  
Flight operations in the Sells Airspace overlying the Papago Indian Reservation, Southern Arizona, 3-27-79 .. 13062; 3-9-79

### ENERGY DEPARTMENT

Economic Regulatory Administration—  
Standby petroleum product allocation regulations, notice of activation order to update the motor gasoline allocation base period; Washington, D.C., 3-27-79 ..... 11202; 2-28-79

### INTERIOR DEPARTMENT

Indian Affairs Bureau—  
Land acquisition, Seattle, Wash., 3-28-79 ..... 12458; 3-7-79

### TENNESSEE VALLEY AUTHORITY

Public Utility Regulatory Policies Act of 1978, consideration of service practice standards, Paducah, Ky., 3-30-79 ..... 2448; 1-11-79

### TRANSPORTATION DEPARTMENT

Coast Guard—  
Inert gas and deck foam systems, San Francisco, Calif., 3-28-79 .. 12717; 3-8-79  
Tank vessels; design, equipment, operating and personnel standards, Washington, D.C., 3-28-79 ..... 8984; 2-12-79  
Tank vessels; improved steering gear standards, Washington, D.C., 3-28-79 .. 9035; 2-12-79

### TREASURY DEPARTMENT

Internal Revenue Service—  
Certain cemetery companies and crematoria, exemption from taxation, Washington, D.C., 3-29-79 ..... 10518; 2-21-79

### List of Public Laws

This is a continuing numerical listing of public bills which have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

(Last Listing: March 9, 1979)

### Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the FEDERAL REGISTER during the previous week.

### Deadlines for Comments on Proposed Rules:

DOE—Energy conservation; grants program for schools and hospitals and buildings owned by local governments and public care institutions; availability of environmental assessment; comments by 3-23-79 .. 13554; 3-12-79  
HEW/PHS—Adolescent pregnancy prevention and services; comments by 5-11-79 ..... 13549; 3-12-79

## REMINDERS—Continued

Interior/HCRS—Urban Park and Recreation Recovery Act of 1978, criteria for eligibility and list of eligible jurisdictions; comments by 5-20-79 ..... 15486; 3-14-79

### Applications Deadlines:

HEW/OE—Law School Clinical Experience Program; announcement of funding criteria and grants availability; apply by 5-11-79 ..... 16041; 3-16-79  
Justice/LEAA—Incapacitation as crime control strategy; proposals due by 5-1-79 ..... 15803; 3-15-79  
Investigative information and behavior, proposals by 5-30-79 .. 15803; 3-15-79  
Nature and patterns of homicide; competitive research grant; proposals due by 4-30-79 ..... 13594; 3-12-79

### Meetings:

ACUS—Grants Benefits and Contracts Committee, Washington, D.C. (open), 4-3-79 ..... 15753; 3-15-79

HEW/NIH: Biomedical Engineering and Instrumentation Branch, April 24 through April 26, 1979 meeting cancelled ..... 14641; 3-13-79  
Biometry and Epidemiology Contract Review Committee, March 16, 1979 meeting cancelled ..... 14641; 3-13-79  
Board of Scientific Counselors, National Heart, Lung, and Blood Institute, Bethesda, Md. (partially open) 4-25 and 4-26-79 ..... 1462; 3-13-79  
Epilepsy Advisory Committee, Bethesda, Md. (open), 5-11-79 ... 14642; 3-13-79  
Heart, Lung and Blood Research Review Committee A, Bethesda, Md. (partially open), 3-30-79 ..... 14642; 3-13-79  
Mental Retardation Research Committee, Bethesda, Md. (partially open), 4-16 through 4-18-79 ..... 14642; 3-13-79  
Minority Access to Research Careers Review Committee, (partially open), 4-6 and 4-7-79 ..... 14643; 3-13-79

National Diabetes Advisory Board, Bethesda, Md. (open), 4-2 and 4-3-79 14643; 3-13-79  
NFAH—Dance Advisory Panel, Washington, D.C. (closed), 3-31 through 4-3-79 .. 14652; 3-13-79  
Music Advisory Panel (Challenge Grants), Washington, D.C. (closed), 4-10 and 4-11-79 ..... 14652; 3-13-79  
Opera-Musical Theater Advisory Panel, Washington, D.C. (closed), 4-5 and 4-6-79 ..... 14652; 3-13-79  
Special Projects Advisory Panel, Washington, D.C. (closed), 4-5 through 4-7-79 ..... 15803; 3-13-79  
Theater Advisory Panel, Washington, D.C. (closed), 3-30 through 4-1-79 .. 14653; 3-13-79  
Visual Arts Advisory Panel (Services to the Field), Washington, D.C. (closed), 3-26 through 3-28-79 ..... 14653; 3-13-79



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## presidential documents

Title 3—  
The President

Proclamation 4647 of March 20, 1979

Vietnam Veterans Week, 1979

By the President of the United States of America

### A Proclamation

We are a peace-seeking Nation and we are at peace, but we must not forget the lessons war has taught us, nor the brave men and women who have sacrificed so much for us in all our wars.

The decade now drawing to a close began in the midst of a war that was the longest and most expensive in our history, and the most costly in human lives and suffering. Because it was a divisive and painful period for all Americans, we are tempted to want to put the Vietnam war out of our minds. But it is important that we remember—honestly, realistically, with humility.

It is important, too, that we remember those who answered their Nation's call in that war with the full measure of their valor and loyalty, that we pay full tribute at last to all Americans who served in our Armed Forces in Southeast Asia. Their courage and sacrifices in that tragic conflict were made doubly difficult by the Nation's lack of agreement as to what constituted the highest duty. Instead of glory, they were too often met with our embarrassment or ignored when they returned.

The honor of those who died there is not tarnished by our uncertainty at the moment of their sacrifice. To them we offer our respect and gratitude. To the loved ones they left behind, we offer our concern and understanding and our help to build new lives. To those who still bear the wounds, both physical and psychic, from all our wars, we acknowledge our continuing responsibility.

Of all the millions of Americans who served in Southeast Asia, the majority have successfully rejoined the mainstream of American life.

To them, and to all who served or suffered in that war, we give our solemn pledge to pursue all honorable means to establish a just and lasting peace in the world, that no future generation need suffer in this way again.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon all Americans to observe May 28 through June 3, 1979, the week of our traditional Memorial Day, as Vietnam Veterans Week. On this occasion, let us as a Nation express our sincere thanks for the service of all Vietnam era veterans.

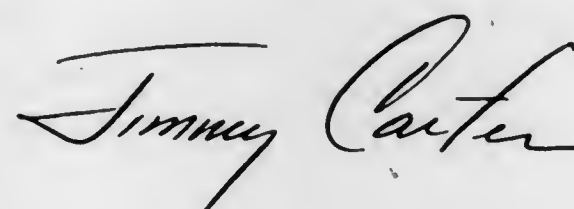
I urge my fellow citizens and my fellow veterans, and their groups and organizations, to honor the patriotism of these veterans, and to recognize their civilian contributions to their communities in America today.



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I call upon the state and local governments to join with me in proclaiming Vietnam Veterans Week, and to publicly recognize with appropriate ceremonies and activities yesterday's service and today's contributions of Vietnam era veterans.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of March, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 79-8812  
Filed 3-20-79; 11:43 am]  
Billing code 3195-01-M

## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6355-01-M]

### Title 16—Commercial Practices

#### CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

##### SUBCHAPTER E—POISON PREVENTION PACKAGING ACT OF 1970 REGULATIONS

##### PART 1700—POISON PREVENTION PACKAGING

###### Exemption From Child-Resistant Packaging Standards of Certain Betamethasone Tablets

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission issues a final amendment under the Poison Prevention Packaging Act of 1970 (PPPA) to exempt betamethasone tablets in manufacturers' dispenser packages containing no more than 12.6 milligrams betamethasone from the special packaging requirements imposed by the act. The Commission's decision to grant an exemption is based on toxicity and injury data indicating a low risk of injury associated with possible accidental ingestion of the drug in the amount requested for exemption by the petitioner, Schering Corporation.

EFFECTIVE DATE: This amendment is effective March 21, 1979.

###### FOR FURTHER INFORMATION CONTACT:

Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6400.

###### SUPPLEMENTARY INFORMATION:

###### BACKGROUND

Regulations issued under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476) establish child-protection packaging requirements for human oral prescription drugs in order to protect children from serious personal injury or illness resulting from handling, using, or ingesting these substances.

On May 5, 1976, the Commission proposed an exemption to the child-resistant packaging regulations for pre-

scription drugs in oral form (16 CFR 1700.14(a)(10)) in response to a petition (PP 75-1) from Schering Corporation requesting an exemption for its product, Celestone Six-Day Tablet-Pack in the manufacturer's special dispenser packaging (41 FR 18523). In proposing the exemption, the Commission also stayed the child-protection packaging regulation for prescription drugs as it applied to Celestone pending issuance of a final exemption.

Celestone Six-Day Tablet-Pack is a 21 tablet package containing a total amount of 12.6 milligrams of the synthetic glucocorticoid, betamethasone (0.6 mg/tab). This glucocorticoid is used as an anti-inflammatory agent in the treatment of disorders such as allergic states, rheumatism, and certain dermatologic conditions. The petitioner stated that the special dispenser packaging is designed to permit a patient to reduce his steroidal intake from six tablets on the first day to one tablet on the sixth day in a manner consistent with patient needs and the treatment prescribed by the physician. The Commission proposed the exemption because of the lack of adverse reactions associated with accidental ingestions by children and the low toxicity of the drug.

Information currently available to the Commission indicates that Schering's Celestone tablets are the only betamethasone tablets available on the market. The company, further, has stated that it has no arrangements with other distributors to supply betamethasone for sale under other labels. It should be noted that the Commission's proposed exemption (41 FR 18523) listed the substance under its brand name (Celestone) rather than by its generic name (betamethasone). Since the time of the proposal, the Commission has decided that exemptions from child-resistant packaging requirements under the PPPA shall generally be identified by the generic name or by a common descriptive name rather than by the manufacturer's trade name. This policy is necessary to prevent confusion resulting from one brand of a drug receiving an exemption while other brands with the same generic equivalency do not. The policy also permits the Commission to exempt a substance without having to respond to an excessive number of petitions from other manu-

facturers of the generically identical drug. Therefore, pursuant to the Commission's current policy, this final exemption is for all betamethasone tablets in manufacturers' dispenser packages, containing no more than 12.6 milligrams betamethasone, and is not limited to Celestone tablets.

###### RESPONSE TO COMMENTS

The Commission received one comment, from the American Society of Hospital Pharmacists, in response to the proposed exemption. While supporting the exemption for betamethasone on the basis that the data indicate that there is minimal risk from ingestion of the drug by children, the commenter raised two additional issues: (1) That the Commission respond to such petitions by establishing exemptions from the PPPA based upon a determination of the maximum quantity of a drug which can be ingested by a child without significant effect and (2) that exemptions from child-resistant packaging requirements under the PPPA be by generic name rather than by brand name. As noted above, this suggestion reflects current Commission policy, and the final amendment below is phrased in generic terms.

As to the first issue, the commenter is asking that the Commission, in considering exemptions, go beyond a petitioner's request and exempt the maximum amount of the drug which can safely be ingested by a child.

The Commission believes that exemptions from special packaging requirements should only be granted on a limited basis where there is a definite need for the exemption. (It should be noted in this regard that the Commission's interim regulations regarding petitioning for exemption under the PPA (16 CFR Part 1702) place the burden on the petitioner to submit all available information concerning the drug and to provide the justification for the requested exemption.) As a general rule, the Commission believes that it would be an inefficient use of the Commission's limited resources to attempt to set higher exemption levels than those requested by petitioners where, as in the case of Celestone, there is no apparent need for an exemption other than that requested.



The Commission points out, in addition, that any attempt at setting a maximum allowable level would be complicated because there is no established method of determining such maximum levels with any reasonable degree of certainty. For example, while median lethal dose (LD 50) data may be used to approximate a range of doses that could be considered fatal, such data do not provide information on how much of a drug may be ingested with impunity.

#### INJURY DATA

The Commission bases its decision to issue a final exemption for betamethasone in oral tablet form in part on the lack of significant adverse human experience reported by the National Clearinghouse for Poison Control Centers (NCPCC). During the years 1969-1976, 35 accidental ingestions of Celestone by children younger than five years of age were reported to the NCPCC. Two of these resulted in hospitalization; however, no symptoms were reported for any of the ingestions. A November, 1978 search of the Commission's in-depth investigations, death certificates, and consumer complaints, furthermore, revealed no injuries associated with Celestone.

The Commission also bases its decision to issue a final exemption on test results demonstrating betamethasone's low toxicity level in the amount requested for exemption. The extrapolated median lethal dose for 10 kg children would be greater than 100 grams of the substance, according to test results where the active ingredient was administered orally to mice. (Analysis of other experimental data and available pharmacological information, both animal and human, indicates that the oral toxicity of this product is such that this extrapolation may be considered to approximate the anticipated toxicological effect in humans.) The dosage for the exempt size package is limited to 12.6 mg and therefore is substantially less than the toxic dose for 10 kg children. Calculations submitted by the petitioner estimate that a two-year old child weighing 20 pounds would have to ingest over 7,000 packs each containing 21 tablets to reach an oral lethal dose; a five year old weighing 45 pounds would require over 16,000 packs.

#### COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE ON POISON PREVENTION PACKAGING

Prior to issuing the proposed exemption, the Commission solicited comments from the Technical Advisory Committee on Poison Prevention Packaging. Of the 15 members that commented on the petition, 11 recommended granting the exemption and 4 recommended denial. The reasons

mentioned for recommending denial included concern for possible side effects of steroids and the fact that Celestone was a new drug with no established safety record. As to possible side effects, the Commission notes that any adverse effects appear to be associated with prolonged use of this type of product and not with large single doses. As to the second comment, the Commission notes that Celestone has now been on the market since 1969 and has been available in noncomplying packaging from 1969-1974 (when the special packaging regulation for prescription drugs went into effect) and since 1976 (the year the proposed exemption was published) with few reported accidental ingestions of the drug and no serious injuries associated with any of the accidental ingestions.

#### FINDINGS

Having considered the petition and the comments on the proposal, human experience data from the National Clearinghouse for Poison Control Centers and the Commission's own resources, as well as medical and scientific literature, and experimental data; and having consulted, pursuant to section 3 of the PPPA, with the Technical Advisory Committee on Poison Prevention Packaging established under section 6 of the act, the Commission finds that betamethasone in oral tablet form that is packaged in dosages not exceeding 12.6 mg of the drug does not create such a hazard to children that special packaging is required to protect them from serious personal injury or serious illness resulting from handling, using or ingesting the substance.

#### EFFECTIVE DATE

Since this rule grants an exemption, the delayed effective date provisions of the Administrative Procedure Act are inapplicable (5 U.S.C. 553(d)(1)). Accordingly, this exemption becomes effective on March 21, 1979.

#### ENVIRONMENTAL CONSIDERATIONS

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1021; 42 FR 25494) provide that exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and environmental review of exemptions from regulations is, therefore, generally not required (§ 1021.5(b)(1)). The rules also state that environmental review of rules requiring poison prevention packaging is generally not required (§ 1021.5(b)(3)).

With respect to this exemption of betamethasone from poison prevention packaging, the Commission finds

that the rule will have no significant effect on the human environment and that no environmental review is necessary.

#### CONCLUSION AND PROMULGATION

Having considered the petition, the comment on the proposal, and other relevant material, the Commission concludes that the final rule should be adopted as set forth below.

Accordingly, pursuant to the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, sections 2(4), 3, 5, 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472-1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, section 30(a), 86 Stat. 1231, 12 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by adding a new paragraph (a)(10)(viii) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) . . .

(10) Prescription drugs. Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription by a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c), except for the following:

(iii) Betamethasone tablets packaged in manufacturers' dispenser packages, containing no more than 12 milligrams betamethasone.

(Pub. L. 91-601, secs. 2(4), 3, Stat. 1670-72; 15 U.S.C. 1471(4), 1472, 1474; Pub. L. 92-573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)).

Effective Date: March 21, 1979.

Dated: March 16, 1979.

SADYE E. DUNN,  
Secretary, Consumer  
Product Safety Commission.

(FR Doc. 79-8470 Filed 3-20-79; 8:45 am)

[4810-22-M]

#### Title 19—Customs Duties

### CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

#### PART 153—ANTIDUMPING

##### Viscose Rayon Staple Fiber From Finland

AGENCY: U.S. Treasury Department.

#### ACTION: Finding of dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that viscose rayon staple fiber from Finland is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: March 21, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for the determination of sales at less than fair value. Pursuant to this authority, the Secretary has determined that viscose rayon staple fiber from Finland is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of November 16, 1978 (43 FR 53531). This Determination was modified by publication of a notice of "Modification of Determination of Sales at Less Than Fair Value" in the FEDERAL REGISTER of January 10, 1979 (44 FR 2219).

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on February 14, 1979, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of viscose rayon staple fiber from Finland that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the FEDERAL REGISTER of February 20, 1979 (44 FR 10437).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to viscose rayon staple fiber from Finland.

For purposes of this notice, the term "viscose rayon staple fiber" means viscose rayon staple fiber, except solution dyed, in noncontinuous form, not

carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments). This term includes both commodity fiber and specialty fiber.

At various stages in this investigation both before the Treasury Department and the International Trade Commission, one or another party has sought to limit its scope to "commodity" grade fiber. However, as adequate reasons for such limitation were not timely presented to the Treasury during its phase of the investigation and a majority of the Commission did not limit its determination to the "commodity" grade, there is now no basis for describing the merchandise subject to this Finding in terms other than those applied since the proceedings were initiated.

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect.

| Merchandise                 | Country      | Treasury decision |
|-----------------------------|--------------|-------------------|
| Viscose rayon staple fiber. | Finland..... | 79-87             |

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173).)

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

MARCH 12, 1979.

(FR Doc. 79-8575 Filed 3-20-79; 8:45 am)

[4810-22-M]

#### PART 153—ANTIDUMPING

##### Viscose Rayon Staple Fiber From France

AGENCY: U.S. Treasury Department.

#### ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that viscose rayon staple fiber from France is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: March 21, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Di-

vision, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for the determination of sales at less than fair value. Pursuant to this authority, the Secretary has determined that viscose rayon staple fiber from France is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of November 16, 1978 (43 FR 53530). This Determination was modified by publication of a notice of "Modification of Determination of Sales at Less Than Fair Value" in the FEDERAL REGISTER of January 10, 1979 (44 FR 2218).)

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on February 14, 1979, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of viscose rayon staple fiber from France that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the FEDERAL REGISTER of February 20, 1979 (44 FR 10437).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to viscose rayon staple fiber from France.

For purposes of this notice, the term "viscose rayon staple fiber" means viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments). This term includes both commodity fiber and specialty fiber.

At various stages in this investigation both before the Treasury Department and the International Trade Commission, one or another party has sought to limit its scope to "commodity" grade fiber. However, as adequate reasons for such a limitation were not timely presented to the Treasury during its phase of the investigation and a majority of the Commission did not limit its determination to the "commodity" grade, there is now no basis for describing the merchandise subject to this Finding in terms other than those applied since the proceedings were initiated.

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being



amended by adding the following to the list of findings of dumping currently in effect.

| Merchandise                 | Country     | Treasury decision |
|-----------------------------|-------------|-------------------|
| Viscose rayon staple fiber. | France..... | 79-88             |

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173).)

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.  
MARCH 12, 1979.

[FR Doc. 79-8574 Filed 3-20-79; 8:45 am]

[4830-01-M]

#### Title 26—Internal Revenue

### CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

#### SUBCHAPTER A—INCOME TAX

### PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Percentage to be used by foreign life insurance companies in computing income tax for the taxable year 1978 and estimated tax for the taxable year 1979

AGENCY: Department of the Treasury.

ACTION: Proclamation.

SUMMARY: This proclamation announces the percentage to be used to compute the income tax liability of foreign corporations carrying on life insurance business in the United States.

EFFECTIVE DATE: Immediate.

FOR FURTHER INFORMATION, CONTACT:

Mr. Seymour Fiekowsky, Office of Tax Analysis, U.S. Treasury Department, Washington, D.C. 20220 (202-566-8282), not a toll free call.

SUPPLEMENTARY INFORMATION: This proclamation, issued each year by the Secretary of the Treasury, announces the percentage to be used to compute the income tax liability of foreign corporations carrying on life insurance business in the United States.

#### PROCLAMATION

For purposes of computing the 1978 income tax of foreign corporations carrying on a life insurance business, a

percentage of 13.7 shall be used in determining the "minimum figure" under section 819. The same percentage shall be used for purposes of computing the estimated tax and the installment payments of estimated tax for the taxable year 1979. No additions to tax shall be made because of any underpayment of estimated tax for the taxable year 1979 which results solely from the use of this percentage.

This proclamation is issued without notice and public procedure because the public cannot effectively participate in the determination of the percentage. It is computed from information contained in income tax returns that are not open to the public. The proclamation was not published prior to its effective date because the percentage is computed on the basis of data which was not then available.

DONALD C. LUBICK,  
Assistant Secretary.

[FR Doc. 79-8385 Filed 3-20-79; 8:45 am]

[6560-01-M]

#### Title 40—Protection of the Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1071-2]

### PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by Environmental Protection Agency to Public Service Company of Colorado, Denver, Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Environmental Protection Agency to the Public Service Company of Colorado. The Order requires the company to bring air emissions from its Arapahoe generating station, units 3 and 4 at Denver, Colorado, into compliance with certain regulations contained in the federally approved Colorado State Implementation Plan (SIP). Because of the Administrator's approval, Public Service Company of Colorado's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule takes effect on March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. C. A. Baldwin, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone (303) 837-2361.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado.

SUPPLEMENTARY INFORMATION: On October 25, 1978, the Regional Administrator of EPA's Region VIII Office published in the FEDERAL REGISTER, 43 FR 49822 a notice proposing approval of a delayed compliance order issued by the Environmental Protection Agency to the Public Service Company of Colorado. The notice asked for public comments by November 24, 1978, on EPA's proposed approval of the Order. One comment was received but was not germane to the statutory requirements of the Clean Air Act.

Therefore, the delayed compliance order issued to Public Service Company of Colorado is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Public Service Company of Colorado on a schedule to bring its Arapahoe generating station, units 3 and 4, at Denver, Colorado, into compliance as expeditiously as practicable with Regulation No. 1, Section I.A.1., a part of the federally approved Colorado State Implementation Plan. The Order also imposes emission monitoring and reporting requirements. Interim requirements were found to be unreasonable in light of the final control strategy to be implemented. If the conditions of the Order are met, it will permit Public Service Company of Colorado to delay compliance with the SIP regulations covered by the Order until June 15, 1979.

The Company is unable to immediately comply with these regulations. In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

### PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.101 to read as follows:

§ 65.101 EPA Approval of State delayed compliance orders issued to major stationary sources.

Dated: March 14, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Part 180, Subpart C, § 180.209 is amended by alphabetically inserting caneberries at 0.1 ppm in the table to read as follows:

§ 180.209 Terbacil, tolerances for residues

| Commodity:  | Parts per million |
|---|-------------------|
| Caneberries (blackberries, boysenberries, dewberries, loganberries, raspberries, and youngberries)..... | 0.1               |

[FR Doc. 79-8589 Filed 3-20-79; 8:45 am]

[4110-83-M]

#### Title 42—Public Health

### CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

\* Financial Distress Grants to Health Professions Schools

AGENCY: Public Health Service, HEW.

ACTION: Interim-Final Regulations; request for comments.

SUMMARY: The Public Health Service is issuing regulations to implement the program of financial distress grants to health professions schools to assist them in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms. The regulations implement the amendments under the Health Professions Educational Assistance Act of 1976.

DATES: These regulations are effective March 21, 1979; however, as discussed below, comments on the regulations are invited. To be considered, comments must be received on or before May 21, 1979.

ADDRESSEES: Written comments should be addressed to the Director, Bureau of Health Manpower, Health

| Source                          | Location      | Order No.     | SIP Regulation Involved   | Date of FR Proposal | Final compliance date |
|---------------------------------|---------------|---------------|---------------------------|---------------------|-----------------------|
| Public Service Co. of Colorado. | Denver, Colo. | A-78-14 ..... | Reg. No. 1, Section I.A.1 | October 25, 1978.   | June 15, 1979         |

EPA has determined that its approval of the Order shall be effective March 19, 1979, because of the need to immediately place Public Service Company of Colorado on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Colorado State Implementation Plan.

(42 U.S.C. 7413 U.S.C. 7413(d), 7601)

Dated: March 9, 1979.

DOUGLAS M. COSTLE,  
Administrator.

[FR Doc. 79-7938 Filed 3-16-79; 8:45 am]

[6560-01-M]

#### SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1079-1; PP 8E2084/R202]

### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

#### Terbacil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide terbacil on caneberries at 0.1 part per million. The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of terbacil on caneberries.

EFFECTIVE DATE: Effective on March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-4851).

SUPPLEMENTARY INFORMATION: On January 29, 1979, the EPA published a notice of proposed rulemaking

in the FEDERAL REGISTER (44 FR 5695) in response to a pesticide petition (PP 8E2084) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, California, Florida, Michigan, New Jersey, Oregon, and Washington. This petition proposed that 40 CFR 180.209 be amended by the establishment of a tolerance for combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its hydroxylated metabolites (calculated as terbacil) in or on the raw agricultural commodity caneberries (blackberries, raspberries, boysenberries, dewberries, loganberries, and youngberries) at 0.1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.209 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before April 20, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 21, 1979, Part 180, Subpart C, section 180.209 is amended by adding a tolerance for residues of terbacil on caneberries at 0.1 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)



Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address (3rd Floor), weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Donald C. Parks, Deputy Director, Office of Program Operations, Bureau of Health Manpower, Room 3-22 at the above address. (Telephone: 301-436-6560).

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, is revising Subpart M of Part 57 of Title 42 of the Code of Federal Regulations to implement the amendments made on October 12, 1976, by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) to the existing authority for financial distress grants to health professions schools. As revised, the authority for this program is set forth in section 788(b) of the Public Health Service Act.

Section 788(b) of the Public Health Service Act ("Act") authorizes the Secretary to make grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health to assist in meeting the costs of operation of these schools if they are in serious financial distress, or in meeting accreditation requirements if they have a special need for assistance in meeting these requirements. Funds can also be used for carrying out appropriate operational, managerial, and financial reforms.

The following is a summary of the major features of the regulation:

(1) The financial distress program is intended to provide financial assistance on an interim basis only. Therefore, according to § 57.1206, the Secretary may require a grantee, as a condition of the grant, to carry out necessary managerial and financial reforms.

(2) In accordance with the requirement of section 788(b) of the Act, § 57.1208 of the regulations provides that the amount of the grant to any school in any fiscal year may not exceed 75 percent of the amount received by that school, if any, under this authority in the immediately preceding fiscal year.

Timely implementation of these rules is essential so that grants for the purpose of relieving financial distress can be made as early in the fiscal year as possible. Therefore, the Secretary

has determined in accordance with 5 U.S.C. 553 and Department policy that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data concerning these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than May 21, 1979, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations resulting from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective March 21, 1979. Revisions will be applicable to activities conducted under these grants on or after the date that the revisions become effective.

Accordingly, Subpart M of Part 57 of Title 42 of the Code of Federal Regulations is revised to read as forth below.

Dated: September 18, 1978.

JULIUS B. RICHMOND,  
Assistant Secretary for Health.

Approved: March 8, 1979.

JOSEPH A. CALIFANO, JR.,  
Secretary.

#### Subpart M—Financial Distress Grants to Health Professions Schools

- Sec.
- 57.1201 To what programs do these regulations apply?
  - 57.1202 Definitions.
  - 57.1203 What entities are eligible to apply for a grant?
  - 57.1204 How must a school apply for a grant?
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  - 57.1210 What nondiscrimination requirements apply to grantees?
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  - 57.1214 What additional conditions apply to grantees?

**AUTHORITY:** Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63

Stat. 35 (42 U.S.C. 216); sec. 788(b), 90 Stat. 2319 (42 U.S.C. 295g-8(b)).

#### Subpart M—Financial Distress Grants to Health Professions Schools

§ 57.1201 To what programs do these regulations apply?

These regulations apply to the award of grants under section 788(b) of the Public Health Service Act (42 U.S.C. 216) to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms.

§ 57.1202 Definitions.

As used in this subpart:  
"Act" means the Public Health Service Act, as amended.

"Comprehensive cost analysis study" means an in-depth review of all the significant factors and circumstances affecting costs incurred in the operation and management of the institution. The review includes, but is not limited to, personnel and property utilization and practices, cost efficiency in specific areas of operation, and the search for additional sources of revenues.

"Construction" or "cost of construction" means the construction of new buildings or the expansion or acquisition of existing buildings (including related costs such as architect's fees, acquisition of land, offsite improvements, and the initial equipping of these buildings).

"School" means a public or other nonprofit school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health as defined in section 701(4) of the Act, and which is accredited as provided under section 772(b) of the Act.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1203 What entities are eligible to apply for a grant?

Any school which is located in a State is eligible to apply for a grant if it is either in serious financial distress

or has a special need for financial assistance in meeting accreditation requirements. For purposes of this subpart, (a) a school is in serious financial distress if it has incurred costs in excess of its ability to pay for those costs; and (b) a school has a special need for financial assistance in meeting accreditation requirements if it cannot meet its accreditation requirements within the school's revenues.

§ 57.1204 How must a school apply for a grant?

Each school desiring a financial distress grant must submit an application in the form and at the time which the Secretary requires. This application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

§ 57.1205 What assurances are required of an applicant?

(a) The applicant must provide assurances satisfactory to the Secretary that it will spend in carrying out its functions as a school during the fiscal year for which the grant is sought, an amount of funds (other than funds for construction) from non-Federal sources which is at least as great as the average amount of funds from non-Federal sources spent for this purpose by the school during the preceding 2 fiscal years. The determination of the average amount of funds from non-Federal sources spent by a new school which has been in operation for less than 2 years will be the amount of expenditures which were actually made in carrying out the functions of the school in the preceding year.

(b) The Secretary may, in individual cases, require additional assurances where he or she finds that additional assurances are necessary to carry out the purposes of section 788(b) of the Act.

§ 57.1206 What requirements may the Secretary impose?

The Secretary will make grants upon terms and conditions which he or she determines are reasonable and necessary, including requirements that the school:

(a) disclose any financial information which the Secretary decides is necessary to determine the cause of this school's financial distress;

(b) conduct a comprehensive cost analysis study, as directed by the Secretary; and

Application materials and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Maryland 20782.

(c) carry out operational, managerial, and financial reforms which the Secretary decides are appropriate on the basis of the comprehensive cost analysis study and other relevant information. These reforms may include increasing tuition or obtaining increased financial support from State or local governmental units.

§ 57.1207 What are the criteria for deciding which applications will be funded?

Within the limits of funds available for this purpose, the Secretary, after consultation with the National Advisory Council on Health Professions Education established by section 702 of the Act, will award grants to applicants, taking into consideration the following among other pertinent factors:

(a) The extent to which the school is unable to meet its incurred costs or has a special need for financial assistance to meet its accreditation requirements;

(b) The reasons for the school's failure to meet its costs or accreditation requirements and the alternatives available to the school to meet its costs or requirements; and

(c) The actions which the applicant has taken to alleviate the need for financial assistance to meet its costs or accreditation requirements and the applicant's plan to eliminate this need in the future.

§ 57.1208 How will the Secretary make grant awards?

(a) All grant awards must be in writing and must set forth the amount of funds granted and the period for which these funds will be available for obligation by the grantee.

(b) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, or other award with respect to any approved project or portion of the approved project.

(c) The amount of the award will be based on the Secretary's estimate of the sum necessary for the costs of the approved activity. Grant awards to meet incurred costs in excess of a school's ability to pay these costs may not exceed the actual funds necessary to meet such excess costs of the school through June 30 of the Federal fiscal year in which the grant is sought, plus an amount which the Secretary estimates is necessary to carry out appropriate operational, managerial and financial reforms. The amount of the grant under this subpart to any school in any fiscal year may not exceed 75 percent of the amount received by that school, if any, under this subpart in the immediately preceding fiscal year.

(d) The Secretary will, from time to time, make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.1209 Purposes for which grant funds may be spent.

(a) Any funds granted under this subpart must be spent solely for carrying out the approved activity in accordance with section 788(b) of the Act, the regulations of this subpart, and the terms and conditions of the award. Grant funds may be spent to:

(1) Assist schools unable to pay for incurred costs. Grant funds may be used to defray costs incurred for all school fiscal years through June 30 of the Federal fiscal year in which the grant is sought. Costs shall exclude construction (other than alterations and renovations). Costs may include the amortization of the principal portion of loans except loans for construction, student aid, and other costs not allowable under § 57.1213.

(2) Assist schools in meeting accreditation requirements, and

(3) Assist schools in carrying out under an approved plan, appropriate operational, managerial, and financial reforms.

(b) Grant funds may not be used for sectarian instruction, or any other religious purpose.

§ 57.1210 What nondiscrimination requirements apply to grantees?

Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(a) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin).

(c) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs).

(d) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(e) The grantee may not discriminate on the basis of religion in the ad-



mission of individuals to training programs.

**§ 57.1211 How must grantees account for grant funds received?**

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available, evidence satisfactory to the Secretary of funds spent for costs meeting the requirements of this subpart.

(b) *Grant closeout.*—(1) *Date of final accounting.* A grantee must submit, with respect to each grant under this subpart, a full account, in accordance with this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee may pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraphs (a) and (b) of this section; and (ii) any other amounts due in accordance with 45 CFR Part 74, except as provided in § 57.1213, and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by set off or other lawful action.

**§ 57.1212 What recordkeeping, audit, and inspection requirements apply to grantees?**

Each school which receives a grant under this subpart must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning recordkeeping, audit, and inspection.

**§ 57.1213 What additional regulations apply to grantees?**

The provisions of 45 CFR Part 74, establishing uniform administrative procedures and cost principles apply to all awards granted under this subpart, except that, in the case of grants awarded to assist schools unable to pay for incurred costs, the following provisions of 45 CFR Part 74, Subpart Q, Appendix D are modified as listed below:

(a) Costs normally not allowed under the following sections will be allowed: Part I—sections J.2; J.5; J.16 (a), (b), and (c); J.18; J.25; J.29; J.38; J.40; J.41; J.42(a)(2) and J.44(f); Part II—section I (1), (4), and (5).

(b) Costs normally allowed under the following section will not be allowed: Part I—section J.10.

**§ 57.1214 What additional conditions apply to grantees?**

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 79-8054 Filed 3-20-79; 8:45 am]

[4110-12-M]

**Title 45—Public Welfare**

**SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**VOCATIONAL EDUCATION PROGRAMS**

**Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap**

AGENCY: Office for Civil Rights, Department of Health, Education, and Welfare.

ACTION: Final Guidelines for Vocational Education Programs.

SUMMARY: These guidelines explain the civil rights responsibilities of recipients of Federal funds offering or administering vocational education programs. They derive from and provide guidance supplementary to Title VI of the Civil Rights Act of 1964 and the implementing departmental regulation (45 CFR Part 80), Title IX of the Education Amendments of 1972 and the implementing departmental regulation (45 CFR Part 86), and Section 504 of the Rehabilitation Act of 1973 and the implementing departmental regulation (45 CFR Part 84).

EFFECTIVE DATE: March 15, 1979.

**FOR FURTHER INFORMATION CONTACT:**

David Gerard, Office of Standards, Policy, and Research, Department of Health, Education and Welfare, Office for Civil Rights, 330 Independence Avenue, S.W., Washington, D.C. 20201 (telephone 202-245-9177).

**SUPPLEMENTARY INFORMATION:** The following Guidelines explain how civil rights laws and Department regulations apply to vocational education programs. They are issued as a result of injunctive orders entered by the United States District Court for the District of Columbia in *Adams v. Califano*. They are also issued because the Department has found evidence of

continuing unlawful discrimination in vocational education programs.

**A. LEGAL BASIS FOR THE GUIDELINES**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in any program or activity receiving Federal financial assistance. The Department of Health, Education, and Welfare issued regulations implementing Title VI in 1965. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in education programs receiving or benefiting from Federal financial assistance. The Department issued regulations implementing Title IX in 1975. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance. The Department issued regulations implementing Section 504 in 1977. These civil rights statutes and their implementing regulations apply to vocational education programs.

In 1973, the Department of Health, Education, and Welfare was sued for its failure to enforce Title VI in a number of education areas, including vocational education (*Adams v. Califano*). As a result of this litigation, the Department was directed to enforce civil rights requirements in vocational education programs through compliance reviews, a survey of enrollments and related data, and the issuance of guidelines explaining the application of Title VI regulations to vocational education. The Guidelines that follow are issued to meet a requirement of the *Adams* court orders.

**B. FACTUAL BASIS FOR THE GUIDELINES**

The Guidelines are also adopted because it is apparent that many vocational education administrators engage in unlawfully discriminatory practices. They need additional guidance and support from the Department to meet their obligations under civil rights authorities.

Information provided by the Office of Education's Bureau of Occupational and Adult Education for 1976 and 1977 reveals that male and female students are concentrated in programs traditionally identified as intended for them:

|                                  | Percent of total enrollment |        |      |        |
|----------------------------------|-----------------------------|--------|------|--------|
|                                  | 1976                        |        | 1977 |        |
|                                  | Male                        | Female | Male | Female |
| Health occupations....           | 21.2                        | 78.8   | 21.2 | 78.8   |
| Occupational home economics..... | 15.3                        | 84.7   | 16.1 | 83.9   |
| Consumer and homemaking.....     | 16.8                        | 83.2   | 18.4 | 81.6   |
| Office occupations.....          | 24.9                        | 75.1   | 24.9 | 75.1   |
| Technical.....                   | 88.7                        | 11.3   | 83.0 | 17.0   |

has alleged that State agencies engage in unlawful discrimination against urban areas in the allocation of Federal vocational education funds.

**C. SCOPE OF GUIDELINES**

The Guidelines primarily address the civil rights violations listed immediately above as found in compliance reviews. They do not identify every civil rights violation that may arise in a vocational education setting. The Guidelines derive from and supplement and must be read in conjunction with civil rights laws and Department regulations.

Section III of the Guidelines, which prohibits discrimination in the allocation of vocational education funds, derives in part from and must be read in conjunction with, the Vocational Education Act and Office of Education implementing regulations. These Guidelines, particularly Section III, have been reviewed by the Department's Office of Education and found consistent with its policies.

**D. STATE AGENCY RESPONSIBILITIES**

Most comments on the Guidelines sought deletion or clarification of, or a change to, a stated paragraph or subparagraph. However, Section II, which records the responsibilities of State agency personnel, was questioned in its entirety as imposing a new burden more reasonably assigned to the Office for Civil Rights.

Section II contains two requirements. First, State agencies in performing any activity required under State or Federal law, must be certain that they do not "require, approve of, or engage in" any unlawful discrimination. For example, State agencies are often required to review or approve the site selected by or the building specifications approved by local school district officials to assure that the project is fiscally sound. The Guidelines provide that in such cases the State agency must also examine whether the site location will result in the denial of access to minority group persons and whether the building and programs will be inaccessible to handicapped persons. If it finds such violations the State agency cannot approve the project. The second requirement of Section II is generally addressed to the agency referred to in the Vocational Education Amendments of 1976 as the "State Board or agency . . . solely responsible for the administration or . . . supervision of the programs [conducted in the State] under the Act." These agencies are required by the Guidelines to monitor subrecipients for civil rights compliance through technical assistance, analyses of already compiled information and data, and periodic compliance reviews.

|                                | Percent of total enrollment |        |      |        |
|--------------------------------|-----------------------------|--------|------|--------|
|                                | 1976                        |        | 1977 |        |
|                                | Male                        | Female | Male | Female |
| Trade and industrial . . . . . | 87.3                        | 12.7   | 85.6 | 14.4   |
| Vocational agriculture.....    | 88.7                        | 11.3   | 85.2 | 14.8   |

In recent years vocational education administrators have addressed unlawful discrimination in their programs. Generally, they have taken advantage of the affirmative action provisions of the Vocational Education Amendments of 1976. Administrative procedures to implement these provisions are in place and are contributing to equal opportunity. Thus the above chart suggests that between 1976 and 1977, female participation increased in technical, trade and industrial, and vocational agriculture programs. There was also an increase in male participation in Consumer and Homemaking programs and Occupational Home Economics programs.

Current information on the enrollment of handicapped and minority students in specific vocational programs is not available. This deficiency will be corrected through the Office for Civil Rights Vocational Education Survey of 1979 and the Vocational Education Data System (VEDS) required by the Vocational Education Amendment of 1976. However, compliance reviews conducted by OCR investigative staff from 1973 to 1978 consistently found civil rights violations in vocational schools. For example:

1. Eligibility requirements such as residence within a geographic area or admissions tests deny vocational education opportunities on the basis of race, color, national origin and handicap;

2. Handicapped students are impermissibly assigned to separate annexes or branches; they are also denied equal vocational education opportunities as a result of inaccessible facilities and inadequate evaluation procedures;

3. Vocational schools established for students of one race, national origin or sex continue as essentially segregated facilities;

4. National origin minorities with limited proficiency in English are denied equal opportunity to participate in vocational programs;

5. Vocational education administrators often fail to adequately protect against discrimination in the placement of students with employers;

6. Faculty and staff are assigned to vocational programs on the basis of race, national origin, sex and handicap.

Reports from advocate groups have identified other possible civil rights violations. For example, the N.A.A.C.P. Legal Defense Fund (LDF)

These are not new requirements. The first merely restates what has become axiomatic—a recipient cannot engage or participate in unlawful discrimination. The second requirement—monitoring subrecipients for compliance—derives from the Department's Title VI regulation which provides in subparagraph 80.4(b):

Every application by a State or State agency to carry out a program involving continuing Federal financial assistance . . . shall . . . provide or be accompanied by provision for such methods of administration . . . as are found by the responsible Department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this regulation.

Thus the Department's Title VI regulation requires State agency recipients to adopt and obtain Department approval for methods and procedures through which subrecipients can be monitored for compliance with civil rights authorities.<sup>1</sup>

It was suggested that it is "unrealistic" to expect closely aligned officials—State agency and local personnel—to work at odds with each other. This is neither the intent nor the expected result of the final Guidelines. Many forms of impermissible discrimination are caused by misunderstandings or lack of information and guidance on the requirements of the law. State agency personnel should therefore be of assistance to and not in conflict with local personnel. Moreover, there is a need for additional conciliatory rather than adversarial compliance activity.

State agencies also argued that the Office for Civil Rights cannot and should not delegate its responsibilities for civil rights enforcement to recipients. Such a result is neither intended nor expected. The Guidelines contemplate adding, not substituting, resources for civil rights compliance activity. The Bureau of Occupational and Adult Education presently monitors State agencies for compliance with the Vocational Education Act. Under the Guidelines, BOAE and State agencies will engage in activities supplementary to those of the Office for Civil Rights.<sup>2</sup> These Guidelines do

<sup>1</sup>Although the regulations, for Title IX and Section 504 do not assign a similar responsibility to State agencies, the Department intends to issue a Notice of Proposed Rulemaking to eliminate this inconsistency with Title VI. If revisions to the Title IX and Section 504 regulations are not adopted by the Department, these Guidelines must be revised.

<sup>2</sup>State agencies will require additional assistance from OCR and BOAE to understand and meet their responsibilities under the Guidelines. Such assistance will be provided through memoranda to be issued during the next 90 days. See comment and response number 9, below.



not contemplate any reduction of OCR compliance and enforcement activity. And OCR will lead, assist and monitor BOAE and State agencies in their civil rights activities. This approach derives from the Department's commitment to bring all of its agencies and recipients to the critical task of obtaining compliance with civil rights laws and regulations. It is also supported by the United States Civil Rights Commission.<sup>3</sup>

#### CONCLUSION

Vocational education is a critical and growing sector of the Nation's education system. It is offered in over 14,000 school districts and in community and junior colleges. It is also provided through more than 2,000 secondary and postsecondary vocational education centers (often known as Area Vocational Education Schools, or AVES), that have as their primary or sole objective the teaching of skills that lead to employment. The variations of programs and courses number in the thousands. They include, for example, "work study" for students needing part-time employment to support their vocational studies; "cooperative education" for students who receive credit for work at jobs related to their vocational field; and "apprentice training" for students affiliated with a labor union or another sponsor. Whatever the organization of vocational education, it is closely tied to the skill development needs of communities, States, and regions. Obtaining compliance with civil rights authorities in these diverse programs will require the participation and cooperation of all vocational education administrators and all agencies of the Department of Health, Education and Welfare. These Guidelines are designed to encourage that cooperation and compliance activity. They are provided with the expectation that they will contribute to bringing an end to unlawful discrimination against persons seeking the skills necessary for gainful and meaningful employment.

#### PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

1. In 45 CFR Part 80 Appendix B is added to read as follows:

<sup>3</sup>United States Commission on Civil Rights, *The Federal Civil Rights Enforcement Effort—1974*, Vol. VI, To Extend Federal Financial Assistance, 1975, p. 809.

#### APPENDIX B—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS

##### I. SCOPE AND COVERAGE

###### A. APPLICATION OF GUIDELINES

These Guidelines apply to recipients of any Federal financial assistance from the Department of Health, Education, and Welfare that offer or administer programs of vocational education or training. This includes State agency recipients.

###### B. DEFINITION OF RECIPIENT

The definition of "recipient" of Federal financial assistance is established by Department regulations implementing Title VI, Title IX, and Section 504 (45 CFR 80.13(i), 86.2(h), 84.3(f)).

For the purposes of Title VI: The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary (e.g., students) under any such program. (45 CFR 80.13(i)).

For the purpose of Title IX: "Recipient" means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof. (45 CFR 86.2(h)).

For the purposes of Section 504: "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to whom Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. (45 CFR 84.3(f)).

###### C. EXAMPLES OF RECIPIENTS COVERED BY THESE GUIDELINES

The following education agencies, when they provide vocational education, are examples of recipients covered by these Guidelines:

1. The board of education of a public school district and its administrative agency.
2. The administrative board of a specialized vocational high school serving students from more than one school district.
3. The administrative board of a technical or vocational school that is used exclusively or principally for the provision of vocational education to persons who have completed or left high school (including persons seeking a certificate or an associate degree through a vocational program offered by the school) and who are available for study in preparation for entering the labor market.

4. The administrative board of a postsecondary institution, such as a technical institute, skill center, junior college, community college, or four year college that has a department or division that provides vocational education to students seeking immediate employment, a certificate or an associate degree.
5. The administrative board of a proprietary (private) vocational education school.
6. A State agency recipient itself operating a vocational education facility.

###### D. EXAMPLES OF SCHOOLS TO WHICH THESE GUIDELINES APPLY

The following are examples of the types of schools to which these Guidelines apply.

1. A junior high school, middle school, or those grades of a comprehensive high school that offers instruction to inform, orient, or prepare students for vocational education at the secondary level.
2. A vocational education facility operated by a State agency.
3. A comprehensive high school that has a department exclusively or principally used for providing vocational education; or that offers at least one vocational program to secondary level students who are available for study in preparation for entering the labor market; or that offers adult vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.
4. A comprehensive high school, offering the activities described above, that receives students on a contract basis from other school districts for the purpose of providing vocational education.
5. A specialized high school used exclusively or principally for the provision of vocational education, that enrolls students from one or more school districts for the purpose of providing vocational education.
6. A technical or vocational school that primarily provides vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, including students seeking an associate degree or certificate through a course of vocational instruction offered by the school.
7. A junior college, a community college, or four-year college that has a department or division that provides vocational education to students seeking immediate employment, an associate degree or a certificate through a course of vocational instruction offered by the school.
8. A proprietary school, licensed by the State, that offers vocational education.

NOTE.—Subsequent sections of these Guidelines may use the term *secondary vocational education center* in referring to the institutions described in paragraphs 3, 4 and 5 above or the term *postsecondary vocational education center* in referring to institutions described in paragraphs 6 and 7 above or the term *vocational education center* in referring to any or all institutions described above.

##### II. RESPONSIBILITIES ASSIGNED ONLY TO STATE AGENCY RECIPIENTS

###### A. RESPONSIBILITIES OF ALL STATE AGENCY RECIPIENTS

State agency recipients, in addition to complying with all other provisions of the Guidelines relevant to them, may not require, approve of, or engage in any discrimination or denial of services on the basis of race, color, national origin, sex, or handicap in performing any of the following activities:

1. Establishment of criteria or formulas for distribution of Federal or State funds to vocational education programs in the State;

2. Establishment of requirements for admission to or requirements for the administration of vocational education programs;

3. Approval of action by local entities providing vocational education. (For example, a State agency must ensure compliance with Section IV of these Guidelines if and when it reviews a vocational education agency decision to create or change a geographic service area.);

4. Conducting its own programs. (For example, in employing its staff it may not discriminate on the basis of sex or handicap.)

###### B. STATE AGENCIES PERFORMING OVERSIGHT RESPONSIBILITIES

The State agency responsible for the administration of vocational education programs must adopt a compliance program to prevent, identify and remedy discrimination on the basis of race, color, national origin, sex or handicap by its subrecipients. (A "subrecipient," in this context, is a local agency or vocational education center that receives financial assistance through a State agency.) This compliance program must include:

1. Collecting and analyzing civil rights related data and information that subrecipients compile for their own purposes or that are submitted to State and Federal officials under existing authorities;
2. Conducting periodic compliance reviews of selected subrecipients (i.e., an investigation of a subrecipient to determine whether it engages in unlawful discrimination in any aspect of its program); upon finding unlawful discrimination, notifying the subrecipient of steps it must take to attain compliance and attempting to obtain voluntary compliance;
3. Providing technical assistance upon request to subrecipients. This will include assisting subrecipients identify unlawful discrimination and instructing them in remedies for and prevention of such discrimination;
4. Periodically reporting its activities and findings under the foregoing paragraphs, including findings of unlawful discrimination under paragraph 2, immediately above, to the Office for Civil Rights.

State agencies are not required to terminate or defer assistance to any subrecipient. Nor are they required to conduct hearings. The responsibilities of the Office for Civil Rights to collect and analyze data, to conduct compliance reviews, to investigate complaints and to provide technical assistance are not diminished or attenuated by the requirements of Section II of the Guidelines.

State agencies must disseminate information needed to satisfy the requirements of any application process for competitive or discretionary grants so that all recipients, including those having a high percentage of minority or handicapped students, are informed of and able to seek funds. State agencies that provide technical assistance for the completion of the application process must provide such assistance without discrimination against any one recipient or class of recipients.

###### E. APPLICATION PROCESSES FOR COMPETITIVE OR DISCRETIONARY GRANTS

State agencies must disseminate information needed to satisfy the requirements of any application process for competitive or discretionary grants so that all recipients, including those having a high percentage of minority or handicapped students, are informed of and able to seek funds. State agencies that provide technical assistance for the completion of the application process must provide such assistance without discrimination against any one recipient or class of recipients.

###### F. ALTERATION OF FUND DISTRIBUTION TO PROVIDE EQUAL OPPORTUNITY

If the Office for Civil Rights finds that a recipient's system for distributing vocational education funds unlawfully discriminates on the basis of race, color, national origin, sex, or handicap, it will require the recipient to adopt an alternative nondiscriminatory method of distribution. The Office for Civil Rights may also require the recipient to compensate for the effects of its past unlawful discrimination in the distribution of funds.

#### III. DISTRIBUTION OF FEDERAL FINANCIAL ASSISTANCE AND OTHER FUNDS FOR VOCATIONAL EDUCATION

##### A. AGENCY RESPONSIBILITIES

Recipients that administer grants for vocational education must distribute Federal, State, or local vocational education funds so that no student or group of students is unlawfully denied an equal opportunity to benefit from vocational education on the basis of race, color, national origin, sex, or handicap.

##### B. DISTRIBUTION OF FUNDS

Recipients may not adopt a formula or other method for the allocation of Federal, State, or local vocational education funds that has the effect of discriminating on the basis of race, color, national origin, sex, or handicap. However, a recipient may adopt a formula or other method of allocation that uses as a factor race, color, national origin, sex, or handicap for an index or proxy for race, color, national origin, sex, or handicap e.g., number of persons receiving Aid to Families with Dependent Children or with limited English speaking ability) if the factor is included to compensate for past discrimination or to comply with those provisions of the Vocational Education Amendments of 1976 designed to assist specified protected groups.

##### C. EXAMPLE OF A PATTERN SUGGESTING UNLAWFUL DISCRIMINATION

In each State it is likely that some local recipients will enroll greater proportions of minority students in vocational education than the State-wide proportion of minority students in vocational education. A funding formula or other method of allocation that results in such local recipients receiving per-pupil allocations of Federal or State vocational education funds lower than the State-wide average per-pupil allocation will be presumed unlawfully discriminatory.

##### D. DISTRIBUTION THROUGH COMPETITIVE GRANTS OR CONTRACTS

Each State agency that establishes criteria for awarding competitive vocational education grants or contracts must establish and apply the criteria without regard to the race, color, national origin, sex, or handicap of any or all of a recipient's students, except to compensate for past discrimination.

##### E. APPLICATION PROCESSES FOR COMPETITIVE OR DISCRETIONARY GRANTS

State agencies must disseminate information needed to satisfy the requirements of any application process for competitive or discretionary grants so that all recipients, including those having a high percentage of minority or handicapped students, are informed of and able to seek funds. State agencies that provide technical assistance for the completion of the application process must provide such assistance without discrimination against any one recipient or class of recipients.

##### F. ALTERATION OF FUND DISTRIBUTION TO PROVIDE EQUAL OPPORTUNITY

If the Office for Civil Rights finds that a recipient's system for distributing vocational education funds unlawfully discriminates on the basis of race, color, national origin, sex, or handicap, it will require the recipient to adopt an alternative nondiscriminatory method of distribution. The Office for Civil Rights may also require the recipient to compensate for the effects of its past unlawful discrimination in the distribution of funds.

method of distribution. The Office for Civil Rights may also require the recipient to compensate for the effects of its past unlawful discrimination in the distribution of funds.

#### IV. ACCESS AND ADMISSION OF STUDENTS TO VOCATIONAL EDUCATION PROGRAMS

##### A. RECIPIENT RESPONSIBILITIES

Criteria controlling student eligibility for admission to vocational education schools, facilities and programs may not unlawfully discriminate on the basis of race, color, national origin, sex, or handicap. A recipient may not develop, impose, maintain, approve, or implement such discriminatory admissions criteria.

##### B. SITE SELECTION FOR VOCATIONAL SCHOOLS

State and local recipients may not select or approve a site for a vocational education facility for the purpose or with the effect of excluding, segregating, or otherwise discriminating against students on the basis of race, color, or national origin. Recipients must locate vocational education facilities at sites that are readily accessible to both nonminority and minority communities, and that do not tend to identify the facility, or program as intended for nonminority or minority students.

##### C. ELIGIBILITY FOR ADMISSION TO VOCATIONAL EDUCATION CENTERS BASED ON RESIDENCE

Recipients may not establish, approve or maintain geographic boundaries for a vocational education center service area or attendance zone, (hereinafter "service area"), that unlawfully exclude students on the basis of race, color, or national origin. The Office for Civil Rights will presume, subject to rebuttal, that any one or combination of the following circumstances indicates that the boundaries of a given service area are unlawfully constituted:

1. A school system or service area contiguous to the given service area, contains minority or nonminority students in substantially greater proportion than the given service area;

2. A substantial number of minority students who reside outside the given vocational education center service area, and who are not eligible for the center reside, nonetheless, as close to the center as a substantial number of non-minority students who are eligible for the center;

3. The over-all vocational education program of the given service area in comparison to the over-all vocational education program of a contiguous school system or service area enrolling a substantially greater proportion of minority students: (a) provides its students with a broader range of curricular offerings, facilities and equipment; or (b) provides its graduates greater opportunity for employment in jobs: (i) for which there is a demonstrated need in the community or region; (ii) that pay higher entry level salaries or wages; or (iii) that are generally acknowledged to offer greater prestige or status.

##### D. ADDITIONS AND RENOVATIONS TO EXISTING VOCATIONAL EDUCATION FACILITIES

A recipient may not add to, modify, or renovate the physical plant of a vocational education facility in a manner that creates, maintains, or increases student segregation on the basis of race, color, national origin, sex, or handicap.



#### E. REMEDIES FOR VIOLATIONS OF SITE SELECTION AND GEOGRAPHIC SERVICE AREA REQUIREMENTS

If the conditions specified in paragraphs IV, A, B, C, or D, immediately above, are found and not rebutted by proof of nondiscrimination, the Office for Civil Rights will require the recipient(s) to submit a plan to remedy the discrimination. The following are examples of steps that may be included in the plan, where necessary to overcome the discrimination: (1) redrawing of the boundaries of the vocational education center's service area to include areas unlawfully excluded and/or to exclude areas unlawfully included; (2) provision of transportation to students residing in areas unlawfully excluded; (3) provision of additional programs and services to students who would have been eligible for attendance at the vocational education center but for the discriminatory service area or site selection; (4) reassignment of students; and (5) construction of new facilities or expansion of existing facilities.

#### F. ELIGIBILITY FOR ADMISSION TO SECONDARY VOCATIONAL EDUCATION CENTERS BASED ON NUMERICAL LIMITS IMPOSED ON SENDING SCHOOLS

A recipient may not adopt or maintain a system for admission to a secondary vocational education center or program that limits admission to a fixed number of students from each sending school included in the center's service area if such a system disproportionately excludes students from the center on the basis of race, sex, national origin or handicap. (Example: Assume 25 percent of a school district's high school students are black and that most of those black students are enrolled in one high school; the white students, 75 percent of the district's total enrollment, are generally enrolled in the five remaining high schools. This paragraph prohibits a system of admission to the secondary vocational education center that limits eligibility to a fixed and equal number of students from each of the district's six high schools.)

#### G. REMEDIES FOR VIOLATION OF ELIGIBILITY BASED ON NUMERICAL LIMITS REQUIREMENTS

If the Office for Civil Rights finds a violation of paragraph F, above, the recipient must implement an alternative system of admissions that does not disproportionately exclude students on the basis of race, color, national origin, sex, or handicap.

#### H. ELIGIBILITY FOR ADMISSION TO VOCATIONAL EDUCATION CENTERS, BRANCHES OR ANNEXES BASED UPON STUDENT OPTION

A vocational education center, branch or annex, open to all students in a service area and predominantly enrolling minority students or students of one race, national origin or sex, will be presumed unlawfully segregated if: (1) it was established by a recipient for members of one race, national origin or sex; or (2) it has since its construction been attended primarily by members of one race, national origin or sex; or (3) most of its program offerings have traditionally been selected predominantly by members of one race, national origin or sex.

#### I. REMEDIES FOR FACILITY SEGREGATION UNDER STUDENT OPTION PLANS

If the conditions specified in paragraph IV-H are found and not rebutted by proof

of nondiscrimination, the Office for Civil Rights will require the recipient(s) to submit a plan to remedy the segregation. The following are examples of steps that may be included in the plan, where necessary to overcome the discrimination:

- (1) elimination of program duplication in the segregated facility and other proximate vocational facilities; (2) relocation or "clustering" of programs or courses; (3) adding programs and courses that traditionally have been identified as intended for members of a particular race, national origin or sex to schools that have traditionally served members of the other sex or traditionally served persons of a different race or national origin; (4) merger of programs into one facility through school closings or new construction; (5) intensive outreach recruitment and counseling; (6) providing free transportation to students whose enrollment would promote desegregation.

[Paragraph J omitted]

#### K. ELIGIBILITY BASED ON EVALUATION OF EACH APPLICANT UNDER ADMISSIONS CRITERIA

Recipients may not judge candidates for admission to vocational education programs on the basis of criteria that have the effect of disproportionately excluding persons of a particular race, color, national origin, sex, or handicap. However, if a recipient can demonstrate that such criteria have been validated as essential to participation in a given program and that alternative equally valid criteria that do not have such a disproportionate adverse effect are unavailable, the criteria will be judged nondiscriminatory. Examples of admissions criteria that must meet this test are past academic performance, record of disciplinary infractions, counselors' approval, teachers' recommendations, interest inventories, high school diplomas and standardized tests, such as the Test of Adult Basic Education (TABE).

An introductory, preliminary, or exploratory course may not be established as a prerequisite for admission to a program unless the course has been and is available without regard to race, color, national origin, sex, and handicap. However, a course that was formerly only available on a discriminatory basis may be made a prerequisite for admission to a program if the recipient can demonstrate that: (a) the course is essential to participation in the program; and (b) the course is presently available to those seeking enrollment for the first time and to those formerly excluded.

#### L. ELIGIBILITY OF NATIONAL ORIGIN MINORITY PERSONS WITH LIMITED ENGLISH LANGUAGE SKILLS

Recipients may not restrict an applicant's admission to vocational education programs because the applicant, as a member of a national origin minority with limited English language skills, cannot participate in and benefit from vocational instruction to the same extent as a student whose primary language is English. It is the responsibility of the recipient to identify such applicants and assess their ability to participate in vocational instruction.

Acceptable methods of identification include: (1) identification by administrative staff, teachers, or parents of secondary level students; (2) identification by the student in postsecondary or adult programs; and (3) appropriate diagnostic procedures, if necessary.

Recipients must take steps to open all vocational programs to these national origin minority students. A recipient must demonstrate that a concentration of students with limited English language skills in one or a few programs is not the result of discriminatory limitations upon the opportunities available to such students.

#### M. REMEDIAL ACTION IN BEHALF OF PERSONS WITH LIMITED ENGLISH LANGUAGE SKILLS

If the Office for Civil Rights finds that a recipient has denied national origin minority persons admission to a vocational school or program because of their limited English language skills or has assigned students to vocational programs solely on the basis of their limited English language skills, the recipient will be required to submit a remedial plan that insures national origin minority students equal access to vocational education programs.

#### N. EQUAL ACCESS FOR HANDICAPPED STUDENTS

Recipients may not deny handicapped students access to vocational education programs or courses because of architectural or equipment barriers, or because of the need for related aids and services or auxiliary aids. If necessary, recipients must: (1) modify instructional equipment; (2) modify or adapt the manner in which the courses are offered; (3) house the program in facilities that are readily accessible to mobility impaired students or alter facilities to make them readily accessible to mobility impaired students; and (4) provide auxiliary aids that effectively make lectures and necessary materials available to postsecondary handicapped students; (5) provide related aids or services that assure secondary students an appropriate education.

Academic requirements that the recipient can demonstrate are essential to a program of instruction or to any directly related licensing requirement will not be regarded as discriminatory. However, where possible, a recipient must adjust those requirements to the needs of individual handicapped students.

Access to vocational programs or courses may not be denied handicapped students on the ground that employment opportunities in any occupation or profession may be more limited for handicapped persons than for non-handicapped persons.

#### O. PUBLIC NOTIFICATION

Prior to the beginning of each school year, recipients must advise students, parents, employees and the general public that all vocational opportunities will be offered without regard to race, color, national origin, sex, or handicap. Announcement of this policy of non-discrimination may be made, for example, in local newspapers, recipient publications and/or other media that reach the general public, program beneficiaries, minorities (including national origin minorities with limited English language skills), women, and handicapped persons. A brief summary of program offerings and admission criteria should be included in the announcement; also the name, address and telephone number of the person designated to coordinate Title IX and Section 504 compliance activity.

If a recipient's service area contains a community of national origin minority persons with limited English language skills, public notification materials must be disseminated to that community in its lan-

guage and must state that recipients will take steps to assure that the lack of English language skills will not be a barrier to admission and participation in vocational education programs.

#### V. COUNSELING AND PREVOCATIONAL PROGRAMS

##### A. RECIPIENT RESPONSIBILITIES

Recipients must insure that their counseling materials and activities (including student program selection and career/employment selection), promotional, and recruitment efforts do not discriminate on the basis of race, color, national origin, sex, or handicap.

##### B. COUNSELING AND PROSPECTS FOR SUCCESS

Recipients that operate vocational education programs must insure that counselors do not direct or urge any student to enroll in a particular career or program, or measure or predict a student's prospects for success in any career or program based upon the student's race, color, national origin, sex, or handicap. Recipients may not counsel handicapped students toward more restrictive career objectives than nonhandicapped students with similar abilities and interests. If a vocational program disproportionately enrolls male or female students, minority or nonminority students, or handicapped students, recipients must take steps to insure that the disproportion does not result from unlawful discrimination in counseling activities.

##### C. STUDENT RECRUITMENT ACTIVITIES

Recipients must conduct their student recruitment activities so as not to exclude or limit opportunities on the basis of race, color, national origin, sex, or handicap. Where recruitment activities involve the presentation or portrayal of vocational and career opportunities, the curricula and programs described should cover a broad range of occupational opportunities and not be limited on the basis of the race, color, national origin, sex, or handicap of the students or potential students to whom the presentation is made. Also, to the extent possible, recruiting teams should include persons of different races, national origins, sexes, and handicaps.

##### D. COUNSELING OF STUDENTS WITH LIMITED ENGLISH-SPEAKING ABILITY OR HEARING IMPAIRMENTS

Recipients must insure that counselors can effectively communicate with national origin minority students with limited English language skills and with students who have hearing impairments. This requirement may be satisfied by having interpreters available.

##### E. PROMOTIONAL ACTIVITIES

Recipients may not undertake promotional efforts (including activities of school officials, counselors, and vocational staff) in a manner that creates or perpetuates stereotypes or limitations based on race, color, national origin, sex or handicap. Examples of promotional efforts are career days, parents' night, shop demonstrations, visitations by groups of prospective students and by representatives from business and industry. Materials that are part of promotional efforts may not create or perpetuate stereotypes through text or illustration. To the

extent possible they should portray males or females, minorities or handicapped persons in programs and occupations in which these groups traditionally have not been represented. If a recipient's service area contains a community of national origin minority persons with limited English language skills, promotional literature must be distributed to that community in its language.

#### VI. EQUAL OPPORTUNITY IN THE VOCATIONAL EDUCATION INSTRUCTIONAL SETTING

##### A. ACCOMMODATIONS FOR HANDICAPPED STUDENTS

Recipients must place secondary level handicapped students in the regular educational environment of any vocational education program to the maximum extent appropriate to the needs of the student unless it can be demonstrated that the education of the handicapped person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Handicapped students may be placed in a program only after the recipient satisfies the provisions of the Department's Regulation, 45 CFR Part 84, relating to evaluation, placement, and procedural safeguards. If a separate class or facility is identifiable as being for handicapped persons, the facility, the programs, and the services must be comparable to the facilities, programs, and services offered to nonhandicapped students.

##### B. STUDENT FINANCIAL ASSISTANCE

Recipients may not award financial assistance in the form of loans, grants, scholarships, special funds, subsidies, compensation for work, or prizes to vocational education students on the basis of race, color, national origin, sex, or handicap, except to overcome the effects of past discrimination. Recipients may administer sex restricted financial assistance where the assistance and restriction are established by will, trust, bequest, or any similar legal instrument. If the overall effect of all financial assistance awarded does not discriminate on the basis of sex, materials and information used to notify students of opportunities for financial assistance may not contain language or examples that would lead applicants to believe the assistance is provided on a discriminatory basis. If a recipient's service area contains a community of national origin minority persons with limited English language skills, such information must be disseminated to that community in its language.

##### C. HOUSING IN RESIDENTIAL POSTSECONDARY VOCATIONAL EDUCATION CENTERS

Recipients must extend housing opportunities without discrimination based on race, color, national origin, sex, or handicap. This obligation extends to recipients that provide on-campus housing and/or that have agreements with providers of off-campus housing. In particular, a recipient postsecondary vocational education program that provides on-campus or off-campus housing to its non-handicapped students must provide, at the same cost and under the same conditions, comparable convenient and accessible housing to handicapped students.

##### D. COMPARABLE FACILITIES

Recipients must provide changing rooms, showers, and other facilities for students of one sex that are comparable to those provided to students of the other sex. This may be accomplished by alternating use of the

same facilities or by providing separate, comparable facilities.

Such facilities must be adapted or modified to the extent necessary to make the vocational education program readily accessible to handicapped persons.

#### VII. WORK STUDY, COOPERATIVE VOCATIONAL EDUCATION, JOB PLACEMENT, AND APPRENTICE TRAINING

##### A. RESPONSIBILITIES IN COOPERATIVE VOCATIONAL EDUCATION PROGRAMS, WORK-STUDY PROGRAMS, AND JOB PLACEMENT PROGRAMS

A recipient must insure that: (a) it does not discriminate against its students on the basis of race, color, national origin, sex, or handicap in making available opportunities in cooperative education, work study and job placement programs; and (b) students participating in cooperative education, work study and job placement programs are not discriminated against by employers or prospective employers on the basis of race, color, national origin, sex, or handicap in recruitment, hiring, placement, assignment to work tasks, hours of employment, levels of responsibility, and in pay.

If a recipient enters into a written agreement for the referral or assignment of students to an employer, the agreement must contain an assurance from the employer that students will be accepted and assigned to jobs and otherwise treated without regard to race, color, national origin, sex, or handicap.

Recipients may not honor any employer's request for students who are free of handicaps or for students of a particular race, color, national origin, or sex. In the event an employer or prospective employer is or has been subject to court action involving discrimination in employment, school officials should rely on the court's findings if the decision resolves the issue of whether the employer has engaged in unlawful discrimination.

##### B. APPRENTICE TRAINING PROGRAMS

A recipient may not enter into any agreement for the provision or support of apprentice training for students or union members with any labor union or other sponsor that discriminates against its members or applicants for membership on the basis of race, color, national origin, sex, or handicap. If a recipient enters into a written agreement with a labor union or other sponsor providing for apprentice training, the agreement must contain an assurance from the union or other sponsor: (1) that it does not engage in such discrimination against its membership or applicants for membership; and (2) that apprentice training will be offered and conducted for its membership free of such discrimination.

#### VIII. EMPLOYMENT OF FACULTY AND STAFF

##### A. EMPLOYMENT GENERALLY

Recipients may not engage in any employment practice that discriminates against any employee or applicant for employment on the basis of sex or handicap. Recipients may not engage in any employment practice that discriminates on the basis of race, color, or national origin if such discrimination tends to result in segregation, exclusion or other discrimination against students.



## B. RECRUITMENT

Recipients may not limit their recruitment for employees to schools, communities, or companies disproportionately composed of persons of a particular race, color, national origin, sex, or handicap except for the purpose of overcoming the effects of past discrimination. Every source of faculty must be notified that the recipient does not discriminate in employment on the basis of race, color, national origin, sex, or handicap.

## C. PATTERNS OF DISCRIMINATION

Whenever the Office for Civil Rights finds that in light of the representation of protected groups in the relevant labor market there is a significant underrepresentation or overrepresentation of protected group persons on the staff of a vocational education school or program, it will presume that the disproportion results from unlawful discrimination. This presumption can be overcome by proof that qualified persons of the particular race, color, national origin, or sex, or that qualified handicapped persons are not in fact available in the relevant labor market.

## D. SALARY POLICIES

Recipients must establish and maintain faculty salary scales and policy based upon the conditions and responsibilities of employment, without regard to race, color, national origin, sex or handicap.

## E. EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED APPLICANTS

Recipients must provide equal employment opportunities for teaching and administrative positions to handicapped applicants who can perform the essential functions of the position in question. Recipients must make reasonable accommodation for the physical or mental limitations of handicapped applicants who are otherwise qualified unless recipients can demonstrate that the accommodation would impose an undue hardship.

## F. THE EFFECTS OF PAST DISCRIMINATION

Recipients must take steps to overcome the effects of past discrimination in the recruitment, hiring, and assignment of faculty. Such steps may include the recruitment or reassignment of qualified persons of a particular race, national origin, or sex, or who are handicapped.

## G. STAFF OF STATE ADVISORY COUNCILS OF VOCATIONAL EDUCATION

State Advisory Councils of Vocational Education are recipients of Federal financial assistance and therefore must comply with Section VIII of the Guidelines.

## H. EMPLOYMENT AT STATE OPERATED VOCATIONAL EDUCATION CENTERS THROUGH STATE CIVIL-SERVICE AUTHORITIES

Where recruitment and hiring of staff for State operated vocational education centers is conducted by a State civil service employment authority, the State education agency operating the program must insure that recruitment and hiring of staff for the vocational education center is conducted in accordance with the requirements of these Guidelines.

## RULES AND REGULATIONS

## IX. PROPRIETARY VOCATIONAL EDUCATION SCHOOLS

## A. RECIPIENT RESPONSIBILITIES

Proprietary vocational education schools that are recipients of Federal financial assistance through Federal student assistance programs or otherwise are subject to all of the requirements of the Department's regulations and these Guidelines.

## B. ENFORCEMENT AUTHORITY

Enforcement of the provisions of Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973 is the responsibility of the Department of Health, Education, and Welfare. However, authority to enforce Title VI of the Civil Rights Act of 1964 for proprietary vocational education schools has been delegated to the Veterans Administration.

When the Office for Civil Rights receives a Title VI complaint alleging discrimination by a proprietary vocational education school it will forward the complaint to the Veterans Administration and cite the applicable requirements of the Department's regulations and these Guidelines. The complainant will be notified of such action.

## PART 84—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

2. In 45 CFR Part 84 Appendix B is added to read as follows:

## APPENDIX B—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS

NOTE.—For the text of these guidelines, see 45 CFR Part 80, Appendix B.

## PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

3. In 45 CFR Part 86 Appendix A is added to read as follows:

## APPENDIX A—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS

NOTE.—For the text of these guidelines, see 45 CFR Part 80, Appendix B.

DAVID S. TATEL,

Director, Office for Civil Rights,  
Department of Health, Education,  
and Welfare.

MARCH 15, 1979.

## COMMENTS AND RECOMMENDATIONS

Over 130 comments and recommendations were received by the Office for Civil Rights in response to the December 19, 1978 publication of proposed Guidelines. (43 FR 59105) Many identified

deficiencies that resulted in significant changes to the Guidelines. Each comment was carefully considered before a response was prepared. The following comments and responses are adopted by the Department as a part of the Guidelines.

## SUPPLEMENTARY INFORMATION

1. *Comment:* Commenters stated that the Supplementary Information section was unfairly critical of vocational education administrators, relied too heavily on outdated and suspect data, and ignored the advances achieved under the Vocational Education Amendments of 1976.

*Response:* The objections have merit and changes have been made. The Supplementary Information section has been revised to include current data, to delete outdated and suspect data, to place greater emphasis on OCR investigations and compliance reviews and to acknowledge that vocational education administrators have responded to antidiscrimination measures of the Vocational Education Amendments of 1976.

## SECTION I—SCOPE AND COVERAGE

2. *Comment:* Commenters recommended that paragraph I-A state with clarity that the Guidelines apply to all recipients of financial assistance from the Department of Health, Education, and Welfare and not merely to recipients of Federal vocational education funds.

*Response:* The recommendation is accepted and paragraph I-A has been modified.

3. *Comment:* One commenter suggested that OCR establish a single definition of "recipient" in its Title VI, Title IX and Section 504 regulations to the extent permitted by the underlying legislation.

*Response:* A single definition of "recipient" would be helpful. However, the change proposed is beyond the scope of the Guidelines project.

4. *Comment:* Commenters requested that the Guidelines state the responsibilities of recipients under the Age Discrimination Act of 1975.

*Response:* Regulations under the Age Discrimination Act have not yet been issued. The Guidelines will ultimately include coverage of age discrimination.

5. *Comment:* A commenter recommended that paragraph I-C include as an education agency providing vocational education, "the State Board of Vocational Education and/or a State board or body providing vocational education."

*Response:* Paragraph I-A states that State agency recipients are covered by the Guidelines. Paragraph I-C provides examples of recipients covered by the Guidelines and lists, at I-C(6),

"a State agency . . . operating a vocational education facility."

6. *Comment:* Commenters requested that paragraph I(D)(6) and (7) be amended to include "certificate programs."

*Response:* The suggested change has been adopted.

7. *Comment:* Commenters requested that paragraph I-D list as recipients vocational rehabilitation centers and residential centers.

*Response:* Paragraph I-D provides examples of covered schools. The Guidelines also apply to vocational rehabilitation centers and residential vocational education centers.

8. *Comment:* One commenter requested a definition of the term "subrecipient."

*Response:* The term "subrecipient" is defined in paragraph II-B.

## SECTION II—RESPONSIBILITIES OF STATE AGENCIES

9. *Comment:* Commenters found paragraph II-B incomplete and vague.

*Response:* This objection has merit. The paragraph has been substantially revised to clarify State agency responsibilities. Definitions of "technical assistance" and of "compliance review" have been added (paragraph (B)(2) and (3)). The Guidelines now state that the Department, not the State agency, has the responsibility and authority to make formal fact findings and terminate and defer Federal funds.

While these additions to the final Guidelines answer several of the specific questions raised by the commenters much more needs to be done. Within 90 days, the Office for Civil Rights and the Bureau of Occupational and Adult Education will issue memoranda that provide the additional detail necessary for successful State agency compliance activity.

10. *Comment:* Commenters argued that paragraph II-B imposes new requirements on State agency recipients.

*Response:* State agencies, as well as other recipients of Federal financial assistance, are prohibited from conducting their programs through subrecipients or contractors that discriminate. See for example, 45 CFR Sections 80.3(b), 84.4(b)(4), 86.32(b)(d). The Title VI regulations clearly include a State agency obligation to adopt "methods of administration" for monitoring subrecipients for civil rights compliance. However, this requirement has not been enforced against State education agencies. The Department believes that this must be

<sup>1</sup>HEW plans to propose an amendment to its regulations that confirms that recipients have an identical obligation under Title IX and Section 504. See "Supplementary Information, Part C, State Agency Responsibilities," above.

## RULES AND REGULATIONS

corrected. To be effective, civil rights compliance activity cannot be the exclusive province of Federal civil rights agencies; it must include Department program agencies (in this case the Bureau of Occupational and Adult Education) and State agencies.

11. *Comment:* Commenters argued that the requirements imposed on State agencies by paragraph II-B are unduly burdensome and costly.

*Response:* Subparagraph B(1) has been revised to insure that no significant additional data collection or record keeping requirement is imposed on recipients. In addition, the requirement that State agencies investigate complaints has been deleted. Civil rights enforcement, however, must be recognized as important enough to merit the allocation of necessary funds. Federal, State, and local funds and resources available for vocational education must be used for civil rights compliance activities in vocational education programs. The obligations imposed are therefore not unreasonably burdensome.

12. *Comment:* Commenters stated that OCR, through paragraph II-B, is assigning or delegating its enforcement responsibilities to the States.

*Response:* The Guidelines contemplate a cooperative effort among OCR, the Bureau of Occupational and Adult Education, and State agencies. Their purpose is to add, not substitute, resources for civil rights compliance activity. The Guidelines now clearly state what was always intended: The Office for Civil Rights will not decrease its compliance activity in vocational education programs.

13. *Comment:* Commenters stated that proposed paragraph II-D, which attempted to establish a clear division between State and local responsibilities, was confusing and inconsistent with other sections of the Guidelines. They asked that the paragraph be deleted. It was also suggested that the heading of Section II and the first sentence of paragraph II-A should state that the enumerated requirements are only one aspect of a State agency's responsibilities under the Guidelines.

*Response:* The suggested changes are adopted as consistent with the intent of the Guidelines.

## SECTION III—DISTRIBUTION OF FEDERAL FINANCIAL ASSISTANCE AND OTHER FUNDS FOR VOCATIONAL EDUCATION

14. *Comment:* Commenters argued that protected group persons must be provided "equal opportunity" not merely "opportunity" (paragraph III-A).

*Response:* This suggestion is accepted. The opportunity for vocational training must be equal for all students without regard to race, color, national origin, sex, or handicap. The provision

of unequal facilities, for example, cannot be excused because it is a less than total denial of opportunity.

15. *Comment:* Commenters questioned whether the purpose of proposed paragraph III-B was to prohibit discrimination in the development of a formula (input standard) or in the allocation of funds (output standard). The policy statement in proposed paragraph III-B controlled factors in the formula while the example cited in the paragraph was based on fund allocations.

*Response:* The Office for Civil Rights may review a formula's components. However, its primary inquiry will be whether the formula has a discriminatory effect on the allocation of funds. Accordingly, the first sentence in paragraph III-B has been rewritten to delete the reference to "factors."

16. *Comment:* Commenters suggested rephrasing paragraph III-B to permit the use of factors that remedy the effects of past discrimination. Others suggested that the Department uphold the use of indicia that enable the State to identify communities entitled to priority under the Vocational Education Act. For example, a State vocational education distribution formula may refer to the number of persons residing in a school district receiving aid to families with dependent children or with limited English speaking ability. The purpose of such a reference is to identify areas either economically depressed or with high concentrations of low-income people.

*Response:* The suggestions are accepted. Judicial precedent requires recipients to undertake affirmative or remedial action when directed by Congress or in response to a finding of past discrimination. In addition, the adoption of the recommended language confirms that a recipient's use of data on AFDC or LESA populations to comply with the Vocational Education Act is consistent with civil rights authorities.

17. *Comment:* Commenters asked for an explanation of the second sentence in proposed paragraph III-B: "State agencies must apply formula provisions under the Vocational Education Amendments of 1976 in a manner consistent with civil rights authorities." They believe that the statement suggests an inconsistency between civil rights authorities and the targeting provisions of the Vocational Education Act.

*Response:* The sentence does suggest a tension between the provisions of the Vocational Education Act and civil rights authorities. In fact, they are complementary. Paragraph III-B, as revised, contains the essential language prohibiting discrimination in the application of a formula. The chal-



lenged sentence has therefore been deleted.

18. *Comment:* Commenters questioned whether the example used in proposed paragraph III-B (now in III-C) is intended to require equal per-pupil allocations of funds.

*Response:* Section 106(a)(5)(B)(ii) of the Vocational Education Act prohibits the adoption of a formula seeking equal per-pupil allocations of funds. Rather it requires priority funding for subrecipients serving the greatest concentrations of low income families, for subrecipients least able to pay, and for subrecipients serving the greatest concentrations of students whose education imposes higher than average costs (e.g., handicapped students, students from low-income families, and students from families in which English is not the dominant language). These statutory priorities should result in greater expenditures for communities with concentrations of minority group persons. For this reason the gauge of unlawful discrimination contained in the Guidelines—as finding of lower allocations for communities containing concentrations of minority persons—will generally indicate a high probability of noncompliance.

In addition to an analysis of allocations State-wide, OCR may examine individual districts with substantial numbers of minority students to determine if such districts receive lower per-pupil allocations than the State-wide average.

19. *Comment:* A funding formula will be presumed unlawfully discriminatory if the circumstances recorded in paragraph III-B (now paragraph III-C) are present. Commenters asked for examples of evidence that will rebut the presumption.

*Response:* Two examples of persuasive rebuttal evidence derive from the Vocational Education Act. First, under Section 106(a)(5)(A)(ii) a State must give priority to funding applications that propose programs new to a service area and that are designed to meet emerging or projected manpower needs and job opportunities. These priorities are not directly related to economic need. Therefore the application of these priorities may in some circumstances be used by a State agency to rebut the presumption of discrimination arising from an inadequate allocation of funds to recipients enrolling a disproportionately high percentage of minorities. Secondly, Section 106(a)(4) requires the distribution of Federal vocational education funds on the basis of annual applications. An eligible recipient that fails to submit an application is prohibited from receiving Federal funds. A similar requirement may control the allocation of State funds under the provisions of a State law. For this

reason, the failure of urban or other recipients to apply for funds must be considered before a finding of compliance or noncompliance can be made.

These are only examples of rebuttal evidence that will be considered. Each case must be decided on the basis of a careful analysis of all evidence believed relevant by the recipient and by the Office for Civil Rights.

20. *Comment:* Commenters asked whether the presumption of paragraph III-C will be applied to each type of vocational education program or to combined State allocations; whether Federal and State funds will be examined separately or in combination; whether both operating costs and capital expenditures will be examined; whether the distribution formula will be judged on an annual basis or over a period of years.

*Response:* Section 106(a)(5) of the Vocational Education Act requires the States to base the distribution of Federal funds on economic, social, and demographic factors relating to the need for vocational education. The Commissioner of Education has ruled in 42 F.R. 53865 (Question #1) that the State's funding formula under section 106(a)(5) must be applied to each of the following Vocational Education Act programs: basic grant (section 120), guidance and counseling (section 134), special programs for the disadvantaged (section 140), and consumer and homemaking programs (section 150). To insure consistency with Office of Education directives under the Vocational Education Act, the Guidelines' requirements may be applied to each of the programs set out above.

The statutory factors listed in section 106(a)(5) of the Vocational Education Act apply to the distribution of Federal vocational education funds. A State may elect to distribute State funds under the same or a different formula. In any event, OCR may separately consider State and Federal allocations to determine whether each is consistent with civil rights authorities.

The distribution formula governs the allocation of all grants to subrecipients under Sections 120, 134, 140, and 150, including those for operating costs and capital expenditures. OCR may therefore examine both operating costs and capital expenditures.

States are required to describe the formula for the distribution of Federal funds in their five year plans (45 CFR 104.182(d)). In applying the gauge of unlawful discrimination to State formulas, OCR may consider expenditures for a single year, or for such other period it finds relevant to whether unlawful discrimination has occurred.

21. *Comment:* A commenter asked whether paragraph III-B (now III-B and III-C) applies to local as well as

State agencies. Others asked whether the gauge of compliance, now recorded in paragraph III-C, applies to local agencies.

*Response:* Paragraph III-B has been revised to clarify that it applies to all recipients that allocate Federal, State, or local funds among other recipients or schools. Thus, the paragraph applies to local agencies that employ a formula or "other method of allocation" to distribute funds among administrative subdistricts.

The gauge of compliance, recorded in paragraph III-C, refers to a potential misallocation of State and Federal funds. Although this gauge must prove in practice to be a convenient and informative measure, it will tentatively also be used to evaluate allocations of local funds.

22. *Comment:* State agencies argued they could not control the allocation of local funds.

*Response:* A State agency is not expected to provide protection against an improper allocation of local funds unless it has authority to review or approve local allocations.

23. *Comment:* Commenters argued that OCR lacks authority to monitor State vocational education funds. They argued that paragraph III-B should only control the allocation of Federal funds.

*Response:* The Department has an obligation to provide protection against unlawful discrimination in any and all facets of a program funded in whole or in part with Federal funds. A recipient of Federal funds may not unlawfully discriminate in the allocation or use of such funds or in the allocation or use of any other funds under its control. Of course, as one commenter notes, if the Department finds it necessary to proceed against any recipient, it may only attempt to defer or terminate HEW Federal funds.

24. *Comment:* Commenters suggested that the phrase "available through Federal funds" (paragraph III-C now III-D), improperly suggests that civil rights authorities apply only to competitive grants or contracts paid for with Federal funds under the Vocational Education Act. They urged that the phrase be deleted.

*Response:* The suggestion is accepted. A State agency receiving Federal funds may not discriminate in the allocation or distribution of any funds under its control.

25. *Comment:* Commenters thought the example, now recorded in paragraph III-C, should not be referred to in the paragraph relating to competitive grants and contracts.

*Response:* The example cannot be meaningfully applied to competitive grants and contracts. The reference has therefore been deleted.

26. *Comment:* Commenters suggested that paragraph III-E (now III-F) state that in appropriate circumstances a State may be required to remedy the effects of a prior unlawfully discriminatory distribution of funds.

*Response:* The Comment is accepted. It is well established that a recipient must remedy past unlawful discrimination and provide protection against like discrimination in the future.

27. *Comment:* Commenters questioned whether paragraph III-E (now III-F) affects the Commissioner of Education's authority to approve or direct a change in the State's method of fund distribution.

*Response:* If a State system for distributing Federal vocational education funds violates civil rights authorities, the Office of Education and the Office for Civil Rights will jointly seek corrective action.

#### SECTION IV—ACCESS AND ADMISSION OF STUDENTS

28. *Comment:* Commenters stated that the proposed Guidelines prohibited only future unlawful discrimination. They suggested a prohibition against recipients "maintaining" unlawfully discriminatory practices.

*Response:* This suggestion is accepted. Recipients must eliminate the effects of past discrimination and ensure nondiscrimination in the future.

29. *Comment:* Commenters suggested that paragraph IV-B be amended to require that sites be accessible to handicapped persons.

*Response:* The requirement of program accessibility for mobility impaired persons is contained in paragraph IV-N.

30. *Comment:* Commenters argued that new sites should be "equally" accessible rather than "readily" accessible to minority students.

*Response:* It is generally impossible to find or judge sites "equally" accessible to minority and nonminority communities. Recipients should attempt to locate facilities in perfectly neutral sites; but no change in the Guidelines is required or appropriate.

31. *Comment:* Recipient commenters stated that they often do not have authority to select sites for new facilities.

*Response:* Recipients that do not have authority to select, review, or approve sites have no obligations under this provision.

32. *Comment:* Commenters objected to paragraph IV-C on the ground that it conflicts with State statutes that limit certain programs offered by a district to students residing within that district.

*Response:* State laws that limit the admission of students to programs on the basis of residence within a district may be cited by recipients as proof of

nondiscrimination. The adequacy or accuracy of that claim will depend upon all of the facts and will vary from State to State and from case to case.

33. *Comment:* Commenters suggested that student reassignment is an additional remedy for site selection and geographic service area violations (proposed paragraph IV-D, now paragraph IV-E).

*Response:* This suggestion is accepted. For example, if high school vocational education programs are unlawfully segregated because of a geographic zone boundary, the segregation may be remedied through student reassignments.

34. *Comment:* Commenters thought the geographic zoning requirements for secondary vocational schools (paragraph IV-C) should be the same for postsecondary institutions (proposed paragraph IV-E).

*Response:* Geographic service area or attendance zone boundaries for vocational education centers are generally used at the secondary level. However, paragraph IV-C and IV-E apply to postsecondary institutions that limit admission on the basis of student residence. The separate paragraph for postsecondary institutions has therefore been deleted.

35. *Comment:* Generally, students may not attend an Area Vocational Education School (AVES) unless they reside within one of the school districts participating in the consortium. Commenters objected that paragraph IV-C will result in an unfair requirement that students from nonparticipating districts be admitted to the area school.

*Response:* In the event the "circumstances" listed in paragraph IV-C arise in a comparison between a consortium and a school district adjacent to a consortium, a recipient(s) may rebut the resulting presumption of unlawful discrimination through proof that compelling reasons justified the inclusion and exclusion of contiguous districts. For example, recipients may demonstrate that an excluded district failed to approve a bond issue needed for the construction of a facility and that all districts included in the consortium approved such a bond issue.

It will not be sufficient for the consortium to prove that all participating districts have approximately the same tax base and that they joined together for that reason. Rather a consortium must prove that an excluded district received a genuine invitation to participate on terms comparable to those offered any other district, and that the offer was declined by the governing authority of the district. If a recipient fails to prove that the planning and formation stages were nondiscriminatory, it will be required to give

the excluded district an opportunity to participate in the consortium. Of course, the newly included district may be required to contribute financially and otherwise on the basis of an equitable formula and arrangement.

36. *Comment:* Consortia ask whether paragraph IV-F bars an equal allocation of a facility's student capacity among participating school districts if that allocation results in the disproportionate exclusion of minority group students. Comment No. 35 addresses an issue illustrated by the exclusion of a city school system from an essentially suburban consortium. The issue in this comment, is illustrated by a consortium of a majority black city school system and four majority white suburban districts that equally share a vocational education facility with a capacity of 500 students. Inequality results from this agreement if the city system's student enrollment is substantially greater than its suburban partners. Thus if each participant in this five district consortium is allocated 100 student spaces in the vocational education center, each suburban district may have only 1,000 students competing for 100 spaces while the city system may have 2,000 students competing for 100 spaces. Students in the city system do not have equal opportunity for admission to the vocational education center.

*Response:* This provision (IV-F) applies to both separate school districts and consortia. However, a consortium may allocate available spaces in the manner described in this comment if it proves that compelling reasons similar to those discussed in comment 35 above, justify the allocation.

37. *Comment:* Commenters asked whether paragraph IV-C may result in a requirement that a school district admit to its vocational education facilities students who reside in an entirely separate school district.

*Response:* Paragraph IV-C and IV-F apply primarily to discrimination within a school district and to consortia as discussed in comments 35 and 36. A legally constituted separate school district providing vocational education only to students residing within its borders is not required by paragraph IV-C to admit nonresident students. However, in the event a State establishes a "vocational education district" composed of several school districts, the boundaries of the vocational education district are subject to review under paragraph IV-C.

38. *Comment:* Commenters objected that paragraph IV-H was unreasonable and unrealistic in presuming that segregated facilities, courses and programs resulted from recipient practices rather than student choice. Others urged that the paragraph contain an additional specific presump-



tion of unlawful discrimination if a school were established for members of one race, sex or national origin and continues to be so attended. Such commenters asked for a rule holding that the only permissible remedy for segregation in such a school is relocation of courses and programs to other schools.

**Response:** Both comments have some merit and have led to a rewriting of the paragraph. Vocational education administrators are quite correct in arguing that specific vocational courses and programs are generally elected by, not required of, students. Consequently, segregation may result from parental, community and peer group influences that are beyond their control. This fact is generally recognized by Section IV of the Guidelines: each paragraph identifies a method or factor controlling student eligibility other than student choice and attempts to provide protection against the unlawful exclusion of students based upon that factor. Thus, a student's ineligibility based upon residence (paragraph IV-C) or because the facility was located too far from his or her home (paragraph IV-B) or because he or she scored too low on an admissions test (paragraph IV-K) is addressed by the Guidelines. Proposed paragraph IV-H departed from this theme. Rather than identify a specific device that resulted in the exclusion of students despite their desire to enroll, the paragraph proposed a presumption of unlawful discrimination whenever a facility or course was segregated. This was unreasonable, and the general presumption has been deleted.

However, the other commenters are also correct in stating that the Guidelines fail to identify another factor or device that can interfere with a student's choice. A recipient may have constructed a facility for members of one race or sex and may not have taken meaningful action to remedy the segregation. In such cases, it is unreasonable to state that the school continues to be segregated as a result of student choice. The analogy to racial segregation in elementary and secondary public schools is perfect: by the late 1960's Federal courts were consistently holding that school officials were not adequately desegregating their dual racial systems when, after 100 years of enforced segregation, they merely opened the doors of their white schools and announced that black students could apply for admission. Paragraph IV-H has accordingly been rewritten to hold that if a facility was established for minorities, or for one race, national origin or sex and it continues to be essentially segregated despite open enrollment, additional steps to desegregate the facility are necessary. However, the suggestion that a specific remedy should be re-

quired of a school established as a segregated facility, is not accepted. The efficacy of any proposed remedy will vary from case to case.

**39. Comment:** Commenters stated that there should not be a violation of paragraph IV-H if a protected group is represented in a facility in proportion to its representation in the service area.

**Response:** This comment is accepted. Evidence that members of a protected group attend a facility in proportion to their representation in the service area will be accepted as evidence of that group's nondiscriminatory enrollment in the facility. However, the boundaries of the service area must satisfy the requirements of paragraph IV-C.

**40. Comment:** Commenters suggested that in paragraph IV-H underrepresentation, not nonparticipation, should be the standard; that discrimination based on national origin was improperly omitted from paragraphs IV-F and IV-H.

**Response:** These suggestions merely urge consistency among several provisions and identify inadvertent errors. The suggested changes have been made.

**41. Comment:** Commenters urged that handicapped persons be protected by paragraph IV-H.

**Response:** A vocational education center, branch or annex enrolling only handicapped students is often permissible under the Department's Section 504 regulation (e.g. a school for autistic children). Each secondary level student must be individually evaluated and then assigned to a program responsive to his or her individual needs. For this reason the presumption recognized in paragraph IV-H cannot routinely protect handicapped persons. Nevertheless, under the requirements of paragraphs IV-N and VI-A, secondary level handicapped students may be placed in segregated annexes, branches or centers only if their individualized education plans state that they cannot be trained in a regular program with "supplementary aids and services."

**42. Comment:** Commenters suggested that the proposed validation standard of paragraph IV-K would permit recipients to use criteria that disproportionately exclude minorities or handicapped persons merely by demonstrating that the students admitted were more likely to succeed in the program. This would allow recipients, for example, to exclude protected persons from the attractive trade and technical programs through evidence that a "C" average student is less likely to excel in a program than an "A" average student. The commenters suggested that screening criteria to be permis-

sible, must be "essential to participation" in a program.

**Response:** This suggestion is accepted. One of the principal objectives of the Vocational Education Act is to provide protected group persons the training they need to obtain employment. Screening criteria or standards that have the effect of disproportionately excluding such persons from vocational education programs must therefore be validated as essential to satisfactory completion of course requirements. The use of criteria like grade point average, to justify priority admission of students with exceptional attainments or scores may disproportionately exclude protected group persons. If such disproportionate exclusion occurs the criteria or standards must be validated as essential to participation in a program before they may be used by a recipient.

**43. Comment:** Commenters sought to expand paragraphs IV-L and IV-M. They argued that recipients should be required to provide native language programs, English language instruction and other diverse methods of instruction where there are high concentrations of persons with limited English language skills.

**Response:** The changes proposed are beyond the scope of the Guidelines project. The requirements of the Guidelines are consistent with established Office for Civil Rights secondary school policy.

**44. Comment:** Commenters objected to the failure of paragraph IV-D, (I) and (M) (now E, I, and M) to include deadlines for the submission of acceptable remedial plans.

**Response:** The Office for Civil Rights will establish time periods for the submission of remedial plans on a case by case basis.

**45. Comment:** Commenters thought the public notification paragraph, IV-O, fails to ensure adequate notice of vocational education opportunities. Others thought the proposed provision was too burdensome; they found the requirement of notice to limited English proficiency persons particularly objectionable.

**Response:** The requirement that recipients announce a policy of nondiscrimination has several components: 1) the notice must be continuing; 2) it must be designed to reach a recipient's beneficiaries and employees, and potential beneficiaries and employees, particularly members of protected groups; 3) it must state the policy of nondiscrimination; 4) it must include the name, telephone number, and address of a person who can provide additional information on the policy of nondiscrimination. The proposed provision for notification was deficient with respect to requirement number 4;

the final Guidelines have been revised accordingly.

The Department agrees with the commenters who found too onerous the requirement of notice of "all program offerings and admissions criteria." It has been substantially revised. Also, notice to national origin minorities with limited English speaking ability is now required only if a service area contains a "community" of such persons.

**46. Comment:** Commenters asked whether affirmative action programs were permissible or required.

**Response:** Appropriate remedial action (sometimes referred to as "affirmative action") must be undertaken to overcome the effects of past discrimination. Also, certain voluntary affirmative action measures are permissible under the Department's Title VI, Title IX, and Section 504 regulations, when a recipient finds such measures useful or necessary to correct societal discrimination or patterns of segregation and nonparticipation. The Secretary and the President have issued statements urging recipients to adopt and continue voluntary affirmative action programs in admissions, recruitment, counseling, and employment.

**47. Comment:** A commenter asked whether children attending private racially discriminatory academies may also attend Federally assisted vocational schools.

**Response:** On April 26, 1976, the Office for Civil Rights announced that "children enrolled in a non-public school cannot participate in the public school program if the non-public school engaged in discriminatory practices prohibited by Title VI. Even though the non-public school is not a recipient, any discriminatory practices by it would . . . directly affect the Federally assisted program." 41 F.R. 35553 (August 23, 1976).

#### SECTION V—COUNSELING AND PREVOCATIONAL PROGRAMS

**48. Comment:** Commenters recommended that recipients be required to provide inservice training for counselors on the needs of minorities, the handicapped, and students stereotyped on the basis of sex.

**Response:** Inservice training is an approved method for instructing professional staff on the forms of discrimination experienced by students. However, recipients may obtain compliance through other methods.

**49. Comment:** Proposed paragraph V-B provided that disproportionate enrollments based on sex must be examined to verify that they do not result from discrimination in counseling. Commenters asked that disproportionate enrollments based on race or national origin lead to a similar examination of counseling practices.

**Response:** The suggestion is accepted and paragraph V-B has been revised.

**50. Comment:** Commenters urged that paragraph V-E endorse affirmative promotional and outreach activities.

**Response:** The recommendation is accepted. Voluntary affirmative action in promotional and counselling activities is endorsed through comment number 47.

**51. Comment:** Commenters found "unrealistic" the prohibition against counselling handicapped students toward limited career objectives (paragraph V-B).

**Response:** This provision allows a recipient to advise handicapped students of the difficulties they may encounter in fields not traditionally opened to them. However, the provision requires that recipients do more than merely state that such obstacles exist. The recipient must provide students with information on available vocational opportunities, on the responsibilities of an employer under Section 504, and on available remedies in the event of discrimination. Information or materials that may assist recipients in meeting this responsibility are available from the Office for Civil Rights, Office of Program and Review and Assistance.

#### SECTION VI—EQUAL OPPORTUNITY IN THE VOCATIONAL EDUCATION INSTRUCTIONAL SETTING

**52. Comment:** Commenters recommended several changes to this section: A) "Mainstreaming" handicapped students should not be a priority; B) Sex restricted financial assistance, even subject to the conditions specified in paragraph VI-B, should be impermissible; C) Additional detail should be provided in paragraph VI-C to provide protection against unlawful discrimination; D) A new section should be added to announce recipient obligations to national origin minority persons with limited English speaking ability.

**Response:** The primary purpose of Section VI of the Guidelines is to record several provisions of the Department's Title IX and Section 504 regulations that deserve emphasis in light of findings in OCR compliance reviews and complaint investigations. Proposed changes "A" and "B" are inconsistent with the Department's regulations and therefore beyond the scope of the Guidelines project; suggestion "C" is meddlesome in that it seeks to regulate recipients aimlessly; proposed change "D" seeks a provision already included in another section of the Guidelines.

#### SECTION VII—WORK STUDY, COOPERATIVE VOCATIONAL EDUCATION, JOB PLACEMENT, AND APPRENTICE TRAINING

**53. Comment:** Commenters argued that the requirements of Section VII are too burdensome. They believe that Congress never intended recipients to monitor employers and unions for discrimination.

**Response:** Vocational education administrators misperceive the nature of Section VII requirements. Under the Department's civil rights regulations recipients are prohibited from engaging in any service, activity, or program in a discriminatory manner. Work study, cooperative education, and job placement are recipient programs or activities and for this reason may not be marred by unlawful discrimination. There is evidence, for example, that school officials are honoring requests from employers for persons of a particular race or sex or for persons free of handicaps. This is unlawful discrimination by both the recipient and the employer. Moreover, the Congress is not mindless; it does not enact idle legislation. It would not appropriate more than a half billion dollars annually under the Vocational Education Act for both nondiscriminatory job training programs and discriminatory job placement programs.

**54. Comment:** Commenters suggested that the Guidelines require recipients to obtain an assurance of nondiscrimination from employers that participate in cooperative education, work study, and job placement programs. Others suggested that paragraph VII-A should require school officials to collect, review, and maintain data reflecting the race, sex, national origin, and handicap of students participating in these programs.

**Response:** The addition of a written assurance to existing written agreements (e.g., cooperative vocational education agreements) is a reasonable and useful measure. This requirement has been added to the Guidelines. To date, OCR investigators have not been frustrated by inadequate recipient records, and the data collection suggestion is therefore not accepted.

**55. Comment:** Commenters urged that paragraph VII be rewritten to allow potential employers to discriminate on the basis of handicap if the handicap prevents a person from performing the job. One commenter stated, for example, that a roofing company need not hire an individual with no legs as a roofer since the job requires an ability to climb a ladder carrying 90 pounds of materials.

**Response:** Employers may not discriminate on the basis of handicap against otherwise qualified handicapped persons. Prospective employers are permitted to make preemployment



inquiries into an applicant's ability to perform job-related functions. Note, however, that employers are required to "reasonably accommodate" the special needs of a handicapped employee or applicant for employment if it does not result in an "undue hardship" for the employer. In the example provided by the commenter, a small roofing concern would probably be unduly burdened by the accommodation necessary for this handicapped person. However, in contrast, a major university will not experience "undue hardship" if it provides a reader for a blind applicant for employment. See paragraph VIII-E of the Guidelines. Additional information on the principles of "undue hardship" and "reasonable accommodation" can be obtained from the Office for Civil Rights, Office of Program Review and Assistance.

56. *Comment:* Commenters objected to the phrasing in paragraph VII-A suggesting that a recipient must control an employer's policies and practices.

*Response:* A recipient cannot control the policies or practices of an employer. However, a recipient must determine whether an employer discriminates and if necessary divorce itself—its programs and activities—from the discriminating employer.

57. *Comment:* Commenters asked whether recipients are prohibited from entering work study and cooperative education agreements with employers that have remedied their discriminatory policies and practices.

*Response:* Recipients are free to enter into agreements with such employers.

58. *Comment:* A commenter argued that prospective employers in cooperative placement activities should not be covered by these Guidelines because they are "ultimate beneficiaries" under 45 CFR § 84.3(f).

*Response:* The requirements of the Guidelines apply to recipients of Federal funds, not to prospective employers. Recipients must take measures to free their programs and activities of employers who unlawfully discriminate. It is unnecessary, therefore, to determine whether prospective employers are "ultimate beneficiaries."

59. *Comment:* Commenters asked whether the requirement of nondiscrimination in apprentice training applies only to programs sponsored by unions.

*Response:* Paragraph VII-B applies to registered and non-registered apprentice training programs whether sponsored by a union, an individual employer, a group of employees, an employer-employee committee, or a governmental agency. The text of paragraph VII-B has therefore been revised to cover a "labor union or other sponsor." Also, all sponsors of

apprentice programs are subject to the Department of Labor Guidelines for Nondiscrimination in All Apprentice-ship Programs (29 CFR Part 30).

#### SECTION VIII—EMPLOYMENT OF FACULTY AND STAFF

60. *Comment:* Commenters argued that the Department's Title VI employment jurisdiction extends only to employees who work directly with students. They state that the Department has no authority to act on complaints of employment discrimination against "administrators or applicants for employment."

*Response:* The Guidelines have been revised to reflect the Department's current interpretation of its authority. If and when it is revised or modified, the new policy will be announced and will supersede the Guidelines.

61. *Comment:* Commenters stated that the Department has no authority to accept or resolve employment discrimination complaints under Title IX.

*Response:* The Guidelines reflect the Department's current interpretation of its authority. Several cases raising this issue are now pending in the courts of appeal. If and when this litigation results in controlling holdings that the Department has no employment jurisdiction under Title IX, the Department's regulations and these Guidelines will be revised.

62. *Comment:* Commenters suggested that under a recent decision of the United States Court of Appeals for the Fourth Circuit, *Trageser v. Libbie Rehabilitation Center*, — F.2d — (4th Cir. 1978), the Department has no authority to accept or resolve employment discrimination complaints under Section 504.

*Response:* The Guidelines reflect the Department's current interpretation of its authority. If and when it must be revised to conform to controlling judicial decisions, the new policy will be announced and will supersede the Guidelines.

63. *Comment:* Commenters stated that the definition of a "qualified handicapped" person under Section 504 of the Rehabilitation Act and the Guidelines is at odds with the Department of Labor's definition under Section 503 of the Rehabilitation Act.

*Response:* The Department of HEW is presently reviewing with the Department of Labor the inconsistencies between their definitions. The Guidelines reflect the Department's current view. If and when it is revised or modified, the Department's regulation and these Guidelines will be revised.

64. *Comment:* Commenters objected to paragraph VIII-F on the ground that it establishes requirements inconsistent with *Bakke*.

*Response:* The Guidelines require remedial action to overcome the effects of past discrimination. *Bakke* permits, among other activities, such "affirmative action."

65. *Comment:* Commenters objected to paragraph VIII-C as "presuming guilt" before an investigation is conducted.

*Response:* Although alternative language was considered, no change has been made in the Guidelines. It is not the intention nor the effect of the Guidelines to make baseless presumptions or findings. Rather, statistical patterns result in inferences that additional evidence may rebut. The Office for Civil Rights will not find unlawful discrimination solely on the basis of statistical data or without affording a recipient an opportunity for rebuttal.

66. *Comment:* Commenters urged that the Guidelines require recipients to maintain and submit data on its employment practices.

*Response:* This suggestion was rejected. Records maintained and submitted by recipients under other authorities have satisfied the needs of OCR investigators.

67. *Comment:* Commenters asked whether this section applies to State agencies.

*Response:* All recipients of Federal financial assistance from the Department, as specified in Section I, are covered by Section VIII. This also explains the requirement of paragraph II-A(4).

68. *Comment:* Commenters stated that paragraph VIII-C should recognize that a recipient may rebut a presumption of unlawful employment discrimination through evidence that qualified persons of a protected group were not available to the individual school district nor to the vocational education center.

*Response:* Rebuttal evidence may include proof that: (1) Members of a protected group were recruited without success; or (2) Identified persons of a protected group were offered employment opportunities that were declined.

#### SECTION IX—PROPRIETY VOCATIONAL EDUCATION SCHOOLS

69. *Comment:* A commenter argued that a tuition grant or loan to a student in attendance at a proprietary school is not Federal financial assistance to the proprietary school. Rather it is compensation paid for a direct service—a "procurement contract." It is argued that proprietary schools are therefore not subject to the Department's regulations or these Guidelines.

*Response:* The Department has long defined the term "recipient" under Title VI, Title IX and Section 504 to include proprietary (i.e., other than

public or nonprofit) educational institutions that receive tuition from students participating in Federal tuition grant programs. It is beyond the scope of the Guidelines project to reconsider established Department policy.

DAVID S. TATEL,  
Director,  
Office for Civil Rights.

March 15, 1979.

[FR Doc. 79-8561 Filed 3-20-79; 8:45 am]

[6712-01-M]

#### Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20790; FCC 79-134]

#### SETTING UP A SINGLE SYSTEM OF IDENTIFICATION FOR ALL DEVICES COVERED UNDER THE EQUIPMENT AUTHORIZATION PROGRAM

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This is a Revision of Parts 2, 15, 18, and 83 of FCC Rules to replace former non-uniform and inconsistent identification requirements for radiofrequency devices with a single simpler system of identification for all such devices subject to the FCC Equipment Authorization program.

EFFECTIVE DATE: April 25, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Milton C. Mobley or John T. Robinson, Federal Communications Commission, Laboratory Division, P.O. Box 40, Laurel, MD 20810, Tel: 301-725-1585.

#### REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: February 28, 1979.

Released: March 15, 1979.

By the Commission: Chairman Ferris issuing an additional statement; Commissioner Fogarty concurring in the result.

In the matter of Revisions of Parts 2, 15, 18, and 83 of the rules and regulations to set up a single system of identification for all devices covered under the equipment authorization program, Docket No. 20790.

1. On May 6, 1976, the Commission released a *Notice of Proposed Rule-making* in Docket No. 20790,<sup>1</sup> propos-

<sup>1</sup> FEDERAL REGISTER: May 12, 1976, 41 FR 19349. FCC Reports: Vol. 59, FCC, 2nd p. 56.

ing to amend various sections in Parts 2, 15, 18, and 83 of the rules, relating to identification requirements for equipment required to be covered by grants of equipment authorization issued by the Commission prior to lawful marketing. The sections to be amended all contain requirements for equipment identification, with wide variation in the present requirements as to the type of information to be listed on the equipment identification plates. It is not uncommon for a given device to be subject to two or more equipment authorization procedures, with different requirements for each. This causes problems for the grantee in trying to comply with the various identification requirements and for the Commission with regard to indexing and listing authorized equipment. It also leads to inexact identification of equipment on documents submitted to the U.S. Customs Service and has caused a number of importation problems.

2. A major part of the identification problem has been caused by the fact that equipment marketers have for many years used a variety of terms, such as Model, Type, Catalog Number, and the like as prefixes for the actual product identification number. The terms Model and Type have also been used more or less interchangeably in the Commission's Rules relating to grants of equipment authorization. In the consumer equipment area, there are many cases of equipment electrically identical being marketed under two or more model or type numbers because of the need of the marketer to distinguish differences in cabinet styling, color and the like. Under the present rules, this requires a grant of equipment authorization for each version of the equipment, and entails additional costs for both the grantee and the Commission. Included among the objectives of this rulemaking is abandonment of the use of the term Model or Type as an equipment identification prefix for equipment authorization, and instead to use an identifier assigned by the Commission for each authorized equipment. An equipment so authorized may include a family of several models or types that are electrically identical but differ from one another in cabinet style, color, or other ways not affecting the ability of the equipment to comply with the applicable technical standards, providing the prospective grantee in his application elects this option and lists these models or types and the way(s) in which they differ from the basic equipment. Additional models or types may be proposed for inclusion in an existing authorization by filing a supplementary application at a later date.

3. The rules adopted herein establish a single system of identification for all equipment subject to the Commission's equipment authorization requirements, except for telephone equipment required to be registered under Part 68. These rules will go into effect 18 months after the effective date of this Order, except that a grantee of an equipment authorization may elect to comply with the new identification procedure at an earlier date. These rules require that an FCC-assigned identification (FCC Identifier) be displayed on the nameplate of each authorized device. This identifier shall consist of three elements.

A coded identifier for the grantee (or grantee/trade name), consisting of three alpha-numeric characters.

A coded identifier for the manufacturer, consisting of three alpha-numeric characters.

The identifier for the particular equipment, or family of equipments, assigned by the grantee.

Example: ACP2B9324B6

ACF..... Grantee (or grantee/trade name) code.

2B9..... Manufacturer code.

324B6..... Number assigned by the grantee to the product or family of technically identical products.

Encoding of the identifiers for the grantee (or grantee/trade name) and manufacturer is needed because it is common practice for certain equipment to be marketed only under trade names, without the name of either the grantee or manufacturer on the equipment. Moreover, it is known that there are many instances in which more than one grantee is marketing equipment under the same trade name. This is a major problem in after-market identification of equipment, and in identification during importation. While it is not desired nor intended to affect such arrangements in the marketplace, there is a need for assurance of identification. Consumer items sold under trade names make up the larger part of the number of regulated devices sold in an average year. Inability to assure proper identification has caused many problems, particularly for imported items.

4. A nearly identical system is already employed for identification of telephone equipment registered under Part 68 of the rules. Because that part requires the complete identifier to be assigned by the Commission, and the nameplate also must display certain information peculiar to telephone equipment (and not relevant to other devices covered under the equipment authorization program), we have not proposed full unification of Part 68 devices under this proposal. However, the system adopted herein for assignment of coded identifiers to grantees (or grantee/trade names) and manufacturers is already in use for devices registered under Part 68.



5. Under these rules the equipment nameplate is required to display the FCC Identifier (as validated by the Commission) and either the name of the grantee, his trade name, or both of these (whichever he prefers). For imported items, the country of origin, as required by 19 U.S.C. 1304, must also be displayed. In the case of certain other low-power communication devices regulated under Part 15, an additional cautionary legend is also required. Where Federal law or regulations of other U.S. Government agencies require equipment, such as microwave ovens or diathermies, to be inscribed with warning labels or other legend; these may be included. Other information desired by the grantee may be included on the nameplate at his option.

6. Comments in this proceeding were filed by the parties listed below. No reply comments were received.

Consumer Electronics Group of the Electronic Industries Association (CEG/EIA)

Industrial Electronic and Control Instrumentation Group, HF Heating Committee, of the IEEE (Industrial Control/IEEE)

Unisonic Products Corp. (Unisonic)  
Western Union Telegraph Co. (WU)  
Litton Microwave Cooking (Litton)  
Association of Home Appliance Mfrs (AHAM)

The Magnavox Co. (Magnavox)  
Land Mobile Communications Section of the Electronic Industries Association (LMCS/EIA)  
Collins Division of Rockwell International Corp. (Collins)  
GTE/Sylvania (Sylvania)  
U.S. Customs Service (USCS)

7. LMCS/EIA requested that action under this Notice be delayed or withdrawn until related rulemakings in Dockets 19356, 20120, 20746, 20780, and 20718 are finalized. They pointed out that advent of several concurrent rulemakings made their ability to make informed comment rather difficult, and that they were therefore rather critical of the proposal. For reasons other than the LMCS/EIA request, final action on this rulemaking has been deferred more than two years since it was announced. We often find it necessary to propose rulemaking in several areas at the same time, and it would be extremely difficult to attempt to serialize these actions so as to avoid the possibility that one or more interested parties might be affected simultaneously by two or more rulemakings. LMCS/EIA did point out that they were vitally concerned with avoiding delay in obtaining equipment authorization. One of our objectives in this rulemaking is to minimize the time required in assuring proper equipment identification, which will permit more effort on other aspects of the program. Accordingly the LMCS/EIA request for delay in fi-

nalizing this proceeding must be denied.

8. The comments raised objections to certain of the provisions that had been proposed in the Notice. These comments are discussed with respect to the particular section or subject involved.

9. *Published list of codes for grantee or manufacturer.* Sections 2.926 (b) and (e) proposed publication of lists of the codes assigned to grantees (or grantee/trade names) and manufacturers. CEG/EIA, LMCS/EIA, Unisonic and Sylvania requested that this publication be dropped on the ground that this would make public otherwise private arrangements between the parties, and that this could undermine public acceptance of trade names. Under the existing provisions of the rules, the identification of grantee and manufacturer are required to be included in an application for equipment authorization. After date of grant, these files are routinely available for public inspection upon request pursuant to § 0.460 of the rules. Thus publishing lists of codes would not have made public information not already available. However, we have reconsidered the proposal to publish these lists and have deleted it from these amendments. The major need for these listings is for internal use within the Commission staff and for use by U.S. Customs. Current lists will be provided for these intra-government uses. They will not be reproduced for general public distribution.

10. *Legend regarding interference.* Sections 15.132(a), 15.178 (a) and (b), 15.186 (a) and (b)(3), 15.375 (a) and (b)(4), and 15.415(a) required that the nameplates of certain low-power communication devices bear the following legend;

This device complies with FCC Rules Part 15. Operation is subject to the following two conditions:

(1) This device may not cause harmful interference.

(2) This device must accept any interference that may be received, including interference that may cause undesired operation.

CEG/EIA, Magnavox, Collins and Sylvania objected to use of the term "harmful interference" in this legend, notwithstanding that this identical language is required for labelling of three types of low-power communication equipment in the present rules. They believe that uninformed parties might misunderstand this term to indicate potential physical harm to the user. This proposal continues an existing requirement and extends it to several additional categories of similar equipment. The present regulation has not given rise to the misunderstanding alleged in the comments. Since this regulation is merely a warning to the

purchaser of what he can expect from his low-power communication device, this regulation is adopted as proposed. The statement for receivers in § 15.71, adopted when certification was voluntary, is now being dropped, since it is no longer needed.

11. *Use of the term FCC Identifier.* Litton, AHAM and Magnavox requested revision of the proposed rules to permit abbreviation of the term: "FCC IDENTIFIER," and to allow some flexibility in type size and arrangement of information required on the nameplate. We have revised the rules herein to provide for abbreviation of "FCC IDENTIFIER" and to allow rearrangement of nameplate information provided that all required information is legibly displayed.

12. *Coding for Manufacturers.* Magnavox requested that consideration be given to conforming FCC code assignments to the system administered by EIA (code assignments in three algebraic numbers to each manufacturer) and requested that the EIA code assigned to Magnavox be reserved for its use. When drafting the Notice we considered possible use of either the EIA code or the one administered by the Department of Defense. The 999 individual assignments available under the EIA system were not considered to be adequate for long-term needs of the Commission, and the need for EIA or DOD action in making code assignments would produce undesirable delay and costs in our program. Furthermore, neither system makes provision for assignments of codes to parties other than manufacturers. For these reasons, we cannot accede to the Magnavox request. The FCC coding system provides for nearly 40,000 different codes for grantees (or grantee/trade names) and a similar number for manufacturers. It is already in use for registration of telephone equipment under Part 68 of the rules. Provision is made that upon request an advance assignment of the grantee code or the manufacturer code will be made so as not to delay the grantee/manufacturer procurement of labels for his equipment.

13. *Automatic acceptance of nameplate within 30 days.* Litton requested that a provision be added to the rules to provide that failure by the Commission to disapprove a nameplate design within 30 days be considered de-facto acceptance. While we believe that the proposals in the Notice have so simplified the nameplate requirements that there is very little likelihood that the proposed nameplates might be found unacceptable, it does appear that assurance of acceptance or rejection of nameplate designs within 30 days after filing of application would make it possible for manufacturers to proceed with nameplate procurement without

delay that would result from awaiting receipt of the grant of equipment authorization. Section 2.925(b)(4) provides for this review within 30 days for all applications filed after October 27, 1980, and for applications filed earlier requesting assignment of an FCC Identifier.

14. *Multiple manufacturers of a particular model.* LMCS/EIA directed our attention to the fact that the Notice did not specifically address how the identifier would be assigned in those cases where, pursuant to § 2.929 of the rules, the grantee may:

"license or otherwise authorize a second party to manufacture or market the equipment covered by the grant of equipment authorization . . . . Provided, That the equipments manufactured by such second party bear . . . the identical name and number . . . that appear in the grant of equipment authorization."

In the context of the rules, authorization for a second party to market the equipment under the original identification presents no problem. In the case where the grantee arranges for a second (or additional) manufacturer, upon receipt by the Commission of his notification of the circumstances, the Commission issues the grantee an amended grant listing all manufacturers. When these rule changes become effective, this amended grant will validate separate identifiers for the equipment as produced by each of the manufacturers for the grantee.

15. *Use of FCC Identifier prior to grant of equipment authorization.* LMCS/EIA also raised the question of permissible identification for equipment not yet covered by an equipment authorization which is displayed at a trade show with the disclaimer required by § 2.803. Apparently, LMCS/EIA interpreted § 2.926(e) as prohibiting attachment of a nameplate to such equipment. The intent of § 2.926(e) is to prohibit a prospective grantee from devising his own version of the FCC Identifier and using it on the equipment before issuance of a grant by the Commission. Nowhere in the proposed rules do we prohibit application of a nameplate nor do we propose to prohibit use of a model or type number for any equipment, authorized or not.

16. *Size and location of nameplate.* LMCS/EIA pointed out that the rules in the Notice did not cover the matters of nameplate size, location nor method of attachment. We prefer not to require any specific nameplate dimensions, considering the wide variation in dimensions of equipment. § 2.925(b) has been revised to be more specific as to location and method of attachment of the nameplate.

17. *Continued use of Model Number and Type Number.* Sylvania pointed

\*LMCS/EIA comment dated July 12, 1976, at para. 19) III.

out that the terms "Model Number" and "Type Number" are used in many places in the rules and that the proposed rules issued with the Notice did not propose to amend the rules to replace these terms with "FCC Identifier." One objective of this rulemaking is to use only the term "FCC Identifier" as the equipment identification prefix for Commission purposes, hopefully to eliminate our present problems due to grantee's use of "Model Number" and "Type Number" for other purposes. This requires changes only in the rules relating to equipment identification. Since more than one model of some kinds of equipment may be covered under the same "FCC Identifier," we believe that it is better to leave the other rules unchanged at this time. We expect that grantees and manufacturers will continue use of the terms "Model Number" and "Type Number" for their own purposes.

18. *Applications filed prior to effective date.* WU stated that they were uncertain as to the intention of the Commission with regard to identification of equipment authorized under applications filed before these rules become effective. The new rules adopted herein supersede the existing requirements for equipment identification, effective for applications filed on or after October 27, 1980. Concurrently, to provide for extension of the existing requirements covering equipment under applications filed before that date, the existing rules were renumbered with the initial part of each section changed to read:

Each equipment for which an . . . application is filed . . . before October 27, 1980, shall have . . .

This or similar language appears in §§ 2.925(e), 2.969(b), 2.1003(b), 2.1045(b), 15.123(b), 15.178(b), 15.186(b), 15.375(b), 15.415(b), 18.74(a)(2), and 18.141(c)(2). Renumbering these sections may have led to this uncertainty. The intent of the rules as proposed in the Notice is that equipment covered under applications filed before the effective date of these rules will continue to be identified as authorized, even though it may be manufactured or sold after that date.

19. *Country of Origin.* The U.S. Customs Service points out that 19 U.S.C. 1304 requires the inscription of the country of origin on all products imported into this country. If this information were added to the nameplate required by the Commission, the work of USCS in enforcing 19 U.S.C. 1304 would be facilitated. Accordingly USCS has requested that the country of origin be required to be inscribed on the nameplate. Although not addressed in a specific rule, the Notice in this proceeding did allow for inclusion of information required by law or other U.S. Government agencies. Accordingly § 2.925(a)(4) has been added in accordance with the USCS request.

20. Except as cited in the previous paragraph, CEG/EIA, Industrial Control/IEEE, Unisonic, WU, Litton, Magnavox, Collins, and Sylvania generally supported the proposed rulemaking.

21. The rules proposed in the Notice have been revised to provide for the major points raised in the objections and comments cited above. Except for these changes, the rules are adopted as proposed.

22. Rule changes proposed in other concurrent Notices of Proposed Rulemaking will be conformed to the rules adopted herein insofar as identification of equipment is concerned.

23. In view of the foregoing, we find that adoption of the revised rule changes would serve the public interest, convenience and necessity. Accordingly, it is ordered, That, effective April 25, 1979, the rules amendments contained in the attached Appendix are adopted, and this proceeding is terminated.

24. Authority for this action may be found in Sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, sec. 302, 82 Stat., 290; (47 U.S.C. 154, 302, 303).)

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

#### APPENDIX

#### PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES & REGULATIONS

1. Section 2.925 is revised to read as follows:

##### § 2.925 Identification of equipment.

(a) Each equipment for which an authorization application is filed on or after October 27, 1980, shall bear a nameplate or label carrying the FCC Identifier assigned by the Commission pursuant to § 2.926 and the grantee or grantee/trade name specified in the application for equipment authorization. In the case of an equipment of foreign origin, the country of origin (as required by 19 U.S.C. 1304) shall also be stated on the nameplate or label. Additional information may be inscribed on the nameplate or label at the option of the grantee providing that this additional information cannot be confused with the FCC Identifier. No equipment may bear more than one trade name.

(1) The grantee must display on the nameplate or label either his name or

\*See attached Additional Statement of Chairman Ferris.



a trade name (or both of these if he prefers). His application for equipment authorization should state which of these he proposes to use for the equipment.

(2) As used in this part, the term "manufacturer" applies only to the party listed by the grantee as the manufacturer. Names of producers of subassemblies or components used by this manufacturer in production of the equipment are not required to be included in identification of the equipment.

(b) The FCC Identifier for an equipment shall consist of the three elements described in § 2.926, displayed on one line of the nameplate or label. In each instance where the FCC Identifier is displayed in the nameplate or label, it shall be preceded by the term: "FCC ID:" in capital letters on the same line. If the grantee requests the Commission to assign a single FCC Identifier to a device, where the device is subject to more than one equipment authorization procedure, the above requirement applies. If the grantee requests the Commission to assign a separate FCC Identifier to each section of a device, such as a transceiver or transmitter-receiver, subject to more than one equipment authorization procedure, each FCC Identifier shall be displayed on a separate line of the nameplate or label and preceded by the terms: "TX FCC ID:" or "RX FCC ID:" as appropriate. For a transceiver or transmitter-receiver combination having separate identifiers for the transmitter and the receiver sections, the FCC Identifier for the transmitter section shall be listed on the top line of the identifier portion of the nameplate or label, the FCC Identifier for the receiver section shall be listed on the second line, and any FCC Identifiers for other sections shall be listed on the third and following lines. For imported devices, the country of origin shall be listed on the last line of the identification portion of the nameplate. The identification portion of the nameplate shall be enclosed in an area circumscribed by a line to distinguish it from any additional information placed on the nameplate. Devices other than transceivers or transmitter-receiver combinations having more than one FCC Identifier may have these listed in any order, but on separate lines, starting at the top of the identification portion of the nameplate.

(1) Where a device, such as a transceiver, consists of two or more sections constructed in a common enclosure and on a common chassis or circuit board and/or with common frequency controlling circuits, such equipment shall be listed under a single identifier.

(2) Where a device, such as a transceiver, consists of two or more sec-

tions, assembled in a common enclosure but constructed on separate subunits or circuit boards and with independent frequency-controlling circuits, such equipment may be listed with separate FCC Identifiers for the several sections.

(3) In the case of equipment which combines the functions of a registered telephone equipment and some other kind of equipment subject to equipment authorization requirements in a single unit under a single identification, the Registration Number issued pursuant to Part 68 of this chapter will serve as the FCC Identifier for the equipment. Where a registered telephone equipment and some other kind of equipment subject to equipment authorization requirements are constructed separately but are interconnected or used together and are provided with separate nameplates, the registered telephone equipment will be assigned a FCC Registration Number and the other section(s) will be assigned FCC Identifier(s).

(4) Applications filed on or after October 27, 1980, and applications filed earlier requesting assignment of an FCC Identifier pursuant to § 2.925(c) will receive a review by the Commission's Laboratory Division with respect to nameplate design within 30 days after receipt at the Laboratory. Failure by the Laboratory to reject a nameplate design proposed in any particular application within this time period will constitute de-facto acceptance of the nameplate design for that particular equipment. Such de-facto acceptance will be limited to the equipment covered by the particular application and will not be considered to establish a precedent for other applications. This review deadline applies only to the proposed nameplate design, not to the remainder of the application.

(c) Notwithstanding the provisions of paragraph (g) of this section, the FCC Identifier may be used earlier than October 27, 1980 at the option of the grantee for any equipment covered by an authorization application submitted after April 25, 1979, and for which the grantee requested in his application assignment of an FCC Identifier.

(d) The nameplate or label shall be permanently affixed to the equipment and shall be readily visible to the purchaser at the time of purchase.

(1) As used here, "permanently affixed" means that the required nameplate data must be etched, engraved, stamped into, indelibly printed, or otherwise permanently displayed on a permanently-attached part of the equipment enclosure, or displayed on a durable metal nameplate at least 0.020" (or 0.05 mm.) in thickness attached to such part of the equipment

enclosure by means of rivets, spot welding, or other method that would make removal of the nameplate difficult. Paper nameplates and/or nameplates attached with a soluble glue are not acceptable. The nameplate must be of a permanent nature capable of lasting the expected lifetime of the device and attached so that it cannot readily be detached.

(2) As used here, "readily visible" means that the nameplate or nameplate data must be visible from the outside of the equipment enclosure. It is preferable that it be visible at all times during normal installation or use, but this is not a prerequisite for grant of equipment authorization.

(e) Where it is shown that a permanently affixed nameplate is not desirable or is not feasible, an alternative method of positively identifying the equipment may be used if approved by the Commission. The proposed alternative method of identification and the justification for its use must be included with the application for equipment authorization.

NOTE.—As an example, a device intended to be implanted within the body of a test animal or person would probably require an alternate method of identification.

(f) The term: "FCC ID:" and the coded identification assigned by the Commission shall be in a size of type large enough to be readily legible, consistent with the dimensions of the equipment and its nameplate. However, the type size for the FCC Identifier is not required to be larger than eight-point.

(g) Unless assigned an FCC Identifier pursuant to § 2.925(c), each equipment for which an authorization application filed before October 27, 1980, shall be uniquely identified with a name and type or model number inscribed on a nameplate or label. The detailed information to be inscribed on the nameplate or label is set out in the rules for the particular form of equipment authorization required and, for some kinds of equipment, in the rules governing the specific category of device. The type or model number required for equipment subject to this paragraph shall comply with the following requirements:

(1) The type or model number shall consist of a series of Arabic numerals or capital letters or a combination thereof, and may include punctuation marks and spaces. The total of Arabic numerals, capital letters, punctuation marks and spaces in any assigned type or model number shall not exceed 17;

(2) The type or model number will be specified in the grant of equipment authorization and will be identical to that assigned by the manufacturer or applicant and given in the application for equipment authorization;

(3) The type or model number shall be one which has not been used previously in conjunction with the same name that will be on the equipment.

2. A new § 2.926 is added to read as follows:

#### § 2.926 FCC Identifier.

(a) When a grant of equipment authorization is issued, it will carry an FCC Identifier assigned by the Commission to identify the particular equipment covered by such grant. This identifier will consist of three elements:

(1) Grantee or grantee/trade name code pursuant to paragraph (b) of this section.

(2) Manufacturer code pursuant to paragraph (c) of this section.

(3) Number assigned by grantee pursuant to paragraph (d) of this section.

Example: XXXYYY1234A  
 XXX..... Grantee or grantee/trade name code.  
 YYY..... Manufacturer code.  
 1234A..... Product identification assigned by grantee.

NOTE.—The term "grantee/trade name code" refers to a code assigned to represent a specific trade name used by a specific grantee. In instances where different grantees propose use of the identical trade name, different grantee/trade name codes will be assigned.

(b) Grantee or grantee/trade name code will consist of three characters; Arabic numerals, capital letters, or a combination thereof. The lists of these codes will not be reproduced for public distribution. They will, however, be made available for official use by FCC and U.S. Customs Staffs. A prospective grantee may request the assignment of a code at any time. If not requested in advance, a code will be assigned at the time the grant of equipment authorization is issued. A grantee proposing to sell equipment under two or more trade names must request a separate code for each trade name.

(1) After assignment, each grantee will continue to use the same code for subsequent equipment authorization applications. In the event that the grantee name is changed, or ownership is transferred, the circumstances should be reported to the Commission so that a new code can be assigned if appropriate. Such code reassignment will require reissue of any grants of equipment authorization that may be involved. See §§ 2.934 and 2.935 for additional information.

(c) Manufacturer code will consist of three characters: Arabic numerals, capital letters, or a combination thereof. The lists of these codes will not be reproduced for public distribution. They will, however, be made available for official use by FCC and U.S. Customs staffs. A manufacturer (or a grantee who proposes to use his serv-

ices) may request assignment of a code at any time. If not requested in advance, a code will be assigned at the time the grant of equipment authorization is issued.

(1) After assignment of a code to a manufacturer, that party will continue to use the same code for all subsequent equipment applications, whether with the same grantee or another. In the event that the manufacturer name is changed, or ownership is transferred, the circumstances should be reported to the Commission so that a new code can be assigned, if appropriate. This notification should be routed via the grantee(s) involved, since such code reassignment will require reissue of all grants of equipment authorization involved. See §§ 2.934 and 2.935 for additional information.

(2) Where a grantee lists two or more parties as manufacturers of a given model of equipment, a code will be assigned for each manufacturer. The FCC Identifier for any such equipment made by one of the manufacturers will consist of the grantee code, followed by the code assigned to that manufacturer, and this followed by the number assigned by the grantee to the equipment. The grant of equipment authorization issued for the equipment will list all manufacturers and the respective FCC Identifiers for the equipment.

(d) The number assigned by the grantee shall consist of a series of Arabic numerals, capital letters, or a combination thereof. Standard punctuation marks and spaces also may be employed. The total of numerals, letters, punctuation marks, and spaces (within the number itself) shall not exceed 11. The number assigned to the equipment shall be one which has not been used previously in conjunction with the same grantee, grantee/trade name, or manufacturer.

(e) No FCC Identifier may be used on equipment to be marketed unless that specific identifier shall have been validated by a grant of equipment authorization issued by the Commission. The FCC Identifier is uniquely assigned to the grantee and may not be placed on the equipment without authorization by the grantee. See § 2.803 for conditions applicable to display at trade shows of equipment which has not been granted equipment authorization where such grant is required prior to marketing. Labelling of such equipment may include model or type numbers, but shall not include a purported FCC Identifier.

3. In § 2.969, the headnote and text are revised to read as follows:

#### § 2.969 Information required on identification label for type approved equipment.

(a) Each equipment for which a type approval application is filed on or after October 27, 1980, shall bear an identification plate or label pursuant to § 2.925 and § 2.926. The FCC Identifier for such equipment will be validated by the grant of type approval issued by the Commission.

NOTE.—FCC Type Approval Numbers will not be issued for any equipment covered by type approval applications filed on or after the date specified above.

(b) Each equipment for which a type approval application is filed before October 27, 1980, shall have the following information on the identification plate or label:

(1) Name of the grantee of type approval.

(2) The words "TYPE NO." or "MODEL NO." followed by the model number or type number assigned to the equipment by the grantee.

(3) The words "FCC TYPE APPROVAL NO." followed by the type approval number assigned by the FCC if a type approval number has been assigned.

(4) Any other statement or labelling requirements imposed by the rules governing the operation of this equipment.

4. In § 2.1003, the headnote and text are revised to read as follows:

#### § 2.1003 Information required on identification label for type accepted equipment.

(a) Each equipment for which a type acceptance application is filed on or after October 27, 1980, shall bear an identification plate or label pursuant to § 2.925 and § 2.926. The FCC Identifier for such equipment will be validated by the grant of type acceptance issued by the Commission.

(b) For each equipment covered by a type acceptance application filed before October 27, 1980, the identification plate or label shall contain the following:

(1) Name of the grantee of the type acceptance.

(2) The words "FCC TRANSMITTER DATA" followed by the number assigned to the equipment by the grantee. The abbreviations "XMTR" or "TX" may be used in place of the word "TRANSMITTER."

NOTE.—If the equipment is a transceiver containing transmitting and receiving capability and a single identifier is assigned, the words "FCC DATA," followed by the number assigned to the equipment by the grantee shall be used. If the transmitter part and the receiver part are assigned separate identifiers, the marking of paragraph (2) shall be used for the transmitter part and the marking of § 2.1045(b)(3) shall be used for the receiver part if the receiver



part is subject to the requirement for certification.

(3) Any other statement or labeling requirement imposed by the rules governing the operation of this equipment, except that statements of compliance with equipment approval rules or technical standards may be permitted to appear in a clear and recognizable manner elsewhere on the equipment.

5. In § 2.1045, the headnote and text are revised to read as follows:

§ 2.1045 Information required on identification label for certificated equipment.

(a) Each equipment for which a certification application is filed on or after October 27, 1980, shall be identified pursuant to §§ 2.925 and 2.926. The FCC Identifier for such equipment will be validated by the grant of certification issued by the Commission.

(b) For each equipment covered by a certification application filed before October 27, 1980, the identification label shall contain at least the following:

(1) The trade name. The trade name, if shown elsewhere on the equipment, shall be the same as that shown on the label.

(2) For consumer equipment (i.e., broadcast receivers, Part 15 walkie-talkies, and other equipment sold to the general public), the words "MODEL NO." followed by the number assigned to the equipment by the grantee. If the identification label contains other numbers in addition to that required by this paragraph, such as "SERVICE NO.," "CATALOG NO.," or other similar terms, to avoid confusion with the identifier required by the Commission, the words "MODEL NO." may be preceded by the term "FCC DATA" to facilitate recognition of the identifying number used for FCC.

(3) For communications equipment (i.e., receivers and other equipment normally used at licensed stations) the words "FCC RECEIVER DATA" followed by the number assigned to the equipment by the grantee. The abbreviations "RCVR" or "RX" may be used in lieu of the word "RECEIVER."

NOTE.—If the equipment is a transceiver having transmitting and receiving capability and a single identifier is assigned the marking of Section 2.1003(b)(2) shall be used. If the transmitter part and the receiver part are assigned separate identifiers, the marking of § 2.1003(b)(2) shall be used for the transmitter part and the marking of § 2.1003(b)(2) or (3) shall be used for the receiver part.

(4) Any other statement or labeling requirement imposed by the rules governing operation of this equipment, except that statements of compliance

with equipment approval rules or technical standards may appear in a clear and recognizable manner elsewhere on the equipment.

6. In § 2.1065, a note is added to read as follows:

§ 2.1065 Identification and changes in equipment information filed for application reference.

NOTE.—It is recommended that such equipment be identified with a nameplate pursuant to § 2.925, except for deletion of the FCC Identifier, which will not be assigned to nor listed for such equipment.

#### PART 15—RADIO FREQUENCY DEVICES

1. Section 15.71 is amended to read as follows:

§ 15.71 Identification of certificated receiver.

Each certificated receiver shall be identified pursuant to §§ 2.925 and 2.1045 of this chapter.

2. The title and text of § 15.132 is revised to read as follows:

§ 15.132 Labelling and identification requirements.

(a) A device subject to certification by the Commission for which an application is received on and after October 27, 1980, shall be identified pursuant to §§ 2.925 and 2.1045. In addition, the nameplate or label shall contain the following statement:

This device complies with Part 15 of FCC Rules. Operation of this device is subject to the following two conditions: (1) This device may not cause harmful interference. (2) This device must accept any interference that may cause undesired operation.

(b) A device subject to certification by the Commission for which an application is filed between April 1, 1976 and October 27, 1980, shall have permanently and visibly affixed an identification label containing information shown on the sample below.

#### FCC IDENTIFICATION DATA

| Name   | Model No. |
|--|-----------|
| Unique identifier  |           |
| "This device complies with FCC Rules Part 15 as of date of manufacture." |           |
| Date of manufacture  |           |

(1) Name. This shall include the trade name, if any, and the name and address of the manufacturer or of the vendor provided the name of the latter was included in the application for certification.

(2) Identifier. This is the model number assigned to the device by the manufacturer or applicant for certification and must be identical to that shown on the application for certification. This identifier must be preceded by the words "MODEL NO."

(3) Date. This is the month and year when the device was manufactured. If desired, this may be coded, provided the code therefor is filed with the application for certification.

(c) A device subject to certification by the Commission for which an application was filed before April 1, 1976 may be identified in any manner: *Provided*, The name, number and date required by paragraph (b) of this section are clearly identifiable and distinct from any other number or designator on the device.

3. Section 15.178 is revised to read as follows:

§ 15.178 Identification.

(a) Telemetering devices, other than those referred to in paragraphs (b) and (c) of this section, shall be identified pursuant to § 2.925, to § 2.926 where applicable, and to § 2.969 or § 2.1045 as appropriate.

(b) A biomedical telemetering device operating under § 15.172 or § 15.176 for which a certification application is filed on or after October 27, 1980, shall be identified pursuant to §§ 2.925 and 2.1045. The FCC Identifier for such equipment will be validated by the grant of certification issued by the Commission. The nameplate or label shall contain the following statement:

This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation.

(c) A biomedical telemetering device operating under § 15.172 or § 15.176 for which a certification application is filed before October 27, 1980, shall bear a label containing the following information:

(1) Name pursuant to § 2.1045(b)(1) of this chapter.

(2) Model number pursuant to § 2.1045(b)(2) of this chapter.

(3) The following statement:

This device complies with FCC Rules Part 15. Operation is subject to the following conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation.

(4) The date of manufacture. This information may be inscribed as the month and year of manufacture, or coded at the manufacturer's option, provided the key to the code is submitted with the application for certification.

4. Section 15.186 is revised to read as follows:

§ 15.186 Identification.

(a) The transmitter part and the receiver part of the radio control for a door opener operating under § 15.184 and for which certification applications are filed on or after October 27, 1980, shall each be identified pursuant to §§ 2.925 and 2.1045. The FCC Identifier for such equipment will be validated by the grant of certification issued by the Commission. The nameplate or label shall bear the following statement:

This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation.

(b) The transmitter part and the receiver part of the radio control for a door opener operating under § 15.184 and for which certification applications were filed before October 27, 1980, shall each bear a label containing the following information:

(1) Name pursuant to § 2.1045(b)(1) of this chapter.

(2) Model number pursuant to § 2.1045(b)(2) of this chapter.

(3) The following statement:

"This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation."

5. Section 15.314 is revised to read as follows:

§ 15.314 Identification required.

(a) Each field disturbance sensor for which certification applications are filed on or after October 27, 1980, shall be identified pursuant to § 2.925 and § 2.1045. The FCC Identifier for such equipment will be validated by the grant of certification issued by the Commission. The nameplate or label shall bear the following statement:

"This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation."

(b) Each field disturbance sensor for which applications for certification are filed before October 27, 1980, shall bear a label pursuant to § 15.41.

(1) In addition to the name and identifier required by § 15.41 the identification label on a field disturbance sensor authorized under application for certification filed before October 27, 1980, shall bear the statement:

"This device complies with FCC Rules Part 15. Operation of this device is subject to the following two conditions: (1) This device may not cause harmful interference.

(2) This device must accept any interference that may cause undesired operation."

6. Section 15.375 is revised to read as follows:

§ 15.375 Identification of auditory training equipment (72-76 MHz).

(a) Each transmitter and each receiver operated as part of an auditory training system for which applications for type approval or certification are filed on or after October 27, 1980, shall be individually identified pursuant to § 2.925 and § 2.969 or § 2.1045, as applicable. The FCC Identifier for such equipment will be validated by the grant of certification or type approval issued by the Commission. The nameplate or label of the receiver shall contain the following legend:

"This receiver complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation."

(b) Each transmitter and each receiver operated as part of an auditory training system for which applications for type approval or certification are filed before October 27, 1980, shall be individually identified with a distinctive nameplate or label containing the following information:

(1) The name of the grantee of type approval or certification or the trade (or brand) name given in the application therefor.

(2) A distinctive type number identical to that given in the application for type approval or certification.

(3) On the transmitter, the type approval number assigned by the Commission in the form:

FCC TYPE APPROVAL NO.—

(4) On the receiver, the following statement:

"This receiver complies with FCC Rules Part 15. Operation is subject to the condition that the device will not cause harmful interference and that must accept any interference that may be received, including interference that may cause undesired operation."

7. Section 15.415 is amended to read as follows:

§ 15.415 Identification of a Class I TV device.

(a) Each Class I TV device for which a type approval application was filed on or after October 27, 1980, shall be identified pursuant to § 2.925 and § 2.969. The FCC Identifier for such equipment will be validated by the grant of certification issued by the Commission. The nameplate or label of the equipment shall include the following statement:

"This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received, including interference that may cause undesired operation."

(b) Each Class I TV device for which a type approval application is filed before October 27, 1980, will be assigned a type approval number as listed in the grant of type approval. The type approval number and the following statement shall be permanently inscribed upon or permanently attached to the exterior of each production unit as follows:

"FCC Type Approval No.—. Valid only when operated pursuant to FCC Rules Part 15."

#### PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

1. § 18.74(a) is revised to read as follows:

§ 18.74 Identification of type approved equipment.

(a) Nameplate. (1) Each equipment for which a type approval application was filed on or after October 27, 1980, shall be identified pursuant to § 2.925 and § 2.969. The FCC Identifier for such equipment will be validated by the grant of type approval issued by the Commission.

(2) Each equipment for which a type approval application was filed before October 27, 1980, shall be identified by the insertion of the FCC Type Approval Number on the nameplate of the equipment.

2. Paragraph (c) of § 18.141 is revised to read as follows:

§ 18.141 Operation on assigned frequencies.

(c) Identification. (1) Each equipment for which a type approval application is filed on or after October 27, 1980, shall be identified pursuant to § 2.925 and § 2.969. The FCC Identifier for such equipment will be validated by the grant of type approval issued by the Commission.

(2) For equipment covered by type approval granted pursuant to an application filed before October 27, 1980, in accordance with § 18.144 through § 18.146 inclusive, there shall be affixed to each unit of equipment operated in accordance with paragraphs (a) and (b) of this section, or posted in the room in which such operation occurs, a dated certificate of a competent engineer, or a dated certificate or nameplate of the manufacturer of the



equipment, setting forth the FCC type approval number for such equipment, the general conditions under which such equipment should be operated, and certifying that the equipment involved may reasonably be expected to meet the requirement of this section under the described conditions of operation for a period of at least 3 years. The certification required in this section shall describe with certainty the apparatus covered thereby.

### PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Paragraph (b) of § 83.405 is revoked and reserved.

§ 83.405 Special provisions applicable to ship-radar stations.

(b) [Reserved]

2. Paragraph (c)(2) of § 83.555 is revised by revoking and reserving subparagraph (ii), as follows:

§ 83.555 Requirements for automatic alarm-signal keying device.

(c) . . .  
(2) . . .  
(ii) [Reserved]

3. Paragraph (c) of § 83.556 is revoked and reserved.

§ 83.556 General requirements for survival craft radio equipment.

(c) [Reserved]

### ADDITIONAL STATEMENT OF CHARLES D. FERRIS ON THE AMENDMENT OF PARTS 2, 15, 18, AND 83 OF THE RULES RELATING TO IDENTIFICATION OF RADIO-FREQUENCY DEVICES

A constant complaint about government regulation is that it is burdensome, and that even the same agency can place inconsistent requirements on those subject to its regulations. The re-regulation adopted today is an attempt to reduce such burdens so that producers of equipment subject to our equipment authorization procedures will not be subject to inconsistent equipment identification requirements. I am confident that this small

step can, and will, be followed by many others.

[FR Doc. 79-8526 Filed 3-20-79; 8:45 am]

[6712-01-M]

[Docket No. 21348; FCC 79-148]

### PART 90—PRIVATE LAND MOBILE RADIO SERVICE

#### Clarification of Technical Regulations; Denial of Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule (Memorandum Opinion and Order).

SUMMARY: This document clarifies technical regulations relating to private land mobile radio service published at 43 FR 54788, November 22, 1978. This document also denies the petition for reconsideration by Sears Roebuck and Company seeking clarification and reconsideration of the rules in § 90.425 so as to allow identification of the stations in a mobile relay system by a single call sign.

EFFECTIVE DATE: April 20, 1979.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Richard Taube, Industrial and Public Safety Rules Division, Private Radio Bureau, (202) 632-6497.

In re matter of clarification of technical regulations; denial of petition for reconsideration.

Adopted: March 6, 1979.

Released: March 14, 1979.

By the Commission:

1. In our *Report and Order* released on November 16, 1978, in this proceeding, FCC 78-799, 43 FR 54788, November 22, 1978 we consolidated former Parts 89, 91, and 93 of our rules into a single part 90. Incidental to the consolidation, many rules were re-written for clarity and a few substantive changes were made. New Part 90 became effective January 2, 1979.

2. A timely petition for reconsideration has been filed in this proceeding by Sears, Roebuck and Company, a user of mobile radio systems licensed in the Business Radio Service. The petition concerns § 90.425, which contains the rules governing station identification in the Private Land Mobile Radio Service. Sears seeks clarification or reconsideration of the rules in § 90.425 so as to allow identification of the associated stations in simple mobile relay system (that is, the control, mobil relay, and mobil stations) by a single call sign and urges that the

call sign assigned to the mobil relay station be used.

3. The use of a single call sign for identification of all stations in a mobil relay system has been proposed by Sears in its pending petition for rule making, RM-3108. In effect, Sears seeks grant of RM-3108. However, while we see considerable merit in this proposal, we believe the matter should be disposed of at a later time, when we consider other pending petitions which are also concerned with station identification and related licensing procedures. For this reason, the petition for reconsideration will be denied, but RM-3108 will remain pending. Nevertheless, Sears has pointed out an ambiguity caused by inconsistent language in paragraphs (a)(1) and (d)(1) in § 90.425, which should be eliminated. The inconsistency will be eliminated by amending paragraph (d)(1) to exempt from station identification, as the rule previously provided, only those mobile stations operating on the transmitting frequency of the associated base station. We did not intend to change that rule when it was reworded for Part 90.

4. In addition, we take this opportunity to make a few other minor corrective changes in Part 90. First, we will add § 90.238 as a convenient summary of other provisions in Part 90 dealing with radio telemetry. Second, we will revise § 90.433 to put back into the rules operator requirements and exemptions which were unintentionally omitted when the operator rule was reworded. Lastly, language will be added to § 90.217 to make it clear that type accepted equipment must be used in operations conducted pursuant to that Section.

5. Finally, because the copies of Part 90 originally printed by the Federal Register have been exhausted and it will be a few more months before Part 90 becomes available on a subscription basis from the Government Printing Office, we are suspending the requirement that our licensees have copies of the land mobile rules. When Part 90 becomes available, a public notice will be given and the requirement will be re-instated.

6. For further information concerning this document, contact Richard Taube, Rules Division, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-6497.

7. Accordingly, pursuant to Section 303(r) of the Communications Act of 1934, as amended, it is ordered that Part 90 of the Commission's Rules is amended, effective April 20, 1979, as shown in the attached Appendix. It is further ordered that the petition for Reconsideration filed by Sears, Roebuck and Company in this proceeding on December 15, 1978, is denied. It is

further ordered That this proceeding is terminated.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Part 90 of the Commission's Rules is amended as follows:

1. Section 90.207(h) is amended to read as follows:

§ 90.207 Types of emissions.

(h) For telemetry operations, when specifically authorized under this part (see § 90.238), only A1, A2, F1, F2, or F9 emission will be authorized.

2. New § 90.238 is added to read as follows:

§ 90.238 Telemetry operations.

The use of telemetry is authorized under this part on the following frequencies.

(a) 72-76 MHz (as available in specific radio service frequency listings in accordance with Section 90.257 and subject to the rules governing the use of that band).

(b) 154.45625, 154.46375, 154.47125, 154.47875 MHz (as available in specific radio service frequency listings and subject to the rules governing use of those frequencies).

(c) 173.20375, 173.2100, 173.2375, 173.2625, 173.2875, 173.3125, 173.3375, 173.3625, 173.3900, 173.39625 MHz (as available in specific radio service frequency listings and subject to the rules governing the use of that band).

(d) 216-220 and 1427-1435 MHz (as available in specific radio service frequency listings and in accordance with § 90.259).

(e) Frequencies separated by 12.5 kHz from frequencies in the 457.525-460.650, 460.875-464.975, and 465.875-469.975 MHz bands (as available in the Business Radio Service in accordance with § 90.75(d)(4)).

(f) Frequencies separated by 12.5 kHz from frequencies in the 460.650-460.875 and 465.850-465.875 MHz bands (as available in the Business Radio Service in accordance with § 90.75(d)(5)).

(g) 450-470 MHz band (as available for secondary fixed operations in accordance with Section 90.261).

(h) 458-468 MHz band (as available in the Special Emergency Radio Service for bio-medical telemetry operations).

(i) Frequencies available for low power (2 watts or less) operations in the Business Radio Service.

3. Section 90.425(d)(1) is amended to read as follows:

§ 90.425 Station identification.

(d) . . .

(1) It is a mobile station operating on the transmitting frequency of the associated base station.

4. In § 90.433, paragraphs (a) and (b) are amended and a new paragraph (c) is added to read:

§ 90.433 Operator license requirements.

(a) *Maintenance and tests.* All transmitter adjustments or tests during the installation, servicing, or maintenance of a radio station which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment.

(b) *Operation during the course of normal rendition of radiotelegraph service.* Only a person holding a commercial radiotelegraph operator license of any class issued by the Commission shall operate a station when transmitting radiotelegraphy by any type of the Morse Code. Generally, only police zone and interzone stations will be transmitting radiotelegraphy. The requirements of this paragraph do not apply to (1) stations transmitting telemetry and (2) those automatically re-transmitting radio signals received from another station.

(c) *Transmitter with external controls.* Transmitters so designed that during the course of normal rendition of service may result in off-frequency operation or in unauthorized radiation, and transmitters whose controls, which may cause off-frequency or improper operation or radiation, are readily accessible shall be operated by a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission being used.

5. Section 90.217 is amended to read:

§ 90.217 Exemption from technical standards.

Transmitters used at stations licensed in the Business Radio Service which have an output power not exceeding 120 milliwatts are exempt from the technical requirements set out in this subpart: Provided, however, that the sum of the bandwidth occu-

pled by the emitted signal plus the bandwidth required for frequency tolerance shall be so adjusted that any emission appearing on a frequency 40 kHz or more removed from the assigned frequency is attenuated at least 30 dB below the unmodulated carrier. Only type accepted transmitters may be used. Operation in the continuous carrier transmit mode is permitted.

[FR Doc. 79-8376 Filed 3-20-79; 8:45 am]

[7035-01-M]

### Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised Service Order No. 1363]

### PART 1033—CAR SERVICE

#### Decision on substitution of refrigerator cars for boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Revised Service Order No. 1363.

SUMMARY: There is a substantial shortage of boxcars on Burlington Northern Inc. for shipments of sugar. BN has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar. Service Order No. 1363 authorizes BN, with the consent of the shipper, to substitute two refrigerator cars for each boxcar ordered for shipments of sugar. Revised Service Order No. 1363 eliminates the restrictions requiring exclusive BN movement.

DATES: Effective 12:01 a.m., March 15, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: Decided on March 14, 1979.

An acute shortage of boxcars for transporting shipments of sugar exists on Burlington Northern Inc. (BN) at stations on its lines. The BN has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar, and use of these refrigerator cars for the transportation of sugar is precluded by certain tariff provisions, thus curtailing shipments of sugar. There is a need for the



use of these refrigerator cars to supplement the supplies of plain boxcars for transporting shipments of sugar. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered.

§ 1033.1363 Substitution of refrigerator cars for boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Substitution of Cars  
Burlington Northern Inc. (BN) may substitute two refrigerator cars for each boxcar ordered for shipments of sugar from any station on the BN subject to the conditions provided in paragraphs (2) through (4) of this order.

(2) Concurrence of Shipper Required  
The concurrence of the shipper must be obtained before two refrigerator cars are substituted for each boxcar ordered.

(3) Minimum weights  
The minimum weight per shipment of sugar for which two refrigerator cars have been substituted for one boxcar shall be that specified in the applicable tariff for the car ordered.

(4) Endorsement of Billing  
Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Revised Service Order No. 1363.

(b) Rules and regulations suspended.  
The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) Application. The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) Effective date. This order shall become effective at 12:01 a.m., March 15, 1979.

(e) Expiration. The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Associ-

ation. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8573 Filed 3-20-79; 8:45 am]

[3510-22-M]  
Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Miscellaneous Corrections

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rule (Errata sheet).

SUMMARY: These amendments are miscellaneous corrections to the foreign fishing regulations which were published on December 19, 1978 (43 FR 59292).

EFFECTIVE DATE: These corrections will become effective on March 21, 1979.

FOR FURTHER INFORMATION CONTACT:  
Mr. W. Perry Allen, Permits and Regulations Division, Washington, D.C. 20235, Telephone: 202-634-7265.

SUPPLEMENTARY INFORMATION: The foreign fishing regulations which were published in the FEDERAL REGISTER on December 19, 1978, under authority of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), as amended, contained a number of minor errors. Some of these errors were typographical while others stemmed from small oversights. These amendments correct those errors and should be viewed as errata.

Signed at Washington, D.C. this 16th day of March, 1979.  
(16 U.S.C. Section 1801 et seq.)

WINFRED H. MEIBOHM,  
Executive Director, National Marine Fisheries Service.

1. § 611.4(d), second sentence, delete "and" between "BEGIN" and "RETURN".

2. § 611.4(d) and 611.4(e), sample message formats, change address lines to indicate two separate addressees as follows:  
"To: 17th Coast Guard District, Juneau, Alaska; Alaska Region, NMFS, Juneau, Alaska."

3. § 611.9, Appendix I A, Atlantic Ocean Fishes, correct species code for: Porgies (NS) to "847"; Dolphin to "238"; Pompano dolphin to "237"; Wahoo to "255"; and Shrimps (NS) to "697".

4. § 611.9 Appendix I B, Pacific Ocean Fishes  
a. Correct scientific name for: Sablefish (black cod) to "Anoplopoma fimbria"; and Dolphin to "Coryphaena hippurus".  
b. Correct entry for species code 118 to read, "118 \*\*\* Turbot (Greenland halibut) \*\*\* Reinhardtius hippoglossoides".  
c. Correct species code for Dolphin to "238".  
d. Add under Invertebrates the species code for Tanner crab (hybrid), "684".

5. § 611.9, Appendix I C, Marine Mammals  
a. Correct entry for Baleen whales to read, "993 \*\*\* Baleen whales (NS) \*\*\* Mysticeti".  
b. Correct scientific name of Northern sea lion to "Eumetopias jubatus".

6. § 611.9, Appendix II, Area Codes, remove Code Number, Name, and Figure No. entries for code numbers 11 through 17 from Appendix II A, Northwest Atlantic Ocean Fishery, and add such entries to Appendix II C, Atlantic Billfish and Sharks Fishery.

7. § 611.9, Appendix IV, Weekly Catch Report, paragraph D 1, replace table with the following: (Insert table)

8. § 611.20, Table I, correct species code for Crab, Tanner to "501, 610, 684".

9. § 611.50, Table I, Fishing Gear and Season Restrictions by Fishing Area, replace with the following: (Insert table)

10. § 611.50(e)(2)(ii), correct last sentence to read: "Data may also be reported using the 1977 version of the STATLANT 21-B form and the procedures established for that form."

11. Subpart E, correct title to read "Northeast Pacific Ocean".

12. § 611.80(f)(1)(i)(A), correct to read:  
"(A) Vessel name and permit number;"

13. § 611.92(d)(2)(iv)(B), correct to read:  
"(B) The Regional Director shall give notification of the first opening date of the U.S. halibut fishing season to the designated representative of each foreign nation at least 7 days before the U.S. halibut fishing season first opens."

[3510-22-C]

| FISHERY  | ADDRESS   | REPORT RECEIVED BY                                      |
|--|---|---|
| Northwest Atlantic Ocean . . . . .             | Director, Northeast Region<br>National Marine Fisheries Service<br>14 Elm Street<br>Gloucester, Massachusetts 01930<br>Telex No.: 940007.           | Wednesday, 1900 G.m.t., following reporting period.     |
| Washington, Oregon, California Trawl . . . . . | Director, Northwest Region<br>National Marine Fisheries Service<br>1700 Westlake Avenue North<br>Seattle, Washington 98109<br>Telex No.: 910444786. | Wednesday, 1900 G.m.t., following reporting period.     |
| Seamount Groundfish . . . . .                  | Director, Southwest Region<br>National Marine Fisheries Service<br>300 South Ferry Street<br>Terminal Island, California 90731.                     | Wednesday, 1900 G.m.t., following reporting period.     |
| Atlantic Billfish and Sharks . . . . .         | Director, Southeast Fisheries Center<br>National Marine Fisheries Service<br>75 Virginia Beach Drive<br>Miami, Florida 33149.                       | Wednesday, 1900 G.m.t., following reporting period.     |
| Bering Sea and Aleutian Islands . . . . .      | Director, Alaska Region<br>National Marine Fisheries Service<br>P.O. Box 1668<br>Juneau, Alaska 99801<br>Telex No.: 09945-377.                      | Second Monday, 1900 G.m.t., following reporting period. |

Table I. Fishing gear and season restrictions by fishing area.  
Northwest Atlantic Ocean Fishery

| Off-Bottom Gear Only |         |          |       |       |     |      |      |        |           |         |          |
|----------------------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|
| Area <sup>1/</sup>   | January | February | March | April | May | June | July | August | September | October | November |
| 1                    |         |          |       |       |     |      |      |        |           |         |          |
| 2                    |         |          |       |       |     |      |      |        |           |         |          |
| 3                    |         |          |       |       |     |      |      |        |           |         |          |
| 4                    |         |          |       |       |     |      |      |        |           |         |          |
| 5                    |         |          |       |       |     |      |      |        |           |         |          |

| Bottom Gear and Off Bottom Gear |         |          |       |       |     |      |      |        |           |         |          |
|---------------------------------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|
| Area <sup>1/</sup>              | January | February | March | April | May | June | July | August | September | October | November |
| 1                               |         |          |       |       |     |      |      |        |           |         |          |
| 2                               |         |          |       |       |     |      |      |        |           |         |          |
| 3                               |         |          |       |       |     |      |      |        |           |         |          |
| 4                               |         |          |       |       |     |      |      |        |           |         |          |
| 5                               |         |          |       |       |     |      |      |        |           |         |          |

Unless otherwise noted, seasons open at 0001 hours local time on the first day of the month and terminate at 2400 hours local time on the last day of the month.

1/ Coordinates of the various areas are set forth in Figure 1 to Appendix II of § 611.9.

2/ Season begins at 0001 hours local time on June 15, and terminates at 2400 hours local time on September 15.

Denotes maximum open fishing season, subject to possible earlier closure for some or all nations in accordance with § 611.15

[FR Doc. 79-8484 Filed 3-20-79; 8:45 am]



[3510-22-M]

**PART 653—ADULT ATLANTIC  
HERRING FISHERY****Final Regulations**

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final Regulations.

SUMMARY: These final regulations govern domestic fishing for Atlantic herring. They implement the Fishery Management Plan for the Atlantic Herring Fishery of the Northwestern Atlantic (FMP) prepared by the New England Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976 (FCMA), 16 U.S.C. 1801 *et seq.*

On December 28, 1978, these regulations were published as both emergency regulations and as proposed rulemaking (43 FR 80474). They became effective as emergency regulations on December 20, 1978. On February 3, 1979, the emergency period was extended until March 19, 1979 (44 FR 7711). Public comment was invited until February 5, 1979.

EFFECTIVE DATE: March 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; Telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: These final regulations continue the field order closing the fishery for Atlantic herring in the Gulf of Maine, effective 12:01 a.m. March 15, 1979.

**PUBLIC COMMENTS**

Three letters were received from the general public commenting on the proposed rulemaking. A summary of the comments and the Agency's responses appear below.

**A. RECORDKEEPING AND REPORTING  
REQUIREMENTS**

It was suggested that persons operating vessels which merely carry herring between the harvesting vessel and the shore ("carrier vessels") be exempted from the provisions of § 653.5(b) which require anyone who receives herring for a commercial purpose from a fishing vessel to report on transfers and purchases of this fish. It was not intended that the mandates of this section reach those persons who only transport herring and do not purchase or sell these fish. Therefore, the

regulations have been revised to include a definition of "carrier vessel" and exempt the owners and operators of these vessels from the reporting requirements of § 653.5(b). However, carrier vessels are required to have a fishing permit since these vessels fit within the definition of "fishing vessel" in § 653.2.

**B. DEFINITIONS**

One commenter observed that herring less than nine inches in length should not be considered as part of the quotas imposed by the regulations. Atlantic herring are defined in the regulations as "*Clupea harengus harengus*, three years of age and older." Consequently, size is not a determining factor in this regulatory scheme. In the FMP it is stated that "in view of the uncertainties associated with expressing sexual maturity in terms of size or length of fish, the Council has elected to forgo establishment of a minimum size at this time." (43 FR 60533). Therefore, no change to the regulations has been made.

**C. PROCEDURES FOR BOARDING**

It was pointed out that VHF-FM radiotelephones, as the commonly used communications system between vessels, should not be excluded from the provisions of § 653.8(b) which pertain to conveying instructions between law enforcement vessels and aircraft and fishing vessels. Radiotelephone communications prior to boarding is the standard practice. These regulations do not preclude the use of any reasonable means of communicating between vessels. Rather, the signals enumerated in the regulations are included solely for the safety and information of vessel captains should radio communications fail. NOAA, in conjunction with the United States Coast Guard, is presently considering all of the provisions of § 653.8 in regard to the comment. At this time, however, no changes are made to the regulations.

**D. OTHER PROVISIONS**

One commenter believed that the quotas specified in § 653.21 are too small because of the commenter's lack of faith in the resource assessment survey data. It was further stated that herring abundance should be assessed on the basis of commercial catch per unit of effort data ("effort versus landings") rather than predictive fishery modeling ("predictions and assumptions"). Development of optimum yields in the FMP used all available data, and therefore, are adjudged to be in accordance with section 301(a)(2) of the FCMA. The quotas remain unchanged.

It was recommended that Georges Bank, as a spawning area, should be

closed in order to "increase the overall availability of herring." There have been no spawning season/area closure regulations promulgated. In the FMP, the Council addressed the issue of the Georges Bank spawning site by stating that "it is clear that the current, limited capability of the U.S. fishing fleet to exploit Georges Bank spawning aggregations makes it unnecessary to establish season/area closures during the fishing year 1978/79." (43 FR 60533). The Council is reserving implementation of spawning season/area closures until a future date.

The Assistant Administrator redelegated to the Regional Director the authority to make adjustments to seasonal quotas, effective December 20, 1978. Section 653.23 has been amended to reflect this redelegation. Prior to adjusting seasonal quotas, the Regional Director is now required to "periodically evaluate" rather than "monitor" fishing levels for and stock sizes of herring. The word "monitor" connotes a continuous assessment. Since it is felt that only periodic evaluations are necessary to determine fishing levels and approximate stock sizes, § 653.23(a) has been amended to reflect this change.

Section 653.23(a) has also been revised to give the Regional Director the authority to adjust quotas if the Gulf of Maine spawning stock is not being maintained at the approximate 1978 level. The language of the proposed regulation allowed adjustments to be made if the stock was not maintained "at approximately 67,600 metric tons." According to the FMP, this figure is the spawning stock size that was projected for the beginning of 1978. However, estimations of spawning stock size are continually being refined as additional data is gathered on the year classes of herring moving through the population. Therefore, it is felt that the Regional Director should not be guided by a specific number (67,600 metric tons) which at a later date may not realistically reflect the 1978 spawning stock size.

The definition of "Georges Bank and South" has been revised so that it is parallel in form to the definition of that area in the Atlantic groundfish regulations (50 CFR Part 651).

The definition of "Vessel Fishing for Mackerel" has been refined so that a vessel's catch on board at any time must be 75 percent mackerel by weight. The incidental catch limitations of § 653.22(c) have been clarified so that a vessel's allowable catch of herring during a closure must be a specified percentage by weight of the total catch on board.

The language of § 653.24(c)(2) requiring the posting of a field order (which closes an area to fishing or adjusts a quota) 48 hours prior to its ef-

fective date was found to be perplexing. This section is revised so that the field order will be sent by mail to holders of herring permits at least 48 hours prior to the order's effective date.

The final environmental impact statement for the fishery management plan for Atlantic herring was filed with the Environmental Protection Agency on September 18, 1978.

Signed at Washington, D.C., this 16th day of March 1979.

WINFRED H. MEIBOHM,  
Executive Director,  
National Marine Fisheries Service.

**PART 653—ADULT ATLANTIC  
HERRING FISHERY****Subpart A—General Provisions**

- Sec.  
653.1 Purpose and Scope.  
653.2 Definitions.  
653.3 Relation to Other Laws [Reserved].  
653.4 Vessel Permits and Fees.  
653.5 Recordkeeping and Reporting Requirements.  
653.6 Vessel Identification.  
653.7 Prohibitions.  
653.8 Enforcement.  
653.9 Penalties.

**Subpart B—Management Measures**

- 653.20 Fishing Year.  
653.21 Seasonal Catch Quotas.  
653.22 Closures.  
653.23 Adjustments to Seasonal Quotas.  
653.24 Field Orders.  
653.25 Discard Prohibitions.  
653.26 Spawning Closures [Reserved].  
653.27 Size Restrictions [Reserved].

AUTHORITY: Fishery Conservation and Management Act of 1976 (FCMA), 16 U.S.C. 1801 *et seq.*

**Subpart A—General Provisions****§ 653.1 Purpose and Scope.**

(a) The regulations in this part govern the Atlantic herring fishery conducted by fishing vessels of the United States. These regulations implement the management plan for the Atlantic herring fishery of the northwestern Atlantic, which was prepared and developed by the New England Fishery Management Council and approved by the Assistant Administrator.

(b) These regulations do not limit harvests of Atlantic herring in the territorial waters of any State. Harvests from State waters other than the State waters of Maine, however, are part of the seasonal catch quotas provided for in these regulations.

**§ 653.2 Definitions.**

In addition to the definitions in the Act, the terms used in this Part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801-1882.

Assistant Administrator means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Atlantic herring, or herring, means *Clupea harengus harengus*, three years of age and older.

Authorized Officer means:

- (1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (2) Any certified enforcement officer or special agent of the National Marine Fisheries Service;
- (3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the Coast Guard to enforce the provisions of the Act; or
- (4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Carrier Vessel means any fishing vessel which only transports Atlantic herring between another fishing vessel and the shore and does not purchase or sell herring.

Discard means to throw away, cast back, or return to the sea any fish that has been caught. The removal and release of a live fish before that fish is brought on board a vessel is not a discard. Failure to retain any live fish once it is on board a vessel, or failure to retain any dead fish, is a discard.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Atlantic Herring Fishery of the Northwestern Atlantic, and any amendments thereto.

Fishing includes any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

- (1) The catching, taking, or harvesting of fish;
- (2) The attempted catching, taking, or harvesting of fish;
- (3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
- (4) Any operations at sea in support of, or in preparation for, any activity

described in paragraphs (1), (2), or (3) of this definition.

Fishing Vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) Fishing for Atlantic herring, or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing for Atlantic herring, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fishing week means the weekly period beginning 0001 hours Sunday and ending 2400 hours Saturday.

Georges Bank and South means that management area consisting of the Northwest Atlantic Ocean excluding the Gulf of Maine.

Gulf of Maine means that management area consisting of a portion of the Northwest Atlantic ocean north of 42°20' N. latitude, exclusive of the territorial waters of the State of Maine, plus that area south of 42°20' N. latitude which is west of 70°00' W. longitude and which is bounded on the south by the northern shore of Cape Cod, including the waters of Cape Cod Bay.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

- (1) Any person who owns that vessel in whole or in part;
- (2) Any charterer of the vessel, whether bareboat, time or voyage;
- (3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or
- (4) Any agent designated as such by a person described in paragraphs (1), (2), or (3) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone (617) 281-3600, or a designee.

Vessel Fishing for Mackerel means any fishing vessel whose catch on board at any time is 75 percent mackerel (*Scomber scombrus*) by weight.



## § 653.3 Relation to Other Laws [Reserved]

## § 653.4 Vessel Permits and Fees.

(a) *General.* Every fishing vessel must have a permit issued under this part.

(b) *Eligibility.* [Reserved]

(c) *Application.* (1) An application for a permit under this Part must be submitted and signed by the owner of the vessel on an appropriate form which may be obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all of the following information:

- (i) The name, mailing address, and telephone number of the applicant;
- (ii) The name of the vessel;
- (iii) The vessel's United States Coast Guard documentation number or State registration number;
- (iv) The home port and gross tonnage of the vessel;
- (v) The engine horsepower of the vessel;
- (vi) The approximate fish hold capacity of the vessel;
- (vii) The type and quantity of fishing gear used by the vessel; and
- (viii) The average size of the crew, which may be stated in terms of a normal range.

(3) Any change in the information specified in paragraph (c)(2) of this section shall be submitted in writing to the Regional Director by the applicant within 15 days of any such change.

(d) *Issuance.* The Regional Director shall issue a permit to the applicant within 30 days of the receipt of a completed application.

(e) *Expiration.* A permit shall expire when ownership, name of the vessel, or gross tonnage changes.

(f) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, superseded, or modified pursuant to Part 621 of this chapter.

(g) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit which has been intentionally altered, erased, or mutilated is invalid.

(h) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit shall not be considered a new application.

(i) *Transfer.* Permits issued under this Part are not transferable or assignable. A permit shall be valid only for the fishing vessel for which it is issued.

(j) *Inspection.* Any permit issued under this Part must be carried on board the fishing vessel at all times. The permit shall be presented for in-

spection upon request of any Authorized Officer.

(k) *Revocation.* Subpart D of Part 621 of this chapter (Civil Procedures) shall govern the imposition of sanctions against a permit issued under this part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permit vessel is used in the commission of an offense prohibited by the Act or these regulations, or if a civil penalty or criminal fine imposed under the Act and pertaining to a permit is not paid.

(l) *Fees.* No fee shall be required for any permit issued under this Part.

## § 653.5 Recordkeeping and Reporting Requirements.

(a) *Fishing Vessel Records.* (1) The owner or operator of a fishing vessel shall:

- (i) Maintain an accurate and complete fishing logbook on forms supplied by the Regional Director, recording all fishing;
- (ii) Make the fishing logbook available for inspection at any time during or after a trip by an Authorized Officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspections;
- (iii) Keep the fishing logbook for one year after the date of the last entry in the logbook; and
- (iv) Submit fishing logbook reports as specified in paragraph (a)(2) of this section.

(2) The owner or operator of a fishing vessel shall submit a complete fishing logbook report to the Regional Director, within 48 hours of the end of the fishing week or trip, whichever is the longer time period.

(3) The Assistant Administrator may revoke, modify, or suspend the permit of any vessel whose owner or operator falsifies or fails to submit the records and reports described in this section, in accordance with the provisions of Part 621 of this chapter (Civil Procedures).

(b) *Transfers and Purchases.* Any person who receives herring for a commercial purpose from a fishing vessel shall:

- (1) File a report with the Regional Director on forms supplied by him, within 48 hours of the end of the fishing week in which such receipt took place. Such report shall include information on all transfers and purchases of herring made by him during that fishing week; and
- (2) Permit any Authorized Officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspections, to inspect any records or books relating to any such purchase or transfer of herring.

(3) Paragraph (b) of this section does not apply to owners or operators of a carrier vessel.

## § 653.6 Vessel Identification.

(a) *Official Number.* Each fishing vessel over 25 feet (7.62 m) in length shall display its Official Number on the port and starboard sides of the deckhouse or hull and on an appropriate wheather deck so as to be visible from enforcement vessels and aircraft. The Official Number is the documentation number issued by the Coast Guard for documented vessels or the registration of number issued by a State or the Coast Guard for undocumented vessels.

(b) *Numerals.* The Official Number shall be at least 18 inches (45.72 cm) in height for fishing vessels over 65 feet (19.8 m) in length and at least 10 inches in height (25.4 cm) for all other vessels over 25 feet (7.62 m) in length, and shall be painted legibly in block Arabic numerals in contrasting color.

(c) *Vessel Length.* The length of a vessel, for purposes of this section, shall be that length set forth in Coast Guard or State records.

(d) *Duties of Operator.* The operator of each fishing vessel shall:

- (1) Keep the Official Number clearly legible and in good repair; and
- (2) Ensure that no part of the fishing vessel, its rigging, or its fishing gear obstructs the view of the Official Number from an enforcement vessel or aircraft.

It is unlawful for any person to:

- (i) Fish for, take, catch, harvest, or land any Atlantic herring in an area closed pursuant to § 653.24;
- (ii) Discard Atlantic herring at sea;
- (iii) Use any vessel for the taking, catching, harvesting, or landing of any Atlantic herring unless said vessel has a valid permit issued pursuant to this Part, and such permit is on board such vessel;
- (iv) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application for a vessel;
- (v) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this part;
- (vi) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, landing, purchase, sale or transfer of any herring;
- (vii) Refuse to permit an Authorized Officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspections, to inspect any logbooks or records relating to the taking, catching, harvesting, landing purchase or sale of any herring;
- (viii) Possess, have custody or control of, ship, transport, offer for sale,

sell, purchase, import, export or land any Atlantic herring taken in violation of the Act, this Part, or any regulation promulgated under the Act;

(ix) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this part, or any regulation promulgated under the Act;

(x) Fail to affix and maintain permanent markings as required by § 653.6;

(xi) Forcibly assault, resist, oppose, impede, intimidate, threaten or interfere with any Authorized Officer in the conduct of any search or inspection under the Act;

(xii) Resist a lawful arrest for any act prohibited by this part;

(xiii) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part;

(xiv) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this part;

(xv) Fail to comply immediately with enforcement and boarding procedures specified in § 653.8;

(xvi) Violate any other provision of this part, the Act, or any regulation promulgated pursuant thereto.

## § 653.7 Prohibition.

(a) *General.* The operator of any fishing vessel shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of the fishing vessel shall be alert for signals or other communications conveying enforcement instructions. [The following signals extracted from the International Code of Signals are among those which may be used:

- (1) "L" meaning "You should stop your vessel instantly,"
- (2) "SQ3" meaning "You should stop or heave to; I am going to board you," and
- (3) "AA AA AA etc.," which is the call to an unknown station, to which the signaled vessel must respond by illuminating the vessel identification required by § 653.6]

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

- (1) Stop immediately and lay to or maneuver in such a way so as to permit the Authorized Officer and his/her party to come aboard;
- (2) Provide a ladder for the Authorized Officer and his/her party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as are necessary to ensure the safety of the Authorized Officer and his/her party to facilitate the boarding.

## § 653.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and Parts 620 (Citations) and 621 (Civil Procedures) of this chapter.

## Subpart B—Management Measures

## § 653.20 Fishing Year.

The fishing year for Atlantic herring begins on July 1 and ends on June 30 of the following year.

## § 653.21 Seasonal Catch Quotas.

(a) *Gulf of Maine.* Quotas limiting the amount of Atlantic herring which may be caught in the Gulf of Maine management area during the following two periods of the fishing year are:

- (1) For the period from July 1, 1978, through November 30, 1978 (5 months), 4,000 metric tons; and
- (2) For the period from December 1, 1978, through June 30, 1979 (7 months), 4,000 metric tons.

(b) *Georges Bank and South.* Quotas limiting the amount of Atlantic herring which may be caught in the Georges Bank and South management area during the following two periods of the fishing year are:

- (1) For the period from July 1, 1978, through November 30, 1978 (5 months), 7,500 metric tons; and
- (2) For the period from December 1, 1978, through June 30, 1979 (7 months), 2,500 metric tons.

## § 653.22 Closures.

(a) *Closures.* The Assistant Administrator shall project, at least once a month, a date when the quota of herring for each management area, less an anticipated amount to be taken incidentally pursuant to paragraph (c) of this section, will be caught. If the projected date is earlier than the end of the period, the Assistant Administrator shall issue a field order prohibiting fishing for herring in the applicable management area after the projected date.

(b) *Prohibitions.* Fishing for Atlantic herring in the applicable management area is prohibited from the effective date of a field order issued pursuant to § 653.24, except as provided in paragraph (c) of this section.

(c) *Incidental Catch.* (1) Fishing vessels may fish in an area closed pursuant to this section for fish other than

herring and be allowed an incidental catch of herring of not more than 5 percent by weight of the total catch on board.

(2) Vessels fishing for mackerel in an area closed pursuant to this section shall be allowed an incidental catch of Atlantic herring of not more than 20 percent by weight of the total catch on board.

## § 653.23 Adjustment to Seasonal Quotas.

(a) *The Funding.* The Regional Director shall periodically evaluate fishing levels for and stock sizes of herring. If the Regional Director finds that the Gulf of Maine spawning stock is not being maintained at its approximate 1978 level, the Regional Director may adjust the quotas in § 653.21.

(b) *Considerations.* In making any adjustment under paragraph (a) of this section, the Regional Director shall consider:

- (1) The effect of fishing levels within the management areas;
- (2) The catch per unit of effort and rate of harvest of herring within the management areas;
- (3) Relative abundance and distribution of herring stocks within the management areas;
- (4) The condition of the herring stocks within the management areas;
- (5) Fishing levels and abundance of herring stocks in waters outside the management areas; and
- (6) Any other relevant information.

(c) *Procedure.* (1) The Regional Director shall publish proposed adjustments to the quotas in the FEDERAL REGISTER for public comment before they are made final, unless the Regional Director finds for good cause that such notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

(2) If the Regional Director decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, comments on the necessity for, and the extent of, the adjustment shall be received by the Regional Director for a period of 15 days after the effective date of the field order. During any 15-day comment period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which the adjustment was based.

(3) If comments are received during any comment period, the Regional Director shall reconsider the necessity for and the extent of the adjustment. As soon as practicable after that reconsideration, he shall either (i) publish in the FEDERAL REGISTER a notice of continued effectiveness of the adjustment, with a response to comments received; or (ii) modify or rescind the adjustment.



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## RULES AND REGULATIONS

(4) *Consultation and Notice.* The Regional Director shall give notice of adjustments to the quotas by issuance of a field order in accordance with § 653.24.

## § 653.24 Field Orders.

(a) *Contents.* Field Orders issued by the Assistant Administrator/or Regional Director under this Part shall include the following information:

(1) A description of the management area which is the subject of the closure or quota adjustment;

(2) The effective date and any termination date of the closure or quota adjustment; and

(3) The reason for the closure or quota adjustment.

(b) *Consultation.* Prior to issuance of any field order, the Regional Director shall notify the Executive Directors of the New England and Mid-Atlantic Fishery Management Councils.

(c) *Effective Date.* No field order issued under this section shall be effective until:

(1) It is filed for publication with the FEDERAL REGISTER; and

(2) It has been mailed to all persons holding permits issued under § 653.4 at least 48 hours prior to its effective date.

(d) *Termination.* Orders issued pursuant to this section shall remain in effect until the earlier of the following dates:

(1) Any expiration date stated in the field order; or

(2) The effective date of any order which modifies, rescinds, or supercedes the initial order.

## § 653.25 Discard Prohibition.

There shall be no discarding of Atlantic herring at sea by fishing vessels.

## § 653.26 Spawning Closures [Reserved]

## § 653.27 Size Restrictions [Reserved]

[FR Doc. 79-8572 Filed 3-16-79; 4:36 pm]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6320-01-M]

## CIVIL AERONAUTICS BOARD

[14 CFR Part 380]

[SPDR-67, Docket 35054, dated March 14, 1979]

## PUBLIC CHARTERS

Extending Consumer Protection Requirements to Other Charter Types

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB invites comments on extending its recently adopted Public Charter consumer protection requirements to charter flights that are performed under other charter rules, which are being phased out.

DATES: Comments by: April 16, 1979. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Comments should be sent to: Docket 35054, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, 1825 Connecticut Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: On August 14, 1978, the Board adopted the Public Charter rule, 14 CFR Part 380 (43 FR 36604, August 18, 1978). That rule which liberalized and simplified the conditions under which indirect air carriers could sell charter flights, replaced several other charter rules: Part 371, Advance Booking Charters (ABC's); Part 372a, Travel Group Charters (TGC's); Part 373, Study Group Charters (SGC's); Part 378, Inclusive Tour Charters (ITC's); and Part 378a, One-stop-inclusive Tour Charters (OTC's). These other rules became unnecessary, since any charter that could be performed under one of

them could also be performed under the Public Charter rule. To ease the transition, however, the revocation of the old rules was made effective January 1, 1979. A charter can be performed under the old rules at any time after that date, as long as it is covered by a prospectus filed before that date.

On August 30, 1978, the Board proposed a variety of consumer protection amendments to the new Public Charter rules (SPDR-50B, 43 FR 39807, September 7, 1978). At that time, the Board stated that it was not proposing to amend the other charter rules because they were to be revoked by the time the amendments would be effective.

On March 2, 1979, the Board adopted, with some changes, the consumer protection amendments proposed in SPDR-50B (SPR-156, 44 FR 12971, March 9, 1979). The amendments apply primarily to operator-participant contracts entered into on or after May 1, 1979, for Public Charters scheduled to depart on or after July 1, 1979. The corresponding requirements for advertising apply to ads distributed or broadcast on or after May 1 for flights scheduled to depart on or after July 1.

By January 1, 1979, charter operators had filed prospectuses for a large number of ABC's, ITC's, and OTC's, in some cases extending far into the future. Without further Board action, these "old-rule charters" will not be subject to the Public Charter consumer protection rules. The Board is hereby proposing to extend the protections adopted for Public Charters in SPR-156 to the old rule charters.

We recognize that many of the old-rule charter filings may have been made in the expectation that those charters would avoid the new consumer protection requirements. Little if any of the burden of complying with the consumer protection requirements is, however, attributable to the operators' changed expectations. The burden of compliance for operators of old-rule charters would not be significantly different from that for operators who filed Public Charter prospectuses before SPR-156 was adopted, with the expectation that effectiveness of those amendments would be keyed to prospectus filing dates rather than contract and flight dates. Moreover, the burden must be weighed against the Public Charter operators' burden of competing with charters

that are not subject to the new consumer protection requirements. Without these proposed changes, whether a charter passenger is covered by the increased consumer protections will depend for a long time on behind-the-scenes factors of which the public is generally unaware. Thus, either action or inaction in this area will result in some defeated expectations. On balance we have tentatively decided, contrary to our previous position, that the greater public interest calls for extending the protections to the old-rule charters as well as the newer Public Charters.

Since the Code of Federal Regulations parts under which the old-rule charters are conducted have been revoked, the extension of the consumer protection requirements would be achieved by adding a special section to the Public Charter rule. Since there are no more TGC's or SGC's scheduled, the extension does not cover those types.

The closing date for comments on this proposal is April 16, 1979. The target date for adoption of a final rule is April 30, 1979. We therefore do not expect to grant any requests to extend the comment period. The requirements for operator-participant contracts would apply to contracts entered into on or after June 1, but only for flights scheduled to depart on or after July 1, 1979. Similarly, the requirements for advertising would apply to ads distributed or broadcast on or after June 1 for flights scheduled to depart on or after July 1.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 380, *Public Charters*, as follows:

1. The Table of Contents would be amended by adding a new § 380.19 to Subpart B, to read:

## PART 380—PUBLIC CHARTERS

Sec.

• • • • •

## Subpart B—General Conditions and Limitations

• • • • •

380.19 Old-rule charters.

• • • • •

2. A sentence would be added at the end of § 380.1, to read:



**§ 380.1 Applicability.**

• • • This part also applies to old-rule charters as set forth in § 380.19.

3. A new § 380.19 would be added, to read:

**§ 380.19 Old-rule charters.**

(a) As used in this section, "old-rule charter" means a charter that is covered by a prospectus filed under Part 371, 378, or 378a of this title.

NOTE.—Those parts were revoked, effective January 1, 1979. The revocation specified that charters covered by prospectuses filed before that date could be performed on or after that date. 43 FR 38603-4, August 18, 1978.

(b) Indirect air carriers performing old-rule charters shall conform to the requirements of §§ 380.12, 380.30-380.33, and 380.33a of this part as if the old-rule charters were Public Charters.

(c) The requirements set forth in paragraph (b) of this section are effective as follows: § 380.12 applies to old-rule charters scheduled to depart on or after July 1, 1979. §§ 380.30 and 380.33a(d) apply to old-rule charter solicitation materials distributed or broadcast on or after June 1, 1979, but only with respect to charters scheduled to depart on or after July 1, 1979. §§ 380.31-380.33 and 380.33a (except 380.33a(d)) apply to old-rule operator-participant contracts entered into on or after June 1, 1979, but only with respect to charters scheduled to depart on or after July 1, 1979.

(Secs. 101(3), 204, 401, 402, 404, 407, 411, 416, and 1102 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 760, 766, 769, 771, 791; 49 U.S.C. 1301, 1324, 1371, 1372, 1374, 1377, 1381, 1386, and 1502.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8577 Filed 3-20-79; 8:45 am]

**[4210-01-M]****DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 500]

[N-79-631]

**REHABILITATION LOAN PROGRAM**

Notice of Transmittal of Interim Rule

AGENCY: Housing and Urban Development/Office of Assistant Secretary for Community Planning and Development.

ACTION: Notice of Transmittal.

SUMMARY: Under recently-enacted legislation the Chairman of the House

Committee on Banking, Finance and Urban Affairs and the Senate Committee on Banking, Housing, and Urban Affairs has requested the Secretary of Housing and Urban Development to provide their Committees with certain rules at least 15 days of continuous session prior to publication in the FEDERAL REGISTER. This Notice advises of the transmittal of specifically identified proposed and interim rules pursuant to such requests.

**FOR FURTHER INFORMATION CONTACT:**

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 Seventh Street, S.W., Room 5218, Washington, D.C. 20410 (202) 755-6207.

**SUPPLEMENTARY INFORMATION:** Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

**PART 500—SECTION 312  
REHABILITATION LOAN PROGRAM**

This interim rule amends the Section 312 Rehabilitation Loan Program as a result of changes made in the program by the Housing and Community Development Amendments of 1978. Congress has placed new limitations and conditions on the approval of rehabilitation loans for multifamily properties (5 or more units), has added new language on the priority for low and moderate income applicants, and has raised the loan limit on nonresidential properties from \$50,000 per property to \$100,000 per property. This interim rule is needed to immediately implement these important program changes.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535 7(o), Section 324 of the Housing and Urban Development Amendments of 1978).

Issued at Washington, D.C., March 15, 1979.

PATRICIA ROBERTS HARRIS,  
Secretary, Department of  
Housing and Urban Development.

[FR Doc. 79-8560 Filed 3-20-79; 8:45 am]

**[7710-12-M]****POSTAL SERVICE**

[39 CFR Part 111]

**INSPECTION SERVICE AUTHORITY**

Requesting Financial Records from a Financial Institution

AGENCY: Postal Service.

ACTION: Proposed Regulation.

**SUMMARY:** These proposed regulations would authorize the Inspection Service Department of the U.S. Postal Service to request financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978, title XI of Pub. L. 95-630, 92 Stat. 3697, and would set forth the conditions under which such request may be made. Section 1108(2) of the Right to Financial Privacy Act of 1978 requires that the formal written request be authorized by regulations promulgated by the head of the agency or department. These proposed regulations would thus, once implemented, enable the Inspection Service Department to utilize the formal written procedure to obtain financial records.

**DATES:** Comments on these proposed regulations must be received on or before April 20, 1979.

**ADDRESSES:** Written comments should be directed to Charles D. Hawley, Assistant General Counsel, Legal Affairs Division, law department, U.S. Postal Service, 475 L'Enfant Plaza West, SW, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in Room 9103.

**FOR FURTHER INFORMATION CONTACT:**

Charles D. Hawley, (202) 245-4584.

**SUPPLEMENTARY INFORMATION:** The Postal Service proposes to carry out the purposes described above by adding a new § 233.4 to title 39, CFR. Although exempt from the requirements of the Administrative Procedure Act, 5 U.S.C. 553 (b), (c), regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of title 39, CFR:

**PART 233—INSPECTION SERVICE  
AUTHORITY**

In part 233, add new § 233.4 reading as follows:

§ 233.4 *Requesting financial records from a financial institution.*

(a) Definitions.

The terms used in this section shall have the same meaning as similar terms used in the Right to Financial Privacy Act of 1978, Title XI of Pub. L. 95-630. "Act" means the Right to Financial Privacy Act of 1978.

(b) Purpose.

The purpose of these regulations is to authorize the Inspection Service Department of the U.S. Postal Service to request financial records from a financial institution pursuant to the formal written request procedure au-

thorized by section 1108 of the Act, and to set forth the conditions under which such request may be made.

(c) Authorization.

The Inspection Service Department is authorized to request financial records of any customer from a financial institution pursuant to a formal written request under the Act only if:

(1) No administrative summons or subpoena authority reasonably appears to be available to the Inspection Service Department to obtain financial records for the purpose for which the records are sought;

(2) There is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;

(3) The request is issued by a postal inspector;

(4) The request adheres to the requirements set forth in paragraph (d) of this section; and

(5) The notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to the delay of notice in section 1109 of the Act, are satisfied, except in situations (e.g., section 1113(g)) where no notice is required.

(d) Written Request.

(1) The formal request shall be in the form of a letter or memorandum to an appropriate official of the financial institution from which financial records are requested. The request shall be signed by the issuing official, and shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

(i) The identity of the customer or customers to whom the records pertain;

(ii) A reasonable description of the records sought; and

(iii) Such additional information as may be appropriate—e.g., the date on which the opportunity for the customer to challenge the formal written request will expire, the date on which the requesting Inspection Service Department expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual (if known) to whom disclosure is to be made.

(2) In cases where customer notice is delayed by court order, a copy of the court order shall be attached to the formal written request.

(e) Certification.

Prior to obtaining the requested records pursuant to a formal written request, a postal inspector shall certify in writing to the financial institution that the Inspection Service Department has complied with the applicable provisions of the Act.

(39 U.S.C. 401(2), 404(a)(7); Title XI, Pub. L. 95-630, 92 Stat. 3697)

W. ALLEN SANDERS,  
Acting Deputy General Counsel.  
[FR Doc. 79-8579 Filed 3-20-79; 8:45 am]

**[6560-01-M]****ENVIRONMENTAL PROTECTION  
AGENCY**

[40 CFR Part 62]

[FRL 1072.4]

**APPROVAL AND PROMULGATION OF STATE  
PLANS FOR DESIGNATED FACILITIES AND  
POLLUTANTS****Proposed Rulemaking**

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

**SUMMARY:** Regulations promulgated under the provisions of Section 111(d) of the Clean Air Act require States to submit to the Environmental Protection Agency (EPA) plans to control fluoride emissions from phosphate fertilizer plants. Alternately, a State can submit to EPA a "negative declaration" which certifies that no phosphate fertilizer plants exist within the State's boundaries. The purpose of this FEDERAL REGISTER notice is to propose approval of such negative declarations which have been submitted to EPA by the States of New York and New Jersey, the Commonwealth of Puerto Rico, and the Territory of the Virgin Islands.

**DATES:** Comments must be received on or before April 20, 1979.

**ADDRESSES:** All comments should be addressed to: Eckhardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Copies of the letters received from New Jersey, New York, Puerto Rico and the Virgin Islands are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10007.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

New Jersey Department of Environmental Protection, Division of Environmental Quality, John Fitch Plaza, Trenton, New Jersey 08625.

New York Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

Virgin Islands Department of Conservation and Cultural Affairs, Division of Natural Resource Management, Charlotte Amalie, St. Thomas, Virgin Islands 00801.

Puerto Rico Environmental Quality Board, Division of Water and Air, EQB Building, Santurce, Puerto Rico 00910.

**FOR FURTHER INFORMATION CONTACT:**

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

**SUPPLEMENTAL INFORMATION:** Section 111(d) of the Clean Air Act requires States to submit to the Environmental Protection Agency (EPA) plans to control emissions of designated pollutants from designated facilities. "Designated pollutants" are pollutants which are not included on a list published under the provisions of Section 108(a) of the 1977 Clean Air Act (National Ambient Air Quality Standards for Criteria Pollutants) or are not regulated under the provisions of Section 112(b)(1)(A) of the Clean Air Act (Hazardous Air Pollutants), but which are pollutants for which standards of performance for new sources have been established under Section 111(b) of the Clean Air Act (New Source Performance Standards). A "designated facility" is an existing facility which emits a designated pollutant and which would be subject to a new source performance standard for that pollutant if the facility were new.

Fluoride emissions from phosphate fertilizer plants is the first of a series of designated pollutants and facilities for which control plans are required. The performance standard went into effect on March 1, 1977 when a notice of availability of a final guideline document on the subject was published in the FEDERAL REGISTER (42 FR 12022).

In many cases, a state will not contain a designated facility (such as a phosphate fertilizer plant) within its borders. In that case, the state must submit a letter to EPA certifying the nonexistence of any such designated facility. This letter is termed a "negative declaration".

The States of New Jersey, and New York, the Commonwealth of Puerto Rico, the Territory of the Virgin Islands have each submitted to EPA "negative declarations" with regard to phosphate fertilizer plants. This fulfills their responsibility for submitting state control plans as replied by Section 111(d) of the Clean Air Act, and Subpart B of 40 CFR Part 62. A more detailed discussion of 111(d) control plans is contained in the July 10, 1978 and November 3, 1978 FEDERAL REGISTER (43 FR 29585 and 43 FR 51393, respectively).

All interested persons are invited to submit written comments on the proposed regulatory actions set forth below.



The changes proposed herein, with appropriate modifications, will be effective on promulgation in the FEDERAL REGISTER.

(Section 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7413 and 7601).)

Dated: March 14, 1979.

DOUGLAS M. COSTLE,  
Administrator, Environmental  
Protection Agency.

EPA proposes to amend Part 62, Subchapter C, Chapter I, Title 40 of the Code of Federal Regulations, by adding §§ 62.7600, 62.8100, 62.13100, and 62.13350.

**Subpart FF—New Jersey**

**FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS**

**§ 62.7600 Identification of plan—Negative declaration.**

The New Jersey Department of Environmental Protection submitted, on May 20, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

**Subpart HH—New York**

**FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS**

**§ 62.8100 Identification of plan—Negative declaration.**

The New York State Department of Environmental Conservation submitted, on May 12, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

**Subpart BBB—Puerto Rico**

**FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS**

**§ 62.13100 Identification of plan—Negative declaration.**

The Commonwealth Environmental Quality Board submitted, on January 31, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the Commonwealth subject to Part 60, Subpart B of this Chapter.

**Subpart CCC—Virgin Islands**

**FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS**

**§ 62.13350 Identification of plan—Negative declaration.**

The Territory Department of Conservation and Cultural Affairs submitted, on November 3, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the Territory subject to Part 60, Subpart B of this Chapter.

(Section 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7413 and 7601).)

[FR Doc. 79-8264 Filed 3-20-79; 8:45 am]

[6560-01-M]

[40 CFR Part 233]

[FRL 1080-1]

**MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS**

Availability of Draft Section 301(h) Technical Support Document

AGENCY: United States Environmental Protection Agency ("EPA").

ACTION: Notice of availability of draft technical support document.

SUMMARY: Prior to promulgating final regulations implementing Section 301(h) of the Clean Water Act, as amended dealing with modification of secondary treatment requirements for discharges into marine waters, EPA is seeking public comments on the current staff draft section 301(h) technical support document which, when made final, will be issued along with the regulations.

DATE: Comments must be received by April 23, 1979.

ADDRESS: Comments should be sent to: Section 301(h) Task Force Manager, Office of Water Program Operations (WH-546), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Scott P. Berdine, Office of Water Program Operations (WH-546), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, 202-426-8973.

SUPPLEMENTARY INFORMATION: Pursuant to Section 301(h) of the Clean Water Act, as amended, EPA on April 25, 1978, published a proposed rule establishing criteria and procedures to be employed by the Agency in evaluating applications for issuance of National Pollutant Discharge Elimination System ("NPDES") permits to modify requirements for secondary treatment. 43 FR 17484. EPA will promulgate a final rule shortly and, prior to doing so, is seeking public comment on the Section 301(h) technical support document which will accompany the final rule.

By this notice, EPA makes available to the public the current draft of this document. In addition, to assist commenters in reviewing this document, EPA also makes available copies of sections of the draft preamble, regulation, and application requirements language dealing with the three major

areas ("Physical Assessment," "Biological Assessment," and "Monitoring") that the draft technical support document addresses. EPA seeks comments only on the technical support document; the Agency has afforded the public a full opportunity to comment on the preamble, regulations and application format following proposal of the rule and will accept no further comments on these items at this time. EPA requests that comments on the draft technical support document be organized on a page-by-page basis.

To expedite the comment process, EPA has sent copies of the draft technical support document, to all those municipalities which submitted preliminary applications for modified NPDES permits by September 25, 1978. Others wishing to comment may obtain copies of the documents from EPA.

Dated: March 16, 1979.

THOMAS C. JORLING,  
Assistant Administrator for  
Water and Waste Management.

[FR Doc. 79-8590 Filed 3-20-79; 8:45 am]

[6820-26-M]

**GENERAL SERVICES ADMINISTRATION**

National Archives and Records Service

[41 CFR Part 101-11]

**RECORDS MANAGEMENT**

Copying—Reproduction of records, selection and utilization of equipment and supplies

AGENCY: National Archives and Records Service (NARS), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: This proposed rule expands the regulations of the General Services Administration to include Federal agencies' responsibilities in the area of copy management.

The Federal Records Management Amendments of 1976 to 44 U.S.C. Chapter 29 expanded the responsibilities and authorities of the Administrator of General Services with respect to records management by Federal agencies. The amendments, in part, require the Administrator to provide guidance and assistance to Federal agencies with regard to the reproduction of records and the selection and utilization of equipment and supplies associated with copying. This proposed regulation provides guidance to Federal agencies on managing copying practices and equipment.

DATE: Comments must be received on or before May 21, 1979.

ADDRESS: Submit comments to Jon Halsall, Program Operations Division, Office of Records Management, Gen-

eral Services Administration (NRO), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT:

Jon Halsall, Program Operations Division, Office of Records Management, General Services Administration (NRO), Washington, DC 20408, 202-376-8801.

SUPPLEMENTARY INFORMATION: GSA Bulletin FPMR B-68 of April 6, 1977, is rescinded as the provisions of that bulletin have been incorporated in this subpart.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals, and, therefore, is not significant for the purposes of Executive Order 12044.

The table of contents for Part 101-11 is amended by adding the following entries:

**PART 101-11—RECORDS MANAGEMENT**

Sec.

101-11.302 Applicability.

101-11.302-1 Authority.

101-11.302-2 Definitions.

101-11.302-3 Objectives.

101-11.302-4 Agencies' responsibilities.

101-11.4933 Standard Form xxx, Copy Management Annual Report (This is a proposed reporting form).

(Sec. 205(a), 63 Stat. 390; 40 U.S.C. 486(c))

Subpart 101-11.3—Organization, Maintenance, and Use of Current Records

Section 101-11.302 is added to read as follows:

**§ 101-11.302 Applicability**

This section provides guidance to Federal agencies on managing copying practices and copying equipment, except equipment that is subject to regulation by the Joint Committee on Printing (JCP) of the Congress of the United States. This section addresses the records management aspects of copying. While the guidelines contained herein for the management of copying practices are applicable generally, guidelines for equipment management pertain specifically to copiers and duplicators not used in a printing environment. This section does not apply to the reproduction of micrographic, photographic or machine readable records, or to associated equipment. For guidance on the reproduction of micrographic records see Subpart 101-11.5, Micrographics.

**§ 101-11.302-1 Authority.**

As required by 44 U.S.C. Chapter 29, the Administrator of General Services shall provide guidance and assistance to Federal agencies with regard to the reproduction of records and the selec-

tion and utilization of equipment and supplies associated with copying.

**§ 101-11.302-2 Definitions.**

For the purposes of the section, the following definitions shall apply:

(a) "Copy" means a duplicate of a document previously created;

(b) "Copier" means a machine that produces paper copies directly without requiring the creation of an intermediate master for each original;

(c) "Duplicator" means a machine that produces paper copies through the use of an intermediate master; and

(d) "Copying" means the making of copies whether by copier or duplicator.

**§ 101-11.302-3 Objective.**

Copy management aims to ensure the efficient creation of necessary copies and the elimination of unnecessary copying.

**§ 101-11.302-4 Agencies' responsibilities.**

To ensure good copying practices and proper equipment management, each agency shall:

(a) *Determine copying needs.* All copy management decisions must be based on knowledge of needs. Therefore, the needs of each organizational element must be documented. A description of organizational copying needs shall include the following:

- (1) Average number of copies needed per month;
- (2) Physical characteristics of materials routinely copied;
- (3) Average number of pages per document;
- (4) Average number of copies per document;
- (5) Why copies are needed; and
- (6) How quickly they are needed.

(b) *Match equipment to copying needs.* (1) Copiers and duplicators have many optional features and various operating limitations such as rated production capacities. Effective copying is accomplished by properly matching equipment capabilities to needs. Some organizational units will have needs sufficient to justify the full-time use of one or more machines. However, frequently, the best balance of economy and convenience can be achieved when all or part of one organization's needs are pooled with the needs of another and equipment is shared.

(2) When deciding on the types of equipment to be procured and its placement, agencies shall consider both the direct and indirect costs of copying. Direct costs include such items as the lease or purchase price of equipment, the cost of maintenance and supplies, and salaries of full-time equipment operators. Indirect costs include such items as overhead and the cost of time spent by personnel seek-

ing and obtaining service. Agencies shall select the equipment that effectively satisfies documented needs at the lowest overall cost.

(3) To ensure proper use of equipment agencies shall, as a minimum, establish for each type or class of machine an upper and lower limit on the number of copies to be produced per month, the number of pages and copies per page allowed for any one document, and the total copies to be produced from any one document. The guidelines should reflect maximum efficient machine operating capacities and minimum economic volumes. These instructions shall be posted by the machines to inform users of the machines' capabilities and intended use. If use varies significantly from the established guidelines, needs will be reassessed and more appropriate equipment or alternate service will be provided.

(c) *Training.* Persons making copies shall be trained in the proper operation of equipment. In addition, supervisors should be instructed in and ensure implementation of the following cost effective practices:

- (1) Assign copying tasks to employees at lower salary levels and use full-time equipment operators when the cost of the operator can be offset by savings;
- (2) Batch work to minimize trips to the copier;
- (3) Determine precisely the number of copies required by each job and produce no more than that amount;
- (4) Circulate a single copy when that will suffice, rather than making separate copies for all concerned;
- (5) Obtain blank forms, publications, and other materials from normal supply sources rather than copying them;
- (6) Accept copies that are legible and usable, rather than seeking "perfect" ones;
- (7) Use carbon copies when they are more cost effective than copying;
- (8) To avoid making unwanted copies, check the quantity dial before using the machine. Reminder signs (Standard Form 276, Machine Reset) are available from GSA stores;
- (9) Run a single copy before continuing with a large job to ensure that unusable copies are not produced because of malfunctioning equipment, and
- (10) Whenever practical, copy on both sides of the paper.

(d) *Maintain records.* To identify which equipment is being improperly used or where different equipment would be more effective or economical certain information shall be recorded for each piece of equipment. Records should be kept at an organizational level high enough to ensure their effective use in matching equipment to



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needs and in controlling overall costs. The following items of information are required:

- (1) Equipment brand, model number or name, and serial number;
  - (2) Type of procurement (rent, lease, or purchase) and installation date;
  - (3) Essential provisions of the rental or lease plan, or, if owned, the purchase price and essential elements of the maintenance plan, if any;
  - (4) Number of copies produced by month;
  - (5) Equipment characteristics such as production speed, significant accessories or special features, any special electrical requirements;
  - (6) A record of repair and nonroutine maintenance; and
  - (7) Information on the operating environment, such as machine location, organizations served, and whether access to the machine is unrestricted, restricted to a full-time operator, or otherwise limited.
- (e) *Review equipment requests.* Requests for equipment shall be reviewed at an organizational level high enough to ensure economical procurement and placement of equipment. Reviews shall include:
- (1) A current determination of the copying needs of the requesting office;
  - (2) An analysis of the present use of equipment by the requesting office;
  - (3) A determination as to whether the requesting office should share the use of existing equipment, acquire its own, or a combination of these alternatives;
  - (4) A determination of whether alternate reproduction methods are practical;

(5) A cost/benefit analysis of any feasible equipment alternatives including a determination of whether purchase or lease would be more economical (see Subpart 101-25.5, Guidelines for Making Purchase or Lease Determinations); and

(6) A determination of the best location for the equipment.

(f) *Review supply procurement policy.* Procurement methods and sources for supplies such as paper, toner, ink, and duplicating masters shall be reviewed at least annually. Options, such as blanket purchase agreements, bulk purchasing, and procurement under Federal Supply Service contracts may offer lower costs.

(g) *Promote accountability.* Agencies shall develop procedures that increase the cost consciousness of managers for the copies produced by their organizations. One method of developing managerial cost awareness and accountability would be to allocate copying funds in operating budgets to the lowest practical organizational levels.

(h) *Review copy management efforts.* Agencies shall conduct an annual review to determine whether improvements are necessary to meet the requirements of this regulation. Practices shall be audited to determine if existing policies can be improved. Records shall be reviewed to identify specific areas of potential improvement in equipment management.

(i) *Set objectives.* Based upon the review, agencies shall establish annual objectives aimed at the improvement of copying services and reduction of costs. Objectives should be specific and progress toward their accomplishment measurable. An example of an

objective would be to reduce overall equipment costs by 10 percent during the current fiscal year. However, the use of the same objective for all organizational units is discouraged as the potential for improvements will vary among units. Some units may be able to reduce costs more than 10 percent and others less than 10 percent without impairing needed copy services. Objectives should be established for individual organizational units and should reflect each unit's current degree of effectiveness in managing its copying activities.

(j) *Submit annual report.* Each agency shall submit to NARS copies of Standard Form xxx, Copy Management Annual Report (proposed reporting form), by December 1 of each year. A separate report shall be completed for each bureau level component of the agency and include central office and field activities. The first report will be due on December 1, 1980. Each report will cover the preceding fiscal year. The report will help agencies and NARS determine trends in the volume and costs of copying. This reporting requirement has been cleared in accordance with FPMR 101-11.11 and assigned Interagency (Control Number xxx-GSA-xxx (this is a proposed report)).

Address reports to the General Services Administration (NR), Washington, DC 20408.

#### Subpart 101-11.49 Forms and Reports

Section 101-11.4933 is added as follows:

§ 101-11.4933 Standard Form xxx, Copy Management Annual Report (proposed reporting form).

| COPY MANAGEMENT ANNUAL REPORT   |                          |                        |              |                             | INTERAGENCY REPORT CONTROL NO.  |
|---|--------------------------|------------------------|--------------|-----------------------------|---|
| 1. AGENCY/BUREAU  |                          | 2. NO. OF EMPLOYEES 1/ |              | 3. COST OF PREPARING REPORT |   |
| 4. CODE (GSA use ONLY)  |                          |                        |              | \$                          |   |
| 5. FISCAL YEAR  |                          |                        |              |                             |   |
| ITEMS   | COPIERS                  |                        | DUPLICATORS  |                             | TOTAL   |
|   | Owned<br>(a)             | Leased/Rented<br>(b)   | Owned<br>(c) | Leased/Rented<br>(d)        |   |
| 6. Number of machines   |                          |                        |              |                             |   |
| 7. Number of copies produced  |                          |                        |              |                             |   |
| 8. Total expenditures 2/  |                          |                        |              |                             |   |
| 9. AGENCY CONTACT FOR THIS REPORT   | NAME AND MAILING ADDRESS |                        |              | TITLE                       |   |
|   |                          |                        |              | TELEPHONE NUMBER            |   |
| 1/ Item 2—Enter number of permanent full-time employees as of May 31 of the reporting year.   |                          |                        |              |                             | MAIL COMPLETED FORM TO:<br>GENERAL SERVICES ADMINISTRATION (NR)<br>WASHINGTON, DC 20408 |
| 2/ Item 8—Enter total of all direct costs during the reporting period. Direct costs include equipment lease/rental costs, amortized cost of purchased equipment, supply costs, equipment maintenance costs, and salaries of assigned equipment operators. |                          |                        |              |                             |   |

Enter explanatory remarks on back.

(Sec. 205(a), 63 Stat. 390; 40 U.S.C. 486(c))

STANDARD FORM (1-79)  
Prescribed by GSA (41CFR) 101-11.302

Dated: March 6, 1979.

[FR Doc. 79-8576 Filed 3-20-79; 8:45 am]

JAMES B. RHOADS,  
Archivist of the United States.

[4110-02-M]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 185]

#### EMERGENCY SCHOOL AID

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would amend current regulations that set out the criteria for educational television awards under section 711 of the Emergency School Aid Act. These awards are made to pay the cost of developing and producing integrated children's television programs of educational value. The purpose of the proposed rule is to amend the selection criteria to address whether the proposer employs minority group members in key positions other than those for which funds are sought.

DATE: Comments on the proposed rule must be received on or before May 21, 1979.

ADDRESSES: Comments should be addressed to Dr. Dave Berkman, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 3108A, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Dr. Dave Berkman, telephone (202) 245-9225.

SUPPLEMENTARY INFORMATION: Under the authority of section 711 of the Emergency School Aid Act ("ESAA"; 20 U.S.C. 1610) the Commissioner (to whom the Assistant Secretary has delegated functions under the Act) proposes to amend the criteria for educational television awards as set forth in this document.

The legislation authorizing ESAA educational television awards requires that any recipient "employ members of minority groups in responsible positions in development, production, and administrative staffs." 20 U.S.C. 1610(b)(3)(A). Current criteria for evaluating proposals for these awards include consideration of "the extent to which minority group persons will occupy key creative, administrative and executive decisionmaking project positions." 45 CFR 185.74(c)(2)(ii), emphasis supplied. However, the criteria do not address whether or not minority group members are employed in positions in the proposer's organization other than those for which the proposer seeks ESAA funds, where

they may have an impact on the success of the integrated children's television programs developed and produced under the award.

The proposed amendment would amend the staffing criteria in 45 CFR 185.74(c)(2) so as to address minority employment in key nonproject positions. The maximum number of points for staffing would remain 19. Reviewers would be instructed to take into account all factors in § 185.74(c)(2). No particular weights are assigned to these factors.

The Commissioner believes that the proposed amendment to the criteria for awards will help ensure that the television programs funded under an ESAA award reflect the background and culture of minority groups, and that it is therefore consistent with the statutory policy reflected in 20 U.S.C. 1610(b)(3)(A) quoted above. The Commissioner anticipates that the criteria will continue to be applied in the first instance by a panel of experts in the areas of education, educational television, and human relations. While the Commissioner values the recommendations of these panels, he wishes to emphasize HEW and Office of Education policy that panel recommendations are *advisory* only.

#### INVITATION TO COMMENT

Interested persons are invited to submit written comments, suggestions, and recommendations to be considered prior to the issuance of the final rule. Comments, suggestions, or recommendations may be sent to the address given at the beginning of this document. All comments received on or before the end of the comment period will be considered. All comments submitted in response to this notice will be available for public inspection both during and after the comment period in Room 3108A, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except on Federal holidays.

AUTHORITY: This proposed rule is issued under the authority of the Emergency School Aid Act, Title VII, Pub. L. 92-318, as amended.

Dated: February 27, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.

Approved: March 8, 1979.

MARY F. BERRY,  
Assistant Secretary  
for Education.

Approved: March 13, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.530, Emergency School Aid Act—Television)

Title 45 of the Code of Federal Regulations is amended to read as follows: Section 185.74(c)(2) is amended to read as follows:

§ 185.74 Criteria for awards.

• • • • •

(c) • • • • •  
(2) *Staffing (19 points).*

(i) The extent to which the proposal sets out an overall staff plan clearly delineating positions and responsibilities and maximizing staff capabilities;

(ii) The extent to which minority group persons will occupy key creative, administrative and executive decision-making project positions;

(iii) The extent to which provision is made for on-the-job training, in full-time positions over the entire project period, to enable such trainees to become qualified to assume positions of technical and professional responsibility; and

(iv) Whether the proposer employs minority group members in key non-project positions.

• • • • •  
[FR Doc. 79-8578 Filed 3-20-79; 8:45 am]

[6712-01-M]

#### FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-43; RM-3140]

TELEVISION BROADCAST STATIONS IN GLENWOOD SPRINGS, COLO., AND PRICE AND VERNAL, UTAH

Proposed Changes in Table of Assignments

#### PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the deletion of television Channel 3 from Alamosa, Colorado, and its assignment to Glenwood Springs, Colorado. It also proposes the exchanging of Channel 6 at Price, Utah, for Channel 3 at Vernal, Utah. This action is taken in response to a peti-



tion filed by Western Slope Communications, Inc., which states that the proposed channel in Glenwood Springs, would provide the area with additional television broadcast service.

**DATES:** Comments must be filed on or before May 11, 1979, and reply comments must be filed on or before May 31, 1979.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

#### FOR FURTHER INFORMATION CONTACT:

Louis C. Stephens, Broadcast Bureau, (202) 632-7792.

#### SUPPLEMENTARY INFORMATION:

Adopted: March 12, 1979.

Released: March 15, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations (Glenwood Springs, Colorado, and Price and Vernal, Utah), BC Docket No. 79-43, RM-3140.

1. Western Slope Communications, Inc. ("Western"), seeking to operate a television broadcast station at Glenwood Springs in northwest Colorado, asks that we assign Channel 3 to Glenwood Springs. Western proposes that short-spacings to unused Channel 3 assignments at Vernal, Utah, and Alamosa, Colorado, be corrected by: (1) Substituting or exchanging Channel 6 now assigned to Price, Utah, for Channel 3 assigned to Vernal; and (2) either deleting Channel 3 from Alamosa or tolerating the 43 kilometer (26.7 miles) shortage. The Association of Maximum Service Telecasters, Inc. ("AMST") objects on various grounds to any proposal which would involve retention of Channel 3 at Alamosa. However, AMST indicated that it would not oppose the alternative proposal involving the deletion of Channel 3 at Alamosa, so long as site selection would prevent short spacing between Glenwood Springs and Price.

2. Western proposes a station which would serve portions of Eagle, Garfield, and Pitkin Counties, which have an estimated year-round population of 47,400 and visitors estimated to number between 30,000 and 40,000 winter and summer. In addition to the principal community—Glenwood Springs, whose population is stated as 8,500—other communities it plans to serve are Aspen and Vail.

3. Western claims that the assignment of Channel 3 to Glenwood Springs would provide a predicted first Grade B television service to 43,500 people and a second Grade B service to an additional 71,800. Ninety-six percent of the projected service area is stated to lack on-the-air television service. Cable television provides service to some of the population centers in it.

4. The area is reported to rely for economic support chiefly on mining, tourism and recreation, farming, and ranching. Large reserves of oil shale and coal are reported in the area. Unusually high levels of cultural activities are stated to be carried on through the Aspen Music Festival, the Aspen Music School, the Conference on Contemporary Music, The International Design Conference, the Carbon-dale Opera Workshop, The Aspen Chorale Institute and Ballet West. Western also referred to the presence in the area of the Aspen Institute for Humanistic Study and the Given Institute of Patho-Biology.

5. AMST's objection to the fact that the new station would be 43 kilometers (26.7 miles) short to Alamosa, Colorado, we propose to meet by deleting Channel 3 from Alamosa where it has never been used.<sup>1</sup> While it may be possible to locate an Alamosa station so as to meet the spacing requirements to a Glenwood Springs assignment and to provide the required signal level to Alamosa, such a severe site restriction as in this case reduces the likelihood that this assignment would ever be activated.

6. We also note here that the use of the proposed Price, Utah, Channel 3 assignment would require location of the transmitter site at least 5 kilometers (3.1 miles) west of the community. This is not a severe restriction and is not regarded as having much impact on our decision in this proceeding.

7. We find sufficient merit in the proposal to provide a first commercial television assignment to Glenwood Springs to inaugurate rule making, and we invite comments on the following proposed changes to the Television Table of Assignments in Section 73.606(b) of the Rules:

| City                       | Channel No. |          |
|----------------------------|-------------|----------|
|                            | Present     | Proposed |
| Alamosa, Colorado          | 3-, *16     | *16      |
| Glenwood Springs, Colorado | *19+        | 3-, *19+ |
| Price, Utah                | 6, *15      | 3+, *15  |
| Vernal, Utah               | 3+, *17+    | 6, *17+  |

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

**NOTE.**—A showing of continuing interest with respect to each proposed assignment is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before May 11, 1979, and reply comments on or before May 31, 1979.

<sup>1</sup>We assigned Channel 3 to Alamosa in 1958 at the request of a petitioner who never provided the projected service.

10. For further information concerning this proceeding contact Louis C. Stephens, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

#### APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(8) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the com-

ments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

(FR Doc. 79-8471 Filed 3-20-79; 8:45 am)

[3510-22-M]

#### DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[50 CFR Part 662]

#### FISHERY MANAGEMENT PLAN FOR NORTHERN ANCHOVY

##### Supplemental Public Comment Period

**AGENCY:** National Oceanic and Atmospheric Administration/Commerce.

**ACTION:** Supplement-public comment period on amendment to fishery management plan for northern anchovy.

**SUMMARY:** The Pacific Fishery Management Council is considering an amendment to the fishery management plan for the northern anchovy fishery. The principal purpose of the proposed amendment is to review the specification of expected domestic

annual harvest. The initial public review period on a draft amendment extended from December 28, 1978, to January 26, 1979. A supplemental public review period ending April 10, 1979, is being established to provide additional opportunity for review and comment on changes to the draft amendment. The Council will consider the amendment at their next scheduled meeting on May 10-11, 1979.

**DATES:** Comments must be received on or before April 10, 1979.

**ADDRESS:** Comments may be submitted to the Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201; or to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Lorry N. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201-(503-221-6352).

#### SUPPLEMENTARY INFORMATION:

The Pacific Council's fishery management plan for the northern anchovy fishery was approved by the Secretary of Commerce on July 13, 1978, and implementing regulations were effective on September 15, 1978. Shortly after approval of the plan, the Council prepared a draft proposed amendment which changed the method of specification of domestic annual harvest. The draft was circulated for public review and comment, and a hearing was held in San Diego, CA, on January 12, 1979, to receive public comments.

A second draft amendment was subsequently prepared. The Council believes that the public should be provided with additional time to review and comment on this second draft and has extended the period for public review until April 10, 1979.

The second draft amendment provides that:

1. The estimated annual capacity for reduction and nonreduction processing of anchovies is 363,385 short tons;

2. The estimated annual harvest capacity for reduction fishing vessels is 891,492 short tons;

3. The estimated annual harvest capacity for the live-bait fishery is 8,500 short tons;

4. When optimum yield is less than the sum of reduction and nonreduction processing capacity (363,385 short tons) and expected live bait harvest (8,500 short tons), the expected total domestic annual harvest equals the optimum yield;

5. When the optimum yield exceeds the sum of the reduction and nonreduction processing capacity and expected live bait harvest, the expected domestic annual harvest equals 371,885 short tons.

A notice indicating the availability of the first draft amendment was published on December 29, 1978, by the National Marine Fisheries Service (See 43 FR 60970). Copies of the second draft amendment are available from the Pacific Fishery Management Council at the address noted above.

Dated: March 15, 1979.

WINFRED H. MEIBOM,  
Executive Director, National  
Marine Fisheries Service.

(FR Doc. 79-8485 Filed 3-20-79; 8:45 am)



# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### RPA PUBLIC SESSIONS

### Advance Schedule

The Forest Service (USDA) plans to release a draft report on March 27, 1979, which makes an assessment of the renewable resource situation on the Nation's forest and rangelands and identifies alternative direction for Forest Service programs. The draft report is being prepared for submission to Congress in 1980 in response to the direction in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (RPA).

A briefing for the release of the draft report will be held March 27, 1979, at 9 a.m., in Room 1323—South Building, in the USDA Building at 12th and Independence, Washington, D.C. (For further information contact the Forest Service, Office of Information at 202-447-6957). This initial briefing on March 27 in Washington, D.C., and in the nine Forest Service Regional Offices will be followed by Public Inform and Involve sessions throughout the country in the months of April, May, and June. These sessions are scheduled during the public comment period which begins March 27 and ends June 8, 1979. In addition to the scheduled sessions noted below, the Forest Service will meet with any interested groups, individuals, agencies

and officials to explain the draft documents and answer questions. Contact your local Forest Service office for copies of the draft report or assistance concerning its content; also, verify individual session dates, times, and places with local officials prior to attendance as the following is an advance schedule.

The scheduled sessions below are of two kinds. Inform sessions are to provide in-depth briefings and discussions on the draft report. Involve sessions are primarily to provide final assistance to groups or individuals wanting to submit written or oral comment on the draft report. The schedule follows.

R. MAX PETERSON,  
Deputy Chief.

### ADVANCE SCHEDULE FOR RPA PUBLIC SESSIONS

| State          | Inform sessions<br>Date: 1979, where, and time  | Involve sessions<br>Date: 1979, where, and time  |
|----------------|---|--|
| Alabama        | 4-25—Montgomery Holiday Inn, 1 p.m.   | 5-23—Montgomery NF Office, 1765 Highland, 8-4 p.m.   |
| Alaska         | 4-21—Anchorage, Chugach NF, 2221 E. Northern Lights Blvd., Suite 230, 10-2 p.m.<br>4-21—Ketchikan, Tongass NF, Fed. Bldg., 10-2 p.m.<br>4-21—Sitka, Tongass NF Office, 10-2 p.m.<br>4-21—Petersburg, Tongass NF Office, 10-2 p.m.<br>4-21—Fairbanks, Institute of Northern Forestry, Univ. of Alaska, 10-2 p.m. | Phone for information on May sessions in Alaska (907-586-7282).  |
| Arkansas       | 4-21—Juneau, Rm. 123, Fed. Bldg., 10-2 p.m.<br>4-23—Little Rock, Arkansas Oame & Fish Bldg., 1 p.m.   | 5-23—National Forest Offices in Hot Springs National Park and Russellville, 8-4 p.m.   |
| Arizona        | 4-18—Phoenix, Civic Plaza, Rms. 9 & 10, 225 E. Adams, 1:30-3:30 p.m.  | Additional opportunities for public involvement will occur during the period May 15-17 when National Forest Supervisors' Offices and laboratories will have staff specialists available to discuss RPA data with any interested publics. |
| California     | 4-19—Flagstaff, Coconino NF Office, Conference Room, 2323 Greenlaw Lane, 1:30-3:30 p.m.<br>4-17—San Francisco, Marine Room, Travel Lodge at the Wharf, 250 Beach St., 1:30 p.m.<br>4-18—Los Angeles area, Pasadena Convention Center, Rm. 312, 300 E. Green St., Pasadena, 7-9 p.m.                             | 6-5—San Francisco, Marine Room, Travel Lodge at the Wharf, 250 Beach St., 1:30 p.m.<br>6-8—Los Angeles area, For information on meeting place and time contact Angeles National Forest (213-577-0050 or 577-0310).                       |
| Colorado       | 4-16—Lakewood, Forest Service, Regional Office, 11177 West 8th, 7:30 p.m.   | 5-11—Lakewood, Forest Service Regional Office, 11177 West 8th, 7:30 p.m.   |
| Florida        | 4-19—Tallahassee, Tallahassee Fed. Savings & Loan, 1 p.m.   | 5-23—Tallahassee NF Office, 2586 Seagate Dr., 8-4 p.m.   |
| Georgia        | 4-16—Atlanta, Riviera-Hyatt House, 1 p.m.   | 5-23—Gainesville NF Office, 601 Broad St. NE, 8-4 p.m.   |
| Hawaii         | 4-25—Honolulu, State Office Bldg., Rm. 322-A, 1151 Punchbowl St., 2 p.m.  | 5-9—Honolulu, State Office Bldg., Rm. 322-A, 1151 Punchbowl St., 2 p.m.  |
| Idaho          | 4-17—Boise, W. Conference Rm., Hall of Mirrors, 700 W. State, 7 p.m.<br>4-26—Salmon NF Hdqtrs., Highway 93 N., 7 p.m.<br>4-26—Idaho Falls, The Intermountain Science Experience Center, Inc., 1776 Science Center Dr., 7 p.m.<br>4-20—Coeur d'Alene, N. Shore Convention Center, 7 p.m.                         | 5-15—Boise, W. Conference Room, Hall of Mirrors, 700 W. State, 7 p.m.<br>5-17—Salmon, Salmon NF Hdqtrs., Hwy. 93 N., 7 p.m.<br>5-17—Idaho Falls, The Intermountain Science Experience Center, Inc., 1776 Science Center, 7 p.m.          |
| Illinois       | 4-28—Champaign, Lewis Center, Rm. 407, University of Illinois, 7-9 p.m.   |  |
| Kentucky       | 4-30—Lexington, Agri. Bldg., Univ. of Kentucky, 7 p.m.  | 5-23—Winchester NF Office, 100 Vaught Rd., 8-4 p.m.  |
| Louisiana      | 5-2—Alexandria, Sheraton Inn, 10 a.m.   | 5-23—Pineville NF Office, 2500 Shreveport Hwy., 8-4 p.m.   |
| Massachusetts  | 5-9—Boston, Park Plaza Hotel, Rm. 413, 64 Arlington St., 7-9 p.m.   |  |
| Michigan       | 5-2—Detroit (Dearborn), Dearborn Inn, 20301 Oakwood Blvd., 6:30-8:30 p.m.   |  |
| Minnesota      | 4-10—St. Paul, Earle Brown Center, St. Paul Campus, Univ. of Minnesota, 6:30-8:30 p.m.  |  |
| Missouri       | 4-25—St. Louis, Queeney Park—Jarville House, 550 Weldman Rd., 7-9 p.m.  |  |
| Mississippi    | 4-24—Jackson, Museum of Natural History, 7 p.m.   | 5-23—Jackson NF Office, 8-4 p.m.   |
| Montana        | 4-16—Helena, Fed. Bldg., Rm. 389, 2-4 p.m. & 7-9 p.m.<br>4-19—Missoula, Fed. Bldg., W. Conference Room, 1-4 p.m. & 7-9 p.m.   |  |
| Nebraska       | 4-16—Chadron, Chadron State College, Sioux Room, 7:30 p.m.  | 5-9—Missoula, Fed. Bldg., W. Conference Room, 1-4 p.m. & 7-9 p.m.<br>5-15—Chadron, Chadron State College, Box Butte Room, 7:30 p.m.  |
| North Carolina | 4-18—Asheville, Forest Service Conference Room, 1 p.m.  | 5-23—Asheville NF Office, Level Plateau Bldg., 50 South French Broad, 8-4 p.m.   |

FEDERAL REGISTER, VOL. 44, NO. 56—WEDNESDAY, MARCH 21, 1979

## NOTICES

17201

### ADVANCE SCHEDULE FOR RPA PUBLIC SESSIONS—Continued

| State            | Inform sessions<br>Date: 1979, where, and time  | Involve sessions<br>Date: 1979, where, and time  |
|------------------|---|--|
| New Hampshire    | 5-8—Durham, Univ. of New Hampshire, New England Center, Keasarge Room, 1st Floor, 7-9 p.m.  |  |
| New Mexico       | 4-25—Las Cruces, Howard Johnson Lodge, 2600 S. Valley Drive, 7-9 p.m.   | Additional opportunities for public involvement will occur during the period May 15-17 when Forest Supervisors' Offices and Research laboratories will have staff specialists available to discuss RPA data with any interested publics. |
| Nevada           | 4-24—Santa Fe, Sweeney Convention Center, Rm. 2A, 1:30-3:30 p.m.  | 5-22—Reno, Pioneer Inn, 221 S. Virginia, 7:30 p.m.   |
| Oklahoma         | 4-17—Reno, Pioneer Inn, 221 S. Virginia, 7:30 p.m.  |  |
| Oregon           | 5-3—Oklahoma City, Conference Room, State Forester, 10 a.m.<br>Portland (Phone: Mt. Hood NF 503-687-0511)<br>Roseburg (Phone: Umpqua NF 503-672-6801)<br>Prineville (Phone: Ochoco NF 503-447-6247)<br>Medford (Phone: Rogue River NF 503-779-2351)<br>Grants Pass (Phone: Siskiyou NF 503-479-5301)<br>Corvallis (Phone: Siuslaw NF 503-752-4211)<br>Pendleton (Phone: Umatilla NF 503-276-3811)<br>Baker (Phone: Walla-Walla NF 503-523-6391)<br>Eugene (Phone: Willamette NF 503-687-6522)<br>Klamath Falls (Phone: Winema NF 503-882-7761)<br>Bend (Phone: Deschutes NF 503-382-6922)<br>Lakeview (Phone: Fremont NF 503-947-2151)<br>John Day (Phone: Malheur NF 503-575-1731) |  |
| South Carolina   | 4-17—Columbia, Quality Inn Motel, 10 a.m.   | 5-23—Columbia NF Office, 1801 Assembly St., 8-4 p.m.   |
| South Dakota     | 5-10—Rapid City, Civic Center, Rm. 101, 1-9 p.m.  |  |
| Tennessee        | 4-26—Knoxville (tentative), Univ. of Tennessee, 7 p.m.  | 5-23—Cleveland NF Office, 2321 N. Ocoee St. NW, 8-4 p.m.   |
| Texas            | 5-1—Nacogdoches, Univ. Center, Stephen F. Austin State College, 1 p.m.  | 5-23—Lufkin NF Office, Fed. Bldg., 8-4 p.m.  |
| Utah             | 5-1—Salt Lake City, Salt Palace, Rm. 220 (tentative), 100 SW Temple, 7 p.m.   | 5-15—Salt Lake City, Salt Palace, Rm. 220 (tentative), 100 SW Temple, 7 p.m.   |
| Virginia         | 5-1—Charlottesville, Ramada Inn, 10 a.m.  | 5-23—NF Offices in Harrisonburg (Fed. Bldg.) and Roanoke (210 Franklin Rd. SW.), 8-4 p.m.  |
| Washington       | Wenatchee (Phone: Wenatchee NF 509-662-4335)<br>Vancouver (Phone: Gifford Pinchot NF 206-698-4041)<br>Seattle (Phone: Mt. Baker-Snoqualmie 206-442-5400)<br>Colville (Phone: Colville NF 509-684-5221)<br>Okanogan (Phone: Okanogan NF 509-422-2704)<br>Olympia (Phone: Olympic NF 206-753-9535)  |  |
| West Virginia    | 4-12—Morgantown, Forestry Bldg., Evandale Campus, West Virginia Univ., 7-9 p.m.   |  |
| Wyoming          | 4-20—Jackson, Bridger-Teton NF Hdqtrs., 340 N. Cache, 2 p.m.<br>4-11—Cheyenne, Cheyenne Fuel, Power & Light Hospitality Room, 7:30 p.m.   | 5-18—Jackson, Bridger-Teton NF Hdqtrs., 340 N. Cache, 9 a.m.<br>5-9—Cheyenne, Cheyenne Fuel, Power & Light Hospitality Room, 7:30 p.m.   |
| Washington, D.C. | 4-10—Washington, USDA Bldg., Rm. 3840, 12th & Independence, 9:30-11:30 a.m.   | 5-22—Washington, USDA Bldg., Rm. 3840, 12th & Independence, 9:30-11:30 a.m.  |

[FR Doc. 79-8389 Filed 3-20-79; 8:45 am]

[3410-01-M]

### Office of the Secretary

### RICE DEFICIENCY PAYMENTS

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of procedure for determining the national average market price received by rice farmers.

SUMMARY: The Secretary of Agriculture establishes the procedure to be followed in determining the national average market price received by rice farmers during the first five months of the marketing year. This price is necessary for the computation of deficiency payments with respect to the 1978 through 1981 crops of rice authorized by section 101(h)(3) of the Agricultural Act of 1949, as added by the Food and Agriculture Act of 1977 (7 U.S.C. 1441(h)(3)).

DATES: Effective March 20, 1979. Comments must be received by May 21, 1979.

ADDRESSES: Comments in writing may be addressed to the Director, Estimates Division, Economics, Statistics, and Cooperatives Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Director, Estimates Division, ESCS, USDA.

SUPPLEMENTARY INFORMATION: Section 101(h)(3) Agricultural Act of 1949, as added by the Food and Agriculture Act of 1977 (7 U.S.C. 1441(h)(3)), provides as follows:

The Secretary shall make available to co-operators payments for each of the 1978 through the 1981 crops of rice grown in the several States of the United States at a rate equal to the amount by which the estab-

lished price for the crop of rice exceeds the higher of—

(A) the national average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or,

(B) the loan level determined under paragraph (2) for such crop.

Similar provisions were enacted by the Food and Agriculture Act of 1977 with respect to the making of deficiency payments for wheat (7 U.S.C. 1444b) and feed grains (7 U.S.C. 1444c). No provision is made, however, in the statute for the obtaining of information on which such determinations should be made or the manner in which the national average market price received by farmers should be determined.

There has been no problem in obtaining adequate information to determine "the national average price received by farmers during the first five months of the marketing year" for crops of wheat or feed grains since

FEDERAL REGISTER, VOL. 44, NO. 56—WEDNESDAY, MARCH 21, 1979



there are thousands of firms that purchase such commodities from which the USDA receives adequate data as to prices paid to farmers. However, because of the unique market structure of the rice industry, it has been impossible for USDA to obtain data with respect to prices received by farmers for rice similar to that obtained with respect to prices received by farmers for wheat and feed grains. There are only about 45 firms which purchase rough rice from producers. Furthermore, about half of all rice is marketed through farmer cooperatives. These cooperatives pool rough rice acquired from producers and generally market milled rice. The final settlement payment for rice acquired from farmers is not made to them until after the close of the 12-month marketing year. At the close of the first five months of the marketing year it is not possible to obtain accurate projections of the final settlement price which farmers will receive for the rice they marketed during such period through cooperatives. It is necessary, therefore, that a price be derived, from the pertinent information which is reported to USDA by purchasers of rice (independent mills) and rice cooperatives, which represents the national average price farmers have received or will receive upon final settlement for all rice marketed during the first five months of the marketing year. The procedure set forth herein is designed to accomplish this purpose.

Since the first five months of the marketing year for the 1978 crop of rice closed on December 31, 1978, it is necessary that the national average market price received by farmers during such period be computed as soon as possible in order that deficiency payments may be made to farmers with respect to the 1978 rice crop. It is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 is impracticable, unnecessary and contrary to the public interest.

Comments, recommendations, and views with respect to the procedure may be submitted and will be considered in determining whether any changes should be made in the procedure for use with respect to the 1979 through 1981 crops of rice. However, until such time as notice is published that changes are to be made in the procedure, the procedure set forth herein shall remain in effect.

#### DETERMINATION

The national average market price received by farmers during the first five months of the marketing year (August through December) for each

of the 1978 through the 1981 crops of rice grown in the United States shall be the price representing the national average price farmers have received or will receive upon final settlement for all rice marketed during the first five months of a marketing year as computed by the Economics, Statistics, and Cooperatives Service (ESCS) of the United States Department of Agriculture.

FORMULA

National average market price received by farmers during first 5 months of marketing year

$$\frac{Q_1 P_1 + Q_2 P_2 + Q_3 P_3 + Q_4 P_4}{Q_1 + Q_2 + Q_3 + Q_4}$$

Where:

$Q_1$  = Quantity of all rough rice purchased from farmers during first 5 months of marketing year as reported by firms reporting both quantity purchased from and dollars received by farmers.

$P_1$  = Average price received by farmers for all rough rice purchased from farmers during the first 5 months of marketing year as reported by firms reporting both quantity purchased from and dollars received by farmers.

$Q_2$  = Quantity of rough short grain rice purchased from farmers during first 5 months of marketing year as reported by firms reporting only quantity purchased from farmers.

$P_2$  = Average price received by farmers for rough short grain rice purchased from farmers during the first 5 months of marketing year as reported by firms reporting both quantity purchased from and dollars received by farmers.

$Q_3$  = Quantity of rough medium grain rice purchased from farmers during first 5 months of marketing year as reported by firms reporting only quantity purchased from farmers.

$P_3$  = Average price received by farmers for rough medium grain rice purchased from farmers during the first 5 months of marketing year as reported by firms reporting both quantity purchased from and dollars received by farmers.

$Q_4$  = Quantity of rough long grain rice purchased from farmers during first 5 months of marketing year as reported by firms reporting only quantity purchased from farmers.

$P_4$  = Average price received by farmers for rough long grain rice purchased from farmers during the first 5 months of marketing year as reported by firms reporting both quantity purchased from and dollars received by farmers.

The national average market price received by farmers for rice, determined in accordance with this procedure, will be announced by the Secretary of Agriculture as soon as possible after the close of the first five months of the marketing year for each of the 1978 through 1981 crops of rice.

Done at Washington, D.C. on March 16, 1979.

BOB BERGLAND,  
Secretary.

[FR Doc. 79-8582 Filed 3-20-79; 8:45 am]

culture (USDA) on the basis of information reported to the USDA by purchasers of rice (independent mills) and rice cooperatives, using the formula set forth herein. Where information is reported in terms of milled rice, it will be converted to rough rice equivalents based on rough rice used in producing the milled rice. The formula to be used to compute such national average market price is as follows:

[6320-01-M]

#### CIVIL AERONAUTICS BOARD

[Order 79-3-97]

#### AIR NEW ENGLAND

Proposed Grant of Non-Stop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-97.

SUMMARY: The Board is proposing to grant authority to Air New England (ANE) which will permit nonstop operations between Providence, RI, and each of ANE's certificated points: Burlington and Montpelier-Barre, VT; Augusta-Waterville, Lewistown-Auburn and Portland, ME; Lebanon, NH; White River Junction, VT; Keene, NH; and Boston-Bedford-Fall River, Hyannis, Martha's Vineyard and Nantucket, MA; Hartford, CO-Springfield, MA; and New York, NY-Newark, NJ.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 18, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 3, 1979.

ADDRESSES: Objections should be filed in Docket 34336, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Joseph Bolognesi, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5057.

**SUPPLEMENTARY INFORMATION:** Objections should be served upon the following persons: Allegheny Airlines, American Airlines, Eastern Air Lines, Merrimack Airways, Hyannis Aviation, Pilgrim Airways, EJA/Newport, and the Mayors of Burlington, Montpelier-Barre and White River Junction, VT; Augusta-Waterville, Lewiston-Auburn and Portland, ME; Lebanon and Keene, NH; Boston-Bedford-Fall River, Hyannis, Martha's Vineyard, Nantucket and Springfield, MA; Hartford, CT; New York, NY; and Newark, NJ.

The complete text of Order 79-3-97 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-97 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board:  
March 15, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8489 Filed 3-20-79; 8:45 am]

[6320-01-M]

[Order 79-3-84]

#### AIR MIDWEST

Authority To Provide Non-Stop Service

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-3-84).

SUMMARY: The Board is proposing to add a new segment to the certificate of Air Midwest for Route 175: Albuquerque - Roswell - Carlsbad - Hobbs - Clovis-Lubbock-Amarillo-Garden City-Dodge City-Wichita. The proposed amendment would authorize Air Midwest to provide nonstop service between each of the points on that segment and one-stop service between the seven New Mexico and Texas points and all other points on its existing certificate. The authority would be granted on a Category II, subsidy-ineligible basis.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 6, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 33073, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:**

Mary R. Vavrina, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5408.

**SUPPLEMENTARY INFORMATION:** Objections should be served upon the following persons: Air Midwest, Texas International, ZIA Airlines, Crown Aviation, Hobbs, Carlsbad, Clovis and Roswell, New Mexico, the New Mexico Department of Transportation, the Lubbock Civic Parties, the City of Amarillo and the Amarillo Chamber of Commerce.

The complete text of Order 79-3-84 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-84 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board:  
March 15, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8486 Filed 3-20-79; 8:45 am]

[6320-01-M]

[Order 79-3-82]

#### CONTINENTAL AIR LINES

Proposed Grant of Non-Stop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-82.

SUMMARY: The Board is proposing to grant Lubbock-Austin, Denver, Houston and Austin-Denver nonstop authority to Continental Air Lines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon Continental Airlines, no later than April 18, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 3, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket

35059, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:**

Richard Clusman, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428, (202) 673-5216.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 79-3-82 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-82 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board:  
March 15, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8487 Filed 3-20-79; 8:45 am]

[6320-01-M]

[Order 79-3-81]

#### CONTINENTAL AIR LINES

Proposed Grant of Non-Stop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-81.

SUMMARY: The Board is proposing to grant Albuquerque-Los Angeles, Ontario, Burbank and Las Vegas nonstop authority to Continental Air Lines and Ozark Air Lines; Albuquerque-Las Vegas nonstop authority to American Airlines and any other fit, willing and able applicant in those markets whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 18, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 3, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35058, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.



## FOR FURTHER INFORMATION CONTACT:

Richard Clusman, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C. 20428, (202) 673-5216.

**SUPPLEMENTARY INFORMATION:** Objections should be served upon the following persons: Continental Air Lines, Ozark Air Lines and American Airlines.

The complete text of Order 79-3-81 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-81 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 16, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 79-8488 Filed 3-20-79; 8:45 am)

[6320-01-M]

[Order 79-3-92]

TRANS-PACIFIC TRADING CO., LTD. d/b/a  
TRANS-PACIFIC AIR COURIER INC.

Indirect Foreign Air Carrier Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-3-92.

**SUMMARY:** The Board proposes to approve the following application: Applicant: Trans-Pacific Trading Co. Ltd. (Canada) d/b/a Trans-Pacific Air Courier, Inc. Application Date: January 23, 1978, Docket 32020. Authority Sought: Indirect Foreign Air Carrier Permit.

**OBJECTIONS:** All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than April 9, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

## ADDRESSES FOR OBJECTIONS:

Docket 32020, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Trans-Pacific Trading Co. Ltd., Gal-land, Kharasch, Calkins & Short, 1054 Thirty-first Street, N.W., Washington, D.C. 20007.

**TO GET A COPY OF THE COMPLETE ORDER:** Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

## FOR FURTHER INFORMATION CONTACT:

C. Robert Mallalieu, Negotiations Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5407.

By the Civil Aeronautics Board: March 15, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 79-8483 Filed 3-20-79; 8:45 am)

[3510-07-M]

## DEPARTMENT OF COMMERCE

Bureau of the Census  
SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts. The date shown in the following table are the results of special censuses conducted since June 30, 1978, for which tabulations were completed between February 1, 1979 and February 28, 1979.

Dated: March 16, 1979.

MANUEL D. PLOTKIN,  
Director, Bureau of the Census.

| State/place or special area  | County                         | Date of census | Population |
|------------------------------|--------------------------------|----------------|------------|
| Alaska:                      |                                |                |            |
| Kenai Peninsula Borough      | Kenai-Cook Inlet & Seward Div. | July 3         | 25,335     |
| Colorado:                    |                                |                |            |
| San Miguel County            |                                | November 7     | 2,928      |
| Florida:                     |                                |                |            |
| Pembroke Pines city          | Broward                        | November 20    | 30,610     |
| Idaho:                       |                                |                |            |
| Ammon city                   | Bonneville                     | December 5     | 4,400      |
| Illinois:                    |                                |                |            |
| Bartlett village             | Cook & DuPage                  | October 3      | 11,004     |
| Pawnee village               | Sangamon                       | October 19     | 2,512      |
| Rockford (annexed area) city | Winneago                       | November 30    | 1,288      |
| Round Lake village           | Lake                           | October 30     | 3,107      |
| Iowa:                        |                                |                |            |
| Oakland Acres city           | Jasper                         | October 23     | 133        |
| North Dakota:                |                                |                |            |
| Burleigh County              |                                | October 2      | 52,195     |

(FR Doc. 79-8527 Filed 3-20-79; 8:45 am)

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for \$0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Virginia 22161 for \$4.00

(\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,  
Patent Program Coordinator,  
National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Ser. Div., Fed. Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 904,644: Antimicrobial Fatty Acid Derivatives; filed May 10, 1978. Patent application 909,160: Direct Extraction Process for the Production of a White Defatted Food-Grade Peanut Flour; filed May 25, 1978.

Patent application 913,418: Process for Producing Transfer Printed Cotton and Cotton Blends; filed June 7, 1978.

Patent application 927,791: Sustained Release Bolus Formulations Containing Insect Growth Regulations for Control of Livestock Pests; filed July 25, 1978.

Patent application 932,079: Sex Pheromone Produced by the Female Japanese Beetle; Specificity of Male Response to Enantiomers; filed Aug. 8, 1978.

Patent application 945,977: New Fatty Acid-Derived Lubricants and Additives; filed Sept. 26, 1978.

Patent 4,083,995; (Z)-9-Tetradecen-1-ol Formate and Its Use as a Communication Disruptant for Heliothis; filed Dec. 6, 1976; patented Apr. 11, 1978; not available NTIS.

Patent 4,092,319: Sulfur-Containing Antimicrobial Ester Amides. Filed Sept. 18, 1977, patented May 30, 1978; not available NTIS.

Patent 4,101,678: Clarification of Citrus Juices; filed May 8, 1977; patented July 18, 1978; not available NTIS.

Patent 4,102,923: Tris(Ureidomethyl) Phosphine Oxides. Filed Sept. 8, 1975, patented July 25, 1978; not available NTIS.

Patent 4,107,192: Antimicrobial Esters of Aliphatic Diols; filed Feb. 15, 1977, patented Aug. 15, 1978; not available NTIS.

Patent 4,115,422: Antibacterial Textile Finishes Utilizing Zirconyl Acetate Complexes of Inorganic Peroxides; filed Apr. 12, 1977; patented Sept. 19, 1978, not available NTIS.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 4,086,396: Electrochemical Cell with Powdered Electrically Insulative Material as a Separator; filed Feb. 23, 1977, patented Apr. 25, 1978; not available NTIS.

Patent 4,086,404: Electrode Including Porous Particles with Embedded Active Material for Use in a Secondary Electro-

chemical Cell; filed Apr. 7, 1977; patented Apr. 25, 1978; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent application 940,863: Alpha-Levo Benzomorphon Analgesics Having Nonaddictive and Morphine Antagonistic Properties; filed Sept. 8, 1978.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 4,101,098: Strain Actuated Hydraulic Holdback Bar; filed Sept. 15, 1977; patented July 18, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 958,573: Method and Means for Helium/Hydrogen Ratio Measurement by Alpha Scattering; filed Nov. 7, 1978.

Patent 4,107,363: Lightweight Electrically-Powered Flexible Thermal Laminate; filed Jan. 14, 1975; patented Aug. 15, 1978; not available NTIS.

Patent 4,122,334: Illumination Control Apparatus for Compensating Solar Light; filed Dec. 23, 1976; patented Oct. 24, 1978; not available NTIS.

Patent 4,122,383: Method and Apparatus for Measuring Minority Carrier Lifetimes and Bulk Diffusion Length in p-n Junction Solar Cells; filed Dec. 16, 1977; patented Oct. 24, 1978; not available NTIS.

Patent 4,122,712: Fluid Velocity Measuring Device; filed Nov. 3, 1977; patented Oct. 31, 1978; not available NTIS.

Patent 4,123,355: Simultaneous Treatment of SO<sub>2</sub> Containing Stack Gases and Waste Water; filed Nov. 21, 1977; patented Oct. 31, 1978; not available NTIS.

Patent 4,124,180: Free Wing Assembly for an Aircraft; filed Sept. 8, 1977; patented Nov. 7, 1978; not available NTIS.

(FR Doc. 79-8472 Filed 3-20-79; 8:45 am)

[3510-25-M]

COMMITTEE FOR THE  
IMPLEMENTATION OF TEXTILE  
AGREEMENTS

FEDERATIVE REPUBLIC OF BRAZIL

Increasing the Import Restraint Level for  
Certain Cotton Apparel

MARCH 15, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the import restraint level for cotton apparel in Category 359, produced or manufactured in Brazil and exported to the United States during the agreement year which began on April 1, 1978 and extends through March 31, 1979. (A detailed description of the category in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421).

March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408), and January 2, 1979 (44 FR 94)).

**SUMMARY:** Under the terms of paragraph 6 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil, the Government of the Federative Republic of Brazil has requested an increase from 700,000 to one million square yards equivalent (217,391 pounds) in the consultation level established for Category 359 during the final agreement year which began on April 1, 1978 and extends through March 31, 1979. The Government of the United States has agreed to the request.

EFFECTIVE DATE: March 15, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

**SUPPLEMENTARY INFORMATION:** On July 28, 1978 there was published in the FEDERAL REGISTER (43 FR 29975), a letter dated July 7, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint under the new textile category system for certain specified categories of cotton textiles and cotton textile products, produced or manufactured in Brazil, which may be entered into the United States for consumption, or withdrawn for warehouse for consumption, during the twelve-month period which began on April 1, 1978 and extends through March 31, 1979.

On October 31, 1978, a further letter, dated October 24, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (43 FR 50730) directing that cotton textile apparel products in Category 359, a category subject to a consultation level under the bilateral agreement, be controlled in the same manner as categories previously designated in the directive of July 7, 1978.

In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint previously established for Category 359 to 217,391



pounds for the twelve-month period which began on April 1, 1978.

ARTHUR GAREL,  
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

COMMISSIONER OF CUSTOMS,  
Department of the Treasury  
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of October 24, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements which established a level of restraint for cotton textile products in Category 359, produced or manufactured in Brazil and exported to the United States during the twelve-month period which began on April 1, 1978.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 14, 1977; pursuant to the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 8, 1977, you are directed to increase, effective on March 15, 1979 and for the twelve-month period beginning on April 1, 1978 and extending through March 31, 1979, the level of restraint established in the directive of October 24, 1978 for Category 359 to 217,391 pounds.

The action taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from Brazil has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,  
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-8456 Filed 3-20-79; 8:45 am]

### [3910-01-M]

#### DEPARTMENT OF DEFENSE

##### Department of the Air Force

##### USAF SCIENTIFIC ADVISORY BOARD

##### Meeting

MARCH 12, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Project HEART will meet on April 9, 1979, at the School of Aerospace Medicine, Brooks AFB, Texas 78235. The purpose of this meeting is to review the current status and progress of Project HEART. The Committee will meet at 8:00 a.m. and adjourn at 4:00 p.m.

\*The level of restraint has not been adjusted to reflect any imports after March 31, 1978.

### NOTICES

This meeting will be open to the public. For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

CAROL M. ROSE,  
*Air Force Federal Register Liaison Officer.*

[FR Doc. 79-8377 Filed 3-20-79; 8:45 am]

### [3910-01-M]

#### OFFICE OF THE JUDGE ADVOCATE GENERAL, GENERAL LAW DIVISION

Availability of Index of Final Dispositions of  
Complaints Filed Pursuant to Article 138,  
UCMJ

MARCH 13, 1979.

Article 138, Uniform Code of Military Justice (10 U.S.C. 938) provides a means by which a member of the Air Force may seek redress of grievances from his or her commander and, if redress is denied, file a Complaint of Wrong against the commander. The procedure for submission of a Complaint of Wrong pursuant to Article 138 is set forth in AFR 110-19. The officer exercising general court-martial (GCM) jurisdiction over the officer against whom the complaint is made is charged with examining into the complaint and taking proper measures for redressing the wrong. After the GCM authority takes action, proceedings on the complaint are forwarded to Headquarters USAF for disposition at the direction of the Secretary of the Air Force. The Director of Civil Law, Office of The Judge Advocate General, is the designee of the Secretary of the Air Force in making final disposition of such complaints.

An index, published pursuant to section 552(a)(2), Title 5, United States Code, includes all final dispositions of Article 138 complaints from January 1 to December 31, 1978. The index will be updated on a quarterly basis to reflect all new dispositions. Since dispositions of Article 138 complaints are not permanent records, the index will reflect only those dispositions on file at the time of preparation of the index.

The index will be republished to include the prior quarter dispositions no later than the last day of the month following the end of the quarter. Copies of the index will be available for public inspection and copying in the Armed Forces Discharge Review/Correction Boards Reading Room, located on the Concourse of the Pentagon. Copies of the index may be obtained by mail, for the cost of reproduction, by writing to: General Law Division, Directorate of Civil Law, Office of The Judge Advocate General,

1900 Half Street, SW., Washington D.C. 20324, telephone (202) 693-5840.

CAROL M. ROSE,  
*Air Force Federal Register Liaison Officer.*

[FR Doc. 79-8474 Filed 3-20-79; 8:45 am]

### [3910-01-M]

#### OFFICE OF THE JUDGE ADVOCATE GENERAL, MILITARY JUSTICE DIVISION

Availability of Index of Final Actions by the  
Judge Advocate General Pursuant to Article  
69, Uniform Code of Military Justice (UCMJ)

MARCH 13, 1979.

Article 69, UCMJ (10 U.S.C. 869) provides for review, by the Office of The Judge Advocate General upon application, of records of trial not reviewable by a Court of Military Review. The Judge Advocate General may vacate or modify, in whole or in part, the finding or sentence, or both, on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused.

An index, published pursuant to section 552(a)(2), Title 5, United States Code, includes all final actions on Article 69 applications from October 24, 1968 to March 2, 1979. The index will be updated on a quarterly basis to reflect all new orders. The index will be republished to include the prior quarter's action no later than the last day of the month following the end of the quarter.

Copies of the index and the final actions will be available for public inspection and copying in the Armed Forces Discharge Review/Correction Boards Reading Room, located on the Concourse of the Pentagon. Copies of the index, as well as the final actions may be obtained by mail, for the cost of reproduction, by writing to: Military Justice Division, Directorate of Military Justice, Office of The Judge Advocate General, United States Air Force, 1900 Half St., SW., Washington, D.C. 20234, telephone (202) 693-5770.

CAROL M. ROSE,  
*Air Force Federal Register Liaison Officer.*

[FR Doc. 79-8475 Filed 3-20-79; 8:45 am]

### [3710-39-M]

#### Department of the Army

##### ARKANSAS AND LITTLE ARKANSAS RIVER

Intent To Prepare a Draft Environmental Impact  
Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Army Corps of Engineers (COE) has

initiated preparation of a Draft Environmental Impact Statement (DEIS) to assess the environmental impacts of a proposed channelization project subject to regulation under Section 404 of the Clean Water Act. The project, proposed by the city of Wichita, Kansas, would involve the realignment and stabilization of the banks of the Arkansas and Little Arkansas River in the Wichita metropolitan area.

A number of environmental and local issues have been identified as a result of a scoping meeting held in Wichita, Kansas on 31 January 1979. These issues include the potential impact on water quality, possible increase in flood heights, effect on sedimentation, impact on the riparian trees and the cumulative impact of channelization. Alternatives currently planned to be addressed in the DEIS include the no action alternative, and the stabilization of the river banks in their present configuration.

It is anticipated that the Draft Environmental Impact Statement will require approximately 140 days to complete. It is scheduled to be made available to the public by 24 August 1979.

Questions concerning the proposed action and DEIS can be answered by: Mr. Robert L. Hope, Chief, Regulatory Functions Section, Operations Division, Tulsa District, Corps of Engineers, P.O. Box 61, Tulsa, OK 74121 (918) 581-7352.

Dated: March 12, 1979.

ROBERT G. BENING,  
*Colonel, CE,  
District Engineer.*

[FR Doc. 79-8379 Filed 3-20-79; 8:45 am]

### [3710-08-M]

#### BOARD OF VISITORS, UNITED STATES MILITARY ACADEMY

##### Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, U.S. Military Academy.

Dates of Meeting: April 12-14, 1979.

Place of Meeting: West Point, N.Y.

Time: At West Point:

2100-2300, April 12, Organizational Meeting (Hotel Thayer)

0830-1015, April 13, Superintendent's and Commandant's Review (Superintendent's Conference Room, Bldg. 600)

1530-1630, April 13, Meetings with Junior Faculty (Department Locations)

1630-1730, April 13, Board Discussions (Hotel Thayer)

0800-1200, April 14, Selected Visits/Discussions (Commandant's Conference Room, Bldg. 745)

Proposed Agenda: Inquiry about the cadet training to include women

### NOTICES

cadets' leadership opportunities, admissions initiatives, public affairs actions, and other matters relating to the Military Academy that the Board decides to consider.

All proceedings are open. For further information, contact LTC Kermit M. Henninger, United States Military Academy, West Point, New York, telephone 914-938-2785/4723.

For the Board of Visitors.

KERMIT M. HENNINGER,  
*LTC, GS, Executive Secretary,  
1979 Board of Visitors.*

[FR Doc. 79-8478 Filed 3-20-79; 8:45 am]

### [3810-70-M]

#### Office of the Secretary

##### DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

##### Notice of Closed Meeting

Pursuant to the provisions of section (d) of Section 10 of Public Law 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Thursday & Friday, 19-20 April 1979,  
Northrop Corporation, Palos Verdes  
Peninsula, CA

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on current and projected DOD HUMINT collection activities.

H.E. LOFDAHL,  
*Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.*

MARCH 16, 1979.

[FR Doc. 79-8498 Filed 3-20-79; 8:45 am]

### [3810-70-M]

#### DEPARTMENT OF DEFENSE WAGE COMMITTEE

##### Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, May 1, 1979; Tuesday, May 8, 1979; Tuesday, May 15, 1979; Tuesday, May 22, 1979; and Tuesday, May 29, 1979 at 10:00 a.m. in Room 855, Hoffman Building #1, 2461 Eisenhower Avenue, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary

of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

H. E. LOFDAHL,  
*Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.*

MARCH 16, 1979.

[FR Doc. 79-8499 Filed 3-20-79; 8:45 am]

### [3810-70-M]

#### TASK FORCE ON EVALUATION OF AUDIT, INSPECTION AND INVESTIGATIVE COMPONENTS OF THE DEPARTMENT OF DEFENSE

##### Advisory Committee Meeting

The Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will meet on April 5, 6, 1979 at the Pentagon, Washington, D.C.,



Room 3D981. Portions of the sessions will be closed to the public.

The mission of the Task Force is to advise Congress and the President of the effectiveness of the audit, inspection and investigative components of the Department of Defense.

The Task Force will undertake internal organizational matters, personnel decisions, assessment of document resources and will meet with representatives of agencies outside the Department of Defense, to include the GAO and Department of Justice, to discuss the direction of the Task Force.

In accordance with section 10(d) of Appendix 1, Title 5, United States Code, it is hereby determined that the deliberations relative to personnel decisions will be closed to the public pursuant to Section 552(b) of Title 5, United States Code, specifically subparagraph (2) thereof. The remaining portions of the meeting will be open to the public.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

MARCH 16, 1979.  
[FR Doc. 79-8500 Filed 3-20-79; 8:45 am]

[6360-01-M]

#### DELAWARE RIVER BASIN COMMISSION

NORTH WALES WATER AUTHORITY, ET AL.

Public Hearing

MARCH 14, 1979.

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 28, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular March business meeting which is open to the public. Both the hearing and the meeting will be held at the Hall of Flags West, Sheraton Hotel, 17th and Kennedy Boulevards, Philadelphia, Pennsylvania. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *North Wales Water Authority (D-78-94 CP)*. A well water supply project to augment public water supplies in the Borough of North Wales, and Lower Gwynedd Township, and adjacent municipalities in Montgomery and Bucks County, Pennsylvania. Designated as Well No. 25, the new facility is expected to provide an average annual yield of about 250,000 gallons per day.

2. *Yardley Ball Corp. (D-78-54)*. A water supply and discharge project at the company's facility in Yardley, Bucks County, Pa. Approximately 190,000 gallons per day of water will be withdrawn from the Delaware River and used for non-contact cooling processes prior to discharge back to the river.

3. *Seabrook Bros. & Sons, Inc. (D-78-79)*. A well water supply project at the company's food processing plant in Upper Deerfield Township, Cumberland County, N.J. Two new wells are expected to provide approximately 4.6 million gallons per day for plant cooling and processing uses.

4. *Cream Ridge Gold Course (D-78-79)*. A well water supply project to be used for irrigation purposes at the applicant's golf course in Upper Freehold Township, Monmouth County, N.J. The well facility is expected to yield approximately 700,000 gallons per day.

5. *Getty Refining and Marketing Company (D-78-97)*. An industrial waste treatment project at the company's Delaware City refinery in New Castle County, Delaware. New facilities and in-plant changes will provide removal of 92% of BOD from a wastewater flow of about 11.4 millions gallons per day. Treated effluent will continue to discharge to the Delaware River.

6. *Donald Eldridge (D-79-9)*. Two farm irrigation projects at the subject's farms in Upper Freehold and Millstone Townships, Monmouth County, N.J. One project involves withdrawals from a spring fed pond limited to a maximum of 13 million gallons per month. The second project involves use of a surface pond augmented by groundwater withdrawals limited to 12 million gallons per month. Both projects are used for agricultural irrigation processes.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. BRINTON WHITALL,  
Secretary.

[FR Doc. 79-8473 Filed 3-20-79; 8:45 am]

[6560-01-M]

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL 1063-7]

#### REGION II: GROUNDWATER SYSTEM OF THE NEW JERSEY COASTAL PLAINS AQUIFER

##### Request for EPA Determination Regarding Aquifers

A petition has been submitted by the Environmental Defense Fund, Inc. and

the Sierra Club—New Jersey Chapter, pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying the Counties of Monmouth, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May and portions of Mercer and Middlesex Counties, New Jersey is the sole or principal drinking water source for the coastal plain area which, if contaminated, would create a significant hazard to public health.

This petition is reprinted in full below:

#### BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DOUGLAS M. COSTLE, ADMINISTRATOR

#### PETITION

In the matter of the Petition of the Environmental Defense Fund, Inc. and the Sierra Club—New Jersey Chapter Under Section 1424(e) of the Safe Drinking Water Act of 1974 With Respect to the Aquifer System Underlying Monmouth, Ocean, Burlington, Camden, Gloucester, Atlantic, Salem, Cumberland, Cape May and portions of Middlesex and Mercer Counties, New Jersey.

1. The Environmental Defense Fund ("EDF") is a non-profit, public benefit membership corporation organized under the laws of the State of New York. Its principal office is located at 475 Park Avenue South, New York, New York 10016 (212-686-4191). Communication regarding this Petition should be addressed to that office. Other offices are located in Washington, D.C., Denver, Colorado and Berkeley, California. EDF has a nationwide membership of approximately 45,000 scientists, lawyers and other citizens, including approximately 1800 residents of the State of New Jersey, some of whom live in the Area which is the subject of this Petition. EDF exists to promote research and action and to undertake action itself, to protect and enhance the natural environment and to protect the public health from environmental hazards. EDF has been actively involved in protection of drinking water, and management of groundwater resources.

2. The Sierra Club is a nationwide organization of 182,000 members, headquartered in San Francisco, California. The Sierra Club-New Jersey Chapter has 4300 members, some of whom live in the Area which is the subject of this Petition. They are vitally concerned about the quality of the groundwater on which they depend for their water supply.

3. Section 1424(e) of the 1974 Safe Drinking Water Act (42 U.S.C. 300f, 300h-3(e)) provides as follows:

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the FEDERAL REGISTER. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, con-

tract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

4. The Area which is the subject of this Petition is that portion of the Atlantic Coastal Plain Physiographic Province which is contained within the State of New Jersey. This area is shown on Exhibit One, the Physiographic Province Map of New Jersey. The Area, commonly referred to as the Coastal Plain, encompasses the southern portion of the State. It is bordered on the west by the Delaware River; on the south by Delaware Bay; on the east by the Atlantic Ocean; and on the north by the Triassic Lowlands of the Piedmont Physiographic Province. The dividing line between the Piedmont and Coastal Plain Provinces runs approximately northeast from the vicinity of Trenton, through New Brunswick and into the Raritan Bay. This boundary is shown precisely on Exhibit Two, the U.S. Geological Survey Overlay and Atlas Maps.

5. The New Jersey Coastal Plain is underlain and characterized by unconsolidated sands, clays, marls, and gravels. The geological formations of the Coastal Plain are shown schematically in Exhibits Three and Four. Exhibit Three is the Geologic Map of New Jersey. It illustrates the outcrop areas of the various formations. In Exhibit Three, the outcrop areas of Coastal Plain formations which can function as aquifers are colored in red. Exhibit Four consists of a series of typical hydrogeologic cross sections of the Coastal Plain. The cross sections illustrate the "layer-cake" stratigraphy of the Coastal Plain. A large amount of information about the Coastal Plain formations exists. The brief descriptions which follow were gleaned from the references listed in Appendix A.

6. The aquifers and other formations of the Coastal Plains can be roughly described from the bottom up (northwest to southeast) as follows. The deepest is the Raritan formation, which is frequently considered together with the overlying Magothy formation. The Raritan-Magothy formation is probably the most important water supply aquifer in the Coastal Plain. The Raritan formation consists of 150 to 300 feet of rapidly alternating lenses of light colored white or yellow sands and white, cream or light gray clays which may also be dark gray or red. The Magothy formation, a relatively thin series of alternating dark clays and fine white sand ranges up to about 175 feet in thickness along the shores of Raritan Bay. The Raritan-Magothy formation outcrops in a band along the northern and western edges of the Coastal Plain, and then slopes downward to the southeast. In the outcrop area, the Raritan and Magothy formations are separated by a layer of clay, but elsewhere they are indistinguishable.

7. The Raritan-Magothy formation is an exceptionally productive aquifer for water supply purposes. Individual wells have yielded upward of 1400 gallons a minute. The average specific capacity of the Raritan-Magothy Aquifer is 20 gallons per minute per foot. The quality of the Raritan-Magothy water is generally good except for iron and manganese. There have been isolated prob-

lems with nitrates, and some heavy metals such as cadmium and chromium. According to the Corps of Engineers, some 43 percent of recharge to the Raritan-Magothy is from the Delaware River. This raises some question about the long-term quality of the water in this formation.

8. Above the Raritan-Magothy formation lie the Merchantville formation and the Woodbury Clay which together form a major confining zone. These layers would normally protect the Raritan-Magothy from contamination from above. However, because of excessive pumpage from the Raritan-Magothy, the confining beds now transmit considerable quantities of water from the overlying aquifer formations.

9. Above the Woodbury Clay lies the Englishtown formation, which varies in thickness from 140 feet in Monmouth County to only about 20 feet in Gloucester County. This relatively minor formation is tapped for water supply in some areas. The Englishtown formation is capped by the Marshalltown formation, a sandy clay formation 30 to 40 feet thick. Limited data on the quality of the Englishtown water exists, but it appears to be good except for high iron concentrations.

10. The next important aquifer is comprised of the Wenonah and Mt. Laurel sands, two hydrologically connected formations of considerable importance for water supply. The 100 square mile outcrop zone of this formation parallels the Delaware River to the east of the Raritan-Magothy outcrop, varying from .5 to 3 miles in width. In down-dip areas, the formations are generally between 100 and 140 feet thick. Water quality in the Mt. Laurel-Wenonah Aquifer is generally good, except for iron, particularly in the outcrop area, and moderately high hardness where heavy pumpage has induced leakage from overlying zones. Nitrate contamination in limited areas of the outcrop region has also been reported.

11. The Navesink formation is 25 to 40 feet of gray sandy clay. In the northern part of the Coastal Plain it is overlain by the Red Bank formation, a dark gray brown sandy clay, and the Tinton sandstone.

12. The Hornerstown Marl is a 30 foot thickness of glauconite with clay and sand. It extends across the State from near Atlantic Highlands through Freehold, Hornerstown, Birmingham, Mullica Hill, Sewell and Woodstown and thence southward into the Delaware. In southern New Jersey, where the Red Bank and Tinton formations have been removed, the Marl rests upon the Navesink formation.

13. The Vincentown formation consists of 25 to 100 feet of light colored sands with some glauconite. It is an aquifer which is pumped to some extent, particularly in Salem County. The Vincentown formation is overlain by the relatively thin Manasquan and Shark River marls.

14. The Kirkwood formation is a comparatively low yield aquifer, composed of fine quartz sands and drab-colored clays. It ranges from approximately 180 feet thick at the surface to almost 600 feet under Atlantic and Cape May Counties. Because of its low yield, wells within reach of the Kirkwood usually tap the high yielding Cohansey Sands or the deeper Mt. Laurel-Wenonah formation. The water bearing strata of the Kirkwood formation are hydrologically connected to the overlying Cohansey Sand.

15. The Cohansey Sand covers the largest area of the Coastal Plain, approximately

2350 square miles bounded by the outcrop area of the Kirkwood formation, the Atlantic Ocean and Delaware Bay. It consists of white to yellow sands with occasional lenses of clay and gravel. It is the "top layer" in the Coastal Plain stratigraphy. Its bottom dips seaward at a rate of approximately 10 feet per mile, and its base may extend nearly 400 feet below sea level.

16. The Cohansey Sand is a highly productive water supply aquifer. It has a hydrologic conductivity of between 90 and 250 feet per day (660 to 1885 gallons per day per square foot). The transmissivity ranges between 10,000 and 20,000 square feet per day (75,000 to 150,000 gallons per day per foot). The aquifer can sustain wells pumping 700 to 1000 gallons per minute.

17. Water quality in the Cohansey Aquifer is generally good, except for high concentrations of iron and manganese and low pH. However, because the aquifer is under water table conditions and the overlying soils are highly permeable and have very low attenuation capability, the aquifer is particularly susceptible to contamination from man's activities.

18. As a result of the overlap of these different formations and extensive pumping, significant quantities of water "leak" from one formation to another. For example, the Corps of Engineers Waterways Experiment Station has constructed a model of the Raritan-Magothy aquifer (see references 17 and 18 in Appendix A). The WES estimated that 31 percent of recharge to the Raritan-Magothy Aquifer formation is leakage from other aquifers. Thus, it is impossible to identify a particular aquifer which merits protection as the sole or principal source of drinking water for the people in the Area. Rather, it is the entire aquifer system which, as a whole, must be protected.

19. This situation is somewhat analogous to Nassau and Suffolk Counties, New York which were designated as an area having an aquifer system which is the sole or principal source of drinking water under Section 1424(e) on June 21, 1978. Long Island is underlain by the Upper Glacial, Magothy and Lloyds Aquifers, the first two of which are utilized as water supplies. The designation of Nassau and Suffolk Counties pursuant to 1424(e) constituted recognition of the need to consider aquifer systems holistically and is hence a precedent for the designation which is the subject of this Petition.

20. Within this Area, publicly or privately supplied drinking water is almost entirely derived from groundwater, although some cities, including Trenton, Burlington and Atlantic City, do have surface supplies. In addition, surface waters within the Area (unless drawn from the Delaware River) are fed predominantly by groundwater discharge, because the highly permeable character of the soils in the Area does not allow significant surface runoff. Hence, any surface water supplies from within the Area are themselves dependent on the preservation of the quality of groundwater in order to protect public health. Because of the generally high water quality, treatment is generally limited to disinfection and, depending on local conditions, iron and manganese removal, pH adjustment, softening, chemical stabilization and fluoridation. Of course, private wells would generally undergo no treatment.

21. The population of the ten counties lying wholly or partly within the Area is estimated to be approximately 3.2 million



people in 1978. As noted above, this population is almost entirely dependent upon groundwater for its water supply. Appendix B shows population and groundwater withdrawals for water supply purposes in each of the ten counties and by aquifer where data is available. This Table was compiled from a series of USGS reports and Area-wide Wastewater Treatment Management Plans prepared pursuant to Section 208 of the Clean Water Act, for parts of the Area in which Petitioners have access to such plans. Although incomplete and out of date, these data clearly demonstrate that the magnitude of the dependence upon groundwater in this region is such that a contamination of this resource will create a significant hazard to public health.

22. At the present time, no alternative to dependence on groundwater for water supply exists in the Area. As noted above, surface water-based alternatives developed within the Area would be primarily fed by groundwater discharge and hence would not be a safe alternative if the groundwater itself became contaminated. It is possible to imagine the development of a major water supply system to import water to the Area from northern New Jersey river basins or from the Delaware River, but such schemes would be enormously expensive and virtually infeasible politically. Northern New Jersey is one of the most densely populated sections of the nation and does not have water available for export in any significant quantity. The waters of the Delaware River have been the subject of intense competition for over 50 years. Any out-of-basin diversion of Delaware water would require the unanimous approval of all signatories to the Delaware River Basin Compact, that is, the States of New York, New Jersey, Pennsylvania and Delaware, as well as the United States. Such consent is almost inconceivable, particularly if the need for the water arose because an existing resource was allowed to be destroyed. In any event, it is certainly not the intent of the Act to allow the water supply for some three million people to be contaminated, even if feasible and economic alternatives did in fact exist.

23. Contamination of the groundwater in the Area, which would constitute a significant hazard to public health, is a very real danger. Isolated incidents of contamination of wells, particularly by nitrates, have already been identified. Of equal concern is the possibility of contamination by viruses, heavy metals, and organic substances which may be carcinogenic, mutagenic, teratogenic, or otherwise toxic. The effects of these substances, and the mechanisms by

which they can enter groundwater, are only poorly understood. However, several things are known with reasonable certainty.

24. First, any increase in the concentration of such substances in drinking water is a matter of concern. "Safe" levels of exposure to these substances have, in general, not been established. The proposed amendments to 40 CFR 141 (43 FR 5758) would require certain communities to install granulated activated carbon treatment, in part to remove synthetic organic substances.

25. Second, it is now known that non-point source pollution, including urban storm-water runoff, can be a major source of contaminants in groundwater. This was demonstrated by a study performed by EDF staff scientist Robert H. Harris and Karen M. Sliimak on Long Island. This report, entitled "The Fate of Organic Chemicals and Heavy Metals in Wastewaters Used for Groundwater Recharge" is attached as Appendix C. As noted above, Long Island is fairly similar, hydrologically, to the Area which is the subject of this Petition.

26. Third, the residential, commercial and industrial development and other activities which generally cause or contribute to point and non-point source pollution are almost always supported and induced by Federal investments in infrastructure such as housing, highways, and sewer systems. (See "Secondary Impacts of Transportation and Wastewater Investments: Research Results," EPA-600/5-75-013.) Section 1424(e) was intended by Congress to insure that these investments do not result in a significant hazard to the public health. It is a preventive procedure, designed to facilitate protection of groundwater resources before irreversible contamination occurs. It would be impractical and imprudent to wait until a specific, obvious threat to groundwater quality is imminent before implementing the 1424(e) protection mechanism.

27. To make the determination under Section 1424(e) of the Safe Drinking Water Act, the Administrator must find that (1) "an area has an aquifer which is the sole or principal drinking water source," and (2) that if the aquifer were contaminated it "would create a significant hazard to public health." As established above, the Area which is the subject of this Petition is almost entirely dependent upon its aquifer system for drinking water. This Area has a population of approximately 3 million persons which, given their absolute dependence on groundwater, is sufficient in and of itself to show that contamination of the ground-

water would create a significant hazard to public health.

28. Therefore, we request that you determine that the Counties of Monmouth, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May, New Jersey, and portions of Mercer and Middlesex Counties, New Jersey (as delineated in Exhibit Two), constitute an Area whose aquifer system is "the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health," and that you publish notice of this determination in the FEDERAL REGISTER as required by Section 1424(e) of the Safe Drinking Water Act of 1974.

Respectfully submitted: Adam B. Jaffe, Science Associate, Environmental Defense Fund, Inc., James T. B. Tripp, Counsel, Environmental Defense Fund, Inc., Robert C. Hughes, Chairman, Sierra Club-New Jersey Chapter, James Ayer, Vice Chairman, Sierra Club-New Jersey Chapter and Chairman, West Jersey Group.

#### APPENDICES (ATTACHED)

- Bibliography
- Population and water withdrawal by county
- "The Fate of Organic Chemicals and Heavy Metals in Wastewaters Used for Groundwater Recharge," Robert H. Harris and Karen M. Sliimak.

#### EXHIBITS (SEPARATE DOCUMENTS)

- Physiographic Provinces of New Jersey showing Coastal Plain Province
- United States Geologic Survey Overlays and Atlas Maps Showing Exact Boundary of Coastal Plain
  - Overlay No. 25
  - Atlas Map No. 25
  - Overlay No. 26
  - Atlas Map No. 26
  - Overlay No. 28
  - Atlas Map No. 28
- Geologic Map of New Jersey Showing Outcrop Areas of Coastal Plain Formations
- Hydrogeologic Cross Sections of the Coastal Plain—4a. Hydrogeologic Cross Sections, Camden and Gloucester County, 4b. Hydrogeologic Cross Sections, Burlington County.

\*\*\*NOTE: Appendix C and Exhibits 2-4 will be retained at the Water Supply Branch, EPA Region II, 26 Federal Plaza, New York, New York 10007.

#### APPENDIX A

##### BIBLIOGRAPHY

- Anderson, H. R., and Appel, C. A., 1969, *Geology and Ground Water Resources of Ocean County, New Jersey*, New Jersey Div. of Water Policy and Supply Special Report No. 29.
- Cook, G. H., 1957, *Geology of the County of Cape May, N.J.* Bureau of Geology and Topography.
- Gill, H. E., 1959, *Geology and Ground Water Reservoirs of the Cape May Peninsula, Lower Cape May County*, Water Resources Circular No. 1.
- Meisler, H., et al., 1968, *Summary of Ground Water Resources of Atlantic County, N.J.*, Water Resources Circular No. 18.
- N.J. Dept. of Conserv. and Econ. Dev., 1968, *Ground Water Resources of Monmouth County, N.J.*, Special Report No. 23.
- Rhodelamel, E. C., *Geology and Water Resources of the Wharton Tract and the Mullica River Basin in Southern N.J.*, Special Report No. 36.
- Rhodelamel, E. C., *Hydrologic Analysis of the New Jersey Pine Barrens Region*, Circular No. 22.
- Rooney, J. G., 1971, *Ground Water Resources of Cumberland County, N.J.*, Special Report No. 34.
- Rosenau, J. C., 1969, *Geology and Ground Water Resources of Salem County, N.J.*, Special Report No. 33.
- Rush, F. E., 1968, *Geology and Ground Water Resources of Burlington County, N.J.*, Special Report No. 26.
- Farlekas, G. M., et al., 1976, *Geology and Water Resources of Camden County, N.J.*, Water Resources Investigations Report No. 76-76.
- Hardt, W. F., 1969, *Water Resources and Geology of Gloucester County, N.J.*, Special Report No. 33.
- Widmer, Kemble, 1964, *The Geology and Geography of New Jersey*, New Jersey Historical Series, D. Van Nostrand Co., Inc.
- Delaware Valley Regional Planning Commission, 1977, *Draft 208 Water Quality Management Plan, Mercer County, N.J.*
- Delaware Valley Regional Planning Commission, 1977, *Draft 208 Water Quality Management Plan, Burlington, Camden and Gloucester Counties.*
- M. Disko Associates, 1978, *Draft Report, Groundwater Management Planning, prepared for the Ocean County 208 Project.*
- Southern New Jersey Water Resources Study, Water Supply Program, *Executive Summary: Maximum Yield Quantity, Analysis (May 1978).*
- Southern New Jersey Water Resources Study, Internal Document No. 10—Natural Recharge Areas (September 1978).

#### APPENDIX B.—Groundwater Use by County and Aquifer

| County     | Population (1978) | Aquifer(s)  | Withdrawal (mgd)                           | Comments   |
|------------|-------------------|---|--|--|
| Cape May   | 79,000            | Kirkwood-Cohansey   | 10   | Pumpage rate for 1964, reference #8.   |
| Cumberland | 136,000           | Kirkwood-Cohansey   | 49   | Pumpage rate for 1964, reference #8.   |
| Atlantic   | 192,000           | Kirkwood-Cohansey   | 12   | Pumpage rate for 1964, reference #9.   |
| Salem      | 64,000            | Raritan-Magothy (95%)<br>Englishtown<br>Mt. Laurel-Wenonah<br>Vincentown<br>Kirkwood                    |  |  |
| Gloucester | 196,000           | Raritan-Magothy<br>Cohansey<br>Mt. Laurel-Wenonah<br>Englishtown  | 41.2<br>7.3<br>2.4<br>.1                   | Pumpage rates for 1976, reference #15.   |
| Camden     | 476,000           | Raritan-Magothy<br>Cohansey<br>Mt. Laurel-Wenonah<br>Englishtown  | 74<br>7.3<br>1.1<br>1.0                    | Pumpage rates for 1976, reference #15.   |
| Burlington | 364,000           | Raritan-Magothy<br>Mt. Laurel-Wenonah<br>Englishtown<br>Cohansey<br>Kirkwood                            | 48.9<br>8.1<br>3.2<br>1.5<br>.15           | Pumpage rates for 1976, reference #15.   |
| Ocean      | 330,000           | Cohansey<br>Raritan-Magothy<br>Kirkwood<br>Englishtown<br>Vincentown<br>Mt. Laurel-Wenonah<br>Manasquan | 12.2<br>9<br>8.8<br>4.9<br>1.8<br>.4<br>.1 | Pumpage rates for 1976, reference #16.   |
| Monmouth   | 491,000           | Raritan-Magothy<br>Englishtown<br>Mt. Laurel-Wenonah<br>Kirkwood-Cohansey                               |  |  |
| Mercer     | 321,000           | Raritan-Magothy   | 8.9  | Pumpage rate for 1976, reference #14. An additional 9.3 mgd is pumped from non-coastal plain formations. |
| Middlesex  | 594,000           | Raritan-Magothy<br>Englishtown<br>Mt. Laurel-Wenonah<br>Kirkwood-Cohansey                               |  |  |
| Total      | 3,200,000         |   | 300  |  |

<sup>1</sup>Unknown to petitioners.

<sup>2</sup>Excluding Atlantic, Monmouth and Middlesex Counties.



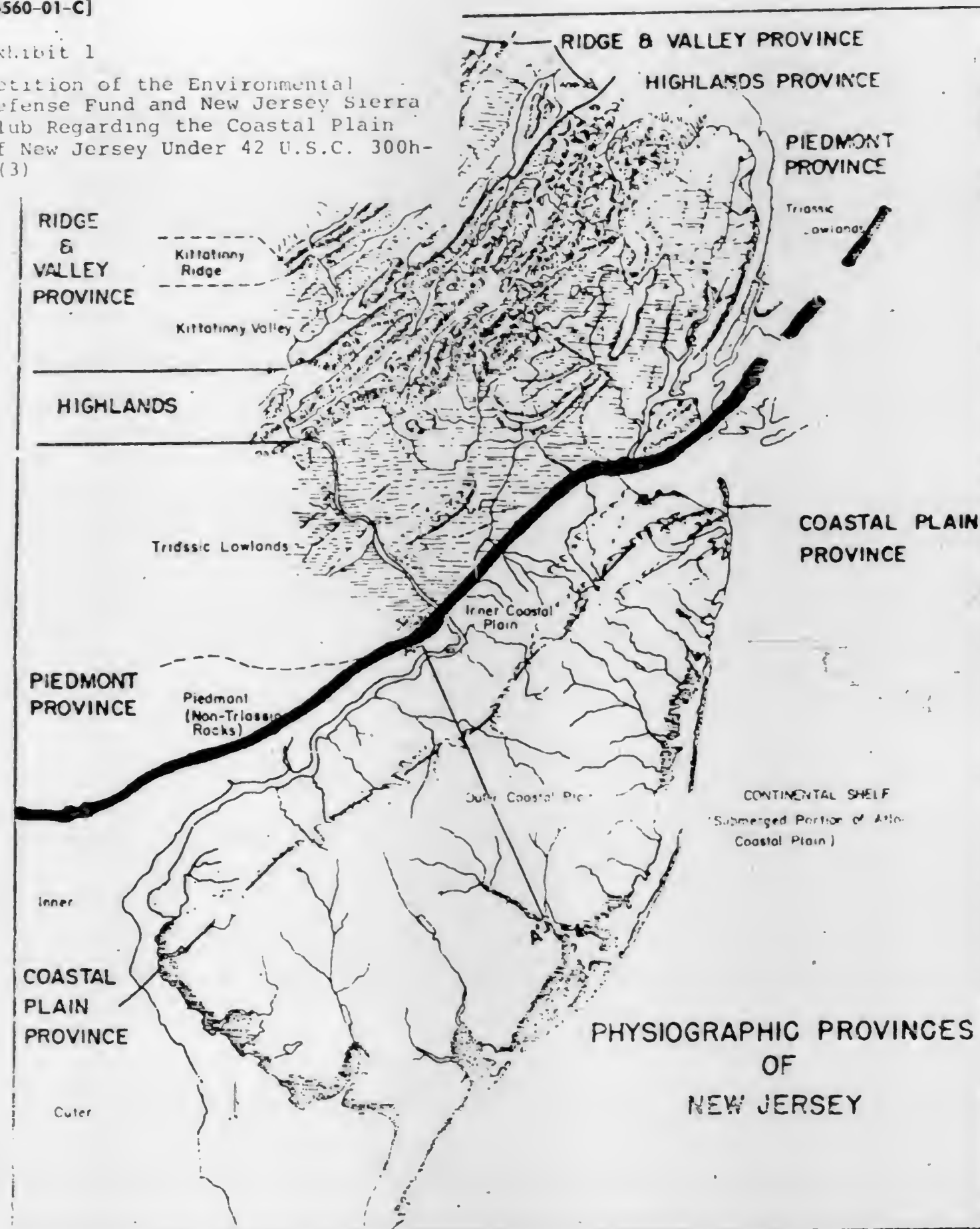
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## NOTICES

[6560-01-C]

## Exhibit 1

Petition of the Environmental Defense Fund and New Jersey Sierra Club Regarding the Coastal Plain of New Jersey Under 42 U.S.C. 300h-3(3)



From LORDES, revised 1973  
1974

[6560-01-M]

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data, and references to additional sources of information relevant to the determination required by section 1424(e). In particular, information is sought concerning the hydrogeology of the Coastal Plain Aquifer System, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, the significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this Notice should be submitted in writing to Eckardt C. Beck, Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 1009, New York, N.Y. 10007, Attention: Coastal Plain Aquifer; within 60 days of this Notice. Information concerning the Coastal Plain Aquifer System will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold four public hearings on the dates and at the locations shown below:

May 14, 1979, 7 p.m., Camden County Complex, Egg Harbor Road, Conference Room—Administration Building, First Floor, Lindenwood, N.J.

May 15, 1979, 11 a.m. to 3 p.m., Mercer County Service Extension building, 930 Spruce Street, Conference Room, Trenton, N.J.

May 15, 1979, 7 p.m., Borough of Freehold, 51 W. Main Street, borough Clerk's Conference Room, Freehold, N.J.

May 17, 1979, 7 p.m., Stockton State College, Room CC103—Second Floor, C Wing, Pomona, N.J.

Persons who wish to present prepared statements at the public hearings are urged to give notice to Mr. John Mateo, Water Supply Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-1332, prior to the hearing they wish to attend. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

## NOTICES

Dated: March 14, 1979.

ECKARDT C. BECK,  
Regional Administrator.

(FR Doc. 79-8362 Filed 3-20-79; 8:45 am)

[6560-01-M]

(FRL 1079-2; OPP-180271)

## CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Specific Exemption to Use Mesurol to Control  
Snails on Artichokes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Products.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Mesurol (methiocarb) to control snails on 11,000 acres of artichokes in California. The specific exemption ends on December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington D.C. 20460, Telephone: 202-755-4851.

SUPPLEMENTARY INFORMATION: According to the Applicant, due to unusually wet weather conditions, extremely high populations of brown snails have developed in the coastal artichoke acreage. Many of the snails remain on the plant rather than descending to the ground. Therefore, according to the Applicant, to achieve control of the pest, the artichoke plant itself must be treated and not just the surrounding soil.

The Applicant states that at the current rate of increase in snail populations, damage to the 11,000 acres of artichokes in California could result in a total loss of this crop. The total approximate value of these artichoke plantings is \$15,500,000.

Metaldehyde in granular form is registered for control of snails in crop plantings; however, the Applicant states that it is suitable only for application to the ground surrounding the plant, and not the plant itself. Furthermore, according to the Applicant, metaldehyde is not efficacious when the population level is high. The proposed pesticide (Mesurol 75WP) allows for treatment of the plants.

The Applicant proposes to use Mesurol 75WP at a rate of one and one-third pounds product per acre. A maximum of five applications will be made using ground equipment, by or under the supervision of State-certified applicators. There will be a field reentry safety interval of 24 hours and a pre-harvest interval of seven days.

EPA has determined that methiocarb residue levels from the proposed use will be adequate to protect the public health. This pesticide is toxic to fish and aquatic invertebrates; however, since applications are to be made directly to the artichoke plants, and if care is taken to prevent significant drift to water sources, no hazard to aquatic life is expected. There are no endangered or threatened species that would be adversely affected as a result of this use.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of snails has occurred; (b) there is no effective pesticide presently registered and available for use to control snails in California; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the snails are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1979. The specific exemption is also subject to the following conditions:

1. The product Mesurol 75WP may be used at a dosage rate of one and one-third pounds product per acre;
2. A maximum of five applications may be made on a maximum of 11,000 acres;
3. Application may be made by ground equipment;
4. All applications will be made by or under the supervision of State-certified applicators;
5. The Applicant is responsible for ensuring that all of the provisions of this specific exemption are adhered to and must submit a report summarizing the results of this program by January 31, 1980;
6. This product is toxic to fish. It must be applied with care in areas adjacent to any body of water;
7. All applicable directions, restrictions, and precautions on the label must be followed;
8. The EPA shall be immediately informed of any adverse effects resulting from the use of Mesurol in connection with this exemption;
9. Artichokes with residues of methiocarb that do not exceed 3 parts per million may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action; and



10. A seven-day pre-harvest interval will be observed.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 14, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.  
(FR Doc. 79-8587 Filed 3-20-79; 8:45 am)

[6560-01-M]

[FRL 1079-3; OPP-180270]

FLORIDA DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES

Specific Exemption to Use Permethrin to  
Control Leafminers on Tomatoes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Florida Department of Agriculture and Consumer Services (hereinafter referred to as the "Applicant") to use permethrin to control leafminers on 28,000 acres of tomatoes in Florida. The specific exemption ends on June 30, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

**SUPPLEMENTARY INFORMATION:** The vegetable leafminer *Liriomyza sativae*, has become a serious pest in various crops and according to the Applicant, is the most serious pest in commercial tomato production in Florida. The leafminer destroys the tissue of tomato plants by laying eggs within the leaf structure. The resulting larval stages move within the leaf destroying the inner cells and the leaf's capacity for photosynthesis, thus destroying the leaf. They can cause rapid defoliation of the plant which reduces yields and exposes fruit to sun scald, thus lowering its quality. In addition, the punctures to leaves from the egg laying process serve as points of entry for plant pathogens which hasten leaf destruction. The Applicant estimates a loss of \$9,374,400 due to leafminer damage.

In the past, the Florida Cooperative Extension Service has recommended the use of various organophosphates for control of leafminers, but with the exception of dimethoate and methamidophos, they do not consistently con-

trol the pest. Data indicate that dimethoate is somewhat effective during periods of low population infestation but is ineffective during periods of high populations due to resistance buildup. Methamidophos has been effective but cannot be applied within 14 days of harvest. Since there are four or five pickings at 7- to 10-day intervals, methamidophos cannot be used during the 42- to 64-day harvest period.

The Applicant proposed to use Ambush 2 EC (permethrin) at a rate of 0.05 to 0.1 pound of active ingredient (a.i.) in a minimum of 20 gallons of water per acre. Up to six applications per season may be made using ground equipment, starting 14 days before commencement of harvest and continuing through the harvest period.

EPA has determined that residues from the proposed use will be at levels adequate to protect the public health. Although permethrin is extremely toxic to aquatic organisms, EPA has determined that the low dosage rate, the use of ground application only, and a monitoring program should allow use of the product on tomatoes without creating an unreasonable adverse effect on the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of leafminers on tomatoes has occurred; (b) resistance has developed to the pesticides presently registered and available for use to control this pest in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the leafminer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1979, to the extent and in the manner set forth in the application, subject to the following conditions:

1. The product Ambush 2 EC may be used at dosage rates of 0.05 to 0.1 pound a.i. per acre;
2. A maximum of six applications may be made per acre per season;
3. The first application of Ambush 2 EC may be made only within 14 days of the first harvest and continued on a 5-7 day schedule as needed. Ambush 2 EC may be applied up to the day of harvest;
4. Application may be made, by ground equipment only in a minimum of 20 gallons of water per acre;
5. Applications are limited to 28,000 acres of tomatoes in the Counties of Brevard, Hillsborough, Osceola, Pinellas, and Polk, and all counties south of them;

6. All applicable directions restrictions, and precautions on the product label must be followed;

7. This pesticide is extremely toxic to fish and aquatic invertebrates. Care must be used when applying it in areas adjacent to any body of water. It may not be applied when weather conditions favor run-off or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

8. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It must not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the Florida Cooperative Extension Service;

9. Only fields where registered alternatives have been applied and a knowledgeable expert has determined that control has not been achieved may be treated under this exemption;

10. In areas where treated tomato fields border bodies of water, observations by qualified personnel must be conducted for possible adverse effects by aquatic organisms;

11. A monitoring program using caged aquatic animals or systematic population analysis of fish and/or representative aquatic invertebrates must be conducted in order to determine possible adverse effects to aquatic animals;

12. Any adverse effects from use of permethrin under this exemption must be reported immediately to EPA;

13. A 60-day crop rotation restriction is imposed;

14. Tomatoes treated according to the above provisions will not have residues of permethrin in excess of 0.5 part per million (ppm) in tomatoes, 25 ppm in tomato paste, and 100 ppm in tomato pulp. Residues resulting from feeding of treated tomatoes or tomato parts to animals will not be in excess of 0.2 ppm in milk, 0.05 ppm in eggs, 0.1 ppm in poultry, 1.0 ppm in liver and kidney, 0.7 ppm in fat, and 0.08 ppm in lean meat. Commodities with residues of permethrin which do not exceed the above levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 14, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(FR Doc. 79-8588 Filed 3-20-79; 8:45 am)

[6560-01-M]

[FRL 1079-4]

MARBLEHEAD LIME CO., CHICAGO, ILL.

Final Determination

In the matter of the applicability of Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to Marblehead Lime Company, Chicago, Illinois.

On July 26, 1978, Marblehead Lime Company submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct kiln #5 at the South Chicago facility. The application was submitted pursuant to the regulations for PSD.

On September 7, 1978, Marblehead Lime Company was notified that its application was complete and preliminary approval was granted.

On September 18 and 20, 1978, U.S. EPA published notice of its decision to grant a preliminary approval to Marblehead Lime Company. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by Marblehead Lime Company, the Company was notified on December 1, 1978 that U.S. EPA had determined that the proposed new construction in Chicago, Illinois would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve Marblehead Lime Company of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dear-

born Street, Chicago, Illinois 60604. (312) 353-2090.

Dated: March 15, 1979.

JOHN MCGUIRE,  
Regional Administrator,  
Region V.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Approval to Construct EPA-5-79-A-3

In the Matter of Marblehead Lime Company, Chicago, Illinois, Proceeding Pursuant to the Clean Air Act, as amended.

AUTHORITY

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act); and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

FINDINGS

1. The location where Marblehead Lime Company (Marblehead) proposes to construct rotary lime kiln #5 (kiln #5) is a Class II area, as determined pursuant to the Act. The area has been designated by the State of Illinois as nonattainment for particulate matter. A complete application was submitted by Marblehead to construct kiln #5 at its South Chicago facility in Chicago, Illinois, pursuant to 40 CFR 52.21.

2. The kiln #5 is subject to the requirements of 40 CFR 52.21, and the applicable sections of the Act.

3. On September 18 and 20, 1978, the United States Environmental Protection Agency (U.S. EPA) published notice in the *Chicago Tribune*, and the *Chicago Sun-Times* seeking written comments from the public and giving an opportunity to request a public hearing on the application and U.S. EPA's review and preliminary determination to approve construction of kiln #5. No comments or requests for a hearing were received.

4. After review and analysis of all the material submitted by Marblehead, U.S. EPA has determined that emissions from the construction and operation of the proposed kiln #5 scheduled for construction at Marblehead's South Chicago facility will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas.

5. Kiln #5 will meet an emission limit at least as restrictive as the proposed New Source Performance Standard for lime manufacturing plants (40 CFR Part 60).

CONDITIONS

U.S. Approval to Construct kiln #5 is subject to the following conditions:

6. Kiln #5 must meet an emission limitation of 0.3 pounds of particulate matter per ton of limestone feed. Any gases from rotary lime kiln #5 which may be discharged into the atmosphere shall not exhibit an opacity of 10 percent or greater. These limitations are equivalent to the proposed New Source Performance Standard (40 CFR Part 60) for lime manufacturing plants.

7. The maximum level of sulfur dioxide emissions allowed shall be 2.08 pounds of sulfur dioxide per ton of actual process weight input. Note that process weight is

defined as the weight of the total solid materials input into the production process.

The emission limitations stated in conditions 6 and 7 above represent the application of Best Available Control Technology and are required by 40 CFR 52.21(d)(ii).

8. Marblehead must submit to U.S. EPA, within 5 working days after it becomes available, technical or contract data attesting to the expected guaranteed sulfur content of the coal to be used in the lime manufacturing process.

9. Marblehead shall install, calibrate, maintain, and operate a continuous monitoring system to monitor and record the opacity of the gases discharged into the atmosphere from kiln #5. The span of this system shall be set at 40 percent opacity. Continuous emission monitoring shall commence upon start-up. Excess emission reports shall be submitted to U.S. EPA on a calendar quarterly basis, with reports postmarked no later than 30 days after the end of the quarter. Excess emissions are defined as all 6 minute periods during which the average opacity of the plume from kiln #5 exceeds 10 percent. The quarterly report will contain information as specified in 40 CFR 60.7(c)(1-4). Marblehead will maintain a record of continuous emission monitoring results consistent with 40 CFR 60.7(d).

10. The baghouse equipment must be installed for the control of fugitive dust at the kiln #5 dust handling and loadouts and the kiln #5 lime handling and loadout systems, as described in the application. Emissions from fine dust handling and loading and from lime handling shall be limited to 0.003 grains per dry standard cubic foot.

11. The operations of Western Navigation Company must be discontinued prior to the start-up of rotary lime kiln #5. This condition is required pursuant to the U.S. EPA's Interpretative Ruling (41 FR 55524-30) requiring emission offsets of sources proposing to construct in nonattainment areas.

12. The measures to reduce fugitive emissions of particulate matter which must be implemented are:

- (1) Paving of kiln access roadways.
- (2) Enforcing an 8 mph speed on access roads.
- (3) Eliminating one present roadway.
- (4) Spraying of coal piles and unpaved roads with a surfactant.
- (5) Paved roads shall be swept daily.

13. Marblehead must submit to U.S. EPA at least 90 days prior to initial start-up of lime kiln #5 a plan for the operation and maintenance of the baghouse control system. This plan must demonstrate appropriate procedures designed to insure that the baghouse will control the emissions of particulate matter and sulfur dioxide from rotary lime kiln #5 at the levels specified in conditions 1 and 2 of this approval.

14. Marblehead must operate the five lime kilns at their Chicago facility in accordance with the following schedule:

- (1) While kilns 1, 2, 3 and 4 are operating, kiln 5 may not operate.
- (2) While kilns 1, 2, 3 and 5 are operating, kiln 4 may not operate.
- (3) While kilns 3, 4, and 5 are operating, kilns 1 and 2 may not operate.
- (4) While kilns 4 and 5 and 1 or 2 are operating, kiln 3 may not operate.

15. Marblehead may not alter any stack parameters, operating or design characteristics identified in its application without the prior written authorization of U.S. EPA. The assumptions and conclusions of U.S.



EPA's air quality analysis are dependent upon the information presented in Marblehead's application for approval to construct. Any changes in the information presented may change the results of U.S. EPA's analysis and therefore the conditions of any final approval. This reasoning also explains the need for conditions 8 through 14, above.

## APPROVAL

16. Approval to construct rotary lime kiln #5 is hereby granted to the Marblehead Lime Company subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Company. Any departure from the conditions of this approval or the terms expressed in Marblehead's application must receive the prior written authorization of U.S. EPA.

17. This Approval to Construct does not relieve Marblehead of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable local, State and Federal requirements.

18. A copy of this approval has been forwarded for public inspection to the East Branch Public Library, 10542 South Ewing Avenue, Chicago, Illinois.

Dated: December 1, 1978.

JOHN MCGUIRE,  
Regional Administrator.

[FR Doc. 79-8586 Filed 3-20-79; 8:45 am]

## [6560-01-M]

[FRL 1079-8]

SCIENCE ADVISORY BOARD RISK ASSESSMENT  
SUBCOMMITTEE

## Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Risk Assessment Subcommittee of the Science Advisory Board will be held beginning at 9:00 a.m., April 19, 1979, at 220 Independence Ave., Room 529A, Washington, D.C., and at 9:00 a.m., April 20, 1979, at 401 M Street, S.W., Waterside Mall, Room 2409, Washington, D.C.

The Subcommittee is meeting to review a methodology for assessing health risks which uses the opinions of scientific health experts.

The agenda will include a briefing on the use and development of the proposed decision analysis methodology for regulatory decision-making, discussion of comments, and questions of Subcommittee members with the authors, and committee discussion of the methodology. Additional comments from members of the public will also be considered.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Lloyd Taylor, Executive Secretary or Ms. Sarah Mills, Staff Assistant, Risk Assessment Sub-

## NOTICES

committee (703) 557-7720 by April 13, 1979.

RICHARD M. DOWD,  
Staff Director,  
Science Advisory Board.

MARCH 13, 1979.

[FR Doc. 79-8591 Filed 3-20-79; 8:45 am]

## [6560-01-M]

[FRL 1079-7]

SCIENCE ADVISORY BOARD TASK GROUP IN  
BIOLOGICAL MONITORING SYSTEMS

## Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Task Group on Biological Monitoring Systems will be held on April 19, 1979, beginning at 9:00 a.m. in Conference Room 1112A, Building 2, Crystal Mall, 1921 Jefferson Davis Highway, Arlington, Virginia.

The agenda includes a discussion of members' interests in the design and content of special new biological monitoring systems and consideration of a first working draft of a report. Part of the session may be devoted to writing.

The meeting is open to the public. All members of the public wishing to attend, participate or obtain information should contact Dr. J. Frances Allen or Mrs. Joni Perry, 703-557-7720 by the close of business April 12, 1979.

Dated: March 16, 1979.

RICHARD M. DOWD,  
Staff Director,  
Science Advisory Board.

[FR Doc. 79-8585 Filed 3-20-79; 8:45 am]

## [6712-01-M]

FEDERAL COMMUNICATIONS  
COMMISSION

[FCC 79-159]

COMMISSION RELEASES FOR INFORMAL COM-  
MITTEE CONTRACTOR'S REPORT ON EVALU-  
ATION OF PRE-DESIGNATION PROCESSING  
OF CONTESTED BROADCAST APPLICATIONS

MARCH 15, 1979.

The Commission has had underway a contract study of the functioning of its adjudicatory re-regulation procedures. The Contractor, Max D. Paglin, has now submitted his Report on the evaluation of the operation of the pre-designation procedures, which were adopted in 1976, for processing mutually-exclusive and contested broadcast applications, together with his recommendations for revisions in the pre-designation and post-designation procedures.

The Report is based upon an extensive analysis of the new pre-designation procedures as they have actually functioned in operation, and was founded on close examination of Commission records and data, and comprehensive

interviews and conferences with Commission staff and practicing attorneys who have had actual experience with the pre-designation procedures. In essence, the Report concludes that the current procedures for processing contested broadcast applications have failed to accomplish their intended purpose of eliminating delay and simplifying and expediting the pre-designation process; and that, in fact, the new procedures have resulted in greater delays and may, if allowed to continue in their present form, result in a serious breakdown of the system.

Accordingly, the Contractor recommends that the present procedures be replaced by a streamlined, expedited system of processing contested broadcast applications which eliminates or replaces those elements in the process which have resulted in extensive delays amounting to two years or more before such applications are even reached for designation for hearing. The recommendation would, in substance, simplify and shorten the cut-off lists; eliminate the sending of "deficiency letters" as part of the processing procedure, except where the staff needs further information; restrict the pre-designation voluntary amendments of applications; eliminate the current provision for pre-designation issue pleadings; require pleadings affecting issues to be filed with the Administrative Law Judge after designation; and encourage the issuance of brief Memoranda Opinions and Orders of designation for hearing.

The Report also suggests an innovative approach for the handling of ascertainment surveys and financial qualifications, as a further step in expediting the process. The Contractor recommends consideration of a procedure whereby, after the applicant makes a satisfactory threshold showing in its application of compliance with the Commission's requirements and policies for conducting a proper community ascertainment survey and in demonstrating financial capability to build and operate the proposed station—which showing passes the muster of Commission review—these two factors would no longer be subject to the adversary pleading or hearing process, absent a strong and persuasive showing by other parties of misrepresentation, gross omission or later developing circumstances.

The Commission has reviewed the Report and its recommendations, and is of the tentative view that adoption of the recommended revisions in its procedures would eliminate the delay problems which have been experienced and would improve the efficiency and effectiveness of its broadcast application processing system. Since the recommendations involve solely matters of procedure, the Administrative Procedure Act does not require

that a rulemaking proceeding be conducted before revised regulations of this nature are adopted. Nevertheless, the Commission wishes first to have the comments, on an informal but expedited basis, of interested organizations, government agencies and persons, including representatives of the Federal Communications Bar Association, the American Bar Association, the Association of Communications Consulting Engineers and other practitioners, citizen organizations, NTIA, the Administrative Conference, and interested Congressional Committee staffs.

Copies of the Report, together with an Executive Summary, are being sent to the above-mentioned groups for their information and comment. In view of the existing situation with regard to backlogs and delays, and the obvious need to take remedial action on an expedited basis, the Commission is requesting that comments be submitted on or before April 6, 1979.

The Commission will hold a public symposium, after receipt of the written comments, to discuss the recommendations of the Report and to obtain, perhaps through a panel format, an exchange of views among the Commission, its staff, and outside groups on the proposed changes in the pre-designation and post-designation procedures. This symposium will be held at 2:00 p.m. on Tuesday, April 17, 1979 in the Commission's Meeting Room #856, 1919 M St., NW., Washington, D.C. and will be open to the public.

Copies of the Report and the Executive Summary will also be available for inspection in the Office of Public Affairs, Room 202, at the Commission's headquarters.

Action by the Commission March 15, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty and Brown.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 79-8458 Filed 3-20-79; 8:45 am]

## [6712-01-M]

[BC Docket Nos. 79-30, 79-31, File Nos. BR-362, BRH-952; FCC 79-120]

## MAX M. LEON, INC.

Memorandum Opinion and Order Designating  
Applications for Hearing

Adopted: February 22, 1979.

Released: March 1, 1979.

By the Commission: Commissioner Lee absent.

In re applications of Max M. Leon, Inc., Radio Stations WDAS and WDAS-FM, Philadelphia, Pennsylvania,

## NOTICES

nia, for renewal of licenses, BC Docket No. 79-30, File No. BR-362, BC Docket No. 79-31, File No. BRH-952.

1. The Commission has before it for consideration the above-captioned applications and its inquiry into the operation by Max M. Leon, Inc., (Leon) of stations WDAS and WDAS-FM, Philadelphia, Pennsylvania, which are licensed to Leon.<sup>1</sup>

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or to remain a licensee of the captioned stations. In view of these questions, the Commission is unable to find that a grant of the renewal applications would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. Accordingly, it is ordered, That the captioned applications are designated for a consolidated hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent order, upon the following issues:

(a) To determine all the facts and circumstances surrounding the licensee's August 10, 1972 pleading filed in opposition to the Concerned Communicators' Petition to Deny the 1972 WDAS and WDAS-FM license renewal applications and whether, in light thereof, the licensee misrepresented facts to the Commission or was lacking in candor.

(b) To determine whether the licensee formulated, issued and/or implemented employee conflict of interest policies and guidelines and, if so, whether the licensee took steps to insure adherence to those policies and guidelines.

(c) To determine whether, and if so the extent to which, the licensee, its principals or employees subordinated the public interest to their own private interests in their selection of programming content.

(d) To determine whether, and if so the extent to which, the licensee, its principals or employees operated WDAS and WDAS-FM in an anticompetitive manner to unfairly compete in non-broadcast business fields.

<sup>1</sup>The Commission also has under consideration an application for consent to the assignment of license of the above captioned stations to Unity Broadcasting Network—Pennsylvania, Inc. Action on this application will be held in abeyance pending the conclusion of the hearing ordered herein. *Jefferson Radio Company, Inc. v. FCC*, 340 F.2d 783 (D.C. Cir. 1964) *Wallon Broadcasting Co.*, 28 FCC 2d 111 (1971) and *Bi-County Broadcasting Corporation*, 34 FCC 2d 1117 (1972). The applicants may of course, file for treatment of their assignment application as a "distress sale" under our policies announced on May 25, 1978. *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 FCC 2d 979, 983 (1978).

(e) To determine whether, and if so the extent to which, a principal of the licensee corporation participated in a joint venture involving the operation of WDAS and WDAS-FM which monopolized or substantially reduced competition in the Black-oriented concert promotion field.

(f) To determine whether, and if so the extent to which, the licensee inaccurately stated the amount of its trade-out revenue in the Annual Financial Reports (FCC Form 324) filed by the licensee for the years 1972 through 1977.

(g) To determine, in light of the evidence adduced pursuant to issues (a), (b), (c), (d) and (f), above whether, and if so the extent to which, the licensee misrepresented facts to the Commission or was lacking in candor.

(h) To determine, in light of the evidence adduced under the preceding issues, whether the licensee of WDAS and WDAS-FM possesses the requisite qualifications to be or remain a licensee of the Commission, and whether a grant of the captioned applications would serve the public interest, convenience and necessity.

4. *It is further ordered*, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a Bill of Particulars with respect to issues (a) through (g).

5. *It is further ordered*, That the Broadcast Bureau proceed with the initial presentation of evidence with respect to issues (a) through (g) and that the applicant when proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

6. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. *It is further ordered*, That the applicant herein pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

8. *It is further ordered*, That the Secretary of the Commission send copies of this Order by Certified Mail—Return Receipt Requested to



Max M. Leon, Inc., licensee of Radio Station WDAS and WDAS-FM, Philadelphia, Pennsylvania.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 79-8454 Filed 3-20-79; 8:45 am]

[6820-23-M]

# GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL, ON  
ARCHITECTURAL AND ENGINEERING SERVICES

## Meeting

Dated: March 13, 1979.

Reply to Attention of: Construction Management Division—8PC  
Subject: Proposed Notice for FEDERAL REGISTER

To: Assistant Commissioner for Construction Management—PC

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 8, on April 11, 1979, from 10 a.m. to 4 p.m. in the South Dakota Room, Second Floor of Building 41, at the Denver Federal Center in Denver, Colorado. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for a proposed one-year supplemental fixed-price contract for the states of Montana, North Dakota, South Dakota, and Wyoming. The meeting will be open to the public.

Dated: March 13, 1978.

P. J. MENARDI,  
Acting Regional Administrator.  
[FR Doc. 79-8477 Filed 3-20-79; 8:45 am]

[6820-23-M]

# GENERAL SERVICES ADMINISTRATION

Public Buildings Service

REGIONS 1 THROUGH 10; REVIEW OF REGIONAL PUBLIC ADVISORY PANELS ON ARCHITECTURAL AND ENGINEERING SERVICES

## Notice of Review

The purpose of this notice is to solicit comments from the public on the Regional Public Advisory Panels on Architectural and Engineering Services (Regions 1 through 10) which are being reviewed in accordance with Transmittal Memorandum No. 5, Office of Management and Budget Circular No. A-63, dated March 7, 1977.

## NOTICES

Any person desiring to comment on the review, or make recommendations for continuation, or termination of these advisory committees, should file written comments with A. G. Barnes, PBS Committee Management Officer (PFAM), Public Buildings Service, Room 6313, 18th and F Streets NW., Washington, DC 20405, on or before April 10, 1979.

Dated: March 12, 1979.

DENNIS J. KEILMAN,  
Acting Commissioner,  
Public Buildings Service.

[FR Doc. 79-8381 Filed 3-20-79; 8:45 am]

[4110-02-M]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT  
EDUCATION

## Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATE: April 18, 1979, Noon to 6:00 p.m., Standing Committee Meetings, 7:30 p.m. to 10:00 p.m., Executive Committee Meeting, April 19-20, 1979, 9:00 a.m. to 5:00 p.m.; April 21, 1979, 9:00 a.m. to Noon.

ADDRESS: April 18, 1979, The Continental Plaza, North Michigan at Delaware, Chicago, Illinois; April 19-21, 1979, Center for Urban Education, Chicago Public Schools, 160 West Wendell Street, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State

plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Program Visitation at Urban Education Facilities.  
Committee Reports.  
Recommendations on Adult Education and Urban Policy.  
Orientation Format.  
Annual Report.  
Adult Education Appropriations.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on March 14, 1979.

GARY A. EYRE,  
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 79-8380 Filed 3-20-79; 8:45 am]

[4110-07-M]

Office of the Secretary

# SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part S (formerly Part 4) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). We are amending Part S to reflect the reorganization of SSA announced on January 5, 1979, and to show, in a separate section (S. 30), the order of succession for the Commissioner of Social Security, Associate Commissioners and Regional Commissioners. Part S now reads as follows:

Sec. S.00 *The Social Security Administration—(Mission):* The Social Security Administration is the nation's primary income security agency. It administers the Federal retirement, survivors and disability insurance programs, as well as the program of supplemental security income for the

aged, blind and disabled, and performs certain functions with respect to the black lung benefits program. SSA also directs the following State-administered income maintenance and assistance programs: Aid to families with dependent children; aid to the aged, blind and disabled in Guam, Puerto Rico and the Virgin Islands; the Cuban, Indochinese and Russian refugee programs; and the U.S. repatriation program.

Sec. S.10 *Social Security Administration—(Organization):* Social Security Administration, under the supervision and direction of the Commissioner of Social Security (the Commissioner), includes:

- The Office of the Commissioner (SA)
- The Office of Systems (SB)
- The Office of the Regional Commissioners (SDI-SDX)
- The Office of Intergovernmental and Community Affairs (SE)
- The Office of Family Assistance (SF)
- The Office of Hearings and Appeals (SG)
- The Office of Operational Policy and Procedures (SJ)
- The Office of Assessment (SL)
- The Office of Management, Budget and Personnel (SM)
- The Office of Central Operations (SP)
- The Office of Policy (SR)
- The Office of Public Affairs (SX)

Sec. S.20 *Social Security Administration—(Functions):* Social Security Administration performs all functions necessary to accomplish the agency's mission. These are specified in more detail in the sections which follow Section S.30.

Sec. S.30 *Social Security Administration—(Order of Succession):*

A. 1. In the event of the absence of the Commissioner, one of the Deputy Commissioners shall be designated by the Commissioner to serve as Acting Commissioner.

2. In the event of the disability of the Commissioner or a vacancy in the position, the Secretary of Health, Education, and Welfare (the Secretary) shall designate one of the Deputy Commissioners to serve as Acting Commissioner.

3. In the event of the absence of the Commissioner and both Deputy Commissioners, an SSA official designated by the Commissioner shall serve as Acting Commissioner.

4. Should the position of Commissioner and both Deputy Commissioner positions become vacant, or these officials become disabled, an official designated by the Secretary shall serve as Acting Commissioner.

B. 1. Where an Associate Commissioner has only one Deputy, during the absence or disability of the Asso-

ciate Commissioner, or in the event of a vacancy in the Associate Commissioner position, the Deputy Associate Commissioner shall serve as Acting Associate Commissioner.

2. Where an Associate Commissioner has two Deputies, one of the Deputies shall be designated by the Associate Commissioner to serve as Acting Associate Commissioner during his/her absence. In the event of a disability of the Associate Commissioner or a vacancy in the Associate Commissioner position, the Commissioner shall designate one of the Deputy Associate Commissioners to serve as Acting Associate Commissioner.

3. In the event of the absence of both an Associate Commissioner and his/her Deputy or Deputies, an executive designated by the Associate Commissioner shall serve as Acting Associate Commissioner.

4. Should an Associate Commissioner position and its Deputy Associate Commissioner position or positions become vacant, or should all these officials become disabled, an SSA official designated by the Commissioner shall serve as Acting Associate Commissioner.

C. 1. During the absence or disability of a Regional Commissioner, or in the event of a vacancy in a Regional Commissioner position, the Deputy Regional Commissioner shall serve as Acting Regional Commissioner.

2. In the event of the absence of both a Regional Commissioner and his/her Deputy, an SSA regional office official designated by the particular Regional Commissioner shall serve as Acting Regional Commissioner.

3. Should both the positions of Regional Commissioner and Deputy Regional Commissioner become vacant in a region, or should both these officials become disabled, an SSA official designated by the Commissioner shall serve as Acting Regional Commissioner.

Sec. SA.00 *The Office of the Commissioner—(Mission):* The Office of the Commissioner (OC) is directly responsible to the Secretary for all programs administered by SSA; for State-administered programs directed by SSA; and for certain functions with respect to the black lung benefits program. It provides executive leadership to SSA. The Office is responsible for development of policy; administrative and program direction; program interpretation and evaluation; research oriented to the study of the problems of economic insecurity in American society; and development of recommendations on methods of advancing social and economic security through social insurance and related programs.

Sec. SA.10 *The Office of the Commissioner—(Organization):* The Office of the Commissioner, under the lead-

ership of the Commissioner of Social Security, includes:

A. The Commissioner of Social Security (SA)

B. The Deputy Commissioner of Social Security, Programs (SA)

C. The Deputy Commissioner of Social Security, Operations (SA)

D. The Immediate Office of the Commissioner (SA), which includes:

- The Executive Secretariat (SAX)
- The Office of Equal Opportunity (SAE)

Sec. SA.20 *The Office of the Commissioner—(Functions):*

A. The Commissioner of Social Security (SA) provides executive leadership to SSA and exercises general supervision over its major components.

B. The Deputy Commissioner of Social Security, Programs (SA) assists the Commissioner in carrying out his/her responsibility for managing and directing administration of SSA programs, concentrating on program policy issues, public affairs and intergovernmental relations.

C. The Deputy Commissioner of Social Security, Operations (SA) assists the Commissioner in carrying out his/her responsibility for managing and directing administration of SSA programs, concentrating on operations to insure efficient and effective delivery of services to the public.

D. The Immediate Office of the Commissioner (SA) provides the Commissioner and Deputy Commissioners with Staff assistance on the full range of their responsibilities.

E. The Executive Secretariat (SAX):

- Coordinates and provides liaison for internal communication and correspondence control for OC.

2. Monitors administrative and program policy development and policy implementation activities, and prepares periodic status reports.

3. Ensures that issues requiring the Commissioner's attention are developed timely and coordinated with SSA and HEW components having an interest in the matter; designs and implements procedures for proper coordination and followthrough on specific issues.

4. Communicates the objectives, priorities and standards of OC to individuals involved in the preparation of correspondence and memoranda, and ensures that communications signed or approved by OC are consistent with these standards and objectives.

5. Reviews and analyzes memoranda and other communications directed to OC for adequacy of coordination and clearances, clearness and conciseness of presentation, timeliness, necessary followthrough and other elements of completed staff work.

6. Works with operating components and staff offices to improve the quality of decision papers and correspond-



ence directed to the Office of the Secretary.

F. *The Office of Equal Opportunity (SAE):*

1. Directs, coordinates, and appraises the effectiveness of policies for SSA's agency-wide Equal Opportunity (EO) Program.

2. Provides expert technical advice and recommendations to the Commissioner in the exercise of EO and civil rights responsibilities and, through a continuing analysis of EO activities, tracks accomplishments of affirmative action goals; identifies significant trends; and implements projects and programs to assure the fulfillment of SSA's EO and civil rights objectives.

3. Manages the overall processing of discrimination complaints through the final agency decision.

4. Carries out liaison with HEW; other Federal agencies; and other public and private organizations on matters concerning EO and civil rights.

Sec. SB.00 *The Office of Systems—(Mission):* The Office of Systems (OS) directs and coordinates the planning, development, implementation, operation, and maintenance of SSA's automated data processing (ADP) and data communications systems. It defines, designs, and develops current and future ADP and data communications-based systems which directly support SSA's program activities, including: enumeration and earnings recordkeeping; insurance programs and income maintenance programs; operation and support of the computer and data communications complex; and the control, planning and evaluation of existing and future ADP and data communications systems software and hardware. The Office develops and maintains automated systems that produce statistical, administrative and management information. It advises the Commissioner and the SSA executive staff on ADP and data communications issues and concerns and represents SSA in dealings with Federal and non-Federal agencies and organizations on the full range of OS's functions.

Sec. SB.10 *The Office of Systems—(Organization):* The Office of Systems, under the leadership of the Associate Commissioner for Systems, includes:

A. The Associate Commissioner for Systems (SB)

B. The Deputy Associate Commissioner for Systems (SB)

C. The Immediate Office of the Associate Commissioner for Systems (SB)

D. The Office of Advanced Systems (SBV)

E. The Office of Systems Development (SBE)

F. The Office of Systems Operations (SBP)

G. The Office of Systems Planning and Control (SBC)

H. The Office of Data Services (SBS)

I. The Office of Data Communications (SBG)

Sec. SB.20 *The Office of Systems—(Functions):*

A. *The Associate Commissioner for Systems (SB)* is directly responsible to the Commissioner for carrying out OS's mission and provides general supervision to the major components of OS.

B. *The Deputy Associate Commissioner for Systems (SB)* assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Systems (SB)* provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Advanced Systems (SBV):*

1. Develops the objectives, policies, standards, practices and timetables for SSA processes and related systems of the future, within planning boundaries set by OS's Office of Systems Planning and Control (OSPC) and endorsed by the Associate Commissioner.

2. Conducts comprehensive, long-range process and systems planning efforts for SSA. Performs research studies and analyses about future SSA program and operational status and requirements over a span of 5 years and beyond.

3. Directs the evaluation of future systems plans in terms of progress toward attainment of SSA objectives and recommends the adjustment of objectives, methods of attainment and time frames for achievement, in light of current events and status.

4. Functioning within established parameters, structures the issues and options for long-range system and process development. Prepares system functional specifications and oversees system and application programming efforts flowing from these specifications.

E. *The Office of Systems Development (SBE):*

1. Plans, directs and coordinates the systems development process for operational ADP systems which directly support SSA insurance and income maintenance programs.

2. Develops new and modified systems, including systems analysis and design; programming; testing; implementation and maintenance. Coordinates with OSPC to assure that these systems are fully integrated with SSA plans for operational systems; technology forecasts; and other operational plans and goals.

3. Assures the implementation of systems operating policies by developing detailed standards, methods and procedures to enhance the level of technology employed and the overall maintainability of the systems being developed.

4. Serves as liaison with other SSA components; other governmental agencies; and private organizations, on the systems development functions of the Office.

F. *The Office of Systems Operations (SBP):*

1. Plans and directs nationwide data processing operations in support of social insurance and income maintenance programs.

2. Manages a complex nationwide data processing facility of computers and related equipment which process and maintain basic program data.

3. Designs, develops, implements and provides operating control systems software and standards for SSA ADP equipment.

4. Develops the technical functional specifications and technical justifications for new or modified ADP equipment to satisfy SSA and other user requirements.

G. *The Office of Systems Planning and Control (SBC):*

1. Directs SSA-wide systems planning and control. Directs systems planning of OS and determines planning requirements at various levels within OS, and assigns responsibility for carrying out these requirements at various levels within OS.

2. Reviews and approves technical and operational systems proposals and assures that all plans are fully integrated with the planning objectives of OS. Determines system priorities among program areas to ensure maximum use of OS resources.

3. Determines and proposes to the Associate Commissioner resource requirements for systems activities in OS. Plans and develops policies, standards and procedures for overall management of OS.

4. Performs a comprehensive data base administration function, including control and authority over critical SSA operational data bases. Directs a program of continuing research into improved systems, methods and facilities. Directs and coordinates OS activities associated with the planning, utilization measurement and procurement of ADP equipment and software resources.

5. Serves as liaison with other SSA components, and other Federal and non-Federal agencies and organizations on the systems planning and control functions of OS.

H. *The Office of Data Services (SBS):*

1. Plans and coordinates the development, implementation, maintenance and operation of ADP administrative,

management information and statistical systems in support of SSA research and statistical activities; financial management; personnel administration; and administrative control programs that provide the basis for executive planning and decisionmaking.

2. Analyzes, designs, programs and maintains ADP systems and provides support to those systems.

3. Plans, manages and controls the operations of a large-scale computer complex in support of these systems. Provides technical support to systems software development and time-sharing services.

4. Provides technical advice and consultation to other SSA components concerning their needs for new or revised systems and recommends to them the most cost-effective method of development.

5. Advises the SSA executive staff on technical and cost factors for reimbursable work for other Federal and non-Federal agencies and organizations.

I. *The Office of Data Communications (SBG):*

1. Plans, designs, implements and operates SSA data communications systems in support of social insurance and income maintenance programs.

2. Assures that data communications plans are consistent with the overall strategic plans of OSPC. Manages a complex nationwide facility which provides data communications for all SSA components.

3. Analyzes, designs, programs and implements specialized software for data communications. Develops technical plans and specifications for the acquisition of data communications equipment, software and related technical resources.

4. Develops and issues policies, procedures and instructions for operation of the SSA data communications system and conducts technical evaluation of the network. Provides advice to the Associate Commissioner, Systems and other SSA officials on all matters concerning data communications.

Sec. SD.00 *The Office of the Regional Commissioner—(Mission):* The Office of the Regional Commissioner (ORC) serves as the principal SSA component at the regional level and assures effective SSA interaction with HEW regional offices (HEWROs); other Federal agencies in the regions; State Welfare Agencies; State Disability Determination Services; and other regional and local organizations. The Office provides regional program leadership and technical direction for the retirement, survivors and disability insurance programs; the black lung benefits program; the supplemental security income program; the aid to families with dependent children (AFDC) program; the program for aid

to the aged, blind and disabled in Puerto Rico, Guam and the Virgin Islands; the Cuban, Indochinese and Russian refugee programs; and the U.S. repatriation program. It issues regional operating policy and procedures for these programs and evaluates program effectiveness. It implements national operational and management plans for providing SSA service to the public and directs a nationwide network of district offices, branch offices and teleservice centers. The Office manages and coordinates SSA regional operations and provides administrative support to SSA regional components. It establishes regional priorities and issues policy directives consistent with national program objectives, operational requirements and systems; and implements a regional SSA public affairs program. The Office maintains a broad overview of the regional offices of SSA's Office of Hearings and Appeals and Office of Assessment; program service centers; and data operations centers, to assure effective coordination of SSA activities at the regional level.

Sec. SD.10 *The Office of the Regional Commissioner—(Organization):* The Office of the Regional Commissioner, under the leadership of the Regional Commissioner, includes:

A. The Regional Commissioner (SD1-SDX)

B. The Deputy Regional Commissioner (SD1-SDX) which includes:

C. The Immediate Office of the Regional Commissioner (SD1-SDX), which includes:

1. The External Affairs Staff (SD19-SDX9)

2. The Special Projects Staff (SD16-SDX6)

D. The Division of Management and Administration (SD17-SDX7)

E. The Division of Operational Support (SD18-SDX8)

F. The Office of the Assistant Regional Commissioner, Retirement and Survivors Insurance (SD12-SDX2)

G. The Office of the Assistant Regional Commissioner, Disability Insurance (SD11-SDX1)

H. The Office of the Assistant Regional Commissioner, Field Operations (SD14-SDX4)

I. The Office of the Assistant Regional Commissioner, Supplemental Security Income (SD13-SDX3)

J. The Office of the Assistant Regional Commissioner, Family Assistance (SD1A-SDXA)

Sec. SD.20 *The Office of the Regional Commissioner—(Functions):*

A. *The Regional Commissioner (SD1-SDX)* is directly responsible to the Commissioner for carrying out ORC's mission and provides general supervision to major ORC components.

B. *The Deputy Regional Commissioner (SD1-SDX)* assists the Regional Commissioner in carrying out his/her responsibilities and performs other duties as the Regional Commissioner may prescribe.

C. *The Immediate Office of the Regional Commissioner (SD1-SDX)* provides the Regional Commissioner and the Deputy Regional Commissioner with staff assistance on the full range of their responsibilities. It includes:

1. *The External Affairs Staff (SD19-SDX9):*

a. Provides overall leadership and direction to the regional SSA external affairs program. Analyzes and evaluates regional public affairs activities and issues regional public affairs policies consistent with nationally-issued policies. Directs the operations of the Regional Public Affairs Council.

b. Serves as the primary regional contact with news media, community organizations, and Congressional staff on questions and problems of a region-wide nature.

c. Plans, directs and coordinates the development of regional policies, directives and procedures concerning the relationships of SSA programs to public and private welfare and community service programs; and coordinates SSA's regional interaction with other agencies and organizations on the extension and improvement of social services.

d. Manages and oversees the regional public information program. Prepares and disseminates public information materials. Coordinates the development and implementation of regional information and referral programs. Serves as liaison with SSA's Office of Public Affairs and Office of Intergovernmental and Community Affairs.

2. *The Special Projects Staff (SD16-SDX6):*

a. Provides the Regional Commissioner with independent counsel and recommendations on SSA program administration in the region.

b. Examines the effectiveness of interaction between program and operational components; identifies operating problems affecting more than one SSA regional component; and initiates or conducts studies and analyses of problem areas.

D. *The Division of Management and Administration (SD17-SDX7):*

1. Directs the SSA regional management support program. Assures economical management activities at the regional level. Develops and implements regional management policies and procedures and appraises the overall effectiveness of SSA's regional management programs.

2. Assures that Assistant Regional Commissioners and their staffs are operating in accordance with national and regional policies regarding finan-



cial, manpower and organization management, and other areas of management concern.

3. Serves as the focal point for SSA regional administrative planning; and conducts ongoing studies and analyses to improve administrative practices in the region.

4. Coordinates SSA administrative management activities in the region with the HEWRO and serves as SSA's regional liaison with the HEWRO on matters of mutual interest in the management area.

E. *The Division of Operational Support (SD18-SDX8):*

1. Provides support to regional personnel on program operations and systems. Plans, directs and coordinates regional operational activities that cross program lines. Conveys regional operational and systems concerns to headquarters and to other SSA regional components and represents the Regional Commissioner in the resolution of such concerns.

2. Assesses the state of ADP operations and systems security in the region. Develops and carries out an ongoing regional systems planning activity and assures integration of regional operating and management systems. Coordinates and monitors regional implementation of major changes to national systems.

3. Conducts operations analyses and provides support to regional office personnel and field office managers in the resolution of operating workflow and systems problems.

4. Consolidates, reviews and distributes regional program instructions, and develops systems instructional material and implementing instructions for operational activities that cross program lines in the region.

F. *The Office of the Assistant Regional Commissioner, Retirement and Survivors Insurance (SD12-SDX2):*

1. Provides program leadership and technical direction for retirement and survivors insurance (RSI) program activities in the region. Issues regional operating policies and procedures necessary to insure implementation of national RSI program policy. Conducts visits to, and ongoing liaison with, district offices to determine the effectiveness of RSI policies and procedures; to provide technical assistance in the resolution of RSI operational problems; and to evaluate RSI program effectiveness nationwide.

2. Resolves differences of opinion on RSI program matters between district and branch offices and SSA program service centers.

3. Plans, directs and coordinates regional activities under social security coverage agreements between SSA and State and interstate entities. Negotiates with State and interstate authorities on coverage agreements; makes

recommendations to final approving officials regarding the execution of new coverage agreements, modifications in existing agreements or the termination of agreements; and processes requests for extension of coverage agreements. Supplies information with respect to wage coverage questions; and provides final SSA approval for modifications to coverage agreements with States or Interstate instrumentalities within the region.

G. *The Office of the Assistant Regional Commissioner, Disability Insurance (SD11-SDX1):*

1. Provides program leadership and technical direction for SSA disability, blindness and black lung benefits activities in the regions. Issues regional operating policies and procedures necessary to insure implementation of national policy relating to these activities. Conducts visits to, and ongoing liaison with, district offices and State Disability Determination Services, to determine the operational effectiveness of the administration of the disability, blindness and black lung benefits programs nationwide.

2. Approves State Disability Determination Service (DDS) budgets. Provides technical consultation on fiscal and other administrative aspects of DDS operations. Conducts comprehensive reviews and analyses of DDS.

3. Coordinates with regional representatives of HEW's Rehabilitation Services Administration and other agencies on rehabilitation, disability, blindness and black lung benefits program matters. Establishes and maintains relationships with professional medical organizations to promote the goals of these programs.

H. *The Office of the Assistant Regional Commissioner, Field Operations (SD14-SDX4):*

1. Provides leadership, guidance and direction to district and branch offices and teleservice centers through Area Directors.

2. Insures the consistency of field operations in the region with national and regional policies and procedures, and is accountable to the Regional Commissioner for the effectiveness of these operations.

I. *The Office of the Assistant Regional Commissioner, Supplemental Security Income (SD13-SDX3):*

1. Provides program leadership and technical direction for supplemental security income (SSI) program activities in the region. Issues regional operating policies and procedures necessary to insure implementation of national SSI program policy. Conducts visits to, and ongoing liaison with, district offices to determine the effectiveness of SSI policies and procedures, and to provide technical assistance in the resolution of SSI operational problems.

2. Negotiates and maintains agreements with States relative to the SSA administration of State supplementation and Medicaid eligibility determinations. Evaluates and monitors budgets developed by States under these agreements. Maintains an ongoing contact with States and negotiates with States on SSI program matters and related concerns, including determinations pertaining to adjusted payment levels, hold harmless levels and the operational aspects of the Food Stamp program.

3. Works with outside groups representing SSI program constituencies. Consults with State and local officials, and representatives of community and private organizations on SSA operational matters. Participates in the development of regional public affairs/public information programs, including information and referral services about the SSI program.

J. *The Office of the Assistant Regional Commissioner, Family Assistance (SD1A-SDXA):*

1. Provides program leadership and technical direction for Office of Family Assistance (OFA) program activities in the region. Issues regional operating policies and procedures necessary to insure implementation of national OFA program policies.

2. Conducts visits to and ongoing liaison with State agencies to determine the effectiveness of OFA policies and procedures, and to provide technical assistance in the resolution of operation problems. Evaluates OFA program effectiveness nationwide. Plans, directs and coordinates regional activities between OFA and State and local entities. Negotiates with State and local authorities on State plans, plan amendments and recommendations, and recommends approval or disapproval to the appropriate SSA official.

3. Directs and coordinates a program of financial management, including the review and evaluation of grant award requests from States. Recommends approval or disapproval of these requests. Reviews State expenditure estimates and reports, and recommends approval or disapproval. Provides overview and assistance to State agencies in implementing major initiatives required by OFA regulations concerning financial management.

SEC. SE.00 *The Office of Intergovernmental and Community Affairs—(Mission):* The Office of Intergovernmental and Community Affairs (OICA) plans, coordinates, evaluates and partially implements SSA's program for interaction on nonlegislative Social Security matters with Congress; other Federal agencies; State and local agencies; community and private organizations; and special interest and advocacy groups. It assures SSA representation in organized planning for

social services. The Office identifies and assesses problems in public acceptance of SSA programs and how SSA administers them. It also establishes, promulgates and assesses SSA policy for answering public, congressional and other sensitive inquiries. It controls, analyzes and responds to inquiries, and conducts a quality appraisal of written responses prepared throughout SSA.

SEC. SE.10 *The Office of Intergovernmental and Community Affairs—(Organization):* The Office of Intergovernmental and Community Affairs, under the leadership of the Associate Commissioner for Intergovernmental and Community Affairs, includes:

A. The Associate Commissioner for Intergovernmental and Community Affairs (SE)

B. The Deputy Associate Commissioner for Intergovernmental and Community Affairs (SE)

C. The Immediate Office of the Associate Commissioner for Intergovernmental and Community Affairs (SE)

D. The Office of Public Concerns (SEC)

E. The Congressional Relations Staff (SER)

F. The Office of Public Inquiries (SEP)

SEC. SE. 20 *The Office of Intergovernmental and Community Affairs—(Functions):*

A. *The Associate Commissioner for Intergovernmental and Community Affairs (SE)* is directly responsible to the Commissioner for carrying out OICA's mission and provides general supervision to the major components of OICA.

B. *The Deputy Associate Commissioner for Intergovernmental and Community Affairs (SE)* assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Intergovernmental and Community Affairs (SE)* provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Public Concerns (SEC):*

1. Plans, coordinates and partially conducts SSA's interactions with private organizations at national, State and local levels. Coordinates and assures SSA representation in negotiations and deliberations with social and community service organizations, advisory groups, advocacy groups and special interest groups.

2. Assesses public reactions to Social Security programs and administration. Serves as the advocate within SSA of public concerns about SSA programs and how SSA runs them.

3. Identifies the needs of the people SSA serves for resources and services other than those provided by SSA programs. Directs SSA's nationwide program of representation and participation in organized planning for social services.

4. Provides the general guidelines and standards for SSA's information and referral activities.

5. Plans, coordinates and partially conducts SSA's interactions with other governmental organizations at the Federal, State and local levels. Coordinates and assures SSA representation in negotiations and deliberations with government agencies. Assures SSA representation at high-level intergovernmental conferences and seminars.

6. Keeps abreast of the activities and plans of the various branches of government and other domestic organizations. Assesses these activities and plans for impact on SSA programs or administration. Advises and consults with SSA's Office of Policy (OP) and, with OP, advises and consults with other HEW/SSA components, to assure that the agency addresses all identified concerns. Advises SSA components on the impact of agency policies and operations on outside organizations. Recommends changes or corrective actions.

7. Serves as advisor to SSA's executive staff on matters dealing with organizations and government agencies at all levels.

8. Provides guidance to regional and field staff in their interactions with public/private organizations at State and local levels.

E. *The Congressional Relations Staff (SER):*

1. Has agencywide responsibility for providing support services to individual members of Congress and their staffs. Provides, with help from other SSA components, timely solutions to special problems and issues called to SSA's attention by individual members of Congress. 2. Assures that Congress is kept well informed about SSA operations and activities, except for those dealing with legislation Congress is considering. Makes special presentations and briefings to Congress on SSA activities and programs.

3. Anticipates Congressional concerns and problems and alerts SSA management to assure that effective and expeditious action is taken about the concerns of Congress.

F. *The Office of Public Inquiries (SEP):*

1. Establishes and assesses SSA policy for answering public, Congressional and other inquiries. Receives, analyzes and controls high priority written and telephone inquiries, prepares responses, when appropriate, and refers those requiring specialized

knowledge to the appropriate SSA component for handling.

2. Studies correspondence practices in use throughout SSA and continually appraises the quality of written responses prepared throughout SSA. Develops recommendations to improve the effectiveness of SSA's correspondence program.

3. Reviews and clears all computer-generated notices and form letters. Conducts training programs in SSA headquarters and field components to improve correspondence with the public. Provides advice and assistance to SSA officials and liaison with HEW on public correspondence matters.

SEC. SF.00 *The Office of Family Assistance—(Mission):* The Office of Family Assistance (OFA) provides direction and technical guidance to the nationwide administration of the following income maintenance and assistance programs: Aid to families with dependent children (AFDC); aid to the aged, blind and disabled in Guam, Puerto Rico and the Virgin Islands; the Cuban, Indochinese and Russian refugee programs; and the U.S. repatriation program. It develops, recommends and issues policies, procedures and interpretations to provide program direction to these programs. The Office evaluates the performance of States in administering these programs; reviews State planning for administrative and operational improvements; and supports actions to improve program effectiveness. It directs reviews; provides consultations; and conducts necessary negotiations to achieve adherence to Federal law and regulations in State Plans for income maintenance and assistance program administration. The Office directs financial management and cost analyses in the review and approval of State grant award requests and expenditure estimates. It provides national leadership in the development and coordination of national, public and private programs in the public assistance field. The Office assures that SSA regional offices provide program and management guidance and technical assistance to States administering these income maintenance and assistance programs.

It participates with SSA's Office of Policy in legislative planning.

SEC. SF.10 *The Office of Family Assistance—(Organization):* The Office of Family Assistance, under the leadership of the Associate Commissioner for Family Assistance, includes:

A. The Associate Commissioner for Family Assistance (SF)

B. The Deputy Associate Commissioner for Family Assistance (SF)

C. The Deputy Associate Commissioner for Family Assistance (SF)



D. The Immediate Office of the Associate Commissioner for Family Assistance (SF)

E. The Special Programs Staff (SFS)

F. The Office of Policy (SFX)

G. The Office of Procedures (SFP)

H. The Office of Financial Management (SFF)

I. The Office of Management Support (SFT)

J. The Office of Planning, Evaluation and Statistical Analysis (SFE)

K. The Welfare Management Institute (SFW)

L. The Office of Liaison and State Operations (SFL)

Sec. SF.20 *The Office of Family Assistance—(Functions):*

A. *The Associate Commissioner for Family Assistance (SF)* is directly responsible to the Commissioner for carrying out OFA's mission and provides general supervision to the principal components of OFA.

B. *The Deputy Associate Commissioner for Family Assistance (SF)* assists the Associate Commissioner in carrying out his/her OFA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe. In addition, has specialized duties in day-to-day program policy activities.

C. *The Deputy Associate Commissioner for Family Assistance (SF)* assists the Associate Commissioner in carrying out his/her OFA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe. In addition, has specialized duties in day-to-day program implementation activities.

D. *The Immediate Office of the Associate Commissioner for Family Assistance (SF)* provides the Associate Commissioner and Deputy Associate Commissioners with staff assistance on the full range of their responsibilities.

E. *The Special Programs Staff (SFS):*

1. Administers the Cuban, Indo-Chinese and Russian Refugee programs, including the development of regulations, policies and procedures and making arrangements for financial assistance; resettlement services; emergency health services; assistance to public schools in impacted areas; loans to refugee students; and protective care of minors. Develops regulations and guidelines for these programs.

2. Directs Federal program activities relating to the repatriation of U.S. citizens from foreign countries. Coordinates the return of repatriates with the State Department and coordinates with regional offices on the provision of services to repatriates by State agencies. Reviews and approves, or disapproves, claims by State agencies for reimbursement, and makes determinations whether repayment by repatriates is appropriate. Develops

regulations and guidelines for these programs.

F. *The Office of Policy (SFY):*

1. Develops regulations and policies to implement laws governing family assistance programs and coordinates with SSA's Office of Operational Policy and Procedures on the issuance of these regulations.

2. Develops, analyzes and recommends ideas for new legislation concerning family assistance programs and coordinates these activities with SSA's Office of Policy.

3. Evaluates State plan materials for consistency with Federal policies and recommends revisions to assure consistency with Federal law and regulations. Reviews and evaluates program management and quality control reports to determine income maintenance and assistance program policy effectiveness, and develops proposals for changes in policies, regulations and legislation.

4. Assists HEW's Office of the General Counsel in litigation involving family assistance programs.

5. Conducts reviews of identified compliance and reconsideration issues; recommends and manages appropriate action.

6. Provides technical assistance and consultation to regional offices and States concerning Federal policies.

G. *The Office of Procedures (SFR):*

1. Develops, issues and interprets operational procedures, under income maintenance and assistance program regulations, designed to provide States with leadership and guidance in the most efficient techniques of administering income maintenance and assistance programs.

2. Reviews proposed income maintenance and assistance legislation and regulations for procedural implementation impact and feasibility.

3. Reviews and approves, or disapproves, applications from States for Federal financial participation in the acquisition of ADP equipment or the design of automated information systems in support of OFA programs.

4. Reviews and evaluates the utilization of State and local agency manpower devoted to income maintenance and assistance program administration.

5. Provides technical assistance and consultation to the States concerning such matters as operational procedures, systems analysis, program training and establishing models and guides for States on income maintenance and assistance methods.

H. *The Office of Financial Management (SFF):*

1. Reviews State budget forecast and expenditure reports and related financial management activities; analyzes the consequences of these reports for the Federal budget.

2. Exercises financial control over grants to States for aid provided under income maintenance and assistance programs.

3. Provides training, technical assistance and guidance to OFA regional components on Federal-State financial matters.

4. Establishes and issues income maintenance and assistance program fiscal and accounting policies and procedures.

5. Prepares, presents and executes the total OFA budget.

6. Analyzes and presents cost data for activities funded under income maintenance and assistance programs.

I. *The Office of Management Support (SFT):*

1. Plans, organizes and directs OFA's internal manpower utilization, organization and training programs, in accordance with Federal, HEW and SSA personnel management regulations, policies and procedures.

2. Analyzes the organizational effectiveness of OFA components and insures uniform and effective manpower utilization and position management.

3. Manages the OFA center where State plans for AFDC programs are located and periodically prepares and publishes "Characteristics of State AFDC Plans" and related analyses and reports.

4. Prepares the program budget for the U.S. Repatriation program and performs related financial management activities.

5. Prepares and executes the salaries and expenses budget for OFA.

6. Analyzes OFA facilities, space and equipment needs and initiates necessary actions to take care of them. Provides management services for forms; administrative publications; mail; reports; travel; safety; records; and property management.

7. Coordinates the review, preparation and publication of OFA operational instructions to insure consistency, lack of duplication, receipt and access to such materials by OFA audiences. Coordinates the issuance process for income maintenance and assistance program regulations and policies with SSA's Office of Operational Policy and Procedures.

J. *The Office of Planning, Evaluation, and Statistical Analysis (SFE):*

1. Develops OFA emergency, long-range and short-range plans to assure effective continuity of OFA activities. Prepares trend analyses and reports, and energy and environmental impact statements.

2. Specifies income maintenance and assistance program information needs and provides input from that program to SSA research efforts. Assesses the practical application of research findings to income maintenance and assistance program administration.

3. Develops statistical information relative to State, regional and national income maintenance and assistance program administration. Evaluates program effectiveness; identifies potential program abuse; reports findings; and recommends actions aimed at improving program administration and integrity.

4. Develops projects concerning client populations and income maintenance and assistance program activities to meet the needs of OFA components and State agencies.

5. Develops a coordinated and comprehensive program for identifying major OFA operational planning objectives and monitors the implementation of these goals.

6. Coordinates audits external to SSA and audit reporting requirements with SSA's Office of Assessment.

7. Provides technical assistance and consultation to regional offices and States on planning, evaluation, statistical analyses and related matters.

K. *The Welfare Management Institute (SFW):*

1. Provides coordinated Federal leadership and assistance to State and local agencies in improving their management and implementation of the AFDC program. Promotes the betterment of public welfare programs governmentwide.

2. Identifies and evaluates innovative and successful management practices and technology employed by State agencies administering the AFDC program. Plans and conducts onsite technology transfers from one State locality to another.

3. Publishes periodic newsletters advising States of program, technological and management developments. Operates a welfare management information reference service. Plans and conducts welfare management workshops, conferences and forums to address critical issues and new ideas in welfare management.

L. *The Office of Liaison and State Operations (SFL):*

1. Provides a national focus for regional office activities, assuring continuous communications between OFA headquarters and regional components. Assures that regional concerns and needs are attended to by appropriate headquarters and regional components. Conducts onsite comprehensive appraisals of management and operations of the Offices of the Assistant Regional Commissioners, Family Assistance.

2. Establishes national performance goals for State and local agencies. Develops, issues, evaluates and monitors national program performance standards for measuring the effectiveness of State and local agency income maintenance and assistance program administration. Provides leadership and technical

assistance to the regional offices in applying standards in the evaluation of State and local performance.

3. Analyzes quality control findings of SSA's Office of Assessment to identify areas requiring improvements and corrective actions.

4. Develops national policies and requirements for State and local corrective action plans. Provides leadership to SSA regional offices regarding the development, implementation and monitoring of State and local corrective action plans; evaluates the effectiveness of corrective action activities.

5. Develops national standards and guidelines for State program integrity activities; provides guidance to SSA regional offices in assisting States in the identification and correction of program fraud and abuse.

6. Establishes requirements for submission and review of State plans and amendments, and monitors identification of, and action on, compliance issues.

Sec. SG.00 *The Office of Hearings and Appeals—(Mission):* The Office of Hearings and Appeals (OHA) holds hearings and issues decisions as part of the SSA appeals process. It directs a nationwide field hearings organization staffed with Administrative Law Judges who conduct impartial hearings and make decisions on appealed determinations involving retirement, survivors, disability and health insurance benefits; black lung benefits; and supplemental security income. The office also performs central reviews of decisions by Administrative Law Judges which are appealed by a claimant, or reopened on the motion of the Appeals Council, and renders the Secretary's final decision on such cases.

Sec. SG.10 *The Office of Hearings and Appeals—(Organization):* The Office of Hearings and Appeals, under the leadership of the Associate Commissioner for Hearings and Appeals, includes:

A. *The Associate Commissioner for Hearings and Appeals (SGA):*

B. *The Deputy Associate Commissioner for Hearings and Appeals (SGA):*

C. *The Deputy Associate Commissioner for Hearings and Appeals (SGA):*

D. *The Immediate Office of the Associate Commissioner for Hearings and Appeals (SGA), which includes:*

1. *The Executive Secretariat (SGA1):*

2. *The Congressional and Public Inquiries Staff (SGA2):*

E. *The Office of Management Operations (SGM):*

F. *The Office of the Chief Administrative Law Judge (SGJ):*

G. *The Office of Policy and Procedures (SGP):*

H. *The Office of Appeals Operations (SGL):*

I. *The Appeals Council (SGC):*

J. *The Offices of the Regional Chief Administrative Law Judges (SG-FI—SG-FX):*

Sec. SG.20 *The Office of Hearings and Appeals—(Functions):*

A. *The Associate Commissioner for Hearings and Appeals (SGA)* is directly responsible to the Commissioner for carrying out OHA's mission and provides general supervision to the major components of OHA. Serves as Chairman of the Appeals Council.

B. *The Deputy Associate Commissioner for Hearings and Appeals (SGA)* assists the Associate Commissioner in carrying out his/her OHA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe. In addition, serves as the Deputy Chairman of the Appeals Council and has specialized duties in day-to-day appeals operations activities.

C. *The Deputy Associate Commissioner for Hearings and Appeals (SGA)* assists the Associate Commissioner in carrying out his/her OHA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe. In addition, has specialized duties in day-to-day management operations activities.

D. *The Immediate Office of the Associate Commissioner for Hearings and Appeals (SGA)* provides the Associate Commissioner and Deputy Associate Commissioners with staff assistance on the full range of their responsibilities. It includes:

1. *The Executive Secretariat (SGA1):*

a. Maintains liaison and coordination between the Office of the Associate Commissioner and major OHA components.

b. Coordinates, clears and reviews completed staff work on action memoranda directed to the Associate Commissioner.

c. Controls the Associate Commissioner's correspondence, assigning action on incoming correspondence and developing information on action requests to the Associate Commissioner.

d. Coordinates and prepares briefing materials for meetings attended by the Associate Commissioner.

2. *The Congressional and Public Inquiries Staff (SGA2):*

a. Prepares and reviews OHA responses to congressional and public inquiries and correspondence.

b. Evaluates correspondence for conformance with OHA standards, policies and procedures.

c. Provides OHA-level guidance and liaison on correspondence management.

d. Determines when inquiries represent requests for hearings or reviews



and assures that such requests are directed to the appropriate OHA component.

**E. The Office of Management Operations (SGM):**

1. Plans, develops, coordinates and implements the activities of OHA, including personnel management; appeals operations; financial management; management analysis; management information systems; program quality review and appraisal; field management support; and all matters associated with facilities and facilities management services.

2. Appraises overall accomplishment of OHA's assigned mission and functions in terms of efficient, effective and economical planning, operations, procedures and achievements.

3. Directs and coordinates OHA's administration in support of its operations.

4. Participates in considering broad aspects of issues, policies, plans and program emphases affecting administration of the hearings and appeals program and related SSA programs. Shares in overall formulation, planning and evaluation of OHA operations and in making recommendations for changes in legislation, regulations and policies.

5. Plans, develops, implements and administers an equal opportunity program within OHA.

6. Provides OHA leadership and guidance on matters pertaining to psychological, vocational, educational and related factors having a bearing on work capacity.

**F. The Office of the Chief Administrative Law Judge (SGJ):**

1. Provides professional leadership to the nationwide corps of Administrative Law Judges and Regional Chief Administrative Law Judges.

2. Serves as the focal point for communications between the Office of the Associate Commissioner, and Administrative Law Judges.

3. Directs a professional staff engaged in maintaining close contact with the field hearings organization to obtain and assess the views of Administrative Law Judges on hearings operations.

**G. The Office of Policy and Procedures (SGP):**

1. Plans, analyzes and develops OHA-wide policy and procedural guidelines for the hearings process.

2. Plans, analyzes and develops policy and procedural guidelines for the Appeals Council's review processes, civil actions processes and support staff.

3. Provides a system for communicating hearings and appeals policies and procedures, through the issuance of manuals and directives. Develops and maintains publications, informa-

tional material, references and forms on the hearings and appeals processes.

4. Reviews current and developing trends in administrative law; analyzes policy recommendations; and develops long-range and short-range hearings and appeals policy plans.

5. Provides advice and guidance throughout OHA on matters involving program policies and procedures.

6. Coordinates policy and procedural matters within OHA and with other SSA components; the HEW Office of the General Counsel; other HEW components; other Federal agencies; and private organizations.

**H. The Office of Appeals Operations (SGL):**

1. Provides advice and assistance to the Appeals Council on the adjudication of cases.

2. Reviews decisions of Administrative Law Judges to assist the Appeals Council in deciding whether to assume jurisdiction.

3. Analyzes cases and recommends action to the Appeals Council on appealed claims and litigated cases, and prepares documents required to implement the action decided upon by the Appeals Council.

4. Identifies and analyzes problem areas and recommends improvements in the appeals process.

5. Reviews and analyzes fee petitions from attorneys and representatives of claimants for the provision of services at the hearing level and authorizes payment of fees in those cases where fees recommended by Administrative Law Judges are more than an Administrative Law Judge can grant; also authorizes payment of fees in all cases at the Appeals Council level.

**I. The Appeals Council (SGC):**

1. Reviews decisions of Administrative Law Judges involving retirements, survivors, disability and health insurance benefits, supplemental security income; and black lung benefits, on the motion of appellants or on its own motion.

2. Examines cases records, obtains additional evidence when appropriate and renders written decisions or orders which are the Secretary's final decisions or orders, or remands cases to Administrative Law Judges.

3. Recommends action concerning decisions appealed to the courts based on analysis.

4. Obtains additional evidence and prepares supplemental decisions on remanded cases and recommends whether appeals should be taken to higher courts on judicial reversals of the Secretary's decisions.

5. Directs the medical advisory services program for OHA's components in the evaluation of claims for disability and health insurance benefits; supplemental security income for disability and blindness; and black lung benefits.

6. Provides guidance in the utilization of medical advisors throughout OHA and participates in the formulation of medical policies used in the evaluation of claims for disability and health insurance benefits; supplemental security income for disability and blindness; and black lung benefits.

7. Maintains liaison with medical groups to promote program understanding and to keep abreast of disability evaluation developments and changes in health insurance regulations.

**J. The Offices of the Regional Chief Administrative Law Judges (SGF1-SGFX):**

1. Represent the Associate Commissioner at the regional level on all matters involving the hearings process.

2. Plan, organize and administer regional programs for scheduling and conducting independent and impartial hearings on appealed determinations involving claims for retirement, survivors, disability and health insurance benefits; supplemental security income; and black lung benefits.

3. Provide guidance, direction and leadership to Administrative Law Judges and their staffs.

4. Coordinate operations and administrative activities with HEW regional offices; other SSA regional components; State agencies; and others, as required.

**Sec. SJ.00 The Office of Operational Policy and Procedures—(Mission):** The Office of Operational Policy and Procedures (OOPP) provides SSA-wide leadership and direction to the development, coordination and promulgation of operational policy and procedures in the following areas: retirement, survivors and disability insurance, supplemental security income, and black lung benefits program policy; establishment, correction and maintenance of social security earnings records; issuance of new and duplicate social security cards; social security coverage of State and local government employees; operations affecting post-entitlement actions and adjusting related master benefit records to reflect changes; and establishment of work standards, methods and processing guidelines for central, regional and field operating components. It develops and promulgates program regulations, and participates in legislative planning by identifying legislative needs and developing legislative proposals for consideration by SSA's Office of Policy. The Office insures that interrelated policy areas are coordinated; represents SSA in overall operational policy matters; and serves as SSA's overall point of operational policy expertise. It ensures that policies are coordinated internally and that all instructional materials devel-

oped are compatible with overall operating policies and practices.

**Sec. SJ.10 The Office of Operational Policy and Procedures—(Organization):** The Office of Operational Policy and Procedures, under the leadership of the Associate Commissioner for Operational Policy and Procedures, includes:

A. The Associate Commissioner for Operational Policy and Procedures (SJ)

B. The Deputy Associate Commissioner for Operational Policy and Procedures (SJB)

C. The Immediate Office of the Associate Commissioner for Operational Policy and Procedures (SJ)

D. The Office of Insurance Programs (SJN)

E. The Office of Assistance Programs (SJB)

F. The Office of Enumeration and Earnings Records (SJC)

G. The Office of Disability Programs (SJH)

H. The Work Standards and Methods Staff (SJE)

I. The Office of Regulations (SJJ)

J. The Office of Program Directives (SJJ)

K. The Office of User Requirements and Validation (SJR)

**Sec. SJ.20 The Office of Operational Policy and Procedures—(Functions):**

A. The Associate Commissioner for Operational Policy and Procedures (SJ) is directly responsible to the Commissioner for carrying out OOPP's mission and provides general supervision to the major components of OOPP.

B. The Deputy Associate Commissioner for Operational Policy and Procedures (SJB) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Operational Policy and Procedures (SJ) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Insurance Programs (SJN):

1. Plans, develops and evaluates operational policies, standards and instructions for the retirement and survivors insurance (RSI) program and those common to two or more SSA benefit programs. Develops and issues the guidelines, directives and operational procedures to be used by operating components in implementing RSI program policies and common SSA program policies, and establishes evidence and verification requirements.

2. Plans, develops and evaluates operational policies, standards and instructions affecting the nondisability aspects of foreign claims. With SSA's Office of International Policy, develops and analyzes operating policies and procedures necessary to implement the provisions of international agreements.

3. Plans, develops, evaluates and articulates operational policies and instructions governing social security coverage for State and local employees.

4. Coordinates the development, evaluation and dissemination of operational policies with other SSA components and undertakes similar coordination with a number of Federal and State agencies.

5. Evaluates the effects of proposed legislation and policies initiated by SSA's Office of Policy, or of legislation pending before Congress, to determine the impact upon RSI, foreign claims and common SSA program policies and instructions. Assesses effectiveness of operating policies and initiates actions designed to correct identified deficiencies. Serves as principal advisor to SSA officials on matters concerning RSI, nondisability foreign claims and common SSA operational policies and instructions.

6. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials.

**E. The Office of Assistance Programs (SJB):**

1. Plans, develops and evaluates operational policies, standards and instructions for the supplemental security income (SSI) program. Develops and writes the guidelines, directives and operational procedures to be used by operating components in implementing SSI program policies and establishes evidence and verification requirements.

2. Plans and develops the policies and strategies for negotiating Federal-State agreements that govern SSA's administration of SSI Optional and Mandatory State Supplemental Programs, determinations for States of SSI recipients' eligibility for medical aid, and State data exchange activities; plans and develops these agreements; and revises them when changes in the programs require it. Plans and implements policies and procedures governing SSI fiscal relationship between SSA and State governments. Provides advice and technical support to regional offices working with officials and agencies on State assistance programs.

3. Coordinates the development, evaluation and writing of operational policies with other SSA components

and undertakes similar coordination with other Federal and State agencies.

4. Evaluates the effects of proposed legislation and policies being initiated by SSA's Office of Policy, or of legislation pending before Congress, to determine SSI operational policy or program administration impact; assesses effectiveness of operating policy standards; develops instructions to correct identified deficiencies; and serves as principal advisor to SSA officials on SSI program operating policies.

5. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials.

**F. The Office of Enumeration and Earnings Records (SJC):**

1. Plans, develops and evaluates operating policies, procedures and instructions for establishment, correction and maintenance of: social security number records; issuance of new and duplicate social security cards; processing of all earnings data and adjustments to update summary earnings records and issuance of earnings statements; and reconciling disagreements regarding earnings statements.

2. Plans, develops and evaluates instructions and procedures for operations which correct improperly reported earnings. Develops methods to encourage magnetic tape reporting.

3. Plans, develops and evaluates operating policy, procedures and instructions on social security earnings reporting of State and local government employees, including collections of, and accounting for, all related payments and furnishing Trust Fund (Tax Accountability) information to the Treasury Department.

4. Plans, develops and evaluates operating policies, procedures and instructions for the establishment, correction and maintenance of a vested pension rights identification and notification system.

5. Plans, develops and evaluates policies, procedures and instructions in a number of enumeration and earnings record service areas, including: Providing a variety of mortality and job pattern information to Government and private researchers; establishing procedures, policies and standards for the management of volume correspondence received in SSA's Office of Central Records Operations; providing procedures for special activities, including letter forwarding services; and providing summary and detailed earnings statements and Master Beneficiary Record data for a variety of non-program purposes, including pension plan purposes and volume death verification requests.

6. Coordinates development, evaluation and writing of operational policies with other SSA components. Serves as



the SSA focal point for coordination and policy negotiation with other Federal and State agencies on matters involving enumeration and earnings reporting processes.

7. Evaluates the effects of proposed legislation and policies proposed by SSA's Office of Policy, and of legislation introduced before Congress, on enumeration and earnings record operations processes and program policy instructions. Assesses overall effectiveness of operating policies and initiates actions designed to correct deficiencies.

8. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials.

**G. The Office of Disability Programs (STH):**

1. Plans, develops and evaluates the operational policies, standards and instructions for the disability insurance (DI) program, the disability and blindness provisions of the SSI program, the beneficiary and recipient vocational rehabilitation program, and the black lung benefits program; develops and writes guidelines, directives and operational procedures to be used by operating components in implementing DI program policies; and establishes evidence and verification requirements.

2. Directs planning, development and evaluation of policies and standards governing administration of disability determination functions conducted under Federal-State disability determination agreements. Jointly with HEW's Rehabilitation Services Administration, formulates regulations, policies and procedures governing payment for vocational rehabilitation services provided to the disabled. Participates in the development and execution of State Disability Determination Services and State Rehabilitation Services budgets. Establishes guidelines governing negotiation of agreements with States under provisions of the Social Security Act; provides operational policy advice and technical support to regional offices and central office components in the administration of disability programs.

3. Develops a nationwide professional relations program with the medical community responsive to the needs and objectives of disability programs; reviews and analyzes pending legislation and proposed policy and procedural issuances to identify areas of emphasis and to detect factors which may pose professional relations problems by the medical community; evaluates the degree of cooperation and support provided disability programs by the medical community; and identifies weaknesses and strengths in professional relations programs.

4. Coordinates development, evaluation and writing of operational disability policies with other SSA components and undertakes similar coordination with other Federal and State agencies.

5. Evaluates the effects of proposed legislation and policies being initiated by SSA's Office of Policy, and of legislation pending before Congress, to determine disability operational policy or program administration impact; assesses effectiveness of operating policy standards; develops instructions to correct identified deficiencies; and serves as principal advisor to SSA officials concerning disability program operating policies.

6. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials.

**H. The Work Standards and Methods Staff (SJE):**

1. Plans, directs, carries out, evaluates and coordinates a work process analysis and a monitoring and evaluation procedure for both central and field operations that supports the operational policy and procedural objectives of OOPP.

2. Develops, sets and maintains work standards, work processing guidelines and work methods, as well as related operational objectives and priorities, to be followed by central, regional and field operating components.

3. Prepares guidelines, directives and instructions to be used by operating components in complying with work standards and methods and with monitoring activities undertaken by this Staff. Prepares guidelines, directives and instructions for internal work processes of district and branch offices and teleservice centers.

4. Identifies work process deficiencies that arise through the execution of operational policies and procedures. Initiates or recommends action designed to correct deficiencies and preclude abuse.

5. Participates in the review of instructional materials and directives and administrative and legislative changes, to ensure that they can be implemented effectively and are compatible with the functions of this staff.

6. Coordinates the development, evaluation and writing of the operational work process analysis and guidelines with other SSA components and undertakes similar coordination with other Federal and State agencies.

7. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials.

**I. The Office of Regulations (SSJ):**

1. Plans, develops and writes SSA regulations, and provides for the publication of regulations. Performs an ongoing assessment of the regulations process in SSA.

2. Serves as SSA's focal point on matters concerning litigation; formulates SSA appeal recommendations on adverse decisions; and provides trend analyses of SSA's litigation activities.

3. Plans and develops rulings to provide interpretations and application of the Social Security Act and regulations governing Social Security programs; develops and publishes general and special compilations of Social Security Laws, various technical issuances and program handbooks.

4. Coordinates within OOPP the review and clearances of regulations for the claims and payment processes developed for the retirement, survivors and disability insurance programs, the supplemental security income program, and the black lung benefits program; assures that SSA's Office of Policy has input into the regulations development process. Provides technical, consultative and advisory services within OOPP and to SSA in the development of regulations.

5. Formulates policy concerning Privacy Act provisions and serves as liaison between SSA, the Office of the Secretary and HEW's Office of Management and Budget on related activities.

6. Coordinates activities with HEW's Office of the General Counsel on the issuance of regulations and rulings.

7. Negotiates with HEW and the Office of the FEDERAL REGISTER on regulations matters and other areas of concern to this Office and, in coordination with SSA's Office of Intergovernmental and Community Affairs, negotiates with other Federal and non-Federal agencies, organizations and institutions on matters within the Office's mission.

8. Evaluates policies to determine whether training is needed to assure their effective implementation and participates in the development of training materials.

**J. The Office of Program Directives (SJG):**

1. Directs the review, coordination, publication and distribution of program instructional and other materials to insure uniformity, lack of duplication and compatibility of all SSA operational, instructional and informational material; establishes the instructional needs of SSA operating personnel.

2. Directs a technical review of program operating instructions to insure proper organization, clearance format and audience population for materials prepared by various SSA components for the program operations manual system (POMS); establishes standards

and guidelines for a comprehensive and unified POMS; and maintains and evaluates the POMS.

3. Coordinates publication, distribution and warehousing of all program instructional and other material; directs a quality review of new issuances to insure proper reproduction of printed materials.

4. Indexes all program instructional material and determines user needs in this area.

5. Participates with SSA's Office of Systems in the design, development and ongoing administration of a computerized system for storing, updating, publishing and distributing operational instructions and materials; coordinates with SSA's Office of Management, Budget and Personnel, as appropriate.

6. Establishes policies and guidelines for the distribution, required by the Freedom of Information Act, of SSA program publications for the public.

**K. The Office of User Requirements and Validation (SJR):**

1. Based upon procedures and policies developed in other OOPP components, plans, develops and evaluates the implementation of operational systems for the enumeration and earnings record processes; adjudication and payment of retirement, survivors and disability insurance claims and supplemental security income claims and postadjudicative actions; payment and case control operations; health insurance entitlement; and supplementary medical insurance premium collection. Ensures the efficient and operational effectiveness of manual and automated systems from a program perspective and that policies and claims processes mesh.

2. Assures OOPP input in systems development and operations; provides interpretation, technical advice and guidance to OOPP components on matters relating to operational systems.

3. Evaluates legislative proposals, systems and operational changes, and changing technology for impact on SSA operational systems.

4. Develops functional specifications for new systems and modifications to existing systems to meet the requirements of SSA programs; plans for the development and implementation of such systems.

5. Plans and conducts analyses to evaluate and validate new or modified systems and certifies the acceptance of systems performance.

6. Coordinates between SSA's Office of Systems (OS) and Office of Central Operations to insure effective interaction; works closely with OS in the planning of future systems.

7. Evaluates policies to determine whether training is needed to assure their effective implementation and

participates in the development of training materials.

**Sec. SL00 The Office of Assessment—(Mission):** The Office of Assessment (OA) assures the integrity and quality of the administration of social security programs. It evaluates the quality of SSA operations, with emphasis on the prevention of program and systems abuse; the elimination of waste; and the increase of efficiency. It manages SSA's quality assurance programs; the handling of cases that may involve fraud, and SSA's systems audit and systems security programs. The Office assesses the effectiveness of SSA program administration and operations. It also monitors and assesses SSA's compliance with statutes governing access to information and confidentiality of records. The Office represents SSA with external auditors and assessors.

**Sec. SL10 The Office of Assessment—(Organization):** The Office of Assessment, under the leadership of the Associate Commissioner for Assessment, includes:

A. The Associate Commissioner for Assessment (SL)

B. The Deputy Associate Commissioner for Assessment (SL)

C. The Immediate Office of the Associate Commissioner for Assessment (SL)

D. The Office of Payment and Eligibility Quality (SLQ)

E. The Office of Adjudication Process Quality (SLC)

F. The Office of Security and Program Integrity (SLB)

G. The Field Assessment Offices (SL-FI—SL-FX)

H. The Office of Evaluation (SLE)

**Sec. SL20 The Office of Assessment—(Functions):**

A. The Associate Commissioner for Assessment (SL) is directly responsible to the Commissioner for carrying out OA's mission and provides general supervision to the major components of OA.

B. The Deputy Associate Commissioner for Assessment (SL) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Assessment (SL) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Payment and Eligibility Quality (SLQ):

1. Develops and maintains programs to assure quality of payments and continuing eligibility in all social security programs. These programs determine payment and continuing eligibility accuracy, and determine Federal fiscal liability to the States for Federally ad-

ministered State supplemental payments.

2. Identifies error rates, trends and sources, and recommends corrective actions. Administers a program to evaluate policies and compliance with policies in social security benefit programs, identifying policy and policy application deficiencies and recommending corrective actions or changes in policies.

3. Provides technical direction to Field Assessment Offices in the management of their payment and eligibility quality activities.

**E. The Office of Adjudication Process Quality (SLC):**

1. Develops and maintains programs to assure quality in the adjudication processes of social security programs.

2. Identifies error rates, trends and sources, recommends corrective actions, and determines review levels necessary to improve process quality, within resource constraints.

3. Manages central review operations and provides technical direction to Field Assessment Offices in the management of their adjudication process quality activities.

**F. The Office of Security and Program Integrity (SLB):**

1. Develops plans, policies and procedures for maintaining the integrity of SSA's program processes and security of its systems. Manages risk analyses to identify program and systems weaknesses. Designs and recommends measures to prevent fraud and abuse, procedures and action plans, and assesses the effectiveness of implementation of preventive measures.

2. Directs the handling of cases which may involve fraud, including investigations not handled by the HEW Inspector General; and recommends to U.S. Attorneys, through the Office of the Inspector General, whether to prosecute fraud cases.

3. Monitors and assesses SSA's compliance with the Privacy Act. Directs personnel security activities. Provides technical direction to Field Assessment Offices in the management of their security and program integrity activities.

**G. The Field Assessment Offices (SL-FI—SL-FX):**

1. Manage OA operations in the field, including quality assurance, program integrity, systems security and evaluation activities. Conduct independent reviews to determine payment and eligibility error rates in all social security programs, including errors in Federally administered State supplemental payments and in State administered programs directed by SSA, and determine the Federal fiscal liability amounts reimbursable to States for which SSA administers State payments.



2. Conduct independent reviews to determine the quality of adjudication processes of social security programs and State administered programs directed by SSA. Assist in identifying error trends and sources and recommend corrective actions.

3. Process cases which may involve fraud and recommend prosecution in appropriate cases. Monitor the implementation of program integrity and systems security plans and preventive measures, and perform special assessment surveys and analyses.

**H. The Office of Evaluation (SLE):**

1. Assesses the administration of social security programs. Designs broad evaluation programs, incorporating and coordinating various evaluation methods, techniques and efforts.

2. Serves as SSA's liaison with the HEW Audit Agency and external auditors and evaluators; manages the internal handling of audit reports; and assures proper attention to audit and evaluation findings and recommendations.

3. Maintains a continuing management survey program. Performs continuing and special analyses of trends and critical problem areas. Provides technical direction to Field Assessment Offices in the management of their evaluation activities.

**Sec. SM.00 The Office of Management, Budget and Personnel—(Mission):** The Office of Management, Budget and Personnel (OMB) provides overall management of SSA resources. The Office develops policy and guidelines for the exercise of SSA-wide management responsibilities, and evaluates and appraises the manner in which those responsibilities are carried out. It administers the following SSA-wide management programs:

1. Budget and financial management, including policy guidance for, and general oversight of, financial arrangements with State agencies;

2. The full range of SSA's human resources programs, including personnel, labor-management relations and training;

3. Organization and management analysis, delegations of authority, administrative appraisal and planning, management information, manpower utilization and work measurement;

4. The acquisition of automated data processing, telecommunications and technical services and equipment;

5. General management support services, including contracting and procurement, property management, realty and space, communications and records, publication management and employee health, safety and physical security. The Office represents SSA in these areas with HEW; other Federal agencies; Congress and other organizations.

**Sec. SM.10 The Office of Management, Budget and Personnel—(Organization):** The Office of Management, Budget and Personnel, under the leadership of the Associate Commissioner for Management, Budget and Personnel, includes:

A. The Associate Commissioner for Management, Budget and Personnel (SM)

B. The Deputy Associate Commissioner for Management, Budget and Personnel (SM)

C. The Immediate Office of the Associate Commissioner for Management, Budget and Personnel (SM)

D. The Office of Management Planning and Analysis (SMP)

E. The Office of Financial Resources (SMF)

F. The Office of Human Resources (SMH)

G. The Office of Materiel Resources (SMM)

H. The Office of Technical Resources (SMR)

**Sec. SM.20 The Office of Management, Budget and Personnel—(Functions):**

A. The Associate Commissioner for Management, Budget and Personnel (SM) is directly responsible to the Commissioner for carrying out OMB's mission and provides general supervision to the major components of OMB.

B. The Deputy Associate Commissioner for Management, Budget and Personnel (SM) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Management, Budget and Personnel (SM) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Management Planning and Analysis (SMP):

1. Directs comprehensive SSA management analysis, appraisal and planning programs.

2. Develops and maintains the SSA management information system; establishes, conducts and coordinates major SSA management planning efforts, including emergency preparedness; conducts an SSA organization management and analysis program; develops, recommends and publishes all delegations of authority in SSA, and manages SSA's delegations of authority program.

3. Implements and manages a comprehensive manpower utilization and work measurement system; manages the SSA initiatives tracking system; develops and administers SSA internal conference policies and plans; and con-

ducts the SSA historical research program.

4. Provides SSA liaison with HEW; other Federal agencies, and outside sources on these matters.

**E. The Office of Financial Resources (SMF):**

1. Develops SSA financial management objectives, policies, standards and procedures. Plans, prepares, justifies, presents and executes the SSA budget.

2. Designs and operates SSA's automated cost analysis accounting and budget systems. Audits and certifies expenditures; compiles required financial reports; and provides the work measurement requirements for the budget and cost analysis systems.

3. Furnishes financial management advice to the Commissioner and other top level executives of SSA. Provides SSA liaison on agency fiscal matters with the Office of Management and Budget; the Treasury Department; the General Accounting Office; HEW; other Federal agencies; and various private and public organizations.

**F. The Office of Human Resources (SMH):**

1. Develops, implements and maintains a totally integrated and coordinated human resources program responsive to the needs of SSA.

2. Represents SSA in dealing with HEW; other Federal agencies; and sources outside the Federal Government about personnel and human resources management programs.

3. Supervises the components functioning in personnel operations; personnel policy and research; training and career development; classification; labor-management relations; employee health and occupational safety; management-employee communications; and employee relations.

**G. The Office of Materiel Resources (SMM):**

1. Directs the materiel management and management support programs of SSA and develops objectives, policies, standards and procedures for these programs.

2. Directs SSA's activities in contracting and procurement; grants management; real and personal property management; equipment management; and supply operations.

3. Provides services related to space acquisition, utilization and management; telephone systems; mail and distribution operations; records; publications; forms; printing; and reprographics.

4. Directs facilities planning and maintenance; protective security; civil defense; library services; audiovisual services; and graphics services.

5. Manages visitor reception and tours, and services to SSA headquarters personnel, including transporta-

tion; parking; commuter information; food services; and other concessions.

**6. Provides SSA liaison with the General Services Administration (GSA); HEW; other Federal agencies; and various public and private organizations, on matters relating to its mission.**

**H. The Office of Technical Resources (SMR):**

1. Develops SSA policies and procedures for the acquisition of Automated Data Processing (ADP) and telecommunications equipment and technical services; evaluates conformance to policies and procedures relating to the acquisition of this equipment.

2. Reviews, evaluates and approves SSA plans and proposals for the acquisition of ADP and telecommunications equipment and technical services.

3. Provides SSA liaison with the General Services Administration; the Office of Management and Budget; congressional committees; and various private and public organizations, on matters involving the acquisition of SSA's ADP and telecommunications resources.

4. Analyzes and reviews the use and design of ADP equipment and telecommunications network equipment, within its areas of responsibility.

**Sec. SP.0 The Office of Central Operations—(Mission):** The Office of Central Operations (OCO) directs and coordinates SSA's central office operating components and geographically dispersed installations not under the line authority of the Regional Commissioners. These components certify

benefits, authorize and review selected claims, and maintain beneficiary records for the retirement, survivors and disability insurance programs and the black lung benefits program, including foreign operations; maintain and certify earnings records; issue social security numbers and respond to critical correspondence. The Office directs headquarters components responsible for central records operations; the six SSA program service centers; three data operations centers; the Division of International Operations; and central disability operations. It plans and carries out comprehensive analyses and studies and directs the implementation of actions to improve operational effectiveness and efficiency.

**Sec. SP.10 The Office of Central Operations—(Organization):** The Office of Central Operations, under the leadership of the Associate Commissioner for Central Operations, includes:

A. The Associate Commissioner for Central Operations (SP)

B. The Deputy Associate Commissioner for Central Operations (SP)

C. The Immediate Office of the Associate Commissioner for Central Operations (SP)

D. The Office of Operations Analysis and Support (SPN)

E. The Office of Central Records Operations (SPP)

F. The Office of SSA Program Centers (SPR)

G. The Office of Disability Operations (SPT)

**Sec. SP.20 The Office of Central Operations—(Functions):**

A. The Associate Commissioner for Central Operations (SP) is directly responsible to the Commissioner for carrying out OCO's mission and provides general supervision to the major components of OCO.

B. The Deputy Associate Commissioner for Central Operations (SP) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Central Operations (SP) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

**D. The Office of Operations Analysis and Support (SPN)**

1. Directs operational analysis and internal administrative activities in support of OCO. Designs and conducts studies to measure the effectiveness and efficiency of overall OCO processes and interactions.

2. Directs and coordinates the implementation of process changes, together with other OCO components. Identifies and directs the timely resolution of major problems and issues.

3. Establishes management objectives and monitors progress to assure their timely implementation. Prepares responses to Congressional and sensitive correspondence requiring the Associate Commissioner's personal attention.

**E. The Office of Central Records Operations (SPP):**

1. Provides executive direction and leadership for the nationwide establishment and maintenance of basic records supporting social security programs. Manages centralized records operations and three geographically dispersed data operations centers.

2. Establishes and maintains applications for social security numbers; applications for employer identification numbers; and applications for hospital insurance identification cards. Receives and processes social security earnings reports from private and governmental employers and adjustments or corrections to posted earnings items.

3. Conducts centralized SSI eligibility redeterminations operations; maintains records of SSA enumeration and earnings records in hardcopy, microfilm, magnetic tape and disc form; and maintains an ongoing data exchange

activity with the Treasury Department on the compilation and verification of individual earnings data.

**F. The Office of SSA Program Service Centers (SCC):**

1. Directs a network of six geographically dispersed SSA program service centers (PSCs) which process selected claims; maintain beneficiary records; reconsider claims and eligibility determinations; and certify benefit payments for the Retirement and Survivors Insurance program; determine entitlement to Health Insurance benefits, and collect premiums for the Supplementary Medical Insurance Program.

2. Directs similar operations for administration of the U.S. Social Security program in foreign countries.

3. Makes recommendations to PSCs and other SSA components to optimize operational performance and initiates and monitors plans and actions to achieve operational objectives.

**G. The Office of Disability Operations (SPT):**

1. Provides executive direction and leadership to centralized disability operations that process claims under disability and black lung benefits programs; certify benefit payments; and maintain beneficiary rolls.

2. Directs the review of initial and reconsidered determinations of disability excluded from State Agency jurisdiction. Directs the authorization of disability claims not authorized by district offices at the initial, reconsideration and appeals levels.

3. Develops technical medical policies for the disability insurance, supplemental security income (blind or disabled) and black lung benefits programs and provides medical consultations on individual claims determinations.

4. Responds to public and Congressional correspondence on disability operations issues.

**Sec. SR.00 The Office of Policy—(Mission):** The Office of Policy (OP) directs the planning and analysis of programs directly administered by SSA; the retirement, survivors and disability insurance programs, and the supplemental security income program. Together with SSA's Office of Family Assistance, directs the planning and analysis of income maintenance programs administered by State agencies. The Office broadly formulates, promulgates and interprets program objectives and policy. It directs studies and makes recommendations about the problems of income maintenance, poverty and the contributions that social insurance, public assistance and related programs may provide for solving these problems. It directs legislative planning, analysis, and formulation in SSA, and conducts the broad research and statistical programs of



the agency. The Office reviews all regulations for consistency among programs and regulations for directly administered programs for consistency with statutory and congressional intent and with SSA policy decisions and requirements. It directs and coordinates the formulation of future program policies. The Office evaluates the effectiveness of national policies in meeting program goals and recommends program modifications. It serves as the focal point for international policy matters, other than those relating to refugee programs. The Office provides overall administrative direction to the Office of the Actuary and coordinates the activities of the Offices included in OP, in carrying out the OP mission. It carries out activities in relation to public assistance programs together with SSA's Office of Family Assistance.

Sec. SR.10 *The Office of Policy—(Organization):* The Office of Policy, under the leadership of the Associate Commissioner for Policy, includes:

A. The Associate Commissioner for Policy (SR)

B. The Deputy Associate Commissioner for Policy (SR)

C. The Immediate Office of the Associate Commissioner for Policy (SR)

D. The Office of Actuary (SRG)

E. The Office of Legislative and Regulatory Policy (SRP)

F. The Office of Research and Statistics (SRV)

G. The Office of Policy Analysis (SRC)

H. The Office of International Policy (SRT)

Sec. SR.20 *The Office of Policy—(Functions)*

A. The Associate Commissioner for Policy (SR) is directly responsible to the Commissioner for carrying out OP's mission and provides general supervision to the major components of OP.

B. The Deputy Associate Commissioner for Policy (SR) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Policy (SR) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinate the activities of OP components.

D. The Office of the Actuary (SRG):

1. Directs and conducts the actuarial program of SSA.

2. Performs actuarial and demographic research into social insurance and related programs and makes actuarial appraisals of existing and proposed programs.

3. Studies, for both the immediate and long-range future, problems of financing program costs; estimates future workloads; and evaluates operations of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

4. Develops and analyzes actuarial data for benefit estimates and valuations in social insurance programs.

5. Provides technical and consultative services to the Commissioner and HEW officials, and appears before Congressional committees considering legislative changes in SSA-administered programs.

6. Provides technical and consultative services to the Board of Trustees of the Social Security Trust Funds.

E. *The Office of Legislative and Regulatory Policy (SRP):*

1. Develops and conducts the legislative planning program of SSA and serves as the focal point for all legislative activity in the agency.

2. Analyzes legislative and regulatory initiatives.

3. Develops specific legislative proposals.

4. Reviews all proposed regulations for consistency among programs and regulations for directly administered programs for consistency with policy requirements and decisions.

5. Evaluates the effectiveness of programs administered by SSA in terms of legislative needs.

6. Analyzes and develops recommendations on related income maintenance, social service and rehabilitation program proposals, particularly those which may involve coordination with SSA-administered programs, and on other methods of providing economic security.

7. Provides technical and advisory service to SSA and HEW officials and, working with SSA's Office of Intergovernmental and Community Affairs, also provides this service to officials within the Executive Branch; Congressional committees, individual Congressmen and private organizations interested in social security legislation.

F. *The Office of Research and Statistics (SRV):*

1. Develops and conducts SSA's research and statistical program.

2. Conducts research on income security; the redistributive effects on the economy of social security benefits and financing; the adequacy of cash benefits; the relation of SSA to public and private income maintenance programs; the problems of the low-income population; and trends in social security and social welfare expenditures.

3. Studies the problems of poverty and income maintenance and how social insurance and related programs may provide solutions.

4. Conducts national surveys of the aged, the disabled, the low-income aged and disabled and families with dependent children.

5. Established linkages of SSA data with data from other statistical and record systems, and develops and simulates economic models to analyze the impact of present and projected program alternatives under various conditions.

6. Publishes research findings; compiles and publishes statistical data; and provides SSA-wide statistical leadership and methodology about statistics.

7. Represents SSA on matters of research and statistics within HEW, within the academic community, and with international organizations; and, in coordination with SSA's Office of Public Affairs, with other public and private agencies and organizations.

G. *The Office of Policy Analysis (SRC):*

1. Develops policy and strategies on current and anticipated program issues in social insurance, income maintenance, public assistance and related programs.

2. Provides policy guidance in social insurance and income maintenance programs. Carries out a continuing assessment of future policy requirements and formulates policy plans to meet future needs.

3. Uses actuarial data and research products to analyze social security and related programs. Recommends program modifications for adaptation to changing social, demographic and economic conditions.

4. Provides guidance to the study of policy initiatives and proposals which originate in other SSA components or outside the agency.

5. Develops broad program policy planning projects, experiments and studies associated with major program goals and changes; organizes and conducts special high-priority analytical efforts.

6. Evaluates the effectiveness of present and alternative income maintenance strategies.

H. *The Office of International Policy (SRT):*

1. Serves as liaison to international agencies and associations which deal with social security matters.

2. Serves as SSA's point of contact with the State Department and other agencies involved in international affairs, excluding those affairs relating to refugee programs.

3. Provides legislative and regulatory planning and analysis on all program matters relating to non-operational international policy.

4. Provides leadership and coordination of all activities within SSA involving negotiations with foreign governments on international social security

agreements (totalization). Involves SSA's Office of Operational Policy and Procedures in the development and analysis of policies for implementing provisions of totalization agreements.

5. Serves as the SSA focal point for the formulation of U.S. policy relating to international social security matters.

6. Provides training, orientation and technical assistance on social security and related fields to foreign governments, international organizations and foreign visitors.

Sec. SX.00 *The Office of Public Affairs—(Mission):* The Office of Public Affairs (OPA) plans, coordinates, and implements SSA's nationwide program for effective information exchange with the public and the press; other Federal agencies; and State agencies, on SSA-administered programs or State-administered programs and services. The Office develops programs and materials to assure public knowledge and understanding of protection, rights, and responsibilities under programs administered by SSA. It assures SSA adherence to the Freedom of Information Act in all SSA public information activity. The Office provides technical direction to SSA field offices in the management of their public affairs activities.

Sec. SX.10 *The Office of Public Affairs—(Organization):* The Office of Public Affairs, under the leadership of the Associate Commissioner for Public Affairs, includes:

A. The Associate Commissioner for Public Affairs (SX)

B. The Deputy Associate Commissioner for Public Affairs (SX)

C. The Immediate Office of the Associate Commissioner for Public Affairs (SX)

D. The Press Office (SXP)

E. The Office of Information (SXN)

Sec. SX.20 *The Office of Public Affairs—(Functions):*

A. The Associate Commissioner for Public Affairs (SX) is directly responsible to the Commissioner for carrying out OPA's mission and provides general supervision to the major components of OPA.

B. The Deputy Associate Commissioner for Public Affairs (SX) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Public Affairs (SX) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Press Office (SXP):

1. Guides and coordinates all SSA press activities and prepares and issues

news items for national release and for release through district offices.

2. Initiates and maintains contacts with members of the working press and responds to requests for information and assistance from newspapers, radio and TV news departments, news and general magazines and the specialized press.

3. Prepares news and feature stories for the area press on SSA headquarters events, programs of community interest and the accomplishments and activities of SSA employees.

4. Analyzes press coverage of social security programs; prepares responses to press articles, when appropriate; assesses public reaction to social security programs; and prepares the Daily Press Service for the SSA Executive Staff.

E. The Office of Information (SXN):

1. Directs SSA's information activities to assure public knowledge and understanding of programs administered by SSA.

2. Develops and evaluates goals, objectives, policies, standards and guidelines for SSA public information activities.

3. Assesses nationwide public information needs and carries out programs to inform the public of the purposes and provisions of SSA-administered programs; program changes; and people's rights and responsibilities under these programs.

4. Prepares and determines distribution of a wide variety of public information materials on all phases of SSA-administered programs.

5. Evaluates the quality of informational materials to assure a high quality product and helps in public affairs training in SSA.

6. Exercises SSA headquarters authority to make initial denials of requests for information under denial provisions of the Freedom of Information Act.

Dated: March 14, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 79-8532 Filed 3-20-79; 8:45 am]

[4210-01-M]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N-79-917]

## NATIONAL MOBILE HOME ADVISORY COUNCIL

Meeting

AGENCY: Assistant Secretary for NVACP, HUD.

ACTION: Notice of National Mobile Home Advisory Council Meeting.

SUMMARY: This Notice announces a biannual meeting of the National Mobile Home Advisory Council.

FOR FURTHER INFORMATION CONTACT:

John Mason, Acting Director, Mobile Home Standards Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, Telephone (202) 755-7970.

SUPPLEMENTARY INFORMATION:

The National Mobile Home Construction and Safety Standards Act of 1974 (Title VI of the Housing and Community Development Act of 1974) authorizes the Secretary of the Department of Housing and Urban Development to establish Federal construction and safety standards for mobile homes. It provides for the appointment by the Secretary of a National Mobile Home Advisory Council composed of 24 members. The membership of the Council is selected equally from each of the following categories: (a) consumer organizations, community organizations, and recognized consumer leaders; (b) the mobile home industry and related groups, including at least one representative of small business; and (c) government agencies including Federal, State and local governments. The purpose of the National Mobile Home Advisory Council is to advise the Department to the extent feasible prior to the establishment, amendment or revocation of any mobile home construction and safety standard.

Sections 6(a) and (b) of the Charter of the National Mobile Home Advisory Council enacted pursuant to Section 9(c) of the Federal Advisory Committee Act stipulates that members are appointed to serve two-year terms which expire on August 21 of the second year of the member's appointment.

In accordance with Section 605 of Title VI of the Housing and Community Development Act of 1974 (Public Law 93-383) and Section 10(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92-463) announcement is made of the following meeting:

The National Mobile Home Advisory Council will meet on May 22, 23, and 24, 1979. The meetings are open to the public and will convene at 9:00 am on Tuesday, May 22, 1979 at the HUD Building, Room 10233, 451 Seventh Street, S.W., Washington, D.C. 20410.

Depending on the availability of research conclusions, among other



## NOTICES

items, the Department plans to discuss and seek recommendations concerning the below listed items:

- A. Fire Safety Research
- B. Wind Research
- C. Transportation Durability
- D. Transportation Safety.

The final agenda will be available prior to the meeting.

Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d) and Section 605, National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5404.

Issued at Washington, D.C., March 14, 1979.

GENO C. BARONI,  
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.  
(FR Doc. 79-8393 Filed 3-20-79; 8:45 am)

[4310-84-M]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(Wyoming 66911)

## WYOMING

## Application

MARCH 12, 1979.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

## SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 92 W.,  
sec. 14, N½SE¼ and SW¼SE¼  
sec. 23, W½NE¼, SE¼NE¼ and E½SE¼.

The proposed pipeline will transport natural gas which will extend from the point of connection with the Hamilton Federal #14-1 well in the SE¼ section 14 in a generally southerly direction to a point of connection with their existing facilities in the SE¼ section 23, T. 15 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management,

1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

WILLIAM S. GILMER,  
Acting Chief, Branch of Lands and Minerals Operations.

(FR Doc. 79-8478 Filed 3-20-79; 8:45 am)

[4310-84-M]

(Wyoming 66912)

## WYOMING

## Application

MARCH 12, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

## SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 92 W.,  
sec. 25, N½SW¼, SE¼SW¼, W½SE¼ and SE¼SE¼;  
sec. 26, N½SE¼.

The proposed pipeline will transport natural gas from the Federal #25-1 well in said SE¼ of section 25 in a generally westerly direction to the point of connection with their existing facilities in the SE¼ section 26, T. 15 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

WILLIAM S. GILMER,  
Acting Chief, Branch of Lands and Minerals Operations.

(FR Doc. 79-8487 Filed 3-20-79; 8:45 am)

[4310-31-M]

## Geological Survey

(Int FES 79-13)

## ENVIRONMENTAL IMPACT STATEMENT

Availability of Final Statement, Pronghorn Mine, Campbell County, Wyoming

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior

has prepared a final environmental impact statement on the proposed Pronghorn surface coal mining operation by the Consolidation Coal Company, in joint partnership with Mobil Oil Corporation, in Campbell County, Wyoming. The final statement assesses the environmental impacts of the lessee's plan for the surface mining of federally owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal lease W-58112, located 16 miles (26 km) southeast of Gillette, Wyoming, in Campbell County.

The mine plan contained in this final environmental impact statement was submitted prior to the promulgation of interim regulations by the U.S. Office of Surface Mining, pursuant to the Surface Mining Control and Reclamation Act of 1977. The mine plan is currently being reviewed by State and Federal regulatory agencies for compliance with those requirements. It has not yet been determined whether the plan is adequate and in full conformance with applicable requirements of the Act. Once the mine plan is conformed to meet those regulations, the Department will evaluate whether this final environmental impact statement is adequate for the mine plan approval action or whether a supplement to this impact statement needs to be prepared and distributed.

Comments received on the draft environmental statement during the comment period were considered in the preparation of and are reproduced in the final environmental statement.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin in Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of FES 74-55 were held as follows: June 24-25, 1974, at Cheyenne, Wyo.; June 26, 1974, at Casper, Wyo.; and June 27-28, 1974, at Gillette, Wyo.

The final environmental impact statement for the proposed Pronghorn mine is available for public review at the U.S. Geological Survey Library, 1526 Cole Blvd., Golden, Colo.; the U.S. Geological Survey Library, Room 4A100, National Center, Reston, Va.; the Converse County Library, 300 Walnut St., Douglas, Wyo.; the George Amos Memorial Library, 412 South Gillette Ave., Gillette, Wyo.; the Library of Natrona County, 307 East Second, Casper, Wyo.; and the State Library, State of Wyoming, Supreme Court Bldg., Cheyenne, Wyo.

A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Stop 701, Denver, CO 80225.

Dated: March 16, 1979.

LARRY E. MEIEROTTO,  
Assistant Secretary of the Interior.  
(FR Doc. 79-8388 Filed 3-20-79; 8:45 am)

[4310-31-M]

## TRAINING AND QUALIFICATION OF PERSONNEL IN WELL-CONTROL TRAINING

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: A listing of well-control training schools approved in accordance with GSS-OCS-T 1.

SUMMARY: The FEDERAL REGISTER notice, Vol. 42, No. 251, published by the U.S. Geological Survey on December 30, 1977, set forth the U.S. Geological Survey Outer Continental Shelf (OCS) Training Standard No. T 1 (GSS-OCS-T 1), "Training and Qualification of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations." This notice details the well-control training schools that are currently approved by the U.S. Geological Survey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Krah, U.S. Geological Survey, National Center, Reston, Virginia 22092 (703/860-7531).

## SUPPLEMENTAL INFORMATION:

## LEGEND

## JOB CLASSIFICATION

RH—Rotary Helper  
DK—Derrickman  
DR—Driller  
TP—Toolpusher  
OR—Operator Representative

## BLOWOUT-PREVENTER STACK TYPE

SUR—Surface BOP Stack  
SS—Subsea BOP Stack

## BASIC WELL-CONTROL TRAINING COURSES APPROVED

| Name                          | Job classification | Blowout-preventer stack type |
|-------------------------------|--------------------|------------------------------|
| 1. Chevron U.S.A. Inc.        | OR                 | SUR, SS                      |
| 2. Continental Oil Company    | OR                 | SUR, SS                      |
| 3. Delta Drilling Company     | DR, TP, OR         | SUR                          |
| 4. Dresser Industries         | DR, TP, OR         | SUR                          |
| 5. IMCO Services              | DR, TP, OR         | SUR, SS                      |
| 6. Louisiana State University | DR, TP, OR         | SUR, SS                      |
| 7. Milchem Incorporated       | TP, OR             | SUR, SS                      |

## NOTICES

## BASIC WELL-CONTROL TRAINING COURSES APPROVED—Continued

| Name                                     | Job classification | Blowout-preventer stack type |
|--|--------------------|------------------------------|
| 8. Reading and Bates Drilling Company    | RH, DK, DR, TP     | SUR                          |
| 9. Rowan Companies, Inc.                 | RH, DK             |                              |
| 10. University of Southwestern Louisiana | DR, TP, OR         | SUR, SS                      |
| 11. Zapata Off-Shore Company             | RH, DK             |                              |

## REFRESHER WELL-CONTROL TRAINING COURSES APPROVED

|   |            |         |
|---|------------|---------|
| 1. Chevron U.S.A. Inc.                  | OR         | SUR, SS |
| 2. Delta Drilling Company               | DR, TP, OR | SUR     |
| 3. Reading and Bates Drilling Company   | DR, TP     | SUR     |
| 4. University of Southwestern Louisiana | DR, TP, OR | SUR, SS |

It is anticipated that periodic notices of this type will be published in the future on an as needed basis.

Dated: March 7, 1979.

W. A. RADLINSKI,  
Acting Director.  
(FR Doc. 79-8386 Filed 3-20-79; 8:45 am)

[4310-84-M]

## Office of the Secretary

(INT DES 79-13)

## PROPOSED GRAZING MANAGEMENT FOR THE VERMILION RESOURCE AREA, MOHAVE AND COCONINO COUNTIES, ARIZ.

## Availability of Draft Environmental Statement and Public Hearing

Pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Vermillion Resource Areas. The proposal involves implementing an improved range management program on public lands within the Vermillion Resource Area of the Arizona Strip District in Northwest Arizona.

The Department of the Interior invites written comments on the draft statement to be submitted within 45 days of this notice, to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

The limited number of copies are available upon request to the State Director at the above address.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets NW., Washington, D.C. 20240. Telephone (202) 343-5717.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073; Telephone (602) 261-3706.

Arizona Strip District, Bureau of Land Management, 196 E. Tabernacle, St. George, Utah 84770; Telephone (801) 673-3545.

Oral and/or written comments will also be received at the formal public hearing to be held at the following location:

APRIL 25, 7:00 p.m. MST, Fredonia High School Auditorium, Fredonia, Arizona.

An administrative law judge will preside over the public hearing. Witnesses presenting oral comments should limit their testimony to ten (10) minutes. Written request to testify orally should be sent to the District Manager, Arizona Strip District Office, 196 E. Tabernacle, St. George, Utah 84770.

Comments received on the draft environmental statement, whether written or oral, will be given equal consideration during preparation of the final environmental statement on the Proposed Livestock Grazing Program—Vermillion Resource Area.

Dated: March 16, 1979.

LARRY E. MEIEROTTO,  
Assistant Secretary.

(FR Doc. 79-8528 Filed 3-20-79; 8:45 am)

[7020-02-M]

## INTERNATIONAL TRADE COMMISSION

(AA1921-198, AA1921-199, AA1921-200)

## SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

## Time and Place of Hearing

The public hearing in connection with the Commission investigation of Sugar from Belgium, France, and West Germany announced in the FEDERAL REGISTER of March 8, 1979, (44 FR 12777), will be held at 10:00 a.m. e.s.t. April 10, 1979, in Executive Room A of the Dupont Plaza Hotel, 300 Biscayne Boulevard Way, Miami, Florida 33131.

By order of the Commission.

Issued: MARCH 14, 1979.

KENNETH R. MASON,  
Secretary.

(FR Doc. 79-8584 Filed 3-20-79; 8:45 am)



[6820-35-M]

## LEGAL SERVICES CORPORATION

## GRANTS AND CONTRACTS

MARCH 16, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-29961, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Services of Northeastern Wisconsin in Green Bay, Wisconsin to serve Winnebago, Fond du Lac and Calumet Counties.
  2. Western Wisconsin Legal Services, Inc. in La Crosse, Wisconsin to serve La Crosse, Monroe, Vernon and Trempealeau Counties.
  3. Legal Action of Wisconsin, Inc. in Milwaukee, Wisconsin to serve Columbia, Dodge, Jefferson and Waukesha Counties.
  4. Wisconsin Judicare in Wausau, Wisconsin to serve Marathon, Portage and Wood Counties.
- Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Fl., Chicago, Illinois 60604.

THOMAS EHRLICH,  
President.

[7536-01-M]

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

## ADVISORY COMMITTEES

## Annual Comprehensive Review

In accordance with section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463), the National Endowment for the Humanities is currently reviewing each advisory committee to determine:

- (a) Whether the panel is carrying out its purpose;
- (b) Whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

- (c) Whether it should be merged with other advisory committees; or
- (d) Whether it should be abolished.

Public comments and recommendations concerning the advisory committees to the National Endowment for the Humanities may be addressed to Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, 806 15th Street NW., Washington, D.C. 20506, 202-724-0367.

Comments should be received by April 1, 1979.

Dated: March 15, 1979.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8375 Filed 3-20-79; 8:45 am]

[7537-01-M]

## ARTISTS-IN-SCHOOLS ADVISORY PANEL

## Notice of Reestablishment

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that reestablishment of the Artists-in-Schools Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until March 30, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

JOHN H. CLARK,  
Director, Office of Council and  
Panel Operations, National  
Endowment for the Arts.

MARCH 13, 1979.

[FR Doc. 79-8481 Filed 3-20-79; 8:45 am]

[7537-01-M]

## MUSIC ADVISORY PANEL (JAZZ SECTION)

## Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Jazz Section) to the National Council on the Arts will be held April 5 and 6, 1979, from 9:00 a.m. to 5:30 p.m., in the East Tower Community Room of the Manhattan Plaza, 400 West 43rd Street, New York, New York.

A portion of this meeting will be open to the public on April 5, 1979, from 1:30 p.m. to 5:30 p.m., and on April 6, 1979, from 9:00 a.m. to 5:30 p.m.

The remaining sessions of this meeting on April 5, 1979, from 9:00 a.m. to 1:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,  
Director, Office of Council and  
Panel Operations, National  
Endowment for the Arts.

MARCH 14, 1979.

[FR Doc. 79-8480 Filed 3-20-79; 8:45 am]

[7537-01-M]

## SPECIAL PROJECTS ADVISORY PANEL

## Notice of Reestablishment

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that reestablishment of the Special Projects Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until March 30, 1981. The Committee's objectives and scope of activities include

the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

JOHN H. CLARK,  
Director, Office of Council and  
Panel Operations, National  
Endowment for the Arts.

MARCH 13, 1979.

[FR Doc. 79-8482 Filed 3-20-79; 8:45 am]

[7590-01-M]

## NUCLEAR REGULATORY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

## Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on April 5-7, 1979, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published on January 19, 1979 (44 FR 4056).

The agenda for the subject meeting will be as follows:

THURSDAY, APRIL 5, 1979

8:30 A.M.-9:00 A.M.: *Executive Session (Open)*—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will discuss candidates proposed for appointment to the Committee, as appropriate. Portions of this session will be closed as necessary to protect information the release of which would represent a clearly unwarranted invasion of personal privacy.

9:00 A.M.-11:30 A.M.: *Meeting with NRC Staff (Open)*—The Committee will hear and discuss a report by the Staff regarding criteria for evaluation of pipe breaks inside and outside containment. The NRC Staff will also report on the basis for shutting down

five nuclear plants to resolve piping questions.

11:30 A.M.-12:30 P.M.: *Executive Session (Open)*—The Committee will discuss matters proposed for discussion with the Commissioners regarding the timing and scope of the ACRS annual report on the NRC Safety Research Program, combination of dynamic loads, including those generated by seismic events, as a design basis for nuclear facilities, and use of probabilistic assessment in the licensing process.

1:30 P.M.-2:30 P.M.: *Meeting with NRC Commissioners (Open)*—The Committee will meet with the Commissioners to discuss items noted above.

2:30 P.M.-4:30 P.M.: *Meeting with Department of Energy (Open)*—The Committee will hear a report and hold discussions regarding the safety related aspects of the Tokamak Fusion Test Reactor.

4:30 P.M.-6:30 P.M.: *Anticipated Transients Without Scram (Open)*—The Committee will hear reports from and hold discussions with members of the NRC Staff and representatives of the nuclear industry as appropriate regarding alternative nuclear plant modifications to resolve this issue. Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

FRIDAY, APRIL 6, 1979

8:30 A.M.-9:00 A.M.: *Executive Session (Open)*—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding the request for a permit to construct the Palo Verde Nuclear Generating Station Units 4 and 5.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility and provisions for the physical protection of this station.

9:00 A.M.-11:30 A.M.: *Palo Verde Nuclear Generating Station Units 4 and 5 (Open)*—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the applicant regarding the request for a permit to construct this facility.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility and provisions for the physical protection of this station.

11:30 A.M.-12:00 Noon: *Executive Session (Open)*—The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed operation of the Sequoyah Nuclear Plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility

and provisions for the Physical protection of this station.

1:00 P.M.-5:30 P.M.: *Sequoyah Nuclear Plant (Open)*—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the applicant regarding the request to operate this plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility and provisions for the Physical protection of this station.

5:30 P.M.-6:30 P.M.: *Executive Session (Open)*—The Committee will hear and discuss the reports of ACRS Subcommittees on items related to nuclear power plant safety, including evaluation of systems interactions, design of integrated protection systems, regulatory activities, and ACRS procedures.

SATURDAY, APRIL 7, 1979

8:30 A.M.-10:30 A.M.: *Executive Session (Open)*—The Committee will discuss its proposed reports to the NRC on the Palo Verde Nuclear Generating Station, the Sequoyah Nuclear Plant, and the proposed resolution of Anticipated Transients Without Scram. Portions of this session will be closed as necessary to discuss Proprietary Information, provisions for physical protection of these stations, and matters involved in adjudicatory proceedings.

10:30 A.M.-11:30 A.M.: *Meeting with NRC Staff (Open)*—The Committee will hold discussions with members of the NRC Office of Inspection and Enforcement regarding policies and practices related to the imposition of civil penalties.

The future schedule for ACRS activities will also be discussed.

11:30 A.M.-12:30 P.M. and 1:30 P.M.-4:00 P.M.: *Executive Session (Open)*—The Committee will continue preparation of its reports to NRC on the Palo Verde Nuclear Generating Station, the Sequoyah Nuclear Plant, and the Anticipated Transients Without Scram.

The Committee will also discuss proposed comments and positions regarding other matters discussed during this meeting.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 4, 1978, page 45926. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time



during the meeting for such statements.

I have determined in accordance with section 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)), to preserve the confidentiality of classified and Proprietary Information related to safeguarding of special nuclear material and the arrangements for physical protection of the Palo Verde and Sequoyah Plants (5 U.S.C. 552b(c) (1) and (4)), to protect information the release of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and to permit discussion of matters involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:12 A.M. and 5:00 P.M. EST.

Dated: March 16, 1979.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

(FR Doc. 79-8459 Filed 3-20-79; 8:45 am)

#### [7590-01-M]

[Docket No. 50-237]

#### COMMONWEALTH EDISON CO.

##### Notice of Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Provisional Operating License No. DPR-19, issued to Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Unit No. 2 of Dresden Nuclear Power Station (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications by extending the surveillance interval for inaccessible safety-related snubbers (shock suppressors) by 7 days.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 28, 1979, (2) Amendment No. 41 to License No. DPR-19, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of March 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch No. 2, Division of Operating Reactors.

(FR Doc. 79-8463 Filed 3-20-79; 8:45 am)

#### [7590-01-M]

[Docket No. 50-213]

#### CONNECTICUT YANKEE ATOMIC POWER CO.

##### Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications of operation of the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

The amendment revised the Appendix A Technical Specifications to delete the limiting conditions for operation and surveillance requirements for eight hydraulic snubbers in the feedwater system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate

findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 27, 1979 and supplement thereto dated March 2, 1979, and (2) Amendment No. 31 to License No. DPR-61, including the Commission's evaluation contained in the letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of March 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch No. 2, Division of Operating Reactors.

(FR Doc. 79-8464 Filed 3-20-79; 8:45 am)

#### [7590-01-M]

#### FUEL CYCLE FACILITIES

(NUREG-0430 Vol. 1, No. 2)

##### Issuance and Availability

The U.S. Nuclear Regulatory Commission has issued the second semi-annual report, "Licensed Fuel Facility Status Report" NUREG-0430, dated March 1979. The report contains (a) general facility data such as plant location, type of operation and Special Nuclear Material (SNM) authorization limits; (b) plant operating status; (c) a summary of NRC inspection results; and (d) licensee reports involving plant effluent data, inventory difference data, and reportable events.

This status report constitutes the third report on inventory accounting differences at NRC-licensed facilities possessing significant quantities of highly enriched uranium, plutonium

and uranium-233. The first NRC report of inventory difference data, which was issued in August 1977 (NUREG-0350), covered the period from January 1, 1968 through September 30, 1976. The second status report covered inventory difference data from October 1, 1976 through September 30, 1977. The latest report presents comparable data from October 1, 1977 through June 30, 1978.

This report, which is issued on a semi-annual basis, also contains information on licensed uranium mills, and conversion facilities as well as fuel fabrication plants.

NUREG-0430 is available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Copies may be purchased for \$5.25 per copy from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, MD, this 14th day of March 1979.

For the Nuclear Regulatory Commission.

DUDLEY THOMPSON,  
Executive Officer for Operations  
Support, Office of Inspection  
and Enforcement.

(FR Doc. 79-8462 Filed 3-20-79; 8:45 am)

#### [7590-01-M]

#### REGULATORY GUIDE

##### Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.134, Revision 1, "Medical Evaluation of Nuclear Power Plant Personnel Requiring Operator Licenses," describes a method acceptable to the NRC staff for providing the information needed by the Commission for its evaluation of the medical qualifications of applicants for initial or renewal operator or senior operator licenses for nuclear power plants. It endorses the standard ANSI N546-1976, "Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants." This guide has been revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in

guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 13th day of March 1979.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Director, Office of  
Standards Development.

(FR Doc. 79-8465 Filed 3-20-79; 8:45 am)

#### [7590-01-M]

#### REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

##### Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), The Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 2 to Section No. 9.1.2 "Spent Fuel Storage" of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is \$70.00, including first-year supplements. Annual subscriptions for supplements alone are \$30.00. Individual sections are available at current prices. The domestic price for Revision No. 2 to Section No. 9.1.2 is \$40.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 12th day of March 1979.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSO,  
Director, Division of Systems  
Safety, Office of Nuclear Reactor  
Regulation.

(FR Doc. 79-8466 Filed 3-20-79; 8:45 am)

#### [7590-01-M]

#### STUDY OF NUCLEAR POWER PLANT CONSTRUCTION DURING ADJUDICATION

##### Meetings

The Nuclear Regulatory Commission's advisory committee on nuclear power plant construction during adjudication held its third meeting on Friday, March 2, 1979 at NRC Headquarters, 1717 H Street, N.W., Washington, DC. 20555. As previously announced, the group's fourth meeting will be held on Friday, March 23, 1979 at NRC Headquarters. At the third meeting the group continued work on its interim report, which is tentatively scheduled to be presented to the Commission in an open Commission meeting at 9:30 a.m., Friday, April 6, 1979. During the March 23, 1979 meeting the group will consider the draft interim report and intends to approve the report for submission to the Commission. Members of the public are invited to attend the group's meetings and there will be a limited amount of time available for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, will be accepted for one week after the meeting. The Chairman of the study group is empowered to conduct the meetings in a manner that, in his judgment, will facilitate the group's work, including, if necessary,



continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC, 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, DC, 20555. Attention: Docketing and Service Branch.

The following statement should have been included in the February 22, 1979 Notice of Meetings and that notice, 44 FR 11283 (February 28, 1979) is hereby amended to add the following statement after the third paragraph.

With respect to the solicitation of ideas for studies or surveys, respondents should note that any such ideas submitted to the NRC become the property of the NRC and may be used by the NRC in any manner it deems appropriate. Respondents relinquish to the NRC all rights to any information submitted to the NRC in response to this notice. This notice is only soliciting the public's opinions and suggestions relevant to the study group's work and it is not a request for proposals. No bid or proposal expenses will be reimbursed by the NRC as result of this notice.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission (202) 634-3224.

Dated at Washington, DC, this 15th day of March 1979.

GRAY MILHOLLIN,  
Chairman.

[FR Doc. 79-8460 Filed 3-20-79; 8:45 am]

## [7590-01-M]

[Docket Nos. 50-338SP, 50-339SP]

## VIRGINIA ELECTRIC &amp; POWER CO.

## Proposed Amendment to Operating License NPF-4; Order Scheduling Conference

In the matter of Virginia Electric and Power Company (Vepco). (North Anna Power Station Units 1 and 2).

(a) A conference among VEPCO, the NRC staff, Citizens Energy Forum, and Potomac Alliance is scheduled for Thursday, March 29, 1979, beginning at 9:30 a.m. and to continue, if necessary, through Friday, March 30, 1979. The place of the conference is the Council Chambers (2nd floor), City

Hall, 7th and Main Streets, Charlottesville, Virginia.

(b) The purpose of the conference is to determine the issues which will be the subject of an anticipated evidentiary hearing to be scheduled later in a formal notice of hearing. See 10 CFR § 2.714 (e) and (f).

(c) Representatives of the conferees are directed to communicate with one another in advance of the conference to attempt to settle upon an agreed statement of issues for consideration by the board and discussion at the scheduled conference. If a statement of issues is so agreed upon, VEPCO shall forward a copy to each member of the board on or before Friday, March 23, 1979.

(d) In the absence of an agreed upon statement of issues, VEPCO, the NRC staff, Citizens Energy Forum, and Potomac Alliance are each directed to file with members of the board on or before Friday, March 23, 1979 its own proposed statement of issues for an evidentiary hearing. Such statements will be discussed at the conference scheduled herein for the following week.

(e) VEPCO's pending motion of consolidating Citizens Energy Forum and Potomac Alliance will be given further consideration.

(f) Limited appearances will not be scheduled for this conference. They will be scheduled for the anticipated evidentiary hearing.

Done this 15th day of March 1979 at Washington, D.C.

ATOMIC SAFETY AND  
LICENSING BOARD,  
VALENTINE B. DEALE,  
Chairman.

[FR Doc. 79-8461 Filed 3-20-79; 8:45 am]

## [3190-01-M]

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

## REQUEST FOR PUBLIC COMMENT IN REVIEW OF THE ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

In accordance with Section 7(b) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), the Office of the Special Representative for Trade Negotiations (STR) will conduct an annual review of the Advisory Committee for Trade Negotiations (the Committee). By order of the President, a zero-based review of every executive advisory committee is to be undertaken, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have a truly balanced membership; and (3)

which conduct their business as openly as possible, consistent with the law and their mandate. Based on this review, a determination is to be made whether to continue, merge, terminate, or revise responsibilities of each advisory committee. The STR is required to submit a report on the results of this review to the Office of Management and Budget by April 15, 1979.

The Trade Act of 1974 required establishment of an Advisory Committee for Trade Negotiations to provide overall advice on certain trade agreements referred to in the Trade Act. (19 U.S.C. 2255). The Committee is composed of 45 individuals drawn from government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public. Members of the Committee are appointed by the President for a period of two years and may be reappointed for additional periods.

The Committee is chaired by the Special Representative for Trade Negotiations and meets at his request. The STR is authorized to make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

The Committee provides advice to the President, the Congress, and to the United States negotiators on the Multilateral Trade Negotiations presently underway in Geneva. Public access to meetings of the Committee has been restricted pursuant to 5 U.S.C. 552b(c)(1), since disclosure of information discussed in such meetings could seriously harm U.S. foreign policy interests.

The Committee shall terminate as soon as practical after January 3, 1980, upon submission of reports required under Section 135(e)(2) of the Trade Act of 1974.

Comments, or requests for further information, should be directed to Phyllis O. Bonanno, Executive Director for The Advisory Committee for Trade Negotiations, 1800 G Street NW., Washington, D.C., 20506, no later than April 5, 1979.

PHYLLIS O. BONANNO,  
Executive Director, Advisory  
Committee for Trade Negotiations.

[FR Doc. 79-8529 Filed 3-20-79; 8:45 am]

## [7715-01-M]

## POSTAL RATE COMMISSION

[Docket No. MC79-31]

## MAIL CLASSIFICATION SCHEDULE, 1979

## Correction

JANUARY 9, 1979.

In the matter of order instituting proceeding; designating presiding officer, officer of the commission, and other participants; requesting information; fixing date for a prehearing conference; and establishing procedures (order No. 228) (Issued January 4, 1979).

FR Doc. 79-870, appearing at pages 2211-2214 in the FEDERAL REGISTER of Wednesday, January 10, 1979, the following changes should be made:

1. Page 2211, Column 3, change caption to read "Mail Classification Schedule, 1979".

Page 2211, Column 3, delete "Fixing Date For A Prehearing Conference;" from the title.

2. Page 2213, Column 2, Paragraph (C), Lines 6 and 20, change "January 20, 1979" to "January 22, 1979".

Page 2213, Column 3, under heading "Appendix A. Service List", delete Harold J. Hughes, Esquire, as representative for the United States Postal Service, and substitute: Frances G. Beck, Assistant General Counsel, Office of Rate & Classification Law (Rate Division), U.S. Postal Service, 475 L'Enfant Plaza West, SW., Room 9165, Washington, D.C. 20260.

3. Page 2214, Column 1, delete John W. Gane, as representative for the Department of Defense, and substitute: Mr. Russell Farley, Headquarters, Department of the Army, ATTN: DAAG-MAO, Washington, D.C. 20314.

Page 2214, Column 2, add as second representative for Time Incorporated: Mr. Raymond J. Mitchell, Time Incorporated, Time-Life Building, Rockefeller Center, New York, New York 10020.

By the Commission.

DAVID F. HARRIS,  
Secretary.

[FR Doc. 79-8583 Filed 3-20-79; 8:45 am]

## [6820-97-M]

## PRESIDENTIAL COMMISSION ON WORLD HUNGER

## INTERNATIONAL POLICY SUBCOMMITTEE, ET AL

## Meetings

Subcommittees of the Presidential Commission on World Hunger have scheduled meetings as follows:

## NOTICES

The International Policy Subcommittee will meet in New York, New York on April 5, 1979.

The Public Participation and Communication Subcommittee will meet on April 9, 1979, at Heritage Hall, Minneapolis Public Library and Information Center, 300 Nicollet Mall, Minneapolis, Minnesota.

The Domestic, Agriculture Policy, Consumer and Nutrition Subcommittee will meet on April 11, 1979, in Room 5141A, General Services Administration Building, 18th and E Streets, NW., Washington, D.C.

These meetings will all begin at 9:30 a.m. and will be open for observation by the public. Details as to location of the International Policy Subcommittee are being developed and may be obtained by telephone at (202) 395-3505 after March 22, 1979.

Persons interested in attending the International Policy and Domestic, Agriculture Policy, Consumer and Nutrition subcommittees should address a letter to the Presidential Commission on World Hunger, 734 Jackson Place, NW., Washington, D.C. 20006. Admission of observers will be on the basis of the earliest postmark date and to the extent space is available.

DONALD B. HARPER,  
Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 79-8455 Filed 3-20-79; 8:45 am]

## [8010-011-M]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 6035; 18-1]

## EDWARDS &amp; ANGELL RETIREMENT PLAN FOR LEGAL AND CERTAIN OTHER PERSONNEL

## Filing of Application for an Order Exempting From the Provisions of Section 5 of the Act

MARCH 13, 1979.

Notice is hereby given that Edwards & Angell (hereinafter referred to as "Applicant" or the "Firm"), One Hospital Trust Plaza, Providence, RI 02903, a law firm organized as a partnership under the laws of the State of Rhode Island, on March 10, 1978, filed an application for an exemption from the registration requirement of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Edwards & Angell Retirement Plan for Legal and Certain Other Personnel ("Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

The Plan covers the Firm's partners and employees who are compensated

other than on a weekly or hourly basis. Non-partner employees are eligible to participate in the Plan if they have completed one year of service with the Firm and are at least 25 years of age. As of December 30, 1977, there were a total of 65 participants in the Plan.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"), and therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act, any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the Plan first became effective on January 1, 1968, and was amended and restated in its entirety, effective as of January 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a ruling to the effect that the Plan, as so amended and restated, continues to be a qualified plan under Section 401(a) of the Code.

Applicant makes annual contributions to the Plan on behalf of all participating employees in amounts equal to a specified percentage of their compensation. Participating partners may contribute to the Plan amounts based on each partner's share of Firm net income for the year. In addition, each participant may make voluntary contributions of not more than 10 percent of such participant's aggregate compensation or share in Firm's net income.

Applicant states that it is the Plan administrator; the day-to-day administration of the Plan has been delegated to the Pension Committee which presently consists of four partners of the Firm. Rhode Island Hospital Trust National Bank ("Trustee") is trustee for the Plan under a trust agreement between the Trustee and the Firm. The Trustee has exclusive authority and discretion with respect to the management and investment of the Plan's assets, subject to general policy guide-



lines established by the Pension Committee.

Applicant states that a portion of the assets of the Plan are to be invested in a collective fund containing assets other than assets of the Plan.

Applicant submits that the Plan does not present the risks associated with the sale of interests or participations in Keogh plans which were the concern of the Congress when the 1970 amendments to Section 3(a)(2) of the Act were enacted. At that time Congress recognized that Keogh plans constituted complex investment vehicles, the interests in which could be marketed by sponsoring financial institutions to self-employed persons who might not be sophisticated in the securities field or who might not be able to protect adequately their interests and those of their participating employees.

Applicant represents that its Plan is not a uniform or mass marketed plan designed to be sold by promoters to numerous unrelated self-employed persons; it is a program which is specifically tailored to meet the needs of the Firm. The Firm exercises substantial administrative responsibilities in connection with the Plan, and the Plan is of substantial size. Applicant further submits that, due to the nature of the Firm's work, the Firm is able to represent adequately its own interests and those of its employees. Finally, Applicant contends that were the Firm a corporation, interests or participations in the Plan would be exempt under Section 3(a)(2) of the Act. The results should be no different simply because the Firm is organized as a partnership.

Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants).

Applicant concludes that for the foregoing reasons, granting the requested exemption would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 9, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or the may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following April 9, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8490 Filed 3-20-79; 8:45 am]

#### [8010-01-M]

[Release No. 20955; 70-6271]

#### GULF POWER CO.

#### Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

MARCH 12, 1979.

Notice is hereby given that Gulf Power Company ("Gulf"), 75 North Pace Boulevard, P.O. Box 1151, Pensacola, Florida 32520, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Gulf proposes to issue and sell up to \$30,000,000 aggregate principal amount of its first mortgage bonds ("new bonds"), to be issued not later than September, 1979. It is intended that the new bonds will have a term of not less than five nor more than thirty years and will be sold at competitive bidding for the best price obtainable, but for a price to Gulf of not less than 98% nor more than 101% of the principal amount thereof, plus accrued interest. The new bonds will be issued under the Indenture dated as of September 1, 1941, between Gulf and The Chase Manhattan Bank (National Association) and The Citizens & Peoples National Bank of Pensacola, as Trustees, as heretofore supplemented by various indentures supplemental thereto, and as to be further supplemented by a Supplemental Indenture to be dated as of May 1, 1979.

It is stated that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Gulf to sell the new bonds with a 30-year term or some shorter term and that it is in the public interest for Gulf to be afforded the necessary flexibility to adjust its financing program to developments in the markets for long-term debt securities when and as they occur in order to obtain the best possible price, interest rate, and term for its new bonds. Gulf intends, therefore, to decide on the term of the new bonds after the date of the public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision not less than 72 hours prior to the time of the bidding.

Gulf also proposes to issue up to 100,000 shares of its preferred stock, par value \$100 per share, ("new preferred stock") and to sell such securities at competitive bidding for the best price obtainable but for a price to Gulf of not less than \$100 per share nor more than \$102.25 per share, which shall also be the public offering price per share. In addition, Gulf proposes to pay to the purchasers of the new preferred stock compensation for their services in purchasing and making a public offering of such shares. It is proposed that such stock be issued in May 1979 but in any event not later than September 1979. The terms of the new preferred stock will be established by amendment to the charter of Gulf. Gulf may also make provision for a cumulative sinking fund for the benefit of the new preferred stock which would retire annually not more than 5% of the number of shares initially issued, commencing five years after the sale, with the non-cumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares.

It is stated that Gulf may request by amendment that each of the proposed sales be excepted from the competitive bidding requirements of Rule 50, should circumstances develop which, in the opinion of Gulf's management, make such exception in the best interest of Gulf and its investors and consumers.

Gulf intends to use the proceeds from each sale of the new bonds and the sale of the new preferred stock, along with other funds, in financing its 1979 construction program.

Statements of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that the proposed transactions will have been authorized by the Florida Public Service Commission and that no other state commission and no federal commission, other than this Commission, has

jurisdiction over the proposed transactions.

Notice is further given that any interested persons may, not later than April 6, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8491 Filed 3-20-79; 8:45 am]

#### [8010-01-M]

[Release No. 20953; 70-6274]

#### MIDDLE SOUTH UTILITIES, INC. AND LOUISIANA POWER & LIGHT CO.

#### Proposed Issuance and Sale of Common Stock by a Subsidiary to Its Parent Holding Company

MARCH 12, 1979.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana, a registered holding company, and its wholly owned subsidiary, Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rules 23, 24, and 43 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration

which is summarized below, for a complete statement of the proposed transaction.

LP&L proposes to issue and sell to Middle South, and Middle South proposes to acquire, from time to time through December 31, 1979, up to 11,364,000 shares of its authorized but unissued no-par common stock at an aggregate cash purchase price of \$75,000,000. LP&L will use the proceeds of such sales to finance in part its construction program and for payment of short-term borrowings. The sales of common stock will be timed to coincide with LP&L's needs, which are primarily determined by the nature and pace of construction work. It is stated that each sale will be reported to the Commission by a certificate filed pursuant to Rule 24.

As of December 31, 1978, LP&L had issued 53,776,000 shares of its common stock to Middle South for an aggregate cash consideration of \$353,900,000. To the extent that funds are required from external sources to acquire the common stock, Middle South will obtain such funds through the issuance and sale of its unsecured short-term promissory notes issued under a revolving credit agreement dated as of June 29, 1978, as authorized by the Commission's order dated June 15, 1978 (H.C.A.R. No. 20593).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$3,000, including legal fees of \$1,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 3, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8531 Filed 3-20-79; 8:45 am]

#### [8010-01-M]

[Release No. 15637; SR-MSRB-78-111]

#### MUNICIPAL SECURITIES RULEMAKING BOARD

#### Order Approving Amended Proposed Rule Change

MARCH 13, 1979.

On January 4, 1979, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of an amendment to a proposed rule change which was filed on July 10, 1978. MSRB rule A-13 currently requires the payment of a fee based on underwriting participation and the filing of certain information. The earlier proposal would have amended that rule by expanding the items of information required and requiring the use of a form. In addition, the MSRB indicated in that filing that it intended to have the information processed and made available to the public. The most recent amendment modified the MSRB's earlier proposal to amend MSRB rule A-13 by deleting all but one of the additional items of information which would have been required by that proposal. The amended proposed rule change would require the use of a specific form for furnishing the information required by MSRB rule A-13 and would require two items of information not currently required, the date of sale or commitment for each issue for which an assessment fee is paid and the amount of fee paid by the municipal securities professional. In addition, the MSRB no longer intends to have the information processed and made available to the public.

Notice of the amended proposed rule change together with the terms of substance of the amended proposed rule change was given by publication of Commission Releases (Securities Exchange Act Release No. 14972 (July 18, 1978) and Securities Exchange Act Release No. 15542 (January 30, 1979)) and by publication in the FEDERAL REGISTER 43 FR 31489 (1978) and 44 FR 7260 (1979). The Commission re-



ceived one comment letter on the original proposed rule change from the National Association of Securities Dealers, Inc. That letter argued that the burden imposed upon municipal securities professionals by the data collection which would have been required by the proposed rule change as originally filed would not be commensurate with any benefit to be received. In addition, the letter stated that much of the information sought to be collected should not be made public because of its proprietary nature. The proposed rule change as amended seems responsive to these concerns.

The Commission finds that the amended rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned amended proposed rule change be, and it hereby is, approved. The amended proposed rule change will become effective on April 12, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8492 Filed 3-20-79; 8:45 am]

## [8010-01-M]

[Release No. 10623; 812-4368]

## PROVIDENT NATIONAL ASSURANCE CO. ET AL.

## Filing of Application for an Order of Exemption From the Provisions

MARCH 12, 1979.

Notice is hereby given that Provident National Assurance Company Separate Account B ("Account B") and Provident National Assurance Company Separate Account C ("Account C"), Fountain Square, Chattanooga, Tennessee 37402, which are separate accounts of Provident National Assurance Company ("Provident National") registered under the Investment Company Act of 1940 ("Act") as diversified open-end management investment companies, and Provident National, a Tennessee stock life insurance company which serves as the principal underwriter for Account B and Account C (collectively "Applicants") filed an application on September 18, 1978, and an amendment thereto on March 2, 1979, pursuant to Section 6(c) of the Act for an order of exemption, to the extent necessary, from the provisions of Section 27(a)(3) and Rule 27a-2 thereunder,

All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Account B holds assets set aside for the funding of individual and group variable annuity contracts issued by Provident National which are designed to fund the benefits provided under annuity plans which qualify for tax-deferred treatment under Sections 401, 403(b), and 408 of the Internal Revenue Code of 1954, as amended ("Code"). Account C holds assets set aside for the funding of individual variable annuity contracts which are not qualified for such tax-deferred treatment under the Code.

Account B contracts offered pursuant to a currently effective prospectus have deductions made for sales and administrative charges, as well as any applicable premium taxes. The individual contract used to fund plans qualified under Sections 401 or 408 of the Code is subject to a level 8.0% deduction (7.0% for sales expenses and 1.0% for administrative expenses) from each purchase payment. Under the individual contract or the group contract used to fund plans qualified pursuant to Section 403(b) of the Code, a deduction is made ranging from 6.0% (5.0% for sales expenses and 1.0% for administrative expenses) on the first \$10,000 in cumulative purchase payments to 4.0% (3.0% for sales expenses and 1.0% for administrative expenses) on the balance of cumulative purchase payments above \$10,000.

Account C individual contracts offered pursuant to a currently effective prospectus have deductions made for sales and administrative charges, in addition to any applicable deductions for premium taxes or tax reserves. The amount deducted for sales and administrative expenses depends on whether there is a single payment or the payments are flexible and cumulative and on the amount of the payment(s). The amount deducted from a single purchase payment contract ranges from 6.0% (4.5% for sales expenses and 1.5% for administrative expenses) to 2.0% (1.5% for sales expenses and 0.5% for administrative expenses), depending on the amount of the payment. Under the flexible installment purchase payment contract, the amount deducted ranges from 8.0% (7.0% for sales expenses and 1.0% for administrative expenses) to 4.0% (3.0% for sales expenses and 1.0% for administrative expenses), depending on the amount of the payment.

Provident Life and Accident Insurance Company ("Provident Life") is a stock life insurance company organized under the laws of the state of Tennessee in 1887. It is the parent and sole owner of both Provident National

and Provident Life and Casualty Insurance Company ("Provident Casualty"), a life insurance company organized under the laws of the state of New York in 1951.

Applicants propose that if amounts payable under life insurance policies or annuity contracts issued by Provident National, Provident Life or Provident Casualty (e.g., the death benefit under a policy or contract, lump sum cash available to the beneficiary, termination values under a life insurance policy or annuity contract and cash surrender values of insurance and fixed-dollar annuity contracts) ("Amounts Payable") would be applied to acquire any of the contracts in Account B or Account C which have been offered on or after April 28, 1978, no sales charges would be deducted from such amounts. Applicants propose to permit such applications without sales charge deductions at the request of the policy or contract owners.

Applicants state that the Amounts Payable would be included in the cumulative total of payments with which sales load and applicability of breakpoints are determined for subsequent payments when such amounts are applied to acquire Account B individual or group contracts used to fund plans qualified pursuant to Section 403(b) of the Code. Such Amounts payable would not be included in the cumulative total of payments with which sales load and applicability of breakpoints are determined for subsequent payments when applied to purchase other contracts participating in Account C.

Applicants state that all applications of such amounts to the contracts participating in Account B or Account C shall be Amounts Payable to a policy owner, contract owner, participant under a group policy or contract or a beneficiary of any of these persons. Applicants further state that such Amounts Payable must be applied in a lump sum and must consist of the entire amount received upon termination of the applicable interest (either ownership or participation) in the policy or contract.

## SECTION 27(a)(3) AND RULE 27a-2

Section 27(a)(3) of the Act provides that no registered investment company issuing periodic payment plan certificates and no depositor of or underwriter for such company may sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other such payment, or if the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

Rule 27a-2 exempts a registered separate account, and any depositor or underwriter for such account, from the provisions of Section 27(a)(3) of the Act if the proportionate amount of sales load deducted from any payment during the contract period does not exceed the proportionate amount deducted from any prior payment during the contract period.

Applicants state that the proposed elimination of a sales charge on only the Amounts Payable under life insurance policies or annuity contracts issued by Provident National, Provident Life or Provident Casualty, and applied to acquire a contract participating in Account B or Account C, will result in subsequent payments on these contracts being subject to a sales charge exceeding proportionately the sales charge deducted from the initial payment; i.e., the amount being applied.

Applicants state that since the sales charge upon such Amounts Payable, if eliminated as proposed, will involve a single payment derived from amounts previously accumulated by the policyholder, the contract owner or the participant, that the economies of scale in sales effort and sales-related expenses will be achieved to an extent which will justify such lower deduction. Applicants submit that under such circumstances no purpose would be served by subjecting a substantial purchase payment attributable to funds previously accumulated under life policies or annuity contracts of Provident National, Provident Life or Provident Casualty, to the full sales charge for sales expenses applicable to regular periodic payments.

Applicants contend that the purpose of Section 27(a) of the Act will not be frustrated by the granting of the requested exemptions. Applicants maintain that Section 27(a) was designed to curb abuses associated with front-end load arrangements on mutual fund contractual plans by, in part, limiting the sales charge to 9% and lessening the possible loss which would be incurred upon early termination of such a plan. Applicants state that since the sales charge deduction under the periodic purchase payment contracts does not exceed the statutory limitation of 9%, it does not involve the kind of front-end arrangement at which the section is directed. Therefore, Applicants submit that the proposed elimination of a sales charge on Amounts Payable cannot lead to the abuses intended to be curbed by Section 27(a) of the Act.

Finally, Applicants maintain that the circumstances in which the lower sales and administrative expense deduction will be applicable are sufficiently distinct so that it is unlikely that any persons will be misled or con-

fused. Accordingly, Applicants request exemptions from the provisions of Section 27(a)(3) of the Act and Rule 27a-2 thereunder, to the extent necessary to permit elimination of sales charges on Amounts Payable under life policies or annuity contracts issued by Provident National, Provident Life or Provident Casualty, and applied to acquire a variable annuity contract participating in Account B or Account C which has been offered on or after April 28, 1978.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 6, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 6, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8493 Filed 3-20-79; 8:45 am]

## [8010-01-M]

[Release No. 20954; 70-6276]

## ROCKY RIVER REALTY CO. ET AL

Proposed Intrasystem Assignment of Real Estate Lease and Sale of Leasehold Improvements; Intrasystem Sublease of Such Real Estate and Leasehold Improvements; Financing of Purchase of Such Leasehold Improvements and Additional Improvements by Assignee-Sublessor

MARCH 12, 1979.

Notice is hereby given that The Rocky River Realty Company ("Rocky River"), Northeast Utilities Service Company ("NUSCO") and The Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06037, each a wholly owned subsidiary of Northeast Utilities, a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12 of the Act and Rule 43 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

It is proposed that HELCO will assign a real estate lease and sell leasehold improvements to Rocky River, that Rocky River will sublease such real estate and lease such leasehold improvements to NUSCO and that Rocky River will finance the purchase of the leasehold improvements and the cost of additional improvements through bank borrowings.

The land and buildings situated at 176 Cumberland Avenue, Wethersfield, Connecticut, were formerly the principal corporate office of HELCO. The premises are owned by Connecticut General Life Insurance Company ("CG") and were leased to HELCO in 1954 under lease expiring in 1986. HELCO has the option to extend the lease for three successive ten year periods. With the consolidation of the operations of HELCO and The Connecticut Light and Power Company, HELCO has no further use for the buildings, a portion of which have previously been sublet by HELCO to NUSCO to house the NUSCO Data Processing Department. NUSCO proposes to occupy the entire property and requires additional leasehold improvements to the premises.

HELCO proposes to exercise the first ten year renewal option and then to assign the CG lease to Rocky River and to sell to Rocky River the leasehold improvements made by HELCO at HELCO's book value, estimated to be \$650,000 at the time of the sale. Rocky River will sublease the premises



to NUSCO under two subleases, (a) a net lease of the land and buildings covered by the CG lease at the same basic annual rent provided for in the CG lease (\$239,221.65 until 1986 and \$104,128.75 for the first ten year option period expiring June 30, 1966), and (b) a net lease of the improvements, trade and office fixtures purchased from HELCO together with additional improvements to be made by Rocky River at an annual basic rental of \$130,794.12, which is equal to Rocky River's amortization payments to the bank under the Loan Agreement.

To finance the purchase of the HELCO leasehold improvements and the cost of the new improvements, Rocky River will enter into a Loan Agreement with Connecticut National Bank ("CNB") whereby CNB will loan \$1,000,000 at 10 1/4% for a term of 15 years to be amortized on a monthly level payment basis and evidenced by Rocky River's promissory notes ("Notes"). As the principal security for the note, Rocky River will assign to CNB the lease payments due under the improvement lease. As additional security Rocky River will execute and deliver to CNB a second mortgage on real property owned by Rocky River in New Milford, Connecticut.

It is stated that Rocky River, as a real estate subsidiary of Northeast, is the logical company to take over the property and sublease it to NUSCO rather than attempt to have NUSCO acquire the CG lease and finance the improvements. This proposal also avoids having any of the operating subsidiaries of Northeast finance the arrangement at a time when long-term financing by operating subsidiaries is very limited due to their inadequate coverage ratios.

It is stated that no fees or commissions are to be paid or incurred, directly or indirectly, in connection with the proposed transactions. Incidental services estimated to cost \$500 in the case of each of the applicants will be performed at cost by NUSCO.

It is further stated that the Connecticut Divisions of Public Utility Control has jurisdiction over the assignment by HELCO of its interest under the CG lease and the sale by HELCO of the leasehold improvements to Rocky River. No other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 6, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing

thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date or the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-8494 Filed 3-20-79; 8:45 am)

#### [8010-01-M]

(Release No. 6036; 18-35)

##### SIDLEY & AUSTIN RETIREMENT PLAN

##### Filing of Application for an Order Exempting From the Provisions of Section 5

Notice is hereby given that Sidley & Austin (hereinafter referred to as the "Applicant" or the "Firm"), One First National Plaza, Chicago, IL 60603, a law firm organized as a partnership under the laws of the State of Illinois, on February 7, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Sidley & Austin Retirement Plan ("Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

The Plan covers the Firm's partners, legal and non-legal personnel, of whom 102 partners, and 241 lawyers and non-lawyers were active participants on December 31, 1978. All employees of the Firm are eligible to participate in the Plan if they have completed one year of service with the Firm and are at least 25 years of age, except that persons over age 60 when hired are excluded.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners)

who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 ("Code"), and therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act, any interests or participations issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

##### DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant states that the Plan was originally adopted in 1972, and has been amended in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a ruling to the effect that the Plan, as so amended, continues to be a qualified plan under Section 401(a) of the Code. The Plan is an "employee pension benefit plan" subject to the fiduciary standards and to the full reporting and disclosure requirements of ERISA.

Applicant makes annual contributions to the Plan on behalf of all participants in amounts equal to specified percentages of their compensation. In addition, each participant may make voluntary contributions subject to certain limitations. Employer contributions are held in trust with the Chicago Title & Trust Company, and are invested at the direction of BEA Associates, Inc., a registered investment adviser designated by the Firm as investment manager for the Plan's assets. Voluntary contributions may be invested in one or more of three investment funds.

The Plan is administered by a Retirement Plan Committee ("Committee") consisting of at least three persons appointed by the Firm. Three partners of the Firm serve as trustees to the Plan. Neither the trustees nor the members of the Committee have any responsibility for the investment and management of Plan assets.

Applicant states that the Plan does not qualify for the statutory exemption because of its coverage of self-employed persons. However, Applicant submits that the information that would be required to be disclosed in a registration of participants' interests in the Plan would, in large part, in-

volve mere duplication of the financial and other information required to be disclosed under ERISA. Applicant further submits that the Plan is a single employer plan and is not designed to be marketed by a promoter to unrelated persons.

It appears that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest intent on the part of Congress that interests issued in connection with single employer Keogh plans necessarily should be registered under the Act. Rather, Congress excluded interests issued in connection with Keogh plans from the Section 3(a)(2) exemption primarily out of concern over interests or participations in Keogh funds with might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in financial matters.

Applicant concludes that for the foregoing reasons, granting the requested exemption would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 9, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following April 9, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements therefore.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-8495 Filed 3-20-79; 8:45 am)

#### [8010-01-M]

[Rel. No. 10628; 812-4340]

##### TEMPLETON GROWTH FUND, LTD.

##### Filing of Application for Amendment of Order of the Act to Permit Canadian Citizens to Constitute a Majority of Company's Board of Directors and Custody of Japanese Securities in Branch of United States Bank in Japan

MARCH 13, 1979.

Notice is hereby given that Templeton Growth Fund, Ltd. ("Applicant"), 155 University Avenue, Toronto, Ontario M5H 3B7, an open-end, diversified investment company incorporated under the laws of Canada on September 1, 1954, and permitted to register under the Investment Company Act of 1940 (the "Act") and to register its shares for sale in the United States under the Securities Act of 1933 by order of the Commission dated October 7, 1954, issued pursuant to Section 7(d) of the Act and Rule 7d-1 thereunder ("1954 Order") filed an application on June 2, 1978, and amendments thereto on October 2, 1978, and January 26, February 22, and March 8, 1979, for an order of the Commission amending the 1954 Order to permit (1) Canadian citizens to constitute a majority of Applicant's board of directors and (2) maintenance of Japanese securities in the Applicant's portfolio in the custody of a branch of a United States bank in Japan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The 1954 Order of the Commission was granted on the basis, among other things, of the Applicant's undertaking (1) that its by-laws would provide that not less than a majority of the directors of the Applicant must be citizens and residents of the United States as required by paragraph (b)(8)(iv) of Rule 7d-1 and (2) that the Applicant would maintain all of its assets in the United States in the custody of a custodian bank as required by paragraph (b)(8)(v) of Rule 7d-1.

The Applicant was organized under the laws of Canada and is currently subject to the Canada Corporations Act. The Applicant states that the Canada Business Corporations Act ("CBCA"), which came into force on March 24, 1975, provides that a majority of the directors of a Canadian corporation presently subject to the Canada Corporations Act must be resident Canadians. The Applicant further states that the Applicant will be required to file a certificate of continuation under the CBCA and to conform its by-laws and procedures to the provisions thereof no later than December 15, 1980, failing which the Ap-

plicant will be dissolved. The Applicant therefore requests that the terms of the 1954 Order of the Commission under Section 7(d) be modified to permit Applicant to amend its by-laws relating to composition of the board of directors to provide that the board shall include a majority of directors who are resident Canadians.

Applicant contends that since all of the directors on its board—both those who are United States citizens as well as those who are not—have executed and filed, and will continue to execute and file, the undertaking and agreement required by Rule 7d-1(b)(1), and all of the non-United States directors have consented, and will continue to consent, to the jurisdiction of United States courts, very little, if any, of the Commission's powers to enforce the Act will have been diminished or impaired as the result of reducing the United States directors on the board. On the other hand, it is asserted that if the application is not granted, the consequence will be that the Applicant will be dissolved for failure to comply with the CBCA. Moreover, Applicant has consented that, the requested amended order be conditioned upon Applicant's board or directors being constituted so that (1) so long as Mr. John M. Templeton a citizen of the United Kingdom, resident of Nassau, Bahamas, remains a director, the board shall include the largest number of United States directors permitted by applicable Canadian law, less one (Mr. Templeton), but in no event less than one-third of the entire board of directors and (2) from and after such time as Mr. Templeton for any reason ceases to serve on the board of directors, all positions on the board of directors which under applicable Canadian law, may be filled by persons other than Canadians shall be filled by persons who are United States citizens and residents.

The Applicant also seeks to amend its prior order to permit it to maintain its Japanese portfolio securities in the custody of a Japanese branch of The Chase Manhattan Bank, N.A. (the "Bank"). Pursuant to its investment policy, Applicant may invest in securities issued by companies or governments of any nation. At one time Japanese securities constituted over 50% of Applicant's portfolio. As of December 31, 1978, Applicant held over \$20 million in Japanese securities, constituting 10.8% of its total assets.

The application states that the rules of the Tokyo Stock Exchange require that the security certificates in settlement of a transaction be delivered on the third business day following the trade date. It is asserted that it is entirely impracticable to meet this condition unless the security certificates are kept physically with a custodian locat-



ed in Tokyo. Conversely, to require the Japanese securities to be maintained in a custody account physically within the United States compels Applicant to trade on a far less advantageous basis, for example, by borrowing securities temporarily for purposes of the trade from an investment banker in Tokyo.

In addition, it is stated that Japanese securities typically are issued in small denominations and in bearer form. Thus, there is a very high cost incurred for air freight and insurance for any delivery of such securities between the United States and Japan. Applicant submits that it will be unable to achieve best price and execution for its portfolio transactions unless its Japanese securities are lodged with a custodian located in Japan. For this purpose, Applicant intends to keep its Japanese portfolio securities in the custody of the Tokyo branch of The Chase Manhattan Bank, N.A. Under such an arrangement Applicant represents that the United States bank will be as fully responsible for the safekeeping of Applicant's assets as it would be if they were kept in the bank's custody in the United States, except for the incorporation in the bank's standard corporate custody agreement of provisions reflecting certain practices peculiar to Japanese securities and securities trading, and subject to Japanese law. Applicant stated that payment for Japanese portfolio securities purchased by it will be made only against receipt by the custodian of the certificates representing such securities and submits that the custody arrangement will provide full jurisdictional control within the United States of Applicant's assets for the protection of investors. If the application is granted, Applicant undertakes that it will at no time maintain more than 30% of its total assets outside the possession of a custodian physically situated within the United States without the approval of the Commission; that it has arranged for and will maintain an "expropriation" policy covering 50% of the value of Applicant's securities held in Japan; and that it will transfer promptly its Japanese securities to Applicant's custodian within the United States at any time upon written request by the Commission.

Rule 7d-1(b)(8)(ix) provides that any investment company applying under Rule 7d-1 for an order pursuant to Section 7(d) will not change its charter or by-laws in any manner inconsistent with paragraph (b) of Rule 7d-1 of the Act and the rules thereunder unless authorized by the Commission.

Notice is further given that any interested person may, not later than April 6, 1979, at 5:30 p.m., submit to

the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-8496 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

##### SMALL BUSINESS ADMINISTRATION

###### ALBRIGHT VENTURE CAPITAL, INC.

(Application No. 03/03-5141)

###### Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company, under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. *et seq.*), has been filed by Albright Venture Capital, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1978).

The officers, directors and stockholders of the applicant are as follows:

William A. V. Albright, President, Treasurer, Director, General Manager, 100% Stockholder, 12209 Piney Meetinghouse Rd., Potomac, Md. 20854.  
Carolynn G. Albright, Vice President, Secretary, Director, 12209 Piney Meetinghouse Rd., Potomac, Md. 20854.  
Raymond W. Bradley, Jr., Director, 3724 Foxcroft Rd., Charlotte, NC 28211.

The applicant, a North Carolina corporation, with its principal place of business located at 8005 Rappahannock Avenue, Jessup, Maryland 20794, will begin operations with \$300,000 of

paid-in capital and paid-in surplus derived from the sale of 30,500 shares of common stock. The applicant has submitted written assurances that its private capital will be increased to \$500,000 on or before October 1, 1979.

The applicant will conduct its activities principally in the State of Maryland, and in other areas in the Metropolitan Washington, D.C. area.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than April 5, 1979, (15 days from the date of publication of this notice), submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Jessup, Maryland.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: March 15, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator  
for Investment.

(FR Doc. 79-8566 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

(License No. 02/02-5358)

##### AMISTAD DOT VENTURE CAPITAL, INC.

###### Issuance of a License To Operate as a Small Business Investment Company

On December 27, 1978 a notice was published in the FEDERAL REGISTER (FR 43-60362) stating that Amistad DOT Venture Capital, 801 Second Avenue, New York, New York 10017 has filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business January 11, 1979 to submit their comment to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 02/02-5358 to Amistad DOT Venture Capital, Inc., on February 26, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: March 15, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator  
for Investment.

(FR Doc. 79-8567 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

(License No. 09/09-5231)

##### EQUITABLE CAPITAL CORP.

###### Issuance of a License To Operate as a Small Business Investment Company

On January 24, 1979, a notice was published in the FEDERAL REGISTER (44 FR 5038), stating that Equitable Capital Corporation, located at 419 Columbus Avenue, San Francisco, California 94133, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on February 8, 1979, and no comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-5231 to Equitable Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 14, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator  
for Investment.

(FR Doc. 79-8568 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

(Declaration of Disaster Loan Area No. 1590)

##### HAWAII

###### Declaration of Disaster Loan Area

As a result of the President's declaration, I find that Hawaii County and adjacent counties within the State of Hawaii constitute a disaster area because of damage resulting from severe storms and flooding beginning about February 15, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 17, 1979, and for economic injury until the close of business on November 14, 1979, at:

Small Business Administration, District Office, 300 Ala Moana, P.O. Box 50207, Honolulu, Hawaii 96850.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated March 15, 1979.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 79-8570 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

(License No. 08/08-0038)

##### MERCHANTS FINANCE COMPANY, INC.

###### License Surrender

Notice is hereby given that Merchants Finance Company, Inc., 1700 South 1800 West, Salt Lake City, Utah 84104, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Merchants Finance Company, Inc., was licensed by the Small Business Administration on April 15, 1971.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on February 27, 1979, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 16, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator  
for Investment.

(FR Doc. 79-8569 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

##### REGION I ADVISORY COUNCIL EXECUTIVE BOARD

###### Public Meeting

The Small Business Administration Region I Advisory Council Executive Board will hold a public meeting from 1:00 p.m. to 4:00 p.m., on Monday, April 9, 1979, in the Conference Room, 60 Battery March Street, 10th Floor, Boston, Massachusetts, to discuss such matters as may be presented by members, the staff of the Small Business Administration or others attending.

For further information, write or call John J. McNally, U.S. Small Business Administration, 60 Battery March Street, Boston, Massachusetts 02110—(617) 223-4495.

Date: March 16, 1979.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 79-8562 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

##### REGION II ADVISORY COUNCIL MEETING

###### Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographic area of New York, New York, will hold a public meeting at 2:30 p.m. on Tuesday, April 3, 1979, in Room 29-118, U.S. Federal Building, 26 Federal Plaza, New York, New York, to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending.

For further information, write or call Woodie G. Williams, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10007 (212) 264-1318.

Date: March 16, 1979.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 79-8563 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

##### REGION V ADVISORY COUNCIL MEETING

###### Public Meeting

The Small Business Administration Region V Advisory Council, located in



the geographical area of Indianapolis, Indiana, will hold a public meeting at 10:30 a.m. EST, on Monday, April 16, 1979, in the Midtown Ramada, 1530 North Meridian Street, Indianapolis, Indiana, to discuss such matters as may be presented by members, the staff of the Small Business Administration or others present.

For further information, write or call Janice E. Wolfe, Acting District Director, U.S. Small Business Administration, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204—(317)331-7275.

Dated: March 16, 1979.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 79-8565 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

##### REGION VI ADVISORY COUNCIL BOARD EXECUTIVE

###### Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, Texas, will hold a public meeting on Friday, April 6, 1979, at 9:30 a.m., at the Holiday Inn—City Room, 1015 Elm Street, Dallas, Texas, to discuss such matters as may be presented by members, the staff of the Small Business Administration or others present.

For further information, write or call Emly, S. Atkinson, District Director, U.S. Small Business Administration, 1100 Commerce Street, Dallas, Texas 75242—(214) 749-2706.

Date: March 16, 1979.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 79-8564 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

(Declaration of Disaster Loan Area No. 1587; Amendment No. 1)

##### WISCONSIN

###### Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 15554) is amended by adding Dane County and adjacent counties within the State of Wisconsin, which constitute a disaster area because of damage resulting from heavy snow which occurred on December 15, 1979 through February 5, 1979. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on May 3, 1979, and for economic injury until the close of business on December 3, 1979.

## NOTICES

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated March 9, 1979.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 79-8571 Filed 3-20-79; 8:45 am)

#### [8025-01-M]

##### REGION IX ADVISORY COUNCIL MEETING

###### Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Phoenix, Arizona, will hold a public meeting on Wednesday, April 18, 1979, at 12 Noon, at the Emperor's Garden Restaurant, 7228 First Avenue, Scottsdale, Arizona, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Stanley D. Goldberg, District Director, U.S. Small Business Administration, 3030 N. Central—Suite 1201, Phoenix, Arizona 85012—(602) 261-3700.

Dated: March 15, 1979.

K. DREW,  
Deputy Advocate  
for Advisory Councils.

(FR Doc. 79-3452 Filed 3-20-79; 8:45 am)

#### [4710-02-M]

##### DEPARTMENT OF STATE

###### Agency for International Development

###### RESEARCH ADVISORY COMMITTEE

###### Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on April 30, 1979 at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room 'B' and May 1, 1979, Department of State Bldg, 320 21st Street NW., Room 1107 to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the field of food and nutrition, health and population and urban development.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 each day. The meeting is open to the public. Robert C. Simpson, Director, Office of Program, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific in-

formation, contact Mr. Simpson, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (202) 235-8898.

Dated: March 12, 1979.

ROBERT C. SIMPSON,  
A.I.D. Representative,  
Research Advisory Committee.

(FR Doc. 79-8383 Filed 3-20-79; 8:45 am)

#### [4710-07-M]

(Public Notice CM-8/1741)

##### STUDY GROUP 9 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

###### Notice of Meeting

The Department of State announces that Study Group 9 of the U.S. National Organization for the International Radio Consultative Committee (CCIR) will meet on April 10, 1979 at 9:15 am, in the Third Floor Conference Room D, 2000 L Street, N.W., Washington, D.C.

Study Group 9 deals with questions relating to line-of-sight and trans-horizon radio-relay systems operating via terrestrial stations at frequencies above about 30 MHz. The purpose of the meeting is a review of current texts of Study Group 9 and the results of the Special Preparatory Meeting for the 1979 World Administrative Radio Conference, and establishment of a work program in preparation for the next international meeting of Study Group 9.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520 (telephone (202) 632-2592).

Dated: March 13, 1979.

GORDON L. HUFFCUTT,  
Chairman,  
U.S. CCIR National Committee.

(FR Doc. 79-8382 Filed 3-20-79; 8:45 am)

#### [4810-22-M]

##### DEPARTMENT OF THE TREASURY

###### Customs Service

###### (T.D. 79-86)

##### Forms Used For Declaration and Entry Of Foreign Repairs and Equipment Purchases By U.S. Vessels and Aircraft

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice informs the transportation community that effective June 1, 1979, Customs will require

Customs Form 226, "Record of Vessel/Aircraft Foreign Repair or Equipment Purchase" to be used in place of Customs Form 3415, "Declaration of Foreign Repairs to Vessels or Aircraft", and Customs Form 7535, "Vessel/Aircraft Foreign Repair or Equipment Purchase Entry". Customs Form 3415 and Customs Form 7535 have been replaced by Customs Form 226 in compliance with a Presidential directive to reduce the number of public use forms. These forms relate to the declaration and entry of foreign repairs to, or equipment purchases by, U.S. vessels and aircraft under section 466, Tariff, Act of 1930, as amended (19 U.S.C. 1466).

EFFECTIVE DATE: The use of Customs Form 226 shall be mandatory effective June 1, 1979.

##### FOR FURTHER INFORMATION CONTACT:

Allard P. D'Heur, Cargo Processing Branch, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5354).

##### SUPPLEMENTARY INFORMATION:

###### BACKGROUND

The master of a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in the foreign or coasting trade, at the port of first arrival from a foreign country, is required to declare on Customs Form 3415 any equipment, repair parts, or material purchased for the vessel, or any expense for repairs incurred, in a foreign country within the purview of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466). Entry on Customs Form 7535 is required to be made for such equipment or repairs. If no equipment has been purchased or repairs made, a declaration to that effect is required on Customs Form 3415. Sections 4.7(d)(1), 4.14(b), Customs Regulations (19 CFR 4.7(d)(1), 4.14(b)).

Under section 6.7(d), Customs Regulations (19 CFR 6.7(d)), the provisions of section 466, Tariff Act of 1930, as amended, are made applicable to aircraft of United States registry engaged in trade and arriving in the U.S., whether from a contiguous or noncontiguous foreign country. Sections 6.7(d) and (e) provide for the use by the aircraft commander of Customs Forms 3415 and 7535 in appropriate circumstances.

In compliance with a Presidential directive to reduce the number of public use forms, Customs has developed Customs Form 226 to replace Customs Forms 3415 and 7535. By Information Notice 78-58, dated May 26, 1978, Customs advised of the availability of the new form and provided that Customs

Forms 3415 and 7535 could continue to be used until supplies were exhausted.

## NOTICES

### ACTION

Effective April 1, 1979, Customs Forms 3415 and 7535 no longer will be made available by Customs. However, to minimize inconvenience to the public, those forms may continue to be used through May 31, 1979. Effective June 1, 1979, the use of Customs Form 226 will be mandatory.

Customs Form 226 is available from district directors of Customs at a price of \$1.80 per pad and 100 forms. It may be printed by private parties provided that the privately printed form conforms to the official version in size, wording, arrangement, quality and color of paper, and color of ink. Private parties should discontinue immediately any further printing of Customs Forms 3415 and 7535.

Appropriate conforming amendments to §§ 4.7, 4.14, and 6.7, Customs Regulations, to provide for the use of Customs Form 226 in place of Customs Forms 3415 and 7535, will be made as soon as possible.

### DRAFTING INFORMATION

The principal author of this document is Laurie S. Amster, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: March 14, 1979.

JACK T. LACY,  
Assistant Commissioner  
(Administration).

(FR Doc. 79-8530 Filed 3-20-79; 8:45 am)

#### [8320-01-M]

##### VETERANS ADMINISTRATION

###### WAGE COMMITTEE

###### Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, April 5, 1979  
Thursday, April 19, 1979  
Thursday, May 3, 1979  
Thursday, May 17, 1979  
Thursday, May 31, 1979  
Thursday, June 14, 1979  
Thursday, June 28, 1979

The meetings will convene at 2:30 p.m. and will be held in Room 817, Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the

development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)). Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)). However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, N.W., Washington, DC 20420.

Dated: March 14, 1979.

MAX CLELAND,  
Administrator.

(FR Doc. 79-8457 Filed 3-20-79; 8:45 am)

#### [7035-01-M]

##### INTERSTATE COMMERCE COMMISSION

(Notice No. 49)

##### ASSIGNMENT OF HEARINGS

MARCH 16, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps



to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 109736 (Sub No. 42F), Capitol Bus Company, application dismissed. No. MC-107403 (Sub-No. 1105F), Matlack, Inc., now assigned for hearing March 21, 1979, at Washington, D.C., is postponed and changed from hearing to Prehearing Conference, April 10, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC-2890 (Sub-No. 55F), American Buslines, Inc., MCC-10002, Greyhound Lines, Inc., V. American Buslines, Inc., now assigned for hearing on March 27, 1979, (3 days), at Harrisburg, Pa., is postponed to May 1, 1979, (3 days), at Harrisburg, Pa., in a hearing room to be later designated.

No. MC 103066 (Sub No. 66F), Stone Trucking Company, hearing now assigned April 3, 1979, at Houston, Texas is canceled and application dismissed.

No. MC 143546, Atlantic Marketing Cooperative Association, hearing canceled and application dismissed.

No. MC-115331 (Sub-No. 471F), Truck Transport Incorporated, No. MC-82063 (Sub-No. 96F), Klipsch Hauling Co., No. MC-110420 (Sub-No. 791F), Quality Carriers, Inc., now assigned for hearing on May 16, 1979, at the Offices of the Interstate Commerce Commission Washington, D.C.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8558 Filed 3-20-79; 8:45 am]

#### [7035-01-M]

[Docket No. AB-1 (Sub-No. 78F)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO. ABANDONMENT NEAR ORMSBY, MN, AND ESTHERVILLE, IA, IN MARTIN AND WATONWAN COUNTIES, MN, AND EMMET COUNTY, IA

#### Notice of Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a Certificate and Decision decided February 13, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad extending from milepost 136.0 near Ormsby, MN

to milepost 140.0 and milepost 142.4 to milepost 168.9 near Estherville, IA, a distance of 31.2 miles in Martin and Watonwan Counties, MN and Emmet County, IA. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago and North Western Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 5, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8555 Filed 3-20-79; 8:45 am]

#### [7035-01-M]

[Finance Docket No. 28933F]

MISSOURI PACIFIC RAILROAD CO.

Trackage Rights—Over Union Pacific Railroad Co. in Omaha, NE

Finance Docket No. 28933 F. Application filed February 6, 1979, by MISSOURI PACIFIC RAILROAD COMPANY (MoPac), 210 North 13th Street, St. Louis, MO 63103, for authority to operate certain of its trains over trackage owned by the Union Pacific Railroad Company (UP), 1416 Dodge Street, Omaha, NE 68179, for a distance of approximately 4.86 miles at Omaha-South Omaha, NE. The involved trackage lies generally between "O" Street, on the south, and the connection between tracks of MoPac and UP near the intersection of California and 12th Streets, on the north. Applicant's attorney is R. H. Stahlheber, same address as applicant.

MoPac has its own trackage between the end points of the UP trackage, but applicants claim that the proposed route is substantially shorter

and will permit savings in engine hours and will avoid service difficulties and delays at a number of street crossings and grades. Applicant presently conducts operations over the proposed route under a service order issued by the Commission.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation (F.D. No. 28933F), and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than May 7, 1979. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Decided: February 27, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. HOMME, Jr.,  
Secretary.

#### TIME TABLE

February 6, 1979—Application as supplemented filed with the Commission.

March 5, 1979—Because it takes approximately 3 days for service for FEDERAL REGISTER publication, the Commission must vote by this day.

March 8, 1979—Statutory deadline for publication in FEDERAL REGISTER.

The following date assumes the application is accepted and notice published on March 1, 1979.

April 16, 1979. Written comments are due.

If no opposition exists, the evidentiary record will close on April 16, 1979. The Commission must then issue a decision by October 8, 1979.

[FR Doc. 79-8554 Filed 3-20-79; 8:45 am]

#### [7035-01-M]

[Volume No. 11]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

#### TABLE OF CONTENTS LISTING

MARCH 14, 1979.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 29934 (MIF) (Notice of filing petition to modify certificate), filed November 20, 1978. Petitioner: LOBIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 180 Bridgeton, N.J. 08302. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Petitioner holds a motor common carrier certificate in MC-29934, issued January 10, 1941 authorizing in part, transportation *General Commodities* (except those of unusual value, and except dangerous explosives, liquors, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment), between Philadelphia, PA and points and places in New Jersey, those in New York, NY and Nassau, Suffolk, Rockland, and Westchester Counties, NY. By the instant petitions, petitioner seeks to modify the above authority by substituting "New Jersey" in lieu of that part of the present territorial description reading "Camden, Gloucester, Salem and Cumberland and Atlantic Counties, N.J."

Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

#### Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 57591 (Sub-4) (M1) (Republication of notice of filing petition for modification of certificate), filed January 17, 1978, published in the FEDERAL REGISTER issue of April 27, 1978, and republished this issue. Petitioner: EVANS DELIVERY CO., INC., P.O. Box 268, Pottsville, PA 17901. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. A Decision of the Commission, Review Board Number 3, decided January 9, 1979, and served February 12, 1979, finds that the present and future public convenience and necessity require modification of Certificate No. MC 57591 (Sub-4), issued May 1, 1972, authorizing transportation over regular routes, of *General commodities* (including commodities of unusual value, commodities in bulk, and commodities requiring special equipment, but excluding Classes A and B explosives and household goods as defined by the Commission), (1) Between Reading, PA, and Shenandoah, PA, serving all intermediate points: From Reading over PA Hwy 61 to junction PA Hwy 924 at Frackville, PA, thence over PA Hwy 924 to Shenandoah, and return over the same route; and (2) Between Pottsville, PA, and Minersville, PA, serving all intermediate points: From Pottsville over U.S. Hwy 209 to junction unnumbered highway (formerly PA Hwy 901), thence over unnumbered highway to Minersville, and return over the same route. Petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the de-

letion of "which are stations on the rail line of The PA Railroad Company" from the two places where it appears in the certificate; and deleting the restrictions in their entirety.

MC 117686 (Sub-194) (Republication), filed November 12, 1977, published in the FEDERAL REGISTER issue of January 12, 1978, and republished this issue. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. A Decision of the Commission, Review Board Number 2, decided April 25, 1978, and served May 9, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), between Northfield, MN and Fargo, ND, restricted to the transportation of traffic originating at the facilities of Fairway Foods, Inc., at the named points, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

MC 143317 (Sub-7F) (Republication), filed July 18, 1978, published in the FEDERAL REGISTER issue of September 14, 1978, and republished this issue. Applicant: GEORGE CLARK TRANSIT CO., a Corporation, 2902 Calumet Avenue, Manitowoc, WI 54220. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. A Decision of the Commission, Review Board Number 3, decided January 26, 1979, and served March 5, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Silica sand*, from points in Green Lake and Jackson County, WI, to points in IL, IN, IA, MI, ND, SD, WI, and MN (except from points in Green Lake County to Minneapolis), under contract with Fairwater Silica, Inc., of Fairwater, WI, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.



MC 144740F (Republication), filed May 11, 1978, published in the FEDERAL REGISTER issue of June 29, 1978, and republished this issue. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Jacob P. Billig, 2033 K Street NW, Washington, D.C. 20006. A Decision of the Commission, Review Board Number 1, decided February 8, 1979, and served March 5, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Whitman's Chocolate's Division, Pet Incorporated, at Philadelphia, PA, to points in AZ, AR, CA, CO, ID, LA, NM, NV, OK, OR, TX, UT, WA, and those in Shelby County, TN, under contract with Whitman's Chocolate's Division, Pet Incorporated, of Philadelphia, PA, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and indicate AR in lieu of AK as a destination point.

**MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS**

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased general-

ly, protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearings.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 46054 (Sub-79F) (Correction), filed September 25, 1978, previously noted in FEDERAL REGISTER of December 12, 1978 and republished this issue. Applicant: BROWN EXPRESS, INC., 428 South Main Avenue, San Antonio, TX 78285. Representative: Phillip Robinson, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX, and Oklahoma City, OK, over Interstate Hwy 35, serving no intermediate points, (2) between Dallas, TX, and Tulsa, OK: From Dallas over U.S. Hwy 75 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Indian Nation Turnpike, then over Indian Nation Turnpike to junction U.S. Hwy 75, then over U.S. Hwy 75 to Tulsa, and return over the same route, serving no intermediate points, (3) between Dallas, TX, and Indianapolis, IN: From Dallas over Interstate Hwy 30 to Little Rock, AR, then over Interstate Hwy 40 to Nashville, TN, then over Interstate

Hwy 65 to Indianapolis, and return over the same route, serving the intermediate point of Louisville, KY, and serving junction Interstate Hwy 30 and U.S. Hwy 59, and Memphis, TN, for purposes of joinder only, (4) between Louisville, KY, and Detroit, MI: From Louisville over Interstate Hwy 71, to junction Interstate Hwy 75, then over Interstate Hwy 75 to Detroit, and return over the same route, serving the intermediate points of Cincinnati and Toledo, OH, (5) between Houston, TX, and junction Interstate Hwy 30 and U.S. Hwy 59, over U.S. Hwy 59, serving no intermediate points, and serving junction Interstate Hwy 30 and U.S. Hwy 59 for purposes of joinder only; and (6) between Memphis, TN, and St. Louis, MO, over Interstate Hwy 55, serving Memphis for purposes of joinder only and serving St. Louis for purposes of interchange only, restricted in Routes (3) and (4) against the transportation of traffic originating at and destined to points in IN, KY, MI, or OH. (Hearing site: Laredo or Brownsville, TX.)

NOTE.—Dual operations are involved in this proceeding. **CONDITION:** The certificate to be issued in this proceeding, insofar as it authorizes the transportation of classes A and B explosives, shall be limited to a term expiring 5 years from its date of issuance.

NOTE.—The purpose of this republication is to indicate the territorial scope of restriction in Routes (3) and (4).

MC 104967 (Sub-12F), filed January 2, 1979. Applicant: TIGHE TRUCKING, INC., 45 Holton Street, Winchester, MA 01890. Representative: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Massachusetts. (Hearing site: Boston, MA.)

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 212 (b) application in MC-FC 77991 published in the FEDERAL REGISTER issue of February 15, 1979.

MC 118130 (Sub-94F), filed November 29, 1978, and previously noticed in the FEDERAL REGISTER issue of February 23, 1979. Applicant: SOUTH EASTERN EXPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and such other

*commodities as are dealt in or used by wholesale and retail chain and grocery houses*, (except commodities in bulk), between the facilities of Hudson Industries, Inc., at or near Troy and Brundidge, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery or Birmingham, AL.)

NOTE.—This republication changes the authority from granted to sought, and adds *foodstuffs* and *wholesale and retail chain* to the commodity description.

**MOTOR CARRIER INTRASTATE APPLICATION(S)**

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Tennessee Docket No. MC 5317 (Sub-3) (amendment), filed December 29, 1978. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment), (1) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45W, then via U.S. Hwy 45W to the Obion County Line, then via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said Counties (but serving no intermediate points between Jackson and the said Obion County Line), and return over the same route; and (2) From Jackson, TN via U.S. Hwy 45 to its junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to the Weakley County Line, then via any and all highways and roads in Weakley and Obion Counties, serving all points in said Counties (but serving no intermediate points between Jackson and the said Weakley County Line), and return over the same route.

Restricted against the handling of traffic which originates at, is destined to, or interlined at Jackson, TN, and points in its Commercial Zone, on the one hand, and, on the other, which originates at, is destined, to, or interlined at Nashville, TN, or Memphis, TN, and points in their respective Commercial Zones. Intrastate, interstate and foreign commerce authority sought. **HEARING:** March 27, 1979, at 9:30 a.m., The Oak Wood Restaurant, Hwy 22, in Dresden, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Bldg., Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

**FINANCE APPLICATIONS**

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before April 20, 1979. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-13310 (2d correction and notice) RYDER TRUCK LINES, INC.—CONTROL & MERGER—ALTO TRUCKING COMPANY, INC., published in September 29, 1977 issue of the FEDERAL REGISTER on pages 51719-51721; correction notice published in October 14, 1977 issue of FEDERAL REGISTER on pages 55343 and 55344. By order dated April 25, 1978, and served May 24, 1978, Review Board Number 5 approved the application herein. The rights to be transferred were set forth in Appendix A to the order. By Supplemental Decision dated January 18, 1979, and served February 8, 1979, Review Board Number 5 has determined that a portion of vendor's rights which were omitted from Appendix A should have been included therein. The omitted rights, authorized to be transferred upon publication and notice in the Federal Register, and as follows: Be-

tween Perth Amboy, NJ, and Irvington, NJ, serving no intermediate points: From Perth Amboy over New Jersey Highway 11 (formerly New Jersey Highway 4) to junction New Jersey Highway 27, thence over New Jersey Highway 27 to Rahway, thence over city streets through Lenox, Clark, Roselle, Roselle Park, and Kenilworth, to junction New Jersey Highway S24, thence over new Jersey Highway S24 to junction Salem Road, thence over city streets via Hillside, NJ, to Irvington, and return over the same route. From Perth Amboy over New Jersey Highway 11 (formerly New Jersey Highway 4) to junction New Jersey Highway 27, thence over New Jersey Highway 27 to junction Chestnut Street, thence over city streets via Roselle to Irvington, and return over the same route. From Perth Amboy over new Jersey Highway 35 to junction U.S. Highway 1, thence over U.S. Highway 1 to Elizabeth, thence over New Jersey Highway S24 and city streets to Irvington, and return over the same route. Between Perth Amboy, NJ, and Newark, NJ, serving no intermediate points: From Perth Amboy over Middlesex County Highway 1R6 to junction New Jersey Highway 27, thence over New Jersey Highway 27 to junction New Jersey Highway S28, thence over New Jersey Highway S28 to junction Somerset County Highway 1, thence over Somerset County Highway 1 to junction Somerset County Highway 16, thence over Somerset County Highway 16 to junction New Jersey Highway 28, thence over New Jersey Highway 28 to Dunellen, thence over Middlesex County Highway 2R3 to New Market, NJ, thence over New Market Road to South Plainfield, thence over Middlesex County Highway 2R2 to junction U.S. Highway 22, thence over U.S. Highway 22 to Newark, and return from Newark over U.S. Highway 1 to junction New Jersey Highway 35, thence over New Jersey Highway 35 to Perth Amboy, and return over the same route. Between Newark, NJ, and Bayonne, NJ, serving no intermediate points: From Newark over New Jersey Highway 25 to Jersey City, NJ, thence over city streets to Bayonne and return over the same route. **RESTRICTION:** The operations authorized herein are subject to the following conditions: Said operations are restricted against the transportation of traffic between Allentown, Bethlehem, and Easton, PA, on the one hand, and, on the other, Jersey City, NJ.

MC 13876F (correction), previously noticed in the FEDERAL REGISTER issue of February 8, 1979. Authority sought by BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104, to purchase a portion of the operating rights of ABC



Truck Lines, Inc., 728 West Idaho Street, P.O. Box 1824, Elko, NV 89801, and for acquisition by George A. Browning and Clifton M. Browning and Lowell D. Browning of control of such rights through purchase. Applicant's Representative: Ben D. Browning and Ronald D. Browning, Attorneys, 1321 SE Water Avenue, Portland, OR 97214. Operating rights to be purchased: General Commodities with the usual exceptions, over regular routes between Elko, NV and Owyhee, NV via State Route 11 to four miles beyond Dinner Station; via State Route 43 to Mountain City Ranger Station; and via State Route 11A to Owyhee, serving all intermediate points.

Vendee is authorized to operate as a common carrier in the States of UT, ID and OR pursuant to certificates issued in Docket MC-41932.

Application has been filed for temporary authority under Section 210a(b). In Docket MC-41932 (Sub No. 13F) application has been made to convert the above described authority to be purchased from a registered certificate to a certificate of public convenience and necessity. (Hearing sites: Boise, ID or Salt Lake City, UT.)

NOTE.—MC 41932 (sub 13F), is a directly related matter.

The purpose of this correction is to indicate MC 41932 Sub 13F as the directly related application in lieu of MC 41932 Sub 12F.

MC-F-13936F. Authority sought for purchase by BRIGGS TRANSPORTATION CO., North 400 Griggs-Midway Bldg., St. Paul, MN 55104, of a portion of the operating rights of Glendenning Motorways, Inc., P.O. Box 43947, St. Paul, MN 55164, and for acquisition of control of such rights by George E. Briggs, P.O. Box 906, Eau Claire, WI 54701, and Michael P. Wardwell, North 400 Griggs-Midway Bldg., St. Paul, MN 55104, through the purchase. Applicants' Attorneys: Carl L. Steiner, 39 S. La Salle St., Chicago, IL and Donald A. Morken, 1000 First National Bank Bldg., Minneapolis, MN 55104. Operating rights sought to be transferred are as a common carrier, over regular routes as follows: MC-43475 General commodities, with the usual exceptions, between West Allis, WI and Chicago, IL as follows: From West Allis, WI over U.S. Hwy 45 to junction IL 21, then over IL 21 to Chicago, IL and return over the same route. Briggs Transportation Co. is authorized to operate in the States of IL, IN, IA, OH, WI, MN, KS, KY, MO, NE, SD, CO and WY as a common carrier. Application has been filed for temporary authority under Section 210 a(b).

MC-F-13937F. Authority sought for purchase by UNIVERSAL CARTAGE,

INC., 640 W. Ireland Road, South Bend, IN, of a portion of the operating rights of EDGAR W. LONG, INC., Route 4, Zanesville, OH, and for acquisition by RONALD WHITEFORD, and FLORENCE WHITEFORD, both of 640 W. Ireland Rd., South Bend, of control of such rights through the transaction. Applicants' representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Operating rights sought to be purchased in MC 119547, Sub 1, involving the transportation of clay cat litter as a common carrier over irregular routes from Wrens, GA, to points in IN and OH with no transportation for compensation on return except as otherwise authorized; Sub-40-G, involving the transportation of clay cat litter from Wrens, GA, to points in WV; Sub E-1, involving the transportation of clay cat litter from Wrens, GA, to Chicago, IL, points in MI, WI, that part of PA, on and west of a line beginning at the NY-PA State line, then along U.S. Hwy 219 to junction U.S. Hwy 119, and thence along U.S. Hwy 119 to the PA-MD State line, points in the part of NY, west of a line beginning at Maple View, NY and extending along U.S. Hwy 11 to the NY-PA State line, and south of a line beginning at Maple View, NY and extending westward along U.S. Hwy 104 to Oswego, NY, and that part of IA on and north of I-80 and on and west of I-35; Sub 32, involving the transportation of charcoal in containers from points in Guernsey and Vinton Cos., OH and Nicholas Co., WV to points in that part of the U.S. on and east of the western boundaries of MN, IA, MO, AR, and LA, with no transportation for compensation on return except as otherwise authorized; Sub 48, involving the transportation of rolling doors, grills, and related components and parts from the facilities of Kinnear-Division of Harsco Corporation at Columbus, OH, to points in the U.S. (except AK and HI). Vendee is authorized to operate in the States of IN, IL, KY, MI, and OH. Transferee's commonly controlled companies C&C Cartage, Inc. and Whiteford Transport, Inc. are authorized to operate in all States (except AK, HI, WA, OR, CA, NV, ID, MT, WY, UT, AZ, and NM). Application has been filed for temporary authority under section 210a(b) of the Act.

MC-F-13938F. Authority sought by SARTAIN TRUCK LINE, INC., 1625 Hornbrook, Post Office Box 190, Dyersburg, TN, 38024 to purchase all of the operating rights of Dyersburg Express, Inc., 1625 Hornbrook, Post Office Box 190, Dyersburg, TN, 38024. Common control of both companies was approved in Docket No. MC-F-13291. Applicant's representative, Warren A. Goff, Attorney at Law, 2008 Clark Tower, Memphis, TN, 38137. Operating rights to be purchased: General Commodities, with the usual exceptions, over regular routes, from Memphis to Dyersburg, Tiptonville and Union City, all in Tennessee, serving some intermediate and off-route points.

Transferee is authorized to operate as a common carrier, transporting General Commodities, with the usual exceptions, over regular routes, between Memphis, TN, numerous points in west Tennessee and St. Louis, MO, but not between Memphis, TN and St. Louis, MO, pursuant to certificates issued in Docket No. MC 85970 and subs thereunder. Application has been filed for temporary authority under Section 210a(b). (Hearing sites: Washington, D.C.).

MC-F-13939F. Authority sought for control by MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL, 60438, of CHEMICAL TRANSPORTERS, INC., 15145 El Cameno Real Drive, Orland Park, IL 60462, through stock purchase, and for acquisition by ELTON BABBITT, 509 Noltan, Willow Springs, IL, 60480, of control of Chemical Transporters, Inc., through the acquisition. Applicant's attorney, William H. Towle, 180 North LaSalle Street, Chicago, IL, 60601. Operating rights sought to be controlled: Chemicals, in bulk, as a common carrier, from the plantsite of Amoco Chemical Corporation near Joliet, IL, to points in the U.S. (except points in AK, HI, NC, SC, VA, specified points in MI and TX, and a defined portion of TN). Montgomery Tank Lines, Inc. is authorized to operate within all States in the U.S. (except AK and HI). Application has been filed for Temporary Authority under Section 210 a(b).

NOTE.—If a hearing is deemed necessary, applicants request it be held in Chicago, IL.

MC-F-13940F. Authority sought for purchase by Charles A. McCauley, 308 Leasure Way, Bethlehem, Pa. 16242 of a portion of the operating rights of Edgar W. Long, Inc., 3815 Old Wheeling Road, Zanesville, Ohio 43701, and for acquisition by Charles A. McCauley, 308 Leasure Way, Bethlehem, Pa. 16242 of control of such rights through the purchase. Applicant's representatives: Henry M. Wick, Jr., Stanley E. Levine, 2310 Grant Building, Pittsburgh, Pa. 15219 for Transferee; Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, Ohio 43017 for Transferor. Operating rights sought to be transferred: (1) that portion of Certificate No. MC-119547 (Sub-No. 1) which authorizes the transportation of glassware, handmade, except ampules, bottles, carboys, demijohns and jars, from Belaire, OH to points in that part of PA on and east of U.S. Hwy. 11, and to

points in DC, MD, DE, NJ, and VA, with no transportation for compensation on return except as otherwise authorized; (2) that portion of Certificate No. MC-119547 (Sub-No. 16) which authorizes the transportation of malt beverages, from Columbus, OH to Beckley, Charleston, Huntington, Parkersburg, Ronceverte, Webster Springs, Weirton, and White Sulphur Springs, WV and Washington, PA, with no transportation for compensation on return except as otherwise authorized; (3) Certificate No. MC-119547 (Sub-No. 21); (4) Certificate No. MC-119547 (Sub-No. 31); (5) Certificate No. MC-119547 (Sub-No. 35); and (6) Certificate No. MC-119547 (Sub-No. 45). Vendee is authorized to operate in all States in the United States as a common carrier (except AK, HI, ID, MT, NM, ND, OK, OR, TX, WA, and WY). Application has been filed for temporary authority under Section 210a(b). (Hearing site: Washington, DC, Pittsburgh, PA or Columbus, OH.)

#### OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights applications are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before April 20, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 41932 (Sub-13F) (Correction) filed January 3, 1979. Previously noticed in the FEDERAL REGISTER issue of February 8, 1979. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104. Representative: Ben D. Browning, 1321 SE Water Avenue, Portland, OR 97214. Authority sought

to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except commodities in bulk, in tank vehicles commodities which by reason of size or weight require special equipment, household goods as defined by the Commission, and commodities of unusual value), (1) Between Elko, NV and Owyhee, NV, serving all intermediate points, over NV Hwy 51, (2) Between Mountain Home, ID and Owyhee, NV, over ID Hwy 51, to junction NV Hwy 51, then over NV Hwy 51 to Owyhee serving no intermediate points and serving Owyhee, NV for purpose of joinder only with the requested authority in (1) above, (3) Between Twin Falls, ID and Elko, NV, serving all intermediate points, from Twin Falls, over US Hwy 93 to Wells, NV, then over Interstate Hwy 80 to Elko, NV, and return over the same route. (4) Between Wells, NV and Salt Lake City, UT over Interstate Hwy 80, as an alternate route for operating convenience only between authority requested in (3) above and with applicant's existing regular route operations; and (5) Serving Duck Valley Indian Reservation located at points in ID and NV as an off-route point in connection with applicant's existing regular routes operations in MC 41932, which authorizes service between Salt Lake City, UT and Boise, ID over described Highways. (Hearing site: Boise ID or Salt Lake City, UT.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity in (1) above. Parts (2), (3), (4), and (5) above are authority extension requests. This application is directly related to MC-F-13876F and published in a previous section of the FEDERAL REGISTER issue. The purpose of this correction is to indicate the docket number as MC 41932 Sub-13F in lieu of MC 41932 Sub-12F as previously published.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.  
(FR Doc. 79-8589 Filed 3-20-79; 8:45 am)

#### [7035-01-M]

(Finance Docket No. 28971F)

PROVIDENCE AND WORCESTER CO.

Merger—Providence and Worcester Railroad Co.

PROVIDENCE AND WORCESTER COMPANY (P&W), One Depot Square Woonsocket, Providence County, RI 02895, represented by John L. Richardson, Esquire, and Steven H. Dorne, Esquire, 1660 L Street, N.W., Suite 100, Washington, DC 20036, hereby give notice that on the 23rd day of February, 1979, it filed with the Interstate Commerce Com-

mission at Washington, DC, an application filed under Section 11343 of the Interstate Commerce Act for a decision approving and authorizing the merger of Providence and Worcester into Providence and Worcester Railroad Company, and the acquisition by Providence and Worcester Railroad Company, as a result of the merger, of trackage rights over the lines of other carriers. The merger is part of a plan of corporate reorganization by Providence and Worcester Company. As a result of the merger, Providence and Worcester Railroad Company will operate as a railroad common carrier over the same routes and in the same manner as Providence and Worcester Company, and will acquire all trackage rights over the lines of other carriers now held by Providence and Worcester Company.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 353 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28971F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission



shall, at the same time, serve copies of such written comments upon the Applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8556 Filed 3-20-79; 8:45 am]

# [7035-01-M]

[EX PARTE No. 347]

## WESTERN COAL INVESTIGATION—GUIDELINES FOR RAILROAD RATE STRUCTURE

Intent to Prepare Environmental Impact Statement

MARCH 15, 1979.

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the Interstate Commerce Commission intends to prepare an environmental impact statement (EIS) on Ex Parte No. 347—*Western Coal Investigation—Guidelines for Railroad Rate Structure*. The Commission seeks to assess the environmental implications of the conduct of the proceeding which will focus on the determination of appropriate levels of minimum and/or maximum rates for large-volume movements of bituminous and lignite coal from origins in coal producing districts 16 through 22 (Montana, North and South Dakota, Colorado, Wyoming, Utah, Arizona and New Mexico) to all destinations in the continental United States.

The emphasis on the accelerated development of coal resources in the United States and recent regulations mandating use of coal in electric utilities and industry has resulted in a major expansion of coal mining west of the Mississippi River.

Major studies predict that this geographic area may be supplying approximately 50 percent of U.S. coal requirements by 1990.

It is recognized that the cost of transporting western coal could represent a crucial component in determining the short and long term market viability of this resource. Hence, the importance in developing guidelines governing the freight rate structure for western coal. Coal freight rates could attain levels which could trigger the utilization of alternative transportation modes and/or fuels. If, however, current projections for increased coal use are realized, the potentiality of environmental impacts resulting from expanding coal traffic must be addressed.

The EIS for this proceeding will identify, examine, and analyze the environmental consequences resulting from the use of western coal or the substitution of other fuels as well as the impacts of coal movement via alternative transportation modes (rail,

coal, slurry pipeline, etc). Both the short and long term impacts will be identified and examined.

The alternatives assessed in the EIS will be the use of alternative fuels and the transportation of coal by different modes.

The EIS will reflect the parameters inspired by the National Energy Act and implementing regulations in determining the extent of western coal production.

All interested agencies, organizations, or persons are invited to participate in scoping process as defined by current CEQ Regulations. Accordingly, a scoping meeting will be held in the Interstate Commerce Commission Bldg., 12th and Constitution Ave., N.W., Washington, DC 20423 at 10 a.m. on April 19, 1979.<sup>1</sup>

As lead agency for this EIS, the Interstate Commerce Commission has initiated actions to allocate assignments to cooperating agencies for the preparation of the EIS.

The environmental analyses contained in the EIS will be considered as an integral component of the agency's decision-making schedule. The preparation of the EIS is being so coordinated to insure timely and appropriate consideration of crucial environmental issues identified by the final document.

The Commission's contact person for this action is Mr. Robert Maestro, Assistant Chief, Section of Energy and Environment, Rm. 3375, Interstate Commerce Commission, 12th and Constitution Ave., NW, Washington, DC 20423 (telephone 202-275-7217).

Upon completion of the draft EIS, its availability will be announced in the FEDERAL REGISTER at which time public comments will be solicited. It is also contemplated that a public hearing will be held to consider the draft EIS. The time and place of this hearing will also be announced in the FEDERAL REGISTER.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8557 Filed 3-20-79; 8:45 am]

# [7035-01-M]

[Notice No. 40]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 12, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER.

<sup>1</sup> The meeting room number will be posted in the ICC Bldg. Lobby on that date.

TER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

### MOTOR CARRIERS OF PROPERTY

MC 9325 (Sub-77TA), filed February 15, 1979. Applicant: K LINES, INC., 17765 S. W. Boones Ferry Road, Lake Oswego, OR 97034. Representative: John A. Anderson, Suite 1440, 200 Market Building, Portland, OR 97201. *Salt cake, in bulk*, from San Francisco, CA to Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Owens-Illinois, 5850 N. E. 92nd Drive, Portland, OR. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 22509 (Sub-15TA), filed February 9, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. *Fibrous glass products and materials, mineral wool, mineral wool products and materials; insulated air ducts; insulating materials and products; glass fibre rovings, yarn and strands; glass fibre mats and matings; flexible air ducts (except commodities in bulk)* from facilities of CertainTeed Corporation at or near Kansas City, Kansas and Pauline, Kansas to points in IL, IN, MO, AR, LA, OK, TX, KY, TN and points in IA east of U.S.

Hiway 63 for 180 days. An underlying ETA seeks 90 day authority. Supporting Shipper(s): CertainTeed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 47583 (Sub-84TA), filed February 9, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS. *Waste and scrap paper (except commodities in bulk)* between all points and places in the States of AR, IA, KS, MO, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Batliner Paper Stock Co., 2501 Riverfront Road, Kansas City, MO 64120. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 106074 (Sub-84TA), filed February 14, 1979. Applicant: B & P MOTOR LINES, INC., P.O. Box 741, Forest City, NC 28043. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Household appliances, parts and accessories* from The Maytag Company at Newton, IA to points in NC, SC, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Maytag Company, Newton, IA 50208. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 106195 (Sub-24TA), filed February 16, 1978. Applicant: CLARK BROS. TRANSFER, INC., 900 North First, Norfolk, NE 68701. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Meats and packinghouse products*, from Madison, NE to points in KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): D. A. Chute, Armour Fresh Meat Co., 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 110420 (Sub-798TA), filed February 7, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St. NW., Washington, DC 20004. *Tallow, in bulk, in tank vehicles*, from the facilities of Iowa Beef Processors, Inc. at Emporia, KS, Dakota City & West Point, NE & Denison & Ft. Dodge, IA to points in AR, IL, IA, MO, OK, TN, TX, IN & WI, for 180 days. Supporting Shipper(s): Iowa Beef Processors,

Inc., Dakota City, NE 68731. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 110420 (Sub-799TA), filed February 8, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004. *Natural and synthetic tanning extracts, and liquid chemicals, in bulk*, from Andover and Peabody, MA to points in IL and WI, for 180 days. Supporting Shipper(s): Chemtan Co., Inc., Hampton Road, Exeter, NH 03833. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 110420 (Sub-800TA), filed February 14, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004. *Vegetable oils, in bulk, in tank vehicles*, from Minneapolis, MN to points in AR and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Spencer Kellogg, Div. of Textron, Inc., Box 307, 120 Delaware Ave., Buffalo, NY 14240. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 111401 (Sub-546TA), filed February 16, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Indible tallow, in bulk, in tank vehicles*, from Roswell, NM to Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glover, Inc., 1000 N. Garden, P.O. Box 40, Roswell, NM 88201. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-547TA), filed February 16, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum lubricating oil, in bulk, in tank vehicles*, from Princeton, LA to

El Centro, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, Suite 522, Dallas, TX 75206. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111548 (Sub-14TA), filed February 14, 1979. Applicant: SHARPE MOTOR LINES, INC., PO Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Avenue & 13th St., NW, Washington, DC 20004. *Veneer*, (1) from points in KY and Piqua, OH and Rockford, IL to points in NC; and (2) from points in IN to points in NC, except those in Burke, Caldwell McDowell and Catawba Counties, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 14 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 112989 (Sub-83TA), filed February 16, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Gypsum products* from Clark County, NV to San Diego, Orange, Riverside, Los Angeles, Ventura, San Bernardino, Kern, and Imperial Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Flintkote Company, 2201 E. Washington Blvd., Los Angeles, CA 90021. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 111548 (Sub-177TA), filed February 13, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., P.O. Box 95, Clay Center, NE., 68933. Representative: Howard N. Dahlsten (same address as applicant). *Paper bags*, from points in AR to the facilities of American Colloid Company located at or near Belle Fourche, SD; Lovell and Upton, WY; Gascoyne, ND; and Malta, MT. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Robert N. Garity, Transportation Specialist, American Colloid Company, P.O. Box 228, Skokie, IL., 60077. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE., 68508.

MC 115669 (Sub-178TA), filed February 13, 1979. Applicant: Dahlsten Truck Line, Inc., P.O. Box 95, Clay Center, NE., 68933. Representative: Howard N. Dahlsten (same address as



applicant). *Dry feed ingredients*, from the facilities of Clinton Corn Processing Co., at Clinton, IA., to points in IL, IN, and OH. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Allen D. Sloan, Manager, Traffic Department, Clinton Corn Processing Company, P.O. Box 340, Clinton, IA., 52732. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 118159 (Sub-316TA), filed February 16, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Tile, facing or flooring, or molding facing, baseboard or cove, cements, adhesives, and materials used in the installation thereof*, from the facilities of the GAF Corporation at or near Vails Gate, NY, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, and VA, for 180 days. Supporting Shipper(s): GAF Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119118 (Sub-61TA), filed February 12, 1979. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, PA 15650. Representative: Robert James, (same as above). *Malt beverages*, in containers, from Latrobe, PA to points in NH and VT and empties on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Latrobe Brewing Co., Box 350, Latrobe, PA 15650. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, PA 15222.

MC 119489 (Sub-56TA), filed February 16, 1979. Applicant: CENTRAL TRANSPORT CO., Box 249, 2500 N. 13th St., Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. *Tailors, in bulk, in tank vehicles*, from the facilities of Iowa Beef Processors, Inc., located at or near Dakota City and West Point, NE; Ft. Dodge and Denison, IA; and Luverne, MN to points in IL and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Glen C. Echelbarger, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 119765 (Sub-70TA), filed February 15, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 So. 27th St.,

Omaha, NE 68107. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Fresh pork*, from the facilities of Crest Mark Packing Company in Chicago, IL to points in MA and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Joseph R. Halper, Crest Mark Packing Company, 1435 W. Exchange Ave., Chicago, IL 60609. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 119767 (Sub-351TA), filed February 15, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004. *Prepared flour mixes and frosting mixes* (except in bulk) from the facilities of Chelsea Milling Co. at or near Chelsea, MI to Milan, IL; Boone, Cedar Rapids, Chariton and Des Moines, IA and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chelsea Milling Co., Chelsea, MI 48118. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 577 East Wisconsin Avenue, Room 619, Milwaukee WI 53202.

MC 121626 (Sub-11TA), filed February 16, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Frozen foods*, in vehicles equipped with mechanical refrigeration, (1) from the facilities of Campbell Soup Co. at Omaha and Fremont, NE to Modesto and Sacramento, CA and (2) from the facilities of Campbell Soup Co. at Modesto, CA to Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Soup Co., P.O. Box 3051, Modesto, CA 95353. Campbell Soup Co., 1202 Douglas, Omaha, NE 68102. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 124813 (Sub-195TA), filed February 2, 1979. Applicant: UMT HUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Steel tubing* from Green Bay, WI to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tectron Tube Corporation, Division of Menco Corporation, 1744 South Broadway, Green Bay, WI 54304. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-196TA), filed February 5, 1979. Applicant: UMT HUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Lime* from the facilities of Linwood Stone Products Company near Davenport, IA to Kenosha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Linwood Stone Products Company, 4321 East 60th Street, Davenport IA. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125368 (Sub-46TA), filed February 14, 1979. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Meats, meat products and supplies used in the manufacture of meat products* between the facilities of White Packing Company, King George, VA, on the one hand, and, on the other, points in AR, CO, CT, FL, IA, KS, LA, MA, MS, MO, NE, NH, NY, OK, SC, SD, WV, and WI, for 180 days. An underlying ETA was filed seeking 90 days authority. Supporting shipper(s): White Packing Company, Inc., P.O. Box 95, King George, VA 22485. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, NC 27611.

MC 125433 (Sub-210TA), filed February 9, 1979. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Bentonite, bentonite clay, and mud drilling compounds* from the facilities of Wyo-Ben Inc., at or near Greybull and Lovell, WY, to points in CA, for 180 days. Supporting shipper(s): Wyo-Ben Inc., P.O. Box 1979, Billings, MT 59103. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 126844 (Sub-71TA), filed February 12, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumway, IA 52501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, (except hides and commodities in bulk), from Beloit, WI to points in MD, NJ, NY, PA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 134427 (Sub-3TA), filed February 7, 1979. Applicant: JOHN T. SISK, Rt. 2, Box 182-B, Culpepper, VA 22701. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *Contract carrier*, irregular routes, *flour*, in bulk, in shipper-owned trailers, from facilities of Seaboard Allied Milling Corp., near Culpepper, VA to Greenwich, Hartford, New Haven and West Haven, CT and New York City, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seaboard Allied Milling Corp., Box 19148, Kansas City, MO 64141. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 134501 (Sub-43TA), filed February 15, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmund, OK 73034. *New furniture*, from the facilities of Pat Higdon Industries, Inc., Quincy, FL to Elverson, PA for 180 days. Underlying ETA filed. Supporting Shipper(s): Pat Higdon Industries, Inc., P.O. Box 796, Quincy, FL 32351. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 135185 (Sub-38TA), filed February 13, 1979. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract: irregular. Razors and razor blades, toilet articles and toilet preparations, pens and markers, shaving cream, stationery and stationery products, cigarette lighters, cleaning compounds and pads, hair curlers, hair spray, shampoo, sponges, fire extinguishers, electric appliances, deodorants, dispensers, sound warning signals, photographic equipment, materials and supplies, and display racks, stands and cabinets, and materials, equipment and supplies (except in bulk) used in the manufacture and distribution of the commodities named above*, from La Mirada, CA, to Andover and Boston, MA and points in their respective commercial zones and to points in IL, for 180 days. Restricted to a transportation service to be performed under a continuing contract or contracts with The Gillette Company of Andover, MA. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): The Gillette Company, 43rd Floor, Prudential Tower, Boston, MA 02109. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Feder-

al Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 135410 (Sub-43TA), filed February 14, 1979. Applicant: COURTNEY J. MUNSON, d.b.a., MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Attorney, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Frozen Meat*, from the facilities of Hill-N-Dale Meat Co., located at or near Downingtown, Pennsylvania, to points in Ohio, Indiana, Illinois, Missouri, Iowa, Nebraska and Wisconsin. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hill-N-Dale Meat Co., Dowlin Forge Road, Downingtown, PA 19335. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 135410 (Sub-44TA), filed February 15, 1979. Applicant: COURTNEY J. MUNSON, d.b.a., MUNSON TRUCKING, North 6th Street Road, Monmouth, IL 61462. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Alcoholic beverages and materials and supplies used in the manufacturing and sale of alcoholic beverages (except commodities in bulk)*, from the facilities of Hiram Walker & Sons, Inc., at Peoria, IL to Wilmington, DE; Baltimore and Silver Spring, MD; Concord, NH; Camden, Clifton, Newark, Pleasantville, Scobeyville and Union, NJ; Albany, Buffalo, Kingston, Liverpool, New York, Rochester, Syosset and Syracuse, NY; Kingston, Lebanon, Philadelphia, Pittsburgh and Youngwood, PA; Phoenix and Tucson, AZ; Burlingame, CA; and Denver, CO, and to points in the Commercial Zones of the respectively named cities, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hiram Walker & Sons, Inc., Foot of Edmund Street, Peoria, IL 61601. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 135410 (Sub-45TA), filed February 16, 1979. Applicant: COURTNEY J. MUNSON, d.b.a., MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Attorney, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Muscatine, IA to the facilities of Heinz U.S.A. at Toledo, OH and Pittsburgh, PA, restricted to the transportation of traffic originating at the named facilities and destined to the named destination points, for 180

days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 136291 (Sub-12TA), filed February 7, 1979. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Francis W. McInerney, 1000 16th St., N.W., Suite 502, Washington, D.C. 10035. *Contract carrier—Irregular route: Liquid nitrogen in specially designed cryogenic vehicles* from Baltimore, MD to New Hanover, NC and Charleston, SC; and from New Hanover, NC to Charleston, SC for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Carbide Corporation, 270 Park Avenue, New York, NY 10017. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bop, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 136818 (Sub-50TA), filed February 22, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, AZ 85030. Representative: Donald Ferns, 4040 East McDowell Rd., Phoenix, AZ 85030. *Lime*, from Dolomite, UT to points in AZ, CO, NM and TX. Supporting Shipper(s): White Eagle Stucco, Co., 301 South 30th Street, Phoenix, AZ 85034. Send protests to: Thomas E. Klobas, DS, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85925.

MC 138322 (Sub-7TA), filed February 13, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore, El Monte, CA 91734. Representative: Robert Fuller, 6119 Southwind Drive, Whittier, CA 90601. *Fabricated steel pallet rack material, steel shelving, fork lift trucks and fork lift truck parts*, from Springfield (Robertson County), TN; Dallas (Dallas County), TX; Chicago (Cook County), IL; and New York City, NY to Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting Shipper(s): M. E. Canfield Company, 2860 East Pico Boulevard, Los Angeles, CA 90023. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 138875 (Sub-138TA), filed February 9, 1979. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). *Food-*



stuffs in temperature controlled vehicles, from Newark, NJ and its commercial zone to the facilities of General Food Service located at or near Boise, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): General Food Service, 5710 Pan Am Str., Boise, ID 83706. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 139193 (Sub-94TA), filed February 13, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64123. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Contract irregular frozen foodstuffs, from the plant site warehouse facilities of Campbell Soups Co. at or near Omaha, NE to Mexico, Sikestown, Scotts City and Salem and St. Louis and its commercial zone, MO and Davenport, Cedar Falls, Des Moines, Chariton, Ankeny, Cedar Rapids, Boone, Laurens, and Dubuque, IA for 180 days. Supporting Shipper(s): Campbell Soups Co., 1202 Douglas St., Omaha, NE 68102. Send protests to: DS John V. Barry, ICC, 600 Fed Bldg., 911 Walnut, K.C., MO 64106.

MC 139261 (Sub-15TA), filed January 16, 1979. Applicant: BUCKEYE EXPRESS, INC., P.O. Box 368, Perysburg, OH 43551. Representative: Michael M. Briley, Esq., 300 Madison Ave., 12th Fl., Toledo, OH 43603. Contract irregular. (1) Bakery products and frozen bakery products, in vehicles equipped with mechanical refrigeration, and (2) materials and supplies used in preparation of items in part (1) above, except in bulk, between Livonia, MI on the one hand, and, on the other, all points in the United States, (except AK and HI); Limited to transportation services to be performed for and under a continuing contract, or contracts, with Awrey Bakeries, Incorporated, for 180 days. Supporting Shipper(s): Awrey Bakeries, Incorporated, 12301 Farmington Road, Livonia, MI 48150. Send protests to: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 139330 (Sub-4TA), filed February 12, 1979. Applicant: F.V.T. TRUCKING, INC., 106 Howard Drive, Williamstown, NJ 08094. Representative: Mark D. Russell, Suite 406-7, Walker Building, 734 15th Street, NW., Washington, DC 20005. (1) Fibrous glass products and materials, mineral wool, mineral wood products and materials, insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and matings; flexible air duct, except commodities in bulk, and (2) materials, equipment and supplies used in the manufacture of commod-

ities named in (1) above, except in bulk, between the facilities of CertainTeed Corporation, at or near Williamstown Junction, NJ, on the one hand, and, on the other, points in MA and VA, for 180 days. Supporting Shipper(s): CertainTeed Corporation (Insulation Grp.), P.O. Box 860, Valley Forge, PA 19482. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 140768 (Sub-32TA), filed February 12, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Air conditioners, heating equipment, stoves, ranges, trash compactors and associated parts and accessories from Fayetteville, TN to points in AR, CT, DC, FL, GA, LA, MA, MD, MO, NC, NY, NJ, OH, OK, PA, SC, TX and VA; materials and supplies (except in bulk) used in the manufacture, packaging and distribution of the commodities above from points in CT, OH, OK, and PA to Fayetteville, TX for 180 days. Common carrier, irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Amana Refrigeration, Inc., Wilson Parkway, Fayetteville, TN 37334. Send protests to: Irwin Rose, TS, ICC, 9 Clinton Street, RM 618, Newark, NJ 07102.

MC 141450 (Sub-11TA), filed February 12, 1979. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Contract carrier, irregular routes; Materials and Supplies used in the manufacture of paint (except commodities in bulk) between points in OH, NY, NJ, PA, AL, GA, and FL. Supporting Shipper(s): Martin Trading Corporation, P.O. Box 5262, Ft. Lauderdale, FL 33310. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 142269 (Sub-7TA), filed February 5, 1979. Applicant: EAGLE HAWK CORP. d.b.a. ALL IOWA LTL PERISHABLE SERVICE, P.O. Box 155, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. Meat, meat products, meat by-products and articles distributed by meat packing-houses, except hides and commodities in bulk, from the facilities of Geo. A. Hormel & Co. at Ft. Dodge, IA, and Huron and Sioux Falls, SD, to points in CT, GA, MD, MA, NJ, NY, OK, OH and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W.

Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 142399 (Sub-1TA), filed February 13, 1979. Applicant: ELLER-BROCK TRUCKING, INC., Highway 20, East, Sac City, IA 50583. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Farm machinery, materials, supplies and parts used in the manufacturing and distribution of farm machinery (except commodities in bulk), between the facilities of Lear Siegler-Noble Division at or near Sac City, IA and AL, AR, CO, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, ND, OK, OH, SD, TN, TX, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Lear Siegler-Noble Division, N. 16th St., Sac City, IA 50583. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 143117 (Sub-8TA), filed February 13, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). Contract carrier; irregular routes; General commodities (usual exceptions), from Rouses Point, NY, to points in OH, MI, KY, TN, PA, IL, IN, WI, MN, IA, MO, KS, SD, ND, CO, OK, TX, AR, LA, AL, WV, AZ, CA, FL, GA, ID, MS, MT, MS, NV, NM, NC, OR, SC, UT, VA, WA, WY, and NE, under contract with Champlain Valley International Shippers & Receivers Association, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Champlain Valley International Shippers & Receivers Association, Inc., P.O. Box 277, Rouses Point, NY 12979. SEND PROTEST TO: Ross J. Seymour, DS, ICC, Rm 3, 6 Loudon Rd., Concord, NH 03301.

MC 144398 (Sub-1TA), filed February 15, 1979. Applicant: WAYNE TRANSPORTS, INC., Box 36, Milaca, MN 56353. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Sugar, in bulk, from Renville, MN and Wahpeton, ND to points in the Chicago, IL Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): North Central Sugar Marketing Cooperative, 219 Shelard Plaza, Minneapolis, MN. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144616 (Sub-1TA), filed February 13, 1979. Applicant: TRUCKS, INC., P.O. Box 79113, Saginaw, TX 76179. Representative: Harry F. Horak, 5001 Brentwood Stair Road, Suite 115, Fort Wayne, TX 76112. Meat, meat products, meat by-products and articles distributed by meat pack-

inghouses as described in Sections A, B and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux Falls, SD and Estherville, IA, to points in CT, MD, MA, NJ, NY, PA, and RI; restricted to traffic originating at the facilities of John Morrell & Co. at or near the named origins and destined to the named destination states, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Martha A. Powell, Transportation Asst., Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 144709 (Sub-6TA), filed February 14, 1979. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. 180-day Temporary Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting (1) Activated Carbon, in dump trailers, from Neville Island, PA and Catlettsburgh, KY to points in ME, NH, VT, and MA and (2) Spent Carbon, in dump trailers, from points in ME, NH, VT, and MA to Neville Island, PA and Catlettsburgh, KY. An underlying ETA seeks 90 days authority. Restricted to a transportation service to be performed under a continuing contract or contracts with Calgon Corporation of Pittsburgh, PA. Supporting Shipper(s): Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145402 (Sub-3TA), filed February 15, 1979. Applicant: LAKE LINE EXPRESS, INC., P.O. Box 566, Wausau, WI 54401. Representative: Richard Nestley, 4506, Regent St., Suite 100, Madison, WI 53705. Common carrier; regular routes; General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities of Essex International Corp. at Berrien Springs, MI as an off-route point in connection with applicant's presently authorized regular route service, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Miller Electric Mfg. Co., 718 Bounds St., Appleton, WI 54911. Send protests to: Gall Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East

Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145423 (Sub-2TA), filed February 14, 1979. Applicant: C. VAN BOXELL TRANSPORTATION CO., 763 South Oakwood, Detroit, MI 48217. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Roofing, roofing materials, roofing products, roofing insulation, and materials, equipment and supplies used in the installation or manufacture of the foregoing, from Detroit, MI to points in IN and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659, James K. Terry, General Traffic Manager. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI 48226.

MC 145493 (Sub-3TA), filed February 9, 1979. Applicant: CLARENCE E. RAY, JR., AND A. E. BROWN, d.b.a. LONGVIEW LIMOUSINE SERVICE, P.O. Box 8171, Longview, TX 75602. Representative: Billy R. Reld, P.O. Box 8335, Fort Worth, TX 76112. Parcels and express having an immediate prior or subsequent movement by air, between Longview and Marshall, TX, on the one hand, and, on the other, Shreveport Regional Airport, Shreveport, LA for 180 days. An underlying ETA filed. Supporting Shipper(s): Le-Tourneau Sales & Service, Inc., P.O. Box 8027, Longview, TX 75602. ICI Americas, Marshall, TX. Snerck Equipment Co., 291 S. Eastman Rd., Longview, TX 75602. Travel World, Inc., 801 W. Cotton, Longview, TX 75602. Duncan's Rainbow Floral, 314 East Travis, Marshall, TX 75670. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145908 (Sub-1TA), filed February 16, 1979. Applicant: RONALD JAMES BURROWS, 915 Polk Lane, Cleveland, WI 53015. Representative: James R. Evans, 145 N. Wisconsin Ave., Neenah, WI 54956. Contract carrier; irregular routes; Scrap metals and waste products between Newton, WI on the one hand, and Chicago and Rockford, IL; Bedford and Crane, IN; and Louisville and Fort Knox, KY, on the other, under continuing contract or contracts with B & B Metals Processing Co., Newton, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): B & Metals Processing Co., Route 1, Newton, WI 53063. Send protests to: Gall Daugherty, Transportation Asst., Interstate Commerce Commission,

Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145950 (Sub-4TA), filed January 29, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: A. C. Horne, 2611 University Parks Drive, Waco, TX 76706. Canned and preserved foodstuffs (except commodities in bulk), from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Muscatine, IA, to Grand Prairie, TX; Greenville, SC; and Jacksonville, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Martha A. Powell, Transportation Assistant, Interstate Commerce Commission, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 145967 (Sub-1TA), filed February 7, 1979. Applicant: W. O. Wood & SONS, INC., Rt. 1, Box 73, Sandy Ridge, NC 27046. Representative: W. Oscar Wood, Rt. 1, Box 73, Sandy Ridge, NC 27046. Contract Carrier; irregular routes; Fertilizer and fertilizer materials (bagged) for the account of Smith-Douglass, Division of Borden Chemical, Inc. from Danville, VA to points in NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Smith-Douglass, Division of Borden Chemical, Borden, Inc., P.O. Box 419, Norfolk, VA 23501. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd. Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146079 (Sub-1TA), filed January 19, 1979. Applicant: JACKSON TRANSPORTATION, INC., R.R. 1, Box 410A, Clayton, IN 46118. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Automotive parts, and equipment, materials and supplies used in the manufacture and production of motor vehicles, between the facilities of General Motors Corporation at Indianapolis, IN, on the one hand, and on the other, the facilities of General Motors Corporation at Flint, Pontiac, and Detroit, MI; Janesville, WI; St. Louis, MO; Atlanta, GA; Baltimore, MD; and Chicago, IL for 180 days. Supporting Shipper(s): General Motors Corporation, Chevrolet Motor Div., 340 White River Parkway, W. Drive South, Indianapolis, IN 46206. Send protests to: Beverly J. Williams, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 146165 (Sub-1TA), filed February 13, 1979. Applicant: BEN'S TRANSPORTATION, INC., Furnace Hill, Cheshire, MA 01225. Representa-



tive: David M. Marshall, Marshall & Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Alum aluminate sulfate, rosin sizing, sodium aluminate and sulfuric acid*, in bulk, between the facilities of Holland Company, Inc., Adams, MA, on the one hand, and, on the other, points in ME, NH, VT, CT, RI, NY, NJ and PA, for 180 days. Supporting Shipper(s): Holland Company, Inc., Howland Avenue, Adams, MA 01220. Send protests to: David M. Miller, District Supervisor, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 146179 (Sub-1TA), filed February 15, 1979. Applicant: R & E, INC., 4009 Dahlman Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Meats and packing-house products*, from Omaha, NE to points in IL, IN, IA, KS, MI, MN, OH, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): David A. Kousgaard, Palamera Beef Corp., 25th & Z Streets, Omaha, NE. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 146193 (Sub-1TA), filed February 15, 1979. Applicant: CAMPBELL GRAIN CORP., P.O. Box 94, Humeston, IA 50123. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. *Sewage treatment equipment and materials and supplies used in the manufacture of sewage treatment equipment*, between the facilities of Johnson Machine Works at Chariton, IA, and Northwest Welding at Bloomington, IL; and from the facilities of Johnson Machine Works at Chariton, IA, to points in IL, TN, OH, MO, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Lakeside Equipment Corp., 1022 East Devon Avenue, Bartlett, IL 60103. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146211 (Sub-1TA), filed February 14, 1979. Applicant: DAVID M. LARSON AND BRENT R. LARSON d.b.a. LARSON BROTHERS, P.O. Box 605, Ephraim, UT 84629. Representative: D. Michael Jorgensen, P.O. Box 2465, Salt Lake City, UT 84110. *Travel trailers* (1) from Hemet, CA, to Spanish Fork, UT, and (2) from Ephraim, UT, to points in CA on and south of Interstate Hwy. 80, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Roadrunner Division, 475 W. 1st N., Ephraim, UT 84627. Miller Camper & Trailer Sales Corp., 950 E. 800 No., Spanish Fork, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 146221 (Sub-1TA), filed February 16, 1979. Applicant: WILLIAM W. ROBINSON d.b.a. R. & J. EXPRESS, 810 Saratoga Ave. Suite N-102, San Jose, CA 95129. Representative: William W. Robinson, (same as applicant). Contract carrier: irregular routes: *Un-crated electronic games and shippers trailers with and without electronic games permanently installed*, between Sunnyvale, CA and points within the U.S., except AK and HI, for the account of Ramtek Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ramtek Corporation, 292 Commercial St., Sunnyvale, CA 94086. Send protests to: District Supervisor M. M. Bulter, 211 Main—Suite 500, San Francisco, CA 94105.

MC 146283 (Sub-1TA), filed February 15, 1979. Applicant: JAMES BASIN TRUCK COMPANY, 1323 W. 3rd Avenue, Mitchell, SD 57301. Representative: Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. Contract carrier: irregular routes: *Fly ash* from Sioux City, IA to ND, MN, SD and WY for the account of Power Plant Aggregates of Iowa, Inc., and Midwest Fly Ash for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Power Plant Aggregates of Iowa, Inc., Box 3557, Sioux City, IA 51102. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146286 (Sub-1TA), filed February 12, 1979. Applicant: P & C TRUCKING, INC., 8011 Green Bay Rd., Kenosha, WI 53142. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. Contract carrier: irregular routes: *Precast concrete and concrete products* from the facilities of Modern Building Materials, Inc. at or near Kenosha, WI to IL, IN and IA, restricted to service performed under a continuing contract or contracts with Modern Building Materials, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Modern Building Materials, Inc., 8011 Green Bay Rd., Kenosha, WI 53142. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

By the Commission.

H. G. HOMME,  
Secretary.

[FR Doc. 79-8553 Filed 3-20-79; 8:45 am]

## [1505-01-M]

[Notice No. 14]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

## Corrections

In FR Doc. 79-3243, appearing at page 6253, in the issue of Wednesday, January 31, 1979, make the following corrections:

(1) On page 6255, in the third column, the third paragraph, the first line, correct "MC 114735" to read "MC 114725".

(2) On page 6259, in the last paragraph, the first line, correct "MC 145889 (Sub-1TA)" to read "MC 145889 (Sub-TA)".

## [1505-01-M]

[Notice No. 15]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

## Correction

In FR Doc. 79-3885, appearing at page 7032, in the issue of Monday, February 5, 1979, on page 7037, in the middle column, the second full paragraph, the first line, correct "MC 12855" to read "MC 128555".

## [6450-01-M]

## DEPARTMENT OF ENERGY

## Economic Regulatory Administration

[ERA Docket No. 79-02-NG, FERC Docket No. CP71-223]

## GREAT LAKES GAS TRANSMISSION CO.

## Application

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Amendment to Import Authorization, and Invitation to Submit Petitions to Intervene.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the Application of Great Lakes Gas Transmission Company (Great Lakes) to amend its current authorization to increase the volume of natural gas it may import for resale by the amount of 1.3 billion cubic feet (Bcf) annually. Great Lakes will purchase the gas from TransCanada Pipelines Limited (TransCanada). This volume of gas has been previously authorized for import by Great Lakes for use as compressor fuel and for other company uses, but presently cannot be imported for resale because of restrictions in TransCanada's export license and Great Lakes'

import authorizations. The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204-25. Petitions to intervene are invited.

DATES: Petitions to intervene: To be filed on or before April 5, 1979.

## FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, Office of Fuels Regulation, 2000 M St., N.W., Room 6318, Washington, D.C. 20461, 202-254-9730.

Martin S. Kaufman, Office of General Counsel, Room 5116, Federal Building, 12th and Pa., Ave., N.W., Washington, D.C. 20461, 202-633-9380.

SUPPLEMENTARY INFORMATION: Great Lakes states that, by import authorization issued June 1, 1971 (45 FPC 1037), Docket No. CP71-223, the Federal Power Commission (Commission) allowed Great Lakes to import from TransCanada for resale in the United States 1.3 Bcf of natural gas which has been previously authorized to be imported for compressor fuel or other company use, but which is not now required for such uses as a result of the conservation of gas resulting from a loop pipeline installed by Great Lakes. This looping is expected to reduce the amount of fuel gas required by the company in rendering transportation and sales services. On November 3, 1978, TransCanada filed an application with the National Energy Board of Canada (NEB) to amend its Export License No. GL-43.

While approval of this amendment will not allow any increase in the overall amount of gas TransCanada is authorized to export, it will allow the exportation to Great Lakes for sale to U.S. customers the 1.3 Bcf of natural gas annually which Great Lakes is expected to save due to the looping program. The approval of the amendment presently applied for will allow Great Lakes to import the additional gas commencing with the first day of the month following the date on which all requisite Canadian and U.S. regulatory approvals have been received. The two U.S. customers of Great Lakes having agreed to purchase this gas are: Natural Gas Pipeline Company of America, 2.604 Mcf per day; Michigan Consolidated Gas Company, 957 Mcf per day. The border price for the proposed imports is the current price of \$2.16 per MMBtu. The entry point is Great Lakes' existing interconnection with TransCanada on the international boundary near Emerson, Manitoba.

## OTHER INFORMATION

The ERA invites petitions for intervention in the proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C., 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 P.M., April 5, 1979.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition and application for temporary certificate should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. A formal hearing will not be held unless a motion for such hearing is made by any party or intervenor and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of Great Lakes' petition is available for public inspection and copying in Room B-120, 2000 M Street, N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on March 14, 1979.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

[FR Doc. 79-8370 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[ERA Docket No. 79-04-NG]

## MIDWESTERN GAS TRANSMISSION CO.

## Application for Amendment to Existing Authorization To Import Natural Gas

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Receipt of Application and invitation to submit petitions to intervene in the proceedings.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application by Midwestern Gas Transmission Company (Midwestern), in ERA Docket No. 79-04-NG, for authorization under Section 3 of the Natural Gas Act to import an additional volume of

114,000,000 Mcf of natural gas, at up to 350,000 Mcf per day, from Canada through existing facilities at a point on the United States-Canadian boundary near Emerson, Manitoba. This natural gas would be purchased from TransCanada Pipeline Limited (TransCanada) and resold to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company (Northern Natural) and Natural Gas Pipeline Company of America (Natural). Petitions to intervene are invited.

DATES: Petitions to intervene: April 13, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Office of Fuels Regulation, Economic Regulatory Administration, 2000 M St., N.W., Room 6318, Washington, D.C. 20461, Telephone: (202) 254-9730.

SUPPLEMENTARY INFORMATION: Background. On January 25, 1979, Midwestern Gas Transmission Company, 1100 Milam Building, Houston, Texas 77002, filed an application for amendment to existing authorization to import natural gas under Section 3 of the Natural Gas Act. Through its requested amendment Midwestern seeks authorization to import an additional volume of 114,000,000 Mcf of natural gas at up to 350,000 Mcf per day. Midwestern states that "such quantity is generated from a total quantity of gas previously authorized to be imported but which quantity could not previously be imported due to daily and annual restriction in TransCanada's export license and in Midwestern's import authorization." The natural gas would be imported through existing facilities on the United States-Canadian boundary near Emerson, Manitoba, at the interconnection of the Midwestern and TransCanada pipeline systems. The additional natural gas would be resold to Tennessee, Northern Natural and Natural pursuant to authorization sought in Midwestern's application, in Docket No. CP79-161, filed with the Federal Energy Regulatory Commission.

Midwestern states that the Canadian National Energy Board (NEB), by order issued December 7, 1978, authorized TransCanada to waive maximum daily delivery limitations under its License No. GL-18 to one year from November 1, 1978. This NEB order leaves unchanged the total quantity of 1.2 trillion cubic feet that can be exported under License No. GL-18. Midwestern requests authorization to import additional natural gas until and including October 31, 1980.

Midwestern also states that the additional natural gas will be purchased at



the current border price of \$2.16 (U.S.) per MMBtu and that the proposed import will not have a rate impact on Midwestern's customers.

#### OTHER INFORMATION

The Midwestern petition in ERA Docket No. 79-04-NG is on file with the ERA and open to inspection in the Public Docket Room at 2000 M Street, N.W., Washington, D.C., Room B-110, between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except for Federal holidays.

The ERA is hereby inviting petitions for intervention in the proceedings. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on April 13, 1979.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the Midwestern petition should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Pursuant to the authority contained in Section 3 of the Natural Gas Act, as delegated to the ERA, in the Department of Energy Delegation Order Nos. 0204-4 (42 FR 60726, November 29, 1977) and 0204-25 (43 FR 47769, October 17, 1978), and the rules of practice and procedure, a formal hearing will not be held unless a motion for such hearing is made by any party or intervenor and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is deemed required, due notice will be given.

Issued in Washington, D.C., on March 14, 1979.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

(FR Doc. 79-8371 Filed 3-20-79; 8:45 am)

#### NOTICES

[6450-01-M]

#### Federal Energy Regulatory Commission FLORIDA

#### Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

MARCH 12, 1979.

On March 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

#### STATE OF FLORIDA

#### DEPARTMENT OF NATURAL RESOURCES

FERC Control Number: JD79-631  
API Well Number: 091132017601  
Section of NGPA: 107  
Operator: Exxon Corporation  
Well Name: Lawrence L. Malone et ux 41-4A  
Field: Jay/LEC  
County: Santa Rosa  
Purchaser: Florida Gas Transmission Co.  
Volume: 1530 MMcf.

FERC Control Number: JD79-632  
API Well Number: 0911320170  
Section of NGPA: 107  
Operator: Exxon Corporation

Well Name: J. B. Swift et al No. 10-5  
Field: Jay/LEC  
County: Santa Rosa  
Purchaser: Florida Gas Transmission Co.  
Volume: 3100 MMcf.

FERC Control Number: JD79-633  
API Well Number: 0911320165  
Section of NGPA: 107  
Operator: Exxon Corporation  
Well Name: McDavid Lands No. 7-6  
Field: Jay/LEC  
County: Santa Rosa  
Purchaser: Florida Gas Transmission Co.  
Volume: 2280 MMcf.

FERC Control Number: JD79-634  
API Well Number: 0911320158  
Section of NGPA: 107  
Operator: Exxon Corporation  
Well Name: C. Higdon et al No. 19-5  
Field: Jay/LEC  
County: Santa Rosa  
Purchaser: Florida Gas Transmission Co.  
Volume: 1035 MMcf.

FERC Control Number: JD79-635  
API Well Number: 0903320029  
Section of NGPA: 107  
Operator: Exxon Corporation  
Well Name: McDavid Lands No. 31-2  
Field: Jay/LEC  
County: Escambia  
Purchaser: Florida Gas Transmission Co.  
Volume: 1780 MMcf.

FERC Control Number: JD79-636  
API Well Number: 0903320028  
Section of NGPA: 107  
Operator: Exxon Corporation

Well Name: McDavid Lands No. 7-5  
Field: Jay/LEC  
County: Santa Rosa  
Purchaser: Florida Gas Transmission Co.  
Volume: 1425 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials

in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8391 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. RM79-3)

#### NATURAL GAS POLICY ACT OF 1978

#### Receipt of Report of Determination Process

MARCH 15, 1979.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

#### Agency and Date

State of New Mexico Energy and Minerals Department, Oil Conservation Division, November 29, 1978

State of Louisiana Department of Conservation, November 29, 1978  
Railroad Commission of Texas, November 30, 1978

West Virginia Department of Mines, Oil and Gas Division, November 30, 1978  
Alabama State Oil and Gas Board, November 30, 1978

State Oil and Gas Board of Mississippi, November 30, 1978  
Kansas State Corporation Commission Conservation Division, November 30, 1978

State of Michigan, Department of Natural Resources, Geological Survey Division, December 1, 1978

(Supplemental Report), March 7, 1979  
State of California Department of Conservation Division of Oil and Gas, December 4, 1978

Commonwealth of Virginia Department of Labor and Industry Division of Mines and Quarries, December 4, 1978

State of Wyoming Office of Oil and Gas Conservation Commission, December 4, 1978

State of Colorado Department of Natural Resources, December 5, 1978

#### NOTICES

State of Ohio Department of Natural Resources Division of Oil and Gas, December 6, 1978

State of Alaska Oil and Gas Conservation Commission, December 11, 1978  
State of Arizona Oil and Gas Conservation Commission, December 14, 1978

State of Nebraska Oil and Gas Conservation Commission, December 15, 1978  
State of Tennessee Oil and Gas Board, December 19, 1978

State of Indiana Department of Natural Resources, December 26, 1978  
State of Pennsylvania Department of Environmental Resources, Division of Oil and Gas, December 26, 1978

State of Florida Department of Natural Resources, January 3, 1979  
State of North Dakota Geological Survey, January 4, 1979

State of Illinois, Department of Mines & Minerals, Oil and Gas Division, January 5, 1979

United States Department of Interior, Geological Survey, January 19, 1979  
State of Montana Department of Natural Resources and Conservation, January 29, 1979

State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining, January 30, 1979

Commonwealth of Kentucky Department of Mines and Minerals, Division of Oil & Gas Conservation, February 5, 1979  
Arkansas Oil and Gas Commission, February 12, 1979

New York State Department of Environmental Conservation, February 23, 1979  
State of South Dakota, March 9, 1979

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8390 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. PV-1451)

#### OKIE PIPE LINE CO.

#### Notice of Tentative Valuation

MARCH 16, 1979.

Notice is hereby given that a tentative valuation is under consideration for Okie Pipe Line Company, P.O. Box 2256, Wichita, KS 67201. This is an initial valuation for Okie and the date of valuation is as of December 31, 1973.

On or before May 1, 1979, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 72 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.72) an original and three copies of a petition for leave to intervene in this proceeding. Jurisdiction over oil pipelines, as it relates to establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the

Federal Energy Regulatory Commission (FERC), pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

If the petition for leave to intervene is granted the party may thus come within their category of "additional parties as the FERC may prescribe" under section 19a(h) of the act, thereby enabling it to file a protest. It is required that a copy of the petition to intervene be served at the address shown above for Okie and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

LEON J. SLAVIN,  
Administrative Officer,  
Oil Pipeline Board.

(FR Doc. 79-8392 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. RP79-51)

#### ALGONQUIN GAS TRANSMISSION

#### Rate Reduction Filing

MARCH 12, 1979.

Take notice that on March 2, 1979 Algonquin Gas Transmission Company ("Algonquin Gas") tendered for filing the following revised tariff sheets applicable to its FERC Gas Tariff, First Revised Volume No. 1, to be effective April 1, 1979:

48th Revised Sheet No. 10, Superseding 47th Revised Sheet No. 10  
7th Revised Sheet No. 10-A, Superseding 6th Revised Sheet No. 10-A

Algonquin Gas states that such tariff sheets have been filed in order to reduce its rates under Rate Schedules F-1, WS-1, I-1, E-1, and T-1 by approximately \$365,000 annually to reflect the reduction in the corporate Federal income tax rate from 48% to 46%, commencing January 1, 1979. It also states that the reduction has been filed in response to an informal Staff inquiry. Algonquin Gas indicates that inasmuch as service for the current winter under its Rate Schedule SNG-1 will be subject to a post audit of actual costs and revenues, Federal income tax reduction with respect to such service will be taken into account at that time.

Algonquin Gas proposes to apply the unit reductions to charges for deliveries between January 1, 1979 until April 1, 1979 by a credit to customer billings. It further states that copies of its rate reduction filing have been served upon its customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 9, 1979. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8436 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. RP79-50)

#### ALGONQUIN GAS TRANSMISSION CO.

#### Proposed Changes in FERC Gas Tariff

MARCH 12, 1979.

Take notice that on March 1, 1979, Algonquin Gas Transmission Company ("Algonquin Gas") filed the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

1st Revised Sheet No. 20-D  
Original Sheet No. 20-E  
Original Sheet No. 20-F

Algonquin Gas states that the three tariff sheets are related to Algonquin Gas' Rate Schedule SNG-1 and are filed to institute a provision on a temporary, one-year experimental basis, which Algonquin Gas' customers under such Rate Schedule SNG-1 have requested. Algonquin Gas also states that the new provision would provide a degree of operating flexibility to the customers who elect the option contained in the filing.

The proposed effective date of the tariff sheets is April 1, 1979.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person



wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.  
(FR Doc. 79-8437 Filed 3-20-79; 8:45 am)

## [6450-01-M]

ALPAR RESOURCES, INC.

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

MARCH 12, 1979.

On March 6, 1979, the Federal Energy Regulatory Commission received notice from the North Dakota Geological Survey of a determination pursuant to 18 CFR 274.104 and Section of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79-689.  
API Well Number: 64933305300757.  
Operator: Alpar Resources, Inc.  
Well Name: Peterson No. 1.  
Field: Cherry Creek.  
County: McKenzie.  
Purchaser: Montana-Dakota Utilities Co.  
Volume: 1,500 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 5, 1979.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8427 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. ER77-521)

ARIZONA PUBLIC SERVICE CO.

Notice of Extension of Time

MARCH 8, 1979.

On February 23, 1979, Arizona Public Service Company filed a motion for extension of time to file briefs opposing exceptions to the initial decision issued in this proceeding on December 19, 1978. The motion states that additional time is needed because the parties are involved in another proceeding which may result in limiting or moot certain issues in this proceeding.

## NOTICES

Upon consideration, notice is hereby given that an extension of time is granted to and including March 21, 1979.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 79-8395 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. RI79-19)

AN-SON CORP.

Notice of Petition for Special Relief

MARCH 9, 1979.

Take notice that on November 20, 1978, An-Son Corporation (An-Son), 3814 North Santa Fe, Oklahoma City, Okla. 73118, filed a petition for special relief in Docket No. RI79-19 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

An-Son seeks an above ceiling rate for the sale of natural gas produced from its Smaltz No. 1 Well, located in Cimarron County, Okla., to Panhandle Eastern Pipe Line Company. According to An-Son, since present well bore pressure is too low to remove liquids, installation of a pumping unit is necessary to continue economical production. It is estimated that reserves of 234,000 Mcf can be recovered.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before April 3, 1979. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8396 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. RP78-10(PGA79-1))

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets Reflecting Purchased Gas Cost Adjustment

MARCH 9, 1979.

Take notice that on March 1, 1979 Arkansas Louisiana Gas Company (Arkla) tendered for filing 17th Revised Sheet No. 185 to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective April 1, 1979.

Arkla states that the purpose of 17th Revised Sheet No. 185 is to track producer and pipeline supplier price changes as of April 1, 1979 and to recover the accumulated deferred purchased gas costs as of December 31, 1978, through unit rate adjustments computed pursuant to provisions of Arkla's purchased gas cost adjustment clause contained in its FERC Rate Schedule No. X-26. The surcharge adjustment is based on the balance in Account 191 at December 31, 1978 as adjusted for NGPA costs estimated to be deferred during January, February and March, 1979 in accordance with the Commission's Order No. 18 in Docket No. RM79-7.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8397 Filed 3-20-79; 8:45 am)

## NOTICES

## [6450-01-M]

(Docket No. RP74-61 (PGA79-1))

ARKANSAS LOUISIANA GAS CO.

Notice of Filing of Revised Tariff Sheets Reflecting Purchased Gas Cost Adjustment

MARCH 9, 1979.

Take notice that on March 1, 1979 Arkansas Louisiana Gas Company (Arkla) tendered for filing 19th Revised Sheet No. 4 to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G-2, to become effective April 1, 1979. Arkla also submits six (6) copies of Alternate 19th Revised Sheet No. 4 to become effective April 1, 1979 in the event 19th Revised Sheet No. 4 does not become effective.

Arkla requests waiver of the provision in its PGA clause to permit it to recover the deferred costs contained in this filing during a 12-month collection period in lieu of the normal 6-month collection period. Arkla states that the purpose of its request is to reduce the unusually high surcharge rate that results on a 6-months' collection period in this filing.

Arkla states that the purpose of 19th Revised Sheet No. 4 is to track producer and pipeline supplier price changes as of April 1, 1979 and to recover during a 12-months' collection period the accumulated deferred purchased gas costs as of December 31, 1978, through unit rate adjustments computed pursuant to provisions of Arkla's purchased gas cost adjustment clause contained in its FERC Rate Schedule No. G-2. The surcharge adjustment is based on the balance in Account 191 at December 31, 1978 as adjusted for NGPA costs estimated to be deferred during January, February and March, 1979 in accordance with the Commission's Order No. 18 in Docket No. RM79-7.

Arkla requests that Alternate 19th Revised Sheet No. 4 which provides for the normal 6-months' collection of the deferred gas costs be allowed to become effective on April 1, 1979 if 19th Revised Sheet No. 4 is not permitted to become effective.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1979. Protests will be considered by the Commission in de-

termining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8398 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. ER79-214)

CAROLINA POWER & LIGHT CO.

Notice of Filing

MARCH 12, 1979.

Take notice that Carolina Power & Light Company on February 27, 1979 tendered for filing an Amendment to the Interconnection Agreement between Carolina Power & Light Company and South Carolina Electric & Gas Company, dated July 9, 1970. Carolina Power & Light Company states that the Amendment deletes existing Service Schedules A, B, C and D and replaces them with Service Schedules A-1979 Spinning Reserve, B-1979 Economy Interchange, C-1979 Limited Term Power, D-1979 Short Term Power, and G-1979 Other Energy. Existing Service Schedules E and F are retained. Carolina Power & Light Company requests that this Amendment to Interconnection Agreement be permitted to become effective on April 1, 1979.

Carolina Power & Light Company indicates that it has sent copies of this filing to South Carolina Electric & Gas Company, the South Carolina Public Service Commission, and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8410 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. ER79-215)

CAROLINA POWER & LIGHT CO.

Notice of Filing

MARCH 12, 1979.

Take notice that Carolina Power & Light Company, on February 27, 1979 tendered for filing an Amendment to the Interchange Agreement between Carolina Power & Light Company and South Carolina Public Service Authority, dated January 5, 1973. Carolina Power & Light Company states that the Amendment deletes existing Service Schedules A and B and replaces them with Service Schedules A-1979 Spinning Reserve, B-1979 Short Term Power, C-1979 Limited Term Power, G-1979 Economy Interchange, and E-1979 Other Energy. Carolina Power & Light Company requests that this Amendment to Interchange Agreement be permitted to become effective on April 1, 1979.

Carolina Power & Light Company indicates that it has sent copies of this filing to South Carolina Public Service Authority, the South Carolina Public Service Commission, and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8411 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. CP79-128)

COLORADO INTERSTATE GAS CO.

Amendment

MARCH 9, 1979.

Take notice that on February 16, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-128 an amendment to its pending application for a certificate of public convenience and necessity, pursuant to Section 7(c) of the Nat-



ural Gas Act so as to authorize CIG to sell the remaining recoverable gas reserves attributable to the Flank Field to Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

CIG states that on December 18, 1978, it filed an application in the instant docket for authority to construct and operate facilities necessary to develop the Flank Field in Baca County, Colorado, for use as a natural gas storage reservoir. Further, CIG states that at that time all the agreements to purchase the working interest in Flank Field had not been executed.

CIG asserts that Baca Gas Gathering System, Inc. was authorized in Docket No. CP65-57 to construct pipeline facilities necessary to transport natural gas acquired by Panhandle from the Flank Field to the Anadarko Processing Plant. The remaining recoverable gas reserves in the Flank Field are dedicated to Panhandle as a result of that authority, it is said. CIG and Panhandle have agreed to the amount of recoverable gas reserves, the term, the delivery points, and the price, it is further stated.

It is asserted that by virtue of the working interest purchase agreements CIG obtained from the producers in the Flank Field, CIG has succeeded to the interests of Flank Field producers. The executive of those agreements enables CIG, as successor in interest, to proceed with the cancellation of the related Flank Field rate schedules on behalf of Bruce Calder, Inc., Kerr-McGee Corporation, PanCanadian Petroleum Company, Texas Oil & Gas Corporation, W. R. Murfin Drilling Company, and The Termo Company, it is said.

CIG asserts that Panhandle, the only purchaser of natural gas from the Flank Field, and CTG have agreed upon the remaining recoverable reserves and have executed a sales agreement for said reserves. It is further asserted that as stated in the sales agreement, the price that Panhandle would pay CIG for the reserves would be that price which Panhandle is currently paying producers in the Flank Field subject to any price adjustments permitted by the Natural Gas Policy Act of 1978. The delivery points would remain in the Flank Field at existing meter stations as indicated in the sales agreement; therefore, there are no new facilities proposed or required as a result of this amendment, it is said.

CIG states that the remaining recoverable reserve volume agreed upon between CIG and Panhandle is 1,825,000 Mcf to be delivered at the average rate of 1,000 Mcf per day over a five-year period and Panhandle's existing low-pressure gathering system would be

used to transport the gas to Anadarko Plant. The sales agreement provides Panhandle with all processing rights, it is further said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 3, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8433 Filed 3-20-79; 8:45 am)

#### [6450-01-M]

(Docket No. RP72-122 (PGA79-1))

#### COLORADO INTERSTATE GAS CO.

#### Notice of Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

MARCH 9, 1979.

Take notice that Colorado Interstate Gas Company, on February 28, 1979, tendered, for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase the commodity rate under each of CIG's jurisdictional rate schedules by 24.17 cents per Mcf.

The filing was made to enable CIG to reflect in its rates, pursuant to Section 21 of CIG's FERC Gas Tariff, Original Volume No. 1, net increased purchased gas costs it will experience effective April 1, 1979, as the result of a rate filing made by Northwest Pipeline Corporation. Additionally, the rate adjustment proposed by the filing includes the changes in CIG's purchased gas costs as permitted by the Commission's Order No. 18, issued December 1, 1978, in Docket No. RM79-7.

CIG respectfully requests that the instant filing be made effective on April 1, 1979.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8399 Filed 3-20-79; 8:45 am)

#### [6450-01-M]

(Docket No. RP79-42)

#### COLUMBIA GAS TRANSMISSION CORP.

#### Proposed Changes in FERC Gas Tariff

MARCH 12, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia) on March 1, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Fiftieth Revised Sheet No. 16 Original Sheet Nos. 66 and 67

These proposed changes provided for an increase of 2.76¢ per Mcf to be effective April 1, 1979, are being filed pursuant to FERC Order No. 10, issued on August 28, 1978, in Docket No. RM78-23, as clarified and modified by FERC Order No. 10-A issued on December 20, 1978, to provide temporary tracking with deferred accounting of the Louisiana First Use Tax on a semi-annual basis until the validity or invalidity of the tax is established by a final and non-appealable court order.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8412 Filed 3-20-79; 8:45 am)

#### [6450-01-M]

(Docket No. RP79-47)

#### CONSOLIDATED GAS SUPPLY CORP.

#### Proposed Changes in FERC Gas Tariff

MARCH 12, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on March 1, 1979, tendered for filing, proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1 pursuant to Opinion Nos. 10 and 10-A in Docket No. RM78-23. The revised tariff sheets provide for (1) an increase of 0.90¢ per Dt to reflect the cost of the Louisiana First Use Tax; (2) provisions for tracking and deferred accounting thereof; and, (3) a renumbering of sections of the General Terms and Conditions.

Consolidated requested an effective date of April 1, 1979, the date upon which the Tax becomes effective.

The revisions to the tariff are shown on:

Original Sheet Nos. 75-B and 75-C; Substitute First Revised Sheet Nos. 76 and 77; and, Twelfth Revised Sheet No. 16

While Consolidated believes no waivers are necessary, Consolidated requests a waiver of any of the Commission's Rules and Regulations that may be deemed necessary in order to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8413 Filed 3-20-79; 8:45 am)

#### [6450-01-M]

(Docket No. ER79-70)

#### DETROIT EDISON CO.

#### Order Accepting for Filing and Suspending Proposed Rate Increase, Denying Motion to Reject, Granting Partial Summary Disposition, Establishing Hearing and Price Squeeze Procedures, and Granting Intervention

MARCH 9, 1979.

On November 20, 1978, as completed on January 10, 1979,<sup>1</sup> Detroit Edison Company (Edison) tendered for filing certain revised and original tariff sheets designed to implement a general rate increase for firm power service to seven wholesale customers.<sup>2</sup> The proposed rate increase would result in additional revenues of approximately \$7,830,000 (19.5%), based on a test period consisting of the twelve months ending December 31, 1979. Edison requests waiver of the Commission's notice requirements and proposes an effective date for the revised rates of January 20, 1979.

In a timely petition to intervene filed on December 14, 1978,<sup>3</sup> Consumers Power Company asserts that it is Edison's largest wholesale customer and that it would be substantially affected by the proposed rates.

On December 22, 1978, the City of Croswell, the Villages of Clinton and Sebewaing, the Michigan Municipal Cooperative Power Pool, Southeastern Michigan Rural Electric Cooperative, Inc., and Thumb Rural Electric Cooperative, Inc. (collectively referred to as Munis/Coops) jointly filed a protest, petition to intervene, motion to reject or for partial summary disposition and maximum suspension. In support of their motion to reject Edison's filing, Munis/Coops allege that the company has violated the Commission's test period and filing regulations.

Initially, Munis/Coops contend that Edison has circumvented § 35.13(b)(4)(iii) of the Commission's Regulations which provides in pertinent part that an estimated Period II test year may not commence after the proposed effective date for the tendered rates. Edison has selected a Period II test year beginning on Janu-

<sup>1</sup>By letter dated December 20, 1978, Detroit Edison Company was advised of certain deficiencies in its November 20, 1978 submission. On January 10, 1979, the company filed additional information satisfying the deficiency.

<sup>2</sup>The City of Croswell, the Villages of Clinton and Sebewaing, Michigan Municipal Cooperative Power Pool, Southeastern Michigan Rural Electric Cooperative, Thumb Rural Electric Cooperative, and Consumers Power Company. See Attachment A for rate schedule designations.

<sup>3</sup>Public notice of Edison's submittal was issued on December 1, 1978, with protests or petitions to intervene due on or before December 22, 1978.

ary 1, 1979, prior to the proposed effective date of January 20, 1979. However, Munis/Coops allege that by adjusting Period II estimates to reflect a full year's operations of a new generating facility (Greenwood No. 1) scheduled to commence service in April of 1979, Edison effectively has moved the beginning of the test year ahead from January to April.

Based upon this so-called "Greenwood adjustment", Munis/Coops maintain that Edison has improperly utilized a test year commencing later than the proposed effective date. In addition, Munis/Coops argue that if the test year is construed as beginning in April of 1979, Edison's filing is deficient since it contains projected data only through December of 1979, rather than April of 1980. Alternatively, Munis/Coops assert that the "Greenwood adjustment" may be viewed as an impermissible means of including CWIP in rate base for the first several months of the test year. Under any of the suggested interpretations of the "Greenwood adjustment", Munis/Coops contend that rejection of Edison's filing is appropriate.

In an answer filed on January 8, 1979, Edison, *inter alia*, denies any impropriety associated with the "Greenwood adjustment." According to Edison, its Period II cost of service annualizes the Greenwood investment and costs in order to avoid "distortion" in the test period data. Edison further states that it has also annualized related cost of service items and has made offsetting adjustments such as a reduction in the Period II purchased power expense.

While the annualizing adjustments proposed by Edison do not constitute sufficient grounds for rejecting the company's filing, we find that summary disposition of this particular issue is appropriate. The Commission's future test year regulations do not contemplate the filing of Period II data which incorporate annualizations or other similar adjustments to the estimates. Rather the Period II cost of service should reflect only those system costs which, at the time of filing, the utility actually and reasonably anticipates incurring during the twelve months of the selected test

<sup>4</sup>On January 10, 1979, Munis/Coops filed a response to Edison's answer, together with a motion for leave to file such response. While Munis/Coops acknowledge that "responses to answers are not contemplated by the Commission's Rules of Practice and Procedure," they contend that this additional pleading is necessary for a full comprehension of the disputed matters. In the interest of limiting cumulative and continuous pleadings, we shall decline to separately entertain the discussion presented in that document. However, we note that the arguments therein stated would not warrant conclusions other than those expressed in this order.



year. Therefore, we shall require Edison to refile its cost of service and proposed rates so as to eliminate any annualizing adjustments associated with the Greenwood Plant.

The second major rationale set forth by Munis/Coops in support of their motion to reject Edison's submittal concerns the alleged absence of adequate explanation and support for various cost of service components underlying the tendered rates. Because of such inadequacies in Edison's original filing, that submittal was deemed deficient and the company was so notified by letter dated December 20, 1978. Edison responded to the deficiency letter by providing additional information on January 10, 1979. Our review of the materials submitted by Edison indicates that the filing, as supplemented, substantially complies with the Commission's Regulations. *Municipal Light Boards v. FPC*, 450 F. 2d 1341 (D.C. Cir. 1971). Accordingly, we shall deny the motion of Munis/Coops to reject Edison's filing.<sup>5</sup>

Munis/Coops further request that the Commission grant summary disposition with respect to three issues: (1) functionalization of general plant; (2) depreciation rates; and (3) allocation of contributions to the Electric Power Research Institute (EPRI) and the Liquid Metal Fast Breeder Reactor (LMFBR) programs. In its January 8 answer, Edison opposes the motion for summary disposition. Although the answer disputes the stated revenue impact of these items, it does not discuss the merits of the contentions raised by Munis/Coops. Instead, Edison states that its deficiency response should adequately address these contentions.

Munis/Coops challenge Edison's filing insofar as it functionalizes general plant expenses on the basis of total plant costs rather than labor ratios. Summary disposition will not be granted with regard to this issue but, consistent with stated Commission policy,<sup>6</sup> we shall require Edison to

meet the burden of showing by appropriate evidence that the use of labor ratios for all general plant functions is unreasonable as applied to the company, not merely that its alternative method of functionalization may be reasonable.<sup>7</sup>

We shall also deny the request for summary disposition concerning Edison's proposed depreciation rates. Munis/Coops protest Edison's utilization of increased depreciation rates which have been approved by the Michigan Public Service Commission, but not by this Commission. This Commission clearly is not bound by the determination of that state regulatory body and we emphasize that in the instant proceeding Edison bears the burden of justifying the increased depreciation rates. However, as in the case of functionalization, this issue if properly the subject of an evidentiary hearing.

With regard to Edison's EPRI and LMFBR contributions, we shall grant summary disposition as requested by Munis/Coops. Such contributions are voluntary in nature and are made on the basis of retail sales. Thus, wholesale customers should be free to decide whether to contribute independently to these research programs. Our summary resolution of this issue comports with the Commission's policy objectives as stated in *Connecticut Light and Power Company*, Docket No. ER78-517.<sup>8</sup> Accordingly, we shall direct Edison to revise its rates to reflect elimination of EPRI and LMFBR contributions from its wholesale cost of service.

In addition to the foregoing, Munis/Coops protest Edison's filing and request a five-month suspension based on a variety of cost of service issues.<sup>9</sup> In each instance, it appears that the matters raised will be resolved most appropriately on the basis of a full evidentiary record.

<sup>5</sup>We note that Edison's deficiency response does include an alternative cost of service study which utilizes labor ratios for functionalizing general plant.

<sup>6</sup>Order issued August 31, 1978, and Order on Rehearing issued November 22, 1978. See also *Carolina Power & Light Company* Opinion No. 19, Docket No. ER76-495 (Phase II), issued August 2, 1978 (affirming Initial Decision issued September 7, 1978).

<sup>7</sup>Edison's January 8 answer states the company's general disagreement with the contentions enumerated by Munis/Coops. Among the disputed cost of service issues are: an allegedly excessive rate of return; the inclusion of "emergency" facilities in rate base as pollution control-related CWIP; the inclusion of a "preliminary survey" in rate base rather than CWIP; purportedly dubious demand and expense projections; the development of demand allocation factors and an allegedly discriminatory capacity credit to industrial customers; and rate-making treatment of expenses associated with the cancellation of a generating unit as well as losses related to a 1976 ice and wind storm.

Munis/Coops also allege that the proposed wholesale rates give rise to a "price squeeze" when compared to Edison's retail rates. *Conway Corp. v. FPC*, 510 F.2d 1264 (1975), *aff'd*, 426 U.S. 271 (1976). Pursuant to the policy set forth in Order No. 563, and in Section 2.17 of our Regulations, we find it appropriate that price squeeze procedures be initiated in this case.

In their December 22, 1978 submittal, Munis/Coops objected to Edison's use of comprehensive interperiod tax normalization pursuant to the Commission's Order No. 530-B. The stated purpose of their protest was "to preserve [their] rights in the event the Commission is reversed by the Court of Appeals in *Public Systems, et al. v. FERC*, D.C. Cir. No. 76-1609." On March 2, 1979, Munis/Coops filed a pleading entitled "Motion of Munis/Coops for Order Directing Detroit Edison Company to Supplement Rate Filing With Respect to Tax Normalization." Munis/Coops note that on February 19, 1979, the United States Court of Appeals for the District of Columbia Circuit issued an order remanding Order No. 530-B for further action. Based upon the court's decision, Munis/Coops request an order directing Edison to Supplement its rate filing with an evidentiary presentation in support of normalization. For several reasons, we shall decline to issue such a directive at this time.

The court's decision in *Public Systems* has yet to become final. Pending possible reconsideration or review, we think it the better course to preserve the Commission's position by adhering to our present policies. We note that the court did not hold that the Commission's conclusions in Order No. 530-B were impermissible. Rather, the matter was remanded by the court on the ground that the Commission had not adequately explained and supported its decision.

Whether the court's decision is the subject of further litigation or Commission proceedings on remand are initiated, we shall separately consider the need for interim procedures. Our present view is that it will be more efficient and practical to consider such procedures on a generic rather than on a case-by-case basis, although the procedures, themselves, could provide for case-by-case consideration of the question. Therefore, in this proceeding we shall deny the motion of Munis/Coops without prejudice to its resubmittal at a later time.

The Commission finds that participation in this proceeding by Consumers Power Company and Munis/Coops may be in the public interest.

Our review of Edison's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable,

unduly discriminatory or otherwise unlawful. Good cause has not been shown by Edison to grant waiver of the Commission's notice requirements. Therefore, we shall accept the proposed rates for filing and suspend those rates for five months from sixty days after the filing date of January 10, 1979, to become effective, subject to refund, on August 11, 1979.

#### The Commission orders:

(A) The motion of Munis/Coops to reject Edison's filing is hereby denied.

(B) Edison's request for waiver of the Commission's notice requirements is hereby denied.

(C) Edison's proposed rates are hereby accepted for filing and suspended for 5 months from 60 days after the filing date of January 10, 1979, to become effective on August 11, 1979, subject to refund.

(D) Summary disposition is hereby granted with respect to the allocation of EPRI and LMFBR contributions and the annualizing adjustments related to the Greenwood No. 1 plant. Within sixty (60) days from the issuance of this order, Edison shall refile its cost of service and its rates to reflect elimination of EPRI and LMFBR contributions from its cost of service and to eliminate the annualizing adjustments associated with the Greenwood plant.

(E) Edison must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing all of its general plant.

(F) The motion of Munis/Coops for an order directing Edison to supplement its rate filing by submitting evidence in support of tax normalization is hereby denied without prejudice.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Edison.

(H) Pursuant to §2.17 of the Commission's Regulations, we hereby order initiation of price squeeze procedures.

(I) The Staff shall serve top sheets in this proceeding on or before May 25, 1979.

(J) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated Law

Judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure. The Presiding Administrative Law Judge shall convene a prehearing conference within fifteen (15) days of the issuance of this order for the purpose of hearing intervenors' requests for data required to present their case, including a *prima facie* showing, on price squeeze issues.

(K) The petitioners listed in footnote 2, *supra*, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however*, that Participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(L) The Secretary shall cause prompt publication of this order to be made in the **FEDERAL REGISTER**.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

ATTACHMENT A.—The Detroit Edison Company

(Docket No. ER79-70)

Dated: Undated

Filed: January 10, 1979

FERC Electric Tariff 1st Revised  
Volume No. 1

| Designation                 | Supersedes Sheet No.   |
|-----------------------------|------------------------|
| 1st Revised Sheet No. 1...  | Original Sheet No. 1.  |
| 1st Revised Sheet No. 2...  | Original Sheet No. 2.  |
| 1st Revised Sheet No. 3...  | Original Sheet No. 3.  |
| 1st Revised Sheet No. 4...  | Original Sheet No. 4.  |
| 1st Revised Sheet No. 5...  | Original Sheet No. 5.  |
| 1st Revised Sheet No. 6...  | Original Sheet No. 6.  |
| 1st Revised Sheet No. 7...  | Original Sheet No. 7.  |
| 1st Revised Sheet No. 8...  | Original Sheet No. 8.  |
| 1st Revised Sheet No. 9...  | Original Sheet No. 9.  |
| 1st Revised Sheet No. 10... | Original Sheet No. 10. |
| 1st Revised Sheet No. 11... | Original Sheet No. 11. |
| 1st Revised Sheet No. 12... | Original Sheet No. 12. |
| 1st Revised Sheet No. 13... | Original Sheet No. 13. |
| 1st Revised Sheet No. 14... | Original Sheet No. 14. |
| 1st Revised Sheet No. 15... | Original Sheet No. 15. |
| Original Sheet No. 19A...   |                        |
| Original Sheet No. 19B...   |                        |
| Original Sheet No. 19C...   |                        |

(FR Doc. 79-8434 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. ER79-211)

DUKE POWER CO.

Notice of Filing

MARCH 12, 1979.

Take notice that Duke Power Company (Duke) on February 9, 1979, tendered for filing a certificate of concurrence with South Carolina Electric & Gas Company's (South Carolina)

Second Amendment to the Interchange Agreement between Duke and South Carolina.

Any person desiring intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8414 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. ER79-210)

ELECTRIC ENERGY, INC.

Notice of Filing

MARCH 12, 1979.

Take notice that on February 23, 1979, Electric Energy, Inc. (EEInc.) tendered for filing a Letter Agreement dated February 2, 1979, modifying Amendment No. 5 to the Interim, Supplemental and Surplus Power Agreement (FERC Schedule No. 8) between EEInc. and its Sponsoring Companies (Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU), and Union Electric Company (UE) and a Letter Agreement dated February 2, 1979 between EEInc. and the United States Department of Energy (DOE), as successor to the Energy Research and Development Administration (ERDA), modifying Power Contract No. AT-(40)-1312 between EEInc. and DOE (FERC Schedule No. 7).

Copies of the filing have been sent to all the parties, to the Illinois Commerce Commission, Springfield, Illinois, the Kentucky Public Service Commission, Frankfort, Kentucky, and to the United States Department of Energy, according to EEInc.

The two agreements would make available to IP, KU and UE a portion of the capacity of EEInc.'s Joppa, Illinois electric plant for a period beginning June 1, 1979, and extending through September 30, 1981, and would correspondingly reduce the capacity made available to DOE for its Paducah Project.



The proposed changes came about because of DOE's desire to reduce its budget and use less electric power at the Project, according to EEInc. IP, KU, and UE agreed to purchase the resulting surplus capacity because they had need for such capacity and EEInc. would be able to supply the power at reasonable rates, according to EEInc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8415 Filed 3-20-79; 8:45 am]

#### [6450-1-M]

[Docket No. RP79-37]

#### EL PASO NATURAL GAS CO.

#### Notice of Tariff Filing and Proposed Change in Rate

MARCH 12, 1979.

Take notice that on February 28, 1979, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, the following revised and original tariff sheets to its FERC Gas Tariff:

#### Tariff volume and tariffs sheet

Original Volume No. 1; First Substitute Twenty-third Revised Sheet No. 3-B, First Revised Sheet No. 68-B, Original Sheet No. 68-C, Original Sheet No. 68-D, Original Sheet No. 68-E, Original Sheet No. 68-F.  
Third Revised Volume No. 2; First Substitute Thirteenth Revised Sheet No. 1-D, Original Volume No. 2A; First Substitute Fifteenth Revised Sheet No. 1-C.

Pursuant to the Federal Energy Regulatory Commission's ("Commission") Order No. 10 issued August 28, 1978, at Docket No. RM78-23, which established certain procedures governing interstate pipeline recovery of the Louisiana First-Use Tax ("LFUT") on natural gas and Order NO. 10-A issued December 20, 1978, which, *inter alia*, permitted pipelines to collect the LFUT from their customers commencing

April 1, 1979, subject to refund, provided that such pipelines file an application, on or before March 1, 1979, for temporary tracking authority, El Paso tendered such tariff sheets which are designed to (i) establish a temporary LFUT tracking mechanism in its FERC Gas Tariff, Original Volume No. 1, which provides for semi-annual rate adjustments to coincide with El Paso's semi-annual Purchased Gas Cost Adjustment Provision ("PGAC") rate adjustments, and (ii) give notice of a change in rate pursuant to the provisions of said LFUT tracking mechanism to be effective April 1, 1979.

El Paso further states that the change in rate required to recover the annualized increases attributable to the LFUT equates to an increase in El Paso's currently effective rates of 0.04¢ per Mcf. In compliance with the Commission's Order No. 10-A, El Paso states that all revenues collected as a result of the proposed 0.04¢ per Mcf increase attributable to the LFUT will be placed in escrow during the pendency of litigation concerning the constitutionality of the LFUT. Further, accompanying the instant filing is an affidavit signed by an authorized representative stating that El Paso will comply with Section 47.1576 of the Louisiana Revised Statutes.

El Paso also states that copies of the filing have been served upon all of El Paso's interstate system customers and all interested state regulatory commissions.

Any person desiring to be heard or to many any protest with reference to said tariff filing should, on or before March 22, 1979, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8416 Filed 3-20-79; 8:45 am]

#### [6450-01-M]

[Docket Nos. RP72-155, RP78-18 (PGA79-1) (AP79-1)]

#### EL PASO NATURAL GAS CO.

#### Notice of Proposed Change in Rate Pursuant To Purchased Gas Cost Adjustments

MARCH 9, 1979.

Take notice that El Paso Natural Gas Company (El Paso) on March 1, 1979, tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system. Such service is rendered under rate schedules affected by and subject to ARTICLE 19, Purchased Gas Cost Adjustment Provisions (PGAC), contained in the General Terms and Conditions applicable to El Paso's FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, and under rate schedules affected by and subject to the PGAC-Clean High Pressure Gas Provisions (PGAC-CHPG) contained in El Paso's FERC Gas Tariff, Original Volume No. 2A.

El Paso states that the instant notice of change in rates occasioned by the PGAC and PGAC-CHPG provisions will compensate El Paso for (i) changes in the cost of purchased gas (including certain produced gas from leases acquired after October 7, 1969), to be in effect on or before April 1, 1979, applied to volumes of natural gas purchased (or produced) during the calendar months December, 1978, annualized and adjusted, and (ii) changes in the surcharge adjustment resulting from the actual balance in El Paso's Account 191, Unrecovered Purchased Gas Cost as of December 31, 1978, including the applicable carrying charges, and the estimated impact of the Natural Gas Policy Act of 1978 (NGPA) maximum lawful rates for the period December 1, 1978, through March 31, 1979. El Paso also states that the instant notice of change in rates includes the adjustments in El Paso's rates occasioned by the variations in cost attributable to the Advance Payment Adjustment, Transportation Cost and Revenue Adjustment and Gas Well Royalty Cost Variations provisions contained in El Paso's Stipulation and Agreement dated June 23, 1978, (Stipulation and Agreement) approved and accepted by the Commission's order issued September 5, 1978, at Docket No. RP78-18.

El Paso states that the overall net increase in El Paso's currently effective

<sup>1</sup> Order No. 18 issued December 1, 1978, at Docket No. RM79-7 amended section 154.38(d) of the Commission's Regulations to permit a one-time passthrough of certain estimated NGPA costs which may be added to the actual amounts reflected in Account 191.

rates for which notice is given herein is 43.57 cents per Mcf as to its EOC customers and 39.03 cents per Mcf as to its California customers.

The current net PGAC adjustments proposed for El Paso's east-of-California (EOC) customers and the California customers are 37.55 cents per Mcf and 33.01 cents per Mcf, respectively. Such net PGAC adjustments are comprised of (i) a gas cost adjustment, (ii) the unrecovered purchased gas cost balance in Account 191, as of December 31, 1978, applicable to each of said customer categories, (iii) an addition to such balance in Account 191 of certain estimated cost increases attributable to the NGPA, and (iv) elimination of the PGAC surcharge adjustments applicable to the EOC and California customers, respectively, presently included in El Paso's currently effective rates.

El Paso states that the current net PGAC-CHPG adjustment, for which notice is also given herein, aggregates an increase of 15.9073 cents per Mcf. Such current net adjustment is comprised of (i) an increase in the weighted average purchased cost of clean, high-pressure gas, (ii) a surcharge adjustment representing the unrecovered purchased gas cost balance in Account 191 as of December 31, 1978, (iii) the addition to such balance in Account 191 for certain estimated cost increases directly attributable to the NGPA, and (iv) elimination of the surcharge adjustment presently included in El Paso's currently effective rates.

El Paso further states that said Stipulation and Agreement, among other matters, established certain adjustment mechanisms designed to track variations in El Paso's costs attributable to advance payments, transportation costs and revenues, and gas well royalty cost variations. The rate per Mcf adjustments required by the Stipulation and Agreement are summarized below:

| Adjustment             | EOC Rate (Cents) | California Rate (Cents) |
|------------------------|------------------|-------------------------|
| Advance Payment .....  | (0.02)           | (0.02)                  |
| Transportation .....   | 0.16             | 0.16                    |
| Gas Well Royalty ..... | 2.36             | 2.36                    |

The current net Transportation and Gas Well Royalty adjustments proposed herein are 0.13 cents per Mcf and 5.91 cents per Mcf, respectively, after the elimination of the Transportation surcharge rate of 0.03 cents and Gas Well Royalty surcharge of (3.55 cents) reflected in El Paso's August 31, 1978, PGA filing.

El Paso has requested that waiver be granted of all applicable rules, orders and regulations of the Commission, as may be deemed necessary, to permit

the effectiveness on April 1, 1979, of the tariff sheets tendered as a part of the instant notice of change in rates. El Paso states that the instant PGAC-CHPG adjustments are predicated upon effectiveness, on or before April 1, 1979, of the maximum lawful NGPA rates, as provided under Parts 271 and 273 of the Interim Regulations, for El Paso's producer-suppliers. In the event that any of such producer-supplier rate increases are not effective by April 1, 1979, in accordance with said Interim Regulations, El Paso states that it will undertake to adjust the proposed April 1, 1979, rates in accordance with Commission directives prior to billing its customers for April deliveries.

El Paso states that copies of the filing and attachments have been served upon all parties of record in Docket Nos. RP72-155 and RP78-18, and, otherwise, upon all affected customers and interested state regulatory commissions.

It appears reasonable and consistent with the public interest to prescribe a period for filing protests and petitions to intervene shorter than fifteen days. Accordingly, any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before March 19, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8400 Filed 3-20-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP74-122]

#### ENERGY TERMINAL SERVICES CORP.

#### Notice of Second Amendment to Application

MARCH 9, 1979.

Take notice that on March 1, 1979, Energy Terminal Services Corporation (Applicant), 80 Park Place, Newark, New Jersey 07101, filed a second amendment to its application in

Docket No. CP74-122 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a peak-shaving facility at Rossville, Staten Island, New York, utilizing one of its existing LNG storage tanks and appurtenant facilities, all as more fully set forth in the amendment to the application which is on file with the Commission and open to the public inspection.

Energy Terminal Services Corporation was formerly known as Distrigas of New York Corporation. By amendment dated November 8, 1976, the existing facilities of Applicant were proposed for use in conjunction with the proposed importation of LNG by Eas-cogas LNG, Inc., in Docket No. CP73-47, et al.

Applicant by this amendment is requesting authorization to operate a peak shaving facility at its existing facilities in Rossville, using one of its existing 900,000 barrel (3,100,000 Dt) storage tanks and appurtenant facilities, including vaporization (nominal 360,000 DtD) and compression equipment and to construct and operate a liquefaction unit with a net nominal 15,000 DtD capacity. The existing facilities on the site which would be used for the peaking service have cost \$64,597,000, which does not include the second tank, dock facilities and piping within the plant, and other facilities not needed for use in this proposal. The total estimated direct additional capital cost for the peaking plant, including the liquefaction unit, would be \$24,384,000 in current 1979 dollars with some \$15,030,000 being attributable to the cost of the liquefaction unit itself.

It is planned that construction of the liquefaction facilities could commence as early as April 1, 1980, and, therefore, the operation of this facility for peak shaving could begin on July 1, 1982, with the liquefaction of natural gas for redelivery during the winter of 1982-1983. It is stated that no equipment will be ordered prior to a final certificate being obtained from this Commission.

The service proposed by Applicant is (1) the receipt and liquefaction of customers' own supplies of natural gas which customers will arrange to have delivered to the facility by means of existing pipelines generally during the spring, summer, and fall months, (2) the storage of the LNG throughout the year and (3) the vaporization of LNG and the delivery of natural gas after vaporization to customers, or to transporting pipelines for delivery. The customers of the proposed peaking service will be Public Service Electric and Gas Company and Brooklyn Union Gas Company.



Any person desiring to be heard or to make any protest with reference to said application should on or before April 3, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (17 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8401 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP72-136 (PGA79-1) and RP79-35]

## FLORIDA GAS TRANSMISSION CO.

## Proposed Changes in Rates and Charges Under Purchased Gas Adjustment Provisions

MARCH 12, 1979.

Take notice that on February 28, 1979, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing Substitute Twentieth Revised Sheet No. 3-A, Original Sheet No. 22-O and Original Sheet No. 22-P to its FERC Gas Tariff, Original Volume No. 1, containing the changes in its resale rates in Rate Schedules G and I for effectiveness on April 1, 1979.

According to FGT, the changes in rates contained on Substitute Twentieth Revised Sheet No. 3-A are in accordance with the purchased gas cost adjustment provision in its Tariff (Section 15, General Terms and Conditions). FGT states that the rates contained on Substitute Twentieth Revised Sheet No. 3-A are proposed to supersede those on Twentieth Revised Sheet No. 3-A. FGT further states that the following shows a comparison between the rates in effect pursuant to Twentieth Revised Sheet No. 3-A and those to be made effective on April 1, 1979 under this filing.

|                      | ¢/Therm                          |                         |
|----------------------|----------------------------------|-------------------------|
|                      | Effective Prior to April 1, 1979 | Effective April 1, 1979 |
| Rate Schedule G..... | 12.774¢                          | 14.785¢                 |
| Rate Schedule I..... | 11.514¢                          | 13.525¢                 |

According to FGT, the annual effect of the proposed rate changes is an increase of \$16,649,336 based on sales under Rate Schedules G and I for the twelve months ended December 31, 1978.

Original Sheet No. 22-O and Original Sheet No. 22-P contained a new part in the General Terms and Conditions of FGT's tariff to establish a provision for the Louisiana First Use Tax. FGT has established this provision pursuant to Order No. 10-A. According to FGT, the effect of the Louisiana First Use Tax on the resale rates is .105¢ per therm which would amount to approximately \$869,000 annually in revenue, and would result in rates as follows:

|                      | ¢/Therm                                |  |
|----------------------|--|--|
|                      | Rates With PGA Effective April 1, 1979 | Rates With PGA and Louisiana First Use Tax Effective April 1, 1979 |
| Rate Schedule G..... | 14.785¢                                | 14.890¢  |
| Rate Schedule I..... | 13.525¢                                | 13.630¢  |

FGT states that a copy of its filing has been served on all customers purchasing gas under its FERC Gas Tariff, Original Volume No. 1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8433 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. ER79-206]

## THE HARTFORD ELECTRIC LIGHT CO.

## Notice of Amendment to Purchase Agreement With Respect to Middletown Station

MARCH 12, 1979.

Take notice that on February 21, 1979, the Hartford Electric Light Company (HELCO) tendered for filing a proposed Amendment to Purchase Agreement With Respect to Middletown Station (Amendment), dated November 1, 1978, between HELCO and Village of Hardwick Electric Light Department (Hardwick).

HELCO states that a change has been made to the text of the Purchase Agreement With Respect to Middletown Station (Purchase Agreement). The change increases Hardwick's entitlement in Middletown Station from 500 kilowatts to 1,100 kilowatts for the period from November 1, 1978 to October 31, 1979.

HELCO states that they were not notified of Hardwick's intent to increase their entitlement to capacity of Middletown Station until a date which prevented the filing of the Amendment thirty days prior to the expected effective date of the Amendment. Therefore, HELCO requests that the Commission waive the thirty-day notice period and permit the Amendment to become effective as of November 1, 1978.

HELCO states that copies of this rate schedule have been mailed or delivered to Hardwick, Hardwick, Vermont.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8431 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. ES79-31]

## INTERSTATE POWER CO.

## Application

MARCH 12, 1979.

Take notice that on February 28, 1979, an application was filed with the Federal Energy Regulatory Commission pursuant to Section 204(a) of the Federal Power Act by Interstate Power Company (Applicant) seeking an order authorizing the issuance and sale of not exceeding 300,000 shares of New Preferred Stock of the par value of \$50 per share, authorizing entry into loan agreements relative to the issuance of pollution control revenue bonds by the City of Clinton, Iowa, and obligations with respect to the acquisition of coal cars for the Company's certain unit train and of additional Common Stock of the par value of \$3.50 per share pursuant to its Employee and Stockholder Automatic Dividend Reinvestment and Stock Purchase Plan ("DRP") and Employee Stock Ownership Plan ("ESOP"). Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa, and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

Applicant proposes to issue and sell through negotiated private placement subject to the approval of exemption from the requirements of Section 34.1(b) of the Commission's Regulations.

According to the application, the net proceeds to be received by the Applicant from the issuance and sale of the New Preferred Stock will be used by the Applicant to secure funds for the 1979 construction program and for other corporate purposes.

The pollution control revenue bonds of the City of Clinton will be sold to finance the construction by the Applicant of pollution abatement equipment on Unit 2 at Applicant's Milton L. Kapp Power Station in Clinton, Iowa, installation of which is expected to be completed in 1979. The proceeds from the sale of the pollution control revenue bonds will be loaned by the City of Clinton to the Applicant pursuant to loan agreements (estimated not to exceed \$8,500,000 in the aggregate) and payments by the Applicant under said loan agreements will be sufficient to pay principal, premium if any, and interest due on said pollution control revenue bonds. The rate of interest will be negotiated at a private sale of the bonds between the City and the underwriters.

The Company proposes subject to obtaining a favorable Revenue Ruling

from the IRS, to enter into a Loan Agreement with the City of Montrose, Iowa for financing by the City's issuance of Industrial Development Revenue Bonds of the Company's acquisition of certain unit train coal cars at a cost of approximately \$4.5 million. In the event such Revenue Ruling is not timely and favorably forthcoming, the Company proposes to enter into a conditional sales agreement or other financing arrangement to acquire such cars, such alternative financing not to exceed \$4.5 million. The costs and interest rates of such acquisition are not known at present.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8417 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. ES79-30]

## INTERSTATE POWER CO.

## Application

MARCH 12, 1979.

Take notice that on February 28, 1979, Interstate Power Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, for authorization to negotiate a proposed exchange of old Preferred Stock, par value \$18,300,000, under a recapitalization plan and to negotiate the private placement of up to \$10 million of new Preferred Stock. Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa, and is engaged primarily in the electric utility business in Iowa, Minnesota, and Illinois.

The net proceeds from the sale of the new Preferred Stock will provide additional funds for construction and for other corporate purposes.

Any person desiring to be heard, or to make any protest with reference to the application should on or before

March 27, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8439 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. ES79-29]

## IOWA ELECTRIC LIGHT &amp; POWER CO.

## Notice of Application

MARCH 12, 1979.

Take notice that on February 23, 1979, the Iowa Electric Light and Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of short-term notes in the aggregate principal amount of \$75,000,000. Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado and Nebraska with its principal business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 55 counties in the State of Iowa.

The notes to be issued to commercial banks and/or commercial paper dealers will have a term not in excess of one year with a final maturity date of not later than December 31, 1981. The notes issued as commercial paper will bear the rate of interest then in effect for such commercial paper of like term and quality and the notes issued to banks will bear interest based on the prime rate. The purpose for which the said notes are to be issued is for the company's continuing construction program and for other corporate purposes.

Any person desiring to be heard or to make protest with reference to this Application should on or before March 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The Ap-



plication is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8418 Filed 3-20-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-141]

KANSAS CITY POWER & LIGHT CO.

Order Accepting Rate Changes, Denying Requests for Waiver of Notice Requirement, Denying Request for Suspension and Granting Intervention

MARCH 13, 1979.

On January 10, 1979 Kansas City Power & Light Company (KCPL) tendered for filing superseding Service Schedules providing for increased rates for firm power sales to the Cities of Baldwin City, Garnett, and Osawatimie, Kansas, and the City of Carrollton, Missouri (Cities). KCPL has also proposed changes in the design of its billing demand ratchets.<sup>1</sup>

The proposed rate schedules supplement the Cities' Municipal Participation Agreements with KCPL which provide for various interchange services in addition to firm power. In its transmittal letter KCPL states that the tendered rate schedules, each designated C-MPA-4, supersede and replace the C-MPA-3 schedules for Baldwin City, Garnett and Carrollton, and the C-MPA-2A rate schedule for Osawatimie. The proposed rates specify a demand charge of \$4.59 per kW per month, a transformation charge of 20 cents per kW per month for deliveries below 34.5 kV, an energy charge of 9.5 mills per kWh, and a fuel adjustment clause.

KCPL states that there exists good cause for the waiver of our 60 day notice requirement<sup>2</sup> and therefore requests that the proposed rates be made retroactively effective as of May 1, 1978. KCPL explains the lateness of its filing is due to the fact that its management employees who normally process rate filings were on assignment in the company's operating departments during a strike of 1200 of its 2600 employees which began July 1, 1978 and ended November 16, 1978.

Notice of KCPL's filings was given on January 19, 1979, with protests or petitions to intervene due on or before February 12, 1979. On February 12, 1979, the City of Osawatimie filed a Protest. Petition to Intervene and Request for Suspension. On February 23, 1979, KCPL filed an Answer to Osawatimie's Protest.

<sup>1</sup>See Attachment A for Rate Schedule designations.

<sup>2</sup>See, Changes in Notice Requirements Part 35—Filing of Rate Schedules, January 2, 1979.

KCPL states that the tendered schedules provide rates and charges corresponding to those in effect since January 31, 1978, under a settlement agreement filed with the Commission on March 2, 1978, and approved by letter order dated June 2, 1978. In Docket No. ER77-522, KCPL asserts that the service to the Cities is similar to its service to other customers which purchase full requirements under rates in the settlement agreement. KCPL further asserts in its January 10, 1979, filing that the Cities agreed the rate level for service to them would be subject to the Commission's acceptance of the settlement agreement and the instant filing. However, in its Answer of February 23, 1979, KCPL merely asserts that its discussion with Osawatimie in April 1978 centered on the ER77-522 settlement rates of \$4.59 per kW per month and 9.5 mills per kWh.

The relationship between Cities' purchases and the settlement rates from Docket No. ER77-522 is now relevant only to Osawatimie. The other Cities have not purchased firm power since May 1, 1978. In April 1978, pursuant to its Municipal Participation Agreement, Osawatimie requested KCPL to provide it with 2400 kW of firm power and energy for a 12-month period beginning May 1, 1978, to allow the City to overhaul two of its diesel generators. By letter dated April 24, 1978, KCPL agreed to provide the service as requested. The proposed rates would increase revenues from Osawatimie for its one-year 2400 kW purchase about \$48,000.

While KCPL states the proposed C-MPA-4 rate schedule with the \$4.59 per kW per month demand charge is intended to replace a C-MPA-2A rate schedule and a \$3.71 per kW per month demand charge, Osawatimie states that KCPL has not filed a C-MPA-2A rate schedule with a \$3.71 per kW demand charge applicable to the City. Rather, Osawatimie maintains the proposed rate schedule would replace a C-MPA-2 rate schedule and a \$3.46 per kW per month demand charge (less 20 cents for deliveries at 69 kv).<sup>3</sup>

Osawatimie states in its Protest that it has never consented to a retroactive application of any increase in its rate or agreed that the rates for its 2,400 kW one-year purchase are subject to this Commission's acceptance of the settlement agreement in Docket No. ER77-522 and of the instant filing. Osawatimie contends that the lan-

<sup>3</sup>The demand component of the present rates for Baldwin City and Carrollton is \$3.71 per kW per month and \$3.74 per kW per month for Garnett. It appears from the filings of KCPL and Osawatimie that the company has billed the City at a rate based on a demand charge of \$3.71 per kW per month.

guage of its C-MPA-2 firm power rate schedule precludes retroactive application of any rate change. The rate schedule provides:

"Effective Term:

This Schedule C-MPA-2 shall be effective as of the Operative Date of the said Municipal Participation Agreement to which it is attached and shall remain and continue in effect until superseded by a substitute schedule tendered by the Company and accepted for filing by the governmental regulatory agencies having jurisdiction." (emphasis added)

Osawatimie also notes it was not a party to the rate proceeding in Docket No. ER77-522.

Osawatimie requests that the proposed rates be suspended for two months to cover the contract period, ending April 1979, for its 2,400 kW purchase of power. However, Osawatimie does not protest the level of the proposed rates and does not provide support for its suspension request.

Upon our review of all the submissions we shall accept the proposed rates for filing to be effective March 12, 1979, 60 days after filing. There is no basis for granting KCPL's request that we waive our 60 day notice requirement and make the proposed rates effective seven months before the date of filing. Thus, we deny KCPL's waiver request. Similarly, we deny Osawatimie's request for a two month suspension of the proposed rates.

Our review of the submissions also indicates the proposed \$4.59 demand rate will supersede and replace the currently applicable \$3.46 per kW per month rate for Osawatimie. The \$3.46 rate is specified in both KCPL's C-MPA-2A rate schedule filed with the Commission on January 2, 1976 in Docket No. ER76-435, and the C-MPA-2 rate schedule filed September 17, 1975 in Docket No. ER76-131.<sup>4</sup>

We also note that KCPL's rate schedules contain a tax adjustment clause. KCPL is hereby advised that any adjustment which it may contemplate pursuant to the clause will have to be filed as a change in rates under Section 35.13 of our Rules and Regulations. It is our regulatory policy that such tax clauses may not serve as a basis for automatic changes in rates. See Order in *Boston Edison Company*, Docket No. ER78-304, issued May 30, 1978.

The Commission orders: (A) KCPL's proposed rate schedules, tendered for filing on January 10, 1979, are accepted for filing and permitted to become effective March 12, 1979.

(B) KCPL's request for waiver of our 60 day notice requirement is denied as good cause has not been shown.

<sup>4</sup>We note that the "Effective Term" provision of the C-MPA-2 schedule, *supra* at 3, is identical to that contained in the C-MPA-2A schedule.

(C) The City of Osawatimie, Kansas, is hereby permitted to intervene subject to the Rules and Regulations of the Commission: *Provided, however, that the participation of this intervenor shall be limited to matters set forth in their petitions to intervene; and Provided, further, that the admission of this intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.*

(D) Osawatimie's request for a two-month suspension of the proposed rate schedule is denied.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

ATTACHMENT A—KANSAS CITY POWER & LIGHT COMPANY, Docket No. ER79-141. RATE SCHEDULE DESIGNATIONS

Filed: January 10, 1979

Dated: Undated

Other Parties: (1) Baldwin City, (2) Garnett, and (3) Osawatimie, Kansas; (4) Carrollton, Missouri

Service Schedule C-MPA-4 for Firm Power Service

- (1) Supplement No. 7 to Rate Schedule FERC No. 78 (Supersedes Supplement No. 3 thereto).
- (2) Supplement No. 7 to Rate Schedule FERC No. 85 (Supersedes Supplement No. 3 thereto).
- (3) Supplement No. 7 to Rate Schedule FERC No. 77 (Supersedes Supplement No. 3 thereto).
- (4) Supplement No. 7 to Rate Schedule FERC No. 86 (Supersedes Supplement No. 3 thereto).

[FR Doc. 79-8449 Filed 3-20-79; 8:45 am]

[6450-01-M]

[Project No. 2890]

KINGS RIVER CONSERVATION DISTRICT

Application for Major License

MARCH 9, 1979.

Take notice that on November 28, 1978, an application for a major license was filed under the Federal Power Act (16 U.S.C. §§ 791(a)-825(r)) by the Kings River Conservation District, California, for the Dinkey Creek Project No. 2890. The proposed project would be located on Dinkey Creek, a tributary of the Kings River in Fresno County, near the cities of Fresno, Hanford, and Visalia, California. The project would affect lands of the United States within the Sierra National Forest. Correspondence regarding the application should be sent to: Mr. Jeff L. Taylor, General Manager, Chief Engineer, Kings River Conservation District, 4886 East Jensen Avenue, Fresno, California 93725; and International Engineering Company,

Inc., 220 Montgomery Street, San Francisco, California 94104.

Applicant proposes to construct a hydroelectric project with an installed capacity of 120 megawatts (MW). The project would consist of a 380-foot high, zoned compacted rockfill dam with a reinforced concrete upstream face, having a crest length of 1,750 feet at elevation 5,710 feet mean sea level (m.s.l.), impounding a reservoir with a storage capacity of about 95,000 acre-feet with a surface area of about 950 acres. A spillway would be constructed at the left abutment of the dam and would consist of a 500-foot long, ungated concrete crest section (elevation 5,710), and a 75-foot wide, 1,000-foot long unlined chute.

Two power plants would be constructed, each with a 60-MW unit.

Power Plant No. 1—to be located 5.7 miles downstream from the main dam on the right bank of Dinkey Creek at elevation 3,484 (normal maximum tail water)—would be connected to the intake at the Dinkey Creek Reservoir by a 28,250-foot long power tunnel 10 feet in diameter and a 1,250-foot long steel penstock.

Power Plant No. 2—to be located on the right bank of the Kings River approximately 1,000 feet upstream from the North Fork-Dinkey Creek confluence at elevation 1,264 feet m.s.l. (normal maximum tail water)—would receive water from Power Plant No. 1 through a 18,580-foot long, 10-foot diameter power tunnel and a 1,500-foot long steel penstock.

To acquire more water for power generation, Applicant would construct four diversion weirs. The uppermost diversion weir (Deer Creek Diversion Weir) would be located at elevation 5,900 feet m.s.l., 2.5 miles upstream from the Deer Creek-Dinkey Creek confluence. Water from the Deer Creek Diversion Weir would flow through the 16,610-foot long Deer Creek Tunnel to the Bear Creek Channel at a point 2,100 feet upstream from the Bear Creek-Laurel Creek confluence. One thousand feet below this point would be the Bear Creek Diversion Weir at elevation 5,745 feet m.s.l. An 800-foot long tunnel would extend from the Bear Weir to a point on Laurel Creek 500 feet from the Bear Creek-Laurel Creek confluence. At this location, another diversion weir would be constructed. From this weir, a 10-foot diameter 3,590-foot-long tunnel would carry the flow of Laurel, Deer and Bear Creeks to a point on Dinkey Creek Reservoir, approximately 2,000 feet north of the left abutment of the dam. The fourth diversion weir would be located immediately downstream from Power Plant No. 1 at elevation 3,470 feet m.s.l. This weir would divert water from Dinkey Creek to Power Tunnel No. 2.

Applicant would construct seven access roads, including two bridges, for the project, totalling about 7 miles in length. A 2.5-mile section of the relocated McKinley Grove Road, including a new bridge across Dinkey Creek, would also be constructed. Transmission facilities would be provided by the power purchasers and are not included as part of this project. It is anticipated, however, that the project would tie in with an existing transmission line corridor approximately four miles away.

Applicant states that the power to be developed by this project would be utilized by the State of California for the State Water Project or by the Pacific Gas & Electric Company System.

Recreation development would include two picnic areas, a 50-unit campground, public use cabins, a boat ramp, and parking facilities.

Applicant states that impoundment of flows from Dinkey, Bear, Laurel and Deer Creeks will reduce the availability of habitat to the fishery in these watercourses. Applicant states that the loss of fishery resources, if any, would be mitigated by a trout stocking program.

Development of the Dinkey Creek Project is expected to remove approximately 1,124 acres of wildlife habitat. Applicant states that habitat losses will be mitigated through acquisition of other key wildlife habitat. Additional wildlife mitigation would consist of habitat manipulation efforts (such as creation of scenic and wildlife preservation areas). While some deer trails would be disrupted, Applicant will encourage deer and other wildlife to cross the crest of the dam.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR §§ 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before May 4, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8435 Filed 3-20-79; 8:45 am]



## [6450-01-M]

(Docket RP79-43)

## MICHIGAN WISCONSIN PIPE LINE CO.

## Notice of Proposed Changes in F.P.C. Gas Tariff

MARCH 12, 1979.

Take notice that on March 1, 1979, in accordance with the FERC's Order No. 10-A at Docket No. RM78-23, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing a proposed increase in its resale rates of 3.60¢ to cover the estimated impact of the Louisiana First Use Tax (LFUT) for the month of April, 1979. In addition, per terms of the same order, Michigan Wisconsin also filed a temporary LFUT tracking provision to be effective May 1, 1979.

Michigan Wisconsin states that in the event the Commission grants it the waiver requested on January 25, 1979, which would defer the first tracking date to May 1, 1979 the April 1 requested increase would be cancelled.

To accomplish the April 1, 1979 increase Michigan Wisconsin filed two tariff sheets, one which reflects a general rate increase also filed on March 1, 1979 and the second which adjusts currently effective rates in the event the general rate increase filing is suspended.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8419 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket RP79-39)

## MICHIGAN WISCONSIN PIPE LINE CO.

## Proposed Changes in FERC Gas Tariff

MARCH 9, 1979.

Take notice that on March 1, 1979, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing proposed changes in its FERC

Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2 to become effective April 1, 1979. Michigan Wisconsin states that the proposed changes result in an increase in revenues of approximately \$42 million based on sales for the twelve months ended November 30, 1978, as adjusted, at rates currently effective. The increase in charges above the current rates after adjusting for surcharges which will expire April 30, 1979 is approximately \$84 million or 6.4%.

Michigan Wisconsin further states that the principal reasons for the proposed rate changes are: (1) substantial investments in facilities related to gas supply acquisitions and continued storage development; (2) increased costs of capital; (3) increased levels of operation and maintenance expenses; and (4) a reduction in the statutory Federal income tax rate from 48% to 46%.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before March 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8402 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. ER79-208)

## MID-CONTINENT AREA POWER POOL

## Notice of Filing

MARCH 12, 1979.

Take notice that the Mid-Continent Area Power Pool on February 15, 1979, tendered for filing Amendment No. 7 to the Pool Agreement, proposed to be effective May 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on

or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8420 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. RP79-32)

## MID LOUISIANA GAS CO.

## Proposed Change in Rates

MARCH 12, 1979.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on February 26, 1979, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, First Revised Sheet No. 3b, Original Sheet Nos. 26e and 26f.

The proposed tariff pages set forth the procedure by which Mid Louisiana will calculate the impact of the Louisiana First Use Tax and the surcharge rate to become effective April 1, 1979. First Revised Sheet No. 1 3b will set an initial rate of 1.52¢ per Mcf for Rate Schedules G-1, SG-1 and I-1. Mid Louisiana states that the filing is being made in accordance with Commission Order No. 10-A, and that copies of the filing have been served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8440 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. E-9502)

## MINNESOTA POWER &amp; LIGHT CO.

## Compliance Filing

MARCH 9, 1979.

Take notice that Minnesota Power & Light Company on November 24, 1978 tendered for filing a revised cost of service and Rate Schedule Nos. 92F and 93F in compliance with Opinions 20 and 20A.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before March 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8403 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. ER79-207)

## MISSISSIPPI POWER CO.

## Notice of Filing of Agreement

MARCH 12, 1979.

Take notice that Mississippi Power Company (MPC) on February 21, 1979, tendered for filing Supplement Agreement with Coast Electric Power Association (CEPA) under its FERC Electric Tariff Original Volume No. 1. MCP indicates that this agreement provides for an increase in the delivery voltage and contracted capacity at the New Saucier delivery point of CEPA on or about January 1, 1979. To effect these changes, MPC and CEPA have entered into a supplemental agreement under the Company's FERC Electric Tariff Original Volume No. 1 (Second Revised Sheet No. 14).

MPC agrees to deliver up to a maximum of 2,000 kilowatts at 115,000 volts at the primary terminals of the 115 KV switch located inside Customer's substation located adjacent to Company's Gulfport-Hattiesburg 115 KV line in the NE ¼ of SE ¼ of SE ¼ of Section 23, Township 5 South, Range 12 West, Harrison County, Mississippi.

MPC states that this supplement may not be terminated until January 1, 1984, or until five years after the date the power systems of parties are actually connected, whichever is later.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8421 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. ER79-212)

## MONONGAHELA POWER CO. AND WEST PENN POWER CO.

## Proposed Changes in Rates and Charges

MARCH 12, 1979.

Take notice that Allegheny Power Service Corporation (APSC) on February 25, 1979 tendered for filing on behalf of Monongahela Power Company (Monongahela) and West Penn Power Company (West Penn), two of the electric utilities which make up the integrated Allegheny Power System, Amendment No. 6 dated December 15, 1978 to the Interchange Agreement dated October 17, 1968 between Monongahela, West Penn and the Ohio Edison Company and Pennsylvania Power Company (Ohio Edison) designated Monongahela Rate Schedule FPC No. 29, West Penn Rate Schedule FPC No. 27, Ohio Edison Rate Schedule FPC No. 69, and Pennsylvania Power Rate Schedule FPC No. 20.

According to APSC Amendment No. 6 provides for an increase in the demand charge for short-term power from \$0.60 to \$0.70 per kilowatt week and an increase in the charge for short-term power obtained by the supplying party from another system from \$0.15 to \$1.175 to become effective May 1, 1979. Applicants state that since short-term power transactions are scheduled from time to time as load capacity conditions on the systems of the parties dictate it is impossible to estimate the increase in revenues which would result from Amendment No. 6.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with

the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8422 Filed 3-20-79; 8:45 am)

## [6450-01-M]

(Docket No. RP77-98)

## NATURAL GAS PIPELINE CO. OF AMERICA

## Certification of Revised Settlement Agreement

MARCH 9, 1979.

Take notice that on February 9, 1979, Presiding Administrative Law Judge Sherman P. Kimball certified to the Commission a revised settlement agreement in this proceeding. An earlier settlement proposal (Exhibit 189) and the supporting evidentiary record were certified to the Commission on December 7, 1978. Two contested issues were also certified to the Commission, with a request to omit the initial decision on the contested issues. By order issued December 27, 1978, the Commission denied the request to omit the initial decision and remanded the entire record to the Presiding Judge.

Minor modifications have been made to the settlement agreement previously certified. A revision in Article IV reflects the fact that the settlement will be certified to the Commission separately from the reserved issues. Articles IV and XXII have been changed to provide for the interim refunds after approval of the revised settlement agreement, and to provide for additional refunds after the Commission's decision on the contested issues, if necessary.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 20, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the



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Commission and, are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8404 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. RP79-38)

NATURAL GAS PIPELINE CO. OF AMERICA

Proposed Changes in FERC Gas Tariff

MARCH 12, 1979.

Take notice that on February 28, 1979, Natural Gas Pipeline Company of America, (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. Natural states that the proposed changes will make effective Thirty-eighth Revised Sheet No. 5 and Original Sheet Nos. 147 through 149.

Natural states that Thirty-eighth Revised Tariff Sheet No. 5, reflects a unit rate adjustment to recover, subject to refund, Natural's payments of the State of Louisiana First Use Tax during the period April 1 through August 31, 1979. The unit rate adjustment was calculated pursuant to the provisions of Section 154.38(h) of the Commission's Regulations as amended by Order No. 10-A, Docket No. RM78-23, issued December 20, 1978. Original Sheets Nos. 147 through 149 contain a temporary tracking clause, designed in accordance with the provisions of amended Section 154.38(h), to provide for the semi-annual recovery of the Louisiana First Use Tax under deferred accounting procedures.

Copies of this filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8441 Filed 3-20-79; 8:45 am)

## NOTICES

[6450-01-M]

(Docket No. RP79-41)

NORTHERN NATURAL GAS CO.

Notice of Proposed Addition to FERC GAS Tariff

MARCH 12, 1979.

Take notice that Northern Natural Gas Company (Northern), on March 1, 1979, in compliance with Commission Order No. 10-A issued in the above proceeding, submitted for filing tariff sheets incorporating a provision for the tracking of the Louisiana First Use Tax payments, in its FERC Gas Tariff, Volume No. 1 and Volume No. 2. Northern also proposes a rate adjustment of 1.32¢ per Mcf in the commodity rate effective April 1, 1979 to recover the cost of such tax.

The Tariff Sheets are:

Third Revised Volume No. 1

Original Sheet Nos. 74a and 74b.  
First Revised Sheet No. 74.  
Eighteenth Revised Sheet No. 4a.

Original Volume No. 2

Original Sheet Nos. 1m, 1n, and 1o.  
First Revised Sheet No. 1L.  
Eighteenth Revised Sheet No. 1c.

Northern states that copies of its filing were served on all jurisdictional customers and affected State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8423 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. RP72-154)

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

MARCH 12, 1979.

Take notice that Northwest Pipeline Corporation, on February 15, 1979, tendered for filing a proposed change

in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of reflecting changes in Northwest's cost of purchased gas which will become effective by April 1, 1979, applied to volumes purchased for the twelve (12) month period ending December 31, 1978, as adjusted, and its change in unrecovered purchased gas costs since Northwest's prior semiannual PGAC filing dated August 16, 1978.

The current PGAC adjustment, for which notice is given herein, aggregates to a net increase of .904¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates an increase of \$24,752,696. Northwest proposes to recover, through a surcharge, the adjusted balance of \$19,126,309 in its FERC Account No. 191, as of December 31, 1978. The proposed change in rates would increase Northwest's annual revenues from jurisdictional sales and service by \$43,558,452.

Northwest is concurrently filing notices of change in rates applicable to the currently effective Section 13.4, contained in its Original Volume No. 1 Tariff. In accordance with Articles 13.4, Change in Rates to Reflect Curtailment Credits, contained in the aforementioned tariff, the current rate adjustment under the Demand Charge Credit Adjustment provision is to become effective on Northwest's PGAC adjustment date. Accordingly, both rate adjustments are reflected on the tendered Twenty-second Revised Sheet No. 10, which is proposed to become effective on April 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8424 Filed 3-20-79; 8:45 am)

[6450-01-M]

NORTHWEST PIPELINE CORP.

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

MARCH 12, 1979.

On March 7, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

STATE OF NEW MEXICO, ENERGY AND MINERALS DEPARTMENT, OIL CONSERVATION DIVISION

FERC Control Number: JD79-687.  
API Well Number: 3003907884.

Section of NGPA: 108.

Operator: Northwest Pipeline Corporation.

Well Name: S/J 30-5 Unit No. 35.

Field: Blanco.

County: Rio Arriba.

Purchaser: Northwest Pipeline Corporation.

Volume: 19 MMcf.

FERC Control Number: JD79-688.

API Well Number: None.

Section of NGPA: 108.

Operator: W. K. Byrom.

Well Name: Cooper G. 3.

Field: Eumont Queen.

County: Lea.

Purchaser: El Paso Natural Gas Company.

Volume: 20 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8428 Filed 3-20-79; 8:45 am)

## NOTICES

[6450-01-M]

PALMER OIL & GAS CO.

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

MARCH 12, 1979.

On March 5, 1979, the Federal Energy Regulatory Commission received notice from the State of Utah, Board of Division of Oil, et al. of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79-637.

API Well Number: 4901930451.

Operator: Palmer Oil & Gas Company.

Well Name: State No. 32-1.

Field: San Arroyo.

County: Grand.

Purchaser: Natural Gas Pipeline Company of America.

Volume: 256 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8426 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. RP79-34)

PANHANDLE EASTERN PIPE LINE CO.

Change in Tariff

MARCH 12, 1979.

Take notice that on February 28, 1979 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing Twenty-Eighth Revised Sheet No. 3-A, Fifth Revised Sheet No. 3-B and Original Sheet No. 43-6 to its FERC Gas Tariff, Original Volume No. 1. An effective date of April 1, 1979 is proposed.

Panhandle submits that these revised tariff sheets are filed in accordance with Commission Order No. 10-A issued December 20, 1978 in Docket No. RM78-23 and pursuant to § 154.38(h) of the Commission's Regulations. These revised tariff sheets contain (1) rates which reflect the esti-

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mated costs attributable to the Louisiana First Use Tax for the period April 1, 1979 through August 31, 1979, and (2) the temporary Louisiana First Use Tax tracker provision.

Panhandle states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8442 Filed 3-20-79; 8:45 am)

[6450-01-M]

(Docket No. ER79-213)

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Proposed Tariff Change

MARCH 12, 1979.

Take notice that Public Service Company of Indiana, Inc. on February 23, 1979, tendered for filing pursuant to the Service Agreement between the City of Logansport, Indiana, and Public Service Company of Indiana, Inc. a notification of its intention to terminate such Service Agreement on May 22, 1980.

Such notice of intention to terminate is in accordance with Paragraph 3 of the Service Agreement, according to Applicant.

A copy of the filing was served upon the City of Logansport, Indiana, according to Applicant.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before March 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person



wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8429 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-45]

## SEA ROBIN PIPELINE CO.

## Filing of Revised Tariff Sheets

MARCH 12, 1979.

Take notice that on March 1, 1979, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective on April 1, 1979:

Original Sheet No. 8  
Original Sheet No. 9  
Original Sheet No. 10  
Original Sheet No. 11  
Twentieth Revised Sheet No. 4

These tariff sheets are filed pursuant to Commission Order Nos. 10 and 10-A and contain provisions whereby Sea Robin's rates will be adjusted to recover tax expenditures under the Louisiana First Use Tax and reflect Sea Robin's initial First Use Tax Adjustment to recover estimated tax expenditures from April 1, 1979 to June 30, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8443 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-48]

## SOUTHERN NATURAL GAS CO.

## Proposed Changes in FERC Gas Tariff

MARCH 12, 1979.

Take notice that Southern Natural Gas Company (Southern) on March 1, 1979, tendered for filing proposed changes to its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective on April 1, 1979, subject to refund. Such filing is for the purpose of including a tariff provision to permit special rate filings to reflect the Louisiana First Use Tax as provided for by the Commission's Order Nos. 10 and 10-A and filing of the initial rate adjustment pursuant to such provision. The initial rate adjustment will increase Southern's commodity and one-part rates by 2.229¢ per Mcf.

Copies of the filing are being served upon the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8444 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. R179-23]

## SOUTHERN UNION GATHERING CO.

## Order Granting Rehearing for Purposes of Further Consideration

MARCH 13, 1979.

On December 11, 1978, Southern Union Gathering Company (Southern Union) filed, *inter alia*, two notices of change in rate, designated as Supplement Nos. 22 and 23 to its FERC Gas Rate Schedule No. 1, proposing to increase the gathering charge from 11.2743 cents to 19.2740 cents per Mcf at 14.73 psia for sales of natural gas to El Paso Natural Gas Company from the Kutz and San Juan Basin Areas, New Mexico. By order of January 17,

1979, the Commission, *inter alia*, rejected such rate filings. On February 9, 1979, Southern Union filed, *inter alia*, an application for rehearing of the January 17 order.

The Commission orders: Rehearing of the Commission's order herein issued January 17, 1979, is hereby granted solely for the purpose of affording further time for consideration of Southern Union's application for rehearing. Since this order is not a final order on rehearing, no responses to the order will be entertained by the Commission in accordance with the terms of § 1.34(d) of the Commission's Rules of Practice and Procedure.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 79-8450 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP72-121 PGA79-1]

## SOUTHWEST GAS CORP.

## Change in Rates Pursuant To Purchased Gas Cost Adjustment

MARCH 9, 1979.

Take notice that on February 28, 1979, Southwest Gas Corporation ("Southwest") tendered for filing Third Revised Sheet No. 10 constituting the Statement of Rates of its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to adjust rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of the General Terms and Conditions contained in said tariff, as a result of changes in rates from its supplier, Northwest Pipeline Corporation ("Northwest"), effective April 1, 1979. The proposed effective date for Southwest's proposed change in rates is April 1, 1979.

Southwest states that copies of the filing have been mailed to the Public Service Commission of Nevada, the California Public Utilities Commission, Sierra Pacific Power Company and CP-National (formerly California-Pacific Utilities Company).

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8405 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. ER79-209]

## SOUTHWESTERN PUBLIC SERVICE CO.

## Notice of Rate Filing

MARCH 12, 1979.

Take notice that on February 22, 1979, Southwestern Public Service Company (Southwestern) of Amarillo, Texas, tendered for filing a new contract and rate schedules for electric power service to the City of Tucumcari, New Mexico (Tucumcari). This service would be rendered through Southwestern's 115 KV transmission system to its connection with Tucumcari, according to Southwestern.

Southwestern states that Tucumcari is a partial requirements customer and the new contract provides for Firm Power Service, Emergency Service and Non-Firm Energy Service to supplement Tucumcari's generation of electricity.

Southwestern requests waiver of the Commission's notice requirements to allow for an effective date of September 1, 1979.

Any person desiring to be heard or to protest said filing shall file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests or petitions to intervene must be filed on or before March 23, 1979. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8430 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP74-41 (PGA79-2) and (DCA79-1)]

## TEXAS EASTERN TRANSMISSION CORP.

## Proposed Changes in FERC Gas Tariff

MARCH 9, 1979.

Take notice that Texas Eastern Transmission Corporation on February 28, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Second Substitute Forty-sixth Revised Sheet No. 14  
Second Substitute Forty-sixth Revised Sheet No. 14A  
Second Substitute Forty-sixth Revised Sheet No. 14B  
Second Substitute Forty-sixth Revised Sheet No. 14C  
Second Substitute Forty-sixth Revised Sheet No. 14D

These tariff sheets are being issued in substitution of tariff sheets filed by Texas Eastern on December 18, 1978 pursuant to Texas Eastern's PGA and DCA tariff provisions. By order dated February 2, 1979 the Commission accepted such December 18, 1978 filing to be effective February 1, 1979 subject to modification for changes in pipeline supplier rates and elimination of costs from producer supplier rates which those suppliers are not authorized to charge pursuant to the NGPA and the regulations thereunder. Texas Eastern states that the above referenced tariff sheets reflect changes in Texas Eastern's pipeline supplier rates as follows: (i) United Gas Pipe Line Company's revised rates filed January 16, 1979; (ii) Southern Natural Gas Company's revised rates filed December 15, 1978 and (iii) Texas Gas Transmission Corporation's revised rates filed February 16, 1979. In addition, Texas Eastern states that these tariff sheets do not reflect any change in costs from producer suppliers. However, Texas Eastern points out that in those cases where contracts with producer-suppliers contain area rate clauses it has reflected the maximum lawful prices prescribed in Section 104 of the Natural Gas Policy Act of 1978 subject to reduction and refund depending on the outcome of the rule-making pending before the Commission in Docket No. RM79-22. Finally, Texas Eastern states that the above referenced tariff sheets reflect the reduction in the federal income tax rate from 48% to 46%.

The proposed effective date of the above tariff sheets is February 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8406 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-40]

## TEXAS EASTERN TRANSMISSION CORP.

## Proposed Changes in FERC Gas Tariff

MARCH 12, 1979.

Take notice that Texas Eastern Transmission Corporation on March 1, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Forty-eighth Revised Sheet No. 14  
Forty-eighth Revised Sheet No. 14A  
Forty-eighth Revised Sheet No. 14B  
Forty-eighth Revised Sheet No. 14C  
Forty-eighth Revised Sheet No. 14D  
Original Sheet No. 118  
Original Sheet No. 119  
Original Sheet No. 120

The above tariff sheets are filed in compliance with FERC Order No. 10-A and are expressly made subject to and without prejudice to Texas Eastern's appeal from Order No. 10-A presently pending in the United States Court of Appeals for the Fifth Circuit. These tariff sheets contain increased rates to track Texas Eastern's estimated payments of Louisiana First Use Tax and a tariff provision by which Texas Eastern will track such tax payments coincident with its semiannual PGA trackers.

The proposed effective date of the above tariff sheets is April 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before



March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8445 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-31]

## TEXAS GAS TRANSMISSION CORP.

## Proposed Changes in FPC Gas Tariff

MARCH 12, 1979.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on February 23, 1979, tendered for filing Fifth Substitute Twenty-Fourth Revised Sheet No. 7 and Original Sheet Nos. 108 and 109, to its FPC Gas Tariff, Third Revised Volume No. 1, to be effective April 1, 1979.

These sheets are being filed to reflect (1) the initial rate increase for the Louisiana First Use Tax (LFUT); and (2) the provisions for tracking and deferred accounting for the LFUT, all as provided for in Docket No. RM78-23, approved by Commission Order Nos. 10 and 10-A issued on August 28, 1978 and December 20, 1978, respectively.

Copies of the filings were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8446 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-46]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

## Notice of Tariff Filing

MARCH 12, 1979.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following tariff sheets to its FERC Gas Tariff:

## SECOND REVISED VOLUME NO. 1

Fourteenth Revised Sheet No. 12  
Thirteenth Revised Sheet No. 15  
Original Sheet No. 254  
Original Sheet No. 255  
Unnumbered Tariff Sheet Reserving  
Sheet Nos. 256 through 299

## ORIGINAL VOLUME NO. 2

Twentieth Revised Sheet No. 121

Transco states that the purpose of this filing is to provide for the tracking of the State of Louisiana First Use Tax on Natural Gas (LFUT) during the pendency of litigation on the constitutionality of the LFUT. Original Sheet Nos. 254 through 255 contain a new Section 25 in Transco's General Terms and Conditions which set forth the procedures to be followed in the tracking of costs related to the LFUT. The remaining tariff sheets reflect the necessary rate changes in the affected rate schedules to be made effective April 1, 1979 pursuant to Section 25.

Transco further states that the Commission, in Docket No. RM78-23, issued Order No. 10 on August 28, 1978 and Order No. 10-A on December 20, 1978, which Orders amended Section 154.38 of the Commission's Regulations under the Natural Gas Act (Regulations) by adding a new Section 154.38(h) establishing procedures governing pipeline recovery of the LFUT and that this filing is being made under such new Section 154.38(h).

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8432 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP72-128 (PGA79-1)]

## TRANSWESTERN PIPELINE CO.

## Notice of Proposed Changes in FERC Gas Tariff

MARCH 19, 1979.

Take notice that Transwestern Pipeline Company (Transwestern) on March 1, 1979, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Twelfth Revised Sheet No. 5  
Twelfth Revised Sheet No. 6

These sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision as set forth in Section 19 of the General Terms and Conditions of its FERC Gas Tariff Second Revised Volume No. 1. This increase in Transwestern's rate reflects a Cost of Gas Adjustment to track increased purchased gas costs including increases due to the NGPA of 1978, and a Surcharge Adjustment to clear the balance of the Gas Cost Adjustment Account, as adjusted for NGPA costs in accordance with the Commission's Order No. 17 in Docket No. RM79-7.

The proposed effective date of the above tariff sheets is April 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1979.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8407 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-33]

## TRUNKLINE GAS CO.

## Change in Tariff

MARCH 12, 1979.

Take notice that on February 28, 1979 Trunkline Gas Company (Trunkline) tendered for filing Twenty-Seventh Revised Sheet No. 3-A, Original Sheet No. 21-M and Original Sheet No. 21-N to its FERC Gas Tariff, Original Volume No. 1. An effective date of April 1, 1979 is proposed.

Trunkline submits that these revised tariff sheets are filed in accordance with Commission Order No. 10-A issued December 20, 1978 in Docket No. RM78-23 and pursuant to § 154.38(h) of the Commission's Regulations. These revised tariff sheets contain 1) rates which reflect the estimated costs attributable to the Louisiana First Use Tax for the period April 1, 1979 through August 31, 1979, and 2) the temporary Louisiana First Use Tax tracker provision.

Trunkline states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8447 Filed 3-20-79; 8:45 am]

## [6450-01-M]

Docket Nos. RP 73-35 (PGA79-1) and RP78-11 (AP79-1)

## TRUNKLINE GAS CO.

## Notice of Change in Tariff

MARCH 9, 1979.

Take notice that on February 14, 1979 Trunkline Gas Company (Trunkline) tendered for filing First Substitute Twenty-Sixth Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that this substitute revised tariff sheet re-

flects a rate adjustment ordered by the Commission in its letter order dated January 26, 1979 in the subject dockets. An effective date of February 1, 1979 is proposed.

Trunkline states that copies of this filing have been served on all jurisdictional customers and applicable State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8408 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RA79-1]

## UNION OIL CO.

## Order Designating New Presiding Officer and Appointing Commission Designee

MARCH 13, 1979.

On December 27, 1978, the Commission appointed Seymour Spolter as the presiding officer in the above captioned proceedings. For reasons of administrative convenience and expediency, the designated presiding officer must be changed. Consequently, the Commission designates William P. Sweeney as the presiding officer.

The Commission further appoints the Director or the Deputy Director of the Office of Opinions and Review as the Commission's designees for the purpose of designating, if necessary, another person to act as the presiding officer in this proceeding.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 79-8457 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-44]

## UNITED GAS PIPE LINE CO.

## Filing of Revised Tariff Sheets

MARCH 12, 1979.

Take notice that on March 1, 1979, United Gas Pipe Line Company (United) tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective on April 1, 1979:

Original Sheet No. 74-L  
Original Sheet No. 74-M  
Original Sheet No. 74-N  
Original Sheet No. 74-O  
Forty-Eighth Revised Sheet No. 4

These tariff sheets are filed pursuant to Commission Order Nos. 10 and 10-A and contain provisions whereby United's rates will be adjusted to recover tax expenditures under the Louisiana First Use Tax and reflect United's initial First Use Tax Adjustment to recover estimated tax expenditures from April 1, 1979 to June 30, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8448 Filed 3-20-79; 8:45 am]

## [6450-01-M]

[Docket No. RP79-30]

## UNITED GAS PIPE LINE CO.

## Filing of Revised Tariff Sheet

MARCH 9, 1979.

Take notice that on February 22, 1979, United Gas Pipe Line Company (United) tendered for filing with the Federal Energy Regulatory Commission (Commission) as a part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet



No. 67, being part of the General Terms and Conditions. It is proposed that this tariff sheet become effective on April 1, 1979.

United states that such sheet has been modified to reflect, for purposes of computing interest charges on late payments from customers, the current rate of interest on pipeline refunds established by the Commission rather than a stipulated percentage as was previously utilized. United further states that copies of this filing will be mailed to all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8409 Filed 3-20-79; 8:45 am)

#### [6450-01-M]

Office of Assistant Secretary for International Affairs

#### PEACEFUL USES OF ATOMIC ENERGY

##### Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Governments of Canada, Norway, Sweden, Switzerland, and the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency: Cooperation in the Peaceful Application.

The subsequent arrangements to be carried out under the above mentioned agreements involves approval of the following retransfers:

RTD/CA(NO)-1 Retransfer from Norway to Canada, 15,198g Uranium, containing 525.2g U-235 and 24.1g Plutonium, for further irradiation experiments, post irradiation examinations, and subsequent storage and disposal.

RTD/EU(IAEA)-1 Retransfer from the International Atomic Energy Agency (IAEA), Vienna, Austria to the United Kingdom, 6 MTR core plates, containing 72g Uranium and 60g U-235, for core counting standards in the frame of MTR fuel element manufacture.

RTD/EU(SD)-26 Retransfer from Switzerland to Belgium, 188g Uranium, containing 175g U-235 and 44g Plutonium, for post-irradiation examination.

RTD/SW(EU)-100 Retransfer from West Germany to Sweden, 868.640 kgs Uranium, containing 27.788kgs U-235, for fuel elements for Ringhals 2 reactor.

RTD/SW(EU)-101 Retransfer from West Germany to Sweden, 49,700kgs Uranium, containing 1,172.920kgs U-235, for fuel for Forsmark II reactor.

RTD/SW(EU)-98 Retransfer from West Germany to Sweden 25,300kgs Uranium, containing 847.290kgs U-235, for fuel for Barsebaeck II reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of these retransfers will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than April 5, 1979.

For the Department of Energy.

Dated: March 14, 1979.

HAROLD D. BENGLSDORF,  
Director for Nuclear Affairs,  
International Programs.

(FR Doc. 79-8372 Filed 3-20-79; 8:45 am)

#### [6450-01-M]

#### MANDATORY PETROLEUM PRICE REGULATIONS

##### Delegation of Enforcement Authority to the State of New Jersey

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Delegation.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has delegated to the Governor of New Jersey the authority to enforce the provisions of 10 CFR Subpart F, Part 212, and ancillary provisions of DOE regulations, with respect to the pricing practices of independent retailers of gasoline in New Jersey.

EFFECTIVE DATE: March 21, 1979.

#### FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Room B-110, 2000 M Street, NW., Washington, D.C. 20461 (202) 634-2170

Leon Sneed, Office of Enforcement Policy and Planning, Economic Regulatory Administration, Room 5204-C, 2000 M Street, NW., Washington, D.C. 20461 (202) 254-6990.

#### SUPPLEMENTARY INFORMATION:

I. Delegation of Authority and Letter to Governor of New Jersey.

II. Governor of New Jersey's Letter Requesting Authority from DOE.

Issued in Washington, D.C. on March 15, 1979.

DAVID J. BARDIN,  
Administrator,  
Economic Regulatory Administration.

#### DEPARTMENT OF ENERGY DELEGATION ORDER No. 0204-4-R1 TO THE GOVERNOR OF THE STATE OF NEW JERSEY

Pursuant to the authority vested in me as Administrator of the Economic Regulatory Administration (ERA) by the Department of Energy Organization Act (Pub. L. 95-91) and Delegation Order No. 0204-4 from the Secretary of Energy (delegating enforcement authority), there is hereby delegated to the Governor of New Jersey, in accordance with the provisions of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended, the authority vested in me by law to enforce the provisions of 10 CFR Subpart F, Part 212, and ancillary provisions of DOE regulations, with respect to the pricing practices of independent retailers of gasoline in New Jersey. The ancillary provisions are 10 CFR 210.61, 210.62, 210.92, and 10 CFR 212.128, 121.129.

The authority delegated herein to the Governor of New Jersey shall authorize him to:

A. Take all investigatory and administrative enforcement action which is available to the ERA under 10 CFR 210.91 and 10 CFR Part 205 of DOE regulations.

B. Further delegate this authority, in whole or in part, as may be appropriate.

In exercising the authority delegated by this Order, the delegate shall be governed by the rules and regulations of the DOE and the policies and procedures prescribed by the Secretary of Energy, the Administrator of the Economic Regulatory Administration, and the Assistant Administrator for Enforcement.

There is no delegation to the Governor of the State of New Jersey of the authority to issue rules or regulations.

Nothing in this order precludes the Administrator of the ERA from exercising any of the authority so delegated whenever in his judgement his exercise of such authority is necessary or appropriate to administer the functions vested in him.

Further, nothing in this order precludes the Administrator of the ERA from withdrawing the delegated authority at any time.

This order is effective March 21, 1979.

Issued in Washington, D.C. on March 15, 1979.

DAVID J. BARDIN,  
Administrator, Economic Regulatory  
Administration.

Department of Energy  
Washington, D.C.

MARCH 15, 1979.

HONORABLE BRENDAN T. BYRNE,  
Governor of New Jersey,  
Trenton, New Jersey.

DEAR GOVERNOR BYRNE: On behalf of Secretary Schlesinger, thank you for your letter of March 9, 1979, requesting that the Department of Energy delegate to the State of New Jersey the authority to enforce Federal price regulations at retail gasoline pumps. We welcome your innovative suggestion.

We are delegating to you on a trial basis the authority to enforce gasoline prices at the retail level within the State of New Jersey. We believe that the added resources of the State in the enforcement of price regulations at the retail level will bring greater protection to the consumer. There is all the more need for such increased protection in light of current market uncertainties.

I understand that the Office of Enforcement is working with the New Jersey Department of Energy to arrange for appropriate training. We will be glad to provide any further assistance you desire in setting up the enforcement program.

Please have your staff call Mr. Barton Isenberg, Assistant Administrator for Enforcement, (202) 254-8740, if you would like to discuss this matter further.

Sincerely,

DAVID J. BARDIN,  
Administrator, Economic Regulatory  
Administration.

State of New Jersey  
Office of the Governor

MARCH 9, 1979

THE HONORABLE JAMES R. SCHLESINGER,  
Secretary of Energy,  
Washington, D.C.

DEAR MR. SECRETARY: From the time that gasoline was placed under Federal price controls in February 1974, the Federal Government has done an excellent job of enforcing its price regulations.

The State of New Jersey is especially concerned that stringent enforcement of the price controls is necessary at the retail level if the general public is to perceive that its economic interests are truly being protected. Since the gasoline retailer is the final link in the chain to the consumer, the enforcement activities at the refinery level are not being wasted.

Rather than expand the Federal work-force to handle this task, individual states should be authorized to enforce gasoline price controls at the retail level. In this way, existing enforcement personnel within state energy agencies, consumer protection offices, and weights and measures divisions could be assigned to this duty. Thus, the public could be afforded additional protection without the need to expand government payrolls.

I would, most respectfully, request that the authority of the Administrator of the Economic Regulatory Administration under existing legislation (the Department of Energy Organization Act, P.L. 95-91 as amended; the Emergency Petroleum Allocation Act of 1973, P.L. 93-159; and the Economic Stabilization Act of 1970 as amended, P.L. 92-210 to determine the compliance of retailers of motor gasoline with the mandatory prime regulations, 10 C.F.R. 212.91 et seq.) be delegated to the State of New Jersey.

I want to thank the U.S. Department of Energy for working so closely with New Jersey in working out the legal and administrative details of this delegation. I understand that the U.S. Department of Energy has agreed to train our accountants and that matters of venue and courts of competent jurisdiction for enforcement purposes can be settled in the official delegation to the State.

As we approach the start of another summer driving season, with lower than normal gasoline inventories, the public needs assurances that the Federal and state Governments are prepared to act to prevent the type of unscrupulous activities which often characterize high demand/low supply situations.

We are eager to join in serving the public interest in this manner.

Respectfully,

BRENDAN T. BYRNE,  
Governor.

(FR Doc. 79-8749 Filed 3-20-79; 8:45 am)



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### [6570-06-M]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-517-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, March 20, 1979.

CHANGE IN THE MEETING: The following matter is added to the agenda for the open portion of the meeting:

Report by Chair on Senate Appropriations Subcommittee hearings on fiscal year 1980 budget.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of Change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued March 16, 1979.  
[S-557-79 Filed 3-19-79; 10:51 am]

### [6740-02-M]

|      |   |
|------|---|
| 1    | MARCH 19, 1979.   |
| 2, 3 | FEDERAL ENERGY REGULATORY COMMISSION.   |
| 4    | TIME AND DATE: 2 p.m., March 19, 1979.  |
| 5    | PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.   |
| 6    | STATUS: Closed.   |
| 7, 8 | MATTERS TO BE CONSIDERED:   |
| 9    | (1) Conduct of an investigation.<br>(2) Continued closed meeting from March 15, 1979, on civil litigation and on-the-record proceeding. |

CONTACT PERSON FOR FURTHER INFORMATION:

Kenneth F. Plumb, Secretary, 202-275-4166.  
[S-561-79 Filed 3-19-79; 1:57 pm]

### [6740-02-M]

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published March 19, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 21, 1979.

CHANGE IN THE MEETING: The meeting scheduled for March 21, 1979, at 10 a.m. has been changed to March 21, 1979 at 2 p.m.

Kenneth F. Plumb, Secretary.  
[S-562-79 Filed 3-19-79; 3:04 pm]

### [6730-01-M]

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., March 27, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Eastern Forwarding International, Inc.—Application for an independent ocean freight forwarder license.
2. Angel Alfredo Romero—Application for an independent ocean freight forwarder license.
3. I.M.S., Inc.—Independent ocean freight forwarder licensee.
4. Ikeda International Corporation—Independent ocean freight forwarder licensee.
5. Special Docket No. 574: *Ingersoll Rand International v. Peralta Shipping Corp.*—Filing agent for Iran Ocean Shipping Co., Inc.—Petition to intervene and to reopen.
6. Docket No. 78-10: Union Camp Corporation, et al., Possible Violation of Sections 15, 16, 18 and 44 of the Shipping Act, 1916, and Commission General Order No. 4—Petition for order of dismissal.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.  
[S-563-79 Filed 3-19-79; 3:48 pm]

### [7550-01-M]

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, April 4, 1979.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

- (1) Ratification of Board actions taken by notation voting during the month of March, 1979.
- (2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, 202-523-5920.

Date of Notice: March 16, 1979.  
[S-558-79 Filed 3-19-79; 11:50 am]

## SUNSHINE ACT MEETINGS

### NATIONAL RAILROAD PASSENGER CORPORATION.

#### Board of Directors Meeting

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on March 28, 1979.

A. The meeting will be held on Wednesday, March 28, 1979, in the National Guard Association Building, 3rd Floor, 1 Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item no. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

#### AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

#### MEETING OF THE BOARD OF DIRECTORS—MARCH 28, 1979

##### Closed session (9:30 a.m.)

1. Internal personnel matters.
2. Litigation matters.

##### Open session (10:30 a.m.)

3. Approval of minutes of regular meeting of February 28, 1979.
4. Commitment approval requests:

79-13 Michigan City, Ind.—Drawbridge Repairs.

79-21 Track Restoration—Harrisburg Line.

79-50 Safety Tie Program—Corridor Spine.

79-52 Station Improvements—Harrisburg, Pa.

77-266S3 AEM-7 Purchase Agreement Option.

5. Approval of Engineering Services Contract.

6. Approval of Outside Auditor for Annual Audit.

7. Approval of Board Meeting Dates for Remainder of 1979.

8. Board Committee Reports: Audit, Equipment, Northeast Corridor Improvement Project, and Planning and Finance.

9. President's Report.

10. New Business.

11. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at 202-383-3973.

Dated: March 16, 1979.

ELYSE G. WANDER,  
Corporate Secretary.

[S-555-79 Filed 3-19-79; 8:58 am]

### [7590-01-M]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of March 19, 1979 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, MARCH 22, (REVISED), 9:30 a.m.

1. Discussion of Staff's final report, "Regulation of Federal Radioactive Waste Activities" (approximately 1 hour)—public meeting.

2. Affirmation Session (approximately 10 minutes—public meeting):  
Amendments to 10 CFR 35;  
Amendments to 10 CFR 140;  
Modification of Price-Anderson Act.  
"Briefing on Upgrade Rule" and "Discussion of Proposed Executive Branch Format", previously scheduled for Thursday, March 22, are cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

MARCH 19, 1979.

WALTER MAGEE,  
Office of the Secretary.  
[S-559-79 Filed 3-19-79; 1:56 pm]

### [7590-01-M]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, March 23, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: FRIDAY, MARCH 23, 2 P.M.

Commission Meeting on Tarapur Export License (XSNM-1222) (approximately ½ hour—public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

MARCH 16, 1979.

[S-560-79 Filed 3-19-79; 1:56 pm]

### [8120-01-M]

#### TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER CITATION" OF PREVIOUS ANNOUNCEMENT: 44 FR 16095-96, March 16, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., Tuesday, March 20, 1979.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

CHANGES IN MATTERS FOR ACTION: The following item is added to the previously announced agenda:

#### H—UNCLASSIFIED

1. Payment from nonpower proceeds for fiscal year 1978 to the Treasury of the United States pursuant to Section 26 of the TVA Act.

CONTACT PERSON FOR MORE INFORMATION:

James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

#### TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: March 19, 1979.

Approved:

S. David Freeman.

Richard M. Freeman.

Disapproved:

[S-556-79 Filed 3-19-79; 8:58 am]



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WEDNESDAY, MARCH 21, 1979

PART II



## ENVIRONMENTAL PROTECTION AGENCY

PROGRAMS UNDER  
CLEAN WATER, SAFE  
DRINKING WATER AND  
RESOURCE  
CONSERVATION AND  
RECOVERY ACTS

Guidance for FY 1980 State/EPA  
Agreements



[6560-01-M]

# ENVIRONMENTAL PROTECTION AGENCY

(FRL-1069-6)

## GUIDANCE FOR FISCAL YEAR 1980 STATE/EPA AGREEMENTS

This notice is published to advise that the following policy statement and guidance document on FY 1980 State/EPA Agreements were distributed to the Environmental Protection Agency (EPA) Regional Offices in February 1979. The policy statement and guidance document set forth EPA requirements for the development and implementation of FY 1980 State/EPA Agreements for programs under the Clean Water Act, the Safe Drinking Water Act and the Resource Conservation and Recovery Act.

Although there is currently no central EPA regulation dealing with State/EPA Agreements, the requirement for such Agreements appears in the following five EPA regulations: (1) Section 35.738-6 of the Resource Conservation and Recovery Act grant regulations; (2) Section 35.660(d) of the Underground Injection Control grant regulations; (3) Section 35.1016(c) of the Construction Management Assistance grant regulations; (4) Section 35.1600 of the Clean Lakes grant regulations; and (5) Section 35.1507 of the proposed Water Quality Management grant regulations.

For additional information, contact: Ms Merna Hurd, Director, Water Planning Division (WH-554), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Dated: February 28, 1979.

JAMES N. SMITH,  
Assistant Administrator for  
Water and Waste Management.

### PURPOSE

This memorandum sets forth EPA policy requirements on the development and implementation of FY 1980 State/EPA Agreements for programs under the Clean Water Act, the Safe Drinking Water Act and the Resource Conservation and Recovery Act (that is, those programs under the Office of Water and Waste Management).<sup>\*</sup> This memorandum also sets forth general requirements for the content of the

<sup>\*</sup> The EPA is mandating State/EPA Agreements based on the following authorities: Sections 1006 and 2002 of RCRA, 42 U.S.C. 6905, 6912; Sections 101(f) and 501(a) of the CWA, 33 U.S.C. 1251(f), 1361(a); Section 1450(a)(1) of SDWA, 42 U.S.C. 300j-9(a)(1); Section 3 of the Reorganizational Plan No. 3 of 1970 and the accompanying President's Message (5 U.S.C. App.); and the Joint Funding Simplification Act, 42 U.S.C. 4251-4261.

## NOTICES

Agreement. We are enclosing guidance on State/EPA Agreements which expands upon this policy.

The Administrator, in his memorandum of December 27, 1978, stated that guidance on State/EPA Agreements would be issued in lieu of a central regulation this year. He reaffirmed the Agency's commitment to the development of Agreements and gave the policy the Agency's highest priority. This Office has been designated to implement that policy.

### BACKGROUND

Over the next two years, almost one-half billion dollars is expected to be granted to States by the Environmental Protection Agency for planning and management under the Clean Water Act (CWA), the Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Act (SDWA). It is the goal of both EPA and the States to ensure that these laws are being implemented in an integrated, cost-effective and coordinated manner. Beginning in FY 1980, the State/EPA Agreements will present a practical and comprehensive mechanism by which the States and EPA can integrate and manage the technical and financial assistance programs to States under sections 106, 205(g), 208 and 314 of the CWA, sections 3011, 4008 and 4009 of RCRA and sections 1442(b)(3)(C) and 1443(a) and (b) of SDWA.

The idea of an integrated approach to solving environmental problems is not new. A number of Regions and States have had integrated problem solving procedures for years, such as multi-year environmental strategies and use of consolidated grants. EPA Headquarters has further encouraged this type of integration in FY 1979 by directing the Regions and States to develop State/EPA Agreements covering the Clean Water Act programs.

The State/EPA Agreement process is designed to (1) ensure that the large sums of money going to the States produce tangible results in solving priority environmental problems; and (2) maximize available resources to identify and solve priority environmental problems that separate programs cannot handle alone. The Agreement process will reflect important EPA, State and local decisions on environmental and program problems, priorities, timing, responsibilities and allocation of resources. At the same time, the Agreement process will comply with the national commitment to eliminate unnecessary paperwork and reduce duplication of effort. It will focus top management attention in EPA Regional Offices and the States on environmental problem solving decisions, and on the evaluation of how the decisions are carried out.

## POLICY

● Beginning in FY 1980, the State/EPA Agreement is to include the EPA and State program responsibilities and activities under sections 106, 205(g), 208 and 314 of the Clean Water Act, sections 3011, 4008 and 4009 of the Resource Conservation and Recovery Act (RCRA) and sections 1442(b)(3)(C) and 1443(a) and (b) of the Safe Drinking Water Act (SDWA) (hereafter referred to as the "covered" programs). In addition, the States are encouraged to integrate and/or coordinate other environmental programs into the State/EPA Agreement wherever feasible.

● The State/EPA Agreement (SEA) must be completed and signed before award of grants under any "covered" program, except that for the 205(g) program, it must be completed before execution of the delegation agreements.<sup>\*</sup>

● Under the proposed WQM regulations which are scheduled for final publication in March 1979, the State 106 grants for water pollution control programs will be allocated to the Regions using the existing formula. The allotments to the States, however, will be based on negotiations in the State/EPA Agreement process.

● Although the State and EPA are responsible for negotiating the Agree-

<sup>\*</sup> Following are EPA Grant Regulations that cover State/EPA Agreements:

1. Section 35.738-6 of the RCRA grant regulations states that, "Beginning in FY 1980, State programs funded under the Act will be part of the State/EPA Agreement, and the State/EPA Agreement must be completed before grant award." (Interim Regulations, published September 25, 1978.)

2. Section 35.660(d) of the Underground Injection Control grant regulations states that, "Beginning in fiscal year 1980, State programs funded under the Act will be part of the State/EPA Agreement and the State/EPA Agreement must be completed before grant award." (Final Grant Regulation, published October 12, 1978.)

3. Section 35.1016(c) of the 205(g) regulations states, "In fiscal year 1979, the Regional Administrator and the State must develop the State/EPA Agreement sufficiently before executing a delegation agreement under this subpart so that the latter will be consistent with the State/EPA Agreement. Beginning in FY 1980, State programs funded under § 205(g) of the Act will be part of the State/EPA Agreement and the State/EPA Agreement must be completed before execution of the delegation agreement." (Final Regulation, published September 20, 1978.)

4. Section 35.1507 states that EPA funding for the State's WQM work program shall be withheld by the Regional Administrator pending execution of the SEA, except as otherwise determined by the Regional Administrator.

5. Section 35.1850-2 of the proposed Clean Lakes grant program regulations states that State programs funded under section 314 of the Act are a part of a State/EPA Agreement which must be completed before the grant is awarded.

ment, the public and other interested parties must also have the opportunity to participate in each step of the development of the agreement. In addition, the Regional and local planning and implementation agencies that the States have designated to participate in solid waste management (RCRA), water quality management (CWA) and other environmental programs must work closely with EPA, the States and the public to assure that agreement on cooperative strategies, priorities and responsibilities is attained.

● The State and EPA should also work closely with Interstate agencies funded under section 106 of the Clean Water Act in the development of strategies, priorities and responsibilities that will be set forth in the State/EPA Agreement. The States may delegate responsibility and funding to an Interstate agency for carrying out some portions of a State/EPA Agreement.

● Where an Indian tribe receives EPA assistance under two or more "covered" programs, the Regional Administrator and the Indian tribe may develop an Agreement to integrate, coordinate and manage the programs. The State should be involved in this process, wherever possible.

Enclosure:

## GUIDANCE FOR FY 1980 STATE/EPA AGREEMENTS

### OFFICE OF WATER AND WASTE MANAGEMENT

FEBRUARY 1979.

### INTRODUCTION

The 1980 fiscal year (FY) will mark the start of a new era in planning, implementing and managing environmental programs at the Regional and State levels. Beginning in FY 1980, State/EPA Agreements will present integrated approaches to solving water supply, solid waste and water pollution control problems. The integration of these program areas will be a major step toward the objective of overall environmental planning and management versus an approach which tries to solve interrelated environmental problems in a piecemeal fashion, program by program.

The idea of an integrated approach to solving environmental problems is not new. EPA required all Regions and States to develop comprehensive State/EPA Agreements in FY 1979 covering Clean Water Act programs. Furthermore, a number of Regions and States have had an integrated orientation to problem-solving for years. What is new is that, starting in FY 1980, State/EPA Agreements will drive the integration and coordination of environmental programs in all States creating joint planning and implementation of Safe Drinking Water Act, Re-

## NOTICES

source Conservation and Recovery Act and Clean Water Act programs.<sup>\*</sup>

The State/EPA Agreement, which each State and its corresponding EPA Region will negotiate, will include a brief statement of environmental problems and objectives based on State problem assessments and strategies. Agreements will also include or reference work programs which integrate the various outputs under each of the "covered" programs.

The State/EPA Agreement will be a decision document which reflects important decisions on environmental priorities (including those set forth in the annual EPA operating guidance), administrative problems, timing, responsibilities and allocation of funds. It will be management tool which focuses top management attention on the evaluation and accomplishment of major environmental objectives. Finally, it will be a communication and information document useful to local governments, areawide agencies, affected or interested publics and others, developed with their participation and reflecting their views.

### THE NEED FOR INTEGRATION

Enactment of the Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and Clean Air Act (CAA) provided for controls on air and water pollution. Passage of the Resource Conservation and Recovery Act (RCRA) in 1976 closed the gaps in the waste disposal cycle, providing control for the disposal of pollutants on or in the land. Congress recognized the relationship among air, water and solid waste pollution and controls in section 1002(b)(3) of RCRA, which says:

... as a result of the Clean Water Act, the Water Pollution Control Act, and other Federal and State laws respecting public health and the environment, greater amounts of solid waste ... have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health.

There are a number of reasons why it makes sense to emphasize the coordination and integration of environmental programs. Linking planning, implementation, and management of major environmental programs will allow a comprehensive and systematic approach to problem solving. This

<sup>\*</sup> For FY 1980 the Agreement should include sections 106, 205(g), 208 and 314 of the Clean Water Act, sections 3011, 4008 and 4009 of the Resource Conservation and Recovery Act and sections 1442(b)(3)(C), 1443(a) and 1443(b) of the Safe Drinking Water Act (hereafter referred to as the "covered" programs). In addition, States are encouraged to integrate other environmental programs into the State/EPA Agreement wherever feasible.

type of approach should lead to an identification of the best place in their overall life cycle to control pollutants. Furthermore, as a result of program integration, generators of pollution should be able to plan all necessary controls at one time. If dischargers are aware of the total costs of environmental controls, they may consider control strategies which include both source controls and product or process changes to reduce overall generation of pollutants and treatment costs.

Coordination and integration of environmental programs should also result in the reduction of procedural and substantive duplications. Since resources are limited at all levels of government, an integrated approach should maximize the environmental benefits from limited available resources. In addition, an integrated approach should minimize the unplanned migration of pollutants from one medium to another, i.e., from the air or water to the land and back to the water. Moreover, early and continuing public involvement will ensure that the evaluation and trade-off decisions made among alternative priority actions will include a broader set of concerns. As a result, the priority actions determined through the Agreement process will more likely be viable, reflecting a broader definition of the public interest.

### STATE AND FEDERAL ROLES

Through passage of the Clean Water Act, Safe Drinking Water Act, and Resource Conservation and Recovery Act, Congress made clear its intent that States are to play a major role in environmental programs. Section 101(b) of the Clean Water Act, for example says:

It is the policy of Congress to recognize, preserve and protect the primary responsibilities of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources ...

Congress charged EPA with establishing national environmental standards carrying out research and development, funding State programs and charting national objectives and policies. It is the State and local governments however, who plan, develop and carry out pollution abatement programs. In delineating Federal and State roles in SDWA, RCRA and CWA, Congress clearly had in mind a Federal-State partnership. The State/EPA Agreement is an example of the Federal-State partnership in action. It is a tangible product of joint negotiation, and includes a two-way obligation.

For its part, the State with EPA assistance, where necessary and feasible, will perform a series of problem-solving



ing activities, arrived at through a problem assessment, a multi-year strategy and the determination of what needs to happen in the first year to implement the strategy. EPA recognizes the difficulty of making a multi-year commitment, and therefore views the multi-year strategy as a commitment to a general policy direction, not necessarily to long-term outputs. EPA does however expect the States to be committed to the one-year schedule and outputs outlined in the Agreement and to integrate the programs of RCRA, SDWA and CWA at the State level. EPA realizes that the integration of State programs will be a complex and gradual process, and that while new arrangements are developing, statutory requirements must still be met. Limited resources along with difficult technical and administrative problems will vary and pose constraints in initiating Agreements. Nevertheless, EPA and the States must begin to develop and implement the State/EPA Agreement process.

For its part, EPA will provide grant funds to help finance the activities to which the State and EPA agree. The EPA involvement does not end there, however. It is recognized that coordination and integration of programs at the State level have associated costs, and EPA will provide technical assistance to help the States integrate programs. EPA will also conduct monitoring, issue permits in many cases and administer the construction grants program, delegating authority to the States, consistent with the overall Agreement.

Although the States and EPA will have primary responsibility for negotiating the Agreements, participation of the public and other governmental agencies is important to the negotiation process and to implementation of the Agreements. The regional and local planning and implementation agencies that the States have designated to participate in solid waste management (RCRA) and water quality management (CWA) should work closely with EPA and the States to agree on cooperative strategies, priorities and responsibilities. In accordance with the national policy of encouraging and assisting public participation as set forth in EPA's proposed public participation regulations published in August 1978 (40 CFR Part 25), interested and affected publics will have an opportunity to participate in each step during the development of the Agreements.

The information which follows illustrates how to proceed in developing and negotiating an Agreement, and how to take advantage of some of the opportunities afforded by an integrated approach to environmental problem solving. It presents a series of il-

lustrations where integration across programs could occur through the State/EPA Agreements to avoid duplication of effort and obtain greater protection of the environment through maximizing benefits from overlapping statutes.

## II. HOW TO PROCEED

### STEPS IN THE NEGOTIATION PROCESS

Development of a State/EPA Agreement is an iterative process requiring the personal commitment of high level EPA and State officials as well as local citizens. It requires consultation among EPA Regional program managers, State agencies, regional and local planning and implementation agencies, related Federal agencies and affected or interested publics. The involvement of each participant is important if the objectives of the Agreement are ultimately to be met.

Staff at EPA Headquarters appreciate the vast bank of experience of staff in EPA Regional Offices in negotiating and working with the States on the implementation of environmental programs. This guidance, therefore, is simply a recommended framework or concept. The Regions and States must mold this framework to their unique situations within the limits of available resources. The role of Headquarters is to provide assistance, to promote the integration of various EPA administered programs and to facilitate information exchange on innovative and successful approaches to integrated environmental management through State/EPA Agreements.

### DEVELOPMENT OF THE STATE/EPA AGREEMENT PROCESS

The negotiation of the State/EPA Agreement should be part of a process which gets decision-makers together to determine priorities for environmental problems and develop creative solutions. The State and EPA Regional personnel should begin development of the Agreement as early as possible each year. Prior to development, the State, EPA and the public should review basic background information such as current State plans, strategies, and problem assessments, annual EPA operating guidance, applicable laws and deadlines, and funding sources.

The State/EPA Agreement submission schedule should be adapted to the existing submission schedules of the "covered" programs to avoid confusion and duplication of effort. Generally, this means that the draft Agreement should be completed and submitted to the Regional Administrator by June 1 of each year. The Regional Administrator should review the draft and provide comments to the State within 30 days. The final Agreement should be

submitted to the Regional Administrator in September of each year.

Generally, the Agreement process should include the following broad activities: (1) Identification of priority problems, (2) identification of available resources, (3) identification of optimal funding, (4) development of a work program, including timing, funding, outputs and responsible parties, (5) implementation of the Agreement, and (6) evaluation and annual revision. However, EPA recognizes that each State has a unique set of environmental problems, political forces and administrative institutions. We therefore wish to emphasize that the Agreement is a flexible mechanism which is intended to accommodate such variations in each State.

Program barriers to coordination and integration of environmental programs under the Agreement process may be encountered and will have to be overcome. A number of States will face problems in attempting to integrate programs because the programs are located in different agencies within the State. This guidance is not intended to force reorganization and consolidation of current State agency structures, responsibilities and authorities or to change existing grantor-grantee relationships.

To facilitate program integration, the Governor may decide to appoint someone in his or her office to coordinate among departments and act as negotiator in the Agreement process. State interagency work groups may provide another way to reduce program barriers. Such work groups will improve communication, but may not be able to overcome "turf" conflicts among various agencies and interests. The resolution of such conflicts and the overall success of the State/EPA Agreement will be determined by the commitment of the Governor, the environmental management agencies, local governments, citizens and other interested parties along with US EPA.

The Regional Administrator has the option of negotiating the Agreement with one or more agencies. Where the Regional Administrator negotiates with more than one agency, it is recommended that a lead State contact be designated.

### COMPONENTS OF THE STATE/EPA AGREEMENT

The key to the success of the Agreement is flexibility and accommodation of individual problems and resource constraints, as well as capabilities, in each State. Keeping this in mind, the major components of the Agreement are:

(1) A brief statement of the environmental problems, goals and objectives to be met through activities under the State/EPA Agreement. The statement

should be based on the State problem assessments, strategies or other identification of needed activities for the "covered" programs. To the extent feasible, the State is encouraged to prepare an integrated multi-year strategy to be updated annually. EPA recognizes the difficulty in making a long-term commitment and therefore views the strategy as a commitment to a general policy direction, not as a long-term commitment to specific outputs.

(2) A detailed work program based on a multi-year strategy, or reference to such detailed work program, strategies and individual program memoranda which are to be considered covered by the signed Agreement. The detailed work program may be an overall compilation of specific work programs which meet the requirements of the regulations governing each of the "covered" programs.

(3) A summary of the major integrated work elements compiled from the detailed work program(s), as well as EPA actions needed.

(4) Other information and coordination requirements which the Regional Administrator determines are necessary to meet the goals of the Agreement.

(5) A signature page for the State and Regional Administrator to sign the State/EPA Agreement.

If the Agreement is longer than 20-25 pages, it is recommended that a summary be prepared for use by EPA, the States and the public as an overview of the State/EPA Agreement and of the work to be performed during the coming year.

### PUBLIC INVOLVEMENT IN THE STATE/EPA AGREEMENT PROCESS

Although the States and EPA are responsible for negotiating the Agreement, it is crucial that the public and other interested parties also participate in the process. In accordance with the national and EPA policy of encouraging and assisting public participation, and proposed regulations under 40 CFR Part 25 and 40 CFR Part 35, Subpart G requiring public participation, interested and affected publics have the opportunity to participate in each step of the development of the Agreements. Specific requirements for public participation are contained in the proposed public participation regulations (40 CFR Part 25) and the proposed water quality management regulations (40 CFR Part 35, Subpart G).

In addition, the regional and local planning and implementation agencies that the States have designated to participate in solid waste management (RCRA), water quality management (CWA), and other environmental management programs must work closely

with EPA, the States, and the public to agree on cooperative strategies, priorities and responsibilities.

It is recommended that at least 30 days prior to beginning work on the State/EPA Agreement, the public should be notified through the uses of existing State and EPA mailing lists, the mass media, and other available means about the goals and scope of the potential Agreement. During the development of the Agreement, the State should also consult, in a timely manner, with advisory committees, such as those set up by the 208 process, and other interested and affected individuals and groups. As a draft Agreement nears completion, a fact sheet should be prepared, mailed, and otherwise made public along with the notice of a public meeting or hearing. Public comments from the meeting or hearing and other sources should be considered and integrated where possible into the final Agreement. A summary of public comments presented during the development of the Agreement, and a summary of the State's responses to those comments, should be included with the final Agreement when it is submitted to the Regional Administrator. This information should be made available to the public. The State/EPA Agreement should be summarized and widely distributed to the public. In addition, the public's views should be considered in any EPA evaluations of State/EPA Agreements.

Wherever possible, the public participation requirements of the "covered" programs should be combined. For example, the water quality management and solid waste management programs have similar requirements which could be coordinated readily. Possible areas for consolidation and coordination include advisory committees, public information programs and public hearings or meetings. It should be emphasized that the public remain actively involved in the implementation of the specific programs within the State/EPA Agreement, once the Agreement is negotiated.

### GRANT APPLICATION AND ADMINISTRATION

In general, applicants for grants from EPA must complete an application form for each grant, along with a work plan. Since the State/EPA Agreement should result in an integrated FY 1980 work plan covering water quality, water supply and solid waste programs, the process should greatly simplify grant procedures. The Agreement, with attached work program(s), can serve as the narrative portion of grant requests, thereby reducing paperwork.

Generally, integrated work programs may include common work elements, drawing funding from more than one

"covered" program. In such cases, the grant application should specify the amount and percentage of EPA program funds attributable to each of the "covered" programs for each work element.

The State, with approval of the EPA Regional Administrator, may use the same integrated work plan in its applications for the various categorical grants (e.g., solid waste, drinking water), so long as it clearly identifies the source or sources of funds it will use to pay for each product and provides details on projected work outputs. The Regional Administrator should ensure that each State agency involved in the Agreement has effective financial management procedures to ensure that the funds are used for the purposes agreed to.

One of the major goals of the State/EPA Agreement is to reduce paperwork. Use of the integrated work program in each grant application is one way it will reduce paperwork. However, it is recognized that initially there will be additional paperwork to develop the Agreement. But after this initial period, it is anticipated that not only will the paperwork and time required to manage the environmental programs be reduced, but more importantly, the quality of environmental protection programs will be enhanced.

### FUNDING FLEXIBILITY

Funding shifts among the "covered" programs (except for 205(g) construction management assistance grants) are possible. The annual EPA operating guidance will contain advice concerning this funding flexibility and the procedures for State funding transfers based on EPA reprogramming. At this time, EPA headquarters has authority to shift approximately 10% of its funds among any agency programs. No transfer of funds will be allowed, however, which diminishes the ability of a program to achieve its statutory objectives. At the State and areawide or local level, the flexibility may not be as great.

### BUILDING STATE AND AREAWIDE CAPABILITY

It is the intent of EPA to strengthen the capability of States and areawide agencies to manage their environmental programs through the State/EPA Agreement process. To help in developing the Agreements, a new section is being established within the Office of Water and Waste Management in EPA Headquarters. It will assist the Regions in reviewing proposed State/EPA Agreements and establish an information exchange and assistance mechanism. Procedures and approaches which are innovative and successful in integrating various environmental programs will be provided



to the States and Regions through this exchange mechanism. The new section will also develop guidance regarding approaches for integrating environmental management programs and provide "hands on" assistance in developing the Agreements to the extent that resources are available.

### III. ILLUSTRATIONS

The following section illustrates how the State/EPA Agreement could be used to integrate various programs to resolve common problems facing the Regions and States.

These illustrations indicate opportunities for linking authorities from the Safe Drinking Water Act, the Clean Water Act, and the Resource Conservation and Recovery Act. It should be emphasized that other environmental program authorities could also be included. Although they are only illustrations, hopefully they will stimulate Regions and States to explore approaches to integrate programs to solve specific environmental problems. Illustrations are presented for municipal sludge management and groundwater pollution, as well as a variety of other opportunities for coordinating and integrating environmental programs.

The funding situation which accompanies cross-cutting program integration promoted by the State/EPA Agreement is complex. To help clarify the situation, the following hypothetical illustrations include funding eligibility matrices which correlate general program activities and State and Federal sources of funds. The Regions and States may find similar tools useful as they negotiate their strategies and one-year work programs.

The accompanying illustrations emphasize the importance of assessments and State multi-year strategies in developing State/EPA Agreements. It is important to note that although a strategy is desirable, it is not necessarily part of the Agreement itself.

#### ILLUSTRATION 1—MUNICIPAL SLUDGE MANAGEMENT

##### INTRODUCTION

Disposal of sludge has become a major issue in recent years, as disagreements over selection of sites and disposal techniques have occurred at the local, State and Federal levels. Municipal waste treatment plants generate five million dry metric tons of sludge per year. This rate is likely to substantially increase as a result of environmental legislation calling for high standards of wastewater treatment. Presently, about 25 percent of the sludge is landfilled, 25 percent is applied to the land, 15 percent is disposed of in the oceans and 35 percent incinerated.

Each disposal method poses potential environmental problems. Landfilling may result in ground and surface water contamination by heavy metals, viruses and bacteria, as well as the common pollutants. Land application of sludges containing heavy metals can pose a threat to public health as the pollutants enter the food chain. Ocean dumping adversely impacts the marine environment and incineration of sludge contributes to air pollution.

##### BACKGROUND

Federal requirements, guidance and financial assistance to States and local agencies for the management of municipal sludge are authorized by the Resource Conservation and Recovery Act (RCRA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA) and Marine Protection Research and Sanctuaries Act (MPRSA).

##### RCRA

According to definitions in RCRA, wastewater treatment sludge is a solid waste, falling under the authority of the State Solid Waste Management (SWM) programs outlined in Subtitle D, Section 4004(a) of that Subtitle requires EPA to issue regulations containing minimum criteria for determining which solid waste disposal facilities pose a "reasonable probability of adverse effects on health or the environment." For municipal sludge, EPA is initiating development of an integrated regulation under both section 4004(a) and section 405(d) of the Clean Water Act. (See below.)

In Subtitle D, RCRA prohibits unacceptable open dumping practices. Over the next several years, each State will compile an Open Dump Inventory which will consist of a list of disposal sites (including sludge disposal sites) to be closed or upgraded. The Open Dump Inventory is one component of State Solid Waste Management planning.

##### CWA

The Clean Water Act has many requirements which relate to management of municipal wastewater treatment sludge. First, in compliance with section 405(d) which Congress added to CWA in 1977, EPA is developing regulations for municipal sludge disposal and use. This regulation for municipal sludge will satisfy both section 405(d) and also section 4004(a) of RCRA.\* All sludges originating from publicly owned treatment works (POTW) are included under these regulations. NPDES permits will, whenever possible, include sludge disposal conditions, thereby eliminating the need for separate permits.

\* Regulations for sludge management are being developed by EPA, and will be proposed in mid-1979.

The regulations for municipal sludge will specify requirements for owners and operators to analyze sludge for cadmium and other toxics and to determine appropriate application rates and monitoring requirements for land application. The regulations will also cover thermal reduction, as well as giveaway and sale programs.

The second aspect of CWA affecting municipal sludge is the construction grants program in Title II. This program provides Federal grants for construction of municipal wastewater treatment facilities, including those for sludge management. During the facility planning phase of the construction grant process, local sewage agencies evaluate the alternatives by which ultimate disposal of sludge can be affected. EPA will not approve such a facility plan without a cost-effective sludge management portion.

The pretreatment requirements in section 307 are the third part of CWA related to municipal sludge management. Pretreatment of industrial discharges into municipal wastewater treatment systems can substantially reduce contaminant levels in sludge and reduce the dangers of sludge disposal. EPA has published final general pretreatment regulations (40 CFR Part 403) and is developing specific pretreatment standards (40 CFR Part 200-to-end) for the 21 most significant industry groups, with special emphasis on toxic pollutants.

The Water Quality Management (WQM) program operating under sections 106, 208 and 303 is another important CWA program related to municipal sludge. The WQM plans developed by States and areawide agencies must include a program to control the disposition of all residual waste generated in an area which would affect water quality. However, the amount of emphasis a particular WQM agency gives to municipal sludge depends on local, State and EPA priorities.

##### SDWA

Three major activities under SDWA relate directly to the management of municipal sludge. First, under section 1442, each State is conducting a Surface Impoundment Assessment (SIA) to locate all surface impoundments and assess them for pollution potential. (See also the next illustration on groundwater pollution.) The SIA can be a screening device to assist the States in setting priorities for their Open Dump Inventories under RCRA, Subtitle D.

Second, the designation of a sole source aquifer under section 1424(e) can affect sludge disposal. Sole source aquifer designation may provide protection of a drinking water aquifer and prohibit funding of any Federal project which endangers this source. The

siting of landfills or land application of sludge over a designated sole source aquifer as part of a Federally assisted project could be prohibited if it may endanger the aquifer.

The third SDWA program which concerns municipal sludge is the Underground Injection Control (UIC) program under section 1421. Any sludge injected into the ground, or into an abandoned well or mine, would come under the authority of the UIC program once it is finalized.

##### MPRSA

The Marine Protection Research and Sanctuaries Act (MPRSA) requires EPA to establish a permit system for ocean dumping. Except in accordance with published criteria, ocean dumping is to be phased out by December 31, 1981. Municipal wastewater treatment sludges and other wastes dumped in the ocean are included in the coverage. Ocean dumping of sludge is currently managed through interim permits which EPA issues for one year only.

#### MUNICIPAL SLUDGE MANAGEMENT IN THE STATE/EPA AGREEMENT

##### Problem Assessment

An essential step in developing a comprehensive program for sludge management is the problem assessment, which identifies the magnitude of the problem that the strategy must address. The sources of information vary from program to program. Under the Safe Drinking Water Act, the Surface Impoundment Assessment is currently in progress and will provide valuable information for the comprehensive RCRA Open Dump Inventory that the States will conduct beginning in 1979. The Water Quality Management process can offer valuable information on sludge management needs on a local or statewide basis and provide an assessment of the political, institutional and financial implications of sludge disposal.

##### Strategy Development

The State and EPA should develop a multi-year strategy which will define long-term goals, set priorities and establish responsibilities. It should correlate environmental programs with priority problems and provide for a logical progression of problem resolution specifically addressed in the annual work program. Public participation is strongly encouraged in strategy development. In addition, the strategy should include a funding summary for the various priority activities scheduled over the multi-year period.

Outlined below are hypothetical strategy elements that a State might develop to address a municipal sludge problem:

**Goals.** A State faced with a municipal sludge disposal problem might establish multi-year goals similar to these:

- End the practice of disposing municipal sludge within open dumps.
- Implement industrial pretreatment programs to encourage beneficial use of municipal sludge for land spreading applications.
- End ocean dumping of municipal sludges by 1981.

**Priorities.** The multi-year strategy should identify specific priority activities related to the above goals. Because the strategy will likely address several important related problems, it should assign a priority to the overall residuals problem, in light of the total resources available to the State and according to public values in the affected community. Of course, the States and EPA must always consider schedules and deadlines mandated by law or established by regulation when setting priorities. Violation of statutory deadlines can cause funding delays in some cases.

Once overall priorities are established, specific priorities within the municipal sludge problem area should be developed. Priorities could be assigned on a case-by-case basis, on a geographical basis or determined on the relative problem severity of a disposal method.

**Anticipated Activities.** Once goals and priorities are established, the State would proceed to define specific activities as necessary to accomplish the goals. With respect to the first hypothetical goal, to end the practice of disposing municipal sludge within open dumps, the State may define the following activities:

- Identify and classify all open dumps for the Open Dump Inventory under RCRA; utilize criteria published by EPA to establish those sites which pose significant environmental and health hazards.
- Develop compliance schedules for open dumps that fail to meet RCRA criteria.
- Coordinate sludge forecasting and disposal alternatives between construction grant and solid waste management agencies.
- Incorporate sludge conditions into NPDES permits; include requirements for monitoring in and adjacent to sludge disposal sites to determine levels of heavy metals, persistent organics, pathogens and nutrients entering surface and groundwater.
- Develop legislation to allow for implementation of open dump corrective programs.
- Ensure that adequate public participation programs are developed and operational during all phases of this management program.

• Encourage the use of alternative and innovative technologies (e.g., beneficial use, energy recovery) in developing options for sludge disposal.

The second hypothetical goal, to implement an industrial pretreatment program for sludge disposal, may include the following activities:

- Incorporate pretreatment conditions into NPDES permits.
- Develop procedures for landfilling operations in accordance with the Guidelines for Land Disposal of Solid Wastes (40 CFR Part 241 Appendix III); pretreatment requirements and procedures may also be necessary to protect air quality where sludge is disposed of through incineration.

The final goal of ending ocean dumping of municipal sludges by 1981 could result in the State planning the following activities over the multiyear period:

- Develop compliance schedule for phasing out the dumping of sludges at sea.
- Develop alternative methods for the disposal of sludges.
- Establish enforcement mechanisms for interim permits and the eventual prohibition of ocean dumping.

• Establish priorities for use of construction grants to fund sludge disposal facilities.

**Responsible Agencies.** The strategy should identify the responsibilities of State and other (Regional, local and interstate) authorities in the development and implementation of proposed programs.

**Funding Sources.** Agreements on the distribution of Federal and State funds to responsible authorities should be established in the strategy. In the following section a discussion of the one-year work program and a funding matrix are included. They identify the range of possible funding sources available to address the municipal sludge problem area.

##### One-year Work Program

As in the strategy development section, a hypothetical State one-year work program may be useful to illustrate several of the possible components and relationships in an annual work program for sludge management. A more generalized list of possible activities conducted under a sludge management program is included in a matrix following this discussion.

For the sake of brevity, the sample work program outlined here will focus on only one of the three example goals—to prohibit the practice of disposing municipal sludges within open dumps. Each of the activities outlined in the strategy for this goal is translated into specific outputs expected within the one-year time frame.







[6560-01-M]

## ILLUSTRATION 2.—GROUNDWATER POLLUTION (PITS, PONDS AND LAGOONS)

## INTRODUCTION

Groundwater pollution from pits, ponds and lagoons is an environmental problem that requires coordinated action under several EPA authorities. If other sources are adversely impacting the groundwater quality, such as underground injection or failing septic tanks, control programs for these sources should be included. Pits, ponds and lagoons—generally known as surface impoundments—have the following characteristics: (1) They are used primarily for storage, treatment or disposal of wastes in the form of fluids; (2) they are constructed above, below or partially in the ground; (3) they may or may not have permeable bottoms or sides, allowing their contents to infiltrate into the water. Surface impoundments are used for the treatment or storage of wastes or by-products from municipalities, industries, agriculture, mining and oil and gas drilling.

The problem on which this example focuses is unplanned discharges from surface impoundments as opposed to regular discharges to surface streams regulated by NPDES permits. Surface impoundments used for the planned storage of materials, such as polishing ponds or sludge lagoons, are not as critical to the pollution problem as are accidental discharges or poorly designed surface impoundments. These unplanned discharges, generally in the form of seepage into groundwater, are a shared responsibility of EPA solid waste, drinking water, and water quality management programs.

## BACKGROUND

Many EPA planning and implementation programs are involved in the study and solution of groundwater contamination from pits, ponds and lagoons. EPA and the States may plan for and implement controls on surface impoundments through the mechanisms of the Clean Water Act, Resource Conservation and Recovery Act and Safe Drinking Water Act.

## RCRA

A major planning effort related to pits, ponds and lagoons is State Solid Waste Management (SWM) planning conducted under Subtitle D of RCRA. States must develop SWM plans which assign planning and implementation responsibilities among State and local governments, prohibit open dumping, identify regulatory powers needed to implement the plan and include several other provisions.

One major requirement of the State SWM plans is completion of the Open Dump Inventory, which EPA must publish under Subtitle D of RCRA. The States will assess every pit, pond, lagoon, landfill and land spreading facility to determine if it is an open dump. Open dumps must be closed or upgraded to sanitary landfills within five years after EPA publishes the inventory. The Office of Solid Waste has suggested the following priorities for the development of the Open Dump Inventory: municipal landfills in FY 1980, municipal sludge disposal sites in FY 1981, industrial sites in FY 1982, and agricultural and mining sites after FY 1982.

Since the Open Dump Inventory will initially focus on municipal solid waste landfills and sludge disposal sites, it will probably not include all pits, ponds and lagoons until after FY 1981. In the meantime, the Surface Impoundment Assessment (SIA) will contain most of the information on the location and potential of groundwater pollution threats from pits, ponds and lagoons.

If a surface impoundment is used to hold or dispose of a hazardous waste, the State or EPA will issue a permit specifying the conditions under which it may be disposed of or stored. It is likely that there may be some lag time before every surface impoundment holding a hazardous material receives a permit. Therefore, once an impoundment operator has applied for a permit, the operation will be considered to have "interim status." This means that the facility should comply with the §3004 regulations (standards applicable to owners and operators of hazardous waste treatment, storage or disposal facilities) until it gets a final permit. Development and implementation of State hazardous waste permit programs is supported by grants to States under Subtitle C of RCRA.<sup>a</sup>

If the material disposed of or stored in the surface impoundment is not a hazardous material, EPA is relying on the States to implement controls under the SWM program or the WQM program. While implementation is partially supported by State program grants, its success is strongly dependent on State and local funds and initiative and the support of other Federal agencies.<sup>b</sup> If a State fails to act on a groundwater pollution problem involving a nonhazardous substance, EPA could withhold State program grants under the CWA and RCRA.

## CWA

The Water Quality Management (WQM) program is another major

<sup>a</sup>EPA published proposed hazardous waste criteria regulations and hazardous waste permit regulations in December 1978.

<sup>b</sup>For example, surface mining permits issued by the Office of Surface Mining, Department of Interior or by States authorized to issue such permits.

effort which may address groundwater pollution from pits, ponds and lagoons. Under sections 208(b)(2)(J) and (K) of the CWA, States and designated areawide agencies must prepare comprehensive plans to control pollution from disposal of residual wastes and subsurface disposal of pollutants. State and areawide WQM planning efforts are funded primarily by §208 grants. As of August 1978, there were 225 State and areawide WQM agencies.

Where severe local or Statewide groundwater pollution problems exist as a result of surface impoundments, WQM funding could help bring about a solution to the problem. One of the highest priorities of the WQM program in the next five years is protection of groundwater quality.

NPDES permits issued by EPA or the States under section 402 of CWA, may also affect surface impoundments. The CWA provides authority to require as a condition of an NPDES permit, the use of best management practices (BMP) at industrial sites to control pollution from toxic and hazardous pollutants. BMP may also be used at municipal wastewater treatment ponds for the protection of groundwater quality, and may be prescribed to control spills, runoff, leaks, storage and disposal of wastes.

## SDWA

Under the authority of section 1442 of SDWA, States are beginning to conduct the nationwide Surface Impoundment Assessment (SIA) which is scheduled for completion in July 1979. In the SIA, the States locate and count surface impoundments, select random samples for analysis and determine groundwater pollution potential from the various types and locations of impoundments.

Also, section 1431 of SDWA gives the Administrator of EPA broad emergency powers to protect the health of persons from imminent and substantial danger through contaminated drinking water supplies. This emergency power could be initiated if there is a threat to public health resulting from surface impoundment seepage.

## GROUNDWATER POLLUTION IN THE STATE/ EPA AGREEMENT

## Problem Assessment

To develop an effective and coordinated program for control of groundwater pollution from pits, ponds and lagoons, a problem assessment is essential. The information necessary to determine the extent of groundwater contamination should be available from the Open Dump Inventory required under section 4005 of RCRA, the Surface Impoundment Assessment under section 1442(b)(3)(c) of SDWA,

the State WQM plans under sections 208 and 303 of the CWA and the State SWM plans under section 4008(a)(1) of RCRA.

The SDWA Surface Impoundment Assessment, together with data from facility plans and information from the USGS could provide a strong data base to assist in the conduct of the RCRA Open Dump Inventory. The WQM program can play a large role in the problem assessment of groundwater pollution from pits, ponds and lagoons. Through both past planning efforts and the continuing planning phase, the WQM program can provide technical experience, insight into overcoming institutional barriers and can highlight the ineffectiveness of existing controls in achieving water quality goals. The State should identify in the one-year work program any additional data needs for studying groundwater pollution and assign responsibility as appropriate.

## Strategy

If the State assessment indicates that surface impoundments are a water quality problem, either across a State or in a particular substate area, the State should develop a multi-year strategy for addressing the problem. This long-term strategy should include the goals, priorities, a summary of anticipated planning and implementation activities, an identification of responsible agencies, a public participation work plan and a funding summary.

The following discussion presents hypothetical multi-year strategy elements for addressing groundwater pollution from pits, ponds and lagoons:

**Goals:** A State faced with a major groundwater pollution problem might establish multi-year goals similar to these:

- Identify and assess pollution potential of all surface impoundments in the State, especially with regard to toxics and groundwater contamination.

- Close or upgrade all surface impoundments which are classified as open dumps.

- Write permits for all remaining pits, ponds and lagoons, including those with surface discharges, hazardous wastes, municipal sludge and the disposal associated with an industrial site that has a surface discharge. Where applicable, these permits should be part of an integrated permitting process. For those pits, ponds and lagoons not covered by a permit, implement alternative controls such as best management practices.

**Priorities.** As the State is developing its multi-year strategy, it should reflect on the relative importance of groundwater pollution from pits, ponds and lagoons to the overall pollution situation in the State. With this in mind, together with the intermediate effects that this includes, the State might proceed to identify the worst cases of pollution from surface impoundments and assign them high priority for remedial action. These cases should be identified by name, geographic area, basin, or type, such as industrial or mining disposal site. This priority setting should incorporate public views gained through the public participation process.

**Anticipated Activities.** Having set goals and determined priorities, the States would proceed in this hypothetical example to define the anticipated multi-year planning and implementation activities necessary to reach the goals. With respect to the first goal, to identify and assess the pollution potential of all the surface impoundments in the State, the State might plan to:

- Locate all pits, ponds and lagoons on maps and classify them.

- Assess these surface impoundments against the open dump criteria being developed under section 4005 of RCRA.

- Determine if the impoundments hold hazardous wastes as defined in the hazardous waste criteria being developed under section 3004 of RCRA.

- Coordinate monitoring of the pollution from surface impoundments with other monitoring efforts directed at surface and groundwater.

- Determine the potential health hazard associated with each given surface impoundment.

In support of the second goal to close or upgrade surface impoundments classified as open dumps, the State should plan, over a multi-year period to:

- Classify surface impoundments as open dumps or sanitary landfills.

- Develop procedures for giving notice of closure, hearing and appeal.

- Set up enforcement mechanisms, develop a new State legislation as necessary and conduct enforcement training.

- Use the WQM process to develop locally acceptable solutions and raise public consciousness regarding the problems of surface impoundments, especially toxic groundwater pollution.

- Implement BMP to control pollution from pits, ponds and lagoons.

To achieve the third goal of writing permits or implementing alternative controls the State might plan the following activities over a multi-year period:

- Coordinate permits for surface impoundments with existing permit programs (NPDES, sludge, hazardous waste).

- Develop a permitting function, including the identification of staff, budget and responsibilities.

- Coordinate enforcement activities for surface impoundments with other applicable enforcement authorities (e.g., NPDES).

- Coordinate monitoring of pollution from surface impoundments to support and document permitting process.

- Where appropriate, compliance schedules should be tied into grants for accountability.

- Implement BMP to control pollution from pits, ponds and lagoons.

- Use the WQM process to evaluate the effectiveness of past control techniques.

- Coordinate public participation activities, especially emphasizing toxics and groundwater contamination from disposal of wastes.

**Responsibilities Agencies.** The strategy should identify the responsibilities of State and other (Regional, local and interstate) authorities in the development and implementation of proposed programs.

**Funding Sources.** Activities included in the multi-year strategy should be tied to a specific funding source or combination of sources to provide budget accountability. Both the one-year work program and the funding matrix which follow, provide examples of the range of possible funding sources and how these sources might be used for addressing groundwater pollution.

## One-year Work Program

When the State and EPA have worked out a strategy for dealing with groundwater pollution from pits, ponds and lagoons, the State should proceed to develop a one-year work program to be attached to the Agreement.

In the work program the State would examine the strategy and set priorities for the upcoming year. The State would also identify the time frame for completing its selected outputs. Outputs should be tied to line items in the budget for accountability. The following funding matrix matches the generalized groundwater pollution program activities to funding sources. Many activities may be funded by several possible sources.

In this hypothetical illustration, the State will produce six outputs related to groundwater pollution from pits, ponds and lagoons in FY 1980. Assume that the State organization includes a State Department of the Environment with three divisions—Water Pollution, Solid Waste and Water Supply. The six outputs for the first goal are:

**Output 1:** Transfer of data from the Surface Impoundment Assessment, the WQM plans and USGS data to the Open Dump Inventory.

**Agency Responsible:** State Solid Waste Division.







### OTHER OPPORTUNITIES FOR INTEGRATION

In addition to the illustrations, there are many other opportunities for integration among CWA, RCRA, SDWA and other environmental protection programs. Regions and States may wish to address additional problems and issues as they negotiate State/EPA Agreements. A few such examples include:

1. *Population, Economic, Waste Load and Land Use Projections.* Projections are essential components of all planning programs and some implementation programs. Facility planning, water quality management planning and solid waste management planning, for example, are all concerned with municipal sludge projections. These projections in turn are used to develop NPDES permits.

Uniform population, economic, land use and waste load projections would contribute greatly to the coordination of environmental programs. These projections are frequently mentioned by State, Federal and local interests as needing coordination and integration. It is recommended that State/EPA Agreements contain procedures for preparing disaggregations, making land use projections, and other related tasks. The cost-effectiveness guidelines (40 CFR Part 35, Subpart E, Appendix A) govern both WQM and facility planning with respect to population projections. The Regions and States may also wish to use the same guidelines for projections affecting solid waste and drinking water.

2. **Problem Assessment.** An assessment of environmental problems is another area often cited as suitable for integration. Problem assessment is important to all programs and should drive long-term strategies for problem solving. Assessments are also closely related to population, land use and waste load projections since they cover future as well as present problems.

There are many legislative and regulatory requirements for problem assessments which could be meshed into a single State assessment. Some of the major components might be the Surface Impoundment Assessment, the Open Dump Inventory, discharger inventories and segment classifications, detailed problem assessments funded under the WQM and SWM programs and the Clean Lakes Assessment. Regions and States may wish to adopt a goal of a single problem assessment satisfying the needs of RCRA, SDWA, and CWA and also serving as the 305(b) report to Congress (CWA).

An integrated problem assessment would provide opportunities for innovative techniques, such as a cross-cutting toxics/hazardous assessment to

identify the locations, sources and amounts of toxic and hazardous materials, especially toxic "hot spots." Other problem assessment possibilities include analyzing rarely used sources of data (e.g., NPDES self-monitoring data) or to use existing data in new ways (e.g., locate toxic hot spots in relation to drinking water intakes). One related innovative technique already under development is the environmental profile, which four Regions are currently testing. The profile employs an environmental index to describe the overall water quality of specific segments.

An integrated assessment would address both surface and groundwater. Necessary data on groundwater quality and quantity might be obtained from NPDES self-monitoring, from studies funded under WQM or SWM, or from the U.S. Geological Survey (USGS).

3. **Monitoring.** Environmental monitoring conducted under various EPA programs is a potential area in which inefficient or duplicated services may be improved. One output of the State/EPA Agreement might be an integrated monitoring program with funding contributed by all of the various environmental authorities and programs. Such joint monitoring may involve, in addition to EPA and the States, other Federal agencies, local governments and independent associations such as the USGS, the Fish and Wildlife Service, regional planning commissions and private interest groups.

An integrated monitoring program would likely result in shared responsibilities and procedures, provide for easier and more useful data transfer as well as reduce overall costs. Different program areas may share sampling sites, sampling procedures, laboratory certification, quality control programs, training programs and record keeping and data retrieval.

Toxic monitoring and analysis are very complicated and expensive and should be coordinated. States and Regions may wish to give greater emphasis to biological monitoring, such as bioassays for lethal dose and bioaccumulation determinations and measurements of species diversity. This monitoring, together with discharge and ambient monitoring, would be helpful to all program areas and contribute to a better understanding of sources, types and effects of toxic pollutants.

4. **Toxics.** Of the many laws addressing the problems of toxic materials, CWA, SDWA and RCRA provide the authority to control toxics in the environment (as opposed to during manufacture, distribution, and use). Since none of these three laws give blanket authority to control toxic pollution, integration of the various programs

dealing with toxic substances is desirable. Integration would be extremely useful in the areas of data collection, permitting as well as monitoring.

States and Regions need information for collecting data on toxic parameters in discharges, surface impoundments, urban runoff, combined sewer overflows, injection wells, landfills, land spreading sites and nonpoint sources such as agricultural runoff. Since isolation and quantification of toxic chemicals is generally difficult and expensive, data collection should be closely coordinated. (See also the discussions of monitoring and problem assessment.)

It is recommended that any permits issued should incorporate toxic limits where appropriate as established in the CWA effluent guidelines (40 CFR Parts 405-460). Development of toxic permit conditions could be a joint responsibility of the NPDES authority and the WQM and SWM programs. Once such a permit is drafted, the Regions and States should establish an interdisciplinary permit review process to ensure that the expertise of all disciplines are included in the review. Procedures for permit development and review could be incorporated specifically into the State/EPA Agreements.

5. *Public Participation.* Public participation in environmental programs is often dispersed among various programs, concerns and issues. This splintering effect makes it more difficult for people to understand the details of environmental problems and the arsenal of Federal, State and local tools available to solve those problems. Further, it diminishes the effectiveness of public input to decisions concerning actions and plans. An integrated public participation strategy (a requirement of the proposed public participation regulations, 40 CFR Part 25) will enhance the public role in the decision process. The proposed public participation regulations apply to programs under RCRA, SDWA and CWA. These proposed regulations require that public participation activities and materials be combined for closely related programs or activities wherever feasible and when such combination would not be detrimental to participation by the widest possible public.

The WQM and SWM programs have similar public participation requirements and coordination between the two programs could be readily achieved. The NPDES public participation requirements could also be meshed with the WQM and SWM requirements through the State public participation strategy.

To attain this integration of public participation as part of the State/EPA Agreement, the States and Regions

**FUNDING**

includes State matching share)

Note: "x" indicates activity is eligible for either full or partial funding.

## ACTIVITIES

[illegible]



should consider the full range of public information and participation activities and events. Possible areas for coordination and consolidation include advisory committees, public participation staff, publications, meetings, hearings, and training courses. Such coordination and consolidation would likely promote better organized dialogue with the public. It would also produce an increased understanding among all decision-makers of the nature of environmental problems and the Federal, State and local programs and capabilities for attacking them, and produce a clear set of priorities for resolving these problems.

6. *Pretreatment and Industrial Waste Management.* Hazardous wastes generated by existing pretreatment and Best Available Technology (BAT) requirements of the CWA although reducing the amount of such wastes discharged into the nation's waters, will continue to increase on-site storage and off-site disposal problems in the coming years. Industrial hazardous waste generation was estimated at 30-35 million metric tons in 1976 (enough to fill the New Orleans Superdome every other day). With implementation of BAT and pretreatment regulations it is estimated that this figure could double by 1990.

Primary Federal authorities and programs for dealing with the treatment, storage and disposal of hazardous wastes are sections 307 and 402 of the Clean Water Act and Subtitle C of the Resource Conservation and Recovery Act (Hazardous Waste Management). Some States have also developed independent, but similar programs.

However, on-site storage is becoming limited and off-site disposal areas are in short supply. Growth in certain industries is being curtailed by lack of economic and environmentally acceptable disposal options. At the same time, the risk of illegal ("midnight") or careless off-site dumping is increasing. Further, significant institutional barriers exist which limit dealing with pretreatment and industrial waste management problems. In many States hazardous waste and pretreatment programs are operated by separate agencies. Although a number of State and areawide water quality management agencies have identified industrial waste storage and disposal problems as a planning priority, there is little evidence that the RCRA au-

thorities are being combined with the Clean Water Act authorities to deal with the problem.

The State/EPA Agreement can be used as the mechanism to coordinate and integrate the development and implementation programs needed to manage industrial wastes and pretreatment. The Agreement can be used to raise the visibility and significance of this problem and can help activate the participation of State and local governments in resolving pretreatment and industrial waste problems.

States unwilling to pursue a comprehensive pretreatment and industrial waste management program should at least be encouraged to integrate the NPDES and RCRA permit programs.

For those States including pretreatment and industrial waste management problems in the State/EPA Agreement, the following areas are among those which can be considered for coordination: joint permits, new disposal site studies and plans for dealing with abandoned wastes. Initially provisions should be made to combine diverse waste management practices and planning options into a unified strategy. This strategy should integrate pretreatment with all other hazardous waste management programs such as standards for spill control (section 311 of the Clean Water Act) requirements for shipping and transporting wastes (DOT regulations) and requirements to control unsafe practices during temporary storage and waste transfer (OSHA regulations). The integration of related requirements for disposal of dredge or fill material and municipal sludge (sections 404 and 405 of the Clean Water Act) should also be considered.

#### IV. SUMMARY

Congress charged EPA with establishing national environmental standards, carrying out research and development, funding State programs and charting national objectives and policies. Federal, State and local governments plan, develop and carry out pollution abatement programs. In delineating Federal and State roles in the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), and the Resource Conservation and Recovery Act (RCRA), Congress clearly had in mind a Federal/State partnership. The State/EPA Agreement is an ex-

ample of the Federal/State partnership in action. The Agreement will be the result of a negotiation process between each State and the corresponding EPA Region. Regional and local planning and implementation agencies, and interested or affected publics will also be included in the negotiation process. The process should get together Federal, State and local entities to determine environmental priorities, define intermedia problems and develop creative, efficient and effective solutions.

Two major categories of integration efforts should be undertaken during development and implementation of the Agreement. These include (1) improvement of program management practices through such tasks as the combination of duplicative requirements of two or more programs into a single product which satisfies the legal and administrative requirements of all "covered" programs; and (2) utilization of the resources and authorities of several EPA programs in a joint effort to identify and solve environmental problems that each program has had inadequate resources or authority to deal with.

Beginning in FY 1980, State/EPA Agreements will serve as the mechanism to manage, integrate and coordinate environmental programs in all States, creating joint planning and implementation of SDWA, RCRA and CWA. Each Agreement will be the result of an assessment of the environmental problems facing the State, development of a multi-year strategy to solve those problems, and a determination of specific steps to take during the next year.

The Agreement will reflect State and EPA priorities, timing, responsibilities and allocation of funds. It should also serve as a management tool for use within the Regional office as well as the State, reduce paperwork, and serve as a public information document. The participation of the public and other governmental agencies is important to the negotiation process and to the implementation of the Agreements.

It is the intent of EPA to strengthen the capability of States and areawide agencies to manage their environmental programs in the context of the State/EPA Agreements.

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WEDNESDAY, MARCH 21, 1979

### PART III



## ENVIRONMENTAL PROTECTION AGENCY

### CLEAN AIR ACT

#### Assessment and Collection of Penalties for Noncompliance

registered for paper



[6560-01-M]

ENVIRONMENTAL PROTECTION  
AGENCY

[40 CFR Parts 66 and 67]

[FRL 1051-51]

ASSESSMENT AND COLLECTION OF  
NONCOMPLIANCE PENALTIESAGENCY: Environmental Protection  
Agency.

ACTION: Proposed Rule.

**SUMMARY:** The regulations below establish the procedures by which EPA and the States will assess and collect noncompliance penalties under Section 120 of the Clean Air Act (42 U.S.C. 7420). The regulations also set forth the means by which the States may assume delegation of the noncompliance penalty program. The purpose of these mandatory penalties is to recover the costs avoided by a source in not complying with Clean Air Act requirements after mid-1979. The proposed regulations define which sources are subject to the noncompliance penalty, as well as setting forth the situations in which the source may qualify for an exemption. To calculate the economic benefits of noncompliance EPA has developed a mathematical model that is set forth below.

**DATES:** Comments must be received on or before June 19, 1979. Proposed effective date: 30 days after promulgation. Public hearings on this proposal will be held on May 3 and 4, May 7 and 8, and May 10 and 11, at the locations listed under "ADDRESSES."

**ADDRESSES:** Questions or comments on this proposal should be directed to the Director, Division of Stationary Source Enforcement, EN-341, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Public hearings on this proposal will be held at the following locations:

Conference Room 2409, 2126, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C.—May 3 and 4.

Adams Room, Midland Hotel, 172 W. Adams, Chicago, Illinois—May 7 and 8.  
Sixth Floor Conference Room, U.S. Environmental Protection Agency, 2153 Fremont Street, San Francisco, California—May 10 and 11.

All hearings on the first day will commence at 9:30 A.M. with an evening session beginning at 7:30 P.M. On the second day hearings will commence at 9:30 A.M. and conclude when appropriate.

**FOR FURTHER INFORMATION CONTACT:**

Robert Homiak, Attorney-Advisor,  
Division of Stationary Source En-

## PROPOSED RULES

forcement, Environmental Protection Agency, at (202) 755-2581.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act Amendments of 1977 (Pub. L. 95-95) added Section 120 to the Clean Air Act (42 U.S.C. 7420). This section requires promulgation of regulations for the assessment and collection of noncompliance penalties against stationary source violators of certain requirements under the Clean Air Act.

## I. BACKGROUND

The 1970 Clean Air Act established mid-1975 as the deadline for achieving public health related National Ambient Air Quality Standard. Two additional years were available in areas with particularly difficult air pollution control problems. While the majority of the Nation's 23,000 major sources of air pollution are in compliance with State and Federal requirements, a substantial number are not. Many of these noncomplying sources have particularly high levels of pollutant emissions. For example, many steelmaking facilities emit great quantities of particulate matter, while electric power plants are a significant source of SO<sub>2</sub> emissions.

Those sources that have violated the law by failing to install and operate pollution control devices necessary to achieve compliance with applicable requirements have enjoyed an economic advantage over the larger number of sources that have made the expenditures necessary to comply. The economic savings a source may realize by not installing the necessary controls has created an incentive to delay compliance in many instances. Until the passage of the 1977 Amendments, the regulatory and enforcement measures authorized by the Act lacked direct economic incentives to ensure prompt and continuous compliance.

In enacting Section 120, Congress required EPA to assess and collect administratively a penalty designed to capture the economic savings realized by a firm as a result of noncompliance with the law after mid-1979. Thus, the penalty will eliminate most of the economic advantage gained by a noncomplying firm after mid-1979 relative to a firm that achieves compliance by this date.

Assessment of noncompliance penalties against sources subject to Section 120 of the Act is mandatory. Such penalties are in addition to, not in lieu of,

The noncompliance penalty is designed to remove the economic benefits gained by a noncomplying source from mid-1979 until such time as final compliance is achieved. In order to capture those savings a source realized from its noncompliance prior to mid-1979, EPA could commence a civil action pursuant to section 113(b) and seek appropriate civil penalties.

any other payments, sanctions or requirements under the Clean Air Act. The noncompliance penalty program is separate from all other enforcement actions under the Act, and will not affect or be affected by any civil or criminal proceedings brought under any other provision of the Act or State or local law.

Noncompliance penalties must be assessed administratively by EPA or by a State. It is clear that Congress intended that the States should play a major role in implementing this program. EPA encourages States to seek a delegation of authority to implement the noncompliance penalty program as soon as possible.

## II. APPLICABILITY OF REGULATIONS

## A. GENERAL APPLICABILITY

The Act requires that noncompliance penalties be assessed against any major stationary source that is not in compliance with any emission limitation, emission standard or compliance schedule under an applicable implementation plan. The only exception to this rule is for primary nonferrous smelters that have received primary nonferrous smelter orders under Section 119.

Section 302(j) of the Act defines a "major stationary source" as one that emits or has the potential to emit one hundred tons per year or more of any air pollutant. The regulations define "potential to emit" as the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. These definitions are the same as the definition of a parallel statutory term contained in EPA's regulations covering the prevention of significant deterioration (PSD) of air quality. (40 CFR 52.21(b)(3) and have been subjected to extensive public review and comment. EPA's position on this issue is set forth in the preamble to the final PSD regulations. See 43 Fed. Reg. 26391-92 (June 19, 1978).

In addition to major stationary sources that are in violation of SIP requirements, all stationary sources (regardless of size) that are out of compliance with any emission limitation, emission standard, standard of performance or other requirement established under Section 111 (New Source Performance Standards) or 112 (National Emission Standards for Hazardous Air Pollutants) of the Act are also subject to the penalty.

Finally, any source that is exempted from the penalty must remain in compliance with all interim emission control requirements or schedules of com-

pliance established under the extension, administrative order, consent decree or court order, or suspension which led to the exemption. If the source fails to meet an interim requirement or schedule, it will be subject to penalties. This includes a primary nonferrous smelter that is not in compliance with any interim requirement under a primary nonferrous smelter order. No source may be excused from the penalty unless it meets one of the exemptions specified in Subpart D of Part 66 of the regulations.

In most instances, the source's noncompliance will result from a failure to install control equipment or use required fuels. In others, however, the noncompliance will be caused by a failure to operate and maintain control equipment or other processes in a manner adequate to ensure continuous compliance. Both types of violation subject the source to a noncompliance penalty.

The fact that a source is subject to a court-imposed schedule contained in a consent decree, court order, or an administratively issued DCO does not by itself relieve it from liability for the penalty. In order to obtain an exemption, any such source must satisfy the criteria set forth in Section 120(a)(2)(B) or (C).

## B. APPLICABLE DATES

In Section 120 of the Act there are apparently contradictory indications as to the earliest date from which the noncompliance penalty will be assessed. Section 120(d)(3)(C)(i) provides that for sources issued a notice of noncompliance on or before August 7, 1979, the "period of covered noncompliance" begins on this date. Section 120(d)(3)(C)(ii), however, provides that the "period of covered noncompliance" commences on the date of issuance of the notice of noncompliance, whenever such notice is issued after July 1, 1979. Thus, for any source issued a notice of noncompliance after July 1, but prior to August 7, 1979, the appropriate date for the assessment of the penalty would be uncertain. In order to ensure consistency, EPA has chosen August 7, 1979, as the date from which the noncompliance penalty will be calculated for those sources issued notices of noncompliance on or prior to this date, but invites comment on this issue. Where the notice is issued after August 7, 1979, the applicable period will begin on the date of issuance of the notice.

If a source becomes subject to a newly-imposed emission limitation or to an additional increment of control, Section 120(g) provides that the date for imposition of the penalty relating to the newly-imposed emission limitation or additional increment of control

## PROPOSED RULES

will be July 1, 1979, or the date on which the source must demonstrate compliance with such emission limitation or increment of control, but in no event later than three years after the approval or promulgation of the requirements. This provision should be extremely important in light of the nonattainment SIP revisions required to be submitted to EPA by January 1979. The date on which the source must demonstrate final compliance will be specified in the SIP itself. Thus, if the new emission control regulations require immediate compliance with the newly-imposed emission limitation or additional increment of control, the noncomplying source will be subject to a noncompliance penalty as of August 7, 1979. If the new regulations require compliance at a future date, the source will not be subject to a noncompliance penalty for violations of the newly-imposed emission limitation or additional increment of control until that date, not later than three years after the approval or promulgation of that requirement, provided of course that it satisfies all applicable interim requirements.

The provision in Section 120(g) that imposition of the penalty will occur no later than three years after the promulgation of the new requirement immediately raises the question of how the Section 120 penalty applies in cases in which other provisions of the statute explicitly allow compliance with SIP provisions more than three years after they have been promulgated. For example, in the case of carbon monoxide or photochemical oxidants standards, Section 172(a)(2) provides that final compliance for some sources in certain areas may be delayed until as late as December 31, 1987. Section 172(c) requires that SIP provisions to ensure attainment of the ambient air quality standards by December 31, 1987, be approved or promulgated by July 1, 1982. For these sources, Section 120(g) would seem to require that a penalty be assessed no later than July 1, 1985. The question thus arises whether a source that is in compliance with the interim requirements contained in the SIP through 1987 would still be subject to a noncompliance penalty. The Agency believes that in this case, no penalty would be imposed, provided of course that the SIP itself specified a final compliance date of 1987. The Agency solicits comments on this issue.

C. CONTINUITY OF EXISTING SIP  
REQUIREMENTS

As noted, SIP revisions submitted to meet the requirements of Part D of the Act are expected to establish new requirements for some sources. Whether the revised SIP contains immediately effective or future effective

regulations, the Agency will require any source subject to new SIP requirements to meet the requirements of the pre-existing SIP until such time as it has demonstrated continuing compliance with the new requirements. Keeping the pre-existing SIP requirements in effect is necessary to prevent a source from operating uncontrolled or under less stringent controls while it is moving towards compliance with the new regulations. Violations of these pre-existing requirements will subject the source to noncompliance penalties.

The only exception to this rule would occur when the new regulations require a type of control equipment that is incompatible with that already in operation. In such cases the source will not be required to meet the provisions of the old SIP during that time in which it is physically impossible to keep the existing equipment in operation while simultaneously installing the new device. This exception will be construed narrowly. Only the period during which an actual physical impossibility exists may be covered by an exception. For example, in the design and contract phases of a new compliance schedule, there should normally be no exception from the pre-existing emission limit. Similarly, a source that did not have any type of control equipment in operation at the time the new requirement was adopted would normally not be eligible for this exception. (Further guidance on this issue is available from EPA Regional Offices.)

III. PROCEDURES FOR ASSESSMENT AND  
CALCULATION OF THE NONCOMPLIANCE  
PENALTYA. ISSUANCE OF NOTICE OF  
NONCOMPLIANCE

EPA or State issuance of a notice of noncompliance is the trigger for assessing and collecting the noncompliance penalty. Notices will generally be issued by August 7, 1979, or thirty days after discovery of the source's noncompliance, whichever is later. The notice will inform the source of its duty to calculate the amount of its penalty and schedule of payments as required by Section 120(b)(4)(A) (based on instructions contained in an enclosed Manual and Technical Support Document), and of its right to petition for a hearing to challenge the finding of noncompliance or to claim an exemption. The source must, within forty-five days of receipt of the notice, either calculate the penalty and schedule, or submit such a petition.

Where a source does not properly submit its calculation and schedule or the data necessary to verify these, EPA may enter into a contract to determine the amount of the penalty and the payment schedule applicable



for that source. The costs of such a contract will be added to the amount of the source's penalty.

#### B. CALCULATION OF THE PENALTY

Section 120 of the Act provides that the penalty be not less than the economic value of delay to the owner of the source, including three elements: (1) the quarterly equivalent of the capital costs; (2) the operation and maintenance costs; and (3) "any additional economic value which such a delay may have for the owner or operator of such source."

The first component arises because owners of sources that have not invested in required air pollution controls have had the opportunity to invest their funds instead in projects that yield a direct economic benefit to the firm. The second component of savings from delayed compliance is the operation and maintenance costs that would have been incurred if the source had complied. These include labor, raw materials and energy costs, as well as any other expenditures directly associated with the operation of the pollution control equipment. In addition, certain operation and maintenance costs may be required to achieve compliance even where no pollution control equipment is required. Delaying compliance means that these expenditures are avoided. The noncompliance penalty also removes these savings.

The economic model accounts only for these two components. By so doing, we believe the model captures the most significant portion of any saving that can be realistically quantified. It is conceivable that there might be instances in which a source owner realizes additional economic benefit from his noncompliance. If such a situation exists, EPA would have to balance carefully the benefits of recovering these additional benefits against the administrative burdens involved. We encourage the public to suggest possible situations in which EPA's present economic model would not be capable of calculating additional benefits of a source's noncompliance, and indicate possible ways in which these additional benefits might be estimated.

The Act specifies that all penalty payments be equal; however, the legislative history surrounding its enactment indicates that this should be interpreted as an equality in real dollar terms. That is, if inflation is expected to cause costs to escalate, that escalation ought to be reflected in the noncompliance penalty. A penalty that does not rise with expected inflation, but merely averages inflation, gives an overestimate of the savings from noncompliance in the early years of equipment life and an underestimate in the final years.

Calculation of the penalty is based on widely accepted principles of financial and economic theory. The model itself utilizes twelve financial parameters. These parameters, their impact on the penalty, and the sources for obtaining them are discussed in detail in the Technical Support Document. One of these parameters concerns the appropriate way for EPA to discount a source's future cash flows. The discount rate used in this proposal is based upon the source's return on equity. An alternative to this equity discounting method utilizes the weighted average cost of capital. Both of these methods of discounting are discussed in the accompanying Technical Support Document, along with our rationale for selecting the return on equity. EPA encourages public comment on the appropriateness of our approach.

In developing the model, the Agency carefully considered the feasibility and cost of administration to EPA, the States, and the sources. Wherever feasible, the model uses data that is specific to the individual source. However, some of the functions for a specific source are often difficult to determine in advance. For this reason, industry-wide averages are used for certain parameters (inflation rate, discount rate, and the after-tax return on shareholder's equity), and national averages are used for the rates of return on debt and preferred stock. The use of such industry and national averages greatly reduces the administrative costs, both to the firm and EPA. In utilizing this data, care has been taken to ensure that the effect on the size of the resulting penalty will be slight. In most instances, where a choice among alternative assumptions or data sources had to be made, the one resulting in the lowest penalty was selected. In framing this model, EPA has relied on accepted methods of financial calculation that are widely used by businesses making calculations for their own business purposes.

#### C. THE EFFECT OF PRECOMPLIANCE EXPENDITURES

Section 120(d)(2)(B) provides that the noncompliance penalty should be reduced to reflect any expenditures made by the source during any quarter for the purpose of achieving compliance, but only "to the extent that such expenditures have not been taken into account" in the initial calculation. In this proposal, the Agency has adopted an approach that grants the source owner an allowance for expenditures made toward the purchase of pollution control equipment, while also capturing a significant portion of the costs avoided by noncompliance. Any expenditure that the source anticipates making in any quarter towards achieving compliance will be factored into the initial calculation of the penalty. The model divides the expenditures avoided into a capital component and an operation and maintenance (O&M) component, and reduces the penalty by an amount representing the same proportion to the quarterly payment as that quarter's estimated expenditure is to the total amount necessary to comply. For example, if a source by avoiding compliance is saving \$200,000 per quarter in capital costs and \$100,000 in O&M costs, then the penalty would be \$300,000 per quarter in the absence of any consideration of credits. Under the approach EPA is proposing, if by the end of a given quarter the source would have made half the capital expenditures, the capital portion of the penalty would be reduced by the same proportion, to \$100,000. Similarly, if in that quarter the source made \$40,000 in O&M expenditures directly related to correcting the noncompliance at issue, the O&M portion of the penalty would be reduced by \$40,000 (or 40%). The Agency believes that this approach is the one that most exactly recaptures the cost savings from delay beginning after the notice of noncompliance was issued, and is therefore the one that most nearly fits the statutory intent. This position is explained in more detail in the Technical Support Document.

EPA evaluated several different methods of implementing this statutory language. One alternative would permit the source to deduct from its quarterly penalty assessment an amount equal to that expended during that quarter towards achieving compliance. This "dollar for dollar" credit interpretation was rejected for several reasons.

First, giving a source a "dollar for dollar" credit would radically diminish and probably eliminate all penalties, thus defeating the purpose of the noncompliance penalty provision. Congress included Section 120 to remove the economic advantages that accrue to noncomplying sources. If the Agency were to utilize a "dollar for dollar" credit approach, sources would be able to offset their penalty payments completely. Thus, these sources would have achieved an unfair competitive edge by failing to install the necessary pollution controls. This result would frustrate the purpose of the penalty program.

There are also sound air quality reasons for rejecting a "dollar for dollar" credit approach. Because it would be able to offset completely any penalty assessed, the source would be encouraged to extend its projected compliance schedule as far into the future as possible. This incentive to delay compliance would have the effect of fur-

ther worsening the air quality in non-attainment areas, as well as possibly consuming the SO<sub>2</sub> and particulate matter increments in areas where the air quality is currently better than the National Ambient Air Quality Standards. For these reasons the Agency believes that adopting a "dollar for dollar" credit approach would be unwarranted.

The net payments for all of the quarters of noncompliance will be discounted and summed to derive their total present value. This present value will then be converted into a series of escalating payments to take into account the effects of inflation. These payments will be due at the beginning of each quarter.

#### D. REPLACEMENT FACILITIES

Another issue which the Agency is considering is whether sources that desire to replace older facilities should be granted some allowance in the initial calculation of the penalty for control equipment installed on the new replacement facility. As a statutory matter, the Agency is not required to recognize a replacement facility as a means of compliance. (See Section 113(d)(3), which contains the only statutory reference to sources that are replacing existing facilities. This section provides that the source must shut down its existing facility no later than July 1, 1979, in order to receive an administrative order.) As a policy matter, however, the Agency wishes to encourage modernization since it usually results in the replacement of older facilities with more efficient and cleaner ones. For this reason, sources constructing replacement facilities will be granted a reduction in the penalty, in accordance with the criteria specified below.

For the purposes of this section, the Agency is considering defining a "replacement facility" as one that serves the same function and produces the same product as the one it replaces. It would not be necessary that the new facility be identical to the one being replaced, but it must be of substantially the same, or greater, capacity as the existing facility in making the same product and no more polluting per unit of production. Thus, a steelmaking company that decided to substitute a new electric arc furnace for its noncomplying open hearth furnace could be eligible for a replacement allowance. This allowance would be granted on a pro rata basis. Cases may arise in which the production capacity of the replacement facility is less than that of the existing facility. In this case the Agency might wish to determine an appropriate credit in a different manner. We encourage comment on other situations that might arise,

and how the Agency may best determine an appropriate credit amount.

The Agency is considering calculating noncompliance penalties for replacement facilities in the following manner. The appropriate penalty, reflecting the economic value the source has gained by virtue of its noncompliance, would be based upon the estimated costs of retrofitting needed control equipment on the existing facility. These costs appear to form the proper basis for computing the penalty, since it is the existing source that is continuing to derive an economic benefit by not complying with applicable requirements. The amount of the credit, however, would be premised upon the costs the source would actually incur in constructing and operating pollution control equipment at the new facility. Utilizing these inputs, the noncompliance penalty would be calculated using the existing economic model. The payment schedule will run, and the source will be assessed a penalty, until it has closed down operation of its existing noncomplying facility, commenced operation of its replacement facility, and demonstrated compliance with all applicable legal requirements. For example, if the cost of constructing pollution control equipment at the new facility would be \$10 million and the source spends \$1 million prior to the first quarter in which the penalty is assessed, it would be able to reduce the capital portion of the penalty for that quarter by 10%. This method of calculation would be employed whether the costs associated with the construction of the new facility exceeded, or were lower than, those that the source would have incurred in retrofitting the existing plant. If the source replaces its existing facility with one that utilized an inherently less polluting production process, EPA will again determine what controls would have been necessary on the old facility to achieve compliance. Based on this data the Agency would then determine an appropriate credit amount. The Agency welcomes comment on both the desirability of granting an allowance to sources replacing older facilities and also upon the method we have proposed to accomplish this.

Because computation of the noncompliance penalty requires lengthy arithmetic calculations, the EPA Office of Enforcement will make available, at nominal cost, a program listing for time-shared computers that calculate the penalty. Calculation of the penalty must be in accordance with the formulae contained in the Manual and Technical Support Document. (These documents appear as Appendices A and B to the proposed regulations.) Though sources are free to use other programs if they wish, the proposed

regulations state that any program which gives different results from the program which appears as Appendix C to these regulations will be automatically disregarded.

#### E. PAYMENT OF PENALTY

The penalty will be paid quarterly, and the first payment will be due six months after the notice of noncompliance was issued or on January 1, 1980, whichever is later. If any source is late in making a quarterly payment, Section 120(d)(5) of the Act requires that a twenty percent late payment penalty shall be added to the aggregate penalty that is unpaid.

#### F. FINAL ADJUSTMENT

After a source has come into compliance, it must so notify the Administrator, who must make the determination that the source is no longer violating applicable requirements. If this determination is made, the Act requires that a final accounting of the penalty, based on the actual costs of compliance to that source, be made within 180 days. Where an underpayment occurred, the source must pay that deficiency plus interest within thirty days after the adjustment. Similarly, EPA or the State administering the program will reimburse a source with interest for any overpayment that has occurred.

EPA would prefer to use the same rate of return on equity that is used to calculate the penalty as the defined interest rate. This is the rate most consistent with the statutory purpose in EPA's opinion, since any other rate would result in either penalizing or rewarding sources whose estimated penalties differ from the final calculation as against those whose payments do not. This difference would give firms an incentive to estimate their penalties incorrectly. The prevailing government or commercial interest rates are, of course, also candidates for designation. The Treasury would prefer to use the rate of return on equity as the prevailing rate for firms that underpay and the interest rate the United States must pay to borrow as the interest rate for firms that overpay. Another alternative would be to use the interest rate for long-term bonds. This rate could be used both for overpayments and underpayments. A letter from Assistant Secretary of the Treasury Roger C. Altman and a memorandum setting forth EPA's position are both contained in the administrative record. EPA invites comments on this question.

#### IV. EXEMPTIONS

Section 120(a)(2)(B) and (C) of the Act sets forth several limited instances in which a source may be exempted from the duty to pay a noncompliance



penalty. If the source desires to request an exemption, it must do so within 45 days of receipt of a notice on noncompliance. Hearings on such requests will be on the record and will follow the procedures set out in the Agency's "Consolidated Rules of Practice" (40 CFR Part 22), except to the extent provided in Subpart J of these regulations. (These Rules were proposed on August 4, 1978, 43 Fed. Reg. 34738, and will be promulgated shortly. Citations are to be proposed Rules.)

One category of exemptions is based on the prior issuance of specified orders, extensions or suspensions. Coal conversions pursuant to prohibition orders or delayed compliance orders issued pursuant to Section 113(d)(5), delayed compliance orders based on use of innovative technology under Section 113(d)(4), and emergency implementation plan suspensions under Section 110(f) and (g) are within this category. In each case, however, the order, extension or suspension on which the exemption is premised must actually have been issued. It will not be enough for a source to argue that issuance is authorized or even required.

Section 120(a)(2)(B)(iv) provides that an exemption is also available if a source is unable to comply with applicable requirements for reasons that are entirely beyond its control. The first eligibility criterion for this exemption is that the source must have received a delayed compliance order (DCO) under Section 113(d)(1) of the Act,<sup>2</sup> or an order issued pursuant to Section 113 as in effect prior to enactment of the 1977 Amendments.

#### A. THE TERM OF THE (B)(IV) EXEMPTION

The first question to be considered is the time period for which such exemptions may be issued. As noted above, prior to making an exemption request under Section 120(a)(2)(B)(iv), a source must have received a delayed compliance order issued under authority of Section 113(d)(1) or a Section 113 order issued prior to the Amendments. Section 113(d)(1)(D) states that any DCO must "provide for final compliance . . . as expeditiously as practicable, but . . . in no event later than July 1, 1979, or three years after the date for final compliance specified in the state implementation plan, whichever is later." A similar limitation applies to orders and consent decrees issued under Section 113 of the Act as in effect prior to the 1977 Amendments. Section 113(d)(12) voids

any such order or decree that provides for a compliance extension beyond July 1, 1979, "unless [the order or decree] is modified under this subsection within one year after the enactment of the Clean Air Act amendments of 1977 to comply with the requirements of this subsection." One of the requirements of Section 113(d) is that final compliance must be required by July 1, 1979.

The legislative history contains numerous expressions of disapproval of the prior practice of EPA and the States in issuing "open-ended" compliance orders with long deadlines. The House Committee questioned the validity of this practice, noting that some EPA orders extended until as late as 1983 or 1985.<sup>3</sup> Similarly, the Senate Committee concluded that EPA's practice had "no basis in law."<sup>4</sup> The new DCO provisions embodied in Section 113(d) were intended to remedy EPA's practice.<sup>5</sup> As a result, the Agency has adopted the position that DCOs may not extend beyond July 1, 1979, unless the compliance date in the applicable implementation plan is later than July 1, 1976.

The Agency's reading of Section 113(d) significantly limits the Section 120(a)(2)(B)(iv) "inability to comply" exemption, since the noncompliance penalty program does not take effect until after July 1, 1979. As with Section 113(d) DCO's, a literal approach to Section 113(d)(1)(D) results, to a great extent, in reading the reference to prior Section 113 orders out of the (B)(iv) exemption provision.

Under this literal interpretation of Section 113(d)(1)(D), there are four categories of sources that would be eligible to receive DCOs extending beyond July 1, 1979, since their SIP final compliance dates could be later than July 1, 1976:

(a) sources not subject to emission limitations under the existing SIP, made subject to such limitations by a SIP revision;

(b) sources subject to emission limitations in the existing SIP made subject to an additional increment of control (i.e., a more stringent limitation) in the new SIP;

(c) sources located in areas for which the date for final compliance under the SIP is later than July 1, 1976; and

(d) sources located in areas attaining the national ambient air quality standards which can be permitted additional time to achieve compliance because such sources will not impact on the continued attainment and maintenance of the standards.

In cases (a) and (b), the DCO may be issued for a period extending up to

<sup>2</sup>H.R. Rep. No. 95-294 95th Cong., 1st Sess. 56, FN. 2 (1977), [House Report].

<sup>3</sup>S. Rep. No. 95-127 95th Cong., 1st Sess. 45 (1977) [Senate Report].

<sup>4</sup>Id.

three years from the date for final compliance with the newly-imposed emission limitation or for the added increment of control (but not for the degree of control required in the existing SIP). This three year period may extend beyond July 1, 1979, in cases in which the final compliance date in the new requirement or newly-added increment of control is a date after July 1, 1976. For the most part, such new emission limitations or newly-added increments of control will be imposed in the SIP revisions for nonattainment areas required to be submitted to EPA by Sections 110(a)(2)(I) and 172 of the Act as a precondition for new source construction or source modification after July 1, 1979. In cases (c) and (d), the DCO may be issued for a period extending up to three years from the date for final compliance specified in the SIP. This three year period could extend beyond July 1, 1979, in any case in which the SIP compliance date is later than July 1, 1976. Any sources receiving a DCO extending beyond July 1, 1979, may be eligible for an exemption under Section 120(a)(2)(B)(iv) if they can demonstrate an inability to comply as discussed below.

While the Agency's literal interpretation of Section 113(d) will allow many sources to receive DCOs extending beyond July 1, 1979, other sources will be ineligible to receive such DCOs or modifications of Section 113(a) orders issued prior to the 1977 Amendments. Under a literal reading of Section 120(a)(2)(B)(iv), such sources would be unable to receive an exemption from the noncompliance penalty, even though they were unable to comply for reasons entirely beyond their control.

There are indications in the statute and legislative history, however, that an interpretation of the Act that allows relief to be granted to such sources may be supportable. The legislative history indicates that Congress intended that such exemptions be available for sources subject to pre-1977 SIP requirements. The House bill provided that such sources could be exempted from the penalty based on a complete inability to comply at least through mid-1980.<sup>6</sup> The Senate also apparently contemplated that a source could obtain relief from the penalty if it were unable to comply for reasons entirely beyond its control. The 1977

<sup>6</sup>H.R. 6161, the House version of the 1977 Clean Air Act Amendments, provided that DCOs could extend five years beyond the final SIP compliance date. Since most pre-existing SIPs provided for final compliance by mid-1975, sources subject to these requirements could be issued DCOs extending until mid-1980. These DCOs would have allowed sources to petition for an exemption from the noncompliance penalties.

<sup>7</sup>Senate Report at 49-50; S. 252 Section 120(e)(2)(B), 95th Cong., 1st Sess. (1977).

Senate bill provided that such sources could seek relief from the penalty in the United States District Court. The opportunity to seek such relief was not predicated upon the prior issuance of an administrative order, and was not limited to any particular time period.<sup>7</sup> This provision for direct judicial relief based on a source's inability to comply was not adopted by the Conference Committee. There is no indication in the legislative history, however, that by tying the grant of an exemption to receipt of a DCO, the Conference Committee intended to prohibit sources that were unable to receive post-79 DCOs from obtaining relief from the penalty.

Section 113(d)(1)(E) also appears to contemplate that major sources which have received DCOs may not achieve compliance until after July 1979, since it explicitly requires DCOs to notify each such source that "unless exempted under Section 120(a)(2)(B) or (C), it will be required to pay a noncompliance penalty effective July 1, 1979, as provided under Section 120 . . . in the event such source fails to achieve final compliance by July 1, 1979."

Third, the Conference Report states explicitly that DCOs may be issued after July 1, 1979, if they establish a delayed compliance penalty.<sup>8</sup> In addition, the Senate bill clearly contemplated that some sources with DCOs would not comply by July 1, 1979, and required that any source issued a DCO with a compliance date later than July 1, 1978, would have to compute its noncompliance penalty. The DCO was to be amended "to include such penalty, to accrue after July 1, 1979."<sup>9</sup> Although the Senate provision for amendment of enforcement orders was not included in Section 113(d)(1)(E), the Conference Committee indicated that the Senate provision on issuance of enforcement orders was being adopted.

#### B. EPA'S PROPOSED RESOLUTION OF THIS STATUTORY CONFLICT

In order to resolve the problems created by the conflicting provisions contained in Sections 113(d) and 120(a)(2)(B), the Agency proposes the following:

1. No administratively issued DCOs would be issued by EPA or a State under Section 113(d)(1) that provided in any manner for compliance after July 1, 1979, or three years after the applicable SIP compliance date.

2. Federal or State court orders, whether consent decrees or litigated dispositions, that provide for compliance beyond this period would potentially make a source eligible for an exemption, provided they were reviewed

<sup>8</sup>H.R. Rep. No. 95-564 95th Cong., 1st Sess. 133 (1977).

<sup>9</sup>Senate Report at 48.

by EPA and found to satisfy the criteria specified in Section 113(d). The source must also show, upon application for the exemption, that the inability to comply arose from reasons entirely beyond the control of the owner or operator of such source or of any affiliated person.

In order to satisfy the criteria set forth in Section 113(d), the order must contain an expeditious compliance schedule, require compliance with interim requirements, provide for emission monitoring and reporting, and notify the source that, unless exempted by EPA, it would be required to pay a noncompliance penalty. Finally, all orders would have to be final; that is, a source could not seek an exemption from the noncompliance penalty on the basis of an unconsented judicial order or decree if it was appealing that order or decree. EPA will not enter into consent decrees unless they satisfy these criteria. Thus, EPA review will be limited to State consent decrees, as well as federal and State unconsented orders.

There are two provisions of Section 113(d) that the judicial order would not have to satisfy to be approvable by EPA. First, it would not have to be made subject to public notice and comment. Also, it would not have to require final compliance by July 1, 1979. As noted earlier, Congress plainly sought to limit EPA's discretion to issue enforcement orders that extended beyond certain specified dates. Judicial orders, however, present less risk of the abuses Congress had in mind. Indeed, Congress did not directly address post-1977 judicial orders at all.

We believe that this proposal reflects Congress' intent in enacting these sections of the Act. Prohibiting the issuance of administrative DCO's that extend beyond July 1, 1979, responds to Congress' concern that open-ended administrative compliance orders, whether issued by States or EPA, carry with them an unacceptable risk of undermining the statutory compliance scheme. Allowing sources to petition for an exemption based upon a judicial decree responds to Congress' concern that some vehicle for providing relief to sources that meet the substantive conditions of the Section 120(a)(2)(B)(iv) exemption be provided beyond July 1979. However, the decision to grant any order which would enable the Agency to consider a source for relief under Section 120(a)(2)(B)(iv) would have to be made by a court, not by the Agency directly, and would be subject to the oversight and enforcement powers of the court. This would ensure that the procedural door to any such exemption would be more tightly held than if committed to Agency discretion alone.

The requirement for EPA determination of consistency of court orders with Section 113(d) is included for two reasons. First, it is EPA's position that court orders and consent decrees entered after the effective date of the Clean Air Act Amendments of 1977 must comply with the substantive requirements of Section 113(d), except that they need not provide for final compliance by July 1, 1979. That section set standards for all administrative orders issued in the future, and required all court orders and administrative orders issued in the past to be conformed to those standards; it is consistent with the Congressional policy embodied in these measures to read those requirements as applicable to court orders to be issued in the future as well. Second, it is a fundamental premise of Section 120(a)(2)(B) that all exemptions under it must be preceded by the issuance to the source of some other formal document which EPA (or, in the case of an exemption under Section 120(a)(2)(B)(v) [energy emergencies authorized by Section 110(f)], the President) has expressly approved.

It is important to note that the judicial decree or order by itself would not exempt the source from the noncompliance penalty. It would, however, enable the source to petition EPA for such relief. Only if EPA determined, in accordance with the criteria set forth in Section 66.31 of the regulations, that the source's inability was for reasons entirely beyond its control would the exemption be granted.

#### C. WHAT CONSTITUTES INABILITY TO COMPLY FOR REASONS ENTIRELY BEYOND THE CONTROL OF THE SOURCE

The second major eligibility criterion for an exemption under Section 120(a)(2)(B)(iv) relates to the source's inability to comply. The statute provides that in order to qualify for an exemption, the source must demonstrate that its inability to comply was for reasons entirely beyond the control of the owner or operator of such source or of any entity controlling, controlled by, or under common control with the owner or operator of such source. Language in the House Committee Report discussing H.R. 6161, the Clean Air Act Amendments of 1977, indicates that the (B)(iv) exemption "should be construed narrowly, so as not to open a loophole or defeat the purposes" of the penalty program.<sup>10</sup> The Report specifies only embargoes, strikes, fires, natural disasters, and the complete impossibility for a supplier or contractor to furnish materials necessary to achieve compliance as situations that are entirely beyond the control of the source, but indicates that some other situations

<sup>10</sup>House Report at 76.



might also qualify for an exemption.<sup>11</sup> Such situations should arise infrequently. Section 66.31 of the proposed regulations specifies the criteria that the Agency would consider in evaluating exemption requests based on fires, strikes, natural disasters, embargoes, and the complete impossibility of a supplier to furnish needed goods. To qualify for the exemption, the source must demonstrate that it had done nothing to encourage the situation that prevented its compliance. Additionally, the source must demonstrate that the procurement of any needed pollution control equipment has been and is being given the highest priority in the source's planning and budgeting process, and that the source has been and is taking all available steps to minimize its emissions.

In addition to the circumstances clearly specified in the legislative history of Section 120, there may be other situations that the Agency would consider as being entirely beyond the control of the source. A possible ground for exemption might arise if a source were subject to a SIP requirement that has not been achieved despite installation of all available control equipment. Cases of true technological impossibility are extremely rare. In addition, one of the major premises of the Clean Air Act is that the State may require a source to research and develop the technology necessary to achieve SIP standards, or else shut down. This technology-forcing aspect of the Act has been recognized by the courts. (See, e.g., *Union Electric Co. v. EPA*, 427 U.S. 246 (1976)).

Whether Congress, for the purposes of the noncompliance penalty program, intended to depart from this technology-forcing philosophy is uncertain. The House Committee on Interstate and Foreign Commerce indicated that the absence of any adequately demonstrated pollution control equipment would constitute grounds for an exemption from the noncompliance penalty, provided that the source "had made maximum feasible efforts to research and develop the necessary technology or to assist some other persons to do so."<sup>12</sup> Senator Muskie, however, in discussing the Conference Report accompanying the 1977 Amendments, emphasized that claims that technology is not available to meet a certain emission standard would not exempt a source from the penalty.<sup>13</sup>

While the House and Senate differed somewhat in their discussions of this question, both recognized that a

source should not be totally exempted from the noncompliance penalty by reason of its being subject to a technologically impossible SIP requirement. The language in the House Report suggests that the source must be doing everything possible to find a means of achieving the SIP standards even to be considered for an exemption. While Senator Muskie apparently understood that no exemption based on technological impossibility would be available under any circumstances, the difference between these two approaches is, as a practical matter, small. If there is no control equipment adequate to achieve compliance with the SIP, the Agency or State would be unable to determine accurately the costs being avoided by the noncomplying source. EPA believes that the only penalty the Agency could assess in this situation would necessarily be based upon the costs associated with the installation of all available controls, as determined on a case-by-case basis, as well as a commitment to an appropriate research and development (R&D) program designed to develop the new means of emission control necessary to achieve the standards. A source that, at the time the SIP requirement was first promulgated, had taken, and was continuing to take all possible steps to achieve compliance including the installation of the best available controls and, where appropriate, by commencing an EPA approved and supervised R&D program, would be considered to be deriving no economic benefit from its failure to comply and would, therefore, be exempt from the penalty, provided it had received a DCO or judicial order. These interim conditions should be incorporated into DCO or judicial order and would thus be enforceable under Section 120(a)(2)(A)(iii). Sources not meeting these criteria would be assessed a penalty based upon the costs avoided by reason of their failure to take these steps. We solicit comment on the appropriateness of this approach.

A related issue is whether a source that is experiencing severe economic difficulties could be exempted from the penalty. The legislative history is unclear on this point. The 1977 Senate Report states that the cost associated with controlling a facility would not constitute a defense to the penalty.<sup>14</sup> The 1976 House bill, however, provided that the term "inability to comply" included an inability to obtain financing due to temporary conditions in capital markets.<sup>15</sup> This standard was incorporated into the inability to comply standard adopted by the 1977 House Committee.<sup>16</sup> The

House Committee's "inability to comply" standard was adopted by the Conference Committee.

The Agency's believes that granting an exemption based on the source's inability to obtain financing would be appropriate in certain, limited circumstances. To qualify for this exemption, the source would have to demonstrate that its inability to obtain capital resulted from temporary, verifiable market conditions. Merely being a poor loan risk would not entitle the source to an exemption. Finally, in no event could an exemption be granted if capital is available to the source owner or operator for the purpose of improvement or expansion of the existing production capacity, or for construction of new production capacity. We solicit comment on the appropriateness of its approach.

#### De Minimis Exemptions

Section 120(a)(2)(C) provides that an exemption is also available if the Administrator determines, after notice and opportunity for a public hearing, that a source's noncompliance is *de minimis* in nature and duration. The criteria that the Administrator will utilize in evaluating whether a particular violation is *de minimis* are set forth in Section 66.32 of the regulations. These include the magnitude of the noncompliance, whether such noncompliance is of a recurring nature, the steps being taken to minimize the emissions, and the extent to which the source has derived an economic advantage from its noncompliance.

The Agency has decided to include within the *de minimis* exemption violations that are caused by a sudden and unavoidable breakdown of process or air pollution control equipment. Section 66.33 of the regulations specifies the criteria the source must satisfy to be granted an exemption based upon an equipment malfunction. These include a finding that the source's pollution control equipment was designed, operated, and maintained properly, that all practicable steps were taken to minimize the amount and duration of the excess emissions, and that the source has not gained a significant economic advantage from the breakdown. The Agency encourages comments on the desirability of including such malfunctions within the *de minimis* exemption, as well as on the criteria that the Administrator should use in evaluating exemption requests based on malfunctions.

#### Federally and Municipally Owned Facilities

The Agency also considered whether municipalities and federal facilities should be exempt from the noncompliance penalty. It is anticipated that

municipalities may argue that their sources are not profit-making in the same sense that commercial facilities are. Secondly, federal facilities may argue that assessment of the penalty against them would be a meaningless exercise since the money involved will be paid by, as well as received by, the U.S. Treasury, unless the State has been delegated the program.

The Agency believes that in enacting Section 120, Congress intended to recover the out-of-pocket savings accruing to any source from its failure to install pollution controls, unless such source is specifically exempted. No exemption was created for either federal facilities or municipalities; in fact, the Congress strongly indicated its intention that federal facilities be treated the same as other sources of air pollution in the amendment to Section 118 of the Act.

Under this reading, federal facilities and municipalities should be subject to noncompliance penalties unless one of the specified exemptions is applicable. We invite comment on this issue.

#### V. ADMINISTRATIVE AND JUDICIAL REVIEW

##### A. ADJUDICATORY HEARINGS

If a source wishes to challenge the finding of noncompliance that led to issuance of the notice of noncompliance, or to claim entitlement to an exemption, it may petition for a hearing. The Administrator or delegated State authority may then either withdraw the notice, grant the hearing, or deny the request if the source has not raised any significant questions. Where a hearing is granted, it will be of an adjudicatory nature except as otherwise provided, and will be conducted in accordance with the Agency's Consolidated Rules of Practice (40 CFR Part 22). Hearings of this type are also available where a source's penalty submittal is recalculated by the Agency and after a final adjustment.

##### B. INFORMAL HEARINGS

The Act provides that hearings to determine whether a source should be exempted because its noncompliance is *de minimis* will be informal in nature. Such hearings need not meet the requirements of the Consolidated Rules. A source applying for a *de minimis* exemption must submit information sufficient, in the opinion of the Administrator, to justify the request. In determining whether an exemption is justified, the Administrator will consider the factors set forth in the regulations. If the Administrator determines that the source has not supported its exemption request with sufficient information, a hearing will be denied.

Finally, where a State has been delegated the noncompliance penalty pro-

gram, its hearings on challenges to notices and exemption requests may be informal so long as the conditions established in Section 67.11 of the Regulations are met. Where a State hearing was held, any EPA hearing to review State exemption decisions or penalty assessments may be of an informal nature.

#### C. JUDICIAL REVIEW

Several EPA decisions under these regulations can be appealed to the appropriate United States Court of Appeals. The first of these is the finding of violation that leads to the issuance of the notice of noncompliance. The second is a decision to deny an exemption request. In addition, revision by EPA of a penalty schedule submitted by a source, either at the start of the penalty assessment process or at the time of final adjustment, may be appealed. Such decisions are appealable only if all administrative remedies, including appeal to the Administrator, have been exhausted.

#### VI. STATE INVOLVEMENT

##### A. DELEGATIONS

Part 67 deals with State involvement in assessing and collecting noncompliance penalties. EPA encourages all States that are interested in the program to seek delegation of it as soon as possible. Penalties assessed by a State will be paid into that State's Treasury.

In order to be delegated the authority to administer this program, a State must request a delegation by describing its proposed program. The request must indicate the availability of adequate staff and funds and the capability for conducting the necessary financial analysis and administrative hearings. Where specific assistance from EPA will be necessary, the State request should so indicate.

After a State delegation is in effect, the Agency will retain concurrent authority to assess and collect a penalty against any source within that State that is subject to the penalty and against which the State has failed to take appropriate action. Where the Administrator determines that a source has been overlooked, or that other steps subsequent to the issuance of a notice of noncompliance have not been taken, he will notify the State to that effect. If the State does not take corrective action within thirty days, the Agency will do so.

Provision is also made in the regulations for review of State exemption decisions and penalty assessments. Where the Administrator disapproves a State action, the Agency will then take whatever steps are necessary to assess the penalty against that source in accordance with these regulations.

If the Administrator determines that the State has repeatedly failed to administer the program as required in the guidelines set out in the regulations, he shall so notify the State, setting forth the reasons for such a determination. The State may then respond and demonstrate that it is in fact acting in conformity with these guidelines or that it is taking reasonable steps to meet those guidelines. If the State cannot so demonstrate, the Administrator will withdraw the delegation and implement the program.

#### VII. PUBLIC HEARINGS ON THIS PROPOSAL

Public comment is invited and will be received until June 19, 1979. EPA has decided to provide a 90 day comment period, rather than the normal 60 days, because of the extremely technical nature of this proposal. We believe that this 90 day period provides the public with adequate time to analyze and comment upon these proposed regulations. Because the Clean Air Act requires that the noncompliance penalty program take effect on August 7, 1979, EPA will not be able to provide any further extension of the comment period. Comments should be addressed to:

Director, Division of Stationary Source Enforcement (EN-341), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Informal (legislative) public hearings on these proposed rules will be held at the following times and places:

Conference Room 2409, 2126, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C.—May 3 and 4.

Adams Room, Midland Hotel, 172 W. Adams, Chicago, Illinois—May 7 and 8.

Sixth Floor Conference Room, U.S. Environmental Protection Agency, 2153 Fremont Street, San Francisco, California—May 10 and 11.

All hearings on the first day will commence at 9:30 A.M. with an evening session beginning at 7:30 P.M. On the second day hearings will commence at 9:30 A.M. and conclude when appropriate.

A presiding officer and panel will be designated for each hearing. The presiding officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentations and, to the extent possible, notifying the participants of the time at which they may appear. The hearings will be conducted informally. Technical rules of evidence will not apply.

<sup>11</sup>Id.

<sup>12</sup>House Report, FN at 76. See also *id.* at 66.

<sup>13</sup>123 Cong. Rec. S. 13698-99 (daily ed. Aug. 4, 1977) (remarks of Sens. Muskie and Stafford).

<sup>14</sup>Senate Report at 50.

<sup>15</sup>H.R. Rep. No. 94-1175 94th Cong., 2d Sess. 42 (1976).

<sup>16</sup>House Report at 59.



Interested persons wishing to make a statement at the hearing will be afforded the opportunity to do so. The time for making a statement will be limited. Such persons are requested to file a notice of their intent to make a statement no later than ten days prior to the hearing and, no later than five days prior to the hearing, if practicable, to submit five copies of the proposed statement to Robert Homiak at the above address (telephone: 202-755-2580). All other inquiries and comments prior to and after the hearing should be addressed to the same. The record of each public hearing will remain open for thirty days following the completion of that hearing for the submittal of rebuttal and supplementary information.

The documents on which this proposal is based are contained in Docket Number EN-79-1. All comments received during the comment period will be promptly added to the docket, and all documents upon which the final rules are based will be included in the docket. The docket will be open for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at:

U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Interested persons are reminded that Section 307(d)(7)(B) of the Act provides that objections to proposed rules must be raised with reasonable specificity by public comments for those objections to be cognizable during judicial review. In the view of EPA, this requires comments of a technical nature to be accompanied by sufficiently detailed supporting documentation to permit the Agency's technical staff to evaluate the comments in detail. This is particularly important where the information necessary to evaluate the comments properly is in the control of the commenters.

In addition, a regulatory analysis of the impact of these regulations has been prepared as required by Executive Order 12044. Copies of this analysis entitled "The Economic Effects of Noncompliance Penalties Under Section 120 of the Clean Air Act" may be obtained from the Agency's Central Docket Section, at the above address.

Copies of the Agency's "Plan For Evaluating the Effects of the Noncompliance Penalty Program" may also be obtained from the Director, Division of Stationary Source Enforcement at the above address. This evaluation is required by Executive Order 12044, and will be conducted in mid-1984, five years after these regulations become effective.

Finally, in accordance with the provisions of Executive Order 12044, these proposed regulations have been distributed to State and local air pollution control groups for their review and comments.

(Section 120 of the Clean Air Act, as amended, 42 U.S.C. 7420)

DOUGLAS M. COSTLE,  
Administrator.

MARCH 9, 1979.

Title 40 of the Code of Federal Regulations is proposed to be amended by adding new Parts 66 and 67 as set forth below:

#### PART 66—ASSESSMENT AND COLLECTION OF NONCOMPLIANCE PENALTIES

##### Subpart A—Purpose and Scope

- Sec.
- 66.1 Applicability.
  - 66.2 Program description.
  - 66.3 Definitions.
  - 66.4 Re-examination of positions taken.
  - 66.5 Savings clause.

##### Subpart B—Notice of Noncompliance

- 66.11 To whom notices must be sent.
- 66.12 Timing of notices of noncompliance.
- 66.13 Contents of notices of noncompliance.
- 66.14 Duties upon receipt of a notice of noncompliance.

##### Subpart C—Calculation of noncompliance penalties

- 66.21 How to calculate the penalty.
- 66.22 Contracting out penalty calculation.

##### Subpart D—Exemption Requests

- 66.31 Exemptions based on an order, extension or suspension.
- 66.32 De Minimis exemptions.
- 66.33 Excess emissions/upsets.
- 66.34 Revocation of exemptions.

##### Subpart E—Decisions on Exemption Requests and Challenges to Notices of Noncompliance

- 66.41 Petitions.
- 66.42 Decision on petitions.
- 66.43 Procedures for hearing.
- 66.44 Final decision.

##### Subpart F—Review of Penalty Calculation

- 66.51 Review of assessments.
- 66.52 Hearing requests.
- 66.53 Decisions on hearing requests.
- 66.54 Procedures for hearing.
- 66.55 Adjustment of penalty.

##### Subpart G—Payment

- 66.61 Duty to pay.
- 66.62 Method of payment.
- 66.63 Late payment penalty.

##### Subpart H—Compliance and Reimbursement

- 66.71 Determination of compliance.
- 66.72 Additional payment or reimbursement.
- 66.73 Hearing requests.
- 66.74 Payment or reimbursement.

##### Subpart I—Final Action

- 66.81 Final action.

#### Subpart J—Supplemental Rules for Formal Adjudicatory Hearings

- Sec.
- 66.91 Scope of these supplemental rules.
  - 66.92 Beginning of hearings.
  - 66.93 Time limits.
  - 66.94 Burden of presentation; burden of persuasion.
  - 66.95 Issues for hearings.
  - 66.96 Penalty assessed.
  - 66.97 Appeals from or review of initial decision.

AUTHORITY: Section 120 of the Clean Air Act, as amended, 42 U.S.C. 7420

#### Subpart A—Purpose and Scope

##### § 66.1 Applicability.

This Part applies to all proceedings for the assessment by EPA of a noncompliance penalty as provided by Section 120 of the Clean Air Act. This penalty is designed to remove the economic advantage which might otherwise accrue to a source by reason of its failure to comply with air pollution control standards after mid-1979.

##### § 66.2 Program description.

This Part sets forth the procedures by which EPA will administer the noncompliance penalty provisions of Section 120 of the Clean Air Act. Subpart B states which sources of air pollution are subject to these penalties and the form and substance of the notice of noncompliance. Subpart C and the accompanying Technical Support Document and Manual state how a source must compute the penalty which it owes. Subpart D describes the conditions for which an exemption from the penalty may be available, and Subpart E sets forth the procedures for requesting such an exemption. Subpart F states how EPA will review penalties calculated by sources under Subpart C, and Subpart G describes the method of payment. Subpart H provides for adjustment of the penalty after the source has come into compliance and the actual costs of doing so are known. Finally, Subpart I states EPA's position on which actions under these regulations are subject to judicial review and on what conditions, and Subpart J provides supplemental procedures for adjudicatory hearings.

##### § 66.3 Definitions.

In this part and Part 67:

(a) "Act" means the Clean Air Act, 42 U.S.C. 7401 et seq.

(b) "Affiliated person" means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the owner or operator of a source within the meaning of Section 120 of the Act.

(c) "Applicable legal requirements" means any of the following:

(1) In the case of any major source, any emission limitation, emission standard, or compliance schedule

under any applicable implementation plan (regardless of whether the source is subject to a Federal or State consent decree);

(2) In the case of any source, an emission limitation, emission standard, standard of performance, or other requirement (including, but not limited to, work practices) established under Section 111 or 112 of the Act;

(3) In the case of a source which is subject to an extension, order, or suspension described in Section 66.31 which has resulted in an exemption from noncompliance penalties, any interim emission control requirement or schedule of compliance under that extension, order or suspension.

(4) In the case of a nonferrous smelter which has received a primary nonferrous smelter order under Section 119 of the Act, any interim emission control requirement or schedule of compliance under that order.

(d) "Computer Program" means the computer program that EPA will use to calculate noncompliance penalties under Section 120 of the Clean Air Act. This computer program appears as Appendix C to these regulations.

(e) "Control" (including the terms "controlling," "controlled by" and "under common control with") means the power to direct or cause the direction of the management and policies of a person or organization, whether by the ownership of voting securities, by contract or otherwise.

(f) "Major stationary source" means any stationary facility or source of air pollutants which, at full capacity, and in the absence of air pollution control equipment, directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant regulated under the Clean Air Act (including fugitive emissions). "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation.

(g) "Manual" means the "Noncompliance Penalties Instruction Manual" which accompanies these regulations. This Manual appears as Appendix B to these regulations.

(h) "Owner or operator" means any person who owns, leases, operates or supervises a facility, building, structure or installation which emits any air pollutant regulated under the Act.

(i) "Source" means any source of air pollution subject to applicable legal requirements as defined in paragraph (c).

(j) "Technical Support Document" means the "Noncompliance Penalties Technical Support Document" which accompanies these regulations. The Technical Support Document appears as appendix A to these regulations.

All other terms are defined as they are in the Act.

##### § 66.4 Reexamination of positions taken.

(a) No conclusions expressed in this Part or Part 67 may be re-examined in any agency hearing conducted under this Part or Part 67.

(b) This bar on re-examination includes, but is not limited to, the situations described in (1), (2), and (3) below.

(1) No exemptions may be granted unless explicitly authorized by these regulations. Arguments that the statute is more or less restrictive than the regulations will not be considered in any subsequent agency proceeding.

(2) When penalty calculations are at issue, only the accuracy of the inputs to the calculation model which are specific to that particular source, as set forth in the Manual and the Technical Support Document, may be challenged in an agency hearing. Neither the terms and conditions of the model nor the conclusions as to what form of evidence will be considered in deciding on the accuracy of a particular input not specific to the source will be re-examined in individual proceedings.

(3) Sources are free to use methods of penalty calculation other than the Computer Program, if such methods are consistent with the Manual and Technical Support Document. (See Appendices A-C for these documents). However, any such method of calculation that gives results different from the Computer Program in the case being calculated is automatically unacceptable.

##### § 66.5 Savings clause.

Imposition of a penalty under Section 120 is in addition to, and not in substitution for, any other permits, orders, payments, sanctions or other requirements of State or Federal law. No action under this Part or Part 67 shall affect in any way an civil or criminal enforcement proceeding brought under any provision of the Clean Air Act or State or local law.

##### Subpart B—Notice of Noncompliance

##### § 66.11 To whom notices must be sent.

(a) The Administrator shall send a notice of noncompliance to any source located in a State without a Section 120 program approved under Subpart B of Part 67 which is in violation of applicable legal requirements.

(b) The Administrator shall send a notice of noncompliance to any source located in a State with a Section 120 program approved under Subpart B of Part 67 when he determines as provided in § 67.21 that the source is in violation of applicable legal requirements and the State has failed to send a notice of noncompliance to it, or has

failed to diligently prosecute any subsequent steps for the assessment or collection of the penalty.

(c) A source is in violation of applicable legal requirements on the day it fails to comply with them in their officially issued or promulgated form. The existence of any pending litigation or judicial or administrative stays of the regulation shall not affect the issuance of a notice of noncompliance.

##### § 66.12 Timing of notices of noncompliance.

(a) Notices of noncompliance in States without EPA approved Section 120 programs shall be issued by EPA on or before the later of:

(1) August 7, 1979; or  
(2) Thirty days after EPA determines that a source is in violation of applicable legal requirements.

(b) Notices of noncompliance in States with EPA approved Section 120 programs shall be issued by EPA when the Agency determines, in accordance with § 67.21, that the State has failed to issue a satisfactory notice of noncompliance or to diligently prosecute any subsequent step for assessing or collecting the penalty.

(c) Failure of EPA to issue a notice of noncompliance within the time limits set forth above shall not affect the obligation of a source to pay a noncompliance penalty but shall affect the date from which the penalty is calculated. The noncompliance penalty shall in all cases be calculated from the later of:

(1) August 7, 1979, where the notice of noncompliance was sent on or prior to that date; or

(2) The date the notice of noncompliance under this section was issued to the source.

##### § 66.13 Contents of notices of noncompliance.

(a) Each notice of noncompliance shall be in writing and shall include:

(1) A specific reference to each applicable legal requirement of which the source is in violation;

(2) A concise statement of the factual basis for the finding of violation, together with a citation to any necessary supporting materials and a statement of when and where they may be inspected;

(3) Instructions on how to calculate the amount of the penalty owed and the schedule for payments, including (i) a statement of the date from which penalties should be calculated and (ii) a copy of the Technical Support Document and the Manual; and

(4) Notice of the right to petition for a hearing to challenge the finding of noncompliance or to claim an exemption as provided in Subpart D.

(b) Each notice of noncompliance shall be transmitted to the source



named either by personal service or by registered or certified mail, return receipt requested.

**§ 66.14 Duties upon receipt of a notice of noncompliance.**

Within forty-five days after receiving a notice of noncompliance under this Part a source shall either:

(a) Calculate the amount of the penalty owed and the appropriate quarterly payment schedule, and transmit that calculation, together with the necessary data for verification, to the Administrator as provided in the Manual; or

(b) Submit a petition alleging either that the source is not in violation of applicable legal requirements or that it is entitled to an exemption as provided in §§ 66.31 through 66.33.

**Support C—Calculation of Noncompliance Penalties**

**§ 66.21 How to calculate the penalty.**

All noncompliance penalties shall be calculated in accordance with the Technical Support Document and the Manual, and by a method that gives the same results as the Computer Program.

**§ 66.22 Contracting out penalty calculation.**

If any person who is required by § 66.14 to submit (a) a calculation of the penalty assessment, (b) a schedule for payment, and (c) the data necessary for an independent verification of (a) and (b), fails to submit any of these materials in the time specified by that section or submits them in a form other than the one required by the Technical Support Document and the Manual, the Administrator may enter into a contract with any qualified person who is not an affiliated person to assist in determining the amount of the penalty assessment or payment schedule with respect to such source. The cost of carrying out this contract shall be added to the penalty to be assessed against the owner or operator of the source.

**Support D—Exemption Requests**

**§ 66.31 Exemptions based on an order, extension or suspension.**

(a) A source that would otherwise be subject to a noncompliance penalty under the standards set forth in Subpart B will be exempted from that penalty during the period for which and upon a demonstration that its noncompliance with applicable legal requirements is due solely to:

(1) A conversion by such source from the burning of petroleum products or natural gas, or both, as the permanent primary energy source to the burning of coal pursuant to an order under Section 113(d)(5) or Section 119 of the

Clean Air Act as in effect before the date of enactment of the Clean Air Act Amendments of 1977.

(2) In the case of a coal-burning source, the issuance of a prohibition to that source against burning petroleum products or natural gas, or both, by means of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 or under any legislation which amends or supersedes these provisions, provided that to qualify for an exemption under this subparagraph the source must also have received an extension under the second sentence of Section 119(c)(1) as in effect before the date of enactment of the Clean Air Act Amendments of 1977.

(3) The use of innovative technology by the source pursuant to an enforcement order under Section 113(d)(4).

(4) An inability to comply with an applicable legal requirement resulting from reasons entirely beyond the control of the owner or operator of such source or of any affiliated person, provided that in order to qualify for an exemption under this subparagraph, the source must demonstrate that its inability to comply resulted from reasons entirely beyond the control of its owner or operator or any affiliated person and that it has received an order under Section 113(d) (or an order under Section 113 issued before the date of enactment of this section) or a Federal or State judicial decree or order which has the effect of permitting a delay or violation of the legal requirement at issue. Additionally, the source must meet the requirements of paragraphs (c) and (d) of this section.

(5) Existence of an energy or employment emergency demonstrated by issuance of an order under Section 110(f) or 110(g).

(b) To qualify for an exemption under this section, the source in question must demonstrate in its § 66.14 petition that it has received the order, extension or suspension described in the subparagraph under which the exemption is claimed. No exemption will be granted that goes beyond the terms of the relevant extension, order, or suspension. No exemption will be granted based on a claim that the source is entitled to any such order, extension or suspension even though it has not received it.

(c) In any exemption claim based on subparagraph (a)(4) above, the source must demonstrate to the satisfaction of the Administrator that the inability to comply resulted from one of the following situations:

(1) Natural disaster;  
(2) Fire;  
(3) Embargo;  
(4) Strike; or  
(5) The complete impossibility of a supplier or contractor to furnish mate-

rials necessary to achieve compliance, provided it can be demonstrated:

(i) That the source owner or operator or other affiliated person in no manner caused, encouraged or contributed to the impossibility; and

(ii) That the source in no way unduly delayed negotiation for needed equipment or fuel supply by making unusual demands not typical of contract negotiations in its industry, by placing unusual restrictions on the supplier, or by delaying in any other manner the completion of the necessary construction or delivery.

(d)(1) In any demonstration under paragraph (c), the source also has an affirmative burden to show that all reasonable steps were taken to prevent the situation causing the inability to comply, that procuring the needed pollution control equipment or fuel supply has been and continues to be given the highest priority in the source's planning and budgeting process, and that alternative sources of fuel supply have been explored.

(2) Any exemption granted under subparagraph (a)(4) may include a requirement that the source accelerate its schedule for compliance in any manner that the Administrator shall provide.

(3) Any exemption granted under subparagraph (a)(4) shall insulate the source from liability for the penalty only so long as the inability to comply continues to be beyond the control of the source as defined in this section.

**§ 66.32 De minimis exemptions.**

(a) The Administrator may exempt any source from the penalty where he finds that the noncompliance of that source is de minimis in nature and duration.

(b) Where a source issued a notice of noncompliance submits a petition pursuant to § 66.14 alleging an exemption based on a claim of de minimis violation, the source must include information sufficient, in the opinion of the Administrator, to justify a finding that the instance of noncompliance is de minimis in both nature and duration.

(c) In ruling upon such a petition, the Administrator will consider the following factors:

(1) The magnitude of the noncompliance and whether such noncompliance is of a recurring or persistent nature;  
(2) What steps the source is taking to minimize the problem and the resulting excess emissions; and  
(3) Whether any significant economic savings are likely to accrue to the source as a result of the noncompliance.

(d) Where a hearing is granted under § 66.42 on any petition filed under § 66.14 alleging an exemption

under this section, such hearing shall be informal and of a legislative nature.

**§ 66.33 Excess emissions/upsets.**

(a) Where the noncompliance of a source is caused solely by a sudden and unavoidable breakdown of process or air pollution control equipment, the Administrator may determine that such noncompliance is de minimis.

(b) A source claiming such an exemption must submit in its § 66.14 petition information sufficient, in the opinion of the Administrator, to demonstrate the following:

(1) The air pollution control equipment, process equipment, or processes, including appropriate back-up systems, were at all times designed, maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;

(2) Repairs were made in an expeditious fashion when the operator knew or should know that applicable emission limitations were being exceeded. Off-shift labor and overtime must have been utilized to ensure that such repairs were made as expeditiously as possible;

(3) The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

(4) All practicable steps were taken to minimize the impact of the excess emissions on ambient air quality;

(5) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(6) No significant economic savings to the source have resulted.

(c) Any activity which can be foreseen and avoided or planned for shall not constitute grounds for an exemption under this section. Such activities include, but are not limited to, sudden breakdowns avoidable by better maintenance procedures, phasing in and out of process equipment and routine maintenance.

(d) Where a hearing is granted under § 66.42 on any petition filed under § 66.14 alleging an exemption under this section, such hearing shall be informal and of a legislative nature.

**§ 66.34 Revocation of exemptions.**

(a) The Administrator may move to revoke any exemption granted to any source at any time.

(b) An exemption may be revoked if:

(1) The grounds for it no longer exist or never did exist, or  
(2) In the case of an exemption under § 66.31, the source has failed to comply with any interim emission control requirements or schedules of compliance (including increments of progress) under any extension, order or

suspension on which the exemption was based.

(c) If the Administrator decides to move to revoke an exemption, he shall provide the source written notice containing both the information required by § 66.13 and a statement of why the provisions of paragraph (b) of this section apply. The notice shall be transmitted as required by § 66.13 and the source shall respond to it as provided for notices of noncompliance by § 66.14.

**Support E—Decisions on Exemption Requests and Challenges to Notices of Noncompliance**

**§ 66.41 Petitions.**

(a) Any petition filed under § 66.14 alleging either that a source is not in violation of applicable legal requirements or that it is entitled to an exemption under Subpart D shall either contain or be physically accompanied by a complete statement of the legal, factual, and policy arguments on which the source relies, including all necessary supporting data. No such petition shall raise issues or arguments extraneous to the questions of compliance or entitlement to an exemption.

(b) For purposes of these regulations, the existence of an outstanding unsatisfied enforcement order or judicial decree governing a source shall be *prima facie* evidence that the source is out of compliance with applicable legal requirements.

**§ 66.42 Decision on petitions.**

Within thirty days after receiving a complete petition under § 66.41 the Administrator shall:

(a) Withdraw or modify the notice of noncompliance to the extent he concludes that the source is clearly entitled to the relief it has requested;

(b) Deny a hearing and affirm the notice to the extent he concludes that the source has not raised any significant questions of material fact that might affect the terms of the notice of noncompliance; or

(c) Grant a hearing under §§ 66.31, 66.32, 66.33 or 66.34, or on the issue of whether the source is in violation of applicable legal requirements, to the extent he concludes that the source has raised such questions.

**§ 66.43 Procedures for hearing.**

(a) Except as provided in §§ 66.32 and 66.33, hearings granted under § 66.42(c) shall be held as provided in Subpart J.

(b) If hearings are requested and granted under both §§ 66.32 or 66.33 and under Subpart J, no separate hearing under §§ 66.32 or 66.33 shall be held. The issues that would otherwise have been considered at that hearing shall be considered at the hearing under Subpart J.

**§ 66.44 Final decision.**

Within forty-five days after EPA has made a final Agency decision to deny a source's exemption request or allegation that it is not in violation with applicable legal requirements, the source shall submit the penalty calculation required by § 66.14(a) in accordance with the Technical Support Document and the Manual, including the instructions for accelerated payment schedules and extra interest to make up for any delay. The penalty runs from the date of the original notice.

**Support F—Review of Penalty Calculation**

**§ 66.51 Review of assessments.**

(a) Within thirty days after receipt of a source's penalty calculation under §§ 66.14(a) or 66.44, the Administrator shall respond in writing, in accordance with one of the options described in (1) through (3) below, that:

(1) The penalty will be accepted as calculated, but without prejudice to any recalculation that may be called for under Section 66.72 after the source has achieved compliance.

(2) The penalty has been recalculated based on the data provided by the source. The Administrator shall furnish the source a brief statement of the basis of the recalculation and inform it when and where any supporting data may be examined. The Administrator shall also notify the source of its right to petition for a hearing under Section 66.52.

(3) The source has not submitted enough material to enable EPA to make a satisfactory independent verification of the penalty calculation. The Administrator shall specify what deficiencies exist and require the source to furnish the missing material within fifteen days of receipt of that notification. If no further submission is made within this time, EPA may calculate the penalty as provided in § 66.22.

(b) Any missing material furnished under subparagraph (a)(3) of this section shall be evaluated as provided in paragraph (a) just as if it were an original penalty calculation.

**§ 66.52 Hearing requests.**

Within forty-five days after receipt of notice under Section 66.51(a)(2) that its penalty has been recalculated, a source may request in writing a hearing to challenge the Administrator's assessment. Any such petition shall either contain or be physically accompanied by a complete statement of the legal, factual, and policy arguments on which the source relies, including all necessary back-up data.



### § 66.53 Decisions on hearing requests.

Within thirty days after receiving a hearing request under § 66.52 the Administrator shall:

(a) Accept the source's version of the penalty calculation to the extent he concludes it is clearly correct;

(b) Deny a hearing and affirm the calculation to the extent he concludes that the source has not raised any significant questions of material fact that might affect the calculation of the penalty; or

(c) Grant a hearing under Section 66.54 to the extent he concludes that the source has raised such questions.

### § 66.54 Procedures for hearing.

(a) Except as provided in paragraph (b), hearings granted under § 66.52 shall be held as provided in Subpart J.

(b) The Presiding Officer shall schedule any hearing under this section so as to enable the initial decision to be issued within ninety days after the Administrator grants a hearing and shall issue an initial decision within that period, unless such time is extended by the Presiding Officer with the approval of the Administrator.

### § 66.55 Adjustment of penalty.

A source must pay the penalty which it has calculated under § 66.14 while proceedings to decide an agency challenge to that calculation are in progress. If a different penalty is established after Agency hearings, penalty installments will be recalculated in accordance with the Technical Support Document and the Manual to take account of the delay.

#### Subpart G—Payment

### § 66.61 Duty to pay.

Each source shall pay the first installment of its noncompliance penalty on the date six months after issuance of the notice of noncompliance to it or on January 1, 1980, whichever is later. Installments shall be paid quarterly thereafter. Quarters shall be measured in increments of three months from the date the first payment was due.

### § 66.62 Method of payment.

Payment of noncompliance penalties under this part shall be made by cashier's or certified check made out to the United States Treasury, sent by registered or certified mail, and addressed to the Administrator.

### § 66.63 Late payment penalty.

(a) Any source which fails to pay the penalty due under § 66.61 when it is due shall pay in addition to the penalty owed a quarterly nonpayment penalty for each quarter in which payment is not made by the due date. The

penalty shall be equal to 20 percent of the aggregate amount of the penalties and nonpayment penalties accrued against that source which had not been paid on the due date. Payment is made on the due date if it is postmarked or received on or before the due date.

(b) If a nonpayment penalty becomes due, the Administrator shall notify the source to that effect in writing. Such nonpayment penalty, as well as the noncompliance penalty past due, shall be payable immediately.

#### Subpart H—Compliance and Reimbursement

### § 66.71 Determination of compliance.

(a) If a source which is paying a noncompliance penalty under this Part believes it has come into compliance and is maintaining compliance with all applicable legal requirements, it shall so notify the Administrator. The notice shall include all factual, analytical, and legal arguments in support of its claim, including any necessary back-up data.

(b) The Administrator shall review any notice and supporting materials submitted under paragraph (a) and shall inform the source within thirty days whether he is able to conclude on the basis of the notice and supporting materials that the source is in compliance with applicable legal requirements. If he is not able to make this conclusion, his response to the source shall briefly state the reasons why not and identify any additional material that is needed.

### § 66.72 Additional payment or reimbursement.

(a) Within 120 days after the Administrator has informed a source under § 66.71 that it has achieved and is maintaining compliance with applicable legal requirements, the source shall submit to the Administrator a revised penalty calculation as provided in the Technical Support Document and the Manual.

(b) Within thirty days after receiving a source's revised penalty calculation under paragraph (a), the Administrator shall evaluate it and shall respond in writing and state either:

(1) That the revised penalty will be accepted as calculated;

(2) That the penalty has been recalculated based on the data provided by the source. The Administrator shall furnish the source a brief statement of the basis of the recalculation and shall inform it when and where any supporting data may be examined. The Administrator shall also notify the source of its right to petition for a hearing under § 66.73; or

(3) That the source has not submitted enough material to enable EPA to make a satisfactory independent ver-

ification of the penalty calculation. The Administrator shall require the source to furnish the missing material within thirty days of receipt of the notice.

(c) If a source fails to submit a revised penalty calculation when due under this section or the calculation it submits is inadequate, the Administrator may enter into a contract for independent calculation of the penalty as provided in § 66.22.

### § 66.73 Hearing requests.

Within forty-five days of receipt of a notice under Section 66.72(b)(2) a source may request a hearing in the form and manner provided in § 66.52. The hearing request shall be evaluated as provided in § 66.53 and any hearing shall be held in conformity with §§ 66.54 and 66.55.

### § 66.74 Payment or reimbursement.

(a) Within thirty days after any adjustment of a noncompliance penalty under this Subpart has become administratively final:

(1) If the source owes a deficiency it shall pay that deficiency as provided in § 66.62.

(2) If there has been an overpayment by the source, the Administrator shall transmit to the source a check from the United States for the deficiency by registered or certified mail, return receipt requested.

(b) Any payment under paragraph (a) shall be calculated with interest at prevailing rates from the date it should have been paid, as set forth in the Technical Support Document and the Manual.

(c) Any source which does not make a payment under this section when it is due shall pay a penalty equal to 20% of the amount not paid for each calendar quarter or portion of a quarter for which payment was not made as provided in § 66.63.

#### Subpart I—Final Action

### § 66.81 Final action.

(a) Each of the following constitutes final Agency action appealable to the courts provided the conditions of paragraph (b) are met:

(1) Any finding that a source is in violation of applicable legal requirements;

(2) Any decision to deny an exemption under Subpart D;

(3) Any revision by EPA of a penalty schedule under Subpart F; and

(4) Any revision by EPA of a final penalty calculation submitted under Subpart H.

(b) The actions listed in paragraph (a) constitute final Agency action only if all administrative remedies have been exhausted. To exhaust administrative remedies a source must request

an administrative hearing where available to challenge the decision in question and must appeal or attempt to appeal any unfavorable decision to the Administrator.

#### Subpart J—Supplemental Rules for Formal Adjudicatory Hearings

### § 66.91 Scope of these supplemental rules.

The Supplemental Rules in this Subpart, in conjunction with the Consolidated Rules of Practice (40 CFR Part 22) shall govern all formal adjudications held under §§ 66.43, 66.54, and 66.73. Where inconsistencies exist between these Supplemental Rules, or any other provision of this Part, and the Consolidated Rules, the provisions of this Part shall govern.

### § 66.92 Beginning of hearings.

(a) Hearings under this Part shall not begin with the filing of a complaint and there shall be no complaint or answer as such. Instead, a hearing shall begin as soon as the Administrator grants a hearing under §§ 66.42, 66.53, or 66.73. 40 CFR 22.08 shall become applicable at that time.

(b) Upon granting a hearing the Administrator shall immediately transmit to the Regional Hearing Clerk two copies of the notice granting the hearing and:

(1) In the case of a hearing under § 66.42, two copies of the notice of noncompliance under § 66.13 (or the revocation notice under § 66.34) and of the petition under § 66.41, together with any supporting documents; and

(2)(i) In the case of a hearing under § 66.54, two copies of the source's penalty calculation under §§ 66.14(a) or 66.72, of the modifications to that calculation by the Agency under §§ 66.51(a)(2) or 66.72(b)(2), and of the source's petition for a hearing under § 66.52, together with any supporting documents.

(ii) The Regional Hearing Clerk shall open and maintain the official file of the proceeding upon receipt of these documents. These documents shall serve the function of the complaint and answer in other proceedings and any information they contain shall automatically be received in evidence in the hearing.

(c) Upon granting a hearing the Administrator shall immediately request the Chief Administrative Law Judge to assign an Administrative Law Judge as the Presiding Officer. The Chief Administrative Law Judge shall make this assignment within seven days of receiving the request. The Chief Administrative Law Judge shall inform the Regional Hearing Clerk when the Presiding Officer is designated and the Regional Hearing Clerk shall then promptly forward to the Presiding Of-

ficer one set of the documents described in paragraph (b).

### § 66.93 Time limits.

The Presiding Officer promptly upon designation shall schedule any prehearing conferences (or alternative procedures) under 40 CFR 22.19 and shall issue notice of hearing under 40 CFR 22.21. The Presiding Officer shall issue an initial decision no later than ninety days after the hearing is granted, and is authorized to shorten any deadline in 40 CFR Part 22 where necessary to that end.

### § 66.94 Burden of presentation; burden of persuasion.

(a) In hearings under § 66.43 the Agency has the burden of going forward and presenting evidence that the source is in violation of applicable legal requirements. Following the establishment of a *prima facie* case, the source shall have the burden of presenting and of going forward with any rebuttal evidence.

(b) In hearings under § 66.43 the source has the burden of going forward and presenting evidence that it is entitled to an exemption. Following the establishment of a *prima facie* case, the Agency shall have the burden of presenting and of going forward with any rebuttal evidence.

(c) In hearings under §§ 66.54 and 66.73 the Agency has the burden of going forward and presenting evidence that its revisions to the source's penalty calculations are correct. Following the establishment of a *prima facie* case, the source shall have the burden of presenting and of going forward with any rebuttal evidence.

(d) Each matter of controversy shall be determined by the Presiding Officer upon a preponderance of the evidence.

### § 66.95 Issues for hearings.

(a) In any hearing under § 66.43, no other issues may be raised except the question of noncompliance and the source's entitlement to an exemption.

(b) Where a source intends to claim that it is entitled to an exemption if its claim that it is in compliance with applicable legal requirements is unsuccessful, the source must raise the exemption issues in its original petition under § 66.14. The Presiding Officer shall consider all such issues so that the initial decision addresses both questions.

(c) In any hearing under § 66.54, the validity of the formulae for calculating the penalty shall not be in question. As set forth in § 66.4, only the values of those parameters which are specific to that particular source, as authorized by the Manual and the Technical Support Document, may be challenged.

### § 66.96 Penalty assessed.

(a) The dollar amount of the penalty shall be based upon the formulae contained in the Technical Support Document and the Manual. The Presiding Officer may determine the accuracy of the data submitted by the source, but may not alter the penalty amount determined by the formulae.

(b) Payment shall be made according to the schedule established under the guidelines of the Technical Support Document and the Manual.

### § 66.97 Appeals from or review of initial decision.

An appeal to the Administrator from an adverse ruling or order of the Presiding Officer shall be made within fifteen (15) days after service of the initial decision.

#### PART 67—EPA APPROVAL OF STATE NONCOMPLIANCE PENALTY PROGRAMS

##### Subpart A—Applicability

### 67.1 Applicability.

### 67.2 Program description.

##### Subpart B—Approval of State programs

### 67.11 Standards for approval of State programs.

### 67.12 Application for approval of programs.

### 67.13 Approval.

### 67.14 Amendments to the program.

### 67.15 Revocation.

##### Subpart C—Federal Notice of Noncompliance to Sources in States With Approved Programs

### 67.21 Federal notice of noncompliance to sources in States with approved programs.

##### Subpart D—EPA Review of State Exemption Decisions

### 67.31 When EPA will review.

### 67.32 Procedure where no formal State hearing was held.

### 67.33 Procedure where formal State hearing was held.

##### Subpart E—EPA Review of State Penalty Assessments

### 67.41 When EPA will review.

### 67.42 Procedures where no formal State hearing was held.

### 67.43 Procedures where a formal State hearing was held.

##### APPENDIX A—TECHNICAL SUPPORT DOCUMENT

##### APPENDIX B—INSTRUCTION MANUAL

##### APPENDIX C—COMPUTER PROGRAM

AUTHORITY: Section 120 of the Clean Air Act, as amended, 42 U.S.C. 7420.

##### Subpart A—Applicability

### 67.1 Applicability.

This Part sets the standards and procedures under which EPA will approve State programs for assessing noncompliance penalties under Section 120 of the Clean Air Act and evaluate actions taken by States with approved programs.



67.2 Program description.

In Part 67, Subpart A covers the applicability of the Part. Subpart B states the conditions under which EPA will approve State programs to administer the noncompliance penalty provisions. Subparts C and D state when and how EPA will issue own notices to sources in States with approved programs, and how it will review State decisions on whether to grant exemptions from the penalty. Finally, Subpart E states how EPA will review State assessments of the amount of a penalty.

Subpart B—Approval of State Programs

67.11 Standards for approval of State programs.

(a) The Administrator shall approve any State program for administering the noncompliance penalty provisions of Section 120 of the Clean Air Act upon finding that the program conforms to the requirements of the Act and substantially conforms to the requirements of 40 CFR Part 66, governing federally assessed noncompliance penalties.

(b) The Administrator shall not approve any State program that does not provide explicitly for:

(1) A level of staffing and funding satisfactory, in the judgment of the Administrator, to carry out the requirements of Section 120 in that State, together with assurances that an adequate level of funding and staffing will be maintained in the future;

(2) A capability either through State personnel or through contractors, for carrying out analysis of financial data and for applying the Manual satisfactorily, in the judgment of the Administrator, to implement the requirements of Section 120 in that State, together with assurances that such capability will be maintained in the future;

(3) An administrative hearing whenever a source challenges a finding of noncompliance or denial of an exemption or the amount of a penalty under Section 120. This hearing need not conform to the full formal requirement of 5 U.S.C. 554 as long as it provides for:

(i) A decision on the record;

(ii) A decision by a person who has not performed investigative or litigating functions in that case or a related case;

(iii) Opportunity for any cross-examination necessary for full disclosure of material facts, or an equivalent opportunity for confrontation between and resolution of differing positions on material factual matters; and

(iv) An initial decision by the hearing officer within ninety days of commencement of the hearing to decide a petition for an exemption or challenge to a State penalty calculation.

(4) Explicit provision that:

(i) The record of each hearing held under subparagraph (3) shall be transmitted to the Administrator within thirty days of the final State decision in the matter;

(ii) A copy of each notice of noncompliance and of any subsequent correspondence regarding the notice of noncompliance (other than correspondence covered by subparagraph (i) above) shall be sent to the Administrator at the time it is mailed or received by the State agency administering the Section 120 program; and

(iii) A copy of each calculation of a noncompliance penalty and of any subsequent correspondence regarding that penalty (other than correspondence covered by subparagraph (i) above) shall be sent to the Administrator at the same time it is mailed or received by the State agency administering the Section 120 program.

(c) The State may authorize a local agency to carry out a Section 120 program, or part of it, within that local agency's jurisdiction as long as the role of that local agency is clearly identified in the program submission and it meets the requirements for approval under this section.

(d) No State penalty program shall be disapproved because it is more stringent in any manner than the program established by Section 120 as long as the Administrator concludes that the State has independent authority under State law to administer the more stringent portions of the program.

67.12 Application for approval of programs.

A State that wishes to administer a Section 120 program shall submit an application in writing to the Administrator describing its proposed program in detail sufficient to justify a conclusion that the requirements of § 67.11 have been met. All necessary supporting materials shall be transmitted along with the application.

67.13 Approval.

(a) The Administrator after evaluating any application submitted under § 67.12 shall:

(1) Approve the State program if he determines that the requirements of § 67.11 have been met;

(2) Request additional information if he determines that the information submitted is not sufficient to allow him to determine whether the requirements of § 67.11 have been met; or

(3) Disapprove the State program if he determines that the information submitted establishes that the requirements of § 67.11 have not been met.

(b) The Administrator shall provide the applying State with written notice of any action under paragraph (a)

which shall briefly state the reasons for his determination. In addition, any approval of a program under paragraph (a)(1) shall delegate to the State the authority which the Administrator has to establish and administer a noncompliance penalty program under Section 120 of the Clean Air Act. Despite any such delegation, the Administrator shall retain concurrent authority to assess and collect these penalties.

(c) Where a State is delegated the authority to implement this program, proceedings arising out of notices previously issued by the Administrator shall continue to be handled by EPA under Part 66 except to the extent the Administrator specifically delegates the handling of them to the State.

67.14 Amendments to the program.

(a) Any State with a program approved under § 67.13 may at any time submit amendments to that program to the Administrator. Any such submission shall conform to the requirements of § 67.12.

(b) The Administrator shall evaluate whether the State program as proposed to be amended would conform to the requirements of § 67.11 and shall respond as provided in § 67.13.

67.15 Revocation.

If the Administrator determines that a State with a program approved under § 67.13 is no longer administering the program in conformity with § 67.11 he shall provide the State written notice of that determination, setting forth his reasons. Copies of all supporting materials shall accompany the notice, or shall be placed on file in the relevant Regional Office and made available for inspection during normal business hours. The State shall have ninety days to respond in writing to this determination. If the Administrator finds after reviewing the State response that either (ai) the State is in fact administering the program in conformity with Section 67.11 or (ai) there are reasonable grounds to believe the State program will be brought into conformity with that section to the extent it is not already in conformity with it, he shall withdraw his determination. If he determines that neither of these conditions has been met, he shall issue a final determination disapproving the State program and withdrawing any delegation that has been made to the State.

Subpart C—Federal Notice of Noncompliance to Sources in States With Approved Programs

67.21 Federal notice of noncompliance to sources in States with approved programs.

(a) The Administrator may assess and collect noncompliance penalties against any source in a State with an approved program if he determines that the State has failed to do so.

(b) The Administrator shall inform a State with an approved program of his intent to issue a notice of noncompliance to any source(s) in that State whenever:

(1) The State has failed to issue such a notice; or

(2) The State has issued the source such a notice but has failed to diligently prosecute any subsequent step in the recovery of the penalty.

The Administrator shall inform the State that a notice of noncompliance will be issued to the source(s) in question unless the State cures the defect in its proceedings within thirty days. The Administrator shall issue the notice unless he determines that the actions taken by the State are likely to cure the defect identified as the ground for issuing the notice.

(c) Any notice issued under this section shall be issued as provided in Subpart B of Part 66 and shall be treated procedurally just like a notice issued under that section. By issuing a notice under this Section, EPA assumes exclusive jurisdiction to conduct the penalty assessment proceedings in question.

Subpart D—EPA Review of State Exemption Decisions

67.31 When EPA will review.

(a) The Administrator, within 90 days of receipt of a State's notice of penalty assessment, may review any State decision to grant an exemption under the standards laid down in the Act and Subpart D of Part 66 to determine whether it conforms to those requirements.

(b) Nothing in this subpart shall preclude a State from being more stringent than these regulations would otherwise require.

67.32 Procedure where no formal State hearing was held.

Whenever the Administrator decides

to review a State exemption decision for which no hearing conforming to § 67.11(b)(3) was held, he shall evaluate the documents relating to that decision transmitted to him by the State as provided § 67.11(b)(4). The Regional Administrator shall then proceed in accordance with § 66.42.

67.33 Procedure where a formal State hearing was held.

(a) Whenever the Administrator decides to review a State exemption decision for which a hearing conforming to § 67.11(b)(3) was held, he shall prepare an evaluation of and draft conclusions based on the State hearing record transmitted to EPA as provided in § 67.11(b)(4), as well as any other pertinent information.

(b) Upon completing the evaluation of the State hearing record, the Administrator shall send a copy to each person who participated in the State hearing, and shall issue public notice summarizing the reasoning and conclusions of the evaluation and stating that a public hearing on the State exemption decision will be held at a given time and place.

(c) Public hearings under this section shall be informal and of a legislative nature. Agency participants shall include persons who will have substantial responsibility for advising the Administrator in preparing his final decision. No new evidence may be introduced. Instead, the proceeding shall be in the nature of an appellate review of the State decision based on the State record. A verbatim transcript of the hearing shall be made.

(d) As soon as feasible after the close of the hearing under paragraph (c), but no later than sixty days after receipt of a petition under or issuance of a notice under this Section, the Administrator shall issue a final decision. The final decision shall contain a response to all significant points raised at the hearing.

Subpart E—EPA Review of State Penalty Assessments

67.41 When EPA will review.

Whenever the Administrator determines that a penalty assessed by a State is less than the Technical Support Document and the Manual require, he shall object in writing to the State as provided in §§ 67.42 or 67.43. Any such objection shall be made

within ninety days of receipt of either the final State decision in the matter or any item of information considered in the State proceeding which is necessary to enable the Administrator to independently evaluate the State assessment, whichever occurs last.

67.42 Procedures where no formal State hearing was held.

Where the Administrator objects under § 67.41 to a State penalty assessment in a case in which no formal hearing under § 67.11(b)(3) was held, he shall issue his objection in the form of an evaluation conforming to § 66.51 of the State documents relating to that assessment transmitted as provided by § 67.11(b)(4). That objection shall be treated procedurally in the same manner as any other notice issued under § 66.51.

67.43 Procedures where a formal State hearing was held.

(a) Whenever the Administrator objects under § 67.41 to a State penalty assessment in a case in which a formal hearing conforming to § 67.11(b)(3) was held, he shall issue that objection in the form of an evaluation of and draft conclusions based on the State hearing record transmitted to EPA as provided in § 67.11(b)(4), as well as any other pertinent information.

(b) The Administrator shall send a copy of this evaluation and objections to each person who participated in the State hearing, and shall issue public notice summarizing the reasoning and conclusions of the evaluation and stating that a public hearing on the State penalty calculation will be held at a given time and place.

(c) Public hearings under this section shall be informal and of a legislative nature. Agency participants shall include persons who will have substantial responsibility for advising the Administrator in preparing his final decision. No new evidence may be introduced. Instead, the proceeding shall be in the nature of an appellate review of the State decision based on the State record. A verbatim transcript of the hearing shall be made.

(d) As soon as feasible after the close of the hearing under paragraph (c) but no later than sixty days after issuance of a notice under § 67.41, the Administrator shall issue a final decision. The final decision shall contain a response to all significant points raised at the hearing.



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|------|---|
| I.   | INTRODUCTION AND SUMMARY                        |
| II.  | ECONOMIC SAVINGS AND THE NONCOMPLIANCE PENALTY  |
| III. | ASSUMPTIONS UNDERLYING THE PENALTY CALCULATIONS |
| IV.  | DEFINITIONS OF PARAMETERS AND SOURCES OF DATA   |
| V.   | DERIVATION OF FORMULAE                          |

APPENDIX A

Attachment

CLEAN AIR ACT

SECTION 120

NONCOMPLIANCE PENALTIES

TECHNICAL SUPPORT DOCUMENT

PROPOSED RULES

|   |  |
|---|--|
| A | DEFINITION OF SYMBOLS  |
| B | INVESTMENT TAX CREDIT QUALIFICATION  |
| C | DEPRECIATION   |
| D | TAX RATE ADJUSTMENTS   |
| E | FACILITIES WITH LIMITED USEFUL LIVES   |
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| G | DERIVATION OF NONCOMPLIANCE PENALTY WHEN THE INFLATION RATE EQUALS THE DISCOUNT RATE |

SECTION I

INTRODUCTION AND SUMMARY

The decision to install pollution control equipment implies a decision to commit financial resources, both initially in the form of capital investment and over time in the form of operating and maintenance expenses. While the acquisition of such equipment and its operation may result in improved environmental quality, it is unlikely to yield any direct economic benefit to the firm. If these financial resources were not required for pollution control equipment, they presumably would be invested in projects which would give a direct economic benefit to the firm. Thus, from a strictly economic point of view, it is usually in the firm's best interest to delay the commitment of funds for pollution control equipment.

Congress acted in 1977 to remove this incentive for noncompliance. The Clean Air Act ("the Act") was amended to require the imposition of penalties against firms not in compliance with pollution control regulations. These penalties must be based on the savings which accrue to a firm as a result of its noncompliance. Section 120 of the Act states:

"The amount of the penalty which shall be assessed and collected with respect to any source under this section shall be equal to--

(A) the amount determined.....which is no less than the economic value which a delay in compliance beyond July 1, 1979, may have for the owner of such source, including the quarterly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and any additional economic value which such a delay may have for the owner or operator of such source."

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The Administrator of the Environmental Protection Agency (EPA) is given responsibility for carrying out this provision. This appendix describes the economic basis and the mathematical formulation of a noncompliance penalty to be used in conforming with the requirements set forth in the Act. It is intended to serve three distinct purposes. First, it presents in broad, conceptual terms the nature of economic savings which can accrue to a firm through delayed compliance and the calculation of a penalty to remove those savings. Second, it provides a precise mathematical formulation of the noncompliance penalty and the assumptions used in deriving it. Finally, it provides a complete specification of the sources of all of the data needed to calculate the penalty for a particular incidence of noncompliance.

This appendix is not intended to serve as an instruction manual for persons calculating noncompliance penalties. A separate appendix will be issued by EPA for that purpose.

THE VALUE OF DELAY

For the purposes of noncompliance penalties, the economic value, or savings, from noncompliance is defined to have two components: (1) the returns which can be earned on the capital costs of pollution control equipment whose purchase has been delayed, and (2) the operating and maintenance costs avoided as a result of not having installed the equipment and the returns on these savings. The first component arises because owners of noncomplying sources have the opportunity to invest their funds in projects other than pollution control equipment. These other investments yield a monetary

PROPOSED RULES



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return whereas the purchase of pollution control equipment typically yields no monetary return. Thus a delay in compliance creates the opportunity for the owner of such sources to benefit by the amount of earnings which could be expected from alternative investments.

The second component of savings from delayed compliance is based on the operating and maintenance costs which would be incurred if the pollution control equipment were installed. These include the costs of labor, raw materials, energy and any other expenditures directly associated with the operation of the pollution control equipment. Delaying compliance allows these expenditures to be avoided altogether and therefore the noncomplying firm benefits by their amounts plus the return that can be earned on these savings (all net of tax effects, as described below).

#### THE NONCOMPLIANCE PENALTY

The two components of economic savings can be quantified using generally accepted economic and financial principles and estimates of such factors as equipment costs, financing costs, the inflation rate, the length of the delay, and so forth. These same techniques can then be employed to convert the savings into the basis for a penalty. As part of that conversion, an adjustment is made to incorporate the effect of capital and operating expenditures made after notice of noncompliance has been given but prior to the time at which full compliance is achieved. The resulting penalty schedule appears as a series of quarterly payments which increase with inflation.

As implied above, the calculation of the penalty requires estimates of both capital and operating costs. Because these estimates are often made well in advance of the actual expenditures, they are subject to substantial error. Once compliance has been achieved the capital cost is known and a better estimate of the operating and maintenance costs may be possible. The Act calls for a recalculation of the penalty using these revised figures. A refund will then be paid or additional penalty payment assessed based on the new estimate of economic savings.

#### PLAN OF THIS APPENDIX

Following the introductory section, Section II contains a discussion of the legal and economic rationale for the procedures which have been adopted for calculating the penalty. Although an attempt has been made to present the discussion in such a way that it can be understood by persons not familiar with this subject, the need to keep intact the integrity of the underlying financial theory requires that the discussion remain somewhat technical.

Section III contains a summary of the assumptions used in deriving the formulae and the reasons for adopting these assumptions. Section IV defines the various parameters included in the formulae and the sources which should be used to acquire the data needed to calculate the penalty in specific cases.

Finally, Section V presents the development of the formulae needed to compute the noncompliance penalty. The attachments describe the treatment of certain cases which require adjustment of either the data or the formulae.

#### SECTION II

##### ECONOMIC SAVINGS AND THE NONCOMPLIANCE PENALTY

The costs associated with controlling pollution arise from many sources. The most apparent are the original purchase cost of the capital equipment and the annual operating and maintenance expenditures. There may also be costs associated with the financing of the original purchase; for example, interest would be paid if a portion were financed with borrowed funds.

In addition to the direct costs, other financial impacts result from the purchase of equipment. Depreciation, for example, has the effect of reducing income tax liability in years subsequent to the original investment. Similarly, the original purchase may result in an investment tax credit, acting much the same as if a discount were given on the purchase price. Both of these have the effect of lowering the net cost to the firm.<sup>1</sup>

To calculate the economic value to a firm from delaying compliance with pollution control regulations, it is necessary to evaluate on a consistent basis the effect of all costs avoided, and related tax consequences, between the date by which compliance is required and the date on which compliance actually occurs. Because the various savings do not all occur at the same time, they must first be converted into values which are comparable with respect to the

<sup>1</sup>The term "firm" will be used to designate the owner of the pollution source. The discussion is equally applicable to sources owned by individuals.



time-value of money (that is, the sooner a savings is generated, the more valuable it is). This conversion is accomplished by discounting all estimated future savings into their "present value" equivalents, a technique described below. Finally, the sum of the discounted values must be converted into series of level quarterly penalty payments as prescribed by the Act.

This section describes the process of translating the estimated costs and tax consequences associated with the purchase and operation of pollution control equipment into a penalty. That penalty reflects the savings that a firm realizes by delaying its compliance with pollution control regulations.

#### POLLUTION CONTROL CASH FLOWS

The above discussion of the financial impact of delaying an investment in pollution control equipment was expressed in terms of costs, net of related tax consequences. A question arises as to the appropriate metric with which to measure these costs. The financial literature is clear on this subject: the appropriate metric is the incremental cash flow, positive or negative, associated with each cost.<sup>1</sup>

<sup>1</sup> See, for example, Weston, J.F. and Brigham, E.F., Managerial Finance, p. 275-281, or Van Horne, R.C., Financial Management and Policy, p. 78-81.

In order to properly measure each incremental cash flow, account must be taken not only of the initial effect but also of any offsetting tax effects. For example, payments for operations and maintenance are tax deductible. Therefore, the incremental cash flows resulting from such payments consist of the initial expense less any reduction in tax liability. Stated differently, all flows are measured on an after-tax basis. For most large corporations this means that the net cash flow resulting from tax-deductible payments will usually be about one-half of the stated pre-tax cost.

There are three categories of cash flow arising from the purchase and operation of pollution control equipment. These are: (1) the initial capital outlay required to purchase and install equipment; (2) the subsequent annual flows associated with depreciation and financing of the initial capital outlay; and (3) the subsequent annual expenses of operating and maintaining the equipment. The first category is equal to the cost of purchasing or constructing the equipment, less the amount of any applicable investment tax credit. The investment tax credit constitutes a reduction in tax liability which has the effect of a discount on the purchase price. Both of these flows are repeated when the equipment is replaced at the end of its useful life and will become successively larger at each future replacement point because of inflation in equipment cost.

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The second category consists of those cash flows occurring in subsequent years as a direct result of the initial capital expenditure. One of these, depreciation, does not itself involve a cash outflow; however, its effect is to reduce pre-tax income and hence to reduce tax. If the firm were to install the equipment, the tax savings associated with depreciation in subsequent years would have the effect of reducing its costs. In the context of noncompliance, the effect of expected depreciation is to decrease the savings associated with not installing the equipment. Other annual capital-related cash flows arise from the financing of the incremental capital outlay for the pollution control equipment in question. For example, if the equipment is partially financed with debt, both principal and interest (net of tax effects) payments will result. Similarly, if preferred stock is used, its redemption and its dividends will give rise to cash outflows.

Each of these cash flows will occur over the depreciable life of the equipment. As in the case of the initial acquisition costs, these capital-related flows will become larger in successive replacement cycles because inflation will have increased the capital cost on which they are based.

The final category of cash flows consists of those resulting from operating and maintenance expenditures. Since these costs are tax deductible, the relevant cash flows are simply the after-tax value of their estimated amount in each year. These cash flows are assumed to increase each year due to inflation in the cost of the expenditures (e.g., labor, materials, energy, etc.) which trigger them.

#### DISCOUNTING OF CASH FLOWS

Once all incremental cash flows have been estimated, they must be converted into a set of values which reflect the timing of their occurrence. This procedure is necessary because two cash flows of equal dollar value occurring many years apart do not have equal impact on the firm. This differential arises because the firm can invest funds at some positive rate of return. If a dollar of expenditure can be postponed for one year, that dollar can be invested in the interim. At the end of the year the dollar of expenditure can be made and the return on the investment during the intervening period accrues to the benefit of the firm.

The technique used to compensate for this effect is called discounting. Discounting involves reducing the value of future cash flows to amounts which are equivalent in terms of present dollars. As an example, suppose that a firm faced with a \$100 expenditure could delay that expenditure by one year (assume no inflation). If the firm could invest money for that year at a 10 percent return, it would not need to put aside a full \$100 to make the payment one year later. In fact, if it invested only \$90.91 at a 10 percent return, that amount would grow to \$100 in one year. Therefore, \$90.91 is the present value, at 10 percent, of a \$100 cash flow one year in the future.

Similarly, \$82.64 invested at 10 percent would grow to \$100 in two years (it would grow to \$90.91 in one year and to \$100 in the second year). \$82.64 is therefore

#### PROPOSED RULES



the present value, at 10 percent, of a \$100 cash flow two years hence. The present value of cash flows for other numbers of years in the future is found in a similar fashion. The formula is given by:

$$\text{Present Value} = \frac{\text{Future Value}}{(1+E)^j} \quad (1)$$

where E = the discount rate.

j = the number of years in the future in which the cash flow occurs.

Future Value = the cash flow expected in the future.

Applying this technique to all future pollution control cash flows converts each of them into its present value equivalent.<sup>1</sup> The sum of these individual values represents the equivalent after-tax cost, in terms of a single present value, of all future cash flows arising out of the requirement to purchase and operate pollution control equipment.

#### THE VALUE OF DELAY

For each polluting facility there is a date by which compliance should be achieved. Under Section 120 of the Act, the period of covered noncompliance--i.e., the period over which a noncompliance penalty must be assessed--begins on the date on which a notice of noncompliance is issued but not before August 7, 1979. Therefore, for

<sup>1</sup>For a more thorough discussion of this concept see the capital budgeting chapters in the Weston and Brigham or Van Horne texts previously cited.

purposes of calculating the penalty, it will be assumed that all capital expenditures should have been made by that date and that operating and maintenance expenditures should begin on that date.

In comparing the cost of compliance with the cost of delay, there are two sets of cash flows to be considered. The first consists of the flows that the firm would have experienced had it come into compliance on time. These include the flows attributable to the purchase and operation of the original equipment as well as those associated with all future replacement cycles. The second set of flows consists of those which the firm will experience when, following the delay, it actually does come into compliance. This second set of flows will have three properties:

- It will be similar to the first set in that it will have the same sequence of capital expenditures, depreciation tax savings, operating and maintenance flows, and so forth.
- It will begin at some time after the first day of noncompliance.
- The magnitude of each of its individual component flows will be greater than the corresponding flow in the first set because any given cost will have inflated during the period of projected delay.

The present value of both sets of cash flows, as of the first day of noncompliance, can be calculated in the manner described above. The present value of the second set will be lower, reflecting the fact that delaying compliance yields a financial benefit to the firm. That benefit is equivalent to the economic savings from delay; its magnitude

is equal to the present value of the cash flows in the first set less the present value of those in the second set. This calculated value of economic savings in turn becomes the basis on which the noncompliance penalty is derived.

#### THE EFFECT OF PRE-COMPLIANCE EXPENDITURES

It is implicitly assumed in the above discussion that capital expenditures associated with delayed compliance were made in a single payment on the first day that the firm is projected to come into compliance and that no operating and maintenance expenditures were required prior to that time. If these expenditures instead involve a series of payments made prior to the eventual compliance date, the firm's savings from delay is reduced in relation to the amount which would have been calculated according to the preceding discussion. This effect can best be understood by reference to the following diagrams, where the effect of one or more pre-compliance capital expenditures is shown.

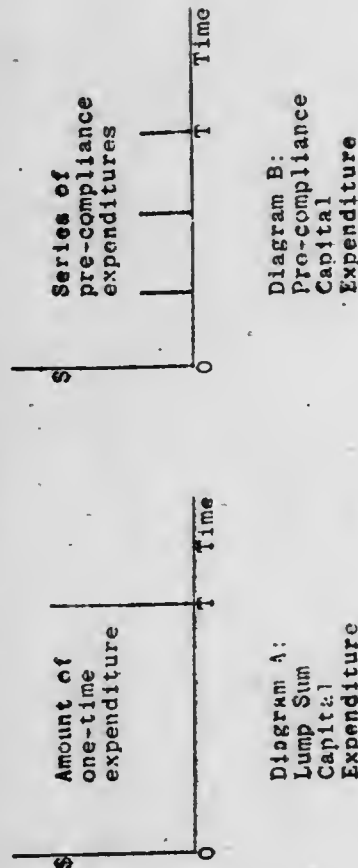


Diagram A illustrates the case described earlier--compliance is delayed from 0 until T at which time the entire capital expenditure is made. Diagram B depicts the case where the same total expenditure has been divided into three equal payments, the third of which occurs at time T, the date on which the firm finally comes into compliance. Because the effect of discounting is least when cash flows are least distant in the future, the present value of the cash flows in diagram B is greater (because they have been discounted less) than the present value of the single cash flow in diagram A. Thus, a firm whose expenditures are similar to those depicted in diagram B will experience greater costs when it eventually complies, and hence lower savings from delay, than a firm whose expenditures are as depicted in diagram A. To account for this difference, an adjustment is made in the penalty calculation for firms which must make capital expenditures prior to achieving full compliance. A similar adjustment is made where there are pre-compliance operating costs.

#### CONVERSION OF SAVINGS INTO THE NONCOMPLIANCE PENALTY

The Act specifies that the total penalty assessment is to be paid in a series of equal quarterly payments. The legislative history accompanying the Act implies that the payments should be equal in real dollar terms.<sup>1</sup> The quarterly payments, therefore, should be structured so as to increase at the projected rate of inflation. Such a series, when deflated, will contain penalty payments which are level in real terms (that is, in constant dollars).

<sup>1</sup>Congressional Record/Senate, August 4, 1977, p. 13,698.



Once the present value of the savings from delay has been calculated and adjustments have been made to account for pre-compliance expenditures, the magnitude of the required quarterly payments may be determined. Since the period of noncompliance is assumed to be known,<sup>1</sup> all that needs to be done is to create a series of quarterly payments during this period with each payment increasing at the rate of inflation and with the present value of all payments summing to the value of delay which was just calculated. A formula for making this conversion is described in Section V.

#### POST COMPLIANCE SETTLEMENT

The amount of the noncompliance penalty is derived from an estimate of the future costs of purchasing and operating the required pollution control equipment. The amount of the penalty is also affected by the estimated schedule of pre-compliance capital and operating expenditures. These estimates will represent the best judgement of the firm's management or of independent engineers and, as such, will clearly be subject to error. For this reason the law requires that a procedure be established whereby the penalty can be adjusted after compliance has been achieved and less uncertainty surrounds some of the estimates.

<sup>1</sup>Any error in its estimation can be corrected at the time of the post-compliance settlement.

As described in the preceding discussion, the noncompliance penalty has two components, one related to capital costs and the other to operating and maintenance expense. The settlement process is similarly divided into capital and operating and maintenance components.

Once the capital equipment has been purchased and installed, the associated costs can be determined from the firm's accounting records. These, however, do not represent the costs which had estimation been perfectly accurate, would have been used in the original penalty calculation. The cost used then was the estimated amount which should have been expended at the time the penalty was first assessed. The actual expenditure, coming at a later date, would reflect the impact of inflation. Therefore, for purposes of recomputing the penalty, the amount actually spent to comply must be adjusted downward to remove the effect of inflation.

Similarly, the actual size of operating and maintenance costs cannot be determined until after the pollution control equipment has been in operation for some time. In order for a post-compliance settlement to accurately reflect the actual level of such costs, settlement could not take place for months or even years after compliance has been achieved. However, the Act requires settlement within six months of the date on which compliance is achieved. If during this six-month period of operation it is apparent that the original estimate for operating and maintenance expense was inaccurate, an adjustment to the original savings calculation should be made by revising the operating and maintenance component.

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These revised costs, both capital and operating and maintenance, and the actual schedule of pre-compliance expenditures are then substituted into the noncompliance penalty formula and a revised penalty series is calculated. The difference between the penalties actually paid and the revised amounts constitutes the basis for the post-compliance settlement. If the penalty has been overpaid, the excess will be refunded with interest. If it has been underpaid, the deficiency must be paid, also with interest. Under the Act, the rate of interest is set by the Secretary of the Treasury.

#### ASSUMPTIONS UNDERLYING THE PENALTY CALCULATION

The basic concept underlying calculation of the noncompliance penalty is that the economic savings resulting from delaying compliance with pollution control regulations should be removed. Implementing this concept requires making several important assumptions, many of which were only implicit in the discussion in the previous section. A list of those assumptions and an explanation of why certain of them have been made follows.

The calculation of the savings to a firm from delaying compliance is based on widely accepted principles of financial and economic theory. Moreover, the methodology is one which most firms routinely employ in making their own investment decisions. Most of the assumptions made are not unique to the analysis of pollution control investments but rather are an integral part of the methodology itself. Similarly, the parameters required and their respective data sources are, with few exceptions, those which would commonly be employed by financial analysts.

However, there are some instances in which either the assumptions made or the data sources specified are not those most commonly employed. In many of these cases, the need to eliminate ambiguity in the regulations dictated the choice among alternatives. In others, the goal of controlling the administrative costs both to the firm and to EPA was the major factor. In all such cases, care was exercised to insure that the effect on the size of the resulting penalty would be slight. In fact, in most instances where a choice among alternative assumptions or data sources had to be made, the one resulting in the lowest penalty was selected.

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1. The relative mix of debt, preferred stock and common equity allocated to pollution control equipment is the same as that found in the firm's capital structure as shown on its balance sheet.

On the balance sheet of any firm, total net assets, including net working capital, are exactly equal to total long-term financing. Any increase or decrease in net assets must be accompanied by a similar change in long-term financing. Under the assumed allocation scheme, each asset is allocated a share of each source of long term financing (long-term debt, preferred stock, and equity) proportionate to its share of the total net asset structure. Thus the sum of the shares of each source of long-term financing allocated to an asset will exactly equal the net book value of that asset. As the asset is depreciated, its share of each source of long-term financing declines but, other factors being equal, the mix of debt, preferred stock, and equity associated with that asset is unchanged.

Implicit in the assumed allocation system is the related assumption that the mix of total sources of financing is constant over the life of any particular asset. The mix may fluctuate on a year-to-year basis due to short-run discontinuity.<sup>1</sup> The mix may also be subject to long-term

<sup>1</sup> Firms are often observed issuing new stock or selling bonds, but rarely do the two occur simultaneously. Thus, the capital structure of a firm may fluctuate from year to year. However, as discussed below, an accepted principle of financial theory is that each firm has an optimal financial structure which it aims to preserve over the long run. Obtaining long-term financing, such as a new debt or equity issue, is expensive and time-consuming and, therefore, firms tend to secure large amounts at one time. Thus, the firm's capital structure may fluctuate on a year-to-year basis, even though the long-term structure remains unchanged.

the firm's ability to carry debt. Such an "investment" would therefore be required to be funded entirely by equity shareholders. This would tend to increase the cost of the pollution control investment and hence increase the penalty for delaying that investment.

This argument has a certain amount of intuitive appeal; however, it also has a major weakness in that it assumes that the addition of pollution control equipment does not increase, pro rata, a firm's revenues and thus its debt coverage. In the long-run, pollution control, including related capital costs, is one of the costs which a firm must recover through the sale of products. Assuming that pollution control costs do not represent too great a fraction of a firm's total assets and that pollution control requirements are applied equally throughout the economy, there is no reason to believe that pollution control costs will not be eventually recovered. Thus, the addition of pollution control assets does not alter a firm's inherent debt-coverage capability.

At the other extreme is the assumption that the investment in pollution control equipment will be financed entirely by debt. Since debt is generally the least expensive form of financing, such an assumption would result in a lower cost of compliance and ultimately a lower penalty for delaying that compliance. The argument advanced for making this assumption is that a firm may issue new debt, often in the form of pollution control bonds or some other low-cost instrument, in order to raise the funds needed to purchase the pollution control equipment.

secular changes due to gradual changes in the evaluation of management or financial markets as to what mix is optimal. During the intermediate period in which the useful lives of most assets fall, however, the mix of debt, preferred stock, and equity is assumed to be constant and unaffected by the addition or subtraction of any particular asset for which financial support is required. Given this assumption, it follows that an appropriate basis for allocating financial sources to particular assets is the pro rata basis used here.

An alternative approach would be to assume that the addition or subtraction of particular assets from a firm's total net asset structure will lead to a long-term change in the firm's financial structure. At the margin, therefore, it would be appropriate to assign to an asset a pattern of financing different from that of the firm as a whole. In the case of pollution control equipment, this approach can be illustrated by two extremes. At one extreme is the assumption<sup>1</sup> that the entire cost of the equipment is financed by equity, typically the most expensive source. The argument for this assumption is that a "normal" investment which a firm might make would hold the promise of creating future returns. It is the expectation of those future returns which enables the firm to convince investors to lend it money. However, a so-called "investment" in pollution control equipment is not really an investment; that is, it does not represent an expenditure of funds made in the expectation of generating future cash returns. Therefore, it does not add to

<sup>1</sup> See, for example, Pogue, Gerald A., Estimation of the Cost of Capital for Major United States Industries With Application to Pollution Control Investments, p. 5-15.

Like the previous argument, this argument also has some degree of intuitive appeal. Again, however, the objection must be raised that without some related change in the firm's earning capability, there is still a financial mix that management and outside financial sources perceive to be optimal.

Thus, while pollution control equipment may create an increase in debt in the short-run (because new debt can be acquired on favorable terms), this will be offset eventually by corresponding increases in equity and/or reductions in other long-term debt. The rationale for such an adjustment is clear. Any firm will borrow the maximum amount it can because debt is a less expensive form of financing than equity. That maximum amount, in turn, depends on management's and lenders' joint perception of risk—that is, the underlying ability of the firm to support a certain proportion of debt. As stated above, the addition of pollution control equipment should not change this perception of risk, other factors being equal. Thus, a temporary increase in debt would be quickly adjusted to the perceived optimal level.

As implied by the above discussion, the assumption of a constant financial structure over the life of an asset represents the most theoretically sound approach among the various alternatives available. Given this assumption and the several related assumptions discussed above, it is appropriate to assign to any particular asset a mix of financing which is identical to the overall mix which supports the total asset base. Hence, the pro rata system utilized in this formulation follows directly. This assumption also represents a middle ground, in terms of actually computing the noncompliance penalty, with respect to the size of the resulting penalty.



2. Cash flows are discounted using the equity method.

The rate used to discount future cash flows is the firm's return on equity. This equity discounting method is one of several different approaches to evaluating capital investments which have been developed, no single one of which has won universal acceptance from financial theorists. The equity discounting method is based on an analysis of the cash flows affecting equity shareholders. All cash flows arising out of debt or preferred stock financing are netted out. The residuals, which represent payments either to or from equity shareholders, are then discounted at the rate of return on equity.

This method has several advantages. The most important is that it measures the benefit of noncompliance from the point of view of the true beneficiary. The increased cash flow resulting from the delay of pollution control expenditures does not directly benefit the bondholders of the company. They will continue to receive the same interest payments and when their bonds mature they will be paid the face value of the bonds. Similarly, preferred stockholders will receive no direct benefit from delay. Therefore, any incremental cash flow benefits mainly the common stockholders since they are the owners of the residual cash flow (total cash flow less financing payments).

An alternative to the equity discounting method is the weighted average cost of capital. This is the method most often illustrated in introductory textbooks in corporate finance.<sup>1</sup>

The method works by discounting incremental operating cash flows. That is, it computes cash flows resulting from investment in pollution control equipment without considering how the investment is financed. The financing aspects are accounted for in the discount rate. This rate is given by computing a weighted average cost of capital with the weightings based on the overall capital structure of the firm.

As a practical matter, there is little difference between the weighted average cost of capital method and the equity discounting method, given the previously described assumption of a constant capital structure. The weighted average cost of capital approach is conceived in terms of maximizing the total value of the firm, with total value defined as both debt and equity. However, if the proportion of debt is optimal, the objective of maximizing the total value of the firm is synonymous with that of maximizing the value ascribed to equity shareholders. The equity discounting method focuses directly on the value of equity shareholders and has been selected to emphasize the fact that the benefits of non-compliance accrue to this group.

3. The noncompliance penalty is computed as a non tax-deductible expense to the firm.

In calculating the costs on which the penalty is based, the normal tax consequences of interest, depreciation, and so forth, are taken into account. If the penalty were

<sup>1</sup>See Weston and Brigham. *Op. cit.*

to be allowed as an expense for tax purposes, it would need to be adjusted upward such that its after-tax cost to the firm would be the amount calculated herein.

4. Cash flows take place at the end of each year.

While expenditures such as those for operating and maintaining equipment obviously are incurred throughout the course of the year, this assumption greatly simplifies the computation. Its effect is to lower the penalty very slightly from the level it would have if these expenditures were assumed to be made on a continuous basis throughout the year.

Similarly, the cash flows arising from depreciation and those associated with long-term financing, both principal repayment and interest or dividend payments, are assumed to take place at the end of each year.

5. The rate of inflation of pollution control operating and maintenance expenditures is the same as that for pollution control equipment costs.

Currently there is no identifiable index of pollution control operating and maintenance expense. The development of an index reflecting past increases in operating and maintenance expense would require substantial resources and would not result in a significant increase in the accuracy of the penalty.

Most of the Environmental Protection Agency's studies of pollution control costs have estimated operating and maintenance expenses as a constant fraction of capital costs. This

relationship, plus the desire to keep the penalty calculation as straightforward as possible, led to the use of a single inflation rate.

6. A continuous sequence of replacement cycles is required.

As the equipment reaches the end of its useful life, it is replaced at a cost which reflects the rate of inflation. This process continues for an indefinite period, implying that the underlying source of pollution is never retired. The assumption of an infinite number of replacement cycles is common in the fields of engineering economics and corporate finance.<sup>1</sup>

An alternative assumption would be that the equipment is needed for a fixed number of replacement cycles, perhaps one or two. However, to make this assumption would be to imply that the economic life of the underlying source of pollution somehow depends on that of the pollution control equipment. A more reasonable alternative might be an assumption that the pollution control equipment would be needed for a fixed number of years, say twenty or thirty. The difficulty with using either of these assumptions is that it would require the selection of an arbitrary horizon at some distant time in the future. It would be extremely difficult to provide a reasonable estimate of the period of need for pollution control equipment, that is, the life of the underlying source of pollution. Fortunately, however, the effect of discounting is to reduce the importance of distant cash flows. That is, the present value of cash flows occurring

<sup>1</sup>A technical discussion of the use of an infinite replacement cycle is available in, Fama, Eugene F. and Miller, Merton H., *The Theory of Corporate Finance*, Dryden Press, 1972, pages 128-134.



twenty or thirty years in the future is very small and hence the effect of these flows on the penalty is likewise very small. This, plus the increased computational convenience and the ability to avoid having to choose a fixed horizon, led to the adoption of the continuous replacement assumption.

7. The discount rate is greater than the inflation rate.

If a firm has a choice between making an investment which yields a positive return and an investment such as pollution control equipment which returns nothing, it would obviously choose to make the former. The firm realizes that it will eventually have to comply with pollution control requirements but the longer it delays, the longer it can keep its funds invested in income-producing projects.

However, when the inflation rate is greater than the discount rate, this benefit from delay no longer exists. For example, assume that the firm could invest \$1000 in projects returning seven percent but that the pollution control equipment costs were increasing each year at an eight percent rate. If the firm delayed compliance one year it would have earned \$70 on its investment but the pollution control equipment would cost \$80 more. Under such circumstances the firm would be better off complying immediately if it planned to comply at some time.

The formulae developed in Section V cannot be used to produce a penalty figure if the inflation rate is greater than or equal to the discount rate. If the rate of inflation of pollution control equipment cost is greater than a firm's return on equity, delaying the purchase will result in a

SECTION IV

DEFINITIONS OF PARAMETERS AND SOURCES OF DATA

Calculation of the penalty requires estimates of a large number of financial parameters, many of which are peculiar to the non-complying firm. This section contains definitions of these parameters and sources from which their actual numerical values may be drawn. In some cases, a particular source of data is specified which is different than that which might result from a strict interpretation of financial theory. Such choices were based on the costs (in resources, time or possible inconsistencies) or lack of availability of alternatives and are explained below.

1. Capital investment schedule. This schedule is an estimate of monthly expenditures to be made for purchase and installation of the required pollution control equipment. It includes not only direct purchase costs, but also such expenditures as site preparation, engineering design, and so forth. It is measured in dollars as of the first day of noncompliance.

In the event that contracts have been signed for construction or purchase of the required equipment, they should be used as the basis for such costs. Other possible bases include engineering estimates, quotations from equipment manufacturers and, where no other data are available, reasonable estimates by the owner of the facility. These costs must be stated in dollars as of the beginning of the noncompliance period.

greater present value of cost. (The inflation will increase the future value more than the discounting will reduce it.) A firm which appears to be violating this assumption is most likely doing so because its own estimate of the returns available to it on alternative investments is higher than the discount rate used in computing the penalty.<sup>1</sup> This issue is discussed further in Attachment G.

<sup>1</sup>An alternative explanation is that the firm thinks it may be able to avoid compliance forever. This possibility is not considered further.

PROPOSED RULES

2. Operating and maintenance expense. This parameter is an estimate of the annual cost of operating and maintaining the required pollution control equipment. It must be expressed in the same terms as capital costs. That is, the amount should represent the annual operating and maintenance expense in constant dollars as of the beginning of the first year of noncompliance. There is a provision in the formulation which automatically adjusts future years' operating and maintenance expense for anticipated inflation.

Losses in production and incremental energy costs which will be incurred as a direct result of operating the pollution control equipment should be counted as an expense in this category. On the other hand, the value of any by-product recovery resulting from such operating should be deducted. To the extent that these or other factors will result in the real cost of operating and maintenance varying over time, an estimated schedule of payments must also be provided.

Sources of estimates for operating and maintenance expense include equipment manufacturers, engineering consultants and the owner of the facility. These estimates should include all recommended operating and maintenance procedures, training and planning costs, cost of warranties, record-keeping and costs of monitors.

PROPOSED RULES



3. Investment tax credit. This credit is a reduction in federal or state income taxes payable as a result of making qualified capital investments. It is equal to a specified percentage of the portion of the initial capital costs which qualify under IRS regulations. The investment tax credit is included in the formulation because it has the effect of reducing the cash outflow required to purchase the pollution control equipment.

The applicable percentage is given in the Internal Revenue Code as are the criteria for qualifying investments. Further details are provided in Attachment B.

4. Marginal income tax rate. This rate is the fraction of the last dollar of taxable income which must be paid by the firm to federal, state and local governments. It is the amount by which taxes would increase if taxable income were to increase. It is different than the average tax rate--total tax divided by taxable income.

The tax rates of the various levels of government are specified by statute and depend on the level of taxable income reported by the owner of the polluting facility. A formula for computing the marginal income tax rate for a firm subject to income taxation by more than one level of government is given in Attachment D.

fabrication and equipment, engineering and supervision, construction labor and building costs. The weights are determined by a survey of the chemical industry made by Chemical Engineering magazine. The cost components are derived from the producer price indices compiled by the Bureau of Labor Statistics.

There is no widely available index of pollution control equipment costs as such. The Chemical Engineering index is based on factors which are clearly important components of such costs. The principal alternative considered was to use some broader and more universally recognized index, such as the GNP implicit price deflator. This was considered to be a much inferior choice since it is based on a broad range of factors (food costs, housing costs, and so forth) only loosely related to the cost of pollution control equipment.

A problem with using any historical index to extrapolate the future is that changing conditions may make the forecasts inaccurate. Using an inflation rate over the past several years as an estimate of the future rate may appear to be an example of such a problem. Offsetting this problem to a great extent is the fact that a similar approach is being used for the discount rate. Since the inflation and discount rates act in opposite directions with respect to pollution control cash flows (that is, the inflation rate is used to increase future values while the discount rate is used to reduce them), it is the difference between them which largely determines the size of the penalty. However, because the firm's historic return on equity is used as the discount rate (see below), the difference between the two rates should remain fairly constant. This is true because the return on equity depends on three principal factors:

The noncompliance penalty is based on the incremental savings (net of tax consequences) from delaying investment in pollution control equipment. The tax effects will depend on the rate applied to the incremental cash flows--the firm's marginal tax rate.

An alternative to using the marginal income tax rate would be to use the average rate. The advantage of using such a rate is that it can be calculated directly from data contained in the firm's normal financial statements. However, the use of an average rate would not result in a correct computation of the tax consequences of an incremental investment. It was therefore rejected as a data source.

5. Inflation rate. This is the annual rate at which both capital and operating and maintenance costs are expected to grow. These cost increases are the result of inflation in various factors: labor, capital goods, energy, and so forth.

For purposes of computing the noncompliance penalty, the compounded change in the Chemical Engineering Plant Cost Inflation Index for the most recent 20 quarters of data is to be used as an estimate of the future rate of increase in pollution control expenditures.<sup>1</sup> The Chemical Engineering Plant Cost Index is based on a weighted average of four cost components:

<sup>1</sup> Chemical Engineering, McGraw-Hill, Inc., April 28, 1975 and subsequent issues. For the years 1972-1977 this rate was 8.3 percent.

the time value of money, the riskiness of the investment and the rate of inflation. Since the first two of these are relatively independent of inflation, there tends to be a parallel movement of the return on equity and the inflation rate over the long term. Thus, any error introduced by using a historic inflation rate is counteracted by using a historic return on equity as the discount rate.

6. Discount rate. This percentage rate is to be used as the basis for discounting cash flows in future years. Such discounting is necessary to convert cash flows occurring in different years into present values. The source of the discount rate is the industry average return on the net book value of common stockholder's equity. This rate is reported by the Federal Trade Commission in its Quarterly Financial Report for Manufacturing, Mining and Trade Corporations.<sup>1</sup> It is based on an exhaustive sample of the firms in each industry and, subject to the limitations found in all accounting data, represents an accurate estimate of the past performance of U.S. industries. To smooth out year-to-year fluctuations, the discount rate used in computing the noncompliance penalty is the average of the most recent twenty quarters. However, as was discussed in Section III, a discount rate cannot be used that is lower than the inflation rate.

In theory, the appropriate rate to include in the formulae is the rate which investors would require in order to commit additional common equity funding to the firm. Such a

<sup>1</sup> For public utilities, the return on equity data is found in the April issues of Citibank's Monthly Economic Letter.



rate is usually unobtainable. A possible alternative would be to employ the internal "hurdle rate" which firms use to evaluate capital investments. This rate would automatically provide an insight into the firm's own estimate of its opportunity cost of equity capital. This rate would generally be higher than any of the others considered and would, therefore, result in higher penalties. Because this rate is not used in all firms and because it is often very subjectively determined, it was rejected as a source of the discount rate.

An alternative discount rate is the expected future return on a share of the firm's common stock. Unfortunately, only the small percentage of firms which are publicly held and frequently traded have realistic share prices. Moreover, even if such prices exist, the expected return would have to be estimated. It is doubtful whether a satisfactory means could be found for providing these estimates.

Although these alternatives are attractive from a theoretical standpoint, their shortcomings have led to the selection of a return on equity which is based on book values. Even this basis, however, is often an unreliable guide to actual returns for individual firms. Smaller owners, especially, can significantly alter the amount and timing of reported earnings such that a rate of return computed on their book value might be meaningless. The likelihood that substantial resources would be needed to verify the accuracy of these data and that, even so, significant problems would still exist argues strongly for the use of industry average rather than individual firm data.

Given that a return on book equity is to be used, there is another important argument for using an industry average. If firm-specific data were employed, those firms with high historical returns would, all else being equal, be required to pay higher penalties. Similarly, firms whose returns have been below industry average would pay lower penalties. Since the savings to a firm from delaying compliance is related to future returns on equity, the question becomes whether the future returns of a specific firm will be better estimated by its own past performance or that of its industry. The fact that individual firm performance is influenced by a variety of factors, often peculiar to the firm and not likely to be repeated, and that future returns are more closely related to the investment opportunities available to the industry argues for the use of industry average data.

7. Interest rate. This is the rate of interest which would be paid by the firm if additional debt were to be acquired. The interest rate is found by taking the current rate of interest on bonds of a grade equal to that on the firm's bonds having the highest rating as published in Moody's Bond Record.

If a firm's debt is not rated, the interest rate is found by using the current rate of interest on grade "A" corporate industrial bonds, published in the Bond Record. The current interest rate on grade "A" corporate bonds was chosen because it is a widely available figure which estimates the rates appropriate to a large percentage of firms. If a firm's debt is rated "Baa" or lower, the "Baa" rate of interest is used.

8. Preferred stock dividend rate. This is the rate paid by the firm to its preferred stockholders. Like return on equity and the interest rate, the dividend rate on preferred stock represents a cost of long-term financing.

If a firm has preferred stock outstanding which has a rating, the preferred stock dividend rate is given by taking the current yield on stock of that rating as reported in Moody's Bond Record. If the stock is not publicly traded or has no rating, the rate is found by using the current preferred stock yield on grade "a" issues. If the stock is rated "baa" or lower, the "baa" rate is used. For stocks rated "aa" or higher, the "aa" rate should be used.

9. Equity share. This share is the proportion of the firm's long-term financing which is provided by common shareholders. It is a fraction, the numerator of which is the sum of all common equity accounts on the firm's balance sheet including common stock, retained earnings, capital surplus and any other accounts representing common equity investments.<sup>1</sup> The denominator of the fraction is given by adding to the numerator the sum of the preferred stock account plus all long-term debt issued by the owner (excluding portions of such debt in the current account).

The source of the fraction of equity in the investment is the average fraction of equity in the capital structure as given in the firm's five most recent annual financial statements. The five year average is used to smooth out year-to-year fluctuations.

10. Preferred share. This share is the fraction of long-term financing provided by preferred stock. The numerator is given by the preferred stock accounts in the firm's balance sheet and the denominator by the quantity: long-term debt plus preferred stock plus common equity interest.

The source of the fraction of preferred stock in the investment is the average fraction of preferred stock in the capital structure as given in the firm's five most recent annual financial statements.

<sup>1</sup>Some firms carry treasury stock as an asset on their balance sheet. Such stock should properly be shown as a contra-account to common stock. In cases where it is shown as an asset, it should be used to reduce the common equity accounts for purposes of this calculation.



11. Depreciation. Computation of the noncompliance penalty involves consideration of the depreciation-related tax benefits of an investment in pollution control equipment. The firm may choose the method of depreciation to be used, subject to conformity with Internal Revenue Service guidelines. The computer program used by EPA to calculate the penalty automatically selects the depreciation method which results in the minimum penalty. This is done under the assumption that the firm would use the depreciation method which resulted in the lowest possible cost of compliance.

The depreciation life is the minimum number of years over which a particular investment in pollution control equipment may be depreciated. The source of this figure is the lower limit on the asset depreciation range for the appropriate class of assets as given in the Internal Revenue Service publication Revenue Procedure 77-10. If the lower limit is greater than ten years, the Act requires use of a ten year figure.

12. Useful life. The useful life of the pollution control equipment is the number of years it can be expected to operate before replacement

The source of the useful life of the pollution control equipment is the asset guideline period for the appropriate class. These are provided by the Internal Revenue Service in Revenue Procedure 77-10. They represent IRS estimates of the average lives of assets within a particular industry. They were established after an exhaustive study of actual asset lives and they are continually updated as the need arises.

Section II described the procedure used to determine the noncompliance penalty. This section follows the same general outline in deriving the formulae used to make the calculations. All symbols used in this section are defined in Attachment A. A complete description of the parameters used and their sources was given in Section IV.

#### POLLUTION CONTROL CASH FLOWS

To compute the savings from delaying pollution control investment requires that the cash flows be estimated for a continuous series of replacement cycles. The simplest approach to calculating the present value of all future flows is to calculate the present value of cash flows in the initial cycle of N years and use that value as a basis for all others. The derivation described below uses such an approach.

The first category is the cash flow resulting from the initial investment of equity. It is given by:

$$EI = II * Q \quad (1)$$

where II = the capital cost of the pollution control equipment.  
Q = the fraction of the firm's capital structure made up of equity.

From this amount must be subtracted the effect of the investment tax credit whose cash flow is given by:

$$ITC = II * t_{ITC} \quad (2)$$

where  $t_{ITC}$  = the adjusted investment tax credit rate.

The investment tax credit rate must be adjusted if not all of the investment qualifies for the credit. This adjustment is explained in Attachment B. Further, if the investment is financed with industrial development bonds and rapid amortization is selected (see Attachment C), only one-half of the normal investment tax credit is allowed on that portion of the investment so financed.

The second category of cash flow is the capital-related flow which occurs over the depreciable life of the equipment. It is made up of depreciation and the flows associated with financing the equipment. The effect of depreciation is to reduce the firm's tax liability. The depreciation cash flow in year j is given by:

$$DEP_j = II * d_j * t_{TR} \quad (3)$$

where  $d_j$  = the fraction of the original cost depreciated in year j (see Attachment C).  
 $t_{TR}$  = the firm's marginal income tax rate (see Attachment D).

The remainder of the annual capital-related cash flows consists of principal repayments and financing charges (i.e., interest and dividends) on the debt and preferred stock issued to finance the equipment purchase. The fraction of the initial investment financed by debt is given by:

$$DEBT\ SHARE = II * B \quad (4)$$

where B = the fraction of the firm's capital structure made up of debt. Debt is repaid each year in proportion to the depreciation of the asset. That is, at the end of each year the same fraction of the principal is repaid as the original book value of the investment is depreciated. Therefore, the repayment of principal in year j is given by:

$$PRIN_j = d_j * II * B \quad (5)$$

Interest is paid at the end of each year on the principal outstanding at the beginning of that year.

$$(INTEREST\ CHARGE)_j = R_{INT} * (PRINCIPAL\ OUTSTANDING)_j \quad (6)$$

where  $R_{INT}$  = the firm's interest rate.

Since interest is tax deductible, only the after-tax effects should be considered in calculating the cash flow. Therefore, the interest payment cash flow in year j becomes:

$$INT_j = R_{INT} * (PRINCIPAL\ OUTSTANDING)_j * (1 - t_{TR}) \quad (7)$$

The principal outstanding is the original amount borrowed,  $II * B$ , less the amount which has been repaid prior to the beginning of the year. The amount repaid prior to the beginning of year j is:

$$(AMOUNT\ REPAYED)_j = \sum_{k=0}^{j-1} II * d_k * B \quad (8)$$



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where  $d_0 = 0$  by definition. The principal outstanding at the beginning of year  $j$  is the amount initially borrowed less the amount repaid by the end of  $j-1$ .

$$(\text{PRINCIPAL OUTSTANDING})_j = II * B - \sum_{k=0}^{j-1} II * d_k * B \quad (9)$$

Combining equations (7) and (9) yields a formula for the interest-related cash flow in year  $j$ :

$$INT_j = R_{INT} * II * B * (1 - t_{TR}) * (1 - \sum_{k=0}^{j-1} d_k) \quad (10)$$

Preferred share is given by:

$$\text{PREFERRED SHARE} = II * F \quad (11)$$

where  $F$  is the fraction of preferred in the firm's capital structure.<sup>1</sup> Just as the additional debt is repaid, the preferred stock must be redeemed as the asset is depreciated. At the end of each year, the same fraction of the preferred stock is redeemed as the original book value of the investment is depreciated. Redemption in year  $j$  is given by:

$$PREF_j = d_j * II * F \quad (12)$$

Dividends on preferred stock are paid at the end of each year on the amount of stock outstanding at the beginning of the year.

$$DIV_j = R_{DIV} * (\text{PREFERRED OUTSTANDING})_j \quad (13)$$

where  $R_{DIV}$  = the dividend rate on preferred stock.

<sup>1</sup>Note that  $Q + B + F$  must be equal to 1.

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These dividends are not tax-deductible. The preferred outstanding is the original amount issued,  $II * F$ , less the amount redeemed prior to the beginning of the year. The amount redeemed prior to year  $j$  is:

$$(\text{AMOUNT REDEEMED})_j = \sum_{k=0}^{j-1} II * d_k * F \quad (14)$$

where  $d_0 = 0$  as before. The amount of preferred outstanding at the beginning of year  $j$  is equal to the amount originally issued less the amount redeemed.

$$(\text{PREFERRED OUTSTANDING})_j = II * F - \sum_{k=0}^{j-1} II * d_k * F \quad (15)$$

The dividend paid at the end of year  $j$  is found by combining Equations (13) and (15).

$$DIV_j = R_{DIV} * II * F * (1 - \sum_{k=0}^{j-1} d_k) \quad (16)$$

The final category of cash flow is that associated with annual operating and maintenance expenditures. These expenses grow each year at the inflation rate. Like interest and dividend payments, they are assumed to be paid at the end of the year. They are tax deductible so their associated cash flows must reflect the effect of income taxes. Let  $M_j$  be the cash flow resulting from operating and maintenance expense in year  $j$ . Define  $M_0$  as the annual operating and maintenance expense stated in current dollars. The first payment actually made will be this amount escalated by the inflation rate. The resulting cash flow is given by:

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$$M_1 = M_0 * (1 - t_{TR}) * (1 + I)$$

$$M_2 = M_1 * (1 + I) = M_0 * (1 - t_{TR}) * (1 + I)^2$$

$$M_j = M_{j-1} * (1 + I) = M_0 * (1 - t_{TR}) * (1 + I)^j \quad (17)$$

#### DISCOUNTING CASH FLOWS

The cash flows just calculated must next be discounted to their present values. The cash flows in the first category, initial equity investment and the investment tax credit, take place immediately (i.e. in period zero). Therefore, no discounting is required to convert them to their present value. Using equations (1) and (2), that present value is given by:

$$\begin{aligned} PV_{\text{INITIAL}} &= EI - ITC \\ &= II * Q - II * t_{ITC} \\ &= II * (Q - t_{ITC}) \end{aligned} \quad (18)$$

The present value of the net cash flow in the second category, annual capital-related flows, is given in three steps. First, the total cash flow in year  $j$  is given by summing algebraically the individual contributions of the various components. The second step is to discount this sum to determine its present value. These two steps are combined in a single equation as follows:

$$PV_{\text{ANNUAL CAPITAL RELATED}_j} = \frac{-DEP_j + PRIN_j + INT_j + PREF_j + DIV_j}{(1 + E)^j} \quad (19)$$

where  $E$  = the discount rate.

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The negative sign preceding the depreciation cash flow results from the fact that this component represents a reduction in cash outflow. The third step is to sum the individual present values for each year of the depreciation life of the equipment ( $n$  years).

$$PV_{\text{ANNUAL CAPITAL RELATED}_j} = \sum_{j=1}^n \frac{PV_{\text{ANNUAL CAPITAL RELATED}_j}}{(1 + E)^j} \quad (20)$$

The final category, operating and maintenance cash flows, must be considered over the entire useful life of the equipment. The present value of the flow in year  $j$  is given by:

$$PV_{\text{O\&M}_j} = \frac{M_j}{(1 + E)^j} \quad (21)$$

The present value over the  $N$  years of useful life is given by summing the present values for each year:

$$PV_{\text{O\&M}} = \sum_{j=1}^N \frac{PV_{\text{O\&M}_j}}{(1 + E)^j} \quad (22)$$

The present value of all cash flows resulting from the purchase and operation of pollution control equipment throughout the  $N$ -year life of the original equipment,  $PV_{\text{PCE}}$ , is given by summing the contributions of each of the three categories.

$$PV_{\text{PCE}} = PV_{\text{INITIAL}} + PV_{\text{ANNUAL CAPITAL RELATED}} + PV_{\text{O\&M}} \quad (23)$$



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It is now necessary to expand this value to include the present value of cash flows in all future replacement cycles. This can be accomplished by recognizing that any given future cycle is identical to the original one except that its costs have increased by the inflation rate. For example, the replacement made after N years, when the original equipment wears out, gives rise to cash flows whose present value at the end of the first replacement cycle is equal to:

$$PV'_{PCE} \cdot (1+i)^N$$

where  $i$  = the annual inflation rate.

The present value at time 0 of these flows is thus given by discounting:

$$\frac{PV'_{PCE} \cdot (1+i)^N}{(1+E)^N}$$

where  $E$  = the discount rate.

The present value of the cash flows from the original cycle and all future replacement cycles is therefore given by summing:

$$\begin{aligned} PV_{PCE} &= PV'_{PCE} + PV'_{PCE} \cdot \frac{(1+i)^N}{(1+E)^N} + PV'_{PCE} \cdot \frac{(1+i)^{2N}}{(1+E)^{2N}} + \dots \\ &= PV'_{PCE} \cdot \left[ \frac{1}{1 - \left( \frac{1+i}{1+E} \right)^N} \right] \quad E > i \end{aligned} \quad (24)$$

Equation 24 is developed using the closed form for the sum of an infinite geometric series. This algebraic manipulation and the resulting formula is valid only when  $E > i$ . The case of  $E = i$  is discussed in Attachment C.

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# THE VALUE OF DELAY

The quantity just calculated is the present value, as of the day on which compliance should have been achieved, of pollution control cash flows which the firm would have experienced had they not delayed. If compliance is delayed, inflation will result in the firm's facing higher costs. Once it does comply the present value of those costs, as of the day on which compliance is actually achieved, is given by:

$$PV'_{DELAY} = PV_{PCE} \cdot (1+i)^L \quad (25)$$

where  $i$  = the monthly inflation rate<sup>1</sup>

$L$  = the number of months of delay

The present value as of the day on which compliance should have been achieved is given by discounting:

$$\begin{aligned} PV_{DELAY} &= \frac{PV'_{DELAY}}{(1+E)^L} \\ &= PV_{PCE} \cdot \left( \frac{1+i}{1+E} \right)^L \end{aligned} \quad (26)$$

where  $e$  = the monthly discount rate<sup>1</sup>

The savings from delay is thus given by the difference between these two present values:

$$\begin{aligned} SAVINGS &= PV_{PCE} - PV_{DELAY} \\ &= PV_{PCE} \cdot \left[ 1 - \left( \frac{1+i}{1+E} \right)^L \right] \quad E > i \end{aligned} \quad (27)$$

<sup>1</sup>Both the inflation rate and the discount rate will normally be given in annual terms. If "A" is an annual rate, its monthly equivalent "a" is given by:

$$a = (1+A)^{1/12} - 1$$

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## CONVERSION OF SAVINGS INTO MONTHLY EQUIVALENTS

In order to convert the savings from noncompliance into a series of penalty payments, it is necessary to express savings as a series of equivalent monthly amounts.<sup>1</sup> This series, which will be referred to as the "savings equivalent", must have two attributes:

- It must have the same present value as the cash flows which would have resulted from investment in and operation of the required pollution control equipment. When these amounts are translated into a penalty, this requirement is intended to insure that a firm which continues to delay its pollution control expenditures will not benefit by doing so.
- The savings equivalents must escalate at the rate of inflation. If this requirement is not met, the early penalty payments overstate the savings to the firm while later payments understate it.

Let  $S_j$  be the savings equivalent at the beginning of month  $j$ . The requirement that the series escalate with inflation implies that:

$$\begin{aligned} S_2 &= S_1 \cdot (1+i) \\ S_3 &= S_2 \cdot (1+i) = S_1 \cdot (1+i)^2 \\ S_j &= S_{j-1} \cdot (1+i) = S_1 \cdot (1+i)^{j-1} \end{aligned} \quad (28)$$

where  $i$  = the monthly inflation rate

<sup>1</sup>The final penalty payment will be made on a quarterly basis. However, in order to increase the accuracy of the penalty calculation, all adjustments to the economic savings are made on a monthly basis.

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The present value of each of these terms is calculated by discounting:

$$PV_{S_j} = \frac{S_j}{(1+E)^{j-1}} \quad (29)$$

Combining with equation (28) yields:

$$PV_{S_j} = \frac{S_1 \cdot (1+i)^{j-1}}{(1+E)^{j-1}} \quad (30)$$

The present value of these  $L$  monthly savings equivalents must be equal to the savings from delay. Thus,

$$\begin{aligned} SAVINGS &= \sum_{j=1}^L PV_{S_j} \\ &= \sum_{j=1}^L S_1 \cdot \left( \frac{1+i}{1+E} \right)^{j-1} \\ \text{or, } S_1 &= \frac{SAVINGS}{\sum_{j=1}^L \left( \frac{1+i}{1+E} \right)^{j-1}} \\ &= PV_{PCE} \cdot \frac{1 - \left( \frac{1+i}{1+E} \right)^L}{\sum_{j=1}^L \left( \frac{1+i}{1+E} \right)^{j-1}} \\ &= PV_{PCE} \cdot \frac{E-i}{1+E} \end{aligned} \quad (31)$$

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This represents the first term in the series. All terms after the first month can be computed by multiplying  $S_1$  by the quantity  $(1+i)$  raised to the appropriate power. For example, the savings equivalent at the beginning of the  $k$ th month would be:

$$S_k = S_1 \cdot (1+i)^{k-1} \quad (32)$$

The present value of these monthly savings equivalents is equal to the present value of the costs avoided during the period of noncompliance.

#### THE EFFECT OF PRE-COMPLIANCE EXPENDITURES

The series of savings equivalents just developed is based on the assumption that a firm installing pollution control equipment will pay for it when installation is completed and operation begins. In fact, substantial intermediate payments will often be required before final installation is completed. In calling for the imposition of a noncompliance penalty, Congress explicitly required that these intermediate payments be accounted for in the penalty calculation. The adjustments needed to incorporate the effect of intermediate payments are described in the following paragraphs.

The procedure is begun by dividing the savings equivalent into its capital and its operating and maintenance components. The method used to account for intermediate capital payments is to adjust the capital component of a month's savings equivalent by multiplying it by a factor representing the portion of the capital investment which is still to be made prior

to the beginning of that month. For example, if one-third of the total investment will have been made prior to the fifth month, the adjusted capital component of the savings for the fifth month is equal to two-thirds of the savings equivalent. Similarly, the operating and maintenance component of the savings in each month must be adjusted to a value which is net of any actual O&M expenditure made in the month. When all such adjustments have been made, the entire adjusted savings series is converted into a series of escalating quarterly penalty payments. This means that the schedule of intermediate payments and the compliance date must be known in advance.

The computational procedure starts by re-writing formula (31) using formula (23) and (24). This gives:

$$\begin{aligned} S_1 &= \frac{e-i}{1+e} \cdot PV_{PCE} \\ &= \frac{e-i}{1+e} \cdot (PV_{INITIAL} + PV_{ANNUAL CAP REL} + PV_{O\&M}) \cdot \left[ \frac{1}{1 - \left( \frac{1+i}{1+e} \right)^N} \right] \\ &= \frac{e-i}{1+e} \cdot (PV_{INITIAL} + PV_{ANNUAL CAP REL}) \cdot \left[ \frac{1}{1 - \left( \frac{1+i}{1+e} \right)^N} \right] + \\ &\quad \frac{e-i}{1+e} \cdot PV_{O\&M} \cdot \left[ \frac{1}{1 - \left( \frac{1+i}{1+e} \right)^N} \right] \\ &= S_1^C + S_1^O \end{aligned} \quad (33)$$

where the superscript C refers to the capital component of the savings equivalent and O refers to operating and maintenance component. Equation (32) for the two components can then be re-written as:

$$\begin{aligned} S_k^C &= S_1^C \cdot (1+i)^{k-1} \\ \text{and } S_k^O &= S_1^O \cdot (1+i)^{k-1} \end{aligned} \quad (34)$$

Let  $A_k^C$  be the month k capital component adjusted for pre-compliance expenditures. That is,  $A_k^C$  is equal to  $S_k^C$  times a factor representing the fraction of the total capital investment which remains to be made. If  $X_k$  is the fraction of the total investment which has been made prior to the beginning of month k, then:

$$A_k^C = (1-X_k) \cdot S_k^C \quad (35a)$$

The adjustment of the operating and maintenance component, the  $A_k^O$  is equal to the fraction of required operating and maintenance expenditures avoided in each month times the savings component  $S_k^O$ . Thus:

$$A_k^O = (1-X_k) \cdot S_k^O \quad (35b)$$

where:  $X_k$  = precompliance operating and maintenance cost in month k divided by one-twelfth of annual estimated operating and maintenance expense required for compliance

is given by:

$$PV_{ADJUSTED SERIES} = \sum_{k=1}^L \frac{A_k^C + A_k^O}{(1+e)^{k-1}} \quad (36)$$

The Act requires that the noncompliance penalty payments be made on a quarterly basis and all payments be of equal value. The legislative history indicates that this equality is to be in real terms. Consequently, the series of payments must increase with inflation. This can be done by converting the monthly values computed above into their present value equivalent and then converting that present value into a new series of escalating quarterly payments. Let L be the number of months which compliance is delayed. Then the present value

is given by:

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The series of escalating payments must have this same present value.<sup>1</sup> Thus, if  $P_j$  is the payment to be made at the beginning of quarter  $j$ , the following equality must exist:

$$\sum_{k=1}^L \frac{A_k + A_k^0}{(1+e)^{k-1}} = P_1 + \frac{P_2}{(1+e)} + \dots + \frac{P_T}{(1+e)^{T-1}} \quad (37)$$

where  $e$  = the quarterly equivalent discount rate<sup>2</sup>  
 $T$  = the number of quarterly payments

However, since  $P_j = P_{j-1} * (1+i)$

$$\sum_{k=1}^L \frac{A_k + A_k^0}{(1+e)^{k-1}} = P_1 * \sum_{j=1}^T \left( \frac{1+i}{1+e} \right)^{j-1}$$

where  $i$  = the quarterly equivalent inflation rate<sup>2</sup>  
 or,

$$\sum_{k=1}^L \frac{A_k + A_k^0}{(1+e)^{k-1}} = P_1 * \sum_{j=1}^T \left( \frac{1+i}{1+e} \right)^{j-1}$$

The number of required quarterly payments is determined from the months out of compliance using the formula:

$$T = \text{Integer } (L+2)$$

where, Integer = the closest integer less than or equal to the number in the brackets  
 $L$  = number of months out of compliance

The quarterly equivalent discount and inflation rate is found by taking the monthly equivalent discount and inflation rate to the third power. Thus:

$$e' = (1+e)^3 - 1$$

$$i' = (1+i)^3 - 1$$

where,  $e$  = monthly equivalent discount rate  
 $i$  = monthly equivalent inflation rate

The method involves re-computing the penalty using revised estimates of capital and operating and maintenance costs. These revised estimates are then used in conjunction with the actual schedule of pre-compliance expenditures to re-calculate the penalty payments. The settlement is based on the difference between these payments and those actually paid. The formula for these settlement payments is as follows:

$$Z_k = \Delta_k * (1+r)^{L-k+1}, \text{ if } k > 6$$

$$= \Delta_k, \text{ if } k \leq 6$$

where:  $Z_k$  = the amount to be paid (or refunded) on the date of compliance for each payment  
 $k$  = the number of the month in which the original payment was made  
 $\Delta_k$  = the difference between the amount paid and the amount which is computed using revised figures for capital and operating costs  
 $r$  = the monthly equivalent rate of interest determined by the Secretary of the Treasury  
 $L$  = the total number of months of noncompliance

The Secretary of the Treasury will designate an annual rate of interest. This will be converted to a monthly equivalent rate using the following formula:

$$r = (1+R)^{\frac{1}{12}} - 1$$

where:  $R$  = annual interest rate specified by the Secretary of the Treasury.

The original penalty computation is based on the costs which the firm would have experienced had compliance not been delayed. If compliance is delayed, inflation will result in the actual expenditures being somewhat larger. This inflation-induced variation is already accounted for in the formulation described above. However, simple estimation error may also contribute to the difference and it is this error that the post-compliance settlement is intended to remedy.

#### POST COMPLIANCE SETTLEMENT

The original penalty computation is based on the costs which the firm would have experienced had compliance not been delayed. If compliance is delayed, inflation will result in the actual expenditures being somewhat larger. This inflation-induced variation is already accounted for in the formulation described above. However, simple estimation error may also contribute to the difference and it is this error that the post-compliance settlement is intended to remedy.

These payments have the following properties:

- They are equal in real terms.
- Their present value is equal to the present value of savings after adjustments for pre-compliance capital and operating and maintenance expenditures.
- If either the assumed schedule of expenditures for compliance, the amounts of those expenditures, or the compliance date are inaccurate, the payments must be revised. This is discussed below.

As shown in equation 42, no interest is charged on the difference in penalty required compared to penalty paid for the first six months of noncompliance. The total post-compliance settlement as of the date of compliance is given by:

$$Z = \sum_{k=1}^L Z_k \quad (43)$$

where:  $Z$  = the total post-compliance settlement as of the date of compliance

The total post-compliance settlement as of the day of compliance is then adjusted to reflect delay in the actual settlement payment. The final settlement amount is:

$$Z = Z * (1+r)^D \quad (44)$$

where:  $Z$  = the actual settlement to be paid (or refunded) on the day of the settlement  
 $Z$  = the total post-compliance settlement as of the date of compliance  
 $r$  = the monthly equivalent rate of interest specified by the Secretary of the Treasury  
 $D$  = the number of months between the date of compliance and the actual settlement

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$$= \Delta_k, \text{ if } k \leq 6$$

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 $r$  = the monthly equivalent rate of interest specified by the Secretary of the Treasury  
 $D$  = the number of months between the date of compliance and the actual settlement



ATTACHMENT A  
DEFINITION OF SYMBOLS

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DELAYED EARLY PAYMENTS

In general, any time a penalty payment (P) is delayed by K months, the actual payment should be equal to:

$$P * (1+e)^K$$

The Act specifies that the first penalty payment is not due until six months after the notice of noncompliance has been given. This means that the first and second quarterly payments will be delayed for six and three months, respectively. However, a six month grace period exists after notice of non-compliance during which interest will not be charged on late payments. The first payment made by the firm at the beginning of the seventh month will thus equal the sum of the first three quarterly payments.

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|                  |   |  |
|------------------|---|--|
| $C_k$            | = | the monthly equivalent of the capital component of savings adjusted for pre-compliance expenditures                          |
| $A_k^0$          | = | the monthly equivalent of the O&M component of savings adjusted for pre-compliance expenditures                              |
| B                | = | the fraction of debt in the owner's capital structure (book value)   |
| D                | = | the number of months between the date of compliance and the payment of the post-compliance settlement                        |
| DEP <sub>j</sub> | = | the net after-tax cash flow in year j resulting from depreciation of the initial investment                                  |
| $d_j$            | = | the fraction of original asset value depreciated in year j   |
| $\Delta_k$       | = | the difference between the penalty paid in quarter k and the amount computed using revised figures for capital and O&M costs |
| DIV <sub>j</sub> | = | the dividend payment in year j on the preferred stock used to finance the initial investment                                 |
| E                | = | the discount rate  |
| e                | = | the monthly equivalent of the discount rate E  |
| e'               | = | the quarterly equivalent of the discount rate E  |
| EI               | = | the amount of cash provided by equity investors to finance the initial investment  |

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|                    |   |   |
|--------------------|---|---|
| f                  | = | the fraction of the initial investment which is amortized on a straight line basis over five years  |
| F                  | = | the fraction of preferred stock (at book value) in the owner's capital structure  |
| I                  | = | the annual rate of inflation for pollution control expenditures   |
| i                  | = | the monthly equivalent of the annual inflation rate I   |
| i'                 | = | the quarterly equivalent of the annual inflation rate I   |
| INT <sub>j</sub>   | = | the interest payment cash flow (after the effect of taxes) in year j on the debt used to finance the initial investment   |
| II <sub>qual</sub> | = | amount of initial capital investment which qualifies for the investment tax credit  |
| II                 | = | the initial investment in pollution control equipment; the amount which will be capitalized on the books of the firm and amortized over the life of the equipment |
| ITC                | = | the dollar amount of the investment tax credit  |
| j,k                | = | indices, usually indicating the year or month in which a cash flow occurs   |
| K                  | = | the number of owners of the firm  |
| L                  | = | the number of months the firm is expected to be out of compliance   |
| M <sub>o</sub>     | = | annual operating and maintenance expense in current dollars   |
| M <sub>j</sub>     | = | the net operating and maintenance cash flow in year j   |
| N                  | = | the useful life of the pollution control equipment  |
| n                  | = | the depreciation life of the pollution control equipment  |

|                   |   |   |
|-------------------|---|---|
| $P_j$             | = | the penalty payment to be made at the beginning of quarter j  |
| PV                | = | the present value of a cash flow  |
| PREF <sub>j</sub> | = | the repayment or reallocation of preferred stock in year j  |
| PRIN <sub>j</sub> | = | the repayment or reallocation of debt in year j   |
| Q                 | = | the fraction of common equity (at book value) in the owner's capital structure  |
| r                 | = | the monthly rate of interest to be paid on post-compliance settlement amounts   |
| R <sub>DIV</sub>  | = | dividend rate on preferred stock  |
| R <sub>INT</sub>  | = | the annual rate of interest on long-term debt   |
| $S_k^C$           | = | the monthly equivalent of the capital component of savings  |
| $S_k^O$           | = | the monthly equivalent of the O&M component of savings  |
| $S_k$             | = | the monthly equivalent of savings   |
| T                 | = | the number of quarterly payments  |
| t <sub>ITC</sub>  | = | the adjusted investment tax credit rate   |
| t <sub>TR</sub>   | = | the marginal income tax rate (t <sub>TR</sub> is the marginal federal rate and t <sub>S&amp;L</sub> is the marginal state and local rate) |
| W <sub>j</sub>    | = | the fraction of common stock held by stockholder j  |
| X <sub>k</sub>    | = | the fraction of the capital investment which has been made prior to the beginning of quarter k  |
| Y                 | = | the statutory investment tax credit rate  |

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$$d_j = \max \left\{ \begin{array}{l} \frac{2}{n} * (1 - \sum_{k=0}^{j-1} d_k) \\ \frac{1}{n-j+1} * (1 - \sum_{k=0}^{j-1} d_k) \end{array} \right\}$$

where "max" means that the greater of the two quantities to the right of the bracket should be chosen.

**Rapid Amortization.** A firm generally employs a depreciation method which minimizes the present value of its future income tax liability. This is accomplished by using the so-called accelerated depreciation methods, the most common of which are described above. Special rules governing the depreciation of pollution control equipment allow even faster write-offs than the accelerated methods, often resulting in still greater reductions in the present value of future tax liability. This approach, known as rapid amortization, was provided for in the Tax Reform Act of 1976.

The rules for rapid amortization are as follows:

- Divide the investment into two parts:
  - i the amount which would be depreciated during the first 15 years under straight line depreciation, and
  - ii the residual.

- The first part may be depreciated on a straight line basis over 5 years.
- The second part may be depreciated over the full tax life of the investment using whichever depreciation method the owner chooses.

The formula for the fraction depreciated in year j is most easily developed by considering the two parts separately. The fraction in year j for the first part is given by:

$$d_j^1 = \begin{cases} \frac{1}{5} * f, & \text{if } j \leq 5 \\ 0, & \text{if } j > 5 \end{cases}$$

where:

$$f = \min \left\{ \begin{array}{l} \frac{15}{n} \\ 1 \end{array} \right\}$$

The fraction of the second part depreciated in year j is given by the formula for straight line, sum of years digits, or double-declining balance, depending on the method used. This must be multiplied by (1-f), the fraction of the initial investment in the second part.

$$d_j^2 = (1-f) * (\text{standard fraction based on depreciation method})$$

The total depreciation fraction for year j under rapid amortization is then given by summing the two components:

$$d_j = d_j^1 + d_j^2$$

# ATTACHMENT D

## TAX RATE ADJUSTMENTS

The calculation of the savings from noncompliance requires use of the firm's marginal income tax rate. For most large corporations operating in states with no state income tax, this figure would be 46 percent.<sup>1</sup> However, a state income tax or a non-corporate form of organization complicates the matter. This appendix discusses the adjustments necessary to deal with these two factors.

### State And Local Income Taxes

Firms in some locations are subject to income taxation by more than one level of government. If state and local income taxes are deductible on the federal return, the rate of taxation on income,  $t_{TR}$ , must be computed according to the following procedure.

Let  $t_{FED}$  be the federal marginal tax rate and  $t_{S\&L}$  be the rate on state and local returns. Taxes paid to state and local governments are deductible expenses on the federal return. Hence, this after-tax rate is given by:

$$t_{S\&L} * (1 - t_{FED})$$

The overall tax rate is the sum of federal and state and local effects. It is given by:

$$t_{TR} = t_{FED} + [t_{S\&L} * (1 - t_{FED})]$$

<sup>1</sup> As of January 1979.

It is possible that certain local income taxes will be allowed as deductions when state income taxes are computed. In such cases,  $t_{S\&L}$  is given by:

$$t_{S\&L} = t_S + t_L * (1 - t_S)$$

where  $t_S$  = the marginal state income tax rate.  
 $t_L$  = the marginal local income tax rate.

If the local income tax is not deductible from the state, the combined rate is given by:

$$t_{S\&L} = t_S + t_L$$

### Multiple Ownership

The assumption in employing the tax rate,  $t_{TR}$ , and its components,  $t_{FED}$  and  $t_{S\&L}$ , is that these rates represent the marginal income tax rates applicable to the owning firm. If there is more than one owner, as might be the case if the firm were a partnership or a Subchapter S corporation, the rate used in the noncompliance penalty should be a weighted average of the rates appropriate to each owner.

The formula for either  $t_{FED}$  or  $t_{S\&L}$  would then be given by:

$$t = \sum_{k=1}^K w_k t_k$$

$t = w_1 t_1 + w_2 t_2 + \dots + w_K t_K$



FACILITIES WITH LIMITED USEFUL LIVES

In some cases, a noncomplying source of emissions will not be brought into compliance but instead will be retired or replaced by a complying source. For example, a steel company with a noncomplying open hearth furnace may wish to retire that furnace rather than bring it into compliance, and may replace its steelmaking capability with a basic oxygen furnace. The basic oxygen furnace would have sufficient emission controls to allow it to meet the standards for new sources.

If the firm wishes to operate a noncomplying source for a limited period of time and then retire that source, the noncompliance penalty is calculated based on the capital and operating and maintenance costs which would have been incurred in bringing the source into compliance. These are the costs which are foregone in continuing to operate the noncomplying source and are the basis of the savings which accrue to the owner in so doing. Since the source is never brought into compliance, there are no precompliance expenditures. The full capital cost of compliance is assumed to be incurred in the final quarter before retirement.

t = the weighted average marginal income tax rate  
 $W_k$  = the fraction owned by the k<sup>th</sup> owner  
 $t_k$  = the marginal income tax rate of the k<sup>th</sup> owner  
 K = the number of owners

where:

When the firm plans to replace a noncomplying source with a new facility after some period of noncompliance, a similar approach is used. The basic calculation is based on the costs that would have been incurred in bringing the older source into compliance. However, an adjustment is then made for the precompliance expenditures made on the new complying facility. In other words, expenditures made on the construction of the new source are used to adjust the penalty much the same as precompliance expenditures on the older source would be used if they occurred. This procedure is explained below.

The basic equations utilized in the consideration of precompliance expenditures were detailed in Section V. These equations begin by breaking the savings equivalent into its capital and operating and maintenance components. The capital component is then adjusted for precompliance expenditures as shown in equation 35a:

$$A_k^C = (1 - X_k) * S_k^C \quad (35a)$$

where  $A_k^C$  = adjusted capital component in month k

$X_k$  = fraction of total investment made prior to the beginning of month k

$S_k^C$  = unadjusted capital component in month k

Both production and pollution control expenditures are considered because in this case technology substitution itself as well as control equipment contribute to meeting the emission standards.

Of course, this number will never be greater than one.

The value of  $X_k$  cannot exceed one.

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In the case of a firm replacing an older noncomplying facility with a new source which meets the emission standards, the equation above would be used with  $X_k$  based on the total investment (for both productive capacity and pollution control equipment<sup>1</sup>) in the new facility and  $S_k^C$  based on the capital costs of bringing the old source into compliance. As such,  $X_k$  would represent the fraction of the total investment required for the new facility expended by the beginning of month k.<sup>2</sup>

The adjusted value of the operating and maintenance component— $A_k^O$ —is equal in any month k to the amount which would have been spent at the old source in complying adjusted by the expenditures actually made for total operating and maintenance expenses of the equipment at the new source. The equation for adjusting operating and maintenance expenditures is written as:

$$A_k^O = (1 - X_k) * S_k^O \quad (35b)$$

where  $A_k^O$  = adjusted operating and maintenance component in month k

$X_k$  = operating and maintenance precompliance expenditure made in each month k at the new source divided by one-twelfth of the annual operating and maintenance expense of the new source<sup>3</sup>

$S_k^O$  = unadjusted operating and maintenance component in month k

Both production and pollution control expenditures are considered because in this case technology substitution itself as well as control equipment contribute to meeting the emission standards.

Of course, this number will never be greater than one.

The value of  $X_k$  cannot exceed one.

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ATTACHMENT F  
APPLICATION TO GOVERNMENT FACILITIES

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As described above, noncompliance penalties for facilities with limited useful lives are based on the costs which would have been incurred in bringing the facility into compliance. Because the source is retired rather than brought into compliance, no post-compliance settlement based on the capital and operating maintenance costs actually incurred is possible. However, if the noncomplying source is replaced with a new facility, the noncompliance penalty is adjusted based on planned precompliance capital and operating and maintenance expenditures. In such cases, a post-compliance settlement is possible and necessary to adjust for differences between planned vs. actual precompliance expenditures and the resulting alterations in the noncompliance penalty. Such a settlement involves three steps:

- The actual capital and operating and maintenance expenditures for each month are converted to dollars as of the date of noncompliance.
- Each monthly constant dollar expenditure's percentage of the total expenditure is calculated.
- The percentages of total capital expenditures and total operating and maintenance expenditures made in each month are used to adjust the respective penalty components computed in the initial penalty calculation.

The formulae are identical to those shown in Section V for the post-compliance settlement.

The noncompliance penalties described in this document are designed to remove the economic savings realized by a firm due to delayed compliance with pollution control requirements. Similar savings are also realized by government-owned facilities--emission sources owned or under the control of municipal, state, federal and other government and quasi-government entities. The statute contemplates that non-compliance penalties will be assessed against such facilities as well.

The calculation of penalties for government facilities is carried out using the same general logic as presented in this document with two important changes:

1. Cash flows due to tax and financing effects are no longer relevant.
2. A discount rate appropriate for use with government projects is used.

Each of these changes is described below.

TAX AND  
FINANCING EFFECTS

Because government facilities do not pay income taxes, cash flows which result from tax effects in the private sector are not included in the noncompliance formulae for government

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facilities. As a result, cash flows due to tax savings from depreciation, interest expense, and so forth are not included in the formulae for government noncompliance penalties. The replacement of TTC and TTR with zero in all formulae developed in Section V will accomplish this change.

Although governments often finance a portion of pollution control capital expenditures with debt as well as with tax revenues, the derivation of noncompliance penalties for government facilities assumes that the entire investment is made from tax revenues. This assumption is made because most government debt issues are related to specific projects (school buildings, sewer systems, highways, and so forth) and because the relationship of debt-issuing authorities in a single locale (school boards and municipal governments, highway commissions and state governments, and so forth) can be extremely complicated. The concept of investment dollars being drawn from a pool of funds with a fixed capital structure, while accurate in the private sector, is not realistic when applied to the government. Further, since noncompliance results from the lack of investment in pollution control equipment, it is impossible to utilize the actual financing mix which would have been used.

The assumption of financing with tax revenues can be carried through the formulae derived in Section V by setting the variables F (preferred stock share) and B (debt share) equal to zero and the variable Q (equity share, here assumed to be tax revenue share) equal to 1. These changes and those in the tax rate variables described above result in the following cash flow present values for government facilities.

$$PV_{INITIAL} = II * 1 \quad (18)$$

$$PV_{ANNUAL CAPITAL RELATED} = 0 \quad (20)$$

$$PV_{OEM} = \sum_{j=1}^N \frac{M_j}{(1+E)^j} \quad (21 \text{ and } 22)$$

Thus, the present value of all cash flows resulting from the purchase and operation of pollution control equipment throughout the N-year life of the original equipment, for a government facility, is the sum of these contributions:

$$PV_{PCE GOVERNMENT} = II + \sum_{j=1}^N \frac{M_j}{(1+E)^j} \quad (23a)$$

Equation 23a can be substituted for equation 23 in the subsequent formulae derivation presented in Section V.

DISCOUNT RATE

Considerable literature exists on the choice of a discount rate for use in analyzing government investment projects, yet there is little agreement concerning how such a rate should be developed. For the purpose of noncompliance penalties, the discount rate of 10 percent specified by the Office of Management and Budget for use in federal project analysis is utilized.<sup>1</sup> This discount rate is often used by

<sup>1</sup>Source: OMB Circular A 94 (Revised), March 27, 1972.

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# DERIVATION OF THE NONCOMPLIANCE PENALTY WHEN THE INFLATION RATE EQUALS THE DISCOUNT RATE

other governments as well, particularly in analysis of projects that will receive partial or full federal funding. Thus, use of this rate will insure that the calculation of noncompliance penalties for government facilities is accomplished on a basis consistent with the analysis of investment projects carried out by government decision-makers. In order to make this change in the formulae, the variable E is redefined to be the government discount rate and is set equal to 10 percent.

The derivation of the noncompliance penalty formulae presented in Section V assumes that the rate of inflation is less than the discount rate. In rare situations,<sup>1</sup> however, the rate of inflation may be greater than or equal to the discount rate. EPA proposes the following approach to calculating the noncompliance penalty in such cases. Comments on this or alternative approaches are invited.

Equation 27 on page V-9 defines the savings from delayed compliance as follows:

$$\text{SAVINGS} = \text{PV}_{\text{PCE}} * \left[ 1 - \left( \frac{1+i}{1+e} \right)^L \right], \quad E > i \quad (27)$$

Where: i = monthly inflation rate  
I = annual inflation rate,  $I = (1+i)^{12} - 1$   
e = monthly discount rate  
E = annual discount rate,  $E = (1+e)^{12} - 1$   
L = months of delay  
PV<sub>PCE</sub> = present value of all cash flows resulting from the installation and operation of pollution control equipment for an infinite series of replacement cycles

If the inflation rate is greater than the average rate of return on equity for an industry, stockholders will cease investing in the less profitable firms in that industry. Some firms in the industry will then fail and the more profitable firms will remain. As a consequence the average return on equity for the industry will increase. Thus, situations where the inflation rate is truly greater than the discount rate will be rare and short-lived.

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The variable PV<sub>PCE</sub> is a function of PV<sub>PCE</sub> (the present value of all cash flows from one cycle of control equipment), the inflation rate, and the discount rate, as shown in equation 24 on page V-8.

$$\text{PV}_{\text{PCE}} = \text{PV}_{\text{PCE}} * \left[ \frac{1 - \left( \frac{1+i}{1+e} \right)^L}{1 - \left( \frac{1+i}{1+e} \right)^N} \right], \quad E > i \quad (24)$$

Substitution of equation 24 into 27 yields:

$$\text{SAVINGS} = \text{PV}_{\text{PCE}} * \left[ \frac{1 - \left( \frac{1+i}{1+e} \right)^L}{1 - \left( \frac{1+i}{1+e} \right)^N} \right] * \left[ 1 - \left( \frac{1+i}{1+e} \right)^L \right], \quad E > i \quad (27A)$$

When the inflation rate is greater than or equal to the discount rate, equation 27A has no solution. However, the limit of this equation as the inflation rate approaches the discount rate can be found using L'Hospital's Rule.<sup>1</sup> Application of this rule results in:

$$\text{SAVINGS}_{E=I} = \frac{\text{PV}_{\text{PCE}}}{N} * \frac{L}{12} \quad (27B)$$

<sup>1</sup>For an explanation of this rule, see any calculus text; for example, Calculus by G.E.F. Sherwood and A.E. Taylor, Prentice-Hall, 1957, pp. 177-181.

By reference to equation 23 on page V-7, the savings derived above can be expressed in terms of capital and operating and maintenance components as shown below:

$$\text{SAVINGS}_{E=I} = \frac{\left( \text{PV}_{\text{INITIAL}} + \frac{\text{PV}_{\text{ANNUAL CAPITAL RELATED}}}{N} + \frac{\text{PV}_{\text{O\&M}}}{N} \right) * \frac{L}{12}}{N} \quad (27C)$$

$$\text{SAVINGS}_{E=I} = \frac{\left( \text{PV}_{\text{INITIAL}} + \frac{\text{PV}_{\text{ANNUAL CAPITAL RELATED}}}{N} \right) * \frac{L}{12}}{\text{CAPITAL}} \quad (27D)$$

$$\text{SAVINGS}_{E=I} = \frac{\text{PV}_{\text{O\&M}} * \frac{L}{12}}{\text{O\&M}} \quad (27E)$$

and by reference to equations 17, 21 and 22 on pages V-6 and V-7, the operating and maintenance components can be expressed as:

$$\text{SAVINGS}_{E=I} = \frac{N * M_0 * (1+i)^j}{\sum_{j=1}^N \frac{L}{(1+e)^j}} * \frac{L}{12} \quad (27F)$$

which, for I=E, reduces to:

$$\text{SAVINGS}_{E=I} = M_0 * \frac{L}{12} \quad (27G)$$

The results shown above can be interpreted as meaning that the savings from delay, in the case where the inflation rate is equal to the discount rate, consist of the annual share of the present value of the capital related and the yearly

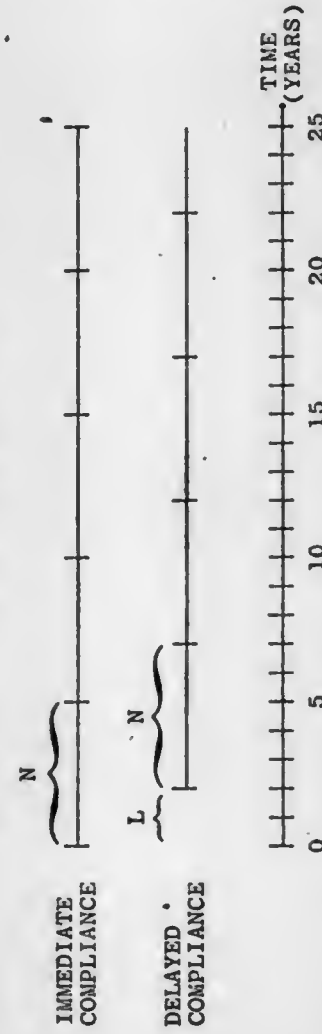
That is,  $\left( \frac{\text{PV}_{\text{INITIAL}} + \text{PV}_{\text{ANNUAL CAPITAL RELATED}}}{N} \right) * \frac{L}{12}$

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operating and maintenance expense ( $U_0$ ) both multiplied by the period of delay in years ( $\frac{1}{12}$ ). In short, savings in this case equal some share of the capital costs of the control equipment plus the operating and maintenance expenses foregone through delay. Although both of these results are mathematically correct, the savings from the capital cost portion of PVPCE are based on an implicit assumption about the economic value of installed pollution control equipment with remaining useful life. This assumption requires further consideration.

In carrying out discounted cash flow analysis, it is necessary to analyze cash streams with equal lives in order to develop meaningful comparisons. Further, the analyst normally selects a time horizon which results in the full completion of replacement cycles for each alternative so that an economic value does not have to be specified for alternatives which have useful life remaining at the time horizon. However, because of the nature of the noncompliance penalty problem, it is impossible to choose a time horizon which will allow completion of all replacement cycles for both the immediate and delayed compliance alternatives. This is illustrated below.



Where:  $N$  = useful life = 5 years  
 $L$  = delay = 24 months

At any point in the future, the immediate and delayed compliance alternatives will be at different points in their respective replacement cycles and thus will have different amounts of useful life remaining from the capital expenditures made. Thus, the analyst must make an explicit assumption about the economic value that can be realized from equipment which still has some useful life remaining at the end of the time horizon.

In the usual case where the inflation rate is less than the discount rate, the effect of discounting is to reduce the value of cash flows occurring far in the future. This fact and the use of an infinite number of replacement cycles<sup>1</sup> minimize the impact of the assumption concerning the economic value of the equipment with useful life remaining at the time horizon. However, when the inflation rate is equal to the discount rate, no effective discounting occurs and thus cash flows far in the future have an important impact on the present value. In this case, the assumption concerning economic value of the in-place equipment at different points in its useful life is very important.

Exhibit G-1 provides a simple numerical example of the economics of delay when the inflation rate equals the discount rate. As shown, control equipment installation is delayed one year, resulting in useful life remaining at the time horizon of four years. In this exhibit, no economic value is assigned to the remaining useful life nor is the value of the final year's depreciation tax shield (\$6.83) received in the delayed alternative. Thus, the savings from delay are negative and equal the value of the tax shield lost.

This assumption, which is standard practice in engineering economics and capital budgeting, relieves the analyst of the need to define a specific planning horizon and is reasonable when discounting removes the value of cash flows far in the future.

As an alternative, the analyst might assume that the remaining useful life is valued at the present value of the remaining depreciation tax shield. In other words, the single remaining year of useful life could be valued at \$6.83. Such an assumption is roughly analogous to the firm writing off the book value remaining in the equipment at the time of early retirement and thus receiving all of the depreciation tax shield.<sup>1</sup> With this assumption, the capital savings from delay would be zero.

As a third alternative, the analyst might assume that the remaining useful life should be valued at its replacement cost at the time horizon. Exhibit G-2 shows an example using this assumption. In this case, the savings from delay are positive and equal \$13.17.

The examples described above indicate that the capital savings due to delay, in the case where the inflation rate is equal to the discount rate, depend on the assumption made concerning the economic value of remaining useful life at the time horizon. The table below summarizes the results of these examples.

<sup>1</sup> In this example, if the firm were to write off the remaining book value of the equipment after three years of useful life, it would receive a depreciation tax shield of \$20.00 or \$15.02 on a present value basis. Thus, the present value of the final portion of depreciation would be \$7.51 rather than \$6.83 due to its occurrence one year earlier. The difference in present value of \$68 (7.51-6.83) would become the savings from delay of the capital expenditure. However, with the use of accelerated depreciation methods and longer equipment life-times the importance of the early depreciation would be negligible.

TABLE 1  
 RESULTS OF ASSUMPTIONS CONCERNING ECONOMIC VALUE OF  
 USEFUL LIFE REMAINING AT TIME HORIZON

| Assumption  | Result  |
|---|---|
| 1. No value to remaining life.  | 1. Savings from delay negative and equal value of depreciation tax shield foregone. |
| 2. Remaining life valued at worth of remaining depreciation tax shield. | 2. Savings essentially zero.  |
| 3. Remaining life valued at replacement cost.                           | 3. Positive savings.  |

Although the examples presented above have been relatively simple, more complex financing arrangements and longer time horizons do not alter the basic conclusions. Thus, the issue of capital savings when the inflation rate equals the discount rate becomes an issue of what is a reasonable assumption concerning the value of pollution control equipment with some portion of its useful life remaining.

Most pollution control equipment is unlikely to have a positive salvage value due to the unique nature of many retrofit installations, the cost of removing reusable equipment and bringing it into operation at a new site, and so forth. Thus, it is most reasonable to assume that the firm,

The mathematical formulae derived earlier predict that the capital savings from each year of delay should equal the present value of all capital-related flows divided by the useful life of the equipment. As shown in Exhibit G-1, the present value of capital-related flows is \$48.31 and when divided by the useful life of four years, calculated capital savings for a one-year delay are equal to \$12.08. This figure is close to the value calculated in Exhibit G-2 based on valuation of remaining life at replacement cost.



when faced with remaining useful life in equipment at the time horizon, would simply write the book value down to zero and thus capture the remaining depreciation tax shield. Although the timing of this action will determine its precise present value, the overall effect usually will be to eliminate for all practical purposes the capital savings due to delay.

In view of these factors, EPA proposes to calculate no capital savings in cases where the inflation rate is greater than or equal to the discount rate. Thus, total savings in such cases will equal the operating and maintenance component only, or

$$SAVINGS_{E=I} = M_0 \cdot \frac{L}{12} \quad (27H)$$

This result can be used in the formulae developed in Section V in order to complete the calculation of noncompliance penalties.

Exhibit C-1

SAVINGS FROM DELAY ASSUMING NO VALUE FOR LIFE REMAINING AT TIME HORIZON

ASSUMPTIONS

1. Investment = \$80 (11)
2. Useful life = 4 years (N)
3. Depreciation life = 4 years (n)
4. Inflation Rate = 10% (I)
5. Discount Rate = 10% (E)
6. Delay = 12 months (L)
7. Straight line depreciation
8. All equity financing
9. Time horizon = 4 years
10. Income Tax Rate = 50%

| YEAR                    | 0       | 1    | 2    | 3    | 4    | 5  | 6  |
|-------------------------|---------|------|------|------|------|----|----|
| Immediate Compliance    |         |      |      |      |      |    |    |
| Investment              | (80)    | -    | -    | -    | -    | -  | -  |
| Depreciation Tax Shield | -       | 10   | 10   | 10   | 10   | 10 | 10 |
| Total Cash Flow         | (80)    | 10   | 10   | 10   | 10   | 10 | 10 |
| Present Value at Time 0 | (80)    | 9.09 | 8.26 | 7.51 | 6.83 |    |    |
| Total Present Value     | (48.31) |      |      |      |      |    |    |

|                         |         |      |      |      |      |    |    |
|-------------------------|---------|------|------|------|------|----|----|
| Delayed Compliance      |         |      |      |      |      |    |    |
| Investment              | (88)    | -    | -    | -    | -    | -  | -  |
| Depreciation Tax Shield | -       | 11   | 11   | 11   | 11   | 11 | 11 |
| Total Cash Flow         | (88)    | 11   | 11   | 11   | 11   | 11 | 11 |
| Present Value at Time 0 | (80)    | 9.09 | 8.26 | 7.51 | 6.83 |    |    |
| Total Present Value     | (55.14) |      |      |      |      |    |    |

Saving From Delay:  $48.31 - 55.14 = (6.83)$

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Exhibit C-2

SAVINGS FROM DELAY ASSUMING REPLACEMENT VALUE FOR LIFE REMAINING AT TIME HORIZON

Assume one year of remaining life is valued at cost of replacement in year 4.<sup>1</sup>

- Cost of replacement:  $\$80 \cdot (1.10)^4 = 117.3$
- One year's share of replacement cost:  $\frac{\$117.13}{4} = \$29.28$
- Thus, delayed alternative receives a cash inflow in year 4 of \$29.28 as shown below

| YEAR:                   | 0       | 1    | 2    | 3    | 4     | 5  | 6  |
|-------------------------|---------|------|------|------|-------|----|----|
| Delayed Compliance      |         |      |      |      |       |    |    |
| Investment              | (88)    | -    | -    | -    | -     | -  | -  |
| Depreciation Tax Shield | -       | 11   | 11   | 11   | 11    | 11 | 11 |
| Value of Remaining Life | -       | -    | -    | -    | 29.28 |    |    |
| Total Cash Flow         | (88)    | 11   | 11   | 11   | 40.28 |    |    |
| Present Value at Time 0 | (80)    | 9.09 | 8.26 | 7.51 |       |    |    |
| Total Present Value     | (35.14) |      |      |      |       |    |    |

Savings from Delay:  $48.31^2 - 35.14 = 13.17$

<sup>1</sup> All remaining assumptions are as stated in Exhibit C-1.  
<sup>2</sup> Present value of immediate compliance from Exhibit C-1.

TABLE OF CONTENTS

- I. INTRODUCTION
- II. DATA REQUIREMENTS AND DATA SOURCES
- III. USING THE COMPUTER PROGRAM
- IV. CALCULATION OF THE POST-COMPLIANCE SETTLEMENT
- V. SPECIAL CONDITIONS

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APPENDIX B

CLEAN AIR ACT

SECTION 120

NONCOMPLIANCE PENALTIES

INSTRUCTION MANUAL

SECTION I

INTRODUCTION

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This appendix describes the procedures used to calculate the noncompliance penalty imposed by the 1977 amendments to the Clean Air Act (the Act). The penalty, stipulated under Section 120 of the Act, removes the economic benefits which accrue to a firm from delaying investment in pollution control.

The method used to calculate the noncompliance penalty is based on the concept of costs avoided. The costs avoided by delaying the installation of pollution control equipment have two components. First, the firm benefits by delaying the capital expenditure needed for pollution control equipment. For this component, the cost avoided equals the return the firm expects on the money that should have been invested in pollution control equipment. That is, funds which should have been invested in pollution control equipment, but were not, can be invested in other assets, thus yielding a return. The second cost avoided through noncompliance results from the absence of

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operating and maintenance expenses for the equipment. In this case, the costs avoided equal the value of all operating and maintenance expense avoided plus the earnings on such costs avoided.

IMPLEMENTING THE NONCOMPLIANCE PENALTY

A detailed discussion of the economic rationale for the noncompliance penalty and the computational method used is contained in Appendix A, the Technical Support Document. This appendix is designed to aid the user in determining the appropriate data for calculating the penalty and to describe the computer program which performs the actual computation.

To the extent practicable, the computer program has been written to accept data as it appears in the source. However, it is necessary in some instances to adjust the data for entry. When this adjustment requires several computations, a worksheet has been provided.

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LEVEL OF KNOWLEDGE REQUIRED

The appendix has been written on the assumption that the user has had little formal training in business finance. Use of this manual and the computer program do not require a knowledge of the mathematical formulae in the Technical Support Document. It is assumed, however, that the reader is familiar with the discussion sections in the Technical Support Document.

PLAN OF THE DOCUMENT

Section II describes the sources of data needed to calculate the penalty and how the various data items are converted to a form suitable for entry into the computer program. As an aid in exposition, a hypothetical noncomplying firm is described and relevant penalty calculations are illustrated.

Section III describes the procedures necessary to operate the computer. An example of an actual use of the program to calculate a penalty is included. This example will utilize data calculated in Section II.

Section IV describes the calculation of the post compliance settlement based on data used in Sections II and III.

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Section V discusses the calculation of the penalty under special conditions. These conditions include investments financed with industrial development bonds and penalties for limited life facilities.

SECTION II

DATA REQUIREMENTS AND DATA SOURCES

Calculation of the noncompliance penalty requires a substantial amount of financial data. It is expected that most of this data, as well as the calculation itself, will be provided by the firm. This is in accordance with Section 120 of the Clean Air Act which will:

"...require each person to whom is given under paragraph (3) to--

(A) calculate the amount of the penalty owed (determined in accordance with subsection (d)(2) ) and the schedule of payments (determined in accordance with subsection (d)(3) for each such source and, within forty-five days after the issuance of such notice or after the denial of a petition under subparagraph (B), to submit that calculation and proposed schedule, together with the information necessary for an independent verification thereof, to the State and to the Administrator".

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However, some firms may not comply with the requirement. Section 120 further stipulates that if the firm fails to submit a calculation of the penalty, the State or the Administrator may contract with a third party to determine the penalty payments. This will require collection of data from several public sources. This section discusses the method used to collect data and prepare it for the calculation of the penalty.

CASE STUDY

As an aid to understanding the issues discussed in this and the next section, an example has been formulated involving a hypothetical fertilizer company. While this case will utilize data from an actual corporation, the firm is not in the fertilizer industry. The example was created to illustrate many of the features of the computer program and thus may be more complex than many "real life" situations. Data prepared in the case discussion below will be entered in the computer program to determine a penalty in Section III.

THE FERTILIZER COMPANY

On September 1, 1979 the Fertilizer Company was issued a notice of noncompliance with Section 120 of the Clean Air Act. The source of emissions was an incinerator used for the disposal of a waste by-product from the manufacture of the firm's most profitable product.

A preliminary engineering study had been performed in which it had been determined that compliance could be reached with an investment of \$500,000. The investment would involve the purchase of a baghouse and modifications to the firm's incinerator in order to reduce particulate emissions.

In addition to the capital investment, it was estimated that \$15,000 in operating and maintenance expense would be needed each year the pollution control equipment was operated. It was also estimated that \$1,890 in pre-compliance maintenance expense was necessary to make the equipment operational.

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Engineers for the Fertilizer Company believed that it would be at least eleven months before the equipment was installed and shake-down was completed. Because the waste could be safely stored for short periods, production of fertilizer would not be interrupted while the incinerator was being modified.

The Fertilizer Company is a publicly-owned corporation with assets of \$770 million. The company is mainly financed with investment by the common stockholders but some preferred stock and long term debt also exists.

The firm, in accordance with the Act, had computed the penalty owed and a schedule of payments. It had also submitted the data used in calculating the penalty. The enforcement official now had to arrange the data in the order it would be requested by the computer and verify that it was from an appropriate source. The computer program would check the accuracy of the firm's penalty calculation.

# PREPARING DATA FOR ENTRY INTO THE PROGRAM

The computer program will request data in a specific sequence. Although the data submitted by the firm can be verified in any order, it is useful to verify the data in the same way so that omissions are avoided. The following paragraphs follow the same sequence as is used to enter data into the computer program.

1. The number of months the source will be out of compliance. The period of noncompliance is measured from the day on which the notice of noncompliance is issued until the time standards are actually met.<sup>1</sup> This will include installation time and shakedown period for the equipment. If the firm indicates that compliance will be achieved in the first fifteen days of a month, it is assumed to be in compliance for the entire month. In the Fertilizer Company example, the firm stated that it will come into compliance in eleven months.

2. Limited Life Facility. The program calculates a penalty based on eventual compliance at the source. However, some firms will attain compliance by shutting down the source or by replacing it with a new source. This option is discussed in detail in Section V. For the Fertilizer Company, the source is not a limited life facility.

<sup>1</sup>This date cannot be before August 7, 1979.

3. Industrial Development Bonds. The calculation of the percentage of a pollution control investment financed by tax-exempt industrial development bonds is discussed in Section V. For the Fertilizer Company, none of the investment is financed by issuing tax-exempt bonds.

4. Schedule of capital investments. This is an estimate, provided by the firm, of monthly capital expenditures for the purchase and installation of the pollution control equipment. It is assumed that all capital expenditures are completed when compliance is achieved.

The sources which firms will use to estimate monthly expenditures include engineering estimates, quotations from manufacturers, or estimates by management. They will consist of not only the direct purchase cost, including sales taxes, but also site preparation, engineering design work, shipping costs and installation expense. All costs must be stated in terms of dollars as of the beginning of the noncompliance period. Thus, a firm which will comply eleven months late should not inflate the cost estimates to reflect price changes during the period of noncompliance. The computer program automatically takes this into account.

The Fertilizer Company estimated that the total expenditure needed was \$500,000. It submitted the data in Exhibit II-1 to justify the estimate. Expenditures to the manufacturer for the equipment will be made in three equal installments, during the second, fourth, and eleventh months of noncompliance. Each payment will thus be \$166,666.67 (\$500,000 ÷ 3).

5. Schedule of pre-compliance operating and maintenance expenditures and post-compliance annual operating and maintenance expense. These are costs the firm will incur for operation of the equipment. They may include operating and supervisory labor, power for equipment operation, supplies necessary for operation and a portion of the firm's overhead. If a by-product is created during equipment operation, disposal costs are included as an operating expense. If the by-product can be sold or used in another process, the value of the by-product should be subtracted from operating and maintenance expense.

In addition, operating and maintenance should include the incremental cost of changing plant operations to conform to the Act. For example, a firm forced to shift from high sulfur coal to low sulfur coal would include the increase in fuel costs as an operating expense. Operating expenses would also include the additional cost incurred if compliance requires shifting production to a less efficient or more expensive method.



## EXHIBIT II-1

CALCULATION OF THE CAPITAL EXPENDITURE INPUT  
FERTILIZER COMPANY<sup>1</sup>

|  |              |
|--|--------------|
| 1. List price or estimated price of the equipment: | \$485,908.65 |
| 2. Less: Discount from manufacturer:               | 9,718.17     |
| 3. Equals net price of equipment:                  | 476,190.48   |
| 4. Plus: Sales tax on equipment <sup>2</sup> :     | 23,809.52    |
| 5. Plus: Freight and delivery charge:              | 0            |
| 6. Equals estimated cost of equipment delivered:   | \$500,000.00 |
| 7. Plus: Installation charge:                      | 0            |
| 8. Plus: Value of lost production:                 | 0            |
| 9. Plus: Cost of building modifications:           | 0            |
| 10. EQUALS TOTAL CAPITAL EXPENDITURE:              | \$500,000.00 |

<sup>1</sup> This calculation uses Worksheet A in Attachment V.

<sup>2</sup> Some corporations subtract sales tax from revenue in the year of purchase. If this is the case, the sales tax is multiplied by (1 - tax rate) and subtracted from the cost of the equipment rather than added as in step four.

## PROPOSED RULES

Note: Line 6 divided by line 10 is the percentage of qualified investment for calculation of the investment tax credit.

QUALIFIED PERCENTAGE INVESTMENT TAX CREDIT:

Line 6 = \$500,000 x 10% = 10%  
Line 10 = \$500,000

If the depreciable life of the equipment is less than seven years, this figure must be adjusted as described on page II-16.

EXHIBIT II-1  
(CONTINUED)

Sources for operating and maintenance expense are engineering reports, manufacturer specifications, estimates by owner or actual data from similar operations. Two different estimates of operating and maintenance expense are necessary--those incurred before compliance and those estimated for the period after compliance. These amounts should be stated in dollar terms as of the beginning of the noncompliance period. Dollar estimates should not be increased by an estimate of inflation.

The Fertilizer Company supplied the data in Exhibit II-2 as estimated pre-compliance operating and maintenance expense.

## EXHIBIT II-2

ESTIMATE OF MONTHLY PRE-COMPLIANCE OPERATING  
AND MAINTENANCE EXPENSE  
FERTILIZER CORPORATION

## PRE-COMPLIANCE OPERATING EXPENSE

|                                 |            |
|---------------------------------|------------|
| Months 1-8                      | \$ 0       |
| Month 9                         |            |
| Labor<br>(10 hrs @ \$10)        | \$ 100.00  |
| Month 10                        |            |
| Labor<br>(100 hrs @ \$10)       | 1,000.00   |
| Power (1500 Kwh<br>@ .0333 Kwh) | 50.00      |
| Total                           | \$1,050.00 |
| Month 11                        |            |
| Labor<br>(50 hrs @ \$10)        | 500.00     |
| Power (7200 Kwh<br>@ .0333 Kwh) | 240.00     |
| Total                           | \$ 740.00  |

## PROPOSED RULES



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Pre-compliance monthly operating and maintenance expense cannot be larger than one-twelfth of the initial annual expense. For example, if the estimated initial annual expense is \$15,000, no individual quarterly pre-compliance expenditure can be greater than \$1,250 (\$15,000 ÷ 12). If the pre-compliance operating and maintenance expense in a month is larger than the monthly equivalent of the initial annual expense, the computer program for calculating the penalty will not accept the data and will print an error message.<sup>1</sup>

For post-compliance operating and maintenance expense the Fertilizer Company supplied the data in Exhibit II-3.

<sup>1</sup>Monthly pre-compliance expenditures are used to adjust a penalty based on an estimate of the annual operating and maintenance expense throughout the life of the project. The requirement that pre-compliance expenditures be no more than one-twelfth of annual expense reflects the assumption that pre-compliance expenditures are similar to the annual expenditures avoided by noncompliance and do not include start-up costs and installation charges. These additional costs for installation and start-up should be included as a capital expenditure.

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EXHIBIT II-3

POST-COMPLIANCE ANNUAL OPERATING AND MAINTENANCE EXPENSE  
FERTILIZER COMPANY

|   |             |
|---|-------------|
| 1. Annual Labor Expense   |             |
| 840 Hours x \$10 per hour =   | \$8,400.00  |
| 2. Power Cost   |             |
| 90090 Kwh x \$.0333 per Kwh =                                       | 3,000.00    |
| 3. Water Cost   |             |
| Gallons x \$ per gallon =   | 0           |
| 4. Raw Materials and Supplies                                       |             |
| 1000 Lbs x \$1 per Lb =   | 1,000.00    |
| 5. Yearly Increase in Property Tax =                                | 3,000.00    |
| 6. Cost of Production Lost Due to Maintenance or Use of Equipment = | 0           |
| 7. Total Cost (1 + 2 + 3 + 4 + 5 + 6) =                             | \$15,400.00 |
| 8. Less: Value of By-Products                                       |             |
| 800 Lbs at \$.50 per Lb =   | 400.00      |
| 9. Annual Operating and Maintenance (7 - 8) =                       | \$15,000.00 |

<sup>1</sup>This calculation uses Worksheet B in Attachment V.

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EXHIBIT II-3  
(CONTINUED)

Note: One-twelfth of line 9 is the maximum amount of any monthly pre-compliance expenditure.

Line 9 = \$1,250 Maximum amount which  
12 may be entered as a  
pre-compliance monthly  
operating and main-  
tenance expense.

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6. Investment tax credit rate.<sup>1</sup> The investment tax credit is a percentage of the investment which can be used to directly reduce federal income tax. Although the federal tax credit for an investment is currently ten percent, this rate may have to be adjusted to reflect two restrictions in the revenue code:<sup>2</sup>

- Investments of less than seven years do not receive the entire ten percent.
- Certain investments do not qualify for the credit.

An investment with a depreciable life of less than seven years does not qualify for the maximum investment tax credit. Currently, percentages allowed for such investments are as follows:

<sup>1</sup>Information on the investment tax credit is contained in the Internal Revenue Service Code, Chapter 1, Subpart B—Rules for Computing Credit for Investment in Certain Depreciable Property.

<sup>2</sup>In addition to the two listed restrictions, investments financed with industrial development bonds qualify for only a portion of the credit when rapid amortization is used. This adjustment is made automatically by the computer program. Further, for the purposes of noncompliance penalties the entire investment tax credit as calculated is used regardless of taxable income amount.

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| Depreciable Life<br>(Years) | Investment Tax Credit<br>(percent) |
|-----------------------------|------------------------------------|
| Less than 3                 | 0                                  |
| At least 3 but less than 5  | 3.33                               |
| At least 5 but less than 7  | 6.67                               |
| 7 or more                   | 10.00                              |

Items such as buildings and land are not usually allowable for purposes of computing the investment tax credit, so the percentage rate must be adjusted to yield a correct tax credit figure.<sup>1</sup> This adjustment is made by calculating the percentage of the investment qualifying for the tax credit and multiplying it by the percentage tax credit for equipment of similar depreciable life.

The state of Connecticut allows an investment tax credit to be applied against state taxes if the investment occurs in certain depressed areas. Because this credit reduces a tax deductible expense for federal income taxes, the credit must be adjusted to an after-tax basis. The adjustment is made by multiplying the state investment tax

<sup>1</sup>The Revenue Act of 1978 allows an investment tax credit for rehabilitation expenditures in connection with business and productive structures in use at least twenty years since first placed in service or since the last qualifying rehabilitation. Thus, the adjustment described above should be ignored for qualified rehabilitation investments.

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credit by one minus the marginal federal tax rate. The adjusted state credit is then added to the federal credit.<sup>1</sup>

For the Fertilizer Company, the entire investment qualifies for the investment tax credit. If \$150,000 of the investment had not been qualified, only a seven percent credit would be allowed.<sup>2</sup>

If the Fertilizer Company had a depreciation tax life of five years and the entire investment qualified for the investment, only a 6.67 percent credit would be allowed.

7. Income tax rate. The income tax rate to be entered into the program must be the marginal rate—that is, the rate which the firm would pay on an additional dollar of income. The firm must estimate its marginal federal income tax rate and, where applicable, its marginal state and local income tax rates. The state and local tax rates should not include sales tax, inventory tax, charter tax

<sup>1</sup>The formula for determining the investment tax credit in a state having a tax credit is:

$${}^1\text{ITC} = \text{ITC}_{\text{FEDERAL}} + \left[ (1 - \text{Tax Rate}_{\text{FEDERAL}}) * \text{ITC}_{\text{STATE}} \right]$$

This must be multiplied by one hundred for entry into the computer.

<sup>2</sup>Computed as  $\frac{(\$500,000 - \$150,000)}{\$500,000} \times 10\% = 7\%$ .

PROPOSED RULES

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or taxes on property. If any of these taxes are material to the analysis, they should be included in either the investment or operating and maintenance expenditures, as appropriate. Sales tax has already been shown to increase investment while property taxes would be included in operating and maintenance expense.

In most cases involving large firms, the marginal tax rate will be 46 percent.<sup>1</sup> Small corporations and some partnerships or privately owned firms could have lower rates. In many penalty calculations it will be necessary to adjust the state and local tax rates to reflect the fact that the state and local income taxes are also deductible from federal taxes. The steps for calculation are as follows.

<sup>1</sup>As of January 1979. This rate must be adjusted for future changes in the tax laws. The rate applicable to a firm is determined by the amount of taxable income expected in the next year. The ranges of taxable income and the corresponding marginal tax rate are shown below.

| Taxable Income       | Marginal Tax Rate |
|----------------------|-------------------|
| \$0 - \$25,000       | 17%               |
| \$25,000 - \$50,000  | 20%               |
| \$50,000 - \$75,000  | 30%               |
| \$75,000 - \$100,000 | 40%               |
| \$100,000 and above  | 46%               |

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- The marginal federal, state and local income tax rates are determined.
- The adjusted local tax rate given state taxes is computed<sup>1</sup>.
- The local and state tax are adjusted for the federal tax.
- The effective tax rate is computed.

Exhibit II-4 contains a calculation of the tax rate for the Fertilizer Company.

<sup>1</sup>If the local tax is not deductible from the state tax, the numbers should be added.

PROPOSED RULES

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EXHIBIT II-4

CALCULATION OF THE TAX RATE<sup>1</sup>  
FERTILIZER CORPORATION

1. Marginal Federal tax rate. 46%  
2. Marginal State tax rate. 5%  
3. Marginal Local tax rate. 2%

CALCULATION OF ADJUSTED LOCAL TAX

$(1 - \text{State Tax Rate}) \times \text{Local Tax Rate}$   
 $= (1 - .05) \times .02$   
 $= .95 \times .02$   
 $= .019 = \text{Adjusted Local Tax Rate.}$

CALCULATION OF ADJUSTED STATE AND LOCAL TAX

$(1 - \text{Federal Tax Rate}) \times (\text{State Tax Rate} + \text{Adjusted Local Rate})$   
 $= (1 - .46) \times (.05 + .019)$   
 $= .54 \times .069$   
 $= .0373 = \text{Adjusted Local and State Tax.}$

CALCULATION OF TAX RATE

$100 \times (\text{Federal Tax Rate} + \text{Adjusted Local and State Tax})$   
 $= 100 \times (.46 + .0373)$   
 $= 100 \times .4973$   
 $= 49.73 = \text{Tax Rate.}$

<sup>1</sup>This calculation uses Worksheet C in Attachment V.

PROPOSED RULES

8. Inflation rate. This is the estimated future increase in the capital and operating cost of pollution control equipment.<sup>1</sup> The inflation rate to be used in the Fertilizer Company penalty calculation is 8.3 percent. This was the compound rate of increase in the Chemical Engineering Plant Cost Inflation Index for the years 1972-1977.<sup>2</sup>
9. Discount rate. The discount rate is an estimate of the firm's cost of new equity capital. For a manufacturing firm, calculation of the discount rate requires averaging the twenty most recent quarters of the after-tax return on equity as reported for the firm's industry in Table 4 of the Federal Trade Commission's Quarterly Report for Manufacturing, Mining and Trade. Attachment I contains a copy of Table 4 for the year 1977.

<sup>1</sup>Chemical Engineering, McGraw Hill, Inc., April 28, 1975 and subsequent issues. The compound rate of increase is computed as:

$$\left[ \frac{(\text{Index in Final Year})}{(\text{Index in Initial Year})} \right]^{\frac{1}{N}} - 1 \times 100$$

where N equals the number of years between the first and last years.

<sup>2</sup>The inflation rate of 8.3 percent is only applicable to the example described in the manual. Actual penalty determination will require calculation of the inflation rate using the above formula and the past Plant Cost Inflation Indices for the most recent twenty quarters.

EXHIBIT II-5

FERTILIZER COMPANY  
JULY 1978  
AVERAGE RETURN ON EQUITY, CHEMICALS AND ALLIED PRODUCTS

| YEAR     | QUARTER | RETURN % |
|----------|---------|----------|
| 1973     | 1       | 14.4     |
|          | 2       | 15.5     |
|          | 3       | 14.8     |
|          | 4       | 15.5     |
| 1974     | 1       | 18.1     |
|          | 2       | 21.3     |
|          | 3       | 18.9     |
|          | 4       | 14.8     |
| 1975     | 1       | 14.2     |
|          | 2       | 16.2     |
|          | 3       | 15.6     |
|          | 4       | 15.2     |
| 1976     | 1       | 16.6     |
|          | 2       | 17.2     |
|          | 3       | 15.3     |
|          | 4       | 12.8     |
| 1977     | 1       | 14.9     |
|          | 2       | 16.8     |
|          | 3       | 14.8     |
|          | 4       | 13.8     |
| Total:   |         | 316.7    |
| Average: |         | 15.84%   |

The annual rates of return on equity after taxes are reported by the FTC in broad industrial categories. To categorize a firm, the Standard Industrial Classification Manual published by the Office of Management and Budget should be used.

The FTC does not report rates of return on equity for public utilities. For these organizations, the annual percent return on net worth published in the April Monthly Economic Letter, by Citibank (New York) should be used instead. Attachment I includes a table listing this information for 1973 to 1977.

For the Fertilizer Company, the correct category to use is Chemicals and Allied Products. The calculation of the average return on equity for twenty quarters is shown in Exhibit II-5.



PROPOSED RULES

10. Interest rate. The interest rate is the estimated cost of new debt for the firm. Determination of the firm's interest rate requires two steps.

- The quality rating for the firm's bonds is found in Moody's Bond Record. If the firm does not have rated debt, an "A" rating is assumed. If it has more than one issue, that with the highest rating is used.
- The most recent monthly yield reported for bonds of the same rating is found in the Corporate Bond Yield Averages section of the Bond Record.

Bonds are rated by Moody's in a system ranging from a high of "Aaa" to a low of "C". The lowest average yield reported is "Baa"; a firm whose bonds have a rating of "Baa" or lower will use the yield reports for the "Baa" average. The bonds are listed in the Bond Record in alphabetical order by corporation. Convertible bonds are considered in the same manner as all other bonds.

Note that the interest rate is not taken from the so-called coupon rate on the bond. For example, in Table II-1, rates of 9.75 percent and 4.5 percent are listed. These are historical rates which were in effect at the time the bonds were issued. They do not reflect current market rates.

The Bond Record reports a number of different yields. If the firm is a utility, the Public Utility Average is used. If the firm is not a utility, the Industrial Bond average is used.

For the Fertilizer Company, the debt was not rated, so the industrial bond average for "A" bonds is used (8.76). Attachment II contains the average bond yields as reported in a recent issue of the Bond Record.

11. Preferred dividend rate. The method used for determining the preferred dividend rate is identical to that used to select the interest rate. The quality rating of the firm's preferred shares is found in Moody's Bond Record in the Preferred Stock section. If the stock is not rated, an "A" rating is assumed.

Average yields are reported for only "aa", "a", and "baa" preferred stocks issued by utilities. However, these figures should be used for non-utilities as well. If the stock has a rating of "baa" or lower, use the "baa" average yield. Preferred rated "aa" or higher should use the "aa" yield.

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PROPOSED RULES

The latest monthly average is used and entered exactly as shown in the averages. Attachment III contains an example of the Bond Record preferred averages.

The Fertilizer Company's preferred stock is not rated so the yield entered for the penalty calculation is 8.88 percent, the rate found by using the return on "a" rated preferred stock.

12. Preferred stock share of investment. This is the percentage amount of preferred equity in the firm's capital structure. The capital structure of the firm is the dollar amount invested in the firm for periods over one year. Thus it does not include current liabilities or deferred federal income tax.

The preferred share of the investment is calculated using data contained in the firm's five most recent annual reports.<sup>1</sup> The procedure involves the following steps:

<sup>1</sup>This is available either directly from the firm or, for large corporations, in Moody's Industrial Manual. An advantage to using Moody's is that the percent equity is reported and can be used as a check on the calculation.

- The sum of all the firm's equity accounts on each year's balance sheet is added to the total of its long term debt. This total represents the firm's long term financing or its capital structure for that year. It will include paid-in capital, retained earnings, capital surplus, preferred stock and long term debt. If Treasury stock is shown as an asset on the balance sheet, it should be subtracted from the total capital.
- The dollar amount of all preferred stock shown in the equity section of the balance sheet for the year is divided by the total capital found in the previous step. This is the preferred share of the investment for the year.
- The preferred shares for each of the five most recent years are averaged to yield a preferred share for input to the penalty calculation.

13. Equity share of the investment. The sum of all equity accounts not used in the numerator of the preferred stock calculation is the amount of common equity in the capital structure each year. This sum is also divided by the yearly total capital found in step one yielding the equity share of the investment for the year. These figures are then averaged to yield an equity share for input to the penalty calculation.

The sum of the equity share of the investment and the preferred share of the investment cannot be greater than one hundred percent.

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EXHIBIT II-6

CALCULATION OF THE EQUITY AND PREFERRED SHARE OF THE INVESTMENT<sup>1</sup>  
FERTILIZER COMPANY  
(000's)

The first step in obtaining the equity and preferred share of the investment is to sum the equity and long term debt.<sup>2</sup>

|                             |           |
|-----------------------------|-----------|
| 4.5% debentures             | \$ 21,531 |
| 9.7% notes                  | 60,000    |
| Long term lease             | 43,932    |
| Pollution control rev bonds | 46,000    |
| Other long term debt        | 9,230     |
| 4.5% preferred stock        | 22,044    |
| Common stock                | 100,000   |
| Capital surplus             | 58,236    |
| Retained earnings           | 262,799   |
|                             | \$623,772 |
| Less: Treasury Stock        | (477)     |
| Total long term capital     | \$623,295 |

<sup>1</sup>For the purposes of this example, preferred and equity share are calculated for one year only.

<sup>2</sup>Deferred taxes are not included in the calculation of the equity and preferred share of the investment.

PROPOSED RULES

The hypothetical Fertilizer Company has the following balance sheet.

Table II-1  
Fertilizer Company  
Balance Sheet  
December 31, 1978  
(000's)

| Assets                         | 1976      | Liabilities                        | 1976      |
|--------------------------------|-----------|------------------------------------|-----------|
| Cash                           | \$18,881  | Notes payable to bank              | \$122     |
| Marketable Securities          | 60,552    | Accounts payable & accruals        | 54,109    |
| Notes & accts. rec. (net)      | 79,156    | Preferred dividends payable        | 23        |
| Income tax refunds             | 116,940   | Income tax                         | 28,335    |
| Inventories                    | 4,290     | Current maturities long term debt  | 8,929     |
| Prepaid expenses               | 4,290     | TOTAL CURRENT LIABILITIES          | \$91,518  |
| TOTAL CURRENT ASSETS           | \$279,819 |                                    |           |
| Property-plant & equip.        | 828,703   | Deferred fed. income taxes         | 57,663    |
| Less: reserve for depreciation | 423,554   | 4.5% debentures                    | 21,531    |
| NET PROPERTY ACCOUNT           | \$405,149 | 9.7% notes                         | 60,000    |
|                                |           | Long term lease obligation         | 43,932    |
| Const. funds held by trustee   | 3,913     | Pollution control facill.rev.bds.  | 46,000    |
| Other assets                   | 83,495    | Other long term debt               | 9,230     |
|                                |           | 4 1/2% preferred stock (\$100 par) | 22,044    |
|                                |           | Common stock (\$5 par)             | 100,000   |
|                                |           | Capital surplus                    | 58,236    |
|                                |           | Retained earnings                  | 262,799   |
|                                |           | TOTAL STOCKHOLDERS' EQUITY         | \$423,079 |
|                                |           | Less: Treasury Stock               | 477       |
|                                |           | NET STOCKHOLDER'S EQUITY           | \$422,602 |
| TOTAL                          | \$772,376 | TOTAL                              | \$772,376 |

Exhibit II-6 illustrates the calculation of the equity and preferred share of the investment for a single year.

EXHIBIT II-6  
(CONTINUED)

The second step is to divide the preferred stock by the total long term capital.

$$\frac{\text{Preferred stock}}{\text{Total Long Term Capital}} = \frac{22,044}{623,295} = .035 \text{ or } 3.5\%$$

The third step is to sum all common equity accounts.

Do not include the preferred stock. Divide this number by the total long term capital.

|                     |           |
|---------------------|-----------|
| Common Stock        | \$100,000 |
| Capital Surplus     | 58,236    |
| Retained Earnings   | 262,799   |
| Total               | 421,035   |
| Less Treasury Stock | (477)     |
| Total Common Equity | \$420,558 |

$$\frac{\text{Total Common Equity}}{\text{Total Long Term Capital}} = \frac{420,558}{623,295} = .675 \text{ or } 67.5\%$$

Thus, 67.5 percent is the equity share of the investment and 3.5 percent is the preferred share of the investment.

14. Depreciation life in years. This is the number of years over which the firm's pollution control equipment will be depreciated for tax purposes. It is found by taking the lower limit on the asset depreciation range for the appropriate class of assets given in the Internal Revenue Service publication Revenue Procedure 77-10. If the lower limit is greater than ten years, the regulations require that ten years be used. If the lower limit contains a fractional part of a year, the program should be run with the year lower than the fraction. If the rounding reduces the investment tax credit, the depreciation life should be rounded up and the program run again. The calculation giving the lower penalty should be used.

15. The useful life in years. The useful life is used to determine the length of each replacement cycle in the penalty calculation. It is also provided by Revenue Procedure 77-10. Instead of using the lower limit, the asset guideline period is used. If this contains a fractional part of a year the number should be rounded up to the next integer. The useful life must always be greater than or equal to the depreciation life in years.

For the Fertilizer Company example, the "Asset Guideline Period" for chemicals and allied products is used. This is eleven years. Had it been 11.5 years, it would have been rounded up to twelve.

PROPOSED RULES



TABLE 4. ANNUAL RATES OF PROFIT ON STOCKHOLDERS' EQUITY, BY INDUSTRY

| Industry   | Before income taxes (1) |      |      |      |      | After income taxes (2) |      |      |      |      |
|--|-------------------------|------|------|------|------|------------------------|------|------|------|------|
|  | 1973                    | 1974 | 1975 | 1976 | 1977 | 1973                   | 1974 | 1975 | 1976 | 1977 |
| All Manufacturing Corporations                     | 21.0                    | 21.3 | 21.8 | 22.4 | 23.4 | 14.1                   | 14.9 | 15.0 | 15.3 | 15.5 |
| Nonferrous Manufacturing Corporations              | 10.5                    | 10.9 | 11.3 | 11.8 | 12.4 | 6.9                    | 7.3  | 7.4  | 7.7  | 7.9  |
| Food and Kindred Products                          | 21.7                    | 21.8 | 22.4 | 22.9 | 23.7 | 14.1                   | 14.2 | 14.7 | 15.0 | 15.4 |
| Tobacco Manufacturers                              | 27.0                    | 29.5 | 30.1 | 30.1 | 31.5 | 16.4                   | 18.0 | 18.0 | 18.0 | 18.0 |
| Textile Mill Products                              | 9.5                     | 13.2 | 13.4 | 13.8 | 14.4 | 6.1                    | 8.0  | 8.0  | 8.0  | 8.0  |
| Paper and Allied Products                          | 17.4                    | 17.4 | 18.4 | 19.4 | 19.5 | 10.0                   | 11.2 | 11.4 | 11.4 | 11.4 |
| Printing and Publishing                            | 28.1                    | 21.6 | 17.3 | 11.2 | 9.8  | 13.0                   | 12.7 | 12.0 | 12.0 | 12.0 |
| Chemicals and Allied Products                      | 20.0                    | 21.6 | 21.4 | 22.1 | 21.5 | 12.0                   | 12.0 | 12.0 | 12.0 | 12.0 |
| Industrial Chemicals and Synthetics <sup>1/2</sup> | 19.3                    | 22.3 | 24.5 | 14.8 | 17.2 | 11.0                   | 11.7 | 12.0 | 12.0 | 12.0 |
| Drugs <sup>1/2</sup>                               | 23.5                    | 24.5 | 29.6 | 28.0 | 27.1 | 16.5                   | 16.6 | 16.6 | 16.6 | 16.6 |
| Petroleum and Coal Products                        | 18.5                    | 18.6 | 21.0 | 19.4 | 19.5 | 11.0                   | 11.0 | 11.0 | 11.0 | 11.0 |
| Rubber and Miscellaneous Plastic Products          | 22.5                    | 21.4 | 20.1 | 18.4 | 17.2 | 11.5                   | 12.0 | 12.0 | 12.0 | 12.0 |
| Other Miscellaneous Manufacturing Corporations     | 21.9                    | 21.0 | 21.3 | 20.9 | 20.5 | 11.5                   | 10.6 | 10.6 | 10.6 | 10.6 |
| Durable Manufacturing Corporations                 | 21.6                    | 21.7 | 21.4 | 21.4 | 21.0 | 11.0                   | 11.0 | 11.0 | 11.0 | 11.0 |
| Stone, Clay and Glass Products                     | 17.5                    | 10.1 | 21.2 | 21.1 | 22.3 | 11.1                   | 5.1  | 12.0 | 12.0 | 12.0 |
| Primary Metal Industries                           | 8.7                     | 7.2  | 13.9 | -3.1 | 7.9  | 7.3                    | 3.1  | 6.0  | 6.0  | 6.0  |
| Iron and steel <sup>1/2</sup>                      | 10.0                    | 4.6  | 12.4 | -8.6 | 6.5  | 7.9                    | 3.3  | 6.0  | 6.0  | 6.0  |
| Nonferrous metal <sup>1/2</sup>                    | 6.3                     | 12.0 | 14.6 | 8.0  | 5.2  | 6.1                    | 11.1 | 1.1  | 1.1  | 1.1  |
| Fabricated metal products                          | 22.0                    | 21.3 | 21.5 | 20.7 | 23.1 | 12.9                   | 13.7 | 13.8 | 13.8 | 13.8 |
| Machinery, except electrical                       | 24.2                    | 24.2 | 29.2 | 24.7 | 28.1 | 13.5                   | 14.8 | 14.8 | 14.8 | 14.8 |
| Electrical and Electronic Equipment                | 23.5                    | 23.2 | 28.7 | 26.2 | 28.7 | 12.5                   | 12.5 | 12.5 | 12.5 | 12.5 |
| Transportation Equipment                           | 21.3                    | 10.9 | 34.4 | 20.5 | 28.2 | 13.4                   | 18.6 | 22.1 | 22.1 | 22.1 |
| Motor vehicles and equipment <sup>1/2</sup>        | 27.3                    | 34.5 | 40.5 | 18.4 | 31.0 | 16.8                   | 21.6 | 24.5 | 24.5 | 24.5 |
| Aircraft, guided missiles and parts <sup>1/2</sup> | 21.0                    | 21.4 | 28.1 | 26.1 | 24.3 | 12.0                   | 15.0 | 16.1 | 16.1 | 16.1 |
| Instrument and Related Products                    | 31.8                    | 24.3 | 28.4 | 29.4 | 32.7 | 13.9                   | 15.0 | 15.5 | 15.5 | 15.5 |
| Other Durable Manufacturing Corporations           | 27.9                    | 20.6 | 25.0 | 22.0 | 22.0 | 11.8                   | 12.8 | 12.8 | 12.8 | 12.8 |
| All Mining Corporations                            | 22.2                    | 21.6 | 22.0 | 22.0 | 22.0 | 13.4                   | 13.4 | 13.4 | 13.4 | 13.4 |
| All Retail Trade Corporations                      | 33.2                    | 20.7 | 28.7 | 19.4 | 34.3 | 21.0                   | 11.7 | 20.3 | 20.3 | 20.3 |
| All Wholesale Trade Corporations                   | 21.5                    | 21.7 | 28.4 | 28.9 | 20.6 | 14.9                   | 15.7 | 15.5 | 15.5 | 15.5 |

<sup>1/2</sup> Included in major industry shows.  
<sup>1/3</sup> Based on profit figure which includes net income (loss) of foreign branches and equity in earnings (losses) of non-consolidated subsidiaries, net of foreign taxes.  
<sup>1/4</sup> See footnotes to Table A-1, E.

PROPOSED RULES

UTILITY AFTER-TAX RETURN ON EQUITY  
(PERCENT)

|      |      |      |
|------|------|------|
| 1977 | 11.7 | 12.7 |
| 1976 | 11.5 | 11.5 |
| 1975 | 11.6 | 9.9  |
| 1974 | 10.0 | 9.8  |
| 1973 | 10.7 | 10.5 |

Source: Monthly Economic Letter, Citibank, New York, April 1978 and April issues of prior years.

MOODY'S CORPORATE BOND YIELD AVERAGE  
FOR FERTILIZER COMPANY 8.76

Moody's Corporate Bond Yield Averages

| Year | Jan  | Feb  | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct  | Nov  | Dec  |
|------|------|------|------|------|------|------|------|------|------|------|------|------|
| 1973 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |
| 1974 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |
| 1975 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |
| 1976 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |
| 1977 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |
| 1978 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |
| 1979 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 | 8.76 |

MOODY'S PUBLIC UTILITY PREFERRED STOCK YIELD AVERAGE  
FOR FERTILIZER COMPANY 8.88

Moody's Public Utility Preferred Stock Yield Averages

| Year | Jan  | Feb  | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct  | Nov  | Dec  |
|------|------|------|------|------|------|------|------|------|------|------|------|------|
| 1973 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |
| 1974 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |
| 1975 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |
| 1976 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |
| 1977 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |
| 1978 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |
| 1979 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 | 8.88 |

Moody's Public Utility Preferred Stock Yield Averages are based on prices for the last Friday of each month. These are "net" averages because of 100% growth of price-quality preferred stock. Yields are shown in percent.



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Attachment IV

This attachment is IRS Revenue Procedure 77-10.

Department of the  
Treasury



# Revenue Procedure 77-10 Administrative, Procedural, and Miscellaneous

Reprinted from Internal Revenue Bulletin No. 12,  
dated March 21, 1977

26 CFR 601.105: Examination of returns  
and claims for refund, credit, or abate-  
ment; determination of correct tax liability.

## Rev. Proc. 77-10

### SECTION 1. PURPOSE.

.01 The purpose of this Revenue Procedure is to restate, pursuant to sections 167(m) and 263(f) of the Internal Revenue Code of 1954, with certain substantive modifications as noted below, the asset guideline classes, asset guideline depreciation periods and ranges, and annual asset guideline repair allowance percentages for the Class Life Asset Depreciation Range (CLADR) System.

.02 This Revenue Procedure supercedes Rev. Proc. 72-10, 1972-1 C.B. 721, and the supplements and revisions of the asset guideline classes, periods, and repair allowance percentages published since the publication of Rev. Proc. 72-10. These Revenue Procedures are as follows:

- 73-2, 1973-1 C.B. 747
- 73-3, 1973-1 C.B. 749
- 73-23, 1973-2 C.B. 474
- 73-24, 1973-2 C.B. 475
- 73-25, 1973-2 C.B. 477
- 73-26, 1973-2 C.B. 479
- 73-27, 1973-2 C.B. 480
- 73-28, 1973-2 C.B. 482
- 73-30, 1973-2 C.B. 484
- 74-27, 1974-2 C.B. 480
- 74-28, 1974-2 C.B. 481
- 74-29, 1974-2 C.B. 482
- 74-30, 1974-2 C.B. 483
- 74-31, 1974-2 C.B. 487
- 74-32, 1974-2 C.B. 487
- 74-37, 1974-2 C.B. 491
- 74-50, 1974-2 C.B. 506
- 76-16, 1976-1 C.B. 556
- 76-17, 1976-1 C.B. 557
- 76-18, 1976-1 C.B. 559
- 76-27, 1976-2 C.B. 644
- 76-37, 1976-2 C.B. 659
- 77-2, 1977-3 I.R.B. 24
- 77-3, 1977-3 I.R.B. 24
- 77-8, 1977-10 I.R.B. 12

.03 In addition, certain changes are made in the numbering system of asset guideline classes to facilitate the understanding and use of the CLADR system.

Broad title headings and asset guideline class number designations for sev-

eral related guideline classes have been deleted wherever feasible to eliminate confusion over the appropriate asset guideline class number designations.

The asset guideline classes for "Office Furniture, Fixtures, and Equipment," "Information System," and "Data Handling Equipment, except Computers," were established in Rev. Proc. 73-2 as asset guideline classes 70.11, 70.12, and 70.13, respectively. These classes have been redesignated asset guideline classes 00.11, 00.12, and 00.13, respectively. In addition, the asset guideline class for Industrial Steam and Electric Generation and Distribution Systems, designated asset guideline class 49.5, has been redesignated asset guideline class 00.4. The redesignations group these asset guideline classes with certain other asset guideline classes by types of depreciable assets rather than by the activity or the product of an activity.

.04 Numerous changes and modifications have been made to the language of the asset guideline class descriptions. These changes are not intended to modify the composition of the existing classes of Rev. Proc. 72-10.

.05 The following substantive modifications of the classes of Rev. Proc. 72-10 have been made:

- (i) Assets used in the ginning of cotton have been reclassified from class 39.0 to class 01.1.
- (ii) Assets used by plumbing contractors have been reclassified from class 70.2 to class 15.1.
- (iii) The description of assets included in class 15.2, "Marine Contract Construction," has been modified to be consistent with Rev. Proc. 66-18, 1966-1 C.B. 646.
- (iv) Subclass 49.121, "Electric Utility Nuclear Fuel Assemblies," is part of class 49.12, "Electric Utility Nuclear Production Plant," to which it is related. Assets included in subclass 49.121 are not separately subject to possible exclusion from an election to apply section 1.167(a)-11(b)(5)(v) of the regulations. See Section 2.02(i) of this Revenue Procedure.

### SEC. 2. RULE OF APPLICATION

.01 The asset guideline classes, as-

set guideline periods and ranges, and annual asset guideline repair allowances percentages set forth are for use under the rules set forth in section 1.167(a)-11 of the Income Tax Regulations.

.02 It should be noted that the following special rules apply as specified:

(i) It is expressly provided that asset guideline classes and subclasses 00.4, 20.5, 30.11, 30.21, 32.11, 33.11, 33.21, 34.01, 35.11, 35.21, 36.11, 37.12, 37.32, 37.33, and 49.121 are part of existing activity classes to which the assets included in them relate as stated in the Revenue Procedures establishing these subclasses; therefore, assets included in these classes and subclasses are not separately subject to possible exclusion from an election to apply section 1.167(a)-11(b)(5)(v) of the regulations.

(ii) "Service assets," as defined in classes 50.1 and 70.21, the cost of which is properly deductible under section 162 of the Code, are not eligible property under the CLADR system. Further, service assets may be treated as mass assets as defined in section 1.47-1(e)(4) of the regulations. Service assets may be depreciated under a method not described in section 167(b)(1), (2), or (3), if the requirements of section 1.167(a)-11(b)(5)(v) are met.

(iii) If the asset guideline class repair allowance for class 32.1 is elected in accordance with section 1.167(a)-11(d)(2)(ii) of the regulations, "cold tank repairs," including refractory relining expenditures to glass furnaces, shall be treated as deductible repairs within the provisions, and limitations of section 1.167(a)-11(d)(2)(iv)(a) dealing with the application of the asset guideline class repair allowance.

(iv) General rebuilding or rehabilitation costs for the special tools defined in class 30.11 that have been traditionally capitalized as the cost of a new asset are included in class 30.11.

(v) Asset guideline class 00.3, "Land Improvements," includes "other tangible property" that qualifies under section 1.48-1(d) of the regulations. However, a structure that is essentially an item of machinery or equip-



ment or a structure that houses property used as an integral part of an activity specified in section 48(a)(1)(B)(i) of the Code, if the use of the structure is so closely related to the use of the property that the structure clearly can be expected to be replaced when the property it initially houses is replaced, is included in the asset guideline class appropriate to the equipment to which it is related.

.03 Property that is used predominantly outside the United States may be eligible property if the requirements of section 1.167(a)-11(b)(2) of the regulations are met. In the case of property first placed in service and used predominantly outside the United States during the taxable year of election, an asset guideline period, but no asset depreciation range is in effect. Accordingly, such property shall not be treated as included in the same asset guideline class as property used

predominantly inside the United States, for purposes of determining the asset depreciation period under section 1.167(a)-11(b)(4). Thus, for this purpose each asset guideline class described in this Revenue Procedure has an exact counterpart that consists of property otherwise includable within the class, but used predominantly outside the United States during the taxable year of election. Generally, for this purpose property is used predominantly outside the United States if such property is physically located outside the United States during more than 50 percent of days of the taxable year of election, beginning with the date the property is first placed in service. However, there are ten exceptions to this general rule and these are contained in section 48(a)(2) of the Code. The asset depreciation period for property, which is determined in the taxable year of election,

will not be changed because of a change in predominant use after the close of such taxable year. Although treated as in a separate class for purposes of determining the asset depreciation period, property predominantly used outside the United States shall be included in the same asset guideline class as property predominantly used inside the United States for purposes of applying the asset guideline class repair allowance under section 1.167(a)-11(d)(2).

SEC. 3. ASSET GUIDELINE CLASSES AND PERIODS, ASSET DEPRECIATION RANGES, AND ANNUAL ASSET GUIDELINE REPAIR ALLOWANCE PERCENTAGES.

The asset guideline classes, asset guideline periods, asset depreciation ranges, and annual asset guideline repair allowance percentages are prescribed as set forth below:

| Asset guideline class | Description of assets included | Asset depreciation range (in years) |                        |             | Annual asset guideline repair allowance percentage |
|-----------------------|--------------------------------|-------------------------------------|------------------------|-------------|--|
|                       |                                | Lower limit                         | Asset guideline period | Upper limit |  |

SPECIFIC DEPRECIABLE ASSETS USED IN ALL BUSINESS ACTIVITIES, EXCEPT AS NOTED:

00.11 Office Furniture, Fixtures, and Equipment:

Includes furniture and fixtures which are not a structural component of a building. Includes such assets as desks, files, safes, and communications equipment. Does not include communications equipment that is included in other CLADR classes

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00.12 Information Systems:

Includes computers and their peripheral equipment used in administering normal business transactions and the maintenance of business records, their retrieval and analysis.

Information systems are defined as:

1) Computers: A computer is an electronically activated device capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention. It usually consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities. Excluded from this category are adding machines, electronic desk calculators, etc.

2) Peripheral equipment consists of the auxiliary machines which may be placed under control of the central processing unit. Non limiting examples are: Card readers, card punches, magnetic tape feeds, high speed printers, optical character readers, tape cassettes, mass storage units, paper tape equipment, keypunches, data entry devices, teleprinters, terminals, tape drives, disc drives, disc files, disc packs, visual image projector tubes, card sorters, plotters, and collators. Peripheral equipment may be used on-line or off-line.

| Asset guideline class | Description of assets included   | Asset depreciation range (in years) |                        |             | Annual asset guideline repair allowance percentage |
|-----------------------|--|-------------------------------------|------------------------|-------------|--|
|                       |  | Lower limit                         | Asset guideline period | Upper limit |  |
|                       | Does not include equipment that is an integral part of other capital equipment and which is included in other CLADR classes of economic activity, i.e., computers used primarily for process or production control, switching and channeling   | 5                                   | 6                      | 7           | 7.5  |
| 00.13                 | <b>Data Handling Equipment, except Computers:</b><br>Includes only typewriters, calculators, adding and accounting machines, copiers, and duplicating equipment  | 5                                   | 6                      | 7           | 15   |
| 00.21                 | <b>Airplanes (airframes and engines),</b> except those used in commercial or contract carrying of passengers or freight, and all helicopters (airframes and engines)   | 5                                   | 6                      | 7           | 14   |
| 00.22                 | <b>Automobiles, Taxis</b>  | 2.5                                 | 3                      | 3.5         | 16.5   |
| 00.23                 | <b>Buses</b>   | 7                                   | 9                      | 11          | 11.5   |
| 00.241                | <b>Light General Purpose Trucks:</b><br>Includes trucks for use over the road (actual unloaded weight less than 13,000 pounds)   | 3                                   | 4                      | 5           | 16.5   |
| 00.242                | <b>Heavy General Purpose Trucks:</b><br>Includes heavy general purpose trucks, concrete ready-mix truckers, and ore trucks, for use over the road (actual unloaded weight 13,000 pounds or more)   | 5                                   | 6                      | 7           | 10   |
| 00.25                 | <b>Railroad Cars and Locomotives,</b> except those owned by railroad transportation companies  | 12                                  | 15                     | 18          | 8  |
| 00.26                 | <b>Tractor Units For Use Over-The-Road</b>   | 3                                   | 4                      | 5           | 16.5   |
| 00.27                 | <b>Trailers and Trailer-Mounted Containers</b>   | 5                                   | 6                      | 7           | 10   |
| 00.28                 | <b>Vessels, Barges, Tugs, and Similar Water Transportation Equipment,</b> except those used in marine contract construction  | 14.5                                | 18                     | 21.5        | 6  |
| 00.3                  | <b>Land Improvements:</b><br>Includes improvements directly to or added to land, whether such improvements are section 1245 property or section 1250 property, provided such improvements are depreciable. Examples of such assets might include sidewalks, roads, canals, waterways, drainage facilities, sewers, wharves and docks, bridges, fences, landscaping, shrubbery, or radio and television transmitting towers. Does not include land improvements that are explicitly included in any other class, and buildings and structural components as defined in section 1.48-1(e) of the regulations. Excludes public utility initial clearing and grading land improvements as specified in Rev. Rul. 72-403, 1972-2 C.B. 102.  |                                     | 20                     |             |  |
| 00.4                  | <b>Industrial Steam and Electric Generation and/or Distribution Systems:</b><br>Includes assets, whether such assets are section 1245 property or 1250 property, providing such assets are depreciable, used in the production and/or distribution of electricity with rated total capacity in excess of 500 Kilowatts and/or assets used in the production and/or distribution of steam with rated total capacity in excess of 12,500 pounds per hour, for use by the taxpayer in his industrial manufacturing process or plant activity and not ordinarily available for sale to others. Does not include buildings and structural components as defined in section 1.48-1(e) of the regulations. Assets used to generate and/or distribute electricity or steam of the type described above of lesser rated capacity are not included, but are included in the appropriate manufacturing equipment classes elsewhere specified. |                                     |                        |             |  |



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| Asset<br>guide-<br>line<br>class                            | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|---|--|--|------------------------------|----------------|---|
|   |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|   | Steam and chemical recovery boiler systems used for the recovery and regeneration of chemicals used in manufacturing, with rated capacity in excess of that described above, with specifically related distribution and return systems are not included but are included in appropriate manufacturing equipment classes elsewhere specified. An example of an excluded steam and recovery boiler system is that used in the pulp and paper manufacturing industry -----                                    | 22.5                                   | 28                           | 33.5           | 2.5   |
| <b>DEPRECIABLE ASSETS USED IN THE FOLLOWING ACTIVITIES:</b> |  |  |                              |                |   |
| 01.1  | <b>Agriculture:</b><br>Includes machinery and equipment, grain bins, and fences but no other land improvements, that are used in the production of crops or plants, vines, and trees; livestock; the operation of farm dairies, nurseries, greenhouses, sod farms, mushroom cellars, cranberry bogs, apiaries, and fur farms; the performance of agricultural, animal husbandry, and horticultural services -----  | 8                                      | 10                           | 12             | 11  |
| 01.11   | <b>Cotton Ginning Assets</b> -----   | 9.5                                    | 12                           | 14.5           | 5.5   |
| 01.21   | <b>Cattle, Breeding or Dairy</b> -----   | 5.5                                    | 7                            | 8.5            |   |
| 01.22   | <b>Horses, Breeding or Work</b> -----  | 8                                      | 10                           | 12             |   |
| 01.23   | <b>Hogs, Breeding</b> -----  | 2.5                                    | 3                            | 3.5            |   |
| 01.24   | <b>Sheep and Goats, Breeding</b> -----   | 4                                      | 5                            | 6              |   |
| 01.3  | <b>Farm Buildings</b> -----  | 20                                     | 25                           | 30             | 5   |
| 10.0  | <b>Mining:</b><br>Includes assets used in the mining and quarrying of metallic and non-metallic minerals (including sand, gravel, stone, and clay) and the milling, beneficiation and other primary preparation of such materials --   | 8                                      | 10                           | 12             | 6.5   |
| 13.1  | <b>Drilling of Oil and Gas Wells:</b><br>Includes assets used in the drilling of onshore oil and gas wells and the provisions of geophysical and other exploration services; and the provision of such oil and gas field services as chemical treatment, plugging and abandoning of wells and cementing or perforating well casings. Does not include assets used in the performance of any of these activities and services by integrated petroleum and natural gas producers for their own account ----- | 5                                      | 6                            | 7              | 10  |
| 13.2  | <b>Exploration for and Production of Petroleum and Natural Gas Deposits:</b><br>Includes assets used by petroleum and natural gas producers for drilling of wells and production of petroleum and natural gas, including gathering pipelines and related storage facilities -----  | 11                                     | 14                           | 17             | 4.5   |
| 13.3  | <b>Petroleum Refining:</b><br>Includes assets used for the distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and its other components ----  | 13                                     | 16                           | 19             | 7   |
| 13.4  | <b>Marketing of Petroleum and Petroleum Products:</b><br>Includes assets used in marketing petroleum and petroleum products, such as related storage facilities and complete service stations, but not including any of these facilities related to petroleum and natural gas trunk pipelines -----  | 13                                     | 16                           | 19             | 4   |

| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 15.1                             | <b>Contract Construction Other than Marine:</b><br>Includes assets used by general building, special trade, and heavy construction contractors. Does not include assets used by companies in performing construction services for their own account -----   | 4                                      | 5                            | 6              | 12.5  |
| 15.2                             | <b>Marine Contract Construction:</b><br>Includes assets used by general building, special trade, and heavy construction contractors predominantly in marine construction work. Does not include assets used by companies in performing marine construction services for their own account except for floating, self-propelled, and other drilling platforms and support vessels used in offshore drilling for oil and gas which are included whether used for their own account or others -----   | 9.5                                    | 12                           | 14.5           | 5   |
| 20.1                             | <b>Manufacture of Grain and Grain Mill Products:</b><br>Includes assets used in the production of flours, cereals, livestock feeds, and other grain and grain mill products -----   | 13.5                                   | 17                           | 20.5           | 6   |
| 20.2                             | <b>Manufacture of Sugar and Sugar Products:</b><br>Includes assets used in the production of raw sugar, syrup, or finished sugar from sugar cane or sugar beets -----   | 14.5                                   | 18                           | 21.5           | 4.5   |
| 20.3                             | <b>Manufacture of Vegetable Oils and Vegetable Oil Products:</b><br>Includes assets used in the production of oil from vegetable materials and the manufacture of related vegetable oil products -----  | 14.5                                   | 18                           | 21.5           | 3.5   |
| 20.4                             | <b>Manufacture of Other Food and Kindred Products:</b><br>Includes assets used in the production of foods and beverages not included in classes 20.1, 20.2 and 20.3 -----   | 9.5                                    | 12                           | 14.5           | 5.5   |
| 20.5                             | <b>Manufacture of Food and Beverages-Special Handling Devices:</b><br>Includes assets defined as specialized materials handling devices such as returnable pallets, palletized containers, and fish processing equipment including boxes, baskets, carts, and flaking trays used in activities as defined in classes 20.1, 20.2, 20.3, 20.4. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices -----  | 3                                      | 4                            | 5              | 20  |
| 21.0                             | <b>Manufacture of Tobacco and Tobacco Products:</b><br>Includes assets used in the production of cigarettes, cigars, smoking and chewing tobacco, snuff, and other tobacco products -----   | 12                                     | 15                           | 18             | 5   |
| 22.1                             | <b>Manufacture of Knitted Goods:</b><br>Includes assets used in the production of knitted and netted fabrics and lace. Assets used in yarn preparation, bleaching, dyeing, printing, and other similar finishing processes, texturing, and packaging, are elsewhere classified -----  | 6                                      | 7.5                          | 9              | 7   |
| 22.2                             | <b>Manufacture of Yarn, Thread, and Woven Fabric:</b><br>Includes assets used in the production of spun yarns including the preparing, blending, spinning, and twisting of fibers into yarns and threads, the preparation of yarns such as twisting, warping, and winding, the production of covered elastic yarn and thread, cordage, woven fabric, tire fabric, braided fabric, twisted jute for packing, mattresses, pads, sheets, and industrial belts, and the processing of textile mill waste to recover fibers, flocks, and shoddies. Assets used to manufacture carpets, man-made fibers, and nonwovens, and assets used in texturing, bleach- |  |                              |                |   |



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PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | ing, dyeing, printing, and other similar finishing processes, are elsewhere classified -----   | 9                                      | 11                           | 13             | 16  |
| 22.3                             | <b>Manufacture of Carpets, and Dyeing, Finishing, and Packaging of Textile Products:</b><br>Includes assets used in the production of carpets, rugs, mats, woven carpet backing, chenille, and other tufted products, and assets used in the joining together of backing with carpet yarn or fabric. Includes assets used in washing, scouring, bleaching, dyeing, printing, drying, and similar finishing processes applied to textile fabrics, yarns, threads, and other textile goods. Includes assets used in the production and packaging of textile products, other than apparel, by creasing, forming, trimming, cutting, and sewing, such as the preparation of carpet and fabric samples, or similar joining together processes (other than the production of scrim reinforced paper products and laminated paper products) such as the sewing and folding of hosiery and panty hose, the creasing, folding, trimming, and cutting of fabrics to produce non-woven products, such as disposable diapers and sanitary products. Assets used in the manufacture of nonwoven carpet backing, and hard surface floor covering such as tile, rubber, and cork, are elsewhere classified -----                      | 7                                      | 9                            | 11             | 15  |
| 22.4                             | <b>Manufacture of Textured Yarns:</b><br>Includes assets used in the processing of yarns to impart bulk and/or stretch properties to the yarn. The principal machines involved are false-twist, draw, beam-to-beam, and stuffer box texturing equipment and related high-speed twisters and winders. Assets, as described above, which are used to further process man-made fibers are elsewhere classified when located in the same plant in an integrated operation with man-made fiber producing assets. Assets used to manufacture man-made fibers and assets used in bleaching, dyeing, printing, and other similar finishing processes, are elsewhere classified -----   | 6.5                                    | 8                            | 9.5            | 7   |
| 22.5                             | <b>Manufacture of Nonwoven Fabrics:</b><br>Includes assets used in the production of nonwoven fabrics, felt goods including felt hats, padding, batting, wadding, oakum, and fillings, from new materials and from textile mill waste. Nonwoven fabrics are defined as fabrics (other than reinforced and laminated composites consisting of nonwovens and other products) manufactured by bonding natural and/or synthetic fibers and/or filaments by means of induced mechanical interlocking, fluid entanglement, chemical adhesion, thermal or solvent reaction, or by combination thereof other than natural hydration bonding as occurs with natural cellulose fibers. Such means include resin bonding, web bonding, and melt bonding. Specifically includes assets used to make flocked and needle punched products other than carpets and rugs. Assets, as described above, which are used to manufacture nonwovens are elsewhere classified when located in the same plant in an integrated operation with man-made fiber producing assets. Assets used to manufacture man-made fibers and assets used in bleaching, dyeing, printing, and other similar finishing processes, are elsewhere classified ----- | 8                                      | 10                           | 12             | 15  |
| 23.0                             | <b>Manufacture of Apparel and Other Finished Products:</b><br>Includes assets used in the production of clothing and fabricated textile products by the cutting and sewing of woven fabrics, other   |  |                              |                |   |

PROPOSED RULES

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| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | textile products, and furs, but does not include assets used in the manufacture of apparel from rubber and leather -----   | 7                                      | 9                            | 11             | 7   |
| 24.1                             | <b>Cutting of Timber:</b><br>Includes logging machinery and equipment and roadbuilding equipment used by logging and sawmill operators and pulp manufacturers for their own account -----  | 5                                      | 6                            | 7              | 10  |
| 24.2                             | <b>Sawing of Dimensional Stock from Logs:</b><br>Includes machinery and equipment installed in permanent or well-established sawmills -----  | 8                                      | 10                           | 12             | 6.5   |
| 24.3                             | <b>Sawing of Dimensional Stock from Logs:</b><br>Includes machinery and equipment installed in sawmills characterized by temporary foundations and a lack, or minimum amount, of lumber-handling, drying, and residue disposal equipment and facilities -----  | 5                                      | 6                            | 7              | 10  |
| 24.4                             | <b>Manufacture of Wood Products, and Furniture:</b><br>Includes assets used in the production of plywood, hardboard, flooring, veneers, furniture, and other wood products, including the treatment of poles and timber -----  | 8                                      | 10                           | 12             | 6.5   |
| 26.1                             | <b>Manufacture of Pulp and Paper:</b><br>Includes assets for pulp materials handling and storage, pulp mill processing, bleach processing, paper and paperboard manufacturing, and on-line finishing. Includes pollution control assets and all land improvements associated with the factory site or production process such as effluent ponds and canals, provided such improvements are depreciable but does not include buildings and structural components as defined in section 148-1(e)(1) of the regulations. Includes steam and chemical recovery boiler systems, with any rated capacity, used for the recovery and regeneration of chemicals used in manufacturing. Does not include assets used either in pulpwood logging, or in the manufacture of hardboard ----- | 10.5                                   | 13                           | 15.5           | 10  |
| 26.2                             | <b>Manufacture of Converted Paper, Paperboard, and Pulp Products:</b><br>Includes assets used for modification, or remanufacture of paper and pulp into converted products, such as paper coated off the paper machine, paper bags, paper boxes, cartons and envelopes. Does not include assets used for manufacture of non-wovens that are elsewhere classified -----   | 8                                      | 10                           | 12             | 15  |
| 27.0                             | <b>Printing, Publishing, and Allied Industries:</b><br>Includes assets used in printing by one or more processes, such as letterpress, lithography, gravure, or screen; the performance of services for the printing trade, such as book-binding, typesetting, engraving, photo-engraving, and electrotyping; and the publication of newspapers, books, and periodicals -----  | 9                                      | 11                           | 13             | 5.5   |
| 28.0                             | <b>Manufacture of Chemicals and Allied Products:</b><br>Includes assets used in the manufacture of basic chemicals such as acids, alkalies, salts, and organic and inorganic chemicals; chemical products to be used in further manufacture, such as synthetic fibers and plastics materials, including petrochemical processing beyond that which is ordinarily a part of petroleum refining; and finished chemical products, such as pharmaceuticals, cosmetics, soaps, fertilizers, paints and varnishes, explosives, and compressed and liquified gases. Does  |  |                              |                |   |



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PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | not include assets used in the manufacture of finished rubber and plastic products or in the production of natural gas products, butane, propane, and byproducts of natural gas production plants -----   | 9                                      | 11                           | 13             | 5.5   |
| 30.1                             | <b>Manufacture of Rubber Products:</b><br>Includes assets used for the production of products from natural, synthetic, or reclaimed rubber, gutta percha, balata, or gutta siak, such as tires, tubes, rubber footwear, mechanical rubber goods, heels and soles, flooring, and rubber sundries; and in the recapping, retreading, and rebuilding of tires -----  | 11                                     | 14                           | 17             | 5   |
| 30.11                            | <b>Manufacture of Rubber Products—Special Tools and Devices:</b><br>Includes assets defined as special tools, such as jigs, dies, mandrels, molds, lasts, patterns, specialty containers, pallets, shells, and tire molds, and accessory parts such as rings and insert plates used in activities as defined in class 30.1. Does not include tire building drums and accessory parts and general purpose small tools such as wrenches and drills, both power and hand-driven, and other general purpose equipment such as conveyors and transfer equipment -----  | 3                                      | 4                            | 5              |   |
| 30.2                             | <b>Manufacture of Finished Plastic Products:</b><br>Includes assets used in the manufacture of plastics products and the molding of primary plastics for the trade. Does not include assets used in the manufacture of basic plastics materials nor the manufacture of phonograph records -----   | 9                                      | 11                           | 13             | 5.5   |
| 30.21                            | <b>Manufacture of Finished Plastic Products—Special Tools:</b><br>Includes assets defined as special tools, such as jigs, dies, fixtures, molds, patterns, gauges, and specialty transfer and shipping devices, used in activities as defined in class 30.2. Special tools are specifically designed for the production or processing of particular parts and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular part produced by the special tools. Does not include general purpose small tools, such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices ----- | 3                                      | 3.5                          | 4              | 5.5   |
| 31.0                             | <b>Manufacture of Leather and Leather Products:</b><br>Includes assets used in the tanning, currying, and finishing of hides and skins; the processing of fur pelts; and the manufacture of finished leather products, such as footwear, belting, apparel, and luggage -----  | 9                                      | 11                           | 13             | 5.5   |
| 32.1                             | <b>Manufacture of Glass Products:</b><br>Includes assets used in the production of flat, blown, or pressed products of glass, such as float and window glass, glass containers, glassware and fiberglass. Does not include assets used in the manufacture of lenses -----   | 11                                     | 14                           | 17             | 12  |
| 32.11                            | <b>Manufacture of Glass Products—Special Tools:</b><br>Includes assets defined as special tools such as molds, patterns, pallets, and specialty transfer and shipping devices such as steel racks to transport automotive glass, used in activities as defined in class 32.1. Special tools are specifically designed for the production or processing of particular parts and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are  |  |                              |                |   |

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| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | made in the model design of the particular part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices -----  | 2                                      | 2.5                          | 3              | 10  |
| 32.2                             | <b>Manufacture of Cement:</b><br>Includes assets used in the production of cement, but does not include any assets used in the manufacture of concrete and concrete products nor in any mining or extraction process -----  | 16                                     | 20                           | 24             | 3   |
| 32.3                             | <b>Manufacture of Other Stone and Clay Products:</b><br>Includes assets used in the manufacture of products from materials in the form of clay and stone, such as brick, tile, and pipe; pottery and related products, such as vitreous-china, plumbing fixtures, earthenware and ceramic insulating materials; and also includes assets used in manufacture of concrete and concrete products. Does not include assets used in any mining or extraction processes -----  | 12                                     | 15                           | 18             | 4.5   |
| 33.1                             | <b>Manufacture of Primary Ferrous Metals:</b><br>Includes assets used in the smelting and refining of ferrous metals from ore, pig, or scrap, the rolling, drawing, and alloying of ferrous metals; the manufacture of castings, forgings, and other basic products of ferrous metals; and the manufacture of nails, spikes, structural shapes, tubing, wire, and cable -----   | 14.5                                   | 18                           | 21.5           | 8   |
| 33.11                            | <b>Manufacture of Primary Ferrous Metals—Special Tools:</b><br>Includes assets defined as special tools such as dies, jigs, molds, patterns, fixtures, gauges, and drawings concerning such special tools used in the activities as defined in class 33.1, manufacture of Primary Ferrous Metals. Special tools are specifically designed for the production or processing of particular products or parts and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices. Rolls, mandrels, and refractories are not included in class 33.11 but are included in class 33.1 ----- | 5                                      | 6.5                          | 8              | 4   |
| 33.2                             | <b>Manufacture of Primary Nonferrous Metals:</b><br>Includes assets used in the smelting, refining, and electrolysis of nonferrous metals from ore, pig, or scrap, the rolling, drawing, and alloying of nonferrous metals; the manufacture of castings, forgings, and other basic products of nonferrous metals; and the manufacture of nails, spikes, structural shapes, tubing, wire, and cable -----  | 11                                     | 14                           | 17             | 4.5   |
| 33.21                            | <b>Manufacture of Primary Nonferrous Metals—Special Tools:</b><br>Includes assets defined as special tools such as dies, jigs, molds, patterns, fixtures, gauges, and drawings concerning such special tools used in the activities as defined in class 33.2, Manufacture of Primary Nonferrous Metals. Special tools are specifically designed for the production or processing of particular products or parts and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particu-   |  |                              |                |   |



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PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | lar part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices. Rolls, mandrels, and refractories are not included in class 33.21 but are included in class 33.2 -----   | 5                                      | 6.5                          | 8              | 4   |
| 34.0                             | <b>Manufacture of Fabricated Metal Products:</b><br>Includes assets used in the production of metal cans, tinware, non-electric heating apparatus, fabricated structural metal products, metal stampings, and other ferrous and nonferrous metal and wire products not elsewhere classified -----   | 9.5                                    | 12                           | 14.5           | 6   |
| 34.01                            | <b>Manufacture of Fabricated Metal Products—Special Tools:</b><br>Includes assets defined as special tools such as dies, jigs, molds, patterns, fixtures, gauges, and returnable containers and drawings concerning such special tools used in the activities as defined in class 34.0. Special tools are specifically designed for the production or processing of particular machine components, products, or parts, and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices ----- | 2.5                                    | 3                            | 3.5            | 3.5   |
| 35.1                             | <b>Manufacture of Metalworking Machinery:</b><br>Includes assets used in the production of metal cutting and forming machines, special dies, tools, jigs, and fixtures, and machine tool accessories -----  | 9.5                                    | 12                           | 14.5           | 5.5   |
| 35.11                            | <b>Manufacture of Metalworking Machinery—Special Tools:</b><br>Includes assets defined as special tools, such as jigs, dies, fixtures, molds, patterns, gauges, and specialty transfer and shipping devices, used in activities as defined in class 35.1. Special tools are specifically designed for the production or processing of particular machine components and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices -----  | 5                                      | 6                            | 7              | 12.5  |
| 35.2                             | <b>Manufacture of Other Machines:</b><br>Includes assets used in the production of such machinery as engines and turbines; farm machinery, construction, and mining machinery; general and special industrial machines including office machines and nonelectronic computing equipment; miscellaneous machines except electrical equipment and transportation equipment -----   | 9.5                                    | 12                           | 14.5           | 5.5   |
| 35.21                            | <b>Manufacture of Other Machines—Special Tools:</b><br>Includes assets defined as special tools, such as jigs, dies, fixtures, molds, patterns, gauges, and specialty transfer and shipping devices, used in activities as defined in class 35.2. Special tools are specifically designed for the production or processing of particular machine components and have no significant utilitarian value and cannot be adapted to further  |  |                              |                |   |

PROPOSED RULES

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| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | or different use after changes or improvements are made in the model design of the particular part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices -----   | 5                                      | 6.5                          | 8              | 12.5  |
| 36.1                             | <b>Manufacture of Electrical Equipment:</b><br>Includes assets used in the production of machinery, apparatus, and supplies for the generation, storage, transmission, transformation, and utilization of electrical energy such as: electric test and distributing equipment, electrical industrial apparatus, household appliances, electric lighting and wiring equipment; electronic components and accessories, phonograph records, storage batteries and ignition systems -----   | 9.5                                    | 12                           | 14.5           | 5.5   |
| 36.11                            | <b>Manufacture of Electrical Equipment—Special Tools:</b><br>Includes assets defined as special tools such as jigs, dies, molds, patterns, fixtures, gauges, returnable containers, and specialty transfer devices used in activities as defined in class 36.1. Special tools are specifically designed for the production or processing of particular machine components, products or parts, and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular part produced by the special tools. Does not include general purpose small tools such as wrenches and drills, both hand and power-driven, and other general purpose equipment such as conveyors, transfer equipment, and materials handling devices -----  | 4                                      | 5                            | 6              |   |
| 36.2                             | <b>Manufacture of Electronic Products:</b><br>Includes assets used in the production of electronic detection, guidance, control, radiation, computation, test, and navigation equipment or the components thereof including airborne application. Also includes assets used in the manufacture of electronic airborne communication equipment or the components thereof. Does not include the assets of manufacturers engaged only in the purchase and assembly of components -----   | 6.5                                    | 8.0                          | 9.5            | 7.5   |
| 37.11                            | <b>Manufacture of Motor Vehicles:</b><br>Includes assets used in the manufacture and assembly of finished automobiles, trucks, trailers, motor homes, and buses. Does not include assets used in mining, printing and publishing, production of primary metals, electricity, or steam, or the manufacture of glass, industrial chemicals, batteries, or rubber products, which are classified elsewhere. Includes assets used in manufacturing activities elsewhere classified other than those excluded above, where such activities are incidental to and an integral part of the manufacture and assembly of finished motor vehicles such as the manufacture of parts and subassemblies of fabricated metal products, electrical equipment, textiles, plastics, leather, and foundry and forging operations. Does not include any assets not classified in manufacturing activity classes, e.g., does not include assets classified in asset guideline classes 00.11 through 00.4. Activities will be considered incidental to the manufacture and assembly of finished motor vehicles only if 75 percent or more of the value of the products produced under one roof are used for the manufacture and assembly of finished motor vehicles. Parts that are produced as a normal replacement stock complement in connection with the manufacture and as- |  |                              |                |   |



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PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | sembly of finished motor vehicles are considered used for the manu-<br>facture and assembly of finished motor vehicles. Does not include assets<br>used in the manufacture of component parts if these assets are used<br>by taxpayer not engaged in the assembly of finished motor vehicles ----  | 9.5                                    | 12                           | 14.5           | 9.5   |
| 37.12                            | <b>Manufacture of Motor Vehicles—Special Tools:</b><br>Includes assets defined as special tools, such as jigs, dies, fixtures, molds,<br>patterns, gauges, and specialty transfer and shipping devices, owned<br>by manufacturers of finished motor vehicles and used in qualified<br>activities as defined in class 37.11. Special tools are specifically de-<br>signed for the production or processing of particular motor vehicle<br>components and have no significant utilitarian value, and cannot be<br>adapted to further or different use, after changes or improvements are<br>made in the model design of the particular part produced by the spe-<br>cial tools. Does not include general purpose small tools such as wrenches<br>and drills, both hand and power-driven, and other general purpose<br>equipment such as conveyors, transfer equipment, and materials hand-<br>ling devices ----- | 2.5                                    | 3                            | 3.5            | 12.5  |
| 37.2                             | <b>Manufacture of Aerospace Products:</b><br>Includes assets used in the manufacture and assembly of airborne<br>vehicles and their component parts including hydraulic, pneumatic,<br>electrical, and mechanical systems. Does not include assets used in the<br>production of electronic airborne detection, guidance, control, radia-<br>tion, computation, test, navigation, and communication equipment<br>or the components thereof -----  | 8                                      | 10                           | 12             | 7.5   |
| 37.31                            | <b>Ship and Boat Building Machinery and Equipment:</b><br>Includes assets used in the manufacture and repair of ships, boats, cais-<br>sons, marine drilling rigs, and special fabrications not included in asset<br>guideline classes 37.32 and 37.33. Specifically includes all manufactur-<br>ing and repairing machinery and equipment, including machinery and<br>equipment used in the operation of assets included in asset guideline<br>class 37.32. Excludes buildings and their structural components -----  | 9.5                                    | 12                           | 14.5           | 8.5   |
| 37.32                            | <b>Ship and Boat Building Dry Docks and Land Improvements:</b><br>Includes assets used in the manufacture and repair of ships, boats, cais-<br>sons, marine drilling rigs, and special fabrications not included in asset<br>guideline classes 37.31 and 37.33. Specifically includes floating and<br>fixed dry docks, ship basins, graving docks, shipways, piers, and all<br>other land improvements such as water, sewer, and electric systems.<br>Excludes buildings and their structural components -----   | 13                                     | 16                           | 19             | 2.5   |
| 37.33                            | <b>Ship and Boat Building—Special Tools:</b><br>Includes assets defined as special tools such as dies, jigs, molds, patterns,<br>fixtures, gauges, and drawings concerning such special tools used in the<br>activities defined in classes 37.31 and 37.32. Special tools are specifically<br>designed for the production or processing of particular machine com-<br>ponents, products, or parts, and have no significant utilitarian value<br>and cannot be adapted to further or different use after changes or<br>improvements are made in the model design of the particular part<br>produced by the special tools. Does not include general purpose small<br>tools such as wrenches and drills, both hand and power-driven, and<br>other general purpose equipment such as conveyors, transfer equip-<br>ment, and materials handling devices -----  | 5                                      | 6.5                          | 8              | 0.5   |

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| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 37.41                            | <b>Manufacture of Locomotives:</b><br>Includes assets used in building or rebuilding railroad locomotives (in-<br>cluding mining and industrial locomotives). Does not include assets<br>of railroad transportation companies or assets of companies which<br>manufacture components of locomotives but do not manufacture fin-<br>ished locomotives -----   | 9                                      | 11.5                         | 14             | 7.5   |
| 37.42                            | <b>Manufacture of Railroad Cars:</b><br>Includes assets used in building or rebuilding railroad freight or pas-<br>senger cars (including rail transit cars). Does not include assets of rail-<br>road transportation companies or assets of companies which manu-<br>facture components of railroad cars but do not manufacture finished<br>railroad cars -----   | 9.5                                    | 12                           | 14.5           | 5.5   |
| 38.0                             | <b>Manufacture of Professional, Scientific, and Controlling Instruments:</b><br>Includes assets used in the manufacture of mechanical measuring, engi-<br>neering, laboratory and scientific research instruments, optical instru-<br>ments and lenses; surgical, medical, and dental instruments, equipment<br>and supplies; ophthalmic goods, photographic equipment and supplies;<br>and watches and clocks -----   | 9.5                                    | 12                           | 14.5           | 5.5   |
| 39.0                             | <b>Manufacture of Athletic, Jewelry and Other Goods:</b><br>Includes assets used in the production of jewelry; musical instruments;<br>toys and sporting goods; motion picture and television films and tapes;<br>and pens, pencils, office and art supplies, brooms, brushes, caskets, etc. --  | 9.5                                    | 12                           | 14.5           | 5.5   |
|                                  | <b>Railroad Transportation:</b><br>Classes with the prefix 40 include the assets identified below that are<br>used in the commercial and contract carrying of passengers and freight<br>by rail. Assets of electrified railroads will be classified in a manner<br>corresponding to that set forth below for railroads not independently<br>operated as electric lines. Excludes the assets included in classes with<br>the prefix beginning 00.1 and 00.2 above, and also excludes any non-<br>depreciable assets included in Interstate Commerce Commission ac-<br>counts enumerated for this class. |  |                              |                |   |
| 40.1                             | <b>Railroad Machinery and Equipment:</b><br>Includes assets classified in the following Interstate Commerce Commis-<br>sion accounts:<br>Roadway Accounts:<br>(16) Station and office buildings (freight handling machinery<br>and equipment only)<br>(25) TOFC/COFC terminals (freight handling machinery and<br>equipment only)<br>(26) Communication systems<br>(27) Signals and interlockers<br>(37) Roadway machines<br>(44) Shop machinery<br>Equipment Accounts:<br>(52) Locomotives<br>(53) Freight train cars<br>(54) Passenger train cars<br>(57) Work equipment -----                       | 11                                     | 14                           | 17             | 10.5  |



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PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 40.2                             | <b>Railroad Structures and Similar Improvements:</b><br>Includes assets classified in the following Interstate Commerce Commis-<br>sion road accounts:<br>(6) Bridges, trestles, and culverts<br>(7) Elevated structures<br>(13) Fences, snowsheds, and signs<br>(16) Station and office buildings (stations and other operating<br>structures only)<br>(17) Roadway buildings<br>(18) Water stations<br>(19) Fuel stations<br>(20) Shops and enginehouses<br>(25) TOFC/COFC terminals (operating structures only)<br>(31) Power transmission systems<br>(35) Miscellaneous structures<br>(39) Public improvements construction -----  | 24                                     | 30                           | 36             | 5   |
| 40.3                             | <b>Railroad Wharves and Docks</b><br>Includes assets classified in the following Interstate Commerce ac-<br>counts:<br>(23) Wharves and docks<br>(24) Coal and ore wharves -----   | 16                                     | 20                           | 24             | 5.5   |
| 40.51                            | <b>Railroad Hydraulic Electric Generating Equipment</b> -----  | 40                                     | 50                           | 60             | 1.5   |
| 40.52                            | <b>Railroad Nuclear Electric Generating Equipment</b> -----  | 16                                     | 20                           | 24             | 3   |
| 40.53                            | <b>Railroad Steam Electric Generating Equipment</b> -----  | 22.5                                   | 28                           | 33.5           | 2.5   |
| 40.54                            | <b>Railroad Steam, Compressed Air, and Other Power Plant Equipment</b> --  | 22.5                                   | 28                           | 33.5           | 7.5   |
| 41.0                             | <b>Motor Transport-Passengers:</b><br>Includes assets used in the urban and interurban commercial and con-<br>tract carrying of passengers by road, except the transportation assets<br>included in classes with the prefix 00.2 -----   | 6.5                                    | 8                            | 9.5            | 11.5  |
| 42.0                             | <b>Motor Transport-Freight:</b><br>Includes assets used in the commercial and contract carrying of<br>freight by road, except the transportation assets included in classes with<br>the prefix 00.2 -----  | 6.5                                    | 8                            | 9.5            | 11  |
| 44.0                             | <b>Water Transportation:</b><br>Includes assets used in the commercial and contract carrying of freight<br>and passengers by water except the transportation assets included in<br>classes with the prefix 00.2. Includes all related land improvements ----   | 16                                     | 20                           | 24             | 8   |
| 45.0                             | <b>Air Transport:</b><br>Includes assets (except helicopters) used in commercial and contract<br>carrying of passengers and freight by air. For purposes of section 1.167<br>(a)-11(d)(2)(iv)(a) of the regulations, expenditures for "repair, main-<br>tenance, rehabilitation, or improvement" shall consist of direct mainte-<br>nance expenses (irrespective of airworthiness provisions or charges) as<br>defined by Civil Aeronautics Board uniform accounts 5200, mainte-<br>nance burden (exclusive of expenses pertaining to maintenance build-<br>ings and improvements) as defined by Civil Aeronautics Board uniform<br>accounts 5300, and expenditures which are not "excluded additions"<br>as defined by section 1.167(a)-11(d)(2)(vi) of the regulations and<br>which would be charged to property and equipment accounts in the<br>Civil Aeronautics Board uniform system of accounts ----- | 9.5                                    | 12                           | 14.5           | 15  |

PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 45.1                             | <b>Air Transport (restricted)</b><br>Includes each asset described in the description of class 45.0 which was<br>held by the taxpayer on April 15, 1976, or is acquired by the taxpayer<br>pursuant to a contract which was, on April 15, 1976, and at all times<br>thereafter, binding on the taxpayer. This criterion of classification<br>based on binding contract concept is to be applied in the same manner<br>as under the general rules expressed in section 49(b)(1), (4), (5), and<br>(8) of the Code ----- | 5                                      | 6                            | 7              | 15  |
| 46.0                             | <b>Pipeline Transportation:</b><br>Includes assets used in the private, commercial, and contract carrying<br>of petroleum, gas, and other products by means of pipes and con-<br>veyors. The trunk lines and related storage facilities of integrated petro-<br>leum and natural gas producers are included in this class. Excludes<br>initial clearing and grading land improvements as specified in Rev.<br>Rul. 72-403, 1972-2 C.B. 102, but includes all other related land<br>improvements -----                  | 17.5                                   | 22                           | 26.5           | 3   |
|                                  | <b>Telephone Communications:</b><br>Includes the assets identified below and that are used in the pro-<br>vision of commercial and contract telephonic services such as:   |  |                              |                |   |
| 48.11                            | <b>Telephone Central Office Buildings:</b><br>Includes assets intended to house central office equipment, as defined<br>in Federal Communications Commission Part 31 Account No. 212<br>whether section 1245 or section 1250 property -----  | 36                                     | 45                           | 54             | 1.5   |
| 48.12                            | <b>Telephone Central Office Equipment:</b><br>Includes central office switching and related equipment as defined in<br>Federal Communications Commission Part 31 Account No. 221 -----   | 16                                     | 20                           | 24             | 6   |
| 48.13                            | <b>Telephone Station Equipment:</b><br>Includes such station apparatus and connections as teletypewriters, tele-<br>phones, booths, private exchanges, and comparable equipment as<br>defined in Federal Communications Commission Part 31 Account Nos.<br>231, 232, and 234 -----   | 8                                      | 10                           | 12             | 10  |
| 48.14                            | <b>Telephone Distribution Plant:</b><br>Includes such assets as pole lines, cable, aerial wire, underground con-<br>duits, and comparable equipment, and related land improvements as<br>defined in Federal Communications Commission Part 31 Account Nos.<br>241, 242.1, 242.2, 242.3, 242.4, 243, and 244 -----  | 28                                     | 35                           | 42             | 2   |
| 48.2                             | <b>Radio and Television Broadcastings:</b><br>Includes assets used in radio and television broadcasting, except trans-<br>mitting towers -----   | 5                                      | 6                            | 7              | 10  |
|                                  | <b>Telegraph, Ocean Cable, and Satellite Communications (TOCSC)</b><br>Includes communications-related assets used to provide domestic and<br>international radio-telegraph, wire-telegraph, ocean-cable, and satel-<br>lite communications services; also includes related land improve-<br>ments.  |  |                              |                |   |
| 48.31                            | <b>TOCSC-Electric Power Generating and Distribution Systems:</b><br>Includes assets used in the provision of electric power by generation,<br>modulation, rectification, channelization, control, and distribution. Does<br>not include these assets when they are installed on customer's<br>premises -----   | 15                                     | 19                           | 23             |   |



## PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 48.32                            | <b>TOCSC-High Frequency Radio and Microwave Systems:</b><br>Includes assets such as transmitters and receivers, antenna supporting structures, antennas, transmission lines from equipment to antenna, transmitter cooling systems, and control and amplification equipment. Does not include cable and long-line systems -----                        | 10.5                                   | 13                           | 15.5           |   |
| 48.33                            | <b>TOCSC-Cable and Long-line Systems:</b><br>Includes assets such as transmission lines, pole lines, ocean cables, buried cable and conduit, repeaters, repeater stations, and other related assets. Does not include high frequency radio or microwave systems -----  | 21                                     | 26.5                         | 32             |   |
| 48.34                            | <b>TOCSC-Central Office Control Equipment:</b><br>Includes assets for general control, switching, and monitoring of communications signals including electromechanical switching and channeling apparatus, multiplexing equipment, patching and monitoring facilities, in-house cabling, teleprinter equipment, and associated site improvements ----- | 13                                     | 16.5                         | 20             |   |
| 48.35                            | <b>TOCSC-Computerized Switching, Channeling, and Associated Control Equipment:</b><br>Includes central office switching computers, interfacing computers, other associated specialized control equipment, and site improvements --   | 8.5                                    | 10.5                         | 12.5           |   |
| 48.36                            | <b>TOCSC-Satellite Ground Segment Property:</b><br>Includes assets such as fixed earth station equipment, antennas, satellite communications equipment, and interface equipment used in satellite communications. Does not include general purpose equipment or equipment used in satellite space segment property -----                               | 8                                      | 10                           | 12             |   |
| 48.37                            | <b>TOCSC-Satellite Space Segment Property:</b><br>Includes satellites and equipment used for telemetry, tracking, control, and monitoring when used in satellite communications -----  | 6.5                                    | 8                            | 9.5            |   |
| 48.38                            | <b>TOCSC-Equipment Installed on Customer's Premises:</b><br>Includes assets installed on customer's premises, such as computers, terminal equipment, power generation and distribution systems, private switching center, teleprinters, facsimile equipment, and other associated and related equipment -----  | 8                                      | 10                           | 12             |   |
| 48.39                            | <b>TOCSC-Support and Service Equipment:</b><br>Includes assets used to support but not engage in communications. Includes store, warehouse, and shop tools, and test and laboratory assets --  | 11                                     | 13.5                         | 16             |   |
|                                  | <b>Cable Television (CATV):</b><br>Includes communications-related assets used to provide cable television (community antenna television services). Does not include assets used to provide subscribers with two-way communications services.  |  |                              |                |   |
| 48.41                            | <b>CATV-Headend:</b><br>Includes assets such as towers, antennas, preamplifiers, converters, modulation equipment, and program non-duplication systems. Does not include headend buildings and program origination assets -----  | 9                                      | 11                           | 13             | 5   |
| 48.42                            | <b>CATV-Subscriber Connection and Distribution Systems:</b><br>Includes assets such as trunk and feeder cable, connecting hardware, amplifiers, power equipment, passive devices, directional taps, pedestals,   |  |                              |                |   |

## PROPOSED RULES

| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
|                                  | pressure taps, drop cables, matching transformers, multiple set connector equipment, and converters -----   | 8                                      | 10                           | 12             | 5   |
| 48.43                            | <b>CATV-Program Origination:</b><br>Includes assets such as cameras, film chains, video tape recorders, lighting, and remote location equipment excluding vehicles. Does not include buildings and their structural components -----  | 7                                      | 9                            | 11             | 9   |
| 48.44                            | <b>CATV-Service and Test:</b><br>Includes assets such as oscilloscopes, field strength meters, spectrum analyzers, and cable testing equipment, but does not include vehicles ---   | 7                                      | 8.5                          | 10             | 2.5   |
| 48.45                            | <b>CATV-Microwave Systems:</b><br>Includes assets such as towers, antennas, transmitting and receiving equipment, and broad band microwave assets if used in the provision of cable television services. Does not include assets used in the provision of common carrier services -----   | 7.5                                    | 9.5                          | 11.5           | 2   |
|                                  | <b>Electric, Gas, Water and Steam, Utility Services:</b><br>Includes assets used in the production, transmission and distribution of electricity, gas, steam, or water for sale, including related land improvements.   |  |                              |                |   |
| 49.11                            | <b>Electric Utility Hydraulic Production Plant:</b><br>Includes assets used in the hydraulic power production of electricity for sale, including related land improvements, such as dams, flumes, canals, and waterways -----   | 40                                     | 50                           | 60             | 1.5   |
| 49.12                            | <b>Electric Utility Nuclear Production Plant:</b><br>Includes assets used in the nuclear power production of electricity for sale and related land improvements. Does not include nuclear fuel assemblies -----   | 16                                     | 20                           | 24             | 3   |
| 49.121                           | <b>Electric Utility Nuclear Fuel Assemblies:</b><br>Includes initial core and replacement core nuclear fuel assemblies (i.e. the composite of fabricated nuclear fuel and container) when used in a boiling water, pressurized water, or high temperature gas reactor used in the production of electricity. Does not include nuclear fuel assemblies used in breeder reactors -----  | 4                                      | 5                            | 6              |   |
| 49.13                            | <b>Electric Utility Steam Production Plant:</b><br>Includes assets used in the steam power production of electricity for sale, combustion turbines operated in a combined cycle with a conventional steam unit and related land improvements -----  | 22.5                                   | 28                           | 33.5           | 5   |
| 49.14                            | <b>Electric Utility Transmission and Distribution Plant:</b><br>Includes assets used in the transmission and distribution of electricity for sale and related land improvements. Excludes initial clearing and grading land improvements as specified in Rev. Rul. 72-403, 1972-2 C.B. 102 -----  | 24                                     | 30                           | 36             | 4.5   |
| 49.15                            | <b>Electric Utility Combustion Turbine Production Plant:</b><br>Includes assets used in the production of electricity for sale by the use of such prime movers as jet engines, combustion turbines, diesel engines, gasoline engines, and other internal combustion engines, their associated power turbines and/or generators, and related land improvements. Does not include combustion turbines operated in a combined cycle with a conventional steam unit ----- | 16                                     | 20                           | 24             | 4   |



| Asset<br>guide-<br>line<br>class | Description of assets included   | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|--|--|------------------------------|----------------|---|
|                                  |  | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 49.21                            | <b>Gas Utility Distribution Facilities:</b><br>Including gas water heaters and gas conversion equipment installed by utility on customers' premises on a rental basis -----  | 28                                     | 35                           | 42             | 2   |
| 49.221                           | <b>Gas Utility Manufactured Gas Production Plants:</b><br>Includes assets used in the manufacture of gas having chemical and/or physical properties which do not permit complete interchangeability with domestic natural gas -----  | 24                                     | 30                           | 36             | 2   |
| 49.222                           | <b>Gas Utility Substitute Natural Gas (SNG) Production Plant (naphtha or lighter hydrocarbon feedstocks):</b><br>Includes assets used in the catalytic conversion of feedstocks of naphtha or lighter hydrocarbons to a gaseous fuel which is completely interchangeable with domestic natural gas -----   | 11                                     | 14                           | 17             | 4.5   |
| 49.23                            | <b>Natural Gas Production Plant</b> -----  | 11                                     | 14                           | 17             | 4.5   |
| 49.24                            | <b>Gas Utility Trunk Pipelines and Related Storage Facilities:</b><br>Excludes initial clearing and grading land improvements as specified in Rev. Rul. 72-403 -----   | 17.5                                   | 22                           | 26.5           | 3   |
| 49.25                            | <b>Liquefied Natural Gas Plant:</b><br>Includes assets used in the liquefaction, storage, and regasification of natural gas including loading and unloading connections, instrumentation equipment and controls, pumps, vaporizers and odorizers, tanks, and related land improvements. Also includes pipeline interconnections with gas transmission lines and distribution systems and marine terminal facilities -----  | 17.5                                   | 22                           | 26.5           | 4.5   |
| 49.3                             | <b>Water Utilities:</b><br>Includes assets used in the gathering, treatment, and commercial distribution of water -----  | 40                                     | 50                           | 60             | 1.5   |
| 49.4                             | <b>Central Steam Utility Production and Distribution:</b><br>Includes assets used in the production and distribution of steam for sale --  | 22.5                                   | 28                           | 33.5           | 2.5   |
| 50.0                             | <b>Wholesale and Retail Trade:</b><br>Includes assets used in carrying out the activities of purchasing, assembling, storing, sorting, grading, and selling of goods at both the wholesale and retail level. Also includes assets used in such activities as the operation of restaurants, cafes, coin-operated dispensing machines, and in brokerage of scrap metal -----   | 8                                      | 10                           | 12             | 6.5   |
| 50.1                             | <b>Wholesale and Retail Trade Service Assets:</b><br>Includes assets such as glassware, silverware (including kitchen utensils), crockery (usually china) and linens (generally napkins, tablecloths and towels) used in qualified activities as defined in class 50.0 ----  | 2                                      | 2.5                          | 3              |   |
| 70.2                             | <b>Personal and Professional Services:</b><br>Includes assets used in the provision of personal services such as those offered by hotels and motels, laundry and dry cleaning establishments, beauty and barber shops, photographic studios and mortuaries. Includes assets used in the provision of professional services such as those offered by doctors, dentists, lawyers, accountants, architects, engineers, and veterinarians. Includes assets used in the provision of repair and maintenance services and those assets used in providing fire and burglary protection services. Includes equipment or facilities used by cemetery organizations, news agencies, teletype wire services, frozen food lockers, and research laboratories ----- | 8                                      | 10                           | 12             | 6.5   |

| Asset<br>guide-<br>line<br>class | Description of assets included  | Asset depreciation range<br>(in years) |                              |                | Annual<br>asset<br>guideline<br>repair<br>allowance<br>percentage |
|----------------------------------|---|--|------------------------------|----------------|---|
|                                  |   | Lower<br>limit                         | Asset<br>guideline<br>period | Upper<br>limit |   |
| 70.21                            | <b>Personal and Professional Services Service Assets:</b><br>Includes assets such as glassware, silverware, crockery, and linens (generally sheets, pillowcases and bath towels) used in qualified activities as defined in class 70.2 -----  | 2                                      | 2.5                          | 3              |   |
| 79.0                             | <b>Recreation:</b><br>Includes assets used in the provision of entertainment services on payment of a fee or admission charge, as in the operation of bowling alleys, billiard and pool establishments, theaters, concert halls, and miniature golf courses. Does not include amusement and theme parks and assets which consist primarily of specialized land improvements or structures, such as golf courses, sports stadia, race tracks, ski slopes, and buildings which house the assets used in entertainment services -----  | 8                                      | 10                           | 12             | 6.5   |
| 80.0                             | <b>Theme and Amusement Parks:</b><br>Includes assets used in the provision of rides, attractions, and amusements in activities defined as theme and amusement parks, and includes appurtenances associated with a ride, attraction, amusement or theme setting within the park such as ticket booths, facades, shop interiors, and props, special purpose structures, and buildings other than warehouses, administration buildings, hotels, and motels. Includes all land improvements for or in support of park activities, (e.g. parking lots, sidewalks, waterways, bridges, fences, landscaping, etc.) and support functions (e.g. food and beverage retailing, souvenir vending and other nonlodging accommodations) if owned by the park and provided exclusively for the benefit of park patrons. Theme and amusement parks are defined as combinations of amusements, rides, and attractions which are permanently situated on park land and open to the public for the price of admission. This guideline class is a composite of all assets used in this industry except transportation equipment (general purpose trucks, cars, airplanes, etc., which are included in asset guideline classes with the prefix 00.2), assets used in the provision of administrative services (asset guideline classes with the prefix 00.1), and warehouses, administration buildings, hotels and motels ----- | 10                                     | 12.5                         | 15             | 12.5  |

#### SEC. 4. EFFECT ON OTHER DOCUMENTS.

Rev. Procs. 72-10, 73-2, 73-3, 73-23, 73-24, 73-25, 73-26, 73-27, 73-28, 73-30, 74-27, 74-28, 74-29, 74-30, 74-31, 74-32, 74-37, 74-50, 76-16, 76-17, 76-18, 76-27, 76-37, 77-2, 77-3 and 77-8 are superseded for property placed in service in taxable years ending on or after March 21, 1977, the date of publication of this Revenue Procedure in the Internal Revenue Bulletin, in accordance with section 1.167(a)-11(b) (4) of the regulations. However, the taxpayer may at his option apply Rev. Proc. 72-10, as previously modified by the aforementioned documents, without regard to this Revenue Procedure for such property placed in

service in a taxable year beginning before March 21, 1977, and ending on or after that date. Such option shall be exercised in making the election to apply section 1.167(a)-11 for such year and may not be revoked after the latest time for making such election.

The asset guideline classes, asset guideline depreciation periods and ranges, and asset guideline repair allowance percentages set forth in this Revenue Procedure will from time to time be supplemented and revised as provided by section 1.167(a)-11 (b) (4) of the regulations. Taxpayers using this Revenue Procedure should apply it as supplemented and revised.



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News  
Release

Department of the Treasury  
Internal Revenue Service  
Washington, DC 20224 4/27/77  
Tel. (202)566-4021

For Release: Immediate

IR-1803

Washington, D.C.--A new procedure affecting the classification, depreciation periods, and repair allowance percentages for substitute natural gas-coal gasification assets of taxpayers electing the Class Life Asset Depreciation Range System was today announced by the Internal Revenue Service.

The procedure supplements and modifies related material published in Revenue Procedure 77-10.

Revenue Procedure 77-14 is attached and will also appear in Internal Revenue Bulletin No. 1977-21, dated May 23, 1977.

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PART III. ADMINISTRATIVE, PROCEDURAL, AND MISCELLANEOUS

26 CFR 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Also Part I, Section 167; 1.167(s)-11.)

REV. PROC. 77-14

SECTION 1. PURPOSE

The purpose of this Revenue Procedure is to prescribe under section 1.167(a)-11 of the Income Tax Regulations a new asset guideline class, asset depreciation period and range, and annual repair allowance percentage, designated class 49.223 Substitute Natural Gas - Coal Gasification.

SEC. 2. ASSET GUIDELINE CLASSES, PERIODS, ASSET DEPRECIATION RANGES, AND ANNUAL REPAIR ALLOWANCE PERCENTAGES FOR THE GAS INDUSTRY ACTIVITIES ENUMERATED BELOW.

The asset guideline classes and asset guideline depreciation periods, ranges, and annual repair allowance percentages for the following gas industry activities are established as set forth below.

|         |                                   |             |                       |
|---------|-----------------------------------|-------------|-----------------------|
| Asset   | : Description of Assets Included: | : Asset     | : Annual              |
| Guide-  | : Range (in years):               | : Asset     | : Depreciation: Asset |
| line :  | : Asset :                         | : Repair    | : Guideline           |
| Class : | : Guide- :                        | : Allowance | : Repair              |
|         | : Lower: line : Upper: Percent-   |             |                       |
|         | : Limit: Period: Limit: age       |             |                       |

49.223 Substitute natural gas-coal gasification

Includes assets used in the manufacture and production of pipeline quality gas from coal using the basic Lurgi process with advanced methanation. Includes all process plant equipment and structures used in this coal gasification process and all utility assets such as cooling systems, water supply and treatment facilities, and assets used in the production and distribution of electricity and steam for use by the taxpayer in a gasification plant and attendant coal mining site processes but not for assets used in the production and distribution of electricity and steam for sale to others. Also includes all other related land improvements.

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|         |                                   |             |                        |
|---------|-----------------------------------|-------------|------------------------|
| Asset   | : Description of Assets Included: | : Asset     | : Annual               |
| Guide-  | : Range (in years):               | : Asset     | : Depreciation : Asset |
| line :  | : Asset :                         | : Repair    | : Guideline            |
| Class : | : Guide- :                        | : Allowance | : Repair               |
|         | : Lower: line : Upper: Percent-   |             |                        |
|         | : Limit: Period: Limit: age       |             |                        |

Does not include assets used in the direct mining and treatment of coal prior to the gasification process itself.

14.5 18 21.5 15.0

SEC. 3. EFFECT ON OTHER DOCUMENTS.

Rev. Proc. 77-10, 1977-12 I.R.B. 4, is modified by adding the guideline class set forth in section 2 above.

SEC. 4. EFFECTIVE DATE.

The asset guideline class, period, asset depreciation range, and annual repair allowance percentage for gas industry activities set forth in this Revenue Procedure are effective for property placed in service in taxable years beginning after December 31, 1976.

X X X

NOTE: This Appendix contains the most recent version of IRS Revenue Procedure 77-10. The IRS updates this publication periodically. Any source calculating a noncompliance penalty should make certain that it obtains the most recent revisions to this Revenue Procedure from the Department of the Treasury.

This attachment contains worksheets which can be used to calculate input data. Each worksheet will also contain reminders for points which may be overlooked in calculations.

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Attachment V

WORKSHEETS

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WORKSHEET A

Calculation Of The Capital Expenditure Input

1. List price or estimated price of the equipment = \$
2. Less: Discount from manufacturer =
3. Equals net price of equipment =
4. Plus: Sales tax on equipment<sup>1</sup> =
5. Plus: Freight and delivery charge =
6. Equals estimated cost of equipment delivered =
7. Plus: Installation charge =
8. Plus: Value of lost production =
9. Plus: Cost of building construction or modifications =
10. Equals Total Capital Expenditure = \$

Note: Line 6 divided by line 10 is the percentage of qualified investment for calculation of the investment tax credit.

QUALIFIED PERCENTAGE INVESTMENT TAX CREDIT

Line 6 = \_\_\_\_\_ X 10 = \_\_\_\_\_ %  
Line 10

If the depreciable life of the equipment is less than 7 years, this figure must be adjusted as described on page 11-16.

<sup>1</sup>Some corporations subtract sales tax from revenue in the year of purchase. If this is the case, the sales tax is multiplied by (1 - Tax Rate) and subtracted from the cost of the equipment rather than added as in step four.

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WORKSHEET B

Operating And Maintenance Expense

1. Annual Labor Expense  
\_\_\_\_\_ Hours X \$ \_\_\_\_\_ per hour =
2. Power Cost  
\_\_\_\_\_ Kwh X \$ \_\_\_\_\_ per Kwh =
3. Water Cost  
\_\_\_\_\_ Gallons X \$ \_\_\_\_\_ per gallon =
4. Raw Materials and Supplies  
\_\_\_\_\_ lbs X \$ \_\_\_\_\_ per lbs =
5. Yearly increase in property tax =
6. Cost of production lost due to maintenance or use of equipment =
7. Total Cost (1 + 2 + 3 + 4 + 5 + 6) =
8. Less: Value of by-products  
\_\_\_\_\_ lbs at \$ \_\_\_\_\_ per lbs =
9. Annual Operating and Maintenance (7-8) \$

Note: Line 9 divided by 12 is the maximum amount of any monthly pre-compliance expenditure.

Line 9 \_\_\_\_\_ = \$ \_\_\_\_\_  
12  
Maximum amount which may be entered as a pre-compliance monthly operating and maintenance expense.

PROPOSED RULES

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WORKSHEET C

Calculation Of Income Tax Rate

1. Marginal Federal tax rate. \_\_\_\_\_
2. Marginal State tax rate. \_\_\_\_\_
3. Marginal Local tax rate. \_\_\_\_\_

Calculation of Adjusted Local Tax.

$$(1 - \text{State Tax Rate}) \times \text{Local Tax Rate} \\ = (1 - \text{_____}) \times \text{_____} \\ = \text{_____} \times \text{_____} \\ = \text{Adjusted Local Tax Rate.}$$

Calculation of Adjusted State and Local Tax.

$$(1 - \text{Federal Tax Rate}) \times (\text{State Tax Rate} + \text{Adjusted Local Rate}) \\ = (1 - \text{_____}) \times (\text{_____} + \text{_____})$$

$$= \text{_____} \times \text{_____} \\ = \text{Adjusted Local and State Tax.}$$

Calculation of Tax Rate.

$$100 \times (\text{Federal Tax Rate} + \text{Adjusted Local and State Tax}) \\ = 100 \times (\text{_____} + \text{_____}) \\ = 100 \times \text{_____} \\ = \text{Tax Rate.}$$

Section III

USING THE COMPUTER PROGRAM

GAINING ACCESS TO THE SYSTEM

The computer program used to calculate the non-compliance penalty is written in the language FORTRAN. It is designed to operate on a time sharing computer. The method used to access, or load, the program on a particular computer system will vary slightly from that on any other system. The following description of the accessing procedure applies to EPA's Washington Computer Center. The procedure at other installations will be somewhat different.

1. Switch on the terminal. The on/off switch is usually located on the key-board, but some models have switches on the top or back of the terminal.

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2. Contact the computer system. This usually involves dialing the computer's number on a telephone and then connecting the telephone to a coupler. When a connect signal is obtained, push the Return key once more. The computer will then respond with an indication that contact is established.

3. Account and code number. At this time, the computer will ask for a user number, a password and an account number. This number is specific to the computer system and must be known beforehand. These are entered by typing on the keyboard and pressing the "return" key.

4. Running the program. The command EXEC PENALTY:EPABOH,CREGION=200K will start the program.

Additional questions will follow each data input (and "return"). Caution: When user demand is high, response time can be very slow. Be certain the computer has given you your complete prompt before answering input questions. A prompt is generally a two digit alpha-numeric job identifier and a question mark (e.g., 2B?)

Exhibit III - 1 illustrates the procedure used to access the computer.

ALPHA  
READY P. HUC

ALPHA System at COMTEL

PLEASE ENTER: user id, password, account, term id

EPABOH,CREGION=200K

03/05/79: LAST CALL FOR HADPI #203, 12:49:11, 03/05/79

AVS OCCUPATION AVAILABLE FOR ORDERING

12, 8PS HOURS CANCELLED

CL-SUBS-EPABOH: Space for 535 lines

TELECOMPUTER

199: 02 SUBMITTED

ENTERING THE DATA

It is important in using a computer to understand that the computer requires a specific form of data entry. For example, if the item in question has the value of ten percent and the computer program is designed to accept a figure expressed in percentage terms, only the entry 10 is acceptable. Entries such as 10%, TEN, and .10 are all incorrect. The first two will result in an error message being typed at the terminal, followed by a command to re-enter the data. The third entry will be interpreted by the computer as 0.10 percent and used in the computation as that value. The result will be an incorrect figure for that penalty. If a wrong number is entered and the Return key has not been pushed, the mistake can be corrected by detecting the error and re-entering the number. To delete a number before the Return key is pushed, simply backspace the typing element (by pushing the Control and H keys simultaneously). If during data entry a wrong number is entered and the Return key is pushed, operation of the program can be halted by pushing the Break key. The computer will respond by printing OPTION7. To stop the program, type CANCEL. However, in most cases it will be more convenient to continue entering data, allow the computations to be made, and then change the erroneous value.

The following paragraphs discuss general rules to be followed in entering data into the computer program. Exhibit III - 2 contains an example of the completed entry for the Fertilizer Company. Figures which are underlined have been entered by the program user. After each line is entered the carriage return should be pressed. It should also be noted that each question asked by the computer must be answered. Thus, for example, if a firm has no debt and the interest rate is inapplicable, a zero must be entered for the interest rate. Certain questions asked by the computer refer to special types of analysis such as post-compliance settlements, limited life facilities and industrial development bonds. These special cases are discussed in a later chapter.



Exhibit II-2  
ENTERING DATA

III-7

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- Post-Compliance Settlement. This number is entered only as a 0 or 1. For the Fertilizer Company this is an initial calculation and a 0 is entered.
- Limited Life Facility. This number is entered as 0 or 1. For the Fertilizer Company this is not a limited life facility and a 0 is entered.
- Percent Financed by Industrial Development Bonds. This is entered as a percent. For the Fertilizer Company, a 0 is entered.
- Number of Months out of Compliance. This number is entered only as an integer. Fractions or decimals are not allowed. For the Fertilizer Company, compliance will be achieved in eleven months. This is entered as 11.
- Schedule of Capital Investments and Pre-Compliance Operating and Maintenance Expense. The program will ask for an estimate of such expenditures for each month which the firm will be out of compliance. If the firm will not make a pre-compliance capital expenditure in a particular month, a zero is entered. If no pre-compliance expenditures are to be made, the entire capital expenditure is entered in the last month.

For the Fertilizer Company, capital expenditures of \$166,666.67 will be made in the second, fourth, and eleventh months. All other months will be entered as 0.

After entering the capital expenditure in each month, the user types a comma and then enters the operating and maintenance expense in each month. These are expenses to be incurred during the period of noncompliance on a month-by-month basis. If in any month a pre-compliance operating and maintenance expense is not incurred, a zero must be entered.

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III-8

For the Fertilizer Company, pre-compliance operating and maintenance expenses will not be incurred in the first eight months. In the ninth month, the estimated expense is \$100. In the tenth month it is \$1,050. In the eleventh month it is \$740. These are entered without dollar signs.

- Initial Annual OM Expense. The initial annual operating and maintenance expense is the expense which would be incurred if the equipment were installed and operating. The program is designed to reject monthly pre-compliance expenditures larger than one-twelfth of the annual operating and maintenance expense. For the Fertilizer Company, operating and maintenance expenses are \$15,000.

- Investment Tax Rate. This is entered as a percent and not as a decimal. Thus, for example, 7.5 percent would be entered as 7.5. The program is designed to test for data entered as a decimal and print an error message. In the Fertilizer Company example, the investment tax rate was 10 percent.

- Income Tax Rate. This is also entered as a percent. For the Fertilizer Company the tax rate is 49.73 percent.

- Inflation Rate. The inflation rate is entered as 8.3 percent.

III-9

- Discount Rate. This is entered as a percent. The lower bound for any discount rate used is the rate of inflation. The program will not accept discount rates lower than the rate of inflation and will print an error message.

For the Fertilizer Company, the discount rate is the twenty quarter average after tax return on equity for the chemicals and allied products industry. This is calculated to be 15.84 percent.

- Interest Rate. The interest rate is entered as a percent. For the Fertilizer Company this is the average return on "A" rated industrial bonds. The latest reported average is 8.78 percent.

- Preferred Dividend Rates. This is entered as a percent. If the firm does not have preferred stock, both the dividend rate and the preferred share of the investment are entered as zero. For the Fertilizer Company this was the latest monthly average yield on "A" rated utility preferred stocks. It is entered as 8.88 percent.

- Preferred Share of Investment. The preferred share of the investment is entered as a percent. For the Fertilizer Company this was computed at 3.5 percent.

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- Equity Share of Investment. This is entered as a percent. It was computed to be 67.5 percent for the Fertilizer Company. If the sum of the preferred share of the investment and the equity share of the investment is greater than 100 percent, an error message is printed.
- Depreciation Life in Years. This number must be entered as an integer. Decimals or fractions cannot be used. For the Fertilizer Company the depreciation life was nine years.
- Useful Life in Years. The useful life in years must also be entered as an integer. For the Fertilizer Company, the useful life is eleven years.

ERROR MESSAGES FOR DATA ENTRY

The program for computing the noncompliance penalty was designed to test for errors in the data as it is entered into the computer. If the program detects an error, a message is printed informing the user and requesting that the mistake be corrected. Examples of such error messages follow.

1. Pre-Compliance Expenditure. As discussed in Section II, it is not possible to enter a pre-compliance monthly operating and maintenance expenditure which is larger than one-twelfth of the annual operating and maintenance expense. Exhibit III-3 shows an annual operating and maintenance expense of \$15,000. The error message is printed because the user entered \$2,000 for a pre-compliance expenditure.

Exhibit III-3

ERROR IN ENTERING PRE-COMPLIANCE O&M EXPENDITURES

2 MONTHLY PRE-COMPLIANCE O&M EXPENDITURE CANNOT BE LARGER THAN ONE TWELFTH ANNUAL O&M EXPENSE  
RE-ENTER DATA:  
\*\*\* IN EACH MONTH UNLIL CAPITAL EXPENDITURES \*\*\*  
\*\*\* THEN OPERATING AND MAINTENANCE EXPENDITURE \*\*\*

|            |            |
|------------|------------|
| MONTH # 1  | 70.0       |
| MONTH # 2  | 100000.670 |
| MONTH # 3  | 0.0        |
| MONTH # 4  | 100000.670 |
| MONTH # 5  | 70.0       |
| MONTH # 6  | 70.0       |
| MONTH # 7  | 70.0       |
| MONTH # 8  | 0.0        |
| MONTH # 9  | 0.100      |
| MONTH # 10 | 0.100      |
| MONTH # 11 | 100000.670 |

TOTAL CAPITAL EXPENDITURE = 70000

TOTAL PRE-COMPLIANCE EXPENDITURE = 15000

III-13

2. Equity and Preferred Share. The program will print an error message if the sum of the equity share of the investment and the preferred share of the investment are greater than 100 percent. This is illustrated in Exhibit III-4.

Exhibit III-4  
EQUITY AND PREFERRED SHARE OF INVESTMENT  
GREATER THAN 100 PERCENT

10 EQUITY SHARE OF INVESTMENT 97.5  
20 SUM OF EQUITY SHARE OF INVESTMENT AND PREFERRED SHARE OF INVESTMENT CANNOT BE GREATER THAN 100%.  
ENTER EQUITY AND PREFERRED PERCENTAGES AGAIN.  
EQUITY SHARE = 0.000, PREFERRED = 0.000



Full  
Full  
1 day



The output printed in Exhibit III-6 illustrates only a few of the possible variations in penalty calculation possible with the computer program. The remainder of this section discusses in detail the output from the Fertilizer Company example and the program options available to alter that output.

1. Amortization and Depreciation Method. The computer program calculates the capital investment portion of the penalty using standard and rapid amortization. Under both types of amortization the program calculates the depreciation tax savings using straight line, sum-of-the-years-digits and double-declining balance depreciation methods. The formulae for these calculations are contained in the Technical Support Document. The program automatically chooses the method which will result in the lowest penalty. This method is then used to calculate the penalty shown.

2. Delay in the Penalty. The program asks the user how many months the first penalty payment will be delayed. The months of delay are calculated from the day a notice of noncompliance is issued until the first payment is made. Exhibit III-7 illustrated the payment made if the firm paid the first quarterly penalty on

the day that the notice of noncompliance was issued. The first quarterly payment was \$5,213.86. The second payment would be made ninety days later and it would equal the penalty shown for month number four (\$5,318.83).

A more realistic example might involve a six-month delay in the first payment. In this case, the output would appear as in Exhibit III-8. The first penalty payment includes the amount that should have been paid at the beginning of the first month, plus the penalties that should have been paid at the beginning of the fourth and seventh months. Because of the six-month grace period, no interest is charged for this period of delay. The next quarterly penalty payment is due three months later, putting the firm back on the original penalty schedule.

Exhibit III-8

SIX MONTH DELAY IN PAYMENT OF PENALTY

HOW MANY MONTHS AFTER THE FIRST DAY OF NONCOMPLIANCE WILL THE FIRST PENALTY PAYMENT BE MADE? 6

QUARTERLY PENALTY PAYMENT DUE AT BEGINNING OF MONTH

| MONTH | PENALTY     |
|-------|-------------|
| 7     | \$ 15948.00 |
| 10    | \$ 5545.17  |

3. Lump Sum Settlement. A lump sum settlement is sometimes made instead of quarterly payments. For example, if the firm was going to be out of compliance for four quarters, it could either pay the four quarterly payments shown in the output or pay the lump sum settlement. In terms of present value, the amount eventually paid is the same in each case. The six-month grace period for delay in payment also applies to the lump sum settlement.

If the firm wishes to pay a lump sum settlement but will delay payment, the number of months of delay must be entered. Exhibit III-9 illustrates a seven month delay for the Fertilizer Company.

Exhibit III-9

SEVEN MONTH DELAY IN PAYMENT OF LUMP SUM SETTLEMENT

DO YOU WANT TO SEE A LUMP SUM SETTLEMENT (1=YES,0=NO)? 1

\* \* \* LUMP SUM SETTLEMENT \* \* \*

HOW MANY MONTHS AFTER THE FIRST DAY OF NONCOMPLIANCE WILL THE LUMP SUM SETTLEMENT BE MADE? 7

LUMP SUM SETTLEMENT AT END OF MONTH 7 = \$ 20590.01

Thus, for the Fertilizer Company, delaying the lump sum settlement seven months increased the settlement to \$20,590.01 from the \$20,339.25 shown in Exhibit III-7. The \$250.76 difference between the lump sum settlement delayed seven months and the settlement paid on the date of noncompliance is equal to one month's interest on \$20,339.25.<sup>1</sup>

The use of the lump sum settlement is required if the first penalty payment is delayed longer than the firm is out of compliance. In this event, the firm will not make quarterly payments but will make one lump sum settlement. Exhibit III-10 shows the output from the program if a twelve-month delay in penalty payment occurs. The Fertilizer Company was out of compliance eleven months.

5. New Computation. The user has several options here. By typing in 0 (zero) and pushing the carriage return, the program can be terminated. Typing 999 will result in all of the data that is currently in the program being printed; the program will then once again ask if any changes are to be made. An example of typing 999 is shown in Exhibit III-11.

<sup>1</sup>The lump sum settlement was paid after a seven month delay. However, the six-month grace period eliminates the interest charge for all months except one.



Exhibit III-10  
PENALTY PAYMENT WHEN DELAY  
IS LONGER THAN NONCOMPLIANCE PERIOD

THE EQUITY SHARE OF THE FIRST DAY OF NONCOMPLIANCE  
WILL BE THE EQUITY SHARE OF THE FIRST DAY OF  
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WILL BE THE EQUITY SHARE OF THE FIRST DAY OF  
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Exhibit III-11  
PRINTING DATA THAT HAS BEEN ENTERED IN PROGRAM

THE EQUITY SHARE OF THE FIRST DAY OF NONCOMPLIANCE  
WILL BE THE EQUITY SHARE OF THE FIRST DAY OF  
NONCOMPLIANCE.

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If changes are desired in the input, the  
following steps must be taken.

- The number of changes desired must be entered.
  - For each change, the computer will respond with a question mark. When the question mark is printed, type in the number of the item that you wish to change. (For example, 4 for the marginal income tax rate).
  - The computer will print the name of the item. Enter the new data desired and push the carriage return.
- The following is an example using the Per-tilizer Company. Suppose that the interest rate, which has been entered as 8.76 percent, should be 9.76 percent and that the preferred share of the investment, which was entered as 3.5 percent, should be 10 percent. Two changes are thus necessary.

The equity share will remain at 67.5 percent. The program sums the equity and preferred shares and calculates automatically the debt share. Thus, the increase in preferred share from 3.5 to 10 percent while the equity share is held constant, will result in a decrease in debt share.

Exhibit III-11  
ALTERING DATA IN THE PROGRAM

\*\*\* NEW COMPUTATION \*\*\*  
HOW MANY CHANGES TO THE INPUT DATA (0=EXIT FROM PROGRAM)?  
SPECIFY WHAT YOU WANT TO CHANGE BY ITEM NUMBER.  
PRESS THE RETURN KEY AFTER EACH REQUEST.  
72 INTEREST RATE 8.76  
79 PREFERRED SHARE OF INVESTMENT 3.5

When the return key is pressed after entering the 10, the computation will be made using these new values. It should be noted that these new values permanently replace the previous values in the program.



SECTION IV  
CALCULATION OF THE POST-COMPLIANCE SETTLEMENT

Exhibit IV-1  
FERTILIZER COMPANY  
July 1979  
DATA USED FOR ORIGINAL NONCOMPLIANCE  
PENALTY CALCULATIONS<sup>1</sup>

The post-compliance settlement adjusts the penalty payment to reflect the firm's actual capital and operating expenditures rather than the estimates used in the original penalty calculation. For this purpose, six types of data are needed:

- A schedule of actual capital expenditures made by the firm in reaching compliance.
- A schedule of actual operating and maintenance expenditures made by the firm prior to compliance.
- A new estimate of post-compliance annual operating and maintenance expense based on the firm's experience prior to the post-compliance settlement.
- The number of months between the day of compliance and date of post-compliance settlement.
- A post-compliance settlement interest rate chosen by the Department of the Treasury.
- A listing of the actual penalty payments made by the firm and the months in which they were made.

In addition to these new data, it will be necessary to have available the financial parameters originally used to calculate the noncompliance penalty for the firm. To continue the example of the hypothetical Fertilizer Company, Exhibit IV-1 contains the data originally used to calculate the non-compliance penalty.

\* \* \* DATA REQUIRED FOR POST-COMPLIANCE SETTLEMENT \* \* \*  
INVESTMENT TAX RATE= 10  
INCOME TAX RATE = 49.73  
DEPRECIATION RATE = 8.3  
DISCOUNT RATE = 15.84  
INTEREST RATE = 8.76  
PREFERRED DIVIDEND RATE= 8.88  
PREFERRED SHARE OF INVESTMENT = 3.5  
EQUITY SHARE OF INVESTMENT= 67.5  
DEPRECIATION LIFE IN YEARS = 9  
USEFUL LIFE IN YEARS = 11

PROPOSED RULES

<sup>1</sup>Listed during original penalty calculation by typing 999 when changes in input data were requested.

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IV-3

PREPARING NEW DATA FOR ENTRY  
INTO THE PROGRAM

In order to calculate the post-compliance settlement, the computer program should be accessed in the manner described on pages III-1 to III-3. After the RUN command has been typed, the terminal will ask if the penalty calculation is for a post-compliance settlement. This is illustrated in Exhibit IV-2.

Exhibit IV-2

CALCULATING A POST-COMPLIANCE SETTLEMENT

03/02/79 EPA NON-COMPLIANCE PENALTY PROGRAM VERSION 1.0 12:01  
IS THIS A POST-COMPLIANCE SETTLEMENT CALCULATION (1=YES,0=NO)?1

The computer program will then ask for data on the actual penalty payments made by the firm and the month in which each payment was made. The data are entered in the following order.

IV-4

1. Number of penalty payments made by the firm. This is the actual number of payments made by the firm. If more than one payment is made in a month, they should be totalled and counted as one payment.
2. Month of the penalty payment. This is the number of the month in which the penalty payment is received by EPA, beginning with the month the firm is out of compliance. For example, a firm making a payment at the time notice of noncompliance is issued would enter a one. If a six-month delay in payment occurred, a seven would be entered.

3. Actual penalty payment. This is the dollar amount of the penalty actually received from the firm in each month. The payment entered should not include the 20 percent penalty for late payment. The data entered in the Fertilizer Company example is shown in Exhibit IV-3. As can be seen in the exhibit, these payments are identical to the penalties calculated in the last section and shown in Exhibit III-7.

PROPOSED RULES

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IV-5

Exhibit IV-3  
ENTRY OF DATA ON ACTUAL PENALTY PAYMENTS

ENTER NUMBER OF PENALTY PAYMENTS MADE BY FIRM? 4  
ENTER FIRST MONTH OF PAYMENT. THEN DOLLAR AMOUNT  
PAYMENT MONTH 1  
PAYMENT AMOUNT \$213.86  
PAYMENT MONTH 2  
PAYMENT AMOUNT \$318.83  
PAYMENT MONTH 3  
PAYMENT AMOUNT \$5425.92  
PAYMENT MONTH 10  
PAYMENT AMOUNT \$535.12

The terminal now asks for data on the Treasury interest rate, months out of compliance, limited life facilities, and financing with industrial development bonds. These data are entered in the following order.

1. Treasury interest rate. This is an annual interest rate set by the Secretary of the Treasury for the post-compliance settlement. It is entered as a percent. For the Fertilizer Company, the rate was chosen as 15.84 percent, which is the firm's return on equity.

IV-6

17430

2. Months out of compliance. This is the actual number of months the firm was out of compliance beginning on the date notice of noncompliance was issued and continuing until the firm demonstrates compliance was achieved.

3. Limited life facility. The limited life facility requires a slightly different method of calculation for the post-compliance settlement. This method is discussed in detail in the next section. For the Fertilizer Company, a zero is entered.

4. Industrial Development Bonds. This is an option explained in detail in the next section. For the Fertilizer Company, industrial development bonds were not sold. A zero is entered at the terminal. All four of the above data entries are shown in Exhibit IV-4.

Exhibit IV-4

ADDITIONAL QUESTIONS ASKED BY TERMINAL  
DURING POST-COMPLIANCE SETTLEMENT CALCULATION

TREASURY INTEREST RATE 15.84  
IS THIS A LIMITED LIFE FACILITY (1=YES, 0=NO)? 0  
ENTER PERCENTAGE OF TOTAL PROJECT FINANCED BY INDUSTRIAL DEVELOPMENT BONDS? 0

1 HOW MANY MONTHS WAS THE SOURCE OUT OF COMPLIANCE? 11

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The computer program now requests data on the actual expenditures the firm made in order to reach compliance. These new data are entered in the following order.

1. Schedule of Actual Capital Expenditures. These are the payments the firm made, or capital costs the firm incurred, in each month during the period of noncompliance. They are entered in actual dollars as of the period the expenditure was made. No adjustment for inflation during the period of noncompliance should be made, since the program will automatically convert the actual dollars to real dollars as of the first day of noncompliance.

The sources for data on the actual monthly expenditures for noncompliance include cancelled checks to manufacturers and shippers, accounting entries in the firm's fixed asset accounts, or manufacturers invoices. The Fertilizer Company submitted the data in Exhibit IV-5 to show capital expenditures made during the period of noncompliance.

2. Schedule of Actual Operating and Maintenance Expense. This schedule indicates the actual pre-compliance expenditures made by the firm in each month. This data will be calculated by the firm from accounting information and will include labor, utilities, supplies, property taxes and the value of any by-

IV-8

Exhibit IV-5

FERTILIZER COMPANY  
CALCULATION OF ACTUAL CAPITAL EXPENDITURE

|   |              |
|---|--------------|
| 1. List price or estimated price of the equipment =       | \$536,588.92 |
| 2. Less: Discount from manufacturer =                     | (10,731.78)  |
| 3. Equals net price of equipment =                        | \$525,857.14 |
| 4. Plus: Sales tax on equipment <sup>1</sup> =            | 26,292.86    |
| 5. Plus: Freight and delivery charge =                    | 0            |
| 6. Equals estimated cost of equipment delivered =         | \$552,150.00 |
| 7. Plus: Installation charge =                            | 0            |
| 8. Plus: Value of lost production =                       | 0            |
| 9. Plus: Cost of building construction or modifications = | 0            |
| 10. Equals Total Capital Expenditure =                    | \$552,150.00 |

The capital expenditures were made in three equal payments of \$184,050.00 starting in the ninth month of non-compliance.

<sup>1</sup> Sales tax in this case was not subtracted from revenue in the year of purchase.

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IV-9

products. The Fertilizer Company submitted the data in Exhibit IV-6 for pre-compliance expenditures. These values are adjusted for inflation by the program.

The program is designed to print an error message if any monthly precompliance operating and maintenance expenditure is larger than one-twelfth of the new post-compliance operating and maintenance cost. When this occurs, it is likely that equipment start up costs which should have been included in capital expenditures have been incorrectly charged to precompliance operating and maintenance expense. In such a case, precompliance capital expenditures and operating and maintenance expenses should be adjusted accordingly.

3. Estimate of Annual Operating and Maintenance Expenditures. Because the post-compliance settlement will occur before the new equipment has operated for a full year, it will be necessary to estimate post-compliance annual operating and maintenance expenses based on the firm's experience from compliance to the time of the post-compliance settlement. These estimates should be in the actual dollars as of compliance. Thus, for the

precompliance operating and maintenance expenditures are used to adjust the operating and maintenance component of the penalty. Quarterly precompliance expenditures larger than one-twelfth of the annual would result in negative penalties.

IV-10  
Exhibit IV-6

ACTUAL MONTHLY PRE-COMPLIANCE OPERATING  
AND MAINTENANCE EXPENSE  
FERTILIZER COMPANY  
August 1, 1980

Pre-compliance Operating Expense

|                                 |            |
|---------------------------------|------------|
| Months 1-9                      | \$ 0       |
| Month 10                        |            |
| Labor<br>(84 hrs @ \$10)        | \$840.00   |
| Power (1200 Kwh<br>@ .0333 Kwh) | 39.96      |
| Total                           | \$ 879.96  |
| Month 11                        |            |
| Labor<br>(110 hrs @ \$10)       | \$1100.00  |
| Power (6739 Kwh<br>@ .0333 Kwh) | 224.40     |
| Total                           | \$1,324.40 |

PROPOSED RULES

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IV-11

Fertilizer Company, which will come into compliance in 1980, the estimate for post-compliance annual operating and maintenance expenses should be in 1980 dollars. The program will automatically deflate this number to real terms as of the date of noncompliance. The Fertilizer Company submitted the data in Exhibit IV-7 as an estimate of post-compliance annual operating and maintenance expenditures.

Entry of the actual expenditures by the Fertilizer Company is shown in Exhibit IV-8. In addition, the data used to calculate the original penalty, such as the investment tax rate, income tax rate, etc., are entered in exactly the same manner as entered for the original penalty calculation. This is also shown in Exhibit IV-8. Note that the entry for all data after the annual operating and maintenance expense is identical to Exhibit II, the initial penalty calculation.

IV-12

Exhibit IV-7  
Fertilizer Company  
OPERATING AND MAINTENANCE EXPENSE  
August 1, 1980

1. Annual Labor Expense  
1072 Hours X \$10.81 per hour = \$11,588.32
2. Power Cost  
89991.5 Kwh X \$.038 per Kwh = 3,419.68
3. Water Cost  
Gallons X \$ per gallon = 0
4. Raw Materials and Supplies  
1200 lbs X \$1.20 per lb. = 1,440.00
5. Yearly increase in property tax = 0
6. Cost of production lost due to maintenance or use of equipment = 0
7. Total Cost (1 + 2 + 3 + 4 + 5 + 6) = 16,448.00
8. Less: Value of by-products  
800 lbs. at \$.56 per lbs. = (448.00)
9. Annual Operating and Maintenance (7-8)  
\$16,000.00

PROPOSED RULES

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Exhibit IV-8  
DATA ENTRY FOR POSTCOMPLIANCE SETTLEMENT

THE FOLLOWING QUESTIONS ON CAPITAL EXPENDITURES AND  
OPERATING AND MAINTENANCE EXPENSE REFER TO THE  
ACTUAL CAPITAL EXPENDITURE AND O&M EXPENSE

\*\*\* IN EACH MONTH ENTER CAPITAL EXPENDITURES \*\*\*  
\*\*\* THEN OPERATING AND MAINTENANCE EXPENSE \*\*\*

MONTH # 1 70.0  
MONTH # 2 70.0  
MONTH # 3 70.0  
MONTH # 4 70.0  
MONTH # 5 70.0  
MONTH # 6 70.0  
MONTH # 7 70.0  
MONTH # 8 70.0  
MONTH # 9 7104050.0  
MONTH # 10 7184050.879.96  
MONTH # 11 7184050.1324.40

TOTAL CAPITAL EXPENDITURE \$ 552150

2 INITIAL ANNUAL O&M EXPENSE 16000  
3 INVESTMENT TAX RATE 10  
4 INCOME TAX RATE 49.73  
5 INFLATION RATE 8.3  
6 DISCOUNT RATE 13.84  
7 INTEREST RATE 7.74  
8 PREFERRED DIVIDEND RATE 8.88  
9 PREFERRED SHARE OF INVESTMENT 21.5  
10 EQUITY SHARE OF INVESTMENT 67.5  
11 DEPRECIATION LIFE IN YEARS 12  
12 USEFUL LIFE IN YEARS 11

PROPOSED RULES

OUTPUT FROM THE POST-COMPLIANCE  
SETTLEMENT CALCULATION

The output from the post-compliance settlement calculation incorporates the data on penalty payments made by the firm and compares these payments to a penalty schedule based on actual expenditures made to achieve compliance. The output consists of two parts:

- Printing of the penalty paid in each month and the penalty determined from actual expenditures. The difference between the actual penalty and the payment made by the firm is calculated in each month.
- The program allows the option of delaying the post-compliance settlement.

The output from the post-compliance settlement for the Fertilizer Company is shown in Exhibit IV-10. The first column prints the month in which a penalty payment was made or a penalty payment was required based on the post-compliance penalty calculation. The second column contains the actual payment made by the firm. The third column is the penalty based on actual expenditures made coming into compliance.

SPECIAL CONDITIONS

The program next calculates the difference between the penalty payment in each month and the new penalty calculation based on actual expenditures. The difference between the payment made and the actual penalty is then charged interest at the rate specified by the Treasury for the number of months after payment that the firm remained out of compliance.

Exhibit IV-10  
THE POST-COMPLIANCE SETTLEMENT

RAPID AMORTIZATION STRAIGHT LINE DEPRECIATION

| MONTH | PENALTY PAID | ACTUAL PENALTY | AMOUNT DUE EPA | AMOUNT DUE FIRM |
|-------|--------------|----------------|----------------|-----------------|
| 1     | 5213.86      | 8250.99        | 3037.13        | 0               |
| 4     | 5318.83      | 8417.11        | 3098.28        | 0               |
| 7     | 5425.92      | 8586.58        | 3160.66        | 0               |
| 10    | 5535.17      | 8759.46        | 3224.29        | 0               |

HOW MANY MONTHS ARE THERE BETWEEN COMPLIANCE  
AND PAYMENT OF POST-COMPLIANCE SETTLEMENT?  
AMOUNT DUE EPA = \$ 13514.88

The post-compliance settlement was calculated and paid two months after the Fertilizer Company came into compliance. For this reason, a 2 was entered when the program asked for the number of months between compliance and payment of the post-compliance settlement. Thus, the total post-compliance settlement paid by the firm to EPA is \$13,514.88.

PROPOSED RULES

The preceding four sections enable the user to calculate the noncompliance penalty and post-compliance settlement when the source is privately owned and when compliance is achieved by modification of existing plant and equipment. In addition, it is assumed that financing would not involve industrial development bonds. Section V will expand the number of cases in which the penalty program is applicable and enable the user to compute the non-compliance penalty in the following situations.

- Plant and equipment necessary for compliance are financed through the sale of tax-exempt industrial development bonds.
- The source is operated by a local, state or federal government.
- The source has a limited useful life.

The noncompliance penalty in all three cases is calculated using the program PENALTY. However, it is necessary to modify some of the data entered into the program to reflect the unique characteristics of each of these situations. The following section describes special data requirements and modifications in data entry. It should



be stressed that all data and data entry procedures discussed in the four previous sections are applicable to these special conditions except where specific changes are required.

INDUSTRIAL  
DEVELOPMENT BONDS

Industrial development bonds for pollution control equipment are used by firms in order to secure debt financing at an interest cost lower than the current rate on industrial bonds. This lower interest rate is possible because the development bonds are issued by a local or state government for the corporation and the interest payments received by the bond holder are exempt from federal income tax. The corporation pays the principal and interest payments, but because of the tax-exempt status of the interest, the interest charges are often several percentage points below corporate debt of similar quality.

The Revenue Act of 1978 requires that firms financing with industrial development bonds receive only one-half of the investment tax credit when rapid amortization is used. For firms financing in part with development bonds, a pro-rata portion of this financing should be applied to the facility for determining the investment tax

credit. The computer program will automatically pro-rate the investment tax credit. The user must provide two types of data.

- The percentage of the investment financed by industrial development bonds.
- Interest rate on development bonds.

Data are gathered for the calculation of the penalty in the same manner as described in Section II. In addition, the user must perform the following calculations.

1. Percent financed with industrial development bonds. This percentage is obtained by dividing the total issue of tax-exempt pollution control industrial development bonds by the capital investment.<sup>1</sup> In the Fertilizer Company example, the estimated capital investment was \$500,000. If the firm sold \$200,000 in industrial development bonds, the percentage entered would be forty. This would be entered as 40.

2. Interest rate on industrial development bonds. The interest rate used for pollution control industrial development bonds is published by Smith, Barney, Harris Upham & Co. in the Bond Markets Review. The review is published weekly and the current yield on bonds is printed on the last page.

<sup>1</sup>The firm may issue bonds in a volume much higher than the capital investment. In this case financing is entered as 100 percent. The program will not accept data higher than 100 percent.

PROPOSED RULES

For the Fertilizer Company example, the latest reported yield on pollution control industrial development bonds is 6.85 percent. This yield is entered as the interest rate in the penalty program.

There are thus only two changes in the data entered for industrial development bonds as opposed to the example described in Section III. A percentage of the project financed with tax-exempt bonds is entered, and the interest rate used is for pollution control industrial development bonds. All other data entry remains the same.

GOVERNMENT-OWNED  
FACILITIES

The use of the noncompliance penalty program for government facilities requires that all cash flows related to taxes be eliminated. In addition, no debt financing is considered and the discount rate is entered at ten percent. Exhibit V-1 shows the data entry procedure for non-complying sources owned by governments. Data labelled "no change" are calculated using the methods described in Section II.

Exhibit V-1

DATA ENTRY FOR GOVERNMENT FACILITIES

| DATA CATEGORY                            | PROGRAM ENTRY |
|--|---------------|
| Pre-compliance Capital Expenditures      | No Change     |
| Pre-compliance Operating and Maintenance | No Change     |
| Annual Operating and Maintenance         | No Change     |
| Investment Tax Credit                    | 0             |
| Income Tax Rate                          | 0             |
| Inflation Rate                           | No Change     |
| Discount Rate                            | 10.0          |
| Interest Rate                            | 0             |
| Preferred Dividend Rate                  | 0             |
| Preferred Share of Investment            | 0             |
| Equity Share of Investment               | 100.0         |
| Depreciation Life in Years               | No Change     |
| Useful Life in Years                     | No Change     |

PROPOSED RULES



FACILITIES WITH LIMITED USEFUL LIVES

The noncompliance penalty computer program will calculate penalties for facilities with limited useful lives. In cases where a noncomplying facility is to be operated for a period of time and then retired, the current program may be used. Capital and operating and maintenance cost estimates are made based on what it would cost to bring the source into compliance and the calculation proceeds in the normal manner. In such cases there are no precompliance operating and maintenance expenditures and the total capital expenditure is entered in the last month. There is no post-compliance settlement.

In cases where the noncomplying source is to be replaced by a new, complying facility after some period of noncompliance, program inputs and operation will be slightly different than at present. In such cases, the program will

- ask if the calculation is for a limited life facility that is being replaced,
- request an estimate of the capital and annual operating expenses required to bring the old source into compliance,
- request a schedule of precompliance total capital expenditures (for productive capability plus pollution control equipment) required to build the new source.

- request a schedule of precompliance O&M expenditures (for productive capability and pollution control equipment) associated with the new source, and
- request an estimate of annual production costs including pollution control operating and maintenance expenses at the new source.

The program will then calculate the penalty based on the costs of compliance at the old source but will be adjusted for precompliance expenditures on the new source. Once the new source is in operation and the old source is retired (and, thus, full compliance is achieved), a postcompliance settlement can be made. Such a settlement will consider only changes in the precompliance expenditures associated with the new source relative to the estimates made when the initial penalty calculation was carried out.

PROPOSED RULES

APPENDIX C

CLEAN AIR ACT

SECTION 120

NONCOMPLIANCE PENALTIES

COMPUTER PROGRAM

|          |  |          |
|----------|--|----------|
| 00000100 | THIS PROGRAM COMPUTES THE NONCOMPLIANCE PENALTY    | 00000100 |
| 00000100 | PRESCRIBED IN SECTION 120 OF THE CLEAN AIR ACT.    | 00000100 |
| 00000100 | IT WAS WRITTEN BY ROBERT L. HAYES OF TCS FINANCIAL | 00000100 |
| 00000100 | CONSULTANTS, NASHVILLE, TENNESSEE, UNDER CONTRACT  | 00000100 |
| 00000100 | WITH THE UNITED STATES ENVIRONMENTAL PROTECTION    | 00000100 |
| 00000100 | AGENCY.  | 00000100 |
| 00000100 | THE PROGRAM FULFILLS CLOSELY THE FEBRUARY 1979     | 00000100 |
| 00000100 | TECHNICAL SUPPORT DOCUMENT.                        | 00000100 |
| 00000100 |  | 00000100 |
| 00000100 | VARIABLE DICTIONARY                                | 00000100 |
| 00000100 | VECTORS  | 00000100 |
| 00000100 | AC1(J)   | 00000100 |
| 00000100 | AD(J)  | 00000100 |
| 00000100 | ADJUSTED CAPITAL COMPONENT IN MONTH J              | 00000100 |
| 00000100 | ADJUSTED D & M COMPONENT IN MONTH J                | 00000100 |
| 00000100 | DEPRECIATION FRACTION IN YEAR J, TYPE K            | 00000100 |
| 00000100 | DEPRECIATION TAX SAVINGS IN YEAR J                 | 00000100 |
| 00000100 | DEPL(J)  | 00000100 |
| 00000100 | NET CASH FLOW IN YEAR J                            | 00000100 |
| 00000100 | CMFL(J)  | 00000100 |
| 00000100 | TOTAL CASH FLOW IN YEAR J                          | 00000100 |
| 00000100 | CMFLTOT(J)   | 00000100 |
| 00000100 | TOTAL DEPRECIATION TAX SAVINGS                     | 00000100 |
| 00000100 | DEPLTOT(J)   | 00000100 |
| 00000100 | RECOVERED PENALTY AS AMOUNT PAID                   | 00000100 |
| 00000100 | DEL(J)   | 00000100 |
| 00000100 | AT END OF YEAR J                                   | 00000100 |
| 00000100 | INTEREST PAID AT END OF YEAR J                     | 00000100 |
| 00000100 | INT(J)   | 00000100 |
| 00000100 | D & M EXPENSE AT END OF YEAR J                     | 00000100 |
| 00000100 | M(J)   | 00000100 |
| 00000100 | PENALTY PAYMENT DUE IN MONTH J                     | 00000100 |
| 00000100 | P(J)   | 00000100 |
| 00000100 | PENALTY ACTUALLY PAID IN MONTH J                   | 00000100 |
| 00000100 | PAID(J)  | 00000100 |
| 00000100 | PRINCIPAL REPAYMENT AT END OF                      | 00000100 |
| 00000100 | YEAR J   | 00000100 |
| 00000100 | PRIN(J)  | 00000100 |
| 00000100 | PRINCIPAL OUTSTANDING AT THE BEGINNING             | 00000100 |
| 00000100 | OF YEAR J  | 00000100 |
| 00000100 | PRECAP(J)  | 00000100 |
| 00000100 | PRECOMPLIANCE CAP EXP IN MONTH J                   | 00000100 |
| 00000100 | PREF(J)  | 00000100 |
| 00000100 | PREFERRED STOCK REDEEMED AT END OF                 | 00000100 |
| 00000100 | YEAR J   | 00000100 |
| 00000100 | PPREF(J)   | 00000100 |
| 00000100 | PREFERRED STOCK OUTSTANDING AT BEGINNING           | 00000100 |
| 00000100 | OF YEAR J  | 00000100 |
| 00000100 | PPREFTOT(J)  | 00000100 |
| 00000100 | QUARTERLY PENALTY DUE IN MONTH J                   | 00000100 |
| 00000100 | QUART(J)   | 00000100 |
| 00000100 | EQUivalent CAPITAL COMPONENT IN MONTH J            | 00000100 |
| 00000100 | SC(J)  | 00000100 |
| 00000100 | EQUivalent D & M COMPONENT IN MONTH J              | 00000100 |
| 00000100 | SD(J)  | 00000100 |
| 00000100 | SAVINGS ON TAX DEDUCTIBLE INVESTMENT               | 00000100 |
| 00000100 | SAV(J)   | 00000100 |
| 00000100 | FRACTION OF D & M SPENT IN MONTH J                 | 00000100 |
| 00000100 | F(J)   | 00000100 |
| 00000100 | DELTA(J) ADJUSTED TO COMPLIANCE DATE               | 00000100 |
| 00000100 | DELTA(J)   | 00000100 |
| 00000100 |  | 00000100 |
| 00000100 | VARIABLES  | 00000100 |
| 00000100 | B  | 00000100 |
| 00000100 | DEBT FRACTION OF CAPITAL STRUCTURE                 | 00000100 |
| 00000100 | CDMPR  | 00000100 |
| 00000100 | FRACTION OF ASSET ALREADY DEPRECIATED              | 00000100 |
| 00000100 | DEPR   | 00000100 |
| 00000100 | MONTHS FROM COMPLIANCE DATE TO SETTLEMENT          | 00000100 |
| 00000100 | DD   | 00000100 |
| 00000100 | DUMMY INDICATING COSTS DIVIDED BY 1000             | 00000100 |
| 00000100 | DDIV   | 00000100 |
| 00000100 | DUMMY INDICATING LIMITED LIFE FACILITIES           | 00000100 |
| 00000100 | DLIM   | 00000100 |
| 00000100 | DUMMY INDICATING LUMP SUM SETTLEMENT               | 00000100 |
| 00000100 | DLUMP  | 00000100 |
| 00000100 | DUMMY INDICATING A LUMP SUM SETTLEMENT             | 00000100 |
| 00000100 | DPDST  | 00000100 |
| 00000100 | E  | 00000100 |
| 00000100 | DISCOUNT RATE ON MONTHLY BASIS                     | 00000100 |
| 00000100 | E1   | 00000100 |



[illegible]

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|          |          |
|----------|----------|
| 00013000 | 00023500 |
| 00013500 | 00024000 |
| 00014000 | 00024500 |
| 00014500 | 00025000 |
| 00015000 | 00025500 |
| 00015500 | 00026000 |
| 00016000 | 00026500 |
| 00016500 | 00027000 |
| 00017000 | 00027500 |
| 00017500 | 00028000 |
| 00018000 | 00028500 |
| 00018500 | 00029000 |
| 00019000 | 00029500 |
| 00019500 | 00030000 |
| 00020000 | 00030500 |
| 00020500 | 00031000 |
| 00021000 | 00031500 |
| 00021500 | 00032000 |
| 00022000 | 00032500 |
| 00022500 | 00033000 |
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| 00036500 | 00047000 |
| 00037000 | 00047500 |
| 00037500 | 00048000 |
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| 00038500 | 00049000 |
| 00039000 | 00049500 |
| 00039500 | 00050000 |
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| 00042500 | 00053000 |
| 00043000 | 00053500 |
| 00043500 | 00054000 |
| 00044000 | 00054500 |
| 00044500 | 00055000 |
| 00045000 | 00055500 |
| 00045500 | 00056000 |
| 00046000 | 00056500 |
| 00046500 | 00057000 |
| 00047000 | 00057500 |
| 00047500 | 00058000 |
| 00048000 | 00058500 |
| 00048500 | 00059000 |
| 00049000 | 00059500 |
| 00049500 | 00060000 |
| 00050000 | 00060500 |
| 00050500 | 00061000 |
| 00051000 | 00061500 |
| 00051500 | 00062000 |
| 00052000 | 00062500 |
| 00052500 | 00063000 |
| 00053000 | 00063500 |
| 00053500 | 00064000 |
| 00054000 | 00064500 |
| 00054500 | 00065000 |
| 00055000 | 00065500 |
| 00055500 | 00066000 |
| 00056000 | 00066500 |
| 00056500 | 00067000 |
| 00057000 | 00067500 |
| 00057500 | 00068000 |
| 00058000 | 00068500 |
| 00058500 | 00069000 |
| 00059000 | 00069500 |
| 00059500 | 00070000 |
| 00060000 | 00070500 |
| 00060500 | 00071000 |
| 00061000 | 00071500 |
| 00061500 | 00072000 |
| 00062000 | 00072500 |
| 00062500 | 00073000 |
| 00063000 | 00073500 |
| 00063500 | 00074000 |
| 00064000 | 00074500 |
| 00064500 | 00075000 |
| 00065000 | 00075500 |
| 00065500 | 00076000 |
| 00066000 | 00076500 |
| 00066500 | 00077000 |
| 00067000 | 00077500 |
| 00067500 | 00078000 |
| 00068000 | 00078500 |
| 00068500 | 00079000 |
| 00069000 | 00079500 |
| 00069500 | 00080000 |
| 00070000 | 00080500 |
| 00070500 | 00081000 |
| 00071000 | 00081500 |
| 00071500 | 00082000 |
| 00072000 | 00082500 |
| 00072500 | 00083000 |
| 00073000 | 00083500 |
| 00073500 | 00084000 |
| 00074000 | 00084500 |
| 00074500 | 00085000 |
| 00075000 | 00085500 |
| 00075500 | 00086000 |
| 00076000 | 00086500 |
| 00076500 | 00087000 |

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## PROPOSED RULES

|   |   |          |                             |          |
|---|---|----------|-----------------------------|----------|
| C | EQUATION (12) = PREPARED STOCK REDEMPTION             | 00035000 | AC(K)=((1-X(K))*SECK)       | 00061100 |
| C | PRF(J)=O((LOTS,J))=IF                                 | 00035100 | A(K)=((1-X(K))*SECK)        | 00061200 |
| C | COMBINING EQUATIONS (14) AND (15)                     | 00035200 | IF (A(K)=1) GO TO 6100,6100 | 00061300 |
| C | PAFOUT(J)=PAFOUT(J)+PRF(J)                            | 00035300 | A(K)=0                      | 00061400 |
| C | EQUATION (13) = PREPARED STOCK DIVIDEND PAYMENT       | 00035400 | CONTINUE                    | 00061500 |
| C | DIV(J)=DIV+PAFOUT(J)                                  | 00035500 |                             | 00061600 |
| C | CONTINUE  | 00035600 |                             | 00061700 |
| C | NOTE: EQUATION (17), O & M, IS COMBINED BELOW WITH    | 00035700 |                             | 00061800 |
| C | EQUATIONS (21) AND (22)                               | 00035800 |                             | 00061900 |
| C | DISCOUNTING CASH FLOWS                                | 00035900 |                             | 00062000 |
| C | EQUATION (18) = INITIAL CASH FLOW                     | 00036000 |                             | 00062100 |
| C | PV=INITIAL-ITC  | 00036100 |                             | 00062200 |
| C | COMBINING EQUATIONS (19) AND (20) = ANNUAL CAPITAL    | 00036200 |                             | 00062300 |
| C | RELATED   | 00036300 |                             | 00062400 |
| C | PAVR=0  | 00036400 |                             | 00062500 |
| C | DO 1200 J=1,N0EP                                      | 00036500 |                             | 00062600 |
| C | PAVR=PAVR+((OEP(J)+PRIN(J))*INT(J)+PRF(J))*OIV(J)/    | 00036600 |                             | 00062700 |
| C | (1+E)^J   | 00036700 |                             | 00062800 |
| C | PV=0  | 00036800 |                             | 00062900 |
| C | EQUATION (17), (21) AND (22) COMBINED = O AND M       | 00036900 |                             | 00063000 |
| C | PV=0  | 00037000 |                             | 00063100 |
| C | DO 1300 J=1,N0EB                                      | 00037100 |                             | 00063200 |
| C | MJ=MOE*((1+E)^J)                                      | 00037200 |                             | 00063300 |
| C | PV=PV+MOE*((1+E)^J)                                   | 00037300 |                             | 00063400 |
| C | EQUATION (23) = PRESENT VALUE OF FIRST CYCLE FLOWS    | 00037400 |                             | 00063500 |
| C | PV=PV+OEP*((1+E)^J)                                   | 00037500 |                             | 00063600 |
| C | EQUATION (24) = PRESENT VALUE OF FLOWS FOR ALL CYCLES | 00037600 |                             | 00063700 |
| C | PV=PV+PVC*((1+E)^J)                                   | 00037700 |                             | 00063800 |
| C | EQUATION (25) = PRESENT VALUE OF DELAYED FLOWS        | 00037800 |                             | 00063900 |
| C | PVLA=PV+PVC*((1+E)^J)                                 | 00037900 |                             | 00064000 |
| C | EQUATION (26) = ECONOMIC SAVINGS CALCULATION          | 00038000 |                             | 00064100 |
| C | SAVINGS=PVC-PVLA                                      | 00038100 |                             | 00064200 |
| C | EQUATION (27) = ECONOMIC SAVINGS CALCULATION          | 00038200 |                             | 00064300 |
| C | SAVINGS=PVC-PVLA                                      | 00038300 |                             | 00064400 |
| C | CONVERT SAVINGS INTO A MONTHLY PENALTY                | 00038400 |                             | 00064500 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00038500 |                             | 00064600 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00038600 |                             | 00064700 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00038700 |                             | 00064800 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00038800 |                             | 00064900 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00038900 |                             | 00065000 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039000 |                             | 00065100 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039100 |                             | 00065200 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039200 |                             | 00065300 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039300 |                             | 00065400 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039400 |                             | 00065500 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039500 |                             | 00065600 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039600 |                             | 00065700 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039700 |                             | 00065800 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039800 |                             | 00065900 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00039900 |                             | 00066000 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040000 |                             | 00066100 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040100 |                             | 00066200 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040200 |                             | 00066300 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040300 |                             | 00066400 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040400 |                             | 00066500 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040500 |                             | 00066600 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040600 |                             | 00066700 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040700 |                             | 00066800 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040800 |                             | 00066900 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00040900 |                             | 00067000 |
| C | SC=((1+E)^J)/((1+E)^J)                                | 00041000 |                             | 00067100 |

## PROPOSED RULES

[illegible]







[6450-01-M]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-78-25]

## FINAL LIST OF GAS AND ELECTRIC UTILITIES COVERED BY TITLES I AND III OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 AND TITLE II OF THE NATIONAL ENERGY CONSERVATION POLICY ACT OF 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: This Notice revises the list of covered gas and electric utilities published in the December 22, 1978 FEDERAL REGISTER (43 FR 59883), "Requirement for State and Local Agencies To Notify the Department of Energy of Their Rate-making Authority Over Gas and Electric Utilities Covered by Titles I and III of the Public Utility Regulatory Policies Act (PURPA) of 1978 and Title II of the National Energy Conservation Policy Act (NECPA) of 1978." In addition to the revised list, this Notice contains a State list identifying each State regulatory authority and the covered utilities it regulates, and other covered utilities in the State not regulated by the State regulatory authority.

## FOR FURTHER INFORMATION CONTACT:

Jeffrey A. Serfass, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W. (Vanguard 538), Washington, D.C. 20461, Telephone: (202) 254-9700.

NOTICE: The United States Department of Energy (DOE) is publishing a revised list of gas and electric utilities covered by Titles I and III of the Public Utility Regulatory Policies Act of 1978 (PURPA) and Title II of the National Energy Conservation Policy Act of 1978 (NECPA). This revised list is based on comments received on or before February 28, 1979, in response to the earlier notice identifying covered gas and electric utilities, published in the FEDERAL REGISTER, Friday, December 22, 1978, (43 FR 59883).

As required by PURPA Sections 102(c) and 301(d), and NECPA Section 211(b), the December 22, 1978 Notice required each State regulatory authority to notify the Secretary of Energy of each gas and electric utility on the list for which such State regulatory authority has rate-making authority. The December 22, 1978 Notice also requested public comment on the accuracy of the list of gas and electric utilities.

The revised list reflects the following types of changes: the addition and deletion of gas and electric utilities based on the sales criteria contained in PURPA and NECPA; the addition and deletion of asterisks based on the sales criteria contained in PURPA and NECPA and the existence of residential sales and correction of type of ownership. DOE has also deleted all interstate natural gas pipelines which are not "engaged in the local distribution of natural gas" and do not have residential customers. In addition, Citizen Utilities Company has been deleted even though its company-wide sales exceed the statutory criteria. Citizen Utilities Company is essentially four separate operating companies in widely dispersed geographic areas from Vermont to Hawaii, none of which exceed the thresholds. For all other utilities on the list, the statutory criteria of company-wide sales apply, rather than sales within a State.

The attached revised list is arranged alphabetically, but subdivided into electric utilities and gas utilities and further subdivided by type of ownership: privately-owned, publicly-owned, and rural cooperatives.

In addition, DOE is publishing a second list which separately identifies each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State not regulated by the State regulatory authority. The covered utilities identified in each State exceed the statutory criteria for company-wide, not State, sales. It should be noted that although the following rural electric cooperatives are listed under the rate-making authority of the Tennessee Valley Authority, the Kentucky Public Service Commission also claims rate-making authority over them:

- \*Pennyrite Rural Electric Cooperative Corporation
- \*Tri-County Electric Membership Corporation
- \*Warren Rural Electric Cooperative
- \*West Kentucky Rural Electric Cooperative Corporation

DOE listed the above rural electric cooperatives under the Tennessee Valley Authority pending resolution of the jurisdictional matter resulting from the current litigation.

The inclusion or exclusion of any utility does not affect the legal obligations of such utility or the responsible State regulatory authority under PURPA and NECPA.

## ELECTRIC UTILITIES

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976 or 1977. All, except those marked (\*), are covered by

PURPA Title I and NECPA Title II. Utilities marked (\*) either do not exceed the NECPA threshold of 750 million kilowatt-hours in 1977 or do not have residential sales and, therefore, they are not covered by NECPA Title II.

## INVESTOR-OWNED

Alabama Power Company  
Appalachian Power Company  
Arizona Public Service Company  
Arkansas-Missouri Power Company  
Arkansas Power & Light Company  
Atlantic City Electric Company  
Baltimore Gas & Electric Company  
Bangor Hydro-Electric Company  
Black Hills Power & Light Company  
Blackstone Valley Electric Company  
Boston Edison Company  
Brockton Edison Company  
Cambridge Electric Light Company  
Carolina Power & Light Company  
Central Hudson Gas & Electric Corporation  
Central Illinois Light Company  
Central Illinois Public Service Company  
Central Louisiana Electric Company  
Central Maine Power Company  
Central Power & Light Company  
Central Telephone & Utilities Corporation  
Central Vermont Public Service Corporation  
Cincinnati Gas & Electric Company  
Cleveland Electric Illuminating Company  
Columbus and Southern Ohio Electric Company  
Commonwealth Edison Company  
Community Public Service Company  
Connecticut Light & Power Company  
Consolidated Edison Company of New York  
Consumers Power Company  
CP National Corporation  
Dallas Power & Light Company  
Dayton Power & Light Company  
Delmarva Power & Light Company  
Delmarva Power & Light Company of Maryland  
Delmarva Power & Light Company of Virginia  
Detroit Edison Company  
Duke Power Company  
Duquesne Light Company  
El Paso Electric Company  
Empire District Electric Company  
Fall River Electric Light Company  
Florida Power Corporation  
Florida Power & Light Company  
Georgia Power Company  
Green Mountain Power Corporation  
Gulf Power Company  
Gulf States Utilities Company  
Hartford Electric Light Company  
Hawaiian Electric Company, Inc.  
Houston Lighting & Power Company  
Idaho Power Company  
Illinois Power Company  
Indiana & Michigan Electric Company  
Indianapolis Power & Light Company  
Interstate Power Company  
Iowa Electric Light & Power Company  
Iowa-Illinois Gas & Electric Company  
Iowa Power & Light Company  
Iowa Public Service Company  
Iowa Southern Utilities Company  
Jersey Central Power & Light Company  
Kansas City Power & Light Company  
Kansas Gas & Electric Company  
Kansas Power & Light Company  
Kentucky Power Company  
Kentucky Utilities Company  
Kingsport Power Company

\*Lake Superior District Power Company  
Long Island Lighting Company  
Louisiana Power & Light Company  
Louisville Gas & Electric Company  
Madison Gas & Electric Company  
Massachusetts Electric Company  
Metropolitan Edison Company  
Minnesota Power & Light Company  
Mississippi Power Company  
Mississippi Power & Light Company  
\*Missouri Edison Company  
Missouri Power & Light Company  
Missouri Public Service Company  
Missouri Utilities Company  
Monongahela Power Company  
Montana-Dakota Utilities Company  
Montana Power Company  
Narragansett Electric Company  
Nevada Power Company  
New Bedford Gas & Edison Light Company  
\*New Mexico Electric Service Company  
New Orleans Public Service, Inc.  
New York State Electric & Gas Corporation  
Niagara Mohawk Power Corporation  
Northern Indiana Public Service Company  
Northern States Power Company  
\*Northwestern Public Service Company  
Ohio Edison Company  
Ohio Power Company  
Oklahoma Gas & Electric Company  
\*Old Dominion Power Company  
Orange & Rockland Utilities  
Otter Tail Power Company  
Pacific Gas & Electric Company  
Pacific Power & Light Company  
Pennsylvania Electric Company  
Pennsylvania Power & Light Company  
Pennsylvania Power Company  
Philadelphia Electric Company  
Portland General Electric Company  
Potomac Edison Company  
Potomac Electric Power Company  
Public Service Company of Colorado  
Public Service Company of Indiana  
Public Service Company of New Hampshire  
Public Service Company of New Mexico  
Public Service Company of Oklahoma  
Public Service Electric and Gas Company  
Puget Sound Power & Light Company  
Rochester Gas & Electric Corporation  
Rockland Electric Company  
St. Joseph Light & Power Company  
San Diego Gas & Electric Company  
Savannah Electric & Power Company  
Sierra Pacific Power Company  
South Carolina Electric & Gas Company  
Southern California Edison Company  
Southern Indiana Gas & Electric Company  
Southwestern Electric Power Company  
\*Southwestern Electric Service Company  
Southwestern Public Service Company  
Tampa Electric Company  
Texas Electric Service Company  
Texas Power & Light Company  
Toledo Edison Company  
Tucson Gas & Electric Company  
\*UGI—Luzerne Electric Division  
Union Electric Company  
Union Light, Heat & Power Company  
United Illuminating Company  
\*Upper Peninsula Power Company  
Utah Power & Light Company  
Virginia Electric & Power Company  
Washington Water Power Company  
West Penn Power Company  
West Texas Utilities Company  
Western Massachusetts Electric Company  
Wheeling Electric Company  
Wisconsin Electric Power Company  
Wisconsin Power & Light Company  
Wisconsin Public Service Corporation

## PUBLICLY-OWNED

\*Albany Water, Gas & Light Commission  
Anaheim—Electrical Division  
Austin Electric Department  
\*Bristol Electric System (TN)  
\*Burbank Public Service Department  
Central Lincoln People's Utility District (OR)  
Chattanooga Electric Power Board  
\*Clarksburg Department of Electricity (TN)  
\*Clatskanie People's Utility District (OR)  
\*Cleveland Division of Light & Power (OH)  
\*Cleveland Utilities (TN)  
Colorado Springs Department of Public Utilities  
Decatur Electric Department (AL)  
\*Detroit Public Lighting Department  
Eugene Water & Electric Board (OR)  
Fayetteville Public Works Commission (NC)  
\*Florence Electricity Department (AL)  
\*Gainesville-Alachua County Regional Electric, Water, and Sewer Utilities Board (FL)  
Garland Electric Department (TX)  
\*Glendale Public Service Department (CA)  
\*Greenville Light & Power System (TN)  
\*Greenville Utilities Commission (NC)  
Huntsville Utilities (AL)  
Imperial Irrigation District (CA)  
\*Independence Power & Light Department (MO)  
Jackson Utility Division—Electric Department (TN)  
Jacksonville Electric Authority (FL)  
Johnson City Power Board (TN)  
Kansas City Board of Public Utilities (KS)  
Knoxville Utility Board (TN)  
\*Lafayette Utility System (LA)  
Lakeland Department of Electricity and Water (FL)  
Lansing Board of Water & Light (MI)  
Lincoln Electric System (NB)  
Los Angeles Department of Water and Power  
Lower Colorado River Authority  
\*Lubbock Power & Light (TX)  
Memphis Light, Gas & Water Division (TN)  
Modesto Irrigation District (CA)  
\*Muscatine Power & Water (IA)  
Nashville Electric Service (TN)  
Nebraska Public Power District  
Omaha Public Power District  
Orlando Utilities Commission (FL)  
\*Palo Alto Electric Utility (CA)  
\*Pasadena Water & Power Department (CA)  
\*Power Authority of New York  
\*Port Angeles Light & Water Department (WA)  
Public Utility District No. 1 of Benton County (WA)  
Public Utility District No. 1 of Chelan County (WA)  
Public Utility District No. 1 of Clark County (WA)  
Public Utility District No. 1 of Cowlitz County (WA)  
Public Utility District of Franklin County (WA)  
Public Utility District of Grant County (WA)  
Public Utility District No. 1 of Grays Harbor County (WA)  
\*Public Utility District No. 1 of Lewis County (WA)  
Public Utility District No. 1 of Snohomish County (WA)  
Puerto Rico Water Resources Authority  
\*Richmond Power & Light (IN)  
Riverside Public Utilities (CA)  
\*Rocky Mount Public Utilities (NC)  
Sacramento Municipal Utility District (CA)

Salt River Project Agricultural Improvement and Power District (AZ)  
San Antonio Public Service Board (TX)  
\*San Francisco Public Utilities Commission  
Santa Clara Electric Department (CA)  
Seattle City Light Department (WA)  
South Carolina Public Service Authority  
Springfield City Utilities (MO)  
\*Springfield Utilities Board (OR)  
Springfield Water, Light & Power Department (IL)  
Tacoma Public Utilities—Light Division (WA)  
\*Taunton Municipal Lighting Plant (MA)  
Tallahassee, City of (FL)  
\*Turlock Irrigation District (CA)  
Vernon Municipal Light Department (CA)  
\*Wilson Utilities Department (NC)

## RURAL ELECTRIC COOPERATIVES

\*Appalachian Electric Cooperative  
Chugach Electric Association  
\*Clay Electric Cooperative  
Cumberland Electric Membership Corporation  
\*Duck River Electric Membership Corporation  
\*First Electric Cooperative Corporation  
\*Flint Electrical Membership Corporation  
\*Four County Electric Power Association  
\*Gibson County Electric Membership Corporation  
Green River Electric Corporation  
Henderson-Union Rural Electric Cooperative Corporation  
\*Jackson Electric Membership Corporation  
\*Lee County Electric Cooperative  
\*Meriwether Lewis Electric Cooperative  
Middle Tennessee Electric Membership Corporation  
\*Moon Lake Electric Association  
North Georgia Electric Membership Corporation  
\*Pedernales Electric Cooperative  
\*Pennyrite Rural Electric Cooperative Corporation  
\*Singing River Electric Power Association  
\*South Central Power Company  
Southern Maryland Electric Cooperative, Inc.  
\*Southern Pine Electric Power Association  
Southwest Louisiana Electric Membership Corporation  
\*Southwest Tennessee Electric Membership Corporation  
\*Tri-County Electric Membership Corporation  
\*Umatilla Electric Cooperative Association  
\*Upper Cumberland Electric Membership Corporation  
Volunteer Electric Cooperative  
\*Warren Rural Electric Cooperative  
\*West Kentucky Rural Electric Cooperative Corporation

## FEDERAL AGENCIES

\*Bonneville Power Administration  
\*Tennessee Valley Authority  
\*Western Area Power Administration

## GAS UTILITIES

All utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976 or 1977 and are covered by PURPA Title III and NECPA Title II.

## INVESTOR-OWNED

Alabama Gas Corporation  
Alaska Gas & Service Company



Anadarko Production Company  
 Arizona Public Service Company  
 Arkansas-Louisiana Gas Company  
 Arkansas-Oklahoma Gas Company  
 Arkansas Western Gas Company  
 Atlanta Gas Light Company  
 Baltimore Gas & Electric Company  
 Bay State Gas Company  
 Boston Gas Company  
 Brooklyn Union Gas Company  
 Cabot Corporation Utility Division  
 Carnegie Natural Gas Company  
 Carolina Pipeline Company  
 Cascade Natural Gas Corporation  
 Central Illinois Light Company  
 Central Illinois Public Service Company  
 Chattanooga Gas Company  
 Cheyenne Light, Fuel and Power Company  
 Cincinnati Gas and Electric Company  
 Cities Service Gas Company (covered by NECPA only)  
 City Gas Company of Florida  
 Columbia Gas of Kentucky, Inc.  
 Columbia Gas of New York, Inc.  
 Columbia Gas of Ohio, Inc.  
 Columbia Gas of Pennsylvania, Inc.  
 Columbia Gas of Virginia, Inc.  
 Columbia Gas of West Virginia, Inc.  
 Connecticut Light & Power Company  
 Connecticut Natural Gas Corporation  
 Consolidated Edison Company of New York, Inc.  
 Consolidated Gas Supply Corporation  
 Consumers Power Company  
 CP National Corporation  
 Dayton Power & Light Company  
 Delmarva Power & Light Company  
 East Ohio Gas Company  
 Elizabethtown Gas Company  
 Entex, Inc.  
 Equitable Gas Company  
 Florida Gas Company  
 Gas Company of New Mexico  
 Gas Light Company of Columbus  
 Gas Service Company  
 Greeley Gas Company  
 Illinois Power Company  
 Indiana Gas Company  
 Inland Gas Company  
 Inter City Gas Limited  
 Intermountain Gas Company  
 Interstate Power Company  
 Iowa Electric Light & Power Company  
 Iowa-Illinois Gas & Electric Company  
 Iowa Power & Light Company  
 Iowa Public Service Company  
 Iowa Southern Utilities Company  
 Kansas-Nebraska Natural Gas Company  
 Kansas Power & Light Company  
 Kokomo Gas & Fuel Company  
 Laclede Gas Company Consolidated  
 Lone Star Gas Company  
 Long Island Lighting Company  
 Louisiana Gas Service Company  
 Louisville Gas & Electric Company  
 Lowell Gas Company  
 Madison Gas & Electric Company  
 Michigan Consolidated Gas Company  
 Michigan Gas Utilities Company  
 Michigan Power Company  
 Minnesota Gas Company  
 Mississippi Valley Gas Company  
 Missouri Public Service Company  
 Mobile Gas Service Corporation  
 Montana-Dakota Utilities Company  
 Montana Power Company  
 Mountain Fuel Supply Company  
 Nashville Gas Company  
 National Fuel Gas Distribution Corporation  
 National Gas and Oil Company  
 New Jersey Natural Gas Company  
 New Orleans Public Service, Inc.

New York State Electric & Gas Corporation  
 Niagara Mohawk Power Corporation  
 North Carolina Natural Gas Corporation  
 North Central Public Service Company  
 North Shore Gas Company  
 Northern Illinois Gas Company  
 Northern Indiana Public Service Company  
 Northern Natural Gas Company  
 Northern States Power Company  
 North Penn Gas Company  
 Northwest Natural Gas Company  
 Northwestern Public Service Company  
 Oklahoma Natural Gas Company  
 Orange & Rockland Utilities  
 Pacific Gas & Electric Company  
 Panhandle Eastern Pipeline Company  
 Pennsylvania Gas & Water Company  
 Peoples Gas, Light and Coke Company  
 Peoples Gas System  
 Peoples Natural Gas Company  
 Peoples Natural Gas Division of Northern Natural Gas Company  
 Penn Fuel Gas, Inc.  
 Philadelphia Electric Company  
 Piedmont Natural Gas Company  
 Pioneer Natural Gas Company  
 Providence Gas Company  
 Public Service Company of Colorado  
 Public Service Company, Inc. of North Carolina  
 Public Service Electric and Gas Company  
 Rochester Gas & Electric Corporation  
 San Diego Gas & Electric Company  
 Sierra Pacific Power Company  
 South Carolina Electric & Gas Company  
 South Jersey Gas Company  
 Southeastern Michigan Gas Company  
 Southern California Gas Company  
 Southern Connecticut Gas Company  
 Southern Indiana Gas & Electric Company  
 Southern Union Gas Company  
 Southwest Gas Corporation  
 Terre Haute Gas Corporation  
 Tucson Gas & Electric Company  
 T. W. Phillips Gas and Oil Company  
 UGI Corporation  
 Union Gas System  
 Union Light, Heat & Power Company  
 United Cities Gas Company  
 Virginia Electric & Power Company  
 Washington Gas Light Company  
 Washington Natural Gas Company  
 Washington Water Power Company  
 West Ohio Gas Company  
 Western Kentucky Gas Company  
 Wisconsin Fuel & Light Company  
 Wisconsin Gas Company  
 Wisconsin Natural Gas Company  
 Wisconsin Power & Light Company  
 Wisconsin Public Service Corporation

## PUBLICLY-OWNED

Citizens Gas & Coke Utility (IN)  
 City of Richmond, Virginia, Department of Public Utilities  
 City Public Service Board (San Antonio)  
 Colorado Springs Department of Public Utilities  
 Long Beach Gas Department  
 Memphis Light, Gas & Water Division  
 Metropolitan Utilities District of Omaha  
 Philadelphia Gas Works  
 Springfield City Utilities (MO)  
 STATE: Alabama  
 REGULATORY AUTHORITY: Alabama Public Service Commission  
 Gas Utilities  
 Investor-Owned:  
 Alabama Gas Corporation  
 Mobile Gas Service Corporation

*Electric Utilities*  
 Investor-Owned:  
 Alabama Power Company  
 The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:  
*Electric Utilities*  
 Publicly-Owned:  
 Decatur Electric Department  
 \*Florence Electricity Department  
 Huntsville Utilities  
 STATE: Alaska  
 REGULATORY AUTHORITY:  
 Alaska Public Utilities Commission  
 Gas Utilities  
 Investor-Owned:  
 Alaska Gas and Service Company  
*Electric Utilities*  
 Rural Electric Cooperatives:  
 Chugach Electric Association  
 STATE: Arizona  
 REGULATORY AUTHORITY: Arizona Corporation Commission  
 Gas Utilities  
 Investor-Owned:  
 Arizona Public Service Company  
 Southern Union Gas Company  
 Southwest Gas Corporation  
 Tucson Gas and Electric Company  
*Electric Utilities*  
 Investor-Owned:  
 Arizona Public Service Company  
 CP National Corporation  
 Tucson Gas and Electric Company  
 The following covered utility within the State of Arizona is not regulated by the Arizona Corporation Commission:  
*Electric Utilities*  
 Publicly-Owned:  
 Salt River Project Agricultural Improvement and Power District  
 STATE: Arkansas  
 REGULATORY AUTHORITY: Arkansas Public Service Commission  
 Gas Utilities  
 Investor-Owned:  
 Arkansas-Louisiana Gas Company  
 Arkansas-Oklahoma Gas Company  
 Arkansas Western Gas Company  
*Electric Utilities*  
 Investor-Owned:  
 Arkansas-Missouri Power Company  
 Arkansas Power and Light Company  
 Empire District Electric Company  
 Southwestern Electric Power Company  
 Rural Electric Cooperatives:  
 \*First Electric Cooperative Corporation  
 STATE: California  
 REGULATORY AUTHORITY: California Public Utilities Commission  
 Gas Utilities  
 Investor-Owned:  
 Pacific Gas and Electric Company  
 San Diego Gas and Electric Company  
 Southern California Gas Company  
 Southwest Gas Corporation

*Electric Utilities*

Investor-Owned:  
 CP National Corporation  
 Pacific Gas and Electric Company  
 Pacific Power and Light Company  
 San Diego Gas and Electric Company  
 Sierra Pacific Power Company  
 Southern California Edison Company  
 The following covered utilities within the State of California are not regulated by the California Public Utilities Commission:  
*Electric Utilities*  
 Publicly-Owned:  
 Anaheim Electric Division  
 \*Burbank Public Service Department  
 \*Glendale Public Service Department  
 Imperial Irrigation District  
 Los Angeles Department of water and power  
 Modesto Irrigation District  
 \*Palo Alto Electric Utility  
 \*Pasadena Water and Power Department  
 Riverside Public Utilities  
 Sacramento Municipal Utility District  
 \*San Francisco Public Utilities Commission  
 Santa Clara Electric Department  
 \*Turlock Irrigation District  
 Vernon Municipal Light Department  
*Gas Utilities*  
 Publicly-Owned:  
 Long Beach Gas Department  
 STATE: Colorado  
 REGULATORY AUTHORITY: Colorado Public Utilities Commission  
*Gas Utilities*  
 Investor-Owned:  
 Greeley Gas Company  
 Iowa Electric Light and Power Company  
 Kansas-Nebraska Natural Gas Company  
 Northern Natural Gas Company  
 Public Service Company of Colorado  
 Publicly-Owned:  
 Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)  
*Electric Utilities*  
 Investor-Owned:  
 Central Telephone and Utilities Corporation  
 Public Service Company of Colorado  
 Publicly-Owned:  
 Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)  
 The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:

*Gas Utilities*  
 Publicly-Owned:  
 Colorado Springs Department of Public Utilities (within city limits)  
*Electric Utilities*  
 Publicly-Owned:  
 Colorado Springs Department of Public Utilities (within city limits)  
 STATE: Connecticut  
 REGULATORY AUTHORITY: Connecticut Public Utilities Control Authority  
*Gas Utilities*  
 Investor-Owned:  
 Connecticut Light and Power Company  
 Connecticut Natural Gas Corporation  
 Southern Connecticut Gas Company  
*Electric Utilities*  
 Investor-Owned:  
 Connecticut Light and Power Company  
 Hartford Electric Light Company  
 United Illuminating Company  
 STATE: Delaware  
 REGULATORY AUTHORITY: Delaware Public Service Commission  
*Gas Utilities*  
 Investor-Owned:  
 Delmarva Power and Light Company  
*Electric Utilities*  
 Investor-Owned:  
 Delmarva Power and Light Company  
 STATE: District of Columbia  
 REGULATORY AUTHORITY: Public Service Commission of the District of Columbia  
*Gas Utilities*  
 Investor-Owned:  
 Washington Gas Light Company  
*Electric Utilities*  
 Investor-Owned:  
 Potomac Electric Power Company  
 STATE: Florida  
 REGULATORY AUTHORITY: Florida Public Service Commission  
*Gas Utilities*  
 Investor-Owned:  
 City Gas Company of Florida  
 Florida Gas Company  
 Peoples Gas System  
*Electric Utilities*  
 Investor-Owned:  
 Florida Power Corporation  
 Florida Power and Light Company  
 Gulf Power Company  
 Tampa Electric Company  
 Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—  
 \*Gainesville-Alachua County Regional Electric, Water and Sewer Utilities Board  
 Jacksonville Electric Authority  
 Lakeland Department of Electricity and Water  
 Orlando Utilities Commission  
 Tallahassee, City of

Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—  
 \*Clay Electric Cooperative  
 \*Lee County Electric Cooperative  
 STATE: Georgia  
 REGULATORY AUTHORITY: Georgia Public Service Commission  
*Gas Utilities*  
 Investor-Owned:  
 Atlanta Gas Light Company  
 Chattanooga Gas Company  
 Gas Light Company of Columbus  
 United Cities Gas Company  
*Electric Utilities*  
 Investor-Owned:  
 Georgia Power Company  
 Savannah Electric and Power Company  
 The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission:  
*Electric Utilities*  
 Rural Electric Cooperatives:  
 \*Flint Electrical Membership Corporation  
 \*Jackson Electric Membership Corporation  
 North Georgia Electric Membership Corporation  
 STATE: Hawaii  
 REGULATORY AUTHORITY:  
 Hawaii Public Utilities Commission  
*Gas Utilities*  
 None  
*Electric Utilities*  
 Investor-Owned:  
 Hawaiian Electric Company, Inc.  
 STATE: Idaho  
 REGULATORY AUTHORITY: Idaho Public Utilities Commission  
*Gas Utilities*  
 Investor-Owned:  
 Intermountain Gas Company  
 Washington Water Power Company  
*Electric Utilities*  
 Investor-Owned:  
 Idaho Power Company  
 Pacific Power and Light Company  
 Utah Power and Light Company  
 Washington Water Power Company  
 STATE: Illinois  
 REGULATORY AUTHORITY: Illinois Commerce Commission  
*Gas Utilities*  
 Investor-Owned:  
 Central Illinois Light Company  
 Central Illinois Public Service Company  
 Illinois Power Company  
 Interstate Power Company  
 Iowa-Illinois Gas and Electric Company  
 North Shore Gas Company  
 Northern Illinois Gas Company  
 Peoples Gas, Light and Coke Company  
 United Cities Gas Company



*Electric Utilities*

Investor-Owned:  
Central Illinois Light Company  
Central Illinois Public Service Company  
Commonwealth Edison Company  
Illinois Power Company  
Interstate Power Company  
Iowa-Illinois Gas and Electric Company  
Union Electric Company  
The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:

*Electric Utilities*

Publicly-Owned:  
Springfield Water, Light and Power Department  
STATE: Indiana  
REGULATORY AUTHORITY: Indiana Public Service Commission

*Gas Utilities*

Investor-Owned:  
Indiana Gas Company  
Kokomo Gas and Fuel Company  
Northern Indiana Public Service Company  
Southern Indiana Gas and Electric Company  
Terre Haute Gas Corporation  
Publicly-Owned:  
Citizens Gas and Coke Utility

*Electric Utilities*

Investor-Owned:  
Indiana and Michigan Electric Company  
Indianapolis Power and Light Company  
Northern Indiana Public Service Company  
Public Service Company of Indiana

Southern Indiana Gas and Electric Company  
Publicly-Owned:  
\*Richmond Power and Light

STATE: Iowa  
REGULATORY AUTHORITY: Iowa Commerce Commission

*Gas Utilities*

Investor-Owned:  
Interstate Power Company  
Iowa Electric Light and Power Company  
Iowa-Illinois Gas and Electric Company  
Iowa Power and Light Company  
Iowa Public Service Company  
Iowa Southern Utilities Company  
Minnesota Gas Company  
North Central Public Service Company  
Peoples Natural Gas Division of Northern Natural Gas Company

*Electric Utilities*

Investor-Owned:  
Interstate Power Company  
Iowa Electric Light and Power Company  
Iowa-Illinois Gas and Electric Company  
Iowa Power and Light Company

Iowa Public Service Company  
Iowa Southern Utilities Company  
Union Electric Company  
Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—

\*Muscatine Power and Light  
Omaha Public Power District  
STATE: Kansas  
REGULATORY AUTHORITY: Kansas State Corporation Commission

*Gas Utilities*

Investor-Owned:  
Anadarko Production Company  
Arkansas-Louisiana Gas Company  
Gas Service Company  
Greeley Gas Company  
Kansas-Nebraska Natural Gas Company  
Kansas Power and Light Company  
Northern Natural Gas Company  
Panhandle Eastern Pipeline Company  
Union Gas Systems

*Electric Utilities*

Investor-Owned:  
Central Telephone and Utilities Corporation  
Empire District Electric Company  
Kansas City Power and Light Company  
Kansas Gas and Electric Company  
Kansas Power and Light Company  
Southwestern Public Service Company

The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:

*Electric Utilities*

Publicly-Owned:  
Kansas City Board of Public Utilities

STATE: Kentucky  
REGULATORY AUTHORITY: Kentucky Public Service Commission

*Gas Utilities*

Investor-Owned:  
Columbia Gas of Kentucky, Inc.  
Equitable Gas Company  
Inland Gas Company  
Louisville Gas and Electric Company  
Union, Light, Heat and Power Company  
Western Kentucky Gas Company

*Electric Utilities*

Investor-Owned:  
Kentucky Power Company  
Kentucky Utilities Company  
Louisville Gas and Electric Company  
Union, Light, Heat and Power Company

Rural Electric Cooperatives:  
Green River Electric Corporation  
Henderson-Union Rural Electric Cooperative Corporation

STATE: Louisiana  
REGULATORY AUTHORITY: Louisiana Public Service Commission

*Gas Utilities*

Investor-Owned:  
Arkansas-Louisiana Gas Company  
Louisiana Gas Service Company

*Electric Utilities*

Investor-Owned:  
Arkansas Power and Light Company  
Central Louisiana Electric Company  
Gulf States Utilities Company  
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)

Southwestern Electric Power Company  
The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Gas Utilities*

Investor-Owned:  
New Orleans Public Service, Inc.  
Louisiana Power and Light Company (within the Parish of Orleans)  
Publicly-Owned:  
\*Lafayette Utilities System  
Rural Electric Cooperatives:  
Southwest Louisiana Electric Membership Corporation

*Electric Utilities*

Investor-Owned:  
Interstate Power Company  
Minnesota Power and Light Company  
Northern States Power Company  
Otter Tail Power Company

STATE: Mississippi  
REGULATORY AUTHORITY: Mississippi Public Service Commission

*Gas Utilities*

Investor-Owned:  
Entex, Incorporated  
Mississippi Valley Gas Company

*Electric Utilities*

Investor-Owned:  
Mississippi Power and Light Company  
Mississippi Power Company

The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission:

*Electric Utilities*

Rural Electric Cooperatives:  
\*Singing River Electric Power Association  
\*Southern Pine Electric Power Association

*Gas Utilities*

Investor-Owned:  
Gas Service Company  
Laclede Gas Company Consolidated

Missouri Public Service Company  
Peoples Natural Gas Division of Northern Natural Gas Company

*Electric Utilities*

Investor-Owned:  
Arkansas-Missouri Power Company  
Empire District Electric Company  
Kansas City Power and Light Company

*Gas Utilities*

Investor-Owned:  
Missouri Edison Company  
Missouri Power and Light Company

*Electric Utilities*

Investor-Owned:  
Missouri Public Service Company  
Missouri Utilities Company  
St. Joseph Light and Power Company

*Gas Utilities*

Investor-Owned:  
CP National Corporation  
Southwest Gas Corporation

*Electric Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Gas Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Electric Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Gas Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Electric Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Gas Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Electric Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Gas Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Electric Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company

*Gas Utilities*

Investor-Owned:  
CP National Corporation  
Idaho Power Company  
Nevada Power Company  
Sierra Pacific Power Company



## NOTICES

*Gas Utilities*

Investor-Owned:  
 Elizabethtown Gas Company  
 New Jersey Natural Gas Company  
 Public Service Electric and Gas Company  
 South Jersey Gas Company

*Electric Utilities*

Investor-Owned:  
 Atlantic City Electric Company  
 Jersey Central Power and Light Company  
 Public Service Electric and Gas Company  
 Rockland Electric Company

STATE: New Mexico

REGULATORY AUTHORITY: New Mexico Public Service Commission

*Gas Utilities*

Gas Company of New Mexico

*Electric Utilities*

Investor-Owned:  
 Community Public Service Company  
 El Paso Electric Company  
 \*New Mexico Electric Service Company  
 Public Service Company of New Mexico  
 Southwestern Public Service Company

STATE: New York

REGULATORY AUTHORITY: New York Public Service Commission

*Gas Utilities*

Investor-Owned:  
 Brooklyn Union Gas Company  
 Columbia Gas of New York, Inc.  
 Consolidated Edison Company of New York, Inc.  
 Long Island Lighting Company  
 National Fuel Gas Distribution Corporation  
 New York State Electric and Gas Corporation  
 Niagara Mohawk Power Corporation

Orange and Rockland Utilities  
 Rochester Gas and Electric Corporation

*Electric Utilities*

Investor-Owned:  
 Central Hudson Gas and Electric Corporation  
 Consolidated Edison Company of New York  
 Long Island Lighting Company  
 New York State Electric and Gas Corporation  
 Niagara Mohawk Power Corporation

Orange and Rockland Utilities  
 Rochester Gas and Electric Corporation

The following covered utilities within the State of New York are not regulated by the New York Public Service Commission:

*Electric Utilities*

Publicly-Owned:  
 \*Albany Water, Gas and Light Commission  
 \*Power Authority of New York

STATE: North Carolina

REGULATORY AUTHORITY: North Carolina Utilities Commission

*Gas Utilities*

Investor-Owned:  
 North Carolina Natural Gas Corporation  
 Piedmont Natural Gas Company  
 Public Service Company, Inc. of North Carolina  
 United Cities Gas Company

*Electric Utilities*

Investor-Owned:  
 Carolina Power and Light Company  
 Duke Power Company  
 Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:

*Electric Utilities*

Publicly-Owned:  
 Fayetteville Public Works Commission  
 \*Greenville Utilities Commission  
 \*Rocky Mount Public Utilities  
 \*Wilson Utilities Department

STATE: North Dakota

REGULATORY AUTHORITY: North Dakota Public Service Commission

*Gas Utilities*

Investor-Owned:  
 Montana-Dakota Utilities Company

Northern States Power Company

*Electric Utilities*

Investor-Owned:  
 Montana-Dakota Utilities Company

Northern States Power Company  
 Otter Tail Power Company

STATE: Ohio

REGULATORY AUTHORITY: Ohio Public Utilities Commission

*Gas Utilities*

Investor-Owned:  
 Cincinnati Gas and Electric Company  
 Columbia Gas of Ohio, Inc.  
 Dayton Power and Light Company  
 East Ohio Gas Company  
 National Fuel Gas Distribution Corporation  
 National Gas and Oil Company  
 West Ohio Gas Company

*Electric Utilities*

Investor-Owned:  
 Cincinnati Gas and Electric Company  
 Cleveland Electric Illuminating Company  
 Columbus and Southern Ohio Electric Company  
 Dayton Power and Light Company  
 Monongahela Power Company  
 Ohio Edison Company  
 Ohio Power Company  
 Toledo Edison Company

The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:

*Electric Utilities*

Publicly-Owned:  
 \*Cleveland Division of Light and Power  
 Rural Electric Cooperatives:  
 \*South Central Power Company

STATE: Oklahoma

REGULATORY AUTHORITY: Oklahoma Corporation Commission

*Gas Utilities*

Investor-Owned:  
 Arkansas-Louisiana Gas Company  
 Arkansas-Oklahoma Gas Company  
 Gas Service Company  
 Lone Star Gas Company  
 Oklahoma Natural Gas Company  
 Southern Union Gas Company  
 Union Gas System

*Electric Utilities*

Investor-Owned:  
 Empire District Electric Company  
 Oklahoma Gas and Electric Company  
 Public Service Company of Oklahoma  
 Southwestern Public Service Company

The following covered utility within the State of Oklahoma is not regulated by the Oklahoma Corporation Commission:

*Gas Utilities*

Investor-Owned:  
 Cities Service Gas Company

STATE: Oregon

REGULATORY AUTHORITY: Public Utility Commissioner of Oregon

*Gas Utilities*

Investor-Owned:  
 CP National Corporation  
 Cascade Natural Gas Corporation  
 Northwest Natural Gas Company

*Electric Utilities*

Investor-Owned:  
 CP National Corporation  
 Idaho Power Company  
 Pacific Power and Light Company  
 Portland General Electric Company

The following covered utilities within the State of Oregon are not regulated by the Public Utility Commissioner of Oregon:

*Electric Utilities*

Publicly-Owned:  
 Central Lincoln People's Utility District  
 \*Clatskanie People's Utility District  
 Eugene Water and Electric Board  
 \*Springfield Utilities Board  
 Rural Electric Cooperatives:  
 \*Umatilla Electric Cooperative Association

STATE: Pennsylvania

REGULATORY AUTHORITY: Pennsylvania Public Utility Commission

*Gas Utilities*

Investor-Owned:  
 Carnegie Natural Gas Company  
 Columbia Gas of Pennsylvania, Inc.  
 Equitable Gas Company

National Fuel Gas Distribution Corporation  
 North Penn Gas Company  
 Penn Fuel Gas, Inc.  
 Pennsylvania Gas and Water Company

Peoples Natural Gas Company  
 Philadelphia Electric Company  
 T. W. Phillips Gas and Oil Company

*UGI Corporation**Electric Utilities*

Investor-Owned:  
 Duquesne Light Company  
 Metropolitan Edison Company  
 Pennsylvania Electric Company  
 Pennsylvania Power Company  
 Pennsylvania Power and Light Company  
 Philadelphia Electric Company  
 \*UGI—Luzerne Electric Division  
 West Penn Power Company

The following covered utility within the State of Pennsylvania is not regulated by the Pennsylvania Public Utility Commission:

*Gas Utilities*

Publicly-Owned:  
 Philadelphia Gas Works

STATE: Puerto Rico

REGULATORY AUTHORITY: Puerto Rico Public Service Commission

*Gas Utilities*

None

*Electric Utilities*

None

The following covered utility within Puerto Rico is not regulated by the Puerto Rico Public Service Commission:

*Electric Utilities*

Publicly-Owned:  
 Puerto Rico Water Resources Authority

STATE: Rhode Island

REGULATORY AUTHORITY: Rhode Island Public Utilities Commission

*Gas Utilities*

Investor-Owned:  
 Providence Gas Company

*Electric Utilities*

Investor-Owned:  
 Blackstone Valley Electric Company  
 Narragansett Electric Company

STATE: South Carolina

REGULATORY AUTHORITY: South Carolina Public Service Commission

*Gas Utilities*

Investor-owned:  
 Carolina Pipeline Company  
 Piedmont Natural Gas Company  
 South Carolina Electric and Gas Company  
 United Cities Gas Company

*Electric Utilities*

Investor-owned:  
 Carolina Power and Light Company  
 Duke Power Company

## NOTICES

South Carolina Electric and Gas Company  
 The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:

*Electric Utilities*

Publicly-Owned:  
 South Carolina Public Service Authority

STATE: South Dakota

REGULATORY AUTHORITY: South Dakota Public Utilities Commission

*Gas Utilities*

Investor-owned:  
 Iowa Public Service Company  
 Minnesota Gas Company  
 Montana-Dakota Utilities Company  
 Northwestern Public Service Company

*Electric Utilities*

Investor-owned:  
 Black Hills Power and Light Company  
 Iowa Public Service Company  
 Montana-Dakota Utilities Company  
 Northern States Power Company  
 \*Northwestern Public Service Company  
 Otter Tail Power Company

STATE: Tennessee

REGULATORY AUTHORITY: Tennessee Public Service Commission

REGULATORY AUTHORITY: Tennessee Public Service Commission

*Gas Utilities*

Investor-owned:  
 Chattanooga Gas Company  
 Nashville Gas Company  
 United Cities Gas Company

*Electric Utilities*

Investor-owned:  
 Arkansas Power and Light Company  
 Kentucky Utilities Company  
 Kingsport Power Company

The following covered utilities within the State of Tennessee are not regulated by the Tennessee Public Service Commission:

*Electric Utilities*

Publicly-Owned:  
 \*Bristol Electric System  
 Chattanooga Electric Power Board  
 \*Clarksville Department of Electricity

\*Cleveland Utilities  
 \*Greenville Light and Power System  
 \*Jackson Utility Division—Electric Department

Johnson City Power Board  
 Knoxville Utility Board  
 Memphis Light, Gas and Water Division

Nashville Electric Service  
 Rural Electric Cooperatives:  
 Cumberland Electric Membership Corporation

\*Duck River Electric Membership Corporation

STATE: Texas

REGULATORY AUTHORITY: Railroad Commission of Texas

\*Gibson County Electric Membership Corporation  
 \*Meriwether Lewis Electric Cooperative

Middle Tennessee Electric Membership Corporation  
 \*Southwest Tennessee Electric Membership Corporation

\*Tri-County Electric Membership Corporation

\*Upper Cumberland Electric Membership Corporation

Volunteer Electric Cooperative

*Gas Utilities*

Publicly-Owned:  
 Memphis Light, Gas and Water Division

STATE: Tennessee

REGULATORY AUTHORITY: Tennessee Valley Authority

*Gas Utilities*

Publicly-Owned:  
 \*Bristol Electric System  
 Chattanooga Electric Power Board  
 \*Clarksville Department of Electricity

\*Cleveland Utilities  
 Decatur Electric Department  
 \*Florence Electricity Department  
 \*Greenville Light and Power System

Huntsville Utilities  
 Jackson Utility Division—Electric Department

Johnson City Power Board  
 Knoxville Utilities Board  
 Memphis, Light, Gas and Water Division

Nashville Electric Service  
 Rural Electric Cooperatives:  
 \*Appalachian Electric Cooperative

Cumberland Electric Membership Cooperative  
 \*Duck River Electric Membership Cooperative

\*Four-County Electric Power Association  
 \*Gibson County Electric Membership Corporation

\*Meriwether Lewis Electric Cooperative  
 Middle Tennessee Electric Membership Corporation

North Georgia Electric Membership Corporation  
 \*Pennyrite Rural Electric Cooperative Corporation

\*Southwest Tennessee Electric Membership Corporation  
 \*Tri-County Electric Membership Corporation

\*Upper Cumberland Electric Membership Corporation  
 Volunteer Electric Cooperative

\*Warren Rural Electric Cooperative Corporation  
 \*West Kentucky Rural Electric Cooperative Corporation

STATE: Texas

REGULATORY AUTHORITY: Railroad Commission of Texas



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Gas Utilities

Investor-Owned:  
\*Anadarko Production Company  
Arkansas-Louisiana Gas Company  
Entex, Inc.  
Lone Star Gas Company  
Peoples Natural Gas Division of  
Northern Natural Gas Company  
Pioneer Natural Gas Company  
Southern Union Gas Company  
(The Railroad Commission of Texas  
has appellate jurisdiction only over  
the activities of the above companies  
within incorporated cities.)

The following covered utilities  
within the State of Texas are not reg-  
ulated by the Railroad Commission of  
Texas:

Gas Utilities

Investor-Owned:  
Cities Service Gas Company  
Publicly-Owned:  
City Public Service Board (San  
Antonio)

STATE: Texas

REGULATORY AUTHORITY: Texas  
Public Utility Commission

Gas Utilities

Investor-Owned:  
None

Electric utilities

Investor-Owned:  
Central Power and Light Company  
Community Public Service Com-  
pany  
Dallas Power and Light Company  
El Paso Electric Company  
Gulf States Utilities  
Houston Lighting and Power Com-  
pany  
Southwestern Electric Power Com-  
pany  
\*Southwestern Electric Service  
Company  
Southwestern Public Service Com-  
pany

Texas Electric Service Company  
Texas Power and Light Company  
West Texas Utilities Company

Publicly-Owned:

Lower Colorado River Authority  
The Texas Public Utility Commis-  
sion has special appellate jurisdiction  
over ratemaking decisions of the gov-  
erning body of any municipality which  
affect the rates of a municipally-  
owned electric utility as provided by  
State statute. The governing body of  
each Texas municipality exercises ex-  
clusive original ratemaking jurisdic-  
tion over electric utility rates, oper-  
ations, and services provided by an  
electric utility within its city or town  
limits.

The following municipally-owned  
electric utilities are not under the  
Commission's original ratemaking ju-  
risdiction. The Commission's jurisdic-  
tion over these utilities is limited to  
appeal de novo.

Electric Utilities

Publicly-Owned:  
Austin Electric Department  
Garland Electric Department

\*Lubbock Power and Light  
San Antonio Public Service Board  
Rural Electric Cooperatives:  
\*Pedernales Electric Cooperative

STATE: Utah

REGULATORY AUTHORITY: Utah  
Public Service Commission

Gas Utilities

Investor-Owned:  
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:  
CP National Corporation  
Utah Power and Light Company  
Rural Electric Cooperatives:  
\*Moon Lake Electric Association

STATE: Vermont

REGULATORY AUTHORITY: Ver-  
mont Public Service Board

Gas Utilities

None

Electric utilities

Investor-Owned:  
Central Vermont Public Service  
Corporation  
Green Mountain Power Corpora-  
tion  
Public Service Company of New  
Hampshire

STATE: Virginia

REGULATORY AUTHORITY: Vir-  
ginia State Corporation Commission

Gas Utilities

Investor-Owned:  
Columbia Gas of Virginia, Inc.  
United Cities Gas Company  
Virginia Electric and Power Com-  
pany  
Washington Gas Light Company

Electric Utilities

Investor-Owned:  
Appalachian Power Company  
Delmarva Power and Light Com-  
pany of Virginia  
\*Old Dominion Power Company  
Potomac Edison Company  
Potomac Electric Power Company  
Virginia Electric and Power Com-  
pany

The following covered utility within  
the State of Virginia is not regulated  
by the Virginia State Corporation  
Commission:

Electric Utilities

Publicly-Owned:  
City of Richmond, Virginia, De-  
partment of Public Utilities

STATE: Washington

REGULATORY AUTHORITY: Wash-  
ington Utilities and Transportation  
Corporation

Gas Utilities

Investor-Owned:  
Cascade Natural Gas Corporation  
Northwest Natural Gas Company  
Washington Natural Gas Company  
Washington Water Power Com-  
pany

Electric Utilities

Investor-Owned:  
Pacific Power and Light Company  
Puget Sound power and Light  
Company

Washington Water Power Com-  
pany

The following covered utilities  
within the State of Washington are  
not regulated by the Washington Util-  
ities and Transportation Corporation:

Electric Utilities

Publicly-Owned:

\*Port Angeles Light and Water De-  
partment

Public Utility District No. 1 of  
Benton County

Public Utility District No. 1 of  
Chelan County

Public Utility District No. 1 of  
Clark County

Public Utility District No. 1 of  
Cowlitz County

Public Utility District No. 1 of  
Franklin County

Public Utility District No. 1 of  
Grant County

Public Utility District No. 1 of  
Grays Harbor County

Public Utility District No. 1 of  
Lewis County

Public Utility District No. 1 of  
Snohomish County

Seattle City Light Department  
Tacoma Public Utilities—Light Di-  
vision

STATE: West Virginia

REGULATORY AUTHORITY: West  
Virginia Public Service Commission

Gas Utilities

Investor-Owned:

Cabot Corporation Utility Division  
Columbia Gas of West Virginia,  
Inc.

Consolidated Gas Supply Corpora-  
tion

Equitable Gas Company

Electric Utilities

Investor-Owned:

Appalachian Power Company  
Monongahela Power Company  
Potomac Edison Company  
Virginia Electric and Power Com-  
pany

Wheeling Electric Company

STATE: Wisconsin

REGULATORY AUTHORITY: Wis-  
consin Public Service Commission

Gas Utilities

Investor-Owned:

Madison Gas and Electric Com-  
pany

Northern States Power Company  
Wisconsin Fuel and Light Com-  
pany

Wisconsin Gas Company

Wisconsin Natural Gas Company

Wisconsin Power and Light Com-  
pany

Wisconsin Public Service Corpora-  
tion

Electric Utilities

Investor-Owned:

\*Lake Superior District Power  
Company

Madison Gas and Electric Compa-  
ny

Northern States Power Company

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Wisconsin Electric Power Com-  
pany

Wisconsin Power and Light Com-  
pany

Wisconsin Public Service Corpora-  
tion

STATE: Wyoming

REGULATORY AUTHORITY: Wyo-  
ming Public Service Commission

Gas Utilities

Investor-Owned:

Cheyenne Light, Fuel and Power  
Company

Kansas-Nebraska Natural Gas  
Company

Montana-Dakota Utilities Com-  
pany

Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:

Black Hills Power and Light Com-  
pany

Montana-Dakota Utilities Com-  
pany

Pacific Power and Light Company  
Utah Power and Light Company.

Issued in Washington, D.C. on  
March 14, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator,  
Office of Utility Systems, Eco-  
nomic Regulatory Administra-  
tion.

[FR Doc. 79-8387 Filed 3-16-79; 2:18 pm]



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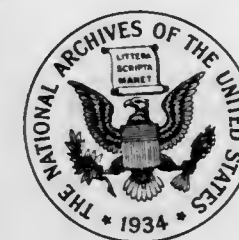
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# Register Federal

WEDNESDAY, MARCH 21, 1979

PART V



## ENVIRONMENTAL PROTECTION AGENCY

■  
  
IRON AND STEEL PLANTS,  
BASIC OXYGEN  
FURNACES  
Standards Review



[6560-01-M]

ENVIRONMENTAL PROTECTION  
AGENCY

[40 CFR Part 60]

[FRL 1012-1]

STANDARDS OF PERFORMANCE FOR NEW  
STATIONARY SOURCES: IRON AND STEEL  
PLANTS, BASIC OXYGEN FURNACES

## Review of Standards

AGENCY: Environmental Protection  
Agency (EPA).

ACTION: Review of standards.

SUMMARY: EPA has reviewed the standards of performance for basic oxygen process furnaces (BOPFs) used at iron and steel plants. The review is required under the Clean Air Act, as amended in August 1977. The purpose of this notice is to announce EPA's intent to propose amendments to the standards at a later date.

DATES: Comments must be received by May 21, 1979.

ADDRESS: Send comments to: Mr. Don Goodwin (MD-13), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Robert Ajax, telephone: (919) 541-5271.

The document "A Review of Standards of Performance of New Stationary Sources—Iron and Steel Plants/Basic Oxygen Furnaces" (report number EPA-450/3-78-116) is available upon request from Mr. Robert Ajax (MD-13), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

Particulate matter emissions from BOPFs fall in two categories, primary and secondary. Emissions associated with the oxygen blow portion of the BOPF are termed "primary" emissions. These emissions are generated at the rate of 25 to 28 kg/Mg (50 to 55 lb/ton) of raw steel. Emissions generated during ancillary operations, such as charging and tapping, are termed "secondary" or fugitive emissions. These emissions are generated at a lower rate in the range of 0.5 to 1 kg/Mg (1 to 2 lb/ton) of raw steel.

In June of 1973, EPA proposed a regulation under Section 111 of the Clean Air Act to control primary particulate emissions from basic oxygen process furnaces at iron and steel plants. The

## PROPOSED RULES

regulation, promulgated in March 1974, requires that no owner or operator of any furnace producing steel by charging scrap steel, hot metal, and flux materials into a vessel and introducing a high volume of an oxygen-rich gas shall discharge into the atmosphere any gases which contain particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years (Section 111(b)(1)(B)). This notice announces that EPA has completed a review of the standard of performance for basic oxygen process furnaces at iron and steel plants and invites comment on the results of this review.

## FINDINGS

## INDUSTRY GROWTH RATE

The present economic conditions in the United States and worldwide steel industry have created a significant excess U.S. BOPF capacity and a tightening of the availability of capital for future expansion. Since the promulgation of the BOPF standard, new BOPF construction has declined significantly. For example, three of the four units scheduled for startup in 1978 were originally scheduled to begin production in 1974. This coupled with the lack of any additional industry announcements of new U.S. BOPF construction, indicates that construction of new BOPFs which would be subject to a revised new source performance standard (NSPS) is not likely to commence before 1980, if then. Construction of new plants beyond 1980 will be dictated by domestic economic conditions and international competition, and is, therefore, uncertain.

## PRIMARY EMISSION CONTROL

Review of the literature and performance test data indicates that the use of a closed hood in conjunction with a scrubber or an open hood in conjunction with either a scrubber or electrostatic precipitator currently represents the best demonstrated control technologies for controlling BOPF primary emissions. All BOPFs that have been installed since 1973 incorporate closed hood systems for particulate emission control. The closed hood control system in combination with a venturi scrubber has become the system of choice of the U.S. steel industry because this system saves energy and has generally lower maintenance requirements compared with the older open-hood electrostatic precipitator system. Use of the closed hood system requires that approxi-

mately 80 percent less air be cleaned than with the open hood system. The potential also exists with the closed hood system for using the carbon monoxide off-gas as a fuel source.

As of early 1978, no NSPS compliance tests had been carried out since the promulgation of the standard. Pertinent data are available, however, from emission tests on a limited number of new BOPFs. These tests, carried out using EPA Method 5, indicate that primary particulate emission levels of between 32 and 50 mg/dscf (0.014 and 0.022 gr/dscf) are being achieved using the same control technology as that existing at the time the standard for primary emissions was established for BOPFs. The rationale for the current NSPS level of 50 mg/dscm (0.022 gr/dscf) for primary stack emissions, as described in 1973, is therefore, still considered to be valid.

SECONDARY EMISSION CONTROL  
TECHNOLOGY

Secondary or fugitive emissions not captured by the BOPF primary emissions control system during various BOPF ancillary operations currently amount to more than 100 tons annually. One of the principal sources of these emissions, the hot metal charging cycle, can generate amounts of fugitive emissions on the order of 0.25 kg/Mg (0.5 lb/ton) of charge. These emissions are presently uncontrolled in most of the older BOPFs and only partially controlled in most BOPFs that have come on stream during the past 5 years.

Control of secondary emissions involves a developing technology that requires in-depth study to determine the most effective methods of fume capture. Although potentially expensive to construct, the complete furnace enclosure equipped with several auxiliary hoods is currently the only demonstrated technology exhibiting the potential for effectively minimizing fugitive emissions from a new BOPF.

Seven new BOPFs installed in the U.S. in the past 7 years have incorporated partial or full furnace enclosures as part of the original particulate emission control system. Since these designs had deficiencies, these systems are operating with varying degrees of success. Six new furnace enclosure installations due to commence operations in 1978, including four on new BOPFs and two retrofit installations, will incorporate a secondary hood inside the furnace enclosure with sufficient volume for fugitive emission control.

CLARIFICATION OF WORDING OF NSPS  
STANDARD

Review of the existing standard revealed possible ambiguity in the wording of the NSPS with regard to the

## PROPOSED RULES

definitions of a BOPF. Also, the definition of the operating cycle during which sampling is performed requires clarification. Specifically, the stack emissions averaged over the oxygen blow part of the cycle could be significantly different from the emissions averaged over a period or periods that includes scrap preheating and turn-down for vessel sampling. The current standard is unclear as to which averaging time should be used. Since no tests to date have come under the NSPS, averaging time has not been an issue; however, interpreting the standard will be a problem until this matter is resolved.

## CONCLUSIONS

Based upon the above findings, the following conclusions have been reached by EPA:

(1) The best demonstrated systems of emissions control at the time the standard for primary emissions was established for BOPF have not changed in the past 5 years. (See APTD-1352c (EPA/2-74-003), Background Information for New Source Performance Standards, Volume 3, Promulgated Standards.) These technologies control emissions to a level consistent with the current standard; therefore, revision to the existing standard is not required, if only primary emissions are to be controlled.

(2) Secondary or fugitive emissions from BOPFs represent a major air pol-

lution emission source. EPA, therefore, intends to initiate a project to revise the existing standard of performance to include fugitive emissions. This development project is planned to begin during 1979 and lead to a proposal 20 months after initiation. In addition, an assessment of foreign technology, which has been initiated by the Agency, will be included in the basis for the revised standard. The assessment may lead to further conclusions about the allowable emissions from the primary gas cleaning stack due to the interdependence of primary and secondary control technologies.

(3) The ambiguities in the present standard concerning definition of a BOPF and the operating cycle to be measured should be clarified, and a project to do so has been initiated.

## PUBLIC PARTICIPATION

All interested persons are invited to comment on this review, the conclusions, and EPA's planned action. Comments should be submitted to: Mr. Don Goodwin (MD-13), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Dated: March 9, 1979.

BARBARA BLUM,  
Acting Administrator.

[FR Doc. 79-8360 Filed 3-20-79; 8:45 am]



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WEDNESDAY, MARCH 21, 1979

PART VI



## DEPARTMENT OF ENERGY

Economic Regulatory  
Administration

### TRANSITIONAL FACILITIES

Revised Interim Rule To Permit  
Classification of Certain  
Powerplants and Installations as  
Existing Facilities



[6450-01-M]

## Title 10—Energy

## CHAPTER II—DEPARTMENT OF ENERGY

## SUBCHAPTER E—ALTERNATE FUEL

[Docket No. ERA-R-78-21]

## PART 515—TRANSITIONAL FACILITIES

## Revised Interim Rule To Permit Classification of Certain Powerplants and Installations as Existing Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Revised interim rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities for purposes of implementing provisions of Titles II and III of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or the "Act"). This rule automatically classifies powerplants and boilers which are major fuel-burning installations ("MFBI's" or "installations") as "existing" on the basis that they were operational on April 20, 1977. The rule additionally automatically classifies transitional facilities as "existing" on the basis that they have the design capability of consuming any fuel at a fuel heat input rate which does not equal or exceed 100 million Btu's per hour. Transitional powerplants and MFBI's, for which construction or acquisition began before November 9, 1978, may be classified as "existing" if they can demonstrate that they will incur a substantial financial penalty, an adverse effect on electric system reliability (if a powerplant), or significant operational detriment (if an installation).

**DATES:** Effective date: March 15, 1979. Comments due by: May 8, 1979.

**ADDRESS:** Comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

## FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461 202/634-2170.

Stephen M. Stern, Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 2130, Washington, D.C. 20461,

## RULES AND REGULATIONS

202/254-9766.

Robert L. Davies, Fuels Regulation Program Office, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7202, Washington, D.C. 20461, 202/254-3910.

James H. Heffernan, Office of General Counsel, Department of Energy, 12th and Pennsylvania Ave., N.W., Room 7136, Washington, D.C. 20461, 202/633-8820.

## SUPPLEMENTARY INFORMATION:

I. Background.

II. Extended comment period.

III. Significant comments to date.

IV. Procedural matters.

## I. BACKGROUND

Title II of the Act prohibits "new" powerplants and installations from using oil and natural gas unless granted a specific exemption from this prohibition by ERA. It also prohibits "new" powerplants from constructing their facilities without an alternate fuel capability. The Act classifies all powerplants and installations for which construction or acquisition began after April 20, 1977, as "new" unless otherwise classified by ERA as "existing" pursuant to ERA regulations. If classified as "existing," a powerplant or installation is subject to the provisions of Title III rather than Title II of the Act.

## II. EXTENDED COMMENT PERIOD

ERA issued, on November 16, 1978, a notice of its Interim Rule for Transitional Facilities (Interim Rule) (43 FR 54912, November 22, 1978). Under the provisions of this notice, the Interim Rule became effective immediately; however, ERA announced that final decisions on classifications under the Interim Rule would not be made until completion of the public hearings and comment period on the Interim Rule. The period for submission of written comments on the Interim Rule closed on January 15, 1979; public hearings were conducted by ERA on December 13, 1978, and January 15, 1979, in Washington, D.C. and Baltimore, Maryland. ERA received 70 written comments and heard 16 oral presentations at its hearings, all of which were incorporated into the record of the administrative proceedings on the Interim Rule. Based upon these comments and ERA analysis of the full record in this administrative proceeding, to date, ERA has decided to revise the Interim Rule and is now issuing this Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule).

ERA has also decided to allow an additional period, commencing on the date this Revised Interim Rule is

issued and ending on May 8, 1979, for submission of written comments on these revisions. ERA invites all interested persons to participate in these further proceedings relating to classification of transitional facilities by submitting any information, views or arguments to Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. All submissions should be identified on the outside envelope and on the documents contained therein with the designation, "Transitional Facilities," Docket No. ERA-R-78-21. You should submit fifteen copies. All comments received will be available for public inspection in the DOE Reading Room GS-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. We will consider all comments received by May 8, 1979.

ERA intends immediately, upon issuance of this Revised Interim Rule, to begin receiving requests for classification and to make determinations on these requests based upon the provisions set forth in this Revised Interim Rule. ERA's determinations on requests for classification that are filed on or before June 8, 1979, shall be made upon the basis of the provisions of this Revised Interim Rule, or upon the Final Rule, where the application of the Final Rule would result in a more favorable disposition of your request. Any requests filed after June 8, 1979, shall be made on the basis of the provisions of the rule that is in effect on the date the request for classification is received by ERA. ERA urges you to file your request expeditiously so that ERA may begin its decisional analysis early, may render a timely decision, and gain sound operational experience for the benefit of both the Government and those filing requests. Any information that you consider to be confidential must be separately identified and submitted in accordance with DOE's Freedom of Information regulations set forth at 10 CFR Part 1004.

## III. SIGNIFICANT COMMENTS TO DATE

In the Preamble to the Interim Rule published on November 22, 1978, ERA specifically solicited comments on the eligibility criteria for filing requests for classification, the criteria for determining "substantial financial penalty," the criteria for determining "significant operational detriment" and a proposal to treat smaller installations on an expedited basis if they met certain operational status and size criteria. ERA received a significant number of comments in all of these areas, as well as many comments on other provisions in the Interim Rule.

## A. ELIGIBILITY

ERA has revised its criteria for your eligibility to request that ERA classify your facility as "existing" so as to broaden the class of eligible facilities. You are eligible under this Revised Interim Rule to request ERA to classify your powerplant or installation as "existing" if you can demonstrate to ERA's satisfaction that you signed a contract for the construction or acquisition of your transitional facility prior to the date of FUA's enactment, November 9, 1978. In order to clearly delineate the status of all eligible facilities, and to reduce the burden of requesting classification for some facilities, ERA has established standards for automatic classifications of facilities as "new" or "existing." For both powerplants and installations, your facility is automatically classified as "new," and you are ineligible to request classification under this Part, if you did not sign a legally-binding contract for construction or acquisition of your facility prior to November 9, 1978. Both powerplants and installations which were operational, as that term is defined in this Revised Interim Rule, on or before April 20, 1977, are automatically classified as "existing" and need not request classification under this Part. Further, any transitional facility with a design capability of consuming any fuel at a fuel heat input rate which does not equal or exceed 100 million Btu's per hour, is automatically classified as "existing," and you need not request classification for such a facility under this Part. Classification as "existing" of the foregoing facilities is self-executing, and no evidentiary submissions to ERA for such facilities are required under this Part. ERA will also automatically classify as "existing," upon receipt of appropriate certifications and, in the case of installations, minimal documentary evidence, eligible powerplants which were operational on or before May 8, 1979, and eligible installations which were either operational on or before May 8, 1979, or, in the case of prefabricated packaged boilers, were shipped by the manufacturer to the user by November 9, 1978, and, in the case of field-erected units, had their main steam drum in place by November 9, 1978. These latter eligible powerplants and installations, therefore, need only comply with appropriate certification and evidentiary requirements and need not submit formal requests for classification under this Part in order to be classified as "existing."

A substantial number of the comments received by ERA concerned its criteria under the Interim Rule for eligibility of "new" powerplants and installations to request classification as "existing" facilities. Many of these

## RULES AND REGULATIONS

comments related to ERA's interpretation of the statutory phrase "construction or acquisition began," as used in sections 103(a)(8) and 103(a)(11) of FUA, as incorporating the concept of substantial construction. These comments expressed concern that this interpretation might result in an undue restriction of access to the classification procedure under this Part. In order to enhance the opportunities for powerplants and installations to demonstrate any applicable detriments, penalties or adverse effects resulting from classification as "new," ERA added a definition of the phrase "contract for construction or acquisition" and has fixed the signing of such a contract by November 9, 1978, as the operative factor for eligibility.

Several comments suggested that certain facilities which are classified as "new" by virtue of reconstruction, refurbishment, or addition, should be eligible to request classification as "existing." ERA believes that those facilities which are classified as "new" on these bases should be able to request classification under this Revised Interim Rule, where a contract for the reconstruction, refurbishment, or addition was signed prior to November 9, 1978, and where the facilities are not otherwise automatically classified as "existing." The eligibility of the foregoing facilities under this Part has accordingly been clarified by inclusion in the definition of "contract for construction or acquisition" of an agreement for reconstruction, and by the addition of a definition of "reconstruction" to include the pertinent concepts of refurbishment and addition to the facility.

ERA received a number of comments suggesting that its proposed transitional facility regulations were impermissibly retroactive. ERA believes that the Revised Interim Rule is consistent with the statutory mandate to consider as "new," facilities on which construction or acquisition began before the date of enactment of FUA, unless the Secretary finds that certain detriments, penalties or adverse effects would be sustained. ERA has interpreted this provision to allow any facility for which a contract for construction or acquisition had been signed before the enactment date of FUA to present (or, in some cases, to certify) to ERA its case for classification as "existing." ERA's revised eligibility criteria, therefore, embody the concept that the only new facilities which are ineligible to request classification as "existing" are those which had not signed any contracts for construction or acquisition prior to the enactment date of FUA (November 9, 1978).

Several comments suggested that issuance by ERA of a so-called "close-

out letter" under the Energy Supply and Environmental Coordination Act (ESECA) should suffice to establish the "existing" status of the recipient under FUA. Section 762 of FUA amends portions of ESECA and addresses the effect of orders issued under section 2 of ESECA. This section of FUA limits the class of powerplants or installations which were considered for construction orders under ESECA and which are therefore not covered under Title II of FUA to those facilities which were recipients of final construction orders, and is silent as to the effect under FUA of letters-and-notices not culminating in issuance of a final order. ERA does not believe that the receipt of an ESECA "close-out letter" should control essential classifications of facilities under FUA. Further, ERA believes that it would contravene the intent of Congress as expressed in FUA to accord any special consideration to facilities to which ERA (or the Federal Energy Administration) had decided not to issue notices of intention to issue construction orders under ESECA.

## B. SUBSTANTIAL FINANCIAL PENALTY

The revisions which ERA has made in sections 515.6(a) and 515.13(a) represent a considerable shift in the approach previously proposed.

As suggested by several utilities, ERA has established a standard, applicable to both the utility and MFBI sectors, which will be used by ERA to classify an eligible facility as "existing." The previous standard which applied solely to MFBI's has been changed in the Revised Interim Rule to provide that if a person requesting classification can satisfactorily demonstrate to ERA that at least 25 percent of the total projected project cost has been expended by November 9, 1978, then ERA will classify the facility as "existing." In computing the 25 percent expenditure, however, only non-recoverable outlays are to be included.

ERA realizes that although this standard serves a useful purpose, that is, to provide guidance to certain facilities that they qualify as "existing," there may be instances where, despite the inability to qualify under the 25 percent test, a substantial financial penalty may have been incurred. Therefore, ERA has, in this Revised Interim Rule, provided the opportunity for all eligible facilities to demonstrate to ERA on a case-by-case basis that they would nevertheless incur a "substantial financial penalty."

Several comments have suggested that the definition of nonrecoverable outlays was too restrictive and that additional costs (such as land, labor, engineering and other costs excluded in the Interim Rule) should be allowed. ERA believes that these suggestions



have some merit and has included in this Revised Interim Rule a definition of nonrecoverable outlays [section 515.20(21)] which includes those expenditures made as of November 9, 1978, for equipment or appurtenances which could not be used in the construction or operation of a facility to burn an alternate fuel. Included would be any penalty expenses resulting from cancelling a contract or contracts signed prior to November 9, 1978. ERA rejects, as being contrary to the intent of the Act, the suggestion that all costs incurred should be included.

Other comments suggested that ERA should consider, in addition to the potential impact on the rate base and the status of construction, the effect on bond ratings and the ability to raise capital. The Revised Interim Rule provides the latitude for persons requesting classification to demonstrate that these and other pertinent impacts would constitute a "substantial financial penalty" on a case-by-case basis. ERA has listed certain factors which it believes would be useful in demonstrating a substantial financial penalty. Persons requesting classification under this Part are not limited, however, to addressing only these factors.

The Revised Interim Rule also makes it clear that, for a subsidiary, ERA intends to review the effect that cancelling, rescheduling, or modifying the proposed installation would have on the parent company. ERA believes that this interpretation is consistent with the Congressional intent found in the Conference Report accompanying the Act. That Report clearly states that ERA should consider the financial impact on the person, including a parent corporation, owning, controlling or operating the facility. ERA will allow you to present evidence, however, that to consider the effect on the parent company is unwarranted.

#### C. SIGNIFICANT OPERATIONAL DETRIMENT

Several comments criticized the proposed "load-shifting" test in the Interim Rule whereby ERA would have examined the feasibility of ceasing the operation of a transitional facility while maintaining 95 percent of the plant's historic steam production level by increasing the steam output of other, existing units at the site. The comments noted that this approach would have limited plant growth, caused difficulties in shifting steam output due to differences in pressure and steam quality between units, and constituted an unnecessary encroachment on the purchasing, design, and operational practices of MFBI's. Due to the complexity of analysis and the time resources required by both the person requesting classification and ERA to prepare and evaluate these

data, we have decided to delete the "load shifting" test from the significant operational detriment determination.

Comments on the "substantial mitigating circumstances" portion of the "significant operational detriment" determination identified additional items ERA should consider under this test. Included in these recommendations were the impact on the local economy and whether the transitional facility would be replacing older, less efficient oil or natural gas units. ERA has retained the case-by-case approach proposed in the Interim Rule and will therefore consider the above factors as well as any other issues you may deem appropriate to present in regard to significant operational detriment.

#### D. OPERATIONAL STATUS

In its Preamble to the Interim Rule ERA specifically requested comments on lessening reporting requirements on small installations with heat input rates of 100 to 150 million Btu's per hour which were operational on or before April 20, 1978. ERA received comments supporting this proposal; however, ERA's revision of the Interim Rule to automatically classify as "existing," upon submission of appropriate certifications and minimal documentary evidence, all transitional facilities that were operational on or before May 8, 1979, does not require ERA to give this proposal further consideration.

#### E. ADVERSE EFFECT ON ELECTRIC SYSTEM RELIABILITY

Several persons commented that the single-step 20 percent reserve margin test presented in the Interim Rule was inflexible and ignored the dynamic factors of reliability analysis. The comments suggested that ERA should consider the impact on utility company reliability rather than on the entire electric region, that ERA evaluate the electric region's ability to provide "emergency support," and that other transitional facilities and "new" facilities be excluded from the reliability analysis because their future availability could be altered by ERA determinations. Additionally, it was suggested that we consider the normal reliability planning criteria employed by the utility company, as well as use a more definitive measure of reliability such as the "loss of load probability" technique. While we have decided to retain the 20 percent reserve margin test for the electric region in the Revised Interim Rule, we will evaluate each powerplant request claiming an adverse impact on reliability on a case-by-case basis and allow you to submit whatever evidence you deem most appropriate in presenting your position.

One person commented that ERA should perform an up-to-date analysis of load and capacity factors within an electric region before making a reliability determination. In detailing our evidentiary requirements, we have invited persons requesting classification to work with ERA in providing data on the electric region to be used in the reliability analyses.

A number of comments pointed out that the Interim Rule contained no provision for consultation with the Federal Energy Regulatory Commission (FERC) and the appropriate State authority. We have added a requirement for such consultations to this Revised Interim Rule, as required by the Act, but we reject as an overly restrictive interpretation of the Act the suggestion that we be bound by the recommendation of the State authority.

#### F. ADMINISTRATIVE

A large number of comments on the administrative provisions in the Interim Rule expressed the opinion that the time within which to file a request for classification was too short because they considered the information required to support the request too voluminous to be generated within 14 days of the issuance of final transitional facilities regulations. Other comments merely expressed the opinion that the amount of information required was too burdensome. In response to these comments, ERA has changed the date for filing a request for classification to June 8, 1979. While ERA urges your expeditious filing, the administrative provisions also allow for extensions of time to file if good cause is shown. Since classification of facilities as "new" or "existing" is essential to application of the appropriate ERA regulations implementing the prohibition and exemptions programs required by FUA, ERA feels that it is necessary and justifiable to require requests for classification to be filed as expeditiously as possible.

To facilitate the expeditious filing of requests for classification and to respond to the comments that the information required to support a request is too burdensome, ERA has reduced substantially the volume of paperwork which will normally be required as part of your request for classification. For powerplants, ERA will undertake to provide overall electric system reliability analysis. Other information requirements for powerplant and installations have been considerably reduced.

Other comments suggested that ERA be required to act on a request for classification within a certain period of time (e.g., 30 or 60 days); otherwise, the facility would be automatically classified as "existing." ERA

has rejected this suggestion since it is neither possible to anticipate the administrative burden this would impose, nor consistent with the Act which presumes all transitional facilities are "new" unless otherwise classified pursuant to these rules.

Finally, ERA has amended provisions in the Revised Interim Rule regarding requests for treatment of confidential information to require persons requesting classification to follow the requirements of DOE's Freedom of Information Regulations set forth at 10 CFR Part 1004.

#### G. DEFINITIONS

The Interim Rule incorporated by reference applicable definitions contained in ERA's Proposed Rules to Implement the Powerplant and Industrial Fuel Use Act published in the FEDERAL REGISTER on November 17, 1978, 43 FR 53974. These rules have not been made final as of the publication of this Revised Interim Rule, therefore, ERA has incorporated a separate and complete list of definitions in the Revised Interim Rule which are applicable to it alone. ERA believes these revisions and additions to the Revised Interim Rule effectively address the public comments submitted on the definitions contained in the Interim Rule.

Comments were received that ERA should exclude oil field heaters and refinery process heaters from the definition of "major fuel-burning installation." We have excluded steam generators used for crude oil recovery from the definition of MFBI, for purposes of this Revised Interim Rule, but are not convinced that refinery process heaters should be categorically removed from the definition at this time.

Comments also indicated that the definition of "site" in the Interim Rule was too broad. Because we have automatically classified individual units with a design capability of less than 100 million BTU's per hour as "existing," the "site" definition is no longer relevant for the purposes of this Revised Interim Rule and will be addressed at a later date in regulations governing "new" and "existing" facilities.

One comment noted that the term "fuel heat input rate" could have a variety of meanings. To clarify this issue, we have included a definition of this term in Section 515.20 (Definitions) of this Revised Interim Rule.

#### H. FORMS

Several comments were directed specifically to the content and format of forms ERA proposes to be used in conjunction with transitional facilities; these forms were published in the FEDERAL REGISTER on December 4, 1978, 43

#### Subpart D—Definitions

515.20 Definitions.

#### Subpart E—Administrative Provisions

- 515.25 Purpose and scope.
- 515.26 Notice and public comment.
- 515.27 Conferences.
- 515.28 Appearance before ERA.
- 515.29 Computation of time.
- 515.30 Service.
- 515.31 General filing requirements.
- 515.32 Extension of time.
- 515.33 Effective date of decision.
- 515.34 Order of precedence.
- 515.35 Addresses for filing documents with the ERA.
- 515.36 Office of Public Information.

AUTHORITY: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267.

#### TRANSITIONAL FACILITIES

##### Subpart A—General Provisions

§ 515.1 Policy.

(a) The Economic Regulatory Administration (ERA) intends to immediately begin its administration of the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) relating to transitional facilities in a firm but fair and practical manner. A transitional facility is one which was not operational on April 20, 1977, but for which a contract for its construction or acquisition was signed prior to November 9, 1978, the date of FUA's enactment. ERA will not classify as "existing," transitional facilities which are in the early stages of planning and construction, and which would not incur a substantial financial penalty, an adverse effect upon reliability (for powerplants), or a significant operational detriment (for major fuel-burning installations). These facilities will therefore be considered to be "new." As new facilities, they will be subject to the statutory prohibitions of Title II of FUA, but will have the opportunity to petition ERA for an exemption from those prohibitions. Where a person requesting classification of a transitional facility as "existing" can demonstrate that the facility is in a more advanced stage of construction and would sustain any of the penalties, adverse effects, or detriments identified above, ERA will classify the facility as "existing" in order to avoid disruptive impacts on the facility as well on the economy at large.

(b) You are eligible to request that ERA classify your transitional facility as "existing" if you signed a contract for the facility's construction or acquisition prior to November 9, 1978. Moreover, you are also eligible to request that ERA classify your transitional facility as "existing" if you signed a contract prior to November 9,

FR 56703. The comments expressed the opinion that these forms required submittal of information not directly relevant to transitional facilities classifications and that the forms were too long and confusing. ERA has decided to revise and abbreviate the forms to accommodate these comments and to assure conformance of these forms with the revisions that have been made in the Revised Interim Rule.

#### IV. PROCEDURAL MATTERS

A regulatory analysis of this Revised Interim Rule set forth below, as contemplated by Executive Order No. 12044, is contained within the regulatory analysis of the regulation regarding new facilities proposed on November 9, 1978, 43 FR 53974. A Draft Environmental Impact Statement (DEIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the DEIS may be obtained from ERA, 2000 M Street, NW., Room B110, Washington, D.C. 20461, (202) 634-2170 (Department of Energy Organization Act, Pub. L. 95-96; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, E.O. 12009, 42 FR 4267).

In consideration of the foregoing, Part 515, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations is hereby revised effective March 15, 1979.

Issued in Washington, D.C., March 15, 1979.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

#### SUBCHAPTER E—ALTERNATE FUELS

##### PART 515—TRANSITIONAL FACILITIES

##### Subpart A—General Provisions

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- 515.2 Purpose and scope.

##### Subpart B—Electric Powerplants

- 515.3 Eligibility
- 515.4 Powerplants automatically classified as "new".
- 515.5 Powerplants automatically classified as "existing".
- 515.6 Powerplants which ERA will classify as "existing".
- 515.7 Evidence required in support of a request for classification.

##### Subpart C—Major Fuel-Burning Installations

- 515.10 Eligibility.
- 515.11 Installations automatically considered to be "new".
- 515.12 Installations automatically considered to be "existing".
- 515.13 Installations which ERA will classify as "existing".
- 515.15 Evidence required in support of a request for classification.



1978, for the reconstruction of your facility (including refurbishment of or addition to the facility) to the extent that the reconstruction equals or exceeds 50 percent of the price of a replacement unit. We base these criteria for eligibility as a transitional facility on the principle that a legally-binding contract constitutes a commitment, after which time any cancellation, rescheduling, or modification may result in a substantial financial penalty, a significant operational detriment, or an adverse effect on electric system reliability.

(c) We have established milestones whereby facilities will automatically, and without contacting ERA, be considered "new" or "existing." Where no contract for construction or acquisition of a facility was signed by November 9, 1978, the facility is clearly "new." Facilities which were operational, as defined in these regulations, on or before April 20, 1977, are automatically deemed "existing." Individual transitional facilities with a design capability of consuming any fuel at a heat input rate which does not equal or exceed 100 million BTU's per hour, are automatically deemed "existing."

(d) To further facilitate the handling of transitional facilities and reduce the administrative burden on persons requesting classification and ERA alike, facilities which are operational or at a certain stage of construction by designated dates may be classified as "existing" upon certification to ERA and, in some cases, the submission of minimal documentation. Under this approach, powerplants and MFBI's which you can demonstrate are or will be operational on May 8, 1979 (the effective date of FUA) will be classified as "existing" by ERA. Moreover, MFBI's which had been shipped by the manufacturer (in the case of prefabricated packaged boilers) or which had their main steam drum in place (for field-erected boilers) by November 9, 1978, will similarly be classified as "existing." These latter structural tests for MFBI's are incorporated in recognition of the shorter construction time period generally encountered by the industrial sector.

(e) ERA believes that a powerplant or MFBI will incur a "substantial financial penalty" where 25 percent or more of the total projected project cost has been expended or committed as of November 9, 1978. In assessing the expenditures or committed costs, however, ERA will exclude outlays which can be used toward the construction of an alternate fuel-fired facility. The limitation to nonrecoverable outlays follows from the definitions of new powerplants and MFBI's in Section 103 of the Act. These definitions recognize the extra costs that are

incurred in building an alternate fuel-fired plant by cancelling, rescheduling or modifying a partially completed oil or gas-fired plant.

(f) Where these nonrecoverable outlays do not reach 25 percent of the total projected project cost, ERA may consider other financially-related factors presented on a case-by-case basis. The purpose of these additional case-by-case evaluations, where facilities have not expended beyond 25 percent of their total projected project cost, is to permit persons requesting classification to present ERA with full explanations of the financial penalties they believe they may incur but which may not be given full consideration in the course of computing the percentage effect.

(g) If your transitional facility is a powerplant, one of the considerations ERA will employ in reaching a determination applicable to an adverse effect on electric system reliability is whether the cancellation, rescheduling or modification of your proposed powerplant results in your electric region's reserve margin falling below 20 percent during the 12-month period after you expect your proposed powerplant to begin operation. You may present whatever evidence you deem appropriate to ERA's reaching a determination on your claim of an adverse effect on electric system reliability.

(h) If your transitional facility is a major fuel-burning installation, your unit will be designated "existing" if you demonstrate to ERA that you would incur a "significant operational detriment as a result of cancelling, rescheduling or modifying your facility." In light of the complexity and variety of operational requirements in the MFBI sector, ERA will review these requests for classification on a case-by-case basis.

#### § 515.2 Purpose and scope.

(a) *Purpose.* These rules govern requests for classification of transitional facilities by ERA as existing facilities subject to the provisions of Title III of FUA, rather than as "new" facilities subject to the provisions of Title II of FUA.

(b) *Application.* This Part applies to all transitional facilities. You are eligible to submit a request to have your transitional powerplant or major fuel-burning installation classified as an "existing" facility, pursuant to this Part, if a contract for the construction or acquisition of your facility was signed prior to November 9, 1978, the date of enactment of FUA.

(c) *ERA Determinations.* Based upon the criteria set forth below, and after thorough consideration of the entire administrative record of your formal request, ERA will publish in the FEDERAL REGISTER a formal decision

either: (1) granting the request, having determined that your installation or powerplant is "existing," or (2) denying the request, having determined that your installation or powerplant is "new." ERA determinations on requests that are received by ERA on or before June 8, 1979, will be made on the basis of the provisions set forth in this Revised Interim Rule or upon the Final Rule where the application of the Final Rule would result in a more favorable disposition of your request. These determinations are final Departmental actions.

#### Subpart B—Electric Powerplants

##### § 515.3 Eligibility.

You are eligible to submit a request to ERA to have your transitional facility classified as "existing" if you can demonstrate to the satisfaction of ERA that you signed a contract for the construction or acquisition of the powerplant prior to November 9, 1978.

##### § 515.4 Powerplants automatically classified as "new."

If you did not sign a contract for the construction or acquisition of the powerplant prior to November 9, 1978, the powerplant is automatically classified as "new" and subject to the provisions of Title II of the Act.

##### § 515.5 Powerplants automatically classified as "existing."

(a) Any powerplant which was operational on or before April 20, 1977, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(b) Any powerplant for which a contract for construction or acquisition was signed prior to November 9, 1978, and which does not have a design capability to consume any fuel at a fuel heat input rate of 100 million BTU's per hour or greater, is automatically classified as "existing" and subject to the provisions of title III of the Act.

(c) Any powerplant for which a contract for construction or acquisition was signed before November 9, 1978, and which was operational on or before May 8, 1979, is automatically classified as "existing" and subject to the provisions of Title III of the Act upon filing with ERA of a certification. This certification must be made by a duly authorized officer of the electric utility which owns, operates, or controls the powerplant. This filing will not be deemed by ERA to be a formal request for classification under this Part.

##### § 515.6 Powerplants which ERA will classify as "existing."

ERA will classify an eligible powerplant as "existing" if you demonstrate to the satisfaction of ERA that the

cancellation, rescheduling or modification of the construction or acquisition of your powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability.

(a) *Substantial financial penalty.* ERA will take into consideration any financially-related factor which you consider appropriate in reaching a determination on substantial financial penalty. If you demonstrate to the satisfaction of ERA that, as of November 9, 1978, you have expended at least 25 percent of the total projected project cost, ERA will classify your facility as "existing." In computing the 25 percent expenditure, you must include only nonrecoverable outlays expended as of November 9, 1978.

Example: You are constructing a facility which can use either petroleum or coal, and the following outlays have been made and are projected:

|  | Outlays       |                              |
|--|---------------|------------------------------|
|  | As of 11/9/78 | Total projected project cost |
| Oil handling equipment, including storage..... | \$1,000,000   | \$2,000,000                  |
| Boiler.....                                    | \$4,000,000   | \$7,000,000                  |

In general, ERA would define a maximum of \$1,000,000 as a nonrecoverable outlay (oil handling equipment, oil storage) and could probably reduce this amount since certain items would be retained in an alternate fuel-firing system which used oil for startup and ignition. Outlays for the boiler are deemed recoverable, since they could be used in a coal facility, even though you would be required to spend an additional amount for pollution control and coal handling and storage facilities. (You may indicate your assessment of the impact of this additional amount by addressing item (3) below in your request.)

If you have expended at least 25 percent of the total projected project cost, ERA will classify your facility as "existing." If you have expended less than 25 percent under the test set forth above, you may still request classification from ERA. Your request for classification may address, among others, the following factors:

(1) The nonrecoverable outlays you would incur by cancelling, rescheduling, or modifying your current proposed powerplant in order to burn an alternate fuel or fuel mixture;

(2) The total projected project cost and percentage of completion of the project at November 9, 1978;

(3) The impact that cancelling, rescheduling, or modifying your present powerplant would have upon your rate base and your ability to continue in

business as a sound and financially viable public utility;

(4) The site at which the facility is located; and

(5) An alternate use for the facility under construction.

(b) *Adversely affecting electric system reliability.* (1) ERA will make its determination applicable to electric system reliability on a case-by-case basis, after consultation with FERC and the appropriate state authority.

(2) One of the considerations ERA will employ is whether the reserve margin of the electric region in which you propose to locate your powerplant would be reduced to less than 20 percent during the 12-month period after you expect your proposed powerplant to begin operation, assuming your proposed powerplant is not completed. Firm purchases and sales to or from the electric region will be included in ERA's evaluation. The reserve margin percentage is computed by subtracting the normal peak load expected during the 12-month period from the system's total capacity, including the additional capacity that will be available through interconnection, and dividing the result by the projected normal peak load during the delay.

(3) Notwithstanding paragraph (2) above, if you wish to demonstrate that your own electric utility's ability to provide reliable service will be adversely affected during this period, regardless of circumstances pertaining to your electric region, you may present whatever evidence you deem appropriate.

##### § 515.7 Evidence required in support of a request for classification.

(a)(1) You must submit a separate request for classification for each facility at a single site. Each request must be in writing, and must be signed by the duly authorized officer of the company that owns, operates or controls the powerplant.

Your request must include:

(i) A complete description of the transitional facility;

(ii) A statement of the date on which the contract for the construction or acquisition of the powerplant was signed and a description of the components or services contracted for; and

(iii) A statement of the date on which your powerplant became or is scheduled to become operational.

(2) ERA may request that you submit copies of any contracts concerned with the construction or acquisition of the powerplant.

(b)(1) If you wish to show that you will incur a substantial financial penalty, your request for classification must include the information listed below:

(i) A statement of the total projected project cost of your transitional fa-

cility projected as of November 9, 1978;

(ii) An itemized list of the project expenditures as of November 9, 1978;

(iii) An itemized list of any financial penalties you will incur by cancelling or terminating contracts signed as of November 9, 1978, for the project;

(iv) An itemized list of your recoverable expenditures for the project;

(v) An itemized list of the nonrecoverable outlays for the project; and/or

(vi) Any other relevant information you feel ERA should consider in reaching its determination, including information relating to the factors listed in § 515.6(a), above.

You should provide sufficient detail to enable ERA to evaluate your claim of substantial financial penalty. When providing itemized lists, you may aggregate costs of minor items in a reasonable manner, but ERA may require you to specify these costs if the cost categories are too vague or the costs are substantial.

(2) ERA may request that you submit copies of the sections of the engineering design plan and copies of environmental analyses or their summaries which describe in detail the design specifications, the construction schedule and the estimated engineering and contingency costs of the transitional facility.

(c)(1) If you wish to show an adverse effect on electric system reliability, your request for classification must include:

(i) A description of your own service area and its interconnection with other utilities;

(ii) Projections of peakload for your service area during the period of the delay that would be caused by the cancellation or redesign of the transitional facility;

(iii) The net dependable electrical capacity and peak loads for this service area for the 12 months following the expected operational date of the facility, including interconnections (if you are claiming an adverse impact on reliability during a period after the 12 months, you must provide this data for the period commensurate with the time of your anticipated reliability difficulties);

(iv) Your service area's reserve margin during the 1-year period after you expect your proposed powerplant to begin operation; and

(v) Any other relevant information you feel ERA should consider in reaching its determination.

You should provide sufficient detail to enable ERA to evaluate your claim of an adverse effect on electric system reliability.

(2) ERA will conduct the required regional reliability analysis for your electric region. You are invited to assist ERA by providing the additional



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projected regional load and generation data needed to evaluate the reliability of your electric region. ERA will utilize its own generation and load projection data base if you do not produce the necessary data.

#### Subpart C—Major Fuel-Burning Installations

##### § 515.10 Eligibility.

You are eligible to submit a request to ERA to have your transitional facility classified as "existing" if you can demonstrate to the satisfaction of ERA that you signed a contract for the construction or acquisition of the installation prior to November 9, 1978.

##### § 515.11 Installations automatically considered to be "new."

If you did not sign a contract for the construction or acquisition of the installation prior to November 9, 1978, the installation is automatically classified as "new" and subject to the provisions of Title II of the Act.

##### § 515.12 Installations automatically considered to be "existing."

(a) Any installation which was operational on or before April 20, 1977, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(b) Any installation for which a contract for construction or acquisition was signed prior to November 9, 1978, and which does not have a design capability to consume any fuel at a fuel heat input rate of 100 million BTU's per hour or greater, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(c) Any installation for which a contract for construction or acquisition was signed prior to November 9, 1978, and which is:

(1) A prefabricated packaged boiler that was shipped by the manufacturer to the user by November 9, 1978, or which was operational on or before May 8, 1979, is automatically classified as existing upon the submission of a certification to such effect by a duly authorized officer of the company that owns, operates or controls your installation, including the evidence required by § 515.15(a)(1)(v); or

(2) A field-erected unit, the main steam drum of which was in place by November 9, 1978, or which was operational on or before May 8, 1979, is automatically classified as existing upon the submission of a certification to such effect by a duly authorized officer of the company that owns, operates or controls your installation, including the documentation required by § 515.15(a)(1)(v).

##### § 515.13 Installations which ERA will classify as "existing."

ERA will classify an eligible installation as "existing" if you demonstrate to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or acquisition of your installation would result in a substantial financial penalty or a significant operational detriment.

(a) **Substantial financial penalty.** ERA will take into consideration any financially-related factor which you consider appropriate in reaching its determination on substantial financial penalty. If you demonstrate to the satisfaction of ERA that you have expended at least 25 percent of the total projected cost of project as of November 9, 1978, ERA will classify your installation as "existing." In computing the 25 percent expenditures, you must include only nonrecoverable outlays expended as of November 9, 1978.

**EXAMPLE:** You are constructing a facility which can use either petroleum or coal, and the following outlays have been made and are projected:

|  | Outlays       |                              |
|--|---------------|------------------------------|
|  | As of 11/9/78 | Total projected project cost |
| Oil handling equipment, including storage..... | \$1,000,000   | \$2,000,000                  |
| Boiler.....                                    | \$4,000,000   | \$7,000,000                  |

In general, ERA would define a maximum of \$1,000,000 as a non-recoverable outlay (oil handling equipment & oil storage) and would probably reduce this amount since certain items would be retained in an alternate fuel-firing system which used oil for startup and ignition. Outlays for the boiler are deemed recoverable, since they could be used in a coal fired facility, even though you would be required to spend an additional amount for pollution control and coal handling and storage facilities. [You may indicate your assessment of the impact of this additional amount by addressing item (3) below in your request.]

If you have expended less than 25 percent under the test set forth above, you may still request classification from ERA. Your request for classification may address, among others, the following factors:

(1) The nonrecoverable outlays you would incur by cancelling, rescheduling or modifying your current proposed installation in order to burn an alternate fuel or fuel mixture;

(2) The total projected project cost and percentage of completion of the project at November 9, 1978;

(3) The impact that cancelling, rescheduling, or modifying your proposed installation would have upon

your ability to continue in business as a sound and financially viable entity. (In the case of a subsidiary company, ERA intends to review the financial effect on the parent company unless you can demonstrate to ERA why this would not be justified);

(b) **Significant operational detriment.** ERA will make its determination under this subsection on a case-by-case basis; however, you should indicate the operational detriment you would have incurred if you had cancelled, rescheduled, or modified your installation to burn an alternate fuel or fuel mixture at November 9, 1978. Your request for classification should address the following factors:

(1) The extent of construction and anticipated startup date;

(2) The potential impact of the loss of production which could not be rescheduled elsewhere;

(3) The potential impact on employment, including the number and type of jobs lost, excluding those that may be absorbed elsewhere within your parent company; and

(4) The anticipated annual capacity utilization factor of the unit, as well as seasonal or other variations in use.

##### § 515.15 Evidence required in support of a request for classification.

(a)(1) You must submit a separate request for classification for each facility at a single site. Each request must be in writing and must be signed by the duly authorized officer of the company that owns, operates or controls the installation. Your request for classification must include:

(i) A complete description of the transitional facility;

(ii) A statement of the date on which a contract for the construction or acquisition of the installation was signed, and a description of the components or services contracted for;

(iii) A statement of the date on which a prefabricated packaged boiler was shipped by the manufacturer or a statement of the date on which the main steam drum of a field-erected boiler was in place;

(iv) A statement of the date on which your installation became or is scheduled to become operational;

(v) A copy of the bill of lading for the shipment of a prefabricated packaged boiler or the main steam drum of a field-erected boiler, and

(vi) A dated photograph of a prefabricated packaged boiler or the main steam drum of a field-erected boiler after it has been set in place.

(2) ERA may request that you submit copies of any contracts concerned with the construction or acquisition of the installation.

(b)(1) If you wish to show that you will incur a substantial financial pen-

alty, your request for classification must include:

(i) A statement of the total projected project cost of your transitional facility projected as of November 9, 1978;

(ii) An itemized list of the project expenditures as of November 9, 1978;

(iii) An itemized list of any financial penalties you will incur by cancelling or terminating contracts for the project signed as of November 9, 1978;

(iv) An itemized list of your recoverable expenditures for the project;

(v) An itemized list of the nonrecoverable outlays for the project; and/or

(vi) Any other relevant information you feel ERA should consider in reaching its determination, including information relating to the factors listed in § 515.13(a), above.

You should provide sufficient detail to enable ERA to evaluate your claim of substantial financial penalty. When providing itemized lists, you may aggregate costs of minor items in a reasonable manner, but ERA may require you to specify these costs if the cost categories are too vague or the costs are substantial.

(2) ERA may request that you submit copies of the sections of the engineering design plan and copies of environmental analyses or their summaries which describe in detail the design specifications, the construction schedule and the estimated engineering and contingency costs of the transitional facility.

(c) If you wish to show that you will incur a significant operational detriment, your request for classification should include any relevant information you feel ERA should consider in reaching its determination, including information relating to the factors listed in § 515.13(b), above. You should provide sufficient detail to enable ERA to evaluate your claim of significant operational detriment.

(d) ERA may request any additional evidence it deems necessary to adequately review your request for classification.

#### Subpart D—Definitions

##### § 515.20 Definitions.

(a) All terms defined in this subpart shall apply only to Part 515, Transitional Facilities. These definitions are not applicable to and may differ from the definitions promulgated or to be promulgated by other regulations implementing FUA.

(b) Throughout this Part, the "Act" or "FUA" means the Powerplant and Industrial Fuel Use Act of 1978.

(c) Unless otherwise expressly provided, for purposes of this Part of these regulations, the term:

(1) "Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes—

(i) Coal;

(ii) Solar energy;

(iii) Petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood and renewable and geothermal energy sources;

(iv) Liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity;

(v) Any fuel derived from an alternate fuel; and

(vi) Waste gases from industrial operations.

(2) "Btu" means British thermal unit.

(3) "Coal" means anthracite, bituminous and sub-bituminous coal, lignite, and any fuel derivative thereof.

(4) "Conference" means an informal meeting, incident to any proceeding, between ERA and any interested person.

(5) "Construction" means substantial construction in terms of an actual and meaningful commitment to building the powerplant or MFBI, and includes more than merely clearing a site or putting in foundation pilings for the unit.

(6) "Contract for construction or acquisition" means a legally-binding agreement or agreements for substantial onsite construction or reconstruction, or for the purchase or rental of significant equipment or appurtenances required for the construction or operation of a powerplant or MFBI, including, but not necessarily limited to, purchase of the boiler and its major components, fuel-handling equipment and pollution control equipment. This term shall not include contracts for the purchase of land, site clearances or preparation, or the installation of foundation pilings.

(7) "Duly authorized officer" means the Chief Executive Officer or his designee of a company that owns, operates or controls a facility.

(8) "Duly authorized representative" means a person who has been designated to appear before ERA in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. The appearance may consist of the submission of applications, requests, statements, memoranda of law, other documents, or of a personal appearance, oral communication, or any other participation in the proceeding.

(9) "Electric powerplant" means any stationary electric generating unit, consisting of a boiler, a combustion turbine unit, a generator or a combined cycle unit, which produces elec-

tric power for purposes of sale or exchange, and—

(i) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) Is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(iii) As used herein, the term "electric generating unit" does not include—

(A) any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(B) any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale.

(10) "Electric region"—The following is a list of electric regions for use with regard to this Part. The regions are identified by FERC Power Supply areas as authorized by section 202(a) of the Federal Power Act except where noted.

(i) Each grouping meets one or more of the following criteria:

(A) Existing centrally-dispatched pools and hourly power brokers;

(B) Systems with joint planning and construction agreements;

(C) Systems with coordination agreements in the areas of—

(1) Generation reserve and system reliability criteria,

(2) Capacity and energy exchange policies,

(3) Maintenance scheduling,

(4) Emergency procedures for dealing with capacity or fuel shortages;

(D) Systems within the same National Electric Council (NERC) region with historical coordination policies.

(ii) The Power Supply Areas (PSA's), referred to in the definition of electric regions, were first defined by the Federal Power Commission in 1936. The most recent reference to them is given in the 1970 National Power Survey, Vol. I, Pg. I-3-16. In cases where you find an ambiguity in a regional assignment, you shall consult with ERA for an official determination.

(iii) **ELECTRIC REGION GROUPINGS.**

| DOE (FERC) power supply areas             |                                  |
|---|----------------------------------|
| (A). Allegheny Power System (APS)         | 7, except Duquesne Light Company |
| (B). American Electric Power System (AEP) | Entire AEP System                |
| (C). New England Planning Pool (NEPOOL)   | 1, 2                             |
| (D). New York Planning Pool (NYPP)        | 3, 4                             |



|   |  |
|---|--|
| (E). Pennsylvania-New Jersey-Maryland Interconnection (PJM) | 5, 6   |
| (F). Commonwealth Edison Company                            | 14   |
| (G). Florida Coordination Group (FCG)                       | 24   |
| (H). Middle South Utilities                                 | 25   |
| (I). Southern Company                                       | 22, 23   |
| (J). Gulf States Group                                      | 35   |
| (K). Tennessee Valley Authority (TVA)                       | 20   |
| (L). Virginia-Carolina Group (VACAR)                        | 18, 21   |
| (M). Central Area Power Coordination Group (CAPCO)          | Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Duquesne Light Company      |
| (N). Cincinnati, Columbus, Dayton Group (CCD)               | Cincinnati Gas and Electric Company, Columbus and Southern Ohio Electric Company, Dayton Power and Light Company |
| (O). Kentucky Group   | 19   |
| (P). Indiana Group  | Indiana Utilities except AEP   |
| (Q). Illinois-Missouri Group (ILLMO)                        | 15, 40   |
| (R). Michigan Electric Coordinated Systems (MECS)           | 11   |
| (S). Wisconsin-Upper Michigan Group (WUMS)                  | 13   |
| (T). Mid-Continent Area Power Pool (MAPP)                   | 16, 17, 26, 27, 28   |
| (U). Missouri-Kansas Group (MOKAN)                          | 29, 24   |
| (V). Oklahoma Group   | 33, 36   |
| (W). Texas Interconnected Systems (TIS)                     | 37, 38   |
| (X). Rocky Mountain Power Pool (RMPP)                       | 31, 32   |
| (Y). Northwest Power Pool (NWPP)                            | 30, 41, 42, 43, 44, 45   |
| (Z). Arizona-New Mexico Group                               | 39, 48 within Arizona  |
| (AA). Southern California-Nevada                            | 47, 48 in Nevada and California  |
| (BB). Northern California-Nevada                            | 46   |
| (CC). Alaska  | 49   |

(11) "Electric utility" means any person, including any affiliate, or Federal agency, who sells electric power.

(12) "ERA" means the Economic Regulatory Administration of the Department of Energy.

(13) "Facility" means an electric powerplant or major fuel-burning installation.

(14) "FERC" means the Federal Energy Regulatory Commission.

(15) "Installation" means "major fuel-burning installation."

(16) "Fuel heat input rate" means the hourly fuel feed rate multiplied by the gross heating value of the fuel at 60 degrees F. The rate, expressed in millions of Btu's per hour, measures the maximum capacity of the unit and is not related to the rate of actual use. The fuel input rate also reflects the highest rate which can be attained in the unit among the various rates associated with the different fuel capabilities of the unit.

(17) "Main steam drum" means the drum in the boiler where the process of steam separation occurs.

(18) "Main steam drum in place" means that the main steam drum has been lifted to and hung on the field-erected boiler, so that the main steam drum is blocked or braced in place.

(19) "Major fuel-burning installation," means a stationary unit consisting of a boiler, which—

(i) Has a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 100 million Btu's per hour or greater;

(ii) Is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 250 million Btu's per hour or greater.

(iii) "Major fuel-burning installation" does not include—

(A) Any electric powerplant; or

(B) Any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to ERA of such use.

(C) Steam generators for crude oil recovery.

(20) "MFBI" means "major fuel burning installation."

(21) "Mixture" when used in relation to fuels used in a unit means a mixture of petroleum or natural gas and an alternate fuel, or a combination of such fuels used simultaneously or alternately in such unit.

(22) "Nonrecoverable outlays" are those expenditures you have made for your transitional facility, as of November 9, 1978, which could not be used in the construction or operation of a facility to burn an alternate fuel, including any expenditures you would be required to make as a result of cancelling contracts signed prior to November 9, 1978. In determining nonrecoverable outlays, you must select the method which results in the least amount of nonrecoverable outlays. The following items are to be excluded from nonrecoverable outlays:

(i) Reimbursements from selling or salvaging equipment or appurtenances associated with the petroleum/gas boiler system; and

(ii) Expenditures for equipment or appurtenances which can be used elsewhere by the owner or operator of the powerplant or installation.

(23) "Operational" means that a unit is used and useful, has completed its testing phase and is producing a product or providing a service on a continuing basis.

(24) "Person" means—

(i) Any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company;

(ii) Any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States;

(iii) Any agency or instrumentality (including any municipality) thereof; or

(iv) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(25) "Powerplant" means "electric powerplant."

(26) "Reconstruction" means refurbishment or addition to a powerplant or major fuel-burning installation, since April 20, 1977, to the extent that the cost of such refurbishment or addition equals or exceeds 50 percent of the price of a replacement unit.

(27) "Recoverable outlays" are those expenditures you have made for your transitional facility, as of November 9, 1978, which could be used in the construction or operation of a facility to burn an alternate fuel. The following items are to be included as recoverable outlays:

(i) Reimbursements from selling or salvaging equipment or appurtenances associated with the petroleum/gas boiler system; and

(ii) Expenditures for equipment or appurtenances which can be used elsewhere by the owner or operator of the powerplant or installation.

(28) "Request for Classification" means the formal request for classification of a facility as "existing" made to ERA through submission of appropriate forms and other information pertaining to eligibility and evidentiary requirements as stated in these regulations under this Part.

(29) "Total projected project cost" means total expenditures, projected as of November 9, 1978, required to perform the feasibility study, engineering, and labor for the construction of your planned facility, as well as all expenditures required for the purchase of the boiler and/or nonboiler and all of its components, fuel-handling equipment, pollution control equipment, and other appurtenances necessary for the construction and operation of the facility. In calculating the total projected project cost, expenditures for marketing studies and land acquisition must be excluded.

(30) "Transitional facility" means a facility which was not operational on April 20, 1977, but for which a contract for the construction or acquisition was signed prior to November 9, 1978.

(31) "Turbine generator or combustion turbine generator" means an electric power-generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of any fuel, with an electric power generator driven by the engine.

#### Subpart E—Administrative Provisions

##### § 515.25 Purpose and scope.

This subpart establishes the general procedures that are applicable to this Part.

##### § 515.26 Notice and public comment.

When ERA receives your properly filed request for classification under this Part, it will publish a notice in the FEDERAL REGISTER. ERA will provide in the notice a period of no less than 21 days for interested persons to file written data, views or arguments. ERA will not provide an opportunity for a public hearing.

##### § 515.27 Conferences.

(a) You may file a written request for a conference with ERA regarding your request for classification. The request must be filed at the address provided in § 515.35. ERA in its discretion will decide whether to hold a conference.

(b) Actual notice of the time, place, and nature of the conference will be provided to the person who requested the conference. ERA will determine who may attend a conference, but a conference will generally include only the representative of the person requesting the conference, government representatives, and other persons requested by the person requesting the conference.

(c) When ERA convenes a conference in accordance with this section, any person invited may present views as to the issue or issues involved. You may submit documentary evidence at the conference. ERA will not normally have a transcript of the conference prepared but may do so at its discretion. However, a summary of major points discussed will be prepared by ERA and placed in the public record with confidential material deleted.

(d) Because a conference is solely for the exchange of views incident to a request for classification, ERA will not prepare a transcript, issue a final report or finding unless ERA in its discretion determines that it would be advisable.

##### § 515.28 Appearance before ERA.

(a) A person may participate in any proceeding described in this Part on his own behalf or by a duly authorized representative. Any request for classification filed by a duly authorized representative must contain a statement by such person certifying that he is a duly authorized representative. Falsification of the certification will subject the person to the sanctions stated in 18 U.S.C. 1001.

(b) ERA may deny, temporarily or permanently, the privilege of participating in conferences, including oral presentations, to any individual who is found by ERA:

(1) To have made false or misleading statements, either orally or in writing;

(2) To have filed false or materially altered documents, affidavits or writings;

(3) To lack the specific authority to represent the person seeking an ERA action; or

(4) To have disrupted or to be disrupting a proceeding.

##### § 515.29 Computation of time.

(a) *Days.* (1) When ERA computes time in days under these regulations, ERA will not include the day of the act (or default) from which a period of time begins to run. ERA will include the last day of the period, unless it is a Saturday, Sunday or Federal legal holiday, in which case the period runs until the end of the next normal working day that is not a Federal legal holiday.

(2) ERA shall exclude Saturdays, Sundays or intervening Federal legal holidays from its computation of time when the period of time allowed or prescribed in the regulations is 7 days or less.

(b) *Additional time after service by mail.*

Whenever ERA serves by mail a decision, notice, interpretation or other document, which may specify a time period for you to perform an act, refrain from performing an act, or commence a proceeding, you may add 3 days to the period prescribed.

##### § 515.30 Service.

(a) ERA will serve all decisions personally or by certified mail unless otherwise provided in these regulations. All other documents will be sent by ERA by first class mail.

(b) ERA will consider service upon your duly authorized representative to be service upon you.

(c) Service by mail is effective upon mailing. ERA will consider official United States postal receipts from certified mailing as *prima facie* evidence of service.

##### § 515.31 General filing requirements.

(a) *Where to submit.* You must file your request for classification with ERA at the address provided in Section 515.35.

(b) *When to submit.* Submit your request for classification under the provisions of this Part on or before June 8, 1979.

(c) *Number of copies.* You should submit four copies of your request for classification.

(d) *Completed Filing.* (1) Your request for classification is considered to be filed when you have submitted four copies of your request and any required supporting documentation, and it has been accepted by ERA. If for any reason your request for classification is not acceptable, ERA will notify you within 42 days (6 weeks) from the date of receipt of any deficiencies or defects contained in your request.

(2) If ERA requests other documents or additional information from you, these will be considered to be filed upon receipt unless ERA advises you to the contrary within a reasonable time.

(e) *Signing and Attestation.* (1) If you file a request for classification under this Part on behalf of a company or corporation, a duly authorized official of that company or corporation must attest in writing as to the accuracy of all of the facts and statements contained in that request.

(2) If you file a request for classification under this Part on behalf of a subsidiary of a company or corporation, duly authorized official of both the controlling or parent company or corporation and its subordinate or subsidiary company or corporation must attest in writing as to the accuracy of all facts and statements contained in that request.

(3) If you file a request for classification under this Part on behalf of an entity other than a company or corporation, a duly authorized official of that entity must attest in writing as to the accuracy of all of the facts and statements contained in that request.

(4) All requests, comments, attestations or other documents filed under this Part by a duly authorized representative, as defined by § 515.20(c)(8), must contain the written attestation by that person that he is a duly authorized representative and state the basis for his authority.

(f) *Labeling.* You should clearly label any request for classification or other document that you file with ERA, as "Request for Classification as an Existing Facility" both on the document and on the outside of the envelope in which the document is transmitted.

(g) *Obligation to Supply Information When You File a Request for Classification, and Other Documents Rele-*



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RULES AND REGULATIONS

*vant Thereto.* You are under a continuing obligation during the proceeding to provide the ERA with any new or newly discovered information concerning significantly changed circumstances relevant to the facility.

(h) *Request for confidential treatment.* (1)(i) If you wish to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 as amended) or is otherwise exempt by law from public disclosure, and if you wish to request ERA not to disclose such information, you must comply with the Department of Energy's Freedom of Information Regulations set forth in 10 CFR Part 1004 (44 FR 1908, January 8, 1979).

(2) ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny such claim, in whole or in part, and an opportunity to respond will be given to the person claiming confidentiality of information no less than 48 hours prior to the public disclosure of such information.

(3) This subsection does not apply where information is being submitted on an ERA form which contains its own instructions as to requests for confidential treatment of information provided.

(4) Each request for ERA action must be submitted as a separate document, even if the request deals with the same or a related issue, act or transaction, or is submitted in connection with the same proceeding.

§ 515.32 Extension of time.

ERA may, in its discretion, provide an extension of time to file a request for classification if you can show good cause for the extension. You should submit your request for an extension by June 8, 1979.

§ 515.33 Effective date of decision.

Any decision issued by ERA under this Part is effective on the date issued against all persons having

actual notice of it. Such decision is deemed to be issued on the date it is signed by an authorized representative of ERA, unless the decision or other determination states otherwise.

§ 515.34 Order of precedence.

If there is any conflict or inconsistency between the provisions of this subpart and any other provision of this Part, the provisions of this subpart shall control as it relates to classifications of Transitional Facilities. ERA determinations on requests for classification that are received by ERA on or before June 8, 1979, shall be made on the basis of this Revised Rule, or upon the Final Rule where the application of the Final Rule would result in a more favorable disposition of your request.

§ 515.35 Addresses for filing documents with the ERA.

All requests, reports, ERA forms, written communications or other documents are to be filed with the Assistant Administrator for Fuels Regulation, Economic Regulatory Administration, Attention: Office of Public Hearing Management, 2000 M Street, N.W., Washington, D.C. 20461.

§ 515.36 Office of Public Information.

The Office of Public Information (2000 M Street, N.W., Washington, D.C., Room B-110) is available for public inspection of documents and copying of the following information:

(a) A list of all persons who have filed a request for classification for designation as existing facilities.

(b) Each decision on a request for classification which will contain a statement setting forth the relevant facts and legal basis of each decision, with confidential information deleted, as well as written comments received from interested persons in connection with a request.

[FR Doc. 79-8782 Filed 3-20-79; 9:09 am]



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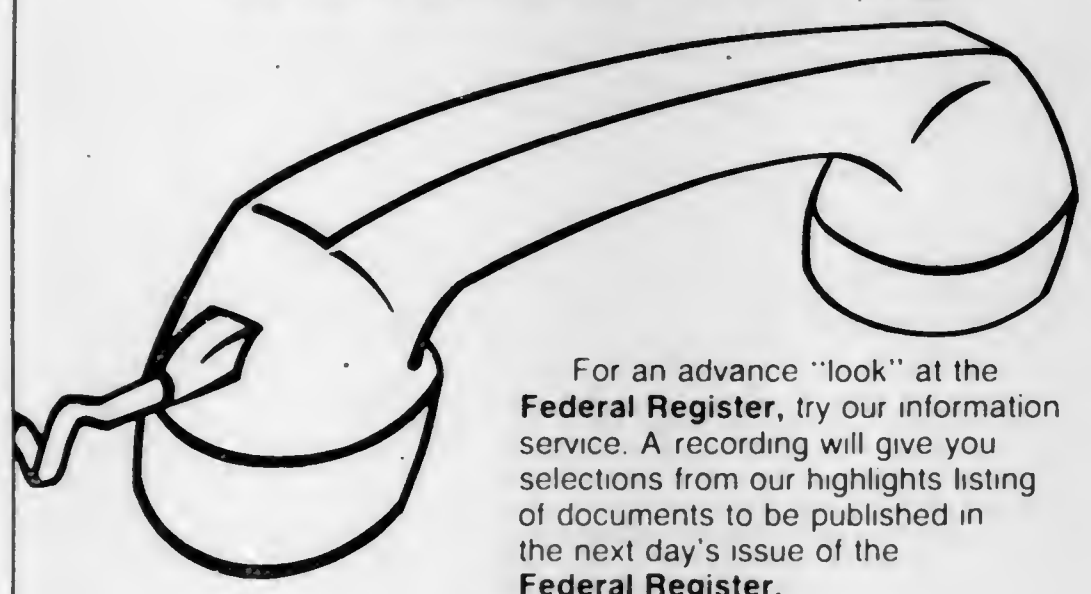
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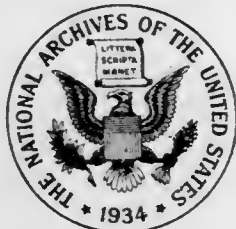
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
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| DOT/NHTSA       | USDA/APHIS |           | DOT/NHTSA       | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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\*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

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| 62   | 17193                       |
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## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

## Title 7—Agriculture

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

[Navel Orange Reg. 458; Navel Orange Reg. 457, Amdt. 1]

**PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA**

## Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 23-29, 1979, and increases the quantity of such oranges that may be so shipped during the period March 16-22, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective March 23, 1979, and the amendment is effective for the period March 16-22, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION:

## FINDINGS

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found

that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee, met on March 20, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges continues to be reasonably firm on all sizes and grades.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.758 Navel Orange Regulation 458.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 23, 1979, through March 29, 1979, are established as follows:

- (1) District 1: 935,000 cartons;
- (2) District 2: 165,000 cartons;
- (3) District 3: Unlimited.

(b) As used in this section, "handle", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

§ 907.757 [Amended]

2. Paragraph (a)(1) in § 907.757 Navel Orange Regulation 457 (44 FR 15741), is hereby amended to read:

"(1) District 1: 950,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: March 21, 1979.

CHARLES R. BRADER,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-9051 Filed 3-21-79; 11:46 am]

[3410-05-M]

**CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE****SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS****PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES****Subpart—1978 Crop Farm Stored Peanut Loan and Purchase Program**

AGENCY: Commodity Credit Corporation.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to set forth for 1978 crop farm stored peanuts (1) the loan and purchase availability dates for quota peanuts, (2) loan availability dates for additional peanuts, (3) the maturity dates, (4) loan and purchase rates on peanuts, (5) location adjustments, and (6) support levels. This rule is needed in order to provide price support on 1978 crop farm stored peanuts.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20013, (202) 447-6611.

SUPPLEMENTARY INFORMATION: A 1978 Crop Peanut Warehouse Storage Loan Supplement was published in the FEDERAL REGISTER on May 18, 1978, (43 FR 21425) establishing the national average support level for the 1978 crop of quota peanuts at \$420 per ton.



Section 403 of the Agricultural Act of 1949, as amended, provides that appropriate adjustments may be made in the level at which peanuts will be supported based on type and other factors.

On June 21, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 26587). This notice announced that the Commodity Credit Corporation ("CCC") was preparing to make determinations and issue regulations for 1978 crop peanuts and to adjust loan and purchase rates for differences in types and other factors, and invited the public to submit written comments.

Six comments were received in response to the notice. Two sheller associations and one State farm bureau recommended adoption of the differentials set forth in the proposed rule for 1978 crop peanuts. Three individuals recommended that the peanut price support program be abolished.

After considering the comments received, it was determined that the rates, premiums, and discounts proposed in the FEDERAL REGISTER as to warehouse storage loans on June 21, 1978, should be adopted for farm stored peanuts so that all producers will be treated fairly.

The basic rates applicable to warehouse storage loans shall also be applicable for farm stored loans.

#### FINAL RULE

The regulations in 7 CFR § 1421.291 through 1421.295 and the title of the subpart are revised to read as follows, effective for the 1978 crop of farm stored peanuts. The material previously appearing in this subpart remains in full force and effect as to prior crop years.

#### Subpart—1978 Crop Farm Stored Peanut Loan and Purchase Program

Sec.  
1421.291 Purpose.  
1421.292 Availability.  
1421.293 Maturity of loans.  
1421.294 Loan and purchase rates.

**AUTHORITY:** Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 403, and 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421).

#### § 1421.291 Purpose.

The provisions of this Subpart, together with the applicable provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops of Grains and Similarly Handled Commodities, (44 FR 2353, and 3451) and the provisions of the 1978 and Subsequent Crops Peanut Farm Stored Loan and Purchase Supplement, as amended (hereinafter referred to as "the continuing supplement"), which contain regulations of a general nature with respect to loan

and purchase operations, apply to loans and purchases for the 1978 crop of farm stored peanuts.

#### § 1421.292 Availability.

(a) *Loans.* Requests for loans must be submitted by producers to the appropriate county ASCS office on 1978 crop farm stored eligible additional peanuts on or before January 31, 1979, and for 1978 crop farm stored eligible quota peanuts on or before March 31, 1979.

(b) *Purchases.* Producers desiring to offer for purchase 1978 crop eligible quota peanuts not under loan must execute and deliver to the appropriate county ASCS office, on or before April 30, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of peanuts to be sold to CCC. Additional peanuts are not eligible for purchases.

#### § 1421.293 Maturity of loans.

Unless demand is made earlier, loans on additional and quota peanuts will mature on April 30, 1979.

#### § 1421.294 Loan and purchase rates.

(a) *Loan and purchase rates.* Subject to the discounts specified in paragraph (b) of this section, the loan and purchase rates for quota peanuts placed under farm stored loan or purchase shall be the following rates by types per ton:

| Type                   | Dollar per ton |
|------------------------|----------------|
| Virginia.....          | 421            |
| Runner.....            | 423            |
| Southeast Spanish..... | 405            |
| Southwest Spanish..... | 405            |
| Valencia.....          | 405            |

Loans on additional peanuts shall be made at 59.52 percent of the quota support rate.

(b) *Location adjustment to support prices.* The loan and purchase rates specified in paragraph (a) of this section shall be subject to the following discounts for farmers' stock peanuts placed under a farm stored loan in the States specified where peanuts are not customarily shelled or crushed:

| State            | Dollars per ton |
|------------------|-----------------|
| Arizona.....     | 25              |
| Arkansas.....    | 10              |
| California.....  | 33              |
| Louisiana.....   | 7               |
| Mississippi..... | 10              |
| Missouri.....    | 10              |
| Tennessee.....   | 25              |

(c) *Settlement values.* The support prices, premiums, and discounts for use in computing the settlement value, under § 1421.289(b)(2) of the continuing supplement, of peanuts acquired

by CCC under loan or purchase shall be those specified in § 1446.12 of the 1978 crop peanut warehouse storage loan supplement, including the location adjustment specified therein for peanuts delivered to CCC in States where peanuts are not customarily shelled or crushed.

**NOTE.**—This regulation has been determined not significant under USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average peanut price support rates announced February 15, 1978. An approved Final Impact Statement is available from Kay Wygal, ASCS, (202) 447-6695.

Signed at Washington, D.C. on March 14, 1979.

S. N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.

[FR Doc. 79-8743 Filed 3-21-79; 8:45 am]

#### [3410-05-M]

ICC Grain Price Support Regulations,  
1978 Crop Oats Supplement]

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

##### Subpart—1978 Crop Oats Loan and Purchase Program; Corrections

AGENCY: Commodity Credit Corporation, USDA.

**ACTION:** Correction of Final Rule.

**SUMMARY:** This action corrects a previous FEDERAL REGISTER document (FR Doc. 79-1651) beginning at page 3680 of the issue for Thursday, January 18, 1979, which provided the weighted average loan and purchase rate for selected States for the 1978 crop of oats. The "Weighted avg. for State" (of Michigan) in § 1421.274(a) continued on page 3683 in the first column is corrected by changing the "\$1.07" Rate per bushel to read "\$1.08."

**EFFECTIVE DATE:** January 18, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Merle Strawderman, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20515, (202) 447-7973.

Dated: March 14, 1979.

RAY FITZGERALD,  
Executive Vice President,  
Commodity Credit Corporation.

[FR Doc. 79-8745 Filed 3-21-79; 8:45 am]

#### [3410-05-M]

ICC Grain Price Support Regulations,  
1978 Crop Barley Supplement]

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

##### Subpart—1978 Crop Barley Loan and Purchase Program; Corrections

AGENCY: Commodity Credit Corporation, USDA.

**ACTION:** Correction of Final Rule.

**SUMMARY:** This action corrects a previous FEDERAL REGISTER document (FR Doc. 79-1653), beginning at page 3670 of the issue for Thursday, January 18, 1979, which provided the weighted average loan and purchase rate for selected States for the 1978 crop of barley. The "Weighted avg. for State" (of Nebraska) in § 1421.76(a) continued on page 3672 in the second column is corrected by changing the "\$1.52" Rate per bushel to read "\$1.55."

**EFFECTIVE DATE:** January 18, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Merle E. Strawderman, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20515, (202) 447-7973.

Dated: March 14, 1979.

RAY FITZGERALD,  
Executive Vice President,  
Commodity Credit Corporation.  
[FR Doc. 79-8746 Filed 3-21-79; 8:45 am]

#### [3410-05-M]

[Honey Price Support Regulations,  
Amendment 1]

#### PART 1434—HONEY

##### Subpart—Honey Price Support Regulations for 1977 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule provides (1) that individual producers may obtain an individual farm stored loan on their honey which is stored with other producers' honey in the same storage structures, (2) producers may request that farm stored honey loans not be called because of incorrect certification under certain conditions, (3) that producers may request that farm stored honey loans not be called because of initial unauthorized removal under certain conditions, (4) that CCC will not accept delivery of any quantity in excess of 110 percent of the

measured or certified loan quantity, and (5) that CCC will not accept settlement of any quantity in excess of 110 percent of the quantity shown on the Purchase Agreement. This rule is needed so that producers and others will be aware of program changes.

**EFFECTIVE DATE:** March 22, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Dalton J. Ustynik, ASCS, (202) 447-6611.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking concerning the detailed operating provisions to carry out the honey price support program was published in the FEDERAL REGISTER on February 2, 1978 (43 FR 4437). No comments were received. It has been determined that operating provisions will be changed to provide (1) that individual producers may obtain an individual loan on honey stored with other producers in the same storage structure, (2) that producers may request that farm stored loans not be called because of incorrect certification in certain conditions (3) that producers may request that farm stored loans not be called because of initial unauthorized removal under certain conditions, (4) that CCC will not accept delivery of any quantity in excess of 110 percent of the measured or certified quantity and (5) that CCC will not accept delivery of any quantity in excess of 110 percent of the quantity shown on the Purchase Agreement. Such changes are being made so that honey producers will have the same benefits as producers of other price supported commodities.

7 CFR Part 1434 is amended as follows, effective as follows effective as to the 1978 and subsequent crops. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

#### FINAL RULE

1. In order to provide that individual producers may obtain an individual farm stored loan on their honey which is stored with other producers' honey in the same farm storage structure, section 1434.3(f) is amended to read as follows:

#### § 1434.3 Eligible producers.

(f) *Joint loans.* Two or more eligible producers may obtain a joint loan on eligible honey produced and extracted by them if stored in the same farm storage facility except that in lieu of obtaining a joint loan, producers may obtain individual loans on the producer's share of the honey stored in separate containers if the producer obtains an agreement from other producers having honey stored in the facility stating that they are aware that a portion of the honey in the storage facility is under loan and they will obtain permission from the county office prior to removing any honey from the facility. Two or more producers may obtain a warehouse storage loan, if the warehouse receipt is issued jointly to such producers. Each producer who is a party to a joint loan will be jointly and severally responsible and liable for the breach of the obligations set forth in the loan documents and in the applicable regulations in this subpart.

2. In order to correct a format of paragraph 1434(a) and to provide that producers may request that loans not be called in case of incorrect certification under certain conditions that producers may request that farm stored loans not be called because of initial unauthorized removal under certain conditions, sections 1434.24 (a), (g), and (h) are amended as follows:

§ 1434.24 Quantity for farm storage loan.  
(a) *Maximum loan amount.* Farm storage loans shall not be made on more than a percentage (hereinafter called the "loan percentage"), as established by the State committee, of the certified or measured quantity of the eligible honey stored in approved farm storage and covered by the note and security agreement. The maximum loan percentage shall not exceed 90 percent of the measured or certified quantity. The State committee shall establish the loan percentage each year on a statewide basis or for specified areas within the State. Prior to the establishment of a loan percentage, the State committee shall consider conditions in the State or areas within a State to determine if the loan percentage should be below the maximum loan percentage in order to provide CCC with the adequate protection. (1) Loan percentages previously determined shall be lowered if warranted by changed conditions but new loan percentages shall apply only to new loans and not to loans already made. Factors to be considered by the State committee in determining the loan percentages are: (i) general honey producing conditions, (ii) factors affecting quality peculiar to an area or State, and (iii) climatic conditions affecting storability. (2) The loan percentages established by the State committee may be lowered by the County committee on an individual producer basis when determined to be necessary in order to provide CCC with adequate protection. Factors to be considered by the county committee are: (i) Condition or suitability of the storage structure, (ii) condition of the commodity,



(iii) hazardous location of the storage structure, such as a location which exposes the structure to danger of flood, fire, and theft by a person not entrusted with possession of the honey and occurring without the knowledge and consent (express or implied) of the producer (when the percentage is lowered for one or more of these hazards, the producer shall be notified in writing that CCC will not assume any loss or damage to the loan collateral resulting from the particular hazards to which the structure was exposed), (iv) disagreement on the quantity, (v) producers who have been approved under § 1434.3(e), and (vi) factors peculiar to individual farms or producers as reported by the commodity loan inspector or as known to the county office which relate to the preservation or safety of the loan collateral. Farm storage loans may be made on less than the maximum quantity eligible for loan at the producer's request. In any event, the mortgage shall cover all of the honey in the lot on which the loan is made is stored.

(g) *Producer incorrect certification.* (1) If the county committee determines, by measurement or otherwise, that the actual quantity serving as collateral for a loan based on certification by the producer is less than the loan quantity, the county committee shall call the loan. The producer shall have 10 days to settle the loan except that the producer may request reconsideration of the call and provide information regarding the circumstances leading to the incorrect certification. The county committee may approve the producers request if (i) the circumstances are of a highly meritorious nature, (ii) the producer acted in good faith, (iii) the producer did not knowingly provide an incorrect certification and made a reasonable attempt to determine the quantity and (iv) the producer repays the overdisbursement. If the loan is called, the county committee may refuse to approve any further farm-stored loans for the producer on honey through the end of the next crop year after the crop year in which the incorrect certification was made and, if the county committee feels the seriousness of the matter justifies such action, refer the case to the State committee which may request the Office of the Inspector General of the United States Department of Agriculture (hereinafter referred to as OIG) to make an investigation.

(2) If the producer has incorrectly certified such quantities on more than one occasion, the county committee shall call the loan(s) involved and approve no further farm stored loans for the producer on any commodity through the end of the next crop year

after the crop year in which the incorrect certification was made. If the county committee feels the seriousness of the matter so justifies, they may deny further farm stored loans to the producer for more than one year. They may also refer the case to the State committee which may request OIG to make an investigation.

(h) *Unauthorized removal.* If there has been unauthorized removal of any part of farm stored collateral, the county committee shall, on the first offense, call the loan involved. The producer shall have 10 days to settle the loan except that the producer may request reconsideration of the call and provide information regarding the circumstances leading to the unauthorized removal. The county committee may approve the producers request if, (1) the circumstances leading to the unauthorized removal are of a highly meritorious nature, (2) the producer acted in good faith, (3) the producer did not knowingly remove the commodity under loan and (4) the producer repays the loan on the quantity removed. If the loan is called, the county committee may refuse to approve any further farm stored loans for the producer on honey through the end of the next crop year after the crop year in which the authorized removal occurred, and if the county committee feels the seriousness of the matter justifies such action, refer the case to the State committee which may request an OIG investigation by the Office of Inspector General. If the unauthorized removal is the second offense, the county committee shall: Call the loan involved and approve no further farm stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the unauthorized removal occurred. The county committee may also, if they feel the seriousness of the matter so justifies, deny farm stored loans to the producer for more than one year and may also refer the case to the State committee which may request an OIG investigation.

3. In order to provide that CCC will not accept delivery on excess of 110 percent of the measured or certified quantity of farm stored honey, section 1434.26(a) is amended to read as follows:

**§ 1434.26 Liquidation of farm storage loans**

(a) *General.* In the case of farm storage loans, the producer is required to pay off the loan or deliver the honey under loan to CCC. Deliveries shall be made in accordance with written instructions issued by the county office which shall set forth the time and place of delivery. CCC will not accept delivery of any quantity in excess of the larger of (1) 110 percent

of the measured or certified quantity or (2) a sufficient quantity of the commodity having a settlement value equal to 110 percent of the loan valued being settled. Settlement of the quantity determined shall be made as provided in § 1434.29. Delivery points shall be limited to those approved by the Kansas City ASCS Commodity Office.

4. In order to provide that CCC will not accept delivery of any quantity in excess of 110 percent of the quantity shown on the Purchase Agreement, section 1434.28(a) is amended as follows:

**§ 1434.28 Purchase from producers.**

(a) *Quantity eligible for purchase.* An eligible producer may sell to CCC any or all of the eligible honey which is not mortgaged to CCC under a farm storage loan or pledged to CCC under a warehouse storage loan: *Provided.* That the producer executes and delivers to the county office prior to the maturity date a Producer Agreement (Form CCC-614) indicating the approximate quantity of honey to be sold to CCC. The producer is not obligated, however, to complete the sale by delivery of any quantity of the honey to CCC. Delivery points for purchases from other than approved warehouse storage shall be limited to those approved by the Prairie Village ASCS Commodity Office. Settlement of the quantity not to exceed 110 percent of the quantity shown on the Purchase Agreement shall be made as provided in § 1434.29.

(Secs. 4 and 5, 62 Stat. 1070, 1072, as amended (15 U.S.C. 714 b and c); secs. 201, 401, 63 Stat. 1052, 1054 (7 U.S.C. 1446, 1421))

NOTE.—This rule has been determined not to be significant under the USDA criteria for implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average 1978 honey price support rates announced on April 3, 1978. An approved Final Impact Statement is available from Harry Sullivan, ASCS (202) 447-7981.

Signed at Washington, D.C., on March 14, 1979.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.

[FR Doc. 79-8744 Filed 3-21-79; 8:45 am]

**CHAPTER I—NUCLEAR REGULATORY COMMISSION**

**RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BY-PRODUCT MATERIAL, DOMESTIC LICENSING OF SOURCE MATERIAL, AND DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL**

**Timely Notification of Discontinued Licensed Activities**

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require licensees to notify the Commission when they decide to permanently discontinue all activities involving materials authorized under a license. This will allow NRC to terminate the license in an orderly and timely manner.

EFFECTIVE DATE: June 5, 1979.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45 day period which that statute allows for this review (44 U.S.C. 3512(c)(2)).

**FOR FURTHER INFORMATION CONTACT:**

Edward Podolak, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5860.

SUPPLEMENTARY INFORMATION: NRC issues licenses for the use of by-product, source, and special nuclear materials under 10 CFR Parts 30, 40

<sup>1</sup>The term byproduct material means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content. The term source material means (1) uranium, thorium, or any combination thereof, in any physical or chemical form, or (2) ores which contain by weight one-twentieth of one percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material. Special nuclear material means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, or (2) any material artificially enriched by any of the foregoing, but does not include source material.

and 70 respectively. The usual term for these licenses is five years. At five year intervals the licensee must submit an application for renewal of the license. If the application is found satisfactory after review by NRC, the license can be renewed for another five year term.

Under the present system, NRC sometimes does not discover that a licensee has discontinued a licensed program, and perhaps even vacated the premises, until an inspection or the end of the five year license term. The NRC needs to communicate with the licensees, on a timely basis, regarding disposition of the licensed material and cleanup of the facility.

In order to remedy this, on July 27, 1978, the NRC published for 45-days public comment proposed amendments (43 FR 32431) to Parts 30, 40 and 70 that would require licensees to notify NRC when they decide to permanently discontinue all activities involving materials authorized under a license. The FEDERAL REGISTER notice explained that this means all activities authorized under a license identified by a unique NRC license number and that notification is not required if only a part of a program is to be discontinued or if it is expected that a program will be reinstated before the license expires. For example, if an academic institution has several licenses and decides to permanently discontinue all activities authorized under one license, say a Part 35 medical program, the licensee will have to notify NRC. If the institution decides to discontinue that medical program, but believes it may reinstate the program before the license expires, notification to NRC will not be necessary. If the institution decides to discontinue a portion, but not all of the activities authorized under that Part 35 medical license, notification to NRC will not be necessary.

Copies of the proposed rule were sent to all NRC Parts 30, 40 and 70 licensees. Thirty-one comment letters were received. Nineteen commenters favored the proposal without qualification. Four commenters favored the proposal but suggested minor changes in the wording of the rule. Seven commenters objected to the proposal. The final rule is identical to the proposed rule except for removing the gender specific pronoun "he".

**DISCUSSION OF COMMENTS**

Three commenters objected to the proposed rule because of the paperwork burden.

The Commission believes that the time and expense of notifying NRC about a decision to discontinue a licensed program is minimal. Further, the Commission believes that beginning a dialogue with the licensee on a timely basis will save both parties the

unnecessary expense of last minute or even after-the-fact decommissioning problems.

Two commenters objected to the proposed rule because of their concern about an individual licensee being unable to notify the NRC due to illness or death. One of these commenters questioned if a penalty would apply under these circumstances.

The number of individual licensees is small and they are usually medically-oriented so that the types of materials authorized involve small quantities of short-lived radioisotopes which would not present a long-term contamination problem. Penalties are not usually assessed for failure to notify NRC unless this failure results in a significant health hazard or threat to the common defense and security. The Commission does not believe that the possibility or consequence of a failure to notify NRC because of illness or death of a licensee warrants abandoning the rule.

One commenter suggested that a simple questionnaire regarding the status of each license would suffice.

The Commission believes that the cost of periodic questionnaires would far exceed the cost of the notification requirement. If a questionnaire is perceived as a nuisance, compliance would be low and the cost of NRC followup would be high.

One commenter suggested that the Commission encourage licensees to notify NRC by offering a prorated return of the license fee.

A prorated return of the license fee is not possible under the new fee-for-service system. Licensees are now charged separately for the cost of reviewing license applications, the cost of reviewing license amendment applications and the cost of inspections. Therefore, there is no unused portion of the application fee to refund to a licensee who decides to discontinue a program.

**FINAL RULE**

In accordance with §§ 30.6, 40.5 and 70.5, the written notification that will be required under these amendments should be addressed to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 or may be delivered in person to the Commission's offices at 1717 H Street, NW., Washington, DC; or 7910 Eastern Avenue, Silver Spring, MD.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 30, 40 and 70, are published as a document subject to codification.



**PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL**

1. A new paragraph (f) is added to § 30.34 to read as follows:

§ 30.34 Terms and conditions of licenses.

(f) Each licensee shall notify the Commission in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under this Part and Parts 32 through 35 of this chapter.

**PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL**

2. A new paragraph (f) is added to § 40.41 to read as follows:

§ 40.41 Terms and conditions of licenses.

(f) Each licensee shall notify the Commission in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under this Part.

**PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL**

3. A new paragraph (h) is added to § 70.32 to read as follows:

§ 70.32 Conditions of licenses.

(h) Each licensee shall notify the Commission in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under this Part.

(Section 1610, Pub. L. 83-703, 68 Stat. 948 (42 USC 2201))

Dated at Washington, D.C., this 16th day of March 1979.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.  
[FR Doc. 79-8768 Filed 3-21-79; 8:45 am]

[7590-01-M]

**PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS****Protection of Licensed Activities in Nuclear Power Reactors Against Industrial Sabotage**

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: On August 23, 1978 (43 FR 37421) the Commission published in final form amendments to 10 CFR Part 73 requiring the nuclear power plant licensees to develop guard qualification and training plans. In addition other Commission actions influencing the implementation of 10 CFR 73.55 (42 FR 10836) physical protection of nuclear power plants have been issued. In this connection the Commission will hold a meeting to discuss these additional requirements and actions.

DATES: The meeting is scheduled to be held from 8:30 a.m. to 5 p.m. on June 11-12, 1979.

ADDRESS: The meeting will be held at: Hilton Inn, 1901 University Boulevard NE., Albuquerque, New Mexico 87106.

FOR FURTHER INFORMATION CONTACT:

Frank G. Pagano, Chief, Reactor Safeguards Development Branch, Division of Operating Reactors, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-492-7846).

SUPPLEMENTAL INFORMATION: The primary purpose of this meeting will be: (1) To provide a report on the progress of NRC actions regarding the physical protection of nuclear power plants, (2) provide a forum for a continuation of the dialogue between the staff and the industry to provide a more uniform understanding of the requirements of 10 CFR 73.55 and other pertinent sections of 10 CFR Part 73 by all licensees, and (3) report on the NRC guard training plan development results to date and provide any technical advice that may be desired for licensee/applicant plan development. Persons other than the NRC staff and licensee representatives may observe the proceedings but will not be permitted to participate in the discussions since only a limited time will be available for discussion.

Persons other than reactor licensees, desiring to attend the meetings should call the Office of the Chief, Reactor Safeguards Development Branch (Frank Pagano), phone 301-492-7846, before May 18, 1979. Dated at Bethesda, Maryland this 16 day of March

1979, for the Nuclear Regulatory Commission.

FRANK G. PAGANO,  
Chief, Reactor Safeguards Development Branch, Division of Operating Reactors.

[FR Doc. 79-8769 Filed 3-21-79; 8:45 am]

[3510-13-M]

**Title 15—Commerce and Foreign Trade****CHAPTER II—NATIONAL BUREAU OF STANDARDS, DEPARTMENT OF COMMERCE****PART 200—POLICIES, SERVICES, AND PROCEDURES AND FEES****PART 275—POLICIES AND PROCEDURES GOVERNING THE APPEARANCE OF NBS EMPLOYEES AS WITNESSES IN PRIVATE LITIGATION****Final Rule**

AGENCY: National Bureau of Standards, Department of Commerce.

ACTION: Final rule.

SUMMARY: These rules prescribe NBS policy governing the appearance of NBS employees as witnesses in private litigation. The rules establish the general principle against the appearance of NBS employees in such litigation, and prescribe procedures to be followed by private litigants in seeking appearances by NBS employees and procedures for considering and responding to requests or orders for their appearance. The purpose of these rules is to maintain NBS' neutrality among private litigants and to ensure that NBS employees adhere to the performance of their official duties.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Allen J. Farrar, Office of the Legal Adviser, National Bureau of Standards, Washington, D.C. 20234, telephone 301-921-2425.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER on January 23, 1979 (44 FR 4701), NBS proposed rules that would amend title 15 of the Code of Federal Regulations by adding a new Subchapter H and a new Part 275 prescribing policies and procedures governing the appearance of NBS employees as witnesses in private litigation and would make a conforming amendment to 15 CFR Part 200. Interested persons were invited to participate in the proposed rulemaking by submitting comments on or before March 9, 1979. No comments were received in response to that notice.

Certain minor clarifications have been made in paragraph (e) of 15 CFR 275.5 regarding the requirement that the party requesting the testimony bear the costs of any testimony that is provided by an NBS employee. The first such change is to specify that the NBS Legal Adviser is to receive a free copy of the transcript of any deposition of an NBS employee that is authorized in accordance with these rules. The second such change is to specify that the costs to be borne by the party requesting the testimony include reimbursing NBS for its expenses resulting from an employee's absence from his or her official duties in connection with the legal proceedings. Such expenses include the employee's salary and applicable overhead charges and any necessary travel expenses. Otherwise, the proposed rules have not been changed. Accordingly, with these clarifications, the proposed rules are adopted as set forth below.

Dated: March 15, 1979.

ERNEST AMBLER,  
Director.

**PART 200—POLICIES, SERVICES, PROCEDURES AND FEES**

1. 15 CFR Part 200 is amended by revising paragraph (a) of § 200.104 to read as follows:

§ 200.104 Consulting and advisory services.

(a) In areas of its special competence, the National Bureau of Standards offers consulting and advisory services on various problems related to measurement, e.g., details of design and construction, operational aspects, unusual or extreme conditions, methods of statistical control of the measurement process, automated acquisition of laboratory data, and data reduction and analysis by computer. Brief consultation may be obtained at no charge; the fee for extended effort will be based upon actual costs incurred. The services outlined in this paragraph do not include services in connection with legal proceedings not involving the United States as a named party, nor to testimony or the production of data, information or records in such legal proceedings, which is governed by the policies and procedures set forth in Part 275 of this title.

2. Chapter II of 15 CFR is amended by adding a new Subchapter H and a new Part 275, reading as follows:

**SUBCHAPTER H—REGULATIONS GOVERNING APPEARANCE OF NBS EMPLOYEES IN PRIVATE LITIGATION****PART 275—POLICIES AND PROCEDURES GOVERNING THE APPEARANCE OF NBS EMPLOYEES AS WITNESSES IN PRIVATE LITIGATION**

Sec.

275.1 Purpose and policy.  
275.2 Testimony or production of records by NBS employees in legal proceedings not involving the United States as a named party.

275.3 Certification of records.  
275.4 Request or order for testimony or production of records.

275.5 Response to request or order for testimony or production of records.

AUTHORITY: The provisions of this Part 275 issued under sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277.

§ 275.1 Purpose and policy.

(a) This part prescribes the policies and procedures of the National Bureau of Standards (NBS) with respect to testimony by NBS employees and production of data, information and records, in legal proceedings not involving the United States as a named party.

(b) NBS is the Federal agency responsible for the custody, maintenance, and development of the national standards of measurement, and the impartial development and application of measurement technologies upon which the flow of interstate and foreign commerce must necessarily depend (15 U.S.C. 272).

(c) To carry out its statutory mission effectively, NBS must apply the expertise of the many scientific and technical experts it employs exclusively to the performance of its official duties, including providing scientific and technical advisory services to other Federal agencies. It is essential that NBS also maintain a policy of strict impartiality among private litigants, and that it ensure that its employees adhere to the responsibilities for which they were employed. To these ends, it is the policy of NBS that its employees shall not testify nor otherwise appear in legal proceedings not involving the United States or its officers or employees in their official capacity as a named party in order to produce data, information, or records which concern matters related to official duties of NBS employees or the functions of NBS.

(d) For purposes of this part, "legal proceeding" includes any civil or criminal proceeding before a court of law, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding, or any discovery proceeding in

support thereof, including depositions and interrogatories.

§ 275.2 Testimony or production of records by NBS employees in legal proceedings not involving the United States as a named party.

No NBS employee shall give testimony in any legal proceeding in which the United States Government or an agency or department in the Executive Branch is not a named party, concerning official duties of an NBS employee or any function of NBS, nor produce any data, information, or record created or acquired by NBS as a result of the discharge of its official duties, without the prior written authorization of the NBS Legal Adviser.

§ 275.3 Certification of records.

Certified copies of NBS records will be provided upon request and payment of the applicable fees. Requests for certification should be addressed to the NBS Legal Adviser, National Bureau of Standards, Washington, D.C. 20234. The applicable fees include charges for certification and reproduction, the amounts of which are set out in § 4.9(a) (3) and (5) of title 15 of the Code of Federal Regulations. Other reproduction costs and postage fees, as appropriate, will also be borne by the requester.

§ 275.4 Request or order for testimony or production of records.

(a) A request or order for testimony of, or the production of data, information, or records by, an NBS employee in a legal proceeding not involving the United States as a named party shall be addressed to the NBS Legal Adviser, National Bureau of Standards, Washington, D.C. 20234. A request or order for testimony shall be accompanied by an affidavit or, if that is not feasible, a statement setting forth the title of the case, the forum, the party's interest in the case, a recitation of the reasons for desiring and the intended use of the testimony, a general summary of the testimony desired, and a showing that (1) the desired testimony is not reasonably available from other sources (including an explanation of such circumstances), and (2) no NBS record in certified form provided under § 275.3 could be introduced in evidence in lieu of the testimony or other appearance requested.

(b) Any employee of NBS who is served with a subpoena or other order for or who receives a request for, testimony or the production of data, information, or records shall immediately report the service or request to the NBS Legal Adviser.



§ 275.5 Response to request or order for testimony or production of records.

(a) Except for the production of payroll, leave, or similar administrative records that may be involved in legal proceedings involving an employee of NBS in other than that employee's official capacity, testimony or the production of data, information, or records in a legal proceeding not involving the United States shall be authorized only as a rare exception. Such exception shall be based only upon a determination by the NBS Legal Adviser that NBS has a significant interest in the legal proceeding and that the outcome may affect the implementation of present policies, or where other circumstances or conditions (including the showing required in paragraph (a) of § 275.4) make it necessary to provide the data, information, or records in the public interest.

(b) When an NBS employee receives a request or order for testimony or the production of data, information, or records, the NBS Legal Adviser shall determine whether such request or order is legally binding on the employee and whether compliance with such request or order is authorized. Upon making such determination, the NBS Legal Adviser shall accordingly instruct the employee who received such request or order.

(c) Unless otherwise expressly authorized by the NBS Legal Adviser, an employee who is requested or ordered to testify or produce data, information, or records in a legal proceeding not involving the United States as a named party shall respectfully decline to comply on the ground of the prohibition against compliance contained in this part. If a subpoena or other order is involved, the employee shall decline by appearing at the time and place specified (unless the NBS Legal Adviser determines, in consultation with the party seeking the testimony or other appearance, or the authority conducting the legal proceeding, as appropriate, that a written submission will be sufficient), accompanied by a representative of the Office of the NBSA Legal Adviser, the United States Attorney's Office, or the Department of Justice, as appropriate, and explaining to the authority conducting the legal proceeding that this part prohibits the employee from complying.

(d) If an employee who follows the procedure in paragraph (c) of this section is ordered to show cause why he or she should not be cited for contempt, the NBS Legal Adviser shall request the Department of Justice to represent the employee.

(e) If the NBS Legal Adviser authorizes the testimony of an NBS employee, the Legal Adviser may arrange for the taking of the testimony by methods that are less disruptive of official

activities of the employee than providing testimony in court or at a hearing. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other method allowable by law. Costs of providing testimony, including transcripts, one copy of which will be provided to the NBS Legal Adviser, will be borne by the party requesting the testimony. Such costs shall also include reimbursing NBS for the usual and ordinary expenses attendant upon the employee's absence from his or her official duties in connection with the legal proceeding, including the employee's salary and applicable overhead charges and any necessary travel expenses.

[FR Doc. 79-8628 Filed 3-21-79; 8:45 am]

[6750-01-M]

#### Title 16—Commercial Practices

#### CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 9070]

#### PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

##### Harper Sales, Inc., et al.

AGENCY: Federal Trade Commission.  
ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Rush, N.Y. mobile home dealer and its affiliates to cease conditioning the leasing or renting of space in their trailer parks to the purchase of mobile homes and accessories from Harper Sales, Inc. or other designated sources.

DATES: Complaint issued Dec. 19, 1975. Order issued Feb. 1, 1979.<sup>1</sup>

FOR FURTHER INFORMATION CONTACT:

Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007, (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Wednesday, March 8, 1978, there was published in the FEDERAL REGISTER, 43 FR 9493, a proposed consent agreement with analysis in the Matter of Harper Sales, Inc., a corporation, and Edgewood Park Estates, Inc., a corporation, and Harper Park-Avon, a

<sup>1</sup>Copies of the Complaint and Decision and Order filed with the original document.

partnership, and Ralph R. Harper, and John R. Harper, individually, and as officers of said corporations and as partners in Harper Park-Avon, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement. In disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Coercing and Intimidating: § 13.355 Customers or prospective customers of competitors. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.470 To restrain or monopolize trade. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records. Subpart—Cutting Off Access To Customers or Market: § 13.535 Contracts restricting customers' handling of competing products; § 13.540 Forcing goods; § 13.605 Withholding supplies or goods from competitors' customers. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-8776 Filed 3-21-79; 8:45 am]

[4810-22-M]

#### Title 19—Customs Duties

#### CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 79-89]

#### PART 153—ANTIDUMPING

##### Certain Large Power Transformers

AGENCY: United States Treasury Department.

ACTION: Modification of Dumping Finding.

SUMMARY: This notice is to inform the public that certain large power transformers from Italy manufactured by Asgen Ansaldo San Giorgio Compagnia Generale S.p.A. and Societa Nazionale delle Officine di Savigliano are not longer being sold at less than fair value under the Antidumping Act, 1921. In addition, Savigliano has given

assurances that any future sales will not be at less than fair value, and Asgen has given assurances that it has ceased manufacturing large power transformers. As a result of this action, certain large power transformers from Italy entered, or withdrawn from warehouse, for consumption on or after May 24, 1976, will not be liable for dumping duties.

EFFECTIVE DATE: March 22, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Mr. David P. Mueller, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On June 14, 1972, a finding of dumping with respect to large power transformers from Italy was published as Treasury Decision 72-161 in the FEDERAL REGISTER (37 FR 11772). A "Notice of Tentative Determination to Modify or Revoke Dumping Finding" with respect to this merchandise from Italy produced and sold by Asgen Ansaldo San Giorgio Compagnia Generale S.p.A. of Genova, Italy (Asgen) and Societa Nazionale delle Officine di Savigliano of Torino, Italy (Savigliano) was published in the FEDERAL REGISTER of May 24, 1976 (41 FR 21208).

Reasons for the tentative determination were published in the above-mentioned notice and interested persons were afforded an opportunity to provide written submissions or request the opportunity to present oral views in connection therewith.

There were no objections to the modification of the finding with respect to Asgen, which no longer manufactures large power transformers. Written comments were received in opposition to a modification of the finding with regard to Savigliano. The basis of the objection was that a modification should not be granted merely because of an absence of actual sales to the United States for more than 2 years, together with assurances by Savigliano that they will not sell at less than fair value in the future. The Department, however, has interpreted the requirement of an "absence or termination of sales at less than fair value" in § 153.44(a) of the Customs Regulations (19 CFR 153.44(a)) to encompass both the absence of actual sales and the absence of sales at less than fair value. Moreover, further analysis indicated that there were, in fact, sales to the United States by Sa-

vigliano between 1971 and 1973, for which there were no dumping margins.

Having considered the submissions presented, I hereby determine that, for the reasons stated above and in the "Notice of Tentative Determination to Modify or Revoke Dumping Finding," large power transformers from Italy,

produced and sold by Asgen and Savigliano, are not being, nor likely to be, sold at less than fair value.

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is amended to exclude large power transformers from Italy, produced and sold by Asgen and Savigliano, from T.D. 72-161.

| Merchandise   | Country | T.D.   | Modified by |
|---|---------|--------|-------------|
| Large power transformers, except those produced and sold by Asgen Ansaldo San Giorgio Compagnia Generale S.p.A. and Societa Nazionale delle Officine di Savigliano. | Italy   | 72-161 | T.D. 79-89. |

This notice is published pursuant to § 153.44(d) of the Customs Regulations (19 CFR 153.44(d)).

(Sec. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173).

Dated: March 15, 1979.

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

[FR Doc. 79-8772 Filed 3-21-79; 8:45 am]

[4810-22-M]

[T.D. 79-92]

#### PART 159—LIQUIDATION OF DUTIES

##### Certain Textiles and Textile Products from Uruguay

AGENCY: United States Customs Service, Treasury Department.

ACTION: Revocation of Final Countervailing Duty Order.

SUMMARY: This notice is to advise the public that the Treasury Department is revoking its order imposing countervailing duties on all entries, or withdrawals from warehouse, for consumption, of certain textiles and textile products from Uruguay (T.D. 78-444). This action is being taken as it has been determined that firms no longer receive benefits which are considered to be bounties or grants within the meaning of the U.S. countervailing duty law upon the manufacture, production or exportation of certain textiles or textile products.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Technical Branch, U.S. Customs Service, 1301 Constitution Ave., N.W., Washington, D.C. (202-566-5492).

SUPPLEMENTARY INFORMATION: On November 16, 1978, Treasury Decision 78-444 was published in the FEDERAL REGISTER (43 FR 53526). In that

decision the Treasury Department determined that exports of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers from Uruguay benefit from bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (hereinafter referred to as "the Act") (19 U.S.C. 1303). As a result, countervailing duties in the following amounts were imposed on all imports of the products under investigation on or after the date of publication of that decision in the FEDERAL REGISTER: 16.8 percent for yarns, 38.8 percent for fabrics and 42.8 percent for apparel.

One product covered by the determination, wool yarns, entering the United States under item number 307.60 of the Tariff Schedules of the United States, enters the U.S. free of duty. In accordance with section 303 (a)(2) of the Act (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty absent a determination by the U.S. International Trade Commission that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States. The International Trade Commission was notified of this determination and pending the conclusion of its investigation, the liquidation of entries of the duty-free items was suspended. On February 16, 1979, the International Trade Commission published in the FEDERAL REGISTER its determination that there was



no injury or likelihood of injury to a domestic industry by virtue of the importation of duty-free wool yarn from Uruguay (44 FR 10137). Therefore, no countervailing duties were imposed on wool yarn from Uruguay entering the United States under TSUS item 307.60.

In calculating the countervailing duty at the time of the final determination, the full value of tax certificates granted to manufacturers upon the exportation of goods, known as "reintegros", was considered to be a bounty or grant. At that time, a number of offsets to the face value of the reintegros requested by the Government of Uruguay were rejected by the Treasury Department due to a lack of documentation sufficient to permit the accurate calculation of the offsets. Such documentation has now been supplied as well as more detailed information regarding the amount of the reintegros paid on the various products subject to the investigation. Where appropriate, the Treasury has permitted offsets to the face value of the "reintegros" received for: (1) The payment of a special tax on the sale of wool; (2) the national agricultural tax; (3) the incomplete drawback of customs duties paid on imported raw materials and component parts used in exported textile products; (4) the incomplete rebate of the Uruguayan value added tax on goods when exported; (5) a number of export taxes which are assessed on the value of the exported product; and (6) the loss in value of the reintegro due to the devaluation of the Uruguayan peso during the period between the date upon which the exchange rate used to calculate the reintegro subsidy is set and the date at which the exporter receives payment for his exports and exchanges that money into Uruguayan pesos.

Having adjusted for each of these elements and obtained more detailed information with regard to the other programs considered to be bounties or grants, the following "net" subsidies have been determined to exist on the enumerated products covered by this investigation: (1) Wool fabric—28.36 percent; (2) knitted wool fabric—28.77 percent; (3) wool apparel—32.39 percent; (4) knitted wool scarves and gloves—28.09 percent; (5) wool/polyester fabric—16.77 percent; (6) wool/polyester apparel—22.63 percent; (7) cotton fabrics—3.03 percent; (8) men's cotton apparel—13.66 percent; (9) men's synthetic underwear—9.65 percent; (10) wool yarn (other than that entering under TSUSA item 307.60)—8.05 percent.

The Treasury Department has received information from the Government of Uruguay that, with respect to goods subject to this order exported

from Uruguay to the United States on or after February 16, 1979, an export tax in the amount of the "net" bounty or grant enumerated above is to be imposed. Therefore, for those goods exported from Uruguay to the United States on or after February 16, 1979, no "net" bounty or grant remains and therefore there is no basis for the continued imposition of countervailing duties.

For the reasons stated above, it is hereby determined that no bounty or grant is being, or has been, paid or bestowed directly or indirectly, upon the manufacture, production or exportation of certain textiles and textile products from Uruguay exported on or after February 16, 1979.

Accordingly, notice is hereby given that T.D. 78-444 is revoked and countervailing duties will not be imposed on certain textiles and textile products exported from Uruguay to the United States on or after February 16, 1979. With respect to all entries of those goods exported from Uruguay to the United States before February 16, 1979, which have not yet been liquidated or the liquidation of which has not become final, duties will be imposed in the adjusted amounts specified above.

The revocation of this determination will be contingent upon the submission to the Treasury Department of certification on a quarterly basis by the Government of Uruguay that the export tax is being assessed in the appropriate amounts.

The table in § 159.47(f), Customs Regulations (19 CFR 159.47(f)), is amended by deleting from the listings for Uruguay the words "textile mill products and men's and boys' apparel" from the column headed "Commodity"; from the column headed "Treasury Decision" the number "78-444"; and the words "Bounty Declared-Rate" from the column headed "Action". (R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759, 19 U.S.C. 66, 1303, as amended, 1624.)

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised November 2, 1954 and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a revocation order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

[FR Doc. 79-8770 Filed 3-21-79; 8:45 am]

## [4810-22-M]

(T.D. 79-90)

## PART 159—LIQUIDATION OF DUTIES

## Final Countervailing Duty Determination Ampicillin Trihydrate and its Salts From Spain

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of Spain grants to producers and exporters of ampicillin trihydrate and its salts benefits which constitute bounties or grants within the meaning of the countervailing duty law. Deposited countervailing duties in the amount of these benefits will be required at the time of entry in addition to duties normally collected on dutiable shipments of the merchandise.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On November 28, 1978, a notice of "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 55512). The notice stated that it had been preliminarily determined that benefits bestowed by the Government of Spain upon the manufacture, production, or exportation of ampicillin trihydrate constitute the payment of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as the "Act"). The instant determination includes ampicillin trihydrate and its salts, as provided for in item number 407.8511 Tariff Schedules of the United States, Annotated. This description is used in order to cover all those products which receive the benefits under consideration.

The benefits are received in the form of an overrebate upon export of the Spanish indirect tax, the "Desgravación Fiscal". The overrebate consists of three elements: (1) The rebate of taxes on services and non-component inputs which are not physically incorporated in the final product; (2) a credit for a tax assessed on transactions between manufacturers and wholesalers which, in fact, is not assessed on export sales; and (3) a number of "parafiscal" taxes included in the computation of the rebate,

which are charges assessed for services provided and which are not levied on an *ad valorem* basis.

The submission of comments by interested parties has been invited, but no additional data have been received. A review of current import statistics reveal that ampicillin trihydrate and its salts are imported in substantial volume. After consideration of the available information, it is hereby determined that exports of ampicillin trihydrate and its salts from Spain benefit from bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended. The amount of the overrebate has been determined in accordance with the "Notice of Revised Method for Calculation of Bounty or Grant with Regard to Certain Indirect Taxes," published in the FEDERAL REGISTER on January 17, 1979 (44 FR 3478).

Accordingly, notice is hereby given that ampicillin trihydrate and its salts which are imported directly or indirectly from Spain, if entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the FEDERAL REGISTER, will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been ascertained and determined to be 2.21 percent of the f.o.b. value of the merchandise.

Effective on or after the publication date of this notice, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such ampicillin trihydrate and its salts imported directly or indirectly from Spain, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of ampicillin trihydrate and its salts from Spain are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of ampicillin trihydrate and its salts from Spain. The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is

amended by inserting after the last entry for "Spain", the words "ampicillin trihydrate and its salts" in the column headed "Commodity", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Bounty Declared-Rate" in the column headed "Action".

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15) March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 154.47 of the Customs Regulations (19 CFR 154.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

Dated: March 16, 1979.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

[FR Doc. 79-8771 Filed 3-21-79; 8:45 am]

## [4810-22-M]

(T.D. 79-91)

## PART 159—LIQUIDATION OF DUTIES

AGENCY: United States Customs Service, Treasury Department

ACTION: Revocation of Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that the countervailing duty determination on nonrubber footwear, handbags and leather wearing apparel from Uruguay is being revoked. This action is being taken since it has been determined that the Government of Uruguay no longer grants benefits which are considered to be bounties or grants within the meaning of the countervailing duty law upon the manufacture, production, or exportation of these products.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Technical Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20220 (202-566-5492).

SUPPLEMENTARY INFORMATION: On November 13, 1978, a notice of "Revocation of Waivers of Counter-

vailing Duties" was published in the FEDERAL REGISTER (43 FR 52485). This decision revoked Treasury Decisions 78-34 and 78-155, in which the Treasury Department waived the imposition of countervailing duties on imports of nonrubber footwear, handbags and leather wearing apparel from Uruguay.

The revocation of those decisions was based upon (1) the determination by the Treasury that the tanner's subsidy, originally not considered a bounty or grant, should be considered countervailable when paid to manufacturers/exporters of leather products and (2) information received subsequent to the issuance of the waiver that leather goods exported from Uruguay were being granted suspension or forgiveness from, or rebates of, payment of a social security tax. Such forgiveness or rebate is considered countervailable by the Treasury Department. Therefore, it was determined that nonrubber footwear, handbags and leather wearing apparel (provided for, respectively, in items 700.05 through 700.85 inclusive of the Tariff Schedules of the United States Annotated (TSUSA), excepting items 700.28, 700.51, to 700.54, and 700.60; item 706.0820 of the TSUSA; and item 791.76 of the TSUSA), imported directly or indirectly from Uruguay, if entered, or withdrawn from warehouse, for consumption, on or after November 13, 1978 would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant estimated to have been bestowed.

At the time the subject waivers were revoked, inadequate information was available to the Treasury to permit the proper quantification of the "net" amounts of bounties or grants bestowed as a result of the social security tax forgiveness and the tanners subsidy. Therefore, the liquidation of all entries, or withdrawals from warehouse, for consumption, of nonrubber footwear, handbags and leather wearing apparel subject to the order were suspended. A deposit of the estimated countervailing duties in the amount of 16 percent *ad valorem* for nonrubber footwear, 14.4 percent *ad valorem* for handbags, and 13.3 percent *ad valorem* for leather wearing apparel, respectively, was required at the time of entry, or withdrawal from warehouse, for consumption.

Information has now been made available to the Treasury Department which has permitted a more accurate calculation of the net amount of the bounty or grant applicable to each of the product areas. With regard to the social security tax program it has been determined that deferrals of certain social security taxes were granted to manufacturers of leather products and



several other product sectors covered by these orders for 1978. It has also been determined, however, that the deferral was in effect for one year only and applied to only 1978 social security taxes. The deferral program was eliminated at the end of 1978 and repayment of the taxes deferred in 1978 was required. Therefore, for all nonrubber footwear, handbags and leather wearing apparel exported from Uruguay to the United States on or after January 10, 1979, the social security tax program has not been considered in the calculation of the "net" amount of the bounty or grant bestowed. Also on January 10, 1979, the Government of Uruguay eliminated the payment of the tanner's subsidy on all of the leather products covered by this investigation when exported to the United States. The Treasury Department has thus adjusted the net amount of the bounty or grant applicable to nonrubber footwear, handbags and leather wearing apparel exported to the United States from Uruguay on or after January 10, 1979.

Upon the elimination of the tanner's subsidy on exports to the U.S., however, the tanners subsidy for shipments to third countries was doubled. It is the position of the Treasury Department that while the doubling of the tanners subsidy on exports to third countries clearly creates a distortion in international trade, no remedy is available to this action within the limits of the countervailing duty law. It is possible that a more appropriate remedy to this sort of distortion is available through other sections of the U.S. tariff and trade laws.

Finally, it has been determined that the Government of Uruguay has imposed an export tax on all nonrubber footwear, handbags and leather wearing apparel exported to the United States on or after February 16, 1979 in an amount equal to the net amount of the bounty or grant remaining after the elimination of the tanners subsidy and social security tax deferral. Accordingly, it has been determined that a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) is no longer being paid or bestowed upon the manufacture, production or exportation of nonrubber footwear, handbags and leather wearing apparel from Uruguay exported to the United States on or after February 16, 1979.

Accordingly, T.D.'s 78-32, 78-33 and 78-154 are hereby revoked with respect to all entries of nonrubber footwear, handbags and leather wearing apparel from Uruguay exported on or after February 16, 1979. Customs officers will be instructed to proceed with liquidation of all such entries without regard to countervailing duties. Customs officers will be instructed to pro-

ceed with liquidation of all entries of nonrubber footwear, handbags and leather wearing apparel from Uruguay entered, or withdrawn from warehouse, for consumption on or after November 13, 1978, the effective date of the "Revocation of Waivers of Countervailing Duties," and before February 16, 1979, in accordance with the instructions that follow.

The revocation of these determinations will be contingent upon the submission to the Treasury Department of certifications on a quarterly basis by the Government of Uruguay that the export tax is being assessed in the appropriate amounts.

Based upon analysis of the information provided, a net bounty or grant was determined to exist in the following amounts for goods entered, or withdrawn from warehouse for consumption on or after November 13, 1978 and which were exported from Uruguay before January 10, 1979: (1) Boots with leather uppers and leather soles—13.676 percent; (2) Boots with leather uppers and non-leather soles—10.676 percent; (3) Shoes with rubber soles and leather uppers, braided, made of strips, hemstitched or perforated; shoes with artificial plastic soles and cow leather closed uppers, excluding boots—9.639 percent; (4) Shoes, other—10.699 percent; (5) handbags—8.5 percent; (6) leather wearing apparel—11.845 percent. Included in those amounts is a figure for the tanners subsidy in effect during that period. With regard to items exported to the U.S. during this period which did not benefit from the payment of the tanners subsidy due to their manufacture out of imported tanned leather, the countervailing duty collected will be reduced by the amount of the applicable tanners subsidy on the presentation of appropriate documentation to Customs authorities that the imported leather product is made of non-Uruguayan leather.

With respect to nonrubber footwear, handbags and leather wearing apparel exported from Uruguay to the United States on or after January 10, 1979 and before February 16, 1979, the following net amounts of bounties or grants were determined to exist and countervailing duties in those amounts will be applied: (1) all leather boots—6.43 percent; (2) shoes with rubber soles and leather uppers, braided, made of strips, hemstitched or perforated; shoes with artificial plastic soles and cow leather closed uppers, excluding boots—5.37 percent; (3) shoes, other—6.43 percent; (4) handbags—4.329 percent; (5) leather wearing apparel—3.687 percent.

For nonrubber footwear, handbags and leather wearing apparel exported on or after February 16, 1979, countervailing duties will not be imposed. The

table in section 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by deleting under the commodity headings for Uruguay the words "nonrubber footwear", "leather handbags", and "leather wearing apparel", respectively; from the column headed "Treasury Decision" the numbers "78-32", "78-33", and "78-154", respectively; and the words "Bounty-declared-rate" in the column headed "Action", respectively.

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a revocation order by the Commissioner of Customs, are hereby waived.

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, 759, 88 Stat. 2051, 2052; 19 U.S.C. 66, 1303, as amended, 1624.)

Dated: March 15, 1979.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

[FR Doc. 79-8757 Filed 3-21-79; 8:45 am]

#### [4210-01-M]

#### Title 24—Housing and Urban Development

#### CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-79-633]

#### PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

#### Fair Market Rents for New Construction and Substantial Rehabilitation, Section 8 Projects; District of Columbia

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Housing, Federal Housing Commissioner.

ACTION: Notice of amendment of rent schedule.

SUMMARY: This notice amends the schedule of Section 8 Fair Market Rents for the District of Columbia by adding a new classification. The classification relates to two-to-four story elevator projects that are either new, constructed or substantially rehabilitated.

COMMENT DUE DATE: March 29, 1979.

EFFECTIVE DATE: March 31, 1979.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Room 5218, 451 Seventh St. S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 472-4810. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Data recently received from the District of Columbia Area Office establishes an immediate need to amend the Fair Market Rents for Section 8 Newly Constructed and Substantially Rehabilitated Projects in order to include a two-to-four story elevator classification. Opportunity for public comment must be limited to one week in order to permit these rents to become effective before the expiration of existing contracts on or before April 1, 1979. Comments should be addressed to the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410. All comments received will be considered and if, as a result of those comments, the Secretary determines that further revision of these rents is appropriate, the effective date of these rents will be deferred and notice of the appropriate change will be published in the FEDERAL REGISTER. If, however, no comments are received or if the Secretary determines that comments received are not relevant and do not establish the need for further change in these rents, the rents will become effective without further publication by the Secretary within nine days of the date of publication of this Notice. The Secretary has determined that this amendment does not effect the quality of the environment in ac-

cordance with the National Environmental Act of 1969 and applicable HUD procedures of that act. A finding to this effect has been prepared and is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk at the above address. Accordingly, the rents set forth below are:

(1) published for public notice and comment as set forth above;

(2) published to become effective on March 31, 1979 unless notice is otherwise published by the Secretary on or before that date.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this notice has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

(Sec. 7(d) of the Department of HUD Act. (42 U.S.C. 3535(d)).)

Issued at Washington, D.C. on March 20, 1979.

MORTON BARUCH,  
Deputy Assistant Secretary for  
Housing—Federal Housing  
Commissioner.

#### SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These Fair Market Rents have been trended ahead two years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedroom multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units and (3) single room occupancy dwelling units are those for 0-bedroom units of the same type.



[4210-01-C]

AREA

OFFICE Washington, D.C.

REGION III Philadelphia

| MARKET AREA      | STRUCTURE TYPE              | NUMBER OF BEDROOMS |            |            |     |           |
|------------------|-----------------------------|--------------------|------------|------------|-----|-----------|
|                  |                             | 0                  | 1          | 2          | 3   | 4 or more |
| Washington, D.C. | DETACHED                    |                    |            | 593        |     | 663       |
|                  | SEMI-DETACHED/ROW           |                    | 395        | 469        | 511 | 578       |
|                  | WALKUP                      | 274                | 360        | 434        | 502 | 556       |
|                  | ELEVATOR-2-4 Sty<br>5 + Sty | 303<br>312         | 390<br>398 | 466<br>534 |     |           |
|                  | DETACHED                    |                    |            |            |     |           |
|                  | SEMI-DETACHED/ROW           |                    |            |            |     |           |
|                  | WALKUP                      |                    |            |            |     |           |
|                  | ELEVATOR-2-4 Sty<br>5 + Sty |                    |            |            |     |           |
|                  | DETACHED                    |                    |            |            |     |           |
|                  | SEMI-DETACHED/ROW           |                    |            |            |     |           |
|                  | WALKUP                      |                    |            |            |     |           |
|                  | ELEVATOR-2-4 Sty<br>5 + Sty |                    |            |            |     |           |
|                  | DETACHED                    |                    |            |            |     |           |
|                  | SEMI-DETACHED/ROW           |                    |            |            |     |           |
|                  | WALKUP                      |                    |            |            |     |           |
|                  | ELEVATOR-2-4 Sty<br>5 + Sty |                    |            |            |     |           |
|                  | DETACHED                    |                    |            |            |     |           |
|                  | SEMI-DETACHED/ROW           |                    |            |            |     |           |
|                  | WALKUP                      |                    |            |            |     |           |
|                  | ELEVATOR-2-4 Sty<br>5 + Sty |                    |            |            |     |           |
|                  | DETACHED                    |                    |            |            |     |           |
|                  | SEMI-DETACHED/ROW           |                    |            |            |     |           |
|                  | WALKUP                      |                    |            |            |     |           |
|                  | ELEVATOR-2-4 Sty<br>5 + Sty |                    |            |            |     |           |

[FR Doc. 79-8916 Filed 3-21-79; 8:45 am]

[4310-84-M]

## Title 43—Public Lands: Interior

## CHAPTER II—BUREAU OF LAND MANAGEMENT

## Appendix—Public Land Orders

[Public Land Order 5660]

## OKLAHOMA

## Restoration of Lands to Ownership of Kiowa, Comanche, and Apache Tribes

AGENCY: Bureau of Land Management (Interior).

ACTION: Final Rule.

SUMMARY: This public land order will terminate the withdrawal of 300 acres of ceded public land and restore the land to the ownership of the Kiowa, Comanche, and Apache Tribes.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mat Millenbach, 202-343-8731.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in section 3 of the Act of June 18, 1934, 25 U.S.C. 463 (1970), and pursuant to recommendations of the Tribal Council and the Assistant Secretary of Indian Affairs, and a finding of the Secretary of the Interior that such action is in the public interest, it is ordered as follows:

The following described land, ceded by the Kiowa, Comanche, and Apache Tribes of Indians to the United States pursuant to agreement ratified by the Act of June 6, 1900, 31 Stat. 672, 676, having been reserved for use by the Bureau of Indian Affairs for school, agency, cemetery, and administrative purposes and being now not needed for such uses, are hereby restored to tribal ownership for use and benefit of the Kiowa, Comanche, and Apache Tribes of Indians subject to any valid existing rights:

## INDIAN MERIDIAN

T. 2 N., R. 11 W.,

Sec. 20, lots 1, 3, 4, 5, and that part of the SW $\frac{1}{4}$  lying east of the line of the SL&SF Railroad right-of-way;

Sec. 29, lots 3, 8, 10, 11, and that part of lot 1 lying east of east line of CRI&P Railroad right-of-way, and E $\frac{1}{2}$  NW $\frac{1}{4}$ ;

Excepting therefrom and more particularly described as follows:

Parcel 1 situated in the SW $\frac{1}{4}$  sec. 20: Beginning at a point 443.88 feet south, 89°28'15" east and 753.71 feet south, 00°47'45" west of the northwest corner of SW $\frac{1}{4}$  of sec. 20; thence S. 89°40'06" E. a distance of 923.51 feet; thence S. 00°31'45" W. a distance of 895.10 feet; thence N. 88°58'15" W. a distance of 927.65 feet; thence N. 00°47'45" E. a distance of 883.83 feet; to

point of beginning, said exception containing 18.899 acres.

Parcel 2 situated in the NW $\frac{1}{4}$  of sec. 29; SW $\frac{1}{4}$  sec. 20:

Beginning at the south quarter corner of said section 20 (or the north quarter of said sec. 29); thence N. 00°00'49" E. a distance of 1,371.87 feet; thence N. 88°33'09" W. a distance of 1,288.07 feet; thence S. 00°53'28" E. a distance of 394.05 feet; thence N. 88°31'10" W. a distance of 790.04 feet; thence S. 05°25'58" W. a distance of 122.16 feet; thence S. 31°42'19" W. a distance of 24.02 feet; thence S. 22°58'47" W. a distance of 72.41 feet; thence S. 01°12'25" W. a distance of 719.89 feet; thence S. 09°32'45" E. a distance of 108.64 feet; thence S. 01°27'40" E. a distance of 331.60 feet; thence S. 08°47'14" E. a distance of 36.94 feet; thence S. 08°47'14" E. a distance of 193.83 feet; thence S. 12°39'53" E. a distance of 325.16 feet; thence S. 14°03'46" E. a distance of 328.25 feet; thence S. 05°47'48" E. a distance of 142.10 feet; thence S. 13°20'06" E. a distance of 100.56 feet; thence N. 64°27'13" E. a distance of 1,104.64 feet; thence S. 88°00'16" E. a distance of 843.68 feet; thence N. 76°20'40" E. a distance of 55.08 feet; thence N. 00°25'12" E. a distance of 979.22 feet; to the point of beginning, said exception containing 115.41 acres.

The total hereby restored, less parcels 1 and 2, aggregates 300 acres, more or less, in Comanche County, Oklahoma.

GUY R. MARTIN,  
Assistant Secretary  
of the Interior.

MARCH 16, 1979.

[FR Doc. 79-8774 Filed 3-21-79; 8:45 am]

[4910-59-M]

## Title 49—Transportation

## CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 1-22; Notice 8]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS  
Vehicle Identification Number

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule and response to petitions for reconsideration.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 115, Vehicle identification number. It establishes a fixed format for vehicle identification numbers (VINs) assigned to passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less and trucks with a gross vehicle weight rating of 10,000 pounds or less. This amendment is made to meet the needs of State motor vehicle administrators, insurance companies and other users who desire a means of discovering certain types of transcription errors in VINs at the earliest possible stage.

To facilitate manufacturer compliance with this amendment, the requirement that gross vehicle weight rating (GVWR) be decipherable from the VIN of passenger cars is deleted.

The notice also positions the check digit, a means for detecting errors in the VIN, immediately following the eighth character of the VIN. This amendment is made to facilitate manufacturers encoding the VIN.

The date of September 1, 1980, for compliance with the standard is retained but specific authorization of an earlier optional compliance date is deleted.

The requirement that the three sections of the VIN be separated by spaces is also deleted in the interest of lessening the cost burden to manufacturers and promoting international harmonization. The requirement that VIN characters have a minimum height of 4 mm is limited to the VIN displayed in the vehicle passenger compartment, as only that VIN needs to be read from a distance.

In response to petitions, the responsibility of assigning the VIN to motor homes is shifted from the final stage manufacturer to the incomplete vehicle manufacturer.

The standard is also amended to simplify GVWR encodement requirements for vehicles. Petitions to delete the requirement that engine type and net brake horsepower be encoded in the VIN of certain vehicles are denied, but petitions are granted to delete engine make and model from the information required for vehicles with a GVWR of over 10,000 pounds.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Frederic Schwartz, Jr., Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1834).

SUPPLEMENTARY INFORMATION: On November 9, 1978, the National Highway Traffic Safety Administration published in the FEDERAL REGISTER two notices relating to Federal Motor Vehicle Safety Standard No. 115, Vehicle identification number (49 CFR 571.115). These notices, which were issued in response to petitions for reconsideration, amended the standard (43 FR 52246) and proposed additional amendments to the standard (43 FR 52268). Several petitions for reconsideration of the amended standard were received, as were a number of comments concerning the proposal.

The establishment of an acceptable VIN standard has been a long and arduous process. As was pointed out in the advance notice of proposed rule-making published in the FEDERAL REG-



ISTER on September 9, 1976 (41 FR 33189), NHTSA activity in this area was preceded by the development of a number of competing, incompatible VIN schemes. The two major VIN schemes were that of the Vehicle Equipment Safety Commission (VESC) (supported by the American Association of Motor Vehicle Administrators and the States) and that of the International Standards Organization (ISO) (supported by the European Economic Community and most domestic and foreign vehicle manufacturers). These schemes were the ones on which the NHTSA focused as a starting point in its effort to establish a standard that would meet the need for motor vehicle safety and serve the needs of all VIN users. As the rulemaking progressed (43 FR 2189, 43 FR 36448, 43 FR 52246, 43 FR 52263), both the ISO and VESC schemes came closer together. However, both schemes remain incompatible in a number of respects.

The uses and users of the VIN have been discussed in detail in previous notices. In summary, the VIN is used as the key vehicle identifier by motor vehicle administrators, manufacturers, insurance companies, law enforcement agencies and the NHTSA. It is the cornerstone of the safety defect and standard noncompliance recall program, and an important element in manufacturer quality control and in vehicle theft recovery. Its use as an information tool in the analysis of accident reports is of great importance to safety research and rulemaking.

The NHTSA standard adopts the most efficient and effective aspects of both the VESC and ISO standards, while broadening those standards' information function to include matters of specific importance to this agency's safety responsibility. Further, the NHTSA standard includes features which result in more data storage accuracy than is possible under the VESC standard, while remaining harmonious with the ISO scheme now adopted by the European Economic Community.

#### ENGINE TYPE INFORMATION

Several manufacturers petitioned to remove the requirement that engine net brake horsepower be decipherable from the second section of the VIN. The basis for this request was that the definition of "Engine Type" includes net brake horsepower among the characteristics to be considered in differentiating one engine type from another.

These petitions are denied. While net brake horsepower is among the characteristics to be considered in establishing an engine type, there is no requirement that it be encoded in the engine type code. In some instances, such as with heavy truck engines, en-

codement would not be practicable. However, if net brake horsepower is actually decipherable from the engine type, then the requirement that it be decipherable from the second section of the VIN is met and it need not be encoded a second time.

Several petitioners requested a clarification of the meaning of "make and model" in relation to engine type and a definition of "net brake horsepower." International Harvester (IH) also petitioned to eliminate engine make and model information encoding requirements for trucks since they utilize more makes and models than can be represented by one position in the VIN. Further, IH stated that in its view this information has no safety relationship.

To clarify the requirements for "make and model" information, the phrase "manufacturer and make" is substituted in the definition of engine type. The term "manufacturer" has its current meaning within Part 571, and the term "make" as defined in S3 is expanded to include engines. Thus, engine "make" is defined as the name which the manufacturer applies to a group of engines (e.g., General Motors Oldsmobile engine).

The specific reference to engine make and model was added to the definition of engine type at the request of the States. They were concerned primarily about the problem of engine switching between the divisions of passenger car manufacturers. The NHTSA is also concerned that this information be available to ensure the accuracy of its safety and fuel efficiency research, since the performance of two different engines classified as the same "type" may differ. The NHTSA concludes it can resolve these concerns while not placing an unnecessary burden on truck and other heavy duty vehicle manufacturers where engines are used interchangeably. Therefore, the requirement that engine make and model be reflected in the VIN is amended to require only that engine manufacturer and make be reflected for passenger cars, multipurpose passenger vehicles with a GVWR of 10,000 pounds or less, and trucks with a GVWR of 10,000 pounds or less. It is in these categories of vehicles that engine types are standardized and consumers are less knowledgeable about the specifications of the vehicles they purchase.

Harley-Davidson Motor Co., Inc. also asked the agency to define the term "net brake horsepower" and to indicate whether SAE Standard J245 was the intended meaning. Because several definitions of net brake horsepower exist, the agency has concluded not to specify the precise definition to be used, thereby allowing manufacturers to continue using their current

method of evaluating the net brake horsepower of their vehicles. In submitting the net brake horsepower of these vehicles, however, manufacturers should submit the definition of the term they are utilizing.

#### VIN LEGIBILITY

In the final rule published on August 17, 1978 (43 FR 36448), S4.5 provided that the three sections of the VIN should be grouped, i.e., appear as a full section without being split, but inadvertently omitted the provision that had been proposed for requiring spacing between the sections. This omission was corrected in the amendment to the rule published on November 9, 1978 (43 FR 52246), which specified that the space between sections shall be twice that of the space between characters.

A number of manufacturers petitioned for reconsideration of this provision, claiming lack of notice for it. These manufacturers indicated what they considered to be serious lead time problems and substantial cost increases if the spacing requirement was not deleted. They also cited section 5.7 of ISO 3779, which provides that spaces should not appear in the VIN, although a symbol or character may be used between sections. While the agency still believes that separating the three sections of the VIN would improve the accuracy of its transcription, the added cost burden to the manufacturers and the interests of international harmonization argue in favor of deleting the spacing requirement. The requirement is therefore eliminated. The agency points out, however, that the legibility of the VIN is of concern and will be carefully reviewed after the standard takes effect.

Ford Motor Co. points out that S4.3.1 requires that all characters in the VIN must have a minimum height of 4 mm regardless of where the VIN appears on a vehicle. The intent of the agency, as Ford correctly perceives, was to limit the requirement to the VIN as it appears in the passenger compartment, since only in that location need the characters be read from a distance. The standard is amended to make this limitation clear.

#### INCOMPLETE VEHICLE ATTRIBUTES

Table I in the standard categorizes vehicles by type and specifies the vehicle attributes that must be decipherable from the VIN for each type. In the amended standard published on November 9, 1978, the agency added a type designated "incomplete vehicle." The attributes required to be decipherable from the VIN for this type were those attributes common to both trucks and buses. This type was established because incomplete vehicles often may be completed as either a

truck or a bus, and the incomplete vehicle manufacturer would have little way of knowing the final configuration.

American Motors Co. petitioned the agency to delete the requirements for incomplete vehicles and require instead that the second section of the VIN of incomplete vehicles reflect those attributes which the incomplete vehicle manufacturer anticipates the vehicle will have when completed. As this would place a more onerous burden on the manufacturers by requiring additional information to be encoded than the current requirement, as well as call for considerably more prescience than the manufacturers have suggested they usually possess, the petition is denied.

In this regard, it should be noted that the language of S4.5.2 and the "incomplete vehicle" type category in Table I contained in the amendment to the rule published November 9, 1978, were inadvertently omitted from the notice of proposed rulemaking issued the same day. The amended rule issued today corrects that error. The definition of the term "type" is also amended to include "incomplete vehicle" as a separate type.

#### ASSIGNMENT OF THE VIN TO MOTOR HOMES MANUFACTURED IN MORE THAN ONE STAGE

The amendment published on November 9, 1978, provided that in the case of vehicles other than motor homes, manufactured in more than one stage, the VIN would be assigned by the incomplete vehicle manufacturer. In the case of motor homes, the final stage manufacturer would make the assignment. The rationale of the agency for requiring the final stage manufacturer of motor homes to assign the VIN rested on two grounds. First, the comments to the docket submitted by the Recreational Vehicle Industry Association (RVIA) in response to the notice of proposed rulemaking (Docket entry 1-22-N04-048) appeared to support motor home manufacturers assigning the VIN for their vehicles, and the RVIA did not petition to change the requirement after the publication of the final rule on August 17, 1978. Secondly, a number of States and State organizations pointed out the law enforcement problems inherent in identifying a vehicle whose outward appearance was, for example, a Winnebago while the manufacturer identifier indicated the vehicle was a Ford.

In response to the November response to petitions, petitions for reconsideration were received from the RVIA, jointly from the VESC and the AAMVA (VESC/AAMVA) and from the State of Maryland. The RVIA, in its petition, appears to have reversed

its previous position, and cites a number of practical and economic reasons why the incomplete vehicle manufacturer should assign the VIN to motor homes. These include the need for uniform VIN assignment by the incomplete vehicle manufacturer, unavailability to the final stage motor home manufacturer of necessary data concerning the incomplete vehicle, the need of incomplete vehicle manufacturers to carry out recall campaigns, and the economic burden on lower volume motor home manufacturers. The VESC/AAMVA and State of Maryland in their petitions appear to believe that law enforcement officers will be able to identify motor homes by the manufacturers of their underlying chassis. Further, it appears that the States adopted a procedure on September 14, 1978, by which the final stage motor home manufacturers would add an additional three character identifier to the incomplete vehicle manufacturer's VIN. The States would then add that identifier to their VIN files.

It is not clear to the agency how the States can include this additional information in their data storage systems based on their stated capacity in other comments to the dockets. Nonetheless, the exception to the rule in the case of motor homes was created in response to the initial comments of the manufacturers and the States. They now conclude such a provision will be a hindrance. For that reason and because either the incomplete vehicle manufacturer or the final stage manufacturer is capable of providing a VIN, the agency believes it appropriate to remove the exception. Therefore, sections S2, S3, and S4 are amended accordingly.

Mack Truck also petitioned to eliminate requirements for encoding those truck attributes which can be easily altered by purchasers. While it is true that several of the attributes required might occasionally be subsequently altered, such as altering gross vehicle weight rating by changing tires, the agency concludes that this information is still important as a basic classifier of vehicle type for safety research and should be required. In most instances, the agency believes this information will not become invalid.

#### CHECK DIGIT HIGHLIGHTING

The November 1978 notice of proposed rulemaking requested comments on the effectiveness and advisability of highlighting the check digit as an aid in locating it on the VIN plate. All commenters, whether manufacturer or VIN user, recommended that the check digit not be highlighted. The comments suggested that highlighting the check digit would increase cost to manufacturers and confusion among

users without comparable advantages in check digit recognition. Consequently, the NHTSA has concluded that the check digit is sufficiently recognizable by its physical position in the VIN without being further highlighted.

#### WEIGHT INCREMENTS FOR VEHICLES WITH A GROSS VEHICLE WEIGHT RATING GREATER THAN 10,000 POUNDS

In the Notice of Proposed Rulemaking issued November 9, 1978, the Administration proposed that the weight rating data for vehicles with a gross vehicle weight rating greater than 10,000 pounds be delineated in 5,000 pounds increments. The Freightliner Corporation supported the amendment, stating that gross vehicle weight rating was an important statistical consideration. The Motor Vehicle Manufacturers Association and General Motors recommended that the GVWR not be required for vehicles with a GVWR over 10,000 pounds, as this information is contained on the certification label. The MVMA also questioned why this information is required for trucks with a GVWR of less than 10,000 pounds, but not for passenger cars. Ford Motor Co. commented similarly.

International Harvester (IH) also opposed the amendment because it would restrict IH's current VIN scheme and because the GVWR of incomplete vehicles is easily modified. Freightliner reached the opposite conclusion in its comment, stating that it is not economically feasible for drastic changes to be made in GVWR after initial manufacture. Paccar, Inc. did not oppose the proposal, but recommended instead that the classification system currently being used in the industry, which consists of weight rating classifications, be substituted. In this way, Paccar argues, GVWR information would be more relevant to manufacturers and easier for the manufacturer to encode.

As the agency pointed out in previous notices, highway safety research can be carried out utilizing the VIN appearing on accidents reports even though the vehicle itself is not available. Consequently, the appearance of the GVWR on a vehicle's certification label is not a substitute for encoding the GVWR in the VIN. While GVWR does not indicate the actual load being carried by the vehicle, it is extremely useful in classifying the vehicle itself, particularly its size. After reviewing the comments received on this proposal, the agency has concluded GVWR information for trucks should be retained, since it facilitates analyzing differences in performance and accident experience of different size vehicles.



The agency is also persuaded by the argument of Paccar that institutionalizing the weight rating classification system currently being used in the industry would be equally useful and considerably less disruptive. For example, certain vehicle models fall within one weight rating class although they may fall within two GVWR categories utilizing the proposed system. The standard is, therefore, amended accordingly.

The requirement that GVWR be supplied for passenger cars was deleted because there were not enough codes to include that information in a fixed format system along with the other passenger car information considered more important by the agency. Information relating to the GVWR for light trucks was considered more important, as it represents not only a way of identifying and monitoring the vans and light trucks which are becoming an important element of the vehicle population as distinguished from heavy trucks, but also the weight makeup of that class. The NHTSA denies, therefore, petitions to eliminate the requirement for encoding the GVWR of trucks and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less. However, to take account of the fact that there are fewer models of light trucks and to ease the burden on manufacturers, the number of GVWR weight categories are reduced to eight for vehicles with a GVWR of 10,000 pounds or less.

Also with respect to light trucks, the agency wishes to note that while it has not included a requirement that restraint type information be supplied for light trucks, it does intend to propose this requirement when it proposes passive restraint systems for those vehicles.

#### VIN FIXED FORMAT

In the notice of proposed rulemaking published on November 9, 1978, the agency proposed further fixing the VIN format by specifying the alphabetic or numeric nature of the 4th, 5th, 6th, 7th, 11th and 12th characters of the VIN for passenger cars, multipurpose passenger vehicles with a GVWR of 10,000 pounds or less, and trucks with a GVWR of 10,000 pounds or less. In making the proposal, the agency explored in detail the advantages and disadvantages of fixing the format. In summary, fixing the format will allow some types of VIN errors to be corrected when initially transcribed by clerks and others who can quickly become familiar with the established format. In addition, forms on which the VIN is transcribed can be designed to indicate whether a character should be alphabetic or numeric. However, fixing the VIN format will not eliminate the need for the check digit, will

lead to a reduction in the information-carrying capacity of the VIN, and will result in alterations to the VIN schemes which manufacturers now utilize.

Comments in response to the notice confirmed the NHTSA analysis of the matter. Specifically States supported the conclusions about the effect of expanding the fixed format on transcription error rate and the manufacturers supported the conclusions about the effect of the expansion on the information capacity of the VIN. Manufacturers commenting on the proposal were unanimous in their opposition. Chrysler predicted more costly and complex decoding. Toyo Kogyo concluded that a fixed format would end any hopes of continuing their system of specific information being encoded in specific positions. Volkswagen pointed to a major disruption in their current system, and questioned why further fixing the format was necessary as German clerks have achieved an error rate of approximately 1 percent without the format fixing.

Similar objections to those cited above were made by other manufacturers commenting.

In addition, Rolls-Royce Motors requested that if a format is to be fixed, all characters should be specified as alphabetic. In this way, Rolls-Royce as a low volume manufacturer could reflect changes in a vehicle without also having to change the actual model code. British Leyland Motors, Inc. also requested that the first four characters of the second section be alphabetic to provide for additional informational capacity. Toyota proposed that the fourth as well as the fifth characters of the second section not be fixed for the same reason.

The Motor Vehicle Manufacturers Association, Ford Motor Co., and International Harvester specifically objected to specifying for cars, light trucks and light multipurpose vehicles that the 3rd character of the 3rd section (i.e., the 11th character of the VIN) of the VIN must be numeric. Their objections were based on the resulting substantial reduction in the number of unique manufacturer identifiers for manufacturers producing less than 500 vehicles per year which would be available in the third section. Also, several truck manufacturers pointed out that they utilized the 11th character of the VIN to represent the assembly line on which the truck was produced, and that they maintained more assembly lines than the number of numerical characters available.

The VESC/AAMVA, the States and the insurance industry all supported the fixed format scheme, pointing to an anticipated lessening in the number

of transcription errors as described by the agency in the NPRM.

The petitions requesting a flexible format or changes in the character specifications are denied except for those requesting that the 3rd character of the 3rd section be permitted to be either alphabetic or numeric. The agency recognizes that the use of a fixed format will result in a substantial reduction in the information-carrying capacity of the VIN. However, the avoidance of transcription error remains the paramount concern. Nothing in the docket suggests that the administration was incorrect in its assumption that transcription errors will be reduced by the use of the fixed format system.

Fixing the format of the 3rd character of the 3rd section presents a more difficult choice. On one hand, fixing the format of this character as numeric will identify an error if an alphabetic character is substituted. However, since the preceding character is not specified as either numeric or alphabetic and the character following it is numeric, the opportunity to identify transpositions of these characters is limited. On the other hand, it seems possible that the number of manufacturers producing less than 500 passenger cars, multipurpose passenger vehicles or trucks with a GVWR of 10,000 pounds or less a year over the next 30 years will exceed the capacity of the VIN with the third character of the third section fixed. This is particularly true as the recreational use of these vehicles increases.

Further, the ability to locate the assembly line on which a defective vehicle is manufactured will have an important safety benefit. In cases involving manufacturing defects, this information will enable a determination of which of similar vehicles produced on different assembly lines need to be recalled. Consequently, the agency has determined not to adopt the proposed requirement that the 3rd character of the 3rd section of the VIN be numeric. In this way, a sufficient number of manufacturer identifiers can be assured with the least disruption to the existing system used to identify trucks.

The VESC/AAMVA and several other commenters suggested that the NHTSA VIN system could be further improved by fixing the specific information required to be decoded from each position of the second section of the VIN. These petitions are denied. Fixing the information contained in each position of the second section of the VIN would have no effect on the accuracy of transcription of the VIN, since clerks and others could not easily memorize the myriad of characters manufacturers use to represent data contained in these positions.

While the information contained in the second section would be more easily decipherable by those using a table if each position were specified, the amount of information which could be represented would be substantially decreased and the disruption to manufacturers substantially increased.

These problems were resolved by the VESC, after discussions with the manufacturers, by specifying the content of only one character of the second section in establishing the VESC VIN. With the NHTSA requirement for encodement of additional information beyond that required by the VESC, the agency concludes that specifying the informational content of each character in the second section is not practicable.

Although discussed comprehensively in previous notices, it should be noted again that the adoption of a fixed format only eliminates a particular class of VIN errors and in no way eliminates the need for the check digit. While the fixed format is able to identify those errors which result in an alphabetic character being substituted for a numeric character or vice versa, the check digit process will detect most erroneous characters regardless of type. Because vehicle owners are notified of recalls through their vehicle's VIN, it is essential that this information be retained in the most accurate fashion possible.

#### CHECK DIGIT POSITION

In the notice of proposed rulemaking issued on November 9, 1978, the agency proposed positioning the check digit immediately preceding the fourth position of the VIN in the interest of international harmonization and manufacturer ease of compliance. As the agency pointed out in the notice, the second section of the VIN system adopted by the ISO contains 6 characters. By having the check digit immediately precede or follow the second section, the five characters of the second section plus the check digit become the 6 characters necessary to assure compatibility with the ISO standard. If the check digit is positioned at either end of the VIN, the second section contains only 5 characters and the VIN is incompatible with the ISO system. However, specific comments were also requested concerning the advantages of placing the check digit at either end of the VIN.

Several States and the VESC/AAMVA submitted comments which supported placing the check digit at the beginning of the VIN.

In its comments, Maryland did not object to the check digit. It felt that the combination of fixed length, improved format and the check digit routine will reduce transcription errors

and provide an edit routine to ensure file integrity. However, Maryland also anticipated that some States would not be able to store a 16 character VIN. (For the purposes of comparison, it bears emphasis that the NHTSA VIN has 16 characters plus a check digit, the VESC VIN has 16 characters, and the ISO VIN has 17 characters.) These states would, in Maryland's view, eliminate prior to computer storage the check digit and perhaps a second character after producing a certificate of title. If the certificate of title were subsequently lost, there would be no record in the State files of a complete VIN, and the owner would have a great deal of trouble when transferring title to the vehicle.

In a similar situation, Maryland believes some States will choose to eliminate the check digit and a character of the VIN prior to producing the certificate of title, thereby creating a defective title which another State could refuse to honor. Indeed, Maryland considers this problem so serious that it believes a uniform system of dropping characters from the VIN is a certainty if additional Federal funds are not available to pay for additional State VIN storage capacity.

From this state of affairs, Maryland concludes that placing the check digit to the left or right of the VIN would encourage the check digit to be dropped in the inevitable uniform system of dropping VIN characters.

The NHTSA does not concur in this analysis. Since the States have supported in their comments to the docket the 16 character VESC VIN, the agency assumes they are willing to store this number of characters and that they would have developed the capacity necessary for that purpose even in the absence of the NHTSA VIN. If a State desires to drop the check digit, rather than store it, the State can do so irrespective of its position in the VIN either by appropriate data processing techniques or by simple and proper design of the forms on which the VIN is transcribed.

As Maryland points out in its comment, and as the agency has pointed out in previous notices, the NHTSA does not regulate the States in regard to the VIN. Thus, the NHTSA cannot require the State to store or use the check digit. The agency is confident, however, that States will seek to facilitate their citizens being made aware of potential safety defects and noncompliances in their vehicles and to simplify their task in transferring their vehicles. Consequently, the agency believes they will utilize the simple data processing procedure for eliminating the check digit if they choose not to store it. The State comments to the docket would indicate, however, that

all six are planning to store the 16 character VIN and the check digit.

The Vehicle Equipment Safety Commission and the American Association of Motor Vehicle Administrators (VESC/AAMVA) also responded jointly on December 11, 1978 to the notice of proposed rulemaking. In addition, certain aspects of their submission were supplemented by the VESC on December 29, 1978, as the result of NHTSA questions about the basis for their submission, and this supplement has also been placed in the docket (01-22-NPRM-No. 7-41).

The VESC/AAMVA comment of December 11, 1978, maintained that from 35-37 States are currently incapable of "inputting" 17 characters into their vehicle identification files. In its supplementary docket submissions, the VESC stated that it was unable at that time to submit a list identifying those States which could not input 17 characters. The VESC also explained that while in most instances State capability could be expanded by reprogramming and the purchase of additional equipment, this would be very expensive.

Like Maryland, the VESC/AAMVA concluded that those States which are unable to currently input 17 characters for lack of equipment and appropriate programming will choose to drop at a minimum the check digit. This will create, in the view of the VESC/AAMVA, lack of uniformity, confusion and a regenerated check digit based on the State's computation which will differ from the manufacturer-assigned check digit. To place the check digit anywhere but the beginning or the end of the VIN, in the view of the VESC/AAMVA, would create "unacceptable data handling and data regeneration problems." Therefore, the VESC/AAMVA concluded that the check digit must be dropped entirely or moved to the left of the VIN.

In its supplement, the VESC/AAMVA explained that the data handling problems referred to were "incorrect inputs" into the computer because State personnel would drop by mistake a character which was not the check digit while transmitting the VIN. Further, problems would occur due to the inconsistency between States which have a 16 character VIN capacity and States which have a 17 character VIN capacity.

The VESC/AAMVA also maintained that the cost burden to the States to comply with the NHTSA standard would be substantial. Vermont, the only State whose cost VESC cited with confidence, projected a cost of \$250,000 to implement the NHTSA VIN system and a 2 to 3 year completion date. The VESC/AAMVA reported that Vermont has only 380,000 ve-



hicles and limited on-line computer time. Consequently, the cost for a State with more sophisticated computer equipment would be considerably higher in the VESC/AAMVA view. Vermont also advised the VESC/AAMVA that only a negligible amount of Federal funds would be available to carry out the changeover.

The VESC/AAMVA stated that specific cost data from the other States was not available, but the cost to the States of Illinois, Michigan and New York would be materially higher than Vermont, and that Massachusetts was projecting a VIN changeover cost of from \$300,000 to \$400,000. In the case of Massachusetts, it is not clear whether this represents the changeover cost to convert to the VESC VIN or NHTSA VIN.

In its supplement, the VESC/AAMVA was unable to provide at that time further data on these cost figures for the NHTSA VIN.

The VESC/AAMVA also attacked the rationale of the agency in placing the check digit within the VIN structure. In the view of the VESC/AAMVA, the practical effect of that placement is mandating the recording and storage of a 17 character VIN. The VESC/AAMVA concludes that the NHTSA must either drop the check digit or place it outside the VIN structure.

Of particular concern to the VESC/AAMVA is the difficulty they suggest will be encountered in instructing a title clerk or police officer to drop the check digit in an internal position rather than in the first or last position. In its supplement, the VESC/AAMVA agreed with the agency that a computer can be programmed to drop any character in the VIN or the check digit and forms can be designed to indicate the check digit just as easily as it can be designed to show whether a character should be alphabetic or numeric. However, the VESC/AAMVA still believes strongly that a serious problem would exist if State personnel drop the check digit prior to transcription on a form or entry into a computer. Further, the VESC/AAMVA believes it impossible to design a form which signified the check digit for every intended use of the VIN.

The key question raised by the VESC/AAMVA relates to the ability of the States to deal with a 16 character VIN with an internal check digit. This issue was also of concern to the NHTSA. A review of the comments to the docket from the six States directly responding suggests that the problem is not so severe as the VESC/AAMVA believes, however.

Unfortunately, only three of these States submitted cost data to the docket, and the VESC/AAMVA was unable to submit data relating to their

conclusions. Further, as noted above, the agency has not received information from the VESC/AAMVA concerning the additional cost of implementing the NHTSA VIN system as compared to the cost of implementing the 16 character VIN system proposed by the VESC.

Oregon estimated its cost to implement the NHTSA VIN system at \$17,650 for reprogramming. Vermont estimated its costs at \$250,000, of which \$180,000 would be for systems analysis and programming and \$70,000 would be for public relations, training, and redesigning forms. Washington State estimated its costs for implementing the NHTSA VIN system at \$36,000 the first year for reprogramming, equipment, and key punching, and \$25,000 each subsequent year for equipment and key punching.

The agency does not understand why the changeover costs of Vermont is approximately 10 times higher than the two other States submitting cost data. The agency notes too that the motor vehicle population of Vermont is approximately one-eighth that of Washington and one-fifth that of Oregon. The cost of adopting either the NHTSA VIN system or VESC VIN system should be approximately equivalent and should consist primarily in reprogramming and procuring additional computer data storage units, and these costs should be in some degree proportional to the vehicle population. The agency does note, however, that Vermont's highway safety annual work program for this fiscal year includes spending \$280,000 to implement a R. L. Polk computer program to check for valid VIN's. Since this R. L. Polk program will be outdated with the promulgation of the NHTSA standard, the agency hopes that Vermont's implementation of the NHTSA VIN system can be consolidated with the implementation of a revised VIN edit routine, thus achieving some savings for Vermont.

Based on the agency's assessment of implementation costs and on the actual cost data submitted to the docket, the NHTSA concludes that the cost to be incurred by the States to implement the NHTSA VIN system will not be so significant as the VESC/AAMVA comments suggested. As explained previously, the primary costs to the States of implementing the NHTSA system would be those of reprogramming and of purchasing additional data storage equipment.

The agency's conclusions about lack of substantial cost is further supported when one considers that the members of the VESC adopted and the States supported the VESC 16 character VIN system. Presumably, the States were prepared to adopt it. Thus, the cost burden which the

NHTSA regarded as particularly important to the States is the incremental cost of the NHTSA VIN system over the VESC VIN scheme. In the case of Oregon, the cost differential between the NHTSA and VESC VIN systems would be negligible, as only reprogramming is required and the effort needed to reprogram for 17 characters, either stored or dropped prior to storage and then regenerated, would not be substantially more than it would be for 16 characters. In the case of Washington, the State itself estimates the added cost of the NHTSA system over the VESC system would be \$2,500 annually for keypunching the added character.

The agency remains convinced that the States will seek methods of simplifying and standardizing titling and other procedures involving the VIN. All parties appear to agree that by proper design of forms and relatively simple programming of computers, the check digit may be eliminated from any location within the VIN should a State choose to do so. It appears all agree, also, that the appropriate check digit may be regenerated when the VIN is removed from data storage and printed. What the VESC/AAMVA and Maryland appear to fear, however, is that police officers, clerks and others will attempt to locate and eliminate the check digit in the process of transcribing the VIN. Why persons would be instructed to drop the check digit has not been suggested, however. Further, simple instructions should prevent that from occurring. Accordingly, premature dropping of the check digit is clearly avoidable. The agency is impressed that none of the States directly submitting comments to the docket have suggested that it does not intend to store the check digit along with the VIN.

The VESC/AAMVA have incorrectly evaluated the practical effect of placing the check digit within the VIN. The placement of the check digit within the VIN does not necessitate the storage of the check digit. Further, as the agency expressly explained in the previous notice and above, the choice was made to allow the VIN mandated by the NHTSA to be compatible with the VIN mandated by the ISO. In this way, manufacturers could use the same VIN structure on vehicles marketed in the United States and those marketed outside the country. The international harmonization of the NHTSA VIN Standard is not only consistent with United States policy in this area as articulated by the President (14 Weekly Comp. of Pres. Doc. 1630), but eases substantially the regulatory burden on manufacturers producing vehicles for both the United States and foreign markets since they need not maintain two sepa-

rate VIN systems. If the VESC VIN scheme was adopted, manufacturers would face the added cost of maintaining one VIN system for the United States and another VIN system for the rest of the world.

Comments were also received on the question of the check digit position from a number of insurance companies and insurance industry groups. Nationwide Insurance stated that the location of the check digit within the VIN should not present any problem to VIN users since sophisticated procedures were not necessary to manage the check digit regardless of its position. Further, the use of the check digit caused Nationwide no great concern. The Alliance of American Insurers believed some users would prefer the check digit be placed outside the VIN, but stated that "ideally" the check digit should be retained as an integral part of the VIN. State Farm Insurance Co. stated that it intended to store the check digit, but suggested it should be positioned at the beginning or end of the VIN in the interest of allowing it to be dropped more easily by users who did not intend to store it. State Farm did not explain how the ease of dropping the check digit varied with its position. Allstate Insurance Co. supported the use of the check digit, and recommended that it be made an internal part of the VIN. Finally, the Insurance Institute for Highway Safety strongly supported making the check digit an internal part of the VIN.

No manufacturer supported moving the check digit to the first or last position of the VIN, but there was a difference of opinion among the manufacturers whether the check digit should precede or follow the second section of the VIN.

Volkswagen and British Leyland supported placing the check digit immediately preceding the second section of the VIN, as this would make the VIN more compatible with the European VIN system. General Motors and American Motors supported the check digit in this same position, as this seemed to foster international harmonization. International Harvester supported the check digit in this position, as this would be least disruptive to its current system. While not commenting to this docket on the issue, Mercedes-Benz and BMW supported in their petitions for reconsideration of the August 18, 1978, rule placing the check digit immediately preceding the second section. Mercedes supported this position because it would cause the least disruption to its current system. BMW supported this position because the check digit would then not separate the two flexible sections of the VIN, thus allowing the estab-

lishment of a VIN "management system".

Harley-Davidson, Toyo-Kogyo, Chrysler and Peugeot-Renault supported the check digit immediately following the second section, as this separated the fixed section of the VIN from the variable section of the VIN. Rolls-Royce supported the check digit in this position, as it has already begun work on a system which would position it there.

Ford and the Motor Vehicle Manufacturers Association took no position on whether the check digit should precede or follow the second section so long as it was in one of those two positions.

In its notice of proposed rulemaking published on November 9, 1978, the agency relocated the check digit to a position preceding the second section of the VIN in the interest of ease of compliance for those manufacturers who desired to use a different system in Europe than they did in the U.S. It seems, however, that the manufacturers are unable to agree upon which position actually is preferable. The agency must therefore determine which position makes more practical sense.

The agency concludes that the check digit should be placed in immediate proximity to characters which are variable. While only some manufacturers may have to change manufacturer identifiers if they produce more than one type of vehicle, all must change the final eight characters of the VIN. Consequently, the agency concludes that the check digit should precede these final eight characters since it too is variable. Thus, many manufacturers will be able to prepare their VIN plates with the first part of the VIN pre-stamped. This will lower costs and aid in preventing alterations since these characters can be molded as part of the plate.

Some manufacturers and manufacturer associations also petitioned to eliminate the check digit entirely. The agency's rationale for the check digit and its utility in eliminating error has been comprehensively reviewed in previous notices. In summary, the check digit offers the most effective way known to the agency to determine erroneously recorded VINs prior to storage in motor vehicle files.

Peugeot-Renault raised in their comment a new issue of international harmonization. In the view of Peugeot-Renault, the ISO standard requires that the middle section of the VIN remain the same for all vehicles of the same description. After a review of the ISO standard, the NHTSA cannot agree with this view. ISO Standard 3779 specifically provides that if not all the characters in the second section of the VIN are used for descrip-

tive purposes, the manufacturer may fill the section with another character for which there are no restrictions.

#### OPTIONAL EARLY COMPLIANCE

The NPRM proposed that compliance with all aspects of the amended standard be permitted beginning September 1, 1979, for passenger cars and be required for all vehicles beginning September 1, 1980. Optional early compliance was proposed because the agency concluded that some manufacturers could fully implement the amended standard before September 1, 1980, and because the agency was concerned that implementation of the amended standard might be complicated by the State of Maryland's proposal to implement an inconsistent VIN system on January 1, 1980. Express authorization of early compliance would have put the amended standard into effect on September 1, 1979, and removed any question about the preemption of State standards governing VIN format and content.

The agency has since learned that the State of Maryland has formally proposed to change its implementation date to September 1, 1980. If that new proposal is adopted, the need for express authorization for early compliance with the amended NHTSA standard will be eliminated. Based on indications that the proposal will be adopted, the agency has decided to delete the express provision for early compliance. It should be clearly understood, however, that this deletion does not preclude early compliance with most aspects of the amended standard. Except to the extent that it is not possible for a manufacturer to comply simultaneously with an existing and future version of a Federal Motor Vehicle Safety Standard, early compliance is always permissible.

#### EFFECTIVE DATE

A number of commenters requested that the effective date be postponed to allow for acquiring equipment and for system development. Mack Truck requested that the effective date be postponed until two years from the issuance of the final rule. Volkswagen requested that the effective date be 18 months from the publication of the final rule. International Harvester opposed the September 1, 1980, effective date as not practicable, but did not suggest an alternative effective date. BMW recommended an effective date 3 years after the standard is issued. The VESC/AAMVA suggested an effective date two to three years after the standard is finalized. The State of Vermont proposes an effective date of September 1, 1981, or September 1, 1982, because its computer programming effort is committed for the next 1½ years.



The agency is unconvinced that the effective date of the standard should be changed. While the final details of the proposal were not known until today, the necessity of implementing a new VIN system and most of its essential feature have been known at least since the August 1978 final rule.

With an effective date eighteen months in the future, the desires of Volkswagen have been met and the stated needs of Mack substantially met. While BMW and International Harvester believe they need more time to comply, they have presented no evidence in their comments that their systems development, reprogramming and marking equipment installation cannot be accomplished within the specified time frame. Further, BMW must comply prior to September 1, 1980, with the compatible ISO standard, and presumably can comply with the NHTSA standard shortly thereafter. IH has stated that its inability to comply comes from the need to derive a new coding system. The agency believes 18 months will be sufficient for this purpose, as it is for the other manufacturers.

From the comments, it appears that California, Oregon, and Washington can comply with a January 1, 1980, effective date, and Maryland can prior to that date comply with a 16 character VIN requirement.

Of the States commenting, only Vermont believes it can not comply by September 1, 1980. Since Vermont's time problem rests with a prior 1½ year programming commitment rather than the 6-18 months the State considers necessary to implement the NHTSA VIN system, it is hoped that Vermont's revision of the now outdated R.L. Polk VIN verification program planned for this fiscal year can be combined with the reprogramming necessary to implement the NHTSA VIN system.

The VESC/AAMVA objected to the effective date on behalf of the States. The agency notes, however, that a 16 character VIN was adopted by the VESC in July 1977. Thus, the States were aware on that date that a 16 character VIN would be implemented shortly. Further, Maryland, by requiring passenger cars sold in that State after January 1, 1980, to have a 16 character VIN made it highly likely that manufacturers would adopt a 16 character VIN system by that date. (It should be noted that Maryland on February 9, 1979, proposed that its standard should take effect on September 1, 1980. This is the proposed effective date for the NHTSA standard). Manufacturers in all probability would not utilize one system for Maryland and another for the other States. This intent of Maryland to require manufacturers to comply with its VIN

standard on September 1, 1980, whether or not the NHTSA extended the effective date of its standard, was confirmed on February 22, 1979 (Docket 01-22-No. 7-042). Consequently, any action of NHTSA to extend its effective date would not aid the States in view of Maryland's position.

The NHTSA concludes, therefore, that all States should have been prepared to deal with a 16 character VIN six months prior to the effective date of the NHTSA standard. This view is further supported by the comments of the States throughout this rulemaking effort which strongly supported the adoption of the VESC 16 character VIN scheme. Since the elimination of the check digit prior to storage is a reasonably simple task, the agency concludes the States will be able to deal with NHTSA-mandated VINs by the time the standard takes effect. The agency is also certain that the coordinative efforts of the AAMVA will aid the States in dealing with the NHTSA VIN system by the time the manufacturers comply with the standard. The agency too stands ready to provide technical assistance if any should be needed.

Therefore, petitions to change the effective date of the standard are denied.

#### NOTICE OF CHANGE IN ENCODED DATA

The VESC/AAMVA and several States once again raised the issue of S6 of the standard which requires manufacturers to notify the NHTSA 60 days before changing the information decipherable from a particular VIN. It is the view of the VESC/AAMVA that requiring the manufacturers to submit this information to NHTSA will indirectly result in their not submitting it to the States.

This issue was discussed in the amendments to the rule published on November 9, 1978. The NHTSA is unable to understand why the manufacturers who voluntarily have been submitting material to the States since 1901 would suddenly cease doing so. The subsequent VESC submission to the docket does not explain the basis for its concern. In the unlikely event that the manufacturers cease to supply this data to the States, the NHTSA will entertain a petition for rulemaking from the States to institutionalize a requirement for the submission of that data to the States. Section S6.3 is amended, however, to require that all the information required to be submitted to the NHTSA shall be submitted at least 60 days before affixing the VIN utilizing the encoded information. This amendment is made to remedy an ambiguity in the standard as presently written.

#### USE OF A HAND HELD CALCULATOR

In the final rule issued August 17, 1978 (43 FR 36448), the agency stated its belief that check digits could be calculated by using inexpensive, hand held calculators. The agency was not referring to the type of calculator currently available over the counter, but a calculator preprogrammed to carry out the check digit procedure when the VIN itself was keyed in. With the adoption of the fixed format as an aid in avoiding transcription errors, however, check digit calculations in the field are unlikely. Therefore, the availability of a preprogrammed calculator is no longer of concern to the agency.

The VESC/AAMVA also points out that the check digit system is not infallible since the same numerical value is assigned to three or four characters. For example, "D", "M", "U", and "4" are all assigned the numerical value "4" in the check digit procedure. The odds that one of these characters will be erroneously substituted for the other resulting in the correct check digit is only one in eleven, however. Consequently, the check digit procedure will reduce the number of incorrect VINs in computer files by more than 90 percent.

#### MANUFACTURER IDENTIFIER FOR MANUFACTURERS PRODUCING LESS THAN 500 VEHICLES OF ANY ONE TYPE ANNUALLY

S4.5.1 of the standard provides a special procedure for assigning the manufacturer identifier to manufacturers who produce less than 500 motor vehicles of a type annually. In this procedure, the third character of the VIN is the number 9 and the eleventh, twelfth and thirteenth characters of the VIN along with the first three characters represent the manufacturer identifier. The VESC/AAMVA objects to this provision as complicated to process by computer and suggests it should be eliminated.

This provision was adopted because the agency was unable to ascertain with certainty that there is a sufficient number of three character identifiers to uniquely represent all vehicle manufacturers, makes and types over the next thirty years, the cycle of the amended standard. In addition, this method of identification is identical with the method adopted by the ISO, and its inclusion in the NHTSA standard would be a further step in the direction of international harmonization.

The agency is unconvinced that the problems expressed by the VESC/AAMVA are substantial. The occurrence of a VIN from a manufacturer of less than 500 vehicles of a type in any State's vehicle population will be rare. As the VIN format for a manufacturer of less than 500 vehicles of a type is

the same as that for all other manufacturers, there should be no impediment to entering it into storage. The need to generate the name of the manufacturer from the data base, the situation where specific programming will be called for, will be even rarer. Against the arguments of the VESC/AAMVA, the integrity of the VIN system over thirty years and the interests of reducing compliance costs through international harmonization, must prevail.

#### RECONSTRUCTED VEHICLE VIN

The VESC/AAMVA and the State of Vermont again raise the issue of assigning a VIN to reconstructed vehicles. As was pointed out in the amendment to the rule published on November 9, 1978, amended Standard No. 115 only applies to reconstructed vehicles if the chassis is new. Evidently, the VESC/AAMVA and Vermont interpreted this to mean that the VIN of the original chassis should be assigned to the reconstructed vehicle. This is only true if the chassis is new, in which case the vehicle would be one manufactured in more than one stage and the incomplete vehicle manufacturer would assign the VIN.

The VIN for the homemade vehicles which Vermont apparently refers to would be assigned by Vermont, as it sees fit. Presumably, a reconstructed vehicle VIN scheme which was compatible with the NHTSA VIN system could be created, but such a scheme would not be within the ambit of Standard No. 115.

#### ASSIGNMENT OF MANUFACTURER IDENTIFIERS

Saab-Scania has requested further information concerning the assignment of manufacturer identifiers. When the final rule was issued, the Society of Automotive Engineers (SAE) immediately submitted on behalf of many domestic and foreign manufacturers a list of approximately five hundred identifiers. They have been registered to the manufacturers to whom they were assigned. Because the SAE has progressed so far in its assignment process, the agency is discussing with the SAE its assigning manufacturer identifiers on behalf of and under the authority of the NHTSA. A notice will appear in the FEDERAL REGISTER when this matter is resolved.

#### PUBLIC MEETING

The VESC/AAMVA stated that the agency had not followed through on its announcement in the advance notice of proposed rulemaking that it anticipated a public meeting for oral submission of comments concerning VINs. At the outset, the agency did contemplate the possibility of a public

meeting to supplement the opportunity for written comment. Holding a meeting proved unnecessary, however. Substantial written public comments have been received in response to the agency's five notices. Comments received from the AAMVA and VESC are a good example of the comments received and their completeness in responding to the involved issues. For example, in response to the advance notice of proposed rulemaking, the AAMVA submitted not only staff comments, but also supplementary material from 50 States and the District of Columbia. Similarly, extensive comments were also submitted in response to the notice of proposed rulemaking.

The agency also notes that a public meeting concerning the VIN was held under the aegis of NHTSA's National Highway Safety Advisory Committee on March 21, 1978, in which the VESC and AAMVA participated. This meeting resulted in 61 pages of testimony and 110 pages of supplementary material. Further, meetings were held between the NHTSA and VESC and AAMVA personnel on September 21, 1977 (Docket 01-22-No. 3-92), November 4, 1977 (Docket 01-22-No. 3-93); and November 18, 1977 (Docket 01-22-No. 3-94).

#### PLANT OF MANUFACTURE

BMW petitioned the agency to delete the requirement for encoding plant of manufacture, since it currently utilizes a seven digit production sequence number, the first character of which would occupy the space required to be occupied by the character designating the plant of manufacture. A system which would have allowed BMW to maintain a seven character sequential number was proposed in the notice of proposed rulemaking published on January 16, 1978 (43 FR 2189), but withdrawn in the face of criticism that it was too complex. BMW suggests no reason which would cause the agency to reopen the issue, and its petition is denied. The agency notes, however, that the rule does not restrict a manufacturer from submitting more than one character to represent a single plant. Consequently, a sophisticated allotment of sequential blocks might be sufficient to allow BMW to maintain its seven digit production sequence numbering system.

#### MEANING OF DEFINITION OF "CHASSIS"

In the amendment issued on November 9, 1978 the agency clarified the meaning of the term "chassis" to at least discriminate between a truck and a truck-tractor. Ford has requested that this clarification be rescinded, as the 2 percent of its heavy truck chassis which are not sold as incomplete vehicles are completed at a later date under contract to Ford. When Ford as-

signs the VIN, it states it does not know the final form of the vehicle. To the extent Ford does not know the final form of the vehicle when it assigns the VIN, the chassis information need not discriminate between truck and truck-tractor.

#### TRAILER VIN'S

The Truck Trailer Manufacturers Association (TTMA) petitioned to delete the requirement that descriptive information concerning trailers be encoded in the second section of the VIN. The TTMA believes that this information will be of little use in defect and noncompliance recall campaigns. Further, the TTMA asked for specific examples of how this information would be useful in accident investigation. By deleting this requirement, the TTMA argues, the second section of a trailer VIN could consist of "0" or some other "neutral" character, thus reducing paperwork requirements and easing compliance for the smaller manufacturers.

The TTMA petition is denied. Trailers can be as different as a five foot, single axle, 500 pound GVWR platform trailer and a forty foot, multi-axle, refrigerated van of 40,000 pounds GVWR. The need to discriminate between these vehicles in accident investigation and research is apparent.

However, it should also be noted that the standard does not require that each character of the second section of the VIN reflect information, only that the second section as a whole reflect the required information. For example, if a small manufacturer produces 33 or less models which can be differentiated on the basis of the descriptive characteristics set forth in the standard, only one position in the second section of the VIN is needed to carry this information and the other four positions can be "0".

#### VIN LITIGATION

On January 8, 1979, the VESC and the State of Maryland filed with the U.S. Court of Appeals for the Fourth Circuit a petition for review of Standard No. 115. As required under Section 105 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1394), the agency has filed with the Court the record of the rulemaking proceeding prior to this amendment. To facilitate public review of the material which the agency included in the record, publicly available documents not previously submitted to the docket but cited in the rulemaking notices have been placed in a general reference section for this notice.

The principal authors of this notice are Nelson Erickson of the Office of Vehicle Safety Standards, Crash Avoidance Division and Frederic



Schwartz, Jr., of the Office of Chief Counsel.

In consideration of the foregoing Standard No. 115, 49 CFR 571.115, is revised to read as follows:

§ 571.115 Standard No. 115; Vehicle identification number.

**S1. Purpose and Scope.** This standard specifies requirements for a vehicle identification system to simplify vehicle information retrieval and to reduce the incidence of accidents by increasing the accuracy and efficiency of vehicle defect recall campaigns.

**S2. Application.** This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles and motorcycles.

**S3. Definitions.** "Body type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo carrying features and the roofline (e.g., sedan, fastback, hatchback).

"Check Digit" means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

"Engine Type" means a power source with defined characteristics such as fuel utilized, number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car, a multipurpose passenger vehicle with a gross vehicle weight rating of 10,000 pounds or less, or a truck with a gross vehicle weight rating of 10,000 pounds or less.

"Incomplete vehicle" means an assembly consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operation, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

"Make" means a name which a manufacturer applies to a group of vehicles or engines.

"Model" means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

"Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually pro-

duced, so long as the actual period is less than 2 years.

"Plant of manufacture" means the plant where the manufacturer affixes the VIN.

"Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacturer for marketing purposes.

"Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles are separate types.

"Vehicle identification number" means a series of arabic numbers and roman letters which is assigned to a motor vehicle for identification purposes.

**S4. Requirements.**

**S4.1** Each vehicle manufactured in one stage shall have a vehicle identification number (VIN) that is assigned by the manufacturer and a check digit which meet the requirements of this standard. Each vehicle manufactured in more than one state shall have a VIN and check digit assigned by the incomplete vehicle manufacturer.

**S4.2** The vehicle identification numbers of any two vehicles manufactured within a 30 year period shall not be identical.

**S4.3** The vehicle identification number and check digit of each vehicle shall appear clearly and indelibly upon either a part of the vehicle other than the glazing that is not designed to be removed except for repair or upon a separate plate or label which is permanently affixed to such a part.

**S4.3.1** The type face utilized for the vehicle identification number and check digit shall consist of capital, sans serif characters. Each character in the VIN required by S4.4 shall have a minimum height of 4mm.

**S4.4** The vehicle identification number and check digit for passenger cars and trucks of 10,000 pounds or less GVWR shall be located inside the passenger compartment. They shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar.

**S4.5 VIN basic content.** The VIN shall consist of three sections of characters and shall be grouped accordingly.

**S4.5.1** The first section shall consist of three characters which uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the

manufacturer produces less than 500 motor vehicles of its type annually, the first and second characters may be determined by the manufacturer, the third character shall be the number 9, and the manufacturer, make and type of the motor vehicle shall be identified in accordance with S4.5.3.3.

**S4.5.2** The second section shall consist of five characters which shall uniquely identify the attributes of the vehicle as specified in Table I. For passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer under S6. In submitting data to the NHTSA relating to the gross vehicle weight rating, the following designations shall be utilized. No designations are specified for the VIN.

Class A: Not greater than 3,000 pounds.  
Class B: 3,001-4,000 pounds.  
Class C: 4,001-5,000 pounds.  
Class D: 5,001-6,000 pounds.  
Class E: 6,001-7,000 pounds.  
Class F: 7,001-8,000 pounds.  
Class G: 8,001-9,000 pounds.  
Class H: 9,001-10,000 pounds.  
Class I: 10,001-14,000 pounds.  
Class J: 14,001-16,000 pounds.  
Class K: 16,001-19,500 pounds.  
Class L: 19,501-26,000 pounds.  
Class M: 26,001-33,000 pounds.  
Class N: 33,001 pounds and over.

TABLE I—TYPE OF VEHICLE AND INFORMATION DECIPHERABLE

Passenger car: Line, series, body type, engine type, and restraint system type.  
Multipurpose passenger vehicle: Line, series, body type, engine type, and gross vehicle weight rating.  
Truck: Model or line, series, chassis, cab type, engine type, brake system, and gross vehicle weight rating.  
Bus: Model or line, series, body type, engine type, and brake system.  
Trailer: Type of trailer, series, body type, length, and axle configuration.  
Motorcycle: Type of motorcycle, line, engine type, and net brake horsepower.  
Incomplete vehicle: Model or line, series, cab type, engine type, and brake system.

**S4.5.3** The third section shall consist of eight characters, of which the fourth through the eighth shall be numeric for passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the fifth through the eighth shall be numeric for all other vehicles.

**S4.5.3.1** The first character of the third section shall represent the vehicle model year. The year shall be designated as indicated in Table II.

TABLE II

| Year | Code |
|------|------|
| 1980 | A    |
| 1981 | B    |
| 1982 | C    |
| 1983 | D    |
| 1984 | E    |
| 1985 | F    |
| 1986 | G    |
| 1987 | H    |
| 1988 | J    |
| 1989 | K    |
| 1990 | L    |
| 1991 | M    |
| 1992 | N    |
| 1993 | P    |
| 1994 | R    |
| 1995 | S    |
| 1996 | T    |
| 1997 | V    |
| 1998 | W    |
| 1999 | X    |
| 2000 | Y    |
| 2001 | 1    |
| 2002 | 2    |
| 2003 | 3    |
| 2004 | 4    |
| 2005 | 5    |
| 2006 | 6    |
| 2007 | 7    |
| 2008 | 8    |
| 2009 | 9    |
| 2010 | A    |
| 2011 | B    |
| 2012 | C    |

**S4.5.3.2** The second character of the third section shall represent the plant of manufacture.

**S4.5.3.3** The third through the eighth characters of the third section

Example:

Vehicle Identification Number  
Character 1 G 4 A H 5 9 H 4 5 G 1 1 8 3 4 1

Assigned Value 1 7 4 1 8 5 9 8 4 5 7 1 1 8 3 4 1

Multiply by Weight factor 8 7 6 5 4 3 2 10 0 9 8 7 6 5 4 3 2

Add Products 8+ 49+24+5+ 32+15+18+80+0 45+56+7+ 6+ 40+12+12+2=411

Divide by 11 411/11 = 37 4/11

Check Digit 4 (compare to character in 9th position)

shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth, and fifth characters of the third section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth character of the third section shall represent the number sequentially assigned by the manufacturer in the production process.

**S4.6 Characters.** Each character used in a vehicle identification number shall be one of the arabic numbers or roman letters set forth in Table III.

TABLE III

Numbers:  
1234567890  
Letters:  
ABCDEFGHIJKLMNPRSTUVWXYZ  
All spaces provided for in the vehicle identification number must be occupied by a character specified in table III.

**S5. Check digit.**  
**S5.1** A check digit shall be provided with each vehicle identification number. The check digit shall immediately follow the fifth character of the second section and appear with the vehicle identification number on the vehicle and on any transfer documents containing the vehicle identification number and prepared by the manufacturer to be given to the first owner for purposes other than resale.  
**S5.2** The check digit is determined

by carrying out the mathematical computation specified in S5.2.1 - S5.2.4.

**S5.2.1** Assign to each number in the vehicle identification number its actual mathematical value and assign to each letter the value specified for it in Table IV.

TABLE IV

|     |     |     |
|-----|-----|-----|
| A=1 | J=1 | T=3 |
| B=2 | K=2 | U=4 |
| C=3 | L=3 | V=5 |
| D=4 | M=4 | W=6 |
| E=5 | N=5 | X=7 |
| F=6 | P=7 | Y=8 |
| G=7 | R=9 | Z=9 |
| H=8 | S=2 |     |

**S5.2.2** Multiply the assigned value for each character in the vehicle identification number by the weight factor specified for it in Table V. Multiply the check digit by 0.

TABLE V

Character and Weight Factor

|             |    |
|-------------|----|
| 1st         | 8  |
| 2d          | 7  |
| 3rd         | 6  |
| 4th         | 5  |
| 5th         | 4  |
| 6th         | 3  |
| 7th         | 2  |
| 8th         | 10 |
| Check Digit | 0  |
| 9th         | 9  |
| 10th        | 8  |
| 11th        | 7  |
| 12th        | 6  |
| 13th        | 5  |
| 14th        | 4  |
| 15th        | 3  |
| 16th        | 2  |

**S5.2.2** Add the resulting products and divide the total by 11.

**S5.2.4** The remainder is the check digit. If the remainder is 10, the check digit is X.



**S6 Reporting Requirements.**

S6.1 Manufacturers of motor vehicles subject to this standard shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures by September 1, 1979.

S6.2 Manufacturers which begin production of motor vehicles subsequent to September 1, 1979, shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least 60 days before affixing the first vehicle identification number. Manufacturers whose unique identifier appears in the third section of the vehicle identification number shall also submit the three characters of the first section which constitute a part of their identifier.

S6.3 Each manufacturer shall submit at least 60 days before affixing the first VIN which meets the requirements of this standard the information necessary to decipher the characters contained in its vehicle identification numbers. Any amendments to this information shall be submitted at least 60 days before affixing a vehicle identification number utilizing an amended coding.

S6.4 Information required to be submitted under this section shall be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, Attention VIN Coordinator.

(Secs. 103, 112, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on March 15, 1979.

JOAN CLAYBROOK,  
Administrator.

[FR Doc. 79-8350 Filed 3-15-79; 4:18 pm]

[4910-59-M]

[Docket No. 76-06; Notice 6]

**PART 571—FEDERAL MOTOR  
VEHICLE SAFETY STANDARDS  
Speedometers and Odometers**

AGENCY: National Highway Traffic Safety Administration (NHTSA). Department of Transportation.

**ACTION:** Final rule (Response to petitions for reconsideration)

**SUMMARY:** This notice responds to petitions for reconsideration of Federal Motor Vehicle Safety Standard (FMVSS) No. 127, *Speedometers and Odometers*, published July 27, 1978. Several aspects of the petitions are granted, most notably petitions for deleting the 10 percent limit on the variation in distance between graduations on the speedometer scales and seeking greater lead time for and revision of the provision requiring that odometers be irreversible. The other aspects of the petitions are denied. A notice seeking further comment on certain aspects of the odometer requirements in this rule and proposing requirements for replacement odometers appears in today's issue of the FEDERAL REGISTER.

**EFFECTIVE DATES:** September 1, 1979, with the exceptions of S4.1.3., the speedometer accuracy requirement, which becomes effective September 1, 1980, and S4.2.1-4.2.10, the odometer requirements, which become effective September 1, 1981.

**FOR INFORMATION CONTACT:**

Mr. Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-2720.

**SUPPLEMENTARY INFORMATION:** On March 16, 1978, the NHTSA published a final rule establishing FMVSS No. 127, *Speedometers and Odometers* (43 FR 10919). The standard sets forth requirements for the installation and accuracy of speedometers and odometers in most motor vehicles, limits the maximum speed which can be indicated on a speedometer and requires that odometers be tamper-resistant.

On July 27, 1978, the NHTSA published a response to an initial set of petitions for reconsideration of the final rule (43 FR 32421). That response modified the final rule in the following ways. It clarified the requirements that speedometers be evenly graduated by indicating that graduations need not be exactly "even", but that the intent of the NHTSA was that they be substantially "even" to ensure easy readability. Thus, the term "even" was deleted and a 10 percent variance allowance was added.

The response to the initial petitions also restored the option to the final rule which requires odometers to indi-

cate when they have been reversed. This option was, however, modified to require the digit or wheel registering ten thousands of miles or kilometers to be inked, scored or marked in some permanent manner. Also, the option prohibiting odometers from being reversed was modified to prohibit any reversal over 10 miles that does not render the odometer "permanently and totally inoperable."

A second set of petitions for reconsideration of the July 27, 1978, final rule has been received. It is primarily the provisions modified by the response to the initial petitions that are addressed in the second round of petitions for reconsideration. A discussion of these and other issues raised by the petitions and their resolution follows. All petitions are denied except as otherwise noted.

**SPEEDOMETERS**

Stewart-Warner petitioned for the removal of the provision that prohibits the distance between graduations from varying by more than 10 percent. Stewart-Warner objected to the provision's inclusion on the grounds that it did not expressly appear in the proposed regulation or in the March 1978 final rule. Therefore, Stewart-Warner alleged inadequate notice. More importantly, Stewart-Warner objected on the grounds that it had recently completed, at a reported cost in excess of half-a-million dollars, the design, engineering and tooling for a new bi-torque speedometer. This odometer is claimed to be substantially more accurate than a mechanical eddy current speedometer, but cannot meet the requirements for angular variations of 10 percent or less.

GM, likewise, expressed concern over the 10 percent provision. It indicated that graduations at 1 or 2 mph increments could not be controlled consistently enough to guarantee that the angles under 2° do not vary by more than 10 percent. It also indicated that, since, a suppressed zero needle is allowed, foreshortened graduations below the 10 mph increment should also be allowed.

As stated previously, the purpose behind the 10 percent provision was to ensure that the graduations on the speedometer were readable by the driver and that the scale was not crowded at the ends or in the middle. After viewing the Stewart-Warner bi-torque speedometer and variety of

other speedometer faces, the NHTSA has determined that readability does not currently pose a problem for drivers. Stewart-Warner's petition is granted in this respect and the 10 percent provision is deleted. The NHTSA will, however, closely monitor readability and will impose appropriate requirements at a later time if they appear necessary.

**ODOMETERS**

**IRREVERSIBILITY AND INDICATION OF  
TAMPERING**

All of the petitioners addressed the odometer provisions contained in the July 27, 1978 notice. Their primary objections concerned the marking-of-reversal and the irreversibility options.

The December 1976 notice of proposed rulemaking would have allowed manufacturers to produce either an odometer that indicates when it has been turned in the reverse direction or that is designed so it cannot be turned in the reverse direction. The March 1978 final rule provided that odometers must be movable in the forward direction only. Because of the arguments set forth in the first set of petitions for reconsideration, the final rule was modified in July 1978 to allow manufacturers to produce odometers that either permanently mark the ten thousands wheels as it rotates or are irreversible unless the odometer is rendered "permanently and totally inoperable."

General Motors and Stewart-Warner alleged that the shift from the indication of reversal option to the permanently mark option is not practicable and lacks adequate notice.

Ford, General Motors and Stewart-Warner argued that the irreversibility provision in the July 1978 notice is impracticable and subjective because there is no test procedure in the standard which can be followed to determine compliance. Further, General Motors and Stewart-Warner allege that the provision is invalid for lack of adequate notice. The relief sought by the petitioners is, however, varied.

Ford asked that "totally inoperable" be interpreted to mean that the odometer cannot be reversed while it is installed in the vehicle. This interpretation would allow reversal of the odometer once the instrument cluster is dismantled and the speedometer-odometer assembly is removed from the vehicle. Such an interpretation is consistent with Ford's view that Title IV of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1981 *et seq.*) contemplates that odometers be easily repairable.

General Motors made three alternative requests. First, it asked for a delay of 2 years of the effective date for most of the odometer provisions. In support of this request, it submitted a

chart tracing its odometer development program and indicated that the leadtime was necessary in order to implement the marking technique which GM has not previously used. It indicated that the irreversibility option in the July 1978 notice was not being pursued because it believes that the option's requirements cannot be satisfied due to the alleged subjectivity. Second, General Motors asked the agency to reinstate the final rule provision for odometers movable in the forward direction only and the indication-of-reversal option from the NPRM as the alternative options, and extend the effective date by two full model years after publication of a final rule. Third, General Motors asked that the irreversibility and indication of tampering options be withdrawn and a new NPRM be issued with a leadtime of three full model years. The basis for the leadtime request in the third alternative was the assumption that a new final rule would differ substantially from the July 1978 version.

Stewart-Warner requested that the irreversibility provision in the July 1978 notice be deleted and that the language of the final rule that odometers be movable in the forward direction be reinstated. It alleged that the permanently marking option is invalid for lack of notice because it is more stringent than the NPRM's indication of reversal option. It also alleged that it is not practicable to comply with the permanently marking option. Further, Stewart-Warner stated that the best available system for marking, which is patented by Chrysler, would not satisfy the requirement because the ink dries out and can be erased.

Thomas D. Regan also submitted a petition to amend the rule by requiring specific design oriented features. He indicated that the permanently marking requirement was not satisfactory because no external device could retain the ability to mark the ten thousands wheel of an odometer for the period of time it would take to drive 60,000, 70,000 or 80,000 miles. He, therefore, recommended that the gear carrier plates, the parts that retain the small pinion drive and driven gear, be nonrotatable about the shaft on which the wheels are mounted, and be sealed at each end by permanent caps. He recommended also that the wheel indicating the ten thousands of miles or kilometers be designed to break into at least two parts when an attempt is made to pry the ten thousands wheel apart from either of the adjacent wheels or force the internal gears to move.

Meetings were held with each of the petitioners in September and October. Several of the petitioners discussed methods by which they could make

their odometers more tamper resistant. Stewart-Warner suggested that language requiring that the odometer be less accessible be substituted for the irreversibility option. Specifically, they recommended that odometers be permanently encapsulated so that parts of the enclosure must be destroyed to gain access to the wheels. General Motors suggested that the problem of reversibility would be adequately addressed if they were allowed to continue marketing their odometers that expose a bare edge of the pinion gear carrier plate between the wheels when an odometer is reversed and if an educational program were conducted to inform the public of the significance of the exposed carrier plate.

After considering all of the arguments of the petitioners, the agency has determined that the permanently marking option in the July 1978 rule will be retained, but the irreversibility option will be amended.

Although the NPRM did not specify either that the indication of reversal must be permanent or that the indication must consist of marking the ten thousands wheel, it would have required odometers to indicate when any of their wheels had been turned in the reverse direction. Thus, the permanently marking option is less comprehensive than the proposed provision was. Although the requirement for permanent marking was not expressly stated in the NPRM or final rule, it was implicit in the preambles and versions of the rule in those notices. The NPRM preamble stated that the purpose for the odometer requirements was to alert used car purchasers to a form of odometer tampering in order to prevent consumer fraud and the presence of improperly maintained and, therefore, potentially dangerous vehicles on the nation's highways. Any indication which is not permanent would fail to alert all subsequent owners of a vehicle to the fact of reversal. A nonpermanent indication would mean that owners could be lulled into a false sense of security about a vehicle's condition and thus forego needed maintenance or repairs of safety systems. It is also apparent to the agency that reversal of the ten thousands wheel was its most important concern since most reversals involve turning an odometer reading back at least several tens of thousands of miles. The agency also concluded that unless that wheel itself were marked there would be no readily visible indication of reversal. The system which General Motors currently uses is much less readily visible because it does not mark the wheel itself. Accordingly, petitions requesting that this provision be amended on grounds relating to lack of notice are denied.



The agency reaffirms its belief in the practicability of the permanently marking option. Non-drying ink and a porous wheel or wheel covering material could be used to overcome the problems of ink that dries out or that can be easily erased after it has marked the ten thousands wheel. In lieu of using an inking system, manufacturers could use techniques such as electrical discharge or solvents for marking the numbers. Still another approach would be to use a scratching or scoring device.

General Motors inquired whether it was permissible for a marking system to make its mark on a ten thousands wheel digit gradually, i.e., over a distance of 2,000 to 3,000 miles after that wheel rotates to display the next digit. The standard requires that the readily visible, permanent mark be made as the wheel rotates. Thus, the marking system mentioned by General Motors would not comply. The agency believes that the difference between that system and complying ones would be important. For example, if a complying odometer that registered 40,000 miles or kilometers, were turned back to 39,999, the 3 would be visibly marked. However, a General Motors odometer that registered as much as 42,000 could be turned all the way back to 30,000 without a readily visible mark showing up on the ten thousands wheel.

The petitions requesting that the irreversibility option in the July 1978 notice be deleted or amended are partially granted. The "permanently and totally inoperable" language was added to clarify the agency's intent in adopting an irreversibility option to prohibit odometers that could be reversed by such simple methods as rotating the pinion carrier plate or by temporarily removing a component and to afford the manufacturers substantial design flexibility. It has become apparent, however, that not all of these goals can be achieved under the "permanently and totally inoperable" language.

The agency has revised the irreversibility option by deleting the "permanently and totally inoperable" language and making other changes. Like its predecessors, the revised option addresses both reversal of odometers whether or not installed in a vehicle and whether assembled or disassembled, broken or otherwise tampered. The revised option provides more flexibility in selecting compliance methods and permits the use of lower cost, less complicated technology. For example, encapsulation is now a permissible means of compliance. Further, the goal of the option is no longer solely an odometer that breaks when tampered with and thus must be replaced by the tamperer. Instead, the

goal is also that most odometers must be removed from the vehicle before they can be tampered with and will show some telltale sign of tampering. Many current odometers can be reset while still installed in a vehicle. The necessity for removing the odometers will not halt all tampering by professional tamperers, but will significantly slow down and increase the expense of their operation. Detection of tampering will also be facilitated by the revised option. To prevent tamperers from escaping detection by simply replacing a vehicle's odometer with another one set to lower mileage, the agency has published today another notice that would require replacement odometers and replacement odometer wheels to be visually different from original equipment odometers.

The revised option requires that odometers movable in the rearward direction be movable not more than ten miles in that direction when driven through the odometer gear train. With respect to tampering with an odometer other than by driving it through the gear train, the option permits reversal beyond ten miles to occur only if one of the following operations is necessary to make that reversal:

(a) breaking one or more rigid or semi-rigid parts of the odometer so that its recording of distance is impaired;

(b) breaking one or more rigid or semi-rigid parts of the odometer so that the breakage is visible to the driver when the odometer is installed in the vehicle;

(c) breaking or otherwise defeating the staking, crimping, welding or adhesive used to hold the odometer wheel shaft in the speedometer/odometer assembly;

(d) breaking or otherwise defeating the staking, crimping, welding, or adhesive used to secure the retainers that prevent the odometer wheels from moving along the shaft; or

(e) drilling, cutting or breaking a rigid or semi-rigid shield that totally encapsulates the odometer or that encapsulates all of the odometer except the ends of the wheel shaft (the shield does not include the speedometer/odometer display face or lens).

These operations are associated with at least one of the common methods for tampering with odometers. Those methods are:

(1) forcing the odometer wheels apart and out of mesh with the pinion gears by using fingers, a dental pick, and ice pick, small screwdriver or other similar instrument;

(2) applying rotational pressure with fingers or other means to force odometer wheels to override the interference of the pinion gears;

(3) rotating the pinion gear carrier plates; and

(4) disassembling the odometer and reassembling with original or replacement parts.

Manufacturers can ensure that these methods of tampering are accompanied by at least one of the operations listed above by using one of the following techniques. One of the easiest and yet most effective techniques is that suggested by Stewart-Warner, i.e., total encapsulation. That technique would take care of all four methods of tampering. The first and second tampering methods could also be dealt with by reducing the clearances between the odometer wheels; staking, crimping, welding or using adhesives to secure the end retainers on the shaft to prevent wheel and gear separation and using frangible wheels that break if forced to rotate or if forced apart. The third method could be countered by attaching by welding, staking, crimping or adhesive the rigid or semi-rigid part which holds the pinion gear carrier plates in position or by attaching the carrier plates by keying, welding, staking, crimping or adhesive to the odometer shaft. Finally, disassembly could be countered by installing the odometer wheel shaft in the odometer and the odometer in the speedometer/odometer assembly by welding, staking, crimping or adhesive.

As the agency noted in the July 1978 response to petitions, the provisions in FMVSS No. 127 for increasing the tamper-resistance of odometers will be strongly supplemented by the prohibitions in the Motor Vehicle Information and Cost Savings Act against odometer tampering. Each violation of those prohibitions subjects a person to civil penalty of up to \$1,000 and criminal penalty of up to \$50,000 and 1 year imprisonment. For example, section 404 makes it unlawful for any person or his agent to disconnect, reset, or alter the odometer of any motor vehicle with the intent to change the number of miles indicated thereon. This provision would be violated by any person who altered the device for marking the ten thousands wheel so that the device ceased to mark the wheel and who intended to roll back the odometer at a later time. Since there is no innocent purpose for which such an alteration could be made, the requisite intent would be obvious. The motive to make such an alteration is most likely to arise with respect to a vehicle that is expected to accumulate abnormally high mileage within its first year or two of operation. Section 404 would also be violated if a person reduced the mileage shown on a vehicle's odometer. Further, section 407 prohibits replacing one odometer with another unless the replacement odometer is set to the same mileage or, if

such setting is not possible, a notice of replacement is attached to the vehicle.

#### 100,000 INDICATION

The July 27, 1978 rule requires odometers to indicate when they have exceeded 99,999 whole miles or kilometers. General Motors suggested that this provision be changed to permit odometers to indicate when they have exceeded 89,999 whole miles or kilometers at the option of the manufacturer. General Motors is considering a system that marks the 9 digit on the ten thousands wheel while the 0 is showing. Thus, when the 0 rotates to read 1, the 9 will be marked. This results in the mark becoming visible at 90,000 miles or kilometers. If General Motors used the same system for indicating that the odometer has registered 99,999 miles or kilometers as it uses to permanently mark the 10,000 mile or kilometer wheel, then an odometer registering 90,000 miles or kilometers would have the same appearance as one registering 190,000. However, the chance of a person's being misled by the reading seems insubstantial since a vehicle which has actually traveled 190,000 miles or kilometers would show greater signs of wear than one that has traveled less than half that distance. Accordingly, the agency has decided to grant General Motors petition with respect to this issue.

#### TESTING TIRES

The standard provides that vehicles may be tested for compliance purposes with any tire recommended by the vehicle manufacturer. As the July 1978 notice explained, recommended tires includes any new tires installed by the manufacturer on the vehicles as original equipment, whether or not the manufacturer actually recommends them. Also included are all tires actually recommended by the manufacturer as original equipment, whether or not they are installed by the manufacturer. General Motors requested that tires to be used for compliance testing be limited to tires which are "both recommended and installed as original equipment by the vehicle manufacturer." The NHTSA recognizes that the vehicle manufacturers carefully consider tire characteristics in selecting tires to be recommended. The agency also recognizes that test results could be affected by use of tires with different characteristics. The agency believes that the provision currently in the standard should be retained because it is more broadly representative than the alternative suggested by General Motors. Since the manufacturers control the selection of tires for purposes of recommendation or instal-

lation, this approach should pose no unexpected problems for them.

#### OMISSION

In S5.1, the remainder of the last sentence was inadvertently omitted. That sentence is corrected to read: "Each vehicle with a gross vehicle weight rating of over 10,000 pounds is at the weight equal to its gross vehicle weight rating."

Several sections were incorrectly numbered and have been corrected.

#### EFFECTIVE DATE

As stated previously, General Motors asked for a delay of the effective date for the odometer provisions of two years. The NHTSA has taken into the account the amount of time it has taken to respond to the petitions for reconsideration and believes that at one year extension of the lead time for the odometer provisions is adequate. To this extent, General Motors petition is granted.

The effective date for S4.1.3, which requires speedometers to be accurate, is changed from September 1, 1979, to September 1, 1980. A review of the docket comments indicate that present production tolerances of the components in the speedometer gear train, including vehicle tires, cable assembly and speedometer, could result in units that exceed the accuracy limits of plus or minus 4 miles. The agency believes that additional time should be provided to allow manufacturers to fully account for these factors.

In consideration of the foregoing, 49 CFR 571.127, Motor Vehicle Safety Standard No. 127, is revised to read as set forth below.

(Secs. 103, 119, Pub. L. 95-603, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50).

Issued on March 15, 1979.

JOAN CLAYBROOK,  
Administrator.

Standard No. 127 is revised as follows:

§ 571.127 Standard No. 127, Speedometers and Odometers.

S1. Scope. This standard establishes requirements for the installation and accuracy of speedometers and odometers in motor vehicles, limits the speed which can be indicated on a speedometer, and requires that odometers be tamper-resistant.

S2. Purpose. The purpose of this standard is to insure that each motor vehicle is equipped with accurate and reliable instruments needed for monitoring driving speeds, maintaining proper vehicle maintenance schedules, and providing an indication of the vehicle's probable condition.

S3. Application. This standard applies to passenger cars, multipurpose passenger vehicles, trucks, motorcycles, and buses, and to speedometers and odometers for use in vehicles to which this standard applies. Motor driven cycles whose speed attainable in 1 mile is 30 mph or less are excluded.

S4. Requirements.

S4.1 Speedometer.

S4.1.1 Each motor vehicle shall have a speedometer that meets the requirements of S4.1.2-S4.1.5 of this section.

S4.1.2 Each speedometer shall be graduated in miles per hour and kilometers per hour.

S4.1.3 Each speedometer shall indicate a speed that is not more than 4 mph greater than or 4 mph less than the actual vehicle speed when tested under the conditions specified in S5 at speeds of 20 mph, 40 mph, and 55 mph in a vehicle to which this standard applies and for which the speedometer is designed. If the speed attainable in 1 mile under the test conditions specified in S5 is less than any of the test speeds specified in the preceding sentence, the speedometer shall be tested at the attainable speed instead of the greater specified test speeds.

S4.1.4 No speedometer shall have graduations or numerical values for speeds greater than 140 km/h and 85 mph and shall not otherwise indicate such speeds. This paragraph does not apply to a speedometer design for use in or installed in a passenger car sold to a law enforcement agency for law enforcement purposes.

S4.1.5 Each speedometer shall include the numeral "55" in the mph scale. Each speedometer, other than a digital speedometer, shall highlight the number "55" or otherwise highlight the point at which the vehicle speed is equaling 55 mph.

S4.2 Odometer.

S4.2.1 Each motor vehicle with a gross vehicle weight rating of 16,000 pounds or less shall have an odometer that meets the requirements of S4.2.2-S4.2.10 of this section.

S4.2.2 Each odometer shall be capable of indicating distance traveled either, at the manufacturer's option (1) from 0 to not less than 99,999 miles in 1-mile units, or (2) from 0 to not less than 99,999 kilometers in 1-kilometer units, or (3) both.

S4.2.3 As installed in the vehicle for which it is designed, each odometer, other than a motorcycle odometer, shall clearly indicate to the vehicle driver by a sixth wheel or digit, registering whole miles or kilometers, or by a permanent means such as inking, when the number of whole miles or whole kilometers, as appropriate, has exceeded either, at the manufacturer's option, 89,999 or 99,999.



## RULES AND REGULATIONS

S4.2.4 Except as provided in S4.2.8, each odometer shall have a distance indicator that is movable in only the forward direction when driven through the odometer gear train.

S4.2.5 Each odometer shall comply with, at the manufacturer's option, either S4.2.6 or S4.2.7.

S4.2.6 Except as provided in S4.2.8, the distance indicator of each odometer shall not be reversible, whether installed in the vehicle or removed from the vehicle, unless one or more of the following operations is necessary to achieve reversal:

(a) Breaking one or more rigid or semi-rigid parts of the odometer so that its recording of distance is impaired;

(b) Breaking one or more rigid or semi-rigid parts of the odometer so that the breakage is visible to the driver when the odometer is installed in the vehicle;

(c) Breaking or otherwise defeating the staking, crimping, welding or adhesive used to hold the odometer wheel shaft in the speedometer/odometer assembly;

(d) Breaking or otherwise defeating the staking, crimping, welding or adhesive used to secure the retainers that prevent the odometer wheels from moving along the shaft; or

(e) Drilling, cutting or breaking a rigid or semi-rigid shield that totally encapsulates the odometer or that encapsulates all of the odometer except the ends of the shaft.

S4.2.7

S4.2.7.1 Each mechanical odometer shall indicate by means readily visible to the driver each numeral on the wheel registering ten thousands of miles or kilometers as the numeral disappears from the driver's view.

S4.2.7.2 Each electronic odometer shall indicate by means readily visible to the driver if the reading in the position for registering tens of thousands of miles or kilometers has been reduced.

S4.2.8 The distance indicator of an odometer manufactured in accordance with S4.2.4 and S4.2.6 may be reversible up to a distance of not greater than 10 miles.

S4.2.9 (Reserved).

S4.2.10 Each odometer shall indicate a distance that is not more than 4 percent greater than or 4 percent less than the actual distance traveled when tested under the conditions specified in S5 for 10 miles in the case of odometers which measure tenths of miles or kilometers and 25 miles in the case of odometers which do not measure distance in less than whole miles or kilometers, at the speeds specified in S4.1.3, and in a vehicle to which

this standard applies and for which the odometer is designed.

S5 Test conditions. The following conditions shall apply to the tests of speedometer and odometer accuracy.

S5.1 Each vehicle with a gross vehicle weight rating of 10,000 pounds or less is at unloaded vehicle weight, plus 200 pounds (including driver and instrumentation) for motorcycles, and plus 300 pounds (including driver and instrumentation) for other vehicles. The additional weight is in the front seat area. Each vehicle with a gross vehicle weight rating of over 10,000 pounds is at the weight equal to its gross vehicle weight rating.

S5.2 The vehicle is equipped with tires recommended by the vehicle manufacturer.

S5.3 Tire tread depth is not less than 90 percent of the original tread depth.

S5.4 Vehicle adjustments, including tire pressure, are made according to the vehicle manufacturer's recommendations.

S5.5 Tests are conducted on a dry surface.

S5.6 Tests are conducted at any internal, driver compartment temperature between 65 and 80 degrees Fahrenheit, inclusive.

S5.7 The vehicle is driven not less than 5 miles before a test begins.

[FR Doc. 79-8956 Filed 3-21-79; 10:08 am]

## [7035-01-M]

## Title 49—Transportation

CHAPTER X—INTERSTATE  
COMMERCE COMMISSIONSUBCHAPTER A—GENERAL RULES AND  
REGULATIONS

[Service Order No. 1361]

## PART 1033—CAR SERVICE

## Substitution of Trailers for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1361.

SUMMARY: Service Order No. 1361 authorizing The Atchison, Topeka and Santa Fe Railway Company to substitute two trailers for each boxcar ordered on shipments of paper from Houston, Texas, to Cincinnati, Ohio. Service Order No. 1361 will improve utilization during the time of a shortage of boxcars.

DATES: Effective 12:01 a.m., February 24, 1979. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization

and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

Decided: February 23, 1979.

An acute shortage of boxcars for transporting shipments of paper exists on The Atchison, Topeka and Santa Fe Railway Company (ATSF) at Houston, Texas. The ATSF has an available supply of certain trailers that may be substituted for this traffic at the ratio of two trailers for each boxcar, and use of these trailers for the transportation of paper is precluded by certain tariff provisions, thus curtailing shipments of paper. There is a need for the use of these trailers to supplement the supplies of plain boxcars for transporting shipments of paper. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1023.1361 Substitution of trailers for boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations and practices with respect to its car service:

(1) *Substitution of Cars.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) may substitute two trailers for each boxcar ordered for shipments of paper from Houston, Texas destined to Cincinnati, Ohio, and routed ATSF-Consolidated Rail Corporation, subject to the conditions in paragraphs (2) through (4) of this order.

(2) *Concurrence of Shipper Required.* The concurrence of the shipper must be obtained before two trailers are substituted for each boxcar ordered.

(3) *Minimum Weights.* The minimum weight per shipment of paper for which two trailers have been substituted for one boxcar shall be that specified in the applicable tariff for the car ordered.

(4) *Endorsement of Billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1361.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they con-

flict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., February 24, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8739 Filed 3-21-79; 8:45 am]

## [7035-01-M]

[Ex Parte No. MC-109]

PART 1062—REGULATIONS GOVERN-  
ING SPECIAL APPLICATION PRO-  
CEEDINGS FOR FOR-HIRE MOTOR  
CARRIERSApplication Seeking Substitution of  
Single-Line Service for Existing  
Joint-Line Operations

AGENCY: Interstate Commerce Commission.

ACTION: Revision of final rules upon administrative review.

SUMMARY: A petition seeking administrative review and a stay of the effective date of the rules adopted regarding applications seeking substitution of single-line service for existing joint-line operations has been filed by the Motor Carriers Central Freight Association, and 35 of its members. Petitioners have raised a material issue which is discussed below. The final rules (43 FR 59384, Dec. 20, 1978) have been slightly modified for the purpose of clarification. In all other respects, the petition is denied.

## RULES AND REGULATIONS

EFFECTIVE DATE: The rules as modified by this notice remain applicable to applications filed on or after April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Eliot Horowitz, Telephone: 202/275-7973.

SUPPLEMENTARY INFORMATION: These special rules govern the filing and processing of applications by which applicants seek to substitute single-line service for joint-line operations previously conducted. The rules spell out that information which an applicant must furnish, and those circumstances upon which motor carriers may file petitions seeking leave to intervene in a proceeding. Petitioners argue that the subsection of the rules governing "intervention with leave" [49 CFR 1062.2(d)(2)], does not clearly reflect the Commission's intentions as evidenced in the notice of final rules.

## DISCUSSION

In the notice of final rules, the Commission indicated that essential to the proper development of the rules, is ensuring that any joint-line service an applicant seeks to replace has been bona-fide. As pertinent, one issue the Commission would consider is the substantiality of the involved joint-line service. An applicant which has performed only a few, isolated movements in joint-line service cannot, as a matter of right, acquire single-line service under these rules. Rather, the issue of substantiality, as opposed to the issue of whether a public need exists for the proposed single-line service, is one which can be raised by any intervening party.

Accordingly, paragraph (d)(2) of the special rules is revised to read as follows:

§ 1062.2 Special procedures governing applications in which applicants seek operating authority to provide a single-line service in lieu of their existing joint-line operations.

• • • • •

(d) • • • • •  
(2) Petitions with leave may be filed by any carrier based upon an applicant's fitness to provide the proposed service. Such fitness opposition may include challenges concerning the veracity of the applicant's statements filed in support of the application, and the bona-fides of the joint-line service sought to be replaced, including the issue of its substantiality. Petitions with leave containing only unsupported and undocumented allegations will be rejected.

• • • • •

§ 1062.2 [Amended]

Finally, through inadvertence the subparagraph immediately following subparagraph (d)(2) was designated subparagraph (c). The designation is revised to read subparagraph (3).

Decided: March 12, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8781 Filed 2-21-79; 8:45 am]

## [7035-01-M]

## SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 30)]

## PART 1100—RULES OF PRACTICE

Price Competition Among  
Practitioners

AGENCY: Interstate Commerce Commission.

ACTION: Republication of final rules.

SUMMARY: Changes in the Commission's Canons of Ethics to allow price competition among ICC practitioners were the subject of a final rule published in the FEDERAL REGISTER on December 21, 1978 (43 FR 59502). The effective date of the revision of Canon 10 and the elimination of Canon 34 was deferred until February 21, 1979, to provide for further public comment. The only comment received, filed on behalf of the Interstate Commerce Commission Practitioners' Association, raises no issue warranting a change in the Canons as previously published, and they are being allowed to become effective as scheduled. All of the amended Canons are being republished to avoid any confusion over what Canons have been adopted and their effective dates.

DATES: Amended Canons 14, 32, and 33 became effective on January 22, 1979. Amended Canons 10 and 34 are effective on February 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard Armstrong, (202) 275-7426.

RULES ADOPTED AMENDING ITEMS 10, 14, 32, 33 AND 34 OF THE CANONS OF ETHICS (49 CFR PART 1100, APPENDIX A)

10. *Joint association of practitioners and conflicts of opinion.* A client's proffer of the assistance of an additional practitioner should not be regarded as evidence of want of confi-



dence, but the matter should be left to the determination of the client. A practitioner should decline association as colleague if it is objectionable to the practitioner first retained, but if the client should relieve the practitioner first retained, another may come into the case.

When practitioners jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to the client for final determination. The client's decision should be accepted by them unless the nature of the difference makes it impracticable for the practitioner whose judgment has been overruled to cooperate effectively. In this event it is his duty to ask the client to relieve him.

It is the right of any practitioner, without fear or favor, to give proper advice to those seeking relief against an unfaithful or neglectful practitioner, generally after communication with the practitioner of whom the complaint is made.

14. *Fixing the amount of the fee.* In fixing fees, practitioners should avoid charges which overestimate their advice and services. A client's ability to pay cannot justify a charge in excess of the value of the service, although his or her poverty may require a less charge, or even none at all. It is misleading to quote a fee for a specific service in either a public communication or solicitation for employment without adhering to it in charging clients. Practitioners are bound to charge no more than the quoted rates for 30 days following the date of their quotations unless a different period of time for the effectiveness of such rates is clearly specified when quoted, or permission to charge a higher rate is obtained from the Vice Chairman of the Commission.

32. *Public communication and solicitation.* A practitioner shall not in any way use or participate in the use of any form of public communication or solicitation for employment containing a false, fraudulent, misleading, or deceptive statement or claim. Such prohibition includes, but is not limited to, the use of statements containing a material misrepresentation of fact or

omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation; statements that are not objectively verifiable; statements of fee information which are not complete and accurate; statements containing information on past performance or prediction of future success; statements of prior Commission employment outside the context of biographical information; statements containing a testimonial about or endorsement of a practitioner; statements containing an opinion as to the quality of a practitioner's services; or statements intended or likely to attract clients by the use of showmanship, puffery, or self-laudation, including the use of slogans, jingles, or sensational language or format. A practitioner shall not solicit a potential client who has given the practitioner adequate notice that he or she does not want to receive communications from the practitioner, nor shall a practitioner make a solicitation which involves the use of undue influence. A practitioner shall not solicit a potential client who is apparently in a physical or mental condition which would make it unlikely that he or she could exercise reasonable, considered judgment as to the selection of a practitioner. A practitioner shall not pay or otherwise assist any other person who is not also a practitioner and a member or associate of the same firm to solicit employment for the practitioner. If a public communication is to be made through use of radio or television, it must be prerecorded and approved for broadcast by the practitioner. A recording of the actual transmission must be retained by the practitioner for a period of 1 year after the date of the final transmission. A paid advertisement must be identified as such unless it is apparent from the context that it is a paid advertisement. A practitioner shall not compensate or give anything of value to a representative of any communication medium in anticipation of or in return for professional publicity in a news item.

33. (None).  
34. (None).

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8779 Filed 3-21-79; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-90-M]

### DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 12]

#### RULEMAKING PROCEEDINGS

##### Proposed Reimbursement of Participants

AGENCY: Department of Agriculture.  
ACTION: Proposed Rule and Notice of Public Hearings.

SUMMARY: This proposal sets forth proposed regulations which would govern the reimbursement of individuals and groups for certain of the costs of participation in rulemaking proceedings of the Department. They provide for reimbursement of applicants, within budget constraints, when their participation can reasonably be expected to contribute substantially to a full and fair determination of the issues covered at public proceedings when the applicants are otherwise financially unable to appear; they are from the area affected; and the interest they seek to represent is not otherwise adequately represented. The Department invites public comment on the need for the regulations and the criteria and procedures for such regulations.

DATES: Comments must be received on or before May 21, 1979.

Public hearings will be held:

April 24, 1979, 9:00 a.m., in Denver, Colorado;  
April 26, 1979, 9:00 a.m., in San Francisco, California area;  
May 1, 1979, 9:00 a.m., in Washington, D.C.

ADDRESSES: Written comment to: Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

Public hearings will be held at the following locations on the dates shown:

Denver, Colorado, Tuesday, April 24, 1979, beginning at 9:00 a.m. at Stouffers Denver Inn, 3203 Quebec Street, Denver, Colorado  
San Francisco, California area, Thursday, April 26, 1979, beginning at 9:00 a.m., Holiday Inn, 1800 Powell Street, Emeryville, California

Washington, D.C., Tuesday, May 1, 1979, beginning at 9:00 a.m., Jefferson Auditorium, South Building, United States Department of Agriculture, 14th and Independence, S.W., Washington, D.C.

#### FOR FURTHER INFORMATION CONTACT:

Dr. Linley Juers, Acting Director of Public Participation, Room 117-A, United States Department of Agriculture, Washington, D.C. 20250, Phone (202) 447-6667. An approved Draft Impact Analysis is also available from this office.

#### SUPPLEMENTARY INFORMATION:

##### COMMENTS

Interested persons are invited to submit comments concerning this proposal. Comments should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Any person desiring opportunity for oral presentation of views concerning this proposal at any of the public hearings listed herein must make such request to Dr. Juers so that arrangement may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

##### PUBLIC HEARINGS

The purpose of the public hearings is to provide an opportunity for broad public consideration of the proposed regulation.

Material not presented orally may be submitted for the record. A request to make an oral statement including name, address, telephone number, location of hearing to be attended, and approximate length of time required for presentation, should be received by Dr. Juers not later than April 19, 1979. If possible, additional copies of testimony should be provided to the presiding officer at the hearing. Additional written comments for the record may be submitted at the hearing or forwarded to Dr. Juers.

*Conduct of the Hearings.* If time permits, unscheduled speakers will be given an opportunity to be heard. The Department reserves the right to schedule appearances, within time constraints, and to establish the procedures governing the conduct of the hearings. Presentations may have to be limited, based on the number of persons seeking to be heard. Procedural rules for the conduct of the hearings will be announced and provided at the opening of each hearing and will

be available upon request prior to the hearings from Dr. Juers. The hearings will be conducted under the auspices of the Department Public Participation Staff and a Department official will preside. These will be informal proceedings and not judicial or evidentiary-type hearings.

Transcripts of the hearings will be made and the entire record of the hearings will be made available for public inspection in the Office of the Hearing Clerk, 14th and Independence Ave., S.W., Washington, D.C. 20250 approximately 14 days after the close of each hearing.

After consideration of all information presented at the hearings and submitted pursuant to this proposal and any other information available to the Department, a determination will be made as to whether the regulations will be amended as proposed herein.

##### BACKGROUND

Increased public participation and effective, balanced input in Department decisionmaking has been a continuing concern from within and from outside the Department. A Steering Committee was established in January 1978 to pursue the goal of increasing public participation. The Committee held a series of public meetings and invited interested parties to state their views on all aspects of the Department's public participation program, including the reimbursement of participants. Meetings were held with representatives from farm, consumer, and industry organizations.

Mr. Howard Hjort, Director, Economics, Policy Analysis and Budget has appointed Dr. Juers as Acting Director of Public Participation. His office has continued to receive comments and suggestions from the public and various groups on public participation activities in the Department, including the proposed reimbursement of participants.

Public participation in the rulemaking process is an important means of improving the performance and effectiveness of government programs. It is unique information source for obtaining the views and insights of those who will be affected by regulations or programs. Recent case law requires that agencies give the public a meaningful opportunity to participate in the development of regulations. This permits formulation and consideration



of alternative methods of accomplishing the statutory goals of programs.

Access to the rulemaking process may in some cases be limited by the inability of affected parties to meet the costs of participation in rulemaking proceedings. Thus, those parties who could make a useful contribution are unable to participate when the Department invites comments or appearances prior to a final decision. Sometimes the issues are complex, requiring substantial time and study as a prerequisite to effective participation. Funds may be needed for professional services. Groups with a large pecuniary interest in the outcome of a decision may find it worthwhile to make such expenditures. Those with small financial resources may not be able to afford such costs.

The Conference Report on the Agriculture Appropriations Act for Fiscal Year 1979 directed that such reimbursement of participants in regulatory proceedings be done only under regulations promulgated to comply with the Comptroller General's rulings on this matter. These regulations are being proposed in accordance with the directive of the Conferees in order to make such reimbursement of participants available, where useful, in Department rulemaking proceedings.

#### DISCUSSION OF AUTHORITY

Section 628 of Title 31, United States Code, prohibits agencies from using appropriated funds except for the purposes for which the appropriation was made. The Comptroller General, however, has long held that where an appropriation is made for a particular object, purpose, or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of such object, purpose, or program. 6 Comp. Gen. 621 (1927); 17 Comp. Gen. 636 (1938); 29 Comp. Gen. 421 (1950); 53 Comp. Gen. 351 (1973).

The Comptroller General has consistently ruled that a Federal agency may find that it has the implied authority to pay the costs of participants in agency proceedings who meet two basic tests. First, the claimant's participation must "reasonably be expected to contribute substantially to a full and fair determination of the issues". Opinion of the Comptroller General, *Costs of Intervention—Food and Drug Administration*, December 3, 1976 (56 Comp. Gen. 111). The Comptroller General had described this test as requiring the participation to be "essential" or "necessary" but has subsequently modified it to define "essential" as stated above. Second, the payment also must be necessary to enable the person to participate, "that is, lack of financial resources on the part of the person involved would pre-

clude participation without reimbursement". Letter from the Comptroller General to Congressman William Clay, September 22, 1976 (B-139703), concerning the authority of the Federal Communications Commission to reimburse expenses of persons who participate in proceedings before the Commission. The nature of allowable expenses was dealt with in a letter to Miles Kirkpatrick, Chairman, Federal Trade Commission (FTC), July 24, 1972 (B-139703) in which the Comptroller General rules that the FTC may pay the same preparation costs for indigent intervenors as it would incur for its own attorneys, reasoning that such expenses would therefore be necessary for the intervenor. See also, Opinion of the Comptroller General, *Costs of Intervention—Nuclear Regulatory Commission*, February 19, 1976 (B-92288); and Letter from the Comptroller General to Congressman John E. Moss, May 10, 1976 (B-180224).

There are many cases which hold that agency powers are not limited to those expressly granted by the statutes, but include also other powers that may be fairly implied therefrom. *U.S. v. Bailey*, 34 U.S. 238 (1835); *Morrow v. Clayton*, 326 F.2d 36 (10th Cir. 1963). A recent case that deals directly with the issue of whether a Federal agency could pay costs of outside participants is *Greene County Planning Board v. Federal Power Commission*, 559 F.2d 1237 (2d Cir. 1977), cert. denied 434 U.S. 1086 (1978). The Court in that case held that the Federal Power Commission (FPC) has no statutory authority to reimburse petitioners for the cost of appearing before the Commission to oppose construction of a power line.

The Department of Justice's Office of Legal Counsel, in letters dated March 1, 1978, to the Department of Transportation and the Civil Aeronautics Board, has advised that the *Greene* case is not a bar to other Departments granting compensation to intervenors in Agency proceedings. Each Department is required to interpret its own statutes and "determine whether Congress has authorized it, explicitly or implicitly, to provide compensation in proceedings before it." The Attorney General, in a letter to Senators Thurmond and Eastland, dated June 14, 1978, concurred with the opinion of the Office of Legal Counsel and stated that, "[t]he Second Circuit did not decide, indeed it had no jurisdiction to decide, whether other Federal agencies do or do not have statutory authority to make such payments."

In the case of *Chamber of Commerce et al. v. United States Department of Agriculture et al.*, C.A. No. 78-1515 (D.D.C. Oct. 10, 1978), the United States District Court for the District

of Columbia denied a motion for a preliminary injunction which sought to prevent the Department from funding a study by a consumer group on the probable impact of proposed agency rules upon consumers. The Court characterized the issue as whether, in the absence of explicit statutory authority, a Federal agency can fund such a study. The Court found that the plaintiffs were not likely to succeed on the merits of a claim that the Department of Agriculture lacks the authority to fund participation in rulemaking and held that:

"This Court does not quarrel with the statement in *Greene* that '[t]he authority of a Commission to disburse funds must come from Congress.' . . . The Court does feel, however, that numerous authorities support the conclusion that agencies in general, and the *USDA* in particular, have the implied power voluntarily to fund the views of parties whose petition might otherwise go unrepresented." *Chamber of Commerce*, *supra* p. 9 (Emphasis added).

Moreover, the Congress, in appropriating funds for the Department for fiscal year 1979, considered the issue of such funding and by implication recognized the Department's authority to conduct such a program. The Conference Committee on the Agriculture Appropriations Act deleted language from the House bill which have prohibited the availability of funds to pay participants in agency proceedings or activities. In the Conference Committee report, H. Rept. No. 1579, 95th Cong., 2d sess. 29 (1978), the Conferees further provided that programs involving reimbursement of participants shall not be operated until the Department promulgates regulations complying with the Comptroller General's rulings. The Committee report also directed that two additional criteria be established in the operation of such a program: except for expert witnesses whose technical expertise is required, no applicant shall be eligible to receive reimbursement (1) if he is not a resident of the locality to be affected, or (2) if the interest he seeks to represent is already adequately represented.

We invite views on all aspects of the proposal including, but not limited to, the following:

(1) Is there a need for the Department to promulgate such regulations? Will the issuance of such regulations result in added or more balanced presentations of views in Department proceedings?

(2) In addition to the criteria specified by the Comptroller General and the Conference Committee on the Agriculture Appropriations Act, what additional criteria and standards, if any, should the Department adopt for evaluating the strength of an applicant's interest and its potential contribution to the proceedings?

(3) How should the Department define the following:

(a) "affected locality" with respect to the requirement that a participant be a resident of the affected locality; and

(b) "financially unable to appear without receiving reimbursement".

(4) What types of expenses should be reimbursed?

(5) What agency official(s) should make the funding determination?

(6) In what way can the application procedure be streamlined while assuring adequate accountability and that the Department receives all the information it needs to make a determination?

(7) Should there be any simplifying exemptions to the requirements for individual, as opposed to group, applicants?

(8) What should be the standard to determine that an approved applicant generally adheres to his or her proposed presentation? Under what circumstances, if any, should a previously approved applicant be denied reimbursement?

(9) What procedures should be used to reimburse applicants?

In consideration of the foregoing, the Department proposes the regulations as set forth below be included in a new Part 12:

#### PART 12—REIMBURSEMENT OF PARTICIPANTS IN RULEMAKING PROCEEDINGS

##### Sec.

##### 12.1 Purpose.

##### 12.2 Definitions.

##### 12.3 Scope and applicability.

##### 12.4 Applications for reimbursement.

##### 12.5 Processing of applications and criteria for reimbursement.

##### 12.6 Reimbursable costs.

##### 12.7 Supplementary reimbursement.

##### 12.8 Payments to applicants.

##### 12.9 Audits.

##### 12.10 Availability of dockets.

##### 12.11 Authority for the program.

AUTHORITY: 5 U.S.C. 301.

#### § 12.1 Purpose.

This part sets forth the Department's regulations governing the reimbursement of individuals and groups for certain of the costs of participation in rulemaking proceedings of the Department. Applicants are eligible to be reimbursed, within budget constraints, when their participation can reasonably be expected to contribute substantially to a full and fair determination of the issues; they are otherwise financially unable to appear; they are from the area affected; and the interest they seek to represent is not otherwise adequately represented.

#### § 12.2 Definitions.

As used in this part:

(a) "Agency" means each authority of the United States Department of

Agriculture, and includes the Office of the Secretary.

(b) "Agency Head" means the administrator or director of any Agency, and his or her delegate.

(c) "Applicant" means any person requesting compensation under this part to present views as a participant in a rulemaking proceeding, including individuals or any profit or nonprofit group, association, partnership, or corporation. This does not include a local, State, or Federal agency.

(d) "Department" means the U.S. Department of Agriculture.

(e) "Docket" means the file of material relevant to requests for reimbursement under this part.

(f) "Evaluation Board" or "Board" means a panel composed of two permanent members designated by the Director of Public Participation and a third member who shall be the Public Participation Officer of the Agency which is responsible for the proceeding out of which the application arises.

(g) "Locality to be affected" means the United States in the case of proceedings which may have a nationwide impact; and the State or States affected in the case of proceedings which do not have a nationwide impact; or defined by the Agency Head in the notice of the agency proceeding.

(h) "Proceeding" means any phase of a Department rulemaking process that is open to public participation, including any advance notice or notice of proposed rulemaking, or any meeting, hearing, or solicitation of comments in contemplation of rulemaking, except that this does not include adjudications. A proceeding is commenced by publication of a notice in the FEDERAL REGISTER announcing that the Department is soliciting comment on a proposal.

(i) "Qualified applicant" means an applicant the Agency Head or Evaluation Board has determined is eligible for reimbursement under this Part.

(j) "Secretary" means the Secretary of Agriculture or his or her delegate.

#### § 12.3 Scope and applicability.

(a) This part applies to any individual or group seeking financial assistance for participation in a rulemaking proceeding of the Department. It does not, however, create any new right to intervene or otherwise participate in any proceeding. Reimbursement will be limited by the availability of funds and program requirements as determined by the Department.

(b) This regulation is solely for the purpose of establishing internal procedures to assist agencies in determining applicants' eligibility for the reimbursement voluntarily provided by the Department under this regulation. Nothing in this regulation shall be construed to create a cause of action

or to preclude any cause of action which might exist without this regulation.

#### § 12.4 Applications for reimbursement.

(a) Any person may submit an application for reimbursement for participation in an agency proceeding. The application should be submitted as early as practicable.

(b) If the Agency anticipates that reimbursed participation would be especially useful to it in a particular proceeding, it may invite application for reimbursement. The invitation, including a closing date for the submission of application, will be published in the FEDERAL REGISTER and may also be publicized in any other media that appear appropriate. Applications submitted after the closing date will be considered to the extent practicable.

(c)(1) Applications shall be submitted to the Agency Head responsible for the proceeding:

(Agency Head), United States Department of Agriculture, Washington, D.C. 20250.

(2) Alternatively, an applicant may send the application to the Director of Public Participation, United States Department of Agriculture, Washington, D.C. 20250. The Director of that office will promptly send any applications he or she receives to the appropriate Agency Head.

(3) Forms which an applicant may use for applying for reimbursement will be available from the agency responsible for the proceeding.

(d) Each applicant shall provide, in a signed statement, the information requested below in the order specified. Failure to include the requested information may result in a delay in the consideration of the application and may also result in disqualification of the applicant.

(1) The applicant's name and address. In the case of an organization, the names, addresses, and titles of the members of its governing body and a description of the organization's general purposes, size, structure, and Federal income tax status.

(2) An identification of the proceeding for which funds are requested.

(3) A description of the applicant's economic, social, and other interests in the outcome of the proceeding.

(4) The issues planned to be addressed and how the issues affect the applicant's interest in the proceeding. This discussion should explain which ideas or viewpoints the applicant believes are novel or significant, and why the applicant believes that the presentation of these ideas and viewpoints would contribute to a full and fair determination of the issues involved in the proceeding.

(5) A statement of the total amount of funds requested, including an item-



ized statement of the services and expenses to be covered by the requested funds.

(6) Financial status, including:

(i) A listing of the income, assets and liabilities of the applicant as of the date of the application.

(ii) An explanation of why the applicant cannot use any assets it may have in excess of liabilities to cover its costs of participating in the agency proceeding.

(iii) If the applicant is a group, association, partnership, or corporation, the official budget for the current fiscal year of the applicant and a statement of revenues and expenses for the last three fiscal years.

(7) A list of all proceedings of the Federal Government in which the applicant has participated during the past year (including the interest represented and the presentation made) and any amount of financial assistance received from any agency of the Federal Government.

§ 12.5 Processing of applications and criteria for reimbursement.

(a) The Agency Head will process applications. He or she may request applicants to provide additional written or oral information necessary for full consideration of the application. The Agency Head shall file such additional written information, and summaries of oral information with a copy of each application in the docket.

(b) The Agency Head will act on an application as soon as practicable after it is received. If the Agency has invited applications for reimbursement in a particular proceeding, the Agency Head will make every effort to act on the applications within 15 working days after the closing date announced in the invitation.

(c) The Agency Head shall present all applications to the Evaluation Board for review prior to final approval. The Board will either approve or disapprove the Agency Head's decision. The Board will establish guidelines for agencies to follow in submitting applications for review.

(d) In addition to the criteria of paragraph (c) of this section, the Agency Head or Board may consider the importance of the applicant's proposed participation in light of the funding available for reimbursement.

(e) The Agency head or the Evaluation Board may approve an application only if they find that:

(1) The applicant's participation would, or could reasonably be expected to, contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the following factors:

(i) The ability of the applicant to represent in a timely and competent manner the interest it espouses, in-

cluding the applicant's, or its consultant's or attorney's, experience and expertise in the substantive area at issue in the proceeding;

(ii) Evidence of the applicant's relation to the interest it seeks to represent;

(iii) The public interest in promoting new sources of public participation;

(iv) The novelty, complexity, and significance of the issues to be considered in the proceeding; and

(v) The need for representation of a fair balance of interests.

(2) The applicant has demonstrated that it does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this part. In making this determination, the Agency Head and the Evaluation Board may consider, but are not limited to, the following factors:

(i) The amount of an applicant's assets that are firmly committed for other expenditures;

(ii) The amount of its own funds the applicant will spend on its participation; and

(iii) Whether an appearance of being impecunious is achieved by establishing a sham organization to receive reimbursement under this part or other similar Federal reimbursement programs.

(3) Except for expert witnesses whose technical expertise is required, the applicant is a resident of the locality to be affected, and seeks to represent an interest that is not otherwise adequately represented.

(f) The Agency Head shall mail each applicant the written decision of the Department, stating why reimbursement has either been granted or denied in light of the criteria in paragraph (e) of this section. Copies of the decision are filed in the docket.

(g) The Agency head may, for good and timely reason given by an applicant, reconsider the disapproval of all or part of an application. The decision of the Agency Head, concurred in by the Evaluation Board, shall be considered final.

(h) The Department's Public Participation Staff shall periodically review the decisions on reimbursement to assure that the individual Agencies are consistently and correctly applying the eligibility criteria.

(i) The Agency Head shall file copies of any written communication in the docket. It shall similarly file a summary of any oral communication, and mail a copy to the applicant.

(j) Upon request and where practicable the Agency Head may extend any filing period for all parties or postpone any hearings, in order to afford applicants adequate time to prepare their presentations. The Agency Head in deciding whether to make such a deci-

sion shall balance the need to give time to applicants against the need for a speedy resolution of the proceeding.

§ 12.6 Reimbursable costs.

(a) Reimbursement is limited to the actual and reasonable costs authorized and incurred by the applicant's participation. The following costs are reimbursable under this part:

(1) Expenses compensable under this regulation include but are not limited to reasonable attorneys' fees, expert witness fees, the expenses of clerical services, studies, demonstrations, associated travel and subsistence costs, and other reasonable costs of participation actually incurred.

(2) Compensation of an applicant is limited to the actual and reasonable costs of its participation. Compensation paid to the staff of any participating group or organization is limited to the rate of reimbursement normally paid by the participant for staff services and may not exceed the rates paid to Department employees for providing comparable services. Compensation of a participant's contractor may be valued at the prevailing market rates for the kind and quality of service provided, but may not exceed the rates paid to Department employees for providing comparable services.

(3) Reimbursement for travel, subsistence, and miscellaneous expenses must conform to the types and rates prescribed by Department travel regulations.

(4) Compensation is not provided for work performed or costs incurred prior to approval of an application by the Evaluation Board. Compensation is not provided for negotiating claims, answering Department inquiries, or preparing an application.

§ 12.7 Supplementary reimbursement.

(a) Applicants may apply to the Agency Head for supplementary reimbursement if the initial award is insufficient to permit the applicant to complete its proposal and if:

(1) The applicant demonstrates it has been subject to an unforeseeable and material change in its circumstances; or

(2) The applicant or the Agency Head substantially underestimated the probable cost of participation.

§ 12.8 Payments to applicants.

(a) An applicant shall submit a claim for reimbursement for approved costs to the relevant Agency within 90 days of the applicant's completion of participation in the proceeding. Such claims shall include bills, receipts, or other proof of costs incurred for each item of expense exceeding \$10. The relevant Agency will authorize payment of the approved expenses within 30 days of receipt of the applicant's

claim. For good cause shown, partial payments may be made as an applicant's work progresses.

(b) Payment may be denied if the applicant clearly has not provided the representation for which the application was approved.

§ 12.9 Audits.

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of a participant receiving reimbursement under this section. The Secretary shall establish additional guidelines for accounting, recordkeeping, audit, and other administrative procedures which Agencies will follow in granting reimbursement. Applicants shall retain all relevant records supporting a claim for reimbursement for a period of 3 years after receipt of such reimbursement.

§ 12.10 Availability of dockets.

All dockets concerning reimbursement for participation in Department proceedings will be available for inspection and copying through the Department Office of Public Participation at Department headquarters, 14th and Independence Avenue SW., Washington, D.C. 20250.

§ 12.11 Authority for the program.

The following statutes provide implicit authority for the reimbursement of participants in rulemaking proceedings under these statutes.

United States Grain Standards Act, 7 U.S.C. 71 *et seq.*; Federal Plant Pest Act, 7 U.S.C. 150 *aa et seq.*; Plant Quarantine Act, 7 U.S.C. 151-165, 167; Packers and Stockyards Act, 1921, 7 U.S.C. 181 *et seq.*; Agricultural Marketing Agreement Act of 1937, 7 U.S.C. 601 *et seq.*; Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*; Bankhead-Jones Farm Tenant Act, 7 U.S.C. 1010, 1011e; Agricultural Adjustment Act of 1938, 7 U.S.C. 129; Agricultural Act of 1949, 7 U.S.C. 1421 *et seq.*; Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.*; Agricultural Marketing Act of 1946, 7 U.S.C. 1621 *et seq.*; Agricultural Trade Development and Assistance Act of 1954, P.L. 480, 7 U.S.C. 1691 *et seq.*; Consolidated Farm and Rural Development Act, 7 U.S.C. 1921 *et seq.*; Food Stamp Act, 7 U.S.C. 2011-2027; Cotton Research and Promotion Act, 7 U.S.C. 2101 *et seq.*; Animal Welfare Act, 7 U.S.C. 2131 *et seq.*; Potato Research and Promotion Act, 7 U.S.C. 2611 *et seq.*; Egg Research and Consumer Information Act, 7 U.S.C. 2611 *et seq.*; Beef Research and Information Act, 7 U.S.C. 2901 *et seq.*; Wheat and Wheat Foods Research and Nutrition Education Act, 7 U.S.C. 3401 *et seq.*; Commodity Credit Corporation Charter Act, 15 U.S.C. 714 *et seq.*; Multiple Use-Sustained Yield Act, 16 U.S.C. 528-531; Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590a-f; Flood Control Act of 1944 (Sec. 13); Watershed Protection and Flood Prevention Act, 16 U.S.C. 1001 *et seq.*; Wilderness Act,

16 U.S.C. 1131 *et seq.*; National Forest Management Act of 1976, 16 U.S.C. 1600 *et seq.*; Forest and Rangeland Renewable Resources Planning Act of 1974, 16 U.S.C. 1600 *et seq.*; Forest and Rangeland Renewable Resources Research Act of 1978, 16 U.S.C. 1641 *et seq.*; Soil and Water Resources Conservation Act of 1977, 16 U.S.C. 2001 *et seq.*; Cooperative Forestry Assistance Act of 1978, 16 U.S.C. 2101 *et seq.*; Animal Quarantine Laws, 21 U.S.C. 102, 111, 120; Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.*; Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*; Housing Act of 1949, 42 U.S.C. 1471 *et seq.*; Rural Clean Water Act of 1977 (Sec. 35) 33 U.S.C. 1288; National School Lunch Act, 42 U.S.C. 1751-1768; Child Nutrition Act of 1966, 42 U.S.C. 1771-1778.

Prior to the implementation of a reimbursement plan for rulemaking proceedings conducted under other statutes, the Office of the General Counsel (OGC) will review the relevant statute or statutes and determine whether there is explicit or implicit authority for reimbursement for public participation. OGC will make this determination in response to a request from an Agency Head who will make such request:

(a) prior to soliciting applications for reimbursement; or

(b) where such a solicitation is not made, after receiving an application for reimbursement for a specific rulemaking proceeding.

Done at Washington, D.C., on: March 19, 1979.

BOB BERGLAND,  
Secretary.

(FR Doc. 79-8747 Filed 3-21-79; 8:45 am)

[3410-02-M]

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-382]

MELONS GROWN IN SOUTH TEXAS

Decision on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes a marketing agreement and order regulating the handling of melons grown in South Texas.

The proposed order would authorize regulations to fix the grade, size, quality, maturity, pack, container and markings for melons, except watermelons, grown in 19 designated counties in South Texas. The primary objective of the proposal is to improve the quality of melons shipped to markets. This should reduce marketing losses and result in improved returns to growers.

DATES: Referendum Period.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-4722.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued October 26, 1978; published October 31, 1978. (43 FR 50685)

Notice of Recommended Decision—February 6, 1979; published February 12, 1979. (44 FR 8880)

PRELIMINARY STATEMENT

The proposed marketing agreement and order were formulated on the record of a public hearing held at Edinburg, Texas, November 28 through December 1, 1978. Notice of the hearing was published in the October 31, 1978, issue of the FEDERAL REGISTER (43 FR 50685). The notice set forth a proposed order submitted by the South Texas Melon Steering Committee on behalf of melon producers in the proposed production area.

On the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on February 6, 1979, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision which contained notice of the opportunity to file by February 27, 1979, written exceptions thereto. None was filed.

The material issues, findings and conclusions, rulings and general findings of the recommended decision published February 12, 1979, in Volume 44 of the FEDERAL REGISTER (44 FR 8880) are hereby incorporated by reference herein and made a part hereof, subject to the following corrections of inadvertent, grammatical, or obvious errors.

On page 8881, first paragraph, line 1, change "Coastal Bend Districts" to "adjacent areas"; second paragraph, line 2, change "mid April" to "May"

On page 8883, first column, fifth paragraph, line 3, change "handles" to "handlers"; second column, fourth paragraph, line 21, change "and" to "an"

On page 8884, third column, second paragraph, lines 20 and 22, change "commercial" to "commercial"

On page 8885, first column, first paragraph, line 6, change "commercial" to "commercial"; second paragraph, line 5, change "states" to "States"; second column, first paragraph, line 16, change "similar" to "Similar"; line 22, change "familiar" to "familiar"

On page 8887, third column, fifth paragraph, lines 16 & 17, change "sufficient to operate" . . . to "not to



exceed approximately two fiscal periods' expenses."

"On page 8889, second column, last paragraph, line 7, change "of" to "or". On page 8889, third column, fourth paragraph, line 29, change "therefrom" to "therefrom".

On page 8890, first column, second paragraph, line 4, insert "been" after "have".

On page 8891, third column, first paragraph, line 2, change "Kelleberg" to "Kleberg".

On page 8892, first column, section 18, change "an" to "and".

On page 8892, first column, section 18, line 2, insert "Grown" after "Melons".

On page 8892, second column, second paragraph, line 6, change "at least 100 percent" to "all".

On page 8893, first column, section 30, line 9, change "Secretary" to "Secretary".

On page 8895, second column, paragraph (b)(2), change "natures" to "maturities".

**Marketing agreement and order.** Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Melons Grown in South Texas," and "Marketing Order Regulating the Handling of Melons Grown in South Texas," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

**It is hereby ordered,** that this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order which is published with this decision.

**Referendum order.** It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.) to determine whether the issuance of the annexed order regulating the handling of melons grown in South Texas is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be January 1, 1978, to December 31, 1978.

The agents of the Secretary to conduct such referendum are hereby designated to be David B. Fitz and Robert F. Matthews.

A Final Impact Analysis is available from Charles R. Brader, Acting Director, Fruit and Vegetable Division,

<sup>1</sup>Marketing agreement is filed with original.

AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 447-4722.

Copies of this Decision are being mailed to known interested persons. Others may obtain copies from Mr. Brader or David B. Fitz, Marketing Field Office, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 320 North Main, Room A-103, McAllen, Texas 78501.

Signed at Washington, D.C., on: March 19, 1979.

P.R. "BOBBY" SMITH,  
Assistant Secretary for Marketing and Transportation Services.

Marketing Order 'Regulating the Handling of Melons Grown in South Texas

#### FINDINGS AND DETERMINATIONS

(a) **Findings upon the basis of the hearing record.** Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of melons grown in South Texas.

Upon the basis of the record it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of melons grown in the production area in the same manner as, and is applicable only, to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of melons grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of melons grown in the production area is in the current of interstate or foreign commerce or

<sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

directly burdens, obstructs, or affects such commerce.

#### ORDER RELATIVE TO HANDLING

**It is therefore ordered,** That on and after the effective date hereof, the handling of melons shall be in conformity to and in compliance with the following terms and conditions:

The provisions of the proposed order contained in the recommended decision issued by the Deputy Administrator on February 6, 1979, and published in the FEDERAL REGISTER on February 12, 1979 (44 FR 8880), shall be and are the terms and provisions of this order, and are set forth in full herein.

Marketing Order 'Regulating the Handling of Melons Grown in South Texas

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#### DEFINITIONS

- § 1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

- § 2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

- § 3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

- § 4 Production area.

"Production area" means the counties of Bee, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Live Oak, McMullen, Nueces, Refugio, San Patricio, Starr, Webb, Willacy, and Zapata in the State of Texas.

- § 5 Melons.

"Melons" means all varieties of *Cucumis melo*, commonly called muskmellons and including but not limited to varieties *reticulatus* and *inodorus*, grown in the production area. Such varieties include cantaloupes, honeydew and honey ball melons. Watermelon

(*Sitruillus lanatus*) are not included in the foregoing definition.

- § 6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of melons owned by another person) who handles melons or causes melons to be handled.

- § 7 Handle.

"Handle" or "ship" means to harvest, grade, package, sell, transport, or in any other way to place melons grown in the production area, or cause such melons to be placed, in the current of commerce within the production area or between the production area and any point outside thereof. Such term shall not include the transportation, sale, or delivery within the production area of field-run melons to a person for the purpose of having such melons prepared for market.

- § 8 Grower.

"Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the production of melons for market.

- § 9 Committee.

"Committee" means the South Texas Melon Committee established pursuant to § 22.

- § 10 Fiscal period.

"Fiscal period" means the annual period beginning and ending on such dates as may be approved by the Secretary pursuant to recommendations of the committee.

- § 11 Grade, size, and maturity.

"Grade," "size," and "maturity" mean, respectively, any of the officially established grade, size, or maturity definitions as set forth in the U.S. Standards for Grades of Cantaloupes (§§ 2851.475-2851.494(c) of this title) or U.S. Standards for Grades of Honey Dew and Honey Ball Type Melons (§§ 2851.3740-2851.3749 of this title), including amendments, modifications, or variations thereof, or such other grades, sizes, and maturities as may be recommended by the committee and approved by the Secretary.

- § 12 Grading.

"Grading" is synonymous with "preparing melons for commercial market" and means sorting or separation of melons into grades, sizes, maturities, or packs or any combination thereof, for handling.

- § 13 Pack.

"Pack" means a quantity of melons specified by grade, size, weight, or count, or by type or conditions of container, or any combination of these

recommended by the committee and approved by the Secretary.

- § 14 Container.

"Container" means any carton, crate, box, bag, hamper, pallet bin, package, basket, bulk load, or any other type of receptacle used in handling melons.

- § 15 Varieties.

"Varieties" means and includes all classifications, subdivisions, or types or melons according to those definitive characteristics now and hereinafter recognized by the U.S. Department of Agriculture or recommended by the committee, and approved by the Secretary.

- § 16 Export.

"Export" means shipment of melons to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

- § 17 District.

"District" means each of the geographic divisions of the production area initially established pursuant to § 24 or as reestablished pursuant to § 25.

- § 18 Part and subpart.

"Part" means the Order Regulating the handling of Melons Grown in South Texas and all rules and regulations, and supplementary orders issued thereunder. The aforesaid Order Regulating the Handling of Melons Grown in South Texas shall be a "subpart" of such "part."

#### COMMITTEE

- § 22 Establishment and membership.

(a) There is hereby established a South Texas Melon Committee, consisting of ten (10) members, to administer the terms and provisions of this part. Six members shall be growers, three members shall be handlers, and one shall be a public member. Each shall have an alternate who shall have the same qualifications as the member.

(b) Each member, other than the public member, shall be an individual who is, prior to his selection and during his term of office (1) a resident of the production area, and (2) a grower or handler, or an officer or employee of a grower or handler, or of growers' cooperative marketing organization.

(c) Five members shall be growers from District No. 1 and one member shall be a grower from District No. 2. No person, if he handles melons, shall be eligible for selection as a grower member on the committee unless all of the melons handled by him during the



fiscal period immediately preceding his proposed selection to the committee were his own production or unless such person is an officer or employee of a growers' cooperative marketing association. Three members shall be handlers from District No. 1.

(d) The public member and alternate shall be a resident of the production area and be neither a grower nor a handler and shall have no direct financial interest in the commercial production, financing, buying, packing or marketing of melons, except as a consumer, nor shall such person be a director, officer or employee of any firm so engaged.

#### § .23 Term of office.

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of committee members and their respective alternates shall be for two years and shall begin as of March 1 and end the last day of February or for such other two year period as the committee may recommend and the Secretary approve. The terms shall be so determined that approximately one-half of the total committee membership shall terminate each year. Members and alternates shall serve in such capacity for the portion of the term of office for which they are selected and have qualified, and until their respective successors are selected and have qualified;

(b) The term of office of the initial members and alternates shall begin on the effective date of this subpart. Approximately one-half the initial committee members and alternates shall serve for a 1 year term.

#### § .24 Districts.

To determine a basis for selecting committee members, the following districts of the production area are hereby initially established:

District No. 1: (Valley) the counties of Cameron, Hidalgo, Starr, Brooks, Kleberg, Jim Hogg, Kenedy, and Wilbrey in the State of Texas.

District No. 2: (Laredo-Coastal Bend) the counties of Zapata, Webb, Duval, Jim Wells, Nueces, San Patricio, La Salle, McMullen, Live Oak, Bee, and Refugio in the State of Texas.

#### § .25 Redistricting.

The committee may recommend, and the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to:

(a) Shifts in melon acreage within the districts and within the production area during recent years;

(b) The importance of new production in its relation to existing districts;

(c) The equitable relationship of committee membership and districts; and

(d) Other relevant factors. No change in districting or in apportionment of members within districts may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than 6 months prior to such date.

#### § .26 Nominations.

(a) Initial members. For nominations to the initial committee, the meeting or meetings may be sponsored by the U.S. Department of Agriculture or by any agency or group requested to do so by the Department. The nominations, resulting from these meetings, for each of the six initial grower and three initial handler members of the committee, together with nomination for the initial alternate members for each position shall be submitted to the Secretary prior to the effective date of this subpart.

(b) Successor members. (1) The committee shall hold or cause to be held, not later than January 15 of each year, or such other date as may be specified by the Secretary, a meeting or meetings of growers and handlers in each district for the purpose of designating at least one nominee for each position as member and for each position as alternate member of the committee which is vacant, or which is about to become vacant;

(2) The names of nominees shall be supplied to the Secretary at such time and in such manner and form as he may prescribe;

(3) Only growers may participate in designating grower nominees and only handlers may participate in designating handler nominees to the committee;

(4) Only growers and handlers who are present at such nomination meetings, or represented at such meetings by a duly authorized employee, may participate in the nomination and election of nominees for members and their alternates.

(c) Each person, whether grower or handler, is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one vote for each position to be filled;

(d) The public member and alternate member shall be nominated by the members of the committee. The public member and alternate member shall not be growers or handlers, or employees of growers or handlers. The committee shall recommend rules for receiving names of persons to be considered for nomination to the public member and alternate positions. Rules shall also be recommended for establishing eligibility of persons nominated to the public member and alternate positions. The persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15, or such other date recommended by the committee and approved by the Secretary, of the years the terms expire together with information deemed pertinent by the committee or as requested by the Secretary. The names of the nominees for the initial public member and alternate shall be submitted to the Secretary not later than 90 days after the first regular meeting of the initial South Texas Melon Committee.

(a) Seven members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee actions.

(b) In assembled meetings all votes shall be cast in person. However, the committee may provide for meetings by telephone, telegraph, or other means of communication and any vote cast at such meetings shall be promptly confirmed in writing and recorded in the minutes of each meeting so as to reflect how each member voted.

#### § .28 Failure to nominate.

If nominations, including initial nominations, are not made within the time and manner prescribed in § .26, the Secretary may, without regard to nominations, select the members and alternates on the basis of the representation provided for in § .22.

#### § .29 Acceptance.

Any person selected by the Secretary as member or as an alternate member of the committee shall, prior to serving as such, qualify by filing a written acceptance with the Secretary within the time period specified by the Secretary.

#### § .30 Vacancies.

To fill committee vacancies, the Secretary may select members or alternates from nominees on the latest nomination reports or from nominations made in the manner specified in § .26 or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the vacancy may be filled without regard to nomination, but such selection shall be made on the basis of representation provided for in § .22.

#### § .31 Alternate member.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence or when designated to do so by such member. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or his alternate or the

committee, in that order, may designate another alternate from the same district and the same group (handler or grower) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

#### § .32 Procedure.

(a) Seven members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee actions.

(b) In assembled meetings all votes shall be cast in person. However, the committee may provide for meetings by telephone, telegraph, or other means of communication and any vote cast at such meetings shall be promptly confirmed in writing and recorded in the minutes of each meeting so as to reflect how each member voted.

#### § .33 Expenses.

Members and alternates, when serving as members of the committee, shall serve without compensation but shall be reimbursed for such expenses authorized by the committee and necessarily incurred by them in attending committee meetings and in the performance of their duties under this part: *Provided*, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

#### § .34 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

#### § .35 Duties.

The committee shall have, among others, the following duties:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees, and to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary, and to recommend nominees for the public member and alternate;

(b) To act as intermediary between the Secretary and any grower or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to melons;

(f) To recommend research projects to the Secretary in accordance with this part;

(g) To notify handlers of each meeting of the committee to consider recommendations for regulations and of all regulatory actions taken which might affect growers or handlers and to provide such notification to producers through appropriate news releases or such other means as may be available to the committee;

(h) To give the Secretary the same notice of meetings of the committee and its subcommittee as is given to its members;

(i) To prepare a marketing policy;

(j) To recommend marketing regulations to the Secretary;

(k) To recommend rules and procedures for, and to make determination in connection with appropriate safeguards;

(l) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(m) Prior to or at the beginning of each fiscal period, to prepare a budget of anticipated expenses for such fiscal period, together with a report thereon;

(n) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(o) To prepare and forward to the Secretary, prior to the last day of each fiscal period, an annual report, and make a copy available to each handler and grower who requests it. This annual report shall contain at least:

(1) A complete review of the regulatory operations during the fiscal period;

(2) An appraisal of the effect of such regulatory operations upon the melon industry; and

(3) Any recommendations for changes in the program.

(p) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by growers and handlers; and

(q) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper activities and objectives under this part.

#### EXPENSES AND ASSESSMENTS

#### § .40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred during each fiscal period by the committee for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each first handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of melons handled by him as the first handler thereof during a fiscal period and the total quantity of melons so handled by all handlers as first handlers thereof during such fiscal period.

#### § .41 Budget.

Prior to or at the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

#### § .42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles melons shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses;



(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information;

(c) At any time during or after a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment in conformance with § .41. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the assessment rate. Such increase shall be applicable to all melons which were handled by each first handler thereof during such fiscal period;

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative;

(e) To provide funds for the administration of the provisions of this part the committee may accept the payment of assessments in advance;

(f) If a handler does not pay his assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest charge at rates prescribed by the committee with the approval of the Secretary.

#### § .43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part. At the end of the fiscal period an annual financial audit shall be conducted by a competent accountant and two copies sent to the Secretary;

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds, and property (including but not limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the successor, the committee, or person designated by the Secretary, the right to all such property and funds and all claims vested in such person;

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any

other person to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect, and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

#### § .44 Excess funds.

(a) If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of any such assessments which represent payments by the handler in excess of his pro rata share, shall be credited with such refund against his operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established, except funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Any funds remaining after termination should be refunded to handlers on a pro rata basis. If it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate;

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided for in subparagraph (1) of this paragraph, it shall be refunded proportionately to the handlers from whom collected, except any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due to the committee from such handler.

#### RESEARCH AND DEVELOPMENT

##### § .48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and

development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of melons. The expenses of such projects shall be paid from funds collected pursuant to § .42

#### REGULATIONS

##### § .50 Marketing policy.

(a) Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § .51, and as the Secretary may require, the committee shall prepare a marketing policy statement. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available at the committee office to all interested parties;

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to melon supplies for the remainder of the season, with special consideration to:

- (1) Estimates of total supplies including grade, size, and quality thereof, in the production area;
- (2) Estimates of supplies of melons in competing areas;
- (3) Estimates of supplies of other competing commodities;
- (4) Market prices by grades, sizes, containers, and packs;
- (5) Anticipated marketing problems;
- (6) Level and trend of consumer income; and
- (7) Other relevant factors.

##### § .51 Recommendations for regulations.

Upon complying with requirements of § .50, the committee may recommend regulations to the Secretary when it finds that such regulations as are authorized in this order will tend to effectuate the declared policy of the act.

##### § .52 Issuance of regulations.

(a) The Secretary shall limit by regulation the handling of melons when he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

- (1) Limit the handling of particular grades, sizes, maturities, qualities, or packs, or any combination thereof, of any or all varieties of melons during any period;
- (2) Limit the handling of particular grades, sizes, maturities, qualities, or packs of melons differently for different varieties, for different markets, for different containers, or any combina-

tion of the foregoing, during any period;

(3) Fix the size, capacity, weight, dimension, or pack of the container, or containers, which may be used in the packaging or handling of melons, including appropriate container markings to identify the contents thereof.

(c) The regulations or any portions of such regulations issued hereunder may be amended, modified, suspended, or terminated by the Secretary whenever it is determined:

(1) That such action is warranted upon recommendation of the committee or other available information;

(2) That such action is essential to provide relief from inspection, assessment, or regulations under paragraph (b) of this section for minimum quantities less than customary commercial transactions; or

(3) That regulations issued hereunder obstruct or no longer tend to effectuate the declared policy of the act.

##### § .54 Handling for special purposes.

Regulations in effect pursuant to § .42, § 52, or § .60 may be modified, suspended, or terminated by the Secretary, upon recommendation of the committee, to facilitate handling of melons for: (a) Relief or charity, (b) experimental purposes, (c) exports, and (d) other special purposes, which may be recommended by the committee and approved by the Secretary.

##### § .55 Safeguards.

The committee, with the approval of the Secretary, may establish, through rules and regulations, the requirements with respect to proof that shipments made pursuant to § .54 were handled and used for the purpose stated.

##### § .56 Notification of regulation.

The Secretary shall promptly notify the committee of regulations issued and of any modification, suspension, or termination thereof. The committee shall give notice thereof to all handlers of melons in the production area. In addition, the committee shall make the information available to growers through appropriate news releases or such other means as may be available.

#### INSPECTION

##### § .60 Inspection and certification.

(a) Whenever the handling of melons is regulated pursuant to § .52 or at other times when recommended by the committee and approved by the Secretary, no handler shall handle melons unless they are inspected by an authorized representative of the Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to § .52(c), or § .54, or paragraph (b) of

this section. The cost of such inspection shall be borne by the applicant.

(b) Regrading, resorting, repacking any lot of melons, or breaking any lot (without continuing identification of applicable inspection or subcertification thereof) shall invalidate any applicable inspection certificate insofar as the requirements of this section are concerned. No handler shall handle melons after a lot has been broken, regraded, repacked, or resorted, or in any other way additionally prepared for market, unless such melons are inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, repacked, or broken lots of melons may be modified, suspended or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When melons are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the Inspection Service.

(e) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of melons by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or such other documents as may be required by the committee. Such certificates or documents shall be surrendered to proper authorities at such time and in such manner as may be designated by the committee, with the approval of the Secretary.

#### REPORTS

##### § .80 Reports.

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and form and at such time as it may be prescribed, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following:

- (1) The number of acres of melons and the approximate dates planted, for all melons which will be handled by each handler;
- (2) The quantities of melons received by a handler;
- (3) Identification of the inspection certificates relating to the melons which were handled pursuant to § .52 or § .54 or both.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least 2 succeeding years such records and documents on melons received by him as may be necessary to verify reports submitted to the committee pursuant to this section.

(d) For the purpose of assuring compliance with recordkeeping requirements and certifying reports of handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are located, and where melons are handled, and at any time during reasonable business hours shall be permitted to inspect such handler's premises and examine any and all records of such persons with respect to matters within the purview of this part.

(e) Any person filing a report, record or application that is willfully misrepresented shall be subject to the legal penalties for such misrepresentation of Government reports.

#### COMPLIANCE

##### § .81 Compliance.

Except as provided in this subpart, no handler shall handle melons, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle melons except in conformity with the provisions of this part.

#### MISCELLANEOUS PROVISIONS

##### § .82 Right of the Secretary.

The members of the committee (including successors and alternates) and any agents or employers appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decisions, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.



## PROPOSED RULES

## § .83 Effective time.

The provisions of this subpart or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

## § .84 Termination.

(a) The Secretary shall, whenever he finds that any or all provisions of this subpart obstruct or do not tend to effectuate the declared policy of this act, terminate or suspend the operation of this subpart or such provision thereof.

(b) The Secretary shall terminate the provisions of this subpart at the end of the then current fiscal period whenever he finds that such termination is favored by a majority of the growers who, during a representative period determined by the Secretary, have been engaged in the production for market of melons within the production area: *Provided*, That such majority has during such representative period, produced for market more than 50 percent of the volume of such melons produced for market.

(c) The provisions for this subpart shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

## § .85 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as joint trustees for the purpose of settling the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of

the committee and upon the said trustees.

## § .86 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

## § .87 Duration of immunities.

The benefits, privileges and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

## § .88 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

## § .89 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

## § .90 Personal liability.

No member or alternate member of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others in any way whatever, to any handler or to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate, agent or employee, except for acts of dishonesty, willful misconduct or gross negligence.

## § .91 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

## § .92 Amendments.

Amendments to this subpart may be proposed from time to time, by the committee or by the Secretary.

[FR Doc. 79-8783 Filed 3-21-79; 8:45 am]

[3410-02-M]

[7 CFR Part 1004]

[Docket No. AO-160-A55]

## MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

**SUMMARY:** This decision is based on milk industry proposals considered at a public hearing held in October 1978. The decision would reduce the pooling requirements for distributing plants and reserve processing plants and permit a federation of cooperative associations to operate a pool reserve processing plant. The decision would also increase the number of days' milk production of a producer that may be diverted monthly to nonpool plants as pooled milk during the months of September through February. These changes are adopted in response to changed supply-demand conditions and methods of handling the market's reserve milk supplies and are necessary to assure orderly milk marketing.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of Hearing issued September 14, 1978, published September 19, 1978 (43 FR 41990).

Order Suspending Certain Provisions issued October 18, 1978, published October 23, 1978 (43 FR 49285).

Order Suspending Certain Provisions: Correction issued November 13, 1978, published November 16, 1978 (43 FR 53413).

Recommended decision issued January 19, 1979, published January 25, 1979 (44 FR 5140).

## PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held, pursuant to the provisions of

## PROPOSED RULES

the Agricultural Marketing Agreement Act of 1937, as amended (7 CFR Part 900), at Philadelphia, Pa. on October 3-4, 1978, pursuant to notice thereof issued on September 14, 1978 (43 FR 41990).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Marketing Program Operations, on January 19, 1979, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

## Index of Changes:

1. Issue No. 1—The 11th paragraph is revised.
2. Issue No. 4—The 15th paragraph is revised.
3. Issue No. 5—This issue considered whether an emergency existed that would warrant the omission of a recommended decision. Since that issue is now moot, it is not included in this final decision.

The material issues on the record relate to:

1. Pooling standards for distributing plants.
2. Diversion provisions.
3. Pooling standards for reserve processing plants.
4. Payments by handlers for certain milk received from other Federal order markets.

## FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

## 1. Pooling standards for distributing plants.

The requirements that a distributing plant must meet to qualify as a pool plant during September through February should be changed. The order now requires that a pool distributing plant must have not less than 40 percent for each month of March through August and 50 percent for each month of September through February of its receipts of milk disposed of as Class I milk during the month. This should be changed by providing that the total Class I disposition requirement be 40 percent during all months.

A federation of five dairy cooperative associations, representing approximately 75 percent of the market's producers, proposed changing the requirement that a pool distributing plant must have not less than 50 percent of its receipts of milk disposed of as Class I milk during each month of Septem-

ber through February. The cooperative federation proposed decreasing the 50 percent requirement to 40 percent.

The federation's witness contended that there have been recent changes in marketing conditions within the Middle Atlantic marketing area that necessitate the proposed modification of the Order 4 distributing plant performance requirements. The changed conditions referred to by the witness include a downward trend in Class I sales and Class I utilization percentage. The proponent witness pointed out that since the marketing area was expanded in 1975 there has been a significant decrease in the Order 4 Class I utilization. He noted that during 1976 and 1977, producer receipts increased while Class I sales remained at about the 1975 level, thus causing the Class I utilization percentage to decrease. He also pointed out that on May 1, 1978 a large distributing plant shifted its market affiliation from Order 4 to Order 2, the order for the New York-New Jersey market. This, he claimed, decreased the Order 4 Class I sales and further reduced the Order 4 Class I utilization percentage. The proponent witness also contended that the need for reserve milk supplies has been increasing over the years due to the changing pattern of distribution, reduced number of plants, large number of three-day holiday weekends and changing processing practices at distributing plants.

The federation's witness pointed out that due to increased supplies during the flush production months of 1976 and 1977, it was necessary to suspend the requirement that distributing plants dispose of 50 percent of their producer receipts as Class I milk. The witness stated that within the last two years four of the federation's five cooperatives and various pool plants would have had trouble pooling milk under Order 4 if there had not been timely suspensions of the pool distributing plant Class I disposition percentage. He noted that prior to the suspensions there had been several times when fluid milk handlers and individual dairy farmers had lost their pool status because of the existing pooling requirements. He contended that it is not a stable condition when order provisions must be suspended each time there is a problem in maintaining pooling status for plants and producer milk supplies.

An Order 4 proprietary handler testified in support of the proposed decrease in the distributing plant performance level for September through February. However, the handler also proposed that for the months of March through August the Class I disposition requirement for a distributing plant be decreased from the present

level of 40 percent to 30 percent. The handler's witness contended that this was necessary because of the seasonal differences in Class I utilization.

The witness noted that during the periods of March through August 1976 and September 1976 through February 1977 the Order 4 Class I sales were 57.93 percent and 62.28 percent, respectively, of the receipts from producers. He also noted that the Class I utilization for the same periods a year later were 55.09 percent and 59.69 percent, respectively. He indicated that the 1976 seasonal difference in Class I utilization was 4.35 percentage points and the 1977 difference was 4.60 percentage points. It was the witness' contention that these statistics clearly demonstrate a continuing trend requiring a seasonal variation in the Order 4 pooling requirement.

At the hearing and in its brief, the proponent federation supported a 40 percent year-round distributing plant performance standard, rather than one that changes seasonally. The federation contended that the 40 percent requirement adequately accommodated the needs of the reserve supplies of the market.

A producer in the market testified in opposition to any reduction in the distributing plant performance requirements. He contended that the proposal would remove the incentive for producers to control production because they would not have any problem pooling additional milk. He also contended that additional milk supplies were not needed to meet the market's Class I requirements and that any such milk would decrease the Order 4 Class I utilization and the returns to producers.

The supply-demand relationship for milk associated with the market has changed significantly since June 1975 when the marketing area was expanded. Since then, there has been a steady decline in the percent of producer milk assigned to Class I use. Until May 1978 this had occurred primarily because producer milk receipts had increased substantially while Class I use had been relatively unchanged, with the latter varying from above year-earlier levels in some months to below year-earlier levels in other months. However, on May 1, 1978 the largest distributing plant under Order 4 became regulated under Order 2. This resulted in a substantial decrease in Order 4 Class I disposition. For example, September 1976 and September 1977 Class I disposition by pool handlers were 2.3 percent and 1.4 percent, respectively, above a year earlier. However, the total Class I disposition in September 1978<sup>1</sup> was 14.1 percent

<sup>1</sup>Official notice is taken of the Middle Atlantic Market Administrator's Bulletin, Issue No. 10, 1978.



below September 1977. In the 5 months following April 1978, the Class I disposition averaged over 12 percent less than year-earlier levels in the same months. Also, the market's Class I utilization percentage has decreased substantially since the marketing area was expanded in 1975. The Order 4 Class I utilization percentage for June through September 1978 averaged 11.7 percentage points less than for the same months in 1975. These data clearly indicate significant changes in the market's supply-demand relationship for milk.

Increasing supplies of milk relative to Class I sales necessitated the suspension of the 50 percent Class I pooling standard for certain months during each of the last three years. The 50-percent requirement was suspended for June and July 1976, May through August 1977, and again in 1978 during April through October. A suspension action reduced the 50-percent requirement to 40 percent for the months of November 1978 through February 1979. The need for the suspensions stemmed from a continuing downward trend in the Class I utilization percentage of the market. These actions were taken to prevent some distributing plants, and thus the milk of producers who regularly supply these plants, from losing pool status. A reduced pooling standard should minimize the need for such suspension actions.

As a proprietary handler's witness pointed out, there is seasonal variation in the market's Class I utilization. However, the market's Class I utilization has never dropped below 49 percent. It is therefore anticipated that a 40 percent Class I disposition requirement throughout the year will provide handlers, cooperative and proprietary alike, with a reasonable means for assuring the pooling of distributing plants. In exceptions to the recommended decision the proprietary handler contended that the Class I disposition requirement should be reduced below 40 percent during the months of March through September. Although there is some seasonal variation in the market's Class I utilization, the record does not indicate that a performance percentage of less than 40 percent is needed in any month to accommodate the pooling of milk associated with the market.

As noted by the dairy farmer mentioned earlier, it is true that the market's Class I utilization percentage would decrease if producer milk increased without a proportionate increase in the Class I demand. This in turn would lower the Middle Atlantic weighed average price for all producer milk. However, the record evidence fails to support the witness' contention that lowering the distributing

plant pooling standards would remove the incentive for producers to control production. For the reasons stated, the proposed change in the pooling standards is needed at this time and should be adopted.

2. *Diversions provisions.* The order should be amended to increase to 18 days the number of days' production of an individual producer that may be diverted to nonpool plants each month during the period of September through February.

The order now provides that a handler's total monthly diversions to nonpool plants during September through February may not exceed 25 percent of the milk delivered to the handler by dairy farmers during the month. Alternatively, up to 15 days' production of each dairy farmer may be diverted during the month of nonpool plants. No diversion limitations apply during the months of March through August.

A proprietary handler proposed that limits now applicable on diversions to nonpool plants during September through February be eliminated. In support of the proposal, the handler's spokesman stated that prevailing marketing conditions do not warrant diversion limits to nonpool plants. He indicated that while production per producer has been increasing in the Middle Atlantic procurement area, the market's total Class I sales have been decreasing. Consequently, he contended, diversions of Order 4 producer milk to nonpool plants have been rapidly increasing in connection with the need to handle the market's reserve supplies.

Proponent claimed that his distributing plant has been faced with the same supply-demand changes that have occurred marketwide. The witness stated also that approximately 50 percent of the milk he pools is presently being diverted. However, because of increasing milk production and the difficulty of maintaining Class I sales, he anticipates that his Class I utilization could drop to around 47 percent, thus increasing the proportion of his milk supply that would have to be disposed of outside his distributing plant. Proponent stated that the Order 4 diversion limits have forced milk to be received at his pool plant and then transferred when it could have been marketed more efficiently through direct delivery to a nonpool plant. He contended that the order's diversion limitations should be eliminated because of the same marketwide conditions that necessitate a reduction in the distributing plant performance requirements.

Proponent noted that if the limitations on diversions were removed, the pool plant performance requirements would still limit the amount of milk that could be diverted to nonpool

plants. Since 40 percent of a handler's milk would have to be received and utilized in Class I at an Order 4 distributing plant, no more than 60 percent could be diverted.

Deletion of the limits on diversion of milk to nonpool plants was opposed at the hearing by a federation of cooperatives. A witness for the cooperatives stated that the present provisions have been adequate and will continue to be so in the foreseeable future. Removal of the diversion limits, he contended, would permit milk to be pooled for manufacturing uses on a year-round basis and not be made available for fluid use. He also contended that this should not be encouraged in the Middle Atlantic market, since many handlers need supplemental milk supplies during peak days of fluid milk demand. He stated that each year when schools reopen his cooperative must completely deplete its reserve milk supplies to fulfill requests from other handlers for supplemental milk supplies. He thus contended that if an increased proportion of the market's milk supply were to be committed for manufacturing use on a year-round basis, the availability of supplemental milk supplies for distributing plants during peak periods would be threatened.

Distributing plants need reserve milk supplies that are not used in Class I. There are certain non-Class I uses of milk at distributing plants that are unavoidable such as, shrinkage, route returns (that are dumped or used for animal feed), standardization of milk to a butterfat content that differs from the butterfat content of milk received from producers, and variation in the inventory of milk supplies in the plant.

Moreover, distributing plants tend to need significantly greater milk supplies on certain days of the week than on other days of the week to meet variations in sales to accounts such as schools and supermarkets. Most schools have no need for milk during vacations, weekends, and holidays. Supermarkets tend to have greater sales volume during the latter part of the week than during other days of the week. In addition, distributing plants tend to process milk on only four days or five days a week to accommodate to a 40-hour workweek for employees and to avoid paying overtime wage rates.

In these circumstances of daily variations in sales volume and plant processing schedules, distributing plant operators need substantially higher volumes of milk for processing on certain days of the week than on other days of the week and, therefore, prefer to schedule milk receipts at their plants to conform with such daily variation in milk requirements.

During the months when production is seasonally low and Class I sales are relatively high, it is necessary to provide assurance that milk supplies will be made available to meet the needs of fluid milk distributors. As pointed out by proponent, the performance standards for pool plants tend to limit the proportion of a handler's milk supply that can be pooled and used in other than Class I use. However, performance standards for pool plants do not necessarily insure that all the milk required by distributing plants will be made available to such plants. Qualification of a pool plant is based on monthly performance standards. The pool plant performance standards set requirements that must be met by the plant on the average over the month. However, on peak demand days during any month the market's Class I requirements are often considerably higher than the monthly average demand for Class I use. Limits on diversion of milk to nonpool plants, when set at a level commensurate with the needs of the fluid market, can help assure that milk will be made available to pool plants for fluid uses on peak demand days.

Nevertheless, a substantial proportion of the milk in the market is not needed at distributing plants, particularly on non-processing days such as weekends. Rather than require these supplies to be physically received at the distributing plant and then transferred to a manufacturing outlet for disposal, Order 4 provides for the diversion of milk directly from the farm to the manufacturing plant. The diversion provisions facilitate the economical disposition of milk supplies not needed at distributing plants. The diversion limits are, therefore, set at levels appropriate to accomplish that purpose.

Some marketing conditions clearly have changed since the present diversion provisions were adopted. Due to the shifting to Order 2 of a large distributing plant, the Order 4 Class I utilization percentage has decreased significantly. A result of this change has been an increase in the percentage of Order 4 reserve milk supplies. One outcome of this has been a substantial increase in the quantity of milk diverted to nonpool plants. For example, such diversions during July 1978 totaled 71.1 million pounds, up 23 percent from the same month a year earlier.

Proponent handler operates a distributing plant at which virtually no milk is used for Class II. Thus, reserve milk supplies associated with the Class I operation must be disposed of elsewhere. Proponent handles during the entire year all of the milk production of the dairy farmers who supply his pool distributing plant and arranges

for the pooling of the milk under the order. These dairy farmers have increased their production at about the same general rate of increase experienced for the market as a whole. As a result, during the months when diversion limits are applicable, the handler utilizes the days of production basis for diverting to nonpool plants because more milk can be diverted under that provision than under the percentage limits.

The modification to the distributing plant pooling requirements that is adopted herein would allow a handler to dispose of up to 60 percent of his milk supplies to nonpool plants during the period of September through February. These supplies could either be diverted or transferred to nonpool plants. It is often more costly to receive milk at a pool plant and then transfer it to a nonpool plant than to move the milk directly from a farm to a nonpool manufacturing facility. However, the present 15 days' production limit on diversions would limit diversions to approximately 50 percent of the handler's receipts. This could result in some milk being transferred when it could more economically be diverted. Such uneconomic handling can be avoided by providing for the diversion to nonpool plants of up to 18 days' production of individual producers.

Providing that up to 18 days' production of a dairy farmer may be diverted to nonpool plants as producer milk will make it possible for the proponent handler, and any others similarly situated, to continue to pool all the milk produced by his regular producers without incurring costly transfer expenses. The change will not provide the means by which large volumes of milk intended only for manufacturing use on a year-round basis may be associated with the market and not be made available to distributing plants.

There is no need, on the other hand, to increase the 25-percent diversion limit. The record does not indicate that any Order 4 handler using the 25-percent diversion limit is experiencing any problem in handling reserve milk because of this limit. Furthermore, no such handler requested that the 25-percent limit be increased. Also, it is noted that an increase in this type of diversion provision, under which a producer's milk could be diverted to a nonpool plant every day for an indefinite period, could inhibit pool milk supplies from being made available to distributing plants when needed.

The record establishes that the basic reasons for having diversion limits are still valid. Accordingly, the proposal to remove all diversion limits is denied.

3. *Pooling standards for reserve processing plants.* The provisions of Order

4 for pooling a reserve processing plant should be modified to provide that such a plant may be operated by either a cooperative association or a federation of cooperatives. A federation should be defined as an organization formed by two or more cooperative associations and incorporated under the laws of a state. The order also should be modified so that a reserve processing plant of a cooperative or federation is pooled only if the total of the fluid milk products (except filled milk) that are transferred from the cooperative's or federation's pool plant(s) to pool distributing plants and the milk of its member producers that is delivered directly from farms to pool distributing plants is not less than 40 percent of the total milk deliveries of the cooperative's or federation's member producers during the month.

The present order provisions accord pool plant status to any reserve processing plant which is operated by a cooperative association if at least 50 percent of its member milk is delivered to pool distributing plants during the month, either directly from farms or by transfer from the cooperative's pool plants.

An organization composed of five dairy cooperative associations proposed that the provisions that provide for the pooling of a reserve processing plant be modified in two respects. One change would reduce the present 50 percent delivery requirement to 40 percent. The other change would permit a federation of cooperatives to be the operator of a pool reserve processing plant.

(a) *Fifty percent delivery requirement.* In support of its proposal to reduce the present 50 percent delivery requirement to 40 percent, proponent presented statistics demonstrating that the Order 4 Class I utilization percentage had decreased significantly over the last few years to an all-time low of 49 percent during July 1978. The witness contended that this has meant an increase in the amount of reserve milk supplies in the market. He stated also that the five proponent cooperatives collectively handle the reserve milk supplies for the market at reserve processing plants. Proponent stated that four of the five cooperatives have had less than 50 percent Class I usage of member milk during many months in recent years and have had to resort to requests for suspension action to keep the milk of member producers pooled under the order. Consequently, proponent stated that current marketing conditions made it vital that the proposal be adopted.

The changes in the market's supply-demand relationship for milk, as expounded in the findings of Issue No. 1, necessitate a reduction in the Order 4



pooling requirements for reserve processing plants. It has been a customary practice of cooperatives in this market to move the milk of member producers to reserve processing plants when it is not needed at pool distributing plants. The proportion of reserve milk supplies in the market has increased in recent years and the Class I utilization percentage has declined. For example, in 1975 Class I utilization was 65 percent and in 1977 Class I utilization was 58 percent. A further significant decrease in Class I utilization for this market has prevailed since May 1, 1978 when a large distributing plant shifted from the Order 4 pool to the Order 2 pool.

The distributing plant that shifted to the Order 2 pool discontinued receiving milk from a large Order 4 cooperative that had been supplying about 10 million pounds of milk each month to the plant. This milk supply of the cooperative is now a part of the reserve milk supply in the Order 4 market and is processed at reserve processing plants.

To accommodate the pooling of the increased volume of reserve milk supplies on the market it has been necessary to suspend various pooling provisions of the order on several occasions during the past three years. Such suspensions have involved pool distributing plant Class I disposition percentages and diversion limits. The suspension of these provisions has enabled cooperatives to move reserve milk supplies to pool distributing plants and then move such supplies to reserve processing plants or to nonpool manufacturing plants.

Such method of pooling reserve milk supplies by cooperatives that operate reserve processing plants tends to require movement of milk to pool distributing plants in circumstances when such milk is not needed at the distributing plants. This practice could be avoided if the 50 percent delivery requirement were reduced to 40 percent. The lower delivery requirement would permit the cooperatives who operate reserve processing plants to move all their reserve milk supplies directly from the farm to their reserve processing plants and maintain pool status on the milk. This would enable the cooperatives to avoid engaging in hauling milk to pool distributing plants solely for the purpose of keeping the milk pooled.

Moreover, providing pool plant status for a reserve processing plant operated by a cooperative enables the cooperative to minimize the total cost of farm-to-plant hauling for milk of member producers. If member producer milk can be accorded pool status by being received at the reserve processing plant, the cooperative could be expected to utilize milk produced on

farms located closest to the reserve processing plant at such plant. Milk of other member producers whose farms are located closest to pool distributing plants could be expected to be moved to such plants. By following this practice to the fullest extent practicable the cooperative will realize greater efficiency in handling its member milk supplies.

The delivery requirement for a cooperative that operates a reserve processing plant should be set low enough to enable the cooperative to move all of the member producer milk that needs to be moved to such plant directly from the farm. On the other hand, such delivery percentage should be high enough to encourage the cooperative to ship adequate supplies of member producer milk to pool distributing plants to fulfill the milk requirements of such plants. The proposed 40 percent delivery requirement will best meet these desired objectives under the current Class I utilization percentage in the Order 4 market. The 40 percent delivery requirement is also comparable to the pooling performance standards adopted for proprietary handlers in the market who operate both a pool distributing plant and a reserve processing plant.

(b) *A plant operated by a federation.* In support of the proposal to permit pool plant status for a plant operated by a federation of two or more cooperatives, proponent stated that two cooperatives in the market have formed a new wholly-owned cooperative (federation) called Holly Milk Cooperative, which has constructed a new processing plant in the Order 4 production area. The witness stated that this plant was built to handle the increased quantities of reserve milk supplies in the market, particularly the reserve supplies of the two cooperatives who entered into the joint venture to build the plant. Proponent stated that at times in the past it has been necessary for these cooperatives to transport reserve milk supplies as far as Ohio to find sufficient plant capacity to handle such milk.

The Holly plant is intended to serve these two cooperatives in the same manner as pool reserve processing plants operated by other handlers in the market. However, the pooling provisions of the order are not written in a manner that would accord pool status for a reserve processing plant operated by a federation. This is because the present provisions limit pool status to a reserve processing plant operated by a cooperative association that has member producers or a reserve processing plant operated by a handler who also operates a pool distributing plant.

Pool plant status for a reserve processing plant operated by a federation

would enable the cooperative association members of the federation to realize savings in farm-to-plant hauling costs by moving milk produced on members' farms located closest to the reserve processing plant directly to such plant and moving milk produced on farms located closest to pool distributing plants to such plants.

The 40 percent delivery requirement should be based on the combined cooperatives' member producer milk received at pool distributing plants either directly from the farm or as transfers from pool plants operated by the federation of such cooperatives. Proponent contemplated that the delivery percentage should be met by each member cooperative of the federation. However, proponent conceded that additional economies in farm-to-plant hauling costs could be realized by the cooperatives if they were to meet the pooling standard on a combined basis. Moreover, it will provide for more simplified administration of the pooling provisions to assign pooling credit on shipments from the federation's plant to pool distributing plants on a combined basis.

To facilitate drafting of appropriate pooling provisions for a reserve processing plant operated by a federation, a definition of a federation, as stated previously, is adopted. In order to implement the pooling of milk that is received at a reserve processing plant operated by a federation of cooperative associations, appropriate conforming changes are included in the dairy farmer, producer, and producer milk definitions of the order.

4. *Payments by handlers for certain milk received from other Federal order markets.* A proposal that would require regulated handlers to pay not less than the Middle Atlantic order class prices to a cooperative association for bulk milk received by transfer from a plant pooled under another Federal order by such cooperative association should not be adopted.

Current order provisions do not regulate the price that Order 4 handlers must pay for bulk milk that is received from handlers (either cooperative association or proprietary) regulated under another Federal order. Such milk is priced and pooled in the market of origin where the transferor-handler is held accountable at minimum prices established under that order. Order 4 provisions deal with the classification of interorder transfers at the transferee-handler's pool plant. However, the actual price at which the interorder transaction takes place is not subject to the minimum prices in the transferee-market, i.e., the Order 4 market.

A federation of five cooperative associations that represent producers who supply the Order 4 market proposed

that the order be amended to require that Order 4 handlers pay not less than minimum Order 4 prices applicable at their plant location for bulk milk received from a cooperative association plant pooled under another Federal order. While stating that such a requirement is not contained in any Federal order, a witness representing the federation testified that there are unique circumstances that justify the adoption of its proposal. Particularly, the witness referred to various regulatory provisions of the New York-New Jersey milk marketing order (Order 2) which include farm point pricing<sup>2</sup> and the pooling of supply plants under that order by designation rather than requiring such plants to supply milk for fluid use on a regular basis. The witness noted that there are Order 2 supply plants in Pennsylvania located near the farms of producers who direct-ship milk to Order 4 plants. He contended that under these circumstances Order 2 supply plant milk must be priced at its full value in order to contribute to orderly marketing in both the production and marketing area. Proponent alleges that this currently is not the case because farm point pricing of milk under Order 2 understates the actual cost of the milk to a handler and therefore underprices the milk at the plant of first receipt under Order 2 in comparison with Order 4. Proponent indicated that when the plant of first receipt is a supply plant such underpricing occurs because the handler for the milk receives a 15-cent credit from the pool on each hundredweight of farm bulk tank milk received.<sup>3</sup>

Proponent contends that there is a disparity of pricing between Orders 2 and 4 such that Order 2 supply plant milk can be delivered to Order 4 pool plants at less than Order 4 minimum class prices applicable at the latter plants. Proponent presented an exhibit to illustrate the magnitude of price disparity between Orders 2 and 4. Order 2 Class I price differentials applicable at six Order 2 supply plant locations were compared with applicable Order 4 prices at the same locations. On the basis of the exhibit, the Order 2 Class I differential value ranged from 34 to 54.5 cents per hundredweight less than the Order 4 Class I differential value at the same locations.

Proponent contends that it is this difference in pricing that resulted in

<sup>2</sup>Under the New York-New Jersey order, prices for milk are established at township locations, which is commonly referred to as farm point pricing.

<sup>3</sup>Proponent is referring to a 15-cent transportation credit for pool milk received by a handler in a pool or partial pool unit. This transportation credit is intended to partially reimburse handlers for transportation costs incurred in moving milk from the farm to the plant of first receipt.

offers of milk to Order 4 handlers at less than Order 4 prices during May, June and July 1978, although no Order 2 bulk Class I milk was received at Order 4 pool plants during such months. Proponent stated that in order to meet the competition from offers of Order 2 priced milk, Middle Atlantic cooperative associations reduced service charges to Order 4 handlers on milk used to service school and institutional accounts.

A Philadelphia area milk distributors association and an individual proprietary handler also contended that there is a disparity of pricing between Order 2 and Order 4. However, they opposed the proposal on the grounds that it would result in the loss of alternative sources of supply for Order 4 handlers that may be needed to be competitive with Order 2 handlers in the sale of fluid milk products. They also argued that the proposal would not result in uniformity of pricing among competing handlers. One witness stated that just considering the proposal at the hearing hampers the free movement of milk and that the proposal thus should be denied expeditiously.

A cooperative association that has member producers on both the Order 4 and Order 2 markets also opposed the proposal. A witness representing the cooperative association stated that the proposal should not be adopted since there are no economic or marketing conditions that could serve as a basis to adopt the proposal. He contended that the proposal was specifically aimed at an Order 2 supply plant that the opposing cooperative association operates at New Holland, Pennsylvania. For this reason, the witness constructed the Class I differential cost for milk moved from the new Holland plant to Philadelphia. On the basis of his calculations, the differential cost of delivering milk to Philadelphia would exceed the Order 4 Class I price in such area plus the applicable 6-cent direct delivery differential by 8.2 cents per hundredweight (\$2.922 versus \$2.84). On this basis, the witness concluded that there is no misalignment of Class I costs between the orders and that, therefore, there is no economic justification for the proposal.

The witness further testified that evidence of actual movements of bulk Class I milk from Order 2 pool plants to Order 4 pool plants does not establish a need for the proposal. An exhibit presented by the witness indicates that in recent years the volume of bulk Class I shipments from Order 4 to Order 2 exceeded such shipments from Order 2 to Order 4 and that for the months of May, June and July, 1978 no shipments were made from Order 2 pool plants to Order 4 pool

plants. Additionally, the witness testified that a single shipment of bulk Class I milk from Order 2 to Order 4 in August 1978 was made by a proprietary handler. Consequently, the proposal would have had no effect on the transaction since it is limited in scope to shipments by a cooperative association.

With respect to this latter point, the witness further contended that the proposal is discriminatory among handlers and their sources of milk supplies. The witness stated that the proposal would foreclose Order 2 cooperative association supply plants as a source of supply to Order 4 handlers while such handlers could continue to purchase milk from Order 2 proprietary handlers at whatever price the market would bear. In addition, the witness stated that the proposal would apply the 6-cent direct delivery differential to purchases by Philadelphia area Order 4 handlers from Order 2 cooperative association supply plants whereas such differential does not now apply to transfers from Order 4 reserve processing plants to Philadelphia area distributors. Furthermore, the witness contended that the proposal would prevent Order 2 cooperatives from disposing of reserve milk supplies to Order 4 handlers for Class II use while it would not do so for Order 2 proprietary handlers, thus giving the latter handlers an advantage in the disposition of surplus milk.

In its brief, a federation of cooperative associations that represents producers supplying the Order 2 market opposed the proposal. The federation questioned the legality of a provision that would require Order 4 handlers to pay Order 2 cooperative associations prices different than those required under Order 2. The federation also stated that if the proposal has any validity it would appear that it should be implemented in Order 2 since the milk is priced and pooled under that order. Additionally, the federation stated that if there is a disparity of pricing between the two orders, a joint hearing should be held to consider narrowing any such price differences.

Although the proposal would apply to bulk milk transfers from cooperative association plants pooled under any other Federal order, proponent contends that the alleged interorder pricing problem arises because of the unique feature of farm point pricing in Order 2 and an alleged disparity of pricing between Orders 2 and 4 that results from farm pricing and pricing changes in Order 2 that became effective November 1, 1977. The hearing record, however, does not demonstrate a price disparity between the cost of direct-delivered Class I milk at Order 4 plants and the cost of Class I milk at



such plants that is received by transfer from Order 2 supply plants. Moreover, the record does not establish that the differences in the regulatory provisions of Orders 2 and 4 require the implementation of the proposal.

With respect to the alleged misalignment of prices between Orders 2 and 4, the Class I differential costs computed by the proponent's witness are those applicable at supply plants in Pennsylvania that are located at varying distances from the major population centers of the Middle Atlantic marketing area (ranging from 60 to 200 miles). However, there are no Order 4 supply plants at these locations that assemble milk supplies for transshipment to Order 4 bottling plants. In addition, the Order 2 Class I differential costs stated by the witness do not include reloading and transportation costs that would be incurred in shipping milk from Order 2 supply plants to the Philadelphia area where offers of milk were supposedly made at less than Order 4 direct-delivered prices. Furthermore, the Order 2 Class I cost used by the witness is understated by 15 cents or more since it excludes farm-to-first plant hauling costs incurred by an Order 2 supply plant operator.

With respect to this latter point, proponent's witness conceded that the Order 4 cooperatives were not concerned with bulk milk transfers from Order 2 proprietary handler plants since costs incurred in receiving and transferring milk tend to equalize the cost of Class I milk between the two orders. This basically negates the claim by proponent that there is a disparity of pricing between the two orders. Actually, the crux of proponent's concern in proposing a provision that relates only to supply plants of cooperatives is the fact that cooperative associations can pay member producers less than minimum order prices while a proprietary handler can not. Thus, a cooperative association can transfer a portion of the cost of marketing functions to its member producers while a proprietary handler must absorb such costs or pass them on to the next purchasing handler. This is not a situation that is unique to the Order 2 market and thus something that should be recognized in the pricing provisions of Order 4. Blending by a cooperative association of the net proceeds of all of its sales in all markets in all use classifications and distributing the returns to its producers in accordance with the contract between the association and its producers is authorized by the Act and may occur in any market.

With respect to costs of milk incurred by a cooperative association, an opposing cooperative association presented a constructed Class I differ-

tial cost in marketing Order 2 supply plant milk in the Philadelphia area. Although it is not possible on the basis of this record to determine whether all of the cost components of the constructed differential precisely reflect current marketing costs, the figures presented by opponent appear reasonable in that they are consistent with the findings of the Assistant Secretary in his decision to revise the pricing structure under Order 2.<sup>4</sup> On the basis of the figures presented by the opposing cooperative, it would appear that Class I costs of Order 2 supply plant milk would exceed the cost of Order 4 direct-delivered milk in the Philadelphia area.

It would not be anticipated that a cooperative association would sell milk at less than its cost for any extended period of time. Rather, sales below costs would be expected only occasionally, usually during periods of surplus production when supplies of distress milk might have to be disposed of on a least-loss basis. In exceptions proponent contended that this possibility of distress milk has given rise to potential disorderly marketing conditions in the Order 4 market and is a condition which should be corrected by amendatory action. The potential of such an emergency situation is not an appropriate condition on which to base the proposed amendment. Should any such marketing condition arise there would obviously be a strong incentive for the cooperative to stop the practice as soon as possible to stop the financial losses incurred.

The record of this proceeding establishes that the volume of bulk Class I milk received by Order 4 handlers from Order 2 sources is insignificant. The greatest volume of such sales since November 1977 occurred in February 1978 when 785 thousand pounds of Class I milk were received at Order 4 plants from Order 2 sources. During such month over 431 million pounds of milk were received from Order 4 producers and over 256 million pounds of such milk were disposed of in Class I uses. Also, during the months of May, June, and July, when Order 2 supply plant milk was purportedly offered at less than Order 4 prices, no bulk Class I milk was received by Order 4 handlers from Order 2 sources.

The record does not establish the existence of disorderly marketing conditions in the Middle Atlantic marketing area that could serve as a basis for implementing the proposal. The possibility of bulk Class I sales from plants pooled under other Federal orders by cooperative associations to Order 4

<sup>4</sup>Official notice is taken of the Assistant Secretary's decision on proposed amendments to the New York-New Jersey order that was issued on August 12, 1977 (42 FR 41582).

handlers at less than Order 4 prices is a matter of conjecture. There is no evidence of any such sales. Furthermore, it cannot be concluded on the basis of this record that there is a disparity of pricing between Orders 2 and 4 that would result in a cost of Order 2 supply plant milk at less than the direct-delivered Order 4 price in the Philadelphia area, or that there is a unique feature of Order 2 that requires unique treatment of such milk in Order 4. For these reasons, the proposal is denied.

#### RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

#### GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of indus-

trial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

#### RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reason previously stated in this decision.

#### MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Middle Atlantic marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER.<sup>5</sup> The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

#### DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

December, 1978, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Middle Atlantic marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

(This decision constitutes the Department's Final Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on: March 19, 1979.

P. R. "BOBBY" SMITH,  
Assistant Secretary for Market-  
ing and Transportation Serv-  
ices.

Order<sup>1</sup> amending the order, regulating the handling of milk in the Middle Atlantic marketing area.

<sup>5</sup>Marketing agreement filed as part of the original document.

<sup>1</sup>This order shall not become effective unless and until the requirements of

#### FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issues by the Acting Deputy Administrator, Marketing Program Operations, on January 19, 1979, and published in the FEDERAL REGIS-

§ 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

TER on January 25, 1979 (44 FR 5140), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1004.7, the introductory text of paragraph (a) and paragraph (d) are revised to read as follows:

#### § 1004.7 Pool Plant.

(a) A plant from which during the month a volume not less than 40 percent of its receipts described in paragraph (a) (1) or (2) of this section is disposed of as Class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

(d) A plant operated in accordance with paragraph (d) (1), (2) or (3) of this section, subject to the requirement of paragraph (d)(4) of this section.

(1) A reserve processing plant operated by a cooperative association at which milk from dairy farmers is received if the total of fluid milk products (except filled milk) transferred from such cooperative association plant(s) to, and the milk of member producers physically received at, pool plants pursuant to § 1004.7(a) is not less than 40 percent of the total milk of member producers during the month.

(2) A reserve processing plant operated by a federation of cooperative associations at which milk of member producers of the cooperatives is received if the total of fluid milk products (except filled milk) transferred from such federation plant(s) to, and the milk of member producers of the cooperatives physically received at, pool plants pursuant to § 1004.7(a) is not less than 40 percent of the combined milk of member producers of the cooperatives during the month.

(3) A reserve processing plant owned and operated by a cooperative association that also owns and operates a pool plant pursuant to § 1004.7(a) so long as the volume of the cooperative's member milk pooled at the reserve processing plant does not exceed the volume of sales of Class I milk (except filled milk) from the cooperative's pool distributing plant, plus the milk of member producers received directly at pool plants pursuant to § 1004.7(a) of other handlers during the month.

(4) A cooperative or federation of cooperatives operating a pool reserve processing plant qualified pursuant to this paragraph shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 and in the detail prescribed by the



market administrator, with respect to any receipts from member dairy farmers of the cooperative(s) delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

2. In § 1004.11, the phrase, "the proviso of paragraph (d) of said § 1004.7" is revised to read "(d)(4)".

3. In § 1004.12, the number "15" in the introductory text of paragraph (d) (2) is changed to "18", and paragraph (b) is revised to read as follows:

§ 1004.12 Producer.

(b) A dairy farmer with respect to milk which is received at a pool plant pursuant to § 1004.7(d): *Provided*, That such milk is received directly from the farm of one who is a member of the cooperative operating the plant, or is received directly from the farm of one who is a member of a cooperative association that is a member of the federation operating the plant, or is received as milk diverted from a pool plant pursuant to § 1004.7 (a), (b) or (c).

4. In § 1004.13, paragraph (b) is revised to read as follows:

§ 1004.13 Producer milk.

(b) Received at a pool plant pursuant to § 1004.7(d): *Provided*, That such milk is received directly from the farm of one who is a member of the cooperative operating the plant, or is received directly from the farm of one who is a member of a cooperative association that is a member of the federation operating the plant, or is received as milk diverted from a pool plant pursuant to § 1004.7 (a), (b) or (c).

5. A new § 1004.19 is added to read as follows:

§ 1004.19 Federation.

Federation means an organization that is formed by two or more cooperative associations as defined in § 1004.20 and which is incorporated under the laws of a state.

[FR Doc. 79-8784 Filed 3-21-79; 8:45 am]

[6450-01-M]

# DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Ch. I]

[Docket No. ERA-R-79-11]

## INQUIRY TO OBTAIN PUBLIC COMMENT ON THE CLARITY OF REGULATIONS ISSUED BY THE ECONOMIC REGULATORY ADMINISTRATION

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Inquiry, request for written comments.

SUMMARY: As part of the Department of Energy's (DOE's) regulatory reform effort, the Economic Regulatory Administration (ERA) asks you to comment on the clarity of ERA's regulations and to propose examples of rules which should be redrafted in better English.

DATE: Written comments are due by May 25, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mr. Stanley Vass, Office of Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, Room 2310 A, 2000 M Street, NW., Washington, D.C. 20461, telephone 202-254-7477.

Mr. William Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, telephone 202-634-2170.

Ms. Kristina Clark, Office of General Counsel, Department of Energy, Room 6A-127, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, telephone 202-252-6744.

Mr. William Strauss, Director, Office of Policy and Evaluation, Department of Energy, Room 7H-075, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, telephone 202-252-5727.

## SUPPLEMENTARY INFORMATION:

### I. Background.

On March 24, 1978, the President issued Executive Order 12044, "Improving Government Regulations," calling on all Federal agencies to reduce regulatory burdens imposed upon the American public, to write regulations more clearly, and to seek ways to involve the public more in the regulatory process. The Economic Regulatory Administration and Department of Energy as a whole aim to meet these goals.

The most recent report on the status of DOE's regulatory reform actions was published in the FEDERAL REGISTER

on January 3, 1979 (44 FR 1032). That notice described an agenda of 16 new reform initiatives for the first half of the 1979 fiscal year based on suggestions received from the public. As one of those initiatives, ERA promised to compile a list of regulatory provisions which are identified by the public as being difficult to understand. ERA also promised to review this list and make any necessary changes.

### II. Comments Requested.

We request specific comments on the following:

(1) Which regulations or regulatory provisions are especially difficult to comprehend or unnecessarily complicated?

(2) How could regulatory language be changed to accomplish ERA's purposes better?

(3) Which regulations are especially easy to understand and might therefore be used as a model?

### III. Comment Procedures.

#### A. Written Comments.

You are invited to submit views on any of the above items. Any comments should be submitted inside an envelope marked "Regulatory Reform," Box XB. Ten copies are requested unless there is a special hardship. Comments should be addressed to Public Hearing Management, Room 2313, Department of Energy, Box XB, 2000 M Street, NW., Washington, D.C. 20461. All comments received will be available for public inspection in the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. and the Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., from 8:00 a.m. to 4:30 p.m., on any working day.

This notice was issued in Washington, D.C., on March 15, 1979.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

[FR Doc. 79-8736 Filed 3-21-79; 8:45 am]

[6450-01-M]

## Federal Energy Regulatory Commission

[18 CFR Ch. I]

[Docket No. RM79-14]

## MECHANICS OF INCREMENTAL PRICING

Public Conference

AGENCY: Federal Energy Regulatory Commission.

ACTION: Public Conference.

SUMMARY: Commissioner George R. Hall will convene an informal public conference to discuss proposals made at the February 12, 1979 conference

regarding the mechanics of incremental pricing under the Natural Gas Policy Act of 1978.

PLACE: Hearing Room A, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426.

DATE: 10:00 a.m., April 3, 1979.

## FOR FURTHER INFORMATION CONTACT:

Norman A. Pedersen, Office of Commissioner, George R. Hall, 825 N. Capitol Street, N.E., Washington, D.C. 20426, Phone: (202) 275-4147.

Warren C. Edmunds, 825 N. Capitol Street, N.E., Washington, D.C. 20426, Phone: (202) 275-4415.

SUPPLEMENTAL INFORMATION: On April 3, 1979, Commissioner George R. Hall will reconvene the informal public conference which was first convened in this docket on February 12, 1979.<sup>1</sup> The purpose is to permit an opportunity for an informal discussion of several of the proposals made at the February 12th conference regarding the mechanics of incremental pricing under the Natural Gas Policy Act of 1978 (NGPA). Specific areas to be addressed are outlined below. The conference will begin at 10:00 a.m. on April 3, 1979, in Hearing Room A of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

At the February 12, 1979 conference, a number of alternatives to staff's proposal were presented. Among the more comprehensive alternatives were those of Interstate Natural Gas Association of America (INGAA), United Distribution Companies (UDC), Natural Gas Pipeline Company of America (Natural), Northern Natural Gas Company (Northern) and Pacific Gas & Electric Company (PG&E). Additionally, several conference participants proposed specific features which they believed should be incorporated into whatever incremental pricing method is finally adopted.

The alternatives proposed by INGAA, UDC, Natural, Northern and PG&E are summarized in the attached appendix. Those parties are invited to come forward on April 3, 1979, for an informal "working" discussion about their proposals. The other participants at the February 12, 1979 conference as well as members of the public are invited to participate in this discussion.

After conclusion of the informal discussion involving INGAA, UDC, Natural, Northern and PG&E, those participants as well as any others who

<sup>1</sup> See: *Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978*, Docket No. RM79-14, "Notice of Informal Public Conference and Inquiry," issued January 12, 1979.

wish to participate are invited to address the issue of submetering. While a number of adverse comments were received on the staff's proposal for submetering, no party proposed a specific alternative method for accurately determining the volumes used in non-exempt industrial boiler fuel facilities. The April 3, 1979 conference will give participants an opportunity to present informally any proposals they may have for the accurate determination of volumes used by non-exempt industrial boiler fuel facilities. Anyone making a proposal should be prepared to discuss whether or not their proposed alternative would be administratively feasible, less costly than submetering and as accurate a compliance method.

The Process Gas Consumers Group (PGC) has suggested that data verification committees (DVC's) for the various pipelines should evaluate requests for exemption from incremental pricing and make proposals to the Commission. Following the discussion involving INGAA, UDC, Northern, Natural and PG&E and the discussion of submetering, PGC as well as any other parties who wish to make presentation will be invited to present proposals in detail regarding the use of DVC's and to discuss their proposals informally with staff. PGC and the other parties making presentations are invited to address the following questions:

• What timetable should be followed for determining who shall be exempt from incremental pricing and, if DVC's are to make exemption recommendations, could this time-table be met?

• How would the proposal deal with pipelines for which there are no DVC's?

This Notice should not be interpreted as implying any decision or even disposition on the part of the Commission with respect to how Title II should be implemented.

This conference supplements but does not supplant the opportunity for comment which will be provided when the Commission issues a Notice of Proposed Rulemaking regarding the implementation of Title II of the NGPA.

Persons wishing to make oral presentations regarding submetering or the use of DVC's should notify the Secretary of the Commission in writing on or before March 29, 1979 and should indicate the amount of time desired. Written comments on submetering or DVC's should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any comments received will be included in the Docket RM79-14 public reading file in the Commission's Office of Public Information. Parties who intend to make oral presentations regarding submetering or DVC's at the

April 3, 1979 conference are urged to bring copies of any written comments they have for distribution to the conference participants.

Due to the informal nature of the discussion regarding the INGAA, UDC, Northern, Natural and PG&E proposals, it will not be necessary for persons desiring to participate in that discussion to notify the Secretary of a desire to participate.

In response to a number of requests, the Secretary is establishing a mailing list for this Docket. All those who submitted oral or written comments in connection with the February 12, 1979, conference already are on the mailing list. Anyone who has not submitted comments but who wishes to be included in the mailing list should send a request for inclusion to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,  
Secretary.

## APPENDIX

### INCREMENTAL PRICING SURCHARGE PASSTHROUGH MECHANISM PROPOSALS

#### I. INGAA Proposal<sup>1</sup>

*Establishment of Incremental Gas Cost Account.* As of January 1, 1980, a memorandum incremental gas cost account will be established to record those purchased gas costs subject to incremental pricing.

Interstate pipelines will continue to include all purchased gas costs (inclusive of those purchased gas costs subject to incremental pricing) in their PGA accounts.

*Billings to Customers.* Each month each interstate pipeline will: (i) bill all customers its normal PGA rate reflecting the full amount of its purchased gas costs; (ii) bill non-exempt end uses the incremental pricing surcharge determined below; and (iii) reflect a pro-rata credit to all exempt end uses in the amount of the total incremental surcharges billed.

Each month each interstate pipeline and local distribution company served by an interstate pipeline will flow through the surcharges to non-exempt end uses and the credits to exempt end uses associated with incremental pricing as shown on the bills of their suppliers.

*Determination of the Incremental Pricing Surcharge.* Each month each interstate pipeline will compute an incremental pricing surcharge on the basis of either: (i) the aggregate Maximum Surcharge Absorption Capability (MSAC) for the previous month (if the amount recorded in the incremental gas cost account at the beginning of

<sup>1</sup> As set forth in Appendix A to comments filed February 12, 1979.



the current month is greater than such aggregate MSAC), or (ii) a pro-rata share of the amount recorded in the incremental gas cost account (if the amount charged to the incremental gas cost account at the beginning of the current month is less than the aggregate MSAC for the previous month).

**Sequence of Events.** (a) On or before the 10th working day of January 1980 and the 10th working day of each month thereafter, each distribution company will furnish to its natural gas supplier the dollar amount of MSAC and volumes for all non-exempt sales made during the preceding month. If a distribution company has more than one natural gas supplier, the distribution company will allocate its MSAC among its sources of supply based on the volumes delivered during the previous month. The MSAC shall be computed by multiplying (i) the difference between the alternate fuel cost (as prescribed by the Commission and stated in dollars per million Btu's) and the distribution company's rate for those sales (also stated in dollars per million Btu's) times (ii) the volume of non-exempt gas sold during the previous month. By the 10th working day of each month the same calculation for direct sales to non-exempt end uses will also be computed by the interstate pipeline supplying such uses.

(b) On or before the 12th working day of January, 1980, and the 12th working day of each month thereafter, each natural gas supplier will determine the dollars of purchased gas costs subject to incremental pricing for gas actually purchased during the preceding month. (At this point, pipelines with sales to other pipelines proceed on to item (e)).

(c) Within two working days after receipt of the information required in (a) and (b) above each natural gas supplier will in turn supply to each of its natural gas suppliers their pro-rata share (based on the volume of purchases during the previous month) of the total dollars of MSAC accumulated for the previous month and the exempt and non-exempt volumes sold during the preceding month. The exchange of these pro-rata dollars and volumes will continue upstream until the last natural gas supplier has received his pro-rata share of MSAC dollars associated with downstream non-exempt volumes.

(d) The first upstream natural gas supplier will compare its actual purchased gas costs subject to incremental pricing with its total MSAC dollars. This total MSAC dollar amount shall include MSAC dollars attributable to direct sales, MSAC dollars attributable to sales to distribution companies and the pipelines' pro-rata share of MSAC dollars from downstream pipelines. If

its MSAC dollars are greater than its purchased gas costs subject to incremental pricing then the entire purchased gas costs subject to incremental pricing will be surcharged to the downstream natural gas suppliers and direct sales customers pro-rata based on MSAC dollars. If the MSAC dollars are less than its purchased gas costs subject to incremental pricing then the full amount of MSAC dollars will be flowed through to the downstream natural gas suppliers and direct sales customers who generated the MSAC dollars. The process will be continued until a total dollar amount of incremental pricing surcharge has been computed for each distribution company and direct sale customer that generated MSAC dollars.

(e) Concurrent with the billing of the surcharge dollars to non-exempt end uses on the basis of their pro-rata share of the incremental surcharge amount, each natural gas supplier will reflect a credit (equal to the total amount of the surcharge dollars billed to the non-exempt end uses) to exempt end uses based on their pro-rata share of the preceding month's volumes billed to all exempt end uses.

#### II. Natural Gas Pipeline Company of America (NATURAL) Proposal<sup>2</sup>

(1) A purchasing pipeline would determine the maximum absorption capabilities of customers served directly or indirectly by its system. The purchasing pipeline allocates a portion of this maximum to the selling pipeline based on the percentage of the purchaser's total supply provided by the selling pipeline. This process is continued from pipeline-to-pipeline all the way upstream. On the way downstream, a selling pipeline may have dollars in its surcharge account both from wellhead purchases and purchases from other pipelines. The total in this account is allocated to all purchasers from the pipeline based on the maximum absorption capability of each (pipelines, distributors and direct industrial). This process should be completed monthly.<sup>3</sup>

(2) Recovery of gas cost in the general PGA Account:

(a) the pipelines continue to change the PGA every six months;

(b) the PGA filing will reflect forecasted monthly gas costs through the six month period based on the inflation rate in existence at the beginning of the period.

(c) At the end of each PGA period, the actual amount collected through the PGA should be compared to the amount which should be collected.

<sup>2</sup>As set forth in Natural's February 12, 1979 filing.

<sup>3</sup>Northern Illinois Gas Company (NIGAS) does not support recommendation No. 1. NIGAS is in agreement on the other aspects of the NATURAL proposal.

(d) During the following PGA period, over collections are refunded or under collections are collected.

(3) **Surcharge Account.** Each month distributors will calculate bills for their incrementally priced users using two methods: (a) existing rates including all taxes; and (b) the alternate fuel price established by the Commission reflecting applicable taxes. If the bill calculated using existing rates is higher it is rendered to the consumer and it is determined that no surcharge amount was collected for that month from that consumer. If the bill using the alternate fuel price is higher, the distributor may: (a) bill the consumer at the alternate fuel price subject to a refund on this bill; or (b) bill the consumer at existing rates subject to an additional surcharge on this bill. When all incrementally priced consumers have been billed for the month, the distribution company determines what surcharge amount has been collected (or could have been collected) for that month and notifies its pipeline supplier of the surcharge amount it could be billed. Where more than one pipeline supplies its system, the distributor allocates the monthly surcharge amount between pipelines based on the percentage of total supply provided by each to that system. The pipeline, after the fact, will receive notice from each of its customers as to the amount which each can take from the surcharge account for that month.

(A) If the total amount to be taken from the account for a month exceeds the amount at the start of the month, the pipeline determines the surcharge amount which each distributor must absorb. Distributors who billed at alternate fuel price will refund any excess which has been charged incrementally priced consumers, while distributors who bill below the alternate fuel at existing rates will pass the surcharge on to their consumers. If the total amount taken from the account for a month is less than the amount in the account at the start of the month, the deficiency is transferred to the general PGA account, to be collected from all pipeline's customers. Distributors who bill at existing rates below the alternate fuel must render incrementally priced consumers an additional bill raising charges to the alternate fuel cost. Distributors who billed at the alternate fuel costs need take no further action.

(4) The company which sells to an incrementally priced user should collect any required data from that user. Distributors selling to incrementally priced users will gather data from these users and pipelines selling directly to industrial will gather data from these users. Any flow of data should be from the consumer to the

distributor to the pipelines to the Commission. The proposal emphasizes that steps must be taken to insure that data is defined, collected and verified in a uniform manner.

Natural's supplemental comments filed on February 28<sup>4</sup> would modify this proposal to incorporate a provision for current recovery of those "excess incremental" gas costs which would otherwise necessarily pass into account No. 191. The PGA would be computed, as it is now, to include all gas costs, but would then be reduced by the total MAC for the applicable month. As reduced, costs would be billed to all customers in the normal manner and concurrently the surcharge would be billed based on actual customer data.

#### III. Northern Natural Gas Company (Northern) Proposal<sup>5</sup>

Northern supports the INGAA proposal but asks that individual pipelines be permitted to devise their own mechanisms. Northern would estimate the costs, surcharges and rate reductions which would occur over a 12 month PGA period and bill the surcharge and remaining gas costs on a current basis.

Specifically, Northern, when it estimates gas costs for the coming calendar year, would subtract from total gas costs that portion of the estimated amount of incremental gas costs which would be recovered from incrementally priced customers. The latter estimate would be based on information furnished by Northern distribution customers. Northern would then bill the distributor the resulting PGA rate for all volumes purchased and the distributor would remit an additional amount for the incremental cost surcharge collected from his incrementally priced industrial customers. During the year, Northern would continue to make appropriate entries monthly to Account 191 reflecting the difference between actual and estimated gas costs in the PGA. However, in addition, Northern would compare the amount of incremental gas costs actually recovered, to the amount estimated to be recovered and reflect the difference in the amount to be recovered during the next PGA period.

#### IV. United Distribution Companies' (UDC) Recommended Method for the Determination and Collection of the Surcharge<sup>6</sup>

UDC suggests the following method for determining and implementing incremental pricing surcharges as re-

<sup>4</sup>See: Item 1-C of February 28, 1979 filing.

<sup>5</sup>Summary of Northern's February 12, 1979, proposal.

<sup>6</sup>As set forth in UDC's February 12, 1979, filing, 24-26.

quired by Title II of the Natural Gas Policy Act of 1978:

(1) Incremental pricing should be handled on a month-by-month basis, with the excess gas costs accumulated by each interstate pipeline in one month being converted to a surcharge and billed through to boiler fuel users in the following month.

(2) The volume of boiler fuel use on which the surcharge shall be determined and for which it shall be billed shall be the volume of actual use which occurred during the same calendar month as that for which the excess gas cost fund has been accumulated by the interstate pipelines.

(3) Promptly following each month of incrementally priced use, each distribution utility customer of an interstate pipeline shall determine its "maximum surcharge absorption capability" for such month by multiplying the volume of incrementally priced uses of each of its customers during the prior month times the difference between the applicable alternative fuel cost for such month and the amount which the utility would bill to each of its customers for the incrementally priced uses absent the surcharge. The distribution utility shall then adjust each determination for any uncollectible amount remaining in its surcharge account from the prior month; and the determination as so adjusted shall promptly be submitted to the pipeline supplier. When the distribution utility has more than one pipeline supplier, and/or its own excess gas cost fund attributable to local supply, such maximum surcharge absorption capability shall be allocated among the same on the basis of volumes of the respective supplies during the month. Specific care should be taken that such allocation be made on the basis of the distribution utility's total supply from every source.

Each interstate pipeline will make similar determinations for its own direct sales to incrementally priced users during the said prior month.

(4) Each interstate pipeline will promptly aggregate all of the "maximum surcharge absorption capabilities" for all of its direct industrial and distribution utility customers along with those certified to it by any interstate pipeline to which it made sales during the month, and, after apportionment among its own interstate pipeline suppliers, certify the same upstream, to the end that all in-tandem pipeline transactions may be accommodated in the most rapid possible fashion.

(5) Upon all of these necessary in-tandem pipeline determinations of maximum surcharge absorption capabilities having been carried through to the pipeline furthest upstream in the shortest possible time, each inter-

state pipeline will then, again in descending order, determine the surcharge for its customers in the following fashion:

(a) If the aggregate of the maximum surcharge absorption capabilities of all of its direct, distribution utility and interstate pipeline customers, as allocated to it, is less than the excess gas cost fund for the month, the surcharge to be billed to and paid by each such customer shall be equal to its respective maximum surcharge absorption capability.

(b) If, however, the said aggregate of the maximum surcharge absorption capabilities of said customers is greater than the said excess gas cost fund for the prior month, the pipeline shall apportion the fund among its direct industrial, distribution utility and pipeline customers on the basis of their maximum absorption capabilities and shall bill accordingly.

The excess gas cost fund of each interstate pipeline for the purpose of such determination shall be the aggregate of the funds attributable to its own incrementally priced supplies and of the surcharge billed to it by its interstate pipeline suppliers in accordance with the foregoing.

(8) If sub-paragraph 5(a) applies and a portion of the excess gas cost fund of a pipeline for a month remains in its excess gas cost account after all such allocations to customers, such excess shall be transferred out so that the incremental pricing account is entirely charged out month-by-month.

(7) The foregoing determination and billing of the pipeline surcharges shall be in accordance with an approved incremental pricing surcharge provision in its tariff; and monthly tariff sheet filings will be made accordingly and shall become effective upon being filed.

(8) Each distribution company which is an "interstate pipeline" for the purposes of Title II of the Act shall determine its own excess gas cost fund attributable to its own local purchases for the prior month and apportion the same in similar fashion.

(9) Each distribution utility shall aggregate the several dollar surcharges billed to it by its pipeline suppliers, as well as any dollar surcharge attributable to its own local supplies during the prior month, and apportion the same on the basis of the respective maximum surcharge absorption capabilities of users for the prior month as above determined.

(10) The distribution utility shall then bill the surcharge as so determined for each user by one of the following three methods:

(a) The distribution utility shall add the surcharges as determined to the regular bills rendered to its customers for use during the prior month as they



## PROPOSED RULES

are computed at the then effective rate for utility service, or

(b) If, for any reason, the surcharge cannot be determined by the utility by the time the regular bill must be sent, the distribution utility shall either:

(i) bill its customer on the basis of effective gas rates alone and promptly bill the surcharge by way of adjustment; or

(ii) bill its customer on the basis of the applicable alternate fuel cost for the month in which the use occurred and, as soon as possible, make any necessary downward adjustment by way of refund.

*V. Pacific Gas and Electric Company Proposal<sup>1</sup>*

Under PG&E's initial proposal filed on February 12, incremental pricing surcharges would:

(1) be prospective rates based on recorded data; (2) change quarterly if the surcharge calculation uses only amortization of account balances; (3) retain the semi-annual rate change feature if provision is made for basing rates on the current rate of accrual of incremental gas costs into the unrecovered incremental gas cost account plus amortization of account balances; (4) reflect downstream balances by reducing surcharge rates otherwise applicable by an amount sufficient to amortize the downstream balance(s); (5) transfer unrecovered amounts to the PGA only if they exist at the end of each calendar year; (6) provide for subaccounts to be kept by source (e.g., by supplier or grouped if direct purchase); (7) provide for the possibility of negative incremental surcharge rates to amortize unrecoverable downstream balances specifically attributable to an upstream supplier or suppliers; the debit created thereby in the upstream company's incremental cost account would be cleared as necessary to the originating company's PGA at the end of each calendar year, thus insuring equitable PGA allocation of unrecoverable amounts.

Since the initial comments offered by PG&E and other parties indicate that numerous passthrough mechanisms are possible, PG&E submitted supplemental comments on February 28<sup>2</sup> proposing a general formula approach to incremental pricing.

**General Formula.** PG&E's general formula would permit a supplier flexibility to choose, among other things, the length of the pricing period, the method of computing surcharge absorption capability, effective dates of incremental pricing surcharges, frequency of changes, and method of coordination with alternate fuel prices.

<sup>1</sup> Derived from PG&E's February 12, 1979, filing, 8-10.

<sup>2</sup> Derived from pages 2-5 in PG&E's February 12, 1979, filing.

The formula would take the form of:

$$IPS_n = \frac{IGC_n}{NES_n}$$

where  $IPS_n$  = incremental pricing surcharge in the next billing period

$IGC_n$  = accumulative incremental gas cost in the pricing period not in excess of maximum surcharge absorption capability (MSAC)

$NES_n$  = accumulative non-exempt sales in the pricing period.

Allocation of the incremental pricing surcharge so computed to sale for resale customers and/or direct sale customers would be:

$$IPS_{sa} = \frac{IPS_n \times NES_n}{S_n}$$

where  $IPS_{sa}$  = incremental pricing surcharge to a sale for resale customer and/or direct sale customer(s) in the next billing period.

$NES_n$  = non-exempt sales reported by a sale for resale customer and/or direct sale customer(s) in the pricing period.

$S_n$  = total sales to a sale for resale customer and/or direct sale customer(s) in the pricing period.

and  $IPS_n \times NES_n$  is less than or equal to the individual maximum surcharge absorption capability of a sale for resale customer and/or direct sale customer(s).

Under the above formula, the length of the billing period would be the same as the length of the pricing period, but PG&E believes that the minimum length should be three months. The determination of incremental gas cost could be simply the accumulative IGC account balance or it could be augmented by the latest known rate of accrual into the account (a form of estimating). If the IPS computation reflects the current rate of accrual into the IGC account, the result would be to minimize lag in IGC cost recovery. To the extent that the IGC thus determined exceeds the MSAC, such excess would be incorporated in the PGA calculation at the earliest opportunity. Such incorporation could, for example, be virtually instantaneous if both the IPS and PGA rates change on the same date. If IPS rates change more frequently than PGA rates, the IGC passthrough could actually be more timely through IPS rates than through PGA rates.

The computation of MSAC would be of the form:

$$MSAC = (A - R)NES_n$$

where A = current alternative fuel price ceiling.

R = gas rate in effect.

NES = non-exempt sales.

If this computation yields a negative MSAC, the reported MSAC would be zero. The components of this equation would generally be geared toward reflection of latest known prices and latest known non-exempt sales by each customer making the MSAC computation (again, a form of estimating would thus be permissible). While

these parameters are oriented toward use of recorded unit costs and sales volumes, the use of estimates should not be foreclosed where these would yield reasonable results.

PG&E proposes the following conditions to this formula:

(1) A change in the alternative fuel ceiling (which either increases or decreases the last reported MSAC) would trigger a change in incremental pricing surcharges if, based on the most recent filing, the surcharges would exceed the MSAC or if the MSAC would become less than the incremental gas cost account reflected in the most recent filing.

(2) Upstream and downstream reporting: The incremental gas cost amount at each level making the IPS computation should reflect downstream IGC account balances solely attributable to the level making the computation. To the extent this would cause the accumulative IGC amount to exceed the accumulative MSAC such excess would be reflected in the pipeline PGA, thus allowing the downstream customer to amortize its IGC account balance through the IPS from the supplier making the computation. Simultaneously, the pipeline's PGA would allocate this "unrecoverable" IGC to all customers in the normal fashion.

(3) Incremental pricing surcharges of downstream companies should change on a timely basis (if not concurrently with upstream supplier changes) so that a surcharge would not become unrecoverable simply due to passthrough lag at the downstream level.

[FR Doc. 79-8773 Filed 3-21-79; 8:45 am]

[6450-01-M]

[18 CFR Part 157]

**TRANSPORTATION CERTIFICATES FOR NATURAL GAS**

**Displacement of Fuel Oil**

**CROSS REFERENCE:** For a document issued by the Economic Regulatory Administration in the Department of Energy concerning transportation certificates for natural gas displacement of fuel oil, see FR Doc. 79-8985 appearing under Economic Regulatory Administration (DOE) published as a proposed rule in this issue. Refer to the table of contents at the front of this issue under "Economic Regulatory Administration" to find the correct page number.

[4210-01-M]

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 600]

[N-79-918]

**COMPREHENSIVE PLANNING ASSISTANCE**

Transmittal of Proposals to Congress

AGENCY: Housing and Urban Development/Office of Assistant Secretary for Community Planning and Development.

ACTION: Notice of Transmittal.

**SUMMARY:** Under recently-enacted legislation the Chairmen of the House Committee on Banking, Finance and Urban Affairs and the Senate Committee on Banking, Housing, and Urban Affairs have requested the Secretary of Housing and Urban Development to provide their Committees with certain rules at least 15 days of continuous session prior to publication in the FEDERAL REGISTER. This Notice advises of the transmittal of specifically identified proposed rule(s) pursuant to such requests.

**FOR FURTHER INFORMATION CONTACT:**

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

**SUPPLEMENTARY INFORMATION:** Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

**PART 600—COMPREHENSIVE PLANNING ASSISTANCE**

This proposed rule would amend the 701 regulations to implement more effectively national objectives set forth by the President's Urban Policy including: (1) community conservation and aid to distressed communities; (2) expansion of housing and employment opportunities; and (3) promotion of orderly and efficient growth. It would also provide for waivers from areawide organization requirements regarding board composition in order to facilitate creation of single planning organizations which undertake unified planning for multiple Federal planning programs.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535 7(o), Section 324 of the

## PROPOSED RULES

Housing and Urban Development Amendments of 1978).

Issued at Washington, D.C. March 16, 1979.

PATRICIA ROBERTS HARRIS,  
Secretary, Department of  
Housing and Urban Development.  
[FR Doc. 79-8737 Filed 3-21-79; 8:45 am]

[8320-01-M]

**VETERANS ADMINISTRATION**

[38 CFR Ch. I]

**LOAN GUARANTY**

Home Improvement Loans

AGENCY: Veterans' Administration.

ACTION: Advance notice of proposed regulations.

**SUMMARY:** This notice is published to invite comments from the public to assist the VA (Veterans' Administration) in establishing a home improvement loan program for installation of energy conservation measures including solar energy systems and in revising the present VA loan program for financing home alterations, improvements, or repairs. Comments are also requested in specific areas relating to the above two types of home improvement loans to assist the VA in the development of additional procedures or regulations.

**DATES:** Comments must be received on or before April 23, 1979.

**ADDRESS:** Send written comments to: Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

Comments will be available for inspection at the address shown above until May 1, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans' Administration, Washington, DC 20420, 202-389-3042.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

The Veterans' Housing Benefits Act of 1978 (Pub. L. 95-476, 92 Stat. 1497) authorizes guaranteed or direct loans to improve a dwelling or farm residence owned and occupied by a veteran as his or her personal residence through the installation of a solar heating system, solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure. The term "residential energy conservation measure" includes caulking, weather-stripping,

furnace efficiency modifications, clock thermostats, insulation, storm windows and doors, heat pumps and any other measure as prescribed by the Administrator. The terms "solar heating, solar heating and cooling" and "combined-solar heating and cooling" have the meaning given such terms in clauses (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1) and (2), Pub. L. 93-409, 88 Stat. 1069). The above terms may also include a "passive system" which is defined as window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure that serve as solar furnaces, double-pane window insulation and such other energy-related components as determined by the Administrator.

Congress also has enacted the Energy Tax Act of 1978 (Pub. L. 95-618, 92 Stat. 3174) authorizing income tax credits for the installation of solar energy systems or other energy conservation measures. Thus, the installation with the assistance of a VA loan of a solar energy system or other energy conservation measure may also benefit the veteran by qualifying him or her for an income tax credit under the Energy Tax Act of 1978.

The present VA home improvement loan program, authorized by section 1810(a)(4) of title 38, United States Code, may be used by a veteran for the purpose of altering, repairing, or improving a home which the veteran owns and occupies as his or her personal residence. Generally, home improvement loans must protect or improve the basic livability of the veteran's home. Home improvement loans made for \$1,500 or less need not be secured by a lien. Loans for more than \$1,500 but for 40 percent or less of the prior-to-improvements reasonable value of the home must be secured by a lien reasonable and customary in the community. However, if the loan is for more than \$1,500 and for more than 40 percent of the prior-to-improvements reasonable value of the home, the loan must be secured by a first lien. Loans for alteration, improvements, or repairs may be closed on the automatic basis (without VA prior approval) by authorized lenders. At present the maximum allowable interest rate for home improvement loans is the same as the maximum rate in effect for acquisition of a home under the VA guaranteed home loan program, currently 9½ percent.

In conjunction with the enactment of the energy-conservation home improvement loan program (38 U.S.C. 1810(a)(7)) Congress has authorized the VA to establish a separate interest rate for energy-saving home improvement loans and the present home im-



provement loan program for alterations, improvements, or repairs if deemed necessary to induce lenders to make such loans. Title 38, United States Code also authorizes the VA to allow veterans to pay reasonable loan discount points required by a lender on either energy-conservation home improvement loans or home improvement loans for alterations, improvements, or repairs.

The VA is interested in establishing an energy-conservation home improvement loan program and revising the present home improvement loan program in order to assist veterans to make energy-conservation home improvements or other home improvements at a reasonable interest cost and with a minimum of federal paperwork. In addition, the program must be flexible and fair to attract private lenders and investors into investing capital in these programs.

#### COMMENTS REQUESTED

Comments are sought as to the need for and the type of regulations necessary to implement the energy-conservation home improvement loan program and to revise the present home improvement loan program for alterations, improvements, or repairs. It is expected that both home improvement loan programs can be established using identical or similar program guidelines.

The VA welcomes comments in particular on these issues:

1. What maximum rate of interest should be established for energy-conservation home improvement loans or home improvement loans for alterations, improvements, or repairs?

2. What maximum loan maturities (terms) should be established?

3. What procedures should be followed in determining the value of solar improvements, or other improvements or repairs?

4. What procedures should be established for determining veteran-applicant's credit worthiness and obtaining loan approval?

5. What types of closing costs should be permitted on home improvement loans? Should lenders be permitted to charge a loan origination fee? How should the VA regulate the charging of loan discount points by lenders on VA home improvement loans?

6. What other home improvements should be authorized by the Administrator as constituting a "passive system" for solar heating and/or cooling?

7. What other home improvement should be authorized by the Administrator as "residential energy conservation measures"?

8. What should be the lien requirements for energy-conservation home improvement loans? Should the lien

requirements for alteration, repair, and improvement loans be altered?

9. What type of VA operational procedures would be beneficial in inducing a lending institution (bank, savings and loan association, credit union, mortgage banker, finance company, etc.) to make guaranteed energy-conservation or alteration and repair home improvement loans?

10. What program guidelines would most effectively induce investment by secondary market institutions in either energy-conservation home improvement loans or home improvement loans for alterations, improvements, or repairs?

Comments and suggestions are sought on any issue or facet in the administration of an energy-conservation home improvement loan program or the home improvement loan program for the purpose of alterations, improvements, or repairs.

#### ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until May 1, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: March 15, 1979.

MAX CLELAND,  
Administrator.

[FR Doc. 79-8611 Filed 3-21-79; 8:45 am]

[4910-59-M]

#### DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety  
Administration

[49 CFR 571]

[Docket No. 78-06; Notice 7]

#### FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Speedometers and Odometers

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend Federal Motor Vehicle Safety Standard (FMVSS) 127, *Speedometers and Odometers*, by specifying requirements for distinguishing between original equipment and replacement odometers and by making primarily technical and clarifying changes to the provisions relating to shielding odometers and making them more reversal resistant. The proposal regarding replacement odometers is intended to complement previously-established requirements for reducing tampering with original equipment odometers. This proposal would reduce the ability of tamperers to misrepresent vehicle mileage by replacing original equipment odometers with replacement odometers set to low mileage readings. More accurate mileage readings will help consumers to determine the condition of used vehicles offered for sale and to take appropriate care in maintaining the safety-related systems in those vehicles. This notice also seeks further public comment on several of the odometer tampering provisions in the standard.

**DATES:** Comments due: May 7, 1979. Effective dates: September 1, 1979, with the exceptions of S4.1.3, the speedometer accuracy requirement, which becomes effective September 1, 1980, and S4.2.1-S4.2.10, the odometer requirements, which become effective September 1, 1981.

**ADDRESS:** Comments should be sent to Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590.

#### FOR FURTHER INFORMATION CONTACT:

Mr Kevin Cavey, Office of Vehicle Safety Standards, 202-426-2720.

**SUPPLEMENTARY INFORMATION:** On July 27, 1978, the NHTSA published a response (43 FR 32421) to petitions for reconsideration of the final rule (March 16, 1978; 43 FR 10919). Subsequently, the agency received a second round of petitions, seeking reconsideration of the July 27 notice. Among the issues raised in that round of petitions were the practicability and objectivity of the requirements relating to providing a visible indication that an odometer has been reversed and to increasing the resistance of odometers to reversal. One commenter objected to these requirements also on the ground that they could be circumvented by simply purchasing a replacement odometer, setting it to a low mileage reading, and installing it in place of the original equipment odometer.

In this issue of the *FEDERAL REGISTER*, the agency is responding to those petitions by issuing this proposal and

issuing a separate notice that amends FMVSS 127 in various ways. Most notably, that notice deletes the 10 percent limit on the variation in distance between graduations on the speedometer scales, provides greater leadtime to comply with the odometer requirements and revises the provision regarding irreversibility of odometers.

To increase the consumers' protection against odometer tampering and promote greater consumer awareness of vehicle condition, the NHTSA proposes that replacement wheels for odometers and wheels on replacement odometers be visibly different from the wheels on odometers installed in new vehicles as original equipment. The means of indicating the difference would be required to be visible to the driver at any odometer reading. This requirement should complement the existing odometer requirements regardless of whether odometers are made to permanently mark the ten thousands miles or kilometers wheel so that the mark will become visible if the odometer is reversed or are made to resist reversal. In the former case, the proposal would prevent tamperers from replacing marked ten thousands wheels with identical new unmarked ones. In the latter case, the proposal would prevent the tamperer from simply removing reversal resistant odometers and replacing them with identical odometers set to lower mileage readings.

Comments are requested on whether the method of visibly differentiating original equipment and replacement odometer wheels should be left totally to the discretion of the manufacturer or whether the method should be standardized to facilitate detection of tampering in all vehicles, regardless of make or model. The agency notes that colors on original equipment odometer wheels are already virtually standardized. Wheels for registering whole miles and kilometers have white numerals on black backgrounds, while the tenths wheels have red or black numerals on a white background. Comments are requested on whether the method should be color, symbols or other type of marking or visible indication if the method is to be standardized. If a single color, symbol or other type of marking or visible indication is to be specified, what should it be? If markings are to be used, what size should they be? Should a combination of methods be required or permitted? The agency's initial preference is for use of a particular color to differentiate between original equipment and replacement odometer wheels. Just as the agency has previously stated its expectation that the vehicle manufacturers will use their vehicle owner manuals to educate consumers about telltale signs of odom-

eter tampering, so the agency expects the manufacturer will explain the significance of the visible differentiation that this proposal would require.

This notice also proposes to require that the ten thousands wheel on odometers be visibly different from the other wheels on odometers. Again, the initial agency preference is to use color to provide the visible differentiation. This requirement would prevent a tamperer from removing a ten thousands wheel from an original equipment odometer and replacing it with a wheel, other than a ten thousands wheel, from another odometer.

The notice would refine and improve the irreversibility option by incorporating interpretations of the option in the response to petitions published today and by defining and limiting the types of tampering that odometers must be guarded against. The response to petitions amends the standard to require that damaging the odometer or a shield around the odometer must be necessary in order to reverse an odometer manufactured in accordance with the irreversibility option. To aid manufacturers in designing their odometers to comply with that option, the preamble to the petition response sets forth the most common methods of tampering.

Those methods are: (1) forcing the odometer wheels apart and out of mesh with the pinion gears by using fingers, a dental pick, ice pick, small screwdriver or other similar instrument; (2) applying rotational pressure with fingers or other means to force odometers wheels to override interference of the pinion gears; (3) rotating the pinion gear carrier plates; and (4) disassembling, resetting, and reassembling the odometer.

This notice would divide the irreversibility option into two separate options. One option would require that odometers be irreversible unless certain damage is done to the odometers to achieve reversal. To facilitate the manufacturer's determination of compliance with the irreversibility option, this notice proposes to incorporate the tampering methods discussed in the preamble to the petition response. If any of those methods permits reversal of an odometer without that specified damage being done to the odometers, the standard would be violated. Compliance with this option could be achieved by:

(1) Reducing the clearance between the odometers wheels, using staking, crimping, welding or adhesives to secure the end retainers on the shaft to prevent wheel and gear separation and using frangible wheels that break if forced to rotate or forced apart (Flat has an odometers which ceases to record distance after it has been forcibly reversed);

(2) Installing the odometers shaft in the speedometer/odometers assembly by staking, crimping, welding or use of adhesives; and

(3) Staking, crimping, welding or using adhesives to attach the rigid or semi-rigid part of the odometer which holds the pinion gear carrier plates in position or attaching the carrier plates to the odometer shaft by keying, welding, staking, crimping or using adhesives.

Comments are requested on whether strength requirements should be specified for the staking, crimping, welding, and adhesives to be used in complying with this option. If requirements were to be adopted, what should they be? As an indication of the strength expected by the agency, manufacturers using an adhesive are expected to use one with the bonding strength of epoxy.

The other option would require that odometers be shielded so that they can not be tampered with unless a shield of specified strength is first deflected, penetrated or fractured.

In addition to seeking comment on the proposals set forth above, this notice also seeks comment on the other provisions in the standard relating to odometer tampering to aid the agency in determining whether they too need further refinement.

The agency has considered the economic impact of this proposal and determined that it is not significant within the meaning of Executive Order 12044 and the Department of Transportation's policies and procedures for implementing that order. The agency has determined further that the impact is so minor as not to require preparation of a written evaluation of it. The only new requirements proposed in this notice involve differentiating between original and replacement odometer wheels. Compliance could be achieved by methods as simple and inexpensive as using different colored inks and different shaped numerals.

In consideration of the foregoing, it is proposed to amend 49 CFR 571.127 in the manner set forth below. (Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50 and 501.8.)

Issued on March 12, 1979.

MICHAEL M. FINKELSTEIN,  
Associate Administrator  
for Rulemaking.

§ 571.127 [Amended]

1. S 3 is amended to read as follows:  
S 3 *Application*. This standard applies to passenger cars, multipurpose passenger vehicles, trucks, motorcycles, and buses, and to speedometers



and odometers and odometer wheels for use in vehicles to which this standard applies. Motor driven cycles whose speed attainable in 1 mile is 30 mph or less are excluded.

2. S 4.2.6 is amended to read as follows:

S 4.2.6 Each odometer shall meet the requirements of S 4.2.6.1 or S 4.2.6.2.

S 4.2.6.1(a) Except as provided in paragraph (b) of this section and S 4.2.8, each odometer shall not be reversible, whether installed in the vehicle or removed from the vehicle, by any of the following means:

(1) Forcing the odometer wheels to override the interference of the pinion gears;

(2) Forcing the odometer wheels apart or out of mesh with the pinion gear;

(3) Rotating the pinion gear carrier plates; or

(4) Disassembly of the odometer, adjustment of the distance reading, and reassembly of the odometer.

(b) Each odometer may be reversed by one or more means specified in paragraph (a) of this section if one or more of the following operations is necessary to achieve the reversal by any of those means:

(1) Breaking one or more rigid or semi-rigid parts of the odometer so that its recording of distance is impaired;

(2) Breaking one or more rigid or semi-rigid parts of the odometer so that the breakage is visible to the driver when the odometer is installed in the vehicle;

(3) Breaking or otherwise defeating the staking, crimping, welding or adhesive used to hold the odometer shaft in the speedometer/odometer assembly; or

(4) Breaking or otherwise defeating the staking, crimping, welding or adhesive used to secure the retainers that prevent the odometer wheels from moving along the shaft.

S 4.2.6.2 Each odometer shall meet the requirements in paragraph (a)-(d) of this section.

(a)(1) The odometer shall be totally encapsulated; or

(2) The odometer shaft shall be held in the speedometer/odometer assembly by staking, crimping, welding or adhesive and all of the odometer except the ends of the shaft shall be encapsulated.

(b) No part of the encapsulated portion of the odometer shall be contactable by fingers or any instrument unless it is necessary to deflect, penetrate or fracture the encapsulation in order to make that contact.

(c) The requirements in paragraphs (a) and (b) of this section shall be met without the speedometer face or the speedometer/odometer lens in place.

(d) The material used for encapsulation under paragraph (a) of this section shall have resistance to deflection, penetration and fracture that is equivalent to the resistance of a 2 mm thickness of lucite in the configuration of the encapsulation.

(3) S 4 is amended by adding the following new section:

S 4.2.9(a) Each replacement wheel for an odometer and each wheel on a replacement odometer shall be visibly different from each wheel on an original equipment odometer.

(b) The wheel on which odometer for registering ten thousands of miles or kilometers shall be visibly different from every other wheel on that odometer.

(c) The visible differences required by paragraphs (a) and (b) of this section shall be visible to the driver of the vehicle at any distance reading.

[FR Doc. 79-8597 Filed 3-19-79; 10:08 am]

[7035-01-M]

#### INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1125]

[Ex Parte No. 293, Sub. No. 2]

#### STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

##### Calculation of Off-Branch Costs

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The New Jersey Department of Transportation (NJDOT) and the Consolidated Rail Corporation (Conrail) have petitioned the Rail Services Planning Office (RSPO) to amend the regulations regarding the calculation of off-branch costs for Class II railroads and to account for inflation not presently covered by the regulations. RSPO is in agreement with both petitioners that the regulations should be reopened in the two areas addressed in the petitions.

Therefore, RSPO is seeking proposals for amendments which would account for inflation and yet would recognize changes in productivity. RSPO is requesting comments from interested parties on the issues addressed in the petitions.

DATE: RSPO invites comments on the proposed amendments on or before April 16, 1979.

ADDRESS: Submit an original and six copies to: Rail Services Planning Office, 1900 L Street, N.W., Suite 500, Washington, D.C. 20036, ATTN: Regional Subsidy Standards.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: The New Jersey Department of Transportation and Conrail have petitioned RSPO to amend the present regulations regarding: (1) revision of the off-branch cost procedures for Class II railroads § 1125.7(n)(4); and (2) development of a procedure in order to account for the inflation in costs that occurs between the end of the calendar year and the end of the subsidy year.

Each of the areas that have been addressed in the petitions is discussed in detail below.

#### CLASS II AND CLASS III OFF-BRANCH COST METHODOLOGY

The New Jersey Department of Transportation has petitioned RSPO to amend the present regulations governing the development of off-branch costs for Class II railroads under § 1125.7(n)(4).

RSPO believes that the current regulations which develop off-branch costs are in need of revision. The current regulations develop the off-branch costs based on a single factor, revenue ton-miles. When the Standards were originally developed, this was believed to be adequate for Class II railroads, since the characteristics of their traffic was assumed to be relatively consistent.

When the current procedure was developed, Class II railroads were defined as those with \$10 million per year or less in gross freight operating revenues. However, on June 29, 1978, the Interstate Commerce Commission published revised revenue levels for determining a railroad's classification for accounting and reporting purposes. This change was effective retroactively to January 1, 1978. The revised classification defines Class II railroads as those with more than \$10 million but less than \$50 million in gross freight operating revenues. In addition, it added a third category, Class III railroads, which are defined as those with gross freight operating revenues of less than \$10 million.

The revised basis for classifying railroads has placed a number of railroads that were formerly Class I into the Class II category. These railroads have traffic characteristics that are substantially different from those that formerly constituted the Class II category. Under the revised classification

basis, Class II railroads will include carriers with line-haul movements of substantial distance and a traffic mixture consisting of bridge, interline, and local traffic. The current off-branch cost regulations do not differentiate between the various categories of traffic handled by a carrier. Continued use of the single factor approach contained in the current regulations will not calculate costs that are representative of the various types of traffic handled by the railroads which are now classified as Class II.

The NJDOT petition proposed a cost methodology that will calculate the off-branch costs for Class II or Class III carriers. RSPO feels that the proposal warrants consideration and believes that the proposed methodology could improve the accuracy of off-branch cost determinations and be relatively simple to use.

The NJDOT proposal segregates a carrier's total variable system expenses between line-haul, terminal, and interchange operations and develops unit costs for each. These unit costs are similar to those calculated for Class I carriers. The proposed procedure will enable a carrier to determine the off-branch costs for interline and local traffic that will reflect the operational characteristics of each. The off-branch costs for interline traffic will be calculated by multiplying an interchange cost per carload, modified terminal cost per carload, and the line-haul cost per car-mile by the applicable service units of the movement. The off-branch costs for a single line movement will consist of a modified terminal cost per carload, a terminal cost per carload, and the line-haul cost per car-mile multiplied by the applicable service units of the movement.

The majority of the data necessary to complete this procedure is available from the carrier's Annual Report Form R-2 or R-3 or the Commission's Rail Carload Cost Scales. The only required data elements that may not be publicly available are: the number of carloads originated, terminated, and interchanged; ton-miles of revenue freight; and loaded freight car-miles. These figures should be readily available from the carrier's internal records.

The actual computation of a carrier's unit costs is a fairly simple operation. It is accomplished by the following procedure: first, the carrier's total variable system expenses are developed by applying a composite variability ratio to the carrier's total system expenses; second, ratios are used to separate the carrier's total variable system expenses between line-haul, terminal, and interchange operations; and third, the individual costs are calculated for each operational area by dividing the variable expense for each by the appropriate service units. Addi-

tionally, a modified terminal cost per carload is calculated.

The variability ratio that is employed to calculate a carrier's total variable expenses is a three-year composite ratio. The ratio was developed based on the Class I railroads and represents that portion of expenses affected by the volume of traffic handled by the carrier. This variability ratio is the same as that used in the current regulations. The line-haul, terminal, and interchange ratios employed to separate a carrier's total variable system expenses between these operations are developed by using the individual carrier's service units and the appropriate regional unit costs from the latest ICC Rail Carload Cost Scales. The service units that are used include: revenue carload terminal handlings; revenue carload interchange handlings; total ton-miles of revenue freight; and total loaded car-miles. The unit costs from the Cost Scales are for a general service, equipped boxcar and include variable interchange cost per carload; average train variable terminal cost per carload and per hundredweight; and average train variable cost per car-mile and per ton-mile. The unit costs for a general service, equipped boxcar are used because the weighted average unit costs for all types of cars closely approximate those for this type of car. The unit costs multiplied by the carrier's service units develop a theoretical estimate of expenses for a carrier's line-haul, terminal, and interchange operations. A ratio for each operational area is then calculated by dividing each theoretical expense total by the sum of all three.

The application of these ratios to the carrier's total variable system expenses produces the carrier's estimated expenses for each operational area. The carrier's unit costs are then calculated by dividing the total expenses for each operational area by the carrier's appropriate service units. The unit costs that are determined include a cost per loaded car-mile for line-haul expenses and costs per carload for interchange and terminal expenses. A modified terminal cost per carload is also calculated. The modified terminal cost is the carrier's cost of handling a loaded car in a terminal immediately prior or subsequent to its movement on the branch line. This unit cost is determined by adding a station clerical cost per carload to the interchange cost per carload.

In order to verify the accuracy and ease of computation of the proposed procedure, the RSPO compared it with the current regulations and costs developed by the ICC's Rail Form A. The comparison was made based on calendar year 1975 costs for two carriers, "A" and "B", selected because



## PROPOSED RULES

both will be reclassified as Class II under the new ICC accounting and reporting classifications. The two carriers are sufficiently different in size, operation, and traffic to test whether the proposed methodology will func-

tion under various situations. The results of the comparison of the procedures, detailed below, reveal that the proposed procedure develops off-branch costs that are markedly similar to those developed from Rail Form A.

|                     | Interline cost per carload by length of haul |         |          |          |          |   |
|---------------------|--|---------|----------|----------|----------|---|
|                     | 50 Mile                                      |         | 100 Mile |          | 400 Mile |   |
|                     | A  | B       | A        | B        | A        | B |
| Rail Form A         | \$80.30                                      | \$96.56 | \$108.71 | \$149.74 | \$279.18 | — |
| NJDOT Proposal      | 82.22  | 91.45   | 110.89   | 134.02   | 282.96   | — |
| Current Regulations | 41.36  | 78.25   | 82.72    | 156.50   | 330.89   | — |

|                     | Single line cost per carload by length of haul |          |          |          |          |   |
|---------------------|--|----------|----------|----------|----------|---|
|                     | 50 Mile  |          | 100 Mile |          | 400 Mile |   |
|                     | A  | B        | A        | B        | A        | B |
| Rail Form A         | \$120.68                                       | \$134.92 | \$149.09 | \$188.09 | \$319.58 | — |
| NJDOT Proposal      | 121.04   | 127.78   | 149.71   | 170.35   | 321.78   | — |
| Current Regulations | 41.36  | 78.25    | 82.72    | 156.50   | 330.89   | — |

#### ACCOUNTING FOR INFLATION BETWEEN END OF CALENDAR YEAR AND END OF SUBSIDY YEAR

In its report and amendment of the regulations published July 13, 1978, (43 FR 30062), RSPO invited comments on the changes that were made to the regulations. When Conrail filed its statement, it raised the issue of failure of the regulations to account for the inflation in costs which occurs between the end of the calendar year and the end of the subsidy year. At the time Conrail filed its initial statement, this issue was beyond the scope of that proceeding. Recognizing that Conrail's comments constituted a petition to reopen the Standards, RSPO decided to handle the comments in a separate proceeding.

The basis for Conrail's proposed amendment is that the light density lines operated by Conrail under the 3R Act subsidy provisions have an accounting or subsidy year of April 1, through March 31. When on-branch cost components use the latest Annual Report Form R-1 as the basis, they do not include any cost escalations after December 31, of that year. As a result, the cost of operations (other than those reimbursed on an actual basis) in March are being reimbursed at the average costs of the preceeding year. Conrail estimates that it has incurred as inflationary loss of \$400,000 for the subsidy year ended March 31, 1978.

The costs at issue here are only those costs which are assigned to the branch line on the basis of an operating service unit. These would include such cost elements as repairs to locomotives, fuel, and train supplies. Cost categories such as maintenance of way

and crew wages (which are assigned on an actual basis) would include the effect of any inflation. In addition, items such as depreciation do not automatically change as a result of inflation until new purchases of equipment are made.

Although the problem appears to be one that is relatively easy to solve, that is not the case. To increase the unit costs by a factor that will cover the inflation ignores any change in productivity. By increasing only the expense amount or the unit costs by an inflation factor, the result is presumed to be the cost of performing an operating function during the period covered by the inflation factor. This may or may not be true. The changes in unit cost from one year to the next are caused by the increase in costs but this may be decreased or compounded when the level of productivity is considered. By increasing only the cost side, the unit costs developed may or may not truly portray the railroad's cost for that activity during the period covered by the inflation factor. This is the reason that something other than an indexing procedure is needed.

RSPO requests comments and proposed solutions on how to account for the inflation occurring between the end of the calendar year and the end of the subsidy year. Any proposed solutions should take into consideration changes in productivity as well as changes in inflation, and should be based on readily available data.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued: March 16, 1979, by Alexander L. Morton, Director, Rail Services Planning Office.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.

## PROPOSED REGULATIONS

Part 1125, Subchapter B, Chapter X, Title 49, Code of Federal Regulations is amended by revising § 1125.7(n)(4) to read as follows:

§ 1125.7 Calculation of available costs and management fee.

(n) . . . . .  
(4) Class II and Class III line-haul railroads shall calculate off-branch costs as follows (based on: the carrier's latest Form R-2 or R-3 filed with the ICC; the ICC's latest *Rail Carload Cost Scales*; and the carrier's own records):

(i) A carrier that has only freight operations shall calculate the estimated system variable expenses by multiplying the total operating expenses by .78, the three-year composite variability ratio for all Class I railroads. If a carrier has passenger and freight service, the freight portion of the total estimated system variable expenses shall be calculated by multiplying the total estimated system variable expenses calculated as above by the ratio of freight related operation expenses to total railway operating expenses [(freight related operating expenses divided by total railway operation expenses)].

(ii) The total number of revenue carload terminal handlings shall be determined from company records (originating and terminating (local) revenue carloads multiplied by 2, plus originating or terminating and interchange (interline) revenue carload).

(iii) The total number of revenue carload interchange handlings shall be determined from company records (bridge (interchange to interchange) revenue carloads multiplied by 2, plus originating or terminating and interchange (interline) revenue carloads).

(iv) The average load per car shall be determined from company records [(ton-miles-revenue freight, divided by loaded freight car-miles)].

(v) The ratios employed to separate the estimated system variable expenses between interchange, terminal and line-haul operations are calculated as follows:

(A) Theoretical interchange expenses are calculated by multiplying the number of revenue carload interchange handlings, paragraph

(n)(4)(iii) above, by the interchange variable cost per carload for other than box, unequipped, refrigerator, tank and TOFC cars, (ICC *Rail Carload Cost Scales*, Table 12, Line 6 or 14, appropriate region, multiplied by 100).

(B) Theoretical terminal carload expenses are calculated by multiplying the number of revenue carload terminal handlings, paragraph (n)(4)(ii) above, by the average train variable terminal cost per carload for box-general service, equipped (one half of the terminal cost per carload ICC *Rail Carload Cost Scales*, Table 3, appropriate region, line 2, col. (8)).

(C) Theoretical terminal lading expenses are calculated by multiplying the total terminal tons (terminal carload handlings, paragraph (n)(4)(i) above, multiplied by average load per car, paragraph (n)(4)(iv) above) by the average train variable terminal cost per ton for box-general service, equipped (one half of the terminal cost, ICC *Rail Carload Cost Scales*, Table 3, appropriate region, line 2 col. (7), multiplied by 20).

(D) Theoretical line-haul car expenses are calculated by multiplying the carrier's loaded car-miles by the average train variable cost per car-mile excluding interchange, for box-general service, equipped (ICC *Rail Carload Cost Scales*, Table 3, appropriate region, Line 2, col. (4) minus Appendix B, appropriate region, Line 2, col. (4)).

(E) Theoretical line-haul lading expenses are calculated by multiplying the carrier's total ton-miles of revenue freight by the average train variable ton-mile cost for a box-general service, equipped (ton-mile cost ICC *Rail Carload Cost Scales*, Table 3, appropriate region, Line 2, col. (5), multiplied by 20).

(F) Theoretical station clerical expenses are calculated by multiplying total revenue carload terminal handlings, paragraph (n)(4)(i) above, by the variable station clerical cost per carload (one half of the station clerical cost per carload, ICC *Rail Carload Cost Scales*, Table 18, appropriate region, Line (2) multiplied by 100).

## PROPOSED RULES

(G) Total theoretical system variable expenses are calculated by adding paragraph (n)(4)(v)(A) plus (n)(4)(v)(B) plus (n)(4)(v)(C) plus (n)(4)(D) plus (n)(4)(v)(E) above.

(H) The ratio for interchange variable expenses is calculated by dividing total theoretical interchange variable expenses, paragraph (n)(4)(v)(A) above, by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) above.

(I) The ratio for terminal variable expenses is calculated by dividing the total theoretical terminal variable expenses, paragraph (n)(4)(v)(B) plus (n)(4)(v)(C) above, by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) above.

(J) The ratio for line-haul variable expenses is calculated by dividing total theoretical line-haul variable expenses, paragraph (n)(4)(v)(D) plus (n)(4)(v)(E) above, divided by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) above.

(K) The ratio for station clerical variable expenses is calculated by dividing total theoretical station clerical variable expenses, paragraph (n)(4)(v)(F) above, by the total theoretical system variable expenses, paragraph (n)(4)(v)(G) above.

(vi) The carrier's total system variable expenses are separated as follows:

(A) Total interchange variable expenses are calculated by multiplying the total system variable expenses; paragraph (n)(4)(i) above, by the interchange variable expense ratio, paragraph (n)(4)(v)(H) above.

(B) Total terminal variable expenses are calculated by multiplying the total system variable expenses, paragraph (n)(4)(i) above, by the terminal variable expense ratio, paragraph (n)(4)(v)(I) above.

(C) Total line-haul variable expenses are calculated by multiplying the total system variable expenses, paragraph (n)(4)(i) above, by the line-haul variable expense ratio, paragraph (n)(4)(v)(J) above.

(D) Total station clerical variable expenses are calculated by multiplying the total system variable expenses, paragraph (n)(4)(i) above, by the sta-

tion clerical expense ratio, paragraph (n)(4)(v)(K) above.

(vii) The carrier's unit costs shall be determined as follows:

(A) The interchange cost per carload shall be calculated by dividing the total interchange variable expense, paragraph (n)(4)(vi)(A) above, by the total number of interchange handlings, paragraph (n)(4)(iii) above.

(B) The terminal cost per carload shall be calculated by dividing the total terminal variable expenses, paragraph (n)(4)(vi)(B) above, by the total number of terminal handlings, paragraph (n)(4)(i) above.

(C) The line-haul cost per car-mile shall be calculated by dividing the total line-haul variable expenses, paragraph (n)(4)(vi)(C) above, by the total number of loaded car-miles.

(D) The modified terminal cost per carload shall be calculated by adding the interchange cost per carload, paragraph (n)(4)(vii)(A) above, to the station clerical cost per carload (total station clerical variable expense, paragraph (n)(4)(vi)(D) above, divided by the total number of terminal handlings, paragraph (n)(4)(i) above).

(viii) The interchange costs shall be calculated by multiplying the interchange cost per carload, paragraph (n)(4)(vii)(A) above, by the number of carloads of traffic interchanged at a point off the branch line and originated or terminated on the branch.

(ix) The terminal costs shall be calculated by multiplying the modified terminal cost per carload, paragraph (n)(4)(vii)(D) above, times the number of carloads which originated or terminated on the branch during the subsidy year. To this amount add the normal terminal cost per carload, paragraph (n)(4)(vii)(B) above, times the number of carloads which originated or terminated on the branch that are local to the railroad serving the branch.

(x) The line-haul costs shall be calculated by multiplying the line-haul cost per car-mile, paragraph (n)(4)(vii)(C) above, by the loaded car-miles generated off the branch by cars originated or terminated on the branch during the subsidy year.

[FR Doc. 79-8780 Filed 3-21-79; 8:45 am]



# V 4 4 / 5 7 M R 2 2 7 9 UMI

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

#### TRADE REGULATIONS

##### Federal Trade Commission Procedures

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference of the United States is preparing a report to Congress on the procedures that the Federal Trade Commission uses to make trade regulation rules. The Conference solicits comments from interested members of the public on recommendations that one of its committees has under consideration.

DATE: Comments by April 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Babcock, Administrative Conference of the United States, 2120 L Street, N.W., Washington, D.C. 20037 (202/254-7020).

SUPPLEMENTARY INFORMATION: The Administrative Conference through its Committee on Rulemaking and Public Information is conducting a major project to study and evaluate the procedures that the Federal Trade Commission uses to make trade regulation rules pursuant to the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, Pub. L. 93-637. The Conference's study is mandated by section 202(d) of that Act, as amended by Pub. L. 95-585. The project is a large one and is being considered by the Committee in several segments.

The Committee now has the following recommendations under consideration and requests comments on these recommendations from members of the public. (Comment on ten other recommendations under consideration was requested by an earlier notice, published on February 21, 1979, at 44 FR 10565.) Copies of the consultant's draft report chapters now completed are available on request from the Conference in accordance with its procedures (1 CFR Part 304).

The Federal Trade Commission is experimenting with practices and procedures similar to those contained in

some of the recommendations published here or on February 21. Publication of the recommendations under consideration is intended to elicit comment on any matter relevant to those recommendations, including: (1) the extent to which the changes embodied in the proposals have already been implemented by the Commission; (2) the experience to date with these modifications; (3) the experience of other agencies with practices similar to those recommended; and (4) the extent to which the recommendations might be of use to agencies other than the Federal Trade Commission.

Owing to the magnitude of the project and the Congressional mandate for submission of a report, the Committee is meeting frequently (see 44 FR 6167, January 31, 1979) to maintain a tight schedule. Therefore, those wishing to comment on the draft of the recommendations under consideration set forth below are urged to do so as soon as possible, to give committee members ample time to consider them. Comments must be in writing and should be sent to the Conference at the address shown above. Those received after April 11, 1979 will be considered only if time permits.

#### RECOMMENDATIONS UNDER CONSIDERATION

(RECOMMENDATIONS 1 THROUGH 10  
APPEAR AT 44 FR 10565 (FEB. 21, 1979))

11. In lieu of its present discovery practice, the Commission should provide by rule that the Presiding Officer, on his own motion or at the request of the Commission staff or any other participant, can ask any participant for clarification, elaboration or support of his presentation. The rule should also provide that failure to comply may result in the drawing of adverse inferences with respect to that presentation or a reduction in the weight to be given to it.

12. The use of subpoenas is properly part of the investigative rather than the hearing process. Compulsory process must, of course, remain available to the Commission staff, even after a hearing commences, in order to investigate previously unforeseen matters that are likely to affect the outcome of the proceeding. Once a hearing has commenced, the subpoena power should be used sparingly, and only

with the approval of the Presiding Officer.

13. If a person appealing from the Commission's initial denial of a Freedom of Information Act request asserts that the information sought is desired for use in a pending rulemaking proceeding, the agency official handling the appeal should not affirm the denial on the basis of a discretionary exemption in that Act without first obtaining the views of the Presiding Officer in the proceeding as to the utility of that information. The Commission should adopt such amendments to its Freedom of Information Act procedures as may be necessary to assure this consultation.

14. An oral hearing can serve any or all of at least four somewhat separate functions: (1) fact gathering; (2) fact testing; (3) assessment of the views of different segments of the public; and (4) clarification of positions and exchange of views on policies, values or desirable lines of inquiry. The fact testing function is performed in the quasi-adjudicative hearing referred to in Proposed Recommendation No. 8. Any other hearing or hearings should be designed according to which of the other three functions is likely to predominate. For example, the clarification of positions and exchange of views on policies, values or desirable lines of inquiry may best be furthered by such informal devices as roundtable or panel discussions.

RICHARD K. BERG,  
*Executive Secretary.*

FEBRUARY 19, 1979.

[FR Doc. 79-8748 Filed 3-21-79; 8:45 am]

[3410-11-M]

### DEPARTMENT OF AGRICULTURE

#### Forest Service

##### DESCHUTES NATIONAL FOREST

State Highway Department Herbicide Treatment Proposal; Finding of No Significant Effect on Human Environment

An Environmental Assessment Report that discusses proposed herbicide treatment by the State Highway Department, along 129 miles (257 acres) of State Highway shoulders and ditches within the Deschutes National Forest in Jefferson, Deschutes, and Klamath counties, Oregon, is available

for public review in the Forest Service office in Bend, Oregon.

Although this project involves application of the herbicide atrazine, the Environmental Assessment Report does not indicate that there will be any significant effect upon the quality of the human environment. Therefore, it has been determined that an environmental statement is not needed.

This was determined upon consideration of:

1. Application and use of the herbicide atrazine was addressed and approved for use in the 1978 Pacific Northwest Region, Forest Service Final Environmental Statement for Vegetation Management with Herbicides.

2. There will be no irretrievable or irreversible resource commitments on the proposed project areas.

3. No known threatened or endangered plant or animal species are within the proposed project areas.

No action will be taken prior to April 23, 1979.

The responsible officer is Earl E. Nichols, Forest Supervisor, Deschutes National Forest, 211 NE. Revere, Bend, Oregon 97701.

Dated: February 7, 1979.

WILLIAM T. MARTIN,  
*Acting Forest Supervisor.*

[FR Doc. 79-8697 Filed 3-21-79; 8:45 am]

[3410-11-M]

### GIFFORD PINCHOT NATIONAL FOREST

Conifer Release and Site Preparation for Fiscal Year 1979 and Fiscal Year 1980; Mt. Adams Ranger District; Finding of No Significant Effect on Human Environment

An Environmental Assessment Report that discusses the proposed conifer release and site preparation program on the Gifford Pinchot National Forest within the Mt. Adams Ranger District in Skamania and Klickitat Counties, Washington, is available for public review in the Gifford Pinchot National Forest Supervisor's Office.

This assessment considers the treatment of 658 acres of cutover plantation. The Forest Service preferred alternative consists of 68 acres of 2,4-D early spring application, 465 acres of Krenite application, 24 acres of 2,4-D summer treatment, 4 acres of Tordon treatment, 6 acres of no treatment, and 87 acres of Velpar weedkiller spot treatment.

This project is not considered to be a major Federal Action, having no significant effect on the quality of human environment. Therefore, it has been determined that an Environmental Statement will not be required. This project does not involve a significant Civil Rights impact or effect a minority group and, therefore, a Civil

## NOTICES

Rights Impact Statement is not required. There is no effect on prime farmlands, range or forest lands, no flood plains or wetlands are located in the project area. The project is not soil or land disturbing, therefore a Cultural Resource Inventory is not required. No endangered plants or animals are known to exist in the project area. This project meets all the requirements of the National Forest Management Act, specifically, the five-year regeneration requirement.

No action will be taken prior to April 23, 1979.

The responsible official is Robert D. Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

ROBERT D. TOKARCZYK,  
*Forest Supervisor.*

MARCH 7, 1979.

[FR Doc. 8698 Filed 3-21-79; 8:45 am]

[3410-11-M]

### GIFFORD PINCHOT NATIONAL FOREST

Conifer Release for Fiscal Year 1979 and Site Preparation, Mt. Adams Ranger District; Finding of No Significant Effect on Human Environment

An Environmental Assessment Report that discusses the proposed conifer release and site preparation program on the Gifford Pinchot National Forest within the Mt. Adams Ranger District in Skamania, Klickitat and Yakima Counties, Washington, is available for public review in the Gifford Pinchot National Forest Supervisor's Office.

This assessment considers the treatment of 541 acres of cutover plantation. The Forest Service preferred alternative consists of 193 acres of 2,4-D early spring application, 127 acres of Krenite application, 221 acres of no treatment. This project is not considered to be a major Federal action, having no significant effect on the quality of human environment. Therefore, it has been determined that an Environmental Statement will not be required.

This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: (a) No irreversible or irretrievable effects on the environment; (b) No apparent adverse cumulative or secondary effects; (c) Physical and biological effects are limited to the area of the plant treatment; (d) This project does not involve a significant civil rights impact or effect a minority group and, therefore, a Civil Rights Impact Statement is not required; (e) There is no effect on prime farmlands, range or

forest lands, no flood plains or wetlands are located in the project area; (f) The project is not soil or land disturbing, therefore a Cultural Resource Inventory is not required; (g) No endangered plants or animals are known to exist in the project area.

No lasting problems were uncovered during the Environmental Assessment Report; only problems that will be solved with proper implementation of the project. This project meets all the requirements of the National Forest Management Act, specifically, the five-year regeneration requirement.

No action will be taken prior to April 23, 1979.

The responsible official is Robert D. Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

ROBERT D. TOKARCZYK,  
*Forest Supervisor.*

MARCH 7, 1979.

[FR Doc. 79-8699 Filed 3-21-79; 8:45 am]

[3410-11-M]

### GIFFORD PINCHOT NATIONAL FOREST

Conifer Release, Wind River Ranger District; Finding of No Significant Effect on Human Environment

An Environmental Assessment Report that discusses the proposed conifer release by aerial spraying using the herbicides Krenite and Roundup on not more than 2,200 acres of National Forest land within the boundaries of the Wind River Ranger District in Skamania County, Washington, is available for public review in the Gifford Pinchot National Forest Supervisor's Office.

The projects consist of 63 project areas (units). The 63 units are scattered over 17 compartments on the Wind River Ranger District. The Environmental Assessment Report does not indicate that there will be any significant effects on the quality of the human environment. Therefore, it has been determined that an Environmental Statement will not be prepared.

This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: (a) No irreversible or irretrievable effects on the environment; (b) No apparent adverse cumulative or secondary effects; (c) Physical and biological effects limited to the area of the plant treatment; (d) No known threatened or endangered species of plants, animals or birds have been recorded or observed in any proposed treatment area.

A problem of stream buffers was discussed during the assessment. A mini-



## NOTICES

mum of 100 feet of nontreated buffer strip will be left adjacent to all wet areas and Class III streams. An additional precaution will be put into practice in the Bear Creek Watershed. A four mile per hour maximum wind speed will be adhered to while spraying within the watershed. A pilot car will be required for the movement of all ground tankers.

No action will be taken prior to April 23, 1979.

The responsible official is Robert D. Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

ROBERT D. TOKARCZYK,  
Forest Supervisor.

MARCH 17, 1979.

[FR Doc. 79-8702 Filed 3-21-79; 8:45 am]

## [3410-11-M]

## OCHOCO NATIONAL FOREST, CROOKED RIVER NATIONAL GRASSLAND

Noxious Weed Control; Finding of no Significant Effect on Human Environment

An Environmental Assessment Report that discusses noxious weed control on approximately 293 acres on National Forest System land in Crook and Jefferson Counties, Oregon, is available for public review in the Forest Service Office in Prineville, Oregon.

Although this project involves application of the herbicides 2,4-D, krovar and atrazine, the environmental assessment report does not indicate that there will be any significant effect upon the quality of the human environment. Therefore, it has been determined that an environmental statement is not needed.

This determination was based upon consideration of the following: (1) Application of the herbicides 2,4-D, krovar and atrazine in accordance with federal and state regulations and requirements will have only a slight adverse effect on the ecosystem; (2) there will be no irretrievable or irreversible resource commitments on the proposed project areas; (3) physical and chemical effects of 2,4-D, krovar and atrazine, when properly applied, have proved to be acceptable based on the best scientific evidence available, and (4) no known threatened or endangered plant or animal species are located within the proposed project areas.

Public concern has been expressed about possible effects of 2,4-D, krovar and atrazine on human health. Herbicides will be used in accordance with federal and state regulations which provide controls that assure protection of human health and welfare.

No action will be taken prior to April 23, 1979.

The responsible official is William L. McCleese, Forest Supervisor, Ochoco National Forest, P.O. Box 490, Prineville, Oregon 97754.

WILLIAM L. MCCLEESE,  
Forest Supervisor.

MARCH 13, 1979.

[FR Doc. 79-8700 Filed 3-21-79; 8:45 am]

## [3410-11-M]

## SIUSLAW NATIONAL FOREST

Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the proposed vegetation management program for this Forest, and proposals for treatment methods for approximately 21,388 acres of National Forest roadsides and timberlands within Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill Counties, Oregon, is available for public review in the Forest Service offices in Alsea, Corvallis, Hebo, Mapleton, and Waldport.

This proposed program involves the singular and combined use of the herbicides 2,4-D, Picloram, Krenite, Amtrite, and Atrazine, and other hand and mechanical treatments. The Environmental Assessment does not indicate that this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors which are discussed in the Environmental Assessment: (a) All chemicals are approved by EPA for the proposed use, and analyzed within the Final Environmental Statement, Vegetation Management with Herbicides—USDA-FS-R6-FES(Adm)75-18(Revised); they were included in the preferred alternative; (b) there will be no irreversible or irretrievable resource commitments on the project areas; (c) the physical and biological effects are limited to the project area; and (d) no known threatened or endangered plants or animals are within the project areas.

Some public concern has been expressed over the use of any chemical and the effect it may have on water quality and the environment. The proposed project includes application measures designed to protect non-target areas and the water quality. State and Federal standards will be met.

No action will be taken prior to April 23, 1979.

The responsible official is Larry Fellows, Forest Supervisor, Siuslaw Na-

tional Forest, P.O. Box 1148, Corvallis, Oregon 97330.

Dated: March 13, 1979.

LARRY A. FELLOWS,  
Forest Supervisor.

[FR Doc. 79-8701 Filed 3-21-79; 8:45 am]

## [3410-16-M]

## Soil Conservation Service

## BIG RACCOON CREEK WATERSHED PROJECT, INDIANA

Intent Not To Prepare an Environmental Impact Statement for Deauthorization of Federal Funding of the Big Raccoon Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of funding of the Big Raccoon Creek Watershed Project, Boone, Hendricks, Montgomery, Parke and Putnam Counties, Indiana.

The environmental assessment of this action indicates it will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project concerns a plan for watershed protection, flood prevention, enhancement of fish and wildlife resources and provision for water-based recreation. The planned works of improvement include 1 single-purpose floodwater retarding structure, 6 multiple-purpose structures for flood prevention and public recreation, 1 single-purpose fish and wildlife structure, 2.3 miles of single-purpose channel improvement for flood prevention, 12.5 miles of single-purpose fish and wildlife channel improvement and 4 access sites for fishing and boating.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224; 317-269-3785. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental

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impact appraisal is available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 21, 1979.

Dated: March 14, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service.

[FR Doc. 79-8703 Filed 3-21-79; 8:45 am]

## [3410-16-M]

## INDIAN CREEK WATERSHED PROJECT, INDIANA

Intent Not To Prepare an Environmental Impact Statement for Deauthorization of Funding of the Indian Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Indian Creek Watershed Project, Brown, Johnson, Monroe and Morgan Counties, Indiana.

The environmental assessment of this Federal action indicates it will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project concerns a plan for watershed protection, flood prevention, and recreation. The planned works of improvement include 8 single-purpose floodwater retarding and recreational structures and 2 multiple-purpose floodwater retarding and recreational structures with associated recreational facilities.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224; 317-269-3785. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agen-

cies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 21, 1979.

Dated: March 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service.

[FR Doc. 79-8704 Filed 3-21-79; 8:45 am]

## [3410-16-M]

## LOST RIVER WATERSHED PROJECT, INDIANA

Intent Not To Prepare an Environmental Impact Statement for Deauthorization of Federal Funding of the Lost River Watershed

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of funding of the Lost River Watershed Project, Dubois, Lawrence, Martin, Orange and Washington Counties, Indiana.

The environmental assessment of this action indicates it will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project concerns a plan for watershed protection, flood prevention, municipal and industrial water supply, and recreation. The planned works of improvement include 8 single-purpose floodwater retarding structures, 2 multiple-purpose floodwater retarding, recreational, municipal and industrial water supply structures, 1 recreational development, 1 municipal and industrial water supply facility and land treatment measures. The channel work will involve debris and hazardous tree removal only on 36.2 miles of existing channel, 2.2 miles of channel construction of which 0.8 mile will be new channel and a grade stabilization structure.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environ-

mental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224; 317-269-3785. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 21, 1979.

Dated: March 14, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service.

[FR Doc. 79-8705 Filed 3-21-79; 8:45 am]

## [3410-16-M]

## TRIBUTARY TO NORTH GROESBECK CREEK WATERSHED FLOOD PREVENTION AND CRITICAL AREA TREATMENT ROAD MEASURE, TEXAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tributary to North Groesbeck Creek Watershed Flood Prevention and Critical Area Treatment RC&D Measure located in portions of east central Childress and west central Hardeman Counties, Texas.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the construction of two small floodwater-retarding structures and a 2,400-foot grassed waterway across cropland and the installation of a stable, grassed waterway along 2.3 miles of county road for the control of erosion. The flood-



water-retarding sediment pools are expected to be dry. Installation of the dams, emergency spillways, and sediment pools will alter 19 acres of habitat for small mammals and songbirds. The planned action will reduce erosion on 65 acres of cropland and 2.3 miles of county road, reduce sediment on 34 acres of cropland, and reduce floodwater damages on 393 acres of cropland and 8 acres of miscellaneous land.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Texas 76501, telephone 817-774-1214. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until April 23, 1979.

Dated: March 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87-703, 16 U.S.C. 590a-f, q.)

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 79-8706 Filed 3-21-79; 8:45 am]

#### [3410-01-M]

##### REDFORK WATERSHED, ARKANSAS

Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Redfork Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of Federal funds for the Redfork Watershed, Desha County, Arkansas.

The environmental assessment of this action indicates that it will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. M. J. Spears, State Conservationist, has determined that the preparation and review of an environmental

impact statement is not needed for this action.

The project concerns a plan for the purpose of watershed protection, flood prevention, and agricultural water management on a 23,266-acre watershed. The planned works of improvement include land treatment on about 11,478 acres and the installation of structural measures consisting of channel work on about 38 miles of drainage main, laterals, and sublaterals with appurtenances.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. M. J. Spears, State Conservationist, Soil Conservation Service, Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72203; 501-378-5445. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 21, 1979.

Dated: March 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008)

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service.

[FR Doc. 79-8707 Filed 3-21-79; 8:45 am]

#### [6335-01-M]

##### COMMISSION ON CIVIL RIGHTS

###### MISSOURI ADVISORY COMMITTEE

###### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) to the Commission will convene at 1:30 p.m. and will end at 3:00 p.m. on April 18, 1979, at 911 Walnut Street, Room 3100, Kansas City, Missouri 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of this meeting is a follow-up to the metropolitan desegregation study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 19, 1979.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8650 Filed 3-21-79; 8:45 am]

#### [6335-01-M]

##### TENNESSEE ADVISORY COMMITTEE

###### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene April 6, 1979 at 7:30 p.m. and will end at 11:30 p.m. in the Holiday Inn, I-40 and 45 Bypass, Exit 80A, Room 402, Jackson, Tennessee 38301.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Atlanta, Georgia, 30303.

The purpose of this meeting is to discuss agenda and date solidification for police/community relations conferences to be held in Chattanooga, Nashville, and Knoxville.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. March 19, 1979.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8651 Filed 3-21-79; 8:45 am]

#### [3510-25-M]

##### DEPARTMENT OF COMMERCE

###### Industry and Trade Administration

###### DUKE UNIVERSITY AND YALE UNIVERSITY

###### Withdrawal of Applications for Duty-Free Entry of Scientific Article

The following applications for duty-free entry of LKB 8800A Ultramicrotomes have been withdrawn by the respective applicants.

Accordingly, no further administrative proceedings will be taken by the Department of Commerce with respect to the applications.

Docket Number 79-00315. Applicant: Yale University, Biology Department, Kline Biology Tower, New Haven, Conn. 06520.

Docket Number 78-00011. Applicant: Duke University Eye Center, Duke

University Medical Center, Durham, NC 27710.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

[FR Doc. 79-3609 Filed 3-21-79; 8:45 am]

#### [3510-25-M]

##### NATIONAL INSTITUTE OF DENTAL RESEARCH

###### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket Number 79-00079. Applicant: DHEW, PHS, National Institute of Dental Research, Building 30, Room B-20, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Stereotaxic Frame and Micromanipulator Frame. Manufacturer: AB Transvertex, Sweden. Intended use of article: The article is intended to be used for research which involves the introduction of a fine micropipette (Tip Diameter less than 1 um) into nerve cells of the spinal cord and brain. Physiological characterization of these nerve cells will be followed by the intracellular iontophoresis of a chemical which will permit observation of the morphology of the cells studied physiologically. The objective of this research is to characterize the function and morphology of nerve cells (and the connections between them) involved in pain perception.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article is capable of movement in the longitudinal and transverse axes. The National Bureau of Standards advises in its memorandum dated March 2, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it

knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

[FR Doc. 79-8608 Filed 3-21-79; 8:45 am]

#### [3510-25-M]

##### UNIVERSITY OF CALIFORNIA ET AL.

###### Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 79-00127. Applicant: The Regents of the University of California, Riverside, Materiel Management Department, Riverside, California 92521. Article: Electron Microscope, Model EM-400 with Eucentric Goniometer Stage. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research in plant cell biology, as well as for other investigations on cell ultrastructure, development, and function. In particular, the article will be used for examinations of thin sections of tissue and isolated material, negatively stained and shadowed-preparations, and freeze-fractured and freeze-etched material. Three-dimensional determination of cell, organelle, and membrane organization will also be done, which includes spatial mapping on structural features of sterological determinations of their interrelationships. Determinations of structural relations integrated in series from the tissue through the cell to the ultrastructural level will be done. With the features of scanning electron micros-

copy and elemental analysis, which can be easily added to this instrument, identifications of particular atomic elements and the determination of their localization, distribution, and relative quantities within tissues and cells will be investigated. In addition, the article will be used in the course, Biology 211, to teach students the principles of specimen preparation and electron optics, as well as how to use the electron microscope. Article ordered: July 10, 1978.

Docket Number 79-00135. Applicant: Iowa State University, Ames Laboratory, 128 Metallurgy Bldg., Ames, IA 50011. Article: Electron Microscope, Model JEM-100CX with Standard Side Entry Type and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for assessment of microstructure as regards morphology, crystallography and chemical composition of metals, ceramics and semiconductors with major emphasis on metals. Article ordered: September 27, 1978.

Docket Number 79-00139. Applicant: Institute of Pathology/CWRU, 2085 Adelbert Road, Cleveland, Ohio 44106. Article: Electron Microscope, Model JEM-100CX with Side Entry Goniometer Stage and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of parasitic protozoa such as *Plasmodium*, *Babesia*, *Toxoplasma*, *Leishmania* and *Trypanosoma*, and their host cells. The overall objective of the research is to study by transmission and scanning electron microscopy two important, yet poorly understood aspects of host-parasite interaction namely a) the mechanism of host cell invasion by the parasites and b) effects of antibodies on the parasites. Article ordered: December 22, 1978.

Docket Number 79-00140. Applicant: National Institutes of Health, Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope, Model JEM-100CX/SEG and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for high resolution imaging of the surfaces of virus infected cells to aid in the search for occult viruses in cultured cells. Article ordered: September 13, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission



electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

[FR Doc. 79-8607 Filed 3-21-79; 8:45 am]

## [3510-15-M]

Maritime Administration

[Docket No. S-639, Sub.-1]

## GREAT LAKES-ATLANTIC STEAMSHIP CO.

Notice of Amended Application

On March 13, 1979, Notice of Amended application appeared in the FEDERAL REGISTER (44 FR 14614) for the application of Great Lakes-Atlantic Steamship Company for operating-differential subsidy to aid in the operation of cargo vessels on Trade Area No. 1 (Great Lakes-Western Europe). In part the notice read:

"Great Lakes-Atlantic intends to operate its proposed service during the open navigation season through the St. Lawrence Seaway. During the period when the St. Lawrence Seaway is closed, between December 15 and April 15, approximately, the applicant would provide a substitute service via a port in the North Atlantic range between Maine and Virginia with through, intermodal bills of lading issued to and from Great Lakes ports in conjunction with connecting rail carriers."

The last sentence of the above cited paragraph is hereby corrected by deleting the last three words, "connecting rail carriers" and substituting therefor the words, "connecting land carriers."

Further, the date for submitting comments is hereby extended to close of business on March 28, 1979.

(Catalog of Federal Domestic Assistance Program No. 11-504, Operating-Differential Subsidy (ODS)).

By order of the Maritime Subsidy Board.

Dated: March 16, 1979.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 79-8593 Filed 3-21-79; 8:45 am]

## [3510-22-M]

National Oceanic and Atmospheric  
Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL  
AND SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302, of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will hold its 22nd regular meeting, to consider: (1) Preliminary EIS and management options for the shallow-water reef fish FMP; (2) new amendments to the spiny-lobster draft FMP; (3) status reports: Migratory coastal pelagics, mollusks, and billfishes FMP's; (4) alternatives to initiate development of a new FMP; and (5) other business. The Scientific and Statistical Committee, established by the Council, will meet to consider management options for the shallow-water reef fish FMP.

DATES: The Scientific and Statistical Committee will meet on Monday, April 9, 1979, from 1:30 p.m. to 5 p.m., at the Council's Office, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico. The Council will meet on Wednesday, April 11, 1979, from 9 a.m. to 5 p.m., at the Windward Passage Hotel, Veterans Drive, Charlotte Amalie, Saint Thomas, U.S. Virgin Islands. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT:

Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918 Telephone: (809) 753-4926.

Dated: March 19, 1979.

WINFRED H. MEIBOHM,  
Executive Director,  
National Marine Fisheries Service.

[FR Doc. 79-8631 Filed 3-21-79; 8:45 am]

## [3510-22-M]

NEW ENGLAND FISHERY MANAGEMENT  
COUNCIL'S SCIENTIFIC AND STATISTICAL  
COMMITTEE

Cancellation of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled meeting on March 23, 1979, of the New England Fishery Management Council's Scientific and Statistical Committee as published in the FEDERAL REGISTER, Vol. 44, No. 48, page 13059, Friday, March 9, 1979, has been cancelled.

FOR FURTHER INFORMATION CONTACT:

New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960. Telephone: (617) 535-5450.

Dated: March 19, 1979.

WINFRED H. MEIBOHM,  
Executive Director,  
National Marine Fisheries Service.

[FR Doc. 79-8632 Filed 3-21-79; 8:45 am]

## [3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION  
OF TEXTILE AGREEMENTSCERTAIN MAN-MADE FIBER TEXTILE PRODUCTS  
FROM THE DOMINICAN REPUBLIC

Import Restraint Level; Correction

MARCH 16, 1979.

On March 14, 1979, there was published in the FEDERAL REGISTER (44 FR 15525) a letter dated March 12, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing an import restraint level of 1,134,636 dozen for man-made fiber brassieres in Category 649, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on November 1, 1978. The following paragraph was omitted and should have been included as paragraph 2 of that letter:

Man-made fiber textile products in Category 649 which have been exported to the United States before November 1, 1978 shall not be subject to this directive.

ARTHUR GAREL,  
Acting Chairman, Committee for  
the Implementation of Textile  
Agreements.

[FR Doc. 79-8606 Filed 3-21-79; 8:45 am]

## [3510-25-M]

## EXPORT OF TEXTILE PRODUCTS

Changed Procedure

MARCH 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changed procedure for entries of certified handloomed and folklore products "which consist of products exempted from restraints under the bilateral textile agreements."

SUMMARY: The Tariff Schedules of the United States Annotated (TSUSA) and the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (Correlation) include certain TSUSA numbers which are used to exempt specified handloomed and folklore products from restraint levels established under the bilateral textile agreements. Effective on April 1, 1979, the TSUSA numbers used to exempt the specified handloomed and folklore products will be removed from the TSUSA and the Correlation.

A new procedure to exempt such merchandise will become effective for all entries or withdrawals after March 31, 1979. After that date, entries or withdrawals of products which are properly certified under arrangements established between the United States and exporting bilateral agreement countries are to be identified by the importer as certified products on the proper Customs entry documents by placing the symbol F as a prefix to the appropriate 7-digit Schedule 3 or Schedule 7 item numbers. Merchandise which is properly certified as exempt by the exporting bilateral agreement country and which is identified on the proper Customs entry document by the symbol F as a prefix to the appropriate 7-digit item number may be permitted as exempt items.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-4212.)

ARTHUR GAREL,  
Acting Chairman, Committee for  
the Implementation of Textile  
Agreements.

COMMITTEE FOR THE IMPLEMENTATION  
OF TEXTILE AGREEMENTS,  
March 19, 1979.

COMMISSIONER OF CUSTOMS,  
DEPARTMENT OF THE TREASURY,  
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: The Tariff Schedules of the United States Annotated

(TSUSA) and Annex 1 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (Correlation) provide certain 7-digit Schedule 3 and Schedule 7 item numbers which are used to exempt specified handloomed and folklore products from restraint levels established under the textile bilateral agreements of the United States with Colombia, Republic of Korea, Malaysia, Mexico, Philippines, Taiwan, India, Pakistan and Thailand.

These 7-digit item numbers are to be removed from the TSUSA and the Correlation, effective on April 1, 1979. Beginning with that date, merchandise from the above countries or other bilateral textile agreement countries which in the future have an arrangement with the United States to exempt specified products which are properly certified as exempt under the arrangement should be entered under the appropriate 7-digit Schedule 3 or Schedule 7 item number, provided the importer places the symbol F as a prefix to the appropriate 7-digit number on the proper Customs' entry document. Only textile products which are properly certified as exempt by the exporting country and which are entered or withdrawn with the symbol F prefix may be permitted entry as exempt items.

This letter and a notice of the change will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,  
Acting Chairman, Committee for the  
Implementation of Textile Agree-  
ments.

[FR Doc. 79-8725 Filed 3-21-79; 8:45 am]

## [3710-KK-M]

## DEPARTMENT OF DEFENSE

Department of the Army/Corps of Engineers

FOUNTAIN CREEK, COLO.

Proposed Flood Control Measures

Albuquerque District, Corps of Engineers is in the process of preparing a Draft Environmental Impact Statement for proposed flood control measures on Fountain Creek, Colorado to protect the city of Pueblo, Colorado.

AGENCY: U.S. Army, Corps of Engineers, Albuquerque District, DOD.

ACTION: Preparation of a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action and Alternatives:* The authorized action considered by the DEIS is construction of Fountain Lake on Fountain Creek north of Pueblo, Colorado. Along with the authorized project, nine structural and four non-structural alternatives have been investigated as means of providing as much flood protection as possible to the city while maintaining economic feasibility. The authorized project and the two other possible dam sites as well as one of the levee/channel project have been elimi-

nated from further study because of their poor cost/benefit ratios. Advanced planning studies and the DEIS are concentrating on the remaining three levee/channel alternatives and the four non-structural alternatives.

2. *Public Involvement Process:* Public involvement in the planning process has involved two public meetings in April 1976 and October 1978. Additionally there have been three formal meetings with the Fountain Creek Commission and numerous other meetings with the city of Pueblo and interested local environmental groups. At this time there are no plans for additional public meetings. Affected federal, state and local agencies and other interested or affected private organizations and parties are invited to submit comments. Although no additional public meetings are scheduled, interested parties are invited to submit comments on the DEIS when it becomes available for public review as indicated below.

3. *Significant Issues Analyzed:* Significant issues analyzed in the DEIS include the impact of the proposed work on the Fountain Creek flood plain through Pueblo, impacts on cultural and historic resources, a comparison of current and projected future conditions with and without the project and the various alternatives and the need for mitigation.

4. *Public Review:* The DEIS should be available for public review in July 1978.

INFORMATION: Questions about the proposed action and the DEIS may be answered by:

Mr. William Tully, USAED, Albuquerque, P.O. Box 1580, Albuquerque, N.M. 87103, AC 505-766-2657.

BERNARD J. ROTH,  
Colonel, Corps of Engineers, Dis-  
trict Engineer, USAED, Albu-  
querque.

MARCH 1, 1979.

[FR Doc. 79-8708 Filed 3-21-79; 8:45 am]

## [3810-70-M]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON  
DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 18 April 1979, at 201 Varick Street, 9th Floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced



Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Head-  
quarters Services, Department  
of Defense.

MARCH 19, 1979.

[FR Doc. 79-8613 Filed 3-21-79; 8:45 am]

#### [3810-70-M]

##### DOD ADVISORY GROUP ON ELECTRON DEVICES

###### Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 27 April 1979, at 201 Varick Street, 9th Floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1

§ 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Head-  
quarters Services, Department  
of Defense.

MARCH 19, 1979.

[FR Doc. 79-8614 Filed 3-21-79; 8:45 am]

#### [6450-01-M]

##### DEPARTMENT OF ENERGY

###### EUROPEAN ATOMIC ENERGY COMMUNITY

###### Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves the shipment from the United States to the Central Bureau of Nuclear Measurements, Geel, Belgium of 10g of Uranium 233 and 1g of Plutonium 242. These materials are to be used in development of an efficient and reliable method for analyzing dissolver solutions from re-

processing plants, under a collaborative program supported by the Department of Energy's Office of Safeguards and Security. Contract No. WC-EU-115 has been assigned to this shipment.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 16, 1979.

HAROLD D. BENGLSDORF,  
Director for Nuclear Affairs,  
International Programs.

[FR Doc. 79-8616 Filed 3-21-79; 8:45 am]

#### [6450-01-M]

##### ECONOMIC REGULATORY ADMINISTRATION

###### Rescission of Negative Determination of Environmental Impact

AGENCY: Department of Energy.

ACTION: Rescission of Negative Determination of Environmental Impact issued June 29, 1978.

SUMMARY: The Department of Energy (DOE) hereby rescinds the Negative Determination (ND) of Environmental Impact, issued June 29, 1978, (43 FR 28229), to the following powerplants:

| Docket No. | Owner                            | Powerplant No. | Generating station | Location        |
|------------|----------------------------------|----------------|--------------------|-----------------|
| OFU-034    | Virginia Electric Power Company. | 1              | Portsmouth         | Portsmouth, Va. |
| OFU-035    | Virginia Electric Power Company. | 2              | Portsmouth         | Portsmouth, Va. |
| OFU-036    | Virginia Electric Power Company. | 3              | Portsmouth         | Portsmouth, Va. |
| OFU-037    | Virginia Electric Power Company. | 4              | Portsmouth         | Portsmouth, Va. |

In response to public comments, DOE is rescinding the ND to reassess the air quality impacts which would result if the listed prohibition orders were made effective.

Following the close of the public comment period on the ND and the environmental assessment (EA), upon which the ND was based, DOE discovered an error in the air quality analysis in the EA. Accordingly, DOE finds it appropriate to rescind the ND pending a reevaluation of the air quality impacts which would result if the

above-named prohibition orders were made effective.

Upon completion of this review, DOE will determine whether to reissue the ND or to prepare an environmental impact statement.

For further information regarding the prohibition orders, see 40 FR 28430 (July 31, 1975).

##### FOR FURTHER INFORMATION CONTACT:

Steven A. Frank, Division of Coal Utilization, Room 7202, 2000 M St.,

NW, Washington, D.C. 20461 (202) 254-6246.

Robert J. Stern, Division of NEPA Affairs, Room 6234, 20 Massachusetts Avenue, NW., Washington, D.C. 20545 (202) 376-5998.

Janine Landow-Esser, Office of the General Counsel, Room 8217, 20 Massachusetts Avenue, NW., Washington, D.C. 20461 (202) 376-4262.

Issued in Washington, D.C., March 14, 1979.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

[FR Doc. 79-8629 Filed 3-21-79; 8:45 am]

#### [6450-01-M]

##### CANADIAN CRUDE OIL ALLOCATION PROGRAM

###### Allocation Notice for the April 1 Through June 30, 1979, Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby publishes the allocation notice specified in § 214.32 for the allocation period commencing April 1, 1979.

The issuance of Canadian crude oil rights for the April 1, 1979, allocation period to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) the name of each refiner and other firm to which rights have been issued; (2) the base period volume<sup>1</sup> of Canadian crude oil for each first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The issuance of Canadian crude oil rights is made pursuant to § 214.31, which provides that rights may be issued to refiners or other firms that own or control a first or second priority refinery based on the number of barrels of Canadian light and heavy

<sup>1</sup>Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

crude oil, respectively, included in the refinery's volume of crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period, November 1, 1974, through October 31, 1975. These calculations have been made and are shown on a barrels per day basis.

The listing contained in the Appendix also reflects any adjustments made by ERA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions or to reflect current operating conditions as provided by § 214.31(d).

Based on its review of the affidavits, supplemental affidavits and reports filed pursuant to Subpart D of Part 214, and other information available to the agency, ERA has designated each refinery or other facility listed in the Appendix as a first or second priority refinery as defined in § 214.21. If a refinery or other facility has not been designated as a priority refinery by ERA, such refinery or other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by § 214.31(e), in the allocation period commencing April 1, 1979, each refinery or other firm which has been issued Canadian crude oil rights for light and heavy crude oil, respectively, is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the Appendix to this notice a number of barrels of Canadian light and heavy crude oil, respectively, subject to allocation under Part 214, equal to the number of rights specified in the Appendix.

The Canadian National Energy Board (NEB) has advised ERA that the total volumes of Canadian light and heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three-month allocation period commencing April 1, 1979, will be as follows: The average export level for Canadian light crude oil will be 55,062 barrels per day (B/D) for April, May, and June. The average export level for Canadian heavy crude oil will be 106,129 B/D for April, 76,672 B/D for May, and 57,938 B/D for June. For purposes of determining allocations of Canadian heavy crude oil, it has been assumed that the average export level will be 80,207 B/D for the three months. Any change in the export levels for Canadian light crude oil, including condensate, and Canadian heavy crude oil anticipated for this allocation period will be reflected in revised allocations that will be issued in a supplemental allocation notice or notices.

The NEB has formally advised ERA of the following operational constraint with respect to the export of Canadian light crude oil for the allocation period:

—50 B/D of light crude oil through the Union Oil pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana.

ERA has given effect to this operational constraint in the allocations set forth in the Appendix.

Additionally, the NEB has formally advised ERA that no Canadian condensate is available for export through Sarnia for this allocation period. Consumers Power Company, Marysville, Michigan, a first priority refinery, usually nominates for and receives an allocation for light crude oil, all of which must be condensate. Consequently, no light crude oil will be allocated to Consumers Power Company, Marysville, for this allocation period.

**Allocation of Canadian Light Crude Oil.** The authorized export level for Canadian light crude oil for this allocation period is 55,062 B/D. The adjusted base period volumes of Canadian light crude oil for all first priority refineries nominating for light crude oil substantially exceeds the light crude oil export level. Accordingly, with the exception of allocations of light crude oil required by the operational constraint, no allocations of light crude oil are shown for second priority refineries. The export level of light crude oil, as adjusted to reflect the operational constraint, was allocated among first priority refineries nominating for light crude oil, excluding Consumers Power Company, Marysville, on a pro rata basis in the following manner. First, an allocation factor of 0.502931<sup>2</sup> was applied to each first priority refinery's adjusted base period volume of light crude oil. Second, the resulting allocation for Murphy Oil Corporation was reduced to conform to its nomination for light crude oil for its first priority refinery. Third, the allocation factor was recomputed<sup>3</sup> to reflect this adjustment and was reapplied to each first priority refinery's (excluding Murphy's Superior refinery) adjusted base period volume of light crude oil to arrive at the final allocations.

<sup>2</sup>0.502931=Adjusted export level for Canadian light crude oil (55,062 B/D less 50 B/D to Thunderbird refinery=55,012 B/D), divided by sum of adjusted base period volumes of Canadian light crude oil for first priority refineries nominating for Canadian light crude oil, excluding Consumers Power, Marysville, (109,372 B/D).

<sup>3</sup>The factor as recomputed is 0.505077=Adjusted export level for light crude oil (55,012 B/D, less allocation to Murphy's Superior refinery (10,000 B/D)=45,012 B/D), divided by sum of first priority refineries' (excluding Murphy) adjusted base period volumes of light crude oil (89,119 B/D).



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**Allocation of Canadian Heavy Crude Oil.** The authorized export level for Canadian heavy crude oil for April, May, and June 1979, is an average of 80,207 B/D. Allocations of heavy crude oil were made according to the first two of the six steps specified in § 214.31(a)(3).

First, the first priority refineries for which nominations had been submitted were allocated heavy crude oil equal to one-fourth of their total base period volumes of Canadian heavy crude oil. Second, the first priority refineries for which nominations had been submitted were allocated heavy crude oil on a pro rata basis with reference to one-fourth of their total base period volumes less oil already allocated to them. Allocations under the third through sixth steps specified in § 214.31(a)(3) were not necessary because there was not enough heavy crude oil to cover the total Canadian base period volumes for all first priority refineries for which nominations for heavy crude oil had been received.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with the ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or

controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocations period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before 30 days from the publications of this Notice.

Issued in Washington, D.C. on March 16, 1979.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulations, Economic Regu-  
latory Administration.

NOTICES

[6450-01-M]

APPENDIX  
CANADIAN ALLOCATION PROGRAM  
RIGHTS - April 1, thru June 30, 1979  
(Barrels Per Day)

| Priority | Refiner/Refinery     | Base Period Volumes |                          |                          | Nominations |        | Allocation |            |
|----------|----------------------|---------------------|--------------------------|--------------------------|-------------|--------|------------|------------|
|          |                      | Total Canadian Runs | Canadian Light Crude Oil | Canadian Heavy Crude Oil | Light       | Heavy  | Light      | Heavy      |
| II       | AMOCO                |                     |                          |                          |             |        |            |            |
|          | Whiting, Ind.        | 26,751              | 25,560                   | 1,191                    | 0           | 0      | 0          | 0          |
| II       | Casper, Wyo.         | 2,991               | 2,991                    | 0                        | 0           | 0      | 0          | 0          |
| II       | Nandan, N.D.         | 8,995               | 8,995                    | 0                        | 0           | 0      | 0          | 0          |
| II       | Sugar Creek, Mo.     | 317                 | 317                      | 0                        | 0           | 0      | 0          | 0          |
| II       | ARCO                 |                     |                          |                          |             |        |            |            |
|          | Cherry Point, Wash.  | 34,225              | 34,225                   | 0                        | 0           | 0      | 0          | 0          |
| II       | ASBLAND              |                     |                          |                          |             |        |            |            |
|          | Buffalo, N.Y.        | 36,752              | 32,033                   | 4,719                    | 0           | 0      | 0          | 0          |
| II       | Findlay, Ohio        | 2,198               | 33                       | 2,165                    | 0           | 0      | 0          | 0          |
| I        | St. Paul Park, Minn. | 14,707 1/2          | 13,127 1/2               | 1,580 1/2                | 40,000      | 27,000 | 6,630      | 5,709 2/3  |
| II       | CLARK                |                     |                          |                          |             |        |            |            |
|          | Blue Island, Ill.    | 18,764              | 18,764                   | 0                        | 0           | 0      | 0          | 0          |
| I        | CONSUMERS POWER      |                     |                          |                          |             |        |            |            |
|          | Easeville, Mich.     | 13,872              | 13,872                   | 0                        | 0           | 0      | 0          | 0          |
| I        | Marysville, Mich.    | 27,306              | 27,306                   | 0                        | 1,200 3/4   | 0      | 0 3/4      | 0          |
| I        | CONTINENTAL          |                     |                          |                          |             |        |            |            |
|          | Billings, Mont.      | 25,994              | 25,994                   | 0                        | 25,994      | 0      | 13,129     | 0          |
| II       | Denver, Colo.        | 4,639               | 4,639                    | 0                        | 4,639       | 0      | 0          | 0          |
| II       | Ponca City, Ok.      | 1,188               | 1,188                    | 0                        | 1,188       | 0      | 0          | 0          |
| I        | Wrenshall, Minn.     | 20,651              | 20,651                   | 0                        | 20,651      | 0      | 10,430     | 0          |
| II       | CRA                  |                     |                          |                          |             |        |            |            |
|          | Coffeyville, Kan.    | 318                 | 318                      | 0                        | 0           | 0      | 0          | 0          |
| II       | Phillipsburg, Kan.   | 173                 | 173                      | 0                        | 0           | 0      | 0          | 0          |
| II       | Scottsbluff, Neb.    | 401                 | 401                      | 0                        | 0           | 0      | 0          | 0          |
| II       | CRYSTAL              |                     |                          |                          |             |        |            |            |
|          | Carson City, Mich.   | 1,104               | 1,104                    | 0                        | 0           | 0      | 0          | 0          |
| II       | DOW CHEMICAL, U.S.A. |                     |                          |                          |             |        |            |            |
|          | Bay City, Mich.      | 2,767               | 2,767                    | 0                        | 0           | 0      | 0          | 0          |
| II       | ENERGY COOPERATIVE   |                     |                          |                          |             |        |            |            |
|          | East Chicago, Ind.   | 10,804              | 10,267                   | 537                      | 0           | 0      | 0          | 0          |
| I        | EXXON                |                     |                          |                          |             |        |            |            |
|          | Billings, Mont.      | 15,908              | 15,908                   | 0                        | 16,000      | 0      | 8,035      | 0          |
| I        | FARMERS UNION        |                     |                          |                          |             |        |            |            |
|          | Laurel, Mont.        | 13,439              | 13,439                   | 0                        | 13,500      | 0      | 6,700      | 0          |
| II       | GLADIEUX             |                     |                          |                          |             |        |            |            |
|          | Fort Wayne, Ind.     | 774                 | 774                      | 0                        | 0           | 0      | 0          | 0          |
| II       | GULF                 |                     |                          |                          |             |        |            |            |
|          | Toledo, Ohio         | 13,253              | 13,253                   | 0                        | 0           | 0      | 0          | 0          |
| II       | HUSKY                |                     |                          |                          |             |        |            |            |
|          | Cheyenne, Wyo.       | 4,865               | 4,865                    | 0                        | 0           | 0      | 0          | 0          |
| II       | Cody, Wyo.           | 806                 | 806                      | 0                        | 0           | 0      | 0          | 0          |
| I        | KOCH                 |                     |                          |                          |             |        |            |            |
|          | Pine Bend, Minn.     | 44,383 1/2          | 3,396 1/2                | 40,987 1/2               | 0           | 95,000 | 0          | 66,847 2/3 |
| I        | LAKE SUPERIOR D.P.   |                     |                          |                          |             |        |            |            |
|          | Ashland, Wisc.       | 125                 | 125                      | 0                        | 0           | 0      | 0          | 0          |
| II       | LAKEVIEW             |                     |                          |                          |             |        |            |            |
|          | Kalamazoo, Mich.     | 1,240               | 1,240                    | 0                        | 0           | 0      | 0          | 0          |
| II       | LAKETON              |                     |                          |                          |             |        |            |            |
|          | Laketon, Ind.        | 141                 | 10                       | 131                      | 0           | 0      | 0          | 0          |
| II       | LITTLE AMERICA       |                     |                          |                          |             |        |            |            |
|          | Casper, Wyo.         | 2,248               | 2,248                    | 0                        | 0           | 0      | 0          | 0          |
| II       | Sinclair, Wyo.       | 709                 | 709                      | 0                        | 0           | 0      | 0          | 0          |



## NOTICES

| Priority          | Refiner/Refinery                           | Base Period Volumes |                          |                          | Nominations |         | Allocation       |        |  |
|-------------------|--|---------------------|--------------------------|--------------------------|-------------|---------|------------------|--------|--|
|                   |  | Total Canadian Runs | Canadian Light Crude Oil | Canadian Heavy Crude Oil | Light       | Heavy   | Light            | Heavy  |  |
| II                | MARATHON<br>Detroit, Mich.                 | 10,301              | 10,159                   | 142                      | 23,687      | 0       | 0                | 0      |  |
| II                | MOBIL<br>Buffalo, N.Y.                     | 24,995              | 24,995                   | 0                        | 0           | 6,036   | 0                | 0      |  |
| II                | Perndale, Wash.                            | 45,444              | 45,444                   | 0                        | 0           | 10,975  | 0                | 0      |  |
| II                | Joliet, Ill.                               | 14,606              | 2,132                    | 12,474                   | 0           | 12,969  | 0                | 0      |  |
| I                 | MURPHY<br>Superior, Wisc.                  | 25,625              | 20,253                   | 5,372                    | 10,000      | 10,000  | 10,000           | 5,651  |  |
| II                | MCRA<br>McPherson, Kan.                    | 836                 | 836                      | 0                        | 0           | 0       | 0                | 0      |  |
| II                | PESTER REFINING CO.<br>El Dorado, Kan.     | 196                 | 196                      | 0                        | 0           | 0       | 0                | 0      |  |
| II                | PHILLIPS<br>Crest Falls, Mont.             | 1,222               | 1,222                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | Kansas City, Kan.                          | 3,352               | 3,105                    | 247                      | 0           | 0       | 0                | 0      |  |
| II                | ROCK ISLAND<br>Indianapolis, Ind.          | 1,063               | 1,063                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | SHELL<br>Anacortes, Wash.                  | 55,919              | 55,919                   | 0                        | 0           | 0       | 0                | 0      |  |
| II                | Wood River, Ill.                           | 8,673               | 8,673                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | SOMIO<br>Toledo, Ohio                      | 29,182              | 29,182                   | 0                        | 15,000      | 10,000  | 0                | 0      |  |
| II                | SUN<br>Toledo, Ohio                        | 16,427              | 16,427                   | 0                        | 0           | 0       | 0                | 0      |  |
| II                | TENNECO<br>Chalmette, La.                  | 1,767               | 1,767                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | TEXACO<br>Anacortes, Wash.                 | 41,229              | 41,229                   | 0                        | 0           | 0       | 0                | 0      |  |
| II                | Casper, Wyo.                               | 1,380               | 1,380                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | Lockport, Ill.                             | 1,244               | 1,244                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | TEXAS AMERICAN<br>West Branch, Mich.       | 2,011               | 2,011                    | 0                        | 0           | 0       | 0                | 0      |  |
| II                | THE REFINERY CORP.<br>Commerce City, Colo. | 174                 | 174                      | 0                        | 0           | 0       | 0                | 0      |  |
| II                | THUNDERBIRD<br>Cut Bank, Mont.             | 554                 | 554                      | 0                        | 50          | 0       | 50 <sup>4/</sup> | 0      |  |
| II                | TOTAL PETROLEUM<br>Alaa, Mich.             | 9,727               | 3,020                    | 6,707                    | 0           | 8,000   | 0                | 0      |  |
| II                | UNION OIL OF CALIF.<br>Lemont, Ill.        | 11,711              | 11,711                   | 0                        | 10,000      | 20,000  | 0                | 0      |  |
| II                | UNITED REFINING<br>Warren, Pa.             | 9,917               | 9,789                    | 128                      | 0           | 0       | 0                | 0      |  |
| II                | WYOMING REFINING CO.<br>New Castle, Wyo.   | 676                 | 676                      | 0                        | 0           | 0       | 0                | 0      |  |
| TOTAL PRIORITY I  |  | 202,010             | 154,071                  | 47,939                   | 127,345     | 132,000 | 55,012           | 80,207 |  |
| TOTAL PRIORITY II |  | 469,029             | 440,588                  | 28,441                   | 54,563      | 68,000  | 50               | 0      |  |
| TOTAL I&II        |  | 671,039             | 594,659                  | 76,380                   | 181,908     | 200,000 | 55,062           | 80,207 |  |

1/ Adjusted.

2/ Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.

3/ Condensate - Not available for export through Sarnia to Consumers Power during this allocation period.

4/ Operational constraint.

[F.R. Doc. 79-8625 Filed 3-21-79; 8:45 am]

## NOTICES

[6450-01-M]

## ENERGY EMERGENCY HANDBOOK

## Request for Comment

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of opportunity for written comment with respect to the development of the Energy Emergency Handbook.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it is currently developing the Energy Emergency Handbook, and solicits public comments. Public hearings on the Handbook have not been scheduled. However, if a significant number of requests for hearings are received, one or more hearings may be scheduled at central locations. Written comments will be accepted through May 15, 1979. The proposed Handbook is briefly described in the Supplementary Information section of this notice. Copies of the proposed Handbook are available for inspection at the Department of Energy, Forrestal Building, Room GA-152, 1000 Independence Avenue, Washington, D.C., and at all DOE Regional Offices.

ADDRESSES: Send comments to Yvonne Allen, Director, Energy Emergency Center, Economic Regulatory Administration, Department of Energy, Room 7204, 2000 M Street, N.W., Washington, D.C. 20461. Copies of the Energy Emergency Handbook are available at the following DOE regional offices: Region I, 150 Causeway Street, Boston, Mass. 02114; Region II, 26 Federal Plaza, New York, N.Y. 10007; Region III, 1421 Cherry Street, Philadelphia, Pa. 19102; Region IV, 1655 Peachtree Street, N.E., Atlanta, Ga. 30309; Region V, 175 West Jackson Boulevard, Chicago, Ill. 60604; Region VI, 2626 Mockingbird Lane, Dallas, Tex. 75235; Region VII, 324 East 11th Street, Kansas City, Mo. 64106; Region VIII, 1075 S. Yukon Street, Lakewood, Colo. 80226; Region IX, 111 Pine Street, San Francisco, Calif. 94111; Region X, 1992 Federal Office Building, 915 Second Avenue, Seattle, Wash. 98174.

## FOR FURTHER INFORMATION CONTACT:

Yvonne Allen (Energy Emergency Center), Department of Energy, 2000 M Street, N.W., Room 7204, Washington, D.C. 20461, 202-252-5155.  
Grant Garrison (Office of General Counsel), Department of Energy, Federal Building, 1726 M Street, Room 510, Washington, D.C. 20461, 202-634-5545.

## SUPPLEMENTARY INFORMATION:

- I. Legislative authority.
- II. Historical overview of the development of the Energy Emergency Handbook.
- III. Objectives of the Energy Emergency Handbook.
- IV. Outline of contents of the Energy Emergency Handbook.
- V. Specific request for comments.

## I. LEGISLATIVE AUTHORITY

The Energy Emergency Handbook was developed pursuant to authority vested in the Department of Energy by the following legislation:

The Department of Energy Organization Act (Pub. L. 95-91), which provides in Section 102 that "it is the purpose of this Act . . . (8) to facilitate establishment of an effective strategy for distributing and allocating fuels in periods of short supply . . .", and The Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended by Pub. L. 95-91, which provides in Section 5(b)(3) that the Secretary shall "develop effective arrangements for the participation of State and local governments in the resolution of energy problems; and in Section 5(b)(4) that the Secretary shall "develop plans and programs for dealing with energy production shortages."

## II. HISTORICAL OVERVIEW

The Energy Emergency Handbook is an integral component of DOE's overall program to improve its capacity, and that of States and localities, to effectively manage short-term energy emergencies. The Handbook was developed as the result of recommendations made by the Winter Energy Emergency Planning Task Force of Winter 1977 and replaces the "Energy Emergency Planning Guide: Winter 1977-78" (prepared by the Task Force after consultation with Federal, State, local, and industry representatives). The Energy Emergency Planning Guide provided a review of the roles and responsibilities of industry, States, and the Federal government in dealing with energy emergencies relating to several fuels. Many of the measures included in the guide are proposed for incorporation into the Energy Emergency Handbook.

## III. OBJECTIVES OF THE ENERGY EMERGENCY HANDBOOK

The Handbook is designed to inform State and local governments of Federal and State response actions which are available to manage energy emergencies. While it is recognized that each State and community has its own unique authorities, responsibilities and problems, the Handbook is intended to provide all users with information

which will help them prepare for and respond to energy emergencies resulting from moderate to severe shortages of natural gas, petroleum products, electricity, coal and propane. In addition, specific actions which Federal and State Governments can take, their objectives, operation and impact will be presented.

## IV. OUTLINE OF THE HANDBOOK

The Handbook is still in the process of development and will be finalized in mid-September 1979. The outline below represents the proposed approach for the Handbook. Modifications in the scope and content will be made to reflect comments received from the public.

## CHAPTER 1. INTRODUCTION

- Provides an overview of the contents of the Handbook.
- Describes nature of energy emergencies included in the Handbook.
- Describes the components of the energy emergency management process.
- Provides a plan for rapid communication, prior to and during an emergency to ensure effective coordination of private industry and Federal, State and local governments.

## CHAPTER 2-6. ENERGY EMERGENCIES; VARIOUS FUELS

- Provides an overview, cause of and impact analysis of energy emergencies in the following fuel systems:
  - Petroleum.
  - Natural gas.
  - Propane.
  - Coal.
  - Electricity.

## CHAPTER 7. STATE ENERGY EMERGENCY ACTIONS

- Provides an analysis of various actions a State may take to deal with energy emergencies. Measures discussed have been used effectively in the past; are included in existing legislation in certain States; and are anticipated to have a high likelihood of effective implementation. Implementation of specific measures depends upon the State legislative and constitutional authority.

## A. Demand Restraint

- a. Public awareness campaign designed to achieve demand restraint goals through pre-emergency and emergency information programs.
- b. Reduce temperature settings for space heating.
- c. Reduce temperature settings for water heating.
- d. Reduce working hours of industrial and commercial businesses.
- e. Eliminate aesthetic outdoor lighting.
- f. Curtail civic and sports activities.



- g. Close schools.
- h. Impose natural gas curtailment priority categories.
- i. Implement emergency electric energy curtailment plans.
- j. Restrict private transportation.
- k. Modify transportation routes, schedules, or speed limits.
- l. Restrict time when fuels, particularly gasoline, may be sold.
- m. Encourage use of paratransit and ride-sharing programs.

#### B. Supply Enhancement

- a. Relax state air pollution restrictions.

#### C. Supply Distribution/Transportation

- a. Clear frozen waterways.
- b. Clear roads and bridges.
- c. Grant hauling permits to fuel trucks quickly.
- d. Permit overweight trucks to transport fuel over specified routes.

#### D. Supply Allocation

- a. Allocate fuel supplies to high priority users.
- b. Redistribute fuel from the supplies of large users.
- c. Require pro rata reductions in deliveries of fuel to end-users.

#### E. Human Needs

- a. Develop state plan which addresses human needs during energy emergencies.

#### F. Other

- a. Establish lines of communication with the Federal government for preliminary advice prior to seeking Federal action.

The proposed format for the measures which will be included in the Handbook is as follows:

- **Objective.** A brief statement of the intent of the action.

- **Implementation.** A discussion of typical implementation procedures, including the form the action could take (e.g., press release, TV announcement by the governor, implementation of auditing and enforcement procedures, etc.). If special laws or executive orders are typically required, they will be briefly described.

- **Impacts.** A discussion of each action in terms of its anticipated impacts on an energy emergency. In addition, possible undesirable economic, social and political side-effects will be discussed.

- **Experience.** A partial listing of states that have had experience with this action.

#### CHAPTER 8. FEDERAL ENERGY EMERGENCY ACTIONS

- Describes the types of Federal actions available to deal with a variety of energy emergencies or shortages.

- Proposes the following measures for possible inclusion in the Handbook, which are directed at Federal operations or define what can be done to assist states.

#### A. Demand Restraint

- 1. **Petroleum.** a. Restrict sales of gasoline on weekends.
- b. Increase use of paratransit and ride-sharing programs.

- 2. **Electricity.** a. Reduce, for the benefit of higher-priority uses, electricity used at uranium enrichment plants.

- b. Restrict use of illuminated advertising signs.

- c. Request utilities to reduce intra-company and power station requirements to a minimum.

- 3. **All Fuels.** a. Public awareness campaigns designed to achieve demand restraint goals through pre-emergency and emergency information programs.
- b. Limit space heating, hot-water heating, and cooling in commercial and public buildings.
- c. Limit use of fuels in Federal facilities.

#### B. Supply Enhancement

- 1. **Petroleum.** a. Impose mandatory refinery yield program.

- b. Distribute fuel from the Strategic Petroleum Reserve.

- c. Order accelerated production from wells on Federal lands.

- 2. **Natural Gas.** a. Grant gas distribution companies permission to inject ethane-propane mixes into their gas distribution system.

- b. Order accelerated production from Federal leases.

- c. Encourage increased imports of natural gas.

- d. Prohibit the use of natural gas by electric plants and major fuel-burning installations that: (1) have access to petroleum, and (2) have had the capability to burn petroleum at some time after September 1, 1977.

- 3. **Coal.** a. Temporarily permit the burning of natural gas or petroleum instead of coal, despite prohibitions against burning natural gas or petroleum.

- 4. **Electricity.** a. Purchase electric energy from Canada.

- b. Increase capacity factors on hydroelectric stations with reservoirs.

- c. Request utilities to operate base load generators at maximum capacity factor.

- 5. **All Fuels.** a. Suspend State Implementation Plans under Section 110(f), of the Clean Air Act, as amended, to permit utilization of higher pollutant fuels.

#### C. Supply Distribution/Transportation

- 1. **Natural Gas.** a. Authorize temporary sales after Presidential declaration of emergency.

- b. Exempt sales and transportation of gas from FERC certification requirements temporarily.

- c. Grant temporary certificates to transport natural gas.

- 2. **All Fuels.** a. Direct railroads to give priority to transporting fuel.

- b. Suspend limits on the number of hours that truckers may drive.

- c. Use military or other Federally owned equipment to transport fuels.

- d. Requisition privately-owned railcars.

- e. Use vessels under foreign flag to transport fuel between domestic ports.

- f. Clear frozen waterways.

- g. Authorize a motor carrier or water carrier to provide temporary service for which the ICC has not granted the carrier permanent operating rights.

#### D. Supply Allocation

- 1. **Petroleum.** a. Allocate crude oil to refiners through standby regulations.

- b. Allocate any controlled or decontrolled petroleum products by activating standby regulations.

- c. Limit prices of any controlled or decontrolled petroleum products by activating standby regulations.

- d. Continue state set-aside program.

- e. Implement International Energy Program to allocate petroleum among the oil-importing countries.

- f. Expand petroleum products entitlements program.

- 2. **Propane.** a. Allocate propane.

- Continue state set-aside program.

- 3. **Natural Gas.** a. Allocate natural gas after Presidential declaration of emergency.

- b. Expedite consideration of requests for increased allocation of petroleum products to Synthetic Natural Gas plants.

- 4. **Coal.** a. Allocate coal to electric powerplants and major fuel-burning installations.

- 5. **Electricity.** a. Request utilities to maximize energy transfers to deficient areas.

- b. Order emergency interconnections, sales and exchanges between electric utilities.

- c. Maximize fuel switching.

- 6. **All Fuels.** a. Allocate or requisition any fuel or other commodity in an emergency that threatens national defense (authority under the Defense Production Act).

- b. Order emergency interconnections, sales and exchanges between electric utilities.

- c. Maximize fuel switching.

- 6. **All Fuels.** a. Allocate or requisition any fuel or other commodity in an emergency that threatens national defense (authority under the Defense Production Act).

- b. Order emergency interconnections, sales and exchanges between electric utilities.

- c. Maximize fuel switching.

- 6. **All Fuels.** a. Allocate or requisition any fuel or other commodity in an emergency that threatens national defense (authority under the Defense Production Act).

- b. Order emergency interconnections, sales and exchanges between electric utilities.

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- b. Order emergency interconnections, sales and exchanges between electric utilities.

- c. Maximize fuel switching.

- 6. **All Fuels.** a. Allocate or requisition any fuel or other commodity in an emergency that threatens national defense (authority under the Defense Production Act).

- b. Order emergency interconnections, sales and exchanges between electric utilities.

- c. Maximize fuel switching.

- e. Provide new loans to assist small businesses harmed by the energy emergency.

- f. Implement Community services Administration Emergency Energy Assistance Program (formerly crisis intervention).

- g. Provide short-term loans of emergency equipment from Defense Civil Preparedness Agency.

- h. Use HEW-funded programs by direction of the Governor to meet emergency needs of groups with high risk to health.

- i. Use the Aid to Families with Dependent Children program to assist eligible families (not all states have included an emergency assistance option in their program).

- j. Assist the elderly through the Administration on Aging.

- k. Department of Defense Disaster Relief Assistance in Peacetime Energy Emergencies.

#### F. Other

- 1. **All Fuels.** a. Direct which contractual obligations should be satisfied first when an emergency that threatens national defense prevents all obligations from being satisfied (authority under the Defense Production Act).

- b. Expedite consideration of requests for waiver, exemption or postponement from DOE regulations, including temporary public interest exemption from FUA, EPAA, ESECA, etc., regulations.

- c. Use emergency communications network of the Defense Civil Preparedness Agency.

- The proposed format for the measures which will be included in the Handbook is as follows:

- **Objective.** Brief statement of the intent of the action.

- **Initiation.** Brief discussion of the first implementation step, including identification of the Federal office to be contacted.

- **Operation.** Description of procedures subsequent to initiation.

- **Scope of Action** (as appropriate)

- Eligibility. What are eligibility requirements?

- Funding Available. Total funds available and typical grants/loans.

- Allowable Uses and Limitations. This discussion will focus on allowable uses as well as political, economic and practical limitations of the action.

- Duration.

- **References.**

#### CHAPTER 9. FEDERAL ENERGY EMERGENCY PLANNING

- Describes Federal activities in an energy emergency and planning for future emergencies.

- Describes energy management responsibilities and activities.

#### CHAPTER 10. FEDERAL ENERGY EMERGENCY LEGISLATION

- Provides an overview of Federal energy emergency legislation and copies of the National Energy Act, including the National Energy Conservation Policy Act, the Powerplant and Industrial Fuel Use Act, Energy Tax Act, and the Natural Gas Policy Act.

#### CHAPTER 11. FEDERAL-STATE DIRECTORY

- Provides a Directory of Key State and Federal officials with energy emergency management responsibilities (a directory of local officials may be developed). The Directory will be updated as appropriate.

#### V. SPECIFIC REQUESTS FOR COMMENT

Comments are invited on all aspects of the Energy Emergency Handbook. In addition, ERA requests that particular attention be given to (1) usefulness of the approach, scope, and format of the Handbook to users (State and local governmental officials with energy emergency management responsibilities); (2) State and Federal measures in terms of (a) practical implementation prior to and during an energy emergency, (b) measures which should be added or omitted based upon State and local experiences, (c) format of the description of each measure, and (d) desirability of including some or all of the human needs and other measures administered by other Federal agencies; (3) desirability of holding one or more public hearings on the Handbook.

Issued at Washington, D.C. on March 15, 1979.

HAZEL R. ROLLINS,  
Deputy Administrator, Economic,  
Regulatory Administration.

[FR Doc. 79-8750 Filed 3-21-79; 8:45 am]

#### [6450-01-M]

Federal Energy Regulatory Commission

[Docket No. TC79-10]

ALGONQUIN GAS TRANSMISSION CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 14, 1979, Algonquin Gas Transmission Company (Respondent), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. TC79-10 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with Section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in

said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent add a new subparagraph (b) to Section 14.7 which provides:

"... Notwithstanding the other provisions of this Section 14, Seller shall:

"(b) Grant adjustments, during the period April 1, 1979 through October 31, 1979, to the extent required by Part 281, Subpart A, Subchapter I, Chapter 1 of Title 18, Code of Federal Regulations, in order to protect deliveries of natural gas for essential agricultural uses and for high priority uses."

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by Section 4 of the Natural Gas Act and Section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with Section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8655 Filed 3-21-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP78-266, et al.]

BEAR CREEK STORAGE CO., ET AL.

Filing of Proposed Stipulation and Agreement

MARCH 14, 1979.

Take notice that on March 9, 1979, Bear Creek Storage Company (Bear Creek), Southern Natural Gas Company (Southern), and Tennessee Gas



Pipeline Company, a Division of Tenneco, Inc. (Tennessee) have filed a proposed stipulation and agreement requesting certificates of public convenience and necessity pursuant to Section 7 of the Natural Gas Act authorizing (1) the construction, development, and operation of a natural gas storage field and related facilities by Bear Creek, (2) the capitalization and recovery by Bear Creek of the cost of base storage gas and related injection fuel gas, (3) the sale and delivery of natural gas, and (4) the abandonment of gas production, all as described more fully in the proposed stipulation and agreement which is on file with the Commission in the above-captioned docket.

## ARTICLE I

The proposed stipulation states that the certificates of public convenience and necessity requested by Bear Creek, Southern, and Tennessee in Docket Nos. CP78-266 and CP78-267 should be issued as described therein. Such certificates shall authorize the development and operation of the Pettit limestone formation in the Bear Creek Field located in Bienville Parish, Louisiana, as an operational gas storage facility.

## ARTICLE II

Specifically, Bear Creek's certificate will authorize the following:

A. The acquisition of all necessary mineral, royalty, and working interests, and all storage, surface, and other rights and interests necessary to develop and operate the Pettit Reservoir of the Bear Creek Field as a gas storage facility.

B. The drilling, construction and operation of a total of 52 injection-withdrawal wells, 2 salt water disposal wells and 3 observation wells in the Bear Creek Field, together with certain wellhead measuring equipment and other ancillary facilities.

C. The conversion into observation wells of 4 existing wells in the Bear Creek Field.

D. The reworking for the purpose of insuring pressure integrity of 8 existing wells owned by Southern and others extending through the Pettit Reservoir into deeper formations and the reworking of 7 existing dually completed wells owned by Southern and others for the purpose of eliminating the ability of those wells to produce from the Pettit Reservoir.

E. The construction and operation of a central plant in the Bear Creek Field which will consist of an approximately 28,000 horsepower compressor station, dehydration facilities, and other ancillary facilities necessary to the operation of the storage field.

F. The establishment of a delivery point together with necessary meter-

ing facilities (to be called the Bear Creek Area Delivery Point) for the receipt and the redelivery of gas. Such delivery point shall consist of two interconnections, one between the proposed facilities of Bear Creek and the existing facilities of Southern and the other between the proposed jointly-owned Southern-Tennessee Bear Creek Pipeline (as applied for in the application in *Southern Natural Gas Company and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.*, Docket No. CP78-267) and the proposed facilities of Bear Creek.

G. The construction and operation of certain field pipeline facilities, as proposed in the application and accompanying exhibits in Docket No. CP78-266, to connect the central plant to the various injection-withdrawal wells proposed to be drilled and constructed. The field lines will consist of approximately 7 miles of 14-inch O.D. pipeline, 3.4 miles of 12½-inch O.D. pipeline, 6.2 miles of 10½-inch O.D. pipeline, 8.3 miles of 8-inch O.D. pipeline and .6 miles of 6-inch O.D. pipeline.

H. The receipt from Southern and Tennessee of approximately 49,900,000 Mcf of cushion gas plus necessary injection fuel gas (estimated to be approximately 576,000 Mcf) at the rates stated herein.<sup>1</sup>

I. The injection into and withdrawal annually from the Pettit Reservoir as top storage gas of an additional approximate 65,000,000 Mcf of natural gas to enable Bear Creek to utilize the Pettit Reservoir at its proposed storage design volume, estimated to be approximately 114,900,000 Mcf. The total top storage gas capacity shall be shared equally by Southern and Tennessee.

J. The operation as proposed in the application and accompanying exhibits in this proceeding of the Pettit Reservoir to provide a storage service pursuant to the proposed tariff contained in Exhibit P of the application and at the rates proposed therein as modified by this stipulation and agreement.

<sup>1</sup>The total cushion gas volume of approximately 49,900,000 Mcf includes an estimated 4,410,000 Mcf of non-recoverable reserves presently contained in the Pettit Reservoir. For the remaining 45,490,000 Mcf required for cushion gas Tennessee and Southern are each requesting in the application and accompanying exhibits in this proceeding authorization to sell to Bear Creek approximately 22,745,000 Mcf of base storage gas and to have such volume injected by Bear Creek for base storage gas; however, Southern's volume of injection shall be reduced by the amount of recoverable reserves in place at the time Bear Creek acquires from Southern necessary interests in the Bear Creek Field (estimated to be approximately 1,754,000 Mcf as of April 1, 1979).

## ARTICLE III

Specifically, the certificates of Southern and Tennessee will authorize the following:

A. The sale to Bear Creek of approximately (i) 22,745,000 Mcf of base storage gas and approximately 299,550 Mcf of related fuel gas by Tennessee and (ii) 22,745,000 Mcf of base storage gas by Southern (including approximately 1,754,000 Mcf of recoverable reserves currently in the Pettit Reservoir) and approximately 276,450 Mcf of non-recoverable reserves currently acquired or to be acquired in the Pettit Reservoir by Southern.

B. The delivery to Bear Creek at the Bear Creek Area Delivery Point by Southern and Tennessee each of volumes of top storage gas up to one-half of the capacity of the Pettit Reservoir (less cushion gas) when filled to its proposed total storage design volume. Such top storage gas inventory is estimated to be approximately 32,500,000 Mcf for Southern and 32,500,000 Mcf for Tennessee. Such volumes delivered to Bear Creek will be stored and subsequently redelivered by Bear Creek to Southern and Tennessee at the Bear Creek Area Delivery Point.

C. The establishment of an interconnection between the proposed Bear Creek pipeline, filed for in *Southern Natural Gas Company and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.*, Docket No. CP78-267, and the proposed Bear Creek storage facilities to permit the delivery and receipt of injection and withdrawal volumes at Bear Creek for the account of Tennessee and Southern.

D. The establishment of an interconnection between Southern's existing Bienville Compressor Station facilities and the proposed Bear Creek storage facilities to permit Southern to directly deliver and receive injection and withdrawal volumes at Bear Creek.

E. The operation of the Bear Creek Storage Field for Bear Creek by Southern as operator under the Bear Creek Operating Agreement (See Exhibit M to the application).

## ARTICLE IV

The parties stipulate and agree that the Commission should issue an order authorizing the transfer to Bear Creek of the Pettit Reservoir of the Bear Creek Field and abandonment of service related thereto.<sup>2</sup>

<sup>2</sup>Southern will sell its working interest in the Pettit Reservoir and the following four well bores completed in the Pettit Reservoir to Bear Creek:

- (1) P SU F; Hodge-Hunt Lumber Co. #A-1.
- (2) P SU H; Hodge-Hunt #D-1.
- (3) P SU H; T. A. Loe, et al., #1.
- (4) P SU B; Commercial Real Estate #1.

A negligible volume of gas is produced from the Pettit Reservoir by Franks Petroleum Inc. (Franks) and sold to United Gas

Footnotes continued on next page

The Commission will provide for the filing of comments on the offer of settlement on an expedited basis. Any person desiring to be heard or to protest the proposed stipulation and agreement should file initial comments by March 23, 1979, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any party wishing to become a party must file a petition to intervene in accordance with the Commission's Rules; provided, however, that persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filings. Copies of the proposed stipulation and agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8679 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket Nos. ER79-216 and ER79-217]

## BOSTON EDISON CO.

## Proposed Tariff Changes

MARCH 13, 1979.

Take notice that Boston Edison Company (Edison) of Boston, Massachusetts on February 27, 1979, tendered for filing Fifth Revised Exhibit B to its contracts with the following three total requirements wholesale customers:

## FERC Rate Schedule No.

|                        |    |
|------------------------|----|
| Town of Concord.....   | 47 |
| Town of Norwood.....   | 48 |
| Town of Wellesley..... | 51 |

The Company also tendered for filing Second Revised Exhibit B to its Contract Demand tariff, FERC No. 111, under which partial requirements service is furnished to the Town of Reading.

The rate schedule changes are proposed to be effective for deliveries of power and energy on and after April 29, 1979.

According to Edison, the proposed all-requirements rate schedule will increase revenues from the three affected customers by \$656,070, based on sales for the twelve-month test year

Footnotes continued from last page  
Pipe Line Company (United). This interest will be acquired and arrangements will be made with United to deliver the remaining recoverable reserves attributable to Franks' interest to United.

ended September 30, 1978. According to Edison, the proposed Contract Demand rate schedule will increase revenues by \$332,148 on the same test year basis. According to Edison, the total of the two increases is \$988,218. According to Edison, the design of the all-requirements rate has been modified through the inclusion of separate demand charges for taking service at the 115 kV level and at the 14/4 kV level. According to Edison, the design of the Contract Demand rate has been changed to include a monthly customer charge.

Edison states that it has filed the rate increases in order to recover its increased cost of providing electric service and to earn a fair return on its investment dedicated to the public service. Edison further states that a copy of the filing has been posted as required by the Commission's regulations, and a copy has been mailed to each of the customers affected by the proposed changes and to the Massachusetts Department of Public Utilities. All the affected customers are located in Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8680 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. TC79-17]

## CITIES SERVICE GAS CO.

## Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Cities Service Gas Company (Respondent), Post Office Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. TC79-17 a tariff sheet as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more

fully set forth in said sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent adds a new Section 9, entitled Interim Adjustments, to the General Terms and Conditions of Respondent's FERC Gas Tariff, Original Volume No. 1. The filed tariff sheet provides that adjustments to the respondent's priority of service shall be granted to the extent necessary to supply the essential agricultural uses and high-priority uses of direct sale customers and indirect sale customers as provided for in Part 281, Subpart A, Subchapter 1, Chapter 1 of Title 18 of the Code of Federal Regulations. The tariff sheet further provides that volumes delivered under any such adjustment shall be reduced proportionately if such adjustments would otherwise result in the reduction of deliveries of natural gas:

(a) To a direct sale customer, local distribution company or interstate pipeline customer to any level which would cause a direct or indirect supply deficiency for service to essential agriculture or high-priority uses; for

(b) Which the Company determines is reasonably necessary for injection into storage by the Company or by any of its customers except to the extent the Federal Energy Regulatory Commission, upon complaint, determines that such storage is not reasonably necessary to serve high-priority uses or essential agricultural uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protests with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-



tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8658 Filed 3-21-79; 8:45 am)

[6450-01-M]

[Docket No. ER79-222]

THE CONNECTICUT LIGHT & POWER CO.

Purchase Agreement

MARCH 14, 1979.

Take notice that on March 1, 1979, the Connecticut Light & Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Northfield Mountain Purchase Agreement between the Connecticut Light and Power Company (CL&P), The Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO), (the NU Companies) and the City of Holyoke Gas and Electric Department (HG&E) dated as of September 1, 1978.

CL&P states that the Purchase Agreement provides for a sale to HG&E of a specified percentage of capacity and related pondage from the NU Companies' Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service during the period October 31, 1978 through October 31, 1983.

CL&P states that a complete review and redetermination of the carrying charges for the Project have recently been completed in order to accurately determine the capacity costs. CL&P states that this review and redetermination delayed execution of the agreement until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

CL&P requests that the Commission waive its notice requirements and permit the rate schedule filed to become effective on October 31, 1978.

CL&P states that the capacity charge rate for the entire Project is a rate determined on a cost-of-service basis for the entire Project. The monthly transmission charge is equal to one-twelfth of the annual average cost of transmission service on the NU system determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which HG&E is entitled to receive.

CL&P states that the services to be provided under the Purchase Agreement are similar to service provided by the NU Companies relating to an earlier agreement between the NU Compa-

nies and HG&E (Rate Schedule FPC Nos. CL&P 104; HELCO 84; and WMECO 98).

CL&P states that a copy of the rate schedule has been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts; and HG&E, Holyoke, Massachusetts.

HELCO and WMECO have filed Certificates of concurrence in this docket.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8691 Filed 3-21-79; 8:45 am)

[6450-01-M]

[Docket No. ER79-225]

THE CONNECTICUT LIGHT & POWER CO.

Second Amendment to Northfield Mountain Purchase Agreement

MARCH 14, 1979.

Take notice that on March 2, 1979, The Connecticut Light & Power Company (CL&P) tendered for filing a proposed Second Amendment to Northfield Mountain Purchase Agreement (Second Amendment) dated May 1, 1977 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and (2) Holyoke Gas and Electric Department (HG&E).

CL&P states that HG&E has requested that the entitlement percentage purchased by HG&E in the Northfield Project be increased from 4,000 kilowatts to 6,000 kilowatts for the period May 1, 1977, to October 31, 1978.

CL&P requests that the Commission permit the Second Amendment filed to become effective on May 1, 1977.

CL&P states that the monthly transmission charge is equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accord-

ance with Section 13.9 (Determination of Amount of the Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee multiplied by the number of kilowatts of winter capability which HG&E is entitled to receive.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and HG&E, Holyoke, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8682 Filed 3-21-79; 8:45 am)

[6450-01-M]

[Docket No. ER79-218]

THE DAYTON POWER & LIGHT CO.

Filing of Rate Schedule

MARCH 14, 1979.

Take notice that on February 28, 1979, the Dayton Power and Light Company (Dayton) tendered for filing a rate schedule setting forth all rates and charges that Dayton and the Cincinnati Gas & Electric Company (Cincinnati) have agreed to under an Interconnection Agreement between Dayton and Cincinnati providing for interconnection of electric facilities, Emergency Energy, Interchange Energy, Maintenance Energy, Short Term Power and Energy, Limited Term Power and Energy and Conservation Energy. Dayton indicates that this rate schedule supersedes that contained in the Agreement between Dayton and Cincinnati dated March 1, 1950 and all modifications thereto and schedules thereunder.

Dayton requests waiver of the Commission's notice requirements to allow for an effective date of March 1, 1979.

Dayton indicates that copies of the filing and Dayton's letter of transmittal were served upon Cincinnati.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8683 Filed 3-21-79; 8:45 am)

[6450-01-M]

[Docket No. TC79-20]

EAST TENNESSEE NATURAL GAS CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, East Tennessee Natural Gas Company (Respondent), Tenneco Building, P.O. Box 2511, Houston, Texas 77001, filed in Docket No. TC79-20 tariff sheets as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

Respondent states that the tendered tariff sheets provide special adjustment to direct sale or local distribution customers as follows pursuant to §§ 281.105-201.108 of the Commission's Regulations:

A direct sale customer's high-priority and essential agricultural requirements for the Curtailment Period shall be the lesser of (1) the estimated volume of natural gas required by such customer during the Curtailment Period to serve such customer's high-priority and essential agricultural uses or (2) the sum of (a) the volume for high-priority uses for such customer for the Curtailment Period in the end use data being utilized by Seller in the implementation of its curtailment plan and (b) the lesser of (i) the volume certified by the Secretary of Agri-

culture as essential agricultural requirements as calculated under 7 CFR § 2900.4 or (ii) the maximum volume which may be delivered by seller to the direct sale customer under any volumetric limitations in such customer's gas purchase contract with Seller. The volume of adjustment under this section for a direct sale customer for the Curtailment Period shall be such customer's high-priority and essential agricultural requirements for the Curtailment Period reduced by the estimated volume of natural gas to be purchased or obtained from all sources by such customer during the Curtailment Period; provided, however, that if a direct sale customer purchases volumes from local distribution or interstate pipeline suppliers other than Seller, the volume of adjustment for such customer's high-priority and essential agricultural requirements for the Curtailment Period to be supplied by Seller shall be equal to the volume of adjustment otherwise determined pursuant to this paragraph multiplied by the ratio of such customer's purchases from seller during the corresponding period in the calendar year 1978 to such customer's total volumes purchased from all local distribution and interstate pipeline suppliers during the same period.

A local distribution customer's high-priority and essential agricultural requirements for the Curtailment Period shall be the lesser of (1) the sum of (a) the estimated volume of natural gas required by such customer during the Curtailment Period to serve high-priority uses and (b) the volume requested from such customer by essential agricultural users for the Curtailment Period of (2) the sum of (a) the volume for high-priority uses for such customer for the Curtailment Period in the end use data being utilized by Seller in the implementation of its curtailment plan and (b) the lesser of (i) the volume certified by the Secretary of Agriculture as essential agricultural requirements as calculated for the Curtailment Period under 7 CFR § 2900.4 for the essential agricultural user(s) on whose behalf the local distribution customer is requesting volumes from Seller or (ii) the maximum volume which may be delivered by Seller to the local distribution customer under any volumetric limitations in such customer's gas purchase contract with Seller. The volume of adjustment under this section for a local distribution customer for the Curtailment Period shall be such customer's high-priority and essential agricultural requirements for the Curtailment Period reduced by the estimated volume of natural gas to be purchased or obtained from all sources by such customer during the Curtailment Period; provided, however, that if a local distribution customer purchases volumes from an interstate pipeline supplier other than Seller, the volume of adjustment for such customer's high-priority and essential agricultural requirements for the Curtailment Period to be supplied by seller shall be equal to the volume of adjustment otherwise determined pursuant to this paragraph multiplied by the ratio of such customer's purchases from seller during the corresponding period in the calendar year 1978 to such customer's total volumes purchased from all interstate pipeline suppliers during the same period.

If any adjustment under this section and the resulting reduction of Curtailment Period Quantity Entitlements of the Curtailment Period under the preceding para-

graph result in (1) the estimated volume of natural gas to be purchased or obtained from all sources by any direct sale or local distribution customer less than such customer's estimated high-priority and essential agricultural requirements for the Curtailment Period, (2) the estimated volume of natural gas to be purchased or obtained from all sources by any interstate pipeline customer less than such customer's volume for high-priority use for the Curtailment Period in the end use data being utilized by Seller determines is below the level which is reasonably necessary for injection into storage by Seller or any Affected Customer to protect high-priority or essential agricultural uses, then Seller, having satisfied itself that the level of supply of any customer is reduced below the level of supply specified in (1), (2) or (3) of this sentence, shall restore any reductions under this section of such customer's Curtailment Period Quantity Entitlement to such level of supply. Seller shall not thereafter adjust the Curtailment Period as a result of adjustments under this section. When further reductions of Curtailment Period Quantity Entitlements cannot be made because of such limitation for further reductions under this section, including those previously and subsequently granted, shall be reduced from time to time on a pro rata basis so that each customer granted an adjustment for the Curtailment Period will receive the same percentage of the volume of adjustment otherwise provided under this section.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8667 Filed 3-21-79; 8:45 am)



[6450-01-M]

[Docket No. TC79-41]

EASTERN SHORE NATURAL GAS CO.

Tariff Filing

MARCH 19, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) of Dover, Delaware, on March 16, 1979, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective April 1, 1979:

First Revised Sheet No. 233  
Original Sheet No. 233A  
Original Sheet No. 254  
Original Sheet No. 255  
Original Sheet No. 256

Eastern Shore states that the purpose of the filing is to revise Eastern Shore's FERC Gas Tariff in order to comply with the requirements prescribed in the Commission's Interim Curtailment Rule, issued March 6, 1979, in Docket No. RM79-13. First Revised Sheet No. 233 reflects the revisions in Eastern Shore's curtailment procedures necessary to comply with the Commission's Interim Curtailment Rule. Sheet Nos. 254-256 reproduce the Commission's interim curtailment regulations published in the FEDERAL REGISTER, 44 FR 13470-13472. Original Sheet No. 233A contains provisions which previously were found on Original Sheet No. 233.

The tariff sheets tendered by Eastern Shore adopt and incorporate the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Eastern Shore's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this

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time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8668 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-25]

EL PASO NATURAL GAS CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, El Paso Natural Gas Company (Respondent), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC79-25, tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations, thereunder, all as more fully set forth in said sheets which are on file and open to public inspection.

The tariff sheets tendered by Respondent establish a new Section 11.8A to Respondents tariff which provides that:

In addition to the provisions for emergency relief by special exemption from curtailment which are contained in Section 11.8 hereof, Seller shall grant adjustments in curtailment levels during the interim period April 1, 1979, through October 31, 1979, as necessary to protect high-priority uses and/or essential agricultural uses as such terms are defined in Part 281, Subpart A, Title 18, Code of Federal Regulations. Any such adjustments in curtailment levels shall be made solely in accordance with the terms and conditions of said subpart.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended or rejected on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before

March 26, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8669 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-5]

FLORIDA GAS TRANSMISSION CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 15, 1979, Florida Gas Transmission Company (FGT), Orlando and Orange Avenues, P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. TC79-5 tariff sheets as part of its FERC gas tariff to provide an interim plan for the delivery of natural gas for essential agricultural and high priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in the tariff sheets, which are on file with the Commission and open to public inspection.

The tariff sheets tendered by FGT provide, among other things, that notwithstanding the priorities of service set forth in its current gas tariff, the service provisions contained in its rate schedules G and I, or any other contract or service agreement for gas deliveries, FGT will adjust the effective deliveries of natural gas from April 1, 1979 through October 31, 1979, "to Buyers under Rate Schedule G, to Resale 'Preferred Interruptible' Consumers, Direct Sale 'Preferred Interruptible' Consumers or Direct-Sale 'Intermediate Interruptible' Consumers" that request adjustments under the terms and conditions set forth.

The tariff sheets tendered incorporate by reference the method set forth at 18 CFR §281.106 for determining the supply deficiency for essential agricultural and high priority uses. They also provide at section 5(a)(b) that

(1) to the extent the grant of any adjustment in (a)(1) above [adjustments for a direct sale customer to satisfy supply deficiencies for

essential agricultural and high priority uses] or as respecting essential agricultural uses in (a)(2) above [adjustments for local distribution companies] would cause the reduction in deliveries under Seller's effective curtailment plan to any high priority use, Seller shall not grant such adjustment absent a Commission order requiring it to make such adjustment.

In addition, Section 5(a)(7) provides that:

(1) to the extent the grant of any adjustment in (a)(1) above or as respecting essential agricultural uses in (a)(2) above, would directly result in the reduction in deliveries to any other essential agricultural use and a resulting request for adjustment for essential agricultural uses, then Seller shall reduce the first adjustment and reduce the second (or more) requested adjustment(s), prorata, by a percentage calculated by dividing the adjustments granted or requested to each affected essential agricultural user during the prior curtailment period by the total adjustments granted or requested for all affected essential agricultural user during the prior curtailment period.

Section 5(b)(ii) of the tariff sheets filed by FGT provides for calculating FGT's supply obligation for essential agricultural uses for a local distribution company as the lesser of the sum of volumes certified by the Secretary of Agricultural as essential agricultural requirements and

the volumes which may be delivered by Seller to the local distribution company without causing Seller to exceed the aggregate volumetric limitations set forth in Section 16 of Seller's FERC Gas Tariff, Original Volume No. 1, of that local distribution company for the individual delivery point or system.

FGT's tariff filing also states that

(1) Seller's curtailment plan the curtailment period is administered daily, adjusted monthly and balances are made every year ending each September 30. The curtailment period is subject to variations as operating conditions require.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or

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1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8670 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-240]

FLORIDA POWER CORP.

Filing of Service Agreement

MARCH 19, 1979.

Take notice that on March 6, 1979, Florida Power Corporation ("Florida Power"), tendered for filing an executed transmission service agreement with Seminole Electric Cooperative, Inc. ("Seminole"). Florida Power states that the form of service agreement was provided in transmission tariff revisions tendered for filing on February 9, 1979, with a request that those revisions become effective 60 days thereafter. Florida Power requests that the service agreement with Seminole be made effective on the same date that the tariff revisions are made effective. Florida Power states that copies of the filing have been served on the customer and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8657 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-241]

FLORIDA POWER CORP.

Filing of Service Agreement

MARCH 19, 1979.

Take notice that on March 6, 1979, Florida Power Corporation ("Florida Power") tendered for filing an executed transmission service agreement with Florida Power & Light Company ("FP&L"). Florida Power states that the form of service agreement was provided in transmission tariff revisions tendered for filing on February 9, 1979, with a request that those revisions become effective 60 days thereafter. Florida Power requests that the service agreement with FP&L be made effective on the same date that the tariff revisions are made effective. Florida Power states that copies of the filing have been served on the customer and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8658 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-220]

THE HARTFORD ELECTRIC LIGHT CO.

Amendment to purchase Agreement With Respect to Middletown Station

MARCH 14, 1979.

Take notice that on March 1, 1979, The Hartford Electric Light Company (HELCO) tendered for filing a proposed Amendment to Purchase Agreement With Respect to Middletown Station (Amendment) dated November 1, 1978, between HELCO and Village of Stowe Electric Department (Stowe). HELCO states that a change has been made to the text of the Purchase Agreement With Respect to Middletown Station (Purchase Agreement). The change increases Stowe's entitle-



## NOTICES

ment in Middletown Station from 2,300 kilowatts to 5,100 kilowatts for the period from November 1, 1978, to October 31, 1979.

HELCO states that they were not notified of Stowe's intent to increase their entitlement to capacity of Middletown Station until a date which prevented the filing of the Amendment thirty days prior to the expected effective date of the Amendment. Therefore, HELCO requests that the Commission waive its notice requirements and permit the Amendment to become effective as of November 1, 1978.

HELCO states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut and Stowe, Stowe, Vermont.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8684 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. ER79-221]

**THE HARTFORD ELECTRIC LIGHT CO.**  
Amendment To Purchase Agreement With  
Respect to Middletown Station

MARCH 14, 1979.

Take notice that on March 1, 1979, The Hartford Electric Light Company (HELCO) tendered for filing a proposed Amendment to Purchase Agreement With Respect to Middletown Station (Amendment) dated November 1, 1978, between HELCO and Village of Ludlow Electric Light Department (Ludlow).

HELCO states that a change has been made to the text of the Purchase Agreement With Respect to Middletown Station (Purchase Agreement). The change increases Ludlow's entitlement in Middletown Station from 500 kilowatts to 1,000 kilowatts for the period from November 1, 1978 to October 31, 1979.

HELCO states that they were not notified of Ludlow's intent to increase their entitlement to capacity of Middletown Station until a date which prevented the filing of the Amendment thirty days prior to the expected effective date of the Amendment. Therefore, HELCO requests that the Commission waive its notice requirements and permit the Amendment to become effective as of November 1, 1978.

HELCO states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, and Ludlow, Vermont.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8685 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. E-9520]

**ILLINOIS POWER CO.**

Compliance Filing

MARCH 13, 1979.

Take notice that on February 24, 1979, Illinois Power Company (Illinois Power) tendered for filing revised rate schedules and cost of service data. Illinois Power indicates that this filing is made in compliance with Ordering Paragraph C of the Commission's Opinion No. 816 and the January 9, 1979, Order and is in conformance with the dictates of that Opinion and Order.

Illinois Power states that a copy of the filing was served upon the Village of Ladd, City of Oglesby, the Cedar Point Light and Water Company and the Illinois Commerce Commission which has jurisdiction over the rates of Cedar Point Light and Water Company.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washing-

ton, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8686 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket NO. ER79-219]

**INDIANA & MICHIGAN ELECTRIC CO.**

Filing

MARCH 14, 1979.

Take notice that Indiana & Michigan Electric Company (I&MECO) on February 28, 1979, tendered for filing a Notice of Termination of I&MECO's Supplement 15 to Rate Schedule FERC No. 20 (Service Schedule G—Supplemental Power to Commonwealth Edison Company).

The agreement with Commonwealth Edison Company does not provide for any service under the Schedule after September 30, 1978. Therefore, I&MECO has requested that the Commission make the Notice of Termination effective any time after that date as provided in 18 CFR 35.15.

According to I&MECO, copies of this filing have been served upon the Commonwealth Edison Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8687 Filed 3-21-79; 8:45 am]

## NOTICES

## [6450-01-M]

[Docket No. TC79-37]

**KANSAS-NEBRASKA NATURAL GAS CO., INC.**

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Kansas-Nebraska Natural Gas Company (Respondent), 300 N. St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. TC79-37 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporated by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide the Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses. In addition, Respondent's proposed tariff sheets also provide that the existing provisions of its tariff, §§ 13.b(1) and 13.b(5), shall not be applicable to an eligible end-user or to a gas distributor for which an adjustment has been granted, and penalties for unauthorized annual takes in violation of § 13.b shall not be applicable to such deliveries.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing

to become a party to proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8671 Filed 3-21-79; 8:45 am]

## [6450-01-]

[Docket Nos. CP77-368 and CS72-1181]

**LONE STAR GAS CO., AND GORDON OIL CO., INC.**

Consent Order Approving Stipulation and Consent Agreement, Dismissing Investigation and Terminating Proceedings

MARCH 13, 1979.

These consolidated proceedings arose from allegations that certain parties had violated Section 7(b) of the Natural Gas Act which prohibits the abandonment of interstate facilities or service without prior Commission approval.<sup>1</sup> Lone Star Gas Company (Lone Star), a jurisdictional pipeline company, was said to have diverted supplies of certificated natural gas from the Sherman Field area in Grayson County, Texas, from its interstate transmission system to intrastate markets. Gordon Oil Company, Inc. (Gordon Oil), a small independent gas producer with wells in the Sherman Field area, was said to have unlawfully abandoned sales to Lone Star during the period January 1, 1977 to February 10, 1977.

By order of November 4, 1977, the Commission set the matter for hearing. On April 25, 1978, however, the Commission suspended the hearing proceedings and directed the Office of Enforcement to conduct an investigation of the allegations and to report back to the Commission with recommendations for Commission action.

During the course of the investigation, OE entered into negotiations with Lone Star, as a result of which Lone Star formally admitted that its activities in question constituted violations of Section 7(b) of the Natural Gas Act. Accordingly, Lone Star agreed to submit to a Commission consent order finding that Lone Star's activities in question constituted violations of Section 7(b) of the Natural

<sup>1</sup>Section 7(b) reads as follows:

"No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment."

Gas Act and providing for appropriate remedies. We will approve the settlement which has been negotiated and issue an order accordingly.

With respect to Gordon Oil, the Commission finds that Gordon Oil has satisfactorily shown cause why it should not be held to have violated Section 7(b) and will terminate the proceedings on that basis.

## I

## BACKGROUND

Lone Star purchases gas production in the Sherman Field area, Grayson County, Texas, from a number of independent producers. One of these producers is Gordon Oil, a small independent producer of natural gas, located in Grayson County, Texas. The company is wholly owned by Robert A. Gordon, who are the only active officers as well. The company has one employee, a file clerk/bookkeeper, and operates out of the home of Mr. and Mrs. Gordon.

Gordon Oil is the operator of two gas wells in the Sherman Field area known as the M. J. Turner and the W. N. Garr units. As operator,<sup>2</sup> Gordon Oil sold production from these units to Lone Star under a July 15, 1955 contract between Lone Star and R. J. Carraway, Gordon Oil's predecessor. The sale is made pursuant to Gordon Oil's small producer certificate issued in Docket No. CS72-1181.<sup>4</sup>

Prior to August 23, 1961, the flow of gas (including the gas produced by Gordon Oil) was due north through gathering line EC-6 from the Sherman Field to transmission line E-10". Beginning August 23, 1961, however, Lone Star began to remove gas from line EC-6" at Station 66+33 into intrastate line D9-D-6." In 1966, Lone Star removed the portion of line EC-6" between Station 52+26 and transmission line E-10", thereby causing all of the Sherman Field gas to flow to intrastate markets through line D9-D-6". This action was taken without Gordon Oil's knowledge or consent. Indeed, although all of the Sherman Field gas was already flowing to intrastate markets at the time that Gordon Oil acquired its interest in the wells in question, Lone Star continued to treat production from Gordon Oil's wells as certificated and as subject to price ceilings prescribed by the Commission under the Natural Gas Act.

<sup>2</sup>Mrs. Gordon's son-in-law, Joe T. Phillips owns a single share of the company.

<sup>3</sup>Gordon Oil Company itself has no ownership interest in the wells.

<sup>4</sup>Gordon Oil initially obtained a certificate in Docket No. C168-291 on November 22, 1967, having succeeded to the interests of R.J. Carraway. The subsequent small producer certificate was issued December 6, 1972.



The reason for the diversion, according to Lone Star, is that the markets served by interstate transmission line E-10<sup>6</sup> were not able in 1961 to absorb all of the Sherman Field production. The intrastate line D9-D-6<sup>7</sup> was therefore connected into the interstate gathering line in order to move the production to an area where Lone Star could market the gas. As discussed below, however, shifting the gas to an intrastate line did not result in Lone Star selling the gas for a higher price; the advantage to Lone Star in diverting the gas was rather in increasing sales. The diversion continued in this fashion for some 15 years.

The event which disturbed the situation was the anticipated expiration of Gordon Oil's contract with Lone Star on December 31, 1976. During the course of negotiations with Lone Star in early 1976 concerning a possible "roll-over" contract, it came to the attention of the parties that Gordon Oil's gas (in addition to gas from a number of other wells in the Sherman Field area) had been diverted by Lone Star from certificated interstate service into the non-jurisdictional intrastate line.

In light of this information, Gordon Oil wrote the Commission on November 9, 1976 notifying the Commission that Lone Star—acting without Gordon Oil's knowledge—had been selling this gas in intrastate commerce for at least several years. The letter then asked the Commission whether Lone Star's actions had released Gordon Oil's gas from its interstate dedication.<sup>6</sup>

On November 24, 1976, before the Commission had answered this letter and again acting without Gordon Oil's knowledge, Lone Star reconnected gathering line EC-6<sup>7</sup> to line E-10<sup>8</sup>, terminated the diversion and recommenced transporting the Sherman Field supplies through certificated interstate facilities. Accordingly, while Lone Star had been flowing the Sherman Field gas in intrastate commerce from 1961, as of November 24, 1976, the gas again began flowing interstate.

Having received no response to its November 9, 1976 letter, Gordon Oil's attorney on December 30, 1976 spoke by telephone with a Commission Staff attorney, who either read him a copy of a December 29, 1976 letter from the

<sup>6</sup>Gordon Oil had written the Commission on February 17, 1976, stating its "understanding" that gas from the two wells did not feed into interstate pipelines and asking for advice as to what needed to be done to disconnect the well upon expiration of the contract. The Commission responded by letter dated March 12, 1976, enclosing a form of contract summary to be used as an abandonment application. The Commission's letter made no response to Gordon Oil's suggestion that the gas was no longer moving in interstate commerce in any event.

Commission's Secretary or at least explained the contents of the letter. That letter stated incorrectly that "Lone Star Gas Company has been granted abandonment authorization for the interstate transportation facilities serving [Gordon Oil's] wells." The letter then concluded that:

Nevertheless, it will be necessary for your client to file for abandonment authorization pursuant to the requirements under Section 7(b) of the Natural Gas Act . . . before removing the subject acreage and gas production from interstate dedication.

(Letter of December 29, 1976 from Secretary, FPC to Charles B. Robinson). Although the letter explicitly (albeit inaccurately) stated that the gas was no longer being transported through certificated facilities, it was left unexplained how, under the circumstances, Gordon Oil could remove the gas from interstate dedication.<sup>9</sup>

On December 31, 1976, Gordon Oil interrupted the flow of gas from the Garr and Turner units pending resolution of the contract dispute with Lone Star. By letter dated January 19, 1977, Gordon Oil notified Lone Star of the Commission's statements with respect to Lone Star's facilities and enclosed a copy of the December 29, 1976 letter from the Commission's Secretary.

Lone Star responded by letter dated January 26, 1977 and informed Gordon Oil that no Section 7(b) abandonment authorization had ever been granted for the facilities transporting the Sherman Field gas and that the information supplied by the Commission was therefore in error. Lone Star then demanded that Gordon Oil re-establish deliveries at the applicable small producer rate. Lone Star's letter did not disclose the fact that interstate service had been restored on November 24, 1976.

By letter dated January 27, 1977, Gordon Oil sought abandonment authorization on the grounds that Lone Star "has heretofore been granted abandonment authorization for the interstate transportation facilities serving seller's wells." The application was received by the Commission on January 31, 1977 and filed in Docket No., CI77-246.

Without having received information from the Commission that the in-

<sup>9</sup>The letter was actually wrong on the facts on two counts. First, Lone Star had never obtained abandonment authorization for the facilities and service in question. Second, however, since Lone Star had in fact restored certificated service on November 24, 1976, the implication that the gas was moving in intrastate commerce was also erroneous.

<sup>7</sup>The abandonment application itself, signed by Mr. Gordon, is dated January 25, 1977. Accordingly, the representation that Lone Star had been granted abandonment of its facilities was made prior to receipt of the contrary information in Lone Star's January 26, 1977 letter to Gordon Oil.

formation in the December 29, 1976 letter was incorrect, but apparently on the strength of Lone Star's statement that no abandonment authorization had in fact been granted, Gordon Oil recommended deliveries to Lone Star from the subject wells on February 10, 1977.

By letter dated February 18, 1977, the Commission informed Gordon Oil that Lone Star denied having received abandonment authorization, but added that "[f]urther research on our part has been inconclusive." The letter then directed Gordon Oil to demonstrate clearly that abandonment authorization had been granted to Lone Star or risk having its own application for abandonment returned as inappropriate. It having finally become clear to all parties that Lone Star had not received abandonment authorization, Gordon Oil's application was returned on May 19, 1977.

By order of November 4, 1977, the Commission set the matter for hearing and directed Gordon Oil to show cause why it should not be found in violation of the Natural Gas Act. On April 25, 1978, however, the Commission suspended the proceedings and directed the Commission's Office of Enforcement to investigate the facts to determine whether violations had been committed by Lone Star and Gordon Oil and to report back to the Commission with recommendations for action.

## II

### DISCUSSION

#### A. LONE STAR

It is clear from the foregoing that Lone Star has violated Section 7(b) of the Natural Gas Act by abandoning certificated service without prior Commission authorization. The diversion began August 23, 1961 and ended November 24, 1976. As a result of the Lone Star violations, approximately 17.2 Bcf of natural gas supplies were diverted from interstate service. This figure includes all of the Sherman Field area gas diverted, not merely Gordon Oil's production. However, the information obtained does not demonstrate that the violation was "willful and knowing" within the meaning of Section 21 of the Natural Gas Act. It appears rather that the action was taken at a time when interstate supplies on Lone Star's system were more than adequate. In addition, Lone Star did not the Sherman Field gas at a higher price than would otherwise have prevailed.

In order to appreciate this latter point, and the exact price impact of Lone Star's action on its customers—both inter- and intrastate—it is important to understand Lone Star's somewhat unique regulatory status. Lone

Star owns and operates gathering and transmission lines, distribution facilities and related facilities in Texas and Oklahoma. Lone Star's interstate transportation of natural gas is of course subject to the transportation "head" of Commission jurisdiction under Section 1(b) of the Natural Gas Act. Lone Star does not, however, make any interstate sales of natural gas for resale. Instead the company operates its distribution business as an integrated operation. Thus, sales by producers to Lone Star for resale in interstate commerce have been subject to federal regulation under the Natural Gas Act and are now subject to the Natural Gas Policy Act as well. Lone Star's transportation facilities and service are equally subject to federal regulation. But sales by Lone Star for ultimate consumption are regulated under applicable state law.

Under Texas law, retail rates are regulated by local municipalities. In order to make it possible for this local regulation to be meaningful, the Texas Railroad Commission establishes an "imputed" price for use by each affected city "gate." This "city gate" rate—which must be an imputed price since there is no sale—is based in part upon Lone Star's system average purchased gas costs. Both inter- and intrastate gas purchase costs are factored into this calculation.

What this means is that when Lone Star diverted low-priced interstate gas supplies to customers served with intrastate supplies, the imputed city gate rate on which local rate regulation is based was unaffected. The rate which Lone Star obtained from sale of the gas was thus the same whether the gas was sold to inter- or intrastate consumers.

While Lone Star benefitted from the diversion in that it was able to increase its total sales (by moving the available supplies from a line where market conditions constrained full deliveries to a line where the market was better able to absorb the gas), Lone Star did not obtain a higher price for the gas thus sold. This fact—combined with the abundance of interstate supplies at the time—goes far to negate any intent to violate Section 7(b).<sup>10</sup> Moreover, it underscores the fact that the actual public harm caused by the diversion at the time, was not great.

The Commission's Office of Enforcement has negotiated with Lone Star a proposed Stipulation and Consent

<sup>10</sup>In addition, since gathering line EC-6<sup>7</sup> was not subject to the Commission's certificate authority, Lone Star did not violate Section 7(c) of the Act. The violation was in removing, without Commission authorization under Section 7(b), facilities essential to continued certificated service. As part of the Stipulation and Consent Agreement, Lone Star explicitly recognizes its obligation in this regard.

Agreement. Under this Agreement, Lone Star admits that its actions involving the Sherman Field gas constituted violations of Section 7(b) of the Natural Gas Act. In particular, Lone Star specifically recognizes that—notwithstanding the fact that gathering facilities are not subject to the Commission's certificate jurisdiction—where the removal of such facilities results in the termination of certificated service, abandonment authorization must be obtained. In addition, Lone Star undertakes to pay back equivalent volumes (17.2 Bcf) to market areas previously dependent wholly on interstate supplies. Lone Star further certifies that no other cases of such diversion presently exist on the Lone Star system and specifically promises to seek the necessary authorizations in the future.<sup>11</sup>

The Commission will approve the Stipulation and Consent Agreement and enter a consent order binding Lone Star to comply with the provisions thereof.

#### B. GORDON OIL

The situation with Gordon Oil differs significantly from that of Lone Star. While Lone Star's activities in question span some 15 years and clearly constitute violations of the Natural Gas Act, the questions regarding Gordon Oil center on some 40 days between January 1, 1977 and February 10, 1977. Although the wells were shut in during that period, the facts demonstrate that no violation of Section 7(b) was intended. The Commission explicitly but erroneously informed Gordon Oil's attorney on December 30, 1976<sup>12</sup> that Lone Star "ha[d] been granted abandonment authorization for the interstate transportation facilities serving your client's wells." Implicitly, this

<sup>11</sup>The Office of Enforcement's investigation has disclosed one other diversion-type situation which existed on the Lone Star system from 1955 to 1970. This other diversion differed significantly from the Sherman Field case, however, in that no facilities were removed and certificated service continued throughout the 15 year period, albeit at reduced levels. In September, 1970 the interconnection was blanked off and no volumes have been diverted intrastate during the ensuing nine years. In view of the fact that the diversion was voluntarily terminated nearly nine years ago, the Commission does not consider further action appropriate.

<sup>12</sup>The 1955-1970 diversion is apparently the only other case of intrastate diversion which has occurred on the Lone Star system. In the attached Agreement, Lone Star certifies that no cases of such diversion exist on its system at present and specifically promises not to engage in such transfers in the future without obtaining all necessary Commission authorization.

<sup>13</sup>The Secretary's letter was dated December 29, 1976, but the contents of the letter were made known to Gordon Oil's attorney by telephone the following day.

information confirmed what Gordon Oil believed, that Lone Star was flowing the gas in question in intrastate commerce. On the basis of these supposed facts—both of which turned out to be incorrect—shutting in production from the wells could in no way affect the flow of natural gas service in interstate commerce.

The statement in the Secretary's letter of December 29, 1976 that Gordon Oil nevertheless was required to obtain abandonment authorization "before removing the subject acreage and gas production from interstate dedication" could only be understood to mean that the wells remained dedicated to Lone Star's interstate customers and subject to applicable Commission price regulation. The letter could in fact have been interpreted to require Gordon Oil to shut in the wells. As the gas was still dedicated to interstate commerce, continued deliveries to Lone Star under the circumstances, as Gordon Oil reasonably believed them to be, might have constituted knowing diversion of interstate supplies.

In light of the facts set out above, the Commission finds that any violation(s) of Section 7(b) which may have occurred as a result of Gordon Oil's shutting in production in early 1977 were in fact unintentional and that no further action is warranted. The Commission therefore finds that Gordon Oil has satisfactorily shown why it should not be held in violation of Section 7(b) of the Natural Gas Act, and will terminate proceedings in Docket No. CS72-1181.

#### The Commission finds:

(A) Lone Star is a natural gas company within the meaning of the Natural Gas Act and is therefore subject to the jurisdiction of the Commission under Section 1(b) of the Act.

(B) Lone Star has violated Section 7(b) of the Natural Gas Act by failing to seek Commission approval prior to abandoning certificated service in interstate commerce, as detailed in the attached Stipulation and Consent Agreement.

(C) The attached Stipulation and Consent Agreement provides for an equitable resolution of the issues involving Lone Star's violations detailed therein and should be approved as in the public interest.

(D) Gordon Oil has shown why it should not be held to have violated the Natural Gas Act and all proceedings against Gordon Oil should therefore be terminated.

#### The Commission orders:

(A) The attached Stipulation and Consent Agreement is approved and adopted as a consent order of this Commission and Lone Star is hereby ordered to comply with the provisions thereof.



## NOTICES

(B) All proceedings against Lone Star in Docket No. CP77-368 are hereby terminated.

(C) All proceedings in Docket No. CS72-1181 against Gordon Oil involving allegations of unlawful abandonment of service between January 1, 1977 and February 10, 1977, are hereby terminated.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

## STIPULATION AND CONSENT AGREEMENT

Lone Star Gas Company, a Division of ENSERCH Corporation, (Lone Star) hereby enters into the following stipulation and consent agreement:

1. Lone Star owns and operates natural gas transmission lines, gathering lines, distribution systems and related properties by which it transports natural gas in both interstate and intrastate commerce within the States of Texas and Oklahoma and distributes that natural gas to domestic, commercial and industrial consumers within those states. Although it operates as a large distribution company, to the extent it engages in the transportation of natural gas in interstate commerce it is a "natural gas company" within the meaning of Section 1(b) of the Natural Gas Act, and is therefore subject to the jurisdiction of the Federal Energy Regulatory Commission.

2. Beginning on or about August 23, 1961, a portion of the gas produced from certificated wells in the Sherman Field area in Grayson County, Texas, and flowing into an uncertificated gathering facility designated Line EC was diverted from certificated interstate service (jurisdictional transmission Line E) into a newly constructed line, Line D9-D, connected to Lone Star's Texas intrastate transmission facilities. Although gas which would have flowed into certificated Line E from Line EC was diverted into intrastate Line D9-D, a large portion of such certificated production in Grayson County was utilized to serve the same Texas towns whether the gas entered Line E or Line D9-D. During 1968, Lone Star removed approximately one mile of gathering Line EC between the points of interconnection with certificated Line E and intrastate Line D9-D, thereby causing all gas from the certificated production in the Sherman Field area to flow into the intrastate line.

3. At no time prior to diverting a portion of the certificated flow in 1961 or removing the portion of Line EC in 1968 did Lone Star seek or obtain the necessary authorization under Section 7(b) of the Natural Gas Act. Lone Star admits and recognizes that its removal of gathering Line EC resulted in a cessation of jurisdictional service without prior Commission approval and that the diversion of certificated interstate service into its intrastate transmission facilities was likewise performed without Commission authorization. Therefore, Lone Star admits and recognizes that its actions have constituted violations of Section 7(b) of the Natural Gas Act.

4. Lone Star hereby certifies that on or about November 24, 1976 it ceased engaging in the unlawful diversion of certificated interstate service into its intrastate transmission facilities described in paragraphs 2 and 3 above, and that no other cases of diversion presently exist on the Lone Star system.

Lone Star further certifies that it will not engage in any such activities in the future, without securing all necessary and appropriate Commission authorization. Lone Star specifically recognizes that the removal of facilities necessary to allow flowing gas to continue to serve interstate commerce, whether or not such facilities are subject to the Commission's certificate jurisdiction, constitutes a termination of service for which prior authorization must be obtained in accordance with Section 7(b) of the Natural Gas Act.

5. In order to restore the amount of natural gas diverted from certificated Line E to intrastate Line D9-D, Lone Star consents and agrees to transfer a total of 17,213,703 Mcf of intrastate natural gas to a market area formerly served entirely from certificated sources as set forth below:

(a) The entire payback obligation, which Lone Star has already initiated, shall be discharged completely no later than three years from the date of Commission approval of the instant Stipulation and Consent.

(b) Lone Star shall submit semi-annual reports beginning July 1, 1979, and after each six month period thereafter, indicating how much gas has been paid back up to the date of the report and indicating the remaining balance to be discharged.

(c) All volumes subject to Lone Star's payback obligation hereunder shall be delivered to Lone Star's Wichita Falls, Texas market area.

Lone Star hereby stipulates that the facts and admissions set forth above are accurate and agrees to comply fully with the requirements herein.

For the Lone Star Gas Company,

DOUGLAS WILLIAMS,  
Senior Vice President, Operations.

MARCH 6, 1979.

[FR Doc. 79-8688 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. RP77-124]

MCCULLOCH INTERSTATE GAS CORP.

Revised Tariff Sheets Reflecting Approved Settlement Rates

MARCH 14, 1979.

Take notice that on February 26, 1979, McCulloch Interstate Gas Corporation (McCulloch) tendered for filing revised tariff sheets reflecting rates provided in a Stipulation and Agreement approved by the Commission in the above-referenced proceeding. McCulloch also filed additional data relevant to the approved tariff rates. The filed materials are listed below.

McCulloch states that the filing is being made pursuant to Commission directions set forth in a letter order of December 19, 1978. The revised sheets reflect recalculation of Schedule X-1 transportation service rate, and the PGA applicable to the period commencing November 1, 1977. The additional data supplied relates to the refund, and attendant interest, which McCulloch has made to CIG.

McCulloch states that the filing has been made out of time, but submits that good cause exists for its failure to make timely filing. The company requests that the filings be accepted without condition or sanction as in compliance with the terms and conditions of the Commission's letter order of December 19, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

The Commission is in receipt of the following materials:

1. (a) Third Substitute Eleventh Revised Sheet No. 32 Superseding Second Substitute Revised Sheet No. 32, effective November 1, 1977;

(b) Second Substitute Thirteenth Revised Sheet No. 32 Superseding Thirteenth Revised Sheet No. 32, effective December 1, 1977;

(c) Second Substitute Fourteenth Revised Sheet No. 32 Superseding Substitute Fourteenth Revised Sheet No. 32, effective April 1, 1978;

(d) Substitute Fifteenth Revised Sheet No. 32 Superseding Fifteenth Revised Sheet No. 32, Second Alternative, effective October 1, 1978;

(e) Sixteenth Revised Sheet No. 32 Superseding Substitute Fifteenth Revised Sheet No. 32, effective January 1, 1979; and

(f) Substitute Second Revised Sheet No. 38 Superseding Second Revised Sheet No. 38, effective November 1, 1978 (McCulloch's Schedule X-1 transportation service rate).

2. Schedule A which reflects McCulloch's calculations of the appropriate sales rate under Schedule PL-1 in this proceeding, as adjusted by the applicable PGA filings of McCulloch and the Commission Staff.

3. Schedule B which reflects McCulloch's calculations of the appropriate refund for sales made to its jurisdictional customer, Colorado Interstate Gas Company ("CIG") in accordance with the provisions of the Settlement Agreement filed with and accepted by the Commission herein.

4. Schedule C which reflects McCulloch's calculations of the appropriate refund for transportation service under Schedule X-1 to its jurisdictional customer CIG in accordance with the provisions of the Settlement Agreement filed with and accepted by the Commission herein.

5. A letter dated February 13, 1979 to Mr. Jon Whitney, Controller of CIG, submitting McCulloch's check in the amount of

## NOTICES

\$69,920.35 representing the amount refundable to CIG as calculated on the aforementioned Schedules B and C and relative to the final settlement in this rate proceeding.

6. Check No. 9203818 (Voucher No. 12275) payable to CIG from McCulloch reflecting payment of the refundable amount of \$69,920.35 pursuant to the calculations reflected on the aforementioned Schedules B and C.

7. McCulloch's "Computation of Federal Income Taxes to Reflect Reduction in Rate to Recognize the Revenue Act of 1978" which revises Schedule II, Page 2 of 4, Statement A(6) filed by McCulloch in the rate proceeding herein.

[FR Doc. 79-8689 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-34]

MISSISSIPPI RIVER TRANSMISSION CORP.

Tariff Filing

MARCH 19, 1979.

Take notice that Mississippi River Transmission Corporation (MRTC), 9900 Clayton Road, St. Louis, Missouri 63124, on March 16, 1979, tendered for filing its Second Revised Sheet No. 23H and Original Sheet No. 23I to its FERC Gas Tariff, First Revised Volume No. 1 in Docket No. TC79-34 to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The MRTC filing proposes to add the following new Section 8.6 to the General Terms and Conditions of MRTC's FERC Gas Tariff:

8.6 Protection of High-Priority and Essential Agricultural Uses

Notwithstanding any other provision of this Tariff, during the period April 1 through October 31, 1979 adjustments will be made to the volumes of gas otherwise available to Buyer under the provisions of this Section 8 so as to prevent to the maximum extent possible actual curtailment of deliveries to high-priority and essential agricultural uses, direct or indirect, in the manner and in accordance with the methodology, and subject to the limitations, as prescribed in Sections 281.101 et seq of the Federal Energy Regulatory Commission's ("F.E.R.C.") Regulations as issued March 6, 1979 in F.E.R.C.'s Docket No. RM79-13 upon the furnishing by Buyer to Transmission of the information required by said F.E.R.C. Regulation together with such other information concerning Buyer's entitlement to additional gas volumes pursuant hereto as may be reasonably requested by Transmission. In the event such information shows that the eligible end-user or its distribution company supplier will be using or delivering gas for lower-priority uses during the requested period of adjustment, any such adjustment shall be reduced by

the volumes of gas indicated to be used or delivered for lower-priority uses during the period. There is specifically incorporated herein by reference the aforesaid F.E.R.C. Regulation as issued March 6, 1979 and the terms used herein that are contained in said Regulation shall each have the respective meanings given such terms in said Regulation. This Section 8.6 shall expire by its own terms October 31, 1979.

The tariff sheets tendered by MRTC adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that MRTC's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8672 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-38]

MONTANA-DAKOTA UTILITIES CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Montana-Dakota Utilities Company (Respondent), 400 North Fourth Street, Bismark, North Dakota 58501, filed in Docket No. TC79-38 tariff

sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8673 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-24]

NATIONAL FUEL GAS SUPPLY CORP.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, National Fuel Gas Supply Corporation (Respondent), 308 Seneca Street, P.O.



## NOTICES

Box 387, Oil City, Pennsylvania, pursuant to section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the regulations thereunder filed in Docket No. 79-24 a tariff sheet, entitled Original Sheet No. 33-A, as part of its FERC Gas Tariff, Original Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses, all as more fully set forth in said sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent would amend said tariff to add as the final paragraph to subsection 3 of its Section 16 the following:

### 3. Special Adjustment Procedure (Cont'd)

Notwithstanding any other provisions under the section heading 3. Special Adjustment Procedure, if any affected customer shall, pursuant to 18 CFR 281, notify Seller that for the applicable curtailment period such customer's curtailment period quantity entitlement will result in curtailing essential agricultural uses or high priority uses, Seller, as provided for under said regulation, having satisfied itself that the customer is entitled thereto, shall to the extent so provided permit a special adjustment to such customer's curtailment period quantity entitlement equal to the volume required to avoid such curtailment.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8659 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-200]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

MARCH 14, 1979.

Take notice that on March 1, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-200 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity as supplemented on March 12, 1979, authorizing the construction and operation of connecting facilities in Ward and Liberty Counties, Texas, for receipt and delivery of natural gas transported by Houston Pipe Line Company (Houston) and Oasis Pipe Line Company (Oasis), all as more fully set forth in the application on file with the Commission and open to public inspection.

Natural has in the past pursued the acquisition of new gas supplies on both its Amarillo and Gulf Coast Lines to replace existing gas supplies as they are produced. Natural states that it has been more successful in recent years in securing new gas supplies on its Gulf Coast Line than on its Amarillo Line. It is stated that the Amarillo supply continues to decline despite Natural's efforts to acquire new supplies to supplement current supply sources. Natural states that to alleviate partially this problem, it was granted authority to add capacity to its Gulf Coast gas supply system between Compressor Station No. 302 and No. 304. It is stated that these facilities will help Natural in the management of its supply/capacity imbalance by allowing full utilization of the North Lansing storage field. In order to acquire utilization of excess Gulf Coast supplies to reduce curtailments, Natural states it would have to expand the mainline facilities north of Station No. 304 to its major market area, or alternatively, to provide a means of transferring Gulf Coast supplies to the Amarillo system via a cross system connection. Natural asserts use of existing facilities of others as contemplated, would eliminate the requirement for it to construct duplicate and/or alternative facilities.

Natural estimates that the cost of construction of the connecting facilities is \$464,000, which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8690 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-15]

NATURAL GAS PIPELINE CO. OF AMERICA

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Natural Gas Pipeline Company of America (Respondent), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. TC79-15 tariff sheets, Original Sheets Nos. 150 and 151, as part of its FERC Gas Tariff Third Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the

## NOTICES

Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection. The tariff sheets tendered by Respondent provide as follows:

(a) If a Participating DMQ-1 Buyer can demonstrate that an essential agricultural user (as finally defined and implemented in the Interim Regulation for Section 401 of the Natural Gas Policy Act) will suffer curtailment unless relief is granted, Buyer will request a waiver of curtailment to have the curtailment level decreased by the volume of gas necessary to serve the essential agricultural user for the period required, unless curtailment is necessary to protect the needs of high priority users.

(b) The Buyer requesting waiver shall demonstrate qualification for waiver by submitting, under oath, the following information to Natural:

(1) The volume of natural gas that each of its high-priority users and essential agricultural users estimate will be necessary for its high-priority requirements and essential agricultural requirements during the curtailment period, except that the Buyer may aggregate the high-priority requirements for residential and small commercial customers who use less than 50 Mcf on a peak day.

(2) A statement from the Buyer and from each high-priority user, except residential and small commercial customers who use less than 50 Mcf on peak day, and from each essential agricultural user that the volumes specified in subparagraph (b)(1) will be used solely for high-priority uses or essential agricultural uses.

(c) The volume of natural gas for which waiver is requested is calculated as the sum of the volumes in subparagraph (b)(1) less the estimated supplies available to serve essential agricultural use and high-priority use, absent waiver.

(d) Buyer will not be granted a waiver, and a granted waiver will be terminated, if gas supplies are, or become, available to meet the requirements of other than high-priority and essential agricultural users served by Buyer.

(e) If a Buyer has more than one pipeline supplier of natural gas, the waiver of curtailments volume calculated under subparagraph (c) for a particular curtailment period which may be requested from Natural by Buyer shall be in the proportion that the volumes supplied by Natural is to the total of Buyer's interstate pipeline supply during the calendar year 1978.

(f) Natural will review the request for waiver and determine to the best of its knowledge, information and belief, the request and data submitted

are true. Immediately after the receipt of a request for waiver, all Participating DMQ-1 Buyers will be advised and all data and correspondence subsequently entered into will be submitted to them upon their request. The Buyer requesting waiver of curtailment shall reply to all reasonable questions by any other Participating DMQ-1 Buyer or Natural relating to such request.

(g) Deliveries of the volume of natural gas for which waiver is requested will be initiated at the time designated.

(h) If any increased volume cannot be satisfied out of short term available supply the volume of gas waived under paragraph (b) shall be obtained by increased curtailment to those Participating DMQ-1 Buyers not curtailing high-priority or essential agricultural users, in proportion to their Daily Quantity Entitlements for the month of January as shown on Sheet Nos. 301 through 305 of Natural's FERC Gas Tariff, Third Revised Volume No. 1. Upon termination of the waiver, the waived volumes shall be reinstated, in like manner, to the said Participating DMQ-1 Buyers not curtailing high-priority or essential agricultural users.

(i) the definition of High-Priority users shall be that as contained in the approved FERC Interim Curtailment Rule, 18 CFR, Section 281.103(a)(7).

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM 79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8680 Filed 3-21-79; 8:45 am]

[6450-01-M]

NATURAL GAS POLICY ACT OF 1978

Determination by Jurisdictional Agency

MARCH 12, 1979.

On March 2, 1979, the Federal Energy Regulatory Commission, received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

STATE OF NEW MEXICO ENERGY AND  
MINERALS DEPARTMENT OIL CONSERVATION  
DIVISION

FERC Control Number: JD79-585.  
API Well Number: None.  
Section of NGPA: 103.  
Operator: O. H. Berry.  
Well Name: J. L. Isbell No. 6.  
Field: Jalmat Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 180 MMcf.

FERC Control Number: JD79-586.  
API Well Number: 30-015-22220.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Eddy "GF" State Well No. 1.  
Field: Carlsbad South Morrow.  
County: Eddy.  
Purchaser: El Paso Natural Gas Co.  
Volume: 113 MMcf.

FERC Control Number: JD79-587.  
API Well Number: 30-015-22283.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Eddy "GF" State Well No. 1.  
Field: Undesignated Morrow.  
County: Eddy.  
Purchaser: El Paso Natural Gas Co.  
Volume: 233 MMcf.

FERC Control Number: JD79-588.  
API Well Number: 30-015-22378.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Eddy "GF" State Well No. 1.  
Field: Cambsad South Morrow.  
County: Eddy.  
Purchaser: El Paso Natural Gas Co.  
Volume: 81 MMcf.

FERC Control Number: JD79-589.  
API Well Number: 30-025-25896.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Lea "ED" State (NCT-A) Well No. 2.  
Field: Quall Ridge Morrow.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 866 MMcf.

FERC Control Number: JD79-590.  
API Well Number: None.  
Section of NGPA: 103.  
Operator: Champlin Petroleum Co.  
Well Name: State "36" No. 2.  
Field: Carlsbad E. (Morrow).



## NOTICES

County: Eddy.  
Purchaser: El Paso Natural Gas Co.  
Volume: 77 MMcf.

FERC Control Number: JD79-591.  
API Well Number: None.  
Section of NGPA: 103.  
Operator: Champlin Petroleum Co.  
Well Name: State "6" No. 14.  
Field: Chaveroo (SA).  
County: Chaves.  
Purchaser: Cities Service Oil Company.  
Volume: 19 MMcf.

FERC Control Number: JD79-592.  
API Well Number: 30-02502596.  
Section of NGPA: 103.  
Operator: Coquina Oil Corporation.  
Well Name: Alexander No. 1.  
Field: Antelope Ridge.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 730,000 MMcf.

FERC Control Number: JD79-593.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Kimbell Oil Company.  
Well Name: Cook No. 2.  
Field: Aztec Fruitland.  
County: San Juan.  
Purchaser: El Paso Natural Gas Co.  
Volume: 20.5 MMcf.

FERC Control Number: JD79-594.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Robert N. Enfield.  
Well Name: No. 1 Sinclair State.  
Field: Eumont Yates.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: Not available.

FERC Control Number: JD79-595.  
API Well Number: 3000560424.  
Section of NGPA: 103.  
Operator: Depeco, Inc.  
Well Name: R & S State No. 1.  
Field: Buffalo Valley (Morrow).  
County: Chaves.  
Purchaser: El Paso Natural Gas Co.  
Volume: 264 MMcf.

FERC Control Number: JD79-596.  
API Well Number: 3002525530.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: A. L. Christmas (NCT-C) Well No. 10.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 41 MMcf.

FERC Control Number: JD79-597.  
API Well Number: 3002525594.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: A. L. Christmas (NCT-C) Well No. 11.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 31 MMcf.

FERC Control Number: JD79-598.  
API Well Number: 3002525624.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: A. L. Christmas (NCT-C) Well No. 12.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 89 MMcf.

FERC Control Number: JD79-599.  
API Well Number: 3002525463.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: S. J. Carr Well No. 9.  
Field: Langlie Mattix Seven Rivers Queen.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 80 MMcf.

FERC Control Number: JD79-600.  
API Well Number: 3002525785.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Mark Well No. 10.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 9 MMcf.

FERC Control Number: JD79-601.  
API Well Number: 3002526051.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Mark Well No. 11.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 6 MMcf.

FERC Control Number: JD79-602.  
API Well Number: 30-025-60532.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Mark Well No. 12.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 6 MMcf.

FERC Control Number: JD79-603.  
API Well Number: 3002525739.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Hugh Well No. 12.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 6 MMcf.

FERC Control Number: JD79-604.  
API Well Number: 3002525906.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Hugh Well No. 13.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 21 MMcf.

FERC Control Number: JD79-605.  
API Well Number: 3002525462.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Hugh Well No. 14.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 22 MMcf.

FERC Control Number: JD79-606.  
API Well Number: 3002525462.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Drinkard (NCT-B) Well No. 5.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 25 MMcf.

FERC Control Number: JD79-607.  
API Well Number: 3002525509.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Drinkard (NCT-B) Well No. 5.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 7 MMcf.

FERC Control Number: JD79-608.  
API Well Number: 3002525599.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Drinkard (NCT-B) Well No. 6.  
Field: Wantz Granite Wash.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 4 MMcf.

FERC Control Number: JD79-609.  
API Well Number: 3002525499.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: A. L. Christmas (NCT-C) Well No. 9.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 25 MMcf.

FERC Control Number: JD79-610.  
API Well Number: 3002525634.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: A. L. Christmas (NCT-C) Well No. 13.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 39 MMcf.

FERC Control Number: JD79-611.  
API Well Number: 3002525645.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: A. L. Christmas (NCT-C) Well No. 14.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 57 MMcf.

FERC Control Number: JD79-612.  
API Well Number: 3002525657.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: A. L. Christmas (NCT-C) Well No. 15.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 10 MMcf.

FERC Control Number: JD79-613.  
API Well Number: 3002525670.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: A. L. Christmas (NCT-C) Well No. 16.  
Field: Tubb.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 27 MMcf.

FERC Control Number: JD79-614.  
API Well Number: 3002525628.  
Section of NGPA: 103.

## NOTICES

Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: W. A. Ramsay (NCT-A) Well No. 51.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 168 MMcf.

FERC Control Number: JD79-615.  
API Well Number: 3002525651.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: H. P. Saunders Well No. 2.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 6 MMcf.

FERC Control Number: JD79-616.  
API Well Number: 3002525411.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: H. T. Mattern (NCT-C) Well No. 10.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 93 MMcf.

FERC Control Number: JD79-617.  
API Well Number: 3002525500.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: H. T. Mattern (NCT-C) Well No. 10.  
Field: Blinebry.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 44 MMcf.

FERC Control Number: JD79-618.  
API Well Number: 3002525547.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: H. T. Mattern (NCT-C) Well No. 12.  
Field: Blinebry.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 16 MMcf.

FERC Control Number: JD79-619.  
API Well Number: 3002525507.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: Harry Leonard (NCT-C) Well No. 19.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 43 MMcf.

FERC Control Number: JD79-620.  
API Well Number: 3002525589.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: R. E. Cole (NCT-A) Well No. 18.  
Field: Drinkard.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 93 MMcf.

FERC Control Number: JD79-621.  
API Well Number: 3002525688.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: H. V. Pike Well No. 2.  
Field: Blinebry.

County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 18 MMcf.

FERC Control Number: JD79-622.  
API Well Number: 3002525484.  
Section of NGPA: 103.  
Operator: Warren Petroleum Co. (Gulf Oil Corp.).  
Well Name: H. T. Mattern (NCT-A) Well No. 4.  
Field: Blinebry.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 12 MMcf.

FERC Control Number: JD79-623.  
API Well Number: 3002525487.  
Section of NGPA: 103.  
Operator: Gulf Oil Corporation.  
Well Name: Harry Leonard (NCT-A) Well No. 11.  
Field: Eumont.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 185 MMcf.

FERC Control Number: JD79-624.  
API Well Number: 3002525496.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Harry Leonard (NCT-A) Well No. 12.  
Field: Eumont.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 164 MMcf.

FERC Control Number: JD79-625.  
API Well Number: 3002525465.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Arnott-Ramsay (NCT-E) Well No. 7.  
Field: Langlie Mattix Seven Rivers Queen.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 11 MMcf.

FERC Control Number: JD79-626.  
API Well Number: 3002525596.  
Section of NGPA: 103.  
Operator: Gulf Oil Corporation.  
Well Name: Arnott-Ramsay (NCT-E) Well No. 8.  
Field: Langlie Mattix Seven Rivers Queen.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 128 MMcf.

FERC Control Number: JD79-627.  
API Well Number: 3002525597.  
Section of NGPA: 103.  
Operator: Gulf Oil Corp.  
Well Name: Arnott-Ramsay (NCT-E) Well No. 9.  
Field: Langlie Mattix Seven Rivers Queen.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 3 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.  
Persons objecting to any of these final determinations may, in accord-

ance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8676 Filed 3-21-79; 8:45 am]

[6450-01-M]

NATURAL GAS POLICY ACT OF 1978  
Determination by Jurisdictional Agency

MARCH 12, 1979.

On March 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

STATE OF NEW MEXICO, ENERGY AND MINERALS DEPARTMENT, OIL CONSERVATION DIVISION

FERC Control Number: JD79-638.  
API Well Number: 3002525872.  
Section of NGPA: 103.  
Operator: Amerada Hess Corporation.  
Well Name: J. G. Hare #8.  
Field: Eunice-Eumont Queen.  
County: Lea.  
Purchaser: Northern Natural Gas Company.  
Volume: 91 MMcf.

FERC Control Number: JD-639.  
API Well Number: 3002525670.  
Section of NGPA: 103.  
Operator: Amerada Hess Corporation.  
Well Name: State PA #4.  
Field: Arrowhead (Eunice-Drinkard)  
County: Lea.  
Purchaser: Getty Oil Company.  
Volume: 5 MMcf.

FERC Control Number: JD79-640.  
API Well Number: 3002526044.  
Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Horse Back #7.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Company.  
Volume: 12 MMcf.

FERC Control Number: JD79-641.  
API Well Number: 3002525911.  
Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Quannah Parker #2-Y.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Company.  
Volume: 9 MMcf.

FERC Control Number: JD79-642.  
API Well Number: 3002525778.  
Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Quannah Parker #1.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Company.  
Volume: 48 MMcf.

FERC Control Number: JD79-643.  
API Well Number: None.



## NOTICES

Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Horse Back #6.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Company.  
Volume: 10 MMcf.

FERC Control Number: JD79-644.  
API Well Number: 3002525924.  
Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Horse Back #5.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Co.  
Volume: 16 MMcf.

FERC Control Number: JD79-645.  
API Well Number: 3002525907.  
Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Horse Back #3.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Company.  
Volume: 29 MMcf.

FERC Control Number: JD79-646.  
API Well Number: 3001533418.  
Section of NGPA: 103.  
Operator: Amnoll USA, Inc.  
Well Name: Willow Lake Unit #3.  
Field: Malaga.  
County: Eddy.  
Purchaser: El Paso Natural Gas Company.  
Volume: 2016.

FERC Control Number: JD79-647.  
API Well Number: 3004120471.  
Section of NGPA: 103.  
Operator: Phillips Petroleum Company.  
Well Name: Lambirth-A Well No. 1.  
Field: Peterson South Fusselman.  
County: Roosevelt.  
Purchaser: Undecided.  
Volume: 109 MMcf.

FERC Control Number: JD79-648.  
API Well Number: 3004522961.  
Section of NGPA: 103.  
Operator: Mesa Petroleum Co.  
Well Name: State Com 47 PC.  
Purchaser: El Paso Natural Gas Company.  
Volume: 25 MMcf.

FERC Control Number: JD79-649.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Adobe Oil & Gas Corporation.  
Well Name: Hannifin State Com No. 1.  
Field: West-Lusk (Morrow).  
County: Eddy.  
Purchaser: Continental Oil Company.  
Volume: 1 MMcf.

FERC Control Number: JD79-650.  
API Well Number: 30025035C6.  
Section of NGPA: 108.  
Operator: ZIA Energy, Inc.  
Well Name: Atlantic State No. 2.  
Field: Eumont-Yates-Seven Rivers-Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Company.  
Volume: 10.9 MMcf.

FERC Control Number: JD79-651.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State WE H #3.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 5 MMcf.

FERC Control Number: JD79-652.

API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State WE H #1.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 5 MMcf.

FERC Control Number: JD79-653.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State WE "H" #2.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 1 MMcf.

FERC Control Number: JD79-654.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: Annie L. Christmas #3.  
Field: Drinkard.  
County: Lea.  
Purchaser: Getty Oil Company.  
Volume: 4 MMcf.

FERC Control Number: JD79-655.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: Lea 407 State #1.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 4 MMcf.

FERC Control Number: JD79-656.  
API Well Number: 3002525662.  
Section of NGPA: 103.  
Operator: Gifford, Mitchell & Wisenbaker.  
Well Name: Horse Back #2.  
Field: Comanche Stateline Tansill Yates.  
County: Lea.  
Purchaser: El Paso Natural Gas Company.  
Volume: 32 MMcf.

FERC Control Number: JD79-657.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State WE D #1.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 2 MMcf.

FERC Control Number: JD79-658.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State WE B #5.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 2 MMcf.

FERC Control Number: JD79-659.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State AK #1.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 10 MMcf.

FERC Control Number: JD79-660.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State AK #1.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.

Purchaser: Phillips Petroleum Co.  
Volume: 6 MMcf.

FERC Control Number: JD79-661.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State AK #2.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 5 MMcf.

FERC Control Number: JD79-662.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: State AK #3.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 9 MMcf.

FERC Control Number: JD79-663.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: Lea 407 State #5.  
Field: San Simon.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 2 MMcf.

FERC Control Number: JD79-664.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: Phillips State #1.  
Field: Wilson.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 3 MMcf.

FERC Control Number: JD79-665.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: L. W. White #1.  
Field: Eumont Yates Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 2 MMcf.

FERC Control Number: JD79-666.  
API Well Number: None.  
Section of NGPA: 108.  
Operator: Warrior, Inc.  
Well Name: Atlantic State #1.  
Field: Eumont Seven Rivers Queen.  
County: Lea.  
Purchaser: Phillips Petroleum Co.  
Volume: 4 MMcf.

FERC Control Number: JD79-667.  
API Well Number: 30039600410000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Canyon Largo Unit #24.  
Field: Blanco, South-Pictured Cliffs Gas.  
County: Rio Arriba.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.9 MMcf.

FERC Control Number: JD79-668.  
API Well Number: 30045060700000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Huerfanito Unit #15.  
Field: Ballard-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 17.5 MMcf.

FERC Control Number: JD79-669.  
API Well Number: 30045061790000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.

Well Name: Huerfanito Unit #10.  
Field: Blanco, South-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 9.5 MMcf.

FERC Control Number: JD79-670.  
API Well Number: 30045061590000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Huerfanito Unit #50.  
Field: Ballard-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 3.0 MMcf.

FERC Control Number: JD79-671.  
API Well Number: 30045060920000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Huerfanito Unit #51.  
Field: Ballard-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 4.4 MMcf.

FERC Control Number: JD79-672.  
API Well Number: 30043061330000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Magnolia Com #1.  
Field: Ballard-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 2.2 MMcf.

FERC Control Number: JD79-673.  
API Well Number: 30045059930000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Turner B Com H 13.  
Field: Blanco, South-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 2.2 MMcf.

FERC Control Number: JD79-674.  
API Well Number: 30045044600000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Mitcham Com #1.  
Field: Ballard-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.9 MMcf.

FERC Control Number: JD79-675.  
API Well Number: 30039068600000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: SJ 27-5 Unit 73.  
Field: Blanco, South-Pictured Cliffs Gas.  
County: Rio Arriba.  
Purchaser: El Paso Natural Gas Company.  
Volume: 4.0 MMcf.

FERC Control Number: JD79-676.  
API Well Number: 30045095070000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Simmons #1.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.0 MMcf.

FERC Control Number: JD79-677.  
API Well Number: 30045214230000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Calloway #3.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 8.0 MMcf.

FERC Control Number: JD79-678.

API Well Number: 30045130190000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Wright Com #1.  
Field: Ballard-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 11.7 MMcf.

FERC Control Number: JD79-679.  
API Well Number: 30039057300000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Leeson #2.  
Field: Blanco, South-Pictured Cliffs Gas.  
County: Rio Arriba.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.0 MMcf.

FERC Control Number: JD79-680.  
API Well Number: 30039048400000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Leeson #1.  
Field: Blanco, South-Pictured Cliffs Gas.  
County: Rio Arriba.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.0 MMcf.

FERC Control Number: JD79-681.  
API Well Number: 30045095170000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Montgomery #1.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 5.0 MMcf.

FERC Control Number: JD79-682.  
API Well Number: 30045093920000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Fuller #1.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 4.0 MMcf.

FERC Control Number: JD79-683.  
API Well Number: 30045095430000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Swires #1.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.0 MMcf.

FERC Control Number: JD79-684.  
API Well Number: 30045092330000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Hartman #1.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 6.0 MMcf.

FERC Control Number: JD79-685.  
API Well Number: 30045080610000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Hare #1.  
Field: Aztec-Fruitland Gas.  
County: San Juan.  
Purchaser: El Paso Natural Gas Company.  
Volume: 2.6 MMcf.

FERC Control Number: JD79-686.  
API Well Number: 300450940000.  
Section of NGPA: 108.  
Operator: El Paso Natural Gas Company.  
Well Name: Fifield #1.  
Field: Aztec-Pictured Cliffs Gas.  
County: San Juan.

Purchaser: El Paso Natural Gas Company.  
Volume: 4.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-8677 Filed 3-21-79; 8:45 am)

[6450-01-M]

## NATURAL GAS POLICY ACT OF 1978

## Determination by Jurisdictional Agency

MARCH 12, 1979.

On March 8, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

WEST VIRGINIA DEPARTMENT OF MINES, OIL & GAS DIVISION

FERC Control Number: JD79-690.  
API Well Number: 470872956.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Minnie B. Simmons Serial 132.  
Field: Spring Creek.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 6322 MMcf.

FERC Control Number: JD79-691.  
API Well Number: 470872927.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: J. A. Keffer Serial 427.  
Field: Clover.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 1818 MMcf.

FERC Control Number: JD79-692.  
API Well Number: 470872958.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Harless Serial 498.  
Field: Clover.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 1197 MMcf.

FERC Control Number: JD79-693.  
API Well Number: 470872954.



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FERC Control Number: JD79-700.  
API Well Number: 470872028.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Slate Construction #1.  
Field: Spring Creek.  
County: Roane.  
Purchaser: Columbia Gas Transmission  
Corp.  
Volume: 9969 MMcf.

FERC Control Number: JD79-708.  
API Well Number: 470870661.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: John Nida #1.  
Field: Looneyville.  
County: Roane.  
Purchaser: Columbia Gas Transmission  
Corp.

FERC Control Number: JD79-718.  
API Well Number: 470070828.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: H. R. Cummings #3.  
Field: Elmira.  
County: Braxton.  
Purchaser: Columbia Gas Transmission  
Corp.  
Volume: 2035 MMcf.

Persons objecting to any of the final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 6, 1974. Please reference the FERC Contract Number in any correspondence concerning a determination.

**MARCH 19, 1979.**  
Take notice that on March 16, 1979,  
Northern Natural Gas Company  
(Northern), 2223 Dodge Street,  
Omaha, Nebraska 68102, tendered for

it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Northern requests that Order Paragraph A of the January 10<sup>th</sup> Order<sup>2</sup> be modified to limit the amount of the PGA rate increase which is subject to refund, to the amount attributed to 60-day emergency purchases. MMUA requests that the scope of the evidentiary hearing which was limited to emergency purchases in the January 10<sup>th</sup> Order,<sup>3</sup>

Ordering Paragraph A provides: No  
ern's proposed Substitute Seventeenth  
vised Sheet No. 4a to FERC Gas Tariff  
Third Revised Volume No. 1, Substitute  
Seventeenth Revised Sheet No. 1c to FERC  
Gas Tariff Original Volume No. 2, are ac-  
cepted for filing, suspended and waived.  
notice requirements is granted such that  
the filing shall become effective on Decem-  
ber 27, 1978, subject to refund.

Ordering Paragraph B provides: Pursuant to the authority of the Natural Gas Act, Sections 4, 5, 8 and 15, and the Commission's rules and regulations, a public hearing will be held on the following matters:



## NOTICES

expanded to include the following issues:

(a) Whether Northern's proposed 2.49¢ per Mcf surcharge designed to recoup unrecovered purchased gas costs during the 12 month period ended September 20, 1978, is just and reasonable;

(b) Whether Northern's PGA Clause needs to be revised to provide greater assurance of accurate tracking of purchased gas costs;

(c) Whether Northern's PGA has in the instant case overstated the estimated cost of purchased gas for the year 1979 by overestimating company-use volumes and losses;

(d) Whether Northern's PGA Clause has operated to overrecover purchased gas costs since its inception; and

(e) Whether Northern's PGA Clause surcharges are properly coordinated with the gas cost recovery provisions of its base rates.

The Commission finds it appropriate to expand the scope of the evidentiary hearing to include these issues.

Farmland raises one issue similar to an issue raised by MMUA<sup>4</sup> and in addition raises several other issues. Farmland initially suggests that Northern's filing fails to comply with the provisions of Order No. 18. First, Farmland suggests that acceptance of the December 27, 1978, effective date contravenes Order No. 18 which allows a surcharge for PGA tariff adjustments effective only "on or after January 1, 1979." Implicit in the Commission's order was a waiver of the January 1, 1979 date<sup>5</sup> and allowance of a December 27, 1978 effective date. Since Northern only files once a year under its PGA tariff, good cause exists to allow an effective date of December 27, 1978.

Second, Farmland suggests that Northern's use of an inflation factor in computing its 1979 NGPA costs contravenes Order No. 18. To the extent that the inflation factor was used for costs attributable to the NGPA from December 1, 1978 to December 27, 1978, Northern will of course be required to credit any overcollections to its unrecovered purchased gas cost account (Account 191). Given the short period (27 days) involved, we are not persuaded that a revised filing is necessary to reflect costs actually incurred during that 27 day period. To the extent the inflation factor applies

Footnotes continued from last page

ing shall be held concerning the prudence of the emergency purchases made by Northern.

<sup>4</sup> Farmland contends that Northern's PGA filing fails to support accurate tracking of projected gas costs for uncontracted new gas from small producers.

<sup>5</sup> In the January 10th order, p. 2 the Commission noted that the filing reflected the impact on purchased gas costs of the Natural Gas Policy Act of 1978 (NGPA).

to the NGPA costs incurred after December 27, 1978, the Commission is not persuaded that the estimation procedures in Northern's filing mandate rejection. However, the Commission finds it appropriate to expand the scope of the evidentiary hearing to include this issue.

Farmland also states that Northern's PGA filing is inconsistent with the Commission's Statement of Policy issued January 24, 1979, respecting the effect of the NGPA on area rate clauses and indefinite price escalator clauses. On February 13, 1979, the Commission modified its Statement of Policy in a Notice of Proposed Rulemaking in Docket No. RM79-22. Given the fact that the Commission has not issued a final rule, the Commission shall not take summary action on Northern's filing at this time. The Commission's decision not to reject Northern's filing at this time does not prejudice further action by the Commission. In the ongoing proceeding, the parties may raise the area rate and indefinite price escalator issues if they deem them appropriate.

Because the issues, which have been included within the scope of the evidentiary hearing, may effect the entire amount of the PGA rate increase, the Commission denies Northern's request for limiting the amount of the PGA rate increase which is subject to refund.

Timely petitions to intervene were filed by Northern Municipal Defense Group and the Minnesota Municipal Utilities Association. Timely notices of intervention were filed by the Minnesota Public Service Commission, and the South Dakota Public Utilities Commission. Untimely petitions to intervene were filed by the Iowa Public Service Company, Wisconsin Gas, Minnesota Gas Company, Terra Chemicals International, Inc., and Farmland Industries, Inc. The Commission finds good cause for granting both the timely and the late petitions to intervene. All petitions to intervene shall therefore be granted.

*The Commission Orders:*

(A) The Commission's order of January 10, 1979, in this docket, is modified to expand the scope of the evidentiary hearing to include the issues listed in the body of this order.

(B) Northern's motion to limit the amount of the PGA rate increase which is subject to refund is denied.

(C) Farmland's motion to reject Northern's filing is denied.

(D) To the extent not granted in Ordering Paragraph A and in the body of this order, Farmland's application for rehearing is denied.

(E) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided,*

however, that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and, *Provided, further,* that the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8691 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. ER79-228]

NORTHERN STATES POWER CO.

Notice of Agreement With Wisconsin Electric Power Co.

MARCH 14, 1979.

Take notice that Northern States Power Company, on March 2, 1979, tendered for filing an Agreement, dated May 10, 1977, with Wisconsin Electric Power Company.

The Agreement provides for the purchase of capacity and associated energy by Wisconsin Electric Power Company for the period May 1, 1979, through April 30, 1980. An effective date of May 1, 1979 is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8692 Filed 3-21-79; 8:45 am]

## NOTICES

## [6450-01-M]

[Docket No. RP72-115 (PGA79-1)]

OKLAHOMA NATURAL GAS GATHERING CORP.

Notice of PGA Change

MARCH 19, 1979.

Take notice that on March 5, 1979, Oklahoma Natural Gas Gathering Corporation (Gathering Corporation) tendered for filing Sixteenth Revised Sheet PGA-1. Gathering Corporation states that Sixteenth Revised Sheet PGA-1 is intended to replace Fifteenth Revised Sheet PGA-1.

Gathering Corporation states that Sixteenth Revised Sheet PGA-1 will become effective on April 1, 1979, and revise its Base Tariff Rate to flow through the increase in the system cost of purchased gas and refund the balance accumulated in its unrecovered purchased gas cost account.

Gathering Corporation further states that the projected cost of purchased gas, as computed in said filing, is based on the applicable area rates, exclusive of the effect of increases which may possibly be triggered by the prices permitted by the Natural Gas Policy Act of 1978 and escalation clauses contained in certain gas purchase contracts. Gathering Corporation states that if such increases occur, costs will be accumulated in the unrecovered purchased cost account and recovered subsequent to its next PGA filing.

Gathering Corporation states that copies of this filing were served upon all its jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8662 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. TC79-13]

PANHANDLE EASTERN PIPE LINE CO.

Tariff Filing

MARCH 19, 1979.

Take Notice that Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet Avenue, P.O. Box 1642, Houston, Texas 77001, on March 15, 1979, tendered for filing Fourth Revised Interim Original Sheet 42-A to its FERC Gas Tariff, Original Volume No. 1 pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement section 401 of the Natural Gas Policy Act. This filing which Panhandle proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Section 16.3 of Panhandle's FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent part of Panhandle's proposed interim tariff sheet tendered for filing herein is as follows:

During the period April 1, 1979, through October 31, 1979, curtailments pursuant to Section 16.3 shall be subject to adjustment pursuant to the provisions of Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, to the extent necessary to supply the certified essential agricultural uses of high priority uses.

The tariff sheet tendered by Panhandle adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Panhandle's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8663 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. ER76-398]

PENNSYLVANIA POWER & LIGHT

Extension of Time

MARCH 13, 1979.

By motion filed on March 5, 1979, Pennsylvania Power & Light Company (PP&L) requested further time to comply with Opinion No. 34, issued by the Commission on January 15, 1979. The motion states that additional time is needed for compliance with Opinion No. 34 because of numerous computations that must be made. The motion further states that counsel for the consumer complainants has no objection to the extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 1, 1979 for PP&L to comply with Ordering Paragraphs (B) and (C) of Opinion No. 34.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8693 Filed 3-21-79; 8:45 am]

## [6450-01-M]

[Docket No. TC79-21]

TENNESSEE GAS PIPELINE CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Respondent), Tenneco Building, P.O. Box 2511, Houston, Texas 77001, filed in docket No. TC79-21 tariff sheets as part of its FERC Gas Tariff, Ninth Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set



forth in said sheets which are on file with the Commission and open to public inspection. Respondent states that the tendered tariff sheets provide special adjustment for direct sale or local distribution customers pursuant to §§ 281.105-281.108 of the Commission's Regulations as follows:

A direct sale customer's high-priority and essential agricultural requirements for the Curtailment Period shall be the lesser of (1) the estimated volume of natural gas required by such customer during the Curtailment Period to serve such customer's high-priority and essential agricultural uses or (2) the sum of (a) the volume for high-priority uses for such customer for the Curtailment Period in the end use data being utilized by Seller in the implementation of its curtailment plan and (b) the lesser of (i) the volume certified by the Secretary of Agriculture as essential agricultural requirements as calculated under 7 C.F.R. § 2900.4 or (ii) the maximum volume which may be delivered by Seller to the direct sale customer under any volumetric limitations in such customer's gas purchase contract with Seller. The volume of adjustment under this section for a direct sale customer for the Curtailment Period shall be such customer's high-priority and essential agricultural requirements for the Curtailment Period reduced by the estimated volume of natural gas to be purchased or obtained from all sources by such customer during the Curtailment Period; provided, however, that if a direct sale customer purchases volumes from local distribution or interstate pipeline suppliers other than Seller, the volume of adjustment for such customer's high-priority and essential agricultural requirements for the curtailment Period to be supplied by Seller shall be equal to the volume of adjustment otherwise determined pursuant to this paragraph multiplied by the ratio of such customer's purchases from Seller during the corresponding period in the calendar year 1978 to such customer's total volumes purchased from all local distribution and interstate pipeline suppliers during the same period.

A local distribution customer's high-priority and essential agricultural requirements for the Curtailment Period shall be the lesser of (1) the sum of (a) the estimated volume of natural gas required by such customer during the Curtailment Period to serve high-priority uses and (b) the volume requested from such customer by essential agricultural users for the Curtailment Period or (2) the sum of (a) the volume for high-priority uses for such customer for the Curtailment Period in the end use data being utilized by Seller in the implementation of its curtailment plan and (b) the lesser of (i) the volume certified by the Secretary of Agriculture as essential agricultural requirements as calculated for the Curtailment Period under 7 C.F.R. § 2900.4 for the essential agricultural user(s) on whose behalf the local distribution customer is requesting volumes from Seller or (ii) the maximum volume which may be delivered by Seller to the local distribution customer under any volumetric limitations in such customer's gas purchase contract with Seller. The volume of adjustment under this section for a local distribution customer for the Curtailment Period shall be such customer's high-priority and essential agricultural requirements for the Curtailment

Period reduced by the estimated volume of natural gas to be purchased or obtained from all sources by such customer during the Curtailment Period; provided, however, that if a local distribution customer purchases volumes from an interstate pipeline supplier other than Seller, the volume of adjustment for such customer's high-priority and essential agricultural requirements for the Curtailment Period to be supplied by Seller shall be equal to the volume of adjustment otherwise determined pursuant to this paragraph multiplied by the ratio of such customer's purchases from Seller during the corresponding period in the calendar year 1978 to such customer's total volumes purchased from all interstate pipeline suppliers during the same period.

If any adjustment under this section and the resulting reduction of Curtailment Period Quantity Entitlements for the Curtailment Period under the preceding paragraph result in (1) the estimated volume of natural gas to be purchased or obtained from all sources by any direct sale or local distribution customer less than such customer's estimated high-priority and essential agricultural requirements for the Curtailment Period, (2) the estimated volume of natural gas to be purchased or obtained from all sources by any interstate pipeline customer less than such customer's volume for high-priority use for the Curtailment Period in the end use data being utilized by Seller in the implementation of its curtailment plan, or (3) a level of supply which Seller determines is below the level which is reasonably necessary for injection into storage by Seller or any Affected Customer to protect high-priority or essential agricultural uses, then Seller, having satisfied itself that the level of supply of any customer is reduced below the level of supply specified in (1), (2) or (3) of this sentence, shall restore any reductions under this section of such customer's Curtailment Period Quantity Entitlement to such level of supply. Seller shall not thereafter adjust the Curtailment Period Quantity Entitlements of any such customers during that Curtailment Period as a result of adjustments under this section. When further reductions of Curtailment Period Quantity Entitlements cannot be made because of such limitation for further reductions under this section, the volume of adjustments for the curtailment Period otherwise determined under this section, including those previously and subsequently granted, shall be reduced from time to time on a pro rata basis so that each customer granted an adjustment for the Curtailment Period will receive the same percentage of the volume of adjustment otherwise provided under this section.

In accordance with the findings and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8674 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-35]

TENNESSEE NATURAL GAS LINES, INC.,

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Tennessee Natural Gas Lines, Inc. (Respondent), 814 Church Street, Nashville, Tennessee 37203, filed in Docket No. TC79-35 tariff sheets as part of its FERC Gas Tariff, First Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

Respondent disclaims contractual obligations as follows:

Notwithstanding any other provision of Seller's F.E.R.C. Gas Tariff or any service agreement or contract with Seller, Seller shall not be contractually or otherwise obligated to deliver to any customer any volumes of gas in excess of the maximum volume such customer is entitled to receive under this Article XIX, and Seller shall not be liable in damages or otherwise to any customer or other person for any volume of gas which any customer is not permitted to

receive as the result of curtailment of deliveries by Seller pursuant to this Article XIX.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8664 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket Nos. G-12706, et al.]

TEXAS EASTERN TRANSMISSION CORP., ET AL.  
Filing of Pipeline Refund Reports and Refund Plans

MARCH 14, 1979.

Take notice that the pipelines listed below have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are shown.

Any person wishing to do so may submit comments concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 26, 1979. Copies of the respective filings are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

| Filing Date      | Company                                | Docket No. | Type Filing |
|------------------|--|------------|-------------|
| January 25, 1979 | Consolidated Gas Supply Corporation    | RP72-157   | Plan.       |
| February 5, 1979 | Texas Eastern Transmission Corporation | G-12706    | Report.     |
| February 5, 1979 | Panhandle Eastern Pipe Line Company    | RP73-36    | Report.     |
| February 8, 1979 | El Paso Natural Gas Company            | RP78-18    | Plan.       |

[FR Doc. 79-8694 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC9-33]

TRANSCONTINENTAL GAS PIPE LINE CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Transcontinental Gas Pipe Line Corporation (Respondent), Post Office Box 1396, Houston, Texas 77001, filed in Docket No. TC79-33 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natu-

ral Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent add a new Section 13.4, entitled "Provision for Relief From Curtailment Pursuant to Section 401 of the Natural Gas Policy Act of 1978" to Respondent's FERC Gas Tariff, Second Revised Volume No. 1. The tariff sheets state their purpose is to assure to the maximum extent practicable that the curtailment rules provided in Section 13 do not cause curtailment of deliveries of natural gas for essential agricultural uses and for high priority uses. The tariff sheets state that Section 13.4 is in conformity

with: (1) the "Settlement Agreement As To Curtailment Rules of Transcontinental Gas Pipe Line Corporation To Be Effective November 1, 1978" and (2) the Commission's Interim Curtailment Rule. The tariff sheets further provide that any Buyer which seeks relief from curtailment on behalf of an eligible end user shall submit an affidavit setting forth data and information supporting the requested relief, consistent with the guidelines and requirements set forth in the Commission's January 19, 1979, "Order Approving And Adopting Settlement" in Docket No. RP72-99 with specific reference to Article VIII of the Settlement Agreement and the Commission's interpretation thereof. Section 13.4(e) of the tendered sheets provides that Respondent, in as expeditious manner as possible, and after consultation with its customers shall determine, with specific reference to Article VIII of the Settlement Agreement and the Commission's interpretation thereof as referred to in Section 13.4(d), whether and to what extent relief shall be granted.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8675 Filed 3-21-79; 8:45 am]



[6450-01-M]

[Docket No. RP77-19]

TRANSWESTERN PIPELINE CO.

Certification of Proposed Stipulation and Agreement

MARCH 14, 1979.

Take notice that on June 26, 1978, the Presiding Administrative Law Judge certified a proposed stipulation and agreement reserving certain issues to the Commission in Docket No. RP77-19.

Any person desiring to be heard or to protest the certified stipulation and agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Comments will be entertained only on the merits of the settlement agreement and not on reserved issues. Initial comments will be filed with the Commission on or before March 26, 1979, and reply comments will be filed on or before April 9, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8695 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-88]

TRANSWESTERN PIPELINE CO.

Informal Settlement Conference

MARCH 19, 1979.

Take notice that on March 22, 1979, at 9:30 a.m., an informal settlement conference will be held in the above-docketed proceeding. The conference will be held at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8665 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-12]

TRUNKLINE GAS CO.

Tariff Filing

MARCH 19, 1979.

Take notice that on March 15, 1979, Trunkline Gas Company (Respondent), P.O. Box 1642, Houston, Texas 77001, pursuant to section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Regulations thereunder filed in Docket No. TC79-12 a tariff sheet as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses, all as more fully set forth in said sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent would amend Section 17.6 of its FERC Gas Tariff, Original Volume No. 1, to add subsection c which states that during the period April 1, 1979 through October 31, 1979, curtailments shall be subject to the provisions of Part 281, Subpart A, Subchapter I, Chapter 1 of Title 18, Code of Federal Regulations, to the extent necessary to supply the certified essential agricultural uses or high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8686 Filed 3-21-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-226]

WESTERN MASSACHUSETTS ELECTRIC CO.

Purchase Agreement

MARCH 14, 1979.

Take notice that on March 2, 1979, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units, dated May 1, 1978, between WMECO and Vermont Electric Cooperative, Inc. (VEC).

WMECO states that the Purchase Agreement provides for a sale to VEC of a specified percentage of capacity and energy from two gas turbine generating units during the summer period from May 1, 1978, to October 31, 1978.

WMECO requests that, in order to permit VEC to meet its NEPOOL requirements for its Capability Responsibility as a result of changes to their generation mix, the Commission, pursuant to Section 35.11 of its regulations, waive the customary notice period and permit the rate schedule filed to become effective on May 1, 1978.

WMECO states that the capacity charge for the proposed service is a negotiated rate, and the Variable and Additional maintenance charges were derived from historical costs.

WMECO states that copies of this rate schedule have been mailed or delivered to WMECO, West Springfield, Massachusetts and VEC, Johnson, Vermont.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8696 Filed 3-21-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 79-17]

FARRELL LINES INC. v. ASSOCIATED CONTAINER TRANSPORTATION (AUSTRALIA) LTD.,  
REDERIKTIEBOLAGET TRANSATLANTIC  
AND PAD SHIPPING AUSTRALIA PTY. LTD.

Filing of Complaint

Notice is given that a complaint filed by Farrell Lines, Inc. against Associated Container Transportation (Australia) Ltd., Rederiaktiebolaget Transatlantic, and PAD Shipping Australia Pty. Ltd. was served March 15, 1979. The complaint alleges that respondents have violated sections 15, 16 First, and 17 of the Shipping Act, 1916, by agreeing to add and adding to their joint service (Agreement 9882) a vessel owned or chartered in part by Seaboard Shipping Company without approval of the Commission, and by agreeing to grant and granting Seaboard special rates, accommodations and privileges.

Hearing in this matter, if any is held, shall commence on or before September 15, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 79-8726 Filed 3-21-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Proposed de novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "rea-

sonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, unless otherwise noted, received by the appropriate Federal Reserve Bank not later than April 16, 1979.

A. Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois 60690.

MICHIGAN NATIONAL CORPORATION, Bloomfield Hills, Michigan (investment advisory activities; Michigan): to act, through its subsidiary, Michigan National Investment Corporation, as investment or financial advisor to the extent of: serving as investment advisor to an investment company registered under the Investment Company Act of 1940; providing portfolio investment advice to any other person; serving in a fiduciary capacity as investment management agent; and furnishing general economic information and advice, general economic statistical forecasting services and industry studies. These activities would be conducted from an office in Clawson, Michigan, and the primary geographic area to be served is the Lower Peninsula of Michigan, principally those cities and counties in which Applicant's affiliate banks are located.

B. Federal Reserve Bank of Dallas, 400 South Akard Street, Dallas, Texas 75222.

ALLIED BANCSHARES, INC., Houston, Texas (insurance activities; Texas): to acquire J. C. Penney Insurance Agency, Inc., change its name to Allied General Agency, Inc., and through that subsidiary to act as agent or broker with respect to: casualty and liability insurance for Applicant's subsidiary banks, including single interest insurance, blanket bond insurance, comprehensive fire, theft, and extended coverage, and personal liability insurance for subsidiary banks; and group hospitalization cov-

erage for employees of Applicant's subsidiary banks. This subsidiary would not act as agent on any type of insurance offered to the public at large or any entity other than Applicant's 19 present and its future subsidiary banks; and the geographic areas to be served are the locations of those bank subsidiaries in Texas.

C. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120.

BANKAMERICA CORPORATION, San Francisco, California (finance and insurance activities; Virginia): to engage, through its subsidiary, FinanceAmerica Mortgage Services Company, in making and acquiring loans and other extensions of credit such as would be made or acquired by a finance company, including purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real property; servicing loans and other extensions of credit; and offering life and accident and disability insurance directly related to its extensions of credit. These activities would be conducted from an office in Richmond, Virginia, and the geographic areas to be served are Prince George, Chesterfield, Dinwiddie, Amelia, Powhatan, Nottoway, Charles City, James City, Lunenburg, Brunswick, and Cumberland Counties, Virginia. Comments on this application must be received by the Federal Reserve Bank of San Francisco not later than April 12, 1979.

D. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, March 14, 1979.

EDWARD T. MULRENNIN,  
Assistant Secretary of the Board.  
[FR Doc. 79-8600 Filed 3-21-79; 8:45 am]

[6210-01-M]

BANK HOLDING COMPANIES

Proposed de novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater con-



venience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 12, 1979.

A. Federal Reserve Bank of Dallas, 400 South Akard Street, Dallas, Texas 75222:

**FIRST CITY BANCORPORATION OF TEXAS, INC.**, Houston, Texas (finance, factoring, and leasing activities; Texas): to engage, through its subsidiary, First City Financial Corp., in making or acquiring commercial loans and other extensions of credit such as would be made by a finance or factoring company, including secured and unsecured loans, loans to purchase improved and unimproved real estate, loans to purchase securities, loans to purchase commodities, standby and commercial letters of credit, acceptances, and other loans; servicing of loans and other extensions of credit; and leasing real and personal property and equipment (other than that used for personal, family, or household purposes) or acting as agent, broker, or advisor in the leasing of such property in accordance with the Board's Regulation Y. These activities would be conducted from offices in Houston and Dallas, Texas, and the principal geographic areas to be served are the Houston and Dallas metropolitan areas.

B. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, March 13, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
(FR Doc. 79-8601 Filed 3-21-79; 8:45 am)

## [6210-01-M]

**BUCHEL BANCSHARES, INC.****Formation of Bank Holding Company**

Buchel Bancshares, Inc., Cuero, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 per cent or more of the voting shares of Buchel Bank and Trust Company, Cuero, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 14, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
(FR Doc. 79-8598 Filed 3-21-79; 8:45 am)

## [6210-01-M]

**FIRST ALABAMA BANCSHARES, INC.****Acquisition of Bank**

First Alabama Bancshares, Inc., Birmingham, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to The Conecuh County Bank, Evergreen, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 13, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
(FR Doc. 79-8604 Filed 3-21-79; 8:45 am)

## [6210-01-M]

**FIRST BANCORP IN DAVIDSON, INC.****Formation of Bank Holding Company**

First Bancorp in Davidson, Inc., Davidson, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank in Davidson, Davidson, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 13, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
(FR Doc. 79-8603 Filed 3-21-79; 8:45 am)

## [6210-01-M]

**FIRST NATIONAL BOSTON CORP.****Acquisition of Bank**

First National Boston Corporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with the successor by merger to Southeastern Bancorp, Inc., New Bedford, Massachusetts, thereby indirectly acquiring 100 percent (less directors' qualifying shares) of the voting shares of Southeastern Bank and Trust Company, New Bedford, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit

views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 13, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
(FR Doc. 79-8602 Filed 3-21-79; 8:45 am)

## [6210-01-M]

**MARLIN BANCSHARES, INC.****Formation of Bank Holding Company**

Marlin Bancshares, Inc., Marlin, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Marlin, Marlin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 14, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
(FR Doc. 79-8605 Filed 3-21-79; 8:45 am)

## [1610-01-M]

**GENERAL ACCOUNTING OFFICE****REGULATORY REPORTS REVIEW****Notice of Receipt of Report Proposal**

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 15, 1979. See 44 U.S.C. 3512(c) and (d).

The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 9, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

**INTERSTATE COMMERCE COMMISSION**

The ICC requests clearance of revisions to the Annual Report, Form RBO, to be filed by 102 ratemaking organizations (commonly referred to as rate bureaus) pursuant to 49 U.S.C. 11145. Data collected through this report is used for economic regulation. Reports are mandatory. The report is revised to reduce carrier reporting burden. The revisions will permit continued general analysis and retain uniformity of data reporting. Item 6 of the report is modified to disclose, by name, carriers added to and/or deleted from membership in a rate bureau in the year reported. Editorial and other nonsubstantive changes were made in the statistics portion. The 33-line balance sheet and 35-line income statement were revised to two 17-line statements. The ICC estimates reporting burden necessary to complete the revised Form RBO will average 4 hours for Class I carriers and 15 minutes for Class II carriers.

ICC Order No. 32448 (Sub No. 3) which was adopted on December 21, 1978, and issued on January 8, 1979, promulgated the revisions which have been incorporated in this form. Although the Order specified that the revisions became effective on January 1, 1979, this effective date is contingent upon ICC's compliance with 44 U.S.C. 3512 which precludes the collection of information from ten or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed report form is consistent with the provisions of section

3512. This notice represents the beginning of our review.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

(FR Doc. 79-8731 Filed 3-21-79; 8:45 am)

## [1610-01-M]

**REGULATORY REPORTS REVIEW****Notice of Receipt of Report Proposals**

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on March 14, 1979 (NRC), March 15, 1979 (CAB), and March 19, 1979 (FTC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB, FTC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before April 9, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

**CIVIL AERONAUTICS BOARD**

The CAB requests clearance of new Forms 380-B, Statement of Charter Operator and Direct Air Carrier; 380-C, Statement of Charter Operator and Surety Company; and 380-D, Statement of Charter Operator, Direct Air Carrier and Depository Bank; contained in an amendment to Part 380 of the Board's Special Regulations—Public Charters. These forms must be filed before a charter operator is permitted to operate, sell, receive money from any prospective participant for, or offer to sell or otherwise advertise a charter or series of charters. The CAB estimates that respondents will number approximately 600 air carriers and charter operators and that reporting time will average one hour for each prospectus.



## FEDERAL TRADE COMMISSION

The FTC requests clearance of a one-time questionnaire to be sent to shopping center landlords/developers and tenants as part of a survey of restrictive practices in the leasing of space in shopping centers. The FTC estimates respondents will number approximately 113 out of a universe of 2,500 and that reporting time will average 65 hours per response. Response is mandatory.

## NUCLEAR REGULATORY COMMISSION

The NRC requests an extension without change clearance for the voluntary reporting requirements of the NRC-Agreement State Exchange-of-Information Program. Pursuant to the Atomic Energy Act of 1954, as amended, the NRC has entered into agreements with 25 States providing for the discontinuance of the Commission's authority with respect to certain materials and the assumption of this authority by the State. All agreements include provisions under which the State and the Commission agree to keep each other informed of proposed changes in their regulatory programs and to obtain the assistance of other parties thereon. The NRC and Agreement States have agreed to an exchange-of-information program whereby the States furnish a semi-annual report to the NRC. This information is compiled by the NRC and included in an NRC semi-annual report which is distributed to the Agreement States. The NRC report includes summary information on the licensing, inspection, and enforcement activities of the Commission and the Agreement states and other information as appropriate. The NRC states that respondents are the 25 States having agreements with the NRC and that each Agreement State submits a report semi-annually which requires approximately 12 hours to prepare.

NORMAN F. HEYL,  
Regulatory Reports,  
Review Officer.

[FR Doc. 79-8732 Filed 3-21-79; 8:45 am]

[6820-61-M]

GENERAL SERVICES  
ADMINISTRATION

[Intervention Notice 85; Case No. 79-114]

GAS SERVICE CO., MISSOURI PUBLIC SERVICE  
CO.

Proposed Intervention in Gas Rate Increase  
Proceedings

The Administrator of General Services seeks to intervene in a proceeding before the Missouri Public Service Commission involving an application by the Gas Service Company for an in-

## NOTICES

crease in its gas revenues. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, N.W., Washington, DC 20405, telephone (202) 566-0726, on or before April 23, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any person parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: March 8, 1979.

JAY SOLOMON,  
Administrator of  
General Services.

[FR Doc. 79-8710 Filed 3-21-79; 8:45 am]

[6820-23-M]

REGIONAL PUBLIC ADVISORY PANEL ON  
ARCHITECTURAL AND ENGINEERING SERVICES

## Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, April 10 and 11, 1979, from 9:00 a.m. to 4:00 p.m., Room 3E1, 1776 Peachtree Street, N.W., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Savannah, Georgia, Federal Building and Parking Facility. The meeting will be open to the public."

Dated: March 14, 1979.

PAUL L. ALLISON,  
Acting Regional Administrator.

[FR Doc. 79-8765 Filed 3-21-79; 8:45 am]

[4110-07-M]

DEPARTMENT OF HEALTH,  
EDUCATION AND WELFARE

## Social Security Administration

## ADVISORY COUNCIL ON SOCIAL SECURITY

## Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Sunday, April 8, 1979, from 9:30 a.m. to 6:30 p.m. and Monday, April 9, 1979, from 9 a.m. to 4 p.m. at the Holiday Inn (Georgetown), 2101 Wisconsin Avenue, N.W., Washington, D.C. 20007. The meetings will be devoted to the topic of general benefit level issues.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the Social Security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT:

Mr. Lawrence H. Thompson, Executive Director, Advisory Council on Social Security, P.O. Box 17054, Baltimore, Maryland 21235.

Telephone inquiries should be directed to Mr. Edward F. Moore, (301) 594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program.)

Dated:

LAWRENCE H. THOMPSON,  
Executive Director,  
Advisory Council on Social Security.

[FR Doc. 79-8630 Filed 3-21-79; 8:45 am]

[4110-02-M]

## Office of Education

PRESIDENT'S COMMISSION ON FOREIGN  
LANGUAGE AND INTERNATIONAL STUDIES

## Hearing

AGENCY: President's Commission on Foreign Language and International Studies.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the President's Commission on Foreign Language and International Studies. It also describes the functions of the Commission. Notice of these hearings is required under the Federal Advisory Committee Act, (5 U.S.C. Code, Appendix I, Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATES: April 12-13, 1979.

## NOTICES

ADDRESS: Jane S. McKimmon Center, North Carolina State University, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Nan Bell, Staff Director, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036, (202) 653-4817

The President's Commission on Foreign Language and International Studies is established under Executive Order 12054 (April 21, 1978) and Section 9(a) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. Appendix I). The Commission is directed to:

(A) Conduct such public hearings, inquiries, and studies as may be necessary to make recommendations to the President and the Secretary of Health, Education, and Welfare.

(B) The objectives of the Commission shall be to:

(1) Recommend means for directing public attention to the importance of foreign language and international studies for the improvement of communications and understanding with other nations in an increasingly interdependent world;

(2) Assess the need in the United States for foreign language and area specialists, ways in which foreign language and international studies contribute to meeting these needs, and the job market for individuals with these skills;

(3) Recommend what foreign language area studies programs are appropriate at all academic levels and recommend desirable levels and kinds of support for each that should be provided by the public and private sectors;

(4) Review existing legislative authorities and make recommendations for changes needed to carry out most effectively the Commission's recommendations.

The hearing will take place in Raleigh on April 12, 1979, from 1:30 p.m. to 5:00 p.m. and on April 13, 1979, from 8:30 a.m. to 1:00 p.m., and will include the following agenda:

(1) Statement on work and priorities of the Commission;

(2) Presentations on foreign language and international studies: issues of the eighties, and on foreign language and international studies at the elementary/secondary level;

(3) Concurrent panel discussions on international education in the schools and colleges, foreign language education in the U.S., international exchanges, institutional language and area studies needs, and business and international trade needs.

The hearing will close with summaries of each panel's discussions. The hearing of the Commission and panel discussions will be open to the public. Records will be kept of the proceedings and will be available for public in-

spection at the office of the President's Commission on Foreign Language and International Studies, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C. on March 14, 1979.

NAN P. BELL,  
Staff Director.

[FR Doc. 79-8711 Filed 3-21-79; 8:45 am]

[4310-84-M]

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

OUTER CONTINENTAL SHELF, SOUTHERN  
CALIFORNIA

## Proposed Oil and Gas Lease Sale No. 48

In connection with oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior has established a policy relating to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States with the opportunity to review the draft proposed sale notice prior to its final publication in the FEDERAL REGISTER. The following is a draft sale notice for proposed Sale No. 48 in the offshore waters of Southern California. This notice is hereby published as a matter of information to the public.

Dated: March 15, 1979.

ARNOLD E. PETTY,  
Acting Associate Director,  
Bureau of Land Management.

Approved: \_\_\_\_\_

CECIL D. ANDRUS,  
Secretary of the Interior.

## PROPOSED SALE NOTICE

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), as amended, and the regulations issued thereunder (43 CFR 3300).

2. *Filing of Bids.* Sealed bids will be received by the Manager, Pacific Outer Continental Shelf (OCS) Office, Bureau of Land Management.

Bids may be delivered, either by mail or in person, to the above address until 4 p.m., p.s.t., June —, 1979; or by personal delivery to (sale site in Los Angeles, California to be announced) between the hours of 8:30 a.m., p.s.t., and 9:30 a.m., p.s.t., June —, 1979. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., p.s.t., June —, 1979. All bids must be submitted and will be considered in accordance with applicable regulations, including 43

CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in FR —, 1979.

3. *Method of Bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., p.s.t., June —, 1979," must be submitted for each tract. A suggested form appears in paragraph 17 of this notice. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR 3302. The suggested form for this statement to be used in joint bids appears in paragraph 18. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Bonus Bidding With a Fixed Sliding Scale Royalty.* Bids on tracts 48-018, 48-019, 48-026, 48-027, 48-028, 48-029, 48-030, 48-037, 48-038, 48-039, 48-040, 48-041, 48-042, 48-043, 48-044, 48-045, 48-055, 48-056, 48-057, 48-058, 48-059, 48-060, 48-061, 48-062, 48-066, 48-067, 48-068, 48-069, 48-070, 48-071, 48-072, 48-073, 48-074, 48-077, 48-078, 48-079, 48-080, 48-081, 48-082, 48-083, 48-084, 48-085, 48-086, 48-109, 48-110, 48-111, 48-112, 48-113, 48-114, 48-115, 48-116, 48-123, 48-124, 48-125, 48-126, 48-127, 48-128, 48-131, 48-134, 48-137, 48-138, 48-139, 48-140, 48-167, 48-168, 48-169, 48-170, 48-171, 48-172, 48-173, 48-174, 48-175, 48-176, and 48-177, must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.



The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to \$13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$13.236230 million, but less than or equal to \$1662.854082 million, the royalty percent due on the unadjusted value or amount of product is given by

$$R_j = b[\ln(V_j/S)]$$

where:

$R_j$  = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter  $j$

$b = 10.0$

$\ln$  = natural logarithm

$V_j$  = the value of production in quarter  $j$ , adjusted for inflation, in millions of dollars

$S = 2.5$

When the adjusted quarterly value of production is equal to or greater than \$1662.854083 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due,  $R_j$ , the calculation will be rounded to five decimal places (for example, 18.17612 percent). This calculation will incorporate the adjusted quarterly value of production,  $V_j$ , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

[4310-84-C]

Figure 1  
Form of the Sliding Royalty Schedule

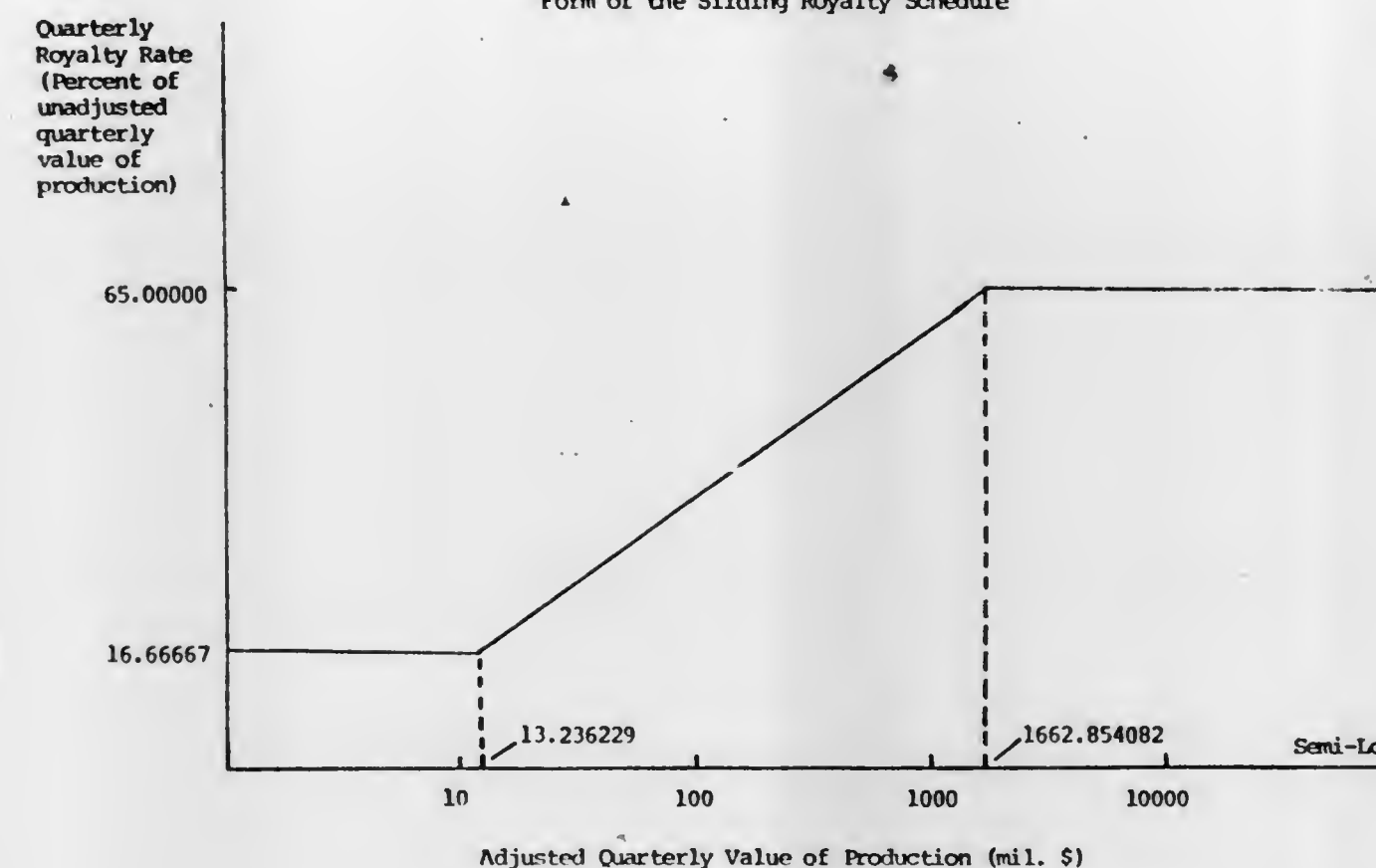


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

| (1)<br>Actual Value of<br>Quarterly Production<br>(Millions of Dollars) | (2)<br>GNP Fixed Weighted<br>Price Index | (3)<br>Inflation Factor <sup>a</sup> | (4)<br>Adjusted Value of<br>Quarterly Production <sup>b</sup><br>( $V_j$ , Millions of \$) | (5)<br>Percent<br>Royalty<br>Rate ( $R_j$ ) | (6)<br>Royalty Payment <sup>c</sup><br>(Millions of<br>Dollars) |
|---|--|--------------------------------------|--|---|---|
| 10.000000   | 200.0                                    | 4/3                                  | 7.500000   | 16.66667                                    | 1.666667  |
| 30.000000   | 200.0                                    | 4/3                                  | 22.500000  | 21.97225                                    | 6.591675  |
| 90.000000   | 200.0                                    | 4/3                                  | 67.500000  | 32.95837                                    | 29.662533   |
| 270.000000  | 200.0                                    | 4/3                                  | 202.500000   | 43.94449                                    | 118.650123  |
| 810.000000  | 200.0                                    | 4/3                                  | 607.500000   | 54.93061                                    | 444.937941  |
| 10.000000   | 250.0                                    | 5/3                                  | 6.000000   | 16.66667                                    | 1.666667  |
| 30.000000   | 250.0                                    | 5/3                                  | 18.000000  | 19.74081                                    | 5.922243  |
| 90.000000   | 250.0                                    | 5/2                                  | 54.000000  | 30.72693                                    | 27.654237   |
| 270.000000  | 250.0                                    | 5/3                                  | 162.000000   | 41.71306                                    | 112.625262  |
| 810.000000  | 250.0                                    | 5/3                                  | 486.000000   | 52.69918                                    | 426.863358  |

<sup>a</sup> Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

<sup>b</sup> Column (1) divided by Inflation Factor.

<sup>c</sup> Column (1) times Column (5). All values are rounded for display purposes only.



## [4310-84-M]

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of the index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.60 et seq. the timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

Leases awarded on the basis of a cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or minimum royalty payment of \$3 per acre or fraction thereof.

Bidders for these tracts should recognize that the Department of Energy is authorized, under Section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

5. **Bonus Bidding With a Fixed Constant Royalty.** Bids on the remaining tracts to be offered at this sale must be on a cash bonus basis with a fixed royalty of 16% percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of \$3 per acre or fraction thereof or \$8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17.

6. **Equal Opportunity.** Each bidder must have submitted by 9:30 a.m., p.s.t., June 1, 1979, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, form 1140-7 (December 1971).

7. **Bid Opening.** Bids will be opened on June 1, 1979, beginning at 10 a.m., p.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announc-

ing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, June 1, 1979, that bid will be returned unopened to the bidder, as soon as thereafter as possible.

8. **Deposit of Payment.** Any cash, cashier's checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. **Withdrawal of Tracts.** The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

10. **Acceptance or Rejection of Bids.** The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of \$25 or more per acre or fraction thereof or \$62.00 per hectare or fraction thereof.

11. **Successful Bidders.** Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. **Protraction Diagram/Leasing maps.** Tracts offered for lease may be located on the following leasing maps/protraction diagrams which are available from the Manager, Pacific Outer Continental Shelf Office at the address stated in Paragraph 2.

(a) Outer Continental Shelf Leasing Maps, Channel Islands Area: Maps 6A, 6B, 6D and 6E sell for \$1.00 each; Map 6C sells for \$2.00.

(b) Outer Continental Shelf Official Protraction Diagram NI 11-10, San Clemente, sells for \$2.00.

13. **Tract Descriptions.** The tracts offered for bid are as follows:

NOTE: There may be gaps in the numbers of the tracts listed, and they are not in sequence. Some of the blocks identified in the final environmental statement may not be included in this notice. When the tracts are

found on maps which describe them in acres, the tract list will show acres, as in OCS Leasing maps 6A, 6B, 6C, 6D, and 6E. When the tracts are found on an OCS Official Protraction Diagram such as NI 11-10, which describes tracts in hectares, the list will show hectares.

## OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP No. 6A

[Approved July 24, 1967]

| Tract  | Block   | Description | Acres   |
|--------|---------|-------------|---------|
| 48-001 | 55N 87W | All         | 4451.17 |
| 48-002 | 55N 88W | All         | 4380.19 |
| 48-003 | 55N 85W | All         | 4269.12 |
| 48-004 | 55N 84W | All         | 4177.93 |
| 48-005 | 55N 83W | All         | 4086.63 |
| 48-006 | 55N 82W | All         | 1429.80 |
| 48-007 | 54N 87W | All         | 5760.00 |
| 48-008 | 54N 86W | All         | 5760.00 |
| 48-009 | 54N 85W | All         | 5760.00 |
| 48-010 | 54N 84W | All         | 5760.00 |
| 48-011 | 54N 83W | All         | 5760.00 |
| 48-014 | 53N 85W | All         | 5760.00 |
| 48-015 | 53N 84W | All         | 5760.00 |
| 48-016 | 53N 83W | All         | 5760.00 |
| 48-017 | 53N 82W | All         | 5760.00 |
| 48-018 | 53N 77W | S 1/2       | 2880.00 |
| 48-019 | 53N 72W | All         | 3374.52 |
| 48-021 | 52N 85W | All         | 5760.00 |
| 48-022 | 52N 84W | All         | 5760.00 |
| 48-023 | 52N 83W | All         | 5760.00 |
| 48-024 | 52N 82W | All         | 5760.00 |
| 48-025 | 52N 81W | All         | 5760.00 |
| 48-026 | 52N 76W | All         | 5760.00 |
| 48-027 | 52N 73W | All         | 5760.00 |
| 48-028 | 52N 72W | All         | 5760.00 |
| 48-031 | 51N 84W | All         | 5760.00 |
| 48-032 | 51N 83W | All         | 5760.00 |
| 48-033 | 51N 82W | All         | 5760.00 |
| 48-034 | 51N 81W | All         | 5760.00 |
| 48-035 | 51N 80W | All         | 5760.00 |
| 48-036 | 51N 79W | All         | 5760.00 |
| 48-037 | 51N 78W | All         | 5760.00 |
| 48-038 | 51N 77W | All         | 5760.00 |
| 48-039 | 51N 76W | All         | 5760.00 |
| 48-040 | 51N 75W | All         | 5760.00 |
| 48-041 | 51N 74W | All         | 5760.00 |
| 48-042 | 51N 73W | All         | 5760.00 |
| 48-043 | 51N 72W | All         | 5760.00 |
| 48-049 | 50N 83W | All         | 5760.00 |
| 48-050 | 50N 82W | All         | 5760.00 |
| 48-051 | 50N 81W | All         | 5760.00 |
| 48-052 | 50N 80W | All         | 5760.00 |
| 48-053 | 50N 79W | All         | 5760.00 |
| 48-055 | 50N 77W | All         | 5760.00 |
| 48-056 | 50N 76W | All         | 5760.00 |
| 48-057 | 50N 75W | All         | 5760.00 |
| 48-058 | 50N 74W | All         | 5760.00 |
| 48-059 | 50N 73W | All         | 5760.00 |
| 48-060 | 50N 72W | All         | 5760.00 |
| 48-068 | 49N 78W | All         | 5760.00 |
| 48-067 | 49N 77W | All         | 5760.00 |
| 48-068 | 49N 76W | All         | 5760.00 |
| 48-069 | 49N 75W | All         | 5760.00 |
| 48-070 | 49N 74W | All         | 5760.00 |
| 48-071 | 49N 73W | All         | 5760.00 |
| 48-072 | 49N 72W | All         | 5760.00 |
| 48-077 | 48N 78W | All         | 5760.00 |
| 48-078 | 48N 77W | All         | 5760.00 |
| 48-079 | 48N 76W | All         | 5760.00 |
| 48-080 | 48N 75W | All         | 5760.00 |
| 48-081 | 48N 74W | All         | 5760.00 |
| 48-082 | 48N 73W | All         | 5760.00 |
| 48-083 | 48N 72W | All         | 5760.00 |
| 48-109 | 36N 73W | All         | 5760.00 |
| 48-110 | 36N 72W | All         | 5760.00 |
| 48-111 | 36N 71W | All         | 5760.00 |
| 48-112 | 37N 72W | All         | 5760.00 |
| 48-113 | 36N 73W | All         | 5760.00 |
| 48-114 | 36N 72W | All         | 5760.00 |

That portion seaward of the three geographical mile line.

## OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP No. 6B

[Approved August 8, 1968; Revised July 24, 1967]

| Tract  | Block   | Description                    | Acres   |
|--------|---------|--------------------------------|---------|
| 48-029 | 52N 71W | All                            | 5749.62 |
| 48-030 | 52N 70W | W 1/2 W 1/2                    | 1196.15 |
| 48-044 | 51N 71W | All                            | 5760.00 |
| 48-045 | 51N 70W | W 1/2 W 1/2                    | 1440.00 |
| 48-046 | 51N 63W | S 1/2                          | 2880.00 |
| 48-047 | 51N 62W | SW 1/4 SW 1/4                  | 360.00  |
| 48-061 | 50N 71W | All                            | 5760.00 |
| 48-062 | 50N 70W | All                            | 5760.00 |
| 48-063 | 50N 85W | All                            | 5760.00 |
| 48-064 | 50N 62W | W 1/2, SE 1/4, S 1/2 NE 1/4    | 5040.00 |
| 48-065 | 50N 61W | NW 1/4, SW 1/4, SW 1/4, SE 1/4 | 1440.00 |
| 48-073 | 49N 71W | All                            | 5760.00 |
| 48-074 | 49N 70W | All                            | 5760.00 |
| 48-075 | 49N 62W | All                            | 5760.00 |
| 48-076 | 49N 61W | All                            | 5760.00 |
| 48-084 | 48N 71W | All                            | 5760.00 |
| 48-085 | 48N 70W | All                            | 5760.00 |
| 48-086 | 48N 69W | All                            | 5760.00 |
| 48-087 | 48N 59W | All                            | 2989.90 |
| 48-115 | 35N 55W | All                            | 5760.00 |
| 48-116 | 34N 55W | All                            | 5760.00 |

That portion seaward of the three geographical mile line.

## OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP No. 6C

[Approved August 8, 1968; Revised April 25, 1977]

| Tract  | Block   | Description | Acres   |
|--------|---------|-------------|---------|
| 48-123 | 34N 39W | All         | 5760.00 |
| 48-124 | 34N 36W | All         | 5760.00 |
| 48-125 | 33N 39W | All         | 5760.00 |
| 48-126 | 33N 38W | All         | 5760.00 |
| 48-127 | 32N 39W | All         | 5760.00 |
| 48-128 | 32N 37W | All         | 5760.00 |
| 48-131 | 32N 33W | All         | 5758.28 |
| 48-134 | 31N 36W | All         | 5760.00 |
| 48-137 | 31N 32W | All         | 5760.00 |
| 48-138 | 30N 36W | All         | 5760.00 |
| 48-139 | 30N 33W | All         | 5760.00 |
| 48-140 | 29N 33W | All         | 5760.00 |

That portion seaward of the three geographical mile line.

## OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP No. 6D

[Approved August 8, 1968]

| Tract  | Block   | Description | Acres   |
|--------|---------|-------------|---------|
| 48-167 | 20N 66W | All         | 5760.00 |
| 48-168 | 20N 65W | All         | 5760.00 |
| 48-169 | 20N 64W | All         | 5760.00 |
| 48-170 | 20N 63W | All         | 5760.00 |
| 48-171 | 19N 66W | All         | 5760.00 |
| 48-172 | 19N 65W | All         | 5760.00 |
| 48-173 | 19N 64W | All         | 5760.00 |
| 48-174 | 19N 63W | All         | 5760.00 |
| 48-175 | 19N 62W | All         | 5760.00 |
| 48-176 | 19N 61W | All         | 5760.00 |
| 48-177 | 18N 83W | All         | 5760.00 |
| 48-178 | 18N 59W | All         | 5760.00 |
| 48-179 | 17N 61W | All         | 5760.00 |
| 48-180 | 14N 61W | All         | 5760.00 |
| 48-181 | 13N 61W | All         | 5760.00 |
| 48-182 | 13N 58W | All         | 5760.00 |
| 48-183 | 13N 55W | All         | 5760.00 |
| 48-184 | 13N 54W | All         | 5760.00 |
| 48-185 | 13N 53W | All         | 5760.00 |
| 48-186 | 12N 59W | All         | 5760.00 |
| 48-187 | 12N 55W | All         | 5760.00 |
| 48-188 | 12N 54W | All         | 5760.00 |
| 48-189 | 12N 52W | All         | 5760.00 |

That portion seaward of the three geographical mile line.

## OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP No. 6D—Continued

[Approved August 8, 1968]

| Tract  | Block   | Description | Acres   |
|--------|---------|-------------|---------|
| 48-190 | 11N 60W | All         | 5760.00 |
| 48-191 | 11N 59W | All         | 5760.00 |
| 48-192 | 11N 55W | All         | 5760.00 |
| 48-193 | 11N 53W | All         | 5760.00 |
| 48-194 | 11N 52W | All         | 5760.00 |
| 48-195 | 10N 61W | All         | 5760.00 |
| 48-196 | 10N 60W | All         | 5760.00 |
| 48-197 | 10N 58W | All         | 5760.00 |
| 48-198 | 10N 57W | All         | 5760.00 |

That portion seaward of the three geographical mile line.

## OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP No. 6E

[Approved August 8, 1968]

| Tract  | Block  | Description | Acres   |
|--------|--------|-------------|---------|
| 48-199 | 9N 59W | All         | 5760.00 |
| 48-200 | 9N 58W | All         | 5760.00 |
| 48-206 | 8N 58W | All         | 5760.00 |

That portion seaward of the three geographical mile line.

## OCS OFFICIAL PROTRACTION DIAGRAM, NI 11-10, SAN CLEMENTE

[Approved May 17, 1976; Revised September 27, 1977]

| Tract  | Block | Description | Hectares |
|--------|-------|-------------|----------|
| 48-201 | 418   | All         | 121.59   |
| 48-202 | 419   | All         | 203.22   |
| 48-203 | 462   | All         | 1474.58  |
| 48-204 | 463   | All         | 2304.00  |
| 48-205 | 464   | All         | 2304.00  |
| 48-207 | 506   | All         | 1456.83  |
| 48-208 | 507   | All         | 2304.00  |
| 48-209 | 508   | All         | 2304.00  |
| 48-210 | 550   | All         | 1439.21  |
| 48-211 | 551   | All         | 2304.00  |
| 48-212 | 552   | All         | 2304.00  |

That portion seaward of the three geographical mile line.

14. **Lease Terms and Stipulations.** All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued will be on Form 3300-1 (September 1978), available from the Manager, Pacific Outer Continental Shelf Office, at the address stated in paragraph 2. Section 6 of the lease form will be amended for tracts offered on a cash bonus basis with a fixed sliding scale royalty, listed in paragraph 4, as follows:

Sec. 6. **Royalty on Production.** (a) To pay the lessor a royalty of that percent in amount or value of production saved removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to \$13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the ad-

justed quarterly value of production is equal to or greater than \$13.236230 million, but less than or equal to \$1662.854082 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\ln(V_j/S)]$$

where:

$R_j$  = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 10.0$

$\ln$  = natural logarithm

$V_j$  = the value of production in quarter j, adjusted for inflation, in millions of dollars

$S = 2.5$

When the adjusted quarterly value of production is equal to or greater than \$1662.854083 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold. In determining the quarterly percent royalty due,  $R_j$ , the calculation will be rounded to five decimal places (for example, 18.17612 percent). This calculation will incorporate the adjusted quarterly value of production,  $V_j$ , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term Supervisor refers to the Pacific Area Oil and Gas Supervisor for Operations of the Geological Survey and the term Manager refers to the Manager of the Pacific OCS Office of the Bureau of Land Management.

## Stipulation No. 1

The following stipulation will apply to all leases resulting from this sale for tract numbers 48-001, 48-002, 48-003, 48-004, 48-005, 48-006, 48-007, 48-008, 48-009, 48-010, 48-011, 48-014, 48-015, 48-016, 48-017, 48-018, 48-019, 48-021, 48-022, 48-023, 48-024, 48-025, 48-026, 48-027, 48-028, 48-029, 48-030, 48-031, 48-032, 48-033, 48-034, 48-035, 48-036, 48-037, 48-038, 48-039, 48-040, 48-041, 48-042, 48-043, 48-044, 48-045, 48-049, 48-050, 48-051, 48-052, 48-053, 48-055, 48-056, 48-057, 48-058, 48-059, 48-060, 48-061, 48-062, 48-066, 48-067, 48-068, 48-069, 48-070, 48-071, 48-072, 48-073, 48-074, 48-077, 48-078, 48-079, 48-080, 48-081, 48-082, 48-083, 48-084, 48-085, 48-086, 48-109, 48-110, 48-111, 48-112, 48-113, 48-114, 48-115,



172, 48-173, 48-174, 48-175, 48-176, 48-177, 48-178, 48-179, 48-180, 48-181, 48-182, 48-183, 48-184, 48-185, 48-186, 48-187, 48-188, 48-189, 48-190, 48-191, 48-192, 48-193, 48-194, 48-195, 48-196, 48-197, 48-198, 48-199, 48-200, 48-201, 48-202, 48-203, 48-204, 48-205, 48-206, 48-207, 48-208, 48-209, 48-210, 48-211, and 48-212. In addition, paragraph (d) only applies to 48-167, 48-168, 48-169, 48-170, 48-171, 48-172, 48-173, 48-174, 48-175, 48-176, 48-177, 48-178, 48-179, 48-180, 48-181, 48-182, 48-183, 48-184, 48-185, 48-186, 48-187, 48-188, 48-189, 48-190, 48-191, 48-192, 48-193, 48-194, 48-195, 48-196, 48-197, 48-198, 48-199, 48-200, 48-201, 48-202, 48-203, 48-204, 48-205, 48-206, 48-207, 48-208, 48-209, 48-210, 48-211, and 48-212.

(a) The lessee agrees that when operating or causing to be operated on its behalf boat or aircraft traffic into individual designated warning areas, the lessee shall coordinate and comply with instructions from the Commander of the appropriate onshore military installations, i.e., the Space and Missile Test Center (SAMTEC), the Pacific Missile Test Center (PMTTC), or other appropriate military agency, when utilizing an individual designated warning area prior to commencing such traffic. Such coordination and instruction will provide for positive control of boats and aircraft operating into the warning areas at all times.

(b) The lessee, recognizing that mineral exploration and exploitation and recovery operations on the leased areas of submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lessee under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel, and appropriate sheltering of personnel not evacuated (an appropriate shelter shall mean the protection of all lessee personnel for the entire duration of any Department of Defense activity from flying or falling objects or substances), will come into effect upon the order of the Supervisor, after consultation with the Commander, Space and Missile Test Center (SAMTEC) or his authorized designee, the Commander, Pacific Missile Test Center (PMTTC), or higher authority, when national security interests necessitate such action. It is understood that any temporary suspension of operations for national security may not exceed seventy-two hours; however, any such suspension may be extended by order of the Supervisor. During such periods equipment may remain in place.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invit-

ees, independent contractors or sub-contractors emanating from individual designated defense warning areas in accordance with requirements specified by the Commander of the appropriate onshore military installations, i.e., the Western Area Frequency Coordinator located at the Space and Missile Test Center (SAMTEC), and the Pacific Missile Test Center (PMTTC), or other appropriate military agency, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities conducted within individual designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or sub-contractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area. Provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or sub-contractors and onshore facilities.

(d) Additionally, section (a) and (c) of this stipulation shall apply to tract numbers 48-167, 48-168, 48-169, 48-170, 48-171, 48-172, 48-173, 48-174, 48-175, 48-176, 48-177, 48-178, 48-179, 48-180, 48-181, 48-182, 48-183, 48-184, 48-185, 48-186, 48-187, 48-188, 48-189, 48-190, 48-191, 48-192, 48-193, 48-194, 48-195, 48-196, 48-197, 48-198, 48-199, 48-200, 48-201, 48-202, 48-203, 48-204, 48-205, 48-206, 48-207, 48-208, 48-209, 48-210, 48-211, and 48-212, coordination with the Commanding Officer Fleet Area Control and Surveillance Facility (FACSFAC) is required in addition to SAMTEC and PMTTC.

#### STIPULATION No. 2

In order to indemnify and save harmless the United States, the following stipulations will apply to leases resulting from this lease sale in tract numbers 48-001, 48-002, 48-003, 48-004, 48-005, 48-006, 48-007, 48-008, 48-009, 48-010, 48-011, 48-014, 48-015, 48-016, 48-017, 48-018, 48-019, 48-021, 48-022, 48-023, 48-024, 48-025, 48-026, 48-027, 48-028, 48-029, 48-030, 48-031, 48-032, 48-033, 48-034, 48-035, 48-036, 48-037, 48-038, 48-039, 48-041, 48-042, 48-043, 48-044, 48-045, 48-049, 48-050, 48-051, 48-052, 48-053, 48-055, 48-056, 48-057, 48-058, 48-059, 48-060, 48-061, 48-062, 48-066, 48-067, 48-068, 48-069, 48-070, 48-071, 48-072, 48-073, 48-074, 48-077, 48-078, 48-079, 48-080, 48-081, 48-082, 48-083, 48-084, 48-085, 48-086, 48-109, 48-110, 48-111, 48-112, 48-113, 48-114, 48-115, 48-116, 48-167, 48-168, 48-169, 48-170, 48-171, 48-172, 48-173, 48-174, 48-175, 48-176, 48-177, 48-178, 48-179, 48-180, 48-181, 48-182, 48-183, 48-

184, 48-185, 48-186, 48-187, 48-188, 48-189, 48-190, 48-191, 48-192, 48-193, 48-194, 48-195, 48-196, 48-197, 48-198, 48-199, 48-200, 48-201, 48-202, 48-203, 48-204, 48-205, 48-206, 48-207, 48-208, 48-209, 48-210, 48-211, and 48-212.

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or person who are agents, employees or invitees of the lessee, its agents, independent contractors or sub-contractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or sub-contractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Space and Missile Test Center (SAMTEC), the Pacific Missile Test Center (PMTTC), or other appropriate military agency.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or sub-contractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or sub-contractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or sub-contractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

#### STIPULATION No. 3

To apply to all leases resulting from this lease sale.

If the Supervisor, having reason to believe that a site, structure or object of historical or archaeological significance, hereinafter referred to as a "cultural resource," may exist in the lease area, gives the lessee written

notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the Supervisor and the Manager, Bureau of Land Management (BLM), Outer Continental Shelf (OCS) Office for review.

If such cultural resource indicators are present the lessee shall (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the Supervisor and the Manager, BLM OCS Office for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor and make every reasonable effort to preserve and protect the cultural resource from damage until

the Supervisor has given directions as to its preservation.

#### STIPULATION No. 4

This stipulation is to be applied to leases resulting from this sale for all or part of tracts 48-001, 48-002, 48-003, 48-004, 48-005, 48-006, 48-007, 48-008, 48-009, 48-010, 48-011, 48-014, 48-015, 48-016, 48-017, 48-018, 48-019, 48-021, 48-022, 48-023, 48-024, 48-025, 48-026, 48-027, 48-028, 48-029, 48-030, 48-031, 48-032, 48-033, 48-034, 48-035, 48-036, 48-037, 48-038, 48-039, 48-040, 48-041, 48-042, 48-043, 48-044, 48-045, 48-046, 48-047, 48-049, 48-050, 48-051, 48-052, 48-053, 48-055, 48-056, 48-057, 48-058, 48-059, 48-060, 48-061, 48-062, 48-063, 48-064, 48-065, 48-066, 48-067, 48-068, 48-069, 48-070, 48-071, 48-072, 48-073, 48-074, 48-075, 48-076, 48-077, 48-078, 48-079, 48-080, 48-081, 48-082, 48-083, 48-084, 48-085, 48-086, and 48-087, which are all or partly within established or developing commercial trawl grounds.

(a) *Wells:* Subsea well-heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible, by a shroud which will allow commercial trawl gear to pass over the structure without snagging or otherwise damaging the structure or the fishing gear. Latitude and longitude coordinates of these structures along with water depths, shall be submitted to the Supervisor. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least  $\pm 50$  feet (15.25 meters) at 200 miles (322 kilometers).

(b) *Pipelines:* All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other structures, they shall be protected by shrouds which will allow trawl gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

#### STIPULATION No. 5

To apply to all leases resulting from this lease sale to prevent detrimental impact upon areas of special biological interest discovered after issuance of the lease.

(a) If the Supervisor has reason to believe that areas of special biological interest in the lease area contain biological communities or species of such extraordinary or unusual value (even though unquantifiable) such that no threat of damage, injury, or other harm to the community or species would be acceptable, he shall give the lessee written notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with

the following requirements: Prior to any drilling activity or the construction or placement of any structure for exploration or development on lease areas including, but not limited to, well drilling and pipeline and platform placement, hereinafter referred to as "operation," the lessee shall conduct site specific surveys as approved by the Supervisor and in accordance with prescribed biological survey requirements to determine the existence of any special biological resource including, but not limited to:

(1) Very unusual, rare, or uncommon ecosystems or ecotones.

(2) A species of limited regional distribution that may be adversely affected by any lease operation.

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; (2) establish to the satisfaction of the Supervisor, on the basis of the site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The Supervisor will review all data submitted and determine, in writing, whether a special biological resource exists or may be significantly affected by lessee's operations. The lessee may take no action until the Supervisor has given the lessee written directions on how to proceed.

(b) The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the biological resource from damage until the Supervisor has given the lessee directions with respect to its protection.

#### STIPULATION No. 6

Transportation of Oil and Gas—to apply to all leases resulting from this sale.

(a) Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying of such pipelines is technically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated manage-



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ment areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for leasing and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local government and the industry. Where feasible, and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries' trawling gear, and other uses as determined on a case-by-case basis.

(b) Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from the offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C., 391a), as amended.

## STIPULATION No. 7

To help mitigate the impacts of physical disruption and sedimentation on the significant (productive rocky bottom) biological communities of Cortez Bank, which include large concentrations of the hydrocoral *Allopora californica*, this stipulation shall apply to all leases resulting from this lease sale in the following tracts on Tanner Bank and Cortez Bank: 48-182, 48-183, 48-190, 48-195, 48-196, 48-197, 48-199, 48-200, 48-203, 48-204, 48-206, 48-207, 48-208, 48-209, 48-210, 48-211, and 48-212.

The lessee shall not, during any phase of operations, discharge drill cuttings, drilling muds, garbage, untreated sewage, or other solid waste within the 80-meter isobath, or within a buffer zone defined by the area 1,500 meters from the 80-meter isobath. Also, any produced formation water which may be discharged within the 80 meter isobath or the buffer zone must be analyzed for salinity, heavy metals and hydrocarbons. Toxicity tests must be performed. A decision, based upon these analyses and upon the volume of discharge, shall then be made by the Area Supervisor, USGS, as to whether the formation waters should be discharged into the sea or disposed of by any other means acceptable to the Supervisor. If it is determined that the discharge of formation water would have a negative

effect upon local marine life, the lessee shall not discharge formation waters within the 80-meter isobath or within the buffer zone defined by the area, 1,500 meters from the 80-meter isobath. In addition, the lessee shall conduct a site specific biological survey approved by the Supervisor which is in accordance with prescribed biological survey requirements prior to placing anchors, moorings, bottom-founded vessels or platforms, pipelines or other structures in areas having water depths shallower than 80 meters.

Base upon results of the survey, the lessee may be required to: (1) Relocate the site of such operations so as not to adversely affect the area identified; or (2) modify his operations in such a way as not to adversely affect the area identified; or (3) establish to the satisfaction of the Supervisor, that, on the basis of the biological survey, such operations will not adversely affect the area.

The lessee shall submit all data obtained in the course of biological surveys, conducted pursuant to this stipulation, to the Supervisor. The lessee shall take no action that may result in any effect on this biologically significant area until the Supervisor has given the lessee written approval of operations for the area, and the lessee has complied with the requirements of 43 CFR 6224 (Protection and Management of Viable Coral Communities on the Outer Continental Shelf). If any phase of operations is shown to be adversely affecting the area of the significant biological communities identified, the lessee shall immediately cease or, with the Supervisor's approval, modify his operations by undertaking any measures deemed economically, environmentally, and technologically feasible to halt or mitigate such adverse effect. These measures may include, but are not limited to, the monitoring of the significant biological communities identified to assess the adequacy of any mitigating measures taken, and the impact of lessee-initiated activities.

## STIPULATION No. 8

To be included in any leases resulting from this sale for the sliding scale royalty tracts listed in paragraph 4 of this notice.

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12 (e)). The Director, Geological Survey, may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in Sec. 6 (a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16% percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in Sec. 15(d) of this lease: the royalty on any portion of the production saved, removed or sold from the lease in excess of 16% percent may only be taken in value of the production saved, removed or sold from the lease area.

## STIPULATION No. 9

To apply to leases which result from the sale of tracts 48-004, 48-007, 48-008, 48-011, 48-019, 48-034, 48-049, 48-050, 48-109, 48-110, 48-113, 48-125, 48-127, 48-131, 48-174, and 48-182.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portion of this lease block unless or until the lessee has demonstrated to the Supervisor's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed all potential mass movements of sediments in the lease block must be mapped. Down-hole pressure actuated control devices must be located below the base of the potentially unstable sediments located in the area in order to protect the environment in cases such mass movement occurs at the proposed location. This may necessitate all exploration for and development of oil and gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

## STIPULATION No. 10

To apply to the lease which would result from the sale of tract number 48-174.

A shallow geologic fault trends northwest-southeast across this tract and poses a potential for future movement. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas or emplacement of pipelines will not be allowed in the vicinity of the fault until the lessee

has demonstrated to the Supervisor's satisfaction that exploratory drilling operations, structures (platforms), casing, and wellheads can be safely designed to protect the environment in case such fault movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of potential fault movement, either within or outside of the tract.

15. *Information to Lessees.* The Department of the Interior will seek the advice of the State of California and Federal agencies to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the Supervisor, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the Manager, BLM, and the State will require the lessee to undertake any measures deemed economically, environmentally, and technologically feasible to protect live bottom areas.

On September 18, 1978, the OCS Lands Act Amendments of 1978 was enacted. Some sections of current regulations applicable to OCS leasing operations are inconsistent with this new legislation, and the legislation requires the issuance of some new regulations. The inconsistencies will be corrected by rulemakings and the new regulations will be issued as soon as possible. Nevertheless, bidders are notified that such regulations shall apply to all leases offered at this lease sale and shall supersede all inconsistent provisions in current regulations applicable to OCS leasing operations.

Some of the tracts offered for lease may fall in areas which may be included in fairways, or traffic separation schemes. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(g) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale the lessor may require a lessee to operate under a unit, pooling or drilling agreement and that

the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

In applying safety, environmental, and conservation laws and regulations, the Supervisor, in accordance with Sec. 21(b) of the OCS Lands Act, as amended, will require the use of the best available and safest technologies which the Secretary determines to be economically feasible, whenever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Pacific Region Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids to the Manager, Pacific Outer Continental Shelf Office, in the following form:

## OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No. \_\_\_\_\_  
Total Amount Bid \_\_\_\_\_  
Amount per Acre/Hectare \_\_\_\_\_  
Amount of Cash Bonus Submitted with Bid \_\_\_\_\_

PROPORTIONATE INTEREST OF COMPANY(S)  
SUBMITTING BID

Qualification No. \_\_\_\_\_  
Percent Interest \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_

Signature (Please type signer's name under signature) \_\_\_\_\_

18. *Required Joint Bidder's Statement.* In the case of joint bids, each joint bidder is required to execute a joint bidder's statement before a notary public and submit it with his bid. A suggested form for this statement is shown below.

## JOINT BIDDER'S STATEMENT

I hereby certify that \_\_\_\_\_ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature (Please type signer's name under signature) \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Notary Public

State of \_\_\_\_\_  
County of \_\_\_\_\_  
[FR Doc. 79-8373 Filed 3-21-79; 8:45 am]

## [4310-84-M]

[4310-84-M]

[Oregon 06398]

## OREGON

## Order Providing for Opening of Public Land

1. By Public Land Order No. 4745 of November 7, 1969, stock driveway withdrawal established by Public Land Order No. 1967 of September 1, 1959, was revoked so far as it affects the following described land:

## WILLAMETTE MERIDIAN

T. 33 S., R. 18 E.,  
Sec. 14, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , and that portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  lying north of a line with a bearing of North 64°35' W., beginning 1,144 feet north of a section corner common to sections 13, 14, 23, and 24.

The area described contains approximately 195 acres in Lake County, Oregon.

2. Portions of the land described in paragraph 1 are included in existing airport lease, OR 5767.

3. At 10 a.m. on April 25, 1979, the land described in paragraph 1 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

4. Subject to the existing airport lease identified in paragraph 2, the land described in paragraph 1 has been open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-8592 Filed 3-21-79; 8:45 am]

## [1505-01-M]

## WYOMING

## Coal Lease Offering by Sealed Bid

## Correction

In FR DOC. 79-7071, appearing at page 12776 in the issue for Thursday,



March 8, 1979, make the following change:

(1) On page 12776, third column, third line of the land description, "Section 20: N½NW¼, W½NW¼NE¼ NE¼" should be corrected to read "Section 20: N½NW¼, W½NW¼NE¼."

## [4310-84-M]

# CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE

## Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and Pub. L. 94-579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet April 23 and 24, 1979, at Lake Arrowhead, California. The meeting will be a workshop with the staff of the Bureau of Land Management for the purpose of reviewing progress on the preparation of the comprehensive, long-range plan for the management, use, development and protection of the public lands of the California Desert Conservation Area; and for providing committee input for consideration by the Bureau of Land Management staff in developing the draft plan and environmental statement. Subjects to be discussed include the form the advisory committee's advice shall take, and the structure of management alternatives which take into account the principles of multiple use and sustained yield in providing for resource use and development.

The meeting will be held at the Lake Arrowhead Conference Center, 850 Willow Creek Road, Lake Arrowhead, California 92352, from 8 a.m. to 4:30 p.m., Monday, April 23, and Tuesday, April 24, 1979. The meeting is open to the public, and interested persons may attend and file statements with the advisory committee. The number of observers or participants will be limited, however, to the extent that accommodations are available.

Results of the workshop will be reviewed and discussed at the advisory committee meeting in Palm Springs, California, May 17-18, 1979, and public comments will be invited at that time.

Further information may be obtained from the Chairman, California Desert Conservation Area Advisory Committee, c/o Desert Plan Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, California 92506.

## NOTICES

Dated: March 14, 1979.

ED HASTEY,  
State Director.

[FR Doc. 79-8712 Filed 3-21-79; 8:45 am]

## [4310-84-M]

## COLORADO

## Proposed Initial Wilderness Inventory Decision and Commencement of Public Comment Period on Initial Wilderness Inventory

This Notice announces the beginning of the public review and comment period concerning the initial wilderness inventory of public lands in Colorado and announces the Proposed Initial Wilderness Inventory Decision of the State Director pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) and the procedures outlined in Bureau of Land Management (BLM) Wilderness Inventory Handbook of September 27, 1979.

## PUBLIC REVIEW PERIOD

Beginning on the date of this announcement and running until July 31, 1979 the public is invited to review and provide comments on the State Director's Proposed Initial Wilderness Inventory Decision contained in this notice.

Following this, the comments will be evaluated and a final initial inventory decision will be issued by the State Director in September, 1979. Those lands not identified in the final decision will be released from the restrictions imposed by Section 603 of FLPMA. All public lands finally identified will undergo intensive wilderness inventory with full public involvement in accordance with the procedures outlined in the BLM Wilderness Inventory Handbook (Steps 4-6, pages 11-15). The State Director of Colorado has instructed the District Managers to begin the intensive wilderness inventory field work for the areas listed in this notice.

## REVIEW INFORMATION

To facilitate public review and comment on this phase of the wilderness inventory the following information is available upon request:

**Inventory Map:** Displays the boundaries of all inventory units proposed for further study on a 1:500,000 scale color map of Colorado. Available at no cost in the BLM State Office and District Offices.

**Situation Evaluations:** Files which document the rationale used in evaluating inventory units. Each file contains a ½" = 1 mile color map of the inventory unit and specific data on the unit. Available for inspection at the respective BLM District office and the

State Office or at the open houses listed below.

## OPEN HOUSES

The BLM will host 5 open houses which will include formal presentations of the review process and opportunity for exchange of information.

Beginning times will be 1 and 7 p.m. at each location. Dates and places are:

May 15—Craig: Moffat County Court House, 200 West Victory Way

May 16—Grand Junction: BLM Grand Junction District Office, 764 Horizon Drive

May 17—Montrose: Montrose County Courthouse Annex, South 1st and Cascade

May 22—Canon City: Greeley Gas Company Flame Room, 120 South 6th Street

May 23—Denver: Regency Inn, Waterloo Station Conference Room, 3900 Elati St. (Exit 108, Interstate 25), Denver, Colorado

Both written and oral comments will be accepted at these meetings.

## WRITTEN COMMENTS

Persons wishing to submit comments other than at the open houses should send them to:

Wilderness, Colorado State Office, Bureau of Land Management, Main Post Office Bldg., P.O. Box 2266, Denver, CO 80201.

## TOLL FREE TELEPHONE

A toll free telephone has been installed in the BLM State Office in Denver. Calls may be made to it from anywhere within Colorado at no cost to the caller. Callers will receive a recorded message which will give pertinent data regarding the review process. Denver area local calls dial 837-3613, remainder of Colorado dial 1-800-332-3805.

## ADDITIONAL INFORMATION

Information on the wilderness review process and inventory units can be obtained by contacting BLM personnel at the following locations:

Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

Bureau of Land Management, Canon City District Office, 3080 East Main Street, Canon City, CO 81212.

Bureau of Land Management, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, CO 81625.

Bureau of Land Management, Grand Junction District Office, 764 Horizon Drive, Grand Junction, CO 81502.

Bureau of Land Management, Montrose District Office, Highway 550 So., P.O. Box 1269, Montrose, CO 81401.

## NOTICES

## PROPOSED INITIAL WILDERNESS INVENTORY DECISION

Pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) and the procedures outlined in the Wilderness Inventory Handbook of September 27, 1978, the Bureau of Land Management has completed the initial wilderness inventory of all public lands under its jurisdiction in Colorado. Based on review of the District Manager's recommendations, the State Director for Colorado has decided that the public lands in the inventory units listed below have the possibility of meeting wilderness criteria and each unit should receive more intensive inventory to determine the presence or absence of wilderness characteristics.

## INITIAL INVENTORY UNITS PROPOSED FOR INTENSIVE WILDERNESS INVENTORY

## CRAIG DISTRICT

| Inventory unit No.¹  | Approximate acreage | General location   |
|--|---------------------|--|
| CO-010-208   | 41,155              | Extreme Northwest Colorado (Moffat County).  |
| CO-010-208E  | 12,580              | Extreme Northwest Colorado (Moffat County).  |
| CO-010-210   | 12,270              | Extreme Northwest Colorado (Moffat County).  |
| CO-010-210D  | 10,770              | Extreme Northwest Colorado (Moffat County).  |
| CO-010-211   | 8,520               | Extreme Northwest Colorado (Moffat County).  |
| CO-010-213   | 9,540               | Extreme Northwest Colorado (Moffat County).  |
| CO-010-214   | 24,470              | Extreme Northwest Colorado (Moffat County).  |
| CO-010-230   | 19,940              | West of Maybell, Colorado (Moffat County).   |
| CO-010-272   | 9,800               | Along Yampa River West of Maybell, Colorado (Moffat County).   |
| CO-010-218, 218A, -224, 224A, 226, -227, 228, 229D, -271.                          | 43,420              | Adjacent to Northern boundary of Dinosaur National Monument (Moffat County).   |
| UT-080-104   | 4,420               | Adjacent to the Western boundary of Dinosaur National Monument—in Colorado but inventoried by Utah BLM under Cooperative Agreement (Moffat County).  |
| UT-080-110   | 4,900               | West of Dinosaur National Monument—in Colorado, but inventoried by Utah BLM under Cooperative Agreement. Unit extends into Utah. (Moffat County).    |
| UT-080-114   | 2,071               | Adjacent to the Western boundary of Dinosaur National Monument—in Colorado but inventoried by Utah BLM under Cooperative Agreement. (Moffat County). |
| CO-010-001A  | 9,310               | North of Dinosaur, Colorado (Moffat County).   |
| CO-010-001B  | 7,750               | North of Dinosaur, Colorado (Moffat County).   |
| CO-010-002A  | 8,400               | East of Dinosaur, Colorado (Moffat County).  |
| CO-010-002B  | 10,920              | East of Dinosaur, Colorado (Moffat County).  |
| CO-010-003   | 13,500              | East of Dinosaur, Colorado (Moffat County).  |
| CO-010-00N1, 00N2, -00N3, 00N4A, 00N4B, -00N4C, 00N4D, 00N4E, -00N5, 00N6A, 00N6B. | 23,000              | Adjacent to southern boundary of Dinosaur National Monument—eleven small units, each less than 5,000 acres (Moffat County).                          |
| CO-010-006B  | 28,860              | Southwest of Maybell, Colorado. (Moffat County-Rio Blanco County).   |
| CO-010-007A  | 7,455               | West of Meeker (Rio Blanco County).  |
| CO-010-007B  | 9,250               | West of Meeker (Rio Blanco County).  |
| CO-010-007C  | 14,085              | Northwest of Meeker (Rio Blanco County).   |
| CO-010-155   | 12,400              | North of Kremmling (Grand County).   |
| CO-010-168   | 11,100              | Northwest of Granby, Colorado (Grand County).  |
| CO-010-178   | 12,400              | North of State Bridge, Colorado (Grand County-Eagle County).   |
| CO-010-108   | 791                 | North of Walden, Colorado-North Sand Dunes Instant Wilderness Study Area (Jackson County).   |

## CANON CITY DISTRICT

|             |        |   |
|-------------|--------|---|
| CO-050-002  | 8,468  | South of Buena Vista (Chaffee County).  |
| CO-050-009  | 680    | Northwest of Canon City—High Mesa Grassland Instant Wilderness Study Area (Fremont County).     |
| CO-050-013  | 15,063 | Southwest of Canon City (Fremont County).   |
| CO-050-014  | 10,937 | West of Canon City (Fremont County).  |
| CO-050-010  | 12,950 | North of Cotopaxi (Fremont County).   |
| CO-050-017  | 11,080 | Southwest of Canon City (Fremont County-Custer County).   |
| CO-050-016  | 21,140 | Northeast of Canon City (Teller County-Fremont County-El Paso County).                          |
| CO-050-131  | 2,739  | Adjacent to Rio Grande National Forest, Northeastern edge of San Luis Valley (Saguache County). |
| CO-050-132B | 1,587  | Adjacent to Rio Grande National Forest—Northeastern edge of San Luis Valley (Saguache County).  |
| CO-050-135  | 1,064  | Adjacent to Great Sand Dunes National Monument—3 small tracts (Alamosa County).                 |
| CO-050-137  | 1,020  | Adjacent to Rio Grande National Forest (Alamosa County).  |
| CO-050-139B | 614    | Adjacent to Rio Grande National Forest—2 small tracts (Alamosa County).                         |
| CO-050-140  | 9,114  | Northeast of Antonito (Conejos County).   |
| CO-050-141  | 10,214 | Northeast of Antonito (Conejos County).   |



## INITIAL INVENTORY UNITS PROPOSED FOR INTENSIVE WILDERNESS INVENTORY—Continued

## GRAND JUNCTION DISTRICT

|             |        |  |
|-------------|--------|--|
| CO-070-439  | 4,800  | Northwest of Dotsero (Garfield County-Eagle County). |
| CO-070-421  | 15,518 | Southwest of Bond (Eagle County).                    |
| CO-070-392  | 270    | West of Aspen (Pitkin County).                       |
| CO-070-372  | 9,700  | South of Carbondale (Pitkin County-Garfield County). |
| CO-070-425  | 5,300  | North of Dotsero (Eagle County-Garfield County).     |
| CO-070-316  | 11,700 | North of Rifle (Garfield County).                    |
| CO-070-320  | 7,100  | North of Rifle (Garfield County).                    |
| CO-070-338  | 7,800  | Northwest of Glenwood Springs (Garfield County).     |
| CO-070-430  | 21,000 | South of Burns (Eagle County).                       |
| CO-070-433  | 19,333 | North of Eagle (Eagle County).                       |
| CO-070-015  | 18,900 | Northwest of DeBeque (Garfield County).              |
| CO-070-013  | 5,400  | East of Douglas Pass (Garfield County).              |
| CO-070-150  | 30,000 | South of Grand Junction (Mesa County).               |
| CO-070-150A | 12,700 | South of Grand Junction (Mesa County).               |
| CO-070-066  | 19,700 | Northeast of Grand Junction (Mesa County).           |
| CO-070-113  | 77,100 | West of Grand Junction (Mesa County).                |
| CO-070-138  | 9,100  | Northeast of Gateway (Mesa County).                  |
| CO-070-103  | 8,500  | Southeast of Grand Junction (Mesa County).           |
| CO-070-176  | 7,600  | Northwest of Grand Junction (Garfield County).       |
| CO-070-132  | 17,900 | Northwest of Uravan (Mesa County-Montrose County).   |
| CO-070-132A | 27,700 | North of Gateway (Mesa County).                      |
| CO-070-132A | 19,000 | Northwest of Gateway (Mesa County).                  |

## MONTROSE DISTRICT

|             |        |   |
|-------------|--------|---|
| CO-030-053A | 2,440  | Adjacent to Gunnison National Forest—Northeast Blue Mesa Reservoir near Gunnison, Colorado (Gunnison County). |
| CO-030-057  | 6,070  | Adjacent to Gunnison National Forest—North of Blue Mesa Reservoir near Gunnison, Colorado (Gunnison County).  |
| CO-030-063  | 2,520  | Adjacent to Gunnison National Forest, North of Blue Mesa Reservoir (Gunnison County).                         |
| CO-030-085  | 400    | Adjacent to Uncompahgre National Forest—North of Lake City (Hinsdale County).                                 |
| CO-030-086  | 880    | Adjacent to Uncompahgre National Forest North of Lake City (Hinsdale County).                                 |
| CO-030-088  | 1,760  | Adjacent to Gunnison National Forest North of Lake City (Hinsdale County).                                    |
| CO-030-208  | 38,100 | Southwest of Lake City (Hinsdale County).   |
| CO-030-210  | 5,980  | Southeast of Lake City (Hinsdale County).   |
| CO-030-211  | 1,960  | Adjacent to Gunnison National Forest Southeast of Lake City (Hinsdale County).                                |
| CO-030-212  | 80     | Adjacent to Gunnison National Forest East of Lake City (Hinsdale County).                                     |
| CO-030-213  | 2,240  | Adjacent to Gunnison National Forest East of Lake City (Hinsdale County).                                     |
| CO-030-217  | 7,900  | East of Ouray (Ouray County-San Juan County-Hinsdale County).   |
| CO-030-229A | 5,920  | Adjacent to San Juan National Forest—South of Silverton (San Juan County).                                    |
| CO-030-229B | 4,200  | Adjacent to San Juan National Forest—South of Silverton (San Juan County-La Plata County).                    |
| CO-030-230  | 4,560  | Adjacent to San Juan National Forest—Southeast of Silverton (San Juan County).                                |
| CO-030-230A | 3,400  | Adjacent to San Juan National Forest—Southeast of Silverton (San Juan County).                                |
| CO-030-238  | 1,420  | Adjacent to Rio Grande National Forest East of Silverton (San Juan County).                                   |
| CO-030-238A | 600    | Adjacent to San Juan National Forest—Southeast of Silverton (San Juan County).                                |
| CO-030-241  | 19,580 | Northeast of Silverton (San Juan County-Hinsdale County).   |
| CO-030-251  | 7,360  | South of Mancos (Montezuma County).   |
| CO-030-252  | 6,560  | South of Mancos (Montezuma County).   |
| CO-030-262  | 6,760  | West of Cortez (Montezuma County).  |
| CO-030-263  | 14,840 | West of Cortez—Rare Lizard and Snake Instant Wilderness Study Area and contiguous lands (Montezuma County).   |
| CO-030-265  | 9,640  | West of Cortez (Dolores County-Montezuma County).   |
| CO-030-265A | 3,840  | West of Cortez (Dolores County).  |
| CO-030-286  | 22,600 | South of Naturita (San Miguel County-Dolores County).   |
| CO-030-290  | 14,280 | South of Bedrock (Montrose County).   |
| CO-030-300  | 8,160  | Adjacent to Uncompahgre National Forest—North of Naturita (Montrose County).                                  |
| CO-030-310A | 1,840  | Adjacent to BLM Inventory Unit No. CO-070-176—North of Paradox (Montrose County).                             |
| CO-030-332  | 360    | Adjacent to Uncompahgre National Forest—Southeast of Ridgeway (Ouray County).                                 |
| CO-030-353  | 13,600 | Adjacent to Uncompahgre National Forest—Southwest of Delta (Montrose County).                                 |
| CO-030-363  | 48,560 | West of Delta (Montrose County-Delta County-Mesa County).   |
| CO-030-364  | 7,000  | West of Delta (Delta County).   |
| CO-030-370A | 6,600  | North of Delta (Delta County).  |
| CO-030-388  | 14,080 | North of Montrose (Montrose County-Delta County).   |

## INITIAL INVENTORY UNITS PROPOSED FOR INTENSIVE WILDERNESS INVENTORY—Continued

## MONTROSE DISTRICT—Continued

|            |        |   |
|------------|--------|---|
| CO-030-089 | 47,000 | Northeast of Lake City—Powderhorn Instant Wilderness Study Area and contiguous lands (Hinsdale County-Gunnison County). |
|------------|--------|---|

Total acreage..... 1,170,538

Total units 117.

Dated: March 16, 1979.

DALE R. ANDRUS,  
State Director,  
Bureau of Land Management, Colorado.

[FR Doc. 79-8713 Filed 3-21-79; 8:45 am]

[4310-84-M]

[NM 36180]

NEW MEXICO

Application

MARCH 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 10 S., R. 29 E.,  
sec. 35, NE¼SE¼.

This pipeline will convey natural gas across 0.070 of a mile of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-8714 Filed 3-21-79; 8:45 am]

[4310-84-M]

[NM 36202]

NEW MEXICO

Application

MARCH 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 3 W.,  
sec. 15, N¼SW¼.

This pipeline will convey natural gas across 0.327 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-8715 Filed 3-21-79; 8:45 am]

[4310-84-M]

[NM 36179]

NEW MEXICO

Notice of Application

MARCH 12, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 33 E.,  
Sec. 1, lot 2, S¼NE¼ and NE¼SE¼.  
T. 20 S., R. 34 E.,  
Sec. 6, lots 6 and 7.

This pipeline will convey natural gas across 1.035 miles of public lands in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-8716 Filed 3-21-79; 8:45 am]

[4310-84-M]

[NM 36232, 36282, 36313]

NEW MEXICO

Notice of Applications

MARCH 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural



Gas Company has applied for four 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 28 E.,  
sec. 35, SE¼SE¼.  
T. 20 S., R. 29 E.,  
sec. 36, E¼SE¼ and NW¼SE¼.  
T. 23 S., R. 29 E.,  
sec. 4, lot 3, SW¼NE¼, SE¼NW¼ and NW¼SE¼.  
T. 20 S., R. 30 E.,  
sec. 31, lot 4.  
T. 21 S., R. 30 E.,  
sec. 5, lots 4 to 6 inclusive, 10, 11 and 15;  
sec. 6, lot 1.

These pipelines will convey natural gas across 2.677 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-8717 Filed 3-21-79; 8:45 am]

#### [4310-84-M]

[NM 36281]

#### NEW MEXICO

##### Notice of Application

MARCH 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 7 W.,  
sec. 17, N¼SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.514 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-8718 Filed 3-21-79; 8:45 am]

#### [4310-84-M]

[NM 35777]

#### NEW MEXICO

##### Application

MARCH 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for several 4-inch, 6-inch and 10-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,  
sec. 3, lots 3, 4, S¼NE¼, SE¼NW¼, E¼SE¼ and SW¼SE¼;  
sec. 4, lots 1 to 4 inclusive, SW¼NE¼ and SW¼NW¼;  
sec. 5, S¼NE¼, SE¼SW¼ and W¼SE¼;  
sec. 6, lots 5, 10, 11, SE¼NW¼ and N¼SE¼;  
sec. 7, lot 1;  
sec. 8, E¼W¼ and N¼SE¼;  
sec. 9, E¼SW¼, NW¼SW¼ and SW¼SE¼;  
sec. 10, lots 1 to 3 inclusive;  
sec. 18, lots 2, 3, W¼NE¼ and SE¼NW¼.  
T. 30 N., R. 9 W.,  
sec. 1, SE¼NE¼ and W¼SW¼;  
sec. 3, SE¼NE¼ and SE¼;  
sec. 5, lots 2 to 4 inclusive and SW¼NE¼;  
sec. 6, lots 1, 5, S¼NE¼ and SE¼NW¼;  
sec. 7, SE¼SE¼;  
sec. 8, W¼SW¼;  
sec. 10, N¼NE¼, E¼NW¼ and NW¼SW¼;  
sec. 11, W¼NW¼ and NW¼SW¼;  
sec. 12, SE¼NE¼, N¼NW¼, SE¼NW¼, E¼SW¼, N¼SE¼ and SW¼SE¼;  
sec. 13, W¼E¼ and SW¼SW¼;  
sec. 14, SE¼SW¼;  
sec. 18, E¼NE¼ and NW¼NE¼;  
sec. 20, NE¼NE¼;  
sec. 22, E¼E¼;  
sec. 23, NW¼NE¼ and NE¼NW¼;  
sec. 24, lots 2, 3, SE¼NW¼ and SW¼.  
T. 30 N., R. 10 W.,  
sec. 1, lots 11 and 12.

These pipelines will convey natural gas across 19.605 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will

be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA, Chief,  
Branch of Lands and  
Minerals Operations.

[FR Doc. 79-8719 Filed 3-21-79; 8:45 am]

#### [4310-84-M]

[U-42383; [U-42385; [U-42387; [U-42388;  
[U-42389; [U-42390; [U-42410; [U-42411;  
(U-942)]

#### UTAH

##### Applications

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for eight 4½-inch buried natural gas pipeline rights-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 21 E.,  
Secs. 10, 11, 12, 13, 14 and 24.  
T. 20 S., R. 22 E.,  
Secs. 30 and 31.  
T. 20 S., R. 23 E.,  
Secs. 12 and 13.

The needed rights-of-way are a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the applications should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

DELL T. WADDUPS,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-8720 Filed 3-21-79; 8:45 am]

#### [4310-84-M]

#### UTAH

##### Commercial Recreation Use Fees—Rivers

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: For the 1979 season, fees for commercial river float boating will be increased from the present \$25.00 per 100 user days to \$75.00 per 100 user days on the following areas:

Green River—Desolation/Gray Canyons  
Colorado River—Westwater Canyon  
Dolores River—Utah state line to confluence with the Colorado River  
San Juan River—Bluff, Utah to Mexican Hat, Utah

Fees for trips of one day or less duration will be \$50.00 per 100 user days on the following areas:

Green River—Nefertiti Rapid to the Diversion Dam.  
Colorado River—Rose Ranch to Castle Creek.

The above fee increase is based on an appraisal conducted during the fall of 1978. Results of this appraisal indicated fees should be based on three percent of the gross revenues collected. This amounted to an average of \$1.50 per user day on multiple day trips including one day trips on Westwater. To lessen the economic impact the fee increase will be only partially implemented during 1979. The full fee schedule will be implemented in 1980 and will be based on an updated appraisal to be conducted prior to June 1, 1979. This will use the effective gross as a basis for the fee where effective gross revenue is defined as gross receipts minus charges for transportation to and from the river and other similar expenses. Thereafter, the fee schedule will be reappraised every three years with the next fee adjustment falling due in 1983.

DATE: Effective date: April 1, 1979.

ADDRESS: State Director, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: State Director, Utah.

SUPPLEMENTAL INFORMATION: Use fees on the above mentioned river segments have remained at the same level since their inception in 1973. The Federal Land Policy and Management Act of 1976 directs that fair market value be charged for commercial use.

The current fee schedule is based on an appraisal using the market approach. Fees collected will be returned to the area from which they were generated for site protection and management.

Dated: March 15, 1979.

PAUL L. HOWARD,  
State Director.

[FR Doc. 79-8721 Filed 3-21-79; 8:45 am]

#### OPEN HOUSES

Salt Lake City—April 4, 1979, Salt Palace, Room 113, 2 p.m.-5 p.m., 7 p.m.-9 p.m.; also April 19, 1979, BLM district office, 2370 South 2300 West, 9 a.m.-9 p.m.

Green River—April 10, 1979, Overnigher Motel Meeting Room, 3 p.m.-5 p.m., 7:30 p.m.-.

Castle Dale—April 11, 1979, Emery County Courthouse Courtroom, 3 p.m.-5 p.m., 7:30 p.m.-.

East Carbon—April 11, 1979, Community Center, 2 p.m.-10 p.m.

Monticello—April 11, 1979, Monticello Library, 4 p.m.-10 p.m.

Moab—April 11, 1979, Grand BLM Resource Area office, Sand Flats Road, 3 p.m.-5 p.m., 7 p.m.-.

Loa—April 11, 1979, Loa Community Center, 4 p.m.-8 p.m.

Richfield—April 12, 1979, Sevier County Courthouse Auditorium, 4 p.m.-8 p.m.

Price—April 12, 1979, Price River BLM Resource Area office, 900 North 7th East, 3 p.m.-5 p.m., 7:30 p.m.-.

Blanding—April 12, 1979, Edge of Cedars Museum, 2 p.m.-5 p.m., 6 p.m.-10 p.m.

Fillmore—April 17, 1979, Senior Citizens Center, 7 p.m.-8 p.m.

Tooele—April 17, 1979, Tooele County Courthouse, South Auditorium, 11 a.m.-9 p.m.

Nephi—April 18, 1979, Juab County Courthouse, Commissioner's Room, 4 p.m.-8 p.m.

Brigham City—April 18, 1979, Brigham City Community Center, 24 North 3rd West, 11 a.m.-9 p.m.

Vernal—April 18, 1979, BLM district office, 170 South 500 East, 2 p.m.-5 p.m., 7 p.m.-9 p.m.

Cedar City—May 1, 1979, BLM district office, 1579 North Main Street, 1 p.m.-7 p.m.

Kanab—May 2, 1979, Kanab BLM Resource Area office, 320 North First East, 1 p.m.-7 p.m.

St. George—May 3, 1979, Dixie BLM Resource Area office, Dixie Office Building, 1 p.m.-7 p.m.

Escalante—May 3, 1979, Escalante BLM Resource Area office, 1 p.m.-7 p.m.

Public meetings to receive comments will be scheduled and announced at a later date.

People planning to participate and make oral comment at one or more of the public sessions above are urged to also submit written comments. Those wishing to submit comments other than at the public sessions, should send their comments to the State Director, Attention—Wilderness, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

After the comment period closes July 2, the Bureau will analyze the

#### [4310-84-M]

#### UTAH

##### Announcement of Public Comment Period on Initial Wilderness Inventory

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the dates of a 90-day public comment period concerning the initial wilderness inventory of BLM-managed public lands in Utah. Beginning on April 4, 1979 and through July 2, 1979, the public is invited to review and provide comments on the wilderness inventory of public lands in Utah. This initial inventory was officially announced in the FEDERAL REGISTER on January 5, 1979, and was conducted under the authority of section 603 of the Federal Land Policy and Management Act of October 21, 1976.

BLM-managed public lands in Utah have been reviewed and those areas of 5,000 acres or more that are roadless have been identified. In some instances, areas of less than 5,000 acres of public lands have been analyzed. These include:

1. Public land islands.
2. Roadless areas adjacent to lands administered by other Federal agencies having responsibilities for wilderness inventory and management.

An analysis (situation evaluation) has been prepared for each such area (inventory unit). Each unit has been tentatively placed into one of two categories using the criteria set forth in section 2(c) of the Wilderness Act of 1964. These are:

Category 1. Areas that may possibly meet the wilderness criteria and should receive further analysis.

Category 2. Areas that clearly and obviously do not meet the criteria for identification as wilderness study areas.

Some units are being inventoried under special project authorization and will be reviewed by the public under a different schedule.

This tentative determination has been made based on the initial inventory and is subject to change based upon additional information which may be obtained from the public and from local, state and federal agencies.

Situation evaluations and detailed maps of each inventory unit are on file at the respective Utah BLM district offices. Situation evaluations and statewide maps will be available for review at the BLM state office in Salt Lake City. These materials are available for inspection at the districts or state office by appointment or at the open houses listed below.

To facilitate public participation and comment, the following open houses are scheduled:



public response and prepare a decision setting forth those inventory units that will undergo intensive review in the inventory process. Inventory units not designated for further review will be released from the constraints of interim management as set forth in section 603(c) of the Federal Land Policy and Management Act.

Additional information on this program is available upon request from all BLM offices in Utah.

PAUL L. HOWARD  
State Director.

[FR Doc. 79-8722 Filed 3-21-79; 8:45 am]

[4310-55-M]

Fish and Wildlife Service  
**FEDERAL AID IN FISH AND WILDLIFE  
RESTORATION PROGRAMS**  
Proposed Categorical Exclusions

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice proposes interim categorical exclusions for compliance with the National Environmental Policy Act (NEPA) and the regulations issued by the Council on Environmental Quality (CEQ) on November 29, 1978 (43 FR 55978). These exclusions are limited to the determination of project activities under the Federal Aid in Fish and Wildlife Restoration programs.

DATES: Comments must be received on or before May 7, 1979.

ADDRESSES: All written comments should be addressed to: Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Attention: Division of Federal Aid. Copies of the Environmental Impact Statement on operation of the Federal Aid programs referred to in the Background section below are available from this address.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

SUPPLEMENTARY INFORMATION:

1. BACKGROUND

On November 29, 1978, the Council on Environmental Quality published regulations on the implementation of the National Environmental Policy Act (43 FR, pages 55978-56007).

A primary purpose of the regulations is to reduce the paperwork burden for compliance with NEPA. The use of categorical exclusions is one means to reduce this burden. Categorical exclusions (Section 1508.4 of the regulations) refer to groups of actions which do not individually or cumulatively have a significant effect on the human environment; therefore, they are exempt from requirements to prepare an environmental impact statement.

The Service proposes to establish interim categorical exclusions of certain actions under the Federal Aid in Fish and Wildlife Restoration programs. These categorical exclusions were listed in the Environmental Impact Statement on Operation of the Federal Aid programs, December 22, 1978. By this notice, we are restating those categories together with the refinement, details, and examples necessary to full understanding. We are also providing an opportunity for the public to review and submit written comments on the proposed exclusions.

2. AUTHORSHIP

The author of this document is Mr. William H. Massmann, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

CATEGORICAL EXCLUSIONS

Notice is hereby given that the following actions conducted by the States under the Federal Aid in Fish and Wildlife Restoration programs do not significantly affect the human environment. Therefore, the Service proposes to exclude the following actions from the requirement for developing an environmental assessment or statement. These proposed exclusions, when adopted, will serve to comply with NEPA until the issuance of more comprehensive guidelines or procedures by the U.S. Fish and Wildlife Service.

1. SURVEYS AND INVENTORIES

The purpose of surveys and inventories is to determine periodically the numbers and conditions of fish and wildlife and their habitats, or the harvest or other uses of these resources. Surveys range from direct observation of animals or measures of habitat conditions to indirect determinations relying on sampling procedures. Surveys of wildlife users determine their desires and needs, and may further show economic, sociological, esthetic, or scientific values.

While most surveys rely on direct or indirect counts of fish or wildlife, some may require their capture for more complete identification or examination for age, condition, productivity, health, and general fitness. Population estimates may require the tagging of some animals. Where fish or wildlife are taken into possession for the purposes stated above, and either released into the wild or killed, individual animals are affected. The numbers affected are so small that there is no effect on the population or species, either in the contiguous area or broader areas of the range; therefore, the effect is not major or significant in terms of NEPA.

Habitat surveys may require sampling plots of vegetation, browse plants, soils, minerals, or the ground surface for animal signs. In streams or lakes, the physical or chemical constituents of the water are measures. The identification of detrimental conditions in habitats is often a vital element in habitat surveys. For economic reasons, sample sizes and numbers are kept small and to a minimum by statistical means and have no major or significant effects on the environment.

The data acquired from surveys and inventories generally form the basis for management recommendations. Depending on the purpose and nature of the surveys, recommendations may pertain to programs which provide public recreation or other benefits, or they may specify measures to provide needed stimulation or restraint of population growth for the benefit of the habitat or of other species. Deteriorating or adverse habitat conditions may be alleviated or corrected, and lethal conditions may be eliminated. User surveys may suggest that a redirection of efforts between species or habitats would be helpful.

2. ROUTINE MAINTENANCE

Routine maintenance is the replacement or renovation of facilities and improvements at the same location without significantly altering purpose or use of the area. It includes the repair and upkeep of buildings, target ranges, fences, signs, and other structures, as well as roads, bridges, trails, boat ramps, dams, dikes and levees, and major equipment items. Routine maintenance and repair have no significant effect on the human environment. Maintenance also includes those farming and forestry operations that preserve the integrity and status of the farm and forest habitats.

However, expanding existing developments beyond their present capacity or creating significant changes in farm or forest habitats by major redirections of these activities is not routine maintenance. Such changes could substantially affect the quality of the human environment. For these activities, it will be necessary to review each project on a site specific basis.

3. HUNTER EDUCATION

The purpose of the hunter education program is to provide public instruction for the safe and ethical conduct of fish and wildlife recreation. This includes developing a respect for and understanding of property (both

public and private), wildlife management, legal and moral obligations in the harvest of wildlife, and training in the safe and proficient use of sporting firearms and archery equipment. Hunter education is performed either in the classroom or at indoor and outdoor target ranges.

As discussed in the Environmental Impact Statement for the Federal Aid Program (page III-44), target ranges are subject to Occupational Safety and Health Administration regulations to protect public health and safety. Neither classroom nor target range instruction affects the quality of the human environment.

Acquisition of land, target range construction, and construction of auxiliary structures are not covered by this exclusion.

4. COORDINATION

Coordination projects provide for administrative and clerical services over the States' Federal Aid projects. This administrative function involves the development of work plans and provisions for technical direction of program employees, correlating Federal Aid financed activities with other State operations, and maintaining records essential to be program. Coordination activities do not affect the quality of the human environment since they are administrative projects.

5. RESEARCH STUDIES

With the exception of developmental technologies, animal sacrifice, environmental disruption, and public health or safety, research studies are not major Federal actions and will not significantly affect the quality of the human environment.

Research—the acquisition of facts needed for most effective conservation and management of fish and wildlife—covers a broad spectrum of activities. For example, one project may monitor the intercontinental migrations of birds while another may examine the intracellular effects of a virus on fish. Under the Federal Aid program, research and surveys are often treated together since they are so similar in many respects. A major distinction is that research seeks new knowledge concerning an objective which is generally obtainable in a single study. In contrast, surveys apply established methodologies in a routine manner, often repeated at intervals, to fill a recurring need for information. Research provides data on fish or wildlife concerning ecological needs, nutritional problems, diseases and parasites, effects of land management practices, population dynamics, behavioral activities, movements, and information on a host of other subjects.

The research studies that may affect the quality of the human environment

and which, therefore, will require an environmental assessment or statement are:

(a) Studies aimed at developing new technologies which, if applied, could significantly affect the environment. Examples of such studies would be the development of specific farm cultural practices for wide application to benefit wildlife. The development of water management practices for wide application in the conservation or augmentation of stream flows is another;

(b) Studies which involve significant mortality of animals or the introduction of nonindigenous animals on an experimental basis. Examples of such studies include investigations of animal diseases in which the pathological effects of the illness must be studied on a large number of wild specimens in order to understand the diseases and to develop treatments. The experimental introduction of African Nile perch into heated reservoirs to determine their ability to control overpopulations of carp and gizzard shad is another example;

(c) Studies that would require a significant disruption of the physical environment or the introduction of toxicants into the environment. Examples of such studies would include the experimental plantings of loblolly pines to determine the most desirable habitat for the red-cockaded woodpecker or the experimental treatment of portion of a reservoir with fish toxicant to obtain an estimate of the total fish population; and

(d) Studies which could affect public health or safety. The use of radioisotopes to mark animals or trace a certain food item could create a health problem if not carefully done, and the use of certain animal traps or snares would require special precautions to prevent human accidents. Such studies would require environmental assessments or statements.

6. TECHNICAL GUIDANCE

Some projects are for the purpose of providing consultation or guidance to other agencies, corporations, political entities, or to individuals for the purpose of improving fish or wildlife resources. Such consultations often involve assisting others in planning future developments in ways to minimize destruction of wildlife habitat or to benefit fish or wildlife. The consultations would not affect the human environment. In those cases where a substantial development is planned, the project itself would be the subject of an environmental assessment or statement.

7. MIGRATORY BIRD BANDING PROJECTS

Under their Federal Aid programs, many of the States cooperate with the Fish and Wildlife Service in obtaining vital information on waterfowl and other migratory birds. Some of this information is obtained by banding predetermined quotas of birds. Although occasional mortalities may occur during bird banding operations, these are not significant in that the mortalities will have no effect on overall populations.

8. PLANNING PROJECT

States may participate in the Federal Aid programs on the basis of an approved, comprehensive fish and wildlife management plan. The development of a comprehensive plan and planning system necessary for implementation, evaluation and updating comprehensive plans or the development of plans for a portion of a State's program will not affect the quality of the human environment; therefore, no environmental assessment or statement is needed to cover the planning process. As plans are submitted for adoption by state decisionmakers and for approval by Federal officials, the programs proposed by the plan must be examined in appropriate NEPA documents which accompany it.

Dated: March 16, 1979.

LYNN A. GREENWALT,  
Director,  
Fish and Wildlife Service.

[FR Doc. 79-8775 Filed 3-21-79; 8:45 am]

[4310-05-M]

Office of Surface Mining—Reclamation and Enforcement

[Federal Coal Lease No. M-069782]

NORTHERN ENERGY RESOURCES CO.—SPRING CREEK MINE

Availability of Proposed Decision To Approve, With Stipulations, Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability of Proposed Decision to Approve, with Stipulations, a Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to 211.5 of Title 30, Code of Federal Regulations,



## NOTICES

notice is hereby given that the Office of Surface Mining has performed a technical review of a mining and reclamation plan and has recommended ap-

proval of the proposed plan contingent upon the applicant's acceptance of certain stipulations. The plan is described below.

| Applicant   | Mine Name    | Location of Lands to be Affected by Planned Operations |          |  |
|---|--------------|--|----------|--|
|   |              | State  | County   | Township, Range, Sections                              |
| Northern Energy Resources Co. ....<br>(Spring Creek Mining Co.) ..... | Spring Creek | Montana  | Big Horn | T8S, R39E: 22, 23, 24, 25, 26, 27<br>T8S, R40E: 30, 31 |

Office of Surface Mining Reference No.: MT-0012

The mine is located approximately 26 miles northwest of Sheridan, Wyoming. The permit area covers 3,074 acres; of which approximately 2,347 acres are proposed to be disturbed. The plan proposes an annual production rate of 7 million tons per year over a 25-year period. Mining will be by both dragline and truck-shovel operations. Coal will be shipped by rail. Two other coal mines in the immediate vicinity are the East and West Decker Mines.

The purpose of this notice is to inform the public that the Regional Director, Region V, Office of Surface Mining, has recommended, based on staff reviews and the reviews of the Montana Department of State Lands, the Bureau of Land Management, and the Geological Survey, approval of the coal mining and reclamation plan, subject to stipulations which must be accepted by the applicant in order for the approval to take effect. Any persons having an interest which is or may be adversely affected by the recommended approval may, in writing, request a public meeting to discuss their views regarding the plan.

The Spring Creek Mine was the subject of a site-specific analysis of impacts, mitigating measures, and alternatives in an environmental impact statement, titled, "Proposed Mining and Reclamation Plan, Spring Creek Mine, Big Horn County, Montana". The Final Environmental Statement was filed with the EPA on February 28, 1979 (FES-79). The availability of the mining and reclamation plan for Spring Creek was announced in the FEDERAL REGISTER on February 1, 1979.

**DATES:** All requests for a public meeting must be made on or before April 11, 1979. No decision on the plan will be made by the Assistant Secretary, Energy & Minerals, prior to the expiration of the 20-day period.

**ADDRESSES:** The mining and reclamation plan, the OSM staff analysis,

and proposed stipulations are available for review in the Region V Office of Surface Mining.

Requests for a public meeting must be submitted in writing to the Regional Director, Region V, Office of Surface Mining, Room 219, 1823 Stout Street, Denver, Colorado 80202. Requests must include the name and address of the requestor.

#### FOR FURTHER INFORMATION CONTACT:

Maggie Koperski or John Hardaway, Office of Surface Mining, Region V, Room 207, 1823 Stout Street, Denver, Colorado 80202.

PAUL L. REEVES,  
Deputy Director.

[FR Doc. 79-8810 Filed 3-21-79; 8:45 am]

## [7555-01-M]

## NATIONAL SCIENCE FOUNDATION

## ADVISORY COMMITTEE FOR EARTH SCIENCES

## Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

**Name:** Advisory Committee for Earth Sciences.  
**Date and time:** April 23-24, 1979; 9 a.m. to 5 p.m. each day.  
**Place:** The National Science Foundation, 1800 G Street, N.W., Rooms 628, 643 and 421, Washington, D.C. 20550.  
**Type of Meeting:** Closed.

**Contact person:** Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-4274.

**Purpose of committee:** To provide advice and recommendations concerning support for research in Earth Sciences.

**Agenda:** To review and evaluate research proposals and projects as part of the selection process for awards.

**Reason for closing:** The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

**Authority to close:** This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 19, 1979.

[FR Doc. 79-8648 Filed 3-21-79; 8:45 am]

## [7555-01-M]

## DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE

## Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

**Name:** DOE/NSF Nuclear Science Advisory Committee.  
**Date and time:** April 9, 1979—9 a.m.—6 p.m., April 10, 1979—9 a.m.—5 p.m.  
**Place:** Room 2008, New Executive Office Building, Washington, D.C. 20503.  
**Type of meeting:** April 9, 1979—closed: 9 a.m.—11 a.m., April 9, 1979—open: 11 a.m.—6 p.m., April 10, 1979—open: 9 a.m.—5 p.m.  
**Contact person:** Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. Telephone 202/632-4318.

**Summary minutes:** May be obtained from the Committee Management Coordination Staff, Division of Financial and Administrative Management, National Science Foundation, Washington, D.C. 20550.

**Purpose of committee:** To provide advice on a continuing basis to both DOE and NSF on support for basic nuclear science in the United States.

**Agenda:**

APRIL 9, 1979

CLOSED SESSION (9 A.M.—11 A.M.)

Discussion of projects under consideration for funding.

OPEN SESSION (11 A.M.—6 P.M.)

11 a.m.—2 p.m.—Consideration of the 1979 Facilities Subcommittee Recommendations and of the covering letter of transmittal.

2 p.m.—4 p.m.—Consideration of Activities of the Working Group on Ongoing Programs and Laboratory Operations.

4 p.m.—6 p.m.—Discussion of the role of Universities in nuclear research.

## NOTICES

APRIL 10, 1979

OPEN SESSION (9 A.M.—5 P.M.)

9 a.m.—11 a.m.—Discussion of Long Range Planning and Priorities.

11 a.m.—1 p.m.—Discussion of Activities of the 1979 Instrumentation Subcommittee.

1 p.m.—3 p.m.—Consideration of Activities of the 1979 Manpower Subcommittee.

3 p.m.—5 p.m.—Discussion of Long Range Planning and Priorities.

**Reason for closing:** The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

**Authority to close meeting:** This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 19, 1979.

[FR Doc. 79-8649 Filed 3-21-79; 8:45 am]

## [7555-01-M]

## SUBCOMMITTEE FOR APPLIED SOCIAL AND BEHAVIORAL SCIENCES OF THE ADVISORY COMMITTEE FOR APPLIED SCIENCE AND RESEARCH APPLICATIONS POLICY

## Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

**Name:** Subcommittee for Applied Social and Behavioral Sciences of the Advisory Committee for Applied Science and Research Applications Policy.

**Date and time:** April 23-24, 1979—9 a.m. to 5 p.m. each day.

**Place:** Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

**Type of Meeting:** Closed.

**Contact person:** Dr. L. Vaughn Blankenship, Director, Division of Applied Research, Room 1126, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 634-6260.

**Purpose of subcommittee:** To provide advice and recommendations concerning support for applied research in the social and behavioral sciences.

**Agenda:** To review and evaluate proposals as part of the selection process for awards.

**Reason for closing:** The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

**Authority to close meeting:** This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 19, 1979.

[FR Doc. 79-8648 Filed 3-21-79; 8:45 am]

## [7555-01-M]

## SUBCOMMITTEE ON POPULATION BIOLOGY AND PHYSIOLOGICAL ECOLOGY OF THE ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY

## Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

**Name:** Subcommittee on Population Biology and Physiological Ecology of the Advisory Committee for Environmental Biology.

**Date and time:** April 23 and 24, 1979; 8:30 a.m. to 5 p.m. each day.

**Place:** Room 338, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

**Type of meeting:** Closed.

**Contact person:** Dr. Donald W. Kaufman, Associate Program Director, Population Biology and Physiological Ecology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7317.

**Purpose of subcommittee:** To provide advice and recommendations concerning support for research in population biology and physiological ecology.

**Agenda:** To review and evaluate research proposals as part of the selection process for awards.

**Reason for closing:** The proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

**Authority to close meeting:** This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 19, 1979.

[FR Doc. 79-8647 Filed 3-21-79; 8:45 am]

## [7555-01-M]

## SUBCOMMITTEE ON SYSTEMATIC BIOLOGY OF THE ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY

## Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

**Name:** Subcommittee on Systematic Biology of the Advisory Committee for Environmental Biology.

**Date and time:** April 26 and 27, 1979; 8:30 a.m. to 5 p.m. each day.

**Place:** Room 338, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

**Type of meeting:** Closed.

**Contact person:** Dr. William Louis Stern, Program Director, Systematic Biology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5848.

**Purpose of subcommittee:** To provide advice and recommendations concerning support for research in systematic biology.

**Agenda:** To review and evaluate research proposals as part of the selection process for awards.

**Reason for closing:** The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

**Authority to close meeting:** This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 19, 1979.

[FR Doc. 79-8645 Filed 3-21-79; 8:45 am]

## [7555-01-M]

## TASK GROUP NO. 5 OF THE NSF ADVISORY COUNCIL

## Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

**Name:** Task Group No. 5 of the NSF Advisory Council.

**Place:** Room 523, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

**Date:** Monday, May 7, 1979.

**Time:** 9 a.m. until 5 p.m.

**Type of meeting:** Open.

**Contact person:** Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room



## NOTICES

518, 1800 G Street NW, Washington, D.C. 20550. Telephone: (202) 632-4368.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street NW, Washington, D.C. 20550.

Agenda: To provide information and analysis of equipment needs and utilization.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 19, 1979.

[FR Doc. 79-8644 Filed 3-21-79; 8:45 am]

## [7590-01-M]

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

## ARKANSAS POWER &amp; LIGHT CO.

## Granting of Relief from ASME Section XI Insurance Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Arkansas Power & Light Company. The relief relates to the inservice inspection (testing) program for the Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Arkansas. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The specific relief granted is as follows: (1) Relief from measuring flow to the accuracy required by the ASME Code for Service Water System pumps until flow measuring devices are installed; and (2) Relief from the ASME Code requirement concerning volumetric examination of reactor coolant nozzle-to-vessel welds. The Commission determined that these requirements of the ASME Code are impractical within the limitations of design, geometry and materials of construction of components, because compliance would result in hardships or unusual difficulties without a compensating increase in the level of quality or safety.

The requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commis-

sion's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and the related Safety Evaluation. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the requests for relief dated May 10, 1978 and January 10, 1979, and (2) the Commission's letter to the licensee dated March 8, 1979, and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of March 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-8633 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket Nos. 50-10, 50-237, and 50-249]

## COMMONWEALTH EDISON CO.

## Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-2, Amendment No. 42 to Provisional Operating License No. DPR-19, and Amendment No. 38 to Facility Operating License No. DPR-25 issued to the Commonwealth Edison Company (the licensee), which revised the licenses for operation of the Dresden nuclear Power Station, Units 1, 2, and 3, respectively (the facilities), located in Grundy County, Illinois. The amendments became effective on February 23, 1979.

The amendments add a license condition to include the Commission-approved physical security plan as part of the licenses.

The licensee's filing complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filing dated November 18, 1977, as revised May 19, 1978, May 27, 1978, July 28, 1978, and February 19, 1979, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR § 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to these actions, see (1) Amendment No. 29 to License No. DPR-2, Amendment No. 42 to DPR-19, and Amendment No. 38 to DPR-25, and (2) the Commission's related letter to the licensee dated March 9, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of March, 1979.

For The Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-8634 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-366]

## GEORGIA POWER COMPANY, ET AL.

## Granting of Relief from ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the

## NOTICES

For the Nuclear Regulatory Commission. [7590-01-M]

THOMAS A. IPPOLITO,  
Chief, Operating Reactors  
Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-8635 Filed 3-21-79; 8:45 am]

## [7590-01-M]

## LOUISIANA POWER &amp; LIGHT CO.

In the matter of Louisiana Power & Light Company (Waterford Steam Electric Station, Unit 3), (Docket No. 50-382 OL).

On April 26, 1979, beginning at 2 p.m. local time, pursuant to 10 CFR § 2.751a, a special prehearing conference will be held at the following location:

East Courtroom, Room 223, United States Court of Appeals, 600 Camp Street, New Orleans, Louisiana.

If necessary, said conference will continue on April 27th.

As stated in our Notice of Hearing On Issuance of Facility Operating License dated March 8, 1979, this special prehearing conference is being held in order to:

- (1) Permit identification of the key issues in the proceeding;
- (2) Take any steps necessary for further identification of the issues;
- (3) Consider all intervention petitions to allow the presiding officer to make such preliminary or final determination as to the parties to the proceeding, as may be appropriate; and
- (4) Establish a schedule for further actions in the proceeding.

Further, the attention of the petitioners for leave to intervene is directed to 10 CFR § 2.714(b) which provides that not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, a petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity.

The public is invited to attend this special prehearing conference but members of the public may not participate therein.

It Is So Ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland, this 16th day of March, 1979.

SHELDON J. WOLFE,  
Esquire Chairman.

[FR Doc. 79-8636 Filed 3-21-79; 8:45 am]

[Docket No. 50-263]

## NORTHERN STATES POWER CO.

## Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-22, issued to Northern States Power Company (the licensee), which revised the license for operation of the Monticello Nuclear Generating Plant (the facility), located in Wright County, Minnesota. The amendment becomes effective on February 23, 1979.

The amendment adds a license condition to include the Commission-approved physical security plan as part of the license.

The licensee's filing comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filings dated March 28, 1978 and September 8, 1978, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR Section 9.12.

For further details with respect to this action, see (1) Amendment No. to License No. DPR-22 and (2) the Commission's related letter to the licensee dated March 15, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.



Dated at Bethesda, Maryland, this 15th day of March 1979.  
For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,  
Chief, Operating Reactors  
Branch No. 3, Division of Operating Reactors.  
[FR Doc. 79-8637 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., THE CITY OF EUGENE, OREG. AND PACIFIC POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. NPF-1 issued to Portland General Electric Company, The City of Eugene, Oregon, and Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

The amendment deletes meteorological instruments from the Technical Specifications that are not relied upon for the safety analysis of the facility, and makes an editorial correction to the action to be taken in the event meteorological instruments are inoperable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 21, 1977, as supplemented August 4, 1978, (2) Amendment No. 40 to License No. NPF-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

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tion at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of March, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-8638 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket Nos. STN 50-477 and STN 50-478]

PUBLIC SERVICE ELECTRIC & GAS CO., et al.

Withdrawal of Application for Construction Permits and Facility Licenses

On March 1, 1974, the Nuclear Regulatory Commission docketed an application submitted by Public Service Electric and Gas Company on behalf of itself and Atlantic City Electric Company and Jersey Central Power & Light Company. This application, filed pursuant to Section 103 of the Atomic Energy Act, requested authorization to construct all necessary site-related structures and to install two floating nuclear power plants, each of which was to incorporate a pressurized water reactor, designated as Atlantic Generating Station, Units 1 and 2.

Notice of receipt of this application was published in the FEDERAL REGISTER on March 20, 1974 (39 FR 10471). The related notice of hearing was also published on March 20, 1974 (39 FR 10473).

On December 19, 1978, Public Service Electric and Gas Company submitted to the Commission its Notice of Withdrawal of Application. On December 20, 1978, Public Service Electric and Gas Company submitted the Notice of Withdrawal of Application to the Atomic Safety and Licensing Board designated for this proceeding. By order dated February 15, 1979, the Atomic Safety and Licensing Board dismissed the proceeding.

Accordingly, the Commission considers the application submitted by Public Service Electric and Gas Company to be withdrawn. Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. In addition, correspondence concerning this application will continue to be

maintained for at least the next six months at the Stockton State College Library, Pomona, New Jersey.

Dated at Bethesda, Maryland this 16th day of March, 1979.

For The Nuclear Regulatory Commission.

ROBERT L. BAER,  
Chief, Light Water Reactors  
Branch No. 2, Division of Project Management.

[FR Doc. 79-8639 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR-68 issued to the Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 3, located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

On November 18, 1978, the Commission issued Amendment No. 18 to Facility License No. DPR-68, which changed the Technical Specifications to permit operation of Browns Ferry Unit No. 3 for the initial 2000 megawatt days per tonne (MWd/T) of fuel exposure during the second fuel cycle. Amendment No. 21 changes the Technical Specifications to permit operation throughout fuel cycle number 2.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 3, 1978, as

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supplemented by letters dated October 20, 1978 and January 15, 1979, (2) Amendment No. 21 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of March 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,  
Chief, Branch No. 3, Division of Operating Reactors.  
[FR Doc. 79-8640 Filed 3-21-79; 8:45 am]

## [7590-01-M]

REGULATORY GUIDE

Issuance and Availability.

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.9, "Standard Format and Content of Part 71 Applications for Approval of Packaging of Type B, Large Quantity, and Fissile Radioactive Materials," identifies the information to be provided in an application for the approval of packaging for shipping type B, large quantity, and fissile radioactive material and presents a uniform format for presenting the information.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 7.9 will, however, be particularly useful in evaluating the need for an early revision if received by May 21, 1979.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 14th day of March 1979.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Director, Office of Standards Development.  
[FR Doc. 79-8643 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket Nos. 50-327 and 50-328]

TENNESSEE VALLEY AUTHORITY

Availability of Safety Evaluation Report for Sequoyah Nuclear Plant, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulations has published its Safety Evaluation Report on the proposed operation of the Sequoyah Nuclear Plant, to be located in Hamilton County, Tennessee. Notice of receipt of Tennessee Valley Authority's application to operate the Sequoyah Nuclear Plant was published in the FEDERAL REGISTER on March 25, 1974 (39 FR 11131).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402, for inspection and copying. The report (Document No. NUREG-0011) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 14th day of March 1979.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,  
Chief, Light Water Reactors  
Branch 4, Division of Project Management.

[FR Doc. 79-8641 Filed 3-21-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP., ET AL  
Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-43 issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensees) which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment permits an increase in the storage capacity of the spent fuel storage pool at the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65335).

A hearing was requested by the Lakeshore Citizens for Safe Energy and Safe Haven, Limited (the intervenors) on April 24, 1978. However, the licensees, the NRC staff, the intervenors, and the State of Wisconsin moved the Atomic Safety and Licensing Board (ASLB) for an order approving the withdrawal of intervenors from the proceeding and dismissing the proceeding in accordance with a settlement agreement entered into among intervenors, licensees, and the NRC staff dated February 5, 1979. The ASLB issued the order on February 14, 1979 dismissing the proceeding.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's



Final Environmental Statement for the facility dated December 1972.

For further details with respect to this action, see (1) the application for amendment dated November 14, 1977, as supplemented by letters dated March 13, 1978, July 10, 1978, August 18, 1978, September 5, 1978, and September 25, 1978, (2) Amendment No. 26 to License No. DPR-43, (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal dated December 1, 1978, and (4) the ASLB Order dated February 14, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 6th day of March, 1979

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-8642 Filed 3-21-79; 8:45 am]

[4910-58-M]

# NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-12]

## ACCIDENT REPORTS, SAFETY RECOMMENDATIONS AND RESPONSES

### Availability

### Aviation

*Aircraft Accident Reports (Brief Format), U.S. Civil Aviation, 1978, Issue No. 2 (NTSB-BA-78-8).*—The National Transportation Safety Board on March 7 made available the findings and probable cause(s) of 898 U.S. general aviation accidents which occurred in 1978. Issue No. 2 also provides statistical information tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, injuries, and causal factors.

The Safety Board, in Press Release SB 79-21 accompanying the release of Issue No. 2, cites a fatal accident involving a twin-engine Aero Commander 500B aircraft owned by the University of Tennessee. The aircraft crashed shortly after takeoff from the Salisbury-Wicomico County (Md.) Airport last March 31. In determining the

probable cause of this accident, the Board found that the aircraft was improperly serviced by the ground crew, which resulted in fuel contamination from use of improper fuel grade. In turn this caused partial loss of power in both engines that made the forced landing unavoidable. The Board noted that other factors involved inadequate supervision and training of ramp crews and cited the pilot for inadequate pre-flight preparation and planning and failure to follow approved procedures.

**NOTE.**—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 17 cents per page for printed matter, \$5 per page for black-and-white photographs, and \$4 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include this information: (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issue No. 2 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

*Aviation Safety Recommendations Nos. A-79-7 and 8.*—Last August 30 a Piper Model 31-350 aircraft crashed shortly after takeoff from Las Vegas, Nev.; the 10 persons on board were killed. Witnesses saw the aircraft reach a steep nose-high attitude after takeoff before it fell off on the right wing, reversed direction, and dove toward the ground. The aircraft had achieved a nearly flat attitude in an apparent attempt to recover when it struck the ground with high vertical forces.

An inspection of the aircraft's flight control system disclosed that an elevator surface control stop bolt had become loosened and was extended to a position where it restricted the travel of the elevator surface in the trailing-edge-down direction. Flight tests conducted after the accident showed that an aircraft with the same load and center of gravity location as this Piper would pitch up at an increasing rate after takeoff if the elevator was held in neutral position. Trailing-edge-down elevator was required to recover from this maneuver.

Since the potential is great for a catastrophic accident, the Safety Board on March 12 recommended that the Federal Aviation Administration:

Issue an Airworthiness Directive to require the immediate inspection of all Piper aircraft equipped with control stop bolt installations where extension of the stop bolt can limit control surface travel to determine if stop bolt position or jam nut torque has changed. Require readjustment of the stop bolt and retorquing of the jam nut as necessary. Require that the stop bolt installation be modified to include safety wire or some

other positive nonfriction means of preventing rotation of the stop bolt during the application of vibratory loads. (Class I—Urgent Action) (A-79-7)

Issue a Maintenance Bulletin to alert general aviation inspectors of the possibility of loosened or misadjusted control stop bolts on general aviation aircraft. Stops on various models of aircraft should be spot checked to ensure that control stop bolts are positively secured and that there is no possibility that vibratory loads can result in a change in the range of travel of any control surface. (Class I—Urgent Action) (A-79-8)

*Aviation Safety Recommendations Nos. A-79-9 and 10.*—Last May 8 a National Airlines B-727 crashed into Es-cambia Bay while executing an airport surveillance radar (ASR) approach to runway 25 at Pensacola Regional Airport, Fla. The Safety Board determined that the probable cause of this accident was the flightcrew's unprofessionally conducted nonprecision instrument approach, in that the captain and the crew failed to monitor the descent rate and altitude, and the first officer failed to provide the captain with the required altitude and approach performance callouts. The Board believes that this accident illustrates a lack of redundancy between flightcrews and air traffic controllers with respect to altitude management. Comparisons would allow the flightcrew to assess the need to correct rate of descent and airspeed, and most importantly, the flightcrew would be made aware of gross excursions from minimum safe altitudes by the controller's distance and recommended altitude advisories.

Accordingly, on March 16 the Safety Board recommended that the Federal Aviation Administration:

Revise Air Traffic Control Handbook 7110.65, paragraph 1190, to require controllers to provide recommended altitudes to pilots on ASR approaches without pilot request. Revise the Airman's Information Manual, Pilot/Controller Glossary, and other operating and training documents that describe ASR approaches to reflect the revised controller procedures. (Class II—Priority Action) (A-79-9)

Develop, with industry, requirements for depicting final approach fixes and minimum altitudes for each mile on final approaches on ASR instrument approach procedures. (Class II—Priority Action) (A-79-10)

### Marine

*Marine Accident Report, Collision of Argentine Freighter M/V SANTA CRUZ II and U.S. Coast Guard Cutter CUYAHOGA in Chesapeake Bay at the Mouth of the Potomac River, Md., October 20, 1978 (Report No. NTSB-MAR-79-3).*—This accident was investigated jointly by the Safety Board and the U.S. Coast Guard. A Coast Guard Marine Board of Investigation was convened in Baltimore, Md., last October 24, reconvened in Yorktown, Va.,

on November 6, and reconvened in Norfolk, Va., on November 13. A Safety Board Deposition Hearing was held on February 9. The formal report, released by the Safety Board on March 12, is based on the factual information developed during the investigation. The Safety Board has considered all facts pertinent to the Safety Board's statutory responsibility to determine the cause or probable cause of the accident and to make recommendations.

The Safety Board has determined that the probable cause of this collision, which resulted in the death of 11 Coast Guardsmen as the CUYAHOGA sank, was the left turn executed by the CUYAHOGA, while in proximity to the SANTA CRUZ II, contrary to the Rules of the Road as the vessels were meeting head and head, the failure of the Commanding Officer of the CUYAHOGA to determine the relative motion, course, speed, or closest point of approach of the SANTA CRUZ II, and the failure of the CUYAHOGA to initiate bridge-to-bridge communications by radiotelephone to exchange navigational information. Contributing to the loss of life was the lack of emergency lighting aboard the CUYAHOGA, the collision occurred at 9:07 p.m., e.d.t.

In a separate concurring and dissenting opinion, Safety Board Member Francis H. McAdams stated that he agreed the cause of the accident was the left turn by the CUYAHOGA while in proximity to the SANTA CRUZ II, but he did not agree that the two vessels were meeting head and head either at the time of the collision or when the left turn was initiated at 9:04 p.m. by the CUYAHOGA. According to Member McAdams, the two vessels, prior to the left turn, were in a routine port-to-port meeting situation since, if both had maintained heading, they would have passed at a minimum distance of 600 yards port-to-port. However, the CUYAHOGA's left turn converted this situation into a crossing situation. Further, Member McAdams believes that the Rules of the Road did not require the SANTA CRUZ II to immediately sound the danger signal, as stated by the majority, when the left turn was initiated.

The Safety Board further found that the experience and training level of the Commanding Officer and the crew of the CUYAHOGA was less than adequate for the safety of a training vessel in the congested waters of Chesapeake Bay; the crew complement was inadequate for safe navigation; and the crew was overtaxed by the requirement to give training while operating the cutter. These findings prompted four of 14 safety recommendations which the Safety Board issued to the Coast Guard on March 2. The

four recommendations seek review of Coast Guard personnel assignment policy and vessel manning levels, requirements for sufficient instructor personnel aboard training ships, and guidance to Coast Guard commanding officers in determining qualifications for such key posts as officer-of-the-deck, lookout, helmsman and quartermaster. The Board also issued a recommendation to the Association of Maryland Pilots on whistle-signalling in close passages of their vessels with others. (For complete text or recommendations M-79-17 through 30 issued to the Coast Guard on March 2 and M-79-31 issued to the Association of Maryland Pilots, see 44 FR 15815, March 15, 1979.)

## RESPONSES TO SAFETY RECOMMENDATIONS

### Aviation

*CY 70-47 and A-72-66.*—On January 31 the Federal Aviation Administration advised the Safety Board that actions with respect to these recommendations have been completed. The recommendations were made as a result of an Overseas National Airways DC-9 accident of St. Croix, V.I., May 2, 1970, and a Safety Board special study, "Passenger Survival in Turbojet Ditchings," respectively.

FAA advised that Operations Review Program Amendment No. 6 was issued last September 28, with an effective date of December 4, 1978. Sections 23.1413(c), 25.1413(d), 27.1413(c), and 29.1413(b) of the Federal Aviation Regulations were amended to require that each safety belt be equipped with a metal-to-metal latching device. Further, §91.33(b)(12) was amended to require, after December 4, 1980, seat belts with metal-to-metal latching devices for all occupants.

On March 12 the Safety Board acknowledged FAA's January 31 letter and advised that the status of both recommendations is now classified as "Closed—Acceptable Action."

*A-72-84.*—FAA on February 7 advised the Safety Board that action with respect to this recommendation has been completed. The recommendation pertained to passenger evacuation under emergency conditions and called upon FAA to require self-illuminating handles for all Type I and Type A exits.

FAA reports that Airworthiness Review Program Amendment No. 7, effective December 1, 1978, was issued on October 20, 1978, and that Federal Aviation Regulations §§25.811(e)(2)(i) and (ii) require that the operating handles on Type I and Type A emergency exits "(i) Be self-illuminated with an initial brightness of at least 160 microlamberts; or (ii) Be conspicuously located and well illuminated by

the emergency lighting even in conditions of occupant crowding at the exit."

In reply, the Safety Board on March 12 advised FAA that the status of this recommendation is now classified as "Closed—Acceptable Action."

*A-76-58.*—FAA's letter of January 31 is in response to the Safety Board's November 9, 1978, request that action on this recommendation be expedited. The recommendation was issued on March 31, 1976, as a result of several air traffic related accidents and incidents, and called for a comprehensive study of the human failure aspects of air traffic control system errors that have occurred since the introduction of terminal and enroute automation. The object of the recommendation was to make the National Airspace System less vulnerable to the human failure element, either by changes in procedures, training, supervision, performance monitoring, and selection standards, or by providing increased redundancy in the man-machine relationship.

On April 9, 1976, FAA advised the Safety Board that the study was underway and the results were expected to be available by midyear 1976. The Board was subsequently advised through staff sources that a MITRE Corporation final report was due by February 1, 1978. However, as of last November 9 the Board had received no information about the report.

FAA's January 31 response provides a copy of the MITRE Corporation study, begun July 1, 1976, to analyze the performance of the human element in air traffic control. FAA notes that before the final report was published, FAA had begun to respond to recommendations that would make the National Airspace System less vulnerable to the human failure element. Enclosure 1 of FAA's January 31 letter contains actions taken in regard to procedures, training, supervision, performance, monitoring and selection criteria.

On March 15 the Safety Board acknowledged receipt of the FAA's response and advised that the recommendation is now classified as "Closed—Acceptable Action."

*A-77-70 and 71.*—In response to Safety Board inquiry of November 9 (43 FR 59559, December 12, 1978), FAA on February 15 reported that its June 16, 1977, amendments to 14 CFR Parts 23 and 91 were the most recent actions taken in regard to installation of shoulder harnesses in general aviation aircraft. Based on information available at the time of deciding on those amendments, FAA states that it determined that a shoulder harness retrofit requirement was not appropriate. Further, FAA believed that de-lethalization of light aircraft cabins



would be preferable to a requirement that all seats be equipped with shoulder harnesses. FAA followed that course of action.

In the last few months, FAA reports concluding, however, that its earlier decisions regarding these issues should be reconsidered, and FAA's Acting Associate Administrator for Aviation Standards has been directed to analyze these issues and provide recommended options. FAA notes that the Board's November 16 letter indicates that the Board may have information which could have a bearing on FAA's reanalysis; if so, FAA asks that such information be provided so that all relevant data may be fully considered before responding further.

#### Highway

**H-77-21.**—Letter of March 8 from the Federal Highway Administration is a followup to FHWA's response of last September 20 (43 FR 47018, October 12, 1978) concerning the use of guidelines for installation of barriers at bridge approaches; the response referred to a "Highway Safety Review" report by the Safety Review Task Force and a proposed bulletin concerning barrier design practices. A copy of the report is attached to FHWA's March 8 letter, as is copy of the bulletin which has been sent to all FHWA field offices, States, metropolitan planning organizations, and Governors' Highway Safety Representatives to alert those involved in barrier design, construction, and maintenance of the need to follow current guidelines. Copies of the training announcements which were also described in FHWA's September 20 response will be furnished when available.

**H-78 through 50.**—Letter of February 27 from the National Highway Traffic Safety Administration is in response to the Safety Board's comments of January 11, based on a review of NHTSA's initial response of October 16 (43 FR 52308, November 9, 1978).

The Safety Board indicated on January 11 that it was gratified that NHTSA was proposing to research, analyze, and investigate the various aspects of the rulemaking actions recommended by the Board. However, the Board submitted that recommendations H-78-49 and H-78-50 do not require an accumulation of accident data before action is taken; the need for drivers of large vehicles to be provided with information concerning the operational characteristics of their vehicles far outweighs the need for the government to accumulate information before deciding to give the driver this information. Regarding H-78-48, the Board noted the need for a careful justification of automatic brake adjustment devices, both mechanically

and economically and urged NHTSA to move forward with these studies and to make use of all previous work in the area in order to make its decision as soon as practicable. The Board said it would keep the files on these three recommendations in an open status and will consider the issues raised by these recommendations in future highway accident investigations.

In its February 27 letter, NHTSA reports that it has begun preparation of a Notice of Request for Comments to be published in the *FEDERAL REGISTER*, which will allow the public and industry to comment on the discerned safety problem, potential benefits, and the most effective means of providing the drivers of large vehicles with information on the operational characteristics of two-speed rear axles and manual transmissions. NHTSA says that this action should speed the accumulation of information needed to take appropriate rulemaking action in these areas.

#### Pipeline

**P-78-58 through 63.**—On February 1 the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, responded to recommendations issued last October 25 to the Office of Pipeline Safety (OPSO) of DOT's Materials Transportation Bureau (MTB). The recommendations were made as a result of the Safety Board's special study, "Safe Service Life for Liquid Petroleum Pipelines." (See 44 FR 1228, January 4, 1979.)

In answer to P-78-58, which asked for publication of a plan describing how OPSO will use accident report data to formulate safety regulations and to develop a safe service life model for pipelines, RSPA reports that full computerization of liquid pipeline data was completed in November 1978. Plans for usage of data include preparation of reports showing (1) number of leaks, (2) geographic location of leaks, (3) property damage in dollars, (4) injuries and fatalities, and (5) rates of increase or decrease of each element. Discussion of plans for relating accident data to regulatory action will be in future issues of the "Pipeline Safety Advisory Bulletin." MTB is not prepared to speculate on how data might help to develop a service life model. For the present, all efforts will be toward expanding the data base.

With respect to P-78-59, which recommended redesign of the Liquid Pipeline Accident Report System to include data similar to that collected in the Natural Gas Accident Reporting System, RSPA says that MTB is in favor of making warranted changes in the liquid pipeline accident report form but does not want to make any

changes in the form or the computer system until it has been in operation for at least one year. Safety Board and MTB staff have already begun to explore the redesign of the liquid pipeline accident reporting system.

In response to P-78-60, calling for clear instructions and definitions to insure the accuracy and consistency of the data recorded on the liquid pipeline accident report form, RSPA states that the instructions and definitions provided in 49 CFR Part 195 are adequate. There are valid explanations for the observed incompleteness in some carriers' accident reports; reasons listed: (1) Hydrostatic testing of liquid pipelines was mandatory only after 1970 and was not retroactive, therefore many liquid lines have not been so tested and the pressure test data in section H of the report form is not available; and (2) instructions for sections I and J state that these are to be filled in only if accident was caused by corrosion or equipment rupture. RSPA states, "Out of a random sample of 190 consecutively numbered reports, in only four reports were sections I and J found to have reporting deficiencies." MTB does not consider this 2 percent error to be significant. This error is expected to be even lower as new auditing procedures discussed below under P-78-62 are implemented.

Recommendation P-78-61 called for computerizing the redesigned Liquid Pipeline Accident Report System, including the capability to: (a) Compute accident/leak rate-per-mile of pipe for each carrier as well as the nationwide rate; (b) make periodic comparisons of each carrier's accident/leak rate against the nationwide rate; (c) compute and plot selective accident/leak rates based on pipeline parameters such as age, specified yield strength, depth of cover, product transported, etc.; (d) selectively retrieve and summarize accident/leak data pertaining to any given accident or classification of accidents; and (e) produce summarized reports reflecting the above listed information. MTB in reply said that it already can accomplish (d) and (e). In exploring the redesign of the system, additional capabilities to provide (a), (b), and (c) will be pursued.

In response to P-78-62, which called for audits of the completed liquid pipeline accident reports to insure that mandatory data is provided, RSPA states that under processing procedures implemented immediately after completing the full computerization of the accident data base in November 1978, each incoming report is now being validated before being entered in the computerized data base. Marked improvement in retrievable data completeness is seen.

With respect to P-78-63, which called for expediting completion of

rulemaking to strengthen Federal regulations concerning LPG pipelines, RSPA reports that three rulemaking actions initiated in August and November 1978 will in various ways strengthen the liquid pipeline regulations as they apply to LPG pipelines. A description of each rulemaking action is included. Final rules for each action are scheduled for this year.

#### Railroad

**R-74-28.**—The Federal Railroad Administration on January 25 replied to the Safety Board's comments of last August 18 to FRA's July 14 response (43 FR 38962, August 31, 1978) concerning this recommendation. The recommendation asked FRA to sponsor a program to develop and test devices for the securement of manually operated switch stands so that they would be more resistant to operation by unauthorized persons.

Noting that the planned testing program to secure manually operated switch stands has not been instituted, the Board's August 18 letter asked to be advised of the probability of initiating the switch stand testing program in the near future.

FRA's January 31 response indicates that consideration had been given to sponsoring such a test program, but, in view of the fact that there are now tamper proof locks available and in use by many of the larger rail carriers, FRA does not intend to initiate the program originally thought necessary. FRA states, "The magnitude of the switch tampering problem does not justify Federal regulations to require carriers to use these locks. Rather than regulate the complete use of such devices on all manually operated switches, we feel it makes more sense to allow the carrier to use his own judgment on where such devices should be used."

On February 22, the Safety Board replied to FRA's latest response and stated that the reasoning that the switch tampering problem is of a minor magnitude cannot be accepted. Accidents have been investigated in recent years wherein a vandalized switch resulted in trains being unexpectedly diverted to a collision route, resulting in fatalities to head-end crewmembers. The subject is worthy of further study. The Board noted that as recently as July 2, 1978, an Atchison, Topeka, and Santa Fe freight train collided with a standing cut of cars at Pinole, Calif., because vandals broke the locks on a switch stand and switch signal mechanism, resulting in injuries and the derailment of hazardous materials. Since the Safety Board concludes that FRA will not engage in further activities relating to R-74-28, the recommenda-

tion has been closed—unacceptable action.

**R-78-38 and 39.**—FRA on February 8 provided a followup to its response of last July 21 (43 FR 36536, August 17, 1978), noting that the Grade Crossing Hazard Analysis Study (a copy is attached to the February 8 letter) has now been completed. FRA has also forwarded a copy of the study to the Federal Highway Administration, which plans to use it as an aid in selecting and prioritizing grade crossing projects for funding. FRA states that this study was performed by the Transportation Systems Center to determine a strategy for selecting potentially hazardous crossings for inspection by the States, and a procedure for acquiring needed inspection data from the States to permit a positive determination of hazard existence.

In acknowledging receipt of FRA's additional response, the Safety Board on March 12 stated that it understands that FHWA and the States will now assign priorities to grade crossings, utilizing the data developed in the FRA study and that following the prioritization of the crossings, FRA, FHWA, and the States will then determine the appropriate warning devices and train operational speeds for all crossings, based on "worst possible case" limitations. Until such time that these projects have been accomplished, the Safety Board will continue to classify both R-77-38 and R-77-39 in an open status.

**NOTE.**—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters and response letters are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. (Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,  
Federal Register Liaison Officer.

MARCH 19, 1979.  
(FR Doc. 79-8740 Filed 3-21-79; 8:45 am)

[3110-01-M]

#### OFFICE OF MANAGEMENT AND BUDGET

##### AGENCY FORMS UNDER REVIEW

##### BACKGROUND

When executive departments and agencies propose public use forms, reporting, or recordkeeping require-

ments, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

##### LIST OF FORMS UNDER REVIEW

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (\*).

##### COMMENTS AND QUESTIONS

Copies of the proposed forms may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of



## NOTICES

Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

## DEPARTMENT OF AGRICULTURE

AGENCY CLEARANCE OFFICER—DONALD W. BARROWMAN—447-6202

## NEW FORMS

Economics, Statistics, and Cooperative Service  
Case study—member involvement and control of  
Dairy cooperatives  
Single time  
Members of dairy cooperatives, 1,000 responses; 375 hours  
Office of Federal Statistical Policy and Standard, 673-7974.

## EXTENSIONS

Soil Conservation Service  
Livestock production from properly used forage resources under conservation treatment  
SCS-CONS-2 on occasion  
Commercial farmer, 1,000 responses; 2,000 hours  
Ellett, C.A., 395-5080

## DEPARTMENT OF COMMERCE

AGENCY CLEARANCE OFFICER—EDWARD MICHAELS—377-4217.

## NEW FORMS

Bureau of the Census  
Supplies used during 1977  
MA-131, 1300  
Single time  
Selected mineral establishments, 250 responses; 1,000 hours  
Office of Federal Statistical Policy and Standard, 673-7974.

## BUREAU OF THE CENSUS

Consumption of materials, parts, containers, and supplies during 1977  
MA-131  
Single time  
Selected manuf. Establishments, 2,000 responses; 8,000 hours  
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census  
1978 Census of Agriculture  
78-a-46  
Single time  
Farm operators and Farm Association persons, 5,000 responses; 833 hours  
Office of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census  
Post enumeration survey; mover followup questionnaire;  
1980 census  
D-864 (X)  
Single time  
Households in VA dress rehearsals area, 600 responses; 120 hours  
David P. Caywood, 395-6140  
Bureau of the Census,

May 1979 Multiple job holding, premium pay, and usual number of days and hours worked supplements  
CPS-1  
Single time  
Interviewed households in May 1979  
CPS, 61,000 responses; 4,067 hours  
Office of Federal Statistical Policy and Standard, 673-7974.

## EXTENSIONS

Bureau of the Census  
\*Complete aircraft—plant report  
M-37G  
Monthly  
Civilian aircraft manufacturers, 180 responses; 78 hours  
Caywood, D.P., 395-6140

## DEPARTMENT OF DEFENSE

AGENCY CLEARANCE OFFICER—JOHN V. WENDEROTH—697-1195

## EXTENSIONS

Departmental and Other  
Weight and balance control system for missiles  
MIL-W-3947B  
On occasion  
Navair aerospace contractors, 20 responses; 4,000 hours  
Caywood, D.P., 395-5080

## DEPARTMENT OF ENERGY

AGENCY CLEARANCE OFFICER—ALBERT H. LINDEN—566-9021

## NEW FORMS

\*Weekly Total Stocks of Crude Oil<sup>1</sup>  
EIA-164  
\*Weekly  
Crude oil refiners and producers, 9,152 responses; 2,288 hours  
Hill, Jefferson B., 395-5867  
\*Weekly Bulk Terminal Stocks of Industrial Products<sup>1</sup>  
EIA-162  
Weekly  
Bulk terminal operators, 4,316 responses; 1,079 hours  
Hill, Jefferson B., 395-5867  
Weekly Pipeline Stocks of Finished Products<sup>1</sup>  
EIA-163  
Weekly  
Pipeline operators products, 4,004 responses; 1,001 hours  
Hill, Jefferson B., 395-5867  
Weekly Import Report<sup>1</sup>  
EIA-165  
Weekly  
Petroleum importers, 2,860 responses; 2,145 hours

<sup>1</sup>"OMB has approved these forms. OMB acted quickly to permit DOE to obtain information needed to monitor the results of the international oil situation. Because OMB has continuing authority to disapprove all or part of a form in use, we are still requesting comments and suggestions from the public."

Hill, Jefferson B., 395-5867  
Monthly Power Generating Plant Data for Electric Utilities  
EIA-210  
Monthly  
Electric utility estab. Owning and Operating Generating Plants, 12,324 responses; 24,648 hours  
Hill, Jefferson B., 395-5867

Weekly Refinery Report<sup>1</sup>  
EIA-161  
Weekly  
Petroleum Refineries, 9,152 responses; 2,288 hours  
Hill, Jefferson B., 395-5867  
Transfer Pricing Report  
ERA-51  
Monthly  
Petroleum refiners, 480 responses; 19,440 hours  
Hill, Jefferson B., 395-5867

## EXTENSIONS

Data on Measures To Implement Conservation of Natural Resources, Appendix B  
FPC-R0281  
Annually  
None, 3,500 responses; 7,000 hours  
Hill, Jefferson B., 395-5867  
Certification of Requirements for Use Under Allocation Levels  
ERA-100  
Annually  
Wholesale purchasers resellers, 30,000 responses; 30,000 hours  
Will, Jefferson B., 395-5867

Inventory of Property Other Than Land and Rights-of-Way  
ICC-ACV-5  
On occasion  
Common carrier pipeline companies, 400 responses; 2,400 hours  
Hill, Jefferson B., 395-5867  
Inventory of Land and Rights-of-Way  
ICC-ACV-6  
On occasion  
Common carrier pipeline companies, 24 responses; 72 hours  
Hill, Jefferson B., 395-5867

Summary for National Electric Rate Book  
FPC-13  
Annually  
Electric facilities, 1,500 responses; 2,625 hours  
Hill, Jefferson B., 395-5867  
Summary of Original Cost Inventory  
ICC-ACV-7  
On occasion  
Common carrier pipelines companies, 12 responses; 30 hours  
Hill, Jefferson B., 395-5867

Cost Data for Equipment and Tanks  
ICC-ACV-8  
Annually  
Pipeline carriers subject to Interstate Commerce Act, 75 responses; 300 hours

Hill, Jefferson B., 395-5867  
Cost Data for Pipeline Construction  
ICC-ACV-9  
Annually  
Pipeline carrier subject to Interstate Commerce Act; 75 responses; 1,600 hours

Hill, Jefferson B., 395-5867  
Quarterly Report of Pipe Line Companies  
QPS  
Quarterly  
Large pipeline companies; 416 responses; 416 hours  
Hill, Jefferson B., 395-5867  
Monthly Power Plant Report  
FPC 4  
Monthly  
Elec. utilities and indus. gen. plants; 15,444 responses; 50,965 hours  
Hill, Jefferson B., 395-5867

Supplemental Power Statement  
FPC 12-E-2  
Monthly  
Electric utilities; 3,850 responses; 8,800 hours  
Hill, Jefferson B., 395-5867

Annual Report for Importers and Exporters of Natural Gas  
FPC 14  
Annually  
Natural gas companies; 25 responses; 100 hours  
Hill, Jefferson B., 395-5867

Monthly Report of Natural Gas Pipeline Curtailments  
FPC-17  
Monthly  
Natural gas pipeline companies; 384 responses; 3,072 hours  
Hill, Jefferson B., 395-5867

Electric Generating Station and Sub-Station Data and Location<sup>1</sup>  
FPC 38  
Other (see SF-83)  
Electric utilities; 1,000 responses; 4,000 hours  
Hill, Jefferson B., 395-5867

Reporting of New Non-Jurisdictional Sales of Natural Gas by Natural Gas Cos. Subject to Jurisdiction of the FPC  
FPC-45  
Monthly  
Natural gas companies; 4,200 responses; 25,200 hours  
Hill, Jefferson B., 395-5867

Weekly Fuel Situation Report—Coal  
FPC 237A  
Weekly  
Pub. utilities who generate elec. power; 125 responses; 250 hours  
Hill, Jefferson B., 395-5867

Weekly Fuel Emergency Report—Oil  
FPC 237B  
Weekly  
Pub. utilities who generate elec. power; 125 responses; 250 hours  
Hill, Jefferson B., 395-5867

Annual Statement to Support Small Producer Exemption  
FPC 314B  
Annually  
Independent producers of natural gas; 2,500 responses; 7,500 hours  
Hill, Jefferson B., 395-5867

\*Reserve Dedication Report  
FPC 334  
On Occasion  
Natural gas pipeline; 104 responses; 52 hours  
Hill, Jefferson B., 395-5867

Monthly Report of Cost and Quality of Fuels for Electric Plants  
FPC-423  
Monthly  
Electric utility companies; 10,800 responses; 21,600 hours  
Hill, Jefferson B., 395-5867

Report on Service Interruptions on Pipeline Systems  
FPC-R0016  
On Occasion  
Natural gas pipeline companies; 125 responses; 1,250 hours  
Hill, Jefferson B., 395-5867

Summary of Cost of Reproduction New and Reproduction New Less Depreciation—Pipeline Carriers  
ICC-ACV-4  
Annually  
Common carrier pipeline companies; 1,590 responses; 3,975 hours  
Hill, Jefferson B., 395-5867

Summary of Changes in Original Cost and Total Original Cost at End of Period—Pipeline Carriers  
ICC-ACV-3  
Annually  
Common carrier pipeline Companies; 318 responses; 795 hours  
Hill, Jefferson B., 395-5867

Annual Reports of System Flow Diagrams  
FPC-R0284  
Annually  
Natural gas pipeline; 47 responses; 8,508 hours  
Hill, Jefferson B., 395-5867

Reliability of Electric and Gas Service: Policy Statement and Proposed Rulemaking  
FPC-R0237  
On occasion  
Public utilities; 85 responses; 425 hours  
Hill, Jefferson B., 395-5867

Response to Order No. 383-3, Appendix A-1, Reliability and Adequacy of Electric Service  
FPC-RO309  
Annually  
Electric reliability councils; 340 responses; 8,500 hours  
Hill, Jefferson B., 395-5867

Reporting of Temporary Emergency Sales and Deliveries of Natural Gas for Resale in Interstate Commerce

by Persons with Exemptions Under the Natural Gas Act  
FPC-RO326  
On occasion  
Co. exempt under the Natural Gas Act; 60 responses; 300 hours  
Hill, Jefferson B., 395-5867

Summary of Land and Rights-of-Way Property Changes—Pipeline Carriers  
ICC-ACV-2  
Annually  
Pipeline companies; 530 responses; 1,325 hours  
Hill, Jefferson B., 395-5867

Statement of Property Changes Other Than Land and Rights-of-Way Pipeline Carriers  
ICC-ACV-1  
Annually  
Pipeline companies; 5,300 responses; 13,250 hours  
Hill, Jefferson B., 395-5867

Report of Events Affecting Bulk Power Supply  
FPC-0211  
On Occasion  
Electric energy generation or transmission; 100 responses; 200 hours  
Hill, Jefferson B., 395-5867

## NOTICES

AGENCY CLEARANCE OFFICER—PETER GNESS, 245-7488

Health Care Financing Administration (Medicare)  
\*Hospital interim rate change report (PIP quarterly report)  
HCFA-91  
Quarterly  
Hospitals; 8,000 responses; 4,000 hours  
Richard Eisinger, 395-3214

Center for Disease Control  
Tuberculosis statistics and program evaluation activity  
CDC 5.1393, 5.61, 5.62, 5.63, 5.4018-1, -5  
Annually  
State and local health departments; 3,116 responses; 2,718 hours  
Richard Eisinger, 395-3214

Administration (Office of Ass't Sec'y)  
Application for coinsurance benefits  
HUD-4035  
On Occasion  
FHA approved mortgagees; 200 responses; 200 hours  
Strasser, A., 395-5080

Administration (Office of Ass't Sec'y)  
\*Coinsured mortgage record change

AGENCY CLEARANCE OFFICER—JOHN KALAGHER, 755-5184

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AGENCY CLEARANCE OFFICER—JOHN KALAGHER, 755-5184

EXTENSIONS

AGENCY CLEARANCE OFFICER—JOHN KALAGHER, 755-5184

AGENCY CLEARANCE OFFICER—JOHN KALAGHER, 755-5184

AGENCY CLEARANCE OFFICER—JOHN KALAGHER, 755-5184



HUD-8084  
On Occasion  
Approved coinsurance mortgagees; 190 responses; 48 hours  
Strasser, A., 395-5080

Housing Production and Mortgage Credit  
Credit application for property improvement loan

FH-1  
On occasion  
Homeowners; 300,000 responses; 60,000 hours  
Strasser, A., 395-5080

Housing Production and Mortgage Credit

\*Credit application for mobile home loan  
FH-1 (MH)  
On occasion  
Mobile home purchaser; 6,000 responses; 1,200 hours  
Strasser, A., 395-5080

Housing Production and Mortgage Credit

\*Statistical data sheet for co-insurance claims  
HUD-4035.4  
On occasion  
Approved co-insurance mortgages; 200 responses; 68 hours  
Arnold Strasser, 395-5080

#### DEPARTMENT OF JUSTICE

AGENCY CLEARANCE OFFICER—DONALD E. LARUE, 376-8283

#### NEW FORMS

Law Enforcement Assistance Administration  
Survey of inmates of State correctional facilities (inmate questionnaire, institutional sampling sheet)  
NPS-25X and 26X  
Single time  
Inmate in State correctional facilities; 200 responses; 200 hours  
Office of Federal Statistical Policy and Standard, 673-7974

#### EXTENSIONS

Offices, Boards, Division  
Claim for damage, injury, or death  
95  
On occasion  
People with claims against the United States 800,000 responses; 400,000 hours

Laverne V. Collins, 395-3214

#### DEPARTMENT OF LABOR

(AGENCY CLEARANCE OFFICER—PHILIP M. OLIVER, 523-6341)

#### REVISIONS

Employment and Training Administration  
Trade Readjustment Determinations and Allowance Activities and Employment Services  
ETA 5-63 Telegraphic Report

Other (See SF-83)  
SESAS for petitions under Trade Act; 5,200 responses; 9,880 hours  
Strasser, A., 395-5080

#### EXTENSIONS

Bureau of Labor Statistics  
Survey of Individual Hours and Earning of Nonsupervisory Employees  
BLS-1130-A-F  
Single time  
Nonfarm business establishments; 165,000 responses; 33,000 hours  
Office of Federal Statistical Policy and Standard, 673-7974

#### DEPARTMENT OF TRANSPORTATION

AGENCY CLEARANCE OFFICER—BRUCE H. ALLEN, 426-1887

#### NEW FORMS

Federal Aviation Administration  
Survey of Airport Services  
S-431A and 431B  
Single time  
Airport, managers and fixed base operators; 3,822 responses; 3,087 hours  
Office of Federal Statistical Policy and Standard, 673-7974

#### EXTENSIONS

Coast Guard  
Application for registration—United States Registered Pilot  
CG-4509  
On occasion  
Great Lakes registered pilots and/or applicants; 60 responses; 60 hours  
Susan B. Geiger, 395-5867

Federal Aviation Administration  
\*Medical exemption petition (operational questionnaire)

FAA 8500-20  
On occasion  
Airmen; 150 responses; 75 hours  
Susan B. Geiger, 395-5867

Federal Aviation Administration  
\*Application for airworthiness certificate

FAA 8130  
On occasion  
Aircraft owners; 34,000 responses; 17,000 hours  
Susan B. Geiger, 395-5867

#### DEPARTMENT OF THE TREASURY

AGENCY CLEARANCE OFFICER—HOWARD SMITH, 376-0436

#### EXTENSIONS

Bureau of Customs  
\*Entry for bonded manufacturing warehouse and permit  
CF-7521  
On Occasion  
Importer/brokers; 7,700 responses; 1,540 hours  
Susan B. Geiger, 395-5867  
Bureau of Customs

\*Record of vessel/aircraft foreign repair or equipment purchase  
CF 226

On occasion  
Vessels; 4,680 responses; 468 hours  
Geiger, Susan B., 395-5867

#### ENVIRONMENTAL PROTECTION AGENCY

AGENCY CLEARANCE OFFICER—JOHN J. STANTON, 245-3064

#### EXTENSIONS

St. Louis Human Morbidity Study  
Other (see SF-83)  
Family units; 3,120 responses; 2,340 hours  
Clarke, Edward H., 395-5867

#### RAILROAD RETIREMENT BOARD

AGENCY CLEARANCE OFFICER—W. V. RADESK, 312-751-4690

#### REVISIONS

\*Employer's Supplemental Report of Service and Compensation and Employee's Termination of Service

Relinquishment of rights  
G-88, G-88A, and G-88A.1

On occasion  
Applicants for RRA annuity; railroad employers; 30,000 responses; 3,000 hours  
Barbara F. Reese, 395-6132

#### SMALL BUSINESS ADMINISTRATION

AGENCY CLEARANCE OFFICER—JOHN REIDY, 653-6081

#### EXTENSIONS

Application for Surety Bond Guarantee Assistance  
SBA 994  
On occasion  
Small contractors requesting assistance; 12,000 responses; 12,000 hours  
David P. Caywood, 395-6140

#### UNITED STATES INTERNATIONAL TRADE COMMISSION

AGENCY CLEARANCE OFFICER—ROBERT CORNELL, 523-0301

#### NEW FORMS

Market Questionnaire-Coke From West Germany  
Single time  
Steel companies, coke producers, coal producers; 63 responses; 1,260 hours  
Geiger, Susan B., 395-5867

STANLEY E. MORRIS,  
Deputy Associate Director for Regulatory Policy and Reports Management

[FR Doc. 79-8789 Filed 3-21-79; 8:45 am]

[4710-02-M]

#### DEPARTMENT OF STATE

Agency for International Development

#### ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

#### Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on April 18 and 19, 1979, from 9:30 a.m. to 5:00 p.m., in the Hotel Lemington, Third Avenue at 10th Street, Minneapolis, Minnesota 55404.

The Committee will be examining Food/Agriculture/Nutrition programs and issues, particularly as they affect, or can be affected by voluntary agencies. The agenda will emphasize agricultural production, trade, and the economic aspects of food programs. It will also consider such other matters related to voluntarism in foreign assistance as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements may be filed before or after the meeting.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202-632-9421 or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: March 8, 1979.

CALVIN H. RAULLERSON,  
Assistant Administrator, Bureau for Private and Development Cooperation.

[FR Doc. 79-8723 Filed 3-21-79; 8:45 am]

[4910-59-M]

#### DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP77-14; Notice 2]

#### MOTOR COACH INDUSTRIES, INC.

#### Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by Motor Coach Industries, Inc. of Pembina, N. Dak., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for two apparent noncompliances with 49 CFR 571.121 Motor

Vehicle Safety Standard No. 121, *Air Brake Systems*. The basis of the petition was that the noncompliances were inconsequential as they related to motor vehicle safety.

Notice of the petition was published on November 21, 1977, and an opportunity afforded for comment (42 FR 59799).

Paragraph S5.1.5, *Warning Signal*, of Standard No. 121 requires an audible or visible signal to be given when the ignition is in the "on" or "run" position, and the air pressure in the service brake reservoir system is below 60 lb/in<sup>2</sup>. Tests performed by NHTSA on an MC-8 coach (NHTSA file CIR 1768) disclosed that the signal did not operate until air pressure was at 56.5 lb/in<sup>2</sup> and below. MCI argued that this is inconsequential since "it is usual for an air pressure gauge to have a setting tolerance of + or - 5 lb/in<sup>2</sup>", and that "the lacking 3.5 lb/in<sup>2</sup> would not affect the function of the brakes or it would affect them insignificantly."

Paragraph S5.3.4, *Brake Release Time*, of Standard No. 121 requires that with an initial service brake chamber pressure of 95 lb/in<sup>2</sup>, in the air pressure in each brake chamber should, when measured from the front movement of the service brake control, fall to 5 lb/in<sup>2</sup> in not more than 0.55 second. NHTSA testing found that the actual time on an MCI bus was 0.64 second. MCI argued that this was inconsequential because, on buses which are not subject to lockup requirements, "the difference in response, driver to driver, will vary to a far greater time sequence than is indicated in our extended release times of 0.09 second, nor will this 'extended' release time be affecting safety in any manner that we can foresee in our experience". Approximately 922 buses are involved.

Two comments were received on the failure to comply with S5.1.5, the warning signal requirement. The California Highway Patrol supported the petition as State regulations allow a warning to be given at a pressure as low as 55 pounds. The petition was opposed by the Illinois Vehicle Safety Commission which considered that a grant would establish "a tolerance on a tolerance—an unreasonable act".

The agency has decided to deny this portion of MCI's petition. MCI's argument with respect to the air pressure gauge is considered irrelevant. The function of the warning system is different from that of an air pressure gauge and should actuate whenever the system pressure is below 60 psi, regardless of what the gauge indicates. California's allowance would appear to be preempted by Federal requirements, and, in any event, is regarded as a lower level of performance than is

deemed desirable for motor vehicle safety.

No comments were received on the failure to comply with S5.3.4 the brake release time requirements.

The agency has also decided to deny this aspect of this petition. Originally, the value proposed for this requirement was 0.40 second. (See Figure 2, Docket No. 70.17; Notice 1, 35 FR 10368, June 25, 1970). Because of industry comments that this was too severe to compensate for production tolerances, a value of 0.55 second was finally adopted. This explains the comment by Illinois that to grant the petition would place a tolerance on a tolerance. While a deviation of 0.09 second may appear unimportant, the regulatory scheme of the National Traffic and Motor Vehicle Safety Act requires the establishment of "minimum standards for motor vehicle performance". A manufacturer who establishes his tolerances at or near the minimum level risks, in the event of failure, a determination of noncompliance, the obligation to notify and remedy, the threat of civil penalties and injunctive relief and the probability that he will be unable to establish that he exercised due care in designing and manufacturing his product to conform. The use of a precise figure like 0.55 second—or any other time period for that matter—is necessary to meet the objectivity requirement of the Act and to make the standard enforceable. Such values are necessary and desirable in a regulatory context for both the regulated party and the regulator. MCI, for example, would find it difficult to establish compliance with a brake release time specification which stated only a subjective requirement that "the pressure shall fall quickly". Finally, to decide that a deviation of 0.09 second is "inconsequential" could encourage manufacturers to be less careful in design and production, and possibly lead to further deviations and erosion of the standard. The agency has concluded that, generally, values once established must be retained until modified by public rulemaking procedures. The agency believes that Congress did not intend that an inconsequentiality grant be made simply because a manufacturer came close to meeting a minimum performance level but did not reach it for one reason or another. The agency notes, but does not rely on the fact in its decision, that no explanation or excuse has been given by the petitioner for either noncompliance.

MCI has failed to meet its burden of persuasion, and its petition that its failures to comply with Standard No. 121 be deemed inconsequential as they relate to motor vehicle safety is hereby denied.



(Sec. 102, Pub. L. 93-492, 89 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on March 12, 1979.

MICHAEL M. FINKELSTEIN,  
Associate Administrator  
for Rulemaking.

[FR Doc. 79-8275 Filed 3-21-79; 8:45 am]

#### [4910-59-M]

##### FIAT MOTORS CORPORATION OF NORTH AMERICA

###### Public Proceeding Canceled

A public proceeding scheduled for 10:00 a.m., March 21, 1979, in Room 6332, Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590, with respect to undercarriage corrosion in the 850 and 124 models of the Fiat automobile for model years 1970 through 1974 is canceled.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on March 19, 1979.

LYNN BRADFORD,  
Acting Associate Administrator.

[FR Doc. 79-8653 Filed 3-21-79; 8:45 am]

#### [4910-59-M]

[Docket 79-07, Notice 1]

##### MOTORCYCLE HELMET STUDY

###### Request for Comments

AGENCY: U.S. Department of Transportation, National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice.

SUMMARY: The Surface Transportation Assistance Act of 1978 requires the Secretary of Transportation to study and report to Congress on the effect that repeal of motorcycle helmet laws has had on motorcycle accident fatalities and injuries. This notice announces the establishment of a docket to receive information relevant to the study and to receive comments on how the study should be concluded.

CLOSING DATE FOR COMMENTS: May 8, 1979.

ADDRESS: Comments should refer to the docket number and be submitted to: NHTSA, Docket No. 79-07, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis S. Buchanan, Office of Driver and Pedestrian Programs, Traffic Safety Administration, Washington, D.C. 20590, (202) 426-2180.

**SUPPLEMENTARY INFORMATION:** Section 208 of the Highway Safety Act of 1976 contained language prohibiting the Secretary of Transportation from requiring States to enact motorcycle helmet use laws for any rider 18 years of age or older. Since passage of the 1976 Act, 26 States have either repealed or weakened their helmet use laws. During 1977 there was a 24 percent increase in motorcycle fatalities. Motorcycle deaths reached 4,103, a record high. Motorcycle fatalities increased an estimated ten percent during 1978. As a result of concern about the increase in fatalities, section 210 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599) required the Secretary to conduct a motorcycle helmet study and to report the findings to the Congress.

The NHTSA has compiled substantial data on the effect of helmet law repeal on helmet use, head injuries and fatalities. Additional data are now being collected for use in the report to Congress. To assure that all appropriate data are reviewed and considered in the preparation of the report, the agency has decided to solicit suggestions, recommendations and data from the public, motorcycle manufacturers, organizations representing motorcyclists and individuals.

The agency is also making available for public review and comment a package of data and information concerning the effect of motorcycle helmet usage on head injuries and the effect of the repeal of helmet usage laws on the frequency and severity of head injuries. The package is composed of the following specific items:

1. Executive summaries of four State studies (Kansas, Oklahoma, South Dakota, and Colorado) which contain highlights of helmet usage surveys conducted in pre-repeal periods, findings of accident investigations, and data on the frequency and severity of head injuries of helmeted and non-helmeted riders.

2. An executive summary of motorcycle accident causation factors and identification of countermeasures study conducted by the University of Southern California. It contains highlights of in depth accident investigations of 900 motorcycle accidents.

3. A preliminary report on the effect of motorcycle helmet usage on head injuries and helmet usage rates, derived from the four-State observational surveys and accident investigations. In addition, some of the USC data is contained in this report.

4. A bibliography of the most recent reports and studies on the subject of motorcycle helmet usage.

Copies of the package may be obtained by writing to NHTSA, General Services Division (NAD-42), 400 Seventh Street, S.W., Washington, D.C. 20590.

Copies of the completed final reports for the studies cited above are available for public review in the NHTSA Docket Room, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Pub. L. 89-564, 80 Stat. 731; (23 U.S.C. 401, et seq.) delegations at 49 CFR 1.50 and 49 CFR 501.8 (d)).

Issued: on March 19, 1979.

K. W. HEATHINGTON,  
Associate Administrator,  
Traffic Safety Programs.

[FR Doc. 79-8724 Filed 3-21-79; 8:45 am]

#### [4910-57-M]

##### Urban Mass Transportation Administration

###### INTENT TO PREPARE ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the National Environmental Policy Act (83 Stat. 852) and the Council on Environmental Quality's implementing regulations, (40 CFR Parts 1500-1508) the Urban Mass Transportation Administration gives notice that environmental impact statements are being prepared for the proposed projects listed below. The Urban Mass Transportation Administration invites participation of agencies and individuals with expertise or interest to comment on the scope of these environmental impact statements.

##### NEW YORK CITY, N.Y.

The New York City Department of Transportation proposes to construct with Federal capital grant assistance a combined transitway, transit information center and pedestrian mall known as Broadway Plaza. The proposed project includes the closing of Broadway between 45th Street and 48th Street to all but emergency traffic, sidewalk widenings, passenger boarding area for transit and paratransit patrons, and preferential treatment for transit vehicles along Broadway between 45th and 59th Streets. Alternatives to the proposed project include the no build alternative and improved bus service.

Comments and questions regarding the proposed action and the environmental impact statement should be referred to: Joel Widder, Environmental Protection Specialist, Planning and Analysis Division, Urban Mass Transportation Administration, Washing-

ton, D.C. 20590, telephone number 202-472-7100.

##### OAKLAND, CALIF.

The Port Authority of Oakland, California proposes to construct with Federal capital grant assistance an automated guideway transit system to link the Bay Area Rapid Transit (BART) Coliseum/Airport Station and the Oakland Airport. The distance between these two points is 3.5 miles. Alternatives to the proposed action include an improved bus connection and the no build alternative.

Comments and questions regarding the proposed action and the environmental impact statement should be referred to: Maureen Craig, Environmental Protection Specialist, Planning and Analysis Division, Urban Mass Transportation Administration, Washington, D.C. 20590, telephone number 202-472-7100.

##### LOS ANGELES, CALIF.

The Los Angeles Community Redevelopment Agency proposes to construct with Federal capital grant assistance a downtown people mover (DPM). The Los Angeles DPM is proposed as a grade-separated automated circulation/distribution transit system for the central business district. An elevated guideway and short subway section will run approximately three miles through the north and west sides of the central business district with automated vehicles providing service to 13 stations along the proposed route. Parking facilities and bus intercept points will be provided at the termini of the system. Alternatives to the proposed action include the no build alternative, improved bus service, and a rail transit connection.

Comments and questions regarding the proposed action and the environmental impact statement should be referred to: Abbe Marner, Environmental Protection Specialist, Planning and Analysis Division, Urban Mass Transportation Administration, Washington, D.C. 20590, telephone number 202-472-7100.

##### MIAMI, FLA.

Metropolitan Dade County proposes to construct with Federal capital grant assistance a downtown people mover (DPM). The DPM is planned as an elevated grade-separated automated transit system. The proposed project will integrate the downtown area with the rapid transit system. Alternatives to the proposed action are the no build alternative, improved bus service, and a rail transit connection.

Comments and questions regarding the proposed action and the environmental impact statement should be referred to: Lilla Hoefer, Environmental Protection Specialist, Planning and

Analysis Division, Urban Mass Transportation Administration, Washington, D.C. 20590, telephone number 202-472-7100.

##### DETROIT, MICH.

The Southeastern Michigan Transportation Authority proposes to construct with Federal capital grant assistance a downtown people mover (DPM). The DPM is proposed as an elevated grade-separated automated transit system, serving residential, government, business, and retail districts in the central business district. It will interface with existing and proposed transit modes. The alternatives to the proposed action include the no build alternative, improved bus service and a rail transit connection.

Comments and questions regarding the proposed action and the environmental impact statement should be referred to: Lilla Hoefer, Environmental Protection Specialist, Planning and Analysis Division, Urban Mass Transportation Administration, Washington, D.C. 20590, telephone number 202-472-7100.

Dated: March 16, 1979.

CHARLES F. BINGMAN,  
Deputy Administrator.

[FR Doc. 79-8626 Filed 3-21-79; 8:45 am]

#### [4910-57-M]

##### UMTA PROCUREMENT STUDY TASK FORCE, EVALUATION OF ROLLING STOCK AND EQUIPMENT PROCUREMENT PROCEDURES

###### Extension of Deadline for Receipt of Public Comment

In the FEDERAL REGISTER of February 2, 1979, (44 FR 6819), the Urban Mass Transportation Administration requested public comment on the strengths and weaknesses of the existing governmental procurement process, formally advertised (low-bid), used to purchase rolling stock and technical equipment with Federal assistance.

The deadline for receipt of comment is extended from March 15, 1979 to April 16, 1979.

Comments should be mailed to:

W. H. Lytle, director, Office of Procurement and Third Party Contract Review, UMTA/UAD-70, 2100 2nd Street SW., Washington, D.C. 20590.

Dated: March 16, 1979.

CHARLES F. BINGMAN,  
Deputy Administrator.  
[FR Doc. 79-8627 Filed 3-21-79; 8:45 am]

#### [4910-06-M]

##### Federal Railroad Administration

[Docket No. RFA 511-78-1]

###### COAL LINE PROJECT

###### Extension of Public Comment Period

The Federal Railroad Administration ("FRA"), Department of Transportation, to afford a fair opportunity for public comments on the revised coal line application filed by the Chicago and North Western Transportation Company and its wholly-owned subsidiary, Western Railroad Properties, Inc. for \$230,511,000 in loan guarantees under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, hereby extends the public comment period from April 12, 1979 to May 11, 1979. A detailed description of the original project was presented in the notice of receipt of the application, 43 FR 41126 (September 14, 1978), and a description of the revised project was published in a notice of application amendment, 44 FR 5041 (January 24, 1979).

Written comments may be submitted to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date of May 11, 1979. Submissions should indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor. The comments will be taken into consideration by the FRA in evaluating the application, however, formal acknowledgement of the comments will not be provided.

To the extent permitted by law, the application will be made available for inspection during normal business hours in room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in Part 7 of Title 49 of the Code of Federal Regulations. The FRA has neither approved nor disapproved this application nor has it passed upon the accuracy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Issued in Washington, D.C. on March 19, 1979.

Comment closing date: May 11, 1979.

CHARLES SWINBURN,  
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 79-8652 Filed 3-21-79; 8:45 am]



[8320-01-M]

**VETERANS ADMINISTRATION  
VETERANS ADMINISTRATION WAGE  
COMMITTEE**

**Renewal**

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Veterans Administration Wage Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning March 7, 1979 through March 7, 1981.

Dated: March 15, 1979.

MAX CLELAND,  
Administrator.

[FR Doc. 79-8610 Filed 3-21-79; 8:45 am]

[7035-01-M]

**INTERSTATE COMMERCE  
COMMISSION**

[Decisions Volume No. 21]

**PERMANENT AUTHORITY APPLICATIONS**

**Decision-Notice**

Decided: March 6, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *FEDERAL REGISTER*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant, if no repre-

sentative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

*We Find:* With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. §10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal Action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. §10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before April 23, 1979 (or, if the application later be-

comes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,  
Secretary.

MC 2052 (Sub-17F), filed February 5, 1979. Applicant: BLAIR TRANSFER, INC., 203 South Ninth, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural implements, agricultural machinery, agricultural equipment, agricultural parts, road construction machinery, road construction equipment, road construction attachments, and tires*; and (2) *materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above, between Blair, NE, on the one hand, and, on the other, points in the United States (except AK and HI).* (Hearing site: Omaha, NE.)

MC 2202 (Sub-582F), filed January 15, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). Between Meridian, MS, and St. Louis, MO: From Meridian, MS, over MS Hwy 19 to junction MS Hwy 16, then over MS Hwy 16 to junction MS Hwy 35, then over MS Hwy 35 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, MO, and return over the same route, serving Memphis, TN for joinder only. (Hear-

ing site: Meridian, MS, or Memphis, TN.)

MC 2202 (Sub-583F), filed January 29, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the terminal site of Consolidated Motor Express, at or near Bluefield, WV, as an off-route point in connection with carrier's otherwise-authorized regular-route operations. (Hearing site: Washington, DC.)

MC 2392 (Sub-119F), filed January 31, 1979. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *propane*, in bulk, in tank vehicles, from the Mid-American Pipeline Terminal at or near Greenwood, NE, to points in SD. **CONDITION:** Any certificate issued in this proceeding will be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Omaha, NE.)

MC 11207 (Sub-465F), filed December 27, 1978. Applicant: DEATON, INC., A Delaware Corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *overhead cranes, and parts and accessories for overhead cranes*, (except commodities the transportation of which because of size or weight requires the use of special equipment), from Houston, TX, to points in AL, AR, FL, GA, IN, KY, LA, MS, NC, OH, SC, TN, VA, and WV. (Hearing site: Houston, TX, or Washington, DC.)

MC 11207 (Sub-466F), filed December 27, 1978. Applicant: DEATON, INC., A Delaware Corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, trans-

porting *roofing and roofing materials*, (except commodities in bulk), from Green Cove Springs, FL, to points in KY, LA, MS, and TN. (Hearing site: Jacksonville, FL, or Washington, DC.)

MC 11592 (Sub-23F), filed December 28, 1978. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107. Representative: Frank E. Myers (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, and Council Bluffs and Oakland, IA, to points in NC, SC, GA, FL, TN, AL, MS, and LA. (Hearing site: Omaha or Lincoln, NE.)

MC 14215 (Sub-24F), filed February 6, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (1) between the facilities of Wheeling-Pittsburgh Steel Corporation, at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, Beech Bottom, Benwood, Follansbee, and Wheeling, WV, and Allenport and Monessen, PA, and (2) from the facilities of Wheeling-Pittsburgh Steel Corporation at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, Beech Bottom, Benwood, Follansbee, and Wheeling, WV, and Allenport and Monessen, PA, to points in IN, IL, NY, OH, PA, WI, and the Lower Peninsula of MI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 14252 (Sub-42F), filed January 18, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, and Bettendorf and Davenport, IA, and Rock Island and Moline, IL; From Cincinnati, OH, over Interstate Hwy 74 to Bettendorf and Davenport, IA, and

Rock Island and Moline, IL, serving all intermediate points, and the off-route points of Albion, Bridgeport, Canton, Fairfield, Lawrenceville, Lawrenceville-Vincennes Air Base, Macomb, Monmouth, Vermont, and West Salem, IL, Bruceville, Carthage, Colfax, Frankfort, Kokomo, Linton, Marion, Lafayette, Napoleon, Rushville, Washington, and West Lafayette, IN, Clinton, Camanche, Fairport, Montpelier, and Muscatine, IA, and all off-route points in Champaign, Henry, Knox, McLean, Peoria, Rock Island, Tazewell, Vermilion, and Woodford Counties, IL, points in Boone, Fountain, Hamilton, Hendricks, Montgomery, and Shelby Counties, IN, and points in Scott County, IA. (Hearing site: Columbus, OH.)

MC 22182 (Sub-35F), filed January 19, 1979. Applicant: NU-CAR CARRIERS, INC., 950 Haverford Road, Bryn Mawr, PA 19010. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobiles and trucks*, in truckaway service, in initial movements, (1) from the facilities of Ford Motor Company, at Chicago, IL, to points in MD, DE, NJ, NY, VT, NH, ME, MA, CT, RI, GA, and FL, and (2) from the facilities of Ford Motor Company, at Atlanta, GA, to those points in IL and IN on and north of U.S. Hwy 40, and points in PA, NJ, NY, CT, RI, MA, VT, NH, and ME. (Hearing site: Washington, DC.)

MC 28142 (Sub-5F), filed December 11, 1978. Applicant: SHANAHAN'S EXPRESS, INC., 2201 Garry Road, Cinnaminson, NJ 08077. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper, paper products, plastic, plastic products, and commodities manufactured and distributed by manufacturers and converters of paper, paper products, plastic, and plastic products*; and (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above*, (except commodities in bulk), between the facilities of Continental Group, Inc., at Millville, NJ, on the one hand, and, on the other, those points in NY east of the Hudson River and in and south of Westchester County, those points in PA in and east of York, Dauphin, Northumberland, Lycoming, and Tioga Counties, Baltimore, MD, and points in Baltimore and Howard Counties, MD. (Hearing site: Philadelphia, PA.)



MC 29642 (Sub-12F), filed January 4, 1979. Applicant: FIVE TRANSPORTATION COMPANY, a Corporation, Post Office Box 1635, Brunswick, GA 31520. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St. NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Lyons, GA, and Bellville, GA, over GA Hwy 292 serving all intermediate points, (2) between Lyons, GA, and Richmond Hill, GA, from Lyons, GA over GA Hwy 147 to Reidsville, GA, then over GA Hwy 23 to Glennville, GA, then over GA Hwy 144 to Richmond Hill, GA, and return over the same route, serving all intermediate points, (3) between Uvalda, GA, and junctions GA Hwy 29 and U.S. Hwy 80: from Uvalda, GA over GA Hwy 135 to junction GA Hwy 29, then over GA Hwy 29 to junction U.S. Hwy 80, and return over the same route serving all intermediate points, (4) Between Lyons, GA, and Metter, GA: from Lyons, GA over GA Hwy 152 to junction GA Hwy 23, then over GA Hwy 23 to Metter, GA, and return over the same route, serving all intermediate points, (5) between Hinesville, GA, and junctions GA Hwy 119 and U.S. Hwy 80: from Hinesville, GA over GA Hwy 119 to junction U.S. Hwy 80 and GA Hwy 119, and return over the same route, serving all intermediate points, (6) Between Lyons, GA, and Swainsboro, GA, U.S. Hwy 1, serving all intermediate points, (7) between Vidalia, GA, and junctions U.S. Hwy 1 and GA Hwy 297: from Vidalia, GA and over GA Hwy 297 to junction U.S. Hwy 1, and return over the same route, serving all intermediate points, (8) between Macon, GA, and junction U.S. Hwy 80 and U.S. Hwy 280: from Macon, GA over U.S. Hwy 80 to junction U.S. Hwy 80 and U.S. Hwy 280, and return over the same route, serving all intermediate points, (9) between Dublin, GA, and junction U.S. Hwy 441 and U.S. Hwy 280: from Dublin, GA over U.S. Hwy 441 to junction U.S. Hwy 280, and return over the same route, serving all intermediate points, (10) between Savannah, GA, and junction Interstate Hwy 16 and Interstate Hwy 75: from Savannah, GA over Interstate Hwy 16 to junction Interstate Hwy 75, and return over the same route, (11) between Eastman, GA, and junction U.S. Hwy 23 and Interstate Hwy 16: from Eastman, GA over U.S. Hwy 23 to junction Interstate Hwy 16, and return over the same route, serving all intermediate points, (12) between Eastman, GA, and

junction U.S. Hwy 80 and GA Hwy 119: from Eastman, GA, over GA Hwy 46 to junction GA Hwy 119, then over GA Hwy 119 to junction U.S. Hwy 80 and GA Hwy 119, and return over the same route, serving all intermediate points, (13) between Macon, GA, and junction U.S. Hwy 341 and GA Hwy 247: from Macon, GA over U.S. Hwy 41 to junction GA Hwy 247, then over GA Hwy 247 to junction U.S. Hwy 341, and return over the same route, serving all intermediate points, (14) between McRae, GA, and Atlanta, GA: from McRae, GA over U.S. Hwy 341 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route, serving all intermediate points, (15) between Hawkinsville, GA, and junction GA Hwy 26 and U.S. Hwy 80: from Hawkinsville, GA over U.S. Hwy 129 to Cochran, GA, then over GA Hwy 26 to junction U.S. Hwy 80, and return over the same route, serving all intermediate points, (16) between Statesboro, GA, and Pembroke, GA: from Statesboro, GA over U.S. Hwy 301 to junction GA Hwy 67, then over GA Hwy 67 to Pembroke, GA, and return over the same route, serving all intermediate points, (17) between Claxton, GA, and junction U.S. Hwy 301 and GA Hwy 67: from Claxton, GA over U.S. Hwy 301 to junction GA Hwy 67, and return over the same route, serving all intermediate points, (18) between Alamo, GA, and junction GA Hwy 126 and GA Hwy 46: from Alamo, GA over GA Hwy 126 to junction GA Hwy 46, and return over the same route, serving all intermediate points, and (19) between Claxton, GA, and Metter, GA: from Claxton, GA over GA Hwy 129 to Metter, GA, and return over the same route, serving all intermediate points. (Hearing Site: Savannah, GA.)

MC 42487 (Sub-891F), filed November 27, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION, OF DELAWARE a Delaware Corporation, 175 Linfield Drive, Menlo Park, CA 94025 Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment), between Fort Worth, TX and Flagstaff, AZ: from Fort Worth over U.S. Hwy 287 to Amarillo, TX, then over U.S. Hwy 66 (Interstate Hwy 40) to Flagstaff, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's otherwise authorized regular-route oper-

ations. (Hearing site: Dallas, TX, or Washington, DC.)

MC 44302 (Sub-10F), filed February 1, 1979. Applicant: DEFAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, from the facilities of the Ralston Purina Company, at or near Hamptden Township, Cumberland County, PA, to those points in NY on and south of Interstate Hwy 84, and points in NJ. (Hearing Site: New York, NY.)

MC 59135 (Sub-40F), filed February 1, 1978. Applicant: RED STAR EXPRESS LINES OF AUBURN, INCORPORATED, d.b.a. RED STAR EXPRESS LINES, 24-50 Wright Avenue, Auburn, NY 13021. Representative: Donald G. Hichman (Same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Buffalo, NY, and Philadelphia, PA, from Buffalo over NY Hwy 130 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction NY Hwy 63, then over NY Hwy 63 to Dansville, then over NY Hwy 36 to junction Interstate Hwy 390, then over Interstate Hwy 390 to junction NY 17, then over NY Hwy 17 to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction U.S. Hwy 11, near Harrisburg, PA, then over U.S. Hwy 11 to junction Interstate Hwy 83, then over Interstate Hwy 83 to junction Interstate Hwy 283, then over Interstate Hwy 283 to junction U.S. Hwy 30 near Lancaster, then over U.S. Hwy 30 to Philadelphia, and return over the same route, (2) between Harrisburg, PA, and Baltimore, MD, from Harrisburg over Interstate Hwy 83, to junction Interstate Hwy 695, then over Interstate Hwy 695 to Baltimore, and return over the same route, (3) between Rochester, NY, and Harrisburg, PA, over U.S. Hwy 15, (4) between Auburn, NY, and Philadelphia, PA, from Auburn over U.S. Hwy 20 to Skaneateles, then over NY Hwy 41 to junction NY Hwy 281, near Homer, NY, then over NY Hwy 281 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 380, near Scranton, PA, then over Interstate Hwy 380 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Columbia, NJ, then

across the Delaware River to PA Hwy 611, then over PA Hwy 611 to Philadelphia, and return over the same route, (4) between Scranton and Harrisburg, Pa, over Interstate Hwy 81, (5) between Syracuse and Cortland, NY, over Interstate Hwy 81, (6) between Utica and Binghamton, NY, over NY Hwy 12, (7) between Jamestown, NY, and Amity Hall, PA, from Jamestown over NY Hwy 60 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 6, near Warren, PA, then over U.S. Hwy 6 to Kane, PA, then over PA Hwy 321 to junction U.S. Hwy 219 near Wilcox, PA, then over U.S. Hwy 219 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction PA Hwy 153, then over PA Hwy 153 to junction U.S. Hwy 322, then over U.S. Hwy 322 to Amity Hall, PA, and return over the same route, (8) between junction Interstate Hwy 80 and PA Hwy 153 and Columbia, NJ, over Interstate Hwy 80, in (1) through (8) above as alternate routes for operating convenience only, serving no intermediate points. (Hearing site: Syracuse, Rochester, Jamestown, NY, and Washington, DC.)

MC 59680 (Sub-221F), filed November 22, 1978. Applicant: STRICKLAND TRANSPORTATION CO., INC., a Texas Corporation, 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between New Orleans, LA, and Monroe, LA, from New Orleans over US Hwy 61 to Natchez, MS, then over US Hwy 84 to Ferriday, LA, then over US Hwy 65 to Clayton, LA, then over LA Hwy 15 to Monroe, and return over the same route, serving those intermediate points in LA between Baton Rouge and Monroe, including Baton Rouge; and (2) between Baton Rouge, LA, and junction US Hwys 71 and 190, over US Hwy 190, serving no intermediate points, and serving junction US Hwys 71 and 190 for purposes of joinder only. (Hearing site: New Orleans, LA, or Cincinnati, OH.)

NOTE.—Applicant intends to tack this authority with others.

MC 61592 (Sub-432F), filed January 29, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737 Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *wrapping paper*, from Birmingham, AL, to points in GA, FL, NJ, MS, TX, OK, KS, AR, TN, KY, SC, NC, VA, NY, and IL; and (2) *scrap paper and waste paper* for recycling, from points in GA, NJ, FL, MS, TX, OK, KS, AR, TN, KY, SC, NC, VA, NY, and IL, to Birmingham, AL. (Hearing site: Birmingham or Montgomery, AL.)

MC 66512 (Sub-10F), filed January 5, 1979. Applicant: P & G MOTOR FREIGHT INCORPORATED, 450 Burnham Street, South Windsor, CT 06074. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Hartford, CT, and Springfield, MA: From Hartford, CT over U.S. Hwy 5 to junction Interstate Hwy 91, then over Interstate Hwy 91 to Springfield, MA, and return over the same route, (2) Between Springfield, MA, and return over the same route, (3) Between Boston, MA, and Haverhill, MA: (a) From Boston, MA, over U.S. Hwy 3 to junction MA Hwy 110, then over MA Hwy 110 to Haverhill, MA, and return over the same route, and (b) From Boston, MA, over Interstate Hwy 93 to junction MA Hwy 110, then over MA Hwy 110 to Haverhill, MA, and return over the same route, and (c) From Boston, MA, over U.S. Hwy 1 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction MA Hwy 97, then over MA Hwy 97 to Haverhill, MA, and return over the same route, (4) Between New Bedford, MA, and Boston, MA: (a) From New Bedford, MA over Interstate Hwy 195 to junction MA Hwy 24, then over MA Hwy 24 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, MA, and return over the same route, (5) Between Worcester, MA, and Gardner, MA: (a) From Worcester, MA over MA Hwy 12 to junction MA Hwy 2A, then over MA Hwy 2A to junction MA Hwy 2, then over MA Hwy 2 to Gardner, MA, and return over the same route, and (b) From Worcester, MA over MA Hwy 12 to junction MA Hwy 2, then over MA Hwy 2 to Gardner, MA, and return over the same route, (6) Between Boston, MA, and Fitchburg, MA: From Boston, MA over MA Hwy 2

to junction MA Hwy 12, then over MA Hwy 12 to Fitchburg, MA, and return over the same route, (7) Between Worcester, MA, and Lowell, MA: From Worcester, MA over Interstate Hwy 290 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction MA Hwy 110, then over MA Hwy 110 to Lowell, MA, and return over the same route, (8) Between Worcester, MA, and New Bedford, MA: From Worcester, MA over MA Hwy 122A to junction MA Hwy 146, then over MA Hwy 146 to junction RI Hwy 146, then over RI Hwy 146 to junction Interstate Hwy 195, then over Interstate Hwy 195 to New Bedford, MA, and return over the same route, (9) Between Hartford, CT, and New Bedford, MA, (a) from Hartford, CT over U.S. Hwy 6, to New Bedford, MA, and return over the same route, (b) From Hartford, CT, over U.S. Hwy 6 to junction Interstate Hwy 195, then over Interstate Hwy 195 to New Bedford, MA, and return over the same route, and (c) From Hartford, CT, over Interstate Hwy 86 to junction U.S. Hwy 44A, then over U.S. Hwy 44 to junction CT Hwy 101, then over CT Hwy 101 to junction RI Hwy 101, then over RI Hwy 101 to junction U.S. Hwy 6, then over U.S. Hwy 6 to New Bedford, MA, and return over the same route, (10) Between Hartford, CT, and Boston, MA: (a) From Hartford, CT, over Interstate Hwy 86 to junction MA Hwy 15, then over MA Hwy 15 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Boston, MA, and return over the same route, and (b) From Hartford, CT over U.S. Hwy 6 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, MA, and return over the same route, (11) Between Springfield, MA, and Pittsfield, MA: (a) From Springfield, MA over Interstate Hwy 90 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Pittsfield, MA, and return over the same route, and (b) From Springfield, MA, over Interstate Hwy 91 to junction MA Hwy 9, then over MA Hwy 9 to Pittsfield, MA, and return over the same route, (12) Between Springfield, MA, and Fitchburg, MA: (a) From Springfield, MA over Interstate Hwy 91 to junction MA Hwy 2, then over MA Hwy 2 to Fitchburg, MA, and return over the same route, (b) From Springfield, MA, over U.S. Hwy 5 to junction MA Hwy 2, then over MA Hwy 2 to Fitchburg, MA, and return over the same route, and (c) From Springfield, MA, over Interstate Hwy 91 to junction U.S. Hwy 202, then over U.S. Hwy 202 to junction MA Hwy 2, then over MA Hwy 2 to Fitchburg, MA, and return over the same route, serving all intermediate points in (1) through (12) above, and all points in MA as off-route points in



(1) through (12) above. (Hearing site: Boston, MA, or Hartford, CT.)

MC 71652 (Sub-26F), filed February 6, 1979. Applicant: BYRNE TRUCKING, INC., P.O. Box 1124, Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe*, between McNary, OR, and points in CA. (Hearing site: Portland, OR, or San Francisco, CA.)

MC 71652 (Sub-28F), filed February 5, 1979. Applicant: BYRNE TRUCKING, INC., P.O. Box 1124, Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *structural building components, and parts and accessories* used in the installation of structural building components, from the facilities of Peninsula Steel Products and Equipment Company at or near San Jose, CA, to points in ID, MT, OR, and WA. (Hearing site: San Francisco, CA, Portland, OR.)

MC 71652 (Sub-29F), filed February 7, 1979. Applicant: BYRNE TRUCKING, INC., P.O. Box 1124, Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, from the facilities of Consolidated Fiber Glass Products Company, at or near Bakersfield, CA, to points in Or and WA. (Hearing site: Portland, OR, San Francisco, CA.)

MC 72423 (Sub-7F), filed November 28, 1979. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., Representative: John Thompson, 450 Capitol Life Center, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Denver, CO, and North Platte, NE; from Denver over U.S. Hwy 6 and Interstate Hwy 76 to Sterling CO, then over (a) U.S. Hwy 138 to Junction U.S. Hwy 30 to North Platte, and (b) Interstate Hwy 76 to Junction Interstate Hwy 80 to North Platte, and return over the same route, serving all intermediate points. (Hearing site: Denver, CO.)

MC 80443 (Sub-15F), filed January 8, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road,

Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refrigerators, freezers, and cooling units and parts* for the foregoing commodities, from the facilities of Franklin Manufacturing Company, at St. Cloud, MN, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of refrigerators, freezers, and cooling units (except commodities in bulk), in the reverse direction. (Hearing site: Minneapolis or St. Paul, MN.)

MC 88161 (Sub-94F), filed January 4, 1979. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Ave., South, Seattle, WA 98108. Representative: Stephen A. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sulphur dioxide*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada near Northport, WA, to points in CO and CA, and (2) *dry fertilizers and urea*, in bulk, from points in Morrow County, OR, to points in Walla Walla, Benton, Klickitat, Franklin, and Yakima Counties, WA. (Hearing site: Seattle or Spokane, WA.)

MC 95876 (Sub-261F), filed January 5, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wallboard*, from Grand Rapids, MI, to points in MN and WI, and (2) *materials, equipment, and supplies* used in the installation of wallboard, from Cleveland, OH, to points in IN and IL. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 100666 (Sub-418F), filed December 18, 1978. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paperboard and paper products*, from Charlotte, NC, to Chicago, IL, Kansas City, MO, Kalamazoo, MI, and Memphis, TN. (Hearing site: Memphis, TN.)

MC 105984 (Sub-F), filed November 20, 1978. Applicant: JOHN B. BAR-

BOUR TRUCKING COMPANY, a corporation, P.O. Box 577, Iowa Park, TX 76367. Representative: Bernard H. English, 6270 Fifth Rd., Ft. Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and materials, equipment, and supplies* used in the manufacture and installation of plastic articles (except commodities in bulk, in tank vehicles), between the facilities of Robintech Incorporated, at or near Wichita Falls, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas or Ft. Worth, TX.)

MC 106603 (Sub-192F), filed January 12, 1979. Applicant: DIRECT TRANSPORT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of American Pressforge, Inc., at points in Chippewa County, MI, to points in IL, IN, OH, MD, NC, NY, and PA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC, or Chicago, IL.)

MC 106603 (Sub-193F), filed January 12, 1979. Applicant: DIRECT TRANSPORT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *construction materials and composition board*, from Deposit, NY, to points in IL, IN, KY, MI, OH, PA, WV, and WI, and (b) *equipment, materials, and supplies* used in the manufacture, installation, and distribution of the commodities named in (1)(a) above, in the reverse direction, and (2)(a) *insulation and sound deadening material*, from Lackland, OH, to points in DE, GA, IL, IN, KS, MD, MA, MI, MO, NJ, NY, PA, TX, and WI, and (2)(b) *equipment, materials, and supplies* used in the manufacture, installation, and distribution of the commodities named in (2)(a) above, in the reverse direction. (Hearing site: Washington, DC, or Chicago, IL.)

MC 106644 (Sub-270F), filed December 13, 1978. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis Parker (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate

or foreign commerce, over irregular routes, transporting (1) *Material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers, and (2) parts, attachments, and accessories* for the commodities in (1) above (except commodities in bulk), between the facilities of Hyster Company, at or near Danville, and Kewanee, IL, Crawfordsville, IN, and KY, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 106887 (Sub-10F), filed December 21, 1978. Applicant: A. D. RAY TRUCKING, INC., 1948 Edgar, Rock Springs, WY 82091. Representative: Eric A. Distad, P.O. Box 2314, Casper, WY 82602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in CO, ID, MT, ND, NE, SD, UT, and WY. (Hearing site: Casper, WY, or Denver, CO.)

MC 107012 (Sub-337F), filed January 29, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet, carpet padding, and commodities* used in the manufacture and installation of carpet and carpet padding, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of General Felt Industries, Inc. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 107012 (Sub-338F), filed February 1, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *athletic and sporting goods and equipment, games, toys, recreational equipment, clothing, accessories, and supplies* (except commodities in bulk); and (2) *commodities*

used in the manufacture, distribution, sale, and installation of the commodities named in (1) above (except commodities in bulk, and commodities which, because of their size or weight require the use of special equipment), between points in Maricopa County, AZ, Craighead County, AR, Los Angeles and Orange Counties, CA, Dade County, FL, Troup County, GA, Cook, DuPage, and Lake Counties, IL, Cumberland County, ME, Harford County, MD, Kent County, MI, Middlesex and Passaic Counties, NJ, Bronx, Cortland, Kings, New York, and Onondaga Counties, NY, Ashland, Hardin, and Lawrence Counties, OH, Multnomah and Washington Counties, OR, Coffee, Davidson, Gibson, Putnam, Robertson, and Shelby Counties, TN, Davis County, UT, Greenville County, SC, and New York, NY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Wilson Sporting Goods Company, and further restricted against the transportation of traffic from points in Kent County, MI, to points in Cook County, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-339F), filed February 2, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail department stores and catalogue sales outlets and service centers (except commodities in bulk, in tank vehicles, and commodities which, because of size and weight, require the use of special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Sears, Roebuck and Co. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-340F), filed February 2, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bicycles, tricycles, parts and accessories* for bicycles and tricycles, from the facilities of The Huff Corporation, at or near Ponca City, OK, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of bicycles and tricy-

cles (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment), from points in the United States (except AK and HI), to the facilities of The Huff Corporation, at or near Ponca City, OK. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-341F), filed February 5, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furniture, fixtures, and appliances*, from points in NJ and NY to points in AL, CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV, and DC, restricted against the transportation of furniture and fixtures from points in NJ and NY to points in AL and FL, and further restricted against the transportation of furniture and fixtures from points in NY to points in GA. (Hearing site: New York, NY, or Philadelphia, PA.)

MC 107012 (Sub-344F), filed February 5, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *games and game tables*, from Marion and Abingdon, VA, to points in WA, OR, ID, MT, NV, CA, AZ, and UT. (Hearing site: Washington, DC, or Chicago, IL.)

MC 107012 (Sub-345F), filed February 6, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from points in WA and OR to points in CA, ID, IA, MN, ND, SD, and WY. (Hearing site: Seattle, WA, or Portland, OR.)

MC 107496 (Sub-1179F), filed January 5, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave. Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gas*, in bulk, from E. Chicago, IN, to points IA, IL, MI, MN, MO, OH, TN, and WI. Condition: To the extent the certificate granted in this



proceeding authorized the transportation of liquefied petroleum gas, it will expire 5 years from the date of issuance. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 108382 (Sub-32F), filed January 2, 1979. Applicant: SHORT FREIGHT LINES, INC., 459 South River Road, Bay City, MI 48706. Representative: Rex Eames, 900 Guardian Building Detroit, MI 48226. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Menominee, MI, and Fond du Lac, WI: From Menominee, MI, over U.S. Hwy 41 to junction WI Hwy 64, then over WI Hwy 64 to junction U.S. Hwy 141, then over U.S. Hwy 141 to junction WI Hwy 22, then over WI Hwy 22 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction WI Hwy 76, then over WI Hwy 76 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Fond du Lac, WI, and return over the same route, serving all intermediate points, (2) Between Menominee, MI, and Sheboygan, WI: From Menominee, MI, over U.S. Hwy 41 to junction U.S. Hwy 141, then over U.S. Hwy 141 to Sheboygan, WI, and return over the same route, serving all intermediate points, (3) Between Menominee, MI, and Sturgeon Bay, WI: From Menominee, MI, over U.S. Hwy 44 to junction WI Hwy 64, then over WI Hwy 64 to junction U.S. Hwy 141, then over U.S. Hwy 141 to junction WI Hwy 57, then over WI Hwy 57 to Sturgeon Bay, WI, and return over the same route, serving all intermediate points, and (4) serving all points within the area beginning at Menominee, MI, then over U.S. Hwy 41 to junction with WI Hwy 64, then over WI Hwy 64 to U.S. Hwy 141, then over U.S. Hwy 141 to WI Hwy 22, then over WI Hwy 22 to WI Hwy 49, then over WI Hwy 49 to WI Hwy 23, then over WI Hwy 23 to Sheboygan, WI, then along the shoreline of Lake Michigan to Algoma, WI, then over WI Hwy 42 to junction with WI Hwy 57, then over WI Hwy 57 to Green Bay, WI, then along the shoreline of Green Bay of Lake Michigan to the point of beginning at Menominee, WI, serving points on all of the designated highways and the off route points of Kohler and Sheboygan Falls, WI.

MC 109124 (Sub-56F), filed December 4, 1978. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Suite 1800, Columbus, OH 43215. To operate as a common carrier,

by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting aluminum ingots, aluminum shot, aluminum scrap, aluminum dross, aluminum residues, zinc ingots, and silicon metal, from the facilities of U.S. Reduction Co., at Alton, IL, East Chicago, IN, and Toledo, OH, to points in OH, MI, IN, IL, PA, NY, KY, TN, and WV, and (2) from the facilities of U.S. Reduction Co., at Hammond and Gary, IN, and Madison, IL, to points in OH, MI, PA, NY, KY, TN, and WV. (Hearing site: Columbus, OH.)

MC 109564 (Sub-17F), filed August 24, 1978. Applicant: LYONS TRANSPORTATION LINES, INC., 138 East 26th Street, Erie, PA 16512. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dayton, OH, and Indianapolis, IN, over Interstate Hwy 70, (2) between Toledo, OH, and Indianapolis, IN, from Toledo over Interstate Hwy 90 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction Interstate Hwy 69, then over Interstate Hwy 69 to Indianapolis, and return over the same route, (3) between Toledo, OH, and Indianapolis, IN, from Toledo over Interstate Hwy 90 to junction Interstate Hwy 69, then over Interstate Hwy 69 to Indianapolis, and return over the same route, (4) between Toledo, OH, and South Bend, IN, from Toledo Interstate Hwy 90 to junction U.S. Hwy 31, then over U.S. Hwy 31 to South Bend, and return over the same route, (5) between Toledo, OH, and Saginaw, MI, from Toledo, over Interstate Hwy 90 to junction Interstate Hwy 475, then over Interstate Hwy 475 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction Interstate Hwy 75, then over the same route, (6) Toledo, OH, and Battle Creek, MI, from Toledo over Interstate Hwy 90 to junction Interstate Hwy 69, then over Interstate Hwy 69 to junction Interstate Hwy 194, then over Interstate Hwy 194 to Battle Creek, and return over the same route, (7) between Toledo, OH, and Muskegon, MI, from Toledo over Interstate Hwy 90 to junction Interstate Hwy 475, then over Interstate Hwy 475 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction Interstate Hwy 96, then over Interstate Hwy 96 to Muskegon, and return over the same route, serving all intermediate points, and serving all off-route points in IN and

MI within a 200-mile radius of Ottawa, OH, restricted against the transportation of traffic moving from, to, or through Cleveland, OH. NOTE: Applicant seeks to convert a portion of its irregular route authority to regular route authority. (Hearing site: Columbus, OH.)

MC 109584 (Sub-183F), filed December 7, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, an Arizona corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (Same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting woodsugar molasses, in bulk, in tank vehicles, from Ukiah, CA, to Ogden, UT. (Hearing site: San Francisco or Los Angeles, CA.)

MC 110192 (Sub-3F), filed December 26, 1978. Applicant: HIRAM LEIGH, d.b.a. SANDERS & LEIGH, Liberty, KY 42539. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting general commodities (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Lexington, KY, and Columbia, KY: From Lexington, KY over U.S. Hwy 68 to Harrodsburg, KY, then over U.S. Hwy 127 to Russell Springs, KY, then over KY Hwy 80 or Cumberland Parkway to Columbia, KY, and return over the same route, serving the intermediate points from the Lincoln-Casey County line to Columbia, KY. (Hearing Site: Frankfort or Lexington, KY.)

MC 112713 (Sub-239F), filed December 18, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (Same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Wag-Aero, Inc., at Lyons, WI, as an off-route point in connection with carrier's authorized regular-route operations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 113666 (Sub-147F), filed January 5, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick (same address as

applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting ammonium nitrate fertilizer, fertilizer, and fertilizer compounds, in bulk, from Donora, PA, to points in KY, MD, OH, TN, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113855 (Sub-464F), filed January 26, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE, Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) commodities the transportation of which because of size or weight requires the use of special equipment, and (b) related machinery, parts, and related contractors' materials and supplies, (2) self-propelled articles, and related machinery, tools, parts, and supplies moving in connection with self-propelled articles, and (3) metal and metal articles, between points in MT, ND, SD, WY, ID, UT, CO, NE, MN, and IA. (Hearing site: Denver, CO, or Billings, MT.)

MC 114273 (Sub-517F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by home product distributors (except commodities in bulk, in tank vehicles), from the facilities of Stanley Home Products, at Easthampton, MA, to Dubuque, IA, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub-463F), filed December 13, 1978. Applicant: DART TRANSPORT COMPANY, a Corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) containers, plastic articles, and such commodities as are dealt in by office furniture and supply houses, (except commodities in bulk), and (2) materials, equipment, and supplies used in the manufacture and distribution of the

commodities in (1) above, (except commodities in bulk), between the facilities of Liberty Shamrock, Inc., at (a) Woodbridge, NJ, (b) Chicago, IL, (c) Minneapolis, MN, and (d) Gardena, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 114457 (Sub-467F), filed December 26, 1978. Applicant: DART TRANSPORT COMPANY, a Corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting wrapping paper, woodpulp board, and scrap paper, from West Point, VA, to points in CT, DE, IL, IN, MD, MA, MI, MN, NJ, NY, OH, PA, WV, and WI. (Hearing site: Richmond, VA, or St. Paul, MN.)

MC 114632 (Sub-196F), filed January 31, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting zinc, zinc oxide, zinc dust, cadmium, and materials used in the manufacture of zinc (except commodities in bulk), between the facilities of St. Joe Zinc Company, at Josephstown, Beaver County, Potter Township, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA, or Cleveland, OH.)

NOTE.—Dual operations are at issue in this proceeding.

MC 114632 (Sub-201F), filed January 18, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting printed matter, materials, equipment, and supplies used in the manufacture, sale, and distribution of printed matter (except commodities in bulk), between the facilities of Rand McNally and Company, at Chicago, Downers Grove, Naperville, and Skokie, IL, Hammond and Indianapolis, IN, Versailles and Lexington, KY, Taunton, MA, Ossinina, NY, and Nashville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 114632 (Sub-202F), filed February 6, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD

57042. Representative: David E. Peterson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting cheese, cheese products, equipment, materials, and supplies used in the manufacture of cheese, from points in WI and MN, to the facilities of L. D. Schreiber Cheese Co., at Logan, UT. (Hearing Site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 115162 (Sub-451F), filed January 26, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) iron and steel articles (except commodities in bulk, in tank vehicles); and (2) equipment, materials, and supplies used in the manufacture of iron and steel articles (except commodities in bulk, in tank vehicles), from the facilities of United States Steel Corporation, at McKeesport, McKees Rock, Clairton, Duquesne, Johnstown, Vandergrift, Homestead, Dravosburg, and Fairless, PA, and Lorain, Cleveland, and Youngstown, OH, to points in AL, AR, FL, GA, LA, MS, SC, and TX. (Hearing Site: Pittsburgh, PA, or Washington, DC.)

MC 115162 (Sub-456F), filed January 30, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) petroleum, petroleum products, vehicle body sealer, and sound deadener compounds, (except commodities in bulk, in tank vehicles), and filters, from the facilities of Quaker State Oil Refining Corporation, at points in Warren County, MS, to points in the United States (except AK and HI); and (2) petroleum, petroleum products, vehicle body sealer, sound deadener, compounds, filters, materials, supplies, and equipment as are used in the manufacture, sale, and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, at points in Warren County, MS, restricted in (1) and (2) to the transportation of traffic originating at or destined to the named facilities. (Hearing Site: Washington, DC.)

MC 115213 (Sub-6F), filed December 20, 1978. Applicant: ELLIOTT AND FIKES TRUCK LINE, INC., P.O. Box



8827, Pine Bluff, AR 71611. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing, roofing supplies, and roofing materials, and materials, equipment, and supplies* used in the manufacture of roofing (except commodities in bulk, in tank vehicles), (1) (a) from the facilities of Masonite Corporation, at Meridian, MS, to points in AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN, and VA, and (b) in the reverse direction, and (2) (a) from the facilities of Masonite Corporation, at Little Rock, AR, to points in AL, FL, GA, IL, IN, KY, IA, KS, LA, MS, MO, OK, TN, and TX, and (b) in the reverse direction. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 115762 (Sub-13F), filed January 11, 1979. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., Post Office Box 623, Hopkinsville, KY 42240. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *milk cartons and ice cream cartons*, from Sikeston, MO, to Oklahoma City, OK. (Hearing site: Oklahoma City, OK, or Hopkinsville, KY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 116763 (Sub-464F), filed January 4, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds and filters* (except commodities in bulk, in tank vehicles), from points in Warren County, MS, to those points in the United States in and east of MN, IA, MO, OK, and TX, and (2) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds, filters, and materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to points in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation at points in Warren County, MS. (Hearing site: Memphis, TN.)

MC 116915 (Sub-75F), filed January 15, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate Street, Kokomo, IN 46901. Rep-

resentative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe, plastic pipe fittings, and plastic building materials*, from the facilities of CertainTeed Corporation, at or near Eads, TN, to points in DE, IL, IN, IA, KS, KY, MD, MI, MO, NJ, NY, OH, PA, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the facilities named. (Hearing site: Pittsburgh, PA.)

MC 117574 (Sub-321F), filed November 15, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural, forestry, and nursery machinery, agricultural, forestry, and nursery equipment, and agricultural, forestry and nursery implements* (except machinery, hand equipment, and hand implements), from the facilities of R. A. Whitfield Manufacturing Co., at or near Mableton, GA, to points in the United States (except AK and HI). Common control may be involved. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 117574 (Sub-325F), filed December 6, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities* the transportation of which because of size or weight require the use of special equipment or handling, and (2) *iron and steel articles*, from the facilities of Rockcastle Steel Corporation, in Rockcastle County, KY, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of Rockcastle Steel Corporation. Common control may be involved. (Hearing site: Louisville, KY, or Washington, DC.)

MC 117574 (Sub-326F), filed December 7, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cranes, excavators, and self-propelled industrial and construction equipment*, between points in the United States (except AK and HI), restricted to the trans-

portation of traffic originating at or destined to the facilities of Markim Equipment Co. Common control may be involved. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 117574 (Sub-327F), filed December 7, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood, paneling, particle board, hardboard, gypsum board, composition board, and molding* from the facilities of Pan American Gyro-Tex Co., at Jacksonville and Jasper, FL, to those points in the United States in and east of KS, NE, ND, OK, SD, and TX, restricted to the transportation of traffic originating at the named origin facilities. Common control may be involved. (Hearing site: Jacksonville, FL, or Washington, DC.)

MC 117686 (Sub-232F), filed January 2, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of The Pillsbury Company and Fox DeLuxe Pizza Company, at or near Joplin, and Carthage, MO, to points in AZ, CA, CO, IA, MN, NE, NM, SD, TX, and UT, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 117686 (Sub-234F), filed January 5, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *toilet preparations*, and (2) *materials and supplies* used in the sale of toilet preparations, from the facilities of LaMaur, Inc., at Minneapolis, MN, to points in AZ, CA, ID, MT, NV, OR, UT, and WA. (Hearing site: Minneapolis, MN, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 117686 (Sub-236F), filed January 9, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser (same address as applicant). To operate as a *common*

carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products, and meat byproducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of Swift & Company, at or near Des Moines and Marshalltown, IA, to points in TX, (2) from the facilities of Hygrade Packing Company, at or near Storm Lake and Cherokee, IA, to points in TX, (3) from the facilities of Wilson Foods Corporation, at or near Des Moines and Cedar Rapids, IA, to points in TX, (4) from the facilities of John Morrell & Co., at or near Estherville, IA, and Sioux Falls, SD, to points in TX, (5) from the facilities of Farmland Foods, Inc., at or near Carroll, Denison and Iowa Falls, IA, to points in TX, (6) from the facilities of Armour & Company, at or near Mason City, IA, and Omaha, NE, to points in TX, and (7) from the facilities of Duquesne Packing Company, at or near Denison, IA, to points in TX. (Hearing site: Omaha, NE, or Minneapolis, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 118202 (Sub-103F), filed January 22, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Eugene Schultz (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, at points in Warren County, MS, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX; and (2) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, filters, materials, supplies, and equipment* as are used in the manufacture, sale, and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, at points in Warren County, MS, restricted in (1) and (2) to the transportation of traffic originating at or destined to the named facilities. (Hearing Site: Washington, D.C.)

MC 118202 (Sub-104F), filed January 22, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee 1000 First National

Bank Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cheese*, from points in WI, to points in TX; and (2) *canned goods*, from Cokato, Faribault, and Plainview, MN, to points in TX. (Hearing Site: Chicago, IL.)

MC 118537 (Sub-8F), filed December 28, 1978. Applicant: MARX TRUCK LINE, INC., 220 Lewis Blvd., Sioux City, IA 51101. Representative: Robert A. Wichser P.O. Box 417 Sioux City, IA 51102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from St. Louis, MO, to Sioux City, IA. (Hearing site: Omaha, NE, or Washington, D.C.)

NOTE.—Dual operations are involved in this proceeding.

MC 119493 (Sub-256F), Filed January 11, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed, fish feed, and corn products*, (except commodities in bulk), from Birmingham and Decatur, AL, to points in AR, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NC, OH, OK, SC, SD, TN, TX, VA, WV, and WI, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Birmingham, AL, or Little Rock, AR.)

MC 119741 (Sub-134F), filed January 10, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from St. James, MN, to points in CT, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the above-named origin and destined to the above-indicated destinations. (Hearing site: Minneapolis, MN.)

MC 119837 (Sub-14F), filed December 8, 1978. Applicant: OZARK MOTOR LINES, INC., 27 West Illinois, Memphis, TN 38106. Representative: Thomas A. Stroud 2008 Clark Tower, 5100 Poplar Ave. Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes,

transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between Memphis, TN and Portia, AR; from Memphis over Interstate Hwy 55 to junction U.S. Hwy 63, at or near Turrell, AR, then over U.S. Hwy 63 to Portia, and return over the same route, serving all intermediate points between Hoxie and Portia, AR, including Hoxie, (b) between Hoxie and Pochontas, AR, over U.S. Hwy 67, serving all intermediate points, and (c) serving Myrtle, MO, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Walnut Ridge, AR.)

MC 120364 (Sub-16F), filed December 12, 1978. Applicant: A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109. Representative: Robert M. Kaske (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles or of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Monroe and Brodhead, WI, on the one hand, and, on the other, Chicago, Des Plaines, Mt. Prospect, Arlington Heights, Elizabeth, Savanna, Mundelein, Round Lake, Woodbine, Apple River, Waukegan, Hanover, North Chicago, Galena, and Scales Mound, IL, and those points in that part of IL bounded by a line beginning at the WI-IL State line and extending along IL Hwy 78 to junction IL Hwy 88, then along IL Hwy 88 to junction IL Hwy 92, then along IL Hwy 92 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction IL Hwy 59, then along IL Hwy 59 to junction IL Hwy 83, then along IL Hwy 83 to the IL-WI State line. (Hearing site: Washington, DC, or Chicago, IL.)

MC 121664 (Sub-49F), filed December 6, 1978. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant 1702 First Avenue South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pallets and pallet components*, from Talladega, AL, to points in MS, TN, GA, OH, IN, IL, IA, MI, and KY. (Hearing site: Birmingham or Montgomery, AL.)

MC 123407 (Sub-514F), filed December 29, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso,



IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum board*, from Grand Rapids, MI, to points in IL, IN, and OH. (Hearing site: Grand Rapids, MI, or Chicago, IL.)

MC 123407 (Sub-515F), filed December 29, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wrought iron pipe*, from the facilities of Unarco-Leavitt, at Chicago, IL, to points in IA, KS, NE, OK, and TX. (Hearing site: Chicago, IL.)

MC 123872 (Sub-96F), filed January 9, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture and furniture parts*, from the facilities of Burlington Furniture, Division of Burlington Industries, Inc., at points in Davidson and Guilford Counties, NC, to points in CA, CO, NM, OK, and TX. (Hearing site: Charlotte, NC, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 123987 (Sub-13F), filed December 27, 1978. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: John C. Sims, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay and lignite coal*, (except commodities in bulk), from the facilities of American Colloid Co., in Big Horn, Weston, and Crook Counties, WY, Butte County, SD, and Phillips County, MT, to points in OK and TX; (2) *Lignite coal* (except in bulk), from points in Bowman County, ND, to points in OK and TX; and (3) *bentonite clay* (except in bulk), from the facilities of Southern Clay Products, at Gonzales, TX, to points in OK. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 124062 (Sub-16F), filed January 10, 1979. Applicant: FRICK TRANSPORT, INC., Wawaka, IN 46794. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign com-

merce, over irregular routes, transporting *liquid caustic soda*, in bulk, in tank vehicles, (1) from Burns Harbor, IN, to points in MI, IL, and OH, and (2) from Lemont, IL, to points in MI, OH, and IN. (Hearing site: Chicago, IL.)

MC 124062 (Sub-17F), filed February 1, 1979. Applicant: FRICK TRANSPORT, INC., Wawaka, IN 46794. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer mix*, in bulk, in tank vehicles, (1) from Yoder, IN, to points in MI and OH, and (2) from Lima, OH, to points in IN and MI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 124141 (Sub-10F), filed January 10, 1979. Applicant: JULIAN MARTIN, INC., P.O. BOX 3348, Batesville, AR 72501. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries, portable battery chargers, and lamp ballasts*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, from the facilities of General Electric Company, at or near Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren, and Youngstown, OH, Lexington, KY, Mattoon and Danville, IL, and St. Louis and Fenton, MO, to points in AZ, CA, CO, ID, LA, MT, NM, NV, OK, OR, UT, TX, WA, and WY. (Hearing site: Cleveland, OH, or Little Rock, AR.)

NOTE.—Dual operations are involved.

MC 124236 (Sub-92F), filed January 8, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Bldg., Dallas, TX 75201. Representative: Sam Hallman, 4555 First National Bank Bldg., Dallas, TX 75202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Pryor, OK, to points in Carter, Clay, Cole, Cooper, Dent, Maries, Moniteau, Osage, Phelps, Platte, Ray, Reynolds, Ripley, and Saline Counties, MO. (Hearing site: Dallas, TX, or Tulsa, OK.)

MC 124692 (Sub-267F), filed January 25, 1979. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular

routes, transporting *lumber and wood products*, from Kamas, UT, to points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, OH, OK, TN, TX, WV, and WI. (Hearing site: Salt Lake City, UT, or Albuquerque, NM.)

MC 126244 (Sub-5F), filed December 7, 1978. Applicant: ADAMS CARTAGE COMPANY, INC., P.O. Box 3043 Macon, GA 31205. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building board, wall board, insulating board, iron furring, and steel furring* and (2) *plastic panels* when moving in mixed loads with the commodities in (1)(a) above, (2) *materials and supplies* used in the installation of building board, wall board, and insulating board, and *lighting fixtures*, when moving in mixed loads with building board, wall board and insulating board, and (3) *new furniture and materials and supplies* used in the manufacture and furnishing of (a) buildings, (b) trailers designed to be drawn by passenger vehicles, and (c) campers, from points in Bibb County, GA, to points in NC and SC, under contract(s) with Armstrong Cork Company, of Lancaster, PA. (Hearing site: Atlanta, GA.)

MC 126582 (Sub-5F), filed January 22, 1979. Applicant: CANOVA MOVING & STORAGE, 1336 Woolner Ave., Fairfield, CA 94533. Representative: Jonathan M. Lindeke 100 Bush Street, 21st Floor, San Francisco, CA 94104. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Stanislaus, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo, Yuba, and Trinity Counties, CA. (Hearing site: San Francisco, CA.)

MC 126736 (Sub-109F), filed January 8, 1979. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier* by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum*, in bulk, from Brunswick, GA, and Jacksonville, FL, to points in AL, FL, GA, NC, and SC. (Hearing site: Jacksonville, FL.)

MC 126822 (Sub-54F), filed January 5, 1979. Applicant: WESTPORT TRUCKING COMPANY, a Corporation, 812 South Silver, Paola, KS 66071. Representative: Kenneth E. Smith, 15580 South 169 Highway, Olathe, KS 66061. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Malt beverages*, from Ft. Worth, TX, to Osawatomie, KS. (Hearing site: Kansas City, MO.)

MC 127042 (Sub-241F), filed January 23, 1979. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning compounds, scouring compounds, washing compounds, buffing compounds, toilet preparations, drugs and sodium hypochlorite solutions* (except commodities in bulk), from Kankakee, IL, to points in CA, CO, IA, KS, MN, MO, MT, NE, UT, and WA. (Hearing site: Chicago, IL.)

MC 128951 (Sub-23F), filed January 11, 1979. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 100 North Front St. New Ulm, MN 56073. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, grain, soybean products, seed by-products, soybean by-products, and seed products*, (except commodities in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company, at or near Red Wing, MN, to points in CO, KS, NE, MO, SD, ND, IA, WI, and IL. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations are involved.

MC 129702 (Sub-5F), filed January 22, 1979. Applicant: CARPET TRANSPORT, INC., Route 5, Lovers Lane Road, Calhoun, GA 30701. Representative: Archie B. Culbreth Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet, carpeting, and rugs*, (1) between points in Murray, Gilmer and Gwinnett Counties, GA, on the one hand, and, on the other, points in Brevard, Broward, Dade, Orange, Palm Beach, and Polk Counties, FL, and (2) from points in

Brevard, Broward, Dade, Orange, Palm Beach, and Polk Counties, FL, to points in Troup, Muscogee, Fulton, Dekalb, Bartow, Floyd, Gordon, Whitfield, Catoosa, Carroll, and Walker Counties, GA, and Hamilton County, TN. (Hearing site: Atlanta, GA.)

MC 129702 (Sub-6F), filed January 26, 1979. Applicant: CARPET TRANSPORT, INC., Route 5, Lovers Lane Road, Calhoun, GA 30701. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk, in tank vehicles), in insulated or mechanical refrigerated equipment, from the facilities of Kraft, Inc., at or near Lakeland, FL to points in AL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 129809 (Sub-13F), filed October 2, 1978, previously published in the FR issues of November 2, 1978 and January 16, 1979. Applicant: A & H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, One World Trade Center—Suite 4959, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Universal Foods Corporation, (1) at or near Franklin Park, IL and Peru, IN, to points in CT, MD, MA, NJ, NY, PA, RI, and DC, and (2) in WI, to points in MD and DC, under contract in (1) and (2) above, with Universal Foods Corporation, of Milwaukee, WI. (Hearing site: Milwaukee, WI, or New York, NY.)

NOTE.—Dual operations are at issue in this proceeding. This republication shows the origin in part (2) above.

MC 129994 (Sub-32F), filed December 13, 1978. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, UT 84107. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from points in CO, to points in AZ, CA, ID, NV, NM, and UT. (Hearing site: Salt Lake City, or Denver, CO.)

MC 135043 (Sub-1F), filed January 12, 1979. Applicant: WARNER TRANSPORTATION COMPANY, a corporation, Suite 132, 111 Presidential Blvd., Bala Cynwyd, PA 19004. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Blvd.,

McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *slag, sand, and gravel*, from the facilities of Warner Company, at Falls Township, PA, to points in DE, MD, NJ, and NY, (2) *stone and stone products*, from the facilities of The John T. Dyer Quarry Co., a subsidiary of Warner Company, at or near Birdsboro, PA, to points in DE, MD, and NJ, and (3) *sand and gravel*, from the facilities of New Jersey Silica Sand Company, a subsidiary of Warner Company, at Millville, NJ, to points in MD, DE, and PA. (Hearing site: Washington, DC.)

MC 135052 (Sub-15F), filed January 15, 1979. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kitchen cabinets, vanities and accessories* for kitchen cabinets and vanities, from Shelbyville, IN, to points in AR, CT, DE, IA, IL, IN, KS, KY, MA, MD, MI, MN, MO, ND, NE, NJ, OH, OK, PA, SD, TN, VA, WI, WV, and DC. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 135152 (Sub-31F), filed February 2, 1979. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 2, P.O. Box No. 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, OH 45202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dried apples*, in boxes, from Wenatchee, WA, to points in IL, OH, PA, NJ, and RI. (Hearing site: Washington, DC.)

Dual operations may be involved.

MC 135797 (Sub-171F), filed December 26, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in AR, NM, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 136343 (Sub-156F), filed January 2, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative:



George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail and department stores (except foodstuffs and commodities in bulk), from those points in NJ on and north of NJ Hwy 33, points in NY on and south of Interstate Hwy 84, and Wilton, CT, to Cleveland and Columbus, OH, and Wauwatosa, WI, restricted to the transportation of traffic originating at the above origins and destined to the named points. (Hearing site: New York, NY, or Washington, DC.)

MC 136774 (Sub-11F), filed November 28, 1978. Applicant: Mc-Mor-Han Trucking Co., Inc., Shullsburg, WI 53586. Representative: Carl L. Steiner, 39 S. La Salle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid corn products*, in bulk, in tank vehicles, from Clinton, IA, to points in the United States, restricted to the transportation of traffic originating at the facilities of Clinton Corn Processing Company, at Clinton, IA. (Hearing site: Chicago, IL, or Des Moines, IA.)

NOTE.—Dual operations are involved in this proceeding.

MC 138076 (Sub-10F), filed January 5, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Bldg. 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salvage electrical substations, salvage distribution transformers and salvage electrical wire*, from points in AZ, AR, CO, IL, IN, IA, LA, MO, NE, ND, NM, OK, SD, TX, and WY, to points in Dickinson and Saline Counties, KS. (Hearing site: Kansas City, MO.)

MC 138627 (Sub-50F), filed December 29, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Gerald, MO, to points in AR, IL, IN, IA, KS, KY, MN, NE, ND, OK, SD, TN, and WI. (Hearing site: Omaha, NE.)

MC 138777 (Sub-8F), filed December 27, 1978. Applicant: FETZ INCORPORATED, P.O. Box 47685, Doraville, GA 30340. Representative: Frank D.

Hall, Suite 713, 3384 Peachtree Road, NE Atlanta, Ga 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *resin solutions*, in bulk, in tank vehicles, between the facilities of Cargill, Inc., at or near Forest Park, GA, on the one hand, and, on the other, points in AL, FL, LA, MD, MS, NJ, NC, PA, SC, TN, TX, and VA. (Hearing site: Atlanta, GA.)

MC 138826 (Sub-4F), filed November 9, 1978. Applicant: JERALD HEDRICK, d.b.a., HEDRICK & SON TRUCKING, RR #1, Warren, IN 46792. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides, pesticides, livestock and poultry feeders and equipment, and advertising materials* for such commodities, (except liquid commodities in bulk), from the facilities of Moorman Manufacturing Co., at or near Bluffton, IN, to points in AL, DE, FL, GA, IL, KY, MD, MI, MS, NC, NY, OH, PA, SC, TN, VA, WI, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except liquid commodities in bulk), in the reverse direction, under contract with Mooreman Manufacturing Co., of Quincy, IL. (Hearing site: None specified.)

MC 138882 (Sub-204F), filed January 19, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coke*, in dump vehicles, from Tuscaloosa and Birmingham, AL, to the facilities of Refined Metals, Inc. and Ross Metals, Inc., at or near Memphis and Rossville, TN, and Jacksonville, FL; and (2) *lead slag*, in bulk, from the facilities of Refined Metals, Inc. and Ross Metals, Inc., at or near Memphis, TN, to Jacksonville, FL, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Memphis, TN, or Jacksonville, FL.)

MC 138882 (Sub-205F), filed January 19, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *charcoal, charcoal briquets, hickory chips, vermiculite, charcoal lighter fluid, saw-dust fireplace logs, and barbecue items*; and (2) *materials, equipment, and supplies* used in the distribution of the commodities named in (1) above, (except commodities in bulk), (a) from the facilities of Husky Industries, Inc., at Branson, MO, to points in AL, AZ, AR, CA, CT, DE, GA, ID, IL, IN, IA, KS, KY, FL, LA, ME, MO, MA, MI, MN, MS, MT, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, UT, VA, WA, WV, WI, and WY, (b) from the facilities of Husky Industries, Inc., at Pachuta, MS, to points in AL, FL, GA, LA, NC, SC, and TN, (c) from the facilities of Husky Industries, Inc., at Dickinson, ND, to points in AZ, CA, CO, ID, MT, NE, NM, NV, OK, OR, TX, UT, WA, and WY, (d) from the facilities of Husky Industries, Inc., at Scotia, NY, to points in CT, ME, MA, MD, NH, NY, PA, RI, VT, and WV, and (e) from the facilities of Husky Industries, Inc., at White City, OR, to points in AZ, CA, CO, ID, MT, NV, UT, WA, and WY. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 138882 (Sub-212F), filed January 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *unfrozen foodstuffs* (1) from the facilities of Ragu Foods, Inc., at Los Angeles and Merced, CA, to points in CO, AZ, WY, WA, TX, NM, OR, UT, NV, and MT, and (2) between the facilities of Ragu Foods, Inc., at Los Angeles and Merced, CA, Owensboro and Henderson, KY, and Rochester, NY. (Hearing site: Greenwich, CT, or Washington, DC.)

MC 138882 (Sub-218F), filed January 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, between the facilities of Union Camp Corporation, at or near Tifton and Savannah, GA, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Montgomery, AL.)

MC 138882 (Sub-219F), filed January 29, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address

as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ammunition, moulding, stampings, machinery, and materials, equipment, and supplies* used in the manufacture and sale of ammunition, moulding, stampings, and machinery, (except commodities in bulk), between Cullman, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham or Montgomery, AL.)

MC 139023 (Sub-8F), filed January 5, 1979. Applicant: 2-G TRANSPORTATION, INC., 12589 Rhode Island Avenue South, Savage, MN 55378. Representative: Wayne W. Wilson 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, and container ends, and (2) materials, equipment, and supplies* used in the manufacture and distribution of containers and container ends, (except commodities in bulk, in tank vehicles), between the facilities of Midland Glass Company, Inc., at points in AR, CO, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, and SD, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Madison, WI, or St. Paul, MN.)

MC 139206 (Sub-55F), filed January 5, 1979. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Richard C. Mitchell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dairy substitutes*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of dairy substitutes, between the facilities of Dairy Substitutes, Inc., at St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Dairy Substitutes, Inc., of St. Louis, MO. (Hearing site: St. Louis or Jefferson City, MO.)

NOTE.—Dual operations are involved in this proceeding.

MC 139482 (Sub-84F), filed December 21, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Hershey Chocolate Co., and H. B. Reese Co., in

Derry Township, Dauphin County, PA, and Y & S Candies, Inc., in East Hempfield Township, Lancaster County, PA, to points in MI. (Hearing site: St. Paul, MN.)

MC 139482 (Sub-85F), filed December 21, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter and advertising materials*, from the facilities of Haas Corporation, at or near Sleepy Eye, MN, to points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

MC 139482 (Sub-86F), filed January 17, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives and commodities in bulk), from New York, NY, and North Bergen, NJ, to the facilities of Allied Stores Marketing Corporation, at Dallas, Houston, and San Antonio, TX, Miami and Tampa, FL, Memphis and Nashville, TN, Minneapolis, MN, and Indianapolis, IN. (Hearing site: New York, NY.)

MC 140033 (Sub-79F), filed January 12, 1979. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, in vehicles equipped with mechanical refrigeration, (except in bulk), and (2) *restaurant furniture, restaurant fixtures, and restaurant supplies* moving in mixed loads with the commodities named in (1) above, from Dallas, TX, to Atlanta, GA. (Hearing site: Dallas, TX.)

NOTE.—Dual Operations may be involved.

MC 140273 (Sub-12F), filed January 12, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356. Representative: Val M. Higgins, 100 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand*, from points in LeSueur County, MN, to points in ND, SD, NE, IA, and WI. (Hearing site: Minneapolis, MN.)

MC 140587 (Sub-9F), filed December 28, 1978. Applicant: CECIL CLAXTON, Box 7, Route 3, Wrightsville, GA 31098. Representative: Ronald K. Kolins, 1055 Thomas Jefferson Street, NW., Washington, DC 20007. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *newsprint paper*, from points in Laurens County, GA, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV; and (2) *waste newspaper, cores, and materials, equipment, and supplies* used in the manufacture of newsprint paper, in the reverse direction. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 141252 (Sub-4F), filed January 22, 1979. Applicant: PAN WESTERN CORPORATION, 4105 Las Lomas Avenue, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rolled steel*, in coils, (a) from the facilities of Kaiser Steel, at Montebello and Fontana, CA, to Henderson, NV, and (b) from Los Angeles and Long Beach Harbor, CA, to Henderson, NV, (2) *precut steel plates*, from the facilities of Kaiser Steel, at Montebello, CA, and the facilities of National Steel, at Torrance, CA, to Henderson, NV, and (3) *frit*, from the facilities of Ferro Corp., at Los Angeles, CA, to Henderson, NV. (Hearing site: Las Vegas, NV.)

MC 141362 (Sub-12F), filed January 22, 1979. Applicant: SOUTHWEST BULK TRANSPORT, 1046-C Commerce Street, San Marcos, CA 92069. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dry feed supplements*, when moving in mixed loads with dry feed supplements, in bulk, from points in Orange County, CA, to points in Pima County, AZ; and (2) *dry feed supplements*, from points in Orange County, CA, to points in Cochise County, AZ. (Hearing site: Los Angeles, CA.)

MC 141402 (Sub-24F), filed February 5, 1979. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic bottles*, from the facilities of Alm Packaging, Inc., at or near Port Clinton, OH, to points in



TN, PA, NY, WV, IA, and MI; and (2) *material, equipment, and supplies* used in the manufacture, sale and distribution of plastic bottles, (except commodities in bulk), from points in TN, PA, NY, WV, IA, and MI, to the facilities of Aim Packaging, Inc., at or near Port Clinton, OH, under contract with Aim Packaging, Inc., of Port Clinton, OH. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 141622 (Sub-5F), filed January 12, 1979. Applicant: H&W CARRIERS, INC., Box 73 Camargo, IL 61919. Representative: Robert T. Lawley, 300 Reich Bldg. Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between points in IA, IL, IN, KY, MD, MI, MN, MT, MO, NJ, NY, ND, OH, PA, SD, VA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., under contract with Kraft, Inc., of Chicago, IL. (Hearing site: St. Louis, MO.)

Note.—Dual operations are at issue in this proceeding.

MC 141652 (Sub-30F), filed February 1, 1979. Applicant: ZIP TRUCKING, INC., Post Office Box 5717, Jackson, MS 39208. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from the facilities of Automotive Service Consolidating Association, at or near Paterson, NJ, to Atlanta, GA, Nashville, TN, Los Angeles and San Francisco, CA, Montgomery, AL, and Houston, TX, (2) from the facilities of Automotive Service Consolidating Association, at or near Houston, TX, to Nashville, TN, Atlanta, GA, and Paterson, NJ, (3) from the facilities of Automotive Service Consolidating Association, at or near Nashville, TN, to Chicago, IL, (4) from the facilities of Automotive Service Consolidating Association, at or near Chicago, IL to Paterson, NJ, and (5) from the facilities of Automotive Service Consolidating Association, at or near Los Angeles and San Francisco, CA, to New Orleans, LA, Birmingham, AL, Jacksonville, Miami, and Tampa, FL, Atlanta, GA, and Jackson, MS. (Hearing site: New York, NY, or Washington, DC.)

MC 142082 (Sub-4F), filed January 26, 1979. Applicant: OLIVER BROWN TRUCKING CO., INC., 700 South Avenue, Middlesex, NJ 08846. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic materials, expanded foam, sheeting, plasticizers, resins, stearates, lubricants, paints, solvents, drying agents, acids, and chemicals* (except commodities in bulk), from the facilities of Tenneco Chemicals, Inc., at or near Bound Brook, Nixon, East Rutherford, Carlstadt, Piscataway, Burlington, Flemington, Fords, Garfield, Elizabeth, and Rockaway, NJ, Newton Upper Falls, MA, Chestertown, MD, and Hazleton, PA, to points in AL, AR, DE, FL, GA, LA, MD, MS, NC, SC, TN, TX, VA, and WV; (2) *equipment, materials, and supplies* used in the manufacture, packaging, and distribution of the commodities named in (1) above (except commodities in bulk), from points in AL, AR, DE, FL, GA, LA, MD, MS, NC, SC, TN, TX, VA, and WV, to the facilities of Tenneco Chemicals, Inc., at or near Bound Brook, Nixon, East Rutherford, Carlstadt, Piscataway, Burlington, Flemington, Fords, Garfield, Elizabeth, and Rockaway, NJ, Newton Upper Falls, MA, Chestertown, MD, and Hazleton, PA; (3) *lubricants and plasticizers* (except commodities in bulk), from the facilities of Tenneco Chemicals, Inc., at or near Chestertown, MD, to points in CT, DE, MA, MD, NJ, NY, PA, and WV; (4) *plastic materials, chemicals, and resins*, (except commodities in bulk), from the facilities of Tenneco Chemicals, Inc., at or near Houston, TX, to points in AL, CT, DE, FL, GA, MA, MD, NC, NJ, NY, PA, SC, TN, VA, and WV; and (5) *equipment, material, and supplies* used in the manufacture, packaging, and distribution of the commodities named in (4) above (except commodities in bulk), from points in AL, CT, DE, FL, GA, MA, MD, NC, NJ, NY, PA, SC, TN, VA, and WV, to the facilities of Tenneco Chemicals, Inc., at or near Houston, TX, under contract with Tenneco Chemicals, Inc., of Piscataway, NJ. (Hearing site: New York, NY.)

MC 142207 (Sub-23F), filed December 28, 1978. Applicant: BRANNAN SYSTEMS, INC., An Alabama Corporation, P.O. Box 29287, New Orleans, LA 70189. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition boards*, from the facilities of

United States Gypsum Company, at Greenville, MS, to points in AR, LA, KS, OK, and TX. (Hearing site: New Orleans, LA.)

MC 142484 (Sub-4F), filed November 22, 1978. Applicant: STRINGFELLOW TRANSPORTATION COMPANY, INC., 724 3rd Avenue North, Birmingham, AL 35203. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fillings and plastic pipe*, from Henderson, KY, to points in IL, IN, MI, and OH, under contract with Cresline Plastic Pipe Co. of Henderson, KY. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 142672 (Sub-47F), filed January 26, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured, processed, or dealt in by manufacturers of glass and glass products, between the facilities of Anchor Hocking Corporation, at points in IN, OH, PA, and WV, on the one hand, and, on the other, points in AR, AZ, CA, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY. (Hearing site: Columbus, OH, or Tulsa, OK.)

Note: Dual operations are at issue in this proceeding.

MC 142672 (Sub-48F), filed January 23, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical appliances, equipment, and parts*, as defined by the Commission in Appendix VII to the report in *Descriptions: Motor Carrier Certificates*, 61 M.C.C. 209, 283, and (2) *materials* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from the facilities of Gibson-Metalux Corporation, at or near Americus, GA, to points in AL, AR, CO, CT, DE, IA, IL, IN, KS, KY, MA, MD, MI, MN, MS, MO, MT, NC, NE, ND, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, VA, VT, WI, WV, WY, and DC. (Hearing site: Atlanta, GA, or Little Rock, AR.)

Note: Dual operations are at issue in this proceeding.

MC 142743 (Sub-7F), filed January 5, 1979. Applicant: FAST FREIGHT SYSTEMS, INC., P.O. Box 132C,

Tupelo, MS 38801. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *construction materials*, from Camden, AR, Charleston, IL, Elizabethtown, KY, Lagro, IN, Lockland, OH, Marrero, LA, and Paris, TN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (1)(b) *equipment, materials, and supplies* used in the manufacture, installation, and distribution of construction materials, in the reverse direction; (2)(a) *construction materials and composition board*, from Marion, SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2)(b) *equipment, materials, and supplies* used in the manufacture, installation, and distribution, of construction materials, and composition board, from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to Marion, SC. (3)(a) *construction materials*, from Fairfield, AL, to points in FL, GA, KY, NC, SC, and TN, and (3)(b) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of construction materials, in the reverse direction, and (4) *perlite board*, from the facilities of Johns-Manville Corp., at Natchez, MS, to the facilities of The Celotex Corp., at Elizabethtown, KY. (Hearing site: Washington, DC or Atlanta, GA.)

MC 143276 (Sub-9F), filed December 4, 1978. Applicant: WEAVER TRANSPORTATION COMPANY, a Corporation, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., P.O. Box 32309, Decatur, GA 30032. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mortar mixes, cement mixes, dry concrete mix, cement mortar mix, asphalt cold mix, sand, rock, stone, tile grout, concrete patcher, lime adhesive, liquid asphalt sealer, and paper bags*, in containers, from the facilities of W. R. Bonsal Company, at Conley, GA, and from the facilities of The Quikrete Companies, at Lithonia, GA, to points in AL, TN, and SC. (Hearing site: Atlanta, GA.)

Note: Dual operations are involved in this proceeding.

MC 143277 (Sub-3F), filed December 11, 1978. Applicant: PRINTERS EXPRESS, INC., One Hackensack Ave., South Kearny, NJ 07032. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over ir-

regular routes, transporting (1) *printed matter, magazines, periodicals, records, advertising media, educational materials, and educational film strips*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (a) from Chicago, IL, Versailles, KY, Cambridge, MD, Plympton, Lowell, and Boston, MA, St. Cloud, MN, Concord, NH, Buffalo, NY, Dayton and Canton, OH, Dresden, TN, Brattleboro, VT, Menasha, Madison, Milwaukee, Berlin, and Wisconsin Rapids, WI, points in NJ, and those in Nassau and Suffolk Counties, NY, to Pleasanton, CA, St. Louis and Jefferson City, MO, and New York, NY, (b) between St. Louis and Jefferson City, MO, Pleasanton, CA, and New York, NY, and (c) from New York, to Versailles, KY, under contract in (1) and (2) above with Scholastic Magazine, Inc., of New York, NY. (Hearing site: Newark, NJ.)

MC 143552 (Sub-9F), filed February 1, 1979. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield St., Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Marseilles, IL, to Beacon, NY, under contract with Nabisco, Inc., of East Hanover, NJ. (Hearing site: New York, NY, or Washington, DC.)

MC 144122 (Sub-39F), filed January 30, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hospital supplies and drugs*, from North Chicago, IL, to points in MD, DE, PA, NJ, NY, CT, MA, RI, OH, TX, CA, WA, OR, ID, NV, and AZ; and (2) *materials, supplies, and equipment* used in the manufacture and sale of the commodities named in (1) above, from Points in AZ, NV, ID, OR, WA, CA, TX, OH, RI, MA, CT, NY, NJ, PA, DE, and MD, to North Chicago, IL. (Hearing site: Chicago, IL.)

Note: Dual operations are at issue in this proceeding.

MC 144645 (Sub-3F), filed February 6, 1979. Applicant: ROBERT C. HANSEN, d.b.a. ROBERT HANSEN TRUCKING, Route 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, Suite 412, Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *paint and varnish*, (except in bulk), from the facilities of Premier Paint & Varnish Co., Inc., at Elk Grove Village, IL, to points in IN, IA, MI, MN, MO, NE, OH, and WI, under contract with Premier Paint & Varnish Co., Inc., of Elk Grove Village, IL. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 144672 (Sub-7F), filed January 29, 1979. Applicant: VICTORY EXPRESS, INC., Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground clay and absorbents*, from the facilities of Waverly Mineral Products Company, at points in Thomas County, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Dayton, OH.)

Note: Dual operations are at issue in this proceeding.

MC 144864 (Sub-1F), filed December 4, 1978. Applicant: PERRY STEEL TRANSPORT, INC., 3687 Shepherd Road, Perry, OH 44081. Representative: Frank Colb, 1234 Standard Building, Cleveland, OH 44113. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between points in Monroe, Lenawee, Hillsdale, Wayne, Washtenaw, Jackson, Calhoun, Kalamazoo, Macomb, Oakland, Livingston, Ingham, Eaton, Barry, Allegan, St. Clair, Lapeer, Genesee, Shiawassee, Clinton, Ionia, Kent, Saginaw, Gratiot, Bay Midland, Lyscom, Isabella, Arenac, Gladwin, and Clare Counties, MI, Oswego, Niagara, Orleans, Monroe, Wayne, Cayuga, Onondaga, Erie, Genesee, Wyoming, Livingston, Ontario, Seneca, Cortland, Allegany, Steuben, Chemung, Tioga, and Broome Counties, NY, Erie, Crawford, Mercer, Venango, Clairon, Jefferson, Clearfield, Clinton, Centre, Union, Lawrence, Butler, Armstrong, Indiana, Cambria, Blair, Huntingdon, Mifflin, Snyder, Northumberland, Juniata, Perry, Dauphin, York, Lebanon, Berks, Beaver, Washington, Allegheny, Westmoreland, Somerset, Bedford, Fulton, Franklin, Cumberland, Adams, and Lancaster Counties, PA, and OH. (Hearing site: Cleveland, OH.)

MC 145132 (Sub-2F), filed January 22, 1979. Applicant: K. C. SALLEY VAN & STORAGE COMPANY, a Corporation, 1301 Falfurrias Hwy, Alice, TX 78332. Representative: Stanley Laskowski, Sr., 1104 Madison Drive, Alice, TX 78332. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used household goods*, between points in



Kleberg and Brooks Counties, TX. (Hearing site: Corpus Christi or San Antonio, TX.)

MC 145152 (Sub-31F), filed January 22, 1979. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) electrical appliances, equipment, and parts, as defined by the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 283, Appendix VII, and materials used in the manufacture of electrical appliances, equipment, and parts, (except commodities in bulk), from the facilities of Gibson-Metalux Corporation, at or near Americus, GA, to points in AL, AR, AZ, CA, CO, FL, ID, NM, NV, OR, UT, and WA; and (2) materials, equipment, and supplies used in the manufacture of the commodities named in (1) above, from points in CA, IL, MI, MS, NC, NY, OH, OR, TX, and WA, to the facilities of Gibson-Metalux Corporation, at or near Americus, GA. (Hearing site: Atlanta, GA, or Fayetteville, AR.)

MC 145152 (Sub-35F), filed January 29, 1979. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) rubber and plastic articles; and (2) equipment, materials, and supplies used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Entek Corporation, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Dallas, TX, or Fayetteville, AR.)

MC 145242 (Sub-6F), filed January 22, 1979. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) pipe, fittings, valves, hydrants, and castings; and (2) materials and supplies used in the installation of the commodities named in (1) above, from the facilities of Clow Corporation, at or near Birmingham, AL, and points in Talladega County, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing Site: Columbus, OH.)

MC 145246 (Sub-1F), filed January 8, 1979. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main St., Madison, WI 53703. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting rough castings, from Waupaca, WI, to points in MI, IA, IL, IN, and MN. NOTE: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Madison, WI, or Chicago, IL.)

MC 145372 (Sub-2F), filed December 15, 1978. Applicant: E. Z. TRAIL, INC., Route 133, East, Arthur, IL 61911. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) brooms, from Arcola, IL, to points in AR, CA, GA, IN, KY, KS, MD, MO, MA, MI, MN, NJ, NY, NV, NC, OH, OR, OK, PA, SC, TX, VA, WV, and WI; and (2) supplies used in the manufacture of brooms, from points in KS, LA, NY, OR, TX, and VT, to Arcola, IL, under contract with Libman Broom Company, Inc., of Arcola, IL. (Hearing site: St. Louis, MO.)

MC 145454 (Sub-1F), filed December 7, 1978. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 2154 Green Valley Drive, Crown Point, IN 46307. Representative: Anthony E. Young, 29 S. LaSalle St., Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by mail order houses and retail department stores, from points in GA, NC, SC, TN, and VA, to Chicago, IL, restricted to the transportation of traffic destined to the facilities of Aldens, Inc. (Hearing site: Chicago, IL.)

MC 145516 (Sub-3F), filed January 7, 1979. Applicant: T. G. STEGALL TRUCKING CO., INC., 6333 Idlewild Road, Charlotte, NC 28212. Representative: Triston G. Stegall, Jr. (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting confectionery, in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, Division of Mars, Inc., at Elizabethtown, PA, Hacketts-town and Elizabeth, NJ, to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, TX, and VA, restricted to the trans-

portation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 145641 (Sub-1F), filed January 12, 1979. Applicant: DILIDO TRANSPORTATION CO., INC., 501-551 West 30th Street, New York, NY 10001. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) iron and steel articles; and aluminum articles; and (2) materials, equipment and supplies used in the manufacture, sale, distribution, or transportation of the commodities in (1) above (except commodities in bulk), between Buffalo, NY and Chicago, IL, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Metal Purchasing Co., Inc., of New York, NY. (Hearing site: New York, NY.)

MC 145723 (Sub-1F), filed January 12, 1979. Applicant: H & M TRUCKING, INC., Box 173, Clinton, IL 61727. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) soybean meal and soybean flakes, in bulk, from Bloomington, IL, to Montgomery, AL, Gainesville, Macon and Union City, GA, Evansville, LaFayette, Milford, and Richmond, IN, Louisville, KY, Lansing, MI, Jackson, MS, Charlotte, NC, Cincinnati and Circleville, OH, and Memphis and Nashville, TN, under contract with Ralston Purina Company, of St. Louis, MO, and (2) meat, bone meal, meat scraps, and blood meal, from points in CO, IL, IA, IN, KY, KS, MI, MO, MN, NE, ND, OK, SD, TX, and WI, to points in AR, IL, IN, IA, LA, MO, MS, and OK, under contract with Agri-Trading Corporation, of Hutchinson, MN. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 145737 (Sub-2F), filed December 26, 1978. Applicant: HEUERTZ TRUCKING, INC., 425 1st St. NW., LeMars, IA 51031. Representative: D. Douglas Titus, Suite 510 Benson Bldg., Sioux City, IA 51101. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) meats, meat byproducts and meat products and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (2) materials, equipment and supplies used in the conduct of business

by meat packinghouses and hide companies, between LeMars, IA, on the one hand, and, on the other, points in CO, CT, IA, IL, IN, KS, MA, MI, MN, MO, NE, ND, NJ, NY, OH, OK, PA, SD, TX, and WI, under contract with Dubuque Packing Company, of LeMars, IA. (Hearing site: Sioux City, IA, or Omaha, NE.)

MC 145906 (Sub-1F), filed January 7, 1979. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Santa Fe Pike, Columbia, TN 38401. Representative: Edward C. Blank, II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, TN 38401. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting aluminum, aluminum scrap, aluminum dross, aluminum oxide fines, and aluminum secondary ingots, between points in AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, NC, NJ, OH, OK, PA, SC, TN, TX, VA, and WV. (Hearing site: Nashville or Columbia, TN.)

NOTE: Dual operations are involved in this proceeding.

MC 146232, filed January 17, 1979. Applicant: NOLL TRANSPORTATION, INC., 4259 East 49th Street, Cleveland, OH 44125. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities except those articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Cleveland and Wadsworth, OH, Linesville, PA, and Butler, KY, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Cardinal American Corporation, of Cleveland, OH, Butler Products, Inc., of Butler, KY, The National Metal Abrasive Company, of Wadsworth, OH, and Production Experts, Inc., of Cleveland, OH, restricted to the transportation of traffic originating at or destined to the facilities of Cardinal American Corporation. (Hearing site: Columbus, OH, or Washington, DC.)

MC 146242F, filed January 23, 1979. Applicant: D. J. MOTOR EXPRESS, INC., P.O. Box 566, Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) conveying and feeding equipment, machinery, frame-

work, and parts for conveying and feeding equipment; and (2) materials and equipment used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Litton Unit Handling Systems, Division of Litton Industries, Inc., at Florence, KY, and the facilities of Kershner's Inc., at Jeffersonville, IN, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Litton Unit Handling Systems, Division of Litton Industries, Inc., of Florence, KY, and Kershner's Inc., of Jeffersonville, IN. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 12856 (Sub-1F), filed January 3, 1979. Applicant: COLONY TOURS, INC., 202 E. Center St., Manchester, CT 06040. Representative: Hugh M. Joseloff, 80 State St., Hartford, CT 06103. To engage in operations, in interstate or foreign commerce, as a broker, at West Hartford and Manchester, CT, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations, beginning and ending at points in CT and extending to points in the United States (including AK and HI). Condition: Prior or coincidental cancellation, at applicant's written request of its license in MC 12856, issued February 26, 1971. (Hearing site: Hartford, CT.)

MC 13055 2F, filed January 31, 1979. Applicant: J. L. BRANDEIS & SONS, INC., 200 South 16th Street, Omaha, NE 68102. Representative: Frank M. Schepers, The Omaha Building, 1650 Farnam Street, Omaha, NE 68102. To engage in operations, in interstate or foreign commerce, as a broker, at points in IA and NE, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in IA and NE, and extending to points in the United States (except AK and HI). (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 14625 2F, filed January 25, 1979. Applicant: MUSKINGUM MOTOR CLUB SERVICES CORPORATION, 1120 Maple Avenue, Zanesville, OH 43701. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting passengers and their baggage in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Muskingum County, OH, and extending to points in the United States (including AK,

excluding HI), under contract with the Muskingum Motor Club Company, doing business as, The AAA Muskingum Motor Club, of Zanesville, OH. (Hearing site: Columbus, OH.)

[FR Doc. 79-8552 Filed 3-21-79; 8:45 am]

[1505-01-M]

[Notice No. 25]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

##### Correction

In FR Doc. 79-5535 appearing at page 10808 in the issue for Friday, February 23, 1979, on page 10816 in the third column in the paragraph beginning "MC 146152 (Sub-1TA)" in the ninth line the State abbreviation "MN" should read "NM".

[1505-01-M]

[Notice No. 20]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

##### Correction

In FR Doc. 79-4638 appearing at page 8957 in the issue for Monday, February 12, 1979, on page 8964 the paragraph beginning "MC14596TA" should read "MC 145965TA".

[7035-01-M]

[Notice No. 50]

#### ASSIGNMENT OF HEARINGS

MARCH 19, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107515 (Sub-1174F), Refrigerated Transport Co., Inc., now assigned for hearing on April 18, 1979, at Atlanta, Georgia and will be held in Room 305, 1252 Peachtree St., N.W.

MC 118159 (Sub-282F), National Refrigerate Transport, Inc., now assigned for hearing on April 23, 1979, at Atlanta, Georgia and will be held in Room 305, 1252 Peachtree St., N.W.

MC 124211 (Sub-336F), Hilt Truck Line, Inc., now assigned for hearing on April 17, 1979, at Atlanta, Georgia and will be held



in Room 305, 1252 West Peachtree Street, N.W.  
MC 114533 (Sub-371), Bankers Dispatch Corporation, now assigned for hearing on April 2, 1979, (5 days), at Topeka, Kansas is canceled and transferred to Modified Procedure.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8764 Filed 3-21-79; 8:45 am]

## [7035-01-M]

[Docket No. AB-167 (Sub-No. 3F)]

## CONSOLIDATED RAIL CORP.

## Abandonment Near Lawrenceburg and Aurora in Dearborn County, Ind., Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a Certificate and Decision decided February 26, 1979, a finding, which is administratively final, was made by the Commission. Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Consolidated Rail Corporation of a line of railroad known as the L&A Running Tract. The line extends from railroad milepost 26.0 near Lawrenceburg, to milepost 28.8 at the end of the track in Aurora, a distance of 2.8 miles, in Dearborn County, IN. A certificate of public convenience and necessity permitting abandonment was issued to the Consolidated Rail Corporation. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 6, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity au-

## NOTICES

thorizing abandonment shall become effective May 7, 1979.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8730 Filed 3-21-79; 8:45 am]

## [7035-01-M]

[Docket No. AB-3 (Sub-No. 17F)]

## MISSOURI PACIFIC RAILROAD CO.

## Abandonment Near Barton and Marvell in Phillips County, AR; Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a Certificate and Decision decided February 13, 1979, a finding, which is administratively final, was made by the Commission. Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Missouri Pacific Railroad Company of a line of railroad known as the Marvell Industrial Lead, extending from railroad milepost 12.4 near Barton, AR, to the end of the line a milepost 21.9 near Marvell, AR, a distance of 9.5 miles, in Phillips County, AR. A certificate of public convenience and necessity permitting abandonment was issued to the Missouri Pacific Railroad Company. Since the proceeding is now unopposed, the requirements of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 6, 1979. The offer, as filed, shall contain information required pursuant to §§ 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective May 7, 1979.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8727 Filed 3-21-79; 8:45 am]

## [7035-01-M]

## OFFICE OF PROCEEDINGS SUPPORT UNITS

## Reorganization

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the reorganization of the administrative and paralegal support units within the Office of Proceedings.

SUMMARY: The Commission is consolidating the Section of Case Control and Information and the Motor Carrier Board Support Units, which are currently located in the Office of Proceedings, into the new Section of Applications Evaluation and Authorities, which will also be located in that Office. This action is necessary due to the Commission's increasing case load and reductions in staff. The consolidation of these support units will result in improved and expedited case processing which will help insure that the Commission can keep abreast of its work load.

EFFECTIVE DATE: March 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Noreta R. McGee, Tel. (202) 275-7020.

SUPPLEMENTARY INFORMATION: The Commission is creating the Section of Applications Evaluation and Authorities to improve and expedite case processing. The new Section will be located in the Commission's Office of Proceedings and is the result of the reorganization of that Office's administrative and paralegal support units. The new Section will consist of a consolidation of the Section of Case Control and Information and Motor Carrier Board Support Units which are currently part of the Office of Proceedings. This action is necessary to insure that the Commission can keep abreast of its work load in light of its increasing case load and reductions in staff.

The new Section of Applications Evaluation and Authorities will be divided into seven teams, plus the Reference Services Branch. Each support team will be a homogeneous unit handling the necessary clerical and administrative functions from the time the case is filed until the final administrative action is taken. In addition, the Operating Rights Support Teams will handle both temporary authority and unopposed permanent authority applications.

There will be five Operating Rights Support Teams. All applications for permanent and temporary motor and water carrier, freight forwarder, and broker authority will be assigned to a team for processing. The case assignment will be determined by the last digit of applicant's docket number. As-

signments will be as follows: docket numbers ending in 0-1, Team 1, room 2160, telephone 275-7326; docket numbers ending in 2-3, Team 2, room 2379, telephone 275-7271; docket numbers ending in 4-5, Team 3, room 2158, telephone 275-7465; docket numbers ending in 6-7, Team 4, room 5331, telephone 275-7258; and docket numbers ending in 8-9, Team 5, room 2367, telephone 275-7249. Any inquiries concerning the procedural processing of the application, such as the date verified statements are due, the date a certificate is issued, the date petitions are due, the date a certificate is issued, the date temporary authority operations may commence, etc., should be directed to the appropriate Operating Rights Support Team.

If applicant's docket number is unknown, telephone 275-7020 for assistance. This number should also be used to determine the status to operating rights rulemakings and investigation or complaint proceedings (MCC's).

The Finance Support Team will be located in room 5349, telephone 275-7109 for rail and 275-7643 for motor. Status inquiries concerning motor and rail mergers, consolidations or control, rail abandonments, securities, train discontinuances, railroad reorganizations, trackage rights, interlocking directorates transfers of rights, and rulemakings on finance matters should be directed to that office.

The Rates Support Team will be located in room 5356, telephone 275-7049. Status inquiries concerning investigation and suspension of rates, formal complaints on rate matters, general rate increases, and rulemakings on rate matters should be directed to that office.

## NOTICES

There will be no change in the services presently provided by the Reference Services Branch, room 3376, telephone 275-7221.

Continued assistance to the public will also be available from the Special Assistant to the Director (ombudsman), room 2411, 275-7792, on both procedural and substantive questions up to the time the record is complete. After the record is complete, on permanent authority applications only, and the case is awaiting a decision, assistance may be obtained from the Office of the Section Chief, Section of Operating Rights, room 5310, 275-7108. On proceedings set for oral hearing, inquiries should be directed to the Office of Hearings, room 2115, telephone 275-7408.

Dated: March 19, 1979.

By the Commission.

H. G. HOMME, Jr.,

Secretary.

[FR Doc. 79-8729 Filed 3-21-79; 8:45 am]

## [7035-01-M]

[Docket No. AB-122]

## TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

## Abandonment of St. Louis Union Station, St. Louis, Mo; Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a Certificate and Decision decided January 31, 1979, a finding, which is administratively final, was made by the Commission. Review Board Number 5,

stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Terminal Railroad Association of St. Louis of the St. Louis Union Station, including four stub-end tracks in the station, and the operations of the station itself. A certificate of public convenience and necessity permitting abandonment was issued to the Terminal Railroad Association of St. Louis. After an investigation, the requirements of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final as waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 6, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective May 7, 1979.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8728 Filed 3-21-79; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### [6320-01-M]

1

#### CIVIL AERONAUTICS BOARD.

Notice of addition of items to the March 21, 1979, meeting agenda.

TIME AND DATE: 10 a.m., March 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

#### SUBJECT:

13a. Interim rule governing terminations, suspensions, and reductions of service under section 401(j) and 419 of the Act, with request for comments. (OGC)

23a. Dockets 32635, 32674, 33634, 34274, and 34425; Applications of World, Aeroamerica, and Continental for exemption. (BPDA).

STATUS: Open.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** The Board finds that, to allow the public the earliest possible benefit of these procedures, agency business requires consideration of Item 13a at the March 21, 1979 Board meeting. Item 23a should be considered simultaneously with Item 23, *Hawaii Common Fares Investigation*, which is scheduled to be on the calendar for the meeting for March 21. It should also be decided early enough for Aeroamerica to file tariffs on short notice for April 1 effectiveness. Accordingly, the following Members have voted that agency business requires the addition of Items 13a and 23a to the March 21, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey

Member, Gloria Schaffer

[S-568-79 Filed 3-20-79; 3:49 pm]

### [6320-01-M]

2

#### CIVIL AERONAUTICS BOARD.

Notice of addition of item to the March 21, 1979, meeting agenda.

TIME AND DATE: 10 a.m., March 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**SUBJECT:** 3a. Docket 34226, Petitions for Reconsideration of Order 79-1-117. That order, in part, directed certification of the Eastern/National merger record directly to the Board. (Memo No. 8242-F, OGC)

STATUS: Open.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** This matter needs to go before the Board as quickly as possible in order to minimize the gap between the decision in two "Acquisition of National Airlines Cases." Granting this request will allow the Judge to prepare his initial decision expeditiously. Accordingly, the following Members have voted that agency business requires the addition of Item 3a to the March 21, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-569-79 Filed 3-20-79; 3:49 pm]

### [6320-01-M]

3

#### CIVIL AERONAUTICS BOARD.

Notice of addition of items to the March 21, 1979, meeting agenda.

TIME AND DATE: 10 a.m., March 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

#### SUBJECT:

1a. Dockets 34849 and 34958; Applications for exemptions filed by EI Al and KLM, respectively. (BIA, OGC, BLJ)

27a. Docket 18694, Federal Aviation Administration Notice of Proposed Rulemaking N. 79-3. (BPDA)

STATUS: Open.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** The staff originally expected to have this item prepared for Board action at the open meeting to be held March 29. With the cancellation of that meeting, consideration on March 21 becomes necessary to enable service to begin as proposed, while still considering item 1a at a public meeting. Comments on the FAA Loan Guarantee rulemaking Item 27a are due March 25, 1979. The attached comments may be helpful to the FAA in its deliberations. Accordingly, the following Members have voted that agency business requires the addition of Items 1a and 27a to the March 21, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-570-79 Filed 3-20-79; 3:49 pm]

### [6351-01-M]

4

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m. March 21, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

**MATTERS TO BE CONSIDERED:** Adjudicative proceedings.

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-564-79 Filed 3-20-79; 10:37 pm]

### [6570-06-M]

5

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-517-79.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 9:30 a.m. (Eastern Time), Tuesday, March 20, 1979.

#### CHANGE IN THE MEETING:

The following matter is added to the agenda for the open portion of the meeting:

Ratification of Notation Vote Approving Contract for Computer Analysis and Expert Witness Services from Charles R. Mann Associates. A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

#### IN FAVOR OF CHANGE:

Eleanor Holmes Norton, Chair  
Daniel E. Leach, Vice Chair  
Ethel Bent Walsh, Commissioner  
Armando M. Rodriguez, Commissioner  
J. Clay Smith, Jr., Commissioner

#### CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at: 202-634-6748.

This Notice Issued March 19, 1979.

[S-566-79 Filed 3-20-79; 3:11 pm]

### [7600-01-M]

6

#### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on March 29, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

**MATTERS TO BE CONSIDERED:** Discussion of specific cases in the Commission adjudicative process.

#### CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell, 202-634-4015.

Date: March 20, 1979.

[S-565-79 Filed 3-12-79; 12:45 pm]

### [8010-01-M]

7

#### SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that

## SUNSHINE ACT MEETINGS

the Securities and Exchange Commission will hold the following meetings during the week of March 26, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, March 27, 1979, at 10:00 a.m., on Wednesday, March 28, 1979, at 9:30 a.m. (previously noticed) and on Thursday, March 29, 1979, immediately following the 2:30 p.m., and 3:30 p.m. open meetings. Open meetings will be held on Thursday, March 29, 1979 at 10:00 a.m., 2:30 p.m. and 3:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 27, 1979, 10 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Litigation matters.

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature and issuance of interpretative release.

Settlement of administrative proceedings injunctive action.

Subpoena enforcement action.

Chapter XI proceeding.

The subject matter of the closed meeting scheduled for Thursday, March 29, 1979, immediately following the 2:30 p.m., and 3:30 p.m. open meeting, will be:

Post oral argument discussions.

The subject matter of the open meeting scheduled for Thursday, March 29, 1979, at 10 a.m., will be:

1. Consideration of whether to propose for comment amendments to Rule 17f-1 (17 CFR § 240.17f-1) and modifications to the Lost and Stolen Securities Program, established thereunder. For further information, please contact Gregory C. Yadley at (202) 376-8129.

2. Consideration of whether to approve proposed rules submitted by the Securities Investor Protection Corporation ("SIPC")

setting forth requirements for the closeout or completion of open contractual commitments between an insolvent broker-dealer undergoing SIPC liquidation and other broker-dealers. For further information, please contact Linda Kurjan at (202) 376-8127.

3. Consideration of whether to adopt experimental Form S-18, a simplified form generally available to small domestic or Canadian corporate issuers provided such issuers are not subject to the Commission's continuous reporting requirements. The Form provides for the registration under the Securities Act of 1933 of securities to be sold to the public for cash not exceeding an aggregate offering price of \$5 million. For further information, please contact Paul A. Belvin or Douglas S. Perry at (202) 755-1750.

4. Consideration of a letter of comment on the report of tentative conclusions and recommendations of the AICPA Reports by Management Special Advisory Committee. For further information, please contact James J. Doyle at (202) 472-3782.

5. Consideration of an application by American Federation of Labor and Congress of Industrial Organizations Mortgage Investment Trust which seeks an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting it from all provisions of the Act, or, alternatively, from certain provisions of the Act relating to the composition of the board of directors (Sections 10(a) and (b)(2), 15(c), and 32(a) and Rule 17g-1(d)), voting rights of shareholders (Sections 18(i), 16(a), 15(a) and (b), 13(a)(1) and 32(a)), and pricing and redemption procedures (Sections 22(c) and (e) and 17(a)(3) and Rule 22c-1). For further information, please contact Janice B. Liva at (202) 755-1737.

6. Consideration of requests by the law firm of Fried, Frank, Harris, Shriver and Kampelman, pursuant to 17 CFR 200.735-8(e), for a waiver of the imputation of disqualification rule. For further information, please contact Irving Picard at (202) 755-1238.

The open meeting scheduled for Thursday, March 29, 1979, at 2:30 p.m., will be:

1. Oral argument on an application by Lawrence F. Cianchetta for review of disciplinary action taken against him by the National Association of Securities Dealers. For further information, please contact William S. Stern at (202) 755-1538.

The open meeting scheduled for Thursday, March 29, 1979, at 3:30 p.m., will be:

1. Oral argument on an application by Charles H. Ross, Inc. for review of disciplinary action taken against him by the Options Clearing Corporation. For further information, please contact Moshe Simon at: 202-755-1530.

#### FOR FURTHER INFORMATION CONTACT:

Beverly Rubman at: 202-755-1103.

MARCH 20, 1979.

[S-567-79 Filed 3-20-79; 3:10 pm]



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THURSDAY, MARCH 22, 1979

PART II



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**DEPARTMENT OF  
HOUSING AND  
URBAN  
DEVELOPMENT**

**Government National  
Mortgage Association**

■

**GUARANTY OF  
MORTGAGE-BACKED  
SECURITIES**

**Amendments to Establish a New  
Program for Graduated Payment**



[4210-01-M]

**Title 24—Department of Housing and Urban Development****CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION**

[DOCKET NO. R-79-604]

**PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES****Amendments To Establish a New Program for Graduated Payment Mortgage-Backed Securities**

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final Rule.

**SUMMARY:** These amendments establish a new mortgage-backed securities program that provides for the guaranty by GNMA of securities based on and backed by pools of Graduated Payment Mortgages (GPM's). GPM loans are single family mortgages whose monthly payments increase annually for a fixed number of years. Only GPM's that are insured by the Federal Housing Administration under section 245 of the National Housing Act and that are scheduled to have increasing payments for a maximum of five years are eligible for inclusion in GNMA pools. The program is intended to expand the secondary market in GPM's and thereby make available additional mortgage money at reasonable interest rates.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Warren Lasko, 202-755-8772.

**SUPPLEMENTARY INFORMATION:** In the FEDERAL REGISTER of December 29, 1978, beginning on page 60957, the Secretary of Housing and Urban Development published a notice of proposed rulemaking which provided for establishment of a new Government National Mortgage Association (GNMA) program of Graduated Payment Mortgage-Backed Securities. All interested persons were given until January 29, 1979 to submit written comments, suggestions, or objections regarding the proposed regulations. A total of eight comments were received. Each comment was carefully considered.

In general, the commentators welcomed the development of a Graduated Payment Mortgage-Backed Securities Program and urged that it be implemented promptly. The following responses are provided to the comments received:

**RULES AND REGULATIONS**

One commentator urged that the securities program include the two FHA-insured GPM plans that provide for annual increases in monthly payments over a ten-year period, as well as the three five-year plans. The proposed regulations provide only for the inclusion of the five-year plans in order to help assure the marketability of the securities and to make them as homogeneous as possible. Under this arrangement, after five years, the GPM securities will be interchangeable with single family level payment securities. Because only three percent of all FHA-insured GPM loans to date have been made under the ten-year plans, and because other commentators concurred in the limitation of the securities program to the five-year plans, no change has been made to the proposed regulations in this regard.

Another commentator suggested that the payment date for the new securities be the 25th of the month, rather than the 15th of each month as the case in each of the existing GNMA Mortgage-Backed Securities Programs. Such a change in the payment date would give the issuers a longer period of time to receive payments from mortgagors before having to make "pass-through" payments to the securities holders. However, the change would also have the effect of reducing the "price" at which the securities could be sold, and this cost might be transferred to homebuyers. Also, such a change in the payment date would make these securities different from all other GNMA guaranteed securities, and consequently could affect their marketability. For these reasons, it is planned that the payment date for the Graduated Payment Mortgage-Backed Securities will be the 15th of each month, as in the other programs.

One commentator pointed out the importance of making Graduated Payment Mortgage-Backed Securities clearly distinguishable from the existing level payment single family securities. This could be done, it is suggested, by having a different interest rate on the Graduated Payment Securities. The clear differentiation is needed in order to assure that the two different types of securities are not purposely or inadvertently substituted, one for the other, in the course of securities trading activity. GNMA recognizes the need for such differentiation and will take all steps deemed appropriate to see that it is accomplished.

A technical revision has been made to § 390.43(b) to make clear that the total face amount of any issue of securities shall not exceed the aggregate unpaid principal balances of the mortgages in the pool as of the issue date of the securities.

**BACKGROUND**

The following describes the authority for and the provisions contained in the new amendments. The amendments establish a new program of federally guaranteed mortgage-backed securities which will allow for the inclusion of so-called Graduated Payment Mortgages in the pools which back the securities.

Under section 306(g) of the National Housing Act, as amended, the Government National Mortgage Association (GNMA) guarantees the timely payment of principal and interest on securities issued by approved private lenders, which securities are backed by federally insured or guaranteed mortgage loans. At present, such guaranteed securities programs exist for level payment single family loans, mobile home loans, residential project loans, and project construction loans. The new program provides for the inclusion of single family mortgages insured under section 245 of the National Housing Act, and known as Graduated Payment Mortgages, in mortgage loan pools backing securities issuances. Graduated Payment Mortgages have amortization schedules that provide for annual increases in the monthly installments in the early years of the mortgage. The eligibility of such loans for the securities issuances will substantially enhance the marketability of such loans. This in turn will increase the availability of loan funds for these innovative mortgages and should help maintain interest rates on such loans at reasonable rates.

Part 390 is amended to redesignate existing Subpart C as Subpart D and to add a new Subpart C, which now provides the regulatory authority for the new program. The new program is essentially identical to the existing single family mortgage-backed securities program, except as modifications are required to accommodate the unique provisions of graduated payment loans. The specific provisions of the proposed amendments are as follows:

Section 390.40 provides that GNMA is authorized by section 306(g) of the National Housing Act to establish federally guaranteed mortgage-backed securities programs. It further provides that participants in the programs are subject to the provisions contained in the Mortgage-Backed Securities Guide (GNMA 5500.1), and to any contracts entered into by parties participating in the programs.

Section 390.41 provides that to be an eligible issuer of the new securities, an applicant must satisfy those same requirements which are presently applicable with respect to issuers of level payment single family type securities.

Section 390.42 provides that for a Graduated Payment Mortgage to be

eligible for inclusion in a pool as backing for the new security, it must be insured by the Federal Housing Administration pursuant to section 245 of the National Housing Act. The new rule limits the eligibility of such loans to those mortgages that have amortization schedules that provide for equal, or level, monthly installments beginning no later than the 61st scheduled monthly installment.

Section 390.43(a) provides that the securities to be issued are to be modified pass-through type securities. Such securities require the pass-through to securities holders, whether or not collected by the issuer from the mortgagors, of interest scheduled to be collected on the pooled mortgages, less appropriate amounts for guaranty fees and mortgage servicing, together with scheduled principal installments and any prepayments or other early recoveries of principal on the mortgages. For Graduated Payment Mortgages, the scheduled principal payments may be "negative," in which case the outstanding securities balance will increase.

Section 390.43(b) provides that the minimum amount of each issue of securities may be no less than \$1 million, which amount is the same as in the present single family mortgage-backed securities program. This section also provides that, upon the mutual agreement of GNMA and issuers, arrangements may be made for the consolidation of securities issued under this program. This provision is intended to permit, upon the development of appropriate procedures, the consolidation of paid down pools. Such consolidation has the potential for increasing the efficiency of mortgage pool administration.

Section 390.43(c) provides that the original amount of any individual security may not be less than \$25,000, as is the case under each of the other existing mortgage-backed securities programs.

Section 390.43(d) provides that the securities are freely transferable and assignable in registered form on the books of GNMA and the issuer, as is the case under each of the existing mortgage-backed securities programs.

Section 390.44 provides that the administration of the securities and the pooled mortgages shall be in accordance with the provisions applicable to existing mortgage-backed securities programs.

Section 390.45 provides for the guaranty of the securities by GNMA and provides that such guaranty is backed by the full faith and credit of the United States.

Section 390.46 provides that any failure of an issuer of securities to make required payments to securities holders in a timely manner may be deemed

by GNMA to be an event of default under the guaranty agreements entered into between GNMA and the issuer. Such other failures or disabilities as GNMA may determine and may include in the guaranty agreements entered into with the issuer similarly may be deemed events of default. This section also provides that upon any declaration of default, GNMA may extinguish any right, title, or other interest of the issuer in the pooled mortgages.

Section 390.47 authorizes GNMA to impose application fees, guaranty fees, transfer fees, and such other fees as may be deemed appropriate.

A finding of inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures.

Therefore, 24 CFR Part 390 is amended by adding a new Subpart C, which provides for Graduated Payment Mortgage-Backed Securities, and by redesignating present Subpart C as Subpart D, as follows:

**PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES****Subpart C—Graduated Payment Mortgage-Backed Securities**

- 390.40 General.
- 390.41 Eligible Issuers of Securities.
- 390.42 Eligible Mortgages.
- 390.43 Securities.
- 390.44 Pool Administration.
- 390.45 Guaranty.
- 390.46 Default.
- 390.47 Fees.

**Subpart D—Miscellaneous Provisions**

- 390.50 Audits and Reports.
- 390.51 Applications.

**Subpart C—Graduated Payment Mortgage-Backed Securities****§ 390.40 General.**

This Subpart provides for the guaranty by the Association of timely payment of principal and interest on modified pass-through securities based on and backed by eligible mortgages, which mortgages provide for non-level monthly installments. The Association is authorized by section 306(g) of the National Housing Act to make such guarantees. Issuance of securities under this Subpart is subject to the provisions that follow, to the further provisions contained in the Mortgage-Backed Securities Guide (GNMA 5500.1), as it shall exist and be amended or supplemented from time to time, and to the contracts entered into by the participating parties.

**RULES AND REGULATIONS****§ 390.41 Eligible Issuers of Securities.**

To be eligible to issue Graduated Payment Mortgage-Backed Securities, an applicant shall satisfy those requirements applicable to the issuance of modified pass-through securities based on and backed by mortgages on one- to four-family residences as provided in § 390.3 (Eligible Issuers of Securities).

**§ 390.42 Eligible Mortgages.**

Each issue of guaranteed securities shall be based on and backed by a pool of Graduated Payment Mortgages which are insured by the Federal Housing Administration pursuant to section 245 of the National Housing Act. *Provided*, That all such pooled mortgages shall provide for equal (level) monthly installments beginning no later than the 61st scheduled monthly installment.

**§ 390.43 Securities.**

(a) *Instruments.* Securities to be issued under this Subpart shall be designated Graduated Payment Mortgage-Backed Securities. They shall be issued in the form of modified pass-through type securities, which shall provide that each monthly installment payable to the holders shall consist of: (A) The interest due monthly on the securities computed as one-twelfth ( $\frac{1}{12}$ ) of the annual rate provided for multiplied by the unpaid principal balance of the securities at the end of the prior month (The amount of interest actually paid may be less than the amount accrued to the extent scheduled principal payments are negative.), and (B) the scheduled recoveries of principal (which may be negative) due monthly on the pooled mortgages and apportioned to the holders by reason of the base and backing of these securities, such amounts of principal and interest to be remitted to the holders whether or not funds sufficient to pay an installment are collected by the issuer, together with (C) any apportioned prepayments or other unscheduled recoveries of principal on the pooled mortgages. Unscheduled recoveries of principal shall include amounts which an issuer must pay from its own funds to provide the holders with any principal that remains unrecovered after receipt of a final insurance claim settlement or other liquidation proceeds. At any time 90 days or more after default of any pooled mortgage the issuer may, at its option, repurchase such mortgage from the pool for an amount equal to the unpaid principal balance of the mortgage. The securities shall provide for specific maturity dates and dates upon which payments are to be made to the holders.

(b) *Issue Amount.* Each issue of securities shall be in an amount no less



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**RULES AND REGULATIONS**

than \$1 million. The total face amount of any issue of securities shall not exceed the aggregate scheduled unpaid principal balances of the mortgages in the pool as of the issue date of the securities. The Association and issuers reserve the right to consolidate pools of mortgages backing the securities with other pools backed by similar mortgages bearing the same interest rate and maturity dates.

(c) *Face Amount.* The original face amount of any security shall not be less than \$25,000.

(d) *Transferability.* The securities are freely transferable and assignable, but only on the books and records of the Association and the issuer.

**§ 390.44 Pool Administration.**

Administration of the securities and the pooled mortgages shall be in accordance with the provisions of § 390.9 (Pool Administration).

**§ 390.45 Guaranty.**

With respect to Graduated Payment Mortgage-Backed Securities, the Association guarantees the timely monthly payment, whether or not collected, of the scheduled interest and principal installments, and any prepayments or other early recoveries of principal on the mortgages, as undertaken in the Association's guaranty appearing on the face of the instruments. The Association's guaranty is backed by the full faith and credit of the United States.

**§ 390.46 Default.**

Any failure or inability of an issuer to make fixed or other payments to securities holders when due shall be deemed an event of default under the guaranty agreement entered into between the Association and the issuer. Such other failures or inability of the issuer to perform any function or duty provided for in the guaranty

agreement may also be deemed an event of default. Upon any default by an issuer, and payment by the Association under its guaranty, or any failure of the issuer to comply with the terms of the guaranty transaction, the Association may institute a claim against the issuer's fidelity bond, or may extinguish all right, title, or other interest of the issuer in the pooled mortgages, subject only to unsatisfied rights therein of the securities holders, by letter to the issuer making the mortgages the absolute property of the Association, or the Association may do both.

**§ 390.47 Fees.**

The Association may impose application fees, guaranty fees, securities transfer fees, and such other fees as it may deem appropriate.

**Subpart D—Miscellaneous Provisions**

**§ 390.50 Audits and Reports.**

The Association may at any reasonable time audit the books and examine the records of any issuer, mortgage servicer, trustee, or agent or other person bearing on its guaranty of mortgage-backed securities, and may require reasonable and necessary reports from such persons.

**§ 390.51 Applications.**

Applications for guaranty should be submitted to the Association's home office located at 451 Seventh Street, S.W., Washington, D.C. 20410.

Issued at Washington, D.C., March 13, 1979.

*R. FREDERICK TAYLOR,  
Acting Executive Vice President,  
Government National Mortgage Association.*

[FR Doc. 79-8741 Filed 3-21-79; 8:45 am]

Registered  
Federal

THURSDAY, MARCH 22, 1979

**PART III**



**DEPARTMENT OF  
ENERGY**

**Economic Regulatory  
Administration**

**TRANSPORTATION  
CERTIFICATES FOR  
NATURAL GAS**

**Displacement of Fuel Oil**



[6450-01-M]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

[18 CFR Part 157]

TRANSPORTATION CERTIFICATES FOR  
NATURAL GAS

Displacement of Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) is publishing this proposed rule for action by the Federal Energy Regulatory Commission (the Commission), pursuant to section 403 of the Department of Energy Organization Act (DOE Act). The proposed rule would encourage and facilitate the issuance by the Commission of one year certificates of public convenience and necessity, including temporary certificates, under section 7(c)(1) of the Natural Gas Act, authorizing the transportation of natural gas purchased by end-users in order to displace fuel oil.

Pursuant to section 403(b) of the DOE Act, ERA is requiring the Commission to take final action on this proposed rule by May 17, 1979. The Commission will shortly announce by notice in the FEDERAL REGISTER the comment and public hearing procedures to be followed in connection with this rulemaking. Shortly, ERA will publish its own proposed rule establishing the procedures to be followed by the ERA Administrator for certification to the Commission of the use of natural gas for fuel oil displacement.

DATES: Commission to take final action by May 17, 1979. Dates for comments and public hearings to be determined later.

FOR FURTHER INFORMATION  
CONTACT:

Lynne H. Church, Division of Natural Gas Regulations, Economic Regulatory Administration, 2000 M Street, N.W., Room 3308, Washington, D.C. 20461, (202) 632-4721.

James G. Beste, Office of the General Counsel, Department of Energy, Room 7140, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8788.

## SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Discussion of the Rule.
- III. Procedures for Completion of Final Action.
- IV. Environmental and Regulatory Analyses.

## PROPOSED RULES

## I. BACKGROUND

There is an urgent and immediate need to reduce the Nation's reliance on oil imports. The adverse effects of that reliance on the Nation's security of energy supplies, balance of payments, and domestic inflation rate require strong action. The recent tightening of world oil supplies and increases in international oil prices require that we give near term import reduction the highest priority.

Increased use of present supplies of natural gas is one of the most effective means of reducing oil consumption in the near term. Expanded use of gas will help the United States meet its commitments to reduce the demand for imported oil together with the other member nations of the International Energy Agency. It will also cushion any oil shortages, as well as soften the impact of imported oil prices on the Nation's balance of payments and inflation rate. This proposed rule is designed to meet that need, by encouraging and facilitating the filing of applications to transport oil displacement gas.

The Commission has already taken steps providing for the transportation of direct purchase gas. For example, the Commission's regulation implementing section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA) (18 CFR 284.101 *et seq.*) authorizes the transportation of natural gas by interstate pipeline companies on behalf of intrastate pipeline and local distribution companies without prior Commission approval. Under that regulation an intrastate pipeline or a local distribution company selling gas directly to an end-user, or transporting gas for a producer who has sold to an end-user, may arrange for an interstate pipeline company to transport the gas on its behalf. In addition, Federal Power Commission Orders No. 533 and 533A and Federal Energy Regulatory Commission Order No. 2 provide for the issuance of certificates for the transportation by interstate pipeline companies of gas purchased directly from producers by high priority commercial and industrial users. The Commission is currently considering a new direct purchase rule for certain high priority and essential agricultural users (Docket No. RM79-18).

None of those rules, however, provides a vehicle for lower curtailment priority industrial users or electric utilities to arrange for transportation by interstate pipeline companies of gas purchased directly from producers for fuel oil displacement. In addition, there may be circumstances where the transportation by an interstate pipeline company of gas purchased directly by end-users from an intrastate pipeline or a local distribution company, or gas

purchased from a producer who arranges for an intrastate pipeline or a local distribution company to distribute the gas, does not qualify under section 311(a)(1) of the NGPA. There may also be circumstances where the interstate pipeline company, although eligible, chooses not to use the section 311(a)(1) authority.

The rule we are proposing, therefore, fills a significant gap in existing natural gas regulations. By authorizing the issuance of transportation certificates by the Commission for oil displacement uses certified by the ERA Administrator, the proposed rule encourages and facilitates the movement of gas to users who are in a position to switch from fuel oil, but who otherwise would not have been able to take advantage of Commission regulations allowing transport of the gas. This proposal reflects a cooperative effort between the Commission and ERA to confront our national need to reduce reliance on oil imports. It follows the precedent set during the coal strike of 1978, where ERA issued guidelines for certifying electric utilities which were unable to obtain coal, but had the capacity to burn gas, or which could wheel power to coal shortage areas (43 F.R. 11748, March 21, 1978). The Commission issued a companion rule (18 CFR 157.42) allowing the issuance of limited transportation certificates for movement of natural gas to the ERA certified utilities.

This proposed rule, the text of which was sent to the Chairman of the Commission by Secretary of Energy Schlesinger (see attached letter) on March 13, 1979, would implement section 7(c)(1) of the Natural Gas Act (NGA). That section provides that natural gas companies must obtain a Commission certificate of public convenience and necessity for the interstate transportation of natural gas. Section 7(c)(1)(B) of the NGA establishes the procedural requirements for the Commission's consideration of certificate applications, and allows the Commission to issue temporary certificates without notice or hearing in certain circumstances, pending the final determination of the certificate application.

Section 403 of the DOE Act authorizes the Secretary of Energy to propose rules for Commission action regarding certain Commission functions, including it certificate functions under section 7 of the NGA, and to set a reasonable time limit for completion of Commission action. The Secretary's authority to propose rules under section 403 was delegated to the ERA Administrator by Department of Energy Delegation Order No. 0204-4 (42 FR 60726). This is the first time that DOE has exercised its authority under section 403.

## II. DISCUSSION OF THE RULE

Under this proposed rule, any interstate pipeline company may file an application with the Commission for a certificate to transport natural gas purchased by an "eligible user" from an "eligible seller" (§ 157.200). An "eligible user" would be any user who consumes gas for fuel oil displacement as certified by the ERA Administrator (section 157.202(e)). An "eligible seller" would be any willing seller, except an interstate pipeline company—to the extent that it would be selling gas committed or dedicated to interstate commerce on November 8, 1978, within the meaning of section 2(18) of the NGPA. The exclusion of certain sales by interstate pipeline companies could be waived by the Commission upon a showing of public interest. An application could include a request for a temporary transportation certificate which the Commission may issue without notice or hearing (§ 157.201(b)).

Under the proposed rule, applications for transportation certificates, including temporary certificates, could not be granted by the Commission unless the ERA Administrator had certified that the gas to be transported would displace fuel oil (§ 157.204(a)). Transportation certificates could be issued for a period of up to one year (§ 157.204(b)) and renewed for an additional year upon reapplication (§ 157.204(c)). Transportation certificates would be effective only so long as consumption of the gas in question displaces fuel oil and the certificated interstate pipeline company operates in accordance with the order issuing the certificate, the NGA, and applicable Commission rules, regulations, and orders. For good cause shown, the Commission would be authorized to terminate a certificate at any time (§ 157.204(f)). Transportation rates shall be charged as provided in Part 284 of this chapter (§ 157.204(h)).

No participants in transactions contemplated by this rule, whether as buyers, sellers, or transporters of gas, should be penalized in any future curtailment proceeding as a result of such participation. Therefore, the natural gas transported under this proposed rule would not be considered as either a gas supply or market in the Commission's determination of an interstate pipeline company's requirements in any future curtailment proceeding (§ 157.205). In addition, in order to encourage maximum participation in

## PROPOSED RULES

this program, the Commission would not assert any jurisdiction over an intrastate pipeline or local distribution company participating in the sale or transportation of gas to an "eligible user," except as otherwise provided in this proposed rule (§ 157.206(a)).

This proposed rule should be read in conjunction with the proposed rule that ERA will issue shortly regarding its certification of the use of gas for fuel oil displacement. Under the rule, any end-user that intends to purchase natural gas directly from an "eligible seller" to displace fuel oil could apply to the ERA Administrator for a certification of "eligible use." If the Administrator determined that a proposed purchase of gas is for an "eligible use," he would transmit his certification directly to the Commission with a copy to the applicant. This certification is a prerequisite to the granting by the Commission of a transportation certificate under this proposed rule.

III. PROCEDURES FOR COMPLETION OF  
FINAL ACTION

Pursuant to section 403(b) of the DOE Act, ERA is requiring the Commission to take final action on this proposed rule by May 17, 1979. However, given the urgent need to reduce our reliance on oil imports, we urge the Commission to issue the proposed rule as an interim final rule, effective immediately, with provision for later modifications after consideration of public comments. If the Commission issues an interim final rule, we will likewise issue our rule on certification of eligible uses in final form immediately. The Commission will shortly announce, by notice in the FEDERAL REGISTER, the comment procedures to be followed in connection with this rulemaking.

IV. ENVIRONMENTAL AND REGULATORY  
ANALYSES

Due to the urgent need to take immediate action to reduce the Nation's dependence on oil imports, this rule is being proposed prior to the completion by ERA and the Commission of an environmental analysis. Upon completion by ERA and the Commission of their review of this proposed rule pursuant to their responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*), the two agencies will publish their findings in the FEDERAL REGISTER.

Because the Commission is the agency which will take final action on this proposed rulemaking, a regulatory analysis within the meaning of DOE Directive Order 2030, December 18, 1978, implementing Executive Order No. 12044 on improving government regulations, has not been prepared by ERA. Furthermore, we are currently evaluating whether a regulatory analysis is required for our own rule on certification of eligible uses, and, if so, it would encompass the scope of this proposed rule as well as that of our certification rule.

(Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 565 (42 U.S.C. 7101). Department of Energy Delegation Order No. 0204-4 (42 FR 60726).)

In consideration of the foregoing, it is proposed to amend Part 157 of Chapter I of Title 18, Code of Federal Regulations, by adding a new Subchapter F, as set forth below.

Issued in Washington, D.C., March 18, 1979.

DAVID J. BARDIN,  
Administrator,

Economic Regulatory Administration.

## SUBCHAPTER F—TRANSPORTATION CERTIFICATES FOR FUEL OIL DISPLACEMENT GAS UNDER SECTION 7(c) OF THE NATURAL GAS ACT

- Sec.
- 157.200 Applicability.
  - 157.201 General rule.
  - 157.202 Definitions.
  - 157.203 Application requirements.
  - 157.204 General conditions.
  - 157.205 Treatment of this gas in curtailment plans.
  - 157.206 Special conditions.

AUTHORITY: Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 565 (42 U.S.C. 7101). Department of Energy Delegation Order No. 0204-4 (42 FR 60726).

## SUBCHAPTER F—TRANSPORTATION CERTIFICATES FOR FUEL OIL DISPLACEMENT GAS UNDER SECTION 7(c) OF THE NATURAL GAS ACT

- § 157.200 Applicability.

This subpart implements section 7(c)(1) of the Natural Gas Act to provide for the issuance of certificates of public convenience and necessity authorizing the transportation of natural gas purchased directly from eligible sellers by eligible end-users in order to displace fuel oil.

- § 157.201 General rule.

(a) *Applications.* Any interstate pipeline company may file an applica-



tion as described in § 157.203 for a certificate to transport natural gas purchased by an eligible end-user from an eligible seller.

(b) *Temporary certificates.* An application may include a request for a temporary transportation certificate. Any request for a temporary certificate shall be processed pursuant to section 7(c)(1)(b) of the Natural Gas Act. The Commission may issue the temporary certificate without notice or hearing.

(1) If the application for a temporary transportation certificate is sufficient on its face, a temporary certificate may be issued by the Director of the Office of Pipeline and Producer Regulation pursuant to his authority under § 3.5(f)(1)(iv) of this chapter.

(2) The interstate pipeline company may, within 15 days of the date of issuance, file in writing its acceptance or rejection of the temporary certificate. If no acceptance or rejection has been filed within the 15 days, the temporary certificate shall be deemed to have been accepted. Such temporary certificate shall be effective (a) on the date the Commission received acceptance, or (b) on the fifteenth day after issuance if no acceptance or rejection is filed within the 15 days, or (c) on such other date as may be prescribed by the Commission.

#### § 157.202 Definitions.

For the purposes of this subpart, the terms:

(a) "Administrator" means the Administrator of the Economic Regulatory Administration;

(b) "Certificate" means any certificate of public convenience and necessary for transportation issued under this subpart;

(c) "Eligible seller" means any willing seller of natural gas, except an interstate pipeline company to the extent that the natural gas sold by the interstate pipeline company was committed or dedicated, as defined in section 2(18) of the Natural Gas Policy Act of 1978, on November 8, 1978;

(d) "Eligible use" means any use of natural gas certified by the Administrator to be us for fuel oil displacement pursuant to the ERA special rule for certification of eligible use of natural gas to displace fuel oil;

(e) "Eligible user" means any person who consumes natural gas for an eligible use.

#### § 157.203 Application requirements.

All applications for transportation certification pursuant to this subpart shall:

(a) Indicate the total volume of natural gas to be transported under the proposed certificate and estimated peak day and average day volumes;

(b) Include a statement by the interstate pipeline company that it is has capacity sufficient to perform the transportation service without detriment or disadvantage to any existing customers;

(c) Provide a copy of the proposed transportation agreement and the proposed transportation rate, together with a breakdown and justification of the proposed rate level to the extent indicated in § 284.106 of this chapter for interstate pipeline companies or § 284.126 of this chapter for intrastate pipeline companies;

(d) Include a statement by any local distribution company participating in the transportation of the gas to the end-use that it has capacity sufficient to perform the transportation service without detriment or disadvantage to its other customers;

(e) Provide a copy of the gas purchase contract with the eligible seller underlying the proposed transportation;

(f) Provide a certified copy, if one has been obtained, of any currently effective determination by a jurisdictional agency under section 503 of the Natural Gas Policy Act of 1978 and Part 274 of this chapter applicable to the natural gas to be transported;

(g) Describe any facilities that will be constructed in order to provide the services, as well as any other facilities that will be utilized, and specify their location. For purposes of this paragraph, there is no requirement that omission of other filing requirements be justified. For purposes of this paragraph, the following provisions are waived:

(1) 18 CFR 157.13—Form of exhibits to be attached to applications;

(2) 18 CFR 157.14—Exhibits

(3) 18 CFR Part 159—Fees and annual charges under the Natural Gas Act;

(4) 18 CFR Part 201—Uniform system of accounts for natural gas companies; and

(5) 18 CFR Part 260—Statements and reports (schedules);

(h) If an intermediary participates in the transaction between the eligible end-user and the eligible seller and charges a fee, indicate the amount of the fee and terms of payment and the intermediary's affiliation, if any, with the eligible seller or the interstate pipeline company;

(i) If either the eligible seller or the eligible end-user assumes the cost of the construction of any gathering facilities in order to consummate the purchase, provide the cost, terms of payment, ownership, and date of construction of the facilities; and

(j) Provide, as soon as available, a copy of the certification of eligible use issued by the Administrator.

#### § 157.204 General conditions.

(a) *Certification of eligible use by the Administrator.* Applications for transportation certificates, including temporary certificates, under this subpart shall not be granted by the Commission unless the Administrator pursuant to ERA's special rule for certification of eligible use of natural gas to displace fuel oil has certified that consumption of the natural gas proposed to be transported is an eligible use.

(b) *Term.* Transportation certificates under this subpart may be issued for a term of up to 1 year.

(c) *Renewal.* Transportation certificates issued under this subpart may be renewed for an additional year upon reapplication within 60 days of their expiration. The application for renewal shall include a recertification of eligible use by the Administrator.

(d) *Extension of term for take-or-pay users.* If an eligible end-user is unable to receive natural gas supplies for which it has paid under a take-or-pay provision in the underlying sales contract, the transporting interstate pipeline companies may file a request for a 90 day extension of the certificate authorization. The request shall include a statement of the undelivered volumes and the time necessary to complete delivery thereof. Upon receipt of a letter from the Secretary of the Commission acknowledging a filing for such purposes, the requested extension shall be deemed approved.

(e) *Acceptance of certificate.* The certificate shall be void and without force or effect unless accepted in writing by the interstate pipeline company within 15 days from the issue date of the order issuing such certificate.

(f) *Termination.* The transportation certificate issued to the interstate pipeline company is not transferrable in any manner and shall be effective only so long as the natural gas is consumed for eligible use and the interstate pipeline company continues the operations authorized by the order issuing such certificate and in accordance with the provisions of the Natural Gas Act, as well as the applicable rules, regulations, and orders of the Commission. The Commission may, for good cause shown, terminate the certificate at any time.

(g) *Supplemental filing.* The eligible end-user shall file a report with both the Commission and the Administrator within 60 days of the termination or expiration of the certificate, containing:

(1) The total amount of natural gas consumed during the term of the certificate;

(2) The actual monthly volume in barrels of each type of fuel oil displaced during the term of the certificate;

(3) The average delivered cost per Mcf paid, itemized by amounts paid to:

(i) The producer,

(ii) Each pipeline company and distributor involved in transporting the natural gas, and

(iii) Any other parties, and

(4) The volumes of each type of fuel oil displaced which have been retained in the end-users inventory or otherwise remain at the end-user's disposal.

(h) *Rates and charges.* The rates for transportation by any interstate or intrastate pipeline companies will be charged in accordance with Part 284 of this chapter.

#### § 157.205 Treatment of this gas in curtailment plans.

All volumes of natural gas purchased from an eligible seller for an eligible use and transported by an interstate pipeline company pursuant to a transportation certificate granted under this subpart shall not be considered as either a gas supply or market in a determination of an interstate pipeline company's customer's requirements for present or future allocations of natural gas during periods of natural gas curtailment.

#### § 157.206 Special conditions.

(a) The Commission shall not assert any jurisdiction, except to the extent provided in this subpart, over any intrastate pipeline or local distribution company which participates in the sale or transportation to an eligible user of natural gas transported pursuant to this subpart; and

(b) The Commission may waive the § 157.202(c) exclusion of sales of certain natural gas by interstate pipeline companies upon a showing the waiver is in the public interest.

Department of Energy

Washington, D.C.

MARCH 13, 1979.

DEAR MR. CURTIS: I am enclosing for the information of the Federal Energy Regulatory Commission, a rule which the Department of Energy will shortly propose pursuant to Section 403 of the Department of Energy Organization Act. The rule will facilitate and encourage the transportation by interstate pipeline companies of natural gas purchased directly by end-users for the displacement of fuel oil.

There is an urgent national need to reduce our demand for oil imports immediately. As I stated in my February 27, 1979, letters to you and the other commissioner, "[t]he detrimental effect of such imports on our security and balance of payments is reason enough to take firm action." The recent tightening of world oil supplies



## PROPOSED RULES

and increases in international oil prices, partly flowing from the political development in Iran, make it essential that near-term import reduction be given the highest priority.

The increased use of present supplies of natural gas is potentially one of the most effective means of reducing oil consumption in the near term. Use of this gas will be important in helping the U.S. meet its commitment to reduce the demand for imported oil together with the other member nations of the International Energy Agency. An expanded use of gas will not only lessen the need for oil imports and cushion any oil shortages, but will also mitigate the impact of ever increasing foreign oil prices on the nation's balance of payments and the domestic inflation rate. While we encourage increasing general system supply of interstate pipeline companies, we recognize that facilitating the transportation of direct purchase gas to end-users who are able to displace fuel oil would optimize the gas use.

The Commission already has in place regulations which provide for the transportation of direct purchase gas. For example, section 311(a) of the Natural Gas Policy Act of 1978, and the Commission's implementing regulation, permit the transportation of natural gas by interstate pipelines and local distribution companies, without prior Commission approval. This provides a vehicle whereby an intrastate pipeline company, including a so-called Hinshaw Pipeline, or a local distribution company selling gas directly to an end-user, or, transporting gas for a producer, may arrange to have an interstate pipeline company transport the gas on its behalf. Additionally, high priority industrial users may take advantage of the Federal Power Commission Orders No. 533, 533A and the Federal Energy Regulatory Commission Order No. 2, which allow the issuance of certificates for the transportation by interstate pipeline companies of gas purchased directly from producers. The Commission currently is considering a similar direct purchase rule for high priority and essential agricultural users, as defined in the NGPA.

None of these final or proposed rules, however, would provide a means for users, such as lower curtailment priority industrial companies or electric utilities who may now be in a position to displace large quantities of fuel oil, to arrange for transportation by interstate pipeline companies of gas purchased directly from producers. Moreover, there may be certain situations in which the transportation by an interstate pipeline company of gas purchased directly from an intrastate pipeline or a local distribution company or gas which a local distribution

company is transporting for a producer may not qualify under section 311(a) of the NGPA, or the pipeline company elects not to use that authority. Hence, the rule we are proposing fills a gap in existing natural gas regulations.

Under this proposed rule, any interstate pipeline may file with the Commission, under section 7(c) of the Natural Gas Act, an application for a one-year certificate to transport gas purchased by an "eligible end-user" from an "eligible seller." An "eligible end-user" would be anyone who consumes gas for a use certified by the Economic Regulatory Administration to displace fuel oil. An "eligible seller" would be any willing seller, including, among others, producers and any local distribution companies and intrastate or interstate pipeline companies not using the section 311(a) vehicle. However, an interstate pipeline company would not qualify as an "eligible seller" if the natural gas it proposed to resell to the end-user was committed or dedicated on November 8, 1978, within the meaning of section 2(18) of the NGPA.

Within the next several days, we intend to publish in the FEDERAL REGISTER the proposed rule and prescribe a date upon which the Commission must complete final action on the proposal, as provided in section 403(b) of the DOE Act.

However, given the urgent need described above to reduce our demand for imported oil, we urge the Commission to issue the proposed rule as an interim final rule, effective immediately, with provision for later modifications after consideration of public comments.

Concurrently, ERA will promulgate a special rule which establishes the procedures for ERA certification that the usage of natural gas will displace fuel oil and otherwise to be "eligible use." The ERA certification is intended to assist the Commission in expediting its review of certificate applications. If the Commission issues an interim final rule, ERA will likewise issue its special rule in final form immediately, since the current oil situation is one which is "likely to cause serious harm or injury to the public health, safety, or welfare" as that term is used in Section 501(e) of the DOE Act.

Sincerely,

JAMES R. SCHLESINGER,  
*Secretary.*

Honorable Charles B. Curtis,  
Chairman, Federal Energy Regulatory  
Commission,  
825 North Capitol Street, N.E.,  
Washington, D.C. 20426.

[FR Doc. 79-8985 Filed 3-21-79; 9:33 am]



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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

\*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

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# rules and regulations

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[6325-01-M]

## Title 5—Administrative Personnel CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

### PART 213—EXCEPTED SERVICE

#### Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Correction to final rule.

SUMMARY: This amendment corrects the title of a position excepted under Schedule C in the document published in 43 FR 58540 on December 15, 1978.

EFFECTIVE DATE: November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533. Accordingly, 5 CFR 213.3318(b)(8) is corrected as set out below:

§ 213.3318 Environmental Protection Agency.

(b) Office of Legislation. . . .  
(8) Two Special Assistants and one Congressional Liaison Specialist (Congressional Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8756 Filed 3-22-79 8:45 am]

[6325-01-M]

### PART 213—EXCEPTED SERVICE

#### Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment reestablished a position under Schedule C because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 23, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(h)(3) is amended as set out below:

§ 213.3304 Department of State.

(h) Bureau of International Organization Affairs. . . .

(3) One Supervisory Foreign Affairs Officer.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8755 Filed 3-22-79; 8:45 am]

[6325-01-M]

### PART 213—EXCEPTED SERVICE

#### Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Special Representative of the Director, National Park Service, is excepted under Schedule A because it is impracticable to examine for it.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3112(f)(3) is added as set out below:

§ 213.3112 Department of the Interior.

(f) National Park Service. . . .  
(3) One Special Representative of the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8753 Filed 3-22-79; 8:45 am]

[6325-01-M]

### PART 213—EXCEPTED SERVICE

#### International Communication Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that two Schedule A positions of Liaison Officer (Congressional), GS-14, which were located in the Office of the General Counsel are now located in the Office of Congressional and Public Liaison. Also, this amendment shows that the Schedule A authority for one chief of religious information is revoked because the position is no longer needed.

EFFECTIVE DATE(S): October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3128(a) is amended and (b) is revoked, as follows:

§ 213.3128 International Communication Agency.

(a) Office of Congressional and Public Liaison.

(1) Two positions of Liaison Officer (Congressional), GS-14.

(b) (Revoked).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8754 Filed 3-22-79; 8:45 am]

[6325-01-M]

### PART 213—EXCEPTED SERVICE

#### Small Business Administration, Federal Communications Commission

AGENCY: Office of Personnel Management.

ACTION: Final rule.



## RULES AND REGULATIONS

**SUMMARY:** This amendment excepts under Schedule C certain positions at the Small Business Administration and the Federal Communications Commission because they are confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

**EFFECTIVE DATES:** SBA—February 15, 1979; FCC—February 16, 1979.

**FOR FURTHER INFORMATION CONTACT:**

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3332(t) is amended and 213.3338(d) is added as set out below:

§ 213.3332 Small Business Administration.

(t) Four Special Assistants to the Deputy Administrator.

§ 213.3338 Federal Communications Commission.

(d) One Director, Office of Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8752 Filed 3-22-79; 8:45 am]

[6325-01-M]

## PART 213—EXCEPTED SERVICE

Department of Labor, Department of Transportation

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the titles of certain positions (1) at the Department of Labor from Confidential Assistant to the Director, Women's Bureau to Special Assistant to the Director, Women's Bureau to more appropriately reflect the duties of the position and (2) at the Department of Transportation from two Intergovernmental Liaison Specialists to the Director, Office of Intergovernmental Affairs to two Intergovernmental Liaison Specialists to the Deputy Assistant Secretary for Intergovernmental Affairs to reflect the current title of the superior.

**EFFECTIVE DATE:** February 6, 1979.

Accordingly, 5 CFR 213.3315(f)(2) and 213.3394(a)(51) are amended as set out below:

§ 213.3315 Department of Labor.

(f) Women's Bureau. . . .  
(2) Four Special Assistants and Two Executive Assistants to the Director.

§ 213.3394 Department of Transportation.

(a) Office of the Secretary. . . .  
(51) Two Intergovernmental Liaison Specialists to the Deputy Assistant Secretary for Intergovernmental Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8785 Filed 3-22-79; 8:45 am]

[6325-01-M]

## PART 213—EXCEPTED SERVICE

Department of Commerce

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C (1) one position of Director, Office of Industrial Mobilization, Industry and Trade Administration and (2) one position of Deputy Director, Bureau of Trade Regulation, Industry and Trade Administration, because the duties of the positions are confidential in nature.

**EFFECTIVE DATE:** January 30, 1979.

**FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:**

Ronald K. Artley, Office of Personnel Management, 202-632-7676.

**FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:**

David Harrington, Department of Commerce, 202-377-3453.

Accordingly, 5 CFR 213.3314(w)(2) and (w)(3) are added as set out below:

§ 213.3314 Department of Commerce

(w) Industry and Trade Administration . . .  
(2) Director, Office of Industrial Mobilization  
(3) Deputy Director, Bureau of Trade Regulation

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8911 Filed 3-22-79; 8:45 am]

[6325-01-M]

## PART 213—EXCEPTED SERVICE

Small Business Administration

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment (1) revokes the Schedule C exceptions for the positions of Associate Administrator for Operations and Associate Administrator for Procurement Assistance and (2) excepts from the competitive service under Schedule C the positions of Associate Deputy Administrator for Program Management and Associate Deputy Administrator for Policy and Support because both positions require that the incumbents must maintain a close and confidential relationship with the Administrator.

**EFFECTIVE DATE:** February 14, 1979.

**FOR FURTHER INFORMATION:**

On Position Authority Contact: Ronald K. Artley, Office of Personnel Management, 202-632-7676.

On Position Content Contact: Joe Maas, Small Business Administration, 202-653-6780.

Accordingly, 5 CFR 213.3332(a) is changed as set out below:

§ 213.3332 Small Business Administration.

(a) One Deputy Administrator, Associate Deputy Administrator for Program Management, Associate Deputy Administrator for Policy and Support, Associate Administrator for Finance and Investment and the Associate Administrator for Minority Small Business.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

[FR Doc. 79-8912 Filed 3-22-79; 8:45 am]

## RULES AND REGULATIONS

[3410-34-M]

## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

## SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

## PART 73—SCABIES IN CATTLE

## Areas Quarantined and Released

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final Rule.

**SUMMARY:** The purpose of these amendments is to quarantine a portion of Fresno County in California because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed from specimens collected from cattle in this area by the National Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested area.

Also, these amendments release portions of San Luis Obispo County, California; a portion of Fresno County, California; and a portion of Johnson County, Kansas; from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in these quarantined areas.

**EFFECTIVE DATE:** March 14, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

**SUPPLEMENTARY INFORMATION:** These amendments quarantine a portion of Fresno County in California because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, apply to the quarantined area.

Also, these amendments release portions of San Luis Obispo County, California; a portion of Fresno County, California; and a portion of Johnson County, Kansas; from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, no longer apply to these released areas. However, the restrictions pertaining to the interstate movement of cattle from

nonquarantined areas, contained in said Part 73 will apply to those areas of the counties released from quarantine.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, is hereby amended in the following respects:

1. In § 73.1a, in paragraph (c), relating to the State of California, a new paragraph (c)(2) is added to read:

§ 73.1a Notice of quarantine.

(c) . . . .  
(2) The premises of Calvin Sample, Sanger, Fresno County, California, Secs. 4, 5, and 8, T. 13 S., R. 23 E.

2. In § 73.1a, paragraphs (c)(2), (c)(4), (c)(5), and (c)(7) relating to the State of California; and paragraph (d)(6) relating to the State of Kansas are deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendments quarantining the area impose certain further restrictions necessary to prevent the interstate spread of cattle scabies from such area and must be made effective immediately to accomplish their purpose in the public interest.

The amendments releasing areas from quarantine relieve restrictions no longer deemed necessary to prevent the spread of cattle scabies from such free areas, and should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rule-making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are contrary to the public interest, and good cause is found for making them effective on or before April 23, 1979.

Done at Washington, D.C., this 14th day of March 1979.

**NOTE:**—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of the quarantine and release of quarantine, as indicated above, warrants the publication of this document without waiting for public

comment. These amendments to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8895.

E. A. SCHILF,  
Acting Deputy Administrator,  
Veterinary Services.

[FR Doc. 79-8367 Filed 3-22-79; 8:45 am]

[3410-34-M]

## PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

## Areas Quarantined

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final Rule.

**SUMMARY:** The purpose of this amendment is to quarantine an additional portion of Riverside County in California, an additional portion of Los Angeles County in California, and a portion of Clark County in Nevada because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such areas on March 12, 1979. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine additional portions of Riverside County and Los Angeles County in California, and a portion of Clark County in Nevada.

**EFFECTIVE DATE:** March 16, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Maryland 20782, 301-436-8073.

**SUPPLEMENTARY INFORMATION:** This amendment quarantines additional portions of Riverside County and Los Angeles County in California, and a portion of Clark County in Nevada, because of the existence of exotic Newcastle disease in such areas. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(1), relating to the State of California, a new paragraph



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(x) relating to Riverside County, and a new paragraph (xi) relating to Los Angeles County are added to read as set forth below and the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Nevada and a new paragraph (a)(3) relating to the State of Nevada is added to read:

§ 82.3 Exotic Newcastle disease; and psittacosis or ornithosis in poultry.

(a) . . .

(1) California.

(x) The premises of the Fleming Bird Farm, 5881 Peach Street, Pedley, Riverside County.

(xi) The premises of the Teller Bird Farm, 12102 Gurley Avenue, Downey, Los Angeles County.

(3) Nevada. The premises of Birds of the World, 4601 Sahara Boulevard, Las Vegas, Clark County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, from the quarantined areas, and, therefore, must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective on or before April 23, 1979.

Done at Washington, D.C., this 16th day of March 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by M. A. Mixson, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of exotic Newcastle disease into other States or Territories of the United States from the quarantined areas is severe enough to constitute an emergency which warrants the publication of this quarantine without waiting for public comment. This amendment, as well as the complete regulations, will be scheduled for review under

provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

PIERRE A. CHALOUX, V.M.D.,  
Deputy Administrator,  
Veterinary Services.

(FR Doc. 79-8580 Filed 3-22-79; 8:45 am)

[3410-34-M]

#### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

#### PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

##### Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. H. L. Arnold, USDA, APHIS, VS, Federal Building, Room 867, Hyattsville, MD 20782, 301-436-8684.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1978 ed.), as amended May 5, 1978 (43 FR 19350), and October 31, 1978 (43 FR 50672), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective lists therein as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

#### WITHIN METROPOLITAN AREA

##### ONE HOUR

Add: Ames, Iowa.  
Add: Anchorage, Alaska.

#### OUTSIDE METROPOLITAN AREA

##### ONE HOUR

Add: Brownsville and Brownsville International Airport, Texas (served from Harlingen and San Benito, Texas).

##### TWO HOURS

Add: Hidalgo, Texas (served from Edinburg, Mission and McAllen, Texas).

Add: Hidalgo, Texas (served from Rio Grande City, Texas).

##### THREE HOURS

Add: Brownsville and Brownsville International Airport, Texas (served from Edinburg, McAllen and Mission, Texas).

Add: Hidalgo, Texas (served from Harlingen and San Benito, Texas).

##### FOUR HOURS

Add: Laredo, Texas (served from Rio Grande City, Texas).

##### FIVE HOURS

Delete: Brownsville, Texas (served from Laredo and San Antonio, Texas).

Delete: Laredo, Texas (served from Brownsville and San Antonio, Texas).

##### SIX HOURS

Add: Brownsville and Brownsville International Airport, Texas (served from Laredo, Kenedy and San Antonio, Texas).

Add: Hidalgo, Texas (served from Kenedy, Laredo, and San Antonio, Texas).

Add: Laredo, Texas (served from Brownsville, Edinburg, Harlingen, McAllen, Mission, San Antonio, and San Benito, Texas).

(64 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective on or before April 23, 1979.

Done at Washington, D.C., this 13th day of March 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum No. 1955. It has been determined by Dr. G. V. Peacock, Director, National Program Planning Staffs, Veterinary Services, Animal and Plant Health Inspection Service, that the emergency nature of these commuted traveltime allowances warrant the publication of this rule without waiting for public comment. This amendment as well as the complete regulation, will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum No. 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

M. T. GORR,  
Acting Deputy Administrator,  
Veterinary Services.

(FR Doc. 79-8366 Filed 3-22-79; 8:45 am)

[6320-01-M]

#### Title 14—Aeronautics and Space

#### CHAPTER II—CIVIL AERONAUTICS BOARD

#### SUBCHAPTER E—ORGANIZATIONAL REGULATION

(Regulation OR-149; Amdt. No. 82)

#### PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION NONHEARING MATTERS

Chief, Legal Analysis Division,  
Bureau of Pricing and Domestic Aviation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. March 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial Amendment.

SUMMARY: This amendment clarifies the Board's intent to continue the delegated authority of the Chief of the Legal Analysis Division of the Bureau of Pricing and Domestic Aviation to approve changes in the wording of airlines' notices to passengers about denied boarding compensation.

DATES: Effective: April 22, 1979.  
Adopted: March 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In revising its oversales regulations (ER-1050, 43 FR 24277, June 5, 1978),

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the Board moved the text of the notice required to be given to passengers from the tariff rules at 14 CFR 221.177(d) to 14 CFR Part 250, *Oversales*. Before that action, the Chief of the Legal Division, Bureau of Fares and Rates (now Chief of the Legal Analysis Division, Bureau of Pricing and Domestic Aviation) had delegated authority to approve changes in the wording of the notice. When ER-1050 was issued, a conforming change in the Board's delegations of authority was inadvertently omitted. This amendment makes that change.

This editorial amendment is issued under the authority delegated by the CAB to its General Counsel in 14 CFR 385.19. Procedures for review of this amendment are found in Subpart C of Part 385 of the Board's Organization Regulations (14 CFR 385.50-385.54).

Accordingly, the Board amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

In § 385.16a, paragraph (b) is amended to read:

§ 385.16a Delegation to the Assistant Director, Legal Analysis Division, Bureau of Pricing and Domestic Aviation.

The Board delegates to the Assistant Director, Legal Analysis Division, Bureau of Pricing and Domestic Aviation, the authority to:

(b) Grant or deny applications for relief under § 250.11 of this chapter.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board:

PHILIP J. BAKES,  
General Counsel.

(FR Doc. 79-8987 Filed 3-22-79; 8:45 am)

[4810-22-M]

#### Title 19—Customs Duties

#### CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

#### PART 159—LIQUIDATION OF DUTIES

Certain Fasteners From Japan, Suspension of Liquidation and Estimated New Net Amount of Bounty or Grant

AGENCY: United States Customs Service, Treasury Department.

ACTION: Suspension of Liquidation and Estimated New Net Amount of Bounty or Grant.

SUMMARY: This notice is to advise the public that a new net amount of the bounty or grant bestowed is being estimated with respect to certain industrial fasteners from Japan and that liquidation is being suspended. This action is the result of a determination by the Department of the Treasury that additional benefits which are considered bounties or grants under the countervailing duty law are bestowed upon the manufacture, production or exportation of certain Japanese industrial fasteners.

EFFECTIVE DATE: April 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On May 6, 1977, a Countervailing Duty Order was published in the *FEDERAL REGISTER* with respect to certain industrial fasteners from Japan (T.D. 77-128, 41 FR 23146). As a result of that order, which applied to nuts and bolts entering the United States under item numbers 646.54 and 646.56 of the Tariff Schedules of the United States (TSUS), a countervailing duty of 0.2 percent *ad valorem* was imposed. The programs found to constitute the bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act"), were: (1) the deferral of income taxes on export earnings under the Overseas Market Development Reserve (OMDR) and (2) export promotional assistance provided by the Japanese External Trade Organization (JETRO).

It has now been determined by the Treasury Department that the Japanese industrial fastener industry is eligible for, and, in fact, receives, additional benefits which would be considered "bounty or grants" under section 303 of the Act. The program in question was established under the "Temporary Measures Act for Small and Midsize Businesses With Regard to the High Yen Exchange Market" and has been in operation since October 1977. This program established a number of methods by which the Government of Japan can provide assistance to small and midsize Japanese firms which export and whose competitiveness has been adversely affected by the rapid appreciation of the yen. Assistance is provided in form of: (1) low cost loans; (2) the right to carry back current losses related to yen appreciation up to 3 years to offset income, corporate and local taxes paid in prior years; and (3) special government credit guarantees for



firms affected by yen appreciation over and above those otherwise offered to small and midsize businesses.

In light of the eligibility criteria, which limit utilization of the program to firms which export, this program clearly would constitute the bestowal of a bounty or grant within the meaning of the Act. Information was requested from the Government of Japan regarding the degree of utilization of these various forms of assistance. Based upon the information supplied it is apparent that the fastener industry has utilized at least some forms of the assistance; however, the data supplied was inadequate to allow a precise calculation of the benefits bestowed or identify the extent of utilization of the program by individual Japanese fastener manufacturer/exporters.

Accordingly, notice is hereby given that certain fasteners covered under TSUS item numbers 646.54 and 646.56 and covered under Treasury Decision 77-128 are benefitting from additional bounties or grants within the meaning of section 303 of the Act. The aggregate estimated benefit to exports of certain fasteners is 4 percent *ad valorem*. This estimate has been made in the absence of information regarding benefits specifically conferred on manufacturers producing these fasteners. It is at this time expected that the Government of Japan is collecting such data as will be necessary to more accurately ascertain the net amount of bounty or grant.

Accordingly, in accordance with section 303 of the Act, the net amount of the bounty or grant paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of certain fasteners from Japan has been estimated to be 4 percent *ad valorem*. Effective on April 9, 1979 and until further notice, such fasteners, imported directly or indirectly from Japan, which benefit from bounties or grants and which are entered, or withdrawn from warehouse, for consumption on or after April 9, 1979, shall be subject, in addition to any other duties determined or estimated to be due, to payment of countervailing duties in the amount estimated above. Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such fasteners.

In light of the apparent efforts by the Government of Japan to collect such data as will be necessary to more accurately ascertain the net amount of bounty or grant and in order to permit a determination of the extent to which the program has been utilized, it has been deemed appropriate to sus-

pend liquidation of entries pending receipt of such information and further declaration of the net amount of bounty or grant. Accordingly, the liquidation of all entries, or withdrawals from warehouse, for consumption of certain fasteners which enter the U.S. under TSUS items 646.54 and 646.56, imported directly or indirectly from Japan, shall be suspended as of April 9, 1979. A deposit of estimated countervailing duty shall be required at the time of entry, or withdrawal from warehouse, for consumption. If a manufacturer/exporter can certify to the District Director of Customs, with written confirmation by the Government of Japan, that it is either not eligible for, or has not utilized any of the benefits under the high yen measures program, the deposit of an estimated duty of 0.2 percent, rather than 4 percent will be required.

The table is § 159.47(f) of the Customs Regulation (19 CFR 159.47(f)) is amended by inserting after the last entry for Japan under the Commodity reading "Certain Fasteners" the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Estimated New Rate" in the column headed "Action."

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, and the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the amendment of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

MARCH 19, 1979.

[FR Doc. 79-8921 Filed 3-22-79; 8:45 am]

[4110-07-M]

#### Title 20—Employee's Benefits

### CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4, 16]

### PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

#### Subpart P—Rights and Benefits Based on Disability

### PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

#### Subpart I—Determination of Disability or Blindness

#### SUBSTANTIAL GAINFUL ACTIVITY GUIDELINES FOR 1978 AND 1979

AGENCY: Social Security Administration, HEW.

ACTION: Interim Regulations.

**SUMMARY:** The interim regulations increase the money amounts used as guidelines to determine whether persons with impairments other than blindness are able to do substantial gainful activity. For calendar year 1978, we are increasing the amount at the upper level from \$240 per month to \$260 per month and at the lower level from \$160 to \$170 per month. For calendar years 1979 and later, we are increasing the upper level from \$260 to \$280 per month and the lower level from \$170 to \$180 per month. These increases reflect general increases in average earning levels of workers in the national labor market. Under the new guidelines, we will ordinarily consider a person's monthly earnings from work activity averaging more than the upper level amount as showing that he or she has the ability to do substantial gainful activity. Similarly, we will ordinarily consider an employee's monthly earnings from work activity averaging less than the lower level amount as showing that he or she does not have the ability to do substantial gainful activity.

**DATES:** The regulations will be effective on an interim basis starting March 23, 1979. We must receive your comments no later than (insert 60th day after publication) to consider them in establishing the final rule.

**ADDRESSES:** Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

James MacDonald, Office of Policy

and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7341.

**SUPPLEMENTARY INFORMATION:** The interim regulations increase the earnings guidelines we use to evaluate the work activity of claimants and beneficiaries with impairments other than blindness under titles II and XVI of the Social Security Act. We use these guidelines to determine whether an individual has the ability to do substantial gainful activity (SGA).

Under the increased guideline amounts, we will consider a person's earnings from work activity averaging more than \$260 a month in calendar year 1978 (over \$280 a month effective calendar year 1979) as showing that he or she is able to do SGA, unless there is other evidence that the person is not able to do SGA. The present dollar amounts at the upper level of the guidelines for calendar years before 1978 contained in §§ 404.1534(b)(1) and 416.934(b)(1) will continue to be applied in evaluating earnings for those periods.

Under the increased guideline amounts, we will consider an employee's earnings from work activity averaging less than \$170 a month in calendar year 1978 (less than \$180 a month effective calendar year 1979) as showing he or she is not able to do SGA, unless there is other evidence to the contrary. The present dollar amounts at the lower level of the guidelines for calendar years before 1978 contained in §§ 404.1534(b)(2) and 416.934(b)(2) will continue to be applied in evaluating earnings for those periods.

Where a person's monthly earnings from work activity average between the upper and lower levels, inclusively, other circumstances concerning the person's work and medical restrictions will be evaluated together with the amount of earnings to determine whether he or she is able to do SGA.

The increased guideline amounts reflect the general rise in earnings levels of workers in the national economy. The new amounts also maintain the same relationship to earnings levels which has existed in the past. The 1978 upper guideline amount was determined by multiplying \$240 (the 1977 upper guideline amount) by 1.069003 (the ratio of average taxable wages reported for the first quarter of 1976 to those reported for the first quarter of 1975). This produced the amount of \$256.56, which was rounded to \$260, the nearest multiple of \$10. The 1978 lower guideline amount was determined by multiplying \$160 (the 1977 lower guideline amount) by the same ratio. This produced the amount of \$171.04, which was rounded to \$170. Similarly, we determined the upper and lower guideline amounts for 1979

by multiplying the 1978 guideline amounts by 1.0599318 (the ratio of average taxable wages reported for the first quarter of 1977 to those reported for the first quarter of 1976) and rounding the result to the nearest \$10. This produced the 1979 guideline amounts of \$280 and \$180, respectively.

We will use the new guideline amounts to determine whether work for 1978 and for 1979 and subsequent calendar years is substantial gainful activity. Any claim involving earnings for those years will be considered on the basis of the the increased guideline amounts. Any case in which disability benefits were denied or terminated on the basis of the present guideline amounts because of earnings in 1978 and 1979 will be reevaluated under the increased guideline amounts for 1978 and 1979, as appropriate.

To reflect the increased guideline amounts in the regulations, we are amending § 404.1534 applicable to the Federal Old-Age, Survivors and Disability Benefits program and § 416.934 applicable to the Supplemental Security Income program. In § 404.1534, we are revoking paragraphs (c) and (d) and incorporating the material in these paragraphs with paragraph (b). We are revising the heading of paragraph (e). In § 416.934, we are revoking paragraphs (c) and (d) and incorporating the material in these paragraphs with paragraph (b). We are revising the heading of paragraph (e).

We are publishing these rules as interim regulations because it would be impracticable and contrary to the public interest to publish them as a Notice of Proposed Rulemaking. The guidelines are for the past year (1978) and the current year (1979) and we must have current rules for evaluating earnings of disabled applicants and beneficiaries. The reference in the Notice of Decision to Develop Regulations, published November 3, 1978 (43 FR 51410) to "proposed regulations" was in error.

The interim regulations are to be issued under the authority in sections 205, 223, 1102, 1614, and 1631 of the Social Security Act; 53 Stat. 1368, as amended, 70 Stat. 815, as amended, 49 Stat. 647, as amended, and 86 Stat. 1471, 1475, as amended; 42 U.S.C. 405, 423, 1302, 1382c, and 1383.

(Catalog of Federal Domestic Assistance Program Nos. 13802 Social Security-Disability Insurance; 13807 Supplemental Security Income.)

Dated: January 23, 1979.

STANFORD G. ROSS,  
Commissioner of  
Social Security.

Approved: March 6, 1979.

JOSEPH A. CALIFANO, JR.,  
Secretary of Health,  
Education, and Welfare.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.1534 is amended by revising paragraph (b), revoking and reserving paragraphs (c) and (d), and revising the heading of paragraph (e) to read as follows:

§ 404.1534 Evaluation of earnings from work.

(b) *Earnings guidelines.* Except for paragraph (f) of this section, we will use the following guidelines in paragraphs (b) (1), (2), and (3) of this section to determine whether a person's earnings show the ability to do substantial gainful activity.

(1) *Earnings that will ordinarily show that a person has done substantial gainful activity.* We will ordinarily consider that a person's earnings from work activity show that he or she has done substantial gainful activity if—

(i) Earnings averaged more than \$200 a month in calendar years prior to 1976;

(ii) Earnings averaged more than \$230 a month in calendar year 1976;

(iii) Earnings averaged more than \$240 a month in calendar year 1977;

(iv) Earnings averaged more than \$260 a month in calendar year 1978; or

(v) Earnings averaged more than \$280 a month in calendar years after 1978; and

(vi) There is no evidence that the person was unable to do substantial gainful activity under the rules in §§ 404.1532 and 404.1533 and paragraph (a) of this section.

(2) *Earnings that will ordinarily show that a person has not done substantial gainful activity.* We will ordinarily consider that a person's earnings from work activity as an employee show that he or she has not done substantial gainful activity if—

(i) Earnings averaged less than \$130 a month in calendar years prior to 1976;

(ii) Earnings averaged less than \$150 a month in calendar year 1976;

(iii) Earnings averaged less than \$160 a month in calendar year 1977;

(iv) Earnings averaged less than \$170 a month in calendar year 1978; or

(v) Earnings averaged less than \$180 a month in calendar years after 1978; and

(vi) There is no evidence that the person was able to do substantial gainful activity under the rules in §§ 404.1532 and 404.1533 and paragraph (a) of this section.

(3) *Earnings that are not high or low enough to show whether a person has done or has not done substantial gain-*



FEDERAL REGISTER, VOL. 44, NO. 58—FRIDAY, MARCH 23, 1979



Health, Education, and Welfare,  
5600 Fishers Lane, Rockville, MD.,  
301-443-4313.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 79-9094 Filed 3-22-79; 8:45 am]

## [4110-03-M]

## SUBCHAPTER A—GENERAL

## SUBCHAPTER F—BIOLOGICS

## EDITORIAL AMENDMENTS

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: The Food and Drug Administration is making three editorial amendments to its regulations contained in Parts 74, 80, and 640.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

John Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The agency is amending the Code of Federal Regulations in Parts 74, 80, and 640 as follows:

1. In Part 74, § 74.705 *FD&C Yellow No. 5* is amended in paragraph (b) in its list of specifications by changing in the 3d item "0.2 percent" to read "0.1 percent."
2. In Part 80, § 80.21 *Request for certification* is amended in paragraph (j)(1) by changing "Batch weights" to read "Batch weights."
3. In Part 640, § 640.33 *Testing the blood* is amended in paragraph (a) by changing "§ 640.5(a), (b), and (c)" to read "§ 640.5(a), (b), and (c)."

Effective date: March 23, 1979.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 79-8997 Filed 3-22-79; 8:45 am]

## RULES AND REGULATIONS

## [6560-01-M]

[FRL 1080-8; FAP 6H5126/R45]

## SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

## PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide glyphosate in sugarcane molasses. The regulations were requested by Monsanto Co. This rule establishes maximum permissible levels for residues of glyphosate in sugarcane molasses.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On December 5, 1978, the EPA published in the *FEDERAL REGISTER* (43 FR 57005) a notice of proposed rulemaking to amend 21 CFR 193.235 and 561.253 by establishing regulations permitting combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on sugarcane molasses resulting from the application of the herbicide to growing sugarcane with a tolerance limitation of 2 parts per million (ppm). This notice was published in connection with a petition (FAP 6H5126) submitted by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63168. (A related document establishing a tolerance for residues of glyphosate on sugarcane appears elsewhere in today's *FEDERAL REGISTER*.) No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. For purposes of clarification, the Agency has determined that the regulations should specify that the resi-

dues result from the herbicide application of the isopropylamine salt of glyphosate.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). Therefore, the regulations are being established.

Any person adversely affected by this regulation may, on or before April 23, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 23, 1979, 21 CFR 193 and 561 are amended as set forth below.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).

Dated: February 24, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

1. Part 193, Subpart A, § 193.235, is amended by revising paragraph (e) to read as follows:

## § 193.235 Glyphosate.

(e) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in the following processed foods when present therein as a result of herbicide application of the isopropylamine salt of glyphosate in palm tree culture and to growing sugarcane:

2 parts per million in sugarcane molasses.

0.1 part per million in palm oil.

2. Part 561, § 561.253, is amended by revising paragraph (f) to read as follows:

## § 561.253 Glyphosate.

(f) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the following processed feeds when present therein as a result

## RULES AND REGULATIONS

of herbicide application of the isopropylamine salt of glyphosate to growing crops:

| Feed                     | Parts per million |
|--------------------------|-------------------|
| Citrus pulp, dried.....  | 0.4               |
| Soybean hulls .....      | 20                |
| Sugarcane molasses ..... | 2                 |

[FR Doc. 79-8977 Filed 3-22-79; 8:45 am]

## [4710-06-M]

## Title 22—Foreign Relations

## CHAPTER 1—DEPARTMENT OF STATE

(Dept. Reg. 108.766)

## PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

## Exchange Visitors

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Department regulations are amended to require exchange visitors, coming to the United States for the purpose of receiving graduate medical education or training, to meet the requirements of the Immigration and Nationality Act.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Cornelius D. Scully III, 202-632-1980.

SUPPLEMENTARY INFORMATION: Pub. L. 94-484 and Pub. L. 95-83 amended Sections 101(a)(15)(J), 212(e) and 212(j) of the Immigration and Nationality Act, as amended, to provide special requirements for exchange visitors coming to the United States to participate in programs under which they will receive graduate medical education and training. As amended by these two laws Section 101(a)(15)(J) now requires exchange visitors coming to the United States for the purpose of receiving graduate medical education or training to meet the requirements of section 212(j) prior to visa issuance. Section 212(j) as added to the Act requires that; a medical school must have agreed in writing to provide an exchange visitor graduate medical education or training under the program for which the alien is coming to the United States or to arrange for the provision thereof; the alien must have passed Parts I and II of the National Board of Medical Examiners Examination or an equivalent and have demonstrated competency in

oral and written English; the alien must have made a commitment to return to the country of nationality or last residence upon completion of the training; the government of the alien's country of nationality or last residence must have provided a satisfactory written assurance that there is a need in that country for persons with the skills being acquired by the alien; and, except in certain limited circumstances, the duration of the alien's program must be limited to not more than two years.

In addition, Section 212(e), as amended, provides that all exchange visitors who acquire graduate medical education or training in the United States are subject to the two year residency requirement in their country of nationality or last residence before they may apply for an immigrant visa, or for permanent residence or for non-immigrant visas under sections 101(a)(15)(H) or (L). As further amended, section 212(e) makes it impossible for such exchange visitors to obtain a waiver of the two year residence requirement on the basis of a "no objection" statement from the government of their nationality or last residence.

Since the amendments herein are made in conformity with those laws, compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance. The provisions of these amendments are issued under the authority contained in Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104).

In § 41.65, paragraph (a)(3) is revised, a new paragraph (a)(4) is added and the present paragraph (a)(4) is redesignated as paragraph (a)(5) without changes. Also, paragraph (b) is amended by substituting the period at the end of subparagraph (1)(ii) with "; or " and by adding subparagraph (1)(iii).

## § 41.65 Exchange Visitors.

(a) \* \* \*

(3) He has sufficient knowledge of the English language to enable him to undertake the program for which he has been selected, or, except for an alien coming to participate in a program under which he will receive graduate medical education or training, the organization sponsoring him is aware of his deficiency in this respect and has indicated its willingness to accept him regardless of that deficiency;

(4) He meets the requirements of section 212(j) of the Immigration and Nationality Act, as amended, if coming to participate in a program under which he will receive graduate medical education or training; or that,

(5) The alien is the spouse or minor child of such an exchange-visitor program participant.

(b) \* \* \*

(ii) \* \* \*; or

(iii) He acquires exchange visitor status in order to receive graduate medical education or training in the United States.

For the Secretary of State.

Dated: February 9, 1979.

BARBARA M. WATSON,  
Assistant Secretary for  
Consular Affairs.

[FR Doc. 79-8917 Filed 3-22-79; 8:45 am]

## [4710-06-M]

(Dept. Reg. 108.767)

## PART 42—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

## Application for Immigrant Visa

AGENCY: Department of State.

ACTION: Final Rule.

SUMMARY: Title 22 CFR 42.111(e) is amended to require that color photographs, where available, be furnished with an alien's application for an immigrant visa.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald M. Brown, Chief, Regulations and Legislation Division, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D. C. 20520. (202) 632-1900.

SUPPLEMENTARY INFORMATION: This amendment is to support the Immigration and Naturalization Service's requirement that a color photograph be attached to the new Form I-551 ADIT (Alien Documentation Identification and Telecommunications) Alien Registration Receipt Card, which is processed for arriving immigrants by INS at ports of entry. By requiring that color photographs be furnished at the time of visa application for both the alien's visa and his Form I-551, the Service and the alien are spared the necessity of having new photographs taken when the alien applies for admission. Accordingly, compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment to § 42.111(e) is an internal administrative



tive change having no adverse effect upon the public.

Paragraph (e) of § 42.111 is amended to read:

§ 42.111 Supporting documents.

(e) *Photographs.* Each alien shall furnish color photographs with his or her application for an immigrant visa, the number and specifications of which are as prescribed by the Department, except that, in countries where facilities for producing color photographs are unavailable as determined by the consular officer, black and white photographs may be furnished.

**AUTHORITY:** This amendment is issued pursuant to the authority contained in section 104 of the Immigration and Nationality Act (Sec. 104, 86 Stat.; 8 U.S.C. 1104).

Dated: March 7, 1979.

BARBARA M. WATSON,  
Assistant Secretary for  
Consular Affairs.

[FR Doc. 79-8919 Filed 3-22-79; 8:45 am]

[4710-06-M]

[Dept. Reg. 108.765]

**PART 42—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

**Refusal and Revocation of Immigrant Visas**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department's regulations establishing procedures for refusals of immigrant visas and for review of such refusals, are amended to (1) eliminate the authority to defer, in certain cases, review of the refusal for up to 120 days, and provide for a more timely review, and (2) provide that payment of a new visa application fee is not required if the basis for the refusal is overcome within one year, rather than within 120 days, as has previously been the case.

**EFFECTIVE DATE:** March 23, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Cornelius D. Scully III, Visa Services Director, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520. 202-632-1980.

**SUPPLEMENTARY INFORMATION:** The previous regulations (promulgated in 1963) authorized deferral of review of an immigrant visa refusal in cases in which the basis for refusal could be overcome by further action

on the part of the applicant. Experience indicated that, in many such cases, the applicant took the necessary action within a 120-day period and, thus, this period was adopted as the maximum permissible deferral period. At the time, it was believed that immediate review of refusals of this kind was a waste of time since many would be overcome within a short time in any event.

The Department has now reconsidered this subject and has concluded that the authority to defer review of a refusal carries with it the risk that the refusals may not be reviewed at all in many cases.

The amended regulations provide that a review shall be made in these cases without delay. The Department intends this to mean that the review will be made on the same day of the refusal or as soon as administratively possible after refusal. It is also intended that this review procedure will apply to any subsequent refusal by a consular officer after presentation by an applicant of new or additional evidence to overcome a prior refusal. Elimination of the authority to defer review or refusals in any case may have the effect of increasing the work of consular officers in supervisory positions, but the Department believes that this review is of sufficient substantive importance to outweigh administrative considerations of this kind.

The proposal to extend to one year the period during which a refusal may be overcome without payment of a new application fee is a part of a series of measures designed to standardize various time limits involved in immigrant visa processing so that all time limits are standardized at one year. These measures derive from the amendment of section 203(e) of the Act by Public Law 95-471 which established a requirement that an immigrant visa applicant make formal application for an immigrant visa within one year following notification that an immigrant visa had become available for his use.

In light of the foregoing it is found that compliance with the notice of proposed rulemaking and public participation procedure is unnecessary in this instance because the amendments confer a benefit upon a visa applicant.

§ 42.130 [Amended]

Section 42.130 is amended as follows:

1. In paragraph (a), fifth sentence, and paragraph (d) the words "120 days" are changed to read "one year".
2. Paragraph (b), as amended by deletion of part of the first sentence and the entire second sentence, reads:

(b) *Review of refusals at consular offices.* The principal consular officer at a post, or an alternate whom he may specifically designate, shall review without delay the case of each applicant who has been refused a visa and shall record his decision over his signature and the date on a form prescribed by the Department. If the principal consular officer, or his alternate, does not concur in the refusal, he shall (1) refer the case to the Department for an advisory opinion, or (2) assume responsibility for the case himself.

**AUTHORITY:** These amendments are issued pursuant to the authority contained in Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104).

Dated: February 24, 1979

For the Secretary of State.

BARBARA M. WATSON,  
Assistant Secretary for  
Consular Affairs.

[FR Doc. 79-8918 Filed 3-22-79; 8:45 am]

[4210-01-M]

**Title 24—Housing and Urban Development**

**CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM**

[Docket No. FI 5297]

**PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE**

**Status of Participating Communities**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The date listed in the fifth column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box

34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, DC 20410. (202) 755-5581 or Toll Free Line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt

and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of

flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administration finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

| State        | County      | Location                | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community                 | Special flood hazard area identified |
|--------------|-------------|-------------------------|---------------|---|--------------------------------------|
| Pennsylvania | Northampton | West Easton, borough of | 420733-B      | July 9, 1973, emergency, Mar. 1, 1979, regular, Mar. 1, 1979, suspended, Mar. 9, 1979, reinstated.    | Dec. 28, 1973 and June 18, 1976.     |
| Do           | Delaware    | Middletown, township of | 420422-B      | Dec. 1, 1972, emergency, Feb. 15, 1979, regular, Feb. 15, 1979, suspended, Mar. 12, 1979, reinstated. | Apr. 12, 1974 and May 28, 1976.      |
| Nebraska     | Nemaha      | Unincorporated areas    | 310460        | Mar. 8, 1979, emergency.  |                                      |

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2880, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-8742 Filed 3-22-79; 8:45 am]

[4210-01-M]

[Docket No. FI 5254]

**PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS**

**List of Communities With Special Hazard Areas**

**AGENCY:** Federal Insurance Administration.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insur-

ance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

**EFFECTIVE DATES:** The date listed in the eighth column of the table or April 23, 1979, whichever is later.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

**SUPPLEMENTARY INFORMATION:** The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) for acquisition and construction of buildings as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) for buildings located in a special flood hazard area identified by the



## Secretary of Housing and Urban Development

For communities participating in the NFIP, (see the fifth column in the table for a community's program status), this requirement applies on the date listed in the eighth column. For communities not participating in the program, Section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective one year

§ 1915.3 List of communities with special hazard areas (FHBM's in effect).

| State          | County              | Community name and No. of panels   | Community No. and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)                        | Effective date of this map action | Local map repository  |
|----------------|---------------------|------------------------------------|--------------------------|-------------------------|-------------------|--------------|---|-----------------------------------|---|
| Florida        | Lake                | Town of Howey-In-The-Hills, 0001A. | 120585                   | N-5                     | I                 | F            | Mar. 2, 1979                                  | Mar. 2, 1979                      | C. Fletcher Bishop, Jr., Mayor, P.O. Box 67, Howey-In-The-Hills, FL 32737, Phone: (904) 324-2290.                         |
| Illinois       | Sangamon            | City of Auburn, 0001A.             | 170944                   | N-5                     | I                 | F            | Mar. 2, 1979                                  | Mar. 2, 1979                      | Loren Boesdorfer, Mayor, 108 S. 5th Street, Auburn, IL 62615, Phone: (217) 438-0151.                                      |
|                | Edgar               | Edgar County, 0001A-0006A.         | 170965                   | N-5                     | I                 | F            | Mar. 2, 1979                                  | Mar. 2, 1979                      | Max Carrington, Ch. Co. Bd., R.R. #5, Paris, IL 61944, Phone: (217) 465-5102.   |
|                | Marshall            | Marshall County, 0001A-0006A.      | 170994                   | N-5                     | I                 | F            | Mar. 2, 1979                                  | Mar. 2, 1979                      | Joe Monier, Ch. Co. Bd., RFD, Sparland, IL 61565, Phone: (309) 469-4632.  |
|                | Macon               | Village of Mount Zion, 0001A.      | 170962                   | N-5                     | I                 | F            | Mar. 2, 1979                                  | Mar. 2, 1979                      | J. A. Larson, V. Pres., 400 Main Street, Mount Zion, IL 62549, Phone: (217) 864-2211.                                     |
| Michigan       | Ottawa              | Township of Holland, 0001B-0002B.  | 260492                   | E-11, 12, 14            | I                 | F            | Aug. 12, 1977                                 | Mar. 2, 1979                      | Donald Nicewater, Attorney, P.O. Box 454, Grand Haven, MI 49417, Phone: (616) 842-3030.                                   |
| Minnesota      | Todd                | City of Hewitt, 0001B.             | 270476                   | E-11, 12, 14            | I                 | F            | Aug. 9, 1974<br>July 16, 1976                 | Mar. 2, 1979                      | Ronald Hamann, City Hall, Hewitt, MN 56453, Phone: (218) 924-4817.  |
| North Carolina | Pamlico             | Town of Minnesott Beach, 0001A.    | 370418                   | N-5                     | I                 | F            | Mar. 2, 1979                                  | Mar. 2, 1979                      | Ottis E. Peake, Mayor, Town Hall, Arapahoe, NC 28510, Phone: (919) 249-0048.  |
| Ohio           | Richland            | City of Mansfield, 0001B-0003B.    | 390477                   | E-8, 11, 12, 14         | I                 | F            | May 17, 1974<br>Oct. 17, 1975                 | Mar. 2, 1979                      | Richard Porter, Mayor, 30 North Diamond, Mansfield, OH 44902, Phone: (419) 526-2600.                                      |
| Wisconsin      | Crawford            | Village of Bell Center, 01.        | 550068B                  | E-11, 12, 14            | I                 | F            | Jan. 9, 1974<br>Apr. 16, 1976                 | Mar. 2, 1979                      | Halls Campbell, V. Pres., Village Hall, Bell Center, WI 54631, Phone: (608) 735-4794.                                     |
| New Hampshire  | Rockingham          | Town of Kingston, 0001A-0002A.     | 330217A                  | N-11, 12                | I                 | F            | Jan. 17, 1975                                 | Mar. 6, 1979                      | Mr. Ralph Southwick, Selectman, Board of Selectmen, Town Office, Kingston, NH 03846, (603) 642-3112.                      |
| Oregon         | Unincorporated area | Benton County, 0001B-0010B.        | 410008B                  | E-8, 11, 12             | I                 | F            | Dec. 27, 1974<br>Apr. 8, 1977                 | Mar. 6, 1979                      | Mr. Dale D. Schrock, Commissioner, Board of Commissioners, Benton County Courthouse, Corvallis, OR 97330, (503) 757-6800. |
| South Dakota   | Brown               | Town of Westport, 0001A.           | 460011A                  | E-5                     | I                 | F            | Mar. 6, 1979                                  | Mar. 6, 1979                      | Mr. Archie Clifford, Town President, Office of Town President, Westport, SD 57461, (605) 225-0250 Ext. 463.               |
| Wyoming        | Carbon              | Town of Elk Mountain, 0001A.       | 560093A                  | E-5                     | I                 | F            | Mar. 6, 1979                                  | Mar. 6, 1979                      | Honorable Norman Palm, Mayor, P.O. Box 17, Elk Mountain, WY 82324, (307) 348-7771.  |
| Alabama        | Montgomery          | City of Montgomery, 01-19.         | 010174C                  | E-8, 11, 12, 14         | I                 | F            | June 28, 1974<br>Jan. 9, 1976<br>May 13, 1977 | Mar. 9, 1979                      | Emory Polmar, Mayor, P.O. Box 1111, Montgomery, AL 36102, Phone: (205) 262-4421.  |

| State        | County              | Community name and No. of panels  | Community No. and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)         | Effective date of this map action | Local map repository   |
|--------------|---------------------|-----------------------------------|--------------------------|-------------------------|-------------------|--------------|--------------------------------|-----------------------------------|--|
| Illinois     | Kendall             | Village of Oswego, 0001B.         | 170345                   | E-8, 11, 12, 14         | I                 | F            | Nov. 23, 1973<br>Oct. 31, 1975 | Mar. 9, 1979                      | Milton Penn, V. Pres., 113 Main Street, Oswego, IL 60543, Phone: (312) 554-3618.   |
| Indiana      | Grant               | Town of Jonesboro, 0001B.         | 180076                   | E-8, 11, 12, 14         | I                 | F            | Dec. 7, 1973<br>July 23, 1976  | Mar. 9, 1979                      | Lester Lewis, Town Pres., 210 North Water Street, Jonesboro, IN 46038, Phone: (317) 674-2604.  |
|              | Washington          | Town of New Pekin, 0001A.         | 180463                   | N-5                     | I                 | F            | Mar. 9, 1979                   | Mar. 9, 1979                      | Lloyd Sullivan, Town Bd. Pres., Rt. 1, New Pekin, IN 47165, Phone: (812) 967-3457.   |
| Minnesota    | Wabasha             | City of Hammond, 01.              | 270485B                  | E-11, 12, 14            | I                 | F            | Aug. 2, 1974<br>Sept. 10, 1976 | Mar. 9, 1979                      | Jerry Kuehn, Mayor, P.O. Box 843, Hammond, MN 55338, Phone: (507) 753-2360.  |
|              | Wabasha, Goodhue    | City of Lake City, 0001B.         | 270488                   | E-8, 11, 12, 14         | I                 | F            | Mar. 15, 1974<br>Apr. 9, 1976  | Mar. 9, 1979                      | Donald Bush, Mayor, 305 West Center Street, Lake City, MN 56041, Phone: (612) 345-5383.  |
| Ohio         | Wyandot             | Village of Carey, 01.             | 390590B                  | E-11, 12, 14            | I                 | F            | May 21, 1974<br>Aug. 20, 1976  | Mar. 9, 1979                      | Charles W. Mabey, V. Adm., 127 North Vance Street, Carey, OH 43316, Phone: (419) 396-7661.   |
| Pennsylvania | Erie                | Township of McKean, 0001A-0004A.  | 422623                   | E-6                     | I                 | F            | Mar. 9, 1979                   | Mar. 9, 1979                      | Richard East, 4459 North Colonial Parkway, Erie, PA 16509, Phone: (814) 833-0038.  |
| Arkansas     | Nevada              | Town of Willaville, 0001A.        | 050571A                  | N-5                     | I                 | F            | Mar. 13, 1979                  | Mar. 13, 1979                     | Honorable James Pennington, Mayor, Town of Willaville, Office of Mayor, Willaville, AR 71864, (501) 234-4260, Ext. 367.  |
| Montana      | Unincorporated area | Sanders County, 0017B.            | 300072B                  | N-12                    | I                 | F            | Dec. 27, 1977                  | Mar. 13, 1979                     | Mr. Neil B. Mann, Supervisor, Floodplain Management Section, Engineering Bureau, Department of Natural Resources and Conservation, 32 South Ewing, Helena, MT 59601, (406) 449-2884. |
| Oregon       | Unincorporated area | Yamhill County, 0001B-0011B.      | 410249B                  | E-11, 12                | I                 | F            | Dec. 27, 1974<br>July 19, 1977 | Mar. 13, 1979                     | Mr. Ted Lopuynski, Chairman, Yamhill County, Board of County Commissioners, County Courthouse, McMinnville, OR 97128, (503) 472-0871.  |
| South Dakota | Douglas             | City of Armour, 01A-02A.          | 460234A                  | N-11, 12                | I                 | F            | Aug. 6, 1976                   | Mar. 13, 1979                     | Honorable Dennis Sparks, Mayor, City Hall, Main Street, Armour, SD 57313, (605) 724-2157.  |
| Utah         | Weber               | City of Riverdale, 0001B.         | 490190B                  | E-8, 11, 12             | I                 | F            | June 28, 1974<br>Nov. 28, 1975 | Mar. 13, 1979                     | Honorable Leon Poulsen, Mayor, 4459 South 700 West, Ogden, UT 84403, (801) 394-0529.   |
| Washington   | Kittitas            | City of Ellensburg, 0001B-0003B.  | 530234B                  | E-11, 12                | I                 | F            | Dec. 17, 1973<br>Apr. 16, 1976 | Mar. 13, 1979                     | Honorable Darrel Curtis, Mayor, P.O. Box 1067, Ellensburg, WA 98926, (509) 942-8663.   |
| Alabama      | Sumter              | Town of Cuba, 0001A.              | 010379                   | N-5                     | I                 | F            | Mar. 16, 1979                  | Mar. 16, 1979                     | Charles I. Tate, Mayor, Town Hall, Cuba, AL 36907, Phone: (205) 392-5209.  |
|              | Walker              | Town of Kansas, 01.               | 010390A                  | N-5                     | I                 | F            | Mar. 16, 1979                  | Mar. 16, 1979                     | John Hinds, Mayor, P.O. Box 4206, Kansas, AL 35573, Phone: (205) 924-9561.   |
| Illinois     | McLean              | City of Bloomington, 0001B-0002B. | 170490                   | E-8, 11, 12, 14         | I                 | F            | Sept. 24, 1976                 | Mar. 16, 1979                     | Richard Buchanan, Mayor, 109 East Olive Street, Bloomington, IL 61701, Phone: (309) 828-7361.  |
| Indiana      | Tippecanoe          | Town of Battle Ground, 0001B.     | 180252                   | E-11, 12, 14            | I                 | F            | May 24, 1974<br>June 25, 1976  | Mar. 16, 1979                     | William D. Rogers, T. Pres., Town Hall, Battle Ground, IN 47920, Phone: (317) 567-2603.  |
|              | Madison             | City of Elwood, 0001B.            | 180152B                  | E-8, 11, 12, 14         | I                 | F            | Dec. 28, 1973<br>Oct. 24, 1976 | Mar. 16, 1979                     | Lynn Chase, Mayor, 1801 Main Street, Elwood, IN 46036, Phone: (317) 552-5076.  |
|              | Tipton              | Tipton County, 0001A-0004A.       | 180475                   | N-5                     | I                 | F            | Mar. 16, 1979                  | Mar. 16, 1979                     | Genevieve Morris, Sec. Courthouse, Tipton, IN 46072, Phone: (317) 675-2794.  |



| State        | County              | Community name and No. of panels             | Community No. and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)                         | Effective date of this map action | Local map repository   |
|--------------|---------------------|--|--------------------------|-------------------------|-------------------|--------------|--|-----------------------------------|--|
| Kentucky     | Pike                | City of Elkhorn City, 0001A.                 | 210358                   | N-5                     | I                 | F            | Mar. 16, 1979                                  | Mar. 16, 1979                     | Charles Cantrell, Mayor, P.O. Box 681, Elkhorn City, KY 41522, Phone: (606) 754-5080.  |
| Minnesota    | Clearwater          | City of Bagley, 0001A.                       | 270087                   | E-8, 10, 11, 12, 14.    | I                 | F            | Mar. 29, 1974                                  | Mar. 16, 1979                     | Earl Swenson, Mayor, Box 178, Bagley, MN 56621, Phone: (218) 894-2300.   |
|              | Winona              | City of Goodview, 0001A.                     | 270528                   | E-8, 11, 12, 14.        | I                 | F            | Mar. 19, 1979                                  | Mar. 16, 1979                     | Daryl K. Zimmer, Box 212, Winona, MN 55987, Phone: (507) 452-1630.   |
| Tennessee    | Wayne               | Wayne County, <sup>1</sup> 0001A-0010A.      | 470199                   | N-5                     | I                 | F            | Mar. 10, 1979                                  | Mar. 16, 1979                     | James R. Martin, Judge, Courthouse, Waynesboro, TN 38485, Phone: (615) 722-5620.   |
| Virginia     | Page                | Town of Shenandoah, 0001B.                   | 510248                   | E-8, 11, 12, 14.        | I                 | F            | Nov. 1, 1974<br>May 28, 1976                   | Mar. 16, 1979                     | Barrett R. Bryant, Mayor, 418 First Street, Shenandoah, VA 22849, Phone: (703) 852-3328.   |
|              | Sussex              | Town of Stony Creek, 0001B.                  | 510159                   | E-11, 12, 14.           | I                 | F            | Aug. 9, 1974<br>Apr. 30, 1976                  | Mar. 16, 1979                     | Thomas W. Baley, Jr., Mayor, P.O. Box 65, Stony Creek, VA 22882, Phone: (804) 246-6601.  |
| Wisconsin    | Barron              | City of Rice Lake, 0001B.                    | 550016                   | E-8, 11, 12, 14.        | I                 | F            | Dec. 7, 1973<br>July 30, 1976                  | Mar. 16, 1979                     | David Burner, Mayor, 111 East Marshall Street, Rice Lake, WI 54868, Phone: (715) 234-4611.   |
| Arkansas     | Clark               | Town of Caddo Valley, 0001A.                 | 050567A                  | N-5                     | I                 | F            | Mar. 20, 1979                                  | Mar. 20, 1979                     | Honorable Allyn Bert Cox, Mayor, Office of Mayor, Route 2, Box 447, Arkadelphia, AR 71923, (501) 246-5789.                                 |
| Connecticut  | Litchfield          | Town of Colebrook, 0001A-0004A.              | 090180A                  | E-5, 15                 | I                 | F            | Mar. 20, 1979                                  | Mar. 20, 1979                     | Mr. Frederick I. Wilber, First Selectman, Board of Selectmen, Colebrook Center, Colebrook, CT 06021, (203) 379-2922.                       |
| Kansas       | Anderson            | City of Greeley, 0001A.                      | 200006A                  | N-8, 11                 | I                 | F            | Nov. 22, 1974                                  | Mar. 20, 1979                     | Honorable Lee J. Clevenger, Sr., Mayor, City Hall, Greeley, KS 66033, (913) 867-2410.  |
| Montana      | Unincorporated area | Garfield County, 0026A.                      | 300150A                  | N-5                     | I                 | F            | Mar. 20, 1979                                  | Mar. 20, 1979                     | Mr. Kenneth A. Coulter, Chairman, County of Garfield, Office of County Commissioners, County Courthouse, Jordan, MT 59337, (406) 557-2760. |
| North Dakota | Stutsman            | City of Spiritwood Lake, 0001A.              | 380315A                  | E-5                     | I                 | F            | Mar. 20, 1979                                  | Mar. 20, 1979                     | Mr. Donald Wanner, City of Spiritwood Lake, Office of the Auditor, P.O. Box 642, Jamestown, ND 58401, (701) 252-7188.                      |
| Oregon       | Multnomah           | City of Troutdale, 0001B.                    | 410184B                  | E-8, 11, 12.            | I                 | F            | Dec. 7, 1973<br>June 4, 1976                   | Mar. 20, 1979                     | Honorable Robert M. Sturges, Mayor, 104 Kibling Street, Troutdale, OR 97060, (503) 865-5175.   |
| Illinois     | Cumberland          | Cumberland County, <sup>1</sup> 0001A-0006A. | 170987                   | N-5                     | I                 | F            | Mar. 23, 1979                                  | Mar. 23, 1979                     | Elwood Hawes, Clerk, Box 146, Toledo, IL 62468, Phone: (217) 849-2631.   |
|              | Calhoun             | Village of Hardin, 0001B.                    | 170738                   | E-8, 11, 12, 14.        | I                 | F            | June 28, 1974<br>Jan. 23, 1976                 | Mar. 23, 1979                     | William C. Harman, Village President, Village Hall, Hardin, IL 62407, Phone: (618) 576-2231.   |
|              | Jackson             | Village of Makanda, 0001B.                   | 170301                   | N-11, 12, 14.           | I                 | F            | Aug. 23, 1974<br>Dec. 26, 1975                 | Mar. 23, 1979                     | B. C. Ross, Village Pres., P.O. Box 1, Makanda, IL 62958, Phone: (618) 549-6392.   |
|              | Carroll             | Village of Thomson, 01.                      | 170778A                  | N-12, 14                | I                 | F            | Oct. 17, 1976                                  | Mar. 23, 1979                     | Fay D. Ashby, Village Pres., P.O. Box 134, Thomson, IL 61285, Phone: (615) 259-3384.   |
| Indiana      | Wayne               | City of Fountain City, 01.                   | 180282C                  | N-8, 11, 12, 14.        | I                 | F            | May 10, 1974<br>Apr. 16, 1976<br>Apr. 15, 1977 | Mar. 23, 1979                     | John Keller, City Pres., 312 W. Main St., Fountain City, IN 47341, Phone: (317) 847-2412.  |
|              | Sullivan            | Sullivan County, <sup>1</sup> 0001A-0006A.   | 180410                   | N-5                     | I                 | F            | Mar. 23, 1979                                  | Mar. 23, 1979                     | Dennis Southwood, Ch. Co. Bd., Courthouse, Sullivan, IN 47882, Phone: (812) 268-5677.  |
| Tennessee    | Jackson             | Jackson County, <sup>1</sup> 0001A-0006A.    | 470370                   | N-5                     | I                 | F            | Mar. 23, 1979                                  | Mar. 23, 1979                     | C. C. Norton, Judge, Courthouse, Gamesboro, TN 38562, Phone: (615) 268-8888.   |

| State      | County              | Community name and No. of panels                    | Community No. and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)                         | Effective date of this map action | Local map repository  |
|------------|---------------------|---|--------------------------|-------------------------|-------------------|--------------|--|-----------------------------------|---|
| Wisconsin  | Clark, Marathon     | City of Colby, 01                                   | 550049B                  | E-8, 11, 12, 14.        | I                 | F            | May 31, 1974<br>Mar. 19, 1976                  | Mar. 23, 1979                     | Lloyd Scidmore, Mayor, 503 W. Adam St., Colby, WI 54431, Phone: (715) 223-2000.   |
| Colorado   | Fremont             | City of Canon City, 0001C.                          | 080068C                  | E-8, 11, 12.            | I                 | F            | May 24, 1974<br>Feb. 28, 1975<br>Mar. 21, 1978 | Mar. 27, 1979                     | Honorable Charles Fry, Mayor, P.O. Box 711, Canon City, CO 81212, (303) 275-2364.   |
| Louisiana  | Beauregard Parish   | City of De Ridder, 0001B.                           | 220027B                  | E-8, 11                 | I                 | F            | Feb. 1, 1974<br>July 16, 1976                  | Mar. 27, 1979                     | Honorable Creighton Pugh, Mayor, P.O. Box 392, De Ridder, LA 70634, (318) 462-2461.   |
| Montana    | Yellowstone         | City of Laurel, 01B-02B.                            | 300086B                  | E-8, 11, 12.            | I                 | F            | Mar. 29, 1974<br>Dec. 19, 1976                 | Mar. 27, 1979                     | Mr. Murr S. Isaacs, City Engineer, Technician, P.O. Box 6, Laurel, MT 59044, (406) 686-8791.                                |
| New Mexico | Unincorporated area | Taos County, 0001B-0015B; 0017B-0023B; 0025B-0028B. | 350078B                  | E-11, 12                | I                 | F            | Aug. 30, 1974<br>May 31, 1977                  | Mar. 27, 1979                     | Mr. Allen Vigil, Planner, Taos County, P.O. Box 1914, Taos, NM 87571 (505) 758-8534.  |
| Illinois   | Jasper              | Village of Sainte Marie, 01.                        | 170820A                  | N-8, 11, 12, 14.        | I                 | F            | Mar. 31, 1975                                  | Mar. 30, 1979                     | Ed Stone, Pres. of Bd., Village Hall, Sainte Marie, IL 62459, Phone: (618) 453-3002.  |
| Indiana    | Wayne               | Town of Spring Grove, 01.                           | 180286B                  | E-8                     | I                 | F            | Dec. 13, 1974<br>Nov. 3, 1976                  | Mar. 30, 1979                     | Dr. John H. Mader, Pres. of Bd., 1528 Chester Blvd., Richmond, IN 47374, Phone: (317) 966-7724 office, (317) 966-1831 home. |
| Minnesota  | Sherburne           | City of Becker, 0001A-0002A.                        | 270710                   | N-5                     | I                 | F            | Mar. 30, 1979                                  | Mar. 30, 1979                     | Peter Hendrick, Mayor, P.O. Box 155, Becker, MN 55308, Phone: (612) 261-4661.   |
|            | Chisago             | City of Harris, 0001B-0002B.                        | 2700071                  | N-11, 12, 14.           | I                 | F            | Sept. 20, 1974<br>Oct. 24, 1975                | Mar. 30, 1979                     | Edward H. Nelson, Sr., Rt. 2, Box 164, Harris, MN 55032, Phone: (612) 674-4914.   |
| Ohio       | Logan               | City of Bellefontaine, 0001B.                       | 390340                   | E-8, 11, 12, 14.        | I                 | F            | June 7, 1974<br>May 21, 1976                   | Mar. 30, 1979                     | William S. Meyer, Mayor, City Building, 135 North Detroit St., Bellefontaine, OH 43311, Phone: (613) 609-3018.              |
|            | Tuscarawas          | Village of Dennison, 0001B.                         | 390542                   | E-8, 11, 12, 14.        | I                 | F            | Mar. 15, 1974<br>May 28, 1976                  | Mar. 30, 1979                     | Eugene Hart, Mayor, Box 47, Dennison, OH 44621, Phone: (614) 922-3047.  |
|            | Stark, Carroll      | Village of Minerva, 01.                             | 390518A                  | E-8, 11, 12, 14.        | I                 | F            | July 23, 1976                                  | Mar. 30, 1979                     | Wayne Ellis, Mayor, 200 North Market St., Minerva, OH 44657, Phone: (216) 868-5420.   |
|            | Muskingum           | Village of Philo, 01.                               | 390851A                  | N-5                     | I                 | F            | Mar. 30, 1979                                  | Mar. 30, 1979                     | James B. Brannon, Mayor, Front Street, Philo, OH 43771, Phone: (614) 674-6816.  |
| Tennessee  | Clay                | Clay County, <sup>1</sup> 0001A-0006A.              | 470382                   | N-5                     | I                 | F            | Mar. 30, 1979                                  | Mar. 30, 1979                     | Frank Halsell, Judge, Courthouse, Celina, TN 38551, Phone: (615) 243-2161.  |
|            | Johnson             | Johnson County, <sup>1</sup> 0001A-0006A.           | 470230                   | E-5                     | I                 | F            | Mar. 30, 1979                                  | Mar. 30, 1979                     | W. D. Hill, Co. Chrmn., Courthouse, Mountain City, TN 37683, Phone: (615) 727-9633.   |
| Wisconsin  | Polk                | City of Amery, 0001B.                               | 550332                   | E-8, 11, 12, 14.        | I                 | F            | Dec. 28, 1973<br>Apr. 16, 1976                 | Mar. 30, 1979                     | Melvin Hayes, Mayor, 118 Center Street, Amery, WI 54001, Phone: (715) 268-7486.   |
|            | Clark               | City of Greenwood, 0001B.                           | 550051                   | E-8, 11, 12, 14.        | I                 | F            | Jan. 9, 1974<br>Apr. 23, 1976                  | Mar. 30, 1979                     | Art Christie, Mayor, City Hall, Greenwood, WI 54437, Phone: (715) 267-6205.   |
|            | Washington          | Village of Jackson, 0001B.                          | 550530                   | E-8, 11                 | I                 | F            | Dec. 28, 1973<br>May 21, 1976                  | Mar. 30, 1979                     | Clem Mayer, V. Pres., North 186 West Parkway Dr., Jackson, WI 53037, Phone: (414) 677-3377.                                 |
|            | Columbia            | Village of Poynette, 0001B.                         | 550064                   | E-8, 11, 12, 14.        | I                 | F            | May 2, 1974<br>May 28, 1976                    | Mar. 30, 1979                     | Carl Hildinberg, Mayor, P.O. Box 95, Poynette, WI 53955, Phone: (608) 635-2122.   |

<sup>1</sup>Unincorporated areas.



## FINAL LIST CODES

1. Conversion to Regular Program with FIRM (elevations determined).
2. Conversion to Regular Program with FIRM (no elevations determined).
3. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM.
4. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM; rescission of FIRM effective on same date as conversion.
5. Initial FIRM.
6. Revision—Change of elevation; revised FIRM.
7. Revision—Change of zone designation; revised FIRM.
8. Revision—Corporate limit changes.
9. Revision—Drafting corrections; Printing errors.
10. Revision—Curvilinear.
11. Revision—Add Flood Hazard Area.
12. Revision—Reduce Flood Hazard Area.
13. Revision—Federal Register omission.
14. Revision—Refunds possible.
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R—Regular Program; E—Emergency Program; N—Not in Program.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 8, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-8394 Filed 3-22-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER 1—INTERNAL REVENUE  
SERVICE, DEPARTMENT OF THE  
TREASURY

SUBCHAPTER A—INCOME TAX  
(T.D. 7602)

PART 1—INCOME TAX; TAXABLE  
YEARS BEGINNING AFTER DECEMBER  
31, 1953

Investment Credit; Public Utility  
Property

AGENCY: Internal Revenue Service,  
Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to investment credits for public utility property. Changes to the applicable tax law were made by the Revenue Act of 1971. These regulations provide necessary guidance to the public for compliance with the law, and affect all public utilities that are entitled to investment tax credits.

DATE: The regulations are generally effective with respect to public utility property constructed or acquired by the taxpayer after August 15, 1971.

FOR FURTHER INFORMATION  
CONTACT:

Geoffrey B. Lanning of the Legislation and Regulations Division, Office

of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3909) not a toll-free call.

SUPPLEMENTARY INFORMATION:  
BACKGROUND

On February 17, 1972, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 46 (c) and (e) of the Internal Revenue Code of 1954, 37 FR 3526. The amendments were proposed to conform the regulations to section 105 of the Revenue Act of 1971 (85 Stat. 503). The Act restored the seven percent investment tax credit and section 105 of the Act provided amendments to section 46 of the Code that related to regulated companies. Section 105(a) of the Act amends section 46(c)(3)(A) of the Code to increase the investment credit for public utility property from three percent to four percent. Section 105(b) of the Act amends section 46(c)(3)(B) of the Code to include property used in miscellaneous types of regulated communications services and nonregulated communication property in the definition of public utility property. Section 105(c) of the Act amends section 46 by adding new subsection (e) to provide certain limitations on the treatment of a regulated company's investment tax credit in making rates. Section 46(e) has been redesignated as section 46(f) by the Tax Reduction Act of 1975 (89 Stat. 40). After consideration of all comments regarding the proposed

amendments, those amendments are adopted as revised by this Treasury decision.

EXPLANATION OF REVISIONS TO  
PROPOSED REGULATIONS

Section 1.46-3(g) of the regulations relates to the amount of qualified investment for public utility property. That section has been revised to conform to the amendments that increase the amount of qualified investment for public utility property from  $\frac{1}{2}$  to  $\frac{1}{4}$  and that expand the definition of such property to include property used in miscellaneous regulated communication services and nonregulated communication property. In response to public comments, paragraph (g)(2) of § 1.46-3 of the proposed regulations has been revised to clarify that regulated companies are companies regulated on a rate-of-return basis for purposes of defining public utility property. In response to comments, paragraph (g)(2) of the proposed regulations has also been revised to clarify that nonregulated communication property is property that is the same type of property used to provide regulated telephone or microwave communication services, and additionally is property used for the same type of communication purposes as such regulated communication property.

Section 1.46-6 (originally proposed as § 1.46-5) implements section 46(f). That provision lists the circumstances for disallowing an investment tax credit. Public comments suggested that the definition of "rate base reduc-

tion" contained in § 1.46-6(b)(3) of the proposed regulations was inconsistent with the legislative history of section 46(f). The committee reports accompanying section 105 of the Revenue Act of 1971 indicated that investment tax credits must be treated as capital contributed by the common shareholders of regulated companies and must be assigned the same cost of capital rate as all other capital provided by common shareholders. The proposed regulations merely required that a credit be assigned a cost of capital rate not less than the company's overall rate of return. The committee reports also state that the limitations of section 46(f) were intended to achieve two goals: a sharing of benefits between consumers and investors and a limitation on Federal revenue losses. Under certain circumstances, the common shareholder equity rule would deny consumers any of the benefits of a credit and could force ratemaking authorities to set rates higher than the rates that would have been established had no credit been available. Under such circumstances, Federal revenue losses would not be merely limited to the amount of the credit, but would be reduced to an amount less than the credit. Congress did not intend to force consumers to subsidize the cost of the investment tax credit. The rule of the notice minimizes the possibility of such results. The proposed Treasury decision adopts the rule of the notice as most consistent with congressional intent.

Paragraph (b)(4) of § 1.46-6 of the regulations provides a definition of indirect reductions to cost of service and rate base by reason of a credit, which are treated as direct reductions to cost of service and rate base.

Paragraph (c)(2) of § 1.46-6 of the regulations defines "short supply property", which is property for which an election may be made under the last sentence of section 46(f)(1). This definition is revised so as not to exclude property used in the trade or business of the transportation of steam or gas that is synthetic or from a foreign source.

Section 1.46-6(e) provides rules relating to "flow-through property". As proposed in the notice of proposed rulemaking, such property was defined as certain property for which the benefits of accelerated depreciation are being flowed through to income. This definition is revised to provide that flow-through property is property that is eligible for flow-through treatment of accelerated depreciation tax benefits, whether or not such treatment is used.

Paragraph (g) of § 1.46-6 of the regulations provides rules for determining whether a reduction in cost of service or a restoration to rate base is "ratable". A rule of the proposed regulation permitted the use of a composite annual percentage rate that was determined on the basis of less than the full cost of property. That rule, in § 1.46-6(g)(2), has been revised to provide that the composite annual percentage rate used in a ratable method of restoring rate base or reducing cost of service is determined without reduction for salvage or other items such as over accruals and under accruals. An effective date provision has been added to provide that in certain instances the composite annual percentage rate may be determined by taking salvage value and other items into account.

AMENDMENTS NOT COVERED BY THIS  
DOCUMENT

This Treasury decision does not conform the regulations to amendments to section 46 of the Code made by the Tax Reduction Act of 1975 (other than the redesignation or section 46 (f)) or the Tax Reform Act of 1976.

DRAFTING INFORMATION

The principal author of this regulation was Geoffrey B. Lanning of the Legislation and Regulations Divisions of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE  
REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. Section 1.46 is deleted.  
PAR. 2. Section 1.46-3 is amended by revising paragraphs (g) (1) and (2) as set forth below, and by adding headings to paragraphs (g) (3), (4), and (5). These revised and added provisions read as follows:

§ 1.46-3 Qualified investment.

(g) *Public utility property*—(1) *In general*—(i) *Scope of paragraph*. This paragraph only applies to property described in section 50. For rules relating to public utility property not described in section 50, see 26 CFR Part 1 § 1.46-3(g) (as revised April 1, 1977). This paragraph does not reflect amendments to section 46(c) made after enactment of the Revenue Act of 1971.



(ii) *Amount of qualified investment.* A taxpayer's qualified investment in section 38 property that is public utility property is 4% of the amount otherwise determined under this section.

(2) *Meaning and uses of certain terms.* For purposes of this paragraph—

(i) *Public utility property.* "Public utility property" is property used by a taxpayer predominantly in a trade or business that is a public utility activity and property that is nonregulated communication property.

(ii) *Public utility activity.* A "public utility activity" is any activity in which the goods or services described in section 46(c)(3)(B) (i), (ii), or (iii) are furnished or sold at regulated rates. If property is used by a taxpayer both in a public utility activity and in another activity, the characterization of such property is based on the predominant use of such property during the taxable year in which it is placed in service.

(iii) *Regulated rates.* A taxpayer's rates are "regulated" if they are established or approved on a rate-of-return basis. Rates regulated on a rate-of-return basis are an authorization to collect revenues that cover the taxpayer's cost of providing goods or services, including a fair return on the taxpayer's investment in providing such goods or services, where the taxpayer's costs and investment are determined by use of a uniform system of accounts prescribed by the regulatory body. A taxpayer's rates are not "regulated" if they are established or approved on the basis of maintaining competition within an industry, insuring adequate service to customers of an industry, or charging "reasonable" rates within an industry since the taxpayer is not authorized to collect revenues based on the taxpayer's cost of providing goods or services. Rates are considered to have been "established or approved" if a schedule of rates is filed with a regulatory body that has the power to approve such rates, even though the regulatory body takes no action on the filed schedule or generally leaves undisturbed rates filed by the taxpayer.

(iv) *Nonregulated communication property.* "Nonregulated communication property" is property that is clearly the same type of property (and is used by the taxpayer predominantly for the same type of communication purposes) as communication property, but it is used by the taxpayer predominantly in a trade or business that is not a public utility activity. For purposes of this subdivision (iv), communication property is property ordinarily

used for communication purposes by persons who provide regulated telephone or microwave communication services described in section 46(c)(3)(B)(iii). The determination of whether property is clearly of this same type and is used predominantly for these same communication purposes as communication property is made on the basis of the facts and circumstances of each particular case, including the current state of technology in the communications industry and the range and type of services permitted or required to be provided by the regulated telephone and microwave communication industry. As of 1978, wires or cables used predominantly to distribute to subscribers the signals of one or more television broadcast stations or cablecast stations (such as in a CATV system) are not used for the same type of communication purposes as communication property. Communication property includes microwave transmission equipment, private communication equipment (other than land mobile radio equipment for which the operator must obtain a license from the Federal Communications Commission), private switchboard (PBX) equipment, communications terminal equipment connected to telephone networks, data transmission equipment, and communications satellites. Communication property does not include (as of 1978) computer terminals or facsimile reproduction equipment that is connected to telephone lines to transmit data. It also does not include office furniture stands for communication property, tools, repair vehicles, and similar property, even if such property is exclusively used in providing regulated telephone or microwave communication services.

(3) *Leased property.* . . .

(4) *Property used in both the production or transmission of gas and the local distribution of gas.* . . .

(5) *Certain submarine cable property.* . . .

PAR. 3. The following new section is added immediately after § 1.46-4:

§ 1.46-6 Limitation in case of certain regulated companies.

(a) *In general—(1) Scope of section.* This section does not reflect amendments made to section 46 after enactment of the Revenue Act of 1971, other than the redesignation of section 46(e) as section 46(f) by the Tax Reduction Act of 1975.

46(f) property" is property described in section 50 that is—

(i) Public utility property within the meaning of section 46(c)(3)(B) (other than nonregulated communication property described in § 1.46-3(g)(2)(iv)) or

(ii) Property used predominantly in the trade or business of the furnishing or sale of steam through a local distribution system or of the transportation of gas or steam by pipeline, if the rates for the trade or business are regulated within the meaning of § 1.46-3(g)(2)(iii).

For purposes of determining whether property is used predominantly in the trade or business of transportation of gas by pipeline (or of transportation of gas through a local distribution system), the rules prescribed in § 1.46-3(g)(4) apply except that accounts 365 through 371 inclusive (Transmission Plant) are added to the accounts listed in § 1.46-3(g)(4)(i).

(2) *Cost of service.* (i) For purposes of this section, "cost of service" is the amount required by a taxpayer to provide regulated goods or services. Cost of service includes operating expenses (including salaries, cost of materials, etc.) maintenance expenses, depreciation expenses, tax expenses, and interest expenses. For purposes of this section, any effect on a taxpayer's permitted return on investment that results from a reduction in the taxpayer's rate base does not constitute a reduction in cost of service, even though, as a technical ratemaking term, "cost of service" ordinarily includes a permitted return on investment.

(ii) In determining whether, or to what extent, a credit has been used to reduce cost of service, reference shall be made to any accounting treatment that affects cost of service. Examples of such treatment include reducing by all or a portion of the credit the amount of Federal income tax expense taken into account for ratemaking purposes and reducing the depreciable bases of property by all or a portion of the credit for ratemaking purposes.

(3) *Rate base.* (i) For purposes of this section, "rate base" is the monetary amount that is multiplied by a rate of return to determine the permitted return on investment.

(ii) In determining whether, or to what extent, a credit has been used to reduce rate base, reference shall be made to any accounting treatment that affects rate base. In addition, in those cases in which the rate of return is based on the taxpayer's cost of capital, reference shall be made to any ac-

counting treatment that affects the permitted return on investment by treating the credit in any way other than as though it were capital supplied by common shareholders to which a "cost of capital" rate is assigned that is not less than the taxpayer's overall cost of capital rate (determined without regard to the credit). What is the overall cost of capital rate depends upon the practice of the regulatory body. Thus, for example, an overall cost of capital rate may be a rate determined on the basis of an average, or weighted average, of the costs of capital provided by common shareholders, preferred shareholders and creditors.

(4) *Indirect reductions to cost of service or rate base.* (i) Cost of service or rate base is also considered to have been reduced by reason of all or a portion of a credit if such reduction is made in an indirect manner.

(ii) One type of such an indirect reduction is any ratemaking decision in which the credit is treated as operating income (subject to ratemaking regulation) or as capital provided by anyone other than common shareholders. For example, if a credit is accounted for as nonoperating income on a company's regulated books of account but a ratemaking decision has the effect of treating the credit as operating income in determining rate of return to common shareholders, then cost of service has been indirectly reduced by reason of the credit.

(iii) A second type of indirect reduction is any ratemaking decision intended to achieve an effect similar to a direct reduction to cost of service or rate base. In determining whether a ratemaking decision is intended to achieve this effect, consideration is given to all the relevant facts and circumstances of each case, including, but not limited to—

(A) The record of the proceeding.

(B) The regulatory body's orders or opinions (including any dissenting views), and

(C) The anticipated effect of the ratemaking decision on the company's revenues in comparison to a direct reduction to cost of service or rate base by reason of the investment tax credits available to the regulated company.

(iv) This subdivision (iv) describes a situation that is not an indirect reduction to cost of service or rate base by reason of all or a portion of a credit. The ratemaking treatment of credits may affect the financial condition of a company, including the company's ability to attract new capital, the cost

(2) *Disallowance of credit.* Under section 46(f), a credit otherwise allowable under section 38 ("credit") will be disallowed in certain cases with respect to "section 46(f) property" as defined in paragraph (b)(1) of this section. Paragraph (f) of this section describes circumstances under which a determination put into effect by a regulatory body will result in the disallowance of the credit. Such a determination will result in a disallowance only if section 46(f) (1) or (2) applies to such property and such determination affects the taxpayer's cost of service or rate base in a manner inconsistent with section 46(f) (1) or (2) (which ever is applicable).

(3) *General rules.* The provisions of section 46(f) (1) and (2) are limitations on the treatment of the credit for ratemaking purposes and for purposes of the taxpayer's regulated books of account only. Under the provisions of section 46(f)(1), the credit may not be flowed through to income (i.e., used to reduce taxpayer's cost of service) but in certain circumstances may be used to reduce rate base (provided that such reduction is restored not less rapidly than ratably). If an election is made under section 46(f)(2), the credit may be flowed through to income (but not more rapidly than ratably) and there may not be any reduction in rate base. If an election is made under section 46(f)(3), none of the limitations of section 46(f) (1) or (2) apply to certain section 46(f) property of the taxpayer. Thus, under the provisions of section 46(f)(3), no credit is disallowed if the credit is treated in any manner for ratemaking purposes, including any manner of treatment permitted under the limitations of section 46(f) (1) or (2).

(4) *Elections.* For rules relating to the manner of making, on or before March 9, 1972, the three elections listed in section 46(f) (1), (2), and (3), see 26 CFR 12.3. For rules relating to the application of such elections, see paragraph (h) of this section.

(5) *Cross references.* For rules with respect to the treatment of corporate reorganizations, asset acquisitions, and taxpayers subject to the jurisdiction of more than one regulatory body, etc., see paragraph (j) of this section.

(6) *Nonapplication of prior law.* Under section 105 (e) of the Revenue Act of 1971, section 203 (e) of the Revenue Act of 1964, 78 Stat. 35, does not apply to section 46(f) property.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Section 46(f) property.* "Section



of that capital, the company's future financial requirements, the market price of the company's securities, and the degree of risk attributable to investment in those securities. The financial condition may be reflected in certain customary financial indicators such as the comparative capital structure of the company, coverage ratios, price/earnings ratios, and price/book ratios. Under the facts and circumstances test of paragraph (b)(4)(iii) of this section, the consideration of a company's financial condition by a regulatory body is not an indirect reduction to cost of service or rate base, even though such condition, as affected by the ratemaking treatment of the company's investment tax credits, is considered in the development of a reasonable rate of return on common shareholders' investment.

(c) *General rule*—(1) *In general*. Section 46(f)(1) applies to all of the taxpayer's section 46(f) property except property to which an election under section 46(f)(2) or (3) applies. Under section 46(f)(1), the credit for the taxpayer's section 46(f) property will be disallowed if—

(i) The taxpayer's cost of service for ratemaking purposes is reduced by reason of any portion of such credit, or

(ii) The taxpayer's rate base is reduced by reason of any portion of the credit and such reduction in rate base is not restored or is restored less rapidly than ratably within the meaning of paragraph (g) of this section.

(2) *Insufficient natural domestic supply*. The provisions of paragraph (c)(1)(ii) of this section shall not apply to permit any reduction in taxpayer's rate base with respect to its "short supply property" if it made an election under the last sentence of section 46(f)(1) on or before March 9, 1972.

(3) *Short supply property*. For purposes of this section, section 46(f) property is "short supply property" if—

(i) The property is described in paragraph (b)(1)(ii) of this section,

(ii) The regulatory body described in section 46(c)(3)(B) that has jurisdiction for ratemaking purposes with respect to such trade or business is an agency or instrumentality of the United States, and

(iii) This regulatory body makes a short supply determination and the determination is in effect on the date such property is placed in service.

(4) *Short supply determination*. A short supply determination is made or revoked on the date of its publication in the FEDERAL REGISTER. It is a determination that the natural domestic supply of gas or steam is insufficient to meet the present and future requirements of the domestic economy.

(5) *Dates short supply determination in effect*. (i) A short supply determination is considered to be in effect with respect to section 46(f) property placed in service at any time before the determination is revoked. However, a short supply determination made after 190 days after publication of this T.D. is not considered to be in effect with respect to section 46(f) property placed in service before such determination was made.

(d) *Special rule for ratable flow-through*. If an election was made under section 46(f)(2) on or before March 9, 1972, section 46(f)(2) applies to all of the taxpayer's section 46(f) property except property to which an election under section 46(f)(3) applies. Under section 46(f)(2), the credit for the taxpayer's section 46(f) property will be disallowed if—

(1) The taxpayer's cost of service, for ratemaking purposes or in its regulated books of account, is reduced by more than a ratable portion of such credit within the meaning of paragraph (g) of this section or

(2) The taxpayer's rate base is reduced by reason of any portion of such credit.

(e) *Flow-through property*. If a taxpayer made an election under section 46(f)(3) on or before March 9, 1972, section 46(f)(1) and (2) do not apply to the taxpayer's section 46(f) property to which section 167(l)(2)(C) applies. In the case of an election under section 46(f)(3), a credit will not be disallowed, notwithstanding a determination by a regulatory body having jurisdiction over such taxpayer that reduces the taxpayer's cost of service or rate base by reason of such credit. In general, section 167(l)(2)(C) applies to property with respect to which a taxpayer may use a flow-through method of accounting (within the meaning of section 167(l)(3)(H)) to take into account the allowance for depreciation under section 167(a). Section 167(l)(2)(C) applies to property even though the taxpayer does not use a flow-through method of accounting with respect to the property. Section 167(l)(2)(C) does not apply to property if the taxpayer can not use a flow-through method of accounting with respect to the property. For example, section 167(l)(2)(C) does not apply to property with respect to which an election under section 167(l)(4)(A) applies. Thus, such property does not qualify for an election under section 46(f)(3).

(f) *Limitations*—(1) *In general*. This paragraph provides rules relating to limitations on the disallowance of credits under section 46(f)(4). Key terms are defined in paragraphs (f)(7), (8), and (9) of this section.

(2) *Disallowance postponed*. There is no disallowance of a credit before the

first final inconsistent determination is put into effect for the taxpayer's section 46(f) property.

(3) *Time of disallowance*. A credit is disallowed—

(i) When the first final inconsistent determination is put into effect and

(ii) When any inconsistent determination (whether or not final) is put into effect after the first final inconsistent determination is put into effect.

(4) *Credits disallowed*. A credit is disallowed for section 46(f) property placed in service (within the meaning of § 1.46-3(d)) by the taxpayer—

(i) Before the date any inconsistent determination described in paragraph (f)(2) of this section is put into effect and

(ii) On or after such date and before the date a subsequent consistent determination (whether or not final) is put into effect.

(5) *Barred years*. No amount of credit for a taxable year is disallowed under paragraph (f)(3) of this section if, for such year, assessment of a deficiency is barred by any law or rule of law.

(6) *Notification and other requirements*. The taxpayer shall notify the district director of a disallowance of a credit under paragraph (f)(3) of this section within 30 days of the date that the applicable determination is put into effect. In the case of such a disallowance, the taxpayer shall recompute its tax liability for any affected taxable year, and such recomputation shall be made in the form of an amended return where necessary.

(7) *Determinations*. For purposes of this paragraph, the term "determination" refers to a determination made with respect to section 46(f) property (other than property to which an election under section 46(f)(3) applies) by a regulatory body described in section 46(c)(3)(B) that determines the effect of the credit—

(i) For purposes of section 46(f)(1), on the taxpayer's cost of service or rate base for ratemaking purposes or

(ii) In the case of a taxpayer that made an election under section 46(f)(2), on the taxpayer's cost of service, for ratemaking purposes or in its regulated books of account, or on the taxpayer's rate base for ratemaking purposes.

A regulatory body does not have to take affirmative action to make a determination. Thus, a regulatory body's failure to take action on a rate schedule filed by a taxpayer is a determination if the rates can be put into effect without further action by the regulatory body.

(8) *Types of determinations*. For purposes of this paragraph—

(i) The term "inconsistent" refers to a determination that is inconsistent

with section 46(f)(1) or (2) (as the case may be). Thus, for example, a determination to reduce the taxpayer's cost of service by more than a ratable portion of the credit would be a determination that is inconsistent with section 46(f)(2). As a further example, such a determination would also be inconsistent if section 46(f)(1) applied because no reduction in cost of service is permitted under section 46(f)(1).

(ii) The term "consistent" refers to a determination that is consistent with section 46(f)(1) or (2) (as the case may be).

(iii) The term "final determination" means a determination with respect to which all rights to appeal or to request a review, a rehearing, or a redetermination have been exhausted or have lapsed.

(iv) The term "first final inconsistent determination" means the first final determination put into effect after December 10, 1971, that is inconsistent with section 46(f)(1) or (2) (as the case may be).

(9) *Put into effect*. A determination is put into effect on the latter of—

(i) The date it is issued (or, if a first final inconsistent determination, the date it becomes final) or

(ii) The date it becomes operative.

(10) *Examples*. The provisions of this paragraph may be illustrated by the following examples:

*Example (1)*. Corporation X, a calendar-year taxpayer engaged in a public utility activity is subject to the jurisdiction of regulatory body A. On September 15, 1971, X purchases section 46(f) property and places it in service on that date. For 1971, X takes the credit allowable by section 38 with respect to such property. X does not make any election permitted by section 46(f). On October 9, 1972, A makes a determination that X must account for the credit allowable under section 38 in a manner inconsistent with section 46(f)(1). The determination, which was the first determination by A after December 10, 1971, becomes final on January 1, 1973, and holds that X must retroactively adjust the manner in which it accounted for the credit allowable under section 38 starting with the taxable year that began on January 1, 1972. Since, under the provisions of paragraph (f)(8) of this section, the determination by A is put into effect on January 1, 1973 (the date it becomes final), the credit is retroactively disallowed with respect to any of X's section 46(f) property placed in service before January 1, 1973, on any date which occurs during a taxable year with respect to which an assessment of a deficiency has not been barred by any law or rule of law. In addition, the credit is disallowed with respect to X's section 46(f) property placed in service on or after January 1, 1973, and before the date that a subsequent determination by A, which as to X is consistent with section 46(f)(1), is put into effect. Thus, X must amend its income tax return for 1971 to reflect the retroactive disallowance of the credit otherwise allowable under section 38 with respect to the section 46(f) property placed in service on September 15, 1971.

*Example (2)*. The facts are the same as in example (1), except that the first inconsistent determination by A becomes final on April 5, 1972, and requires X to account for the credit for all taxable years beginning on or after January 1, 1973, in a manner inconsistent with section 46(f)(1). Under the provisions of paragraph (f)(8) of this section, the determination was put into effect on January 1, 1973 (the date it became operative). The result is the same as in example (1).

*Example (3)*. The facts are the same as in example (1), except that on June 1, 1975, A issues a determination that X shall retroactively account for the credit allowable by section 38 in a manner consistent with the provisions of section 46(f)(1) for taxable years beginning on or after January 1, 1971. The determination becomes final on January 5, 1976, in the same form as originally issued. The result is the same as in example (1) with respect to property X places in service before June 1, 1975. The credit is allowed with respect to property X places in service on or after June 1, 1975 (the date that the consistent determination is put into effect).

(g) *Ratable methods*—(1) *In general*. Under this paragraph (g), rules are prescribed for purposes of determining whether or not, under section 46(f)(1), a reduction in the taxpayer's rate base with respect to the credit is restored less rapidly than ratably and whether or not under section 46(f)(2) the taxpayer's cost of service for ratemaking purposes is reduced by more than a ratable portion of such credit.

(2) *Regulated depreciation expense*. What is "ratable" is determined by considering the period of time actually used in computing the taxpayer's regulated depreciation expense for the property for which a credit is allowed. "Regulated depreciation expense" is the depreciation expense for the property used by a regulatory body for purposes of establishing the taxpayer's cost of service for ratemaking purposes. Such period of time shall be expressed in units of years (or shorter periods), units of production, or machine hours and shall be determined in accordance with the individual useful life system or composite (or other group asset) account system actually used in computing the taxpayer's regulated depreciation expense. A method of restoring, or reducing, is ratable if the amount to be restored to rate base, or to reduce cost of service (as the case may be), is allocated ratably in proportion to the number of such units. Thus, for example, assume that the regulated depreciation expense is computed under the straight line method by applying a composite annual percentage rate to "original cost" (as defined for purposes of computing regulated depreciation expense). If, with respect to an item of section 46(f) property, the amount to be restored annually to rate base is computed by applying a composite annual percentage rate to the amount

by which the rate base was reduced, then the restoration is ratable. Similarly, if cost of service is reduced annually by an amount computed by applying a composite annual percentage rate to the amount of the credit, cost of service is reduced by a ratable portion. If such composite annual percentage rate were revised for purposes of computing regulated depreciation expense beginning with a particular accounting period, the computation of ratable restoration or ratable portion (as the case may be) must also be revised beginning with such period. A composite annual percentage rate is determined solely by reference to the period of time actually used by the taxpayer in computing its regulated depreciation expense without reduction for salvage or other items such as over and under accruals. A composite annual percentage rate determined by taking into account salvage value or other items shall be considered to be ratable in the case of a determination (whether or not final) issued before March 22, 1979, and any rate order (whether or not final) that is entered into before June 20, 1979, in response to a rate case filed before April 23, 1979. For this purpose, the term "rate order" does not include an order by a regulatory body that perfunctorily adopts rates as filed if such rates are suspended or subject to rebate.

(h) *Elections*—(1) *Applicability of elections*. (i) Any election under section 46(f) applies to all of the taxpayer's property eligible for the election, whether or not the taxpayer is regulated by more than one regulatory body.

(ii) Section 46(f)(1) applies to all of the taxpayer's section 46(f) property in the absence of an election under either section 46(f)(2) or (3). If an election is made under section 46(f)(2), section 46(f)(1) does not apply to any of the taxpayer's section 46(f) property.

(iii) An election made under the last sentence of section 46(f)(1) applies to that portion of the taxpayer's section 46(f) property to which section 46(f)(1) applies and which is short supply property within the meaning of paragraph (c)(2) of this section.

(iv) If a taxpayer makes an election under section 46(f)(2) and makes no election under section 46(f)(3), the election under section 46(f)(2) applies to all of the taxpayer's section 46(f) property.

(v) If a taxpayer makes an election under section 46(f)(3), such election applies to all of the taxpayer's section 46(f) property to which section 167(l)(2)(C) applies. Section 46(f)(1) or (2) (as the case may be) applies to that portion of the taxpayer's section 46(f) property that is not property to which section 167(l)(2)(C) applies.



Thus, for example, if a taxpayer makes an election under section 46(f)(2) and also makes an election under section 46(f)(3), section 46(f)(3) applies to all of the taxpayer's section 46(f) property to which section 167(l)(2)(C) applies, and section 46(f)(2) applies to the remainder of the taxpayer's section 46(f) property.

(2) *Method of making elections.* See 26 CFR 12.3 for rules relating to the method of making the elections described in section 46(f) (1), (2), or (3).

(1) [Reserved]

(j) *Reorganizations, asset acquisitions, multiple regulation, etc.*—(1) *Taxpayers not entirely subject to jurisdiction of one regulatory body.* (i) If a taxpayer is required by a regulatory body having jurisdiction over less than all of its property to account for the credit under a determination that is inconsistent with section 46(f) (1) or (2) (as the case may be), such credit shall be disallowed only with respect to property subject to the jurisdiction of such regulatory body.

(ii) For purposes of this paragraph (j), a regulatory body is considered to have jurisdiction over property of a taxpayer if the property is included in the rate base for which the regulatory body determines an allowable rate of return for ratemaking purposes or if expenses with respect to the property are included in cost of service as determined by the regulatory body for ratemaking purposes. For example, if regulatory body A, having jurisdiction over 60 percent of an item of corporation X's section 46(f) property, makes a determination which is inconsistent with section 46(f), and if regulatory body B, having jurisdiction over the remaining 40 percent of such item of property, makes a consistent determination (or if the remaining 40 percent is not subject to the jurisdiction of any regulatory body), then 60 percent of the credit for such item will be disallowed. For a further example, if regulatory body A, having jurisdiction over 60 percent of X's section 46(f) property, has jurisdiction over 100 percent of a particular generator, 100 percent of the credit for such generator will be disallowed.

(iii) For rules which provide that the 3 elections under section 46(f) may not be made with respect to less than all of the taxpayer's property eligible for the election, see paragraph (h)(1)(i) of this section.

(2) [Reserved]

JEROME KURTZ,  
Commissioner of Internal Revenue.  
Approved: March 15, 1979.

DONALD C. LUBICK,  
Assistant Secretary  
of the Treasury.

[FR Doc. 79-8800 Filed 3-20-79; 10:45 am]

[4510-23-M]

# Title 29—Labor

## SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

### PART 40—FARM LABOR CONTRACTOR REGISTRATION

#### Farm Labor Contractor Registration Act

#### Exemption of Additional Categories From Coverage

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment Standards Administration is amending its regulations under the Farm Labor Contractor Registration Act by exempting additional categories from coverage by the Act. The amendment to the regulations is being made to reflect Congressional amendment of the Act.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Wage and Hour Division, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone No. 202-523-7531.

SUPPLEMENTARY INFORMATION: Public Law 95-562 amended 7 U.S.C. 2042(b) by adding a new subparagraph 10 thereto. This subparagraph exempts from the coverage of the Act:

(10) any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year. Provided, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: Provided further, That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.

By this FEDERAL REGISTER document 29 CFR 40.2(b) is amended to add a new subparagraph (10) which sets out this exemption to the Farm Labor Contractor Registration Act regulations, thereby conforming this Department's regulations to the law. As this amendment to Part 40 merely reflects Congressional amendment of the Act, notice and public comment are unnecessary and this amendment is effective on March 23, 1979.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone No. 202-523-8353.

Part 40 of Title 29 is amended by adding to § 40.2(b) a new subparagraph (10) with editorial amendments to subparagraphs (8) and (9), as follows:

§ 40.2 Definitions.

(b) The term "farm labor contractor" means . . . . The term shall not include—

(8) Any custom combine, hay harvesting, or sheep shearing operation;

(9) Any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours; or

(10) Any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year. Provided, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: Provided further, That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.

Signed at Washington, D.C. on this 20th day of March 1979.

XAVIER M. VELA,  
Administrator,  
Wage and Hour Division.

[FR Doc. 79-8989 Filed 3-22-79; 8:45 am]

[6560-01-M]

# Title 40—Protection of Environment

## CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1073-9]

### PART 2—PUBLIC INFORMATION

#### TOXIC SUBSTANCES CONTROL

#### Confidential Business Information

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule is a clarification of regulations promulgated September 8, 1978 (43 FR 39997). Under § 2.306(a) of those rules the Environmental Protection Agency (EPA) defined the term "health and safety data" for purposes of implementing the disclosure requirements of section 14(b) of the Toxic Substances Control Act (TSCA). This rule changes the wording of that definition to clarify that only health and safety data concerning chemical substances or mixtures that (1) have been offered for commercial distribution or which are included in the inventory of chemical substances under section 8(b) of TSCA or (2) for which testing is required under section 4 of TSCA or for which notification is required under section 5 of TSCA may be disclosed to the public.

DATE: This rule is effective March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

James Nelson, Office of General Counsel, Grants, Contracts, & General Administration Division (A-134), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone: (202) 426-8830.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Environmental Protection Agency (EPA) published regulations amending its rules for handling confidential business information. In particular, the regulations contained a new § 2.306 which set forth special rules for information obtained under the Toxic Substances Control Act (TSCA). This amendment clarifies a provision of § 2.306.

As currently written, § 2.306(g) of the regulation (40 CFR 2.306(g), 43 FR 40004) states that EPA will not provide confidential treatment to "health and safety data", as that term is defined for purposes of section 14(b) of the Act in § 2.306(a)(3) of the rule. The term "health and safety data" is defined in part to mean studies of environmental or health effects with respect to "any chemical substance or mixture that has been manufactured or processed for commercial purposes" (§ 2.306(a)(3), 43 FR 40003). This amendment replaces the phrase "manufactured or processed for commercial purposes" in the definition of "health and safety data" with the phrases "offered for commercial distribution" and "any chemical substance included on the inventory of chemical substances under section 8 of the Act."

In general, TSCA section 14(a) prohibits disclosure of any information which is exempt from disclosure under 5 U.S.C. 552(b)(4), the Freedom of Information Act exemption for trade secrets and confidential commercial and financial information. Section 14(b) states that section 14(a) does not prohibit the disclosure of any health and safety study submitted under TSCA with respect to any chemical substance or mixture (1) which on the date of proposed disclosure has been "offered for commercial distribution" or (2) for which testing is required under section 4 or for which notification is required under section 5. Section 14(b) further specifies that it does not authorize disclosure of any information that would disclose confidential processes used in manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, disclose confidential information concerning the portion of a mixture comprised by any of the chemical substances in the mixture.

To implement the provisions of section 14(b), the regulations promulgated September 8, 1978, used the term "health and safety data" to describe the information referred to in section 14(b). As set forth in those regulations and the preamble, EPA defined "health and safety data" to include studies of any chemical substance or mixture "manufactured or processed for commercial purposes" and any chemical substance or mixture for which testing is required under section 4 or for which notification is required under section 5. As explained in the September 8, 1978, preamble, EPA used the phrase "manufactured or processed for commercial purposes" in order to include all substances that would appear in the inventory of chemical substances under section 8(b) of TSCA. The congressional policy behind section 14(b) of TSCA, as interpreted in the September 8, 1978 preamble, is that the public must have access to data about health and safety for those chemicals that are in commerce because the public may be exposed to them. Once a substance is included in the inventory it may be introduced into commerce (if not already in commerce) by any person without notice to EPA, and EPA

therefore has no way of knowing whether or not it has been offered for commercial distribution. Under the circumstances, it is reasonable to assume, for purposes of section 14(b), that all substances in the inventory have been offered for commercial distribution. The use of the phrase "manufactured or processed for commercial purposes" in the definition of "health and safety data" was intended to implement this interpretation.

In defining the term "health and safety data" in this manner, EPA overlooked the fact that some substances that fit within the phrase "manufactured or processed for commercial purposes" would not be reported for the inventory. The inventory regulations exclude certain substances that are manufactured or processed for commercial purposes, in particular, chemical substances "manufactured, imported, or processed solely in small quantities for research and development" (see 40 CFR 710.4(c)(3) and 710.2(y), 42 FR 64572; December 23, 1977). Accordingly, if EPA's current confidentiality regulations were applied literally they would result in disclosure of health and safety studies in instances where that was not intended by Congress. EPA believes that Congress did not intend health and safety studies on chemicals manufactured, imported or processed solely in small quantities, for research and development to be publicly disclosed under section 14(b) unless the chemical is (1) offered for commercial distribution or (2) subject to a testing rule under section 4 or the notification requirement of section 5.

Accordingly, EPA is amending § 2.306(a) to clarify the specific coverage of the term "health and safety data." In accordance with the intent expressed in the September 8, 1978, preamble, EPA interprets the disclosure policy of section 14(b) to apply to health and safety studies on (1) any chemical substance or mixture offered for commercial distribution (including those offered for commercial distribution for test marketing purposes and for use in research and development), (2) any chemical substance included in the inventory of chemical substances under section 8(b) of TSCA, and (3) any chemical substance or mixture subject to the requirements of sections 4 or 5. The new language does not change EPA's intent nor EPA's interpretation of congressional intent.

It should be noted that the preamble to the September 8, 1978 rule contains an inadvertent misstatement. On page 39998 of the FEDERAL REGISTER it is stated that "the Agency interprets the term 'offer for commercial distribution' to include the term 'manufactured or processed for commercial purposes'." This is an overstatement. The term "offer for commercial distribu-



tion" includes the term "manufactured or processed for commercial purposes" only to the extent the latter term defines substances included on the section 8(b) chemical inventory. Where a substance is manufactured or processed for commercial purposes but is not included in the inventory (and is not commercially distributed), it is not covered by the term "offered for commercial distribution." An example of such a chemical would be a substance manufactured in small quantities for in-house research and development.

EPA interprets the term "for commercial purposes" to be broader in scope than the term "offered for commercial distribution". There are instances, such as the in-house research and development example given above, where a substance may be manufactured "for a commercial purpose" but not "offered for commercial distribution" and where information concerning the substance would therefore be obtainable by EPA but not (unless the substance were subject to a rule under sections 4 or 5) releasable under section 14(b).

The Agency proposed regulations to implement the premanufacture review provisions of section 5 of TSCA on January 10, 1979, 44 FR 2242. Interested persons are referred to those regulations for the Agency's proposed policy on handling health and safety studies submitted as part of a premanufacture notice.

This is published as a final rule because it is only a clarification of the September 8, 1979, regulations. Publishing this change as a proposal and allowing public comment is unnecessary because the rule does not make a substantive change, and the public has had notice and a full opportunity to comment on the rule. This rule is effective immediately because the change is not substantive, and EPA is already receiving health and safety data under TSCA that requires the immediate application of this rule.

Dated: March 9, 1979.

BARBARA BLUM,  
Acting Administrator.

Part 2 is amended by revising paragraph (a)(3) and deleting and reserving paragraph (a)(4) of § 2.306(a) to read as follows:

§ 2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.

(a)...

(3)(i) "Health and safety data" means the information described in paragraphs (a)(3)(i)(A), (a)(3)(i)(B), and (a)(3)(i)(C) of this section with respect to any chemical substance or mixture offered for commercial distribution (including for test marketing purposes and for use in research and

development), any chemical substance included on the inventory of chemical substances under section 8 of the Act (15 U.S.C. 2607), or any chemical substance or mixture for which testing is required under section 4 of the Act (15 U.S.C. 2603) or for which notification is required under section 5 of the Act (15 U.S.C. 2604).

(A) Any study of any effect of a chemical substance or mixture on health, on the environment, or on both, including underlying data and epidemiological studies; studies of occupational exposure to a chemical substance or mixture; and toxicological, clinical, and ecological studies of a chemical substance or mixture;

(B) Any test performed under the Act; and

(C) Any data reported to, or otherwise obtained by, EPA from a study described in paragraph (a)(3)(i)(A) of this section or a test described in paragraph (a)(3)(i)(B) of this section.

(ii) Notwithstanding paragraph (a)(3)(i) of this section, no information shall be considered to be "health and safety data" if disclosure of the information would—

(A) In the case of a chemical substance or mixture, disclose processes used in the manufacturing or processing the chemical substance or mixture or.

(B) In the case of a mixture, disclose the portion of the mixture comprised by any of the chemical substances in the mixture.

(4) [Reserved.]

[FR Doc. 79-8982 Filed 3-22-79; 8:45 am]

[6560-01-M]

#### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

##### SUBCHAPTER C—AIR PROGRAMS

[FRL 1075-3]

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

##### Maine Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This notice announces approval of a revision to the Maine State Implementation Plan (SIP) for Air Quality Control by amending Chapter 5—*Air Quality Surveillance*, which updates the ambient air monitoring network, and Chapter 6—*Review of New Sources and Modifications*, which establishes a category of "Lesser Sources" which will be li-

censed on a five-year basis. The air monitoring network will be considered an interim measure until such time as further revisions are required. No action will be taken at this time on Chapter 2—*Control Strategies* and Chapter 9—*Intergovernmental Cooperation* since the State is to submit additional information.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Ruth Leabman, Air Branch, EPA, Region 1, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On January 12, 1979 EPA published a Notice of Proposed Rulemaking (44 FR 2615) for revisions to the Air Quality Control Plan for inclusion in the Maine SIP which were submitted by the Governor on March 10, 1978. The revisions described in the Proposed Rulemaking would amend Chapter 5—*State Implementation Plan Air Quality Surveillance*, Chapter 6—*Review of New Sources and Modifications*, Chapter 2—*Control Strategies* and Chapter 9—*Intergovernmental Cooperation*.

The Regional Administrator proposed approval of Chapters 5 and 6. Chapter 5 updates the monitoring network to reflect the present configuration. However, the network is approved as an interim measure since it does not meet all the requirements of EPA monitoring strategies which were proposed in the FEDERAL REGISTER on August 7, 1978 (43 FR 34982). Any further changes or proposed relocations of monitoring instruments are to be approved by EPA. The revision to Chapter 6 establishes a category of "Lesser Sources" which is to be licensed on a five-year basis. "Lesser Sources" are those less than 50 million Btu/hour, and consume less than 500,000 gallons of fuel per year. The revision to Chapter 6 is administrative in nature, and will not interfere with the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

No action is being taken at this time on Chapter 2 and Chapter 9. Supplemental information required for approval under the Clean Air Act Amendments of 1977 will be included in a subsequent submittal by the State, at which time an evaluation will be made by EPA as to the approvability of these amendments.

No comments were received during the public comment period.

After evaluation of the State's submittal, the Administrator has determined that the Maine revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Maine Implementation Plan.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7401 and 7601.)

Dated: March 19, 1979.

DOUGLAS M. COSTLE,  
Administrator.

Subpart U of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

##### Subpart U—Maine

1. Section 52.1020, paragraph (c)(8) is added as follows:

§ 52.1020 Identification of plan

(c) The plan revisions listed below were submitted on the dates specified.

(8) Revisions to Chapter 5—*State Implementation Plan Air Quality Surveillance*, and Chapter 6—*Revision of New Sources and Modifications*, submitted by the Governor on March 10, 1978.

[FR Doc. 79-8980 Filed 3-22-79; 8:45 am]

[6560-01-M]

##### SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1081-1; PP 7F1911/R200]

#### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### Gibberellins

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the plant growth regulator gibberellins A<sub>1</sub> and A<sub>2</sub> on apples at 0.5 part per million (ppm). The regulation was requested by Abbott Laboratories. This rule establishes a maximum permissible level for residues of gibberellins A<sub>1</sub> and A<sub>2</sub> on apples.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202-755-7013).

SUPPLEMENTARY INFORMATION: On January 23, 1979, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (44 FR 4740) in response to a pesticide petition (PP 7F1911) submitted to the Agency by

Abbott Laboratories, Chemical and Agricultural Products Div., 14th Street and Sheridan Road, N. Chicago, IL 60064. This petition proposed that 40 CFR 180.224 be amended by the establishment of a tolerance for residues of the plant growth regulator gibberellins A<sub>1</sub> and A<sub>2</sub> in or on the raw agricultural commodity apples at 0.5 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.224 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before April 23, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 23, 1979, Part 180, Subpart C, section 180.224 is amended by adding a tolerance for residues of gibberellins A<sub>1</sub> and A<sub>2</sub> on apples at 0.5 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(e)))

Dated: March 19, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Part 180, Subpart C, § 180.224 is revised in its entirety to read as follows:

§ 180.224 Gibberellins; tolerances for residues.

(a) Tolerances are established for negligible residues (N) of the plant growth regulator gibberellins A<sub>1</sub> and A<sub>2</sub> on the following raw agricultural commodities:

Commodity: Parts per million

|                       |          |
|-----------------------|----------|
| Artichokes.....       | 0.15 (N) |
| Blueberries.....      | 0.15 (N) |
| Citrus fruits.....    | 0.15 (N) |
| Grapes.....           | 0.15 (N) |
| Hops.....             | 0.15 (N) |
| Leafy vegetables..... | 0.15 (N) |
| Stone fruits.....     | 0.15 (N) |
| Sugarcane.....        | 0.15 (N) |
| Sugarcane fodder..... | 0.15 (N) |
| Sugarcane forage..... | 0.15 (N) |

(b) A tolerance is established for combined residues of the plant growth regulator gibberellins A<sub>1</sub> and A<sub>2</sub> in or on the following raw agricultural commodity:

Commodity: Parts per million  
Apples..... 0.5  
[FR Doc. 79-8978 Filed 3-22-79; 8:45 am]

[6560-01-M]

[FRL 1080-7; PP 6F1758/R192]

#### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate on sugarcane. The regulation was requested by Monsanto Co. This rule establishes a maximum permissible level for residues of glyphosate on sugarcane.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202-755-7013).

SUPPLEMENTARY INFORMATION: On December 5, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 57004) in response to a pesticide petition (PP 6F1758) submitted to the Agency by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. This petition proposed that 40 CFR 180.364 be amended by the establishment of a tolerance for combined residues of the herbicide glyphosate (N-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity sugarcane at 0.1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been determined by the Agency that for clarification purposes, the proposed regulation should specify that the residues result from herbicide application of the isopropylamine salt of glyphosate. (A related document concerning the establishment of food and feed additive regulations for residues of glyphosate in sugarcane molasses appears elsewhere in today's FEDERAL REGISTER.)

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.364 should be adopted, and it



has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before April 23, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 23, 1979, Part 180, Subpart C, section 180.364 is amended by adding a tolerance for residues of glyphosate on sugarcane at 0.1 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348a(e)].)

Dated: February 24, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Part 180, Subpart C, §180.364, is amended by revising the introductory paragraph and by alphabetically inserting sugarcane at 0.1 ppm at the end of the table as follows:

§ 180.364 Glyphosate; tolerances for residues.

Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid resulting from herbicide application of the isopropylamine salt of glyphosate in or on the following raw agricultural commodities:

| Commodity | Parts per million |
|-----------|-------------------|
| ...       | ...               |
| Sugarcane | 0.1               |

[FR Doc. 79-8979 Filed 3-22-79; 8:45 am]

[4110-35-M]

#### Title 42—Public Health

### CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### SUBCHAPTER B—MEDICARE PROGRAM

### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

#### Subpart C—Exclusions, Recovery of Overpayments, Liability of a Certifying Officer and Suspension of Payment

##### REDUCTION IN GRACE PERIOD DAYS WHERE PAYMENT IS MADE FOR CERTAIN NONREIMBURSABLE EXPENSES

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

**SUMMARY:** This regulation sets forth amended rules governing Medicare payments authorized under section 1879 of the Social Security Act for certain otherwise nonreimbursable services. Under the amended rules, payment for services determined to be not medically reasonable and necessary, or to constitute custodial care, is limited to 1 day after the day the beneficiary or provider of the services received notice that the services in question were excluded from program coverage. Payment for up to 2 additional days, for a total of 3 days, is authorized only when it is determined by the fiscal intermediary that more than 1 day is needed to arrange for the beneficiary's postdischarge care. The purpose is to conform Medicare policy to Professional Standards Review policy with regard to grace period payments in cases in which certain services rendered to Medicare beneficiaries are found retroactively to be excluded from Medicare coverage.

**EFFECTIVE DATE:** This amendment shall be effective on April 23, 1979.

**FOR FURTHER INFORMATION, CONTACT:**

Mendel J. Kaufman, Medicare Bureau, Room 127, East High Rise Building, Baltimore, Maryland 21235, (301) 594-9232.

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

Section 1879 of the Social Security Act, enacted October 30, 1972, authorizes Medicare to pay for items or services not covered because they are found either to be not reasonable and necessary, or to constitute custodial care. Such payment can be made when neither the beneficiary nor the provider of the items or services knew, or could reasonably have been expected to know, that the items or services were not covered by Medicare.

Section 1879 further provides that such payment may be continued for a period of time the Secretary finds will carry out the objectives of the law. The current Medicare regulation (42 CFR 405.330(b)) allows payment for up to 3 days after the day the beneficiary or the provider received notice that the items or services in question were excluded from coverage. However, section 1158 of the Act, as amended by section 22 of P.L. 95-142 (the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977), limits payment for inpatient hospital or posthospital extended care services disapproved by a Professional Standards Review Organization (PSRO) to 1 day after the day the provider receives notice of the disapproval. Payment may be continued for up to 2 additional days, for a total of 3 days, only when the PSRO determines that more time is required to arrange for the beneficiary's postdischarge care. Thus, how a beneficiary, found not in need of inpatient hospital or posthospital extended care services, is treated depends upon whether or not that determination was made by a PSRO. We believe that benefits to Medicare beneficiaries should not vary based on the mere fact that an institution was, or was not, under PSRO review. Therefore, we are changing our rules under section 1879 to conform to the provisions applicable where there is PSRO review.

##### DISCUSSION OF COMMENTS

A Notice of Proposed Rulemaking was published June 5, 1978 (43 FR 24332). Interested persons were given 45 days from the date of publication of the Notice of Proposed Rulemaking in which to submit data, views, or arguments. Comments and suggestions on the proposed regulation were received from a number of health care organizations, providers, and legal aid groups. Following are our responses to all significant issues raised.

1. *General Expressions of Concern.* Several commenters expressed concern that patients and providers of services will suffer financial loss as a result of the regulatory change. Moreover, they thought that patients, their families and providers would face undue pressure to make hasty postdischarge arrangements.

We expect the change to encourage providers and patients to make more timely arrangements for postdischarge care. However, the Medicare program will continue to make payment for up to the maximum 3-day period in all cases where special problems or circumstances require the additional days for arranging necessary postdischarge care. Under this change, payment will be made for more than one

day only where the servicing intermediary finds that the additional time is warranted. The primary effect of this change will be to prevent payment for more than one day in those situations where additional time is not needed to arrange for postdischarge care.

2. *Availability of Skilled Nursing Facility Beds.* Several of those who commented were concerned that the lack of available skilled nursing facility beds in their localities would make transfers during a 1-day grace period difficult, if not impossible.

The regulatory change does not affect current policies and procedures that allow a hospital inpatient requiring a skilled level of nursing care to continue to receive payment for care at the hospital until an available skilled nursing facility bed can be found for the patient within the hospital's locality (42 CFR 405.1627(a)(2)). Thus, Medicare beneficiaries will not be subject to increased hardship because of this change.

3. *Inconsistent "Grace Periods."* Several commenters expressed concern that the grace period under sections 1879 and 1158 of the Social Security Act, which under routine circumstances allow payment for only 1 day, are not consistent with the grace period payment allowed under section 1814(a)(7) of the Act, which routinely allows payment for up to 3 days following a notice by the provider's utilization review committee. As a result, they fear that Medicare beneficiaries will be treated differently under these provisions.

Section 1814(a)(7) permits payment for 3 days of institutional care following the day upon which an institution receives a utilization review committee notice that further care is not medically necessary, if the patient remains in the institution. However, unlike section 1879, section 1814(a)(7) applies only when services rendered up to the time of the utilization review committee's finding are medically necessary. Also, unlike sections 1879 and 1158, section 1814(a)(7) does not expressly offer any discretion in the number of days for which such payments are to be made. Section 1879 leaves the length of the "grace period" to the discretion of the Secretary. Section 1158 mandates 1 day, but authorizes a PSRO to approve up to 2 additional days of payment, for a total of 3 days, if the patient requires more time to arrange for postdischarge care.

Since payment for "grace period" days under section 1814(a)(7) cannot be changed by regulation, the change being made here will result in an apparent inconsistency. However, it should be noted that section 1814(a)(7) applies only to hospitals and skilled nursing facilities which are not under PSRO review. PSRO imple-

mentation in hospitals is already well along and the application of section 1814(a)(7) should eventually be phased out entirely. Therefore, we think changing this regulation now will achieve as much consistency as possible.

5. *Determining Need for Additional Time.* One commenter expressed concern that the regulation provides for the intermediary to make the decision as to whether more time is required to arrange for postdischarge care. Another suggested that the regulation should put more emphasis on requiring the provider to demonstrate that more time is required to arrange for postdischarge care.

The regulation is consistent with the overall claims review responsibility of intermediaries for determining the amount of payments due providers under Medicare, and for making such payment. The intermediary's determination will be based on information or recommendations from varied sources and forwarded by the provider from, for example, an attending physician, the utilization review committee, a social service agent or some other party familiar with the beneficiary's situation. Thus, the provider or other sources must demonstrate to the intermediary sufficient need for additional time to arrange for postdischarge care to justify an extension of the grace period.

6. *Need for Regulations Change.* Several commenters questioned the need for the regulation change, suggesting that it would increase paperwork and would not result in any significant savings.

We do not believe that the regulation change will substantially increase paperwork. Furthermore, we believe that the change will result in reduced Medicare payments for noncovered services under section 1879, by encouraging providers and patients to make more timely arrangements for postdischarge care.

In our view, any increase in administrative costs will be far outweighed by the savings in Medicare payment.

Accordingly, the amendments are adopted without change, as set forth below.

42 CFR 405.330 is amended by revising paragraph (b) to read as follows:

§ 405.330 Payment for certain nonreimbursable expenses.

...

(b) Payment under this provision may be made for inpatient hospital services, post hospital extended care services, and home health services (as defined in §§405.116, 405.125, and 405.236 respectively) furnished on the first day after which ever of the following days is the earlier:

(1) The day on which the individual, to whom such items or services were furnished, has been determined, under § 405.332(a), to have knowledge, actual or imputed, that such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k); or

(2) The day on which the provider of services, which furnished such items or services, has been determined, under § 405.332(b), to have knowledge, actual or imputed, that such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k).

If it is determined by the fiscal intermediary that more time is required in order to arrange post discharge care, payment may be made for services furnished for up to 2 additional days.

(Secs. 1102, 1871, 1879 of the Social Security Act; 42 U.S.C. 1302, 1395hh, 1395pp)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated March 5, 1979.

LEONARD D. SCHAEFFER,  
Administrator, Health Care  
Financing Administration.

Approved: March 17, 1979.

HALE CHAMPION,  
Acting Secretary.

[FR Doc. 79-8884 Filed 3-22-79; 8:45 am]

[7035-01-M]

#### Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 7)]

### PART 1057—LEASE AND INTERCHANGE OF VEHICLES

#### Lease and Interchange of Vehicles; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of corrections to final rules.

**SUMMARY:** A portion of § 1057.24(a) was inadvertently omitted from the printed decision (*Lease and Interchange of Vehicles*, 131 M.C.C. 141) and the FEDERAL REGISTER notice (44 FR 4680) which set forth the final rules adopted in this proceeding. Also, the subsections of § 1057.25 were numbered in the final decision instead of being lettered. These sections are being republished in this notice in the



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correct form and with the correct content.

**FOR FURTHER INFORMATION CONTACT:**

Richard Armstrong (202) 275-7426.

Sections 1057.24 and 1057.25 are corrected to read as set forth below:

§ 1057.24 Exemption for trip leasing equipment used in agricultural operations.

The requirement in § 1057.12(c) concerning the minimum duration of a lease for equipment with driver, does not apply where the authorized carrier complies with the provisions of § 1057.25 and where:

(a) The equipment is leased by the authorized carrier for use in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based, and the equipment is that of one of the following:

(1) A farmer or a cooperative association or federation of cooperative associations under 49 U.S.C. § 10526(a) (4) or (5).

(2) A private carrier and the equipment is used regularly in the transportation of (i) property referred to in 49 U.S.C. § 10526(a)(6), or (ii) perishable products manufactured from perishable property referred to in that section.

(b) The equipment has completed a movement covered by 49 U.S.C. § 10526(a)(6) and is leased to the authorized carrier for use next in one of the following:

(1) A loaded movement in any direction.

(2) One or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based.

(3) A movement described in (1) of this subsection and then a movement described in (2) of this subsection.

§ 1057.25 Record keeping for agricultural exemption.

To qualify for the exemption in § 1057.24, prior to leasing the equipment, the authorized carrier shall receive and retain a statement signed by the owner, or authorized representative of the owner, which includes:

(a) Authorization for the driver to lease the equipment for such movements.

(b) Certification that the equipment meets the qualifications in (a) or (b) of § 1057.24.

(c) Specification of the origin, destination, and the time of beginning and ending of the last movement which

brought the equipment within the exemption of § 1057.24.

H. G. HOMME, Jr.,  
Secretary.

(FR Doc. 79-8991 Filed 3-22-79; 8:45 am)

[7035-01-M]

[EX PARTE NO. 55 (Sub-No. 34)]

**PART 1003—LIST OF FORMS**

**PART 1100 APPENDIX F—NUMBER OF COPIES OF DOCUMENTS**

**PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES**

**Revision of Finance Forms**

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising certain finance forms used in applications to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier, acquire control of a carrier, issue and sell securities, and temporarily operate a carrier sought to be acquired. The changes are intended to make the forms easier to understand and to conform statute citations to the recent codification of the Interstate Commerce Act. Several minor reporting changes have been made to meet the requirements of previous statutory and regulatory changes.

EFFECTIVE DATE: Applications filed on or after July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, (202) 275-7292.

SUPPLEMENTARY INFORMATION: The Commission is taking this action so that these forms conform to previous changes in statutes and regulations and so they are easier to understand. The forms include OP-F-44, application to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier, OP-F-45, application for authority to acquire control of a motor carrier or motor carriers through ownership of stock or otherwise, OP-F-46, application for approval of the temporary operation of motor carrier properties sought to be acquired under separately filed applications or of transfers of motor carrier certificates and permits, OP-F-200, application for authority to issue securities, or to assume obligation or liability in regard to securities of another person, and OP-F-210, special application for authority to sell securities without competitive bidding. In addition, the number of copies re-

quired to be filed with the Commission has been reduced to three, along with the original, in all cases. Except for these minor changes, no substantive changes have been made. Therefore, prior notice to the public is unnecessary, see 5 U.S.C. 553(b).

In accordance with The Energy Policy and Conservation Act of 1975, the Commission recently adopted rules at 49 CFR 1106. Each of the application forms complies with that Act and adopted rules, by requiring applicant to specify whether the proposed action under the application is a major regulatory action under the terms of that Act and to provide supplementary information where applicable. There is no reporting requirement in Form OP-F-46. That form concerns applications for approval of temporary operation of motor carrier properties, thus falling outside the scope of the reporting requirements, see 49 CFR 1106.7(c).

Item 7 of Form OP-F-200 has been changed to bring it into agreement with Section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976. The Commission adopted the new procedures listed in Item 7 in Ex Parte No. 279, *Securities Regulations—Public Offerings (Form of Offering Circular Required for Public Sales of Securities Authorized under Section 20a or 214 of the Interstate Commerce Act)*, decided March 24, 1976 (not printed).

Finally, improved internal handling of these application forms has lessened the requirement for the number of copies needed by the Commission. In the future only an original and three copies need be filed. Appropriate sections of the Code of Federal Regulations, as indicated below, are modified to reflect these changes.

If persons wish to comment on the format or correctness of the attached forms, they may file comments with the Commission within 30 days of the service date of this notice. Please mail them directly to Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Authority for the changes is found in 5 U.S.C. 552 and 553(b) and 49 U.S.C. 10101, 49 U.S.C. 10321, 49 U.S.C. 10501, 49 U.S.C. 10521, 49 U.S.C. 10921, 49 U.S.C. 11301 through 11303, and 49 U.S.C. 11341.

Decided: February 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp,

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and Christian. Vice Chairman Brown absent and not participating.

H. G. HOMME, Jr.,  
Secretary.

**MODIFICATIONS IN CODE OF FEDERAL REGULATIONS FOR NUMBER OF APPLICATION COPIES REQUIRED**

**PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES**

I. The following subsections of Volume 49 of the Code of Federal Regulations are modified as follows:

§ 1134.1 [Amended]

49 C.F.R. 1134.1(b)—delete "five copies", replace with "three copies".

§ 1134.6 [Amended]

49 C.F.R. 1134.6(b)—delete "five copies", replace with "three copies".

§ 1134.50 [Amended]

49 C.F.R. 1134.50(b)—delete "five copies", replace with "three copies".

49 C.F.R. 1100, Appendix F—Number of copies of documents (in addition to original) to be filed with Commission. Indicate requirement of three copies opposite the following:

Competitive bidding requirements—exemption.

Securities issuance, assumption of obligations.

Merger, consolidation, purchase, or lease (Form OP-F-44).

Temporary operation (Form OP-F-46).

Sec. 5a (Forms OP-F-44 and OP-F-45).

**PART 1003—LIST OF FORMS**

II. 49 C.F.R. 1003 is modified by adoption of the following revised forms:



[7035-01-C]

FORM OP-F-44 (49 CFR 1134.1)  
Revised - - 79

BEFORE THE INTERSTATE COMMERCE COMMISSION

No. HC-F-  
(For Office Use Only)

APPLICATION FOR AUTHORITY UNDER 49 U.S.C. 11343, 11344  
TO CONSOLIDATE, MERGE, PURCHASE, OR LEASE OPERATING  
RIGHTS AND PROPERTIES OF A MOTOR CARRIER  
(Please read instructions before preparing)

I. This is an application of--

A. (Full name of transferee)<sup>1/</sup>

(State whether corporation, partnership, individual, trustee, receiver  
or assignee)

doing business as

(City) (State) (Zip Code)

B. (Full name of transferor)<sup>2/</sup>

(State whether corporation, partnership, individual, trustee, receiver  
or assignee)

doing business as (Trade name)

<sup>1/</sup> Includes, (1) in a consolidation, the new corporation  
succeeding to assets and assuming liabilities of two or more carriers,  
(2) in a merger, the surviving corporation performing a similar func-  
tion, (3) in a purchase, the vendee, and (4) in a lease, the lessee.  
If more than one transferee, use identification AA, AAA, etc.

<sup>2/</sup> Includes, in a merger or consolidation, the carrier or carriers  
proposed to be liquidated, and in a purchase or lease, the vendor or  
lessor, respectively. If more than one transferor, use identification  
BB, BBB, etc.

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(Number and Street)  
(City) (State) (Zip Code)  
for authority under 49 U.S.C. 11343, 11344 (describe briefly  
the consolidation, merger, purchase, or lease for which  
authority is sought):

II. Will granting the authority sought in this application  
constitute a major Federal action having a significant effect  
upon the quality of the human environment? [ ] YES [ ] NO

If YES, a statement complying with requirements of 49  
CFR 1108 must be attached to this application.

Is this application a major regulatory action under the  
Energy Policy and Conservation Act of 1975? (Refer to 49  
C.F.R. 1106.1 through 1106.6, especially 1106.5). [ ] YES [ ] NO

If YES, attach information as to why this proceeding  
is a major regulatory action, and a description of important  
energy impacts.

III. Transferee is controlled,<sup>3/</sup> directly or indirectly, by  
the persons named below. These persons join in this appli-  
cation as applicant for authority to control the operating  
rights and any property sought to be acquired by transferee.

<sup>3/</sup> 49 U.S.C. 10102(c) provides that "control" includes  
actual control, legal control, and the power to exercise  
control, through or by common directors, officers, stock-  
holders, voting trusts, holding or investment companies, or  
any other means.

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Names Street Address, City, State, & Zip Code

IV. All correspondence with respect to this application shall  
be sent to:

(Full name)

(Title and name of company; if attorney, so state)

(Business address)

V. The following appendices are attached:

Appendix A. -- Information regarding transferee, its  
affiliates if any, and the persons  
controlling transferee;

Appendix B. -- Information regarding transferor;

Appendix C. -- Nature of the proposed transaction  
and terms and conditions;

Appendix D. -- Operations under the rights sought to  
be acquired; and

Appendix E. -- Other facts and circumstances which  
applicants rely upon to warrant  
approval of the proposed transaction.  
Applicants will submit such additional  
information as the Commission may  
require.

VI. If the application is assigned for oral hearing,  
applicants prefer that the hearing be held at

Indicate places suitable for the hearing. If Washington, D.C.  
would not be objectionable, so state. State the approximate

number of witnesses applicants expect to call:  
and the approximate time needed to present applicants'  
evidence:

ATTENTION: Knowing and willful misstatements or  
omissions of material facts constitute Federal criminal  
violations punishable by imprisonment and fines. (See  
18 U.S.C. 1001.)

Each person signing this application certifies that the  
representations made are, to the best of his/her  
knowledge and belief, true and complete.

Dated this day of , 19

(Signature of transferee)

By

(Title)

By person(s) in control of transferee:

(Signature of transferor)

By

(Title)

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APPENDIX A -- CONTINUED

Attach to original and each copy:

- A-5. Balance sheet statement as of the latest available date. Ordinarily, this should be of a date within six months of the date of the application.
- A-6. Detail of intangible property accounts including for each item the amount, date of acquisition, and source of authority.
- A-7. Detail of investments in affiliated companies, including for each affiliated company the book cost of the investment in each class of securities, and the amount of advances made to each affiliated company.
- A-8. Income statement for current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

APPENDIX B

INFORMATION REGARDING TRANSFEROR

If more than one transferor, attach additional sheets, and mark for identification BB, BBB, etc.

1. Date and State of incorporation, formation, or organization or transferor:  
Date \_\_\_\_\_ State \_\_\_\_\_
2. Is there any financial or other relationship existing between transferor and other applicants? [ ] YES [ ] NO  
If answer is "Yes" explain:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. (a) Describe briefly the motor-carrier operating rights of transferor for which authority to consolidate, merge, purchase, or lease is sought, furnishing number or numbers assigned by the Interstate Commerce Commission. If only a portion of authority is involved, indicate specifically:  
\_\_\_\_\_  
\_\_\_\_\_  
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APPENDIX B--Continued

- (b) If only part of transferor's operating authority is involved in the proposed transaction, describe operating authority being retained, particularly duplicating authority.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (c) If the transaction involves other properties of transferor, generally describe the properties:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Are operations not being conducted by transferor under any portion of the operating rights involved in the proposed transaction? [ ] YES [ ] NO  
If answer is "yes," explain:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attach or original and each copy:

- B-1. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws requires approval by the stockholders, copies of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting for the authorization.
- B-2. Copies of all resolutions of stockholders, directors, or fully authorized committees, designating by name and for that purpose the executive officer by whom the application is signed.

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APPENDIX B--Continued

If the transferor is an organization other than a corporation, furnish documentary evidence showing authorization and designation of the individual signing the application.

If the party by whom the application is signed is a trustee, receiver, or like representative of transferor, furnish a copy of the authorizing order of the court.

- B-3. Balance sheet statement as of the latest available date. Ordinarily, this should be of a date within six months of the date of the application and of the same date, if possible, as that furnished on behalf of transferee.
- B-4. Detail of intangible property accounts including for each item the amount, date of acquisition, and source of authority.
- B-5. Income statement of current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

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APPENDIX C--Continued

NATURE OF PROPOSED TRANSACTION AND TERMS AND CONDITIONS

Attach to original and each copy of this application the following data:

- C-1. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, a statement containing detailed description of the transaction.
- C-2. Statement showing ledger value (or estimated value where ledger value not available) for property proposed to be acquired, segregated by items in accordance with Uniform System of Accounts for Motor Carriers, with further segregation of revenue automotive equipment on basis of buses, trucks, tractors, semitrailers, full trailers, pole trailers, and miscellaneous equipment.
- C-3. Statement containing the following information for each item of encumbered property proposed to be acquired for which transferee has agreed to assume obligation.
  - (a) Description of the property encumbered.
  - (b) Amount and full description of encumbrance, including maturity, interest, other terms and conditions, and whether amount is evidenced by a promissory note.
  - (c) Amount of encumbrance to be assumed by transferee.
  - (d) Amount of any other liability to be assumed by transferee showing the information requested in (b) above.

- C-4. Statement explaining how transferee proposes to meet the financial requirements of the transaction, including, if a loan is involved, the amount, maturity, interest rate, other terms and conditions, and whether a promissory note or other securities will be issued.
- C-5. If application is for authority to consolidate, merge, or purchase, "giving effect" balance sheet for transferee as of the latest available date showing the effect of consummation of the proposed transaction. Each adjustment should be separately explained.
- C-6. "Giving effect" income statement for the current calendar year to date, for transferee, showing estimated adjustment and eliminations which would have resulted from consummation of the proposed transaction. Each adjustment should be separately explained and supported.
- C-7. If the transaction involves an issue of securities or assumption of obligation or liability in respect to securities of transferor or others, (a) statement showing that the issue or assumption is within one of the exemptions in 49 U.S.C. 11302 or (b) statement indicating that a separate application will be filed under 49 U.S.C. 11302.

APPENDIX D

OPERATIONS UNDER THE RIGHTS SOUGHT TO BE ACQUIRED

Attach to original and each copy of this application the following appendices:

- D-1. Map showing the operations sought to be acquired, authority, if any, to be retained by transferor, and all pertinent portions of transferee's present authority.
- D-2. If irregular-route authority is sought to be acquired indicate whether that authority sought can or will be joined with any operating authority transferee now holds, or seeks in a pending application, so as to permit the performance of a through service by transferee to, from, or between points not included under the operating rights sought to be transferred. [ YES [ ] NO

If answer is YES and joinder or tacking is intended, indicate the points or areas where the involved authorities would connect and the territory that would be served through the joinder. Show on map the method by which tacking would be accomplished. Consideration must be given to the provisions of Ex Parte 55 (Sub-No. 8), Gateway Elimination, 119 M.C.C. 530.

(Attach pertinent portions of authority now held or sought in pending applications).

- D-3. Statement showing the extent to which transferee or any carrier affiliated with transferee holds authority duplicating in any respect that sought here, or to which any application previously filed with the Commission and still pending, or any application being filed simultaneously with this one, seeks authority duplicating that sought in this application.
- D-4. If transferor is a carrier of property, submit an abstract showing actual shipments transported under the operating authority involved in the proposed transaction. Preferably, the abstract should include shipments transported during the 6 months preceding the date of the agreement of the parties

APPENDIX D--CONTINUED

covering the transaction. Shipments before and after this period may be included provided that such evidence is not cumulative. The responsibility rests with applicants, if they rely on transferor's operations, to make this appendix as complete and representative of transferor's operations as possible. The relevant data shall be abstracted from bills of lading, freight bills, or other shipping documents in orderly and informative fashion. For each shipment shown on the abstract there should be shown the commodity; the weight; the point of origin; whether on-line or off-line; point of destination, whether on-line or off-line. Shipments should be tallied by number and weight. The abstract shall not divulge information concerning the business activities of shippers or consignees which carriers are prohibited from disclosing without consent. Dormancy will be assumed respecting operating authority for which no shipments are shown, and other supporting data will be required.

The abstract shall be accompanied by a summary reflecting total number of shipments and weight transported between origin and destination point. If regular routes are involved the summary shall indicate the routes over which the shipments moved.

- D-5. If transferor is a carrier of passengers, or applicants will not rely on transferor's operations or the supporting evidence of public witnesses, describe the type of evidence which applicants rely upon to support their burden of proof.
- D-6. Vendee affirms that if the authority being sought is granted, it shall not restrict, halt, or curtail service to and/or from any points previously served by vendor whether by tariff or otherwise. [ YES [ ] NO. If "no" explain.



CERTIFICATE OF SERVICE

17688

RULES AND REGULATIONS

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Managing Director(s) of the Commission's Bureau of Operations for the Region(s) in which the headquarters of the carriers involved in the application are located.

| Regional Managing Directors | Address |
|-----------------------------|---------|
|                             |         |
|                             |         |
|                             |         |

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the carriers are located:

| Name of State Board | Address |
|---------------------|---------|
|                     |         |
|                     |         |
|                     |         |

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature \_\_\_\_\_

APPENDIX E

OTHER FACTS AND CIRCUMSTANCES WHICH APPLICANTS RELY UPON TO WARRANT APPROVAL OF THE PROPOSED TRANSACTION

Attach to original and each copy of this application the following information:

- E-1. Explain and support the reasonableness of the consideration involved in the proposed transaction.
- E-2. Show the effect of the proposed transaction upon adequate transportation service to the public.
- E-3. Show the increase in fixed charges resulting from the proposed transaction, the manner in which it is proposed to meet these charges, and that the increase of transferee's total fixed charges would not be contrary to the public interest.
- E-4. Establish that any guaranty or assumption of payment of dividends or fixed charges contemplated in the transaction is consistent with the public interest.
- E-5. Show the effect of the transaction on the interests of the carrier employees affected.
- E-6. Establish that the transaction will be consistent with the public interest.
- E-7. If transferee is a carrier by railroad subject to the Interstate Commerce Act, or a person which is controlled by or affiliated with such a carrier, show that the proposed transaction will enable such carrier by railroad to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.
- E-8. Indicate whether the proposed transaction would result in dual operations, or the extension of these operations by transferee, or by transferee and any person controlling, controlled by, or under common control with transferee.

FEDERAL REGISTER, VOL. 44, NO. 58—FRIDAY, MARCH 23, 1979

INSTRUCTIONS

1. REFERENCE - See 49 U.S.C. 11343.
2. FILING FEE - Applicants must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.
3. FORM - If this form is not used, application shall be typewritten or printed on paper 8 1/2 inches wide and 13 inches long, with a margin of 1 1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.
4. APPENDICES - Shall be folded to conform to the size of the application.
5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicants.
6. NUMBER OF COPIES - File with the Secretary of the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Bureau of Operations for the Regions in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having the authority to regulate the business of transportation by motor vehicle in each State in or through which the carriers operate. Signatures on the copies may be stamped or typed. A summary of the application, as provided in 49 CFR 100.240(b), shall be delivered by first-class mail to the appropriate official (described above) of the States in which the headquarters of the carriers are located.

FEDERAL REGISTER, VOL. 44, NO. 58—FRIDAY, MARCH 23, 1979

RULES AND REGULATIONS

17689

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by publication of a summary of the authority sought in the FEDERAL REGISTER.
8. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements in the form. Do not paste riders to any page.
9. INFORMATION REQUIRED - Must be given unless not known or available, or if not applicable. In such case, however, explicit statement to this effect shall be made in the application in lieu of the omitted material, setting forth the reasons why the information has not been given.
10. RELATED APPLICATIONS - Applicant shall bring to the Commission's attention any certificate or permit it seeks (under the OP-OR-9 application procedure) which is directly related to the proposed transaction.
11. FEDERAL REGISTER SUMMARY - The applicant will prepare a summary of the authority sought for the federal register. The Commission will advise applicant if the summary does not properly describe the transaction (49 CFR 100.240(b)).



U M I 9 7 3 2 R M 5 4 4 V

BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION FOR AUTHORITY UNDER 49 U.S.C. 11343, 11344  
TO ACQUIRE CONTROL OF A MOTOR CARRIER OR MOTOR CARRIERS  
THROUGH OWNERSHIP OF STOCK, OR OTHERWISE  
(Please read instructions on page before preparing)

No. MC-F- (For office use only)

I. This is an application of--

(Full name of applicant)

(State whether corporation, partnership, individual, trustee, receiver or assignee)

(State whether a rail, express, motor, or water carrier)

doing business as (Trade name)

Business address (Number and street)

(City) (State) (Zip Code)

for authority under 49 U.S.C. 11343, 11344 to acquire control of--

(Full name of carrier(s) to be controlled)

Business address (Number and street)

(City) (State) (Zip Code)

through ownership of capital stock, or otherwise.

RULES AND REGULATIONS

II. Applicant is controlled,<sup>1/</sup> directly or indirectly, by the persons named below, and each of these persons joins in this application:

Name Street Address, City, State, & Zip Code

III. The aggregate gross operating revenues of applicant (if a motor carrier), the motor carrier(s) of which control is proposed to be acquired, and affiliates<sup>2/</sup> of both for a period of 12 consecutive months ending not more than six months preceding the date of the agreement of the parties covering the proposed transaction was \$\_\_\_\_\_.

IV. The following appendices are attached:

Appendix A. -- Information regarding applicant, its affiliates if any, and the persons controlling applicant;

Appendix B. -- Information regarding carrier to be controlled, and its affiliates, if any, engaged in an activity connected with transportation, of which control would be acquired in this transaction;

Appendix C. -- Nature of the proposed transactions and its terms and conditions; and

Appendix D. -- Facts and circumstances on which applicant relies to warrant approval of the proposed transaction. Applicant will submit such additional information as the Commission may require.

<sup>1/</sup> 49 U.S.C. 10102(6) provides that "control" includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, voting trusts, holding or investment companies, or any other means.

<sup>2/</sup> 49 U.S.C. 11343(c) provides that a person is affiliated with a carrier if, because of the relationship between the person and the carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

FEDERAL REGISTER, VOL. 44, NO. 58--FRIDAY, MARCH 23, 1979

V. If the application is assigned for oral hearing, applicant prefers that the hearing be held at \_\_\_\_\_

Indicate places suitable for the hearing. If Washington, D.C. would not be objectionable, so state. State the approximate number of witnesses applicant expects to call; and the approximate time needed to present applicant's evidence: \_\_\_\_\_

VI. All correspondence with respect to this application should be sent to: \_\_\_\_\_

(Full name)

(Title and name of company; if attorney, so state)

(Business address)

VII. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [ ] YES [ ] NO

If YES, a statement complying with requirements of 49 C.F.R. 1106 must be attached to this application.

Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5)(c). [ ] YES [ ] NO

If yes, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)

Each person signing this application certifies that the representations made are, to the best of his/her knowledge and belief, true and complete.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature of applicant)

By \_\_\_\_\_

(Title)

By person(s) in control of applicant: \_\_\_\_\_

RULES AND REGULATIONS

FEDERAL REGISTER, VOL. 44, NO. 58--FRIDAY, MARCH 23, 1979



## RULES AND REGULATIONS

## APPENDIX A -- CONTINUED

4. Name and business address of 10 principal stockholders, share-

holders, or other owners, whichever applicable, as of \_\_\_\_\_

(last record date) and their respective holdings.  
 names of nominees, state names of real owners.

If holdings are in names of nominees, state names of real owners.

[illegible]

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5. Total number of shares of stock authorized to be issued \_\_\_\_\_.

6. Total number of shares issued and outstanding \_\_\_\_\_.

7. Par value per share \$ \_\_\_\_\_.

8. If a person controlling applicant is a corporation, partnership, or association, furnish with respect to such person the information requested above \_\_\_\_\_

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## APPENDIX A

INFORMATION REGARDING APPLICANT, ITS AFFILIATES IF ANY,  
AND THE PERSON OR PERSONS CONTROLLING APPLICANT

If more than one applicant, attach additional appendices, mark for identification AA, AAA, etc.

1. Date and State of incorporation, formation, or organization of applicant:

2. Name, title, and business address of officers; partners, including limited or silent partners; or trustees:

| Date | State |
|------|-------|
|      |       |

| Name | Title | Street Address, City & State & Zip Code |
|------|-------|---|
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3. Name and business address of directors:

Name \_\_\_\_\_  
Street Address, City, State & Zip Code \_\_\_\_\_

[illegible]

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## APPENDIX A -- CONTINUED

9. (a) Is applicant, any person controlling applicant, or any of the persons mentioned in 2, 3, 4, or 8 above a motor, rail, or water carrier, an express or sleeping-car company, a freight forwarder, or a person in control of or affiliated with such a carrier, company, or forwarder? [YES] [NO]

If yes, consideration must be given to 49 U.S.C. 11323.

(b) Does applicant, any person controlling applicant, or any other above-mentioned person own any interest in, or exercise any measure of control over any carrier, company, or forwarder, except as disclosed? [YES ] NO

If answer to any of the above is "yes" explain fully, identifying each carrier, company, or forwarder. Describe nature and scope of its operations. Identify Interstate Commerce Commission authority under which operations are conducted, or attach copy of certificate(s) or permit(s) issued by this Commission:

permit(s) issued by this Commission:

## APPENDIX A -- CONTINUED

10. Is applicant or any persons controlling applicant engaged in any other form of transportation activity? [ YES [ JNO  
If "yes", indicate the extent:

If "yes", indicate the extent:

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The appendices, requested below, identified as indicated, must be furnished respecting (a) applicant, (b) applicant's wholly owned subsidiaries and (c) the person or persons controlling applicant, except diaries and notes, if the latter are noncarrier individuals who do not own any voting stock in, or control any other carrier subject to the Interstate Commerce Act, the appendices regarding these persons need not be furnished.

Attach to original only: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with any application, it will be sufficient to make reference to the docket number under which filed. Any changes occurring since the filing shall be shown in a separate statement attached, and identified to correspond with the specific appendix requested here.)

A-1. Copy of articles of incorporation, with all amendments; or copy of articles of partnership, association, trust agreement, or other documents evidencing organization.

A-2. Copy of annual report to stockholders or shareholders for year preceding date of filing this application.

Attach to original and each copy:

A-3. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws require approval by the stockholders, copies of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting for the authorization.



APPENDIX B

INFORMATION REGARDING CARRIER TO BE CONTROLLED, AND ITS AFFILIATES, IF ANY, ENGAGED IN AN ACTIVITY CONNECTED WITH TRANSPORTATION, OF WHICH CONTROL WOULD BE ACQUIRED

If control of more than one carrier is proposed to be acquired, attach appendices and mark for identification BB, BBB, etc.

1. Date and State of incorporation, formation, or organization of carrier to be controlled:

2. Is there any financial or other relationship existing between applicant and carrier, control of which is proposed to be acquired? [ ] YES [ ] NO If answer is "yes" explain:

RULES AND REGULATIONS

3. Describe fully the motor-carrier operating rights of the carrier, control of which is proposed to be acquired, furnishing numbers assigned by the Interstate Commerce Commission, or attach copy of the certificate(s), permit(s), or certificate of registration issued to the carrier to be controlled.

4. Are operations being conducted by the carrier to be controlled under the described motor-carrier operating rights? [ ] YES [ ] NO If answer is "no," explain and state whether applicant will file affidavits of shippers, or present shipper witnesses if a hearing is deemed necessary, to support reactivation of the dormant operating rights.

5. If the operating rights of the carrier, control of which is proposed to be acquired, duplicate to any extent those presently held by applicant, or, if a non-carrier, those presently controlled by applicant, explain the manner in which applicant proposes to eliminate the duplications.

APPENDIX A -- CONTINUED

- A-4 Copies of all resolutions of stockholders or directors, or duly authorized committees, designating by name and for that purpose the executive officer by whom the application is signed.

If applicant or a person controlling applicant is an organization other than a corporation furnish documentary evidence showing authorization and designation of the individual signing the application.

If any party signing the application is a trustee, receiver, or like representative, furnish a copy of the authorizing order of the court, if any.

- A-5. Balance sheet statement as of the latest available date, but not earlier than six months prior to the filing of this application.

- A-6. Analysis of intangible property accounts including for each item the date of acquisition, source of authority, account in which presently recorded, amounts, reserve, and policy and practice followed with respect to amortization of intangible property.

- A-7. Analysis of investment and advances-affiliated companies' account in exhibit A-5, in form of supporting schedule contained in the Commission's Class I and Class II motor carrier annual report forms.

- A-8. Income statement for current calendar year to date of the balance sheet in exhibit A-5, and for each of the two preceding calendar years.

APPENDIX B--Continued

6. Is it proposed to acquire control or any person engaged in an activity, such as an equipment or terminal company, connected with transportation by the carrier of which control is sought to be acquired? [ ] YES [ ] NO If answer is "yes," describe the nature and scope of the activity of this person:

The data requested below, identified as indicated, must be furnished respecting the carrier to be controlled.

Attach to original and each copy: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with an application, it will be sufficient to make reference to the docket number under which filed. Any changes occurring since the filing shall be shown in a separate statement attached and identified to correspond with the specific appendix requested here.)

- B-1. Balance sheet statement as of latest available date, but not earlier than six months prior to the filing of this application.

- B-2. Analysis of intangible property accounts including for each item, date of acquisition, source of authority, account in which presently recorded, amounts, reserve, and policy and practice followed with respect to amortization of intangible property.

- B-3. Income statement for current calendar year to date of the balance sheet in Appendix B-1.

- B-4. If transferor is a carrier of property, submit an abstract showing interstate shipments transported during the 6 months preceding the filing of the application under the operating authority involved in the proposed transaction. Do not include intrastate shipments. The abstract must include all shipments transported during the period selected as representative (e.g., all shipments within the entire period; or, all on the same date of each week of the period; or, all for a like week of each month of the period, etc.). Each page of the abstract must include columns showing the following information for

APPENDIX B--Continued

- each shipment listed: 1. A separate number beginning with "1"; 2. The pro number of the supporting freight bill; 3. The date of the shipment; 4. The origin of the shipment if not originated by transferor; 5. The origin of the shipment if originated by transferor, or, the point at which transferor received the shipment through interchange if originated by another carrier; 6. The destination of the shipment if delivered by transferor, or, the point at which transferor interchanged the shipment for delivery by another carrier; 7. The destination of the shipment if delivered by a carrier other than the transferor; 8. The commodity; and 9. The weight of the shipment. Each page should show the total weight of all shipments thereon. The abstract shall be accompanied by a summary reflecting total number of shipments and weight between origin and destination point. If regular routes are involved the summary shall indicate the routes over which the shipments moved.

The data requested below, identified as indicated, must be furnished respecting each affiliate of the carrier engaged in any activities connected with transportation, of which control would be acquired.

Attach to original and each copy:

- B-5. Balance sheet statement as of the latest available date, but not earlier than 6 months prior to the filing of this application.

- B-6. Income statement for current calendar year to the date of the balance sheet in Appendix B-5.

RULES AND REGULATIONS



APPENDIX C

NATURE OF PROPOSED TRANSACTION AND TERMS AND CONDITIONS

Attach to original and each copy of this application the following information:

- C-1. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, statement containing detailed description of the transaction.
- C-2. Statement explaining how applicant proposes to meet the financial requirements of the transaction, including the amount, maturity, interest rates, other terms and conditions of any loan and whether a promissory note or other security will be issued.
- C-3. Map showing all operations of applicant, carrier to be controlled and affiliates of either, if any; as of date of application, and identifying their respective routes by distinguishing colors. If the operations are such that they cannot be shown on a map feasibly, it may be omitted.
- C-4. If application involves the issuance of securities or assumption by applicant of obligations as guarantor or otherwise in regard to securities of others, statement indicating (a) which of the obligations of applicant as shown on its balance sheet of record are evidenced by securities within the meaning of 49 U.S.C. 11302, and (b) the fair market value of applicant's capital stock as of the dates of issue.

APPENDIX D  
FACTS AND CIRCUMSTANCES ON WHICH APPLICANT RELIES TO WARRANT APPROVAL OF THE PROPOSED TRANSACTION

Attach to original and each copy of this application the following information:

- D-1. Explain and support the reasonableness of the consideration involved in the proposed transaction.
- D-2. Show the effect of the proposed transaction upon adequate transportation service to the public.
- D-3. Show the total fixed charges incurred as a result of the proposed transaction, and the manner in which it is proposed to meet these charges, and that the increase of applicant's total fixed charges resulting from the proposed transaction would not be contrary to the public interest.
- D-4. Establish that any guaranty or assumption of payment of dividends or fixed charges contemplated in the transaction is consistent with the public interest.
- D-5. Show the effect of the transaction on the interests of the carrier employees affected.
- D-6. Establish that the transaction will be consistent with the public interest.
- D-7. If applicant is a carrier by railroad subject to the Interstate Commerce Act, or a person which is controlled by or affiliated with such a carrier show that the proposed transaction will enable the carrier by railroad to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.
- D-8. Indicate whether the proposed transaction would result in dual operations, or the extension of these operations by applicant, or by applicant and any persons controlling, controlled by, or under common control with applicant.

CERTIFICATE OF SERVICE

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Managing Director(s) of the Commission's Bureau of Operations for the Region(s) in which the headquarters of the carriers involved in the application are located.

| Regional Managing Directors | Address |
|-----------------------------|---------|
| _____                       | _____   |
| _____                       | _____   |
| _____                       | _____   |

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the carriers are located:

| Name of State Board | Address |
|---------------------|---------|
| _____               | _____   |
| _____               | _____   |
| _____               | _____   |
| _____               | _____   |

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature \_\_\_\_\_

INSTRUCTIONS

- 1. REFERENCE - See 49 U.S.C. 11343.
- 2. FILING FEE - Applicants must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.
- 3. FORM - If this form is not used, application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.
- 4. APPENDICES - Shall be folded to conform to the size of the application.
- 5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if a partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicant.
- 6. NUMBER OF COPIES - File with the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Commission's Bureau of Operations in which are located the headquarters of the carriers involved in the application, and upon written request to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having the authority to regulate the business of transportation by motor vehicle in each State, in or through which operations may be conducted under the operating authorities involved in the application. Signatures on the copies may be stamped or typed. A summary of the application, as provided in 49 CFR 1100.240(b), shall be delivered by first-class mail to the appropriate official (described above) of the States in which the headquarters of the applicants are located.



BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION FOR APPROVAL UNDER 49 U.S.C. 11349 OF THE TEMPORARY OPERATION OF MOTOR-CARRIER PROPERTIES SOUGHT TO BE ACQUIRED UNDER SEPARATELY FILED APPLICATIONS UNDER 49 U.S.C. 11343, 11344 OR OF TRANSFERS OF MOTOR CARRIER CERTIFICATES AND PERMITS UNDER 49 U.S.C. 10926.  
(Please read instructions on page before preparing)

DOCKET NO. MC-F \_\_\_\_\_  
or  
DOCKET NO. MC-FC \_\_\_\_\_  
(For office use only)

I. A. Application of \_\_\_\_\_  
(Full name of transferee, including any ICC permit or certificate numbers, if)

(State whether corporation, partnership, individual, trustee, receiver or assignee)  
doing business as \_\_\_\_\_  
(Trade name)

(Number & Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code) \_\_\_\_\_  
for authority temporarily to operate motor carrier properties 2/ of

B. \_\_\_\_\_  
(Full name of transferor, including any ICC permit or certificate number, if)

1/ Includes (a) lessee of properties temporarily to be operated, and (b) person who proposes to control operations temporarily.

2/ Includes lease of operating rights only where transfer is sought under 49 U.S.C. 10926.

3/ Includes (a) lessor of properties temporarily to be operated, and (b) carrier whose operations are temporarily to be controlled.

RULES AND REGULATIONS

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by publication of a summary of the authority sought in the FEDERAL REGISTER.

8. AMENDMENTS - Except for good cause shown, amendments to applications which broaden the scope of the proposed transaction will not be permitted if tendered after notice of the filing of the application has been published in the Federal Register. Restrictive amendments may be submitted at any time, but if tendered after publication, they may be allowed only in the discretion of the Commission, or by the Administrative Law Judge if the matter is assigned for hearing or pre-hearing conference.

9. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements.

10. INFORMATION REQUIRED - Must be given unless not known or available, or if not applicable. In such case, however, explicit statement to this effect shall be made in the application in lieu of the omitted material, setting forth the reasons why the information has not been given.

11. HEARING - Requests for postponement, or change of location of a hearing, should be made at least 10 days prior to the scheduled date of hearing, and good cause for the requested change should be stated. An ample supply of exhibits to be used at a hearing should be prepared so that copies are available for all parties. Where practicable, they should be distributed in advance.

12. RELATED APPLICATIONS - Applicant shall bring to the Commission's attention any certificate or permit it seeks (under the OP-OR-9 application procedure) which is directly related to the proposed transaction.

13. FEDERAL REGISTER SUMMARY - The applicant will prepare a summary of the authority sought for the Federal Register. The Commission will advise applicant if the summary does not properly describe the transaction (49 CFR 1100.240(b)).

(State whether corporation, partnership, individual, trustee, receiver or assignee)

doing business as \_\_\_\_\_  
(Trade name)

(Number & Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code) \_\_\_\_\_

II. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [ ] YES [ ] NO

If YES, a statement complying with requirements of 49 C.F.R. 1108 must be attached to this application.

III. Facts and circumstances relied upon to establish that failure to grant temporary authority may result in destruction of or injury to motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public shall be attached as Exhibit A.

IV. Terms and conditions of lease covering properties temporarily to be operated, or agreement covering operations temporarily to be controlled, are set forth in written instrument, executed as Exhibit B.

V. All correspondence with respect to this application shall be sent to:

\_\_\_\_\_  
(Full name)

\_\_\_\_\_  
(Title and name of company; if attorney, so state)

\_\_\_\_\_  
(Business address of person to be addressed)

OATH

COUNTY OF \_\_\_\_\_ ss:  
STATE OF \_\_\_\_\_

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)

Each person signing this application swears or affirms that the representations made are to the best of his/her knowledge and belief, true and complete.

Signature of Transferor \_\_\_\_\_ Signature of Transferee \_\_\_\_\_

Subscribed and sworn to before me, a \_\_\_\_\_ in \_\_\_\_\_ and for the State and County above named, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

(SEAL)

\_\_\_\_\_  
Signature

My Commission expires \_\_\_\_\_.

RULES AND REGULATIONS



CERTIFICATE OF SERVICE

I, \_\_\_\_\_, CERTIFY that upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a copy of this application was delivered in person or by mail, to the following Regional Managing Director(s) of the Bureau of Operations, in which are located the headquarters of the carriers involved in the application.

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the applicants are located:

| Name of State Board | Address |
|---------------------|---------|
| _____               | _____   |
| _____               | _____   |
| _____               | _____   |
| _____               | _____   |

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature

INSTRUCTIONS

1. REFERENCE - See 49 U.S.C. 11349 and 10926.
2. FEES - Applicant must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.
3. FORM - If this form is not used, the application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.
4. EXHIBITS - Shall be folded to conform to the size of the application.
5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if a partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicant.
6. NUMBER OF COPIES - File with the Secretary of the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Commission's Bureau of Operations in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission or Official) having the authority to regulate the business of transportation by motor vehicle in each State in which the carriers operate. Signatures on the copies may be stamped or typed. A summary of the application shall be delivered by first-class mail to the appropriate official (described above) of the State in which the headquarters of applicants are located.
7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. This summary will be prepared by the Interstate Commerce Commission.

RULES AND REGULATIONS

8. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements in the form. Do not paste riders to any page.

9. LEASE OR OTHER AGREEMENT - The written instrument filed as Exhibit B should provide for a specific monetary monthly rental or management fee commensurate with the value of the properties to be temporarily operated. Temporary authority should not be requested for the purpose of making legal a violation of 49 U.S.C. 11343.

10. GENERAL - No consideration can be accorded an application for temporary authority under 49 U.S.C. 11349 unless a corresponding application under 49 U.S.C. 11343 has been filed.

FORM OP-F 200 (Rev. )

BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION UNDER 49 U.S.C. 11301 and 49 U.S.C. 11302 FOR AUTHORITY TO ISSUE SECURITIES, OR TO ASSUME OBLIGATION OR LIABILITY IN REGARD TO SECURITIES OF ANOTHER PERSON (Head instructions before answering)

No. FD \_\_\_\_\_  
(For office use only)

I. (a) Application of \_\_\_\_\_ (Full Name)  
whom business address is \_\_\_\_\_ (Street Address)

\_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code)  
(b) Applicant's representative to whom inquiries may be made is:

\_\_\_\_\_ (Full Name)  
\_\_\_\_\_ (Street Address)

\_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code)

II. (a) Will granting the authority sought in this application have a significant effect upon the quality of the human environment? [ YES ] [ NO ]  
If YES, a statement complying with the requirements of 49 C.F.R. 1108 must be attached.

(b) Is this application a major regulatory action under the Energy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5). [ YES ] [ NO ]

RULES AND REGULATIONS



If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

III. State whether applicant is a carrier by railroad, a common or contract carrier by motor vehicle, a corporation organized for the purpose of engaging in transportation as any such carrier, a sleeping-car company, or a holding company, as defined in the General Instructions. If a motor carrier, give lead docket number.

IV. Describe briefly the securities proposed to be issued or obligation or liability proposed to be assumed.

V. List the States in which the applicant carrier operates or is authorized to do business, or in which the applicant holding company is incorporated or authorized to do business.

VI. List by docket number any related Finance proceedings pending or to be filed.

SUPPORTING DOCUMENTS

The following statements and information, identified by item numbers and letters corresponding to those in this form, are to be submitted by applicant:

ITEM 1. GENERAL INFORMATION REGARDING APPLICANT.

- (a) Date and State of incorporation, or other organization.
- (1) If applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, give all pertinent facts as to incorporation or organization.
- (2) If authorization to a new, reorganized, or consolidated corporation which is not in existence in sort, name the jurisdiction under the laws of which the corporation would be organized, reorganized, or consolidated.
- (3) If applicant is a trustee, receiver, assignee, or other fiduciary, name the court, if any, under the direction of which applicant is acting, and state the nature of the proceeding, if any, in which the applicant was appointed.
- (b) File with the original application (but not with the copies) one or more of the following documents as appropriate. See 49 CFR 1100.80 for the rule regarding incorporation by reference.
  - (1) Copy of charter or articles of incorporation, with amendments to date, duly certified by the appropriate public officer; and copy of bylaws, with amendments to date.
  - (2) If applicant is not a corporation, copy of articles of agreement, or association, or trust agreement, evidencing organization.
  - (3) If applicant is a trustee, receiver, assignee, or other fiduciary, copy of duly certified order of the court, or instrument of appointment.

ITEM 2. FINANCIAL STATEMENTS.

- (a) Applicant's general balance sheet as of the latest practicable date.

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(b) If applicant is a motor carrier, a corporation organized for the purpose of engaging in transportation as a motor carrier, or motor carrier holding company, and the value (fair market value as of date of issue, or par value, whichever is greater) of its capital stock outstanding as of the date of balance sheet does not exceed \$1,000,000 it must furnish a statement showing as of that date the extent to which its liabilities other than capital stock are represented by notes or other securities. Described these notes and securities.

(c) Applicant's income and profit and loss statement for the last calendar year, (unless a copy is on file in its annual report with the Commission or in another proceeding to which reference is made). Also submit a copy of this statement for the current calendar year to the latest available date.

ITEM 3. GENERAL DESCRIPTION OF THE SECURITIES WITH RESPECT TO WHICH THE APPLICATION IS MADE.

(a) If the application covers the issue of stock, the description shall include:

- (1) The kind and class of stock
- (2) The number of shares authorized, outstanding, and to be issued
- (3) Par value of each share and/or stated value, if having no par value
- (4) Amount
- (5) Voting rights
- (6) Preferences
- (7) Conversion privileges
- (8) Call provisions
- (9) Liquidation rights
- (10) Whether it is assessable

(b) If the application covers the issue of securities other than stock, the description shall include:

- (1) Full title of the securities
- (2) Title and date of the indenture, if any, under which the securities are to be issued and the name of the trustee or trustees under the indenture
- (3) Principal amount authorized, previously issued, and proposed to be issued under the indenture
- (4) Denominations of the securities to be issued
- (5) Date of securities
- (6) Interest rate or rates
- (7) Interest payment dates
- (8) Date or dates of maturities, with amounts maturing on each date, if maturing serially
- (9) Reference to the provisions of the indenture, if any, under which the securities will be issued, permitting the proposed issue of securities, and relating to sinking funds, redemption features, and conversion rights.
- (c) Specimens, or forms where specimens are not available, of all securities with respect to which the application is made.
- (d) In case of the issue or assumption of bonds or evidence of indebtedness, a copy of the mortgage or indenture by which secured or proposed to be secured.

ITEM 4. PURPOSE OF THE PROPOSED ISSUE OR ASSUMPTION, AND USES OF THE PROCEEDS.

A statement showing the amount of net proceeds intended to be used with respect to one or more of the purposes specified below:

- (a) THE ACQUISITION OF PROPERTY OTHER THAN EQUIPMENT: A statement containing:
  - (1) A general description of the character, size, and location of the property, and the name and address of the person from whom it is to be acquired; and

RULES AND REGULATIONS



- (1) The period covered by the total disbursement
- (2) The purposes of the disbursements
- (3) The amount of disbursements (gross capital charge) and all credits to capital account within the period
- (4) The primary accounts of the Commission's classification to which the disbursements or retirements were charged or credited
- (f) OTHER PURPOSES: A statement containing complete details of the purposes of the proposed issue or assumption.

ITEM 5. THE FACTS AND CIRCUMSTANCES ON WHICH THE APPLICANT RELIES.

(a) If the applicant is a carrier or a corporation organized for the purpose of engaging in transportation as a carrier--

To establish that the proposed issue or assumption (1) is for some lawful object within its corporate purposes, compatible with the public interest, necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a motor carrier, and (2) is reasonably necessary and appropriate for this purpose.

(b) If the applicant is a non-carrier person, who is authorized to control a carrier--

To establish that the proposed issue or assumption is consistent with the proper performance of its service to the public by each carrier under the control of the person, and will not impair the ability of the carrier to perform service and is consistent with the public interest.

(c) If the application is filed with respect to a class of railroad securities as to which competitive bidding is prime facie required, and exemption from this requirement is sought--

1. Pertinent conclusions and the requirements are set forth in the Commission's report, In Re Competitive Bidding in Sale of Securities, 257 I.C.C. 129, as modified by findings in Atlantic Coast Line R. Co. Competitive Bidding Findings, 282 I.C.C. 513, and further modified in In Re Competitive Bidding in Sale of Securities, 307 I.C.C. 1. Also see Western Maryland Equipment Trust, 111 I.C.C. 437, and Section 10 of the Clayton Act, 15 U.S.C. Section 20. The exemption process is set forth in 49 CFR 1115.25, and Form OP-F 210.

(2) The actual or estimated costs to applicant of acquisition of the property, classified by Interstate Commerce Commission primary accounts; full terms of the contract, if any has been made, for such acquisition; and date necessary for a determination of the reasonableness of such costs.

(b) THE ACQUISITION OF EQUIPMENT:

(1) A full description of the equipment by type or design of unit, size, capacity, builder, year built, and name and address of the person from whom it is to be acquired; and

(2) The unit prices paid or to be paid free on board builder's plant; whether the equipment was purchased through competitive bidding; and, if the unit prices shown are not the lowest bids received, the reason for accepting a higher bid.

(c) THE CONSTRUCTION, COMPLETION, EXTENSION OR IMPROVEMENT OF FACILITIES, OR ADDITIONS AND BETTERMENTS BY A COMMON CARRIER BY RAILROAD (accomplished expenditures or expenditures not yet made):

(1) The period covered by the expenditures

(2) The purpose of the expenditures

(3) The amount of proposed expenditures or expenditures made but not yet capitalized and credits by reason of retirements within the period

(4) The distribution of the total cost by the primary accounts of the Commission's classification of investment in road and equipment

(d) THE DISCHARGE OR REFUNDING OF EXISTING OBLIGATIONS: A statement containing a description of sale or other disposition of existing obligations (including notes issued pursuant to the exemptions in 49 U.S.C. 11301 and 11302). Describe terms and conditions, discounts and commissions, counsel fees, and other expenses.

(e) THE REIMBURSEMENT OF MONEY EXPENDED FROM INCOME OR FROM OTHER MONIES IN THE TREASURY OF THE APPLICANT (including proceeds of notes maturing and issued as described in the preceding paragraph), NOT YET CAPITALIZED:

To show that competitive bidding should not be required in the sale or other disposition of the proposed securities, including a statement that applicant has not entered into any discussion or any negotiations with respect to the terms of sale with any prospective purchaser of its securities.

(d) If the application is to sell railroad securities without competitive bidding on the ground that such securities come within one of the specific exemptions--

To show that the exemption applies.

ITEM 6. TERMS OF SALE OR OTHER DISPOSITION, AND ESTIMATE OF EXPENSES.

(a) At what prices or rates and upon what terms the securities will be sold.

(b) An estimate of the expenses applicant will incur in connection with the sale, itemized to show:

(1) The commissions to be paid, discounts to be allowed, and the total of commissions and discounts,

(2) Legal accounting, engineering, certification, authentication, and other expenses, and total expenses where the amounts of the items grouped under "other expenses" are substantial, they must be itemized.

(3) The grand cost of commissions, discounts, and expenses.

ITEM 7. CONTRACTS, UNDERWRITINGS, AND OTHER ARRANGEMENTS.

Describe how, and to whom, and by or through whom, the securities will be issued. Give details of all contracts, underwritings, and other arrangements.

If a public offering is involved, applicant shall provide the information called for in the circular entitled "Appendix, Form OP-F-200".

Section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) provides for the removal of railroad securities (other than those concerning a railroad equipment trust) from the exemption they previously had from the requirements of the Securities Act of 1933. For public disclosure purposes, these railroad securities are subject to

the jurisdiction of the Securities and Exchange Commission. However, a railroad still must file with this Commission all material filed with the SEC. In the event it claims that the offer and sale of the securities are exempt from registration under the Securities Act of 1933, an opinion from counsel shall state this, indicate the section of that Act (or rule) containing the claimed exemption, and state pertinent facts relied upon.

ITEM 8. RESOLUTIONS AND OTHER AUTHORIZATIONS.

(a) Copies of all resolutions of directors authorizing the proposed issuance of securities or the proposed assumption of obligation or liability for which authority is requested.

(b) If the charter or bylaws require approval by stockholders, copies of resolutions of stockholders, authorizing issuance or assumption. Resolutions of stockholders shall be accompanied by sufficient transcripts of the minutes of their meetings to show the number of shares voted for and against the resolutions, and the number of shares-votes required to adopt the resolution.

(c) Copies of resolutions of stockholders or directors, or duly authorized committees, authenticated by a proper executive officer of applicant, designating the executive officer by whom the application is signed, verified, and filed on behalf of the applicant.

(d) If applicant is not a corporation, documentary evidence showing authorization of the proposed issuance or assumption and designation of the individual signing, verifying, and filing on behalf of applicant; and

(e) If applicant is a trustee, receiver, assignee, or other fiduciary, a certified copy of the order, if any, of the court having jurisdiction, authorizing the proposed issuance or assumption, and the filing of the application.

ITEM 9. OPINION OF COUNSEL.

Opinion that the issuance or assumption meets the requirements of the law as set forth in Item 5, and will be legally authorized and valid if approved by the Commission, with specific reference to any pertinent provisions of charter or articles of incorporation or association.

ITEM 10. SIGNATURE.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_ Title \_\_\_\_\_



Form OP-F 200 (Rev. )

CERTIFICATE OF SERVICE

17706

OATH

COUNTY OF \_\_\_\_\_ )  
STATE OF \_\_\_\_\_ ) ss:

\_\_\_\_\_, being duly sworn, states: I have filed this application as (indicate relationship to applicant)

I am qualified and authorized to sign, file and verify this application and the attached exhibits. I have examined all of the statements in the application, and they are true and complete to the best of my knowledge.

Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to five years imprisonment and fines up to \$10,000 for each offense. (See 18 U.S.C. 1001.)

\_\_\_\_\_  
(Signature of Affiant)

Subscribed and sworn to before me, a \_\_\_\_\_  
in and for the State and County above, named, this \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_.

(SEAL)

My Commission expires \_\_\_\_\_.

of \_\_\_\_\_, 19\_\_, a copy of the foregoing application was mailed or delivered in person to the Governor of each State in which the applicant operates or is authorized to do business, as follows:

I also certify that the Governor of each State has been advised that if they desire to make any representations, to notify the Commission within 15 days.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

RULES AND REGULATIONS

FEDERAL REGISTER, VOL. 44, NO. 58—FRIDAY, MARCH 23, 1979

GENERAL INSTRUCTIONS

1. USE OF FORM OP-F 200. All carriers and other persons subject to 49 U.S.C. 11301 or 49 U.S.C. 11302 making application for authority (a) to nominally issue securities (b) to sell, pledge, repledge, or otherwise dispose of securities nominally issued or assumed or nominally outstanding, (c) to actually issue securities, or (d) to assume any obligation or liability as lessor, lessee, guarantor, endorser, surety, or otherwise in respect of the securities of any other person actually outstanding, shall make application substantially in the form of Form OP-F-200.

2. APPLICATION OF GENERAL RULES AND REGULATIONS. Before underwriting the preparation of the application, refer to the rules set forth at 49 CFR 1115.

3. DEFINITIONS:

(a) The term "holding company" means a person which is not a carrier, but which is authorized by the Interstate Commerce Commission to control a carrier or carriers and, as provided in 49 USC 11348, is to be considered a carrier.

(b) The term "nominally issued", "nominally outstanding", "actually issued" and "actually outstanding" are defined in 49 C.F.R. 1201.

FORM OP-F 210 (Revised )

BEFORE THE INTERSTATE COMMERCE COMMISSION  
SPECIAL APPLICATION FOR AUTHORITY TO SELL SECURITIES  
WITHOUT COMPETITIVE BIDDING  
(Read Instructions on Page 2)

I. Application of \_\_\_\_\_ (Name and Trade Name, if any)  
whose business address is \_\_\_\_\_ (Street)  
\_\_\_\_\_  
(City) (State) (Zip Code)

The following information is submitted by applicant in support of its request for exemption from the competitive bidding requirements:

1. General description and amount of the securities for which exemption is sought.
2. Purpose and use of the proposed issue and proceeds.
3. States in which applicant operates or proposes to operate.
4. Related finance proceedings before the Commission. Give docket number, if known.
5. Date of organization and State(s) under the laws of which applicant was organized and received its present charter(s).
6. Facts relied upon by applicant to show that competitive bidding should not be required in the sale or other disposition of the proposed securities. Include a statement that applicant has not entered into discussion or negotiations with respect to the terms of sale with any prospective purchaser of its securities.
7. Why the special application is necessary.

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II. Will granting the authority sought in this application have a significant effect upon the quality of the human environment? ☐ YES ☐ NO  
If YES, a statement complying with the requirements of 49 CFR 1103 must be attached.

III. Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5).

☐ YES ☐ NO

If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

17708

OATH

COUNTY OF \_\_\_\_\_, as:  
STATE OF \_\_\_\_\_

\_\_\_\_\_, being duly sworn, states: I am the  
(Name of Affiant)

\_\_\_\_\_, of \_\_\_\_\_ (Name of Respondent)

I am authorized by applicant to sign and file this application. I have carefully examined all of the statements contained in the application. I have knowledge of the matters stated and they are true and complete.

Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to 5 years imprisonment and fines up to \$10,000 for each offense. (See 18 U.S.C. 1001.)

\_\_\_\_\_  
(Signature of Affiant)

Subscribed and sworn to before me, a \_\_\_\_\_ in the  
State and County above named, this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_.

(SEAL)

My Commission expires \_\_\_\_\_.

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CERTIFICATE OF SERVICE

\_\_\_\_\_ certifies that upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, a copy of the application was mailed or delivered in person to the Governor of the State in which the applicant operates or is authorized to do business, or in the case of holding companies, of each State in which the applicant is incorporated or authorized to do business, as follows:

I certify that the Governors of these States have been advised that, if they desire to make any representations, to notify the Commission within 15 days.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

INSTRUCTIONS

USE OF FORM OP-F 210. This form should be used in making application for exemptions from the competitive bidding requirement only when it is not practicable to include the request for exemption in an application filed in Form OP-F-200 for authority under 49 U.S.C. 11301 to issue securities.

COMPETITIVE BIDDING REQUIREMENT. The requirement that, with certain specified exceptions, all classes of railroad securities other than equipment, issued under authority granted pursuant to the provisions of 49 U.S.C. 11301, be offered for sale at competitive bidding, is set forth in 49 CFR 1115.25. Refer to this before starting preparation of the application. If the space provided in the form is not sufficient to supply the information required, use a separate sheet, attach it to the application, and give it the same number as the paragraph to which it relates.

(FR Doc. 79-8787 Filed 3-22-79; 8:45 am)

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## Title 50—Wildlife and Fisheries

## CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

## PART 226—DESIGNATED CRITICAL HABITAT

## Determination of Critical Habitat for the Leatherback Sea Turtle

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) determines critical habitat for the leatherback sea turtle (*Dermochelys coriacea*) in waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands. The action is being taken under Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et. seq.* (the "Act") to provide protection to sea turtles using these waters for courting, breeding, and as access to and from their nesting areas on Sandy Point Beach. All Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat.

DATES: This rule becomes effective on March 31, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, (202) 634-7287.

SUPPLEMENTARY INFORMATION: On November 29, 1978 (43 FR 55806), the National Marine Fisheries Service (NMFS) published a proposed determination of critical habitat for the leatherback sea turtle (*Dermochelys coriacea*). This critical habitat was described as:

The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West.

The leatherback sea turtle has been listed as endangered since 1970 (35 FR 19320). Although the leatherback spends most of its life in waters of 150

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feet depth or greater, it comes ashore to nest and lay eggs.

Courtship and mating are believed to occur in waters adjacent to nesting beaches just prior to the time of egg laying. Accordingly, the survival and recovery of the leatherback depends on the maintenance of suitable and undisturbed nesting beaches and protection of waters adjacent to those beaches.

During the early summer of 1977 the U.S. Fish and Wildlife Service (FWS) identified a nesting aggregation of leatherback sea turtles occurring at the western end of the island of St. Croix, U.S. Virgin Islands. Personnel of the FWS, NMFS, U.S. Coast Guard, and Government of the Virgin Islands conducted observation on St. Croix during the month of June. In excess of 70 leatherback nests were discovered on the 0.8 mile by 0.1 mile strip of Sandy Point Beach during these observations. This area constitutes a major beach under U.S. jurisdiction used for nesting by the endangered leatherback. The FWS designated Sandy Point Beach on St. Croix as critical habitat for the leatherback sea turtle on September 26, 1978 (43 FR 43688).

Pursuant to an agreement between the FWS and the NMFS, the FWS has jurisdiction over sea turtles on the land and the NMFS over sea turtles in the marine environment. These regulations designate as critical habitat an area of the marine environment adjacent to a nesting beach previously designated as critical habitat by the FWS.

The Endangered Species Act Amendments of 1978 define the term "critical habitat" as follows:

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Since the area designated as critical habitat is used by the leatherback for courting and mating activities and provides an access to and from an important nesting beach, the NMFS believes the area is essential for the conservation of the leatherback sea turtle and requires special management protection. As such, these waters qualify for designation as critical habitat under the Endangered Species Act, as amended.

## REVIEW OF RELEVANT IMPACTS AND SUMMARY OF COMMENTS AND RECOMMENDATIONS

In the proposal to designate this area as critical habitat, it was noted that NMFS was unaware of any current plans to develop this area. In the course of this rulemaking, efforts were made to obtain information concerning all economic and other relevant impacts of the proposed designation and all public and private activities which may adversely modify the critical habitat or may be impacted by this designation. To this end, notice of the proposed designation appeared in Virgin Islands newspapers, was distributed to local government personnel, and written comments were solicited from the public. Consultation with the U.S. Coast Guard, U.S. Navy, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and Government of the U.S. Virgin Islands indicated that the proposed designation would generate no significant impacts. A public meeting regarding the proposed designation was held, as required under the 1978 amendments to the Act, in Fredericksted, St. Croix on December 5, 1978 (43 FR 55806).

The meeting was attended by 11 individuals representing: the NMFS; the U.S. Fish and Wildlife Service; Department of Conservation and Cultural Affairs (DCCA), U.S. Virgin Islands; the West Indies Laboratory of Fairleigh Dickinson University in St. Croix; and interested members of the public. None of the attendees expressed opposition to the proposal.

At the public meeting, representatives of DCCA indicated that several species of sea turtles nest on 42 of 43 identified beaches on St. Croix. The NMFS has requested DCCA to provide additional information on this matter.

Representatives of the West Indies Laboratory discussed the critical shortage of sand in the Virgin Islands and the potential use of the shelf area seaward of Sandy Point as a sand mining site. A two-year study is in progress by the West Indies Laboratory (funded by Office of Sea Grant, NOAA) to identify potential offshore sandmining sites. At this time, it is unknown whether offshore sandmining is economically and technologically feasible and if so, where it might occur. It is conceivable however, that mining in this area, if it were ever proposed, might be impacted by this designation.

It was noted at the meeting that designating this area as critical habitat will require any Federal department or agency that authorizes, funds, or carries out activities that might result in the destruction or adverse modification of the area to comply with Section 7 of the Act.

Written comments were received from Mr. Glen O. Clark, Acting Superintendent, Virgin Islands National Park, U.S. Department of the Interior and from Ms. Laura Tangle, Defenders of Wildlife; both supported the proposed designation.

Mr. Clark indicated that staff of Christiansted National Historic Site and Buck Island Reef National Monument have inspected the proposed critical habitat area and concur in the designation of this area as critical habitat for the leatherback sea turtle.

Defenders of Wildlife noted that the proposed area is of critical importance to the leatherback in the course of carrying out its normal courting, breeding, and nesting activities, and falls within the definition of critical habitat under the Endangered Species Act of 1973 as well as the Act's 1978 amendments. In addition to supporting this designation, Defenders of Wildlife further recommended that NMFS identify other areas under U.S. jurisdiction that may be essential to the conservation of the species and designate these areas as critical habitat.

Defenders of Wildlife expressed concern that although private activities in the Sandy Point Beach area such as commercial and recreational fishing, boating, swimming, and diving are not directly affected by designating the area as critical habitat, these private activities could potentially have a detrimental impact on leatherback sea turtles at times of courting, breeding, and nesting. Defenders of Wildlife recommended the NMFS investigate the impacts of these private activities on leatherback sea turtles, and should the research show it necessary, seasonally close the area to one or more of such private activities. Defenders of Wildlife further recommended that NMFS provide the turtles additional protection by locally publicizing their endangered status and by concentrating enforcement efforts in the area.

The NMFS received no requests for a public hearing on the proposal.

The only activities that have been identified as possibly modifying this critical habitat of being impacted by its designation are recreational activities such as boating and swimming and sandmining. Recreational activities may result in disturbances in the water column that could affect the critical habitat but designation of this habitat will not impact private recreational activities. Sandmining may result in increased turbidity in the water column which may result in adverse modification of this habitat.

## CONCLUSION

All information available to NMFS indicates that the area proposed as critical habitat needs to be protected

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to help conserve the leatherback sea turtle. In addition, the economic and other impacts of this designation are either speculative or nonexistent. Based on the best scientific and commercial data available, the Assistant Administrator for Fisheries hereby determines that the waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands are critical habitat for the leatherback sea turtle.

## EFFECT OF THE RULEMAKING

The major effect of designating this area as critical habitat will be to require any Federal department or agency that authorizes, funds, or carries out activities that might result in the destruction or adverse modification of the critical habitat to comply with Section 7 of the Act. At this time there are no known Federal activities planned for this area.

Private activities are not directly affected by designating an area as critical habitat. The taking of any endangered turtle is presently prohibited by the provisions of the Endangered Species Act of 1973.

## NATIONAL ENVIRONMENTAL POLICY ACT

The Assistant Administrator for Fisheries has determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the NMFS Office of Marine Mammals and Endangered Species, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, and may be examined during regular business hours or obtained by mail.

## MISCELLANEOUS

On October 4, 1978, NMFS proposed to add a new Part 226, entitled Designated Critical Habitat, to Title 50 of the Code of Federal Regulations; and, to designate the Port Canaveral Navigation Channel, Cape Canaveral, Florida, as a critical habitat under 50 CFR Part 226 (43 FR 45905). The public comment period on establishing a new Part 226 closed on December 4, 1978. The designation of the Port Canaveral Navigation Channel is still pending. Nevertheless, no comments were received on the general provisions of the proposed new 50 CFR Part 226, and NMFS considers it appropriate to promulgate these general provisions at this time.

Under Executive Order 12044 (43 FR 23170) and Department of Commerce

Administrative Order 218-7 (44 FR 2082), the Assistant Administrator for Fisheries has made an initial determination that this is not a significant regulation.

The primary author of this rulemaking is Mr. Richard B. Roe, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, (202) 634-7287.

## REGULATION PROMULGATION

Accordingly, 50 CFR is amended by adding a new Part 226 as follows:

## PART 226—DESIGNATED CRITICAL HABITAT

## Subpart A—Introduction

Sec.  
226.1 Purpose of regulations.  
226.2 Scope of regulations.

## Subpart B—Critical Habitat for Marine Mammals

226.11-30 [Reserved]

## Subpart C—Critical Habitat for Marine Fish

226.31-70 [Reserved]

## Subpart D—Critical Habitat for Marine Reptiles

226.71 Sandy Point, St. Croix, U.S. Virgin Islands.

AUTHORITY.—Endangered Species Act of 1973, section 7, Pub. L. 93-205, 16 U.S.C. § 1536.87 Stat. 884.

## Subpart A—Introduction

§ 226.1 Purpose of regulations.

The regulations contained in this Part identify those habitats designated as critical under section 7 of the Endangered Species Act, as amended, by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, for those endangered and threatened species under the jurisdiction of the Secretary of Commerce. The list of these species is found in 50 CFR § 222.23(a) for endangered species and 50 CFR § 227.4 for threatened species.

§ 226.2 Scope of regulations.

(a) The critical habitat designations contained in this Part apply only to the endangered and threatened species listed in this Part.

(b) Regulations implementing section 7 of the Endangered Species Act, as amended, are found in 50 CFR Part 402.

(c) The provisions in this Part are in addition to, and not in lieu of other regulations of Parts 217-227 and 402 of this Chapter.



**Subpart B—Critical Habitat for Marine Mammals**

§§ 226.11-226.30 [Reserved]

**Subpart C—Critical Habitat for Marine Fish**

§§ 226.31-226.70 [Reserved]

**Subpart D—Critical Habitat for Marine Reptiles**

§ 226.71 Sandy Point, St. Croix, U.S. Virgin Islands.

LEATHERBACK SEA TURTLE  
(DERMOCHELYS CORIACEA)

The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West.

Dated: March 16, 1979.

WINFRED H. MEIBOHM,  
National Marine  
Fisheries Service.

[FR Doc. 79-8873 Filed 3-22-79; 8:45 am]

[3410-02-M]

**Title 7—Agriculture****CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

(Lemon Regulation 191)

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA****Limitation of Handling**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period March 25-31, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: March 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

**SUPPLEMENTARY INFORMATION:** Findings. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating

the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 20, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.491 Lemon Regulation 191.

**Order.** (a) The quantity of lemons grown in California and Arizona which may be handled during the period March 25, 1979, through March 31, 1979, is established at 235,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 22, 1979.

CHARLES R. BRADER  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-9153; Filed 3-22-79; 11:42 am]

[3410-07-M]

**CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE****SUBCHAPTER I—ADMINISTRATIVE REGULATIONS****PART 2003—ORGANIZATION****Subpart A—Functional Organization of the Farmers Home Administration**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

**SUMMARY:** The Farmers Home Administration amends its statement of organization and function. This action is taken to correct an incorrect placement of an organizational unit and is published in order to keep the public informed of the Agency structure.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Freburger, Director, Management Systems and Organization Planning Division. Phone: (202) 447-2445.

**SUPPLEMENTARY INFORMATION:**

The Farmers Home Administration amends a portion of Exhibit B of Subpart A, Part 2003, Chapter XVIII, Title 7 in the Code of Federal Regulations. The function of the St. Louis Field Operations Branch was inadvertently published as though it was a subordinate element of the St. Louis Finance Office; whereas, it should have been shown as subordinate to the Business Services Division of FmHA's Washington headquarters. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is only to correct the organizational structure and publication in prior rule making form is unnecessary. Therefore, Exhibit B to 7 CFR Part 2003 is amended by transferring the information under "St. Louis Field Operations Branch" which is under "Finance Office," in column 3 on page 59084 of the FEDERAL REGISTER for December 19, 1978 to appear just before the heading "Communications Center" which is under the "Business Services Division" on page 59085 as follows:

**EXHIBIT B—U.S. DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION**

07 03 0007 FINANCE OFFICE

St. Louis Field Operations Branch (Transferred)

07 03 00 0002 BUSINESS SERVICES DIVISION

Directives Management Branch

**St. Louis Field Operations Branch**

1. Furnishes office services to county offices, State offices, and Finance Office.
2. Provides expert technical advice to field officials.
3. Oversees acquisition, distribution, utilization, accountability, and disposition of personal property (supplies, furniture, equipment) to State, county, and Finance Offices.
4. Secures and reconciles periodic property inventory reports with property control records.
5. Operates St. Louis supply depot for storage and distribution of printed forms, office supplies, and other personal property.
6. Operates printing and duplicating operation.
7. Conducts space management functions for Finance, State and county offices, including:
  - Negotiating acquisition of rent-free, non-Federal space or leased quarters
  - Negotiating and executing contracts in connection with space leasing and for heat, light, communications, janitorial, and other services
  - Preparing agreement supplements and adjusting or terminating leases and other contracts
  - Surveying space use and acquiring, releasing, or adjusting space assignments
  - Negotiating with GSA, the Postal Service, and other agencies.

7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: March 9, 1979.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 79-8999 Filed 3-22-79; 8:45 am]



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34-M]

### DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[7 CFR Part 301]

#### DOMESTIC QUARANTINE NOTICES

Pink Bollworm; Miscellaneous Amendments to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the supplemental regulations which designate generally infested regulated areas and suppressive regulated areas subject to the Pink Bollworm Quarantine. It would delete 15 counties in Arkansas and 1 parish in Louisiana from the list of suppressive regulated areas. Based upon surveys by Federal and State inspectors, these areas have been declared free of pink bollworm and it would no longer appear necessary to regulate these areas in order to prevent the spread of the pink bollworm.

DATE: Comments must be received on or before May 22, 1979.

ADDRESS: Submit written data, views, or arguments to: H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, (301) 436-8247.

SUPPLEMENTARY INFORMATION: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, MD 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request,

the material will be held confidential; otherwise, notice will be given of the denial of such request and an opportunity afforded for withdrawal of the submission. Request for confidential treatment will be held confidential (7 CFR 1.27(c)).

The pink bollworm (*Pectinophora gossypiella* Saunders) is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917 and now occurs throughout most of the cotton-producing States west of the Mississippi River.

Surveys conducted by the United States Department of Agriculture and State agencies have established that the pink bollworm no longer occurs in the regulated areas, of 15 counties in Arkansas and 1 parish in Louisiana. Therefore, it would no longer appear necessary to regulate those counties or parish in order to prevent the spread of the pink bollworm. Such counties and parish are: Clark, Conway, Faulkner, Franklin, Greene, Hempstead, Jefferson, Lafayette, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, and Pulaski Counties in Arkansas; and De Soto Parish in Louisiana.

Accordingly, pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and 150ee), § 301.52-2a of the Pink Bollworm Quarantine regulations (7 CFR 301.52-2a) would be amended to read as set forth below:

§ 301.52-2a Regulated area; suppressive and generally infested areas.

The civil divisions and part of civil divisions described below are designated as pink bollworm regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below.

#### ARKANSAS

- (1) Generally infested area. None.
- (2) Suppressive area.  
Yell County. The entire county.

#### LOUISIANA

- (1) Generally infested area. None.
- (2) Suppressive area.  
Bossier Parish. The entire parish.  
Caddo Parish. The entire parish.  
Natchitoches Parish. The entire parish.  
Red River Parish. The entire parish.

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, a Draft Impact Analysis Statement has been prepared and is available from PPQ, APHIS, Room 633, Federal Building, Hyattsville, MD 20782.

Done at Washington, D.C., this 16th day of March 1979.

JAMES O. LEE, Jr.,  
Deputy Administrator, Plant  
Protection and Quarantine  
Programs, Animal and Plant  
Health Inspection Service.

[FR Doc. 79-8778 Filed 3-22-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

[7 CFR 1701]

#### RURAL ELECTRIC PROGRAM

TH-230 Structure Crossarms

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed revision of REA Specification.

SUMMARY: The Rural Electrification Administration proposes to revise REA Specification No. T-8, (Crossarm Assembly for 230 kV H-Frame Construction). The current inability to obtain firm commitments of either 3½"×9¼" solid sawn or laminated crossarms is causing serious procurement problems and construction delays. This action should increase the quantity and availability of crossarms while permitting better utilization of resources by suppliers. Adoption of this proposed revision would also require minor modifications of the following REA Form 805 drawings: TM-136, TH-230, and TH-231B.

## PROPOSED RULES

DATE: Public comments must be received by REA no later than May 22, 1979.

ADDRESS: Interested persons may obtain copies of the proposed revision from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, United States Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4413. All data, views, or comments should also be directed to Mr. Hand.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

An impact analysis for this proposed action has been prepared and is available upon request.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, (202) 447-4413.

Dated: March 15, 1979.

JOE S. ZOLLER,  
Acting Assistant  
Administrator, Electric.  
[FR Doc. 79-8738 Filed 3-22-79; 8:45 am]

[6750-01-M]

### FEDERAL TRADE COMMISSION

[16 CFR Part 457]

#### STANDARDS AND CERTIFICATION

Revised Schedule for Public Hearings and Submission Dates on Proposed Trade Regulation Rulemaking

AGENCY: Federal Trade Commission.

ACTION: Dates changed for public hearings in San Francisco, California, and Washington, D.C., and submission of statements of proposed testimony.

SUMMARY: On December 7, 1978, the Commission published in the FEDERAL REGISTER its initial notice of proposed rulemaking regarding standards and certification. This notice established dates for commencement of public hearings in San Francisco, California, and Washington, D.C., and the submission of prepared statements by witnesses who desired to testify at those hearings. This notice announces a new schedule for the commencement of those hearings and new deadlines for the submission of prepared statements by witnesses.

DATES AND SCHEDULE: The San Francisco hearing will commence on May 21, 1979. Prepared statements of those who desire to testify must be re-

ceived by April 9, 1979. The Washington, D.C. hearing will commence on June 25, 1979. Prepared statements of those who desire to testify must be received by May 14, 1979.

ADDRESSES: The hearing in San Francisco, California, will begin at 9:00 a.m., May 21, 1979, in Room 12138, Federal Building, 450 Golden Gate Avenue, San Francisco, California. The hearing in Washington, D.C., will begin at 9:00 a.m., June 25, 1979, in Room 532, Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street, N.W., Washington, D.C.

Prepared statements of those who desire to testify at the hearings should be submitted in five copies, when feasible, to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. These documents will be available for inspection in Room 130 of the Public Reference Branch, Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045, or Robert J. Schroeder, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-3935.

SUPPLEMENTAL INFORMATION: On December 7, 1978, the Commission published in the FEDERAL REGISTER its initial notice of rulemaking regarding the establishment of prohibitions and requirements for standards developers, certifiers, and persons who reference standards and certifications in the marketing of products (43 FR 57269). This notice announced special procedures which the Commission pursuant to 16 C.F.R. § 1.20 determined to employ in the proceeding and contained a schedule for various stages of the proceeding, including dates for the commencement of public hearings, deadlines for the submission of prepared statements of those who wished to testify at those hearings, and the filing of notifications of interest by those who desired to question witnesses at the hearings. Because of the number and the wide diversity of interests of the participants in this proceeding, it has been unusually difficult to identify groups with the same or similar interests in the proceeding and to select a single representative for each of those groups to conduct questioning of witnesses on behalf of the group. In response to requests from numerous participants, the Presiding Officer has adjusted the schedule established in the initial notice of rulemaking to allow the participants a greater amount of time to effect the

selection of group representatives. Additionally, the Presiding Officer has been informed that a number of the prospective witnesses at both the San Francisco and Washington hearings will have difficulty in meeting the deadlines established for the submission of prepared statements of testimony. Accordingly, and in the interests of an orderly conduct of the proceeding, the Presiding Officer has rescheduled the San Francisco hearing to commence on May 21, 1979, and the Washington, D.C., hearing to commence on June 25, 1979. The period for the submission of prepared statements of witnesses has also been extended. Prepared statements of those who desire to testify at the San Francisco, California, hearing must be received by April 9, 1979. Prepared statements of those who desire to testify at the Washington, D.C., hearing must be received by May 14, 1979.

HENRY B. CABELL,  
Presiding Officer.

[FR Doc. 79-8983 Filed 3-22-79; 8:45 am]

[8120-01-M]

### TENNESSEE VALLEY AUTHORITY

[18 CFR Part 308]

#### CONTRACT DISPUTES

Implementation of the Contract Disputes Act of 1978

AGENCY: Tennessee Valley Authority ("TVA").

ACTION: Proposed rule.

SUMMARY: TVA proposes a new part 308 implementing the Contract Disputes Act of 1978, 92 Stat. 2383 ("the Act"), as it relates to TVA. This part prescribes procedures for use in the determination of disputes relating to certain TVA contracts containing disputes clauses, including Contracting Officers' decisions, decisions by the TVA Board of Contract Appeals, hearing and prehearing procedures, and issuance and enforcement of TVA administrative subpoenas.

DATES: Comments are due by April 23, 1979.

ADDRESS: Comments should be addressed to Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT:

TVA's General Counsel, whose address is given above, can provide further information about contract dispute procedures. His telephone number is (615) 632-2241. Information about TVA's contracting process can be secured from J. L. Williams,



Jr., Director, Division of Purchasing, Tennessee Valley Authority, 1000 Chattanooga Union Bank Building, 633 Chestnut Street, Chattanooga, Tennessee 37401. His telephone number is (615) 632-2241.

**SUPPLEMENTARY INFORMATION:** On November 1, 1978, the President signed into law the Contract Disputes Act of 1978, Pub. L. 95-563, 92 Stat. 2383. The Act applies to certain TVA contracts which contain disputes clauses, and creates statutory rights and remedies for persons holding such contracts. In adopting the Act, Congress recognized that TVA has highly specialized purchasing needs and must have the freedom to exercise its business judgment in individual instances to be able to maintain the efficiency of its operations. The Act is intended to recognize the status quo regarding TVA's traditional flexibility and independence to establish the terms and conditions of its contracts. The Act requires TVA to adopt rules and regulations implementing it. This part will implement those requirements.

The part has 5 subparts. Subpart A deals with general matters, including definitions, payment of interest by TVA, and fraudulent claims. Subpart B deals with Contracting Officers and their decisions. Subpart C deals generally with the TVA Board of Contract Appeals. Subpart D deals with the Board of Contract Appeals' prehearing and hearing procedures. Subpart E deals with the issuance and enforcement of TVA administrative subpoenas. TVA has not previously had subpoena power for its contract disputes.

Although advance notice and comment are not required, the TVA Board is interested in receiving comments from the public and will consider revisions to this part in light of any comments received by the above date. Accordingly, it is proposed to adopt Part 308 of Chapter II of Title 18 of the Code of Federal Regulations to read as follows:

#### PART 308—CONTRACT DISPUTES

##### Subpart A—General Matters

- Sec.  
308.1 Purpose and organization.  
308.2 Definitions.  
308.3 Exclusions.  
308.4 Coverage of certain excluded Contractors.  
308.5 Interest.  
308.6 Fraudulent claims.  
308.7 Effective date.

##### Subpart B—Contracting Officers

- 308.11 Contractor's request for relief.  
308.12 Submission and decision of Contractor's claim.  
308.13 Time limits for decisions.  
308.14 Requests for relief by TVA.  
308.15 Finality of decisions.

- 308.16 Decisions involving fraudulent claims.  
308.17 Failure to render timely decision.

##### Subpart C—Board of Contract Appeals

- 308.21 Jurisdiction and organization.  
308.22 Representation.  
308.23 Finality of decisions.  
308.24 Undue delay in Contracting Officer's decision.  
308.25 Stay of appeal for Contracting Officer's decision.  
308.26 Appeals.  
308.27 Appeal files.

##### Subpart D—Prehearing and Hearing Procedures

- 308.31 Filing and service.  
308.32 Prehearing procedures.  
308.33 Hearings.  
308.34 Record on appeal.  
308.35 Small claims procedure.  
308.36 Accelerated appeal procedure.  
308.37 Decisions.  
308.38 Reconsideration.  
308.39 Briefs and motions.

##### Subpart E—Subpoenas

- 308.51 Form.  
308.52 Issuance.  
308.53 Service.  
308.54 Requests to quash or modify.  
308.55 Penalties.

**AUTHORITY:** Tennessee Valley Authority Act of 1933, as amended, 16 U.S.C. § 831-831dd; Contract Disputes Act of 1978, 92 Stat. 2383-2391.

##### Subpart A—General Matters

###### § 308.1 Purpose and organization.

The regulations in this part implement the Contract Disputes Act of 1978 as it relates to TVA. This part consists of 5 subparts. Subpart A deals with matters applicable throughout the part, including definitions. Subpart B deals with Contracting Officers' decisions. Subpart C deals with general matters concerning the TVA Board of Contract Appeals. Subpart D deals with hearing and prehearing procedures, including discovery. Subpart E deals with subpoenas.

###### § 308.2 Definitions.

For the purposes of this part, unless otherwise provided:

(a) The term "Act" means the Contract Disputes Act of 1978, 92 Stat. 2383-91.

(b) The term "Board" means the TVA Board of Contract Appeals.

(c) The term "claim" means a written demand by a Contractor, in compliance with this paragraph, for a decision by a Contracting Officer under a disputes clause. A claim must:

(1) State the amount of monetary relief, or the kind of nonmonetary relief, sought, and identify the contract provision relied upon;

(2) Include sufficient supporting data to permit the Contracting Officer to decide the claim, or provide appropriate

reference to previously submitted data;

(3) If monetary relief totalling more than \$50,000 is involved, include a signed certification by the Contractor that the claim is made in good faith, that the supporting data are accurate and complete to the best of the Contractor's knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Contractor believes TVA is liable;

(4) Be signed by the Contractor, or on its behalf if the Contractor is other than an individual. If signed on a Contractor's behalf, the claim must include evidence of the authority of the individual so signing it, and of the individual signing any certification required by this paragraph, unless such authority appears in the contract or contract file.

The Contracting Officer has no authority to waive any of the requirements of this paragraph.

(d) The term "contract" means an agreement in writing entered into by TVA for:

(1) The procurement of property, other than real property in being;

(2) The procurement of nonpersonal services;

(3) The procurement of construction, alteration, repair or maintenance of real property; or

(4) The disposal of personal property.

(e) The term "Contracting Officer" means TVA's Director of Purchasing, or duly authorized representative acting within the limits of the representative's authority. The TVA Purchasing Agent who administers a contract for TVA is designated as the duly authorized representative of the Director of Purchasing to act as Contracting Officer for all purposes in the administration of the contract (including, without limitation, decision of claims under the disputes clause). Such a designation continues until it is revoked or modified by written notice to the Contractor and the Purchasing Agent from TVA's Director of Purchasing.

(f) The term "Contractor" means a party to a TVA contract which contains a disputes clause. The term "Contractor" does not include TVA.

(g) The term "disputes clause" means a clause in a TVA contract requiring that a contract dispute be resolved through a TVA-conducted administrative process. It does not include, for example, arbitration provisions, or provisions specifying an independent third party to decide certain kinds of matters or special mechanisms to establish prices or price adjustments in contracts.

(h) The term "Hearing Officer" means a member of the Board who

has been designated to hear and determine a particular matter pending before the Board.

(i) The term "TVA" means the Tennessee Valley Authority.

(j) A term defined in a contract subject to this part shall have the meaning given it in the contract.

###### § 308.3 Exclusions.

(a) This part does not apply to any TVA contract for the sale of fertilizer or electric power, or to any TVA contract related to the conduct or operation of the electric power system, or to any TVA contract which does not contain a disputes clause.

(b) Except as otherwise specifically provided, this part does not apply to any TVA contract entered into prior to March 1, 1979, or to any dispute relating to such a contract.

###### § 308.4 Coverage of certain excluded Contractors.

(a) A Contractor whose contract is excluded from this part under § 308.3(b) may elect to proceed under this part and the Act with respect to any dispute pending before a Contracting Officer on March 1, 1979, or initiated thereafter. If the disputes clause in the contract is not an "all disputes" clause (see *Patton Wrecking & Dem. Co. v. Tennessee Valley Authority*, 465 F.2d 1073 (5th Cir. 1972)), a Contractor's election under this section shall cause the provisions of the first two sentences of section 6(a) of the Act to apply to the contract, and such an election shall be irrevocable.

(b) A Contractor makes an election under paragraph (a) of this section by giving written notice to the Contracting Officer stating that the Contractor elects to proceed with the dispute under the Act. For disputes pending on March 1, 1979, the notice shall be actually received by the Contracting Officer within 30 days after the Contractor receives the Contracting Officer's decision. For disputes initiated thereafter, the notice shall be included in the document first requesting a decision by the Contracting Officer.

###### § 308.5 Interest.

TVA shall pay a Contractor interest on the amount found to be due on a claim:

(a) From the date payment is due under the contract or the Contracting Officer receives the claim, whichever is later, until TVA makes payment;

(b) At the rate fixed by the Secretary of the Treasury for the Renegotiation Board under Pub. L. 92-41, in effect on the date from which interest runs pursuant to paragraph (a) of this section.

###### § 308.6 Fraudulent claims.

(a) If a Contractor is unable to support any part of a claim and it is determined that such inability is attributable to the Contractor's misrepresentation of fact or fraud, the Contractor shall be liable to TVA, as set out in section 5 of the Act, for:

(1) An amount equal to the unsupported part of the claim; plus

(2) All TVA's costs attributable to reviewing that part of the claim.

(b) The term "misrepresentation of fact" has the meaning given it in section 2(7) of the Act.

(c) Prior to TVA's filing suit for amounts due under this section, TVA shall afford the Contractor an opportunity to pay voluntarily the amount TVA asserts is due to it.

(d) A determination by TVA that fraud or misrepresentation of the fact has been committed is not subject to decision under a disputes clause.

(e) The provisions of this section are in addition to whatever penalties or remedies may otherwise be provided by law.

###### § 308.7 Effective date.

Subject to § 308.3(a), this part applies to any TVA contract having an effective date on or after March 1, 1979.

##### Subpart B—Contracting Officers

###### § 308.11 Contractor's request for relief.

Any request for relief which a Contractor believes is due under a contract shall be submitted to the Contracting Officer in writing, in accordance with the terms of the contract, including applicable time limits.

###### § 308.12 Submission and decision of Contractor's claim.

(a) If Contractor and TVA are unable to resolve Contractor's request for relief by agreement within a reasonable time, Contractor may submit a claim to the Contracting Officer.

(b) The Contracting Officer shall issue a decision to the Contractor on a submitted claim in conformity with the contract's disputes clause. Specific findings of fact are not required, but may be made. Such findings are not binding in any subsequent proceeding except as provided in § 308.15. The decision shall:

(1) Be in writing;

(2) State the reasons for the decision reached;

(3) Include information about the Contractor's rights of appeal under sections 7 and 10 of the Act (including time limits); and

(4) Notify the Contractor, as appropriate, of the special procedures available under §§ 308.35 and 308.36 at the Contractor's election. A copy of the

provisions of this part shall be furnished with the decision.

###### § 308.13 Time limits for decisions.

(a) If a submitted claim involves \$50,000 or less, the Contracting Officer shall issue the decision within 60 days from actual receipt of the claim. If a submitted claim involves more than \$50,000, the Contracting Officer shall either issue a decision or notify the Contractor of the date by which a decision shall be rendered, which shall be within a reasonable time.

(b) The Contracting Officer shall issue a decision within any time limits set by an order under § 308.24. If a Hearing Officer grants a stay of an appeal pursuant to § 308.25, the Contracting Officer shall issue a decision within any time limits specified by the stay order, or within a reasonable time after receipt of the stay, if it sets no time limits.

(c) As used in this subpart, the reasonableness of a time period depends on the amount or kind of relief involved and complexity of the issues raised, the adequacy of the Contractor's supporting data, contractual requirements for auditing of Contractor's cost or other data, and other relevant factors.

###### § 308.14 Request for relief by TVA.

When TVA believes it is due relief under a contract, the Contracting Officer shall make a request for relief against the Contractor, and shall attempt to resolve the request by agreement. If agreement cannot be reached within a reasonable time, the Contracting Officer shall issue a decision which complies with the requirements of § 308.12(b).

###### § 308.15 Finality of decisions.

A decision by a Contracting Officer under the disputes clause of a contract subject to this part is final and conclusive and not subject to review by any forum, tribunal, or Government agency unless an appeal or suit is timely commenced under this part or section 10(a)(2) and (3) of the Act.

###### § 308.16 Decisions involving fraudulent claims.

If a Contracting Officer denies any part of a Contractor's claim for lack of support, and the Contracting Officer is of the opinion that the Contractor's inability to support that part of the claim is within § 308.6 and section 5 of the Act, the Contracting Officer's decision shall not state that opinion, but, contemporaneously with the decision, the Contracting Officer shall separately notify TVA's General Counsel of that opinion and the reasons therefor.



**§ 308.17 Failure to render timely decision.**

Any failure by Contracting Officer to issue a decision on a submitted claim within the period required or permitted by § 308.13, will be deemed to be a decision by the Contracting Officer denying the claim and will authorize the commencement of an appeal on the claim under this part, or a suit on the claim as provided in section 10(a)(2) of the Act. If no appeal or suit pursuant to this section has been commenced at the time the Contracting Officer issues a decision, the right to sue or appeal and the time limits therefor shall be determined as otherwise provided in this part and the Act, and this section shall not authorize an appeal or suit from the decision.

**Subpart C—Board of Contract Appeals****§ 308.21 Jurisdiction and organization.**

(a) The Board shall consider and determine timely appeals filed by Contractors from decisions of TVA Contracting Officers pursuant to a disputes clause.

(b) The Board shall consist of an indeterminate number of members, who shall serve on a part-time basis. The members of the Board shall all be attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. One of the members of the Board shall be designated as "Chairman" pursuant to section 8(b)(2) of the Act.

(c) Each appeal or other matter before the Board shall normally be assigned to a single Hearing Officer, to be designated by the Chairman. The Chairman may act as a Hearing Officer, and shall notify the Contractor and TVA of the name and mailing address of the person designated as Hearing Officer.

**§ 308.22 Representation.**

(a) In any appeal to the Board, a Contractor may be represented by an attorney at law duly licensed by any state, commonwealth, territory, or the District of Columbia. A Contractor not an individual and not wishing to appear by an attorney may be represented by any member, partner, or officer duly authorized to act on Contractor's behalf, or if an individual, may appear personally.

(b) TVA shall be represented by attorneys from its Office of General Counsel.

**§ 308.23 Finality of decisions.**

A decision by a Hearing Officer on an appeal shall be the decision of the Board and shall be final, subject only to amendment under § 308.37(c), reconsideration under § 308.38 or appeal pursuant to section 8(g)(2) and 10(b) of the Act.

**§ 308.24 Undue delay in Contracting Officer's decision.**

(a) If there is an undue delay by a Contracting Officer in issuing a decision on a claim, the Contractor may request the Chairman to direct the Contracting Officer to issue a decision within a specified period of time.

(b) A request under this section shall:

(1) Be in writing;

(2) State the date on which the claim was submitted to the Contracting Officer;

(3) State the date suggested for issuance of a decision by the Contracting Officer.

(c) TVA may reply to a motion under this section within 5 days after its receipt.

(d) The Chairman shall issue a written decision on the request. If granted, the decision shall specify the date by which the Contracting Officer's decision is to be rendered, and a copy shall be served on the Contracting Officer.

**§ 308.25 Stay of appeal for Contracting Officer's decision.**

If an appeal has been taken because of a Contracting Officer's failure to render a timely decision, as provided by § 308.17, the Hearing Officer, sua sponte or on the motion of a party, may stay proceedings on the appeal in order to obtain a decision on the matter appealed. Oral argument will not be heard on such a motion unless otherwise directed. The stay order will normally set a date certain by which the decision of the Contracting Officer will be rendered.

**§ 308.26 Appeals.**

(a) An appeal to the Board from a Contracting Officer's decision under § 308.12 shall be initiated within 90 days from the Contractor's receipt of the Contracting Officer's decision and in the manner set forth in the disputes clause.

(b) An appeal from the Contracting Officer's failure to render a timely decision shall be taken within the time period provided by § 308.17. The notice of appeal shall be in the form and filed in the manner specified in the disputes clause, but shall state that it is an appeal under § 308.17, and shall include a copy of the claim which was submitted for decision.

**§ 308.27 Appeal files.**

(a) Notices of appeal shall be filed as provided in the disputes clause, and shall be promptly transmitted by TVA to the Chairman.

(b) Following transmittal of the notice of appeal, TVA shall assemble and transmit to the Hearing Officer and the Contractor an appeal file consisting of:

(1) The Contracting Officer's decision, if any, from which the appeal is taken;

(2) The contract and pertinent amendments, specifications, plans, and drawings (a list of the documents submitted may be provided Contractor in lieu of copies);

(3) The claim;

(4) Any other matter pertinent to the appeal submitted to or considered by the Contracting Officer for reaching a decision.

(c) The appeal file shall be submitted within 30 days. Within 30 days after receipt of a copy, the Contractor may submit to the Hearing Officer and TVA's General Counsel any documents within the scope of paragraph (b) of this section which are not included in the appeal file but which the Contractor believes are pertinent to the appeal. Such documents are considered a part of the appeal file.

**Subpart D—Prehearing and Hearing Procedures****§ 308.31 Filing and service.**

(a) All documents required to be served shall be served on TVA and Contractor and filed with the Board, except subpoenas.

(b) A request under § 308.15 shall be directed to the General Manager, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902, and shall be transmitted to the Chairman.

(c) All other documents required to be filed shall be directed to the Hearing Officer assigned to the matter.

(d) Service on the opposing party may be made personally or by mail. The copy presented for filing shall bear an appropriate certificate or acknowledgment of service.

**§ 308.32 Prehearing procedures.**

(a) Unless otherwise provided in this part, prehearing procedures, including discovery, shall be conducted in accordance with Rules 6, 7(b), 16, 26, 28-37, 41, and 56 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case.

(b) The term "court" as used in those Rules shall be deemed to mean "Hearing Officer"; the term "plaintiff" shall be deemed to mean "Contractor"; the term "defendant" shall be deemed to mean "TVA"; and the term "action" shall be deemed to mean the pending appeal.

(c) Discovery subpoenas are subject to Subpart E.

(d) The party noticing a deposition is responsible for securing a reporter.

**§ 308.33 Hearings.**

(a) TVA shall arrange for the verbatim reporting of evidentiary hearings before the Hearing Officer, and shall provide the Hearing Officer with the original transcript. The parties shall make their own arrangements with the reporter for copies.

(b) Admissibility of evidence shall generally be governed by the Federal Rules of Evidence, subject, however, to the Hearing Officer's discretion. As used in those Rules, the term "court" shall be deemed to mean "Hearing Officer."

(c) Conduct of hearings shall generally be governed by Rules 41-44, 44.1, and 46 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case. The terms "court," "plaintiff," "defendant," and "action" as used in those Rules shall be deemed to have the meaning given them in § 308.32.

(d) Hearings shall be as informal as may be reasonable and appropriate under the circumstances, and shall be held at a time and place to be specified by the Hearing Officer.

(e) Evidentiary subpoenas are subject to Subpart E of this part.

**§ 308.34 Record on appeal.**

Except as otherwise provided in this part, the appeal shall be decided on the basis of the record on appeal, which consists of the notice of appeal, the claim, may notice of election under § 308.35 or 308.36, orders entered during the proceeding, admissions, transcripts of hearings, hearing exhibits and stipulations on file, all other documents admitted in evidence, and all briefs submitted by the parties.

**§ 308.35 Small claims procedure.**

(a) The Contractor may elect to have the appeal processed under this section, if the amount in dispute is \$10,000 or less. This amount shall be determined by totalling the amounts claimed by TVA and Contractor.

(b) Appeals under this section shall be decided, whenever possible, within 120 days after the Hearing Officer receives written notice that the Contractor has elected to proceed under this section. Such election may be made a part of the notice of appeal.

(c) An appeal under this section shall be determined on the basis of the record on appeal and those documents in the appeal file identified in § 308.27(b)(1), (2), and (3). Other documents may be considered in the determination of the appeal as may be stipulated to by the parties, or as the Hearing Officer may order on motion by a party. No evidentiary hearing shall be held unless the Hearing Officer directs testimony on a particular

issue. Discovery and other prehearing procedures may be conducted under such time periods as the Hearing Officer may set to meet the 120-day period, and the Hearing Officer may reserve up to 30 days to prepare a decision. Upon request by either party, the Hearing Officer shall hear oral argument after the record is closed, and may direct oral argument on specified issues if the parties do not request it.

(d) The Hearing Officer's decision under this section will be short and contain only summary findings of fact and conclusions of law. The decision may, at the Hearing Officer's discretion, be rendered orally at the conclusion of any oral argument held. In such case, the Hearing Officer will promptly furnish the parties a typed copy of the decision, which shall constitute the final decision.

(e) Decisions under this section shall be final and conclusive except for fraud, and shall have no value as precedent for future appeals.

**§ 308.36 Accelerated appeal procedure.**

(a) The Contractor may elect to have the appeal processed under this section if the amount in dispute is \$50,000 or less. The amount shall be determined by totalling the amounts claimed by TVA and Contractor.

(b) Appeals under this section shall be decided, whenever possible, within 180 days after the Hearing Officer receives written notice that the Contractor has elected to proceed under this section. Such election may be made a part of the notice of appeal.

(c) In cases under this section, the parties are encouraged to limit discovery and briefing, consistent with adequate presentation of their positions. The Hearing Officer may shorten applicable time periods in order to meet the 180-day period, and may reserve 30 days to prepare a decision.

(d) The Hearing Officer's decision under this section will be short and may contain only summary findings of fact and conclusions of law. The decision may, at the Hearing Officer's election, be rendered orally at the conclusion of the evidentiary hearing, following such oral argument as may be permitted. In such case, the Hearing Officer will promptly furnish the parties a typed copy of the decision, which shall constitute the final decision.

**§ 308.37 Decisions.**

(a) The Hearing Officer's decision shall be in writing. Except as provided by §§ 308.35 or 308.36, the decision shall contain complete findings of fact and conclusions of law. The parties may be directed to submit proposed findings and conclusions. A decision against a Contractor on a claim shall include notice of the Contractor's

rights under paragraphs (2) and (3) of section 10(a) of the Act.

(b) If the decision denies any part of a Contractor's claim for lack of support and the Hearing Officer is of the opinion that the Contractor's inability to support that part is within § 308.6 and section 5 of the Act, the decision shall not state that opinion, but contemporaneously with the decision the Hearing Officer shall separately notify TVA's General Counsel of that opinion and the reasons therefor.

(c) Not later than 10 days after receipt of the decision, a party may move to alter or amend the findings or make additional findings and amend the conclusions and decision accordingly. Such a motion may be combined with a motion under § 308.38. This time period cannot be extended.

**§ 308.38 Reconsideration.**

Motions for reconsideration shall be served not later than 10 days after issuance of the Hearing Officer's decision. This time period cannot be extended. Such a motion shall be heard and decided in the manner provided by Rule 59 of the Federal Rules of Civil Procedure for motions for new trial in actions tried without a jury.

**§ 308.39 Briefs and motions.**

(a) All motions shall be accompanied by a brief or memorandum setting forth supporting authorities. Briefs in opposition to a motion shall be served within 10 days after receipt of the motion, unless otherwise specified in this part, or by order of the Hearing Officer.

(b) The Hearing Officer shall set the schedule for service of prehearing and posthearing briefs on the merits.

(c) A motion to dismiss an appeal for lack of jurisdiction should be served seasonably, but may be served at any time. The issue of lack of jurisdiction may be raised by the Hearing Officer sua sponte, in which case the Hearing Officer shall set a briefing schedule on the issue in the document raising it to the parties.

(d) A motion for summary judgment may be made at any time after the appeal file has been transmitted under § 308.26.

**Subpart E—Subpoenas****§ 308.51 Form.**

(a) A subpoena shall state the name of the Board and the title of the appeal; shall command the person to whom it is directed to attend and give testimony at a deposition or hearing, as appropriate, and, if appropriate, to produce specified books, papers, documents, or tangible things at a time and place therein specified; and shall notify the person of the right to request that the subpoena be quashed or



modified and of the penalties for contumacy or failure to obey.

#### § 308.52 Issuance.

(a) A deposition subpoena shall not issue except upon the filing of a notice of deposition of the person to be subpoenaed, which notice should normally be filed at least 15 days in advance of the scheduled deposition.

(b) A subpoena for the attendance of a witness at an evidentiary hearing shall not issue except upon the filing of a request for appearance at the hearing of the person to be subpoenaed, which request should normally be filed at least 30 days in advance of the scheduled hearing. The request should state:

(1) The name and address of the witness;

(2) The general scope of the witness' testimony;

(3) The books, records, papers, and other tangible things sought to be produced; and

(4) The general relevance of the matters sought to the case.

(c) Upon receipt of a notice of deposition or request for appearance at a hearing, the Hearing Officer shall fill in the name of the witness and sign and issue a subpoena otherwise in blank to the party seeking it, together with a duplicate for proof of service. The party requesting the subpoena shall fill in both copies before service.

(d) Letters rogatory may be issued by the Hearing Officer as provided in 28 U.S.C. § 1781-1784.

#### § 308.53 Service.

A subpoena may be served at any place, and may be served by any individual not a party who is at least 18 years of age, or as otherwise provided by law. Service may be made by an attorney or employee of a party. Service shall be made by personal delivery of the subpoena to the individual named therein, together with tender of the amounts required by 5 U.S.C. § 503 or other applicable law. The individual making service shall file with the Board the duplicate subpoena, filled out as served, with the return of service filled in, signed and notarized.

#### § 308.54 Requests to quash or modify.

The person served with a subpoena (or a party, if the person served is a party's employee) may request the Hearing Officer to quash or modify a subpoena. Such requests shall be made and determined in accordance with the time limits and principles of Rule 45(a), (b) and (d) of the Federal Rules of Civil Procedure.

#### § 308.55 Penalties.

In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business

within the jurisdiction of a United States District Court, the Board will apply to the court through the General Counsel of TVA for an order requiring the person to appear before the Hearing Officer, to produce evidence or give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

By Order of the Board of Directors of the Tennessee Valley Authority.

Dated: March 19, 1979.

LEON E. RING,  
General Manager.

[FR Doc. 79-8872 Filed 3-22-79; 8:45 am]

#### [4110-03-M]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 310]

[Docket No. 75N-0062]

#### ORAL HYPOLYCEMIC DRUGS

Availability of Agency Analysis and Reopening of Comment Period on Proposed Labeling Requirements; Further Extension

AGENCY: Food and Drug Administration.

ACTION: Further Extension of Comment Period on Proposed Rule.

SUMMARY: This document further extends to July 16, 1979, the comment period on the Food and Drug Administration's (FDA's) analysis of the University Group Diabetes Program (UGDP) study and on the proposed labeling requirements for oral hypoglycemic drugs. This action is being taken to allow more time to review the extensive material made available as part of FDA's analysis. The current comment period would have expired on March 16, 1979.

DATES: Comments by July 16, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bradley, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 14, 1978 (43 FR 52732), FDA announced the availability of its analysis of the UGDP study and reopened, until January 15, 1979, the comment period on the labeling changes pro-

posed in the FEDERAL REGISTER of July 7, 1975 (40 FR 28587). Comments on the FDA analysis of the UGDP were also invited.

A summary of the FDA analysis is contained in the Notice of Availability published in the FEDERAL REGISTER of November 14, 1978 (43 FR 52732). The analysis consists of a 121 page report complete with appendices and over 2,200 pages of records that were obtained from the UGDP or generated by FDA.

In the FEDERAL REGISTER of January 14, 1979 (44 FR 3994), the agency extended the comment period on the proposed rule until March 16, 1979 in response to requests received from the Upjohn Company and the American Diabetes Association. The agency has now received a further request from the American Diabetes Association to extend for an additional 120 days the comment period on the proposed oral hypoglycemic labeling. The basis for the requested extension is to permit a recently appointed Association committee an opportunity to review the UGDP study and develop proposed oral hypoglycemic labeling acceptable to all parties involved in this matter.

The agency has considered this request and finds that the complexity of the issues and the volume of material to review justify the requested further extension.

Accordingly, the comment period is extended to July 16, 1979. Comments may be seen in the office of the Hearing Clerk, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner for  
Regulatory Affairs

[FR Doc. 79-8615 Filed 3-22-79; 8:45 am]

#### [4710-06-M]

### DEPARTMENT OF STATE

Bureau of Consular Affairs

[22 CFR Parts 22 and 51]

[Docket No. SD-143]

#### EXECUTION OF PASSPORT APPLICATION

Change in Fee

AGENCY: Department of State.

ACTION: Proposed rule; correction.

SUMMARY: The Department proposes to amend an additional regulation (Part 51) to increase the fee for execution of passport application from \$3 to \$4. This proposed amendment was inadvertently omitted from a previous proposed rule concerning the increase in fees for consular services which was published on March 6, 1979 and which affected Part 22 only.

DATES: Comments must be received on or before April 23, 1979. The proposed effective date is May 1, 1979.

ADDRESS: Send comments to the Director, Office of Citizenship, Nationality and Legal Assistance, Passport Services, Bureau of Consular Affairs, Room 5813, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Karen Spinner (202) 632-2836.

SUPPLEMENTARY INFORMATION: On March 6, 1979, the Department published a proposed rule (44 FR 12209) to increase the fee in Part 22 for the execution of passport applications, with an effective date of April 1, 1979. This proposed rule includes an amendment to a comparable regulation in Part 51 (which was inadvertently omitted) and changes the effective date for the increase of fees (Part 22) from April 1, 1979 to May 1, 1979.

The Secretary of State is authorized to prescribe the passport application fee under 22 U.S.C. 214, as amended. In enacting this statute, it was the intent of Congress that the Department of State review the application fee periodically to insure that it adequately and fairly covers the cost of providing the service to the public. In this regard the Department has conducted a survey of various passport application acceptance facilities, and has determined that the fee increase of \$1 is fair and necessary to enable the acceptance facilities to recover the full cost of the program and to continue the services currently offered to the public.

In view of the fact that a number of passport acceptance facilities have ceased accepting applications because of the inadequacy of the fee and the possibility that any extended delay in increasing the fee may result in further suspensions of service, the Department has limited the comment period to the statutory 30-day requirement. It is believed that this will afford the public adequate time to express their views.

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Parts 22 and 51 to read as set forth below.

1. Section 22.8 is amended to read as follows:

§ 22.8 Effective date.

The charges hereby established will become effective on May 1, 1979 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

2. Section 51.61 is amended to read as follows:

§ 51.61 Statutory fees.

Except as provided in § 51.63, (a) the fee for a U.S. passport is \$10; (b) the execution fee for a U.S. passport is \$4, which shall be remitted to the U.S. Treasury where an application is executed before a Federal official but which may be collected and retained by any State official before whom an application is executed; (c) the passport fee of \$10 shall be paid by all applicants for a passport. The execution fee of \$4 shall be paid only when an application is executed under oath or affirmation before an official designated by the Secretary for such purpose.

AUTHORITY: Sec. 1, 41 Stat. 750, as amended, Sec. 1, 44 Stat. 887, Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 214, 211a, 2658; E.O. 11295, 36 FR 10603; 3 CFR 1966-70 comp. p. 507.

For the Secretary of State,

Dated: March 21, 1979.

BEN H. READ,  
Under Secretary for  
Management.

[FR Doc. 79-9112 Filed 3-22-79; 8:45 am]

#### [4210-01-M]

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 200]

[Docket No. R-79-633]

#### MINIMUM PROPERTY STANDARDS

Thermal Insulation

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) days of continuous session of Congress prior to such rule's publication for comment in the FEDERAL REGISTER. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 Sev-

enth Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrent with issuance of this Notice, the Secretary is forwarding to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the interim rule listed below:

#### PART 200—INTRODUCTION

##### Subpart S—Minimum Property Standards

This interim rule amends 24 CFR Part 200, Subpart S, Minimum Property Standards (MPS) by increasing the thermal requirements for one- and two-family dwellings. The MPS, incorporated by reference in 24 CFR 200.933, are set forth in HUD Handbook 4900.1.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o), Section 324 of the Housing and Urban Development Amendments of 1978).

Issued at Washington, D.C. March 19, 1979.

PATRICIA ROBERTS HARRIS,  
Secretary, Department of  
Housing and Urban Development.

[FR Doc. 79-8888 Filed 3-22-79; 8:45 am]

#### [4210-01-M]

[24 CFR Part 888]

[Docket No. R-79-632]

#### AMENDMENT OF RENT SCHEDULE

Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request under Section 7(o)(4) of the Department of HUD Act.

SUMMARY: Recently enacted legislation enables the Congress to review proposed and final HUD rules. The legislation, however, permits the Secretary to request waiver of its review requirements in appropriate instances. This Notice lists and briefly summarizes for public information a Notice of Amendment of Rent Schedule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT:

Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451 Seventh Street, S.W., Washing-



ton, D.C. 20410 (202) 472-4810. This is not a toll-free number.

**SUMMARY INFORMATION:** Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees a Notice of Amendment of Rent Schedule. The purpose of the transmittal is to request waiver of the Congressional waiver requirements for this document under Subsection 4 of Section 7(o) of the Department of HUD Act. Unless waiver is granted, publication and adoption of the document will be delayed until passage of the number of days of continuous session required by the respective Subsection. This delay will seriously jeopardize program implementation.

A copy of the document is available for public inspection during business hours at the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

The rulemaking document for which waiver has been requested is: Notice of Amendment of Rent Schedule. This proposed rule would amend 24 CFR Part 888 to implement fair market rents for 2-4 story elevator buildings for the District of Columbia jurisdiction.

(Section 7(d), Department of HUD Act (42 U.S.C. 3535(a)), Section 324 of the Housing and Urban Development Amendments of 1978.)

Issued at Washington, D.C. on March 19, 1979.

PATRICIA ROBERTS HARRIS,  
Secretary of Housing  
and Urban Development.

(FR Doc. 79-8868 Filed 3-22-79; 8:45 am)

## [4210-01-M]

Federal Insurance Administration

[24 CFR Part 1917]

(Docket No. FI-5278)

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Archbald, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Archbald, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the

basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Archbald, Pennsylvania. Send comments to: Mr. Joseph J. Daley, Mayor of Archbald, 165 Chestnut Street, Archbald, Pennsylvania 18403.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Archbald, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Lackawanna River   | The junction of Blakely, Jessup and Archbald.                 | 837   |
|                    | Confluence of Laurel Run.                                     | 875   |
|                    | Monroe Street.....  | 887   |
|                    | Wayne Street.....   | 888   |
|                    | Bridge Street.....  | 893   |
| Laurel Run.....    | Market Street.....  | 908   |
|                    | Northern Corporate Limits.                                    | 915   |
|                    | Laurel Street.....  | 875   |
|                    | Delaware and Hudson Railroad.                                 | 889   |
|                    | 800 feet upstream of the Delaware and Hudson Railroad Bridge. | 913   |
| White Oak Run..... | Confluence with Lackawanna River.                             | 889   |
|                    | Upstream limit of Church Street Culvert.                      | 895   |
|                    | Delaware and Hudson Railroad.                                 | 908   |
|                    | 300 feet upstream of Delaware and Hudson Railroad.            | 909   |
|                    | 850 feet upstream of Delaware and Hudson Railroad.            | 925   |
| Wildcat Creek..... | 300 feet downstream of Goers Hill Street.                     | 968   |
|                    | Goers Hill Street.....  | 1,018   |
|                    | 250 feet upstream of Goers Hill Street.                       | 1,028   |
|                    | Downstream Corporate Limits.                                  | 892   |
|                    | Downstream of Road Bridge.                                    | 958   |
|                    | Upstream of Road Bridge.                                      | 966   |
|                    | Downstream of Betty Street.                                   | 981   |
|                    | Upstream of Betty Street.                                     | 987   |
|                    | Upstream of culvert near drive-in theater.                    | 1,009   |
|                    | 2,100 feet upstream of culvert entrance.                      | 1,039   |
|                    | 2,300 feet upstream of culvert entrance.                      | 1,055   |
|                    | Downstream of Roosevelt Highway.                              | 1,103   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

(FR Doc. 79-8507 Filed 3-22-79; 8:45 am)

## [4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5279)

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Avis, Clinton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Avis, Clinton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Avis, Pennsylvania. Send comments to: Honorable Robert L. Swartz, Mayor of Avis, Prospect Avenue, Avis, Pennsylvania 17721.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Avis, Clinton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain manage-

ment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location               | Elevation in feet, national geodetic vertical datum |
|--------------------|------------------------|---|
| Pine Creek.....    | At U.S. Route 220..... | 559   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8508 Filed 3-22-79; 8:45 am)

## [4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5280)

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Blakely, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Blakely, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the

second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Blakely, Pennsylvania. Send comments to: Honorable Edward Perucki, Mayor of Blakely, 518 Main Street, Peckville, Pennsylvania 18452.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Blakely, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Lackawanna River   | Upstream Corporate Limits.  | 836   |
|                    | Bridge Street.....  | 819   |
|                    | Pennsylvania Route 247.   | 807   |
|                    | Keystone Street (Extended).   | 798   |
|                    | Corporate Limits 3,300 feet downstream from Pennsylvania Route 247. | 785   |



## PROPOSED RULES

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
|                    | Confluence of Wildcat Creek.                                   | 780   |
|                    | West Lackawanna Avenue.  | 766   |
| Wildcat Creek      | Upstream Corporate Limits.                                     | 890   |
|                    | Abandoned Railroad (Upstream).                                 | 880   |
|                    | Abandoned Railroad (Downstream).                               | 862   |
|                    | Legislative Route 618 (Upstream).                              | 852   |
|                    | Keystone Street (Upstream).                                    | 826   |
|                    | Conrail (Upstream).  | 809   |
|                    | Main Street (upstream).  | 793   |
|                    | Willow Street (Upstream).                                      | 785   |
|                    | Confluence with Lackawanna River.                              | 780   |
| Hull Creek         | Fourth Street (culvert inlet).                                 | 839   |
|                    | Columbus Avenue (culvert inlet).                               | 830   |
|                    | Third Street (culvert inlet).                                  | 821   |
|                    | Footbridge 3,175 feet downstream from Third Street (Upstream). | 806   |
|                    | Second Street (culvert inlet).                                 | 798   |
|                    | First Street (culvert inlet).                                  | 788   |
|                    | Pennsylvania Route 347 (culvert inlet).                        | 767   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-8509 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5282]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Chester Heights, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the Borough of Chester Heights, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Borough Secretary, Valleybrook Road, Chester Heights, Pennsylvania. Send comments to: Honorable Albert A. Danish, Mayor of Chester Heights, Box 12, Chester Heights, Pennsylvania 19017.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Chester Heights, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding        | Location                     | Elevation in feet, national geodetic vertical datum |
|---------------------------|------------------------------|---|
| Chester Creek             | Downstream Corporate Limits. | 114   |
|                           | Lenni Road (Upstream).       | 115   |
|                           | Station Road                 | 136   |
|                           | Darlington Road              | 149   |
|                           | Upstream Corporate Limits.   | 152   |
| West Branch Chester Creek | Downstream Corporate Limits. | 174   |
|                           | Mattson Road                 | 177   |
|                           | Upstream Corporate Limits.   | 181   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-8511 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5285]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Glendon, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Glendon, Northampton County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Glendon Borough Hall. Send comments to: Honorable Michael P. Dew, Jr., Mayor of Glendon, Lucy Crossing, Glendon, Easton, Pennsylvania 18042.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Glendon, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Lehigh River       | Parkway Bridge (Upstream).                        | 197   |
|                    | 25th Street Bridge                                | 197   |
|                    | Dam (3,300 feet downstream of 25th Street Bridge) | 200   |
|                    | Downstream Face.                                  |   |
|                    | Dam (3,300 feet downstream of 25th Street Bridge) | 204   |
|                    | Upstream Face.                                    |   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

## PROPOSED RULES

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.  
[FR Doc. 79-8514 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5287]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Latrobe, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Latrobe, Westmoreland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Secretary, 321 Thompson Street, Latrobe, Pennsylvania 15650. Send comments to: Mr. Howard J. Barnhart, Director of Administrators of Latrobe, 321 Thompson Street, Latrobe, Pennsylvania 15650.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Latrobe, Westmoreland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                      | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Loyalhanna Lake    | Ligonier Street Bridge                        | 970   |
| Upstream           | Washington Street                             | 970   |
| Reservoir          | Extended.                                     |   |
| Loyalhanna Creek   | Ligonier Street Bridge                        | 973   |
|                    | 100' North of Buttonwood Street.              |   |
|                    | Conrail Overpass (Upstream Side).             | 970   |
|                    | Lloyd Avenue (State Route 981 Upstream Side). | 982   |
|                    | Conrail Spur at Legion-Kenner Park.           | 986   |
|                    | Mission Road Bridge                           | 998   |
|                    | Easton Road (State Route 982).                | 1,003   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.



Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8515 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5289]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Morton, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Morton, Delaware County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, 400 Highland Avenue, Morton, Pennsylvania. Send comments to: Mr. Kenneth E. Ryan, Council President of Morton, 400 Highland Avenue, Morton, Pennsylvania 19070.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Morton, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

#### PROPOSED RULES

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                            | Elevation in feet, national geodetic vertical datum |
|--------------------|-------------------------------------|---|
| Stony Creek        | At Downstream Corporate Limits      | 115   |
|                    | Upstream of Yale Avenue/Church Road | 119   |
|                    | Upstream of Conrail Bridge          | 120   |
|                    | At Upstream Corporate Limits        | 121   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8518 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5291]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Wilson, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the Borough of Wilson, Northumberland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Wilson Borough Hall. Send comments to: Honorable Ellwood T. Fehnel, Mayor of Wilson, 834 Balata Street, Easton, Pennsylvania 18042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Wilson, Northumberland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                      | Elevation in feet, national geodetic vertical datum |
|--------------------|-------------------------------|---|
| Lehigh River       | 25th Street                   | 197   |
| Bushkill Creek     | Binney-Smith Bridge (private) | 232   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8520 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5267]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bellevue, Campbell County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bellevue, Campbell County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 5130 Fallon, Bellevue, Kentucky. Send comments to: Honorable Willard Hunder, mayor, City of Bellevue, City

#### PROPOSED RULES

Hall, 5130 Fallon, Bellevue, Kentucky 41073.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

#### SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Bellevue, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding       | Location                                 | Elevation in feet, national geodetic vertical datum |
|--------------------------|--|---|
| Ohio River               | Upstream Corporate Limit                 | 499   |
| Woodlawn Creek           | Confluence with Woodlawn Tributary No. 1 | 501   |
|                          | Wilson Road                              | 517   |
|                          | Upstream Corporate Limit                 | 519   |
| Woodlawn Tributary No. 1 | Berry Avenue-80 feet                     | 502   |
|                          | Taylor Avenue-10 feet                    | 506   |
|                          | Taylor Avenue-25 feet                    | 514   |
|                          | Confluence with Chadwick Branch          | 515   |

<sup>1</sup> At centerline.  
<sup>2</sup> Upstream of centerline  
<sup>3</sup> Downstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-8545 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5281]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Carbondale, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Carbondale, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Carbondale, Pennsylvania. Send comments to: Honorable Fred J. Mancuso, Mayor of Carbondale, 1 North Main Street, Carbondale, Pennsylvania 18407.



## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Carbondale, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Racket Brook.....  | Williams Avenue (Upstream).                                   | 1,140   |
|                    | Spring Drive (Upstream).                                      | 1,110   |
|                    | Footbridge 530 feet downstream from Spring Drive (Upstream).  | 1,099   |
|                    | U.S. Route 6 (Upstream)                                       | 1,095   |
| Lackawanna River   | Private Bridge 235 feet upstream from John Street (Upstream). | 1,071   |
|                    | John Street (Upstream).                                       | 1,061   |
|                    | Confluence with Lackawanna River.                             | 1,058   |
|                    | Upstream Corporate Limits.                                    | 1,099   |
|                    | Confluence of Coal Brook.                                     | 1,074   |
|                    | Confluence of Racket Brook.                                   | 1,058   |

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Fall Brook.....    | Salem Avenue (Upstream).  | 1,054   |
|                    | Eighth Avenue (Upstream).   | 1,043   |
|                    | Delaware and Hudson Railroad (Upstream).                          | 1,033   |
|                    | Cottage Avenue (Upstream).  | 1,015   |
|                    | Downstream Corporate Limits.                                      | 1,005   |
|                    | Upstream Corporate Limits.  | 1,128   |
|                    | Private Road 1,030 feet upstream from Brooklyn Street (Upstream). | 1,073   |
|                    | Brooklyn Street (Upstream).                                       | 1,037   |
|                    | Confluence with Lackawanna River.                                 | 1,032   |
|                    |   |   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-8510 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5255]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Chandler, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Chandler, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in

the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Department of Public Works, Chandler, Arizona. Send comments to: Mr. Bruce Knutson, City Manager of Chandler, 200 East Commonwealth Avenue, Chandler, Arizona 85224.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Chandler, Maricopa County, Arizona in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding                         | Location                              | Elevation in feet, national geodetic vertical datum |
|--|---------------------------------------|---|
| Ponding Area on Southern Pacific Railroad. | Orchid Lane (extended to Ray Road.    | 1,217   |
|  | Ray Road to Boston Road (extended).   | 1,220   |
|  | Boston Road (extended) to Pecos Road. | 1,221   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8533 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5258]

Proposed Flood Elevation Determination for the City of Colton, San Bernardino County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Colton, San Bernardino County, California.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Civic Center, 650 North La Cadena Drive, Colton, California.

Send comments to: Mr. Thomas Calabros, City Manager, City of Colton, Civic Center, 650 North La Cadena Drive, Colton, California 92324.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Colton, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding       | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------------|---|---|
| 11th Street Storm Drain. | Atchison, Topeka and Santa Fe Railroad Bridge (1st downstream crossing)—100 feet <sup>1</sup> . | 922   |
|                          | M Street—50 feet <sup>1</sup> .....   | 963   |
| Highgrove Channel.       | Riverside Reservation Spillway—75 feet <sup>1</sup> .   | 853   |
|                          | Riverside Reservation Spillway—25 feet <sup>1</sup> .   | 865   |
|                          | Trailer Park (Upper Crossing)—100 feet <sup>1</sup> .   | 883   |
|                          | Iowa Avenue—75 feet <sup>1</sup> .....  | 912   |
| Reche Canyon Channel.    | Barton Road—120 feet <sup>1</sup> ..  | 1042  |
|                          |   |   |
| Santa Ana River....      | At Downstream Corporate Limits.   | 860   |
|                          | La Cadena Avenue—25 feet <sup>1</sup> .   | 913   |
|                          | Mount Vernon Avenue—50 feet <sup>1</sup> .  | 946   |

| Source of flooding            | Location  | Elevation in feet, national geodetic vertical datum |
|-------------------------------|---|---|
| Colton Southwest Storm Drain. | At the intersection of N Street and the Atchison, Topeka and Santa Fe Railroad. | 953   |
|                               | At the intersection of Pennsylvania Avenue and Valley Boulevard.                | 981   |

<sup>1</sup>Upstream of centerline  
<sup>2</sup>Downstream of centerline

| Source of flooding  | Location  | Depth, in feet, above ground |
|---------------------|---|------------------------------|
| Santa Ana River.... | At intersection of I-395 and Southern Pacific Railroad. | 3                            |
|                     | At the intersection of Hart Street and La Cadena Drive. | 1                            |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8536 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5265]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Dunkerton, Black Hawk County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Dunkerton, Black Hawk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in



the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Dunkerton, Iowa. Send comments to: The Honorable George Jensen, Mayor, City of Dunkerton, City Hall, Dunkerton, Iowa.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Dunkerton in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                      | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Crane Creek        | About 2,500 feet downstream of Canfield Road. | 946   |
|                    | About 250 feet downstream of Canfield Road.   | 947   |

#### PROPOSED RULES

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
|                    | Just upstream of Chicago and North Western Railroad. | 949   |
|                    | Just upstream of upstream corporate limits.          | 950   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8543 Filed 3-22-79; 8:45 am]

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5268]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Independence, Kenton County, KY.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Independence, Kenton County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Building, Independence, Kentucky. Send comments to: Honorable Marion Schadler, Mayor, City of Independence, City Building, P.O. Box 126, Independence, Kentucky 41051.

dependence, City Building, P.O. Box 126, Independence, Kentucky 41051.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Independence, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Banklick Creek     | Richardson Road <sup>1</sup>  | 565   |
|                    | Louisville and Nashville Railroad (most downstream crossing) <sup>1</sup> | 561   |
|                    | Webster Road North—50 feet <sup>1</sup>                                   | 610   |
|                    | Confluence with Brushy Fork—50 feet <sup>1</sup>                          | 693   |
|                    | Independence Station Road <sup>1</sup>                                    | 726   |
|                    | Webster Road South <sup>1</sup>   | 744   |
|                    | Cody Road—125 feet <sup>1</sup>   | 754   |
|                    | Bristow Road <sup>1</sup>   | 765   |
| Fowler Creek       | McCullum Pike <sup>1</sup>  | 771   |
|                    | Harris Pike <sup>1</sup>  | 800   |
| Brushy Fork        | Louisville and Nashville Railroad Culvert—50 feet <sup>1</sup>            | 693   |
|                    | Independence Station Road <sup>1</sup>                                    | 742   |
|                    | Banklick Station Road—25 feet <sup>1</sup>                                | 778   |
|                    | Shaw Road <sup>1</sup>  | 795   |

<sup>1</sup>At centerline.

<sup>1</sup>Upstream of centerline.

#### PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-8546 Filed 3-22-79; 8:45 am]

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5266]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kansas City, Wyandotte County, Kan.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Kansas City, Wyandotte County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Physical Planning Department, Kansas City, Kansas. Send comments to: The Honorable Jack Reardon, Mayor, City of Kansas City, Municipal Office Building, 1 Civic Plaza, Kansas City, Kansas 66101.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kansas City, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Missouri River     | At Eastern corporate limit.                            | 751   |
|                    | Approximately ¼ mile downstream of Fairfax Bridge.     | 757   |
|                    | Just upstream of Interstate 635.                       | 759   |
|                    | At Northern corporate limit.                           | 765   |
| Kansas River       | At confluence with Missouri River.                     | 751   |
|                    | 1,000 feet upstream of 7th Street.                     | 752   |
|                    | Just downstream of Kansas Avenue.                      | 757   |
|                    | At confluence of Brenner Heights Creek.                | 760   |
|                    | At confluence of Mill Creek.                           | 764   |
|                    | At Western corporate boundary.                         | 767   |
| Jersey Creek       | At entrance to tunnel.                                 | 760   |
|                    | Just upstream of 3rd Street.                           | 761   |
|                    | Just upstream of 4th Street.                           | 764   |
|                    | Just upstream of 5th Street.                           | 768   |
|                    | At downstream end of Missouri-Pacific Railroad Tunnel. | 769   |
|                    | At upstream end of Missouri-Pacific Railroad Tunnel.   | 777   |

| Source of flooding      | Location  | Elevation in feet, national geodetic vertical datum |
|-------------------------|---|---|
|                         | Approximately 400 feet upstream of 10th Street.                         | 780   |
|                         | Just upstream of 11th Street.   | 785   |
|                         | Just upstream of 13th Street.   | 796   |
|                         | Approximately 400 feet upstream of 18th Street.                         | 807   |
|                         | At confluence of Jersey Creek Tributary.                                | 810   |
|                         | Just downstream of 18th Street.   | 811   |
|                         | Just upstream of Garfield Avenue.                                       | 824   |
|                         | Approximately 300 feet downstream of Wood Avenue.                       | 824   |
|                         | Just upstream of 25th Street.   | 846   |
|                         | Just downstream of 26th Street.   | 848   |
|                         | Just upstream of 26th Street.   | 856   |
|                         | Approximately 750 feet upstream of 28th Street.                         | 856   |
| Jersey Creek Tributary. | At confluence with Jersey Creek.  | 810   |
|                         | Just upstream of Stewart Avenue.  | 815   |
|                         | Just upstream of 22nd Street.   | 833   |
|                         | Approximately 1,150 feet upstream of 22nd Street.                       | 845   |
| Turkey Creek            | Just upstream of Tunnel Entrance.                                       | 763   |
|                         | Just upstream of Interstate 35 Ramp.                                    | 768   |
|                         | Approximately 350 feet upstream of Mission Road.                        | 787   |
|                         | Upstream of Interstate 35.  | 790   |
|                         | Upstream of Mill Street.  | 799   |
|                         | Just downstream of the St. Louis and San Francisco Railway.             | 802   |
|                         | Approximately 700 feet downstream of Roe Avenue.                        | 808   |
|                         | 400 feet upstream of 18th Street Expressway.                            | 835   |
|                         | Approximately 200 feet upstream of the upstream Interstate 35 crossing. | 838   |
|                         | At southern corporate boundary.   | 843   |
|                         | Approximately 2,100 feet upstream of Lamar Avenue.                      | 851   |
| Brenner Heights Creek.  | At confluence with Kansas River.  | 760   |
|                         | Just upstream of 57th Street.   | 765   |
|                         | Approximately 200 feet downstream of State Avenue.                      | 786   |
|                         | Approximately 300 feet upstream of State Avenue.                        | 790   |
|                         | Just upstream of Everett Avenue.  | 816   |
|                         | Approximately 600 feet downstream of Parallel Avenue.                   | 842   |
|                         | Approximately 250 feet upstream of Parallel Avenue.                     | 849   |
|                         | Just downstream of 59th Street.   | 849   |
|                         | Just upstream of 59th Street.   | 862   |



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| Source of flooding              | Location  | Elevation in feet, national geodetic vertical datum |
|---------------------------------|---|---|
| Brenner Heights Creek Tributary | Approximately 2,750 feet upstream of 59th Street.     | 876   |
|                                 | At confluence with Brenner Heights Creek.             | 763   |
|                                 | Just upstream of State Avenue.                        | 784   |
|                                 | Just upstream of 55th Street.                         | 799   |
|                                 | Approximately 650 feet upstream of 55th Street.       | 800   |
| Muncie Creek                    | Approximately 2,850 feet upstream of 55th Street.     | 821   |
|                                 | At confluence with Brenner Heights Creek.             | 760   |
|                                 | Just upstream of 61st Street.                         | 763   |
|                                 | Just upstream of Riverview Avenue.                    | 775   |
|                                 | Just downstream of the Kansas Turnpike.               | 779   |
| Mill Creek                      | Approximately 400 feet upstream of Kansas Turnpike.   | 788   |
|                                 | Approximately 2,800 feet upstream of Kansas Turnpike. | 788   |
|                                 | Just downstream of State Avenue.                      | 811   |
|                                 | Approximately 100 feet upstream of State Avenue.      | 819   |
|                                 | Approximately 7,100 feet upstream of State Avenue.    | 861   |
| Little Turkey Creek Tributary   | At confluence with Kansas River.                      | 764   |
|                                 | Just downstream of Union Pacific Railroad.            | 764   |
|                                 | Approximately 900 feet upstream of Kansas Highway 32. | 775   |
|                                 | Just upstream of Kansas Avenue.                       | 783   |
|                                 | Just downstream of 72nd Street.                       | 792   |
| Connor Creek                    | Just upstream of 72nd Street.                         | 798   |
|                                 | Just downstream of Riverview Avenue.                  | 810   |
|                                 | Just upstream of Riverview Avenue.                    | 820   |
|                                 | Approximately 1,550 feet upstream of Interstate 70.   | 822   |
|                                 | Just downstream of State Avenue.                      | 864   |
| Connor Creek                    | Just upstream side of State Avenue.                   | 874   |
|                                 | Approximately 2,700 feet upstream of State Avenue.    | 881   |
|                                 | At confluence with Little Turkey Creek.               | 789   |
|                                 | Just upstream of Kansas Avenue.                       | 791   |
|                                 | Just downstream of 86th Street.                       | 791   |
| Connor Creek                    | Just upstream of 86th Street.                         | 797   |
|                                 | Approximately 5,700 feet upstream of 86th Street.     | 823   |
|                                 | Approximately 7,300 feet upstream of 86th Street.     | 840   |
|                                 | At confluence with Missouri River.                    | 765   |
|                                 | Approximately 200 feet upstream of 97th Street.       | 766   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1970.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8544 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-52691]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mentor, Campbell County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Mentor, Campbell County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations

are available for review at the home of the Mayor, Route 2, California, Kentucky. Send comments to: Honorable Ronald Strasinger, Mayor, City of Mentor, Route 2, Box 22, California, Kentucky 41007.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Mentor, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                  | Elevation in feet, national geodetic vertical datum |
|--------------------|---------------------------|---|
| Ohio River         | Upstream Corporate Limit. | 508   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to

permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8547 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-52721]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Northfield, Rice County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Northfield, Rice County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 801 Washington Street, Northfield, Minnesota. Send comments to: Honorable Kent Eklund, Mayor, City of Northfield, City Hall, 801 Washington Street, Northfield, Minnesota 55057.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Northfield, Minnesota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-

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448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location                                    | Elevation in feet, national geodetic vertical datum |
|---------------------|---|---|
| Cannon River        | Second Street Bridge—100 feet. <sup>1</sup> | 904   |
|                     | Fourth Street Bridge—60 feet. <sup>1</sup>  | 908   |
|                     | Fifth Street—40 feet. <sup>1</sup>          | 912   |
|                     | Fifth Street—60 feet. <sup>1</sup>          | 915   |
|                     | State Trunk Highway 3—30 feet. <sup>2</sup> | 917   |
| State Trunk Highway | 3—100 feet. <sup>1</sup>                    | 918   |

<sup>1</sup> Upstream from centerline.  
<sup>2</sup> Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8550 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-3780]

Revision of Proposed Flood Elevation Determination for the City of Sallisaw, Sequoyah County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Sallisaw, Sequoyah County, Oklahoma.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 54091 on October 4, 1977 and in 42 FR 64539 on December 23, 1977 and in the *Sequoyah County Times* published on October 27, and November 3, 1977, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Sallisaw, Oklahoma.

Send comments to: Mayor George Glenn, 111 North Elm Street, Sallisaw, Oklahoma 74955.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Sallisaw, Sequoyah County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:



## PROPOSED RULES

| Source of flooding     | Location  | Elevation in feet, national geodetic vertical datum |
|------------------------|---|---|
| Hog Creek              | Just upstream of U.S. Highway 64.                               | 494   |
|                        | Upstream of Redwood Avenue.                                     | 499   |
| Shiloh Creek           | Adams Street (extended).  | 550   |
|                        | Upstream of Meadowlark Street.                                  | 554   |
| Tributary No. 1        | Upstream of Interstate 40 West.                                 | 511   |
|                        | Upstream of U.S. Highway 64 Bridge (Cherokee Avenue).           | 527   |
| Tributary No. 3        | Redwood Avenue Bridge at confluence of West Branch Tributary 3. | 535   |
|                        | Upstream of Cedar Street Bridge.                                | 501   |
| Tributary No. 4        | Upstream of U.S. Highway 64 (western crossing).                 | 516   |
|                        | Upstream of U.S. Highway 64 (eastern crossing).                 | 505   |
|                        | Approximately 400 feet downstream of Redwood Avenue.            | 517   |
| Tributary No. 5        | Approximately 100 feet downstream from Dogwood Street Bridge.   | 520   |
| Tributary No. 7        | Approximately 100 feet downstream of U.S. Highway 59.           | 525   |
| Little Sallisaw Creek. | Approximately 300 feet downstream of Highway 64.                | 545   |
|                        |   | 495   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8506 Filed 3-22-79; 8:45 am)

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5257]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Tolleson, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the City of Tolleson, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Tolleson, Arizona. Send comments to: Mr. David Mansfield, City Manager of Tolleson, 9555 West Van Buren Street, Tolleson, Arizona 85353.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Tolleson, Maricopa County, Arizona, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Fonded Area        | Southeast of intersection of McDowell Road and 91st Avenue extending east 650 feet from the intersection and 1,100 feet south, bounded on the east by the Corporate Limits.        | 1,024   |
|                    | North of Southern Pacific Railroad running parallel with the railroad at an approximate width of 1,000 feet. Affects areas inside the Corporate Limits west of 83rd Avenue.        | 2   |
|                    | Extending north from Roosevelt Irrigation District Canal at a width of approximately 250 feet at the west Corporate Limits to approximately 650 feet at the east Corporate Limits. | 1,027   |

<sup>1</sup>Elevation.  
<sup>2</sup>Depth.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8535 Filed 3-22-79; 8:45 am)

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5277]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Willoughby Hills, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Willoughby Hills, Lake County, Ohio. These base (100-year) flood elevations are the basis for the

flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Willoughby Hills, Ohio. Send comments to: The Honorable Melvin Shaefer, Mayor, City of Willoughby Hills, 35405 Chardon Road, Willoughby Hills, Ohio 44094.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Willoughby Hills, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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| Source of flooding | Location                               | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Chagrin River      | Downstream corporate limit.            | 622   |
|                    | 3,300 feet downstream from Eagle Road. | 636   |
|                    | Just upstream of Eagle Road.           | 644   |
|                    | Just upstream of Dodd Road.            | 659   |
|                    | Just upstream of Euclid-Chardon Road.  | 668   |
|                    | Upstream corporate limit.              | 679   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

(FR Doc. 79-8506 Filed 3-22-79; 8:45 am)

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5256]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Gilbert, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Gilbert, Maricopa County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of

the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the City Clerk, Gilbert, Ariz. Send comments to: Mr. Lynn R. Stuart, Town Manager of Gilbert, 119 North Gilbert Road, Gilbert, Arizona 85234.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Gilbert, Maricopa County, Ariz. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding         | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------------|---|---|
| Southern Pacific Railroad. | North of Embankment, from Baseline Road to Elliot Road. | 10  |
| Consolidated Canal.        | Along Eastern Side from Baseline Road to Lindsay Road.  | 10  |
|                            | Along Eastern Side from Warner Road to Ray Road.        | 10  |

<sup>1</sup>Average depth=2.  
<sup>2</sup>Average depth=1.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)



## PROPOSED RULES

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8534 Filed 3-22-79; 8:45 am)

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5259]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Haddam, Middlesex County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Haddam, Middlesex County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Town Clerk, Haddam, Connecticut. Send comments to: Mr. Lawrence Conti, First Selectman of Haddam, Haddam Town Hall, Middlesex Turnpike, Haddam, Connecticut 06438.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Haddam, Middlesex County, Conn. in accordance with section 110 of the Flood Disaster Pro-

tection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding         | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------------|---|---|
| Connecticut River.         | State route 82.....   | 11  |
|                            | Confluence of Ponset Brook.....   | 17  |
| Salmon River.....          | Leesville Road, Connecticut Route 151.....  | 13  |
|                            | Downstream Dam located 4.0 miles upstream of confluence with Connecticut River..... | 13  |
|                            | Upstream Dam located 4.0 miles upstream of confluence with Connecticut River.....   | 29  |
| Ponset Brook.....          | Upstream Dublin Road.....   | 47  |
|                            | Depot Road.....   | 52  |
|                            | Upstream Connecticut route 81.....  | 64  |
|                            | Downstream Higganum Reservoir Dam.....  | 85  |
|                            | Upstream Higganum Reservoir Dam.....  | 97  |
|                            | Upstream Skinner Road State Route 9 southbound.....                                 | 149   |
|                            | Upstream Scovill Road.....  | 252   |
| Candlewood Hill Brook..... | Little City Road.....   | 314   |
|                            | Connecticut Route 9A.....   | 85  |
|                            | Downstream Scovill Road.....  | 126   |
|                            | Upstream Scovill Road.....  | 131   |
|                            | Upstream Candlewood Hill Road.....  | 168   |
|                            | Spencer Road.....   | 211   |
|                            | Weiss Albert Road.....  | 229   |
|                            | Candlewood Hill Road.....   | 239   |
| Mill Creek.....            | Middlesex Turnpike.....   | 14  |
|                            | Downstream Dam (mile 0.45).....   | 25  |
|                            | Upstream Dam (mile 0.45).....   | 37  |
|                            | 0.65 miles above confluence upstream of Connecticut River.....                      | 48  |
|                            | 0.70 miles above confluence upstream of Connecticut River.....                      | 52  |
|                            | 0.80 miles above confluence upstream of Connecticut River.....                      | 64  |

| Source of flooding       | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------------|--|---|
|                          | 0.90 miles above confluence upstream of Connecticut River..... | 75  |
|                          | Upstream Park road.....  | 97  |
| Bible Rock Brook.....    | Banforth Road.....   | 60  |
|                          | Bible Rock Road.....   | 71  |
|                          | Boulder Dell Road.....   | 106   |
|                          | Thayer Road extension.....                                     | 134   |
| Beaver Meadow Brook..... | 0.10 miles above confluence upstream of Mill Creek.....        | 145   |
|                          | 0.30 miles above confluence upstream of Mill Creek.....        | 157   |
|                          | 0.50 miles above confluence upstream of Mill Creek.....        | 166   |
|                          | 0.70 miles above confluence upstream of Mill Creek.....        |   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8537 Filed 3-22-79; 8:45 am)

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5293]

## Proposed Flood Elevation Determinations for the Town of Honea Path, Anderson County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Honea Path, Anderson County, S.C. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 30 North Main Street, Honea Path, S.C. Send comments to: Honorable J. C. Hammett, Mayor, Town of Honea Path, Town Hall, 30 North Main Street, Honea Path, S.C. 29654.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Honea Path, S.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Corner Creek.....  | Samuel Road--60 feet'... Downstream Corporate Limits..... | 718<br>680  |
|                    | Chiquola Street--15 feet'.....                            | 706   |
|                    | Chiquola Street--25 feet'.....                            | 711   |
|                    | Walkway--80 feet'.....                                    | 716   |
|                    | Walkway--30 feet'.....                                    | 729   |

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<sup>1</sup>Upstream of centerline  
<sup>2</sup>Downstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8522 Filed 3-22-79; 8:45 am)

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5296]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Josephine, Collin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Josephine, Collin County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Josephine, Tex. Send comments to: Mayor Richard McNair, City Hall, P.O. Box J, Josephine, Tex. 75064.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Josephine, Collin County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding          | Location                                       | Elevation in feet, national geodetic vertical datum |
|-----------------------------|--|---|
| Sabine Creek Tributary..... | Just downstream of Farm to Market Road #6..... | 585   |
|                             | Just downstream of Hubbard St.....             | 588   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8525 Filed 3-22-79; 8:45 am)



[4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5275)

**NATIONAL FLOOD INSURANCE PROGRAM**

*Proposed Flood Elevation Determination for the Town of Long View, Catawba County, N.C.*

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Long View, Catawba County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 139 24th Street, S.W., Hickory, North Carolina. Send comments to: Mr. Roy Hoffman, Town Manager, Town of Long View, Town Hall, 139 24th Street, S.W., Hickory, North Carolina 28601.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Long View, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

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any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding             | Location                                   | Elevation in feet, national geodetic vertical datum |
|--------------------------------|--|---|
| Long View Creek...             | 1st Corporate Limits—25 feet <sup>1</sup>  | 1.012   |
|                                | U.S. Highway 84-70—60 feet <sup>1</sup>    | 1.050   |
|                                | U.S. Highway 84-70—25 feet <sup>1</sup>    | 1.080   |
|                                | 26th Street Southwest—25 feet <sup>1</sup> | 1.080   |
| Frye Creek .....               | 2nd Avenue N.W.—40 feet <sup>1</sup>       | 1.052   |
|                                | 19th Street N.W.—150 feet <sup>1</sup>     | 1.059   |
|                                | 20th Street N.W.—25 feet <sup>1</sup>      | 1.082   |
|                                | 23rd Street N.W.—120 feet <sup>1</sup>     | 1.065   |
|                                | 23rd Street N.W.—20 feet <sup>1</sup>      | 1.070   |
|                                | 27th Street N.W.—60 feet <sup>1</sup>      | 1.085   |
|                                | 30th Street N.W.—20 feet <sup>1</sup>      | 1.105   |
|                                | 33rd Street N.W.—20 feet <sup>1</sup>      | 1.120   |
| Long View Creek Tributary Two. | Corporate Limits—60 feet <sup>1</sup>      | 1.053   |

<sup>1</sup>Upstream of centerline.  
<sup>2</sup>Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

(FR Doc. 79-8503 Filed 3-22-79; 8:45 am)

[4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5280)

**NATIONAL FLOOD INSURANCE PROGRAM**

*Proposed Flood Elevation Determination for the Town of Kent, Litchfield County, Conn.*

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Kent, Litchfield County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review Town Hall, Main Street, Kent, Connecticut. Send comments to: Mr. Eugene O'Meara, First Selectman, Board of Selectmen, Town of Kent, Town Hall, Main Street, Kent, Connecticut 06757.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Kent, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding              | Location   | Elevation in feet, national geodetic vertical datum |
|---------------------------------|--|---|
| Housatonic River..              | Kent Corporate Limits <sup>1</sup>               | 268   |
|                                 | Bulls Bridge Road—85 feet <sup>1</sup>           | 328   |
|                                 | Bulls Bridge Dam—100 feet <sup>1</sup>           | 342   |
|                                 | Bulls Bridge Dam—100 feet <sup>1</sup>           | 362   |
| Housatonic River (West Branch). | State Route 34 Bridge—100 feet <sup>1</sup>      | 372   |
|                                 | Corporate Limits (Second Crossing) <sup>1</sup>  | 402   |
|                                 | Bulls Bridge Road—75 feet <sup>1</sup>           | 334   |
|                                 | Bulls Bridge Road—50 feet <sup>1</sup>           | 347   |
| West Aspetuck River.            | Spooners Dam—105 feet <sup>1</sup>               | 350   |
|                                 | Spooners Dam—50 feet <sup>1</sup>                | 362   |
|                                 | Tangway Flats Road—65 feet <sup>1</sup>          | 682   |
|                                 | Tangway Flats Road—75 feet <sup>1</sup>          | 587   |
|                                 | Kent Hollow Road West No. 1—35 feet <sup>1</sup> | 595   |
|                                 | Kent Hollow Road West No. 2—75 feet <sup>1</sup> | 600   |

<sup>1</sup>At centerline.  
<sup>2</sup>Upstream of centerline.  
<sup>3</sup>Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8538 Filed 3-22-79; 8:45 am)

**PROPOSED RULES**

[4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5295)

**NATIONAL FLOOD INSURANCE PROGRAM**

*Proposed Flood Elevation Determination for the Town of Keystone, Pennington County, S. Dak.*

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Keystone, Pennington County, South Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Keystone, South Dakota. Send comments to: Ms. Rhonda Paulson, Town Board President, Town of Keystone, Town Hall, Box 689, Keystone, South Dakota 57751.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Keystone, South Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location   | Elevation in feet, national geodetic vertical datum |
|----------------------|--|---|
| Battle Creek.....    | Keystone Hayward Road (downstream crossing)—30 feet <sup>1</sup>               | 4286  |
|                      | First Street—50 feet <sup>1</sup>  | 4325  |
|                      | Third Street—35 feet <sup>1</sup>  | 4344  |
|                      | Burlington Northern Railroad Bridge (downstream crossing)—35 feet <sup>1</sup> | 4373  |
| Grizzley Bear Creek. | Burlington Northern Railroad Bridge (upstream crossing)—35 feet <sup>1</sup>   | 4458  |
|                      | At Upstream Corporate Limits.  | 4493  |
|                      | Swanzy Street—30 feet <sup>1</sup>   | 4353  |
|                      | Cemetery Road (downstream crossing)—40 feet <sup>1</sup>                       | 4394  |
|                      | At Upstream Corporate Limits.  | 4436  |

<sup>1</sup>Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8524 Filed 3-22-79; 8:45 am)



## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5261]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of New Milford, Litchfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of New Milford, Litchfield County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 10 Main Street, New Milford, Connecticut. Send comments to: Mr. Clifford Chapin, First Selectman, Board of Selectmen, Town of New Milford, Town Hall, 10 Main Street, New Milford, Connecticut 06776.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of New Milford, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------|---|---|
| Housatonic River..   | Confluence with Town Farm Brook—200 feet <sup>1</sup>           | 196   |
|                      | Pumpkin Hill Road.....  | 204   |
|                      | Confluence with Still River                                     | 217   |
|                      | Bleachery Dam <sup>2</sup> .....                                | 219   |
|                      | Bridge Street <sup>1</sup> .....                                | 219   |
|                      | Confluence with Rocky River                                     | 220   |
|                      | Boardman Bridge—50 feet <sup>1</sup>                            | 223   |
|                      | Confluence with Bullymuck Brook—150 feet <sup>1</sup>           | 224   |
| Town Farm Brook      | River Road—50 feet <sup>2</sup> .....                           | 195   |
|                      | River Road—150 feet <sup>1</sup> .....                          | 200   |
|                      | Town Farm Road—20 feet <sup>1</sup>                             | 248   |
|                      | Cascade Road—120 feet <sup>1</sup>                              | 449   |
| Still River.....     | U.S. Highway 67 <sup>1</sup> .....                              | 470   |
|                      | ConRail <sup>1</sup> .....                                      | 217   |
|                      | Harry Brook Park Bridge <sup>1</sup>                            | 217   |
| Great Brook.....     | Cross Road—50 feet <sup>1</sup> .....                           | 230   |
|                      | West Street <sup>1</sup> .....                                  | 219   |
|                      | Mill Street <sup>1</sup> .....                                  | 219   |
|                      | Prospect Hill Road (State Highway 67) <sup>1</sup>              | 226   |
|                      | Brookside Avenue <sup>1</sup> .....                             | 241   |
|                      | Elm Street—30 feet <sup>1</sup> .....                           | 247   |
|                      | Confluence with Cross Brook                                     | 291   |
|                      | Park Lane East—50 feet <sup>1</sup>                             | 318   |
|                      | State Highway 109 (downstream crossing) <sup>1</sup>            | 344   |
|                      | State Highway 109 (most upstream crossing)—30 feet <sup>2</sup> | 416   |
|                      | State Highway 109 (most upstream crossing) <sup>1</sup>         | 423   |
|                      | Old Parkwood Road <sup>1</sup> .....                            | 441   |
|                      | Essex Road Culvert (upstream end)                               | 612   |
| East Aspetuck River. | Housatonic Avenue <sup>1</sup> .....                            | 220   |
|                      | Wells Road <sup>2</sup> .....                                   | 220   |
|                      | Westville Road <sup>1</sup> .....                               | 231   |
|                      | Van Car Road <sup>1</sup> .....                                 | 264   |
|                      | U.S. Highway 202 <sup>1</sup> .....                             | 346   |
|                      | Upland Road—20 feet <sup>1</sup> .....                          | 363   |
|                      | Sand Pit Road <sup>1</sup> .....                                | 398   |
|                      | Old Mill Road <sup>1</sup> .....                                | 410   |
|                      | Wheaton Road <sup>1</sup> .....                                 | 457   |
|                      | Spruce Lane—150 feet <sup>1</sup> .....                         | 480   |
|                      | Spruce Lane—80 feet <sup>1</sup> .....                          | 486   |
| West Aspetuck River. | Aspetuck Road (Downstream Crossing) <sup>1</sup>                | 220   |
|                      | Aspetuck Road (Upstream crossing)—100 feet <sup>1</sup>         | 236   |

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
|                    | Long Mountain Road—25 feet <sup>1</sup>                | 264   |
|                    | Merryall Road (Downstream crossing) <sup>1</sup>       | 313   |
|                    | 50 feet <sup>2</sup> .....                             | 319   |
|                    | 10 feet <sup>1</sup> .....                             | 319   |
|                    | Merryall Road (Upstream Crossing)—50 feet <sup>1</sup> | 356   |
|                    | Confluence with Denman Brook                           | 392   |
|                    | Chapel Hill Road—50 feet <sup>1</sup>                  | 415   |
|                    | Clove Farm Road—50 feet <sup>1</sup>                   | 436   |

<sup>1</sup>Upstream of centerline.  
<sup>2</sup>At centerline.  
<sup>3</sup>Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8539 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5274]

## NATIONAL FLOOD INSURANCE

Proposed Flood Elevation Determinations for the Town of Pelham, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pelham, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning Board Office, Pelham, New Hampshire. Send comments to: Mary Ann Thompson, Chairman, Board of Selectman, Town of Pelham, Town Office, Pelham, New Hampshire 03076.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pelham, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                            | Elevation in feet, national geodetic vertical datum |
|--------------------|-------------------------------------|---|
| Beaver Brook.....  | Southern corporate limit.           | 124   |
|                    | Upstream side of Willow Street.     | 128   |
|                    | Upstream side of Old Bridge Street. | 131   |
|                    | Upstream side of Gage Hill Road.    | 134   |
|                    | Upstream side of Mill Dam.          | 137   |
|                    | Downstream side of Tallant Road.    | 147   |

| Source of flooding  | Location  | Elevation in feet, national geodetic vertical datum |
|---------------------|---|---|
|                     | Upstream side of Tallant Road.  | 150   |
|                     | Just upstream of Castle Hill Road.  | 157   |
|                     | Upstream side of Mammoth Road.  | 167   |
| Golden Brook.....   | Confluence with Beaver Brook.   | 134   |
|                     | Downstream side of Hobbs Road.  | 134   |
|                     | Upstream side of Hobbs Road.  | 136   |
|                     | Just downstream of Moekel Road.   | 137   |
|                     | Upstream side of Moekel Road.   | 140   |
|                     | Confluence with Lowell Brook.   | 151   |
| Gumpas Road Brook.  | Confluence with Beaver Brook.   | 128   |
|                     | Downstream side of Marsh Road.  | 132   |
|                     | Upstream side of Marsh Road.  | 137   |
| New Meadow Brook.   | Conference with Beaver Brook.   | 125   |
|                     | 0.44 miles upstream of confluence with Beaver Brook.                            | 126   |
|                     | Downstream side of Pulpit Rock Road.  | 129   |
|                     | Upstream side of Pulpit Rock Road.  | 132   |
|                     | Downstream side of Bridge Street.   | 133   |
|                     | Upstream side of Bridge Street.   | 139   |
|                     | 0.61 miles upstream State Route 38.   | 139   |
| Island Pond Brook   | Mouth at Golden Brook.  | 134   |
|                     | Just downstream of State Route 38.  | 136   |
|                     | Upstream side of State route 38.  | 145   |
|                     | Upstream side of Private Road, 0.94 miles upstream of State Route 38.           | 145   |
| Simpson Mill Brook. | At confluence Golden Brook.   | 137   |
|                     | Downstream side of Simpson Mill Road.   | 137   |
|                     | Upstream side of Simpson Mill Road.   | 139   |
|                     | Northern corporate limit.   | 140   |
| Gumpas Pond Brook.  | Southern corporate limit.   | 124   |
|                     | Downstream side of Earth and Stone Dam.   | 129   |
|                     | 530 feet downstream of Mammoth Road.  | 136   |
|                     | Downstream side of Mammoth Road.  | 137   |
|                     | Upstream side of Mammoth Road.  | 137   |
|                     | Upstream side of Private Road 2,220 feet upstream of Mammoth Road.              | 146   |
|                     | Upstream side of Old County Road.   | 152   |
|                     | Just downstream of Gumpas Hill Road.  | 158   |
|                     | Upstream side of Gumpas Hill Road.  | 163   |
|                     | Downstream side of Stone and Earth Dam.   | 176   |
|                     | Upstream side of Stone and Earth Dam, 1.15 miles downstream of Gumpas Pond Dam. | 186   |
|                     | Just downstream of Gumpas Pond Dam.   | 194   |
|                     | Upstream side of Gumpas Pond Dam.   | 204   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8502 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5294]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Williamston, Anderson County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Williamston, Anderson County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 43 East Main Street, Williamston, South Carolina. Send comments to: Honorable Marion W. Middleton, Mayor, Town of Williamston, Town Hall, 43 East Main Street, Williamston, South Carolina 29697.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.



## PROPOSED RULES

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Williamston, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding         | Location                                    | Elevation in feet, national geodetic vertical datum |
|----------------------------|---|---|
| Big Creek.....             | Gatewood Entrance Road—90 feet <sup>1</sup> | 762   |
|                            | Williams Street—20 feet <sup>1</sup>        | 769   |
|                            | Southern Railway—40 feet <sup>1</sup>       | 780   |
|                            | Main Street—100 feet <sup>1</sup>           | 785   |
|                            | Ida Tucker Road—20 feet <sup>1</sup>        | 791   |
| Big Creek Tributary I..... | Confluence with Big Creek <sup>2</sup>      | 755   |
|                            | Southern Railroad—100 feet <sup>1</sup>     | 796   |
|                            | Southern Railroad—100 feet <sup>1</sup>     | 800   |
| Camp Creek.....            | confluence with Big Creek <sup>2</sup>      | 789   |
|                            | Cherokee Road—40 feet <sup>1</sup>          | 796   |
|                            | Upstream Corporate Limit <sup>3</sup>       | 801   |

<sup>1</sup>Upstream of centerline.  
<sup>2</sup>At centerline.  
<sup>3</sup>Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of

1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8523 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5283]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Conestoga, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Conestoga, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Conestoga, Pennsylvania. Send comments to: Mr. John B. Metz, Chairman of the Township of Conestoga, P.O. Box 98, Conestoga, Pennsylvania 17516.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Conestoga, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added

section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding     | Location  | Elevation in feet, national geodetic vertical datum |
|------------------------|---|---|
| Susquehanna River..... | Downstream Corporate Limits; confluence of Pequea Creek.  | 189   |
|                        | Upstream Corporate Limits; confluence of Conestoga Creek. | 191   |
| Pequea Creek.....      | Confluence of Susquehanna River, Conrail.                 | 189   |
|                        | Recreation Area—footbridge.                               | 194   |
|                        | Approximately 1,100 feet upstream from Fox Hollow Road.   | 204   |
|                        | State Route 324.....                                      | 225   |
|                        | Loop Road—T413.....                                       | 240   |
|                        | Legislative Rte 36026, Sandhill Road.                     | 251   |
|                        | Upstream Corporate Limits.                                | 264   |
| Conestoga Creek .....  | Conrail.....  | 190   |
|                        | Weir—Elevation 195.2 feet.                                | 204   |
|                        | Upstream Corporate Limits.                                | 224   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8512 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5284]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of East Hanover, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of East Hanover, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the East Hanover Township Building, Grantville, Pennsylvania. Send comments to: Mr. Ronald L. Stammel, Chairman of the Township of East Hanover, R. D. 2, Box 4620, Grantville, Pennsylvania 17028.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of East Hanover, Dauphin County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are re-

quired. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding            | Location  | Elevation in feet, national geodetic vertical datum |
|-------------------------------|---|---|
| Manada Creek.....             | Confluence of Fishing Creek.  | 531   |
|                               | Mountain Road (Upstream Side).  | 516   |
|                               | Cliff Road (Township Route 614) (Upstream Side).                      | 459   |
|                               | Rabbit Lane (Upstream Side).  | 443   |
|                               | Manada Bottom Road (Upstream Side).                                   | 435   |
|                               | Camp Kiwanis Road (Upstream Side).                                    | 431   |
|                               | Manada Bottom Road 2,300 feet from Camp Kiwanis Road (Upstream Side). | 423   |
|                               | Interstate 81 (Upstream Side).  | 420   |
|                               | Confluence of Walnut Run.   | 406   |
|                               | Jonestown Road (Township Route 6017) (Upstream Side).                 | 404   |
|                               | U.S. Route 22 (Upstream Side).  | 387   |
|                               | Confluence East Branch Manada Creek.                                  | 365   |
|                               | Township Route 431 (Upstream Side).                                   | 362   |
|                               | Downstream Corporate Limits.  | 360   |
| East Branch Manada Creek..... | Interstate 81 (Upstream Side).  | 474   |
|                               | Dry Run Road (Upstream Side).   | 467   |
|                               | Private Drive 500 feet upstream from Jonestown Road (Upstream Side).  | 431   |
|                               | Jonestown Road (Township Route 601) (Upstream Side).                  | 428   |
|                               | Meadow Lane (Legislative Route 22063) (Upstream Side).                | 407   |
|                               | U.S. Route 22 (Upstream Side).  | 402   |
|                               | Carlson Road (Township Route 467) (Upstream Side).                    | 384   |
|                               | Confluence of Tributary G.  | 374   |
|                               | Crooked Hill Road (Township Route 469) (Upstream Side).               | 369   |
|                               | Confluence with Manada Creek.   | 365   |
| Fishing Creek.....            | Upstream Corporate Limits.  | 563   |
|                               | McLean Road (Upstream Side).  | 536   |

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
|                    | Confluence with Manada Creek.   | 531   |
| Bow Creek.....     | Early's Mill Road (Upstream Side).                                    | 372   |
|                    | Private Lane 3,950 feet upstream from Shady Lane (Upstream Side).     | 356   |
|                    | Shady Lane (Upstream Side).   | 350   |
|                    | Confluence of Tributary H.  | 343   |
|                    | Confluence with Swatara Creek.  | 337   |
| Tributary I.....   | Pheasant Road (Upstream Side).  | 397   |
|                    | Private Drive 160 feet downstream from Pheasant Road (Upstream Side). | 391   |
|                    | Downstream crossing of Pheasant Road (Upstream Side).                 | 383   |
|                    | Confluence with Bow Creek.  | 372   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8513 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5286]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Londonderry, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Londonderry, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified



for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Office, Middletown Pennsylvania. Send comments to: Mr. David D. Maxwell, Chairman of the Township of Londonderry, R.D. 1, Township Municipal Building, South Geyers Church Road, Middletown, Pennsylvania.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Londonderry, Dauphin County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding    | Location                                | Elevation in feet, national geodetic vertical datum |
|-----------------------|---|---|
| Susquehanna River.    | Downstream Corporate Limits.            | 291   |
|                       | Upstream Corporate Limits.              | 301   |
| Conecawgo Creek East. | At Mouth                                | 294   |
|                       | Upstream side Engle Road Bridge.        | 309   |
|                       | Downstream of Hilldale Road Bridge.     | 322   |
|                       | Upstream of Conrail Railroad Bridge.    | 348   |
|                       | Upstream of Deodote Road Bridge.        | 371   |
|                       | Upstream of Harrisburg Pike Bridge.     | 386   |
|                       | Upstream Corporate Limits.              | 388   |
|                       | Downstream Corporate Limits.            | 302   |
|                       | Upstream side Harrisburg Pike Bridge.   | 306   |
|                       | Upstream side of Vine Street Bridge.    | 309   |
| Swatara Creek         | Upstream side of Interstate 283 Bridge. | 311   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8516 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5288]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Martic, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Martic, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in

order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Martic Township Building. Send comments to: Mr. David Ellenberg, Chairman of the Township of Martic, R.D. 1, Holtwood, Pennsylvania 17532.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Martic, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                      | Elevation in feet, national geodetic vertical datum |
|--------------------|-------------------------------|---|
| Susquehanna River. | Downstream Corporate Limits.  | 132   |
|                    | Downstream side Holtwood Dam. | 156   |

| Source of flooding | Location                              | Elevation in feet, national geodetic vertical datum |
|--------------------|---------------------------------------|---|
| Pequea Creek       | Upstream side Holtwood Dam.           | 162   |
|                    | Upstream Corporate Limits.            | 190   |
|                    | Confluence with Susquehanna River.    | 189   |
|                    | Upstream side Fox Hollow Road Bridge. | 198   |
|                    | Upstream side Conrail Bridge.         | 227   |
|                    | Upstream side Sand Hill Road Bridge.  | 252   |
|                    | Upstream Corporate Limits.            | 279   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8517 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5290]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Plainfield, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Plainfield, Northampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of

the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Nazareth, Pennsylvania. Send comments to: Mr. William H. Danner, Sr., President of the Township of Plainfield, R.D. 3, Nazareth, Pennsylvania 18064.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Plainfield, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding     | Location                            | Elevation in feet, national geodetic vertical datum |
|------------------------|-------------------------------------|---|
| Waltz Creek            | Legislative Route 48036 (Upstream). | 586   |
|                        | Township Road 666 (Upstream).       | 607   |
|                        | Upstream Corporate Limits.          | 613   |
|                        | Private Road No. 1 (Upstream).      | 389   |
| Little Bushkill Creek. | Township Road 619 (Upstream).       | 409   |
|                        | Township Road 623 (Upstream).       | 432   |
|                        | Township Road 623 (Upstream).       | 432   |
|                        | State Route 191 (Downstream).       | 449   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8519 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5270]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Saugatuck, Allegan County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Saugatuck, Allegan County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, 36 Center Street, Douglas, Michigan. Send comments to: Mr. Ralph Cartwright, Township Supervisor, Township of Saugatuck, Township Hall, 36 Center Street, Douglas, Michigan 49406.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance,



## PROPOSED RULES

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Saugatuck, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location   | Elevation in feet, national geodetic vertical datum |
|----------------------|--|---|
| Lake Michigan.....   | Entire reach within Township of Saugatuck.                         | 584   |
| Kalamazoo River ..   | At mouth with Lake Michigan.                                       | 584   |
|                      | Approximately 8,250 feet upstream from western corporate limits.   | 584   |
|                      | 11,300 feet upstream of Interstate—196 bridge.                     | 585   |
|                      | At eastern corporate limits.                                       | 586   |
| Silver Lake Creek .. | At the mouth with Kalamazoo River.                                 | 584   |
|                      | Approximately 6,000 feet upstream from mouth with Kalamazoo River. | 586   |
|                      | Just downstream from Richmond Road.                                | 588   |
|                      | Just upstream of Richmond Road.                                    | 590   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8548 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5292]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Woodward, Clinton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Woodward, Clinton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Woodward Township Building, Riverside Terrace, R.D. 2, Lockhaven, Pennsylvania. Send comments to: Mr. Richard E. Egler, Chairman of the Township of Woodward, R.D. 1, Lockhaven, Pennsylvania 17745.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Woodward,

Clinton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding             | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------------------|---|---|
| West Branch Susquehanna River. | Downstream Corporate Limit.                       | 563   |
|                                | Woodward Avenue—Downstream.                       | 564   |
|                                | Jay Street.....                                   | 565   |
|                                | Upstream Corporate Limit.                         | 578   |
| Reeds Run.....                 | Confluence of West Branch Susquehanna River.      | 564   |
|                                | Pennsylvania Route 664.                           | 574   |
|                                | Private Bridge 81,600 feet upstream of Route 664. | 705   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8521 Filed 3-22-79; 8:45 am]

## [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5273]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Madison County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Madison County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Chancery Clerk's Office, Chancery Clerk Building, Canton, Mississippi 39046. Send comments to: Mr. Pat Luckett, President of Madison County Board of Supervisors or Mr. Billy D. Cooper, Chancery Clerk, Chancery Clerk Building, Canton, Mississippi 39046.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Madison County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are re-

quired. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------|---|---|
| Spring Creek.....    | Approximately 4100 feet upstream of the confluence with Bogue Chitto Creek. | 186   |
| Bogue Chitto Creek.  | Just upstream of County Road.   | 178   |
| Panther Creek.....   | Just upstream of State Highway 22.  | 229   |
|                      | Just downstream of Stokes Road.   | 212   |
|                      | Just upstream Virillia Road.  | 203   |
| Haley Creek.....     | Just upstream Twin Harbours Road.   | 305   |
| Twin Harbor Cove     | Approximately 800 feet upstream Natchez Trace Parkway.                      | 299   |
| Brown Creek.....     | Approximately 2000 feet upstream Natchez Trace Parkway.                     | 310   |
| Stream M.....        | Just upstream Natchez Trace Parkway.  | 323   |
| Stream L.....        | Just upstream Natchez Trace Parkway.  | 313   |
| Stream K.....        | Just downstream of Gus Green Road.  | 280   |
| Limekiln Creek.....  | Just upstream of Gus Green Road.  | 284   |
|                      | Just upstream Robinson Springs Road.  | 252   |
| Batchelor Creek....  | Just upstream of Covington Road.  | 239   |
|                      | Approximately 2000 feet upstream of confluence with Tilda Bogue.            | 206   |
| Stream J.....        | Just upstream of Illinois Central Gulf RR.                                  | 245   |
| Stream I.....        | Just downstream of U.S. Highway 51.   | 243   |
|                      | Approximately 1200 feet upstream of confluence with Bear Creek.             | 237   |
| Stream H.....        | Just upstream of Cotton Blossom Road.                                       | 243   |
| Little Bear Creek .. | Just downstream of Yandell Road.  | 259   |
|                      | Just upstream Old Canton Road.  | 249   |
|                      | Just upstream Endris Road.  | 232   |
| Stream G.....        | Just upstream Endris Road.  | 257   |
|                      | Just downstream State Highway 43.   | 246   |
| Stream F.....        | Just downstream Hart Road.  | 253   |
| Walnut Creek.....    | Just downstream State Highway 43.   | 234   |
|                      | Just upstream of confluence with Bear Creek.                                | 227   |

| Source of flooding  | Location  | Elevation in feet, national geodetic vertical datum |
|---------------------|---|---|
| Stream E.....       | Just upstream of Illinois Central Gulf RR.                    | 234   |
|                     | Just upstream of U.S. Highway 61.                             | 229   |
| Bear Creek.....     | Just upstream Old Jackson Road.                               | 259   |
|                     | Sowell Road.....  | 241   |
|                     | Just upstream Old Canton Road.                                | 234   |
|                     | Just upstream State Highway 22.                               | 217   |
| Hearn Creek.....    | Approximately 1000 feet upstream of Natchez Trace Parkway.    | 301   |
| Culley Creek.....   | Just upstream Natchez Trace Parkway.                          | 295   |
| Brashear Creek....  | Just upstream Old Canton Road.                                | 302   |
|                     | Just downstream Natchez Trace Parkway.                        | 300   |
|                     | Just upstream Charity Church Road.                            | 288   |
| School Creek.....   | Just upstream Old Canton Road.                                | 297   |
|                     | Approximately 250 feet downstream Old Canton Road.            | 282   |
|                     | Just upstream of Madison Hinds County line.                   | 291   |
| Purple Creek.....   | Just upstream Richardson Road.                                | 358   |
|                     | Just upstream Old Agency Road.                                | 344   |
| Stream D.....       | Just upstream of confluence with Stream B.                    | 306   |
| Stream C.....       | Just upstream Green Crossing Road.                            | 287   |
|                     | Approximately 1000 feet upstream of confluence with Stream B. | 276   |
| Stream B.....       | Just upstream Lake Cavalier Road.                             | 304   |
|                     | Just downstream Society Hill Road.                            | 286   |
| White Oak Creek ..  | Just downstream of Old Agency Road.                           | 346   |
|                     | Just downstream of I-220 Northbound Lane.                     | 326   |
| Larue Creek.....    | Approximately 100 feet upstream Frontage Road.                | 334   |
|                     | Just upstream County Line Road.                               | 328   |
| Stream A.....       | Approximately 300 feet downstream Livingston Road.            | 342   |
|                     | Just upstream County Line Road.                               | 338   |
| Hanging Moss Creek. | Just upstream County Line Road.                               | 340   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.



Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8551 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5264]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Switzerland County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Unincorporated Areas of Switzerland County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Court House, Auditor's office, Rising Sun, Indiana. Send comments to: Mr. Wilber Buchanan, President of County Commissioners, Switzerland County, Rt. 2, Rising Sun, Indiana 47400.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Unincorporated Areas of Switzerland County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968).

#### PROPOSED RULES

(Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Ohio River         | At Switzerland and Ohio County boundary.                     | 482   |
|                    | 6 miles downstream of Switzerland and Ohio County boundary.  | 480   |
|                    | 10 miles downstream of Switzerland and Ohio County boundary. | 478   |
|                    | 13 miles downstream of Switzerland and Ohio County boundary. | 476   |
|                    | 20 miles downstream of Switzerland and Ohio County boundary. | 474   |
|                    | 25 miles downstream of Switzerland and Ohio County boundary. | 472   |
|                    | 30 miles downstream of Switzerland and Ohio County boundary. | 470   |
|                    | At Switzerland and Jefferson County boundary.                | 468   |
| Pium Creek         | At confluence with Ohio River.                               | 472   |
|                    | 3.4 miles upstream of confluence with Ohio River.            | 472   |
| Grants Creek       | At confluence with Ohio River.                               | 482   |
|                    | 500 feet downstream of Barksworks Road.                      | 482   |
|                    | 690 feet upstream of Barksworks Road.                        | 489   |
|                    | 2,300 feet upstream of Barksworks Road.                      | 500   |
|                    | 1,400 feet downstream of Red Hog Pike.                       | 510   |
|                    | 200 feet downstream of Red Hog Pike.                         | 520   |
|                    | 700 feet upstream of Red Hog Pike.                           | 530   |
|                    | 1,500 feet upstream of Red Hog Pike.                         | 540   |
|                    | 2,300 feet upstream of Red Hog Pike.                         | 550   |
|                    | 3,000 feet upstream of Red Hog Pike.                         | 560   |
|                    | 3,800 feet upstream of Red Hog Pike.                         | 571   |
| Wade Creek         | At confluence with Ohio River.                               | 479   |
|                    | 4,120 feet upstream of confluence with Ohio River.           | 479   |

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
|                    | 200 feet upstream of Antioch Road.                  | 489   |
|                    | 660 feet upstream of Antioch Road.                  | 500   |
|                    | 780 feet upstream of Antioch Road.                  | 506   |
| Goose Creek        | At confluence with Ohio River.                      | 479   |
|                    | 9,200 feet upstream of confluence with Ohio River.  | 479   |
|                    | 9,500 feet upstream of confluence with Ohio River.  | 485   |
|                    | 9,750 feet upstream of confluence with Ohio River.  | 490   |
|                    | 10,250 feet upstream of confluence with Ohio River. | 500   |
|                    | 10,700 feet upstream of confluence with Ohio River. | 510   |
|                    | 11,100 feet upstream of confluence with Ohio River. | 520   |
|                    | 11,400 feet upstream of confluence with Ohio River. | 532   |
| Log Lick Creek     | At confluence with Ohio River.                      | 473   |
|                    | 7,340 feet upstream of Log Lick Creek Road.         | 473   |
| Turtle Creek       | At confluence with Ohio River.                      | 474   |
|                    | 2,900 upstream of Little Hominy Ridge Road.         | 474   |
|                    | 3,700 feet upstream of Little Hominy Ridge Road.    | 482   |
|                    | 4,300 feet upstream of Little Hominy Ridge Road.    | 490   |
|                    | 4,900 feet upstream of Little Hominy Ridge Road.    | 500   |
|                    | 5,650 feet upstream of Little Hominy Ridge Road.    | 520   |
|                    | 6,400 feet upstream of Little Hominy Ridge Road.    | 540   |
|                    | 7,100 feet upstream of Little Hominy Ridge Road.    | 560   |
|                    | 7,900 feet upstream of Little Hominy Ridge Road.    | 580   |
|                    | 8,600 feet upstream of Little Hominy Ridge Road.    | 600   |
|                    | 9,300 feet upstream of Little Hominy Ridge Road.    | 620   |
|                    | 9,900 feet upstream of Little Hominy Ridge Road.    | 640   |
|                    | 10,500 feet upstream of Little Hominy Ridge Road.   | 660   |
|                    | 11,450 feet upstream of Little Hominy Ridge Road.   | 682   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(c)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of

#### PROPOSED RULES

1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8542 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5276]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Transylvania County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Transylvania County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at County Manager's Office, County Administration Building 28 East Main Street, Brevard, North Carolina 28712. Send comments to: Mr. Ed Isreal, County Manager, 28 East Main Street, Brevard, North Carolina 28712.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Transylvania County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973

(Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding             | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------------------|--|---|
| French Broad River             | Just upstream of Crab Creek Road.                                      | 2094  |
|                                | Approximately 500 feet upstream of Everett Road (Patton Bridge).       | 2101  |
|                                | Just upstream of Island Ford Road.                                     | 2140  |
|                                | Approximately 300 feet upstream of Calvert Road.                       | 2168  |
|                                | Approximately 500 feet downstream of Burnt Road.                       | 2192  |
| Little River                   | Just upstream of Cascade Lake Road.                                    | 2103  |
| Crab Creek                     | Just upstream of Cascade Lake Road.                                    | 2098  |
| Davidson River                 | Approximately 100 feet upstream of U.S. Highway 64 (U.S. Highway 276). | 2128  |
|                                | Just upstream of English Chapel Road.                                  | 2169  |
| Carson Creek                   | Just upstream of Island Ford Road.                                     | 2152  |
| Catheys Creek                  | Approximately 100 feet upstream of U.S. Highway 64.                    | 2177  |
| Lime Kiln Branch               | Just upstream of U.S. Highway 64.                                      | 2182  |
| Patterson Creek                | Approximately 50 feet upstream of U.S. Highway 64.                     | 2176  |
| Mason Creek                    | Just upstream of U.S. Highway 64.                                      | 2180  |
| East Fork French Broad River   | Just downstream of the most western crossing of Secondary Road 1107.   | 2188  |
|                                | Just upstream of the most eastern crossing of Secondary Road 1107.     | 2254  |
| Middle Fork French Broad River | Just upstream of Secondary Road 1107.                                  | 2183  |
|                                | Just upstream of the most southern crossing of Secondary Road 1131.    | 2235  |

| Source of flooding            | Location   | Elevation in feet, national geodetic vertical datum |
|-------------------------------|--|---|
| North Fork French Broad River | At U.S. Highway 178. Just upstream of Secondary Road 1322. | 2273  |
| West Fork French Broad River  | Approximately 100 feet upstream of U.S. Highway 64.        | 2240  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(c)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979

GLORIA M. JIMENEZ,  
Federal Insurance Administration.  
(FR Doc. 79-8504 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5271]

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Saugatuck, Allegan County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Saugatuck, Allegan County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Village Manager, 329 Water



Street, Saugatuck, Michigan. Send comments to: Mr. DeForest Doerner, Village President, Village of Saugatuck, Village Hall, Saugatuck, Michigan 49453.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Saugatuck, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding       | Location                     | Elevation in feet, national geodetic vertical datum |
|--------------------------|------------------------------|---|
| Lake Michigan Backwater. | Downstream corporate limit.  | 584   |
|                          | To upstream corporate limit. | 584   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to

permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8549 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5262)

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Stone Park, Cook County, Ill.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Stone Park, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Stone Park, Illinois. Send comments to: Mr. William J. Francione, Village President, Village of Stone Park, 1629 North Mannheim Road, Stone Park, Illinois 60165.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Stone Park, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)),

42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location   | Elevation in feet, national geodetic datum |
|---------------------|--|--|
| Addison Creek ..... | Just upstream of Lake Street at the southern corporate limit.    | 635  |
|                     | 1,050 feet upstream of Lake Street.                              | 666  |
|                     | 1,400 feet upstream of Mannheim Road at western corporate limit. | 637  |
|                     |  |  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8540 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5263)

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Third Lake, Lake County, Ill.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the pro-

posed base (100-year) flood elevations listed below for selected locations in the Village of Third Lake, Lake County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Village Clerk, 23 South Lake Avenue, Lake Villa, Illinois. Send comments to: Mr. Edwin Sutter, Village President, Village of Third Lake, Village Hall, Lake Villa, Illinois 60046.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Third Lake, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                   | Elevation in feet, national geodetic datum |
|--------------------|----------------------------|--|
| Third Lake .....   | Southeast corporate limit. | 768  |
|                    | Western corporate limit.   | 768  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8541 Filed 3-22-79; 8:45 am)

#### [4210-01-M]

[24 CFR Part 1917]

(Docket No. FI-5298)

#### NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Duluth, St. Louis County, Minn.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Duluth, St. Louis County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 4th Avenue and 1st Street,

Duluth, Minnesota. Send comments to: The Honorable Robert C. Beaudin, Mayor, City of Duluth, City Hall, 4th Avenue and 1st Street, Duluth, Minnesota 55802. Attention: William C. Majewski, Director of Program Management.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Duluth, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location   | Elevation in feet, national geodetic vertical datum |
|---------------------|--|---|
| Mission Creek ..... | At St. Louis River.....                                      | 607   |
|                     | At Minnesota Highway 23.                                     | 613   |
|                     | Approximately 1,500 feet upstream from Minnesota Highway 23. | 620   |
|                     | Approximately 2,940 feet upstream from Minnesota Highway 23. | 639   |
| Stewart Creek.....  | At Burlington Northern Railroad.                             | 604   |
|                     | Downstream at Duluth Mesabi and Iron Range Railroad.         | 608   |
|                     | Upstream at Duluth Mesabi and Iron Range Railroad.           | 614   |



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PROPOSED RULES

| Source of flooding         | Location  | Elevation<br>in feet,<br>national<br>geodetic<br>vertical<br>datum | Source of flooding                | Location  | Elevation<br>in feet,<br>national<br>geodetic<br>vertical<br>datum | Source of flooding                      | Location   | Elevation<br>in feet,<br>national<br>geodetic<br>vertical<br>datum |
|----------------------------|---|--|-----------------------------------|---|--|---|--|--|
| 62nd Avenue West<br>Creek. | Approximately 890 feet<br>upstream from Duluth<br>Mesabi and Iron<br>Range Railroad.          | 820  | Coffee Creek                      | At Decker Road  | 1,316  | North Branch of<br>Buckingham<br>Creek. | Approximately 1,060<br>feet upstream from<br>Skyline Parkway.                      | 1,070  |
|                            | Approximately 20 feet<br>upstream from Grand<br>Avenue.                                       | 648  |                                   | Downstream U.S.<br>Highway 53<br>(Minnesota Highway<br>194).                        | 1,320  |   | Approximately 2,480<br>feet upstream from<br>Skyline Parkway.                      | 1,100  |
|                            | Downstream of<br>Burlington Northern<br>Railroad 610 feet<br>upstream from 93rd<br>Avenue.    | 696  |                                   | Upstream U.S. Highway<br>53 (Minnesota<br>Highway 194).                             | 1,324  |   | Approximately 380 feet<br>downstream from<br>Observation Road.                     | 1,140  |
|                            | Upstream side of<br>Burlington Northern<br>Railroad 610 feet<br>upstream from 93rd<br>Avenue. | 722  |                                   | Approximately 1,500<br>feet upstream from<br>Minnesota Highway<br>194.              | 1,334  |   | Downstream side of<br>Observation Road.  | 1,147  |
|                            | At Duluth, Winne-Peg,<br>and Pacific Railroad.  | 780  |                                   | At Haines Road (Duluth<br>corporate limits).  | 1,335  |   | Upstream side of<br>Observation Road.  | 1,154  |
|                            | At St. Louis River  | 605  |                                   | At Airport Road   | 1,374  |   | Approximately 830 feet<br>upstream from<br>Observation Road.                       | 1,162  |
|                            | Downstream at 63rd<br>Avenue West.  | 606  |                                   | Approximately 200 feet<br>upstream of<br>downstream Airport<br>Service Road Bridge. | 1,380  |   | Approximately 1,800<br>feet upstream from<br>Observation Road.                     | 1,202  |
|                            | Downstream at 63rd<br>Avenue West.  | 615  |                                   | At Ridgeview Road<br>(corporate limits).  | 1,394  |   | Approximately 880 feet<br>downstream from<br>Arlington Avenue.                     | 1,240  |
|                            | Downstream at<br>Burlington Northern<br>Railroad.   | 615  |                                   | At Piedmont Avenue  | 855  |   | Approximately 50 feet<br>downstream from<br>Arlington Avenue.                      | 1,296  |
|                            | Upstream at Burlington<br>Northern Railroad.  | 828  |                                   | Tenth Street  | 903  |   | Approximately 45 feet<br>upstream from the<br>confluence with<br>Buckingham Creek. | 842  |
| Keene Creek                | At Grand Avenue   | 640  |                                   | Approximately 300 feet<br>upstream from Tenth<br>Street.                            | 920  | Brewery Creek                           | Downstream side of 3rd<br>Street East.   | 854  |
|                            | At Raleigh Street   | 649  |                                   | At a private drive 570<br>feet upstream of 10th<br>Street.                          | 958  |   | Approximately 100 feet<br>upstream from 3rd<br>Street East.                        | 873  |
|                            | Approximately 310 feet<br>downstream of<br>Burlington Northern<br>Railroad.                   | 604  |                                   | Approximately 430 feet<br>downstream from<br>Skyline Parkway.                       | 1,040  |   | Approximately 110 feet<br>downstream of 4th<br>Street East Culvert.                | 904  |
|                            | 475 feet upstream from<br>Raleigh Street.   | 612  |                                   | Upstream Skyline<br>Parkway.  | 1,068  |   | At upstream side of 4th<br>Street East Culvert.                                    | 928  |
|                            | At 57th Avenue  | 614  |                                   | Approximately 200 feet<br>upstream from Rock<br>Dam.                                | 1,112  |   | Downstream side of 5th<br>Street Culvert.  | 951  |
|                            | Approximately 100 feet<br>upstream Grand<br>Avenue.   | 630  |                                   | Downstream side<br>Arlington Avenue.  | 1,126  |   | Upstream side of 5th<br>Street Culvert.  | 972  |
|                            | At Bristol Street   | 646  |                                   | Upstream side Arlington<br>Avenue.  | 1,132  |   | At downstream side of<br>8th Street Culvert.                                       | 1,001  |
|                            | Approximately 170 feet<br>upstream Green<br>Street.   | 678  |                                   | At a Private Driveway<br>690 feet upstream of<br>Arlington Avenue.                  | 1,149  |   | Downstream side of<br>Rice Lake Road.  | 1,016  |
|                            | Approximately 120 feet<br>upstream from Cody<br>Street.                                       | 722  |                                   | At Stop Log Dam   | 1,162  |   | Upstream side of Rice<br>Lake Road.  | 1,076  |
|                            | West Gate Boulevard   | 728  |                                   | Approximately 1,800<br>feet upstream of Stop<br>Log Dam.                            | 1,180  |   | Downstream side of<br>Mesaba Avenue<br>Culvert.                                    | 1,087  |
| 49th Avenue<br>Creek.      | Approximately 440 feet<br>upstream West Gate<br>Boulevard.                                    | 744  | Buckingham<br>Creek.              | Approximately 2,770<br>feet downstream from<br>Orange Street.                       | 1,220  | North Branch of<br>Brewery Creek.       | Upstream side of<br>Skyline Parkway<br>Culvert.                                    | 1,076  |
|                            | At St. Louis River  | 604  |                                   | Approximately 110 feet<br>upstream from Palm<br>Street.                             | 1,267  |   | Approximately 400 feet<br>upstream of Arlington<br>Avenue.                         | 1,280  |
|                            | At So. Line Railroad  | 608  |                                   | At U.S. Highway 53  | 1,286  |   | Downstream side of<br>Basswood Avenue.   | 1,289  |
|                            | Approximately 180 feet<br>downstream from<br>Grand Avenue.                                    | 619  |                                   | At Superior Street  | 773  |   | Upstream side of<br>Basswood Avenue.   | 1,298  |
|                            | Upstream of Grand<br>Avenue.  | 632  |                                   | At downstream side of<br>2nd Street East<br>Culvert.                                | 794  |   | Downstream side of<br>Stanford Avenue.   | 1,309  |
|                            | Burlington Northern<br>Railroad.  | 807  |                                   | At 2nd Street East<br>upstream side.  | 818  |   | Upstream side of<br>Stanford Avenue.   | 1,321  |
|                            | Downstream of Grand<br>Avenue.  | 620  |                                   | Downstream side of 3rd<br>Street East Culvert.                                      | 852  |   | Upstream side of Swan<br>Lake Road.  | 1,323  |
|                            | Upstream of Grand<br>Avenue.  | 630  |                                   | Upstream side of 3rd<br>Street East Culvert.  | 870  |   | Approximately 280 feet<br>upstream from Ideal<br>Street.                           | 1,344  |
|                            | Upstream of 6th Street<br>West.   | 652  |                                   | Downstream side of 4th<br>Street East Culvert.                                      | 915  |   | Approximately 860 feet<br>upstream from Ideal<br>Street.                           | 1,352  |
|                            | At 7th Street   | 658  |                                   | At upstream side of 4th<br>Street East Culvert.                                     | 935  |   | Approximately 120 feet<br>upstream from Farrell<br>Road.                           | 1,380  |
| Merritt Creek              | At 8th Street   | 688  | North Branch of<br>Brewery Creek. | At an Alley 230 feet<br>upstream of 4th Street<br>East.                             | 951  | Tischer Creek                           | Upstream side of<br>Vermillion Road.   | 1,022  |
|                            | Just upstream of<br>Duluth Mesabi and<br>Iron Range Railroad<br>Culvert.                      | 722  |                                   | At downstream side of<br>5th Street East<br>Culvert.                                | 960  |   | At Wallace Avenue  | 1,050  |
|                            | Just upstream of<br>Patterson Street.   | 756  |                                   | Approximately 60 feet<br>upstream from 5th<br>Street East.                          | 988  |   | At Private Drive 640<br>feet upstream of<br>Wallace Avenue.                        | 1,060  |
|                            | Approximately 4,640<br>feet upstream from<br>U.S. Highway 53.                                 | 1,225  |                                   | Approximately 60 feet<br>downstream from<br>Natural Waterfall.                      | 1,040  |   | At Woodland Avenue   | 1,069  |
|                            | Approximately 1,800<br>feet downstream of<br>Anderson Road.                                   | 1,240  |                                   | At upstream side of<br>Natural Waterfall.   | 1,084  |   |  |  |
|                            | At Anderson Road  | 1,281  |                                   |   |  |   |  |  |
|                            | Approximately 200 feet<br>upstream from<br>Chambersburg Avenue.                               | 1,289  |                                   |   |  |   |  |  |
|                            |   |  |                                   |   |  |   |  |  |
|                            |   |  |                                   |   |  |   |  |  |
|                            |   |  |                                   |   |  |   |  |  |

PROPOSED RULES

17753

| Source of flooding               | Location  | Elevation<br>in feet,<br>national<br>geodetic<br>vertical<br>datum | Source of flooding               | Location   | Elevation<br>in feet,<br>national<br>geodetic<br>vertical<br>datum | Source of flooding         | Location  | Elevation<br>in feet,<br>national<br>geodetic<br>vertical<br>datum |
|----------------------------------|---|--|----------------------------------|--|--|----------------------------|---|--|
| Chester Creek                    | At Chester Park Dam<br>No. 2.   | 1,092  | West Branch of<br>Tischer Creek. | Approximately 50 feet<br>upstream from<br>Glenwood Street.     | 1,082  | 58th Avenue East<br>Creek. | Downstream side of<br>Glenwood Street.  | 927  |
|                                  | Downstream side of<br>Kenwood Avenue.   | 1,168  |                                  | Columbus Avenue.   | 1,098  |                            | 90 feet upstream from<br>U.S. Highway 61.   | 622  |
|                                  | Upstream side of<br>Kenwood Avenue.   | 1,182  |                                  | Approximately 120 feet<br>upstream from Lewis<br>Street.       | 1,114  |                            | Downstream side of<br>Duluth, Mesabi and<br>Iron Range Railroad.                    | 640  |
|                                  | Upstream side of St.<br>Scholastica Drive.                                    | 1,187  |                                  | Approximately 50 feet<br>upstream from Ford<br>Avenue.         | 1,143  |                            | Approximately 70 feet<br>upstream from Duluth<br>Mesabi and Iron<br>Range Railroad. | 650  |
|                                  | Approximately 120 feet<br>upstream of Niagara<br>Street.                      | 1,202  |                                  | 50 feet upstream of<br>Fairmont Street.                        | 1,190  |                            | Downstream side of<br>Minnesota Highway<br>23.                                      | 650  |
|                                  | 100 feet upstream from<br>confluence with East<br>Branch of Chester<br>Creek. | 1,224  |                                  | At Hartley Road  | 1,069  |                            | Upstream side of<br>Minnesota Highway<br>23.  | 682  |
|                                  | At Madison Avenue   | 1,233  |                                  | At Norton Street   | 1,073  |                            | Downstream side of<br>Tioga Street Culvert.   | 668  |
|                                  | Downstream side of<br>Rice Lake Road.   | 1,263  |                                  | Approximately 150 feet<br>upstream from St.<br>Marie Street.   | 1,090  |                            | Upstream side of 54th<br>Avenue and Otsego<br>Street Culvert.                       | 688  |
|                                  | Approximately 100 feet<br>upstream from Rice<br>Lake Road.                    | 1,272  |                                  | Upstream side of<br>Arrowhead Road.                            | 1,128  |                            | Approximately 20 feet<br>upstream Glenwood<br>Street.                               | 724  |
|                                  | Downstream side of<br>Arrowhead Road.   | 1,289  | 43rd Avenue East<br>Creek.       | At Lake Superior   | 605  |                            | At the upstream side of<br>52nd Avenue Culvert.                                     | 776  |
| East Branch of<br>Chester Creek. | Approximately 150 feet<br>upstream from<br>London Road.                       | 1,296  |                                  | Approximately 60 feet<br>upstream from<br>London Road.         | 630  | Amity Creek                | At Crosely Avenue   | 824  |
|                                  | Approximately 150 feet<br>upstream from<br>Arrowhead Road.                    | 1,298  |                                  | Approximately 80 feet<br>upstream from 43rd<br>Avenue East.    | 646  |                            | At the upstream side of<br>Oakley Street Culvert.                                   | 858  |
|                                  | At Rice Lake Road   | 1,308  |                                  | Approximately 40 feet<br>upstream from Luvern<br>Street.       | 672  |                            | Approximately 900 feet<br>upstream from Oakley<br>Street.                           | 880  |
|                                  | Upstream side of<br>Abandoned Road.   | 1,311  |                                  | Upstream side of<br>Duluth, Mesabi and<br>Iron Range Railroad. | 677  |                            | Approximately 100 feet<br>upstream from the<br>confluence with East<br>Branch.      | 1,014  |
|                                  | Approximately 1,900<br>feet upstream from<br>Abandoned Road.                  | 1,320  |                                  | At upstream side of<br>Gilliat Street Culvert.                 | 681  |                            | Approximately 2,150<br>feet upstream from<br>the confluence with<br>East Branch.    | 1,040  |
|                                  | Approximately 4,000<br>feet upstream from<br>Abandoned Road.                  | 1,360  |                                  | Approximately 40 feet<br>upstream from<br>Superior Street.     | 694  |                            | Approximately 100 feet<br>upstream from Colby<br>Avenue.                            | 1,112  |
|                                  | Approximately 7,800<br>feet upstream of Rice<br>Lake Road.                    | 1,384  |                                  | At the downstream side<br>of Regent Street<br>Culvert.         | 701  |                            | Approximately 20 feet<br>upstream from Jean<br>Duluth Road.                         | 1,128  |
|                                  | Upstream side of Toledo<br>Street.  | 1,226  |                                  | Approximately 330 feet<br>upstream from 41st<br>Avenue East.   | 729  |                            | Approximately 100 feet<br>upstream from Jean<br>Duluth Road.                        | 1,282  |
|                                  | Approximately 25 feet<br>upstream from Triggs<br>Avenue.                      | 1,232  |                                  | Downstream side of<br>40th Avenue East.                        | 734  |                            | Approximately 100 feet<br>upstream from<br>Woodland Avenue.                         | 1,282  |
|                                  | Approximately 200 feet<br>upstream from<br>McFarland Road.                    | 1,296  | West Branch of<br>Chester Creek. | Approximately 60 feet<br>upstream from<br>Howard Mills Road.   | 1,040  |                            | Approximately 1,500<br>feet upstream from<br>Woodland Avenue.                       | 1,308  |
| West Branch of<br>Chester Creek. | Upstream side of Norton<br>Road.  | 1,329  |                                  | Downstream side of<br>Glenwood Street.                         | 1,066  | St. Louis River            | Approximately 100 feet<br>upstream from Quarry<br>Road.                             | 1,320  |
|                                  | Confluence with<br>Chester Creek.   | 1,234  |                                  | Approximately 35 feet<br>upstream from Jean<br>Duluth Road.    | 1,071  |                            | At Martin Road  | 1,338  |
|                                  | Downstream side of<br>Rice Lake Road.   | 1,240  |                                  | Approximately 750 feet<br>upstream from Jean<br>Duluth Road.   | 1,120  |                            | Approximately 2,800<br>feet upstream from<br>Minnesota Highway<br>39.               | 604  |
|                                  | Upstream side of Rice<br>Lake Road.   | 1,249  |                                  | At Lake Superior   | 605  |                            | Approximately 8,000<br>feet upstream from<br>Minnesota Highway<br>39.               | 605  |
|                                  | Downstream side of<br>Arlington Avenue.                                       | 1,271  | 50th Avenue East<br>Creek.       | Approximately 130 feet<br>upstream from Lake<br>Superior.      | 611  |                            | Approximately 12,000<br>feet upstream from<br>Minnesota Highway<br>39.              | 606  |
|                                  | Upstream side of<br>Arlington Avenue.   | 1,279  |                                  | Downstream side of U.S.<br>61.                                 | 626  |                            | Approximately 16,400<br>feet upstream from<br>Minnesota Highway<br>39.              | 607  |
|                                  | Approximately 400 feet<br>upstream of Arlington<br>Avenue.                    | 1,280  |                                  | Upstream side of U.S. 61                                       | 650  | Clarkhouse Creek.          | Minnesota Highway 23...   | 609  |
|                                  | Downstream side of<br>Basswood Avenue.  | 1,289  |                                  | Approximately 50 feet<br>upstream from Jay<br>Street.          | 734  |                            | At the upstream side of<br>7th Street West<br>Culvert.                              | 944  |
|                                  | Upstream side of<br>Basswood Avenue.  | 1,298  |                                  | Downstream side of<br>45th Avenue East.                        | 783  |                            | At the downstream side<br>of 8th Street West.                                       | 977  |
|                                  | Downstream side of<br>Stanford Avenue.  | 1,309  |                                  | Upstream side of 45th<br>Avenue East.                          | 789  |                            | At the upstream side of<br>8th Street West.   | 998  |
|                                  | Upstream side of<br>Stanford Avenue.  | 1,321  |                                  | Approximately 100 feet<br>upstream of Colorado<br>Street.      | 827  |                            | At downstream side of<br>9th Street West.   | 1,003  |
|                                  | Upstream side of Swan<br>Lake Road.   | 1,323  |                                  | Approximately 410 feet<br>upstream from<br>Colorado Street.    | 839  |                            | At upstream side of 9th<br>Street West.   | 1,034  |
|                                  | Approximately 280 feet<br>upstream from Ideal<br>Street.                      | 1,344  |                                  | Approximately 800 feet<br>upstream from<br>Colorado Street.    | 841  |                            |   |  |
|                                  | Approximately 860 feet<br>upstream from Ideal<br>Street.                      | 1,352  |                                  | 570 feet downstream<br>from Glenwood Street.                   | 855  |                            |   |  |
|                                  | Approximately 120 feet<br>upstream from Farrell<br>Road.                      | 1,380  |                                  |  |  |                            |   |  |
|                                  | Upstream side of<br>Vermillion Road.  | 1,022  |                                  |  |  |                            |   |  |



## PROPOSED RULES

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
|                    | Downstream side of Alley between Skyline and 8th Street West.  | 1,037   |
|                    | At upstream side of Alley between Skyline and 8th Street West. | 1,055   |
|                    | Downstream side of Skyline Parkway.                            | 1,058   |
|                    | Upstream side of Skyline Parkway.                              | 1,078   |
|                    | Approximately 290 feet upstream Skyline Parkway.               | 1,104   |
|                    | Approximately 600 feet upstream from Skyline Parkway.          | 1,130   |
|                    | Approximately 270 feet downstream from 13th Street West.       | 1,180   |
|                    | Downstream side of 13th Street West.                           | 1,194   |
|                    | Upstream side of 13th Street West.                             | 1,205   |
|                    | Approximately 800 feet upstream from 13th Street West.         | 1,225   |
|                    | At Blackman Avenue .....                                       | 1,237   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8654 Filed 3-22-79; 8:45 am)

[4830-01-M]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

## ACTIVE PARTICIPANT FOR INDIVIDUAL RETIREMENT ACCOUNT PURPOSES

## Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations defining the term "active participant" for purposes of determining who can make deductible contributions to an individual retirement account. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regula-

tions would provide the public with the guidance needed to comply with that Act and would affect certain individuals not covered by retirement plans.

DATE: Written comments and requests for a public hearing must be delivered or mailed by May 22, 1979. The amendments are proposed to be effective for taxable years beginning after December 31, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 219 of the Internal Revenue Code of 1954. On February 21, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 219 of the Internal Revenue Code (40 FR 7661). In Technical Information Release 1425, December 15, 1975, the Internal Revenue Service announced that, with certain exceptions not relevant to this document, taxpayers may rely on the proposed regulations pending the issuance of final regulations. Those parts of the proposed regulations defining the term "active participant" are being withdrawn. The regulations in this document are being proposed in order to replace the withdrawn regulations. However, for taxable years which begin on or before December 31, 1978, the Internal Revenue Service will administer the law in accordance with the regulations withdrawn by this notice.

These amendments are proposed to conform the regulations to section 2002 of the Employee Retirement Income Security Act of 1974 (88 Stat. 958) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

## ACTIVE PARTICIPANT

Internal Revenue Code section 219(b)(2) disallows a deduction for an individual for contributions made by or on behalf of such individual to an individual retirement account, individual retirement annuity or for an indi-

vidual retirement bond if for any part of his taxable year such individual was an active participant in certain retirement plans. The proposed regulations define the term active participant for certain types of plans in which individuals may participate. The general rules are set forth below. The regulations contain further special rules and exceptions.

Generally, an individual is an active participant in a defined benefit plan if for any portion of the plan year ending with or within such individual's taxable year, he is not excluded under the eligibility provisions of the plan.

An individual is an active participant in a profit-sharing or stock bonus plan if a forfeiture is allocated to his account as of a date in his taxable year or if a contribution is added to his account in such taxable year.

An individual is an active participant in a money purchase plan if under the terms of the plan employer contributions or forfeitures must be allocated to the individual's account within the plan year ending with or within the individual's taxable year.

These revised rules reflect a balance between the conflicting objectives of equity for individual taxpayers and ease of administration for plan administrators. It is recognized that under the new rules there are circumstances under which an employee will be treated as an active participant although the employee has not actually accrued a benefit for the year, but there will also be cases where an employee is excluded from the class of active participants although he or she may have accrued a benefit. However, this approach is necessary in order to provide a rule which can be reasonably applied by plan administrators. With respect to the comment period described above, it is requested that if a lack of equity is noted, the interested party also indicate the change in the rule which would be required in order to benefit employees, and further indicate why it is believed that such a change would not increase the burden on plan administrators.

## COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

## PROPOSED RULES

## DRAFTING INFORMATION

The principal author of these proposed regulations was William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

## PROPOSED AMENDMENTS TO THE REGULATIONS

1. Paragraph (c) of § 1.219-1 as set forth in paragraph (3) of the notice of proposed rulemaking published in the FEDERAL REGISTER for February 21, 1975 (40 FR 7661) is withdrawn.

2. The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. The following new paragraph is added immediately after § 1.219-1(b):

§ 1.219-1 Deduction for retirement savings.

(c) *Definitions and special rules*—(1) *Compensation*. For purposes of this section, the term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in section 401(c)(2), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income such as income from sources without the United States excluded from gross income under section 911.

(2) *Active participant*. For the definition of active participant, see § 1.219-2.

(3) *Special rules*. (i) The maximum deduction allowable under section 219(b)(1) is computed separately for each individual. Thus, if a husband and wife each has compensation of \$10,000 for the taxable year and they are each otherwise eligible to contribute to an individual retirement account and they file a joint return, then the maximum amount allowable as a deduction under section 219 is \$3,000, the sum of the individual maximums of \$1,500. However, if, for example, the husband has compensation of \$20,000, the wife has no compensation, each is otherwise eligible to contribute to an individual retirement account for the taxable year, and they file a

joint return, the maximum amount allowable as a deduction under section 219 is \$1,500.

(ii) Section 219 is to be applied without regard to any community property laws. Thus, if, for example, a husband and wife, who are otherwise eligible to contribute to an individual retirement account, live in a community property jurisdiction and the husband alone has compensation of \$20,000 for the taxable year, then the maximum amount allowable as a deduction under section 219 is \$1,500.

(4) *Employer contributions*. For purposes of this chapter, any amount paid by an employer to an individual retirement account or for an individual retirement annuity or retirement bond constitutes the payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under section 219 to such employee after the application of section 219(b). Thus, an employer will be entitled to a deduction for compensation paid to an employee for amounts the employer contributes on the employee's behalf to an individual retirement account, for an individual retirement annuity, or for a retirement bond if such deduction is otherwise allowable under section 162.

Par. 2. The following new section is added immediately after § 1.219-1:

## § 1.219-2 Definition of active participant.

(a) *In general*. This section defines the term "active participant" for individuals who participate in retirement plans described in section 219(b)(2). Any individual who is an active participant in such a plan is not allowed a deduction under section 219(a) for contributions to an individual retirement account.

(b) *Defined benefit plans*—(1) *In general*. Except as provided in subparagraphs (2), (3) and (4) of this paragraph, an individual is an active participant in a defined benefit plan if for any portion of the plan year ending with or within such individual's taxable year he is not excluded under the eligibility provisions of the plan. An individual is not an active participant in a particular taxable year merely because the individual meets the plan's eligibility requirements during a plan year beginning in that particular taxable year but ending in a later taxable year of the individual. However, for purposes of this section, an individual is deemed not to satisfy the eligibility provisions for a particular plan year if his compensation is less than the minimum amount of compensation needed under the plan to accrue a benefit. For example, assume a plan is integrated

with Social Security and only those individuals whose compensation exceeds a certain amount accrue benefits under the plan. An individual whose compensation for the plan year ending with or within his taxable year is less than the amount necessary under the plan to accrue a benefit is not an active participant in such plan.

(2) *Rules for plans maintained by more than one employer*. In the case of a defined benefit plan described in section 413(a) and funded at least in part by service-related contributions, e.g., so many cents-per-hour, an individual is an active participant if an employer is contributing or is required to contribute to the plan an amount based on that individual's service taken into account for the plan year ending with or within the individual's taxable year. The general rule in paragraph (b)(1) of this section applies in the case of plans described in section 413(a) and funded only on some non-service-related unit, e.g., so many cents-per-ton of coal.

(3) *Plans in which accruals for all participants have ceased*. In the case of a defined benefit plan in which accruals for all participants have ceased, an individual in such a plan is not an active participant. However, any benefit that may vary with future compensation of an individual provides additional accruals. For example, a plan in which future benefit accruals have ceased, but the actual benefit depends upon final average compensation will not be considered as one in which accruals have ceased.

(4) *No accruals after specified age*. An individual in a defined benefit plan who accrues no additional benefits in a plan year ending with or within such individual's taxable year by reason of attaining a specified age is not an active participant by reason of his participation in that plan.

(c) *Money purchase plan*. An individual is an active participant in a money purchase plan if under the terms of the plan employer contributions or forfeitures must be allocated to the individual's account with respect to the plan year ending with or within the individual's taxable year. This rule applies even if an individual is not employed at any time during the individual's taxable year.

(d) *Profit-sharing and stock-bonus plans*—(1) *In general*. This paragraph applies to profit-sharing and stock bonus plans. An individual is an active participant in such plans in a taxable year if a forfeiture is allocated to his account as of a date in such taxable year. An individual is also an active participant in a taxable year in such plans if an employer contribution is added to the participant's account in such taxable year. A contribution is added to a participant's account as of



the later of the following two dates: the date the contribution is made or the date as of which it is allocated. Thus, if a contribution is made in an individual's taxable year 2 and allocated as of a date in individual's taxable year 1, the later of the relevant dates is the date the contribution is made. Consequently, the individual is an active participant in year 2 but not in year 1 as a result of that contribution.

(2) *Special rule.* An individual is not an active participant for a particular taxable year by reason of a contribution made in such year allocated to a previous year if such individual was an active participant in such previous year by reason of a prior contribution that was allocated as of a date in such previous year.

(e) *Employee contributions.* If an employee makes a voluntary or mandatory contribution to a plan described in paragraphs (b), (c), or (d) of this section, such employee is an active participant in the plan for the taxable year in which such contribution is made.

(f) *Certain individuals not active participants.* For purposes of this section, an individual is not an active participant under a plan for any taxable year of such individual in which such individual elects, pursuant to the plan, not to participate in such plan.

(g) *Retirement savings for married individuals.* The provisions of this section apply in determining whether an individual or his spouse is an active participant in a plan for purposes of section 220 (relating to retirement savings for certain married individuals).

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

*Example (1).* The X Corporation maintains a defined benefit plan which has the following rules on participation and accrual of benefits. Each employee who has attained the age of 25 or has completed one year of service is a participant in the plan. The plan further provides that each participant shall receive upon retirement \$12 per month for each year of service in which the employee completes 1,000 hours of service. The plan year is the calendar year. B, a calendar-year taxpayer, enters the plan on January 2, 1980, when he is 27 years of age. Since B has attained the age of 25, he is a participant in the plan. However, B completes less than 1,000 hours of service in 1980 and 1981. Although B is not accruing any benefits under the plan in 1980 and 1981, he is an active participant under section 219(b)(2) because he is a participant in the plan. Thus, B cannot make deductible contributions to an individual retirement arrangement for his taxable years of 1980 and 1981.

*Example (2).* The Y Corporation maintains a profit-sharing plan for its employees. The plan year of the plan is the calendar year. C is a calendar-year taxpayer and a participant in the plan. On June 30, 1980, the employer makes a contribution for 1980

which is allocated on July 31, 1980. In 1981 the employer makes a second contribution for 1980, allocated as of December 31, 1980. Under the general rule stated in §1.219-2(d)(1), C is an active participant in 1980. Under the special rule stated in §1.219-2(d)(2), however, C is not an active participant in 1981 by reason of that contribution made in 1981.

(i) *Effective date.* The provisions set forth in this section are effective for taxable years beginning after December 31, 1978.

WILLIAM E. WILLIAMS,  
Acting Commissioner  
of Internal Revenue.

[FR Doc. 79-8870 Filed 3-20-79; 12:38 pm]

[4830-01-M]

[26 CFR Part 1]

[LR-233-78]

#### INDUSTRIAL DEVELOPMENT BONDS; DEFINITION OF AN AIRPORT

##### Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice on a public hearing on proposed regulations relating to the financing of airports and related facilities with industrial development bonds. In the notice of proposed rulemaking published in the FEDERAL REGISTER for January 5, 1979 (44 FR 1412), there was information concerning the filing of written comments and requests for a public hearing. Since a request for a public hearing was received, one is hereby scheduled.

DATES: The public hearing will be held on May 1, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 17, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC-LR:T (LR-233-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 103 of the Internal Revenue Code of 1954. The regulations are intended to clarify the treatment of bonds issued to finance certain facilities related to an airport. The proposed regulations appeared in the FEDERAL REGISTER for Friday, January 5, 1979, at page 1412 (44 FR 1412).

The rules of §601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 17, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

ROBERT A. BLEY,  
Director, Legislation and  
Regulations Division.

[FR Doc. 79-8806 Filed 3-22-79; 8:45 am]

[4410-01-M]

#### DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

#### IMPROVING GOVERNMENT REGULATIONS

Semi-Annual Agenda of Regulations

AGENCY: United States Parole Commission.

ACTION: Publication of semi-annual agenda of regulations under development or review.

SUMMARY: The United States Parole Commission is providing public notice of significant regulations presently

under development or review, pursuant to Executive Order No. 12044.

#### FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, N.W., Washington, D.C. 20537; (202) 724-1991.

**SUPPLEMENTARY INFORMATION:** The United States Parole Commission anticipates having the following policy matters under consideration for rulemaking during the period from February 1 through August 1, 1979. Supplements to this agenda may be published when necessary.

#### AGENDA

##### A. PROPOSED GUIDELINE REVISIONS

ANTICIPATED ACTION: On October 11, 1978, the Commission published a proposal to make certain detailed revisions in the offense severity categories of its Paroling Policy Guidelines at 28 CFR §2.20. See 43 FR 46859. These proposals covered the following major subjects:

- (1) Income tax law violations and motor vehicle thefts;
- (2) Counterfeiting offenses;
- (3) Breaking and entering (and burglary);
- (4) Gambling law violations;
- (5) Violent crimes (arson, murder, kidnapping);
- (6) Extortions and threatening communications;
- (7) Bribery of a public official;
- (8) Drug law violations (marijuana, hashish, soft drugs, cocaine, and opiates);
- (9) Alcohol law violations;
- (10) Possession and transportation of explosives;
- (11) Obstruction of justice;
- (12) Selective Service violators.

The Commission has completed a series of public hearings and has received extensive comment from both prisoners and interested members of the public. The Commission will be considering this comment during the coming months and anticipates the publication of a final rule containing all of its approved revisions during the month of June 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Rockne Chickinell, Office of the General Counsel (202) 724-1991.

##### 2. PROPOSED YOUTH OFFENDER POLICY

ANTICIPATED ACTION: On December 4, 1978, the Commission published a proposal to apply its Youth Guidelines to all prisoners who were under the age of 22 at the time of conviction, instead of restricting application of the Youth

Guidelines to prisoners sentenced under the Youth Corrections Act. See 43 FR 56681. The major issue involved in this proposal is whether the Congressional mandate that the Commission's guidelines serve the purpose of evening out sentencing disparities makes it necessary for the Commission to avoid making critical distinctions purely on the basis of the type of sentence selected by the Court. It also reflects a concern on the part of some judges that the mandatory six-year term required under the Federal Youth Corrections Act can be unfair, and that youthful persons given shorter adult sentences should not necessarily be treated as adults by the Parole Commission. The Commission anticipates publication of a final rule in June of 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1), 4206, 5010 and 5017.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel (202) 724-1991.

##### 3. RESCISSION GUIDELINES AND PROCEDURES

ANTICIPATED ACTION: On January 16, 1979, the Commission published for public comment a proposed rule setting forth guidelines for the length of time a prisoner should serve if a previously announced parole date is rescinded for disciplinary violations prior to actual release. See 44 FR 3404. The rule also specified procedures to be followed in rescinding parole grants. The rule will be implemented as an interim rule beginning March 5, 1979. Promulgation of a final rule is anticipated during May 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel phone (202) 724-1991.

##### 4. RECOMMENDATIONS REGARDING PAROLE

ANTICIPATED ACTION: On September 20, 1978, the Parole Commission published for public comment a proposed rule clarifying its position with regard to recommendations for and against the release on parole of particular prisoners, including recommendations pursuant to plea agreements. See 43 FR 42282. Publication of a final rule is anticipated during May 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel, phone (202) 724-1991.

##### 5. STANDARD OF PROOF IN PAROLE-RELATED FACTUAL DETERMINATIONS

ANTICIPATED ACTION: On March 8, 1979, the Commission published a pro-

posed rule that would adopt a "preponderance of the evidence" test to govern the resolution of disputed factual issues as parole determinations proceedings. See 44 FR 12692.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel, phone (202) 724-1991.

Comments on this agenda should be submitted in writing to the Office of the General Counsel, United States Parole Commission, 320 First Street, N.W., Washington, D.C. 20537.

#### REGULATORY ANALYSIS

The Commission has determined that none of the above proposed rule-making actions would involve major economic consequences as defined by Section 3 of Executive Order 12044, and therefore will not require regulatory analysis.

#### STATUS OF REGULATIONS CHOSEN FOR INITIAL REVIEW

The regulations chosen for initial review pursuant to Executive Order 12044 were the Commission's rules for processing applications from convicted felons for exemptions from statutory employment prohibitions contained in the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) and the Employment Retirement Income Security Act of 1974 (ERISA). The new consolidated regulations may be found at 44 FEDERAL REGISTER Part IV (February 2, 1979).

Dated: March 15, 1979.

CECIL C. McCALL,  
Chairman,

United States Parole Commission.  
[FR Doc. 79-8901 Filed 3-22-79; 8:45 am]

[4510-26-M]

#### DEPARTMENT OF LABOR

Occupational Safety and Health Administration  
[29 CFR Part 1910]

[Docket S-004]

#### OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Means of Egress; Hazardous Materials and Fire Protection; Extension of Time for Written Comments

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of Time for Written Comment.

SUMMARY: This notice extends the time for written comments concerning the rulemaking proceeding on the proposed changes to three subparts in the



present OSHA safety standards found in 29 CFR Part 1910. The specific subparts to be amended or revised are Subpart E—Means of Egress, Subpart H—Hazardous Materials, and Subpart L—Fire Protection. The changes were proposed on December 22, 1978 (43 FR 60048). The notice had requested the submission of written comments not later than March 16, 1979. Subsequently, several interested parties requested extensions of time to submit their comments. The basis for the requests is their delayed receipt of the proposal, the broad scope of its content, and the major importance of this proposal relating to workplace safety.

OSHA finds validity in these requests and has decided to grant an extension of time to submit written comments.

**DATES:** Written comments must be received by April 16, 1979.

**ADDRESS:** Comments should be sent to: Docket Officer, Docket S-004, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210.

#### FOR FURTHER INFORMATION:

Mr. Michael B. Moore, Occupational Safety and Health Administration, Room N-3463, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-7226.

**SUBMISSION OF WRITTEN COMMENTS:** Written comments from interested parties must be received by April 16, 1979. Comments must be submitted to the Docket Officer, Docket S-004, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-7894.

Signed at Washington, D.C., this 19th day of March 1979.

EULA BINGHAM,  
Assistant Secretary  
of Labor.

[FR Doc. 79-8988 Filed 3-22-79; 8:45 am]

#### [1505-01-M]

##### DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

##### FIRE ISLAND NATIONAL SEASHORE

Operation of Motor Vehicles

##### Correction

In FR Doc. 79-8086, appearing at page 16021 in the issue of Friday, March 16, 1979, the third word in the seventh line of § 7.20(a)(10)(ii) should read, "or".

#### [7710-12-M]

[39 CFR Part 111]

##### OFFICIAL MAIL

##### Restrictions on Use of Penalty Indicia

**AGENCY:** Postal Service.

**ACTION:** Proposed Rule.

**SUMMARY:** This proposed regulation would prohibit the use of official mail (penalty) indicia on items carried outside the U.S. Mail. The official mail indicium includes, among other things, the information that "Postage and Fees (have been) Paid" and that there is a "Penalty for Private Use, \$300". The use of official mail covers or labels for transporting matter outside the mails may mislead the public and may inhibit the ability of the Postal Service to insure that postage is paid if the item is subsequently deposited in the mails.

**DATE:** Comments must be received on or before April 23, 1979.

**ADDRESS:** Written comments should be directed to the Manager, Government Revenue and Examination Branch, Finance Department, U.S. Postal Service, Washington, D.C. 20260. Copies of written comments received will be available for public inspection and photocopying between 9 A.M. and 4 P.M., Monday through Friday, in Room 8402, 475 L'Enfant Plaza West, SW, Washington, D.C. 20260.

#### FOR FURTHER INFORMATION CONTACT:

James S. Standford, Manager, Government Revenue and Examination Branch, (202) 245-5001.

**SUPPLEMENTARY INFORMATION:** The Postal Service is aware that some Federal government agencies have been using official mail envelopes and labels bearing the indicia and statements prescribed by section 137.24 of the Postal Service Manual when they send matter outside the mail by private carriers. The use of such penalty indicia misrepresents that postage has been paid and may misrepresent that a statutory \$300 penalty applies if someone should reuse the wrapper for a similar purpose outside the mails. In addition, the public may be led to believe that privately carried matter is official mail delivered by the U.S. Postal Service.

In the event such privately carried matter is misdelivered, or needs to be forwarded, recipients might be inclined to drop it into the mailstream on the assumption that it is official mail. At that point, the Postal Service would likely be called upon to carry the piece to its destination for free, since the indicia indicate postage has already been paid. Moreover, if any such material is left at a recipient's doorstep in a damaged condition, or if

there is any other mistake in delivery, the damage or mistake might well be attributed to the Postal Service.

In order to counteract these ill effects, the Postal Service proposes to revise 137.247 of the Postal Service Manual to prohibit the use of official mail indicia on any matter carried outside the mails.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

##### PART 137—OFFICIAL MAIL

In 137.24 amend .247 to read as follows:

.24 Indicium

• • • • •

.247 The markings required in 137.242 through .246

(a) may be used only to transmit official mail, and

(b) shall not be used on items carried outside the U.S. Mail.

An appropriate amendment of 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401(2), (10); 404(a)(2), (4).)

W. ALLEN SANDERS,  
Acting Deputy General Counsel.  
[FR Doc. 79-8920 Filed 3-22-79; 8:45 am]

#### [6560-01-M]

##### ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1081-4]

##### STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Blanchester Foundry Company

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Proposed Rule.

**SUMMARY:** U.S. Environmental Protection Agency proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Blanchester Foundry Company. The Order requires the Company to bring air emissions from its grey iron cupola in Blanchester, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has

been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. Environmental Protection Agency before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. Environmental Protection Agency, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. Environmental Protection Agency's proposed approval of the Order as a Delayed Compliance Order.

**DATE:** Written comments must be received on or before April 23, 1979.

**ADDRESS:** Comments should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

#### FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 353-2082.

**SUPPLEMENTARY INFORMATION:** Blanchester Foundry Company operates a foundry at Blanchester, Ohio. The Order under consideration addresses emissions from the grey iron cupola at the facility, which is subject to OAC 3745-17-07 and OAC 3745-17-11. The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979, through the installation of a high efficiency wet scrubber.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations, it must be approved by U.S. Environmental Protection Agency before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. Environmental Protection Agency may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. Environmental Protection Agency, source

compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against source for violations of the regulations covered by the order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. Environmental Protection Agency may approve the Order. After the public comment period, the Administrator of U.S. Environmental Protection Agency will publish in the *FEDERAL REGISTER* the Agency's final action on the Order in 40 CFR Part 65.

**AUTHORITY:** 42 U.S.C. 7413, 7601.

Dated: March 14, 1979.

JOHN MCGUIRE,  
Regional Administrator.  
Before the Ohio Environmental Protection Agency. In the matter of: Blanchester Foundry Co.

##### ORDER

The Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

##### FINDINGS OF FACT

1. Blanchester Foundry Company (hereinafter "Blanchester Fdy"), located at Cherry Street, Blanchester, Ohio 45107, owns and operates a grey iron cupola.
2. In the course of operation of the cupola, air contaminants are emitted in violation of OAC Rule 3745-17-11 and OAC Rule 3745-17-07.
3. Blanchester Fdy is unable to immediately comply with OAC Rule 3745-17-11 and OAC Rule 3745-17-07.
4. Potential emissions of air pollutants from Blanchester Fdy are greater than 100 tons per year; therefore, this constitutes a major stationary source as defined in Section 302 (j) of the Clean Air Act, as amended.
5. Due to the size of the cupola, the type of control equipment which will be installed (i.e. a high efficiency scrubber), and the fact that the cupola is currently in violation of OAC Rule 3745-17-07, it is technically and economically unreasonable to require Blanchester Fdy to install continuous opacity monitoring equipment prior to the final compliance date specified in the Orders below.
6. Implementation by Blanchester Fdy of interim control measures contained in the

Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. The compliance schedule set forth in the Orders below requires compliance with the applicable emission regulations as expeditiously as practicable.

8. The Director's determination to issue the Orders set forth below is based on his consideration of reliable, probative, and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

##### ORDERS

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Blanchester Fdy shall bring the cupola into final compliance with OAC Rule 3745-17-11 and OAC Rule 3745-17-07 by installing a high efficiency wet scrubber on the cupola not later than July 1, 1979.

2. Compliance with Order (1) above, shall be achieved in accordance with the following schedule:

Submit final control plans: completed.  
Award contracts: November 30, 1978.  
Initiation of on-site construction and installation of control equipment: December 1, 1978.  
Complete construction: June 8, 1979.  
Testing of equipment: June 15, 1979.  
Achieve final compliance with OAC Rules 3745-17-07 and 3745-17-11: July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Blanchester Fdy shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emission reduction, and which are necessary to ensure compliance with OAC Rules 3745-17-07 and 3745-17-11 insofar as Blanchester Fdy is able to comply with those regulations during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

- a. Immediate initiation of an operation and maintenance procedure which will minimize particular matter emissions from the cupola on a day to day basis.
- b. Continued operation of existing control equipment on the cupola.
4. Blanchester Fdy shall submit a progress report to the Southwest District Office of Ohio EPA within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above. The person submitting these reports shall certify whether each increment of progress has been achieved. If it has not been achieved, the report shall contain a detailed explanation of the reasons for the failure to achieve that increment of progress. Submission of such explanation does not excuse the failure to achieve the increment of progress.



[4110-83-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of the Secretary

[42 CFR Part 121]

NATIONAL GUIDELINES FOR HEALTH  
PLANNINGComputed Tomographic Scanners; Request for  
CommentAGENCY: Department of Health,  
Education, and Welfare.ACTION: Notice of Request for Com-  
ment.

SUMMARY: This request for comment invites all interested parties to submit written comments and recommendations concerning the existing National Guidelines for Health Planning which relate to computed tomographic scanners. After consideration of the material received in response to this request, the Secretary of Health, Education, and Welfare will review whether changes should be made in the existing final Guideline which relates to computed tomographic scanners.

DATE: May 7, 1979.

ADDRESS: Written comments and recommendations should be submitted, preferably in duplicate, to: Office of Planning, Evaluation, and Legislation, Health Resources Administration, Room 10-22, 3700 East-West Highway, Hyattsville, MD 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location during business hours.

FOR FURTHER INFORMATION  
CONTACT:

James W. Stockdill, Associate Administrator for Planning, Evaluation, and Legislation, Health Resources Administration, Center Building, Room 10-22, 3700 East-West Highway, Hyattsville, MD 20782, 301/436-7270.

SUPPLEMENTARY INFORMATION: On March 28, 1978, the Secretary of Health, Education, and Welfare published as final regulations the first issuance of National Guidelines for Health Planning (42 CFR Part 121; 43 FR 13040). Those regulations, which consist of Subpart A—General Provisions and Subpart C—Standards Respecting the Appropriate Supply, Distribution, and Organization of Health Resources included a provision (§121.210) setting forth a specific standard respecting computed tomographic (CT) scanners. Paragraph (a) of §121.210 reads as follows:

Standard. (1) A Computed Tomographic Scanner (head and body) should operate at a minimum of 2,500 medically necessary pa-

tient procedures per year, for the second year of its operation and thereafter.

(2) There should be no additional scanners approved unless each existing scanner in the health service area is performing at a rate greater than 2,500 medically necessary patient procedures per year.

(3) There should be no additional scanners approved unless the operators of the proposed equipment will set in place data collection and utilization review systems.

Latitude was given to the HSAs both within the standard itself (see the Discussion portion of §121.210) and in §121.6 (Adjustments of standards for particular Health Systems Plans) to adjust the standard where special local circumstances warrant, after careful analysis and consideration of extraordinary conditions.

The preamble to the final regulations, in discussing the CT Scanner Standard (see 43 FR 13043-4), recognized that CT scanning is a rapidly changing field and stated that:

developments in this field will be carefully and continually monitored and changes proposed and made periodically as indicated.

The Department also indicated the desirability of directing efforts towards increasing knowledge necessary for the development of population-based techniques for measuring the need for CT scanners.

Since publication of the standards on March 28, 1978, additional information on various aspects of CT scanning and the factors determining the population's need for CT scanning services and the efficient utilization of CT units has become available through experience with the application of the standard by health planning agencies, and the completion of studies in progress. Further information has also become available in response to the Department's request for submission of additional information related to CT scanning on a continuing basis. The Department is seeking to develop more sophisticated techniques than are now available for measuring the need for CT scanners and the efficiency with which existing ones are being used in varying situations.

Comments have been received expressing concern that in the absence of a population-based target for the number of units within an area, that the existing Guideline may create an incentive for excess utilization of CT scanners to reach the target levels. Thus, the Department is soliciting information on the development of population-based standards which would assist in determining the need for and appropriate distribution of CT units to complement the existing utilization standards which are designed to promote the efficient use of CT scanners.

The Department invites comments on the complementary use of population-based and utilization-based stand-

ards in planning for CT scanners, and suggestions for specific population-based standards. The Department is also interested in receiving recommendations on the existing standards for the full and efficient utilization of CT scanners.

In issuing the standard, the Department recognized that a variety of factors were involved in determining full and efficient utilization of CT scanners. These included that relative proportion of head and body scans; the need for scans involving contrast media for some patients; variations in patient mix; time required for maintenance, both scheduled and unscheduled; hours of operation; and other factors.

Since the average time for body scans is longer than for head scans, it is clear that a significant increase in the number of body scans or in the relative proportion of body scans to head scans would require reexamination of the CT Scanner Standard. There is some indication that the number of body scans has been increasing, both in absolute terms and relative to the number of head scans, although improved information in this area is needed.

Another major factor affecting the establishment of a target for minimum utilization of CT scanners is the definition of a "patient procedure." The current final Guideline defines this in the Discussion section as follows: "One patient procedure includes, during a single visit, the initial scan plus any additional scans of the same anatomic area of diagnostic interest." Some have suggested that this definition should take into account the difference between unenhanced scans, and unenhanced scans with follow-up enhanced scans. Some respondents suggest that these should be counted as two separate procedures. Others have suggested that these should continue to be counted as one procedure.

A number of specific suggestions for change have been received concerning the minimum of 2,500 patient procedures per year and the standard calling for approval of no additional scanners unless each existing scanner in the health service area is performing at a rate greater than 2,500 patient procedures year. These recommendations include lowering the target to 2,000 patient procedures per year.

In issuing the standard it was recognized that the target of 2,500 procedures can be significantly exceeded, particularly for those units with faster average slice times and units performing a greater proportion of head to body scans. Recent studies of actual operating experience of hospitals have confirmed the potential for exceeding the standard.

For example, studies recently carried out by the Health Care Technology Center of the University of Missouri-Columbia, observed a scanner with an average slice time of 75 seconds with average room times of 26.0 minutes for head scans and 40.9 minutes for body scans. According to their calculations, this scanner, operating on a 55-hour week, with a 75 percent scheduling efficiency (room time divided by total operating time), performing 60 percent head scans and 40 percent body scans, would be able to perform 4,027 patient procedures per year. In the report, a scanner with an average slice time of 20 seconds performed an average of 65 procedures per week, a calculated rate of 3,380 procedures per year. On the other hand, concern was expressed that for those units with slower average slice times and units performing a greater proportion of body to head scans, that the target of 2,500 patient procedures may not be achieved.

Comments have been received suggesting that the Department establish separate standards for utilization of machines performing only head scans and those performing only body scans. It has been further recommended that for units performing both body and head scans, the number of procedures would be set proportional to the number of body and head scans performed. Comments have also been received suggesting lowering the target levels established by 10 percent for those machines whose average slice time is two minutes or more.

Thus, comments are sought concerning the use of population-based standards for measuring the need for CT scanners, and recommendations for specific population-based standards as well as recommendations concerning the existing Guidelines for utilization of CT scanners. The Department is also interested in additional data or other evidence concerning the costs and benefits of CT scanning as the number of scanners in a service area increases. In addition, the Department seeks data on evidence comparing the costs and benefits of CT scanning with other diagnostic procedures.

The Department recognizes that there are differing views on these issues and welcome additional comments on these suggestions. In addition, further comments and recommendations are also invited concerning other approaches to planning for CT scanners, other factors which affect utilization of CT scanners, and the cost-benefit of CT scanning in comparison to other diagnostic procedures.

Dated: February 23, 1979.

CHARLES MILLER,  
Acting Assistant Secretary  
for Health.

Approved: March 3, 1979.

HALE CHAMPION,  
Acting Secretary.

[FR Doc. 79-8883 Filed 3-22-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS  
COMMISSION

[47 CFR Part 94]

[SS Docket No. 79-18; RM-2824; RM-1635;  
RM-1849; RM-2045]PUBLIC UTILITY DISTRIBUTION AUTOMATION  
SYSTEMSProviding Regulations for Use of Radio,  
CorrectionAGENCY: Federal Communications  
Commission.

ACTION: Correction of proposed rule.

SUMMARY: The Commission is correcting FR Doc. 79-6625 concerning use of radio in Public Utility Distribution Automation Systems. The proposed rule appeared at page 12221 in the issue for Tuesday, March 6, 1979.

DATES: Comments must be received on or before April 30, 1979, and replies by May 30, 1979.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, Room 5120.

FOR FURTHER INFORMATION  
CONTACT:

Eugene Thomson, Private Radio  
Bureau, (202) 632-6497.

Released: March 14, 1979.

In the matter of amendment of Part 94 of the rules to provide regulations for use of radio in public utility distribution automation systems, SS DOCKET NO. 79-18, RM-2824 RM-1635, RM-1849, RM-2045, Correction (See also 44 FR 12221, March 6, 1979).

In the Notice of Proposed Rule Making, FCC 79-93, adopted February 14, 1979, and released March 1, 1979, the appendix is corrected as follows:

In §94.71, the entry for the 952-960 MHz band in paragraph (b) is amended.

§94.71 Emission and bandwidth limitations.

(a) . . .

(b) The maximum bandwidth which will be authorized per frequency assigned, is as follows:



| Frequency band<br>MHz | Maximum authorized<br>bandwidth     |
|-----------------------|-------------------------------------|
| 952-960 MHz           | 25, 50, 100 or 200 kHz <sup>1</sup> |

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 79-8811 Filed 3-22-79; 8:45 am]

#### [4310-55-M]

##### DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service  
[50 CFR Part 17]

##### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Rulemaking to Provide for the Estab-  
lishment of Manatee Protection Areas; Ex-  
tension of Comment Period

AGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Notice of Extension of Com-  
ment Period for Proposed Rulemak-  
ing.

SUMMARY: On January 23, 1979, the  
Fish and Wildlife Service published a  
"Proposed Rulemaking to Provide for  
the Establishment of Manatee Protec-  
tion Areas" (44 FR. 4745). The propos-  
al provided for a comment period of 30  
days, ending February 22, 1979. Sever-  
al persons and organizations have in-

formed the Service that they wanted  
to submit comments but were unable  
to do so by the closing date. In order  
to allow receipt of these comments,  
and to provide the Service with a full  
complement of comments on which to  
base its decision, the Service is extend-  
ing the comment period to April 24,  
1979.

DATES: Public comment: To be con-  
sidered, comments must be received by  
April 24, 1979.

ADDRESSES: Comments should be  
submitted to the Director (FWS/LE),  
U.S. Fish and Wildlife Service, P.O.  
Box 19183, Washington, D.C. 20036.  
Comments should include the file  
number, REG 17-02-76. Comments  
and materials received will be availa-  
ble for public inspection during  
normal business hours at the Service's  
Division of Law Enforcement, Suite  
600, 1612 K Street, N.W., Washington,  
D.C.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special  
Agent in Charge, Regulations and  
Penalties, Division of Law Enforce-  
ment, Fish and Wildlife Service,  
Suite 600, 1612 K Street, N.W.,  
Washington, D.C., 202-343-9237.

Dated: March 19, 1979.

LYNN A. GREENWALT,  
Director.

[FR Doc. 79-9082 Filed 3-22-79; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

#### [3410-30-M]

##### DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

##### FOOD STAMP PROGRAM STAFFING REQUIREMENTS PROJECT

Participation of State Welfare Agencies

The Food and Nutrition Service (FNS), United States Department of Agriculture (USDA), has recently issued RFP 3-FNS-79 soliciting bids for a major contract to design, develop and test a method for quantifying staffing requirements at the State level. This effort is pursuant to Pub. L. 95-113, Section 16(b)(1) of the Food Stamp Act of 1977, which states that the Secretary of Agriculture must "... establish standards for the efficient and effective administration of the Food Stamp Program by the States, including, but not limited to, staffing standards ..."

The project is structured into three phases, each requiring state involve-  
ment. April 1979 is the anticipated  
project start-up month. This Notice  
solicits an indication of interest from  
State Welfare agencies wishing to  
work with FNS and the contractor in  
this effort.

Phase I, scheduled for six months,  
will involve data gathering in up to ten  
States to identify the administrative,  
operational, and other features which  
vary among States and result in differ-  
ent staffing requirements.

Phase II, scheduled for six months,  
will take the design produced in Phase  
I and test it in seven pilot sites, one  
per State in each of the FNS/USDA  
administrative regions. In Phase III,  
scheduled for 12 months, the refined  
project from Phase II will be imple-  
mented with contractor assistance in  
seven States, again one for each of the  
FNS/USDA administrative regions.

Responsibilities of participating  
State Welfare agencies will include:

1. Providing the contractor with any  
required information regarding State/  
county agency organization, proce-  
dures, personnel standards, payroll  
records and similar materials and in-  
formation required.

2. Requiring all necessary personnel  
in the selected project areas, to pro-  
vide data in accordance with guidance  
provided by the contractor.

3. Transmitting the data and any or  
all of the needed additional informa-  
tion to the contractor.

4. Ensuring that maximum coopera-  
tion and coordination is obtained from  
and between the various project areas  
involved in the project to ensure the  
completion of assigned tasks.

5. Designating a project  
coordinator(s) and making arrange-  
ments necessary for training the local  
office staffs in obtaining data or moni-  
toring resulting systems.

6. Obtaining any required State  
clearances needed in the data collec-  
tion or other related activities.

State Welfare officials interested in  
cooperating in one or more phases of  
this project should contact:

Marilyn Carpenter, Family Nutrition Pro-  
grams, Food and Nutrition Programs, U.S.  
Department of Agriculture, Washington,  
D.C. 20250 (202) 447-8332.

(91 Stat. 958, as amended (7 U.S.C., 2011-  
2027).)

NOTE.—The Food and Nutrition Service  
has determined that this document does not  
contain a major proposal requiring prepara-  
tion of an Economic Impact Statement  
under Executive Order 11821 and OMB Cir-  
cular A-107.

(Catalog of Federal Domestic Assistance  
Programs No. 10.551, Food Stamps.)

Dated: March 19, 1979.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

[FR Doc. 79-8869 Filed 3-22-79; 8:45 am]

#### [3410-02-M]

Office of Transportation

##### RURAL TRANSPORTATION ADVISORY TASK FORCE

Meeting

AGENCY: Office of Transportation,  
U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of  
the Rural Transportation Advisory  
Task Force.

DATES: April 3, 1979, 7:00 p.m., April  
4, 1979, 8:30 a.m., April 5, 1979, 8:30  
a.m.

ADDRESS: U.S. Department of Trans-  
portation, 400 7th Street, S.W., Room  
4234, Washington, D.C. 20590.

SUMMARY: The task force will study  
methods for enhancing the economical  
and efficient movement of agricultural

commodities (including forest prod-  
ucts) and agricultural inputs and rec-  
ommend approaches for establishing a  
national agricultural transportation  
policy and for identifying impediments  
to a railroad transportation system  
adequate for the needs of agriculture.  
At its first meeting the task force de-  
termined that in order to carry out its  
charge, it must adopt a rigorous meet-  
ing schedule and that the next meet-  
ing must be held on short notice, April  
3, 4, and 5, 1979. The purpose of the  
next meeting is to define further the  
scope of work the task force will un-  
dertake, to consider the nature of an  
interim report, and finalize a schedule  
of public hearings. The evening ses-  
sion on April 3 will be primarily devo-  
ted to meetings of the three subcom-  
mittees on policy and essential trans-  
portation needs of agriculture; rail-  
road problems of agriculture; and  
highway, waterway, and air transpor-  
tation problems of agriculture.

##### FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Tosterud, U.S. Department  
of Agriculture, Office of Transporta-  
tion, Washington, D.C. 20250,  
Phone: (202) 447-7690.

Dated: March 19, 1979.

JAMES H. LAUTH,  
Acting Director,  
Office of Transportation.

[FR Doc. 8974 Filed 3-22-79; 8:45 am]

#### [6320-01-M]

##### CIVIL AERONAUTICS BOARD

DALLAS/FORT WORTH-LOS ANGELES

Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-96,  
Dallas/Fort Worth-Los Angeles Show-  
Cause Proceeding.

SUMMARY: The Board is proposing  
to grant Dallas/Ft. Worth-Los Angeles  
nonstop authority to Braniff Airways,  
Northwest Airlines, Ozark Air Lines,  
and Western Air Lines, and any other  
fit, willing and able applicant whose  
fitness can be established by officially  
noticeable data, and to remove restric-  
tions on Texas International Airlines  
and Continental Air Lines in the  
Above market. The complete text of  
this order is available as noted below.



**DATES:** Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 20, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

**Additional Data:** All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 5, 1979.

**ADDRESSES:** Objections or Additional Data should be filed in Docket 35061, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:**

Mark Atwood, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C. 20428, (202) 673-5334.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 79-3-96 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-96 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 15, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8957 Filed 3-22-79; 8:45 am]

#### [6320-01-M]

[DOCKET 34965]

#### DIRECT SALE OF CHARTER AIR TRANSPORTATION

Oral Argument

This notice advises interested persons that the Board will hold oral argument on April 2, 1979 from 1:30 to 4:30 p.m. in Room 1027, Universal Building North, 1825 Connecticut Avenue, N.W., Washington, D.C. The issues involve the Board's anticipated report to Congress, required by section 108 of the Federal Aviation Act, about direct sale of charter air transportation and control of charter operators by direct air carriers. The Board is scheduling this oral argument at the request of the National Air Carrier Association.

On March 8, 1979, the Board issued a request for public comments about a matter upon which it must report to Congress by May 1, 1979. The report

will make recommendations on the question whether air carriers should be permitted to sell charter tours directly to the public or to acquire control of persons authorized to sell tours (44 FR 14609, March 13, 1979). The request discusses the implications, both pro and con, of allowing such changes and invites public comment to assist it in making a recommendations to Congress. Comments are due April 9, 1979.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before March 27, 1979, together with the name of the person who will represent it at the argument. Requests received after Tuesday, March 27, 1979 will be considered only to the extent feasible. The letter should state briefly the issues to be discussed and the positions to be taken. Depending on the responses, our staff may establish separate panels of speakers.

Since the time we devote to oral argument is necessarily limited, we cannot guarantee that all persons wishing to speak will be able to do so. We therefore, encourage joint presentations by persons with the same position.

Dated at Washington, D.C., March 19, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8959 Filed 3-22-79; 8:45 am]

#### [6320-01-M]

#### ST. LOUIS-FLORIDA

Show-Cause

AGENCY: Civil Aeronautics Board.

**ACTION:** Notice of Order 79-3-83, St. Louis-Florida Show-Cause Proceeding.

**SUMMARY:** The Board is proposing to grant nonstop route authority: (a) between St. Louis on the one hand and Orlando, Ft. Lauderdale and Miami on the other to Trans World Airlines, American Airlines, Northwest Airlines, Southern Airways, Western Air Lines, and any other fit, willing and able applicant whose fitness can be established by officially noticeable data; and (b) between St. Louis on the one hand and Tampa and Orlando on the other to Ozark Air Lines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. Under the proposed award, nonstop flights between the Florida points will be allowed, provided they also serve St. Louis. The complete text of this order is available as noted below.

**DATES:** Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 19, 1979, a

statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

**Additional Data:** All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 4, 1979.

**ADDRESSES:** Objections or Additional Data should be filed in Docket 35060, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:**

M. Mikolajczyk or Tadas Osmolskis, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C., 20428, (202) 673-5918 or 673-5349.

**SUPPLEMENTARY INFORMATION:** Objections should be served upon the following persons: Trans World Airlines, American Airlines, Northwest Airlines, Southern Airways, Western Air Lines, Ozark Air Lines and Eastern Air Lines.

The complete text of Order 79-3-83 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-83 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 15, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-8958 Filed 3-22-79; 8:45 am]

#### [6335-01-M]

#### COMMISSION ON CIVIL RIGHTS

#### KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 1:00 p.m. on April 21, 1979, in the Holiday Inn Downtown, Don Quixote Room, 914 Madison Street, Topeka, Kansas 66607.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of the meeting is to hold the inaugural meeting of the Kansas SAC: review the status of the Wichita Police Study and the follow-up efforts regarding the 4-State Report on Affirmative Action.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8924 Filed 3-22-79; 8:45 am]

#### [6335-01-M]

#### MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on April 17, 1979, in the Augusta Civil Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8925 Filed 3-22-79; 8:45 am]

#### [6335-01-M]

#### NEW MEXICO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 5:00 p.m. on April 18, 1979, in the Holiday Inn (Bennett Room) 1-40 and Grants-Spur (Exit 85), Grants, New Mexico 87020.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is for the full New Mexico SAC as well as the Educational and Energy Development Subcommittees to discuss future plans.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8926 Filed 3-22-79; 8:45 am]

#### [6335-01-M]

#### NORTH DAKOTA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission originally scheduled for April 12, 1979, in the FEDERAL REGISTER (FR Doc. 79-8148) on page 16466 has been changed.

The new meeting date will be April 11, 1979. The time and place of the meeting will remain the same.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8927 Filed 3-22-79; 8:45 am]

#### [3510-07-M]

#### DEPARTMENT OF COMMERCE

Bureau of the Census

#### 1977 CENSUS OF MINERAL INDUSTRIES SUPPLEMENTAL INQUIRY OF SUPPLIES USED

Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct, as part of the 1977 Census of Mineral Industries, a sample survey requesting supplementary information on supplies consumed under authority of title 13, United States Code, sections 193 and 225. This survey will provide basic statistical data needed by the Bureau of Economic Analysis, Department of Commerce, to prepare the input-output tables that provide the benchmark for the gross national product estimates.

The Bureau of the Census presently collects data once every 5 years on the supplies used by mining establishments in its census of mineral industries program. However, the industries covered in this supplemental inquiry are characterized by the Bureau of Economic Analysis as being substantially undercovered in terms of the re-

porting of the consumption of specific supplies on the 1977 Census of Mineral Industries report forms. There are no other sources for this kind of consumption information.

This survey shall begin not earlier than April 23, 1979.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this survey should be submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication to receive consideration.

Dated: March 20, 1979.

MANUEL D. PLOTKIN,  
Director,  
Bureau of the Census.

[FR Doc. 79-8984 Filed 3-22-79; 8:45 am]

#### [3510-17-M]

Office of the Secretary

#### PUBLIC ADVISORY COMMITTEE FOR TRADEMARK AFFAIRS

Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, it has been determined that the reestablishment of the Public Advisory Committee for Trademark Affairs is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in September, 1970, and its present charter expired on January 10, 1979. Since its inception the purpose of the Committee has been to advise the Patent and Trademark Office concerning steps which can be taken to increase the efficiency and effectiveness of administration of the Trademark Act and to provide a continuing flow of knowledge from the private sector to the government in the field of trademarks. Approximately seventy-five per cent of the over one hundred twenty-five specific recommendations have been implemented at least in part. There is no question that the Committee has contributed greatly to the efficiency and effectiveness of the administration of the statute. In reviewing the Committee, the Secretary has sought continued effort towards this objective. The Committee's function cannot be accomplished by any organizational element or other committee of the Department.



As it was initially established, the Committee will continue to comprise the members of the Advisory Committee for Trademark - Affairs of the United States Trademark Association. The membership is balanced and is under the control of the President of the Association. The Committee will continue to operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of Congress.

Any inquiries or comments may be addressed to Patricia M. Davis, Committee Control Officer, Office of Trademark Program Control, U.S. Patent & Trademark Office, Washington, D.C. 20231; telephone (703) 557-3881.

Dated: March 15, 1979.

GUY W. CHAMBERLIN,  
Assistant Secretary  
for Administration.

[FR Doc. 79-8929 Filed 3-22-79; 8:45 am]

#### [3510-17-M]

##### TRAVEL ADVISORY BOARD Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act, (5 U.S.C. App. (1976)) and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, it has been determined that the reestablishment of the Travel Advisory Board is in the public interest in connection with the performance of duties imposed on the Department by law.

The Travel Advisory Board was first established by the Secretary of Commerce on July 18, 1968 and initially chartered under the Federal Advisory Committee Act in January 1973. Its purpose is to advise the Secretary of Commerce on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.), which are to strengthen the domestic and foreign commerce of the United States and promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally.

The Travel Advisory Board has discharged this mission regularly by convening generally on a quarterly basis to discuss various specific industry situations and by providing advice and recommendations to the Secretary on matters relating to the development of policies on major tourism issues.

The Travel Advisory Board will continue with a balanced representation of 15 members who provide industry-wide and consumer expertise. The Secretary of Commerce will appoint an official of the Department to serve as Chairperson of the Board and the Chairperson will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Ms. Sue Barbour, Office of the Assistant Secretary of Commerce for Tourism, Room 1856, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-4752.

Dated: March 15, 1979.

GUY W. CHAMBERLIN,  
Assistant Secretary  
for Administration.

[FR Doc. 79-8928 Filed 3-22-79; 8:45 am]

#### [6820-33-M]

##### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

###### PROCUREMENT LIST 1979

###### Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by and commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 23, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 13, 1978 and January 12, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 52510 and 44 FR 2673) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodities are hereby added to Procurement List 1979:

###### SIC 7399

Microfilm Reproduction, Naval Submarine Base Bangor, Silverdale, Washington.

###### CLASS 8430

Footwear Cover, Radioactive Contaminants Protective, 8430-00-580-1205, 8430-00-580-1206, 8430-00-591-1359.

C. W. FLETCHER,  
Executive Director.

[FR Doc. 79-8893 Filed 3-22-79; 8:45 am]

#### [6820-33-M]

##### PROCUREMENT LIST 1979

###### Correction of Proposed Addition

The document published in the FEDERAL REGISTER on March 16, 1979 (44 FR 16030) proposing the addition to Procurement List 1979 is amended to correct the following:

###### CLASS 8970

Food Packet, Survival, Aircraft, Life Raft, Individual, 8970-01-028-9406.

Comments on the proposed addition to the Procurement List of the above food packet must be received on or before April 25, 1979.

C. W. FLETCHER,  
Executive Director.

[FR Doc. 79-8895 Filed 3-22-79; 8:45 am]

#### [6820-33-M]

##### PROCUREMENT LIST 1979

###### Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1979 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 25, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List

1979, November 15, 1978 (43 FR 53151):

###### CLASS 7520

Pencil, Mechanical (China Marking) 7520-00-223-6674, 7520-00-268-9912, 7520-00-577-4570.

C. W. FLETCHER,  
Executive Director.

[FR Doc. 79-8896 Filed 3-22-79; 8:45 am]

#### [6351-01-M]

##### COMMODITY FUTURES TRADING COMMISSION

###### CHICAGO MERCANTILE EXCHANGE

###### Proposed Futures Contract; Availability

###### Correction

In FR Doc. 79-7268, appearing at page 13557, in the issue for Monday, March 12, 1979, the words Frozen Broiler Chickens futures contract should be corrected to read Fresh Broiler Chickens futures contract.

GARY L. SEEVERS,  
Acting Chairman.

MARCH 19, 1979.

[FR Doc. 79-8791 Filed 3-22-79; 8:45 am]

#### [3910-01-M]

##### DEPARTMENT OF DEFENSE

###### Department of the Air Force

##### FLIGHT OPERATIONS IN THE SELLS AIRSPACE OVERLYING THE FAPAGO INDIAN RESER- VATION, PIMA COUNTY, ARIZ.

###### Environmental Impact Statement, Review Period Extension

MARCH 13, 1979.

The public review period for the Environmental Impact Statement on flight operations in the Sells Airspace, Pima County, Arizona (FEDERAL REGISTER February 20, 1979) has been extended from April 2 to April 16, 1979.

Comments should be forwarded to Carlos Stern, Ph.D., Deputy for Environment and Safety, Office of the Assistant Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330, (202) 697-0800.

CAROL M. ROSE,  
Air Force Federal Register,  
Liaison Officer.

[FR Doc. 79-8378 Filed 3-22-79; 8:45 am]

##### Department of the Army

###### PRIVACY ACT OF 1974

###### Deletions and Amendments to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of deletions and amendments to systems of records.

SUMMARY: The Army proposes to delete 3 and amend 15 systems of records subject to the Privacy Act. Specific changes to the systems being amended are set forth below followed by the systems published in their entirety as amended.

DATES: The systems shall be amended as proposed without further notice on April 23, 1979, unless comments are received on or before April 23, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendments should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue, SW, Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396) September 28, 1977  
FR Doc. 78-23952 (43 FR 38070) August 25, 1978  
FR Doc. 78-25562 (43 FR 40272) September 11, 1978  
FR Doc. 78-26732 (43 FR 42026) September 19, 1978  
FR Doc. 78-25819 (43 FR 42374) September 20, 1978  
FR Doc. 78-26699 (43 FR 43059) September 22, 1978  
FR Doc. 78-26996 (43 FR 43539) September 26, 1978  
FR Doc. 78-29130 (43 FR 47604) October 16, 1978  
FR Doc. 78-29211 (43 FR 48894) October 19, 1978  
FR Doc. 78-29982 (43 FR 49557) October 24, 1978  
FR Doc. 78-31795 (43 FR 52512) November 13, 1978  
FR Doc. 78-34539 (43 FR 58111) December 12, 1978  
FR Doc. 78-35523 (43 FR 59869) December 22, 1979  
FR Doc. 79-5788 (44 FR 11105) February 27, 1979  
FR Doc. 79-6621 (44 FR 12231) March 8, 1979

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Head-  
quarters Services, Department  
of Defense.

MARCH 16, 1979.

###### DELETIONS

###### A0225.11hAMC

System name: 225.11 ADP Master and Operating Files (42 FR 50443) September 28, 1977.

Reason: Records are not retrieved by a personal identifier.

###### A0225.11jDASG

System name: 225.11 AMEDD Officer Variable Incentive Pay (42 FR 50444) September 28, 1977.

Reason: Records are now covered by A0708.08aDAPC (42 FR 50533) September 28, 1977, and A0714.06cDASG (43 FR 43539) September 28, 1978, as amended below.

###### A0225.11mTRADOC

System name: 225.11ADP Master and Operating Files (42 FR 50445) September 28, 1977.

Reason: Records are covered by A0309.05aDAAG (42 FR 50456) September 28, 1977.

###### AMENDMENTS

###### A0102.02aAMC

System name: 102.02 Office Personnel Register Files (42 FR 50429) September 28, 1977.

Changes:  
ID changed: Delete "A0102.02aAMC" and substitute: "A0102.02aDARCOM".  
System location: Delete entry and substitute: "Visitor registration forms are maintained at the US Army Materiel Development and Readiness Command (DARCOM)."

Categories of individuals covered by the system: After the words "transactions involving", delete "the Army Materiel Command." and substitute: "DARCOM."

System manager(s) and address: Delete "US Army Materiel Command" and substitute: "US Army Materiel Development and Readiness Command".

###### A0225.09bAMC

System name: 225.09 Visual Information System (VIS) Utilization (42 FR 50440) September 28, 1977.

Changes:  
ID changed: Delete "A0225.09bAMC" and substitute: "A0225.09bDARCOM".



## NOTICES

**System location:** Delete entry and substitute: "Directorate/Management Information Systems (DESMIS), US Army Depot System Command, Chambersburg, PA 17201."

**Routine use of records maintained in the system, including categories of users and the purposes of such uses:** Delete first entry and substitute: "Chief, Systems Design, Programming and Integration Division, DESMIS—To determine the degree of utilization of the system."

In second entry, after "Branch project officer," delete "MISD" and substitute: "DESMIS".

**System manager(s) and address:** Delete entry and substitute: "Director/Management Information Systems, US Army Depot System Command."

**Notification procedure:** Delete entry and substitute: "Information may be obtained from: Directorate/Management Information Systems, Building 10, Litterkenny Army Depot, Chambersburg PA 17201, Telephone: Area Code 717/263-7004."

## A0225.11dDAPC

**System name:** 225.11 Officer Master File (OMF) (42 FR 50441) September 28, 1977.

**Changes:**

**Categories of records in the system:** After "mailing address," add the sentence: "Also, summary of manner of performance code for the quality distribution of MILPERCEN managed officers only."

## A0225.11gDAPC

**System name:** 225.11 Recruit Quota System (REQUEST) (42 FR 50443) September 28, 1977.

**Changes:**

**Categories of individuals covered by the system:** Delete entry and substitute: "Non-prior and prior service personnel who have or indicated a desire to enlist in the US Army, USARNG or USAR."

**Categories of records in the system:** Delete entry and substitute: "Name; social security number (SSN); sex; citizenship; date of birth; education level achieved and school subjects; driver's license; physical profile; color perception; Army standard scores from the Armed Services Vocational Aptitude Battery; Audio Perception score; Defense Language Aptitude Battery (DLAB) score; Motor Vehicle Battery Test score; type of enlistment; enlistment date, term, and option; military occupational specialty; enlistee's initial processing and training assignments, type, locations, and dates; unit of assignment identification; system identification of location that created

an accession record; recruiter identification; and recruiting area credit code."

## A0702.08aDASG

**System name:** 702.08 Army Medical Procurement Applicant Files (43 FR 42390) September 20, 1978.

**Changes:**

**System location:** After "Primary System," delete "Forrestal Building, Washington, D.C. 20314," and substitute: "1900 Half Street, SW, Washington, DC 20324."

**Categories of records in the system:** Delete entry and substitute: "Interview sheets; counselor evaluations; resume; Curriculum Vitae; autobiography; letters of recommendation; selection/nonselection letters; Special Orders; all correspondence to, from, and about applicant; Selection Board/committee results; Statement of Interests; Objectives and Motivation; Letter of Appointment; US Army Reserve Components Personnel and Administration Center Transcript; Service Agreement."

**Storage:** Delete the last sentence.

**Retrievability:** Delete entry and substitute: "File folders are filed alphabetically by last name of applicant."

**Safeguards:** Delete entry and substitute: "File folders are maintained in areas accessible only to authorized personnel."

**Retention and disposal:** Delete entry and substitute: "File folders are cut off at the end of the year in which action is completed, held 10 years, and destroyed, for selected individuals; for individuals not selected, records are cut off at the end of the year, held 1 year and destroyed."

**Notification procedure:** Delete "Room 7B054, Forrestal Building, Washington, D.C. 20314," and substitute: "1900 Half Street, SW, Washington, DC 20324."

## A0708.02aDAPC

**System name:** 708.02 Official Military Personnel File (42 FR 59529) September 20, 1978.

**Changes:**

**System location:** After "Primary System," change "Personnel Actions and Reports Directorate" to read: "Personnel Information Systems Directorate."

After "Decentralized Segments," change "US Army Enlisted Records Center" to read: "US Army Enlisted Records and Evaluation Center."

**Storage:** Delete entry and substitute: "Microfiche in plastic carriers stored randomly in electro-mechanical storage/retrieval devices. Temporary files consist of paper records in file folder/jacket; selected data automated for management facility in a perishable

manner on tapes, disks, cards or other computer media."

**Retention and disposal:** At beginning of line 1, insert the words "Microfiche and."

**Notification procedure:** Change "Personnel Actions and Reports Directorate" to read: "Personnel Information Systems Directorate"; "US Army Enlisted Records Center" to read: "US Army Enlisted Records and Evaluation Center"; and words "subsequent to" to read: "after."

Delete the phrase "and General Officers (any component) in any status, active, inactive, or retired," and the parenthetical phrase "(except General Officers)".

**Contesting record procedures:** Change "DAPC-POO" to read: "DAPC-MSO".

## A0708.08aDAPC

**System name:** 708.08 Career Management Individual Files (42 FR 50533) September 20, 1978.

**Changes:**

**Categories of records in the system:** Delete word "duplicate" and insert: "original."

Following the item "service agreements," insert "variable incentive pay data."

## A0714.06cDASG

**System name:** 714.06 AMEDD Personnel Management System (43 FR 43539) September 28, 1978.

**Changes:**

**Record source categories:** Delete the first item; i.e., "(1) AMEDD Officer Variable Incentive Pay," and the parenthetical number preceding each of the remaining items.

## A0725.01aDAAG

**System name:** 725.01 Child Care Centers-Registration Files (42 FR 50561) September 28, 1977.

**Changes:**

**Storage:** Delete entry and substitute: "Card files and paper files in folders/machine readable disks."

**Retrievability:** Delete entry and substitute: "Alphabetically by surname of parent/guardian/SSN."

**Safeguards:** Delete entry and substitute: "Records are maintained in the Child Care Center office and are accessible only to authorized personnel. Personal data is safeguarded to the same degree as material marked "FOR OFFICIAL USE ONLY"; positive identification and authorization to access data is established prior to releasing personal data to an individual. Output products and storage media of automated files are labeled "PERSONAL DATA-PRIVACY ACT OF 1974 (PL 93-579); paper products, such as listings, cards, paper tape, and carbons, are disposed of by tearing into pieces

## NOTICES

## A0102.02aDARCOM

**System name:**

102.02 Office Personnel Register Files

**System location:**

Visitor registration forms are maintained at the US Army Materiel Development and Readiness Command (DARCOM).

**Categories of individuals covered by the system:**

Any visitor who represents a person, firm, corporation, academic institution, or other entity, which has engaged, is engaged, or is endeavoring to engage in business transactions involving DARCOM.

**Categories of records in the system:**

Records are composed of business registration forms that give an individual's name, company he represents and address, purpose of visit and the status of the individual as regards his affiliation with the Department of Defense.

**Authority for maintenance of the system:**

Title 5 U.S.C., Section 301.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

The information obtained is used to determine the purpose of the visit and the visitor's status to prevent a conflict of interest.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Records are maintained in the Office of the General Counsel (GC), with access limited to the CG Division Chiefs, Branch Chiefs and the clerical personnel that type and file the form.

**Retrievability:**

The information is maintained as a paper record and is retrieved when needed by name.

**Safeguards:**

The records are maintained in safe file cabinets.

**Retention and disposal:**

The information is retained for a period of 1 year, at which time it is destroyed.

**System manager(s) and address:**

General Counsel, US Army Materiel Development and Readiness Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

to render unreadable, shredding, pulping, macerating, burning, or burial. For computerized segments, computer system(s)/remote terminal(s) are housed in designated controlled areas. The entire system is under lock and key when not in use.

**System manager(s) and address:** Change "Director" to read: "Directors".

## A0912.01aDASG

**System name:** 912.01 Medical Staff Credentials File (42 FR 50583) September 28, 1977.

**Changes:**

**Retention and disposal:** Delete entry and substitute: "Records are destroyed 5 years after separation, retirement, or termination of employment. Records are retained in last medical treatment facility of appointment or employment until destroyed. (This retention period is subject to approval by the National Archives and Records Service.)"

## A0917.01aDASG

**System name:** 917.01 Medical Treatment Record Files (42 FR 50588) September 28, 1977.

**Changes:**

**Storage:** After last word "printouts," delete the period and add: ", and magnetic tapes and disks."

**Retention and disposal:** After "American Red Cross Clinical and Outpatient Record Files," delete: "Destroyed after 25 years."

## A0920.04DASG

**System name:** 920.04 American Red Cross Consultation Service Case Files (42 FR 50593) September 28, 1977.

**Changes:**

**Retention and disposal:** Delete entry and substitute: "Records are retained in the inactive file for 1 year after the end of the year in which last medical treatment was given and subsequently retired to the Medical Officer, American National Red Cross, 18th and D. Streets, NW, Washington, DC 20006."

## A1002.05aDAPC

**System name:** 1002.05 Enlisted Training Base (ACT) (42 FR 50602) September 28, 1977.

**Changes:**

**System location:** Change "(USAMILPERCEN)" to read: "(MILPERCEN)".

**Categories of individuals covered by the system:** Delete entry and substitute: "Active Army enlisted personnel prior service, non-prior service, US Army National Guard, and Reserve initial active duty for training (IADT) who are undergoing basic training/advanced individual training (BT/AIT)."

**System manager(s) and address:** Change "Commanding General, USA-

MILPERCEN (DAPC-POO)" to read: "Commander, MILPERCEN (DAPC-MSO)".

**Notification procedure:** Change "USAMILPERCEN (DAPC-PSS)" to read: "MILPERCEN (DAPC-MSO)".

**Record access procedures:** In both instances, change "USAMILPERCEN (DAPC-POO)" to read: "MILPERCEN (DAPC-MSO)".

**Contesting record procedures:** Change "USAMILPERCEN (DAPC-POO)" to read: "MILPERCEN (DAPC-MOS)".

## A1011.04aDAPE

**System name:** 1011.04 USMA Institutional Research Survey File (42 FR 50606) September 28, 1977.

**Changes:**

**Categories of individuals covered by the system:** Change "United States Military Academy" to read: "USMA".

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** In first entry, change "United States Military Academy" to read: "USMA".

**Retention and disposal:** Delete entry and substitute: "Data collection instruments and punched cards are destroyed after 1 year by shredding or burning. Magnetic disk and magnetic tape records are permanent."

**System manager(s) and address:** Change "United States Military Academy" to read: "USMA".

## A1013.01DAPC

**System name:** 1013.01 Civilian School Files (42 FR 50620) September 28, 1977.

**Changes:**

**System location:** After "Primary System," change "United States (US) Army Military Personnel Center," to read: "United States Army Military Personnel Center (MILPERCEN)".

**Authority for maintenance of the system:** Delete entry and substitute: "Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 4301."

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Change "US Army Military Personnel Center" to read: "MILPERCEN".

**System manager(s) and address:** Change "US Army Military Personnel Center" to read: "MILPERCEN".

**Notification procedure:** Change "HQDA (DAPC-POO)" to read: "Headquarters, Department of the Army (HQDA) (DAPC-MSO)".

**Contesting record procedures:** Change "(DAPC-POO)" to read: "(DAPC-MSO)".



**Notification procedure:**

Information may be obtained from the System Manager.

**Record access procedures:**

Information may be obtained from the System Manager.

**Contesting record procedures:**

The agency's rules for access to records, for contesting contents and appealing initial determinations may be obtained from the System Manager.

**Record source categories:**

Information on the Visitor Registration Form is obtained from the individual concerned.

Systems exempted from certain provisions of the act:

None.

**A0225.09bDARCOM****System name:**

225.09 Visual Information System (VIS) Utilization

**System location:**

Directorate/Management Information Systems (DESMIS), US Army Depot System Command, Chambersburg, PA 17201.

Categories of individuals covered by the system:

Those individuals authorized to use VIS.

**Categories of records in the system:**

The file contains the user's identification number (ID), total inquiries made of the VIS during a six-month period; number of errors made in inquiries, percentage of error and number of printout requests.

**Authority for maintenance of the system:**

Title 10 U.S.C., Section 3012.

Routine use of records maintained in the system, including categories of users and the purposes of such uses:

Chief, Systems Design, Programming and Integration Division, DESMIS—To determine the degree of utilization of the system.

Branch Project Officer, DESMIS—To determine the need for further training in use of the system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Records are on ADP cards, disk and tape. The disk and tape store the data as the user uses VIS.

**Retrievability:**

By user ID.

**Safeguards:**

The records are accessible only to authorized personnel.

**Retention and disposal:**

A record is retained for 2 years.

**System manager(s) and address:**

Director/Management Information Systems, U.S. Army Depot System Command.

**Notification procedure:**

Information may be obtained from: Directorate/Management Information Systems, Building 10, Letterkenny Army Depot, Chambersburg, PA 17201. Telephone: Area Code 717/263-7004.

**Record access procedures:**

Each individual is given a copy of a form with the assigned number on it. Questions may be addressed directly to the SYSMANAGER.

**Contesting record procedures:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

**Record source categories:**

A binder in which are listed user numbers, in sequence; forms filled out by individuals requesting user IDs; usage data recorded on disk.

Systems exempted from certain provisions of the act:

None.

**A0225.11dDAPC****System name:**

225.11 Officer Master File (OMF)

**System location:**

United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Categories of individuals covered by the system:

Army officer and warrant officer personnel projected to enter on active duty, on active duty, or separated within the past 5 or 10 years (see Retention) or in a retired status.

**Categories of records in the system:**

The categories of information stored include name, social security number (SSN), grade and date of rank, appointment and service agreement, service data and date, promotion, assignment, qualification, specialty, efficiency, education and training, occupation, language, career pattern, awards

and badges, physical, location, separation, retirement, date and place of birth, race, religion, ethnic group, dependents, sex, citizenship, marital status and mailing address. Also, summary of manner of performance code for the quality distribution of MILPERCEN managed officers only.

**Authority for maintenance of the system:**

Title 5 U.S.C. Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army—Records are used for personnel management, strength accounting and manpower management.

Department of Defense—Records are used for interdepartmental actions and personnel management.

Social Security Administration—Used to verify SSNs.

General Services Administration—Used to publish US Army Registers as authorized by Title 10 U.S.C., Section 122.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Records are stored on computer magnetic tapes and disks.

**Retrievability:**

Normal access is by SSN, name, or other individual identifying characteristics.

**Safeguards:**

Physical security devices, guards, computer hardware and software safeguard features, and personnel clearances.

**Retention and disposal:**

Records are retained on the active file for 4 months after separation and accumulated on a separated file in 5 year groups that are retained for 5 years, or for retired personnel for 1 year after death.

**System manager(s) and address:**

Commanding General, MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

**Notification procedure:**

Information may be obtained from: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332, Telephone: Area Code 202/325-9310.

**Record access procedures:**

Requests from individuals should be addressed to: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Written requests for information should contain the full name of the individual, SSN, whether active, retired or separated and if separated date of separation.

Visits are limited to: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332. For personal visits, the individual should be able to provide some acceptable identification, and give some verbal information that could be verified with his record.

**Contesting record procedures:**

The department's rules for contesting contents and appealing initial determinations may be obtained from MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

**Record source categories:**

Information is obtained in document and computer readable form from other Department of the Army staff and commands and other federal agencies and departments.

Systems exempted from certain provisions of the act:

None.

**A0225.11gDAPC****System name:**

225.11 Recruit Quota System (RE-QUEST)

**System location:**

United States Army Military Personnel Center (MILPERCEN): The official mailing address is in the Department of Defense Directory in the Appendix.

Categories of individuals covered by the system:

Non-prior and prior service personnel who have or indicated a desire to enlist in the US Army, USARNG or USAR.

**Categories of records in the system:**

Name, social security number (SSN); sex; citizenship; date of birth; education level achieved and school subjects; driver's license; physical profile; color perception; Army standard score from the Armed Services Vocational Aptitude Battery; Audio Perception score; Defense Language Aptitude Battery (DLAB) score; Motor Vehicle Battery Test score; type of enlistment; enlistment date, term and option; military occupational specialty; enlistee's initial processing and training assignments, type, locations, and dates; unit of assignment identification; system identification of location that created an accession record; recruiter identification; and recruiting area credit code.

**Authority for maintenance of the system:**

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army—Records are used for personnel management, manpower, training and accession management.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Records are stored on disk and magnetic tape.

**Retrievability:**

Normal access is by SSN.

**Safeguards:**

Data security; entry protection, password; autologged, user identification.

**Retention and disposal:**

History records are retained for 2 years.

**System manager(s) and address:**

Commander, MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

**Notification procedure:**

Information may be obtained from MILPERCEN, Enlistment Personnel Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331.

**Record access procedures:**

Written requests for information should contain the full name, SSN, and current address. Requests should be made to Commander, MILPERCEN, Enlisted Personnel Directorate (DAPC-EP), 2461 Eisenhower Avenue, Alexandria, VA 22331.

For personal visits, the requester should provide acceptable identification, i.e., military identification card or other identification normally acceptable in the transaction of business.

**Record source categories:**

Data is obtained through interface with data terminals from Armed Forces Examining and Entrance Stations (AFES).

Systems exempted from certain provisions of the act:

None.

**System name:**

702.08 Army Medical Procurement Applicant Files.

**System location:**

Primary System—Procurement Division, Army Medical Department (AMEDD) Personnel Support Agency, Headquarters, Department of the Army (HQDA) (SGPE-PD), 1900 Half Street, SW, Washington, DC 20324.

Decentralized Segments—AMEDD Procurement Counselor Field Offices in the following locations: Cutler Army Hospital, Ft Devens, MA 01433; US Post Office Building, 135 High Street, Hartford, CT 06103; Room 1271, Federal Building, 100 South Clinton Street, Syracuse, NY 13202; 160 North Franklin Street, Hempstead, NY 11550; Building 5515, Rooms 309 and 316, Ft Dix, NY 08640; Federal Office Building, 1000 Liberty Avenue, Pittsburgh, PA 15222; Forest Glen Section, Walter Reed Army Medical Center, Washington, DC 20012; Federal Office Building, 400 North 8th Street, Richmond, VA 23240; 3555 Maguire Boulevard, Bennington Building, Suite 250, Orlando, FL 32803; Federal Building, 310 New Bern Avenue, Suite 310, Post Office Box 27524, Raleigh, NC 27611; 200 East Liberty Street, Ann Arbor, MI 48107; Building 67, Columbus Support Facility, 530 Buckingham Street, Columbus, OH 43215; HQ US Army Forces Command, Ft McPherson, GA 30330; Building 142, Room 345, Ft Sheridan, IL 60037; 144 Elk Place, Suite 1504, New Orleans, LA 70112; Federal Office Building, 515 Rusk Avenue, Room 5122, Houston, TX 77002; Brooke Army Medical Center, ATTN: AFZG-MDZ-PP, Ft Sam Houston, TX 78234; Federal Office Building, 1100 Commerce Street, Dallas, TX 75202; US Army Recruiting Main Station, 12th & Spruce Streets, St. Louis, MO 63102; US Army Medical Department Activity, Building 268 (Dodge Hall), Ft Leavenworth, KS 66027; American Red Cross Building, Box 327, Fitzsimons Army Medical Center, Denver, CO 80240; Building 5, Ft Douglas, UT 84110; Building 138, Room 116, Naval Support Activity (Sand Point), Seattle, WA 98115; Building 654, Presidio of San Francisco, CA 94129; 1600 N. Broadway, Suite 210, Santa Ana, CA 92706; US Army Medical Command, Europe, APO New York 09102; Tripler Army Medical Center, ATTN: HSCT-PD-P, Hawaii 96859.

Categories of individuals covered by the system:

Potential applicants and applicants for the AMEDD procurement programs, to include applicants for ap-



pointment in the Regular Army and US Army Reserve.

#### Categories of records in the system:

Interview sheets; counselor evaluations; resume; Curriculum Vitae; autobiography; letters of recommendation; selection/nonselection letters; Special Orders; all correspondence to, from, and about applicant; Selection Board/Committee results; Statement of Interests; Objectives and Motivation; Letter of Appointment; US Army Reserve Components Personnel and Administration Center Transcript; Service Agreement.

#### Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 4301, and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Procurement Division—To evaluate an applicant's acceptability and potential for appointment in a component of the AMEDD; to evaluate qualifications for assignment to various career areas; to determine educational and experience background for award of constructive service credit; to determine dates of service and seniority; to document service agreement with the US Army; to provide statistical information for effective management of the AMEDD Personnel Procurement Program.

AMEDD Procurement Counselor Field Offices—To assist applicants in completion of their applications; to counsel applicants in their potential for selection for procurement programs and/or for appointment in the AMEDD.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

#### Storage:

Paper records are maintained in file folders.

#### Retrievability:

File folders are filed alphabetically by last name of applicant.

#### Safeguards:

File folders are maintained in areas accessible only to authorized personnel.

#### Retention and disposal:

File folders are cut off at the end of the year in which action is completed, held 10 years, and destroyed, for selected individuals; for individuals not selected, records are cut off at the end of the year, held 1 year and destroyed.

#### System manager(s) and address:

The Surgeon General, HQDA, The Pentagon, Washington, DC 20310.

#### Notification procedure:

Information may be obtained from: Commander, AMEDD Personnel Support Agency, Officer Procurement Division, 1900 Half Street, SW, Washington, DC 20324, Telephone: Area Code 202/693-5120.

#### Record access procedures:

Requests should be addressed to: HHQDA (SGPE-PD), 1900 Half Street, SW, Washington, DC 20324.

#### Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from Commander, AMEDD Personnel Support Agency.

#### Record source procedures:

Transcripts from post secondary schools; employer evaluations; faculty evaluations; AMEDD counselor evaluations; interviews; military supervisor evaluations; medical information from medical examination facilities; American Testing Program; Educational Testing Service; Selection Board/committees; prior military service records; Department of Defense (DD) form 214 (Report of Separation from Active Duty); application and related forms from individual.

#### Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a, Section (j) or (k), as applicable. For additional information, contact the SYSMANAGER.

A0708.02aDAPC

#### System name:

708.02 Official Military Personnel File.

#### System location:

Primary System—Personnel Information Systems Directorate, United States Army Military Personnel Center, (MILPERCEN).

Decentralized Segments—United States Army Enlisted Records and Evaluation Center—United States Army Reserve Components Personnel and Administration Center (RCPAC); and National Personnel Records Center (NPRC), General Services Administration (GSA).

#### Categories of individuals covered by the system:

Each individual on active duty in the United States Army (USA) in enlisted, appointed or commissioned status; or in a USA or Army of the United States

(AUS) retired status; each individual not on active duty who has a reserve status in an enlisted, appointed or commissioned status, or in a retired reserve status; and each individual who was an enlisted, appointed or commissioned member of the USA and who was completely separated by discharge, death, or other termination of his/her military status.

#### Categories of records in the system:

File contains individual records including enlistment contract; Veterans Administration (VA) laws; physical evaluation board proceedings; military occupational specialty data report; statement of service; qualification record; group life insurance election; emergency data form; application for appointment; qualification/evaluation report; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or discharge report; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks; consent/declaration of parent/guardian; Army Reserve Officers Training Corps (ROTC) supplemental agreement; award recommendations; academic reports; casualty reports; US field medical card; retirement points; deferment; preinduction processing and commissioning data; transcripts of military records; summary sheets review of conscientious objector; election of options; oath of enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding Title 10 U.S.C., Section 815 appellate actions; determination of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements for enlistment; acknowledgements of service requirements; retired benefits; applications for review of physical evaluation board and disability board; appointments; designations; evaluations; extensions; birth certificates; photographs; citizenship statements and status; educational constructive credit; educational transcripts; flight status board reviews; assignment agreements/limitations/waivers/election/and travel; efficiency appeals; promotion/reduction recommendations/approvals/declinations/announcements/notifications/reconsiderations/worksheets/elections/letters of notifications to deferred officers/and promotion passover notifications; absence without leave and desertion records; Federal Bureau of Investigation (FBI) reports; Social Security Administration (SSA) correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertain-

ing to dependents, interservice action, inservice details, determination, reliefs, component; awards, pay entitlements, releases, transfers and other military service data.

#### Authority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army (DA)—To maintain, use, collect, and disseminate information with respect to an individual holding a military status or former military status, including regular, reserve, retired, former member separated, or deceased. Information pertains to individual's former, current, and subsequent to active duty status relating to birth; citizenship; parentage; home of record; education; training; dependents; travel; language proficiency; former and current association, brotherhood, memberships and related affiliations with organizations and like collective elements which service member divulges as having meaning, substance or significance to his/her military service status; assignment history; and other related military experiences, qualification, training, preferences, restriction, and status actions.

Department of State—To issue passport/visa; to document persona-nongrata status/attache assignments/and related administration of personnel assigned and performing duty with the State Department.

Department of Treasury—To issue bonds; to collect and record incoming taxes.

Department of Defense (DOD)—To authorize and consummate interdepartmental actions relating to interservice requirements pertaining to the Army, Navy, Air Force, and Coast Guard when the Coast Guard is operational under DOD.

Department of Justice—To file fingerprint cards; to perform intelligence function.

Department of Agriculture—To coordinate interdepartmental functions related to education conducted by the Department of Agriculture's advanced education element.

Department of Labor—To accomplish actions required under Federal Employees Compensation Act.

Department of Health, Education and Welfare—To provide services authorized by medical, health and related functions authorized by Title 10 U.S.C., Sections 1074-1079.

Atomic Energy Commission—To accomplish requirements incident to Nuclear Accident/Incident Control Officer functions.

American Red Cross—To accomplish coordination and complete service functions including blood donor pro-

gram and emergency investigative support and notifications.

Civil Aeronautics Board—Flight qualifications; certification and license actions relating to inservice pilots.

Federal Aviation Agency—To accomplish aviation and air service actions involving inservice aviators.

GSA—For records storage and archival services and for printing of directories and related material which includes personal data.

U.S. Postal Service—To accomplish postal service authorizations involving postal officers and mail clerk authorizations.

VA—To provide information relating to benefits, pensions, inservice loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization—To comply with statutes relating to inservice alien registration, and annual residence/location.

Office of the President of the United States of America—To exchange required information relating to White House Fellows, Regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission—To obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

Each of the several states and US possessions—To support state bonus applications; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions—To accomplish student registration, tuition support, Graduate Record Examination (GRE) tests requirement, and related school requirements incident to inservice education programs in compliance with Title 10 U.S.C., Chapters 102 and 103.

SSA—To obtain or verify social security number (SSN); to transmit Federal Insurance Compensation Act deductions made from inservice member's wages.

Department of Transportation—To coordinate and exchange necessary information pertaining to interservice relationships between United States Coast Guard (USCG) and USA when service members perform duty with the USCG elements or training activities.

Civil authorities—For compliance with Title 10 U.S.C., Section 814.

Department of the Air Force—To administer personnel support for individual Army members assigned for duty with the Air Force.

Department of the Navy—To administer personnel support for individual

Army members assigned for duty with the Navy or Marine Corps.

Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

#### Storage

Microfiche in plastic carriers stored randomly in electro-mechanical storage/retrieval devices. Temporary files consist of paper records in file folder/jacket; selected data automated for management facility in a perishable manner on tapes, disks, cards and other computer media.

#### Retrievability

File alphabetically by last name; automated data retrievable by name, SSN, or automatic data processing (ADP) parameter; reserve component, retired, and deceased persons' records accessed by SSN terminal digit sequence.

#### Safeguards

Records maintained in areas accessible only to authorized personnel; automated media protected by authorized password system for access terminals, controlled access to operation rooms, and controlled output distribution.

#### Retention and disposal

Microfiche and paper records are permanent. They are retained in active file until termination of service, held in inactive file in accordance with retention and retirement schedule and subsequently retired to NPRC.

#### System manager(s) and address

Commander, MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

#### Notification procedure

Information may be obtained from: MILPERCEN.

Personnel Information Systems Directorate, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332, Telephone: Area Code 202/325-9606.



Above address should be used for inquiries on records of commissioned officers or warrant officers (including members of Reserve Components) serving on active duty.

US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249. Telephone: Area Code 317/542-3361.

Above address should be used for inquiries on records of enlisted members (including members of Reserve Components) serving on active duty.

RCPAC, 9700 Page Boulevard, St. Louis, MO 63132. Telephone: Area Code 314/268-7770.

Above address should be used for inquiries on records of commissioned officers or warrant officers in a reserve status not on active duty; or Army enlisted reservists not on active duty; or members of the National Guard who performed active duty; or commissioned officers, warrant officers, or enlisted members in a retired status.

NPRC, GSA, 9700 Page Boulevard, St. Louis, MO 63132. Telephone: Area Code 314/268-7262.

Above address should be used for inquiries on records of commissioned officers or warrant officers who were completely separated from the service after 1 July 1917 or enlisted members who were completely separated after 1 November 1912.

#### Record access procedures

Written requests for information should contain full name of individual, service identification number, current or former military status, and appropriate return address.

Personal visits may be made to the appropriate location based on the individual's status; individual should be able to provide commonly acceptable identification, such as driver's license, employment identification card, and give some verbal information relative to his/her current or former military status.

#### Contesting record procedures

The Army's rules for contesting contents and appealing initial determinations may be obtained at Headquarters, Department of the Army (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

#### Record source categories

Enlistment, appointment, or commission related forms pertaining to the individual having a current or former military status; academic, training or qualification records acquired prior to or during military service; correspondence, forms, records, documents and other related papers originated in or collected by DA Staff agencies and commands; other federal departmental agencies, administrative, federal separate agencies, com-

missions, boards, service, or authority; state and local governmental entities; civilian education and training institutions; and members of the public when such information obtained directly concerns the military service member.

Systems exempted from certain provisions of the act

None.

A0708.08aDAPC

#### System name

708.08 Career Management Individual Files.

#### System location

Primary System—United States Army Military Personnel Center (MILPERCEN).

Decentralized Segments—The Surgeon General's Office (TSGO), The Judge Advocate General's Office (TJAGO), Office of Chief of Chaplains, and Army Security Agency (ASA).

Categories of individuals covered by the system

Active duty members of the US Army in enlisted grades of E1 through E9, all warrant officers and commissioned officers.

#### Categories of records in the system

File contains orders; record briefs; statements of preference; school credit papers; transcripts; details; career personnel actions; memorandum for record of telephone calls; personal correspondence originated by individual concerned; original copy of efficiency report; appeal actions; assignment memoranda and requests for orders; memoranda of professional development actions; promotion orders; classification data; papers relating to service awards; letters and other forms of written communications relating to military career matters; service agreements; variable incentive pay data; memoranda of interviews; copies of applications for assignment consideration; resumes of qualifications, personal background, and service experience supporting service member's desires, or nominative action by career managers; academic reports; copies of admonitions/reprimands imposed under Article 15 Uniform Code of Military Justice (Title 10 U.S.C., Section 815); letters of appreciation/commendation/recommendation; and correspondence among (1) MILPERCEN, (2) individual service member, (3) Army Staff offices and Army organizations, (4) other Federal, state, and local government elements, and (5) accredited educational and training organizations.

Authority for maintenance of the system  
Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

MILPERCEN, TSGO, TJAGO, Office of Chief of Chaplains, ASA—To accomplish military service career management including assignment, professional development, service training and education, and other related military actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

#### Storage

Paper records in file folders; card files.

#### Retrievability

Record accessed by name.

#### Safeguards

Records maintained in areas accessible only to authorized career management activity personnel.

#### Retention and disposal

Records range from transitory to permanent depending on the continuing value to the service member or the Army. Records determined to be permanent are merged with the Official Military Personnel File (when not duplicated) upon separation of the service member from active duty by reason of discharge, transfer, retirement, or death.

#### System manager(s) and address:

Commander, MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

#### Notification procedure:

Information in regard to other than professional officers may be obtained from: Headquarters, Department of the Army (HQDA) (DAPC-MSO), Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332.

Information in regard to medical department officers: TSGO, 1900 Half Street, SW, Room 6126, Washington, DC 20324.

Information in regard to chaplains: Office of the Chief of Chaplains, The Pentagon, Room 1E417, Washington, DC 20310.

Information in regard to The Judge Advocate General Corps officers: TJAGO, The Pentagon, Room 1E444, Washington, DC 20310.

Information in regard to ASA enlisted personnel: Headquarters, US Army Security Agency, ATTN: IAPER-EB, Arlington Hall Station, Arlington, VA 22212.

#### Record access procedures:

Requests from individuals should be addressed to: HQDA (DAPC-MSO), Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332.

Written requests for information should contain the full name of the requester, service identification number, current or former military status, and appropriate return address.

Personal visits may be made to MILPERCEN; individual should be able to provide his/her military service identification card; Department of Defense Form 2A for active duty persons; or other commonly acceptable means of identification used in normal transaction of business.

#### Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

#### Record source categories:

Enlistment, appointment, or commission related forms pertaining to the service member having a current active duty status; academic, training, and qualification records acquired incident to military service; correspondence, forms, documents and other related papers originating in or collected by the military department for management purposes.

Systems exempted from certain provisions of the act:

None.

A0714.06cDASG

#### System name:

714.06 AMEDD Personnel Management System

#### System location:

United States Army Medical Personnel Support Agency (USAMEDDPERSA), 1900 Half Street, SW, Washington, DC 20324.

Categories of individuals covered by the system:

Individuals either applying for commissions in, on active duty as an officer in, or recently released from active duty in one of the six Army Medical Department Corps.

#### Categories of records in the system:

The categories of information stored include name, social security number (SSN), sex, race, date and place of birth, home of record, dependent data, physical profile data, religious preference, ethnic group, citizenship, marital status, personal mailing address, professional qualification data, assignment data, promotion data, education

and training data, awards and badges, and incentive pay data.

Authority for maintenance of the system:  
Title 5 U.S.C., Section 301; Title 10 U.S.C.; Title 37 U.S.C.; and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army—Used for strength accounting; manpower and budgetary management; recruitment; military service career management of officers to include assignments, promotions, professional development and training, and in the administration of Variable Incentive Pay Program.

Department of Defense—Used for interdepartmental management regarding medical assets, and development of policies and statistical accounting.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

#### Storage:

Records are stored on computer magnetic tape and disk.

#### Retrievability:

Normal access is by name, the first data element in the file, with SSN or other individual or group discriminators for positive identification. Computerized indices are utilized in record retrievals.

#### Safeguards:

Physical security devices, limited access via building guard and personnel clearances will limit computer access to only authorized personnel. Each on-line terminal access or update to the system will be protected through a system of passwords that will restrict each user to specific data elements. Password changes will be made incrementally at the rate of 20 percent per month. System reconstruction procedures provide for two copies of files, programs, and procedures in-house and one copy at an on-site location both updated and maintained in an operational condition.

#### Retention and disposal:

Records are retained on an active file for 3 months after separation, and accumulated on an inactive file for 5 years after separation.

#### System manager(s) and address:

Commander, United States Army Medical Department Personnel Support Agency, 1900 Half Street, SE, Washington, DC 20324.

#### Notification procedure:

Information may be obtained from: Commander, USAMEDDPERSA, 1900

Half Street, SW, Washington, DC 20324.

#### Record access procedures:

Requests from individuals should be addressed to: Commander, USA-MEDDPERSA, 1900 Half Street SW, Washington, DC 20324.

Written requests for information should contain the full name of the individual, SSN, current or former military status, and appropriate return address.

Visits may be made to USAMEDDPERSA. Individual should be able to provide some acceptable identification, and give some verbal information that could be verified with his/her record.

#### Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR Part 505 (Army Regulation 340-21).

#### Record source categories:

Data contained in this system of records are obtained in document and computer readable form from the following systems of records: Army Medical Procurement Applicant Files; Officer Master File; Career Management Individual File; AMEDD Training Application Status Record; Long Term Civilian Training Student Contract Files; Residency, Subspecialty and Fellowship Training; and US Army Graduate Medical Education Trainee Card File.

Systems exempt from certain provisions of the act:

None.

A0725.01aDAAG

#### System name:

725.01 Child Care Center—Registration Files

#### System location:

Child Care Centers, Armywide. Official mailing addresses are in the Appendix.

Categories of individuals covered by the system:

Any of the following who use Child Care Center services: active duty and retired military personnel and their dependents; members of the military Reserve components on active duty for training and their dependents; Department of the Army (DA) civilians overseas and their dependents overseas and in the Continental United States (CONUS) where local civilian resources are not available; and other personnel designated by the commander.



## NOTICES

## Categories of records in the system:

Documents include, but are not limited to, parent's/guardian's name, grade or rank, social security number (SSN), home address and telephone number; duty address and telephone number; signature of parent/guardian for emergency notification; child's name, birthdate, medical information including allergies, immunization dates; remarks and observations by Child Care Center employees, parents/guardians, or physicians; and financial records.

## Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Child Care Centers—To obtain information necessary to identify each child; to provide assistance or service required; to coordinate and facilitate other agency services; to facilitate referrals and complete follow-up actions to Army and civilian health and welfare departments or agencies as required; to maintain a record of services provided for analysis and evaluation of Child Care Center Programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

## Storage:

Card files and paper files in folders/machine readable computer disks.

## Retrievability:

Alphabetically by surname of parent/guardian/SSN.

## Safeguards:

Records are maintained in the Child Care Center offices and are accessible only to authorized personnel. Personal data is safeguarded to the same degree as material marked "FOR OFFICIAL USE ONLY"; positive identification and authorization to access data is established prior to releasing personal data to an individual. Output products and storage media of automated files are labeled "PERSONAL DATA—PRIVACY ACT OF 1974 (PL 93-579)"; paper products, such as listings, cards, paper tape, and carbons, are disposed of by tearing into pieces to render unreadable, shredding, pulping, macerating, burning, or burial. For computerized segments, computer system(s)/remote terminal(s) are housed in designated controlled areas. The entire system is under lock and key when not in use.

## Retention and disposal:

Destroyed after 2 years, or on discontinuance, whichever comes first; may be transferred from one Child

Care Center to another upon transfer of child.

## System manager(s) and address:

The Adjutant General, Department of the Army, Washington, DC 20310; Installation Commanders; Directors of the Child Care Centers.

## Notification procedure:

Information may be obtained from Director of Army Installation Child Care Center. Requesting individual must present name, rank, SSN, and proof of identification.

## Record access procedures:

Requests for assistance should be addressed to the installation commander.

## Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

## Record source categories:

Director of Child Care Center and individual receiving service.

Systems exempted from certain provisions of the act:

None.

A0912.01aDASG

## System name:

912.01 Medical Staff Credentials File.

## System location:

Medical treatment facilities at Army commands, installations and activities. Official mailing addresses are in the Department of Defense Directory in the Appendix.

Categories of individuals covered by the system:

Individuals performing clinical practice in medical treatment facilities.

## Categories of records in the system:

Documents reflecting delineation of clinical privileges and clinical performance.

## Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 44 U.S.C., Section 3101; and Title 10 U.S.C., Section 1071.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Determine and assess capability of practitioner's clinical practice.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

## Storage:

Paper records in file folders.

## Retrievability:

Filed by last name.

## Safeguards:

Records are maintained in areas accessible only to the medical treatment facility commander and credentials committee members.

## Retention and disposal:

Records are destroyed 5 years after separation, retirement, or termination of employment. Records are retained in last medical treatment facility of appointment or employment until destroyed. (This retention period is subject to approval by the National Archives and Records Service.)

## System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

## Notification procedure:

Information may be requested from commander at medical treatment facility where practitioner is providing clinical service.

## Record access procedures:

Requests from individuals should be addressed to commander at medical treatment facility where practitioner is providing clinical service.

## Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from any medical treatment facility.

## Record source categories:

Interviewer, application, medical audit results, other available administrative records obtained from civilian or military sources.

Systems exempted from certain provisions of the act:

None.

A0917.01aDASG

## System name:

917.01 Medical Treatment Record Files.

## System location:

Decentralized Segments—Medical centers, hospitals, health clinics, troop medical clinics, and National Personnel Records Center (NPRC).

## NOTICES

Categories of individuals covered by the system:

Individuals treated on inpatient or outpatient basis by the Army Medical Department and/or individuals for whom primary medical care is rendered.

## Categories of records in the system

Documents reflecting outpatient or inpatient treatment or observation of all individuals treated to include, but not limited to, Health Records, Outpatient Treatment Records, Foreign National Outpatient and Inpatient Records, American Red Cross Outpatient and Inpatient Records, Reserve Component Outpatient Records; Physical Medicine Treatment Records, and supporting documents to above.

## Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 44 U.S.C., Section 3101; and Title 10 U.S.C., Section 1071.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information may be used to plan and coordinate health care. It may be used to provide medical treatment; conduct research; teach; compile statistical data; determine suitability of persons for service or assignments; implement preventive health and communicable disease control programs; adjudicate claims and determine benefits; evaluate care rendered; determine professional certification and hospital accreditation; conduct authorized investigations; provide physical qualifications of patients to other Federal, State, and local agencies upon request in the pursuit of their official duties; for research purposes by the National Research Council; and to report medical conditions required by law to Federal, State, and local agencies; for other lawful purposes including law enforcement and litigation.

Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

## Storage

Paper records in file folders, microfiche, cassettes, computer printouts, and magnetic tapes and disks.

## Retrievability

Filed by last name or terminal digit file system (social security number (SSN)).

## Safeguards

Records are maintained in areas accessible only to authorized personnel who are properly trained and screened.

## Retention and disposal

Troop and Health Clinic Clinical Record Cover Sheets—Destroyed after 5 years.

Health Records—Active while individual is on active duty, then retired with Military Personnel Records Jacket.

Military Clinical Record Files—Destroyed after 50 years. Withdrawn and retired to NPRC, 111 Winnebago Street, St. Louis, MO 63118, as follows, except that files pertaining to United States Military Academy (USMA) cadets are transferred to The Surgeon, USMA, West Point, NY 10996.

5-year clinical record libraries—5 years after the end of the year in which last medical treatment was given.

Nonfixed medical facilities—At the end of each month for records completed on all patients released during the month.

Other medical facilities—1 year after the end of the year in which last medical treatment was given.

Civilian Clinical Record Files—Destroyed after 25 years. Withdrawn and retired to NPRC (Civilian), 111 Winnebago Street, St. Louis, MO 63118, as follows:

5-year clinical record libraries—5 years after the end of the year in which last medical treatment was given.

Nonfixed medical facilities—At the end of each month for records completed on all patients released during the month.

Other medical facilities—1 year after the end of the year in which last medical treatment was given.

American Red Cross Clinical and Outpatient Record Files—Withdrawn and forwarded to Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006, 1 month after patient's medical treatment is completed for clinical records and 1 year for outpatient records.

Foreign National Clinical and Outpatient Record Files Continental

United States (CONUS) medical facilities—Forwarded to the Commander, United States Army Health Services Command (HSC), ATTN: HSC-OP-PS, Ft. Sam Houston, TX 78234, at the end of the month in which treatment is completed for transfer to appropriate embassy. However, when the individual's length of stay in the local area can be readily determined, files are forwarded to the HSC at the end of the month in which residence is terminated.

Medical facilities in oversea command—Transferred to the foreign official, or to The Surgeon General, whichever is appropriate.

Military Outpatient Record Files—Destroyed after 50 years. Withdrawn and retired to NPRC, 111 Winnebago Street, St. Louis, MO 63118, 3 year after the end of the year in which last medical treatment was given. Outpatient files of active Coast Guard and other military personnel, including members of any of the Reserve Components on active duty or active duty for training for more than 30 days, and cadets of the military academies are filed in the health record jacket. Outpatient files for these personnel are forwarded for insertion in the health record jackets on completion of treatment or observation. Outpatient files of all other categories are forwarded, on request, to the gaining medical facility when the patient moves to a new location.

Civilian Outpatient Record Files—Destroyed after 25 years. Withdrawn and retired to NPRC (Civilian), 111 Winnebago Street, St. Louis, MO 63118, 3 year after the end of the year in which last medical treatment was given.

Reserve Component Outpatient Files—Destroyed after 50 years. Withdrawn and retired to NPRC, 111 Winnebago Street, St. Louis, MO 63118, 1 year after the end of the year of summer camp or annual training.

Civilian Employee Medical Files—Destroyed 25 years after separation. Placed in inactive file upon separation and retired to NPRC (Civilian), 111 Winnebago Street, St. Louis, MO 63118, with the next regular retirement.

## System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

## Notification procedure:

Information may be obtained from Patient Administrator at medical center or hospital was treatment was provided. Official mailing addresses are in the Department of Defense (DOD) Directory in the Appendix to Army system notices.



Requesting individual is required to submit full name, SSN of sponsor, date care was provided, and facility providing care.

The requester may visit the office of the Patient Administrator at medical center or hospital where care was provided.

For personal visits, the requester is required to provide full name, SSN of sponsor, and present some form of acceptable identification, such as identification card, driver's license.

#### Record access procedures:

Requests from individuals should be addressed to Patient Administrator at medical center or hospital where care was provided. The official mailing addresses are in the DOD Directory in the Appendix to Army system notices.

#### Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from any Army medical center or hospital.

#### Record source categories:

Interviewer, diagnostic tests, other available administrative or medical records obtained from civilian or military sources.

#### Systems exempted from certain provisions of the act:

None.

#### A0920.04DASG

#### System name:

920.04 American Red Cross Consultation Service Case Files.

#### System location:

Primary System—Mental Hygiene Consultation Services, medical department activity located at posts, camps, or stations.

Decentralized Segments—American Red Cross, 18th and D Streets, NW, Washington, DC 20006.

#### Categories of individuals covered by the system:

Employees of the American Red Cross who receive consultation service at an Army medical facility.

#### Categories of records in the system:

File contains examination records of intelligence, personality, achievement, and aptitude; results of tests; doctor's notes; abstracts and copies of pertinent medical records; observations of patient's behavior; interviews, personal history statements, and similar or related documents.

#### Authority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Mental Hygiene Consultation Service—To provide consultation services dealing with problems of emotional adjustments, classification and/or reclassification, disposition, and the prevention of mental disorders.

American National Red Cross—Storage of records until destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

#### Storage:

Paper records in file folders.

#### Retrievability:

Filed alphabetically by last name.

#### Safeguards:

Buildings are secured when not in use. Files and records are accessible only to authorized personnel.

#### Retention and disposal:

Records are retained in the inactive file for 1 year after the end of the year in which last medical treatment was given and subsequently retired to the Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

#### System manager(s) and address:

The Surgeon General; United States Army; Director, Medical Department Activity; Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

#### Notification procedure:

Information may be obtained from: Director, Medical Department Activity where treated, or if more than 1 year following treatment, Medical Officer; American National Red Cross, 18th and D Streets, NW, Washington, DC 20006. Telephone: Area Code 202/737-8300.

#### Record access procedures:

Requests from individuals should be addressed to Director, Medical Department Activity where treated; or Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number. Visits are limited to Mental Hygiene Consultation Service; and American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

For personal visits, the individual should be able to provide sufficient identification and give some verbal information that could be verified from his/her file.

#### Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

#### Record source categories:

Interviews, personal history statements, abstracts or copies of pertinent medical records; examination records of intelligence, personality, achievement, and aptitude; results of tests; doctor's notes.

#### Systems exempted from certain provisions of the act:

None.

#### A1002.05aDAPC

#### System name:

1002.05 Enlisted Training Base (ACT)

#### System location:

United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

#### Categories of individuals covered by the system:

Active Army enlisted personnel prior service, non-prior service, US Army National Guard, and Reserve initial active duty for training (IADT) who are undergoing basic training/advanced individual training (BT/AIT).

#### Categories of records in the system:

The categories of information stored include: name; social security number (SSN); race; citizenship; physical profile; enlistment and service; assignment; qualification; skill; education and training; specialty; enlistment commitments by military occupational specialty (MOS) and type; college subject; civilian acquired skill; advanced or basic individual training start and graduation dates, location, and MOS; follow-on MOS; location, training recommended versus preferred, aptitude area scores and categories.

#### Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army (DA)—Records are used for personnel and manpower management and strength accounting.

Department of Defense—Records are used for interdepartmental actions and personnel management.

Social Security Administration—Used to verify SSN.

#### A1011.04aDAPE

#### System name:

1011.04 USMA Institutional Research Survey File

#### System location:

Office of the Director of Institutional Research, United States Military Academy (USMA), West Point, NY 10996.

#### Categories of individuals covered by the system:

USMA candidates, cadets and former cadets.

#### Categories of records in the system:

Personnel survey data from questionnaires, inventories, psychological tests and similar instruments.

#### Authority for maintenance of the system:

Title 10 U.S.C., Section 4334.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Director of Institutional Research—To conduct institutional research relating to the USMA.

Commander of Cadets—To evaluate and counsel cadets; to conduct institutional research.

Surgeon—To assist in the diagnosis and treatment of hospital patients; to conduct institutional research.

Director of Admissions—To evaluate candidate qualifications for admission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

#### Storage:

Data are contained on magnetic tape, magnetic disks and punched cards. Selected data collection instruments and computer listings also are maintained.

#### Retrievability:

Data are retrieved only as group data by class year but are filed by class year and cadet number.

#### Safeguards:

Data collection instruments, punched cards, and some magnetic tapes are kept in storage room controlled by Administrative Branch Chief or representative during working hours. Area is locked after working hours. Magnetic disks are protected by a user identification and password convention. These disks and some magnetic tapes are kept in the computer room where computer operator is on duty and admittance is to authorized personnel only. Remainder of the tapes are located in a locked vault in the Office of the Director of Institutional

Research, under control of Chief, Data Support Branch.

#### Retention and disposal:

Data collection instruments and punched cards are destroyed after 1 year by shredding or burning. Magnetic disk and magnetic tape records are permanent.

#### System manager(s) and address:

Director of Institutional Research, USMA, West Point, NY 10996.

#### Notification procedure:

Information can be obtained from SYSMANAGER.

#### Record access procedures:

Requests should be addressed to SYSMANAGER.

#### Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

#### Record source categories:

Questionnaires, inventories, psychological tests, and similar instruments administered to subject individuals and processed by the staff of the Office of the Director of Institutional Research.

#### Systems exempted from certain provisions of the act:

None.

#### A1013.01DAPC

#### System name:

1013.01 Civilian School Files

#### System location:

Primary System—United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Decentralized Segments—Army commands/stations/installations/organizations/activities including overseas areas.

#### Categories of individuals covered by the system:

Any military service member who applies for or is selected for attendance at civilian school; or for training with industry; or participation in a fellowship/scholarship program of training or instruction.

#### Categories of records in the system:

File contains Department of the Army (DA) Forms 1818-R, 2086-R, 2593-R, 3719-R which include personal data of name, grade, social security number, address, home phone, duty phone, permanent legal address, branch of service, date of birth, mari-



tal status, number of dependents, State of legal residence, military occupational specialties, enlistment status, component, foreign service, civilian educational data, military educational data, transcripts, academic records, social fraternities, honorary fraternities, clubs, degree major, class standing, and personal resumes; Standard Form 1034 (Public Voucher for Purchases and Services Other than Personal), school contracts; school training report; photographs; enlisted qualification record; theses; statements of service and schooling obligation; United States Armed Forces Institute test reports; civilian institution Academic Evaluation reports; correspondence between (1) individual student, (2) Army commands and staff agencies, (3) civilian industry training agencies, and (4) civilian educational schools.

**Authority for maintenance of the system**  
Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 4301.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses**

**MILPERCEN:** To document, monitor, manage, and administer the service member's attendance at a civilian training agency or civilian school under the authority of Title 10 U.S.C., Section 4301.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system**

**Storage**  
Paper records in file folders.

**Retrievability:**  
Filed alphabetically by name.

**Safeguards:**  
Files and records are maintained in areas accessible only to authorized personnel.

**Retention and disposal:**  
Records have a retention space of from 2 to 10 years depending on the category of the individual record concerned and/or the element maintaining the file.

**System manager(s) and address:**  
MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

**Notification procedure:**  
Information may be obtained from: HQDA (DAPC-MSO), Hoffman Bldg II, 200 Stovall Street, Alexandria, VA 22332.

Appropriate command/station/installation/organization/activity/overseas command of the student service

members as shown in the Directory of Units.

#### Record access procedures:

Written requests for information should contain the full name, grade, branch of service, service identification number, and civilian school or training agency (if known), and the current address.

For personal visits, the individual should be able to provide acceptable military identification or acceptable identification, i.e., a driver's license with other identification normally used in business transactions.

#### Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

#### Record source categories:

Application and related forms incident to the service member's qualification for attendance at a specified civilian school or training agency; records, forms, documents, and correspondence originating in/by DA Staff agencies and commands, the student service member, and civilian school or industry training agency.

**Systems exempted from certain provisions of the act:**

None.  
[FR Doc. 79-8787 Filed 3-22-79; 8:45 am]

#### Office of the Secretary

[3810-70-M]

#### PRIVACY ACT OF 1974

##### Deletion and Addition of Record Systems

**AGENCY:** Office of the Secretary of Defense (OSD).

**ACTION:** Notice of one deletion and one proposed new system of records under the Privacy Act of 1974.

**SUMMARY:** The Office of the Secretary of Defense proposes adding a new system of records to its inventory identified as DMRA&L 19.0, entitled: "Automated Career Management System (ACMS) DD-M(AR)1456". The record system notice is published in its entirety below. This makes obsolete an existing record system also identified below as deleted.

**DATES:** The new system shall become effective as proposed without further notice on April 22, 1979, unless comments are received on or before April 22, 1979, which would result in a contrary determination and require republication for further comments.

**ADDRESS:** Send comments to the System Manager identified in the record system.

**FOR FURTHER INFORMATION CONTACT:** Mr. James S. Nash, Chief, Records Management Division, Room 5C-315, The Pentagon, Washington, D.C. 20301, telephone 202-695-0970.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense record system notices inventory as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50731) September 28, 1977.

FR Doc. 78-25819 (43 FR 42375) September 20, 1978.

FR Doc. 78-34821 (43 FR 58405) December 14, 1978.

FR Doc. 78-35943 (43 FR 60331) December 27, 1978.

The Office of the Secretary of Defense has submitted a new system report on February 15, 1979 for the proposed new record system under the provisions of 5 U.S.C. 552a(o) of the Privacy Act of 1974 which requires advance notice.

H.E. LOFDAHL,  
Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 16, 1979.

#### DELETION

DMRA&L 08.0

**System name:** Central Automated Inventory and Referral System (CAIRS) (43 FR 42402) September 20, 1978.

**Reason:** This system is replaced by the new system (DMRA&L 19.0) published below.

#### ADDITION

**System name:**  
Automated Career Management System (ACMS) DD-M(AR)1456.

**System location:**  
Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

**Categories of individuals covered by the system:**

All Department of Defense General Schedule civilian career program employees GS-5 or higher and former employees.

#### Categories of records in the system:

Name, home and work addresses, Social Security Account Number, educational background, work experience, grade and salary, occupation, age, special qualifications, awards, military reserve status, and supervisory appraisals.

**Authority for maintenance of the system:**

Title 5, U.S.C., Sections 301 and 302, which authorize Agency Heads to: establish civilian personnel management programs; maintain files and records necessary to operate such programs; and delegate civilian personnel management authorities to subordinate officials.

**Routine uses (disclosure) of records maintained in the system including categories of users, and the purposes of such uses:**

This system provides a list of eligible candidates qualified to file position vacancies normally at GS-13 and higher grade levels and to provide information for program analyses and management.

**Internal users, uses, and purposes:** All DoD Civilian Personnel Offices and the DoD Components serviced by these offices are required to submit job vacancies to designated occupation series against ACMS for the generation of a list with resumes of qualified candidates for consideration by a selection panel and others.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy)—used for statistical analyses of civilian workforce, and management and evaluation of specific employment programs within the Department of Defense.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need-to-know in the performance of official business.

**External users, uses, and purposes:** See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:** Storage:

Disc packs.

#### Retrievability:

Retrievable by occupation, Social Security Account Number, name, specific skills, educational background, or training background.

#### Safeguards:

The location is identified as a secure area; access is through electrically controlled doors and cypher locks; disc packs are stored in a vault when not in use.

#### Retention and disposal:

Active records are maintained up to one year after termination of the individual's employment with the Department of Defense, or upon notification that the individual no longer is employed in a position for which registra-

tion is required. Inactive records of personnel are retained indefinitely.

#### System manager and address:

Director of Staffing and Career Management, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D281, Washington, D. C. 20301. Telephone: 202-697-3402.

#### Notification procedure:

Information may be obtained from the System Manager.

#### Record access procedures:

Written requests from individuals should be addressed to Director, Centralized Referral Activity, Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444. For personal visits, the individual should be able to provide some acceptable form of identification, such as a driver's license.

#### Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative No. 81.

#### Record source categories:

Data are obtained from record subjects, from their official personnel folders, and from supervisory appraisals.

#### Exemptions claimed for the system:

None.  
[FR Doc. 79-8786 Filed 3-22-79; 8:45 am]

[6450-01-M]

#### DEPARTMENT OF ENERGY

**FINAL ACTION BY OFFICE OF THE SPECIAL COUNSEL FOR COMPLIANCE ON KERR-MCGEE CONSENT ORDER**

**AGENCY:** Department of Energy.

**ACTION:** Final Action on Consent Order.

**SUMMARY:** The Office of Special Counsel for Compliance (OSC), pursuant to 10 CFR 205.199J, makes final, by publication of this notice, the consent order executed between Kerr-McGee Corporation and OSC on February 7, 1979.

On February 14, 1979, notice was published in the FEDERAL REGISTER, at 44 FR 9620, that the consent order had been signed. The notice summarized the circumstances behind the consent order, its terms and conditions, and indicated that comments on the consent order would be received for 30 days following publication. OSC has reviewed those comments received

through Friday, March 16, 1979. After careful consideration, OSC has determined that the consent order should be made final by publication of this notice.

**FOR FURTHER INFORMATION CONTACT:**

Carl Corrallo, Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 3109, Washington, D.C. 20461, 202-633-8288.

**SUPPLEMENTARY INFORMATION:** DOE regulations require that consent orders be noticed for public comment through the FEDERAL REGISTER and by press release. In the press release issued February 8, 1979, and the FEDERAL REGISTER notice appearing February 14, 1979, at 44 FR 9620, OSC described the consent order, the background of the audit and the remedial procedures for distribution of the \$46 million refund to be paid by Kerr-McGee. The consent order can be summarized as follows:

The consent settles all claims and issues arising from OSC's compliance audit of Kerr-McGee for the period August 19, 1973 through December 31, 1978.

Under the consent order, Kerr-McGee will pay \$46 million to present and former customers who agree to participate in the refund program.

Participating Kerr-McGee customers will reduce prices to retail customers to ensure that the greater part of the refund reaches the market place through lower prices of motor gasoline, home heating oil and other refined products.

For a more detailed explanation, please refer to the February 14, 1979 notice cited above.

Comments were received from two Kerr-McGee product purchasers, a trade association, a state energy office and an energy oriented consumers group. Only one comment, by a purchaser in litigation with Kerr-McGee, complained that the compromise settlement was insufficient. The balance took issue with the amount of the refund that each customer recipient would be allowed to retain, generally arguing that a larger portion, or the entire refund, be paid to them or their constituency. The trade association provided useful insight into possible impact of certain terms of the consent order.

One comment from the state organization recommended that wholesale and retail customers be allowed to retain no more than five percent of the refund allocated to them. This amount was urged as an amount sufficient to recompense the business recipients for their expenses in implementing the refund program. The suggestion is premised on the presumption that in all cases wholesalers and retailers would have passed along in



its entirety any possible Kerr-McGee overcharge to their customers.

The comment received from the organization representing consumer interests stated that the policy of restitution was not served by permitting resellers to retain any portion of the refund, which was characterized as an inexcusable giveaway. The organization premised its assertion on a lack of evidence that resellers bore any overcharges that may have occurred.

The percentages that various levels of distribution will be allowed to retain was the subject of much consideration during negotiations. It reflects *inter alia*, the fact that distributors and retailers frequently charged prices below the maximum lawful selling price during much of the audit period. It was also based on the presumption that had price reductions taken place during the audit period, less than the full reduction would have been passed through. See 43 FR 38547 (August 28, 1978).

Another consideration was that the percentage to be retained must also act as an incentive to participation by wholesalers and retailers. The incentive must be sufficient to grant a return consistent with the circumstances noted in the preceding paragraph, as well as to warrant the expense each distributor and retailer will incur in administering its segment of the refund program. If members of those groups were to choose not to participate, then the primary object of the program, to see that the greater part of the refund is quickly and economically returned to consumers, would be frustrated.

The group representing consumers further commented that it believed that a price reduction is not an appropriate reimbursement mechanism unless utilized in an intensely regulated situation. The group advocated regulating roll-backs to implement them so as to provide no more than a reasonable, or perhaps historical rate of return to the retailer, and insure a "real" price reduction.

OSC chose a rollback mechanism as a practicable restitution device permitting the refund to be distributed in small increments to consumer. This avoided the difficulty of requiring retail purchasers to prove their purchases in order to receive a refund; it avoided the expense of administering a program in which small refunds would be sent to consumers; and it avoided the inequity of providing no refund to those who purchased with cash and thus have no record of the volumes bought.

The rollback procedure does not provide for a "real" price reduction. The reduction is measured from a price in effect on the effective date of this consent order, to wit, the day this notice

is published. The reduction is not applied against a maximum price calculated by regulation but perhaps not charged "at the pump". Further, compliance with the rollback procedure by retailers, and their suppliers, is provided by monitoring by all participants and DOE, by a disincentive in the participation agreements withholding half of the amount to be retained until the refund is completed, and by certification requirements that impose a liability beyond that for breach of the participation agreements.

As to the amount of reduction in prices, the comments from the trade association noted that these should be kept to a reasonable level to prevent market distortion through competitive pricing by non-participating stations and to prevent increased demand for products in short supply, causing a disruption in allocation or supply.

OSC addressed the problems raised by the consumer group and the trade association in negotiations with Kerr-McGee. The \$.02 to \$.03 reduction provision is intended to provide some flexibility while providing for the most expeditious refund possible without creating serious market interference.

Two further comments were made by the organization representing consumer interests. With regard to primary participants, i.e., those firms which purchased directly from Kerr-McGee, the group noted its concern that the entire amount attributable to that purchaser is placed in a fund should that purchaser choose not to participate. The consumer group recommends that the portion which would have been passed through to consumers through rollbacks should be made available to consumers through a claims fund.

The object of the fund established by paragraph 2 of the consent order is to provide an amount from which judgements awarded to non-participating purchasers may be paid, with the expectation that a court, which will have had to ground its judgement on the regulations, will require an appropriate passthrough to ultimate consumers, or that DOE will take appropriate audit and enforcement action to achieve that result.

The consumer representatives also argue that the refunds paid to large consumers amount to a windfall. OSC intends to notify utility commissions or other state regulatory offices as appropriate in order that they may take whatever actions they deem necessary. This, together with consumer awareness, should prevent windfalls. It should be noted that some large volume consumers may be, literally, consumers themselves. To the extent that public agencies, fleet owners or the Department of Defense receive re-

funds, the benefit will result in a reduction in costs previously incurred.

Another comment from a purchaser recommended that the entire amount of the refund apportioned to a Kerr-McGee product purchaser be retained when that purchaser-distributor has abandoned the marketing portion of its business. The firm submitting this comment indicated that it has sold its product below its maximum lawful selling price due to competitive conditions, and that high wholesale prices had a direct bearing on the sale of the firm's marketing assets.

As already noted, the object of the refund program is to attempt to provide appropriate refunds to the various elements of the distribution and consumption chains. Pursuant to the consent order, the refund has been allocated to Kerr-McGee product purchasers who paid purchase prices for products in excess of the weighted average price for that product to all purchasers. Thus, to the extent that this marketer's product costs were above those of other Kerr-McGee purchasers, the marketer will receive a larger refund. The premise has been adopted that a wholesaler or retailer who received a cost reduction during the audit period would have passed some portion on to its customers, and thus the marketer's retail customers should be afforded some benefit. It should also be remembered that the \$46 million settlement represents a compromise, without which OSC would have to continue its audit, engage in enforcement actions and possible litigation in order to obtain an amount for restitution, an amount which might be greater or lesser than that made available through the consent order. The consent order is an attempt to distribute this amount equitably and expeditiously.

The remaining comments by the trade association concerned details in the refund process. With regard to the notices which must be displayed at an outlet participating in a price reduction, these are intended to assist in monitoring the price reduction by identifying participating retail stations to the public. Care will be taken to ensure that the notice is not misconstrued as an accusation or an admission of wrongdoing.

The association also commented that the rollback procedure could result in a problem for those firms which acquire their supplies from more than one source.

Where an independent retailer obtains product from suppliers in addition to Kerr-McGee, the consent order provides that the price reduction may be made with regard to all product sold until the refund is completed and without regard to any supplier in addition to Kerr-McGee. This provision

should avoid or minimize piecemeal refunds.

One comment was received by a party in litigation with Kerr-McGee requesting that the period for the submission of comments be extended. The grounds presented as reason for the delay are (1) a Freedom of Information request for the information on which the consent order was based; (2) a Protective Order against revealing information disclosed to the firm in the suit; and (3) that the firm is attempting to compel discovery on an expedited basis in order to include that information in its comment.

The regulations governing the issuance, publication and finalization of consent orders do not provide for extensions of time. The opportunity for public comment is required by 10 CFR 205.199J(c). That section provides for a period of not less than 30 days. OSC has provided 30 days since publication of notice in the FEDERAL REGISTER concerning the consent order, and 36 days since issuance of the press release. Further, the firm requesting the extension requested a copy of the consent order, and a copy was sent, on February 9, five days prior to notice in the FEDERAL REGISTER.

The reasons given for requesting the delay are all speculative in that they call for action by a third party as a condition precedent to obtaining the information or relief which the commenting firm seeks. Given the nature of the information or relief sought, it is also speculative as to if, when, and to what extent the relief will be granted. The information requested under the Freedom of Information Act, for instance, is possibly proprietary and thus may not be released. Finally, it would appear that the firm, by virtue of its litigation with Kerr-McGee, is already in an advantageous position to comment on the merits of the consent order. Inasmuch as comments were sought from the public on the consent order as announced and proposed, and not necessarily to obtain the particulars of outstanding private actions, and that an extension would delay implementation of the program on behalf of those who wish to participate in the refund program, OSC has determined that the comment period should not be extended.

Notwithstanding the request for delay, the party involved in the litigation has submitted a comment raising the following points concerning the consent order:

The firm alleges that the consent order contains insufficient information to provide the opportunity for effective comment. The consent order recites the matters audited, the issues raised, the conclusion reached, and the terms and conditions upon which the action is predicted. The consent

order and the notice announcing its execution fully comply with applicable authorities. The Administrative Procedure Act, (5 U.S.C. § 551 *et seq.*) by its terms and definitions, is not an authority applicable to consent orders, as asserted by this firm. Although not cited, the Department of Energy Organization Act, 42 U.S.C. 7101, provides more stringent standards than the Administrative Procedure Act, but even it does not require the procedures advanced by this party. The party in litigation also advances the Enforcement Manual as prescribing the substance of consent orders, and alleges that the consent order is deficient when compared to the example found there. The Enforcement Manual, cited by this party as authority for a number of assertions, does not, by its terms, apply to actions by the Office of Special Counsel. It is an internal, procedural publication of the Office of Enforcement, Economic Regulatory Administration, an entirely separate division of the agency.

The party in litigation also asserts in several ways that DOE has no authority to compromise amounts in violation of the petroleum regulations, that the amount of settlement is inadequate to compromise a particular violation, and that the compromise does not appear to take into account a number of additional areas of possible violation.

OSC satisfied itself of the authority, under applicable laws and regulations, to compromise amounts in settlement of possible violations of the Petroleum Price and Allocation Regulations and has previously done so in a consent order executed between OSC and Gulf Oil Corporation in July 1978. The DOE Office of General Counsel concurs in that judgment. Nothing contained in the comments requires a change in this position.

In response to the comment that the compromise suggests that OSC sanctioned certain violations, or encompassed only two probable violations, the consent order states on its face that OSC has conducted a thorough audit and reviewed all matters relating to compliance with the regulations, including those areas mentioned in the comment concerning class of purchaser problems and maximum price determinations. By its terms, the consent order encompasses all these matters, and indeed all matters resulting from OSC's audit, and discussions with Kerr-McGee.

The party in litigation asserts that the amount of settlement is inadequate to provide restitution for violations, including interest and penalties. OSC conducted an audit, determined Kerr-McGee's liability and then proceeded to reach a compromise settlement with Kerr-McGee. It is clear that the law firm representing the party in

litigation with Kerr-McGee has filed its comments in a manner consistent with the position taken by the firm in its suit against Kerr-McGee. OSC understands the firm's unwillingness to concede any aspect of the matter in litigation. OSC reviewed the areas of possible violation by Kerr-McGee in light of its judgment of the United States' probability of success in litigation, and the net amount of return likely to result therefrom. That amount is possibly different from the amount, reflecting maximum possible exposure, which is asserted in the litigation. Of course, the party in litigation is free to refrain from participating in the voluntary refund program to pursue its litigation.

The party in litigation addressed several of its comments to the procedures of the consent order, most of which have been addressed elsewhere in this notice. One contention not previously discussed is that the release provision of the consent order and the participation agreements is improper. The attorneys representing the party in litigation allege that this provision is directed solely at its client in order to apply coercion "tantamount to blackmail" to procure a settlement.

As a result of experience with the Gulf consent order announced in 43 FR 34185 on August 3, 1978, OSC determined that some arrangement to provide for protection from double recovery should be found in order to avoid the disincentive to settlements, and the additional workload on OSC in participating in suits, which would arise. The double recovery could arise through claimants who re-litigate their claims, or litigate and then pursue the administrative procedure. OSC believes that it was not the intent of Congress, in providing a private right of action, to establish a procedure for windfall double recoveries. A party pursuing a private right of action, given the opportunity to voluntarily participate in the distribution of a refund amount found to be adequate by OSC, or to continue with the lawsuit it has initiated in order to obtain the benefits it expects from its litigation cannot complain that it is compelled to forego a right. The firm can proceed with the suit to obtain what it believes is its due or elect to participate in the refund program to obtain what OSC believes is appropriate restitution. The risk that the firm's bid through litigation for more than the consent order offers will be unsuccessful is entirely on the plaintiff. To the extent the plaintiff is successful, paragraph 2 of the consent order provides a fund from which the judgment can be paid.

The consent order represents a balancing of interests in an attempt to correct actions taken by Kerr-McGee



that may have been inconsistent with the regulations and to compensate those who may have been affected by Kerr-McGee's actions. The consent order was the result of an extensive, arm's-length negotiation process in which the efforts of the parties were directed to a resolution of all areas of dispute and to tailor a remedial procedure to the results of the negotiation. OSC's goal was to identify areas of possible violations, the amounts of possible violation and an appropriate means of making restitution. Other possibilities for remedies exist that may be appropriate in other negotiations. OSC is satisfied that all the provisions of the consent order with Kerr-McGee are lawful, and provide maximum benefits with the least burden on the participant, the consumer, and the government.

The Office of Special Counsel has complied with the requirements of 10 C.F.R. § 205.199J and has considered the comments received in response to the notice of the proposed consent order. This office is satisfied that the consent order executed between Kerr-McGee Corporation and this Office on February 7, 1979, is proper and consistent with the interests of the United States. Therefore, the consent order is made final by issuance of this notice.

Issued in Washington, D.C., March 20, 1979.

PAUL L. BLOOM,  
Special Counsel for Compliance.  
(FR Doc. 79-8992 Filed 3-22-79; 8:45 am)

## [6450-01-M]

Economic Regulatory Administration

**ENFORCEMENT POLICY CONCERNING RESELLER/RETAILER INCREASED PRODUCT COST (INVENTORY) COMPUTATIONS**

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Enforcement Policy.

SUMMARY: The Office of Enforcement, Economic Regulatory Administration, and the Office of General Counsel, Department of Energy, hereby give notice of its enforcement policy regarding separate inventory computations by resellers and retailers in calculating increased product costs to determine maximum lawful selling prices for the period prior to May 1, 1976.

This notice clarifies the basis for, and application of, the determination that ERA will not seek to enforce a rule requiring resellers and retailers to comply with price regulations on the basis of firm-wide inventory computa-

tions prior to May 1, 1976, where the firm concerned historically and consistently maintained separate inventory accounting records.

**FOR FURTHER INFORMATION CONTACT:**

Sharon Tucker, Office of Enforcement, Economic Regulatory Administration, Department of Energy, Room 5308, 2000 M St., NW., Washington, D.C. 20461.

Robert G. Helss, Office of General Counsel, Department of Energy, Room 5308, 2000 M St., NW., Washington, D.C. 20461.

**SUPPLEMENTARY INFORMATION:** Resellers and retailers subject to 10 C.F.R. Part 212, Subpart F, generally may not charge a price for a product which exceeds the weighted average price at which that product was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, the increased product costs concerned. "Increased product costs" is defined as the difference between the weighted average unit cost of a product currently in inventory and the weighted average unit cost of that product in inventory on May 15, 1973.

Effective May 1, 1976, the Federal Energy Administration (FEA) issued a final rule permitting resellers and retailers subject to 10 C.F.R. Part 212, Subpart F, to calculate increased product costs on the basis of separate inventories, under certain conditions, as an alternative to calculating those costs based on a firm-wide inventory computation. 41 FR 19110 (May 10, 1976).

Promulgation of this rule was initiated pursuant to a notice of proposed rulemaking entitled "Proposals for Increased Pricing Flexibility" issued by FEA on October 17, 1975, 40 FR 49372 (October 22, 1975). This notice set forth a variety of major proposals to permit a greater degree of pricing flexibility by refiners, resellers and retailers in view of the continuing general adequacy of supply of petroleum products compared with the restricted supply situation which prevailed when the petroleum price regulations were first adopted.

The notice of proposed rulemaking began by noting that refiners marketing on a national basis were required by the "equal application" rule to increase prices for gasoline equally throughout the country (i.e., on a firm-wide basis). An amendment to this rule was proposed in order to provide a degree of pricing flexibility by refiners on a regional basis. (Such an amendment was in fact subsequently adopted, 41 FR 30021, July 21, 1976.)

The notice then went on to describe the firm-wide applicability of the price

regulations in the case of resellers/retailers, noting that there was a need for an amendment to afford increased pricing flexibility to resellers/retailers as well as to refiners. The notice described the situation at the time in the following terms:

With respect to many resellers and retailers, there is less need for regional price flexibility, since many such firms operate only a single outlet, or a number of outlets within a relatively small geographical area. There are, however, some resellers and retailers that have multiple outlets located over large geographical areas.

As to such firms, the FEA has interpreted the reseller and retailer price rules to require a single firm-wide calculation of "increased costs" for each product under § 212.92, based on the weighted average unit cost of product in that firm's total inventory.

One means of implementing a regional price rule for resellers and retailers would be to permit such firms to calculate their "cost of product in inventory" pursuant to § 212.92 based on separate inventories, to the extent that such inventories were maintained pursuant to the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned. . . .

FEA received written comment and conducted a public hearing on the various proposals for increased pricing flexibility, including the proposal to permit resellers and retailers to compute increased product costs based on separate inventories. As already noted, the "separate inventories" aspect of these rulemaking proceedings was concluded by the issuance of a regulation amendment effective May 1, 1976. In the notice accompanying that regulation amendment, FEA reiterated its interpretation of what was required under the pre-existing regulations and what changes in the reseller/retailer rules the amendment was intended to institute. The FEA on this occasion commented as follows:

Under today's amendment, resellers and retailers which have historically maintained separate inventories for a single product are permitted to compute increased product costs under § 212.92 separately for each of the seller's separate inventories for the product concerned, rather than computed increased product costs on the basis of a single, firm-wide inventory of that product, as heretofore required.

Prior to today's amendment, FEA interpreted "product in inventory" to mean the seller's entire undivided stock of a product held for resale. This interpretation resulted, in part, because FEA has, except in a very few instances involving special circumstances, generally and necessarily viewed a "firm," for cost pass-through purposes, in the widest possible sense of the term. This assures that only arm's-length or "outside" costs are treated as the firm's product costs for cost pass-through purposes, and that "costs" as represented in intra-firm transactions (which may include internal profit)

are, unless specifically provided for, excluded as costs to the firm for price control purposes. Thus, references in the reseller/retailer rules to the "seller," at least in the context of cost aggregation, are generally references to that singular and entire firm consisting of "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." Thus, an unqualified reference to "a seller" which holds "a product in inventory" was considered, prior to today's amendment, as a reference to a seller's entire stock of that product held for resale.

The foregoing statements were included in FEDERAL REGISTER notices signed and issued by the General Counsel of the FEA and constitute FEA's formal interpretation of its reseller/retailer regulations for the period prior to May 1, 1976.

In attempting to implement the foregoing interpretation, in connection with compliance efforts relating to the period prior to May 1, 1976, FEA/DOE encountered considerable difficulties. Many resellers and retailers with multiple inventory locations had maintained their accounts and records only on a separate inventory basis. As a practical matter, FEA/DOE auditors were faced with the complex and time-consuming task of attempting to restructure these accounts and records to recompute maximum lawful selling prices on a firm-wide cost accounting basis. The agency also encountered strong opposition from a number of resellers and retailers who challenged the validity or enforceability of the agency's interpretation of the regulations in effect prior to May 1, 1976.

As a result of further consideration of such matters, it was decided that a more productive use of audit and legal resources would result from moving forward expeditiously to conclude reseller/retailer audits based on existing record keeping systems. Accordingly, in September of 1978, Regional Directors of Enforcement and Regional Counsels were directed that the provision of 10 C.F.R. 212.92, as amended effective May 1, 1976, would be applied in the enforcement of the reseller/retailer price regulations prior to that date.

This decision was intended to reflect prosecutorial discretion rather than a modification or rescission of the agency's interpretation in this matter as reflected in the rulemaking notices quoted above. The decision therefore was not intended to affect the status of agency actions previously concluded on the basis of that interpretation, such as remedial orders issued under 10 C.F.R. Part 205, Subpart O, interpretations issued under Subpart F, or exceptions issued under Subpart D.

In the case of remedial order proceedings pending under 10 C.F.R. Part 205, Subpart O, the Office of Enforcement has withdrawn for reconsider-

ation, or the Office of Exceptions and Appeals has remanded for reconsideration, proposed remedial orders in which the alleged violation is based in whole or in part upon a firm-wide computation of increased product costs by a reseller or retailer, where the firm concerned historically and consistently charged prices based on separate inventory computations. It should be noted, however, that the regulation amendment effective May 1, 1976, permits the alternative of computing increased product costs on a separate inventory basis only when the firm concerned has consistently utilized separate inventory accounting methods for cost management and pricing purposes since May 15, 1973. Therefore, in cases in which the firm did not meet this standard for the period prior to May 1, 1976, the Office of Enforcement is not required to develop or restructure product cost data for pass-through purposes on a "separate inventory" basis and may, in its discretion, continue to bring or prosecute enforcement actions based on a firm-wide computation of increased product costs.

Issued in Washington, D.C., March 12, 1979.

BARTON ISENBERG,  
Assistant Administrator  
for Enforcement.

GAYNELL METHVIN,  
Deputy General Counsel  
for Enforcement and Litigation.  
(FR Doc. 79-8792 Filed 3-22-79; 8:45 am)

## [6450-01-M]

**FUEL OIL MARKETING ADVISORY COMMITTEE**

**Change in Meeting Date**

This notice is given to advise of a change in date of the meeting of the Fuel Oil Marketing Advisory Committee. The Committee will meet Tuesday, April 10, 1979, and Wednesday, April 11, 1979, from 9 a.m. to 5:00 p.m., in Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C., rather than Thursday, March 29, 1979, the Assembly Room, Sheraton-Park Hotel, 2660 Woodley Road, N.W., Washington, D.C., as previously announced.

The agenda for the meetings is as follows:

*Tuesday, April 10, 1979*

Forum: Low Income Energy Assistance Program. The meeting will serve as a forum for public comments on the committee's proposal to provide assistance to low-income people experiencing difficulty paying their energy bills.

*Wednesday, April 11, 1979*

Analysis of Comments Received During April 10, 1979 Forum.

The meetings are open to the public. Any member of the public who wishes to make either written or oral statements will be permitted to do so as announced in the FEDERAL REGISTER February 27, 1979 (44 FR 11161). A copy of the draft report that is the basis for these meetings, entitled "Low Income Energy Assistance: A Profile of Need and Policy Options" can be obtained from the Public Docket Room, Room B120, 2000 M Street, Washington, D.C.

Issued at Washington, D.C. on March 19, 1979.

GEORGIA M. HILDRETH,  
Director,  
Advisory Committee Management.  
(FR Doc. 8960 Filed 3-22-79; 4:21 pm)

## [6450-01-M]

**Federal Energy Regulatory Commission**

[Docket No. TC79-16]

**COLUMBIA GAS TRANSMISSION CORP.**

**Notice of Tariff Filing**

MARCH 20, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia), Post Office Box 1273, Charleston, West Virginia 25325, on March 16, 1979, tendered for filing Fifth Revised Sheet No. 62C, Second Revised Sheet No. 62D, First Revised Sheet No. 62E, and First Revised Sheet No. 63 to its FERC Gas Tariff, Original Volume No. 1, pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement Section 401 of the Natural Gas Policy Act. This filing which Columbia proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Columbia's FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent new section of Columbia's proposed interim tariff filing submitted herein is as follows:

**14.6 Exemptions from Curtailment.** (a) Seller recognizes that exceptions to the levels of curtailment resulting from Section 14.3 may be required to avoid impairment of service for essential agricultural uses during periods of curtailment where, absent the curtailment of high-priority uses, deliveries of gas in excess of the curtailed levels are necessary to satisfy said essential agricultural uses within contractual entitlements. Any Buyer seeking an exemption from curtailment in accordance with this Subsection (a) shall



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have the burden of establishing under oath the minimum volumes of gas needed to protect said essential agricultural uses. In such event, Buyer shall be exempt from curtailment to the extent necessary to satisfy said essential agricultural uses. The terms "essential agricultural use" and "high-priority use" are defined in Title 18, Chapter 1, Subchapter 1, Part 281, Subpart A, Section 281.103, of the Code of Federal Regulations. This Subsection (a) shall terminate as of October 31, 1979.

The tariff filing by Columbia adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Columbia's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

Columbia claims to project no curtailment on its system for the period during which the Interim Curtailment Rule issued on March 6, 1979, is effective, and on that ground requests that the Commission waive the filing requirements of the aforesaid March 6, 1979, order and not make the tendered tariff sheets effective.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff filing shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act, or Columbia's request for waiver is granted.

Any person desiring to be heard or make any protest with reference to said tariff filing should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8793 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-31]

## CONSOLIDATED GAS SUPPLY CORP.

## Notice of Tariff Filing and Request for Waiver

MARCH 20, 1979.

Take notice that on March 16, 1979, Consolidated Gas Supply Corporation (Respondent), 445 West Main Street, Clarksburg, West Virginia 26031, filed in Docket No. TC79-31 (1) a tariff sheet as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder and (2) a request that the filing requirement of section 281.104 of such Regulations be waived thereby moot-ing the need to accept the tendered tariff sheet for filing, all as more fully set forth in the tariff sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent provides that adjustments in deliveries may be made in accordance with the requirements of section 281.101 through 281.111 of the Commission's regulations to the extent necessary to supply the essential agricultural uses or high-priority uses of Respondent's direct sale customers and indirect sale customers. The sheet further provides that the quantities of gas delivered under the adjustments may be reduced in an equitable manner, if the adjustments would otherwise result in the reduction of deliveries of natural gas:

(a) to a direct sale customer or local distribution company to any level which would cause a direct or indirect supply deficiency;

(b) to an interstate pipeline customer in quantities which Respondent determines are necessary for its downstream interstate pipeline to meet direct and indirect high-priority supply obligations imposed by sections 281.101 through 281.111 of the Commission's regulations; or

(c) which Respondent determines is reasonably necessary for injection into storage by Respondent or by any of its customers except to the extent the Commission upon complaint determines that such storage is not reasonably necessary to serve high-priority uses or essential agricultural uses.

Respondent further requests that the filing requirement of section

281.104 of the Commission's Regulations under the Natural Gas Policy Act of 1978 be waived, thereby moot-ing the need to accept the tendered tariff sheet for filing. Respondent contends that the tendered filing is unnecessary and not required to protect deliveries to essential agricultural, high-priority, or any other end-uses on its system due to the favorable gas supply projections for Respondent's system during the foreseeable future.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8794 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-27]

## MICHIGAN WISCONSIN PIPE LINE CO.

## Notice of Tariff Filing

MARCH 20, 1979.

Take notice that on March 16, 1979, Michigan Wisconsin Pipe Line Company (Respondent), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. TC79-27 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with Section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Regulations thereunder, all

as more fully set forth in said sheets which are on file with the Commission and open to public inspection. The following sheets have been filed: (1) Second Revised Sheet No. 26C, superseding First Revised Sheet No. 26C; (2) Original Sheet No. 26D(i), superseding First Revised Sheet No. 26D; and (3) Original Sheet No. 26D(ii), to Respondent's FERC Gas Tariff, Second Revised Volume No. 1.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by Section 4 of the Natural Gas Act and Section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with Section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8795 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-44]

## MID-LOUISIANA GAS CO.

## Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Mid-Louisiana Gas Company (Respondent), 300 Poydras Street, New

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Orleans, Louisiana 70130, filed in Docket No. TC79-44 tariff sheets, First Revised Sheet No. 23i, and Original Sheet No. 23j as part of its FERC Gas Tariff, First Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent provide as follows:

13.13 *Adjustments To Supply Essential Agricultural Or High Priority Uses.* Unless otherwise defined in this tariff, the terms used in this Section 13.13 shall have the meanings contained in Part 281, Subpart A, Subchapter I, Chapter 1 of Title 18, Code of Federal Regulation (the Regulations); and the provisions of the Regulations pertinent to this Section 13.13 are incorporated by reference thereto.

Should Buyer conclude that supplemental deliveries of gas above the Allowed Maximum Daily Requirement permitted Buyer under the curtailment notice then in effect are required in order to supply essential agricultural uses or high-priority uses, then Buyer may request supplemental deliveries above the existing curtailment level to the extent necessary to supply such uses. Seller shall have the right to invoke additional curtailment of lower priority-of-delivery categories to permit deliveries of such supplemental gas.

Any request by Buyer for an adjustment shall be in writing and shall set forth the calculation of its supply deficiency pursuant to Section 281.106 of the Regulations and shall be accompanied by the statement required by Section 281.109(2) thereof. If Seller's own records do not contain information which directly conflicts with the statement submitted, then Seller shall calculate its supply obligation pursuant to Section 281.107 of the Regulations and deliver, pursuant to Section 281.105 thereof, supplemental volumes from system supplies up to the lesser of the supply deficiency of Buyer or Seller's supply obligation with respect to Buyer. Such deliveries shall be reduced upon a recalculation of supply deficiency under Section 281.106(f) of the Regulations and shall be reduced, in an equitable manner, where such supplemental deliveries will otherwise result in (1) a direct or indirect supply deficiency; or (2) a reduction of deliveries necessary for injection into storage, except where such storage is not reasonably necessary to service high-priority or essential agricultural uses.

If Seller rejects a request for adjustment under Section 281.108 of the Regulations, or Buyer does not request an adjustment on behalf of an eligible end-user served by the Buyer, then the aggrieved party may file with the Commission a request for extraordinary relief pursuant to Section 281.111 of the Regulations, and Seller shall adjust its deliveries to the extent necessary to accommodate the Commission's decision on the request.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8797 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-22]

## MIDWESTERN GAS TRANSMISSION CO.

## Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Midwestern Gas Transmission Company (Midwestern), 1100 Milam Building, P.O. Box 2511, Houston, Texas 77001, tendered for filing the following tariff sheets to Third Revised Volume No. 1 of Midwestern's FERC Gas Tariff:

Fourth Revised Sheet No. 94  
Original Sheet No. 94A  
Original Sheet No. 94B  
Original Sheet No. 94C  
Original Sheet No. 94D



Fourth Revised Sheet No. 95G  
Original Sheet No. 95G1  
Original Sheet No. 95G2  
Original Sheet No. 95G3  
Original Sheet No. 94G4

Midwestern states that the tendered tariff sheets are filed to be effective April 1, 1979, pursuant to the order issued March 6, 1979, in Docket No. RM79-13 and sets forth new Sections 10 in the curtailment plan in Articles XIX and XX of the General Terms and Conditions in Midwestern's FERC Gas Tariff providing for an adjustment to Curtailment Period Quantity Entitlements for high-priority and essential agricultural users in accord with the provisions of such order, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

It is stated that Midwestern's customer's high-priority and essential agricultural requirements are determined pursuant to the provisions of sections 281.105-108 of the regulations. It is further said that the new tariff sheets provide that if a direct sale or distribution customer receives gas volumes from interstate or distribution suppliers other than Midwestern, the volume of adjustment must be apportioned, as appropriate, among such customer's interstate and distribution suppliers. It is said that the definitions in Sections 10 are in accord with those terms specified in section 281.103 of the Regulations. It is said that the Sections 10 provide the Midwestern may offset any adjustment by reducing the Curtailment Period Quantity Entitlements of other customers not receiving an adjustment down to the level of supply protected by Section 281.108(b) of the Commission Regulations, and that the volumes of adjustment shall be reduced on a pro rate basis when no further offsetting adjustments can be made in other customers' Curtailment Period Quantity Entitlements. Finally, it is said that the new Sections 10 set forth information required in the form of an affidavit to be submitted by any direct sale or local distribution customer when requesting an adjustment to its Curtailment Period Quantity Entitlement.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before

March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary

[FR Doc. 79-8798 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-28]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, on March 16, 1979, tendered for filing First Revised Sheet No. 102B to its FERC Gas Tariff, Fourth Revised Volume No. 1, pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement section 401 of the Natural Gas Policy Act. This filing which Texas Eastern proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Section 12.3 of Texas Eastern's FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent section of Texas Eastern's proposed interim tariff sheet submitted for filing herein is as follows:

12.7 Waiver of Section 12.3. Notwithstanding any provision of Section 12.3, Seller shall waive or adjust the effective level of curtailment for any Buyer, who has submitted to Seller Buyer's high-priority requirements or essential agricultural requirements in the manner prescribed and determined

in accordance with 18 CFR 281, Subpart A.

The tariff filing by Texas Eastern adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Texas Eastern's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff filing should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary

[FR Doc. 79-8776 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-39]

WESTERN GAS INTERSTATE CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Western Gas Interstate Company (Respondent), 1800 First International Building, Dallas, Texas 75250, filed in Docket No. TC79-39 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all

as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary

[FR Doc. 79-8797 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-36]

COLORADO INTERSTATE GAS CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that on March 16, 1979, Colorado Interstate Gas Company (Respondent), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. TC79-36 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agri-

cultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary

[FR Doc. 79-8898 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-26]

NORTH PENN GAS CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that North Penn Gas Company (North Penn), 76-80 Mill Street, Port Allegany, Pennsylvania 16743, on March 16, 1979, tendered for filing First Revised Sheet No. 121, to First Revised Volume No. 1 of North

Penn's FERC Gas Tariff in Docket No. TC79-26 to provide on an interim basis a plan for the delivery of natural gas for essential agricultural users in accordance with section 401 of the Natural Gas Policy Act of 1978 (NGPA) and part 281 of the Regulations thereunder all as more fully set forth in said sheets, which are on file with the Commission and open to public inspection.

The pertinent part of North Penn's First Revised Sheet No. 121 is set forth as follows under paragraph N of that sheet:

N. Agricultural Uses. Relief from the curtailment provision set forth in this Section 9A is available under the standards and procedures set forth by the Federal Energy Regulatory Commission in its "Interim Curtailment Rule" issued in Docket No. RM79-13 on March 6, 1979. The provisions of this paragraph N shall expire on October 31, 1979.

The tariff sheet tendered by North Penn adopts and incorporates by reference the regulations set forth in 18 CFR 281.101, *et seq.*, to provide that North Penn's plan for the curtailment of deliveries to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural uses only. The regulations set forth in 18 CFR 281.101, *et seq.*, require that protection from curtailment be provided to both high priority users as defined in these regulations as well as essential agricultural users. It appears that North Penn should, in order to be in conformity with the Commission's Regulations, tender an additional or amended filing that would also afford the requisite protection to "high priority users" as contemplated by the NGPA and the regulations promulgated thereunder.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet, as filed, shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act. North Penn's filing, however, does not afford the curtailment protection required by the NGPA and our augmenting regulations thereunder with respect to "high priority users."

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to



intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8899 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-29]

TRANSWESTERN PIPELINE CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that on March 16, 1979, Transwestern Pipeline Company (Respondent), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. TC79-29 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission,

## NOTICES

Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-8900 Filed 3-22-79; 8:45 am]

[6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

[OTS-060004; FRL 1080-41]

### ASBESTOS-CONTAINING MATERIALS IN SCHOOL BUILDINGS

#### School Asbestos Program

AGENCY: Environmental Protection Agency.

ACTION: Notice Announcing Program.

SUMMARY: The Environmental Protection Agency (EPA) is initiating a nationwide information and technical assistance program to encourage States and school districts to identify and control exposure problems caused by asbestos-containing materials in school buildings. EPA will distribute Guidance Packages to States and school districts and provide technical assistance through its Regional Offices. EPA will also collect data on the extent of asbestos exposure problems in school buildings and of actions taken to correct the exposure problems. The program focuses on asbestos exposure problems in public school buildings, but EPA will provide information and technical assistance to owners of other buildings upon request.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the Guidance Package or other EPA publications:

Mr. John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Call toll-free 800-424-9065. (In Washington, D.C., call 554-1404.)

To obtain technical assistance on how to identify or correct asbestos exposure problems contact your Region-

al Asbestos Coordinator in the listed States:

Mr. Paul Heffernan, EPA Region I, JFK Federal Bldg., Boston, MA 02203, (617) 223-0585—Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island.

Mr. Marcus Kantz, EPA Region II, 26 Federal Plaza, Room 802, New York, NY 10007, (212) 264-9538—New York, New Jersey, Puerto Rico, Virgin Islands.

Mr. Fran Dougherty, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, (215) 597-8683—Pennsylvania, Delaware, Maryland, West Virginia, Virginia, District of Columbia.

Mr. Dwight Brown, EPA Region IV, 345 Courtland Street, Atlanta, GA 30308, (404) 881-3222—Kentucky, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida.

Dr. Lyman Condie, EPA Region V, 230 South Dearborn St., Chicago, IL 60604, (312) 353-2291—Toll-free numbers: Illinois: 800-972-3170; Minnesota, Wisconsin, Indiana, Michigan, Ohio: 800-621-3191.

Dr. Norman Dyer, EPA Region VI, First International Bldg., 1201 Elm Street, Dallas, TX 75270, (214) 729-2734—Arkansas, Louisiana, Oklahoma, Texas, New Mexico.

Mr. Wolfgang Brandner, EPA Region VII, 324 East 11th Street, Room 1500, Kansas City, MO 64108, (816) 374-3038—Toll-free numbers: (Leave name and number and ask to have your call returned) Missouri: 800-892-3837; Iowa, Nebraska, Kansas: 800-821-3714.

Mr. Ralph Larsen, EPA Region VIII, 1860 Lincoln Street, Denver, CO 80295, (303) 837-3926—Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado.

Mr. John Yim, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-3352—California, Nevada, Arizona, Hawaii.

Ms. Margo Partridge, EPA Region X, 1200 Georgia Avenue, Seattle, WA 98101, (206) 442-5560—Washington, Idaho, Oregon, Alaska.

SUPPLEMENTARY INFORMATION: EPA is concerned about the possibility that large numbers of school children and school employees are exposed to asbestos fibers released from asbestos-containing materials in school buildings. The Agency is coordinating a Federal, State, and local effort to determine the extent of the problem and to take appropriate corrective measures where needed.

There are three reasons for EPA's concern: (1) asbestos-containing materials were used extensively in buildings throughout the United States; (2) under certain circumstances asbestos fibers can be released from asbestos-containing materials into a building's air supply where they can be inhaled; and (3) because no one has ever established a safe or threshold level of exposure to asbestos, EPA believes that any exposure increases a person's risk of developing lung cancer, mesothelioma, asbestosis, or other diseases.

Although there is a basis for concern, there is not enough information to assess the full extent of the prob-

lem. No one knows which buildings or how many buildings have asbestos-containing materials. Whether there is an asbestos exposure problem in a building depends on the type of materials present and on the particular circumstances in the building. Not all asbestos-containing materials cause exposure problems.

There is generally a long latency period between exposure to asbestos and development of an asbestos-related disease. The length of the latency period depends on the amount and duration of exposure. The latency period may exceed twenty years, and people who are exposed to asbestos in school may develop asbestos-related diseases decades later. Children, adolescents, and school employees spend many hours in school buildings for many years, and the longer a person is exposed the greater his or her chance of developing an asbestos-related disease.

The amount of asbestos which is released into a school's air depends on a number of factors, including the activities in the school. Indoor athletic activities, such as basketball games, may cause vibrations which cause the release of asbestos fiber. Capricious behavior by students may cause damage to asbestos-containing materials, and damaged material is likely to release asbestos fibers.

Only friable asbestos-containing materials, materials that can be crumbled, pulverized, or reduced to powder in the hand, are likely to cause exposure problems. In some asbestos-containing materials, such as vinyl floor tiles, the asbestos fibers are firmly bound or encased. These materials will not release asbestos fibers unless they are cut, ground, or sanded.

Friable asbestos-containing materials were used extensively in schools (and other buildings) for insulation and fireproofing from the end of World War II until 1973. Most of these materials were applied by spraying and are commonly referred to as sprayed asbestos materials. In 1973, EPA prohibited the spraying of friable asbestos-containing materials for insulation or fireproofing. This ban was extended in 1978 to cover spraying for nearly all uses.

Not all friable materials were spray applied. Some were troweled on. Materials which were troweled on vary from soft to hard; hard materials are not friable.

The only sure way to determine whether a building contains friable asbestos-containing material is to visually inspect the building, take samples of the suspect material, and have the samples analyzed at a laboratory. Building records do not always indicate whether asbestos-containing materials were used. Visual inspection alone is not adequate because some fri-

able materials contain cellulose, glass fibers, or other fibers and look virtually identical to asbestos-containing materials.

In October 1978 EPA conducted a telephone survey to learn how many States had established programs to inspect schools, identify exposure problems, and take corrective actions. The survey revealed that thirty-one States had programs but only about five percent of the nation's 90,000 public schools had been inspected. Many State officials expressed a need for guidance materials and stated that they would start or improve school asbestos programs after receiving those materials.

In order to aid and encourage States and school districts to identify and correct asbestos exposure problems in school buildings, EPA has developed an extensive guidance program. The program focuses on the "Guidance Package" which contains all of the information needed by a school district to conduct an asbestos control program. The Guidance Package will be distributed to public school districts either directly or through State agencies and is available to the public upon request. In order to supplement the Guidance Package EPA (1) has trained individuals in its ten Regional Offices to provide assistance, (2) has coordinated its program with other Federal agencies which will also provide assistance, (3) has produced a videotape which highlights the information in the Guidance Package; (4) will hold training sessions for interested State officials, and (5) has established a toll-free telephone number for people who have questions about sample analysis or selection of an analytical laboratory. In addition, EPA has begun a reporting program through which data will be collected to assess the extent of the asbestos material problem in schools and to determine the need for further Federal action.

The Guidance Package contains two documents. One manual explains a step-by-step procedure for identifying and correcting an asbestos exposure problem in a building. These steps are visually inspecting for friable material, having the samples analyzed for asbestos, performing an exposure assessment if asbestos is present, and taking corrective action if necessary. This manual is written for school officials. The second manual contains more detailed information on asbestos identification and corrective measures. This manual will be particularly useful to school personnel, contractors, and others involved in actual asbestos inspection and control activities.

EPA's Regional offices will work directly with States. In each EPA Regional Office, a specially trained indi-

vidual, the Regional Asbestos Coordinator, can provide technical assistance or information. (The Regional Asbestos Coordinators are listed above). Each Regional Asbestos Coordinator has available for loan a videotape which highlights the steps necessary to identify and correct an exposure problem. In addition, each Coordinator will develop a training session (or sessions) for interested State officials in the Region. The first Regional session was held in Atlanta on February 6, 1979.

EPA has coordinated this program with the Department of Health, Education, and Welfare and the Occupational Safety and Health Administration (OSHA). The agencies are providing Regional personnel to work with State and local officials in the areas of health effects and worker protection. Names and addresses of individuals to contact at these agencies are included in the Guidance Package.

EPA has arranged for Research Triangle Institute, a not-for-profit scientific research institute affiliated with Duke University, North Carolina State University, and the University of North Carolina, to answer specific questions about analysis of bulk samples for asbestos or selection of a laboratory for bulk sample analysis. Research Triangle Institute can be telephoned toll-free at 800-334-8571, extension 6892.

In addition to the guidance program, EPA has begun a reporting program. EPA requests that school districts report the results of their inspections for asbestos-containing material and any corrective actions taken. Each Guidance Package contains reporting forms that can be used for this purpose. EPA will use this information to determine the extent of the problem caused by asbestos-containing materials in public schools and to evaluate the need for further Federal actions. This information will be available to the public upon request.

EPA expects most States to have public school inspection programs in place shortly. Over thirty States already have programs, and some have already inspected all or nearly all of their schools. The success of the program depends on maximum local, State, and Federal cooperation.

Dated: March 15, 1979.

STEVEN D. JELLINEK,  
Assistant Administrator  
for Toxic Substances.

[FR Doc. 79-8734 Filed 3-22-79; 8:45 am]

## NOTICES



[6712-01-M]

**FEDERAL COMMUNICATIONS COMMISSION**

[Report No. 16556]

**AUTOMATED PROGRAMMING SYSTEMS**

Broadcast Action

MARCH 1, 1979.

By Defense Commissioner on February 28:

The Commission has received information that there are broadcast stations which presently use or are planning to use automated programming systems to conduct the weekly Transmission Tests of the Attention Signal and Test Script of the Emergency Broadcast System (EBS). In utilizing these systems it must be remembered that the entire EBS concept is based on the ability of broadcast stations to respond immediately to a national, state, or local emergency in order to provide the public with essential information affecting the safety of life and property.

One of the purposes of the weekly EBS test is to familiarize station staff in the procedures for promptly activating the EBS system in the event of an actual emergency. The use of Automatic Programming Systems to perform the required tests without proper, regular training of station employees on how to run an EBS test or actual alert would not meet this requirement. It is essential that on-duty broadcast station personnel have the capability to interrupt normal programming on short notice to transmit the EBS Attention Signal and broadcast messages appropriate for the emergency condition in the event the EBS is activated. Stations using program automation must provide an operator at all times while on the air who can access the system and provide timely response to an Emergency Action Notification. In cases where stations have a studio operator manually programming an AM station and also overseeing a program automated FM station, facilities could be provided for that operator to transmit the EBS tests and alerts simultaneously on both stations.

Stations using Automated Transmission Systems (ATS) are reminded that means must be provided to meet the EBS monitoring and alert transmission requirements during all periods of operation as detailed below in paragraphs (f) and (g) of Sections 73.146, 73.346, and 73.546.

(f) The station employee on duty at the ATS monitoring and alarm point is not restricted to a specific duty position provided that such person can monitor the off-air program signal and alarm signal at all times. If that employee is the only person in attendance

at the station, that person also must be able to observe and respond to an EBS alert as required by Subpart G of this part.

(g) The station employees on duty at ATS monitoring and alarm points shall be fully instructed in procedures to take in the event of a malfunction of the transmission system and receipt of an EBS alert.

Regarding the use of prerecorded (taped) EBS encoder tones in the making of EBS attention Signal Transmission, Section 73.940 states that, "An encoder device shall be used by broadcast stations for the generation of the two-tone Attention Signal." The EBS Checklist requires the Attention Signal to conform to Section 73.906, a part of which states that, "The two audio tones shall have fundamental frequencies of 853 and 960 Hertz and shall not vary over  $\pm 0.5$  Hertz." Use of a tape recording of the tones would not be in compliance with Sections 73.940 or 73.906. In an order released on December 5, 1974, (FCC 74-1285), the Commission concurred with the National Industry Advisory Committee which stated in its recommendations to the Commission that: "... it was again determined that tape cartridges are not sufficiently reliable to reproduce the two tones within the tolerances recommended." However, the use of prerecorded announcements for tests or alerts is not intended to be precluded.

With respect to the aural portion of the weekly EBS tests; Part 73, Subpart G and the EBS Checklist do not specifically prohibit the addition of any music, humming, singing, background noise, etc., to the EBS weekly test or test message. However, any form of a musical rendition or alteration of the weekly test would seem not to conform to the serious nature of the EBS and should be avoided.

I would like to take this opportunity to commend the broadcast industry for their voluntary participation in a program that truly has served the public interest, convenience and necessity. On June 28, 1976, the FCC, Defense Civil Preparedness Agency, The National Weather Service and the National Industry Advisory Committee entered into an agreement to work together to expand use of the EBS for State and local emergencies. Since that date many areas around the country have developed local EBS plans and are using the EBS for weather warnings, industrial accidents, civil disorder, etc. The Commission has received reports that such use of the EBS assuredly has saved lives and property. My fellow Commissioners join me in applauding all those

who volunteered their efforts in this program.

MARGITA E. WHITE,  
Defense Commissioner.

[FR Doc. 79-8709 Filed 3-22-79; 8:45 am]

[6730-01-M]

**FEDERAL MARITIME COMMISSION****AGREEMENT FILED**

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 673, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated herein-after) and the statement should indicate that this has been done.

Agreements Nos.: T-3787, T-3788, and T-3516-1.

Filing Party: Mr. Jonathan Blank, Preston, Thorgrimson, Ellis, Holman & Fletcher, Attorneys for the Port of Seattle, 1776 F Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. T-3787, between the Port of Seattle (Port) and Hapag-Lloyd AG, Hamburg, Bremen (HL), provides for the Port's five-year lease (with renewal options) to HL of certain premises at Terminal 18, Seattle, Washington, to be used for the loading and discharging of HL vessels, Euro-Pacific vessels and for HL's operations incidental thereto. In addition, the Port grants HL the preferential use of ships' berth and prior apron, two Port-owned container cranes and eight straddle carriers. As compensation, HL agrees to pay the Port: (a) as rent for the leased premises and preferential use of ships' berth and apron area no less than \$500,000 per year, nor more

than \$600,000 per year; (b) for preferential use of container cranes, no less than \$100,000 per year, nor more than \$300,000 per year, and (c) for preferential use of straddle carriers, no less than \$163,600 per year, nor more than \$260,000 per year. In addition, HL agrees to pay the Port according to the Port of Seattle Tariff No. 2-F, all dockage, wharfage, maintenance, and fueling charges plus all applicable Federal, State and local taxes. HL may handle other vessels at the facility upon the Port's approval; and HL shall assess, collect and retain all applicable Port tariff charges resulting from such use.

Agreement No. T-3788, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (the Lines), provides for the Port's 20-month lease (with renewal options) to the Lines of certain premises at Terminal 37, Seattle, Washington, to be used for the Lines' container freight station warehouse and operations incidental thereto. As compensation, the Lines agree to pay the Port rental for the premises in the sum of \$86,400 per year plus all applicable Federal, State and local taxes as well as the amortized cost of Port provided improvements totalling \$322,650. The Lines may handle container freight operations other than those of Lines, upon the Port's approval; and the Lines shall assess collect and remit to the Port all applicable Port tariff charges resulting from such use.

Agreement No. T-3516-1, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (the Lines), modifies the parties' basic agreement providing for the Port's lease to the Lines of certain premises at Terminal 18, Seattle, Washington, to be used for the loading and discharging of vessels, container storage, and for the Lines operations incidental thereto, together with the preferential utilization of two Port container cranes and ten Port straddle carriers. The purpose of the modification is to provide for: (1) relocation of the Lines operations to Terminal 37, by changing the legal description of the premises; (2) appropriate substitution of exhibits; (3) inclusion of additional premises facilities; (4) changes and/or addition in operation equipment; and (5) adjustments in lease rental and preferential use payments.

Dated: March 20, 1979.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 79-8913 Filed 3-22-79; 8:45 am]

[6730-01-M]

**AGREEMENT FILED**

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 673, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated herein-after) and the statement should indicate that this has been done.

Agreement No.: T-3207-1.

Filing Party: Carl S. Parker, Jr., traffic Manager, Galveston Wharves, P.O. Box 328, Galveston, Texas 77553.

Summary: Agreement No. T-3207-1, between the Board of Trustees of the Galveston Wharves (Galveston) and Southern Stevedoring Co., Inc. (Southern), modifies the parties' basic agreement providing for the preferential lease by Galveston of premises for use by Southern as a public terminal for the business of handling bananas, other tropical fruit and general cargo. The purpose of this amendment is to increase the size of the leased premises from 4.62 acres to 6.72 acres, and to increase the fixed annual rental from \$23,000 to \$40,000.

Dated: March 20, 1979.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 79-8914 Filed 3-22-79; 8:45 am]

[4110-12-M]

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Assistant Secretary for Education

**FEDERAL EDUCATION DATA ACQUISITION COUNCIL**

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Office of the Assistant Secretary for Education an-

nounces the following meeting of the Federal Education Data Acquisition Council (FEDAC):

NAME: Federal Education Data Acquisition Council.

DATE: Tuesday, April 10, 1979.

TIME AND PLACE: 9:00 a.m. to 5:30 p.m., Room 3000 (Education Division Conference Room), Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

CONTACT PERSON: Dr. Francis V. Corrigan, Room 3159, Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-1022.

PURPOSE: This is the first meeting of FEDAC, which advises the Secretary of Health, Education, and Welfare on the improvement, development and coordination of Federal education data acquisition activities. The authority for FEDAC is Section 400A of the General Education Provisions Act, as added by the Education Amendments of 1978 (Pub. L. 95-561; 20 USC 1221-3).

AGENDA: Agenda items will include installation of Council members, overview of Council role and activities, review of policy issues and draft operating procedures, and adoption of interim operating procedures.

A roster of members and other pertinent information regarding the meeting may be obtained from Dr. Francis V. Corrigan at the address/telephone number given above. This meeting will be open to the public.

MARY F. BERRY,  
Assistant Secretary  
for Education.

[FR Doc. 79-8808 Filed 3-22-79; 8:45 am]

[4110-87-M]

**Center for Disease Control****OCCUPATIONAL SAFETY AND HEALTH FIELD RESEARCH PROJECT**

AGENCY: National Institute for Occupational Safety and Health (NIOSH). Center for Disease Control, PHS, HEW.

ACTION: Notice of Research Project Initiation.

SUMMARY: NIOSH announces that it is ready to begin data collection on a field research project entitled "Delayed Neurotoxicity of Organophosphorus Exposed Workers." Excluding pesticide formulation, the primary uses of organophosphorus esters is the manufacture of plastics, hydraulic fluids, lubricants, air filter media, and



flame retardants. The usage of organophosphorus esters in these diverse applications is partially due to their excellent flame-retardancy. This project is part of the NIOSH industrywide research effort conducted under the Occupational Safety and Health Act of 1970.

This notice does not constitute a request for proposal.

DATES: Field work is scheduled to begin in June 1979.

#### FOR FURTHER INFORMATION CONTACT:

Charlotte A. Cottrill, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226, Telephone: (513) 684-3816.

**SUPPLEMENTARY INFORMATION:** On September 20, 1978, NIOSH published in the FEDERAL REGISTER (43 FR 42305) a list of proposed field research projects. That notice stated that more specific information would be provided to the public 6 weeks before starting field work on any of the proposed projects. Field investigation and data collection on the following study will begin in June 1979:

**Title:** Delayed Neurotoxicity of Organophosphorus Exposed Workers.

**Project Officer:** Charlotte A. Cottrill, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH.

**Purpose:** The purpose of this study is to investigate health effects, particularly subclinical neurologic effects, in workers with chronic occupational exposure to organophosphorus esters and/or their end products (with the exclusion of organophosphorus pesticides).

**Background:** Even though there has been increased usage of organophosphorus compounds in industrial, commercial, and military applications, other than as pesticides; most of the available epidemiologic literature focuses upon organophosphorus pesticides. Even though many of these organophosphorus pesticides are known as neurotoxins, little is known about the health effects of exposure to many other organophosphorus compounds (particularly the aryl phosphates) and their commercially important end products. A review of the toxicologic, medical, and industrial hygiene literature suggests a number of adverse health effects which may result from occupational exposure to organophosphorus esters and/or their non-pesticide end products. This study will investigate these suggested health effects particularly the neurological effects which may be associated with occupational exposure to non-pesticide organophosphorus products.

**Study Description:** The proposed study group will consist of approxi-

mately 164 workers occupationally exposed to organophosphorus esters or their end products. A comparison group of 164 workers who have never been exposed to organophosphorus esters, their end products, or other neurotoxins will also be studied. Comparison subjects will be selected using criteria to achieve a distribution similar to the worker cohort on the following variables: Age, sex, and socioeconomic status.

An interview schedule covering demographic data, occupational history, and medical history will be administered to each of the 328 workers selected.

Each of the 328 workers will be given a limited neurologic examination in addition to the following tests: Nerve conduction velocity, vibratory perception, visual reaction response, blood analysis, and psychological performance measures.

The NIOSH field research project described above will be conducted under the authority of Section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669) and in accordance with the provisions of Part 85a of Title 42, Code of Federal Regulations. The protocol for this type of project has been reviewed by the Office of Management and Budget and determined to be in compliance with the Federal Reports Act.

Dated: March 19, 1979.

ANTHONY ROBBINS, M.D.  
Director, National Institute for Occupational Safety and Health.

[FR Doc. 79-8790 Filed 3-22-79; 8:45 am]

#### [4110-03-M]

##### Food and Drug Administration CONSUMER PARTICIPATION Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Acting Food and Drug District Director, Baltimore, MD.

**DATE:** The meeting will be held at 10 a.m., Friday, March 30, 1979.

**ADDRESS:** The meeting will be held at the Senior Citizen Service Center of Tidewater, 1210 Colonial Ave., Mezzanine Floor, Norfolk, VA 23517.

#### FOR FURTHER INFORMATION CONTACT:

E. Hope Frank, Consumer Affairs Officer, Food and Drug Administra-

tion, Department of Health, Education, and Welfare, New Federal Office Bldg., Rm. 11-510, 7th and Marshall Sts., Richmond, VA 23240, 804-782-2748.

#### SUPPLEMENTARY INFORMATION:

The purpose of this meeting is to exchange information between FDA officials, consumers, and consumer representatives. Participants may present their views directly to the district director of FDA and seek solutions to any problems agreed on during this communication. The agency will have an opportunity to discuss and communicate vital health and policy issues to the concerned public.

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 79-8598 Filed 3-22-79; 8:45 am]

#### [4110-03-M]

##### CONSUMER PARTICIPATION Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** This document announces a forthcoming Consumer Exchange Meeting to be chaired by the District Director of the Region X Food and Drug Administration office, Seattle, WA.

**DATE:** The meeting will be held at 1:30 p.m., Thursday, March 29, 1979.

**ADDRESS:** The meeting will be held at the Federal Building and U.S. Courthouse, Rm. 589, West Fort St., Boise, ID 83724.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Miller, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, Federal Office Bldg., Rm. 5003, Seattle, WA 98174, 206-442-5258.

#### SUPPLEMENTARY INFORMATION:

The purpose of the meeting is to exchange information between FDA officials and consumer representatives. The meeting will provide consumer representatives an opportunity to present their views directly to the District Director and other regional managers of FDA and will provide the agency an opportunity to discuss with a concerned public vital health and policy issues which need resolution.

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 79-8595 Filed 3-22-79; 8:45 am]

#### [4110-03-M]

##### Food and Drug Administration CONSUMER PARTICIPATION Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Director of the San Francisco District Office, Region IX.

**DATE:** The meeting will be held at 2 p.m., Monday, April 9, 1979.

**ADDRESS:** The meeting will be held at: 300 Ala Moana Boulevard, Honolulu, Hawaii.

#### FOR FURTHER INFORMATION CONTACT:

Camilla Gray McGowan, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 50 U.N. Plaza, San Francisco, CA 94102, 415-556-2062.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to exchange information between FDA officials and representatives of the Honolulu community concerning food additives. Current FDA policy will be explained, issues discussed, and areas requiring action or followup identified.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 79-8803 Filed 3-22-79; 8:45 am]

#### [4110-03-M]

##### CONSUMER PARTICIPATION Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** This document announces a forthcoming Consumer Exchange Meeting, arranged by the Food and Drug District office, Detroit, MI.

**DATE:** The meeting will be held at 9:30 a.m., Wednesday, April 4, 1979.

**ADDRESS:** The meeting will be held in the Conference Room Food and Drug Administration, 1560 E. Jefferson, Detroit, MI.

#### FOR FURTHER INFORMATION CONTACT:

Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 1560 E. Jefferson, Detroit, MI 48207, 313-226-6260.

#### SUPPLEMENTARY INFORMATION:

The purpose of the meeting is to exchange information between FDA officials, consumers, and consumer representatives. Participants may present their views to the chairperson and seek solutions to Food and Drug interactions and the Over-the-Counter Drug Review. The agency will have an opportunity to discuss and communicate vital health and policy issues to the concerned public.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

[FR Doc. 79-8804 Filed 3-22-79; 8:45 am]

#### [4110-03-M]

[Docket No. 78N-0388]

##### TELES SUSPENSION

Final Order on Objections and Request for Hearing Regarding Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) denies a hearing and withdraws approval of the new drug application (NDA) for Teles Suspension, an antiseborrheic drug for topical use. The agency has reviewed the manufacturer's request for hearing and has concluded that there is no genuine issue of material fact requiring a hearing. The approval is being withdrawn because there is a lack of substantial evidence that the drug would have all the effects claimed in its labeling.

**EFFECTIVE DATE:** April 2, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

**SUPPLEMENTARY INFORMATION:** In a notice (DESI 9206) published in the FEDERAL REGISTER of July 30, 1970 (35 FR 12234), FDA announced its evaluation of a report received from the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group, on the

antiseborrheic drug Teles Suspension, Torch (NDA 9-205), containing tellurium dioxide, formerly marketed by Torch Laboratories, Inc., 760 S. 42d St., Philadelphia, PA 19104 (hereafter, Torch).

In the July 1970 notice, FDA stated that tellurium dioxide suspension was possibly effective for the treatment of seborrheic dermatitis of the scalp, axillae, chest, and pubic regions. Holders of previously approved NDA's and any person marketing any such drug without approval were given 6 months to obtain and submit, in a supplemental or original NDA, data to provide substantial evidence of effectiveness for those indications for which the drug was classified as possibly effective. The agency stated that at the end of the 6 months, it would evaluate the data to determine whether or not substantial evidence of effectiveness had been provided, and that, if it had not, the agency would initiate procedures to withdraw approval of the NDA under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)).

Because information later submitted by Torch was found not to provide substantial evidence of effectiveness, FDA issued a notice of opportunity for hearing (then under Docket No. FDC-D-414) in the FEDERAL REGISTER of March 28, 1972 (37 FR 6343). The notice reclassified the "possibly effective" indications to "lacking substantial evidence of effectiveness", and proposed to issue an order withdrawing approval of the NDA and all amendments and supplements thereto on the grounds that new information before the agency concerning the drug, evaluated together with the evidence available to the agency at the time of approval of the application, showed that there was a lack of substantial evidence that the drug would have all the effects it purported or was represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. Before initiating this action, however, the agency invited Torch and other interested persons to submit by April 30, 1972, a written notice electing whether or not to avail themselves of the opportunity for a hearing. Those requesting a hearing were instructed to state the reasons why approval of the NDA should not be withdrawn and to provide a well-organized and full factual analysis of the clinical and other investigational data that they were prepared to present in support of the requested hearing.

On April 6, 1972, Torch filed a written notice of appearance requesting a hearing and material relied upon to justify a hearing.

The agency has considered the material submitted by Torch and has con-



cluded that there is no genuine issue of material fact requiring a hearing. A full discussion follows.

#### I. THE DRUG

Teles Suspension contains 2.5 percent tellurium dioxide in a vehicle containing emulsifying and wetting agents, sulfated to a pH of 5.5.

#### II. RECOMMENDED USES

The labeling reviewed by the NAS/NRC Drug Efficacy Study Group recommended Teles Suspension for seborrheic dermatitis of the scalp, axillae, chest, and pubic regions. Revised labeling recommends Teles Suspension as a shampoo for topical use only in the management of seborrheic dermatitis.

#### III. DATA SUBMITTED TO SUPPORT CLAIMS OF EFFECTIVENESS

Torch submitted the report of one study and referenced other information in the NDA and a report cited by the NAS/NRC Panel that had reviewed the drug. All are discussed below.

A. *Clinical studies.* 1. The only clinical investigation submitted by Torch with its hearing request was initiated by Marion Laboratories. Marion conducted 3 double-blind controlled trials involving 70, 84, and 83 patients comparing Teles Suspension with the bland shampoo base (tellurium omitted).

Patients with seborrhea of unstated severity were selected, and their seborrhea was evaluated on a point scale of 0 to 16 (0 to 4 for each of four scalp quadrants) in two studies (Blau and Knopf, Shelanski) or 0 to 36 (0 to 4 for nine sections) in one study (Orentreich). Patients were treated for 2 weeks (Blau and Knopf, Shelanski) or 1 month (Orentreich) with the bland shampoo base, then randomized for 2 months to one of the two treatments. In two studies (Blau and Knopf, Shelanski), the bland shampoo base was then resumed for 2 weeks.

Although the basic design of the studies appears sound, the report of their results is facially inadequate. Because there is no information on results in individual patients, it is impossible to assess the comparability of patients for possibly pertinent variables (e.g., age, sex, duration of seborrhea) or to confirm the averages and statistical analyses performed. The reports thus lack the details needed for scientific evaluation (21 CFR 314.111(a)(5)(ii)(c)), and can therefore not be considered as providing evidence of an adequate and well-controlled investigation.

More important, however, the results of the studies do not support the effectiveness of Teles Suspension. Two studies (Blau and Knopf, Shelanski)

show no advantage for Teles over its bland shampoo base; they do not even show a trend in that direction. The Blau and Knopf study, in fact, slightly favors the base. The Orentreich study is reported to favor Teles significantly at the first month but not after the second. The study, however, fails to consider that despite initial randomization, the bland base group had worse seborrhea at the start of the study than did the Teles group. Non-comparability of groups at baseline can sometimes be dealt with by appropriate statistical techniques, but an adequate and well-controlled clinical investigation must at least consider whether comparability of pertinent variables has been assured (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)).

The Marion analysts concluded that, "considering all three studies together, it can be shown that Teles reduces seborrhea and is an effective agent. Its benefit over the plain base is marginal and has not been clearly demonstrated" (emphasis added). This analysis by the only persons familiar with the full data from the studies (Torch submitted no further analysis or raw data) plainly represents a conclusion that there is not substantial evidence that Teles Suspension is more effective than a plain, unmedicated shampoo.

Torch later asserted that the bland shampoo base is not truly bland but contains sulfuric acid to adjust the pH, and that the acid and the pH produce an active product. No evidence was offered, however, to demonstrate that either sulfuric acid or pH is in fact important in the treatment of seborrhea. Torch also asserted that the product as a whole proved clearly effective in these studies, even if not more effective than the bland shampoo base, and that therefore the product is effective. However, Teles Suspension contains tellurium dioxide, which, when added to the shampoo, is claimed to be an active therapeutic agent for treatment of dandruff. If in fact the ingredient is not effective, its inclusion in the product is impermissible.

An alternative way of viewing the situation, which does not alter the evidentiary requirements at all, is to consider Teles a combination product. If the base or vehicle of a combination drug has activity against the condition being treated, the effectiveness of the added drug must be demonstrated by showing that the complete drug product is more effective than the admittedly active base. The combination drug regulation, 21 CFR 300.50, requires that each component (the base and tellurium dioxide) be shown to contribute to the claimed effect. This objective would be accomplished by showing that the complete product is more effective than either of the com-

ponents. Because it would not be appropriate to test tellurium dioxide alone without a bland shampoo base, the required study would be a comparison of Teles with its shampoo base. As discussed above, because Teles was not shown to be more effective than its shampoo base, the tellurium dioxide adds nothing to the effectiveness of the base, and the product fails to meet the requirement that each component of a combination drug contribute to the claimed effects of the drug.

2. In the NDA for Teles is a 1961 report of a study in which Smith, Kline, and French sent 45 dermatologists and 7 pediatricians supplies of Teles Suspension for use principally in seborrheic dermatitis. Of 786 patients treated, results were available on 600. Of these 600, 367 case reports were received and 233 verbal reports obtained. Reports consist only of the physicians' ratings (excellent, good, fair, poor) and various comments about how much physicians and patients like the shampoo. The study fails to compare the results of treatment with those of a control therapy (either an unmedicated shampoo or another medicated one) (21 CFR 314.111(a)(5)(ii)(a)(4)). Nor does the report contain information needed for scientific evaluation, such as the method of patient selection and the diagnostic criteria employed by the investigators (21 CFR 314.111(a)(5)(ii)(c)).

3. A part of the NDA for Teles consists of reports by Bolus, Kiech, and Gross, who studied Teles suspension in 38 patients, most of whom had seborrheic dermatitis of the scalp. The reports consisted of a single page, which listed, at most, the patient's initials, the duration of treatment, and various summary statements, such as "all cases showed marked improvement" (Bolus). Viewed as a study, the reports plainly lack the details needed for scientific evaluation (21 CFR 314.111(a)(5)(ii)(c)). Moreover, no patients were treated by the investigators with a bland base shampoo. Because the reports provide no comparison of the results in patients treated with Teles with those obtained in a control group, the reports can provide no basis for concluding that Teles is more effective than a plain shampoo lacking tellurium dioxide (21 CFR 314.111(a)(5)(ii)(a)(4)). The reports thus lack the essentials of an adequate and well-controlled clinical investigation identified in 21 CFR 314.111(a)(5)(ii).

4. In support of the effectiveness of Teles Suspension, Torch submitted a reprint of an article by E. R. Gross and C. S. Wright, entitled "Tellurium Dioxide Suspension in the Treatment of Seborrhea Capitis" (*Archives of Dermatology*, 78:92-94, 1958). Gross

and Wright report without any detail, their experience in using Teles Suspension in *seborrhea capitis*. In a review of 159 cases, Wright found 69 completely controlled, 72 improved, and 18 unimproved. In his review of 83 cases, Gross found 60 in whom Teles was able to control seborrhea, 10 who were improved, and 13 who were unimproved. There are no details that would permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(c)), and there was no comparison with an unmedicated shampoo control, or with any other control treatment (21 CFR 314.111(a)(5)(ii)(a)(4)).

B. *Other data.* In its submission, Torch cited the following articles and reports:

1. A report from Wyanel Laboratories of June 5, 1953, on subacute dermal toxicity studies in rabbits, rats, and guinea pigs, and an eye irritation study in rabbits;

2. An article entitled "The Toxicity of Orally Ingested Arsenic, Selenium, Tellurium, Vanadium, and Molybdenum," Frank and Moxon, concerning the chronic oral toxicity of tellurium salts in rats;

3. An article entitled "Industrial Exposure to Tellurium: Atmospheric Studies and Clinical Evaluation," Steinberg, Massari, Miner, and Rink, *Journal of Industrial Hygiene and Toxicology*, Vol. 24, No. 7, a study on the effects of exposure of workers to known concentrations of tellurium fumes in an industrial process;

4. A report from Dalare Associates of January 28, 1955, on the urine levels of tellurium after exposure thereto; and

5. A report from the Kettering Laboratory of December 1, 1955, on the excretion of tellurium following the daily use of a shampoo containing tellurium dioxide.

These articles and reports concern the safety of tellurium, not its effectiveness. Because the proposed withdrawal of approval of NDA 9-205 is based solely on lack of evidence of effectiveness, the articles and reports are not pertinent.

#### IV. SUMMARY

Torch did not submit any adequate and well-controlled clinical studies that demonstrate the effectiveness of Teles in the treatment of seborrheic dermatitis. The studies do not contain sufficient information, most of them are uncontrolled, and they do not demonstrate the effectiveness of Teles Suspension compared with its base.

#### V. FINDINGS

On the basis of the foregoing, FDA finds that there is a lack of substantial evidence that Teles Suspension has the effects it is represented to have under the conditions of use prescribed,

recommended, or suggested in the labeling. Torch has not presented any data to demonstrate the existence of a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to the Commissioner (21 CFR 5.1), the request for a hearing is denied, and approval of NDA 9-205 for Teles Suspension, and all amendments and supplements thereto, is hereby withdrawn, effective April 2, 1979.

Dated: March 15, 1979.

SHERWIN GARDNER,  
Acting Commissioner of  
Food and Drugs.

[FR Doc. 79-8805 Filed 3-22-79; 8:45 am]

[4110-92-M]

Office of Human Development Services

[Program Announcement Number 13648-791]

#### CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

##### Availability of Funds

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Teaching Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

##### SCOPE OF THIS ANNOUNCEMENT

This Program Announcement is one of four for the Child Welfare Services Training grants program and covers Teaching grants to be awarded for Fiscal Year 1979. All Teaching grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

##### PROGRAM PURPOSE

The purpose of this program is to develop, expand, and improve educational programs and resources for preparing students for work in the field of child welfare.

#### PROGRAM GOAL AND OBJECTIVES

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.

- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where, it is the plan of choice to be placed in a permanent foster home.

Applications for projects should specify that the proposed project will achieve or is capable of achieving one of the following specific program objectives:

- To develop degree oriented curricula organized into specific course sequences for use by the applicant school of social work, which (a) address the range of issues and problems in the practice of child welfare in an organized and comprehensive focus and (b) integrate a child welfare field placement program which supports a comprehensive learning experience for students entering a child welfare specialization; or

- Develop curricula which address the range of child welfare issues in an organized, comprehensive and practice relevant focus for a school of continuing education which is part of or affiliated with the applicant school of social work.

#### ELIGIBLE APPLICANTS

Teaching grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited or granted candidacy status by the Council on Social Work Education. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education, will not be accepted for review.

#### AVAILABLE FUNDS

Of the total appropriation of \$8,150,000 available in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately \$2,037,500 for new teaching grants. A new grant is the initial award made in support of a project. The project period is of one year duration. An indirect cost of 8



percent of the direct costs (or the institution's actual indirect cost if less than 8 percent) is allowable for this grant program. In Fiscal Year 1978, 140 teaching grant applications were received for competitive review and 83 awards were made, averaging \$37,568 each.

#### GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

#### THE APPLICATION PROCESS

##### AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Services Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions, and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate regional office listed in the appendix.

##### APPLICATION SUBMISSION

One signed original and six copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. Applications must be submitted to the Regional office in the region in which the applicant institution is located. *The applicant must clearly identify the program announcement number for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

##### A-95 NOTIFICATION PROCESS

This program does not require the A-95 notification process.

##### APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program.

Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Regional Program Director for Children, Youth and Families in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing

grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

##### CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the project objectives are identical with or are capable of achieving one of the specific program objectives listed in this announcement under "Program Goals and Objectives."

- That proposed procedures or the work program, if well executed, will be capable of achieving the desired results, including (1) the plan for accomplishing the purpose and objectives, (2) timetables for their accomplishment, and (3) information about the number and type of students to be directly affected by the teaching grant.

- That the project personnel are or will be well qualified to develop child welfare curricula and the applicant organization has or will have adequate facilities and resources to conduct the project.

- That the applicant (a) describes what child welfare issues will be covered in the curricula, (b) demonstrates that these issues will be covered in an organized and comprehensive manner; and (c) where applicable, describes how its child welfare field placement program will support a total comprehensive learning experience for students entering a child welfare specialization.

- That the applicant has a clear plan for establishing an advisory group made up of persons providing child welfare services, including both the public and voluntary sector, and that this advisory group will meet regularly to provide practice relevant technical assistance in the course design and will review various draft materials, including the final product.

- That the applicant describes specific plans to implement the curricula into the ongoing program of the school of social work or school of continuing education, including projected information about the qualifications of the person who will teach the course, how often they will be offered, and what students will be eligible to take the course(s).

- That the estimated cost to the government and the project is reasonable considering the anticipated results.

##### CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than May 21, 1979 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

- The application is received on or before close of business (COB) May 21, 1979 in the Department of Health, Education, and Welfare Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.

**APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE REGIONAL OFFICE IN THE REGION IN WHICH THE APPLICANT INSTITUTION IS LOCATED WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.**

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,  
Acting Commissioner for  
Children, Youth and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.

##### APPENDIX

REGIONAL PROJECT OFFICERS, CHILD WELFARE SERVICES TRAINING GRANT PROGRAM, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, REGIONS I-K

##### Region I

Regional Project Officer, Administration for Children, Youth and Families, Room 2011—JFK Federal Building, Government Center, Boston Massachusetts 02203 (617) 223-6450.

##### Region II

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 26 Federal Plaza—Room 4149, New York, New York 10007 (212) 264-4118.

##### Region III

Regional Project Officer, Administration for Children, Youth and Families, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101 (215) 596-6763.

##### Region IV

Regional Project Officer, Administration for Children, Youth and Families, 101 Marietta Tower—Suite 903, Atlanta, Georgia 30323 (404) 242-2128.

##### Region V

Regional Project Officer, Administration for Children, Youth and Families, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606 (312) 353-8065.

##### Region VI

Regional Project Officer, Administration for Children, Youth and Families, 1200 Mail Tower Building—Room 2025, Dallas, Texas 75202 (214) 729-6596.

##### Region VII

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 601 E. 12th Street—3rd Floor, Kansas City, Missouri 64106 (816) 758-5401.

##### Region VIII

Regional Project Officer, Administration for Children, Youth and Families, 1961 Stout Street, Denver, Colorado 80294 (303) 327-3106.

##### Region IX

Regional Project Officer, Administration for Children, Youth and Families, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102 (415) 556-6153.

##### Region X

Regional Project Officer, Administration for Children, Youth and Families, Mail Stop 622—Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101 (206) 399-0838.

[FR Doc. 79-8862 Filed 3-22-79; 8:45 am]

#### [4110-92-M]

[Program Announcement No. 13648-792]

#### CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

##### Availability of Funds

AGENCY: Administration for Children, Youth, and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Traineeship Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

##### SCOPE OF THIS ANNOUNCEMENT

This Program Announcement is one of four for the Child Welfare Services

Training Grants program and covers Traineeship Grants to be awarded for Fiscal Year 1979. All Traineeship Grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

##### PROGRAM PURPOSE

The purpose of this program is to develop the skills and qualification of full-time students who have as their career objectives the provision of services to children as their families by providing financial support through Institutions of Higher Education. Support is provided to Baccalaureate degree students in their senior year only, for the first or second year at the Masters of Social Work Level, and for Doctoral candidates.

##### PROGRAM GOAL AND OBJECTIVES

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.

- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice, to be placed in a permanent foster home.

Applications should specify that the proposed project will achieve or is capable of achieving the following program objective:

- To enable students who have child welfare as a career objective to gain special knowledge and experience in providing services to children and their families. Financial support is provided only to full-time Baccalaureate degree students in their senior year, to full-time first or second year graduate students working toward a Masters in social work or its equivalent and full-time Doctoral candidates. Undergraduates at the junior level, students who are enrolled part-time or for any other purpose are not eligible to receive assistance under this program.

##### ELIGIBLE APPLICANTS

Traineeship Grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited by the

Council on Social Work Education or have been granted candidacy status. Applications submitted by applicants not accredited nor granted candidacy status by the Council on Social Work Education will not be accepted for review.

##### AVAILABLE FUNDS

Of the total appropriation of \$8,150,000 available in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately \$3,260,000 for new traineeship grants. A new grant is the initial award made in support of a project. The project period is of one year duration. Awards are made for student costs only. At the undergraduate level, the per student cost shall not exceed \$1,000. At the graduate level, costs which may be covered include tuition, fees, stipend, dependency allowances and travel expenses. No other direct or indirect costs are allowable except for the following:

If a separate unit is established in a public child welfare service agency for the sole purpose of supervising trainee field placement, those costs directly attributed to the field supervision of the students will be allowable as a direct cost to the institution. An indirect cost rate not to exceed 8 percent of the direct costs (excluding traineeship costs) may be charged to the program (or the institution's actual indirect cost if less than 8 percent).

In fiscal year 1978, 131 traineeship grant applications were received for competitive review and 108 awards were made, averaging \$31,498.

##### GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

##### THE APPLICATION PROCESS

##### AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Services Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate regional office listed in the appendix.

##### APPLICATION SUBMISSION

One signed original and six copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. (Applications must be submitted to the appropriate Regional office in the region in



which the applicant institution is located.) *The applicant must clearly identify the program announcement number for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

#### A-95 NOTIFICATION PROCESS

This program does not require the A-95 notification and review process.

#### APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Regional Program Director for Children, Youth and Families in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

#### CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

● That the project objectives are identical with or are capable of achieving the specific program objective listed in this announcement under "Program Goals and Objectives."

● That proposed procedures or the work program, if well executed, will be capable of achieving the results required by the program and further defined and elaborated by the applicant, including at least the following sub-criteria:

a. That the applicant describes a specific plan to track recipients of traineeships for a period of at least five years to determine to what extent graduates enter and remain in the field of child welfare services; and

b. That the applicant provides assurance that all student eligibility requirements are met.

● That the application describes what the institution is doing to reinforce and support the students' com-

mitment to child welfare services, including a description of courses which students will be required to take or select from which place special emphasis on child welfare services.

● That the applicant documents it will provide a field placement program (except for Doctoral candidates) for students in which they will have an opportunity to integrate academic and field placement experiences into a more comprehensive understanding of the field of child welfare, including the following:

a. What type of schedule the field placement follows and how many hours a week, month, semester, etc., it entails;

b. That for each traineeship requested there is a specific description of and commitment in writing from an agency for a full academic year of field placement as defined by the institution, in a child welfare setting which will enable the undergraduate or Master level trainee to (1) carry a caseload or participate in the management of a caseload primarily involving child welfare services and (2) work under the direction of a trained social work supervisor;

c. The applicant describes the policies and procedures it will follow in the supervision of the students' field placements including (1) whether there is a supervisor or director of field placement and what is that person's role and responsibility; (2) who provides direct supervision (the school or the field placement agency); (3) the criteria for the selection of field placements in child welfare; (4) the nature and quality of the supervisory contact required; and (5) the relationship between the field placement and the classroom instruction.

● That the application include one of the following three types of specific documentation that the recipients of traineeships will work in a child welfare setting upon completion of their Baccalaureate, Masters degree or Doctoral program: (Items 1 & 2 apply to undergraduate and Masters level only. Item 3 applies to Doctoral candidates only).

1. A letter of commitment from public or voluntary social service agencies to release employees for the pursuit of a graduate or undergraduate degree in social work. The letter of commitment must specify the number of employees to be released and enrolled, and describes efforts made by the agencies to select minorities and employees with limited financial resources; or

2. A letter of commitment from a public or voluntary agency stating that it will hire a trainee upon completion of the degree program by that student.

3. A letter of commitment from an institution or agency stating that it will hire a trainee upon completion of the degree program to teach, conduct research or administer programs in child welfare.

● That for Doctoral candidates a complete description of dissertations be included and how each dissertation relates to the goal and objectives of this program.

● That project personnel are or will be well-qualified to provide direction and supervision to students specializing in child welfare and the applicant organization has or will have adequate facilities and resources to conduct the project.

● That the estimated cost to the government of the project is reasonable considering the anticipated results.

#### CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

● The application was sent by registered or certified mail no later than May 21, 1979 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

● The application is received on or before close of business (COB) May 21, 1979 in the Department of Health, Education, and Welfare Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.

**APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE REGIONAL OFFICE IN THE REGION IN WHICH THE APPLICANT INSTITUTION IS LOCATED WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.**

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,  
Acting Commissioner  
for Children, Youth and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,  
Assistant Secretary for Human  
Development Services.

#### APPENDIX

REGIONAL PROJECT OFFICERS, CHILD WELFARE SERVICES TRAINING GRANT PROGRAM, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, REGIONS I-X

#### Region I

Regional Project Officer, Administration for Children, Youth and Families, Room 2011, JFK Federal Building, Government Center, Boston, Massachusetts 02203 (617) 223-6450.

#### Region II

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 26 Federal Plaza, Room 4149, New York, New York 10007 (212) 264-4118.

#### Region III

Regional Project Officer, Administration for Children, Youth and Families, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101 (215) 596-6763.

#### Region IV

Regional Project Officer, Administration for Children, Youth and Families, 101 Marietta Tower, Suite 903, Atlanta, Georgia 30323 (404) 242-2128.

#### Region V

Regional Project Officer, Administration for Children, Youth and Families, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606 (312) 353-8065.

#### Region VI

Regional Project Officer, Administration for Children, Youth and Families, 1200 Mail Tower Building, Room 2025, Dallas, Texas 75202 (214) 729-6596.

#### Region VII

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 601 E. 12th Street, 3rd Floor, Kansas City, Missouri 64106 (816) 758-5401.

#### Region VIII

Regional Project Officer, Administration for Children, Youth and Families, 1961 Stout Street, Denver, Colorado 80294 (303) 327-3106.

#### Region IX

Regional Project Officer, Administration for Children, Youth and Families, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102 (415) 556-6153.

#### Region X

Regional Project Officer, Administration for Children, Youth and Families, Mall Stop 622, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101 (206) 399-0838.

[FR Doc. 79-8863 Filed 3-22-79; 8:45 am]

#### [4110-92-M]

[Program Announcement Number 13648-794]

#### CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

##### Availability of Funds

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Child Welfare Training Center Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42, U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

##### SCOPE OF THIS ANNOUNCEMENT

This Program Announcement is one of four for the Child Welfare Services Training Grants program and covers Child Welfare Training Center Grants to be awarded for Fiscal Year 1979. All Training Grants are awarded and administered by the Children's Bureau, Administration for Children, Youth and Families, Washington, D.C.

##### PROGRAM PURPOSE

The purpose of this program is to develop, expand, strengthen and improve the capacity of schools of social work to train persons who will work or who are working in the field of child welfare services.

##### PROGRAM GOAL

The goal of this program is to provide education and training programs for persons who are committed to entering the field of child welfare services, or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

● To provide support to families in their own homes in order to prevent separation of children from their families.

● Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

● Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice to be placed in a permanent foster home.

Applications for the National Child Welfare Training Center Grant should specify that the proposed project will

achieve or is capable of achieving all three program objectives listed below:

##### NATIONAL

1. To develop and maintain for schools of social work and public child welfare agencies an ongoing inventory and assessment of child welfare service course offerings and course sequences in schools of social work.

2. To develop and maintain for schools of social work and public child welfare agencies an ongoing inventory and assessment of in-service child welfare service training programs provided by public and private non-profit social service agencies (including purchase of service agencies).

3. To collect, develop and disseminate model curricula, guidance, standards and approaches which will enable schools of social work and public child welfare service agencies to more effectively develop staff expertise in child welfare.

Applications for a Regional Child Welfare Training Center Grant should specify that the proposed project will achieve or is capable of achieving all three program objectives listed below:

##### REGIONAL

1. To develop in each school of social work (as appropriate to the graduate or undergraduate level) an effective child welfare services course sequence including a comprehensive program for both academic coursework and field placement.

2. To establish ongoing relationships with public and private non-profit child welfare service agencies, and other schools of social work which will enable schools of social work (a) to develop and maintain practice relevant curricula and (b) to assist public child welfare service agencies in developing and monitoring in-service training programs.

3. To identify and provide support to schools of social work to assist them in the development, expansion, and strengthening of their expertise in one or more of the following areas of specialty in child welfare services:

a. Training staff serving one of the following minority groups:

- (1) Black
- (2) Hispanic
- (3) Native American
- (4) Asian

b. Social work and the law

c. Adoption of special needs children

d. In-home services to children and their families

e. Child welfare services to adolescents.

##### ELIGIBLE APPLICANTS

Child Welfare Training Center Grants are awarded to public or non-profit private colleges and universities offering graduate degree programs in



social work which are accredited or have been granted candidacy status by the Council on Social Work Education. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education will not be accepted for review.

#### AVAILABLE FUNDS

Of the total appropriation of \$8,150,000 available in fiscal year 1979, the Administration for Children, Youth and Families expects to award approximately \$1,793,000 for new Child Welfare Training Center Grants. One grant will be awarded for a National Child Welfare Training Center. Ten grants, one in each HEW region, will be awarded for Regional Child Welfare Training Centers. A new grant is the initial award made in support of a program. The project period is five years. The initial grant will provide funds for the first year of the project. Continuation funding depends upon the satisfactory performance of the grantee and the availability of funds. An indirect cost of 8 percent of the direct costs (or the institution's actual indirect cost if less than 8 percent) is allowable for this grant program.

#### GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

#### APPLICATION PROCESS

##### AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Service Training Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guide for Fiscal Year 1979 may be obtained by writing to:

Susan Weber, Director, Training and Technical Assistance Division, Children's Bureau, Administration for Children, Youth, and Families, P.O. Box 1182, Washington, D.C. 20013, Attention: No. 13648-794, Phone (202) 755-7820.

#### APPLICATION SUBMISSION

In order to be considered for a grant under the Child Welfare Services Training Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award.

One signed original and six copies of the grant application, including all attachments must be submitted to the address below.

Applications sent by mail shall be addressed as follows:

Department of Health, Education and Welfare, Office of Human Development Services, Grants Management Branch, Room 341-F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. 13648-794

#### APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner for Children, Youth and Families in considering competing applications. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget for which support is given, and the total period for which project support is contemplated.

#### CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

##### APPLICATIONS FOR NATIONAL CHILD WELFARE TRAINING CENTER ONLY

● **Project objectives.** The applicant demonstrates that the project objectives are identical to and capable of achieving the program objectives specified in this Program Announcement and includes:

a. A specific detailed and complete work plan for the first three years, including a GANTT chart or other graphic illustration of the work plan, including timetables; and

b. A less detailed outline of proposed activities for the remaining two years.

● **Consultation.** The applicant documents:

a. That it has consulted with State and local public and private child welfare agencies, other schools of social work and other agencies concerned with the delivery of child welfare services in the planning of the project; and

b. How it will work cooperatively and collaboratively with the ten Regional Child Welfare Training Centers.

● **Personnel qualifications.** The applicant documents:

a. That the project personnel are or will be well qualified in the appropriate use of the various social work methods pertinent to child welfare services and in the actual practice of specialized areas within the field of child welfare services (i.e. prevention, in-home services, permanent placement and foster care, licensing, adoption etc.); and

b. That the personnel are or will be well qualified in curriculum development at both the graduate and undergraduate level and in the varied use of teaching and training methods appropriate to the specific knowledge and skills being developed.

● **Steering Committee.** Applicant describes a plan for creating and implementing a Steering Committee:

a. Whose clear purpose is to provide leadership and consultation for the work of the National Child Welfare Training Center; and

b. Which includes representatives from each of the ten Regional Child Welfare Training Centers, and representation from states and national professional organizations concerned with the delivery of services to children and families.

● **Survey of Schools of Social Work.** Applicant describes:

a. How it will design an instrument and a process to be used by Regional Child Welfare Training Centers to conduct a national survey of graduate and undergraduate schools of social work to determine the extent and characteristics of their child welfare teaching program (both course sequences, field work and other resources) and the number of students who take these courses; and

b. A timetable for completing and reporting on this survey within eighteen (18) months after the grant award using the following time sequence:

1. Completion of the survey instrument, instruction and any necessary training of Regional Child Welfare Center staff on the use of the instrument to insure compatible and complete information is to be completed within six (6) months after award of the grant including preparation of all required documents necessary to obtain A-40 Office of Management and Budget clearance. After submission to OMB up to 90 days should be allowed for clearance before the instrument can be used; and

2. Collection of survey data from Regional Child Welfare Training Centers; analysis and reporting should be completed within eighteen (18) months after the grant award.

c. A conceptual framework with specific annotated examples of the objectives and content of the survey.

● **Survey of public child welfare services agencies.** Applicant describes:

a. How it will design an instrument and a process to be used by Regional Child Welfare Training Centers to

conduct a national survey of in-service training programs and resources provided by public child welfare service agencies; and

b. A timetable for completing and reporting on this survey within eighteen (18) months after the grant award using the following time sequence:

1. Completion of the survey instrument, instruction and any necessary training of Regional Child Welfare Training Center staff on the use of the instrument to insure compatible and complete information is to be completed within six (6) months after the award of the grant including preparation of all required documents necessary to obtain A-40 Office of Management and Budget clearance. After submission to OMB up to 90 days should be allowed for clearance before the instrument can be used; and

2. Collection of survey data from Regional Child Welfare Training Centers; analysis and reporting should be completed within eighteen (18) months after the grant award.

c. Conceptual framework with specific annotated examples of the objectives and content of the survey.

● **Student tracking systems.** Applicant describes a process to design and maintain a reporting system to collect employment data from each school of social work which receives traineeship grant funds from the Child Welfare Services Training Grant Program. Employment data is collected by the Regional Child Welfare Training Centers for the purpose of tracking the employment of the recipients of traineeships for five (5) years. The system, with appropriate forms and instructions, should be delivered to the Regional Child Welfare Training Centers at the end of the eighth month of the grant award.

● **Model course sequences.** Applicant describes a process for designing and disseminating one or more model child welfare services course sequences for both the graduate and undergraduate level which includes:

a. Convening a national advisory panel to provide guidance in the development of model courses; and

b. A plan for disseminating model child welfare services course sequences to schools of social work on a national basis.

Applicant should provide descriptive examples of what the course sequences would cover.

● **National meetings.** Applicant describes a plan for convening two national meetings during the five year grant period for the purpose of:

a. Reviewing and assessing the most current and productive practices of child welfare services which lead to improving the outcomes for children and their families; and

b. Building a body of knowledge and practice particularly pertinent to training and teaching needs of schools and public agencies.

These meetings should include representatives of public child welfare services agencies and undergraduate and graduate schools of social work. The first meeting should be scheduled between 12 to 18 months after the grant award and the second meeting 18 to 24 months before the end of the five year grant period.

● **Collection and dissemination of child welfare training resources.** Applicant describes how it will complete all of the following:

a. Maintain a method for collecting and disseminating current resource material on child welfare teaching and training, guidance materials and audio-visuals;

b. Publish periodic bulletins on child welfare training and publish an annual catalog of training resources; and

c. Edit and prepare for publication articles that are particularly pertinent to child welfare teachers, trainers and supervisors.

● **Project cost.** Applicant justifies the cost to the government is reasonable considering the anticipated results.

#### APPLICATIONS FOR REGIONAL CHILD WELFARE TRAINING CENTER GRANTS ONLY

Complete grant applications for Regional Child Welfare Training Center Grants will be reviewed and evaluated against the following criteria:

● **Project objectives.** The applicant demonstrates that the project objectives are identical to or capable of achieving the program objectives specified in this Program Announcement and includes:

a. A specific detailed and complete work plan for the first three years, including a Gantt chart or other graphic illustration of the work plan including timetables; and

b. A less detailed outline of proposed activities for the remaining two years.

● **Consultation.** The applicant documents:

a. That it has consulted with state and local public and private child welfare agencies, other schools of social work and other agencies concerned with the delivery of child welfare services in the planning of the project and has submitted written documentation of their agreement to participate in the application, as well as their general support of the project. At least two to three states in the Region should be covered in the documentation; and

b. How it will work cooperatively and collaboratively with the National Child Welfare Training Center.

● **Personnel qualifications.** The applicant documents:

a. That the project personnel are or will be well qualified in the appropriate use of the various social work methods pertinent to child welfare and in the actual practice of specialized areas within the field of child welfare (i.e. prevention, in-home services, permanent planning and foster care, licensing, adoption, etc.); and

b. That the personnel are or will be well qualified in curriculum development at both the graduate and undergraduate level and in the varied use of training methods appropriate to the specific knowledge and skills being developed.

● **Steering committee.** Applicant describes a plan for creating and implementing a steering committee:

a. Whose clear purpose is to provide leadership, expert consultation and guidance for the work of the Regional Child Welfare Training Center; and

b. Which includes representation from public and private child welfare service agencies, schools of social work and all the states in the regions.

● **Student tracking system.** Applicant states agreement to track the employment of recipients of traineeships from the Child Welfare Service Training Grants Program for a period of five (5) years by:

a. Using a system designed by the National Child Welfare Service Training Center to collect data from schools of social work who have received traineeship funds from the Child Welfare Service Training Grants Program; and

b. Report the data back to the National Child Welfare Training Center annually beginning six months after receiving the data collection forms and instructions.

● **Survey of schools of social work.** Applicant describes a work plan for the Regional Child Welfare Training Center which would include all of the following activities:

a. Surveying the child welfare services teaching programs in the region at graduate and undergraduate schools of social work (both course sequences, field work and other resources), using the instrument designed by the National Child Welfare Training Center. This activity is to be completed within four months after receiving the survey instrument and instructions from the National Child Welfare Training Center;

b. Identifying the individual tasks, both general and specialized, that comprise child welfare services practice at the entry level and at the supervisory level;

c. Identifying the specific knowledge, attitudes and skills needed to perform these tasks;



d. Working with graduate and undergraduate schools of social work in the region to develop and implement specific child welfare sequences which are based on the results of (a) (b) and (c) above; and

e. Developing and carrying out a series of workshops for teachers from schools of social work on practice relevant teaching methods applicable to the teaching of child welfare sequences. All of these workshops will include representatives from each state in the region.

● *Survey of public child welfare service agencies.* Applicant will describe how it will accomplish all of the following:

a. Survey the in-service training programs and resources provided by the public child welfare service agencies in the region (using the instrument designed by the National Child Welfare Training Center);

b. Report survey data to the National Child Welfare Training Center within six months after receiving the survey instrument and instructions; and

c. Develop a technical assistance plan to help each state upgrade its in-service training resources.

● *Child welfare services expertise.* Applicant describes:

a. How it will identify schools of social work within the region which have specific experience and expertise in one or more of the specialty areas listed below:

1. Training staff serving minority groups.

2. Social work and the law.

3. Adoption of special needs children.

4. In-home services to children and their families.

5. Child welfare services to adolescents.

b. A plan for developing and expanding the identified expertise in one or more of the areas of specialty listed above. The plan must have measurable objectives over a five year period with specific details on achieving the objectives for the first three years.

● *Project cost.* Applicant justifies the cost to the government is reasonable considering the anticipated results.

#### CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

● The application is sent by registered or certified mail not later than May 21, 1979 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

● The application is received on or before May 21, 1979 in the department of Health, Education and Welfare mailroom. In establishing the date of receipt, considerations will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare. **APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE CENTRAL OFFICE IN WASHINGTON, D.C., WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.**

Applications mailed or delivered by hand must be sent or taken to the following address:

Department of Health, Education, and Welfare, Office of Human Development Services, Grants Management Branch—Room 341F.4, Hubert H. Humphrey Bldg., 200 Independence Avenue, S.W., Washington, D.C. 20201.

Applications will be accepted daily until close of business May 21, 1979.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,  
Acting Commissioner for  
Children, Youth, and Families.

Approved: March 19, 1979.  
ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.  
[FR Doc. 79-8864 Filed 3-22-79; 8:45 am]

#### [4110-92-M]

[Program Announcement No. 13648-793]

#### CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

##### Availability of Funds

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Training Grants of National Significance* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

##### SCOPE OF THIS ANNOUNCEMENT

This Program Announcement is one of four for the Child Welfare Services

Training Grants Program and covers Training Grants of National Significance to be awarded for Fiscal Year 1979. All Training Grants of National Significance are awarded and administered by the Administration for Children, Youth and Families, Children's Bureau.

##### PROGRAM PURPOSE

The purpose of this program is to increase the competence and skills of persons currently working in the field of child and family welfare.

##### PROGRAM GOAL, OBJECTIVES, AND PRIORITY AREAS

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

● To provide support to families in their own homes in order to prevent separation of children from their families.

● Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

● Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice, to be placed in a permanent foster home.

Applicants should specify that the proposed project will achieve or is capable of achieving one of the following objectives:

● Developing selected, in-service training materials for use by public and private, non-profit child welfare services agencies to increase their skills in one of the following three priority areas of critical need:

1. Develop materials to train child welfare staff serving Spanish speaking populations to:

a. be more sensitive and culturally aware of the particular needs, values, life styles and family practices of these groups; and

b. use this cultural awareness to provide improved services to children and families in a manner which encourages and supports their ethnic, family and community life.

2. Develop materials to train state licensing staff in the areas of child placement, foster family homes and child care institutions.

3. Develop materials to train child welfare service's staff to understand and support rights of biological parents and their responsibilities toward their children in foster care; or

● Conduct leadership training institutes and seminars on child welfare

service issues for top level administrators of state child welfare services programs, state legislators, attorneys general, juvenile and family court judges, advocacy groups, and other persons with similar responsibilities.

##### ELIGIBLE APPLICANTS

Training Grants of National Significance are awarded to public or non-profit private colleges and universities which are accredited by the appropriate accrediting authority. Grants are not made to individuals even though they may be affiliated with an institution of higher education or to public or private, nonprofit agencies or organizations other than institutions of higher education. Non-conforming applications will not be accepted for review.

##### AVAILABLE FUNDS

Of the total appropriation of \$8,150,000 available in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately \$1,059,500 for new Child Welfare Services Training Grants of National Significance. A new grant is the initial award made in support of a project. The project period is of one year duration. An indirect cost of 8% of the direct costs (or the institution's actual indirect cost if less than 8%) is allowable for this grant program. In Fiscal Year 1978, 50 applications for Training Grants of National Significance were received for competitive review and 17 awards were made, averaging \$89,153 each.

##### GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

##### AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Services Training Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to:

Susan Weber, Children's Bureau, Administration for Children, Youth, and Families, P.O. Box 1182, Washington, D.C. 20013, (202) 755-7820. Attention: No. 13648793.

##### APPLICATION SUBMISSION

In order to be considered for a grant under the Child Welfare Services Training Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must clearly identify the program announcement number for which the application is to compete.

The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

One signed original and six copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services, Grants Management Branch—Room 341F.4, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. 13648-793.

##### A-95 NOTIFICATION PROCESS

This program does not require the A-95 notification and review process.

##### APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner for Children, Youth and Families in considering competing applications. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

##### CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

● That the applicant documents past experience and knowledge of the problems and related issues of the specific program objective for which the application is made and their relationship to the needs of the population served. That the applicant includes a description of any special qualifications or relevant experience of the applicant which pertain to the requirements of the objective.

● That the applicant demonstrates that the project objectives are identical with or are capable of achieving one of the specific program objectives defined in this program announcement under "Program Goals and Objectives."

● That the proposed procedures and work program, if well executed, will be capable of attaining project objectives; all aspects of the design of the project are addressed in detail, including such areas as training or curricula design, content, methodology, logistics, developmental processes and a timetable for each task; and criteria for selection of participants (as appropriate) are included.

● That the applicant describes replicable materials and/or methodologies which will result from the project.

● That the applicant describes plans for project followup, including plans to publish and disseminate results to academic and service-providing agencies, organizations, groups and/or individuals.

● That the applicant documents that the proposed project personnel are or will be well qualified in the field of child welfare services, in any areas of specialty required by the priority area, and in the design of inservice training materials. When responding to the first objective, the applicant should include representatives of affected client populations (Spanish speaking clients, biological parents, recipients of licensing services) in at least a consultant or advisory capacity. The applicant must also document that it has or will have adequate facilities and resources to conduct the project.

● That the applicant documents that it has consulted with public child welfare service agencies and other cooperating groups to plan the project and to determine the appropriate client populations and that the applicant has submitted a written commitment from each of them which specifies their agreement to participate in the project as described in the application, as well as their general support of the project.

● That the estimated cost to the government is reasonable considering the anticipated results.

##### CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

● The application was sent by registered or certified mail not later than May 21, 1979, as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

● The application is received on or before the close of business (COB) May 21, 1979, in the Department of Health, Education, and Welfare mailroom. In establishing the date of receipt, consideration will be given to the time date stamp of the mailroom or other documentary evidence of receipt.



ceipt maintained by the Department of Health, Education, and Welfare.

**APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE CENTRAL OFFICE IN WASHINGTON, D.C., WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.**

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,  
Acting Commissioner for  
Children, Youth and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.  
(FR Doc. 79-8865 Filed 3-22-79; 8:45 am)

#### [4310-84-M]

##### DEPARTMENT OF THE INTERIOR

###### Bureau of Land Management

(Wyoming 66913)

###### WYOMING

###### Application

MARCH 14, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 92 W.,  
Sec. 26, SW¼NW¼;  
Sec. 27, SE¼NE¼ and N¼SE¼.

The proposed pipeline will transport natural gas from the Hamilton Federal #27-1 well in the SE¼ of section 27 in a generally northeasterly direction to the point of connection with their existing facilities in the NW¼ of section 26, T. 15 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management,

#### NOTICES

1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands  
and Minerals Operations.

(FR Doc. 79-8802 Filed 3-22-79; 8:45 am)

#### [4310-55-M]

##### Fish and Wildlife Service

###### ENDANGERED SPECIES PERMIT

###### Notice of Receipt of Application

Applicant: Alfred and Joyce Vidbel, RR No. 1, Box 251, Windham, New York 12396.

The applicant requests a permit to reexport and reimport three female Asian elephants (*Elephas maximus*) between the U.S., Canada, and Mexico for the purpose of enhancing the survival of the species within the context of conservation exhibition. The elephants are currently in captivity in the U.S.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3921. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: March 16, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

(FR Doc. 79-8878 Filed 3-22-79; 8:45 am)

#### [4310-55-M]

##### ENDANGERED SPECIES PERMIT

###### Notice of Receipt of Application

Applicant: Charles R. Sindelar, 456 Baird St., Waukesha, Wisconsin 53186.

The applicant requests a permit to capture nestling bald eagles (*Haliaeetus leucocephalus*) by climbing nest trees in Wisconsin, Michigan, and Minnesota for banding and release and to salvage some for continuing scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3866. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: March 16, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

(FR Doc. 79-8880 Filed 3-22-79; 8:45 am)

#### [4310-55-M]

##### ENDANGERED SPECIES PERMIT

###### Notice of Receipt of Application

Applicant: Regional Director, Region 2, W. O. Nelson, Jr., U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

The applicant wishes to add the following species to his application for a permit, previously published in the FEDERAL REGISTER, Vol. 43, No. 137—Monday, July 17, 1978 [4310-55], to conduct scientific research, propagation or other activities enhancing the survival of the species: loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), and the New Mexico ridge-nosed rattlesnake (*Crotalus willardi obscurus*).

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2588. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: March 12, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

(FR Doc. 79-8881 Filed 3-22-79; 8:45 am)

#### [4310-55-M]

##### THREATENED SPECIES PERMIT

###### Notice of Receipt of Application

The applicants listed below wish to apply for Captive-Self Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of mammals or pheasants, as indicated, listed in Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, USFWS, WPO, Washington, D.C. 20240. Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Applicant: Great Adventures, Inc., P.O. Box 120, Rt. 537, Jackson, New Jersey 08527 (PRT 2-3934. Species: all cats).

Applicant: Mr. Charles E. Blume, P.O. Box 265, 17 James St., Hampton, Georgia 30228 (PRT 2-3868. Species: all pheasants).

Applicant: Gary L. Reynolds, 7447 Post Road, North Kingstown, Rhode Island 02852 (PRT 2-3842. Species: all pheasants).

Applicant: Evan L. Myers, Route 3, Box 242, Richland Center, Wisconsin 53581 (PRT 2-3909. Species: all pheasants).

Applicant: Robert Troumbly, Rt. 1, Box 211-T, Bovey Minnesota 55709 (PRT 2-3915. Species: all mammals). Please refer to the individual applicants and the appropriately assigned PRT 2-file number when submitting comments.

Dated: March 16, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office U.S.  
Fish and Wildlife Service.

(FR Doc. 79-8879 Filed 3-22-79; 8:45 am)

#### [4310-55-M]

##### ISSUANCE OF PERMIT FOR MARINE MAMMALS

On January 15, 1979, a Notice was published in the FEDERAL REGISTER (44 FR 79-1321), that an application had been filed with the Fish and Wildlife

#### NOTICES

Service by Dr. G. L. Kooyman, Physiological Research Laboratory, Scripps Institution of Oceanography, University of California-San Diego, La Jolla, California, for an amendment to permit PRT 2-1609 to take ten additional sea otters (*Enhydra lutris*) for the purpose of scientific research.

Notice is hereby given that on March 7, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued Amendment No. 1 to permit PRT 2-1609, to capture, attach radio transmitters and depth recorders, release and recapture again ten additional sea otters. Five of these otters will also be used to study the effects of oil on the fur as described in the application.

The amendment is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: March 12, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

(FR Doc. 79-8882 Filed 3-22-79; 8:45 am)

#### [4310-70-M]

##### National Park Service

###### SLEEPING BEAR DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

###### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 1:30 p.m. (EST), April 20, 1979, at the Holiday Inn in Traverse City, Michigan.

The Commission was established by Public Law 91-479 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Charles Yeates (Chairman)  
Mr. Noble D. Travis  
Mr. William B. Bolton  
Mr. John G. Daugherty  
Mr. Samuel F. Eberly  
Mr. John D. Stanz  
Mr. Carl T. Johnson  
Mrs. Charles R. Williams  
Mr. Walter B. Hart  
Mr. John A. Stahlin

The principal item of discussion will be the draft General Management Plan for the National Lakeshore.

The meeting will be open to the public. Interested persons may submit

written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Donald R. Brown, Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan 49635, telephone 616-352-9611. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan.

Dated: March 15, 1979.

RANDALL R. POPE,  
Acting Regional Director,  
Midwest Region.

(FR Doc. 8923 Filed 3-22-79; 8:45 am)

#### [4310-03-M]

##### Heritage Conservation and Recreation Service

(INT DES 79-15)

##### PATAPSCO VALLEY STATE PARK, MARYLAND

###### Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department has prepared a draft environmental statement for a proposed acquisition and future development of Patapsco Valley State Park located in Anne Arundel, Baltimore, Carroll, and Howard Counties, Maryland. Land totaling 4,800 acres of inholdings is proposed for acquisition with a Federal grant from the Land and Water Conservation Fund, to be matched with an equal share of State money. The proposed acquisition will eventually be developed for picnic, day use, and interpretive areas. It consists of nearly 400 individual parcels and will result in a total park acreage of 14,400 acres at Patapsco Valley State Park.

Copies are available for review at the following locations:

Office of Public Affairs, Office of the Secretary, Department of the Interior, Washington, D.C. 20240.

Office of Public Affairs, Heritage Conservation and Recreation Service, Room 220, Pension Building, 440 G Street, N.W., Washington, D.C. 20243.

Heritage Conservation and Recreation Service, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

A-95 Clearinghouse, Dept. of State Planning, 301 W. Preston Street, Baltimore, Maryland 21201.

Baltimore Regional Planning Council, 701 Saint Paul Street, Baltimore, MD 21202.

Patapsco Valley State Park, 1100 Hilton Avenue, Baltimore, MD 21228.



## NOTICES

Department of Natural Resources, C-3 Tawes State Office Building, Annapolis, MD 21401.

A limited number of single copies are available and may be obtained by writing to the Regional Director, Northeast Region, Heritage Conservation and Recreation Service, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

Dated: March 16, 1979.

LARRY E. MEIEROTTO,  
Secretary of the Interior.

[FR Doc. 79-8889 Filed 3-22-79; 8:45 am]

## [4310-84-M]

Office of the Secretary

[INT FES 79-15]

## PROPOSED DEVELOPMENT OF COAL RESOURCES IN SOUTHCENTRAL WYOMING

## Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental statement on the proposed development of coal resources in southcentral Wyoming.

The final statement analyzes environmental impacts that would result from development of three (3) site specific surface coal mines. The statement further analyzes the cumulative regional environmental impacts of proposed coal development and other regional developments, and presents two additional regional coal development scenarios (low level and high level), for comparison with the most probable level (proposed actions).

The Final Environmental Statement on Development of Coal Resources in Southcentral Wyoming consists of two volumes and a separate appendix of regional maps. Volume 1 and the regional map Appendix A were originally printed and distributed as the draft environmental statement (DES) in October 1978. Comments received on the DES (Volume 1 and separate Appendix A) did not require significant changes in the data, analysis, or conclusions. Volume 1 and the map appendix were not reprinted. A limited number of copies of this volume are available upon request from the ES CORE Team, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001.

Copies of the final statement are available for inspection only at the following locations:

## BUREAU OF LAND MANAGEMENT

Casper District Office, 951 Union Blvd., Casper, Wyoming 82601, (307) 265-5550.

Denver Service Center Library, Bldg. 50, Denver Service Center, Denver, Colorado 80225, (303) 234-4578.  
Lander Resource Area, Lander, Wyoming 82520, (307) 332-4220.  
Worland District Office, 1700 Robertson Avenue, Worland, Wyoming 82401, (307) 347-6151.  
Rawlins District Office, 1300 Third Street, P.O. Box 670, (307) 324-7171.  
Rock Springs District Office, Highway 187N, Rock Springs, Wyoming 82901, (307) 382-5350.  
Washington Office of Public Affairs, 18th and C Streets, NW, Washington, D.C. 20240, (202) 343-4151.  
Wyoming State Office, 2515 Warren (Lea Building), Cheyenne, Wyoming 82001, (307) 778-2220, Ext. 2385.

## GEOLOGICAL SURVEY

District Mining Office, Federal Building, Casper, Wyoming 82601, (307) 265-5550.  
District Mining Supervisor's Office, 126 Elk Street (Rear), Rock Springs, Wyoming 82901, (307) 362-7350.  
Area Mining Supervisor, Building 25, Denver Federal Center, Denver, Colorado 80225, (303) 234-4435.  
Director's Office National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860-7411.  
Regional Manager's Office, 7200 W. Alameda Avenue (Villa Italia), Lakewood, Colorado 80226, (303) 234-2855.

## PUBLIC LIBRARIES

Albany County Library, 405 Grand Avenue, Laramie, Wyoming 82070.  
Carbon County Library, Courthouse, Rawlins, Wyoming 82301.  
Encampment Branch Library, Encampment, Wyoming 82325.  
Laramie County Community College, 1400 East College Drive, Cheyenne, Wyoming 82001.  
Saratoga County Library, 104 West Elm, Saratoga, Wyoming 82331.  
Government Publications, Supreme Court and State Library Building, Cheyenne, Wyoming 82011.  
Fremont County Library, 451 North Second Street, Lander, Wyoming 82520.  
Laramie County Library, 2800 Central Avenue, Cheyenne, Wyoming 82001.  
University of Wyoming Library, University Station, Box 3334, Laramie, Wyoming 82070.

ARNOLD E. PETTY,

Acting Associate Director,  
Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,  
Assistant Secretary  
of the Interior.

[FR Doc. 79-8886 Filed 3-22-79; 8:45 am]

## [4310-09-M]

## Bureau of Reclamation

[INT-FES-79-14]

## PARADOX VALLEY UNIT, COLORADO RIVER BASIN SALINITY CONTROL PROJECT, COLO.

## Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Statement Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed salinity control project that would reduce substantially the salt influx into the Delores River in southwest Colorado at Paradox Valley. Although all Colorado River Basin Water users would benefit from the project, the main beneficiaries would be users in the Lower Colorado River Basin.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, DC 20240, Telephone (202) 343-9247.

Office of Environmental Affairs, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, DC 20240, Telephone (202) 343-4991.

Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (202) 234-3006.

Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, Telephone (801) 524-5404.

Durango Projects Office, Bureau of Reclamation, P.O. Box 640, Durango, Colorado 81301, Telephone (303) 247-0247.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: March 20, 1979.

LARRY E. MEIEROTTO,  
Assistant Secretary  
of the Interior.

[FR Doc. 79-8777 Filed 3-22-79; 8:45 am]

## NOTICES

## [7020-02-M]

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-50]

## CERTAIN SYNTHETIC GEMSTONES

## Notice of Termination

In the matter of certain synthetic gemstones

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission is ordering the termination of investigation No. 337-TA-50, *Certain Synthetic Gemstones*, by granting a joint motion by all parties to terminate this investigation (Motion Docket No. 50-11), as supported by a Settlement Agreement, signed by complainant and all respondents. In voting to terminate this investigation, Commissioner Moore determines that there is no present violation of section 337 of the Tariff Act of 1930, as amended (See footnote 1, page 2, of the Commission's Order and Commissioners' Opinion in this case).

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission Order and Commissioners' Opinion. Such petitions must be in accord with section 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission action may appeal such action to the United States Court of Customs and Patent Appeals.

Copies of the Commission's Order and Commissioners' Opinion (USITC Publication No. 957, March 1979) are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the FEDERAL REGISTER of March 17, 1978 (43 FR 11272). The text of the pertinent settlement agreement and the Commission's request for public comments thereon was published in the FEDERAL REGISTER of February 7, 1979 (44 FR 7843).

By order of the Commission.

Issued: MARCH 20, 1979.

KENNETH R. MASON,  
Secretary.  
[FR Doc. 79-8955 Filed 3-22-79; 8:45 am]

## [4510-30-M]

## DEPARTMENT OF LABOR

## Employment and Training Administration

## EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

## Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of March 1979.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

## APPLICATIONS RECEIVED DURING THE WEEK ENDING MAR. 20, 1979

| Name of applicant and location of enterprise          | Principal product or activity   |
|---|---|
| Crouthamel Potato Chip Company, Inc., Quakertown, Pa. | Manufacture of potato chips.  |
| Quakertown Foundry, Inc., Quakertown, Pa.             | Manufacture of cast iron DWV pipe and fittings.                                     |
| Meridian Plastics, Inc., Byesville, Ohio              | Manufacture of plastic component parts for automobiles, trucks and home appliances. |
| Ward Industries, Inc., Conway, Ark.                   | Manufacture of bus bodies.  |
| Big Bud Tractors, Inc., Havre, Mont.                  | Manufacture of farm tractors.   |

[FR Doc. 79-8998 Filed 3-22-79; 8:45 am]



**[4510-26-M]****Occupational Safety and Health Administration****NATIONAL ADVISORY COMMITTEE ON  
OCCUPATIONAL SAFETY AND HEALTH****Meeting**

Notice is hereby given that the National Advisory Occupational Safety and Health Administration will extend its April 2, 1979 meeting to include April 3. The meeting was announced in 44 FR 12781 on Thursday, March 8, 1979, and in 44 FR 13091 on Friday, March 9, 1979.

The purpose of this extension is to allow a thorough discussion of the Committee's recommendations on U.S. District Court requirements for "fully effective" benchmarks for state plans and to permit enough time for public participation in developing these recommendations.

Signed at Washington, D.C. this 20th day of March 1979.

EULA BINGHAM,  
Assistant Secretary of Labor.

[FR Doc. 79-8986 Filed 3-22-79; 8:45 am]

**[4510-29-M]****Pension and Welfare Benefit Programs****EMPLOYEE BENEFIT PLANS**

**Notice of Proposed Exemption Relating to a Transaction Involving the Restated G. L. Cornell Co. Savings and Profit Sharing Plan and Trust (Application No. D-1039)**

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of certain real property from the Restated G. L. Cornell Company Savings and Profit Sharing Plan (the Plan) to Mr. G. L. Cornell. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Suburban Trust Company of Wheaton, Maryland (the Trustee), and Mr. G. L. Cornell.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 23, 1979.

ADDRESS: All written comments and requests for a hearing (at least six

copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1039. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION  
CONTACT:**

Gary H. Lefkowitz of the Department of Labor, (202) 523-8194. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:**

Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act, and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Trustee pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

**SUMMARY OF FACTS AND  
REPRESENTATIONS**

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The G. L. Cornell Company (the Employer) is a Delaware corporation engaged in the business of selling and servicing turf equipment from its principal place of business on Industrial Drive in Galtersburg, Maryland. Mr. G. L. Cornell is the President and principal stockholder of the Employer.

2. The Plan and Trust were adopted on September 29, 1954, and restated on October 1, 1976. The Plan had 25 participants and net assets of \$1,089,697 at the end of its fiscal year on September 30, 1977. Forty-five percent of its assets were invested in 7.677

acres of unimproved real property adjacent to the Employer's principal place of business, which property was purchased in 1966 for \$184,000.

Investment decisions are made for the Trust by the Trustee's Investment Committee. That committee is composed of employees of the Trustee.

3. In 1973, the Maryland-National Capital Park and Planning Commission (the Commission) deemed that a 300 foot wide strip severing the Trust's 7.677 acre parcel was required for public highway use. Accordingly, the Commission placed 3.8384 acres into a Reservation of Land for Public Use, as of July 1, 1973, and has continued the reservation as recently as May 12, 1977. As reserved land, the 3.8384 acres must be maintained in their July 1, 1973 condition, and may not be altered, improved or otherwise modified.

The reservation left the Trust with two separated pieces of unreserved real property, one of which is contiguous to the Employer's principal place of business. This contiguous parcel of property consists of 1.01 acres, with an approximate frontage of 46.49 feet, a depth of 553.51 feet, and a length of 112.49 feet along the rear line. It has been used since July, 1974, by the Employer for employee parking and inventory storage. The Employer recently made a retroactive payment to the Trust for such use. The 1.01 acre parcel was appraised on October 14, 1977, by Adolph C. Rohland, an independent appraiser, as having a fair market value of \$99,000.

4. The Trust proposes to sell the 1.01 acre parcel to Mr. G. L. Cornell, who intends to lease it to the Employer. The Trustee will obtain a second independent appraisal of the property's fair market value no earlier than 30 days prior to the consummation of the proposed sale. The proposed purchase price for the property will be equal to the higher of the two appraisals. This will result in a gain to the Trust of at least 308 percent or approximately \$74,793 over its May, 1966 cost basis of \$24,206 allocable to the 1.01 acre parcel. The sale will be for cash or a certified check.

5. No attempts have been made to locate an unrelated purchaser for the property. The Trustee, however, represents that the subject property is not well suited for use by any unrelated third party following the reservation because its dimensions and limited street access restrict it to being used primarily as an extension of the land upon which the Employer's site of operations is located.

6. The Trustee represents that the proposed sale would be beneficial to the participants and beneficiaries of the Plan because (1) it would remove a non-productive asset from the Trust (It is represented that the present use

of the property by the Employer would not be continued, absent an exemption for the rental use, since such use is a prohibited transaction.) at a substantial gain to the Trust and (2) the selling price will be greater than could be obtained from an unrelated third party. The Trustee also represents that the proposed sale would be administratively feasible since it will be a one time only cash transaction. It is also represented that the sale would be protective of the rights of participants and beneficiaries since the purchase price will be the greater of the two appraisals and the sale will involve no sales commission and will be at no expense to the Trust.

**NOTICE TO INTERESTED PERSONS**

Written notice shall be given to all interested persons. The interested persons include the Plan participants, beneficiaries and fiduciaries. The manner of notice shall be by posting, at locations in the place of business customarily used to inform employees of items of interest to employees and by mailing by first class mail, to each beneficiary and fiduciary, a copy of this notice of pendency as published in the FEDERAL REGISTER. The notice will inform the interested persons of their right to comment and to request a hearing within the period set forth in the notice of pendency.

The notice shall be posted and mailed no later than 5 days after the notice of pendency of such exemption is published in the FEDERAL REGISTER.

**GENERAL INFORMATION**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

**WRITTEN COMMENTS AND HEARING  
REQUESTS**

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

**PROPOSED EXEMPTION**

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a)(1) (A) through (D) and 406(b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) and through (E) of the Code, shall not apply to the sale of a certain 1.01 acre parcel of real property from the Trust to Mr. G. L. Cornell, for cash or a certified check, provided that the price is not less than the higher of the two independent appraisals or the current fair market value of the property at the time of sale. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.



Signed at Washington, D.C., this 16th day of March 1979.

IAN D. LANOFF,  
Administrator for Pension and  
Welfare Benefit Programs,  
Labor-Management Services  
Administration, U.S. Department  
of Labor.

[FR Doc. 79-8624 Filed 3-22-79; 8:45 am]

[4510-29-M]

#### DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

##### EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain  
Transactions Involving the Times News Print-  
ing Co., Inc., Profit Sharing Plan (Application  
No. D-895)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by The Times News Printing Co., Inc. Profit Sharing Plan (the Plan) of its interest in the Atlantic Heights Syndicate to The Times News Printing Co., Inc. (the Company) and a loan of \$8,560 by the Company to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 23, 1979.

ADDRESSES: All written comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-895. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld, U.S. Department of Labor, Pension and Welfare Benefit Programs, Office of Fiduciary Standards, (202) 523-7352. This is not a

toll-free number.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Company and the Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

##### SUMMARY OF REPRESENTATIONS

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application of file with the Department for the complete representations of the applicants.

1. The Plan is a profit-sharing plan established by the Company in 1972. The Plan invested a large percentage of its assets in 1972 to acquire a 20 percent interest in the Atlantic Heights Syndicate (Atlantic), an unincorporated entity organized for the purpose of acquiring and holding for investment parcels of undeveloped land in New Smyrna Beach, Florida. The other eighty percent of Atlantic is owned by unrelated persons.

2. In 1972, Atlantic purchased approximately 13 acres of undeveloped land at a total cost of \$160,000. One parcel of property was purchased for \$46,000 with a cash down payment of \$11,500 and a three-year note for the balance. The other parcel was purchased for \$114,000 with a cash down payment of \$28,500 and a three-year note for the balance. The property is presently undeveloped and is zoned for single-family residential use.

3. The Plan used its assets stemming from Company contributions to pay its portion of the down payment and the first two installments on the notes. On July 14, 1975, the Plan borrowed \$8,560 from a bank to make the final payment. No portion of the purchase price is currently outstanding. When the note became due on January 10, 1976, it was paid by the Company to avoid default by the Plan which had insufficient cash to make the pay-

ment. The Company established a noninterest bearing receivable from the Plan on its books.

4. All of the outstanding stock of the Company was acquired in August, 1974 by the Hendersonville Newspaper Corporation, a wholly owned subsidiary of The New York Times Media Co., Inc. The employees of the Company then became eligible to participate in another retirement plan at which point the Company ceased making contributions to the Plan.

5. The Plan desires to dispose of its interest in Atlantic in order to have cash available to make requested distributions. In addition, no income has been produced by this investment and annual real estate taxes on the property continue to drain funds from the Plan.

Although the Plan has never listed or advertised its interest in Atlantic as being for sale due to the nonliquid nature of such investment, Atlantic has continuously listed the property as being for sale since it was first purchased in 1972. At the time the application for exemption was filed, thirteen of the acres were being offered for sale at a price of \$200,000 and the remaining seven lots located across the street from that acreage carried an asking price of \$25,000. A firm offer of \$20,000 for the seven lots was refused by Atlantic in April, 1976.

6. The Company obtained an appraisal for the property dated April 12, 1976, which valued the land at \$115,000. A second appraisal, dated August 15, 1977, from the same appraisal company, valued the property at \$122,000. A third appraisal of the property, dated July 29, 1977, was obtained from another person. It valued the property at \$160,000. The sale of the Plan's interest in Atlantic assuming the property was sold at the highest appraised value would allow the Plan to recoup its investment, exclusive of interest and real estate taxes.

The Company originally proposed to purchase the Plan's interest in Atlantic for \$32,000, one-fifth of the highest appraised value, plus six percent interest from the date the Company was acquired by the Hendersonville Newspaper Corporation. In addition, the Company seeks an exemption for the interest-free loan of \$8,560 to the Plan and the repayment of that loan out of the sale proceeds.

During the consideration of this application for exemption, Atlantic executed a contract to sell all of the acreage except the seven noncontiguous lots for \$165,000 to an unrelated third party. Following the sale, Atlantic's underlying assets would have consisted of the seven remaining lots, \$50,000 cash and \$115,000 in 8 percent notes. The closing for the sale of the property owned by Atlantic, originally

scheduled for May 10, 1978, was delayed due to title problems raised by the prospective buyer. During November, 1978, the possibility of litigation was averted through a settlement whereby the purchase price was reduced from \$165,000 to \$160,000. Accordingly, the sale of the property was closed on November 15, 1978, and the Plan received \$7,600 from Atlantic as its share of the cash received.

7. Prior to the closing of the sale, the Company amended its proposal to purchase the Plan's interest in Atlantic by increasing its offer to \$37,500. The increased offer was based, in part, on the original sales price of \$165,000 negotiated by Atlantic under the contract for sale. The seven remaining lots were valued at \$22,500, the average of the asking price for the lots and the firm offer refused by Atlantic in April, 1976. Although the final selling price was reduced to \$160,000, the Company's offer remained the same. The purchase price, however, is reduced to \$29,900 to reflect the \$7,600 already received by the Plan from Atlantic.

8. If the exemption is granted, the Company would pay the Plan \$29,900 plus 6% interest on that amount from 1974 for its one-fifth interest in Atlantic. The Plan would repay the \$8,560 loan to the Company and distribute the remaining cash to the Plan participants.

##### NOTIFICATION OF INTERESTED PERSONS

Written notice shall be given to all Plan participants and beneficiaries within ten days of the publication of this notice in the FEDERAL REGISTER, by posting a copy of the notice of proposed exemption in conspicuous places at all Company facilities and by mailing or distributing a copy of such notice to each participant or beneficiary of the Plan.

##### GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer main-

taining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before any exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

##### WRITTEN COMMENTS AND HEARING REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

##### PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) and section 406(b)(1) and section 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of the Plan's interest in the Atlantic Heights Syndicate to the Company for \$29,900 cash plus six percent interest on that amount from the date the Company was acquired by the Hendersonville Newspaper Corporation provided, however, that the sales price is not less than the fair market value of the Plan's interest and to the past loan of \$8,560 to the Plan by the Company and to the repayment of that loan out of the sale proceeds. The pending exemption, if granted, will be subject to

the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of March 1979.

IAN D. LANOFF,  
Administrator for Pension and  
Welfare Benefit Programs,  
Labor-Management Services  
Administration, U.S. Department  
of Labor.

[FR Doc. 79-8619 Filed 3-22-79; 8:45 am]

[4510-29-M]

##### EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain  
Transactions Involving the Building Trades  
United Pension Trust Fund, Milwaukee and  
Vicinity (Application No. D-1228)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt extension of credit pursuant to permanent mortgage financing by the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Plan) to Megal Development Corporation (Megal), a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Megal, and other persons participating in the proposed transaction.

DATES: Written comments must be received by the Department on or before April 23, 1979. Effective Date: If the proposed exemption is granted, the exemption will be effective August 24, 1978.

ADDRESS: All written comments (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1228. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.



# FOR FURTHER INFORMATION CONTACT:

Stephen Elkins of the Department, (202) 523-8196. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by sections 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

## SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a multi-trades, multi-employer negotiated plan, the Board of trustees of which consists of twenty-three employer-appointed and twenty-three union-appointed members. Because of the size of the full board, standing committees have been established to conduct administration and management functions for the Plan. Of the standing committees, only the Investment Committee and the Mortgage Committee make decisions with respect to management of Plan assets.

2. The Mortgage Committee has exclusive authority to act on applications for investment of Plan assets in long-term commercial real estate financing. Such financing replaces the borrower's short-term construction financing. No application for long-term financing may be considered by the Mortgage Committee unless it meets the written criteria for acceptance of mortgages promulgated by the Investment Committee of the Plan.

3. The Mortgage Committee has three employer-appointed and three union-appointed members, with power

to cast an equal aggregate number of votes on all matters. A tie vote results in a rejection of an application for financing. Decisions of the Mortgage Committee become final without review or approval of the full board of trustees. Nonetheless, the Mortgage Committee reports all of its decisions to the Board of Trustees. The Board of Trustees retains authority to remove members of the Mortgage Committee and to appointment of replacements. Members of the Mortgage Committee are free to serve on other standing committees.

4. The transactions for which an exemption is sought involve three long-term real estate mortgage loans which the Plan seeks to make to Megal. More than fifty percent of the stock of Megal is owned by Joseph J. Megal, who also owns more than fifty percent of the stock of Megal Construction Company. Megal Construction Company is an employer of employees covered by the Plan. Neither Joseph J. Megal, nor any officer, director, or employee of Megal or of Megal Construction Company has ever served as a member of the Board of Trustees of the Plan, or has been associated with the Plan in any other capacity.

5. The loans would total \$783,000 which constitutes less than one percent of Plan assets. Each loan would be secured by a first mortgage on certain real property located in the metropolitan area of Milwaukee, Wisconsin. The proceeds of each loan would retire expenses accrued by Megal in land acquisition, construction, equipment costs, furnishings, professional fees, taxes, and out-of-pocket expenses incident to development of each such parcel of property. Total disbursements under each loan would not exceed the sum of actual expenditures, nor seventy-five percent of the appraised value of the improved property, such appraisal having been determined independently.

6. Megal has submitted applications for each of the three loans. The Mortgage Committee has approved such applications and has committed the Plan to making the loans.

7. The loans would be for a term of twenty years, with level self-amortizing monthly payments of principal and interest. The provisions of the three loans are identical except for the amount of the loan and the particular real estate securing each loan. The interest rate would be 9.5 percent per annum, which was the market rate at the time the loan applications were approved.

8. The indebtedness created by each loan would be evidenced by a promissory note executed by Megal. Payment of each note would be guaranteed personally by Rhody J. Megal, President of Megal. In addition to a first mort-

gage on the real estate securing each loan, there also would be a general assignment of the leases between Megal and the persons occupying the improvements constructed on the real properties. Each mortgage would be insured by title insurance guaranteeing that such mortgage would be a valid first lien against the property. The loans would be on the same terms, pursuant to the same conditions, and would be treated in all respects in the same manner as loans which the Plan makes to unrelated persons.

9. Before each of the loans is closed, Megal will have constructed a warehouse and office building on each parcel of property. Megal Construction Company will have provided a portion of the construction. Financing of the construction will have been through construction mortgage loans made by First Bank-Midland, N.A., Milwaukee (First Bank). First Bank serves as custodian of a portion of the assets of the Plan.

10. At the closing of each loan, the Plan will effect its commitment to Megal by purchasing and thereby retiring the construction loan outstanding to Megal from First Bank. Thereafter, First Bank will service each loan on behalf of the Plan, for a fee of one eighth of one percent of the declining principal balance of the loan, and in accordance with a separate master agreement between the Plan and First Bank.

11. In order to purchase the construction loan and to effect the commitment to Megal for permanent financing, the Plan would pay First Bank the par value of the construction loan. Such value would be the lower of the aggregate advances made by First Bank under the loan to the date of purchase, or the dollar amount specified in the buy-sell agreement between the Plan and First Bank with respect to the particular loan.

12. With respect to one of the three loans, in the amount of \$179,000, the Plan has already entered into a buy-sell agreement with Megal and First Bank, pursuant to which the Plan has agreed to purchase the construction loan and related documents from First Bank. First Bank has disbursed funds to Megal according to the terms of the buy-sell agreement. All construction specified as a condition for closing of this loan has been completed. First Bank has not disbursed any funds with respect to the other two loans, and only preliminary construction has been completed in connection with these two loans.

13. An action pending before the Wisconsin Circuit Court for the County of Milwaukee (Case No. 433-866) has been brought against the Plan. In such action it is alleged that the Plan has improperly withdrawn a

commitment it had issued for a permanent mortgage loan.

## NOTICE TO INTERESTED PARTIES

Within ten days following publication in the FEDERAL REGISTER notice of the proposed exemption will be mailed to the last address of each Plan participant and beneficiary, and to each employer participating in the Plan. The notice also will be posted at those locations customarily used for employer notices to employees with regard to labor-management relations matters.

## GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and sections 4975 (c)(1)(E) and (c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

## WRITTEN COMMENTS

All interested persons are invited to submit written comments on the proposed exemption to the address and within the time period set forth above.

All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

## PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to extension of credit pursuant to the three mortgage loans discussed here in, between the Plan and Megal, nor to purchase of construction loans by the Plan from First Bank, attendant to effectuation of such extension of credit from the Plan to Megal. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of March 1979.

IAN D. LANOFF,  
Administrator of Pension and  
Welfare Benefit Programs,  
Labor-Management Services  
Administration, U.S. Department  
of Labor.

(FR Doc. 79-8620 Filed 3-22-79; 8:45 a.m.)

## [4510-29-M]

### EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain Transactions Involving Grumman Corporation Pension Trust (Application No. D-762)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the lending by the Grumman Corporation Pension Trust (the Plan) of securities to broker-dealers and/or banks which

provide services to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and other persons participating in the proposed transaction. The proposed exemption, if granted, would be effective until the final disposition of a class exemption request currently under consideration by the Department regarding the lending of securities by plans to broker-dealers. If a class exemption is granted the security lending practices of the Plan will thereafter be subject to the class exemption.

**DATES:** Written comments must be received by the Department of Labor on or before 25 April, 1979.

**ADDRESSES:** All written comments (preferably at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20216, Attention: Application No. D-762. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

## FOR FURTHER INFORMATION:

Frederic G. Burke of the Department of Labor, (202) 523-8195. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. Effective December 31, 1978, however, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47113, October 17, 1978) transferred the authority to issue exemptions of the type requested to the Secretary of Labor. This notice of pendency, therefore, is issued solely by the Department.

## SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are sum-



marized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

The Plan proposes to lend securities owned by the Plan to broker-dealers and banks who are parties in interest and disqualified persons with respect to the Plan by virtue of providing services to the Plan but who are not fiduciaries with respect to the Plan. It is the understanding of those responsible for the daily management of the Plan assets that the loaned securities may be used by borrowers to balance inventories in their trading department, cover short sales, avoid fails and expedite processing of legal transfers. A collateral security agreement will govern the terms of each loan by the Plan. Under the agreement the borrowing broker-dealer or bank will be required to provide cash or short-term United States Treasury obligations to the Plan as collateral in an amount not less than 100% of the market value of the securities loaned. In the event the market value of any loaned security at the close of business on any trading day exceeds by 5% or more the amount of the collateral, the Plan will retain the right to demand that the borrower deposit with the Plan an amount in cash (certified or bank cashier's check) which together with the collateral then on deposit, will equal the market value of the loaned securities. The bank or broker-dealer will be required to comply with any demand by the Plan for additional collateral not later than the business day following the receipt of such demand.

The Plan will be entitled to retain any income earned by or upon the collateral during the period of the loan, or alternatively, to receive, at an agreed rate, a reasonable return on the loan either in the form of a loan fee or of a premium (which will take into account prevailing interest rates). All dividends, interest or other distributions on loaned securities will accrue to the benefit of and will be transmitted to the Plan. The rate of return of the Plan from the loaned securities is expected to vary from 1/2 of 1% up to the short-term money market rates in effect from time to time, and the additional annual return on the loaned securities is expected to average at least 1 1/4% over and above dividends and interest earned on the underlying securities.

The collateral security agreement provides that the Plan may request the return of the loaned securities upon five (5) days notice to the borrower (certain securities have a delivery period of less than 5 days and return may be demanded on such shorter notice) and is entitled to retain the collateral in full satisfaction

of the borrower's obligations under the agreement in the event the borrower is unable to tender the borrowed securities.

Under the collateral security agreement the borrower will indemnify and hold the Plan harmless from any damages, losses, costs and expenses that the Plan may incur due to the failure of the borrower to perform its obligations under agreement.

The Plan trustees will maintain a continuous review of the loan transactions. The review will be conducted by personnel who are not involved in the investment or trading processes of the lending program and the Trustees will be provided monthly statements showing the positions and conditions both of the securities loaned, dividends, interest and any accessions thereto, and of the collateral received in return for the loan.

At present, the applicants do not contemplate that the securities lending program will involve the payment of commissions, finders fees or other compensation by the Plan or Grumman Corporation, although the investment managers at some future date may employ finders or brokers if the conditions in the securities lending markets then warrant.<sup>1</sup>

Although the lending agreement provides that the lender waives the right to vote the securities, the Plan may terminate any loan and reacquire the securities in time to submit proxies if there is a vote on a matter that would affect the investment. If the borrower is unable to redeliver the securities upon termination of a loan, the trust will receive the outright ownership of the collateral in exchange.

#### NOTICE TO INTERESTED PERSONS

Notice will be provided to participants and beneficiaries of the Plan. Such notice will be provided by publication in newsletters designed to reach the substantial majority of the Plan participants and beneficiaries. Such notice will be given contemporaneously with the publication of the notice of pendency of such exemption in the FEDERAL REGISTER.

<sup>1</sup>No relief would be granted by the exemption proposed herein from the restrictions of section 408 of the Act and section 4975(c)(1) of the Code for payment to a party in interest of any commission, finder's fee or other compensation for services in connection with the effecting of a loan of securities by the Plan to a broker-dealer, bank or other person. It should be noted, however, that to the extent such services are provided for a fee or other compensation, they may be exempt under section 408(b)(2) of the Act and section 4975(d)(2) of the Code, and regulations thereunder, from the restrictions of section 408(a) of the Act and section 4975(c)(1) (A) through (D) of the Code if the conditions set forth in those sections are met.

#### GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 401(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and of their beneficiaries;

(2) The proposed exemption if granted, will not extend to transactions prohibited under section 406 (b)(1), (b)(2), (b)(3) of the Act, and section 4975 (c)(1)(E) and (c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan, protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

#### WRITTEN COMMENTS

All interested persons are invited to submit written comments on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

#### PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption for a limited

duration as discussed below, under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the loan of securities of the Plan to broker-dealers and banks which are parties in interest with respect to the Plan by virtue of providing services to the Plan. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

#### DURATION OF PROPOSED EXEMPTION

The Department is currently considering several requests for a class exemption for the lending of securities by plans under circumstances that would be similar to those contemplated by this exemption request. The applications requesting a class exemption are numbered D-1102, D-1108 and D-1130 and are available for public inspection in the Public Documents Room of Pension and Welfare Benefits Programs at the address given above. The Department proposes to grant the individual exemption requested for the Grumman Plan on a temporary basis only. If granted, the exemption proposed herein would terminate upon the final disposition of the class exemption requests described above. If a class exemption is granted, it will be available to the Plan, subject to any conditions which such exemption may contain.

Signed at Washington, D.C., this 16th day of March, 1979.

IAN D. LANOFF,  
Administrator, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-8621 Filed 3-22-79; 8:45 am]

[4510-29-M]

#### EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain Transactions Involving Better Homes Realty, Inc. Savings Plan and Trust (Application No. D-1014)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a 2.47 acre parcel of real property by Better Homes Realty, Inc. Savings Plan and Trust (the Plan) and Joseph Napier, as joint owners of the property, to George E. White, Jr., president and majority shareholder of Better Homes Realty, Inc. (Better Homes), the sponsoring employer of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, George E. White, Jr., and other persons participating in the proposed transaction.

**DATES:** Written comments and requests for a public hearing must be received by the Department of Labor on or before April 23, 1979.

**ADDRESS:** All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D-1014. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

#### FOR FURTHER INFORMATION CONTACT:

Robert N. Sandler of the Department of Labor, (202) 523-8881. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1), 406(b)(1), and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Better Homes pursuant to section 408(a) of the Act, and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the

Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency of the exemption is issued solely by the Department.

#### SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

In January 1972, George E. White, Jr., president of Better Homes, obtained an option on certain real property in Pensacola, Florida. The option was obtained jointly by Mr. White and Joseph Napier, a real estate developer in Pensacola, Florida who is independent of Better Homes, Mr. White and the Plan. After obtaining the option to the property in his individual name, Mr. White then presented the option to the Plan trustees. Mr. White is one of seven Plan trustees, all of whom are employees of Better Homes.

In exchange for Mr. White giving the Plan trustees the opportunity to participate in the acquisition of the property with Mr. Napier, the trustees agreed to allow Mr. White to purchase whatever portion of the property Mr. White considered he needed for development and business purposes, as long as the Plan received a reasonable return on monies expended for the property and expenses incurred in carrying the property. Mr. Napier also agreed to this provision. This agreement was never reduced to writing.

The property, consisting of approximately 69.38 acres, was purchased by Mr. Napier and the Plan for \$220,000 in 1972. Mr. Napier and the Plan each hold an undivided one half interest in the property. All of the property except for a 15 acre tract has now been developed as residential property and there is now afforded a prime location for a new sales office for Better Homes, at one of the intersections created by the subdivision development of the property. Mr. White proposes to purchase for cash on his own behalf, from the Plan and Mr. Napier, a portion of the property amounting to 2.47 acres for the purpose of building a new sales office which will be leased to Better Homes. The original cost of the property was \$7,830, of which the Plan's share was one-half, or \$3,915. The purchase price that Mr. White would pay if the exemption were granted would be the appraised price of \$30,000, the Plan's share of which would be \$15,000. The appraisal was performed by Swaine-Hoffman and Associates, an independent appraiser.

The 2.47 acre parcel has produced no income for the Plan and Napier since



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they purchased it in 1972. No improvements have been made to the property and there have been no attempts to sell the property to an independent third party. The cash that the Plan would receive would increase needed Plan liquidity and enable the Plan to invest the proceeds in an income producing asset.

## NOTICE TO INTERESTED PARTIES

Notice of the proposed exemption will be given to all interested parties, including the trustees of the Plan and all participants and beneficiaries of the Plan, within ten days of the publication of this notice in the *FEDERAL REGISTER*, by mailing copies of the notice of proposed exemption to them.

## GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of the participants and beneficiaries; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code and Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

## WRITTEN COMMENTS AND HEARING REQUEST

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available with the application for exemption at the address set forth above.

## PROPOSED EXEMPTION

Based on the representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a)(1), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a 2.47 acre parcel of land located in the Southeast quarter of Section 6, Township 1 South, Range 30 West, Escambia County, Florida by Joseph Napier and the Plan, who each own undivided one-half interests in the parcel, to George E. White, Jr., for a total cash purchase price of \$30,000, to be equally divided between Joseph Napier and the Plan, provided that this amount is not less than the fair market value of the property. The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of March, 1979.

IAN D. LANOFF,  
Administrator for Pension and  
Welfare Benefit Programs,  
Labor-Management Services  
Administration, Department  
of Labor.

[FR Doc 79-8622 Filed 3-22-79; 8:45 am]

## [4510-29-M]

[Prohibited Transaction Exemption 79-10]

## EMPLOYEE BENEFIT PLANS

**Exemption From the Prohibitions Respecting a Transaction Involving Fred & Wayne's Car Care Centers, Inc. Profit Sharing Plan and Trust (D-682)**

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables Fred & Wayne's Car Care Centers, Inc. Profit Sharing Plan and Trust (the Plan) to sell real property to Fred Kvarfordt, Jr., a party-in-interest and disqualified person with respect to the Plan, and to lease the same property to Fred Kvarfordt, Jr., from January 1, 1977, until the date the sale is consummated.

FOR FURTHER INFORMATION CONTACT:

C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 16, 1979, notice was published in the *FEDERAL REGISTER* (44 FR 10143) of the pendency before the Department of Labor (the Department) of a proposal for an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the trustee of the Plan, the Bank of Commerce (the Trustee), located in Idaho Falls, Idaho, and the two fiduciaries and sole participants, Wayne J. Peterson and Fred Kvarfordt, Jr. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no request for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service, but the notice of pendency was issued solely by the Department because, effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is granted solely by the Department.

## GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or party-in-interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

## EXEMPTION

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administrative-ly feasible;

(b) It is in the interests of the plans and of their participants and beneficiaries; and

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(c) It is protective of the rights of the participants and beneficiaries of the plans.

Therefore, the exemption proposed in the notice of February 16, 1979 (44 FR 10143) is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 16th day of March, 1979.

IAN D. LANOFF,  
Administrator for Pension and  
Welfare Benefit Programs,  
Labor-Management Services  
Administration, U.S. Department  
of Labor.

[FR Doc. 79-8623 Filed 3-22-79; 8:45 am]

## [4510-29-M]

[Prohibited Transaction Exemption 79-9]

## PLANS TO PURCHASE CUSTOMER NOTES FROM EMPLOYERS MAINTAINING PLANS

## Temporary Class Permit Exemption

AGENCY: Department of Labor.

ACTION: Grant of Temporary Class Exemption.

SUMMARY: This document contains a temporary class exemption from certain restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). It permits employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes from their customers in the ordinary course of their business and the notes are collateralized by security agreements on the property purchased by the customers.

FOR FURTHER INFORMATION CONTACT:

Charles Humphrey, Office of Fiduciary Standards, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202-523-8881). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On October 14, 1977, notice was published in the *FEDERAL REGISTER* (42 FR 55321) of the pendency before the Department of Labor (the Department)

and the Internal Revenue Service (the Service) of a temporary class exemption from the restrictions of sections 406(a), 406(b)(1) and (2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code.

The proposed class exemption was based on more than 45 applications that requested the Department and the Service to grant individual exemptions to permit employee benefit plans to purchase customer notes from employers any of whose employees are covered by the plan. According to these applicants, prior to the enactment of the Act, it had been a common practice among businesses engaged in the retail sale of property (e.g., construction equipment or motor vehicles) for the seller to accept a secured note for part of the purchase price of the property and then sell the note to its employee benefit plan or to an unrelated third party financial institution. The applicants represented that these notes were good investments for plans, providing adequate security in the event of default and returns which were generally greater than the returns available from alternative investments.

The proposed exemption contained specific conditions to protect the interest of plan participants, including requirements that the sale of the notes be on arm's length terms; that the employer guarantee repayment of the note if it is more than 30 days in arrears; that no more than 25 percent of plan assets be invested in customer notes of the employer; that the note be adequately secured; that the term of the note not exceed a certain number of months, determined by the security underlying the note; and that insurance against loss or damage to the collateral be provided by the obligor until the note is repaid or repurchased by the employer. Because the Department and the Service believed that it would be appropriate for it to reassess the basis for the exemption, the exemption was proposed to be temporary in nature, and would expire on December 31, 1981. In order to enable the Department and the Service to monitor the operation of the exemption to determine whether it should be made permanent, modified or be permitted to lapse upon expiration, the proposed exemption required certain information to be submitted to the Service by a plan which entered into a transaction in reliance on the exemption.

The exemption was proposed in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722, and all interested persons were invited to submit



comments and request a public hearing on the proposed exemption. Pursuant to these requests and to notice published in the *FEDERAL REGISTER* on January 20, 1978 (43 FR 2968), a public hearing was held on March 9, 1978, in which interested persons were afforded the opportunity to present their views on the proposed exemption.

It should be noted that under Presidential Reorganization Plan No. 4 of 1978, effective December 31, 1978, the authority of the Secretary of the Treasury to issue exemptions under section 4975 of the Code has been, with certain exceptions not here relevant, transferred to the Secretary of Labor, and the Secretary of the Treasury is bound by the exemptions issued by the Secretary of Labor pursuant to such authority. Therefore, this exemption is issued solely by the Department.

**DISCUSSION OF SIGNIFICANT COMMENTS AND MODIFICATIONS TO THE CLASS EXEMPTION:** Over 170 comments supporting the grant of the exemption have been received. Several commentators, while supporting the exemption, suggested that certain sections of the exemption be changed, as discussed below.

**DEFINITION OF CUSTOMER NOTES (SECTION I):** Several commentators recommended the use of the term "security agreement" rather than "conditional sales contract" in defining the term "customer notes," since under the Uniform Commercial Code (UCC), the term "security agreement" is the generic term for any agreement which creates or provides for a security interest. This suggestion was accepted and incorporated in the exemption. Accordingly, the reference to "conditional sales contract" has been deleted and the term "security agreement," as defined in UCC section 9-105(1)(1), has been substituted in its place.

**PERCENTAGE LIMITATION (SECTION IID):** Many commentators urged that the proposed limitation that only 25 percent of plan assets can be invested in customer notes of the employer be increased; some suggested that this limitation be eliminated. The commentators stated that plans were adequately protected without this percentage limitation. They argued that their plans had invested substantially in customer notes prior to the effective date of the Act and had achieved, without any increased risk of loss, a higher net yield on their investments than plans which had not invested in such notes.

Many of the commentators suggested that any increase in the percentage limitation should be accompanied by additional safeguards to protect plan

participants. The suggested safeguards included: 1) requiring additional security; 2) requiring a third party to purchase any note in default; 3) requiring the employer to have a net worth sufficient to satisfy its obligation as guarantor on the notes; 4) requiring at least a 15 percent customer down payment; or 5) limiting the percentage of plan assets that may be invested in the customer notes of any one customer.

After considering the comments, the Department has decided that the percentage limitation should be increased, but that any increase should be accompanied by additional protections for plan participants. Accordingly, the exemption has been revised to permit plans to invest up to 50 percent of plan assets in customer notes of the employer, and a new condition has been added which provides that any acquisition of customer notes after the date of the exemption which would cause a plan to hold more than 10 percent of plan assets in the notes of any one customer will not be covered by the exemption. Current plan holdings of customer notes would not be affected by this condition. These changes should, in the Department's view, offer plans the flexibility of investing a higher percentage of plan assets in such notes, while providing an additional safeguard for plan participants. The Department will specifically monitor the operation of this condition to determine whether at the expiration of the interim exemption the condition should be modified in light of plan experiences.

**EMPLOYER GUARANTEE OF REPAYMENT (SECTION II E):** Several commentators argued that it is unreasonable to consider a note in default (in which case, under the terms of the exemption, the employer would be required to repurchase the note) because it is 30 days in arrears. According to the commentators, even the best customers may, for valid business reasons, be in arrears for a longer period of time. The commentators noted that some industries are seasonal and that many excellent accounts have temporary cash flow problems and urged that a plan should be given additional time to consider the reasons for a missed payment—e.g., whether the circumstances are permanent or temporary or whether the plan expect repayment within a reasonable time period. They argued that this additional time would provide the plan sufficient flexibility to retain what it believes are sound investments. Most of the commentators suggested extending the default period to 60 or 90 days.

In light of these comments, the Department has lengthened to 60 days the period after which a note would be deemed to be in default for purposes of this exemption.<sup>1</sup> The Department

<sup>1</sup>The Department has also modified Section II to make clear that the prohibited

notes, however, that plan fiduciaries have certain responsibilities under section 404 of ERISA with respect to delinquent payments, regardless of the length of the "default period" in this exemption.

**SEASONED NOTES (SECTION II H):** Section II H of the exemption requires repayment of the note to be made within a certain number of months, determined by the type of property which secures the note. Several commentators questioned whether these time limits for the maximum duration of customer notes refer to the remaining term of a seasoned note at the time it is sold to the plan or only to the original term of a newly issued note. These commentators stated that the exemption should cover the sale of seasoned notes, because notes on which the debtor has shown the ability to make timely payment may be better investments than newly issued notes. The exemption is not limited to the acquisition of newly issued notes. The purchase of seasoned notes, therefore, is permitted if the remaining term of the note at the time it is sold to the plan satisfies the requirements of Section II H, and the requirements of the exemption are otherwise satisfied.

**MISCELLANEOUS:** The exemption, as proposed, would expire on December 31, 1981. In order to provide the Department a sufficient period of time to monitor the operation of the exemption, the expiration date has been changed to June 30, 1984. The provision which would have required the submission of information to the Service has been changed to require that the information be submitted to the Department. In addition, in response to several comments, the time for filing the requested information has been changed to coincide, generally, with the filing of the applicable Form 5500 series annual return/report. Further, the amount of information which must be submitted has been reduced.

The Department was requested to expand the scope of the exemption to include the sale of notes secured by leases, intangible personal property, real property, mortgage contracts, construction notes, etc. However, as stated in the notice of pendency, the Department has not received sufficient information to determine that a class exemption for such transactions can be proposed with adequate safeguards against abuse. The Department, however, will continue to consider applications for these types of transactions on an individual basis.

Questions have been raised concerning the applicability of the temporary

transaction provisions of the Act and the Code shall not apply to a repurchase by the employer in accordance with the terms of the exemption.

class exemption to a contribution of customer notes to an employee benefit plan by the employer who sponsors the plan. It is the Department's view that to the extent a contribution of customer notes constitutes a prohibited indirect sale between a plan and a party in interest, the transaction would be exempt if the conditions of this class exemption are satisfied.<sup>2</sup>

The Department also has been asked whether plans may hold, beyond the expiration date, notes purchased before such date in accordance with the terms of the exemption. The Department intends to permit plans to hold, beyond June 30, 1984, notes purchased before that date in conformance with the terms of the exemption, in order not to require plans to dispose of all of their customer notes purchased from the employer by June 30, 1984. In this regard, the Department expects that its evaluation of the temporary exemption and its determination whether the exemption should be made permanent, modified, or extended will be made and published in the *FEDERAL REGISTER* sufficiently in advance of the expiration date so as to avoid any undue disruption of plan investment activities.

**GENERAL INFORMATION:** The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person/party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his/her duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 408(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) The exemption set forth herein is supplemental to, and not in derogation of,

<sup>2</sup>Fiduciaries of plans to which customer notes are contributed should be aware, however, that the decision by a plan fiduciary to accept the notes is subject to the same standards of prudence under section 404 of ERISA which would apply to a decision to purchase such notes for cash.

tion of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(5) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of October 14, 1977, the Department makes the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the plans.

#### EXEMPTION

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

#### SECTION I. DEFINITION OF CUSTOMER NOTES.

For purposes of this exemption a customer note is a two-party instrument, executed along with a security agreement for tangible personal property, which is accepted in connection with, and in the normal course of, the employer's primary business activity as a seller of such property. A two-party instrument is a promissory instrument used in connection with the extension of credit in which one party (the maker) promises to pay a second party (the payee) a sum of money.

#### SECTION II. GENERAL EXEMPTION.

Effective immediately the restrictions of sections 408(a), 408(b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply until July 1, 1984, to the purchase and holding by employee benefit plans of customer notes (as defined in Section I) acquired from employers any of whose employees are covered by such plans and the repurchase of such notes by such employers in accordance with paragraph (E), below provided that the following conditions are met:

A. Within seven months after the close of a plan year during which a

plan engages in a transaction in reliance on this class exemption, the trustees or other appropriate fiduciary of the plan shall submit the following information to the U.S. Department of Labor, Pension and Welfare Benefit Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20216 (Attention: Customer Notes):

1. Name and address of employer;
2. Employer's identification number;
3. Name and address of plan administrator;
4. Plan administrator's identification number;
5. Plan name and number.

B. Upon request by the Department, the trustees or other appropriate fiduciary of a plan which engaged in a transaction in reliance on this exemption shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing.

C. Any sale of customer notes to the plan is on terms at least as favorable to the plan as an arm's length transaction with an unrelated third party would be.

D. The acquisition of a customer note from the employer shall not cause a plan to hold: (i) more than 50 percent of the current value (as the term is defined in section 3(28) of the Act) of plan assets in customer notes of the employer; and (ii) more than 10 percent of plan assets (as defined above) in customer notes of any one customer.

E. The employer guarantees in writing the immediate repayment of the outstanding balance of the note and accrued interest in the event the note is more than 60 days in arrears, or the obligor on the note fails to comply with any terms or conditions of the note; or in the event the obligor shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the obligor; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of any property of the obligor; or in the event the condition of affairs of the obligor shall so change as to, in the opinion of the plan trustees or other appropriate fiduciaries, impair its security or increase its credit risk; or should the obligor fail to take proper care of the goods or abandon the same.



F. The plan receives adequate security for the note. For purposes of this exemption, the term adequate security means that the note is secured by a perfected security interest in the property purchased by the obligor on the note so that if the security is foreclosed upon, or otherwise disposed of, in default of repayment of the loan, the value and liquidity of the security is such that it may reasonably be anticipated that loss of principal or interest will not result. In no event shall adequate security mean an interest in intangible personal property, such as, but not limited to, accounts, contract rights, documents, instruments, chattel paper, and general intangibles.

G. Insurance against loss or damage to the collateral from fire or other hazards will be procured and maintained by the obligor until the note is repaid or repurchased by the employer, and the proceeds from such insurance will be assigned to the plan.

H. Repayment must be provided for in the following manner:

1. Where the note is secured by heavy equipment, the term shall in no event exceed 60 months. For purposes of this exemption, heavy equipment shall include machinery sold by equipment distributors such as, but not limited to, earth moving, material handling, pipe laying, power generation, and construction machinery manufactured according to standard specifications, such as, but not limited to, portable air compressors, backhoes, cranes, crushers, dozers, earthboring machines, excavators, fork lifts, graders, hydraulic hammers, loaders, rollers, scrapers, tractors, trailers, trenchers, trucks over 10,000 pounds, and highway material handling equipment, but shall not include such equipment which has been specifically designed and manufactured to a user's specifications and which cannot reasonably be expected to be resold in the ordinary course of the equipment distributor's business.

2. Where the note is secured by passenger automobiles and light-duty highway motor vehicles, the term shall in no event exceed 48 months. For purposes of this exemption, passenger automobiles and light-duty highway motor vehicles are defined as vehicles which have a gross weight of 10,000 pounds or less, are propelled by means of their own motor and are a type used for highway transportation.

3. Where the note is secured by tangible personal property other than heavy equipment or motor vehicles, described in paragraph H 1 and 2 above, the term shall in no event exceed 36 months.

I. A plan which relies upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such

records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

2. Such employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph J below.

J. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph I above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;
2. The Department of Labor;
3. Plan participants and beneficiaries;
4. Any employer of plan participants;
5. Any employee organization any of whose members are covered by the plan; or
6. Any duly authorized employee or representative of a person described in subparagraph (1) through (5) of this paragraph.

#### SECTION III. SPECIAL EXEMPTION.

A. The restrictions of sections 406(a) and 406(b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase and holding by employee benefit plans of customer notes purchased on or before June 30, 1975, from employers any of whose employees are covered by such plan, provided that the following conditions are met:

1. The terms of the purchase of the note by the plan were at least as favorable to the plan as an arm's length transaction with an unrelated third party would have been;

2. The plan received adequate security as defined in Section (II)(F) above; and

3. Such purchases were ordinarily and customarily made by the plan prior to January 1, 1975.

B. The restrictions of section 406(a) and 406(b) (1) and (2) of the Act and section 4975(c)(1) (A) through (E) of the Code shall not apply until September 20, 1979 to the sale, exchange, or other disposition of customer notes which are owned by the plan on October 14, 1977, to a disqualified person or party in interest if:

1. Such sale is made in order to comply with the conditions of this exemption; and

2. The plan receives not less than adequate consideration.

Signed at Washington, D.C., this 16th day of March, 1979.

IAN D. LANOFF,  
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U. S. Department of Labor.

[FR Doc. 79-8617 Filed 3-22-79; 8:45 am]

#### [4510-28-M]

Office of the Secretary

[TA-W-4709]

BLU-BELLE KNITTING MILLS, FALL RIVER, MASSACHUSETTS.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4709: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 12, 1979 which was filed on behalf of workers and former workers producing men's knitted sweaters at Blu-Belle Knitting Mills, Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Blu-Belle Knitting Mills, its manufacturers, customers of the manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely from 1976 to 1977 and from 1977 to 1978.

The Department conducted a survey of the principal manufacturers for which Blu-Belle worked in 1977 and 1978. These manufacturers decreased contracts with Blu-Belle from 1977 to 1978 and increased purchases of imported men's sweaters in the same

period. A Departmental survey of the manufacturers' customers showed that customers representing a significant proportion of the manufacturers' sales decline from 1977 to 1978 increased their reliance on imported men's sweaters during the same period.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knitted sweaters produced at Blu-Belle Knitting Mills, Fall River, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Blue Belle Knitting Mills, Fall River, Massachusetts who became totally or partially separated from employment on or after September 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,  
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8930 Filed 3-22-79; 8:45 am]

#### [4510-28-M]

[TA-W-4753 and 4753A]

BRIERWOOD SHOE CORP., NORTHERN SHOE DIVISION PULASKI, WIS., CLINTONVILLE, WIS.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4753: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979, in response to a worker petition received on January 26, 1979, which was filed on behalf of workers and former workers producing children's shoes at the Brierwood Shoe Corporation, Northern Shoe Division, Pulaski, Wisconsin. The investigation was expanded to include workers of the Clintonville, Wisconsin plant of the Northern Shoe Division. The Pulaski and Clintonville plants primarily produce children's, infants', and women's footwear.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Northern Shoe Division of the Brierwood Shoe Corporation, its customers, the American Foot Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of children's nonrubber footwear increased relative to domestic production in 1977 compared to 1976 and decreased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

U.S. imports of infant's and babies' nonrubber footwear increased relative to domestic production in 1977 compared to 1976 and decreased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

U.S. imports of women's nonrubber footwear, except athletic, increased relative to domestic production in 1977 compared to 1976 and increased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

Evidence developed during the course of the investigation revealed that purchases by one customer accounted for a significant percentage of Northern Shoe's total sales in 1977. A Departmental survey revealed that this customer reduced purchases of children's and infants' footwear from Northern Shoe and from other domestic sources in 1978 compared to 1977 while increasing its purchases of like or directly competitive imported footwear. The survey also revealed that this customer reduced purchases of women's footwear from Northern Shoe and other domestic sources in 1978 compared to 1977 while increasing its purchases of imported women's footwear.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of import of articles like or directly competitive with children's, infants', and women's footwear produced at the Pulaski and Clintonville, Wisconsin plants of the Northern Shoe Division of the Brierwood Shoe Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certifications:

"All workers of the Pulaski, Wisconsin plant of the Northern Shoe Division of the Brierwood Shoe Corporation who became totally or partially separated from employment on or after December 20, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

"All workers of the Clintonville, Wisconsin plant of the Northern Shoe Division of the Brierwood Shoe Corporation who become totally or partially separated from employment on or after June 17, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management Administration and Planning.

[FR Doc. 79-8931 Filed 3-22-79; 8:45 am]

#### [4510-28-M]

[TA-W-4696]

BURLINGTON INDUSTRIES, INC., KLOPMAN MILLS DIVISION, MAYFLOWER PLANT, CRAMERTON, N.C.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4696: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 8, 1979 which was filed on behalf of workers and former workers of the Mayflower plant, Cramerton, North Carolina, Klopman Division, Burlington Industries, Incorporated. The investigation revealed that the correct name of the division is the Klopman Mills Division, that the articles produced were yarn-dyed shirting weight and bottom weight textile fabrics.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Burlington Industries, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-



sistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric decreased from 464 million square yards in 1976 to 453 million square yards in 1977. Imports increased from 341 million square yards in the first nine months of 1977 to 386 million square yards in the same period in 1978. The ratio of imports to domestic production of finished fabric has been less than two percent from 1974 through 1977.

In October, 1977, Burlington Industries announced that its Sportswear Division would cease marketing the Galey and Lord line of fabric produced at the Mayflower plant. In January, 1978, the Mayflower plant closure was announced.

Results of a U.S. Department of Labor survey indicated that most customers of the Sportswear Division who responded to the survey did not increase their purchases of imported fabric in 1977 as compared to 1976 while decreasing purchases of the Galey and Lord line of fabric. Customers which reported switching to imported fabric represented less than one percent of the Sportswear Division's sales in 1977.

#### CONCLUSION

After careful review, I determine that all workers of the Mayflower plant, Cramerton, North Carolina, Klopman Mills Division, Burlington Industries, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-8934 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4755)

C & C FASHIONS, INC., WEEHAWKEN, N.J.

#### Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 29, 1979 in response to a worker petition received on January 22, 1979 which was filed on behalf of workers and former workers

producing cloth coats at C & C Fashions, Incorporated, Weehawken, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1979 (44 FR 7249). No public hearing was requested and none was held.

The petitioning group of workers in this case was included in a determination (TA-W-3674) issued on November 13, 1978 which certified as eligible to apply for adjustment assistance all workers engaged in the production of ladies' coats and raincoats at C & C Fashions, Incorporated, Weehawken, New Jersey. C & C Fashions ceased operation in March 1978. Since all workers separated, totally or partially, from C & C Fashions, Incorporated on or after June 24, 1977 (impact date) and before April 1, 1978 (termination date of determination) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 15th day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

(FR Doc. 79-8935 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-2075)

CAPEHART CORP. (FORMERLY WAKEFIELD INDUSTRIES, INC.), NORWICH, CONN., NEW YORK, N.Y.

#### Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on December 23, 1977 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers at the Norwich, Connecticut plant of the Capehart Corporation (formerly Wakefield Industries, Incorporated) (TA-W-2075).

The Notice of Certification was published in the FEDERAL REGISTER (43 FR 1155) January 6, 1978.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at the Capehart Corporation Sales Division, New York, New York. Further investigation revealed that workers of the New York Sales Division were engaged in employment related to the production of modular and console stereo units and should have been included in the original certification as eligible to apply for adjustment assistance.

The Sales Division was not identified in the initial investigation or the original certification because the company maintained separate records and ledgers for sales staff in other locations.

#### CONCLUSION

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following certification:

"All workers at the Norwich, Connecticut plant and the New York, New York Sales Division of the Capehart Corporation (formerly Wakefield Industries, Incorporated) who became totally or partially separated from employment on or after May 9, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-8936 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4727)

ELLEN KATE CLOTHING CO., NEWBURGH, N.Y.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4727: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 22, 1979 in response to a worker petition received on January 16, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' rainwear and sportswear at the Ellen Kate Clothing Company, Newburgh, New York. The investigation revealed that the firm produces ladies' raincoats and outercoats.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ellen Kate Clothing Company, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act

must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, girls' and infants' raincoats increased in the first three quarters of 1978 compared with the like period of 1977.

U.S. imports of women's, misses' and children's coats and jackets increased in 1977 compared with 1976. Imports decreased in the first three quarters of 1978 compared with the like period of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department surveyed major customers (manufacturers) for whom Ellen Kate performed contract work. Respondents accounting for a significant proportion of the subject firm's contract work indicated that they increased purchases of imported women's coats while decreasing contract work with Ellen Kate.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's raincoats and outercoats produced at Ellen Kate Clothing Company, Newburgh, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Ellen Kate Clothing Company, Newburgh, New York who became totally or partially separated from employment on or after August 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management  
Administration, and Planning.

(FR Doc. 79-8937 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4720)

FABERGE, INC., RIDGEFIELD, N.J.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4720: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 18, 1979, in response to a worker petition received on January 15, 1979, which was filed on behalf of workers and former workers producing cosmetics, perfume, shampoo and

toilet articles, in general, at the Ridgefield, New Jersey plant of Faberge, Incorporated. The investigation revealed that the plant primarily produced fragrances and shampoos.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Faberge, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the customers of Faberge, Incorporated revealed that customers did not increase purchases of imported fragrances and shampoo. The survey further revealed that customers which decreased purchases from Faberge, Incorporated had increased purchases from other domestic sources in 1978.

#### CONCLUSION

After careful review, I determine that all workers of the Ridgefield, New Jersey plant of Faberge, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

(FR Doc. 79-8938 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4528)

FLORSHEIM SHOE CO., CAPE GIRARDEAU, MO.

#### Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on February 28, 1979, applicable to all workers of the Cape Girardeau, Missouri, plant of the Florsheim Shoe Company who became totally or

partially separated from employment on or after October 1, 1978. The Notice of Certification was published in the FEDERAL REGISTER on March 6, 1979, (44 FR 12293).

At the request of a former employee, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that a number of separations occurred before the impact date originally set in the Department's certification of the Cape Girardeau, Missouri, facility. These layoffs were not covered by the original impact date.

The intent of the certification is to cover all workers at the Florsheim Shoe Company who were adversely affected by the decline in the production of men's footwear related to import competition. The certification, therefore, is revised providing a new impact date of December 11, 1977.

The revised certification applicable to TA-W-4528 is hereby issued as follows:

"All workers of the Cape Girardeau, Missouri, plant of the Florsheim Shoe Company who became totally or partially separated from employment on or after December 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 19th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-8939 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4558)

GIBSON, INC., KALAMAZOO, MICH.

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4558: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 22, 1978 which was filed by the United Steel Workers of America on behalf of workers and former workers producing acoustic and electric guitars, mandolins and banjos at the Kalamazoo, Michigan plant of Gibson, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.



The determination was based upon information obtained principally from officials of Gibson, Inc., Norlin Music, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With regard to workers producing electric guitars without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that declines in shipments and production of electric guitars at the Kalamazoo plant of Gibson Inc., were attributable to a shift in electric guitar production from the Kalamazoo plant to Gibson's Nashville, Tennessee plant. Total Gibson electric guitar production (including the Kalamazoo and Nashville plants) increased from 1977 to 1978.

With regard to workers producing acoustic guitars, mandolins and banjos, it is concluded that all of the requirements have been met.

Imports of non-electric guitars increased from 901,545 units in the first three quarters of 1977 to 1,044,280 units in the first three quarters of 1978.

Gibson acoustic guitars are marketed nationwide to retail music outlets. Gibson acoustic guitars are sold to customers which represent a substantial proportion of the total domestic music retailers market. The ratio of aggregate imports to domestic production for non-electric guitars has been in excess of 490 percent since 1973. The ratio increased from 737 percent in 1976 to 953.7 percent in 1977. More than four out of every five fretted musical instruments sold in the United States in 1977 were imported.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with acoustic guitars, mandolins and banjos produced at the Kalamazoo, Michigan plant of Gibson, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Kalamazoo, Michigan plant of Gibson, Inc. engaged in employment related to the production of acoustic guitars, mandolins and banjos who became totally or partially separated from employment on or after January 15, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

It is further determined that all workers of the Kalamazoo, Michigan plant of Gibson, Incorporated engaged in employment related to the production of electric guitars are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-8940 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4711)

#### GRAND FASHIONS, INC., HOBOKEN, N.J.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4711: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979, in response to a worker petition received on January 12, 1979, which was filed on behalf of workers and former workers producing ladies' coats at Grand Fashions, Incorporated, Hoboken, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Grand Fashions, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

Production at Grand Fashions, Incorporated increased in 1978 compared to 1977. Production increased in the second, third, and fourth quarters of 1978 compared to the same quarters in 1977. The decline in production and employment at Grand Fashions, Incorporated in the first quarter of 1978 can be attributed to the seasonal patterns typical to the women's coat industry.

#### CONCLUSION

After careful review, I determine that all workers of Grand Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-8941 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4491 and 4491A)

#### GREENSBORO MANUFACTURING CO., DIVISION OF GENESCO, INC., GREENSBORO, N.C., MOUNTAIN CITY, TENN.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4491 and 4491A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 8, 1978 in response to a worker petition received on December 6, 1978 which was filed on behalf of workers and former workers producing women's and children's nightwear at the Greensboro, North Carolina plant of the Greensboro Manufacturing Company, a Division of Genesco, Incorporated. The investigation revealed that the Greensboro Manufacturing Company primarily produces women's and children's nightwear at two plants. The investigation was expanded to include an additional plant located in Mountain City, Tennessee.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59179-80). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Greensboro Manufacturing

Company, its customers (including other manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and children's nightwear increased absolutely and relatively from 1976 to 1977 and increased absolutely from 1977 to 1978.

The Department conducted a survey of customers of Greensboro Manufacturing. The survey indicated that customers which accounted for a significant proportion of Greensboro's sales decreased purchases from Greensboro and increased purchases of imported women's and children's nightwear.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with women's and children's nightwear produced at Greensboro Manufacturing Company's, Greensboro, North Carolina and Mountain City, Tennessee plants contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Greensboro, North Carolina and Mountain City, Tennessee plants of the Greensboro Manufacturing Company, a Division of Genesco who became totally or partially separated from employment on or after December 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-8942 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4700)

#### LA SALLE FASHIONS, INC., HOBOKEN, N.J.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4700: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 9, 1979 which was filed on behalf of workers and former workers producing ladies' coats at La Salle Fashions, Incorporated, Hoboken, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of La Salle Fashions, Incorporated its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased both absolutely and relative to domestic production from 1976 to 1977 and increased absolutely from 1977 to 1978.

A departmental survey of the manufacturers which contract with La Salle Fashions, Incorporated revealed that those manufacturers increased their purchases of imported women's coats from 1977 to 1978 and decreased orders with La Salle Fashions, Incorporated during the same period.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at La Salle Fashions, Incorporated, Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of La Salle Fashions, Incorporated, Hoboken, New Jersey who became totally or partially separated from employment on or after January 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-8943 Filed 3-22-79; 8:45 am)

#### [4510-28-M]

(TA-W-4702, 4702A and 4702B)

#### McGREGOR-DONIGER, INC., Dover, N.J., plant, DOVER, N.J. CORPORATE OFFICE; NEW YORK, N.Y., CORPORATE OFFICE

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4702, TA-W-4702A and TA-W-4702B: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on January 15, 1979 in response to a worker petition received on January 8, 1979 which was filed on behalf of workers and former workers producing leather jackets, shirts, knit shirts, slacks and outerwear for men at McGregor-Doniger, Incorporated, Dover, New Jersey. The investigation revealed that the Dover, New Jersey manufacturing plant only produces men's outerwear and men's sweater shirts. The investigation was expanded to include the Dover, New Jersey and the New York, New York corporate office workers of McGregor-Doniger, Incorporated who are involved in the integrated production process of all types of men's apparel produced by McGregor-Doniger, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of McGregor-Doniger, Incorporated, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' outer coats and jackets increased from 20,034 thousand units in 1975 to 22,060 thousand units in 1976. The increasing trend continued in 1977 when imports increased to 27,432 thousand units. In 1978, imports of men's and boys' outer jackets and coats declined slightly to 27,093 thousand units. The ratio of imports to domestic production increased from 28.1 percent in 1975 to 29.6 percent in 1976 and then further increased to 35.3 percent in 1977. This ratio is not currently available for 1978.



U.S. imports of men's and boys' knit sport and dress shirts (excluding T-shirts) increased from 66.2 million units in 1975 to 74.0 million units in 1976. The increasing trend continued in 1977 and 1978 when imports increased to 75.2 million units and 107.5 million units, respectively. The ratio of imports to domestic production remained constant at 22.9 percent in 1975 and 1976 and then declined to 19.7 percent in 1977. This ratio is not currently available for 1978.

Evidence developed during the course of the investigation revealed that men's outer jackets represented a substantial proportion of production at the Dover, New Jersey manufacturing plant of McGregor-Doniger, Incorporated in 1977 and 1978.

McGregor-Doniger, Incorporated imports men's outer jackets. These company imports increased by 54.8 percent in 1978 when compared to 1977, exceeding the 1978 level of production of men's outer jackets at the Dover, New Jersey manufacturing plant of McGregor-Doniger, Incorporated.

The corporate offices, both in Dover, New Jersey and in New York City, provide support functions for the Dover manufacturing plant and for the manufacturing plants of McGregor-Doniger's subsidiaries. The Dover corporate offices handle company-wide payroll, purchasing, accounts payable and accounts receivable while the New York City office handles company-wide sales and merchandising; thus, the corporate office workers are involved in the integrated production process of men's apparel for McGregor-Doniger, Incorporated.

Workers at five out of a total of seven manufacturing plants of McGregor-Doniger, Incorporated and its subsidiaries were certified as eligible to apply for trade adjustment assistance by the U.S. Department of Labor (TA-W-1693, 4124, 4216, 4217, 4436). These five plants represent a substantial portion of McGregor-Doniger's domestic production. The support services provided by the corporate offices are integral to the production process at these five plants.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's outer jackets produced at the Dover, New Jersey manufacturing plant of McGregor-Doniger, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant.

I further conclude that increases of imports of articles like or directly competitive with men's outer jackets, sweaters, sweater shirts, knit shirts,

sport shirts, trousers and shorts produced at McGregor-Doniger, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Dover, New Jersey and New York, New York corporate offices of McGregor-Doniger, Incorporated. In accordance with the provisions of the Act, I make the following certifications:

All workers at the Dover, New Jersey plant, at the Dover, New Jersey corporate office and at the New York, New York corporate office of McGregor-Doniger, Incorporated who became totally or partially separated from employment on or after January 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-8944 Filed 3-22-79; 8:45 am]

#### [4510-28-M]

[TA-W-4713]

##### NOVA SPORTSWEAR, LONG BRANCH, N.J.

##### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4713: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979, in response to a worker petition received on January 12, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing sportswear at Nova Sportswear, Long Branch, New Jersey. The investigation revealed that the plant primarily produces women's sports culottes.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Nova Sportswear, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales equals production at Nova Sportswear. Production at Nova increased in 1978 compared to 1977. Decline in the spring and summer months of 1978 are attributable to the seasonality of the women's sport culottes industry.

#### CONCLUSION

After careful review, I determine that all workers of Nova Sportswear, Long Branch, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 79-8945 Filed 3-22-79; 8:45 am]

#### [4510-28-M]

[TA-W-4757]

##### OPELIKA MANUFACTURING CORP., WHITEHOUSE DIVISION, JACKSON, MICH.

##### Negative Determination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4757: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 25, 1979 in response to a worker petition received on January 22, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing hospital garments at the Jackson, Michigan plant of the Whitehouse Division of Opelika Manufacturing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Opelika Manufacturing Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to

whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Jackson, Michigan plant was a member of the Whitehouse Division before closure in May 1978. The company closed the plant because of efficiency considerations and the inability to attract a stable labor force. All production at the Jackson, Michigan plant was transferred to other Whitehouse Division plants and all workers were given the opportunity for employment at other company facilities. Sales of hospital garments by the Whitehouse Division of the Opelika Manufacturing Corporation increased in 1978 compared to 1977, and increased in each quarter of 1978 compared to the like quarter of 1977.

#### CONCLUSION

After careful review, I determine that all workers of the Jackson, Michigan plant of the Whitehouse Division of the Opelika Manufacturing Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 79-8946 Filed 3-22-79; 8:45 am]

#### [4510-28-M]

[TA-W-4714]

##### PETERS SPORTSWEAR COMPANY INC. PHILADELPHIA, PA.

##### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4714: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 12, 1979 which was filed on behalf of workers and former workers producing men's classic golf jackets, outerwear, leather jackets, corduroy suits and sportcoats at Peters Sportswear Company, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces zippered sports jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on Jan-

#### [4510-28-M]

[TA-W-4759]

##### PRACTICAL AUTOMATION OF NEW HAMPSHIRE, INC., PLYMOUTH, N.H.

##### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4759: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979 in response to a worker petition received on January 23, 1979 which was filed on behalf of workers and former workers producing parts and subassemblies for alphanumeric and numeric needle printers at Practical Automation of New Hampshire, Incorporated, Plymouth, New Hampshire. The investigation revealed that the plant produces parts for computer printers produced at another company location.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Practical Automation, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Practical Automation of New Hampshire, Incorporated produced parts for computer printers produced at a plant of its parent firm, Practical Automation, Incorporated. Practical Automation of New Hampshire, Incorporated closed and all production was transferred to another domestic plant of Practical Automation, Incorporated.

Sales and production of computer printers at Practical Automation, Incorporated increased in 1977 from 1976 and increased in 1978 from 1977.

#### CONCLUSION

After careful review, I determine that all workers of Practical Automa-

uary 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Peters Sportswear Company Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' non-tailored outer jackets increased absolutely from 1976 to 1977 and from 1977 to 1978.

U.S. imports of men's and boys' outer coats and jackets (tailored) increased absolutely from 1976 to 1977 and from 1977 to 1978.

U.S. imports of leather coats and jackets increased absolutely from 1976 to 1977 and in the first three quarters of 1978 compared to the first three quarters of 1977.

On February 22, 1979 the U.S. Department of Commerce certified Peters Sportswear Company, Incorporated eligible to apply for trade adjustment assistance. In drawing its conclusions the Department of Commerce found that customers who had increased purchases of imports while decreasing purchases from Peters Sportswear Company had contributed significantly to Peters Sportswear's loss of sales and production from 1977 to 1978.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the zippered sports jackets produced at Peters Sportswear Company Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Peters Sportswear Company Incorporated who became totally or partially separated from employment on or after August 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 79-8947 Filed 3-22-79; 8:45 am]



tion of New Hampshire, Incorporated, Plymouth, New Hampshire are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-8948 Filed 3-22-79; 8:45 am)

## [4510-28-M]

(TA-W-4741)

RAINETTE FASHIONS, NEW YORK, N.Y.

## Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 24, 1979 in response to a worker petition received on January 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing women's raincoats and jackets at the New York, New York facility of Rainette Fashions.

The investigation revealed that the petition was filed by the International Ladies' Garments Workers' Union.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

Rainette Fashions is a trade label owned by Suz-ette Fashions of Jersey City, New Jersey. All of the garments sold with the Rainette Fashions label are produced and sold by Suz-ette Fashions. Rainette Fashions has no employees or facilities. On January 5, 1979, a petition was filed on behalf of workers and former workers of Suz-ette Fashions (TA-W-4656). Since there are no workers employed by Rainette Fashions and since the workers engaged in the production of the garments sold with the Rainette label are the subject of the ongoing investigation of TA-W-4656, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 15th day of March, 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.  
(FR Doc. 79-8949 Filed 3-22-79; 8:45 am)

## [4510-28-M]

(TA-W-4658, etc.)

Suz-ette Fashions, Inc., Etc.

## Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Suz-ette Fashions, Inc., Jersey City, New Jersey and New York, New York, TA-W-4656, 4743, Jo Feld Fashions, New York, New York, TA-W-4737 and Disco Togs, Jersey City, New Jersey, TA-W-4735.

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4656, 4743, 4737, 4735: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation of TA-W-4656 was initiated on January 10, 1979 in response to a worker petition received on January 5, 1979 which was filed on behalf of workers and former workers engaged in employment related to the production of women's coats, pants suits and jackets at the Jersey City, New Jersey facility of Suz-ette Fashions. The investigation revealed that the plant produces women's coats, jackets and raincoats.

The investigations of TA-W-4735, 4737 and 4743 were initiated on January 24, 1979 in response to petitions received on January 9, 1979 which were filed by the Amalgamated Clothing and Textile Workers of America on behalf of workers and former workers at the New York, New York showrooms of Jo Feld Fashions and Suz-ette Fashions and at the New York, New Jersey facility of Disco Togs. The investigation revealed that the two showrooms and the retail outlet are owned and operated by Suz-ette Fashions, that the Disco Togs retail outlet is located in Jersey City, New Jersey and that the petitions were filed by the International Ladies' Garment Workers' Union.

The Notice of Investigation for TA-W-4656 was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4039-40). The Notice of Investigation for TA-W-4735, 4737 and 4743 was published on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Suz-ette Fashions, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

With respect to workers producing cuttings at the Jersey City, New Jersey facility of Suz-ette Fashions, it is concluded that all of the requirements have been met.

Imports of women's, misses' and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared to 1976 and decreased absolutely in the first three quarters of 1978 compared to the like 1977 period.

Imports of women's, girls' and infants' raincoats increased in the first nine months of 1978 compared to the same period of 1977.

Company imports of coats, jackets and raincoats increased in 1978 compared to 1977.

With respect to workers engaged in administrative, shipping and receiving operations at the Jersey City, New Jersey facility of Suz-ette Fashions and with respect to all workers at the New York, New York showrooms of Jo Feld Fashions and Suz-ette Fashions and at the Jersey City, New Jersey facility of Disco Togs, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Company sales of coats and jackets increased in 1978 compared to 1977. Company bookings, orders that pre-date actual sales and production, also increased in both quantity and value terms in 1978 compared to 1977.

## CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's and misses' coats, jackets and raincoats produced at the Jersey City, New Jersey facility of Suz-ette Fashions contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers in the cutting department of the Jersey City, New Jersey facility of Suz-ette Fashions who became totally or partially separated from employment on or after December 29, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

I further determine that all workers engaged in administrative, shipping and receiving operations at the Jersey City facility of Suz-ette Fashions and all workers at the New York, New York showrooms of Jo Feld Fashions and Suz-ette Fashions and all workers at the Jersey City, New Jersey facility of Disco Togs are denied eligibility to

apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-8950 Filed 3-22-79; 8:45 am)

## [4510-28-M]

(TA-W-4544)

TAUNTON DRESS, INC., TAUNTON, MASS.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4544: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 19, 1978 in response to a worker petition received on December 15, 1978 which was filed on behalf of workers and former workers producing ladies' dresses, pantsuits and blouses at Taunton Dress, Incorporated, Taunton, Massachusetts. The investigation revealed that jackets, skirts and slacks are also produced.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Taunton Dress, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The sole manufacturer for whom Taunton Dress performs contract work does not import ladies' dresses, pantsuits, blouses, jackets, skirts and slacks or utilize foreign contractors. This manufacturer decreased contracts with Taunton Dress and increased contracts with other domestic firms from 1977 to 1978.

## CONCLUSION

After careful review, I determine that all workers of Taunton Dress, Incorporated, Taunton, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-8951 Filed 3-22-79; 8:45 am)

## [4510-28-M]

(TA-W-4513)

VITA COATS, INC., SOUTH EL MONTE, CALIF.

## Revised Notice of Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Notice of Negative Determination Regarding Eligibility to Apply for Adjustment Assistance on February 1, 1979, applicable to workers and former workers at Vita Coats, Inc., South El Monte, California. The Notice of Negative Determination was published in the FEDERAL REGISTER on February 9, 1979, (44 FR 8387).

On the basis of additional information, the Office of Trade Adjustment Assistance on its own motion reviewed the determination. Imports of women's misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1977 compared to 1976. Imports of women's, misses' and children's coats and jackets increased absolutely in 1978 compared to the average level of imports during the period 1974 through 1977. The review revealed that workers at Vita Coats' principal manufacturer were certified eligible for trade adjustment assistance. A significant proportion of that manufacturer's customers surveyed increased their purchases of imported women's coats in 1978 compared to 1977. Thus, increased imports of ladies' coats have contributed importantly to worker separations at Vita Coats, Inc., at South El Monte, California.

The revised notice of determination applicable to TA-W-4513 is hereby issued as follows:

"All workers of Vita Coats, Inc., South El Monte, California, who became totally or partially separated from employment on or after January 1, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 19th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-8952 Filed 3-22-79; 8:45 am)

## [4510-28-M]

(TA-W-4718)

WESTFORTH MANUFACTURING CO., INC., WILLIAMSPORT, PA.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4718: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 12, 1979 which was filed on behalf of workers and former workers producing men's classic golf jackets, outerwear, leather jackets, corduroy suits and sportcoats at Westforth Manufacturing Company, Incorporated, Williamsport, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (43 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Westforth Manufacturing Company, Incorporated, Peters Sportswear Company, Incorporated, its customers, manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Westforth Manufacturing Company, Incorporated's sales of men's and boys' outerwear increased in quantity and value from 1976 to 1977 and from 1977 to 1978. Sales and production are approximately equal.

## CONCLUSION

After careful review, I determine that all workers of Westforth Manufacturing Company, Incorporated, Williamsport, Pennsylvania are denied eligibility to apply for adjustment as-



sistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 79-8953 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4707]

WILSON COUNTY GARMENT CO.,  
WATERTOWN, TENN.

**Certification Regarding Eligibility To Apply for  
Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4707: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 8, 1979 which was filed on behalf of workers and former workers producing ladies' woven blouses at Wilson County Garment Company, Watertown, Tennessee.

The Notice of Investigation was published in the *FEDERAL REGISTER* on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wilson County Garment Company its manufacturer, customers of the manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of ladies' blouses and shirts increased absolutely from 1976 to 1977. Imports increased absolutely in the first nine months of 1978 compared to the same period of 1977.

The manufacturer for whom Wilson County Garment performed contract work did not purchase imported blouses or utilize foreign contractors. Sales of woven blouses by this manufacturer decreased from 1977 to 1978. The Department conducted a survey of customers of this manufacturer. The survey revealed that customers accounting for a significant proportion of the sales decline in 1977 decreased purchases from the manufacturer and increased purchases of imported blouses from 1976 to 1977 and in the first five months of 1978 compared with the same period of 1977.

**CONCLUSION**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced at Wilson County Garment Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Wilson County Garment Company, Watertown, Tennessee who became totally or partially separated from employment on or after January 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 8954 Filed 3-22-79; 8:45 am]

[4510-28-M]

**WORKER ADJUSTMENT ASSISTANCE**

**Investigations Regarding Certifications of  
Eligibility To Apply**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the trade act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of

these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

**APPENDIX**

| Petitioner: Union/workers or former workers of—                                 | Location            | Date received | Date of petition | Petition No. | Articles produced  |
|---|---------------------|---------------|------------------|--------------|--|
| Brierwood Shoe Corp., Oconto Division (Retail Clerks Boot & Shoe Workers Union) | Oconto, Wis.        | 3/12/79       | 3/12/79          | TA-W-4,961   | Men's workboots.   |
| Imperial Reading Corp. (United Garment Workers of America)                      | Marshall, Tex.      | 3/12/79       | 2/27/79          | TA-W-4,962   | Denim jeans.   |
| Henry I. Siegel Co., Inc. (company)   | Camden, Tenn.       | 3/14/79       | 3/9/79           | TA-W-4,963   | Men's and women's styled jeans and dungarees.                              |
| Henry I. Siegel Co., Inc. (company)   | Tiptonville, Tenn.  | 3/14/79       | 3/9/79           | TA-W-4,964   | Dress vests and denim vests; dungaree jackets and dress coats and jackets. |
| Henry I. Siegel Co., Inc. (company)   | Trezevant, Tenn.    | 3/14/79       | 3/9/79           | TA-W-4,965   | Men's and women's styled jeans and dungarees.                              |
| Henry I. Siegel Co., Inc. (company)   | Johnson City, Tenn. | 3/14/79       | 3/9/79           | TA-W-4,966   | Men's and women's styled jeans and dungarees.                              |

**APPENDIX—Continued**

| Petitioner: Union/workers or former workers of— | Location                            | Date received | Date of petition | Petition No. | Articles produced   |
|---|-------------------------------------|---------------|------------------|--------------|---|
| Henry I. Siegel Co., Inc. (company)             | Cerona, Miss.                       | 3/14/79       | 3/9/79           | TA-W-4,967   | Men's and women's blazers, sport coats and suit coats.  |
| Henry I. Siegel Co., Inc. (company)             | Gleason, Tenn.                      | 3/14/79       | 3/9/79           | TA-W-4,968   | Men's and women's styled jeans and dungarees.   |
| Henry I. Siegel Co., Inc. (company)             | Saltville, Tenn.                    | 3/14/79       | 3/9/79           | TA-W-4,969   | Men's and women's skirts.   |
| Henry I. Siegel Co., Inc. (company)             | Hohenwald, Tenn.                    | 3/14/79       | 3/9/79           | TA-W-4,970   | Men's dress slacks.   |
| Henry I. Siegel Co., Inc. (company)             | South Fulton, Tenn.                 | 3/14/79       | 3/9/79           | TA-W-4,971   | Ladies' and men's styled jeans, denim skirts and men's dress slacks.  |
| Henry I. Siegel Co., Inc. (company)             | Bruceton, Tenn. (Rowland Mill Road) | 3/14/79       | 3/9/79           | TA-W-4,972   | Pressing, warehousing and shipping of men's suit coats, men's and women's slacks, jeans, shirts, vests, coats, suits, and skirts. |
| Henry I. Siegel Co., Inc. (company)             | Bruceton, Tenn. (Lexington St.)     | 3/14/79       | 3/9/79           | TA-W-4,973   | Men's suit coats, men's and women's slacks, jeans, shirts, vests, coats, suits and skirts.  |
| Tobin Hamilton Co., Inc. (USWA)                 | Mansfield, Mo.                      | 3/13/79       | 3/9/79           | TA-W-4,974   | Children's shoes.   |

[FR Doc. 79-8932 Filed 3-22-79; 8:45 am]

[4510-28-M]

**WORKER ADJUSTMENT ASSISTANCE**

**Investigations Regarding Certifications of  
Eligibility To Apply**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, of both, of such firm or subdivision and to the actual or threatened total of partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the DI-

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

**APPENDIX**

| Petitioner: Union/workers or former workers of—          | Location            | Date received | Date of petition | Petition No. | Articles produced                 |
|--|---------------------|---------------|------------------|--------------|-----------------------------------|
| Brown Shoe Company (Workers)                             | Bernie, Mo.         | 3/6/79        | 2/6/79           | TA-W-4,950   | Ladies' shoes and boots.          |
| Cottillon Knitting Mills (ILGWU)                         | Brooklyn, N.Y.      | 3/12/79       | 3/7/79           | TA-W-4,951   | Ladies' sportswear.               |
| Gary Lee Company, Inc. (Company)                         | Phillipsburg, N.J.  | 3/12/79       | 3/6/79           | TA-W-4,952   | Ladies' blouses.                  |
| Gary Lee Company, Inc. (Company)                         | Alpha, N.J.         | 3/12/79       | 3/6/79           | TA-W-4,953   | Ladies' blouses.                  |
| Gillette Industries Inc., DBA La Crosse Garment Mfg. Co. | La Crosse, Wis.     | 3/12/79       | 3/5/79           | TA-W-4,954   | Jackets, vests and sleeping bags. |
| Granarja Novelty Corporation (Company)                   | Brooklyn, N.Y.      | 3/12/79       | 3/5/79           | TA-W-4,955   | Pasting and wire works.           |
| National Musical String Company (ACTWU)                  | New Brunswick, N.J. | 3/12/79       | 3/7/79           | TA-W-4,956   | Musical strings.                  |
| New-Tronics Corp. (U.A.W.)                               | Brook Park, Ohio    | 3/12/79       | 3/6/79           | TA-W-4,957   | Communication antennas.           |
| Suntogs, Inc. (Workers)                                  | Miami Lake, Fla.    | 3/12/79       | 3/5/79           | TA-W-4,958   | Children's wear.                  |
| Uniroyal Incorporated, Naugatuck Footwear (U.R.W.)       | Naugatuck, Conn.    | 3/13/79       | 3/5/79           | TA-W-4,959   | Rubber canvas footwear.           |
| Warren Shirt Company (Workers)                           | Lebanon, Pa.        | 3/12/79       | 3/6/79           | TA-W-4,960   | Jackets, ski coats.               |

[FR Doc. 79-8933 Filed 3-22-79; 8:45 am]



## Office of the Secretary

## INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive

## NOTICES

with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may re-

quest a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of the Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

## APPENDIX

| Petitioner: Union/workers or former workers of—                     | Location                  | Date received | Date of petition | Petition No. | Articles produced   |
|---|---------------------------|---------------|------------------|--------------|---|
| Abate Clothing, Inc. (company).....                                 | Atlantic City, N.J.....   | 3/8/79        | 3/1/79           | TA-W-4,924   | Men and women's coats, overcoats, dresses and suits.      |
| Chien Industries, Inc. (USWA).....                                  | Burlington, N.J.....      | 3/8/79        | 2/28/79          | TA-W-4,925   | Pressed and stamped metal products such as housewares.    |
| Jane Colby, Div. of USI Industries (ILGWU).....                     | Clifton Forge, Va.....    | 3/1/79        | 2/22/79          | TA-W-4,926   | Ladies' apparel.  |
| Jane Colby, Div. of USI Industries (ILGWU).....                     | Fairfield, Va.....        | 3/1/79        | 2/22/79          | TA-W-4,927   | Ladies' apparel.  |
| Converse Rubber Company, Presque Isle Division (company).....       | Presque Isle, Maine.....  | 3/12/79       | 3/1/79           | TA-W-4,928   | Rubber, canvas and leather athletic and leisure footwear. |
| Converse Rubber Company, Div. Headquarters (company).....           | Wilmington, Mass.....     | 3/12/79       | 3/1/79           | TA-W-4,929   | Rubber, canvas and leather athletic and leisure footwear. |
| Converse Rubber Company, Granite State Div. (company).....          | Berlin, N.H.....          | 3/12/79       | 3/1/79           | TA-W-4,930   | Rubber, canvas and leather athletic and leisure footwear. |
| Ralph Edwards Sportswear, Inc. (ACTWU).....                         | Sikeston, Mo.....         | 3/5/79        | 3/1/79           | TA-W-4,931   | Leather outerwear for men and some women.                 |
| Franglo, Inc. (ACTWU).....  | Hazleton, Pa.....         | 3/5/79        | 3/1/79           | TA-W-4,932   | Children's knitwear.                                      |
| Joville Mfg. Co. (ACTWU).....                                       | Danville, Pa.....         | 3/5/79        | 3/1/79           | TA-W-4,933   | Children's knitwear.                                      |
| Leggio Coat Co. (workers).....                                      | Brooklyn, N.Y.....        | 3/8/79        | 3/1/79           | TA-W-4,934   | Ladies' coats.  |
| McAdoo Mfg. Co., Inc. (ACTWU).....                                  | McAdoo, Pa.....           | 3/5/79        | 3/1/79           | TA-W-4,935   | Children's knitwear.                                      |
| Perry Norvell Shoe Factory (Retail Clerks International Union)..... | Huntington, W.Va.....     | 3/5/79        | 2/28/79          | TA-W-4,936   | Men's footwear.   |
| Robinson-Phillips Coal Company, Alpine Mine #1 (U.M.W.A.).....      | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,937   | Mining of coal.   |
| Robinson-Phillips Coal Company, Alpine Mine #2 (U.M.W.A.).....      | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,938   | Mining of coal.   |
| Robinson-Phillips Coal Company, Elklick Mine #64 (U.M.W.A.).....    | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,939   | Mining of coal.   |
| Robinson-Phillips Coal Company, Horse Creek Mine (U.M.W.A.).....    | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,940   | Mining of coal.   |
| Robinson-Phillips Coal Company, Mill Creek Mine (U.M.W.A.).....     | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,941   | Mining of coal.   |
| Robinson-Phillips Coal Company, Indian Creek Mine (U.M.W.A.).....   | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,942   | Mining of coal.   |
| Robinson-Phillips Coal Company, Mine (U.M.W.A.).....                | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,943   | Mining of coal.   |
| Robinson-Phillips Coal Company, Carol Mine (U.M.W.A.).....          | Wyoming County, W. Va.... | 2/23/79       | 2/16/79          | TA-W-4,944   | Mining of coal.   |
| Robinson-Phillips Coal Company, Twin Branch Mine (U.M.W.A.).....    | McDow County, W. Va.....  | 2/23/79       | 2/16/79          | TA-W-4,945   | Mining of coal.   |
| Robinson-Phillips Coal Company, Lobo Mine (U.M.W.A.).....           | McDow County, W. Va.....  | 2/23/79       | 2/16/79          | TA-W-4,946   | Mining of coal.   |
| Robinson-Phillips Coal Company, Preparation Plant (U.M.W.A.).....   | Marianna, W. Va.....      | 2/23/79       | 2/16/79          | TA-W-4,947   | Cleaning of coal.   |
| Wilker Brothers Co., Inc. (workers).....                            | McKenzie, Tenn.....       | 3/8/79        | 3/2/79           | TA-W-4,948   | Men, women and children's robes and pajamas.              |
| Winter Scene Fashions, Inc. (workers).....                          | Hoboken, N.J.....         | 3/1/79        | 2/15/79          | TA-W-4,949   | Ladies' coats and suits.                                  |

[FR Doc. 79-8222 Filed 3-22-79; 8:45 am]

## NOTICES

## INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Di-

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of March 1979.

HAROLD A. BRATT,  
Acting Director, Office of  
Trade Adjustment Assistance.

## APPENDIX

| Petitioner: Union/workers or former workers of—   | Location                   | Date received | Date of petition | Petition No. | Articles produced  |
|---|----------------------------|---------------|------------------|--------------|--|
| Cambridge Tailoring Company (ACTWU).....  | Baltimore, Md.....         | 3/5/79        | 3/1/79           | TA-W-4,912   | Men's suits and sportcoats.  |
| Cavalier Clothes, Inc. (ACTWU).....   | Jamaica, N.Y.....          | 3/5/79        | 3/1/79           | TA-W-4,913   | Men's and women's tailored clothing.   |
| Fibreboard Corp., Standard Plant of the Sonora Div. (Lumber & Sawmill Workers Union).....                       | Standard, Calif.....       | 3/5/79        | 3/1/79           | TA-W-4,914   | Components for wood boxes.   |
| Freeland Sportswear Company (ACTWU).....  | Freeland, Pa.....          | 3/5/79        | 3/1/79           | TA-W-4,915   | Contractor of men's outerwear and some women's.                                |
| The Gross-Feibel Company (International Association of Bridge, Structural & Ornamental Iron Workers Union)..... | Hillsboro, Ohio.....       | 3/6/79        | 3/1/79           | TA-W-4,916   | Banking equipment: safes, vault doors safety deposit boxes, metal fabrication. |
| Imperial Reading Corporation (workers).....   | Lafayette, Tenn.....       | 3/6/79        | 2/21/79          | TA-W-4,917   | Men's shirts.  |
| Lebow Brothers, Inc. (ACTWU).....   | Baltimore, Md.....         | 3/5/79        | 3/1/79           | TA-W-4,918   | Men's suits and sportcoats.  |
| Patmore Coat, Inc. (workers).....   | Paterson, N.J.....         | 3/6/79        | 3/1/79           | TA-W-4,919   | Contractor of ladies' coats.   |
| Pioneer Tanning Company, Inc. (company).....  | Salem, Mass.....           | 3/6/79        | 3/1/79           | TA-W-4,920   | Contract tanners of sheepskin for hat leathers.                                |
| J. Schoeneman, Inc. (ACTWU).....  | Winchester, Va.....        | 3/5/79        | 3/1/79           | TA-W-4,921   | Men's suits and sportcoats.  |
| White Eagle Coal Company, AA Left Mains Mine (U.M.W.A.).....  | Raleigh County, W. Va..... | 3/6/79        | 2/28/79          | TA-W-4,922   | Mining of low-volatile coal.   |
| White Eagle Coal Company, K Mine (U.M.W.A.).....  | Raleigh County, W. Va..... | 3/6/79        | 2/28/79          | TA-W-4,923   | Mining of low-volatile coal.   |

[FR Doc. 79-8223 Filed 3-22-79; 8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-32]

NASA ADVISORY COMMITTEES  
Annual Comprehensive Review

Pursuant to Section 7(b) of Pub. L.

92-463, the Federal Advisory Committee Act, October 6, 1972, and implementing instructions of Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 5, as amended February 5, 1979, NASA is conducting a comprehensive review of

its advisory committees. The public is hereby invited to submit comments on continuation of the NASA advisory committees. Following is a list of committees proposed for continuation, with a short description of the functions of each.



## AEROSPACE SAFETY ADVISORY PANEL

The Panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request." Pursuant to carrying out its statutory duties, the Panel reviews, evaluates and advises on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority is given to those programs that involve the safety of manned flight.

## NASA ADVISORY COUNCIL (NAC)

The function of the Council is to consult with and advise the NASA Administrator with respect to plans for, work in progress on, and accomplishments of NASA's aeronautics and space programs.

## NAC AERONAUTICS ADVISORY COMMITTEE

Concerned with basic aeronautics research and with aeronautics research and technology applicable to commercial air transportation (including all transport types, such as conventional, short, and vertical take-off and landing; and supersonic transports), general aviation, helicopters, and military aircraft. Technical disciplines relevant to the listed aviation categories include, but are not limited to aerodynamics, aeronautical propulsion, avionics, structures and materials, and such special factors as aviation safety, aircraft operating systems, and man-vehicle technology.

## NAC AERONAUTICS ADVISORY COMMITTEE, SUBCOMMITTEE ON AVIATION SAFETY REPORTING SYSTEM

Established as a necessary element defined in the FAA/NASA Memorandum of Agreement to support the FAA's Aviation Safety Program. The Subcommittee provides review and evaluation of the Aviation Safety Reporting System and design and implementation plan, evaluation of the critical elements in the system, and evaluation of the progress of the operational system.

## NAC HISTORICAL ADVISORY COMMITTEE

Concerned with the NASA History Program, including review of historical archives, official NASA histories and historical reports, historical service to NASA and Government, and the program's relation to academic and public activities.

## NAC LIFE SCIENCES ADVISORY COMMITTEE

Concerned with the study and support of life in space utilizing the multiple disciplines of medical sciences, biological sciences, biotechnology, planetary biology and quarantine, manned missions, operational support, and life sciences payloads; application of space technology to life sciences problems on earth, with emphasis on medicine, ecology, and animal tracking; occupational and environmental medicine through health maintenance and awareness programs, medical data handling systems, and the provisions of medical test-bed for advanced instrumentation; and technology utilization for life sciences.

## NAC SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE

Concerned with the application of space-related capabilities to agriculture; forestry; hydrology; atmospheric sciences; ocean sciences, including oceanography and ocean dynamics; geosciences, including geology, mineral exploration, earth dynamics, and land capability; and communications applications, including data management systems.

## NAC SPACE SCIENCES ADVISORY COMMITTEE

Concerned with the observation and study of major and minor bodies of the solar system and their interactions with the interplanetary environment; basic matter and energy in the space environment; cosmology and relativity physics; stars, nebulae, galaxies, and interstellar and interplanetary space, and intergalactic matter; the physical properties and nuclear and electromagnetic processes of the sun and the solar-planet relationships; and the origin and characteristics of energetic particle radiation, including radiation belts, interplanetary plasma, solar and galactic cosmic rays, and auroral particles.

## NAC SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE

Concerned with research and technology applicable to space systems, including information systems, spacecraft systems, space power systems, and space transportation systems. The committee is concerned also with technology discipline activities in electronics, space power and propulsion, materials and structures, and includes consideration of the technologies required to utilize space systems in earth communications, for terrestrial energy applications, and for materials processing in space.

## NASA WAGE COMMITTEE

Primary responsibility is to consider and make recommendations to the Director, Personnel Programs Division, NASA, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, wage area pursuant to Pub. L. 92-392

Comments should be addressed to, or delivered to: National Aeronautics and Space Administration, Attn: Code LB-4, 400 Maryland Avenue SW, Washington, DC 20546. Comments should be received in NASA no later than close of business April 6, 1979. Additional information may be obtained from Mary R. Lippolis, 755-8383.

ARNOLD W. FRUTKIN,  
Associate Administrator for  
External Relations.

MARCH 19, 1979.

[FR Doc. 79-8809 Filed 3-22-79; 8:45 am]

## [7537-01-M]

## FOUNDATION ON THE ARTS AND HUMANITIES

## ADVISORY PANELS

## Annual Comprehensive Review

In accordance with Section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463), the National Endowment for the Arts is currently reviewing each advisory panel to determine:

- whether the panel is carrying out its purpose;
- whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- whether it should be merged with other advisory committees; or
- whether it should be abolished.

Public comments and recommendations concerning the advisory panels to the National Endowment for the Arts may be addressed to Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 (202/634-6070).

Comments should be received by April 15, 1979.

JOHN H. CLARK,  
Advisory Committee Management Officer, Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-8788 Filed 3-22-79; 8:45 am]

## [7590-01-M]

## NUCLEAR REGULATORY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

## Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published February 28, 1979 (44 FR 11279). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (\*). It is expected that the sessions of the full Committee meeting designated by an asterisk (\*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Groups meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the April 1979 ACRS full Committee meeting can be obtained by a pre-paid telephone call to the Office of the Executive Director of the Commission (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

## SUBCOMMITTEE AND WORKING GROUP MEETINGS

\*Evaluation of Licensee Event Reports, March 23-24, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports. Notice of this meeting as published in the FEDERAL REGISTER on March 8 and March 15, 1979.

\*Palo Verde Nuclear Generating Station, Units 4 and 5, March 29, 1979, Phoenix, Ariz. The Subcommittee will review the application of the Arizona Public Service Company for a permit to construct Units 4 and 5 of this station. Notice of this meeting was published in the FEDERAL REGISTER on March 14, 1979.

\*Power and electrical Systems, March 30, 1979, Phoenix, AZ. The Subcommittee will review the potential adverse interactions through the interconnection of protection and safety systems with reactor control systems for the Westinghouse RESAR-414 design. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

\*Combination of Dynamic Loads, April 3, 1979, Washington, D.C. The Subcommittee will review the technical basis of the NRC Staff Order to shut down five nuclear plants due to safety-related piping systems being in nonconformance with NRC requirements for withstanding earthquakes. Notice of this meeting was published in the FEDERAL REGISTER on March 19, 1979.

\*Plant Arrangements, April 4, 1979, Washington, D.C. POSTPONED INDEFINITELY. Notice of this meeting was published in the FEDERAL REGISTER on February 28, 1979.

\*Regulatory Activities, April 4, 1979, Washington, D.C. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

\*Consideration of Class-9 Accidents, April 4, 1979 at 2:00 p.m., Washington, D.C. The Subcommittee will discuss a plan of action for arriving at a recommendation to the full Committee on the role Class-9 Accidents should have in the licensing process. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

\*Procedures, April 4, 1979 at 5:30 p.m., Washington, D.C. The Subcommittee will discuss the role and responsibility of the ACRS in the regulatory process. The proposal that the ACRS discontinue the practice of referencing unresolved ACRS generic items in its project reports will also be discussed. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

\*Waste Management, April 18-19, 1979, Hanford, W. Va. The Subcommittee will be briefed on: 1) recent developments in solidification and vitrification of high level wastes, 2) Department of Energy studies of disposal of high level wastes in both bedded salt and non-salt media (basalt, granite, seabed), 3) recent changes in the NRC Waste Management Program, and 4) State of New Mexico activities in connection with the proposed Waste Isolation Pilot Plant (WIPP) site.

\*Evaluation of Licensee Event Reports, April 26-27, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports.

\*Emergency Core Cooling Systems, May 4, 1979, Los Angeles, Calif. The Subcommittee will meet with representatives of the NRC Research Office to discuss the program for assessing and verifying ECCS/LOCA-related computer codes.

\*Reactor Fuel, May 8, 1979, Washington, D.C. The Subcommittee will discuss various items concerning NRC actions on fuel-related issues.

\*Regulatory Activities, May 9, 1979, Washington, D.C. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

\*Dynamic Load Combinations, May 9, 1979 at 1:00 p.m., Washington, D.C. The Subcommittee will review with representatives of the NRC Staff the methodology for combining dynamic loads.

\*Reactor Operations, May 9, 1979, Washington, D.C. The Subcommittee will consider the request of the Northeast Nuclear Energy Company (NNECO) for an amendment to the operating license for the Millstone Nuclear Power Station, Unit No. 2 to authorize operation at the stretch power rating of 2700 MWt.

\*Fluid Dynamics, May 17-18, 1979, Washington, D.C. The Subcommittee will review the Mark I containment and the NRC Staff position on the load definitions. Other items related to the Mark I program may also be discussed.

\*Evaluation of Licensee Event Reports, May 24-25, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports.

\*Safeguards and Security, late May, 1979, Washington, D.C. The Subcommittee will discuss recent safeguards events, advice from its consultants, and the 1979 Review and Evaluation of the NRC Safety Research Program.

\*Evaluation of Licensee Event Reports, June 28-29 and July 19, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports.

## ACRS FULL COMMITTEE MEETINGS

April 5-7, 1979.

A. \*Sequoyah Nuclear Plant, Units 1 and 2—Operating License Review.

B. \*Palo Verde Nuclear Generating Station, Units, 1, 2, and 3—Construction Permit Review.

C. \*Anticipated Transients Without Scram—Review Proposed Alternative Plant Modifications.

May 10-12, 1979—Agenda to be announced.

June 14-16, 1979—Agenda to be announced.



Dated: March 20, 1979.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc. 79-8875 Filed 3-22-79; 8:45 am]

#### [7590-01-M]

##### APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.40, "Public

Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this 19th day of March 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,  
Assistant Director, Export/  
Import and International  
Safeguards, Office of International Programs.

| Name of applicant, date of application, date received, application number | Material type | Material in kilograms |               | End-use                           | Country of destination |
|---|---------------|-----------------------|---------------|-----------------------------------|------------------------|
|   |               | Total element         | Total isotope |                                   |                        |
| Transnuclear, 03/06/79, 03/07/79, 3.0% Enriched Uranium...., XSNMO1474.   |               | 10.225                | 277.193       | Reload fuel for Philippsburg I... | West Germany.          |

[FR Doc. 79-8877 Filed 3-22-79; 8:45 am]

#### [7590-01-M]

##### REGIONAL STATE LIAISON OFFICERS' MEETING

On April 11 and 12, 1979, the Nuclear Regulatory Commission will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Montana, Idaho, North and South Dakota, Nebraska, Utah, Wyoming, Colorado, Kansas, New Mexico, Oklahoma, Arkansas, Louisiana and Texas to discuss mutual regulatory interests. The meeting, which will be open to the public, will be held in the Travis Room at the Sheraton-Dallas Hotel, Southland Center, Dallas, Texas.

Questions regarding this meeting should be directed to Sue Weissberg, Office of State Programs at (301) 492-7794.

Dated at Bethesda, Maryland this 16th day of March, 1979.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,  
Director,  
Office of State Programs.

[FR Doc. 79-8876 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

##### SECURITIES AND EXCHANGE COMMISSION

[Release No. 15640]

##### BRADFORD NATIONAL CLEARING CORP. ET AL. v. SECURITIES AND EXCHANGE COM- MISSION ET AL.

##### Remanded Issues

MARCH 14, 1979.

The Commission today announced that it is soliciting public comment on the issues remanded by the United

States Court of Appeals for the District of Columbia Circuit in the *Bradford* case.<sup>1</sup> In that case, the court reviewed the Commission's order granting registration as a clearing agency to the National Securities Clearing Corporation ("NSCC") and affirmed that order. The court, however, remanded for further consideration the Commission's decisions (i) to permit NSCC to utilize a pricing policy known as "geographic price mutualization" ("GPM"); and (ii) to permit NSCC to select, without competitive bidding, the Securities Industry Automation Corporation ("SIAC") as facilities manager of its consolidated system.

In order to facilitate its reconsideration of those issues, the Commission also has requested that NSCC submit a written report on the two issues remanded by the Court. Those reports will be placed in the public file (File No. 600-15), and interested persons are urged to examine and comment on them.

##### BACKGROUND

In January 1977, the Commission granted conditional registration as a clearing agency to NSCC. NSCC was formed to assume the clearing responsibilities theretofore performed by the clearing subsidiaries of the New York Stock Exchange, Inc.,<sup>2</sup> The American Stock Exchange, Inc.,<sup>3</sup> and the National Association of Securities Dealers, Inc.<sup>4</sup>

Two subsidiaries of Bradford Nation-

<sup>1</sup> *Bradford National Clearing Corporation et al. v. Securities and Exchange Commission et al.* Nos. 77-1199 and 77-1547 (D.C. Cir., Sept. 19, 1978).

<sup>2</sup> Stock Clearing Corporation.

<sup>3</sup> The American Stock Exchange Clearing Corporation.

<sup>4</sup> The National Clearing Corporation.

al Corporation ("Bradford") sought review of that order before the United States Court of Appeals for the District of Columbia Circuit. On September 19, 1978, the court affirmed the Commission's grant of registration but remanded "for further study and explanation" the issues of GPM and competitive bidding.<sup>5</sup>

The Commission has reviewed carefully the opinion of the court and has reexamined the transcript of the Commission's hearings, held in June 1976 and in March and April 1978, concerning NSCC's registration. On the basis of that review, the Commission has formulated certain specific questions, set forth below, on which it believes public comment may be helpful. The questions asked do not necessarily represent an exhaustive list of all of the issues the Commission may find it appropriate to consider in making its decision on GPM and competitive bidding, nor does the Commission consider the resolution of all of the matters raised by the questions as necessarily essential to its decision. In addition, the Commission requests interested persons to submit any other comments on the issues of GPM and competitive bidding that they wish to make.

##### GEOGRAPHIC PRICE MUTUALIZATION<sup>6</sup>

1. a. What percentage of a broker-dealer's total operating costs are rep-

<sup>6</sup> Geographic price mutualization refers to the pricing system employed by NSCC under which it charges the same price for its services whether rendered directly in New York City, through a branch office or via remote terminals and without regard to the geographic location of the participant.

<sup>7</sup> The Commission recognizes that some of the following questions are probably answerable only by broker-dealers and then only with regard to their individual experiences. The Commission hopes, however, that industry groups, particularly self-regulatory

Footnotes continued on next page

resented by clearing costs including comparison, clearance, settlement and associated finance charges?

b. Does the percentage tend to be higher or lower for smaller broker-dealers, who do their own clearing, than for larger ones?

c. Assuming that the proportionate cost of securities processing is higher for smaller broker-dealers, at what point and based upon what factors (including factors other than clearing costs) does a broker-dealer choose to use a correspondent?

d. How much, as a percentage of total clearing costs, would a broker located outside New York City, that uses a NSCC branch office at which prices were geographically mutualized, save as compared to that broker clearing:

(i) Through NSCC by establishing a New York office;

(ii) Through NSCC by utilizing direct mail clearing;

(iii) Through NSCC at non-mutualized prices; and

(iv) Through Midwest Clearing Corporation ("MCC"), Pacific Clearing Corporation ("PCC") or Stock Clearing Corporation of Philadelphia ("SCCP")?

Please specify the source of the data and the method of calculation and submit the underlying data.

2. If the information in question (1) is either not currently available or not obtainable at a reasonable cost on what information do you base your judgment to support or oppose GPM?

3. Is the cost of doing business for a broker-dealer whose principal place of business and back office are located outside of New York City lower than the cost of doing business for a broker-dealer whose principal place of business and back office are located in New York City? If so, should that differential be considered in determining whether GPM is an appropriate pricing policy? Please specify the source and nature of any data you rely on, including what city or cities were considered.

4. a. Does GPM have the effect of providing a "subsidy" to non-New York broker-dealers?

b. If so, why do those broker-dealers need a subsidy?

c. Is such a subsidy appropriate?

d. Would GPM keep inefficient broker-dealers located outside New York City in operation?

e. Do the answers to (a), (b) or (c) change if:

(i) There are competing clearing agencies? or

Footnotes continued from last page  
latory organizations, will develop aggregate data. To this end, the Commission expects to contact self-regulatory organizations and explore with them the availability and development of such data or avenues to develop it. Memoranda of such discussions will be placed in the public file.

(ii) There is only one clearing agency which is national in scope and cooperatively owned?

5. Are there factors related solely to the pricing of clearing services that militate in favor of GPM, without regard to its effect on competition among broker-dealers?

6. What factors, if any, would justify the use of GPM by SCCP, MCC, PCC or other clearing agencies other than NSCC which would not also support its use by NSCC?

##### COMPETITIVE BIDDING

1. a. How many entities are potential qualified bidders for the NSCC facilities management contract?

b. Who are they?

c. How frequently could a facilities management contract for an entity such as NSCC be put up for bid without disrupting service to participants?

2. What benefits to persons other than the successful bidder are there from requiring NSCC to engage in competitive bidding? For example, would competitive bidding be expected to:

a. Reduce costs for participants?

b. Increase competition among broker-dealers?

c. Increase competition among clearing agencies?

d. Increase competition among facilities managers?

e. Provide better protection of funds and securities?

f. Otherwise further the objectives set forth in Section 17A of the Securities Exchange Act of 1934?

3. a. What factors, if any, make competitive bidding appropriate for NSCC which do not also make it appropriate for other registered clearing agencies?

b. Is it appropriate for NSCC, if it chooses, to internalize its operations and thereby make competitive bidding unnecessary?

c. Should clearing agencies other than NSCC be required to offer their facilities management for competitive bid even if they currently internalize it?

Comments are requested on or before May 7, 1979. Interested persons should submit six copies of their comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 600-15.

In addition to seeking public comment on the issues of geographic price mutualization and competitive bidding, the Commission today also sent a letter to NSCC. That letter requests NSCC to submit written reports on the above two issues and indicates that those reports will be placed in the public file for public comment. The letter also releases NSCC from any restrictions or limitations on its oper-

ations imposed by the Commission except for those imposed in the order granting registration to NSCC and for certain other restrictions specified in the letter.

The text of that letter follows:

Mr. Jack P. Nelson  
President, National Securities Clearing Corporation  
55 Water Street  
New York, New York 10041

DEAR MR. NELSON: As you are aware, the United States Court of Appeals for the District of Columbia Circuit on September 19, 1978 affirmed the Commission's order granting NSCC registration as a clearing agency, but remanded two issues for further study and explanation. Those issues were NSCC's use of geographic price mutualization ("GPM") and NSCC's selection, without competitive bidding, of the Securities Industry Automation Corporation ("SIAC") as the facilities manager of its consolidated system.

As part of its reconsideration of GPM and competitive bidding, the commission today requested public comment on those issues both in general and on a number of specific questions. A copy of that release is enclosed.

The Commission also requests that NSCC submit written statements on NSCC's views and arguments concerning GPM and competitive bidding as well as any data supporting its views. It is our understanding that NSCC already is well along in preparing a report on its use of GPM.

With regard to competitive bidding, we request that NSCC address the following matters in addition to the questions in the release. Also, please submit any other comments which you feel are relevant.

1. If NSCC were to let a facilities management contract for bid, would you anticipate that the contract would be essentially similar to the current contract with SIAC or would the contract be modified?

2. If the contract were modified, would it be because some potential bidders may be profit-making entities not owned or controlled by the securities industry? What other factors would you expect to consider in formulating the scope of the contract?

3. Has NSCC considered internalizing any or all of the work currently done by SIAC if competitive bidding takes place? If so, what work?

4. How long would NSCC require to prepare and submit for Commission consideration a concrete proposal for carrying out competitive bidding including:

a. specifications of the contract;

b. a description of the method for soliciting bids;

c. a description of how NSCC would select the successful bidder.

While the Commission is reconsidering GPM and competitive bidding, we believe NSCC should focus its efforts on its role in establishing the national clearance and settlement system envisioned in the order granting NSCC registration as a clearing agency. To this end, NSCC is released from any restrictions or limitations on its operations imposed by the commission beyond those in the registration order (which, of course, remain in effect) except as follows:

(i) NSCC may not mutualize prices for services relating to listed securities which are offered through branch offices, via remote terminals, or via direct mail clearing other than to the extent permitted in the



order approving your fee schedule. Securities Exchange Act Release No. 15222 (October 6, 1978), 43 FR 47620.

(ii) NSCC may not offer listed and over-the-counter processing through a single account in New York City.

(iii) NSCC should continue to mail to each other registered clearing agency a copy of each NSCC rule 19b-4 submission simultaneously with its filing with the Commission.

(iv) NSCC should continue to make its clearing information, and any other service it provides through terminal systems, available on comparable terms, to any vendor of terminal system who requests it and who can present reasonable assurance of its ability to handle such information safely.

I trust the foregoing is responsive to your letter dated November 9, 1978 asking the Commission to withdraw its letter dated October 21, 1977, which requests NSCC to place certain limitations on its activities. If you have any questions please contact Robert J. Millstone, at (202) 755-8777.

Sincerely,

PHILIP A. LOOMIS, JR.,  
Commissioner.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8910 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Release No. 20957, 70-6278]

#### LOUISIANA POWER & LIGHT CO.

#### Proposed Issuance and Sale of First Bonds at Competitive Bidding

MARCH 14, 1979.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell at competitive bidding up to \$60,000,000 principal amount of its first mortgage bonds of a new series having a term of not less than five years nor more than thirty years. Louisiana will determine, and give notice of, the maturity date of the bonds not later than 11:00 a.m. on the third business day preceding the day fixed for the presentation of bids. The interest rate of the bonds (which will be a multiple of 1/4 of 1%) and the price, exclusive of accrued interest, to be paid to Louisiana for the bonds (which will be not less than 98% nor more than 101 1/4% of the principal amount

thereof) will be determined by competitive bidding. The bonds will be issued under Louisiana's Mortgage and Deed of Trust, dated as of April 1, 1944, to The Chase Manhattan Bank (National Association), Trustee, as heretofore supplemented by various indentures and as it is to be further supplemented by a Twenty-sixth Supplemental Indenture to be dated as of the first day of the calendar month in which the bonds are issued. The Twenty-sixth Supplemental Indenture will include a prohibition, for a period of not more than five years, against refunding the bonds, directly or indirectly, with funds borrowed at a lower effective interest cost.

Louisiana will use the net proceeds derived from the sale of the bonds to pay, in part, short-term borrowings estimated to total \$90,000,000 at the time the proceeds are received, to finance, in part, Louisiana's construction program, and for other corporate purposes.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$190,000, including legal fees of \$47,000 and accounting fees of \$14,000. The fee of counsel for the purchasers of the bonds is estimated at \$17,000 and will be paid by the successful bidders. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 12, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8905 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Release No. 20959; 70-6269]

#### MIDDLE SOUTH UTILITIES, INC.

#### Proposed Amendment of Charter to Increase Authorized Shares of Common Stock and Proposed Amendments of Charter and Bylaws Relating to Indemnification; Solicitation of Proxies in Connection Therewith

MARCH 14, 1979.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a)(2), 7 and 12(e) thereof and Rule 62 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South proposes to submit to its stockholders, at its annual meeting to be held May 18, 1979, a proposal to amend its charter to increase from 100,000,000 to 153,000,000 the aggregate number of authorized shares of common stock, par value \$5.00 per share. It is stated that the additional shares of authorized stock, the issuance and sale of which from time to time are to be the subject of future filings with this Commission, are necessary for financing the additional capital requirements of its subsidiaries and for its general corporate purposes.

Middle South will also submit a proposal to amend its charter to repeal its present indemnification provisions and to adopt new bylaw provisions relating to indemnification. The proposed provision would provide for indemnification as of right by Middle South, a Florida corporation, to the fullest extent permitted by subsection (1)-(5) and (7)-(9) of Section 607.014 of the Florida Statutes Annotated, as presently in effect. Indemnification in the circumstances contemplated by Section 607.014(6) would be granted in the specific case as authorized by a vote, either in person or by proxy, of a majority of the common stock then outstanding at any shareholders' meeting at which a quorum is present.

The proposed indemnification provisions would incorporate amendments which have been enacted to the Florida Corporation Law which have

broadened in some respects the authority of corporations to grant indemnity. These provisions would be broader in scope than the present indemnification provisions in terms of the kinds of persons who would be entitled to indemnification as of right and circumstances under which such indemnification would be available. Among other things, the proposed provision covers directors, officers, employees, agents and persons serving at Middle South's request as its representative in another enterprise. It affords indemnification if such persons are successful in their defense on the merits or otherwise or are determined by court order or vote of either disinterested directors of shareholders to have acted in good faith and in a manner they reasonably believed to have been in the interests of the company and with respect to any criminal proceeding, to have had no reasonable cause to believe their conduct was unlawful. As to suits brought by or in the right of the company, however, indemnification would be withheld if such person is adjudged liable for negligence or misconduct in the performance of his duty to the company unless indemnification is approved by the court handling the matter as being fair in view of all the circumstances. Like the present indemnification provisions, the rights to indemnification provided by the proposed bylaw are not exclusive of other rights to which those seeking indemnification may be entitled.

The present indemnification provisions were in Middle South's charter in 1949 when Middle South was incorporated. They provide for indemnification of directors and officers only where disposition of an action, suit or proceeding is made in their favor. They also provide that no director or officer shall be liable for acts performed in compliance with orders issued pursuant to the Act and other applicable regulatory statutes and require that directors and officers be indemnified for expenses incurred in proceedings if it is held that the provisions are not a valid defense because they are not applicable to the class of plaintiff involved.

The proposed charter and bylaw amendments will require the affirmative votes of the holders of at least two-thirds of Middle South's outstanding common stock at a meeting at which the holders of at least a majority of the outstanding shares of common stock are present. Middle South intends to solicit proxies from its shareholders in connection with these amendments.

The fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state commission and

no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 5, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8906 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Administrative Proceeding File No. 3-5622]

#### PEMCO, INC.

#### Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Pemcor, Inc. (the "Applicant") (File No. 81-439) has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On September 28, 1978, Applicant merged with and became a wholly owned subsidiary of Esmark, Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission a Form 8-K which reflects the merger, dated September 28, 1978.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than April 9, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporate Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8907 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Administrative Proceeding File No. 3-5652]

#### REGIS GROUP, INC.

#### Application and Opportunity for Hearing

MARCH 14, 1979.

[File No. 81-463]

Notice is hereby given that The Regis Group, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. The Applicant is a Wisconsin corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On May 1, 1978 the Applicant issued 960,547 shares of common stock and 54 shares of convertible preferred stock pursuant to a plan for the combination of the businesses of Robert W. Baird & Co. ("Baird") a Wisconsin corporation and Reinholdt & Gardner ("Reinholdt"), a Missouri limited partnership.



3. The Applicant, which was formed for the purposes of combining the business of Baird and Reinholdt, is not engaged in any business or activity other than the holding of all issued and outstanding shares of stock (excluding directors' qualifying shares) of its operating subsidiaries which are broker-dealers registered under the 1934 Act.

In the absence of an exemption, Applicant is required to file periodic reports pursuant to Sections 13 and 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the reporting requirements is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of any additional periodic report would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8908 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Administrative Proceeding File No. 3-5650]

#### YOUNKERS, INC.

#### Application and Opportunity for Hearing

[File No. 81-462]

MARCH 14, 1979.

Notice is hereby given that Younkers, Inc. ("Applicant") has filed

an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 ("the 1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On January 5, 1979, Younker Brothers, Inc. merged into the Applicant. Applicant is a wholly owned subsidiary of Equitable of Iowa Companies, Inc. ("Equitable") and has no business or operations prior to the date of the merger. As a result of the merger, 101 former shareholders of Younker Brothers, Inc. hold Installment Notes of Younker's Inc. which are guaranteed by Equitable and convertible into Equitable common stock. There can be no trading market in the Notes for four years.

2. The Applicant had no business or operations and no significant assets or liabilities prior to January 5, 1979. Complete information regarding Equitable and Younker Brothers, Inc. was made available to all Younker Brothers stockholders who received Installment Notes in the prospectus-proxy statement sent to all stockholders in connection with the approval of the acquisition. Equitable is subject to the reporting requirements of the 1934 Act and subsequent financial and other information will be available on a continuing basis to interested persons.

3. Equitable intends, on a voluntary basis, to send a copy of its Annual Report to Shareholders for its 1978 fiscal year to holders of Installment Notes in addition to filing reports under the 1934 Act.

4. Equitable has filed its Form 10-Q for the period ended September 30, 1978.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than April 9, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any

time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8909 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Administrative Proceeding File No. 3-5660]

#### AUSTRAL OIL COMPANY INC.

#### Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Austral Oil Company Incorporated (File No. 81-479) ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of the that Act.

The Applicant states in part:

1. On March 30, 1978, Applicant's stockholders approved a plan of complete liquidation and dissolution which will be accomplished by March 30, 1979. As a result of such plan, Applicant ceased all business activities, public trading in its securities ceased and substantially all of its properties were bought by the Superior Oil Company. The sale was consummated on March 31, 1978.

2. In the absence of an exemption Applicant would be required to file periodic reports for the year ended December 31, 1978.

Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate inasmuch as there is no public trading in its stock, it has ceased all business activities and compliance would be an expense which would reduce funds available for payment of further liquidating dividends.

For a more detailed statement of the information presented, all persons are referred to the application which may be examined at the Commission's Public Reference Section, 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C.

20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8902 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Release No. 10629; 812-4354]

#### AUSTRALIAN RESOURCES DEVELOPMENT BANK LIMITED

Application for an Order Declaring that Applicant is not an Investment Company, or, Alternatively, for an Exemption Order

MARCH 15, 1979.

Notice is hereby given that Australian Resources Development Bank Limited, 379 Collins Street, Melbourne, Victoria 3000, Australia ("Applicant") filed an application on August 22, 1978, and amendments thereto on January 25, 1979, and March 7, 1979, for an order of the Commission pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act") declaring that Applicant is not an investment company, or, alternatively, for an order pursuant to Section 6(c) of the Act exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is an Australian bank incorporated in 1967 by the seven major Australian trading (commercial) banks ("shareholder banks") with the support of Reserve Bank of Australia ("Reserve Bank"), Australia's central bank, and two Australian state trading banks ("state banks," together with the shareholder banks, the "participating banks"). The shareholder banks are stated to have contributed 3 million Australian dollars ("A\$") in equal shares to Applicant's equity capital account, while A\$2.1 million of loan capital was provided by Reserve Bank and A\$150,000 was provided by the state banks.

According to the application, Applicant's primary business is making refinancing loans refinancing to the participating banks. Applicant refinances only those loans which finance Australian ownership of or participation in Australian natural resource development projects. Applicant represents that, while these refinancing loans are wholly unsecured, the participating banks are obligated unconditionally to repay the loans received from Applicant regardless of any defaults by the ultimate borrowers. Applicant further represents that, as of June, 1978, the shareholder banks accounted for approximately 89% of the A\$19.8 billion on deposit with all trading banks in Australia. Applicant also makes loans directly to natural resource development projects, either alone, or more often, as a member of a consortium of banks, usually on a secured basis.

Applicant's assets are stated to have totaled approximately A\$709,961,471 on September 30, 1978, of which assets the outstanding loans to the participating banks comprised approximately 80%. Applicant states that its direct loans to resource development projects comprised approximately 14% of its total assets as of September 30, 1978. Approximately 97% of Applicant's income for the fiscal year ending September 30, 1978, is stated to have been derived from its outstanding direct and refinancing loans.

Applicant states that it obtains its funds primarily from public and private sales of "transferable deposits" in the Australian capital market. These transferable deposits have maturities ranging from 5 to 10 years, are listed and taxed on the Melbourne, Sydney and all other Australian Associated Stock Exchanges and are not redeemable prior to maturity. Applicant further states that it obtains additional funds by accepting term deposits, negotiable certificates of deposit and overseas deposits, and through subordinated loans and short-term "bridging loans" from Reserve Bank and the participating banks. Except for certain overseas deposits and negotiable certificates of deposit issued in minimum amounts of A\$50,000, deposits are not accepted by Applicant for a period shorter than 4 years. Applicant further states that its deposit liabilities in Australia constitute and are expected to constitute a majority of its total deposit liabilities.

Applicant represents that it is authorized to carry on a banking business by the Australian Banking Act ("Banking Act"). Under the Banking Act, Applicant is subject to regulation by Reserve Bank, the Australian Treasurer, and the Australian Auditor-General. According to the application, Reserve Bank regulates Applicant's loan policies and foreign transactions,

sets its interest rates, and has the power to investigate the affairs, assume control, and carry on the business of Applicant in the event that Applicant is, or is likely to become, unable to meet its financial obligations. Under the Banking Act, in the event of a bank becoming unable to meet its obligations or suspending payment, the assets of that bank in Australia are available to meet its deposit liabilities in Australia in priority to all of its other liabilities.

In addition, Applicant is required to provide Reserve Bank with periodic reports on its activities on prescribed forms. The Australian Auditor-General is required to inspect periodically Applicant's books, accounts and transactions, and according to Applicant, does so annually. Further, the Australian Treasurer, on recommendation of Reserve Bank, may direct the Australian Auditor-General to inspect Applicant at any time. Applicant has agreed with Reserve Bank concerning minimum amounts of capital which it will maintain in relation to the amounts of its various types of assets. The shareholder banks are represented to be subject to the same regulatory scheme as Applicant, and, in addition, each of those banks is required to maintain an account with Reserve Bank to hold reserves in such a proportion to its current level of Australian deposits as is determined from time to time by Reserve Bank.

According to the application, Applicant presently proposes to issue and sell unsecured prime quality commercial paper notes in bearer form and denominated in United States dollars to a commercial paper dealer in the United States which will then reoffer the notes in minimum denominations of \$100,000 to American institutional investors and other entities and individuals who normally purchase commercial paper. Applicant states that its purpose for making this offering in the United States is to obtain an alternative source of supply of United States dollars which it currently obtains from the issuance of bonds in the international capital market and from the acceptance of deposits from banks in London and Singapore. Applicant represents that its notes will rank *pari passu* among themselves and equally with all its other unsecured indebtedness other than its subordinated indebtedness, (which will rank inferior to the notes) except insofar as the Banking Act provides that in the event of a bank becoming unable to meet its obligations or suspending payment, its Australian assets will be available to meet its deposit liabilities in Australia in priority to all of its other liabilities. Applicant plans to sell the notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance



upon a opinion of its American counsel that the offering will qualify for the exemption from the registration requirements of the 1933 Act provided by Section 3(a)(3) of that Act and will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter. Section 3(a)(3) of the 1933 Act provides an exemption from registration requirements thereof for short-term commercial paper. Applicant undertakes to ensure that the dealer will provide each offeree of the notes with a memorandum describing Applicant's business and containing Applicant's financial statements. Applicant represents that such memoranda will be at least as comprehensive as those customarily used in commercial paper offerings in the United States. Such memoranda will be updated periodically to reflect material changes in Applicant's financial status. Applicant further represents that any future offerings of its securities in the United States will be done on the basis of disclosure documents at least as comprehensive as those used in the presently proposed offering. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertaking regarding disclosure memoranda.

Applicant represents that it will appoint a bank in the United States or the Commission as its agent to accept service of process in any action based on the notes and instituted in any state or federal court by the holder of any of its notes. Applicant further represents that it expressly will accept the jurisdiction of any state or federal court in the City and State of New York in respect of any such action and that both its appointment of an authorized agent and its consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid by Applicant. Applicant represents that it will similarly consent to jurisdiction and appoint an agent for service of process in suits arising from any other offerings of securities that it may make in the United States, which offerings Applicant states will be limited to debt or preferred securities.

Section 3(a)(3) of the Act provides, in pertinent part, that an issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis" is an investment company. Applicant

states that its outstanding refinance loans and direct loans could be deemed "securities" within the meaning of Section 2(a)(36) of the Act, and accordingly that it could be characterized as owning and holding these securities, and could come within the definition of investment company contained in Section 3(a)(3) of the Act.

Section 3(b)(2) of the Act provides, in pertinent part, that notwithstanding the definition of investment company contained in Section 3(a)(3) of the Act, an issuer is not an investment company if the Commission, upon application by such issuer, finds and by order declares it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

Because Applicant admits that the refinance and direct loans made by it may be deemed securities and that Applicant might be deemed an investment company subject to the Act in connection with the proposed offering of the notes, Applicant requests an order pursuant to Section 3(b)(2) of the Act declaring that it is not an investment company. Applicant argues that its outstanding loans are commercial loans rather than investments in the participating banks and that any receipt of a "security" in connection with its lending activity is merely incidental to its function of financing resource development projects. Applicant asserts that it is primarily engaged in the business of banking rather than in the business of investing, reinvesting, owning, holding, or trading in securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Alternatively, Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant asserts that its capital structure and operations are closely supervised and regulated by Australian banking authorities and therefore that application of the requirements of the Act to Applicant would be unnecessary and burdensome. As an Australian bank subject to such supervision and regulation, Applicant argues further that it is significantly different from the typical investment company that Congress intended the Act to regulate. Applicant asserts that based on all the facts and circum-

stances, granting an exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 9, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order, pursuant to Section 6(c) of the Act, disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8903 Filed 3-22-79; 8:45 am]

#### [8010-01-M]

[Rel. No. 20956; 31-767]

#### COASTAL STATES-LO-VACA SETTLEMENT TRUST AND MERCHANTILE NATIONAL BANK AT DALLAS

##### Application for Exemption

Notice is hereby given that Coastal States-Lo-Vaca Settlement Trust ("Settlement Trust") and Merchantile National Bank at Dallas, Merchantile National Bank Building, Dallas, Texas 75201, as trustee ("Trustee"), have filed an application for exemption pursuant to Section 3(a)(4) of the Public Utility Holding Company Act of 1935 ("Act"). All interested persons are referred to the application, which is summarized below, for a complete description of the applicants and the basis upon which an exemption is requested.

Lo-Vaca Gathering Company ("Lo-Vaca") proposes to enter into a settlement agreement ("Settlement Plan") with several of its major natural gas customers in compromise of various claims by those customers against Lo-Vaca. The effectiveness of the Settlement Plan is conditioned on, among other things: (a) The approval of the courts wherein the settling customers have cases pending and (b) an order by the Texas Railroad Commission establishing a new permanent rate for Lo-Vaca becoming final and non-appealable. Lo-Vaca is a wholly owned subsidiary of Coastal States Gas Producing Corporation ("Producing"), which is, in turn, a wholly owned subsidiary of Coastal States Gas Corporation ("Coastal").

Coastal, through its subsidiaries, is engaged in processing, gathering, transporting and selling natural gas to and for municipalities, utilities, other pipeline companies and industrial concerns. Through its Rio Grande Valley Gas Company Division ("Rio Grande"), Coastal is directly engaged in the distribution of natural gas at retail in a number of small cities and communities in the lower Rio Grande Valley of Texas. Coastal is, accordingly, a "gas utility company," within the meaning of Section 2(a)(4) of the Act.

The Settlement Plan provides, among other things, for the restructuring of Producing into a new enterprise to be named Valero Energy Corporation ("Valero"), which will consist of Producing's present gas extraction and transportation facilities and Coastal's Rio Grande division, and for the creation of the Settlement Trust, to which various securities of Coastal and Valero, including approximately 19% of the voting securities of Valero, will be transferred for the benefit of and in settlement of claims by Lo-Vaca's customers.

The Settlement Plan further provides that the Trustee of the Settlement Trust will use its best effort to sell the securities held by the Settlement Trust by public or private sale for cash within seven years and to distribute the proceeds to the settling customers of Lo-Vaca.

Section 2(a)(7)(A) of the Act defines a "holding company" to mean any company which "owns, controls, or holds with power to vote" 10% or more of the voting securities of a public utility company. Accordingly, upon transfer of 19% of the voting securities of Valero, a public utility company, to the Settlement Trust, the Settlement Trust and the Trustee will become "holding companies." The applicants state, however, that they are entitled to an exemption from all provisions of the Act, except Section 9(a)(2), pursuant to Section 3(a)(4). Section 3(a)(4) provides an exemption for a holding

company and every subsidiary company thereof if "such holding company is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona-fide debt previously contracted or in connection with a bona-fide arrangement for the underwriting or distribution of securities."

The applicants state in support of the application that the Settlement Trust will hold the securities only temporarily until disposition can be appropriately accomplished in accordance with the terms of the Settlement Plan.

Notice is further given that any interested person may, not later than April 9, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-8904 Filed 3-22-79; 8:45 am]

#### [4710-07-M]

##### DEPARTMENT OF STATE

[Public Notice CM-8/176]

#### ADVISORY COMMITTEE ON INTERNATIONAL INVESTMENT, TECHNOLOGY, AND DEVELOPMENT

##### Meeting

The Department of State will hold a meeting on April 17 of the Working Group on UN-OECD Investment Undertakings of the Advisory Committee on International Investment, Technology, and Development. The Working

Group will meet from 9:30 a.m. until 12:30 p.m. The meeting will be held in Room 6320 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting is to provide the Working Group with the opportunity to discuss outstanding issues in connection with the OECD Review and to review the results of the March 12-23 meeting of the UN Intergovernmental Working Group on a Code of Conduct.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: March 16, 1979.

RICHARD D. KAUZLARICH,  
Executive Secretary.

[FR Doc. 79-8891 Filed 3-22-79; 8:45 am]

#### [4710-07-M]

[Public Notice CN-8/175]

#### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

##### Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, April 18, 1979, in room 6200 of the Department of Transportation, 400 Seventh Street, Washington, D.C. 20590.

The purpose of the meeting will be to discuss the future work program of the IMCO Subcommittee on Standards of Training and Watchkeeping in preparation for the meeting of the Subcommittee commencing July 9, 1979 in London, England.

Requests for further information should be directed to Captain D.E. Hand, United States Coast Guard, (G-MVP/82), Washington, D.C. 20590, telephone (202) 426-1500.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,  
Chairman,

Shipping Coordinating Committee.

MARCH 14, 1979.

[FR Doc. 79-8890 Filed 3-22-79; 8:45 am]



[4710-08-M]

Office of the Secretary

[Public Notice 655]

# **PARTICIPATION OF PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATIONS**

## **Final Guidelines**

AGENCY: Department of State.

ACTION: Final guidelines.

**SUMMARY:** This notice contains the final guidelines concerning participation of private citizens as representatives of affected private sector interests on U.S. delegations to international conferences, meetings and negotiations. The guidelines address criteria for inviting such participation on various delegations and the role on the delegation of such private citizens.

EFFECTIVE DATE: March 23, 1979.

## **FOR FURTHER INFORMATION CONTACT:**

Jean Bailly, Office of the Legal Adviser, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. Telephone (202) 632-1572.

**SUPPLEMENTARY INFORMATION:** The Department published in the *FEDERAL REGISTER* of August 24, 1978, proposed guidelines on participation of private sector representatives on U.S. delegations for public comment (Public Notice 623; 43 FR 37783). The Department received a number of comments, for which we express appreciation. As a result, we have made changes in the guidelines, primarily to clarify points which were subject to misinterpretation.

In the case of other comments and suggestions, we did not believe that changes were warranted, or, in some cases, that suggested changes could be accommodated within existing legal constraints. Following is a summary of the principal changes.

## **AMENDMENTS TO THE GUIDELINES**

A new Section I has been added to clarify the scope of the guidelines. The new language makes clear that the guidelines do not apply in three cases:

*First*, the guidelines do not, of course, supersede provisions of law applicable to particular delegations, e.g. provisions of Title I of the Trade Act of 1974 applicable to the Multilateral Trade Negotiations.

*Second*, the guidelines do not apply to private citizens or nationals who participate in international meetings

## **NOTICES**

in a personal or private capacity rather than as members of a United States delegation. The guidelines would not apply, for example, to private international meetings (e.g., Rotary International), or to the conduct of private citizens invited by an international conference or organization to provide expert advice or views in a private capacity.

*Third*, the guidelines do not regulate the selection and role of individuals who participate on U.S. delegations as "special government employees." The Department and other agencies on occasion appoint individuals from the private sector to serve temporarily as consultants, government advisers, or even negotiators on U.S. delegations. Such individuals are not chosen to represent private sector interests, but to provide on a temporary or part-time basis the same services as full-time government employees. As such, they may speak and negotiate for the United States to the extent decided by their government superiors. Special government employees are subject to the conflict of interest laws (18 U.S.C. 202 et seq.) and to other laws and regulations pertaining to special government employees, including restrictions on government employees embodied in the guidelines.

Several commentators objected that Section I of the proposed guidelines (now Section II) appeared to subordinate concern for the public interest and fulfillment of the delegation's mission to the objective of minimizing the size of delegations. This was not our intention, and that section has now been revised. The Department does believe—as Section III(b) continues to reflect—that delegations should not be any larger than is absolutely necessary. Larger-than-necessary delegations are more difficult to administer, may create an extravagant appearance, and may cause doubts as to the authority of the head of the U.S. delegation.

The guidelines have been amended in Section III(c)(1) to make clear that in determining invitations to prospective private sector representatives, the Department should take into account their ability to meet the objectives set out in Section II(b). The Department does not have the resources or capability in every case to determine the "best" representative or representatives of a private sector interest. Given necessary limits on delegation size, however, it is important that those invited be able to contribute.

A new Section III(c)(4) has been added to provide for the separate responsibility of the head of delegation, or his or her designee, to provide advance information for private sector representatives on the logistical details and substance of the conference.

The degree of advance briefing may depend on time constraints and the sensitivity of the information, but the Department understands and agrees that advance preparation is desirable.

Section IV(f) has been revised for clarity. Some or all private sector representatives may hold or advocate the same views on matters under individual discussion, but when they differ, government officials must assess the differing views, as well as other factors. The Department does not expect, and cannot require, private sector representatives to compromise among themselves in order to present united private sector views. (Private sector representatives are not expected to agree with the U.S. position in all respects.)

Section V(b) has been amended to reflect the concern among members of private groups and associations that classification restrictions may prevent desirable communication between a private sector representative and such a group. Classified information cannot be released to unauthorized persons, but in many cases government officials can provide guidance to minimize the problem.

Section V(c) has been modified with regard to positions which private sector representative may advocate outside the delegation. We have no desire to "muzzle" the expression of private sector views outside the delegation, but private sector representatives should not use their positions to undercut the U.S. at a conference or negotiation. Private sector representatives should therefore understand that encouraging other delegations to resist those positions is cause for dismissal from a delegation. Hopefully, our intent is better spelled out in the revised language.

Several other comments and suggestions were not incorporated in the guidelines.

## **PROHIBITIONS AGAINST SPEAKING OR NEGOTIATING FOR THE GOVERNMENT**

The most frequent complaint about the guidelines was the limitation against private sector representatives' speaking or negotiating for the United States. We believe that private sector representatives can be effective spokesmen and negotiators, but this would be inconsistent with conflict of interest laws and regulations. Persons authorized to speak or negotiate for the United States at intergovernmental meetings are considered to be "special government employees" within the meaning of—and subject to—the conflict of interest laws (sections 202 through 209 of title 18 of the United States Code). (The fact that they serve without pay is irrelevant.)

Among other things, the conflict of interest laws prevent government em-

ployees (including special government employees), from working on matters on which they or their relatives or private organizations have a private financial interest. Private sector representatives are normally chosen because of their private interests; they cannot simultaneously represent the United States on the same subject.

Not all private sector representatives have the kind of financial interest forbidden under the conflict of interest laws. For example, a representative of environmental interests may have no direct or indirect private financial stake in a marine pollution conference which would bar his or her participation as a special government employee under the laws. However, the Department does not believe that such a representative should be permitted to speak or negotiate when a representative of the shipping industry on the same delegation could not.

Some commentators suggested that conflict of interest concerns be met by requiring private sector representatives to follow instructions and policies established by the government. At least in some cases, the public interest might be served by the use of private sector representatives under appropriate safeguards, but the conflict of interest laws do not permit this flexibility. The laws are intended to avoid even the appearance of conflict. The conflict of interest requirement can be waived only if the private interest is so insubstantial that the government determines it would not be likely to affect the integrity of the services of the special government employee.

## **DISCRETIONARY NATURE OF PARTICIPATION OF PRIVATE SECTOR REPRESENTATIVES**

Some commentators suggested that, at least in particular subject areas, the guidelines should require the participation of private sector representatives on delegations and/or guarantee them access to all meetings attended by and information available to government officials on the delegation. We do not believe that either requirement would be helpful.

Many factors are considered in determining whether private sector representatives should be included on delegations or invited to attend particular meetings. Where views of affected private sector interests are well known or may be adequately obtained in advance of an intergovernmental meeting, there is less justification to include private sector representatives on a delegation. In some cases, other governments are unwilling to discuss some matters, or will be less candid, in the presence of persons other than government officials. It would also be improper to permit private sector representatives access to meetings or in-

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formation where this would accord them a financial advantage not available to members of the public. Moreover, some information involves national security or foreign policy matters not relevant to the purposes of including private sector representatives on delegations.

## **CONCLUSION**

These guidelines constitute the first codification of Departmental rules in this area. We intend to monitor our practices, and would welcome further suggestions from the public based on experience under the guidelines.

## **I. APPLICATION**

(a) The provisions of this part apply to delegations accredited or chosen by the Department of State to represent the United States at international conferences, meetings or negotiations. These provisions regulate the selection and role of private citizens or nationals who are invited to participate on such delegations as representatives of private sector interests and who do not perform governmental duties or functions.

(b) These provisions do not apply:

- (1) To the extent of any inconsistency with provisions of law regulating particular U.S. delegations.

- (2) To the conduct of private persons invited by an international organization or conference to participate in a meeting in a personal or private capacity, rather than as a representative of the United States, or as a member of a U.S. delegation.

- (3) To the selection and role of private citizens or nationals who participate on delegations as "special government employees." Such persons are subject to the conflict of interest laws (18 U.S.C. 202 et seq.) and other laws and regulations. (See the Federal Personnel Manual, Chapter 735, Appendix C for the distinction between "special government employees" and persons who are invited to work with an agency in a representative capacity.)

## **II. GENERAL**

(a) *General policy.* Private sector representatives shall be invited to participate on U.S. delegations only when such participation will further the public interest. Nothing in these guidelines shall be construed to require inclusion of private sector representatives on any delegation or to accord any right to any person, private association, or interest group to participate on any delegation.

(b) *Objective's of including private sector representatives on delegations.* Private sector representatives are invited to participate on delegations in order to:

- (1) Provide, on an individual basis, informed views on policy and technical

details of matters under discussion, including matters that may arise in the course of the delegation's activities (such as the need to develop a response to proposals put forth by other countries during a conference).

- (2) Enable representatives of private interests directly affected by a negotiation to understand the positions being taken by other countries, the alternatives available to the United States, and the process by which agreements are reached.

- (c) *Balanced representation.* Many international negotiations and meetings concern matters directly and substantially affecting two or more private interests with materially differing views, including in some cases, particular economic interests, such as industry, labor or agricultural producers, and broader-based interests, such as retail consumer or environmental interests. When private sector representatives are to be invited to participate on a U.S. delegation in such cases, officers responsible for selection and/or accreditation of the delegation shall endeavor to obtain a balanced representation of interests on the delegation. The responsible officers shall exercise judgment as to what private interests are most likely to be directly and substantially affected and the degree of difference of interest, bearing in mind the provisions set forth below in III(b). In exercising such judgment, the responsible officers shall place special emphasis on inviting a representative or representatives of broadly based interests such as retail consumers or environmental groups, where these interests are directly and substantially affected.

## **III. SELECTION OF PRIVATE SECTOR REPRESENTATIVES**

(a) *Responsibility of Department officials.* With respect to delegations accredited by the Office of International Conferences, Department of State, that office, in consultation with the head of delegation, shall be responsible for inviting participation of private sector representatives in accordance with these regulations. With respect to all other delegations accredited or selected by the Department of State, the action office, in consultation with the head of delegation, shall be responsible.

(b) *Initial justification.* In determining whether private sector representatives should be invited to participate on a delegation, the following factors shall be considered:

- (1) The importance of obtaining the informed views of private interests during the conference or negotiation.

- (2) Whether consultations or the opportunity to provide written comments prior to the conference would be an adequate alternative to including par-



ticular private sector representatives on the delegation.

(3) The need to limit overall delegation size to the minimum necessary best to carry out the mission of the delegation.

(4) The number of private sector representatives that would be required, if any such representatives are included on the delegation, to provide balanced representation of the interests directly affected.

(5) Whether participation of private sector representatives is feasible within any applicable rules or understandings of the international conference or meeting.

(c) *Selection procedures.* (1) Private sector representatives may be invited from labor groups, the academic community, trade associations, specific business firms, public interest groups or from any other sources, including the public at large. Representatives shall be invited with a view to their ability to meet the objectives set out above in paragraph II(b). To the extent feasible, the responsible officers should consult with and seek the recommendations of representative private groups and associations concerning private sector representatives, but the responsible office shall not be bound by recommendations of such groups, nor shall the recommendation of such a group be required before a private sector representative may be invited to participate on a delegation.

(2) The responsible office shall not be required to invite more than one representative of a private sector interest merely because there is more than one private association or because there are differing views among individuals or entities within a private sector interest group. The representative invited is not required to commit his or her interest group, entity or association.

(3) Private sector representatives shall be given written letters of invitation. The letter of invitation shall describe the role of the representative and outline the limitations on participation as set forth in sections IV and V of these guidelines. The letter of invitation to private sector representatives of trade or business interests shall enclose antitrust guidance prepared by the Antitrust Division, Department of Justice.

(4) To the extent practicable, the head of delegation, or his or her designee, shall provide private sector representatives with advance information concerning the substance and logistics of the meeting or conference.

(5) The Department shall publish monthly in the FEDERAL REGISTER a list of those delegations which included private sector representatives, and the names of Government officials and private sector representatives par-

ticipating in each such delegation during the previous month. The private affiliation or interest group of such private sector representative shall be included in the published list.

(6) Private sector representatives must have security clearances from the Government at a level equivalent to the classification of information which may be necessary to their participation on the delegation.

#### IV. ROLE OF PRIVATE SECTOR REPRESENTATIVES

(a) Subject to the provisions of these guidelines and any applicable law, private sector representatives on the delegation may offer views and information to government officials on the delegation, and government officials may solicit such views and information, on any matter under consideration by the delegation. The head of delegation will decide when private sector representatives may attend any meeting of the delegation or any meeting with foreign officials.

(b) Government officials shall not discuss or reveal any commercially sensitive information of an individual business entity except with other U.S. Government officials with a need to know such information. Commercially sensitive information includes but is not necessarily limited to an individual business entity's specific or anticipated costs, prices, profit margins or production goals, unless this information is already public. Government officials may not solicit or receive commercially sensitive information from a private sector representative in the presence of anyone other than government officials, and may disseminate such information only on an aggregated basis and only if such aggregated information will not tend to reveal the commercially sensitive information of any individual business entity. Aggregated information may be solicited from or provided by a private sector representative, provided that such information was aggregated by an independent auditor or other independent body, or the Government, or otherwise in accordance with U.S. law. No private sector representative is obligated, by participation on a delegation, to provide any commercially sensitive information.

(c) Government officials shall take account of the private interests of an adviser in assessing any views or information received. Government officials, wherever possible, shall seek views of other private sector representatives on the delegation representing different private interests, if views on a material point are received from one such representative.

(d) Subject to any limitations established by the head of delegation and the provisions of these guidelines, gov-

ernment officials may, in their discretion, provide to private sector representatives any information pertaining to the negotiation, provided that:

(1) No information classified above the level at which the private sector representatives have security clearance shall be provided, nor shall any classified information be provided to such representatives if it is not necessary to their function.

(2) No information shall be provided to any private sector representative if such information knowingly could be used for private gain, unless such information is made available to the public in timely fashion so as to preclude special financial advantage for private sector representatives. This shall include all information and proposals which would have the effect of giving commercial, competitive or market advantage to the private sector representatives or their employers or interest groups.

(e) The head of delegation shall assure that the private affiliation of private sector representatives on the delegation is made known to other delegations, wherever possible by inclusion of the private affiliation in listings of the delegation on conference records.

(f) While two or more private sector representatives may present the same or similar views on particular issues, government officials shall not request or require private sector representatives to present joint or compromise views or reports.

#### V. LIMITATIONS ON PRIVATE SECTOR REPRESENTATIVES

(a) No government official shall permit private sector representatives to speak for the U.S. Government at any meeting with foreign government officials. However, the head of delegation may authorize a private sector representative to explain a technical or factual point, if, in the judgment of the head of delegation, (1) this will advance U.S. objectives at the conference or negotiation; and (2) the private sector representative is best able to speak on the point under discussion.

(b) Heads of delegation shall remind private sector representatives that they may not, by law, divulge classified information to anyone but authorized to receive such information. The head of delegation shall inform private sector representatives what information is classified. It is recognized that private sector representatives may wish to report to the groups or interests they represent, and to receive views or information from those groups or interests. The head of delegation shall endeavor to provide guidance which will not inhibit such activities, within the legitimate require-

ments for protection of classified information.

(c) Private sector representatives shall not at any time negotiate or purport to negotiate for the United States Government, nor shall they advocate positions outside of the delegation during a conference or negotiation which would tend to undermine the tactical or substantive positions of the United States as determined by the head of delegation. However, no private citizen or entity shall be prohibited from expressing views on publicly available U.S. positions, whether or not the interest of the citizen or entity is represented by a private sector representative on the delegation, nor shall any private sector representative be prohibited from expressing views on the outcome of a negotiation after conclusion of the negotiation so long as classified information is not released thereby.

(d) Private sector representatives are not immune from any laws or regulations of the United States as a result of participation on a U.S. delegation, and no government officials may represent that participation confers any such immunity.

(e) Private sector representatives are not to be considered employees of the government. The Government will not pay any expenses of private sector representatives, except as funds are authorized and appropriated for this purpose. Private sector representatives are not entitled to use of any facilities of the Government, if such use would entail additional expense to the Government, nor shall they be given access to government files or communications facilities (except facilities which do not entail additional expense to the Government, or which are necessary to protect the security of information pertaining to official functions of the delegation).

(f) The head of delegation or the Office of International Conferences may limit the period of participation on a delegation of any private sector representative. The head of delegation may exclude from the delegation any private sector representative whose conduct or actions are (1) contrary to the provisions of these guidelines; (2) contrary to limitations or prohibitions imposed by the head of delegation pursuant to these guidelines or other authority; or (3) prejudicial to the interests of the United States, including the effective functioning of the delegation. No private sector representative, however, may be excluded from the delegation merely because of views provided in good faith to government officials on the delegation, nor may a private sector representative be excluded from the delegation for declining to provide views on a matter where

he or she believes this would be inappropriate or prejudicial.

These guidelines will be published in the Foreign Affairs Manual.

Dated: March 15, 1979.

BEN H. READ,  
Under Secretary for  
Management.

[FR Doc. 79-8887 Filed 3-22-79; 8:45 am]

[4710-19-M]

[Public Notice 654]

#### PARTICIPATION OF PRIVATE-SECTOR REPRESENTATIVES ON U.S. DELEGATIONS

##### List of Accredited U.S. Delegations, February 1979

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting the following list of U.S. Delegations accredited during the month of February, 1979, which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the FEDERAL REGISTER on August 24, 1978.

Dated: March 2, 1979.

PAUL J. BYRNES,  
Director, Office of  
International Conferences.

UNITED STATES DELEGATION TO THE WORKING GROUP THREE, INTERNATIONAL NUCLEAR FUEL CYCLE EVALUATION (INFCE), VIENNA, JANUARY 22-FEBRUARY 2, 1979

##### Representative

Frank Hodsoll, Deputy United States Representative on Nuclear Non-Proliferation Matters, Department of State.

##### Advisers

Harry R. Marshall, Office of the General Counsel, Arms Control and Disarmament Agency.

Fred McGoldrick, Office of Nuclear Affairs, Department of Energy.

Jarvis L. Schwennesen (Week of January 22 only), Deputy Director, Division of Uranium Resources and Enrichment, Department of Energy.

Robert D. Sloan, Attorney Adviser, Office of the Legal Adviser, Department of State.

Eleanor B. Steinberg (Week of January 29 only), Office of Energy and Safeguards Technology, Department of State.

##### Private Sector Adviser

Lawrence T. Scheinman (January 26-February 2), Director, Program on Science Technology and Society, Cornell University, Ithaca, New York.

UNITED STATES DELEGATION TO THE THIRD MEETING OF THE PREPARATORY COMMITTEE, UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT, NEW YORK, JANUARY 22-FEBRUARY 3, 1979

##### Representative

The Honorable Jean M. Wilkowski, Coordinator, United Nations Conference on Science and Technology, Department of State.

##### Alternate Representative

The Honorable William Stibravy, Deputy Permanent Representative on the Economic and Social Council of the United Nations.

##### Advisers

Alvin Adams (January 29-February 2), Bureau of Economic and Business Affairs, Department of State.

William Eilers, Bureau for Development Support, Agency for International Development.

Francis M. Kinnelly, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

Frank Lancetti, Bureau of International Organization Affairs, Department of State.

James Stromayer, Deputy Coordinator, United Nations Conference on Science and Technology, Department of State.

Gilda Varrati, United States Mission to the United Nations.

##### Private Sector Adviser

Rodney W. Nichols, President, Rockefeller University, New York, New York.

UNITED STATES DELEGATION TO THE UNITED NATIONS CONFERENCE TO NEGOTIATE AN INTERNATIONAL ARRANGEMENT TO REPLACE THE INTERNATIONAL WHEAT AGREEMENT 1971, (RESUMED), UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD), GENEVA, JANUARY 22-FEBRUARY 9, 1979

##### Representative

Thomas R. Saylor, Associate Administrator, Foreign Agricultural Service, Department of Agriculture.

##### Advisers

Michael P. Boerner, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.

Marsha Echols, Foreign Agricultural Service, Department of Agriculture.

Lawrence E. Hall, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture.

Dan T. Morrow, Office of the Assistant Secretary, International Affairs and Commodity Programs, Department of Agriculture.



James V. Parker, American Embassy, London.

Edmund M. Parsons, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.

Charles E. Roh, Jr., Attorney Adviser, Department of State.

#### Private Sector Advisers

Michael L. Hall, President, Great Plains Wheat, Inc., Washington, D.C.

Robert Kohlmeier, North American Export Grain Association, Washington, D.C.

Sheila Sidles, Executive Secretary, Iowa Consumers League, Centerville, Iowa.

Eugene B. Vickers, Vice President, Western Wheat Associates, Washington, D.C.

Don A. Woodward, Special Trade Affairs Representative, National Association of Wheat Growers, Washington, D.C.

UNITED STATES DELEGATION TO THE TWENTIETH SESSION OF THE POPULATION COMMISSION, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, NEW YORK, JANUARY 29-FEBRUARY 9, 1979

#### Representative

The Honorable Marshall Green, Ambassador, Coordinator of Population Affairs, Department of State.

#### Alternate Representative

Stephen Joseph, Deputy Assistant Administrator for Human Resources Development, Development Support Bureau, Agency for International Development.

#### Advisers

Samuel Baum, Assistant Chief for Demographic Research, International Statistical Programs Center, Bureau of the Census, Department of Commerce.

Franch Brecher, Economic and Social Affairs, U.S. Mission to the United Nations.

Irvin M. Cushner, Deputy Assistant Secretary for Population Affairs, Public Health Service, Department of Health, Education, and Welfare.

Lydia Giffler, Bureau of Intelligence and Research, Department of State.

Carl J. Hemmer, Office of Population, Agency for International Development.

Theodore C. Nelson, Office of the Coordinator of Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

#### Private Sector Advisers

Philander P. Claxton, Jr., President, World Population Society, Washington, D.C.

Conrad Taeuber, Director, Center for Population Research, Georgetown University, Washington, D.C.

UNITED STATES DELEGATION TO THE UNITED NATIONS COCOA CONFERENCE, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD), GENEVA, JANUARY 29-FEBRUARY 23, 1979

#### Representative

John P. Ferriter, Chief, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

#### Alternate Representative

David A. Ross, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

#### Advisers

Ralph Ives, Resources Policy Division, Department of Commerce.

Paul A. Pilkauskas, American Embassy, London.

William Quinn, Office of Raw Materials, Department of the Treasury.

Gordon Streeb, U.S. Mission, Geneva.

#### Private Sector Advisers

Merrill Bateman (January 29-February 9), Dean, School of Business Administration, Brigham Young University, Provo, Utah.

John C. K. Buckley (February 19-23), Vice President, Purchasing, The Nestle Company, White Plains, New York.

Walter Clayton (February 19-23), Vice President, Gill and Duffus, New York, New York.

Thomas H. Edwards (February 12-16), Vice President, Lonray, Inc., New York, New York.

Harold J. Gettinger (February 19-23), Vice President, Commercial, M&M/Mars, Inc., Hackettstown, New Jersey.

Julian Hemphill (January 29-February 23), Consultant, New York Cocoa Exchange, New York, New York.

Joanna Moss (February 5-9), Economist, Public Interest Economic Foundation, San Francisco, California.

William J. Shaughnessy (February 5-16), Manager, Commodity Analysis, Hershey Foods, Hershey, Pennsylvania.

Elizabeth Wood (February 12-23), Assistant Coordinator of Nutrition and Consumer Education, Consumers Co-Operative of Berkeley, Berkeley, California.

UNITED STATES DELEGATION TO THE TWENTY-THIRD SESSION OF THE GROUP OF RAPORTEURS OF THE COMMITTEE OF EXPERTS ON THE TRANSPORT OF DANGEROUS GOODS, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC), GENEVA, FEBRUARY 5-16, 1979

#### Representative

Edward A. Altemos (February 5-16), Chief, International Standards Coordination, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation.

#### Alternate Representative

Kenneth L. Pierson (February 12-16), Deputy Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation.

#### Advisers

George E. Cushmac (February 5-16), Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation.

Larry H. Gibson, Lt., USCG (February 5-16), Chief, Cargo Systems Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

David G. Ortez (February 5-9), Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation.

#### Private Sector Adviser

Orton Overman (February 12-16), Stauffer Chemical Co., Westport, Connecticut.

UNITED STATES DELEGATION TO THE FIFTH SESSION OF THE SUBCOMMITTEE ON BULK CHEMICALS, INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO), LONDON, FEBRUARY 5-16, 1979

#### Representative

William N. Spence, Captain, USCG, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

#### Alternate Representative

Ronald W. Tanner, Lieutenant, USCG, Chief, Chemical Engineering Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

#### Advisers

H. Clay Black, Shipping Attache, American Embassy, London.

Emmanuel P. Pfersich, Chemical Engineering Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Robert G. Williams, Commander, USCG, Engineering Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Fritz Wybenga, Chemical Engineer, Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

#### Private Sector Adviser

Robert K. Gregg, Assistant Manager Ocean Transportation, Dow Chemical, Freeport, Texas.

UNITED STATES DELEGATION TO THE TWENTY-EIGHTH REGULAR SESSION OF THE COMMISSION ON NARCOTIC DRUGS, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC), GENEVA, FEBRUARY 12-23, 1979

#### Representative

The Honorable Mathea Falco, United States Representative on the Commission on Narcotic Drugs, United Nations Economic and Social Council.

#### Alternate Representatives

Peter Bensinger (February 12-16, 1979), Administrator, Drug Enforcement Administration, Department of Justice.

Louis N. Cavanaugh, Jr., U.S. Mission, Geneva.

Robert Chasen (February 12-16, 1979), Commissioner, U.S. Customs Service, Department of the Treasury.

George Dalley, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State.

Alfred R. DeAngelus (February 18-22, 1979), Assistant Commissioner for Enforcement Supports, U.S. Customs Service, Department of the Treasury.

Jean Paul Smith, Assistant Director for International Activities, National Institute on Drug Abuse, Department of Health, Education, and Welfare.

#### Congressional Adviser

The Honorable Thomas F. Rallsback, United States House of Representatives.

#### Advisers

Robert Angarola, General Counsel, Domestic Policy Staff, Executive Office of the President.

R. G. Dickerson (February 18-22, 1979), Deputy Commissioner, U.S. Customs Service, Department of the Treasury.

Donald Miller (February 18-22, 1979), Chief Counsel, Drug Enforcement Administration, Department of Justice.

#### Private Sector Adviser

David Musto, President's Strategy Council on Drug Abuse, Yale University, New Haven, Connecticut.

UNITED STATES DELEGATION TO THE MEETING OF THE GROUP OF RAPORTEURS ON AIR POLLUTION OF THE INLAND TRANSPORT COMMITTEE, ECONOMIC COMMISSION FOR EUROPE (ECE), GENEVA, FEBRUARY 12-26, 1979

#### Representative

Merrill W. Korth, Senior Technical Adviser, Emission Control Technology Division, Environmental Protection Agency.

#### Adviser

Irving L. Fuller, Office of International Activities, Environmental Protection Agency.

#### Private Sector Adviser

Alfred Cary, Jr., Cummins Engine Company.

[FR Doc. 79-8892 Filed 3-22-79; 8:45 am]

#### [4810-22-M]

#### DEPARTMENT OF THE TREASURY

##### Customs Service

##### CERTAIN FASTENERS FROM JAPAN

##### Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and an investigation is being initiated to determine whether or not benefits which constitute a bounty or grant within the meaning of the countervailing duty law are granted by the Government of Japan to manufacturers of exporters of certain industrial fasteners. A preliminary determination will be made no later than August 22, 1979, and a final determination no later than February 22, 1980.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

David Chapman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On February 22, 1979, a petition in proper form was received from the Industrial Fasteners Institute, alleging that payments conferred by the Government of Japan upon the manufacture, production or exportation of certain industrial fasteners constitute the payment or bestowal of a bounty or

grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). The industrial fasteners covered by the instant petition enter the United States under the following item numbers of the Tariff Schedules of the United States (TSUS): 646.17, 646.40, 646.41, 646.49, 646.51, 646.53, 646.54, 646.56, 646.58, 646.60, 646.63, 646.65, 646.72, 646.74, 646.75, 646.76, 646.78. The investigation will be limited to the determination of the bestowal of bounties or grants on non-metric industrial fasteners. Products entering the United States under TSUS items 646.54 and 646.56 have, since May 6, 1977, been subject to the imposition of countervailing duties as the result of a previous investigation conducted by the Treasury Department under the countervailing duty law (T.D. 77-128, 41 FR 23146). The treatment of the allegations of additional bounties or grants paid or bestowed on those products is described in the notice of "Suspension of Liquidation and Estimated New Net Amount of Bounty or Grant," published concurrent with this Notice. Thus, products entering the United States under TSUS items 646.54 and 646.56 will not be included in this new investigation.

The bounties or grants alleged in the petition are as follows:

(1) "The Temporary Measures Act for Small and Midsize Business with Regard to the High Yen Exchange Market" established a number of methods by which the Japanese Government can provide assistance to small and midsize businesses which are export oriented and whose competitive position has been adversely affected by the rapid appreciation of the yen.

These include:

(a) Preferential financing at interest rates lower than those commercially available from the National Finance Corporation, the Okinawa Development Finance Corporation, the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and from so-called "Authorized Cooperative" trade associations.

(b) Preferential financing from the same sources as mentioned above for the building of facilities necessary for conversion of manufacturing operations.

(c) Those firms which previously had been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law" were allowed to defer repayment for up to three years.

(d) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligible firms.

(e) Revision of an already existing law, to now allow eligible firms to carry-back losses incurred currently to



## NOTICES

the preceding three fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

(2) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR).

(3) Promotional assistance provided by the Japanese External Trade Organization (JETRO).

(4) Preferential financing to small and midsize enterprises from Government owned banks including the Small Business Finance Corporation, the Peoples Finance Corporation and the Bank for Commerce and Industrial Cooperatives.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination within 6 months of the receipt of a petition in proper form and a final determination within 12 months of the receipt of such petition, as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute.

Therefore, a preliminary determination as to whether or not alleged payments or bestowals of benefits by the Government of Japan upon the manufacture, production or exportation of certain industrial fasteners constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended, will be made no later than August 22, 1979. A final determination will be made no later than February 22, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 185, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

MARCH 19, 1979.

[FR Doc. 8922 Filed 3-22-79; 8:45 am]

[4810-25-M]

## Office of the Secretary

## DEBT MANAGEMENT ADVISORY COMMITTEES

## Meetings

Notice is hereby given, pursuant to Section 10 of Public Law 92-463, that meetings will be held in Washington on April 24 and 25, 1979 of the following debt management advisory committees:

American Bankers Association,  
Government Borrowing Committee,  
Public Securities Association,  
U.S. Government and Federal Agencies Securities Committee.

The agenda for the American Bankers Association Government Borrowing Committee meetings provides for working sessions on April 24 and a report to the Secretary of the Treasury and Treasury staff on April 24.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meetings provides for working sessions on April 24 and a report to the Secretary of the Treasury and the Treasury staff on April 25.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or

may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meeting of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: March 19, 1979.

ANTHONY M. SOLOMON,  
Under Secretary for  
Monetary Affairs.

[FR Doc. 79-8867 Filed 3-22-79; 8:45 am]

[1505-01-M]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 12]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

## Correction

In FR Doc. 79-2968, at page 5780, Monday, January 29, 1979, at page 5784, the second column, the paragraph reading "MC 13609 (Sub-32TA)," should be corrected to read "MC 138609 (Sub-2TA)".

[1505-01-M]

[Notice No. 11]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

## Correction

In FR Doc. 79-2968, at page 5787, Monday, January 29, 1979, the following corrections should be made:

1. On page 5788, the third column, the paragraph reading "MC 10641" should be corrected to read "MC 106401";

2. On page 5791, the paragraph reading "MC 14189" should be corrected to read "MC 141489".

[7035-01-M]

[Notice No. 51]

## ASSIGNMENT OF HEARINGS

MARCH 20, 1979.

Cases assigned for hearing, postponement, cancellation or oral argu-

ment appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 41432 (Sub-155F), East Texas Motor Freight Lines, Inc., now assigned for prehearing Conference on April 18, 1979, at the Office of Interstate Commerce Commission, Washington, D.C. MC-C-10159, International Brotherhood of Teamster Chauffeurs, Warehousemen & Helpers of American V. Ringsby Truck Lines, Inc., now assigned for hearing on May 21, 1979, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 108119 (Sub-106F), E. L. Murphy Trucking Company, now assigned for prehearing conference on April 23, 1979, at the Office of Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8963 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Second Revised  
Exemption No. 156]

## ATLANTA &amp; SAINT ANDREWS BAY RAILWAY CO., ET AL.

## Exemption Under Provision of the Mandatory Car Service Rules

## To all railroads

*It appearing,* That the railroads named below own numerous sixty-foot plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That, pursuant to the authority vested in me by Car Service Rule 19, sixty-foot plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads

named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

\*Atlanta & Saint Andrews Bay Railway Company

Reporting Marks: ASAB

East Camden & Highland Railroad Company

Reporting Marks: EACH

Providence and Worcester Company

Reporting Marks: PW

*Effective March 15, 1979,* and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8966 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Thirty-Fifth Revised  
Exemption No. 12]

## ATLANTIC AND WESTERN RAILWAY, ET AL.

## Exemption Under Provision of Mandatory Car Service Rules

## To All Railroads:

*It appearing,* That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic and Western Railway  
Reporting Marks: ATW  
Chicago & Illinois Midland Railway Company

Reporting Marks: CIM  
Fonda, Johnstown and Gloversville Railroad Company

Reporting Marks: FJG  
Hillsdale County Railway Company Inc.

\*Addition.

21 Atlanta & Saint Andrews Bay Railway Company deleted.

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Reporting Marks: HCRC  
Maryland and Pennsylvania Railroad Company

Reporting Marks: MPA

Pickens Railroad Company

Reporting Marks: PICK

Wellsville, Addison & Galetton Railroad Corporation

Reporting Marks: WAG

*Effective March 15, 1979,* and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8967 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Thirty-Fifth Revised  
Exemption No. 129]

## ATLANTA &amp; SAINT ANDREWS BAY RAILWAY CO., ET AL.

## Exemption Under Provision of the Mandatory Car Service Rules

*It appearing,* That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

\*Atlanta & Saint Andrews Bay Railway Company  
Reporting Marks: ASAB

Chicago, West Pullman & Southern Railroad Company

Reporting Marks: CWP

Illinois Terminal Railroad Company

Reporting Marks: ITC

Louisville, New Albany & Corydon Railroad Company

Reporting Marks: LNAC

Richmond, Fredericksburg and Potomac Railroad Company

Reporting Marks: REP

\*Addition.



17854

Effective 12:01 a.m., March 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8970 Filed 3-22-79; 8:45 am]

## [7035-01-M]

[AB 18 (SDM)]

## THE CHESSE SYSTEM

## Amended System Diagram Map

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 CFR, March 6, 1979, page 12322, the amended system diagram map for the Chessie System was previously stated as being filed on January 24, 1979. The correct filed date is January 19, 1979.

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chessie System, has filed with the Commission its color-coded system diagram map in docket No. 18 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on January 19, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets by requesting docket No. AB 18 (SDM).

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8976 Filed 3-22-79; 8:45 am]

## [7035-01-M]

[I.C.C. Order No. 31 under Service Order No. 1344]

## CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

## Rerouting of Traffic

In the opinion of Joel E. Burns, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly all traffic offered

## NOTICES

for movement to, from, or via Peoria, Illinois, because of flooding. It is ordered,

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company being unable to transport promptly all traffic offered for movement to, from, or via Peoria, Illinois, because of flooding, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:00 a.m., March 12, 1979.

*Expiration date.* This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Associ-

ation. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8971 Filed 3-22-79; 8:45 am]

## [7035-01-M]

[I.C.C. Order No. 30 Under Service Order No. 1344]

## CLINCHFIELD RAILROAD CO.

## Rerouting of Traffic

In the opinion of Joel E. Burns, Agent, the Clinchfield Railroad Company is unable to transport promptly all traffic offered for movement over its lines between Marion, North Carolina, and Spruce Pine, North Carolina, because of washouts.

(a) *Rerouting traffic.* The Clinchfield Railroad Company, being unable to transport promptly all traffic offered for movement over its lines between Marion, North Carolina, and Spruce Pine, North Carolina, because of washouts, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the

rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:00 p.m., March 7, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 16, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 7, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8972 Filed 3-22-79; 8:45 am]

## [7035-01-M]

[I.C.C. Order No. 30-A Under Service Order No. 1344]

## CLINCHFIELD RAILROAD CO.

## Rerouting of Traffic

Upon further consideration of I.C.C. Order No. 30, and good cause appearing therefor:

*It is ordered,*  
I.C.C. Order No. 30 is vacated.

This order shall become effective March 13, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. March 13, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8973 Filed 3-22-79; 8:45 am]

## NOTICES

## [7035-01-M]

[Amdt. No. 1 to Exception No. 15]

## EXCEPTION TO SERVICE ORDER

MARCH 13, 1979.

TO: ALL RAILROADS.  
BY THE BOARD.

Exception under section (a), paragraph (1), part (v) second revised service order No. 1332.

Upon further consideration of Exception No. 15 and good cause appearing therefor:

*It is ordered,*  
Exception No. 15 to Second Revised Service Order No. 1332 is amended to: *Expire March 31, 1979.*

Issued at Washington, D.C., March 13, 1979.

ROBERT S. TURKINGTON,  
Acting Chairman,  
Railroad Service Board.

[FR Doc. 79-8968 Filed 3-22-79; 8:45 am]

## [7035-01-M]

MARCH 20, 1979.

## FOURTH SECTION APPLICATION FOR RELIEF

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 6, 1979.

FSA No. 43673, Sea-Land Service, Inc., No. 104, intermodal rates on general commodities in containers, between ports in the Far East, on the one hand, and rail carrier's terminal at Wilmington, North Carolina, on the other, by way of California Ports, in its Tariff ICC SEAU 311 and eight other individual and agency tariffs, Effective April 14, 1979. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8965 Filed 3-22-79; 8:45 am]

## [7035-01-M]

## FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 20, 1979.

These applications for long and short haul or aggregate of intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 6, 1979.

## LONG AND SHORT HAUL

FSA No. 43675, Trans-Continental Freight Bureau, Agent's No. 534, carload rates on iron or steel articles from Minnequa, Colo. to specified points in California, to be published in its Tariff

17855

ICC TCFB 3001. Grounds for relief—Motor carrier competition.

## AGGREGATE-OF-INTERMEDIATES

FSA No. 43674, Trans-Continental Freight Bureau, Agent's No. 533, carload rates on iron or steel articles from Minnequa, Colo. to specified points in California, to be published in its Tariff ICC TCFB 3001. Grounds for relief—Maintenance of depressed rates to meet motor carrier competition without use of such rates as factors in constructing combination rates.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8975 Filed 3-22-79; 8:45 am]

## [7035-01-M]

[Amdt. No. 2 to I.C.C. Order No. 15 under Service Order No. 1344]

## REROUTING OF TRAFFIC

## To: ALL RAILROADS.

Upon further consideration of I.C.C. Order No. 15 (Chicago, Milwaukee, St. Paul and Pacific Railroad Company), and good cause appearing therefor:

*It is ordered,*  
I.C.C. Order No. 15 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended.

*Effective date.* This amendment shall become effective at 11:59 p.m., March 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8969 Filed 3-22-79; 8:45 am]

## [7035-01-M]

[Amdt. No. 2 to I.C.C. Order No. 13 under Service Order No. 1344]

## REROUTING TRAFFIC

## To: ALL RAILROADS.

Upon further consideration of I.C.C. Order No. 13, and good cause appearing therefor:

*It is ordered,*



I.C.C. Order No. 13 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended.

*Effective date.* This amendment shall become effective at 11:59 p.m., March 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc. 79-8974 Filed 3-22-79; 8:45 am]

#### [7035-01-M]

[Docket No. AB-169]

TOLEDO, ANGOLA & WESTERN RAILWAY CO.  
Abandonment Near Vulcan and Silica in Lucas  
County, OH; Notice of Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a decision entered on September 22, 1978, and the decision of the Commission, Division 1, acting as an Appellate Division, served February 12, 1979, which adopted the decision of the Commission, Review Board Number 5, which is administratively final, stating that, the present and future public convenience and necessity permit the abandonment by the Toledo, Angola & Western Railway Company of its entire 8.25 mile line of railroad extending from milepost 0.0 near Vulcan, to the end of the line at milepost 8.25, near Silica, all in Lucas County, OH, subject to the condition that applicant shall keep intact all of the right-of-way underlying the track, including any culverts and bridges, on the line between Vulcan and the Holland-Sylvania Road for a period of 120 days from the effective date of the certifi-

cate to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of abandonment will be issued to the Toledo, Angola & Western Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and  
(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-8964 Filed 3-22-79; 8:45 am]

## sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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#### [6351-01-M]

1

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., March 27, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

#### MATTERS TO BE CONSIDERED:

8a(6)—Delegation of Commission authority to communicate information to exchanges.

Aggregation policy discussion.  
Regulation 1.31—availability of FCM and Exchange books and records.

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-576-79 Filed 3-21-79; 3:37 pm]

#### [6351-01-M]

2

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., March 27, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matter/offer of settlement; Review of exchange disciplinary action.

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-577-79 Filed 3-21-79; 3:37 pm]

#### 6570-06-M]

3

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, March 27, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, DC 20506.

STATUS: Part will be open to the public and part will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Open to the public:

1. Editorial revisions to internal procedures for handling matters brought before EEOC for coordination under Executive Order 12067.

2. Two Delegations of Authority to the Merit System Protection Board.

3. Compliance Manual Changes concerning the Early Litigation Identification Program.

4. Freedom of Information Act Appeal No. 78-8-FOIA-176, concerning a request for compliance data in connection with a consent decree.

5. Report on Commission operations by the Executive Director.

Closed to the public:

1. Proposed Decisions in Charge Nos. TAT40019, TC14-0131, 052-77-1688 and 052-77-0749.

2. Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE: Any matter not discussed or concluded may be carried over to a later meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at: 202-634-6748.

This Notice Issued March 21, 1979.

[S-574-79 Filed 3-21-79; 1:17 pm]

#### [6730-01-M]

4

#### FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 21, 1979, 44 FR 17290.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 27, 1979, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the open session:

7. Matson Navigation Company proposed rate increase. Addition of the following item to the closed session:

1. Docket No. 77-7: Agreement Nos. 9929-2, 9929-3, 9929-4 (Modifications to the Combi Line Joint Service Agreement) and Agreement Nos. 10266 and 10266-1 (Joint Marketing Agreement Between Intercontinental Transport, B. V. and Compagnie Generale Maritime)—Consideration of the record.

[S-575-79 Filed 3-21-79; 3:32 p.m.]

#### [6735-01-M]

5

#### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 20, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTER CONSIDERED: Part of this meeting involved the Commission's participation in an adjudicatory proceeding, namely *Secretary of Labor and UMWA v. Canterbury Coal Co.*, PITT 78-127, 78-128, 78-301-P, 78-302-P.

VOTE: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley. It was determined by this vote that Commission business required that this meeting be closed.

ATTENDANCE: Present at that closed part of the meeting were: Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley; Al Treherne, Robert Phares, James Las-towka, Arthur Sapper, Nathaniel Speights, Howard Schellenberg, Executive Director Donald Terry, General Counsel Dennis Clark, Joanne Kelly, Cris Gilbert and Carolyn Crittendon.

#### CONTACT FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-571-79 Filed 3-21-79; 9:31am]



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17858-17864

[6210-01-M]

6  
FEDERAL RESERVE SYSTEM  
BOARD OF GOVERNORS.

TIME AND DATE: 10:00 a.m. Wednesday, March 28, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs regarding proposed amendments to the Federal Reserve Act and FOMC procedures.

2. Proposed amendments to Section 23A of the Federal Reserve Act to be submitted to the Congress.

3. Any agenda items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 20, 1979.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[6210-01-M]

7  
FEDERAL RESERVE SYSTEM  
BOARD OF GOVERNORS.

SUNSHINE ACT MEETINGS

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published March 23, 1979 S-1572-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, March 28, 1979.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting: (This item will be considered in a closed portion following the open meeting).

Proposed revision to Federal Reserve Bank employee salary structure adjustment policies.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 21, 1979.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[S-573-79 Filed 3-21-79; 11:46 am]

[7715-01-M]

8  
POSTAL RATE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 17025, March 20, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE CLOSED MEETING: March 20, 1979, 8:30 a.m.

CHANGES IN THE MEETING: Meeting date and time changed to March 22, 1979, 8:30 a.m.

Meeting remains closed pursuant to 5 U.S.C. 552b(c) (2) (6).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500,

2000 L Street NW., Telephone 202-254-5614.

[S-578-79 Filed 3-21-79; 3:52 pm]

[8120-01-M]

9  
TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 9:30 a.m., Thursday, March 22, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION: Further consideration of power rates.

CONTACT PERSON FOR MORE INFORMATION:

James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3357, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:

DAVID FREEMAN.

RICHARD M. FREEMAN.

Disapproved:

Dated: March 21, 1979.

[S-579-79 Filed 3-21-79; 3:52 am]

FRIDAY, MARCH 23, 1979

PART II



DEPARTMENT OF  
AGRICULTURE

Animal and Plant Health  
Inspection Service

STOCKYARDS AND  
SLAUGHTERING  
ESTABLISHMENTS

Specific Approval



## DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

STOCKYARDS AND SLAUGHTERING  
ESTABLISHMENTS

## Specific Approval

The regulations in 9 CFR Part 78, as amended, contain restrictions on the interstate movement of cattle, other domestic animals, and bison to prevent the spread of brucellosis. This document lists certain stockyards and slaughtering establishments as specifically approved for purposes of the regulations, on the basis of a determination of their eligibility for such approval under § 78.25(b) of the regulations. Therefore, notice is hereby given that the following stockyards and slaughtering establishments are specifically approved under said regulations as indicated below:

SPECIFICALLY APPROVED SLAUGHTERING  
ESTABLISHMENTS

The following slaughtering establishments preceded by an asterisk are specifically approved for the purposes of §§ 78.7, 78.8, and 78.12a, of Title 9, Code of Federal Regulations, concerning brucellosis reactors, exposed cattle and cattle from quarantined areas, and for the purposes of §§ 78.9, 78.10, and 78.11 of said Title 9, concerning cattle only from herds not known to be affected, cattle from qualified herds, and cattle from herds of unknown status. The slaughtering establishments preceded by an asterisk entered into a Memorandum of Understanding with the State and Veterinary Services containing standards which control the handling of all classes of cattle including brucellosis reactors, exposed cattle, cattle from quarantined areas and cattle from herds of unknown status. The slaughtering establishments not preceded by an asterisk entered into a Memorandum of Understanding with the State and Veterinary Services containing standards which restrict the class of cattle handled by them to cattle from herds not known to be affected, cattle from qualified herds and cattle from herds of unknown status. Slaughter establishments not preceded by an asterisk are prohibited from handling brucellosis reactor, exposed cattle, and cattle from a quarantined herd.

The following slaughtering establishments not preceded by an asterisk are specifically approved for the purposes of § 78.11 only:

## ALABAMA

Florence Frozen Foods, Florence  
\*R. L. Zeigler Company, Inc., Selma

## NOTICES

## ARKANSAS

\*AR Valley Institutional Packing Company, Pine Bluff  
\*Broadway Packing Company, Inc., Jonesboro  
\*Clebune County Packing Co., Inc., Heber Springs  
\*Corning Meat Processing, Corning  
\*Edwards Packing Company, Batesville  
\*Scott Ewell Butcher Shop, Little Rock  
\*Fox Slaughtering & Processing Company, Prairie View  
\*Hawthorne Packing Company, Hot Springs  
\*Hot Springs Packing Company, Hot Springs  
\*Hunt Packing Company, Pine Bluff  
\*J and J Beef Company, Inc., Searcy  
\*Kruze Packing Company, Inc., Alexander  
\*Massey Meat Company, Paragould  
\*McKiever Packing Company, Monticello  
\*Meachan Packing Company, Batesville  
\*Mhoon Beef Company, Fayetteville  
\*Miller Packing Company, Inc., Judsonia  
\*Mitchell Locker Plant, Sheridan  
\*Morrilton Packing Company, Inc., Morrilton  
\*Mountain View Custom Butchering, Mountain View  
\*Pocahontas Frozen Food Locker, Pocahontas  
\*Purcell Packing Company, Paragould  
\*Reeder Meat Company, Arkadelphia  
\*Russellville Packing Company, Inc., Russellville  
\*Rodman Wholesale Meats, Inc., North Little Rock  
\*Sheridan & Harold Freer d.b.a. Freer Meats, Ivan  
\*Taylor Brothers Wholesale Meats, Gurdon  
\*Twin Lakes Packing Company, Gassville  
\*V.I.P. Foods, Pine Bluff  
\*White County Packing, Inc., Searcy  
\*Wilf Packing Company, Pleasant Plains

## DELAWARE

\*Family Butcher, Dagsboro  
\*Kemp's Meat Market, Willow Grove

## FLORIDA

\*Beall Packing House, Bonifay  
\*Bristol Meat Processing, Bristol  
\*Brooks Meat House, Vernon  
\*Chaires Circle "C" Beef, Tall  
\*Corbin 4-Point Packing House, Chipley  
\*Dilmore Meats, Cottondale  
\*Dozier School for Boys, Marianna  
\*Driggers & Son Meat Company, Jasper  
\*Easons Custom Cut Meat, Quincy  
\*Esto Meat Processors, Inc., Esto  
\*Florida Packing & Provision Co., Inc., Palatka  
\*Gated Meat Company, Quincy  
\*H. S. Camp and Sons, Ocala  
\*Johnstons Locker Plant, Monticello  
\*Jones Chambliss Company, Jacksonville  
\*Micklers Market, Ponte Vedra  
\*Nettles Sausage Company, Lake City  
\*Register Meat Company, Cottondale  
\*Simmons Meat Packing House, Vernon  
\*S & S Meat Packing, Green Cove Springs  
\*Stones Chipley Packing Company, Chipley  
\*Suber's Meat Plant, Quincy  
\*Suwannee Packing Company, Live Oak  
\*Taylor Industries of Santa Rosa County, Jay  
\*Thompsons Meat Supply, Inc., Pensacola  
\*Tri-City Market, Century  
\*Union Correctional Center, Ralford  
\*Valley Packing Company, McAlpin  
\*Wilkerson Sausage Company, Glendale

## GEORGIA

\*Dalton Slaughter House, Dalton  
\*North Georgia Meat Processing Company, Cohutta  
\*Walker Meats, Carrollton

## IDAHO

Alpine Pac, Boise  
\*Bledsoe Packing Company, Rupert  
\*Boise Valley Packing, Eagle  
\*Bonds Meat Packing, Fruitland  
\*Bryant Packing Company, Burley  
\*Clark's For Shopping, Inc., Oakley  
\*Custom Packing, Inc., Pocatello  
\*Eden Cold Storage d.b.a. Kenneth Hutchins, Eden  
\*Emmett Meat Company, Emmett  
\*Fred's Custom Butchery, Ucon  
\*Gem Meat Packing Company, Boise  
\*Genesee Meats, Genesee  
\*Gibson Brothers Meat, Burley  
\*Greenfield Packing, Meridian  
\*Goodby Sons Meats, Inc., Sandpoint  
\*Hil' Boy Meat, Emmett  
\*Hillcrest Packing Company, Nampa  
\*Hoehns Custom Packing, Idaho Falls  
\*Hoffman & Sons, Roberts  
\*Hopkins Packing Company, Blackfoot  
\*Howard's Meats, Grangeville  
\*Hubbard Packing Company, Preston  
\*Hunters Pack, Driggs  
\*Johnson Meats, Kingston  
\*Johnston Brothers, Caldwell  
\*Jones Custom Meats, Rigby  
\*Marsh Valley Packing Company, Downey  
\*Mickelson Pack, Inc., Blackfoot  
\*Mill Stream Pack, Malad  
\*Nampa Packing Company, Nampa  
\*Parr's Locker Storage, Wendell  
\*Peoples Quality Pack, Rupert  
\*P&H Custom Meats, Wilder  
\*R&J Market, Riggins  
\*Skow's Custom Cutting-Slaughter Plant, Lewiston  
\*Sonnen's Meats, Greencreek  
\*Tri "B" Meat Company, Idaho Falls  
\*Valley Meats, Stites  
\*Walton's Cow Palace, Soda Springs  
\*Y-J Foods, Inc., Coeur d'Alene

## ILLINOIS

\*Bartlow Bros., Inc., Rushville  
\*Beiermann Packing Company, Jerseyville  
\*Bergman Meat Packing Company, Pittsfield  
\*David's Frozen Food Center, Millford  
\*DeSchepper Packing Company, Milan  
\*Edgar County Locker, Paris  
\*Hansen Packing Company, Jerseyville  
\*Harmon Packing Company, Paris  
\*Hartrich Meat Processing Plant, Sainte Marie  
\*Hill Packing, Danville  
\*Humphrey Packing Co., Lawrenceville  
\*Jamison's Country Fresh Meats, Inc., Atwood  
\*Johannes Market, Quincy  
\*Jones Packing Company, Harvard  
\*Ed Kabrick Beef, Inc., Plainville  
\*Papineau Lockers, Papineau  
\*Parks Processing Plant, Warren  
\*Petroff Packing Company, Benton  
\*Rock River Provision Company, Inc., Rock Falls  
\*Sievers Meat Processing, Palestine  
\*Streck Packing Company, Belleville  
\*Weyhaupt Brothers Packing Company, Belleville  
\*Young Packing Company, Danville  
\*Y and T Packing Company, Springfield

## INDIANA

\*Becher Brothers, Dale  
\*Bloomington Packing Company, Bloomington  
\*Brook Locker Plant, Inc., Brook  
\*Clark & Moore, Monticello  
\*Dewig Bros. Packing Company, Inc., Haubstadt  
\*Fisher Packing Company, Portland  
\*Gutzwiller Packing Company, Jasper  
\*Harger's Inc., Hamilton  
\*Harlow Meat Market, Seymour  
\*Lengerich Meats, Inc., Monroe  
\*Glen Manley Custom Butchering, Decatur  
\*Melcho Packing Company, Carlisle  
\*Merkley & Sons, Inc., Jasper  
\*Middlebury Cold Storage, Inc., Middlebury  
\*Miller Packing Company, Kokomo  
\*Mischler Packing, Lagrange  
\*Ossian Packing Company, Inc., Ossian  
\*Walter Price Abattoir, Inc., Plymouth  
\*Pride Packing Company, Inc., Terre Haute  
\*Roos Packing Company, Indianapolis  
\*Rose City Packing Company, Inc., Newcastel  
\*Rutzel Slaughter House, Aurora  
\*Schmitt Packing Company, Inc., Decatur  
\*Schuler Packing Company, Ferdinand  
\*Sinnott & Son Packing Company, Wadesville  
\*Spendal Meats, Clinton  
\*Standard Packing Company, Kokomo  
\*State Line Packing, Mokenca, Ill.  
\*Straub & Smith Packing Company, Indianapolis  
\*Top-of-Indiana Beef Company, Ft. Wayne  
\*Troy Packing Company, Inc., Indianapolis  
\*Vetter Meat Company, Kokomo  
\*Viotti Packing Company, Clinton  
\*Ward Packing Company, Monon  
\*Wilcox Inc., North Liberty  
\*Wolf's Processing Plant, New Albany  
\*Young Bros., Inc., Ladoga

## LOUISIANA

\*Autin Packing Company, Houma  
\*H. O. Berry Packing Company, Bastrop  
\*Circle "V" Meat Processing Plant, Abbeville  
\*Crawford Slaughter House, Covington  
\*L. A. Frey & Sons, Inc., Lafayette  
\*Harold's, Raceland  
\*Mickle's Meat Pack, Lake Charles  
\*Millwood Packing Company, Baton Rouge  
\*North LA Packing Company, Sarepta  
\*Parish Processing Company, Franklinton  
\*River Land Food Corporation, Gonzales  
\*Ruston Processing Plant, Inc., Ruston  
\*Savoie's Meat Market, Lockport  
\*Shreveport Packing Company, Shreveport  
\*J. W. Strother, Oakdale  
\*Thompson Packers, Satsuma

## MARYLAND

\*Arcticaire Locker Plant, Frederick  
\*A & W Country Meats, Inc., Taneytown  
\*Bauerlein Meats, Inc., Hampstead  
\*B. H. Boyles, Inc., Emmitsburg  
\*Brook Meadow Provisions Corp., Hagerstown  
\*Burger, Roy S., Williamsport  
\*Burtner's Meats, Burkittsville  
\*Calvert Meats, Inc., Prince Frederick  
\*Cecil Provision Company, Elkton  
\*Dorsey Brothers, Woodboro  
\*Frostburg Meats, Frostburg  
\*Galvinell Company, Conowingo  
\*Oladhill Brothers, Damascus  
\*Garricks Meats, Westminster  
\*Greises Meats, Inc., Cumberland  
\*Harsh, Sr., M. D., Williamsport  
\*Hemps, Inc., Jefferson

## NOTICES

\*Roy L. Hoffman & Sons, Inc., Hagerstown  
\*Granville McCollister, Cambridge  
\*Martins Meats, Joppa  
\*Maurer & Miller Meats, Inc., Manchester  
\*Mt. Airy Locker Company, Mount Airy  
\*135 Meat Market, Inc., Mt. Lake Park  
\*George L. Reid, Inc., Baltimore  
\*George G. Ruppertsburger & Sons, Inc., Baltimore  
\*Schmidt, A. W. and Son, Inc., Baltimore  
\*Norman J. Shriver, Jr., Emmitsburg  
\*H. W. Shuff Meats, Thurmont  
\*Thompson's Market, Maryland Line  
\*W. W. Will, Sykesville  
\*Woodlawn Farms, Sharpsburg

## MICHIGAN

\*Ada Beef Company, Ada  
\*Bay DeNoc Packing, Escanaba  
\*Bellefeul Brothers, Wilson  
\*Bob's Market, Cadillac  
\*Brady's Midway, Cassopolis  
\*Carltons Freezer Processing, Inc., Blissfield  
\*Charlotte Meats, Inc., Charlotte  
\*Custer Brothers #212, Nashville  
\*Mark DeBoer & Son Wholesale Beef Company, St. Johns  
\*Dowker Packing Company, Inc., Gaylord  
\*Dunleavy & Sons, Highland  
\*Eds Meat Processing, Union City  
\*Feldman Brothers, Detroit  
\*Fishers Custom Foods, Union  
\*Geukes Market, Middleville  
\*Bert Hazekamp & Son, Muskegon  
\*Hillsdale County Meat, Waldron  
\*Houghton Beef Packers, Ionia  
\*J & L Meats, Jonesville  
\*Kastel Slaughterhouse, Riga  
\*Keefer's Market, Morenci  
\*Lake Superior Beef, Dafer  
\*L & J Slaughter, Lake City  
\*L & M Packing Company, Monroe  
\*Louie's Wholesale Meats, Traverse City  
\*Ludka Packing, Inc., Traverse City  
\*Maynard Packing Company, Port Huron  
\*Meats & Fruits by Anderson, Inc., Kalamazoo  
\*Milligans Packing Company, Parma  
\*Don Moors Farm Fresh Meats, Inc., Homer  
\*Mosherville Meat Processing, Jonesville  
\*Newsom's Slaughter House #130, Niles  
\*Reznik Packing, South Haven  
\*Rocheleau Meats, Cheboygan  
\*Rochester Packing Company, Rochester  
\*C. Roy & Son, Yale  
\*Salem Packing Company, Northville  
\*Hubert H. Smith Packing Company, Muskegon  
\*Snyder's Wholesale Beef, Fowler  
\*Stanley Packing Company, Marshall  
\*Tamaren Beef Company, Detroit  
\*Terrills Super Market, Marcellus  
\*Will and Son Meat Packers, Memphis  
\*Ray Weeks & Sons Company, Inc., Richmond  
\*Zimmermans Market, Marine City

## MISSISSIPPI

\*Barton's Meat Processing Market, Batesville  
\*A & A Country Meat Packers, Pelahatchie  
\*Bryant's Meats, Inc., Taylorsville  
\*Calhoun County Processing Plant, Calhoun City  
\*Choctaw County Processing Company, Weir  
\*Comer Packing Company, Aberdeen  
\*Custom Butchering Company, Yazoo City  
\*Davis Country Meats, Inc., West Point  
\*Delta Packing Company, Inc., Meridian  
\*Ecu Meat Processing Plant, Ecu  
\*Ezell's Processing Plant, Union

\*Hinds Junior College Cold Storage, Raymond  
\*Holmes County Cold Storage Company, Lexington  
\*Isbell Curing Plant, Corinth  
\*Jackson Packing Company, Jackson  
\*Little Princess Foods, Inc., Forest  
\*McCoy's Meat Processing, Pontotoc  
\*Meridian Packing Company, Meridian  
\*Miller & White Meat Company, Starkville  
\*Moore's Meats, Smithville  
\*Mosby's, Meridian  
\*Murphree Bros. Slaughtering & Packing Plant, Tremont  
\*Myers Processing Plant and Market, Newton  
\*Ormon Sausage Plant, Ellisville  
\*Oswalt's Meat Processing, Columbus  
\*Owen Bros. Packing Company, Meridian  
\*Passbach Meats, Inc., Natchez  
\*Paul's Meat Service, Louisville  
\*Peebles & Peebles Slaughter Plant, Philadelphia  
\*Ponderosa Processing Plant, DeKalb  
\*River Route Packing Company, Dundee  
\*Simmons Packing Company, Kosciusko  
\*Sultor Meat Company, Rienzi  
\*Sundown Ranch & Processing Plant, Grenada  
\*Wall Meat Processing Plant, Inc., Hickory Flat  
\*Winona Packing Company, Winona  
\*Wilson Slaughter House, Crystal Springs

## NORTH CAROLINA

\*Ashe Abattoir, West Jefferson  
\*Banks' Packing Company, Etowah  
\*A. L. Beck & Sons, Inc., Winston-Salem  
\*Bladen Cold Storage, Inc., Elizabethtown  
\*James E. Bringle, Inc., Salisbury  
\*Z. B. Bullock, Inc., Rocky Mount  
\*Bruns and Beach Meat, Morganton  
\*Caldwell's Meat Processing, Maiden  
\*Cool Springs Meat Processing, Statesville  
\*Frank Corriher, Landis  
\*Crawley & Higgins Abattoir, Morganton  
\*Disher Packing Company, Yadkinville  
\*Falcon Wholesale Meats, Falcon  
\*Gaston County Abattoir, Mt. Holly  
\*Hudson Freezer Locker, Hudson  
\*Jenkins Foods, Shelby  
\*Key Packing Company, Robbins  
\*Ledford's Livestock Farm Slaughter Plant, Franklin  
\*Lincoln Frozen Foods, Lincolnton  
\*Marion Packing Company, Marion  
\*Matkins Meats, Gibsonville  
\*Harold McLaughlin, Mooresville  
\*Meat Processors, Inc., Malden  
\*Micro Slaughter House, Micro  
\*Mount Airy Abattoir, Mount Airy  
\*Parker Meat Company, Vass  
\*Peacock Meat Company, Inc., Rocky Mount  
\*Price's Custom Meat, Hickory  
\*Quaker Brand Meats, Belvidere  
\*Rainbow Meat Products, Robersonville  
\*Sessoms Packing Company, Ahsokie  
\*Sluder's Packing Company, Asheville  
\*Southeastern Meat Processors, Inc., Whiteville  
\*Stallings Wholesale Meats, Elizabeth City  
\*Stewart's Abattoir, Mt. Airy  
\*Tabor City Freezers, Tabor City  
\*Thomas Brothers Abattoir, North Wilkesboro  
\*Town and Country Packing Company, Asheville  
\*Walter Bradley Packing Company, Dillsboro  
\*Ward's Slaughterhouse, Hendersonville  
\*Wayne Mays Meat Processing, Taylorsville



## \*White Packing Company, Salisbury

## OHIO

- \*B.A.A.R. Inc. dba Edgerton Locker Service, Edgerton
- \*Merle Bishop dba Bishop Locker & Abattoir Plant, Hamler
- \*Busse & Sons, Inc., Fort Loramie
- \*Caven's Meats, Inc., Conover
- \*Cuyahoga Meat Co., Cleveland
- \*DeLuca Slaughterhouse Establishment, Rayland
- \*William Enos dba Enos Meats, Cambridge
- \*Gibson Packing Co., Zanesville
- \*Samuel L. Gifford, Warren
- \*Hall Bros., Inc., Olmstead Falls
- \*Henderson Meats, Waterloo
- \*Henry Packing Company, Perrysburg
- \*Lancer Meat Processing Co., Inc., Troy
- \*Harold and Kenneth LePage dba LePage Meats, Cambridge
- Robert Lloyd dba Lloyd's Packing Company, Youngstown
- \*J. E. McConnell, David McConnell, & Kenneth McConnell, Richmond
- \*Emery Molnar, Jr.; Emery Molnar II, and Daniel G. Molnar dba Molnar Packing Company, Millbury
- \*Mahan Packing Company, Bristolville
- Edward B. Meloni dba Meloni's Packing, Kinsman
- \*Northmont Beef, Inc., Brookerville
- Joseph R. Nosse, Middlefield
- \*J. D. Pacer Packing Company, Toledo
- \*Gary Peden dba Peden's Meats, Kinsman
- \*Steve Polansky Market, Inc., Amherst
- \*Preferred Meats, Inc., Sardinia
- Pride of Lima Provision Co., Lima
- \*Ragers County Butcher Shop, Inc., Van Wert
- \*Carl C. Rittenberger, Sr., Inc., Zanesville
- \*Roberts Meats, Camden
- \*Rockford Locker Service, Rockford
- \*Routh Packing Co., Inc., Tiffin
- \*St. Mary's Cooperative Locker Service, Swanton
- Richard G. Sturges & Charles R. Ralston dba Sturges Packing Company, Kenton
- \*Superior Beef, Inc., Dayton
- \*Suter's Meat Market, Greenville
- \*Trenton Frozen Locker, Trenton
- \*Valley Packing Co., Inc., Lansing
- \*R. F. Vonderhaar dba Vonderhaar Markets, Inc., Fort Recovery
- \*Marjorie Weber dba Woodsfield Packing Company, Woodsfield
- \*Werling and Son, Inc., Burkettsville
- \*Winners Meat Farm, Greenville
- Robert Winner Sons, Inc., Osgood
- \*Zink Meat Products, Miamisburg

## OKLAHOMA

- \*Abbott Processing Plant, Gracemont
- \*A and J Meat Processing, Lawton
- \*Anchor Packing Company, Tulsa
- \*Apache Meat Processing, Inc., Apache
- \*Arctic Locker Plant, Davis
- \*Banfield & Tulsa, Tulsa
- \*Bauer & Son Slaughterhouse, Sand Springs
- \*Braden Packing Company, Ponca City
- \*Joe S. Brown & Sons Packing Company, Tulsa
- \*B.T.'s Packing Company, Chickasha
- \*Buerger Brothers Slaughterhouse, Oklahoma City
- \*Cable Meat Center, Marlow
- \*Calera Processing Plant, Calera
- \*Canadian Valley Meat Company, Oklahoma City
- \*C. H. Miller and Son Packing Company, Sapulpa

- \*Clinton Packing Company, Clinton
- \*Cosby's Meat Processing, Enid
- \*Davis Packing Plant, Stigler
- \*Dudley Tucker Slaughterhouse, Durant
- \*Enid Packing Company, Enid
- \*Fairfax Packing Company, Fairfax
- \*Fincannon and Son, Sand Springs
- \*Ft. Cobb Locker, Ft. Cobb
- \*Gibson Meat Company, Lawton
- \*Harris Packing Company, Oklahoma City
- \*Harymons Slaughter House, Tuttle
- \*Minco Meat Company, Minco
- \*Moore's Processing Plant, Antlers
- \*Moore's Processing Plant, Durant
- \*Mountain View Meat Company, Stillwell
- \*O'Brien Meat Company, Tulsa
- \*R & S Packing Company, Tonkawa
- \*Ralph Crane Packing Company, Perkins
- \*Green County Smoke House, Tahlequah
- \*Elmer Miller Packing Company, Covington
- \*Okmulgee Packing Company, Okmulgee
- \*Red Steer Processing Plant, Calumet
- \*Sterling Meat Company, Sterling
- \*Walker Meats, Carrollton
- \*Wickham Packing Company, Sapulpa
- \*Woods Meat Processing Plant, Westville
- \*W. R. Meat Company, Sulphur

## SOUTH CAROLINA

- \*Bishop Slaughterhouse, Erhardt
- \*Blue Ridge Beef, Belton
- \*Blue Ridge Beef Plant, Inc., Pageland
- \*C. G. Burbage Meats, N. Charleston
- \*Carolina Abattoir, Columbia
- \*Caughman Meat Plant, Lexington
- \*Cheraw Packing, Cheraw
- \*Childress Poultry Company, Lauren
- \*Coleman's Meats & Processing Company, Duncan
- \*Conway Refrigerator and Locker Company, Conway
- \*Cottingham Packing Company, Dillon
- \*Count's Sausage Company, Prosperity
- \*Cromer's Abattoir, Inman
- \*Edgefield Locker Plant, Inc., Edgefield
- \*Fountain Inn Frozen Food Plant, Inc., Fountain Inn
- \*Gilliam Provision Company, Inc., Pelzer
- \*G & W Packing Company, Hickory Grove
- \*Hemingway Refrigerator and Locker Company, Hemingway
- \*Holly Hill Locker Company, Holly Hill
- \*Kimmerlin Meats, Inc., Orangeburg
- \*Lancaster Frozen Foods, Inc., Lancaster
- \*Loris Cold Storage, Inc., Loris
- \*Lynn's Meat & Produce, Darlington
- \*Marvin Meats, Inc., Hollywood
- \*Mullins Food Processing Corp., Mullins
- \*Nichols Cold Storage, Nichols
- \*Oconee Abattoir, Seneca
- \*Palmetto Meat & Packing Company, Inc., Moncks Corner
- \*Ravenel Abattoir, Ravenel
- \*R & R Meats, Walterboro
- \*Richardson's Slaughter Plant, Gresham
- \*Saluda Frozen Food Center, Saluda
- \*Snowhill Processing Plant, Chesterfield
- \*South Carolina Department of Corrections, Columbia
- \*Sumter Frozen Foods, Inc., Sumter
- \*Union Packing Company, Inc., Union
- \*Vaughn Packing Company, Inc., Greer
- \*Walker Farms Abattoir, Anderson
- \*Weinburg's Sausage Plant, Darlington
- \*Williamsburg Packing Company, Kingstree
- \*Wilson Sausage Company, Florence
- \*Winn's Locker Plant, Estill
- \*Wright's Provision Company, Inc., Anderson

## TEXAS

- \*Allen's Wholesale Meats, Inc., McKinney

- \*Anderson Slaughterhouse & Processing, Inc., Sherman
- \*Atlanta Locker Plant, Atlanta
- \*Auge Packing Company, San Antonio
- \*Berryhill Packing Company, Inc., Leveland
- \*Burkes Quality Meats, Lufkin
- \*Caddo Packing Company, Inc., Marshall
- \*Graham Ice & Locker, Graham
- \*Haley's Meats, Crowley
- \*Hensley Packing Company, Denton
- \*Kay Packing Company, Inc., Houston
- \*Kleimann Meat Packing Company, Tomball
- \*Morton Packing Company, Morton
- \*Nemecek Brothers, West
- \*Peveo Packing Company, Orange
- \*Tyler Packing Company, Tyler
- \*Zummo Meat Company, Beaumont

## UTAH

- \*Dahl Brothers Packing Company, South Jordan
- \*Double D Pack, Inc., Brigham City
- \*Ellison Packing Company, Inc., Logan
- \*Lower Packing Company, Smithfield
- \*Dale T. Smith & Sons Meat Packing Company, Inc., Draper
- \*Spanish Fork Packing Company, Spanish Fork

## VIRGINIA

- George H. Meyer Sons, Inc., Richmond
- \*Lee Packing Company, Pennington Gap
- Meixels Meat Packing, Chesapeake
- \*Suffolk Packing Company, Inc., Suffolk

## WEST VIRGINIA

- \*Barnharts Beef & Pork, Hedgesville
- \*Bluegrass Dressing Plant, Lewisburg
- \*Camp Packing Company, Parkersburg
- \*Chadwick Slaughterhouse, Wayne
- \*Cloverdale Packing, Inc., Parkersburg
- \*DeVault Meat Packing, So. Morgantown
- \*Edens Slaughterhouse, Bills Creek, Winfield
- \*Edwards Custom Meats, Gallipolis
- \*Fancher's Meats, Shinnston
- \*Fotos and Company, Cranberry
- \*Gaspell Meats, Shinnston
- \*Greenbrier Foods dba Jeffries Slaughterhouse, Lewisburg
- \*Harkers Custom Slaughterhouse, Fairview
- \*Harris Meat Processing, Burlington
- \*Hawse Food Market, Moorefield
- \*Huffs Slaughterhouse, Delbarton
- \*Hyde's Meat Market, Enterprise
- \*Independent Dressed Beef Company, Inc., Morgantown
- \*Jones Custom Processing, Ona
- \*Frank Kidwiler Butcher Shop, Harpers Ferry
- \*Lambert Packing Company, Squire
- \*Livengood Slaughter House, Centenary
- \*S. S. Logan Packing Company, Huntington
- \*Lubeck Meat Packing, Inc., Lubeck
- \*L. M. McCown and Son, Charleston
- \*McDaniel Custom Butchering, West Columbia
- \*Martini Packing Company, Inc., Wheeling
- \*Murphy's Slaughters, Volga
- \*Nate Stuart and Son, Inc., Mt. Claire
- \*Rolf Custom Slaughterhouse, Ona
- \*Romney Slaughterhouse, Romney
- \*Rush's Custom Slaughterhouse, Fairview
- \*Smittle Packing, Paden City
- \*Solomon's Market, Fairview
- \*Spitznogle, Glen L., Slaughterhouse Establishment, Blacksville
- \*Staggs Meat Market, Burlington
- \*Steve Davis Custom Butchering, Fairview
- \*Thompson Brothers, Brushy Fork

- \*Tony's Packing Company, Beckley
- \*Vincent's Community Market, Shinnston
- \*Virt's Processing Plant, Bunker Hill
- \*Wade Meat Processing, Morgantown
- \*Wines Weston Meats, Weston
- \*Winfield Custom Slaughterhouse, Winfield
- \*E. G. Wolfe, Jr., Evans
- \*Woodell's Meats, Green Bank
- \*Yoho's Slaughterhouse, Pleasant Valley
- \*Young & Stout, Bridgeport
- \*Zien Farm, Irish Ridge

## WISCONSIN

- Bob's Country Market, Woodville
- Buster's Cheese House, Turtle Lake
- Central Packing Company, Sullivan
- \*Clinton Packing, Inc., Clinton
- Coenen Packing Company, Appleton
- Dreier's Meat Market, Black Creek
- Faust, Henry & Sons, Mayville
- Felder's Meats, Belgium
- Fennie Meat Plant, Colfax
- Foss Locker Plant, Sparta
- Green County Frozen Food, Monroe
- Hager's Locker Service, Siren
- Harry Hanson's Meat Market, Franksville
- Holland's Food and Locker Service, Juda
- Holmen Locker Service, Holmen
- Jay Dee Cutting, Rosholt
- Kimmes Hereford Farm, Superior
- \*Highway 45 Locker Plant, Inc., Antigo
- Lake Geneva Pack, Inc., Geneva
- Luck Meats and Locker Service, Luck
- Marcelle's Meats, Wausau
- Marchant Food, Inc., Brussels
- Paulus Market, Cedarburg
- \*Royal Meats, Watertown
- Sawyer Farm & Meat Plant, Inc., East Troy
- Schroedl's Market, Jefferson
- Seymour Meat Processing, Peshtigo
- J. Schams Company, La Crosse
- S & S Meats, Stoughton
- Stemmerdink Livestock Company, Oostburg
- \*Stricklers Market, New Glarus
- Super Lockers, Inc., Amery
- Tarleton Meat Products, Athelstane
- Thomson Packing Company, Inc., West De Pere
- Townsend-Piller Packing Co., Cumberland
- Weber's Processing Plant, Inc., Cuba City
- Weinstein's Packing Co., Superior
- \*Wunderlich Packing Co., Sharon

## SPECIFICALLY APPROVED STOCKYARDS

The following stockyards preceded by an asterisk are specifically approved for the purposes of §§ 78.7, 78.8, 78.12a, Title 9, Code of Federal Regulations, concerning brucellosis reactors, exposed cattle and cattle from quarantined areas, and for the purposes of §§ 78.9, 78.10, and 78.11 of said Title 9, concerning cattle not known to be affected with brucellosis, cattle from qualified herds, and cattle from herds of unknown status. The following stockyards not preceded by an asterisk are specifically approved for the purposes of §§ 78.9, 78.10, and 78.11, concerning cattle only from herds not known to be affected, cattle from qualified herds, and cattle from herds of unknown status, because these markets entered into a Memorandum of Understanding with the State and Veterinary Services containing standards which prohibit the handling of brucellosis reactors, exposed cattle, and

## ARIZONA

- \*Arizona Livestock Auction, Inc., Phoenix

## ARKANSAS

- \*Arkansas National Stockyards, Inc., Little Rock
- \*Ash Flat Livestock Auction, Inc., Ash Flat
- \*Atkins Livestock Auction, Atkins
- \*Batesville Livestock Auction, Inc., Batesville
- \*Beebe Auction Company, Beebe
- \*Bentonville Livestock Auction, Bentonville
- \*Boone County Livestock Auction, Harrison
- \*Carroll County Livestock Auction, Berryville
- \*Cattlemen's Livestock Market, Glenwood
- \*Central Arkansas Auction, Morrilton
- \*Clark County Livestock Auction Co., Arkadelphia
- \*Cleburne County L/S Auction, Heber Springs
- \*Cornling Livestock Auction, Inc., Cornling
- \*County Line Sale Barn, Inc., Ratcliff
- \*Decatur L. S. Auction, Decatur
- \*Drew County Auction Sale, Monticello
- \*Eudora Livestock Auction Company, Eudora
- \*Farmers Livestock Auction, Springdale
- \*Farmers and Ranchers Livestock Auction, Inc., Charlotte
- \*Farmers and Ranchers Livestock Auction, Mountain View
- \*Farmers & Ranchers Livestock Auction, Inc., Batesville
- \*Fulton County Auction, Salem
- \*Glover Livestock Commission Company, Pine Bluff
- \*Bob Gorden Livestock Auction, Mena
- \*Harrison Stockyard Auction, Inc., Harrison
- \*Hope L/S Auction, Inc., Hope
- \*Jonesboro Stockyard, Jonesboro
- \*Lewis Livestock Auction, Conway
- \*London Livestock Auction, London
- \*Magnolia Livestock Auction, Magnolia
- \*Meridith Livestock Auction, Inc., Pocahton
- \*Montgomery County Auction, Mt. Ida
- \*Montgomery Livestock Auction, Searcy
- \*Mountain Home Livestock Auction, Inc., Mountain Home
- \*Nettleton Stockyards, Jonesboro
- \*North Arkansas Livestock Auction, Green Forest
- \*Nuel Hill Livestock Auction, Batesville
- \*Ola Livestock Auction, Ola
- \*Paragould Stockyards, Inc., Paragould
- \*Purcell Livestock, Purcell
- \*Rector Auction Barn, Inc., Rector
- \*Rex White Livestock Auction, Russellville
- \*Saline-Ouachita Valley Commission Co., Warren
- \*Scott County Livestock Auction, Waldron
- \*Searcy County Auction Company, Marshall
- \*Shantz Livestock Auction, North Little Rock
- \*Siloam Springs Sale Barn, Siloam Springs
- \*Van Buren County Auction, Clinton
- \*Washington County Sales Company, Fayetteville

## COLORADO

- \*Alamosa Auction, Alamosa
- \*A. A. Blakley Livestock Commission Co., Inc., Denver
- \*Basin Livestock Commission Co., Inc., Durango
- \*Brush Livestock of Colorado, Inc., Brush
- \*Burlington Producers Livestock Marketing Assn., Burlington
- \*Calhan-Cash Auction Market, Calhan
- \*Cortez Livestock Auction, Inc., Cortez
- \*Delta Sales Yard, Delta



\*Denver Stockman's Market Company, Denver  
 \*Elizabeth Livestock Auction, Elizabeth  
 \*Farmer & Rancher Livestock Commission Co., Fort Collins  
 \*Fowler Auction Company, Fowler  
 \*Greeley Producers Association, Greeley  
 \*Hotchkiss Sale Yard, Hotchkiss  
 \*Kay National Western Livestock Market, Inc., Denver  
 \*K & R Livestock Commission Co., Broomfield  
 \*La Junta Livestock Commission Co., La Junta  
 \*Lamar Livestock Commission Co., Lamar  
 \*Limon Livestock Auction Company, Limon  
 \*Livestock Exchange, Inc., Brush  
 \*Longmont Sale Yard, Longmont  
 \*Monte Vista Livestock Commission Company, Inc., Monte Vista  
 \*Ranchland Livestock Commission Co., Inc., Wray  
 \*Rifle Livestock, Inc., Rifle  
 \*Salida Livestock Sales, Inc., Salida  
 \*Sterling Livestock Commission Co., Inc., Sterling  
 \*Stratton Livestock Marketing Center, Stratton  
 \*Tri-County Livestock Commission Company, Broomfield  
 \*Valley Livestock Auction Company, Fruita  
 \*Valley Livestock Auction Company, Grand Junction  
 \*Winter Livestock Commission Company, La Junta  
 \*Yuma Livestock Auction, Yuma  
 \*Zavislan Livestock Auction, Pueblo

## CONNECTICUT

Middlesex Livestock Auction, Durham  
 North Franklin Commission Sale, North Franklin

## DELAWARE

\*Carroll's Sales, Inc., Felton

## FLORIDA

Cattleman's Livestock Auction of Tampa, Inc., Tampa  
 \*Chipley Livestock Company, Chipley  
 \*Columbia Livestock Market of Lake City, Inc., Lake City  
 \*Interstate Livestock Auction Market, Inc., Seffner  
 \*Jacksonville Livestock Auction, Inc., Whitehouse  
 \*Jay Livestock Auction Market, Jay  
 \*Madison Livestock Auction Market, Inc., Madison  
 \*Monticello Livestock Market, Inc., Monticello  
 \*Neel & Edwards Livestock Company, Quincy  
 \*Tindel Livestock Auction Market, Inc., Graceville  
 \*West Florida Livestock Market, Inc., Marianna  
 \*Suwannee Valley Livestock Market, Live Oak

## GEORGIA

\*Bainbridge Auction Market, Inc., Bainbridge  
 \*Carroll County Livestock Sales Barn, Carrollton  
 \*Columbus-Muscogee Livestock Auction, Inc., Columbus  
 \*Coosa Valley Livestock Company, Rome  
 \*Franklin Country Livestock Market, Carnesville  
 \*Georgia Farmers Livestock, Cumming

\*Georgia Farm Products Sales Corp., Thomaston  
 \*La Grange Stockyards, La Grange  
 \*Lanierland Livestock Auction, Gainesville  
 \*North Georgia Farmers Livestock, Canton  
 \*Peoples Livestock Market, Inc., Cartersville  
 \*Pierce County Stock Yard, Inc., Blackshear  
 \*Seminole Livestock, Inc., Donaldsonville  
 \*Southwest Georgia Livestock Market, Inc., Camilla  
 \*Sumter Country Livestock Association, Americus  
 \*Valdosta Livestock Company, Valdosta  
 \*Wheeler Brothers Livestock Market, Eastonville

## IDAHO

\*Blackfoot Livestock Commission Co., Blackfoot  
 \*Boise Valley Livestock Commission Co., Caldwell  
 \*Bonners Ferry Livestock, Inc., Bonners Ferry  
 \*Cahce Valley Auction, Preston  
 \*Coeur d'Alene Livestock, Inc., Coeur d'Alene  
 \*Cottonwood Sales Yard, Cottonwood  
 \*Custer Country Livestock Marketing Assn., Mackay  
 \*Emmett Livestock Commission Co., Emmett  
 \*Gooding Livestock Commission Co., Gooding  
 \*Idaho Livestock Auction, Idaho Falls  
 \*Jerome Producer's Livestock, Jerome  
 \*Nampa Livestock Market, Inc., Nampa  
 \*Ranchers Auction Company, Inc., Twin Falls  
 \*Rexburg Livestock Auction, Inc., Rexburg  
 \*Salmon River Livestock Market, Salmon  
 \*Shoshone Salesyard, Inc., Shoshone  
 \*Spencer Livestock Commission Co., Lewiston  
 \*Treasure Valley Livestock Auction, Inc., Caldwell  
 \*Twin City Sales Yard, Inc., Lewiston  
 \*Twin Falls Livestock Commission Co., Twin Falls  
 \*Valley Livestock Commission Co., Rupert  
 \*Weiser Livestock Commission Co., Weiser

## ILLINOIS

\*Barnard Livestock Auction Market, Waukegan  
 \*Barry Livestock Marketing Center, Packer  
 \*Bloomington Livestock Commission Co., Bloomington  
 \*Breed's Livestock Sales, Elizabeth  
 \*Carthage Livestock Auction, Carthage  
 \*Chicago-Joliet Marketing Center, Inc., Joliet  
 \*Dameron Livestock Auction, Inc., Vienna  
 \*Danville Livestock Commission Co., Danville  
 \*Decker's Livestock, Inc., Milford  
 \*DeWane Livestock Exchange, Belvidere  
 \*Greenville Livestock, Inc., Greenville  
 \*Helmold Cattle Market, Brookport  
 \*Helmold Livestock Sales, El Paso  
 \*Illinois Auction Commission Company, Paris  
 \*Interstate Producers Livestock Association, Shelbyville  
 \*Jennings Sale Company, Macomb  
 \*Kankakee Livestock Company, Bourbonnais  
 \*Kewanee Sale Barn, Kewanee  
 \*Mercer County Livestock Auction, Viola  
 \*Olney Livestock Commission Co., Olney  
 \*Paris Livestock Sales Company, Paris  
 \*Peoria Union Stockyards Company, Peoria

\*Rock Island Auction Sales, Inc., Rock Island  
 \*Harry Schrader Marketing Center, Dakota  
 \*St. Louis National Stockyards Co., National Stockyards  
 \*United Market Center, Inc., Goreville  
 \*Winslow Marketing Center, Inc., Winslow

## INDIANA

\*Boswell Salebarn, Boswell  
 \*Claypool Sales, Inc., Silver Lake  
 \*Delta Livestock Auction & Commission Co., Fort Wayne  
 \*Evansville Union Stockyards Company, Inc., Evansville  
 \*Henry County Livestock Auction, New Castle  
 \*Indianapolis Livestock Market, Indianapolis  
 \*Lowell Livestock Auction, Lowell  
 \*Owen & Monroe Company Feeder, Gosport  
 \*Producers Livestock Assn., Vincennes  
 \*Producers Marketing Association, Inc., Centerville  
 \*Producers Marketing Association, Columbia  
 \*Producers Marketing Association, W. Lafayette  
 \*Producers Marketing Association, Montpelier  
 \*Producers Marketing Association, Terre Haute  
 \*Reynolds Salebarn, Reynolds  
 \*Rochester Sale Barn, Rochester  
 \*Shipsheana Livestock Auction, Shipsheana  
 \*Star Sale Barn, Greensburg  
 \*Stoney Pike Salebarn, Loganport  
 \*Topeka Livestock Auction, Inc., Topeka  
 \*Valparaiso Community Salebarn, Valparaiso

## IOWA

Ackley Sales Pavilion, Ackley  
 Adams County Livestock Auction, Corning  
 Adel Sales Pavilion, Adel  
 Albia Sales Company, Inc., Albia  
 Algona Livestock Auction & Exchange, Algona  
 Anamosa Livestock Auction Sales, Anamosa  
 Anita Livestock Auction Company, Anita  
 Aplington Livestock Sales Co., Inc., Aplington  
 Audubon County Livestock Exchange, Audubon  
 Avoca Auction Co., Avoca  
 Bedford Sales Co., Bedford  
 \*Belle Plaine Livestock Auction, Inc., Belle Plaine  
 \*Bingley Sale Co., Inc., Knoxville  
 Biell & Chapman Livestock Auction, Merville  
 Bloomfield Livestock Market, Inc., Bloomfield  
 Bradley Livestock Auction, Red Oak  
 Carroll Livestock Sales, Carroll  
 Cascade Sales Barn, Cascade  
 Centerville Sales Company, Centerville  
 \*Central Iowa Stockyards, Webster City  
 \*Chariton Sales, Inc., Chariton  
 Clarinda Auction Co., Clarinda  
 Phil Clark & Sons Sales Company, Knoxville  
 Colfax Livestock Sales Co., Colfax  
 Coggon Livestock Sales Co., Coggon  
 Cresco Livestock Market, Cresco  
 \*Creston Livestock Auction, Inc., Creston  
 Decorah Sales Commission, Decorah  
 Denison Livestock Auction, Denison  
 DeVries Auction, Buffalo Center  
 \*Dunlap Livestock Auction, Dunlap  
 Dyersville Sales Barn, Dyersville

Edgewood Sales Barn, Inc., Edgewood  
 \*Elkader Sales Barn, Elkader  
 Fairfield Livestock Commission, Fairfield  
 Farmers Auction Market, Eldora  
 Farmers Livestock Auction, Carroll  
 Forest City Cow Palace/Jennings Bros., Inc., Forest City  
 Greenfield Community Sale, Inc., Greenfield  
 Grinnell Livestock Exchange, Grinnell  
 \*Guthrie Stock Pavilion Company, Inc., Guthrie Center  
 Hampton Auction Sales, Hampton  
 Hawkeye Livestock Auction, Fairfax  
 The Hayes Cattle Co., Ida Grove  
 \*Humeston Livestock Auction, Humeston  
 Independence Sales Company, Inc., Independence  
 Interstate Producers Livestock Assn., Waukon

Iowa County Livestock Auction, Marengo  
 Irwin Commission Co., Irwin  
 Jansma & Van Kley, Sioux Center  
 Kalona Sales Barn, Inc., Kalona  
 Keoco Auction Co., Sigourney  
 \*Keosauqua Sale Co., Inc., Keosauqua  
 Kimballton Auction Co., Kimballton  
 \*Lamoni Livestock Sales Co., Lamoni  
 Le Mars Livestock Sales Co., Le Mars  
 Lenox Livestock Auction, Lenox  
 Leon Sales, Leon  
 Livestock Auction, Denison  
 Lizer Livestock Auction, Inc., Gowrie  
 Madison County Auction, Winterset  
 Manning Livestock Auction, Manning  
 Mapleton Livestock Sales Co., Mapleton  
 Maquoketa Sales Co., Inc., Maquoketa  
 Iowa Falls Livestock Sales, Iowa Falls  
 Massena Livestock Auction, Massena  
 Mechanicsville Sale Barn, Mechanicsville  
 Middletown Auction Sales, Inc., Middletown  
 Monticello Sales Barn, Monticello  
 Montezuma Sales Company, Inc., Montezuma  
 Moorhead Auction Company, Moorhead  
 Mount Ayr Livestock Market, Mount Ayr  
 Northeast Iowa Sales Commission, Waukon  
 North Iowa Livestock Exchange, Garner  
 New Liberty Livestock Market, Spirit Lake  
 \*New Liberty Livestock Auction, New Liberty

Northside Sales Co., Sibley  
 Oelwein Dairy Sales, Oelwein  
 Oelwein Livestock Exchange, Oelwein  
 Ollie Livestock Exchange, Ollie  
 Orient Sales Co., Inc., Orient  
 Osceola Sales Company, Osceola  
 Oskaloosa Livestock, Inc., Oskaloosa  
 Perry Sales Pavilion, Perry  
 Petersen Sheep & Cattle Company, Inc., Spencer  
 Riceville Sale Pavilion, Riceville  
 Rock Valley Sales Co., Rock Valley  
 Rubey Auction Company, Red Oak  
 Russell Sales Co., Inc., Russell  
 Sales Company of Hawarden, Inc., Hawarden  
 Sheldon Livestock Sales Company, Sheldon  
 Shenandoah Livestock Auction, Inc., Shenandoah  
 \*Sioux City Stockyards, Sioux City  
 Spencer Dairy Cattle Exchange, Spencer  
 Spencer Livestock Sales, Inc., Spencer  
 Stanton Livestock Auction Market, Stanton  
 Storm Lake Auction Co., Storm Lake  
 Story City Auction Sales, Inc., Story City  
 Stuart Sales Company, Stuart  
 \*Tama Livestock Auction, Inc., Tama  
 Thelen Cattle Company, Harlan  
 Thompson Livestock Commission Co., Inc., Davis City

Tri-State Livestock Auction Company, Inc., Sioux Center  
 Traer Auction Company, Inc., Traer  
 United Livestock Auction, Inc., Maquoketa  
 Van's Calf Farm, Hospers  
 Waitt Cattle Company, Sioux City  
 Walker Sales Company, Walker  
 \*Wapello Livestock Sales, Inc., Wapello  
 Washington Livestock Auction, Inc., Washington  
 Waverly Sale Company, Waverly  
 Wayland Livestock Auction Market, Wayland  
 West Union Auction Exchange, West Union  
 Winneshiek Co-op Sales Commission, Decorah  
 Jake Zoet Livestock Company, Sheldon.

## KANSAS

\*Allen County Livestock Auction, Gas City  
 \*Anderson County Sale Company, Garnett  
 \*Anthony Livestock Company, Anthony  
 \*Atchison Co. Auction Co., Inc., Atchison  
 \*Atwood Sale Barn Inc., Atwood  
 \*Beloit Livestock Auction, Inc., Beloit  
 \*Caldwell Community Sale, Caldwell  
 \*Cedar Vale Sales Company, Cedar Vale  
 \*Central Livestock Corporation, South Hutchinson  
 \*Chandler Livestock Auction, Smith Center  
 \*Circle "L" Livestock Sale, Liberal  
 \*Clay Center Livestock Company, Inc., Clay Center  
 \*Coffey County Livestock Market, Burlington  
 \*Coffeyville Livestock Sales Co., Inc., Coffeyville  
 \*Coffeyville Stockyards, Inc., Coffeyville  
 \*Colby Livestock Auction, Inc., Colby  
 \*Coldwater Commission Company, Coldwater  
 \*Council Grove Livestock Commission Co., Council Grove  
 \*Dighton Livestock Auction, Dighton  
 \*Dodge City Livestock Commission Co., Inc., Dodge City  
 \*Douglass Livestock Commission Co., Douglass  
 \*El Dorado Livestock Auction, El Dorado  
 \*Emmett Livestock Sales, Emmett  
 \*Emporia Livestock Sales Co., Inc., Emporia  
 \*Eureka Auction Sale, Eureka  
 \*Farmers and Ranchers Commission Company, Salina  
 \*Farmers Livestock Exchange, Inc., Wakarusa  
 \*Fort Scott Sale Company, Inc., Fort Scott  
 \*Franklin County Sale Company, Inc., Ottawa  
 \*Fredonia Livestock Sales Company, Inc., Fredonia  
 \*Garden City Livestock Market, Inc., Garden City  
 \*Glasco Livestock Exchange, Glasco  
 \*Goodland Livestock Commission Co., Goodland  
 \*Great Bend Livestock Commission, Inc., Great Bend  
 \*G and V Cattle Company, Elkhart  
 \*Hansen Livestock Auction, Concordia  
 \*Hays Livestock Market Center, Hays  
 \*Herington Livestock Commission Co., Herington  
 \*Hiawatha Auction Inc., Hiawatha  
 \*Hill City Sale Barn, Hill City  
 \*Hoxie Livestock Sales Co., Hoxie  
 \*Hutchinson Livestock Commission Co., Hutchinson  
 \*Holton Community Sale, Holton  
 \*Holton Livestock Exchange Inc., Holton  
 \*Iola Community Sale, Iola

\*J & J Commission Company, Effingham  
 \*Junction City Livestock Sales, Junction City  
 \*Kingman Community Sale, Kingman  
 \*Kiowa Sales Company, Inc., Kiowa  
 \*Larned Livestock Market Center, Larned  
 \*Lawrence Livestock Sale Co., Inc., Lawrence  
 \*Manhattan Commission Company, Inc., Manhattan  
 \*Mankato Livestock, Inc., Mankato  
 \*Marysville Livestock Commission Co., Marysville  
 \*McKinley-Winter Livestock Commission Company, Inc., Dodge City  
 \*Medicine Lodge Sale Co., Inc., Medicine Lodge  
 \*Miami County Livestock Co., Inc., Medicine Lodge  
 \*Miami County Livestock Co., Inc., Paola  
 \*Moline Auction Co., Inc., Moline  
 \*Norton Livestock Auction, Inc., Norton  
 \*Oakley Livestock Commission Co., Inc., Oakley  
 \*Oberlin Livestock Commission Co., Inc., Oberlin  
 \*Onaga Livestock Commission Company, Onaga  
 \*Osborne Livestock Commission Co., Inc., Osborne  
 \*Overbrook Livestock Auction, Overbrook  
 \*Parsons Livestock Auction, Inc., Parsons  
 \*Phillipsburg Sales Co., Inc., Phillipsburg  
 \*Plainville Livestock Commission Co., Inc., Plainville  
 \*Pratt Livestock Commission Co., Pratt  
 \*Quinter Livestock Commission Co., Quinter  
 \*Reynolds Livestock Sales, Abilene  
 \*Rezac Livestock Commission Company, St. Mary's  
 \*Rush County Livestock Sale, La Crosse  
 \*Russell Livestock Commission Company, Russell  
 \*Sabatha Livestock Auction, Sabatha  
 \*St. Francis Livestock Sales Company, St. Francis  
 \*The Stockmans Livestock Exchange, Bellville  
 \*Sylvan Sales Company, Inc., Sylvan Grove  
 \*Syracuse Sale Company, Syracuse  
 \*Wakeeney Livestock Commission Co., Inc., Wakeeney  
 \*Wichita Union Stockyards, Wichita  
 \*Winfield Livestock Auction Co., Inc., Winfield

## KENTUCKY

\*Albany Stockyards, Albany  
 \*Blue Grass Stockyards, Inc., Lexington  
 \*R. B. Berry and Son Livestock Company, Inc., Clinton  
 \*Bowling Green Livestock Market, Inc., Bowling Green  
 \*Bourbon Stockyards Company, Inc., Louisville  
 \*Bourbon Livestock Center, Bowling Green  
 \*Boyle County Stockyards, Danville  
 \*Breckinridge County Livestock Center, Irvington  
 \*Brown Livestock Company, Clinton  
 \*Bullitt County Stockyards, Shepherdsville  
 \*Burkesville, Stockyard, Burkesville  
 \*Carnes Livestock Market, Leitchfield  
 \*Catlettsburg Livestock Sales Co., Catlettsburg  
 \*Christian County Livestock Market, Inc., Hopkinsville  
 \*Clark County Livestock Market, Winchester  
 \*Clay-Wachs Stockyards, Lexington  
 \*Edmonton Livestock Market, Edmonton  
 \*Elizabethtown NFO Reload, Glendale



Faire Stockyard, Bardwell  
 \*Farmers Commission Company, Thompsonville  
 \*Farmers Livestock Market, London  
 \*Farmers Livestock Market, Mayfield  
 \*Farmers Livestock Market of Glasgow, Inc., Glasgow  
 \*Farmers Livestock Marketing Co-op, Russellville  
 \*Farmers Stockyard, Flemingsburg  
 \*Franklin-Simpson Livestock Company, Franklin  
 \*Garfield Auction Market, Harned  
 \*Garrard Stockyards Company, Lancaster  
 \*Glasgow Livestock Market, Glasgow  
 \*Good Day Stockyards, Princeton  
 \*Graves County Livestock, Inc., Mayfield  
 \*Grayson County Stockyard Market, Inc., Letchfield  
 \*Green County Stockyards, Greensburg  
 \*Hart County Livestock Market, Munfordville  
 \*Henry County Stockyard, Inc., Sulphur  
 \*Horse Cave Stockyard, Horse Cave  
 \*John M. Riley Livestock Market, Mayfield  
 \*Kentuckiana Livestock Market, Owensboro  
 \*Kentucky-Tennessee Livestock Market, Inc., Guthrie  
 \*King Livestock Company, Inc., Hopkinsville  
 \*Laurel Sales Company, London  
 \*Fred Madison and Sons Sale Barn, Bowling Green  
 \*Madison Sales Company, Richmond  
 \*Mammoth Cave Marketing Corporation, Smiths Grove  
 \*Mantle Stockyards, Bardwell  
 \*Maysville Stockyards, Maysville  
 \*Morganfield Stockyard, Morganfield  
 \*N.F.O. Collection Point, Walton  
 \*NFO Freedom Collection Point, Mt. Herman  
 \*New Farmers Livestock Market, Somerset  
 \*Ohio Valley Producers Livestock Association, Inc., Clinton  
 \*Owen County Stockyards, Owenton  
 \*Owsley County Stockyards, Booneville  
 \*Paducah Livestock Auction, Paducah  
 \*Paintsville Livestock Market, Paintsville  
 \*Paris Stockyards, Inc., Paris  
 \*Pennyrile Stockyard, Inc., Hopkinsville  
 \*Purchase Reload NFO, Fancy Farm  
 \*Ratcliff Stockyard, Mt. Sterling  
 \*Russell County Stockyards, Russel Springs  
 \*Schneider and Colston Sale Barn, Walton  
 \*Somerset and Pulaski County Livestock Market, Inc., Somerset  
 \*Taylor County Stockyards, Campbellsville  
 \*Washington County Livestock Center, Springfield  
 \*Wayne County Livestock Market, Monticello  
 \*West Kentucky Land & Cattle Company, Inc., Marion  
 \*Williamstown Stockyards, Inc., Williamstown

## LOUISIANA

\*Abbeville Commission Company, Abbeville  
 \*Amite Livestock Company, Inc., Amite  
 \*Bastrop Livestock Auction, Bastrop  
 \*Clark Livestock Commission Company, Benton  
 \*Delhi Livestock Auction, Inc., Delhi  
 \*DeQuincy Livestock Commission Co., DeQuincy  
 \*DeRidder Livestock Commission Co., DeRidder  
 \*A. Dominique's Cow Palace, Inc., Marksville  
 \*Dominique Stockyards, Inc., Baton Rouge  
 \*Dominique's Inc., Opelousas

\*Eunice Stockyards, Inc., Eunice  
 \*Fairchild Livestock Sales, Inc., dba North Tangipahoa Stockyard, Kentwood  
 \*Farmer & Stockman, Clarence  
 \*Franklin Livestock Auction, Winnsboro  
 \*Franklin Stockyards, Inc., Franklinton  
 \*Gulibeu-Kennedy Stockyards, Inc., Baton Rouge  
 \*Gulibeu-Kennedy Stockyards, Opelousas  
 \*W. H. Hodges & Company, Inc., Crowley  
 \*W. H. Hodges & Company, Inc., New Roads  
 \*W. H. Hodges & Company, Inc., Alexandria  
 \*Homer Livestock Sales, Inc., Homer  
 \*Jennings Tate Commission Barn, Inc., Ville Platte  
 \*Kentwood Livestock Sales, Kentwood  
 \*Livestock Producers, Inc., Bossier City  
 \*Bill Lyles Auction, Grand Cane  
 \*Lum Brothers Stockyards, Inc., Vidalia  
 \*Mansfield Livestock Auction, Mansfield  
 \*Michelle's Commission Yard, Inc., Lake Charles  
 \*Raceland Stockyards, Raceland  
 \*Red River Livestock Auction Company, Coushatta  
 \*Volron's Stockyard, Thibodaux  
 \*West Monroe Livestock Auction, Inc., West Monroe

## MAINE

Crosman's Livestock Sales, Corinna  
 Ben Tilton & Sons, Corinth

## MARYLAND

\*Aberdeen Sales Company, Inc., Aberdeen  
 \*Baltimore Livestock Exchange, West Friendship  
 \*Cumberland Stockyards, Inc., Cumberland  
 \*Farmers Livestock Exchange, Inc., Boonsboro  
 \*Farmers Market and Auction, Charlotte Hall  
 \*Four States Livestock Auction, Inc., Hagerstown  
 \*Frederick Livestock Auction, Inc., Frederick  
 \*Friend's Stockyards, Inc., Accident  
 \*Grantsville Community Auction, Inc., Grantsville  
 \*Hunters Sale Barn, Inc., Rising Sun  
 \*Harry Rudnick and Sons, Inc., Galena  
 \*Western Maryland Stock Yards, Inc., Westminster  
 \*Woodsboro Livestock Sales, Woodsboro

## MASSACHUSETTS

Farmers Live Animal Market Exchange, Inc. (FLAME), Littleton  
 \*Michelson's Livestock Commission Auction, Inc., South Easton  
 \*Northampton Coop. Auction Market, Whately

## MICHIGAN

Andy Adams Sale Barn, Hillsdale  
 Coldwater Livestock Auction, Coldwater  
 Dundee Agricultural, Dundee  
 Michigan Livestock Exchange, Cassopolis  
 Napoleon Livestock Auction, Napoleon

## MINNESOTA

Arends Sale Yard, Inc., Blue Earth  
 Benson Livestock Exchange, Benson  
 Canby Livestock Sales Company, Canby  
 East-Central Livestock Auction, Inc., Mora  
 Jim Erickson Livestock, Mabel  
 Farmers Livestock Auction Market, Caledonia  
 Ivanhoe NFO Collection Point, Ivanhoe  
 Kasson Livestock Exchange, Kasson

Lanesboro Sales Commission, Inc., Lanesboro  
 Lewiston Livestock Market, Lewiston  
 Long Prairie Livestock Auction Market, Long Prairie  
 Luverne Livestock Auction, Luverne  
 \*Pipestone Livestock Auction, Pipestone  
 Rush City Livestock Market, Inc., Rush City  
 \*St. Paul Union Stockyards, St. Paul  
 Spring Grove Livestock Exchange, Inc., Spring Grove  
 Spring Valley Sales Co., Inc., Spring Valley  
 Top Livestock Auction, Edgerton  
 Truman Livestock Sales, Truman  
 Zumbrota Livestock Auction Market, Inc., Zumbrota

## MISSISSIPPI

\*Alcorn County Stockyards, Corinth  
 \*Askew's Buying Station, Edwards  
 \*Baker Commission Company, Batesville  
 \*Billingsley Auction Sale, Inc., Senatobia  
 \*Booneville Commission Company, Booneville  
 \*C & R Farms, Inc., Meridian  
 \*Carl's Commission Company, Pontotoc  
 \*Cattle Incorporated, Hattiesburg  
 \*Central Livestock Company, Brandon  
 \*Central Mississippi Livestock Commission Company, Carthage  
 \*Chicasaw Livestock Auction, Inc., Houston  
 \*Corinth Livestock Commission Company, Corinth  
 \*Cow Palace, Inc., McComb  
 \*Dixie Stockyards, Inc., Meridian  
 \*East Mississippi Farmers Livestock Company, Philadelphia  
 \*Fairchild Livestock Sales, Inc., Hazlehurst  
 \*George County Stockyard, Inc., Lucedale  
 \*George Ford Stockyard, Pontotoc  
 \*Glynn Robinson Stockyard, Inc., West Point  
 \*Grenada Livestock Exchange, Grenada  
 \*Harrell Stockyard, Inc., Morton  
 \*Kosciusko Stockyard, Kosciusko  
 \*Laurel Stockyard, Laurel  
 \*Lexington Sales Company, Inc., Lexington  
 \*Lincoln County Livestock Commission, Inc., Brookhaven  
 \*Lipcomb Commission Company, Como  
 \*Livestock Producers Association, Tyler-town  
 \*Lum Commission Company, Vicksburg  
 \*Magnolia Cattle Company, Tupelo  
 \*Meridian Order Buyers, Meridian  
 \*Meridian Stockyards, Inc., Meridian  
 \*Mid-Mississippi Livestock Company, Canton  
 \*Mid-South Order Buyers, Jackson  
 \*Mississippi-Alabama Stockyard, Inc., Sallito  
 \*Mississippi Livestock Producers Assn., Jackson  
 \*Mississippi Order Buyers, Inc., Jackson  
 \*M and W Cattle Company, Starkville  
 \*M and W Cattle Company, Hattiesburg  
 \*Natchez Stockyards, Inc., Natchez  
 \*New Albany Sales Company, New Albany  
 \*Oxford Livestock Market, Inc., Oxford  
 \*Prairie Livestock, Inc., West Point  
 \*Quinn Cattle Company, Jackson  
 \*Quinn & Son Stockyard, Jackson  
 \*Percy Quinn Stockyard, Inc., Jackson  
 \*Ranchers & Farmers Livestock Commission Co., Macon  
 \*Ranchers & Farmers Livestock Commission Company of Starkville, Starkville  
 \*Ripley Sales Company, Guntown  
 \*Ross Cattle Company, Inc., Terry  
 \*S & A Livestock, Inc., Tupelo  
 \*Smith Brothers Stockyard, Inc., Poplarville

## MISSOURI

\*Southeast Mississippi Livestock Farmers Assn., Hattiesburg  
 \*Southwest Stockyard, Port Gibson  
 \*Stockyard Beef Sales, Inc., Tupelo  
 \*Stockyard Dairy Sales, Inc., Tupelo  
 \*Stringer Sale Barn, Columbia  
 \*Tadlock Stockyards, Forest  
 \*Tri-County Stockyards, Inc., Tupelo  
 \*Tri-State Stockyards, Inc., Greenville  
 \*Walnut Sales Company, Walnut  
 \*Wilbanks Stockyard, Carthage  
 \*Winona Stockyard, Winona  
 \*Winston County Community Sale, Louisville

\*Adair County Livestock Market Center, Kirksville  
 Alton Sale Company, Alton  
 \*Ava Sales Company, Ava  
 \*Beck and McCord Auction Company, Sikeston  
 Benton County Producers Association, Warsaw  
 Blansit Dairy Cattle Company, Inc., Ozark  
 Bollinger County Livestock Producers Association, Marble Hill  
 \*Boonville Livestock Auction, Boonville  
 \*Brookfield Livestock Auction, Inc., Brookfield  
 \*Brunswick Sale Company, Brunswick  
 Buffalo Livestock Auction, Buffalo  
 \*Cabool Livestock Market, Cabool  
 Callao NFO Collection Point, Callao  
 \*Callaway Stock Sales Co., Fulton  
 \*W. R. Cantrell & Sons Sale Co., Archie  
 \*Carrollton Livestock Auction, Carrollton  
 \*Cassville Livestock Market, Inc., Cassville  
 \*Cattlemen Auction Company, Inc., Humansville  
 \*Central Livestock Market of Poplar Bluff, Poplar Bluff  
 \*Central Missouri Livestock Auction, Inc., Mexico  
 \*Central Missouri Sales Company, Sedalia  
 \*Central Ozarks Livestock Market, Inc., West Plains  
 \*Chillicothe Livestock Market, Chillicothe  
 \*Circle 8 Livestock Market, Stanberry  
 \*City Scales, West Plains  
 \*Clark County Sales Company, Kahoka  
 \*Columbia Livestock Auction Market, Inc., Columbia  
 \*Concordia Livestock Auction, Concordia  
 Dent County Livestock Improvement Assn., Salem  
 \*Downing Stockyards, Downing  
 \*Edina Auction Market, Inc., Edina  
 \*El Dorado Sales Company, El Dorado Springs  
 Fair Play Livestock Auction, Fair Play  
 \*Farmers Auction Company, Mountain View  
 Farmers and Traders Commission Co., Inc., Palmyra  
 \*Farmington Auction Market, Farmington  
 Five County Collection Center, Inc., Mountain Grove  
 4 Corners Collection Point (NFO), Hunnewell  
 Fortuna NFO Collection Point, Fortuna  
 Four State Livestock Auction Center, Inc., Diamond  
 Four Rivers Collection Point, Labadie  
 \*Four-Square Markets, Inc., Marshall  
 \*Franklin County Livestock Association, Sullivan  
 Bob Franklin Sale Barn, Buffalo  
 \*Fredericktown Auction Company, Inc., Fredericktown  
 \*Fruitland Livestock Market, Inc., Jackson  
 \*Gallatin Livestock Auction, Gallatin

Gasconade County Livestock Improvement Association, Owensville  
 \*Donald Ghene Marketing Facility, Butler  
 Grant City Livestock Market, Grant City  
 \*Green City Auction Market, Inc., Green City  
 Howard County NFO Collection Point, Armstrong  
 \*Interstate Livestock Market, Inc., Bethany  
 Interstate Producers Livestock Association, Cuba  
 Interstate Producers Livestock Association, Perryville  
 Interstate Producers Livestock Association, Silva  
 \*Ireland & Thorne Livestock Market Center, Inc., Trenton  
 \*Johnson County Livestock Market, Warrensburg  
 \*Joplin Stockyards Inc., Joplin  
 \*Kahoka Sale Company, Inc., Kahoka  
 \*Kansas City Stockyards Company, Kansas City  
 Kennett Sales Company, Inc., Kennett  
 \*Kingsville Livestock Auction, Kingsville  
 Kingsville NFO Collection Point, Kingsville  
 \*Kirkville Community Sale, Inc., Kirkville  
 Laclede County Livestock Association, Lebanon  
 LaMonte NFO Livestock, LaMonte  
 \*Lewis County Auction Company, Lewis-town  
 \*Lexington Livestock Auction, Lexington  
 \*Licking Livestock Sales, Inc., Licking  
 Lindsay Livestock Auction, Inc., Lebanon  
 Lockwood Community Sales, Lockwood  
 \*Lolli Sale Pavilion, Macon  
 \*Mansfield Livestock Auction, Inc., Mansfield  
 Maries County Livestock Producers Association, Vienna  
 \*Marshall Livestock Auction, Marshall  
 Maysville NFO Collection Point, Amity  
 Mercer County Producers Association, Princeton  
 \*Mercer County Sale Company, Princeton  
 Meta Collection Point, Inc., Meta  
 MFA Livestock Association, Inc., Humansville  
 Midstates Livestock Market, Inc., Maryville  
 \*Mid-West Livestock Market, Inc., Nevada  
 \*Moberly Auction Company, Moberly  
 \*Montgomery County Livestock Auction Co., Montgomery City  
 C. H. Moore & Son Livestock Yards, Memphis  
 \*Nevada Livestock Auction Company, Inc., Nevada  
 \*New Cambria Livestock Auction Market, New Cambria  
 NFO Collection Point, Memphis  
 \*Odessa Community Sale, Odessa  
 \*Olean Livestock Market, Inc., Eldon  
 Oregon Livestock Sales Company, Oregon  
 Osage County Livestock Producers Association, Linn  
 \*Palmyra Livestock Auction Market, Inc., Palmyra  
 \*Pasley Auction Company, Osceola  
 Phelps County Livestock Improvement Association, St. James  
 Bob Pierce Sale Barn, Buffalo  
 \*Pike County Livestock Market, Bowling Green  
 \*Poplar Bluff Sales Company, Inc., Poplar Bluff  
 \*Potosi Livestock Market, Potosi  
 Charles Reed Livestock, Mountain Grove  
 Putman County Livestock Marketing Association, Unionville  
 Puxico Stockyards & Auction Company, Puxico

Reynolds County Livestock Producers Association, Ellington  
 \*Rich Hill Sales Company, Rich Hill  
 Richland Livestock, Richland  
 Ripley County Livestock Producers Association, Inc., Doniphan  
 Roberts Brothers Auction, Bolivar  
 Rock Port Sales Pavilion, Inc., Rock Port  
 \*Saint Joseph Stockyards, St. Joseph  
 \*Salem Auction, Salem  
 Savannah Sales Company, Savannah  
 \*St. Clair Livestock Auction, St. Clair  
 \*Scotland County Livestock Auction, Memphis  
 \*Seaton Auction, Inc., Nixa  
 \*Sedgewickville Auction Market, Inc., Sedgewickville  
 \*Shelbina Auction Company, Shelbina  
 Sho-Me Feeder Pigs, Inc., Thayer  
 \*Ed Smith's Auction Service, Mountain Grove  
 \*South Central Livestock Market, Inc., Vienna  
 \*Stewart Sale Pavilion, Cameron  
 St. James Auction Company, St. James  
 Ste. Genevieve Livestock Producers Assn., Ste. Genevieve  
 Ste. Genevieve Livestock Collection Point, Ste. Genevieve  
 \*Sullivan County Livestock Auction Market, Milan  
 \*Summersville Livestock Market, Summersville  
 \*Union Stockyards Company, Inc., Springfield  
 \*Unionville Sale Company, Unionville  
 \*Versailles Auction Company, Versailles  
 Washington County Producers Association, Potosi  
 Warsaw Auction Company, Warsaw  
 Wayne County Livestock Producers Association, Greenville  
 Western Missouri Feeder Calf Association, Appleton City  
 Wheaton Livestock Auction, Wheaton  
 \*Windsor Auction Company, Windsor

## MONTANA

\*Beaverhead Livestock Market, Inc., Dillon  
 \*Billings Livestock Commission Company, Inc., Billings  
 \*Blitterroot Livestock Market, Hamilton  
 \*Glendive Livestock Sales Company, Glendive  
 \*Kalispeil Livestock Auction, Kalispell  
 \*Livestock Auction, Inc., Baker  
 \*Miles City Livestock Center, Miles City  
 \*Missoula Livestock Auction Company, Missoula  
 \*Montana Livestock Auction, Inc., Butte  
 \*Public Auction Yards, Billings  
 \*Sidney Livestock Market Center, Sidney

## NEBRASKA

\*Ainsworth Livestock Market, Ainsworth  
 \*Alma Livestock Commission Company, Alma  
 \*Atkinson Livestock Market, Atkinson  
 \*Bassett Livestock Auction, Bassett  
 \*Beatrice 77 Livestock Sales Company, Beatrice  
 \*Beatrice Sales Pavilion, Beatrice  
 \*Blue Hill Livestock, Blue Hill  
 \*Butte Livestock Market, Butte  
 \*Chadron Sales Company, Inc., Chadron  
 \*Chappell Livestock Auction, Chappell  
 \*Columbus Sales Pavilion, Inc., Columbus  
 \*Crawford Livestock Auction Market, Crawford  
 \*Crete Livestock Market, Crete  
 Curtis Livestock Market, Curtis  
 \*Fairbury Livestock Company, Fairbury



\*Falls City Auction Company, Inc., Falls City  
 \*Farmers Livestock Sales Company, Benkelman  
 \*Franklin Livestock Market, Inc., Franklin  
 \*Gordon Livestock Auction Company, Gordon  
 \*Gothenburg Market Center, Gothenburg  
 \*Grand Island Livestock Auction, Inc., Grand Island  
 \*Hebron Livestock Commission Company, Hebron  
 \*Holdrege Livestock Auction Market, Holdrege  
 \*Holdrege Livestock Commission Company, Holdrege  
 \*Humboldt Sale Barn, Humboldt  
 \*Huss Platte Valley Auction, Inc., Kearney  
 \*Imperial Auction Market, Imperial  
 \*Kearney Livestock Commission Company, Inc., Kearney  
 \*Kimball Livestock Auction Company, Kimball  
 \*Laurel Livestock Sales Company, Laurel  
 \*Lexington Livestock Market, Lexington  
 \*Midwest Livestock Commission Company, Inc., McCook  
 \*Nebraska City Sale Barn, Inc., Nebraska City  
 \*Norfolk Livestock Market, Norfolk  
 \*Ogallala Livestock Auction Market, Ogallala  
 \*Omaha Livestock Market, Inc., Omaha  
 \*O'Neill Livestock, Inc., O'Neill  
 \*Oxford Livestock Commission Company, Oxford  
 \*Pawnee Livestock, Inc., Pawnee City  
 \*Pender Livestock, Inc., Pender  
 \*Platte Valley Livestock Auction, Inc., Gering  
 \*Red Cloud Livestock Commission Co., Inc., Red Cloud  
 \*Sheridan Livestock Commission Company, Rushville  
 \*Sioux County Livestock Auction, Harrison  
 \*Superior Livestock Commission Company, Inc., Superior  
 \*Sutton Livestock Commission Company, Sutton  
 \*Syracuse Sales Pavilion, Inc., Syracuse  
 \*Tecumseh Livestock Market, Inc., Tecumseh  
 \*Tri-State Livestock Commission Company, McCook  
 \*Valentine Livestock Auction Co., Inc., Valentine  
 \*Verdigris Livestock Market, Verdigris  
 \*Wahoo Livestock Auction Company, Wahoo  
 \*West Point Sales Company, West Point  
 \*Wells Commission Company, Fremont  
 \*Western Livestock Auction Company, North Platte  
 \*York Livestock Sales Company, York

## NEW JERSEY

\*Community Livestock Auction, Woodstown  
 \*Jaeger's Livestock Auction Market, Sussex  
 \*Livestock Cooperative Auction Market Assn. of North Jersey, Inc., Hackettstown

## NEW MEXICO

\*Clovis Livestock Market, Clovis  
 \*Five States Livestock Auction, Clayton  
 \*Las Vegas Livestock Commission Company, Inc., Las Vegas  
 \*Lea County Livestock Market, Lovington  
 \*Portales Livestock Commission Company, Portales  
 \*Ranchers and Farmers Livestock Auction, Clovis

Roswell Livestock Auction Company, Roswell  
 \*Socorro Livestock Market, Inc., Lemitar

## NORTH CAROLINA

Ashe Stockyards Company, Inc., Jefferson  
 Benson Hog and Livestock Market, Benson  
 Brite & Tatum Livestock Co., Elizabeth City  
 Carolina Stockyards Company, Siler City  
 Cattleman's Livestock Yard, Inc., Canton  
 Carolina-Virginia Stockyard, Windsor  
 Central Carolina Farmers Livestock Market, Hillsborough  
 William A. Crofton Livestock, Lumberton  
 Dedmon's Livestock Yard, Shelby  
 Farmers Cooperative Livestock Market, Lexington  
 Farmers Livestock Barn, Kannapolis  
 Farmers Livestock Exchange, Marshville  
 D. F. Foust Livestock Auction Market, Greensboro  
 Franklin Livestock Auction, Franklin  
 Hickory Livestock and Commission Company, Hickory  
 Iredell Livestock Company, Turnersburg  
 Kinston Stockyard, Kinston  
 Gus Z. Lancaster Stockyards, Inc., Rocky Mount  
 Lumberton Auction Company, Lumberton  
 MCM Livestock, Inc., Whiteville  
 Mountain Livestock Auction, Murphy  
 Mount Airy Livestock Market, Mount Airy  
 New River Livestock Market, Boone  
 Norwood Stockyard at Charlotte, Charlotte  
 Norwood Stockyard, Inc., Norwood  
 Oxford Livestock Market, Inc., Oxford  
 Pates Stockyards, Inc., Pembroke  
 Powell Livestock Company, Smithfield  
 Reaves Livestock, Inc., Rowland  
 Riley's Livestock Market, North Wilkesboro  
 Shelby Sales Barn, Shelby  
 Tommie Turner Livestock Market, Pink Hill  
 Trenton Livestock, Inc., Richlands  
 Union County Livestock Auction, Inc., Mineral Springs  
 Western Carolina Livestock Market, Asheville

## NORTH DAKOTA

\*Ashley Livestock Sales Company, Ashley  
 \*Bowman Livestock Auction Market, Bowman  
 \*Carrington Livestock Sales, Inc., Carrington  
 \*Edgeley Livestock, Inc., Edgeley  
 \*Ellendale Livestock Sales Company, Ellendale  
 \*Harvey Livestock Auction, Harvey  
 \*Jamestown Livestock Sales, Jamestown  
 \*Kist Livestock Auction Company, Mandan  
 \*Lake Region Auction and Livestock Market, Inc., Devils Lake  
 \*Linton Livestock Sales, Inc., Linton  
 \*Lorenz Livestock Sales, Hazen  
 \*McQuade Livestock, Wahpeton  
 \*Minot Livestock Auction, Inc., Minot  
 \*Missouri Slope Livestock Auction, Inc., Bismarck  
 \*Napoleon Livestock Auction, Napoleon  
 \*Park River Livestock Exchange, Park River  
 \*Rugby Livestock Auction Market, Inc., Rugby  
 \*Stockmen's Livestock Exchange, Inc., Beulah  
 \*Stockmen's Livestock Exchange, Inc., Dickinson  
 \*Sitting Bull Auction Company, Williston  
 \*Tri-State Auction Market, Inc., Hettinger  
 \*Triple S Cattle Company, Inc., Valley City  
 \*Turtle Lake Livestock Sales, Inc., Turtle Lake  
 \*Uecker Livestock Yards, Inc., Hettinger

\*Union Stockyards Company of Fargo, West Fargo  
 \*Watford City Livestock Auction, Inc., Watford City  
 \*Western Livestock Company, Dickinson  
 \*Wishek Livestock Market, Inc., Wishek

## OHIO

Armstrong Farm's Products, Inc., Seaman  
 Athens Livestock Sales, Inc., Albany  
 Barnesville Livestock, Barnesville  
 Glenn Bircher dba Carrollton Livestock, Carrollton  
 Earl R. & Diance E. Carpenter dba Bloomfield Livestock Auction, North Bloomfield  
 Cincinnati Union Stockyard Company, Cincinnati  
 Creston Livestock Sales, Inc., Creston  
 Delta Livestock Auction & Commission Co., Delta  
 Farmers Livestock Auction Co., Inc., Marietta  
 Farmerstown Sale, Inc., Baltic  
 Geauga Livestock Commission, Inc., Middlefield  
 Granville Livestock Sales, Inc./W. Munson, Granville  
 Richard L. Harshbarger dba Degraff Livestock Sales, Degraff  
 Kenton Farmers Marketing Co., Kenton  
 Kidron Auction, Inc., Kidron  
 Lugbill Bros., Inc., Archbold  
 Lugbill Bros., Inc., Columbus Grove  
 Middendorf Inc. dba Western Ohio Livestock, Celina  
 Mt. Hope Auction, Div. Wayne Door Company, Mt. Hope  
 Muskingum Livestock Sales Company, Zanesville  
 William W. Osborne dba Sugarcreek Livestock Auction, Sugarcreek  
 Producers Livestock Association, Bucyrus  
 Producers Livestock Association, Circleville  
 Producers Livestock Association, Coshocton  
 Producers Livestock Association, Eaton  
 Producers Livestock Association, Findlay  
 Producers Livestock Association, Hillsboro  
 Producers Livestock Association, Lancaster  
 Producers Livestock Association, Marysville  
 Producers Livestock Association, Mount Vernon  
 Producers Livestock Association, Springfield  
 Producers Livestock Association, Wapakoneta  
 Producers Livestock Association, Washington Court House  
 Producers Livestock Association, Wilmington  
 Scio Auction Market, Scio  
 Glenn Shreve & Larry C. Shreve dba Damascus Livestock Auction, Damascus  
 Thomas J. Stewart & C. E. Johnson dba Ohio Valley Livestock Company, Gallipolis  
 Stockyards, Inc. dba Champign Livestock Sales, Urbana  
 Tri-State Farms, Inc. dba Interstate Farmers Livestock Company, Oxford  
 The Union Stock Yards Co., Hillsboro  
 James H. Wilson & Thomas H. Wilson dba Peoples Livestock Exchange, Greenville  
 Woodsfield Livestock Sales, Inc., Woodsfield  
 Zanesville Community Sales Co., Inc., Zanesville

## OKLAHOMA

\*Ada Livestock, Ada  
 \*Adair County Livestock Auction, Stilwell  
 \*Antlers Livestock, Antlers  
 \*Apache Livestock Sale, Apache  
 \*Ardmore Livestock Auction, Ardmore  
 \*Atoka Livestock, Atoka

\*The Beaver Livestock Sale, Beaver  
 \*Blackwell Livestock Auction, Blackwell  
 \*Carnegie Livestock Auction, Carnegie  
 \*Chandler Auction Co., Inc., Chandler  
 \*Cherokee Sales Company, Cherokee  
 \*Clinton Livestock Auction, Clinton  
 \*Collinsville Livestock Exchange, Collinsville  
 \*Covington Commission Sales Co., Covington  
 \*Delaware County Livestock Auction, Inc., Grove  
 \*Dewey Livestock Sale, Inc., Dewey  
 \*Durant Livestock, Durant  
 \*Enid Livestock Market, Inc., Enid  
 \*Fairfax Livestock Auction, Fairfax  
 \*Fairview Sale Barn, Fairview  
 \*Farmers and Ranchers Livestock Auction, Vinita  
 \*Farmers and Ranchers Stockyards, Comanche  
 \*Fort Smith Stockyards, West Fort Smith  
 \*Freeman Livestock Auction, Sulphur  
 \*Geary Livestock Auction, Geary  
 \*Grandfield Stockyards, Grandfield  
 \*Hennessey Sale, Hennessey  
 \*Hobart Stockyards, Hobart  
 \*Holdenville Livestock, Holdenville  
 \*Hollis Livestock Commission Company, Hollis  
 \*Hugo Sales Commission, Inc., Hugo  
 \*Idabel Livestock Auction, Idabel  
 \*Lawton Stockyards, Lawton  
 \*LeFlore County Livestock Auction, Wister  
 \*Mangum Livestock Auction, Inc., Mangum  
 \*Marietta Livestock Auction, Marietta  
 \*Marlow Livestock Auction, Marlow  
 \*McAlester Union Livestock, McAlester  
 \*Meeker Livestock Market, Meeker  
 \*Mid-America Stockyards, Bristow  
 \*Muskogee Stockyard, Muskogee  
 \*New Tulsa Stockyards, Tulsa  
 \*Newkirk Sales Company, Newkirk  
 \*Northeast Oklahoma Feeder Pig and Livestock Auction, Leach  
 \*Oklahoma Auction Center, Chickasha  
 \*Oklahoma Auction Yards, Hominy  
 \*Oklahoma National Stockyards Company, Oklahoma City  
 \*Oklahoma Livestock Auction, Okmulgee  
 \*Panhandle Livestock Commission, Guymon  
 \*Pauls Valley Livestock, Pauls Valley  
 \*Pawnee Livestock Market Center, Inc., Pawnee  
 \*Perkins Y Livestock Auction, Inc., Perkins  
 \*Perry Livestock Center, Inc., Perry  
 \*Poor Boy Livestock Auction, Wister  
 \*Pryor Stockman's Auction, Pryor  
 \*Purcell Livestock, Purcell  
 \*Ringling Livestock Auction, Ringling  
 \*Sallisaw Sale Barn, Sallisaw  
 \*Sayre Livestock Auction, Sayre  
 \*Seffing Sales Association, Inc., Seffing  
 \*Snyder Stockyards, Snyder  
 \*South Coffeyville L/S Market, Inc., South Coffeyville  
 \*Stigler Sale Barn, Stigler  
 \*Tahlequah Sale Barn, Tahlequah  
 \*Texhoma Livestock Commission Company, Inc., Texhoma  
 \*Tillman County Stockyards, Inc., Frederick  
 \*Tonkawa Livestock Exchange, Tonkawa  
 \*Triangle Livestock Company, Alva  
 \*Watonga Livestock Commission, Inc., Watonga  
 \*Waurika Livestock Market, Waurika  
 \*Welch Livestock Auction, Welch  
 \*Western Livestock Auction, Elk City  
 \*Woodward Livestock Auction Market, Inc., Woodward

## PENNSYLVANIA

Belleville Livestock Market, Inc., Belleville  
 Belknap Livestock Market, Inc., Dayton  
 Edgar K. Black, Skippack  
 K. M. Border, Dover  
 Carlisle Livestock Market, Inc., Carlisle  
 Cattle Sales, Inc. dba Scenery Hill Stockyards, Scenery Hill  
 Chambersburg Livestock Sales, Inc., Chambersburg  
 Chesley's Sales, Inc., Northeast  
 Cwoanesque Valley Livestock Auction, Knoxville  
 Wayne F. Craig & Sons, Shippensburg  
 Danville Cattle Co., Inc., Danville  
 Dewart Livestock Market, Dewart  
 Eighty-Four Auction Sales, Inc., Eighty-Four  
 Enon Valley Community Sales, Enon Valley  
 Fayette Stockyard, Inc., Uniontown  
 G & M Livestock Market, Inc., Duncansville  
 Greencastle Livestock Market, Inc., Greencastle  
 Green Dragon Livestock Sales, Ephrata  
 Hickory Auction and Sales, Inc., Hickory  
 Indiana Livestock Market, Inc., Indiana  
 Jersey Shore Livestock, Inc., Jersey Shore  
 Keister's Middleburg Auction Sales, Inc., Middleburg  
 Lancaster Stockyards, Inc., Lancaster  
 Lebanon Valley Livestock Market, Inc., Frederickburg  
 Leesport Market & Auction, Inc., Leesport  
 Meadville Livestock Auction, Saegertown  
 Mercer Livestock Auction, Mercer  
 C. Robert Miller, Watsontown  
 Morrison Cove Livestock Market, Martinsburg  
 New Holland Sales Stables, Inc., New Holland  
 New Wilmington Livestock Auction, Inc., New Wilmington  
 Nicholson Sales Company, Nicholson  
 Penns Valley Livestock Auction, Inc., Centre Hall  
 Pennsylvania Livestock Auction, Inc., Waynesburg  
 Perkiomenville Livestock and Sales, Inc., Perkiomenville  
 Quakertown Livestock Sale, Quakertown  
 Sechrist Sales Company, Fawn Grove  
 W. R. Sellers Livestock, Greencastle  
 Thomasville Livestock Market, Inc., York  
 Tri-County Livestock Auction, Inc., Brockway  
 Troy Sales Co-operative, Troy  
 Union City Livestock Auction, Union City  
 Valley Stock Yards, Inc., Athens  
 Vintage Sales Stables, Inc., Paradise  
 Wayne County Auction Barn, Inc., Honesdale  
 Weikert's Livestock, Fairfield  
 Wyalusing Livestock Market, Wyalusing

## SOUTH CAROLINA

P. L. Bruce Livestock Market, Greenville  
 Central Carolina Livestock Market, Inc., Lugoff  
 Chesnee Livestock Co., Chesnee  
 Darlington Auction Market, Darlington  
 Farmers County Line Stockyard, Andrews  
 Farmers Livestock Market, Inc., Leesville  
 Farmers Market, Estill  
 Greenwood Livestock Market, Inc., Greenwood  
 Herndon Stockyards, Inc., Ehrhardt  
 Hutto Stockyards, Inc., Holly Hill  
 Neeses Stockyards, Neeses  
 Orangeburg Stockyards, Inc., Orangeburg  
 Saluda County Stockyards, Inc., Saluda  
 Spartanburg Livestock Yards, Spartanburg  
 Springfield Stockyards, Inc., Springfield

John C. Taylor Stockyards, Anderson  
 Walterboro Stockyards Co., Inc., Walterboro  
 York County Stockyards Sales, Inc., York

## SOUTH DAKOTA

Burke Livestock Auction, Burke  
 Canton Livestock Sales Company, Canton  
 Chamberlain Livestock Sales, Inc., Chamberlain  
 Corsica Livestock Sales Company, Corsica  
 Gregory Livestock Auction Market, Gregory  
 Kimball Livestock Exchange, Kimball  
 Magness-Huron Livestock Exchange, Inc., Huron  
 Martin Auction Co., Inc., Martin  
 Mitchell Livestock Auction Company, Mitchell  
 Mobridge Livestock Auction, Inc., Mobridge  
 Philip Livestock Auction, Philip  
 Sioux Falls Stockyards Company, Sioux Falls  
 Stockman's Livestock Auction Company, Yankton  
 Winner Livestock Auction Company, Winner  
 Yankton Livestock Auction Market, Yankton

## TENNESSEE

\*Algood Stockyard, Algood  
 \*Athens Livestock Auction, Athens  
 \*Botts & Evans Livestock Company, Union City  
 \*Chattanooga Union, Chattanooga  
 \*Clarksville Livestock Company, St. Bethlehem  
 \*Clarksville Livestock Market, Clarksville  
 \*Cleveland Livestock Auction Co., Inc., Cleveland  
 \*C & M Livestock Market, Jamestown  
 \*Coffee County Livestock Market, Manchester  
 \*Collierville Livestock Auction Company, Collierville  
 \*Collins Cattle Company, Obion  
 \*Covington Sale Co., Covington  
 \*Crockett County Sales Co., Maury City  
 \*Cumberland City Stockyard, Cumberland City  
 \*De Kalb County Livestock Co., Alexandria  
 \*Dickson Livestock Center, Dickson  
 \*East Tennessee Livestock Center, Sweetwater  
 \*Farmers Auction, Fayetteville  
 \*Farmers Livestock Exchange, Union City  
 \*Farmers Livestock Market, Inc., Greeneville  
 \*Gamaliel, Kentucky Livestock Auction, Inc., Gamaliel (Kentucky)  
 \*Giles County Stockyard, Pulaski  
 \*Greeneville Livestock Market, Inc., Greeneville  
 \*Hardin County Livestock Company, Savannah  
 \*Hohenwald Livestock Market, Hohenwald  
 \*Jackson County Commission, Gainesboro  
 \*Johnson City Livestock Market, Johnson City  
 \*Jonesboro Livestock Yards, Inc., Telford  
 \*Kingsport Livestock Auction Corp., Kingsport  
 \*Lawrence County Stockyard, Lawrenceburg  
 \*Lexington Sales Company, Lexington  
 \*Logan Livestock Co., Union City  
 \*Macon County Livestock Market, Lafayette  
 \*Middleton Sale Co., Middleton  
 \*McNairy County Stockyards, Selmer  
 \*Mid-South Livestock Commission Co., Columbia  
 \*Mid State Producers, Inc., Woodbury  
 \*Morristown Stockyard, Inc., Morristown



## NOTICES

\*Murfreesboro Livestock Market, Murfreesboro  
 \*Newbern Sales Barn, Inc., Newbern  
 \*New Tazewell Livestock, New Tazewell  
 \*North Central Livestock Center, Cross Plains  
 \*Oliver Livestock Company, Union City  
 \*Paris Livestock Commission Co., Paris  
 \*Peoples Livestock Market, Cookesville  
 \*Peoples Stockyard, Fayetteville  
 \*Plateau Livestock Exchange, Crossville  
 \*Pulaski Stockyards, Pulaski  
 \*Rogersville Livestock Market, Rogersville  
 \*Sampson & Maxwell Livestock Auction, Lewisburg  
 \*Scotts Hill Auction Company, Scotts Hill  
 \*Sevier County Livestock Auction Market, Seymour  
 \*Shelbyville Livestock Market, Shelbyville  
 \*Smith County Commission Co., Carthage  
 \*Smithville Stockyards, Smithville  
 \*Southern Livestock Auction Co., Columbia  
 \*South Memphis Stock Yards Co., Memphis  
 \*Southwestern Stockyards, Huntingdon  
 \*Sparta Livestock Company, Sparta  
 \*Tennessee Livestock Producers, Thompson Station  
 \*Tennessee Producers, Fayetteville  
 \*Thompson Livestock, Obion  
 \*Trenton Sales Co., Trenton  
 \*Tri-County Stockyards, McKenzie  
 \*Troupdale County Livestock Market, Hartsville  
 \*Unionville Livestock Auction Co., Unionville  
 \*Union Stockyards, Inc., Knoxville  
 \*Warren County Livestock, McMinnville  
 \*West Tennessee Auction Co., Inc., Martin  
 \*Wilson County Livestock Market, Lebanon  
 \*Wilson Livestock Market, Newport

## TEXAS

\*Abilene Auction, Abilene  
 \*Amarillo Livestock Auction, Amarillo  
 \*Athens Livestock Market, Athens  
 \*Tom Bean Commission Company, Tom Bean  
 \*Belton Livestock Auction, Belton  
 \*Bodes's Livestock Commission, Milano  
 \*Bonham Livestock Market, Bonham  
 \*Bowie Livestock Commission, Inc., Bowie  
 \*Breckenridge Stockyards, Breckenridge  
 \*Brownwood Cattle Auction, Brownwood  
 \*Burleson Dairy Auction, Inc., Burleson  
 \*Caldwell Livestock Commission Company, Caldwell  
 \*Canyon Livestock Commission, Canyon  
 \*Cattleman's, Palestine  
 \*Cattleman's Livestock Commission Company, Paris  
 \*Center Auction Company, Inc., Center  
 \*Central Texas Livestock Market, Brownwood  
 \*Childress Livestock Auction, Childress  
 \*Coleman Livestock Auction, Coleman  
 \*Clarksville Livestock Exchange, Inc., Clarksville  
 \*O. L. Colley Livestock Market, Mt. Pleasant  
 \*Dalhart Auction Company, Dalhart  
 \*Decatur Auction Sale, Decatur  
 \*Denton Livestock Exchange, Inc., Denton  
 \*El Paso Livestock Auction Company, Inc., El Paso  
 \*Ennis Auction, Ennis  
 \*Fort Worth Stockyards Corp., Fort Worth  
 \*Gainesville Livestock Market, Inc., Gainesville  
 \*Graham Livestock Commission Co., Graham  
 \*Greenville Livestock Commission Company, Greenville

\*Haskell Livestock Auction, Haskell  
 \*Huntsville Auction Barn, Huntsville  
 \*Jacksonville Livestock Market, Inc., Jacksonville  
 \*J & J Livestock Commission Company, Texarkana  
 \*Johnson County Dairy Sale, Cleburne  
 \*Kirbyville Auction Barn, Kirbyville  
 \*Lampasas Auction, Inc., Lampasas  
 \*Livingston Livestock Auction Sale, Livingston  
 \*Liano Livestock Auction, Liano  
 \*Longview Livestock Commission Company, Longview  
 \*Lubbock Stockyards, Lubbock  
 \*Lufkin Livestock Exchange, Lufkin  
 \*Madison County Livestock Commission, Madisonville  
 \*Mansfield Dairy Cattle Auction, Mansfield  
 \*Marshall Livestock Commission Company, Marshall  
 \*McDougal Livestock Auction Barn, Comanche  
 \*Meridian Livestock Auction, Meridian  
 \*Mineral Wells Stockyard Company, Mineral Wells  
 \*Moore's Livestock Commission Company, Inc., McKinney  
 \*Morris County Livestock Commission Company, Omaha  
 \*Muenster Livestock Auction Commission Co., Muenster  
 \*Nacogdoches County Livestock Arena, Inc., Nacogdoches  
 \*Olney Livestock Auction, Olney  
 \*Panola Livestock Commission Company, Carthage  
 \*Paris Livestock Commission Company, Paris  
 \*Patton Livestock, Inc., Nacogdoches  
 \*Pilot Point Livestock Commission Co., Inc., Pilot Point  
 \*Pittsburg Livestock Commission Co., Pittsburg  
 \*Port City Stockyards Co., Sealy  
 \*Producer's Livestock Auction Company, San Angelo  
 \*Quannah Livestock Commission Company, Quannah  
 \*Rains County Livestock Market, Emory  
 \*Ranchers & Farmers Livestock Market, Abilene  
 \*Southwestern Livestock Market, Midland  
 \*Sulphur Springs Stocker & Dairy Commission, Sulphur Springs  
 \*Terrell Livestock Market, Inc., Terrell  
 \*Texarkana Livestock Commission Co., Inc., Texarkana  
 \*Tulia Livestock Auction, Tulia  
 \*Tyler Livestock Commission Company, Tyler  
 \*Vann-Roach Cattle Company, Inc., Forth Worth  
 \*Vernon Stockyards Company, Vernon  
 \*Waxahachie Livestock Commission Co., Inc., Waxahachie  
 \*Wellington Livestock Auction, Wellington  
 \*Wichita Livestock Auction, Wichita Falls  
 \*Wills Point Livestock Market, Wills point  
 \*Winnsboro Livestock Market, Winnsboro  
 \*Wood County Livestock Commission Co., Mineola  
 \*Woodville Livestock Commission Company, Woodville

## UTAH

\*Producers Livestock Auction, North Salt Lake  
 \*Producers Livestock Marketing Association, North Salt Lake  
 \*Producers Salina Auction, Salina  
 \*Richfield Auction Company, Monroe

\*Smithfield Livestock Auction, Smithfield  
 \*Utah Livestock Commission Company, Roosevelt  
 \*Vernal Livestock Auction, Vernal  
 \*Weber Livestock Auction Company, Ogden

## VERMONT

Addison County Commission Sales, E. Middlebury  
 E. S. Crosby, Inc. dba Vergennes Commission Sales, Vergennes  
 C. W. Gray and Sons, Inc., dba East Thetford Commission Sale, East Thetford  
 Westminster Commission Sales, Inc., Westminster

## VIRGINIA

\*Abingdon Livestock Market, Inc., Abingdon  
 \*Albemarle Livestock Market, Charlottesville  
 \*Amherst County Livestock Market, Inc., Amherst  
 \*Blackstone Livestock Market, Blackstone  
 \*Christiansburg Livestock Market, Inc., Christiansburg  
 \*Ewing Livestock Market, Ewing  
 \*Farmers Livestock Exchange, Winchester  
 \*Farmers Livestock Market, Ewing  
 \*Farmers Livestock Market, Gate City  
 \*Farmers Livestock Market, Inc., Tazewell  
 \*Lee Farmers Livestock Market, Inc., Jonesville  
 \*Farmers Livestock Market, Rose Hill  
 \*Farmville Livestock Market, Inc., Farmville  
 \*Fauquier Livestock Exchange, Inc., Marshall  
 \*Fredericksburg Stockyards Company, Fredericksburg  
 \*Front Royal Livestock Sales, Inc., Front Royal  
 \*Galax Livestock Market, Inc., Galax  
 \*Jonesville Livestock Market, Jonesville  
 \*Leesburg Livestock Market, Inc., Leesburg  
 \*Lynchburg Livestock Market, Inc., Lynchburg  
 \*Madison Livestock Market, Inc., Madison Mills  
 \*Monterey Livestock Sales, Inc., Monterey  
 \*Narrows Livestock Auction Market, Inc., Narrows  
 \*Nokesville Livestock Auction, Inc., Nokesville  
 \*Orange Livestock Market, Orange  
 \*Petersburg Livestock Market, Petersburg  
 \*Phenix Livestock Market, Phenix  
 \*Pulaski Livestock Market, Dublin  
 \*Richmond Union Stockyards, Richmond  
 \*Roanoke-Hollins Stockyard, Hollins  
 \*Roanoke Livestock Market, Roanoke  
 \*Rockingham Livestock Sales, Harrisonburg  
 \*Shanandoah Valley Livestock Sales, Harrisonburg  
 \*Smithfield Livestock Market, Smithfield  
 \*Southampton Livestock Sales, Inc., Courtland  
 \*South Boston Livestock Market, Inc., South Boston  
 \*South Hill Stockyard, South Hill  
 \*Southside Stockyards, Inc., Blackstone  
 \*Southside Stockyards, Inc., Petersburg  
 \*Staunton Union Stockyards, Inc., Staunton  
 \*Staunton Livestock Market, Staunton  
 \*Tappahannock Livestock Market, Inc., Tappahannock  
 \*Tri-State Livestock Market, Abingdon  
 \*Victoria Livestock Market, Victoria  
 \*Virginia-Carolina Livestock and Agricultural Market, Inc., Danville  
 \*Woodstock Livestock Market, Inc., Woodstock  
 \*Wytheville Livestock Market, Inc., Wytheville

## NOTICES

## WASHINGTON

\*Chehalis Livestock Market, Chehalis  
 \*Davenport Livestock Marketing Center, Davenport  
 \*Prosser Commission Co., Prosser  
 \*Stockland Livestock Exchange, Inc., Spokane  
 Twin City Sale, Centralia  
 \*Vancouver Livestock Market, Inc., Camas  
 Walla Walla Livestock Auction, Walla Walla

## WEST VIRGINIA

\*Bluegrass Market, Inc., North Caldwell  
 \*Blueridge Livestock Sales, Inc., Charles Town  
 \*Bridgeport Stockyards, Inc., Bridgeport  
 \*Buckhannon Stockyards, Buckhannon  
 \*Jackson County Livestock Market, Inc., Ripley  
 \*Livestock Exchange, Inc., dba Alderson Livestock Market, Alderson  
 \*Mannington Livestock Sales, Inc., Mannington  
 \*Moundsville Livestock Auction Company, Moundsville  
 \*New River Livestock Market, Inc., Beckley  
 \*Ohio County Livestock Auction, Inc., Wheeling  
 \*Pocahontas Producers Cooperative Assn., Marlinton  
 \*Pt. Pleasant Livestock Company, Inc., Point Pleasant  
 \*Randolph County Livestock Marketing Association, Elkins  
 \*South Branch Stockyard, Inc., Moorefield  
 \*Spencer Livestock Exchange Company, Spencer  
 \*Terra Alta Stockyard, Inc., Terra Alta  
 \*United Livestock Sales, Parkersburg  
 \*Weston Livestock Sales Company, Inc., Weston

## WISCONSIN

\*Belmont Livestock Market, Inc., Belmont  
 \*Benoit NFO Livestock Collection Point, Benoit  
 \*Bloomer Livestock Market, Inc., Bloomer  
 \*Bob Carey Cattle Company, Inc., Mineral Point  
 \*Clear Lake NFO Collection Point, Clear Lake  
 \*Ellsworth NFO Collection Point, Ellsworth  
 \*Equity Co-op Livestock Sales Assn., Altoona

\*Equity Co-op Livestock Sales Assn., Bonduel  
 \*Equity Co-op Livestock Sales Assn., Johnson Creek  
 \*Equity Co-op Livestock Sales Assn., Monroe  
 \*Equity Co-op Livestock Sales Assn., Richland Center  
 \*Equity Co-op Livestock Sales Assn., Ripon  
 \*Equity Co-op Livestock Sales Assn., Sparta  
 \*Iowa County Livestock Market Corp., Dodgeville  
 \*Kuehne Livestock Auction Market, Seymour  
 \*Lewis Geurkink Dairy Cattle, Baldwin  
 \*Mattes Livestock Auction Market, Inc., Thorp  
 \*Matthes Farms, Viola  
 \*Midwest Livestock Producers, Ettrich  
 \*Midwest Livestock Producers Co-op, Lomira  
 \*Midwest Livestock Producers Co-op, Marion  
 \*Midwest Livestock Producers Co-op, Monticello  
 \*Midwest Livestock Producers Co-op, Shullsburg  
 \*Milwaukee Stockyards, Milwaukee

## WYOMING

\*Big Horn Livestock Exchange, Sheridan  
 \*Douglas Livestock Exchange, Douglas  
 \*Lander Livestock Auction, Lander  
 \*Lusk Livestock Exchange, Lusk  
 \*Nield Market, Afton  
 \*Powell Auction Market, Powell  
 \*Prosser Livestock Market, Inc., dba Greybull Livestock Commission Co., Greybull  
 \*Riverton Livestock Auction Co., Riverton  
 \*Stockgrowers Livestock Auction Co., Worland  
 \*Stockman's Livestock Auction, Torrington  
 \*Torrington Livestock Commission Co., Torrington

Effective Date: The foregoing notice shall become effective March 23, 1979.

E. A. SCHILF,  
 Acting Deputy Administrator  
 Veterinary Services.

[FR Doc. 79-8332 Filed 3-22-79; 8:25 am]



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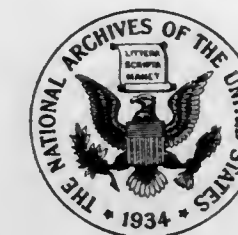
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# Register Federal

FRIDAY, MARCH 23, 1979

PART III



## DEPARTMENT OF LABOR

Employment Standards  
Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination  
Decisions



[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are

to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and

self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Alabama..... AL79-1049  
Georgia..... GA79-1050  
Tennessee..... TN79-1051  
TN79-1052  
TN79-1053

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Delaware: DE78-3080..... Nov. 3, 1978.  
Florida: FL79-1019..... Feb. 2, 1979.  
Georgia: GA78-1088; GA78-1089..... Oct. 13, 1978.  
GA78-1090..... Nov. 24, 1978.  
GA79-1013; GA79-1014..... Jan. 5, 1979.  
Illinois: IL78-2092; IL78-2093; IL78-2094; IL78-2106; IL78-2109; IL78-2111; IL78-2112; IL78-2120; IL78-2122; IL78-2124; IL78-2125..... Oct. 20, 1978.  
IL78-2113; IL78-2123; IL78-2127; IL78-2128..... Oct. 27, 1978.  
IL78-2117..... Nov. 13, 1978.  
IL78-2142..... Nov. 24, 1978.  
IL78-2126..... Dec. 27, 1978.  
Pennsylvania: PA78-3012..... Apr. 28, 1978.  
Rhode Island: RI78-3050; RI78-3051; RI78-3052..... July 21, 1978.  
Texas: TX79-4089..... Sept. 15, 1978.  
Wisconsin: WI78-2135; WI78-2136; WI78-2137; WI78-2146..... Oct. 27, 1978.  
WI78-2149..... Nov. 11, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Michigan: MI77-2035(MI79-2009)..... Mar. 4, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 16th day of March 1979.

DOROTHY P. COME,  
Assistant Administrator,  
Wage and Hour Division.

[4510-27-C]

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are

to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

NEW GENERAL WAGE DETERMINATION DECISIONS

Alabama..... AL79-1049  
Georgia..... GA79-1050  
Tennessee..... TN79-1051  
TN79-1052  
TN79-1053

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Delaware: DE78-3080..... Nov. 3, 1978.  
Florida: FL79-1019..... Feb. 2, 1979.  
Georgia: GA78-1088; GA78-1089..... Oct. 13, 1978.  
GA78-1090..... Nov. 24, 1978.  
GA79-1013; GA79-1014..... Jan. 5, 1979.  
Illinois: IL78-2092; IL78-2093; IL78-2094; IL78-2106; IL78-2109; IL78-2111; IL78-2112; IL78-2120; IL78-2122; IL78-2124; IL78-2125..... Oct. 20, 1978.  
IL78-2113; IL78-2123; IL78-2127; IL78-2128..... Oct. 27, 1978.  
IL78-2117..... Nov. 13, 1978.  
IL78-2142..... Nov. 24, 1978.  
IL78-2126..... Dec. 27, 1978.  
Pennsylvania: PA78-3012..... Apr. 28, 1978.  
Rhode Island: RI78-3050; RI78-3051; RI78-3052..... July 21, 1978.  
Texas: TX79-4089..... Sept. 15, 1978.  
Wisconsin: WI78-2135; WI78-2136; WI78-2137; WI78-2146..... Oct. 27, 1978.  
WI78-2149..... Nov. 11, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Michigan: MI77-2035(MI79-2009)..... Mar. 4, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 16th day of March 1979.

DOROTHY P. COME,  
Assistant Administrator,  
Wage and Hour Division.

| Basic Hourly Rates                     | Fringe Benefits Payments |          |          | Education and/or App. Tr. |
|--|--------------------------|----------|----------|---------------------------|
|  | H & W                    | Pensions | Vacation |                           |
| Air conditioning mechanics             | 5.00                     |          |          |                           |
| Bricklayers                            | 6.00                     |          |          |                           |
| Carpenters                             | 7.95                     |          |          |                           |
| Cement masons                          | 5.00                     |          |          |                           |
| Drywall finishers                      | 6.125                    |          |          |                           |
| Electricians                           | 4.50                     |          |          |                           |
| Ironworkers, structural and ornamental | 5.50                     |          |          |                           |
| Insulators                             | 4.05                     |          |          |                           |
| Laborers                               | 3.435                    |          |          |                           |
| Painters, brush                        | 5.00                     |          |          |                           |
| Plumbers and pipefitters               | 5.50                     |          |          |                           |
| Roofers                                | 4.30                     |          |          |                           |
| Sheet metal workers                    | 5.50                     |          |          |                           |
| Truck drivers                          | 3.70                     |          |          |                           |
| Welders - Rate for craft               | 4.50                     |          |          |                           |
| POWER EQUIPMENT OPERATORS:             |                          |          |          |                           |
| Asphalt spreader                       | 5.20                     |          |          |                           |
| Backhoe                                | 5.25                     |          |          |                           |
| Doser                                  | 4.76                     |          |          |                           |
| Loader                                 |                          |          |          |                           |

| Basic Hourly Rates                     | Fringe Benefits Payments |          |          | Education and/or App. Tr. |
|--|--------------------------|----------|----------|---------------------------|
|  | H & W                    | Pensions | Vacation |                           |
| Air conditioning mechanics             | 5.81                     |          |          |                           |
| Bricklayers                            | 7.22                     |          |          |                           |
| Carpenters                             | 6.00                     |          |          |                           |
| Cement masons                          | 7.27                     |          |          |                           |
| Drywall finishers                      | 7.50                     |          |          |                           |
| Electricians                           | 7.20                     |          |          |                           |
| Ironworkers, structural and ornamental | 6.09                     |          |          |                           |
| Insulators                             | 5.00                     |          |          |                           |
| Laborers                               | 4.00                     |          |          |                           |
| Unskilled                              | 3.00                     |          |          |                           |
| Mortar mixers                          | 3.50                     |          |          |                           |
| Mason tenders                          | 3.65                     |          |          |                           |
| Pipelayers                             | 4.10                     |          |          |                           |
| Painters                               | 6.00                     |          |          |                           |
| Plasterers                             | 5.65                     |          |          |                           |
| Plumbers & pipefitters                 | 6.00                     |          |          |                           |
| Roofers                                | 6.00                     |          |          |                           |
| Sheet metal workers                    | 7.00                     |          |          |                           |
| Soft floor layers                      | 6.00                     |          |          |                           |
| Tile setters                           | 5.83                     |          |          |                           |
| Truck drivers                          | 5.21                     |          |          |                           |
| WELDERS - RATE FOR CRAFT.              |                          |          |          |                           |
| POWER EQUIPMENT OPERATORS:             |                          |          |          |                           |
| Asphalt spreader                       | 4.29                     |          |          |                           |
| Backhoe                                | 5.58                     |          |          |                           |
| Bulldozer                              | 4.51                     |          |          |                           |
| Crane, derrick, dragline               | 5.20                     |          |          |                           |
| Front end loader                       | 3.75                     |          |          |                           |
| Motor grader                           | 4.74                     |          |          |                           |
| Roller                                 | 3.98                     |          |          |                           |
| Tractor                                | 5.00                     |          |          |                           |



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NOTICES

NEW DECISION

STATE: TENNESSEE

COUNTIES: DEKALB, OVERTON,  
FURNAS, SMITH, VAN BUREN,  
& WHITE

DECISION NUMBER: TN79-1052  
DATE: DATE OF PUBLICATION  
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single  
family homes and garden type apartments up to and including 4 stories).

| Basic<br>Hourly<br>Rates   | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|--|--------------------------|----------|----------|----------------------------------|
|  | H & W                    | Pensions | Vacation |                                  |
| \$ 5.00 -<br>6.00 -<br>5.20<br>5.00<br>5.00<br>4.00<br>3.62<br>5.82<br>5.00<br>5.17<br>8.00<br>4.95  |                          |          |          |                                  |
| AIR CONDITIONING & HEATING<br>MECHANICS<br>BLOCK & BRICK LAYERS<br>CARPENTERS<br>CEMENT MASONS<br>ELECTRICIANS<br>INSULATION INSTALLERS<br>LABORERS<br>PAINTERS & DRYWALL FINISHERS<br>PLUMBERS & PIPEFITTERS<br>ROOFERS<br>SHEET METAL WORKERS<br>TRUCK DRIVERS |                          |          |          |                                  |
| WELDERS - Rate for craft.  |                          |          |          |                                  |
| POWER EQUIPMENT OPERATORS:   |                          |          |          |                                  |
| Backhoe<br>Bulldozer<br>Fork or High lift  |                          |          |          |                                  |
| 5.50<br>5.33<br>5.50   |                          |          |          |                                  |

NEW DECISION

STATE: GEORGIA

COUNTIES: ATKINSON, BERRIN,  
BROOKS, CLINCH, COLQUITT, COOK,  
ECHOLS, LANIER, LONGDES, THOMAS,  
& WARE

DECISION NUMBER: GA79-1051  
DATE: DATE OF PUBLICATION  
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single  
family homes and garden type apartments up to and including 4 stories).

| Basic<br>Hourly<br>Rates  | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|---|--------------------------|----------|----------|----------------------------------|
|   | H & W                    | Pensions | Vacation |                                  |
| \$ 5.00 -<br>6.00 -<br>4.56<br>6.00<br>5.00<br>5.00<br>5.28<br>3.62<br>3.00<br>3.25<br>3.50<br>4.38<br>6.00<br>4.94<br>4.81<br>4.99<br>6.00<br>5.00   |                          |          |          |                                  |
| AIR CONDITIONING & HEATING<br>MECHANICS<br>BRICKLAYERS<br>CARPENTERS<br>CEMENT MASONS<br>DRYWALL FINISHERS<br>DRYWALL HANGERS<br>ELECTRICIANS<br>INSULATORS<br>LABORERS:<br>Unskilled<br>Mason tenders<br>Asphalt makers<br>PAINTERS<br>PLASTERERS<br>PLUMBERS & PIPEFITTERS<br>ROOFERS<br>SHEET METAL WORKERS<br>TILE SETTERS<br>TRUCK DRIVERS |                          |          |          |                                  |
| WELDERS - Rate for craft.   |                          |          |          |                                  |
| POWER EQUIPMENT OPERATORS:  |                          |          |          |                                  |
| Asphalt spreader<br>Backhoe<br>Bulldozer<br>Motor grader<br>Roller  |                          |          |          |                                  |
| 5.00<br>4.50<br>5.00<br>5.00<br>5.00  |                          |          |          |                                  |

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NEW DECISION

STATE: TENNESSEE

COUNTIES: CAMPBELL, CLATSOP,  
CUMBERLAND, FENTRESS, HANCOCK,  
MORGAN, PICKETT, SCOTT, & UNION

DECISION NUMBER: TN79-1053  
DATE: DATE OF PUBLICATION  
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single  
family homes and garden type apartments up to and including 4 stories).

| Basic<br>Hourly<br>Rates   | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|--|--------------------------|----------|----------|----------------------------------|
|  | H & W                    | Pensions | Vacation |                                  |
| \$ 4.46 -<br>7.75<br>5.05<br>4.00<br>6.34<br>5.00<br>3.00<br>3.63<br>4.78<br>6.00<br>5.00<br>4.72<br>4.00<br>7.25<br>6.50<br>4.10  |                          |          |          |                                  |
| AIR CONDITIONING & HEATING<br>MECHANICS<br>BRICKLAYERS<br>CARPENTERS & DRYWALL HANGERS<br>CEMENT MASONS<br>ELECTRICIANS<br>GLAZIERS<br>LABORERS:<br>Unskilled<br>Mason tenders<br>PAINTERS<br>PLASTERERS & PIPEFITTERS<br>ROOFERS<br>SHEET METAL WORKERS<br>SOFT FLOOR LAYERS<br>TERRAZZO WORKERS<br>TILE SETTERS<br>TRUCK DRIVERS |                          |          |          |                                  |
| WELDERS - Rate for craft.  |                          |          |          |                                  |
| POWER EQUIPMENT OPERATORS:   |                          |          |          |                                  |
| Backhoe<br>Bulldozer   |                          |          |          |                                  |
| 4.50<br>5.25   |                          |          |          |                                  |

MODIFICATIONS P. 1

DECISION NO. DE78-1080 - Mod. #3  
(42 FR 51567 - November 3, 1978)  
State of Delaware

| Basic<br>Hourly<br>Rates   | Fringe Benefits Payments  |   |          | Education<br>and/or<br>Appr. Tr.  |
|--|---|---|----------|---|
|  | H & W   | Pensions  | Vacation |   |
| 10.69<br>11.90<br>8.50<br>8.75<br>9.00<br>9.75<br>9.10<br>10.15<br>13.00<br>9.10<br>8.45<br>7.80<br>10.79<br>10.80<br>11.04  | 9%<br>9%<br>.90<br>.90<br>.90<br>.90<br>.90<br>1.25<br>.45<br>.45<br>.45<br>.45<br>1.00<br>1.00<br>1.25 | 9%<br>9%<br>.60<br>.60<br>.60<br>.60<br>.60<br>.15<br>3%<br>3%<br>3%<br>3%<br>1.00<br>1.00<br>f |          | .01<br><br><br><br><br><br><br><br>3/4%<br>3/4%<br>3/4%<br>3/4%<br>.01<br><br>f<br>.05<br>.08 |
| Change:<br>Carpenters - Building & Heavy:<br>Sussex County<br>Electricians<br>Laborers - Building Construction<br>New Castle County:<br>Group 1<br>Group 2<br>Group 3<br>Group 4<br>Group 5<br>Lathers<br>Line Construction:<br>Linemen & Cable Splicers<br>Winch Truck Operators<br>Truck Drivers<br>Groundmen<br>Millwrights:<br>Sussex County<br>Plumbers & Steamfitters:<br>Sussex & Kent (remainder of<br>County) Counties<br>Sheet Metal Workers |   |   |          |   |

Add:  
Classification Definitions for Line Construction (Railroad Only)

- "A" Equipment Operators:  
1. Hoisting equipment - when erecting complete towers, erecting framed  
structures, erecting steel transmission poles, erecting railroad pole  
extensions and crossbeams and when operating personnel lift baskets.  
2. Tension pulling equipment under energized conditions - parallel with  
other energized circuits or above energized circuits on the same  
structure, not to include crossovers. Bundled conductor stringing,  
including static conductors on bundled conductor lines.  
3. Excavating augurs 36" inches in diameter or larger, 5/8 cubic yard  
backhoe and larger, trencher over four feet in depth, bulldozer  
D-6 (caterpillar) or larger, and blade on finish grade work  
"B" Equipment Operators:  
Operators of all other equipment

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MODIFICATIONS P. 2

| DECISION #GA79-1019 - Mod. #1<br>(44 FR 1632 - January 5, 1979)<br>Fulton & Dekalb Counties,<br>Georgia<br>CHANGE:<br>Plumbers & Pipefitters<br>Sheet metal workers<br>ADD:<br>Miners<br>Muckers<br>Oilers/greasers (Operators)<br>Tunnel laborers<br>Powdermen | Basic<br>Hourly<br>Rates             | Fringe Benefits Payments        |                                 |          |  | Education<br>and/or<br>Appr. Tr. |
|---|--------------------------------------|---------------------------------|---------------------------------|----------|--|----------------------------------|
|   |                                      | H & W                           | Pensions                        | Vacation |  |                                  |
|   | \$11.15<br>11.00                     | .90<br>.50                      | .70<br>.81                      |          |  | .11<br>.07                       |
|   | 8.55<br>9.30<br>6.73<br>7.30<br>7.62 | .25<br>.55<br>.55<br>.25<br>.25 | .33<br>.75<br>.75<br>.33<br>.33 |          |  | .10<br>.07<br>.10<br>.10<br>.10  |

| DECISION #GA79-1014 - Mod. #1<br>(44 FR 1632 - January 5, 1979)<br>DeKalb & Fulton Counties, Georgia<br>CHANGE:<br>Asbestos workers<br>Elevator constructors:<br>Mechanics<br>Helpers<br>Plumbers & Pipefitters<br>Sheet metal workers | Basic<br>Hourly<br>Rates                   | Fringe Benefits Payments          |                                 |          |                           | Education<br>and/or<br>Appr. Tr. |
|--|--|-----------------------------------|---------------------------------|----------|---------------------------|----------------------------------|
|  |  | H & W                             | Pensions                        | Vacation |                           |                                  |
|  | \$10.70<br>10.03<br>7.02<br>11.15<br>11.00 | .55<br>.895<br>.895<br>.90<br>.50 | .75<br>.69<br>.69<br>.70<br>.81 |          | .10<br>L&A-axb<br>L&A-axb | .10<br>.03<br>.03<br>.11<br>.07  |

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MODIFICATIONS P. 4

| DECISION NO. IL78-2092 - MOD #1<br>(43 FR 49154 - October 20, 1978)<br>Adams, Brown & Pike Counties,<br>Illinois<br>CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III | Basic<br>Hourly<br>Rates  | Fringe Benefits Payments |                            |          |  | Education<br>and/or<br>Appr. Tr. |
|---|---------------------------|--------------------------|----------------------------|----------|--|----------------------------------|
|   |                           | H & W                    | Pensions                   | Vacation |  |                                  |
|   | \$10.80<br>11.20<br>11.40 | .65<br>.65<br>.65        | a20.00<br>a20.00<br>a20.00 |          |  |                                  |

| DECISION NO. IL78-2093 - MOD #3<br>(43 FR 49157 - October 20, 1978)<br>Champaign and Vermillion Counties<br>Illinois<br>CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |                            |          |  | Education<br>and/or<br>Appr. Tr. |
|---|--------------------------|--------------------------|----------------------------|----------|--|----------------------------------|
|   |                          | H & W                    | Pensions                   | Vacation |  |                                  |
|   | 10.80<br>11.20<br>11.40  | .65<br>.65<br>.65        | a20.00<br>a20.00<br>a20.00 |          |  |                                  |

| DECISION NO. IL78-2094 - MOD #3<br>(43 FR 49159 - October 20, 1978)<br>DuPage, Grundy, Kane, Kendall,<br>Lake, McHenry and Will Counties,<br>Illinois<br>CHANGE:<br>PLASTERERS:<br>Southern Kane & Kendall Cos. | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          |  | Education<br>and/or<br>Appr. Tr. |
|---|--------------------------|--------------------------|----------|----------|--|----------------------------------|
|   |                          | H & W                    | Pensions | Vacation |  |                                  |
|   | 12.02                    | .75                      | .60      |          |  |                                  |

| DECISION NO. IL78-2106 - MOD #5<br>(43 FR 49167 - October 20, 1978)<br>Fulton, Hancock, McDonough and<br>Schuyler Counties, Illinois<br>CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III<br>FULTON COUNTY<br>Cement Masons | Basic<br>Hourly<br>Rates           | Fringe Benefits Payments |                                   |          |  | Education<br>and/or<br>Appr. Tr. |
|---|------------------------------------|--------------------------|-----------------------------------|----------|--|----------------------------------|
|   |                                    | H & W                    | Pensions                          | Vacation |  |                                  |
|   | \$10.80<br>11.20<br>11.40<br>11.31 | .65<br>.65<br>.65<br>.80 | a20.00<br>a20.00<br>a20.00<br>.90 |          |  | .05                              |

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MODIFICATIONS P. 6

MODIFICATIONS P. 7

| Basic Hourly Rates   | Fringe Benefits Payments |                            |          | Education and/or Appr. Tr. |
|--|--------------------------|----------------------------|----------|----------------------------|
|  | H & W                    | Pensions                   | Vacation |                            |
| DECISION NO. IL78-2113 - MOD #4<br>(43 FR 50303 - October 27, 1978)<br>Christian, DeWitt, Macon,<br>Macoupin, Moultrie, Piatt and<br>Shelby Counties, Illinois |                          |                            |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III  | .65<br>.65<br>.65        | a20.00<br>a20.00<br>a20.00 |          |                            |
| DECISION NO. IL78-2117 - MOD #4<br>(43 FR 52638 - November 13, 1978)<br>Madison & St. Clair Counties,<br>Illinois  |                          |                            |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III  | .65<br>.65<br>.65        | a20.00<br>a20.00<br>a20.00 |          |                            |
| DECISION NO. IL78-2120 - MOD #1<br>(43 FR 49184 - October 20, 1978)<br>Morgan, Scott and Cass Counties,<br>Illinois  |                          |                            |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III  | .65<br>.65<br>.65        | a20.00<br>a20.00<br>a20.00 |          |                            |

| Basic Hourly Rates   | Fringe Benefits Payments                      |  |          | Education and/or Appr. Tr. |
|--|---|--|----------|----------------------------|
|  | H & W   | Pensions   | Vacation |                            |
| DECISION NO. IL78-2122 - MOD #5<br>(43 FR 49186 - October 20, 1978)<br>Peoria and Tazewell Counties,<br>Illinois   |   |  |          |                            |
| CHANGE:<br>CEMENT MASONS:<br>LABORERS:<br>Remainder of Tazewell County<br>Unskilled<br>Semi-Skilled<br>Skilled<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III | .80<br>.60<br>.60<br>.60<br>.65<br>.65<br>.65 | .90<br>.60<br>.60<br>.60<br>a20.00<br>a20.00<br>a20.00 |          | .05<br>.035<br>.035<br>-   |
| DECISION NO. IL78-2123 - MOD #3<br>(43 FR 50308 - October 27, 1978)<br>Henderson, Henry, Knox, Mercer,<br>Rock Island, Stark & Warren<br>Counties, Illinois          |   |  |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III<br>ELECTRICIANS:<br>Rock Island and Rem. of Henry &<br>Mercer Cos.                                     | .65<br>.65<br>.65<br>-                        | a20.00<br>a20.00<br>a20.00<br>7.5%                     |          | .03                        |
| DECISION NO. IL78-2124 - MOD #1<br>(43 FR 49190 - October 20, 1978)<br>Sangamon County, Illinois   |   |  |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III  | .65<br>.65<br>.65                             | a20.00<br>a20.00<br>a20.00                             |          |                            |

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MODIFICATIONS P. 8

MODIFICATIONS P. 9

| Basic Hourly Rates   | Fringe Benefits Payments |                            |          | Education and/or Appr. Tr. |
|--|--------------------------|----------------------------|----------|----------------------------|
|  | H & W                    | Pensions                   | Vacation |                            |
| DECISION NO. IL78-2125 - MOD #3<br>(43 FR 49192 - October 20, 1978)<br>Alexander, Franklin, Gallatin,<br>Hamilton, Hardin, Jackson,<br>Jefferson, Johnson, Marion,<br>Massac, Perry, Pope, Pulaski,<br>Saline, Union, White & William-<br>son Counties, Illinois |                          |                            |          |                            |
| CHANGE:<br>PLUMBERS and STEAMFITTERS:<br>Franklin, Hamilton, Jefferson,<br>Saline, Williamson & Gallatin<br>Counties<br>POWER EQUIPMENT OPERATORS:<br>Remainder of Counties  | .55                      | .75                        |          | .08                        |
| CLASS 1  | .55                      | .60                        |          | .035                       |
| CLASS 2  | .55                      | .60                        |          | .035                       |
| CLASS 3  | .55                      | .60                        |          | .035                       |
| CLASS 4  | .55                      | .60                        |          | .035                       |
| CLASS 5  | .55                      | .60                        |          | .035                       |
| CLASS 6  | .55                      | .60                        |          | .035                       |
| CLASS 7  | .55                      | .60                        |          | .035                       |
| CLASS 8  | .55                      | .60                        |          | .035                       |
| CLASS 9  | .55                      | .60                        |          | .035                       |
| CLASS 10   | .55                      | .60                        |          | .035                       |
| RIVER WORK and LEVEE WORK ON<br>MISSISSIPPI and OHIO RIVERS  |                          |                            |          |                            |
| CLASS 11   | .55                      | .60                        |          | .035                       |
| CLASS 12   | .55                      | .60                        |          | .035                       |
| TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III   | .65<br>.65<br>.65        | a20.00<br>a20.00<br>a20.00 |          |                            |
| DECISION NO. IL78-2126 - MOD #2<br>(43 FR 50414 - December 27, 1978)<br>Boone, Carroll, DeKalb,<br>Jodavless, Lee, Ogle, Stephen-<br>son, Whiteoide and Winnebago<br>Counties, Illinois  |                          |                            |          |                            |
| CHANGE:<br>ELECTRICIANS:<br>Jodavless (Savanna Ordinance<br>Depot) Co., Carroll (Cities<br>of Chadwick, Rt. Carroll,<br>Savanna & Thompson) Co; &<br>Remainder of Jodavless County<br>PLASTERERS:<br>DeKalb County   | .55<br>.75               | 7.5%<br>.60                |          | .03                        |

| Basic Hourly Rates  | Fringe Benefits Payments |                            |          | Education and/or Appr. Tr. |
|---|--------------------------|----------------------------|----------|----------------------------|
|   | H & W                    | Pensions                   | Vacation |                            |
| DECISION NO. IL78-2127 - MOD #2<br>(43 FR 50319 - October 27, 1978)<br>Boone, Calhoun, Clinton, Greene,<br>Jersey, Monroe, Montgomery,<br>Randolph & Washington Counties,<br>Illinois   |                          |                            |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III   | .65<br>11.20<br>11.40    | a20.00<br>a20.00<br>a20.00 |          |                            |
| DECISION NO. IL78-2128 - MOD #5<br>(43 FR 50323 - October 27, 1978)<br>Clark, Clay, Coles, Crawford,<br>Cumberland, Douglas, Edgar,<br>Edward, Effingham, Fayette,<br>Jasper, Lawrence, Richland,<br>Wabash & Wayne Counties,<br>Illinois |                          |                            |          |                            |
| CHANGE:<br>TRUCK DRIVERS:<br>Group I<br>Group II<br>Group III   | .65<br>11.20<br>11.40    | a20.00<br>a20.00<br>a20.00 |          |                            |
| DECISION NO. IL78-2142 - MOD #1<br>(43 FR 55153 - November 24, 1978)<br>Adams, Brown, Cass, Christian,<br>Logan, Mason, Menard, Morgan,<br>Pike, Sangamon, Schuyler<br>Counties, Illinois   |                          |                            |          |                            |
| CHANGE:<br>CEMENT MASONS:<br>Adams & Logan Cos.<br>Remainder of District #6   | .50                      | .75                        |          | .02                        |

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MODIFICATIONS P. 11

DECISION NO. RY78-3050 (Cont'd)

| Basic Hourly Rates   | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--|--------------------------|----------|----------|----------------------------|
|  | H & W                    | Pensions | Vacation |                            |
| \$8.50   | .60                      | .80      |          | .10                        |
| Laborers (Heavy & Highway Construction)<br>Laborers, carpenter & cement finisher tenders & wrecking laborers<br>Adzemen, asphalt rakers, barco-type jumping tamper, chain saw operators concrete and power buggy operators, concrete saw operators demolition burners fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipe layers, pipe trench bracers, pneumatic tool operators, rip-rap and dry stonewall builders setters of metal forms for roadways, stump operators, tree toppers tree trimmers wagon drill ops., wood chipper operators<br>8.75 .60 .80 .10<br>Air track drill op., pavers, ramers, curb setters<br>9.00 .60 .80 .10<br>Blasters & Powdermen<br>9.25 .60 .80 .10<br>Open air caisson, underpinning and boring crew:<br>Bottom man<br>9.25 .60 .80 .10<br>Laborer, top man<br>8.50 .60 .80 .10<br>Driller<br>9.37 .60 .80 .10 |                          |          |          |                            |

MODIFICATIONS P. 10

DECISION #PA78-2012 - Mod. # 11  
(43 FR 18476 - April 28, 1978)  
Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania

| Basic Hourly Rates  | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------------|----------|----------|----------------------------|
|   | H & W                    | Pensions | Vacation |                            |
| \$12.85   | .45                      | 3%-.40   | .60      | .10                        |
| 11.06   | .60                      | 1.00     |          |                            |
| 8.35  | 10%                      | 8%       |          |                            |
| 8.40  | 10%                      | 8%       |          |                            |
| 8.20  | 10%                      | 8%       |          |                            |
| 8.25  | 10%                      | 8%       |          |                            |
| 11.02   |                          |          |          |                            |
| Laborers (Building Construction)<br>Laborers, carpenter tenders, cement finisher tender, mason tender & wrecking laborers<br>Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops., fence and guard rail erectors, setters of metal forms for roadways, mortar mixers, pipelayers, riprap, & dry stonewall builders, highway stone spreaders, pneumatic tools ops., wagon drill ops., tree trimmers, barco type jumping tamper, mechanical grinder ops., plasterers' tenders, scaffold builders, & mortar mixers<br>8.75 .60 .80 .10<br>Air track ops., block pavers, ramers, and curb setters<br>9.00 .60 .80 .10<br>Blasters and Powderman<br>9.25 .60 .80 .10 |                          |          |          |                            |

MODIFICATIONS P. 12

DECISION NO. RY78-3051 - MOD. #4  
(43 FR 31555 - July 21, 1978)  
Newport County, Rhode Island

| Basic Hourly Rates  | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------------|----------|----------|----------------------------|
|   | H & W                    | Pensions | Vacation |                            |
| \$8.50  | .60                      | .80      |          | .10                        |
| 8.75  | .60                      | .80      |          | .10                        |
| 9.00  | .60                      | .80      |          | .10                        |
| 9.25  | .60                      | .80      |          | .10                        |
| Laborers (Building Construction)<br>Laborers, Carpenter tenders, Cement finisher tender, mason tender & wrecking laborers<br>Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops., fence and guard rail erectors, setters of metal forms for roadways, mortar mixers, pipelayers, riprap, & dry stonewall builders, highway stone spreaders, pneumatic tools ops., wagon drill ops., tree trimmers, barco type jumping tamper, mechanical grinder ops., plasterers' tenders, scaffold builders, & mortar mixers<br>8.75 .60 .80 .10<br>Air track ops., block pavers, ramers, and curb setters<br>9.00 .60 .80 .10<br>Blasters and Powderman<br>9.25 .60 .80 .10 |                          |          |          |                            |

MODIFICATIONS P. 13

DECISION NO. RY78-3051 (Cont'd)

| Basic Hourly Rates   | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--|--------------------------|----------|----------|----------------------------|
|  | H & W                    | Pensions | Vacation |                            |
| \$8.50   | .60                      | .80      |          | .10                        |
| 8.75   | .60                      | .80      |          | .10                        |
| 9.00   | .60                      | .80      |          | .10                        |
| 9.25   | .60                      | .80      |          | .10                        |
| 9.37   | .60                      | .80      |          | .10                        |
| Laborers (Heavy & Highway Construction)<br>Laborers, carpenter & cement finisher tenders & wrecking laborers<br>Adzemen, asphalt rakers, barco-type jumping tamper, chain saw operators concrete and power buggy operators, concrete saw operators demolition burners fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipe layers, pipe trench bracers, pneumatic tool operators, rip-rap and dry stonewall builders setters of metal forms for roadways, stump operators, tree toppers tree trimmers wagon drill ops., wood chipper operators<br>8.75 .60 .80 .10<br>Air track drill op., pavers, ramers, curb setters<br>9.00 .60 .80 .10<br>Blasters & Powdermen<br>9.25 .60 .80 .10<br>Open air caisson, underpinning and boring crew:<br>Bottom man<br>9.25 .60 .80 .10<br>Laborer, top man<br>8.50 .60 .80 .10<br>Driller<br>9.37 .60 .80 .10 |                          |          |          |                            |







NOTICES

| DECISION NO. W178-2136 - MOD #1 (Cont'd) |                          |          |          |                            |
|--|--------------------------|----------|----------|----------------------------|
| Basic Hourly Rates                       | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|  | H & W                    | Pensions | Vacation |                            |
| CHANGE: POWER EQUIPMENT OPERATORS:       |                          |          |          |                            |
| Group I                                  | \$11.37                  | .85      |          | .10                        |
| Group II                                 | 11.12                    | .85      |          | .10                        |
| Group III                                | 10.82                    | .85      |          | .10                        |
| Group IV                                 | 10.72                    | .85      |          | .10                        |
| Group V                                  | 10.41                    | .85      |          | .10                        |
| Group VI                                 | 10.12                    | .85      |          | .10                        |

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Gaisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tamper-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breakers (Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Sced Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Alt. Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Roller Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oil and Greaser; Rotary Drill Helper, Conveyor.

| DECISION NO. W178-2136 - MOD #1 (Cont'd) |                          |          |          |                            |
|--|--------------------------|----------|----------|----------------------------|
| Basic Hourly Rates                       | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|  | H & W                    | Pensions | Vacation |                            |
| CHANGE: POWER EQUIPMENT OPERATORS:       |                          |          |          |                            |
| Group I                                  | \$11.37                  | .85      |          | .10                        |
| Group II                                 | 11.12                    | .85      |          | .10                        |
| Group III                                | 10.82                    | .85      |          | .10                        |
| Group IV                                 | 10.72                    | .85      |          | .10                        |
| Group V                                  | 10.41                    | .85      |          | .10                        |
| Group VI                                 | 10.12                    | .85      |          | .10                        |

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Gaisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tamper-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker (Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Sced Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Alt. Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Roller Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oil and Greaser; Rotary Drill Helper, Conveyor.

NOTICES

| DECISION NO. W178-2136 - MOD #1 (43 FR 50370 - October 27, 1978) LaCrosse, Monroe and Vernon Counties, Wisconsin |                          |          |          |                            |
|--|--------------------------|----------|----------|----------------------------|
| Basic Hourly Rates   | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|  | H & W                    | Pensions | Vacation |                            |
| CHANGE: ASBESTOS WORKERS   | .85                      | .90      | 1.00     | .09                        |
| CEMENT MASONS  | .75                      | .40      |          |                            |
| ELECTRICIANS   | .65                      | 3%       |          |                            |
| ELEVATOR CONSTRUCTORS:   |                          |          |          |                            |
| Constructors   | .895+                    | .565+    | a+b      | .025                       |
| Helper   | .895+                    | .565+    | a+b      | .025                       |
| Helper (Prob.)   |                          |          |          |                            |
| GLAZIERS   | .55                      | .50      | .45      |                            |
| LABORERS:  |                          |          |          |                            |
| General, Mason Tenders and Plasterer Laborer   | 8.33                     | .35      |          | .02                        |
| Air Hammer, Jackhammer Operator and other Air Tool Operators   | 8.48                     | .35      |          | .02                        |
| TILE SETTERS   | 9.38                     | .70      | .60      | .07                        |
| POWER EQUIPMENT OPERATORS - See Attached Schedule  |                          |          |          |                            |

CHANGE: ASBESTOS WORKERS

ELEVATOR CONSTRUCTORS:

Constructors

Helpers (Prob.)

PLUMBERS

ROOFERS

POWER EQUIPMENT OPERATORS - See Attached Schedule

| DECISION NO. W178-2137 - MOD #1 (43 FR 50372 - October 27, 1978) Langlade, Lincoln and Marathon Counties, Wisconsin |                          |          |          |                            |
|---|--------------------------|----------|----------|----------------------------|
| Basic Hourly Rates  | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|   | H & W                    | Pensions | Vacation |                            |
| CHANGE: ASBESTOS WORKERS  | .85                      | .50      | 1.00     | .10                        |
| ELEVATOR CONSTRUCTORS:  |                          |          |          |                            |
| Constructors  | .895+                    | .56+     | a+b      | .025                       |
| Helpers (Prob.)   | .895+                    | .56+     | a+b      | .025                       |
| PLUMBERS  | .65                      | .55      | 1.00     |                            |
| ROOFERS   |                          |          |          |                            |
| POWER EQUIPMENT OPERATORS - See Attached Schedule   |                          |          |          |                            |

CHANGE: ASBESTOS WORKERS

ELEVATOR CONSTRUCTORS:

Constructors

Helpers (Prob.)

PLUMBERS

ROOFERS

POWER EQUIPMENT OPERATORS - See Attached Schedule



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DECISION NO. W178-2146 - MOD #1 (Cont'd)

| Basic Hourly Rates   | Fringe Benefits Payments |                     |                   | Education and/or Appr. Tr. |
|--|--------------------------|---------------------|-------------------|----------------------------|
|  | H & W                    | Pensions            | Vacation          |                            |
| \$12.295-<br>8.61<br>502JR<br>10.18  | .895+<br>.895+<br>1.15   | .56+<br>.56+<br>.90 | a+b<br>a+b<br>.86 | .025<br>.025<br>.          |
| CHANGE:<br>ELEVATOR CONSTRUCTORS:<br>Constructors<br>Helpers<br>Helpers (Prob.)<br>PLASTERERS<br>POWER EQUIPMENT OPERATORS - See Attached Schedule |                          |                     |                   |                            |

DECISION NO. W178-2146 - MOD #1  
(43 FR - 50360 - October 27, 1978  
Milwaukee, Ozaukee, Waukesha,  
and Washington Counties,  
Wisconsin

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
POWER EQUIPMENT OPERATORS - See Attached Schedule

| Basic Hourly Rates                                   | Fringe Benefits Payments               |  |          | Education and/or Appr. Tr.             |
|--|--|--|----------|--|
|  | H & W                                  | Pensions                                     | Vacation |  |
| \$11.57<br>11.32<br>11.02<br>10.92<br>10.61<br>10.32 | .85<br>.85<br>.85<br>.85<br>.85<br>.85 | 1.00<br>1.00<br>1.00<br>1.00<br>1.00<br>1.00 |          | .10<br>.10<br>.10<br>.10<br>.10<br>.10 |

CHANGE:  
POWER EQUIPMENT OPERATORS:

Group I  
Group II  
Group III  
Group IV  
Group V  
Group VI

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (145 or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

NOTICES

DECISION NO. W178-2149 - MOD #1  
(43 FR - 50360 - October 27, 1978  
Milwaukee, Ozaukee, Waukesha,  
and Washington Counties,  
Wisconsin

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
POWER EQUIPMENT OPERATORS - See Attached Schedule

| Basic Hourly Rates                  | Fringe Benefits Payments |                     |                   | Education and/or Appr. Tr. |
|-------------------------------------|--------------------------|---------------------|-------------------|----------------------------|
|                                     | H & W                    | Pensions            | Vacation          |                            |
| \$12.295-<br>8.61<br>502JR<br>10.18 | .895+<br>.895+<br>1.15   | .56+<br>.56+<br>.90 | a+b<br>a+b<br>.86 | .025<br>.025<br>.          |

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
POWER EQUIPMENT OPERATORS - See Attached Schedule

DECISION NO. W178-2146 - MOD #1  
(43 FR - 50360 - October 27, 1978  
Milwaukee, Ozaukee, Waukesha,  
and Washington Counties,  
Wisconsin

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
POWER EQUIPMENT OPERATORS - See Attached Schedule

| Basic Hourly Rates                  | Fringe Benefits Payments |                     |                   | Education and/or Appr. Tr. |
|-------------------------------------|--------------------------|---------------------|-------------------|----------------------------|
|                                     | H & W                    | Pensions            | Vacation          |                            |
| \$12.295-<br>8.61<br>502JR<br>10.18 | .895+<br>.895+<br>1.15   | .56+<br>.56+<br>.90 | a+b<br>a+b<br>.86 | .025<br>.025<br>.          |

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
POWER EQUIPMENT OPERATORS - See Attached Schedule

DECISION NO. W178-2146 - MOD #1  
(43 FR - 50360 - October 27, 1978  
Milwaukee, Ozaukee, Waukesha,  
and Washington Counties,  
Wisconsin

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
POWER EQUIPMENT OPERATORS - See Attached Schedule

| Basic Hourly Rates                  | Fringe Benefits Payments |                     |                   | Education and/or Appr. Tr. |
|-------------------------------------|--------------------------|---------------------|-------------------|----------------------------|
|                                     | H & W                    | Pensions            | Vacation          |                            |
| \$12.295-<br>8.61<br>502JR<br>10.18 | .895+<br>.895+<br>1.15   | .56+<br>.56+<br>.90 | a+b<br>a+b<br>.86 | .025<br>.025<br>.          |

CHANGE:  
ELEVATOR CONSTRUCTORS:  
Constructors  
Helpers  
Helpers (Prob.)  
PLASTERERS  
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FRIDAY, MARCH 23, 1979

PART IV



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DEPARTMENT OF  
HEALTH  
EDUCATION, AND  
WELFARE

Office of Education

■

BASIC EDUCATIONAL  
OPPORTUNITY GRANT  
PROGRAM

Family Contribution Schedules



[4110-02-M]

## Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION,  
DEPARTMENT OF HEALTH, EDUCA-  
TION, AND WELFARE

## Family Contribution Schedules

AGENCY: Office of Education, HEW.  
ACTION: Final Regulations.

**SUMMARY:** The Family Contribution Schedules are the formulas used in determining student eligibility on the basis of financial need for the Basic Educational Opportunity Grant Program. These final regulations establish the Family Contribution Schedules for the Basic Educational Opportunity Grant Program for the 1979-80 award period. They include a number of revisions to the 1978-79 Family Contribution Schedules. These revisions are intended to increase program equity and to respond to public and Congressional interest in easing the burden of educational costs for middle income families while still maintaining the statutory mandate of a formula-based program. Several of these changes, in addition to being included in the August 14, 1978 notice of proposed rulemaking for the 1979-80 Family Contribution Schedules, were later enacted into law as provisions of the Middle Income Student Assistance Act.

**EFFECTIVE DATE:** These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed by statute if the Congress disapproves the regulations or takes certain adjournments. It should be noted, however, that these regulations apply only to Basic Educational Opportunity Grants made for the period of July 1, 1979 through June 30, 1980. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION  
CONTACT:

William Moran, Chief, Basic Grants Policy Section, Division of Policy and Program Development, ROB-3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (202) 472-4300.

## SUPPLEMENTARY INFORMATION:

## GENERAL BACKGROUND

The proposed Family Contribution Schedules for 1979-80 were published in the FEDERAL REGISTER as a notice of proposed rulemaking (NPRM) on August 14, 1978. Copies of the NPRM

were mailed to participating postsecondary institutions and to various education organizations, and public comment was solicited. Additionally, Congressional hearings were held on the proposed regulations. Subsequent to the publication of the NPRM, Congress enacted the Middle Income Student Assistance Act Public Law 95-566.

This law specified a 10 1/4% rate for assessing parental discretionary income and made two changes in the treatment of independent students. One of these changes required that the family size offset for the single independent student would be computed in the same way that all other family size offsets are computed. The other provided that the assets of independent students with dependents would be assessed in the same manner as those of the parents of dependent students.

However, it was decided to postpone implementation of these two changes in the treatment of independent students until the 1980-81 award period, because of the need for fiscal constraint with respect to FY 1980 outlays. Accordingly, these two changes are not included in the 1979-80 Family Contribution Schedules.

The public comments that were received on the NPRM and the Office of Education responses to those comments are summarized in the appendix of these regulations.

## SUMMARY OF MAJOR ISSUES

1. *Adjustment of family size offsets.* The family size offsets included in the Family Contribution Schedules are intended to provide for basic family expenses that must be met before any contribution toward a student's educational costs can be expected. The family size offsets have been updated annually since the beginning of the Basic Grant Program to reflect the increase in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. To derive the offsets for the 1978 base year which will be used in computing awards for the 1979-80 award period, the offsets for 1977 have been increased by 8.8 percent to reflect the rise in the Consumer Price Index.

2. *Change in the rate of assessing parental discretionary income for dependent students.* One of the objectives of the Middle Income Student Assistance Act was to make the Basic Grant Program available to more students from middle income families. To achieve that objective, that Act provided that parental discretionary income would be assessed at a rate of 10.5%. The August 14 NPRM had included optional rates for assessing discretionary income contingent upon Congressional action concerning tuition tax credit proposals that were pending at the time the NPRM was

prepared. The first option was to change the assessment rate to 12% if tax credit legislation was not enacted. The second option, intended to be used if a tax credit bill became law, was to make no change in the assessment rate, leaving it at 20% for the first \$5,000 of discretionary income and 30% for all discretionary income above the first \$5,000. Now, however, in accordance with the provisions of the Middle Income Student Assistance Act, the final regulation includes a 10.5% assessment rate for discretionary income.

**NOTE.**—Section 411(a)(3)(A)(i) of the Higher Education Act of 1965 provides that Family Contribution Schedules will be effective for a twelve-month period beginning each July 1. However, the language of the Middle Income Student Assistance Act specifies August 1, 1979 as the effective date for the change in the rate of assessing discretionary income, mentioned in item 2 above. To provide consistency with all other aspects of the program, the Commissioner has made all changes in the 1979-80 Family Contribution Schedules effective as of July 1, 1979—the beginning of the 1979-80 award period. Additionally, the Commissioner has requested a technical amendment to change the effective date of these provisions in the Middle Income Student Assistance Act from August 1, 1979 to July 1, 1979.

3. *Increase in the personal asset reserve to \$25,000.* The August 14 NPRM included a proposal to raise the asset reserve for non-farm and non-business assets from \$17,000 to \$25,000. The change to a \$25,000 asset reserve has been included in the final regulation.

4. *Change in the definitions of a parent.* In an effort to achieve greater program equity and also to eliminate a continuing source of confusion in the application process, the August 14 NPRM included a proposed change in the definition of a "parent," limiting that term to the applicant's mother or father. That change has been adopted in the final regulation.

5. *Changes in the definition of an "independent student."* The August 14 NPRM also included two changes in the definition of an independent student, both of which liberalized the criteria for determining independent student status. These changes have been adopted in the final regulation. Both of these criteria apply for the year prior to the award period and for the two calendar years in which the award period occurs. These changes are:

(a) An increase from \$600 to \$750 in the amount of financial assistance an independent student may receive per year from his or her parents, and  
(b) An increase from two consecutive weeks to six weeks in the amount of time an independent student may live in the home of his or her parents per year.

As was noted in the August 14 NPRM, these changes in the defini-

tion of an independent student apply not only to the Basic Grant Program, but also to the three campus-based programs (National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grants) for periods of study occurring after July 1, 1979. Changes in the definition for the regulations of each of these three programs are included at the back of these final regulations for the 1979-80 Family Contribution Schedules.

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: March 14, 1979

ERNEST L. BOYER,  
U.S. Commissioner of Education.

Dated: March 16, 1979.

HALE CHAMPION,  
Acting Secretary of Health,  
Education, and Welfare.

PART 190—BASIC EDUCATIONAL  
OPPORTUNITY GRANT PROGRAM

1. Subparts C and D of Part 190 of Title 45 of the Code of Federal Regulations are revised to read as follows:

Subpart C—Expected Family Contribution for  
Dependent Students

- Sec.  
190.31 Indicators of financial strength.  
190.32 Special definitions.  
190.33 Annual adjusted family income.  
190.34 Computation of the expected family contribution for a dependent student from effective family income.  
190.35 Computation of the expected contribution from parental assets.  
190.36 Computation of the expected contribution from parental income and assets, adjusted for number of family members attending programs of postsecondary education.  
190.37 Computation of the expected contribution from student's assets.  
190.38 Computation of the total expected family contribution.  
190.39 Extraordinary circumstances affecting the expected family contribution determination for dependent students.

Subpart D—Expected Family Contribution for  
Independent Students

- 190.41 Indicators of financial strength.  
190.42 Special definitions.  
190.43 Annual adjusted family income.  
190.44 Computation of the expected family contribution for an independent student from effective family income.  
190.45 Computation of the expected contribution from the assets of the independent student and spouse.  
190.46 Computation of the total expected contribution from the student's and spouse's income and assets adjusted for number of family members attending programs of postsecondary education.  
190.47 (Reserved)  
190.48 Extraordinary circumstances affecting the expected family contribution determination for the independent student.

Subpart C—Expected Family  
Contribution for Dependent Students

## § 190.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for dependent students:

- (a) The effective income of the student's parent(s).  
(b) The number of dependents of the student's parent(s).  
(c) The number of dependents of the student's parent(s) who are attending, on at least a half-time basis, a program of postsecondary education.  
(d) The assets of the student.  
(e) The assets of the student's parent(s).

(f) The unusual expenses of the student's parent(s). These unusual expenses are limited to medical and dental expenses and expenses arising from a catastrophe.

(g) The additional expenses incurred when two parents are employed or when a family is headed by a single parent who is employed.

(h) The unreimbursed expenses incurred for tuition by the student's parents for other dependent children enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(B)(ii).)

## § 190.32 Special definitions.

For purposes of this subpart:

The definition of "annual adjusted family income" is set forth in § 190.33.

"Assets" means cash on hand including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment, and business inventory.

However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or his family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate inventories, buildings, machinery and

other equipment inventories, patents, franchise rights, and copyrights.

"Dependents of the student's parents" means the student and any of the following persons for whom the parents provide or will provide more than one-half support during 1979:

(a) Other children of the student's parents, or

(b) Persons living with the parents.

"Dependent student" means any student who does not qualify as an independent student as defined in § 190.42(a).

"Effective family income" of a student's parents means their annual adjusted family income minus the Federal income tax paid or payable with respect to the year for which adjusted gross income, as defined in § 190.33, is reported.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

"Employment expense offset" means an allowance to meet expenses relating to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Expenses arising from catastrophe" means unreimbursed casualty losses incurred by the parents of the student that may be deducted under section 165(c)(3) of the Internal Revenue Code. The expenses which may be reported are those which were incurred during 1978, unless the student files under the provisions of § 190.39. In that case the expenses reported will be those incurred in 1979.

(20 U.S.C. 1070a(a)(3)(B)(iv).)

"Family size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. The "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration, is used as a basis to determine the family size offset.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions.

(20 U.S.C. 1070a(a)(3) (B) (iii).)



"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code paid in 1978 by the parents of the student unless the student files under the provisions of § 190.39. In that case the expenses reported are those paid in 1979.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother or father. An adoptive parent is considered the student's mother or father.

(20 U.S.C. 1070a(a)(3)(B)) unless otherwise noted.)

#### § 190.33 Annual adjusted family income.

(a) "Annual adjusted family income" means, except as provided in paragraph (b), (c), and (d) of this section and § 190.39—

(1) The sum received in 1978 by the student's parents from—

(i) Adjusted gross income as defined by section 62 of the Internal Revenue Code, regardless of whether the parent filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on State and municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payment, income from income maintenance programs such as welfare benefits, and Social Security benefits;

(2) Any Social Security benefits paid to or on account of the student in 1978; and

(3) One-half of any veteran's benefits to be paid to the student under chapters 34 and 35 of the United States Code for the award period for which aid is requested.

(b) For a Native American student, the annual adjusted family income will not include the income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(c) For a student whose parents are divorced or separated, the following procedures apply for reporting parent's income to determine the annual adjusted family income—

(1) Report only the income as described in paragraph (a) of this section of the parent who has or had custody of the student.

(2) If custody was not awarded, or if the parents have or had equal custody,

report only the income of the parent with whom the student resided for the greater portion of the 12 month period preceding the date of the application.

(3) If none of the preceding criteria apply, report only the income of the parent who is providing or who has provided the greater portion of the student's support.

(d) The following rule applies if either a parent whose income is taken into account under paragraph (c), or a parent who is a widow or widower and whose income is taken into account under paragraph (a) has remarried. The income of such a parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1978, 1979, or 1980, the student—

(1) Has received or will receive financial assistance of more than \$750 in any one of those years from that spouse, or

(2) Has lived or will live for more than six weeks in any one of those years in the home of that spouse.

(20 U.S.C. 1070a(a)(3)(B).)

#### § 190.34 Computation of the expected family contribution for a dependent student from effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the effective family income of the student's parents.

(b) Determine discretionary income by deducting the following offsets from the amount calculated in paragraph (a):

(1) A family size offset in the following table.

| Family size offsets |         |
|---------------------|---------|
| Family members      | Amount  |
| 2                   | \$4,450 |
| 3                   | 5,400   |
| 4                   | 6,850   |
| 5                   | 8,050   |
| 6                   | 9,150   |
| 7                   | 10,100  |
| 8                   | 11,200  |
| 9                   | 12,250  |
| 10                  | 13,250  |

<sup>1</sup> Plus \$1,000 for each additional family member over 10.

In determining the family size, the following rules apply—

(i) If the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents.

(ii) If the parents are divorced or separated and not remarried, family members include any parent whose income is included in computing the annual adjusted family income and that parent's dependents.

(iii) If the parents are divorced and the parent whose income is included in

computing the annual adjusted family income has remarried, or if that parent was a widow or widower who has remarried, family members also include any dependents of the new spouse if that spouse's income is included in determining the annual adjusted family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses and unreimbursed losses resulting from a catastrophe exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student's parents during 1978, unless the student files under the provisions of § 190.39. In that case, the expenses reported will be those paid in 1979. The expenses of both parents are included only if the incomes of both are subject to inclusion in determining the effective family income. Similarly, a step-parent's expenses are included only if his or her income was subject to inclusion.

(3) An employment expense offset in the amount specified as follows—

(i) If both parents were employed in the year for which parent's adjusted gross income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of \$1,500 or 50 percent of the adjusted gross income earned by the parent with the lesser income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of \$1,500 or 50 percent of his or her adjusted gross income.

The adjusted gross income figure to be used in all cases is that figure for 1978 unless the student files under the provisions of § 190.39. In that case the figure to be used is the one for 1979.

(4) An educational expense offset equal to the unreimbursed tuition paid by the student's parents for other dependent children enrolled in elementary or secondary school. The expenses which may be reported are those expenses paid in 1978 unless the student files under the provisions of § 190.39. In that case, the expenses reported will be those paid in 1979.

(c) If the discretionary income is a positive amount, multiply it by 10.5 percent. If it is negative, there is no expected family contribution from effective family income.

(20 U.S.C. 1070a(a)(3)(B).)

#### § 190.35 Computation of the expected contribution from parental assets.

Except as provided for in paragraph (d), the expected contribution from parental assets is determined in the following manner:

(a) If the net assets do not include farm or business assets, deduct an asset reserve of \$25,000 from the net assets.

(b) If the net assets include farm or business assets as defined in § 190.32, deduct an asset reserve from the net assets as follows—

(1) If farm or business assets are less than farm or business debts, deduct an asset reserve of \$25,000 from the net value of all assets.

(2) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is \$25,000 or more, deduct an asset reserve of,

(i) \$25,000 from non-farm and non-business assets, and

(ii) \$25,000 from farm and business assets.

(3) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is less than \$25,000, deduct an asset reserve of \$50,000 from the net value of all assets.

(4) If the result obtained in paragraphs (b)(1), (2)(ii), or (3) of this section is a negative amount, it shall be changed to zero.

(c) The expected contribution from parental assets equals five percent of the remainder obtained in paragraph (a) or (b) of this section.

(d) If the calculation of discretionary income required by § 190.34(b) produces a negative number, the expected contribution from parents' assets, calculated under paragraphs (a) or (b) of this section shall be reduced by the amount of that negative discretionary income.

(e)(1) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) However, if that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 190.33, the assets of that parent's spouse shall also be included.

(20 U.S.C. 1070a(a)(3)(B).)

#### § 190.36 Computation of the expected contribution from parental income and assets adjusted for number of family members attending programs of postsecondary education.

(a) For each grant the amount expected from parental income as determined in § 190.34 is added to the amount expected from parental assets as determined in § 190.35.

(b)(1) For each grant the combined expectation determined in paragraph (a) is adjusted in the following manner for the number of family members who will be attending, on at least a

half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance requested:

| Number of family members attending programs of postsecondary education: | Expected contribution per student from combined contribution: |
|---|---|
| 1   | 100 percent of the contribution determined in paragraph (a).  |
| 2   | 70 percent of the contribution determined in paragraph (a).   |
| 3   | 50 percent of the contribution determined in paragraph (a).   |
| 4 or more   | 40 percent of the contribution determined in paragraph (a).   |

(2) Family members are those persons referenced in § 190.34(b)(1).

(20 U.S.C. 1070a(a)(3)(B).)

#### § 190.37 Computation of the expected contribution from student's assets.

For each grant the contribution from the student's assets equals 33 percent of his or her net assets.

(20 U.S.C. 1070a(a)(3)(B).)

#### § 190.38 Computation of the total expected family contribution.

For each grant the total expected family contribution is the sum of—

(a) The expected contribution from the parents' income and assets as determined in § 190.36, and

(b) The expected contribution from the student's assets as determined in § 190.37.

(20 U.S.C. 1070a(a)(3)(B).)

#### § 190.39 Extraordinary circumstances affecting the expected family contribution determination for dependent students.

(a) An applicant may submit an application to the Commissioner for determination of his or her expected family contribution using income data from 1979 instead of 1978 if—

(1) A parent whose income was or would have been included in the computation of the expected family contribution has died in 1978 or 1979.

(2) A parent whose income was or would have been included in the computation of the expected family contribution has lost his or her job for at least 10 weeks during 1979.

(3) A parent whose income was or would have been included in the computation of the expected family contribution has been unable to pursue normal income-producing activities for at least 10 weeks during 1979 because of (i) disability, or (ii) loss or damage to income-producing property as a result of a natural disaster.

(4) The parents of the applicant have become separated or divorced

after the applicant submitted his or her application, or

(5) A parent whose income was or would have been included in the computation of the expected family contribution had his or her unemployment benefits expire in 1978 or 1979.

(b) An application submitted under paragraph (a) shall include the annual adjusted family income already received for 1979 and an estimate of the annual adjusted family income to be received for the remainder of that year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a)(3)(B)(i)(V).)

#### Subpart D—Expected Family Contribution for Independent Students

##### § 190.41 Indicators of financial strength.

"Expected Family Contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for independent students:

(a) The annual adjusted family income of the independent student and spouse.

(b) The number of persons whom the independent student and spouse can claim as exemptions.

(c) The number of dependents of the independent student and spouse who are attending, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the independent student and spouse.

(e) The unusual expenses of the independent student and spouse. These unusual expenses are limited to medical and dental expenses and expenses arising from a catastrophe.

(f) The additional expenses incurred when both the independent student and spouse are employed or when the employed independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(g) The unreimbursed expenses incurred for tuition by the student or spouse for dependent children enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(C).)



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§ 190.42 Special definitions.

The definition of "Annual Adjusted Family Income" is set forth in § 190.43. "Assets" means cash on hand including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment and business inventory.

However, for Native American students, the following shall not be considered as an asset of the student or his or her spouse in determining the expected family contribution—

(a) Any property received pursuant to an award under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or spouse by the United States Government.

"Dependent" means the independent student's spouse and any of the following persons for whom the student or spouse provides or will provide more than one-half support during 1979: (a) children of the student or spouse; or (b) persons living with the student and spouse.

"Effective family income" means the annual adjusted family income received minus the Federal income tax paid or payable with respect to the year for which adjusted gross income, as defined in § 190.43, is reported.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Expenses arising from catastrophe" means unreimbursed casualty losses incurred by the independent student and spouse that may be deducted under section 165(c)(3) of the Internal Revenue Code. The expenses which may be reported are those which were incurred during 1978, unless the student files under the provisions of § 190.48. In that case the expenses reported will be those incurred in 1979.

"Family size offset" means an allowance to meet the subsistence expenses of the independent student and his or her dependents, including food, shelter, clothing, and other basic needs. The "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration, is used as a basis to determine the family size offset, except in the case of a single independent student. In that case an amount estimated to be equal

to living expenses during the normal period of non-enrollment is used.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under Chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions.

"Independent student" means:

(a) A student who for 1978, 1979, or 1980—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s) for any one of these years;

(2) Has not received and will not receive financial assistance of more than \$750 from his or her parent(s) in any one of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years; or

(b) A student whose last surviving parent for whom financial information would have been reported on the application under the provisions of Subpart C has died in 1978, 1979, or 1980.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code for 1978, by the independent student and spouse unless the student files under the provisions of § 190.48. In that case the expenses reported are those for 1979.

"Net assets" means, at the time of application, the current market value of the assets included in the definition of assets minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother or father. An adoptive parent is considered the student's mother or father.

(20 U.S.C. 1070a(a)(3)(C).)

§ 190.43 Annual adjusted family income.

(a) "Annual adjusted family income" means, except as provided in paragraphs (b) and (c) of this section and § 190.48—

(1) The sum received in 1978 by the student and spouse from—

(i) Adjusted gross income as defined by section 62 of the Internal Revenue Code, regardless of whether the student or spouse filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the in-

terest on State and municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payments, income from income maintenance programs such as welfare benefits and Social Security benefits.

(2) One-half of any veteran's benefits to be paid to a student under Chapters 34 and 35 of the United States Code for the award period for which aid is requested.

(b) For a Native American student, the annual adjusted family income will not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(c) In the case of the student who is divorced or separated, only the student's own income shall be considered in determining the annual adjusted family income.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.44 Computation of the expected family contribution for an independent student from effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine effective family income of the student and spouse.

(b) Determine discretionary income by deducting the following offsets from the amount calculated in paragraph (a):

(1) A family size offset in the amount specified in the following table.

| Family size offsets   |         |
|-----------------------|---------|
| Family members        | Amount  |
| 1.....                | \$1,200 |
| 2.....                | 4,450   |
| 3.....                | 5,400   |
| 4.....                | 6,850   |
| 5.....                | 8,050   |
| 6.....                | 9,150   |
| 7.....                | 10,100  |
| 8.....                | 11,200  |
| 9.....                | 12,250  |
| 10 <sup>1</sup> ..... | 13,250  |

<sup>1</sup> Plus \$1,000 for each additional family member over 10.

In determining the family size, the following rules apply—

(i) Family members normally include the student and spouse and their dependents.

(ii) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental ex-

penses and unreimbursed losses resulting from a catastrophe exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1978, unless the student files under the provisions of § 190.48. In that case the expenses reported will be those paid in 1979. The expenses of both the students and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset in the amount specified as follows—

(i) If both the student and spouse were employed in the year for which adjusted gross income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of \$1,500 or 50 percent of the adjusted gross income earned by the person with the lesser income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of \$1,500 or 50 percent of his or her income.

The adjusted gross income figure to be used in all cases is that figure for 1978, unless the student files under the provisions of § 190.48. In that case the figure to be used is the one for 1979.

(4) An educational expense offset equal to the unreimbursed tuition paid by the student and spouse for other dependent children enrolled in elementary or secondary school. The expenses that may be reported are those expenses paid in 1978, unless the student files under the provisions of § 190.48. In that case the expenses reported will be those paid in 1979.

(20 U.S.C. 1070a(a)(3)(B).)

(c) If the discretionary income is a positive amount, multiply it by:

(1) 75 percent for the single independent student with no dependents;

(2) 50 percent for the married independent student with no dependents other than a spouse; or

(3) 40 percent for the independent student who has dependents other than a spouse.

If the discretionary income is negative, there is no expected family contribution from effective family income.

(20 U.S.C. 1070a(a)(3)(C).)

§ 190.45 Computation of the expected contribution from the assets of the independent student and spouse.

(a) Except as provided for in paragraph (b), the expected contribution from the assets of the independent student and spouse is determined in the following manner:

(1) Determine the net assets owned by the student and spouse.

(2) The expected contribution from assets equals 33 percent of the amount determined in paragraph (a)(1) of this section.

(b) If the calculation of discretionary income required by § 190.44(b) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a) shall be reduced by the amount of that negative discretionary income.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.46 Computation of the total expected contribution from the student's and spouse's income and assets, adjusted for number of family members attending programs of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 190.44 is added to the amount expected from assets as determined in § 190.45.

(b) For each grant, the combined expectation determined in paragraph (a) is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance is requested.

| Number of family members attending institutions of postsecondary education: | Expected contribution per student from combined contribution: |
|---|---|
| 1.....  | 100 percent of the contribution determined in paragraph (a).  |
| 2.....  | 70 percent of the contribution determined in paragraph (a).   |
| 3.....  | 50 percent of the contribution determined in paragraph (a).   |
| 4 or more.....  | 40 percent of the contribution determined in paragraph (a).   |

Family members are those persons referenced in § 190.44(b)(1).

(20 U.S.C. 1070a)

§ 190.47 [Reserved]

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for the independent student.

(a) An applicant may submit an application to the Commissioner for determination of his or her expected family contribution using income data from 1979 instead of 1978 if—

(1) A spouse whose income was or would have been included in the computation of the expected family contribution has died in 1978 or 1979,

(2) A spouse whose income was or would have been included in the computation of the expected family contribution has lost his or her job for at least 10 weeks during 1979,

(3) An applicant or spouse whose income was or would have been included in the computation of the expected family contribution has been unable to pursue normal income-producing activities for at least 10 weeks during 1979 because of (i) Disability or (ii) loss or damage to income-producing property as a result of natural disaster,

(4) The applicant has become separated or divorced after he or she submitted his or her application,

(5) The applicant was employed full-time in 1978 (at least 35 hours per week for a minimum of 30 weeks during 1978) and is no longer employed full-time,

(6) An applicant or spouse whose income was or would have been included in the computation of the expected family contribution has had his or her unemployment benefits expire in 1978 or 1979, or

(7) An applicant's last surviving parent for whom financial information was reported on an earlier application for the award period has died.

(b) An application submitted under paragraph (a) of this section shall include the annual adjusted family income already received for 1979 and an estimate of the annual adjusted family income to be received for the remainder of that year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a)(3)(B)(i)(V).)

PART 144—NATIONAL DIRECT STUDENT LOAN PROGRAM

2. Section 144.2 of part 144 of Title 45 of the Code of Federal Regulations is amended by adding the definition of "independent student (effective July 1, 1979)," to read as follows:

§ 144.2 Definitions:

.....  
"Independent student (effective July 1, 1979):"

(a) This term means a student—

(1) Who is a veteran; or  
(2) Who for the calendar year(s) of the award period for which aid is requested or the calendar year before the first calendar year of that award period—

(i) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s) for any one of these years;



(ii) Has not received and will not receive financial assistance of more than \$750 from his or her parent(s) in any one of these years; and

(iii) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years.

(b) However, the Commissioner considers that a student will not have been claimed as an exemption by a parent, will not have received more than \$750 from a parent, and will not have lived in the parent's home for more than six weeks if that parent dies before the student submitted his or her loan application.

(20 U.S.C. 1087aa-ff; 20 U.S.C. 1087dd(e).)

#### PART 175—COLLEGE WORK-STUDY PROGRAM

3. Section 175.2 of Part 175 of Title 45 of the Code of Federal Regulations is amended by adding the definition of "independent student (effective July 1, 1979)," to read as follows:

##### § 175.2 Definitions:

"Independent student (effective July 1, 1979):"

(a) This term means a student who for the calendar year(s) of the award period for which aid is requested or the calendar year before the first calendar year of that award period—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes, by his or her parent(s) for any one of these years;

(2) Has not received and will not receive financial assistance of more than \$750 from his or her parent(s) in any one of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years.

(b) However, the Commissioner considers that a student will not have been claimed as an exemption by a parent, will not have received more than \$750 from a parent, and will not have lived in the parent's home for more than six weeks if that parent dies before the student submitted his or her College Work-Study application.

(42 U.S.C. 2751-2756.)

#### PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

4. Section 176.2 of part 176 of Title 45 of the Code of Federal Regulations is amended by adding the definition of

"independent student (effective July 1, 1979)," to read as follows:

##### § 176.2 Definitions:

"Independent student (effective July 1, 1979):"

(a) This term means a student who for the calendar year(s) of the award period for which aid is requested or the calendar year before the first calendar year of that award period—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes, by his or her parent(s) for any one of these years;

(2) Has not received and will not receive financial assistance of more than \$750 from his or her parent(s) in any one of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years.

(b) However, the Commissioner considers that a student will not have been claimed as an exemption by a parent, will not have received more than \$750 from a parent, and will not have lived in the parent's home for more than six weeks if that parent dies before the student submitted his or her grant application.

(20 U.S.C. 1070b.)

#### APPENDIX—SUMMARY OF COMMENTS AND RESPONSES

Set forth below is a summary of the public comments received on the proposed Family Contribution Schedules and the Office of Education responses to those comments. Generally, the comments and responses appear in the numerical sequence of the regulations and are identified with the section number and title of the section to which they refer.

##### § 190.32 Special Definitions. "Parent".

*Comment.* A number of people commented on the proposed change in the definition of the term, "parent." The majority of these commenters (approximately 70%) favored the new concept, stating that it was more realistic and equitable to consider only the natural or adoptive parents as parents for Basic Grant purposes. On the other hand, those who opposed such a definition generally felt that some parents are already abdicating their responsibilities as far as the postsecondary education of their children is concerned, and this will only make it easier for them to do so.

In addition to these 30% who were opposed to the change, several commenters favored the change with reservations. For example, two commenters thought that there should be

a revised concept of "spouse" to complement the new definition of parent. This would, according to the commenters, identify those situations in which a student was living with and, thus, receiving support from, someone to whom the student was not legally married.

Along similar lines, one commenter suggested that the Basic Grant Program should consider, at a minimum, the value of the room and board that a student receives when he or she lives with a person other than his or her parent. Finally, one commenter was concerned that the new definition of parent would automatically make a student independent of a step-parent who might be providing considerable financial help.

*Response.* As was indicated in the preamble to the proposed rules, the Basic Grant Program has always operated under the assumption that parents have the first responsibility for the education of their dependent children. While the Commissioner definitely agrees with that concept, it has become apparent that people, other than the parents, from whom the applicant might receive some support do not necessarily have a similar responsibility. Thus, the suggestion to retain the old concept of "other parent" for such people and, thus, to view the affected students as dependent upon them for their postsecondary education has not been reflected in the final regulation.

The Commissioner has also decided not to adopt a new, more encompassing definition of spouse, believing that such a definition is not necessary. If a student qualifies as an independent student, the legal definition of spouse will continue to be used in determining whose income must be reported for purposes of establishing Basic Grant eligibility.

Regarding the reporting of the value of room and board that an independent student might receive by living with someone other than a parent or spouse, the Commissioner does not feel that it would be practical to attempt to determine if such benefits exist or to determine the value of those benefits. Thus, the recommendation has not been adopted.

Finally, the Commissioner does agree that, under certain conditions, a step-parent's, as well as a parent's, income and assets should be reported in determining the eligibility of a dependent student. These conditions are addressed in § 190.33(d) of the final regulations. It should be noted, however, that the step-parent's income and assets are only considered because, first, the student has already been determined to be dependent on his or her natural or adoptive parent and, second, there exists a familial finan-

cial relationship between the student and the step-parent. Thus, the new definition of parent does not automatically remove a step-parent from consideration for Basic Grant purposes. Rather, the same concept that existed in the past continues to exist.

*Comment.* In noting the language of the 1978-79 Family Contribution Schedules, one commenter asked whether the unusual expenses (casualty losses and medical expenses) of the entire family should be considered for a dependent student since the income that is reported is only the income of the parents.

*Response.* The Commissioner agrees that, for a dependent applicant, the "expenses arising from catastrophe" and "medical expenses" should be only those expenses incurred by the parents whose income is included. Expenses which are incurred by the applicant himself or herself or by other members of the family other than the parents should not be considered as offsets against the effective family income of the parents. Therefore, the language in § 190.2 defining those expenses has been clarified.

##### § 190.33 Annual adjusted family income.

*Comment.* Several comments were received related to the annual adjusted family income. One commenter thought that special consideration should be given to farm families. Specifically, this person thought that since farm income fluctuates considerably from year to year, we should use income averaging for farm incomes over the past three years. As an alternative, he suggested allowing a larger amount of discretionary income for an eligible applicant's family to offset not only the effects of inflation on the farm family's income, but, also, the special financial problems that farmers often encounter.

The second comment related to the fact that the claiming of the applicant as an income tax exemption jointly by the parent and step-parent is not a criterion for requiring part or all of the step-parent's income and assets to be reported. This commenter felt that many students who do live in such a home do not report that fact. But, if the income tax exemption criterion were stated, it would be easy to document where the applicant lives or has lived.

The third comment was also related to when the step-parent's financial resources should be considered. This commenter, however, felt that the step-parent's income should sometimes be included even if neither of the stated conditions in § 190.33 exists since the step-parent's and the parent's funds are often used jointly.

*Response.* None of these suggestions were implemented in the final regulations. The family size offsets have, of course, been increased by amounts which reflect the increase in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. This, the Commissioner feels, provides an adequate offset from the family's effective income for Basic Grant applicants. If special consideration were given to members of one occupation, but not to others, the concept of consistent treatment for all applicants applying for Basic Grant assistance would be jeopardized. Several occupations in addition to farming are characterized by yearly fluctuating incomes. The Basic Grant Program treats all of these situations in an identical fashion, i.e., by using the base year income as the best available indicator of the current year income. While the base year income may in some cases exceed the current year income, it is just as likely that the opposite will be true. And in the majority of cases, the difference is likely to be minimal. The use of an average of the past three years' incomes would substantially complicate both the application and the validation processes and would probably not be as accurate a reflection of an applicant's current financial situation as is the use of the base year.

Concerning the reporting of the step-parent's income and assets, the tax exemption criterion is not used since it does not always indicate that a familial or financial relationship exists or existed between the applicant and the step-parent. For example, when one parent is allowed to claim the applicant as a tax exemption as a result of a divorce settlement, and that parent files a joint return with his or her new spouse, it does not necessarily indicate that the new spouse (the step-parent) provided any financial assistance to the applicant. Neither does it indicate whether the applicant lived with the step-parent for any length of time.

In short, the claiming of a student by the step-parent does not establish that a relationship "equivalent" to that of parent and child exists for the step-parent and step-child as is called for in the Basic Grant legislation. Thus, the Basic Grant Program would not want to require that the step-parent's financial information be used to determine such an applicant's eligibility in the absence of one of the stated criteria, i.e., if no familial or financial link existed between the step-parent and the applicant. In such a case, of course, the applicant would still be dependent by virtue of the fact that he or she had been claimed by his or her parent on the parent's joint tax return. However, only that parent's fi-

nancial information would be reported. The "fact" that both the step-parent's and the parent's funds are often used jointly is an imprecise determination at best. It is not considered by itself to be an adequate criterion by which a relationship equivalent to that between a parent and a child can be said to exist between a step-parent and a step-child.

*Comment.* Another commenter suggested that in cases of self employment, taxable income should be used instead of adjusted gross income when determining the effective family income of an applicant's parents.

*Response.* Since the Basic Grant Program is formula-based, it is imperative that all applicants receive equal and consistent treatment in the determination of their need. The various deductions to which a taxpayer is entitled by law will vary from one individual to another regardless of whether he or she is self-employed or not. By mandating that the adjusted gross income line be used, the Commissioner believes that a more consistent treatment of applicants is achieved. It is also the Commissioner's belief that such a figure will provide a more realistic figure of effective family income than would be achieved by allowing a family to report only that portion of its income that is subject to taxes after various deductions have been subtracted from that income.

##### § 190.34 Computation of the expected family contribution for a dependent student from effective family income.

*Comment.* As part of § 190.33 of the proposed rules the Office of Education suggested that one of two alternative approaches to assessing parental income be incorporated into the final regulations. The two alternatives were proposed to accommodate whatever action Congress might take concerning tuition tax credits. Alternative A provided for a 12% assessment of discretionary income and would result in both a greater number of students qualifying for Basic Grants and in generally larger grants than would result from Alternative B. Alternative B provided for keeping the old assessment rate of 20% of the first \$5,000 and 30% of everything else. The vast majority of commenters favored Alternative A.

*Response.* Subsequent to the publishing of the proposed regulations for the Family Contribution Schedules, the Congress passed the Middle Income Student Assistance Act. This legislation was signed by the President on November 1, 1978. One of its provisions is: "In determining the expected family contribution (for Basic Grants) for any academic year after academic year 1978-79, an assessment rate of 10.5 per centum shall be applied to pa-



rental discretionary income." Thus, the final regulations reflect this new provision of the law.

*Comment.* One commenter suggested that the same assessment rate that is applied to the discretionary income of parents of dependent students be used for independent students with dependents. He felt that to do otherwise represents a value judgment that it is more important to educate an 18-year-old student than a 30-year-old student.

*Response.* The assessment rate on the income of parents of dependent students will be 10.5% for the 1979-80 academic year. This is based on the applicable provision of the Middle Income Student Assistance Act. However, the assessment rate on the income of an independent student can be either 40%, 50%, or 75% depending on whether that independent student has dependents other than a spouse, has a spouse only, or is a single independent student.

No judgment about the relative importance of educating any segment of the population is intended to be made by this difference. Rather, the difference between the rates applied to the independent student's income and the rate applied to a dependent student's parent's income is a reflection of the philosophy that the independent student is the direct beneficiary of his or her education. Therefore, the independent student is expected to contribute a greater share of his or her income towards those educational expenses than is the parent of a dependent student, since the parent is not the direct beneficiary of the education.

*Comment.* While there was general support for the increases in the Family Size Offsets, several commenters suggested that larger increases were in order. One specific recommendation was that the "Uniform Method Standard Maintenance Allowances" be used for the offsets. The Basic Grant Program currently uses figures which result from yearly adjustments (to reflect inflation) to the "Weighted Average Thresholds at Low Income Level" developed by the Social Security Administration and published by the Bureau of the Census which were used initially.

*Response.* The suggestions to provide additional increases in the Family Size Offsets were not adopted. The figures in the final regulation reflect an 8.8% increase (rounded to the nearest \$50) over last year's figures to account for the increase in the Consumer Price Index. The Commissioner believes that these figures adequately reflect the costs of basic family expenses that must be met prior to educational expenses.

*Comment.* One commenter questioned the fairness of allowing a step-father of a dependent applicant to

claim in his family size other dependents for whom he pays child support if that support is less than the increase in the Family Size Offset resulting from those additional family members for whom the support is paid. Further, this commenter wondered whether the children for whom child support is provided can be claimed as part of the family size by the family with whom those children reside.

*Response.* The step-father is allowed to claim a dependent child who does not live with him but for whom he provides support payments only if he provides more than half of that child's support. Whether this amounts to more or less than the increase in the offset is irrelevant since the offset is a standard figure used for everyone regardless of whether the actual amount of the offset is expended or not. If parents spend less on their children than what is allowed by the offset, they are still entitled to the full amount of that offset.

The family with whom the children actually reside would report them in its family size but would also report as income any child support payments received for those children. Thus, in certain situations a child could be considered a dependent of two families.

*Comment.* One commenter suggested that, for disabled students, the Family Contribution Schedules should be adjusted to reflect the exceptional expenses of those students.

*Response.* Since the Basic Grant Program is formula-based, it is imperative that all applicants receive fair and consistent treatment in the determination of their eligibility for assistance. The formula used by the Program takes into account the basic subsistence expenses that must be met by the family before any contribution from its income is expected. Thus, in attempting to provide all applicants an equal opportunity for assistance, the Commissioner believes that standard treatment is necessary. This standard and equitable treatment is applied to both the family income to determine eligibility for assistance and to the allowable costs of attendance for enrollment in a postsecondary institution which help to determine the amount of that assistance.

It should be noted that the Basic Grant is not intended to provide for all of a student's educational expenses, whether that student is disabled or not. Rather, it is intended to provide a foundation of financial aid. Other aid, in addition to the Basic Grant, can be awarded when additional need exists.

*Comment.* One commenter pointed out that the increases in the Family Size Offsets for additional family members are not equal, but rather fluctuate between \$900 and \$1,450. Further, the fluctuations appear to be

somewhat random. He suggested that if there were to be different increases for additional family members, the first addition (the first child) should produce the largest increase in the amount offset and later children should produce lesser increases.

*Response.* The family size offsets that the Basic Grant Program used in its first year of operation were based on the "Weighted Average Thresholds at Low Income Level" developed by the Social Security Administration and published by the Bureau of the Census. The expenses in that table were based on the food costs of families of given sizes, as well as on certain assumptions about additional expenses for shelter and other family needs. The figures have been updated annually to reflect increases in the Consumer Price Index. The fluctuations in the increases that result from different family sizes, thus, result from differences measured initially by the Social Security Administration.

#### § 190.35 Computation of the expected contribution from parental assets.

*Comment.* Several people commented on the increase in the asset reserve for non-farm and non-business assets from the current \$17,000 to \$25,000. The vast majority of the commenters favored the increase. Two commenters, however, suggested that the increase should be slightly higher, while one thought that it was much too high and should only be increased to reflect the effects of inflation.

In addition, two other commenters suggested that home equity should not be considered at all when assets are reported, since the home usually represents a non-liquid asset. Another commenter suggested that, in addition to an asset reserve, \$20,000 to \$30,000 of home equity should be exempt from assessment. However, for anyone who owns a home worth more than \$75,000 or perhaps \$100,000, that commenter thought that the Basic Grant Program should reduce the amount of home equity that would be exempt from assessment.

*Response.* The basic tenet behind the assessment of assets is simply that families with assets are in a stronger financial position than families with similar incomes but without assets. Thus, for a need based program, some form of asset assessment is required. And, although equity in a home generally is considered to be a non-liquid asset, it, nevertheless, is part of a family's financial strength. As such, that asset is treated in the same manner as other assets.

The Commissioner agrees that there should be some protection of a family's assets since those assets are normally intended for a variety of uses in addition to the postsecondary educa-

tion of the family members. The raise in the non-farm and non-business asset reserve to \$25,000, thus, reflects not only that philosophy but, also, the Commissioner's belief that that figure results in an adequate and fair treatment of the assets that a family might have.

#### § 190.42 Special definitions "Independent student."

*Comment.* In addition to the comments of simple approval or disapproval on this section (which were about evenly divided), several commenters suggested specific changes. One commenter, for example, suggested that the definition of the base year for purposes of establishing independent status be changed for those students who attend school only during the second calendar year of any academic year, i.e., only during 1980 for the 1979-80 award period. The base year for such a student, according to this commenter, should be 1979 instead of 1978.

A second commenter recommended that veterans have a six month grace period immediately after their discharge during which they could live with their parents without being classified as dependent students. The purpose of this exemption would be to allow veterans time to establish their own residence after leaving the military.

*Response.* Neither of these suggestions was adopted. Since the program operates on the basis of yearly award periods, any student who attends any portion of a particular award period must face the same requirements of independent status as all other students attending school during that award period. Similarly, in regard to the suggested six-month grace period for veterans, the Commissioner does not wish to deviate from the concept that all independent students are required to meet the same conditions in order to be considered independent.

*Comment.* One commenter suggested that additional criteria, such as the age, the marital status, and the employment history of the applicant, be considered in determining his or her independent status.

*Response.* The age and marital status of an applicant are arbitrary criteria and would not necessarily indicate that an applicant is or is not financially independent of his or her parents. And, while the applicant's employment history would provide some indication of independence, the Commissioner believes that the existing criteria of (1) being claimed as a tax exemption, (2) living with the parents, and (3) receiving financial support from them adequately establish independence or dependence.

*Comment.* One commenter suggested that instead of establishing \$750 as the set figure for allowable parental support for an independent applicant, the figure to be used should always reflect the figure that the Internal Revenue Service sets for the personal exemption.

*Response.* This suggestion was not adopted. This figure may or may not be the same as the Internal Revenue Service personal exemption figure. The Commissioner believes that, for the purposes of determining independent status, the \$750 figure is adequate at this time.

*Comment.* Regarding the determination of independent status, several commenters urged that the Basic Grant Program adopt the proposal from the July 12, 1977 notice of proposed rulemaking, which called for an extension of the Federal tax exemption criterion to two years prior to the year for which aid is requested. Others suggested that such a rule not be adopted, thinking that the Commissioner was again proposing it.

*Response.* As indicated in the preamble to the August 14, 1978 notice of proposed rulemaking for these Family Contribution Schedules, the idea of extending the income tax exemption criterion back an additional year was considered at one time but never implemented. Such a rule would make an otherwise independent student who was enrolling in school in January of 1980 dependent solely because he or she was claimed by his or her parents for 1977. The Commissioner does not believe at this time that such an extension is necessary to determine the student's independent status.

*Comment.* One commenter suggested that since the Basic Grant Program's definition of an independent student will be used as the standard for the campus-based programs, § 190.42 should include a definition of an independent, graduate student. Further, this commenter suggested that the standards for graduate students be more liberal than those for undergraduate students.

*Response.* This suggestion was not adopted. The definition in this final Basic Grant regulation is repeated, for the campus-based programs with appropriate modifications. The criteria for independent student status will be the same for both graduate and undergraduate students.

#### § 190.43 Annual adjusted family income.

*Comment.* One commenter wondered whether a separation, as mentioned in § 190.42a(c) of the proposed regulations would have to be a legal one.

*Response.* The final regulation, as was the case with the previous regulation, does not specifically require a legal separation. Thus, if the inde-

pendent student is separated (legally or otherwise) or divorced as of the date of application, only the student's own income will be considered in determining the annual adjusted family income.

*Comment.* One commenter suggested that the regulation specifically state whether a student who pays room and board to his or her parents while living in their home is classified as an independent student.

*Response.* This suggestion has not been adopted. Such a student would be dependent since the pertinent section of the regulation, § 190.42(a)(iii), states that, to be classified as independent, the student must not have lived or will not live for more than six weeks in the home of his or her parents during any of the pertinent years. No exception is noted for any extenuating circumstances, such as the payment of room and board.

If such a provision were enacted, it would provide an opportunity for significant abuse of the independent student definition, since substantial benefits of room and board could be available to an applicant at a nominal cost. Consequently, a student paying room and board while living in his or her parent's home is classified as a dependent student under the final regulation.

#### § 190.44 Computation of the expected contribution for an independent student from effective family income.

*Comment.* Although one commenter suggested that the increased family size offset for a single, independent student should become effective only if the old, more rigorous definition of an independent student is kept, there was virtually unanimous acceptance of that proposed increase by all commenters.

*Response.* The proposed change in the method of computing the family size offset for the single independent student to provide consistency with the method of computing the offsets for all other students has not been adopted. The proposal was put forth in the notice of proposed rulemaking published on August 14, 1978. Additionally, the President, on November 1, 1978, signed the Middle Income Student Assistance Act (MISAA), which in addition to its other provisions, also called for the proposed increase in the family size offset for the single independent student. However, the Office of Education has decided to postpone implementation of this change until 1980-81 because of budgetary considerations.

*Comment.* One commenter suggested that the Basic Grant Program family size offsets take into consideration not only the number of family members



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but, also, the grade level of those family members who are in school and the amount of income that is actually available for their education.

*Response.* Since the Basic Grant Program is formula-based, the family size offset for a given family size must be same for all families with that family size. While the program does consider both family size and unreimbursed primary and secondary school tuition and fees of other family members in determining the amount of money that should be available for the postsecondary educational expenses of an applicant, the grade level of the other dependent children is not *per se* a factor. Also, the Program does not attempt to determine if any money is actually given to the applicant but rather how much money should be expected to be available based on the need analysis formula used.

*Comment.* Several other comments were received which addressed § 190.33 as well as this section. These comments concerned unusual expenses for disabled students, the Uniform Method Standard Maintenance Allowance, and the amounts of the offsets.

*Response.* These comments were addressed in this appendix in the responses to recommendations regarding § 190.33.

§ 190.45 Computations of the expected contribution from the assets of the independent student and spouse.

*Comment.* Several commenters suggested that either the same asset reserve that is offered to the family of a dependent applicant and that was, under the proposed regulations, offered to the independent applicant with a family size greater than one, or some modified version of that concept be offered to a single independent applicant with no dependents. Others suggested that special consideration be given to non-liquid assets, especially

equity in a house. And, on commenter suggested that asset protection should be graduated with age is done under the Uniform Methodology.

*Response.* These suggestions were not adopted. The Commissioner's position is that, generally, the independent student is expected to contribute a greater portion of his or her resources towards postsecondary educational expenses than is the family of a dependent student. This is because the independent student is the direct beneficiary of his or her education.

In recognition of the fact that an independent student with a family size greater than one has some of the same responsibilities that the family of a dependent student has, the same assessment of assets was proposed for both types of applicants. However, because of budgetary considerations as was noted in the response to comments on § 190.44, the Office of Education has decided to postpone the implementation of this proposed change until 1980-81 period. Thus, the proposed creation of an asset reserve for independent students with dependents has not been incorporated into these final regulations. And, the assessment rate for those assets remains the same as it was last year (33%).

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for the independent student.

*Comment.* Two comments were received suggesting that two additional reasons should be added to § 190.48 (with, presumably, comparable additions to § 190.39) to allow a student to file a Supplemental Form when applying for a Basic Grant. The first of these suggestions was that a student should be able to file a Supplemental Form based on a divorce that occurs prior to the date of the original Basic Grant application for that award period. The second was that students whose Social Security benefits have

expired or students who have lost part-time jobs that they held in the year which they are reporting income should also be able to file Supplemental Forms.

*Response.* Neither of these suggestions was adopted. In developing the regulations for the Basic Grant Program, the Commissioner determined that the tax year prior to the year of application is the best indicator of family financial strength. For 1979-80 therefore, an independent applicant will report his or her 1979 income information.

It was recognized, however, that circumstances may occur which would dramatically affect the financial strength of the family after the base year of 1978. In order to accommodate these circumstances certain conditions have been established under which an applicant may submit an application that uses the current tax year (1979) as the base year and estimates the family income for that year. The Supplemental Form is the vehicle used in determining eligibility to file a Basic Grant application using estimated 1979 income.

One of these conditions is the divorce of separation of the applicant. However, if the divorce or separation occurs prior to the filing of the original Basic Grant application, there is no need to estimate income. Rather, the base year income of only the applicant is reported. The spouse's financial information is not considered since he or she is no longer part of the applicant's family.

The Commissioner had decided not to include expired Social Security benefits or lost part-time jobs as additional conditions permitting an applicant to use the Supplemental Form for 1979-80. However, the Commissioner will study the possibility of adding these conditions in future award periods.

[FR Doc.80-8766 Filed 3-22-79; 8:45 am]

FRIDAY, MARCH 23, 1979

PART V



## COUNCIL ON WAGE AND PRICE STABILITY

## NONINFLATIONARY PAY AND PRICE BEHAVIOR; SPECIAL PROCEDURAL RULES



[3175-01-M]

## Title 6—Economic Stabilization

## CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

## PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

## PART 706—SPECIAL PROCEDURAL RULES

## Nine-Month Standard for Price Increases

AGENCY: Council on Wage and Price Stability.

ACTION: Adoption of Nine-month Standard for Price Increases

SUMMARY: The Council is adopting a nine-month standard for price increases similar to the six-month standard. Under this new standard, a company's average rate of price change during the first nine months of the program year would not exceed 75 percent of the allowable program-year rate of price change.

## DATES:

Effective Date: March 23, 1979.

Comments will be accepted through April 27, 1979.

ADDRESS: Send comments to: Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability 726 Jackson Place, N.W., Washington, D.C. 20506 (202) 456-6286.

## FOR FURTHER INFORMATION CONTACT:

Sandra Sherman.

**SUPPLEMENTARY INFORMATION:** The Council is amending section 705A-4 to request that a company's average rate of price change during the first nine months of the program year not exceed 75 percent of the allowable program-year rate of price change. This is the same in principle as the Six-month Standard for Price Increases, which limits the average rate of price change for the first six months to not more than 50 percent of the allowable rate for the program year. By adopting this standard, the Council is attempting to prevent a spurt in inflation during the second half of the program year, which could result if companies took all of their allowable price increases immediately after the first six months of the program year. As in the six-month standard, however, a company need not comply with the nine-month standard if price increases in excess of the standard are justified by seasonal variations in business operations, historical business practices, or unusual business conditions, and if the company demonstrates that it will comply with

the profit-margin limitation and, by the end of the year, with the price deceleration standard.

The Council is also amending §§ 706.32 and 706.34 to allow companies to apply for exceptions from the nine-month standard if they believe there is a business justification for not complying. Any request for an exception may apply to both the six- and the nine-month standards.

While these changes are effective immediately, the Council will accept comments on them through April 27, 1979. Such comments should be sent to Ms. Sandra Sherman at the address given above.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.)

In consideration of the foregoing, Section 705A-4 in the Appendix to Part 705, and §§ 706.32 and 706.34 in Part 706, of Chapter VII, Title 6 of the Code of Federal Regulations, are amended to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,  
Director, Council on Wage  
and Price Stability.

1. Section 705A-4 in the Appendix to Part 705 is amended to read as follows:

Sec. 705A-4 *Six-month and nine-month standards for price increases.*

During the first six and nine months of the program year, the average rate of price change for a company should not exceed, respectively, 50 percent and 75 percent of the allowable program-year rate of price change, as defined in Section 705A-2. However, a company need not comply with the six- and nine-month limits if it can demonstrate that the increases in excess of 50 and 75 percent of the allowable program-year change can be justified on grounds of seasonal variations in business operations, historical business practices, or unusual business conditions, and will not prevent compliance with the general price deceleration standard by the end of the program year. However, if a company exceeds the six- and nine-month price standards, a company must also be able to show that its pricing actions are consistent with adherence to the profit margin limitation (for the program year) defined in Section 705A-6(a).

2. Section 706.32 is amended in subparagraph (1) of paragraph (b) to read as follows:

§ 706.32 Grounds for approval for defined exceptions.

• • • • •

(b) • • • •

(1) Compliance with the six-month and nine-month limit for price increases under Section 705A-4 (Six-month and Nine-month Standards for Price Increases) is not required by the section; or

• • • • •

3. Section 706.34 is amended by adding paragraph (a)(5)(iv)(B) to read as follows:

§ 706.34 Contents of the request.

(a) • • •

(5) • • •

(iv) Six-month and/or nine-month standard(s) for price increases:

(A) • • •

(B) A description of the unusual business conditions that are alleged to be responsible for not complying with the six-month and/or nine-month standard(s).

[FR Doc. 79-8759 Filed 3-21-79; 8:45 am]

[3175-01-M]

## PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

## Interim Final Price Standard for Federal, State and Local Government Enterprises and Government-Subsidized Private Companies

AGENCY: Council on Wage and Price Stability.

ACTION: Interim Final standard for Federal, State, and local government enterprises and government-subsidized private companies and amendment to Implementation Guide.

SUMMARY: The Council is amending the price standard for Federal, State, and local government enterprises. The criteria for coverage are being changed for the purpose of clarification and to make the application of the standard uniform for all enterprises of a particular type. The standard is also being amended to include, in the calculation of rates of price change, adjustments for changes in operating subsidies to government enterprises and private companies.

## DATES:

Effective Date: March 23, 1979.

Comments will be accepted through April 27, 1979.

ADDRESS: Send comments to: Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506.

## FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, (202) 456-6286; or Stuart McMenamin, Office of Policy, Planning & Evaluation, (202) 456-6466.

**SUPPLEMENTARY INFORMATION:** On January 19, 1979, the Council augmented the Modified Price Standards for Selected Industries, 705C, by adopting 704C-4, which provides a special price standard for Federal, State,

and local government enterprises (44 FR 5336, January 25, 1979). The Council is now amending this standard in several respects.

As originally adopted, the standard provided that a government entity would be subject to the price standard in 705A only if it was a "government enterprise". The intention was to apply the price standard only to those government activities that are similar to private business activities. A government enterprise was defined as a government entity that could be separated from a Federal, State, or local government in a manner that is consistent with the criteria listed in the definition of "company" in Section 705D, and for which operating revenue equalled at least 50 percent of current operating expenses. Operating revenue was not defined, but certain types of subsidies were considered to be included in operating revenue. The 50-percent test caused two major difficulties for entities attempting to comply with the standard: (1) such entities were not sure whether certain sources of income should be considered "operating revenue" for the purposes of the test, and (2) there was inconsistent treatment of different enterprises within major sectors (e.g., transportation), which in some instances caused conflicts with formulas used to allocate public assistance. In order to eliminate these difficulties, the definition of "government enterprise" is being amended.

Certain categories of government business—e.g., the Postal Service; public universities; government-operated toll facilities, alcoholic-beverage stores, parking services, ports, and airports; and public transportation services—will automatically be considered "government enterprises", irrespective of the ratio of revenue to expenses, provided that they are independent entities or that accounting records allow them to be separated from the Federal, State, or local government in a manner that is consistent with the definition of "company." Since the specified categories include most government enterprises that the original standard intended to reach—i.e., those whose activities most nearly resemble private businesses—the Council's intent will be accomplished without the need for characterizing sources of income.

Since it is not possible, however, to list every type of entity that should be considered a "government enterprise" for purposes of applying the price standard, the Council is including a second category in the definition of such enterprises. This category includes all other government entities that are independent or for which a separate accounting record can be established and whose operating rev-

## 705C—MODIFIED PRICE STANDARDS FOR SELECTED INDUSTRIES

Sec. 705C-4 *Federal, State, and Local Government Enterprises and Government-Subsidized Private Companies.*

(a) (1) Subject to paragraph (b), government enterprises are expected to comply with the price standard in 705A or the appropriate alternative standard in 705C.

(2) The Postal Service is a government enterprise. Any other independent government entity or nonindependent government entity that can be separated from a Federal, State, or local government in accordance with the criteria set forth in the definition of company in 705D is also classified as a government enterprise if it satisfies either of the following two conditions:

(i) It is a college or university; a toll facility; an alcoholic-beverage store; a commissary (retail outlet); a parking system; a port authority; an airport; an electric, gas, sewer, water, or other utility; a transportation service; a housing authority; or a health facility other than a hospital.

(ii) Its base-year operating revenue—i.e., revenue from sales of goods and services—equals at least 50 percent of base-year operating expenses.

(b) Government enterprises and private companies that receive government operating subsidies should use a subsidy-adjusted rate of price change for both the base period and the program year. The subsidy-adjusted rate of price change is the revenue-weighted rate of price change plus the rate of change in the operating subsidy per unit of output.

2. The Implementation Guide for the voluntary pay and price standards in 6 CFR Part 705 published on January 25, 1979 at 44 FR 5338 is amended by adding Section 5 to Part I.B (Price Deceleration Standard) to read as follows:

5. *Price Deceleration Standard For Subsidized Companies*

In determining compliance with the price deceleration standard, government enterprises and private companies that receive government subsidies will need to adjust their measures of price change for changes in the contribution to revenues provided by government subsidies. The subsidy-adjusted rate of price change is the rate of price change plus the rate of change in the operating subsidy per unit of output. For example, if the rate of price increase was held down in the base period by increased subsidies, the enterprise can adjust its base-period rate of price change upward to reflect this fact. Similarly, subsidy increases during the program year would result in an increase in the subsidy adjusted rate of price change which must be offset by a commensurately lower rate of increase in the price actually charged to customers if the price standard is to be met. The reverse is true for subsidy reductions.

In the following example, it is assumed that:

- The base-period rate of price change (BPRC) is 5.40%.
- The program-year rate of price change (PRPC) is 9.37%, and

venues equal at least 50 percent of operating expenses. It will be much easier for entities in this category to determine whether they are subject to the price standard, since operating revenue is now defined as sales from goods and services, and the subsidy provision is dropped.

The standard has also been changed to eliminate its application to hospitals, since hospital costs are covered under the Administration's hospital-cost-containment program.

Finally, the standard has been modified to provide a means of adjusting the measure of price increases to reflect changes in operating subsidies to government enterprises and private companies. This change is being made because the Council does not want the price standard to conflict with the objective of meeting more of the operating expenses of some government enterprises and government-subsidized private enterprises through sales of goods and services, and less through government subsidies.

However, at a time when inflation is viewed as the number one economic problem, governments are asked to consider the inflationary impact of subsidy reductions. In many cases, the substitution of price increases for subsidies, while desirable in the long run on grounds of equity and/or efficiency, might be postponed until the inflation problem has abated.

To provide guidance, the Council is also publishing an addition to the *Implementation Guide* that illustrates the method of calculating a subsidy-adjusted rate of the price change.

While the price standard is intended to apply to all "government enterprises", any statute mandating a particular pricing policy will, of course, take precedence.

Since this is an interim standard, it is effective immediately, but the Council will accept comments through April 27. Comments should be sent to Sandra Sherman at the address given above.

Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note) E.O. 12092.

In consideration of the foregoing, 705C-4, in the appendix to Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, and the Implementation Guide, are amended to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY P. BOSWORTH,  
Director, Council on  
Wage and Price Stability.

1. Section 705C-4 in the appendix to Part 705 is revised to read as follows:



• The deceleration percentage is 0.5. For a subsidized operation, it is necessary to compute the rate of change in the subsidy per unit of output over the base period and the program year. In this example, the following data are used.

## SUBSIDY DATA

| Quarter ending | (1)<br>Subsidy received | (2)<br>Units sold | (3)<br>Subsidy per unit<br>(1)÷(2) |
|----------------|-------------------------|-------------------|------------------------------------|
| Dec. 31, 1975  | \$7,000,000             | 3,500,000         | \$2.00                             |
| Dec. 31, 1977  | 7,500,000               | 3,625,500         | 2.07                               |
| Sept. 30, 1978 | 7,904,000               | 3,800,000         | 2.08                               |
| Sept. 30, 1979 | 7,575,000               | 3,750,000         | 2.02                               |

The base-period rate of change in the subsidy per unit of output (BPRCS) is computed as the annual rate of change in the subsidy per unit from the end of 1975 to the end of 1977, giving:

$$BPRCS = \left[ \frac{\text{Subsidy per unit in quarter ending 12-31-77}}{\text{Subsidy per unit in quarter ending 12-31-75}} - 1.0 \right] \times 100$$

$$= \left[ \frac{\$2.07}{\$2.00} - 1.0 \right] \times 100 = 1.73\%$$

Similarly, the program-year rate of change in the subsidy per unit of output (PYRCS) is computed as the percentage change in the subsidy per unit from the base quarter to the final quarter of the program year, giving:

$$PYRCS = \left[ \frac{\text{Subsidy per unit in quarter ending 9-30-79}}{\text{Subsidy per unit in quarter ending 9-30-78}} - 1.0 \right] \times 100$$

$$= \left[ \frac{\$2.02}{\$2.08} - 1.0 \right] \times 100 = -2.88\%$$

These values are used to compute the subsidy-adjusted base-period rate of price change (SABPRC) and the subsidy-adjusted program-year rate of price change (SAPRPC) as follows:

| Base Period           | Program Year          |
|-----------------------|-----------------------|
| SABPRC = BPRC + BPRCS | SAPRPC = PRPC + PYRCS |
| = 5.40% + 1.73%       | = 9.37% - 2.88%       |
| = 7.13%               | = 6.49%               |

Under the price deceleration standard (assuming the deceleration percentage of 0.5) the subsidy-adjusted price may rise by 6.63% during the program year (6.63% = 7.13% - 0.5%). Since the actual increase was 6.49%, this is a complying situation.

[FR Doc. 79-8760 Filed 3-21-79; 8:45 am]

[3175-01-M]

# PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

## Amendment to the Modified Price Standard for Providers of Insurance Other than Medical and Dental Insurance

AGENCY: Council on Wage and Price Stability.

ACTION: Final Standard for Insurance Providers.

SUMMARY: The Council is amending the modified price standard for providers of insurance other than medical and dental insurance, so that such providers will not automatically be exempted from both the price deceleration standard and the profit-margin limitation, or shifted from the price deceleration standard to the profit-margin limitation because of insufficient product coverage.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Zachary Dyckman, Office of Price Monitoring (202/456-6475), or Sandra Sherman (202/456-6286), Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: On February 8, 1979, the Council adopted 705C-6, which contains a modified price standard for providers of insurance other than medical and dental insurance (44 FR 9582, February 13, 1979). Under this modified standard, such insurance providers are expected to comply with the price deceleration standard in 705A-2 (except for life insurance), but may comply with the profit-margin limitation in 705A-6 if they are experiencing uncontrollable cost increases. In addition, the preamble to the standard provides that:

Several lines of insurance fall under the exclusions (from the calculation of a company's average price change, for purposes of the price deceleration standard) listed in 705A-3. Negotiated commercial insurance coverages with annual premiums per contract of \$100,000 or more, reinsurance, ocean marine insurance and inland insurance are each custom products, often competitively bid as part of international markets.

The exclusion of these lines of business under 705A-3 has potential consequences under 705A-5 (Insufficient Product Coverage), which provides that if certain categories of products account for 75 percent or more of a company's "net revenues," or one-third or more of a company's "adjusted net revenues," the company is, respectively, exempted from the price deceleration standard and the profit-margin limitation, or shifted from the price deceleration standard to the profit-margin limitation. In adopting 705C-6, the Council did not intend that insufficient product coverage result in an exemption from the program or a shift to the profit-margin limitation. Rather, it intended that the profit-margin limitation apply only where a company was experiencing uncontrollable cost increases. Accordingly, in order that its intent be given effect, the Council is amending 705C-6 to provide that lines of insurance excluded from compliance with the price deceleration standard should be excluded from "net revenues" and "adjusted net revenues" for purposes of 705A-5.

Under the standard as changed, companies should not include those lines of insurance excluded under 705A-3, or life insurance, when calculating their average price change, but should apply the price deceleration standard to the remaining lines of insurance irrespective of the proportion of excluded lines of business to a company's "net revenues" or "adjusted net revenues." The profit-margin limitation would still be available to companies experiencing uncontrollable cost increases. As specified in 705C-6, if any firm providing insurance (other than medical and dental insurance) applies the profit-margin limitation, and is affiliated with other firms providing such insurance, then all the affiliated firms should comply with the profit-margin limitation (for lines other than medical and dental but including lines excluded from the price deceleration standard).

(Council on Wage and Price Stability Act, Pub. L. 93-837, as amended (12 U.S.C. 1094, note); E.O. 12092.)

In consideration of the foregoing, section 705C-6 in the appendix to Part 705 of Chapter VII, Title 6, of the Code of Federal Regulations, is amended by adding a new subparagraph (3) to paragraph (a) to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,  
Director, Council on Wage and  
Price Stability.

Section 705C-6 is amended by adding a new subparagraph (3) to paragraph (a) to read as follows:

# Sec. 705C-6. Price Standard for Providers of Insurance Other Than Medical and Dental Insurance

(a) • • • • •  
(3) All lines of insurance excluded from calculations of average price change under 705C-6, or under 705A-3, should be excluded from net revenues and adjusted net revenues for purposes of 705A-5 (Insufficient Product Coverage).

[FR Doc. 79-8762 Filed 3-21-79; 8:45 am]

[3175-01-M]

# PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

## Alternative Price Standard for Electric and Gas Utilities

AGENCY: Council on Wage and Price Stability.

ACTION: Interim Final Alternative Price Standard for Electric and Gas Utilities.

SUMMARY: The Council is adding a new Section 705C-8 to its voluntary standards for noninflationary price behavior that permits electric and gas utilities, for purposes of compliance, to apply a gross margin standard as an alternative to the price deceleration standard.

DATES:

Effective date: March 23, 1979.

Comments will be considered until April 23, 1979.

ADDRESS: Send comments to: Roy A. Nierenberg, Acting General Counsel, Council on Wage and Price Stability, 726 Jackson Place, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Reginald Brown, Office of Price Monitoring (202) 456-6475.

Roy A. Nierenberg, Acting General Counsel (202) 456-6286.

SUPPLEMENTARY INFORMATION:

The Council recognizes that the prices of most public utilities are already subject to regulation by the Federal Energy Regulatory Commission or by Public Utility Commissions (Commissions), and in issuing this price standard, the Council does not intend to supplant their statutory functions and responsibilities. The Council's standards are intended to provide guidance to Commissions on anti-inflationary price changes, in order that anti-inflationary objectives can be given appropriate weight in regulatory proceedings. The standard should be viewed by Commissions as a minimum objective to be achieved whenever possible, consistent with their statutory responsibilities, and to be exceeded only under exceptional circumstances.

The general price deceleration standard, as applied to most other industries, is of limited applicability to electric and gas utilities. First, sharp rises in fuel and purchased gas costs during 1979 will make it impossible for many firms to achieve price deceleration. There are also sharp regional variations in the rate of increase in fuel costs. Furthermore, the construction of new facilities which use fuels other than oil, in accordance with Federal policies, has caused many utilities to undertake new construction programs at significantly higher costs.

The Council is, therefore, offering an alternative to the price deceleration standard. An electric or gas utility may achieve compliance by satisfying either the gross margin or the price deceleration standard. The gross margin standard is similar to that made available to food manufacturers and petroleum refiners.

Under the gross margin standard, a utility may pass through increases in costs of fuel and purchased gas and power on a dollar-for-dollar basis, if that accords with Commission policy. The nonfuel costs allowed by the Commission should not be increased in excess of 6.5 percent during the program year, plus any percentage growth in physical volume. The electric and gas utilities that cannot comply with the price deceleration or gross margin standard are expected to adhere to the profit-margin limitation exception (Section 705A-6).

The Commissions should also administer exceptions to these standards for extreme hardships and gross inequities. In particular, the Council recognizes that it may become necessary for Commissions to grant exceptions in order to enable utilities to raise capital to finance construction that is needed either to serve customers or to meet Federal policies that seek to reduce dependence on oil. Circumstances under which the standards could impose a hardship for utilities committed to such investments include:

(A) Pro-forma interest coverage ratios are inadequate to assure the legal minimum of the bond indentures.

(B) The Market to Book ratio of outstanding common stock in below minimum levels judged by the Commission to be acceptable, a level which in our judgment would not under present circumstances exceed 0.9 for purposes of granting a hardship exception but not for other purposes.

(C) Cash flows are judged by the Commission to be inadequate.

In the cases in which increases under these exceptions exceed 9.5 percent, Commissions are urged to adopt phasing schedules that limit the initial rate increase when such action is permitted by law, is in the long-run inter-



est of consumers, and would be reasonable in light of seasonal rate patterns and other relevant factors.

Although the initial responsibility for demonstrating compliance will rest with the individual utility, Commissions are asked to report to the Council on a quarterly basis their progress in implementing the standards. If a Commission grants an increase in a major rate case that yields an increase in the gross margin exceeding 6.5 percent plus a positive percentage growth in physical volume, it is asked to explain the justification in its final decision.

Utilities that provide service in more than one jurisdiction maintain separate accounting records for each jurisdiction. The Council is asking that each individual Commission evaluate compliance within its own jurisdiction, and these standards are intended to apply separately to each utility's operations in each jurisdiction. In such cases, the non-utility portion of a utility's business should be treated separately under the price standards in accordance with the definition of company under 705D. These standards should be interpreted by the Commission in the context of its standard accounting practice and applied in a consistent fashion.

These standards, as applicable, cover municipal and publicly-owned utilities, which are asked to comply with them and to report and explain to the Council any instances in which it becomes necessary to raise rates by more than the amount allowed under the standards. To the extent that such utilities receive operating subsidies, the subsidy provision of the Modified Price Standard for Federal, State and Local Government Enterprises Section 705C-4(b) should be applied.

Since Commissions will be reporting to the Council on compliance of electric and gas utilities, utilities are asked to submit only portions of the data requested by Subpart B of Part 706 of the Council's regulations. Utilities are requested to submit the data specified in § 706.21 (Company Organization for Purposes of Compliance) and § 706.24 (Method of Pay Calculation), as these apply to utility and nonutility operations of such firms. Utilities are also requested to submit data specified in § 706.22 (Price or Margin Data) and § 706.23 (Profit Margin Data) but only for nonutility operations. For purposes of such reporting, total revenues of utility and nonutility operations should be included in determining whether a firm meets threshold revenue requirements for filing any of the requested reports. In addition, in light of the changes in the price standards for electric and gas utilities, the reporting date for any such utilities that

have not already submitted reports is extended to March 26, 1979.

This is an interim final standard. The Council will consider comments on it until April 23, 1979.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note); E.O. 12092.)

In consideration of the foregoing, Section 705C-8 is added to the appendix of Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,  
Director, Council on Wage  
and Price Stability.

**Sec. 705C-8 Alternative Price Standard for Electric and Gas Utilities**

(a) *General.* A gross margin standard is available for electric and gas utilities as an alternative to the price deceleration standard.

(b) *Definitions.* (1) An electric utility is a company that sells electric power at retail or wholesale.

(2) A gas utility is a company or the portions of company operations involving the sale of natural gas at retail or wholesale, but not at the wellhead.

(3) For the operations of electric and gas utilities, the gross margin is equal to revenues or sales less the cost of fuels, purchased gas, and purchased power.

(c) *The Gross Margin Standard.* An electric or gas utility satisfies the gross margin standard if the rate of increase in its gross margin between the base quarter (the last complete calendar or fiscal quarter ending prior to October 2, 1978), and the corresponding quarter of 1979 does not exceed 6.5 percent, plus any positive percentage growth in physical volume over the same period.

(d) The Council is asking that Commissions determine compliance with these standards and rule on the applicability of exceptions. The Commissions may administer the profit-margin limitation exception (Section 705A-6) and exceptions for extreme hardships and gross inequities. Commissions may find it necessary to grant exceptions in order to enable utilities to raise capital in order to finance construction that is needed to serve customers or to meet Federal policies that seek to reduce dependence on oil. Circumstances under which the standard could impose a hardship for those utilities committed to such investments include:

(i) Pro-forma interest coverage ratios are inadequate to assure the legal minimum of bond indenture.

(ii) The Market to Book ratio of outstanding common stock is below minimum levels judged by the Commission to be acceptable, a level which in our judgment would not exceed 0.9 under present circumstances for purposes of granting a hardship exemption but not for other purposes.

(iii) Cash flows are judged by the Commission to be inadequate.

(e) In instances where the Commissions grant exceptions resulting in rate increases higher than would be permissible under the price deceleration or gross margin standard or under the profit margin limitation excep-

tion, the Council asks the Commissions to explain its action in the final decision. Commissions are asked to report on a quarterly basis the extent to which they have succeeded in implementing the anti-inflation standards.

(f) The Council asks the Commissions to phase in rate increases, to the greatest extent possible, to ease their inflationary impact, where increases of greater than 9.5 percent in the gross margin are anticipated.

[FR Doc. 79-8781 Filed 3-21-79; 8:45 am]

**[3175-01-M]**

**PART 705—NONINFLATIONARY PAY  
AND PRICE BEHAVIOR  
Profit Standard for Financial  
Institutions**

AGENCY: Council on Wage and Price Stability.

ACTION: Final Standard for Financial Institutions.

**SUMMARY:** The Council is amending the voluntary standard for noninflationary price behavior by adopting a specialized standard for financial institutions. Under this standard, such institutions would not be requested to comply with the generally applicable price standard (6 CFR 705A), but, during 1979, would be expected to limit either their rate of return on assets or the rate of return on equity to a rate not to exceed the average rate for the best three out of the five calendar years preceding 1979. If regulations make compliance with this standard impractical, the financial institution is asked to limit the increase in dividends per share to 7 percent and to avoid any increase in (coincident) service charges.

**DATES:**

Effective Date: March 23, 1979.

Comments will be accepted through April 27, 1979.

**ADDRESS:** Send comments to: Zachary Dyckman, Office of Price Monitoring, Council on Wage and Price Stability, 726 Jackson Place N.W., Washington, D.C. 20506.

**FOR FURTHER INFORMATION,  
CONTACT:**

Zachary Dyckman (202) 456-6475,  
Alice Weicher (202) 456-6475, Office  
of Price Monitoring or

Sandra Sherman (202) 456-6286,  
Office of General Counsel.

**SUPPLEMENTARY INFORMATION:**

After consultation with the Federal Reserve Board, the Federal Home Loan Bank Board, the American Bankers Association, other organizations with interests in the financial community, individual bankers, and members of the public, the Council has determined that application of the general price standard to financial institutions would be impractical. Insofar as com-

pliance with the general price standard required reduction of interest rates on loans, application of the standard could work at cross-purposes with monetary policy, and could lead to discriminatory rationing of credit. In addition, commercial banks, savings and loan associations, and similar financial institutions are regulated by several government agencies. Regulation of these institutions, limiting the deposit rates they may pay and the mix of assets in which they may invest, greatly constrains the responses that they could make to any price standard or profit-margin limitation that the Council can suggest. Accordingly, the Council is amending Part 705C of the standards, which contains modified price standards for selected industries, in order to provide a standard for financial institutions that is consistent with the aims of the anti-inflation program, but tailored to the specific characteristics of financial institutions.

The modified standard, asks each institution to limit the rate of return on assets or the rate of return on equity in 1979 to a rate not to exceed the average rate for the best three out of the last five calendar years preceding 1979. The rate-of-return comparison is based on the best three of the last five years, rather than the best two of the last three (as in the general profit-margin standard) because of the highly cyclical nature of financial-institution profits (the five-year period covers the last complete cycle of interest rates). The adoption of 1979 as the program year, instead of the program year in the general standard, reflects the fact that financial institutions are regulated by Federal and State agencies, which generally require reporting on a calendar year basis.

Financial institutions that cannot comply with the limitation on either rate of return are requested to limit increases in dividends per share of stock during the twelve-month period beginning March 15, 1979, to no more than 107 percent of the dividends per share paid during the previous twelve-month period, and not to increase service charges (other than interest charges) between March 15, 1979 and March 15, 1980.

While this standard is final, the Council will accept comments through April 27, 1979. All comments should be sent to Zachary Dyckman at the address given above.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.)

In consideration of the foregoing, Chapter VII of Title 6 of the Code of Federal Regulations is amended by adding Section 705C-9 to Part 705 at 43 FR 60772 (December 28, 1978), to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,  
Director,  
Council on Wage and Price Stability.

1. Section 705C-9 is added to the Appendix to Part 705 to read as follows:

**705C- MODIFIED PRICE STANDARDS FOR  
SELECTED INDUSTRIES**

• • • • •

**Sec. 705C-9. Standard for Financial Institutions.**

(a)(1) *Profit Standard.* A financial institution complies with the profit standard if either its rate of return on assets or its rate of return on equity for the program year does not exceed the average rate of return for the best three out of the preceding five calendar years. For the purpose of this standard, the program year is calendar-year 1979.

(2) *Alternative Standard.* If the financial institution cannot comply with the standard in subparagraph (1), it should satisfy both of the following conditions: (i) it should limit dividends per share of stock during the 12-month period beginning March 15, 1979, to no more than 107 percent of the dividends per share during the preceding 12 month period, and (ii) it should not increase average prices for services (other than interest charges) between March 15, 1979, and March 15, 1980. If dividends that are to be paid out on or after March 15, 1979, were publicly announced, prior to March 15, then the 107-percent limitation can be applied, alternatively, to the 12 months following the issuance of those dividends.

(b) For purposes of this standard, the term "financial institution" means a bank holding company, commercial bank, savings and loan holding company, savings and loan association, mutual savings bank, credit union, or substantially similar institution.

(c) For purposes of this standard, the term "dividends" does not apply to interest dividends to shareholders/depositors of mutually owned financial associations.

(d) Holding companies whose total revenues are at least 75-percent financial institution related are subject to the standard in paragraph (a) on a fully consolidated basis, including foreign operations. Holding companies whose total revenues are less than 75-percent financial institution related should apply the profit standard to the consolidation of their financial subsidiaries. The nonfinancial subsidiaries should comply with the Price Standard in 705A or with the appropriate alternative standard in section 705C.

(e) In calculating rates of return, commercial banks and bank holding companies should use the following definitions:

(1) *Numerator.* The numerator is operating income before provision for income taxes and security gains and losses with the following adjustments:

(i) Unrealized gains and losses resulting from the translation of assets and liabilities denominated in foreign currencies into their dollar equivalents, net of related hedging transactions, are excluded;

(ii) The provision for loan losses is added back to income;

(iii) Interest lost on nonperforming and renegotiated loans is added back to income; and

(iv) The difference between tax-exempt income and its pre-tax equivalent is added back to income.

(2) *Denominator.* At the option of the bank or bank holding company, the denominator may be either the daily average of (i) equity or net worth, including preferred stock, common stock, surplus, and undivided profits, or (ii) total assets, minus the lesser of (A) or (B), where (A) is the sum of the daily averages of due from banks (including balances at Federal Reserve banks and total balances at other banks), Federal funds sold and securities purchased under agreements to resell, and where (B) is the sum of the daily averages of due to banks (including interest bearing balances due to other banks) Federal funds purchased and securities sold under agreements to repurchase.

If the daily averages are not available, averages may be based on month-end balances or balances taken from the four quarterly Reports of Condition for the year in question and the previous year-end Report of Condition.

(f) In calculating rates of return, savings and loan associations, savings and loan holding companies, and equivalent institutions should use the following definitions:

(1) *Numerator.* The numerator is income before provision for income taxes with the following adjustments:

(i) the provision for losses and losses on sale of investment securities, loans, and other assets is added back to income; and

(ii) the profit on sale of investment securities is eliminated from income.

(2) *Denominator.* At the option of the institution, the denominator may be either the daily average of total assets or net worth. If daily averages are not available, averages may be based on month-end balances, or balances taken from the two Semi-annual Financial Reports for the year in question and the previous year-end report.

(g) In calculating rates of return, mutual savings banks should use the following definitions:

(1) *Numerator.* The numerator is operating income before provision for income taxes and security gains and losses with the following adjustments:

(i) The provision for loan losses is added back to income;

(ii) Interest loss on nonperforming and renegotiated loans is added back to income; and

(iii) The difference between tax-exempt income and its pre-tax equivalent is added back to income.

(2) *Denominator.* At the option of the bank, the denominator may be either the daily average of total assets or other surplus accounts. If daily averages are not available, averages may be based on month-end balances or balances taken from the four quarterly Reports of Condition for the year in question and the previous year-end Report of Condition.

(h) In calculating rates of return, credit unions should use the following definitions:

(1) *Numerator.* The numerator is total operating income minus operating expenses and dividends plus the provision for loan losses.

(2) *Denominator.* At the option of the credit union, the denominator may be either the daily average of total assets or the sum of total reserves and retained earnings. If



daily averages are not available, the averages may be based on month-end balances.

[FR Doc. 79-8763 Filed 3-21-79; 8:45 am]

## [3175-01-M]

## PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

## Definition of Base Year

AGENCY: Council on Wage and Price Stability.

ACTION: Final rule.

SUMMARY: The Council is amending the voluntary price standard by adopting a definition of "base year."

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506 (202) 456-6286.

**SUPPLEMENTARY INFORMATION:** The price standard in 705A uses the concept of "base year" in the profit-margin limitation and in certain modified price standards, but Part 705 contains no general definition of the term. In order to provide a definition, the Council is amending 705D so that the base year will be the four calendar or fiscal quarters ending prior to October 2, 1978 (except as otherwise specified in a modified price standard). This is consistent with the definitions of "base quarter" and "program year" already in 705D.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note; E.O. 12092))

In consideration of the foregoing, 705D, in the appendix to Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, is amended to read as follows:

705D in the appendix to Part 705 is amended by adding a definition of "base year" after the definition of "base quarter" to read as follows:

*Base year.* The base year is the four calendar or fiscal quarters ending prior to October 2, 1978, except as otherwise specified in a modified price standard.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,  
Director, Council on Wage  
and Price Stability.

[FR Doc. 79-8758 Filed 3-21-79; 8:45 am]

## [3175-01-M]

## PART 706—SPECIAL PROCEDURAL RULES

## Amendments and Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Amendment of Interim Final Procedural Rules, and issuance and correction of related Questions and Answers.

SUMMARY: The Council is revising its procedural rules, and issuing related questions and answers, in order to correct errors, clarify ambiguities, eliminate certain unnecessary technicalities, and promote efficient disposition of Notices of Probable Noncompliance.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506, (202) 456-6286.

**SUPPLEMENTARY INFORMATION:** On December 30, 1978, the Council adopted Interim Final Procedural Rules at Part 706 (44 FR 1346, January 4, 1979), which were amended on January 19, 1979, by the adoption of a procedure relating to Federal, State, and local entities (44 FR 5337, January 25, 1979). In response to comments on these rules, the Council is issuing appropriate revisions, as well as certain clarifying Questions and Answers. The Council is correcting errors, and revising §§ 706.34 and 706.73 to eliminate unnecessary notification by the Council if a request for an exception is complete, or if reconsideration is granted. The Council is also revising § 706.22(b), relating to the filing of 10-K reports, to incorporate guidance already given in a Question and Answer. That is, if a company has filed a 10-K report with the Securities and Exchange Commission (SEC), it need not file a duplicate with the Council, if it would burden the company, since the report would be available to the Council directly from the SEC or other sources. The Council however requests, and would appreciate receiving, a copy if it is convenient for a company to provide it. The Council is also revising § 706.05, to request one copy of filings instead of three (consistent with a previous Question and Answer), and to request that if filings contain confidential information, a second copy, suitable for public disclosure, also be submitted. In addition, the Council is revising § 706.25, relating to Federal, State, and local entities, to

make clear that "only if such entities are "government enterprises," as defined in § 706C-4, are they (1) requested to file price data, and (2) not provided the option of filing a letter of intent to comply with the pay standard.

In order to promote a timely disposition of Notices of Probable Noncompliance, the Council is amending §§ 706.54 and 706.76. These sections previously provided that a company found not to be in compliance would be listed as noncompliant eleven days after the Council's decision, except that listing would be stayed if the company sought reconsideration within ten days of the Council's decision. As amended, the lapse between decision and listing is now six days, subject to stay if reconsideration is sought within five days.

In addition, the Council is amending § 706.72 to provide that requests for reconsideration of Notices of Probable Noncompliance include the value of any Federal Government contracts which the company has or may reasonably expect to have. This data will help the Council to determine whether a hearing is appropriate. It will be the Council's policy to provide hearings where there are disputed issues of fact, and in general, whenever a person faces termination of, or anticipates bidding on, a Federal Government contract exceeding \$5,000,000.

Some comments by labor unions suggested that the rules be amended to require the Council to provide employees with Notices of Probable Noncompliance, issued to companies for whom the employees work. The Council did not adopt this suggestion, since the rules already require companies to serve copies of such notices of affected employee units, and to notify the Council of which units have been served. Unions also suggested that employee units be notified of the organizational structure adopted by companies for purposes of compliance. While the Council is sympathetic to this request, it believes that making such data public could, in some instances, lead to the disclosure of confidential information. Accordingly, the Council did not adopt this suggestion. It should be noted, however, that if a company and its employees become involved in a proceeding before the Council, these data would be available to employees on a need-to-know basis, after the company has deleted whatever may be confidential.

Some companies commented that they should not be requested to apply for exceptions if they have \$500 million in revenues or 1,000 or more employees, and suggested that in light of the voluntary nature of the program, exceptions should be entirely self-administered. The Council did not accept

this suggestion, since it believes that consistent practices among the larger companies are necessary for the success of the program. The Council also rejected suggestions for a procedure to allow a company's informal review of a Notice of Probable Noncompliance before the notice is formally issued. The Council will, however, contact a company prior to the issuance of any notice if, in its judgment, this is necessary to verify relevant information.

Since these rules are procedural only, they are effective immediately, without the customary 30-day notice.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note); E.O. 12092.)

In consideration of the foregoing, Chapter VII, Title 6 of the Code of Federal Regulations is amended in Part 706, and the Council's cumulative Questions and Answers are amended, to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,  
Director, Council on Wage  
and Price Stability.

1. § 706.05 is amended in paragraph (a) by deleting the words "three (3) copies" from the first sentence and by substituting the words "one copy", and by adding paragraph (c) to read as follows:

§ 706.05 Filing of documents.

(c) The Council requests that where filings under this Part contain confidential information, the firm submit a second copy suitable for public disclosure, from which all such information is deleted.

2. § 706.22 is amended in paragraph (c) by deleting the term "Section 705C-2" and by substituting "Section 705C", and paragraph (b) is revised to read as follows:

§ 706.22 Price or margin data.

(b) Each company that is, or is part of a consolidated company that is, required to file Form 10-K reports with the Securities and Exchange Commission, is requested to send the Council a copy of the reports for each of the last three fiscal years completed prior to October 2, 1978, if already available. Companies are also requested to file with the Council a copy of the Form 10-K report filed with the SEC for the fiscal year ending during the program year. Since these reports must be filed with the SEC, if a company does not submit copies to the Council, the

Council will obtain them directly from the SEC or from other sources.

## § 706.23 [Amended]

3. § 706.23 is amended by deleting the term "705A-6(2)" and by substituting "705A-6(a)(2)."

4. § 706.25 is amended by revising the heading, the introductory text of paragraph (a) and paragraph (b) to read as follows:

§ 706.25 Reporting Procedures for Federal, State, and local entities which are not Government enterprises.

(a) When complying with the pay standard in 705B, Federal, State, and local entities which are not Government enterprises as defined in 705C-4, and which have 5000 or more employees, should either:

(b) No other provision of this Subpart applies to any Federal, State, or local entity which is not a government enterprise as defined in 705C-4.

5. § 706.34 is amended by revising paragraph (c) to read as follows:

§ 706.34 Contents of the request.

(c) In the event that the information provided by the applicant is insufficient, the Council shall request from the applicant the additional information. If such information is not furnished within 10 days, the request for an exception shall be denied. The Council will acknowledge receipt of all requests, and notify the applicant when the request has been denied for lack of information.

## § 706.41 [Amended]

6. § 706.41 is amended in paragraph (b) by deleting the words "Wholesale Price Index" and by substituting "Producer Price Index."

7. Section 706.54 is revised to read as follows:

§ 706.54 Listing of noncomplying companies.

If the Council finds a company to be out of compliance, it shall, six days after its decision, place the company's name on a list of noncomplying companies. This list will be made public.

8. Section 706.72 is revised in the title and in paragraph (a) to read as follows:

§ 706.72 Contents of request.

(a) Contain a concise statement of the requested relief, the grounds for reconsideration, and (where the request relates to a Notice of Probable Noncompliance) the value of any Federal Government contracts which the company has or may reasonably expect to have within the program year;

9. Section 706.76 is revised to read as follows:

§ 706.76 Stays pending reconsideration.

A request for reconsideration within five days of the Council's initial finding of noncompliance will stay the placing of a company's name on a list of noncomplying companies pending the disposition of the request.

10. The following corrections and additions are made to Part IV, "Procedures," of the Council's cumulative Questions and Answers.

## REPORTS AND NOTIFICATIONS

1. The answer to Question 3 is amended by deleting the term "§ 706.22(d)(1)," and by substituting § 706.22(d)(1).  
2. The answer to Question 15 is amended by deleting the term "§ 706.22(d)(1) or (3)" and by substituting "§ 706.22(d)(2) or (3)."

## C. EXCEPTIONS

Q.3. Does failure to request an exception for which a company is eligible preclude a company from asserting the same grounds as a defense to a Notice of Probable Noncompliance?

A. No.

Q.4. Where the Council has issued a Notice of Probable Noncompliance to a company, will it entertain an exception request regarding the same matter?

A. No. A company may, at any time up to the issuance of a Notice, file an exception request. Once a Notice has been issued, however, a company seeking to exceed the pay or price standard must assert its reasons for doing so in the form of a defense to the Notice.

## E. DETERMINATION OF NONCOMPLIANCE

Q.2. Is it a defense to a Notice of Probable Noncompliance that a company made a good-faith effort to comply with the standards?

A. Yes. However, companies failing to comply because of a good-faith error will be expected to bring their behavior into compliance within a reasonable period.

Q.3. How should companies notify non-union personnel of exception requests and Notices of Probable Noncompliance?

A. Companies can use bulletin boards, company newspapers, pay envelopes, special distributions, and other appropriate means.

[FR Doc. 79-8757 Filed 3-21-79; 8:45 am]



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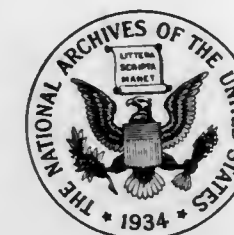
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FRIDAY, MARCH 23, 1979

PART VI



DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE

Public Health Service

■

NATIONAL ALCOHOL  
RESEARCH CENTERS

Grants Provisions



[4110-88-M]

## Title 42—Public Health

## CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER D—GRANTS

## PART 54a—GRANTS FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES, AND NATIONAL ALCOHOL RESEARCH CENTERS

## Subpart E—Grants for National Alcohol Research Centers

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

**SUMMARY:** These final regulations add new rules concerning grants for National Alcohol Research Centers in order to implement section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended. Section 504 authorizes the Secretary to designate National Alcohol Research Centers for long-term interdisciplinary research on alcoholism and other alcohol problems and to make grants to such Centers. The regulations set forth requirements for applying for, receiving, and administering Alcohol Research Center grants.

**EFFECTIVE DATE:** These final regulations are effective March 23, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Albert Pawlowski, Chief, National Research Centers Branch, Division of Extramural Research, National Institute on Alcohol Abuse and Alcoholism, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 16-C-26, 5600 Fishers Lane, Rockville, Maryland 20856, Phone: 301/443-4223.

**SUPPLEMENTARY INFORMATION:** Section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended (42 U.S.C. 4588) authorizes the Secretary to designate National Alcohol Research Centers for long-term interdisciplinary research on alcoholism and other alcohol problems and to make grants to such Centers (not to exceed \$1,000,000 to any one Center in a year).

Interim final regulations setting forth the requirements for applying for, receiving, and administering Alco-

## RULES AND REGULATIONS

hol Research Center grants were published on April 4, 1978 (43 FR 14276).

Interested persons were invited to submit written comments, suggestions, or objections. The final regulations set forth below reflect consideration of public comments received on the interim final regulations.

## DISCUSSION OF COMMENTS

## PROGRAM REQUIREMENTS

**Comment:** One commenter suggested that § 54a.505(f) of the interim final regulations, which requires that applicants for Alcohol Research Center grants have the capacity to conduct courses and research on alcohol problems for undergraduate students, graduate students, medical and osteopathic students, and physicians, be amended to require that "courses conducted . . . also include members of the behavioral disciplines such as social workers and . . . psychologists."

**Response:** § 54a.505(f) of the interim final regulations simply sets forth the requirements of section 504(a)(1)(E) of the Act. The Secretary has no authority to modify this requirement. It should be noted, however, that the term "undergraduate and graduate students" is very broad and clearly includes students of behavioral disciplines such as social work and psychology. In addition, § 54a.505(d), which requires that applicants have the facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems, is also sufficiently broad to encompass training in the behavioral disciplines.

**Comment:** Another commenter recommended that § 54a.505 and § 54a.506 be revised to require that applicants for Alcohol Research Center grants have (1) the capacity to disseminate research findings and promote research utilization, and (2) plans for doing so.

**Response:** The Secretary shares the commenter's concern that findings by Alcohol Research Centers be appropriately and effectively disseminated. The National Institute on Alcohol Abuse and Alcoholism (NIAAA), which administers the Alcohol Research Centers program, is currently exploring improved methods and systems for the dissemination of alcohol research findings both to professionals in the research, treatment, and prevention fields and to the general public. In the past, such findings have been made available through published proceedings of NIAAA-sponsored workshops and conferences, publications of NIAAA's National Clearinghouse for Alcohol Information ("Information and Feature Service" and "Alcohol and Research World"), and special triennial reports from the Secretary to the Congress (as required by section 102(2) of the Act).

**Comment:** One commenter recommended deletion of § 54a.505(b), which requires that an applicant have available to it staff, facilities, and other resources with which to carry out the objectives of the program it proposes. The commenter stated that if an institution already has such resources, it has no reason to apply for a grant and § 54a.505(b) is, therefore, "useless".

**Response:** § 54a.504(c)(1) requires that each application for a Center grant set forth in detail the personnel, facilities, and other resources currently available to the applicant with which to initiate and maintain the proposed Center program. The purpose of § 54a.505(b) is to ensure that each grant award is conditioned on (among other factors) a determination that the resources available to the applicant at the time the application is submitted, together with Alcohol Research Center grant funds if awarded, will in fact be sufficient to carry out the program the applicant proposes. No change is made in the regulations.

## APPLICATION CONTENT

**Comment:** One commenter recommended that § 54a.504(c)(1), which requires that applications for Alcohol Research Center grants set forth in detail the personnel, facilities, and other resources with which to initiate and maintain the proposed Center program, be revised to require that anticipated increases or expansion in these resources over the five-year project period also be set forth in the application.

**Response:** § 54a.504(c)(9) requires that applications also include a list of "other anticipated sources of support for all research activities at the applicant institution, both planned and ongoing, relevant to alcoholism and other alcohol problems". The Secretary believes this requirement sufficient to obtain a picture of potential increases in resources by applicant institutions. Therefore, no change is made in the regulations.

## GRANT AWARD CRITERIA

**Comment:** One commenter noted that § 54a.506(a)(2) requires the Secretary (in awarding grants) to take into account the significance of the proposed program to the goals of the National Alcohol Research Centers program and asked if there has been a statement of the goals of the program which can guide the Secretary in making this judgment.

**Response:** The goal of the Alcohol Research Centers program is long-term interdisciplinary research on alcoholism and other alcohol problems. This goal is specified by statute and elaborated in program guidelines issued in April 1977. However, on review, the Secretary believes the

intent of § 54a.506(a)(2) of the interim final regulations is accomplished by § 54a.506(a) itself, which states that grants may be awarded to applicants with proposed programs which will, in the judgment of the Secretary, best promote the purposes of section 504 of the Act, taking into consideration factors subsequently listed. Therefore, § 54a.506(a)(2) as it appeared in the interim final regulations is deleted from subpart E set forth below and the subsections of § 54a.506(a) renumbered accordingly.

## OTHER

**Comment:** One commenter noted that the interim final regulations fail to "give direction" to the role of applied research and the interrelationship between applied and basic research.

**Response:** The role of applied research and the interrelationship between applied and basic research are issues beyond the scope of these regulations.

**Comment:** One commenter expressed disappointment that the interim final regulations "placed such undue emphasis on the physiological and biomedical aspects of alcohol . . . abuse" and urged study of "the whole person including his social, cultural, and interpersonal characteristics."

**Response:** The clear statutory purpose of the Alcohol Research Centers program is long-term, interdisciplinary research into alcoholism and other alcohol problems. The interim final regulations conveyed this intent at every pertinent point. Specifically, § 54a.502 defined "National Alcohol Research Center" as an institution engaged in interdisciplinary research; § 54a.504(a) required applicants to have the experience or capability to conduct such research through "biomedical, behavioral, social, and related disciplines"; and § 54a.506(a)(4) conditioned grant awards on the extent to which the various components of the proposed research program would be coordinated into an interdisciplinary effort within the Center. No emphasis on the biomedical and physiological aspects of alcohol abuse is apparent in these sections, nor was any intended.

**Comment:** One commenter noted that the interim final regulations do not indicate the existence of an "appeal procedure" (presumably for grant applicants whose applications are not approved) and urged that if such a procedure does not exist at present it be established.

**Response:** This request for the establishment of an appeals process for grant applicants whose applications are not approved is beyond the scope of these regulations. It is noted that grantees receiving grants under these

## RULES AND REGULATIONS

regulations may, under 42 CFR § 50.401-50.504 and 45 CFR Part 16, appeal certain adverse determinations made by the grantor agency.

## TECHNICAL REVISIONS

Subparts A, B, and D of part 54a were promulgated September 11, 1978 (43 FR 40386). Subpart A, which applies to most grants authorized by the Act (including Alcohol Research Center grants), defines many terms used in part 54a and calls attention to the requirements of Federal nondiscrimination and confidentiality laws. Therefore, those provisions of the interim final regulations on Alcohol Research Center grants which covered these same points are no longer necessary and have been deleted from subpart E as set forth below.

Specifically, definitions of "Act," "Council," "Secretary," "nonprofit," "project period," and "budget period" have been deleted from § 54a.502. They now appear at § 54a.102. In addition, § 54a.509 (Nondiscrimination) and § 54a.510 (Confidentiality of patient records) have been deleted. These requirements now appear at § 54a.103 and § 54a.104.

On August 2, 1978 (43 FR 34076), the Secretary promulgated regulations establishing uniform requirements for the administration of all Department grants (45 CFR Part 74). A number of provisions set forth in the interim final regulations on Alcohol Research Center grants are, therefore, unnecessary and have been deleted from subpart E set forth below. Specifically, § 54a.507 (Payments), § 54a.513 (Applicability of 45 CFR Part 74), § 54a.514 (Progress and fiscal records and reports), § 54a.515 (Grantee accountability), and § 54a.516 (Publications and copyrights) have been deleted.

The subsections of subpart E have been renumbered as necessary to accommodate these deletions.

§ 54a.503(b) has been revised to refer to the Northern Mariana Islands. This revision makes the regulations consistent with Pub. L. 94-241 (48 U.S.C. 1681) which approves the covenant to establish a Commonwealth of the Northern Mariana Islands and makes the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act as amended applicable to the Northern Mariana Islands as it is applicable to Guam.

Accordingly, the interim regulation amending part 54a of Title 42 CFR to add a new subpart E is finalized as set forth below.

Dated: January 26, 1979.

JULIUS B. RICHMOND,  
Assistant Secretary for Health.  
Approved: March 15, 1979.  
JOSEPH A. CALIFANO, Jr.,  
Secretary.

Accordingly, 42 CFR Part 54a is amended by adding the new Subpart E set forth below:

## Subpart E—Grants for National Alcohol Research Centers

- 54a.501 Applicability.
- 54a.502 Definitions.
- 54a.503 Eligibility.
- 54a.504 Application.
- 54a.505 Program requirements.
- 54a.506 Grant awards.
- 54a.507 Expenditure of grant funds.
- 54a.508 Human subjects.
- 54a.509 Animal welfare.
- 54a.510 Additional conditions.

**AUTHORITY:** Sec. 504, 90 Stat. 1035 (42 U.S.C. 4588).

## § 54a.501 Applicability.

The regulations in this subpart apply to grants to develop, establish, and support centers for interdisciplinary research relating to alcoholism and other alcohol problems, as authorized by section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (42 U.S.C. 4588).

## § 54a.502 Definitions.

Terms not defined in this section shall have the same meaning as given them in § 54a.102.

As used in this subpart:

"National Alcohol Research Center" or "Center" means an institution engaged in long-term interdisciplinary research focused on a central theme relating to alcoholism and other alcohol problems.

## § 54a.503 Eligibility.

To be eligible for a grant under this subpart, an applicant must be:

(a) A public (except Federal) or nonprofit private institution which is or is affiliated with an institution (such as a university, medical center or research center) with the resources to sustain a long-term research program; and

(b) Located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands.

## § 54a.504 Application.

(a) Each institution desiring a grant under this subpart shall submit an application in the form and manner and on or before such dates as the Secretary may from time to time require. The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of

<sup>1</sup> Grant applications, instructions, and program guidelines may be obtained from the Director of the National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Md. 20857.



the applicant the obligations imposed by the terms and conditions of the award, including the regulations of this part.

(b) Each private institution which does not already have on file with the National Institute on Alcohol Abuse and Alcoholism evidence of nonprofit status must submit with its application acceptable proof of its status.

(c) In addition to any other pertinent information that the Secretary may require, each application shall set forth in detail:

(1) The personnel facilities, and other resources currently available to the applicant with which to initiate and maintain the proposed Center program;

(2) Any biomedical, behavioral, or social science research related to alcohol problems in which the applicant is currently engaged; the sources of funding for those activities; and the relationship of these activities to the proposed Center program;

(3) The central theme of the proposed interdisciplinary research program;

(4) A detailed 5-year plan for the proposed Center program which identifies the principal areas of proposed research, the relationship of each area of proposed research to the central theme of the proposed Center program, the disciplines to be involved, and plans for coordination among them;

(5) A detailed description of each separate research project for which funds are requested;

(6) The names and qualifications of the Center director and key staff members who would be responsible for conducting proposed activities of the Center;

(7) The opportunities that would be available for training;

(8) The organizational structure of the proposed Center and its relationship to the organizational structure of the applicant;

(9) The proposed project period (not to exceed 5 years); a detailed budget and justification of funds requested for core support as well as for each separate research project (not exceeding \$1,000,000 in total in any year); and a list of other anticipated sources of support for all research activities at the applicant institution, both planned and ongoing, relevant to alcoholism and other alcohol problems (both those to be incorporated into the proposed Center program and those outside the Center);

(10) Proposed methods for monitoring and evaluating individual research activities and the overall Center program;

(11) To the extent not covered in the information submitted under the preceding subparagraphs, the manner in

which the requirements in § 54a.505 will be satisfied.

#### § 54a.505 Program requirements.

In order to receive support under this subpart, an applicant must:

(a) Have the experience or capability to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to coordinate that research among such disciplines;

(b) Have available to its staff, facilities, and other resources with which to carry out the objectives of the proposed program;

(c) Have available to it sufficient laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature);

(d) Have facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

(e) Have the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems;

(f) Have the capacity to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students and for medical and osteopathic students and physicians;

(g) Provide assurances that the Center will be an identifiable organizational unit of the applicant headed by a Center director responsible for the Center program;

(h) Provide assurances that any significant changes in the Center's scientific activities or other activities will be made only with the prior approval of the Secretary; and

(i) Establish a Program Advisory Committee, chaired by the Center director, to review and make recommendations to the Center director on the conduct of all activities of the Center. The Committee shall be composed of persons who are not associated with the Center (apart from their membership on the Committee).

#### § 54a.506 Grant awards.

(a) Within the limits of funds available, the Secretary, after taking into account the comments of an appropriate peer review group, may award grants to applicants with proposed programs which have been recommended for approval by the council and will in his judgment best promote the purposes of section 504 of the Act, taking into consideration among other pertinent factors:

(1) The scientific and technical merit of the proposed program and its individual components;

(2) The qualifications and experience of the Center director and other key personnel;

(3) The extent to which the various components of the proposed research program would be coordinated into an interdisciplinary effort within the Center;

(4) The administrative and managerial capability of the applicant;

(5) The reasonableness of the proposed budget in relation to the proposed program;

(6) The adequacy of proposed methods for monitoring and evaluating the overall Center program and its components including proposed mechanisms for review of the Center's program by its Program Advisory Committee;

(7) The potential of the proposed Center to become a significant regional and national research resource; and

(8) The degree to which the application adequately provides for the requirements of § 54a.505.

(b) All grant awards shall be in writing and shall specify the project period (not to exceed 5 years), the total recommended amount of funds for the project period, the approved budget for the budget period, and the amount awarded (not in excess of \$1,000,000 in any year) for the budget period.

(c) Neither the approval of any application nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion thereof.

(d) The amount of any grant award shall be determined by the Secretary on the basis of his estimate of the sum necessary to pay all or part of the allowable costs for the budget period covered by the award.

(e) An initial 5-year project period may be extended by the Secretary for additional periods not in excess of 5 years each, after review of the operations of the grantee by an appropriate peer review group and with the Council's recommendation for approval, except that if an additional period of support involves only the expenditure of funds previously awarded, peer review and consultation with the Council are not required.

#### § 54a.507 Expenditure of grant funds.

(a) Any funds granted under this part shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations on this part, the terms and conditions of the award, and the applicable cost principles prescribed by subpart Q of 45 CFR part 74, except that those funds may not be expended for trainee stipends, fees, or other expenses directly relating to training or

for the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building. For purposes of this paragraph, construction means the construction of new buildings, and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.\*

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may, with the prior approval of the Secretary, be carried forward and remain available for obligation during the remainder of the project period and any extensions thereof (approved in accordance with § 54a.506(e) of this part), subject to any limitations prescribed by the Secretary. The amount of any subsequent award will take into consideration unobligated grant funds remaining in the grant account. At the end of the final project period any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

#### § 54a.508 Human subjects.

Attention is called to the requirements of 45 CFR part 46 pertaining to the protection of human subjects.

#### § 54a.509 Animal welfare.

Attention is called to the requirements of chapter PHS 1-43 of the Department of Health, Education, and Welfare Grants Administration Manual pertaining to animal welfare.

#### § 54a.510 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment those conditions are necessary to assure or protect advancement of the approved program, the interest of public health or the conservation of grant funds.

[FR Doc. 79-8885 Filed 3-22-79; 8:15 am]

\*Section 504(b) of the Act provides that for the purposes of that paragraph the term "construction" shall have the meaning given to it by section 702(2) of the Public Health Service Act (42 U.S.C. 292a). The above definition incorporates the language of section 702(2) in effect on July 26, 1976, the date of the enactment of section 504 by Pub. L. 94-371.



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# Register Federal

FRIDAY, MARCH 23, 1979

PART VII



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing  
Administration

Office of Family  
Assistance

■

MEDICAID PROGRAM



[4110-35-M]

## Title 42—Public Health

## CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAM

## MEDICAID PROGRAM

## Redesignation and Rewrite

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rules with comment period.

SUMMARY: These regulations redesignate and clarify, without substantive change, policies contained in 45 CFR Parts 205, 206, and 208 as they apply to the Medicaid program under title XIX of the Social Security Act. Those policies deal with: 1. Application, eligibility determination, and furnishing of assistance; 2. Hearings for applicants and recipients; 3. Safeguarding information; 4. Certain other administrative and fiscal requirements imposed on State agencies; and 5. Assistance to individuals age 65 and over in institutions for mental diseases.

The redesignation is being made because, effective October 1, 1977, the vast majority of HCFA regulations were transferred to a new 42 CFR Chapter IV. The redesignation of these regulations will help complete the transfer and will preclude any confusion that might arise from having a few Medicaid regulations in a different chapter and title.

EFFECTIVE: March 23, 1979. Although these regulations are final, comments may be submitted as described in the "Supplementary Information" below.

ADDRESSES: Send comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, Post Office Box 2366, Washington, D.C. 20013.

In commenting, please refer to PCO-184-R. Comments will be available for public inspection beginning approximately 2 weeks from today in room 5231 of the Department's offices at 330 C Street S.W., Washington, D.C., Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Luisa V. Iglesias (202) 245-0950.

SUPPLEMENTARY INFORMATION:

## RULES AND REGULATIONS

## REASON FOR REDESIGNATION

This redesignation is one in a series initiated last year to separate the provisions of 45 CFR Chapter II that are applicable to Medicaid and consolidate them in 42 CFR Chapter IV with the other regulations pertaining to HCFA. 45 CFR Chapter II was previously promulgated by the Social and Rehabilitation Service (SRS) and applied to a variety of State grant programs of public assistance (including titles I, IV-A, VI, X, XIV, XVI and XIX of the Social Security Act). On March 9, 1977, HEW was reorganized: SRS ceased to exist; HCFA was created and assigned responsibility for the Medicaid program; and the other programs administered by SRS were transferred to other HEW components. Since then, HCFA has been recodifying regulations applicable to its programs in Title 42 of the Code of Federal Regulations. A major reorganization and recodification of the Medicaid regulations was published on September 29, 1978 (43 FR 45176). A revision and recodification of 45 CFR Parts 201 and 213 and portions of 204 and 205 was published as an NPRM on August 25, 1978 (43 FR 38345).

## CONFORMING AMENDMENTS

Conforming amendments to 45 CFR Parts 205, 206, and 208, making them inapplicable to Medicaid, are published in today's Federal Register (see table of contents). Those regulations remain in effect for the other programs previously administered by SRS.

## REVOCATION OF PROVISION

We are not recodifying the provisions under 45 CFR 205.170 on State standards for office space, equipment, and facilities. We believe it is not necessary that we impose these requirements in order to achieve proper State administration of the Medicaid program. Therefore, to conform with our Operation Common Sense efforts to remove unnecessary requirements on States, we are deleting these requirements as they apply to Medicaid. They

remain applicable to the other programs specified in § 205.170.

## TECHNICAL CORRECTIONS

We have also made some technical changes to correct cross references to the redesignated sections already published in other Medicaid regulations in the Code of Federal Regulations.

## EFFECT OF REDESIGNATION ON CURRENT PRACTICES

This redesignation is not intended to change policies affecting Medicaid or the other programs. Therefore, we do not intend for the States and HEW Regional Offices to interpret and apply them differently than they did before the redesignation.

## MAINTAINING UNIFORM POLICIES

We are reviewing all of the regulations previously codified in 45 CFR Chapter II, to determine whether policy changes are desirable, as well as to improve organization and clarity. Any further changes in these regulations will be published as Notices of Proposed Rulemaking. We expect these to be issued within the next few months. To the extent possible under our statutory authorities, we will maintain uniform policies and wording for all programs administered by HEW.

## NOTICE AND OPPORTUNITY FOR PUBLIC COMMENT

We find that there is good cause to waive notice of proposed rulemaking and a delayed effective date because no substantive change has been made, other than the deletion discussed above. However, we will consider comments or objections received by May 22, 1979, from anyone who believes that existing policy is changed by these regulations. We will promptly make any corrections necessary because of inadvertent changes.

## DERIVATION TABLE

This list includes only new sections based on regulations existing before redesignation. Sections containing new material that is introductory or explanatory have not been included.

| New Section in 42 CFR | Old Section in 45 CFR               |
|-----------------------|-------------------------------------|
| 431.10                | 205.100.                            |
| 431.11                | 205.101.                            |
| 431.15                | 205.30.                             |
| 431.16                | 205.50(a)(2).                       |
| 431.17                | 205.50(a)(1) and (b).               |
| 431.18                | 205.70.                             |
| 431.50                | 205.120.                            |
| 431.202               | 205.10(a) (Introductory paragraph). |
| 431.205               | 205.10(a)(1).                       |
| 431.206               | 205.10(a)(2) and (3).               |
| 431.210               | 205.10(a)(4)(I)(B).                 |
| 431.211               | 205.10(a)(4)(I)(A).                 |
| 431.213               | 205.10(a)(4)(II).                   |
| 431.214               | 205.10(a)(4)(iv).                   |
| 431.220               | 205.10(a)(5).                       |
| 431.221               | 205.10(a)(5)(I)-(III).              |
| 431.222               | 205.10(a)(5)(iv).                   |
| 431.223               | 205.10(a)(5)(v).                    |
| 431.230               | 205.10(a)(6).                       |

## RULES AND REGULATIONS

| New Section in 42 CFR | Old Section in 45 CFR                                     |
|-----------------------|---|
| 431.231               | 205.10(a)(7).   |
| 431.232               | 205.10(a)(6)(III) (1st Sentence).                         |
| 431.233               | 205.10(a)(6)(III) (2nd Sentence).                         |
| 431.240               | 205.10(a)(8)-(10).  |
| 431.241               | 205.10(a)(12) (I) and (II)(B).                            |
| 431.242               | 205.10(a)(13).  |
| 431.243               | 205.10(a)(11) (1st Sentence).                             |
| 431.244               | 205.10(a)(14), (15) and (16).                             |
| 431.245               | 205.10(a)(17).  |
| 431.246               | 205.10(a)(18).  |
| 431.250               | 205.10(b).  |
| 431.301               | 205.50(a)(1)(I)(A) (1st Sentence) and 205.50 (b) and (c). |
| 431.302               | 205.50(a)(1)(I)(A) (2nd Sentence).                        |
| 431.303               | 205.50(a)(1)(H).  |
| 431.304               | 205.50(a)(3).   |
| 431.305               | 205.50(a)(2)(I).  |
| 431.306               | 205.50(a)(2) (II)-(v).                                    |
| 431.307               | 205.50(a)(4).   |
| 431.620               | 208.1(a)(1).  |
| 433.32                | 205.145.  |
| 433.33                | 205.130.  |
| 433.34                | 205.150.  |
| 433.35                | 205.160.  |
| 435.902               | 206.10(a)(10).  |
| 435.903               | 206.10(a)(11).  |
| 435.904               | 206.10(a)(12).  |
| 435.905               | 206.10(a)(2)(I).  |
| 435.906               | 206.10(a)(1) (Introductory paragraph).                    |
| 435.907               | 206.10(a)(1)(II) (words before "from the applicant").     |
| 435.908               | 206.10(a)(1)(II) (words after "State agency") and (III).  |
| 435.909               | 206.10(a)(1)(iv) (A) and (B).                             |
| 435.910               | 206.10(a)(1)(v) (A) and (C).                              |
| 435.911               | 206.10(a)(3).   |
| 435.912               | 206.10(a)(4).   |
| 435.913               | 206.10(a)(6).   |
| 435.914               | 206.10(a)(6).   |
| 435.916               | 206.10(a)(2)(II) and 206.10(a)(9) (I)-(III).              |
| 435.919               | 206.10(a)(7).   |
| 435.920               | 206.10(a)(9)(III) (A) and (B).                            |
| 435.930               | 206.10(a)(5).   |
| 435.901               | 206.10.   |
| 435.909               | 206.10(a)(1)(iv) (A) and (B).                             |
| 441.101               | 208.1(a) (words before "(1) Having in effect * * *").     |
| 441.102               | 208.1(a)(2).  |
| 441.103               | 208.1(a)(3) and (4).                                      |
| 441.105               | 208.1(a)(5) and (6).                                      |
| 441.108               | 208.1(a)(7).  |

## REDESIGNATION TABLE

This redesignation table has been developed as a reference tool only. The redesignations of specific sections and paragraphs from 45 CFR Parts 205, 206, and 208 apply only to the Medicaid program. The regulatory provisions under Parts 205, 206, and 208 that apply to the financial assistance programs (Title I, IV-A, X, XIV, and XVI of the Social Security Act) and the social services programs (title XX of the Act) remain in these parts.

| Old Section in 45 CFR  | New Section in 42 CFR   |
|--|-------------------------|
| 205.10(a) to words before "where a State agency adopts."   | 431.205.                |
| 205.10(a)(1)(II) words after "right of appeal to a State agency hearing"   | 431.206.                |
| 205.10(a)(1)(II) words after " * * * 397 U.S. 254 (1970) "   | 431.202.                |
| 205.10(a)(2)-(3)   | 431.208.                |
| 205.10(a)(4)(I)(A)   | 431.211.                |
| 205.10(a)(4)(I)(B)   | 431.210.                |
| 205.10(a)(4)(II) words before "or of the AFDC * * *"   | 431.213.                |
| 205.10(a)(4)(II) words after " * * * death of a recipient * * * " to words before "(B) the agency * * * "          | Deleted—unnecessary.    |
| 205.10(a)(4)(II) (B), (C), (E), (F), (H)   | 431.213.                |
| 205.10(a)(4)(II) (D), (G), (I)   | Deleted—unnecessary.    |
| 205.10(a)(4)(III)  | 431.206; 431.210.       |
| 205.10(a)(4)(iv)   | 431.214.                |
| 205.10(a)(5) to words before " * * * unless the reason for * * * "   | 431.220.                |
| 205.10(a)(5) words after " * * * classes of recipients * * * " to words before " * * * (I) A request * * * "       | Deleted—unnecessary.    |
| 205.10(a)(5) (I), (II), and (III)  | 431.221.                |
| 205.10(a)(5)(iv)   | 431.222.                |
| 205.10(a)(5)(v) to words before " * * * where the sole issue is one * * * "  | 431.223.                |
| Also words after " * * * action for such refusal."   |                         |
| 205.10(a)(5)(v) words after " * * * by the claimant in writing," to words before " * * * or where it is abandoned" | Deleted—unnecessary.    |
| 205.10(a)(6)(I)(A) to words before " * * * and not one of incorrect grant * * * "                                  | 431.230 (a)(1) and (b). |



| Old Section in 45 CFR  | New Section in 42 CFR       |
|--|-----------------------------|
| 205.10(a)(6)(i)(A) words after "..." change in State or Federal Law  | Deleted—unnecessary.        |
| 205.10(a)(6)(ii) words before "(ii) The agency shall ..."  | 431.230(a)(2).              |
| 205.10(a)(6)(iii) to words before "Unless a de novo ..."   | 431.232.                    |
| 205.10(a)(6)(iii) words after "right to request a de novo hearing ..."   | 431.233.                    |
| 205.10(a)(6)(iii) words before "assistance shall not be ..."   | 431.231.                    |
| 205.10(a)(7)   | 431.240.                    |
| 205.10(a)(8)-(10)  | 431.243.                    |
| 205.10(a)(11) to words before "In respect to title IV-C."  | Not applicable to Medicaid. |
| 205.10(a)(11) words after "... in the conduct of the hearing"  | 431.241.                    |
| 205.10(a)(12) to words before "... or in making a payment."  | Deleted—unnecessary.        |
| 205.10(a)(12) words after "... decision on eligibility ..." to words before "(ii) Agency ..."  | 431.241.                    |
| 205.10(a)(12)(ii), introductory paragraph, (A), and (B) first word and words after "... of financial or ..." and before "or change". | Not applicable to Medicaid. |
| 205.10(a)(12)(ii)(B) words after "Amount" and before "... medical assistance ..." and words after "... medical assistance."          | Not applicable to Medicaid. |
| 205.10(a)(12)(ii)(C)   | 431.242.                    |
| 205.10(a)(13) to words before "(iii) At his ..."   | 431.242(a).                 |
| 205.10(a)(13)(i)   | Deleted—redundant.          |
| 205.10(a)(13)(ii)  | 431.242(b).                 |
| 205.10(a)(13)(iii)   | 431.242(c).                 |
| 205.10(a)(13)(iv)  | 431.242(d).                 |
| 205.10(a)(13)(v)   | 431.242(e).                 |
| 205.10(a)(13)(vi)  | 431.244.                    |
| 205.10(a)(14)-(16)   | 431.245.                    |
| 205.10(a)(17)  | 431.246.                    |
| 205.10(a)(18)  | 431.244.                    |
| 205.10(b)(1)-(2)   | 431.250.                    |
| 205.10(b)(3)   | Deleted—unnecessary.        |
| 205.10(b)(4)   | 431.250.                    |
| 205.30   | 431.15.                     |
| 205.50(a) words before "(A) The administration ..."  | 431.301.                    |
| 205.50(a)(1)(i)(A) after words "such purposes include"   | 431.302(a)-(c).             |
| 205.50(a)(1)(i)(B)   | 431.302(d).                 |
| 205.50(a)(1)(i)(C)   | Not applicable to Medicaid. |
| 205.50(a)(1)(ii)   | 431.303.                    |
| 205.50(a)(1)(iii)  | 431.306(c).                 |
| 205.50(a)(2)   | 431.305(a).                 |
| 205.50(a)(2)(i)  | 431.305(b).                 |
| 205.50(a)(2)(ii)   | 431.306(b).                 |
| 205.50(a)(2)(iii)  | 431.306(d).                 |
| 205.50(a)(2)(iv)   | 431.306(f).                 |
| 205.50(a)(2)(v)  | 431.306(e).                 |
| 205.50(a)(3)   | 431.304.                    |
| 205.50(a)(4)   | 431.307.                    |
| 205.50(b)  | 431.301.                    |
| 205.50(c)  | Not applicable to Medicaid. |
| 205.50(d)  | Not applicable to Medicaid. |
| 205.60(a)(1)   | 431.17(b)-(c).              |
| 205.60(a)(2)   | 431.18.                     |
| 205.60(b)  | 431.17(d).                  |
| 205.70(a)  | 431.18(c).                  |
| 205.70(b)(1)-(2)   | 431.18(d).                  |
| 205.70(c) words before "... and will establish ..."  | 431.18(e) and (g).          |
| 205.70(c) words after "... or to prepare for a fair hearing: ..."  | 431.18(f).                  |
| 205.100(a)(1)(i)-(ii)  | 431.10(b).                  |
| 205.100(a)(2)(i)   | 431.10(c).                  |
| 205.100(a)(2)(ii)  | 431.10(d).                  |
| 205.100(b)   | 431.10(e).                  |
| 205.101(c)(1)  | 431.11(b).                  |
| 205.101(c)(2)-(3)  | 431.11(c).                  |
| 205.101(c)(4)  | 431.11(d).                  |
| 205.120(a)   | 431.50(b).                  |
| 205.120(b)   | 431.50(c).                  |
| 205.130(a)(1)  | 433.33(a).                  |
| 205.130(a)(2)  | 433.33(c)(1).               |
| 205.145 to words before "Under this requirement ..."   | 433.32(a).                  |
| 205.145 words after "... in accord with applicable Federal requirements." and (a).   | 433.32(b).                  |
| 205.145(b)   | 433.32(c).                  |
| 205.145(c)   | 433.32(d).                  |
| 205.150(a)(1)  | 433.34(b) through (d)(1).   |
| 205.150(a)(1)(i) words before "(The estimated costs are included ...)"   | 433.34(d)(2)-(4).           |
| 205.150(a)(1)(i) words after "... activities with justification for each: ..."   | 433.34(e)(3).               |
| 205.150(a)(1)(ii)  | 433.34(d)(5).               |
| 205.150(a)(1)(iii)   | 433.34(d)(6).               |
| 205.150(a)(2)  | 433.34(e)(1).               |
| 205.150(b)(1)  | 433.34(f)(1).               |
| 205.150(b)(2)  | 433.34(f)(2).               |
| 205.150(b)(3)  | 433.34(f)(3).               |
| 205.150(b)(4)  | 433.34(f)(4).               |
| 205.150(b)(5)  | 433.34(e)(2).               |
| 205.150(b)(6)  | 433.34(f)(5).               |
| 205.160(a)   | 433.35(c).                  |
| 205.160(a)(1) through (3)  | 433.35(d).                  |

| Old Section in 45 CFR   | New Section in 42 CFR       |
|---|-----------------------------|
| 205.160(b)(1) and (2), first sentence                               | 433.35(b).                  |
| 205.160(b)(2), second and third sentences                           | 433.35(f)(1).               |
| 205.160(b)(3)   | 433.35(f)(2).               |
| 205.160(c)(1)   | 433.35(e).                  |
| 205.160(c)(2)   | 433.35(f)(3).               |
| 205.160(c)(3)   | 433.35(f)(3).               |
| 205.170   | Deleted—unnecessary.        |
| 206.10(a)(4)(i)   | 435.906 and 436.901.        |
| 206.10(a)(4)(ii)  | 435.907 and 436.901.        |
| 206.10(a)(4)(iii)   | 435.908 and 436.901.        |
| 206.10(a)(4)(iv) (A) and (B)  | 435.909 and 436.909.        |
| 206.10(a)(4)(iv)(C)   | 435.907 and 436.901.        |
| 206.10(a)(4)(v) (A) and (C)   | 435.910 and 436.901.        |
| 206.10(a)(4)(v)(B)  | Not applicable to Medicaid. |
| 206.10(a)(2)(i)   | 435.905 and 436.901.        |
| 206.10(a)(2)(ii)  | 435.916(b) and 436.901.     |
| 206.10(a)(3)  | 435.911 and 436.901.        |
| 206.10(a)(4)  | 435.912 and 436.901.        |
| 206.10(a)(5)  | 435.930 and 436.901.        |
| 206.10(a)(6)(i)   | Not applicable to Medicaid. |
| 206.10(a)(6)(ii)  | 435.914 and 436.901.        |
| 206.10(a)(7)  | 435.919 and 436.901.        |
| 206.10(a)(8)  | 435.913 and 436.901.        |
| 206.10(a)(9)(i) and (ii)  | 435.916(c) and 436.901.     |
| 206.10(a)(9)(iii) words before "... and every 12 months ..."        | Not applicable to Medicaid. |
| 206.10(a)(9)(iii) words after "... than every 6 months in AFDC ..." | 435.916(a) and 436.901.     |
| 206.10(a)(9)(iii) (A) and (B)                                       | 435.920 and 436.901.        |
| 206.10(a)(10)   | 435.902 and 436.901.        |
| 206.10(a)(11)   | 435.903 and 436.901.        |
| 206.10(a)(12)   | 435.904 and 436.901.        |
| 206.10(b)(1)  | Redundant—430.1.            |
| 206.10(b)(2)  | Redundant—435.907.          |
| 208.1(a)  | 441.101.                    |
| 208.1(a)(1)   | 431.620.                    |
| 208.1(a)(2)   | 441.102(a).                 |
| 208.1(a)(2)(i), first sentence                                      | 441.102(b)(2).              |
| 208.1(a)(2)(i), second sentence                                     | 441.102(b)(4).              |
| 208.1(a)(2)(ii)   | 441.102(b)(3).              |
| 208.1(a)(2)(iii)  | 441.102(b)(5).              |
| 208.1(a)(2)(iv)   | 441.103.                    |
| 208.1(a)(3) and (4)   | 441.105.                    |
| 208.1(a)(5) and (6)   | 441.106.                    |
| 208.1(a)(7)   | Not applicable to Medicaid. |
| 208.1(b)  |                             |

#### PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

A. 42 CFR Section 430.0 is amended by revising paragraph (b)(3) to read as follows:

§ 430.0 Introduction to Subchapter C.

(b) Federal regulations.

(3) Regulations in 45 CFR Parts 201 and 213 also apply to the Medicaid program, to the extent specified.

#### PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

B. 42 CFR Part 431 is amended as set forth below:

1. The table of contents is amended by revising Subparts A, B, and M and adding new Subparts E and F to read as follows:

##### Subpart A—Single State Agency

Sec.  
431.10 Single State agency.  
431.11 Organization for administration.  
431.12 Medical care advisory committee.  
431.15 Methods of administration.  
431.16 Reports.

431.17 Maintenance of records.  
431.18 Availability of agency program manuals.

##### Subpart B—Administrative Requirements: General Program Services

431.50 Statewide operation.  
431.51 Free choice of providers.  
431.52 Payments for services furnished out of State.  
431.53 Assurance of transportation.

##### Subpart D [Reserved]

##### Subpart E—Fair Hearings for Applicants and Recipients

##### GENERAL PROVISIONS

431.200 Basis and purpose.  
431.201 Definitions.  
431.202 State plan requirements.  
431.205 Provision of hearing system.  
431.206 Informing applicants and recipients.

##### NOTICE

431.210 Content of notice.  
431.211 Advance notice.  
431.213 Exceptions from advance notice.  
431.214 Notice in cases of probable fraud.

##### RIGHT TO HEARING

431.220 When a hearing is required.  
431.221 Request for hearing.  
431.222 Group hearings.  
431.223 Denial or dismissal of request for hearing.



## PROCEDURES

- Sec.  
 431.230 Maintaining services.  
 431.231 Reinstatement of services.  
 431.232 Adverse decision of local evidentiary hearing.  
 431.233 State agency hearing after adverse decision of local evidentiary hearing.  
 431.240 Conducting the hearing.  
 431.241 Matters to be considered at the hearing.  
 431.242 Procedural rights of the applicant or recipient.  
 431.243 Parties in cases involving an eligibility determination.  
 431.244 Hearing decisions.  
 431.245 Notifying the applicant or recipient of a State agency decision.  
 431.246 Corrective action.

## FEDERAL FINANCIAL PARTICIPATION

- 431.250 Federal financial participation.

## Subpart F—Safeguarding Information on Applicants and Recipients

- 431.300 Basis and purpose.  
 431.301 State plan requirements.  
 431.302 Purposes directly related to State plan administration.  
 431.303 State authority for safeguarding information.  
 431.304 Publicizing safeguarding requirements.  
 431.305 Types of information to be safeguarded.  
 431.306 Release of information.  
 431.307 Distribution of information materials.

## Subpart G-K [Reserved]

## Subpart M—Relations With Other Agencies

- 431.610 Relations with standard-setting and survey agencies.  
 431.615 Relations with State health and vocational rehabilitation agencies and title V grantees.  
 431.620 Agreement with State mental health authority or mental institutions.  
 431.625 Coordination of Medicaid with Medicare Part B.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Subpart A is amended by adding new §§ 431.10, 431.11, and 431.15 through 431.18, to read as follows:

## Subpart A—Single State Agency

## § 431.10 Single State agency.

(a) *Basis and purpose.* This section implements section 1902(a)(5) of the Act, which provides for designation of a single State agency for the Medicaid program.

(b) *Designation and certification.* A State plan must—

(1) Specify a single State agency established or designated to administer or supervise the administration of the plan; and

(2) Include a certification by the State Attorney General, citing the

legal authority for the single State agency to—

(i) Administer or supervise the administration of the plan; and  
 (ii) Make rules and regulations that it follows in administering the plan or that are binding upon local agencies that administer the plan.

(c) *Determination of eligibility.* (1) The plan must specify whether the agency that determines eligibility for families and for individuals under 21 is—

(i) The Medicaid agency; or  
 (ii) The single State agency for the financial assistance program under title IV-A (in the 50 States or the District of Columbia), or under title I or XVI (AABD), in Guam, Puerto Rico, or the Virgin Islands.

(2) The plan must specify whether the agency that determines eligibility for the aged, blind, or disabled is—

(i) The Medicaid agency;  
 (ii) The single State agency for the financial assistance program under title IV-A (in the 50 States or the District of Columbia) or under title I or XVI (AABD), in Guam, Puerto Rico, or the Virgin Islands; or

(iii) The Federal agency administering the supplemental security income program under title XVI (SSI). In this case, the plan must also specify whether the Medicaid agency or the title IV-A agency determines eligibility for any groups whose eligibility is not determined by the Federal agency.

(d) *Agreement with Federal or State agencies.* The plan must provide for written agreements between the Medicaid agency and the Federal or other State agencies that determine eligibility for Medicaid, stating the relationships and respective responsibilities of the agencies.

(e) *Authority of the single State agency.* In order for an agency to qualify as the Medicaid agency—

(1) The agency must not delegate, to other than its own officials, authority to—

(i) Exercise administrative discretion in the administration or supervision of the plan, or

(ii) Issue policies, rules, and regulations on program matters.

(2) The authority of the agency must not be impaired if any of its rules, regulations, or decisions are subject to review, clearance, or similar action by other offices or agencies of the State.

(3) If other State or local agencies or offices perform services for the Medicaid agency, they must not have the authority to change or disapprove any administrative decision of that agency, or otherwise substitute their judgment for that of the Medicaid agency with respect to the application of policies, rules, and regulations issued by the Medicaid agency.

## § 431.14 Organization for administration.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the general organization and staffing requirements for the Medicaid agency and the State plan.

(b) *Medical assistance unit.* A State plan must provide for a medical assistance unit within the Medicaid agency, staffed with a program director and other appropriate personnel who participate in the development, analysis, and evaluation of the Medicaid program.

(c) *Description of organization.* (1) The plan must include—

(i) A description of the organization and functions of the Medicaid agency and an organization chart;

(ii) A description of the organization and functions of the medical assistance unit and an organization chart; and

(iii) A description of the kinds and number of professional medical personnel and supporting staff used in the administration of the plan and their responsibilities.

(d) *Eligibility determined by other agencies.* If eligibility is determined by State agencies other than the Medicaid agency or by local agencies under the supervision of other State agencies, the plan must include a description of the staff designated by those other agencies and the functions they perform in carrying out their responsibility.

## § 431.15 Methods of administration.

A State plan must provide for methods of administration that are found by the Secretary to be necessary for the proper and efficient operation of the plan.

(Sec. 1902(a)(4) of the Act.)

## § 431.16 Reports.

A State plan must provide that the Medicaid agency will—

(a) Submit all reports required by the Secretary;

(b) Follow the Secretary's instructions with regard to the form and content of those reports; and

(c) Comply with any provisions that the Secretary finds necessary to verify and assure the correctness of the reports.

## § 431.17 Maintenance of records.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the kinds of records a Medicaid agency must maintain, the retention period, and the conditions under which microfilm copies may be substituted for original records.

(b) *Content of records.* A State plan must provide that the Medicaid agency will maintain or supervise the maintenance of the records necessary

for the proper and efficient operation of the plan. The records must include—

(1) Individual records on each applicant and recipient that contain information on—

(i) Date of application;  
 (ii) Date of and basis for disposition;  
 (iii) Facts essential to determination of initial and continuing eligibility;  
 (iv) Provision of medical assistance; and

(v) Basis for discontinuing assistance; and

(2) Statistical, fiscal, and other records necessary for reporting and accountability as required by the Secretary.

(c) *Retention of records.* The plan must provide that the records required under paragraph (b) of this section will be retained for the periods required by the Secretary.

(d) *Conditions for optional use of microfilm copies.* The agency may substitute certified microfilm copies for the originals of substantiating documents required for Federal audit and review, if the conditions in paragraphs (d)(1) through (4) of this section are met.

(1) The agency must make a study of its record storage and must show that the use of microfilm is efficient and economical.

(2) The microfilm system must not hinder the agency's supervision and control of the Medicaid program.

(3) The microfilm system must—

(i) Enable the State to audit the propriety of expenditures for which FFP is claimed; and  
 (ii) Enable the HEW Audit Agency and HCFA to properly discharge their respective responsibilities for reviewing the manner in which the Medicaid program is being administered.

(4) The agency must obtain approval from the HCFA regional office indicating—

(i) The system meets the conditions of paragraphs (d)(2) and (3) of this section; and

(ii) The microfilming procedures are reliable and are supported by an adequate retrieval system.

## § 431.18 Availability of agency program manuals.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes State plan requirements for facilitating access to Medicaid rules and policies by individuals outside the State Medicaid agency.

(b) *State plan requirements.* A State plan must provide that the Medicaid agency meets the requirements of paragraphs (c) through (g) of this section.

(c) *Availability in agency offices.* (1) The agency must maintain, in all its offices, copies of its current rules and

policies that affect the public, including those that govern eligibility, provision of medical assistance, covered services, and recipient rights and responsibilities.

(2) These documents must be available upon request for review, study, and reproduction by individuals during regular working hours of the agency.

(d) *Availability through other entities.* The agency must provide copies of its current rules and policies to—

(1) Public and university libraries;  
 (2) The local or district offices of the Bureau of Indian Affairs;  
 (3) Welfare and legal services offices; and

(4) Other entities that—

(i) Request the material in order to make it accessible to the public;  
 (ii) Are centrally located and accessible to a substantial number of the recipient population they serve; and

(iii) Agree to accept responsibility for filing all amendments or changes forwarded by the agency.

(e) *Availability in relation to fair hearings.* The agency must make available to an applicant or recipient, or his representative, a copy of the specific policy materials necessary—

(1) To determine whether to request a fair hearing; or  
 (2) To prepare for a fair hearing.

(f) *Availability for other purposes.* The agency must establish rules for making program policy materials available to individuals who request them for other purposes.

(g) *Charges for reproduction.* The agency must make copies of its program policy materials available without charge or at a charge related to the cost of reproduction.

3. Subpart B is amended by adding a new § 431.50 to read as follows:

## § 431.50 Statewide operation.

(a) *Basis and purpose.* This section implements section 1902(a)(1) of the Act, which requires a State plan to be in effect throughout the State, and section 1902(a)(23), which permits certain exceptions.

(b) *State plan requirements.* A State plan must provide that the following requirements will be met:

(1) The plan will be in operation statewide through a system of local offices, under equitable standards for assistance and administration that are mandatory throughout the State.

(2) If administered by political subdivisions of the State, the plan will be mandatory on those subdivisions.

(3) The agency will assure that the plan is continuously in operation in all local offices or agencies through—

(i) Methods for informing staff of State policies, standards, procedures, and instructions;

(ii) Systematic planned examination and evaluation of operations in local



offices by regularly assigned State staff who make regular visits; and  
(iii) Reports, controls, or other methods.

(c) *Exceptions.* The requirements of paragraph (b) of this section do not apply with respect to services offered by comprehensive health services organizations (see § 440.250(g) of this subchapter) or by rural health clinics (see § 440.20(b)).

4. A new Subpart E is added to read as follows:

#### Subpart E—Fair Hearings for Applicants and Recipients

##### GENERAL PROVISIONS

##### § 431.200 Basis and purpose.

This subpart implements section 1902(a)(3) of the Act, which requires that a State plan provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services.

##### § 431.201 Definitions.

For purposes of this subpart: "Action" means a termination, suspension, or reduction of Medicaid eligibility or covered services.

"Date of action" means the intended date on which a termination, suspension, or reduction becomes effective.

"De novo hearing" means a hearing that starts over from the beginning.

"Evidentiary hearing" means a hearing conducted so that evidence may be presented.

"Notice" means a written statement that meets the requirements of § 431.210.

"Request for a hearing" means a clear expression by the applicant or recipient, or his authorized representative, that he wants the opportunity to present his case to a reviewing authority.

##### § 431.202 State plan requirements.

A State plan must provide that the requirements of §§ 431.205 through 431.246 of this subpart are met.

##### § 431.205 Provision of hearing system.

(a) The Medicaid agency must be responsible for maintaining a hearing system that meets the requirements of this subpart.

(b) The State's hearing system must provide for—

- (1) A hearing before the agency; or
- (2) An evidentiary hearing at the local level, with a right of appeal to a State agency hearing.

(c) The agency may offer local hearings in some political subdivisions and not in others.

(d) The hearing system must meet the due process standards set forth in *Goldberg v. Kelly*, 397 U.S. 245 (1970), and any additional standards specified in this subpart.

##### § 431.206 Informing applicants and recipients.

(a) The agency must issue and publicize its hearing procedures.

(b) The agency must, at the time specified in paragraph (c) of this section, inform every applicant or recipient in writing—

- (1) Of his right to a hearing;
- (2) Of the method by which he may obtain a hearing; and
- (3) That he may represent himself or use legal counsel, a relative, a friend, or other spokesman.

(c) The agency must provide the information required in paragraph (b) of this section—

- (1) At the time that the individual applies for Medicaid; and
- (2) At the time of any action affecting his claim.

##### NOTICE

##### § 431.210 Content of notice.

A notice required under § 431.206(c)(2) of this subpart must contain—

(a) A statement of what action the agency intends to take;

(b) The reasons for the intended action;

(c) The specific regulations that support, or the change in Federal or State law that requires, the action;

(d) An explanation of—

- (1) The individual's right to request an evidentiary hearing if one is available, or a State agency hearing; or
- (2) In cases of an action based on a change in law, the circumstances under which a hearing will be granted; and

(e) An explanation of the circumstances under which Medicaid is continued if a hearing is requested.

##### § 431.211 Advance notice.

The State or local agency must mail a notice at least 10 days before the date of action, except as permitted under §§ 431.213 and 431.214 of this subpart.

##### § 431.213 Exceptions from advance notice.

The agency may mail a notice not later than the date of action if—

(a) The agency has factual information confirming the death of a recipient;

(b) The agency receives a clear written statement signed by a recipient that—

- (1) He no longer wishes services; or
- (2) Gives information that requires termination or reduction of services and indicates that he understands

that this must be the result of supplying that information;

(c) The recipient has been admitted to an institution where he is ineligible under the plan for further services;

(d) The recipient's whereabouts are unknown and the post office returns agency mail directed to him indicating no forwarding address (See § 431.231 (d) of this subpart for procedure if the recipient's whereabouts become known);

(e) The agency establishes the fact that the recipient has been accepted for Medicaid services by another local jurisdiction, State, territory, or commonwealth; or

(f) A change in the level of medical care is prescribed by the recipient's physician.

##### § 431.214 Notice in cases of probable fraud.

The agency may shorten the period of advance notice to 5 days before the date of action if—

(a) The agency has facts indicating that action should be taken because of probable fraud by the recipient; and

(b) The facts have been verified, if possible, through secondary sources.

##### RIGHT TO HEARING

##### § 431.220 When a hearing is required.

(a) The agency must grant an opportunity for a hearing to:

(1) Any applicant who requests it because his claim for services is denied or is not acted upon with reasonable promptness; and

(2) Any recipient who requests it because he believes the agency has taken an action erroneously.

(b) The agency need not grant a hearing if the sole issue is a Federal or State law requiring an automatic change adversely affecting some or all recipients.

##### § 431.221 Request for hearing.

(a) The agency may require that a request for a hearing be in writing.

(b) The agency may not limit or interfere with the applicant's or recipient's freedom to make a request for a hearing.

(c) The agency may assist the applicant or recipient in submitting and processing his request.

(d) The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing.

##### § 431.222 Group hearings.

The agency—

(a) May respond to a series of individual requests for hearing by conducting a single group hearing;

(b) May consolidate hearings only in cases in which the sole issue involved

is one of Federal or State law or policy;

(c) Must follow the policies of this subpart and its own policies governing hearings in all group hearings; and

(d) Must permit each person to present his own case or be represented by his authorized representative.

##### § 431.223 Denial or dismissal of request for a hearing.

The agency may deny or dismiss a request for a hearing if—

(a) The applicant or recipient withdraws the request in writing; or

(b) The applicant or recipient fails to appear at a scheduled hearing without good cause.

##### PROCEDURES

##### § 431.230 Maintaining services.

(a) If the agency mails the 10-day or 5-day notice as required under § 431.211 or § 431.214 of this subpart, and the applicant or recipient requests a hearing before the date of action, the agency may not terminate or reduce services until a decision is rendered after the hearing unless—

(1) It is determined at the hearing that the sole issue is one of Federal or State law or policy; and

(2) The agency promptly informs the applicant or recipient in writing that services are to be terminated or reduced pending the hearing decision.

(b) If the agency's action is sustained by the hearing decision, the agency may institute recovery procedures against the applicant or recipient to recoup the cost of any services furnished the recipient, to the extent they were furnished solely by reason of this section.

##### § 431.231 Reinstatement of services.

(a) The agency may reinstate services if a recipient requests a hearing not more than 10 days after the date of action.

(b) The reinstated services must continue until a hearing decision unless, at the hearing, it is determined that the sole issue is one of Federal or State law or policy.

(c) The agency must reinstate and continue services until a decision is rendered after a hearing if—

(1) Action is taken without the advance notice required under § 431.211 or § 431.214 of this subpart;

(2) The recipient requests a hearing within 10 days of the mailing of the notice of action; and

(3) The agency determines that the action resulted from other than the application of Federal or State law or policy.

(d) If a recipient's whereabouts are unknown, as indicated by the return of unforwardable agency mail directed to him, any discontinued services must

be reinstated if his whereabouts become known during the time he is eligible for services.

##### § 431.232 Adverse decision of local evidentiary hearing.

If the decision of a local evidentiary hearing is adverse to the applicant or recipient, the agency must—

(a) Inform the applicant or recipient of the decision;

(b) Inform the applicant or recipient that he has the right to appeal the decision to the State agency, in writing, within 15 days of the mailing of the notice of the adverse decision;

(c) Inform the applicant or recipient of his right to request that his appeal be a *de novo* hearing; and

(d) Discontinue services after the adverse decision.

##### § 431.233 State agency hearing after adverse decision of local evidentiary hearing.

(a) Unless the applicant or recipient specifically requests a *de novo* hearing, the State agency hearing may consist of a review by the agency hearing officer of the record of the local evidentiary hearing to determine whether the decision of the local hearing officer was supported by substantial evidence in the record.

(b) A person who participates in the local decision being appealed may not participate in the State agency hearing decision.

##### § 431.240 Conducting the hearing.

(a) All hearings must be conducted—

(1) At a reasonable time, date, and place;

(2) Only after adequate written notice of the hearing; and

(3) By one or more impartial officials or other individuals who have not been directly involved in the initial determination of the action in question.

(b) If the hearing involves medical issues such as those concerning a diagnosis, an examining physician's report, or a medical review team's decision, and if the hearing officer considers it necessary to have a medical assessment other than that of the individual involved in making the original decision, such a medical assessment must be obtained at agency expense and made part of the record.

##### § 431.241 Matters to be considered at the hearing.

The hearing must cover—

(a) Agency action or failure to act with reasonable promptness on a claim for services, including both initial and subsequent decisions regarding eligibility; and

(b) Agency decisions regarding changes in the type or amount of services.

##### § 431.242 Procedural rights of the applicant or recipient.

The applicant or recipient, or his representative, must be given an opportunity to—

(a) Examine at a reasonable time before the date of the hearing and during the hearing;

(1) The content of the applicant's or recipient's case file; and

(2) All documents and records to be used by the State or local agency at the hearing;

(b) Bring witnesses;

(c) Establish all pertinent facts and circumstances;

(d) Present an argument without undue interference; and

(e) Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

##### § 431.243 Parties in cases involving an eligibility determination.

If the hearing involves an issue of eligibility and the Medicaid agency is not responsible for eligibility determinations, the agency that is responsible for determining eligibility must participate in the hearing.

##### § 431.244 Hearing decisions.

(a) Hearing recommendations or decisions must be based exclusively on evidence introduced at the hearing.

(b) The record must consist only of—

(1) The transcript or recording of testimony and exhibits, or an official report containing the substance of what happened at the hearing;

(2) All papers and requests filed in the proceeding; and

(3) The recommendation or decision of the hearing officer.

(c) The applicant or recipient must have access to the record at a convenient place and time.

(d) In any evidentiary hearing, the decision must be a written one that—

(1) Summarizes the facts; and

(2) Identifies the regulations supporting the decision.

(e) In a *de novo* hearing, the decision must—

(1) Specify the reasons for the decision; and

(2) Identify the supporting evidence and regulations.

(f) The agency must take final administrative action within 90 days from the date of the request for a hearing.

(g) The public must have access to all agency hearing decisions, subject to the requirements of Subpart F of this part for safeguarding of information.

##### § 431.245 Notifying the applicant or recipient of a State agency decision.

The agency must notify the applicant or recipient in writing of—

(a) The decision; and



(b) His right to request a State agency hearing or seek judicial review, to the extent that either is available to him.

#### § 431.246 Corrective action.

The agency must promptly make corrective payments, retroactive to the date an incorrect action was taken, if—

- The hearing decision is favorable to the applicant or recipient; or
- The agency decides in the applicant's or recipient's favor before the hearing.

#### FEDERAL FINANCIAL PARTICIPATION

#### § 431.250 Federal financial participation.

FFP is available in expenditures for—

- Payments for services continued pending a hearing decision;
- Payments made to carry out hearing decisions;
- Payments made to take corrective action prior to a hearing;
- Payments made to extend the benefit of a hearing decision or court order to individuals in the same situation as those directly affected by the decision or order;
- Retroactive payments under paragraphs (b), (c), and (d) of this section in accordance with applicable Federal policies on corrective payments; and
- Administrative costs incurred by the agency for—

- Transportation for the applicant or recipient, his representative, and witnesses to and from the hearing;
- Meeting other expenses of the applicant or recipient in connection with the hearing; and
- Carrying out the hearing procedures, including expenses of obtaining the additional medical assessment specified in § 431.240 of this subpart.

5. A new Subpart F is added to read as follows:

#### Subpart F—Safeguarding Information on Applicants and Recipients

#### § 431.300 Basis and purpose.

Section 1902(a)(7) of the Act requires that a State plan must provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. This subpart specifies State plan requirements, the types of information to be safeguarded, the conditions for release of safeguarded information, and restrictions on the distribution of other information.

5. A new Subpart F is added to read as follows:

#### Subpart F—Safeguarding Information on Applicants and Recipients

#### § 431.300 Basis and purpose.

Section 1902(a)(7) of the Act requires that a State plan must provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. This subpart specifies State plan requirements, the types of information to be safeguarded, the conditions for release of safeguarded information, and restrictions on the distribution of other information.

#### § 431.301 State plan requirements.

A State plan must provide, under a State statute that imposes legal sanctions, safeguards meeting the requirements of this subpart that restrict the

use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan.

#### § 431.302 Purposes directly related to State plan administration.

Purposes directly related to plan administration include—

- Establishing eligibility;
- Determining the amount of medical assistance;
- Providing services for recipients; and
- Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan.

#### § 431.303 State authority for safeguarding information.

The Medicaid agency must have authority to implement and enforce the provisions specified in this subpart for safeguarding information about applicants and recipients.

#### § 431.304 Publicizing safeguarding requirements.

- The agency must publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use.
- The agency must provide copies of these provisions to applicants and recipients and to other persons and agencies to whom information is disclosed.

(b) The agency must provide copies of these provisions to applicants and recipients and to other persons and agencies to whom information is disclosed.

#### § 431.305 Types of information to be safeguarded.

- The agency must have criteria that govern the types of information about applicants and recipients that are safeguarded.
- This information must include at least—

- Names and addresses;
- Medical services provided;
- Social and economic conditions or circumstances;
- Agency evaluation of personal information; and
- Medical data, including diagnosis and past history of disease or disability.

(5) Medical data, including diagnosis and past history of disease or disability.

#### § 431.306 Release of information.

- The agency must have criteria specifying the conditions for release and use of information about applicants and recipients.
- Access to information concerning applicants or recipients must be restricted to persons or agency representatives who are subject to standards of confidentiality that are comparable to those of the agency.
- The agency must not publish names of applicants or recipients.

(b) Access to information concerning applicants or recipients must be restricted to persons or agency representatives who are subject to standards of confidentiality that are comparable to those of the agency.

(c) The agency must not publish names of applicants or recipients.

(d) The agency must obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source. If, because of an emergency situation, times does not permit obtaining consent before release, the agency must notify the family or individual immediately after supplying the information.

(e) The agency's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.

(f) If a court issues a subpoena for a case record or for any agency representative to testify concerning an applicant or recipient, the agency must inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information.

#### § 431.307 Distribution of information materials.

- All materials distributed to applicants, recipients, or medical providers must—

- Directly relate to the administration of the Medicaid program;
- Have no political implications;
- Contain the names only of individuals directly connected with the administration of the plan; and
- Identify those individuals only in their official capacity with the State or local agency.

(b) The agency must not distribute materials such as "holiday" greetings, general public announcements, voting information, and alien registration notices.

(c) The agency may distribute materials directly related to the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information.

6. In Subpart L, § 431.503 is amended by revising paragraph (n) to read as follows:

#### § 431.503 All contracts.

A State plan must provide that contracts under this subpart—

(n) Provide that the contractor safeguards information about recipients as required by Subpart F, part 431 of this subchapter;

7. Subpart M is amended as follows:

- A new § 431.620 is added to read as follows:

#### § 431.620 Agreement with State mental health authority or mental institutions.

(a) *Basis and purpose.* This section implements section 1902(a)(20)(A) of the Act, for States offering Medicaid services in institutions for mental diseases for recipients aged 65 or older, by specifying the terms of the agreement those States must have with other State authorities and institutions. (See Part 441, Subpart C of this subchapter for regulations implementing section 1902(a)(20) (B) and (C).)

(b) *Definition.* For purposes of this section, an "institution for mental diseases" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. This includes medical attention, nursing care, and related services.

(c) *State plan requirement.* A State plan that includes Medicaid for persons aged 65 or older in institutions for mental diseases must provide that the Medicaid agency has in effect a written agreement with—

- The State authority or authorities concerned with mental diseases; and
- Any institution for mental diseases that is not under the jurisdiction of those State authorities, and that provides services under Medicaid to recipients aged 65 or older.

(d) *Provisions required in an agreement.* The agreement must specify the respective responsibilities of the agency and the authority or institution, including arrangements for—

- Joint planning between the parties to the agreement;
- Development of alternative methods of care;
- Immediate readmission to an institution when needed by a recipient who is in alternative care;
- Access by the agency to the institution, the recipient, and the recipient's records when necessary to carry out the agency's responsibilities;
- Recording, reporting, and exchanging medical and social information about recipients; and
- Other procedures needed to carry out the agreement.

b. Section 431.625 is amended by revising paragraph (c)(2) to read as follows:

#### § 431.625 Coordination of Medicaid with Medicare part B.

(c) *Federal financial participation.*

- No FFP is available in State Medicaid expenditures that could have been paid for under Medicare part B but were not because the person was not enrolled in part B. This limit applies to all recipients eligible for enrollment under part B, whether indi-

vidually or through an agreement under sec. 1843(a) of the Act. However, FFP is available in expenditures required by §§ 435.914 and 436.901 of this subchapter for retroactive coverage of recipients.

8. In Subpart P, § 431.800 is amended by revising paragraph (h) to read as follows:

#### § 431.800 Medicaid quality control (MQC) system.

(h) *Protection of recipient rights.* Any individual performing activities under the Medicaid quality control program must do so in a manner consistent with §§ 435.902 and 436.901 of this subchapter concerning the rights of the recipient.

#### PART 432—STATE PERSONNEL ADMINISTRATION

C. 42 CFR Part 432 is amended as follows:

1. Section 432.55 is amended by revising paragraph (b)(3) to read as follows:

#### § 432.55 Reporting training and administrative costs.

(b) *Activities and costs to be reported on training expenditures.*

(3) For State and local Medicaid agency staff development personnel (including supporting staff) assigned fulltime training functions: Salaries, fringe benefits, travel, and per diem. Costs for staff spending less than full time on training for the Medicaid program must be allocated between training and administration in accordance with § 433.34 of this subchapter.

2. Section 432.60 is amended by revising paragraph (c) to read as follows:

#### § 432.60 Sources of State share of training expenditures and cost allocation.

(c) *Cost allocation.* Costs of training are chargeable to Medicaid only to the extent that the training benefits both federally funded programs and other programs financed solely with State or local funds, the training costs must be allocated among programs as specified in 45 CFR part 74, appendix C and § 433.34 of this subchapter.

#### PART 433—STATE FISCAL ADMINISTRATION

D. 42 CFR Part 433 is amended as follows:

1. The table of contents is amended by adding §§ 433.32 through 433.35 to read as follows:

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prescribes requirements for submitting and revising cost allocation plans relating to Medicaid expenditures, specifies their content, and sets forth the effect on FFP if requirements are not met.

(b) *State plan requirement.* A State plan must provide that the requirements of paragraphs (c) through (e) of this section will be met.

(c) *Filing cost allocation plan.* The Medicaid agency must have a cost allocation plan approved by HCFA on file with the HCFA Regional Office.

(d) *Content of plan.* The cost allocation plan must include—

(1) Methods and procedures for properly charging the costs of administration, medical assistance, and training incurred under the plan, in accordance with 45 CFR Part 74, Appendix C and any other requirements specified by HEW or HCFA;

(2) Descriptions of functions and activities, by organizational units;

(3) Estimated costs for one year, by cost centers or pools, including costs of all organizational units of the State department in which the Medicaid agency is located (unless specifically waived by HCFA);

(4) The basis used for allocating the various pools of costs to program and activities, with justification for each;

(5) Other information necessary to document the validity of the cost allocation methods and procedures; and

(6) Methods and procedures for—

(i) Allocating costs of the State department in which the Medicaid agency is located between federally-aided and all other programs; and

(ii) Identifying costs applicable to more than one of the federally-aided programs and segregating these costs in accordance with program or other classifications specified by the Secretary.

(e) *Revision and approval.* (1) The agency must revise the plan whenever the allocation method is outdated because of organizational changes within the agency, changes in Federal law or regulations, or other similar changes.

(2) Within 60 days of receipt of a plan, the HCFA Regional Office will give the agency written notice of approval or of changes required for approval.

(3) Approval of the cost allocation plan does not constitute approval of the plan's estimated cost for purposes of calculating claims for FFP.

(f) *Federal financial participation.*

(1) FFP is not available in expenditures for administration, medical assistance, and training for any quarterly period unless the State's claims for those expenditures are in accord with a cost allocation plan approved for that period and on file with HCFA.

(2) If the agency fails to submit for any quarter a revision to an outdated

cost allocation plan, or if the submitted revision has not been approved, HCFA will—

(i) Defer payment of any amount it believes to be overstated; and

(ii) Disallow any amount it determines to be overstated.

(3) If no approved cost allocation plan is on file with HCFA, FFP will be made available only for those costs of administration, medical assistance, and training which are entirely chargeable to a particular function or activity that has a single rate of FFP. Claims for other costs that require allocation will be disallowed.

(4) Any costs disallowed under paragraphs (f) (2) and (3) of this section may be reclaimed after HCFA approves a cost allocation plan for the quarter for which the expenditures were claimed, to the extent that the reclaimed amounts are supported by the approved plan.

(5) The time frames and the procedures in 45 CFR 201.15\* are applicable to deferrals made under paragraph (f)(2) of this section.

§ 433.35 Nonexpendable personal property: Conditions for FFP.

(a) *Basis and purpose.* This section, based on sec. 1102 of the Act, prescribes rules on availability of FFP for acquisition and depreciation of nonexpendable personal property, and on accounting for and managing the property.

(b) *Definitions.* As used in this section, unless the context indicates otherwise—

"Acquisition cost" means the amount expended for property (minus interest) plus, in the case of property acquired with a trade-in, the book value of the property traded in.

"Book value" of property traded in means acquisition cost minus the amount depreciated through the date of trade-in. (If the State claimed FFP in the acquisition cost when it acquired the property, the book value is zero.)

"Depreciation expense" means the portion of the acquisition cost assignable to a particular time period of the estimated useful service life of the property.

"Nonexpendable personal property" means tangible property of any kind, except real property, that has a useful life of more than one year and an acquisition cost of \$300 or more per unit.

(c) *Availability of FFP.* Except as provided in paragraph (d) of this section, FFP is available in expenditures for nonexpendable personal property only in the depreciation expense, or an

\*See proposed rulemaking republishing 45 CFR 201.15 as 42 CFR 430.230 through 430.232, 43 FR 38345, August 25, 1978.

annual use allowance of 6% percent of acquisition cost, applicable to the period for which the property is used in the Medicaid program.

(d) *Exceptions based on acquisition cost and use of property.* (1) Except as specified in paragraphs (d)(2) and (d)(3) of this section, the Medicaid agency may claim FFP in full in expenditures for acquiring nonexpendable personal property costing less than \$5,000.

(2) FFP is available only on the basis of paragraph (c) of this section if the property is acquired by a provider under a cost reimbursement contract with the agency, unless the State has title to the property and the contract provides for the return of the property or its residual value at the completion of the contract.

(3) In the case of property acquired by the agency for use by organizational units of that agency, or of a parent agency, that are treated as indirect cost centers or pools in an HCFA cost allocation plan, FFP is available only in accordance with paragraph (c) of this section or on the basis of indirect costs negotiated by HEW.

(e) *Distribution of costs.* (1) *Costs of property used in a single activity.* The agency may charge costs directly to a single activity that has a separate rate of FFP, if the property is being used exclusively for that activity at the time of expenditures for the property.

(2) *Costs of property used in more than one activity.* The agency must distribute costs by one of the following methods:

(i) Using cost centers or pools and allocation bases that will distribute the costs consistent with use of the property at the time of expenditures. The agency must distribute any credits for property sold or retained for use in non-Federal programs in a manner consistent with the method used to distribute expenditures when the property was acquired (see 45 CFR 74.139 for HEW policies on disposition).

(ii) Using a common distribution factor for all property or for classifications of property (e.g., costs of desks may be distributed by number of staff employed in each activity). For property sold or retained for use in non-Federal programs, the agency must distribute credits to programs or activities by using the same distribution factors that are applied to expenditures for property acquired in the quarter in which credits occurred.

(f) *Other administrative requirements.* (1) *Determination of depreciation expense.* The agency must determine annual depreciation expense by—

(i) Dividing the acquisition cost by the number of years of estimated useful service life of the property; or

(ii) Any other method that is shown by the agency to be more consistent with the use of the property and is approved by the HCFA Regional Administrator.

(2) *Estimated useful service life.* The agency must determine the estimated useful service life of property in accordance with Internal Revenue Service policies on depreciation for tax purposes, except that a shorter period may be approved by the HCFA Regional Administrator if the State agency can justify it.

(3) *Accountability and management.* The agency must account for and manage nonexpendable personal property in accordance with the provisions in 45 CFR 74.133 and 74.135 through 74.140.

3. Section 433.112 is amended by revising paragraph (b)(9) to read as follows:

§ 433.112 FFP for design, development, installation, or improvement of mechanized claims processing and information retrieval systems.

(b) The Administrator will approve the system if the following conditions are met:

(9) The agency agrees in writing that the information in the system will be safeguarded in accordance with Subpart F, Part 431 of this subchapter.

#### PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

E. 42 CFR Part 435 is amended as follows:

1. The table of contents is amended by adding a new Subpart J to read as follows:

Subpart J—Eligibility Administration: Applications, Determinations of Eligibility, and Furnishing Medicaid

Sec.

435.900 Scope.

#### GENERAL METHODS OF ADMINISTRATION

435.902 Consistency with objectives and statutes.

435.903 Simplicity of administration.

435.904 Adherence of local agencies to State plan requirements.

#### APPLICATIONS

435.905 Availability of program information.

435.906 Opportunity to apply.

435.907 Written application.

435.908 Assistance with application.

435.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

435.910 Use of social security number.

#### DETERMINATION OF MEDICAID ELIGIBILITY

435.911 Timely determination of eligibility.

435.912 Adequate notice.

435.913 Case documentation.

435.914 Effective date.

#### REDETERMINATIONS OF MEDICAID ELIGIBILITY

435.916 Periodic redeterminations of Medicaid eligibility.

435.919 Timely and adequate notice.

435.920 Verification of SSNs.

#### FURNISHING MEDICAID

435.930 Furnishing Medicaid.

#### § 435.2 [Amended]

2. Section 435.2 is amended by deleting the uncoded paragraph in parenthesis following paragraph (e).

3. Section 435.531 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 435.531 Determinations of blindness.

(a) Except as specified in paragraph (b) of this section, in determining blindness—

(3) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

(ii) Whether and when re-examinations are necessary for periodic redeterminations of eligibility, as required under § 435.916 of this part.

4. Section 435.541 is amended by revising paragraphs (b) and (c) to read as follows:

§ 435.541 Determinations of disability.

(b) A physician and a social worker, qualified by professional training and experience, must review the medical report and social history and determine on behalf of the agency whether the individual meets the definition of disability. The physician must determine whether and when reexaminations will be necessary for periodic redeterminations of eligibility as required under § 435.916 of this part.

(c) In subsequently determining disability, the physician and social worker must review reexamination reports and the social history and deter-

mine whether the individual continues to meet the definition.

5. Section 435.724 is amended by revising paragraph (a) to read as follows:

§ 435.724 Financial responsibility of parents for blind or disabled children.

(a) If the agency provides Medicaid to SSI recipients, it must meet the requirements of this section in determining eligibility of blind and disabled children under the optional coverage provisions of §§ 435.210, 435.211, and 435.231.

6. A new Subpart J is added to read as follows:

Subpart J—Eligibility in the States and District of Columbia

§ 435.900 Scope.

This subpart sets forth requirements for processing applications, determining eligibility, and furnishing Medicaid.

#### GENERAL METHODS OF ADMINISTRATION

§ 435.902 Consistency with objectives and statutes.

The Medicaid agency's standards and methods for determining eligibility must be consistent with the objectives of the program and with the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, sec. 504 of the Rehabilitation Act of 1973, and all other relevant provisions of Federal and State laws.

§ 435.903 Simplicity of administration.

The agency's policies and procedures must ensure that eligibility is determined in a manner consistent with simplicity of administration and the best interests of the applicant or recipient.

§ 435.904 Adherence of local agencies to State plan requirements.

The agency must—

(a) Have methods to keep itself currently informed of the adherence of local agencies to the State plan provisions and the agency's procedures for determining eligibility; and

(b) Take corrective action to ensure their adherence.

#### APPLICATIONS

§ 435.905 Availability of program information.

(a) The agency must furnish the following information in appropriate written or oral form to all applicants and to all other individuals who request it:



- (1) The eligibility requirements.
- (2) Available Medicaid services.
- (3) The rights and responsibilities of applicants and recipients.

(b) The agency must publish in quantity and make available bulletins or pamphlets that explain the rules governing eligibility and appeals in simple and understandable terms.

#### § 435.906 Opportunity to apply.

The agency must afford an individual wishing to do so the opportunity to apply for Medicaid without delay.

#### § 435.907 Written application.

The agency must require a written application from the applicant, an authorized representative or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The application must be on a form prescribed by the agency and signed under a penalty of perjury.

#### § 435.908 Assistance with application.

The agency must allow an individual or individuals of the applicant's choice to accompany, assist, and represent the applicant in the application process or a redetermination of eligibility.

#### § 435.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

The agency must not require a separate application for Medicaid from an individual, if—

- (a) The individual receives AFDC; or
- (b) The agency has an agreement with the Social Security Administration (SSA) under sec. 1634 of the Act for determining Medicaid eligibility; and—

- (1) The individual receives SSI;
- (2) The individual receives a mandatory State supplement under either a federally-administered or State-administered program; or
- (3) The individual receives an optional State supplement and the agency provides Medicaid to recipients of optional supplements under § 435.230.

#### § 435.910 Use of social security number.

(a) The agency must request, on the application, the social security number (SSN) of each individual (including children) for whom Medicaid services are requested.

(b) The agency must advise the applicant of—

- (1) Whether disclosure of the SSN is mandatory or voluntary;
- (2) The statute or other authority under which the agency is requesting the applicant's SSN; and
- (3) The uses the agency will make of the SSN.

(c) The agency must not make disclosure mandatory unless it had a system of records in operation before

January 1, 1975, that met the following conditions:

- (1) It was used in the administration of the Medicaid program; and

(2) Under statute or regulation, it required an applicant to disclose his SSN to verify his identity.

(d) If disclosure of the SSN is voluntary, the agency must not deny Medicaid to an otherwise eligible applicant for failure or refusal to disclose or apply for a SSN and must inform the applicant that he is not required to disclose or apply for a SSN.

(e) If an applicant cannot recall his SSN or has not been issued a SSN, and wishes to secure one, the agency must—

- (1) Assist the applicant in completing an application for a SSN;

(2) Obtain evidence required under SSA regulations to establish the age, the citizenship or alien status, and the true identity of the applicant; and

(3) Either sent the application to SSA or, if there is evidence that the applicant has previously been issued a SSN, request SSA to verify the number.

(f) The agency must not deny or delay services to an otherwise eligible applicant pending issuance or verification of the individual's SSN by SSA.

#### DETERMINATION OF MEDICAID ELIGIBILITY

##### § 435.911 Timely determination of eligibility.

(a) The agency must establish time standards for determining eligibility and inform the applicant of what they are. These standards may not exceed—

- (1) Sixty days for applicants who apply for Medicaid on the basis of disability; and

(2) Forty-five days for all other applicants.

(b) The time standards must cover the period from the date of application to the date the agency mails notice of its decision to the applicant.

(c) The agency must determine eligibility within the standards except in unusual circumstances, for example—

- (1) When the agency cannot reach a decision because the applicant or an examining physician delays or fails to take a required action;

(2) When there is an administrative or other emergency beyond the agency's control; or

(3) When there is a delay in the receipt of eligibility information from SSA in States in which SSA determines Medicaid eligibility.

(d) The agency must document the reasons for delay in the applicant's case record.

(e) The agency must not use the time standards—

- (1) As a waiting period before determining eligibility; or

(2) As a reason for denying eligibility (because it has not determined eligibility within the time standards).

#### § 435.912 Adequate notice.

The agency must send each applicant a written notice of the agency's decision on his application, and, if eligibility is denied, the reasons for the action, the specific regulation supporting the action, and an explanation of his right to request a hearing. (See Subpart E of Part 431 of this subchapter for rules on hearings.)

#### § 435.913 Case documentation.

(a) The agency must include in each applicant's case record facts to support the agency's decision on his application.

(b) The agency must dispose of each application by a finding of eligibility or ineligibility, unless—

- (1) There is an entry in the case record that the applicant voluntarily withdrew the application, and that the agency sent a notice confirming his decision;

(2) There is a supporting entry in the case record that the applicant has died; or

(3) There is a supporting entry in the case record that the applicant cannot be located.

#### § 435.914 Effective date.

(a) The agency must make eligibility for Medicaid effective no later than the third month before the month of application if the individual—

- (1) Received Medicaid services, at any time during that period, of a type covered under the plan; and

(2) Would have been eligible for Medicaid at the time he received the services if he had applied (or someone had applied for him), regardless of whether the individual is alive when application for Medicaid is made.

(b) The agency may make eligibility for Medicaid effective on the first day of a month if an individual was eligible at any time during that month.

(c) The State plan must specify the date on which eligibility will be made effective.

#### REDETERMINATIONS OF MEDICAID ELIGIBILITY

##### § 435.916 Periodic redeterminations of Medicaid eligibility.

(a) The agency must redetermine the eligibility of Medicaid recipients, with respect to circumstances that may change, at least every 12 months. However—

- (1) The agency may consider blindness as continuing until the review physician under § 435.531 determines that a recipient's vision has improved beyond the definition of blindness contained in the plan; and

#### § 435.1002 FFP for services.

(b) FFP is available in expenditures for services provided to recipients who were eligible for Medicaid in the month in which the medical care or services were provided except that, for recipients who establish eligibility for Medicaid by deducting incurred medical expenses from income, FFP is not available for expenses that are the recipient's liability. (See § 435.914 and § 436.901 of this subchapter for regulations on retroactive eligibility for Medicaid.)

8. Section 435.1003 is amended by revising paragraphs (a)(1), (2) and (3) to read as follows:

#### § 435.1003 Recipients determined ineligible for SSI.

(a) If the Social Security Administration (SSA) notifies an agency that a recipient has been determined ineligible for SSI, FFP is available in Medicaid expenditures for services to the recipient as follows:

- (1) If the agency receives the SSA notice by the 10th day of the month, FFP is available under this section only through the end of the month unless the recipient requests a hearing under Subpart E, Part 431 of this subchapter.

(2) If the agency receives the SSA notice after the 10th day of the month, FFP is available only through the end of the following month, unless the recipient requests a hearing under Subpart E, Part 431 of this subchapter.

(3) If a recipient requests a hearing, FFP is available as specified in Subpart E, Part 431 of this subchapter.

#### PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

##### F. 42 CFR Part 436 is amended as follows:

1. The table of contents is amended by adding a new Subpart J to read as follows:

#### Subpart J—Eligibility Administration: Applications, Determinations of Eligibility, and Furnishing Medicaid

Sec.  
436.900 Scope.  
436.901 General requirements.  
436.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

(2) The agency may consider disability as continuing until the review team under § 435.541 determines that a recipient's disability no longer meets the definition of disability contained in the plan.

(b) *Procedures for reporting changes.* The agency must have procedures designed to ensure that recipients make timely and accurate reports of any change in circumstances that may affect their eligibility.

(c) *Agency action on information about changes.* (1) The agency must promptly redetermine eligibility when it receives information about changes in a recipient's circumstances that may affect his eligibility.

(2) If the agency has information about anticipated changes in a recipient's circumstances, it must redetermine eligibility at the appropriate time based on those changes.

#### § 435.919 Timely and adequate notice.

(a) The agency must give recipients timely and adequate notice of proposed action to terminate, discontinue, or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid.

(b) The notice must meet the requirements of Subpart J of Part 431 of this subchapter.

#### § 435.920 Verification of SSNs.

(a) In redetermining eligibility, the agency must review case records to determine whether they contain the recipient's SSN or, in the case of families, each family member's SSN.

(b) If the case record does not contain the required SSNs, the agency must request them and meet other requirements of § 435.910.

(c) For any recipient whose SSN was established as part of the case record without evidence required under the SSA regulations as to age, citizenship, alien status, or true identity, the agency must obtain verification of these factors in accordance with § 435.910.

#### FURNISHING MEDICAID

##### § 435.930 Furnishing Medicaid.

The agency must—

- (a) Furnish Medicaid promptly to recipients without any delay caused by the agency's administrative procedures;

(b) Continue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible; and

(c) Make arrangements to assist applicants and recipients to get emergency medical care whenever needed, 24 hours a day and 7 days a week.

7. Section 435.1002 is amended by revising paragraph (b) to read as follows:

#### § 436.1 [Amended]

2. Section 436.1 is amended by deleting the uncoded paragraph following paragraph (d).

3. Section 436.531 is amended by revising paragraph (c)(2) to read as follows:

#### § 436.531 Determination of blindness.

In determining blindness—

(c) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

- (1) Whether the individual meets the definition of blindness; and

(2) Whether and when reexaminations are necessary for periodic redeterminations of eligibility, as required under § 435.916 of this subchapter. Blindness is considered to continue until the reviewing physician determines that the recipient's vision no longer meets the definition.

4. Section 436.541 is amended by revising paragraph (b) to read as follows:

#### § 436.541 Determination of disability.

(b) A physician and social worker, qualified by professional training and experience, must review the medical report and social history and determine on behalf of the agency whether the individual meets the definition of disability. The physician must determine whether and when reexaminations will be necessary for periodic redeterminations of eligibility as required under § 435.916 of this subchapter.

5. A new Subpart J is added to read as follows:

#### Subpart J—Eligibility in Guam, Puerto Rico, and the Virgin Islands.

##### § 436.900 Scope.

This subpart sets forth requirements for processing applications, determining eligibility, and furnishing Medicaid.

##### § 436.901 General requirements.

The Medicaid agency must comply with all the requirements of Part 435, Subpart J, of this subchapter, except those specified in § 435.909.



§ 436.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

The agency may not require a separate application for Medicaid from an individual if the individual receives cash assistance under a State plan for OAA, AFDC, AB, APTD, or AABD.

6. Section 436.1002 is amended by revising paragraph (b) to read as follows:

§ 436.1002 FFP for services.

(b) FFP is available in expenditures for services provided to recipients who were eligible for Medicaid in the month in which the medical care or services were provided, except that, for recipients who establish eligibility for Medicaid by deducting incurred medical expenses from income, FFP is not available for expenses that are the recipient's liability.

#### PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

G. 42 CFR Part 441 is amended by adding a new Subpart C to read as follows:

##### Subpart C—Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases

Sec.

441.100 Basis and purpose.

441.101 State plan requirements.

441.102 Plan of care for institutionalized recipients.

441.103 Alternate plans of care.

441.105 Methods of administration.

405.106 Comprehensive mental health program

##### Subpart C—Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases

§ 441.100 Basis and purpose.

This subpart implements section 1905(a)(14) of the Act, which authorizes State plans to provide for inpatient hospital services, skilled nursing services, and intermediate care facility services for individuals age 65 or older in an institution for mental diseases, and sections 1902(a)(20)(B) and (C) and 1902(a)(21), which prescribe the conditions a State must meet to offer these services. (See § 431.620 of this subchapter for regulations implementing section 1902(a)(20)(A), which prescribe inter-agency requirements related to these services.)

#### § 441.101 State plan requirements.

A State plan that includes Medicaid for individuals age 65 or older in institutions for mental diseases must provide that the requirements of this subpart are met.

#### § 441.102 Plan of care for institutionalized recipients.

(a) The Medicaid agency must provide for a recorded individual plan of treatment and care to ensure that institutional care maintains the recipient at, or restores him to, the greatest possible degree of health and independent functioning.

(b) The plan must include—

(1) An initial review of the recipient's medical, psychiatric, and social needs—

(i) Within 90 days after approval of the State plan provision for services in institutions for mental disease; and

(ii) After that period, within 30 days after the date payments are initiated for services provided a recipient.

(2) Periodic review of the recipient's medical, psychiatric, and social needs;

(3) A determination, at least quarterly, of the recipient's need for continued institutional care and for alternative care arrangements;

(4) Appropriate medical treatment in the institution; and

(5) Appropriate social services.

#### § 441.103 Alternate plans of care.

(a) The agency must develop alternate plans of care for each recipient age 65 or older who would otherwise need care in an institution for mental diseases.

(b) These alternate plans of care must—

(1) Make maximum use of available resources to meet the recipient's medical, social, and financial needs; and

(2) In Guam, Puerto Rico, and the Virgin Islands, make available appropriate social services authorized under sections 3(a)(4) (i) and (ii) or 1603(a)(4)(A) (i) and (ii) of the Act.

#### § 441.105 Methods of administration.

The agency must have methods of administration to ensure that its responsibilities under this subpart are met.

#### § 441.106 Comprehensive mental health program.

(a) If the plan includes services in public institutions for mental diseases, the agency must show that the State is making satisfactory progress in developing and implementing a comprehensive mental health program.

(b) The program must—

(1) Cover all ages;

(2) Use mental health and public welfare resources; including—

(i) Community mental health centers;

(ii) Nursing homes; and

(iii) Other alternatives to public institutional care; and

(3) Include joint planning with State authorities.

(c) The agency must submit annual progress reports within 3 months after the end of each fiscal year in which Medicaid is provided under this subpart.

#### PART 456—UTILIZATION CONTROL

H. 42 CFR 456.608 is amended by revising paragraph (b)(2) to read as follows:

§ 456.608 Personal contact with and observation of recipients and review of records.

(b) For recipients age 65 or older in IMDs, the team's inspection must include—

(1) Review of each recipient's medical record; and

(2) If the record does not contain complete reports of periodic assessments required by § 441.102 of this subchapter or, if such reports are inadequate, personal contact with and observation of each recipient.

(Sec. 1102 of the Social Security Act, 42 U.S.C. 1302) (Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

Dated: December 4, 1978.

LEONARD D. SCHAEFFER,  
Administrator, Health Care  
Financing Administration.

Approved: March 18, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 79-8961 Filed 3-22-79; 8:45 am]

#### [4110-35-M]

##### Title 45—Public Welfare

#### CHAPTER II—OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### PUBLIC ASSISTANCE PROGRAMS; ASSISTANCE TO AGED INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES

#### Applicability of Regulations

AGENCY: Office of the Secretary, HEW.

ACTION: Final rule.

SUMMARY: These amendments revise 45 CFR Sections 205.10, 205.30, 205.50, 205.60, 205.70, 205.100, 205.101,

205.120, 205.130, 205.145, 205.150, 205.160, 205.170, 205.190, 206.10, and 208.1 to make them inapplicable to the Medicaid program (Title XIX of the Social Security Act). The amendments are necessary to conform the cited sections with regulations published today in this issue of the FEDERAL REGISTER. Those regulations recodify the contents applicable to the Medicaid program under 42 CFR Parts 431, 433, 435, 436, and 441.

DATE: The amendments are effective on March 23, 1979.

FOR FURTHER INFORMATION, CONTACT:

Luisa V. Iglesias, 202-245-0950.

SUPPLEMENTARY INFORMATION: The explanation for these amendments is fully discussed in the preamble to the amendments made to title 42 of the Code of Federal Regulations published in today's FEDERAL REGISTER (see table of contents). As explained there, we do not intend to make any substantive changes. These amendments to title 45 merely remove their applicability to the Medicaid program and delete provisions that are solely applicable to Medicaid. The applicability of title 45 to programs other than Medicaid is not affected in any way by these amendments. Therefore, we have concluded that an opportunity for public comment and a delayed effective date are not necessary.

#### PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAM

1. 45 CFR Part 205 is amended by amending §§ 205.10, 205.30, 205.50, 205.60, 205.70, 205.100, 205.101, 205.120, 205.130, 205.145, 205.150, 205.160, 205.170, and 205.190 as follows:

a. Section 205.10 is amended by revising the introductory text of paragraph (a), by vacating and reserving paragraph (a)(4)(ii)(H), and by revising paragraphs (a)(5), (a)(11), (a)(12)(i), (a)(12)(ii) (A) and (B).

#### § 205.10 Hearings.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act shall provide for a system of hearings under which:

(4) In cases of intended action to discontinue, terminate, suspend or reduce assistance:

(ii) The agency may dispense with timely notice but shall send adequate

notice not later than the date of action when:

(H) [Vacated and reserved.]

(5) An opportunity for a hearing shall be granted to any applicant who requests a hearing because his claim for financial assistance is denied, or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by any agency action resulting in suspension, reduction, discontinuance or termination of assistance. A hearing need not be granted when either State or Federal law require automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation.

(11) In respect to Title IV-C, when the appeal has been taken on the basis of a disputed WIN registration requirement, exemption determination or finding of failure to appear for an appraisal interview, a representative of the local WIN manpower agency shall, where appropriate, participate in the conduct of the hearing.

(12) The hearing shall include consideration of:

(i) An agency action, or failure to act with reasonable promptness, on a claim for financial assistance, which includes undue delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and discontinuance, termination or reduction of such assistance;

(ii) Agency decision regarding:

(A) Eligibility for financial assistance in both initial and subsequent determinations,

(B) Amount of financial assistance or change in payments,

(C) The manner or form of payment, including restricted or protective payments, even though no Federal financial participation is claimed.

b. Section 205.30 is revised.

#### § 205.30 Methods of administration.

State plan requirements: A State plan under title I, IV-A, VI, X, XIV or XVI, of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

c. Section 205.50 is amended by vacating and reserving paragraph (b).

§ 205.50 Safeguarding information for the financial assistance and social services programs.

(b) [Vacated and reserved.]

d. Section 205.60 is amended by revising introductory paragraph (a) and (a)(1).

§ 205.60 Reports and maintenance of records.

(a) *State plan requirements.* A State plan under title I, IV-A, VI, X, XIV or XVI of the Social Security Act must provide that:

(1) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of financial assistance or social services, and administrative cost; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary; and will retain such records for such periods as are prescribed by the Secretary. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of financial assistance or social services, and basis for discontinuing assistance or services.

e. Section 205.70 is amended by revising the introductory paragraph.

§ 205.70 Availability of agency program manuals.

State plan requirements. A State plan under title I, IV-A, IV-B, VI, X, XIV, or XVI of the Social Security Act must provide that:

f. Section § 205.100 is amended by revising introductory paragraph (a)(1) and by vacating and reserving paragraph (a)(2).

#### § 205.100 Single State agency.

(a)(1) *State plan requirements.* A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must:

(2) [Vacated and reserved.]



g. Section 205.101 is amended by revising paragraph (a) and by vacating and reserving paragraph (c).

§ 205.101 Organization for administration.

(a) A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(c) [Vacated and reserved.]

h. Section 205.120 is amended by revising introductory paragraph (a) and by vacating and reserving paragraph (b).

§ 205.120 Statewide operation.

(a) *State plan requirements.* A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must provide that:

(b) [Vacated and reserved.]

i. Section 205.130 is amended by revising introductory paragraph (a) and by vacating and reserving paragraph (c).

§ 205.130 State financial participation.

*State plan requirements:*

(a) A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must provide that:

(c) [Vacated and reserved.]

j. Section 205.145 is amended by revising the introductory paragraph.

§ 205.145 Fiscal policies and accountability.

*State plan requirements:* A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must provide that the State agency, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. Under this requirement, State and, where applicable, local agencies are required to maintain accounting records, identifiable for each of the above titles of the Act, for a period of 3 years, subject to the following qualifications:

k. Section 205.150 is amended by revising introductory paragraph (a), (a)(1), (a)(1)(i), and paragraph (b).

§ 205.150 Cost allocation.

(a) *State plan requirements.* A State plan under Titles I, IV-A, IV-B, VI, X, XIV, XVI, or XX of the Social Security Act must provide that:

ity Act must provide that: (1) The single or appropriate State Agency will have an approved cost allocation plan on file with the SRS Regional Commissioner, which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services (excluding purchased services) and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and Social and Rehabilitation Service regulations and instructions. Under this requirement, the cost allocation plan shall:

(i) Include descriptions of the functions and activities by organizational units; estimated costs for an annual period by cost centers or pools which include the costs of all organizational units of the State department in which the single or appropriate State agency is located (unless specifically waived by the Regional Commissioner); and the basis used for allocating the various pools of costs to programs and activities with justification for each;

(The estimated costs are included solely to permit evaluation of the methods of allocation and therefore approval of the cost allocation plan shall not constitute approval of these estimated costs for use in calculating claims for Federal financial participation.)

(b) *Federal financial participation.*

(1) As a condition for receipt of Federal financial participation in administration services (excluding purchased services) and training for any quarterly period, a State's claim for such expenditures must be in accord with a cost allocation plan on file with and approved by the Regional Commissioner for that period.

(2) If a State agency fails to submit for any quarter a cost allocation plan revising an outdated plan as required by paragraph (a)(2) of this section, or the submitted revision has not been approved, the Regional Commissioner, in reviewing the expenditures claimed for such quarter, shall: (i) Defer payment of any amount he believes to be overstated; or (ii) Disallow any amount which he determines to be overstated.

(3) If a State does not have any cost allocation plan on file with the Regional Commissioner, payment will be made only for those costs of administration, services, and training which are entirely chargeable to a function or activity within a given title having one rate of Federal financial participation. Payment for the remaining cost of administration, services and training

which requires an allocation method, will be disallowed.

(4) Any costs disallowed under paragraph (b)(2) and (b)(3) of this section may be reclaimed after the Regional Commissioner approves a cost allocation plan for the quarter for which the expenditures were claimed, to the extent such reclaimed amounts are supported by the approved plan.

(5) Within 60 days of receipt of a cost allocation plan, the Regional Commissioner shall give to the State written notice of approval or written notice of changes required for approval.

(6) The time frames specified in § 201.15 of this chapter and the procedures set forth in § 201.15(c) are applicable to deferral of claims made pursuant to paragraph (b)(2) of this section.

l. Section 205.160 is amended by revising introductory paragraph (a) and paragraph (b).

§ 205.160 Non-expendable personal property.

(a) *Conditions for Federal financial participation.* This section is applicable to titles IV-A and B, VI, and XX and, with respect to Puerto Rico, Virgin Islands and Guam, Titles I, X, XIV, and XVI. Federal financial participation is available in amounts expended by a single State agency for a unit of non-expendable personal property having a useful life of more than one year only to the extent of the depreciation expense (or annual use allowance of 6% percent of acquisition cost) applicable to the period for which the property was used under a Federal program or activity; except that:

(b) *Definitions.* (1) Acquisition cost is the amount expended by a single State agency for the property (excluding interest) plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of trade-in) of the property traded in. Property which was expended when acquired has a book value of zero when traded in.

(2) Depreciation expense for any time period is the portion of the acquisition cost of property which is assignable to that time period. The acquisition cost of the property shall be divided by the number of years of estimated useful service life of the property to arrive at the depreciation expense per year. This method shall be used unless a State obtains approval from the Regional Commissioner to use another method, which must be demonstrated to be more consistent with the using up of the asset.

(3) The number of years of estimated useful service life of property shall

be based on the Department of Treasury, Internal Revenue Service policies on depreciation for tax purposes. However, the Regional Commissioner will approve a shorter period if the State agency can document that such period is justified.

m. Section 205.170 is amended by revising the introductory paragraph.

§ 205.170 State standards for office space, equipment, and facilities.

*State plan requirements:* A State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act must provide that:

n. Section 205.190 is amended by revising paragraph (a).

§ 205.190 Standard-setting authority for institutions.

(a) *State plan requirements.* If a State plan under title I, X, XIV, or XVI, of the Social Security Act includes aid or assistance to individuals in institutions as defined in § 233.60(b) (1) and (2) of this chapter and if a State plan under title VI includes services for individuals in institutions the plan must:

(1) Provide for the designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(2) Provide that the State agency will keep on file and make available to the Social and Rehabilitation Service upon request:

(i) A listing of the types or kinds of institutions in which an individual may receive financial assistance;

(ii) A record naming the State authority(ies) responsible for establishing and maintaining standards for such types of institutions;

(iii) The standards to be utilized by such State authority(ies) for approval or licensing of institutions including, to the extent applicable, standards related to the following factors:

(a) Health (dietary standards and accident prevention);

(b) Humane treatment;

(c) Sanitation;

(d) Types of construction;

(e) Physical facilities, including space and accommodations per person;

(f) Fire and safety;

(g) Staffing, in number and qualifications, related to the purposes and scope of services of the institution;

(h) Resident records;

(i) Admission procedures;

(j) Administrative and fiscal records;

(k) The control by the individual, or his guardian or protective payee, of the individual's personal affairs.

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

2. 45 CFR Part 206 is amended by revising § 206.10(a) to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, or XVI(AABD), of the Social Security Act shall provide that:

(1) Each individual wishing to do so shall have the opportunity to apply for assistance under the plan without delay. Under this requirement:

(i) Each individual may apply under whichever of the State plan plans he chooses;

(ii) the agency shall require a written application, signed under a penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him; and

(iii) An applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them.

(iv) [Vacated and reserved.]

(v)(A) [Vacated and reserved.]

(B) For assistance under title IV-A prior to July 1, 1975, the agency shall request on the application the social security number (SSN) of each individual (including children) for whom assistance is requested. Under this requirement, the agency shall advise the applicant whether disclosure of such number is mandatory or voluntary, by what statute or other authority such number is requested, and what uses will be made of it. Disclosure of the SSN may be made mandatory only if the State had in existence and operating prior to January 1, 1975, a system of welfare or Medicaid records for which disclosure of the SSN was required, by statute or regulation, in order to verify the identity of the individual. If any individual cannot provide a SSN either because he has not been issued one or he does not know his SSN, and wishes to secure one, the agency shall assist him in filling out an application for such number on such forms and under such procedures as may be required by the Social Security Administration (SSA) and shall transmit it to the SSA. Under this re-

quirement, the agency shall also obtain such evidence as may be required under SSA regulations to establish the age, citizenship or alien status, and true identity of such applicant, and, where the case record attests that a previous social security number has been issued, request verification of the number by SSA. Where disclosure of the SSN is voluntary, no individual who is otherwise eligible shall be denied assistance because of failure or refusal to disclose or apply for a SSN, and the individual shall be so informed.

(C) The agency shall not deny or delay assistance to an eligible individual pending issuance by SSA or verification by the agency of his SSN.

(2)(i) Applicants shall be informed about the eligibility requirements and their rights and obligations under the program. Under this requirement individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, and related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms are publicized and available in quantity.

(ii) Procedures shall be adopted which are designed to assure that recipients make timely and accurate reports of any change in circumstances which may affect their eligibility or the amount of assistance.

(3) A decision shall be made promptly on applications, pursuant to reasonable State-established time standards not in excess of:

(i) 45 days for OAA, AFDC, AB, AABD (for aged and blind); and

(ii) 60 days for APTD, AABD (for disabled). Under this requirement, the applicant is informed of the agency's time standard in acting on applications, which covers the time from date of application under the State plan to the date that the assistance check, or notification of denial of assistance or change of award is mailed to the applicant or recipient. The State's time standards apply except in unusual circumstances (e.g., where the agency cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the agency), in which instances the case record shows the cause for the delay. The agency's standards of promptness for acting on applications or redetermining eligibility shall not be used as a waiting period before granting aid, or as a basis for denial of an application or for terminating assistance.



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(4) Adequate notice shall be sent to applicants and recipients to indicate that assistance has been authorized (including the amount of financial assistance) or that it has been denied or terminated. Under this requirement, adequate notice means a written notice that contains a statement of the action taken, and the reasons for and specific regulations supporting such action, and an explanation of the individual's right to request a hearing.

(5) Financial assistance and services included in the plan shall be furnished promptly to eligible individuals without any delay attributable to the agency's administrative process, and shall be continued regularly to all eligible individuals until they are found to be ineligible. Under this requirement there must be arrangements to assist applicants and recipients in obtaining medical care and services in emergency situations on a 24-hour basis, 7 days a week.

(6) Assistance shall begin as specified in the State plan, which:

(i) For financial assistance:

(A) Must be no later than:

(1) The date of authorization of payment, or

(2) Thirty days in OAA, AFDC, AB, and AABD (as to the aged and blind), and 60 days in APTD and AABD (as to the disabled), from the date of receipt of a signed and completed application form, whichever is earlier. *Provided*, That the individuals then met all the eligibility conditions, and

(B) For purposes of Federal financial participation, may be as early as the first of the month in which an application has been received and the individual meets all the eligibility conditions; and

(ii) [Vacated and reserved.]

(7) In cases of proposed action to terminate, discontinue, suspend or reduce assistance, the agency shall give timely and adequate notice. Such notice shall comply with the provisions of § 205.10 of this chapter.

(8) Each decision regarding eligibility or ineligibility will be supported by facts in the applicant's or recipient's case record. Under this requirement each application is disposed of by a finding of eligibility or ineligibility unless:

(i) The applicant voluntarily with-

draws his application, and there is an entry in the case record that a notice has been sent to confirm the applicant's notification to the agency that he does not desire to pursue his application; or

(ii) There is an entry in the case record that the application has been disposed of because the applicant died or could not be located.

(9) Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

(i) When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;

(ii) Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he is entitled or may make him ineligible; and

(iii) Periodically, within agency-established time standards, but not less frequently than every 6 months in AFDC, and every 12 months in OAA, AB, APTD, and AABD, on eligibility factors subject to change.

(A) For recipients of assistance under title IV-A, the agency shall verify that the case record contains a social security number (SSN) for each recipient, including children; if the case record does not contain a SSN, the agency shall follow the procedures set forth in paragraph (a)(1)(v) of this section for the purpose of obtaining a SSN; and

(B) For any recipient whose social security number was established as part of the case record without corroborative evidence of age, citizenship or alien status, and true identity, the agency shall obtain verification thereof under the procedures set forth in paragraph (a)(1)(v) of this section.

(10) Standards and methods for determination of eligibility shall be consistent with the objectives of the programs, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws.

(11) [Vacated and reserved.]

(12) The State agency shall establish and maintain methods by which it

shall be kept currently informed about local agencies' adherence to the State plan provisions and to the State agency's procedural requirements for determining eligibility, and it shall take corrective action when necessary.

PART 208—ASSISTANCE TO AGED INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES

3. 45 CFR Part 208 is amended by revising § 208.1 introductory paragraph (a), (a)(5), and (b)(2) to read as follows:

§ 208.1 Assistance to individuals 65 years of age or older in institutions for mental diseases.

(a) *State plan requirements.* A State plan under title I, or XVI of the Social Security Act which includes assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases must provide for:

(5) Methods of determining the reasonable cost of institutional care for such patients in compliance with 42 CFR Part 447, Subpart C.

(b) *Federal financial participation.*

(2) For purposes of this section, an institution for mental diseases is one that meets the definition contained in 42 CFR 440.140.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance-Maintenance Assistance (State Aid); 13.707 Child Welfare Services; 13.754, Public Assistance-Social Services; 13.771, Social Services for Low Income and Public Assistance Recipients.)

Dated: March 18, 1979.

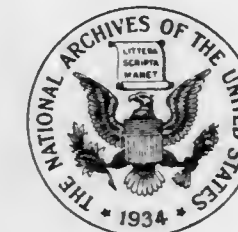
JOSEPH A. CALIFANO, Jr.,

Secretary.

[FR Doc. 79-8962 Filed 3-22-79; 8:45 am]

FRIDAY, MARCH 23, 1979

PART VIII



ENVIRONMENTAL PROTECTION AGENCY

FUEL ECONOMY RETROFIT DEVICES

Final Test Procedures and Evaluation Criteria



[6560-01-M]

## Title 40—Protection of Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-1056-61]

## PART 610—FUEL ECONOMY RETROFIT DEVICES

## Final Test Procedures and Evaluation Criteria

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: These regulations make final the evaluation criteria and test procedures for evaluating the fuel economy improvement claims for devices that may be retrofitted on new or in-use vehicles which were published on an interim basis on August 10, 1977 (42 FR 40438).

DATE: These regulations will become effective April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4200.

SUPPLEMENTARY INFORMATION: Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011 et seq., requires the Administrator of EPA to (1) establish testing and other procedures for measuring the effects of retrofit devices on automobile fuel economy and pollutant emissions; (2) establish criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices; and (3) publish test results, conclusions on fuel economy and emissions effects, and other relevant information. A retrofit device for the purpose of this rulemaking is any component, equipment, or device found on an automobile. Although fuel additives are also included in this definition, EPA has not yet developed testing protocols for fuel additives; therefore, these rules will not apply to fuel additives. Fuel additive protocols used in this program are being developed as a part of EPA's responsibility to evaluate the emissions impact of fuel additives under Section 211 of the Clean Air Act and will be published in a future rulemaking.

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These rules contain criteria for evaluating claims and conducting tests, descriptions and categories of the devices that can be evaluated, and test procedures. Chassis dynamometer tests known as the 1975 Federal Test Procedure for light-duty vehicles (40 CFR Part 86) and the EPA Highway Fuel Economy Test (40 CFR Part 600) will be the primary methods used to determine the economy and emissions. Other, specialized test procedures may be used when devices and effects cannot be adequately evaluated by these tests.

Only three significant issues were mentioned by commenters on the interim regulations. Several parties mentioned that they believed that the government should permit on-road in-service fleet testing and should work with industry to jointly develop standard testing methods. It was pointed out that some effects will not be evident using dynamometer or standard road tests. EPA agrees with the comments that flexibility is necessary in testing retrofit devices. EPA believes that the interim regulations currently provide adequate flexibility to use test procedures other than the standard dynamometer tests and has clarified this point in the final regulations (§ 610.65).

Another significant issue was raised by the Lubrizol Corporation. Lubrizol stated that the inclusion of lubricants and lubricant additives within the purview of these rules is beyond the scope of EPA's statutory authority. Given the definition of "fuel" provided by Section 501(5) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001, EPA concludes that the term "fuel additive" contained in Section 511(e)(2) does not include lubricants and lubricant additives. Therefore, EPA has decided not to include the testing of lubricants or lubricant additives in this program as proposed in the interim regulations. EPA generally intends to follow the test procedures contained in this rulemaking for any testing which may be performed under section 206(a) of the Clean Air Act (pertaining to testing of emission control devices). Thus, the exclusion of lubricants from testing under § 511 of the Motor Vehicle Information Act does not affect EPA's ability to evaluate lubricants nor the manner in which they will be evaluated.

Renault commented that EPA's evaluation should protect the public from the harmful consequences that could result from installing devices that are poorly adapted to vehicles on which they are intended to be used. EPA believes the public interest in this area will be adequately served within the limits of EPA's authority by the publication of its evaluation.

In accordance with section 317(c) and (d) of the Clean Air Act, the EPA has considered the economic impacts of this action and determined that the effects of this rule on inflation, competition, consumer costs and energy use are negligible. Accordingly, the EPA has determined that this document is not a "significant" regulation and does not require preparation of a Regulatory Analysis under Executive Order 12044.

Dated: March 14, 1979.

DOUGLAS M. COSTLE,  
Administrator.

40 CFR Chapter I is amended by adding a new Part 610 to read as follows:

## PART 610—FUEL ECONOMY RETROFIT DEVICES

## TEST PROCEDURES AND EVALUATION CRITERIA

## Subpart A—General Provisions

- Sec.  
610.10 Program purpose.  
610.11 Definitions.  
610.12 Program initiation.  
610.13 Program structure.  
610.14 Payment of program costs.  
610.15 Eligibility for participation.  
610.16 Applicant's responsibilities.  
610.17 Application format.

## Subpart B—Evaluation Criteria for the Preliminary Analysis

- 610.20 General.  
610.21 Device category.  
610.22 Device integrity.  
610.23 Operator interaction effects.  
610.24 Validity of test data.  
610.25 Evaluation of test data.

## Subpart C—Test Requirement Criteria

- 610.30 General.  
610.31 Vehicle tests for fuel economy and exhaust emissions.  
610.32 Test fleet selection.  
610.33 Durability tests.  
610.34 Special test conditions.  
610.36 Driveability and performance tests.

## Subpart D—General Vehicle Test Procedures

- 610.40 General.  
610.41 Test configurations.  
610.42 Fuel economy measurement.  
610.43 Chassis dynamometer procedures.

## Subpart E—Durability Test Procedures

- 610.50 Test configurations.  
610.51 Mileage accumulation procedure.  
610.52 Maintenance.

## Subpart F—Special Test Procedures

- 610.60 Non-standard ambient conditions.  
610.61 Engine dynamometer tests.  
610.62 Driveability tests.  
610.63 Performance tests.  
610.64 Track test procedures.  
610.65 Other test procedures.

## Subpart A—General Provisions

## § 610.10 Program purpose.

(a) The purpose of an evaluation program initiated under these rules is to determine, in accordance with standardized procedures, the performance of various retrofit devices applicable to automobiles for which fuel economy improvement claims are made, and to compile and disseminate the results of the evaluation. It should be stressed that the role of this program will be the generation, analysis and dissemination of technical data, and not the approval or certification of retrofit devices.

(1) Through engineering or statistical analysis of data from vehicle tests, the evaluation program will determine the effects on fuel economy, exhaust emissions, durability and driveability of the applicable vehicles due to the installation or use of the devices. The evaluation program will also include additional procedures, whenever determined by the Administrator as necessary, to evaluate the durability of the devices themselves, their effects on vehicle durability or other effects only evident over the course of extended mileage accumulation.

(b) Data generated in an evaluation program by the Administrator of the Environmental Protection Agency (EPA) are public information and will be published in the FEDERAL REGISTER and elsewhere for use by the Federal Trade Commission and the public. The results of any evaluation conducted by the Administrator may be used in any subsequent investigation or enforcement action in the event that a device is marketed in violation of Federal or state law.

## § 610.11 Definitions.

(a) Except as specifically defined below, all terms used in this part which are defined in 40 CFR Part 86 or 40 CFR Part 600 shall have the meanings provided therein.

(1) "Retrofit device" or "device" means any component, equipment or other device (except flow measuring instruments or other driving aids):

(i) Which is designed to be installed in or on an automobile as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other devices; and

(ii) Which any manufacturer represents will provide higher fuel economy than would have resulted with the automobile as originally equipped, or

(iii) [Reserved]

(2) "Automobile" means any four-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which

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is rated at 6,000 lbs. gross vehicle weight or less.

(3) "Fuel economy" means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the Administrator in accordance with procedures established under Subparts D or F.

(4) "Manufacturer" means a person or company who is engaged in the business of manufacturing, distributing, or selling retrofit devices for which a fuel economy improvement claim is made.

(5) "Retrofit" means the addition of a new item, modification or removal of an existing item of equipment beyond that of regular maintenance, on an automobile after its initial manufacture.

(6) "Federal Test Procedure" or "City Fuel Economy Test" means the test procedures specified in 40 CFR Part 86, except as those procedures are modified in these protocols.

(7) "Highway Fuel Economy Test" means the test procedure described in § 600.111(b).

(8) "Operator" means any person who installs, services or maintains a retrofit device in an automobile or who operates an automobile with a retrofit device installed.

(9) "Device integrity" means the durability of a device and effect of its malfunction on vehicle safety or other parts of the vehicle system.

(10) "Test data" means any information which is a quantitative measure of any aspect of the behavior of a retrofit device.

(11) "Testing agent" means any person who develops test data on a retrofit device.

(12) "Preconditioning" means the operation of an automobile through one (1) EPA Urban Dynamometer Driving Schedule, described in 40 CFR Part 86.

(13) "Configuration" means the mechanical arrangement, calibration and condition of a test automobile, with particular respect to carburetion, ignition timing, and emission control systems.

(14) "Baseline configuration" means the unretrofitted test configuration, tuned in accordance with the automobile manufacturer's specifications.

(15) "Adjusted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications, but excluding retrofit hardware installation.

(16) "Retrofitted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications and after all retrofit hardware has been installed.

(17) "Data fleet" means a fleet of automobiles tested at "zero device-miles" in "baseline configuration," the

"retrofitted configuration" and in some cases the "adjusted configuration," in order to determine the changes in fuel economy and exhaust emissions due to the "retrofitted configuration," and where applicable the changes due to the "adjusted configuration," as compared to the fuel economy and exhaust emissions of the "baseline configuration."

(18) "Durability fleet" means a fleet of automobiles operated for mileage accumulation used to assess deterioration effects associated with the retrofit device.

(19) "Zero device-miles" means the period of time between retrofit installation and the accumulation of 100 miles of automobile operation after installation.

(20) "Independent laboratory" means a test facility operated independently of any motor vehicle, motor vehicle engine, or retrofit device manufacturer capable of performing retrofit device evaluation tests. Additionally, the laboratory shall have no financial interests in the outcome of these tests other than a fee charged for each test performed.

(21) "Evaluation program" or "program" means the sequence of analyses and tests prescribed by the Administrator as described in § 610.13 in order to evaluate the performance of a retrofit device.

(22) "Preliminary analysis" means the engineering analysis performed by EPA prior to testing prescribed by the Administrator based on data and information submitted by a manufacturer or available from other sources.

## § 610.12 Program initiative.

A retrofit device evaluation program will be initiated as follows:

(a) At the request of the Federal Trade Commission (FTC) when it has reason to believe that fuel economy representation made for a retrofit device being marketed may be inadequate.

(b) At the EPA Administrator's initiative, or

(c) Upon the application of any manufacturer of a retrofit device (or prototype thereof) for which a fuel economy improvement claim is made.

## § 610.13 Program structure.

(a) Each device evaluation program will consist of up to three phases:

(1) A preliminary analysis of available information and test data on the device to be performed by the EPA Administrator;

(2) Designing and conducting of a sequence of tests to determine device effectiveness if considered necessary by virtue of the Administrator's preliminary analysis; and

(3) Publication in the FEDERAL REGISTER, and submission to the Depart-



ment of Transportation and to the Federal Trade Commission, of a summary of the results of any tests conducted under Subparts C through F, or if none were conducted, then a summary of the results of the preliminary analysis conducted under Subpart B; together with the Administrator's conclusions as to the effect of the tested retrofit device on fuel economy and exhaust emissions, and as to any other information that the Administrator determines is relevant in evaluating such device.

(b) Each of the above phases may, as appropriate, include the use of statistically valid sample sizes and statistical evaluation of measured results.

#### § 610.14 Payment of program costs.

(a) All costs incurred in an evaluation program initiated at the request of the FTC or at the Administrator's initiative, including the cost of purchasing any necessary quantity of the device under evaluation, will be borne by the United States.

(b) If the evaluation program has been initiated by the application of a manufacturer under § 610.12(c), the manufacturer shall supply, at his own expense, samples of the device in the number required by the Administrator to an independent laboratory recognized by the Administrator. The costs of testing at the independent laboratory will be the responsibility of the manufacturer and will not be borne by the U.S. Government.

#### § 610.15 Eligibility for participation.

Participation in an evaluation program initiated under § 610.12(c) will be available to any person or company who agrees to follow the procedures set forth in these protocols. Failure to conform to any aspect of these protocols, without the approval of the Administrator, may be interpreted as withdrawal from participation in the program.

#### § 610.16 Applicant's responsibilities.

Each applicant for evaluation under § 610.12(c) will be responsible for the following:

(a) Submission of an application, in the format specified by the Administrator, prior to initiation of the evaluation. A separate application shall be made for each different device. The application shall be made to the Administrator (or his delegate) by the manufacturer and shall be updated and corrected by amendment if deemed necessary by EPA.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the device covered by the application,

including drawings, schematics and information on the theory of operation.

(2) Vehicles or engines to which the device is applicable and a description of the types of vehicles or engines to which it is not applicable, e.g., would not provide a benefit, a benefit less than claimed for the device in general, or would result in a safety hazard or damage to the engine. If the reason for inapplicability is safety or damage related, this must be explained as required by paragraph (b)(7) of this section.

(3) Installation or usage instructions, including degree of knowledge required by persons making the installation and the tools and equipment required.

(4) A statement of recommended maintenance, degree of knowledge required for that maintenance, and the tools and equipment required to perform the maintenance.

(5) All data regarding exhaust emissions regulated by EPA under § 202 of the Clean Air Act and fuel economy test data on the device or product available to the applicant.

(6) All information available to the applicant concerning whether the device in its operation, function, or malfunction may cause an automobile using that device to emit into the ambient air any substance other than pollutants regulated by EPA under section 202 of the Clean Air Act (i.e., hydrocarbons, carbon monoxide, and oxides of nitrogen), or natural gaseous atmospheric constituents (such as carbon dioxide, or water vapor) in a quantity differing from that emitted in the operation of the automobile without the device.

(7) All information available to the applicant concerning whether and under what conditions the device in its operation, function or malfunction may result in damage to an automobile or endanger its occupants or persons or property in close proximity to the automobile.

(c) Shipment to the EPA's Motor Vehicle Emission Laboratory, or other test site designated by the Administrator, of the devices being evaluated in the quantity specified by the Administrator.

(d) Complete copies of the application and of any amendments thereto shall be submitted in such multiple copies as the Administrator may require.

#### § 610.17 Application format.

(a) Device manufacturers who apply for evaluation of a fuel economy retrofit device should use the standard application format, in order to allow the Administrator to compile relevant data on specific devices and to allow timely response to applications. Appli-

cation formats are available from and submissions shall be made to:

Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Attn: Fuel Economy Retrofit Device Evaluation.

(b) Four weeks should be allowed for analysis of the application and preparation of a response. As indicated in other sections of this part, this response will include the evaluation of the device according to the criteria discussed in Subpart B of this part. The results of the Administrator's evaluation will be made public.

#### Subpart B—Evaluation Criteria for the Preliminary Analysis

##### § 610.20 General.

The Administrator will employ the following criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices:

(a) Device functional category;  
(b) Device integrity;  
(c) Operator interaction effects;  
(d) Validity of test data;  
(e) Evaluation of test data;  
as these concepts are explained in §§ 610.21 through 610.25 respectively.

##### § 610.21 Device functional category and vehicle system effects.

(a) The devices evaluated in this program are organized into categories for purposes of definition and establishment of evaluation criteria and test procedures, and to indicate which vehicle functional characteristics (other than fuel economy) may be adversely affected by installation or use of the device.

(b) A device's category will be based on:

(1) Engineering principles governing operation of the device;  
(2) Interaction between the device and specific vehicle/engine operating characteristics; and  
(3) Constraints with respect to vehicle applicability of the device.

(c) The device categories and the affected vehicle functional characteristics which may be adversely affected are noted for each device category in Table I. The notations for each characteristic are as follows:

|                        |   |
|------------------------|---|
| Exhaust emissions..... | 1 |
| Driveability.....      | 2 |
| Durability.....        | 3 |
| Performance.....       | 4 |

TABLE I

| Device categories                                | Characteristics adversely affected |
|--|------------------------------------|
| Fuel-air system                                  |                                    |
| Carburetors and fuel injection systems.....      | All                                |
| Air-fuel ratio modifiers (e.g., air bleeds)..... | All                                |

TABLE I—Continued

| Device categories                                     | Characteristics adversely affected |
|---|------------------------------------|
| Fuel-air system                                       |                                    |
| Atomization devices (acoustic and mechanical).....    | All                                |
| Vapor injectors.....                                  | All                                |
| Choke controls.....                                   | 1, 2, 4                            |
| Air filters.....                                      | 1, 3, 4                            |
| Fuel-air distribution systems (intake manifolds)..... | 1, 2, 4                            |
| Fuel pressure regulators.....                         | All                                |
| Ignition system                                       |                                    |
| Spark plugs.....                                      | All                                |
| Spark timing control systems.....                     | All                                |
| Spark duration control systems.....                   | 1, 4                               |
| Spark energy sources.....                             | 1, 4                               |
| Emission control systems                              |                                    |
| Exhaust gas recirculation (EGR) systems.....          | All                                |
| After-treatment devices.....                          | 1, 2, 4                            |
| Drivetrain  |                                    |
| Tires.....  | 1                                  |
| Overdrive units.....                                  | All                                |
| Torque converter lockups.....                         | 1, 2, 4                            |
| Exhaust system  |                                    |
| Headers.....  | 1                                  |
| Tuned exhaust systems.....                            | 1                                  |
| Accessories   |                                    |
| Cooling fan or cooling for couplings.....             | 1                                  |
| Cold start aids (e.g., engine heaters).....           | 1                                  |
| Lubrication   |                                    |
| Oil filters.....                                      | 3                                  |
| Vehicle body  |                                    |
| Aerodynamic drag reduction devices.....               | 1                                  |
| Miscellaneous   |                                    |
| Modifications to valve timing.....                    | All                                |
| Retrofit pre-chambers.....                            | All                                |
| Other miscellaneous.....                              | Potentially all                    |

(d) In the absence of sufficient information from the device manufacturer on this topic or if the Administrator's preliminary analysis indicates that testing is necessary to determine the nature or extent of possible adverse effects of device installation and use on vehicle operation and performance, the Administrator will require such tests to be conducted prior to the publication of a complete evaluation of the device.

##### § 610.22 Device integrity.

The integrity of a device will be evaluated with respect to:

(a) The extent to which device manufacture is standardized by means of drawings, specifications, and other fabrication and quality assurance controls;

(b) The degree of sensitivity of device effectiveness to deterioration under exposure to normal operating conditions.

(c) The susceptibility of the device to deterioration of effectiveness under abnormal operating conditions;

(d) The effect upon its surroundings of device malfunction which may be reasonably anticipated to occur in actual use; and

(e) The extent to which test data support (b), (c) and (d).

##### § 610.23 Operator interaction effects.

The device will also be evaluated with respect to:

(a) The degree of sensitivity of device effectiveness to variances in installation, operation and maintenance;

(b) The adequacy of manufacturer-furnished instructions for minimizing variances in installation, operation and maintenance;

(c) The extent to which device installation or use, or the effects of such installation or use, relate to Federal emission control regulations;

(d) Effects on the performance, safety, or occupant comfort of the retrofitted vehicle, and on that of other vehicles; and

(e) the relationship between total cost of ownership of the device (purchase price plus maintenance costs) and the cost savings realizable from its fuel economy effects.

##### § 610.24 Validity of test data.

The Administrator will make a determination as to the validity of manufacturer-furnished test data on the basis of:

(a) The correlation between the test procedures used by the manufacturer or testing agent and the procedures prescribed in Subpart D;

(b) The choice of test vehicle(s) as representative of the manufacturer's claim for operation and/or principles of operation;

(c) The degree of control exercised over ambient and operating conditions in the tests, including vehicle calibrations;

(d) Accuracy and precision of the measurement techniques and instrumentation used in the tests;

(e) Disclosure of all test data acquired on the device, whether representing positive, negative, or inconclusive results;

(f) Qualifications and independence of the testing agent; and

(g) The extent to which test data include evaluation of the durability of the device, or its effect on vehicle durability.

##### § 610.25 Evaluation of test data.

Valid manufacturer-furnished test data will be evaluated with respect to:

(a) Vehicle applicability;  
(b) Dependence of device effects upon vehicle type;

(c) Device effects on fuel economy, and on emissions, with statistical or other caveats as established by the data base;

(d) Definition of claims which can be made based on the available data; and

(e) Substantiation of specified claims made by the manufacturer.

#### Subpart C—Test Requirement Criteria

##### § 610.30 General.

(a) If the Administrator determines, by the criteria given in Subpart B, that the claims made for a device are not supported by existing test data or other information, the Administrator will request the manufacturer to furnish additional information, and may design a test program to investigate those areas where claims appear to be erroneous or unsupported or where adverse effects due to use of the device are suspected.

(b) In cases where the Administrator determines on the basis of the preliminary analysis that a device either can have no significant beneficial effect on fuel economy, or will have an adverse effect on emissions, he may elect not to design a test program or test the device and to publish only his preliminary analysis and conclusions.

(c) If the evaluation was initiated upon application of a manufacturer (as described in § 610.12(c)) and the manufacturer elects not to have the device tested, the Administrator's preliminary analysis and conclusions will be published.

##### § 610.31 Vehicle tests for fuel economy and exhaust emissions.

(a) The tests described in Subparts D, E, or F may be conducted if existing data or other information are insufficient to support claims for a device in any of these areas:

(1) Degree of improvement in fuel economy

(2) Effect on exhaust emissions

(3) Vehicle applicability

(b) The Administrator may determine that, in certain cases, tests using engine dynamometers are adequate for determining the effect of a device. Examples of such cases are given below.

(1) *Long-term effects.* In some cases, it may be necessary for the engine to operate for several thousand miles before the effectiveness can be adequately measured. In such cases an engine dynamometer will permit a less expensive and better controlled durability and economy test than one in which a vehicle must be driven on a durability route and then tested on a chassis dynamometer or test track.

(2) *Durability requirements.* Aspects of engine durability can be efficiently determined using specialized engine testing rather than through durability mileage accumulation in a vehicle. A number of standard engine tests are presently used which can be incorporated into this requirement.

(c) When in the judgment of the Administrator a device cannot satisfactorily be evaluated using either dynamometer or track versions of the City Fuel Economy Test and the Highway



Fuel Economy Test, the Administrator will select or design other procedures.

#### § 610.32 Test fleet selection.

(a) The composition and size of the test fleet will be determined by the Administrator. In a device evaluation program initiated at the request of the FTC, the composition and size of the test fleet will be determined by the Administrator in consultation with the FTC.

(b) The goal of the test fleet selection will be the provision of a data base adequate to give the Administrator reasonable confidence in the conclusions to be reached.

(c) Once the number of vehicles to be tested has been determined, the Administrator will specify the test fleet makeup by make, model, model year, engine displacement and carburetor, transmission type, and such other factors as he may deem relevant to the testing program.

#### § 610.33 Durability tests.

The Administrator may determine that a device under evaluation will require durability testing in addition to the basic evaluation testing for device effectiveness. This requirement may be necessary for several reasons:

(a) A retrofit device manufacturer may claim that some mileage accumulation may be needed before the full effectiveness of the device can be obtained. If such claims are made, durability testing as described in Subpart E may be performed. To determine whether the effectiveness change during the mileage accumulation is a function of the device or of the mileage accumulation alone, in some durability tests it may be necessary to run the mileage accumulation on vehicles with and without the device. Due to the high cost of durability testing and in particular of such duplicate testing, it will be used only where it is judged by the Administrator to be necessary.

(b) A device may have a limited life expectancy or be such that it requires replacement or adjustment at a prescribed mileage interval. Confirmatory durability tests may be run to assess whether such mileage intervals are proper and effective.

(c) A device may be suspected of having an adverse effect on the durability of the engine to which it is applied. After identification of a potential failure mode, durability tests may be conducted to investigate any changes in engine characteristics associated with that failure mode. Examples are valve problems, deterioration in spark plug life, increase in carburetor or combustion chamber deposits, or increased engine wear. If it is not possible to directly measure the change in the suspect characteristic, then a durability run may be made as described

in Subpart E, in which fuel economy and exhaust emissions are periodically checked during the accumulation of up to 15,000 miles.

(d) A critical item which can influence fuel economy is vehicle maintenance. Any durability test program used in evaluation of the effectiveness of a fuel economy device will be designed to differentiate maintenance effects from the effect of the device. Any maintenance associated with the device operation will be rigidly controlled. If the maintenance appears to be a significant factor in the effectiveness of a device, then it may be necessary to run a control test on vehicles without the device installed where the same maintenance is performed to quantify any incremental effect of that maintenance.

#### § 610.34 Special test conditions.

If the Administrator determines that a device may have potentially detrimental effects on the operation of a vehicle when operated in ambient conditions outside the range specified in 40 CFR Part 86, or if the device manufacturer claims a fuel economy improvement in such conditions, additional tests may be performed. These tests will determine whether the device will significantly limit the operational usefulness of the vehicle and will assess the claimed fuel economy benefit.

(a) *Extreme temperatures.* As required by the Administrator, tests will be conducted at extreme ambient temperature conditions to determine the effect due to devices (e.g. engine heaters) for which fuel economy improvements at extreme temperatures are made. For other devices it may be necessary to determine whether the cold starting and driving capability of device-equipped vehicles is affected sufficiently to make them dangerous, or whether fuel economy characteristics at extreme temperatures are significantly worse than before the device was installed.

(b) *High altitude.* Devices for which specific claims of improved fuel economy at high altitude are made may be tested using the procedures in Subpart D, at altitudes above 4000 feet. For other devices, testing at high altitude may be necessary for determining whether a device will make the vehicle less useful or efficient when operated at various altitudes. The Administrator will determine when such testing is required.

#### § 610.35 Driveability and performance tests.

If the Administrator determines that driveability and performance of a vehicle may be adversely affected by the use of a device, a number of automobiles to be determined by the Ad-

ministrator will be subjected to the driveability and performance tests discussed in §§ 610.62 and 610.63, respectively.

#### Subpart D—General Vehicle Test Procedures

##### § 610.40 General.

Two chassis dynamometer test procedures, the Federal Test Procedure and the Highway Fuel Economy Test will generally be used to evaluate the effectiveness of the devices supplemented by steady state or engine dynamometer tests where warranted. Under unusual circumstances, other test procedures, durability test procedures or special test procedures such as track versions of the City and Highway fuel economy tests may be used. These procedures are described in Subparts E and F.

##### § 610.41 Test configurations.

(a) In order to measure the effectiveness of a retrofit device at least two, and in some cases, three vehicle configurations defined in § 610.11 will be tested. Each vehicle will be tested at least twice in each configuration, as determined by the Administrator.

(b) The first test configuration is a baseline configuration. In this configuration the baseline or unretrofitted vehicle emissions will be measured.

(c) A second test configuration, an adjusted configuration, may be required at the discretion of the Administrator if a device requires both hardware and engine parameter modifications to achieve the fuel economy improvement. If, in the Administrator's judgment, based on a review of the available information, the combined effects of retrofit hardware installation and parametric adjustment could be substantially duplicated by parametric adjustment alone, then the Administrator may specify a second test, to evaluate such adjustment exclusive of the retrofit hardware.

(d) The third series of tests, in the retrofitted configuration, will evaluate the full retrofit system installed on the vehicle.

##### § 610.42 Fuel economy measurement.

(a) Fuel consumption will be measured by: 1) the carbon balance method, or 2) gravimetric or volumetric methods. In the gravimetric and volumetric methods, fuel consumption is determined by weighing the fuel source before and after a test, or by measuring the volume of fuel consumed during a test. Since the distance traveled during the tests is known, the fuel economy, in miles per gallon, can be calculated. Gravimetric and volumetric methods require the use of special test equipment in addition to the emissions measuring equipment.

tion to the emissions measuring equipment.

(b) The carbon balance procedure for measuring fuel consumption, relates the carbon products in the exhaust to the amount of fuel burned during the test. This method will be the one used to measure fuel economy

$$\text{MPG}_{\text{combined}} = 1 / \left[ \frac{.55}{\text{MPG}_{\text{city}}} + \frac{.45}{\text{MPG}_{\text{hwy}}} \right]$$

##### § 610.43 Chassis dynamometer procedures.

(a)(1) *1975 Federal Test Procedure.* Vehicle exhaust emissions and fuel economy under urban driving conditions will be measured according to the Federal emission test procedure described in 40 CFR 86 Subpart B, which is known as the 1975 Federal Test Procedure ("75 FTP"). However, the following modifications will be employed:

(i) No evaporative emission loss, as specified by 40 CFR Part 86 need be measured (with the exception of devices modifying or disconnecting existing evaporative control devices in such a manner as would be expected to adversely affect their evaporative emission control performance).

(ii) Vehicle preconditioning shall consist of operation of the vehicle through one (1) EPA Urban Dynamometer Driving Schedule. This preconditioning must be done at least 12 hours, but no earlier than 36 hours before the emission test.

(iii) While the test fuel must meet the specifications outlined in 40 CFR Part 86, fuel conditioning as specified for evaporative emission test procedures is not required.

(b) *Highway Fuel Economy Test.* The test vehicle is fully warmed up at the start of the highway Fuel Economy Test which is ordinarily run immediately following the Federal Emission Test Procedure. The test procedure to be followed for generation of highway fuel economy data is that specified in § 600.111.

(c) *Steady state tests.* Constant speed, road load tests may be conducted to help give insight into operational differences and exhaust emission and fuel economy changes due to a retrofit device. Speeds between 0 (engine idling) and 60 mpg will be investigated, with a time period at each speed long enough to ensure that engine operation has stabilized.

##### § 610.50 Test configurations.

(a) In addition to the tuneup to manufacturer's specifications per § 610.41, all vehicles in the durability

unless track or road tests are employed.

(c) Three values of fuel economy will be reported: for city driving ("75 FTP"), for highway driving (HFET), and the combined city/highway value calculated according to this equation:

fleet will have installed the following new parts: Air, oil, and fuel filters, spark plugs, points, condenser, rotor, distributor cap, PCV valve, and emission control devices such as vacuum control valves and EGR valves.

(b) Vehicles included in the durability fleet will be subjected at zero device-miles to the same test sequence for fuel economy and exhaust emissions as specified in Subpart D. Subsequently, they will be tested at 3,000 device-mile intervals, up to and including the final mileage point of 15,000 device-miles. Testing at these mileage points will be performed with the vehicle equipped with the full retrofit system.

(c) After the 15,000-mile test the vehicle will be tuned as necessary and the device adjusted to the manufacturer's specifications as required. The fully restored retrofitted configuration will then be tested. The device will then be removed from the vehicle and the vehicle set to vehicle manufacturer's specifications. A tuned baseline test will then be conducted.

##### § 610.51 Mileage accumulation procedure.

(a) Except as otherwise provided in this part, the mileage accumulation procedure will be that provided in 40 CFR Part 86. This mileage accumulation schedule, or a suitable alternate procedure approved by the Administrator, will be used.

(b) Fuel used in the accumulation of mileage will be commercial fuel available in the retail market and shall conform to the requirements of 40 CFR Part 86 for mileage accumulation fuel.

(1) The requirements of this paragraph may be modified by the Administrator when it is a fuel or fuel additive that is being tested.

##### § 610.52 Maintenance.

(a) Maintenance during the durability evaluation can best be considered in three separate categories:

(1) Normal scheduled vehicle maintenance.

(2) Unscheduled vehicle maintenance, and

(3) Retrofit maintenance.

(b) *Normal scheduled vehicle maintenance* is the periodic service speci-

fied in the original owner's manual supplied to the owner at the time of new vehicle purchase.

(1) Normal periodic engine oil changes, vehicle lubrication, and oil filter changes, as specified in the original owner's manual, will be performed during durability mileage accumulation.

(2) For purposes of this part, the following items of normally scheduled vehicle maintenance will not be performed during the durability mileage accumulation:

(i) Normal tune-up items:

- (A) Spark plugs.
- (B) Condenser.
- (C) Rotor.
- (D) Distributor cap.

(ii) Air Cleaner element.

(iii) PCV Inspection.

(iv) Dwell and timing check.

(v) Charging circuit check.

(3) Periodic maintenance items specified in the original owner's manual, other than those listed above, may be performed if found to be necessary by the Administrator.

(c) *Unscheduled maintenance.* Because the vehicles used for durability evaluation in this program will probably have considerable mileage accumulation and unknown maintenance prior to inclusion in the program, it can be anticipated that certain vehicle and engine failures may occur, which may be unrelated to the retrofit device. Unscheduled maintenance will be performed only in those cases where a significant and obvious driveability problem has been reported by the driver of the vehicle.

(1) Correction of the following problems will be made as soon as the problems occur:

(i) Tire replacement (same size and type).

(ii) Vehicle body repairs (remote from engine and retrofit).

(iii) Windshield wipers.

(iv) Fluid levels unrelated to retrofit.

(v) Brakes.

(vi) Hoses unrelated to retrofit.

(vii) Belts unrelated to retrofit.

(viii) Suspension failures.

(ix) Wheel alignment.

(x) Steering.

(xi) Wheel bearings.

(xii) Non-engine electrical system.

(xiii) Drivetrain components (U-joints, axles, transmission adjustments, etc.)

(2) Other unscheduled maintenance of the engine or drivetrain may be made as directed by the Administrator. Upon notification of a need for unscheduled maintenance, the Administrator may decide that before and after maintenance fuel economy tests are required.

(d) *Retrofit maintenance.* Maintenance of the retrofit device will normally not be performed during the ac-



cumulation of durability mileage of 15,000 miles. However, certain retrofit devices may require periodic maintenance that is directly related to device function. An example is the periodic addition of fluid to the reservoir of a vapor injector. The Administrator will determine whether periodic maintenance will be allowed, based on his review of available information including the device manufacturer's maintenance instructions to the consumer.

(e) A log of all maintenance shall be kept for every vehicle. These logs will be summarized in the final report by the Administrator.

#### Subpart F—Special Test Procedures

##### § 610.60 Non-standard ambient conditions.

(a) *Extreme temperatures.* For vehicles required to be tested at extreme temperatures, the test sequence described in § 610.41 will be performed using either test track or dynamometer, in ambient temperatures outside the 60° to 90° range specified in § 610.64 as determined by the Administrator. The driveability tests described in § 610.62 may also be performed at non-standard temperatures, as determined to be necessary by the Administrator.

(b) *High altitudes.* Vehicles required to be tested at high altitudes will undergo the tests described in § 610.43 if necessary, on either test track or dynamometer as determined by the Administrator. One test location, at an elevation of no less than 4000 feet, will be selected.

##### § 610.61 Engine dynamometer tests.

The Administrator will choose a test procedure or procedures from various engine dynamometer durability test procedures used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories.

##### § 610.62 Driveability tests.

Driveability assessment (at normal ambient temperatures) of the baseline configuration, of the adjusted configuration (if required by the Administrator), and of the fully retrofitted configuration may be conducted at zero device-miles for all vehicles included in the durability fleet, and at approxi-

mately zero device-miles at low ambient temperatures (0°F-20°F). Driveability evaluation procedures will be provided by the Administrator when necessary.

##### § 610.63 Performance tests.

The effect of a device on a vehicle's performance will be determined by performing wide-open-throttle 0 to 60 mph acceleration tests (at normal ambient temperatures) on the baseline vehicle configuration, on the adjusted configuration (if required), and on the fully retrofitted configuration. Tests will be conducted on a dry, level, smooth-surfaced test track, with appropriate speed-time measuring equipment, on as many vehicles as determined to be necessary.

##### § 610.64 Track test procedures.

(a) Cases may arise where it will be necessary to evaluate the fuel economy effects of a retrofit device on a test track, because the effect of the device cannot be adequately tested using the chassis dynamometer procedures. (An obvious example is a device that changes the aerodynamic drag of the test vehicle.) In such cases, testing will be performed on a dry, level, smooth-surfaced test track for such dimensions that the speeds required by the city and highway fuel economy tests may be safely achieved.

(1) Because aerodynamic drag is not a linear function of velocity, it will be necessary to limit testing to times when the wind velocity is less than 5 mph, with gusts less than 10 mph.

(2) Testing will also be limited to ambient temperatures between 60° and 90° F, and to times when the ambient temperature remains reasonably constant during individual tests. Temperature differences between tests of baseline and retrofit configurations will also be minimized.

(3) Exhaust emissions will not be measured during track testing.

(4) Fuel economy of a vehicle running on a track will be measured using either a volumetric or gravimetric procedure approved by the Administrator.

(5) Vehicle speed and distance will be measured with a "fifth wheel" type of device. Suitable apparatus will be used to generate a permanent record (strip chart recorder, etc.) of the vehicle speed versus time.

(b) *City Fuel Economy Test.* Although essentially the same procedures will be used for track testing as for dynamometer testing, some modifications will be necessary to insure safe operation of the test vehicle and to adjust to the requirements of track testing.

(1) An assistant to the driver will be necessary to steer the vehicle, so that the driver will not be distracted from following the speed-time schedules used in the Federal test procedure.

(2) The test vehicle will be preconditioned within the same time constraints given in § 610.43(a)(1)(ii). Preconditioning may take place either on the track or on a dynamometer. The 12-hour soak after preconditioning will take place in an area where the ambient temperature will remain within the 60° to 90° F range, indoors, if necessary.

(3) The vehicle will be transported to the test track without being started. If the distance from soak area to track is no greater than one-quarter mile, then the vehicle may be pushed or towed to the track. Otherwise the vehicle must be transported by truck or trailer.

(4) Fuel economy will be determined by either a gravimetric or volumetric method.

(c) *Highway Fuel Economy Test.* The Highway test will follow the City Fuel Economy Test in the same manner as in dynamometer tests (§ 610.43(b)). Fuel economy will be measured by gravimetric or volumetric methods.

(d) *Steady state tests.* Steady state tests on the track will be run in the same manner as on the dynamometer except that fuel economy will be measured by gravimetric or volumetric methods.

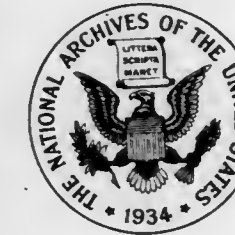
##### § 610.65 Other test procedures.

The Administrator may, pursuant to § 610.31(c), choose a test procedure or procedures from those used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories. If none of these is deemed suitable, the Administrator may, in consultation with the party requesting the test, design a dynamometer, track or road test to measure the effects of the device.

[FR Doc. 79-8735 Filed 3-22-79; 8:45 am]

FRIDAY, MARCH 23, 1979

## PART IX



# NATIONAL CREDIT UNION ADMINISTRATION

## IMPROVING GOVERNMENT REGULATIONS

Final Report



## Title 12—Banks and Banking

## CHAPTER 7—NATIONAL CREDIT UNION ADMINISTRATION

## PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS—AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

## Improving Government Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Report.

SUMMARY: NCUA issues its final report implementing Executive Order No. 12044: Improving Government Regulations.

EFFECTIVE DATE: March 23, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW, Room 4202, Washington, D.C. 20456.

## FOR FURTHER INFORMATION CONTACT:

Robert Monheit, Regulatory Development Coordinator, Office of the General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: NCUA adds its Final Report as Appendix A to Part 720 of 12 CFR as follows:

## APPENDIX A—FINAL REPORT ON IMPROVING GOVERNMENT REGULATIONS

**Overview.** On March 23, 1978, President Carter issued Executive Order 12044 (the Executive Order) directing that each executive agency adopt procedures to improve existing and future regulations (see 43 FR 12661). On May 31, 1978, NCUA published and invited public comment on its draft report implementing the Executive Order (43 FR 23688). Having reviewed the comments received, and having received the approval of the Office of Management and Budget, NCUA now issues this Final Report.

The Report is organized in six parts. Part I describes the scope and coverage of the Report. Part II defines key terms used throughout the Report. The remaining parts set forth NCUA's procedures for improving its regulation: Part III describes the Semi-Annual Agenda of regulations under review by NCUA that will be published in the FEDERAL REGISTER. Part IV describes the way in which the public can participate in the development of NCUA's regulations. Part V describes the procedure NCUA will use in developing a regulation. Part VI sets forth

## RULES AND REGULATIONS

NCUA's plan for periodically reviewing existing regulations.

## I. EXPLANATION AND STATEMENT OF COVERAGE

This report describes the methods and procedures that NCUA will use to establish new regulations and to change existing regulations. It covers the process from the time NCUA receives a suggestion to change its regulations (either from a member of the public, from another State or Federal agency, from within NCUA, or from a change in the law resulting from an Act of Congress) through the decision to issue a proposed regulation, the development of a proposed regulation, the consideration of public comments on the proposal, the issuance of a final regulation, if any, and, finally, the review of that regulation every few years to determine its continued need and effectiveness. The goals of these procedures are to ensure that the regulations are clear and understandable and that they effectively carry out the requirements of the law while imposing only the minimum necessary burdens on the public. To achieve these goals, the procedures are designed to increase the opportunity for the public to participate in changing the regulations, to create standards to measure how a change will affect credit unions and others subject to the regulations, and to make sure that the Administrator of NCUA has reviewed all the options before deciding on a final change to a regulation. In some cases, these procedures may, however, be inappropriate either because of factors outside of NCUA's control or because following the procedures is determined not to be in the public interest. Therefore, NCUA will not apply the procedures contained in this report in the development of:

1. Regulations that are required by statute to be developed on the record after oral hearings before the Administration;
  2. Regulations that are prepared in response to an emergency or that a statute or a court requires to be developed under a short deadline;
  3. Regulations where the process would be unnecessary or contrary to the public interest; and
  4. Matters that relate to the management of NCUA, its personnel, and its procurement of goods and services.
- In the event that one of these exemptions is used and the procedures outlined in this report are not followed, NCUA will notify the public, explain the reasons for not following the procedures and give the name of the official who was responsible for making that decision.

## II. DEFINITIONS

The following words and phrases have been used throughout the report:

1. Initiation statement—a written statement that identifies an issue or a subject and that suggests and supports the need for a change to NCUA's regulations on that issue or subject.

2. Office of primary interest—an office within NCUA that will develop and draft a regulation, with assistance from, and review by, other offices.

3. Regulation—an agency rule of general applicability that has the force and effect of law and that has been adopted in accordance with the requirements of 5 USC Section 553.

4. Regulatory analysis—a written statement that sets forth: (a) the problem to be addressed by a proposed regulation and possible consequences of the problem; (b) a description of the major alternatives for dealing with the problem and the economic and competitive consequences of each alternative; and (c) an explanation of the reasons for choosing one alternative over the others.

5. Regulatory Development Coordinator—an individual in NCUA's Office of General Counsel responsible for: (a) coordinating the rulemaking process; (b) reviewing the issues raised by initiation statements and maintaining a record of the development of those issues; (c) preparation and publication in the FEDERAL REGISTER of the semi-annual agenda of significant regulations being developed by NCUA and existing regulations being reviewed by NCUA; and (d) review and approval of proposed and final regulations to ensure compliance with the requirements of the Administrative Procedures Act and the requirements of this report.

6. Significant regulation—any regulation, other than one that merely updates or clarifies existing regulations without affecting their substantive meaning or the burdens placed on those subject to the regulation.

## III. SEMI-ANNUAL AGENDA

Twice a year, NCUA will publish in the FEDERAL REGISTER an agenda listing the significant regulations and regulations of public interest being considered and/or developed by NCUA and also listing those existing regulations undergoing periodic review. A notice will be published in the FEDERAL REGISTER on the first Monday in October of each year announcing the dates that the agenda will be published.

1. Contents of the agenda. The agenda will, for each regulation listed in it, contain the following information: (a) a brief description of the regulation; (b) the need for the regulation and the legal basis for issuing it; (c) the status of the regulation, that is, the stage of development that it is in

- at the time the agenda is published; (d) the name and telephone number of an NCUA official who is familiar with the regulation; and (e) whether a regulatory analysis will be required for the regulation.

2. Development of the agenda. The Regulatory Development Coordinator will be responsible for compiling, maintaining, and updating a listing of regulations that will be used for the agenda. When an initiation statement and recommendations for action is sent by an office through the Regulatory Development Coordinator to the Administrator for authorization to develop a regulation, the subject will be included in the list. If the Administrator authorizes the development of a regulation and assigns it to the office of primary interest, that office will notify the Regulatory Development Coordinator, who will then update the list. As each stage of development of the regulation is entered, the Regulatory Development Coordinator will be notified by the office of primary interest so that the list may be updated. Members of the public wanting to know the status of a regulation under development or review may call the Regulatory Development Coordinator, who will be able to advise them by consulting the list, of the status and the agency official to contact for further information. In this way the list, which is the basis for the published agenda, will be used as a method for both the agency and the public to keep track of the development of the regulation, and for the Regulatory Development Coordinator to ensure that all the required steps in the process are being taken.

3. Publication of the agenda—Prior to date announced for publication of the agenda, the Regulatory Development Coordinator will send each NCUA office a copy of the list and will request that the office advise of any needed corrections. The Regulatory Development Coordinator will then compile a current agenda which the Administrator will approve before it is published in the FEDERAL REGISTER.

## IV. OPPORTUNITY FOR PUBLIC PARTICIPATION

This part describes the methods provided by NCUA in the development of its regulations.

1. Initiating a regulation. A member of the public may recommend that NCUA develop a regulation by submitting an initiation statement. NCUA requests, but does not require, that the initiation statement contain the following information:

- a. A statement of the issues;
- b. The opinion and recommendations of the person submitting the statement;

## RULES AND REGULATIONS

- c. Any data that is relevant to the issues;
- d. An indication of the support of others for the recommendations; and

- e. A description of the interest that the person has in the action requested.

NCUA also suggests, in order to avoid having one NCUA office duplicate the efforts of another, that initiation statements be sent to the Regulatory Development Coordinator (whose name and address appear at the beginning of this report). The person submitting an initiation statement will be advised if NCUA is presently considering a regulation on the subject, in which case the initiation statement will be included in the consideration and development of that regulation. If NCUA is not presently developing or reviewing a regulation on the subject, the person submitting the initiation statement will be advised of the Administrator's decision on whether to develop a proposed regulation.

2. Solicitation of public participation. A number of methods will be used by NCUA to encourage public participation in the development and review of regulations. The methods used will depend upon the stage of the development or review process, the issues involved, the amount of expressed interest, and the public sector affected by the regulation.

- a. The Semi-Annual Agenda. The agenda, which is described in detail in Part III, will advise the public on the status of regulations being developed and the name of an NCUA official to contact.

- b. Advance notice of proposed rulemaking. This notice, when the Administrator determines it is appropriate, will be published in the FEDERAL REGISTER after the Administrator has authorized the development of a regulation. It will set forth the issues involved in the regulation being developed, briefly describe some of the options being considered and the restrictions that the law imposes, and will ask the public to send written comments to an NCUA official named in the notice.

- c. Questionnaires. When the office of primary interest determines that it does not have sufficient data to proceed with the development of a regulation, it will send out questionnaires to parties likely to be affected by the regulation, especially to Federal credit unions. The information obtained from the questionnaires should enable NCUA to decide whether there is a need for a regulation and the most efficient and effective means for dealing with the subject of the regulation.

- d. Articles. NCUA will publish articles in its own publications, such as the *Administrator's Letter*, and will on occasion contribute articles to interest-

ed trade publications. These articles will discuss regulations being developed and will include the name of an NCUA official to whom comments can be sent. Also, NCUA will publish copies of proposed and final regulations in its own publications.

- e. Advance copies of proposed regulations. Advance copies of significant proposed regulations will be sent to persons identified on NCUA's regulation mailing list at the time a copy is sent to the FEDERAL REGISTER for publication. To be included on the mailing list, persons should write to the Assistant Administrator for Administration. In this way, persons who have expressed an interest in the development of a regulation, but who do not have regular access to the FEDERAL REGISTER, will be assured of receiving a copy of a proposed regulation with sufficient time to comment prior to the close of the official or formal comment period.

- f. Public comment. NCUA will continue to solicit public comment on proposed regulations as required by the Administrative Procedures Act, 5 U.S.C. Section 553. As a matter of policy, NCUA believes that the public should be given at least 60 days (from the date of publication in the FEDERAL REGISTER) to comment on a proposed significant regulation. If the comment period is less than 60 days, or is extended beyond 60 days, NCUA will publish a statement in the FEDERAL REGISTER (usually along with the publication of the proposed regulation) explaining the reasons for the change. NCUA will consider, during the comment period, any request to extend the comment period.

- g. Public hearing or conferences. If NCUA determines that the written comments that it has received do not provide sufficient information or do not adequately represent significantly varying public interests, public hearings or conferences will be held. Depending upon the nature of the issues involved and the interest expressed by the written comments received, these public meetings will vary from informal conferences, between NCUA officials and interested members of the public at which the issues are discussed, to hearings at which oral testimony is recorded and written testimony may be submitted. NCUA will also consider, where appropriate, holding hearings or conferences at each NCUA Regional Office around the country as well as at the Central Office in Washington, D.C.

- h. Procedures for consulting State and local government officials. When it appears that a regulation under development will have a significant impact on relations between NCUA and State government or between NCUA and the government of a partic-



ular locality, NCUA will send to the appropriate government official an advance notice of the development of a regulation or an advance copy of the proposed regulation being developed. This will ensure that affected State and local governments have an opportunity to submit their views.

#### V. PROCEDURES FOR THE DEVELOPMENT OF REGULATIONS

This part of the report describes the procedures for developing a regulation, from the initial suggestion through the publication of the final regulation.

1. Initiating a regulation. This section describes the process whereby a suggestion for a change in NCUA's regulations is initially reviewed and then authorized by the Administrator for development into a regulation.

a. Potential sources. NCUA receives, and will act on, information relating to needed regulations or changes in existing regulations from the public, State and Federal regulatory agencies, Congressional legislation, Presidential requests, the various offices within the Administration, and the National Credit Union Board.

b. Preliminary review. Upon receiving an initiation statement or other information relating to the need for a change in NCUA's regulation, the following action will be taken: (i) The Regulatory Development Coordinator will be advised and will determine whether the issues presented are under development. If so, the Regulatory Development Coordinator will forward the initiation statement to the appropriate office. If not, the office receiving the initiation statement or other information may conduct the preliminary review or suggest that another office do so; (ii) The office conducting the preliminary review will make recommendations as to the action to be taken, the office to be designated as the office of primary interest if further development is approved, alternative approaches to be explored, plans for obtaining public comment, and anticipated target dates. This information, along with the initiation statement, will be reviewed by the Regulatory Development Coordinator and then forwarded to the Administrator; (iii) The Administrator will approve or disapprove any further development of a regulation and will designate the office of primary interest. The office of primary interest will advise the party that submitted the suggestion and the Regulatory Development Coordinator that the regulation has been approved for development and will also provide the name of an NCUA official in that office who can be contacted with any further inquiries. If the Administrator does not approve further development,

the office that prepared the preliminary review will advise the source of the suggestion and the Regulatory Development Coordinator of that fact.

2. Preparation of the proposed regulation. This section describes the procedures that NCUA will use from the time that the Administrator authorizes the development of a regulation to the time a proposed regulation is published in the FEDERAL REGISTER. The office of primary interest will be responsible for preparing the proposed regulation and for seeing that the tasks set forth below are carried out. The office of primary interest will advise the Regulatory Development Coordinator as each task is begun and then completed.

a. Coordination with other NCUA offices. Offices other than the office of primary interest that have operations or responsibilities that will be directly affected by the regulation under development will be included in the development of the regulation. The participation of these offices will include consultation during the consideration of the problem and review of the drafts of the proposed regulation and regulatory analysis.

b. Solicitation of public opinion. The office of primary interest, in consultation with the Regulatory Development Coordinator, will decide on a plan to be used to ensure public participation in the development of the regulation (the alternative methods available are described in detail in Part IV). A decision on whether to issue an advance notice of proposed rulemaking will be made shortly after the office of primary interest receives the Administrator's authorization to develop the regulation. A file of all comments and suggestions relating to the regulation under development will be maintained in the office of primary interest. The Regulatory Development Coordinator will be given the name of an NCUA official in the office of primary interest who will be available to respond to inquiries from the public.

c. Preparation of a draft regulatory analysis. The office of primary interest will prepare a regulatory analysis, prior to drafting the proposed regulation, whenever it is determined that a significant regulation to be developed will result in: (i) an annual effect on the economy of \$100 million or more; or (ii) a major increase in costs or expenses for all, or a significant portion of, Federal or federally insured credit unions with assets under \$1 million (which includes half of all Federal credit unions who are least able to absorb the increase) or for other financial institutions. Although required only in the development of significant regulations meeting this test, the Administrator, when authorizing the development of a regulation, may

direct a regulatory analysis be performed for any proposed regulation. The regulatory analysis will be used to aid in the preparation of the proposed regulation.

d. Preparation for publication of the proposed regulation. The draft of the proposed regulation, along with copies of the regulatory analysis and any public comment received at this point, will be sent to the other interested offices within NCUA for comment. The office of primary interest will then prepare a final version of the proposed regulation, which will include, in the preamble, a brief discussion of the regulatory approach and a statement indicating, if a draft regulatory analysis was prepared, that it is available for public comment. Significant proposed regulations will normally have a public comment period of at least 60 days from the date of publication in the FEDERAL REGISTER. If a shorter or longer comment period is provided, a statement of the reasons will be included in the preamble to the proposed regulation. The final version of the proposed rule will be reviewed by the Office of General Counsel for legal sufficiency and by the Regulatory Development Coordinator for compliance with the requirements of the Administrative Procedures Act and this report. It will then be submitted to the Administrator for final approval. The proposed regulation will then be sent to the FEDERAL REGISTER for publication and advance copies will be sent to persons identified on the NCUA regulations mailing list.

3. Preparation of the final Regulation. This section of the report will describe what happens from the time that the proposed regulation is published in the FEDERAL REGISTER to the time that the final regulation is published.

a. Public participation. During the public comment period, the office of primary interest and the Regulatory Development Coordinator will review the plans established to ensure public participation and will recommend any needed or desirable changes to the Administrator. Requests for an extension of the comment period will be considered. A public conference or hearing, if not already called for, will be considered. The final decision on any recommendation to change the plans for obtaining public participation will be made by the Administrator.

b. Drafting the final regulation. After the public comment period has ended and the other adopted methods of public participation have been completed the office of primary interest will review all information received. The office of primary interest will then prepare a draft of the final regulation. The office of primary interest will also prepare a memorandum to

the Administrator establishing that the following issues have been considered: (i) the need for the regulation; (ii) the alternative approaches to achieving the purpose of the regulation; (iii) the least burdensome of the acceptable approaches was chosen; (iv) the potential effects of the regulation, including an estimate of the reporting burdens and recordkeeping requirements, have been adequately assessed; (v) the public comments received were considered and adequately responded to; (vi) the regulation is written as clearly and simply as possible and will be understandable to those who must comply with it; and (vii) the name, address, and telephone number of a knowledgeable staff person has been provided for further inquiries from the public. If a regulatory analysis was prepared for the proposed regulation, it will be revised to reflect NCUA's response to the public comments received, and the public notice of the final regulation will indicate that a revised analysis is available to the public. The Office of primary interest, in consultation with the Office of Research and Analysis, will draft a plan for evaluating the effect of the regulation. The drafts of the final regulation, the memorandum, the revised regulatory analysis, and the plan for evaluation will be sent to the other NCUA offices for comment. The office of primary interest will then prepare the final version of these documents in response to the comments received.

c. Approval and publication of the final regulation. The final version of the regulation, the memorandum, the revised regulatory analysis, and the plan for evaluation will be reviewed by the Office of General Counsel to ensure that the substance of the regulation complies with applicable laws. The Regulatory Development Coordinator will review these documents for compliance with the requirements of Administrative Procedures Act and this report. The Administrator will review these documents and approve

the final regulation. Final regulations will be published in the FEDERAL REGISTER and will become effective 30 days after publication (unless NCUA finds good cause for shortening or lengthening the time and explains this in the publication of the final regulation).

#### VI. REVIEW OF EXISTING REGULATIONS

This part of the report sets forth NCUA's plans for periodically reviewing its regulations. The purpose of these reviews will be to update, clarify, and simplify existing regulations, and to eliminate redundant and unnecessary provisions.

1. Initial plan for review. After the publication of this final report, the Regulatory Development Coordinator will begin the review of existing regulations by meeting with, and coordinating the plans of, the NCUA offices with primary interest in the regulations listed below. The priority of review is reflected by the order of the list:

a. Manuals incorporated by reference into NCUA's Rules and Regulations in §§ 701.2 and 701.14;

b. Rules related to the organization, operation, investments, and incidental powers of Federal credit unions in Parts 701, 703, and 721 of NCUA's Rules and Regulations;

c. Rules related to Federal share insurance in Parts 740, 741, 745, 746, 748, and 749; and

d. Rules relating to administrative procedures in Parts 715, 720, 735, 747, and 750.

2. Future Review. After the effective date of the review of the existing regulations listed above, these regulations will be reviewed for clarity and efficiency every three years on a continuous basis. [E.O. 12044]

LAWRENCE CONNELL,  
Administrator.

MARCH 16, 1979.

[FR Doc. 79-8894 Filed 3-22-79; 8:45 am]



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FRIDAY, MARCH 23, 1979  
PART X



DEPARTMENT OF  
ENERGY  
Economic Regulatory  
Administration

OIL IMPORT  
ALLOCATIONS FOR  
1979-1980



[6450-01-M]

## Title 10—Energy

## CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-27]

## PART 213—OIL IMPORT REGULATIONS

## Oil Import Allocations for 1979-1980

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: Presidential Proclamation 3279, as amended, provides for an annually decreasing quantity of oil imports not subject to the license fees otherwise imposed by the Proclamation. For the next allocation period, which begins on May 1, 1979 and ends on April 30, 1980, the quantity of oil which may be imported without being subject to the fee is twenty percent of the level which was originally established in 1973. This rulemaking revises the Oil Import Regulations to conform them to the allocation levels established by the Proclamation for the next allocation year. Notwithstanding the above, the allocation of residual fuel imported as fuel into District I shall not be subject to the twenty percent reduction in fee free licenses until July 1, 1979, in accordance with Presidential Proclamation No. 4629 issued on December 8, 1978.

EFFECTIVE DATE: Date of Issuance.  
FOR FURTHER INFORMATION CONTACT:

Robert D. R. de Sugny, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-9380.

Robert R. Moore, Office of Oil Imports, Department of Energy, Room 6114, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-8620.

Gerald P. Emmer, Allocation Regulations, Department of Energy, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-7200.

## SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Comparison With Proposed Rule.
- III. Evaluation of Comments.
- IV. Regulation Prescribed.

## I. BACKGROUND

Under the Mandatory Oil Import Program established pursuant to Presidential Proclamation No. 3279, as amended, the next allocation period for imports not subject to license fees

## RULES AND REGULATIONS

under Section 3(a)(1)(i)-(ii) of the Proclamation will commence on May 1, 1979. Section 8 of the Proclamation provides that for this allocation period the maximum levels of imports subject to allocation and licenses to which license fees under Section 3(a)(1)(i)-(ii) shall not be applicable shall be reduced to twenty percent (20%) of the levels established during the calendar year 1973.

## II. COMPARISON WITH PROPOSED RULE

On December 29, 1978, the Economic Regulatory Administration of the Department of Energy issued proposed amendments to Part 213 of Chapter II, Title 10 of the Code of Federal Regulations (44 FR 1896, January 8, 1979), to provide for the commencement of the next allocation period and to reduce the levels of fee-exempt allocations in accordance with Presidential Proclamation 3279, as amended. It was also proposed that § 213.10(a)(1) be amended to reflect changes made by the Department of Commerce in its Trade Classification Schedule B (Statistical Classifications of Domestic and Foreign Commodities Exported from the United States). Furthermore, we also proposed additional language in § 213.35(c)(1) to effectively exempt from the Oil Imports Program all crude oil and finished products imported for the Strategic Petroleum Reserve Program. No other substantive changes were proposed.

The proposed rule provided for the submission of written comments and a public hearing which was subsequently cancelled after no requests to speak were received. After an evaluation of these comments it has been determined to adopt the proposal without change.

## III. EVALUATION OF COMMENTS

Of the four comments submitted, none addressed the specific technical changes which has been proposed. The comments addressed much broader issues arising from the Oil Import and Entitlements Programs which were beyond the purview of this rulemaking which merely conforms the Department's regulations to the levels established in Presidential Proclamation 3279 for the next allocation year. Among the general issues discussed by the commenters included support for the continued elimination of reverse entitlements, adequate protection for East Coast refiners, reissuance of special guideline I, and the granting of full entitlements for residual fuel imported into PAD I. The issues raised in the comments continue to be studied by the Department and may result in additional proposed rulemakings in the future; such issues, however, have no bearing on the proposal at hand.

## IV. REGULATION PRESCRIBED

After careful consideration of the comments, the Economic Regulatory Administration has decided not to make any changes in the amendment as proposed.

(Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation 3279, as amended; Department of Energy Organization Act, Pub. L. 95-91; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, E. O. 12009, 42 FR 46267; E. O. 12038, 43 FR 64849.)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., on March 19, 1979.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

## § 213.5 [Amended]

1. Section 213.5 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "April 28, 1978" and by substituting therefor "April 2, 1979."

## § 213.9 [Amended]

2. Section 213.9 is amended in paragraphs (a) and (b) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the terms "1977" and "35" and by substituting therefor "1978" and "20" respectively.

## § 213.10 [Amended]

3. Section 213.10 is amended in paragraph (a)(1) by deleting the Trade Classification Schedule B Table and substituting the following Trade Classification Schedule B Table:

| Trade classification schedule B number | Description   |
|--|---|
| 309-310.9.....                         | Manmade fibers.   |
| 357.8020.....                          | Cellulosic fibers for use in tires.                                     |
| 401-404.8.....                         | Cyclic organic chemicals; and products.                                 |
| 415.1500.....                          | Carbon (except carbon black, and contact, channel, and furnace blacks). |
| 431-431.9.....                         | Acyclic organic chemical compounds.                                     |
| 433.1016-433.1022.....                 | Antiknock preparations.   |
| 433.1044-433.1047.....                 | Additives for fuel oil, liquid gum inhibitors.                          |
| 433.1060-433.1068.....                 | Additives for lubricating oils.   |
| 433.1073.....                          | Reagents for ore recovery.  |
| 435.2500-435.2600.....                 | Enzymes.  |
| 435.3500.....                          | Steroid hormones & synthetic substitutes, N.S.P.F.                      |
| 435.3900.....                          | Other hormones & synthetic substitutes.                                 |
| 435.8700-435.9500.....                 | Other drugs.  |
| 444-444.8.....                         | Plastic materials and synthetic resins.                                 |

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deleting the term "79,527 bbl/d" and by substituting therefor "45,444 bbl/d".

## § 213.21 [Amended]

8. Section 213.21 is amended in paragraphs (a)(2) and (b)(2) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; in paragraph (a)(2) by deleting the term "503 bbl/d" and by substituting therefor "287 bbl/d"; and in paragraph (b)(2) by deleting the term "577 bbl/d" and by substituting therefor "330 bbl/d".

## § 213.32 [Amended]

9. Section 213.32 is amended in paragraph (d) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "26,460 bbl/d" and by substituting therefor "15,120 bbl/d".

## § 213.33 [Amended]

10. Section 213.33 is amended in paragraph (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "434,000" and by substituting therefor "248,000"; in paragraph (d)(1) by deleting the term "35" and by substituting therefor "20"; in paragraph (d)(2) by deleting the term "May 1, 1978" and by substituting therefor "May 1, 1979"; and by deleting the term "April 30, 1979" and by substituting therefor "April 30, 1980"; in paragraph (f) by deleting the term "August 31, 1978" wherever it appears and by substituting therefor "August 31, 1979"; by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting "July 1, 1978" and by substituting therefor "July 1, 1979"; and in paragraph (h) by deleting the term "April 28, 1978" and by substituting therefor "April 2, 1979".

## § 213.34 [Amended]

11. Section 213.34 is amended in paragraphs (b) and (e) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor

"May 1, 1979 through April 30, 1980"; and by deleting the term "17,500" and by substituting therefor "10,000".

## § 213.35 [Amended]

12. Section 213.35 is amended in paragraph (c)(1) by deleting the schedule and by substituting therefor the following schedule:

|   | Fee, \$/<br>Barrel |
|---|--------------------|
| Crude Oil (Other than that imported by the Department of Energy, or by another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program)..... | 0.21               |
| Natural Gas Products.....   | 0.21               |

All other finished products and unfinished oils including crude oil to be burned directly as fuel (except finished products imported by the Department of Energy, or another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program, ethane, propane, butanes, asphalt)..... 0.63

## § 213.36 [Amended]

13. Section 213.36 is amended in paragraph (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "434,000" and by substituting therefor "248,000"; in paragraph (d)(1) by deleting the term "35" and by substituting therefor "20"; in paragraph (d)(2) by deleting the term "May 1, 1978" and by substituting therefor "May 1, 1979"; and by deleting the term "April 30, 1979" and by substituting therefor "April 30, 1980"; in paragraph (f) by deleting the term "August 31, 1978" wherever it appears and by substituting therefor "August 31, 1979"; by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting "July 1, 1978" and by substituting therefor "July 1, 1979"; and in paragraph (h) by deleting the term "April 28, 1978" and by substituting therefor "April 2, 1979".

## § 213.37 [Amended]

14. Section 213.37 is amended in paragraphs (a) and (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and in paragraph (a) by deleting the term "11,375" and by substituting therefor "6,500".

[FR Doc. 79-8956 Filed 3-22-79; 8:45 am]



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FRIDAY, MARCH 23, 1979  
PART XI



## MERIT SYSTEMS PROTECTION BOARD

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INTERIM OPERATING  
PROCEDURES: FREEDOM OF  
INFORMATION, PRIVACY, AND  
GOVERNMENT IN THE SUNSHINE  
ACTS; PROPOSED ADJUDICATORY  
PROCEDURES



[6325-20-M]

## Title 5—Administrative Personnel

CHAPTER II—MERIT SYSTEMS  
PROTECTION BOARD

[Docket No. 79-2 Notice 1]

INTERIM OPERATING PROCEDURES:  
FREEDOM OF INFORMATION ACT;  
PRIVACY ACT; GOVERNMENT IN  
THE SUNSHINE ACT

AGENCY: Merit Systems Protection Board.

ACTION: Interim Regulation; request for comments.

SUMMARY: These regulations establish interim operating procedures for the Merit Systems Protection Board pursuant to the requirements of the Freedom of Information Act; the Privacy Act; and the Government in the Sunshine Act. In addition, the Merit Systems Protection Board requests public comment on these regulations.

EFFECTIVE DATE: March 20, 1979. Written comments should be submitted on or before May 22, 1979.

ADDRESS: Comments should be addressed to the Office of the Secretary of the Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION  
CONTACT:

Alan Greenwald or Deborah House  
(202-653-7101).

SUPPLEMENTARY INFORMATION: The Board was created pursuant to Reorganization Plan No. 2 of 1978 and the Civil Service Reform Act of 1978 (Pub. L. 95-454) signed into law by President Carter on October 13, 1978.

The Reorganization Plan and the Act contemplated that the Board would immediately begin to function as an agency subject to the provisions of the Freedom of Information, Privacy and Government in the Sunshine Acts. Accordingly, it is necessary to adopt regulations which serve a dual role as interim operating procedures and proposed regulations for comment.

Part 1204 of these regulations implements the provisions of the Freedom of Information Act as set forth at 5 U.S.C. 552. It is the policy of the Board to make full and complete disclosure of all information within its control under this Act unless specifically exempted and disclosure would not be in the interest of the public.

Part 1205 of these regulations implements the provisions of the Privacy Act as set forth at 5 U.S.C. 552a. It is the policy of the Board to fully protect the privacy interests of each indi-

vidual by insuring the confidentiality of records; by limiting information in those records to that which is relevant and necessary to the functions of the Board and by facilitating access of an individual to his/her record.

Part 1206 of these regulations implements the provisions of the Government in the Sunshine Act as set forth at 5 U.S.C. 552b. It is the policy of the Board to conduct all proceedings in open meetings unless to do so is specifically exempted under the Act and would not be in the interest of the public.

Interested parties may participate in this proposed rulemaking by submitting their views, in writing, to the Board. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above-cited docket number. All comments received on or before May 22, 1979 will be considered in promulgating final regulations on the matters addressed here. All written comments received will be docketed and made available for public inspection at the Board.

These regulations do not include a notice of system of records as is annually required to be published under the Privacy Act. Publication of this notice has been delayed pending the official establishment of the Board's record systems. Publication shall occur as soon as these systems are established and identified.

The Board has determined that the January 1, 1979 effective date of Reorganization Plan No. 2 of 1978 and the January 11, 1979 effective date of the Civil Service Reform Act of 1978 establishes good cause for immediate publication of these regulations for interim effect.

Issued on March 20, 1979.

RUTH T. PROKOP,  
Chair, Merit Systems  
Protection Board.

5 CFR is amended by adding Parts 1204-1206 to read as follows:

PART 1204—FREEDOM OF  
INFORMATION ACT

## Subpart A—Purpose and Policy

Sec.  
1204.1 Purpose.  
1204.2 Policy.

## Subpart B—Procedures for Obtaining Records

1204.11 Submission of request.  
1204.12 Time limitations.  
1204.13 Fees.  
1204.14 Denials.

## Subpart C—Appeals

1204.21 Submission.  
1204.22 Determinations upon appeal.  
AUTHORITY: 5 U.S.C. § 552.

## Subpart A—Purpose and Policy

## § 1204.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Freedom of Information Act (5 U.S.C. 552) ("the Act") by which the public may obtain records controlled by the Board.

## § 1204.2 Policy.

- (a) It is the policy of the Board to release records where:
- (1) the request submitted reasonably describes such records; and
  - (2) is made in accordance with the rules of this part.
- (b) Records shall be disclosed to a requestor unless:
- (1) they are exempt from disclosure under subsection (b) of the Act; and
  - (2) disclosure of such records would not be in the public interest.

Subpart B—Procedures for Obtaining  
Records

## § 1204.11 Submission of request.

(a) *Place:* Requests for copies of records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Board at 1717 H Street, N.W., Washington, D.C. 20419. It is appropriate to submit a request to a field office if the requestor has reason to believe the records in question are located in that office. Requests shall be made during normal business hours, or submitted by mail. Although oral requests may be honored, a requestor may be required to submit his/her request in writing.

(b) *Form:* Each submission shall reasonably describe the record requested including any name, subject matter and number or date where possible so that the Board can identify and locate the record. Requests submitted by mail shall be clearly marked as a "FREEDOM OF INFORMATION ACT REQUEST" on both the envelope and letter.

(c) *Payment:* The request shall be accompanied by the fee or an offer to pay the fee pursuant to § 1204.14 of this part.

## § 1204.12 Time limitations.

(a) Determinations of whether to comply with an original request for agency records shall be made within ten days (excluding Saturdays, Sundays, and legal public holidays) except in "unusual circumstances" as provided in paragraph (b) of this section.

(b) In "unusual circumstances" the time limits specified above may be extended by written notice to the requestor setting forth reasons for such an extension and the date on which a determination is expected to be made.

No such notice shall specify a date that would result in an extension for more than ten working days. Unusual circumstances means:

- (1) The need to search for and collect the requested records from field facilities or other establishments which are separate from the office processing the request;
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(c) Where a request or an appeal is not properly labled or is submitted to an inappropriate office, the time limitation for processing of the request shall run from the time it is received by the proper official to process such a request.

## § 1204.13 Fees.

(a) Requests for records are subject to the following fees for search and duplication.

- (1) Photocopies \$0.10 for the first copy of each page.
- (2) Manual records search:
  - (i) First hour and any single request: no fee.
  - (ii) Each additional hour or fraction thereof: \$5.00.
  - (iii) Fees for search and duplication of automated records shall be provided upon request.

(b) At their discretion, the Secretary or appropriate field official may refuse to furnish records prior to receipt of the required fee.

(c) At their discretion, the Secretary or appropriate field official shall furnish records without charge or at a reduced charge where to do so primarily benefits the general public.

## § 1204.14 Denials.

(a) Denials of a request for records in whole or in part shall be issued in writing within the applicable time limits.

(b) Denials shall set forth the basis for the denial and the right of the requestor to appeal the denial to the Chair under subpart C of this part.

## Subpart C—Appeals

## § 1204.21 Submission.

(a) *Time:* Appeals shall be submitted within thirty days of the date of the issuance of the written denial.

(b) *Place:* Appeals shall be addressed to the Chair, Merit Systems Protec-

tion Board, 1717 H Street, N.W., Washington, D.C. 20419.

(c) *Form:* Appeals shall be clearly marked as "FREEDOM OF INFORMATION ACT APPEAL" on both the envelope and letter. Appeals must be in writing and shall include:

- (1) a copy of the original request or a statement thereof if it was made orally;
- (2) a copy of the written denial; and
- (3) a statement of the reasons why the original denial should be overruled.

## § 1204.22 Determinations upon appeal.

(a) Determinations upon appeal shall be made within twenty days of receipt of appeal by the Chair (excluding Saturdays, Sundays and legal public holidays).

(b) A determination overruling or sustaining the original denial in whole or in part shall be provided to the requestor and shall set forth the reasons therefore.

(c) A determination upon appeal shall constitute final agency action and the right to judicial review shall be set forth therein.

## PART 1205—PRIVACY ACT

## Subpart A—Purpose and Policy

Sec.  
1205.1 Purpose.  
1205.2 Policy.  
1205.3 Definitions.

## Subpart B—Procedures for Obtaining Records

1205.11 Submission of request.  
1205.12 Time limitations.  
1205.13 Identification.  
1205.14 Grant of access.  
1205.15 Medical records.  
1205.16 Fees.

## Subpart C—Amendment of Records

1205.21 Request for amendment.  
1205.22 Action on request.  
1205.23 Time limitations.

## Subpart D—Appeals

1205.31 Submission of appeal.  
1205.32 Determinations upon appeal.  
Authority: 5 U.S.C. § 552a.

## Subpart A—Purpose and Policy

## § 1205.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Privacy Act (5 U.S.C. 552a) ("the Act") by which a requestor may make an inquiry regarding a record, gain access to such record or amend the record.

## § 1205.2 Policy.

It is the policy of the Board to facilitate the full exercise of rights conferred by the Act upon individuals and to insure the privacy of records maintained regarding such individuals. Such records shall contain only that

information which is relevant and necessary to the functions of the Board and shall be treated in a manner which is fully in accordance with the provisions of the Act.

## § 1205.3 Definitions.

The definitions of 5 U.S.C. 552a apply to this part and are incorporated herein by reference. As used in this part:

"Inquiry" means a request by an individual as to whether the Board has a record which pertains to that individual.

"Request for access" means a request by an individual to inspect or copy a record.

"Request for amendment" means a request by an individual to change the substance of a particular record by addition, deletion or other correction.

"Requestor" means the individual requesting access or amendment to a record. The individual may be either the person to whom the record requested pertains or a legal guardian acting on behalf of an individual.

Subpart B—Procedures for Obtaining  
Records

## § 1205.11 Submission of request.

(a) *Place:* Inquiries or requests for access to records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Board at 1717 H Street, N.W., Washington, D.C. 20419. It is appropriate to submit a request to a field office if the requestor has reason to believe the records in question are located in that office.

(b) *Form:* Each submission shall contain the following information:

(1) Name, address and telephone number of the individual making the request;

(2) Name, address and telephone number of the individual making the request if the requestor is either a parent or a minor child, or the legal guardian or representative of an individual to whom the record pertains. In addition, evidence of the relationship must be supplied such as: an authenticated copy of the birth certificate of the minor child; or the court document appointing the individual legal guardian; or an agreement for representation signed by the individual to whom the record pertains and the representative;

(3) Name and location, if known, of the system of records as published in the FEDERAL REGISTER;

(4) Such additional information as may assist the Board in responding to the request (for example the name of the agency which is taking the action, the subject matter of the case, etc.);

(5) Date of inquiry;

(6) Individual's signature;



(7) Indication both on the envelope and the letter that the inquiry is a "PRIVACY ACT REQUEST."

(c) Each submission shall comply with the identification requirements set forth in § 1205.13 of this part.

#### § 1205.12 Time limitations.

(a) Response to an inquiry or request for access shall be made within ten days (excluding Saturdays, Sundays and legal public holidays), except in "unusual circumstances" as provided in paragraph (b) of this section.

(b) "Unusual circumstances":

(1) An extensive search of records is required;

(2) The records in question are not readily available;

(3) Information regarding another individual(s) must be expunged from the records;

(4) Consultation with other agencies having substantial interest in the records is necessary; or

(5) Other extenuating circumstances exist which reasonably prohibit the Board from processing the request within the ten day period.

(c) Where a request is not properly labeled or is submitted improperly or it is necessary to obtain further information or identification from the requestor, the time limitation for processing the request shall run from the time when it is received by the proper official to process such a request or necessary additional information is obtained from the requestor. Where it is necessary to obtain additional information the request for such information shall be made by the Secretary or appropriate field official within the ten day period.

#### § 1205.13 Identification.

(a) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. In order of preference the following items shall be acceptable:

(1) A document bearing the requestor's photograph; or

(2) A document bearing the individual's signature.

(3) In the event (1) or (2) are not available, the requestor will be required to sign a statement asserting his/her identity and acknowledging the requestor's understanding that misrepresentation of identity in order to obtain a record is a misdemeanor and subject to a possible fine of \$5,000 under 5 U.S.C. § 552a(i)(3).

(b) *By mail.* The identification of a requestor making a request by mail must be certified by a notary public or equivalent official or other information sufficient to identify the requestor.

(c) *Parents of minors, legal guardians and representatives.* Parents of minors, legal guardians and repre-

sentatives must submit identification pursuant to paragraphs (a) or (b) of this section. Additionally, they must present an authenticated copy of the minor's birth certificate, court order of guardianship, and agreement of representation where appropriate.

#### § 1205.14 Grant of access.

(a) The alternative following methods of access may be granted for inspection of records:

(1) Personal inspection during normal business hours;

(2) Transfer of records to a suitable Federal facility in closer proximity to the requestor;

(3) Provision of copies by mail.

(b) An individual seeking personal access to records may be accompanied by another individual of his/her choice. However, the requestor shall be required to sign a written statement authorizing the discussion and presentation of his/her record in the accompanying individual's presence.

#### § 1205.15 Medical records.

When a request for access involves medical records which are not otherwise exempt from disclosure, the requestor may be advised, as necessary, that the records will be disclosed only to a physician designated by the requestor. Upon proper identification the physician will be permitted access to the records as provided in this part.

#### § 1205.16 Fees.

(a) No fees shall be charged by the Board for any other purpose than making copies of records.

(b) It is the policy of the Board to provide one copy of a record upon request free of charge. However, where the requested record exceeds fifty pages, the Board shall charge \$0.10 for each copy in excess of that amount.

(c) It is the policy of the Board to provide one copy of any amended record free of charge as evidence of the amendment.

#### Subpart C—Amendment of Records

##### § 1205.21 Request for amendment.

(a) A request for amendment of a record shall be made to the appropriate field office of the Board or the Office of the Secretary of the Board at 1717 H Street, N.W., Washington, D.C. 20419. The request shall be in writing and shall be designated on the outside of the envelope and the letter as a "PRIVACY ACT REQUEST" and shall include the following information:

(1) Identification of the record to be amended;

(2) A description of the amendment requested (e.g., addition, deletion, placement of amendment, etc.);

(3) A statement of the basis for the amendment and supporting documentation if any.

(b) The provisions for amendment of the record are not intended to permit the alteration of evidence to be presented in the course of adjudication before the Board.

##### § 1205.22 Action on request.

(a) *Amendment granted:* Where the amendment requested is granted the requestor shall be so notified and shall be supplied a copy of the amendment as evidence thereof.

(b) *Amendment denied:* Where the amendment requested is denied in whole or in part the requestor shall be notified of the denial in writing and provided the following information:

(1) The basis for the denial; and

(2) The procedures for appealing the denial.

##### § 1205.23 Time limitations.

A determination to grant or deny a request for amendment shall be made within ten days after receipt by the appropriate official.

#### Subpart D—Appeals

##### § 1205.31 Submission of appeal.

(a) *Time:* Appeals from denial of amendment shall be submitted within thirty days of the date of the issuance of the written denial (excluding Saturdays, Sundays and legal public holidays).

(b) *Place:* Appeals shall be addressed to the Chair, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

(c) *Form:* Appeals shall be in writing and clearly marked as "PRIVACY ACT APPEAL" on both the envelope and letter. Appeals must be in writing and shall include:

(1) a copy of the original request for amendment;

(2) a copy of the written denial; and

(3) a statement of the reasons why the original denial should be overturned.

##### § 1205.32 Determinations upon appeal.

(a) A written determination either overruling or sustaining the original denial shall be made within thirty days (excluding Saturdays, Sundays, and legal public holidays) unless the Chair determines that there is good cause for extending the thirty day period. Where an appeal is not properly labeled or is submitted to an inappropriate official, the time limitation for processing the request shall run from the time it is received by the Chair.

(b) If the amendment is granted upon appeal, the Chair shall direct the amendment be made and shall supply

the requestor with a copy of the amended record as evidence thereof.

(c) If the amendment is denied, the Chair shall notify the requestor of the denial and inform him/her of the following:

(1) The basis for the denial;

(2) The right to file a concise statement with the Board stating the reasons for his/her disagreement with the denial which shall become a part of the record; and

(3) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A).

#### PART 1206—OPEN MEETINGS

##### Subpart A—Purpose and Policy

Sec.  
1206.1 Purpose.  
1206.2 Policy.  
1206.3 Definitions.

##### Subpart B—Procedures

1206.4 Notice of meeting.  
1206.5 Change in meeting plans after notice.  
1206.6 Determination to close meeting.  
1206.7 Record of meetings.  
1206.8 Provision of information to the public.

##### Subpart C—Conduct of Meetings

1206.11 Meeting place.  
1206.12 Role of observers.  
AUTHORITY: 5 U.S.C. § 552b

##### Subpart A—Purpose and Policy

##### § 1206.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Government in the Sunshine Act (5 U.S.C. 552b) ("the Act") by which the Board will conduct open meetings.

##### § 1206.2 Policy.

It is the policy of the Board to provide the public with the fullest practicable information regarding the decision-making processes of the Board. Board meetings involving deliberations which determine or result in the joint conduct or disposition of official Board business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Board's ability to carry out its responsibilities. Board meetings will be closed in whole or in part only in accordance with the exemptions provided under 5 U.S.C. 552b(c) and where to do so is in the public interest.

##### § 1206.3 Definitions.

In this part:  
"Meeting" means the deliberations of at least two Board Members where

such deliberations determine or result in the joint conduct of official Board business.

"Member" means one of the Members of the Merit Systems Protection Board.

##### Subpart B—Procedures

##### § 1206.4 Notice of meeting.

(a) Notices of Board meetings shall be published in the FEDERAL REGISTER at least one week prior to the meeting. Such notice shall include the following information:

(1) Time;

(2) Place;

(3) Subject of meeting;

(4) Whether the meeting is to be opened or closed; and

(5) The name and telephone number of a Board official responsible for receiving inquiries regarding the meeting.

(b) The Board may, by majority vote, provide less than one week's notice and then such notice be provided at the earliest practicable time.

##### § 1206.5 Change in meeting plans after notice.

(a) Following notice of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

(b) Following notice of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) There must be a majority, recorded vote of the Board members that Board business requires the change and that no earlier announcement of such changes was possible; and

(2) there must be a notice of the change in the FEDERAL REGISTER and of the individual Board Members' votes at the earliest practicable time.

##### § 1206.6 Determination to close meeting.

(a) *Basis:* The Board, by majority vote, may determine to close a meeting in accordance with the provisions of 5 U.S.C. 552b(c)(1-9) and where it is in the public interest.

(b) *General Counsel Certification:* Where the Board has determined that a meeting shall be closed in whole or in part, the General Counsel shall certify the propriety of doing so and state the basis therefor.

(c) *Vote:* Where the Board has voted to close a meeting, within one day of such vote the Board shall make publicly available a record reflecting the vote of each Member on the question. In addition, within one day of any vote which closed a portion or portions of a meeting to the public, the Board shall

make publicly available a full written explanation of its decision to close together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

##### § 1206.7 Record of meetings.

(a) *Closed Meeting:* Where the Board has determined that a meeting shall be closed in whole or in part the following record shall be maintained:

(1) a transcript or recording of the proceeding;

(2) a copy of the General Counsel's certification;

(3) a statement from the presiding official setting forth the time and place of the meeting and the persons present; and

(4) a recordation of all votes and all documents considered (which may be part of the transcript).

(b) *Open Meetings:* Transcripts or other recordings shall be made of all open meetings of the Board and shall be made available upon request at actual cost.

##### § 1206.8 Provision of information to the public.

Information available to the public under this part shall be made available at the Office of the Secretary, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419. Individuals or organizations having a special interest in activities of the Board may submit a request with the Office of the Secretary to be placed on a mailing list for receipt of information available under this part.

##### Subpart C—Conduct of Meetings

##### § 1206.11 Meeting place.

Meetings shall be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room designated, alternative facilities shall be made available to the extent possible.

##### § 1206.12 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited to do so. Observers may not create distractions which interfere with the conduct and disposition of Board business and may be asked to leave if they do so. For the portions of meetings which are partially closed, observers shall leave the meeting room upon request.

[FR Doc. 79-9092 Filed 3-22-79; 8:45 am]



[6325-20-M]

**MERIT SYSTEMS PROTECTION BOARD**

[Docket No. 79-1 Notice 1]

[5 CFR Parts 1200-1202]

**ORGANIZATION AND PROCEDURES**

AGENCY: Merit Systems Protection Board.

ACTION: Proposed rule.

**SUMMARY:** These proposed regulations published for public comment set forth the adjudicatory procedures of the Board. The purpose of the proposed regulations is to inform Federal agencies and employees as to the procedures for processing appeals and cases of original jurisdiction before the Board. Public comments are invited on the procedures.

**DATE:** Written comments will be accepted on or before May 22, 1979.

**ADDRESS:** Comments should be addressed to the Office of the Secretary, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

**FOR FURTHER INFORMATION CONTACT:**

Alan Greenwald or Deborah House (202-653-7101).

**SUPPLEMENTARY INFORMATION:** Section 1205(g) of Title 5 of the United States Code authorizes the Merit Systems Protection Board to prescribe such regulations as may be necessary for the performance of its functions. Pursuant to that provision, on March 20, 1979 the Board approved the issuance of these proposed regulations to establish procedures necessary for the Board to carry out its adjudicatory duties as prescribed by the Civil Service Reform Act of 1978 (Pub. L. 95-454).

Public comment on these proposed regulations is both encouraged and welcomed. All comments received prior to May 22 will be considered in the formulation of final regulations. Comments received by the Board will be available for public inspection at the Board during normal business hours.

The promulgation of these proposed regulations is without effect on the interim regulations published in the *FEDERAL REGISTER* on January 19, 1979 (44 FR 3946) which will continue to be applied until their expiration on June 30, 1979 or upon the effective date of final regulations prior to June 30th.

Accordingly, it is proposed to establish 5 CFR Parts 1200-1202 in the manner set forth below.

**PROPOSED RULES**

Issued on March 20, 1979 at Washington, D.C.

RUTH T. PROKOP,  
Chair, Merit Systems  
Protection Board.

**SUBCHAPTER A: MERIT SYSTEMS PROTECTION BOARD****PART 1200—BOARD ORGANIZATION****Subpart A—General**

- Sec.  
1200.1 The Board.  
1200.2 The Chair, Vice Chair.

**Subpart B—Office of the Board [Reserved]****PART 1201—PRACTICE AND PROCEDURE****Subpart A—Jurisdiction and Definitions****GENERAL**

- 1201.1 Scope.  
1201.2 Original jurisdiction: definition and application.  
1201.3 Appellate jurisdiction: definition and application.  
1201.4 General definitions.

**Subpart B—Hearing Procedures for Appellate Cases****GENERAL**

- 1201.11 Scope and policy.  
1201.12 Suspension, revocation, amendment or waiver of rules.

**PETITIONS FOR REVIEW OF AGENCY ACTION, PLEADINGS**

- 1201.21 Notice of rights to appeal.  
1201.22 Filing of petition for appeal, response.  
1201.23 Computation of time.  
1201.24 Content of petitions, request for hearing.  
1201.25 Number of pleadings: proof of service.  
1201.26 Class appeals.

**PARTIES, PRACTITIONERS, WITNESSES**

- 1201.31 Representation.  
1201.32 Witnesses: right to representation and exclusion.  
1201.33 Federal witnesses.  
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1201.52 Public hearings.  
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1201.55 Motions.  
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**EVIDENCE**

- 1201.61 Service of documents.  
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1201.63 Production of evidence by order of presiding official.  
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1201.65 Admission of facts and genuineness of documents.  
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1201.83 Service.  
1201.84 Return of service.  
1201.85 Enforcement.

**INTERLOCUTORY APPEALS**

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1201.102 Prohibition against ex parte communications.  
1201.103 Permissible ex parte communications.  
1201.104 Sanctions for prohibited ex parte communications.

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1201.113 Finality of decision.  
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1201.116 Filing of petition.  
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**Subpart C—Hearing Procedures for Original Jurisdiction Cases****ACTIONS BROUGHT BY THE SPECIAL COUNSEL**

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**PART 1202—STATUTORY REVIEW BOARDS**

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AUTHORITY: 5 U.S.C. 1205(g).

**SUBCHAPTER A: MERIT SYSTEMS PROTECTION BOARD****PART 1200—BOARD ORGANIZATION****Subpart A—General****§ 1200.1 The Board.**

The Merit Systems Protection Board ("the Board") is composed of three Members who are appointed by the President with the advice and consent of the Senate, and whose terms are for a period of seven years.

**§ 1200.2 The Chair, Vice Chair.**

One of the Members of the Board shall be designated from time to time by the President, with the advice and consent of the Senate, to serve as the Chair and chief executive and administrative officer of the Board. From time to time the President shall also designate one of the Members of the Board to serve as Vice Chair. In the absence or disability of the Chair, or when the Office of Chair is vacant, the Vice Chair shall perform the functions vested in the Chair. During the absence or disability of both the Chair and Vice Chair, or when their offices are vacant, the remaining Board Member shall perform the functions vested in the Chair.

**Subpart B—Offices of the Board [Reserved]****PART 1201—PRACTICE AND PROCEDURE****Subpart A—Jurisdiction and Definitions****GENERAL****§ 1201.1 Scope.**

The Board exercises two types of jurisdiction, original and appellate.

**§ 1201.2 Original jurisdiction: definition and application.**

The Act confers upon the Board original jurisdiction over: (a) actions brought by the Special Counsel (5

U.S.C. 1206(c)(1)(B) (g)(1), (h) and 1207(d)); (b) requests for stays of certain personnel actions (5 U.S.C. 1208); (c) actions against administrative law judges (5 U.S.C. 7521); and (d) requests for informal hearings in cases of removal from the Senior Executive Service (5 U.S.C. 3592).

**§ 1201.3 Appellate jurisdiction: definition and application.**

(a) The Board has appellate jurisdiction over cases specified in the Act where there have been prior actions or proceedings within an agency. In addition to the original jurisdiction described in § 1201.2, the Act confers upon the Board appellate jurisdiction over: (1) actions based upon removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less (5 U.S.C. 7513(d)); (2) actions otherwise appealable to the Board and involving an allegation of discrimination (5 U.S.C. 7702); (3) certain action relating to the Senior Executive Service (5 U.S.C. 7543(d); and 413(j) of Pub. L. 95-454); (4) actions involving reinstatement of preference eligibles (38 U.S.C. 2023); (5) removal or reduction in grade of competitive or preference eligible employees (5 U.S.C. 4303(e)); (6) denial of grade step increases (5 U.S.C. 5335(c)); and (7) those actions for which jurisdiction may be properly granted by regulations of the Office of Personnel management (OPM).

(b) The Board may not hear matters under sections 4303 and 7512 where the aggrieved employee has elected to utilize a negotiated grievance procedure rather than the appellate procedures of section 7701. This election does not, however, prejudice the right of the employee to request review pursuant to section 7702 of any final decision otherwise appealable to the Board involving discrimination. (5 U.S.C. 7121 (d) and (e)).

**§ 1201.4 General definitions.**

(a) *Presiding official:* This term means any person designated by the Board to preside over any hearing or to make a decision on the record under this chapter, including: a hearing officer, an administrative law judge, the Board, or any of the Members of the Board.

(b) *The Act:* This term means the Civil Service Reform Act of 1978 (Pub. L. 95-454).

(c) *Pleadings:* This term refers generally to briefs, motions, petitions, and the like.

(d) *Appropriate field office:* The appropriate field office is that office listed in Appendix II in the area where the appellant's duty station was located when the agency action was taken.

**Subpart B—Hearing Procedures for Appellate Cases****GENERAL****§ 1201.11 Scope and policy.**

The rules in this subpart apply to appellate proceedings of the Board. These rules also apply to original jurisdiction proceedings of the Board except as otherwise provided. It is the policy of the Board that these rules shall be applied in a manner which expedites the processing of each case, but with due regard to the right of all parties.

**§ 1201.12 Suspension, revocation, amendment or waiver of rules.**

Under 5 U.S.C. 1205(g), the Board, acting on its own motion or on petition, may, revoke, amend, or waive in whole or in part, any of these rules as they apply generally to all cases. The Board may take such action on its own motion or petition. *Provided however,* that a presiding official may waive a rule for an individual case for good cause shown.

**PETITIONS FOR REVIEW OF AGENCY ACTION, PLEADINGS****§ 1201.21 Notice of rights to appeal.**

At the time an agency serves a decision notice on an individual in any matter falling within the appellant jurisdiction of the Board, it shall provide that individual with the following:

(a) Notice of the time limits for appealing to the Board under these regulations and the address of the appropriate Merit Systems Protection Board field office for filing such an appeal;

(b) Access to a copy of the Board regulations; and

(c) A copy of the appropriate form for filing an appeal as contained in Appendix II to these regulations.

**§ 1201.22 Filing of petition for appeal, response.**

(a) *Place of filing:* Petitions for appeal to the Board shall be filed at the appropriate Board field office.

(b) *Time of filing:* The petition shall be filed in the designated place no later than twenty calendar days after the effective date of the agency action complained of, or the appellant's receipt of the decision notice of the appealable action, whichever is later. Petitions received from outside of the contiguous 48 states, however, shall be deemed timely filed if received within thirty days after appellant's receipt of notice of an appealable action or the effective date of the action, whichever is later. The agency shall file the record of the agency proceeding and such responsive pleadings, and other documentation as may be required to adjudicate the case fairly and completely within 5 work days of the re-



ceipt of the petition for appeal by the agency. Failure of the agency to provide responses as required by this section may result in the application of sanctions by the presiding official as set forth in § 1201.43. For purposes of this section, filing shall mean receipt of the document by the field office.

#### § 1201.23 Computation of time.

In computing the time for filing pleadings, the day of the event, action, or failure to act, from which the designated time period begins to run shall not be counted. The last day of the period so computed shall be counted unless it is a Saturday, Sunday, or Federal legal holiday, in which case the time period shall include the next day which is not a Saturday, Sunday, or Federal legal holiday. When the time period prescribed or allowed under these regulations or by order of the presiding official is less than seven (7) days, the time computation shall exclude intervening Saturdays, Sundays and Federal legal holidays. When these regulations require the filing of any petition for appeal or review, such petition must be received at the field office before the close of business of the last day of the time limit for such filing.

#### § 1201.24 Content of petitions, request for hearing.

##### (a) Petitions:

(1) All petitions shall contain the following information and be signed by the appellant or his/her representative:

- (i) Name of the agency involved;
- (ii) Date of the agency decision notice and the effective date of the action;
- (iii) The action taken by the agency;
- (iv) A request for hearing if so desired;
- (v) A statement setting forth with particularity the reasons why the appellant believes the action of the agency to be wrong and the evidence for these conclusions including the identification of any regulations or laws alleged to have been violated and the parties involved;
- (vi) A statement of the action which appellant would like the presiding official to order; and
- (vii) A designation of appellant's representative (if any).

A failure to raise a claim or defense in the petition shall not bar the raising of that claim or defense at a later date unless to do so would prejudice the rights of the other parties or unduly delay the proceedings.

##### (b) Use of form:

Completion of the form in Appendix II to these regulations shall constitute compliance with subsection (a) and § 1201.31, if a representative is designated in the form.

##### (c) Request for hearing:

(1) An appellant under U.S.C. 7701 is entitled to a hearing. The appellant may, however, choose to have the presiding official's determination made on the written record.

(2) An agency may request a hearing or the presiding official may hold one on his/her own motion.

#### § 1201.25 Number of pleadings: proof of service.

(a) *Number:* Two copies of all pleadings and attachments must be filed with the field office. Pleadings must be signed by the submitting party and must be served on all parties.

(b) *Service:* Service on parties or their representatives can be made either by mail or personal delivery.

(1) *Mail:* Service by mail is accomplished by mailing copies to all parties or their representatives at the address provided by appellant on his/her petition or by the agency in its decision notice. Copies must be deposited in a public United States Postal Service mailbox and must contain a Certificate of Service.

(2) *Personal delivery:* Service by personal delivery is accomplished by delivering the pleading to the business office or home of the person to whom it is addressed and leaving it with a responsible person at that address.

(3) *Certificate of Service:* An acceptable form for the Certificate of Service is set forth as part of the form printed as the Appendix to these regulations.

#### § 1201.26 Class appeals.

(a) *Prerequisites.* One or more appellants may file an appeal as representative parties on behalf of all appellants only if: (1) the class is so numerous that joinder of all appellants is impractical; (2) there are questions of law or fact common to the class; (3) claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will inadequately protect the interest of the class.

(b) *Class Appeal Maintainable.* An appeal may be maintained as a class appeal if the prerequisites of subsection (a) are satisfied and in addition: (1) the presiding official finds the questions of law or fact common to members of the class are predominant over any questions affecting only individual members; and (2) that a class appeal is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(i) The interest of the members of the class in individually controlling the prosecution of separate appeal;

(ii) The extent and nature of any appeals concerning the controversy al-

ready commenced by members of the class;

(iii) The desirability or undesirability of concentrating the appeals in the office of the particular presiding official;

(iv) Difficulties likely to be encountered in management of a class appeal.

(c) *Procedure.* (1) Within thirty (30) days after the commencement of a class appeal the presiding official shall determine by order whether it is to be so maintained. An order under this subsection may be conditioned and may be altered or amended before the decision on the merits.

(2) The presiding official shall direct the agency to identify all members of the class and provide notice to each class member advising him/her that: (i) the presiding official will remove him/her from the class if he/she so requests by a specified date; (ii) a decision favorable or not will include all members who do not request exclusion; and (iii) any member of the class who does not request exclusion may appear in the proceeding.

(3) Decisions on class appeals shall describe particular appellants which the presiding official finds to be members of the class.

(4) The class appeal may be brought or maintained with respect to particular issues or a class may be divided into subclasses with each subclass treated as a class.

(5) Each member of the class shall be notified of any hearing in the class appeal.

(6) Class appeals shall not be dismissed or compromised without the approval of the presiding official and notice of the proposed dismissal or compromise shall be given to all members of the class.

#### PARTIES, PRACTITIONERS, WITNESSES

##### § 1201.31 Representation.

(a) All parties to an appeal may be represented in any matter relating to the appeal. The parties shall designate their representatives, if any, in the petition for appeal or responsive pleading. Any subsequent changes in representatives shall also be in writing and served on all other parties.

(b) A party may choose anyone he/she wishes to serve as his/her representative so long as the person is willing and able to serve. However, the other party or parties may challenge the representative on the grounds of conflict of interest. This challenge must be made by motion to the presiding official within seven (7) calendar days after receipt of the notice of designation, and shall be ruled upon prior to consideration of the case on the merits. These procedures apply equally to original and subsequent designations of representatives. In the event that the selected representative is dis-

qualified, the party affected shall be given adequate time to obtain another representative.

(c) The presiding official, on his/her own motion, may disqualify a party's representative on the same grounds as described above.

#### § 1201.32 Witnesses: right to representation and exclusion.

(a) Witnesses shall have the right to representation when testifying.

(b) A party may request by motion that a non-party witness be excluded from the hearing room to avoid prejudicing subsequent testimony or where the witness' presence may have a prejudicial chilling effect on the testimony of any other witness.

#### § 1201.33 Federal witnesses.

Every Federal agency shall make its employees available to furnish sworn statements or to appear as witnesses at the hearing when requested by the presiding official. When making such statements or testimony, witnesses shall be in official duty status as provided under Executive Order 12107.

#### § 1201.34 Intervenor.

(a) *Intervention by OPM:* Pursuant to 5 U.S.C. § 7701(d)(1), the Director of OPM ("the Director") may intervene as a matter of right if:

(1) The interpretation or application of any civil service law, rule or regulation, under the jurisdiction of OPM is at issue; and

(2) The Director is of the opinion that an erroneous decision would have a substantial impact on any Civil Service law, rule, or regulation under the jurisdiction of the Office. Such intervention shall be made at the earliest practicable time in order not to prejudice the parties or unduly delay the proceeding.

(b) *Intervention of the Special Counsel:* Pursuant to 5 U.S.C. 1206(i), the Special Counsel may intervene as a matter of right in any proceeding before the Board. Such intervention shall be made at the earliest practicable time in order not to prejudice the parties or unduly delay the proceedings.

##### (c) Permissive intervention:

(1) In accordance with the following rules, any person whose interests may be directly affected by the outcome of a proceeding before the Board may petition the presiding official for permission to intervene.

(i) The petitions shall be served on all parties and shall clearly set forth the reasons why the petitioners should be permitted to intervene.

(ii) It shall be solely within the discretion of the presiding official to grant or deny the petition. An order to permit intervention shall specify the

issue(s) regarding which the intervenor may participate.

(2) A permissive intervenor in a proceeding shall have all the rights and obligations of the other parties except that:

- (i) The scope of participation may be limited to certain issues;
- (ii) The intervenor shall not have an independent right to a hearing; and
- (iii) The intervenor shall not have the right to appeal the decision of the presiding official, provided however, that the intervenor may petition the Board to participate if a petition for review is filed.

#### § 1201.35 Substitution.

If a party to an appeal dies or is otherwise unable to pursue the action, the appeal shall be processed to completion upon substitution of the successor-in-interest to the rights of the party, provided the interests of the original party have not been rendered moot.

#### § 1201.36 Consolidation or joinder.

(a) If the presiding official believes that consolidation or joinder of cases would result in more expeditious processing of the appeals and would not adversely affect any party, he/she may, after giving the parties opportunity to object, consolidate the cases and hear and decide them concurrently. In so doing the presiding official may:

- (1) Join appeals filed by two or more appellants; or
- (2) Consolidate two or more appeals filed by the same appellant.

#### § 1201.37 Fees.

(a) *Attorney fees:* Except as provided in subparagraph (1) of this section, the presiding official may require payment by the agency involved of reasonable attorney fees incurred by an appellant if he/she is the prevailing party and payment by the agency is warranted in the interest of justice, including any cases in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

(1) If an appellant is the prevailing party and the decision is based on a finding of discrimination prohibited under 5 U.S.C. 2302(b)(1), the payment of attorney fees shall be in accordance with the standards prescribed under 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

(2) Requests for payment of attorney fees shall be made by motion within seven days of the filing of an initial decision in favor of the appellant. The agency may file a responsive pleading within seven days of receipt of appellant's motion. The ruling of

the presiding official shall be made an addendum to the initial decision.

##### (b) Witness fees:

(1) *Federal employees:* Employees of any Federal agency testifying in any proceeding before the Board or making a statement for the record shall be in official duty status and shall not receive additional witness fees. Payment of travel and per diem expenses shall be governed by applicable regulations of OPM and the Federal Travel Regulations of the General Services Administration.

(2) *Other witnesses:* Witnesses who are not covered by subsection (1) of this section are entitled to the same witness fees as those paid subpoenaed witnesses under 28 U.S.C. 1821.

(3) *Payment of witness fees:* Witness fees shall be paid by the party requesting the presence of the witness and shall be tendered to the witness at the time the subpoena is served, or, where the witness appears voluntarily, at the time of appearance.

#### PRESIDING OFFICIALS

##### § 1201.41 Authority of presiding official.

Presiding officials shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by statute or regulation, including the authority to:

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas in accordance with § 1201.81 of this Part;
- (c) Rule upon offers of proof and receive relevant evidence;
- (d) Rule upon the institution of discovery procedures as appropriate in accordance with § 1201.73;
- (e) Regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaged in contemptuous conduct or otherwise disrupting the proceeding, any witness whose presence may adversely affect the testimony of any other witness, or any witness who may testify in the future;

(f) Consider and rule upon all procedural and other appropriate motions, witness and exhibit lists, proposed findings;

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;

(h) Order the production of evidence relevant to the issues to be resolved in the hearing;

(i) Impose sanctions as provided under § 1201.43 of this Part;

(j) File initial decisions; and

(k) To take any other action authorized by these rules.



#### § 1201.42 Disqualification of presiding official.

(a) In the event that a presiding official deems himself/herself disqualified he/she shall withdraw from the case stating on the record the reasons therefor and immediately notify the Board of the withdrawal.

(b) Any party may request the presiding official to withdraw on the grounds of personal bias or other disqualification.

(1) The party seeking disqualification shall file with the presiding official an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. Such affidavit shall be filed not later than five days before the commencement of the hearing.

(2) The presiding official may file a response to the affidavit, and if he/she believes himself/herself not disqualified, shall so rule and proceed with the hearing.

(3) The person seeking disqualification may except to a ruling of non-disqualification and, in that event, shall do so within three days after receipt of the ruling is made. Unless exception is taken to the ruling at this time, the right to request withdrawal of the presiding official shall be deemed to have been waived.

(4) If exception to the ruling is taken, the presiding official shall immediately certify the question, and transmit the record to the Board. The hearing shall be suspended pending a ruling on the question by the Board.

(5) The Board may rule on the question without hearing, or it may require testimony or argument on the issues raised.

(6) The affidavit, response, testimony or argument thereon, and the Board's decision shall be part of the record in the case.

#### § 1201.43 Sanctions.

The presiding official may impose any necessary sanctions upon the parties as will serve the ends of justice including but not limited to:

(a) *Failure to comply with an order:* In the absence of good cause shown, if a party fails to comply with an order, including an order for the taking of a deposition; the production of evidence within the party's control; a request for admission; and production of a witness, the presiding official may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) Prohibit the party failing to comply with such order from introducing evidence of, or otherwise relying upon testimony relating to, the information sought;

(3) Permit the requesting party to introduce secondary evidence of the information sought; and

(4) Strike any part of the pleadings or other submission of the party failing to comply with such request pertaining thereto.

(b) *Failure to prosecute:* If a party fails to prosecute his/her case or defend an appeal the presiding official may dismiss the action with prejudice or rule for the appellant.

(c) *Failure to make timely filing:* The presiding official may refuse to consider any motion or other action which is not filed in a timely fashion in compliance with this part.

(d) *Failure to make service:* The presiding official may refuse to consider any motion or other action which is not properly served on all parties. A failure to meet technical requirements of service under this part will not affect the rights of any parties if service was actually completed and the rights of the party being served were not prejudiced.

#### HEARINGS

##### § 1201.51 Scheduling the hearing.

The notice of initial hearing shall fix the date, time and place of the hearing. The hearing shall be scheduled not earlier than ten calendar days after the date of the notice, *provided however*, that this requirement may be waived upon agreement of the parties. All parties shall attend the hearings for the purpose of fully developing the record. The agency, upon request of the presiding official, shall provide adequate hearing facilities. Motions for postponement by either party shall be made in writing and shall be granted only upon a verified showing of good cause.

##### § 1201.52 Public hearings.

Hearing shall be public, *provided however*, that the presiding official may order part of a hearing closed, where to do so would be in the best interest of the appellant, a witness, the public or other affected persons. The order shall set forth the reasons for the hearing officer's decision to close a hearing, and any objections thereto, shall be made a part of the record.

##### § 1201.53 Transcript.

(a) *Preparation:* Every hearing shall be recorded verbatim under the supervision of the presiding official and shall be the sole official transcript of the proceeding. A copy of the transcript shall be made available to each party; intervenors and other interested parties shall be furnished a copy at their own cost.

(b) *Corrections:* Corrections of the official transcript will be permitted upon motion. Motions for correction must be submitted within ten days of the issuance of the transcript. Corrections of the official transcript will be

permitted only when errors of substance are involved and only upon approval of the presiding official.

##### § 1201.54 Official record.

The transcript of testimony and exhibits, together with all papers and motions filed in the proceeding shall constitute the exclusive and official record.

##### § 1201.55 Motions.

(a) All motions shall be filed with and decided by the presiding official when such decision is within his/her authority.

(b) All motions shall be in writing, shall state the particular order desired and the basis therefor, and shall be served on all parties. The presiding official may waive the requirement for a written submission if it is made during the course of the hearing.

(c) Motions for extension of time will be granted only for good cause shown.

##### § 1201.56 Burden and degree of proof.

(a) *Burden of proof:*

(1) Pursuant to Section 7701(c)(2) of the Act, the agency's decision shall not be sustained by the presiding official if the employee can demonstrate that the decision of the agency:

(i) Was based upon harmful error in the application of the agency's procedures in arriving at the decision;

(ii) Was based upon a prohibited personnel practice as set forth in Section 2302(b) of the Act; or

(iii) Was not otherwise in accordance with law or applicable OPM regulations.

(b) In the absence of the appellant's ability to demonstrate the above, the decision of the agency must be sustained by the Board pursuant to Section 7701(b)(1) of the Act if:

(1) It is brought under § 4303 of the Act and can be supported by substantial evidence, or

(2) It is any other type of case and is supported by a preponderance of the evidence.

(c) For purposes of this section, the following definitions shall apply:

(1) *Substantial Evidence:* That degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as adequate to support a conclusion that the matter asserted is true.

(2) *Preponderance of the Evidence:* That degree of relevant evidence which a reasonable mind might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

(3) *Harmful error:* Error by the agency in the application of its procedures which, in the absence or cure of the error, would have caused the agency to reach a conclusion different

than the one reached. The burden is upon the appellant to show that the harmful error caused substantial harm or prejudice to his/her rights.

(d) *Moving forward:*

In cases where action has been taken against an employee by the agency, the agency shall present its case first. The appellant may then present evidence, *provided however*, that the appellant shall have the burden of proof as to issues of jurisdiction and timeliness of filing.

##### § 1201.57 Closing the record.

(a) When there is a hearing, the record shall be closed at the conclusion of the hearing except that, when the presiding official allows the parties to submit argument or briefs or documents previously identified for introduction into evidence, the record shall be left open for such time as the presiding official grants for that purpose.

(b) If the appellant waives a hearing, the record shall be closed on the date set by the presiding official as the final date for the receipt of representations of the parties to the matter.

(c) Once the record is closed, no additional evidence or argument shall be accepted into the record except upon a showing that new and material evidence which was not readily available prior to the closing of the record becomes available. *Provided however*, that the presiding official shall make part of the record any motions for attorneys fees and supporting documentation.

#### EVIDENCE

##### § 1201.61 Service of documents.

All documents referred to in the pleadings shall be served upon all parties to the proceeding in the same manner as pleadings, to the extent practicable. Exception to this rule shall be made for medical evidence which a prudent physician would hesitate to release to a patient. Such evidence shall be made available only to a duly licensed physician designated by the appellant or his/her representative.

##### § 1201.62 Admissibility.

(a) Evidence or testimony may be excluded from consideration by the presiding official if it is unduly repetitious, irrelevant, or immaterial.

(b) All evidence and testimony or, where appropriate a description thereof, offered in the hearing, but excluded by the presiding official, shall be made a part of the record.

##### § 1201.63 Production of evidence by order of presiding official.

At any stage of a hearing, the presiding official may request further evi-

dence upon an issue and require its submission.

##### § 1201.64 Production of statements.

After a witness has given direct testimony in a hearing, any party may move for production of a statement of such witness, or part thereof relevant to his/her direct testimony, which has been reduced to writing and signed by the witness and is in the possession of the party calling the witness. If the party decline to furnish the statement, the testimony of the witness pertaining to the requested statement may be stricken.

##### § 1201.65 Admission of facts and genuineness of documents.

(a) The presiding official may order any party to respond to the requests for the admission of the genuineness of any relevant documents identified within the request or the truth of any relevant matters of fact or law as set forth in the request.

(b) Within the time period prescribed by the presiding official, the party on whom the request is served must serve upon all parties;

(1) A sworn statement specifically denying or admitting or expressing a lack of knowledge regarding the specific matters on which an admission is requested.

(2) An objection to the request in whole or in part on the ground that the matters contained therein are privileged, irrelevant or otherwise improper.

##### § 1201.66 Stipulations.

The parties may stipulate as to any matter of fact or law except the jurisdiction of the Board. Such a stipulation will satisfy a party's burden of proving the alleged fact.

##### § 1201.67 Official notice.

The presiding official on his/her own, or on motion of a party, may take official notice of matters of common knowledge or certain verification, *provided however*, that the parties must be advised and given the opportunity to oppose the propriety of taking such notice, and any notice must be noted in the record. Official notice satisfies a party's burden of proving the fact noticed.

#### DISCOVERY

##### § 1201.71 Statement of purpose.

It is the intent of the Board that all proceedings will be conducted as expeditiously as possible with due regard to the rights of the parties. With regard to discovery these two considerations require that a careful balance be established between avoiding unproductive delay in adjudication and obtaining that information essential to per-

fect the record. Accordingly, the discretion of the presiding official must be carefully exercised in determining the necessity for discovery.

##### § 1201.72 Scope.

Any person may be examined regarding any non-privileged matter, which is relevant to the hearing issue, including the existence, description, nature, custody, condition and location of documents or other tangible things and the identity and location of persons having knowledge of relevant facts.

##### § 1201.73 Orders for discovery.

(a) *Request for order:* Motions for orders to take deposition or to respond to written interrogatories under 5 U.S.C. § 1205(b)(2)(B) shall be submitted to the presiding official.

(b) *Ruling:* Where the presiding official does not have the authority to issue the requested order, the motion shall be transmitted with a recommendation for decision to the officer on duty. This officer shall be either an administrative law judge or a Member of the Board, with authority to grant or deny such requests, and shall promptly rule on the request. Where the presiding official has the authority to do so, he/she shall rule directly on the request. This order shall include, where appropriate:

(1) Provision for notice to the party to be orally deposed as to the time and place of such deposition;

(2) Placement of any limitations on the conduct of the proceeding or the subject matter necessary to protect any party or deponent from expense, embarrassment or oppression;

(3) Placement of any limitations upon the time for deposition; submission of or answer to written interrogatories; or production of evidence; and

(4) Any other restrictions upon the discovery procedures as determined by the presiding official.

##### § 1201.74 Taking of depositions.

Depositions may be taken before a presiding official, or a notary public not interested in the outcome of the proceeding.

##### § 1201.75 Rules governing discovery procedures.

Because discovery in matters before the Board is intended to be of a simplified nature, procedures are not set forth in great detail. To the extent, however, that the nature of discovery in a case required further guidance, the presiding official and parties may refer to the Federal Rules of Civil Procedure. Such rules should be interpreted as being instructive rather than controlling.



## PROPOSED RULES

## SUBPENAS

## § 1201.81 Motions for subpoenas.

(a) *Motions for subpoena:* Motions for the issuance of subpoenas requiring the attendance and testimony of witnesses or the production of documents or other evidence under 5 U.S.C. 1205(b)(2)(A) shall be submitted to the presiding official.

(b) *Form:* Motions for a subpoena shall be submitted in writing, shall be served on all parties, and shall specify with particularity the books, papers and documents desired and the facts expected to be proven thereby.

(c) *Rulings:* Where the presiding official does not have the authority to issue subpoenas, the motion shall be transmitted with a recommendation for decision to the officer on duty. Such officer, shall be either an administrative law judge or a Member of the Board, with authority to grant or deny such requests, and shall promptly rule on the request. Where the presiding official has the authority to do so, he/she shall rule directly on the request.

(d) All requests for subpoenas shall be supported by a showing of the general relevance and reasonable scope of the evidence sought.

## § 1201.82 Motions to quash.

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope. This motion shall be filed with the presiding official and shall be processed, where appropriate, as set forth in subsection (c).

## § 1201.83 Service.

Service of subpoena may be made by a United States Marshall or Deputy Marshall, by Board personnel, or by any person who is not a party to the hearing and who is over 18 years of age.

## § 1201.84 Return of service.

The service of a subpoena by a person other than a United States Marshall or Deputy Marshall shall be attested to by the person making such service. The attesting affidavit shall state the date, time and method of making service.

## § 1201.85 Enforcement.

In the case of contumacy or failure to obey a subpoena issued, the Board, pursuant to 5 U.S.C. 1205(c), may request enforcement of the subpoena in the United States District Courts. Application for enforcement of the subpoena shall be made by the General Counsel of the Board.

## INTERLOCUTORY APPEALS

## § 1201.91 Interlocutory appeals.

Because of the expedited nature of the proceedings, interlocutory appeals shall not be entertained by the Board unless specifically provided for by these regulations. Objection to any ruling of a presiding official shall be noted on the record and may be raised to the Board in a petition for review.

## EX PARTE COMMUNICATIONS

## § 1201.101 Definitions.

(a) *Ex parte communication:* Any written presentation made to the decision-making personnel of the Board during the course of a restricted proceeding in the absence of service on the parties to the proceeding or any oral presentation made during the course of a restricted proceeding in the absence of advance notice to the parties.

(b) *Restricted proceeding:* All adjudicative proceedings, from the time they are filed until the time they are no longer subject to review or reconsideration by the Board.

(c) *Interested persons:* Any person having a direct or indirect interest in the outcome of a restricted proceeding, including the following:

(1) Parties to the restricted proceeding.

(2) Any other person who might be aggrieved or adversely affected by the outcome of the restricted proceeding.

(3) Agents for persons who might be aggrieved or adversely affected by the outcome of the restricted proceeding, including attorneys and other representatives.

(d) *Decision-making Board personnel:* The term "decision-making personnel" includes any presiding official and his/her immediate staff or other Board employee who participates, or can reasonably be expected to participate, in the initial decision-making process on review or reconsideration.

## § 1201.102 Prohibition against ex parte communications.

No interested person shall, in a restricted proceeding, make or knowingly cause to be made, any ex parte communications to decision-making personnel which relate to the merits of any action or any facts or questions of law at issue.

## § 1201.103 Permissible ex parte communications.

The following ex parte communications shall not be considered to be ex parte communication prohibited by the provisions of this subpart:

(a) Any request for information which does not relate to the merits of an action or any facts or questions of law at issue; and

(b) Any communication from an agency of the Federal government involving classified security information.

## § 1201.104 Sanctions for prohibited ex parte communications.

(a) *Parties:* To the extent consistent with the interests of justice and the public, a party who has made an ex parte presentation may be required to show cause why his/her claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected.

(b) *Board Personnel:* Violations of the provisions of this subpart by Board personnel will be treated in accordance with the established Standards of Conduct.

(c) *Other persons:* Such sanctions as may be appropriate under the circumstances will be imposed upon other persons who violate the provisions of this subpart.

## FINAL DECISIONS

## § 1201.111 Initial decisions by presiding officials.

(a) The presiding official shall prepare an initial (or recommended) decision within 25 days of the closing of the record. Such initial decision shall be immediately transmitted to the Secretary of the Board, to the Director of OPM and to all parties to the appeal.

(b) Each initial decision shall contain:

(1) Findings of fact and conclusions, as well as the reasons or bases therefor, upon all the material issues of fact and law presented on the record;

(2) An order as to the final disposition of the case, including appropriate relief; and

(3) The date upon which the decision will become effective.

## § 1201.112 Jurisdiction of the presiding official.

The jurisdiction of the presiding official other than the Board shall cease after he/she has filed the initial decision, *provided however*, that he/she shall retain limited jurisdiction over the proceeding for the purpose of correcting the transcript and ruling on any request made by the appellant for attorney fees.

## § 1201.113 Finality of decision.

The initial decision of the presiding official shall become final 30 days after receipt.

(a) *Exceptions:* The initial decision shall not become final if any party files a petition for review or the Board reopens the case.

(b) *Petition for review denied:* Where all petitions for review are denied by the Board, the initial decision shall become final on the date of the denial.

(c) *Petition for review granted or case reopened:* Where a petition for review is granted or the Board reopens a case the decision of the Board shall be the final decision.

## § 1201.114 Exhaustion of administrative remedies.

(a) *Petition for review denied:* Where all petitions for review have been denied, administrative remedies shall be deemed to have been exhausted on the date of denial.

(b) *Petition for review granted or case reopened:* Where a petition(s) for review has been granted or the case reopened, administrative remedies shall be deemed to have been exhausted on the date of issuance of the final decision of the Board.

(c) *Petition for review not filed, case not reopened:* Where on the 30th day after receipt of decision, no petition(s) for review has been filed and the Board has not reopened the case, administrative remedies shall be deemed to have been exhausted.

## § 1201.115 Petitions for review: contents.

The petitions for review shall contain exceptions to the decision of the presiding official. The basis for each exception shall be clearly set forth and shall include the laws, rules or regulations relied upon in support of the petition with specific reference to the record. The Board may grant a petition for review when the party requesting review submits written argument and supporting documentation tending to establish that:

(a) New and material evidence is available that despite due diligence was not available when the decision of the presiding official was issued; or

(b) The decision of the presiding official is based upon an erroneous interpretation of law, rule, or regulation, or a misapplication of established policy; or

(c) The decision of the presiding official is of a precedential nature involving new or unreviewed policy considerations that may have substantial impact on a civil service law, rule, regulation or a more Government-wide policy directive.

## § 1201.116 Filing of petition.

(a) *Who may file:* Any party to the proceeding (except for a permissive intervenor) and the Director of OPM may file a petition for review. Under 5 U.S.C. 7701(e)(2) the Director may request review of a case only if he/she is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office.

## PROPOSED RULES

(b) *Time:* A petition for review of the initial decision of the presiding official must be filed within 30 days of receipt of the decision. The date of receipt of the decision shall be deemed to be the third calendar day following the date of issuance of that decision. The Board may extend the 30 day time limit for good cause shown.

(c) *Place:* A petition for review shall be filed with the Secretary to the Merit Systems Protection Board, Washington, D.C. 20419.

## § 1201.117 Board reopening and reconsideration of case.

The Board may reopen and reconsider a decision of a presiding official on its own motion at any time, notwithstanding provisions of § 1201.114(c).

## § 1201.118 Review or reopening of initial decision by Board.

(a) In any case where the Board determines to reopen or review a case on its own motion, or on the basis of a petition, it shall inform the parties, and may:

(1) Hear oral argument;

(2) Require the filing of briefs;

(3) Remand the proceedings to the presiding official to take further testimony or evidence or to make further findings or conclusions; or

(4) Take any other action necessary for final disposition of the case.

(b) The Board may affirm, reverse, remand, modify or vacate the decision of the presiding official, in whole or in part, upon review or reconsideration. Where appropriate, the Board shall issue a final decision and order a date for compliance.

## Subpart C—Hearing Procedures for Original Jurisdiction Cases

## ACTIONS BROUGHT BY THE SPECIAL COUNSEL

## § 1201.121 Compliance with hearing procedures under Subpart B.

In cases where the Special Counsel, pursuant to statute, files a complaint or request with the Board, he/she shall comply as appropriate with the regulations set forth in subpart B, regarding hearing procedures, except as otherwise provided in this subpart.

## § 1201.122 Special Counsel complaints.

If the Special Counsel determines that any of the following actions should be taken, a written complaint setting forth with particularity the supporting facts and any alleged violations of law or regulation shall be filed in duplicate with the Office of the Secretary and served on all parties:

(a) Action to require agency to take corrective action as recommended by the Special Counsel (5 U.S.C. 1206(c)(1)(B)).

(b) Action to correct a pattern of prohibited personnel practices not otherwise appealable to the Board (5 U.S.C. 1206(h)).

(c) Action to discipline employee (5 U.S.C. 1207).

## § 1201.123 Rights of employees.

An employee against whom a complaint for disciplinary action has been presented shall have the right to:

(a) File an answer to the complaint along with affidavits and documentary evidence;

(b) represented by an attorney or other representative;

(c) A hearing upon the record before the Board or an administrative law judge; and

(d) A written decision by the Board and the reasons therefor, issued at the earliest practicable date, including a copy of any final order imposing disciplinary action.

## § 1201.124 Answer.

(a) *Filing and default:* An answer to any complaint by the Special Counsel shall be filed with the Secretary of the Board within 30 days of receipt by the agency or employee. In the absence of good cause shown, failure to file an answer by an agency shall be deemed to constitute a waiver of the right to contest the allegations of the complaint. This failure shall authorize the administrative law judge or Board to find the facts alleged in the complaint to be true and to enter an initial decision.

(b) *Content:* The answer shall conform to the following:

(1) *Allegations of the complaint which are contested:* An answer shall contain, for those allegations of a complaint which are contested:

(i) A concise statement of the facts constituting each ground of defense and any documentary evidence in support thereof;

(ii) Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a complaint not thus answered shall be deemed to have been admitted.

(c) *Allegations of the complaint which are admitted:* For those allegations which the respondent elects not to contest, the answer shall consist of statements of admissions to the truth of each allegation. Such portions of an answer shall constitute a waiver of hearings as to those facts alleged in the complaint, and together with the complaint will provide a record basis for decision.

## § 1201.125 Final Orders of the Board.

(a) In any action seeking correction of a prohibited personnel practice, after providing an opportunity for



comment by the agency and OPM, the Board may order such corrective actions as it considers appropriate. (5 U.S.C. 1206(c)(1)(B)).

(b) In any action seeking correction of a pattern of prohibited personnel practices not otherwise appealable to the Board, the Board may order an agency or employee to take such corrective actions as the Board determines necessary. (5 U.S.C. 1206(h)).

(c) In any action to discipline an employee a final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment, suspension, reprimand, or an assessment of a civil penalty not to exceed \$1,000.00. (5 U.S.C. 1207).

(d) In any action seeking the withholding of federal funds pursuant to 5 U.S.C. 1508 where a state or local employee has engaged in prohibited political activities, the Board may order that federal funds to the affected state or local government be withheld.

#### § 1201.126 Request for stay.

The Special Counsel may request the Board or a Member of the Board to order a stay of any personnel action.

(a) *Content:* The request shall be signed by the Special Counsel or his/her representative and shall clearly set forth the following:

(1) The names of the parties;  
(2) The agency and officials involved;  
(3) The nature of the action to be stayed;

(4) A concise statement of the facts upon which the Special Counsel has determined there are reasonable grounds to believe that the personnel action was taken or is to be taken as a result of a prohibited personnel practice;

(5) The laws or regulations alleged to have been violated or which will be violated if the stay is not issued; and  
(6) A proposed order to be issued by the Board.

(b) *Place of filing:* A petition for stay shall be filed in duplicate with the Office of the Secretary and shall be served on all parties in accordance with these rules.

(c) *Action on the request for stay:*

(1) The Board or a Member of the Board shall order a stay for 15 days unless it is determined to be not appropriate under the facts and circumstances presented. Unless denied a request for an initial 15 day stay shall be granted within three calendar days after the date of request. The stay may be extended by the Board or a Member of the Board for up to 30 additional days upon request by the Special Counsel.

(2) Upon 5 days' notice to the Special Counsel and the agency of the opportunity for oral or written comment

as the Board deems appropriate, the Board pursuant to 5 U.S.C. 1208(c) may extend a stay for any period it deems appropriate.

(3) At any time, the Board or where appropriate, a Member of the Board, may request the Special Counsel to appear and present further information or explanation on a petition for a stay.

#### § 1201.127 Special Counsel actions heard by Administrative Law Judge.

(a) Where an action brought by the Special Counsel is heard by an administrative law judge at the direction of the Board, the decision shall be a recommended decision to the Board in accordance with 5 U.S.C. 557.

(b) Any exceptions to the recommended decision of the administrative law judge shall be filed with the Board within 20 days.

#### § 1201.128 Administrative Appeal.

No administrative appeal lies from an order of the Board.

#### ACTIONS AGAINST ADMINISTRATIVE LAW JUDGES

##### § 1201.131 Procedures.

Where, pursuant to 5 U.S.C. 7521, an agency proposed to take action against an administrative law judge appointed under 5 U.S.C. 3105, the hearing shall comply with the procedures established under subpart B, except as otherwise provided.

##### § 1201.132 Presiding official.

(a) The presiding official in all cases brought under this section shall be the Board or an administrative law judge;

(b) Where the presiding official is an administrative law judge, the decision shall be a recommended decision to the Board under 5 U.S.C. 557.

(c) Any exceptions to the decision of the administrative law judge shall be filed with the Board within 20 days.

##### § 1201.133 Board jurisdiction.

The proposed agency actions which may be heard before the Board under this provisions are limited to:

(a) A removal;  
(b) A suspension;  
(c) A reduction in grade;  
(d) A reduction in pay; and  
(e) A furlough of 30 days or less.

##### § 1201.134 Filing of complaint.

Any action against an administrative law judge shall be initiated by the filing of a complaint by the agency setting forth with particularity the facts in support of the proposed action.

##### § 1201.135 Procedure.

The administrative law judge against whom the complaint is filed shall file

an answer to the complaint in compliance with § 1201.124 of this subpart.

##### § 1201.136 Showing required.

Proposed agency actions under this section are sustainable only for good cause shown.

#### REMOVAL FROM THE SENIOR EXECUTIVE SERVICE

##### § 1201.14 Entitlement to hearing.

In the case of removal of a career appointee from the Senior Executive Service to a civil service position outside the Senior Executive Service pursuant to 5 U.S.C. 3592, when such action is based on less than fully successful performance as determined under subchapter II of Chapter 43 of title 5, United States Code, the career appointee shall, at least 15 days before the effective date of the removal, be entitled, upon request, to an informal hearing before an official appointed by the Board.

##### § 1201.142 Hearing procedures.

In an informal hearing before the Board or its designee as provided for in this section, the appointee may appear and present arguments on the record but shall not be entitled to any other procedural rights.

##### § 1201.143 Right to appeal.

No right to appeal from this action shall be available under 5 U.S.C. § 7701, nor shall the removal action be delayed as a result of this hearing.

#### Subpart D—Procedures for Cases Involving Allegations of Discrimination

##### § 1201.151 Scope and policy.

(a) *Scope.*

(1) The rules in this subpart implement 5 U.S.C. 7702. They apply to actions otherwise appealable to the Board where an employee or applicant for employment alleges that the basis for the action, in whole or in part, was prohibited discrimination.

(2) "Prohibited discrimination" as used in this subpart means that discrimination prohibited by:

(i) Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16c);  
(ii) Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(iii) Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791);

(iv) Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631a); or

(v) Any rule, regulation or policy directive prescribed under any provision of law described in (i) through (iv) above.

(b) *Policy.* It is the policy of the Board to make every effort to fairly and thoroughly adjudicate issues

raised under this subpart in the course of an action brought before the Board. Particular emphasis is to be placed on providing appellants the opportunity to raise allegations of discrimination in the appeals process and developing the evidentiary record as to the veracity thereof.

##### § 1201.152 Compliance with procedures under subpart B.

All actions involving allegations of prohibited discrimination shall comply with the provisions of subpart B of these regulations except as otherwise provided in this subpart.

##### § 1201.153 Petition.

(a) *Content:* A petition for appeal raising issues of prohibited discrimination under this subpart shall comply with the provisions of § 1201.24 with the following exceptions:

(1) The petition shall state with particularity the basis for the allegation of discrimination. This statement shall not simply allege that there was discrimination, but must, by examples or otherwise, indicate how the appellant was discriminated against; and

(2) The petition shall state whether the appellant has filed a discrimination complaint with his/her agency or any other agency, the date of filing such a complaint and the action (if any) taken.

(b) *Use of Form:* Completion of the form in Appendix II to these regulations, including Questions 19A and B, shall constitute compliance with the provisions in (a) above.

(c) *Time for filing:* A petition raising issues of prohibited discrimination shall be filed in accordance with the following schedule:

(1) Where the appellant has filed a complaint of discrimination or grievance with the agency, a petition must be filed within 20 days following agency resolution or final decision on the discrimination issue.

(2) Where the appellant has filed a complaint of discrimination or grievance with the agency, but the agency has taken no action on the complaint within 120 days, a petition may be filed anytime after the lapse of the 120 day period.

(3) Where the appellant has been subjected to an action appealable to the Board, he/she must either file a complaint of discrimination with the agency or appeal to the Board within the time prescribed by § 1201.22(b).

##### § 1201.154 Allegations of discrimination not raised in petition.

(1) *Timeliness:* Failure of an appellant to raise an allegation of prohibited discrimination in a petition for appeal shall not be a basis for exclusion of the issue(s) from consideration. Exclusion of the issue from considera-

tion shall be made only upon a showing by the agency that to consider the issue(s) would prejudice the rights of the agency and unduly delay the proceedings.

(2) *Effect:* Where an appellant raises an allegation of prohibited discrimination in the course of proceeding which was not raised before the agency prior to appeal, the presiding official shall use his/her authority under § 1201.41 of these regulations and particularly subsection (h) of that section, to develop the record sufficiently to make a determination on the issue. The presiding official is not required to remand the issue to the agency for determination *provided however*, that he/she may do so upon written agreement of both parties submitted for the record. If the issue is so remanded the appeal shall be dismissed without prejudice.

(3) *Agency answer:* Where an appellant alleges prohibited discrimination during the course of the proceeding, the agency shall be given a reasonable opportunity to refute the allegation through a responsive pleading, testimony or production of documents or as otherwise permitted by the presiding official.

##### § 1201.155 Time for processing appeals involving discrimination.

(a) *Issue raised in petition:* Where an appellant alleges prohibited discrimination in the petition for appeal, the Board shall decide both the issue of discrimination and the appealable action within 120 days of the filing of the appeal.

(b) *Issue not raised in petition:* Where an appellant has not alleged prohibited discrimination in the petition for appeal, but raises the issue subsequently in the proceeding, the Board shall, decide both the issue of discrimination and the appealable action within 120 days after the issue is raised.

##### § 1201.156 Presiding official.

An appeal from a final decision or order under 5 U.S.C. 7121 or 7122 by an arbitrator or the Authority shall be heard by an administrative law judge or the Board.

##### § 1201.157 Final decision.

Any final decision of the Board shall notify the appellant of his/her rights to petition the Equal Employment Opportunity Commission to consider the Board's decision or to file a civil action in an appropriate United States District Court.

##### § 1201.158 Action by the Commission.

(a) In cases where an appellant petitions the Commission for consideration under 5 U.S.C. 7701(b)(2) the Commission shall determine, within 30

days after the date of petition, whether to consider the Board's decision.

(b) Where the Commission determines to consider the Board's decision, within 60 days after making such determination, it shall complete its consideration and either—

(1) Concur in the decision of the Board; or

(2) Issue in writing another decision which differs from the decision of the Board to the extent that the Commission finds that, as a matter of law—

(i) The decision of the Board constitutes an incorrect interpretation of any provision of any law, rule, regulation, or policy directive relating to prohibited discrimination; or

(ii) The decision involving such provision is not supported by the evidence in the record as a whole.

(iii) *Transmittal of record:* The Board shall transmit a copy of its record to the Commission upon request.

(iv) *Development of additional evidence:* When requested by the Commission, the Board shall develop additional evidence necessary to supplement the record.

##### § 1201.159 Board action on the Commission decision.

(a) Within 30 days after receipt of a decision of the Commission issued under § 1201.155, the Board shall consider the decision and—

(1) Concur and adopt in whole the decision of the Commission; or

(2) To the extent that the Board finds that, as a matter of law, (i) the Commission decision constitutes an incorrect interpretation of any provision of any civil service law, rule, regulation, policy directive, or (ii) the Commission decision involving such provision is not supported by the evidence in the record as a whole—

(A) Reaffirm the decision of the Board; or

(B) Reaffirm the decision of the Board with such revisions as it determines appropriate.

#### SPECIAL PANEL

##### § 1201.160 Referral of case to special panel.

If the Board reaffirms its decision, with or without modification, under § 1201.156, the matter shall be immediately certified to the special panel established pursuant to 5 U.S.C. 7702(d). Upon certification, the Board shall, within 5 days (excluding Saturdays, Sundays, and Federal holidays), transmit to the special panel the administrative record in the proceeding, including—

(a) The factual record compiled under this section;



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(b) The decisions issued by the Board and the Commission under this section; and

(c) Any transcript of oral arguments made, or legal brief filed, before the Board or the Commission.

## § 1201.161 Action by special panel.

The special panel, convened pursuant to 5 U.S.C. 7702(d)(2)(A), shall review the administrative record transmitted to it, and, on the basis of the record, issue a final decision within 45 days of certification of a matter to it under § 1201.159. The Board shall, upon receipt of the decision of the special panel, order the agency concerned to take any action appropriate to carry out the decision of the panel.

## Subpart E—Compliance Enforcement

## § 1201.171 Enforcement of Board orders.

(a) *Notice to show cause.* The Board may, on petition or its own motion, issue a notice to show cause to any Federal employee, as to why he/she has failed to comply with the order of the Board. Such notice may require the employee or his/her representative to appear before the Board within a reasonable time period under the circumstance or may permit the employee to respond to the order in writing.

(b) *Hearing.* If the Board determines to hold a hearing on a notice to show cause, it shall be on the record.

(c) *Certification to the Comptroller General.* Where appropriate, following hearing the Board may, pursuant to 5 U.S.C. 1205(d)(2), certify to the Comptroller General of the United States that no payment shall be made to the employee failing to comply with the Board's order, other than a Presidential appointee subject to confirmation by the Senate.

## PART 1202—STATUTORY REVIEW BOARDS

## § 1202.1 Designation of Chair of Statutory Review Boards.

Upon written request by the agency—

(a) The Chair of the Board shall designate a hearing officer of the Board to serve as Chair of the Boards of Review, established by the Secretary of Transportation pursuant to 5 U.S.C. 3383(b) for review of certain actions to remove air traffic controllers.

(b) The Board shall designate qualified employees of the Board to serve as chairs of performance rating review boards which may be required to be established pursuant to 5 U.S.C. 4302(b) of the Act as in effect immediately before the effective date of the Act until such time that all reviews of performance ratings pending on the effective date of the Act have been disposed of.

The purpose of this form is to facilitate your filing an appeal with the Merit Systems Protection Board ("the Board") from an action or determination which was taken against you or made by a Federal agency. You are not required to use this form or to limit yourself to answering the questions on the form. If you do, however, it will make it easier for you to provide the information to the Board which it needs to decide your case. If you don't use this form, your petition for appeal must otherwise comply with the Board's regulations which can be found at Part 1200 of Title 5 of the Code of Federal Regulations or Volume—page—of the FEDERAL REGISTER (June, 1979). Your personnel office will assist you in obtaining these regulations and the Board advises you to review them.

*Privacy Act Statement:* This form requests personal information which is relevant and necessary to reach a decision in your appeal. The Merit Systems Protection Board collects this information in order to process appeals under its statutory and regulatory authority. Since your appeal is a voluntary action you are not required to provide any personal information in connection with it. However, failure to supply the Merit Systems Protection Board with all the information essential to reach a decision in your case could result in the rejection of your appeal.

The decisions of the Merit Systems Protection Board on appeal are final administrative decisions and, as such are available to the public under the provisions of the Freedom of Information Act. Some information about your appeal will also be used in depersonalized form as a data base for program statistics. If there is a need to disclose information from your appeal file for reasons other than these, or those cited in the Privacy Act (5 U.S.C. 552a(b)) or as required by the Freedom of Information Act (5 U.S.C. 552a), your prior written consent will be obtained.

SECTION I: GENERAL<sup>1</sup>

- Last First Middle  
1. Your Name:  
2. Your Social Security Number:  
3. Your Present Address:  
Street No.:  
City:  
State and Zip Code:  
4. Home Phone: ( )  
5. Office Phone: ( )

<sup>1</sup>In filling out this form, wherever the space provided is insufficient you may add additional pages. If you do so, please put your name and Social Security number at the top of the page, and indicate which number question you are answering.

6. Agency Taking Action:  
7. Bureau Within Agency:  
8. Location of Agency:  
(Street, City, State)  
9. Position Title:  
10. Grade and Salary:  
11. Veteran: Yes ( ) No ( )  
12. Type of Appointment:  
(a) Temporary ( ) Permanent ( )  
Applicant ( ) Term ( )  
(b) Competitive ( ) Excepted ( )  
(c) Length of Government Service:  
(d) Length of Service with Agency in Item 6:  
(e) If Annuitant, Date of Retirement:  
(f) Were you serving a probationary or trial period on the date of the action appealed? Yes ( ) No ( )

## SECTION II. ACTION TAKEN

13. What was the date you received the proposed notice to take this action?

(Day, Month, Year) / /  
Attach copy of notice.

14. What was the date you received notice of the decision to take this action (or date determination was received)?

(Date, Month, Year) / /  
Attach copy of notice.

15. What is (was) the effective date of this action or determination?

(Date, Month, Year) / /

16. What was the action (or determination) (for example: removal, suspension, denial or retirement benefits) taken by the agency? Explain briefly and attach any relevant documents.

17. Why do you think the agency was wrong in taking this action? Explain briefly and attach any relevant documents.

18. Have you, or anyone on your behalf, filed an appeal, a grievance, or a complaint with your agency or any other agency concerning this matter?

Yes — No —  
If yes, when (date) —  
Where or with whom —

Basis for appeal, grievance or complaint

Has a decision been issued? Yes — No —

If so, when —  
By whom — Title —

Attach copy.

19. (A) If you believe that the action of the agency was based on prohibited discrimination because of your race, color, religion, sex, national origin, marital status, political affiliation, handicapping condition or age, indicate so and explain why you believe this to be true. It is not sufficient to just state that there was discrimination. You must by examples or otherwise, indicate how you were discriminated against.

19. (B) Have you filed a discrimination complaint with your agency or any other agency?

Date filed: —  
Place of filing: —

Has there been a decision? Yes ( ) No ( )

If "yes" attach copy.

20. What action would you like the Board to take in this case?

## SECTION III. REDUCTION-IN-FORCE

Fill out this Section only if you are appealing from a reduction-in-force

21. Tenure Sub-Group  
22. Service Computation Date  
23. Has your agency offered you another position in lieu of separation? Yes ( ) No ( )

If your answer is "Yes," please give the following information:

- (A) Title of position offered to you —  
(B) Grade and salary of position offered to you —  
(C) Location of position offered —

(D) Did you accept this position? Yes ( ) No ( )

24. Please answer the questions below if they are relevant to the basis for your appeal. For those boxes checked, please give us as much information as possible to substantiate your claim:

a. Agency made an error in computing my service computation date. Explain:

b. I was placed in the wrong tenure sub-group. Explain:

c. My competitive area is too narrow. Explain and identify each position you believe should have been included in your competitive level:

d. My competitive level is too narrow (or broad). Explain:

e. I believe that I was improperly reached for separation from my competitive level. Explain:

f. An exception to the regular order of selection was made in my case. I was not given sufficient reasons to explain why employees with lower retention were retained. Explain:

g. I was not given full 30-day notice. Explain:

h. I believe that I am qualified to "bump" a person or persons in lower tenure sub-group. (For each such person, give name, title of position, and grade.) Explain:

i. (Other) Explain:

## SECTION IV: HEARING

25. You have a right to a hearing on this appeal. If you do not want to have

a hearing the Board will make its decision on the basis of the documents which you and the agency submit. Do you want a hearing? Yes ( ) No ( )  
If you choose to have a hearing the Board will notify you when and where it is to be held.

26. You have the right to designate someone to represent you on this appeal if he/she agrees to do so and has the necessary time. This person does not have to be an attorney. You may change this designation at a later date if you so desire, but must notify all the parties and the Board of this change. Please provide the name of this representative:

Name: Last First Middle

Employer:

Address: (Street, City, State, Zip):

27. You may be permitted to call witnesses at a hearing upon the approval of the presiding official. If you intend to do so, provide their names and a brief statement of their relationship to the case. You will be permitted to request other interests later if you do not list them now.

- (1) Name:  
Relationship to case:  
(2) Name:  
Relationship to case:  
(3) Name:  
Relationship to case:  
27. Additional comments or information you would like to supply.

Your Signature: —  
Date: —  
Signature of Representative (if any): —  
Date: —

You or your representative are required to file two (2) copies of this form and attachments with the Board's field office as specified in the decision notice provided by the agency. Additionally, you must provide one (1) copy of this form to the agency representative identified in that notice. This must be done each time you file something with the Board.

You may provide a copy of your appeal to the agency representative by mail or personal delivery. If you do so by mail, you must put it in a public mailbox after filling out Form A below which should be attached to your appeal. If you deliver it personally you must take it to the business office of the agency representative and leave it with the representative or someone in his/her office (e.g., a secretary) after filling out and attaching Form B below.

## FORM A

## CERTIFICATE OF SERVICE (BY MAIL)

I hereby certify that I have mailed a copy of this petition this day in the City of —, state of —, by depositing it in a mailbox of the United States Postal Service. This copy was addressed to: Name — at Address —

Signed: —  
Date: —  
Address: —

APPENDIX II—APPROPRIATE FIELD  
OFFICE FOR FILING APPEALS

All submissions shall be addressed to the Chief Appeals Officer, Merit Systems Protection Board at the below-listed addresses, according to geographic region of employing agency.

Address of Appropriate Field Office and  
Area where Agency is Located

1. 1340 Spring Street, Atlanta, Georgia 30309—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

2. 100 Summer Street, Room 1736, Boston, Massachusetts 02110—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

3. Federal Office Building, 31st Floor, 230 South Dearborn Street, Chicago, Illinois 60604—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

4. 1100 Commerce Street, Dallas, Texas 75242—Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Swan Island.

5. Building 46, Denver Federal Center, Box 25025, Denver, Colorado 80225—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

6. New Federal Building, 26 Federal Plaza, New York, New York 10007—New Jersey, New York, Puerto Rico, Virgin Islands.

7. U.S. Customhouse, Rm. 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106—Delaware, Maryland, Pennsylvania, Virginia, West Virginia.

8. 525 Market Street, San Francisco, California 94105—Arizona, California, Hawaii, Nevada, Pacific Ocean area.

9. Federal Building, 26th Floor, 915 Second Avenue, Seattle, Washington 98174—Alaska, Idaho, Oregon, Washington.

10. 1256 Federal Building, 1520 Market Street, St. Louis, Missouri 63103—Iowa, Kansas, Missouri, Nebraska.

11. Washington Field Office, 1717 H Street, Washington, D.C. 20419—Washington, D.C. Metropolitan area, all overseas areas not otherwise covered.

[FR Doc. 79-9093 Filed 3-22-79; 8:45 am]



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FRIDAY, MARCH 23, 1979

PART XII



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DEPARTMENT OF  
AGRICULTURE

Food and Nutrition  
Service

FOOD STAMP PROGRAM

Voluntary Quit Provision



## Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION  
SERVICE, DEPARTMENT OF AGRICULTURE

## SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 137]

PART 272—REQUIREMENTS FOR  
PARTICIPATING STATE AGENCIESPART 273—CERTIFICATION OF  
ELIGIBLE HOUSEHOLDSAGENCY: Food and Nutrition Service,  
USDA.

ACTION: Final Rule.

SUMMARY: This final rulemaking sets forth procedures for implementing the work registration voluntary quit provision mandated by the Food Stamp Act of 1977.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On November 21, 1978 (43 FR 54253-54254) the Department published a proposal to implement the "voluntary quit" provisions (section 6(d)(1)(iii)) of the Food Stamp Act of 1977 (the Act). Based on the Act, the proposal disqualified from participation for a period of two months those applicant households in which the primary wage earner voluntarily quit employment without good cause.

One hundred and twenty-two letters with approximately 235 comments were received from organizations and persons regarding the proposal.

It was apparent from the comments that there was some confusion regarding the interaction of the regular work registration requirements and the voluntary quit provision. The voluntary quit provision is applicable to only those individuals required to register for employment under the general work requirements specified in § 273.7(a) (43 FR 47898-47899). Individuals listed as work exempt in § 273.7(b) (43 FR 47899), such as persons physically or mentally unfit for employment or parents or other household members responsible for the care of a dependent child under age of 12 or an incapacitated person will not be subject to the penalties provided in the voluntary quit provision even if he/she voluntarily quit employment without good cause. Individuals who are sub-

## RULES AND REGULATIONS

ject to the voluntary quit provision but are not disqualified, because the quit was for good cause, must continue to register for employment under § 273.7(a).

Most of the commenters supported the voluntary quit provision but usually with some suggested changes. The most frequently commented on areas for revision covered: the application of the voluntary quit provision to current program participants, the status of strikers and students under the provision, the definition of "unemployment" as employed less than 20 hours per week, the period of disqualification, changes in the list of good cause criteria, and the use of employers as sources of verification. These areas of concern and others are discussed in more detail under specific headings.

Commenters who opposed the provision usually did so because they objected to the provision philosophically and felt that there was a faulty presumption that individuals quit employment mainly to obtain food stamp benefits. The *House Report* (Report No. 95-464; June 24, 1977) makes clear that the purpose of the voluntary quit provision was to close a gap in current program rules which require that work registrants continue the employment to which they have been referred by the employment service or else face disqualification from food stamp participation. However, no such prohibition against quitting existed for individuals quitting employment to become eligible for the Food Stamp Program in the first place. Hence, the *House Report* notes that the Food Stamp Act addressed this situation through the voluntary quit provision.

## APPLICATION FORM

One commenter pointed out that a question on voluntarily leaving employment should be included on the application form. Copies of the application form sent to State agencies on December 18, 1978, included a question on leaving employment.

APPLICATION OF THE PROVISION TO  
CURRENT PARTICIPANTS

Eight commenters expressed concern over the application of this provision solely to persons not certified at the time of the quit. This aspect of the regulation is required by section 6(d)(1)(iii) of the Act which provides for application of the voluntary quit provision, "unless the household was certified for benefits under this Act immediately prior to such unemployment." The *House Report* notes that the main concern was to deter persons from quitting in order to gain food stamp eligibility.

## STATUS OF STRIKERS

Eleven comments were received on the status of strikers under the voluntary quit provision. All but one (which sought only that striker status be specified in the final regulations) wanted strikers disqualified as having voluntarily quit employment. The *House Report* clearly indicates that the Committee did not intend the voluntary quit provision to apply to persons on strike. Similarly, the Senate Committee and the full Senate rejected amendments to bar food stamps for strikers. In general, persons on strike are not considered to have quit employment. Therefore, proposals to include strikers as subject to voluntary quit penalties have not been adopted. However, it was not considered necessary to specifically state in the voluntary quit regulatory language that strikers are not included in the voluntary quit provision. That issue is addressed through reference to other sections of the regulations.

## STATUS OF STUDENTS

A small number of commenters were concerned about the status of students regarding the voluntary quit provision. The Food Stamp Act of 1977 provides, in part, that heads of household are subject to the voluntary quit provisions, unless exempted by the provisions of section 6(d)(2) of the Act. That section specifically lists as an exemption to the voluntary quit provision bona fide students enrolled at least half time in any recognized school, training program or institution of higher education. Therefore, generally students are not subject to the provisions of the voluntary quit regulations. Furthermore, because of statutory construction, students registering for 20 hours employment by virtue of 6(e) of the Act are also exempt from voluntary quit penalties.

DEFINITION OF UNEMPLOYMENT AS 20  
HOURS OR LESS

Five commenters proposed that we increase the 20 hour employment criterion to 30 hours to comport with other work registration provisions. Two commenters suggested that we define employment as involving the receipt of earnings equivalent to the Federal minimum wage multiplied by 20 hours, particularly since the provision appeared to be more directly aimed at a loss of earnings that rendered the household eligible for food stamp benefits rather than at the loss of any employment regardless of the amount of earnings involved. As stated in the preamble in the November 21, 1978 proposal on voluntary quit, the Department was concerned about individuals in marginal or irregular employment being penalized because of

voluntary quit provisions. In considering what employment should not subject the household to voluntary quit penalties, various criteria were reviewed. While a 30 hour employment provision more closely comports with other sections of the work registration requirement, the Department is concerned that going beyond the proposed 20 hour standard would go beyond the intent of excluding only marginal or irregular employment from the requirements. Thirty hours weekly is almost full time employment. The 20 hour standard is retained in this final rulemaking.

However, to enhance the deterrent effect of the regulations, the Department concurs with the comments in support of a wage criterion in addition to the hours worked criterion and has reflected that change in the regulation. Moreover, it would seem inappropriate or difficult to distinguish between the two approaches in terms of eligibility for the Food Stamp Program.

## PERIOD OF DISQUALIFICATION

Fourteen commenters urged that households be disqualified from program participation indefinitely rather than a limited 60 day period for quitting a job without good cause. Three commenters felt that the period should be reduced to 30 days. Also, one State agency felt that the two month disqualification should begin with the month following the month of the quit. Finally, a few commenters felt that the proposed two month disqualification period was in conflict with the statutory language which provides that the "period of ineligibility shall be sixty days from the time of the voluntary quit." Based on the statutory language, comments recommending an indefinite period or a 30 day standard were not followed.

With regard to the consideration of the 60 day statutory period as two months, it was felt that rounding to the two month period, because eligibility is on a monthly basis, would be proper and administratively more convenient. The *House Report* indicates that work registration penalties were viewed in a monthly framework. In developing the proposed rulemaking the Department considered beginning the disqualification period the month after the quit. However, eligibility during the month of the quit might not comport with the statutory provision that the penalty run "from the time of the voluntary quit." Alternatively, to disqualify the household for the month of the quit and the next two months would result in a longer period of disqualification than contemplated by the statute.

## HOUSEHOLD DISQUALIFICATION

Ten commenters viewed the provision requiring disqualification of the entire household rather than only the primary wage earner as too punitive. However, the Food Stamp Act of 1977 specifically requires disqualification of the individual voluntarily leaving employment and also of the household of which he/she was a member.

In discussing the disqualification of the entire household in the work registration provision in general, the *House Report* notes that an attempt to change the disqualification to only the noncomplying individual was rejected by the Committee. Therefore, disqualification of the entire household remains as proposed.

## DEFINITION OF PRIMARY WAGE EARNER

Six commenters opposed the substitution of the term "primary wage earner" in lieu of "head of household".

For purposes of the voluntary quit provision, head of household was redefined in the May 2, 1977 (43 FR 18874-18958) proposed rules as that household member responsible for acquiring the greatest amount of earned income within the previous sixty days. However, most comments to that proposal opposed that definition as it would allow, in some cases, a minor to be considered the household head and also could cause frequent changes in the person identified as the household head. In response to those concerns, the final rules published October 17, 1978 allowed States to designate the head of household for recordkeeping purposes. As noted in that proposal, "a definition of primary wage earner will be proposed in subsequent rulemaking in order to implement the voluntary quit provision." These regulations continue to define "primary wage earner" as "head of household" for voluntary quit purposes. However, the definition of primary wage earner has been expanded to make more explicit the manner in which the incomes of various household members will be compared in order to determine the primary wage earner.

A few commenters felt that the term "child not under the parental control of another household member" should be deleted because if that child is under 18 years of age he/she would be exempt by virtue of the work registration exceptions under § 273.7(b). The Department concurs and has deleted the phrase in question. The definition of primary wage earner is now applicable only to household members 18 years of age or older.

## PENDING THE APPLICATION

One commenter requested that for households making application for

food stamp benefits in the last month of the disqualification period, the State agency accept the application and certify the household for the following month if all other eligibility criteria are met, rather than denying the application as proposed, and directing the household to reapply the following month.

Section 273.10(a)(3) of the October 17, 1978 regulations (43 FR 47907) provides that in circumstances where a household is ineligible for the month of application but eligible for a subsequent month, the State agency shall use the same application for the denial and approval months. To avoid needless reapplication, the Department has revised this regulation to allow for the same procedure for households applying in the last month of the disqualification period. Applications made in the first month of disqualification will continue to be denied with the household advised of its right to a fair hearing and/or reapplication at the end of the disqualification period.

## FAIR HEARING RIGHTS

Two commenters requested that where households are denied because of the voluntary quit provision that the household be advised of its right to a fair hearing.

To ensure that persons are advised of their fair hearing rights, this comment has been adopted and reflected in the final regulations.

## GOOD CAUSE CRITERIA

A mixture of comments were received on good cause provisions. Five wanted all good cause criteria eliminated, four wanted them to be more flexible, one commenter suggested that they be tightened, and a number of commenters suggested additional criteria.

Good cause criteria cannot be eliminated as the Act specifically provides that disqualification only be imposed if the quit was without good cause. Likewise, the *House Report* refers to good cause as being defined by the Secretary of Agriculture. Additional good cause criteria, such as a loss of day care or moving from job site to job site while maintaining a fixed residence, were posed by other commenters.

Since the Act has a dependent care work registration exemption for children under 12 and for incapacitated persons, individuals who need day care would not usually be subject to work registration and, therefore, not included in the voluntary quit provision. For this reason, the Department did not adopt the proposal of a loss of day care as good cause for voluntarily leaving employment.



With regard to the proposal on moving from job site to job site while maintaining a fixed residence, the Department has explicitly revised the regulations to include as good cause leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as construction work or migrant farm labor. This is an extension of the rationale noted in the November 21, 1978 proposal: "the intent of the voluntary quit provision was aimed at [the] work drop-out [House Report] and not those who move from one area to maintain employment, [therefore] it is proposed that good cause also include leaving a job to follow types of employment that require the household to move from area to area."

Additionally, a few commenters were concerned about good cause criteria relating to the primary wage earner or spouse ceasing employment to accept education or training opportunities. In response to the concerns, and to allow persons an opportunity for training preparatory to seeking better jobs, the final regulations have been revised to include "enrollment" in training/education programs preparatory to employment and to recognize that there may be a temporary gap between the end of employment and the actual start of the training or education which should not result in a disqualification. The regulation no longer requires that the primary wage earner "move" in order to have the training or education accepted as good cause. Moreover, good cause is expanded to include moves required for the employment, or work training or education of other household members, rather than just the spouse. Thus, the regulation no longer requires households to split up when members other than the spouse, such as a parent or sibling, accept a job or work-training which necessitates a move.

One commenter was concerned about the necessity to list retirement as good cause to quit since most retirees are age 60 or over and not subject to normal work registration provisions. To avoid confusion, the final regulations specify that the provision is applicable to retirees under the age of sixty.

During the comment analysis an issue was raised concerning individuals who leave one job to accept another job but the latter does not materialize or results in employment of less than 20 hours per week because of circumstances beyond the control of the individual. The Department has therefore added this circumstance to the list of good cause criteria.

Finally, commenters were concerned that the term "area" was too vague as used regarding the acceptance by the

primary wage earner or the spouse of employment (or training or education preparatory to employment) in another "area" such that the household was required to move. This provision has been modified and in circumstances where the "area" rule applies, "area" has been defined as a county or similar political subdivision.

#### USE OF EMPLOYERS AS A VERIFICATION SOURCE

With regard to using employers as a source of verification, six commenters felt this was an unrealistic approach as employers may, for whatever reason, not always provide accurate circumstances surrounding the quit. However, the proposed and final regulations list the employer as only one possible source of verification and list other sources such as employee associations, union representatives, grievance committees and other organizations. The Department in no way intends for employer contact to be the only or final source of verification as evidenced by listing other possible sources in the proposal. Additionally, in the final regulations, the Department, as requested by one commenter, has explicitly clarified that collateral contacts are a possible source of verification.

#### IMPLEMENTATION DATE

Four State agencies opposed the implementation date on the voluntary quit provision stating that it was too short a timeframe. Implementation of this provision affects only households initially applying for food stamp benefits and does not require State agencies to repeat the desk review process. Likewise, as a question on voluntarily ceasing employment has already been provided on the application form, States need only make instructional changes to implement the voluntary quit provisions.

Therefore, the Department encourages States to implement this provision as soon as possible. However, for States where the implementation of the voluntary quit provision would interfere with their schedule for implementing the October 17, 1978 program changes, the Department is increasing the mandatory implementation date for the voluntary quit provision to no later than 90 days following the effective date.

A new paragraph (2) is hereby added to § 272.1(g) to read as follows:

#### § 272.1 General terms and conditions.

• • • • •

#### (g) Implementation.

• • • • •

(2) *Amendment 137.* Program changes required by amendment 137 to the food stamp regulations shall be implemented for all households initially applying for food stamp benefits no later than 90 days following the publication of this amendment.

(91 Stat. 958 (7 U.S.C. 2011-2027))

2. A new paragraph (c) is hereby added to § 273.7 to read as follows:

#### § 273.7 Work registration requirements.

• • • • •

(c) *Voluntary quit.* No applicant household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible for participation in the Program as specified below.

(1) *Application Processing.* (i) When a household files an application, the State agency shall determine if any currently unemployed (i.e., employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for full time work has quit his/her most recent job (i.e., employment involving 20 hours or more per week or having received weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) without good cause within the last 60 days. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

(ii) If a determination of voluntary quit is established, the State agency shall then determine if that member is the household's primary wage earner. For purposes of this section, the primary wage earner shall be that household member age 18 or over who was acquiring the greatest amount of earned financial support for the household at the time of the quit. The primary wage earner is determined by comparing the projected earnings of the member who quit employment in the month the voluntary quit occurred as if he/she had not ceased employment against the actual or, if not available, the projected earnings of the remaining household members.

(iii) Upon a determination that the primary wage earner voluntarily quit employment, the State agency shall determine if the voluntary quit was with good cause as defined in paragraph (3) of this section. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of two months beginning with the month of

the quit. The household shall be advised of the reason for the denial and of its rights to reapply and/or request a fair hearing.

(iv) If an application for participation in the Program is filed in the second month of disqualification, the State agency shall in accord with § 273.10(a)(3) use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

(2) *Exemptions from voluntary quit provisions.* The following persons are exempt from voluntary quit provisions:

(i) Primary wage earners in households certified for the Program at the time of the quit.

(ii) Persons exempt from the full time work registration provisions as stated in § 273.7(b).

(3) *Good cause.* Good cause for leaving employment includes the good cause provisions found in § 273.7(g), and resigning from a job that does not meet the suitability criteria specified in § 273.7(i). Good cause for leaving employment shall also include:

(i) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(ii) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(iii) Acceptance by the primary wage earner of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education, that requires the primary wage earner to leave employment;

(iv) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the household to move and thereby requires the primary wage earner to leave employment;

(v) Resignations by persons under the age of 60 which are recognized by the employer as retirement;

(vi) Employment which becomes unsuitable by not meeting the criteria specified in § 273.7(i) after the acceptance of such employment;

(vii) Acceptance of a bona fide offer of employment of more than 20 hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by 20 hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than 20 hours a week or weekly earnings of less than the Fed-

eral minimum wage multiplied by 20 hours; and

(viii) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(4) *Verification.* (1) To the extent that the information given by the household is questionable, as defined in § 273.2(f)(2), State agencies shall request verification of the household's statements. The primary responsibility for providing verification as provided in § 273.2(f)(5) rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner the State agency shall offer assistance to the household to obtain the needed verification. Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, the State agency shall substitute a collateral contact. The State agency is responsible for obtaining verification from acceptable collateral contacts provided by the household.

(ii) If the household and State agency are unable to obtain requested verification from these or other sources because the cause for the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Program.

(91 Stat. 958 (7 U.S.C. 2011-2027))

NOTE.—The Food and Nutrition Service has prepared a Final Impact Statement that is available by contacting Nancy Snyder, Deputy Administrator, the United States Department of Agriculture, Food and Nutrition Service, Office of the Deputy Administrator, Family Nutrition Programs, 500 12th Street, S.W., Washington, DC 20250.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: March 19, 1979.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

(FR Doc. 79-8897 Filed 3-22-79; 8:45 am)



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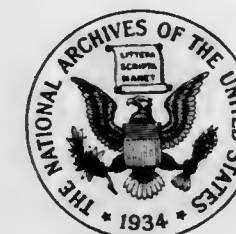
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FRIDAY, MARCH 23, 1979

PART XIII



## DEPARTMENT OF COMMERCE

Industry and Trade  
Administration

REVISION TO THE COMMODITY  
CONTROL LIST CONCERNING  
CERTAIN NUCLEAR-RELATED  
COMMODITIES AND CERTAIN  
TECHNICAL DATA



[3510-25-M]

# Title 15—Commerce and Foreign Trade

## CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

### REVISION TO THE COMMODITY CONTROL LIST CONCERNING CERTAIN NUCLEAR-RELATED COMMODITIES AND CERTAIN TECHNICAL DATA RELATED THERETO

AGENCY: Office of Export Administration, bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Interim Final Rule.

SUMMARY: This revision places certain inverters, converters, frequency changers, generators, valves, measuring equipment, uranium hexafluoride purification equipment, corrosion-resistant sensing elements, and cylindrical tubing, rings and discs under validated license control to all destinations, including Canada. Technical data relating to certain inverters, converters, frequency changers, uranium hexafluoride purification equipment and cylindrical tubing and rings also are placed under validated license control to all destinations, including Canada. Exports of these commodities and technical data are also excluded from General License GLV or GTDR, all other general licenses, and all special licensing procedures.

EFFECTIVE DATE OF ACTION: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Jeanne C. Nelson, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4275).

SUPPLEMENTARY INFORMATION: The procedures of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Appendix E thereof (Industry and Trade Administration Administrative Instructions 1-6, 44 FR 2093 *et seq.*, January 9, 1979) regarding public participation in the development of these regulations could not be followed because the continued export of these commodities and technical data without prior review would be contrary to the national security and foreign policy interests of the United States. (Industry and Trade Administration Administrative Instructions 1-6, Sections 2.02.b. and 8.05.) The signer of this regulation is responsible for this determination. Although these regulations are effective on (date of publica-

tion) there will be a 60-day public comment period after which they will be republished in final form after public comments have been considered and appropriate modifications, if any, made. Written comments should be sent to Stanley J. Marcuss, Senior Deputy Assistant Secretary for Industry and Trade, U.S. Department of Commerce, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044.

In order to implement the policies and objectives of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, March 10, 1978) regarding effective controls by the United States over exports of nuclear-related materials and equipment and related technical data, certain items previously under validated license control for export to Country Groups S and Z are now placed under validated license control for export to all destinations, including Canada. Certain related technical data, previously available for export to Country Groups T and V and Canada under general license, are also placed under validated license control to all destinations, including Canada. One entry on the Commodity Control List which imposes validated license control to all destinations is revised, and technical data related to that item are placed under validated license control.

These controls are being imposed for national security and foreign policy purposes under the authority of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 *et seq.*). The affected entries are as follows:

Entry numbers 3127A and 4127B include certain valves which were previously classified as ECCN 6199G.

Entry numbers 4569B and 4592B include certain inverters, converters, generators, frequency changers, and pressure-measuring instruments which were previously classified as ECCN 6599G.

Entry numbers 4675B, 4676B, 4677B and 4678B include certain types of cylindrical tubing, rings and discs, and corrosion-resistant sensing elements made of certain metals, which were previously classified as ECCN 6699G.

ECCN 3323B is revised to include purification equipment and to reduce all GLV values to 0.

These items and certain related technical data will require a validated license to all destinations, including Canada. Exports of these items and certain related technical data will not be permitted under General Licenses GLV or GTDR, nor under any of the other general licenses or special licensing procedures.

Although these regulatory revisions are "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and

Trade Administration Administrative Instructions 1-6 (44 FR 2093 *et seq.*, January 9, 1979), both of which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations," it has been determined that regulatory analysis of these regulations is not required, because they are not expected to have potential major economic consequences for the general economy, for individual industries, geographic regions, levels of government, or specific elements of the population.

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are revised as follows:

### PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. Section 370.3(a)(1)(iv) is revised, and new (a)(1)(vi) and (vii) are added to read as follows:

#### § 370.3 Prohibited exports.

- (a) . . .
- (1) . . .

(iv) Electronic, mechanical, or other devices, as described in § 376.13(c), primarily useful for surreptitious interception of wire or oral communications;

- (v) . . .

(vi) Inverters, converters, generators and frequency changers having a multiphase electrical power output within the range of 600 to 2000 hertz; and

(vii) Valves, measuring equipment, uranium hexafluoride purification equipment, corrosion-resistant sensing elements, and cylindrical tubing, rings and discs as listed in Supplement No. 2 to Part 378.

### PART 371—GENERAL LICENSES

2. Section 371.2(c)(6) is revised and renumbered as (c)(7), (c)(8), (9), and (10) are renumbered (c)(8), (9), (10), and (11) respectively, and new (c)(6) and (c)(12) are added to read as follows:

#### § 371.2 General provisions.

- (c) . . .

(6) The commodities are set forth in Supplement No. 2 to Part 378, Special Nuclear Controls;

(7) The commodities are related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as

described in §§ 378.3 and 378.4, or the technical data to be exported is related to any of these activities, as described in § 379.4(c)(1), unless the technical data may be exported under the provisions of General License GTDA;

(12) The technical data is related to commodities listed in § 379.4(c)(5), (6), (7), and (8).

#### § 371.17 [Amended]

3. Section 371.17(f)(1)(iv) is amended by deleting "§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

#### § 371.22 [Amended]

4. Section 371.22(c)(2)(i) is amended by deleting "§ 378.1" and inserting in lieu thereof "§§ 378.3 and 378.4".

### PART 373—SPECIAL LICENSING PROCEDURES

5. Part 373 is amended as follows:

#### § 373.2 [Amended]

a. Section 373.2(b)(2) is amended by deleting "§ 378.1" and inserting in lieu thereof "§§ 378.3 and 378.4".

b. Section 373.2(b)(3) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

c. Section 373.2(b)(4) is amended by inserting before the semicolon "or other nuclear-related commodities as listed in §§ 379.4(c)(5), (6), (7), and (8)".

#### § 373.3 [Amended]

d. Section 373.3(b)(1) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

#### § 373.7 [Amended]

e. Section 373.7(b)(1) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

#### SUPPLEMENT NO. 1—[AMENDED]

6. Supplement No. 1 to Part 373, COMMODITIES EXCLUDED FROM CERTAIN SPECIAL LICENSE PROCEDURES, is amended as follows:

a. By adding purification equipment to entry number 3323 to read as follows:

3323 Plants specially designed for the production of uranium hexafluoride (UF<sub>6</sub>), including purification equipment, and specially designed parts and accessories therefor.

b. By adding the following entries in sequence:

3127 Valves, 3 cm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.

4127 Valves, 0.5 cm to 3 cm in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel.

4569 Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz.

4592 Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel or aluminum.

4675 Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics:

- (a) Wall thickness of 1/4 inch, or less;
- (b) Diameter of 3 to 8 inches inclusive;
- (c) Length equal to or greater than 3 times the diameter.

4676 Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:

- (a) Tensile strength of 150,000 psi;
- (b) Wall thickness of 1 millimeter or less;
- (c) Diameter of 3 to 8 inches inclusive;
- (d) Length of 2 to 8 inches inclusive.

4677 Cylindrical discs, in raw, semifabricated, or finished form, having all of the following characteristics:

- (a) Having a 1/2 to 2 inch peripheral lip;
- (b) Having a diameter of 3 to 8 inches inclusive;
- (c) Made of maraging steel or aluminum alloy (7000 series).

4678 Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum specially designed for use with equipment which measures pressures to 100 Torr or less.

### PART 378—SPECIAL NUCLEAR CONTROLS

7. Part 378 is amended as follows:

§§ 378.2 through 378.6 [Renumbered]

§§ 378.3 through 378.7 [Designated]

a. Sections 378.2, 378.3, 378.4, 378.5, and 378.6 are renumbered §§ 378.3, 378.4, 378.5, 378.6, and 378.7, respectively.

b. A new § 378.2 is added to read as follows:

§ 378.2 Nuclear-related commodities and technology.

A validated license is required for export to all destinations, including Canada, of the commodities listed in Supplement No. 2 to this Part 378. A validated license also is required for export to all destinations, including Canada, of certain related technical data, as listed in §§ 379.4(c)(5), (6), (7), and (8). Applications for the export of these commodities and technical data will be processed in accordance with

the procedures established under section 309(c) of the Nuclear Non-Proliferation Act of 1978 as set forth in 43 FR 25330 (June 9, 1978) (Part F).

#### § 378.3 [Amended]

c. The last sentence of § 378.3(c) is amended by deleting "§ 378.2" and "§ 378.2(c)" and inserting in lieu thereof "§ 378.3" and "§ 378.3(c)" respectively.

#### § 378.5 [Amended]

d. The first sentence of § 378.5 is amended by deleting "§ 378.2 or § 378.3" each time it occurs and inserting in lieu thereof "§ 378.3 or § 378.4".

#### § 378.6 [Amended]

e. The introductory paragraph of § 378.6 is amended by deleting "§ 378.2 or § 378.3" and inserting in lieu thereof "§ 378.3 or § 378.4".

f. § 378.6(d) is amended by deleting "§ 378.2 or § 378.3" and inserting in lieu thereof "§ 378.3 or § 378.4".

g. § 378.6(e) is amended by deleting "§ 378.2" and "§ 378.3" and inserting in lieu thereof "§ 378.3" and "§ 378.4" respectively.

h. A new Supplement No. 2 is added to read as follows:

#### SUPPLEMENT NO. 2—NUCLEAR-RELATED COMMODITIES

3127 Valves, 3 cm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.

4127 Valves, 0.5 cm to 3 cm in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel.

3323<sup>1</sup> Plants specially designed for the production of uranium hexafluoride (UF<sub>6</sub>), including purification equipment, and specially designed parts and accessories therefor.

4569<sup>1</sup> Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz.

4592<sup>1</sup> Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel or aluminum.

4675<sup>1</sup> Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics:

- (a) Wall thickness of 1/4 inch, or less;
- (b) Diameter of 3 to 8 inches inclusive;
- (c) Length equal to or greater than 3 times the diameter.

4676<sup>1</sup> Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:

- (a) Tensile strength of 150,000 psi;
- (b) Wall thickness of 1 millimeter or less;
- (c) Diameter of 3 to 8 inches inclusive;

<sup>1</sup>For exports of technical data related to these commodities, see §§ 379.4(c)(5), (6), (7), and (8).



(d) Length of 2 to 8 inches inclusive.  
4677 Cylindrical discs, in raw, semifabricated, or finished form, having all of the following characteristics:  
(a) Having a 1/2 to 2 inch peripheral lip;  
(b) Having a diameter of 3 to 8 inches inclusive;  
(c) Made of maraging steel or aluminum alloy (7000 series).

4678 Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum specially designed for use with equipment which measures pressures to 100 Torr or less.

PART 379—TECHNICAL DATA

§ 379.4 [Amended]  
8. Section 379.4(c)(1) is amended by deleting “§ 378.2” and “§ 378.3” and inserting in lieu thereof “§ 378.3” and “§ 378.4” respectively.

§ 379.4 [Amended]  
9. Section 379.4(c) is amended by deleting the final “and” of § 379.4(c)(3), deleting the period in § 379.4(c)(4) and adding (c) (5), (6), (7), and (8) to read as follows:

§ 379.4 General license GTDR: Technical data under restriction.

- (c) . . . . .  
(5) Plants specially designed for the production of uranium hexafluoride (UF<sub>6</sub>), including purification equipment, and specially designed parts and accessories therefor;  
(6) Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz;  
(7) Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics:

- (i) Wall thickness of 1/2 inch, or less;  
(ii) Diameter of 3 to 8 inches inclusive;  
(iii) Length equal to or greater than 3 times the diameter; and  
(8) Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:  
(i) Tensile strength of 150,000 psi;  
(ii) Wall thickness of 1 millimeter or less;  
(iii) Diameter of 3 to 8 inches inclusive;  
(iv) Length of 2 to 8 inches inclusive.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

10. The last sentence of § 385.6 is amended by relettering (b) and (c) as (c) and (d) respectively, revising (a), and inserting a new (b) to read as follows:

§ 385.6 Canada.  
 . . . . .  
(a) the commodity is set forth in Supplement No. 2 to Part 378, Special Nuclear Controls, or the technical data are described in § 379.4(c) or § 379.5(e);  
(b) the commodity is related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.3 and 378.4, or the technical data to be exported are related to any of these activities, as described in § 379.4(c)(1), unless the technical data may be exported under the provisions of General License GTDA.

PART 387—ENFORCEMENT

§ 387.11 [Amended].  
11. The second sentence of § 387.11(c) is amended by deleting “§ 378.2” and inserting in lieu thereof “§ 378.5”.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

12. The Commodity Control List, incorporated by reference at 15 CFR 399.1, is amended as follows:  
a. By renumbering § 399.1(f)(3)(ii) and (iii) as (iii) and (iv) respectively, revising (i), and inserting a new (ii) to read as follows:

§ 399.1 The Commodity Control List and how to use it.

(f) . . . . .  
(3) . . . . .  
(i) The commodity is set forth in Supplement No. 2 to Part 378, Special Nuclear Controls.  
(ii) The commodity is related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.3 and 378.4, or the technical data are related to any of these activities, as described in § 379.4(c)(1), unless the technical data may be exported under the provisions of General License GTDA.

b. By adding purification equipment to entry number 3323A and revising the GLV values to read as follows:

[3510-25-C]

| Export Control Commodity Number and Commodity Description | E | S | M | C | V | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S | T | U | V | W | X | Y | Z | P | R | S</ |
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## RULES AND REGULATIONS

## [3510-25-M]

d. By amending the footnote to entries 5091D, 6099G, 6199G, 6299G, 5391D, 6399G, 5406D, 5431D, 5485D, 6490F, 6499G, 5568D, 5585D, 5595D, 5596D, 6599G, 5635D, 5673D, 6699G, 5715D, 5780E, 5799D, 6799G, 6899G, and 6999G to read as follows:

A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 371.2(c)(11) and § 385.4(a).

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977)).

STANLEY J. MARCUSS,  
*Senior Deputy Assistant  
Secretary for Industry and Trade.*  
[FR Doc. 79-9115 Filed 3-21-79; 4:46 pm]



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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
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| DOT/COAST GUARD | USDA/ASCS  |           | DOT/COAST GUARD | USDA/ASCS  |
| DOT/NHTSA       | USDA/APHIS |           | DOT/NHTSA       | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
| DOT/OHMO        | USDA/FSQS  |           | DOT/OHMO        | USDA/FSQS  |
| DOT/OPSO        | USDA/REA   |           | DOT/OPSO        | USDA/REA   |
| CSA             | MSPB*/OPM* |           | CSA             | MSPB*/OPM* |
|                 | LABOR      |           |                 | LABOR      |
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

\*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

federal register

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Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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presidential documents

Title 3—  
The President

Proclamation 4648 of March 22, 1979

30th Anniversary of NATO

By the President of the United States of America

A Proclamation

Thirty years ago in Washington on April 4, 1949 the North Atlantic Treaty was signed. From that act grew the North Atlantic Treaty Organization, or NATO, an alliance welded together by a common dedication to perpetuating democracy, individual liberty and the rule of law.

For three decades, NATO has successfully deterred war and maintained stability in Western Europe and North America, thus securing the well-being and prosperity of its fifteen member states: Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, the United Kingdom, and the United States of America.

Though collective defense against possible aggression was the most urgent requirement at its founding, NATO has always been much more than just a military pact. The spontaneous political development of the Alliance demonstrates that true security is far more than a matter of weaponry and armed battalions. In the final analysis, true security flows from the freely-given support of the people and their willingness to participate in the defense of common ideals.

Since NATO's inception, the international situation has evolved in many respects and NATO has adapted to these changes—militarily, politically and economically. Today the Alliance remains as relevant and centrally important to our security and way of life and to the independence of the United States as it was in 1949. Then as now, the firm support of Congress and the American people for NATO reflects their deep conviction that NATO is the cornerstone of United States foreign policy.

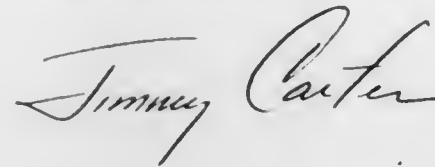
As NATO moves forward into another decade of achievement, we look toward the future with confidence, aware that continuing Allied cooperation will provide the international stability and security upon which our ideals, our civilization, and our well-being depend. As NATO begins this new chapter in its distinguished history, I am proud to rededicate the United States to the NATO objectives which have served the cause of peace so well.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby direct the attention of the Nation to this thirtieth anniversary of the signing of the North Atlantic Treaty; and I call upon the Governors of the States, and upon the officers of local governments, to facilitate the suitable observance of this notable event throughout this anniversary year with particular attention to April, the month which marks the historic signing ceremony.



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IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of March, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 79-9284  
Filed 3-23-79; 11:18 am]  
Billing code 3195-01-M

## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6714-01-M]

### Title 12—Banks and Banking

#### CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

##### SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

##### REMOTE SERVICE FACILITY PROCEDURES

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule revises FDIC procedures dealing with the establishment of remote service facilities. Included in the term remote service facilities are automated teller machines, point-of-sale terminals, and other remote electronic facilities where deposits are received, checks paid, or money lent. The revisions are designed to comply with judicial construction of the term "branch," to reduce administrative burdens for applicants and the FDIC, and to provide the FDIC with necessary, but reasonable, amounts of information needed for proper regulation of these remote service facilities.

EFFECTIVE DATE: April 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4628.

SUPPLEMENTARY INFORMATION: On October 12, 1978, a document was published in the FEDERAL REGISTER (43 FR 46976) proposing to revise FDIC procedures relating to remote service facilities. As noted at that time, the FDIC has decided to revise these procedures in order to conform to Federal appellate decisions construing remote service facilities as branches. Because the FDIC recognizes that remote service facilities are integrally different from traditional branches, applications to establish remote service facilities will be less complicated than applications to establish traditional branches. The new procedures will delegate to the Director of the Division of Bank Supervision and to Regional Directors the authority to approve,

but not to disapprove, remote service facility branches. Such delegation will not be subject to the factors listed at § 303.12(c)(1)-(9). Banks which own or lease remote service facilities may establish a facility by filing a revised form 6210/09; and after approval of this initial application, an establishing bank may establish additional sites or relocations by informing the FDIC and publishing notice of its intention. If the FDIC has not informed the applicant bank otherwise, the additional site or relocation will be considered to be approved after a period of thirty days following the last publication of notice by the bank. Under these new procedures, applicants will not be permitted to elect a nonbranch option for those facilities falling within the definition of remote service facilities.

A number of comments on the proposed rule were received; virtually every comment commended the FDIC for simplifying the burden on banks applying to establish remote service facility branches. All of the comments were given due consideration, and as a result of these comments or as a result of further consideration by the FDIC, certain changes have been made in the proposed rule.

##### DISCUSSION OF CHANGES IN THE PROPOSED RULE

##### ADDITIONAL SITES

Several comments were received which dealt with the abbreviated procedures for establishing additional remote service facility sites. One comment questioned how relocation of remote service facilities would be handled; and in order to show that a relocation will be treated as an additional site, the FDIC has added the words "or relocation" at § 303.14(l)(2) and at other places as necessary. The words "in writing" have also been added at § 303.14(l)(2)(i)(A) to specify that the notice of intent to establish a new facility or facilities should be written. The requirement of § 303.14(l)(2)(i)(C) requiring that the establishing bank furnish a list of sharing banks has been deleted.

Several comments dealt specifically with considerations concerning the notice to be published by banks which propose to establish additional sites or relocations of remote service facilities. One comment noted that since there

was no (formal) application as in the case of a traditional branch, a bank would not know when to begin publication of notice. The comment is valid, and § 303.14(b)(1)(ii) has been revised in line with the comment. The FDIC has elected to give the bank even more certainty than the comment suggested by having the FDIC acknowledge receipt of the writing advising of the bank's intention to establish a remote service facility and by using that date of receipt as the measuring date for publication of notice. In addition, in the final rule, portions of the application provisions in § 303.14 (b) and (d) have been revised because that section as it now stands does not conform to the thirty-day period set out in § 303.14(l)(2)(i).

Conflicting comments were received concerning protests by competing banks. One comment recommended that a protest by a competing bank should mandate a hearing and preclude automatic approval. Another comment would not want such a protest to stop the approval process. The notice and hearing procedures as they now stand are somewhere between the two comments. A protester may request a hearing, but discretion for granting a hearing and giving further consideration to the matter rests with the FDIC, as it now does for any branch application. The FDIC continues to feel that this approach is the correct one.

##### GENERAL CONSIDERATIONS IN THE APPLICATION PROCESS

The FDIC will evaluate applications for proposed remote service facility branches and additional sites or relocations thereof in terms of the six statutory factors listed in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816), to which all proposed branches are subject, but will not condition delegation of authority to act on applications on the additional criteria in § 303.12(c)(1)-(9) which are applicable to proposed traditional branches. Section 303.12(c) has been further amended to clarify this fact. Applications to establish additional sites or relocations of remote service facilities are not formal applications but are applications nevertheless and will be treated as such. Section 303.14(l) now specifically so states. Thus, approval or disapproval of addi-



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tional sites or relocations will be assessed in a similar manner to any other remote service facility. It should be noted that the rule being adopted deals specifically with remote service facilities, and the entire branch application process is not being revised, as it appears that some of the comments would advocate.

The comment that commentary from competing banks should be specifically requested is rejected. Under the rule's requirements for publication of notice, protest is allowed. Thus, any competing bank may protest the establishment of a remote service facility if it desires to do so, and the FDIC need not specifically require comment.

#### OFFICIAL SIGN

One comment complained that FDIC insured banks should be required to display the official sign, and banks not insured by the FDIC should so indicate. The FDIC adheres to the proposed rule's proviso that an insured bank need not display the official sign. Language has been added to § 328.1(a), however, to make clear that insured banks may display the official sign if they wish to, so long as there is no confusion regarding which bank or institution is insured.

#### REMOTE SERVICE FACILITIES AS BRANCHES

Some of the most significant substantive comment received dealt with classifying remote service facilities as branches. As noted at the time of publication of the proposed rule, the FDIC feels that this treatment is mandated by relevant rulings of Federal appellate courts. As noted in several comments, these cases actually dealt with construction of the definition of branch as contained in the McFadden Act:

The term "branch" as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.

12 U.S.C. 36(f). Congress has mandated in 12 U.S.C. 1828(d) that insured State nonmember banks obtain FDIC consent before establishing branches, and the definition of branch which specifically applies to the FDIC is that contained in the Federal Deposit Insurance Act:

The term "domestic branch" includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands at which deposits are received or checks paid or money lent . . .

12 U.S.C. 1813(o). Clearly, the statutory definitions are virtually identical. The FDIC thus feels that since the language contained in the FDI Act has been construed (although the statute being construed was specifically a statute relating to national banks), the FDIC must conform to the Federal courts' construction.

Similarly, some comment was made concerning Federal-state interaction in dealing with the establishment of remote service facility branches. As with any other branch application, the FDIC will act on the application only after the state bank regulatory authority has taken whatever action the state laws require it to take. The FDIC continues to feel that state action as preliminary to Federal action is correct, and the FDIC will try to cooperate fully with state authorities. Once the state has acted, however, the FDIC must look to its own law and the interpretations of that law in dealing with branch applications. See *First National Bank v. Dickinson*, 396 U.S. 122 (1969).

One comment noted, as have the courts, that the definition of branch, as incorporated here at § 303.14 (1)(1) is not a model of precision. This rule's definition derives from the statutory definition of branch. Since it is that definition upon which the adoption of this rule is premised, the FDIC does not feel that it should tamper with this definition without a mandate from Congress.

#### MISCELLANEOUS

Changes have been made at § 303.14(a)(3) and (1)(3) and at § 304.3(z) to conform with the International Banking Act. The heading at Part 303 was also changed to conform with the recent regulations dealing with the Change in Bank Control Act of 1978. Amendments to Parts 303, 304 and 328 of 12 CFR are adopted with changes as set forth below.

By order of the Board of Directors,  
March 20, 1979.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
HOYLE L. ROBINSON,  
Acting Executive Secretary.

#### PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION

1. By revising paragraph (c) of § 303.12 to read as follows:

§ 303.12 Applications where authority is not delegated.

(c) Conditions precedent to delegation to approve branch applications.

(Important: The requirements set forth in this paragraph (c) are procedural in nature only and should not be construed as standards or criteria which will be used in determining whether a specific application will be approved or denied.) Authority to approve remote service facility branch applications, including additional sites or relocations thereof, pursuant to § 303.11(a)(7) is delegated only where each of the six factors set forth in Section 6 of the Federal Deposit Insurance Act has been considered and favorably resolved. Authority to approve branch applications, other than remote service facility branch applications, pursuant to § 303.11(a)(7) is delegated only where each of the six factors set forth in Section 6 of the Federal Deposit Insurance Act has been considered and favorably resolved and, in addition, all the following requisites have been satisfied:

2. By revising paragraphs (a) (2) and (3); (b)(1)(ii), (1-a), (2) and (3); and (1) and (2) of § 303.14 to read as follows:

§ 303.11 Application procedures.

(a) . . .

(2) Applications by insured State nonmember banks to establish branches, including remote services facility branches 11b-1 (3) applications by insured nonmember banks to relocate their main or branch offices, including remote service facility branch offices: . . .

(b) . . .

(1) . . .

(ii) In the case of all other applications described in paragraph (a) of this section, within 15 days after the Regional Director has notified the applicant in writing that an application has been accepted for filing, or in the case of additional sites or relocations of remote service facilities within 15 days after the Regional Director's receipt of the writing advising the Corporation of the bank's intention to establish the new facility or facilities (the bank to be notified in writing by the Regional Director of the date of receipt), the applicant shall publish notice of the proposed transaction at least once each week on the same day for 2 consecutive weeks in a newspaper of general circulation in the community or communities referred to below:

(A) Applications to establish a branch.—In the communities in which the home office and the branch to be established are located;

(B) Applications to relocate an office.—In the communities in which the home office, office to be closed, and office to be opened are located, provided that a foreign bank having an insured branch need only publish

such notice in the communities in which the insured branch is located and is to be relocated.

(C) Applications for deposit insurance.—In the community in which the home office is located, provided that a foreign bank making application for an insured branch need only publish such notice in the community in which the insured branch is to be located.

The published notice shall include the name of the applicant, the subject matter of the application, the location or locations at which the applicant proposes to engage in business, and the date upon which the application was accepted for filing, or in case of additional sites or relocations of remote service facilities, the date of receipt by the Corporation of the writing advising of the intention to establish such a facility. The Regional Director may authorize variations in any of the publication procedures in this subparagraph (ii) for good cause.

(iii) . . .

(1-a) Notice by posting. In the case of applications to relocate home offices or branch offices, in addition to the notice by publication described in paragraph (b)(1) of this section, notice of the application shall be posted in the public lobby of the office(s) to be relocated, if such public lobby exists.

(2) Comments and protests. Anyone who wishes to comment on an application may do so by filing comments in writing with the Regional Director. Anyone who wishes to protest the granting of the application has a right to do so if he or she files a written notice of his or her intent with the Regional Director within 15 days of the last publication of the notice required by paragraph (b)(1) of this section, except that in the case of additional sites or relocations of remote service facilities, the actual protest should be filed within 15 days of the last publication of notice by the establishing bank.

(3) Notice of right to comment or protest. In order to fully apprise the public of its rights under paragraph (b)(2) of this section, the notice described in paragraph (b)(1) of this section shall include a statement describing the right to comment upon or protest the granting of the application. This notice, except in the case of additional sites or relocations of remote service facilities, shall consist of the following statement:

Any person wishing to comment on this application may file his or her comments in writing with the Regional Director of the Federal Deposit Insurance Corporation at its Regional Office (address of the Regional Office). If any person desires to protest the granting of this application he or she has a right to do so if he or she files a written notice of his or her intent with the Regional Director by the (15th day following the last

date of required publication). The nonconfidential portions of the application are on file in the Regional Office as part of the public file maintained by the Corporation. This file is available for public inspection during regular business hours.

In the case of additional sites or relocations of remote service facilities, this notice shall consist of the notice required by paragraph (d)(2) of this section. . . .

(d) Proceedings.—(1) Requests for hearing or other proceeding. In the case of additional sites or relocations of remote service facility branches, anyone who has filed a formal protest within 15 days of the date of the bank's last publication of notice may request a hearing at the time of the making of the formal protest. In other cases, once the Corporation's field examiner has completed the investigation of an application subject to the provisions of this section, anyone who, within the 15-day period prescribed in paragraph (b)(2) of this section, filed a written notice of intent to protest the granting of the application, shall be entitled to file a formal protest and request an opportunity to be heard so long as that person does so within 15 days after receipt of the notice set forth in paragraph (d)(2) of this section. A person filing an intent to protest or a formal protest may also request that a hearing be held on the application pursuant to paragraph (e) of this section.

(2) Notice. Except in the case of additional sites or relocations of remote service facilities, upon completion of the investigation by the field examiner or the Regional Office, the Regional Director shall give notice to all persons who filed a written notice of intent to protest the granting of the application within the 15-day period prescribed in paragraph (b)(2) of this section. This notice will be sent by registered or certified mail and shall take substantially the following form:

You are advised that the Federal Deposit Insurance Corporation's field examiner (or Regional Office) has completed the investigation of the application filed by (name of applicant) on (date accepted for filing) in connection with (subject matter of application). Portions of the report of investigation (or Regional Office report) have been made a part of the public file on this application. The public file is available for inspection in the Corporation's Regional Office (address) during the hours of—a.m. to—p.m. Photocopies of information in the public file will be made available on request. A schedule of the charges for such copies can be obtained from the Regional Office.

You have 15 days from the date of receipt of this notice within which to file a formal protest to the granting of the subject application and to request an opportunity to be heard. You may also ask that a hearing be held on the application pursuant to

§ 303.14(e) of the Corporation's rules and regulations. Should you desire to present your views orally before a representative of the Corporation designated for that purpose, or at a hearing held pursuant to § 303.14(e), you must accompany your request with a brief statement of your interest in the application and the matters which you wish to discuss.

If the Corporation determines that a hearing or other form of oral presentation should be allowed, you will be advised of its date, time, and location.

A copy of this notice has been sent to the applicant. In the case of additional sites or relocations of remote service facilities, notice will be given in the bank's publication of notice pursuant to paragraph (b)(1)(ii) of this section and shall take substantially the following form:

The public file is available for inspection in the Corporation's Regional Office (address) during the hours of—a.m. to—p.m. Photocopies of information in the public file will be made available on request. A schedule of the charges for such copies can be obtained from the Regional Office.

You have 15 days from final publication of this notice (—, 19—) within which to file a formal protest to the granting of the subject application and to request an opportunity to be heard. You may also ask that a hearing be held on the application pursuant to § 303.14(e) of the Corporation's rules and regulations. Should you desire to present your views orally before a representative of the Corporation designated for that purpose or at a hearing held pursuant to § 303.14(e), you must accompany your request with a brief statement of your interest in the application and the matter which you wish to discuss.

If the Corporation determines that a hearing or other form of oral presentation should be allowed, you will be advised of its date, time, and location.

A copy of this notice has been sent to the applicant. Where notice has been sent pursuant to the paragraph, the Regional Director shall send a copy to the applicant.

3. By revising footnote 13 of Part 303 to read as follows:

"Except in the case of additional sites or relocations of remote service facilities, where no field investigation has been conducted, the notice in paragraph (d)(2) of this section will be given upon completion of the Regional Office report.

§ 303.14 [Amended]

4. By adding a new paragraph (l) to § 303.14 to read:

(l) Special procedures for remote service facility branches. (1) Definition. Remote service facilities include automated teller machines, cash dispensing machines, point-of-sale terminals, and other remote electronic facilities.



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ities where deposits are received, checks paid, or money lent.

(2) *Application procedures.*—(i) *Establishing a remote service facility or system of facilities.* For purposes of this section "establishing" means owning or leasing a remote service facility either individually or jointly. An establishing bank will file a revised Form 6210/09 with the appropriate Regional Office and comply with the notice provisions of paragraph (b) of this section. The applicant will be advised whether the application is approved. Once this application is approved, an establishing bank may add additional sites or relocations without further formal application by

(A) advising the appropriate Regional Office in writing of the bank's intention, and

(B) complying with the notice provisions of paragraph (b) of this section. This informal application shall be deemed to be an application for purposes of §§ 303.11, 303.12, and 303.14. Unless notified otherwise within thirty days of the last publication of the notice required by paragraph (b) of this section, the additional facility or relocation will be considered approved.

(ii) *Procedures for banks which have filed under preexisting regulations for consent to operate remote service facilities as branches.* (A) Establishing bank which has had one or more remote service facilities approved as a branch: The bank's previous filing will be considered an approved application under subparagraph (2)(i) above, and additional sites or relocations may be added in accordance with that paragraph.

(B) Establishing bank which has established remote service facilities without obtaining branch approval: The bank's previous filing will be considered a pending application under subparagraph (2)(i) above, except compliance with procedures for publication of notice will not be required. Unless the bank is notified otherwise by the Regional Director within sixty days of the effective date of this amendment, the application will be considered approved. Notification by the Regional Director during this period may be in the form of a request for additional information, and is not necessarily an indication the application will be denied. However, once notified by the Regional Director, the application will not be considered approved unless the bank receives a formal order from the FDIC. Once approval has been obtained, either through the passage of sixty days without notification, or the issuance of a formal order, additional sites or relocations may be added in accordance with subparagraph (2)(i) above.

(3) *Notice by a Foreign Bank.* Whenever a foreign bank that has an insured State branch intends to establish a remote service facility for the benefit of the insured State branch, the foreign bank must file Form 6210/09, a notice of intention to establish a remote service facility, with the Regional Director of the appropriate Regional Office. Form 6210/09 must be filed with the Regional Director thirty days before the bank establishes the remote service facility. Any officer or local managing board of the insured branch, if delegated the authority by the bank's Board of Directors, may file Form 6210/09.

PART 304—FORMS, INSTRUCTIONS AND REPORTS

4. By revising paragraphs (a), (b), (d), (e), (g), (h), and (z) of § 304.3 to read as follows:

§ 304.3 Forms and Instructions.

(a) *Form 82: Application of proposed bank (other than mutual savings) for Federal deposit insurance.* The proposed incorporators are required to make statements and representations and to submit information with respect to the several factors enumerated in Section 6 of the Federal Deposit Insurance Act (12 U.S.C. § 1816). The application on Form 82 must be executed in quadruplicate. Three applications signed by the proposed incorporators must be forwarded to the Regional Director of the Federal Deposit Insurance Corporation Region in which the proposed bank will be located, and the other application may be retained by the prospective incorporators. Applications filed on Form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association and the requisite number of properly executed Forms 83. A proposed bank's application on Form 82 must be accompanied by a properly executed Form 85 for each branch, other than a remote service facility branch, which it intends to establish, and by a properly executed Form 6210/09 if it intends to establish one or more remote service facility branches. After incorporation is duly effected, the bank must submit a properly executed Form 82a.

(b) *Form 82-M: Application of proposed mutual savings bank for Federal deposit insurance.* Form 82-M, which is substantially the same as Form 82, should be used when the proposed bank is to be a mutual savings bank and should be prepared and submitted in the same manner as Form 82. A proposed bank's application on Form 82-M must be accompanied by a properly executed Form 85-M for each branch,

other than a remote service facility branch, which it intends to establish, and by a properly executed Form 6210/09 if it intends to establish one or more remote service facility branches.

(d) *Form 84: Application for Federal deposit insurance by an existing non-insured State bank (other than mutual savings).* The applicant bank is required to submit statements, representations, and information with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) and a copy of the resolution of its Board of Directors authorizing the bank's president or vice-president and cashier or secretary to make the application. The application must be executed in quadruplicate, signed by such officers, and the bank's corporate seal attached thereto. Three signed applications must be forwarded to the Regional Director of the Federal Deposit Insurance Corporation Region in which the bank is located, and the other application may be retained by the bank. Applications filed on Form 84 must be accompanied by the requisite number of properly executed Forms 83 and a certified copy of the articles of incorporation or association, including any amendments thereto. A bank's application on Form 84 must be accompanied by a properly executed Form 85 for each branch, other than a remote service facility branch, and by a properly executed Form 6210/09 for any or all of its remote service facility branches.

(e) *Form 84-M: Application for Federal deposit insurance by an existing noninsured mutual savings bank.* For 84-M, which is substantially the same as Form 84, should be used by mutual savings banks and should be prepared and submitted in the same manner as Form 84. A bank's application on Form 84-M must be accompanied by a properly executed Form 85-M for each branch, other than a remote service facility branch, and by a properly executed Form 6210/09 for any or all of its remote service facility branches.

(g) *Form 85, Form 85a, and Form 85b: Application of insured State non-member bank (except District bank and mutual savings bank) to establish or move its main office or branch (other than remote service facility branch).* (1) Form 85 is an application to establish a branch other than a remote service facility branch. The applicant bank is required to submit statements, representations, and information with respect to the several factors enumerated in Section 6 of the Federal Deposit Insurance Act (12

U.S.C. § 1816) and a copy of the resolution of its Board of Directors authorizing the bank's president or vice-president and cashier or secretary to make the application. The application must be executed in quadruplicate, signed by the president or vice-president, have the corporate seal of the bank affixed thereto, and be attested by the cashier or secretary. Three signed applications must be forwarded to the Regional Director of the Federal Deposit Insurance Corporation in which the applicant bank is located, and the other application may be retained by the bank. The application must be accompanied by a certified copy of the bank's articles of incorporation or association, including any amendments thereto unless previously submitted to the Corporation and not subsequently amended.

(2) *Form 85a* is an application to move a main office or branch other than a remote service facility branch. It is similar to Form 85 and should be prepared and submitted in the same manner as Form 85.

(3) *Form 85b* is an application to establish a branch other than a remote service facility branch pursuant to designation as depository and financial agent of the United States Government. It is similar to Form 85 and should be prepared and submitted in the same manner as Form 85.

(h) *Form 85-M and Form 85a-M: Application by insured nonmember mutual savings banks to establish a branch other than a remote service facility branch, or move its main office or branch other than a remote service facility branch.* (1) Form 85-M is substantially the same as Form 85 and should be prepared and submitted in the same manner as Form 85.

(2) *Form 85a-M* is substantially the same as Form 85a and should be prepared and submitted in the same manner as Form 85a.

(z) *Form 6210/09: Remote service facility branch.* Form 6210/09 is an application by an insured State non-member bank to establish a remote service facility branch or branches or a notice of intention to establish a remote service facility by a foreign bank which has an insured State branch. Form 6210/09 is to be filed with the Regional Director of the Federal Deposit Insurance Corporation Region in which the bank's main office or the insured State branch of a foreign bank is located.

PART 328—ADVERTISEMENT OF MEMBERSHIP

5. By revising paragraphs (a) and (c) of § 328.1 to read as follows:

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§ 328.1 Mandatory requirements with regard to the official sign and its display.

(a) *Insured banks to display official sign.* Each insured bank shall continuously display an official sign as prescribed below at each station or window where insured deposits are usually and normally received in its principal place of business and in all its branches except remote service facility branches as defined in paragraph (a) of § 303.14. *Provided,* That no bank becoming an insured bank shall be required to display such official sign until twenty-one (21) days after its first day of operation as an insured bank. The official sign may be displayed by any insured bank prior to the date display is required. Additional signs in other sizes, colors or materials, incorporating the basic design of the official sign, may be displayed in other locations within an insured bank. An insured bank may display the official sign at a remote service facility, *provided that* if there are any noninsured banks or institutions which share in the remote service facility, any insured bank which displays the sign must clearly show that the official sign refers only to a designated insured bank or banks.

(c) *Receipt of deposits at same teller's station or window as noninsured bank or institution.* An insured bank is forbidden to receive deposits at any teller's station or window, except a remote service facility as defined in paragraph (a) of § 303.14, where any noninsured bank or institution receives deposits or similar liabilities.

(Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891; 12 U.S.C. 1819, 1828.)

[FR Doc. 79-9132 Filed 3-23-79; 8:45 am]

[6714-01-M]

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

PART 334—BANK SERVICE ARRANGEMENTS

Revocation of Part 334 and Amendment of Part 304

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Revocation of Part 334; Amendment of Part 304.

SUMMARY: In view of the recently enacted provisions of section 308 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA), the Federal Deposit In-

surance Corporation has decided to: (1) revoke as being unnecessary Part 334 pertaining to the bank service arrangements entered into by insured State nonmember banks; and (2) amend § 304.3 of its regulations to implement the new notice requirement for such arrangements that is imposed under section 308 of FIRIRCA.

EFFECTIVE DATE: March 26, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550-17th Street, N.W., Washington, D.C. 20429, 202-389-4237.

SUPPLEMENTAL INFORMATION: Part 334 implemented the provisions of Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) which were in effect prior to March 10, 1979. The provisions prohibited an insured State nonmember bank from arranging to have its bank services performed by another party unless both the bank and the party performing the services furnished satisfactory assurances to FDIC that the services were subject to FDIC regulation and examination. On March 10, 1979, Section 308 of FIRIRCA amended Section 5 of the Bank Service Corporation Act to grant FDIC the direct authority to regulate and examine such services without any assurances. Further, the section 308 amendment requires insured State nonmember banks to notify FDIC of the existence of a bank service relationship within 30 days after the making of the service contract or the performance of the service, whichever occurs first. In view of these factors, FDIC has concluded that the Part 334 assurances are unnecessary and should be revoked and that § 304.3 of its regulations must be amended to implement the new notice requirement of section 308 of FIRIRCA.

Since the changes are necessitated by statutory amendment, the Board of Directors of FDIC has determined, under § 302.6 of its rules and regulations (12 CFR 302.6), that notice of, and public participation in, this rule-making is unnecessary and that good cause exists for the waiver of the 30-day deferral of the effective date for the changes.

PART 334 [RESERVED]

In consideration of the foregoing, 12 CFR Part 334 is revoked and reserved and 12 CFR 304.3 is amended to add a new paragraph which reads:

§ 304.3 Forms and instructions.

(aa) *Form 6120/06. Notification of Performance of Bank Services.* Form 6120/06 may be used to satisfy the notice requirement for bank service ar-



rangements that is contained in section 5 of the Bank Service Corporation Act (12 U.S.C. 1865), as amended. In lieu of the form, a bank may satisfy the requirement by submitting a letter stating: (1) the name of the servicer; (2) the address at which the service is performed; (3) the service being performed; and (4) the date the service commenced. Either the form or the letter containing the notice information must be submitted to the Regional Director of the Region in which the bank's main office is located within 30 days of the making of the bank service contract or the performance of the bank service, whichever occurs first. If a bank has existing bank service arrangements on March 26, 1979 which were not established pursuant to the assurance requirements of the revoked Part 334, it must submit the notice information with respect to such service arrangements.

(Sec. 9, Pub. L. 794, 64 Stat. 881 (12 U.S.C. 1819))

Approved: March 20, 1979.

By order of the Board of Directors,

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
HOYLE L. ROBINSON,  
Acting Executive Secretary.

(FR Doc. 79-9124 Filed 3-23-79; 8:45 am)

[6714-01-M]

#### PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

##### Insider Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Deletion of regulation.

SUMMARY: Effective immediately, the FDIC is eliminating its existing regulation dealing with "insider transactions" of insured nonmember banks (12 CFR 337.3). The FDIC is taking this action because (1) the insider loan limitation provisions of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA) make the regulation unnecessary insofar as it relates to loans and other extensions of credit, and (2) the FDIC intends to deal with insider transactions other than loans by means of its supervisory powers rather than by means of a regulation. This action eliminates the review, approval and recordkeeping requirements imposed under the regulation; however, FIRIRCA itself contains certain similar approval and reporting requirements.

DATE: The deletion of 12 CFR 337.3 is effective immediately.

ADDRESS: Interested persons may comment on this action in writing to

the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

#### FOR FURTHER INFORMATION CONTACT:

Alan J. Kaplan, Senior Attorney,  
FDIC, telephone (202) 389-4433.

SUPPLEMENTARY INFORMATION: The FDIC's insider transaction regulation (12 CFR 337.3) took effect on May 1, 1976. As was stated at the time of its proposal and adoption, the regulation was aimed at minimizing abusive self-dealing by insiders of insured nonmember banks through the establishment of procedures designed (1) to ensure that bank boards of directors supervise insider transactions effectively and (2) to better enable FDIC examiners to identify and analyze such transactions. The regulation has sought to achieve these goals by prescribing review, approval and recordkeeping requirements with respect to certain transactions which are defined in the regulation as "insider transactions." The regulation neither prohibits nor restricts the bank from entering into any insider transaction.

Under the existing regulation, the board of directors of each insured nonmember bank is required to review and approve every insider transaction involving assets or services having a fair market value greater than a specified "triggering" amount that varies with the size of the bank. In addition, certain recordkeeping requirements, including a record of dissenting votes cast by members of the bank's board of directors, are imposed in order to foster effective internal controls over such transactions by the bank itself and to facilitate examiner review.

The term "insider" is defined in the existing regulation to mean: a director or trustee; an officer or employee who participates or has authority to participate in major policy-making functions of the bank; or any other person who has direct or indirect control over the voting rights of more than ten percent of the shares of any class of voting stock of the bank or who otherwise controls the management or policies of the bank. With limited exceptions, an "insider transaction" includes any business transaction (including loans or other extensions of credit) between an insured nonmember bank or a majority-owned subsidiary of such a bank and an insider of the bank or certain "persons related to an insider" of the bank (including, among others, an insider's children, parents, spouse, and controlled companies). Included in the scope of this coverage are transactions between an insured nonmember bank and its parent bank holding company or other entities within the holding company system. A transaction be-

tween a bank and a noninsider would also be an insider transaction if the transaction inures to the tangible economic benefit of an insider or a person related to an insider.

As a result of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA), much of the subject matter of the FDIC's insider transaction regulations has been preempted. Specifically, section 104 of FIRIRCA adds a new section 22(h), relating to limits on loans to insiders of member banks, to the Federal Reserve Act. Section 108 of FIRIRCA makes the provisions of section 22(h) applicable "to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank."

Section 22(h) of the Federal Reserve Act imposes four limitations on loans or other extensions of credit by banks to insiders and their related interests. Insiders include the executive officers and directors of a bank and its principal shareholders (i.e., any individual or company controlling more than 10 percent of any class of voting shares of the bank), although some of the limitations apply only to certain classes of insiders and not to others. Persons having the same relationship with the bank's parent bank holding company or other subsidiaries of the parent bank holding company are also considered insiders. Related interests include companies controlled by insiders and political or campaign committees that are controlled by or benefit insiders.

Section 22(h) generally:

(1) Establishes an aggregate lending limit of 10 percent of a bank's capital and unimpaired surplus for loans by the bank to an executive officer or principal shareholder and all related interests of such an insider;

(2) Requires that every extension of credit by a bank to an insider or to any related interest of the insider that, when aggregated with all other outstanding extensions of credit to that insider or any related interest of the insider, would exceed \$25,000 must be approved in advance by a majority of the bank's entire board of directors, with the interested party abstaining;

(3) Requires that every extension of credit by a bank to an insider or to an insider's related interests must be made on substantially the same terms as those prevailing at the time for comparable transactions with other persons and must not involve more than the normal risk of repayment or present other unfavorable features; and

(4) With certain exceptions, prohibits a bank from paying an overdraft on an account of an executive officer or director.

The Board of Governors of the Federal Reserve System has been given

statutory authority to issue regulations, including definitions of terms, effectuating the purposes and preventing evasions of section 22(h). Pursuant to this authority, the Board of Governors has revised its Regulation O (12 CFR Part 215), effective March 10, 1979. Since section 22(h) applies to insured nonmember banks "in the same manner and to the same extent" as if they were State member banks, insured nonmember banks are expected to comply with revised Regulation O.

In view of the recent changes in the law relating to insider transactions, the FDIC believes it both appropriate and timely to eliminate its existing insider transaction regulation. With respect to loans and other extensions of credit to insiders and their related interests, the provisions of FIRIRCA render the existing FDIC regulation largely unnecessary, duplicative, and in part inconsistent with the new statutory provisions. Consequently, there is no further need for the existing FDIC regulation insofar as it pertains to loans and other extensions of credit.

In dealing with transactions presently covered by § 337.3 but not covered by FIRIRCA (i.e., transactions other than loans), the FDIC intends to rely on its supervisory powers, rather than its rulemaking authority. To this end, the FDIC will take appropriate supervisory action as provided by law whenever it determines that a transaction between an insured nonmember bank and any of its insiders or their related interests is in violation of law or regulation or is an unsafe or unsound banking practice. Such supervisory action may consist of informal efforts to obtain voluntary correction of the violation or the unsafe or unsound practice or, in an appropriate case, may involve institution of formal proceedings under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) or assessment and collection of civil money penalties under section 18(j)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)). Among the factors that the FDIC will consider in determining whether an insider transaction is an unsafe or unsound practice are: (1) whether the transaction is made on substantially the same terms as those prevailing at the time for comparable transactions with other persons and does not involve more than normal risk or present other unfavorable features, and (2) whether transactions with insiders and their related interests are excessive in amount, either in relation to the bank's capital and surplus or in relation to the total of all transactions of the same type.

While the deletion of this regulation eliminates the review, approval, and recordkeeping requirements contained

[Docket No. 79-GL-2; Amdt. No. 39-3436]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Detroit Diesel Allison 250-C28 and 250-C30 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which requires an interim deactivation of the electronic N2 overspeed control system followed by an engine overspeed control change which are needed to prevent engine power loss due to moisture in the control system. This AD was prompted by a report of engine power loss during flight.

DATES: March 26, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable engine bulletin may be obtained from Detroit Diesel Allison, Div. of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206.

Copies of the service information referenced in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

#### FOR FURTHER INFORMATION CONTACT:

Cornellus Blemond, Engineering and Manufacturing Branch, Flight Standards Divisions, AGL-217, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: There have been two instances of power loss on 250-C28B turboshaft engines installed in Bell 206L-1 rotorcraft. The cause of these power losses was determined to be moisture in the overspeed control system, which activated the N2 overspeed control causing the engine to decelerate. Since the condition may occur on other engines of this type design, an airworthiness directive is being issued, which requires an interim deactivation of the N2 overspeed control system followed by an engine overspeed control replacement designed to protect the overspeed control system from moisture, and allows reactivation of the system.

Since it was found that immediate corrective action is required, notice

#### §§ 337.3—337.9 [Reserved]

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation does hereby delete section 337.3 from Part 337 of Title 12 of the Code of Federal Regulations, effective immediately. The Board further amends the caption "§§ 337.4—337.9 [Reserved]" in Part 337 to read "§§ 337.3—337.9 [Reserved]".

By order of the Board of Directors,  
dated March 20, 1979.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
HOYLE L. ROBINSON,  
Acting Executive Secretary.

(FR Doc. 79-9133 Filed 3-23-79; 8:45 am)

[4910-13-M]

#### Title 14—Aeronautics and Space

#### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION



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and public procedure thereon are impracticable and contrary to the public interest and good cause exists for making the AD effective immediately as to all known operators of Bell Model 206L-1 and Sikorsky S-76 rotorcraft with Detroit Diesel Allison Model 250-C28B and 250-C30 engines installed. This AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

**DETROIT DIESEL ALLISON.** Applies to Model 250-C28B and 250-C30 engines with overspeed controls DDA P/N's 6895582 and 6894611 respectively, installed in but not limited to Bell 206L-1 and Sikorsky S-76 rotorcraft certificated in all categories.

Compliance required as indicated, unless previously accomplished. To preclude possible engine power loss resulting from moisture in the overspeed control system, accomplish the following:

(A) Before further flight, accomplish the following:

(1) Pull the N2 overspeed circuit breaker and secure by wrapping with tape, or placing a Ty-Wrap around the breaker stem.

(2) Install placard which states "Eng Ovsp Circuit Deactivated" in  $\frac{3}{16}$ " or larger letters adjacent to N2 overspeed circuit breaker on Bell Model 206L-1 rotorcraft. On Sikorsky Model S-76 rotorcraft, install the placard on the panel which contains the N2 circuit breaker and on the panel which contains the N2 overspeed circuit test switch. The engine overspeed test outlined in the RFM will no longer function with the circuit breaker deactivated.

(B) Not later than September 1, 1979, replace the affected engine overspeed controls with new engine overspeed controls DDA P/N's 23001750 for 250-C28 series engines and 23001751 for 250-C30 engines, unless previously accomplished. Concurrent with the accomplishment of this replacement, reactivate the N2 overspeed control by engaging the N2 overspeed circuit breaker and removing the placard "Eng Ovsp Circuit Deactivated." (Commercial Engine Bulletins CEB 73-2009 for the 250-C28 series engines and CEB 73-3006 for the 250-C30 engines also pertain to this subject.)

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a))

1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

**NOTE.**—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044, and as implemented by Interim Department of Transportation guidelines (43 F.R. 9582; March 8, 1978).

Issued in Des Plaines, Illinois on March 7, 1979.

J. B. BARRIAGE,  
Acting Director,  
Great Lakes Region.

**NOTE.**—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

(FR Doc. 79-9078 Filed 3-23-79; 8:45 am)

## [4910-13-M]

(Docket No. 79-NE-03; Amdt. 39-3440)

PART 39—AIRWORTHINESS  
DIRECTIVES

**Avco Lycoming Division LTS 101-600A, -600B, -600A-2, and -650A-2 Turboshaft and LTP 101-600, -600A, -600A-1, -600A-1A, and -600A-1B Turboprop Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** On February 23, 1979, an emergency airworthiness directive was issued requiring repetitive spectrometric oil analysis and subsequent inspection, if necessary, of all LTS 101-600A, -600B, -600A-2, and -650A-2 turboshaft and LTP 101-600, -600A, -600A-1, -600A-1A, and -600A-1B turboprop engines. This is required to prevent lubrication system contamination leading to oil starvation of engine bearings and subsequent engine stoppage. The AD is now being published in the FEDERAL REGISTER as an amendment to the Federal Aviation Regulations.

**DATES:** Effective date—March 22, 1979. Compliance Schedule—As prescribed in text of AD.

**ADDRESSES:** To obtain copies of the Alert Notice, referenced in the AD, contact Customer Services Director, Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497. Copies of the Alert Notice are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION  
CONTACT:

Donald F. Perrault, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7337.

## SUPPLEMENTARY INFORMATION:

The emergency airworthiness directive adopted and made effective to all known United States operators of Avco Lycoming Division LTS 101-600A, -600B, -600A-2, and -650A-2 turboshaft and LTP 101-600, -600A, -600A-1, -600A-1A, and -600A-1B turboprop engines on February 23, 1979, was required as a result of an occurrence of undetected lubrication system contamination leading to oil starvation of engine bearings and subsequent engine stoppage.

The emergency airworthiness directive requires the performance of repetitive spectrometric oil analysis; and inspection for oil system contamination, prior to further flight, if the results of the spectrometric oil analysis exceed acceptable limits.

These conditions still exist, and this AD is now being published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations.

Since a situation exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**Avco Lycoming Division.** Applies to all LTS 101-600A, -600B, -600A-2, and -650A-2 turboshaft and LTP 101-600, -600A, -600A-1, -600A-1A, and -600A-1B turboprop engines. Compliance required as indicated.

To prevent undetected lubrication system contamination leading to oil starvation of engine bearings and subsequent engine stoppage, accomplish the following within the next 5 hours of engine operation unless already accomplished and every 25 hours thereafter: Perform a spectrometric oil analysis as outlined in the applicable Avco Lycoming Engine Maintenance Manual, Chapter 71-00-00, and in accordance with Avco Lycoming Alert Notice, Reference 3V-W714, dated February 16, 1979, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA New England Region. If any of the following spectrometric oil analysis limits are exceeded, inspect and repair, prior to further flight, in accordance with Chapter 72-00-00.

Paragraph 13, of the appropriate Avco Lycoming Engine Maintenance Manual:

1. Iron content, six parts per million.

2. Between consecutive spectrometric oil analyses, iron content increases by three parts per million.

3. Any other metal, five parts per million.

**NOTE.**—Engine operation not to exceed four calendar days or 25 hours between extraction of oil sample and obtaining spectrometric oil analysis results is authorized.

Avco Lycoming Alert Notice, Reference 3V-W714, dated February 16, 1979, refers to this subject.

The manufacturer's Alert Notice and Manuals identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Director, Customer Services, Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06514. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591.

This amendment becomes effective upon publication in the FEDERAL REGISTER except for recipients of the Emergency AD, dated February 23, 1979, for whom it became effective upon receipt.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Burlington, Massachusetts, on March 15, 1979.

ROBERT E. WHITTINGTON,  
Director, New England Region.

**NOTE.**—The incorporation by reference provisions of this document are approved by the Director of the FEDERAL REGISTER on June 19, 1967.

(FR Doc. 79-9071 Filed 3-23-79; 8:45 am)

## [4910-13-M]

(Airspace Docket No. 79-RM-02)

PART 71—DESIGNATION OF FEDERAL  
AIRWAYS, AREA LOW ROUTES,  
CONTROLLED AIRSPACE AND REPORTING POINTS

## Establishment of Transition Areas

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes a 700' and 1,200' transition area at Britton, South Dakota to provide controlled airspace for aircraft execut-

ing the new nondirectional radio beacon (NDB) standard instrument approach procedure developed for the Britton Municipal Airport, Britton, South Dakota.

**EFFECTIVE DATE:** 0901 GMT, June 14, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On February 15, 1979, the Federal Aviation Administration published for comment a proposal to establish a 700' and 1,200' transitional area at Britton, South Dakota. The only comments received expressed no objections.

## THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FAR's) establishes a 700' and 1,200' transition area at Britton, South Dakota to provide controlled airspace for aircraft executing the new NDB standard instrument approach procedure developed for the Britton Municipal Airport, Britton, South Dakota.

## DRAFTING INFORMATION

The principal authors of this document are Pruet B. Helm, Operations, Procedures, and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective June 14, 1979, as follows:

By amending subpart G, § 71.181 so as to establish the following: transition areas (44 FR 442) to read:

## BRITTON, SOUTH DAKOTA

That airspace extending upward from 700' above the surface within a 6.5 mile radius of the Britton Municipal Airport (latitude 45°48'57" N., longitude 97°44'37" W.) and within 3 miles each side of the 321° bearing from the Britton NDB (latitude 45°48'50.4" N., longitude 97°44'36.8" W.) extending from the 6.5 mile radius to 8.5 miles northwest of the Britton NDB, and that airspace extending upward from 1,200' above the surface bounded on the west by longitude 98°30'00" W., on the north by latitude 46°30'00" N., on the east by longitude 97°00'00" W., and on the south by latitude 44°30'00" N., excluding the Gwinner, North Dakota, Fargo, North Dakota, Watertown, South Dakota, Huron, South Dakota, Aberdeen, South Dakota,

1,200' transition areas and all Federal airways.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

**NOTE.**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colorado on March 15, 1979.

M. M. MARTIN,  
Director,  
Rocky Mountain Region.

(FR Doc. 79-9079 Filed 3-23-79; 8:45 am)

## [4910-13-M]

(Airspace Docket No. 78-EA-70)

PART 71—DESIGNATION OF FEDERAL  
AIRWAYS, AREA LOW ROUTES,  
CONTROLLED AIRSPACE, AND REPORTING POINTSExtension of Federal Airway;  
Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction to final rule.

**SUMMARY:** In a rule published in the FEDERAL REGISTER of February 15, 1979, Volume 44, page 9741, the amendatory language is incorrect and does not put into effect the action described in the preamble. This correction to the amendatory language reflects the correct action as explained in the preamble.

**EFFECTIVE DATE:** March 26, 1979

FOR FURTHER INFORMATION  
CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

**SUPPLEMENTARY INFORMATION:** FEDERAL REGISTER Document 79-4939 was published on February 15, 1979, (44 FR 9741) and amended the description of Federal Airway V-214 by extending it from Martinsburg, W. Va., to Baltimore, Md. An intermediate point between these locations was inadvertently omitted. That point should have been described as the INT of Martinsburg 094° and Baltimore 300° radials. Action is taken herein to correct the omission.



## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, **FEDERAL REGISTER** Document 79-4939 as published in the **FEDERAL REGISTER** on February 15, 1979, on page 9741 is corrected in the amendatory paragraph by deleting "to Baltimore, Md." and substituting "INT Martinsburg 094° and Baltimore, Md., 300° radials; to Baltimore," therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

**NOTE.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on March 13, 1979.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc. 79-9073 Filed 3-23-79; 8:45 am]

## [4910-13-M]

[Airspace Docket No. 78-WE-23]

# PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Control Zone Name Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment changes the name of the Marine Corps Air Station (Helicopter) (MCAS), Santa Ana, California, Control Zone. The Navy Department requested the name change and the FAA concurs.

**EFFECTIVE DATE:** March 22, 1979.

**ADDRESS:** Federal Aviation Administration, Air Traffic Division Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Blvd., Lawndale, California 90261.

**FOR FURTHER INFORMATION CONTACT:**

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Blvd., Lawndale, California, 90261. Telephone: (213) 536-6182.

**SUPPLEMENTARY INFORMATION:** The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the name of the Santa Ana, California, (MCAS) Control Zone. The Navy Department requested this amendment and the FAA concurs and such action is taken herein. Subpart F of Part 71 of the Federal Aviation Regulations was republished in the **FEDERAL REGISTER** on January 2, 1979 (44 FR 353). Since this amendment is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

## DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 353) is amended, effective upon publication of this amendment in the **FEDERAL REGISTER** as follows:

In § 71.171 \* \* \* Change "Santa Ana, California, (MCAS)" to read "Tustin, California, (MCAS (H))", and in the text, substitute "MCAS Tustin (H)" in place of "MCAS Santa Ana."

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

**NOTE.**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California, on March 8, 1979.

LEON C. DAUGHERTY,  
Director,  
Western Region.

[FR Doc. 79-9070 Filed 3-23-79; 8:45 am]

## [4910-13-M]

[Docket No. 18738; Amdt. No. 1134]

## SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

## FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

## FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

## BY SUBSCRIPTION

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

## FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official

FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a). 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **FEDERAL REGISTER** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight DATA Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the

Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

### \* \* \* Effective June 14, 1979

Marion, IL—Williamson County, VOR Rwy 2, Amdt. 8  
Marion, IL—Williamson County, VOR Rwy 20, Amdt. 10  
Iron Mountain/Kingsford, MI—Ford, VOR Rwy 1, Amdt. 8  
Iron Mountain/Kingsford, MI—Ford, VOR Rwy 19, Amdt. 3  
Iron Mountain/Kingsford, MI—Ford, VOR Rwy 31, Amdt. 10  
Montevideo, MN—Montevideo-Chippewa County, VOR Rwy 14, Amdt. 1

### \* \* \* Effective May 17, 1979

Lancaster, CA—Gen. Wm. J. Fox Airfield, VOR-A, Amdt. 4  
Douglas, GA—Douglas Muni, VOR-A, Amdt. 2  
Richmond, IN—Richmond Municipal, VOR Rwy 5, Amdt. 7  
Richmond, IN—Richmond Municipal, VOR Rwy 23, Amdt. 7  
Coffeyville, KS—Coffeyville Muni, VOR/DME-A, Amdt. 3  
Independence, KS—Independence Muni, VOR-A, Original  
Salina, KS—Salina Municipal, VOR Rwy 17 (TAC), Amdt. 12  
Fremont, MI—Fremont Municipal, VOR Rwy 36, Amdt. 2  
Fremont, MI—Fremont Municipal, VOR-A, Amdt. 7  
Arlington, TX—Arlington Muni, VOR/DME Rwy 34, Amdt. 2

### \* \* \* Effective May 3, 1979

Selma, AL—Selfield, VOR-A, Amdt. 1, cancelled  
Indianapolis, IN—Indianapolis Brookside Airport, VOR Rwy 36, Amdt. 4  
Indianapolis, IN—Metropolitan, VOR Rwy 32, Amdt. 3  
Concord, NH—Concord Muni, VOR/DME Rwy 12, Amdt. 1  
Lorain (Elyria), OH—Lorain County Regional, VOR Rwy 7, Amdt. 5  
Dickson, TN—Dickson Municipal, VOR/DME Rwy 17, Amdt. 2  
Danville, VA—Danville Muni, VOR Rwy 24, Amdt. 7  
Richland, WA—Richland, VOR Rwy 25, Amdt. 2  
Richland, WA—Richland, VOR/DME-A, Amdt. 1

### \* \* \* Effective April 19, 1979

Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, VOR Rwy 3, Original  
Osage Beach, MO—Linn Creek/Grand Glaize Memorial, VOR Rwy 32, Original

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

### \* \* \* Effective June 14, 1979

Moline, IL—Quad-City, LOC BC Rwy 27, Amdt. 18  
Alma, MI—Gratiot Community, SDF Rwy 9, Amdt. 3  
Iron Mountain/Kingsford, MI—Ford, LOC/DME BC Rwy 19, Amdt. 5

### \* \* \* Effective May 17, 1979

Cumberland, MD—Cumberland Muni, LOC/DME Rwy 23, Original  
Fl. Leonard Wood, MO—Forney AAF, LOC Rwy 14, Original

### \* \* \* Effective May 3, 1979

New Bern, NC—Simmons-Nott, LOC Rwy 4, Amdt. 1

### \* \* \* Effective April 19, 1979

Great Bend, KS—Great Bend Muni, LOC Rwy 35, Original  
Detroit, MI—Detroit City, LOC Rwy 15, Amdt. 7, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

### \* \* \* Effective June 14, 1979

Marion, IL—Williamson County, NDB Rwy 20, Amdt. 4  
Moline, IL—Quad-City, NDB Rwy 9, Amdt. 23  
Alma, MI—Gratiot Community, NDB Rwy 9, Amdt. 2  
Bellaire, MI—Antrim County, NDB Rwy 2, Amdt. 6

### \* \* \* Effective May 17, 1979

Lancaster, CA—Gen. Wm. J. Fox Airfield, NDB-C, Amdt. 1  
Washington, IA—Washington Muni, NDB Rwy 31, Amdt. 1  
Coffeyville, KS—Coffeyville Muni, NDB Rwy 35, Amdt. 6  
Independence, KS—Independence Muni, NDB Rwy 35, Amdt. 7  
Salina, KS—Salina Municipal, NDB Rwy 35, Amdt. 10  
Cumberland, MD—Cumberland Muni, NDB-A, Amdt. 3

### \* \* \* Effective May 3, 1979

Selma, AL—Selfield, NDB Rwy 30, Amdt. 3, cancelled  
Barnwell, SC—Barnwell County, NDB-A, Amdt. 3  
Tacoma, WA—Tacoma Industrial, NDB Rwy 17, Amdt. 5, cancelled  
Tacoma, WA—Tacoma Industrial, NDB Rwy 35, Amdt. 3

### \* \* \* Effective April 19, 1979

Great Bend, KS—Great Bend Muni, NDB-A, Amdt. 1  
Detroit, MI—Detroit City, NDB Rwy 15, Amdt. 15  
Little Falls, MN—Little Falls-Morrison County, NDB Rwy 30, Amdt. 1  
Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, NDB Rwy 21, Amdt. 3  
Petersburg, WV—Grant County, NDB-A, Original

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

### \* \* \* Effective June 14, 1979

Marion, IL—Williamson County, ILS Rwy 20, Amdt. 4  
Moline, IL—Quad-City, ILS Rwy 9, Amdt. 23  
Bellaire, MI—Antrim County, MLS Rwy 2 (Interim), Amdt. 2  
Iron Mountain/Kingsford, MI—Ford, ILS Rwy 1, Amdt. 5

### \* \* \* Effective May 17, 1979

Rogers, AR—Rogers Muni Arpt—Carter Field, NDB Rwy 19, Original



Rogers, AR—Rogers Municipal—Carter Field, NDB Rwy 19, Amdt. 5, cancelled  
 Marion, IN—Marion Municipal, ILS Rwy 4, Original  
 Salina, KS—Salina Municipal, ILS Rwy 35, Amdt. 12  
 Houston, TX—William P. Hobby, ILS Rwy 13, Amdt. 3

\*\*\* Effective May 3, 1979

New York, NY—John F. Kennedy Int'l., ILS Rwy 4R, Amdt. 24  
 San Juan, PR—Puerto Rico International, ILS Rwy 7, Amdt. 11  
 Tacoma, WA—Tacoma Industrial, ILS Rwy 17, Amdt. 3

\*\*\* Effective April 19, 1979

Detroit, MI—Detroit City, ILS Rwy 15, Original  
 Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Int'l., Rwy ILS 22, Original

5. By amending § 97.31 RADAR SIAPs identified as follows:

\*\*\* Effective June 14, 1979

Moline, IL—Quad-City, RADAR-1, Amdt. 2

\*\*\* Effective May 3, 1979

Muskegon, MI—Muskegon County, RADAR-1, Amdt. 5

NOTE.—The FAA published an amendment in Docket No. 18733, Amdt. No. 1131 to Part 97 of the Federal Aviation Regulations (Vol. 44, FR No. 42, Page 11537; dated Thursday, March 1, 1979) under Section 97.31 effective April 19, 1979, which is hereby amended as follows: Wilmington, NC—New Hanover County, RADAR-1, Amdt. 1. Change effective date to April 5, 1979.

6. By amending § 97.33 RNAV SIAPs identified as follows:

\*\*\* Effective June 14, 1979

Moline, IL—Quad-City, RNAV Rwy 30, Amdt. 5  
 Alma, MI—Gratiot Community, RNAV Rwy 27, Amdt. 2  
 Dayton, TN—Mark Anton, RNAV Rwy 21, Original

\*\*\* Effective May 17, 1979

Lancaster, CA—Gen. Wm. J. Fox Airfield, RNAV Rwy 24, Amdt. 4, cancelled  
 Salina, KS—Salina Municipal, RNAV Rwy 17, Amdt. 5  
 Arlington, TX—Arlington Muni, RNAV Rwy 34, Amdt. 2

\*\*\* Effective May 3, 1979

Lorain (Elyria), OH—Lorain County Regional, RNAV Rwy 7, Amdt. 1

\*\*\* Effective April 19, 1979

Dowagiac, MI—Cass County Memorial, RNAV Rwy 27, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves

an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on March 16, 1979.

JAMES M. VINES,  
 Chief,  
 Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 79-9069 Filed 3-23-79; 8:45 am]

#### [6750-01-M]

##### Title 16—Commercial Practices

#### CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 9084]

#### PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

TRW, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a Cleveland, Ohio manufacturer and seller of electronic point-of-sale credit authorization equipment to cease having on its board of directors any individual who is simultaneously serving as a director of Addressograph Multigraph Corp., or any other competitive business entity. The order also prohibits Horace A. Shepard from simultaneously serving as a director of TRW, Inc. and any other competing company.

DATES: Complaint issued June 17, 1976. Final Order issued March 8, 1979.\*

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, 4R, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio. 44199. (216) 522-4207.

SUPPLEMENTARY INFORMATION: In the Matter of TRW, Inc., a corporation, and Addressograph Multigraph Corporation, a corporation, and Horace A. Shepard, an individual. The prohibited trade practices and/or corrective actions, as codified under 16

\* Copies of the Complaint, Initial Decision, Opinion of the Commission, and Final Order are filed with the original documents.

CFR 13, are as follows: Subpart—Interlocking Directorates Unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; Sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

The Final Order, including further order requiring report of compliance therewith, is as follows:

#### FINAL ORDER

This matter having been heard by the Commission upon the cross-appeals of respondents and counsel supporting the compliant from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for reasons stated in the accompanying Opinion, having determined to deny the appeal as to respondents and grant the appeal as to counsel supporting the complaint:

*It Is Ordered*, that the findings of fact and initial decision of the administrative law judge be adopted insofar as not inconsistent with the findings of fact and conclusions of law contained in the accompanying Opinion.

*It Is Further Ordered*, that the following order to cease and desist be, and the same hereby is, entered:

#### ORDER

I. TRW, INC.

The following definitions shall apply in this order:

"Subsidiary" of TRW means any corporation, 50 percent or more of the voting stock of which is owned or controlled, directly or indirectly, by TRW.

"Parent" of TRW means any corporation which owns or controls, directly or indirectly, 50 percent or more of the voting stock of TRW.

"Sister" of TRW means any subsidiary of a parent of TRW.

1. *It is ordered*, that TRW, Inc., its successors and assigns, shall forthwith cease and desist from having, and in the future shall not have, on its board of directors any individual who either:

(a) serves as a director of Addressograph Multigraph Corp., or such other corporation are, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws; or

(b) fails to submit to TRW, Inc., any statement required by Paragraph Two of this order to be obtained by TRW, Inc.

The requirements of this paragraph shall be effective for a period of ten (10) years from the date of this order.

2. *It is further ordered*, that within thirty (30) days of the effective date

of this order, and prior to each election of directors or prior to the solicitation of proxies for such election, whichever is earlier, TRW, Inc., shall obtain a written statement from each member of its board of directors (except directors whose terms expire at the next election and who are not standing for re-election) and from each nominee for a directorship (who is not then a director) showing:

(a) the name and home mailing address of each director or nominee; and  
 (b) the name and principal office mailing address of, and a listing of each product or service produced or sold by, each corporation which the director or nominee then serves as a director, or has been nominated to serve as a director at the time of the statement.

The requirements of this paragraph shall not apply to elections of directors occurring after five years from the effective date of this order, nor shall directors or nominees be required to list products or services of subsidiaries, sisters, or parents of TRW, Inc.

Nothing in the paragraph shall be construed to relieve respondent of its obligation under Paragraph 1(a) hereto due to any error or omission contained in any written statement received pursuant to this paragraph.

3. *It is further ordered*, that within forty-five (45) days of the effective date of this order and annually for a period of ten (10) years hereafter, TRW, Inc., shall file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order. Copies of the statements obtained pursuant to Paragraph Two of this order shall be submitted to the Commission as part of the reports of compliance required by this paragraph during the first five (5) years. Nothing in this paragraph shall relieve TRW of its obligation to comply with Paragraphs One and Four of this order once it is no longer required to submit reports of compliance to the Commission.

4. *It is further ordered*, that TRW, Inc., shall notify the Commission at least thirty (30) days prior to any change in the corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order. The requirement of this paragraph shall be effective for a period of ten (10) years from the date of this order.

#### II. HORACE A. SHEPARD

*It is ordered*, that Horace A. Shepard shall forthwith cease and desist from serving, and in the future shall not serve, as a director of any corpora-

tion or other form of business entity, if he simultaneously is serving as a director of TRW, Inc., if such corporation or other form of business entity and TRW, Inc., are, by virtue of their business and location of operation competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.

By the Commission.

CAROL M. THOMAS,  
 Secretary.

[FR Doc. 79-9068 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

##### Title 18—Conservation of Power and Water Resources

#### CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

##### SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

[Docket No. RM79-3]

#### PART 276—REPORTS

AGENCY: Federal Energy Regulatory Commission.

ACTION: Amendment to interim regulations.

SUMMARY: This document extends for 2 months the filing dates for reports for first sales of natural gas under the Natural Gas Policy Act of 1978 (43 FR 56448, December 1, 1978).

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary; 825 N. Capitol St., N.E., Washington, D.C. 20426; 202 275-4166.

SUPPLEMENTARY INFORMATION: On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA). Part 276 of the interim regulations set forth reporting requirements applicable to first sales of natural gas sold pursuant to the provisions of Subparts E, F, and I of Part 271 which implement Sections 105, 106(b), and 109 of the NGPA. These provisions deal with first sales of natural gas under existing intrastate contracts, intrastate rollover contracts, as well as first sales of other categories of natural gas.

The reports required to be filed pursuant to Part 276 were due on or before March 1, 1979, followed by an annual report each March 1st thereafter. Such reports were to be compiled in accordance with forms and instructions to be issued by the Commission.

Inasmuch as the requisite forms and instructions have not been promulgated to date, good cause exists to amend Part 276 of the interim regulations to extend the date for filing of the initial reports from March 1, 1979 to May 1, 1979. The Commission intends to issue an order promulgating these forms and instructions in the near future.

(Natural Gas Act, as amended, 15 U.S.C. 717, et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, et seq., Federal Energy Administration Act, 15 U.S.C. 761, et seq., Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95-91, E. O. 12009, 42 F.R. 46267).

In consideration of the foregoing, Part 276 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,  
 Secretary.

§§ 276.102, 276.103, 276.104, and 276.105 [Amended]

The following sections are hereby amended by changing "March 1, 1979" to "May 1, 1979":

§ 276.102(a)—43 FR 56613 (December 1, 1978).

§ 276.102(d)—43 FR 56614 (December 1, 1978).

§ 276.102(e)—43 FR 56615 (December 1, 1978).

§ 276.103(a)—43 FR 56615 (December 1, 1978).

§ 276.103(d)—43 FR 56616 (December 1, 1978).

§ 276.103(e)—43 FR 56617 (December 1, 1978).

§ 276.104—43 FR 56618 (December 1, 1978).

§ 276.105(a)—43 FR 56619 (December 1, 1978).

[FR Doc. 79-9050 Filed 3-23-79; 8:45 am]

#### [4710-01-M]

##### Title 22—Foreign Relations

#### CHAPTER I—DEPARTMENT OF STATE

##### SUBCHAPTER G—INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

[Dept. Reg. 108.770]

#### PART 61—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

Transfer of Departmental Regulation

AGENCY: Department of State.

ACTION: Final rule.



**SUMMARY:** Part 61, Chapter I of Title 22 of the Code of Federal Regulations is deleted from Chapter I. Certain functions of the Secretary of State have been transferred to the International Communication Agency. (See FR Doc. 79-9018 published in the Rules section of this issue). The educational and cultural affairs program is no longer under the jurisdiction of the Secretary of State.

**EFFECTIVE DATE:** March 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Gladys I. Poticher. (202) 632-7968.

**SUPPLEMENTARY INFORMATION:** As a result of the establishment of the International Communication Agency under Reorganization Plan No. 2 of 1977, as amended, the functions of the Bureau of Educational and Cultural Affairs, Department of State, and the U.S. Information Agency were consolidated into a new International Communication Agency (USICA), effective April 1, 1978. Functions formerly vested in the Secretary of State in the cultural exchange area are now transferred to the International Communication Agency.

**AUTHORITY:** 22 U.S.C. 2658.

**Dated:** March 20, 1979.

K. E. MALMBORG,  
Assistant Legal Adviser for  
Management.

[FR Doc. 79-9019 Filed 3-23-79; 8:45 am]

#### [4710-01-M]

[Dept. Reg. 108.768]

#### PART 62—FOREIGN STUDENTS

##### Transfer of Departmental Regulation

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** Part 62, Chapter I, of Title 22 of the Code of Federal Regulations is deleted from Chapter I. Certain functions of the Secretary of State have been transferred to the International Communication Agency. (See FR Doc. 79-9020 published in the Rules section of this issue.) The educational and cultural affairs program is no longer under the jurisdiction of the Secretary of State.

**EFFECTIVE DATE:** March 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Gladys I. Poticher. (202) 632-7968.

**SUPPLEMENTARY INFORMATION:** As a result of the establishment of the International Communication Agency under Reorganization Plan No. 2 of 1977, as amended, the functions of the Bureau of Educational and Cultural

Affairs, Department of State, and the U.S. Information Agency were consolidated into a new International Communication Agency (USICA), effective April 1, 1978. Functions formerly vested in the Secretary of State in the cultural exchange area are now transferred to the International Communication Agency.

**AUTHORITY:** 22 U.S.C. 2658.

**Dated:** March 16, 1979.

K. E. MALMBORG,  
Assistant Legal Adviser for  
Management.

[FR Doc. 79-9021 Filed 3-23-79; 8:45 am]

#### [4710-01M]

[Dept. Reg. 108.769]

#### PART 63—EXCHANGE VISITOR PROGRAM

##### Transfer of Departmental Regulation

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** Part 63, Chapter I of Title 22 of the Code of Federal Regulations is deleted from Chapter I. Certain functions of the Secretary of State have been transferred to the International Communication Agency. (See FR Doc. 79-9022 published in the Rules section of this issue.) The educational and cultural affairs program is no longer under the jurisdiction of the Secretary of State.

**EFFECTIVE DATE:** March 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Gladys I. Poticher. (202) 632-7968.

**SUPPLEMENTARY INFORMATION:** As a result of the establishment of the International Communication Agency under Reorganization Plan No. 2 of 1977, as amended, the functions of the Bureau of Educational and Cultural Affairs, Department of State, and the U.S. Information Agency were consolidated into a new International Communication Agency (USICA), effective April 1, 1978. Functions formerly vested in the Secretary of State in the cultural exchange area are now transferred to the International Communication Agency.

**AUTHORITY:** 22 U.S.C. 2658.

**Dated:** March 16, 1979.

K. E. MALMBORG,  
Assistant Legal Adviser for  
Management.

[FR Doc. 79-9023 Filed 3-23-79; 8:45 am]

#### [8230-01-M]

#### Title 22—Foreign Relations

#### CHAPTER V—INTERNATIONAL COMMUNICATION AGENCY

#### PART 514—EXCHANGE-VISITOR PROGRAM

##### Addition of a New Part

**AGENCY:** International Communication Agency.

**ACTION:** Final Rule.

**SUMMARY:** This rule adds a new part to Chapter V to reflect the transfer of functions to the International Communication Agency. The transfer was mandated by Reorganization Plan No. 2 of 1977, which legislatively provides for the transfer of the functions of the United States Information and Educational Exchange Act of 1948, as amended, and the functions of the Mutual Educational and Cultural Exchange Act of 1961, as amended, to the Director of the International Communication Agency. Executive Order 12048 of March 27, 1978 effectuated the transfer of functions as of April 1, 1978.

**EFFECTIVE DATE:** March 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Robert R. Gaudin, Deputy Executive Director, Associate Directorate for Educational and Cultural Affairs, International Communication Agency, Washington, D.C., AC 202-724-9717.

**SUPPLEMENTARY INFORMATION:** As a result of the establishment of the International Communication Agency, the functions formerly vested in, or delegated to, the Secretary of State in the cultural exchange area have been transferred to the Director of the International Communication Agency (USICA). USICA has assumed overall responsibility for the exchange visitor program, and all related procedures.

Part 514 is added to read as set forth below:

#### PART 514—EXCHANGE-VISITOR PROGRAM

##### Subpart A—General

Sec.

514.1 Definitions.

514.2 Types of participants.

##### Subpart B—Exchange-Visitor Programs

514.11 Application for Exchange-Visitor Program designation.

514.12 Sponsor obligations—general.

514.13 Sponsor obligations—specific.

514.14 Duties of Responsible Officer.

514.15 Action on applications for Exchange-Visitor Program designation.

Sec.

514.16 Assignment of serial number.

514.17 Revocation of designation.

##### Subpart C—Exchange Visitors

514.21 Notification to Exchange Visitors; summary of instruction to apply for J visas and entries.

514.22 Applications for change or adjustment of status to or from Exchange Visitor, for extensions, and for program transfers.

514.23 General limitations of stay.

514.24 Prohibition of employment not related to program; exception for students in certain circumstances; possible exception for immediate family.

##### Subpart D—Waiver Procedures in Certain Cases

514.31 Requests for waivers of the home-country physical presence requirement of the Immigration and Nationality Act, as amended.

514.32 Action by the Director on requests for waivers.

**AUTHORITY:** Sec. 4, 63 Stat. 111; secs. 102, 109 (a), (b), (d), 75 Stat. 527, 534, 535; secs. 101(a)(15)(J), 104(a), 212(e), 66 Stat. 166, 174, 182, 184, sec. 2, 84 Stat. 116, 117 (22 U.S.C. 2658, 2452; 8 U.S.C. 1101(a)(15)(J), 1104(a), 1182(e), 1258; Reorganization Plan No. 2 of 1977; Executive Order 12048 of March 27, 1978.

##### Subpart A—General

###### § 514.1 Definitions.

The following definitions shall be applicable to this part:

"Act" means the Mutual Educational and Cultural Exchange Act of 1961, as amended;

"Country of nationality or last legal residence" means either the country of which the exchange visitor was a national at the time status as an exchange visitor was acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring status as an exchange visitor;

"Agency" means the International Communication Agency of the United States of America;

"Exchange Visitor" means a "participant" and the "immediate family" of such participant as defined in this section;

"Exchange-Visitor Program" means a program of a sponsor designed to promote interchange of persons, knowledge and skills, and the interchange of developments in the field of education, the arts and sciences, and concerned with one or more categories of "participants" as defined in this section, which has been designated as such by the Director of the International Communication Agency, to promote mutual understanding between the people of the United States and the people of other countries;

"Financed directly" means financed in whole or in part by the United States Government or the government

of the participant's nationality or last legal permanent residence with funds contributed directly to the participant in connection with participation in an Exchange-Visitor Program;

"Financed indirectly" means (a) financed by an international organization, with funds contributed by either the United States or the participant's government for use in financing such exchanges, or (b) financed by an organization or institution, with funds made available by either government for the specific purpose of furthering such international exchange;

"Graduate medical education or training" means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include participation in a program involving observation, consultation, teaching or research in which there is no element or only incidental elements of patient care.

"Home-country physical presence requirement" means the requirement that a participant who is within the purview of section 212(e) of the Immigration and Nationality Act, as amended, substantially quoted in § 514.31(a), must reside and be physically present in the country of nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States before the participant is eligible to apply for an immigrant visa or for permanent residence, or for nonimmigrant H visa as a temporary worker or trainee, or for a nonimmigrant L visa as an intracompany transferee, or for a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee.

"Immediate family" means the alien spouse and minor unmarried children of a participant who are accompanying or following to join the participant and who are seeking to enter or have entered the United States temporarily on a J-2 visa or are seeking to acquire or have acquired such status after admission;

"Participant" means any foreign national who has been selected by a sponsor to participate in an Exchange-Visitor Program and who is seeking to enter or has entered the United States temporarily on a J-1 visa, or who is seeking to acquire or has acquired such status after admission, including but not limited to the categories listed in § 514.2;

"Participant's government" means the government of the country of the participant's nationality or where the participant had a legal permanent residence;

"Person with required knowledge or skill" means a participant who has specialized or expects to specialize in a field of knowledge or skill which is clearly required by the country of nationality or last legal permanent residence, as designated by the Director in a separate schedule;

"Responsible Officer" means the official of an organization sponsoring an Exchange-Visitor Program who has been listed with the Agency as being responsible for administering the program and carrying out the obligations which the organization assumes in undertaking to sponsor a program (see § 514.14). The designation of an alternate Responsible Officer is permitted and encouraged;

"Director" means either the Director of the International Communication Agency of the United States of America or an officer duly designated by the Director;

"Sponsor" means any reputable U.S. agency or organization or recognized international agency or organization having U.S. membership and offices which makes application as herein-after prescribed to the Director for designation of a program under its sponsorship as an Exchange-Visitor Program and whose application is approved.

###### § 514.2 Types of participants.

Participants include, but are not limited to, the following types:

(a) A "student," for the purpose of pursuing formal courses, or any combination of courses, research, or teaching, leading to a recognized degree or certificate, in an established school or institution of learning. Upon receipt of a degree or certificate, a student may be granted up to a maximum of 18 months of practical training provided: (1) the training is needed to round off the academic studies, (2) the training is not available in the student's home country, (3) the training is directly related to the academic program and (4) the training is authorized in writing by the Responsible Officer of the Exchange-Visitor Program involved; or

(b) A "trainee," for the purpose of obtaining on-the-job training with firms, institutions and/or agencies in a specialized field of knowledge or skill for periods not to exceed 18 months; or

(c) A "teacher," for the purpose of teaching in established primary or secondary schools, or established schools offering specialized instruction; or

(d) A "professor," for the purpose of teaching or conducting advanced research, or both, in an established institution of higher learning; or

(e) A "research scholar" or "specialist," for the purpose of undertaking or participating in research or in demon-



strating specialized knowledge or skills; or

(f) An "international visitor," for the purpose of travel, observation, consultation, research, training, sharing, or demonstrating specialized knowledge or skills, or participating in organized people-to-people programs; or

(g) A "professional trainee," for the purpose of pursuing clinical training in the medical and allied fields.

#### Subpart B—Exchange-Visitor Programs

##### § 514.11 Application for Exchange-Visitor Program designation.

Any intending sponsor may apply to the Director for designation of a program under its sponsorship as an Exchange-Visitor Program. Such application shall be made on Form IAP-37 "Exchange-Visitor Program Application." The application shall be completed in all details and shall be submitted to the Director with required supporting documentation. The officer who signs the application thereby indicates a willingness to assume the duties of the Responsible Officer for administering its program if it is designated. Official correspondence concerning a designated program will be conducted only between the Agency and the Responsible Officer or duly designated alternate.

##### § 514.12 Sponsor obligations—general.

Each sponsor shall assume in the application the obligation to:

(a) Notify the District Director of the Immigration and Naturalization Service having administrative jurisdiction over a participant's place of temporary residence if the sponsor terminates an alien's participation in the Exchange-Visitor Program or when a participant: (1) Remains in the United States beyond the period of stay authorized by the Immigration and Naturalization Service as shown on the alien's Form I-94, or (2) has ceased to maintain exchange-visitor status, or (3) has completed the activity and objective for which the visitor entered the United States and is due to depart;

(b) Provide guidance to participants to enable them to complete the objective for which they sought entry into the United States and to return abroad in accordance with the general limits of stay contained in § 514.23;

(c) Instruct any participant requiring an extension of temporary stay to apply to the Immigration and Naturalization Service between 15 and 60 days before the expiration of the participant's stay and provide the participant requiring the extension with a fully completed Form IAP-66, "Certificate of Eligibility for Exchange Visitor (J-1) Status," showing the period and terms of the extension desired;

(d) Sign Part III of Form IAP-66 after Part I has been completed by the Responsible Officer of the program to which an exchange visitor wishes to transfer if further participation under another Exchange-Visitor Program is considered necessary or desirable to enable the visitor to realize the stated objective;

(e) Submit such reports as may be required by the Agency for the purposes of program review and evaluation;

(f) Comply with specific criteria required by the Agency for certain types of programs; (See § 514.13);

(g) Discharge such other obligations as the Agency may inform the sponsor are required in the administration of a particular program.

##### § 514.13 Sponsor obligations—specific.

(a) Alien physicians. The following criteria shall apply to alien physicians admitted to the United States in Exchange-Visitor (J-1) status for the purpose of observation, consultation, teaching, and research or participation in programs under which alien physicians will receive graduate medical education or training. These criteria must be strictly adhered to by Exchange-Visitor Program sponsors involved with sponsorship of alien physicians. Failure to comply with these criteria can result in the immediate revocation of the Exchange-Visitor Program designation, pursuant to section § 514.17 of the regulations.

(1) Effective date. Unless otherwise noted, these criteria apply on and after January 10, 1978 to requests for sponsorship of Exchange-Visitor alien physicians for two types of programs, namely: (i) programs under which they will receive graduate medical education or training; and (ii) medical programs under which they will observe, consult, teach or conduct research.

(2) Exchange-Visitor sponsorship for programs in which the alien receives graduate medical education or training.

(i) Any alien physician who is coming to the United States as an Exchange-Visitor to participate in a program under which the physician will receive graduate medical education or training must be documented by the Educational Commission for Foreign Medical Graduates with a Certificate of Eligibility for Exchange-Visitor Status (Form IAP-66).

(ii) The Department of State entered into an agreement with the Educational Commission for Foreign Medical Graduates in 1971 whereby the latter was designated the authority to administer the issuance of the Form IAP-66 in all cases involving the admission, certification, transfer or extension of stay for foreign physicians

in Exchange-Visitor status who are receiving graduate medical education or training as defined above.

(iii) The Educational Commission for Foreign Medical Graduates is located at 3624 Market Street, Philadelphia, Pa. 19104, U.S.A. The telephone number is area code 215-386-5900. The cable address is EDCOUNCIL, Philadelphia, Pa. U.S.A.

(3) Eligibility requirements to participate in programs under which alien physicians will receive graduate medical education or training. An Exchange-Visitor physician is eligible to pursue a program under which he or she will receive graduate medical education or training only if the following requirements are met:

(i) The school of medicine or one of the other health professions, which is offering the education or training, must be accredited by a body or bodies approved for the purpose by the Commissioner of Education. Such school must agree in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency. If such an agreement by a school of medicine involves one or more of its affiliated hospitals, the hospital must join in the agreement.

(ii) A list of medical schools accredited by a body approved by the Commissioner of Education for the purpose of providing medical education can be obtained from either the Health Resources Administration, Department of Health, Education, and Welfare, 3700 East-West Highway, Hyattsville, Md. 20782, U.S.A., or the Educational Commission for Foreign Medical Graduates (see address above).

(iii) The agreement in writing must be dated and signed by both the alien physician who is applying to receive graduate medical education or training and a Responsible Official of the school of medicine or of one of the other health professions which is offering the education or training. Standard contracts currently used by schools of medicine and affiliated hospitals, if signed by both parties to the agreement and dated, will suffice to meet the "agreement in writing" requirement. Such agreements, when signed and dated, should be sent to the Educational Commission for Foreign Medical Graduates (see address above).

(iv) Before making such agreement, the accredited school of medicine must be satisfied that all alien applicants (A) have passed Parts I and II of the National Board of Medical Examiners Examination (or an examination which has been determined by the Secretary of Health, Education, and

Welfare to be equivalent to Parts I and II of the National Board of Medical Examiners Examination), unless exempted by law, (B) have competency in oral and written English, (C) will be able to adapt to the educational and cultural environment in which they will be receiving their education or training, and (D) have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States. It should be noted that alien physicians who seek sponsorship of the Educational Commission for Foreign Medical Graduates will be required to submit evidence to the Commission that they are competent in oral and written English.

(v) The Secretary of Health, Education, and Welfare has determined, pursuant to authorization granted by Pub. L. 94-484, as amended, that the Visa Qualifying Examination (VQE) is an examination equivalent to the Part I and Part II examinations of the National Board of Medical Examiners (42 FR 45037, September 8, 1977). The Visa Qualifying Examination is prepared by the National Board of Medical Examiners and is administered by the Educational Commission for Foreign Medical Graduates. The first of these Examinations was given on September 7th and 8th, 1977 and the next examination is scheduled to be given on September 5-6, 1979. Details regarding the VQE can be obtained from the Educational Commission for Foreign Medical Graduates (see paragraph (2)(iii) for address.)

(vi) A graduate of a school of medicine, provided it has been accredited by the Liaison Committee on Medical Education (a body approved for that purpose by the Commissioner of Education), regardless of whether the school is located in the United States, is exempted by law from the requirements of passing Parts I and II of the National Board of Medical Examiners Examination or the equivalent Visa Qualifying Examination (VQE).

(vii) The law also provides that alien physicians applying for Exchange-Visitor status are considered to have passed Parts I and II of the examinations of the National Boards if they were, on January 9, 1977, fully and permanently licensed to practice medicine in a State and were on that date practicing medicine in a State and held on that date a valid specialty certificate issued by a constituent board of the American Board of Medical Specialties.

(viii) It is important to note that the Federation Licensing Examination (FLEX) and the Educational Commission for Foreign Medical Graduates Examination are not currently considered by the Secretary of Health, Education, and Welfare to be the equivalent

of Parts I and II of the examinations of the National Board of Medical Examiners for alien physicians wishing to come to the United States to receive graduate medical education or training. The Visa Qualifying Examination (VQE) is the only examination deemed equivalent by the Secretary of Health, Education, and Welfare for the purpose of Pub. L. 94-484, as amended.

(4) Limitation of stay and written assurances. Alien physicians must make a commitment to return to the country of their nationality or last legal permanent residence upon completion of the education or training for which they are coming to the United States (including any extension of the duration thereof under paragraph (a)(4)(ii) of this section). The signature by the alien physician on the reverse side of the original copy of the Form IAP-66 constitutes a commitment to return in accordance with Pub. L. 94-484, as amended. This law states that all alien physicians coming to the United States on or after January 10, 1977 to receive graduate medical education or training are subject to the two-year home physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, and that such physicians are not eligible for waivers based on a "No Objection" statement submitted by their respective governments to the Director of the International Communication Agency, pursuant to section 212(e) of the Immigration and Nationality Act, as amended.

(i) The government of the country of the alien physician's nationality or last legal permanent residence must provide written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that there is a need in that country for persons with the skills the alien physician will acquire in such education or training. The following format, approved by the Secretary of Health, Education, and Welfare, must be submitted to the Educational Commission for Foreign Medical Graduates by foreign governments when providing the assurances required by Pub. L. 94-484, as amended, for alien physicians coming to the United States to receive graduate medical education or training. The statement by the foreign government must bear the seal of the government concerned and be signed by a duly designated official of that government. Name of Applicant for Visa: \_\_\_\_\_ There currently exists in (country) a need for qualified medical practitioners in the specialty of \_\_\_\_\_. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the

United States and intends to enter the practice of medicine in the specialty for which training is being sought.

Stamp (or Seal and signature) of issuing official of named country

Dated: \_\_\_\_\_

Official of named Country.

(ii) The duration of the alien's participation in the program for which he or she is coming to the United States is limited to not more than two years, except that such duration may be extended for one year at the written request of the government of the individual's nationality or last legal permanent foreign residence. Such an extension can be granted only if the accredited school providing or arranging for the provision of the education or training program agrees in writing to such an extension, and the extension is for the purpose of continuing the alien's education or training under the specific program for which he or she came to the United States. Written requests for extensions should follow the type of format described in paragraph (a)(4)(i) of this section.

(5) "Substantial Disruption" provision of Pub. L. 94-484, as amended. The requirements of paragraphs (a)(3)(i) and (a)(3)(iv)(A) of this section shall not apply between January 10, 1978 and December 31, 1980, to any alien physician who seeks to come to the United States to participate in an accredited program under which the alien will receive graduate medical education or training, if there would be a substantial disruption in the health services provided in such program because the alien was not permitted, because of his or her failure to meet these two requirements of Pub. L. 94-484, as amended, to enter the United States to participate in such program.

(i) In the administration of the "substantial disruption" provision the Attorney General will take such action as may be necessary to ensure that the total number of exchange visitors participating (at any time) in programs described immediately above does not, because of the "substantial disruption" exemption, exceed the total number of such aliens participating in such programs on January 10, 1978. Any alien physician admitted under the "substantial disruption" provision must have Educational Commission for Foreign Medical Graduates certification and be documented by the Educational Commission for Foreign Medical Graduates with a Form IAP-66 (Certificate of Eligibility for Exchange-Visitor status). The Educational Commission for Foreign Medical Graduates will assure that the total number of alien physicians admitted under the "substantial disruption"



provision does not exceed the total number of alien physicians participating in such training programs on January 10, 1978.

(ii) The Educational Commission for Foreign Medical Graduates currently administers the issuance of certificates of eligibility for exchange visitor visas for alien physicians coming to the United States to receive graduate medical education or training. The Educational Commission for Foreign Medical Graduates has the most complete data on alien physicians. Therefore, the Commission will process waiver requests under the "substantial disruption" provision of Pub. L. 94-484, as amended, within criteria to be provided by the International Communication Agency on advice from the Department of Health, Education, and Welfare. These criteria and limits by which medical institutions and hospitals can predictably obtain waivers on a case-by-case basis will be for the period January 10, 1978, through December 31, 1980. Medical institutions and hospitals should submit the necessary data to the Educational Commission for Foreign Medical Graduates to demonstrate that the criteria have been met and the limits maintained. The issuance of eligibility certificates (IAP-66) by the Educational Commission for Foreign Medical Graduates constitutes the granting of a waiver under the "substantial disruption" provision of the law.

Institutions which do not receive favorable consideration on applications for "substantial disruption" waivers may appeal the decision. Appeals should be sent to the Executive Director of the Educational Commission for Foreign Medical Graduates for transmittal to an Appeals Board, which is chaired by the Administrator, Health Resources Administration, Department of Health, Education, and Welfare.

(6) Eligibility to participate in public health and preventive medicine programs. A United States university, academic medical center, school of public health, or other public health institution which has been designated as an Exchange-Visitor Program by the Director of the International Communication Agency is authorized to issue Form IAP-66 to alien physicians to enable them to come to the United States for the purpose of entering into those programs which do not include any clinical activities involving direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (a)(3)(i), (iii) and (a)(3)(iv)(A) of this section need not be met. However, the Responsible Officer or alternate Responsible Officer of the Exchange-Visitor Program involved must append a certi-

fication to the Form IAP-66 which states:

"This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care."

(7) Eligibility requirements to participate in the programs involving observation, consultation, teaching, and research. A United States university or academic medical center which has been designated an Exchange-Visitor Program by the Director of the International Communication Agency is authorized to issue Form IAP-66 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, teaching or research under the following two situations, neither of which requires that the special eligibility requirements listed in paragraphs (a)(3)(i), (iii) and (a)(3)(iv)(A) of this section be met.

(i) If the alien physician is coming to the United States solely for the purpose of observation, consultation, teaching, or research, the Responsible Officer or duly designated alternate of the Exchange-Visitor Program involved must sign and append to the Form IAP-66 a certification which states "this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching or research and that no element of patient care services is involved."

(ii) If the alien physician is coming to the United States to pursue a program involved with observation, consultation, teaching or research but which also involves incidental patient contact, the dean of the involved accredited United States medical school or his or her designee must certify to the following five points and the certification must be appended to the Form IAP-66 issued to the prospective Exchange-Visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien and who is licensed to practice medicine in the State of —.

(C) The alien physician will not be given final responsibility for the diagnosis and treatment of patients.

(D) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professions in the State in which the alien physician is pursuing the program.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(iii) The Educational Commission for Foreign Medical Graduates is also authorized to issue Form IAP-66 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in paragraphs (a)(7) (i) or (ii) of this section is appended to the Form IAP-66. Hospitals, medical, and research centers which do not currently have Exchange-Visitor Programs designated by the International Communication Agency may request the Educational Commission for Foreign Medical Graduates to document alien physicians with Form IAP-66 if such physicians are coming to this country primarily for observation, consultation, teaching, or research programs. Institutions should consult with the Educational Commission for Foreign Medical Graduates for information regarding the requirements to be met for Form IAP-66 documentation by the Educational Commission for Foreign Medical Graduates.

(8) Applicability of section 212(e) of the Immigration and Nationality Act, as amended.

(i) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year foreign residency requirement of section 212(e) of the Immigration and Nationality Act, as amended. Such physicians are not eligible to be considered for 212(e) waivers on the basis of "No Objection" statements issued by their governments.

(ii) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or research are not automatically subject to the two-year foreign residency requirement of section 212(e) of the Immigration and Nationality Act, as amended, but would be subject to the requirement only if they were governmentally financed or subject to the foreign residency requirement because of the Exchange-Visitor Skills List (Public Notice, 37 FR 8099, April 25, 1972 and 43 FR 5910, February 10, 1978). Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act, as amended, on the basis of "No Objection" statements submitted by their governments in their behalf through diplomatic channels to the Director of the International Communication Agency.

(9) Alien physicians in training programs prior to January 10, 1978.

(i) Alien physicians in the United States in medical residency training programs which began prior to January 10, 1977, who qualify for the five-

year general limitation of stay, will, in general, be sponsored for completion of their training objective, provided they have not obtained a waiver under section 212(e) of the Immigration and Nationality Act, as amended, or become permanent residents of the United States. Specifically:

(ii) Alien physicians who completed in June 1977 the first or second year or an initial residency training program will be sponsored to complete the balance of their training objective, subject to the five-year general limitation of stay.

(iii) Alien physicians who completed initial residency training in June 1977 and who have a contract or clinical fellowship to pursue a subspecialty in a field directly related to their residency training will be sponsored to do so, provided the subspecialty training can be completed within the five-year time limitation.

(iv) Alien physicians who began their training in 1974, 1975, or 1976 will be sponsored to pursue their subspecialty training after completing their residency training programs only if: (A) they can provide evidence to show that their stated objective in coming to the United States was to pursue such subspecialty training; or (B) they can provide the Educational Commission for Foreign Medical Graduates with a strong written justification from the dean, vice dean or registrar, or chief executive officer of the concerned home-country academic institution or from a government official, such as the Minister of Health, that there is a definite need in that country for persons with the skills the alien will acquire.

(v) Alien physicians who were in training programs prior to January 10, 1977, and who are continuing to pursue the same program objective are still eligible to be considered for a waiver on the basis of a "No Objection" statement from their respective governments.

(vi) Alien physicians who began their graduate medical education or training programs between January 10, 1977, and January 9, 1978, will be permitted to complete their initial training program objectives provided they have not become immigrants or obtained waivers of the two-year foreign residency requirement. Initial training program objective is defined as the completion of the basic residency requirement or fellowship program for which the alien physician came to the United States. If, after completing their basic residency or fellowship programs, the alien physicians wish to pursue additional training in a directly-related subspecialty, they will be required to furnish documentation from their home-country governments that there is a definite need in the

countries concerned for persons with the additional skills which the physician(s) will acquire. The alien physicians must also certify that they will return home on completion of any extension of stay.

(b) Teenager Exchange Visitor. These criteria govern the designation and monitoring by the International Communication Agency of Exchange-Visitor Programs which are designed to give foreign teenager students an opportunity to spend from six months to a year studying at a United States high school or other educational institution. The student is placed by the Exchange-Visitor Sponsor with a United States family which serves as the host family during the period of sponsorship. The primary purpose of these programs is to improve the foreign student's knowledge of American culture and language through active participation in family, school and community life. A secondary purpose is to improve American knowledge of a foreign culture and to contribute to international understanding through personal experiences in schools and communities throughout the United States.

(1) Eligibility for Sponsorship. Only non-profit organizations and institutions which have received tax exempt status from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code will be designated as Exchange-Visitor Program sponsors for teenager programs.

(i) Selection. The designated sponsor must assume responsibility for the selection of students to participate in these programs. Employment or travel agencies either in the United States or abroad shall not be used under any circumstances for the recruitment of foreign students.

(A) Selection will be limited to secondary school students or recent graduates between the ages of 15 and 19 who have a sufficient knowledge of English to enable them to function in an English speaking environment. Students should be screened for demonstrated maturity and ability to get maximum benefit from these programs.

(ii) Agreements. All provisions of the agreements between students, their parents and sponsors must be written if possible in both English and the students' native languages. The terms of such agreements must be specific stating clearly the total cost of the program, refund policies and program rules and regulations. The sponsors are responsible for assuring that these terms are fully understood by students and parents.

(iii) Orientation. Orientation, both predeparture and upon arrival in the United States, must be provided to all students. The orientation should be

designed to give the students basic information about the United States, its people and family and school life. Students should be fully informed of the nature of the program in which they are participating. Sponsors are encouraged to include returnees in predeparture orientation sessions.

(A) Orientation must also be provided to host families in advance of the students' arrival. Each host family should be well briefed on family and school life, customs, religion and mores in its exchange student's native country. Each family should also be apprised of potential problems in hosting an exchange student and provided with suggestions on how to cope with those problems.

(B) Students must be provided with an identification card which includes: 1) the name and telephone number of an official of the sponsoring organization, 2) the name and number of the Exchange-Visitor Program, and 3) the address and telephone number of the Exchange-Visitor Program Designation Branch, International Communication Agency, Washington, D.C. 20547.

(C) In addition, students and host families must be provided with a copy of the "Criteria For Exchange-Visitor Teenager Programs."

(2) Health, Accident and Liability Insurance. The sponsor is responsible for insuring that every student selected to participate in the program has appropriate medical coverage. Minimum acceptable coverage must include: a) basic medical/accident of \$2,000 (per injury or illness), b) preparation and transportation of remains to home country (at least \$1,500), and dismemberment coverage.

(i) Coverage may be provided in any of the following ways, with the International Communication Agency informed of the sponsor's choice:

(A) By health and accident coverage arranged for by the student.

(B) By health and accident insurance coverage arranged for by the sponsor.

(C) By the sponsor assuming all financial responsibilities for a student's illnesses and accidents from the time the student leaves his or her home country until he or she returns home.

(3) Geographical Distribution. Sponsors must develop plans to ensure that groups of students, especially those of the same nationality, are not clustered. Every effort must be made to have the students widely dispersed throughout the country. No more than four foreign students and no more than two of the same nationality may be placed in one high school by a sponsor.

(i) Placement of Students in United States Schools. No organization sponsoring this type of exchange program



shall place a student in a secondary school without first notifying the principal or superintendent or school board and obtaining approval for the admission of the student. Sponsors must make clear arrangements with school authorities regarding any tuition payments or waivers of tuition.

(A) Placement of the student in a secondary school should be arranged at least five weeks in advance of the student's departure from the student's native country. In any event, such placement must be made before the student's arrival in the United States.

(ii) Placement of Students in United States Host Families. The designated program sponsor is responsible for the selection of the American host family, a program sponsor's representative must personally interview and visit the home of each host family before that family is permitted to receive an exchange student. Telephone interviews are not sufficient. Employment agencies shall not be used, under any circumstances, for the placement of exchange students.

(A) The student shall not be asked to perform the duties of a household domestic under any circumstances. However, students should be made aware that they may be asked to assist with some of the normal daily chores (keeping their rooms neat, helping with the dishes) which all of the members of the household must do.

(B) The American host family should have at home during non-school hours at least one family member, preferably a teenager, to assure the exchange student of some companionship.

(C) Sponsors must make every effort to assure that a student is placed with the family which promises the greatest compatibility for the student. Such arrangements should be made well in advance so that the students and their hosts have ample time for correspondence before the students leave their home countries.

(D) Sponsors should notify students of their home placement at least five weeks prior to their departure for the United States.

(E) A host family should be given the background data and arrival information about the student at least five weeks prior to the student's arrival in the United States.

(F) Home placement must be made before the student's arrival in the United States. Noncompliance with this requirement can result in immediate suspension or revocation of exchange visitor program designation.

(4) Supervision. The sponsor must assume the responsibility of resolving problems including, if necessary, the changing of host families and the early return home of the exchange

student because of personal or family difficulties.

(i) Sponsors must contact students and their host families periodically throughout their exchange visit to ensure that problems are dealt with promptly and effectively. These periodic contacts should include personal meetings with students.

(ii) The sponsor must provide the host family with a copy of the identification card furnished each student (see (1) (iii) (B) of this section) as well as with the names, address and telephone numbers of both local and national officials of the sponsoring organization who can be contacted at any time in case of an emergency or other problems.

(iii) Sponsors must solicit written evaluations of the exchange program from students and host families at the termination of the exchange visit. Student evaluations should include discussion of host families, host schools, area representatives of sponsors, orientation programs and suggested improvements. Host family evaluations should include discussion of exchange students, area representatives, orientation programs and suggested improvements.

(5) Employment. Students in the teenager program are not permitted to accept full-time employment during their stay in the United States. However, noncompetitive small jobs, not to exceed 10 hours per week, such as tutoring, grass cutting, baby or people sitting, newspaper delivery, etc. will be allowed.

(6) Financial Responsibility. A sponsor must guarantee return transportation for students in the event of a default by their organization. This may be done by the purchase of round trip charter tickets, the purchase of round trip tickets on regularly scheduled flights, or a combination of the two. Alternatively, a sponsor may arrange a surety bond or surety trust agreement with a bank to ensure return transportation.

(1) Sponsors are required to have available for review by the International Communication Agency an audited financial statement of their operations. The financial statement should include an itemized list of the salaries of the officers of the organization.

(7) Reports. Sponsors will furnish the International Communication Agency with an annual report on their programs at the end of each year. A questionnaire will be sent to sponsors each year to assist them in preparing the report.

(8) Suspension or Revocation of Exchange-Visitor Program Designation. Sponsors who are found to be in violation of the above criteria are subject to having program designations sus-

pended or revoked in accordance with § 514.17 of the regulations.

#### § 514.14 Duties of Responsible Officer.

It is the duty of the Responsible Officer to:

(a) Conduct all correspondence relating to the program with the Agency, the Immigration and Naturalization Service or American consular officers. (Reference to the organization's Exchange-Visitor Program by its assigned serial number should always be made in such correspondence as required by § 514.16);

(b) Advise and assist all participants in the program or programs in their relations with the Agency, the Immigration and Naturalization Service or American consular officers;

(c) Execute, sign and control the issuance of Form IAP-66 in accordance with instructions of the Agency;

(d) Certify that the activity in which the exchange visitor will engage is one which is authorized under the terms of the official description of the program;

(e) Upon receiving a Form IAP-66, where Part I is completed by another sponsor to whose Exchange-Visitor Program the exchange visitor is transferring, complete Part III when the transfer to the other Exchange-Visitor Program is considered to be clearly within the objective for which the alien sought entry into the United States;

(f) Advise any exchange visitor whose program will extend beyond the authorized stay and/or who desires a transfer to another Exchange-Visitor Program as described in § 514.22 (b) and (c), that the visitor must apply to the Immigration and Naturalization Service for permission, presenting to that Service a newly completed and executed Form IAP-66 and the temporary entry permit Form I-94 (Arrival-Departure Record) inserted in the visitor's passport by that Service;

(g) Notify the District Director of the Immigration and Naturalization Service in accordance with paragraph (a) of § 514.12 if the sponsor terminates an alien's participation in the Exchange-Visitor Program or when a participant: (1) Remains in the United States beyond the period of stay authorized by the Immigration and Naturalization Service as shown on the alien's Form I-94; (2) has ceased to maintain exchange-visitor status (including the circumstances involved); or (3) has completed the activity and objective for which the visitor entered the United States and is due to depart. The notification should include the alien's full name, date and place of birth, and, if known, the date and port of departure, identity of the transportation medium, and the visitor's alien registration number;

(h) Submit requests for supplies of Form IAP-66 to the Agency and control supplies forwarded (requests from persons other than the Responsible Officer or the alternate will not be honored);

(i) Inform the Agency when the Responsible Officer or the alternate listed in the Agency's record will no longer act in this capacity and supply the name and title of the official who will henceforth assume such responsibility;

(j) Inform all interested personnel within the sponsoring organization concerning its sponsorship of an Exchange-Visitor Program, with particular reference to the functions of the Responsible Officer;

(k) Inform the Agency when the organization wishes to discontinue sponsorship of an Exchange-Visitor Program or when it wishes to amend its description, or when the address or telephone number of organization is changed;

(l) Prepare and submit the required reports as described in paragraph (e) of § 514.12;

(m) Respond to requests from the Agency and/or the Immigration and Naturalization Service for the views of the sponsor with regard to applications involving waivers of the two-year home-country physical presence requirement for exchange visitors who are or were sponsored by that institution.

#### § 514.15 Action on applications for Exchange-Visitor Program Designation.

(a) An application for program designation on Form IAP-37 submitted to the Director shall be examined to ascertain the adequacy of the information furnished. If sufficient information has not been furnished, the intending sponsor shall be requested to supply information in which the application is deficient. In addition to the information furnished on Form IAP-37, the Director may require an intending sponsor to present any evidence of a documentary nature, such as program reports, institutional catalogues, letters of recognition, accreditation, certification or approval, which the Director may consider necessary in determining the eligibility of the program to be designated as an Exchange-Visitor Program.

(b) Upon receipt and consideration of the Form IAP-37, including any required additional evidence, the Director has the discretion to designate or deny, the sponsor's program as an Exchange-Visitor Program. The Director will notify the sponsor in writing of the decision. Any designation by the Director of an Exchange-Visitor Program other than a program sponsored by the Agency will not obligate the Director of the International Communi-

cation Agency in any way with respect to the financial operation of the program or imply any financial responsibility by the Director of the International Communication Agency for participants in such a program.

#### § 514.16 Assignment of serial number.

(a) If designation is made, the program will be assigned a number within one of the following series:

G-1 Programs sponsored by the International Communication Agency.

G-2 Programs sponsored by the Agency for International Development.

G-3 Programs sponsored by the Department of State.

G-4 Programs sponsored by international agencies or organizations in which the U.S. Government participates.

G-5 Programs sponsored by other national, State, or local government agencies.

P-1 Programs sponsored by educational institutions such as schools, colleges, universities, seminaries, libraries, museums, and institutions devoted to scientific and technological research.

P-2 Programs sponsored by hospitals and related institutions.

P-3 Programs sponsored by non-profit associations, foundations, and institutions.

P-4 Programs sponsored by business and industrial concerns.

(b) The sponsor will thereafter refer to the assigned serial number in any correspondence with the Director, consular officers, or the Immigration and Naturalization Service concerning its Exchange-Visitor Program or any participant in such program.

#### § 514.17 Revocation of designation.

The designation of any Exchange-Visitor Program may be revoked at the discretion of the Director for any sufficient cause, including, but not limited to:

(a) Failure to maintain educational or training standards as established by competent professional agencies;

(b) Failure to submit complete and accurate reports on program operations when requested by the Director;

(c) Misuse of the Exchange-Visitor Program.

(d) Failure to comply with criteria referred to in § 514.12(f).

The designation of an Exchange-Visitor Program will be revoked if the Program remains inactive for a period of more than two years. Such revocation will not preclude the sponsoring organization from reapplying for a new designation at a later date.

#### Subpart C—Exchange Visitors

§ 514.21 Notification to Exchange Visitors: summary of instruction to apply for J visas and entries.

(a) The Responsible Officer or alternate shall execute a Form IAP-66, and furnish copies one through three to each selected participant for presentation to the American consular officer abroad in applying for a J-1 visa. Copy four of the form should be kept by the Responsible Officer for the records of the sponsoring institution or agency. The Responsible Officer or alternate is required to furnish in the Form IAP-66 the time and terms of the proposed exchange visit which must be demonstrably within the activities contained in the duly authorized description of the Exchange-Visitor Program concerned. The Responsible Officer or alternate should also instruct the alien to read and complete the participant's Certificate which is printed on the back of Form IAP-66 prior to presentation to a consular officer (or immigration officer, if exempt from visa requirements) and to sign and date it upon presentation to the officer.

(b) Copies one through three of the Form IPA-66 which are presented to the consular officer for a visa will be returned to the participant, and upon arrival at a U.S. port of entry, the participant must present and relinquish copies one, two, and three to the examining immigration inspector of the Immigration and Naturalization Service, who will indicate the authorized length of stay and return copy two to the participant to use for visa revalidation or reentry to the United States in the event that the participant should leave the country temporarily during the period of the program. The immigration inspector will retain copy one and forward copy three to the Agency.

(c) Members of the participant's immediate family accompanying the exchange visitor may apply for J-2 visas and entry into the United States on the basis of the Form IAP-66 issued to the participant. If members of the immediate family are following to join the participant, they must present to the American consular officer (unless exempt from visa requirements) and to the examining officer of the Immigration and Naturalization Service at the port of entry in the United States, a newly executed Form IAP-66 marked "To Permit the Visitor's Family to Enter the U.S. Separately" prepared and authenticated by the Responsible Officer or alternate Responsible Officer. Only one such marked form is required for each party of family members traveling separately from the exchange visitor. The form must contain all entries and information shown on the Form IAP-66 issued



to the principal except for page 2 which need not be filled out.

§ 514.22 Applications for change or adjustment of status to or from Exchange Visitor, for extensions, and for program transfers.

(a) Change of status to Exchange Visitor. An application for change of status to Exchange Visitor shall be made by the prospective exchange visitor who has been admitted into the United States as a nonimmigrant and is eligible for change of status in accordance with the provisions of section 248 of the Immigration and Nationality Act, as amended, to the office of the Immigration and Naturalization Service having administrative jurisdiction over the participant's place of temporary residence. Such application must be accompanied by Form IAP-66 properly executed by the sponsor and the intending participant. Upon request of the Immigration and Naturalization Service officer to whom such application is made, the Agency will furnish its views in any case in which the officer (1) cannot determine from the evidence submitted that the program proposed for the participant is clearly within the scope of the designation of the Exchange-Visitor Program concerned, or (2) has doubt, considering among other factors the applicant's length of stay and previous activities in the United States, as to whether the best interests of the international educational and cultural exchange program would be served by this change of status. The application of the immediate family, if not made on the same occasion as the participant's, must be accompanied by a Form IAP-66 issued to the participant, authenticated by the Responsible Officer for the Exchange-Visitor Program or by the alternate Responsible Officer whose name has been recorded with the Agency, to show that the participant is still under that program and to show the authorized period of stay of the participant.

(b) Extension of stay. (1) Application for extension of stay shall be made between 15 and 60 days before the expiration of the exchange visitor's authorized stay to the District Director of the Immigration and Naturalization Service having administrative jurisdiction over the participant's place of temporary residence. The authorized period of stay is noted on Form I-94 (Arrival-Departure Record) inserted in the exchange visitor's passport by the Immigration and Naturalization Service.

(2) A participant applying for an extension of stay shall present Form IAP-66 properly completed and endorsed by the sponsor to show the time and terms of the extended stay for which application is made. As a

general rule, applications for extensions of stay should be requested only for continuation of the activity for which the participant obtained status as an exchange visitor, not for a new activity. When the application, if approved, would extend the participant's stay beyond the limitation specified in § 514.23, it must be strongly supported by the sponsor with evidence that there are exceptional circumstances or that additional time is required to complete highly specialized training, and that the participant's future intentions clearly involve the participant's departure from the United States in accordance with the objectives of the Exchange-Visitor Program. If the applicant is accompanied by applicant's immediate family, the sponsor should attach to Form IAP-66: (i) A statement on the sponsor's letterhead giving for each accompanying family member for whom extension is requested, the name, relationship to the exchange visitor, nationality, place and date of birth, passport number, passport expiration date and passport issuing country; and (ii) Form I-94 (Arrival-Departure Record) for each.

(3) Upon request of the Immigration and Naturalization Service, the Agency will furnish its views in all cases in which an extension is sought to enable the participant to carry out a new activity under the sponsor's program.

(4) The application of the immediate family, if not made simultaneously with the participant's application, must be accompanied by a newly executed Form IAP-66 identical to the one issued to the participant, properly endorsed by the sponsor to show the time and terms of the extended stay for which the participant has qualified. (See § 514.21(c).) The following should be attached to the Form IAP-66: (i) A statement on the sponsor's letterhead giving for each accompanying family member, the relationship to the exchange visitor, nationality, place and date of birth, passport number, issuing country and expiration date of the family member's passport; and (ii) Form I-94 (Arrival-Departure Record) for each.

(c) Program transfer. (1) An application for permission to transfer from one designated Exchange-Visitor Program to another must be submitted to the District Director, Immigration and Naturalization Service, having administrative jurisdiction over the participant's place of temporary residence in the United States, by the participant concerned between 15 and 60 days before participation in the program to which the participant wishes to transfer is scheduled to begin. A participant applying for a program transfer shall present a duly executed Form IAP-66,

Part I completed by the prospective sponsor, and Part III completed by the releasing sponsor. The reverse side must also be completed in accordance with the instructions which are printed on the form.

A request for a program transfer shall be denied unless the transfer is clearly consistent with the original or a closely related objective. Unless very unusual or extenuating circumstances exist, the following requests for program transfers shall not be authorized: nurse to doctor of medicine; student to research scholar or teacher; research scholar to student or teacher; teacher to research scholar or student. When the Form IAP-66 is signed by the Responsible Officers for both programs, the transfer is within the applicable general time limitation, and the transfer is routine in nature, the District Director of Immigration and Naturalization Service may grant the application without referral to the International Communication Agency. In unusual or questionable cases, an advisory opinion may be obtained from the International Communication Agency.

(2) Before acting on the participant's application for permission to transfer, the District Director may request the views of the Agency as to whether the best interests of the international educational and cultural exchange program will be served by the transfer in any case in which (i) the applicant is unable to present a Form IAP-66 with Part III duly executed by the current sponsor, (ii) it appears that the transfer is for the purpose of extending the stay of the participant in the United States beyond the completion of the objective for which the participant came, or (iii) the participant does not appear to be making clear progress toward a definite objective consistent with the intent and purposes of the Act.

(d) Adjustment of status from exchange visitor to permanent resident or change to another nonimmigrant category. (1) Adjustment of status from exchange visitor to permanent resident is possible only if the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, is inapplicable or waived. (See § 514.31 for a substantial quotation of section 212(e) and for regulations regarding waivers.) An application for adjustment of status must be made by the participant to the District Director, Immigration and Naturalization Service, having jurisdiction over the participant's place of temporary residence in the United States.

(2) An application for change of status from exchange visitor to another nonimmigrant category must be made to the District Director, Immigration and Naturalization Service,

having jurisdiction over the participant's place of temporary residence in the United States. The Immigration and Naturalization Service has directed that the District Director will not grant a change to nonimmigrant status under section 101(a)(15) (A) or (G) of the Immigration and Nationality Act unless the Department of State advises the District Director that the applicant is qualified for classification thereunder.

§ 514.23 General limitations of stay.

(a) To insure that exchange visitors remain in the United States only so long as is necessary to satisfy their stated objectives and the intent of the Act, the following general limits on the period of stay of exchange visitors are hereby established. Exceptions to these limitations will be permitted only in unusual circumstances.

(1) Participants. (i) Students—as long as they pursue substantial scholastic programs leading to recognized degrees or certificates. After receiving degrees or certificates from the U.S. institution, students whom the sponsor recommends for practical training may be permitted to remain for such purpose for an additional period of up to 18 months.

(ii) Teachers, professors, research scholars, and specialists—3 years.

(iii) International visitors—1 year.

(iv) Professional trainees—2 years for an alien who is a graduate of a medical school pursuing graduate medical education or training in the United States. A 1-year extension may be granted beyond 2 years only if the separately published criteria for aliens who are graduates of a medical school are met (See § 514.12(f)).

(v) Graduate nurses—2 years.

(vi) Medical technologists, medical record librarians, medical record technicians, radiologic technicians, nurse anesthetists, and other participants in similar categories—length of the approved training program plus a maximum of 18 months for practical training, not to exceed a total of 3 years.

(vii) Business and industrial trainees—18 months.

(2) The immediate family. As long as the participant remains.

(b) The limitations in this section prescribe, as a general rule, the maximum stays of exchange visitors in the categories cited. A participant who is able to complete the stated program objective in less than the maximum lengths of time will be expected to return abroad to comply with the purposes of the Act. These limitations apply regardless of the number of Exchange-Visitor Programs in which the visitor participates. Therefore, transfer from one Exchange-Visitor Program to another will not extend the stay of a participant beyond the limits

#### Subpart D—Waiver Procedures in Certain Cases

§ 514.31 Requests for waivers of the home-country physical presence requirement of the Immigration and Nationality Act, as amended.

(a) General provisions. Section 212(e) of the Immigration and Nationality Act, as amended, provides substantially in part that:

(1) No person admitted under section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, or acquiring such status after admission (i) whose participation in the program was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of the participant's nationality or his or her last legal permanent residence, or (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the International Communication Agency, pursuant to regulations prescribed by the Director, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the participant was engaged, or (iii) who came to the United States under section 101(a)(15)(J) or acquired such status after entry in order to receive graduate medical education or training, shall be eligible for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of such person's nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States.

(2) Upon the favorable recommendation of the Director of the International Communication Agency, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after the latter has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child who is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of the alien's nationality or last legal permanent residence because the alien would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest.

set for a particular category. These limitations should not be construed as extending or changing in any way the authorized period of stay specified in the official description of an Exchange-Visitor Program.

§ 514.24 Prohibition of employment not related to program; exception for students in certain circumstances; possible exception for immediate family.

(a) General. Except as provided in paragraph (b) of this section for students in certain circumstances, an exchange visitor who engages in activities that both produce income from U.S. sources and are unrelated to the participant's program ceases to maintain lawful status in the United States as an exchange visitor. (See paragraph (e) of this section for exception in regard to immediate family.)

(b) Exception for students. An exchange visitor student's status is not subject to curtailment as stated in paragraph (a) of this section if all the following conditions are met:

(1) Such employment is required by an urgent financial need which has arisen since acquiring Exchange Visitor status;

(2) It does not cause the participant to reduce preparation and studies below the full-time level; and

(3) It has the written approval of the sponsor signed by the Responsible Officer or alternate Responsible Officer.

(c) Limitation on workweek for students. No full-time employment (40 hours per week) or employment approaching the nature of full-time employment may be approved for an exchange visitor student by the sponsor, except during periods of school vacation.

(d) Certain student employment exempted from paragraph (b)(1). Remunerative employment of an exchange visitor student who is otherwise taking a full course of study pursuant to the terms of a scholarship, fellowship, or assistantship is considered to be a part of the individual's academic program if the employment is both on campus and is related to the participant's course of study. Such employment is not subject to the provision of paragraph (b)(1) of this section.

(e) Possible exception for immediate family. Immediate family members may accept employment in the United States only if authorized to do so by the District Director of the Immigration and Naturalization Service having jurisdiction over the place where the participant is sojourning temporarily. (See 8 CFR 214.2(j)(1).)



(3) The Attorney General may, upon the favorable recommendation of the Director of the International Communication Agency, waive such two-year foreign residence requirement in the case of any participant (except an alien who is a graduate of a medical school pursuing a program in graduate medical education or training) if the foreign country of the alien's nationality or the country of his or her last legal permanent residence has furnished the Director of the International Communication Agency a statement in writing that it has no objection to such waiver in the case of the alien.

(b) Exceptional hardship to United States citizen or lawfully resident alien spouse or child or probable persecution for enumerated reasons.

(1) An application for waiver on the basis that a two-year period of residence abroad would impose exceptional hardship upon the exchange visitor's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or, on the basis that return to the country of nationality or last legal permanent residence would subject the exchange visitor to persecution on account of race, religion, political opinion, nationality, or membership of a particular social group, shall be submitted by the exchange visitor to the office of the Immigration and Naturalization Service having administrative jurisdiction over the exchange visitor's place of temporary residence in the United States, or if the exchange visitor is abroad, over the visitor's last legal place of residence in the United States.

(2) If the Commissioner of Immigration and Naturalization determines that compliance with the home-country physical presence requirement would impose exceptional hardship upon the spouse or child who is an American citizen or permanent resident alien, or, would subject the alien to persecution on account of race, religion, political opinion, nationality, or membership of a particular social group, the finding showing such determination together with a summary of the details of the expected hardship or persecution will be submitted to the Waiver Review Branch in the Office of the General Counsel of the Agency for the Director's recommendation.

(c) Interested U.S. Government agency or statement of no objection by home-country. Applications for the favorable recommendation of the Director for a waiver on the basis of a request from an interested United States Government agency, or on the basis of a statement from the exchange visitor's country of nationality or which the visitor had a legal permanent residence to the Director that it has no objection to a waiver, shall be initiated

with the Waiver Review Branch in the Office of the General Counsel of the Agency in the following manners:

(1) Interested U.S. Government agency. When the application is supported by an interested U.S. Government agency other than the International Communication Agency, the head of such agency or duly appointed designee must submit a statement in writing to the Office of the General Counsel of the Agency, in which the agency head or designee determines and attests that, from the point of view of the agency, (i) the granting of the waiver would be in the public interest and (ii) the exchange visitor's compliance with the two-year home-country physical presence requirement would be clearly detrimental to a program or activity of official interest to the agency. Further, the statement shall identify by name and location the organization which will use the exchange visitor's service, and indicate the participant's place of residence in the United States. If deemed appropriate the Agency may request the views of each of the exchange visitor's sponsors concerning the waiver application.

(2) No objection by home-country. When the application is to be supported by a statement of no objection by the exchange visitor's country of nationality or last legal permanent residence, this statement shall be directed to the Director through official channels, i.e., from the country's foreign office to the Agency through the U.S. mission in the foreign country concerned, or through the country's head of mission or duly appointed designee to the Director in the form of a diplomatic note. In addition to the statement indicating that the country concerned has no objection to the waiver, the exchange visitor must, upon request, submit the following information to the Waiver Review Branch, Office of the General Counsel: (i) Full name; (ii) place and date of birth; (iii) present address in the United States or last address in the United States prior to departure; (iv) list of Exchange-Visitor Programs (or Program) in which the individual participated; (v) Alien Registration Number, if known; (vi) name of foreign government official with whom the case can be discussed if necessary; (vii) specific reasons for not wishing to fulfill the two-year home-country physical presence requirement; and (viii) the views of each of the visitor's sponsors concerning the waiver application.

§ 514.32 Action by the Director on requests for waivers.

Upon receipt of a request for a recommendation of waiver of the home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, the

Director will review the policy, program, and foreign relations aspects of the case and will transmit a recommendation to the Attorney General for decision. The exchange visitor will be advised of the decision in the case by the Immigration and Naturalization Service.

It is the general policy of the International Communication Agency to allow time for interested parties to take part in the rulemaking process.

However, the addition of the new part is administrative in nature and was mandated by law. Therefore, the rulemaking process involving comment and public procedure is waived, and this new part will become effective on March 26, 1979.

Issued at Washington, D.C.

JOHN E. REINHARDT,  
Director, International  
Communication Agency.

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[8230-01-M]

#### PART 515—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

**Addition of a New Part to Chapter V**  
AGENCY: International Communication Agency.

ACTION: Final Rule.

**SUMMARY:** This rule adds a new part to Chapter V to reflect the transfer of functions to the International Communication Agency. The transfer was legislatively mandated by Reorganization Plan No. 2 of 1977 which provides for the transfer of the functions established in the United States Information and Educational Exchange Act of 1948, as amended, and the functions established in the Mutual Educational and Cultural Exchange Act of 1961, as amended, to the Director of the International Communication Agency.

**EFFECTIVE DATE:** March 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Robert R. Gaudian, Deputy Executive Director, Associate Directorate for Educational and Cultural Affairs, International Communication Agency, Washington, D.C., AC 202-724-9717.

**SUPPLEMENTARY INFORMATION:** As a result of the establishment of the International Communication Agency, the functions formerly delegated to the Secretary of State in the cultural exchange area have been transferred to the Director of the International Communication Agency (USICA).

USICA has assumed overall responsibility for payments to and on behalf of participants in the International Educational and Cultural Exchange Program, and all related procedures.

Part 515 is added to read as set forth below:

#### PART 515—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

Sec.

515.1 Definitions.

515.2 Applicability of this part under special circumstances.

515.3 Grants to foreign participants to observe, consult, demonstrate special skills, or engage in specialized programs.

515.4 Grants to foreign participants to lecture, teach, and engage in research.

515.5 Grants to foreign participants to study.

515.6 Assignment of United States Government employees to consult, lecture, teach, engage in research, or demonstrate special skills.

515.7 Grants to United States participants to consult, lecture, teach, engage in research, demonstrate special skills, or engage in specialized programs.

515.8 Grants to United States participants to study.

515.9 General provisions.

**AUTHORITY:** Sec. 4, 63 Stat. 111, as amended, 75 Stat. 527-538; 22 U.S.C. 2658, 2451 note; Reorganization Plan No. 2 of 1977; Executive Order 12048 of March 27, 1978.

§ 515.1 Definitions.

For the purpose of this part the following terms shall have the meaning here given:

(a) *International educational and cultural exchange program of the International Communication Agency.* A program to promote mutual understanding between the people of the United States and those of other countries and to strengthen cooperative international relations in connection with which payments are made direct by the International Communication Agency, as well as similar programs carried out by other Government departments and agencies and by private organizations with funds appropriated or allocated to the International Communication Agency when the regulations in this part apply under the provisions of § 515.2 (a) and (b).

(b) *Program and Agency.* For convenience, the international educational and cultural exchange program of the International Communication Agency will hereinafter be referred to as the "program," and the International Communication Agency will hereinafter be referred to as the "Agency."

(c) *Participant.* Any person taking part in the program for purposes listed in § 515.3 through § 515.8 includ-

ing both citizens of the United States and citizens and nationals of the other countries with which the program is conducted.

(d) *Transportation.* All necessary travel on railways, airplanes, steamships, buses, streetcars, taxicabs, and other usual means of conveyance.

(e) *Excess baggage.* Baggage in excess of the weight or size carried free by public carriers on first class service.

(f) *Per diem allowance.* Per diem in lieu of subsistence includes all charges for meals and lodging; fees and tips; telegrams and telephone calls reserving hotel accommodations; laundry, cleaning and pressing of clothing; transportation between places of lodging or business and places where meals are taken.

§ 515.2 Applicability of this part under special circumstances.

(a) *Funds administered by another department or agency.* The regulations in this part shall apply to payments made to or on behalf of participants from funds appropriated or allocated to the Agency and transferred by the Agency to some other department, agency or independent establishment of the Government unless the terms of the transfer provide that such regulations shall not apply in whole or in part or with such modification as may be prescribed in each case to meet the exigencies of the particular situation.

(b) *Funds administered by private organizations.* The regulations in this part shall apply to payments made to or on behalf of participants from funds appropriated or allocated to the Agency and administered by an institution, facility, or organization in accordance with the terms of a contract or grant made by the Agency with or to such private organizations, unless the terms of such contract or grant provide that the regulations in this part are not to be considered applicable or that they are to be applied with such modifications as may be prescribed in each case to meet the exigencies of the particular situation.

(c) *Appropriations or allocations.* The regulations in this part shall apply to payments made by the Agency with respect to appropriations or allocations which are or may hereafter be made available to the Agency for the program so far as the regulations in this part are not inconsistent therewith.

§ 515.3 Grants to foreign participants to observe, consult, demonstrate special skills, or engage in specialized programs.

A citizen or national of a foreign country who has been awarded a grant to observe, consult with colleagues, demonstrate special skills, or engage in

specialized programs, may be entitled to any or all of the following benefits when authorized by the Agency.

(a) *Transportation.* Accommodations, as authorized, on steamship, airplane, railway, or other means of conveyance. For travel in a privately owned vehicle, reimbursement will be in accordance with the provisions of the Federal Travel Regulations.

(b) *Excess baggage.* Excess baggage as deemed necessary by the Agency.

(c) *Per diem allowance.* Per diem allowances in lieu of subsistence expenses while participating in the program in the United States, its territories or possessions and while traveling within or between the United States, its territories or possessions shall be established by the Director from time to time, within limitations prescribed by law. The participant shall be considered as remaining in a travel status during the entire period covered by his or her grant unless otherwise designated.

(d) *Allowance.* A special allowance in lieu of per diem while traveling to and from the United States may be established by the Director, within limitations prescribed by law.

(e) *Tuition and related expenses.* Tuition and related expenses in connection with attendance at seminars and workshops, professional meetings, or other events in keeping with the purpose of the grant.

(f) *Books and educational materials allowance.* A reasonable allowance for books and educational materials.

(g) *Advance of funds.* Advance of funds including per diem.

§ 515.4 Grants to foreign participants to lecture, teach, and engage in research.

A citizen or national of a foreign country who has been awarded a grant to lecture, teach, and engage in research may be entitled to any or all of the following benefits when authorized by the Agency:

(a) *Transportation.* Accommodations, as authorized on steamship, airplane, railway, or other means of conveyance. For travel in a privately owned vehicle, reimbursement will be in accordance with the provisions of the Federal Travel Regulations.

(b) *Excess baggage.* Excess baggage as deemed necessary by the Agency.

(c) *Per diem allowance.* Per diem allowance in lieu of subsistence expenses while participating in the program in the United States, its territories or possessions and while traveling within or between the United States, its territories or possessions shall be established by the Director from time to time, within limitations prescribed by law.

(d) *Allowance.* A special allowance in lieu of per diem while traveling to and from the United States may be estab-



lished by the Director, within limitations prescribed by law.

(e) *Tuition and related expenses.* Tuition and related expenses in connection with attendance at educational institutions, seminars and workshops, professional meetings or other events in keeping with the purpose of the grant.

(f) *Books and educational materials allowance.* A reasonable allowance for books and educational materials.

(g) *Advance of funds.* Advance of funds including per diem.

#### § 515.5 Grants to foreign participants to study.

A citizen or national of a foreign country who has been awarded a grant to study may be entitled to any or all of the following benefits when authorized by the Agency:

(a) *Transportation.* Accommodations, as authorized, on steamship, airplane, railway, or other means of conveyance. For travel in a privately owned vehicle, reimbursement will be accordance with the provisions of the Federal Travel Regulations.

(b) *Excess baggage.* Excess baggage as deemed necessary by the Agency.

(c) *Per diem allowance.* Per diem allowance in lieu of subsistence expenses while traveling (i) from point of entry in the United States, its territories or possessions to orientation centers and while in attendance at such centers for purposes of orientation, not to exceed 30 days, (ii) to educational institutions of affiliation, and (iii) to point of departure and while participating in authorized field trips or conferences, shall be established by the Director from time to time, within limitations prescribed by law.

(d) *Allowances.* (1) A maintenance allowance while present and in attendance at an educational institution, facility or organization, and

(2) A travel allowance in lieu of per diem while traveling to and from the United States may be established by the Director, within limitations prescribed by law.

(e) *Tuition.* Tuition and related fees for approved courses of study.

(f) *Books and educational materials allowance.* A reasonable allowance for books and educational materials.

(g) *Tutoring assistance.* Special tutoring assistance in connection with approved courses of study.

(h) *Advance of funds.* Advance of funds including per diem.

#### § 515.6 Assignment of United States Government employees to consult, lecture, teach, engage in research, or demonstrate special skills.

An employee of the United States Government who has been assigned for service abroad to consult, lecture, teach, engage in research, or demon-

strate special skills, may be entitled to any or all of the following benefits when authorized by the Agency.

(a) *Transportation.* Transportation and miscellaneous expenses in the United States and abroad, including baggage charges, and per diem in lieu of subsistence at the maximum rates allowable while in a travel status in accordance with the provisions of the Federal Travel Regulations. The participant shall be considered as remaining in a travel status during the entire period covered by his or her assignment unless otherwise designated.

(b) *Advance of funds.* Advances of per diem as provided by law.

(c) *Compensation.* Compensation in accordance with Civil Service rules; or in accordance with the grade in which the position occupied may be administratively classified; or Foreign Service Act, as amended.

(d) *Allowances for cost of living and living quarters.* Allowances for living quarters, heat, fuel, light, and to compensate for the increased cost of living in accordance with the Federal Travel Regulations (Government Civilian, Foreign Areas), when not in a travel status as provided in paragraph (a) of this section.

(e) *Books and educational materials allowance.* A reasonable allowance for books and educational materials. Such books and materials, unless otherwise specified, shall be selected by the employee and purchased and shipped by the Agency or its agent. At the conclusion of the assignment, the books and educational materials shall be transferred to and become the property of an appropriate local institution or be otherwise disposed of as directed by the Agency.

(f) *Families and effects.* Cost of transportation of immediate family and household goods and effects when going to and returning from posts of assignment in foreign countries in accordance with the provisions of the Foreign Service Regulations of the United States of America.

#### § 515.7 Grants to United States participants to consult, lecture, teach, engage in research, demonstrate special skills, or engage in specialized programs.

A citizen or resident of the United States who has been awarded a grant to consult, lecture, teach, engage in research, demonstrate special skills, or engage in specialized programs may be entitled to any or all of the following benefits when authorized by the Agency.

(a) *Transportation.* Transportation in the United States and abroad, including baggage charges.

(b) *Subsistence and miscellaneous travel expenses.* Per diem, in lieu of subsistence while in a travel status, at the maximum rates allowable in ac-

cordance with the provisions of the Federal Travel Regulations, unless otherwise specified, and miscellaneous travel expenses, in the United States and abroad. Alternatively, a travel allowance may be authorized to cover subsistence and miscellaneous travel expenses. The participant shall be considered as remaining in a travel status during the entire period covered by his or her grant unless otherwise designated.

(c) *Orientation and debriefing within the United States.* For the purpose of orientation and debriefing within the United States, compensation, travel, and per diem at the maximum rates allowable in accordance with the provisions of the Federal Travel Regulations, unless otherwise specified. Alternatively, a travel allowance may be authorized to cover subsistence and miscellaneous travel expenses.

(d) *Advance of funds.* Advance of funds, including allowance for books and educational materials and per diem, or alternatively, the allowance to cover subsistence and miscellaneous travel expenses.

(e) *Compensation.* Compensation at a rate to be specified in each grant.

(f) *Allowances.* Appropriate allowance as determined by the Agency.

(g) *Books and educational materials allowance.* Where appropriate, an allowance for books and educational materials. Such books and materials, unless otherwise specified, shall be selected by the grantee and purchased and shipped either by the grantee, or the Agency or its agent. At the conclusion of the grant, the books and materials shall be transferred to and become the property of an appropriate local institution or be otherwise disposed of as directed by the Agency.

#### § 515.8 Grants to United States participants to study.

A citizen of the United States who has been awarded a grant to study may be entitled to any or all of the following benefits when authorized by the Agency.

(a) *Transportation.* Transportation and miscellaneous expenses in the United States and abroad, including baggage charges, and per diem in lieu of subsistence while in a travel status. Per diem at the maximum rates allowable in accordance with the provisions of the Federal Travel Regulations, unless otherwise specified. Travel status shall terminate upon arrival at the place of study designated in the grant and shall recommence upon departure from the place to return home.

(b) *Orientation and debriefing within the United States.* For the purpose of orientation and debriefing within the United States travel and

per diem at the maximum rates allowable in accordance with the provisions of the Federal Travel Regulations, unless otherwise specified.

(c) *Advance of funds.* Advance of funds including per diem.

(d) *Maintenance allowance.* A maintenance allowance at a rate to be specified in each grant.

(e) *Tuition.* Tuition and related fees for approved courses of study.

(f) *Books and educational materials allowance.* A reasonable allowance for books and educational materials.

(g) *Tutoring assistance.* Special tutoring assistance in connection with approved courses of study.

#### § 515.9 General provisions.

The following provisions shall apply to the foregoing regulations:

(a) *Health and accident insurance.* Payment for the costs of health and accident insurance for United States and foreign participants while such participants are enroute or absent from their homes for purposes of participation in the program when authorized by the Agency.

(b) *Transportation of remains.* Payments for the actual expenses of preparing and transporting to their former homes the remains of persons not United States Government employees, who may die away from their homes while participating in the program are authorized.

(c) *Maxima not controlling.* Payments and allowances may be made at the rate or in the amount provided in the regulations in this part unless an individual grant or travel order specifies that less than the maximum will be allowed under any part of the regulation in this part. In such case, the grant or travel order will control.

(d) *Individual authorization.* Where the regulations in this part provide for compensation, allowance, or other payment, no payment shall be made therefor unless a definite amount or basis of payment is authorized in the individual case, or is approved as provided in paragraph (f) of this section.

(e) *Computation of per diem and allowance.* In computing per diem and allowance payable while on a duty assignment, except for travel performed under the Federal Travel Regulations, fractional days shall be counted as full days, the status at the end of the calendar day determining the status for the entire day.

(f) *Subsequent approval.* Whenever without prior authority expense has been incurred by a participant, or an individual has commenced his or her participation in the program as contemplated by the regulations in this part, the voucher for payments in connection therewith may be approved by an official designated for this purpose, such approval constituting the author-

ity for such participation or the incurring of such expense.

(g) *Additional authorization.* Any emergency, unusual or additional payment deemed necessary under the program if allowable under existing authority, may be authorized whether or not specifically provided for by this part.

(h) *Biweekly payment.* Unless otherwise specified in the grant, all compensation and allowance for United States participants shall be payable biweekly and shall be computed as follows: an annual rate shall be derived by multiplying a monthly rate by 12; a biweekly rate shall be derived by dividing an annual rate by 26; and a calendar day rate shall be derived by dividing an annual rate by 364. If any maximum compensation or allowance authorized by these regulations or by the terms of any grant is exceeded by this method of computation and payment, such excess payment is hereby authorized. This paragraph may apply to payments made to participants from funds administered as provided in § 515.2(a) and (b) in the discretion of the department, agency, independent establishment, institution, facility, or organization concerned.

(i) *Payments.* Payments of benefits authorized under any part of the regulations in this part may be made either by the International Communication Agency or by such department, agency, institution, or facility as may be designated by the Agency.

(j) *Duration.* The duration of the grant shall be specified in each case.

(k) *Cancellation.* If a recipient of a grant under this program fails to maintain a satisfactory record or demonstrates unsuitability for furthering the purposes of the program as stated in § 515.1(a), his or her grant shall, in the discretion of the Director of the International Communication Agency or such officer as he or she may designate, be subject to cancellation.

(l) *Outstanding grant authorization.* Grants and other authorizations which are outstanding and in effect on the date the present regulations become effective, and which do not conform to this part, shall nevertheless remain in effect and be governed by the regulations under which they were originally issued, unless such grants or other authorizations are specifically amended and made subject to the present regulations in which case the individual concerned will be notified.

It is the general policy of the International Communication Agency to allow time for interested parties to take part in the rulemaking process.

However, the addition of the new part is administrative in nature and was mandated by law. Therefore, the rulemaking process, involving com-

ment and public procedure, is waived, and this new part will become effective upon publication.

Issued at Washington, D.C.

JOHN E. REINHARDT,  
Director, International  
Communication Agency.

(FR Doc. 79-9018 Filed 3-23-79; 8:45 am)

[8230-01-M]

#### PART 517—FOREIGN STUDENTS

##### Addition of a New Part to Chapter V

AGENCY: International Communication Agency.

ACTION: Final Rule.

SUMMARY: This rule adds a new part to Chapter V to reflect the transfer of certain functions from the Secretary of State to the International Communication Agency. The transfer was legislatively mandated by Reorganization Plan No. 2 of 1977 which provides for the transfer of the functions of the United States Information and Educational Exchange Act of 1948, as amended, and the functions of the Mutual Educational and Cultural Exchange Act of 1961, as amended, to the Director of the International Communication Agency. The particular functions covered by this Part pertain to admission, attendance and instruction of students from other American republics at educational institutions and schools maintained and administered by executive departments and agencies of the Government.

EFFECTIVE DATE: March 26, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Robert R. Gaudian, Deputy Executive Director, Associate Directorate for Educational and Cultural Affairs, International Communication Agency, Washington, D.C., AC 202-724-9717.

SUPPLEMENTAL INFORMATION: As a result of the establishment of the International Communication Agency, the functions formerly vested in, or delegated to, the Secretary of State in the cultural exchange area have been transferred to the Director of the International Communication Agency (USICA). USICA has assumed overall responsibility for the foreign student programs, and all related procedures.

Part 517 is added to read as set forth below:

#### PART 517—FOREIGN STUDENTS

- Sec.
- 517.1 Regulations to be drafted.
  - 517.2 Applications.
  - 517.3 Reference of applications.
  - 517.4 Copies of regulations to International Communication Agency.
  - 517.5 Granting of application.



## RULES AND REGULATIONS

AUTHORITY: 52 Stat. 1034, as amended; 20 U.S.C. 221, E.O. 7964, 3 FR 2105; 3 CFR, 1943-1958, Comp.; Reorganization Plan No. 2 of 1977.

## § 517.1 Regulations to be drafted.

Subject to the provisions and requirements of this part, appropriate administrative regulations shall be drafted by each executive department or agency of the Government which maintains and administers educational institutions and schools coming within the scope of the legislation. Such regulations shall carefully observe the limitations imposed by the Act of June 24, 1938, and shall in each case include:

(a) A list of the institutions and courses in the department or agency concerned in which instruction is available under the terms of the legislation.

(b) A statement of the maximum number of students of the other American republics who may be accommodated in each such institution or course at any one time.

(c) A statement of the qualifications to be required of students of the other American republics for admission, including examinations, if any, to be passed.

(d) Provisions to safeguard information that may be vital to the national defense or other interests of the United States.

## § 517.2 Applications.

Applications for citizens of the other American republics to receive the instruction contemplated by the Act of June 24, 1938, shall be made formally through diplomatic channels to the Director of the International Communication Agency by the foreign governments concerned.

## § 517.3 Reference of applications.

The Director of the International Communication Agency shall refer the applications to the proper department or agency of the Government for advice as to what reply should be made to the application.

## § 517.4 Copies of regulations to International Communication Agency.

In order to enable the Director of the International Communication Agency to reply to inquiries received from the governments of the other American republics, the International Communication Agency shall be promptly supplied with copies of the regulations drafted by the other departments and agencies of the Government and of subsequent amendments thereto.

## § 517.5 Granting of application.

Upon receipt of a reply from another department or agency of the Government, as contemplated by § 517.3, in which it is recommended that an application be granted, the Director of the International Communication Agency shall notify the government of the American republic concerned, through diplomatic channels, that permission to receive the instruction requested in the application is granted, provided the applicant complies with the terms of this part and with the terms of the administrative regulations of the department or agency concerned.

It is the general policy of the International Communication Agency to allow time for interested parties to take part in the rulemaking process.

However, the addition of the new part is administrative in nature and was mandated by law. Therefore, the rulemaking process, involving comment and public procedure, is waived and this new part will become effective upon publication.

Issued at Washington, D.C.

JOHN E. REINHARDT,  
Director, International  
Communication Agency.

[FR Doc. 79-9020 Filed 3-23-79; 8:45 am]

## [4110-92-M]

## Title 36—Parks, Forests, and Public Property

## CHAPTER XI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

## PART 1151—GENERAL STATEMENT OF POLICY

## Federal Parking Policies

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Statement of Policy.

SUMMARY: The Architectural and Transportation Barriers Compliance Board adopted Federal parking policies relating to the provision of accessibility parking spaces for physically handicapped individuals in public buildings and facilities. These policies recommend that the General Services Administration, Department of Housing and Urban Development, Department of Defense, and the United States Postal Service revise their standards of design, construction, and alteration to ensure that accessible parking spaces for the disabled are available in their buildings and facilities.

DATE: This policy statement is already effective.

## FOR FURTHER INFORMATION CONTACT:

Mr. Larry Allison, Office of Public Information, Architectural and Transportation Barriers Compliance Board, 330 C Street SW., Washington, D.C. 20201 (202/245-1591).

SUPPLEMENTARY INFORMATION: Pursuant to Section 502 of the Rehabilitation Act of 1973, Public Law 93-112, 87 Stat. 391, as amended, the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as A&TBCB) established at its meeting on September 12, 1978, policies relating to the provision of accessible parking spaces in federally owned, occupied, or leased buildings and facilities.

Sections 2, 3, 4, and 4A of the Architectural Barriers Act of 1968, Pub. L. 90-480, 82 Stat. 718, as amended, authorize the heads of four Federal agencies, General Services Administration (GSA), Department of Housing and Urban Development (HUD), Department of Defense (DoD), and the United States Postal Service (USPS), to prescribe standards for design, construction, and alteration to ensure that those buildings and facilities subject to the Act are accessible to, and usable by handicapped individuals. These standards have varying provisions relating to parking and, in some respects, are lacking in specificity. The A&TBCB at its November meeting recommended that these parking standards be revised to expressly require in all federally owned, occupied or leased buildings and facilities that (1) accessible parking spaces be located closest to an accessible entrance and (2) at least 2 percent of any visitor parking (a minimum of one space in any such visitor parking lot) be provided for handicapped visitors.

The A&TBCB policy addresses the question of the location of parking spaces in relation to an accessible entrance of a building or facility. The A&TBCB wishes to emphasize the need for more proximate parking to achieve maximum accessibility. The policy is intended to ensure that accessible parking spaces for handicapped visitors are available in a sufficient number in public buildings and facilities and to provide greater guidance concerning the location of such spaces.

Since these are general statements of policy of the A&TBCB, the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. 5 U.S.C. 553.

Part 1151 consisting of § 1151.1 is added as follows:

## § 1151.1 Federal parking space policies.

Those standards for design, construction, and alteration issued under the Architectural Barriers Act of 1968, as amended, should be revised to require in all federally owned, occupied, or leased buildings and facilities that (a) accessible parking spaces be located closest to an accessible entrance, and (b) at least 2 percent of any visitor parking (a minimum of one space in any such visitor parking lot) be provided for handicapped visitors.

AUTHORITY: 29 U.S.C. 792; Pub. L. 93-112 as amended by Pub. L. 95-602.

March 15, 1979.

ARABELLA MARTINEZ,  
Chairperson, Architectural and  
Transportation Barriers Compliance Board.

[FR Doc. 79-9156 Filed 3-23-79; 8:45 am]

## [6730-01-M]

## Title 46—Shipping

## CHAPTER IV—FEDERAL MARITIME COMMISSION

## SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 5, Amdt. 8]

## PART 511—REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

## Elimination of Reporting Requirements for Carriers Engaged in the Carriage of Persons in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is revising its regulations which govern the financial reports by common carriers by water in the domestic offshore trades. This change will eliminate the requirement that common carriers by water in domestic offshore trades which are engaged in the carriage of passengers file the annual General Order 5 Report. Experience has shown that these reports serve no useful regulatory purpose.

EFFECTIVE DATE: This amendment shall be effective April 25, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mr. Francis Hurney, Secretary (202) 523-5725.

## RULES AND REGULATIONS

SUPPLEMENTARY INFORMATION: Part 511 (General Order 5) of the Commission's regulations requires the filing of annual financial reports (FMC Form-64 and 63) by vessel operating common carriers engaged in the carriage of persons or property in the domestic offshore trades. The financial and operating data contained in these reports are for company-wide operations, i.e., these reports show the results of both foreign and domestic operations, if applicable.

There are presently four (4) carriers which have passenger tariffs on file with the Commission. Of these, two are currently involved in bankruptcy proceedings. The other two have had the subject filing requirement waived for the years 1972 through 1977 due to having gross revenue of \$25,000 or less in the domestic offshore trades.

In view of the foregoing, a requirement to file annual financial information for passenger carriers serves no useful regulatory purpose.

Therefore, pursuant to the authority of section 43 of the Shipping Act, 1916 (46 U.S.C. 841) and section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 511.2 and 511.3 of Title 46 CFR are amended as follows:

## § 511.2 [Amended]

1. Section 511.2—*Filing by operators of self-propelled vessels* is amended by deleting the words "persons or."

## § 511.3 [Amended]

2. Section 511.3—*Filing by operators of vessels other than self-propelled* is amended by deleting the words "persons or."

Notice and opportunity for comment are not necessary because no additional requirements are being placed on reporting carriers. Therefore, this amendment shall become effective April 25, 1979.

By the Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 79-9091 Filed 3-23-79; 8:45 am]

## [1505-01-M]

(Docket 78-57; General Order 41)

## PART 544—FINANCIAL RESPONSIBILITIES FOR WATER POLLUTION—OUTER CONTINENTAL SHELF

## Correction

In FR. Doc. 79-8283 appearing on page 16918 in the issue for Tuesday, March 20, 1979, in the third column of page 16924, in the last complete paragraph, change "Now, therefore, it is ordered, That, March 29, 1979, Subchapter B . . ." to read "Now, therefore, it is ordered, That, effective March 20, 1979, Subchapter B . . .".

## [6712-01-M]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 78-231; RM-3095; FCC 79-155]

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

## PART 87—AVIATION SERVICES

## Establishment of a Joint Tactical Information Distribution System in the 960-1215 MHz Aeronautical Radionavigation Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action terminates the proceeding and amends the rules to provide for U.S. Government stations to use the band 960-1215 MHz for a Joint Tactical Information Distribution System (JTIDS). The band, allocated internationally to the aeronautical radionavigation service, is shared by Government and non-Government users in the United States. The Commission's action provides for the use of spread spectrum systems within the band by Government stations through the addition of a footnote to the U.S. Table of Allocations. Any such authorizations must be on a non-interference basis to stations in the aeronautical radionavigation service and all systems will be reviewed on a case-by-case basis.

EFFECTIVE DATE: April 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.



## FOR FURTHER INFORMATION CONTACT:

John E. Jacobs, Private Radio Bureau (202) 632-7197.

## SUPPLEMENTARY INFORMATION:

In the matter of amendments of Parts 2 and 87 of the Commission's rules to provide for the establishment of a Joint Tactical Information Distribution System in the 960-1215 MHz aeronautical radionavigation band; Report and Order (Proceeding Terminated).

(See also 43 FR 51649, November 6, 1978)

Adopted: March 15, 1979.

Released: March 22, 1979.

By the Commission:

1. In response to a petition (RM 3095, April 10, 1978) from the Office of Telecommunications Policy (OTP), now the National Telecommunications and Information Administration (NTIA), the Commission released a Notice of Proposed Rule Making (NPRM) in the subject matter on August 9, 1978. This Notice was published in the *FEDERAL REGISTER* on August 9, 1978 (43 FR 35350). On joint petition of the Air Transportation Association of America and Aeronautical Radio, Inc., the time for reply comments was extended by Order released on October 31, 1978. The time for comments and reply comments has now passed.

2. In our NPRM, we proposed to amend Rule Section 2.106, Table of Frequency Allocations, to add a U.S. Footnote to the band 960-1215 MHz to note the authorization of communication, navigation and identification systems using spread spectrum technique to U.S. Government stations. Additionally, we proposed to amend Part 87 of the rules (Aviation Services), not to authorize the systems, but to notify the Commission's non-Government licensees of their existence, and to provide a means for reporting interference to established aeronautical radionavigation systems in the band. The 960-1215 MHz band is allocated world-wide to aeronautical radionavigation only. Any other use in derogation of the international use of the band would have to be on a non-interference basis (NIB) to the systems operating in accordance with the International Telecommunication Union (ITU) Table of Frequency Allocations. (#115, Radio Regulations)

3. Although the proposed rules make reference to "government systems utilizing spread spectrum techniques," the system of immediate concern is the Joint Tactical Information Distribution System (JTIDS) to be instituted and operated by the Department of Defense (DOD). JTIDS has been designed and developed to operate in the 960-1215 MHz band. DOD is now re-

questing assignment in this band for JTIDS. Because of its possible impact on non-Government licensees using the band it was necessary that public notice be given to afford an opportunity to comment.

4. Comments relative to the proposed rules were received from Beech Aircraft Corporation (Beech), Southern Airways, Inc. (Southern), Singer Company, Kearfott Division (Singer), Hughes Aircraft Company (Hughes), Aeronautical Radio, Inc. and The Air Transportation Association of America (ARINC/ATA), Aircraft Owners and Pilots Association (AOPA), the International Air Transportation Association (IATA), and the ITT World Communications Inc. (ITT). Reply Comments were received from ARINC/ATA and Hughes.

5. Within the United States, this band, structured into 126 channels spaced at 1 MHz intervals, is shared by Government and non-Government aviation services users. Except for that portion assigned for military use (channels 1 through 16 and 60 through 69), the major use is for Distance Measuring Equipment (DME) and the Air Traffic Control Radar Beacon System (ATCRBS) to support the National Airspace System. DME is a system of radiobeacons which, when interrogated by a signal from the aircraft, responds by giving the distance to the beacons. They operate on specified channels designated by agreement within the International Civil Aviation Organization (ICAO). The ATCRBS consists of ground based interrogators operating on 1030 MHz and aircraft transponders operating on 1090 MHz. This provides Air Traffic Control (ATC) with aircraft identification and altitude information for traffic control. Both systems are used extensively by air carriers and general aviation world-wide.

6. The JTIDS is intended to be used for navigation, communications and identification purposes by various elements of DOD. It will also incorporate the Tactical Air Navigation (TACAN) system now operating in that portion of the 960-1215 MHz band assigned for military use in the U.S. Because of the large volume and type of information to be carried and the necessity that the system be secure from intentional jamming the DOD has chosen a spread spectrum technique and states that they require a minimum of 190 MHz bandwidth to accomplish this.

The comments from IATA were received beyond the final date established for receiving comments. This was because of the deliberative and coordination processes necessary in this organization with such a broad scope of membership. However, we feel that because of their interest and operational concern with this band their comments are pertinent to the issue and they are considered in this matter.

The radiated signal is intentionally spread and hops from frequency to frequency over a wide bandwidth from 960 to 1215 MHz. The radiated pulses are designed to be limited to 6.4 microseconds  $\pm 5\%$ . Detailed descriptions of the JTIDS operations were included in the reports appended to the NPRM.

7. Normally, a routine allocation involving the use of frequencies shared by Government and non-Government users would be handled by the Spectrum Planning Subcommittee (SPS) of the Interdepartment Radio Advisory Committee (IRAC). However, satisfying the requirements of a system such as JTIDS in the manner proposed is sensitive and complex. In addition to the electromagnetic compatibility (EMC) aspects, any such assignment would have national and international ramifications. Because of this, the matter was studied in the OTP by a JTIDS Steering Committee. Members of the committee, chaired by OTP, were from the FAA, FCC, DOD and the Office of Telecommunications (OT) of the Department of Commerce. OTP and OT are now incorporated into NTIA. Extensive studies were made to determine the frequency band which would accommodate the JTIDS requirements and to determine the EMC of the JTIDS with existing and firmly planned ATC systems in the chosen band. The reports of these studies, OT Reports 78-138 (Assessment of the Bands 225-4990 MHz for Possible JTIDS Applications) and OT Report 78-140 (EMC Analysis of JTIDS in the 960-1215 MHz Band) were attachments to the original petition for rulemaking (RM-3095) and were made a part of the public records. In addition, a letter to OTP from FAA dated February 13, 1978, outlining the FAA position and a DOD letter dated March 17, 1978, responding to the issues raised in the FAA letter, were also made a part of the records.

8. The comments received from ITT, Hughes and Singer were all in favor of the proposal. Their comments raised no new issues, but rather, reiterated what is contained in the reports mentioned above. All three commenters are contractors on the JTIDS system, with Hughes the prime contractor and ITT the architect and designer of the system.

9. ARINC/ATA, the FAA (in its letter of 2-13-78), and IATA expressed concern over the intention of DOD to employ the JTIDS system world-wide. DOD in its letter of March 17, 1978, clearly indicates this. IATA states:

(1) Whilst the present Rule Making is national in jurisdiction and application, deployment of JTIDS in geographical areas other than the United States, e.g. Europe is clearly intended. Any decision of the FCC to admit JTIDS on a non-interference basis in the 960-1215 MHz band must therefore be construed as pre-emptory such that some or

all NATO countries will be subsequently expected to also permit JTIDS to operate in spectrum exclusively allocated on a world-wide basis to the aeronautical radionavigation service, a safety service (ITU Radio Regulations No. 69).

(2) Reassurance is lacking, and there is no evidence to date, that the management of the deployment and of the operation of JTIDS in the 960-1215 MHz band in areas outside of the United States, such as Europe, will positively assure that existing or future civil radionavigation services deployed in these areas are fully protected against harmful interference.

We agree with their concern, but this is an area over which neither the Commission nor the NTIA have any jurisdiction. However, it must be pointed out that any operation outside the United States is subject to the regulations of that country or territory in which the operation takes place. In addition, these operations must be in accordance with the Radio Regulations of the International Telecommunication Union (ITU) and the United States is signatory to the various treaties which established and amended these Regulations.

10. Most of the commenters opposing the system or qualifying their acceptance expressed their concern over the compatibility of JTIDS with existing and planned radionavigation safety systems in the band. However, it appears that the extensive testing performed and detailed in OT Report 78-140 has shown that, when operating within the required parameters, JTIDS is compatible with existing systems. As mentioned in the report, testing with the planned systems such as the Discrete Address Beacon System (DABS), Beacon Collision Avoidance System (BCAS) and the Microwave Landing System DME (MLS/DME) was necessarily limited to testing with experimental/developmental equipment supplemented by theoretical analysis because of the lack of final production models of equipment. Final development of these systems would require additional study. Future systems will be considered, but the compatibility aspects cannot be examined at this time because none have been designed. In their comments, IATA pointed out that "... future international development of civil aviation radionavigation systems is the clearly prescribed mandate of the International Civil Aviation Organization (ICAO)," therefore, it is doubtful that any new systems would be adopted on a unilateral decision. Additionally, since a JTIDS assignment in this band is not in accordance with the international Radio Regulations, it must operate under the provisions of number 115 of these Regulations. ITU Radio Regulations No. 115 states:

Administrations of the Members and Associate Members of the Union shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations given in this Chapter or the other provisions of these Regulations, except on the express condition that harmful interference shall not be caused to services carried on by stations operating in accordance with the provisions of the Convention and of these Regulations.

Any future systems would be assigned in accordance with the Table of Frequency Allocations and, therefore, because of its secondary, "non-interference" status, the JTIDS would be re-examined for its interference potential to the aeronautical radionavigation assignment.

11. We are concerned with ensuring the system compatibility and providing an interference-free environment for the ATC safety of flight systems. In their petition, OTP presented certain restrictions which would be imposed on JTIDS to ensure EMC. These were discussed further in our NPRM and listed as a part of the proposed amendments to the rules. The listed restrictions are to be incorporated into equipment design and provide for automatic shut down of the JTIDS if the parameters are exceeded. ARINC/ATA have expressed concern that these conditions will be complied with. In their reply comments, they state, "If the Commission merely explains such use in Part 87 of its rules, there would be no assurance that government users would comply." These operating restrictions are being listed in the FCC rules for the information of Commission licensees who now use the band. The purpose is to notify them that these conditions do exist and that the JTIDS is obligated to operate on a non-interference basis to the assigned radionavigation systems. Administrative responsibility for adherence to the operational limitations rests with OTP, now NTIA. Spectrum support will be conditioned on the JTIDS operating within these restrictions. To oversee this adherence, the SPS has instituted a working group to "... develop, monitor and coordinate the implementation of management procedures that will assure compliance ..." with the restrictive operating conditions. Membership of the working group is composed of representatives of NTIA, FAA, FCC and DOD.

Their function will not only be to ensure that the safeguards are built into JTIDS, but to also ensure that operation will not create an interference situation. It should also be noted that siting criteria for the terminals will be established with the full concurrence of the FAA's representatives.

12. One of the reasons given for requesting the use of such a broad portion of the spectrum (the full 960-1215 MHz band) was that the system would be less susceptible to hostile jamming. IATA and ARINC/ATA expressed concern that such a system being operated in this band would subject the existing radionavigation services to this jamming. In their letter of March 17, 1978, the DOD states:

This band is already subject to hostile jamming and harassment in some parts of the world. The security and jamming protection of the JTIDS identification and navigation functions makes hostile harassment a less productive strategy than is presently the case. Deceptive jamming of TACAN/DME, which has been a widespread problem in the past, will no longer be effective. We expect JTIDS to reduce rather than increase the harassment potential in the band.

This statement is only true for that portion of TACAN/DME which is assimilated into the JTIDS for military operation. The civil aviation users of the band would still suffer the consequences of jamming attempts directed toward JTIDS. This subject was briefly mentioned as a requirement for JTIDS in the previously mentioned OT Reports, but was not addressed in detail in the testing. It would appear that any such testing and related information would be of a classified nature. We do not envision this as a problem within the United States, but can appreciate the concern of U.S. carriers who operate in other parts of the world. We would trust that this problem would be addressed by other administrations in any discussions with DOD concerning operations in their areas of jurisdiction. However, it should be noted that should the problem arise to the point where civil aviation is affected within or near the U.S., the matter would be the subject of consideration within the SPS working group.

13. ARINC/ATA suggested the possibility of expansion of the spread spectrum concept to other systems in this band including civil aviation use. Others alluded to this also. ARINC/ATA further recommended changes to the proposed rule amendments to accommodate this. We agree that this system has possibilities for further use. However, it is not the purpose here. Our intent here is to provide for the establishment of the DOD system in the manner proposed with its accompanying restrictions. Any further expansion of spread spectrum of JTIDS-like systems would necessarily require considerable study before undertaking such a program.

14. Considering the information presented with regard to the testing of the JTIDS for compatibility and the safeguards implemented to ensure its continued compatibility, we feel that this operation should be permitted at this time and in the manner proposed. This is not without reservation however. Since such an allocation is considered only within the United States and is not in accordance with the ITU



Table of Allocations, JTIDS must be assigned only within the terms of ITU Radio Regulations No. 115. We are concerned here with the world-wide use of the band for a safety service and the band integrity must be maintained.

15. Further, all preliminary band search and compatibility testing was done with what was known as JTIDS Phase I. DOD has indicated that a Phase II is planned with larger system capabilities. However, nothing concrete on this operation is known so no testing can be done. Our agreement to this use of the aeronautical radionavigation is only based on Phase I JTIDS and Phase II must be the subject of further studies and discussion.

16. Considering the above and with the reservations as discussed, we will amend the rules as proposed in our NPRM. Rule § 2.106, Table of Frequency Allocations, is amended to add a new U.S. footnote which provides for the establishment of systems utilizing spread spectrum techniques in the 960-1215 MHz band. These systems are limited to Government stations and are authorized on a non-interference basis to aeronautical radionavigation. Further, any such systems must be reviewed individually at the national level for EMC prior to development, procurement or modification.

17. Rule § 87.501(h)(1) is amended by adding a footnote to the text. This footnote is to advise civil aviation applicants and licensees of the existence of the spread spectrum systems in the band and the possibility of interference. New § 87.506 is added, outlining the restrictions placed on JTIDS and providing the means for reporting any interference encountered in the band. The wording of § 87.506(a) has been changed slightly from that proposed in the NPRM to provide a more specific reference to JTIDS and the accompanying restrictions.

18. Regarding questions on matters covered in this document contact J. E. Jacobs, telephone (202) 632-7197.

19. Accordingly, it is ordered, That Parts 2 and 87 of the rules are amended as indicated below effective April 30, 1979. Authority for these amendments is contained in Sections 4(i), 303 (c), (f), (g) and (r) of the Communications Act of 1934 as amended.

20. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

Parts 2 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Section 2.106, the Table of Frequency Allocations, is amended to read as follows; new footnote US 224 is added as follows:

### § 2.106 Table of Frequency Allocations.

| Band (MHz) | Allocation     |
|------------|----------------|
| 960-1215   | G, NG<br>(US ) |

#### FOOTNOTES

US (224) Government systems utilizing spread spectrum techniques for terrestrial communication, navigation and identification may be authorized to operate in the band 960-1215 MHz on the condition that harmful interference will not be caused to the aeronautical radionavigation service. These systems will be handled on a case-by-case basis. Such systems shall be subject to a review at the national level for operational requirements and electromagnetic compatibility prior to development, procurement or modification.

## PART 87—AVIATION SERVICES

1. In § 87.501, paragraph (h)(1) is amended to add a footnote as follows:

### § 87.501 Frequencies available.

(h)(1) The band 960-1215 MHz is available for the use of ground based facilities and directly associated airborne electronic aids to air navigation. When distance measuring equipment (DME) is intended to operate in association with a single VHF navigation facility in the 108-117.975 MHz frequency band, the DME operating channel shall be paired with the VHF channel as shown in the following table.

2. New § 87.506 is added to read as follows:

U.S. government stations have been authorized to use this band to establish systems using spread spectrum techniques on condition that harmful interference is not caused to the aeronautical radionavigation service. Refer to Rule Section 87.506 for information regarding reporting such interference.

## § 87.506 Harmful interference to radionavigation stations.

(a) Military or other Government stations have been authorized to establish wide-band systems using frequency-hopping spread spectrum techniques in the 960-1215 MHz band. Authorization for a Joint Tactical Information Distribution System (JTIDS) has been permitted on the basis of non-interference to the established aeronautical radionavigation service in this band. In order to accommodate the requirements for the system within the band, restrictions are imposed. Transmissions will be automatically prevented if:

(1) The frequency-hopping mode fails to distribute the JTIDS spectrum uniformly across the band;

(2) The radiated pulse varies from the specified width of 6.4 microseconds  $\pm 5\%$ ;

(3) The energy radiated within  $\pm 7$  MHz of 1030 and 1090 MHz exceeds a level of 60 dB below the peak of the JTIDS spectrum as measured in a 300 kHz bandwidth.

The JTIDS will be prohibited from transmitting if the time slot duty factor exceeds a 20 percent duty factor for any single user and a 40 percent composite duty factor for all JTIDS emitters in a geographic area.

(b) In the event any interference to radionavigation systems operating in the 960-1215 MHz band is experienced, the information should be reported immediately to the nearest office of the Federal Aviation Administration, the National Telecommunications & Information Administration, Washington, D.C. 20504, or the nearest Federal Communications Commission field office. The following information should be provided to the extent available:

- (1) Name, call sign and category of station experiencing the interference;
- (2) Date and time of occurrence;
- (3) Geographical location at time of occurrence;
- (4) Frequency interfered with;
- (5) Nature of interference;
- (6) Other particulars.

[FR Doc. 79-9062 Filed 3-23-79; 8:45 am]

JTIDS signals do not have an identifiable voice or digital signal format. For this reason unexplained loss of equipment performance should be reported.

[4910-60-M]

## Title 49—Transportation

### CHAPTER I—MATERIALS TRANSPORTATION BUREAU, RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-163A; Amdt. No. 171-45]

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

### Approvals/Authorizations Issued by the Bureau of Explosives

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to recognize the approvals and authorizations issued by the Bureau of Explosives (B of E) that are presently in effect. This rule provides for the continued use of approvals and authorizations issued by the B of E even though the function has been abolished or assumed by the Associate Director for Operations and Enforcement (OE). Also, this rule provides a means whereby approvals or authorizations may be amended or extended. EFFECTIVE DATE: March 26, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

### FOR FURTHER INFORMATION CONTACT:

Darrell Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, phone 202-755-4962.

SUPPLEMENTARY INFORMATION: On August 17, 1978, the Materials Transportation Bureau published Docket No. HM-163; Amdt. Nos. 171-41, 173-119, 178-49 (43 FR 36445), as the first action in an overall phased program to withdraw all of the delegations of authority to the B of E in 49 CFR Parts 100-199. The reasons for the action taken as well as those to be considered in future rulemakings were clearly stated in the preamble to the above referenced amendment and will not be repeated here.

The MTB realizes that it is necessary to provide for continuity and continued effectiveness of existing B of E approvals and authorizations. Accordingly, a new section 171.19 has been added to provide for continued effectiveness of any approval that is valid at the time MTB assumes or abolishes that function. Any approval or authorization with a valid expiration date will continue in effect until that expiration date but not beyond December 31, 1984. Any approval or authorization that was issued by the B of E without an expiration date or with an expiration date after 1984, will automatically expire on December 31, 1984.

When the July 20, 1978, final rule to Docket HM-121 (43 FR 31138) withdrew certain authority previously delegated to the B of E, no public comment had been received on existing B of E authorization subject to that amendment. Since that time, MTB has been notified of the existence of certain authorizations which are affected by the July amendment. Because of the need for immediate action to avoid unintended impacts on the holders, this amendment is issued without prior notice and is effective immediately. However, comments are still solicited and should be addressed as previously indicated. Comments will be considered in subsequent publications in Docket HM-163. Primary drafters of this document are Darrell L. Raines, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, and George W. Tenley, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Part 171 is amended as follows: § 171.19 is added to read as follows:

§ 171.19 Approvals or authorizations issued by the Bureau of Explosives. Unless otherwise specifically restricted by other requirements of this subchapter, an approval or authorization issued by the Bureau of Explosives, which is valid at the time that approval or authorizing function is abolished or is assumed by the Associate Director for OE, remains valid under the conditions and for the period of time for which it was issued by the Bureau of Explosives. However, no such approval or authorization remains valid beyond December 31, 1984 unless reissued by the Associate Director for OE. The Associate Director for OE may amend or extend any approval or authorization issued by the Bureau of Explosives.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53.)

NOTE.—The Materials Transportation Bureau has determined that this amendment does not require a regulatory analysis under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on March 16, 1979.

L. D. SANTMAN,  
Director, Materials  
Transportation Bureau.

[FR Doc. 79-9126 Filed 3-23-79; 8:45 am]

[7035-01-M]

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1367]

## PART 1033—CAR SERVICE

### Illinois Terminal Railroad Co. Authorized To Operate Over Tracks of Illinois Central Gulf Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1367.

SUMMARY: Service Order No. 1367 authorizes Illinois Terminal Railroad Company to operate over Illinois Central Gulf Railroad Company between Lodge, Illinois, and White Heath, Illinois. ICG trackage between Decatur, Illinois, and White Heath, Illinois, is inoperable and this service order authorizes ITC operation over ICG to provide ITC an alternate route.

DATES: Effective 4:00 p.m., March 20, 1979. Expires when modified or vacated by order of this Commission.

### FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

### SUPPLEMENTARY INFORMATION:

Decided: March 20, 1979. The line of the Illinois Central Gulf Railroad Company (ICG) between Decatur, Illinois, and White Heath, Illinois, presently used by the Illinois Terminal Railroad Company (ITC) as a part of its main line between Decatur, Illinois, and Champaign, Illinois, has deteriorated and is inoperable. An alternate route is available for the ITC over tracks of the ICG between Lodge, Illinois, and White Heath, Illinois. The ICG has consented to use of these tracks between Lodge and White Heath to enable the ITC to operate between Decatur and Champaign.

It is the opinion of the Commission that an emergency exists requiring operation of ITC trains over these tracks of the ICG in the interest of the



## RULES AND REGULATIONS

[4310-55-M]

## Title 50—Wildlife and Fisheries

## CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 33—SPORT FISHING

## Opening of Squaw Creek National Wildlife Refuge, Missouri, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Squaw Creek National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: April 1, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: The Area Manager or Refuge Manager at the address or telephone number listed below:

Tom A. Saunders, Area Office Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, MO 64116, Telephone: (816) 374-6166.

Berlin Heck, Refuge Manager, Squaw Creek National Wildlife Refuge, P.O. Box 101, Mound City, MO 64470, Telephone: (816) 442-3570.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Squaw Creek National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the ad-

ministration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Squaw Creek National Wildlife Refuge, Missouri, sunrise to sunset, only on the areas designated by signs as being open to fishing. These areas comprising 2,500 acres are delineated on maps available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Open Season will be April 1, 1979 through December 31, 1979 during daylight hours only.

2. Spearing and gigging of non-game fish is permitted April 1, 1979 through June 30, 1979.

3. Bullfrogs may be taken from July 1 through October 31, 1979.

4. Snapping turtles may be taken by rod, reel and pole April 1, 1979 through December 31, 1979.

5. Snapping turtles may be taken by snagging or grabbing from April 1 through May 15 and from October 1 through December 31, 1979.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: March 16, 1979.

TOM A. SAUNDERS,  
Area Manager.

[FR Doc. 79-9066 Filed 3-23-79; 8:45 am]

[3510-22-M]

## CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

## PART 611—FOREIGN FISHING

## PART 672—GROUND FISH OF THE GULF OF ALASKA

## Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Apportionment of Reserve Amounts, Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the

## RULES AND REGULATIONS

## II. DETERMINATION OF AMOUNT OF RESERVE RELEASE

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. The reserves of sablefish in the Gulf of Alaska, except for the reserve in the southeastern fishing area, eligible for transfer to the TALFF in January 1979 should now be transferred to the TALFF.

2. Except as provided in "1" above, the reserves of all species in the Gulf of Alaska eligible for transfer to the TALFF in March 1979 should be retained as reserves.

## SUPPLEMENTARY INFORMATION:

## I. BACKGROUND

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. vessels delivering to foreign processors at sea would harvest groundfish, the FMP established a reserve of fish which could be released and added to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the North Pacific Council adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,800 metric tons and increased reserves of species taken incidental to pollock. The purpose of these reserves was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations published on December 1, 1978 (43 FR 56238), established criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

These regulations provide that up to 25 percent of the initial reserve amounts will be released as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

The full 25 percent of the reserves of each species except sablefish was released in January. A decision on the sablefish reserves was delayed because of pending action by the Council with respect to the sablefish optimum yield (OY).

Transfer of sablefish reserves to the TALFF in January 1979 was delayed because of pending actions by the Council to reduce the sablefish OY. The Council has since determined that the sablefish OY in the Gulf of Alaska should be maintained at its original level of 13,000 metric tons. In considering the transfer of reserves of all other species to the TALFF in the Gulf of Alaska in January, the Regional Director determined that U.S. vessels would not harvest any of that portion of reserves eligible for transfer to the TALFF. Consequently, the eligible reserves (other than sablefish) were transferred to the TALFF. The Regional Director has now determined that U.S. fishermen will not harvest all of the initial reserves of sablefish and it is appropriate to transfer to the TALFF those sablefish reserves that were eligible for such transfer in January 1979, except for those of the southeastern fishing area.

The FMP provides for U.S. catches expected to be delivered to U.S. processors by establishing a domestic annual harvest (DAH). Additionally, documented testimony shows that U.S. fishermen have the capacity and intent to catch the remaining reserves of all species in the Gulf of Alaska (exclusive of the sablefish reserves initially subject to release in January) during the 1979 fishing year for delivery to foreign processing vessels. Evidence has been submitted which shows foreign processing vessels are available to receive U.S. catches and the necessary business arrangements have been made for the delivery of those catches to foreign processing vessels. Applications for permits authorizing those foreign vessels to receive fish from U.S. fishermen have been approved. Other than the reserves of sablefish eligible for release in January 1979, the reserves of all species should be retained.

In making this determination the Regional Director considered factors set out in 50 CFR 611.92(b)(1)(ii) and the comments received on the proposed action.

## III. RESPONSE TO PUBLIC COMMENTS

Comments received and responses thereto are summarized below:

Comment: Release 25 percent of the sablefish reserves and 12.5 percent of the original reserves of the other species to the TALFF.

Response: Twenty-five percent of the sablefish reserves (except for the reserve in the southeastern area) are being released to the TALFF. The FMP establishes a DAH to provide for the fish U.S. fishermen will deliver to U.S. processors. Documented testimony has been submitted which indicates there is sufficient U.S. catching capacity and intent to harvest the remaining reserves of all species in the Gulf of Alaska during the 1979 fishing year. It would, therefore, be inappropriate to release those reserves to the TALFF.

Comment: Do not release pollock reserves to the TALFF until at least 60 days after permits have been issued to KMIDC vessels for joint ventures and the performance of those joint ventures has been evaluated.

Response: The record indicates there is sufficient U.S. catching capacity to catch the pollock reserves in joint venture operations. Business arrangements have been made for the conduct of such ventures, and an application for permits for Korean vessels involved in those ventures has been approved. It is, therefore, not appropriate to release those reserves at this time.

Comment: Based on the most current available U.S. catch information, it is clear that domestic catch and effort on Pacific cod and sablefish have not and will not exceed DAH projections. The reserves are not necessary to supplement DAH on either of those species and eligible portions thereof should be reapportioned to TALFF.

Response: Pending Council action on the sablefish OY delayed the January transfer of eligible sablefish reserves to the TALFF. The Council has since determined the sablefish OY should be maintained at its original level. Portions of sablefish reserves eligible for release in January 1979 other than those for the southeastern fishing area are not required to provide for the expected U.S. harvest of that species and they should, therefore, be transferred to the TALFF. Otherwise, documented testimony indicates U.S. fishermen have the capacity and intent to catch all of the remaining re-

public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1367 Service Order No. 1367.

(a) *Illinois Terminal Railroad Company authorized to operate over tracks of Illinois Central Gulf Railroad Company.* The Illinois Terminal Railroad Company (ITC) is authorized to operate over tracks of the Illinois Central Gulf Railroad Company (ICG) between Lodge, Illinois, and White Heath, Illinois, a distance of approximately 3 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the ITC over tracks of the ICG is deemed to be due to carrier's disability, the rates applicable to traffic moved by the ITC over the tracks of the ICG shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 4:00 p.m., March 20, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Robert S. Turkington and John L. Chaney, Jr.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9125 Filed 3-23-79; 8:45 am]



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serves of all species in the Gulf of Alaska and those catches will be delivered to foreign processing vessels. Business arrangements have been made for the delivery of U.S. catches to those foreign processing vessels. An application for permits for those vessels to receive U.S. catches has been approved. Therefore, it is inappropriate to release the remaining reserves at this time.

Comment: Considering that there have been no joint ventures, 50 percent of sablefish reserves and 25 percent of the reserves of all other species should be reapportioned to the TALFF.

Response: See previous responses.

Comment: A sufficient number of U.S. vessels is reported to have been recruited for joint venture operations to harvest the reserves of each species in the Gulf of Alaska. Foreign processing vessels are available to receive those catches and the necessary business arrangements have been completed. Permits for those foreign vessels to receive U.S. catches are pending. Recruitment of additional U.S. fishermen is expected to increase. The U.S. fishermen have the capacity and intent to harvest the entire reserves of these species in the Gulf of Alaska.

Response: See previous responses.

## IV. OTHER MATTERS

An environmental impact statement was prepared for the FMP for the Groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency. A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the Environmental Protection Agency.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned.

NOTE.—The Assistant Administrator for Fisheries has made an initial determination that these regulations are nonsignificant under E.O. 12044.

(16 U.S.C. Section 1801 *et seq.*)

Signed at Washington, D.C. this 20th day of March 1979.

WINFRED H. MEIBOHM,  
Executive Director, National  
Marine Fisheries Service.

## § 611.29 [Amended]

50 CFR 611.29 is amended by revising Table I of paragraph (c) as follows:

TABLE I

(1) Change lines beginning "702," "129," "207," "780," "701," "849," "703," "509," and "499" to read as follows:

| Species code | Species                             | Ocean area     | TALFF (metric tons) | U.S. capacity review date          |
|--------------|-------------------------------------|----------------|---------------------|------------------------------------|
| 702          | Cod, Pacific                        | Gulf of Alaska | 11,802              | January 2, March 2, May 2, July 1. |
| 129          | Flounders, Including Yellowfin Sole | do             | 19,025              | Do.                                |
| 207          | Mackerel, Atka                      | do             | 20,675              | Do.                                |
| 780          | Perch, Pacific Ocean (POP)          | do             | 17,975              | Do.                                |
| 701          | Pollock                             | do             | 54,250              | Do.                                |
| 849          | Rockfishes Other Than POP           | do             | 2,975               | Do.                                |
| 703          | Sablefish                           | do             | 5,750               | Do.                                |
| 509          | Squid                               | do             | 1,250               | Do.                                |
| 499          | Other Species                       | do             | 12,175              | Do.                                |

<sup>1</sup> Annual TALFF period is November 1 through October 31.

<sup>2</sup> Does not include an amount held in reserve.

## § 611.92 [Amended]

50 CFR 611.92 is amended by revising Table I—GULF OF ALASKA GROUND FISH FISHERY: TALFF AND RESERVE BY SPECIES AND FISHING AREA FOR 1978/1979 of paragraph (b) as follows:

TABLE I.—Gulf of Alaska Groundfish Fishery: TALFF and Reserve<sup>1</sup> by Species and Fishing Area for 1978/1979, Metric Tons

| FISHING AREAS <sup>2</sup>    |         | Shumagin | Chirikof | Kodiak | Yakutat | South-east | Total   |
|-------------------------------|---------|----------|----------|--------|---------|------------|---------|
| Pollock                       | TALFF   | 18,300   | 17,475   | 13,100 | 3,975   | 1,400      | 54,250  |
|                               | Reserve | 33,900   | 32,325   | 24,300 | 7,425   | 2,400      | 100,350 |
| Pacific Cod <sup>3</sup>      | TALFF   | 3,253    | 1,438    | 8,185  | 1,448   | 478        | 11,802  |
|                               | Reserve | 2,047    | 862      | 3,315  | 952     | 322        | 7,498   |
| Flounders                     | TALFF   | 8,950    | 1,500    | 6,775  | 3,850   | 1,150      | 19,025  |
|                               | Reserve | 2,250    | 600      | 2,825  | 1,350   | 450        | 7,275   |
| Pacific Ocean Perch (POP)     | TALFF   | 1,925    | 1,925    | 3,800  | 5,825   | 4,700      | 17,975  |
|                               | Reserve | 675      | 675      | 1,200  | 1,875   | 1,500      | 5,925   |
| Other Rockfishes <sup>4</sup> | TALFF   | 125      | 125      | 175    | 1,300   | 1,250      | 2,975   |
|                               | Reserve | 75       | 75       | 225    | 1,200   | 1,050      | 2,625   |
| Sablefish                     | TALFF   | 1,475    | 950      | 1,825  | 1,700   | 0          | 5,750   |
|                               | Reserve | 525      | 450      | 675    | 900     | 700        | 3,250   |
| Atka Mackerel                 | TALFF   | 3,650    | 3,000    | 13,175 | 850     | 0          | 20,675  |
|                               | Reserve | 750      | 600      | 2,825  | 150     | 0          | 4,125   |
| Squid                         | TALFF   | 250      | 250      | 250    | 250     | 250        | 1,250   |
|                               | Reserve | 150      | 150      | 150    | 150     | 150        | 750     |
| Other Species <sup>5</sup>    | TALFF   | 3,325    | 2,750    | 3,875  | 1,550   | 875        | 12,175  |
|                               | Reserve | 975      | 750      | 1,125  | 450     | 225        | 3,525   |

<sup>1</sup> The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.

<sup>2</sup> See Figure 3 of Appendix II to Section 611.9 for description of fishing areas.

<sup>3</sup> Of the total Pacific cod TALFF, only 4,891 metric tons may be caught west of 157° W. longitude.

<sup>4</sup> The category "other rockfishes" includes all rockfishes other than Pacific Ocean perch.

<sup>5</sup> The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

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## § 672.20 [Amended]

50 CFR 672.20 is amended by revising Table I—OPTIMUM YIELD AND RESERVES of paragraph (a) as follows:

TABLE I.—Optimum Yield and Reserves, Metric Tons

| FISHING AREAS              |         | Shumagin | Chirikof | Kodiak | Yakutat | South-east | Total   |
|----------------------------|---------|----------|----------|--------|---------|------------|---------|
| Pollock                    | OY      | 57,000   | 54,400   | 40,800 | 12,500  | 4,100      | 168,000 |
|                            | Reserve | 33,900   | 32,325   | 24,300 | 7,425   | 2,400      | 100,350 |
| Pacific Cod                | OY      | 9,600    | 4,100    | 15,300 | 4,300   | 1,500      | 34,800  |
|                            | Reserve | 2,047    | 862      | 3,315  | 952     | 322        | 7,498   |
| Flounders                  | OY      | 10,400   | 2,700    | 12,000 | 6,400   | 2,000      | 33,500  |
|                            | Reserve | 2,250    | 600      | 2,825  | 1,350   | 450        | 7,275   |
| Pacific Ocean Perch (POP)  | OY      | 2,700    | 2,700    | 5,200  | 7,900   | 6,500      | 25,000  |
|                            | Reserve | 675      | 675      | 1,200  | 1,875   | 1,500      | 5,925   |
| Other Rockfishes           | OY      | 300      | 200      | 600    | 3,400   | 3,100      | 7,600   |
|                            | Reserve | 75       | 75       | 225    | 1,200   | 1,050      | 2,625   |
| Sablefish                  | OY      | 2,100    | 1,400    | 2,400  | 3,400   | 3,700      | 13,000  |
|                            | Reserve | 525      | 450      | 675    | 900     | 700        | 3,250   |
| Atka Mackerel              | OY      | 4,400    | 3,600    | 15,800 | 1,000   | 0          | 24,800  |
|                            | Reserve | 750      | 600      | 2,825  | 150     | 0          | 4,125   |
| Squid                      | OY      | 400      | 400      | 400    | 400     | 400        | 2,000   |
|                            | Reserve | 150      | 150      | 150    | 150     | 150        | 750     |
| Other Species <sup>1</sup> | OY      | 4,400    | 3,800    | 5,000  | 2,100   | 1,100      | 16,200  |
|                            | Reserve | 975      | 750      | 1,125  | 450     | 225        | 3,525   |

<sup>1</sup> Includes all stocks of finfish except: (1) those listed above; and (2) salmon, steelhead trout, and Pacific halibut.

[FR Doc. 79-9061 Filed 3-22-79; 8:45 am]

## [3510-22-M]

## PART 654—STONE CRAB FISHERY

## Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.  
ACTION: Approval of Fishery Management Plan for Stone Crabs, Emergency Regulations and Request for Comment.

SUMMARY: The Assistant Administrator for Fisheries has approved the Fishery Management Plan (FMP) for the stone crab fishery, which was prepared by the Gulf of Mexico Fishery Management Council. Regulations implementing a portion of the plan are implemented on an emergency basis to minimize already existing conflicts between users of fixed and trawl gear in an area off the west coast of Florida. Comments on the emergency regulations are invited.

DATES: These regulations are effective 1800 hours E.S.T., March 21, 1979, for 45 days.

Public comments on these regulations are invited until May 19, 1979.

ADDRESS: Send comments to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Mark "Stone crab comments" on the outside of the envelope.

## FOR FURTHER INFORMATION CONTACT:

Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702; Telephone (813) 896-3141.

SUPPLEMENTAL INFORMATION: The Assistant Administrator approved the FMP for stone crabs on March 19, 1979. The Gulf of Mexico Fishery Management Council recommended proposed regulations to implement this plan on January 19, 1979. These were considered and used as the basis for the regulations published herein.

## THE FISHERY MANAGEMENT UNIT

The stone crab fishery exists throughout the northern Gulf of Mexico from Florida to Texas. However, because of limited habitat and less than optimum environmental conditions, the abundance of stone crabs is limited in the northern Gulf of Mexico west of Franklin County, Florida. Stone crabs have not been recorded in the commercial landings west of this area. Stone crabs are uncommon in the waters off Alabama, Mississippi, Louisiana and east Texas and, therefore, no management is needed in these areas.

The management unit under this plan is specified as the area of the fishery conservation zone (FCZ) seaward of the west and south coasts of

Florida, including the Keys. Should the need for management of the stocks in other areas arise in the future, the management unit will be modified to include these areas.

These regulations will not limit harvest in any State waters; however, for the most part they are consistent with present Florida laws. The Council and the Secretary will continue to coordinate regulations with State of Florida officials to ensure consistent implementation.

## SEPARATION LINE

The Council found that restricting certain shrimp fishing was necessary to the management of crab fishing and to the Council's objective of optimizing the harvest potential of the stone crab fishery. The emergency regulations, therefore, prescribe a line separating stone crabbers and shrimpers. The line, depicted by the solid line on Figure 1, begins at point B and ends between points E and F at the intersection with Florida's territorial sea. Shrimping, except for bait shrimping, is not allowed shoreward of the line in the fishery conservation zone. A vessel will be presumed to be a bait shrimper if it has 5 pounds or less of dead shrimp on board, does not use otter trawls, and is outfitted with live bait wells. Bait shrimping vessels have been allowed inside the line because their activities do not interfere with the harvest of stone crabs.

These regulations are effective immediately as emergency regulations. The Assistant Administrator has found under section 305(e) of the Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) that "an emergency involving . . . fishery resources exists." Occasional violence occurred in 1978, including attempted bombings, between shrimp and stone crab fishermen in the FCZ off the southwest coast of Florida. The conflict arose from increased pressure in the area by stone crab and shrimp fishermen who utilize incompatible harvesting methods (fixed gear and trawls respectively). Initial reports received by the Southeast Region of NMFS indicate that the elements of conflict are present this year and that some minor conflicts have already occurred. Therefore in order to provide for the sound management of the stone crab fishery resources off the west coast of Florida, the line is being implemented immediately.

The emergency in the stone crab fishery makes it unnecessary, impractical, and contrary to the public interest to obtain further public comment before implementation of the line of separation and procedural regulations. Public comment is invited on these emergency regulations as well as on the proposed rules.



Executive Order 12044 does not apply to the emergency regulations, except for the 60-day comment period. The final environmental impact statement covering the FMP was filed with the Environmental Protection Agency on February 8, 1979.

AUTHORITY: 16 U.S.C. 1801 et seq.

Signed in Washington, D.C. this 21st day of March, 1979.

WINFRED H. MEIBOHM,  
Executive Director,  
National Marine Fisheries Service.  
Part 654 is added to read as follows:

#### PART 654—STONE CRAB FISHERY

##### Subpart A—General Measures

- Sec.  
654.1 Purpose and scope.  
654.2 Definitions.  
654.3 Relation to other laws.  
654.4 Markings [Reserved]  
654.5 Record Keeping and Reporting Requirements [Reserved]  
654.6 Restrictions.  
654.7 Enforcement.  
654.8 Penalties.

##### Subpart B—Management Measures

- 654.20 Catch limitations [Reserved]  
654.21 Gear requirements [Reserved]  
654.22 Closed season [Reserved]  
654.23 Area restrictions.

AUTHORITY: 16 U.S.C. 1801 et seq.

##### Subpart A—General Measures

###### § 654.1 Purpose and scope.

The regulations in this Part govern fishing for stone crabs by fishing vessels of the United States within that portion of the Gulf of Mexico along the west coast of Florida, including the Keys, in which the United States exercises exclusive fishery management authority under the Act. The regulations also affect vessels of the United States in the trawl fishery in that area.

###### § 654.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this Part shall have the following meaning. (Some definitions in the Act have been repeated here to aid understanding of the regulations.)

*Act* means the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. § 1801-1882).

*Authorized Officer* means:

(a) Any commissioned, warrant or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

*Biodegradable Panel* means a panel, constructed of wood or cotton material and located in the upper half of the sides or on the top of a trap, which, when removed, will leave an opening in the trap measuring at least 4 by 6½ inches.

*Center Director* means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 95 Virginia Beach Drive, Miami, Florida 33149. Telephone (305) 361-5761.

*Fishery Conservation Zone (FCZ)* means that area adjacent to the territorial sea of the constituent States of the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

*Fishing* means any activity, other than scientific research conducted by a vessel, which involves:

(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

*Fishing vessel* means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

*Live box* means a container used for holding live stone crabs on board a vessel.

*Management area* means that area of the FCZ adjacent to the territorial sea off the west coast of Florida and off the south side of the Florida Keys.

*Operator*, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

*Owner*, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage; or

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement,

or other similar arrangement that bestows control over the designation, function or operation of the vessel; and

(d) Any agent designated as such by any person described in paragraph (a), (b) or (c) of this definition.

*Person* means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

*Regional Director* means the Regional Director, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

*Stone Crabs* means *Menippe mercenaria*.

*Vessel of the United States* means:

(a) A vessel documented or numbered by the Coast Guard under United States law; or

(b) A vessel which is registered under the laws of any State.

*United States Harvested Fish* means fish caught, taken or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Act.

###### § 654.3 Relation to other laws.

(a) *Federal*. The regulations in this Part are intended to be compatible with, and do not supersede similar regulations in effect for the Everglades National Park (36 CFR 7.45).

(b) *State*. The regulations in this Part are intended to be compatible with similar regulations and statutes in effect in the State of Florida. Responsibilities relating to the issuance of numbers and colors, data collection, and enforcement may be performed by personnel of the State of Florida under agreement with the National Oceanic and Atmospheric Administration and the U.S. Coast Guard.

###### § 654.4 Markings [Reserved]

###### § 654.5 Record Keeping and Reporting Requirements [Reserved]

###### § 654.6 Restrictions.

(a) It is unlawful for any person:

(1) To possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land or export any stone crabs taken in violation of the Act, this Part, or any other regulation promulgated under the Act;

(2) To refuse to permit an Authorized Officer to board a fishing vessel subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation promulgated under the Act;

(3) Forcibly to assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer in the conduct of any search or inspection described in subparagraph (2);

(4) To resist a lawful arrest for any act prohibited by this Part;

(5) To interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part;

(6) To falsify or fail to submit any reports required by § 654.5; and

(7) To violate any other provisions of this Part, the Act, or any regulation issued under the Act.

(b) It is unlawful for any vessel of the United States or for any owner or operator of any vessel of the United States to transfer directly or indirectly or attempt to so transfer any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under this Act.

###### § 654.7 Enforcement.

(a) *General*. The owner or operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, log book, and catch for purposes of enforcing the Act or this Part.

(b) *Signals*. Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of the fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly";

(2) "SQ3" meaning "You should stop or heave to; I am going to board you"; and

(3) "AA AA AA etc." which is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel identification required by section 654.4.

(c) *Boarding*. A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) Provide a safe ladder for the Authorized Officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope; safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party and to facilitate the boarding.

###### § 654.8 Penalties.

Any person or fishing vessel found to be in violation of any regulation contained in this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

##### Subpart B—Management Measures

###### § 654.20 Catch Limitations [Reserved]

###### § 654.21 Gear Requirements [Reserved]

###### § 654.22 Closed Season [Reserved]

###### § 654.23 Area Restrictions.

(a) Between January 1 and May 20, it shall be unlawful to use trawl gear, except as provided for in paragraph (b) of this section, in that part of the fishery conservation zone (Figure 1) shoreward of a line starting at point B (Lat. 26°16.0'N and Long. 81°58.5'W), and thence directly to point C (Lat. 26°00.0'N and Long. 82°04.0'W), and thence directly to point D (Lat. 25°09.0'N and Long. 81°47.6'W), and thence directly to point E (Lat. 24°54.5'N and Long. 81°50.5'W), and thence directly to the intersection of the territorial sea of the State of Florida and a line extending from point E to point F at Snipe Point (Lat. 24°41.9'N and Long. 81°40.5'W).

(b) Trawling for live bait shrimp may be conducted shoreward of the line specified in paragraph (a). Live bait boats must (1) have live shrimp wells, (2) use gear other than other trawls, and (3) possess no more than 5 pounds of dead shrimp at any time. It shall be a rebuttable presumption that any vessel not meeting all the above criteria is not engaged in the bait shrimp fishery.

Figure 1. Line of Separation

| Point   | Latitude  | Longitude |
|---------|-----------|-----------|
| A ..... | 26-36.4'N | 82-24.3'W |
| B ..... | 26-16.0'N | 81-58.5'W |
| C ..... | 26-00.0'N | 82-04.0'W |
| D ..... | 25-09.0'N | 81-47.6'W |
| E ..... | 24-54.5'N | 81-50.5'W |
| F ..... | 24-41.9'N | 81-40.5'W |

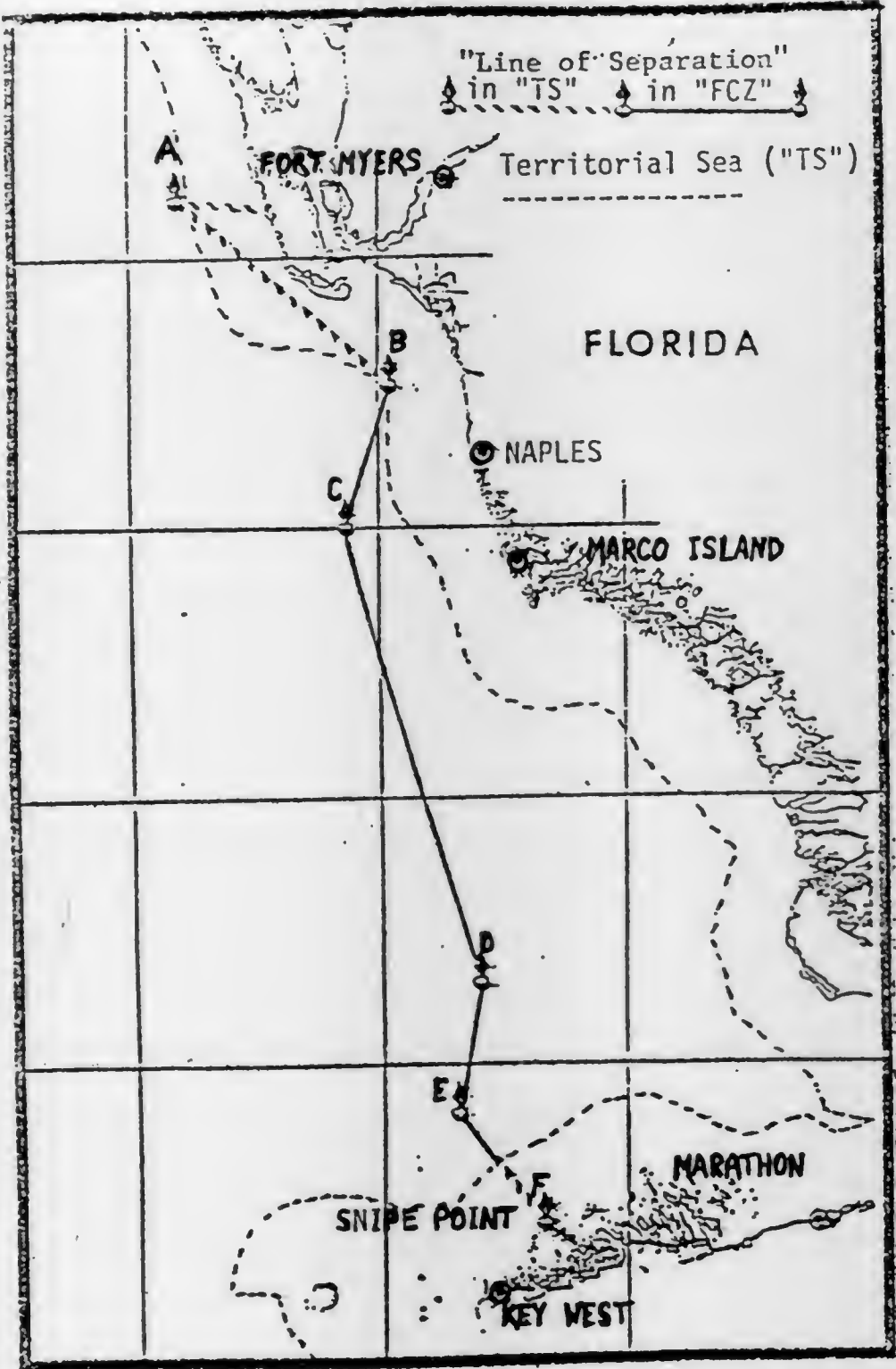
| Point   | Loran C coordinates |       |         |
|---------|---------------------|-------|---------|
|         | Y                   | X     | W       |
| A ..... | 42128               | 30715 | 14094   |
| B ..... | 41840               | 30683 | 14109   |
| C ..... | 41844               | 30593 | 14059   |
| D ..... | 41668               | 30407 | 13995   |
| E ..... | 41673               | 30330 | 13962.5 |
| F ..... | 41615               | 30290 | 13948   |

[FR Doc. 79-9240 Filed 3-22-79; 4:27 pm]



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[3510-22-C]



[FR Doc. 79-9240 Filed 3-22-79; 4:27 pm]

# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-07-M]  
**DEPARTMENT OF AGRICULTURE**  
Farmers Home Administration  
[7 CFR Part 1948]  
**ENERGY IMPACTED AREA DEVELOPMENT ASSISTANCE PROGRAM**  
Meetings

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Farmers Home Administration gives notice to all interested parties that it has scheduled public meetings to consider public comments and in general provide for material input from interested persons and organizations concerning the Energy Impact Area Development Assistance Program. This item was published for proposed rulemaking in FEDERAL REGISTER, Vol. 44, No. 47, Thursday, March 8, 1979, page 12936.

DATES: All meetings will begin at 10:00 A.M. Dates will be as follows: Lexington, Kentucky, March 28, 1979; Charleston, West Virginia, March 30, 1979; Albuquerque, New Mexico, April 9, 1979; Denver, Colorado, April 11, 1979; and Bismarck, North Dakota, April 17, 1979.

ADDRESSES: Seay Auditorium, University of Kentucky, Lexington, Kentucky; Science and Cultural Center, Capitol Complex, Charleston, West Virginia; Sandias Room, Albuquerque Convention Center, Albuquerque, New Mexico; Silver Room, Hilton Hotel, Denver, Colorado, and Kirkwood Motor Inn, Bismarck, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul Kugler, Phone: 202-447-2573.

SUPPLEMENTARY INFORMATION: Persons wishing to give testimony on proposed rules will have 10 minutes to present testimony. A written copy of the testimony should be made available to the Chairperson prior to giving testimony. Persons may also submit written testimony to the Chairperson without giving oral testimony.

Dated: March 21, 1979.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 79-9180 Filed 3-23-79; 8:45 am]

[6714-01-M]  
**FEDERAL DEPOSIT INSURANCE CORPORATION**  
[12 CFR Chapter III]  
**SEMIANNUAL AGENDA OF REGULATIONS**

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Semiannual agenda of regulations.

SUMMARY: This agenda includes information on regulations which have been proposed by the FDIC but have not yet been finally adopted, regulations which are currently under development, and regulations which are under review. This agenda is being published in order to provide notice to the public of the regulatory actions currently being considered by the FDIC.

ADDRESS: Interested persons are invited to submit comments on the semiannual agenda to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. Comments on specific projects should be addressed to the official whose name appears below in the description of that project.

FOR FURTHER INFORMATION CONTACT:

Alan J. Kaplan, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4433.

SUPPLEMENTARY INFORMATION: The following agenda of proposed regulations, regulations under development, and existing regulations under review is published by the FDIC to advise the public as to the status of outstanding proposed regulations and regulations under development or review. The agenda contains information on regulations which have been formally proposed by the Board of Directors of the FDIC for adoption, on regulations currently being developed by the FDIC staff for possible adoption in the future, and on existing regulations which are presently under review for the purpose of determining

whether they should be continued, revised, or eliminated. Each regulation or proposed regulation listed in the agenda is followed by a description of the regulation, its need and legal basis, its current status, and the name, title, address, and telephone number of an FDIC official who is knowledgeable on the subject matter of the regulation.

DEVELOPMENT AND REVIEW OF FDIC RULES AND REGULATIONS

[12 CFR Part 302]

On November 6, 1978, the FDIC proposed for public comment a revision to its Part 302 regulations. As proposed, Part 302 would establish procedures that the FDIC would follow in developing and reviewing its regulations. The procedures are designed to further these policy goals: (1) that regulations be clearly and understandably written, (2) that the need and purpose of regulations be clearly established, (3) that the FDIC Board of Directors exercise effective oversight of the development of regulations, (4) that the public be afforded a meaningful opportunity to participate in the rule-making process, (5) that alternative approaches be considered, and (6) that burdens on the public be minimized.

Proposed Part 302 also provides for: the automatic withdrawal of proposed regulations not acted upon within one year of their proposal; the semiannual publication of an agenda of proposed regulations and existing regulations under review; and the periodic review of existing regulations to determine whether they should be continued, revised, or eliminated.

The comment period for proposed Part 302 expired on January 5, 1979. However, final action on Part 302 has not yet been taken.

For further information, contact Alan J. Kaplan, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4433.

CHANGE IN BANK CONTROL

[12 CFR Part 303]

The FDIC has adopted regulations to implement Title VI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"). Title VI of FIRIRCA provides for advance notice to be given to the FDIC of changes in control of banks regulated by the FDIC. Pursuant to



## PROPOSED RULES

RULES OF PRACTICE AND PROCEDURE  
[12 CFR Part 308]

the authority of Title VI of FIRIRCA, the FDIC has revised its § 303.11 regulations and added new § 303.15.

These regulations have been adopted in final form, and will become effective on March 10, 1979, the effective date of the relevant sections of FIRIRCA. However, comments are requested until April 6, 1979.

For further information, contact Katharine H. Haygood, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4387.

REMOTE SERVICE FACILITY PROCEDURES  
[12 CFR Parts 303, 304 and 328]

On March 20, 1979, the FDIC adopted final rules revising current procedures concerning remote service facilities. Included in the term remote service facilities are automated teller machines, point-of-sale terminals, and other remote electronic facilities where deposits are received, checks paid, or money lent. The rules were adopted to conform to construction of the term "branch" by Federal appellate courts and to lessen the burden involved with applications to establish remote service facilities.

For further information, contact Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4628.

TERMINATION OF INSURED STATUS  
[12 CFR Part 307]

The FDIC is preparing to make a minor technical change in § 307.3 of its regulations. A footnote to that section quotes the language of section 8(q) of the Federal Deposit Insurance Act as it existed prior to its amendment by section 304 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"). Now that section 8(q) has been amended, the language quoted in the footnote to the regulation is no longer valid. The FDIC intends to delete the footnote from § 307.3. Further, the FDIC intends to correct paragraph (b) of § 307.3 by changing the reference "section 304.3 (s) and (t)" to "section 304.3 (u) and (v)."

Because these amendments are procedural in nature or required by a statutory change, the FDIC will publish the amendments in final form without a comment period.

For further information, contact Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4237.

On February 27, 1979, the FDIC proposed for comment a revised version of its Part 308 regulations governing rules of practice and procedure used by the FDIC in proceedings brought under section 8 of the Federal Deposit Insurance Act, and under certain other statutes. Revision of Part 308 has been made necessary because several recent congressional enactments—the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"), the International Banking Act of 1978, and the Securities Acts Amendments of 1975—have changed the FDIC's enforcement powers. The revisions to Part 308 which have been proposed would enable the FDIC to enforce the provisions of new and preexisting law against those persons and companies whom Congress has recently brought within the FDIC's enforcement authority. Revised Part 308 implements the FDIC's new powers to collect fines for certain violations of law, to disapprove changes in control of banks under the supervisory authority of the FDIC, and to impose sanctions upon municipal securities dealers and transfer agents under its authority. The revisions also would reorganize Part 308 in certain respects, add a definitional section, and remedy certain technical errors.

Comments are requested on the proposed revision of Part 308 by March 29, 1979.

For further information, contact Werner Goldman, Acting Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4616.

RIGHT TO FINANCIAL PRIVACY  
[12 CFR Part 309]

As Title XI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"), Congress enacted the Right to Financial Privacy Act of 1978. The FDIC is preparing technical amendments to its Part 309 regulations in order to conform them with the requirements of the Right to Financial Privacy Act. These amendments are expected to be published in final form in the future.

For further information, contact Pamela E. F. LeCren, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4453.

CLASSIFICATION OF DEPOSITS  
[12 CFR Part 327]

The FDIC is preparing to amend § 327.2(a) of its regulations in order to

bring it into conformity with the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"). Section 310 of FIRIRCA amends sections 7(a) (4) and (5) of the Federal Deposit Insurance Act by eliminating deposits hypothecated to pay loans at their maturity from the category of deposit liabilities required to be reported in reports of condition. In response to this statutory change, the FDIC will amend § 327.2(a) of its regulations by deleting present § 327.2(a)(3) and thereby excluding hypothecated deposits from time and savings deposits for the purpose of reports of condition and the computation of assessments.

Because this amendment is required by a statutory change, the FDIC will publish the amendment in final form without a comment period.

For further information, contact Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4237.

INTEREST ON DEPOSITS  
[12 CFR Part 329]

The FDIC published for comment on November 22, 1976, a proposed amendment to § 329.3(f) of its regulations. Under this amendment, the FDIC would require insured State nonmember banks to give notice to depositors of maturing time deposits, which become demand deposits unless renewed or withdrawn within ten days after maturity. The proposed amendment is under consideration at this time.

For further information, contact F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4324.

BANK SERVICE ARRANGEMENTS  
[12 CFR Parts 334 and 304]

The FDIC has concluded that present Part 334 requirements, that both the bank and the party performing banking services for an insured State nonmember bank furnish satisfactory assurances to the FDIC that the services will be subject to FDIC regulations and examination, are made unnecessary as a result of section 308 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"), which amends Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) to grant the FDIC the direct authority to regulate and examine bank services performed for an insured State nonmember bank by another party. Section 308 of FIRIRCA also requires insured State nonmember banks to notify the FDIC of the existence of a service relationship within 30 days after the making of the

service contract or the performance of the service, whichever occurs first. Accordingly, the FDIC has eliminated the Part 334 assurance requirements for the regulation and examination of bank services, and has amended § 304 of its regulations to establish an optional form for giving notice of bank service arrangements. These amendments are to take effect upon publication in the FEDERAL REGISTER.

Since the changes are necessitated by statutory amendment, the FDIC has determined that notice of and public participation in this rulemaking are unnecessary and that good cause exists for the waiver of the 30-day deferral of the revision's effective date.

For further information, contact Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4237.

INSIDER TRANSACTIONS  
[12 CFR Part 337]

Section 22(h) which was added to the Federal Reserve Act by the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"), places several new limitations on "insider" loans by member banks. FIRIRCA also amends the Federal Deposit Insurance Act to make those limitations applicable to insured nonmember banks.

As a result of these new statutory provisions, the FDIC has eliminated § 337.3 of its rules and regulations, which dealt with insider transactions. This action was taken because the new statutory limitations have rendered the existing FDIC regulation in part unnecessary, in part duplicative, and in part inconsistent with the new law.

In a related action, the Board of Governors of the Federal Reserve System has adopted final regulations for member banks implementing the new statutory lending limitations (Regulation O, 12 CFR Part 215). Since the statutory provisions apply to insured nonmember banks as well, those banks are also expected to comply with Regulation O. Although Regulation O takes effect on March 10, 1979, the Board of Governors has requested comments for an additional 60-day period (until May 9, 1979). The Board has indicated that it will consider those comments received and adopt any needed amendments to the regulation as soon as practicable.

For further information, contact Alan J. Kaplan, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4433.

## PROPOSED RULES

## OFFERING CIRCULAR REQUIREMENTS FOR PUBLIC ISSUANCE OF BANK SECURITIES

## [Proposed 12 CFR Part 340]

The FDIC has previously published for comment (on February 25, 1974, and May 27, 1977) proposed versions of a new Part 340, dealing with disclosure requirements in connection with the offer and sale of securities of insured State nonmember banks. The FDIC is now considering proposing and publishing for comment a new version of Part 340.

The FDIC is considering the adoption of a simple requirement that banks prepare and use offering circulars. The requirement would not specify in great detail the contents of such documents. Compliance with burdensome filing and review requirements and other technicalities would be eliminated.

Proposed Part 340 would be designed to ensure that insured State nonmember banks comply with minimum standards for disclosure of material facts in the offer and sale of securities.

For further information, contact Arthur L. Beamon, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4422.

COMMUNITY REINVESTMENT ACT  
[12 CFR Part 345]

Section 1502 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA") authorizes the delineation of a military community by banks which are predominantly engaged in serving military customers in addition to their normal geographic communities. Under the authority of this section, the FDIC on March 20, 1979 adopted implementing regulations.

For further information, contact Jeffrey A. Tisdale, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4384.

## INSURED BRANCHES OF FOREIGN BANKS

## [Proposed 12 CFR Part 346]

The FDIC is preparing to issue regulations which would implement the deposit insurance provisions of the International Banking Act of 1978. It is expected that the regulations will set out the rules regarding which state branches of foreign banks must be insured branches, and that they will set out rules applicable to all insured branches of foreign banks. In addition, the FDIC is considering making technical changes to several of its regulations, in order to bring them into conformity with the International Banking Act. Parts 303, 304, 305, 306, 307, 308, 309, 326, 327, 328, 329, 330, 331,

332, 333, 337, 338, and 339 the FDIC's regulations would be the parts affected.

For further information, contact Margaret M. Olsen, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4433.

## FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

## [Proposed 12 CFR Part 347]

On January 24, 1979, the FDIC proposed regulations to implement the foreign banking requirements of section 301 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978. The new regulations would require insured State nonmember banks: (1) to obtain the prior written consent of the FDIC before establishing their first branch in a foreign country or acquiring any ownership interest in a foreign bank or other foreign financial entity; (2) to provide 30-day notice to the FDIC concerning their intent to relocate an existing foreign branch or to increase the number of foreign branches in a location where they have an authorized foreign branch; and (3) to maintain a specific system of records, controls, and reports with respect to their foreign activities exercised under the new regulations. Also, for competitive reasons, the regulations would authorize foreign branches to exercise certain additional powers to the extent such powers are usual in connection with the transaction of the business of banking in the places where they shall transact business. Further, the regulations would permit an insured State nonmember bank to make loans to or purchase securities of foreign banks or other foreign financial entities without regard to the restrictions under 12 U.S.C. 1828(j), but subject to specific requirements in the regulations. The regulations would be issued pursuant to the FDIC's authority under sections 3(o), 18(d), and 18(f) of the Federal Deposit Insurance Act.

The period for public comments on these proposals expired on March 2, 1979.

For further information, contact Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4237.

## MANAGEMENT OFFICIAL INTERLOCKS

## [Proposed 12 CFR Part 348]

The Depository Institution Management Interlocks Act, Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"), prohibits certain management official interlocks between depository institutions, depository holding companies, and their affili-



## PROPOSED RULES

[4910-13-M]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 37]

(Docket No. 18889; Notice No. 79-8)

## LITHIUM SULFUR DIOXIDE BATTERIES

Technical Standard Order Authorizations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to establish a new Technical Standard Order (TSO) that would set forth standards for Lithium Sulfur Dioxide (Li SO<sub>2</sub>) batteries used in aircraft. The new standards are intended to reduce or eliminate failures of equipment incorporating the batteries due to corrosion, venting violently, and explosion of the batteries and the leakage of harmful gases into occupied areas of aircraft.

DATES: Comments must be received on or before April 25, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 18889, 800 Independence Avenue SW., Washington, D.C. 20591.

## FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755-8716.

## SUPPLEMENTARY INFORMATION:

## INVITATION FOR COMMENTS

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposal contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the appropriate address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the

Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

## AVAILABILITY OF THIS NOTICE

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should request a copy of Advisory Circular AC No. 11-2 which describes the application procedures.

## BACKGROUND

Li SO<sub>2</sub> batteries have been used primarily in general aviation Emergency Locator Transmitters (ELT's) and to a limited degree in various air carrier aircraft safety equipment for a number of years. The use of this type battery has been promoted because it has a longer shelf life and can be used at lower operating temperatures than other batteries. Despite these advantages, operational experience has demonstrated several problems with the battery resulting in serious incidents in general aviation aircraft involving corrosion, venting violently, and explosion of the batteries and leakage of harmful gases into occupied areas of aircraft.

To provide information to the public on this subject, the FAA issued Advisory Circular AC No. 20-91 on April 11, 1975, "Lithium Batteries Used in Emergency Locator Transmitters," which warned of the possible hazards associated with the use of Li SO<sub>2</sub> batteries. Also, three Airworthiness Directives (AD's) numbers 74-20-10 (Amendment 39-1976, 39 FR 34513), as amended, 74-02-07 (Amendment 39-2021, 39 FR 40939), as amended, and 79-05-02 (Amendment 39-3422, 44 FR 10980) have been issued relating to the use of Li SO<sub>2</sub> batteries. Amendments 39-1976 and 39-2021 required design changes and periodic inspections of certain Li SO<sub>2</sub> batteries. Amendment 39-3422 required removal of all Li SO<sub>2</sub> batteries and ELT's powered by Li SO<sub>2</sub> batteries from U.S.-registered civil aircraft.

At this time, if no further action were to be taken, the public would be deprived of the benefit of using Li SO<sub>2</sub> batteries which provide for operation of ELT's to temperatures below -40°C. Over 95 percent of the Li SO<sub>2</sub> battery usage in aircraft is in ELT's. Other batteries do not operate effectively below -20°C, and they would have a detrimental effect on search and rescue (SAR) operations for downed aircraft. While the ELT is only one of the devices and techniques available to SAR forces, it continues to provide a unique and valuable means of locating crash sites. Thus, SAR forces and the National Transportation Safety Board are strongly encouraging the use of Li SO<sub>2</sub> batteries. Their main rationale for this position is the existence of large portions of the U.S. which experience temperatures below -20°C during certain times of the year.

To provide for the availability of safe Li SO<sub>2</sub> batteries, the FAA has determined it necessary to issue performance and environmental standards for such batteries. The standards proposed herein are based on draft standards developed by an FAA Lithium Battery Design Review Team after a number of meetings with battery and equipment manufacturers and government laboratories. In this connection, the FAA utilized information obtained from the National Aeronautics and Space Administration's (NASA) Langley Research Center which has been investigating Li SO<sub>2</sub> batteries for use in its space shuttle program. The conditions of the NASA tests, although not normally encountered in the aviation environment, must be considered as possible conditions. Since Amendment 39-3422 required removal of all Li SO<sub>2</sub> batteries installed in aircraft or equipment used in aircraft, the proposal in this notice, if adopted, will provide a basis for reinstating the use of these batteries.

In view of the need for Li SO<sub>2</sub> batteries, and to expedite the adoption of standards to which approved batteries may be manufactured, the FAA has determined that good cause exists for limiting the comment period for this NPRM to 30 days from date of issuance.

## THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 37 of the Federal Aviation Regulations (14 CFR Part 37) by adding a new § 37.209 to read as follows:

## § 37.209 Lithium sulfur dioxide batteries TSO-C97.

(a) *Applicability.* This technical standard order prescribes the minimum performance standards that lithium sulfur dioxide (Li SO<sub>2</sub>) batteries must meet to be identified with the applicable TSO marking. Batteries that are to be so identified must meet the requirements of the "Federal Aviation Administration Standard, Lithium Sulfur Dioxide Batteries" set forth at the end of this section.

## PROPOSED RULES

(b) *Marking.* Each battery must be marked in accordance with § 37.7 and must be marked with the month and year of manufacture and the date on which it will reach 50 percent of its useful life. In addition, each cell and battery must be marked with the phrase, "CAUTION: PRESSURIZED CONTENTS; NEVER RECHARGE, SHORT CIRCUIT, OR EXPOSE TO HIGH TEMPERATURE OR FIRE."

(c) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration (or in the case of the Western Region, the Chief, Aircraft Engineering Division) in the region in which the manufacturer is located, the following technical data:

(1) One copy of the battery limitations and operating characteristics.

(2) One copy of the installation procedures and installation limitations with applicable drawings and specifications indicating all limitations, restrictions, and conditions pertinent to the installation.

(3) One copy of the manufacturer's test report.

(4) One copy of any process specification used in the manufacture of the batteries.

(5) Battery data sheets specifying within the prescribed range of environmental conditions, the actual performance of batteries of that type, with respect to each performance factor prescribed in the applicable standard.

(d) *Data to be furnished with manufactured units.* One copy of the data and information specified in paragraphs (c)(1), (c)(2), and (c)(5) of this section must be furnished to each person receiving for use one or more articles manufactured under this TSO.

FEDERAL AVIATION ADMINISTRATION  
STANDARD

## LITHIUM SULFUR DIOXIDE BATTERIES

## 1.0 General.

1.1 This standard applies to cells and batteries of a nonaqueous Li SO<sub>2</sub> type. Batteries may consist of a single cell, cells connected in series or in parallel, or both, to obtain the necessary output for the intended application. Definitions for terms used in this standard are set forth in Appendix A of this standard.

## 2.0 MINIMUM PERFORMANCE STANDARDS UNDER STANDARD CONDITIONS.

2.1 *Cell Isolation.* Cells in a battery pack may not be connected in parallel unless provisions are made to prevent charging currents between cells.

2.2 *Cell Connection.* All electrical connections between cells in the battery must be soldered, welded, or

brazed in accordance with an approved process specification.

2.3 *Safety Relief.* Each cell used in the battery must incorporate a safety relief mechanism that will relieve internal pressure at a value and rate which will preclude venting violently, or explosion. The safety relief must operate at a temperature below the melting point of lithium (186 degrees C). Discharge of nontoxic gaseous material or liquid material or both during activation of the safety relief mechanism is permissible.

2.4 *Encapsulation.* Encapsulation of the batteries may not be used.

2.5 *Seal.* Each cell must be hermetically sealed.

2.6 *Fuse-Protection.* The battery must be externally fuse protected to render it inoperative when a fault causes the battery to deliver more than 150 milliamperes.

2.7 *Voltage-Life Characteristics.* The battery must deliver the following capacities while maintaining a voltage of at least 80 percent of its nominal value:

(a) Rated ampere-hour capacity over a 100-hour period while being discharged at 24 $\pm$ 3°C.

(b) 85 percent of rated ampere-hour capacity over an 88-hour period while being discharged at 52 $\pm$ 2°C.

(c) 75 percent of rated ampere-hour capacity over a 50-hour period while being discharged at -40 $\pm$ 2°C.

2.8 *Useful Life.* The useful life of the battery must be equal to one-half of its life when stored at 60°C. The battery must have at least 80 percent of its rated ampere-hour capacity upon reaching its useful life at 60°C. The useful life may not exceed 2 years unless demonstrated.

2.9 *Transient Response.* Upon application of a load under any condition specified in this standard, the output voltage must reach at least 80 percent of the nominal voltage within 0.1 seconds.

2.10 *Examination of Product.* When required subsequent to a test required by paragraph 3.0 of this standard, each of the cells must be visually examined. Special emphasis must be placed on observing signs of leakage and overall appearance of the safety relief feature.

## 2.11 Voltage.

2.11.1 *Open Circuit Voltage.* Open circuit voltage of the battery must be measured and be within  $\pm$ 2.5 percent of its specified nominal value, and the polarity must be correct.

2.11.2 *Voltage Under Constant Load.* The battery must be subjected to a resistive load equivalent to 5 percent of its specified ampere-hour capacity for 60 seconds. At the end of 60 seconds, and with the load still connected, the voltage must be measured and may not be less than 80 percent of



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the open circuit voltage measured under paragraph 2.11.1 of this standard.

2.12 *Capacity.* The variation in cell capacity may not vary more than  $\pm 2.5$  percent when compared with the manufacturer's specifications.

### 3.0 MINIMUM PERFORMANCE STANDARDS UNDER ENVIRONMENTAL CONDITIONS.

3.1 *Effects of Test.* Except as provided in paragraphs 3.7, 3.8, 3.10, and 3.12 of this standard, the design of the battery must be such that subsequent to the application of the specified tests, no condition may exist that would be detrimental to the continued performance of the battery.

3.2 *Shock Test.* The cell must be secured to a shock table by a mechanically secure device. The shock test machine must be capable of imparting to the cell a series of calibrated shock impulses. The shock impulse waveform must be a half sine pulse whose distortion at any point on the waveform may not be greater than 15 percent of the peak value of the shock pulse. For the purposes of this paragraph, duration of the shock impulse is specified with reference to the zero points of the half sine wave, and shock forces are specified in terms of peak amplitude G values. The shock impulse must be measured using a calibrated accelerometer and associated instrumentation having a 3dB response over a range of at least 5 to 250 Hertz. The shock test must be conducted as follows:

(a) Mount the cell on the shock test machine in such a manner that it can be subjected to shock impulses in each direction successively along the three mutually orthogonal axis of the equipment.

(b) Apply a 100G shock impulse of a duration  $23 \pm 2$  milliseconds to the equipment in a direction coincident with the first orthogonal axis.

(c) Reset the activation mechanism.

(d) Repeat the procedures specified in paragraphs 3.2 (b) and (c) applying an impulse shock in the remaining axial directions. Following applications of the shocks, the requirements of paragraphs 2.10, 2.11, and 2.12 of this standard must be met.

3.3 *Vibration Test.* The cell must be secured to a vibration table so that sinusoidal vibratory motion can be exerted parallel to one of the three major orthogonal axis of the equipment. The cell must be affixed to the vibration table by the means specified by the equipment manufacturer for service installations. The vibration frequency must be varied at a rate not to exceed 1.0 octave per minute. The vibration must exhibit a constant total excursion of 0.254cm. from 5 Hertz to the frequency at which an acceleration of 7G (zero-to-peak) is reached

and from that frequency to 2,000 Hertz at a constant acceleration of 7G. Continue the vibration for a minimum of 1 hour. The tests described in this paragraph must be repeated with the vibratory motion being applied along each of the other two major axis of the cell.

Following application of the vibration tests, the requirements of paragraphs 2.10, 2.11, and 2.12 of this standard must be met.

3.4 *Temperature Cycle Test.* The battery must be subjected to a temperature not greater than  $-65^{\circ}\text{C}$  for a period of 20 hours. The test chamber temperature must then be raised at a rate of  $5 \pm 2^{\circ}\text{C}$  per minute to a temperature of at least  $+71^{\circ}\text{C}$ , and this temperature maintained for a period of 4 hours. After completion of this temperature cycle, the battery must be returned to room temperature and must then meet the requirements of paragraphs 2.10, 2.11, and 2.12 of this standard. The battery must be examined and tested for leakage after completion of the temperature cycle, and no cell of the battery may have leaked.

3.5 *Altitude Test.* The battery may not exhibit leakage after being stored for 6 hours at an atmospheric pressure corresponding to an altitude of 15,000 meters at  $24 \pm 4^{\circ}\text{C}$ . The pressure must then be increased to sea level pressure. The battery must then meet the requirements of paragraphs 2.10, 2.11, and 2.12 of this standard.

### 3.6 Externally Applied Heat Test.

3.6.1 *Verification of Vent Operation.* The battery must be placed on a hotplate with the largest battery surface area against the hotplate. The hotplate temperature must be increased so that the case temperature increases linearly at a rate of  $10 \pm 3^{\circ}\text{C}$  per minute. The test must be continued until the battery vents. The requirements of paragraph 2.3 of this standard must be met.

3.6.2 *Open Flame Test.* The battery must be exposed to an open flame (such as that from a propane torch) at a rated temperature of  $1300 \pm 100^{\circ}\text{C}$ , and the heat must be applied until venting occurs. The requirements of paragraph 2.3 of this standard must then be met. This test must be accomplished on both a fresh and a discharged battery. When the cell vents, there may not be ignition of the escaping gases.

3.7 *Cell Deformation Test.* The cell must be placed between the insulated jaws of a viselike fixture and positioned so as not to obstruct any seal sections or seams during crushing. Pressure must be applied slowly until a voltage drop indicates that an internal short has occurred. At this time, the pressure must be maintained until the cell vents. The requirements of

paragraph 2.3 of this standard must be met.

3.8 *Accelerated Life Test.* After 30 days of storage at a temperature of  $71 \pm 2^{\circ}\text{C}$ , the battery must be returned to room temperature and must be capable of delivering 90 percent of its rated capacity with no more than  $\pm 2.5$  percent variation in cell capacity.

3.9 *Reverse Discharge Test.* The battery must be discharged in series with an external power source at the C/20 rate (C being that value of current corresponding to the total capacity of the battery in ampere-hours being discharged within 20 hours). This current must be maintained for a total period of 30 hours or until the majority of the battery cells have safely vented. The requirements of paragraph 2.3 of this standard must be met.

3.10 *Immersion Test—Salt Water.* After being immersed in salt water ( $3.5 \pm 0.1$  percent sodium chloride), with terminals insulated, for a period of at least 15 hours, the battery must meet the requirements of paragraphs 2.10, 2.11, and 2.12 of this standard.

3.11 *Short Circuit Test.* An external short circuit of less than 0.1 ohm must be applied to the test cell until venting occurs. The requirements of paragraph 2.3 of this standard must be met.

3.12 *Forced Discharge Test.* A cell must be force discharged at a 0.5 ampere rate for 20 hours at a temperature not greater than  $-20^{\circ}\text{C}$  isothermally. At the end of this period the cell must be returned to room temperature. There may be no venting at any time during or after the completion of the test.

3.13 *Total Discharge Test.* The battery must be discharged at a 1 ampere rate for 3 hours, immediately followed by a 0.5 ampere rate for 4 hours, and immediately followed by a 150 milliamp rate until the ampere-hour rating of the cell is reached. Immediately thereafter, a direct short must be placed on the cell battery. The battery may not vent violently during or after this test.

### APPENDIX A

1.0 *Definitions.* For purposes of this standard, the following definitions apply:

"Leakage" means the escape of small amounts of Sulfur Dioxide ( $\text{SO}_2$ ), having no associated toxicity hazard, from pressurized hermetically sealed cells.

"Venting" means the controlled release of  $\text{SO}_2$  from a cell.

"Cell" means an individual electrochemical unit.

"Battery" means an electrical energy source made up of one or more

cells, arranged in electrical series or parallel or in a series-parallel circuit.

"Venting Violently" means the rapid uncontrolled discharge of either harmful gases or liquid, or both, from one or more cells accompanied by the generation of heat. This term was used in a NASA Report on a workshop held at Goddard Space Flight Center, November 15-17, 1977 (NASA Conference Publication 2041).

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

JAMES M. VINES,  
Acting Director,  
Flight Standards Service.

Issued in Washington, D.C., on  
March 19, 1979.

[FR Doc. 79-9076 Filed 3-23-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-RM-20]

### TRANSITION AREAS

#### Establishment and Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to alter the 700' transition area and establish a 1,200' transition area at Moab, Utah to provide controlled airspace for air traffic control purposes and for aircraft executing the new VOR/DME runway 33 standard instrument approach procedure developed for the Canyonlands Field Airport, Moab, Utah.

DATES: Comments must be received on or before April 20, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT:

Pruett B. Helm, Airspace and Procedures Specialist, Operations, Proce-

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dures and Airspace Branch (ARM-538), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

### SUPPLEMENTARY INFORMATION:

#### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with federal aviation administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

#### AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430,800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

#### THE PROPOSAL

The Federal Aviation Administration (FAA) is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700' transition area and establishing a 1,200' transition area at Moab, Utah. The present transition area is inadequate in size to contain the new VOR/DME runway 33 standard instrument approach procedure developed for Canyonlands Field Airport, Moab, Utah. It is proposed to make the alteration and establishment of the transition areas coincident with the effective date of the new standard instrument approach. Accordingly, the FAA proposes to amend subpart G of the fed-

eral Aviation Regulations Part 71 (14 CFR Part 71) as follows:

By amending 71.181 so as to alter and establish the following transition areas to read:

#### MOAB, UTAH

That airspace extending upward from 700' above the surface within a 10 mile radius of the Canyonlands Field Airport, Moab, Utah (latitude  $38^{\circ}45'34.3''$  N., longitude  $109^{\circ}44'46.1''$  W.) and within 7 miles northeast and 10 miles southwest of the Moab VOR (latitude  $38^{\circ}45'23''$  N., longitude  $109^{\circ}44'55''$  W.) 301' radial extending from the 10 mile radius area to 16.5 miles northwest of Moab, Utah; and that airspace extending upward from 1,200' above the surface bounded on the north by V-134, on the east by V-187W, on the south by V-244 and on the west by V-208, excluding the Price, Utah and Grand Junction, Colorado Transition areas and all Federal airways.

#### DRAFTING INFORMATION

The principal authors of this document are Pruet B. Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Aurora, Colorado on  
March 14, 1979.

M.M. MARTIN,  
Director,  
Rocky Mountain Region.

[FR Doc. 79-8260 Filed 3-23-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 79-ANW-1]

### TRANSITION AREA

#### Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to alter the transition area airspace in the vicinity of Klamath Falls, Oregon. This alteration would result in an extension of the 1200 foot transition airspace in that area and is needed to provide a lower minimum vectoring altitude for aircraft operating to/from Kingsley Field under instrument flight rules.



## PROPOSED RULES

**DATES:** Comments must be received on or before April 13, 1979.

**ADDRESSES:** Send comments on the proposal to: Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

**FOR FURTHER INFORMATION CONTACT:**

Dale C. Jepsen, Airspace Specialist, Operations, Procedures and Airspace Branch (ANW-533), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108; telephone (206) 767-2610.

**SUPPLEMENTARY INFORMATION:**

**COMMENTS INVITED**

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108. All communications received on or before April 13, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments in the official docket for examination by interested persons.

**AVAILABILITY OF NPRM**

Any person may obtain a copy of this Notice of Proposed Rule Making by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108 or by calling (206) 767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**THE PROPOSAL**

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend the 1,200 foot transition air-

space at Klamath Falls, Oregon, from a maximum 25 mile radius of the Klamath Falls VORTAC to a maximum 40 mile radius. This extension will provide optimum radar vectoring service at the lowest possible minimum vectoring altitude. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows: § 71.181 *Klamath Falls, Oregon*, is amended as follows:

That airspace extending upward from 700 feet above the surface within a 15 mile radius of the Klamath Falls VORTAC and within 5 miles east and 9.5 miles west of the Klamath Falls ILS localizer south course extending from the 15 mile radius area to 18.5 miles south of the Merrill RBN; that airspace extending upward from 1,200 feet above the surface between 15 and 40 mile radius circles centered on the Klamath Falls VORTAC.

This amendment is proposed under authority of Section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

**NOTE.**—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Washington, on March 14, 1979.

C. B. WALK, Jr.,  
Director, Northwest Region.

[FR Doc. 79-9072 Filed 3-23-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. FI-79-EA-8]

**TRANSITION AREA**

**Proposed Alteration; Cumberland, Md.**

**AGENCY:** Federal Aviation Administration, (FAA), DOT.

**ACTION:** Notice of Proposed Rule Making.

**SUMMARY:** This notice proposes to alter the Cumberland, Md., Transition Area, over Cumberland Municipal Airport, Cumberland, Md. This alteration will provide protection to aircraft executing the new instrument approach based on the localizer and distance measuring equipment for Runway 23, which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

**DATES:** Comments must be received on or before May 14, 1979.

**ADDRESS:** Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

**FOR FURTHER INFORMATION CONTACT:**

Charles J. Bell, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

**COMMENTS INVITED**

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before May 14, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**AVAILABILITY OF NPRM**

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

**THE PROPOSAL**

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area over Cumberland Municipal Airport. The area will be altered by establishing an additional extension to the northeast beyond the 8.5 mile radius area of approximately 10.5 miles long

by 7 miles wide and based on the northeast course of the localizer.

**THE PROPOSED AMENDMENT**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Cumberland, Md., 700-foot floor transition area as follows:

In the text, delete "extending from the 8.5 mile radius area to 11.5 miles north of the RBN," and substitute therefor, "extending from the 8.5 mile radius area to 11.5 miles north of the RBM; within 3.5 miles each side of the Cumberland Municipal Airport localizer northeast course extending from the 8.5 mile radius area to 18 miles northeast of the localizer."

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

**NOTE.**—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on March 7, 1979.

L. J. CARDINALI,  
Acting Director,  
Eastern Region.

[FR Doc. 79-9075 Filed 3-23-79; 8:45 am]

[4910-13-M]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 78-EA-731]

**FEDERAL AIRWAYS AND A RESTRICTED AREA**

**Proposed Alteration**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** This notice proposes to divide the Warren Grove, N.J., restricted area (R-5002) into five areas and increase the overall airspace. It also proposes to alter airways to bypass or exclude the restricted areas. This action would permit greater use of the separate areas for military and nonmilitary use.

**DATES:** Comments must be received on or before April 10, 1979.

**ADDRESSES:** Send comments on the proposals in triplicate to: Director,

## PROPOSED RULES

FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-73, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Everett L. McKisson, Airspace Regulations Branch, (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

**SUPPLEMENTARY INFORMATION:**

**COMMENTS INVITED**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 10, 1979, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**AVAILABILITY OF NPRM**

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

**THE PROPOSAL**

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71

and 73) that would alter the Warren Grove restricted area by enlarging it and dividing it into five separate areas. It is proposed also to realign V-44 and V-229 airways and to redefine V-1, V-16 and V-312 airways to exclude the Warren Grove restricted areas. Realignment of a segment of V-44 via the INT of Atlantic City, N.J., 055°T (065°M) and Deer Park, N.Y., 209°T (221°M) radials and the realignment of a segment of V-229 via the INT of Atlantic City 055°T (065°M) and Kennedy, N.Y., 194°T (205°M) radials would cause these airways to bypass the restricted areas sufficiently to permit their simultaneous use. Segments of these airways will be reduced slightly in width. Dividing the restricted areas would provide for a greater use of the airspace by permitting different areas (upper, lower, side by side) to be used for military and non-military operation at the same time.

**ICAO CONSIDERATIONS**

As part of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be oper-



## PROPOSED RULES

ated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

## THE PROPOSED AMENDMENTS

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 307, 702) as follows:

In § 71.123; Under V-1 "R-5002 is excluded." is deleted and "R-5002A, R-5002C and R-5002D are excluded during their times of use." is substituted therefor.

Under V-129 "The airspace within R-5002A, R-5002C, and R-5002D is excluded during their times of use." is added.

Under V-44 "INT of Atlantic City 048" is deleted and "INT of Atlantic City 055" is substituted therefor. All after "Deer Park." is deleted and "The airspace within R-4001B, R-5002A, R-5002B and R-5002E is excluded during their times of use. The airspace within V-139, V-308 airways and the airspace below 2,000 feet MSL outside the United States is excluded." is substituted therefor.

Under V-229 "INT of Atlantic City 048" and Kennedy, N.Y., 195° radials;" is deleted and "INT of Atlantic City 055" and Kennedy, N.Y., 194° radials;" is substituted therefor. All after "Burlington, Vt., 160° radials;" is deleted and "Burlington. The airspace within R-5002A, R-5002B and R-5002E is excluded during their times of use. The airspace within V-139, V-308 airways; and the airspace below 2,000 feet MSL outside the United States and the airspace above 7,000 feet MSL between the INT of Atlantic City 055" and Kennedy 194° radials and Kennedy is excluded." is substituted therefor.

Under V-312 "R-5002" is deleted and "R-5002" is substituted therefor.

In § 73.50 R-5002 Warren Grove, N.J., title and text is deleted. R-5002A Warren Grove, N.J., is added as follows:

## R-5002A WARREN GROVE, N.J.

Boundaries: Beginning at lat. 39°43'25"N., long. 74°17'37"W.; to lat. 39°38'125"N., long. 74°24'20"W.; to lat. 39°38'30"N., long. 74°29'30"W.; to lat. 39°39'20"N., long. 74°30'00"W.; to lat. 39°44'50"N., long. 74°24'40"W.; to lat. 39°44'50"N., long. 74°19'20"W. to the point of beginning.

Designated altitudes: Surface to 14,000 feet MSL.

Time of designation: Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTCC.

Using agency: Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N.J.

R-5002B Warren Grove, N.J., is added as follows:

## R-5002B WARREN GROVE, N.J.

Boundaries: Beginning at lat. 39°41'00"N., long. 74°20'52"W.; to lat. 39°40'10"N., long. 74°20'15"W.; to lat. 39°38'00"N., long. 74°22'00"W.; to lat. 39°36'00"N., long. 74°25'30"W.; to lat. 39°36'00"N., long. 74°27'30"W.; to lat. 39°37'00"N., long. 74°28'50"W.; to lat. 39°38'30"N., long. 74°29'30"W.; to lat. 39°38'25"N., long. 74°24'20"W.; to the point of beginning.

Designated altitudes: 1,000 feet MSL to 14,000 feet MSL.

Time of designation: Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTCC.

Using agency: Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N.J.

R-5002C Warren Grove, N.J., is added as follows:

## R-5002C WARREN GROVE, N.J.

Boundaries: Beginning at lat. 39°39'20"N., long. 74°30'00"W.; to lat. 39°40'30"N., long. 74°30'40"W.; to lat. 39°44'50"N., long. 74°27'30"W.; to lat. 39°44'50"N., long. 74°24'40"W.; to the point of beginning.

Designated altitudes: Surface to 3,000 feet MSL.

Time of designation: Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTCC.

Using agency: Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N.J.

R-5002D Warren Grove, N.J., is added as follows:

## R-5002D WARREN GROVE, N.J.

Boundaries: Beginning at lat. 39°44'50"N., long. 74°24'40"W.; to lat. 39°45'20"N., long. 74°23'45"W.; to lat. 39°45'50"N., long. 74°20'00"W.; to lat. 39°44'50"N., long. 74°19'20"W.; to the point of beginning.

Designated altitudes: Surface to 4,000 feet MSL.

Time of designation: Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTCC.

Using agency: Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N.J.

R-5002E Warren Grove, N.J., is added as follows:

## R-5002E WARREN GROVE, N.J.

Boundaries: Beginning at lat. 39°43'25"N., long. 74°17'37"W.; to lat. 39°41'00"N., long. 74°20'52"W.; to lat. 39°40'10"N., long. 74°20'15"W.; to the point of beginning.

Designated altitudes: 3,500 feet MSL to 14,000 feet MSL.

Time of designation: Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTCC.

Using agency: Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N.J.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978.)

Issued in Washington, D.C., on March 19, 1979.

WILLIAM E. BROADWATER,  
Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 79-9077 Filed 3-23-79; 8:45 am]

[4910-13-M]

[14 CFR Part 75]

[Airspace Docket No. 78-WE-25]

## JET ROUTES

## Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.  
ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter several jet routes in the Los Angeles, Calif., area. The alteration of these jet routes would improve traffic flow to/from Los Angeles, Calif., and McCarren, Nev., International Airports. In addition, some routes would be shortened and chart clutter reduced.

DATES: Comments must be received on or before April 18, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-25, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air

Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

## SUPPLEMENTARY INFORMATION:

## COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communication received on or before April 18, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

## AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communication must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

## THE PROPOSAL

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign several jet routes in the Los Angeles, Calif., area. These realignments would improve traffic flow between Las Vegas, Nev., and Los Angeles. Controllers workload would be reduced due to minimal Intra and Inter-facility coordination, and fewer aircraft on radar vectors. In addition, as a result of the jet route realignments, chart clutter would be reduced. Subpart B of Part 75 was republished in the FEDERAL REGISTER on January 2, 1979, (44 FR 722).

## THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

## PROPOSED RULES

1. Under Jet Route No. 4: "From Twentynine Palms, Calif.," would be deleted and "From Los Angeles, Calif., via Twentynine Palms, Calif.," would be substituted therefor.

2. Under Jet Route No. 9: "From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City; Milford, Utah;" would be deleted and "From Los Angeles, Calif., via Daggett, Calif.; Las Vegas, Nev.; INT Las Vegas 046°T (031°M) and the Milford, Utah, 212°T (197°M) radials; Milford." would be substituted therefor.

3. Under Jet Route No. 76: "via Tuba City, Ariz.; Las Vegas, N. Mex.;" would be deleted and "via Tuba City, Ariz.; INT Tuba City 268°T (254°M) and Las Vegas, Nev., 090°T (075°M) radials; Las Vegas;" would be substituted therefor.

4. Under Jet Route No. 78: "From Los Angeles, Calif., via Ontario, Calif.; INT of the Ontario 093° and the Parker, Calif., 261° radials; Parker," would be deleted and "From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.;" would be substituted therefor.

5. Under Jet Route No. 93: "to Ontario, Calif.;" would be deleted and "Ontario, Calif.; INT Ontario 290°T (276°M) and Los Angeles, Calif., 083°T(068°M) radials; to Los Angeles." would be substituted therefor.

6. Under Jet Route No. 96: "From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.; Prescott, Ariz.; INT Prescott 084° and Gallup, N. Mex., 246° radials; Gallup;" would be deleted and "From Los Angeles, Calif., via Ontario, Calif.; INT Ontario 092°T (078°M) and Parker, Calif., 260°T (246°M) radials; Parker; Prescott, Ariz.; Gallup, N. Mex.;" would be substituted therefor.

7. Under Jet Route 100: "From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City; Bryce Canyon, Utah;" would be deleted and "From Los Angeles, Calif., via Daggett, Calif.; Las Vegas, Nev.; INT of Las Vegas 046°T (031°M) and Bryce Canyon, Utah, 240°T (225°M) radials; Bryce Canyon;" would be substituted therefor.

8. Under Jet Route No. 104: "From Twentynine Palms, Calif.," would be deleted and "From Los Angeles, Calif., via Twentynine Palms, Calif.;" would be substituted therefor.

9. Under Jet Route No. 107: "from Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City;" would be deleted and "from Los Angeles, Calif., via Ontario, Calif.; Hector, Calif.; Boulder City;" would be substituted therefor.

10. Under Jet Route No. 128: "From Los Angeles, Calif., via Hector, Calif.; Peach Springs, Ariz.;" would be deleted and "From Los Angeles, Calif., via Ontario, Calif.; INT Ontario 060°T (046°M) and Peach Springs, Calif., 243°T (229°M) radials; Peach Springs;" would be substituted therefor.

Under Jet Route 134: "From Los Angeles, Calif., via Intersection Los Angeles 083° and Twentynine Palms, Calif., 269° radials; Twentynine Palms; Intersection of Twentynine Palms 075° and Parker, Calif., 062° radials; Intersection Parker 062° and Winslow, Ariz., 265° radials; Winslow; Gallup, N. Mex.;" would be deleted and "From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.; Prescott, Ariz.; Gallup, N. Mex.;" would be substituted therefor.

12. Under Jet Route No. 146: "From Los Angeles, Calif., via Ontario, Calif.; Hector, Calif.; Boulder, Nev.; Dove Creek, Colo.;" would be deleted and "From Los Angeles, Calif., via Daggett, Calif.; Las Vegas, Nev.; Dove Creek, Colo.;" would be substituted therefor.

13. Under the Jet Route No. 164: Jet Route 164, title and text would be deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves and established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on March 14, 1979.

WILLIAM E. BROADWATER,  
Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 79-9074 Filed 3-23-79; 8:45 am]



[6410-01]

## DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission  
[18 CFR Parts 35, 154, and 273]

[49 CFR Part 1605]

(Docket No. RM 77-22)

REGULATIONS UNDER THE FEDERAL POWER  
AND NATURAL GAS ACTS AND THE NATU-  
RAL GAS POLICY ACT OF 1978; REFUND RE-  
QUIREMENTS FOR OIL PIPELINES

## Proposed Rulemaking

AGENCY: Federal Energy Regulatory  
Commission.ACTION: Notice of proposed rulemak-  
ing.

SUMMARY: The Federal Energy Reg-  
ulatory Commission gives notice of a  
proposed rulemaking which would (1)  
tie the rate of interest required on re-  
funds to the prime rate charged by  
commercial banks for short-term busi-  
ness loans, (2) apply the rate of inter-  
est to the rate for computation of car-  
rying charges on amounts accumulat-  
ed in the deferred purchased gas cost  
account, (3) compound monthly the  
rate of interest on refunds, (4) impose  
refund obligations on oil pipelines, and  
(5) reduce the number of reports that  
must be filed under 18 CFR §§ 35.19a  
and 154.67; and request comments  
thereon.

DATE: Written comments by April 23,  
1979.

ADDRESS: Office of the Secretary,  
Federal Energy Regulatory Commis-  
sion, 825 North Capitol Street, N. E.,  
Washington, D.C. 20426 (Reference  
Docket No. RM 77-22).

FOR FURTHER INFORMATION  
CONTACT:

Dennis Melvin, Office of the Gen-  
eral Counsel, Federal Energy Regula-  
tory Commission, 825 North Capitol  
Street, N.E., Washington, D.C.  
20426, (202) 275-4891.

Teresa Ponder, Office of the Gen-  
eral Counsel, Federal Energy Regula-  
tory Commission, 825 North Capitol  
Street, N.E., Washington, D.C.  
20426, (202) 275-4236.

## NOTICE OF PROPOSED RULEMAKING

Before Commissioners: Rate of In-  
terest on Amounts Held Subject to  
Refund.

Notice is hereby given, that the Fed-  
eral Energy Regulatory Commission  
proposes to amend §§ 35.19a, 154.67,  
154.102, 154.38(d)(4)(iv)(C), and  
273.302(e)(i) of Chapter I, Title 18, of  
the Code of Federal Regulations

<sup>1</sup>The term "Commission", when used in  
the body of this notice, shall refer to the  
Federal Power Commission with respect to  
actions taken before October 1, 1977, and  
shall refer to the Federal Energy Regula-  
tory Commission with respect to actions  
taken at any time subsequent to October 1,  
1977.

(CFR), and add a new Chapter XV,  
Part 1605 Title 49, CFR. The amend-  
ments would work to tie the interest  
rate on carrying charges and refunds  
to the prime interest rate charged by  
commercial banks for short term busi-  
ness loans, require monthly com-  
pounding of interest on funds held  
subject to refund, impose definitive  
refund obligations on oil pipelines, and  
reduce the number of reports that  
must be filed under §§ 35.19a and  
154.67 of the Regulations.

On October 1, 1977, pursuant to the  
provisions of the Department of  
Energy Organization Act (DOE Act),  
42 U.S.C. § 7101, *et seq.* (1977), and Ex-  
ecutive Order No. 12009, 42 FR 46267  
(1977), the functions and responsibil-  
ities of the Interstate Commerce Com-  
mission (ICC) pertaining to the trans-  
portation of crude and refined petro-  
leum and petroleum byproducts, de-  
rivatives, and petrochemicals by pipe-  
line were transferred to the Secretary  
of Energy and the Commission. Sec-  
tion 402(b) of the DOE Act provides  
that all functions and authority of the  
ICC relating to the establishment of  
rates and charges for the transporta-  
tion of oil by pipeline, or the valuation  
of oil pipelines, is vested in the Com-  
mission. Included in this transfer of  
functions and responsibilities is the  
authority to compel refunds with inter-  
est, of unjustified rates or charges  
for such transportation, as required in  
the Interstate Commerce Act, 49  
U.S.C. 15(7) (1940). The "savings pro-  
visions" of section 705(a) of the DOE  
Act provide, among other things, that  
rules and regulations relating to func-  
tions transferred to the Commission,  
and all orders which are in effect at  
the time that the DOE Act takes  
effect shall continue in effect until  
modified, terminated, suspended, set  
aside or revoked by the Commission.

Similarly, section 705(b) indicates that  
orders in pending proceedings shall  
continue in effect until modified, ter-  
minated, superseded, or revoked by  
the Commission, so long as any such  
discontinuance or modification is  
made under the same terms and condi-  
tions and to the same extent, as could  
have been accomplished had the DOE  
Act not been enacted.<sup>2</sup> Pursuant to  
the aforementioned authority, notice  
is hereby given that the decisions and  
policies formulated during the course  
of this proceeding, with certain excep-  
tions, will be incorporated into Title 49  
CFR under a new Chapter XV and  
Part 1605. The principles, if adopted,  
will be made applicable to all pending  
and future petroleum pipeline pro-  
ceedings within our jurisdiction from  
the first day of the first month begin-  
ning after the effective date of the is-  
suanace of a final order in this docket.<sup>3</sup>

<sup>2</sup>Order No. 1, Docket No. RM 78-1, issued  
October 6, 1977.

<sup>3</sup>We note that "all pending" proceedings  
is intended to include, *inter alia*, Trans-

## HISTORICAL BACKGROUND

All refund rates were determined by  
the Federal Power Commission on a  
case-by-case basis until 1959. In 1959, a  
simple six percent per annum rate was  
established for refunds owed by inde-  
pendent natural gas producers.<sup>4</sup> The  
refund interest rate for electric utili-  
ties and regulated pipelines continued  
to be established on a case-by-case  
basis. In March, 1960, the Commission  
raised the interest rate on refunds for  
independent producers to seven per-  
cent.<sup>5</sup>

Eight years later, the Commission  
ordered the rate of interest on refunds  
to be compounded monthly.<sup>6</sup> That  
order, however, was set aside before its  
implementation by the United States  
Court of Appeals because the proce-  
dure followed in adopting the rule-  
making violated the notice require-  
ments of the Administrative Proce-  
dure Act.<sup>7</sup> In setting aside the order,  
the Court emphasized that its decision  
addressed only procedural issues, not  
the merits of compounding interest.  
The decision left the Commission free  
to adopt another order requiring the  
compounding of interest on refunds,  
provided it followed the correct ad-  
ministrative procedure; however, the  
Commission did not do so in its subse-  
quent order on refund interest rate.<sup>8</sup>

In 1971, the Commission began ap-  
plying the seven percent simple inter-  
est rate to all refunds authorized  
under both the Federal Power Act and  
the Natural Gas Act.<sup>9</sup> At that time,  
the Commission considered but de-  
clined to adopt a proposal to tie the  
refund interest rate to the prime inter-  
est rate.

In 1974, the Commission ordered the  
refund interest rate raised to nine per-  
cent for all rate filings submitted on  
or after October 10, 1974.<sup>10</sup> The Court  
of Appeals for the District of Colum-  
bia remanded the order, stating that it  
was improper to limit the nine percent  
refund interest rate to filings which  
took place on or after October 10,  
1974, and retain the seven percent in-  
terest rates for rate filings made  
before that date.<sup>11</sup> Subsequent to the  
Court's decision, the Commission  
issued a series of orders to amend and  
clarify its refund regulations, consist-  
ent with the Court's opinion.<sup>12</sup>

<sup>10</sup>Alaska Pipeline System, Docket No. OR 78-  
1.

<sup>11</sup>Order No. 215, 22 F. P. C. 668 (1959).

<sup>12</sup>Order No. 215-A, 23 F. P. C. 474 (1960).

<sup>13</sup>Order No. 362, 39 F.P.C. 412 (1968).

<sup>14</sup>Tesaco, Inc. v. F.P.C. 668 (1959).

<sup>15</sup>Order No. 405, 43 F.P.C. 794 (1970).

<sup>16</sup>Order No. 442, 46 F.P.C. 1287 (1971).

<sup>17</sup>Order No. 513, 52 F.P.C. 920 (1974).

<sup>18</sup>American Public Gas v. F.P.C. 546 F.2d  
983 (D.C. Cir. 1974).

<sup>19</sup>Order No. 513-A, Docket No. RM 74-18,  
issued July 14, 1976; Order Granting Re-  
hearing of Order No. 513-A for Purposes of  
Further Consideration, Docket No. RM 74-  
Footnotes continued on next page

On June 24, 1977, nineteen public  
utility companies<sup>13</sup> jointly filed a  
Motion to Initiate a Rulemaking to  
Adjust Downward from nine percent  
to seven percent the interest rate ap-  
plicable to refunds under the Federal  
Power Act and the Natural Gas Act.  
On September 16, 1977, the Commis-  
sion issued a Notice of Motion to Ini-  
tiate Rulemaking to Adjust Interest  
Rate on Refunds, and requested that  
all interested parties file comments or  
petitions to intervene by October 1,  
1977.<sup>14</sup> Numerous comments and peti-  
tions to intervene in the proposed  
rulemaking proceeding were received  
from various parties including electric,  
gas pipeline, and oil companies, and  
municipal and cooperative public  
power systems.<sup>15</sup>

## SCOPE OF PROCEEDING

Section 154.67(c) of Title 18 CFR re-  
quires all regulated natural gas pipe-  
lines to make refunds at an interest

Footnotes continued from last page  
18, issued August 19, 1976; Order Clarifying  
and Amending Order No. 513-A and Deny-  
ing Rehearing, Docket No. RM 74-18, issued  
October 15, 1976; Order Denying Rehearing  
and Further Clarifying Order No. 513-A,  
Docket No. RM 74-18, December 6, 1976.

<sup>13</sup>Arizona Public Service Company, Arkan-  
sas Power & Light Co., Boston Edison Co.,  
Carolina Power & Light Co., Central Ver-  
mont Public Service Corp., Florida Power &  
Light Co., Florida Power Corp., Louisiana  
Power & Light Co., Minnesota Power &  
Light Co., Mississippi Power & Light Co.,  
Public Service Co. of Indiana, South Caroli-  
na Electric & Gas Company, Upper Penin-  
sula Power Co., Utah Power & Light Co.,  
Wisconsin Electric Power Co., Wisconsin  
Michigan Power Co., Alabama Power Co.,  
Montaup Electric Co., Northern States  
Power Corp.

<sup>14</sup>On January 26, 1979, the Indiana Munic-  
ipal Electric Association and several Cities  
(IMEA Cities) listed in Appendix B filed a  
motion in Docket No. RM 79-17 to raise the  
interest rate on refunds "... (1) to 12% (2)  
to 2 percentage points above the current  
prime rate; or (3) to the equity return re-  
quested in connection with the applicable  
company filing or, if that is not applicable,  
to that allowed in the Company's last rate  
case or settlement". In view of the fact that  
the issues raised by IMEA Cities are the  
subject of the instant rulemaking proceed-  
ing in Docket No. RM 77-22, the Commis-  
sion shall terminate Docket No. RM 79-17  
without prejudice, of course, to IMEA Cities  
to file comments in Docket No. RM 77-22.

<sup>15</sup>Appendix A. In addition to a petition to  
intervene filed in this Docket on October 3,  
1977, the American Public Power Associ-  
ation (APPA) moved on February 5, 1979,  
that the refund rate should be made equal  
to the prime rate, plus one. Opposition to  
the motion was filed by the Arizona Public  
Service Company, *et al.* (APSC) on Febru-  
ary 21, 1979, and a statement in support of  
the motion was filed by APPA on February  
28, 1979. In view of the fact that we have  
broadened the scope of the issues in this  
rulemaking to include those raised by  
APPA, we will consider the arguments of  
APPA and APSC during the course of our  
deliberations in this docket.

rate of nine percent for those portions  
of rate filings which are placed in  
effect after suspension but which are  
determined by the Commission to be  
unjust and unreasonable pursuant to  
the Commission's authority under sec-  
tion 4(e) of the Natural Gas Act. Simi-  
larly, § 154.102(c) requires independent  
natural gas producers to make refunds  
to their customers at a rate of nine  
percent for those portions of rate fil-  
ings which have been placed into  
effect subsequent to suspension but  
which have been determined by the  
Commission to be unjust and unrea-  
sonable. Interim regulation  
§ 273.302(e)(1), implemented in accord-  
ance with the Natural Gas Policy Act,  
also requires a nine percent rate of in-  
terest on refunds made by natural gas  
producers in accordance with that Act.  
Section 273.302(e)(1) will not be sepa-  
rately discussed but will simply be re-  
vised to reflect the interest rate set  
forth in § 154.102(c). Section 35.19(a)  
requires a nine percent interest rate  
on refunds made by electric utilities.

With respect to oil pipelines, noth-  
ing in either the regulation governing  
oil pipeline proceedings before the  
ICC (*generally*, 49 CFR, Chapter 10),  
nor in the provisions of the Interstate  
Commerce Act (49 U.S.C. 15(7)), spec-  
ifies a method of accounting for refun-  
dable monies, or a particular rate of  
interest applicable to refunds made by  
oil pipelines.<sup>16</sup>

Upon consideration of the comments  
submitted in response to the Notice of  
Motion to Initiate Rulemaking, and  
after a review of the Commission's  
current policies and practices with re-  
spect to interest rates on refunds, we  
have determined to expand the scope  
of this proceeding to encompass: (a)  
the appropriateness of using the prime  
rate charged by commercial banks for  
short-term business loans as the stand-  
ard for setting refund interest rates,  
(b) compounding interest on refunds,  
(c) a mechanism for making automatic  
adjustments to the rate of interest re-  
quired on refunds, (d) promulgation of  
a complete set of refund regulations  
related to oil pipelines, (e) carrying  
charges on the amounts accumulated  
in the deferred purchase gas cost ac-  
count, and (f) a proposed reduction in  
the number of refund report filings  
for natural gas pipelines and electric  
utilities.<sup>17</sup> The appropriateness of the

<sup>16</sup>We expect, at some future time, to pro-  
mulate a complete statement of our own  
rules and regulations with respect to oil  
pipeline proceedings. At that time, the  
refund policies and requirements developed  
pursuant to this rulemaking will be incor-  
porated therein. As indicated above, however,  
we will add a new provision at 49 CFR  
§ 1605.95; included in a new Chapter XV, as  
an interim measure so that the application  
of these policies and requirements may  
begin immediately for oil pipelines within  
the Commission's jurisdiction.

<sup>17</sup>Another issue alluded to in the com-  
ments deals with the notion of a premium

current rate of interest on refunds will  
be examined in this rulemaking pro-  
ceeding in the context of these ques-  
tions.

## DISCUSSION

A. APPROPRIATE STANDARD FOR REFUND  
INTEREST RATES

In general, there appear to be three  
primary considerations relevant to the  
determination of an appropriate  
standard for the interest rate(s) on re-  
funds. First, the interest rate should  
provide just compensation to those  
who are required to pay rates that are  
later determined by the Commission  
to be excessive. Their losses, or costs,  
can be of three types: (a) opportunity  
losses of income that could have been  
earned by investing the "excess" funds  
elsewhere during the time the interim  
rates were in effect, (b) losses from an  
involuntary sacrifice or postponement  
in consumption while higher rates  
were being charged, and (c) opportu-  
nity losses of savings that might other-  
wise have been realized during the in-  
terim period through reduced borrow-  
ing.

Second, during the period in which  
proposed rate increases are in effect  
subject to refund, filing companies  
have the use of all refundable monies  
collected, subject to minor restrictions.  
The interest rate should reflect the  
benefits which are available to compa-  
nies as a result of having the use of  
these funds. Such uses may include in-  
vestments or using the funds as a sub-  
stitute for short-term financing.

Finally, the interest rate on refunds  
should not provide incentives for filing  
companies to inflate rate requests or  
for any party to unnecessarily prolong  
the ratemaking process. If the rate of  
interest is too low, filing companies  
may find it in their interest to inflate  
rate increase requests or to prolong  
litigation as a means of obtaining low  
cost monies. On the other hand, an  
unreasonably high rate of interest  
may give customers an incentive to  
prolong litigation in order to maximize  
the return when refunds are finally  
ordered.

The Commission recognizes that the  
money market interest rates that re-  
flect the costs saved by companies  
which have temporary use of excess  
revenues, are not necessarily identical  
with the costs incurred by customers  
who pay the excess revenues. The  
Commission believes, however, that  
the consideration most relevant to any

interest rate provision for inflated rate fil-  
ings. This provision would apply when the  
revenues collected significantly exceed the  
subsequently allowed amount. This is a  
matter that can logically be separated from  
the issues listed above, and we feel it is ad-  
visable to do so. Consequently, considera-  
tion of a premium interest rate on refunds  
provision will be deferred until a later time.



decision on the proper interest rate on refunds is that the sellers should not profit from the availability of excess revenues.

We believe it is appropriate to tie the interest rate on refunds to the prime rate charged by commercial banks for short-term business loans. It is true that many companies filing with this Commission are not eligible for the prime rate. Moreover, the requirement for "compensating balances" raises the effective borrowing cost above the nominal interest rate. On the other hand, it is also true that the availability of funds subject to refund does not always replace short-term bank borrowing, and in some situations the funds might be used for purposes that earn less than the prime rate.

We have determined that use of the prime rate, as set forth in more detail in Section C of this Notice, in setting the interest rate on refunds offers an acceptable compromise of these considerations. We also believe that use of the prime rate will be equitable to customers who are burdened by paying excess rates. In some cases this burden is quickly passed forward to residential, commercial, and industrial customers, but in other cases it is absorbed, at least temporarily, by the wholesale customer. Commercial and industrial customers, in turn, may or may not raise their selling prices to pass on the higher rates. In the presence of these uncertainties as to the actual costs borne by customers, we believe that the best course is to settle on a generally accepted money market indicator, such as the prime interest rate charged by commercial banks for short-term loans. However, the Commission also solicits comments as to whether a premium, or a fixed percentage, should be added to the prime rate in determining the appropriate rate of interest for refunds, and if so, what the basis of the premium should be.

#### B. COMPOUNDING OF INTEREST ON REFUNDS

Adjustment of the interest rate on refundable amounts has not occurred since 1974.<sup>18</sup> At that time the Commission set the interest rate at nine percent. That order and every order preceding it, with the exception of Order No. 362, 39 F.P.C. 412 (1968) provided that the interest should be calculated on a simple annual basis.<sup>19</sup>

In Order No. 362, *supra*, at 412, the Commission determined that the underlying purpose of requiring interest on refundable revenues would be

better served if the interest payments on such amounts represented compound rather than simple interest:

When simple interest is imposed, the company receives an interest-free loan of the accumulated interest on all funds which are advanced by its customers and later ordered to be returned to them. The value of this interest-free loan mounts with the duration of the period in which the increased rates are in effect subject to refund.

Because utilities typically bill and receive payments on a monthly basis, the Commission decided on Order No. 362 to require the compounding of interest on monthly basis.

As noted above, Order No. 362 was set aside on procedural grounds in *Teraco, Inc. v. Federal Power Commission*, *supra*. The Court explicitly noted that its decision had not been based on the merits of the rule, but rather on procedural issues only. The Commission could at that time have re-instituted a rulemaking to require the compounding of interest rates. The succeeding order on this issue, however, adopted the previous policy of requiring simple interest on refunds.<sup>20</sup> The Commission concluded, without further explanation, that reconsideration of "other relevant facts" indicated that it would not be in the public interest to impose a compound interest requirement. *Id.* at 795.

When a company is required to make refunds, it enjoys the use of the principal and accumulated interest on that principal until it makes the refund. Payment of simple interest on the refund does not require the refunding company to reimburse the customer for the use of the accumulated interest. In the Commission's view, therefore, the use of simple interest for amounts to be refunded may not compensate the customer fully for the use of his money collected during the rate proceeding. As the Commission noted in Order 362, unless a company is charged for the use of interest accumulated on principal as well as for the use of the principal itself, it will have the equivalent of an interest-free loan in the amount of such accumulated interest. Clearly, the longer the delay in refunding the principal plus interest, the higher will be the value of the interest-free loan of such accumulated interest.

The Commission believes that the period for compounding interest should reflect the frequency with which payments of the proposed rates (including any overcharges) are received. For purposes of this rulemaking, compounding on a monthly basis would best reflect billing cycles in the industry.

The effect of requiring the computation of interest on a compound basis will be to provide for a refund which

more adequately compensates the purchaser for the use of his money. Such a procedure should reduce the unwarranted benefits described above, particularly in those rate proceedings that continue for several years beyond the effective date of the proposed rates. The result will also reduce any incentive to delay the resolution of rate cases.

By including in this notice of proposed rulemaking a requirement for compound interest, the Commission solicits the comments and suggestions of interested parties on this point. Specific areas for discussion should include, but are not limited to: (1) the recommended frequency of compounding and (2) any administrative and computational difficulties associated with making refund calculations on a compound basis.

#### C. AUTOMATIC ADJUSTMENT OF THE RATE OF INTEREST ON REFUNDS

It is generally accepted that the rate of interest on refunds deemed appropriate at the time the rate was established may not be appropriate in the ensuing months or years due to changed economic or financial market conditions. The Commission has recognized this and expressed a commitment to periodically re-assess the reasonableness of the interest rate.<sup>21</sup>

In furtherance of this objective, the Commission would like to shift from the current practice of using rulemaking procedures to set interest rates on refunds, to a simpler, more predictable, process. Mechanisms for automatic adjustments based on changed economic conditions have been approved thus far in two other jurisdictional accounting areas.<sup>22</sup> There is reason to believe that such a mechanism can be employed in establishing the proper interest rate applicable to amounts subject to refund.

The Commission proposes to adopt a policy of announcing the interest rate on refunds not later than the last day of each calendar quarter for application to amounts subject to refund during the following calendar quarter. The interest rate will be based on the average prime rate charged by commercial banks on short-term business loans, rounded upward or downward, as applicable, to the nearest half of a percentage point. The average prime rate will be the average for the most recent three full months reported in the *Federal Reserve Bulletin*.<sup>23</sup>

<sup>18</sup> Order No. 513, *supra*, at 923.

<sup>19</sup> Order No. 550, Docket No. RM76-1, issued June 24, 1976 (specified reasonable rate of return to be provided in hydroelectric project licenses); Order No. 561, Docket No. RM75-27, issued February 2, 1977 (determination of rate for computing AFUDC).

<sup>20</sup> For example, see Table 1.34, *Federal Reserve Bulletin*, December 1978, page A26, showing the average prime rates by months through November 1978.

<sup>21</sup> Order No. 405, *supra* note 7, at 4.

<sup>18</sup> Order No. 513, *supra* note 11 at 5.

<sup>19</sup> Order No. 215, 22 F.P.C. 668 (1959); Order No. 215-A, 23 F.P.C. 474 (1960); Order No. 405, 43 F.P.C. 794 (1970); Order No. 442, 46 F.P.C. 1286 (1971).

The Commission believes that a shift to an automatic mechanism for adjusting the interest rate on refunds in accordance with changes in the prime rate will substantially reduce the time and expense devoted to keeping the interest rate current with financial market developments. The automatic mechanism should yield interest rates that achieve the Commission's regulatory objectives and are equitable to all interested parties. Comments and suggestions concerning the proposed automatic adjustment mechanism are invited.

#### D. REFUND REQUIREMENTS FOR OIL PIPELINES

Section 15(7) of the Interstate Commerce Act provides that the Commission may require refunds with interest of those portions of rates or charges found not justified. This section also provides that the Commission may require a carrier to keep accurate account in detail of all amounts received by reason of a suspended rate, specifying by whom and in whose behalf such amounts are paid. As noted herein at page six, however, there are no regulations governing refunds to be made by oil pipelines. The Commission believes that regulations should be promulgated in order to eliminate any uncertainty from pending and future oil pipeline rate proceedings.

In view of the similarity with regard to refunds between section 15(7) of the Interstate Commerce Act, and section 4(e) of the Natural Gas Act, we believe it is appropriate to promulgate regulations governing refunds by oil pipelines similar to those governing refunds by natural gas pipelines. We therefore propose that 49 CFR 1605.95 reflect oil pipeline refund requirements essentially identical to those recommended in 18 CFR 154.67.<sup>24</sup> The Commission perceives no reason to distinguish between the rate of interest or refund methodology applicable to oil pipelines, and that which applies to natural gas pipelines. Comments and suggestions on the proposed regulation are invited.

#### E. CARRYING CHARGES ON AMOUNTS ACCUMULATED IN THE DEFERRED PURCHASED GAS ACCOUNT

The Commission proposes to change the carrying charge rate accrued on positive and negative balances in the unrecovered purchased gas account (Account 191) to that proposed for refunds held by pipelines. The proposed change assumes that the same factors

<sup>24</sup> Inasmuch as section 15(7) contains no language requiring a motion to place suspended rates into effect, as does section 4(e), that requirement is not included in the proposed 49 C.F.R. § 1605.95. Moreover, we are not proposing to require either monthly or annual refund reports from oil pipelines.

which support the general interest rate also support the change in the carrying charge rate for amounts accumulated in Account 191. Comments are invited on whether there should be a distinction between the refund rate and the rate for deferred purchased gas accounts.

#### F. PROPOSED REDUCTION IN THE NUMBER OF REFUND REPORT FILINGS FOR NATURAL GAS PIPELINES AND ELECTRIC UTILITIES

Currently, § 154.67 of the Regulations which governs refunds for natural gas pipelines, and § 35.19a of the Regulations which governs refunds for electric utilities, require the submission of monthly refund reports. While it is clear that this is information useful in monitoring the amounts collected subject to refund and is also useful to our staff and others in certain instances in evaluating the utility's proposed rate increase, the Commission is not persuaded that these reports should be filed monthly by the affected utilities in all cases.

Accordingly, the Commission is proposing to require annual refund reports showing monthly computations. This is subject, however, to the condition that the utility shall be required to submit reports more frequently in individual cases if directed to do so by the Director of the Office of Pipeline and Producer Regulation or the Director of the Office of Electric Power Regulation, as appropriate. The annual reports shall be submitted on or before March 31 of each year and shall cover the previous calendar year or portion of the calendar year, as applicable, that the proposed rates were in effect subject to refund.

There are additional amendments included in this notice which are strictly drafting changes and are not intended to change the operations of those sections. If any amendment inadvertently changes the meaning or operation of the sections, comments to that effect are invited.

#### COMMENT PROCEDURE

Any interested person, including Commission staff, may submit to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, not later than April 23, 1979, data, views and comments in writing concerning the matters herein proposed. An original and 14 conformed copies should be filed with the Commission, and should reply to Docket Number RM77-22. Submissions to the Commission should indicate the name and address of the person to whom correspondence in regard to the proposal should be addressed. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all written submissions made before acting on the matters herein proposed. The Secretary shall cause prompt publication of this notice to be made to the Federal Register.

Docket No. RM79-17 is terminated for the reasons set forth earlier in this notice without prejudice to IMEA Cities filing comments in response to the instant notice of proposed rulemaking in Docket No. RM77-22.

(Administrative Procedure Act, 5 U.S.C. 551; Sec. 16, Natural Gas Act, 15 U.S.C. 7170; Sec. 309, Federal Power Act, 16 U.S.C. 825h; Sec. 17(3) of the Interstate Commerce Act, 49 U.S.C. 17(3) Department of Energy Organization Act, P.L. 93-91, E.O. 12009, 42 F.R. 46267.)

In consideration of the foregoing the Commission proposes to amend Parts 35, 154, and 273 of Chapter 1, Title 18, and Chapter XV, Part 1605, Title 49, Code of Federal Regulations as set forth below.

By Order of the Commission.

KENNETH F. PLUMB,  
Secretary.

#### PART 35—FILING OF RATE SCHEDULES

1. Section 35.19a, Title 18, Code of Federal Regulations is amended to read as follows:

§ 35.19a Refund requirements under suspension orders.

(a) *Refunds.* (1) Unless otherwise ordered by the Commission, the public utility whose proposed increased rates and charges were suspended shall refund at such time and in such manner as required by final order of the Commission the portion of any increased rates and charges found by the Commission in that suspension proceeding not to be justified, together with interest as required in subparagraph (2) of this paragraph.

(2) Interest shall be paid on all amounts to be refunded as follows:

(i) At a rate of seven percent per annum on all excessive rates and charges collected prior to October 10, 1974;

(ii) At a rate of nine percent per annum on all excessive rates and charges collected on and after October 10, 1974, and nine percent per annum for all interest accruing on and after October 10, 1974 on refundable amounts collected prior to October 10, 1974, from the date of payment until refunded, except as provided in (iii) and (iv) below;

(iii) With respect to all refundable amounts held on or after (the first day of the first calendar quarter after the date of issuance of a final order), the



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amount of interest to be paid on such refunds for each calendar quarter shall be the adjusted average prime rate charged by commercial banks on short-term business loans, as calculated and announced by the Commission not later than the last day of the preceding quarter. The adjusted average prime rate is considered to be the average prime rate for the most recent three full months reported in the *Federal Reserve Bulletin*, rounded upward or downward, as appropriate, to the nearest half of a percentage point; and

(iv) With respect to all refundable amounts held on or after the (first day of the first month beginning after the date of issuance of a final order), the amount of interest required to be paid on such refunds shall be compounded monthly.

(3) Any public utility required to make refunds pursuant to this section shall bear all costs of such refunding.

(b) *Reports.* Any public utility whose proposed increased rates or charges were suspended and have gone into effect pending final order of the Commission pursuant to section 205(e) of the Federal Power Act shall:

(1) Keep accurate accounts in detail of all amounts received under the increased rates or charges which become effective after the suspension period, for each billing period, specifying by whom and in whose behalf such amounts were paid;

(2) Submit annually on or before March 31 of each year to the Commission, in writing (original and one copy) and under oath the following information concerning each billing period for each purchaser for the previous calendar year:

(i) The monthly billing determinants of electricity sold and delivered to each purchaser under the suspended agreements or tariffs;

(ii) The revenues which would result from such sales if they were computed under the rates in effect immediately prior to the date the proposed increased rates or charges become effective;

(iii) The revenues resulting from such sales as computed under the proposed increased rates or charges that became effective after the suspension period; and

(iv) The difference between those revenues computed in subparagraphs (ii) and (iii) of this paragraph.

(3) The Director of the Office of Electric Power Regulation may require reports on a more frequent basis in individual cases when it is deemed appropriate and necessary to do so.

#### PART 154—RATE SCHEDULES AND TARIFFS

2. Section 154.67, Title 18, Code of Federal Regulations is amended to read as follows:

§ 154.67 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(a) *Effect of suspended changes in rate schedules.* If a rate suspension proceeding initiated under section 4(e) of the Natural Gas Act has not been concluded and an order issued by the Commission at the expiration of the suspension period, unless otherwise ordered by the Commission, the proposed change of rate, charge, classification, or service shall go into effect upon motion of the pipeline company proposing the change so long as the pipeline company complies with all requirements of this section. The proposed rate, charge, classification, or service shall become effective as of the date of receipt of such motion by the Commission or the expiration of the suspension period, whichever is later.

(1) Concurrently with the motion to make the suspended rate effective, the company shall file an undertaking, described in subparagraph (2) below, to comply with provisions of paragraphs (b) and (c) of this section. Three copies of the motion and undertaking shall be filed. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of filing, such motion and undertaking shall be deemed to be satisfactory and to have been accepted for filing.

(2) The pipeline company shall file with the Secretary an undertaking to comply with the terms of this section. Such undertaking shall be signed by a responsible officer of the company, evidenced by proper authority from the Board of Directors, and accompanied by a certificate showing service of copies thereof upon the purchasers under the rate schedules to be made effective by the motion of the company, and shall conform to the model undertaking below:

AGREEMENT AND UNDERTAKING OF [COMPANY] TO COMPLY WITH THE TERMS AND CONDITIONS OF SECTION 154.67 OF THE COMMISSION'S RULES AND REGULATIONS UNDER THE NATURAL GAS ACT IN RESPECT TO [COMPANY'S] MOTION TO HAVE ITS PROPOSED TARIFF SHEETS IN DOCKET NO. RP— PLACED INTO EFFECT

In conformity with the requirements of § 154.67 of the Commission's rules and regulations under the Natural Gas Act [Company] hereby agrees and undertakes to comply with the terms and conditions of said section of the Commission's rules and regulations and has caused this agreement and undertaking to be executed and sealed in its name by its officers thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors a certified copy of which is appended hereto this day of \_\_\_\_\_, 19\_\_\_\_.

By: \_\_\_\_\_

[Company]

Attest: \_\_\_\_\_

(b) *Reports.* Any pipeline company whose proposed increased rates or

charges were suspended and have gone into effect pending final order of the Commission pursuant to section 4(e) of the Natural Gas Act shall:

(1) Keep accurate accounts in detail of all amounts received by reason of the increased rates or charges made effective as provided in this order, for each billing period.

(2) Submit annually on or before March 31 of each year to the Commission, in writing and under oath, an original and one copy of the following information for each billing period, for each customer for the previous calendar year:

(i) The monthly billing determinants of natural gas sold and transported to each purchaser under the suspended agreements or tariffs;

(ii) The revenues which would result from such sales if they were computed under the rates in effect immediately prior to the date the proposed change become effective;

(iii) The revenues resulting from such sales as computed under the proposed increased rates or charges that become effective after the suspension period; and

(iv) The difference between the revenues computed in subparagraphs (ii) and (iii) of this paragraph.

(3) The Director of the Office of Pipeline and Producer Regulation may require reports on a more frequent basis in individual cases when it is deemed appropriate and necessary to do so.

(c) *Refunds.* (1) Any pipeline company that collects charges pursuant to this section shall refund at such time and in such manner as may be required by final order of the Commission, the portion of any increased rates and charges found by the Commission in that proceeding not to be justified, together with interest as required in subparagraph (2) of this paragraph.

(2) Interest shall be paid on all amounts to be refunded as follows:

(i) At a rate of seven percent per annum on all excessive rates and charges collected prior to October 10, 1974;

(ii) At a rate of nine percent per annum on all excessive rates and charges collected on and after October 10, 1974, and nine percent per annum for all interest accruing on and after October 10, 1974 on refundable amounts collected prior to October 10, 1974, from the date of payment until refunded, except as provided in (iii) and (iv) below;

(iii) With respect to all refundable amounts held on or after (the first day of the first calendar quarter after the date of issuance of a final order), the amount of interest required to be paid on such refunds for each calendar quarter shall be the adjusted average

prime rate charged by commercial banks on short-term business loans, as calculated and announced by the Commission not later than the last day of the preceeding quarter. The adjusted average prime rate is considered to be the average prime rate for the most recent three full months reported in the *Federal Reserve Bulletin*, rounded upward or downward, as appropriate, to the nearest half of a percentage point; and

(iv) With respect to all refundable amounts held on or after the (first day of the first month beginning after the date of issuance of a final order), the amount of interest required to be paid on such refunds shall be compounded monthly.

(3) Any pipeline company required to make refunds pursuant to this section shall bear all costs of such refunding.

(4) If the pipeline company, acting in conformity with the terms and conditions of the undertaking required by this section, makes the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

3. Section 154.102, Title 18, Code of Federal Regulations is amended to read as follows:

§ 154.102 Suspended change in rate schedules; motion to make effective at end of period of suspension; procedure.

(a) *Effectiveness of suspended rate schedules.* If a rate suspension proceeding initiated under section 4(e) of the Natural Gas Act has not been concluded and an order issued by the Commission at the expiration of the suspension period, unless otherwise ordered by the Commission, the proposed change of rate, charge, classification, or service shall go into effect as the legally effective rate upon motion of the independent producer proposing the change so long as the independent producer complies with all requirements of this section. The Secretary, upon receipt of such a motion, shall, if the motion is legally adequate for the purpose, notify the movant that the proposed change shall be effective as provided in this section. The Secretary shall refer to the Commission any motion requesting that a change in rate, charge, classification, or service be made effective, if in his judgment the motion should receive the specific attention of the Commission.

(1) Three copies of the motion and any accompanying papers shall be filed with the Commission.

(2) The proposed rate, charge, classification, or service shall become effective as of the date of receipt of such motion by the Commission or the ex-

piration of the suspension period, whichever is later.

(b) *Undertaking to comply.*

(1) There shall be filed by the independent producer a surety bond, or other undertaking, to be approved by the Secretary to comply with the provisions of paragraphs (c) and (d) of this section. The bond or undertaking may be filed concurrently with the motion to make the increased rates effective. If with his motion the producer has not filed a satisfactory bond or undertaking such bond or undertaking must be filed within 30 days after the issuance of the Secretary's notice provided for in paragraph (a) of this section. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of filing, such bond or undertaking shall be deemed to be satisfactory and to have been accepted for filing.

(2) In compliance with subparagraph (1) of this paragraph, an independent producer may file a general undertaking affording blanket refund coverage of any present and future rate increases suspended under section 4(e) of the Natural Gas Act and collected subject to refund thereunder. Upon acceptance of such general undertaking, the producer need not file further refund assurance when filing a motion to make increased rates effective unless specifically required to do so by order of the Commission.

(c) *Record keeping.* During the time an increased rate is effective pursuant to the provisions of this section, the independent producer shall:

(1) Keep accurate accounts in detail of all amounts received by reason of the increased rates or charges for each billing period;

(2) Record for each purchaser:

(i) The monthly billing determinants of natural gas sales to each purchaser;

(ii) The revenues resulting from such sales as computed under the rates in effect immediately prior to the date the proposed change became effective;

(iii) The revenues resulting from such sales as computed under the proposed change that became effective after the suspension period; and

(iv) The difference between the revenues computed under subparagraphs (ii) and (iii) of this paragraph.

(d) *Refunds.* (1) Any independent producer that collects charges pursuant to this section shall refund at such times, in such amounts to the persons entitled thereto and in such manner as may be required by final order of the Commission, the portion of any increase rate found by the Commission in that proceeding not justified, together with interest thereon as required in subparagraph (2) of this paragraph.

(2) Interest shall be paid on all amounts to be refunded as follows:

(i) At a rate of seven percent annum on all excessive rates and charges collected prior to October 10, 1974;

(ii) At a rate of nine percent per annum on all excessive rates and charges collected on and after October 10, 1974, and nine percent per annum for all interest accruing on and after October 10, 1974, from the date of payment to the producer until refunded, except as provided in (iii) and (iv) below;

(iii) With respect to all refundable amounts held on or after (the first day of the first calendar quarter after the date of issuance of a final order), the amount of interest required to be paid on such refunds for each calendar quarter shall be the adjusted average prime rate charged by commercial banks on short-term business loans, as calculated and announced by the Commission not later than the last day of the preceeding quarter. The adjusted average prime rate is considered to be the average prime rate for the most recent three full months reported in the *Federal Reserve Bulletin*, rounded upward or downward, as appropriate, to the nearest half of a percentage point;

(iv) With respect to all refundable amounts held on or after (the first day of the first month beginning after the date of issuance of a final order), the amount of interest required to be paid on such refunds shall be compounded monthly; and

(v) With respect to all refundable amounts no interest is required to be paid on any portion of a refund which represents payments of royalties or taxes to Federal or State governmental authorities, except to the extent that such authorities pay interest to the producer when refunding overpayments of royalties or taxes.

(3) Any independent producer that is required to refund amounts collected pursuant to this section shall bear all costs of any such refunding;

(4) If the producer, acting in conformity with the terms and conditions of the bond or undertaking, makes the refunds as may be required by order of the Commission, the bond or undertaking shall be discharged; otherwise it shall remain in full force and effect.

4. Section 154.38, Title 18, Code of Federal Regulations is amended in subparagraph (d)(4)(iv)(c), by revising the first three sentences to read as follows:

§ 154.38 Composition of rate schedule.

• • • • •  
(d) *Statement of rate.* • • •  
(4) • • •  
(iv) • • •



(c) Carrying charges shall be computed based on the ending balances in Account 191. The rate for computation of carrying charges shall be the current rate of interest on pipeline refunds established by the Commission. . . .

#### PART 273—COLLECTION AUTHORITIES; REFUNDS

5. Section 273.302(e)(1), Title 18, Code of Federal Regulations is amended to read as follows:

§ 273.302 Refunds of interim collections.

(e) . . .

(1) Within 45 days after a determination that a first sale is not eligible for the price collected under this part becomes final, the seller shall refund to the purchaser by cash or check the refund amount computed under paragraph (g), together with interest at a rate computed in accordance with the provisions set forth in § 154.102(d), on the excess charges that have been collected from the date of payment until the date of refund.

6. Title 49, Code of Federal Regulations, is amended by adding a new Chapter XV to read as follows:

#### CHAPTER XV—FEDERAL ENERGY REGULATORY COMMISSION

##### PART 1605—REFUND REQUIREMENTS FOR OIL PIPELINES

§ 1605.95 Suspended rate schedules; procedure; refund requirements, administered by the Federal Energy Regulatory Commission.

(a) *Effectiveness of suspended rate schedules.* If a rate suspension proceeding initiated under section 15(7) of the Interstate Commerce Act has not been concluded and an order issued by the Federal Energy Regulatory Commission at the expiration of the suspension period, unless otherwise ordered by the Federal Energy Regulatory Commission, the proposed rate, charge, classification, or service shall go into effect so long as the pipeline company complies with all requirements of this section.

(b) *Undertaking to comply.*

(1) The pipeline company shall file an undertaking, described in subparagraph (2) below, to comply with provisions of paragraphs (c) and (d) of this section. Three copies of the undertaking shall be filed. Unless notified to the contrary by the Secretary of the Federal Energy Regulatory Commission within 30 days from the date of filing, such undertaking shall be deemed to be satisfactory and to have been accepted for filing.

(2) The pipeline company shall file with the Secretary an undertaking to comply with the terms of this section. Such undertaking shall be signed by a responsible officer of the company, evidenced by proper authority from the Board of Directors, and accompanied by a certificate showing service of copies thereof upon the purchasers under the rate schedules to be made effective by the company, and shall conform to the model undertaking below:

AGREEMENT AND UNDERTAKING OF [COMPANY] TO COMPLY WITH THE TERMS AND CONDITIONS OF 49 CFR § 1605.95 THE FEDERAL ENERGY REGULATORY COMMISSION'S RULES AND REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

In conformity with the requirements of 49 CFR § 1605.95 of the Federal Energy Regulatory Commission's rules and regulations under the Interstate Commerce Act [Company] hereby agrees and undertakes to comply with the terms and conditions of said section of the Federal Energy Regulatory Commission's rules and regulations and has caused this agreement and undertaking to be executed and sealed in its name by its officers thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors a certified copy of which is appended hereto this — day —, 19—.

By: \_\_\_\_\_ [Company]  
Attest: \_\_\_\_\_

(c) *Recordkeeping.* Any pipeline company whose proposed rates or charges were suspended and have gone into effect pending final order of the Federal Energy Regulatory Commission pursuant to section 15(7) of the Interstate Commerce Act shall:

(1) Keep accurate accounts in detail of all amounts received by reason of the rates or charges made effective as provided in this order, for each billing period including the following information for each billing period, for each customer:

(i) The monthly billing determinants of petroleum or petroleum by-products sold and transported to each purchaser under the suspended agreements or tariff;

(ii) The revenues which would result from such sales if the were computed under the rates in effect immediately prior to the date the proposed change became effective, if applicable;

(iii) The revenues resulting from such sales as computed under the proposed increased rates or charges that became effective after the suspension period; and

(iv) The difference between the revenues computed in subparagraphs (ii) and (iii) of this paragraph, if applicable.

(d) *Refunds.* (1) Any pipeline company that collects charges pursuant to this section shall refund at such time and in such manner as may be re-

quired by final order of the Federal Energy Regulatory Commission, the portion of any rates and charges found by the Federal Energy Regulatory Commission in that proceeding not to be justified, together with interest as required in subparagraph (2) of this paragraph.

(2) Interest shall be paid on all amounts to be refunded as follows:

(i) With respect to all refundable amounts held on or after (the first day of the first calendar quarter after the date of issuance of a final order), the amount of interest required to be paid on such refunds for each calendar quarter shall be the average prime rate charged by commercial banks on short-term business loans, as calculated and announced by the Federal Energy Regulatory Commission not later than the last day of the preceding quarter. The average prime rate is considered to be the average for the most recent three full months reported in the *Federal Reserve Bulletin*, rounded upward or downward, as appropriate, to the nearest half of a percentage point; and

(ii) With respect to all refundable amounts held on or after (the first day of the first month beginning after the date of issuance of a final order), the amount of interest required to be paid on such refunds shall be compounded monthly.

(3) Any pipeline company required to make refunds pursuant to this section shall bear all costs of such refunding.

(4) If the pipeline company, acting in conformity with the terms and conditions of the undertaking required by this section, makes the refunds as may be required by order of the Federal Energy Regulatory Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

#### APPENDIX A—COMMENTORS AND PETITIONERS, DOCKET NO. RM77-22

Mobil Oil Corporation  
New England Power Company  
Michigan-Wisconsin Pipe Line Company  
Southland Royalty Company  
Amoco Production Company  
Colorado Interstate Gas Company  
Northwest Pipeline Corporation  
Northern Illinois Gas Company  
Interstate Natural Gas Association of America  
Southern Natural Gas Company  
Sienna Pacific Power Company  
Gulf Oil Corporation  
Duke Power Company  
Algonquin Gas Transmission Company  
Bay State Gas Company, et al.  
Pacific Gas and Electric Company  
Pacific Gas Transmission Company  
Gulf Power Company  
United Gas Pipe Line Company  
Texaco, Inc.  
Exxon Corporation  
Consumers Power Company

Consolidated Edison Company of New York, Inc.  
Municipal Customer Groups  
American Public Gas Association  
Dayton Power and Light Company  
Public Wholesale Customers  
American Public Power Association  
Southern California Edison Company  
Kentucky-West Virginia Gas Company  
Connecticut Light and Power Company  
Holyoke Power and Electric Company  
Holyoke Water Power Company  
Western Massachusetts Electric Company  
Placid Oil Company  
Columbus and Southern Ohio Electric Company  
Tennessee Gas Pipeline Company, A Division of Tenneco, Inc.  
Illinois Power Company  
Publicly Owned Systems  
Northern Natural Gas Company  
Dr. Marion H. Kahn  
Northern Minnesota Municipal Electric Association  
Atlantic Richfield Company  
Public Service Company of Colorado  
Arizona Public Service Company, et al.  
Union Oil Company of California  
Kent-McGee Corporation  
Phillips Petroleum Company  
Ensearch Exploration Company  
Tenneco Oil Company  
Sun Oil Company (Delaware)  
Indiana Statewide Rural Electric Cooperative, Inc.  
Continental Oil Company

#### APPENDIX B—INDIANA MUNICIPAL ELECTRIC ASSOCIATION

##### Cities and Towns of:

|   |               |
|---|---------------|
| Advance   | Lewisville    |
| Bainbridge  | Linton        |
| Bargersville  | Middletown    |
| Centerville   | Montezuma     |
| Coatesville   | Paoli         |
| Covington   | Pendleton     |
| Darlington  | Pittsboro     |
| Dublin  | Rising Sun    |
| Dunreith  | Rockville     |
| Edinburg  | Scottsburg    |
| Flora   | South Whitley |
| Greendale   | Spiceland     |
| Greenfield  | Straughn      |
| Hagerstown  | Thornstown    |
| Jamestown   | Tipton        |
| Knightstown   | Veedsburg     |
| Ladoga  | Waynetown     |
| Lawrenceburg  | Williamsport  |
| Lebanon   |               |
| Crawfordsville Electric Light and Power of the City of Crawfordsville |               |

[FR Doc. 79-9130 Filed 3-23-79; 8:45 am]

[4110-07-M]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Social Security Administration

[20 CFR Part 416]

#### SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Evaluating Resources on Basis of Equity Value; Correction

AGENCY: Social Security Administration, HEW.

ACTION: Correction of a Notice of Proposed Rule Making.

SUMMARY: The Notice of Proposed Rule Making which appeared in the FEDERAL REGISTER on May 2, 1978 (43 FR 18698), contains statements in the first paragraph of the SUPPLEMENTARY INFORMATION section which are inaccurate. Accordingly, we are deleting the statements which read:

"However, regulations pertaining to resources for purposes of the aid to families with dependent children (AFDC) program permit each State to decide whether to use current market value or equity value in evaluating resources for AFDC. At present, a majority of the States use equity value."

Also, the next sentence should begin with "The Secretary reviewed . . ."

FOR FURTHER INFORMATION CONTACT:

Mr. Henry, D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7414.

SUPPLEMENTARY INFORMATION: The court's decision in *NWRO v. Mathews*, 533 F. 2d 637 (D.C. Cir., 1976) struck down prior HEW regulations for the AFDC program that provided for evaluation of resources at market value. The Department's current policy is to use equity in determining the value of resources for AFDC purposes. We are publishing this correction to the SSI Notice of Proposed Rule Making because the final SSI regulations have been delayed to resolve issues resulting from some of the comments that we received. The Department is also considering an amendment to the AFDC regulations at 45 CFR 233.20 to reflect clearly its policies on valuation of resources.

Dated: March 20, 1979.

L. DAVID TAYLOR,  
Deputy Assistant Secretary for  
Management Analysis and Systems.  
[FR Doc. 79-9058 Filed 4-23-79; 8:45 am]

[4210-01-M]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of the Secretary

[24 CFR Part 841]

[Docket No. R-79-634]

#### PUBLIC HOUSING PROGRAM—DEVELOPMENT PHASE

##### Miscellaneous Amendments

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o)(2) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review proposed and final HUD rules. The legislation requires the submittal of any rule or regulation which had not been published for comment prior to enactment of the legislation and which did not appear on an agenda required by section 7(o)(1) of the Act. This Notice lists and summarizes for public information the rule which the Secretary is submitting to Congress.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with publication of this Notice, the Secretary is forwarding to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the interim rule listed below. The purpose of the transmittal is to meet the requirements of Subsection 2(B) of Section 7(o) of the Department of HUD Act. The rule was inadvertently omitted from the initial agenda list transmitted to the respective committees on December 11, 1978. Summary of the interim rule is set forth below.

#### 24 CFR PART 841—INTERIM RULE

##### PUBLIC HOUSING PROGRAM—DEVELOPMENT PHASE

This interim rule amends 24 CFR Part 841, Public Housing Program—Development Phase, relative to the use of turnkey and conventional methods in the construction of new public housing. The interim rule clarifies and corrects the existing regulations as needed, and discusses a "modified turnkey method" as another optional development method.

(Section 7(o) Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., March 13, 1979.

PATRICIA ROBERTS HARRIS,  
Secretary, Department of  
Housing and Urban Development.

[FR Doc. 79-9135 Filed 3-23-79; 8:45 am]



[4310-70-M]

## DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10]

## ALASKA NATIONAL MONUMENTS

Intent To Propose Rules

AGENCY: National Park Service.

ACTION: Extension of comment period.

SUMMARY: The National Park Service published in the FEDERAL REGISTER on February 28, 1979 (44 FR 11242) a Notice of Intent to Propose Rules. This notice requested comments on the subject matter and scope of the regulations for the new national monuments administered by the National Park Service in Alaska. Due to the remote location of many areas in Alaska and the delay experienced in transmitting information to Alaska, the comment period has been extended until the close of business on April 6, 1979.

DATE: Comments must be received by April 6, 1979.

ADDRESS: Send written comments to: Alaska Area Director, 540 West 5th Avenue, Anchorage, Alaska 99501, or Division of Ranger Activities, National Park Service, Washington, D.C. 20240.

## FOR FURTHER INFORMATION CONTACT:

Mr. John E. Cook, Alaska Area Director, 540 West 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 276-8166.

Mr. Roger J. Contor, Assistant to the Director for Alaska, 18th and C Streets, NW., Washington, D.C. 20240. Telephone: (202) 343-5193.

Dated: March 16, 1979.

DANIEL J. TOBIN,

Associate Director,

Management and Operations.

(FR Doc. 79-9080 Filed 3-23-79; 8:45 am)

[4110-35-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Parts 282 and 283]

MEDICAL ASSISTANCE, FINANCIAL ASSIST-  
ANCE AND SOCIAL SERVICES PROGRAMS

Research and Demonstration Grants

AGENCY: Health Care Financing Administration (HCFA), HEW.

## PROPOSED RULES

ACTION: Withdrawal of Notices of Proposed Rulemaking.

SUMMARY: This notice withdraws proposed regulations that would have formalized the requirements and procedures for research and demonstration grants and contracts under Sections 1110 and 1115 of the Social Security Act. Proposed regulations for Section 1115 were published on February 4, 1976 (41 FR 5132) and, for Section 1110, on February 6, 1976 (41 FR 5403). The purpose of withdrawing the proposed regulations is to simplify our regulations. This notice also repeals section 8440 of the Handbook of Public Assistance Administration.

DATE: Effective on March 26, 1979.

FOR FURTHER INFORMATION,  
CONTACT:

Health Care Financing Administration, Frances Lariviere (202-245-9285).

Office of Human Development Services, David W. Fairweather (202-245-9200).

Social Security Administration, Gates L. Plumb (202-673-5595).

SUPPLEMENTARY INFORMATION: The proposed regulations would have applied to section 1110 and 1115 grants under the medical assistance, financial assistance, and social services programs which were then administered by the Social and Rehabilitation Service (SRS). The HEW reorganization order of March 8, 1977, abolished SRS, created HCFA, and reassigned the programs as follows: financial assistance to the Social Security Administration; social services to the Office of Human Development Services; and medical assistance to HCFA.

Funds appropriated by Congress will be allocated among the three components and each of them will award grants for projects related to the program it administers.

We have decided that separate regulations implementing these two statutory sections are not required. General regulations governing all Departmental grants are contained in 45 CFR Part 74. We will publish FEDERAL REGISTER notices annually to inform the public of the kinds of projects that may be funded under these two sections and the specific requirements and procedures for making awards. If at some future time, we decide regulations are needed, new Notices of Proposed Rulemaking will be published for public comment.

We are also repealing that section of the Handbook of Public Assistance Administration which provides that Federal financial participation is available under a section 1115 project only with

respect to those activities that take place after the project has been approved, and is ordinarily limited to a three year period. This is the only section of the Handbook that has not yet been repealed. It will, however, remain our general policy not to fund section 1115 projects for more than three years, and not to pay for costs relating to activities that take place before a project is approved.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program Nos. 13.647, Social Services Research; 13.766, Health Financing Research Demonstrations and Experiments; 13.812, Public Assistance Research.)

Dated: March 16, 1979.

HALE CHAMPION,

Acting Secretary.

(FR Doc. 79-9063 Filed 3-23-79; 8:45 am)

[4310-55-M]

## DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 96]

## ALASKA NATIONAL WILDLIFE MONUMENTS

Intent To Propose Rules

AGENCY: United States Fish and Wildlife Service.

ACTION: Extension of comment period.

SUMMARY: The United States Fish and Wildlife Service published in the FEDERAL REGISTER on February 28, 1979 (44 FR 11247) a Notice of Intent to Propose Rules. This notice requested comments on the subject matter and scope of various land management issues which will be considered in the preparation of permanent management regulations for the new national wildlife monuments administered by the Fish and Wildlife Service in Alaska. Due to the remote location of many areas in Alaska and the delay experienced in transmitting information to Alaska, the public comment period has been extended until the close of business on April 6, 1979.

DATES: Comments must be received by April 6, 1979.

ADDRESS: Send written comments to Donald Barry, Room 6555, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240. Public comments generated in Alaska may also be sent to Keith Schreiner, Area Director, United States Fish and Wildlife Service, Department of the Interior, 1011 East Tudor Road, Anchorage, Alaska 99507.

## PROPOSED RULES

FOR FURTHER INFORMATION  
CONTACT:

Burke Neely, Room 3012, Alaska Native Claims Staff, United States Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202-343-7533). Dave Patterson, Division of Refuges, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, (907-276-3800).

Dated: March 20, 1979.

LYNN A. GREENWALT,

Director, United States

Fish and Wildlife Service.

(FR Doc. 79-9128 Filed 3-23-79; 8:45 am)



# V 4 4 / 5 9 M R 2 6 7 9 UMI

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

### DEPARTMENT OF AGRICULTURE

Forest Service

#### RPA PUBLIC SESSIONS

Advance Schedule; Correction

The March 27, 1979 press and public briefing (44 FR 17200) to be held by the Forest Service (USDA) on the release of the draft report being prepared for submission to Congress in 1980 as directed by the Forest and Rangeland Renewable Resources Planning Act of 1974 has been changed from 9 AM in Room 1323—South Building to 10 AM in Room 218A of the main Agriculture Administration Building, 12th & Independence, in Washington, DC.

PHILIP L. THORNTON,  
Deputy Chief.

[FR Doc. 79-9109 Filed 3-23-79; 8:45 am]

[6320-01-M]

### CIVIL AERONAUTICS BOARD

[Docket 35092]

#### TEXAS INTERNATIONAL AIRLINES

Application for Amendment of Certificate of Public Convenience and Necessity Under Subpart M of Part 302 of the Board's Procedural Regulations

MARCH 21, 1979.

Notice is hereby given that the Civil Aeronautics Board on March 20, 1979, received an application, Docket 35092; from Texas International Airlines, Inc. for amendment of its certificate of public convenience and necessity for route 82 so as to delete the requirement that one intermediate stop be made on services between Dallas/Fort Worth, Texas, and El Paso, Texas.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9122 Filed 3-23-79; 8:45 am]

[6320-01-M]

[Order 79-3-13]

### MILWAUKEE SHOW-CAUSE PROCEEDING

Proposed Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-13, Milwaukee Show-Cause Proceeding.

SUMMARY: The Board is proposing to grant all Milwaukee nonstop authority now sought by Allegheny, Braniff, Frontier, North Central, Northwest, Ozark, Texas International or Western, or sought within 15 days by any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The Board tentatively found that its proposed action would not be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, and that, although it would be a major regulatory action within the meaning of the Energy Policy and Conservation Act, the increased fuel consumption is in the public interest. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 23, 1979, statements of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections or Additional Data should be filed in Docket 34887, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Janice L. Charter, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5340.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: the Milwaukee Parties, the Las Vegas Parties, the Philadelphia Parties, Allegheny, American, Braniff, Delta, Eastern, Frontier, Hughes, Airwest, North Central,

Northwest, Ozark, Southern, Texas International, United and Western.

Member O'Melia filed a dissent to this order. He stated that he dissented to the decision with two objectives: one is to make sure that we are all aware, both within and without the agency, that the "unusual" step we are taking will undoubtedly be of turning-point significance in our program of deregulation; the other being to express my suspicion, fast hardening into a conviction, that the Board's determination, whether consciously or not, is more to put into place a set of economic theories then to promote and facilitate effective and dependable air services.

The complete text of Order 79-3-13 with Member O'Melia's dissent attached is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-13 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board:  
March 19, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9121 Filed 3-23-79; 8:45 am]

[3510-22-M]

### DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

#### MARINE MAMMALS

Amended Application

Notice was given on October 18, 1978, that Dr. Burney J. LeBoeuf and Dr. Charles L. Ortiz had applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

On March 15, 1979, Dr. Ortiz submitted a request to amend the application to apply for a permit to cover one physiological experiment with Northern elephant seals (*Mirounga angustirostris*) as requested in the original application. The experiment will be conducted with twelve (12) animals.

## NOTICES

18057

[3910-01-M]

### DEPARTMENT OF DEFENSE

Department of the Air Force

#### SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 15, 1979.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group, Air Force Systems Command, will hold meetings on May 21, 1979 from 8:00 a.m. to 5:00 p.m., and on May 22, 1979 from 8:00 a.m. to 1:00 p.m. at Wright-Patterson Air Force Base, Ohio, Room 276, Building 828.

The group will receive classified briefings and participate in classified discussions related to assessments of foreign electronic warfare potential as well as assessments of foreign surface-to-air and other defensive equipments.

The meetings will be closed to the public in accordance with Section 552b(c), Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

CAROL M. ROSE,  
Air Force Federal Register  
Liaison Officer.

[FR Doc. 79-8994 Filed 3-23-79; 8:45 am]

[6450-01-M]

### DEPARTMENT OF ENERGY

National Petroleum Council

#### REFINERY CAPABILITY TASK GROUP AND THE COORDINATING SUBCOMMITTEE OF THE COMMITTEE ON REFINERY FLEXIBILITY

Notice of Meetings

Notice is hereby given that the Refinery Capability Task Group and the Coordinating Subcommittee of the National Petroleum Council's Committee on Refinery Flexibility will meet at the National Petroleum Council (NPC) Headquarters, 1625 K Street, NW, Washington, DC, on Thursday, April 26 and Friday, May 11, 1979, respectively.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task

Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agendas of both the Task Group and Coordinating Subcommittee sessions are as follows:

Agenda for the April 26, 1979 meeting of the Refinery Capability Task Group:

1. Introductory remarks.
2. Review summary minutes of the February 6, 1979 meeting of the Refinery Capability Task Group.
3. Review executive summary draft and data from Part I of the Refinery Capability survey.
4. Develop plans for reporting data from Parts II and III of the Refinery Capability survey.
5. Discuss any other matters pertinent to the overall assignment of the Task Group.

This meeting will convene at 9:00 a.m.

Agenda for the May 11, 1979 meeting of the Coordinating Subcommittee:

1. Introductory remarks by Warren B. Davis, Chairman.
2. Remarks by Frank A. Verastro, Government Cochairman.
3. Discussion and review of the scope of the study.
4. Discussion and review of the progress of the Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

This meeting will convene at 10:00 a.m.

All meetings are open to the public. The Chairmen of the Subcommittee and Task Group are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file written statement with either the Task Group or the Coordinating Subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Mr. Gene Peer, U.S. Department of Energy, (202) 633-9179, prior to the meetings, and reasonable provision will be made for their appearance on the agenda. Summary/minutes of the Task Group meetings and transcripts of the Subcommittee session will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Bldg., 1000 Independence Avenue, SW, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.



Issued at Washington, DC, on March 20, 1979.

ALVIN L. ALM,  
Assistant Secretary,  
Policy and Evaluation.

1FR Doc. 79-8993 Filed 3-23-79; 8:45 am)

# [6450-01-M]

Economic Regulatory Administration

VILLAGE OF WINNETKA, ILL.

Rescission of Prohibition Orders

Pursuant to 10 CFR 303.137(d), the Department of Energy (DOE) hereby gives notice that on March 19, 1979, DOE issued an order rescinding the Prohibition Orders issued on June 30, 1975, to the Village of Winnetka, Illinois Generating Station, Powerplants 5, 6, 7, and 8 (Docket Number OFR 071-074), pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 791 *et seq.*). This action was initiated by DOE under the authority granted to it by Section 2(f) of ESECA and in accordance with the implementing regulations, 10 CFR Part 303, Subpart J. The Prohibition Orders, if made effective by the issuance of a Notice of Effectiveness (NOE), would have prohibited the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

In its "Supplemental Data, Views and Arguments" submitted in connection with the Federal Energy Administration's proceeding concerning the "Proposed Prohibition Orders for the Village of Winnetka, Illinois, Powerplant," the Village of Winnetka advised that Winnetka Powerplants 5, 6, and 7 were intended only for "emergency" use as required to furnish power to the Village in the event of the physical failure or inability of other systems to meet the demand, or when, under contract, an emergency situation occurred in the Commonwealth Edison System that required the Village to meet its own power requirements in excess of the "firm demand" received from Commonwealth Edison. The generation of power by the Village of Winnetka was intended to be generally handled by Winnetka Powerplant 8 which was expected to operate at the rate of approximately 3,000KW for 10 hours a day during a five-day week and a 45-week year, and additionally on no

<sup>1</sup>Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

more than seven days per year at 7,000-8,000KW to meet instantaneous peak load requirements.

On May 12, 1978, Harvey M. Sheldon, Esq., Special Counsel for the Village of Winnetka, informed DOE by letter that, with the advent in mid-1975 of the stricter emission limitations under the Illinois Implementation Plan, Winnetka Powerplants 5, 6, and 7 were taken out of regular service. They no longer had the required operating permits from the Illinois Environmental Protection Agency, and although they could physically be made available for service, they would be subject in the future only to calls for service under federal tariffs in dire system emergencies of a temporary nature. Such emergencies would include natural catastrophes or other calamities that cause serious failures in the delivery systems of Commonwealth Edison Company or the Village, or when temporary emergency use is required to prevent serious threats to the public health or safety. As of May 12, 1978, the need for use of the powerplants had not occurred for more than three years and future emergency use was not considered to be likely. Furthermore, Winnetka Powerplant 8, although possessing the required Illinois operating permit, was used only on an intermittent basis as a peaking unit with a permitted generating capacity of approximately 8MW and with coal as its primary energy source.

Follow-up information obtained by DOE in January 1979 by telephone contact with the Village of Winnetka's Special Counsel (documented in the public record Docket No. OFU 071-074) confirms that Winnetka Powerplants 5, 6, and 7 have been retired from regular use and have been used as emergency units only when a system failure has occurred at Commonwealth Edison. There is no information that would indicate that these powerplants will be used under any circumstances other than a temporary system emergency in the future. Winnetka Powerplant 8 is used only as a coal-fired peaking unit.

Because of the change in operational status of Winnetka Powerplants 5, 6, 7, and 8, and in consideration of the minimal amounts of fuels that these powerplants may be expected to use in the future, DOE finds that further action toward making the Prohibition Order against them effective would not be useful in assisting the Nation to meet its essential needs for fuels and would not be in the public interest. Accordingly, DOE finds that rescission of the outstanding Prohibition Orders is appropriate.

By the "Intention to Rescind Prohibition Orders" published in the FEDERAL REGISTER on February 21, 1979 (44

FR 10564), DOE gave notice of its intention to rescind the Prohibition Orders issued to the above-named powerplants and invited written comments on the proposed action. No comments were received during the period provided for submission and no issues were otherwise raised or called to DOE's attention.

The Rescission Order has been served on the Village of Winnetka by registered mail. Copies of the Rescission Order will be on display for any interested members of the public to inspect at the DOE Public Docket Room located in Room B-120, 2000 M Street, NW, Washington, D.C. from 1:00 to 4:30 p.m., Monday through Friday of each week. Copies will also be available at the appropriate DOE regional office and in the Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:15 a.m. and 4:15 p.m. Monday through Friday.

Any person aggrieved by this Rescission Order may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after the service of the Rescission Order. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Any questions regarding this rescission should be directed to R. James Caverly, Acting Program Manager, ESECA Utility Program, Room 7202, 2000 M Street, NW., Washington, D.C. 20461 (telephone number: 202-254-3910.)

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-70; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., March 19, 1979.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

1FR Doc. 79-9002 Filed 3-23-79; 8:45 am)

# [6450-01-M]

VIRGINIA ELECTRIC & POWER CO.

Rescission of a Prohibition Order

Pursuant to 10 CFR 303.137(d), the Department of Energy (DOE) hereby

<sup>1</sup>Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

gives notice that on March 19, 1979, DOE issued an order rescinding the Prohibition Order issued on June 30, 1975, to the Virginia Electric and Power Company (VEPCO), Yorktown Generating Station, Yorktown, Virginia. Powerplants 1 and 2 (Docket Number OFU 032-033), pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 791 *et seq.*). This action was initiated by DOE under the authority granted to it by Section 2(f) of ESECA and in accordance with the implementing regulations, 10 CFR Part 303, Subpart J. The Prohibition Order, if made effective by issuance of a Notice of Effectiveness (NOE), would have prohibited the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

In 1972, a York County, Virginia, Circuit Court order terminated an action brought by the Commonwealth's Attorney against VEPCO's Yorktown Powerplants 1 and 2 for air pollution amounting to a common law nuisance by ordering the conversion of the units from the burning of coal to the burning of oil in accordance with the terms of a consent decree requested by VEPCO and the State of Virginia.

In June 1975, on advice of its Office of the General Counsel (OGC), the Federal Energy Administration (FEA) determined that an ESECA Prohibition Order could be issued to Yorktown Powerplants 1 and 2, recognizing that the Environmental Protection Agency (EPA) could decide to grant VEPCO a compliance date extension under the then-effective Section 119 of the Clean Air Act in connection with certification. On May 17, 1977, EPA advised FEA that its certification of a date for coal burning at Yorktown 1 and 2 was given "provided the legal impediment [court order] is removed".

By opinion of June 7, 1978, DOE's OGC interpreted EPA's May 17, 1977, communication as constituting only a "conditional certification" which would remain conditional for an indeterminate period of time. Since it did not appear that the York County Circuit Court order would be rescinded, the OGC opinion indicated that the Prohibition Order could not under those circumstances be made effective by issuance of an NOE. Based on EPA's conditional certification and the June 7, 1978, OGC opinion, DOE now finds that rescission of the outstanding Prohibition Order is warranted as Yorktown Powerplants 1 and 2

Footnotes continued from last page  
ferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

# [6450-01-M]

Federal Energy Regulatory Commission

[Docket Nos. ER78-77 and EL78-27]

ALABAMA POWER CO. AND ALABAMA ELECTRIC COOPERATIVE INC., ET AL v. ALABAMA POWER CO.

Order Affirming and Clarifying Initial Decision Adopting Settlement

MARCH 15, 1979.

On January 31, 1979, the Presiding Judge in the above-captioned dockets issued an Initial Decision that adopted and incorporated therein a formal settlement agreement and an oral declaration which were supported by all parties to the proceeding.<sup>1</sup> The agreement arranges a dollar settlement of all issues contained in both dockets. As is customary in settlement agreements, the agreement "is not to be regarded as a precedent with respect to any ratemaking principle" in this or any future proceeding.<sup>2</sup>

We would like to clarify a point not addressed by the Presiding Judge in his Initial Decision. The oral declaration quoted in the Initial Decision (at 7) refers to "bidding under the fuel and purchased power clauses." The term "purchased power" refers only to the purchased power component to be computed in the fuel adjustment clause, not to the existence of an actual purchased power adjustment clause. A purchased power adjustment clause, which the Commission continues to view with disfavor, is not contained in the settlement agreement.

This clarification aside, the Initial Decision approving the settlement in both dockets shall be affirmed on the ground that it is in the public interest.

**The Commission orders:** (A) The Initial Decision in Docket Nos. ER78-77 and EL78-27 is hereby affirmed, subject to the clarification as noted above. (B) Docket Nos. ER78-77 and EL78-27 are hereby terminated.

(C) Pursuant to Article IV of the settlement agreement, Alabama Power Company shall refund all amounts collected in excess of the settlement rates after December 1, 1978, at nine percent (9%) interest per annum, within thirty (30) days of the issuance of this order. Within thirty (30) days after making each refund, Alabama Power Company shall file with the Commission in writing and under oath a report of the amount of any refunds

<sup>1</sup>See Attachment for Rate Schedule designations.

<sup>2</sup>The Commission takes this opportunity to state that if the Commission had permitted the Initial Decision to take effect by operation of law, it would have had a prece-dential effect no different from a Commission order approving a settlement agreement.

Issued in Washington, D.C., March 19, 1979.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

1FR Doc. 79-9003 Filed 3-23-79; 8:45 am)



made as well as the method of computing the refunds.

(D) The Secretary shall cause prompt publication of this order to be

made in the FEDERAL REGISTER. By the Commission.

KENNETH F. PLUMB,  
Secretary.

## ATTACHMENT

ALABAMA POWER COMPANY

(Docket No. ER78-77)

Electric Tariff Original Volume No. 1

Settlement Filing Updated

| Designations  | Descriptions             | Effective    |
|---|--------------------------|--------------|
| 1st Revised sheet No. 5B (supersedes original sheet No. 5B)   | REA 1 Phase 2 rates..... | Dec. 1, 1978 |
| 1st Revised sheet No. 8B (supersedes original sheet No. 8B)   | MUN-1 Phase 2 rates..... | Dec. 1, 1978 |
| Supplement No. 7 to rate schedule FPC No. 120 (City of Foley) (supersedes supp. No. 1 to supp. No. 5 to Rate Schedule FPC No. 120). | MUN-1 Phase 2 rates..... | Jan 31, 1978 |

[FR Doc. 79-9008 Filed 3-23-79; 8:45 am]

[6450-01-M]

(Docket No. CP78-123, et al.)

ALASKAN NORTHWEST NATURAL GAS  
TRANSPORTATION CO.

## Application

MARCH 16, 1979.

Take notice that on March 2, 1979, Alaskan Northwest Natural Gas Transportation Company (the Partnership)<sup>1</sup>, P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-123, et al., an application pursuant to the Alaska Natural Gas Transportation Act of 1976 (ANGTA), the Natural Gas Act, the Decision and Report to Congress on the Alaska Natural Gas Transportation System as ratified by Congress (President's Decision) and the Commission's order vacating prior proceeding and issuing conditional certificate of public convenience and necessity, issued December 16, 1977, for an order approving the design specifications and initial system capacity of the Alaskan segment of the Alaska Highway Pipeline Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The President's Decision described the facilities necessary for the con-

<sup>1</sup>The application indicates that the Partnership is successor to Alcan Pipeline Company (Alcan) which filed its application with the Federal Power Commission (FPC) for authorization to construct a 42-inch pipeline in Alaska to be designed and operated at a maximum working pressure of 1260 psig. This proposal was amended to provide additional expansibility by increasing the pipeline diameter to 48 inches at the same design pressure, it is said.

struction and initial operation of the system as follows:

• • • The facilities which are to be covered are those in the U.S. which are adequate for a through-put of up to 2.4 bcf/d and are included in the revised Alcan filing submitted to the Federal Power Commission (FPC) in March 8, 1977. If any modifications to those facilities are required by the Agreement on Principles between the U.S. and Canada, those modified facilities will also be entitled to the expedited authorization process in Section 9. (p. 13)

The gas transportation system will utilize a 48-inch diameter pipeline from Prudhoe Bay to James River, Alberta. (p. 13)

Peak-day capacity utilizing nine compressor stations will be 2.6 bcf/d, with an average daily volume of 2.4 bcf/d. By installation of intermediate compressor stations, the system could be increased to 3.4 bcf/d peak capacity, with an average day capacity of 3.2 bcf/d. The system capacity could be further increased by addition to the compressor horsepower at each station. (p. 17)

The Partnership summarizes its position as follows:

The Partnership requests an order from the Commission approving the design specification for the 48-inch pipeline with a maximum working pressure of 1260 psig and compressor station size and spacing for an initial capacity of 2.0 to 2.4 Bcf/d expandable by the addition of intermediate compressor stations to an average daily volume of 3.2 Bcf/d. This proposal is the same as was submitted to the Federal Power Commission in March, 1977.

The modification of facilities resulting from implementation of the agreement on Principles did not affect the Alaskan segment of the project. The pipeline design in Canada commencing at the Alaska/Yukon border and con-

tinuing 260 miles to Whitehorse, Yukon, is a 48-inch pipeline with a maximum design pressure of 1260 psig; therefore, any increase in pressure of the Alaskan segment must consider the effect on the Canadian section of the project.

There are two reasons that the pressure for the Alaskan segment of the system might be increased. First is the expectation that the volumes of gas available from new reserves (other than the presently proven reserves in the Prudhoe Bay Unit) with as reasonable period of time after deliveries commence is high enough that a higher pressure system might result in lower transportation costs over the life of the project. Second is the desirability of carrying larger quantities of hydrocarbon liquids in the gaseous phase by increasing the design pressure. The State of Alaska has made available to the Partnership a recent proposal by Earth Resources Company of Alaska to move the location of the conditioning plant from Prudhoe Bay to Fairbanks, Alaska. To avoid building any conditioning facility at Prudhoe Bay the pressure of the pipeline system from Prudhoe Bay to Fairbanks would be increased to 1680 psig which, it is claimed, would accommodate all hydrocarbon liquids. At Fairbanks the plant would not only condition the gas for further transportation by removing carbon dioxide and sufficient hydrocarbon liquids to meet the requirements of the design pressure of 1260 psig to be utilized thereafter in Alaska and in a portion of the Yukon, Canada, but also would remove from the stream most of the ethane and all heavier hydrocarbons. These hydrocarbons would either be utilized within the state, such as for petrochemical development, or delivered by a new pipeline system to tidewater (Cook Inlet) for delivery to U.S. or foreign markets. The State of Alaska has requested that the Partnership delay its filing originally planned for February 1, 1979, in order to address the feasibility of this proposal. • • •

The Partnership has concluded and will show herein that the proposed system is the best economic selection for delivery volumes up to 3.4 Bcf/d and that there is no new evidence that this expansibility above the expected 2.0 Bcf/d to be delivered from the presently proven reserves is inadequate. As to liquid hydrocarbon carrying capacity the following conclusions are pertinent: (1) the pipeline design at 1260 psig can transport all of the ethane and propane that is available from the conditioning plant. The ethane would be the raw material for

any in-state petrochemical development; therefore, the system design permits complete flexibility for ethane extraction in the future to meet the State of Alaska needs, (2) the increase in hydrocarbon liquids, primarily butane, that can be transported in the pipeline by increasing the pressure is about 5-11 thousand barrels per day and is a small volume in relation to the total oil and gas energy to be delivered which has alternative beneficial uses on the North Slope of Alaska, and (3) the increased volume of liquids that could be transported must be extracted in Alaska since the design pressure as approved by appropriate regulatory authorities in the first Canadian section is 1260 psig.

The Partnership has analyzed the proposal by Earth Resources Company of Alaska and has concluded that the necessary result of this proposal will render the primary pipeline project infeasible and, therefore, it should not be given further consideration.

In reviewing the design pressure decision the Partnership states that it has considered the following alternatives to the proposed system:

1. A 48-inch pipeline design for a maximum working pressure of 1400 psig. This system would result from the increase in the pipeline safety code requirement of 72 percent of the calculated design pressure to 80 percent. This alternative would require a change in the pipeline safety code or a waiver by the Department of Transportation. A portion of the system which follows the Haul Road would require a double waiver that the Department of Transportation has indicated would not be granted.

2. A 48-inch pipeline with a maximum working pressure of 1440 psig.

3. A 48-inch pipeline with a maximum working pressure of 1680 psig.

It is indicated that the present proposed system provides capacity equivalent to any of the competitive proposals which were considered by the Commission and the President and that the Partnership is not aware of any changes in circumstances or new additional gas reserve potential which would require reconsideration of the ultimate capacity to be provided by the pipeline system within Alaska.

Accordingly, the Partnership requests that the Commission issue an order accepting the design specifications for the system selected by the President for a 48-inch pipeline with the maximum working pressure of 1260 psig providing an initial system capacity of 2.0 to 2.4 Bcf/d with expansibility by the addition of intermediate compressor stations up to 3.2 Bcf/d for the Alaskan segment of the Alaska Highway Pipeline Project.

Any person desiring to be heard or to make any protest with reference to

said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9009 Filed 3-23-79; 8:45 am]

[6450-01-M]

(Docket No. CP67-25)

## CITIES SERVICE GAS CO.

## Petition To Amend

MARCH 16, 1979.

Take notice that on February 28, 1979, Cities Service Gas Company (Cities Service), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP67-25 a petition to amend the order issued September 26, 1966 in said docket (36 FPC 674), as amended pursuant to Section 7(c) of the Natural Gas Act so as to provide for the construction and operation of an additional sales meter station to effect better service to West Texas Gas, Inc. (West Texas) in Gray County, Texas, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.<sup>1</sup>

Cities Service states that an additional sales meter station is needed to provide better service to West Texas for its distribution system. West Texas owns and operates a natural gas distribution system and currently distributes gas which it purchases from Cities Service to approximately 500 customers in Armstrong, Brisco, Donley, Gray and Hall Counties, Texas, for incidental farm use and for irrigation purposes, according to Cities Service. It is stated that presently West Texas is experiencing difficulty in serving its customers during peak periods due to low pressures and declining availability of adequate vol-

<sup>1</sup>This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

umes of gas at the location of the existing delivery point on Cities Service's Huey gathering system. West Texas has requested installation of an additional delivery point on Cities Service's Kings Mill 8-inch pipeline in Gray County near West Texas' 3-inch pipeline in order to supplement the declining volume of gas available to it from the Huey System according to Cities Service.

Cities Service states that West Texas has agreed to reimburse Cities Service for the total cost of constructing this additional delivery point, estimated to be \$19,330. Cities Service states that it and West Texas have entered into a new service agreement at the same terms and conditions as the existing agreement, to incorporate this additional delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9010 Filed 3-22-79; 8:45 am]

[6450-01-M]

(Docket Nos. CP73-184 and CI73-485)

COLORADO INTERSTATE GAS CO. AND CIG  
EXPLORATION, INC.

## Petition To Amend

MARCH 16, 1979.

Take notice that on February 21, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, and CIG Exploration (Exploration), 9 Greenway Plaza, Coastal Tower, Houston, Texas 77046, filed in Docket Nos. CP73-184 and CI73-485 respectively, a joint petition to amend the order of January 7, 1974, issued in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize the abandonment by Exploration, and the acquisition by CIG, of certain gas producing properties (Properties), including leases, gas reserves, wells, and re-



lated production facilities, originally transferred from CIG to Exploration, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of January 7, 1974, in the instant dockets, CIG was authorized to transfer and abandon its developed natural gas leases and related production facilities to Exploration. CIG transferred all of its developed natural gas producing properties, as well as its undeveloped leasehold interests, to Exploration at net book value, it is stated. It is indicated that pursuant to the terms of a stipulation and agreement of settlement, Exploration was to undertake a five-year exploration and development program in order to obtain additional natural gas supplies for CIG. Such program is scheduled to expire February 28, 1979, to be followed by a two-year windup period. It is said.

Consequently, Exploration proposes to transfer to CIG certain properties, and CIG proposes to acquire from exploration those properties at net book value, which was estimated to be \$5,956,000 as of March 1, 1979.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9012 Filed 3-23-79; 8:45 am]

[6450-01-M]

[Docket No. CP73-302]

COLUMBIA GAS TRANSMISSION CORP.

Application

MARCH 16, 1979.

Take notice that, on March 2, 1979, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP73-302 a supplemental application pursuant to Section 7(c) of the Natural Gas Act

authorizing Applicant to construct and operate certain natural gas storage facilities, all as more fully described in its application which is on file with the Commission and open for public inspection.

Applicant states that it was granted certificate authorization to construct and operate Phase I of Crawford Storage Field in Fairfield and Hocking Counties, Ohio by the order of March 21, 1977. Said order provided that Applicant must obtain further authorization to complete construction and operation of the Crawford facilities, it is stated.

Applicant seeks authorization to proceed with the construction of Phase II of the Crawford facilities which consist of the additional facilities necessary to develop Crawford to its design capacity of approximately 115,000,000 Mcf, as indicated in the original application. Applicant states that the estimated maximum volume in storage associated with Phase II is 83,188,000 Mcf of which approximately 33,276,000 Mcf would be utilized for annual turnover.

Applicant states that Phase II construction would consist of the following:

- (1) Drilling, re-drilling and/or rehabilitation of 132 injection and withdrawal wells and 9 observation wells;
- (2) Construction of approximately 73.8 miles of 4-inch through 24-inch well and field lines;
- (3) Installation of certain dehydration facilities;
- (4) Installation of individual well-head measurement facilities;
- (5) Installation of the date acquisition system require in conjunction with wellhead measurement;
- (6) Installation of certain master measurement facilities; and
- (7) Injection of approximately 49,912,000 Mcf of cushion gas, 85 percent which (or approximately 42,425,000 Mcf) would be capitalized.

Applicant states that the proposed Phase II expansion of Crawford is estimated to cost approximately \$116,330,000, which would be financed with funds on hand and when necessary, by the sale of notes and common stock to its parent company, The Columbia Gas System, Inc.

Applicant asserts that the additional storage capacity associated with the proposed activation of Phase II is needed to protect high-priority temperature-sensitive market requirements against occurrences of colder-than-normal weather, seasonal losses of flowing gas supply, facility failures and unanticipated increases in curtailment by pipeline supplies; to increase

This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Applicant's ability to accept deliveries of all available flowing gas supplies by providing additional injection capability late in the storage injection season; and to provide a firm basis for Applicant to serve the existing and estimated future market requirements recently submitted and verified by its wholesale customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9011 Filed 3-23-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-190]

CONSOLIDATED GAS SUPPLY CORP.

Application

MARCH 16, 1979.

Take notice that on February 22, 1979, Consolidated Gas Supply Corporation (Consolidated), P.O. Box 445,

West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-190 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a 1,200 horsepower State Line Compressor Station, located in Potter County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Consolidated states that it proposes to abandon two 300 horsepower and one 600 horsepower Clark RA-series compressor engines and related and appurtenant facilities. Consolidated further states that it would dismantle these facilities and salvage any usable components thereof for possible reuse.

These facilities would be replaced with minor interconnecting pipeline, regulating and related and auxiliary facilities, at an estimated capital cost of \$90,125, it is said.

Consolidated asserts that State Line Compressor Station, has been operated both as a main line relay compressor facility and to inject gas into Consolidated's Sharon Storage Pool. Consolidated further asserts that due to changing operating circumstances on its transmission system, State Line Compressor Station would no longer be required.

Consolidated states that it is now able to inject sufficient gas into Sharon Storage Pool to insure adequate deliverability without compression at State Line Compressor Station and has reduced the maximum allowable operating pressure and capacity in its Line No. 16 to the extent that the quantities of gas transported to the State Line Compressor Station in such line are utilized to meet the requirements of customers served by Consolidated from its lower-pressure pipeline north of State Line Compressor Station. The station is no longer required to relay surplus gas to Consolidated's higher-pressure lines downstream of the station, it is said.

Further, Consolidated asserts that the compressor equipment and related facilities located at State Line Compressor Station are relatively old and require increasing amounts of maintenance to keep in proper operating conditions.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by

it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds, that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9013 Filed 3-23-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-237]

INTERSTATE POWER CO.

Filing

MARCH 15, 1979.

Take notice that Interstate Power Company (Interstate) on March 5, 1979, tendered for filing, a proposed amendment to its F.E.R.C. Electric Service Rate Schedule, Number 104. Interstate indicates that the rate schedule involved is an electric service agreement between Interstate and the Board of Trustees of Municipal Utilities of McGregor, Iowa. Interstate further indicates that the proposed amendment expands the scope of service available to the City by providing firm power service to the City.

Interstate states that the Board of Trustees of Municipal Utilities of McGregor, Iowa, requested firm power service from Interstate to supplement the existing capacity of the City's municipal utility system. Interstate further states that it is able to provide the requested firm power service from its system and consequently, an amendment to the electric service agreement with the Board of Trustees of Municipal Utilities of McGregor,

Iowa, was executed to reflect the applicable firm power service provisions. Interstate proposes an effective date of February 7, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9014 Filed 3-23-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-224]

IOWA PUBLIC SERVICE CO.

Filing of Participation Power Agreements

MARCH 14, 1979.

Take notice that Iowa Service Company, Sioux City, Iowa (IPS), on March 2, 1979, tendered for filing a participation Power Agreement with Iowa Southern Utilities, Centerville, Iowa (ISU), relating to ISU's purchase of 60 MW from May 1, 1979, through September 30, 1981, of participation power according to Service Schedule A of the Mid-Continent Area Power Pool Agreement dated May 31, 1972. This Participation Power Pool Agreement establishes demand and energy charges for such services and is to run from May 1, 1979, through April 30, 1981. Iowa Public Service requests waiver of the Commission's notice requirements and proposes an effective date of May 1, 1979.

Iowa Public Service Company states the purpose of the proposed rates is to recover reflected costs of the facilities to provide for demand and energy power.

Iowa Public Service Company states copies of the filing have been mailed to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the



Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9015 Filed 3-23-79; 8:45 am)

## [6450-01-M]

(Docket No. OR79-31)

## LAKEHEAD PIPE LINE CO.

## Order Granting Extension of Time

MARCH 15, 1979.

On February 9, 1979, Lakehead Pipe Line Company (Lakehead) filed a Petition for Reconsideration and Vacation of the Commission's order issued January 30, 1979 in the above referenced Docket. In the petition for reconsideration, Lakehead requests that "the time-frame set forth in the Commission's Order be suspended indefinitely." Lakehead also requests that "such other relief be granted as may be deemed equitable in the premises." The Commission determines that good cause exists for granting Lakehead an extension of time until April 30, 1979 to submit its case supporting the justice and reasonableness of the rates, charges and terms and conditions of service contained in its FERC Tariff Nos. 23, 44, 45, 46, 47 and 49. This extension is granted to allow Lakehead to submit the information requested in accordance with the amended order. Any further requests for modification of the procedures should be submitted in accordance with §1100.19 of the Regulations governing oil matters. (49 CFR §1100.19.) The Commission's granting of this extension of time does not accept or reject the merits of the reconsideration petition filed by Lakehead, which is under active consideration, and does not prejudice any further action the Commission may choose to take on the petition.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9016 Filed 3-23-79; 8:45 am)

On March 8, 1979, the Commission amended its January 30, 1979 order. Lakehead Pipe Line Company, Docket No. OR 79-3, Order Amending Prior Order.

## [6450-01-M]

(Docket No. ER79-230)

## LONG ISLAND LIGHTING CO.

## Proposed Transmission Agreement

MARCH 15, 1979.

Take notice that the Long Island Lighting Company (LILCO) on March 5, 1979, tendered for filing a proposed transmission agreement pursuant to which LILCO agrees with the Power Authority of the State of New York to transmit power and energy to the three municipal electric utilities on Long Island: the incorporated villages of Freeport, Greenvale, and Rockville Centre.

An effective date of January 2, 1979 is proposed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9017 Filed 3-23-79; 8:45 am)

## [6450-01-M]

## INEXCO OIL CO., ET AL.

## Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

MARCH 19, 1979.

On March 12, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

## STATE OIL AND GAS BOARD OF MISSISSIPPI

FERC Control Number: JD79-736.  
API Well Number: 2307720012.  
Section of NGPA: 107.  
Operator: Inexco Oil Company.  
Well Name: E. A. Selman No. 1.  
Field: Monticello Field-Hosston.  
County: Lawrence County.  
Purchaser: United Gas Pipe Line Company.

Volume: 1460 MMcf.

FERC Control Number: JD79-737.

API Well Number: 2306320216.  
Section of NGPA: 107.  
Operator: Inexco Oil Company.  
Well Name: Sarah Cupit, et al No. 1.  
Field: Union Church-Rodessa.  
County: Jefferson.  
Purchaser: Texas Eastern Transmission Company.  
Volume: 146 MMcf.

FERC Control Number: JD79-738.  
API Well Number: 2304520014.  
Section of NGPA: 102.  
Operator: Phillips Petroleum Company.  
Well Name: Crosby Estate-E No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 940 MMcf.

FERC Control Number: JD79-739.  
API Well Number: 2304520017.  
Section of NGPA: 102.  
Operator: Phillips Petroleum Company.  
Well Name: Crosby Estate-F No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 1524 MMcf.

FERC Control Number: JD79-740.  
API Well Number: 2304520018.  
Section of NGPA: 102.  
Operator: Phillips Petroleum Company.  
Well Name: Crosby Estate-G No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 583 MMcf.

FERC Control Number: JD79-741.  
API Well Number: 2304520030.  
Section of NGPA: 102.  
Operator: Phillips Petroleum Company.  
Well Name: Crosby Estate-M No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 1761 MMcf.

FERC Control Number: JD79-742.  
API Well Number: 2304520020.  
Section of NGPA: 103.  
Operator: Phillips Petroleum Company.  
Well Name: Crosby Estate-H No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 1005 MMcf.

FERC Control Number: JD79-743.  
API Well Number: 2304520026.  
Section of NGPA: 103.  
Operator: Phillips Petroleum Company.  
Well Name: White-E No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 1619 MMcf.

FERC Control Number: JD79-744.  
API Well Number: 2304520033.  
Section of NGPA: 103.  
Operator: Phillips Petroleum Company.  
Well Name: Sonas-A No. 1.  
Field: Waveland.  
County: Hancock.  
Purchaser: United Gas Pipe Line Company.  
Volume: 1609 MMcf.

FERC Control Number: JD79-745.  
API Well Number: 2304920012.  
Section of NGPA: 108.  
Operator: Clay J. Calhoun.  
Well Name: Riggins Unit No. 1.  
Field: Learned.  
County: Hinds.  
Purchaser: United Gas Pipe Line Company & Shell Oil Co.  
Volume: 15 MMcf.

FERC Control Number: JD79-746.  
API Well Number: 2306520093.  
Section of NGPA: 107.  
Operator: System Fuels, Inc.  
Well Name: Fortenberry 35-7 Well No. 1.  
Field: Oakvale Field.  
County: Jefferson Davis.  
Purchaser: Florida Gas Transmission Company.  
Volume: 20,000 MCF.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 10, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9007 Filed 3-23-79; 8:45 am)

## [6450-01-M]

## HARRY C. BOGGS

## Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

MARCH 19, 1979.

On March 8, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

## WEST VIRGINIA DEPARTMENT OF MINES, OIL AND GAS DIVISION

FERC Control Number: JD79-721.  
API Well Number: 470872952.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Jennings No. 199.  
Field: Spring Creek.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 3567 MMcf.

FERC Control Number: JD79-722.  
API Well Number: 470872950.  
Section of NGPA: 108.

Operator: Harry C. Boggs.  
Well Name: B. C. Smith Serial 232.  
Field: Triplet.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 964.8 MMcf.

FERC Control Number: JD79-723.  
API Well Number: 470872949.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Rader No. 1 Serial 472.  
Field: Triplet.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 1085 MMcf.

FERC Control Number: JD79-724.  
API Well Number: 470872948.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: C. M. Butcher No. 395.  
Field: Clover.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 2199 MMcf.

FERC Control Number: JD79-725.  
API Well Number: 470870669.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: John Nida No. 2.  
Field: Looneyville.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 1,810 MMcf.

FERC Control Number: JD79-726.  
API Well Number: 470132366.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Stalnaker No. 3.  
Field: Nicut.  
County: Calhoun.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 10563 MMcf.

FERC Control Number: JD79-727.  
API Well Number: 470872065.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Herschel Miller Well No. 1.  
Field: Spring Creek.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 9224 MMcf.

FERC Control Number: JD79-728.  
API Well Number: 470132371.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: R. F. Stalnaker No. 4.  
Field: Nicut.  
County: Calhoun.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 10557 MMcf.

FERC Control Number: JD79-729.  
API Well Number: 470871575.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: C. S. West Well No. 3.  
Field: Looneyville.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 2412 MMcf.

FERC Control Number: JD79-730.

API Well Number: 470870986.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: D. M. Ferrell No. 2.  
Field: Clover.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 2716 MMcf.

FERC Control Number: JD79-731.  
API Well Number: 470871948.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Radar No. 2.  
Field: Triplet.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 659 MMcf.

FERC Control Number: JD79-732.  
API Well Number: 470132363.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: Stalnaker No. 2.  
Field: Nicut.  
County: Calhoun.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 10562 MMcf.

FERC Control Number: JD79-733.  
API Well Number: 470132409.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: R. F. Stalnaker Well No. 6.  
Field: Nicut.  
County: Calhoun.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 563 MMcf.

FERC Control Number: JD79-734.  
API Well Number: 470871798.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: J. W. Nida Well No. 3.  
Field: Looneyville.  
County: Roane.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 7331 MMcf.

FERC Control Number: JD79-735.  
API Well Number: 470132104.  
Section of NGPA: 108.  
Operator: Harry C. Boggs.  
Well Name: S. L. Keaton Well No. 1.  
Field: Nicut.  
County: Calhoun.  
Purchaser: Columbia Gas Transmission Corp.  
Volume: 5529 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 10, 1979. Please reference the FERC Control



Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9006 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

#### EXXON CORP. AND BURLINGTON NORTHERN, INC.

Determination by a Jurisdictional Agency  
Under the Natural Gas Policy Act of 1978

FEBRUARY 28, 1979.

On February 22, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

#### STATE OF WYOMING

#### OIL AND GAS CONSERVATION COMMISSION

FERC Control Number: JD79-423  
API Well Number: 49-005-24539  
Section of NGPA: 103  
Operator: Exxon Corporation  
Well Name: Christensen Well No. 1  
Field: Hartzog Draw  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 55 MMcf.

FERC Control Number: JD79-424  
API Well Number: 49-005-24540  
Section of NGPA: 103  
Operator: Exxon Corporation  
Well Name: Christensen Federal Com. 1  
Well No. 1  
Field: Hartzog Draw  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 42 MMcf.

FERC Control Number: JD79-425  
API Well Number: 49-005-24618  
Section of NGPA: 103  
Operator: Exxon Corporation  
Well Name: Fuchs-Lauby Federal Well No. 1  
Field: Hartzog Draw  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 42 MMcf.

FERC Control Number: JD79-426  
API Well Number: 49-005-24791  
Section of NGPA: 103  
Operator: Burlington Northern Inc.  
Well Name: 22-5 Birdsall  
Field: Porcupine  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 180 MMcf.

FERC Control Number: JD79-427  
API Well Number: 49-005-24633  
Section of NGPA: 103  
Operator: Exxon Corporation  
Well Name: Schlautmann Federal Com. 2  
Well No. 1  
Field: Hartzog Draw  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 37 MMcf.

FERC Control Number: JD79-428  
API Well Number: 49-005-24632

Section of NGPA: 103  
Operator: Exxon Corporation  
Well Name: Schlautmann Federal Com. 1  
Well No. 1  
Field: Hartzog Draw  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 45 MMcf.

FERC Control Number: JD79-429  
API Well Number: 49-005-24979  
Section of NGPA: 103  
Operator: Burlington Northern Inc.  
Well Name: 34X-5 Birdsall  
Field: House Creek  
County: Campbell  
Purchaser: Phillips Petroleum Co.  
Volume: 2 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 10, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9006 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. CS66-74, et al.]

MAGDALENE C. HAMMONDS, ET AL.

#### Applications for "Small Producer" Certificates<sup>1</sup>

MARCH 14, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 1979, file with the Federal Energy Regulatory Commission, Washington,

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

| Docket No.    | Date filed | Applicant   |
|---------------|------------|---|
| CS66-74.....  | 12/28/78   | Magdalene C. Hammonds, 4608 Lakeside Drive, Dallas, Tex. 75205.                           |
| CS73-38.....  | 12/9/78    | B. R. Greathouse, deceased, or Helen Greathouse, 105 Metro Building, Midland, Tex. 79702. |
| CS74-330..... | 12/9/78    | Natural Gas Processing Co., P.O. Box 541, Worland, Wyo. 82401.                            |
| CS79-313..... | 2/8/79     | William L. Gupton, Jr., 2302 Continental Life Bldg., Fort Worth, Tex. 76102.              |
| CS79-314..... | 2/9/79     | Panola Producing Company, Inc., P.O. Box 876, Carthage, Tex. 75633.                       |
| CS79-315..... | 2/9/79     | DuBoise Producing Company, Inc., P.O. Box 578, Carthage, Tex. 75633.                      |
| CS79-316..... | 2/9/79     | Lea Exploration, Inc., P.O. Box 127, Shreveport, La. 71161.                               |
| CS79-317..... | 2/9/79     | Sam A. Kinard, 4800 N. 22d Street, Phoenix, Ariz. 85016.                                  |
| CS79-318..... | 2/9/79     | Strong, Spann & Claridge, Trustees, P.O. Box 1031, Albuquerque, N.Mex. 87103.             |

| Docket No.    | Date filed | Applicant   |
|---------------|------------|---|
| CS79-321..... | 2/12/79    | Richard D. Pearson, 430 Hawthorne Place, Ridgewood, N.J. 07450.   |
| CS79-322..... | 2/12/79    | R. E. Puckett, 215 Security Life Bldg., 1616 Glenarm Pl., Denver, Colo. 80202.  |
| CS79-323..... | 2/12/79    | Floyd G. Miller, Jr., 1501 Beck Building, Shreveport, La. 71101.  |
| CS79-324..... | 2/12/79    | Scarth Oil & Gas Co., Box 14049, Amarillo, Tex. 79101.  |
| CS79-325..... | 2/12/79    | Robert E. Adair, Jr., P.O. Box 1420, El Dorado, Ariz. 71730.  |
| CS79-326..... | 2/12/79    | Donald P. Brown, 2250 N.W. 39th Street, Suite 100, Oklahoma City, Okla. 73112.  |
| CS79-327..... | 2/16/79    | Jeanette Oshman Efron, individually and as independent executrix of the estate of J. S. Oshman, Lamar Towers, 2929 Buffalo Speedway, Houston, Tex. 77098. |
| CS79-328..... | 2/16/79    | Edward Wright, Jr., 3513 Drexel Drive, Dallas, Tex. 75205.  |
| CS79-329..... | 2/21/79    | Kendall & Associates, Inc., P.O. Box 254, Farmington, N.Mex. 87401.   |
| CS79-331..... | 2/22/79    | Cisco Gathering System, 3964 So. State, Salt Lake City, Utah 84107.   |
| CS79-332..... | 2/22/79    | Rudolph J. Boyko and Alan C. Shalom, 10 Columbus Circle, New York, N.Y. 10019.  |
| CS79-333..... | 2/22/79    | Thomas J. Adair, P.O. Box 4572, Shreveport, La. 71104.  |
| CS79-334..... | 2/22/79    | Robert L. Lawson, 630 Commercial Natl. Bank Bldg., Shreveport, La. 71101.   |
| CS79-335..... | 2/22/79    | George P. Moran, 630 Commercial Natl. Bank Bldg., Shreveport, La. 71101.  |
| CS79-336..... | 2/22/79    | Herman Lang, 625 N. 11th, Garden City, Kans. 67846.   |
| CS79-337..... | 2/23/79    | V. A. Johnston Family Trust, Box 925, Ralls, Tex. 79357.  |
| CS79-338..... | 2/23/79    | LeVada S. Jackson, 2100 First Natl. Bank Bldg., Midland, Tex. 79701.  |
| CS79-339..... | 2/23/79    | Hinson Brothers, a Texas general partnership, 9730 Town Park, Suite 103, Houston, Tex. 77036.   |

<sup>1</sup> Being noticed to reflect a name change.  
<sup>2</sup> Being noticed to reflect a change in name due to certificate holder's death.  
<sup>3</sup> Being noticed to reflect a name change due to original application being submitted in error.

[FR Doc. 79-9046 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-233]

#### MISSISSIPPI POWER & LIGHT

#### Filing

MARCH 15, 1979.

Take notice that on March 6, 1979, Mississippi Power & Light Company (Mississippi) tendered for filing an Agreement for Purchase of Power that

provides for the sale of electric energy by Mississippi to Magnolia Electric Power Association (Magnolia) to be delivered to Magnolia's 115 KV substation at a point near Progress, Mississippi.

Mississippi states that the filing of this Agreement is to reflect a change in delivery point from Mississippi's 115 KV substation to Magnolia's 115 KV substation.

Mississippi proposes an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Mississippi copies of this filing have been mailed to Magnolia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9024 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-238]

#### NEW ENGLAND POWER POOL

#### Filing

MARCH 15, 1979.

Take notice that on March 6, 1979, the New England Power Pool (NEPOOL) filed an Agreement amending NEPOOL Power Pool Agreement (Amendment), dated as of January 31, 1979, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

NEPOOL indicates that the Amendment provides for revision of Section 9.4(d) of the NEPOOL Agreement to eliminate the sliding payment scale in Section 9.4(d) of the NEPOOL Agreement, as ordered by the Commission in its Opinions 775 and 775-A in Docket No. E-7690. NEPOOL further indicates that the amendment changes Section 9.4(d)'s capability deficiency payment "threshold" from one percent to two percent and sets the capability responsibility deficiency charge at \$14.00 per Kilowatt year.

NEPOOL proposes that the Amendment become effective on May 1, 1979, the date upon which the pool's next capability period commences.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9039 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP79-186]

#### NORTHERN NATURAL GAS CO.

#### Application

MARCH 16, 1979.

Take notice that on February 15, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-186 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period commencing the date of issuance of an order herein, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment of facilities would not exceed \$3,000,000 with no single project exceeding \$500,000. Applicant states that it would finance such cost from funds generated through operations and out of cash on hand.



Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9025 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. RP74-72]

#### NORTHWEST PIPELINE CORP.

#### Change in Rates Pursuant to Demand Charge Credit Adjustment

MARCH 6, 1979.

Take notice that Northwest Pipeline Corporation, on February 15, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to compensate Northwest for demand charge credits given to certain of its customers due to curtailment of firm contract obligations because of gas supply deficiency.

The notice of change in rates is being filed pursuant to the Commission's Order issued March 29, 1974, at Docket No. RP-74-72 and Article 13.4 of Northwest's FERC Gas Tariff, Original Volume No. 1. The change in rates will result in a net increase of .011¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1. The new demand charge credit adjustment of (.001)¢ per therm is based on a negative balance in the deferred account for demand charge credits of \$16,198.

Northwest is concurrently filing a notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision contained in its Original Volume No. 1 Tariff. Both rate adjustments are reflected on the tendered Twenty-second Revised Sheet No. 10, which is proposed to become effective April 1, 1979.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9026 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-2291]

#### OHIO POWER CO.

#### Filing

MARCH 15, 1979.

Take notice that Ohio Power Company (Company) on March 5, 1979, tendered for filing Supplement No. 2 dated January 1, 1979 to the Agreement dated April 1, 1974 between Company and American Municipal Power—Ohio, Inc.

Company indicates that Sections 1 and 2 of Supplement No. 2 increase the demand charges for Short Term Power from \$0.60 to \$0.70 per kilowatt per week and for third party transactions from \$0.15 to \$0.175 per kilowatt per week; Sections 3 and 4 of Supplement No. 2 increase the demand charges for Limited Term Power from

\$3.25 to \$3.75 per kilowatt per month and for third party transactions from \$0.65 to \$0.75 per kilowatt per month.

Waiver of the Commission's notice requirements is requested to allow for an effective date of January 6, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9027 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket Nos. EL78-15 & ER78-339 (Phase I)]

#### PUBLIC SERVICE CO. OF NEW HAMPSHIRE

#### Extension of Time

MARCH 2, 1979.

On February 23, 1979, the Legislative Utility Consumers' Council (LUCC) filed a motion for an extension of time to file its brief on exceptions to the initial decision issued in this proceeding on January 26, 1979. The motion states that lead counsel for LUCC has recently resigned and that remaining personnel are substantially unfamiliar with this proceeding. The motion also states that the Public Service Company of New Hampshire has no objection to the request.

Upon consideration, notice is hereby given that an extension of time is granted to and including March 2, 1979 for the filing of briefs on exceptions. Briefs opposing exceptions shall be filed on or before March 22, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9028 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-150]

#### SOUTHERN CALIFORNIA EDISON CO.

#### Order Accepting for Filing and Suspending Proposed Electric Rate Increases, Providing for Hearing, Granting Motion for Summary Judgement in Part, and Establishing Procedures

MARCH 15, 1979.

On January 15, 1979, Southern California Edison Company (Edison) submitted for filing a proposed increase in rates to its four small resale customers, presently served under Rate Schedule R-1, and seven large resale customers, now served under Rate Schedule R-2.<sup>1</sup> The filing would increase revenues from these eleven wholesale customers by \$5,706,778 during the 12 month succeeding the proposed effective date of March 16, 1979.

Edison proposes to eliminate the concept of R-1 and R-2 rates for small and large customers and offer in their place combined service under Schedule R. The proposed Schedule R has a four-step demand charge and a one-step energy charge with the same provision for fuel adjustment, power factor adjustment, and billing ratchet adjustment as the present rates. Graduated voltage discounts would be maintained under Schedule R. All customers have the option of purchasing under a proposed time-of-use rate, TOU-R, which differs from the standard Rate Schedule R in that the demand charge in all four steps is slightly increased and the billing demand is redefined as the highest 30-minute coincident demand input to the customer's system in the month during the on-peak period. The on-peak period is defined as weekdays from 12:00 noon to 6:00 p.m. (PST), May 15 thru November 14 and weekdays from 5:00 p.m. to 10:00 p.m., November 15 thru May 14.

Notice of the filing was issued on February 2, 1979, with comments due on or before February 20, 1979.

#### I. PLEADINGS

On February 16, 1979, Anza Electric Cooperative, Inc. (Anza), filed a petition to intervene, requesting a hearing in this proceeding and a five month suspension of the proposed rates. On February 21, 1979, the City of Vernon, California (Vernon) filed an untimely petition to intervene, which also requests a hearing. Vernon asks that the effective date of the proposed rates be at least ninety (90) days after actual

<sup>1</sup>See, Attachment A for individual rate schedule designations.

notice to Vernon to allow "sufficient time to legislatively set its retail rates in accordance with the laws of the State of California."

On February 21, 1979, the Cities of Anaheim, Riverside, Banning, Colton, and Azusa, California (collectively called Cities) filed an untimely pleading entitled "Protest, Petition To Intervene, Request For Maximum Suspension Periods, Request For Summary Judgement, and Motion For Proceedings Pursuant To Section 206 of the Federal Power Act."<sup>2</sup> In their pleading, Cities raise several rate design and cost of service issues including price squeeze.<sup>3</sup> Further, the Cities move that summary judgement be granted with respect to the following issues: Electric Power Research Institute (EPRI) contributions, inclusion of deferred investment tax credits in the common equity component of the capital structure, functionalization of general plant and tax normalization.<sup>4</sup> Finally, the Cities seek an investigation under Section 206 of the Federal Power Act to determine whether Edison should reduce its rates "to a level below that of the rates currently in effect as a result of the disallowance of Edison's use of tax normalization."

#### II. DISCUSSION

We note that Edison's case in chief includes an allocation of a portion of

<sup>2</sup>Although both Vernon and the Cities filed untimely pleadings, on February 21, 1979, neither requested permission to file out of time. Nevertheless, we shall, in this case, consider the allegations raised in those pleadings in determining the appropriate Commission action.

<sup>3</sup>The Cities filed, on March 5, 1979, a supplemental pleading which contained a more detailed discussion of the issues raised in its February 21, 1979 pleading. The salient issues raised in the Cities' original and supplemental pleadings are as follows: 9.58% overall rate of return (including 13.26% return on common equity), inclusion of non-cash items in working capital lead-lag study, and allocation of state water plan losses to resale customers.

<sup>4</sup>In its February 21, 1979 pleading, Cities state: A large portion of the proposed rate increase is premised upon Edison's use of comprehensive tax normalization. Edison submits no support justifying its use of tax normalization. Furthermore, while Edison seeks to use tax normalization for its resale rates, the California Public Utilities Commission, which regulates Edison's retail rates, has consistently required Edison to flow-through tax benefits to the rate payers. That Edison must make a showing that the use of tax normalization will benefit the consumer and that the Commission must consider the competitive consequences of allowing tax normalization in resale rates when such normalization of taxes is disallowed at the retail level was made clear by the United States Court of Appeals for the District of Columbia Circuit in *Public Systems, et al. v. FERC*, No. 76-1609, decided February 16, 1979.

EPRI contributions to the resale cost of service. Such allocations have been determined to be improper. These contributions are voluntary and are made on the basis of retail sales. Moreover, many wholesale customers make contributions to EPRI on the basis of their retail sales.<sup>5</sup> We shall summarily dispose of the allocation of EPRI contributions to resale cost of service and direct Edison to file revised rate schedules and cost support in accordance with our determination herein.

We also note that Edison included Accumulated Deferred Investment Tax Credit (ADITC) in the common equity portion of its capitalization. This Commission has consistently held that the return allowed on ADITC should be measured by the overall rate of return rather than the higher common equity return.<sup>6</sup> Therefore, we shall summarily dispose of this issue and direct Edison to refile its capital structure and rates to reflect the Investment Tax Credit component consistent with Commission Opinion No. 19.

Additionally, we find that Edison has functionalized its general plant according to total labor and material expenses. In *Minnesota Power & Light Company*, Opinion No. 20 (August 3, 1978), we held that general plant should be allocated on the basis of labor ratios. In subsequent orders, we indicated that the use of labor ratios in the functionalization of general plant was a "general rule" and held that the burden on the applicant was to "show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable."<sup>7</sup> Edison bears this same burden.

We now address the tax normalization issue raised by the Cities. Based upon the recent decision of the United States Court of Appeals for the District of Columbia in *Public Systems, et al. v. FERC*, No. 76-1609, decided February 16, 1979, the Cities move for summary disposition of the use of tax normalization because of Edison's fail-

<sup>5</sup>See, *Connecticut Light and Power Company*, Docket No. ER77-517, Order issued August 31, 1978; *Georgia Power Company*, Docket No. ER79-88, Order issued January 30, 1979.

<sup>6</sup>*Carolina Power and Light Company*, Opinion No. 19, August 2, 1978 (mimeo, pp. 6-10). See also, *Virginia Electric Power Company*, Docket No. ER78-522, Order, issued August 30, 1978; and *Public Service Company of Oklahoma*, Docket No. ER78-511, Order issued October 12, 1978.

<sup>7</sup>*Pennsylvania Electric Company*, Docket No. ER78-494, Order issued September 27, 1978; *Public Service Company of Indiana*, Docket No. ER78-513, Order issued August 25, 1978; *Public Service Company of Colorado*, Docket No. ER78-50, Order issued October 4, 1978; and *Central Kansas Power Company, Inc.*, Docket No. ER79-50, Order issued January 31, 1979.



ure to demonstrate that the tax normalization will not (1) result in a tax savings (as opposed to a tax deferral) and (2) contribute to an unlawful price squeeze.

In *Detroit Edison Co.*, Docket No. ER79-70, Order issued March 9, 1979, we stated:

The Court's Decision in Public Systems has yet to become final. Pending possible reconsideration or review, we think it the better course to preserve the Commission's position by adhering to our present policies. We note that the court did not hold that the Commission's conclusions in Order No. 530-B were impermissible. Rather, the matter was remanded by the court on the ground that the Commission had not adequately explained and supported its decision.

Whether the court's decision is the subject of further litigation or Commission proceedings on remand are initiated, we shall separately consider the need for interim procedures. Our present view is that it will be more efficient and practical to consider such procedures on a generic rather than on a case-by-case basis, although the procedures, themselves, could provide for case-by-case consideration of the question.

In light of the above discussion, we believe that the Cities' motion for summary disposition of the tax normalization issue should be denied without prejudice to its renewal at a later time. Of course, Cities may pursue their allegations of price squeeze under the hearing procedures established by this order.

Cities also allege that Edison's existing wholesale rates are excessive, because they were based upon a cost of service utilizing normalized taxes, however, Cities' request for a separate investigation under Section 206 is unnecessary. As is the case with all filings made pursuant to Section 205, our determination in this proceeding will be based on Section 206 as well. All costs of service relating to Edison's use of tax normalization not found to be just and reasonable may be eliminated

from the proposed rates. It is the entire rate, not just the increase, which is the subject of investigation.

On March 8, 1977, Edison filed an Answer which challenges the specific objections raised by the Cities. Arguments raised by Edison have been considered by us in formulating this order; most of these arguments are best left for hearing.

### III. CONCLUSION

Our review of the filing in the instant docket indicates that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will accept Edison's submittal for filing and suspend the proposed rate changes until August 16, 1979, when they will become effective subject to refund pursuant to the provisions of Section 205(e) of the Federal Power Act.

*The Commission orders:* (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(A) of the DOE Act and by Section 205 and 206 of the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter 1), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Southern California Edison Company in this proceeding.

(B) Pending such hearing and decision thereon, the rates proposed by Southern California Edison are hereby accepted for filing and suspended for five months from the proposed March 16, 1979 effective date, to become effective as of August 16, 1979, subject to refund.

(C) All petitioners are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however*, that participation by these intervenors shall be limited to matters set forth in their respective petitions to intervene;

and *Provided, further*, that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission in this proceeding.

(D) The Federal Energy Regulatory Commission Staff shall prepare and serve top sheets on all parties on or before June 18, 1979.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Presiding Judge shall convene a price squeeze prehearing conference within 15 days of the date of this order in a hearing room of the Federal Energy Regulatory Commission.

(G) Summary disposition with respect to the treatment of Accumulated Deferred Investment Tax Credit, and the assignment of EPRI contributions is hereby ordered in accordance with the discussion in the body of the order. Southern California Edison shall revise its cost of service study and its rates to reflect the elimination of these two items and submit such revised rates and cost of service to this Commission within sixty days form the issuance of this order.

(H) Summary disposition with respect to tax normalization and functionalization of general plant is denied consistent with the discussion in the body of the order.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

### RATE SCHEDULE DESIGNATIONS (ER79-150)

SOUTHERN CALIFORNIA EDISON CO.

Filing date: January 15, 1979.

Effective date: August 15, 1979, subject to refund.

| Designation   | Description     | Supersedes                              |
|---|-----------------|---|
| Supplement No. 10 to Rate schedule FERC No. 6.....  | Schedule R..... | Supp. No. 9 to R. S. FERC No. 6         |
| Supplement No. 11 to Rate Schedule FERC No. 6.....  | TOU-R.....      |   |
| Supplement No. 11 to Rate Schedule FERC No. 13..... | Schedule R..... | Supp. No. 10 to R. S. FERC No. 13       |
| Supplement No. 12 to Rate Schedule FERC No. 13..... | TOU-R.....      |   |
| Supplement No. 15 to Rate Schedule FERC No. 15..... | Schedule R..... | Supp. No. 14 to R. S. FERC No. 15       |
| Supplement No. 16 to Rate Schedule FERC No. 15..... | TOU-R.....      |   |
| Supplement No. 10 to Rate Schedule FERC No. 16..... | Schedule R..... | Supp. No. 9 to R. S. FERC No. 16        |
| Supplement No. 11 to Rate Schedule FERC No. 16..... | TOU-R.....      |   |
| Supplement No. 16 to Rate Schedule FERC No. 17..... | Schedule R..... | Supp. Nos. 14 & 15 to R. S. FERC No. 17 |

### RATE SCHEDULE DESIGNATIONS (ER79-150)

SOUTHERN CALIFORNIA EDISON CO.

Filing date: January 15, 1979.

Effective date: August 15, 1979, subject to refund.

| Designation   | Description               | Supersedes                                      |
|---|---------------------------|---|
| Supplement No. 17 to Rate Schedule FERC No. 17.....               | TOU-R.....                |   |
| Supplement No. 9 to Rate Schedule FERC No. 19.....                | Schedule R.....           | Supp. No. 8 to R. S. FERC No. 19                |
| Supplement No. 10 to Rate Schedule FERC No. 19.....               | TOU-R.....                |   |
| Supplement No. 9 to Rate Schedule FERC No. 21.....                | Schedule R.....           | Supp. No. 8 to R. S. FERC No. 21                |
| Supplement No. 10 to Rate Schedule FERC No. 21.....               | TOU-R.....                |   |
| Supplement No. 9 to Rate Schedule FERC No. 29.....                | Schedule R.....           | Supp. No. 8 to R. S. FERC No. 29                |
| Supplement No. 10 to Rate Schedule FERC No. 29.....               | TOU-R.....                |   |
| Supplement No. 11 to Rate Schedule FERC No. 31.....               | Schedule R.....           | Supp. No. 10 to R. S. FERC No. 31               |
| Supplement No. 12 to Rate Schedule FERC No. 31.....               | TOU-R.....                |   |
| Supplement No. 9 to Rate Schedule FERC No. 33.....                | Schedule R—Gold Hill..... | Supp. No. 8 to R. S. FERC No. 33                |
| Supplement No. 10 to Rate Schedule FERC No. 33.....               | TOU-R—Gold Hill.....      |   |
| Supplement No. 7 to Supp. No. 2 to Rate Schedule FERC No. 33..... | Schedule R—Harnish.....   | Supp. No. 6 to Supp. No. 2 to R. S. FERC No. 33 |
| Supplement No. 8 to Supp. No. 2 to Rate Schedule FERC No. 33..... | TOU-R—Harnish.....        |   |

[FR Doc. 79-9029 Filed 3-23-79; 8:45 am]

### [6450-01-M]

[Docket No. TC79-45]

SOUTHWEST GAS CO.

Tariff Filing

MARCH 21, 1979.

Take notice that on March 19, 1979, Southwest Gas Company (Respondent), P.O. Box 15015, 5241 Spring Mountain Road, Las Vegas, Nevada 89114, filed in Docket No. TC79-45 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection. The tariff sheets filed are First Revised Sheet No. 25 and Original Sheet No. 25A to its FERC Gas Tariff, Original Volume No. 1.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before

March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9030 Filed 3-23-79; 8:45 am]

### [6450-01-M]

[Docket No. TC79-7]

TEXAS EASTERN TRANSMISSION CORP.

Petition for Declaratory Order

MARCH 16, 1979.

Take notice that on February 23, 1979, the Borough of Chambersburg, Pennsylvania 17201 (Chambersburg) filed in Docket No. TC79-7 a petition pursuant to § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) for an order of the Commission declaring that Section 4 of Texas Eastern Transmission Corporation's (Texas Eastern) DCQ Rate Schedule is null and void (and has been since the initiation of curtailments by Texas Eastern) and/or that said provision is not enforceable against Chambersburg, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Chambersburg states that it is a small, full-requirements customer of Texas Eastern under the DCQ rate schedule and that pursuant to the service agreement with Texas Eastern, the latter is obligated to sell and deliver

to Chambersburg a maximum daily quantity of 5,279 dekatherms (dt) equivalent of natural gas and an annual contract quantity of 1,926,835 dt. Further, Chambersburg states that due to substantial curtailments instituted by Texas Eastern since 1973, Chambersburg has not been able to purchase its DCQ entitlements under the service agreement and in fact, under the curtailment plan, Chambersburg is limited to an annual quantity entitlement, in lieu of its annual contract quantity, under the DCQ rate schedule of 1,693,537 dt from which level end-use curtailment is then effectuated by Texas Eastern with the depth of which depending upon the extent of Texas Eastern's gas shortfall.

It is asserted that during the month of November 1978, Chambersburg purchased 93,736 dt which at a commodity charge of \$1.2872 per dt resulted in a total commodity charge of \$120,656.98 and that Chambersburg's invoice for that month from Texas Eastern includes not only the above commodity charge for gas actually purchased but also an additional charge of \$31,192.72, which is attributable to the minimum commodity charge under Section 4 which provides "The Minimum Monthly Bill payable hereunder shall consist of the Demand Charge plus a Minimum Commodity Charge equal to \$1.2872 multiplied by the number of days in said month multiplied by 75% of the Maximum Daily Quantity specified in the Service Agreement." Chambersburg further asserts that it has paid \$150,741.87 as full payment for November 1978 gas purchases, withholding the \$31,192.72 because Chambersburg is of the view that said provision for a minimum monthly bill is unlawful and inequitable and hence not properly enforceable against it.

It is asserted that under the terms of the service agreement, both parties undertook certain obligation, viz: Texas Eastern to deliver up to certain stated volumes of gas, on both a daily and annual basis, and Chambersburg



to pay for the delivered gas at "prices established under Seller's" DCQ-D rate schedule, "as same may hereafter be legally amended or superseded." Chambersburg alleges that with the onset of curtailment in 1973, which had the effect not only of reducing its annual contract entitlement by approximately 12 percent but also of reducing its actual allocations of gas from Texas Eastern substantially below that level, the mutuality of rights and obligations between parties provided for in the service agreement was violated. Further, it is alleged that in view of the substantial change of circumstances, occurring after the execution of the 1969 service agreement and through no fault of Chambersburg, it seems clear that the minimum monthly bill provision has become an unlawful and unenforceable anachronism.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9031 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. E-9578 (Phase I)]

TEXAS POWER & LIGHT CO.

#### Extension of Time

MARCH 5, 1979.

On February 27, 1979, the Central and South West Companies filed a motion for extension of time to file exceptions to the initial decision issued in this proceeding on February 1, 1979. The motion states that additional time is necessary because of illness of counsel, an unusually heavy workload and the recent inclement weather. The motion further states that Tex-La Electric Cooperative, Inc., Staff Counsel, and Texas Power & Light Company have no objection to the extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including March 19, 1979 for the filing of briefs on excep-

tions. Briefs opposing exceptions shall be filed on or before April 9, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9032 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP79-181]

TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Application

MARCH 16, 1979.

Take notice that on February 12, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-181 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 4,800 Mcf of natural gas per day for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport on a firm basis for Columbia Gas, natural gas to be produced from Blocks 8 and 13, South Pelto Area, offshore Louisiana, and delivered into Applicant's South Pelto Supply Lateral in Block 13, pursuant to the terms of a transportation agreement dated January 31, 1979, between the two companies. Applicant states that it would receive for Columbia Gas, account a daily contract demand quantity of 4,800 Mcf and deliver a thermally equivalent quantity to Columbia Gas' transportation affiliate, Columbia Gulf Transmission Company (Columbia Gulf), at existing authorized points of exchange between Applicant and Columbia Gulf (1) at the interconnection of the pipelines of Applicant and Columbia Gulf in Terrebonne Parish, Louisiana (Terrebonne), (2) at the terminus of the Western Leg of the Blue Water Project of Columbia Gulf and Tennessee Gas Pipeline Company a Division of Tenneco Inc., near Egan, Acadia Parish, Louisiana (Egan), and (3) at the outlet of Continental Oil Company's Acadia Plant, Acadia Parish, Louisiana (Acadia). Deliveries would be made at Egan and Acadia only when they cannot be made at Terrebonne, it is said.

Applicant indicates that for the proposed transportation service it would charge Columbia Gas a monthly demand charge of \$20,304, and a commodity charge of 1.75 cents per Mcf delivered at Egan or Acadia. Applicant further indicates that it would retain initially 1.2 percent of the gas delivered at Egan or Acadia for compressor fuel and line loss make-up.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9033 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP79-191]

TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Application

MARCH 16, 1979.

Take notice that on February 23, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-191 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to construct and operate 2.50 miles of 12-inch and 3.22 miles of 6-inch pipeline and appurtenant facilities, all as more fully set forth in the application

which is on file with the Commission and open for public inspection.

Transco states that the proposed facilities, would connect two production platforms operated by TransOcean Oil, Inc., (TransOcean), in High Island Block A-283, East. Addition South Extension, to the existing 30-inch West Leg Line of High Island Offshore System at an existing subsea tap in Block A-283. The facilities are estimated to cost \$5,610,000, it is asserted.

Transco further states that it has entered into gas purchase contracts with TransOcean and the other interest owners' covering 100 percent of the recoverable reserves in Block A-283.

Transco asserts that proved reserves are estimated to be approximately 22,500,000 Mcf and daily deliveries of up to 20,000 Mcf per day are projected to become available in the fall of 1979, based upon information provided by TransOcean. The maximum delivery capacity of the proposed connecting facilities is 20,000 Mcf per day, it is said.

The facilities proposed are required to transport gas that would be available to Transco in the fall of 1979 from the High Island area, offshore Texas, it is asserted.

The proposed facilities would be financed initially through short-term loans and available cash, it is stated.<sup>2</sup>

Transco states that construction of the proposed facilities is scheduled to commence in the summer of 1979 and is scheduled to be completed and ready for service by September 1979, when the new supplies from Block A-283 are expected to be available.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

<sup>1</sup>TransOcean owns a 22.30 percent interest. The other owners and their respective interests are General American Oil Company of Texas, 21.08 percent; Gulf Oil Exploration and Production Company, 15.06 percent; Koch Industries, Inc., 35.53 percent; and Unidel Oil Corporation, 6.03 percent.

<sup>2</sup>Permanent financing would be undertaken as a part of an overall long-term financing program at a later date.

## NOTICES

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#### [6450-01-M]

[Docket No. TC79-8]

TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Petition

MARCH 19, 1979.

Take notice that on February 28, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. TC79-8 a petition pursuant to §1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for the institution of a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on Transco's pipeline system, the effect of Transco's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations, and the effect of an award of damages for curtailment of service against Transco upon the Commission's ability to carry out its responsibilities under Sections 4, 5, and 7 of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Transco states that since 1971, there has been a continuing controversy concerning the causes of the natural gas shortage on Transco's system; Transco's efforts to maintain and supplement its gas supplies in response to the declining deliverability of its contracted reserves; over the shape of each of the several interim curtailment plans that have been proposed and then either revised by Commission and court orders or compromised in settlements; and the effect of these curtailment plans on Transco's obligations to serve its customers. It is asserted that these unsettled matters have been the subject of proceedings before the Commission, appellate courts and a civil law suit against Transco. Transco states that the inconclusive and interim results of these proceedings have compounded the uncertainties that Transco and its customers face in planning near and long-term alternatives to offset the effect of the natural gas shortage.

Transco indicates that questions concerning the facts and circumstances that resulted in the shortage of gas on its system are at the core of the disputes which have arisen between Transco and some of its customers since Transco began curtailing service in 1971. Transco further states that it has been faced with claims that it deliberately brought on the shortage of gas on its system; that it negligently failed to procure supplies available to it; and that it misrepresented the facts concerning its gas supply in the years preceding the curtailments.

Transco states that the Commission, alone, has the jurisdiction and the spe-

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9034 Filed 3-23-79; 8:45 am]

#### [6450-01-M]

[Docket Nos. RP73-3 (PGA77-3a) and RP73-3 (PGA78-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Certification of Stipulation and Settlement Agreement

MARCH 15, 1979.

Take notice that on March 8, 1979, the Presiding Administrative Law Judge certified to the Commission a Stipulation and Settlement Agreement submitted by Transcontinental Gas Pipe Line Corporation (Transco) in the above-referenced proceedings. Transco states that the proposed settlement, if approved by this Commission, would resolve all issues in these proceedings.

Copies of this agreement are on file with this Commission and are available for public inspection. Any person desiring to be heard or to protest the certificated Stipulation and Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before April 3, 1979. Any reply comments should be filed on or before April 13, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9035 Filed 3-25-79; 8:45 am]



## NOTICES

cial competence and expertise to make the factual determinations concerning the causes of the natural gas shortage on Transco's system and the related questions and issues which followed in the wake of the shortage. Transco cites *Mississippi Power & Light Company v. United Gas Pipe Line Company*, 532 F. 2d 412 (1976), cert. denied, 429 U.S. 1094, 97 S. Ct. 1109 (1977), as authority for the above assertion. Transco states that the Commission is the only agency that can fairly determine whether Transco's shortage was merely the symptom of an industry-wide crisis, brought on by external factors beyond its control, or whether Transco's circumstances were different and its shortage was created through its misconduct or bad faith.

Transco petitions the Commission to institute a proceeding to inquire into the matters described hereinabove and on the basis of the record in the proceeding, to make findings and to issue a declaratory order that:

(1) The natural gas shortage on Transco's system was caused by intervening events and factors beyond Transco's control;

(2) That Transco reacted to offset the shortage on its system in good faith and in a reasonable and prudent manner under conditions then existing;

(3) That Transco's curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations; and

(4) That, under such circumstances, compliance with such tariff provisions is a complete defense to any claims for damages for breach of contract; and finally,

(5) That an award of damages for curtailments of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies available to Transco.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file

a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9038 Filed 3-23-79; 8:45 am)

[6450-01-M]

(Docket No. CP79-196)

TRUNKLINE GAS CO.

Application

MARCH 16, 1979.

Take notice that on February 27, 1979, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP-79-196 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500 Mcf per day of natural gas for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would transport and redeliver up to 500 Mcf per day of natural gas purchased by Panhandle from the Pan Eastern Exploration Company (Pan Eastern) in Bossier Parish, Louisiana. Applicant states that it would purchase from the same source an equivalent volume of natural gas from Anadarko Production Company. Applicant seeks authorization herein to transport Panhandle's gas pursuant to a transportation agreement between Applicant and Panhandle dated October 26, 1968, wherein Applicant would receive the gas at its facilities in Bossier Parish, Louisiana and deliver said volumes of gas to United Gas Pipe Line Company (United) at a proposed interconnection between the facilities of Applicant and United in Bossier Parish, Louisiana. United would then transport said gas for Applicant from Bossier Parish to Garden City, Louisiana pursuant to a transportation agreement between Applicant and United dated October 24, 1978, it is said. United has filed in Docket No. CP79-118 requesting authority, to transport said gas for Applicant and to construct the proposed interconnection in Bossier Parish, Louisiana. It is asserted. Further, under the requested authorization Applicant proposed to redeliver said gas to Panhandle at the existing point of interconnection between Applicant and Panhandle at Douglas County, Illinois. Applicant states it would transport, between the point of receipt and the point of redelivery, a daily volume of up to 500 Mcf of gas at 14.73 psia saturated, less 5 percent reduction for fuel usage and line losses on a firm basis.

Applicant states the term of the transportation agreement is ten years from the date of initial delivery, and from year to year thereafter unless canceled by either party upon giving not less than one year's written notice to the other party.

Panhandle would pay a monthly charge of \$5,865 for the transportation on a firm basis, it is indicated, with an upward or downward adjustment factor of 38.58¢ per Mcf being applied for any excess of deficiency in quantities taken. The rate charged would include charges made by United to Applicant, it is said. Panhandle would reimburse Applicant for accounting charges made to Applicant by Exxon Company, U.S.A. (Exxon) relating to volumes attributed to Panhandle, received by Applicant from United at Exxon's Garden City, Louisiana plant. Applicant says. It is stated that the monthly charge is further subject to increase or decrease pursuant to any change in rates paid by Applicant to United, increase or decrease pursuant to a rate proceeding of Applicant, or increase upon installation of facilities to maintain capacity or to provide transportation for Panhandle hereunder.

Applicant states it has sufficient capacity in its existing system to transport the quantities of gas pursuant to this contract as well as the other volumes connected to Applicant's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is

required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9037 Filed 3-23-79; 8:45 am)

[6450-01-M]

(Docket No. CP79-194)

UNITED GAS PIPE LINE CO. AND NORTHERN  
NATURAL GAS CO.

Joint Application

MARCH 9, 1979.

Take notice that on February 26, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001 and Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-194 a joint application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity requesting authorization to exchange volumes of natural gas for a period of time not to exceed November 30, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they are parties to a gas exchange agreement dated February 1, 1979, whereby Phillips Petroleum Company (Phillips) would deliver up to 20,000 Mcf of gas per day to Oklahoma natural Gas Company (ONG) for the account of United. ONG would transport and deliver such volumes of gas to Northern through an affiliate, ONG Western Inc. (ONG Western) at a point of interconnection between their respective systems in Woodward County, Oklahoma, it is said. Northern would cause redelivery of thermally equivalent volumes to United at points on United's system at Vinton, Calcasieu Parish,

Louisiana, Erath, Vermilion Parish, Louisiana, and at Bayou Sale, St. Mary Parish, Louisiana, it is indicated. ONG and ONG Western have filed in Docket No. CP79-18, a petition for a declaratory order requesting continued exemption from the jurisdiction of the Commission during the Limited-term transportation of gas for United, Applicants state.

Applicants state that the proposed transportation and exchange of gas by and among ONG, ONG Western, United, and Northern would be performed at no charge.

Applicants state the proposed exchange of gas would be mutually beneficial in that gas purchased by United and Northern in areas remote to their systems can be taken into their systems without the construction of costly transmission facilities, and that the subject volumes of gas are required by United to fulfill a continued emergency need for additional supplies of gas to alleviate curtailment on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 3, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a

hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9038 Filed 3-23-79; 8:45 am)

[6450-01-M]

Office of Hearings and Appeals

CASES FILED

Week of February 9, 1979, Through February 19, 1979

Notice is hereby given that during the week of February 9, 1979 through February 16, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

GEORGE B. BREZNAY,  
Acting Director, Office of  
Hearings and Appeals.

MARCH 19, 1979.



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LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS  
(Week of February 9 through February 16, 1979)

| Date          | Name and location of applicant                          | Case No.              | Type of submission   |
|---------------|---|-----------------------|--|
| Feb. 9, 1979  | Farmland Industries, Inc., Kansas City, Mo.             | DEE-2186              | Allocation exception (section 211.10 and 211.102). If granted: Farmland Industries, Inc. would be permitted to allocate motor gasoline to its customers on the basis of their actual purchases in the corresponding month of the prior year instead of the 1972 base period.       |
| Do            | Johnson Oil Co., Washington, D.C.                       | DEE-0483              | Motion for discovery. If granted: Discovery would be granted to Johnson Oil Co. with respect to the Objections submitted in response to the Dec. 29, 1978 decision and order issued to Southwestern Refining Co. (Case No. DEE-0483).  |
| Do            | Mobil Oil Corp., New York, N.Y.                         | DEE-2183              | Allocation exception (section 211.10 and 211.102). If granted: Mobil Oil Corp. would be permitted to allocate motor gasoline to its customers on the basis of their actual purchases in the corresponding month of the prior year instead of the 1972 base period.                 |
| Feb. 12, 1979 | Atlantic Richfield Co., Los Angeles, Calif.             | DEE-2164              | Allocation exception (section 211.10 and 211.102). If granted: Atlantic Richfield Co. would be permitted to allocate motor gasoline to its customers on the basis of their actual purchases in the corresponding month of the prior year instead of the 1972 base period.          |
| Do            | Continental Oil Co., Houston, Tex.                      | DST-2124              | Request for temporary stay. If granted: Continental Oil Co. would be granted a temporary stay of its obligation to supply kerosene jet fuel to Texaco, Inc. pending final determination on an Application of Exception.  |
| Do            | Phillips Petroleum Corp., Bartlesville, Okla.           | DEE-2165              | Price exception (section 212.73). If granted: Phillips Petroleum Corp. would be permitted to sell the crude oil produced from the South Burbank Unit, located in Osage County, Okla. at upper tier ceiling prices.   |
| Do            | Puerto Rico Sun Oil Co., Puerto Rico                    | DPI-0034              | Exception from base fee requirements. If granted: Puerto Rico Sun Oil Co. would be permitted to import residual fuel oil and No. 2 fuel oil for sale to the Puerto Rico Water Resources Board on a fee exempt basis.   |
| Do            | Cities Service Co., Tulsa, Okla.                        | DES-0154              | Request for stay. If granted: Cities Service Co. would receive a stay of the provisions of 10 CFR 211.65(a) with respect to its sales of crude oil to Sigmor Refining Co.  |
| Do            | Drew Cornell, Inc., Lafayette, La.                      | DRA-0317              | Appeal of a revised remedial order. If granted: The Jan. 30, 1979, revised remedial order issued to Drew Cornell, Inc. by the DOE Region VI would be rescinded.  |
| Do            | Gulf Oil Corp., Garden City, N.Y.                       | DFA-0316              | Appeal of an information request denial. If granted: The DOE's Jan. 19, 1979 information request denial would be rescinded and Gulf Oil Corp. would receive access to certain DOE documents.   |
| Do            | Henry Engineering, Midland, Tex.                        | DEE-2175 and DEE-2178 | Price exception (section 212.73). If granted: Henry Engineering would be permitted to sell the crude oil produced from the E. H. Jones Estate "F" Lease and Robert Riley "DEEP" Lease located in Baile (Devonian) Field in Gaines County, Tex. at upper tier ceiling prices.       |
| Do            | ICP, Inc., Washington, D.C.                             | DFA-0315              | Appeal of an information request denial. If granted: The DOE's Jan. 8, 1978, information request denial would be rescinded and ICF, Inc. would receive access to the technical proposal pertaining to the National Coal Model submitted by the Orkland Corp.                       |
| Do            | Phillips Petroleum Co., Bartlesville, Okla.             | DEE-2169              | Price exception (section 212.73). If granted: Phillips Petroleum Corp. would be permitted to sell the crude oil produced from the Crone "C" Lease located in Columbia County, Ark. at market prices.   |
| Do            | Phillips Petroleum Co., Bartlesville, Okla.             | DXE-2171              | Extension of relief granted in Phillips Petroleum Company 2 DOE Par. (October 19, 1978). If granted: Phillips Petroleum Co. would be permitted to continue to sell crude oil produced from the Foote Lease located in Oklahoma County, Okla. at market price.                      |
| Do            | Phillips Petroleum Co.                                  | DXE-2173              | Extension of relief granted in Phillips Petroleum Company, 2 DOE Par. (January 15, 1979). If granted: Phillips Petroleum Co. would be permitted to continue to sell crude oil produced from the Evelyn "A" Lease located in Converse County, Wyo. at market prices.                |
| Do            | Phillips Petroleum Co., Bartlesville, Okla.             | DXE-2174              | Extension of relief granted in Phillips Petroleum Company, 2 DOE Par. (January 22, 1979). If granted: Phillips Petroleum Co. would be permitted to continue to sell crude oil produced from the Theimer "D" Lease located in Oklahoma County, Okla. at market prices.              |
| Do            | Sidney E. Pinkston, Jr., Natchez, Miss.                 | DXE-2182              | Extension of relief granted in Sidney E. Pinkston, Jr., 2 DOE Par. (October 12, 1978). If granted: Sidney E. Pinkston, Jr. would be permitted to continue to sell the crude oil produced from the Beaver Branch Field located in Adams County, Miss. at upper tier ceiling prices. |
| Do            | R. H. Engelke, San Antonio, Tex.                        | DXE-2178              | Extension of the relief granted in R. H. Engelke, 2 DOE (October 25, 1978). If granted: R. H. Engelke would be permitted to sell the crude oil produced from the Bertha Copey Lease located in Jackson County, Tex. at upper tier ceiling prices.                                  |
| Do            | Sikeston General Oil Co., Sikeston, Mo.                 | DEE-2185              | Exception to change supplier. If granted: Sikeston General Oil Co. would be assigned a new base period supplier of motor gasoline to replace its present supplier Kellett Oil Co.  |
| Do            | Smith's Petroleum Marketing Co., Inc., West Plains, Mo. | DEE-2186              | Price exception (section 212.73). If granted: Smith's Petroleum Marketing Co., Inc. would be assigned a new base period supplier to replace its present supplier John Gid Morrison, (West Plains Propane Inc.).  |
| Do            | Texaco, Inc., Denver, Colo.                             | DEE-2168              | Price exception (section 212.73). If granted: Texaco, Inc. would be permitted to sell the crude oil produced from the A.S. Wisness Lease located in McKenzie County, N. Dak. at upper tier ceiling prices.   |
| Feb. 13, 1979 | Texaco, Inc., Denver, Colo.                             | DEE-2170              | Price exception (section 212.73). If granted: Texaco, Inc. would be permitted to sell the crude oil produced from the V.F. Semlek "C" Lease located in Cook County, Wyo. at upper tier ceiling prices.   |
| Do            | Texaco, Inc., Denver, Colo.                             | DXE-2172              | Extension of relief granted in Texaco, Inc., 2 DOE Par. (November 24, 1978). If granted: Texaco, Inc. would be permitted to continue to sell the crude oil produced from the Northern Pacific "G" (NCT-12) Lease located in Dawson County, Mont. at upper tier ceiling prices.     |
| Do            | Western Avenue Properties, Laguna Hills, Calif.         | DMR-0042              | Request for modification. If granted: The decision and order issued on August 8, 1978, to Terry Oil Co. would be modified with respect to the pre-tax rate of return for capital investment in crude oil production.   |
| Feb. 14, 1979 | Aminoll USA, Inc., Washington, D.C.                     | DEE-2187              | Price exception (section 212.73). If granted: Aminoll USA, Inc. would be permitted to sell the crude oil produced from the North Bolsa lease located in Lower Ashton Zone, Calif. at upper tier ceiling prices.  |

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued  
(Week of February 9 through February 16, 1979)

| Date          | Name and location of applicant                     | Case No.                     | Type of submission   |
|---------------|--|------------------------------|--|
| Do            | Paul Duckworth, Las Vegas, Nev.                    | DFA-0318                     | Appeal of an information request denial. If granted: The DOE's July 20, 1978 information request denial would be rescinded and Paul Duckworth would receive access to documents relating to the U8d drill site.  |
| Do            | Canal & Clairborne Rentals, New Orleans, La.       | DEE-2181                     | Allocation exception (section 211.13). If granted: Canal & Clairborne Rentals would be granted an increase in its base period use of motor gasoline.   |
| Do            | Commonwealth Oil & Refining Co., Puerto Rico       | DEX-0143                     | Supplemental Order in Commonwealth Oil Refining Co., 2 DOE Par. (January 16, 1979). If granted: Corco would be permitted to sell entitlements pursuant to Doe's Jan. 16, 1979 decision and order (Case No. DEX-0114).  |
| Do            | Rex Monahan, Sterling, Colo.                       | DEE-2183                     | Price exception (section 212.73). If granted: Rex Monahan would be permitted to sell the crude oil produced from the Sandbar Unit located in Cambell County, Wyo. at upper tier ceiling prices.  |
| Do            | P & M Petroleum Management, Denver, Colo.          | DXE-2184                     | Extension of relief granted in P & M Petroleum Management, 2 DOE Par. (October 24, 1978). If granted: P & M Petroleum Management would be permitted to continue to sell crude oil produced from the Track No. 1 well located in Roosevelt County, Mont. at upper tier ceiling prices.  |
| Do            | Producing Co., Houston, Tex.                       | DXE-2189                     | Extension of relief granted on Pennzoil Producing Company, 2 DOE Par. (December 6, 1978). If granted: Pennzoil Producing Co. would be permitted to continue to sell crude oil produced from the Perry Sand Waterflood Unit North Segment at upper tier ceiling prices.   |
| Do            | Texaco, Inc., Denver, Colo.                        | DEE-2183                     | Price exception (section 212.73). If granted: Texaco, Inc. would be permitted to sell the crude oil produced from the T. F. Strook Lease located in Moffat County, Colo. at upper tier ceiling prices.   |
| Feb. 15, 1979 | C. F. Lawrence and Associates, Inc., Midland, Tex. | DXE-2190                     | Extension of relief granted in C. F. Lawrence and Associates, Inc., 2 DOE Par. (September 20, 1978). If granted: C. F. Lawrence and Associates, Inc. would be permitted to continue to sell crude oil produced from the Childress M. I. Masterson Lease located in Pecos County, Tex. at upper tier ceiling prices.  |
| Do            | Goldking Production Co., Houston Tex.              | DEE-2177                     | Price Exception (section 212.73). If granted: Goldking Production Co. would be permitted to sell crude oil produced from the Missouri Pacific Railroad Lease, located in Jackson County, Tex. at upper tier ceiling prices.  |
| Do            | Maguire Oil Co., Dallas, Tex.                      | DXE-2191                     | Extension of relief granted in Maguire Oil Company, 2 DOE Par. (December 1, 1978). If granted: Maguire Oil Co. would be permitted to sell crude oil produced from the Chandler Lease located in Howard County, Tex. at stripper well prices.   |
| Do            | McCleary Oil Company, Inc., Alexandria, Va.        | DFA-0319                     | Appeal of an information request denial. If granted: McCleary Oil Co., Inc. would be granted access to all documents generated by the audit of the firm by the Internal Revenue Service on or about Nov. 29, 1973.   |
| Do            | McGovern Automotive Service, N. Chelm-sord, Mass.  | DEE-2180                     | Allocation exception (section 211.10). If granted: McGovern Automotive Service would be granted an increase in its base period use of motor gasoline.  |
| Do            | Southern California Edison Co., Rosemead, Calif.   | DRD-0017                     | Motion for discovery. If granted: Discovery would be granted to the Southern California Edison Co. with respect to the statements of objection which the firm has filed. (Case No. DRO-0113.)  |
| Feb. 16, 1979 | Chevron, U.S.A., Inc., Long Beach, Calif.          | DXE-2167                     | Extension of relief granted in Chevron, U.S.A., Inc., 2 DOE Par. (January 30, 1979). If granted: Chevron, U.S.A., Inc. would be permitted to sell crude oil produced from the N-1-C Ranger Fault Block VI located in Long Beach, Calif. at upper tier ceiling prices.  |
| Do            | Shell Oil Co., Houston, Tex.                       | DEE-2192, DES-2192, DST-2192 | Allocation exception (section 211.13) request for stay, request for temporary stay. If granted: Shell Oil Co. would be permitted to allocate motor gasoline to its customers on the basis of their actual purchases in the corresponding month of the prior year instead of 1972, for the period commencing Mar. 1, 1979 through May 31, 1979. Shell Oil Co.'s supply obligations would be stayed pending a final determination of the application of exception. |

Notices of Objection Received

| Date          | Name and location of applicant           | Case No. |
|---------------|--|----------|
| Feb. 9, 1979  | Tesoro Petroleum Corp., Washington, D.C. | DPI-0019 |
| Feb. 13, 1979 | Texaco, Inc., White Plains, N.Y.         | DEE-1858 |
| Feb. 14, 1979 | John Wight, Washington, D.C.             | DEE-1417 |
| Feb. 13, 1979 | Consumers Power Co., Washington, D.C.    | FEE-4392 |
| Feb. 15, 1979 | Carl King, Inc., Camden, Del.            | DEO-0178 |
| Do            | Universal Mineral Corp., Dallas, Tex.    | DEE-1834 |



[6450-01-M]

## ISSUANCE OF PROPOSED DECISIONS AND ORDERS

February 26 through March 2, 1979

Notice is hereby given that during the period February 26 through March 2, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decision and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

GEORGE B. BREZNAVY,  
Acting Director  
Office of Hearings and Appeals.

MARCH 16, 1979.

## PROPOSED DECISIONS AND ORDERS

*Chevron U.S.A. Inc., San Francisco, Calif., DEE-2135, motor gasoline*

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR 211.10 and 211.102. The exception request, if granted, would permit Chevron to

allocate motor gasoline on the basis of a customer's actual purchases of motor gasoline during the corresponding month of 1978. The exception relief requested would remain in effect until March 31, 1979. On February 28, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request should be granted in part, and denied in part.

*Lunday-Thagard Oil Co. South Gate, Calif., DEE-0004 crude oil*

In accordance with Decisions and Orders issued to the Lunday-Thagard Oil Company which granted the firm exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program), the firm submitted actual financial data for its 1977 fiscal year. On March 2, 1979, after reviewing the level of exception relief granted to Lunday-Thagard, the DOE issued a Proposed Decision and Order which determined that Lunday-Thagard should purchase entitlements equal in value to \$20,527.

*M. J. Mitchell, Dallas, Tex., DEE-2126, crude oil*

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the applicant to sell a portion of the crude oil which it produces for the benefit of the working interest owners from the Mitchell State Minnelusa Sand Unit at upper tier ceiling prices. On March 2, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

*Sidney E. Pinkston, Jr., Natchez, Miss., DEE-2182, crude oil*

Sidney E. Pinkston, Jr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the U.S.A. No. 1, U.S.A. No. 5, and U.S.A. No. 7 wells located on Lease BLM-A-011586-C at upper tier ceiling price levels. On February 28, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

*Powerline Oil Co., Santa Fe Springs, Calif., DEE-1823, residual fuel oil*

The Powerline Oil Company filed an Application for Exception in which it requested that it be permitted to earn entitlements for each barrel of residual fuel oil which it produced in California and sold into the East Coast market. On March 2, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the Powerline exception request be denied.

*Texaco, Inc., White Plains, N.Y., DEE-2039, motor gasoline*

Texaco, Inc. filed an Application for Exception in which it requested that it be permitted to make certain changes in the credit terms associated with the use of the Texaco travel card. On March 2, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the Texaco exception request be denied.

*Kenneth L. Tipps, Denver, Colo., DEE-2074, crude oil*

Kenneth L. Tipps filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Kenneth Tipps to sell the crude oil produced for the benefit of the working interest owners from the Marick property at upper tier ceiling prices. On February 27, 1979, the DOE issued a Proposed Decision and Order which deter-

mined that the exception request be granted.

*Union Oil Co. of Calif. Los Angeles, Calif., DEE-2102, crude oil*

Union Oil Company of California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Union to sell the crude oil produced for the benefit of the working interest owners from the Pacific Electric Pool property at upper tier ceiling prices. On March 2, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 79-9001 Filed 3-23-79; 8:45 am]

[6450-01-M]

## ISSUANCE OF PROPOSED DECISIONS AND ORDERS

March 5 through March 9, 1979

Notice is hereby given that during the period March 5 through March 9, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearing and Appeals, Room B-120, 2000 M Street, N.W., Washing-

ton, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. 5:00 p.m., e.s.t., except federal holidays.

GEORGE B. BREZNAVY,  
Acting Director,  
Office of Hearings and Appeals.

MARCH 16, 1979.

## PROPOSED DECISIONS AND ORDERS

*Continental Oil Co., Houston, Tex., DEE-2030, crude oil*

Continental Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from the United California Lease located in Santa Barbara County, California, at upper tier ceiling price levels. On March 5, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

*Husky Oil Co., Denver, Colo., DEE-1437, DEE-1438, DEE-1439, crude oil*

Husky Oil Company filed three Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell the crude oil produced from the Goodwin, Lakeview, and Los Flores Leases located in Santa Barbara County, California, at upper tier ceiling prices. On March 9, 1979, the DOE issued a Proposed Decision and Order which determined that the exception requests be granted.

*Ince Minerals Corp., Golden, Colo., DEE-1148, minerals*

Ince Minerals Corporation filed an Application for Exception from the provisions of 10 CFR, Part 760 of the Domestic Uranium Program Regulations. The exception request, if granted, would result in a reduction in the royalty payments that Ince is required to remit to the DOE in connection with its production of uranium and vanadium ore from the Bitter Creek Mine. On March 5, 1979, the DOE issued a Proposed Decision and Order which determined that the exception application should be denied.

*Joseph L. O'Neill, Jr., Oil Properties, Midland, Tex., DEE-2156, crude oil*

Joseph L. O'Neill, Jr., Oil Properties filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from the Feldman-Pardo Lease located in Scurry County, Texas, at upper tier ceiling price levels. On March 8, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

*Koch Exploration Co., Wichita, Kans., DEE-2120, DEE-2121, crude oil*

Koch Exploration Company filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil which it produces from the Sink Draw #1 Lease and 100 percent of the crude oil which it produces from the Cedar Rim #3 Lease at upper tier ceiling prices. On March 5, 1979, the DOE issued a Proposed Decision and Order which determined that an extension of exception relief should be granted.

*Petroleum, Inc., Wichita, Kans., DEE-2084, crude oil*

Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to certify retroactively certain crude oil produced from the Johnson #1-29 Lease property located in Converse County, Wyoming, as upper tier crude oil. On March 5, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

*R. W. Tyson Producing Co., Inc., Jackson, Miss., DEE-2068, DEE-2069, DEE-2070, DEE-2071, crude oil*

R. W. Tyson Producing Company, Inc. filed four Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit Tyson to charge market prices for the crude oil which it produces from four wells located in the Overt Field, Jones County, Mississippi. On March 7, 1979, the DOE issued a Proposed Decision and Order which determined that the exception requests be granted.

*Skelton Oil Co., Midland, Tex., DEE-1861, crude oil*

Skelton Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced for the benefit of the working interest owners from the Lowe Lease located in Lea County, New Mexico, at upper tier ceiling prices. On March 5, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

[FR Doc. 79-9000 Filed 3-23-79; 8:45 am]

[6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

(FRL 1082-5)

## ENVIRONMENTAL IMPACT STATEMENTS

## Availability

AGENCY: Office of Federal Activities, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of March 12 to March 16, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from March 23, 1979 and will end on May 7, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice

you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Kathi Weaver Wilson, Office of Federal Activities, A-104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of March 12 to March 16, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.



## NOTICES

Dated: March 21, 1979.

WILLIAM N. HEDEMAN, Jr.,  
Director, Office of  
Federal Activities.

## APPENDIX I

EIS'S FILED WITH EPA DURING THE WEEK OF  
MARCH 12 TO 16, 1979

## DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator,  
Environmental Quality Activities, U.S. De-  
partment of Agriculture, Room 412A, Wash-  
ington, D.C. 20250, 202-447-3965.

## FOREST SERVICE

## Draft

Piedra Wild and Scenic River Study, Hins-  
dale, Mineral, and Archuleta Counties, Colo., March 16: Proposed is the inclusion of  
segments of the Piedra River and its east  
and middle forks in the Wild and Scenic  
Rivers Act. The segments are located in  
Hinsdale, Mineral and Archuleta Counties,  
Colorado. A 32.5 mile portion of the Piedra  
River system is proposed for inclusion in the  
national system as a wild river, 12.5 miles as  
a scenic river, and 5.5 miles to be added as a  
recreational river component. Three alterna-  
tives are considered. (EIS Order NO.  
90280.)

## Final

Tongass National Forest Land Manage-  
ment Plan, Alaska, March 12: This proposal  
concerns the Land Management of Tongass  
National Forest in Juneau, Alaska for the  
next ten years. The plan recommends that  
two-thirds of the forest be for multiple uses  
other than wilderness and one third designa-  
ted as wilderness as presented in the rare  
II final EIS. Also recommended are: Some  
additional investments in timber manage-  
ment; sensitive management of fishery,  
wildlife, recreation and other values; and a  
decision to pursue exchange with Goldbelt  
Incorporated. More than half the forest will  
remain in a basically unmodified state.  
(USDA-FS-FEIS-10-01-79-05). Comments  
made by: EPA, DOC, HUD, DOE, DOI,  
USDA, State and local agencies, groups and  
businesses. (EIS Order No. 90261.)

## Final

Lick Mtn. Rock Candy Land Mgmt Plan,  
Kootenai NF County: Lincoln County, Mont.,  
March 12: Proposed is a land manage-  
ment plan for 143,015 acres of the Lick  
Mountain-Rock Candy Planning Unit, Kootenai  
National Forest, Lincoln County, Montana.  
Considered in the alternatives are: 1) recreation  
potential of certain areas, 2) area  
viewing, 3) key winter forage and cover, 4)  
fishery habitat, and 5) the economic value  
of timber and water resources. The alterna-  
tives are: 1) greater emphasis on economic  
development through more intensive use of  
the renewable natural resources, and 2)  
greater emphasis on environmental quality  
and retention of the area's natural qualities,  
including wilderness classification of por-  
tions of the unit. (USDA-FS-FES(ADM)-  
R1-78-5). Comments made by: USDA, EPA,  
State agencies, groups, individuals and busi-  
nesses. (EIS Order No. 90263.)

1979 Gypsy Moth Suppression and Regu-  
latory Program, several States, March 16:  
Proposed is a cooperative USFS Gypsy  
moth suppression program on 231,913 acres  
in New Jersey, New York, Pennsylvania, and

Vermont, and the Aphis Cooperative Regu-  
latory Programs on 30,340 acres in New  
Jersey, New York, Michigan, New England  
States, Pennsylvania, North and South  
Carolina, Ohio, Wisconsin, Washington, Vir-  
ginia, and West Virginia. USFS projects in-  
volve aerial application of chemical and bio-  
logical insecticides. The Aphis Regulatory  
Program involves the use of chemical insecti-  
cides through aerial application. Com-  
ments made by: CEQ, USDA, DRBC, DOI,  
EPA, State agencies, businesses. (EIS Order  
No. 90278.)

## SOIL CONSERVATIVE SERVICE

## Final

Douglas Watershed Plan, Converse  
County, Wyo., March 14: The proposed  
action concerns a watershed protection plan  
for 37,160 acres of the watershed area in  
Converse County, Wyoming. The planned  
project includes conservation land treat-  
ment and structural and nonstructural  
measures. Conservation land treatment will  
involve pasture seeding, stock water devel-  
opments, fencing, brush management and  
grazing systems. Non-structural measures  
will consist of flood plain management regu-  
lations. Structural measures considered are  
a floodwater retarding dam and reservoir,  
two excavated flood water retarding reser-  
voirs, two floodway systems, and a small  
dike. (USDA-SCS-WS-(ADM)-78-1-F-WY).  
Comments made by: AHP, USDA, DOT,  
COE, HEW, DOI, State and local agencies.  
(EIS Order No. 90270.)

## U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Envi-  
ronmental Policy, Attn: DAEN-CWR-P,  
Office of the Chief of Engineers, U.S. Army  
Corps of Engineers, 1000 Independence  
Avenue, S.W., Washington, D.C. 20314, 202-  
893-6795.

## Draft Supplement

Portland Harbor Maintenance Dredging,  
Fore River, Maine, March 16: This state-  
ment supplements a draft EIS filed January  
1977 concerning the maintenance dredging  
of Portland Harbor off the Fore River,  
Maine. This document discusses disposal  
sites for the 850,000 cubic yards of sediment  
which must be removed to bring the chan-  
nel to the authorized maintenance depth  
and width. The disposal site being studied is  
located just beyond the 3 mile limit of the  
Territorial Sea. (New England Division).  
(EIS Order No. 90286.)

Mankato-north Mankato-le Hillier, Flood  
Control, Minnesota, March 12: This state-  
ment supplements an (amended) final EIS  
filed in April 1974 concerning a multi-con-  
tract flood control project for the Minneso-  
ta River, Minnesota. This document ad-  
dresses recreational development along the  
northern edge of the city of Mankato, Min-  
nesota. The site consists of a 45-acre tract of  
land presently used for interior drainage.  
Development will include: (1) a picnic area,  
(2) a beach area 50 feet wide and 200 feet  
long, (3) an access road from US 169 leading  
to a parking lot, (4) Waterborne restrooms  
and change house, and (5) shrub buffers.  
(St. Paul district). (EIS Order No. 90262.)

## Draft Supplement

Tallahala Creek Lake, Oil Interest, Jasper  
County, Miss., March 15: This statement  
supplements a final filed in July 77 concern-  
ing the construction of Tallahala Creek

Lake, in Jasper County, Mississippi. The  
purpose of this document is to discuss the  
recent oil finds at the lake site. The plan  
calls for the protection-in-place of all oil  
wells that are producing at the time of lake  
construction, and contains provisions for  
the three existing wells and for five addi-  
tional wells. The provisions proposed consist  
of extending the well heads and providing  
an earth fill mound around each head.  
(Mobile district). (EIS Order No. 90275.)

## DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant  
Secretary for Environmental Affairs, De-  
partment of Commerce, Washington, D.C.  
20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION.

## Draft

Guam Coastal Management Program,  
Grant, Guam, March 16: Proposed is the is-  
surance of grant funding for the Guam  
Coastal Management Program. The pro-  
gram will include: (1) a land-use districting  
system, (2) rules and regulations for protec-  
tion of wetlands and management of flood  
hazard areas as areas requiring special man-  
agement attention, and (3) implementation  
of Guam's land use policies to provide over-  
all guidance to the Government and the  
people concerning land and water usage.  
(EIS Order No. 90281.)

## Draft Supplement

Pacific Billfish and Oceanic Sharks, PMP,  
Pacific Ocean, March 15: This statement  
supplements a final EIS filed in June 1978  
concerning the Preliminary Fishery Man-  
agement Plan (PMP) for the Pacific Billfish  
and Oceanic Sharks. This statement dis-  
cusses the following amendments to the  
PMP: (1) revision of the PMP to apply to  
the harvest of wahoo and mahimahi, (2) es-  
tablishment of a separate OY for each spe-  
cies in each of five subareas of the Fishery  
Conservation Zone (FCZ), (3) establishment  
of a reserve for each species which may be  
allocated to either domestic or foreign fish-  
ing, (4) revision of the PMP to apply to the  
FCZ seaward of the Northern Mariana Is-  
lands, and (5) simplification of reporting  
and related requirements. (EIS Order No.  
90273.)

## DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director,  
Office of Environmental Quality, Depart-  
ment of Housing and Urban Development,  
451 7th Street, S.W., Washington, D.C.  
20410, (202) 755-6306.

## Draft

Postwood North Subdivision, Mortgage In-  
surance, Harris County, Tex., March 13:  
Proposed is the issuance of HUD home  
mortgage insurance for the Postwood North  
Subdivision in Harris County, Texas. The  
subdivision is located on a 520 acre tract and  
will consist of approximately 2,141 single-  
family dwelling units plus some shopping  
and recreational facilities. (HUD-R06-EIS-  
5D (1979).) (EIS Order No. 90267.)

Wright Planned Community Develop-  
ment, Wright, Campbell County, Wyo.,  
March 16: Proposed is the issuance of HUD  
home mortgage insurance for a planned  
community development in Wright, Camp-  
bell County, Wyoming. The development  
will ultimately accommodate 1,800-2,000

housing units of all types for an eventual  
population of 6,000-6,500 people. Also in-  
cluded will be two elementary school sites,  
one junior-senior school site, and several  
church sites. (HUD-R08-EIS-79X111D.)  
(EIS Order No. 90276.)

## Final

Morton Road Tract Subdivision, Harris  
County, Tex., March 13: Proposed is the is-  
surance of HUD mortgage insurance for the  
Morton Road tract in Harris County, Texas.  
The subdivision encompasses approximately  
237 acres of land and will be composed of  
about 925 units, primarily single family  
homes, three alternatives are considered  
which include: (1) Accept proposal as sub-  
mitted, (2) accept with modifications, and (3)  
reject. (HUD-R06-EIS-79-8F.) Comments  
made by: EPA, COE, AHP, DOI, HEW,  
USDA. (EIS Order No. 90264.)

## SECTION 104(h)

## Final

West Wilcox Water System, Construction  
Grant, Wilcox County, Ala., March 15: Pro-  
posed is an administrative action to grant  
funds for construction of a water system  
project in the western portion of Wilcox  
County, Alabama. A portion of the funds  
are to come from a HUD grant under the  
non-metropolitan discretionary fund. The  
proposed water system will consist of ap-  
proximately 31 miles of water mains using  
6-inch pipe except for 3-inch pipe to be used  
for short dead end lines. A 200,000 gallon  
elevated storage tank located at the north  
end of the project will insure a four to five  
day emergency water supply. Two pumping  
stations will be installed and a working pres-  
sure of 30 to 65 psi will be maintained. Com-  
ments made by: HEW, EPA, HUD, USDA,  
State agencies. (EIS Order No. 90250.)

Chinatown Redevelopment Project, Los  
Angeles, Los Angeles County, Calif., March  
14: Proposed is a development and rehabili-  
tation project for the Chinatown area of the  
city and county of Los Angeles, California.  
The project will involve approximately 303  
acres of the Chinatown area. Some of the  
actions considered are: (1) Revitalization of  
old and development of new residential and  
commercial structures, (2) Development of  
community facilities and open space, and (3)  
improvement of the local street system.  
Comments made by: EPA, DOI, DOT, HUD,  
State and local agencies, groups. (EIS Order  
No. 90269.)

Lechmere Canal and Triangle Develop-  
ment Project, Middlesex County, Mass.,  
March 16: Proposed is the Lechmere Canal  
and Triangle area development project lo-  
cated in Cambridge, Middlesex County,  
Massachusetts. Plan implementation calls  
for the restoration of the Lechmere Canal  
and establishment of a bordering park; con-  
version of the Cambridge Parkway area to a  
park along the Charles River; open-space  
walkways from the development areas to  
the new parks; street widening; relocation of  
the Lechmere Square MBTA station; and  
the development of housing, retail and  
office centers. (HUD-ROI-EIS-77-01-D.)  
Comments made by: EPA, DOE, COE, DOT,  
State and local agencies, businesses. (EIS  
Order No. 90279.)

## DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director,  
Environmental Project Review, Room 4256,

Interior Bldg., Department of the Interior,  
Washington, D.C. 20240, (202) 343-3891.

## BUREAU OF LAND MANAGEMENT

## Draft

Vermillion Resource Area Livestock Graz-  
ing Program, Coconino and Mohave Coun-  
ties, Ariz., March 16: Proposed is a livestock  
grazing program for the Vermillion resource  
area located in the counties of Coconino and  
Mohave, Arizona. The area consists of  
1,407,476 acres of Federal lands. The pro-  
gram includes: (1) Intensive management of  
grazing on 1,369,043 acres of land, (2) less  
intensive management of grazing on 38,433  
acres, and (3) building range improvements  
and applying land treatments to facilitate  
grazing management. Four alternatives are  
considered. (DES-79-13.) (EIS Order No.  
90285.)

East Socorro Grazing Program, Socorro,  
Socorro and Valencia Counties, N. Mex.,  
March 13: Proposed is an intensive livestock  
grazing program on 838,808 acres of public  
land in Socorro and Valencia Counties, New  
Mexico. The program will entail the imple-  
mentation of 79 allotment management  
plan (AMPS), on 91 allotments on 788,097  
acres of public land; set livestock numbers  
on 26 non-amp allotments on 46,142 acres of  
public land; and maintain management of  
4,569 acres of public land in no grazing  
areas. The program will also include struc-  
tural measures such as wells, pipelines, and  
fences. (DES-79-11.) (EIS Order No. 90265.)

## GEOLOGICAL SURVEY

## Final

Pronghorn Mine, Mining and Reclamation  
Plan, Campbell County, Wyo., March 16:  
This action involves the approval of surface  
mining and reclamation plan, Pronghorn  
Mine, Mobile Oil-Consolidation Coal Com-  
pany, Campbell County, Wyoming. The  
plan proposes mining of about 5 million  
tons annually and describes mining opera-  
tions of 22 years that would directly affect  
1,268 acres, including 857 acres of Federal  
mineral estate. The land surface is privately  
owned. Coal is intended for electric power  
generation. (DES 79-13.) Comments made  
by: DOI, HEW, DLAB, EPA, AHP, State  
and local agencies, businesses. (EIS Order  
No. 90283.)

## TENNESSEE VALLEY AUTHORITY

Contact: Dr. Harry G. Moore, Jr., Acting  
Director, Division of Environmental Plan-  
ning, Tennessee Valley Authority, 268 401  
Building, Chattanooga, Tennessee 37401,  
615-755-3161 FTS 854-3161.

## Draft

Mallard-Fox Creek Area Development and  
use, Morgan and Lawrence Counties, Ala.,  
March 16: Proposed is a development and  
use plan for the Mallard-Fox Creek area on  
Wheeler reservoir in Morgan and Lawrence  
Counties, Alabama. The TVA owns approxi-  
mately 1,950 acres of the area and has re-  
ceived two industrial requests for portions  
of the property which is currently being  
managed as a wildlife area. As a result, TVA  
proposes to make available 44 acres for the  
construction of a rail barge facility, up to  
200 acres for the construction of a plastics  
manufacturing plant, and 206 acres for  
future industrial use. The remaining 1,500  
acres would be committed to long-term, in-

tensive wildlife management. (EIS Order  
No. 90284.)

## DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director,  
Office of Environmental Affairs, U.S. De-  
partment of Transportation, 400 7th Street,  
S.W., Washington, D.C. 20590, 202-426-4357.

## FEDERAL HIGHWAY ADMINISTRATION

## Draft

US 50, Cabin Branch Interchange, Chev-  
erly, Prince George's County, Md., March  
18: Proposed is the construction of the  
Cabin Branch Interchange near Cheverly,  
Prince George's County, Maryland. The in-  
terchange would link US 50 with a northerly  
extension of Cabin Branch Drive. The  
project would also provide supplemental  
access to the Cheverly rapid rail metro sta-  
tion. Twenty-four acres of land would be ac-  
quired for the construction of the inter-  
change. The alternatives considered are: 1)  
no build, and 2) construct interchange.  
(FHWA-MD-EIS-78-03-D). (EIS Order No.  
90282.)

TN-43, US 45-US 46 junction to W. bypass  
of Martin Tennessee County: Madison,  
Gibson and Weakley Counties Tenn., March  
13: Proposed is the improvement of TN-43  
from near the junction of US 45 and US 46  
northward to connect with the western  
bypass of Martin in the counties of Mad-  
ison, Gibson, and Weakley, Tennessee. The  
facility would consist of a four-lane, divided  
facility with full access control and a mini-  
mum right-of-way of 300 feet. The alterna-  
tives considered are: No build, two primary  
build alignments, postponement, lower level  
of service-reduced facility design. (FHWA-  
TN-TIS-77-06-D). (EIS Order No. 90268.)

CTH A, WI-184 to Janesville Rd., recon-  
struction, Rock County Wis., March 13: Pro-  
posed is the reconstruction of CTH A which  
extends for approximately 4.5 miles be-  
tween WI-184 (west county line) and Janes-  
ville Road in Rock County, Wisconsin. The  
preferred alternative would include: 1) in-  
creasing sight distances by improving hori-  
zontal and vertical alignments, 2) improve-  
ment of intersections and 3) widening of  
pavement and shoulders. Other alternatives  
considered include: No build; resurfacing;  
and resurfacing, reconstruction, and recon-  
ditioning. (FHWA-WISC-EIS-78-03-D). (EIS  
Order No. 90266.)

## Final

Tramway Boulevard (Parkway), Albuquer-  
que, Bernalillo County N. Mex., March 16:  
The proposed action involves the Tramway  
Parkway situated in the extreme northeast  
portion of the city of Albuquerque, Bernal-  
lillo County, New Mexico. The statement  
discusses the proposed parkway and the ul-  
timate six-lane divided improvement along  
the corridor. It also addresses the inter-  
change modification at the I-40 and Tram-  
way Parkway. The termini of the projects  
are Central Avenue on the south and Mont-  
gomery Boulevard on the north; a distance  
of approximately 4.3 miles. (FHWA-NM-  
EIS-78-01-F). Comments made by: COE,  
DOI, EPA, State and local agencies, groups  
and individuals. (EIS Order No. 90277.)

## VETERANS ADMINISTRATION

Contact: Mr. Willard Stiller, Director, En-  
vironmental Affairs Office (66), Veterans  
Administration, 810 Vermont Avenue,  
Washington, D.C. 20420, 202-389-2526.



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NOTICES

Draft

VA National Cemetery, Site Determination, Clayton County, Ga., Russell County, Ala., and Richland County, S.C. March 15: Proposed is the construction of a national cemetery on one of three sites under consideration to serve the southeastern area of the U.S. The first site will consist of approximately 297 acres and is located at Fort Gillem, Clayton County, Georgia. The second site is located at Fort Mitchell, Rus-

sell County, Alabama, on an approximate 450 acre tract. The third site will be located on an approximate 321 acre tract at Fort Jackson, Richland County, South Carolina. The selected site will also include service and administrative facilities. (EIS Order No. 90272.)

VA National Cemetery, Site Determination, Kalamazoo County, Mich., and Huron County Ohio March 15: Proposed is the construction of a national cemetery at one of

two sites under consideration to serve the great lakes area of the U.S. The first (and preferred) alternative site consists of approximately 740 acres and is located at Fort Custer, Kalamazoo County, Michigan. The second site consists of approximately 830 acres and is located in Plum Brook, Huron County, Ohio. The development will include space for approximately 80,000 to 110,000 gravesites through the year 2000, along with administration and service facilities. (EIS Order No. 90271.)

EIS's FILED DURING THE WEEK OF MARCH 12 TO 16, 1979

Statement Title Index—By State and County

| State          | County          | Status | Statement Title                                     | Accession No. | Date filed | Orig. Agency No. |
|----------------|-----------------|--------|---|---------------|------------|------------------|
| Alabama        | Russell         | Draft  | Va National Cemetery, Site Determination.           | 90272         | 03-15-79   | VA.              |
|                | Lawrence        | Draft  | Mallard-Fox Creek Area Development and Use.         | 90284         | 03-16-79   | TVA.             |
|                | Morgan          | Draft  | Mallard-Fox Creek Area Development and Use.         | 90284         | 03-16-79   | TVA.             |
|                | Wilcox          | Final  | West Wilcox Water System, Construction Grant.       | 90250         | 03-15-79   | HUD.             |
| Alaska         |                 | Final  | Tongass National Forest Land Management Plan.       | 90261         | 03-12-79   | USDA.            |
| Arizona        | Coconino        | Draft  | Vermillion Resource Area Livestock Grazing Program. | 90285         | 03-16-79   | DOI.             |
|                | Mohave          | Draft  | Vermillion Resource Area Livestock Grazing Program. | 90285         | 03-16-79   | DOI.             |
| California     | Los Angeles     | Final  | Chinatown Redevelopment Project, Los Angeles.       | 90269         | 03-14-79   | HUD.             |
| Colorado       | Archuleta       | Draft  | Piedra Wild and Scenic River Study.                 | 90280         | 03-16-79   | USDA.            |
|                | Hinsdale        | Draft  | Piedra Wild and Scenic River Study.                 | 90280         | 03-16-79   | USDA.            |
|                | Mineral         | Draft  | Piedra Wild and Scenic River Study.                 | 90280         | 03-16-79   | USDA.            |
| Georgia        | Clayton         | Draft  | Va National Cemetery, Site Determination.           | 90272         | 03-15-79   | VA.              |
| Guam           |                 | Draft  | Guam Coastal Management Program, Grant.             | 90281         | 03-16-79   | DOC.             |
| Maine          |                 | Supple | Portland Harbor Maintenance Dredging, Fore River.   | 90286         | 03-16-79   | COE.             |
| Maryland       | Prince George's | Draft  | US 50, Cabin Branch Interchange, Cheverly.          | 90282         | 03-16-79   | DOT.             |
| Massachusetts  | Middlesex       | Final  | Lechmere Canal and Triangle Development Project.    | 90279         | 03-16-79   | HUD.             |
| Michigan       | Kalamazoo       | Draft  | Va National Cemetery, Site Determination.           | 90271         | 03-15-79   | VA.              |
| Minnesota      |                 | Supple | Mankato-North Mankato-Le Hillier, Flood Control.    | 90263         | 03-12-79   | COE.             |
| Mississippi    | Jasper          | Supple | Tallahala Creek Lake, Oil Interest.                 | 90275         | 03-15-79   | COE.             |
| Montana        | Lincoln         | Final  | Lick MTN, Rock Candy Land Mgmt Plan, Kootenai NP.   | 90263         | 03-12-79   | USDA.            |
| New Mexico     | Bernalillo      | Final  | Tramway Boulevard (Parkway), Albuquerque.           | 90277         | 03-16-79   | DOT.             |
|                | Socorro         | Draft  | East Socorro Grazing Program, Socorro.              | 90265         | 03-13-79   | DOI.             |
|                | Valencia        | Draft  | East Socorro Grazing Program, Socorro.              | 90265         | 03-13-79   | DOI.             |
|                | Huron           | Draft  | VA National Cemetery, Site Determination.           | 90271         | 03-15-79   | VA.              |
| Pacific Ocean  |                 | Supple | Pacific Billfish and Oceanic Sharks, PMP.           | 90273         | 03-15-79   | DOC.             |
| Programmatic   | Several         | Final  | 1979 Gypsy Moth Suppression and Regulatory Program. | 90278         | 03-16-79   | USDA.            |
| South Carolina | Richland        | Draft  | Va National Cemetery, Site Determination.           | 90272         | 03-15-79   | VA.              |
| Tennessee      | Gibson          | Draft  | TN-43, US 45-US 46 Junction to W. Bypass of Martin. | 90268         | 03-13-79   | DOT.             |
|                | Madison         | Draft  | TN-43, US 45-US 46 Junction to W. Bypass of Martin. | 90268         | 03-13-79   | DOT.             |
|                | Weakley         | Draft  | TN-43, US 45-US 46 Junction to W. Bypass of Martin. | 90268         | 03-13-79   | DOT.             |
|                | Harris          | Draft  | Mostwood North Subdivision, Mortgage Insurance.     | 90267         | 03-13-79   | HUD.             |
| Texas          |                 | Final  | Morton Road Tract Subdivision.                      | 90264         | 03-13-79   | HUD.             |
|                | Rock            | Draft  | CTH. A, WI-184 to Janesville Rd., Reconstruction.   | 90268         | 03-13-79   | DOT.             |
| Wyoming        | Campbell        | Draft  | Wright, Planned Community Development, Wright.      | 90276         | 03-16-79   | HUD.             |
|                |                 | Final  | Pronghorn Mine, Mining and Reclamation Plan.        | 90283         | 03-16-79   | DOI.             |
|                | Converse        | Final  | Douglas Watershed Plan.                             | 90270         | 03-14-79   | USDA.            |

NOTICES

APPENDIX II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

| Federal agency contact   | Title of EIS                                  | Filing status/accession No. | Date notice of availability published in "Federal Register"  | Waiver/extension | Date review terminates                                |
|--|---|-----------------------------|--|------------------|---|
| U.S. ARMY CORPS OF ENGINEERS   |   |                             |  |                  |   |
| Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314 (202) 693-6795. | Ohio River Navigation Project, O/M.           | Draft 90148                 | 02/20/79   | Extension        | 05/23/79  |
| DEPARTMENT OF DEFENSE, NAVY  |   |                             |  |                  |   |
| Mr. Ed Johnson, Head, Environmental Impact Statement/ RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350 (202) 697-3689.                                | New Naval Regional Medical Center.            | Draft 90070                 | 01/29/79   | Extension        | 03/30/79  |
| DEPARTMENT OF TRANSPORTATION   |   |                             |  |                  |   |
| Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.   | West Seattle Bridge, Spokane Street Corridor. | Final N/A                   | Availability has not been published, final EIS is expected to be filed during the first week of April. | Waiver           | 15 days from date filed—not to extend beyond April 15 |

APPENDIX III.—EIS's filed with EPA which have been officially withdrawn by the originating agency

| Federal agency contact | Title of EIS | Filing status/accession No. | Date notice of availability published in "Federal Register" | Date of withdrawal |
|------------------------|--------------|-----------------------------|---|--------------------|
| None.                  |              |                             |   |                    |

APPENDIX IV.—Notice of official retraction

| Federal agency contact | Title of EIS | Status/number | Date notice published in "Federal Register" | Reason for retraction |
|------------------------|--------------|---------------|---|-----------------------|
| None.                  |              |               |   |                       |

APPENDIX V.—Availability of reports/additional information relating to EIS's previously filed with EPA

| Federal agency contact  | Title of report   | Date made available to EPA | Accession No. |
|---|---|----------------------------|---------------|
| U.S. ARMY CORPS OF ENGINEERS  |   |                            |               |
| Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693-6795. | G.A.T.X. Corporation proposed terminal facility on the Delaware River, east bank Gloucester County, West Deptford Township, New Jersey. | 03/15/79                   | 90274         |

APPENDIX VI.—Official correction

| Federal agency contact | Title of EIS | Filing status/accession No. | Date notice of availability published in "Federal Register" | Correction |
|------------------------|--------------|-----------------------------|---|------------|
| None.                  |              |                             |   |            |

[FR Doc. 79-9129 Filed 3-23-79; 8:45 am]



[6712-01-M]

# FEDERAL COMMUNICATIONS COMMISSION

(FCC 79-171; Docket No. 18875)

## Facilities for Overseas Communications POLICY TO BE FOLLOWED IN FUTURE LICENSING

(See also 43 FR 51722, November 6, 1978)

Adopted: March 16, 1979.

Released: March 16, 1979.

By the Commission: Commissioners Ferris, Chairman; Washburn and Fogarty issuing separate statements.

1. On October 25, 1978, we acted upon petitions for reconsideration of our December 23, 1977, Memorandum Opinion, Order and Third Statement of Policy and Guidelines, *Overseas Communications*, 67 F.C.C. 2d 358, and decided to institute further procedures in the above-captioned proceeding. In our December 23 Third Statement, we had adopted a final, comprehensive facilities construction and use plan (Plan 4-M) as our policy guideline for the planning and use of facilities in the North Atlantic through the end of 1985. Petitions asking us to reconsider our adoption of Plan 4-M had been filed by the United States International service carriers (USISC), the United States Department of Defense (DOD) and the United States Department of Commerce/National Telecommunications and Information Administration (NTIA). The Communications Satellite Corporation (Comsat) filed an opposition to the above petitions in which it supported our adoption of Plan 4-M. Additionally, at a meeting on July 7, 1978, at Reston, Virginia, the European Conference of Postal and Telecommunications Administrations (CEPT)<sup>2</sup> through its Liaison Committee for Transatlantic Communications (CLTA), and Teleglobe/Canada (the Canadian overseas communications entity) presented their views on facilities planning and indicated their opposition to Plan 4-M. After considering the views presented to us on reconsideration, we found no basis in the record for changing our conclusion that, from the point of view of the U.S., of the plans we considered, Plan 4-M represents the least-

<sup>1</sup>The USISC consist of the American Telephone and Telegraph Company and the international record carriers (IRCs): FTC Communications, Inc. (FTCC), ITT World Communications Inc. (ITTWC), RCA

cost combination of facilities which would satisfy traffic requirements while maintaining a high level of service quality. We noted, however, that information provided since our December 23 Third Statement indicated the possibility of some constraints on the use of the satellite system of which we had not been aware at the time we adopted our facilities plan. It also had become apparent that the views embodied in our plan remained at odds with those of CEPT and Teleglobe/Canada. At that time we acknowledged that we had failed to achieve one of the objectives we had set for this proceeding—we had not developed a mutually agreed-upon comprehensive facilities plan.

2. More specifically, in our October 25, 1978, action we adopted the additional procedures we would follow to update plans we had previously considered for use in further efforts to evolve a comprehensive cable and satellite construction and use plan on which all interested parties could agree. The mutually agreed-upon plan could then serve as the basis for developing within INTELSAT<sup>3</sup> a revised satellite configuration which would permit satisfaction of projected traffic volumes through the end of the present planning period. Briefly, the procedures we adopted can be summarized as follows:

*Phase 1.* The USISC and Comsat meet with our staff to develop two additional facilities construction and use plans:

(a) a revised version of the proposed Plan 3 we had included in our August 1, 1977, Notice of proposed Rulemaking, in this proceeding, *Overseas Communications*, FCC 77-536,<sup>4</sup> amended

Global Communications, Inc. (RCAGC), TRT Telecommunications Corporation (TRT) and Western Union International, Inc. (WUI).

<sup>2</sup>An organization composed of the postal and telecommunications entities of 26 European nations.

<sup>3</sup>The International Telecommunications Satellite Consortium, an organization of 102 member nations, which was created to build and operate the global communications satellite system.

<sup>4</sup>In our Notice of Proposed Rulemaking, we submitted for public comment seven alternative proposed facilities construction and use plans and selected one, Plan 4-M, as the one we tentatively preferred. Subsequently, by our December 23 Third Statement, we adopted Plan 4-M as our policy guideline.

to provide for a TAT-7 cable for service on July 1, 1983;<sup>5</sup> and

(b) a revised version of our Plan 4-M, updated to reflect more current information.

*Phase 2.* The USISC, using the two plans developed in Phase 1 as bounds, negotiate with their foreign correspondents a mutually-acceptable facilities construction and use plan and file it with the Commission for review.

*Phase 3.* We review the negotiated plan submitted by the USISC and either adopt it as our policy guideline or reject it as unacceptable.

*Phase 4.* Canada, the CEPT countries and Comsat, as the U.S. Signatory to INTELSAT and representative on its Board of Governors, provides to INTELSAT the necessary information from the plan adopted by all parties so that INTELSAT can revise its present Atlantic region operational plan and extend that plan through 1985.

*Phase 5.* The USISC and Comsat file appropriate applications for authority to implement the comprehensive cable-satellite plan adopted by the Commission. Action by the Commission on these applications is scheduled to be completed by May 31, 1979.

3. Pursuant to these procedures, the USISC and Comsat met with our staff and developed the two revised plans (known respectively as Plan 3 Revised and Plan 4-M Revised). On November 27, 1978, these plans were submitted to the Commission with a memorandum from the Common Carrier Bureau and two items of related correspondence<sup>6</sup> which had been recently received. Subsequently, the USISC met with their correspondents at Munich, Germany, and negotiated a proposed facilities construction and use plan which

<sup>5</sup>In developing the seven alternative plans, we had tested essentially three facilities options: (1) introduction of TAT-7 cable in 1981 (Plans 1, 1-M), (2) no TAT-7 cable during the planning period (Plans 2, 4, 4-M and 5) and (3) introduction of a TAT-7 cable in 1983 (Plan 3).

<sup>6</sup>The correspondence consists of: A letter to the Chief, Common Carrier Bureau from Comsat, dated November 17, 1978; and a letter to a member of the Common Carrier Bureau staff from WUI, dated November 21, 1978, on behalf of the international record carriers (FTCC, ITTWC, RCAGC, TRT and WUI).

has come to be referred to as Plan 3 (Munich); which they submitted for our review on December 15, 1978. On December 13-14, 1978, representatives of the CEPT and Teleglobe/Canada met with the Telecommunications Committee of the Commission and members of the Commission staff in The Hague, Netherlands, where the committee presented and clarified the Commission's proposed procedures.

4. On December 19, 1978, we made the negotiated Plan 3 (Munich) available for public comment. On January 5, 1979, Comsat filed comments on the negotiated plan. While acknowledging that achievement of a negotiated agreement was an accomplishment of great importance, Comsat raised a number of points about the plan on which it wished us to focus our review. DOD also filed comments on January 5, 1979, indicating its support of the negotiated plan. On January 12, 1979, the USISC filed a collective reply to the Comsat comments.

## PLEADINGS

5. *Comsat Comments.* While generally agreeing that Plan 3 (Munich) represents a positive step, Comsat notes several respects in which the negotiated plan deviates from Plan 3 Revised to the detriment of the satellite system. Comsat believes certain aspects of the plan may require further negotiation and adjustment before we can approve it. Specifically, Comsat raises five areas of concern on which it seeks Commission review:

(1) *Balanced-Route Methodology.* Comsat objects that the circuit distribution methodology of "balanced loading," under which all growth circuits are assigned to a new facility upon its introduction until its load level equals existing routes, was not applied evenly in developing the negotiated plan. Specifically, Comsat notes that for voice services there are significant departures from the methodology with respect to France and the United Kingdom, and lesser ones with respect to the Nordic countries<sup>7</sup> and Belgium, and for record services that balanced loading seems not to have been applied for any point. Comsat, while not necessarily supporting the use of balanced loading, states that since it was selected as the basis for developing the circuit distribution in Plan 3 Revised, it must be applied in a consistent manner. Comsat argues that the balanced-loading principle appears to have been applied in the negotiated plan only where it leads to greater use of cable and ignored where it would lead to greater use of satellite.

(2) *Increase in Cable Bearer Circuits.* Comsat objects that the levels of

<sup>7</sup>The Nordic countries refers to Denmark, Finland, Norway and Sweden who, collectively, operate an earth station for satellite service to all four countries.

use of TATs 4, 5 and 6 and CANTAT-2 shown in Plan 3 Revised have, in some cases, been exceeded without explanation or justification. Comsat notes such increases with respect to the United Kingdom, the Netherlands and Belgium.

(3) *Limitation on Use of Satellite Capacity.* Comsat notes that the Nordic countries placed no growth circuits on the Atlantic Ocean Primary Path satellite after 1981 on the grounds that they believe capacity available on that satellite after 1981 will be limited. Comsat argues that Plan 3 Revised, which continues to place growth on the Primary Path throughout the planning period, reflects the potential of the satellite and that the USISC should renegotiate this point.

(4) *Distribution of Record Circuits.* Comsat objects to the failure of the IRC to apply balanced loading, and particularly disputes the IRC rationale for this departure that they have a specific need for cable rather than satellite circuits. Comsat notes that Plan 3 Revised at year-end 1985, calls for 52% of the IRC's circuits to be on cable and 48% on satellite, while the negotiated agreement calls for 60% on cable and 40% on satellite. Absent justification for this departure, which it asserts is conspicuously absent, Comsat argues that we should return to the circuit distribution in Plan 3 Revised.

(5) *Shortfall.* Comsat believes that the USISC's method for dealing with the eventuality that fewer circuits will be needed than were projected requires further amplification. Comsat states that it is not sure whether AT&T's method (which would allocate actual traffic in any year in the same proportion as projected traffic would have been distributed) is the same as the one it applies for TAT-6. Comsat further states that it is unsure how the IRC method (which would treat shortfall on an overall area basis) would be administered. Comsat argues that the proposed methods favor the cable since TAT-7 enters service midway through the planning period when shortfall, if any, is likely to develop. Alternatively, Comsat notes that one approach would be to follow the policy we develop for TAT-6: condition activation of cable circuits on the number of satellite circuits activated for the immediately-prior period. See *TAT-6 Activation Order*, FCC 77-73 released February 9, 1977 and *Transpac-II Activation Order*, 62 F.C.C. 2d 350, 356-7 (1977).

Generally, Comsat sees from these matters a substantial detriment to the satellite system. In this connection, Comsat estimates that the deviations from Plan 3 Revised represented in the negotiated plan will result in a 22

per cent increase in cable use and an 11 per cent decline in satellite use. This equals, according to Comsat, the loss of 2400-2800 additional satellite circuit-years which translates (at Comsat's current rates) to a decrease in Comsat's revenues of \$40 million. Accordingly, Comsat requests the following relief:

(a) With respect to the distribution of telephone circuits for France, the U.K., the Netherlands, Belgium and the Nordic countries, Comsat requests us to order further negotiations to make them consistent with Plan 3 revised.

(b) With respect to record circuits, Comsat requests us to require the IRCs either to follow the Plan 3 Revised Distribution or to demonstrate that their proposals are in the public interest;<sup>8</sup> and

(c) With respect to the shortfall question, Comsat requests that we require greater amplification of the carriers plans for dealing with a shortfall and, specifically, that we consider adoption of an approach patterned on those used with the TAT-6 and Transpac-II cables.

Finally, Comsat asserts, in view of the speed with which the present proposal was developed, that reexamination should not delay this proceeding to any appreciable degree.

6. *USISC Reply Comments.* On January 12, 1979, AT&T filed, on behalf of itself and the other USISC, reply comments in which it agrees with Comsat that Plan 3 (Munich) departs in some respects from Plan 3 Revised. However, AT&T argues that Plan 3 (Munich) represents a "responsible effort" at a mutually-acceptable facilities plan which generally meets the guidelines the Commission set in Phase 1. AT&T agrees that, viewed on an overall basis, the shift of circuits from satellite to cable under Plan 3 (Munich) is relatively modest—total satellite circuit years under Plan 3 (Munich) being approximately three per cent less than under Plan 3 Revised. AT&T asserts that we have never indicated that the particular circuit distribution in Plan 3 Revised was inviolate and that we must make some allowance for the operational plans, economic and Teleglobe/Canada. AT&T notes that the "redistribution" of circuits upon introduction of a new satellite path,<sup>9</sup> which

<sup>8</sup>Comsat notes that if time constraints prevent such a course, we can reserve on this issue and resolve it later in passing on activation requests.

<sup>9</sup>Redistribution refers to the fact that Plan 3 (Munich), upon introduction of a new satellite path, reassigns the circuits on the existing satellite paths so that all satellite paths—the old as well as the new—are immediately equally loaded. This is in contrast to Plan 3 Revised which does not alter the loading on existing satellite paths, but assigns all growth circuits to the new satellite path.

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Comsat complains leads to lower satellite use, actually has only a minor effect and in any event, was insisted upon by the overseas correspondents in question. AT&T asserts that although it finds Plan 3 (Munich) distribution acceptable, AT&T continues to endorse the use of balanced loading and will continue to work for its full implementation. Finally, with respect to shortfall, AT&T states that it advocates allocation of shortfall or increased demand for growth circuits among cable and satellite facilities "in the same proportion as they were projected for growth to the subject location in that year." USISC Reply Comments at p. 10.<sup>10</sup> For these reasons, the USISC asserts that Plan 3 (Munich) represents the sole facilities plan that is acceptable to them, CEPT and Tele-globe/Canada and request us to approve it expeditiously.

7. DOD Comments. On January 5, 1979, the DOD filed comments on Plan 3 (Munich) in which it supports the plan and asserts that it meets DOD's national security and national defense interests. DOD notes that the provision in Plan 3 (Munich) for a TAT-7 cable with a service date of July 1, 1983, satisfies its desire for an additional cable before the end of 1985. DOD further states that the cable will guarantee "maximum diversity and redundancy" to assure the survivability—which it equates to "security"—of its communications in the event of a facility interruption. Thus, DOD believes that Plan 3 (Munich) will advance the U.S. national defense and national security interests. DOD, however, does not express any view concerning the circuit distribution involved in Plan 3 (Munich), but limits its comments to the provision for an additional cable.

#### COMPARATIVE ANALYSIS

8. On October 25, 1978, we established two basic criteria that we would use to determine whether the negotiated plan submitted in Phase 2 would be acceptable as our policy guideline. Under one criterion, we stated we would analyze the plan to determine whether it falls within the bounds represented by the two plans revised in

Footnotes continued from last page  
 10. The IRCs, on the other hand, propose that each carrier handle its shortfall or increase in demand individually, on an "area," rather than individual country, basis. This difference, they assert, is necessitated by the fact that the number of record circuits in use to most countries is small in comparison to those for AT&T and by the nature of their business. The IRCs maintain that their leased-channel customers designate whether they need a cable or a satellite circuit—thus, actual use will determine the relative numbers of cable and satellite circuits that will be used.

Phase 1. In Phase 1, our staff met with the USISC and Comsat to revise Plan 3 and Plan 4-M<sup>11</sup> which would serve as bounds within which the USISC would negotiate with their foreign correspondents a comprehensive cable-satellite plan. The major difference between these two revised plans is the introduction of the TAT-7 cable. Plan 3 Revised indicates that the cable will be placed into service on July 1, 1983 and Plan 4-M Revised does not introduce an additional cable within the planning period. On December 15, 1978, the USISC filed Plan 3 (Munich) which calls for the TAT-7 cable for service on July 1, 1983. Our review of Plan 3 (Munich) indicates that this parameter is met in that the plan does not introduce the TAT-7 cable earlier than is indicated in our Plan 3 Revised. Further analysis by the Commission was limited to comparisons of other parameters contained in Plan 3 Revised and Plan 3 (Munich).

9. Our comparison of the two plans can be separated into three general categories: First, the circuit forecasts associated with each plan; second, the actual facilities assumed to be available in each plan; and third, the use to be made of the available facilities. With regard to the circuit forecasts, on an aggregate basis, there is little difference between Plan 3 Revised and Plan 3 (Munich). However, country-by-country comparison of circuit forecasts reveals several significant variations. For telephony, the circuit forecasts for five countries (Belgium, France, Italy, the Netherlands and Spain) are substantially different. As examples, the forecasts for the Netherlands are approximately 30% higher in Plan 3 (Munich) than in Plan 3 Revised and those for Spain are approximately 35% lower. In the case of record circuits, the forecasts for Germany, Italy and Spain are significantly lower than the corresponding forecasts in Plan 3 (Munich).

10. Comparison of the facilities assumed to be available in Plan 3 Revised and Plan 3 (Munich) indicates several differences, although the space segment of the INTELSAT satellite system is identical in both plans and the differences in the earth station facilities are minimal. The only earth station antenna contained in Plan 3 Revised which is not included in Plan 3 (Munich) is the third antenna in Spain (this variation is discussed below). The additional antennas which Plan 3 Revised assumed would be

<sup>11</sup> Plan 3 and Plan 4-M were both set out in our August 1 Notice of Proposed Rule-making; Plan 4-M was selected as our comprehensive plan in our December 23 Third Statement. During reconsideration, more current information regarding the availability and use of the trans-atlantic satellite system was received which necessitated revising these two plans.

available for the Nordic countries and the U.K. are included in Plan 3 (Munich). The Nordic countries antenna will be available in 1980, two years earlier than assumed in Plan 3 Revised. The U.K.'s antenna will be available in 1982—the earlier of two optional dates contained in Plan 3 Revised. Regarding cable facilities, both plans assume the existence of the same cables and introduce the TAT-7 cable in mid-1983. The only notable difference between the plans regarding cable availability is the assumption that additional bearer circuits in TAT-6 and CANTAT-2 cables will be used for service to several countries.

11. Although we found few differences between Plan 3 Revised and Plan 3 (Munich) on the question of the facilities assumed to be available, variations in the use to be made of those facilities were numerous. While a detailed listing of the individual deviations is not warranted here, it is important to note the factors that lead to the differences in facility use. Basically there appear to be five factors which cause the precise circuit distributions of each plan to differ. The first two factors, facility availability and circuit forecasts, are obvious in their effect on the specific use of facilities. As might be expected, differences in these factors for any year would cause the distribution of circuits for that year to change. Therefore, we will forego discussion of the effects of these factors.

12. The third factor which led to differences between the plans is the circuit distribution principles that were used in formulating each plan. Plan 3 Revised uniformly applied the principle of balanced loading (distribution of growth circuits among the available facilities so that each route will carry, to the extent possible, an equal number of circuits). While that principle was applied by some countries in Plan 3 (Munich), it was not followed in others. For example, Italy distributed its growth circuits in such a way as to maintain a cable-satellite ratio of 50-50 each year. France achieved balanced loading only in the year 1985. For several countries, balanced loading was achieved but in a manner different from that used in Plan 3 Revised. Under Plan 3 (Munich), several countries treated the introduction of a new satellite path not as a new route but, in effect, as an existing one. That is, satellite circuits from existing satellite route(s) were redistributed equally among the existing and the new satellite route(s). In this way, parties to Plan 3 (Munich) were generally able to maintain balance, but the principle was applied differently from the way it was applied in Plan 3 Revised; and, it resulted in somewhat different circuit distributions.

13. A fourth factor causing differences in the use of facilities was the assumption by two entities (the Nordic countries and Switzerland) that capacity on the Primary Path satellite available for U.S. traffic will be limited after 1981. As a result, these countries, wholly or in part, do not treat the Primary as a growth route and limit or cease assigning additional growth circuits after that date. Restricting growth on the Primary has the effect of increasing the loading on the other available routes.

14. The fifth factor involves the use of TASI (equipment that provides additional capacity by deriving additional circuits from existing basic circuits). Plan 3 Revised used a specific amount of TASI equipment to satisfy circuit requirements while maintaining balanced routes. Plan 3 (Munich) called for a substantially lower use of TASI and, thus, required the provision of additional capacity on other facilities.

15. One final note on the use of facilities under Plan 3 (Munich) as compared to that under Plan 3 Revised concerns the provisions covering France. Both Plan 3 Revised and Plan 3 (Munich) specify that the French entity will use four antennas for handling traffic to the U.S. Plan 3 (Munich) calls for those four antennas to be used with only two satellites providing two satellite paths. Plan 3 Revised has set forth two options: (1) use of the four antennas with two satellites (the option selected) and (2) use of the four antennas with three satellites (providing three paths). Since Plan 3 Revised contemplated use of only two satellite paths, France's selection of that option is not itself a departure from Plan 3 Revised. It is mentioned here as an element of Plan 3 (Munich) and one on which we will focus in our analysis.

#### DISCUSSION

16. The basis for our review of Plan 3 (Munich) is best comprehended in the context of the long, complex history of this proceeding, our objectives in initiating it, and the five-phase process we launched by our action on October 25, 1978. We are reviewing here a plan which has evolved through negotiation among several entities whose interests and concerns are varied and sometimes mutually inconsistent. Undoubtedly, the plan before us serves none of those interests in all respects; yet, it has been agreed to in detail by each of the USISC and all their foreign correspondents and accepted in some important respects by Comsat. In October 1978 we were aware that the approach which would emerge from this process might not fall unambiguously within the guidelines of Phase 1. In establishing a framework for negotiation of several complex, in-

timately related issues, we recognized that absolute consistency and uniformity in each year, for each carrier and service, and for all our foreign partners might not be attainable. We believed, however, that the process would encourage a convergence of individual views and positions where prior procedures did not. We have sought in this manner to obtain the most efficient mix and use of facilities acceptable to all, without indiscriminately substituting our judgment and preferences for the managerial expertise and discretion of operating entities—and without unduly imposing the requirements of U.S. policies and regulatory principles on sovereign foreign entities.

17. Because of the complexity and diversity of the international facilities planning process, we may not be able to achieve the same consistency of approach and rationale that would evolve where no negotiations are involved and where the Commission can exercise final or exclusive jurisdiction over the decisions and conduct at issue. While we believe that a detailed analysis of the Munich plan against the criteria set out in Plan 3 Revised is a necessary step for understanding and deciding the issues before us, we must base our decision about the acceptability of the negotiated plan on our reasoned assessment of whether, and to what extent, it is substantially consistent with our objectives in this proceeding. Thus, our concern is not with the negotiated departures from the Phase 1 guideline, *per se*; but, with their rationale and conformance to standards or reasonableness. It is within this overall framework that we have tried realistically to evaluate the Munich plan.

18. In our December 23, 1977, Third Statement, we found that the TAT-7 cable had not been shown to be needed to meet forecast traffic levels or to maintain adequate service reliability; nor was it justified by economic or other considerations. In our October 25, 1978, decision on reconsideration, we found nothing which suggested to us that we had erred in that conclusion. Rather, in our October decision we noted that a significant stumbling block to joint, coordinated cable and satellite planning—which we believe will avoid controversies such as the present one and lead to efficient facilities use—is the fact that all entities concerned with the provision of Atlantic communications have never agreed, in advance, to a plan for use even of existing facilities. Accordingly, we concluded that the public interest would be served by a compromise which provided for a TAT-7 cable if that would facilitate development of a cable and satellite use plan on which all interested parties can agree and to

whose implementation they would be willing to commit. We must decide whether the negotiated facilities plan known as Plan 3 (Munich) substantially fulfills the objectives we set in directing the USISC to participate in its development.

#### TRAFFIC FORECAST

19. Turning now to an examination of the provisions of Plan 3 (Munich), and comparing them to those in Plan 3 Revised, we find that while there are great similarities there are also significant differences. At the outset of our analysis, we note that the traffic forecasts used in developing Plan 3 (Munich) differ from any previously submitted in this proceeding. While overall the Munich forecast does not differ substantially from that used in developing Plan 3 Revised, this is due to the fact that the differences on particular routes largely offset each other. The specific differences do not have a major bearing on our conclusion since we are here concerned not with the need for facilities but with the way existing and planned facilities will be used.<sup>12</sup> The accuracy of the Munich forecast, however, is relevant to the issue of shortfall which Comsat raised and will be discussed in that context below.<sup>13</sup>

#### BALANCED LOADING

20. The greatest difference between Plan 3 (Munich) and Plan 3 Revised lies in their respective circuit distributions. In developing the negotiating guidelines for the USISC, the staff based both Plan 3 Revised and Plan 4-M Revised on the principle of balanced routes or balanced loading described above. With respect to telephone circuits, Plan 3 (Munich) departs from balanced loading for several countries; and, for record services, ignores it altogether. The ways in

<sup>12</sup> We are, however, concerned with number of earth stations in Europe which will be available for use with the Atlantic Ocean Region satellites, since the number of stations used has a bearing on the efficiency with which the satellite system is used. We will address our concerns on this point at paragraph 45, *infra*.

<sup>13</sup> We wish, however, to note, as we have in the past, that the USISC have never justified the levels of their forecasts or the method by which they were derived. See Overseas Communications, FCC 77-536 (Attachment 1), paras. 4-13, pp. 2-21, released August 1, 1977; Overseas Communications, 67 F.C.C. 2d 358, 372 (1977). Although, looking at projections of past experience, we reached a different (lower) forecast for traffic during the planning period than did the USISC, we accepted the USISC forecast for analytical purposes because it did not change the result of our analysis. See FCC 77-536 at para. 8. Notwithstanding this, we have never resolved our questions concerning the reasonableness of the USISC forecast.



which the distributions depart from pure balanced loading do not exhibit any apparent consistent pattern. Comsat notes that in Phase 1 it had vigorously objected to adoption of balanced loading as a principle of circuit allocation, but that the staff had incorporated it in the revised plans. Although it still does not advocate balanced loading in the abstract, Comsat objects that Plan 3 (Munich) is not consistent and it appears to apply balanced loading only where it leads to greater use of cable while ignoring the principle where it would lead to greater use of satellite. Irrespective of the merits of balanced loading, Comsat argues that at the very least application of that principle should be consistent. More specifically, Comsat objects that Plan 3 (Munich) calls for "redistribution" of satellite circuits upon introduction of an additional satellite path but does not provide for such redistribution upon introduction of the TAT-7 cable. Comsat argues that if redistribution is permitted as a deviation from balanced loading in the case of satellites, it should also be required for cables as well.

21. To illustrate the impact of Plan 3 (Munich) on satellite use, Comsat cites the provisions relating to France and the United Kingdom. Looking first at the United Kingdom, Comsat states that Plan 3 (Munich) causes 1,036 "Circuit-years which Plan 3 Revised calls for placement on satellite to be shifted to cable. For example, Comsat notes that Plan 3 Revised assigns virtually all United Kingdom growth circuits in 1982 to the third satellite path which is introduced in that year. By way of contrast, Plan 3 (Munich) calls for satellite circuits to be redistributed upon introduction of the third satellite path so that all satellite paths are immediately equally loaded. Comsat argues that this is detrimental to the satellite system since, for the United Kingdom, the satellite system is deprived of the usual "catch-up" period in which a newly-introduced facility receives virtually all growth traffic until its loading equals that on existing facilities. With respect to cable, however, because there is no comparable redistribution of circuits upon introduction of TAT-7, Comsat notes that there is a "lengthy period" (18 months) in which TAT-7 receives virtually all growth. Beyond this, Comsat also objects that even after the loading of the TAT-7 cable catches up with other routes, Plan 3 (Munich) assigns, for no apparent reason, more

<sup>11</sup>Comsat breaks this figure down into 686 circuit years for telephony and 350 for record services. See Comsat Comments at Appendix, page 1.

<sup>12</sup>Of the 593 growth circuits forecast for the United Kingdom in 1982, Plan 3 Revised calls for 547 to be allocated to satellite and 46 to cable routes.

than twice the number of subsequent growth circuits to TAT-7 than to any satellite path. With respect to the negotiated plan for France, Comsat notes that Plan 3 (Munich) assigns 560 fewer circuit years "to satellite than does Plan 3 Revised.

22. In reply, the USISC acknowledges that Plan 3 (Munich) is not in every respect identical to Plan 3 Revised but argues that it "substantially conforms" to Plan 3 Revised and that we must have recognized that some departures from that plan would be inevitable. They note that if the Commission had intended Plan 3 Revised to be immutable, we would not have included in it two options for France and for the United Kingdom. Rather, the USISC argues that we recognized that changes might be required to accommodate to some degree the operational plans, economic requirements and telecommunications interests of the CEPT entities. The USISC notes that the difference in level of satellite use cited by Comsat between Plan 3 (Munich) and Plan 3 Revised must be looked at from the perspective of the total satellite circuit-years called for in each plan. On that basis, the decline in satellite usage called for by Plan 3 (Munich) is less than three per cent. Moreover, they note that the negotiated plan distributes more than 52 per cent of its cumulative circuit-years to satellite and argue that it, therefore, provides for a reasonable diversity between the two media.

23. Turning to the plan as it applies to the U.K., the USISC asserts that the redistribution of satellite circuits complained of by Comsat actually has only a minor effect on the level of satellite use. In the case of telephone circuits, for example, the USISC points out that Plan 3 (Munich) calls for use of 2,406 satellite circuits to the U.K. by the end of 1984. If satellite circuits were not redistributed, the USISC asserts, the number of satellite circuits in that year would be 2,436. Thus, they assert redistribution causes a difference of approximately one per cent. The USISC also notes that redistribution has the effect of achieving immediate balance on satellite paths and

<sup>14</sup>Comsat breaks this figure into 410 satellite circuit years for telephony and 150 for record services. See Comsat Comments, Appendix p.4. However, Comsat's figure is somewhat misleading, since it based its comparison on the three-satellite-path option in Plan 3 Revised which the USISC and the French entity did not select. Direct comparison with the two satellite-path option of Plan 3 Revised is difficult, since the traffic forecast for France used in Plan 3 (Munich) is substantially larger. However, applying balanced loading to the traffic forecasts and facilities-availability assumptions in Plan 3 (Munich) for France indicates that the failure to follow balanced loading for telephone circuits accounts for a loss of 274 satellite circuit years.

thereby permits balanced routing throughout the growth period. The USISC do not explain the failure of Plan 3 (Munich) to call for a similar redistribution of cable circuits upon introduction of the TAT-7; nor do they address the fact that the U.K. abandons balanced routing in 1985 in favor of 50-50 cable/satellite distribution.

24. Similarly, with respect to France, the USISC asserts that Plan 3 (Munich) does not abandon balanced loading for telephone circuits. They note that during the first half of the planning period the bulk of circuit growth is placed on the satellite while during the second half the bulk is placed on cables. Moreover, they note that by 1985 a balance is achieved on both cable and satellite paths. Finally, the USISC notes that the cumulative satellite circuit-years under Plan 3 (Munich) differ from that under the two satellite-path option for France in Plan 3 Revised by only 3.4 per cent.

25. In developing the revisions to Plan 3 and Plan 4-M, the staff used balanced loading to derive the respective circuit distributions. This was reasonable since balanced loading had been used in developing all but one of the plans considered in this proceeding.<sup>17</sup> We have used balanced loading as a baseline essentially because it is necessary to have some basis for assigning growth circuits among available facilities and balanced loading performs this function while yielding certain benefits and without apparent waste or undue sacrifices in flexibility. Generally, balanced loading provides for reasonable use of available cable and satellite capacity. Additionally, because balanced loading is a predictable method of distributing circuits which is insensitive to demand, it can be applied where actual traffic levels differ from forecasts. Finally, since balanced loading would result in equal loading of major routes, it would appear to yield the lowest overall blocking probabilities upon interruption of a major facility. Nevertheless, in an area as complex as facilities planning, it is not clear that any single principle can be universally applied. There may be instances where other methods would produce better results.<sup>18</sup> Therefore, while we examined Plan 3 (Munich) to determine its conformance to balanced loading, we do not believe the public interest will be served by a rigid adherence to its use in all respects.

26. The problem which Plan 3 (Munich) raises with respect to bal-

<sup>17</sup>Plan 2, which was based on a Comsat proposal, distributed circuits on the basis of the ratio of satellite-to-cable capacity available between the U.S. and each CEPT country. See FCC 77-538, Attachment 1, p. 164.

<sup>18</sup>Under other circumstances we have employed other methods for distributing circuits. See e.g., ITT Cables and Radio, Inc.—Puerto Rico, 5 FCC 2d 823 (1966).

anced loading is not that it departs from the guidelines—since some departures may be reasonable—but that it bases its circuit distributions on a variety of allocation methods for which there is no clear rationale. In many cases, these distributions are *sui generis* and capable of implementation only if the precise levels of traffic forecast in fact materialize. Plan 3 (Munich) does not provide a built-in mechanism (such as balanced loading) for adjusting the distribution to reflect changed circumstances. Indeed, it is precisely this which gives rise to the "shortfall" issue Comsat raised. Also, because Plan 3 (Munich) loads some facilities more heavily than others, it will increase the blocking probabilities in the event of interruption of the more heavily loaded facilities.<sup>19</sup>

27. The overall relationship between cable and satellite use (52 per cent of circuits on satellite and 48 per cent on cable) does not appear unreasonable on its face. We note that Comsat did not seriously challenge this overall relationship. Comsat does object that Plan 3 (Munich) will result in lower satellite use than would Plan 3 Revised. We agree with Comsat that Plan 3 (Munich) will result in somewhat lower satellite use—Plan 3 (Munich) would use approximately 2,412 fewer satellite circuit-years than Plan 3 Revised.<sup>20</sup> Periods of heavy growth on satellites (in the early years of the period) are followed by periods where growth is concentrated on the cable in both plans.<sup>21</sup> While Comsat alleges that the lower use of satellite circuits will be adverse to the public interest, it does not specify in what way this will be so. Comsat does state that, at its current tariff charges, the lower use will cause a decline in its revenues of \$40 million over the six years covered by the plan.<sup>22</sup> However, Comsat does

<sup>19</sup>It is ironic that the USISC should file a circuit distribution with this result, since one of the main arguments they have consistently advanced in favor of the TAT-7 cable is that it would reduce loading on any particular facility and improve blocking probabilities. However, since under any assumption the congestion upon failure of a major facility will be unacceptably high, and will require restoration, this feature doesn't itself mandate rejection of Plan 3 (Munich).

<sup>20</sup>To give some idea of the magnitude of difference between the two plans, we note that Plan 3 (Munich) calls for use of a total of 45,353 satellite circuit-years during the period and 41,627 cable circuit-years (a total of 86,980 circuit-years), while Plan 3 Revised calls for use of 47,765 satellite circuit-years and 38,695 cable circuit-years (a total of 86,460 circuit-years). Looked at on an overall basis, this difference of 2,412 circuit-years amounts to a decline in satellite use of just over 5 per cent.

<sup>21</sup>The following table compares the cable and satellite growth in each year between Plan 3 Revised and Plan 3 (Munich):

<sup>22</sup>This corresponds to an average annual revenue decrease of \$6.7 million. To put this

not indicate that this loss of revenue will impair its ability to provide service or otherwise harm the public interest. The bare fact that Comsat may receive lower revenues under Plan 3 (Munich) does not itself determine the reasonableness of that plan—especially where there is no indication that such a reduction will threaten Comsat's financial integrity and thereby hinder its ability to provide adequate service at reasonable rates.

| Year | No. of cable circuits added |           | No. of satellite circuits added |           |
|------|-----------------------------|-----------|---------------------------------|-----------|
|      | Plan 3 R.                   | Plan 3 M. | Plan 3 R.                       | Plan 3 M. |
| 1980 | 192                         | 470       | 1118                            | 895       |
| 1981 | 142                         | 330       | 1370                            | 1202      |
| 1982 | 444                         | 627       | 1283                            | 1110      |
| 1983 | 1424                        | 1178      | 599                             | 891       |
| 1984 | 1941                        | 1991      | 414                             | 412       |
| 1985 | 1528                        | 1443      | 1285                            | 1438      |

28. In developing the revised circuit distributions, the staff used balanced loading for both telephone and record services. As we have noted, however, Plan 3 (Munich) does not employ balanced loading for record circuits. The IRCs have consistently maintained, with respect to the leased-channel service aspect of their business, that balanced loading is practically impossible. They argue that they receive specific and legitimate requests from their customers for either a cable or a satellite circuit and that they must consider those requests in assigning circuits to facilities.<sup>23</sup> We recognize that such requests occur and that in some instances the technical characteristics of the customers' equipment and the nature of the information carried require a specific type of circuit. Therefore, we believe that there is, in this case, a legitimate reason for departing from strict application of balanced loading. However, while we accept in principle the IRCs' argument with respect to some of their leased circuits, we see no reason why they cannot follow balanced loading for other record services. We have no information before us which indicates what percentage of their circuits are for leased-channel service. Consequently, we do not at this time express any opinion concerning the reasonableness of the figures in Plan 3

figure into some perspective, we note that for 1977, the most recent year for which information is available, Comsat reported total operating revenues of \$168.187 million. Comsat Report to the President and the Congress, p. 60, November 30, 1978. This represents a decline of slightly less than 4 per cent.

<sup>23</sup>The specific numbers shown for the IRCs in Plan 3 (Munich) circuit distributions are not themselves hard and fast. Rather, they are stated to be the IRCs' best estimates of future customer requests by extra-polation from past experience.

(Munich). However, we shall seek this information during our consideration of the shortfall question.

29. *Redistribution.* We turn now to Comsat's objection concerning redistribution of satellite circuits upon introduction of a new satellite path. As Comsat notes, under Plan 3 (Munich), satellite circuits are redistributed upon introduction of new satellite paths to Belgium, the Nordic countries, Switzerland and the U.K. Comsat asserts that redistribution leads to use of fewer satellite circuits. For example, in the case of the U.K., it asserts that this amounts to a reduction of approximately 300 circuits in 1982—when the third satellite path is introduced. We believe that Comsat has over-estimated the effect of redistribution.<sup>24</sup> But, more importantly, we do not find redistribution objectionable *per se*. Redistribution in fact is merely another way to achieve balanced loading; and, by achieving immediate equalization of satellite paths, it may constitute a better way to achieve balanced loading than the method used in Plan 3 Revised (i.e., assigning all growth to the new facility until it catches up to the existing paths). Accordingly, we do not find redistribution, to the extent it constitutes a departure from the method of distribution in Plan 3 Revised, to be inimical to the public interest and will not object to the USISC's using it in developing its circuit allocations.<sup>25</sup>

30. *Satellite Capacity Limitations.* A second departure from balanced loading to which Comsat objected was the decision of the Nordic countries arbitrarily to end growth on the Primary Path satellite after 1981. The Nordic countries state that they have concerns about the availability of capacity on the Primary. Therefore, after 1981, they assign all growth evenly to the Major Path satellite and two cable routes. Comsat objects that there is no

<sup>24</sup>For example, looking at the U.K. distribution cited by Comsat, and limiting our examination to telephone circuits (the only ones to which redistribution was applied), the lowering of satellite use under Plan 3 (Munich) is 1982 amounts to 226 circuits. Our analysis shows that of these 226 circuits only 85 are accounted for by redistribution. The balance (141) circuits are shifted due to the U.K.'s proposal to use substantially more cable circuits than did Plan 3 Revised. That matter is discussed *intra* at para. 32 *et seq.* In 1983, there is no difference between the two plans in the level of satellite use. In 1984, there is another reduction in satellite use of 30 circuits attributable to redistribution.

<sup>25</sup>We also explored the effect on satellite circuit use of Comsat's suggestion that we require the USISC to redistribute cable circuits when TAT-7 is introduced. We found that it produced no changes in the number of satellite circuits used to the U.K., Belgium or the Nordic countries (where Plan 3 (Munich) had redistributed satellite circuits).



concrete reason to assume that there will not be adequate capacity on the Primary. While we are aware that there have been some concerns expressed that the Primary may saturate, we must agree with Comsat that there is no evidence that this will in fact occur. Nevertheless, we will not object to the manner in which the negotiated plan proposes to use facilities for U.S.-Nordic traffic. However, should the Nordic countries' concerns about the capacity of the Primary Path satellite be alleviated, it may well be that greater use should and will be made of that satellite.

31. *TASI Use.* The third way in which Plan 3 (Munich) departs from balanced loading results from the United Kingdom's decision not to participate fully in the TASI program during the planning period. Comsat does not address this point in its comments. However, this point is significant in the context of the provisions for the United Kingdom and will be discussed in connection with that analysis.

#### ADDITIONAL CABLE CIRCUITS

32. Of much greater significance are the provisions in Plan 3 (Munich) for use of additional circuits in the TAT-6 and CANTAT-2 cables. The number of basic circuits in those cables to be used for telephony called for in the negotiated plan falls well outside the guidelines. That plan specifies the use of additional TAT-6 and/or CANTAT-2 circuits to the U.K., Belgium and the Netherlands. Comsat asserts that no justification has been shown for this increased use of cable. It states that, at minimum, we should require the USISC to show that use of these additional circuits will be compatible with Plan 3 Revised.

33. The USISC assert that additional TAT-6 and CANTAT-2 circuits to the U.K. will provide a more balanced level of loading during the 1979-1982 portions of the planning period than does Plan 3 Revised. Moreover, the USISC assert that through the use of TASI these circuits will allow them to maintain balance beyond the planning period. The USISC also indicate that Belgium has requested that the 20 additional CANTAT-2 circuits be used since it has already purchased interests in those circuits for U.S.-Belgium telephony use. The USISC assert that, while the Commission has not passed upon the use of these facilities for service to Belgium, such use would not appear incompatible with Commission policy on transatlantic facility use. According to the USISC, the additional TAT-6 basic circuits to be used for U.S.-Netherlands telephony are circuits currently assigned to U.S.-Israel service and are jointly owned by the USISC and the Israeli telecommunica-

tions entity. The Netherlands will lease Israel's interest in up to 131 of these circuits for use until TAT-7 becomes available. The USISC assert that use of the additional basic circuits will allow them to adhere closely to the balanced-loading principle for U.S.-Netherlands telephone circuits.

34. With respect to the U.K., the British Post Office already owns interests in the 150 additional TAT-6 and 150 additional CANTAT-2 circuits it proposes to use for U.S.-U.K. service; but AT&T will be required to purchase the corresponding interests.<sup>26</sup> The USISC do not indicate specifically what these additional circuits will cost AT&T. We estimate that, at depreciated cost, AT&T's capital expenditure for the 150 CANTAT-2 circuits would be approximately \$2.4M, and approximately \$3.0M for the 150 TAT-6 circuits. The total is \$5.4M.<sup>27</sup>

35. Despite the USISC's claim that the additional circuits will allow them to maintain a more balanced loading in the early years of the planning period, it appears that this is not the case. From Plan 3 (Munich) it appears that AT&T will not acquire the 150 TAT-6 circuits until 1983—after the third satellite path becomes available, after TASI has been introduced and, perhaps, even after TAT-7 has entered service. Consequently, only the 150 CANTAT-2 circuits would be available in 1980-81 to aid the USISC in balancing routes for U.S.-U.K. telephone cir-

<sup>26</sup> Normally, AT&T would already own the required interests in the 150 TAT-6 circuits. However, in the TAT-6/CANTAT-2 decision, AT&T *et al.*, 35 F.C.C. 2d 801 (1972), we permitted AT&T to sell one-half interests in 150 joint AT&T-BPO TAT-6 circuits to Teleglobe/Canada (then using the name Canadian Overseas Telecommunications Corporation) and to purchase Teleglobe's one-half interests in 150 joint Teleglobe-BPO CANTAT-2 circuits. This arrangement was authorized to continue until year-end 1980, when AT&T was to repurchase the TAT-6 circuits at depreciated cost and resell the CANTAT-2 circuits at depreciated cost. Plan 3 Revised contemplated that AT&T would retain these 150 CANTAT-2 circuits, and that Teleglobe would retain the 150 TAT-6 circuits. In addition, if the BPO agreed to advance the availability of its third earth station antenna, Plan 3 Revised contemplated that AT&T could be authorized to purchase an additional 97 CANTAT-2 circuits. Under the negotiated plan, AT&T would retain the 150 CANTAT-2 circuits it now has, purchase the 97 CANTAT-2 circuits contemplated by Plan 3 Revised, repurchase the 150 TAT-6 circuits now held by Teleglobe and purchase an additional 150 CANTAT-2 circuits.

<sup>27</sup> This figure assumes that the 150 TAT-6 circuits are reacquired in mid-1983 at the then current depreciated value. The negotiated plan does not appear to assume the use of these circuits before that time. If the TAT-6 circuits are acquired at current depreciated value, their cost would be approximately \$3.8M, raising AT&T's total cost to \$8.2M.

cuits. With respect to even these circuits, we note that their addition will allow CANTAT-2 to serve as a fully balanced route for only one year (1980).

36. Despite the addition of a total of 300 additional basic cable circuits in the TAT-6 and CANTAT-2 cables, Plan 3 (Munich) fails to maintain those cables as fully balanced routes through a substantial portion of the planning period—indeed Plan 3 (Munich) fails to achieve balance on those routes for longer than does Plan 3 Revised which omits the extra basic circuits. This occurs because Plan 3 (Munich) makes substantially less use of TASI than does Plan 3 Revised and delays its introduction. For example, Plan 3 Revised calls for use of four TASI systems on 470 basic circuits in each of the TAT-6 and CANTAT-2 cables. This allows derivation of an additional 470 telephone circuits in each cable for a total of 940 circuits in TAT-6 and 940 in CANTAT-2. Plan 3 (Munich), on the other hand, only provides for use of two TASI systems on each of those cables. As a result, even with the 300 additional basic circuits, Plan 3 (Munich) will provide a total of only 860 circuits in each cable.

37. After 1981, with fewer basic circuits, Plan 3 Revised maintains both TAT-6 and CANTAT-2 as balanced routes for telephony. In 1985, it falls short of absolute balance by 17 circuits on each cable (it provides 940 of the 957 circuits needed for balance). By way of contrast, Plan 3 (Munich) fails to maintain the TAT-6 cable as a fully balanced route in any year during the planning period and it achieves full balance on CANTAT-2 only in 1980. In 1985, the deficiency amounts to 97 circuits on each cable. In that year, Plan 3 (Munich) also deviates markedly from the balanced-route principle. If balanced loading were followed when CANTAT-2 and TAT-6 cables run out of capacity, growth circuits would be evenly distributed among the four remaining routes which do have available capacity—TAT-7 and the three satellite paths. However, under Plan 3 (Munich), in 1985 after saturation of TAT-6 and CANTAT-2, the TAT-7 cable receives as many circuits as the three satellite paths combined. This circuit distribution results in a 50-50 split of total circuits between cable and satellite.

38. In comparison to Plan 3 Revised, Plan 3 (Munich) calls for use of 300 additional basic TAT-6 and CANTAT-2 circuits, but provides 160 fewer total circuits for the U.S.-U.K. route. The \$5.4 million investment for these circuits, offset by the \$300,000 saved for each of the TASI systems deleted from Plan 3 Revised, requires AT&T additional expenditure of \$4.2 million

under the negotiated plan. The sole justification given by USISC for the purchase of the additional TAT-6 and CANTAT-2 circuits is that they will permit the USISC to maintain those cables as balanced routes in the early part of the planning period—and beyond the planning period if they then install additional TASI equipment. However, analysis of the plan indicates that the U.K. does not propose to maintain CANTAT-2 and TAT-6 as fully balanced routes in any year after 1981. This is because of its decision to limit the use of TASI equipment. Therefore, it appears that for the bulk of the planning period the justification offered for purchasing additional cable circuits is ignored. In view of this, we cannot find that the USISC have justified the cost this proposal will impose on the U.S. ratepayers.

39. The 20 additional CANTAT-2 telephone circuits for use with Belgium will require AT&T to incur an additional investment of approximately \$300,000 if those circuits are acquired at depreciated cost. AT&T presumably will also be required to acquire interests in the necessary connecting circuitry between the U.K. terminal of CANTAT-2 and the Belgian border and between the Canadian terminal of that cable and the U.S. border. Plan 3 (Munich) gives no indication of this cost. Moreover, the proponents do not claim that these additional circuits will yield any operational or other benefits. The USISC state only that use of these circuits was requested by the Belgian telecommunications entity; that we have not previously addressed the question; and that such use seems to be consistent with our facilities use policies.

40. The USISC are incorrect in asserting that we have never addressed the use of CANTAT-2 for Belgium. In the TAT-6/CANTAT-2 Decision in 1972,<sup>28</sup> we indicated that U.S. use of CANTAT-2 for telephony would be limited primarily to traffic between the U.S. and the U.K. However, in 1974 and 1975,<sup>29</sup> we authorized AT&T to lease interests in 188 CANTAT-2 circuits for use with CEPT countries, including Belgium, until the TAT-6 cable became operational in 1976. Indeed, the 20 circuits to Belgium under consideration here were among those 188 circuits. The USISC's statement is correct insofar as it is intended to indicate that AT&T has not heretofore requested authorization for permanent acquisition and use of CANTAT-2 circuits to CEPT countries other than the U.K. In the absence of any showing of benefit from acquisition of these additional CANTAT-2 in-

<sup>28</sup> AT&T *et al.*, 35 F.C.C. 2d 801 (1972).

<sup>29</sup> AT&T, 48 F.C.C. 2d 965 (1974), AT&T, 52 F.C.C. 128 (1975).

terests, we find this departure from the guidelines substantial and unwarranted—especially in view of the additional burden that would impose on the U.S. ratepayer above and beyond the costs of TAT-7.

41. With regard to the cost of the additional 20 CANTAT-2 circuits, we note that AT&T indicates it has an oral agreement with Teleglobe/Canada to purchase interests in these circuits at the price set forth in AT&T's application for authority to acquire interests in 97 CANTAT-2 circuits for U.S.-U.K. use.<sup>30</sup> The price specified in that application is not the depreciated price but a negotiated price which exceeds the depreciated value of those circuits. Plan 3 Revised, however, clearly sets forth that the 97 additional CANTAT-2 circuits it contemplated should be acquired at depreciated cost.<sup>31</sup> This requirement would apply as well to any additional CANTAT-2 circuits AT&T might seek to acquire. Plan 3 (Munich) makes no specific reference to any price for additional CANTAT-2 circuits to the U.K. Consequently, we cannot be sure whether the price for CANTAT-2 circuits specified in the above-referenced application is still current.<sup>32</sup> However, we must point out that if the price for additional CANTAT-2 circuits is other than depreciated cost, the negotiated plan would fall outside this guideline, not only for the additional 150 CANTAT-2 circuits, but for the 97 additional CANTAT-2 circuits contemplated by Plan 3 Revised as well.

42. In view of the foregoing, we shall require AT&T to negotiate further with its correspondents in the U.K., Belgium and Canada to resolve the matters discussed above. We shall direct the USISC and Comsat to meet with the staff to formulate additional bounds for those further discussions. Thereafter, AT&T shall seek to negotiate a satisfactory resolution and submit the results for our review.

43. The use of up to 131 additional TAT-6 circuits for service to the Netherlands presents a somewhat different situation. In this instance, it is the Netherlands telecommunications entity, rather than the USISC, which will incur the cost of the additional cable circuits. The only cost to AT&T will be for the lease of interests in connecting circuits between the TAT-6 cable terminal in France and the

border of the Netherlands. These costs are not likely to be significant considering the limited period during which the additional circuits are to be used. For this reason, and because we find the overall cable-satellite use contemplated by Plan 3 (Munich) to be reasonable, we conclude that there is no reason to regard this as a substantial or unwarranted departure from the guidelines.

44. Plan 3 (Munich) also provides for temporary use of additional CANTAT-2 circuits for record services. Plan 3 Revised had also contemplated the possibility of using additional CANTAT-2 circuits for record services. Consequently, we do not find this proposal by itself to be outside our guidelines. However, given the IRCs' departure from the balanced-route principle, and the lack of any indication in the negotiated plan of need for additional circuits, the basis on which they would be acquired, (i.e., whether by lease or temporary IRU) or the cost of acquisition, we must reserve judgment on the question of the specific number of circuits required, until we are furnished with adequate supporting data.

#### EARTH STATION FACILITIES

45. Plan 3 Revised contemplates construction or use of additional earth station antennas in Belgium, Germany, Greece, Ireland, Italy, the Netherlands, the Nordic countries, Spain, Switzerland, the U.K. and, possibly, France. With respect to most of these points, Plan 3 (Munich) and Plan 3 Revised are in agreement. For the U.K., Plan 3 (Munich) includes the third antenna called for in Plan 3 Revised, and provides for it to become operational in 1982—the earlier of the two dates proposed by the revised plan. Similarly, the negotiated plan for the Nordic countries includes provisions for a second antenna in 1980, two years earlier than had been anticipated by the revised plan. However, in the case of France, Plan 3 (Munich) did not include a third satellite path for use with the U.S., and, it deleted provision for a third antenna in Spain.

46. The failure of the negotiated plan to provide for using a third satellite path to France cannot properly be characterized as a departure from the guidelines, since Plan 3 Revised included two alternative distribution plans for U.S.-France circuits—one contemplating use of two satellite paths and one contemplating the use of three satellite paths. While under either plan, France will use four antennas with the Atlantic Ocean satellites, they propose to use them with only two satellites. Clearly, use of all three satellites is desirable on this heavy traffic route—particularly since the antennas will be provided in any event and could therefore be used for access

<sup>30</sup> File No. I-P-C 8277-8 filed August 10, 1978.

<sup>31</sup> See also AT&T, 63 F.C.C. 2d 557, 569 (1977).

<sup>32</sup> We note in this connection that in its application to sell interests in 20 TAT-6 circuits to Teleglobe for use between Canada and Italy, and its application to sell 24 TAT-6 circuits for use between Canada and France AT&T states that it will make those circuits available at depreciated price. See File Nos. I-P-C 8276-23 and I-P-C-8276-20.



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to three satellites at no more cost than for access to two satellites. The availability of a third U.S.-France satellite path would be advantageous from several standpoints. The additional satellite path would allow reassignment of satellite circuits from the Primary Path satellite to the second Major Path satellite, thus freeing capacity on the Primary satellite for use by other countries. By introducing another diverse satellite route, use of three satellite paths could also contribute to achieving better service reliability. This would be true even if introduction of a third satellite path did not increase total satellite use on the U.S.-France route. In view of these benefits, we urge the USISC to discuss this matter with their correspondent in France to see whether they can develop agreeable alternative arrangements which include a third U.S.-France satellite path.

47. The lack of a third earth station antenna in Spain, on the other hand, does constitute a departure from the guidelines. While deletion of the third satellite path, is not explained, it may be reasonable. The forecast for U.S.-Spain traffic contained in Plan 3 (Munich) is much lower than that previously submitted. It appears, in fact, that the decrease in forecast circuit requirements exceeds the number of circuits Plan 3 Revised had assigned to the third satellite path. As a result, if the amended forecast proves accurate, deletion of the third path will not increase the loading of the remaining cable and satellite paths and, therefore, appears to have little potential operational impact. Thus, we see no reason for further discussion of Spain's decision to eliminate the third satellite path.

## SHORTFALL

48. The issue of shortfall, or what to do in the event that actual traffic levels are smaller than the forecasts, was not included in our guidelines as a separate issue, since uniform application of the balanced-route principle would automatically compensate for any change in traffic levels. However, because Plan 3 (Munich) departs in some respects from balanced loading and, in fact, does not employ any single distribution principle, it is not clear what will happen if forecast traffic levels do not materialize. Consequently, as Comsat notes, it now becomes important to develop a uniform policy. Even the USISC recognize this problem, since they include in Plan 3 (Munich) a proposal for handling shortfall.

49. In its comments, Comsat raises some problems which it believes could be caused by a shortfall of circuits. It had initially raised its concerns in Phase 1, where it stated that there

have been past instances where growth traffic was "held back" pending availability of a cable. To prevent this, and to assure that the satellite system does not bear all the cost of any shortfall, Comsat believes some method must be developed and set forth explicitly in the Commission's final order approving a facilities plan. The USISC filing contains a brief description of a proposal under which AT&T would allocate any shortfall to cable and satellite facilities in the same proportion as circuits were projected to each country in that year and for the IRCs to allocate shortfall yearly on an overall area basis. Comsat asserts that this proposal is vague and requires amplification or modification. It also suggests a better approach would be to adopt the policy we adopted for activation of TAT-6 circuits. This approach conditioned TAT-6 circuit activations on the activation of a specified number of satellite circuits.

50. Throughout this proceeding, we have expressed concern with the accuracy of the forecasts which have been used in developing the various plans. In this connection, we note that in Plan 3 (Munich) the USISC have used a forecast which differs from any they have previously submitted. The uncertainty inherent in forecasting itself indicates to us that any plan we adopt must include provision for dealing with varying traffic levels. The USISC and Comsat each propose a mechanism. That proposed by the USISC is not sufficiently developed or explained to permit a conclusive assessment. Comsat's suggestion to adopt the approach for activation of TAT-6 circuits is workable. However, we cannot determine what method will best deal with the potential problem of shortfall without further information and examination. Therefore, we shall direct the USISC and Comsat to meet with our staff to explore ways the shortfall problem can be handled. The staff shall then develop any additional procedures that may be necessary to permit final resolution of this issue at or before the time final action is taken on the application for a TAT-7 cable.<sup>33</sup>

## COMMITMENTS

51. In taking our October 25 action, we indicated that, as part of our review of the negotiated plan, we would ascertain the extent to which parties made commitments to the implementation of the integrated cable and satellite use plan. The USISC state in filing Plan 3 (Munich) that "the earth station assumptions under-

<sup>33</sup>Should other changes, such as the availability of other facilities, occur during the planning period, the plan can be updated through appropriate procedures and the consultative process.

lying Plan 3 (Munich) represent more than just assumptions as to availability for United States-CEPT traffic" and that "availability of these earth stations is in accordance with the intended use of CEPT entities."<sup>34</sup> The USISC also state that "Plan 3 (Munich) represents the sole comprehensive cable and satellite plan incorporating the necessary facility commitments to its implementation. . . ." (emphasis added).<sup>35</sup> The above statements indicate to us that all parties to the plan intend to implement it as agreed to and that they will provide the facilities needed for implementation. Therefore, we find that the USISC and their CEPT correspondents have made commitments to the provision and use of the facilities and these commitments provide reasonable assurance that Plan 3 (Munich) can and will be implemented.

## CONCLUSIONS

52. From the foregoing discussion, it should be clear that we find most of the negotiated plan acceptable.<sup>36</sup> Indeed, the only provisions of that plan which we find constitute substantial and unwarranted departures from the Phase 1 guidelines are those pertaining to the use of additional TAT-6 and/or CANTAT-2 telephone circuits for U.S.-U.K. and U.S.-Belgium service. We anticipate that further negotiations between AT&T and those entities can quickly result in an acceptable resolution of these differences. While we consider the finalization of a mechanism to handle shortfall of projected circuit demands important, we do not foresee that this will prove to be difficult or timeconsuming. Since the majority of the negotiated plan is acceptable, and the issues remaining for further discussion do not appear to be of a character likely to affect other elements of that plan, we see no reason for delaying the start of Phases 4 and 5 of our further procedures. The early filing of the necessary applications by the USISC is desirable since that will initiate the required pleading period and thus hasten the completion of processing. INTELSAT may also derive some advantages from being provided the information from those parts of the negotiated plan where we do not require further negotiation. Permitting Phases 4 and 5 to proceed concurrently with resolution of the remaining issues thus offers the best chance to meet the schedule we have set for completion of our procedures.

<sup>34</sup>United States International Service Carriers Transatlantic Facilities Construction and Use Plan, 9-10, December 15, 1978.

<sup>35</sup>*Id.* at 12.

<sup>36</sup>Plan 3 (Munich), with the exception of the provisions relating to Belgium and the United Kingdom on which we have ordered further negotiations, is set forth in the attached Appendix.

53. While completion of Phase 3 must of necessity await resolution of the residual issues noted above, we believe that our near agreement on a negotiated plan represents enormous progress in view of the extent to which the plan preferred by CEPT and Teleglobe differed from the one we preferred. Such progress is clearly the result of the efforts, cooperation, and accommodation of the many entities who have been involved in this very lengthy proceeding. Our perception is that the progress we have made to date dwarfs the areas where further work is required; and that our goal in this proceeding of a mutually-acceptable construction and use plan for cable and satellite facilities in the North Atlantic is clearly within reach. That achievement, combined with an improved consultative process, gives us every confidence that the benefits to the public we foresee flowing from coordinated, joint cable and satellite planning in the future will be realized.

54. Accordingly, it is ordered that:

A. The United States International service carriers and the Communications Satellite Corporation are directed to meet with the Commission's staff to develop bounds for further discussion pertaining to the acquisition and use of additional TAT-6 and CANTAT-2 circuits for U.S.-U.K. and U.S.-Belgium telephony;

B. The American Telephone and Telegraph Company is directed promptly thereafter to seek to negotiate further with its correspondents within the bounds so developed and submit the results for Commission review; and

C. The United States International service carriers and the Communications Satellite Corporation are further directed to meet with the Commission's staff to formulate an acceptable method for handling a shortfall in circuits should such occur during the planning period. The staff shall thereafter determine and implement such additional procedures as may be appropriate to assure that agreement can be reached on a shortfall mechanism for inclusion in the plan at or before the time final action is taken on a TAT-7 application.

FEDERAL COMMUNICATIONS  
COMMISSION.\*

WILLIAM J. TRICARICO,  
Secretary.

\*See separate statements of Commissioners Ferris, Chairman; Washburn and Fogarty below.



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[6712-01-C]

CIRCUIT DISTRIBUTION

COUNTRY: AUSTRIA

|                     | 1979         | 1980         | 1981         | 1982         | MID-1983     | EOY-1983     | 1984         | 1985         |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4 <u>2</u>      | 2/3/1        | 2/3/1        | 2/3/1        | 2/3/1        | 2/3/1        | 2/3/1        | 2/3/1        | 2/3/1        |
| TAT-5 <u>8</u>      | 8/13/5       | 8/13/5       | 8/13/5       | 16/21/5      | 16/21/5      | 16/21/5      | 16/21/5      | 16/21/5      |
| TAT-6 <u>36</u>     | 24/26/2      | 20/33/5      | 34/39/5      | 36/45/9      | 38/49/11     | 38/49/11     | 38/49/11     | 38/49/11     |
| TAT-7               | --           | --           | --           | --           | --           | 6/6/0        | 19/22/3      | 36/40/4      |
| CANTAT-2            | 0/3/3        | 0/3/3        | 0/3/3        | 0/3/3        | 0/3/3        | 0/1/1        | --           | --           |
| TOTAL CABLE         | 34/45/11     | 38/52/14     | 44/50/16     | 54/72/18     | 56/76/20     | 62/80/18     | 75/95/20     | 92/113/21    |
| PP 6/4              | --           | 22/28/1      | 33/37/4      | 35/39/4      | 38/42/4      | 38/42/4      | 38/42/4      | 38/42/4      |
| MP <sub>1</sub> 6/4 | 23/23/0      | * 27/28/1    | --           | --           | --           | --           | --           | --           |
| MP <sub>2</sub>     | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE     | 23/23/0      | 27/28/1      | 33/37/4      | 35/39/4      | 38/42/4      | 38/42/4      | 38/42/4      | 38/42/4      |
| TOTAL               | 57/68/11     | 65/80/15     | 77/95/18     | 89/111/22    | 94/118/24    | 100/122/22   | 113/137/24   | 130/155/25   |

Basic Circuits Telephony

\* First six month's or until INTELSAT V Service Date.

NOTICES

APPENDIX

FEDERAL REGISTER, VOL. 44, NO. 59--MONDAY, MARCH 26, 1979

NOTICES

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CIRCUIT DISTRIBUTION

COUNTRY: CYPRUS

|                 | 1979         | 1980         | 1981         | 1982         | MID-1983     | EOY-1983     | 1984         | 1985         |
|-----------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                 | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 <u>1</u>  | 1/1/0        | 1/1/0        | 1/1/0        | 1/1/0        | 1/1/0        | 1/1/0        | 1/1/0        | 1/1/0        |
| TAT-6 <u>3</u>  | 5/6/1        | 5/6/1        | 5/6/1        | 5/6/1        | 6/7/1        | 6/7/1        | 6/7/1        | 6/7/1        |
| TAT-7           | --           | --           | --           | --           | --           | 1/1/0        | 2/2/0        | 4/4/0        |
| TOTAL CABLE     | 6/7/1        | 6/7/1        | 6/7/1        | 6/7/1        | 7/8/1        | 8/9/1        | 9/10/1       | 11/12/1      |
| PP 6/4          | 6/6/0        | 6/6/0        | 7/7/0        | 7/7/0        | 7/7/0        | 7/7/0        | 7/7/0        | 7/8/1        |
| MP <sub>1</sub> | --           | --           | --           | --           | --           | --           | --           | --           |
| MP <sub>2</sub> | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE | 6/6/0        | 6/6/0        | 7/7/0        | 7/7/0        | 7/7/0        | 7/7/0        | 7/7/0        | 7/8/1        |
| TOTAL           | 12/13/1      | 12/13/1      | 13/14/1      | 13/14/1      | 14/15/1      | 15/16/1      | 16/17/1      | 18/20/2      |

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18096

NOTICES

CIRCUIT DISTRIBUTION

| COUNTRY: DENMARK    | 1979         | 1980         | 1981         | 1982         | MID-1983     | DOT-1983     | 1984         | 1985         |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4 <u>1</u>      | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        |
| TAT-5 <u>2</u>      | 7/7/0        | 7/7/0        | 7/7/0        | 14/14/0      | 14/14/0      | 14/14/0      | 14/14/0      | 14/14/0      |
| TAT-6 <u>20</u>     | 20/22/2      | 20/22/2      | 20/22/2      | 24/26/2      | 33/35/2      | 33/35/2      | 33/35/2      | 40/42/2      |
| TAT-7               | --           | --           | --           | --           | --           | 9/9/0        | 31/31/0      | 42/42/0      |
| TOTAL CABLE         | 28/31/3      | 28/31/3      | 28/31/3      | 39/42/3      | 48/51/3      | 57/60/3      | 79/82/3      | 97/100/3     |
| PP 6/4              | 42/47/5      | 27/30/3      | 32/35/3      | 32/36/4      | 32/36/4      | 32/36/4      | 32/36/4      | 32/36/4      |
| MP <sub>1</sub> 6/4 | --           | 27/30/3      | 32/35/3      | 32/35/3      | 32/35/3      | 32/35/3      | 32/35/3      | 41/44/3      |
| MP <sub>2</sub>     | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE     | 42/47/5      | 54/60/6      | 64/70/6      | 64/71/7      | 64/71/7      | 64/71/7      | 64/71/7      | 73/80/7      |
| TOTAL               | 70/78/8      | 82/91/9      | 92/101/9     | 103/113/10   | 112/122/10   | 121/131/10   | 143/154/10   | 170/180/10   |

Basic Circuits Telephony

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NOTICES

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CIRCUIT DISTRIBUTION

| COUNTRY: FINLAND    | 1979         | 1980         | 1981         | 1982         | MID-1983     | DOT-1983     | 1984         | 1985         |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 <u>2</u>      | 2/4/2        | 2/4/2        | 2/4/2        | 4/6/2        | 4/6/2        | 4/6/2        | 4/6/2        | 4/6/2        |
| TAT-6 <u>14</u>     | 14/15/1      | 14/15/1      | 14/15/1      | 18/19/1      | 19/20/1      | 19/20/1      | 19/20/1      | 20/21/1      |
| TAT-7               | --           | --           | --           | --           | --           | 4/4/0        | 12/12/0      | 21/21/0      |
| TOTAL CABLE         | 16/19/3      | 16/19/3      | 16/19/3      | 22/23/3      | 23/26/3      | 27/30/3      | 35/38/3      | 45/48/3      |
| PP 6/4              | 9/9/0        | 8/8/0        | 14/14/0      | 14/14/0      | 14/14/0      | 14/14/0      | 14/14/0      | 14/14/0      |
| MP <sub>1</sub> 6/4 | --           | 7/7/0        | 14/14/0      | 17/17/0      | 19/19/0      | 19/19/0      | 19/19/0      | 19/20/1      |
| MP <sub>2</sub>     | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE     | 9/9/0        | 15/15/0      | 20/20/0      | 31/31/0      | 33/33/0      | 33/33/0      | 33/33/0      | 33/34/1      |
| TOTAL               | 25/28/3      | 31/34/3      | 44/47/3      | 53/56/3      | 56/59/3      | 60/63/3      | 68/71/3      | 78/82/4      |

Basic Circuits Telephony

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NOTICES

CIRCUIT DISTRIBUTION

COUNTRY: FRANCE

|                       | 1979         | 1980         | 1981          | 1982          | MID-1983      | EOT-1983      | 1984          | 1985          |
|-----------------------|--------------|--------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                       | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  |
| TAT-1                 | --           | --           | --            | --            | --            | --            | --            | --            |
| TAT-2 /12/            | 12/18/6      | 12/18/6      | 12/18/6       | --            | --            | --            | --            | --            |
| TAT-3                 | --           | --           | --            | --            | --            | --            | --            | --            |
| TAT-4 /19/            | 33/53/20     | 33/53/20     | 38/58/20      | 38/58/20      | 38/58/20      | 38/58/20      | 38/58/20      | 38/58/20      |
| TAT-5 /38/            | 38/47/9      | 38/47/9      | 76/85/9       | 76/85/9       | 76/85/9       | 76/85/9       | 76/85/9       | 76/85/9       |
| TAT-6 /408/           | 283/311/48   | 317/374/57   | 373/437/64    | 458/536/78    | 458/536/78    | 458/536/78    | 458/536/80    | 472/555/83    |
| TAT-7                 | --           | --           | --            | --            | --            | 112/120/8     | 336/353/17    | 473/498/25    |
| TOTAL CABLE           | 346/429/83   | 400/492/92   | 499/598/99    | 572/679/107   | 572/679/107   | 684/799/115   | 908/1034/126  | 1059/1196/137 |
| PP 6/4                | --           | 117/124/7    | 134/144/10    | 164/174/10    | 192/205/13    | 192/205/13    | 200/213/13    | 236/249/13    |
| PP 14/11              | --           | 118/137/19   | 135/157/22    | 165/191/26    | 193/222/29    | 193/222/29    | 201/231/30    | 237/270/33    |
| MP <sub>1</sub> 6/4   | 187/218/31   | 234/258/24   | 269/299/30    | 330/364/34    | 193/215/22    | 193/215/22    | 200/224/24    | 236/262/26    |
| MP <sub>1</sub> 14/11 | --           | --           | --            | --            | 193/210/17    | 193/210/17    | 200/218/18    | 236/254/18    |
| MP <sub>2</sub> 6/4   | 187/198/11   | --           | --            | --            | --            | --            | --            | --            |
| TOTAL SATELLITE       | 374/416/42   | 469/519/50   | 538/600/62    | 559/729/70    | 711/852/81    | 771/852/81    | 801/886/85    | 945/1035/90   |
| TOTAL                 | 720/845/125  | 869/1011/142 | 1037/1198/161 | 1231/1408/177 | 1363/1511/188 | 1455/1651/196 | 1709/1920/211 | 2004/2231/227 |

Basic Circuits Telephony

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NOTICES

CIRCUIT DISTRIBUTION

COUNTRY: GERMANY

|                     | 1979         | 1980          | 1981          | 1982          | MID-1983      | EOT-1983      | 1984          | 1985          |
|---------------------|--------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  | AT&T/SUM/IRC  |
| TAT-1               | --           | --            | --            | --            | --            | --            | --            | --            |
| TAT-2 /13/          | 15/17/2      | 15/17/2       | 15/17/2       | --            | --            | --            | --            | --            |
| TAT-3 /1/           | 1/1/0        | 1/1/0         | 1/1/0         | 1/1/0         | 1/1/0         | 1/1/0         | 1/1/0         | --            |
| TAT-4 /25/          | 39/63/24     | 39/63/24      | 39/63/24      | 25/49/24      | 25/49/24      | 25/49/24      | 25/49/24      | 25/49/24      |
| TAT-5 /38/          | 56/77/21     | 56/77/21      | 56/77/21      | 112/133/21    | 112/133/21    | 112/133/21    | 112/133/21    | 112/133/21    |
| TAT-6 /495/         | 280/312/32   | 346/390/44    | 346/403/57    | 378/451/73    | 418/494/76    | 418/494/76    | 440/521/81    | 534/618/84    |
| TAT-7               | --           | --            | --            | --            | --            | 161/172/11    | 440/459/19    | 534/563/29    |
| TOTAL CABLE         | 391/470/79   | 437/548/91    | 437/561/104   | 516/634/118   | 556/677/121   | 717/849/132   | 1018/1144/126 | 1205/1363/158 |
| PP 6/4              | 280/312/32   | 346/384/38    | 346/382/36    | --            | --            | --            | --            | --            |
| PP 14/11            | --           | --            | --            | 377/414/37    | 412/456/39    | 412/457/40    | 439/480/41    | 533/578/45    |
| MP <sub>1</sub> 6/4 | 280/313/33   | 345/384/39    | 345/381/36    | 378/416/38    | 418/458/40    | 418/458/40    | 439/481/42    | 533/578/45    |
| MP <sub>2</sub> 6/4 | --           | --            | 238/234/16    | 378/397/19    | 418/466/28    | 418/467/29    | 440/474/34    | 534/574/40    |
| TOTAL SATELLITE     | 560/625/65   | 691/768/77    | 929/1012/88   | 1133/1227/94  | 1253/1360/107 | 1253/1362/109 | 1318/1435/117 | 1600/1730/130 |
| TOTAL               | 951/1095/144 | 1148/1316/168 | 1306/1578/192 | 1649/1861/212 | 1809/2037/228 | 1970/2211/241 | 2336/2579/243 | 2805/3093/288 |

Basic Circuits Telephony

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NOTICES

CIRCUIT DISTRIBUTION

| COUNTRY: GREECE     | 1979         | 1980         | 1981         | 1982         | MID-1983     | FOT-1983     | 1984         | 1985         |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 <u>9</u>      | 9/11/2       | 9/11/2       | 9/11/2       | 16/20/2      | --           | 18/20/2      | 18/20/2      | 18/20/2      |
| TAT-6 <u>80</u>     | 80/83/3      | 80/85/5      | 80/85/5      | 89/96/7      | --           | 106/114/8    | 123/132/9    | 145/155/10   |
| TAT-7               | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL CABLE         | 89/94/5      | 89/96/2      | 89/96/2      | 107/116/9    | --           | 124/134/10   | 141/152/11   | 163/175/12   |
| PP 6/4              | 96/100/4     | 96/100/4     | 96/101/5     | 96/101/5     | --           | 106/112/6    | 123/130/7    | 145/153/8    |
| MP <sub>1</sub>     | --           | --           | --           | --           | --           | --           | --           | --           |
| MP <sub>2</sub> 6/4 | --           | 32/34/2      | 66/68/2      | 88/90/2      | --           | 106/109/3    | 123/126/3    | 145/149/4    |
| TOTAL SATELLITE     | 96/100/4     | 128/134/6    | 163/169/2    | 184/191/2    | --           | 212/221/9    | 246/256/10   | 290/302/12   |
| TOTAL               | 185/194/9    | 217/230/13   | 251/265/14   | 291/307/16   | --           | 336/355/19   | 387/408/21   | 453/477/24   |

Basic Circuits Telephony

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NOTICES

CIRCUIT DISTRIBUTION

| COUNTRY: IRELAND    | 1979         | 1980         | 1981         | 1982         | MID-1983     | FOT-1983     | 1984         | 1985         |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 <u>8</u>      | 8/19/3       | 8/19/3       | 8/19/3       | 16/19/3      | 16/19/3      | 16/19/3      | 16/19/3      | 16/19/3      |
| TAT-6 <u>66</u>     | 46/48/2      | 55/58/3      | 66/71/13     | 74/80/6      | 89/95/6      | 74/80/6      | 74/80/6      | 74/80/6      |
| TAT-7               | --           | --           | --           | --           | --           | 30/33/3      | 30/34/4      | 40/45/5      |
| CANTAT-2            | 0/3/3        | 0/3/3        | 0/3/3        | 0/3/3        | 0/3/3        | --           | --           | --           |
| TOTAL CABLE         | 54/62/8      | 63/72/9      | 74/85/11     | 90/102/12    | 105/117/12   | 120/132/12   | 120/133/13   | 130/144/14   |
| PP 6/4              | --           | --           | --           | --           | --           | --           | 59/60/1      | 90/91/2      |
| MP <sub>1</sub>     | --           | --           | --           | --           | --           | --           | --           | --           |
| MP <sub>2</sub> 6/4 | 46/46/0      | 55/55/0      | 65/65/0      | 74/74/0      | 74/74/0      | 74/74/0      | 50/50/0      | 50/50/0      |
| TOTAL SATELLITE     | 46/46/0      | 55/55/0      | 65/65/0      | 74/74/0      | 74/74/0      | 74/74/0      | 109/110/1    | 140/142/2    |
| TOTAL               | 100/108/8    | 118/127/9    | 139/150/11   | 164/176/12   | 179/191/12   | 194/206/12   | 229/243/14   | 270/286/16   |

Basic Circuits Telephony

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CIRCUIT DISTRIBUTION

COUNTRY: ITALY

|                  | 1979         | 1980         | 1981         | 1982         | MID-1983     | EOT-1983     | 1984          | 1985          |
|------------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|---------------|
|                  | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC  | AT&T/SUM/IRC  |
| TAT-1            | --           | --           | --           | --           | --           | --           | --            | --            |
| TAT-2 <u>23</u>  | 3/3/0        | 3/3/0        | 3/3/0        | --           | --           | --           | --            | --            |
| TAT-3            | --           | --           | --           | --           | --           | --           | --            | --            |
| TAT-4 <u>47</u>  | 6/9/3        | 6/9/3        | 6/9/3        | 4/1/3        | 4/1/3        | 4/1/3        | 4/1/3         | 4/1/3         |
| TAT-5 <u>123</u> | 123/147/24   | 123/130/27   | 123/132/29   | 143/173/30   | 181/211/30   | 181/211/30   | 206/236/30    | 246/276/30    |
| TAT-6 <u>300</u> | 78/91/13     | 133/149/16   | 203/224/21   | 253/278/25   | 253/280/27   | 253/280/27   | 300/328/28    | 300/329/29    |
| TAT-7            | --           | --           | --           | --           | --           | 37/42/5      | 60/68/6       | 130/144/14    |
| CANTAT-2         | 0/1/1        | 0/1/1        | --           | --           | --           | --           | --            | --            |
| TOTAL CABLE      | 210/231/41   | 265/312/47   | 335/386/53   | 400/458/58   | 438/498/60   | 475/540/65   | 570/639/69    | 680/756/76    |
| PP 6/4           | 110/127/17   | --           | --           | --           | --           | --           | --            | --            |
| MP 1 6/4         | 140/104/4    | 132/138/6    | 167/178/11   | 200/213/13   | 218/231/13   | 237/250/13   | 285/300/15    | 340/356/16    |
| MP 2 6/4         | --           | 133/132/19   | 168/185/17   | 200/219/19   | 219/240/21   | 238/259/21   | 285/308/23    | 340/365/25    |
| TOTAL SATELLITE  | 210/231/21   | 265/290/25   | 335/363/28   | 400/432/32   | 437/471/34   | 475/509/34   | 570/608/38    | 680/721/41    |
| TOTAL            | 420/482/62   | 530/602/72   | 670/751/81   | 800/890/90   | 875/969/94   | 950/1049/99  | 1140/1247/107 | 1360/1477/117 |

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NOTICES

CIRCUIT DISTRIBUTION

COUNTRY: LUXEMBOURG

|                  | 1979         | 1980         | 1981         | 1982         | MID-1983     | EOT-1983     | 1984         | 1985         |
|------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                  | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1            | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2            | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3            | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4            | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 <u>47</u>  | 4/6/2        | 4/6/2        | 4/6/2        | 8/10/2       | 8/10/2       | 8/10/2       | 8/10/2       | 8/10/2       |
| TAT-6 <u>137</u> | 13/16/3      | 13/16/3      | 13/16/3      | 15/18/3      | 18/21/3      | 18/21/3      | 18/21/3      | 21/24/3      |
| TAT-7            | --           | --           | --           | --           | --           | 4/1/3        | 13/17/4      | 20/25/5      |
| TOTAL CABLE      | 17/22/5      | 17/22/5      | 17/22/5      | 23/28/5      | 26/31/5      | 30/38/8      | 39/46/9      | 49/59/10     |
| PP 6/4           | 14/14/0      | 21/21/0      | 27/27/0      | 27/27/0      | 27/27/0      | 27/27/0      | 27/27/0      | 27/27/0      |
| MP 1             | --           | --           | --           | --           | --           | --           | --           | --           |
| MP 2             | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE  | 14/14/0      | 21/21/0      | 27/27/0      | 27/27/0      | 27/27/0      | 27/27/0      | 27/27/0      | 27/27/0      |
| TOTAL            | 31/36/5      | 38/43/5      | 44/49/5      | 50/55/5      | 53/58/5      | 57/63/8      | 66/73/9      | 76/86/10     |

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NOTICES

CIRCUIT DISTRIBUTION

COUNTRY: NETHERLANDS

|                     | MID-1982 (AT&T) |              |              |              |              |
|---------------------|-----------------|--------------|--------------|--------------|--------------|
|                     | 1979            | 1980         | 1981         | 1982         | 1983         |
|                     | AT&T/SUM/IRC    | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --              | --           | --           | --           | --           |
| TAT-2 / 2/          | 2/2/0           | 2/2/0        | 2/2/0        | --           | --           |
| TAT-3               | --              | --           | --           | --           | --           |
| TAT-4 / 3/          | 4/7/3           | 4/7/3        | 4/7/3        | 3/6/3        | 3/6/3        |
| TAT-5 / 13/         | 15/25/10        | 15/25/10     | 15/25/10     | 30/40/10     | 30/40/10     |
| TAT-6 / 120/        | 168/186/18      | 208/232/24   | 251/284/33   | 270/308/38   | 240/278/38   |
| TAT-7               | --              | --           | --           | --           | 93/107/4     |
| CARTAT-2            | 0/6/6           | 0/6/6        | --           | --           | --           |
| TOTAL CABLE         | 189/226/37      | 229/272/43   | 272/318/46   | 303/354/51   | 366/421/55   |
| PP 6/4              | 167/186/19      | 207/228/21   | 251/276/25   | 269/297/28   | 269/299/30   |
| MP <sub>1</sub>     | --              | --           | --           | --           | --           |
| MP <sub>2</sub> 6/4 | --              | --           | --           | 56/56/0      | 119/119/0    |
| TOTAL SATELLITE     | 167/186/19      | 207/228/21   | 251/276/25   | 303/354/51   | 366/421/55   |
| TOTAL               | 356/412/56      | 436/500/64   | 523/594/71   | 628/707/79   | 754/839/85   |

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18105

CIRCUIT DISTRIBUTION

COUNTRY: NORWAY

|                     | MID-1983 (AT&T) |              |              |              |              |
|---------------------|-----------------|--------------|--------------|--------------|--------------|
|                     | 1979            | 1980         | 1981         | 1982         | 1983         |
|                     | AT&T/SUM/IRC    | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --              | --           | --           | --           | --           |
| TAT-2               | --              | --           | --           | --           | --           |
| TAT-3               | --              | --           | --           | --           | --           |
| TAT-4 / 1/          | 1/2/1           | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        |
| TAT-5 / 7/          | 7/9/2           | 7/9/2        | 7/9/2        | 14/16/2      | 14/16/2      |
| TAT-6 / 20/         | 20/20/0         | 20/20/0      | 20/20/0      | 35/36/1      | 40/41/1      |
| TAT-7               | --              | --           | --           | --           | 13/14/1      |
| TOTAL CABLE         | 28/31/3         | 28/31/3      | 28/31/3      | 50/54/4      | 68/73/5      |
| PP 6/4              | 59/62/3         | 37/39/2      | 46/48/2      | 46/48/2      | 46/48/2      |
| MP <sub>1</sub> 6/4 | --              | 38/39/1      | 47/48/1      | 47/48/1      | 55/56/1      |
| MP <sub>2</sub>     | --              | --           | --           | --           | --           |
| TOTAL SATELLITE     | 59/62/3         | 75/78/3      | 93/96/3      | 101/104/3    | 101/104/3    |
| TOTAL               | 87/93/6         | 103/109/6    | 121/127/6    | 143/150/7    | 169/177/8    |

Basic Circuitry Telephony

FEDERAL REGISTER, VOL. 44, NO. 59—MONDAY, MARCH 26, 1979



CIRCUIT DISTRIBUTION

| COUNTRY: PORTUGAL | 1979         | 1980         | 1981         | 1982         | MID-1983     | END-1983     | 1984         | 1985         |
|-------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                   | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1             | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2             | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3             | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4             | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 / 29/       | 29/34/5      | 29/34/5      | 29/34/5      | 29/34/5      | 29/34/5      | 29/34/5      | 31/36/5      | 36/41/5      |
| TAT-6 / 48/       | 14/17/3      | 18/21/3      | 22/25/3      | 27/31/4      | 30/34/4      | 30/34/4      | 32/36/4      | 37/41/4      |
| TAT-7             | --           | --           | --           | --           | --           | 6/9/3        | 14/17/3      | 14/18/4      |
| TOTAL CABLE       | 43/51/8      | 47/55/8      | 51/59/8      | 56/65/9      | 59/68/9      | 65/77/12     | 77/89/12     | 87/100/13    |
| PP 6/4            | 13/15/2      | 17/19/2      | 22/24/2      | 27/29/2      | 30/32/2      | 30/32/2      | 31/33/2      | 36/38/2      |
| MP 1              | --           | --           | --           | --           | --           | --           | --           | --           |
| MP 2              | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE   | 13/15/2      | 17/19/2      | 22/24/2      | 27/29/2      | 30/32/2      | 30/32/2      | 31/33/2      | 36/38/2      |
| TOTAL             | 56/66/10     | 64/74/10     | 73/83/10     | 83/94/11     | 89/100/11    | 95/109/14    | 108/122/14   | 123/138/15   |

Basic Circuits Telephone

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CIRCUIT DISTRIBUTION

| COUNTRY: SPAIN  | 1979         | 1980         | 1981         | 1982         | MID-1983     | END-1983     | 1984         | 1985         |
|-----------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                 | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4 / 1/      | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        |
| TAT-5 / 64/     | 64/91/27     | 64/95/31     | 66/97/33     | 64/98/34     | 64/98/34     | 64/98/34     | 64/98/34     | 64/98/34     |
| TAT-6 / 110/    | 39/44/5      | 44/53/9      | 51/65/14     | 63/84/21     | 69/96/27     | 69/99/30     | 70/110/40    | 91/139/48    |
| TAT-7           | --           | --           | --           | --           | --           | 21/21/0      | 64/64/0      | 64/64/0      |
| CANTAT-2        | 0/1/1        | 0/2/2        | 0/2/2        | 0/2/2        | 0/2/2        | 0/2/2        | --           | --           |
| TOTAL CABLE     | 104/138/34   | 109/152/43   | 116/166/50   | 128/186/58   | 134/198/64   | 155/222/67   | 199/274/75   | 220/303/83   |
| PP 6/4          | 38/56/18     | 44/63/19     | 50/72/22     | 62/84/22     | 69/94/25     | 69/94/25     | 70/97/27     | 90/119/29    |
| MP 1 6/4        | 38/43/5      | 43/50/7      | 50/58/8      | 62/73/11     | 69/82/13     | 69/82/13     | 70/87/17     | 90/110/20    |
| MP 2 14/11      | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE | 76/99/23     | 87/113/26    | 100/130/30   | 124/157/33   | 138/176/38   | 138/176/38   | 140/184/44   | 180/229/49   |
| TOTAL           | 180/237/57   | 196/265/69   | 216/296/80   | 252/343/91   | 272/374/102  | 293/398/105  | 339/458/119  | 400/533/132  |

Basic Circuits Telephone

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NOTICES

CIRCUIT DISTRIBUTION

| COUNTRY: SWEDEN     | 1979         | 1980         | 1981         | 1982         | MID-1983     | EOT-1983     | 1984         | 1985         |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                     | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3               | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4               | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        | 1/2/1        |
| TAT-5               | 15/12/2      | 15/12/2      | 15/17/2      | 30/32/2      | 30/32/2      | 30/32/2      | 30/32/2      | 30/32/2      |
| TAT-6               | 18/20/2      | 18/20/2      | 18/20/2      | 33/35/2      | 36/38/2      | 36/38/2      | 36/38/2      | 36/38/2      |
| TAT-7               | --           | --           | --           | --           | --           | 18/21/3      | 53/56/3      | 91/94/3      |
| TOTAL CABLE         | 34/39/5      | 34/39/5      | 34/39/5      | 64/69/5      | 67/72/5      | 85/93/8      | 120/128/8    | 158/166/8    |
| PP 6/4              | 96/99/3      | 60/63/3      | 71/74/3      | 71/74/3      | 71/74/3      | 71/74/3      | 71/74/3      | 71/74/3      |
| MP <sub>1</sub> 6/4 | --           | 61/61/0      | 75/75/0      | 75/75/0      | 89/89/0      | 89/89/0      | 89/89/0      | 91/91/0      |
| MP <sub>2</sub>     | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE     | 96/99/3      | 121/124/2    | 146/149/3    | 146/149/3    | 160/163/3    | 160/163/3    | 160/163/3    | 162/165/3    |
| TOTAL               | 130/138/8    | 155/163/8    | 180/188/8    | 210/218/8    | 227/235/8    | 245/256/11   | 280/291/11   | 320/331/11   |

Basic Circuits Telephony

FEDERAL REGISTER, VOL. 44, NO. 59—MONDAY, MARCH 26, 1979

NOTICES

18109

CIRCUIT DISTRIBUTION

| COUNTRY: SWITZERLAND | 1979         | 1980         | 1981         | 1982         | MID-1983     | EOT-1983     | 1984         | 1985         |
|----------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                      | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1                | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2                | 2/2/0        | 2/2/0        | 2/2/0        | --           | --           | --           | --           | --           |
| TAT-3                | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4                | 6/14/8       | 6/14/8       | 6/14/8       | 6/14/8       | 3/11/8       | 3/11/8       | 3/11/8       | 3/11/8       |
| TAT-5                | 17/44/27     | 17/44/27     | 17/44/27     | 34/61/27     | 34/61/27     | 34/61/27     | 34/61/27     | 34/61/27     |
| TAT-6                | 132/171/39   | 132/180/48   | 132/188/56   | 132/196/64   | 149/216/67   | 149/218/69   | 149/221/72   | 187/260/73   |
| TAT-7                | --           | --           | --           | --           | --           | 43/54/11     | 144/159/15   | 187/207/20   |
| CANTAT-2             | 0/8/8        | 0/8/8        | 0/8/8        | 0/8/8        | 0/8/8        | --           | --           | --           |
| TOTAL CABLE          | 157/239/82   | 157/248/91   | 157/256/99   | 172/279/107  | 186/296/110  | 229/344/115  | 330/452/122  | 411/539/128  |
| PP 6/4               | 143/153/10   | 191/203/12   | 80/84/4      | 100/106/6    | 113/120/7    | 113/120/7    | 113/122/9    | 126/137/11   |
| MP <sub>1</sub> 6/4  | --           | --           | 172/184/12   | 210/224/14   | 226/243/14   | 226/244/18   | 226/248/22   | 252/277/25   |
| MP <sub>2</sub>      | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE      | 143/153/10   | 191/203/12   | 252/268/16   | 310/330/20   | 339/363/24   | 339/364/25   | 339/370/31   | 378/414/36   |
| TOTAL                | 300/392/92   | 348/451/103  | 409/524/115  | 482/609/127  | 525/659/134  | 568/708/140  | 669/822/153  | 789/953/164  |

Basic Circuits Telephony

FEDERAL REGISTER, VOL. 44, NO. 59—MONDAY, MARCH 26, 1979



CIRCUIT DISTRIBUTION

COUNTRY: TURKEY

|                 | 1979         | 1980         | 1981         | 1982         | MID-1983     | DOT-1983     | 1984         | 1985         |
|-----------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                 | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5 <u>12</u> | 2/3/1        | 2/3/1        | 2/3/1        | 4/5/1        | 4/5/1        | 4/5/1        | 4/5/1        | 4/5/1        |
| TAT-6 <u>17</u> | 4/6/2        | 7/9/2        | 7/9/2        | 10/13/3      | 14/17/3      | 14/17/3      | 14/17/3      | 14/17/3      |
| TAT-7           | --           | --           | --           | --           | --           | 3/3/0        | 10/10/0      | 10/10/0      |
| TOTAL CABLE     | 6/9/3        | 9/12/3       | 9/12/3       | 14/18/4      | 18/22/4      | 21/25/4      | 28/32/4      | 28/32/4      |
| PP 6/4          | 8/10/2       | 26/29/3      | 31/35/4      | 31/36/5      | 31/36/5      | 31/36/5      | 31/36/5      | 39/45/6      |
| MP <sub>1</sub> | --           | --           | --           | --           | --           | --           | --           | --           |
| MP <sub>2</sub> | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE | 8/10/2       | 26/29/3      | 31/35/4      | 31/36/5      | 31/36/5      | 31/36/5      | 31/36/5      | 39/45/6      |
| TOTAL           | 14/19/5      | 35/41/6      | 40/47/7      | 45/54/9      | 49/58/9      | 52/61/9      | 59/68/9      | 67/77/10     |

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NOTICES

NOTICES

CIRCUIT DISTRIBUTION

COUNTRY: YUGOSLAVIA

|                 | 1979         | 1980         | 1981         | 1982         | MID-1983     | DOT-1983     | 1984         | 1985         |
|-----------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                 | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC | AT&T/SUM/IRC |
| TAT-1           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-2           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-3           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-4           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-5           | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        |
| TAT-6           | --           | --           | --           | --           | --           | --           | --           | --           |
| TAT-7           | --           | --           | --           | --           | --           | 4/5/1        | 13/14/1      | 24/25/1      |
| TOTAL CABLE     | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        | 0/1/1        | 4/6/2        | 13/15/2      | 24/26/2      |
| PP              | 28/32/4      | 32/37/5      | 37/43/6      | 44/51/7      | 47/54/7      | 47/55/8      | 47/57/10     | 47/59/12     |
| MP <sub>1</sub> | --           | --           | --           | --           | --           | --           | --           | --           |
| MP <sub>2</sub> | --           | --           | --           | --           | --           | --           | --           | --           |
| TOTAL SATELLITE | 28/32/4      | 32/37/5      | 37/43/6      | 44/51/7      | 47/54/7      | 47/55/8      | 47/57/10     | 47/59/12     |
| TOTAL           | 28/33/5      | 32/38/6      | 37/44/7      | 44/52/8      | 47/55/8      | 51/61/10     | 60/72/12     | 71/85/14     |

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[6712-01-M]

SEPARATE STATEMENT OF CHARLES D. FERRIS

IN RE TRANSATLANTIC COMMUNICATION  
FACILITIES CONSTRUCTION AND USE PLAN

Today's action by the Commission on the Transatlantic Communication Facilities Construction and Use Plan agreed to by our European correspondent and submitted by the United States International Service Carriers is a major step toward mutual agreement on a comprehensive facilities implementation and utilization plan for the North Atlantic region through 1985. Such an agreement has eluded the Commission for a number of years, yet its accomplishment is one of the Commission's highest priorities.

Such an agreement, if achieved, would allow a more orderly review of facilities proposals previously handled in an *ad hoc* manner. It would reduce regulatory delay. It would decrease the risk of facilities being built that would burden U.S. ratepayers with unnecessary costs. It would help us develop common methodologies for traffic forecasting and circuit utilization. And it would demonstrate conclusively that the shared communications needs of the countries in the North Atlantic region are more important than their differences in regulatory organization or facilities ownership.

The plan proposed by the International Service Carriers is in compliance, in many important ways, with the parameters established by the Commission last year. I believe that it is significant that so much agreement has been achieved in so short a time among countries with substantially divergent interests. Because of this progress, I am confident that agreement can be reached quickly on questions which remain to be resolved or issues which require clarification.

Several features of the proposed plan, however, do depart significantly from the parameters of plans 3 (revised) and 4-M and, if implemented, would cost U.S. consumers millions of dollars above the cost of the cable itself. There is no adequate justification now before the Commission for the use of the 300 additional circuits between the U.S. and Great Britain on TAT-6 and CANTAT-2 or for the 20 additional circuits between the U.S. and Belgium on CANTAT-2.

The parameters for negotiation adopted by the Commission were not viewed by us as immutable—particularly given our concern for the interests of other nations—and the Commission has today found satisfactory utilization plans which differ from those proposed by the Commission. But the Commission cannot remain indifferent to the effects of other new proposals which would place a significant burden on U.S. ratepayers.

I look forward to the results of further discussions on the need for the additional circuits, particularly since there is less expensive technology which would obtain the same result. I am confident that the results of these discussions will allow us to proceed with the schedule originally set forth in our October order.

SEPARATE STATEMENT OF COMMISSIONER  
ABBOTT WASHBURN

RE DOCKET 18875

FEBRUARY 26, 1979.

It is not clear if the accommodation of shortfall or increased demand will be in keeping with the concept of balance loading as described in Section B-1 Attachment III of the USISC's April 29, 1977 filing in this docket. Per our Commission discussion, this is an important point and should the USISC need to confer with their European correspondents to provide clarification, nothing in today's announcement should inhibit such discussions.

SEPARATE STATEMENT OF COMMISSIONER  
JOSEPH R. FOGARTYIN RE: ADOPTION OF INTERNATIONAL FACILITIES  
PLAN 3, REVISED, FOR ATLANTIC BASIN

I join in the Commission's decision to accept Plan 3 (Munich)<sup>1</sup> for communications facility planning between the United States and Canada, on one side of the Atlantic, and Western Europe on the other, during the period through 1985. Since I dissented in 1977 to adoption of any facilities plan,<sup>2</sup> and since I continue to have many reservations about the need for additional cable capacity during the planning period, I am taking this opportunity to explain my vote and outline what I hope the Commission will accomplish by this outcome.

The decisions in this proceeding have been among the most difficult thus far in my tenure at the Commission. After hearing oral argument, studying the record, and meeting with our foreign correspondents on several occasions, I remain unconvinced that an additional cable is needed to meet projected demand within the planning period. Troublesome as this is, several other factors have led me to decide that the long-run public interest will be served by authorization of TAT-7 in 1983. These factors are: Increased revenue requirements to be charged to the U.S. ratepayer are so minimal, on a per-circuit or per-call basis, that the additional costs more than likely will not be reflected in higher rates.

Additional competition from cable, coupled with Commission pressure or directives, should prompt Comsat to pass through future cost savings resulting from lower lease rates from INTELSAT, thus lowering overall rates to the public.

Compromise with the Europeans and Canadians should facilitate a more meaningful planning process in the future and promote a recognition of our policies favoring open entry and competition in the provision of common carrier services.

I wish to discuss each of these in turn.

The Commission's estimate of revenue requirements associated with construction of TAT-7 during the planning period, when allocated over projected years of service, should increase overall revenue requirements by far less than one percent, as National Telecommunications and Information Administration pointed out in oral argument.<sup>3</sup> Since cable and satellite costs are averaged in determining the international carriers rates to the public, the overall revenue

<sup>1</sup>With the limited exceptions noted in the Public Notice.

<sup>2</sup>See Report, Order and Third Statement of Policy and Guidelines, 67 FCC 2d 358, 421 (1977).

<sup>3</sup>Tr., P. 473.

requirement impact will be even less. As international carrier rates of return are essentially unregulated, and will remain so unless and until the Commission is able to complete its International Audit in Docket No. 20778, I am confident that this insignificant increase in revenue requirements will not cause the carriers to increase rates and thereby possibly precipitate an immediate rate proceeding.

Second, the Commission has based its comparative cost analysis of cable and satellite on the total investment, allocated by circuit over each medium's service life. The applicants and others, however, have advocated use of per-circuit lease costs for satellites and investment costs for the proposed cable. The issue, as I see it, is the extent to which satellite investment will be reflected in INTELSAT's lease costs and in Comsat's charges to the carriers. While I recognize that INTELSAT's charges have generally reflected its costs in the long run, and have declined over time, Comsat has not passed through these cost savings in its tariff rates. Now, however, with our adoption of the Comsat rate case settlement,<sup>4</sup> I expect that the Commission will require Comsat to flow through future INTELSAT reductions on a dollar-for-dollar basis. If it does not, or if future Commission orders are required to force Comsat to flow through its savings, the Commission should reject future Comsat cost comparison arguments. Thus, if Comsat refuses to put its rates where its mouth is, then we would, I trust, be much more sympathetic to a comparison of Comsat's present lease rates with projected cable investment in determining relative costs of the media.

I would also hope that as the Commission extends its competitive policies further into the international arena, Comsat will find itself in direct competition with undersea cables to a greater extent than is now the case. Since Comsat rates are now higher than the projected costs of new cable investment to Europe, competitive pressures should have their impact on Comsat's charges, and the result may help demonstrate the validity of the Commission's methods of cost comparison.

My third point goes to the reason for my dissent in 1977. I believed then, and I believe now, that we have had no meaningful overall planning process with the Europeans and Canadians looking toward an efficient system of international communications facilities spanning the Atlantic. Meetings among representatives of our countries have not succeeded in developing any agreement as to those facilities and circuits required over the coming years. Proposal, and now acceptance, of a form of Plan 3 is in large part an effort on the Commission's part to break this deadlock, propose a reasonable compromise, and thus re-vitalize the languishing consultative process. As I said in 1977, "we have no planning process; there is no 'master plan' of any meaning." It is my hope, and the expressed hope of the Commission, that the investment our ratepayers are making in TAT-7 during the planning period will result in a more efficient transatlantic transmission network in the years to come.

We are shortly to meet with the foreign correspondents in Montreal to begin a new round of consultation and planning. I expect that this meeting will give us some

<sup>4</sup>See Memorandum Opinion and Order, 68 FCC 2d 941 (1978).

idea of the validity of these hopes. Certainly, authorizing the cable will not guarantee a meaningful planning process for the future. But I am convinced that, if we had affirmed our adoption of Plan 4-M, without proposing Plan 3 as well, there would be no possibility of developing such a process. I believe that only by compromising with the Europeans and Canadians in this way can we hope to hold discussions that can reasonably lead to development of a master plan. As part of these discussions, we must determine common methodologies for estimating circuit needs for the planning period, and only then negotiate the facilities to meet these needs. If INTELSAT planning were to be completed before we begin such discussions, as has been the case in the past, such a process is not possible.

Coupled with the need for circuit planning is the necessity for the foreign correspondents to recognize our competitive policies. Many other foreign correspondents have balked at dealing with more than a small number of United States carriers. The specialized carriers which we have authorized to offer international services have met with almost universal opposition when seeking operating arrangements abroad. Now that the Commission has considered and, to some degree, deferred to the policies and expressed needs of the foreign governments, we should expect "tit for TAT" from the Europeans in terms of their recognition of our competitive policies and their agreement to deal with our multiplicity of carriers. Without such reciprocity, I cannot see how we can give any weight or consideration to the Europeans' internal needs and policies in our future dealings. In the final analysis, reciprocity must be a two-way street, a dialogue rather than a monologue.

These considerations have convinced me that the public interest is best served by substantially accepting Plan 3 (Munich) and by authorizing a seventh Transatlantic cable to be activated in 1983.

[FRC Doc. 79-9053 Filed 3-23-79; 8:45 am]

[6712-01-M]

[FCC 79-173]

## 1977 TELEVISION FINANCIAL DATA

Release to Senate Communications  
Subcommittee

MARCH 19, 1979.

In an exchange of correspondence released today, the Commission agreed to provide the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation, U.S. Senate, information from the 1977 FCC Form 324 of each commercial television licensee. The Commission advised the Subcommittee that the 324 Forms contain commercially sensitive financial information and that individual broadcaster and individual station data is privileged and confidential and not routinely available to the public. The Commission requested that the Subcommittee treat the information accordingly.

Action by the Commission March 19, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn and Fo-

garty, with Commissioner Brown concurring in the result.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

[FRC Doc. 79-9052 Filed 3-23-79; 8:45 am]

[6730-01-M]

## FEDERAL MARITIME COMMISSION

## AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 16, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3785.

Filing party: Mr. Jose Antonio Tulla, General Counsel, Ports Authority, Commonwealth of Puerto Rico, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Summary: Agreement No. T-3785, between the Puerto Rico Ports Authority (Port) and International Shipping Agency, Inc. (ISA), provides for the Port's granting to ISA at San Juan, Puerto Rico, the exclusive use of a mezzanine comprising 510 square feet and offices with a capacity of 3,235.83 square feet and 321 square feet, together with the preferential use of the berthing and platform at Pier 11 consisting of 14,410.56 square feet, warehouse space consisting of 8,607.92 square feet, and open space area consisting of 27,068.63 square feet. As compensation, ISA shall pay Port wharfage and dockage charges normally as-

sessed by the Port or a minimum annual payment of \$125,000, whichever is higher, plus demurrage, and any other charges which would normally be assessed by the Port against vessels and their cargo.

Agreement No. T-3792.

Filing party: Gary E. Koehler, Director of Transportation, Maryland Port Administration, World Trade Center, Baltimore, Maryland 21202.

Summary: Agreement No. T-3792 is a standard lease form between the Maryland Port Administration (Administration) and lessees desiring to lease marine terminal facilities in the Port of Baltimore pursuant to the terms set forth in the lease. Rental rates applicable will be those specified in Section IX of the Administrations' Terminal Services Tariff.

Agreement No. 10066-1.

Filing party: Fred A. Wendt, Senior Vice President, Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, Louisiana 70150.

Summary: Agreement No. 10066-1, between Flota Mercante Grancolombiana S.A. and Delta Steamship Lines, Inc., modifies the parties' basic access agreement to government-controlled cargo in the trades between ports on the East and West Coasts of the United States and ports of Colombia by adding the following language to the signature page thereof: "Implementation of this Agreement shall be made in compliance with requirements of all Colombian Maritime Laws."

By order of the Federal Maritime Commission.

Dated: March 21, 1979.

FRANCIS C. HURNEY,  
Secretary.

[FRC Doc. 79-9089 Filed 3-23-79; 8:45 am]

[6820-26-M]

GENERAL SERVICES  
ADMINISTRATION

## ARCHIVES ADVISORY COUNCIL

## Advisory Committee Review

Notice is hereby given that the National Archives and Records Service has conducted a review of the National Archives Advisory Council in accordance with OMB Circular No. A-63, Transmittal Memorandum No. 5. The public is invited to comment on the results of the review and to offer recommendations on the continuation or termination of this advisory committee. The results of the review are available for inspection in Room 403, National Archives Building, 8th and Pennsylvania Avenue, N.W., Washington D.C. 20408 weekdays between 8:45 and 5:15 p.m. Comments and recommendations should be sent to the NARS Committee Management Officer, General Services Administration (NAA), Washington, D.C. 20408 on or before March 27, 1979.



Issued in Washington, DC on March 8, 1979.

JAMES B. RHOADS,  
Archivist of the United States.  
(FR Doc. 79-8995 Filed 3-23-79; 8:45 am)

#### [4110-88-M]

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health  
Administration

##### EMPLOYEES OF EVALUATION RESEARCH GROUP, INC.

Research on Mental Health; Authorization of  
Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), all persons who:

1. Are employed by Evaluation Research Group, Inc., Eugene, Oregon; and
2. Have, in the course of their employment, access to information which would identify individuals who are the subjects of the research on mental health which is assisted by the Department of Health, Education, and Welfare grant numbered R01 MH 31018 titled "Longitudinal Assessment of Group Home Outcomes"; are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of Evaluation Research Group, Inc. to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to the Department of Health, Education, and Welfare grant numbered R01 MH 31018. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare grant numbered R01 MH 31018 which would identify individuals

#### NOTICES

who are subjects of the research conducted under the grant.

Dated: March 6, 1979.

HERBERT PARDES,  
Director, National Institute  
of Mental Health.

Dated: March 7, 1979.

KARST BESTEMAN,  
Acting Director, National  
Institute on Drug Abuse.

Dated: March 10, 1979.

GERALD L. KLERNAN,  
Administrator, Alcohol, Drug  
Abuse, and Mental Health Ad-  
ministration.

(FR Doc. 79-8996 Filed 3-23-79; 8:45 am)

#### [4110-83-M]

Health Resources Administration

##### ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1979:

Name: Agenda Planning Subcommittee of the National Council on Health Planning and Development.

Date and time: April 10, 1979, 10:30 a.m.-12:30 p.m.

Place: HEW/PHS/Regional Office, 200 S. Wacker Drive, 26th Floor Conference Room, Chicago, Illinois 60606. Open for entire meeting.

Purpose: The objectives of the Agenda Planning Subcommittee are to (1) assist the Chairperson in planning the order and timing of agenda topics for full Council consideration and action to assure that the Secretary will receive advice and/or recommendations on each of its three areas of functional responsibilities under section 1503(a) in an appropriate time and manner; (2) coordinate information about and among subcommittee activities and plans; and (3) provide preliminary review of proposed changes in Council operations.

Agenda: The Subcommittee will plan the agenda for the May 11 meeting of the National Council on Health Planning and Development.

Anyone requiring information regarding the subject Subcommittee should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436-7175.

Agenda items are subject to change as priorities dictate.

Dated: March 20, 1979.

JAMES A. WALSH,  
Associate Administrator for  
Operations and Management.  
(FR Doc. 79-9067 Filed 3-23-79; 8:45 am)

#### [4110-02-M]

##### Office of Education NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Task Force Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Task Force on Special Populations. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATE: April 12, 1979.

ADDRESS: Kansas City, Missouri, at the Ramada Airport Inn, 7301 N.W. Tiffany Springs Road (I-29). 9:30 A.M.-4:00 P.M.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(A) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On April 12, 1979, the Task Force on Special Populations will meet as described. The agenda will consist of planning for the 1979-'80 program of work (project to be approved by the Council) as related to NACVE's two-year agenda on "Studying the Federal Role in Vocational Education."

#### NOTICES

Minutes shall be kept of the Task Force decisions, and shall be available to the public at the Office of the National Advisory Council on Vocational Education, located at 425 13th Street N.W., Suite 412, Washington, D.C. For further information call Dr. Ralph Bregman at: 202-376-8873.

Signed at Washington, D.C. on March 19, 1979.

RAYMOND C. PARROTT,  
Executive Director, National Ad-  
visory Council on Vocational  
Education.

(FR Doc. 79-9059 Filed 3-23-79; 8:45 am)

#### [4110-35-M]

Office of the Secretary

##### HEALTH CARE FINANCING ADMINISTRATION

Statement of Organization, Functions, and  
Delegations of Authority

Part F, Chapter FA "Office of the Administrator", of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Health Care Financing Administration, (42 FR 33072, June 29, 1977, and 43 FR 5579-5580, February 9, 1978), is amended to reflect the following changes:

● Establish an Office of Legislation and Policy reporting to the Administrator, HCFA.

● Transfer the Office of Legislative Planning and the Office of Policy Analysis, both of which are in the Office of Policy, Planning, and Research, to the new Office of Legislation and Policy.

● Amend the functional statement for the Office of Policy, Planning, and Research (OPPR) to reflect a change in its title to the Office of Research, Demonstrations, and Statistics and the removal of the legislative planning and policy analysis functions.

● Establish a Division of Coverage and Benefits, a Division of Administration and Reimbursement, and a Division of Health Systems, all of which report to the Office of Legislative Planning.

● Transfer the Office of Congressional Affairs (OCA) to the Office of Legislative Planning as a division-level component and amend the OCA functional statement and title to reflect its new organizational location.

The above changes also revise Chapter F, Section F.10 "Organization" as follows:

● Delete from the listing of components reporting to the Office of the Administrator, the Office of Policy,

Planning, and Research and the Office of Congressional Affairs.

● Add in their stead the Office of Research, Demonstrations, and Statistics and the Office of Legislation and Policy.

The revised functional statements for Chapter FA read as follows:

##### OFFICE OF RESEARCH, DEMONSTRATIONS, AND STATISTICS (FAR)

The Office of Research, Demonstrations, and Statistics (ORDS) provides leadership and executive direction within HCFA for health care financing research, demonstrations, and statistics activities pertaining to HCFA programs. ORDS works closely with the Administrator, other bureau/office directors, and high-level staff outside HCFA to insure that the Agency's objectives in these areas are accomplished. The ORDS develops and manages the HCFA research and statistical publications programs and suggests alternate ways to accomplish HCFA's objectives.

##### OFFICE OF LEGISLATION AND POLICY (FAL)

The Office of Legislation and Policy provides leadership and executive direction within HCFA for the legislative planning and policy analysis programs. Develops and evaluates recommendations concerning legislative proposals for changes in health care financing. Develops the long-range HCFA legislative plans. Coordinates its activities with the Office of the Assistant Secretary for Legislation (ASL) and serves as the principal contact point with the ASL on legislative and Congressional relations activities; develops HCFA strategy for long-range and yearly policy plans in such areas as cost containment, reimbursement limitations, and alternative methods of reimbursement and coverage. Plans, directs, and develops HCFA "strategy planning" documents. Provides technical and advisory services to HCFA components, members of the Executive Branch and other Government agencies interested in health care financing legislation, congressional relations, and policy development. In conjunction with the Office of the Assistant Secretary for Legislation, provides information services to congressional committees, individual Congressmen and private organizations on health care financing legislation.

##### OFFICE OF LEGISLATIVE PLANNING (FAL 1)

The Office of Legislative Planning directs the legislative planning and congressional relations programs of HCFA. Develops and evaluates recom-

mendations concerning legislative proposals for changes in health care financing. Develops the long-range HCFA legislative plans. Analyzes and makes recommendations to the Administrator and the Department on related health legislative proposals, including those which may require coordination with programs conducted by other HEW components and/or which relate to methods other than health insurance or providing economic security through social insurance. Prepares technical specifications for legislation and coordinates congressional testimony and briefing materials for all of HCFA. Through the Director, Office of Legislation and Policy, coordinates its activities with the Office of the Assistant Secretary for Legislation and serves as a principal contact point with the Office of the Assistant Secretary for Legislation. Serves as a principal advisor on HCFA's relations with the legislative branch of Government; maintains Agencywide responsibility for keeping Congress informed of HCFA operations and activities; and provides information on HCFA programs to individual members of Congress and committees as requested.

##### DIVISION OF COVERAGE AND BENEFITS (FAL 11)

The Division of Coverage and Benefits (DCB) directs legislative planning and analysis for HCFA in the areas of cost containment, freedom of information, and relationships with other Federal health care programs, such as those operated by the Veterans' Administration, CHAMPUS, and FEHB. The DCB develops long-range legislative plans in the substantive areas assigned, makes recommendations on related health legislative proposals, prepares technical specifications for legislation, and coordinates congressional testimony and briefing materials.

##### DIVISION OF HEALTH SYSTEMS (FAL 12)

The Division of Health Systems (DHS) directs legislative planning and analysis for HCFA involving innovative methods of delivering health care services (such as PSRO's, HMO's, comprehensive health planning, health manpower, etc.) under Federal programs and in those areas requiring analysis of statutory implications of issues such as privacy, confidentiality of data, and fraud and abuse. The DHS develops long-range legislative plans in the above areas, makes recommendations on related health legislative proposals, prepares technical specifications for legislation, and coordinates congressional testimony and briefing materials.



## DIVISION OF ADMINISTRATION AND REIMBURSEMENT

(FAL 13)

The Division of Administration and Reimbursement (DAR) directs legislative planning and analysis for HCFA involving reimbursement issues, the use of program statistics and legislative proposals, cost estimates for legislative proposals, and relations with the Provider Reimbursement Review Board. The DAR also coordinates "minor and technical" amendments and legislative initiatives for all of HCFA. The DAR develops long-range legislative plans in the substantive areas assigned, makes recommendations on related health legislative proposals, prepares technical specifications for legislation, and coordinates congressional testimony and briefing materials.

## DIVISION OF CONGRESSIONAL AFFAIRS

(FAL 14)

Provides staff advice through the Office of Legislative Planning to the HCFA Administrator in HCFA's relations with the legislative branch of Government; keeps the Administrator informed on the status of pending or proposed legislation; maintains Agencywide responsibility for keeping Congress informed of HCFA operations and activities; and provides information on HCFA programs to individual members of Congress and committees as requested.

## OFFICE OF POLICY ANALYSIS

(FAL 2)

Directs the interpretation and development of long-term objectives for health care financing policies in such areas as cost containment, reimbursement limitations, and alternative methods of reimbursement and coverage. Assumes a primary responsibility for coordinating technical and operating policy issues to insure that appropriate statutory modifications are introduced through the Office of Legislative Planning. Develops methods for, and directs the conduct of, evaluations for assessing the effectiveness of the health care financing program and policies. Works closely with the Office of Demonstrations and Evaluations, ORDS, to insure that experimental results are incorporated into program plans and objectives, and with the Office of Financial and Actuarial Analysis, ORDS, to insure that cost factors are considered in developing new policies. Provides technical services to other HCFA components, Governmental agencies, and other organizations interested in the policy implications of modifications to Federal health programs. Plans, directs, and

## NOTICES

develops HCFA "forward planning" documents.

The revised Chapter F, Section F.10 reads as follows:

F.10 Organization. The Health Care Financing Administration (HCFA) is a principal operating component of HEW. It is headed by an Administrator, HCFA, who reports to the Secretary and consists of the following organizational elements:

Office of the Administrator (FA):  
Administrator's Special Initiatives Staff (FA-1)  
Executive Secretariat (FAE)  
Office of Legislation and Policy (FAL)  
Office of Public Affairs (FAN)  
Provider Reimbursement Review Board (FAH)  
Office of Research, Demonstrations, and Statistics (FAR)  
Office of Management and Budget (FAM)  
Office of Regional Affairs (FAP)  
Office of Reimbursement Practices (and Cost Containment) (FAC)  
Office of the Deputy Administrator for Operations (FP):  
Medicare Bureau (FPH)  
Medicaid Bureau (FPM)  
Office of Program Integrity (FPQ)  
Health Standards and Quality Bureau (FPS)  
Office of Standards and Certification (FPSS)  
Office of PSRO (FPSP)  
Office of the Regional Administrator: Regions I through X (FD).

Dated: March 19, 1979.

FREDERICK M. BOHEN,  
Assistant Secretary for  
Management and Budget.

(FR Doc. 79-9106 Filed 3-23-79; 8:45 am)

## [4110-35-M]

## SUPPLEMENTARY MEDICAL INSURANCE FOR THE AGED AND DISABLED AND MEDICAL ASSISTANCE PROGRAMS

## Proposed List of Additional Items and Services Subject to the Lowest Charge Level

We have determined that certain laboratory services and items of medical equipment do not generally vary significantly in quality from one supplier to another. We, therefore, propose to make these items and services subject to the Medicare and Medicaid lowest charge level criteria.

## OPPORTUNITY FOR COMMENT

Public comment is invited on whether the items or services are properly identified or described and whether they are appropriate for reimbursement at the lowest charge levels. All

The Provider Reimbursement Review Board is assigned to HCFA for administrative support purposes only.

written comments received by May 10, 1979, will be carefully considered, and this notice with any indicated changes, will be republished.

Please refer to file code MAB-107-N and address your comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. Agencies and organizations are requested to submit their comments in duplicate.

Comments will be available for public inspection, beginning 2 weeks from today, in Room 5231 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (telephone 202-245-0950). For further information, contact: Mr. Paul Riesel, Medicare Bureau, Health Care Financing Administration, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone No. 301-594-9595.

## BACKGROUND

Section 1842(b) (3) of the Social Security Act (42 U.S.C. 1395u(b) (3)) provides that for medical services, supplies, and equipment (including equipment servicing) which the Secretary has found do not generally vary significantly in quality from one supplier to another, the lowest charge levels at which such items and services are widely and consistently available in a locality shall be the upper limit for making reasonable charge payments under Medicare. Similarly, section 1903(i)(1) of the Social Security Act provides that Federal financial participation shall not be made under the Medicaid program to the extent that a Medicaid payment exceeds the charge which is determined to be reasonable under section 1842(b)(3). The methodology for calculating the lowest charge level is described in HCFA regulation 42 CFR 405.511. An initial list of 12 most commonly performed laboratory services and 2 items of durable medical equipment subject to the lowest charge level provision was published in the FEDERAL REGISTER on July 26, 1978 (43 FR 32335), along with the final regulation.

Section 405.511(b) of HCFA regulations provides that before the Secretary determines that lowest charge levels should be established for an item or service, notice of the proposed determination will be published with an opportunity for public comment, and that the descriptions or specifications of items or services in the notice will be in sufficient detail to permit a determination that items or services conforming to the descriptions will not vary significantly in quality.

We have identified the items and services listed below as meeting the

criterion of no significant quality variation. As we explained in item 3 of the summary of the final lowest charge level regulation 42 CFR 405.511 published on July 26, 1978 (43 FR 32297), there are variations in quality among items and services and the Congress was clearly aware of this when it passed the statute. Section 1842(b)(3) places responsibility on the Secretary to determine whether variations in the quality of specific services and items are significant. Lowest charge levels apply only to those items or services which he determines do not vary significantly in quality.

We have not attempted to promulgate generally applicable standards or criteria to be used in determining whether an item or service varies significantly in quality. The categories of items and services potentially subject to this provision are too diverse to permit this. However, in publishing this list in the FEDERAL REGISTER we have attempted to describe or specify each item or service in sufficient detail to assure that all items or services coming within the description or specification will not vary significantly in quality. We believe that the opportunity for members of the health care profession and the general public to review our proposed designations and to call to our attention any information bearing on whether the item or service varies significantly in quality, will be a valuable check on the validity and accuracy of our designations and will assure that any final designations meet the statutory standards.

Also, while there are valid concerns about laboratory quality, both the Department and the Congress are addressing this issue. Substantial resources at both the Federal and State levels are already devoted to the regulation and assurance of quality in laboratories. The detailed requirements that laboratories must meet to be certified in the Medicare program provide assurance, within the present scope of administrative feasibility, that laboratories which meet these requirements offer a degree of uniformity of services sufficient to meet the statutory test of "no significant variation in quality." (See 42 CFR Part 405, Subpart M, "Conditions for Coverage of Service of Independent Laboratories.") Congress passed the Clinical Laboratory Improvement Act in 1967 (42 U.S.C. 263a) and is currently considering additional legislation regulating the performance of laboratories.

In accordance with the principle that we followed in publishing the initial list of items and services subject to the lowest charge level under Medicare and Medicaid, we have again given priority to items and services which are most frequently reimbursed under these programs. Items and services which are utilized in large volume

lend themselves most readily to descriptions and specifications that establish that the items and services do not vary significantly in quality.

A laboratory test may be provided in any one of several ways. For example, it may be performed individually (either manually or on automated equipment), or as part of an automated battery of tests. An explanation has been included in the list below to make clear that any laboratory test that has been listed in the FEDERAL REGISTER for this purpose is subject to the lowest charge level under the Medicare and Medicaid programs regardless of the method that was used to produce the test result.

## LIST OF ADDITIONAL ITEMS AND SERVICES TO BE SUBJECT TO THE LOWEST CHARGE LEVEL

(a) *Laboratory services* (with identifying codes as listed in the 1964 edition of the California Relative Value Studies).

- (1) Potassium (8709).
- (2) Transaminase SGOT or SGPT each (8736).
- (3) Protein-bound Iodine (8710).
- (4) Platelet Count (8708).
- (5) Sodium (8721).
- (6) Lactic dehydrogenase (8691).
- (7) Calcium (8641).
- (8) Chlorides (8650).
- (9) Creatine (8666).
- (10) Total protein (8734).
- (11) Sugar (glucose) tolerance, 3 hours (up to 4 specimens) (8723).
- (12) Carbon dioxide combining power (8643).
- (13) Blood, red cell count (8620).
- (14) Complement fixation tests (Wassermann, etc.) (8661).
- (15) Blood differential count (8626).

NOTE.—A laboratory test or service that has been included in a list of items and services published in the FEDERAL REGISTER for this purpose is subject to the lowest charge level provision whether it is performed on an individual basis (manually or on automated equipment) or as part of an automated battery of tests. In addition, automated batteries which contain such tests are themselves subject to the lowest charge level provision.

(b) *Items of Equipment.* (1) Contained oxygen at the point of inhalation that meets USP specifications (i.e., 99.00 percent by volume of oxygen).

(2) Oxygen regulators for high pressure (gaseous) oxygen systems that permit no greater flow rate than 8 liters per minute.

(3) Oxygen flow meters for low pressure (liquid) oxygen systems that permit no greater flow rate than 8 liters per minute.

(4) Molecular sieve type air enrichers (concentrators) which at 2 liters per minute flow rate provide a mixture of at least 90 percent oxygen and at 8 liters per minute flow rate

provide a mixture of at least 58 percent oxygen.

(5) Membrane type air enrichers (concentrators) that provide a mixture of at least 40 percent oxygen at flow rates up to 8 liters per minute.

(Sec. 1102, 1842(b), 1871, and 1903(i)(1) of the Social Security Act; 42 U.S.C. 1302, 1395(b), 1395hh, and 1396b(i)(1).)

(Catalog of Federal Domestic Assistance Program Nos. 13.714 Medical Assistance Programs, 13.774 Medicare—Supplementary Medical Insurance).

Dated: March 16, 1979.

HALE CHAMPION,  
Acting Secretary.

(FR Doc. 79-8866 Filed 3-23-79; 8:45 am)

## [4310-03-M]

## DEPARTMENT OF THE INTERIOR

## Heritage Conservation and Recreation Service

## ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974

## Statement of Program Approach

The Archeological and Historic Preservation Act of 1974 (88 Stat. 174) amends the Reservoir Salvage Act of 1960 (74 Stat. 220) and further implements the policies and purposes of the Historic Sites Act of 1935 (49 Stat. 666). The purpose of this statement is to explain plainly the meaning of the various sections of this law and to indicate the manner in which these will be implemented. A proposed version of this statement was circulated directly to all Federal agencies for comment on August 13, 1975. Since that period, the Department has had extensive discussions with the Office of Management and Budget and other agencies with regard to the completion of this document. Comments received, both in writing and in the form of numerous interagency meetings, have been given serious consideration in preparation of the approach described here.

The Archeological and Historic Preservation Act designated the Secretary of the Interior as having a key role of coordination and oversight of Federal agency activities authorized by the Act and of implementation of specific responsibilities enumerated in the Act. Within the Department of the Interior, these responsibilities have been delegated to the Director, Heritage Conservation and Recreation Service. Questions about the statement that follows should be directed to Rex L. Wilson, Departmental Consulting Archeologist, Chief, Interagency Archeological Services Division, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243.

The intent of the Archeological and Historic Preservation Act of 1974 (AHPA) is to make authorized Federal construction programs and all projects licensed or assisted by Federal agen-

## NOTICES



cies responsive to the damage they will cause to scientific, prehistoric, historic, and archeological resources. The AHPA provides a mechanism, and funding authority, through which such resources can be salvaged after a decision has been made to proceed with a given project. The AHPA was not designed to relieve Federal agencies of their responsibilities under the National Environmental Policy Act (NEPA) or the planning and consultation provisions of related legislation and directives.

Resource salvage generally is less preferable than preservation *in situ*. After identification of resources during the initial planning stages of a project, Federal agencies should give full consideration to courses of action that will not necessitate salvage. Typically, this should be done as a part of the section 106 process of consulting with the Advisory Council on Historic Preservation (ACHP). In this regard, the possibility that significant resources will be irrevocably lost or destroyed usually will remain speculative until all required planning has been substantially completed. Accordingly, the Heritage Conservation and Recreation Service (HCRS) typically will not consider using funds appropriated for survey, recovery, protection, and preservation of resources until the concerned Federal agency informs HCRS that it is in compliance with NEPA, the National Historic Preservation Act of 1966, and Executive Order 11593 and, consistent with these responsibilities, is in a position to assure HCRS that the loss of resources is probable. This is not to say, however, that HCRS will require a final environmental impact statement before responding to an AHPA request. When, in the judgment of HCRS, there is substantial compliance with NEPA and other applicable legislation and directives, a request for HCRS participation will be considered promptly.

The AHPA amends the Reservoir Salvage Act of 1960 (Pub. L. 86-523), to expand the provisions of that Act providing for the preservation of scientific, prehistoric, historic, and archeological data to include all Federal or federally assisted or licensed construction projects rather than only dam and reservoir projects. It places coordinating responsibility with the Secretary of the Interior and authorizes all Federal agencies to seek future appropriations, obligate available funding, or reprogram existing appropriations to provide for the preservation of data. Agencies may either undertake necessary recovery, protection, and preservation themselves, in a manner consistent with guidelines to be established by the Secretary of the Interior, or they may transfer certain

project funds to the Secretary for that purpose.

The AHPA is structured in terms of a transitional approach and a long term approach, covering different types of Federal programs and projects. Section 4(a) and its funding authorization in section 7(c) provide an interim tool through which HCRS may directly assist all types of Federal programs until they are adjusted to conform to the Act. (The Act is reprinted in the Appendix at the end of this Statement of Program Approach). Any agency that expects to notify the Secretary of the projected loss or destruction of scientific, prehistoric, historic, or archeological data under section 4(a), or has reason to believe that its programs may result in such notification being forwarded to the Department of the Interior by historical or archeological authorities should follow these guidelines:

- (1) The agency should initiate during the planning process, in accordance with NEPA, Executive Order 11593, and the National Historic Preservation Act of 1966, consideration and evaluation of any projected loss or destruction as well as possible alternative actions.
- (2) The agency should consider whether data recovery responsibilities for programs covered by section 4(a) reasonably may be made a condition for issuance of a license or permit as discussed below.
- (3) The agency should review its budgetary process to determine whether data recovery responsibilities may be covered by the long term approaches established by sections 3(a) and 3(b) discussed below.
- (4) The agency should provide a statement with all section 4(a) notifications giving the reasons why program funds are not available under this Act.
- (5) The agency should insure, wherever reasonably possible and appropriate, that there is a mutual agreement that no compensation for damages will be required for reasonable delays in construction or as a result of the temporary loss of the use of private or nonfederally owned lands caused to any person, association, or public entity because of a recovery, protection, and preservation program implemented under this legislation. If no agreement is reached, a statement should be included in the section 4(a) notification explaining this omission, the efforts made to achieve such an agreement, and the estimated cost that may be incurred from the delays in construction or as a result of the temporary loss of the use of private or nonfederally owned lands.
- (6) The agency should include a statement with its section 4(a) notification that the agency has reached a

stage in the planning process where it may assure the Department that the loss of scientific, prehistoric, historic, or archeological data is probable. The Department should be provided with copies of applicable planning documents.

The provisions of section 4(a) must be distinguished from those of sections 3(a) and 3(b). While section 4(a) provides for a transitional approach if a Federal agency has not yet established procedures for funding data recovery, protection, and preservation, sections 3(a) and 3(b) establish long term programs for Federal projects.

Section 3(a) and its funding authorization in section 7(a) contain the authority for Federal agencies to seek appropriations for survey and salvage responsibilities. These sections apply to all Federal agencies conducting or licensing construction projects or responsible for major construction activities funded through Federal financial assistance programs. Section 7(a) authorizes Federal agencies that fall within the purview of section 3(a) to assist the Secretary and/or transfer to him up to 1 percent of the total project funds for the purpose of archeological and historical data recovery, protection, and preservation. The 1 percent provision is a limitation on the amount that may be transferred (except for projects costing \$50,000 or less) to the Department, as well as a limitation on the amount an agency may utilize itself for salvage purposes.

Under section 3(a), therefore, an agency has two options: to transfer up to 1 percent of the project funds to the Department or to perform the necessary data recovery itself. A third option, to do nothing at all, is not authorized by the Act.

Section 7(a) also authorizes agencies responsible for construction projects to provide the Department of the Interior such other assistance as may be available and appropriate without regard to the 1 percent limitation.

Section 3(b) and its funding authorization found in section 7(b) apply to the broad spectrum of Federal financial assistance programs not resulting in construction activities. This is the appropriate long term approach covering projects which do not fall under the auspices of section 3(a).

In this regard, the line between strictly financial assistance programs and the concept of Federal construction projects covered by section 3(a) is difficult to locate. Nevertheless, certain Federal financial assistance programs may be so directly related to a specific construction project as to be within the purview of both section 3(a) and section 7(a). This is one area where the legislative history concerning the development of this Act is critical.

Throughout the consideration of this legislation both original S. 514 and H.R. 296 included coverage of federally assisted programs in what is presently section 3(a). There was no present section 3(b). Amended H.R. 296 introduced present section 3(b), modified section 3(a) and added present section 4(a). The explanation for this change to section 3 is found in House Report No. 93-992. In the Section-By-Section Analysis the following explanation is provided:

#### SECTION 3

(a) As indicated, the proposed legislation expands the applicability of the program to all Federal agencies having construction projects. The proposed language, however, is not limited to construction projects, *per se*, so that if a Federal agency finds or is made aware that any Federal program or federally assisted construction project or activity will cause the loss of scientific, prehistoric, historical, archeological or paleontological data, then the agency must notify the Secretary of the Interior of this fact and supply him with information relevant to the matter. *The agency may request the Secretary to do the survey and recovery work or it may assume the responsibility itself—in which case copies of any reports are required to be submitted to the Secretary. It is the intent of this provision that project monies should be used for such survey and salvage work.* (Emphasis added)

(b) If such values might be irrevocably lost, where Federal financial assistance (loan, grants, etc.) is provided to a private person, association or public entity, the Secretary may utilize funds appropriated to him for survey and salvage work at the site(s) involved if those having a legal interest consent. If any loss results to those involved the Secretary must compensate those who suffer damage, unless there is a written agreement to the contrary.

This explanation clearly established that present section 3(a) was still designed to apply to major Federal construction projects and programs although they may be funded through financial assistance grants. The language of section 7(a) makes this obvious; the one percent funding authorization of this section is applicable to "any Federal agency responsible for a construction project . . .". Conversely, section 3(a) is clearly not designed to apply to the broad spectrum of financial loans and grants programs available without regard to any major construction undertaking. Section 3(b) has been added to cover that situation.

Federal agencies administering such section 3(b) financial assistance pro-

grams should carefully evaluate the impact their programs and individual financial assistance projects may have on scientific, prehistoric, historic, or archeological data. In situations where the loss or destruction of data is possible, agencies should insure, within the scope of their discretionary authorities, that: (1) as a condition of financial assistance, reasonable modifications may be made to the terms of the assistance agreement to avoid or minimize damage to data; (2) the recipient agrees to permit a data recovery, protection, and preservation program without compensation from the Secretary of the Interior for damages caused by reasonable delays in construction or by the temporary loss of the use of private or any nonfederally owned lands; and (3) this Department be notified of the expected magnitude of the data recovery, protection, and preservation program in order to budget for it. Situations where it may be unreasonable to require a waiver of the compensation provision of section 3(b) as a condition of receipt of such financial assistance should be discussed with this Department in advance.

If an agency administering a Federal financial assistance program fails to follow these guidelines, it is extremely unlikely that mitigation of adverse effects to scientific, prehistoric, historic, or archeological data can be undertaken by the Department of the Interior. Therefore, such agencies should consider the impact of unmitigated adverse effects during the project planning stage in accordance with NEPA, Executive Order 11593, and the National Historic Preservation Act of 1966. Particular attention should be directed toward the agency's responsibility to institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of nonfederally owned sites, structures, and objects of scientific, prehistoric, historic, or archeological significance, in consultation with the Advisory Council on Historic Preservation, as required by section 1(3) of Executive Order 11593; see 36 CFR 800.

**Summary:** All Federal agencies have an outstanding responsibility to conduct environmental assessments that include the identification and evaluation of archeological and historic resources as an integral part of the Federal planning process. If such identi-

cation discloses the existence of resources that may be irrevocably lost or destroyed as the result of any Federal construction program, and if project modifications to avoid destruction of resources are not possible, all Federal agencies have a responsibility to act, either directly or indirectly through the Department of the Interior, in accord with the AHPA to recover, protect, and preserve such resources.

Sections 3(a) and 7(a) of the AHPA establish two options for Federal agencies to use in the recovery, protection, and preservation of archeological and historic resources affected by Federal construction projects, activities, or programs or major construction projects assisted by a Federal agency. Agencies may perform the required work themselves, or they may request that the Secretary of the Interior perform the work using a funds transfer of up to 1 percent of the total amount authorized to be appropriated for construction projects.

A Federal agency that provides financial assistance by loan, grant or other means, that does not result in a major construction program, is subject to the provisions of section 3(b) of the Act. Upon notification of the Secretary of the Interior in the manner previously discussed, the Department of the Interior may perform the necessary recovery, protection, and preservation.

Sections 3(a) and 3(b) establish the long term provisions of the program authorized by the AHPA; section 4(a) is designed to serve as an interim approach until the necessary appropriations and reprogramming by Federal agencies can be accomplished or until it is evident that the section 4(a) authorities should remain as part of the long term program. Its use is conditioned upon an agency's inability to fund ongoing or current projects immediately because the Federal budget process has not yet caught up with this authority. This section cannot be viewed as a cure-all for an agency's scientific, prehistoric, historic, or archeological data recovery responsibilities. All concerned Federal agencies should initiate the necessary budget steps and coordination with this Department to implement the AHPA effectively.

Dated: March 19, 1979.

ROBERT L. HERBST,  
Assistant Secretary  
of the Interior.



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[4110-35-C]

NOTICES

APPENDIX—Archeological and Historic Preservation Act

Public Law 93-291  
93rd Congress, S. 514  
May 24, 1974

AN ACT

88 STAT. 174

To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam", approved June 27, 1960 (74 Stat. 220; 16 U.S.C. 469), is amended as follows: "That it is the purpose of this Act to further the policy set forth in the Act entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes', approved August 21, 1935 (16 U.S.C. 461-467), by specifically providing for the preservation of historical, and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.

Sec. 2. Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam it shall give written notice to the Secretary of the Interior (hereafter referred to as the "Secretary") setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: Provided, That with respect to any floodwater retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical, or archeological materials exist or may be present in the proposed reservoir area.

Historical and archeological data, preservation.

Extension to Federal or federally assisted projects.  
16 USC 469a.

NOTICES

18121

Sec. 3. (a) Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to the Secretary, who shall make them available to the public for inspection and review.

(b) Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any non-federally owned lands.

Sec. 4. (a) The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

16 USC 469a-1.

Notification.

Data recovery, agency requests.

Reports, copies; availability.

Survey.

Construction delays, compensation.

16 USC 469a-2

88 STAT. 175



(b) No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

(c) The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

(d) The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or non-federally owned lands.

Sec. 5. (a) The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.

(b) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

(c) The Secretary shall coordinate all Federal survey and recovery activities authorized under this Act and shall submit an annual report at the end of each fiscal year to the Interior and Insular Affairs Committees of the United States Congress indicating the scope and effectiveness of the program, the specific projects surveyed and the results produced, and the costs incurred by the Federal Government as a result thereof.

Sec. 6. In the administration of this Act, the Secretary may--

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

Emergency projects.

Initiation.

Construction delays, compensation.

74 Stat. 220  
16 USC 469a.  
16 USC 469a-3.

Coordination.  
Annual report to congressional committees.

16 USC 469b.

(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code; and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.

Sec. 7. (a) To carry out the purposes of this Act, any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves \$50,000 or less: Provided, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

(b) For the purposes of subsection 3(b), there are authorized to be appropriated such sums as may be necessary, but not more than \$500,000 in fiscal year 1974; \$1,000,000 in fiscal year 1975; \$1,500,000 in fiscal year 1976; \$1,500,000 in fiscal year 1977; and \$1,500,000 in fiscal year 1978.

(c) For the purposes of subsection 4(a) there are authorized to be appropriated not more than \$2,000,000 in fiscal year 1974; \$2,000,000 in fiscal year 1975; \$3,000,000 in fiscal year 1976; \$3,000,000 in fiscal year 1977; and \$3,000,000 in fiscal year 1978.

Approved May 24, 1974

Experts and consultants.  
80 Stat. 416  
Funds, acceptance.

Funds, transfer.  
16 USC 469c.

Appropriation.

88 STAT. 176

#### LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-992 accompanying H.R. 296 (Comm. On Interior and Insular Affairs).

SENATE REPORT No. 93-163 (Comm. on Interior and Insular Affairs).

#### CONGRESSIONAL RECORD:

Vol. 119 (1973); May 22, considered and passed Senate.

Vol. 120 (1974): May 6, considered and passed House, amended, in lieu of H.R. 296.

May 9, Senate agreed to House amendments.

[FR Doc. 79-9123 Filed 3-23-79; 8:45 am]



[4410-01-M]

## DEPARTMENT OF JUSTICE

## MOBAY CHEMICAL CORP.

## Notice of Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on March 16, 1979, a proposed consent decree in *United States of America, et al. v. Mobay Chemical Corporation*, Civil Action No. C78-1659, was lodged with the United States District Court for the Western District of Missouri. The proposed decree establishes effluent discharge limitations for pesticides and other water pollutants at defendant's Kansas City, Missouri chemical plant. The proposed decree also requires installation of pollution control equipment. Finally, the decree requires payment of an initial civil penalty of \$200,000 with specified daily penalties for non-compliance with the terms of the decree. The penalty schedule provides for a \$1,000 per day penalty for each day of violation through March 31, 1980, \$2,500 per day thereafter through June 30, 1980, and \$5,000 per day thereafter until such time as defendant's discharges from its Kansas City facility comply with the decree's final effluent limitations for 30 consecutive days.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri 64106; at the Region VII office of the Environmental Protection Agency, Enforcement Division, 1735 Baltimore Avenue, Kansas City, Missouri 64108; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2645, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed decree on or before April 25, 1979. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America, et al. v. Mobay Chemical Corporation*, W.D. Missouri,

## NOTICES

Civil Action No. 78-1034-CV-W-1, D.J. Ref. 90-5-1-1-1087.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc. 79-9065 Filed 3-23-79; 8:45 am]

[4410-01-M]

## PHOENIX, ARIZ.

## Stipulation and Consent Decree in Action To Enforce Compliance With Terms of NPDES Permits

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed stipulation and consent decree in *United States v. City of Phoenix, Arizona, et al.* has been lodged with the United States District Court for the District of Arizona. The decree imposes on defendant certain requirements and compliance dates with respect to the operation of its 23rd and 91st Avenue sewage treatment plants.

The Department of Justice will receive on or before April 25, 1979, written comments relating to the proposed stipulation and consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. City of Phoenix, Arizona, et al.*, D.J. Ref. 90-5-1-1-625.

The stipulation may be examined at the office of the United States Attorney, District of Arizona, Room 5000 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025, at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California, 94105, and the Pollution Control Section Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed stipulation and consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc. 79-9064 Filed 3-23-79; 8:45 am]

[6820-35-M]

## LEGAL SERVICES CORPORATION

## GRANTS AND CONTRACTS

MARCH 20, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Southern Arizona Legal Aid in Tucson, Arizona to serve Graham and Greenlee Counties.
2. Community Legal Services in Phoenix, Arizona to serve Yuma County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

THOMAS EHRLICH,  
President.

[FR Doc. 79-9055 Filed 3-23-79; 8:45 am]

[6820-35-M]

## GRANTS AND CONTRACTS

MARCH 21, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Monroe County Legal Assistance Corporation in Rochester, New York to serve Ontario, Seneca, Wayne and Yates Counties.
2. Chemung County Neighborhood Legal Services in Elmira, New York to serve Thompson County.

Interested persons are hereby invited to submit written comments or rec-

ommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, New York Regional Office, 10 East 40th Street, New York, New York 10016.

THOMAS EHRLICH,  
President.

[FR Doc. 79-9056 Filed 3-23-79; 8:45 am]

[6820-35-M]

## GRANTS AND CONTRACTS

MARCH 23, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. East Mississippi Legal Services in Meridian, Mississippi to serve Clarke and Kemper Counties.
2. Southeast Mississippi Legal Services in Hattiesburg, Mississippi to serve Jefferson Davis County.
3. Southwest Mississippi Legal Services in McComb, Mississippi to serve Wilkinson, Jefferson and Claiborne Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E. 9th Floor, Atlanta, Georgia 30308.

THOMAS EHRLICH,  
President.

[FR Doc. 79-9057 Filed 3-23-79; 8:45 am]

[1505-01-M]

## NUCLEAR REGULATORY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON COMBINATION OF DYNAMIC LOADS

## Meeting

## Correction

In FR Doc. 79-8330 appearing at page 16512 in the issue for Monday, March 19, 1979, third column, second line of the second paragraph, "13" should read "3".

## NOTICES

[3110-01-M]

## OFFICE OF MANAGEMENT AND BUDGET

## AGENCY FORMS UNDER REVIEW

## BACKGROUND

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

## LIST OF FORMS UNDER REVIEW

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(\*).

## COMMENTS AND QUESTIONS

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about

the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

## DEPARTMENT OF COMMERCE

AGENCY CLEARANCE OFFICER—EDWARD  
MICHAELS—377-4217.

## NEW FORMS

Bureau of the Census  
Evaluation of the 1978 Census of Agriculture

78-A90

Single Time

Farm Operations not included in Agriculture Census 3,000 responses; 1,500 hours

David P. Caywood, 395-6140

Economic Development Administration

Data Collection Forms for the Micro-Economic Evaluation of the Local Public Works Program

ED-4470

Single Time

Local Government & Business Officials 3,000 responses; 1,500 hours

David P. Caywood, 395-6140

## DEPARTMENT OF DEFENSE

AGENCY CLEARANCE OFFICER—JOHN V.  
WENDEROTH—697-1195.

## NEW FORMS

Departmental and Other Rehabilitation Act, Section 504, Self-Evaluation

On Occasion

Recipients of Federal Financial Assist. 925 responses; 3,700 hours

David P. Caywood, 395-6140

## REVISIONS

Department of the Air Force  
Report of Government Vehicles, Equipment, and Material in the Hands of Contractors

AFTO 439, AFCL 11, 392 814, & 815

On Occasion

Air Force Depot Maintenance 59,996 responses; 274,384 hours

David P. Caywood, 395-6140



## NOTICES

Departmental and Other  
Title VI General Enforcement Data  
On Occasion  
Any State, Terr., Possession, Cty.,  
City, or Pol. Subdiv. 925 responses;  
14,800 hours  
David P. Caywood, 395-6140

## DEPARTMENT OF ENERGY

AGENCY CLEARANCE OFFICER—ALBERT H.  
LINDEN—566-9021.

## REVISIONS

International Energy Agency Emer-  
gency Supply Report  
EIA-142  
On Occasion  
Importers of Crude Petroleum &  
Product 500 responses; 625 hours  
Jefferson B. Hill, 395-5867

## EXTENSIONS

Emergency Product Price Telephone  
Survey  
EIA-126  
Other (See SF-83)  
Refiners & Large Resellers 3,240 re-  
sponses; 3,240 hours  
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

AGENCY CLEARANCE OFFICER—PETER  
GNES—245-7488.

## NEW FORMS

Food and Drug Administration  
Survey of Nutrition Vocabulary and  
Quantitative Declarations  
Single Time  
Households Area Probability Sample  
Off. of Federal Statistical Policy &  
Standard, 673-7974

Health Resources Administration  
A Study of Dental Health-Related and  
Process Outcomes with Prepaid  
Dental Care  
Single Time  
Probability Sample of U.S. Hseholds &  
Referral to DDS's 22,145 Responses;  
9,010 Hours  
Off. of Federal Statistical Policy &  
Standard, 673-7974

National Institutes of Health  
NLM Database User's Educational  
Needs Profile  
Single Time  
Medical Librarians/Information Spe-  
cialist 1,000 Responses; 500 Hours  
Richard Eisinger, 395-3214

## REVISIONS

Health Care Financing Administration  
(Medicaid)

"OMB has approved these forms. OMB  
acted quickly to permit DOE to obtain in-  
formation needed to monitor the results of  
the international oil situation. Because  
OMB has continuing authority to disapprove  
all or part of a form in use, we are still re-  
questing comments and suggestions from  
the public."

Monthly Statistical Report on Medical  
Care  
HCFA-120  
Monthly  
State Medicaid (Title XIX) Agencies  
636 Responses; 20,988 Hours  
Richard Eisinger, 395-3214

Health Care Financing Administration  
(Medicaid)  
Statistical Report on Medical Care:  
Recipients, Payments, Services  
HCFA-2082  
Annually  
State Medicaid (Title XIX) Agencies  
54 Responses; 7,776 Hours  
Richard Eisinger, 395-3214

## EXTENSIONS

Alcohol, drug Abuse and Mental  
Health Administration  
Alcoholism Treatment Center Ques-  
tionnaire  
Quarterly 314,000 Responses; 25,300  
Hours  
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

AGENCY CLEARANCE OFFICER—JOHN  
KALAGHER—755-5184.

## REVISIONS

Policy Development and Research  
Utility Cost Questions  
AHS-52 (Section IV)  
Other (See SF-83)  
Households in 15 SMSA's 117,000 Re-  
sponses; 70,200 Hours  
Off. of Federal Statistical Policy &  
Standard, 673-7974

## EXTENSIONS

Housing Production and Mortgage  
Credit  
\*Notice of Intention to File Title I  
Claim and Request for Collection  
Assistance  
FH-83  
On Occasion  
Title I Lenders 9,000 Responses; 2,700  
Hours  
Arnold Strasser, 395-5080

## ACTION

AGENCY CLEARANCE OFFICER—W. D.  
BALDRIDGE—254-8028.

## NEW FORMS

Senior Companion Program Descrip-  
tive Survey  
Single Time  
Project Directors and Sample of Vol-  
unteers 1,300 Responses; 1,083 Hours  
Barbara F. Reese, 395-6132

Foster Grandparent Program Descrip-  
tive Survey  
Single Time  
Project Directors and Sample of Vol-  
unteers 1,548 Responses; 1,224 Hours  
Barbara F. Reese, 395-6132

COMMUNITY SERVICES  
ADMINISTRATION

AGENCY CLEARANCE OFFICER—JACK  
STOLHR—254-5300.

## NEW FORMS

Survey of Local CDBG Benefits and  
Programming  
Single Time  
Affirmative Action Plan 567 Re-  
sponses; 456 Hours  
Barbara F. Reese, 395-6132

NATIONAL CAPITAL PLANNING  
COMMISSION

AGENCY CLEARANCE OFFICER—RONALD  
R. BOZARTH—724-0168.

## NEW FORMS

National Capital Planning Commis-  
sion Service and Supply Trip Survey  
Single Time  
Persons Delivering Goods & Serv. to  
Fed. Bldgs. in NCR 1,000 Responses;  
100 Hours  
Arnold Strasser, 395-5080

Survey of Visitors to Government  
Buildings  
Single Time  
Per. Visit. Federal Gov't Bldgs. in  
Nat'l Capital Reg. 6,000 Responses;  
300 Hours  
Arnold Strasser, 395-5080

## VETERANS ADMINISTRATION

AGENCY CLEARANCE OFFICER—R. C.  
WHITT—389-2282.

## EXTENSIONS

\*Supplemental Physical Examination  
Report  
29-8100 (Series)  
On Occasion  
Veteran 3,500 Responses; 1,050 Hours  
David P. Caywood, 395-6140.

STANLEY E. MORRIS,  
Deputy Associate Director for  
Regulatory Policy and Reports  
Management.

[FR Doc. 79-9137 Filed 3-23-79; 8:45 am]

## [7715-01-M]

## POSTAL RATE COMMISSION

## NOTICE OF VISITS

MARCH 21, 1979.

Notice is hereby given that members  
of the Commission and advisory staff  
personnel will be visiting the following  
facilities for the purpose of acquiring  
general knowledge of the preparation  
by mailers and handling by the Postal  
Service of second class mail matters  
receiving expeditious handling ("red  
tag" delivery) and also of alternative  
delivery systems.

## NOTICES

*Date, City and Facility*  
March 26, 1979, Des Moines, IA—Meredith  
Printing Co.  
March 27, 1979, Chicago, IL—(a.m.) R. R.  
Donnelley Printing Plant (p.m.) Chicago  
Post Office.  
March 28, 1979, Grand Rapids, MI—Ameri-  
can Field Marketing, Inc.

A report of the visit will be on file in  
the Commission's docket room.

DAVID F. HARRIS,  
Secretary.

[FR Doc. 79-9095 Filed 3-23-79; 8:45 am]

## [8025-01-M]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1591]

## FLORIDA

## Declaration of Disaster Loan Area

Escambia and Santa Rosa Counties  
and adjacent counties within the State  
of Florida constitute a disaster area as  
a result of damage caused by heavy  
rains and flooding which occurred on  
or about March 3, 1979. Applications  
will be processed under the provisions  
of Pub. L. 94-305. Interest rate is 7%  
percent. Eligible persons, firms and or-  
ganizations may file applications for  
loans for physical damage until the  
close of business on May 17, 1979, and  
for economic injury until the close of  
business on December 17, 1979, at:

Small Business Administration, District  
Office, 400 West Bay Street, Jacksonville,  
Florida 32202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance  
Program Nos. 59002 and 59008.)

Dated: March 16, 1979.

WILLIAM H. MAUK JR.,  
Acting Administrator.

[FR Doc. 79-9043 Filed 3-23-79; 8:45 am]

## [8025-01-M]

[Declaration of Disaster Loan Area #1596]

## NEW HAMPSHIRE

## Declaration of Disaster Loan Area

Coos County and adjacent counties  
within the State of New Hampshire  
constitute a disaster area as a result of  
damage caused by ice jams and flood-  
ing which occurred on or about March  
5, 1979. Applications will be processed  
under provisions of Pub. L. 94-305. In-  
terest rate is 7% percent. Eligible per-  
sons, firms, and organizations may file  
applications for loans for physical  
damage until the close of business on  
May 17, 1979, and for economic injury  
until the close of business on Decem-  
ber 17, 1979 at:

Small Business Administration, District  
Office, 55 Pleasant Street, Concord, New  
Hampshire 03301.

or other locally announced locations.

(Catalog of Federal Domestic Assistance  
Program Nos. 59002 and 59008.)

Dated: March 16, 1979.

WILLIAM H. MAUK, JR.,  
Acting Administrator.  
[FR Doc. 79-9042 Filed 3-23-79; 8:45 am]

## [8025-01-M]

## REGION I ADVISORY COUNCIL MEETING

## Public Meeting

The Small Business Administration  
Region I Advisory Council, located in  
the geographical area of Providence,  
Rhode Island, will hold a public meet-  
ing at 12:00 Noon, on Thursday, April  
19, 1979, at the Governor Dyer's  
Buffet House, Providence, Rhode  
Island, to discuss such matters as may  
be presented by members, staff of the  
Small Business Administration, and  
others attending.

For further information, write or  
call Charles J. Fogarty, District Direc-  
tor, U.S. Small Business Administra-  
tion, 57 Eddy Street, Providence,  
Rhode Island 02903 (401) 528-4580.

Dated: March 19, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9044 Filed 3-23-79; 8:45 am]

## [8025-01-M]

REGION II ADVISORY COUNCIL EXECUTIVE  
BOARD MEETING

## Public Meeting

The Small Business Administration  
Region II Advisory Council Executive  
Board will hold a public meeting at  
1:00 p.m., on Wednesday, April 4, 1979,  
in Room 29-118, U.S. Federal Building,  
26 Federal Plaza, New York, New  
York, to discuss such business as may  
be presented by members, the staff of  
the Small Business Administration, or  
others attending.

For further information, write or  
call Ivan E. Irizarry, Regional Direc-  
tor, U.S. Small Business Administra-  
tion, 26 Federal Plaza, New York, New  
York 10007 (212) 264-1450.

Dated: March 20, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9045 Filed 3-23-79; 8:45 am]

## [8025-01-M]

[Proposed License No. 02/02-03661]

## EDWARDS CAPITAL CORP.

Application for a License To Operate as a  
Small Business Investment Company

Notice is hereby given that an appli-  
cation has been filed with the Small  
Business Administration pursuant to  
Section 107.102 of the Regulations  
governing small business investment  
companies (13 CFR 107.102 (1978)),  
under the name of Edwards Capital  
Corporation (Applicant) for a license  
to operate as a Small Business Invest-  
ment Company under the provisions  
of the Small Business Investment Act  
of 1958, as amended (the Act) (15  
U.S.C. 661 et seq.), and the Rules and  
Regulations promulgated thereunder.

The Applicant was incorporated  
under the laws of the State of New  
York and it will commence operations  
with a capitalization of \$505,000 which  
amount is to be raised by the sale of  
50,500 shares of common stock consist-  
ing of Class A, Class B, and Class C, all  
having a par value of \$10.00.

The Applicant will have its principal  
place of business at 1 Park Avenue,  
Room 1921, New York, New York  
10016, and intends to conduct oper-  
ations primarily in the State of New  
York.

The proposed officers, directors and  
stockholders are as follows:

## Name and Title

Edward H. Teitlebaum, President, Director,  
Co-General Manager, 16% common  
stock, 118 Kelly Boulevard, Staten Island,  
New York 10314.

Howard Citron, Vice President, Director,  
8.25% common stock, 96 Amsterdam  
Avenue, Staten Island, New York 10314.

Leon Ausfusser, Secretary, Director, Co-  
General Manager, 16% of common  
stock, 144 East 84th Street, New York,  
New York.

Neil Herz, Co-General Manager, 16%  
common stock, 100 Sherman Avenue,  
White Plains, New York 10007.

Albert Lendner, 12.5% common stock, 6802  
Ridge Boulevard, Brooklyn, New York  
11220.

Sheldon Maschler, 12.5% common stock, 7  
Vassar Street, Staten Island, New York  
10314.

Matters involved in SBA's considera-  
tion of the Applicant include the gen-  
eral business reputation and character  
of the proposed owners and manage-  
ment, and the probability of successful  
operations of the Applicant, under  
their management, including adequate  
profitability and financial soundness  
in accordance with the Act and SBA  
Regulations.

Notice is hereby given that any  
person may, not later than April 10,  
1979, submit written comments on the  
Applicant to the Deputy Associate Ad-



ministrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 19, 1979.

PETER F. McNEISH,  
Deputy Associate Administrator for

Finance and Investment.

[FR Doc. 79-9108 Filed 3-23-79; 8:45 am]

#### [8025-01-M]

[Proposed License No. 01/01-0300]

ESLO CAPITAL CORP.

Application for a License To Operate as a  
Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)) under the name of ESLO Capital Corporation (Applicant) for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act) and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New Jersey and it will commence operations with a capitalization of \$500,000, which amount has been raised through the private sale of 100 percent of its Common Stock to ESLO Industries, Inc. (Industries), a New York corporation. The only shareholders of Industries are Leo Katz and his wife, Estelle Katz, both of whom are principals in Industries, as noted below.

The Applicant will have its principal place of business at 133 Washington Street, Morristown, New Jersey 07960 and it intends to conduct operations primarily in the States of New Jersey, New York, and Connecticut.

The Officers and Directors of the Applicant will be:

#### NAME

Leo Katz, 11 Fifth Avenue, New York, New York; President, Treasurer and Director.  
Estelle Katz, 11 Fifth Avenue, New York, New York; Executive Vice President and Director.  
Rachelle Helene Katz, 68 West 11 Street, New York, New York; Secretary and Director.

Matters involved in SBA's consideration of the Applicant include the gen-

eral business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may on or before April 10, 1979, submit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Morristown, New Jersey.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: March 19, 1979.

PETER F. McNEISH,  
Deputy Associate Administrator  
for Investment.

[FR Doc. 79-9107 Filed 3-23-79; 8:45 am]

#### [4910-13-M]

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

#### AVIATION SAFETY REPORTING PROGRAM

##### Modifications

The Aviation Safety Reporting Program was established in 1975 by the Federal Aviation Administration (FAA) as a voluntary program designed to stimulate the free and unrestricted flow of information concerning deficiencies and discrepancies in the National Aviation System that would not otherwise be made known to the FAA. The primary objective of the program is to obtain information to evaluate and enhance the safety and efficiency of the present system by identifying and correcting unsafe conditions before they lead to accidents.

Pilots, air traffic controllers, and others using and working in the system on a regular basis have the best opportunity to recognize and report discrepancies and deficiencies which may involve safety of aircraft operations. At the time the program was established, information received by the FAA indicated that many incidents may not have been reported because the persons involved feared possible enforcement action where violations of the Federal Aviation Regulations had occurred. Under the original program, the reports were filed directly with FAA and anonymity for the persons filing reports could not be guaranteed. To ensure the reporting of incidents which would not otherwise be reported it was necessary to ensure that the information reported

would not be used against the person filing the report in an enforcement proceeding. This was accomplished by including in the program provision for waiver of certain disciplinary action against persons, including pilots and air traffic controllers, who file timely written reports.

To further encourage the filing of reports, the FAA modified the program in 1976 to provide for the submission of aviation safety reports directly to the National Aeronautics and Space Administration (NASA) for screening and analysis. That change was intended by the FAA to ensure the anonymity of persons reporting under the program. To provide this service, NASA developed an Aviation Safety Reporting System designed so that a person can report in confidence without being concerned that the information will be made known to the FAA or used against the person making the report or anyone else. After preliminary processing by NASA, all reports are deidentified. All records systems are designed to prevent any possibility of identifying individuals submitting or named in reports. There is no way to identify the reporter or any person named in the report, or to verify information submitted in a report after it has been deidentified shortly after receipt.

As a final safeguard, an advisory committee was established to advise NASA on the design and operation of the reporting system. Within the committee there is a security group that examines the reporting system periodically to assure that individual confidentiality is being protected. Members of the committee are drawn from all segments of the aviation industry and the public.

Since its inception on August 16, 1976, the confidentiality feature of the NASA reporting system has proved to be totally effective. The preservation by NASA of the anonymity of persons filing reports and persons named in those reports has been successful. It is now accepted that the NASA system has proven that it provides anonymity. Consequently, the waiver of disciplinary actions by FAA against persons involved in incidents reported to NASA is unnecessary so far as reporter protection is concerned.

It is also generally accepted that the immunity feature has been used by some reporters for the purpose of avoiding enforcement action for violations of the Federal Aviation Regulations. This has included cases where the apparent violations were witnessed by FAA personnel. As a result of the passage of the Airline Deregulation Act of 1978 it is necessary that the FAA place added importance on the responsibility to ensure that the laws under which it operates are strictly en-

forced. Failure to take appropriate enforcement action can no longer be justified in cases where knowledge of the violation is obtained independently of any report filed with NASA.

As noted above, the FAA originally waived disciplinary action because the public was asked to send the reports to the FAA and the reporters were not assured that the reports would be kept in confidence and not used against the reporter or a person involved in the incident. Direct immunity to the persons reporting the incidents and to the persons named in the reports will continue to be provided by the anonymity or confidentiality feature of the NASA reporting system. In order to ensure this immunity, the FAA will cease to query NASA prior to taking enforcement action, and the Federal Aviation Regulations are being amended to include a prohibition on the use of reports filed with NASA similar to the prohibition in § 121.359 against the use in enforcement cases of information obtained from cockpit voice recorders. In addition, where a timely report is filed, if the FAA has not initiated its investigation within 90 days after the incident, the Administrator will waive the taking of disciplinary action against the person filing the report; provided the incident does not involve reckless operations, gross negligence, willful misconduct, a criminal offense, or an accident. The NASA reporting system should ensure that no data in a report will be entered into computer data accessible to the FAA during this 90 day period.

Therefore, the program is modified to provide that reports filed with NASA by persons involved in incidents will not be made available to the FAA and these reports cannot be used as the basis for taking enforcement or disciplinary action against the person who filed the report or the persons named in the report. However, when a violation of the Federal Aviation Regulations comes to the attention of the FAA from a source other than a report filed with NASA under the Aviation Safety Reporting Program, appropriate action will be taken based on facts and information which are obtained from sources other than a report filed with NASA.

The FAA strongly believes the Aviation Safety Reporting Program should be continued and pilots, air traffic controllers, and all other members of the aviation community and the general public are urged to file written reports with NASA of any discrepancy or deficiency with any potential for an unsafe condition.

This program applies to incidents occurring after April 30, 1975. As modified herein, it applies to incidents which occur on and after April 30, 1979. This program is adopted under

the authority of sections 305, 307(c), 312(c), 313(a), 601(a), 701(a), and 1104 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1346, 1348(c), 1353(c), 1354(a), 1421(a), 1441(a), and 1504); and section 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).

Issued in Washington, D.C. on  
March 21, 1979.

LANGHORNE BOND,  
Administrator.

[FR Doc. 79-9168 Filed 3-23-79; 8:45 am]

#### [4910-13-M]

#### AIRPORT DEVELOPMENT AID PROGRAM (ADAP)

##### Timely Submission of Preapplications

In order to allow minimum time to process requests for Federal assistance under the Airport Development Aid Program (14 CFR Part 152) for funds authorized during the fiscal year in which the requests are submitted, airport sponsors are advised to submit preapplications no later than June 30 of the fiscal year. Unless this deadline is met, the Federal Aviation Administration (FAA) cannot assure processing of preapplications in time to allocate funds, including funds apportioned that year to the sponsors of air carrier airports. This deadline is necessary to assure the efficient administration and effective use of funds authorized each fiscal year.

This deadline is intended for projects that require normal handling. Submission prior to June 30, however, cannot guarantee processing of any project. For projects involving time-consuming issues such as substantial environmental concerns, earlier submission will be necessary and time-ables for these will have to be considered with FAA field offices on a case-by-case basis.

Sponsors may submit preapplications after June 30, but processing of late submissions may have to be deferred until the following fiscal year beginning October 1.

(Airport and Airway Development act of 1970, as amended (49 U.S.C. 1701 et seq.); Section 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1)).)

Issued in Washington, D.C., on  
March 19, 1979.

PAUL L. GALIS,  
Associate Administrator  
for Airports (Acting).

[FR Doc. 79-9049 Filed 3-23-79; 8:45 am]

#### [4910-06-M]

##### Federal Railroad Administration

[FRA Waiver Petition Docket HS-79-2]

#### DULUTH & NORTHEASTERN RAILROAD CO.

##### Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR §§ 211.41 and 211.9, notice is hereby given that the Duluth and Northeastern (D&NE) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the D&NE be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The D&NE seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-79-2, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before May 10, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

“(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regula-



## NOTICES

tions of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C. on March 19, 1979.

J. W. WALSH,  
Chairman,  
Railroad Safety Board.

(FR Doc. 79-9090 Filed 3-23-79; 8:45 am)

## [4910-61-M]

Saint Lawrence Seaway Development  
Corporation

## ADVISORY BOARD

## Meeting

The meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation originally scheduled for 10 a.m., April 6 in the Offices of Seaway Corporation at 800 Independence Avenue, SW., Washington, D.C. has been rescheduled for 1 p.m. on the same date at the same location.

In all other respects the notice which appeared at page 15555 of the FEDERAL REGISTER of March 14, 1979, remain in effect.

Issued in Washington, D.C. on March 20, 1979.

D. W. OBERLIN,  
Administrator.

(FR Doc. 79-9041 Filed 3-23-79; 8:45 am)

## [4810-22-M]

## DEPARTMENT OF THE TREASURY

Customs Service

## PRIVACY ACT OF 1974

## Consolidation of Systems of Records

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of consolidation of systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, this notice is an advice to the public that the United States Customs Service is consolidating the Source Identifier System with the Confidential Source Identification File—Treasury/Customs 00.053. The notice of the existence and character of the Confidential Source Identification File was published in the FEDERAL REGISTER on September 20, 1978, 43 FR 42564. The Source Identifier System was in existence prior to September 27, 1975, and the required notice of the existence and character of this system has not been published. The Amendment of the Confidential Source Identification File to include the Source Identifier System will consolidate a system covering approximately 50 individuals, the Source Identifier System, with a

system covering approximately 3,500 individuals, the Confidential Source Identification File. The change does not meet any of the criteria for a Report on New Systems in Office of Management and Budget Circular No. A-108, therefore, a Report on New Systems is not required and has not been submitted to Congress and the Office of Management and Budget.

EFFECTIVE DATE: The consolidation of the Source Identifier System with the Confidential Source Identification File is effective after the 30 day comment period required for the new routine use. The proposed date is April 25, 1979.

## FOR FURTHER INFORMATION CONTACT:

Linda Hartford, Entry Procedures and Penalties Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202-566-8681).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

The Confidential Source Identification File—Treasury/Customs 00.053 (43 FR 42564) is a system of records containing information about individuals supplying confidential information to the United States Customs Service concerning violation of Customs laws or regulations. The Source Identifier System, which was inadvertently omitted from publication in the FEDERAL REGISTER, contains information about individuals supplying information to the United States Customs Service concerning violations involving Customs employees. The records in both systems contain only information that identifies a confidential source and in some instances, information about payments made for information received from the confidential source. The consolidation will increase the number of individuals covered by 1.5 percent.

The Source Identifier System was in existence prior to September 27, 1975, and failure to provide the required notice of the existence and character of this system was due to administrative oversight. The system notice for the Confidential Source Identification file, as amended, by the consolidation of the Source Identifier System, is reprinted in its entirety below.

## DRAFTING INFORMATION

The principal author of this document was William D. Lawlor, Attorney, Entry Procedures and Penalties Division, Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service partici-

pated in its development, both on matters of substance and of style.

Dated: March 12, 1979.

W. J. McDONALD,  
Acting Assistant Secretary  
(Administration).

TREASURY/CUSTOMS 00.053

## System name

Confidential Source Identification File—Treasury/Customs.

## System location

Components of this system are located in the Office of Investigations, U.S. Customs Service Headquarters, and the Office of Management Integrity, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, and the offices of the Area Directors (Management Integrity) located in New York, Chicago, Los Angeles and Miami. Their addresses are as follows: 6 World Trade Center, Room 502, New York, New York 10048; 55 E. Monroe Street, Suite 1539, Chicago, Illinois 60603; 300 N. Los Angeles Street, Los Angeles, California 90053; and 99 S.E. 5th Street, Miami, Florida 33131.

## Category of individuals covered by the system

Individuals (sources) supplying confidential information to the U.S. Customs Service, Office of Investigations and Office of Management Integrity.

## Categories of records in the system

This system contains some or all of the following information: name (actual or assumed), source (identifying) number, date number assigned, address, citizenship, occupational information, date and place of birth, physical description, photograph, miscellaneous identifying number such as Social Security number, driver's license number, FBI number, passport number, Customs Form 4621 documenting information received from confidential source, amount and date of monetary payment made to source for information supplied, criminal record, copy of driver's license, and copy of alien registration card.

## Authority for maintenance of the system

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1619; and 18 U.S.C. Chapter 27.

## Routine uses of records maintained in the system, including categories of users and the purpose of such uses

This information is primarily for the exclusive internal use of authorized employees of the Office of Investigations and the Office of Management Integrity. The records maintained by

the Office of Investigations are separate and distinct from records maintained by the Office of Management Integrity and in each case access is restricted to authorized personnel of the Office of Investigations or Office of Management Integrity in connection with civil or criminal investigations and in connection with payments made for information received. Stringent controls are placed upon access to files, even among Office of Investigations or Office of Management Integrity personnel. In extremely rare and unusual situations, information with full source concurrence may be supplied to such organizations as Federal, state, and/or other law enforcement or prosecutorial agencies as the demands of law or justice might require.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

## Storage

Records are kept in locked cabinets. Access during working hours is limited to authorized personnel.

## Retrievability

Office of Investigations and Office of Management Integrity: The name of each source is filed in both alphabetical order and by location of the submitting office.

## Safeguards

In addition to being stored in secure metal cabinets with government approved locks, the files are located in closely watched rooms of the Office of Investigations and the Office of Management Integrity, Headquarters, and in the four Area Director (Management Integrity) offices. Personnel maintaining the files are selected for their reliability, among other qualities, and afforded access only after having been cleared by a full field investigation. During non-working hours the rooms in which the records are located are locked and access to the building is controlled by uniformed security guards.

## Retention and disposal

Indefinite retention periods have been established for all records contained in the file. The Office of Investigations destroys a file when it no longer has any utility by either shredding or burning; the Office of Management Integrity reviews files annually for relevance and necessity, and when a file no longer has any utility, it is destroyed by either shredding or burning.

## System manager(s) and addresses

Assistant Commissioner, Office of Investigations, U.S. Customs Service

## NOTICES

Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, for those components of the system maintained by the Office of Investigations; Director, Internal Security Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, and Area Directors (Management Integrity) located in the four U.S. Customs areas for those components of the system maintained by the Office of Management Integrity.

Systems exempted from certain provisions of the act

The Commissioner of Customs pursuant to 5 U.S.C. 552a(j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in 31 CFR 1.36.

(FR Doc. 79-9134 Filed 3-23-79; 8:45 am)

## [8320-01-M]

## VETERANS ADMINISTRATION

## MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

## Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of meetings of the following Merit Review Boards.

| Merit review board                  | Date               | Time              | Location  |
|-------------------------------------|--------------------|-------------------|---|
| Immunology.....                     | Apr. 9, 1979.....  | 7 p.m. to 11 p.m. | Executive Room, Hyatt Regency. <sup>1</sup>             |
| Do.....                             | Apr. 10, 1979..... | 8 a.m. to 5 p.m.  | Do.   |
| Behavioral sciences.....            | Apr. 12, 1979..... | .....do           | Cumberland C Room, Holiday Inn. <sup>2</sup>            |
| Do.....                             | Apr. 13, 1979..... | .....do           | Do.   |
| Nephrology.....                     | Apr. 17, 1979..... | 8 a.m. to 5 p.m.  | Blue Room #28, Hotel Seymour. <sup>3</sup>              |
| Alcoholism and drug dependence..... | Apr. 18, 1979..... | .....do           | Room A35, VA Central Office. <sup>4</sup>               |
| Basic Sciences.....                 | Apr. 19, 1979..... | 7 p.m. to 11 p.m. | Caucus Room, Holiday Inn. <sup>5</sup>                  |
| Do.....                             | Apr. 20, 1979..... | 8 a.m. to 5 p.m.  | Do.   |
| Do.....                             | Apr. 21, 1979..... | .....do           | Do.   |
| Surgery.....                        | Apr. 22, 1979..... | 7 p.m. to 11 p.m. | Conference Room, Holiday Inn. <sup>6</sup>              |
| Do.....                             | Apr. 23, 1979..... | 8 a.m. to 5 p.m.  | Do.   |
| Cardiovascular studies.....         | .....do            | 7 p.m. to 11 p.m. | Cumberland C Room, Holiday Inn.                         |
| Do.....                             | Apr. 24, 1979..... | 8 a.m. to 5 p.m.  | Do.   |
| Endocrinology.....                  | May 3, 1979.....   | .....do           | Room A35, VA Central Office.                            |
| Neurobiology.....                   | .....do            | 7 p.m. to 11 p.m. | Cumberland C Room, Holiday Inn.                         |
| Do.....                             | May 4, 1979.....   | 8 a.m. to 5 p.m.  | Do.   |
| Infectious Diseases.....            | May 5, 1979.....   | 8 a.m. to 1 p.m.  | Director's Room, Shoreham Americana Hotel. <sup>7</sup> |
| Do.....                             | May 6, 1979.....   | .....do           | Do.   |
| Gastroenterology.....               | May 8, 1979.....   | 8 a.m. to 5 p.m.  | Room A53, VA Central Office.                            |
| Hematology.....                     | .....do            | .....do           | Room A35, VA Central Office.                            |
| Respiration.....                    | .....do            | .....do           | Room 818, VA Central Office.                            |
| Oncology.....                       | May 12, 1979.....  | 8 a.m. to 5 p.m.  | Warwick Room, New Orleans Hilton Hotel. <sup>8</sup>    |

<sup>1</sup> Hyatt Regency, 300 Reunion Boulevard, Dallas, TX 75207.

<sup>2</sup> Holiday Inn, Massachusetts Avenue at Thomas Circle, Washington, DC 20005.

<sup>3</sup> Hotel Seymour, 50 West 45th Street, New York, NY 10036.

<sup>4</sup> VA Central Office, 810 Vermont Avenue N.W., Washington, DC 20420.

<sup>5</sup> Holiday Inn, 1501 Rhode Island Avenue N.W., Washington, DC 20005.

<sup>6</sup> Holiday Inn, 1489 Jefferson Davis Highway, Arlington, VA 22202.

<sup>7</sup> Shoreham Americana Hotel, 2500 Calvert Street N.W., Washington, DC 20008.

<sup>8</sup> New Orleans Hilton Hotel, #2 Poydras Street at the Mississippi River, New Orleans, LA 70140.

These meetings will be for the purpose of evaluating scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half

hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a



clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. Closure of these meetings is in accordance with subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and subsections 552b(c)(6) and (9)(B) of title 5, United States Code.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Jane S. Schultz, Ph.D., Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: March 19, 1979.

MAX CLELAND,  
Administrator.

[FR Doc. 79-9048 Filed 3-23-79; 8:45 am]

#### [7035-01-M]

#### INTERSTATE COMMERCE COMMISSION

[Notice No. 52]

#### ASSIGNMENT OF HEARINGS

MARCH 21, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119654 (Sub-57F), Hi-Way Dispatch, Inc., now assigned for hearing on March 20, 1979, at Chicago, Illinois, and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 138144 (Sub-30F), Fred Olson Co., Inc., now assigned for hearing on March 21, 1979, at Chicago, Illinois, and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 2202 (Sub-568F), Roadway Express, Inc., now assigned for prehearing conference on April 17, 1979, in Room 5A15-17, Federal Building, 1100 Commerce Street, Dallas, Texas.

MC 115904 (Sub-116F), Grover Trucking Co., now assigned for hearing on March 22, 1979 (2 days), at Chicago, Illinois, is canceled and application dismissed.

AB 7 (Sub-65), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, Abandonment near Walworth and Avalon, in Rock and Walworth Counties, now assigned for hearing on April 18, 1979, at Janesville, Wisconsin, and will be held in the Council Chamber, Municipal Building, 4th floor, 18 North Jackson Street.

MC 116004 (Sub-49F), Texas Oklahoma Express, Inc., now assigned for hearing on April 17, 1979, at Wichita, Kansas, and will be held in Holiday Inn Midtown, 1000 North Broadway.

MC 41432 (Sub-155F), East Texas Motor Freight Lines, Inc., now assigned for prehearing conference on April 18, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 108119 (Sub-106F), E. L. Murphy Trucking Company, now assigned for prehearing conference on April 23, 1979, at the Office of Interstate Commerce Commission, Washington, D.C.

MC-C-10159, International Brotherhood of Teamsters Chauffeurs, Warehousemen & Helpers of America v. Ringsby Truck Lines, Inc., now assigned for hearing on May 21, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9102 Filed 3-23-79; 8:45 am]

#### [7035-01-M]

[Notice No. 1]

#### MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 26, 1979.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

MC-FC 78058. By application filed March 14, 1979, INTERNATIONAL STAGE LINES INC., #6, 3150 East 58th Avenue, Vancouver, B.C. CD V5S 3S9, seeks temporary authority to transfer the operating rights of VANCOUVER ISLAND TRANSPORTATION COMPANY LIMITED, d/b/a VANCOUVER ISLAND COACH LINES LTD., 710 Douglas Street, Victoria, BC, under section 210a(b). The transfer to INTERNATIONAL STAGE LINES INC., of the operating rights of VANCOUVER ISLAND TRANSPORTATION COMPANY LIMITED, d/b/a VANCOUVER ISLAND COACH LINES LTD., is presently pending.

MC-FC 78060. By application filed March 14, 1979, VIKING INTERNATIONAL, INC., 1434 S.W. 137th, Seattle, WA 98166, seeks temporary authority to transfer the operating rights of J & R TRUCKING, INC., 4104 83rd S.E., Mercer Island, WA 98040, under section 210a(b). The transfer to VIKING INTERNATIONAL, INC., of the operating rights of

J & R TRUCKING, INC., is presently pending.

MC-FC 78062. By application filed March 9, 1979, CHARLES G. LAWSON TRUCKING, INC., 608 Ann Drive, Brundage, AL 36010, seeks temporary authority to transfer the operating rights of LORENZ TRANSPORT AND SHIP LINES, INC., Mobile Highway, Montgomery, AL 36101, under section 210a(b). The transfer to CHARLES G. LAWSON TRUCKING, INC., of the operating rights of LORENZ TRANSPORT AND SHIP LINES, INC., is presently pending.

MC-FC 78068. By application filed March 13, 1979, YUMA COUNTY TRANSPORTATION CO., 310 East Second Avenue, Yuma, CO 80759, seeks temporary authority to transfer a portion of the operating rights of EDWARD P. RUFF and THOMAS E. BROOKS, A PARTNERSHIP, d/b/a BROOKS TRANSPORTATION COMPANY, 101 Oak Street, Sterling, CO 80751, under section 210a(b). The transfer to YUMA COUNTY TRANSPORTATION CO., of a portion of the operating rights of EDWARD P. RUFF and THOMAS E. BROOKS, A PARTNERSHIP, d/b/a BROOKS TRANSPORTATION COMPANY, is presently pending.

MC-FC 78071. By application filed March 14, 1979, STEEL EXPRESS, INC., 1507 Ripley Street, P.O. Box 5217, Lake Station, IN 46405, seeks temporary authority to transfer the operating rights of D. F. BAST, INC., P.O. Box 2288, Allentown, PA 18001, under section 210a(b). The transfer to STEEL EXPRESS, INC., of the operating rights of D. F. BAST, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9101 Filed 3-23-79; 8:45 am]

#### [7035-01-M]

[Finance Docket No. 28970F]

#### SOUTHERN RAILWAY CO.

Trackage Rights—Over Seaboard Coast Line Railroad Co. Near Greenwood and Piedmont in Greenwood, Abbeville, Anderson, and Greenville Counties, SC

SOUTHERN RAILWAY COMPANY (Southern), 920 15th Street, N.W., Washington, DC 20005, represented by Nancy S. Fleischman, Assistant General Attorney, Southern Railway Company, P.O. Box 1808, Washington, DC 20013, hereby give notice that on the 1st day of March, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application filed under Section 11343 of the Inter-

state Commerce Act (formerly Section 5(2)) for a decision approving and authorizing the acquisition of trackage rights over the Seaboard Coast Line Railroad Company (SCL) between Milepost AKL-4.86, at the point of connection with an existing connection track near Greenwood (Downs), SC, and Milepost AKL-44.94 near Piedmont, SC, a distance of 41.6 miles, in Greenwood, Abbeville, Anderson, and Greenville Counties, SC.

Southern currently owns and operates a parallel line between Greenwood and Piedmont. Southern proposes to abandon its trackage as line of railroad and to operate over the parallel SCL line via trackage rights and over segments of its abandoned line retained in place and reclassified as industrial track to continue local and through service.

All existing customers between Greenwood and Piedmont will continue to be served by Southern from the SCL line and from trackage retained in place.

In the opinion of the Applicant, the Commission's approval of the trackage rights transaction and of the coordination in general will not have any significant impact on the quality of the human environment. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 353 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, *supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28970F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than May 10, 1979. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the Applicant, the Secretary of Transportation and the Attorney General.

fied herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the Applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9104 Filed 3-23-79; 8:45 am]

#### [7035-01-M]

[Finance Docket No. 28979F]

#### UNION PACIFIC RAILROAD CO.

Trackage Rights—Over Southern Pacific Transportation Co. Near Long Beach, Ca.

UNION PACIFIC RAILROAD COMPANY (UP), 1416 Dodge Street, Omaha, NE 68179, represented by William P. Higgins, Associate General Counsel, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179, hereby give notice that on the 8th day of March, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 11343 of the Interstate Commerce Act (formerly Section 5(2)) for a decision approving and authorizing the acquisition of trackage rights over track of SOUTHERN PACIFIC TRANSPORTATION COMPANY for a distance of approximately .38 miles between mileposts 502.32 and 502.70 of Southern Pacific's Long Beach Branch near Long Beach, CA.

Acquisition of the proposed trackage rights and the building of a short alternate connecting track between Union Pacific's San Pedro Branch and Southern Pacific's Long Beach Branch will permit UP to move unit-trains directly from its San Pedro Branch into Long Beach without routing the trains through its main yard facility.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, *supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the appli-

cation. Such submissions shall indicate the proceeding designation Finance Docket No. 28979F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than May 10, 1979. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9103 Filed 3-23-79; 8:45 am]

#### [7035-01-M]

[Ex Parte No. 241, Rule 19, Exemption No. 159, Amdt. No. 1]

#### CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

#### Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 159 issued February 16, 1979

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 159 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire March 31, 1979.

This amendment shall become effective March 15, 1979.

Issued at Washington, D.C., March 15, 1979.

INTERSTATE COMMERCE COMMISSION.  
ROBERT S. TURKINGTON,

Agent.

[FR Doc. 79-9105 Filed 3-23-79; 8:45 am]



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NOTICES

[1505-01-M]

[Notice No. 2]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Corrections

In FR Doc. 79-1253, appearing at page 3115, in the issue of Monday, January 15, 1979, on page 3120, in the second column, the first full paragraph, correct "MC 129923 (Sub-52TA)" to read "MC 139923 (Sub-52TA)".

[1505-01-M]

[Notice No. 3]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 79-1254 appearing at page 3122, in the issue of Monday, January 15, 1979, on page 3124, in the first column, the third full paragraph, the first line, correct "MC 112617 (Sub-411TA)" to read "MC 112617 (Sub-413TA)".

[1505-01-M]

[Notice No. 8]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 79-2634, appearing at page 5551, in the issue of Friday, January 26, 1979, on page 5556, in the second column, the first full paragraph, correct "MC 144630 (Sub-47TA)" to read "MC 144630 (Sub-7TA)".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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NOTE.—In the FEDERAL REGISTER for Wednesday, March 21, 1979, the contents entry for the Federal Maritime Commission was inadvertently listed as "Federal Maritime Administration".

[6320-01-M]

1

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the March 21, 1979 meeting agenda (M-205 Amdt. 4, Mar. 20, 1979).

TIME AND DATE: 10 a.m., March 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 12a. Docket 34582, Southwest's automatic market entry (AME) application (Memo 8537-A, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Section 401(d)(7)(A) of the act directs the Board to take action on Southwest's application in Docket 34582 by March 26, 1979, and objections to the Board's tentative conclusions concerning this application were due by March 16, 1979. Accordingly, the following members have voted that agency business requires the addition of Item 12a to the March 21, 1979, agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen  
Member Richard J. O'Melia  
Member Elizabeth E. Bailey  
Member Gloria Schaffer

[S-580-79 Filed 3-22-79; 10:15 am]

[6714-01-M]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 4 p.m. on Tuesday, March 20, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following matters from the agenda for consideration at the meeting:

Memorandum proposing field examiner specialization in consumer protection and civil rights examinations.

Memorandum proposing that the Corporation process national bank call reports and trust asset surveys.

Memorandum proposing the negotiation of a contract for the performance of a study as to the feasibility of the Corporation's providing computer support to the Office of the Comptroller of the Currency.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: March 21, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION.

HOYLE L. ROBINSON,  
Acting Executive Secretary.

[S-582-79 Filed 3-22-79; 11:58 am]

[6714-01-M]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 4:30 p.m. on Tuesday, March 20, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following matters from the

agenda for consideration at the meeting:

Application of the Umatilla State Bank, Umatilla, Fla., for consent to establish a branch on Butler Street (State Road 40) near its intersection with Alco Street, Unincorporated Lake County (P.O. Astor), Florida.

Memorandum regarding the liquidation of assets acquired by the Corporation from American Bank & Trust Co., New York, N.Y.

Nine recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof.

The Board also determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: March 21, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION.

HOYLE L. ROBINSON,  
Acting Executive Secretary.

[S-583-79 Filed 3-22-79; 11:58 am]

[6715-01-M]

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, March 27, 1979, at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be open to the public. Due to extraordinary circumstances, the Commission in a vote of 6-0 set a special meeting to be held on March 27, 1979, at 10 a.m. to discuss testimony given before the House Administration Committee, U.S. House of Representatives on March 15, 1979, on H.R. 1, a bill to provide for financing of general election campaigns for the House of Representatives.

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, 202-523-4065.

MARJORIE W. EMMONS,  
Secretary to the Commission.

[S-585-79 Filed 3-22-79; 3:27 pm]



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[6715-01-M]

5

# FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, March 29, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

## MATTERS TO BE CONSIDERED:

### Portions open to the public

Setting of dates for future meetings; correction and approval of minutes.

Appropriations and budget pending legislation; 1980 elections and related matters.

Classification actions; routine administrative matters.

Portions closed to the public (following open session)

Audits, compliance, personnel, litigation, labor/management relations.

## PERSON TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, 202-523-4065.

MARJORIE W. EMMONS,  
Secretary to the Commission.

(S-586-79 Filed 3-22-79; 3:27 pm)

[6720-01-M]

6

# FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 9:30 a.m., March 29, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

## CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 203-377-6677.

## SUNSHINE ACT MEETINGS

### MATTERS TO BE CONSIDERED:

Branch office application—Citizens Federal Savings & Loan Association, Miami, Fla. Consideration of designation of Milan C. Miskovsky, General Counsel designate, as a member of the Administrative Conference of the United States.

Limited facility application—Chinatown Federal Savings & Loan Association, San Francisco, Calif.

Application for authority to incur debt—Fidelity Financial Corp., San Francisco, Calif.

Consideration of association request for permission to purchase New Jersey mortgage finance agency bonds—Berkeley Federal Savings & Loan Association of New Jersey, Millbur, N.J.

Branch office application—First Federal Savings & Loan Association of Wichita Falls, Wichita Falls, Tex.

Application for bank membership—Littleton Savings Bank, Littleton, N.H.

Consideration of drive-in facility application—First Federal Savings & Loan Association of Youngstown, Youngstown, Ohio.

Branch office application—Security Federal Savings & Loan Association, Vero Beach, Fla.

Branch office application—Cardinal Federal Savings & Loan Association, Cleveland, Ohio.

Conversion from Federal to State charter and subsequent merger into a mutual savings bank—Arlington Federal Savings & Loan Association, Baltimore, Md., into Central Savings Bank, Baltimore, Md.

Application for change of name—Home Federal Savings & Loan Association of Nashville, Tenn.

MARCH 22, 1979.

(S-587-79 Filed 3-22-79; 3:40 pm)

[4910-58-M]

7

# NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 1 p.m., Wednesday, March 28, 1979.

PLACE: NTSB board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

### MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible.

Discussion of aircraft accident report—Pacific Southwest Airlines, Inc., Boeing 727-214, N533PS, and Gibbs Flite Center, Inc., Cessna 172, N7711G, San Diego, Calif., September 25, 1978.

## CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

(S-584-79 Filed 3-22-79; 3:13 pm)

[8010-01-M]

8

# SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (44 FR 17025, Mar. 20, 1979).

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: March 14, 1979.

CHANGES IN MEETING: Additional item.

The following additional item will be considered at a closed meeting on Thursday, March 22, 1979, immediately following the 10 a.m. open meeting.

Formal order of investigation.

Commissioners Loomis, Evans, and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

MARCH 21, 1979.

(S-581-79 Filed 3-22-79; 10:15 am)

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PART II



## ENVIRONMENTAL PROTECTION AGENCY

## LANDFILL DISPOSAL OF SOLID WASTE

Proposed Guidelines



PROPOSED RULES

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 241]

[Docket No. 1008.1; FRL 1063-5]

LANDFILL DISPOSAL OF SOLID WASTE

Proposed Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: These Guidelines are issued under Section 1008(a)(1) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2803, 42 U.S.C. 6907(a) (the Act). The Guidelines describe recommended considerations and practices for the location, design, construction, operation and maintenance of solid waste landfill disposal facilities.

DATES: Comments are due May 25, 1979. Hearings: Hearings will be held on May 15, 1979, and May 17, 1979.

ADDRESSES: The mailing address for all comments is Office of Solid Waste (WH-564) Environmental Protection Agency, Washington, D.C., 20460; Attention: Bernard Stoll, Docket 1008.1.

The official record for this rulemaking (Docket Number 1008.1) is located in Room 2107, EPA, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays.

Hearings: Two hearings on this Section 1008(a) proposal are scheduled as follows:

May 15, 1979—EPA Waterside Mall, Room 3906, 401 M Street SW., Washington, D.C. (9:00 am to 4:00 pm).

May 17, 1979—Shamrock Hilton, 6900 South Main at Holcombe Blvd., Houston, Texas (9:00 am to 4:00 pm).

Registration will begin at 8:30 am at each location. Anyone wishing to make an oral statement(s) at the hearing(s) should notify, in writing: Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. EPA, Washington, D.C. 20460.

Oral or written comments may be submitted at the public hearings. Persons who wish to make oral presentations must restrict their presentations to ten minutes, and are encouraged to have written copies of their complete comments for inclusion in the official record.

FOR FURTHER INFORMATION CONTACT:

Mr. Bernard Stoll, Office of Solid Waste (WH-564), U.S. EPA, Washington, D.C. 20460, (202) 755-9116.

PURPOSE

Section 1008(a)(1) of the Act directs the Administrator to publish "suggested guidelines" that "provide a technical and economic description of the level of performance that can be attained by various available solid waste management practices (including operating practices) which provide for the protection of public health and the environment." The legislative history of this provision indicates that such Guidelines are to provide information to the States about alternative solid waste management practices. This information will assist the States in their solid waste management planning.

The purpose of these Guidelines is to suggest preferred methods for the design and operation of those solid waste disposal facilities which employ landfilling techniques. The decision as to what mix of these and other practices will be required to meet regulatory standards for land disposal will be a matter of State concern.

These guidelines replace 40 CFR Part 241—"Guidelines for the Land Disposal of Solid Wastes"—dated August 14, 1974, which were developed under the authority of the Solid Waste Disposal Act, as amended by the Resource Recovery Act of 1970 (Pub. L. 91-512).

APPROACH

There are two aspects to the information provided in conjunction with these Guidelines. First, EPA has identified a set of available landfill practices which are aimed at protecting public health and the environment. Second, it has provided a technical and economic description of those practices where such a description was possible.

However, to facilitate the clarity of its presentation and avoid redundancy EPA has chosen to identify the landfill practices in the text of the Guidelines and provide a more specific description of the technical and economic aspects of each practice in the voluntary Environmental and Economic Impact Statement (EIS) prepared in conjunction with the Guidelines. The Guidelines do incorporate the discussion found in the EIS. In § 241.207 the Guidelines indicate what portion of the EIS provides an elaborated description of each landfill practice. EPA believes this approach avoids unnecessarily repeating the information in both documents and makes the text of the Guidelines a more concise summary of sound landfilling practices. In keeping with this approach EPA solicits comment on both the Guidelines and those parts of the EIS that provide supplemental detail on the suggested landfill practices.

COVERAGE

These Guidelines are applicable to all solid waste disposal operations which involve the burial of solid waste. They do not apply to solid waste disposal operations which involve the landspreading or surface impoundment of solid waste. Separate guidelines for landspreading and surface impoundment disposal will be promulgated at a later time.

The Guidelines have been developed to provide information applicable to new and existing landfills. All sections of the Guidelines are applicable to new facilities, while all sections except § 241.200 (Site Selection) provide information relevant to the expansion or modification of existing landfills. EPA chose this approach because it would have been unnecessarily duplicative to develop separate sections of the Guidelines for new and existing facilities.

RELATIONSHIP TO OTHER REGULATIONS

Subtitle D of RCRA—The "Criteria for Classification of Solid Waste Disposal Facilities," to be promulgated under Sections 4004 and 1008(a)(3) of the Act, will establish performance standards (based on environmental effects) for facilities for the land disposal of solid waste. Facilities which cannot meet the Criteria standards are "open dumps" according to Section 4005(a) and will be subject to the requirements authorized under Subtitle D for such sites. The Guidelines proposed here should not be confused with the Criteria.

The Criteria are designed to define the level of health and environmental protection which a land disposal facility must achieve to avoid designation as an "open dump." The test for compliance with the Criteria is whether there will be "no reasonable probability of adverse effects on health or the environment" associated with disposal of solid waste at a facility. This is a case by case decision which requires cognizance of the particular circumstances found at each site. The Guidelines identify and describe available solid waste management practices which provide for the protection of public health and the environment.

In promulgating these Guidelines EPA is certifying that they represent sound solid waste management practices, and in many cases compliance with the Criteria can be achieved by applying practices outlined in the Guidelines. However, use of practices described in the Guidelines does not provide a general guarantee of a site's compliance with the Criteria. The relationship between these Guidelines and the Criteria of Subtitle D is that the Guidelines are an informational resource which can assist State officials and site operators in determining

the particular set of solid waste management practices which are needed to achieve compliance with the Criteria at each site. A site could also satisfy the Criteria by employing an approach not discussed in the Guidelines, such as a new innovative technology.

Subtitle C of RCRA—Under Section 3004 of the Act EPA establishes standards concerning treatment, storage and disposal at hazardous waste facilities. EPA proposed regulations, on December 18, 1978 (43 FR 58946), which specify practices required at facilities for the disposal of hazardous waste. These Guidelines should not be confused with those standards. These Guidelines provide general information about alternative landfilling practices. The final regulations issued under Section 3004 will define the disposal responsibility of hazardous waste facilities. Thus, the information in these Guidelines is only relevant to a hazardous waste facility to the extent that it provides an explanation of practices required under Section 3004 of the Act.

Other Environmental Regulations—Disposal of solid waste in landfills may affect public health and the environment such that standards established under other statutes are violated. It should be clear that sound landfilling practices cannot include practices which violate environmental regulations designed to protect public health and the environment. Therefore, at a minimum, landfill practices should comply with all standards established under Federal and State law. In particular landfill operators should assure that their facilities comply with applicable portions of the Clean Water Act, as amended, 33 U.S.C. Section 1251, *et seq.*, The Safe Drinking Water Act, as amended, 42 U.S.C. Section 7401, *et seq.*, The Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, *et seq.*, and the Endangered Species Act, as amended, 16 U.S.C. Section 1530, *et seq.*

DISCUSSION OF PROPOSED GUIDELINES

Definitions—All definitions contained in the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580) apply in these Guidelines. The definition for "hazardous waste" given at Section 1004(5) of the Act is further defined by regulations proposed under the authority of Section 3001(a), December 18, 1978 (43 FR 58946).

The definition of "sole source aquifers" is derived from Section 1424(e) of the Safe Drinking Water Act of 1974 (Pub. L. 93-523).

The definition of "ten-year 24 hours precipitation event" is taken from "Effluent Limitations Guidelines for Existing Sources—Coal Mining Point Source Category" (40 CFR 434).

The definition of "wetlands" was taken from the Army Corps of Engineers "Permits for Discharges of Dredged or Fill Material into Waters of the United States" (33 CFR 323.2(c)).

Site Selection—Section 241.200 concerns the location of landfill disposal facilities. This section emphasizes that the selection of a site for the landfill disposal of solid waste should be accomplished in consideration of the areal ground and surface water conditions; geological and topographical features; social, geographic and economic factors; and environmental impacts. This section suggests avoidance of environmentally sensitive areas (wetlands, floodplains, critical habitats of endangered species, permafrost areas and recharge zones of sole source aquifers). This section further indicates that zones of active faults and karst terrain are areas that should, similarly, be avoided.

Surficial disturbances by active faults may result in shifts in waste disposal sites which may damage any liners used or expose disposed solid waste.

Karst terrain is terrain which has been formed over limestone, dolomite or gypsum as a result of solution processes; it is characterized by closed depressions or sink holes, caves and solution channels and commonly has underground drainage. Disposal of solid wastes on such terrain faces potential problems distinctive to this unique geological setting: (1) leachate produced at the site may be channeled without attenuation via solution cavities beneath the site into ground water and transported rapidly over substantial distances to unpredictable locations, and (2) a cavern or sink hole beneath the site can, in effect, ingest disposed wastes into the ground-water channels within the bedrock.

These Guidelines, however, recognize that location of a landfill disposal facility in a generally unsuitable area (environmentally sensitive areas, zones of active faults, and karst terrain), if no other feasible alternative exists, may be possible through the application of proper, and in some cases sophisticated, engineering techniques for design and operation.

Design—This section of these Guidelines is a straightforward discussion and reiteration of the various topics which should be considered and addressed during the design stage of landfill development. It emphasizes the value of a clear presentation of all design features in appropriate plans to facilitate review by the appropriate regulatory authority, as well as to facilitate operation in accordance with the original design. This section further cautions that each design feature must be reviewed in light of each

other design feature to enable appropriate "trade-off" analyses and decisions.

Leachate Control—This section of these Guidelines addresses The potential for adverse impact on ground and surface water by landfill disposal of solid waste. These Guidelines explain that the most protective means for leachate control involves the application of techniques to achieve containment of the disposed solid waste through placement of very low permeability materials on the bottom and sides of a landfill and sealing of the surface of the completed landfill.

These Guidelines recognize, however, that containment techniques may not be necessary nor appropriate at all landfill disposal facilities since some degree of attenuation of contaminants found in landfill leachate can be expected in both the unsaturated and saturated zones underlying a landfill disposal facility. These Guidelines suggest the acceptability of both controlled and uncontrolled release of landfill leachate provided there is a demonstration of the needed attenuative capacity in the unsaturated and saturated zones beneath the landfill sufficient to avoid an adverse effect on the ground water. Since procedures for estimating the attenuative capabilities of underlying soils and ground water have not achieved wide acceptance, such estimates may be possible only with a thorough knowledge of the solid waste to be disposed in conjunction with site-specific hydrogeological and climatological conditions.

Comments are requested on the acceptability of this approach in these Guidelines and on information regarding prediction techniques for soil attenuation and ground water contamination.

This section recognizes that control of infiltration of precipitation into a landfill is a means of reduction or control of leachate generation. These Guidelines, therefore, suggest diversion of surface runoff away from or around the landfill. The recommendation of the ten year 24 hour precipitation event for diversion structure design is based on the wide acceptance of this engineering design criterion.

This section explains the purpose and uses of landfill liner materials, both natural and synthetic. Information on the long-term integrity of liner materials is limited, although research on this subject is now underway. In recognition of the site-specific nature of each liner application, these Guidelines do not specify liner thicknesses and permeabilities for various applications. The degree of containment or rate of release required and the desired time of first appearance of leachate at the bottom of the liner dictate the type and thickness of materi-

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al for each application. Low permeability liner materials are specified as those with permeability equal to or less than  $1 \times 10^{-7}$  cm/sec, which is typical of tight clay soils.

While polymeric liner materials are frequently attributed a permeability of less than  $1 \times 10^{-12}$  cm/sec, no such specification is included in these Guidelines. Falling head or constant head permeameters are typically used in the laboratory to determine the permeability of soil materials. This apparatus is unusable for polymeric film materials and no equivalent test for direct measurement of the permeability of these materials has, as yet, been perfected.

The specification of minimum thicknesses for soil and synthetic membrane liners were included in these Guidelines in recognition of current construction techniques and practices. In the case of soil liners, the one foot minimum thickness should avoid the possibility of sections of the liner being inadvertently placed at thicknesses of only an inch or two in some places due to irregularities in the surface of the sub-base and the insensitivity of some construction equipment. The 20 mil minimum thickness for synthetic membranes is included to reflect concern for protection against tears in the membrane during installation.

Where a liner is used to minimize the exfiltration of landfill leachate to underlyings soils, these Guidelines suggest continuous removal of collected leachate in order to limit the head of leachate on the liner to the shallowest possible depth. This recommendation can be more simply stated that the less leachate allowed to remain atop the liner the less is available to leach through the liner. These Guidelines also present in this section the limited available information on the effectiveness of leachate treatment and disposal technology.

EPA particularly invites comment on the approach and information in this section.

**Gas Control**—This section of these Guidelines addresses the potentially dangerous conditions which may result from migration of methane gas generated within a landfill from biological degradation of disposed organic solid waste. This section also recognizes the potential occurrence and migration of other dangerous gases from volatile solid waste and chemical reactions among disposed wastes.

This section emphasizes the need to consider the consequences of selection of individual control techniques. For example, a decision to minimize leachate generation by sealing the surface of a completed landfill disposal facility can only be made after consideration of the need to provide some

means of venting gases which may be generated.

Assessments of current technology for gas migration control, both active and passive systems, are included in this section.

**Runoff Control**—This section is included to call attention to the need to provide for control of runoff of surface water from precipitation on the landfill, as well as the area surrounding the landfill. In addition to minimizing the quantity of water available for infiltration into a landfill, surface runoff control is necessary to minimize the erosion of soil. This section also explains that runoff which has not been contaminated by solid waste or leachate may still need to be introduced into a surface impoundment designed to allow settling of eroded sediment.

**Operation**—This section of these Guidelines presents appropriate considerations for the proper and safe operation of a landfill disposal facility. The importance of application of daily and final cover material is presented along with achievable benefits. Much of this section addresses safety considerations for both employees and users of the landfill disposal facility. Guidance for closure and long term maintenance of completed landfill disposal facilities is not included in this section. Such procedures are left to the appropriate regulatory authority. EPA intends in the future to develop guidance on this subject.

**Monitoring**—This section of these Guidelines presents a brief overview of considerations for monitoring the performance of landfill disposal facilities. This section's lack of specificity is in recognition of the site-specific nature of the design and installation of a monitoring system at a landfill. In most cases the need for and degree of monitoring required is at the discretion of the appropriate regulatory authority. This section does include, however, a specific caution against installation of ground-water monitoring wells through the landfill proper. Such monitoring wells may provide a conduit for direct transmission of landfill leachate to underlying ground water.

## ENVIRONMENTAL AND ECONOMIC IMPACTS

In accordance with Executive Order 11821, as amended by Executive Order 11949, and EPA Policy as stipulated in 39 FR 37419, October 21, 1974, environmental and economic impact analyses on these Guidelines have been performed and are available as the "Draft EIS on the Proposed Guidelines for the Landfill Disposal of Solid Waste" from the Office of Solid Waste (WH-564). U.S. EPA, Washington, D.C. 20460.

The Draft EIS also serves as the principal background document in support of these Guidelines. The final version of this EIS will be issued at the time of promulgation.

Dated: March 19, 1979.

DOUGLAS M. COSTLE,  
Administrator.

It is proposed to amend Title 40, CFR, Part 241 to read as follows:

## PART 241—GUIDELINES FOR THE LANDFILL DISPOSAL OF SOLID WASTE

- Sec.  
241.100 Scope.  
241.101 Definitions.  
241.200 Site Selection.  
231.200-1 General.  
241.200-2 Recommended Practices.  
241.201 Design.  
241.201-1 General.  
241.201-2 Recommended Practices.  
241.202 Leachate Control.  
241.202-1 General.  
241.202-2 Recommended Practices.  
241.203 Gas Control.  
241.203-1 General.  
241.203-2 Recommended Practices.  
241.204 Runoff Control.  
241.204-1 General.  
241.204-2 Recommended Practices.  
241.205 Operation.  
241.205-1 General.  
241.205-2 Recommended Practices.  
241.206 Monitoring.  
241.206-1 General.  
241.206-2 Recommended Practices.  
241.207 Use of Environmental Impact Statement.  
241.207-1 General.  
241.207-2 Recommended Practices.

AUTHORITY: Sec. 1008(a)(1) of the Solid Waste Disposal Act of 1965 (Pub. L. 89-272) as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580).

## § 240.100 Scope.

(a) These Guidelines apply generally to disposal of solid waste in landfills. The Guidelines describe practices and considerations which seek to protect public health and the environment.

(b) The "Criteria for Classification of Solid Waste Disposal Facilities," promulgated under Section 4004 of the Act, establish performance standards for the land disposal of solid waste. The Criteria identify the level of performance necessary to assure that no reasonable probability of adverse effects on health or the environment will result from disposal of solid waste at such facility. At a minimum disposal of solid waste in landfills should achieve compliance with the Criteria. These Guidelines describe alternative landfill disposal operations that are designed to protect public health and the environment. These Guidelines provide valuable information which should assist responsible agencies in making case by case determinations on compliance with the Criteria. In many cases compliance with the Criteria. In

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many cases compliance with the Criteria can be achieved by applying practices outlined in the Guidelines. However, use of practices described in the Guidelines does not guarantee compliance with the Criteria. Practices recommended in the Guidelines are not meant to be exclusive or to discourage the development and use of equally effective technologies.

(c) Hazardous waste disposal facilities are subject to the standards developed under section 3004 of the Act. These Guidelines are relevant to hazardous waste facilities only to the extent that they provide information about practices necessary to comply with section 3004.

## § 241.101 Definitions.

As used in these Guidelines:

(a) "Aquifer" means a geologic formation, group of formations, or part of a formation that is capable of yielding usable quantities of ground water to wells or springs.

(b) "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from physical, chemical and/or biological reaction or transformation.

(c) "Base flood" means a flood that has a 1 percent or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period. In any given 100-year interval such a flood may not occur, or more than one such flood may occur.

(d) "Cell" means the daily volume of solid wastes that are deposited and enclosed by cover material in a landfill disposal facility.

(e) "Contamination" means the degradation of naturally occurring water, air or soil quality either directly or indirectly as a result of man's activities.

(f) "Contingency Plan" means an organized, planned, coordinated course of action to be followed in the event of a fire, explosion or discharge or release of waste into the environment which has the potential for endangering human health and the environment. Financial planning to identify resources for initiation of such action is a part of contingency plan development.

(g) "Cover material" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed solid waste in order to: control vectors, gases, erosion, fires, and infiltration of precipitation; support vegetation; provide trafficability; or assure an aesthetic appearance.

(h) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land

or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters (Pub. L. 94-580, 90 Stat. 2799, 42 U.S.C. 6903).

(i) "Facility structures" means any buildings or other structures, or utility or drainage lines on the landfill disposal facility.

(j) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including floodprone areas of offshore islands, which are inundated by the base flood.

(k) "Ground water" means water below the land surface in the zone of saturation.

(l) "Hazardous waste" means those wastes identified by list or by characteristic in regulations promulgated pursuant to section 3001 of Pub. L. 94-580.

(m) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or into the land surface, and usually involving compaction and covering of the disposed solid waste, and which is not a landspreading or surface impoundment facility.

(n) "Leachate" means liquid containing dissolved or suspended materials that emerges from solid waste.

(o) "Liner" means a layer of emplaced materials beneath a landfill which serves to restrict the escape of wastes or their constituents from the landfill.

(p) "Monitoring Well" means a well used to obtain water samples for water quality analysis or to measure groundwater levels.

(q) "Open burning" means the combustion of solid waste without (1) control of combustion air to maintain adequate temperature for efficient combustion, (2) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and (3) control of the emission of the combustion products.

(r) "Open dump" means a site for the disposal of solid waste which does not comply with the "Criteria for Classification of Solid Waste Disposal Facilities". (40 CFR 257).

(s) "Periodic application of cover material" means the application of soil or other suitable material over disposed solid waste at such frequencies and in such a manner as to control vectors and infiltration of precipitation; reduce and contain odors, fires, and litter; and to enhance the facility's appearance and future utilization.

(t) "Permafrost" means permanently frozen subsoil.

(u) "Plans" means technical reports and engineering drawings, including a narrative operating description, pre-

pared by professionals which properly describe and record the landfill disposal facility and its proposed operation.

(v) "Potential zone of influence" means that area within a water resource which could be contaminated by leachate or other materials derived from a landfill disposal facility.

(w) "Recharge zone" means an area through which water enters an aquifer.

(x) "Responsible agency" means any organization that has the legal duty to ensure that owners, operators or users of land disposal sites comply with these guidelines or other applicable regulations.

(y) "Runoff" means the portion of precipitation that drains from an area as surface flow.

(z) "Salvaging" means the controlled removal of waste materials for utilization.

(aa) "Sanitary landfill" means a facility for the disposal of solid waste which meets the "Criteria for Classification of Solid Waste Disposal Facilities" (40 CFR 257).

(bb) "Scavenging" means uncontrolled removal of solid waste materials.

(cc) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects (Pub. L. 94-580, 90 Stat. 2800, 42 U.S.C. 6903).

(dd) "Sole Source Aquifers" means those aquifers, designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 (Pub. L. 93-523), which solely or principally supply drinking water to a large percentage of a populated area.

(ee) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923). (Pub. L. 94-580, 90 Stat. 2801, 42 U.S.C. 6903).

(ff) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American



Samoa, and the Northern Mariana Islands. (Pub. L. 94-580, 90 Stat. 2801, 42 U.S.C. 6903).

(gg) "Ten-year 24 hour precipitation event" means the maximum 24 hour precipitation event with a probable recurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S." May 1961, and subsequent amendments, or equivalent regional or rainfall probability information developed therefrom. (40 CFR Part 434—Coal Mining Point Source Category—Effluent Limitations Guidelines for Existing Sources).

(hh) "Vector" means a carrier that is capable of transmitting pathogens from one organism to another.

(ii) "Water table" means the upper surface of the zone of saturation in an unconfined aquifer at which the pressure is equal to atmospheric pressure.

(jj) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (33 CFR Part 323—Permits for Discharges of Dredged or Fill Material into Waters of the United States).

#### § 241.200 Site selection.

##### § 241.200-1 General.

Selection of a site is the most critical step in establishing a landfill disposal facility. Site selection must be accomplished in consideration of: ground and surface water conditions; geology, soils and topographic features; solid waste types and quantities; social, geographic and economic factors, and aesthetic and environmental impacts.

##### § 241.200-2 Recommended practices.

Site selection should be accomplished in accordance with the following:

(a) Environmentally sensitive areas, including wetlands, 100-year floodplains, permafrost areas, critical habitats of endangered species, and recharge zones of sole source aquifers should be avoided or receive lowest priority as potential locations for landfill disposal facilities. If these areas are to be considered the following subjects need to be addressed:

(1) *Alternatives.* Before concluding that location of a landfill in an environmentally sensitive area is advisable, alternative locations and disposal techniques should be evaluated in terms of hydrogeologic, technological, environmental, economic and other pertinent factors. Alternatives involving regional

facilities, resource recovery, or both, should also be considered. Increased costs, alone, should not be sufficient grounds for dismissing an alternative in favor of disposal in an environmentally sensitive area.

(2) *Impact.* A comprehensive analysis of location of a landfill in an environmentally sensitive area should be performed and provided to the responsible agency or agencies along with the discussion of alternatives. Such analyses should include: an estimate of the type and extent of potential impact on the ecosystem; consideration of design, construction and maintenance techniques to minimize, prevent or correct such impacts; and a general appraisal of the area in terms of rate of encroachment, cumulative impact, and multiplier effect of activities in that area.

(3) *Approvals.* Disposal into waters of the United States, including wetlands, is subject to provisions of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.* If disposal operations jeopardize the continued existence of endangered and threatened species, such operations may constitute a violation of the Endangered Species Act, as amended, 16 U.S.C. 1530 *et seq.* Proper site selection must include compliance with applicable requirements of those laws, as determined by the responsible State or federal authorities.

(b) Zones of active faults and karst terrain should be avoided in locating landfill disposal facilities unless a site-specific evaluation demonstrates minimum potential for adverse effects, especially upon ground water.

(c) The cost effectiveness of a site's selection should be determined, if considered environmentally feasible. This cost analysis should include not only the economics of the disposal facility operation but also the impact of the planned future use of the site after completion of landfill operations.

(d) The possible incorporation of a site into a regional solid waste disposal system whether currently in existence or a future possibility, should be considered during environmental and economic evaluations. Furthermore, programs for the location, design and operation of solid waste facilities should be consistent with residual waste disposal programs developed pursuant to section 208(b)(2)(J) of the Clean Water Act and § 35.1519-6(f) of the Proposed Water Quality Management Regulations (43 FR 40752, September 12, 1978).

(e) Sites traversed by pipes or conduits (for sewage, storm water, etc.) should be rejected unless their relocation or protection is feasible. Since such pipes may serve as pathways for gas and leachate extreme caution

must be observed and a plan for pipe maintenance and repair developed.

(f) Characteristics and availability of on-site soil should be evaluated with respect to their effects on site performance and site operations, such as, use of the soil for cover material and soil suitability for vehicle maneuverability.

(g) Sites located in the vicinity of airports, where birds attracted to the landfill disposal facility could pose a hazard to aircraft, should be avoided.

(h) Sites should be accessible to appropriate vehicles by all-weather roads leading from the public road system.

(i) The potential socio-economic effects of a site's selection should be determined. Topics to be addressed include aesthetic and safety considerations such as vehicular traffic, litter, noise and other possible nuisance conditions.

#### § 241.201 Design.

##### § 241.201-1 General.

Sufficient design is essential to the successful operation of a facility in even the best location. In the design phase of a landfill disposal facility all the requirements and technology alternatives to satisfy those requirements are reviewed prior to incorporation into the design. The design involves the evaluation and documentation of a landfill capable of accepting certain solid waste materials for disposal.

##### § 241.201-2 Recommended practices.

A landfill disposal facility should be designed in accordance with the following:

(a) The types and quantities of all solid waste expected to be disposed at the landfill should be determined by survey and analysis to serve as a basis for design.

(b) Current and projected use of ground-water resources in the vicinity of the landfill disposal facility should be determined as a basis for design of any necessary ground-water protection and monitoring system as follows:

(1) Establish initial (background) quality of water resources in the potential zone of influence.

(2) Establish the depth to the water table and the direction and rate of ground-water flow with special consideration of current and projected withdrawal rates by ground-water users.

(3) Establish potential interactions of the landfill disposal facility, its hydrogeology, and the areal ground and surface waters, based upon historical records and other sources of information.

(4) Establish site geology, at least down to the mean annual water table with specific emphasis on hydraulic conductivity and the possible natural

attenuative capacity of the soils and subsurface geology.

(c) Quality, quantity, source and seasonal variations of surface waters in the vicinity of the landfill disposal facility should be established to serve as a basis for design of any necessary surface water protection and monitoring system.

(d) The nearby floodplain (defined by the 100 year flood level) should be established in accordance with procedures described in "Guidelines for Determining Flood Flow Frequency," Bulletin No. 17a, Water Resources Council, Hydrology Committee, June 1977. If all or part of the facility lies within the 100 year flood plain a suitable dike to prevent facility inundation should be detailed in the site design.

(e) A water balance for the landfill disposal facility should be established to serve as a basis for design of leachate control and surface runoff systems. The method contained in "use of the Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites" (SW-168) is an example of a technique for accomplishing this.

(f) Landfill leachate generation cannot be avoided except in some arid climates, therefore, leachate control measures for water quality protection should be incorporated in the site design, as required (re: § 241.202).

(g) Since most organic waste material undergoes decomposition in a landfill, decomposition gas will be generated. The landfill design should include measures for control of these and other potential gaseous emissions, as required (re: § 241.203).

(h) The final design of a landfill disposal facility can only be accomplished after a thorough analysis of tradeoffs among environmental impacts, economic considerations, future use alternatives and nature and quantities of the waste to be disposed has been accomplished. This tradeoff analysis cannot be overemphasized in light of potentially conflicting landfill control technologies. For example, minimization of leachate generation can be accomplished, in part, by sealing the surface of a landfill, however, the surface seal will effectively minimize escape of decomposition gases from the landfill which may result in potentially dangerous off-site gas migration. Selection of control technologies, therefore, must consider the impact of companion technologies at a landfill disposal facility and be compatible with the planned end use of the site.

(i) Plans for design, construction, operation and maintenance of new sites or modifications to existing sites should include:

(1) Evidence of compliance with applicable State and Federal regulations.

(2) Demonstrated consistency with the "Recommended Practices" of these guidelines, or suitable alternative technologies.

(3) Careful detailing of all design and operational considerations necessary to bring site conditions to an acceptable level.

(4) A clear presentation and discussion of any separate areas which have been incorporated into the landfill design for disposal of specific wastes requiring special or separate handling.

(5) Other pertinent information, such as:

(i) Initial and final topographies at contour intervals of 5 feet or less as specified by the appropriate regulatory authority.

(ii) Land use and zoning within, at least, one-quarter mile of the site showing the location of all residences, buildings, public and private wells, water courses, rock outcroppings, roads.

(iii) Location of all airports within two (2) miles of the site.

(iv) Location of all utilities within, at least, 500 feet of the site.

(v) Temporary and permanent all weather access roads.

(vi) Screening and other nuisance control measures.

(vii) Site monitoring locations.

(viii) Sedimentation control plans.

(ix) Narrative descriptions, with associated technical drawings, indicating site development and operation procedures.

(x) Contingency plans.

(xi) Projected use of completed site.

(xii) Long term maintenance procedures.

of the uppermost saturated zone and a soundly based estimate of the anticipated landfill leachate quality and rate of generation. Analysis must demonstrate that the attenuation capability of soils in the unsaturated zone and dilution capacity of the saturated zone are sufficient to maintain the required ground and surface water quality for this approach to be utilized. The other extreme involves the maximum containment of landfill leachate by various techniques. Either approach requires a case-by-case evaluation. Since these approaches are the extremes, actual practice at a specific site will usually require a leachate management approach somewhere in between.

#### § 241.202-2 Recommended practices.

Leachate control, when necessary in accordance with site design, should be accomplished through application of one or more of the following practices:

(a) Unless underlying ground water is determined to be unusable as a drinking water or other supply source and therefore not in need of protection, the bottom of a landfill disposal facility should be substantially (1.5 meters or more) above the seasonal high ground-water table, to prevent direct contact of disposed solid waste and the ground water. Depending upon the site design and degree of ground-water protection required, the unsaturated zone, between the water table and landfill bottom, can be equipped with monitoring devices to monitor the passage of leachate, if any, through this zone; or, relied upon to provide, at least, minimal attenuation of planned or unplanned escape of landfill leachate. In high ground-water table areas it may be necessary to lower the water table.

(b) Since the flow of surface water on a landfill can result in cover soil and solid waste erosion, as well as increased leachate generation, there should be no uncontrolled hydraulic connection between the landfill and standing or flowing surface water.

(1) Surface runoff diversion structures should be constructed surrounding the landfill capable of diverting away from the landfill all of the surface water runoff from the upland drainage area from the 10 year 24 hour precipitation event.

(2) A dike with sufficient structural integrity should be constructed around any landfill disposal facility located within the 100-year floodplain of sufficient height to prevent inundation. Subsurface controls may also be necessary to prevent intrusion of water resulting from the temporary elevated ground-water table during flooding.

(c) Similar to surface runoff from surrounding areas, incident precipitation (e.g. rain or snow) falling onto a



landfill can result in two effects, namely, increased leachate generation and erosion of cover soil and solid waste. Techniques to carry incident precipitation from the landfill without causing erosion should be applied, as follows:

(1) The final cover of the landfill should be graded such that water does not pool over the landfill. In order to minimize soil erosion the final grade should not exceed 30%. Slopes longer than 7.5 meters (25 feet) may require additional erosion control measures, such as, construction of horizontal terraces, of sufficient width for equipment operation, for every 6 meters (20 feet) rise in elevation. Minimum slope, including terraces, should be 2%.

(2) The final soil cover on a completed landfill disposal facility should be seeded or otherwise vegetated to minimize erosion and maximize evapotranspiration.

(3) If landfill site design incorporates minimization of leachate generation a low permeability cover soil with a low swell and shrink tendency upon wetting and drying should be utilized to avoid cracking.

(4) If landfill site design allows infiltration of incident precipitation or recirculation of leachate to encourage waste stabilization a suitably high permeability cover soil should be utilized to avoid ponding.

(5) The cover material selected should provide for a balance among the major functions of:

- (i) Vehicle traffic
- (ii) Water infiltration control
- (iii) Gas migration control
- (iv) Fire resistance
- (v) Erosion control
- (vi) Vector control
- (vii) Support of vegetation

(d) The design of all landfill disposal facilities should be accomplished only after careful consideration of site hydrogeologic conditions which are to be relied upon, in part, for minimization of the impact of the anticipated quantity and quality of landfill leachate upon ground and surface water.

These considerations include an estimate of the attenuation capabilities of site soils and the quantity and quality of ground and surface water. The degree of reliance upon natural site hydrogeologic conditions depends upon the degree of protection required for underlying ground water. Protection of an underground water supply aquifer can be accomplished as follows:

(1) Where natural hydrogeologic conditions are sufficient to ameliorate the impact of leachate upon underlying ground water no bottom control, beyond naturally occurring soil layers, is necessary. Control of infiltrating incident precipitation through selection and placement of low permeability

cover soil can reduce the total quantity of leachate which will enter the ground water.

(2) Where natural hydrogeologic conditions are unable to ameliorate the impact of the total quantity of leachate (as it is formed) upon underlying ground water, the bottom (and sides below natural grade) of the landfill should be lined with low permeability soil or other suitable material. The function of liner material is threefold: to delay the escape of leachate from the bottom of the liner for a period of time equal to the thickness of the liner divided by the liner permeability; to control the rate of escape of leachate from the bottom of the liner which must then be ameliorated by attenuation or dilution by underlying soils or ground water; and to provide some degree of attenuation as leachate passes through the liner material. The quantity of leachate which must be handled by the liner can be minimized through selection and placement of low permeability cover soil to reduce the infiltration of incident precipitation.

(3) Where natural hydrogeologic conditions can provide only minimal amelioration of the impact of leachate upon underlying ground water it is necessary to minimize the amount of leachate which is given the opportunity to enter the underlying soils by constantly removing, by drainage, the leachate which is intercepted by the liner material. This may be coupled with minimization of infiltrating incident precipitation by selection and placement of low permeability cover soil.

(4) Where natural hydrogeologic conditions are virtually incapable of ameliorating the impact of any leachate upon underlying ground water and the underlying ground water is particularly valuable it is necessary to preclude the escape of leachate from the bottom of the landfill through placement of multiple liners and constant drainage systems. Interruption of the downward flow of leachate by placement of a slightly permeable liner, designed for continuous removal of leachate, and underlain by a significantly less permeable liner material, also designed for continuous removal of leachate, should preclude the escape of leachate from the bottom of the lower-most liner.

(e) Many types of material can function successfully as liners. The rate of passage of leachate through liner materials is a function of the measured permeability of the material and the depth (or head) of leachate on the liner. In general, the rate of flow increases with depth of leachate. The variety of liner materials available include:

(1) Naturally occurring materials such as clays.

(2) Amended natural materials such as soil cements.

(3) Artificial materials such as asphaltic materials and polymeric membranes.

(f) Liner materials which are to significantly restrict the rate of flow of leachate from the bottom of a landfill should have the following properties:

(1) Permeability of  $1 \times 10^{-7}$  cm/sec (about 0.1 foot/year) or less.

(2) Ability to resist physical and chemical attack by leachate.

(3) Be capable of maintaining integrity for the design life (which must be determined on a site-specific basis).

(g) The minimum allowable thickness for both natural and artificial liner materials is determined by either the degree of quality control and construction practice for liner placement, or the thickness necessary to provide a suitable structure to achieve the desired volumetric release of leachate for the maximum leachate storage anticipated, in accordance with the approved landfill design.

(1) The practical minimum thickness for natural soil liners is 30 cm (12 inches) and

(2) The practical minimum thickness for synthetic membrane liners is twenty (20) mils

(h) Artificial liner material, if selected, should be placed upon a carefully prepared base of selected material which will prevent liner puncture while providing uniform support, and should be covered with suitable material that will further protect the liner from damage and provide a drainage blanket for the leachate collection system. Approximately 60 cm (2 feet) of material is effective in protecting a liner from mechanical damage (puncture). The lowest 15 cm (6 inches) of material should be highly permeable to allow the leachate collection system to function properly.

(i) Removal of leachate collected on a liner should be incorporated into the design of a lined landfill to avoid surface seeping and relieve hydraulic pressure on the liner. To facilitate leachate removal, liner materials should be sloped to one or more points and covered with a layer of highly permeable material such as pea gravel. A grade of 1% or more should be utilized.

(j) Once collected, landfill leachate should be disposed to the land or surface water in an environmentally sound manner to protect surface and ground-water quality. (Section 402 of Pub. L. 92-500 as amended by the Clean Water Act of 1977 (33 U.S.C. 1251) requires a permit for the discharge of collected leachate to surface water). Leachate treatment and disposal should be performed in accordance with the following recommendations:

ance with the following recommendations:

(1) Municipal solid waste landfill leachates have generally been shown to

be treatable by various wastewater treatment techniques as follows:

(i) Leachate treatability—

| Leachate Quality    |            | Treatment Efficiency <sup>+</sup> |                        |                    |           |                 |                  |              |
|---------------------|------------|-----------------------------------|------------------------|--------------------|-----------|-----------------|------------------|--------------|
| Age of fill         | COD, mg/l  | Biological                        | Chemical Precipitation | Chemical Oxidation | Ozonation | Reverse Osmosis | Activated Carbon | Ion Exchange |
| Young (<5 yr)       | >10,000    | G                                 | P                      | P                  | P         | F               | P                | P            |
| Medium (5 yr-10 yr) | 500-10,000 | F                                 | F                      | F                  | F         | G               | F                | F            |
| Old (>10 yr)        | <500       | P                                 | P                      | F                  | F         | G               | G                | F            |

CHIAN, E.S.K. and F.B. DeWALLE. Sanitary Landfill Leachates and their Treatment. Proceedings ASCE, Journal of the Environmental Engineering Division 102, EE2, 411-31. 1976.

+ (COD removal: G=good, F=Fair, P=poor)

(ii) Leachate containing a significant fraction of biologically refractory high molecular weight organic compounds (i.e. those in excess of 50,000) are best treated by physical/chemical methods such as lime addition followed by settling.

(iii) Leachates containing primarily low molecular weight organic compounds are best treated by biological methods such as activated sludge.

(iv) Leachate treatment by combinations of chemical, physical and biological methods may be required to achieve discharge standards.

(2) Raw or treated landfill leachate should be discharged into a municipal or industrial wastewater treatment system only if this discharge will not impede the operation of the wastewater treatment system. Limited experience has shown that when raw municipal solid waste leachate volume exceeds about 5 percent of the total wastewater treatment plant flow, interruption of biological treatment processes may occur.

(3) Raw or treated leachate can be disposed by controlled application onto the surface of the land provided sufficient acreage is available and hydrology, soil type, vegetation, topography and climate for leachate disposal have been considered and surface or ground-water contamination will not occur.

(4) Recirculation of collected landfill leachate onto active or completed sections of the landfill can reduce leach-

ate constituent concentrations by chemical, physical and biological processes and may be effective in reducing leachate volume. This technique can result in, at least, partial stabilization of young (0-5 years) landfill leachates which are relatively concentrated in comparison with rather old stabilized landfill leachates.

§ 241.203 Gas control.

§ 241.203-1 General.

Control of gases from a landfill disposal facility may be accomplished by techniques which: minimize the production of decomposition gases or occurrence of other harmful gases; control the escape of gases into the atmosphere; and minimize the migration of gases into soils surrounding the site.

§ 241.203-2 Recommended practices.

Gas control should be accomplished in accordance with the following:

(a) Leachate and runoff control measures which are intended to minimize the infiltration of water into a solid waste landfill may also reduce gas generation, primarily  $CH_4$  and  $CO_2$ , resulting from decomposition of disposed organic solid waste.

(b) Volatile solid waste materials or wastes with a known high potential for release of harmful gases as a result of chemical reaction should not be accepted for disposal at a landfill disposal

facility where such gases are required to be minimized or avoided.

(c) Encapsulation of solid waste in a landfill (e.g. low permeability liner and final cover) to prevent or minimize infiltrating water should be coupled with an effective ventilation system to remove decomposition gas from the land fill, as necessary.

(d) If a relatively porous material is used for cover at a landfill, which does not impede infiltrating water, gases should migrate vertically out of the landfill surface, except when frozen or saturated, for dissipation into the atmosphere. However, deep landfills may experience gas pressure buildup, regardless of cover used.

(e) Since horizontal migration of gases from landfills (due to both diffusion and pressure gradients) through surrounding soils is not uncommon, an analysis of the land area surrounding the landfill proper should be performed utilizing techniques for estimating gas flow through porous media. For shallow landfills a "rule of thumb" for estimating potential gas migration is a distance equal to ten (10) times the maximum depth of the landfill below original grade. If nearby underground utilities exist, additional examination along the utility corridor should be performed.

(f) Passive barriers which may be considered for the prevention of horizontal migration of gases include:

(1) Cutoff walls constructed of naturally occurring materials, such as com-



packed moist clays, or artificial materials, such as asphaltic or polymeric materials. (i) To assure effectiveness the cutoff wall should extend from the ground surface down to a gas impervious layer (e.g. bedrock or ground water) below the bottom of the landfill. (ii) Even though polymeric materials may be virtually impermeable to water the should be evaluated for permeability to gases.

(iii) Even when compacted, clays and other soils are impermeable to gases only when water saturated.

(iv) Once in place, properly constructed cutoff walls should require no maintenance.

(2) Venting systems, frequently used in the past, installed either on or off the landfill proper, consist of either gravel-filled trenches, perforated pipes, or both.

(i) Perforated pipes have been shown to be of limited effectiveness except in the immediate vicinity of the pipe and are therefore not recommended for reduction of pressure in a landfill, when used alone.

(ii) Gravel-filled trenches, while generally more effective than perforated pipes, still permit some migration of gases across the trench, especially when covered by snow or ice.

(iii) Gravel-filled trenches equipped with vertical perforated pipes have been shown to reduce the effect of temporary covers such as ice or snow but remain of limited effectiveness in landfill gas migration control.

(iv) Gravel-filled trenches must usually be equipped for removal of water or leachate from the trench bottom and are susceptible to plugging by biomass buildup.

(3) Combination passive barriers installed off the landfill, which consist of gravel-filled trenches in combination with an impermeable barrier installed on the side of the trench opposite the landfill, provide good protection against horizontal gas migration when keyed to a gas impermeable strata below the landfill.

(g) Active barriers which may be considered for the prevention of horizontal migration of gases include:

(1) Induced exhaust wells, consisting of several wells on or off the landfill equipped with perforated pipes connected to a pump or blower by a common header pipe.

(i) Such systems are very effective when properly designed and installed.

(ii) Such systems are not limited to shallow landfills or shallow impermeable substrata.

(iii) Exhaust gases may be "flared" or recovered.

(iv) Such systems may require significant maintenance.

(2) Induced exhaust trenches, consisting of surface sealed gravel-filled trenches equipped with perforated

header pipes connected to a pump or blower.

(i) Such systems are more effective for controlling gas movement than exhaust wells, especially at shallow landfills, but require more extensive construction.

(ii) Such systems may require significant maintenance.

(iii) Use with recovery systems is unlikely due to introduction of air.

(3) Induced recharge trenches are of the same design as induced exhaust trenches but operate in reverse, suppressing horizontal migration through introduction of air, under pressure, into the trench.

(i) Such systems have lower power requirements than exhaust trenches.

(ii) A gas flare is not necessary since gases are not concentrated.

(iii) Such systems rely upon dispersion of gases to the atmosphere across the trench and ground surface.

#### § 241.204 Runoff control.

##### § 241.204-1 General.

Control of surface water runoff at a landfill disposal facility is necessary in order to minimize the potential for environmental damage to ground and surface waters by direct and indirect effects. Direct surface water contamination can result from solid waste and other dissolved or suspended contaminants carried by surface runoff. Uncontrolled surface runoff can also contribute to leachate (and gas) generation thereby increasing the potential for both surface and ground-water contamination.

##### § 241.204-2 Recommended practices.

Surface water runoff control should be accomplished at a landfill disposal facility in accordance with the following:

(a) Landfill disposal facilities should be located where the potential for surface drainage onto the landfill from adjacent land is minimal.

(b) Landfill disposal facilities should be equipped with suitable channeling devices, such as ditches, berms or dikes, to divert surface runoff from the land area contiguous to the landfill.

(c) Incident precipitation at a landfill will either evaporate, runoff or infiltrate. To minimize leachate generation the final cover on the landfill should be graded to maximize runoff with due concern for erosion. The landfill surface should be sloped to grades less than 30% to enhance runoff without causing erosion problems. Vegetation of the sloped landfill surface will also minimize erosion of cover soil.

(d) Well-compacted, fine-grained soils should be used for final cover to

enhance runoff while minimizing infiltration.

(e) Runoff not contaminated by solid waste or by leachate from seeps should be routed to a settling basin to remove sediment before discharge to a receiving stream. Other sedimentation control measures may be equally effective.

#### § 241.205 Operation.

##### § 241.205-1 General.

Proper site selection and design alone are insufficient to result in a landfill which provides for the protection of public health and the environment. To achieve such protection, operation of a landfill should be based upon the Recommended Practices of these Guidelines or other equivalent practices.

##### § 241.205-2 Recommended practices.

A facility for the landfill disposal of solid waste should be operated in accordance with the following:

(a) In general, only wastes for which the facility has been specifically designed should be accepted for disposal; however, other wastes may be accepted if it has been demonstrated to the responsible agency that they can be satisfactorily disposed within the design capability or after appropriate facility modifications.

(1) Specific wastes, whose chemical, biological or physical characteristics are not compatible with the disposal site design, location or operation and which could pose an unacceptable environmental or health effect or pose a threat to the safety of personnel or users of the facility, should be prohibited from acceptance for disposal.

(2) Regulations promulgated pursuant to Subtitle C of the Act restrict the receipt of manifested hazardous wastes for disposal at a landfill to those facilities which are permitted in accordance with the Subtitle C regulations.

(3) Facility design features may require prohibition or pretreatment of certain solid wastes. For example, unless the facility incorporates a leachate control system with sufficient capability to accept liquid or semi-solid wastes, such receipt may need to be prohibited or materials such as water treatment sludges may require dewatering before acceptance.

(b) Cover material should be applied, if necessary, to minimize fire hazards, odors, blowing litter, vector food and harborage; control gas venting and infiltration of precipitation; discourage scavenging; and provide an aesthetic appearance.

(1) A minimum of 15cm. (6 inches) of soil cover material should be applied daily.

(2) Cells which will not have additional wastes placed on them for three months or more should be covered with 30cm. (12 inches) of cover material.

(3) Most soil materials can satisfy the purposes of cover soil. However, if minimization of infiltration is necessary, relatively low permeability cover material should be utilized and placed at the steepest practicable grade in order to encourage runoff. Low permeability soils will remain effective only if the soil has a low shrink-swell potential or if the soil moisture can be maintained to prevent cracks from shrinkage and swelling.

(4) The completed landfill should be covered with 15cm (6 inches) of clay or other suitable material with permeability equal to or less than  $1 \times 10^{-7}$  cm/sec or equivalent, followed by a minimum cover of 45cm (18 inches) of additional soil to complete the final cover and support vegetation. Deeply rooted vegetation may require an even greater depth of suitable soil.

(c) In order to conserve landfill disposal site capacity and preserve land resources solid wastes should be incorporated into the landfill in the smallest practicable volume.

(1) For most solid waste materials landfill compaction equipment is necessary for volume reduction.

(2) Compaction or other volume reduction may take place at or before delivery to the landfill, by utilizing balers, shredders, or stationary compactors.

(3) Compaction of solid waste and cover soil reduces the attraction of rodents and vectors and the potential for fires.

(4) Open burning of solid waste for volume reduction should not be practiced at landfill disposal facilities.

(d) The landfill disposal facility should be designed, constructed and operated in a manner so as to protect the health and safety of personnel and users through strict supervision of operations and site access.

(1) A safety manual should be available for use by employees, and they should be instructed in application of its procedures.

(2) Personal safety devices such as hard hats, gloves, safety glasses, and footwear should be required for facility employees.

(3) Safety devices, including but not limited to such items as rollover protective structures, seat belts, audible reverse warning devices, and fire extinguishers should be provided on all equipment used to spread and compact solid wastes or cover material at the facility.

(4) Provisions should be made to extinguish any fires in wastes being delivered to the site or which occur at

the working face or within equipment or personnel facilities.

(5) Communications equipment should be available on site for emergency situations.

(6) Scavenging should be prohibited at all times to avoid injury and to prevent interference with site operations, although controlled salvaging operations may be permissible.

(7) Access to the site should be controlled and should be only by established roadways. The site should be accessible only when operating personnel are on duty. Large containers may be placed at the site entrance so that individuals can conveniently deposit waste. The containers and the areas around them should be maintained in a sanitary and litter-free condition.

(8) Traffic signs or markers should be provided to promote an orderly traffic pattern to and from the discharge area, and maintain efficient operating conditions.

(e) Disease and nuisance vectors should be controlled at the landfill disposal facility through minimization of food and harbourage and through initiation of additional control programs if vector populations become established.

(f) Quantitative and qualitative records of solid wastes received and location of disposal should be maintained and submitted to responsible authorities in accordance with specific reporting instructions.

(g) A source of water should be provided at the landfill disposal facility for fire and dust control and for employee convenience.

(h) A landfill disposal facility should be maintained in an aesthetic manner.

(i) Following closure of a completed landfill disposal facility a long term maintenance program should be initiated and continued for as long as deemed necessary by the appropriate regulatory authority.

#### § 241.206 Monitoring.

##### § 241.206-1 General.

Monitoring can be an essential activity in establishing, operating, and retiring a solid waste landfill disposal facility. Where possible, monitoring should be coordinated with State and areawide water quality management, monitoring and assessment activities.

##### § 241.206-2 Recommended practices.

Solid waste landfill disposal facilities should be monitored as follows for the purposes of determining when contingency remedial action plans should be implemented.

(a) Ground-water and Leachate Monitoring.

(1) A ground-water monitoring system should be installed for the purpose of detecting the impact of all

landfill disposal facilities which have the potential for discharge to an underground drinking water source.

(i) Publication EPA/530/SW-611 entitled "Procedures for Ground-water Monitoring at Solid Waste Disposal Facilities" should be consulted for additional information on this subject.

(2) In no case should ground-water or leachate monitoring wells be installed through the bottom of the landfill proper since such installation could result in creation of a conduit for the direct passage of landfill leachate into underlying ground water.

(3) Samples from the monitoring wells should be collected and analyzed prior to disposal of solid waste at a new landfill facility in order to obtain baseline data.

(4) Samples should be collected from all monitoring devices and analyzed at least once a year. The analytical methods specified in 40 CFR Part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants" should be followed.

(b) Facility structure monitoring. (1) All enclosed structures at a solid waste landfill disposal facility should be monitored to detect accumulations of explosive or otherwise harmful gases which might pose a safety hazard to facility employees and users.

(2) Explosive gases, typically methane, should be monitored for presence in the explosive limits with an explosimeter.

(3) Toxic or asphyxiating gases should be monitored on a regular basis with appropriate instruments.

(c) Perimeter Soil Monitoring.

(1) Suitable probes should be installed in the soil at the property boundary surrounding the landfill to enable detection of gases migrating from the landfill.

(2) Explosive gases should be monitored for presence above the lower explosive limit.

(3) Toxic or asphyxiating gases should be monitored on a regular basis with appropriate instruments.

#### § 241.207 Use of environmental impact statement.

##### § 241.207-1 General.

As indicated previously in these Guidelines, selection of an alternative landfill technology option should occur only after consideration of the impact of companion technologies to be applied at a specific landfill disposal facility. An Environmental Impact Statement has been developed concurrently with these Guidelines to provide an in-depth discussion of the impacts and economics associated with landfill-related unit processes.



PROPOSED RULES

§ 241.207-2 Recommended practices.

Following review of the recommended practices and considerations of these Guidelines to enable selection of appropriate control technologies for a new or modified existing landfill disposal facility, the Environmental Impact Statement on these Guidelines should be reviewed to assist in achieving a better understanding of the economics and technological implications of unit process selection. The Environmental Impact Statement is organized such that landfill-related unit processes are discussed in relation to the appropriate Sections of these Guidelines. Since the Environmental Impact Statement is focused on unit process discussions, §§ 241.200 Site Selection and 241.201 Design are not specifically addressed in these discussions but, of course, are related in a general manner throughout. The remaining Sections of these Guidelines are addressed and inter-related in the Environmental Impact Statement as follows:

(a) Landfill-related unit processes which singly or in combination with other processes may achieve leachate control are discussed in the following Sections of the Environmental Impact Statement:

- 4.4 Surface Runoff Diversion
- 4.5 Grading
- 4.6 Diking
- 4.8 Daily and Final Cover
- 4.9 Synthetic Liners
- 4.10 Natural Clay Liners
- 4.11 Leachate Collection
- 4.12 Leachate Treatment
- 4.13 Leachate Recycling
- 4.24 Leachate Monitoring
- 4.25 Revegetation

(b) Landfill-related unit processes which singly or in combination with other processes may achieve gas control are discussed in the following Sec-

tions of the Environmental Impact Statement:

- 4.4 Surface Runoff Diversion
- 4.5 Grading
- 4.6 Diking
- 4.8 Daily and Final Cover
- 4.9 Synthetic Liners
- 4.10 Natural Clay Liners
- 4.14 Impermeable Barriers
- 4.15 Permeable Trenches
- 4.16 Vertical Risers
- 4.17 Gas Collection Systems
- 4.23 Gas Monitoring

(c) Landfill-related unit processes which singly or in combination with other processes may achieve runoff control are discussed in the following Sections of the Environmental Impact Statement:

- 4.4 Surface Runoff Diversion
- 4.5 Grading
- 4.6 Diking
- 4.7 Ponding
- 4.8 Daily and Final Cover
- 4.25 Revegetation

(d) Landfill-related unit processes which singly or in combination with other processes may achieve satisfactory operation (in addition to unit processes related to other control technologies) are discussed in the following Sections of the Environmental Impact Statement:

- 4.1 Compaction
- 4.2 Shredding
- 4.3 Baling
- 4.8 Daily and Final Cover
- 4.18 Access Control
- 4.19 Safety
- 4.20 Fire Control
- 4.21 Vector Control
- 4.22 Litter Control
- 4.25 Revegetation

(e) Landfill-related unit processes which singly or in combination with other processes may achieve satisfactory monitoring are discussed in the following Section of the Environmental Impact Statement:

- 4.23 Gas Monitoring
- 4.24 Leachate Monitoring

[FR Doc. 79-8733 Filed 3-23-79; 8:45 am]

MONDAY, MARCH 26, 1979  
PART III



# DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

## ENDANGERED SPECIES CONVENTION

Determinations on Foreign  
Proposals to Amend the List of  
Protected Species

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proposed



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PROPOSED RULES

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Determinations on Foreign Proposals To Amend the List of Protected Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of potential rulemaking.

SUMMARY: Ten nations, including the United States, have proposed amendments to the list of wildlife and plant species included in Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249). These proposed amendments are to be considered for adoption by the nation's party to this treaty at their meeting on March 19-30, 1979, in Costa Rica. The Service's final determinations on United States proposals, for purposes of negotiation at the meeting, were published in the FEDERAL REGISTER on February 14, 1979. The Service's final determinations on proposals by other Parties, also for purposes of negotiation at the meeting, are stated in the present notice.

DATES: The proposed amendments will be considered by Party nations on March 19-30, 1979, and any that are adopted by the Parties will enter into force 90 days after adoption.

ADDRESS: Please send correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION: The background for amendments to Appendices I and II proposed by Party nations other than the United States was explained in the FEDERAL REGISTER on January 16, 1979 (44 FR 3384-3401). These proposals are to be considered at the Second Meeting of the Conference of the Parties, which will be held on March 19-30, 1979, in San Jose, Costa Rica. In preparing for this meeting, the Service has sought information from the public and from State and Federal agencies relating to the proposed amendments. The U.S.

Endangered Species Scientific Authority (ESSA), which is directly involved with the Service in implementing the Convention, has been conducting an extensive review of the foreign proposals. The Service's determinations on these proposals are based primarily on recommendations from ESSA. Additional useful information and comments were received from the American Association of Zoological Parks and Aquariums, the Environmental Defense Fund, Safari Club International, Mr. E. P. Denson of Billings, MT, the Texas Parks and Wildlife Department, the National Consortium for Plant Conservation, the Whale Center, Defenders of Wildlife, and several of the persons attending a public meeting in Washington, D.C. on January 31, 1979.

The Service's final determinations are given in the following table. It should be noted that formal adoption of proposals by the Parties requires approval by a two-thirds majority of the Parties present and voting. The results will be published in the FEDERAL REGISTER in April, soon after the meeting.

The foreign proposals were evaluated in terms of criteria for adding, transferring or deleting species in the appendices that the Parties adopted in 1976 at their first meeting. These criteria set standards for the types of information needed to justify a proposal. The findings reported in this notice are based on all available information, whether or not it was contained in the foreign proposals.

In the following table, the appendix listings are indicated by Roman numerals: I = Appendix I, II = Appendix II, O = not listed in either appendix. Final U.S. determinations are indicated as follows: S = support the proposal, O = oppose the proposal. The basis for each determination is indicated by a number keyed to the footnotes. A full discussion of the basis for each determination is too voluminous to report in this notice. Such material is available for public inspection at the address given below.

Certain of the proposals, which are marked by an asterisk, were not published in the previous FEDERAL REGISTER notice of January 16, 1979 (44 FR 3384-3401). The Service's work on the Convention was interrupted due to lack of authorization for funding of the Endangered Species Act of 1973. The interruption led to a break in communications, so that the Service first became aware of the marked proposals in late February, 1979 when the Secretariat for the Convention circulated a compilation of all proposals.

[4310-55-C]

PROPOSED RULES

Summary of the Services final determinations on proposals by foreign nations to amend Appendices I and II of the Endangered Species Convention.

| Species                  | Current status           | Proposed status | Proponent | Final U.S. determination | Basis | Species                            | Current status | Proposed status | Proponent   | Final U.S. determination | Basis |
|--------------------------|--------------------------|-----------------|-----------|--------------------------|-------|------------------------------------|----------------|-----------------|-------------|--------------------------|-------|
| MAMMALIA                 |                          |                 |           |                          |       | Dasyuridae                         |                |                 |             |                          |       |
| MARSUPIALIA              |                          |                 |           |                          |       | Antechinus laniger                 | II             | 0               | Australia   | 0                        | 5     |
| Macropodidae             |                          |                 |           |                          |       | Antechinus apicalis                | 0              | II              | Australia   | S                        | 3     |
| Bettongia spp.           | 3 species of genus in I  | I               | Australia | 0                        | 1     | Antechinus godmani                 | 0              | II              | Australia   | 0                        | 6     |
| Caloprymnus campestris   | I                        | 0               | Australia | 0                        | 2     | Dasyuridae byrnei                  | 0              | II              | Australia   | 0                        | 6     |
| Dendrolagus spp.         | 2 species of genus in II | II              | Australia | 0                        | 8     | Myrmecobius fasciatus rufus        | I              | 0               | Australia   | S                        | 3     |
| Macropus parva           | II                       | 0               | Australia | 0                        | 3     | Planigale tenuirostris             | II             | 0               | Australia   | 0                        | 6     |
| Phalangeridae            |                          |                 |           |                          |       | Thylacynidae                       |                |                 |             |                          |       |
| Phalanger maculatus      | 0                        | II              | Australia | 0                        | 1     | Thylacinus cynocephalus            | I              | 0               | Australia   | 0                        | 2     |
| Phalanger orientalis     | 0                        | II              | Australia | 0                        | 1     | PRIMATES                           |                |                 |             |                          |       |
| Wyulda squamicaudata     | II                       | 0               | Australia | S                        | 3     | Cercopithecidae                    |                |                 |             |                          |       |
| Petauridae               |                          |                 |           |                          |       | Macaca muleta (Indian population)  | II             | 0               | India       | 0                        | 6     |
| Gymnobilidius leachsteri | 0                        | II              | Australia | S                        | 3     | Macaca radiata (Indian population) | II             | 0               | India       | 0                        | 6     |
| Vombatidae               |                          |                 |           |                          |       | Presbytis entellus                 | I              | II              | India       | 0                        | 6     |
| Lasiorhinus krefftii     | 0                        | I               | Australia | S                        | 4     | Callithricidae                     |                |                 |             |                          |       |
| Lasiorhinus gillespiei   | I                        | 0               | Australia | S                        | 4     | Cebuella pygmaea*                  | II             | I               | Peru        | S                        | 3     |
| Peramelidae              |                          |                 |           |                          |       | RODENTIA                           |                |                 |             |                          |       |
| Chaeropus aucaudatus     | I                        | 0               | Australia | 0                        | 2     | Castoridae                         |                |                 |             |                          |       |
|                          |                          |                 |           |                          |       | Castor fiber birulai               | I              | 0               | Switzerland | 0                        | 6     |
|                          |                          |                 |           |                          |       | Muridae                            |                |                 |             |                          |       |
|                          |                          |                 |           |                          |       | Notomys spp.                       | 0              | II              | Australia   | 0                        | 1     |
|                          |                          |                 |           |                          |       | Notomys aquilo                     | I              | II              | Australia   | 0                        | 6     |
|                          |                          |                 |           |                          |       | Pseudomys fieldi                   | I              | 0               | Australia   | S                        | 3     |
|                          |                          |                 |           |                          |       | Pseudomys novaehollandiae          | I              | 0               | Australia   | S                        | 3     |
|                          |                          |                 |           |                          |       | Pseudomys occidentalis             | I              | 0               | Australia   | S                        | 3     |



PROPOSED RULES

| Species                                       | Current status   | Proposed status | Proponent      | Final U.S. determination | Basis |
|---|--|-----------------|----------------|--------------------------|-------|
| <i>Pseudomys oralis</i>                       | 0  | II              | Australia      | 6                        | 3     |
| <i>Pseudomys shortridgei</i>                  | I  | II              | Australia      | 8                        | 3     |
| <b>CETACEA</b>                                |  |                 |                |                          |       |
| All species except those in Appendix I        | some species or stocks in II   | II              | United Kingdom | 0                        | 6/8   |
| <b>Pinnipedia</b>                             |  |                 |                |                          |       |
| <i>Lipotes wellsi</i>                         | 0  | I               | United Kingdom | 8                        | 3     |
| <i>Pinnipedia minor</i>                       | 0  | I               | United Kingdom | 8                        | 3     |
| <b>Delphinidae</b>                            |  |                 |                |                          |       |
| <i>Sotalia app.</i>                           | 0  | I               | United Kingdom | 0                        | 6     |
| <i>Sousa app.</i>                             | 0  | I               | United Kingdom | 0                        | 6     |
| <b>Phocidae</b>                               |  |                 |                |                          |       |
| <i>Neophocaena phocaenoides</i>               | 0  | I               | United Kingdom | 0                        | 6     |
| <i>Phocaena sinu</i>                          | 0  | I               | United Kingdom | 8                        | 3     |
| <b>CARNIVORA</b>                              |  |                 |                |                          |       |
| <b>Canidae</b>                                |  |                 |                |                          |       |
| <i>Dusicyon culpasus</i>                      | 0  | II              | Chile          | 6                        | 3     |
| <i>Dusicyon fulvipes</i>                      | 0  | II              | Chile          | 8                        | 3     |
| <i>Dusicyon griseus</i>                       | 0  | II              | Chile          | 8                        | 3     |
| <i>Canis lupus pallipes</i>                   | II   | I               | India          | 0                        | 6     |
| <b>Ursidae</b>                                |  |                 |                |                          |       |
| <i>Ursus arctos isabellinus</i>               | 0  | I               | Pakistan       | 0                        | 6     |
| <i>Helarctos malayanus</i>                    | II   | I               | India          | 0                        | 6     |
| <i>Selenarctos tibetanus</i>                  | Subspecies 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 | I               | India          | 0                        | 6     |
| <i>Selenarctos tibetanus</i>                  | 0  | I               | Pakistan       | 0                        | 6     |
| <b>Mustelidae</b>                             |  |                 |                |                          |       |
| <i>Conepatus humboldti</i>                    | 0  | II              | Chile          | 0                        | 6     |
| <i>Lutra felina</i>                           | I  | II              | Chile          | 0                        | 6     |
| <i>Lutra provocax</i>                         | I  | II              | Chile          | 0                        | 6     |
| <i>Martes flavigula flavigula</i>             | 0  | I               | Pakistan       | 0                        | 6     |
| <i>Vormia persagana</i>                       | 0  | I               | Pakistan       | 0                        | 6     |
| <b>Viverridae</b>                             |  |                 |                |                          |       |
| <i>Paguma larvata wroughtoni</i>              | 0  | I               | Pakistan       | 0                        | 6     |
| <b>Felidae</b>                                |  |                 |                |                          |       |
| <i>Felis bengalensis bengalensis</i>          | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis bieti</i>                            | II   | 0               | Switzerland    | 0                        | 6     |
| <i>Felis chaus</i>                            | II   | 0               | Switzerland    | 0                        | 6     |
| <i>Felis concolor coryi</i>                   | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis concolor concolor</i>                | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis concolor cougar</i>                  | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis lynx (including Lynx canadensis)</i> | II   | 0               | Switzerland    | 0                        | 6     |
| <i>Felis pardalis mearnsi</i>                 | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis pardalis mitle</i>                   | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis rufa escuinape</i>                   | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis silvestris</i>                       | II   | 0               | Switzerland    | 0                        | 6     |
| <i>Felis temminckii</i>                       | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis tigrina onclilla</i>                 | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis wiedii nicaraguae</i>                | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis wiedii salvina</i>                   | I  | II              | Switzerland    | 0                        | 6     |
| <i>Felis yagouaroundi cacomitli</i>           | I  | II              | Switzerland    | 0                        | 6     |

PROPOSED RULES

| Species   | Current status     | Proposed status | Proponent             | Final U.S. determination | Basis |
|---|--------------------|-----------------|-----------------------|--------------------------|-------|
| <i>Ovis vignei arkal</i> (Iranian pop.)   | I                  | 0               | Iran                  | 0                        | 6     |
| <i>Pantholops hodgsoni</i>  | II                 | I               | India                 | 0                        | 6     |
| <b>Camelidae</b>  |                    |                 |                       |                          |       |
| <i>Vicugna vicugna</i>  | I                  | II              | Chile and Switzerland | 0                        | 8     |
| <i>Vicugna vicugna</i> (populations of Pampas, Galapagos National Reserve and Isla Chila in Peru) | I                  | II              | Peru                  | 8                        | 3     |
| <i>Camelus bactrianus</i>   | I                  | 0               | Switzerland           | 0                        | 6     |
| <b>Cervidae</b>   |                    |                 |                       |                          |       |
| <i>Pudu pudu</i>  | I                  | II              | Chile                 | 0                        | 6     |
| <i>Muntiacus muntjak</i>  | 0                  | I               | Pakistan              | 0                        | 6     |
| <b>AVES</b>   |                    |                 |                       |                          |       |
| <b>RHEIFORMES</b>   |                    |                 |                       |                          |       |
| <b>Phalacrocoracidae</b>  |                    |                 |                       |                          |       |
| <i>Pterocoma app.</i>   | 2 subspecies in II | II              | Chile                 | 8                        | 3     |
| <i>Pterocoma pennata</i>  | II                 | I               | Peru                  | 0                        | 8     |
| <b>CICONIIFORMES</b>  |                    |                 |                       |                          |       |
| <b>Threskiornithidae</b>  |                    |                 |                       |                          |       |
| <i>Geronticus eremita</i>   | 0                  | I               | Switzerland           | 8                        | 3     |
| <b>Phoenicopteridae</b>   |                    |                 |                       |                          |       |
| <i>Phoenicopterus ruber ruber</i>   | 0                  | II              | United Kingdom        | 8                        | 3     |
| <b>ANSERIFORMES</b>   |                    |                 |                       |                          |       |
| <b>Anatidae</b>   |                    |                 |                       |                          |       |
| <i>Nettion coromandelianus albipennis</i>   | 0                  | II              | Australia             | 8                        | 3     |
| <i>Corcorax corcorax</i>  | II                 | I               | Chile                 | 0                        | 6     |



## PROPOSED RULES

| Species                                  | Current status     | Proposed status | Proponent             | Final U.S. determination | Basic |
|--|--------------------|-----------------|-----------------------|--------------------------|-------|
| <b>FALCONIFORMES</b>                     |                    |                 |                       |                          |       |
| All species except those in Appendix I   | Some species in II | II              | Sweden                | 0                        | 6     |
| <b>Accipitridae</b>                      |                    |                 |                       |                          |       |
| <i>Accipiter gentilis</i>                | II                 | I               | Switzerland and India | 0                        | 6     |
| <i>Accipiter nisus</i>                   | II                 | I               | Switzerland           | 0                        | 6     |
| <i>Aviceda jerdoni jerdoni</i>           | 0                  | I               | India                 | 0                        | 6     |
| <i>Aviceda lauphotes lauphotes</i>       | 0                  | I               | India                 | 0                        | 6     |
| <i>Gypsaetus barbatus</i>                | II                 | I               | India                 | 0                        | 6     |
| <i>Sierasetus app.</i>                   | 0                  | I               | India                 | 0                        | 6     |
| <i>Micraetus fasciatus</i>               | 0                  | II              | Switzerland           | 6                        | 3     |
| <i>Micraetus pennatus</i>                | 0                  | II              | Switzerland           | 5                        | 3     |
| <i>Lophotriorchia app.</i>               | 0                  | I               | India                 | 0                        | 6/9   |
| <i>Spizastus app.</i>                    | 0                  | I               | India                 | 0                        | 6     |
| <b>Pendionidae</b>                       |                    |                 |                       |                          |       |
| <i>Pendion hallastus</i>                 | II                 | I               | India                 | 0                        | 6     |
| <b>Falconidae</b>                        |                    |                 |                       |                          |       |
| <i>Falco biarmicus</i>                   | II                 | I               | India                 | 0                        | 6     |
| <i>Falco rusticolus</i>                  | II                 | I               | Denmark               | 0                        | 6     |
| <i>Falco chiqueza</i>                    | II                 | I               | India                 | 0                        | 6     |
| <b>CALLIFORMES</b>                       |                    |                 |                       |                          |       |
| <b>Phalacrocoracidae</b>                 |                    |                 |                       |                          |       |
| <i>Cyrtornyx montezumae merriami</i>     | I                  | 0               | Switzerland           | 5                        | 9     |
| <i>Catreus wallichii</i>                 | II                 | I               | India                 | 5                        | 3     |
| <i>Pero cristatus*</i>                   | 0                  | I               | Pakistan              | 0                        | 6     |
| <b>Strigidae</b>                         |                    |                 |                       |                          |       |
| <i>Pucrasia macrolopha*</i>              | 0                  | I               | Pakistan              | 0                        | 6     |
| <b>Megapodidae</b>                       |                    |                 |                       |                          |       |
| <i>Megapodius freycinet nicobarensis</i> | II                 | I               | India                 | 0                        | 6     |
| <b>GRUIFORMES</b>                        |                    |                 |                       |                          |       |
| <b>Gruidae</b>                           |                    |                 |                       |                          |       |
| <i>Anthropoides virgo*</i>               | 0                  | I               | Pakistan              | 0                        | 6     |
| <i>Grus antigone*</i>                    | 0                  | I               | Pakistan              | 0                        | 6     |
| <i>Chlamydotia uhabata</i>               | II                 | I               | India                 | 5                        | 3     |
| <i>Chortotis nigriceps</i>               | II                 | I               | India                 | 5                        | 3     |
| <i>Otia tetrax</i>                       | 0                  | I               | India                 | 0                        | 6     |
| <b>Pedionomidae</b>                      |                    |                 |                       |                          |       |
| <i>Pedionomus torquatus</i>              | 0                  | II              | Australia             | 5                        | 3     |
| <b>Turnicidae</b>                        |                    |                 |                       |                          |       |
| <i>Turnix melanogaster</i>               | 0                  | II              | Australia             | 5                        | 3     |
| <b>CHARADRIIFORMES</b>                   |                    |                 |                       |                          |       |
| <b>Laridae</b>                           |                    |                 |                       |                          |       |
| <i>Larus relictus</i>                    | I                  | 0               | Switzerland           | 0                        | 6     |
| <b>COLUMBIFORMES</b>                     |                    |                 |                       |                          |       |
| <b>Columbidae</b>                        |                    |                 |                       |                          |       |
| <i>Ducula mindorensis</i>                | I                  | II              | Switzerland           | 0                        | 6     |
| <i>Caloenas nicobarica</i>               | 0                  | I               | India                 | 0                        | 8     |
| <b>PASERIFORMES</b>                      |                    |                 |                       |                          |       |
| <b>Pittidae</b>                          |                    |                 |                       |                          |       |
| <i>Pitta koehli</i>                      | I                  | II              | Switzerland           | 0                        | 6     |
| <b>Muscicapidae</b>                      |                    |                 |                       |                          |       |
| <i>Amymia powderi</i>                    | I                  | 0               | Australia             | 0                        | 6     |

| Species  | Current status     | Proposed status | Proponent   | Final U.S. determination | Basal |
|--|--------------------|-----------------|-------------|--------------------------|-------|
| <i>Oasyornis broadbenti</i> littoralis                             | I                  | 0               | Australia   | 0                        | 2     |
| <i>Psophodes nigrogularis</i>                                      | I                  | II              | Australia   | 0                        | 8     |
| <b>Estrilidae</b>  |                    |                 |             |                          |       |
| <i>Emblema oculata</i>   | 0                  | II              | Australia   | S                        | 3     |
| <i>Poephila cincta cincta</i>                                      | 0                  | II              | Australia   | S                        | 3     |
| <b>PSITTACIFORMES</b>  |                    |                 |             |                          |       |
| <b>Psittacidae</b>   |                    |                 |             |                          |       |
| <i>Geopelia striata</i>  | I                  | 0               | Australia   | 0                        | 2     |
| <i>Psophodes olivaceus</i>   | I                  | 0               | Australia   | 0                        | 2     |
| <i>Cyanolanius patagonus</i> byroni                                | 0                  | II              | Chile       | S                        | 3     |
| <i>Amazona leucocephala</i>  | I                  | 0               | Switzerland | 0                        | 6     |
| <i>Cyanoramphus auriceps</i> forbesi                               | I                  | 0               | Switzerland | 0                        | 6/10  |
| <i>Psittacus erithacus</i> princeps                                | I                  | 0               | Switzerland | 0                        | 6/10  |
| <i>Strigops habroptilus</i>  | I                  | 0               | Switzerland | 0                        | 6/10  |
| <b>STRIGIFORMES</b>  |                    |                 |             |                          |       |
| All species except those in Appendix I in II                       | Some species in II | II              | Denmark     | 0                        | 6     |
| <b>Strigidae</b>   |                    |                 |             |                          |       |
| <i>Otus gurneyi</i>  | I                  | II              | Switzerland | 0                        | 6     |
| <i>Athene blewitti</i>   | 0                  | I               | India       | S                        | 3     |
| <b>CORACIIFORMES</b>   |                    |                 |             |                          |       |
| <b>Bucerotidae</b>   |                    |                 |             |                          |       |
| <i>Buceros bicornis</i> homazai                                    | II                 | I               | India       | 0                        | 6     |
| <i>Phytoceros (Undulatus) narcondami</i>                           | 0                  | I               | India       | 0                        | 11    |
| <b>REPTILIA</b>  |                    |                 |             |                          |       |
| <b>TESTUDINATA</b>   |                    |                 |             |                          |       |
| <b>Cheloniidae</b>   |                    |                 |             |                          |       |
| <i>Chelonia mydas</i> (populations of Tromelin and Europa Islands) | I                  | II              | Australia   | 0                        | 6     |
| <b>Emydidae</b>  |                    |                 |             |                          |       |
| <i>Batrachoseps</i> (Indic population)                             | I                  | 0               | India       | 0                        | 6     |
| <i>Geomyda (Microgale)</i> tricarinata (Indian population)         | I                  | 0               | India       | 0                        | 6     |
| <i>Kachuga testudo</i> (Indian population)                         | I                  | 0               | India       | 0                        | 6     |
| <b>Testudinidae</b>  |                    |                 |             |                          |       |
| <i>Geochelone (Testudo) radiata</i> (Indian population)            | I                  | 0               | India       | 0                        | 6     |
| <b>Trionychidae</b>  |                    |                 |             |                          |       |
| <i>Lissemys punctata punctata</i> (Indian population)              | I                  | 0               | India       | 0                        | 6     |
| <b>TRIONYCHIDAE</b>  |                    |                 |             |                          |       |
| <i>Trionyx gangeticus</i> (Indian population)                      | I                  | 0               | India       | 0                        | 6     |
| <b>CROCODYLIA</b>  |                    |                 |             |                          |       |
| <b>Crocodylidae</b>  |                    |                 |             |                          |       |
| <i>Crocodylus porosus</i>  | II                 | I               | India       | S                        | 3     |
| <i>Crocodylus niloticus</i> (Botswana population)                  | I                  | II              | Botswana    | 0                        | 6     |
| <b>SQUAMATA</b>  |                    |                 |             |                          |       |
| <b>Colubridae</b>  |                    |                 |             |                          |       |
| <i>Elachistodon westermanni</i>                                    | II                 | 0               | Switzerland | 0                        | 6     |



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| Species                                   | Current status | Proposed status | Proponent   | Final U.S. determination | Basis |
|---|----------------|-----------------|-------------|--------------------------|-------|
| Bolidae                                   |                |                 |             |                          |       |
| Pytho reticulatus                         | II             | I               | India       | O                        | 6     |
| Varanidae                                 |                |                 |             |                          |       |
| Varanus seluator                          | II             | I               | India       | O                        | 6     |
| RHYNCHOCEPHALIA                           |                |                 |             |                          |       |
| Sphenodontidae                            |                |                 |             |                          |       |
| Sphenodon punctatus                       | I              | O               | Switzerland | O                        | 6     |
| ASTROPODA                                 |                |                 |             |                          |       |
| INSECTA                                   |                |                 |             |                          |       |
| LEPIDOPTERA                               |                |                 |             |                          |       |
| Papilionidae                              | II             | O               | Switzerland | O                        | 6     |
| MOLLUSCA                                  |                |                 |             |                          |       |
| LMELLIBRANCHIATA                          |                |                 |             |                          |       |
| Mytilidae                                 |                |                 |             |                          |       |
| Mytilus chorus                            | O              | I               | Chile       | O                        | 6     |
| GASTROPODA                                |                |                 |             |                          |       |
| Muricidae                                 |                |                 |             |                          |       |
| Concholepas conchilepae                   | O              | II              | Chile       | O                        | 6     |
| ECHINODERMATA                             |                |                 |             |                          |       |
| Echinoidae                                |                |                 |             |                          |       |
| Echinidae                                 | O              | II              | Chile       | O                        | 6     |
| Loxochinus albus                          |                |                 |             |                          |       |
| FLORA                                     |                |                 |             |                          |       |
| Angiospermatidaceae                       |                |                 |             |                          |       |
| Angiotesia spp.                           | O              | II              | India       | O                        | 6     |
| Apocynaceae                               |                |                 |             |                          |       |
| Mauvolfia spp.                            | O              | II              | India       | O                        | 6     |
| Araucariaceae                             |                |                 |             |                          |       |
| Araucaria araucana                        | II             | I               | Chile       | 6                        | 3     |
| Asclepiadaceae                            |                |                 |             |                          |       |
| Ceropegia spp.                            | O              | II              | India       | O                        | 6     |
| Dischidia bengalensis                     | O              | I               | India       | O                        | 6     |
| Fraxia indica                             | O              | II              | India       | O                        | 6     |
| Bischnaceae                               |                |                 |             |                          |       |
| Brassia insignis                          | O              | II              | India       | O                        | 6     |
| Burseraceae                               |                |                 |             |                          |       |
| Bursera pinnatifida                       | O              | I               | India       | O                        | 6     |
| Byblidaceae                               |                |                 |             |                          |       |
| Byblis spp.                               | O              | I               | Australia   | O                        | 8     |
| Casalpiniaceae                            |                |                 |             |                          |       |
| Cassipina spinosa                         | O              | II              | Chile       | O                        | 8     |
| Campanulaceae                             |                |                 |             |                          |       |
| Lobelia nicotianaeifolia                  | O              | II              | India       | O                        | 6     |
| Cephalotaceae                             |                |                 |             |                          |       |
| Cephalotus follicularis                   | O              | II              | Australia   | 8                        | 3     |
| Chloanthaceae                             |                |                 |             |                          |       |
| All species                               | O              | II              | Australia   | O                        | 6     |
| Coniferae                                 |                |                 |             |                          |       |
| Cephalotaxum griffithii                   | O              | I               | India       | O                        | 6     |
| Cupressaceae                              |                |                 |             |                          |       |
| Silgrodendron uviferum (including timber) | I              | II              | Chile       | O                        | 6     |

FEDERAL REGISTER, VOL. 44, NO. 59—MONDAY, MARCH 26, 1979

## PROPOSED RULES

| Species                                | Current status | Proposed status | Proponent   | Final U.S. determination | Basis |
|--|----------------|-----------------|-------------|--------------------------|-------|
| Cycadaceae                             |                |                 |             |                          |       |
| Cycas biddoni                          | II             | I               | India       | O                        | 6     |
| Cycas pectinata                        | II             | I               | India       | O                        | 6     |
| Dioscoreaceae                          |                |                 |             |                          |       |
| Dioscorea prazeri                      | O              | II              | India       | O                        | 6     |
| Droseraceae                            |                |                 |             |                          |       |
| Drosera spp.                           | O              | I               | India       | O                        | 6     |
| Zbenecae                               |                |                 |             |                          |       |
| Diospyros marmorata                    | O              | I               | India       | O                        | 6     |
| Ericaceae                              |                |                 |             |                          |       |
| Rhododendron dalhousiae vat. rhabdotem | O              | I               | India       | O                        | 6     |
| Gentianaceae                           |                |                 |             |                          |       |
| Gentiana kurro                         | O              | II              | India       | O                        | 6     |
| Gnataceae                              |                |                 |             |                          |       |
| Gnetum spp.                            | O              | I               | India       | O                        | 6     |
| Hamamelidaceae                         |                |                 |             |                          |       |
| Anigostanthos spp.                     | O              | II              | Australia   | S                        | 7     |
| Macropidia fulgiosa                    | O              | II              | Australia   | S                        | 3     |
| Krameriaceae                           |                |                 |             |                          |       |
| Krameria cistoides                     | O              | I               | Chile       | S                        | 3     |
| Liliaceae                              |                |                 |             |                          |       |
| Colchicum lotum                        | O              | I               | India       | O                        | 6     |
| Gloriosa superba                       | O              | I               | India       | O                        | 6     |
| Iphigenia staltata                     | O              | I               | India       | O                        | 6     |
| Magnoliaceae                           |                |                 |             |                          |       |
| Talauma hodgeonii                      | O              | II              | India       | O                        | 6     |
| Myrtaceae                              |                |                 |             |                          |       |
| Verticordia spp.                       | O              | II              | Australia   | S                        | 8     |
| Nepenthaceae                           |                |                 |             |                          |       |
| Nepenthes spp.                         | O              | I               | India       | O                        | 6     |
| Ophloglossaceae                        |                |                 |             |                          |       |
| Botrychium spp.                        | O              | II              | India       | O                        | 6     |
| Helminthostachya zeylanica             | O              | II              | India       | O                        | 6     |
| Orchidaceae                            |                |                 |             |                          |       |
| Anaethochilus spp.                     | II             | I               | India       | O                        | 6     |
| Arachnanthe spp.                       | II             | I               | India       | O                        | 6     |
| Cypripedium spp.                       | II             | I               | India       | O                        | 6     |
| Galeola spp.                           | II             | I               | India       | O                        | 6     |
| Paphiopedilum spp.                     | II             | I               | India       | O                        | 6     |
| Ranathara imchoetians                  | II             | I               | India       | O                        | 6     |
| Vanda coerulea                         | II             | I               | India       | O                        | 6     |
| Osmundaceae                            |                |                 |             |                          |       |
| Todea barbara                          | O              | II              | Australia   | O                        | 6     |
| Osmunda spp.                           | O              | II              | India       | O                        | 6     |
| Pinaceae                               |                |                 |             |                          |       |
| Abies nebrodenalis                     | I              | O               | Switzerland | O                        | 6     |
| Abies delavayi                         | O              | I               | India       | O                        | 6     |
| Podocarpaceae                          |                |                 |             |                          |       |
| Podocarpus nerifolius                  | O              | II              | India       | O                        | 6     |
| Polygonaceae                           |                |                 |             |                          |       |
| Rheum emodei                           | O              | II              | India       | O                        | 6     |
| Rheum nobile                           | O              | II              | India       | O                        | 6     |

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PROPOSED RULES

| Species              | Current status | Proposed status | Proponent   | Final U.S. determination | Basis |
|----------------------|----------------|-----------------|-------------|--------------------------|-------|
| Protaceae            |                |                 |             |                          |       |
| Banksia spp.         | 0              | II              | Australia   | S                        | 7/8   |
| Conospermum spp.     | 0              | II              | Australia   | 0                        | 6     |
| Dryandra formosa     | 0              | II              | Australia   | S                        | 3     |
| Dryandra polycephala | 0              | II              | Australia   | S                        | 3     |
| Xylomelum spp.       | 0              | II              | Australia   | S                        | 7/8   |
| Ranunculaceae        |                |                 |             |                          |       |
| Aconitum spp.        | 0              | I               | India       | 0                        | 6     |
| Coptis testis        | 0              | I               | India       | 0                        | 6     |
| Rutaceae             |                |                 |             |                          |       |
| Boronia spp.         | 0              | II              | Australia   | S                        | 7/8   |
| Crowea spp.          | 0              | II              | Australia   | 0                        | 6     |
| Galathea variegata   | 0              | II              | Australia   | S                        | 3     |
| Schizanthaceae       | 0              | II              | India       | 0                        | 6     |
| Anemone tormentosa   | 0              | II              | India       | 0                        | 6     |
| Schizanthus spp.     | 0              | II              | India       | 0                        | 6     |
| Solanaceae           |                |                 |             |                          |       |
| Atropa spp.          | 0              | II              | India       | 0                        | 6     |
| Tetracentraceae      |                |                 |             |                          |       |
| Tetracentron sinense | 0              | II              | India       | 0                        | 6     |
| Thymelaeaceae        |                |                 |             |                          |       |
| Pimelia physodes     | 0              | II              | Australia   | S                        | 3     |
| Ulmaceae             |                |                 |             |                          |       |
| Celtis setensis      | I              | 0               | Switzerland | 0                        | 6     |
| Valerianaceae        |                |                 |             |                          |       |
| Nardostachys spp.    | 0              | I               | India       | 0                        | 6     |

Key to bases for determinations:

1. Listing of entire taxon not supported by evidence.
2. Extinction not sufficiently demonstrated.
3. Evidence of biological and trade status supports proposal.
4. Change in name only, to reflect current taxonomy.
5. Deletion of entire taxon not supported by evidence.
6. Evidence of biological and trade status insufficient to support proposal.
7. Evidence supports proposal, provided certain species are annotated to indicate listing for control of trade in other species.
8. Evidence supports proposal only for certain species, subspecies or populations.
9. Not a valid taxon.
10. Proposal has been withdrawn.
11. Proposal unnecessary because species is presently listed.

PROPOSED RULES

[4310-55-M]

The proposals and all information and comments received in connection with this notice will be available for public inspection during normal business hours at the Federal Wildlife Permit Office, Room 616, 1000 N. Glebe Road, Arlington, Virginia.

This notice is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that Executive Order 12044 concerning improving government regulations does not apply to this notice, since it concerns a matter which relates to a foreign affairs function of the United States.

Dated March 20, 1979

LYNN A. GREENWALT,  
Director,  
Fish and Wildlife Service.

[FR Doc. 79-9040 Filed 3-23-79; 8:45 am]



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# Register Federal

TUESDAY, MARCH 27, 1979



## highlights

HOW TO USE THE FEDERAL REGISTER  
KANSAS CITY, MISSOURI WORKSHOP  
May 17, 1979

See inside cover for details.

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**KANSAS CITY, MISSOURI WORKSHOP**  
**HOW TO USE THE FEDERAL REGISTER WORKSHOPS**

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register in cooperation with the Duquesne University School of Law.
- WHAT:** Free public workshop (approximately 2½ hours to present):
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between Federal Register and the Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.
- WHEN:** May 17, 1979 at 10 p.m.
- WHERE:** Federal Building, Room 109, 601 E. 12th Street, Kansas City, Missouri.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.
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## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

### Title 5—Administrative Personnel

#### CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

##### CIVIL SERVICE REFORM

###### Interim Regulations with Request for Comments; Correction

AGENCY: Office of Personnel Management.

ACTION: Correction to interim regulations.

SUMMARY: This document makes correction to OPM interim regulations published in the FEDERAL REGISTER, Vol. 44, No. 34—Friday, February 16, 1979, pages 10041-10047. It corrects the effective date of the regulations and adds material omitted or changed.

DATES: Effective date February 15, 1979, and until final regulations are issued.

FOR FURTHER INFORMATION CONTACT:

Susan Rothschild (202) 632-4467.

SUPPLEMENTARY INFORMATION: The following changes should be made to OPM interim regulations published in the FEDERAL REGISTER, Vol. 44, No. 34—Friday, February 16, 1979, pages 10041-10047:

(1) Page 10042: "DATES: Effective date: February 16, 1979 . . ."

The effective date was incorrectly submitted and should have read: "DATES: Effective date: February 15, 1979 . . ."

February 15, 1979 is the date the material was available at the FEDERAL REGISTER for public inspection and the date the authorities were delegated to the agencies.

##### PART 630—ABSENCE AND LEAVE

(2) Page 10046:

Section 630.211(e) was published as follows:

(e) *Continuation of previous authorizations.* Any officer in an agency who was excluded by action of the President or the Office of Personnel Management prior to February 15, 1979, from annual and sick leave provisions under the authority of 5 U.S.C. 6301(2)(xi) shall continue to be excluded from annual and sick leave unless

the exclusion is revoked by the agency under the provisions of this section.

The reference to Office of Personnel Management is incorrect and should refer to the Civil Service Commission as follows:

§ 630.211 Exclusion of Presidential appointees.

(e) *Continuation of previous authorizations.* Any officer in an agency who was excluded by action of the President or the Civil Service Commission prior to February 15, 1979, from the annual and sick leave provisions under the authority of 5 U.S.C. 6301(2)(xi) shall continue to be excluded from annual and sick leave unless the exclusion is revoked by the agency under the provisions of this section.

(3) Page 10046: All material after § 930.107(c) is not regulatory material and should be set apart. The non-regulatory material begins with the following paragraph:

"*Authorities Proposed for Delegation but not Requiring Regulatory Changes.* The following authorities proposed for delegation involve changes to the Federal Personnel Manual and other appropriate issuance but do not involve regulatory changes."

(4) Page 10046: Three paragraphs were inadvertently omitted from our submission and should be included in the text of the non-regulatory material. The revised text should read as follows:

(3) *Extension of Details Beyond 120 days (FPM Chapter 300).*

Agencies are delegated the authority to detail employees, in 120 day increments, to the same or lower grade positions for up to 1 year without OPM approval. Extensions beyond 1 year will still require OPM approval.

(Insert the following three paragraphs)

Agencies are delegated the authority to detail employees to higher grade positions for up to 1 year during major reorganizations as determined by the agency. However, if an employee's services are needed in a higher grade position for more than brief periods, agencies are encouraged, wherever

possible, to make temporary promotions.

Details to higher grade positions which are not during major reorganizations are still limited to 240 days. However, OPM approval is no longer required for the second 120 days.

Details to unclassified positions are still limited to 120 days. In that time agencies should be able to assign a tentative grade to a set of duties. Extensions of this time limit will be granted by OPM in unusual situations only, based on the written request of the agency explaining the reasons for the request.

FPM Chapter 300 will be revised to reflect this change.

OFFICE OF PERSONNEL  
MANAGEMENT,  
RODERICK S. SPEER,  
Assistant Issuance  
System Manager.

MARCH 22, 1979.

[FR doc. 79-9213 Filed 3-26-79; 8:45 am]

[3410-07-M]

### Title 7—Agriculture

#### CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER H—PROGRAM REGULATIONS

##### PART 1800—ADMINISTRATIVE PROVISIONS

##### PART 1900—GENERAL

###### Subpart A—Delegations of Authority

###### REDESIGNATION—REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration revises and redesignates its regulations regarding general delegations of authority to Agency officials to perform Agency functions. This action is taken to expedite the processing of some actions and to correct the titles of Agency officials to reflect the recent Agency reorganization. The action is taken as a result of an internal review of regulations in accordance with Executive Order 12044.



EFFECTIVE DATE: March 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph H. Linsley, Chief, Directives Management Branch. Phone: 202-447-4057.

**SUPPLEMENTARY INFORMATION:** The Farmers Home Administration revises and redesignates Subpart C of Part 1800 to a new Subpart A of Part 1900, Subchapter H, Chapter XVIII, Title 7 in the Code of Federal Regulations. This action is taken primarily to renumber the regulation to conform, with the overall Agency restructuring of its regulations and to update the titles of Agency officials in accordance with the recently approved reorganization. In addition, the subsection concerning compromise is amended to provide the general authority for settlement of claims against third parties, especially conversion claims, by field officials and the introductory sentence to Section 1900.2 is amended to reflect the fact that authorities are exercised in accordance with applicable laws and the regulations which implement the laws.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the change is to primarily update and redesignate the regulation and to redelegate an authority already in existence and therefore publication for comment is unnecessary. The official making this determination is Mr. Joseph H. Linsley, Chief, Directives Management Branch.

Therefore, Part 1800 is deleted and Part 1900, Subpart A, is added and reads as follows:

#### **PART 1800—ADMINISTRATIVE PROVISIONS [DELETED]**

1. Part 1800, including Subpart C are hereby deleted from the CFR.
2. Part 1900, Subpart A is added and reads as follows:

#### **PART 1900—GENERAL**

##### **Subpart A—Delegations of Authority**

- Sec.
- 1900.1 General.
  - 1900.2 National Office Staff and State Directors.
  - 1900.3 State Office Staff and County Office Employees.
  - 1900.4 Ratification.
  - 1900.5 Effect on other regulations.

**AUTHORITIES:** 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

#### **Subpart A—Delegations of Authority**

##### **§ 1900.1 General.**

The authorities contained in this Subpart apply to all assets, functions, and programs now or hereafter administered or serviced by the Farmers Home Administration, including but not limited to those relating to indebtedness, security, and other assets obtained or contracted through the Secretary of Agriculture, Resettlement Administration, Farm Security Administration, or Emergency Crop and Feed Loan Offices of the Farm Credit Administration, the Soil Conservation Service in connection with water conservation and utilization projects; the Puerto Rico Hurricane Relief Commission and successor agencies in connection with Puerto Rico Hurricane relief loans to individuals; State Rural Rehabilitation Corporations, the United States of America or its officials as trustees of the assets of State Rural Rehabilitation Corporations, Regional Agricultural Credit Corporations, Defense Relocation Corporations, land leasing and purchasing associations, corporations, and agencies, and whether the interest of the United States in the indebtedness, instrument of debt, security, security instrument, or other assets is that of obligee, owner, holder, insurer, assignee, mortgagee, beneficiary, trustee or other interest.

##### **§ 1900.2 National Office Staff and State Directors.**

The following officials of the Farmers Home Administration, in accordance with applicable laws, and the regulations implementing these laws, are severally authorized, for and on behalf of and in the name of the United States of America or the Farmers Home Administration, to do and perform all acts necessary in connection with making and insuring loans, making grants and advances, servicing loans and other indebtedness, and obtaining, servicing, and enforcing security and other instruments related thereto: The Deputy Administrator Rural Development, the Deputy Administrator for Farm and Family Programs, the Assistant Administrators for Farmer Programs, Community Programs, Business and Industry, Multi-Family Housing, and Single Family Housing, the Director, Finance Office; each Deputy Director and the Insured Loan Officer, Finance Office; the Directors for the Water and Waste Disposal Loan Division, the Community Facilities Loan Division, the Business and Industry Loan Servicing Division, the Business Management and Development Division, the Business and Industry Loan Review and Processing Division, the Rural Rental Housing Loan Division, the Multi-Family Housing Management and

Support Division, the Multi-Family Housing Special Authorities Loan Division, the Home Ownership Loan Division, the Single Family Housing Management and Support Division, the Single Family Housing Guarantee and Special Authorities Loan Division, the Farm Real Estate Loan Division, the Farm Production Loan Division, the Emergency Loan Division, the Property Management Staff; and each State Director within the area of that State Director's jurisdiction; and in the absence or disability of any such official, the person acting in that official's position; and the delegates of any such official. The authority includes, but is not limited to, the authority to:

- (a) Effect the assignment of, or the declaration of trust with respect to, insured security instruments to place them in trust with the United States of America as trustee for the benefit of any holder of the promissory note or bond secured by such security instrument.
- (b) Acknowledge receipt of notice of sale or assignment of insured loans and security instruments.
- (c) Appoint or request the appointment of substitute trustees in deeds of trust.
- (d) Execute proofs of claim in bankruptcy, death, and other cases.
- (e) Sell or otherwise dispose of real estate or interests therein, and execute and deliver quitclaim deeds, easements, right-of-way conveyances, and other instruments to effectuate such sale or disposition.
- (f) Compromise, adjust, cancel, release, charge off, and liquidate indebtedness, including modification of contracts and other instruments and also including compromise of claims owed to the Farmers Home Administration and covered by the Federal Claims Collection Act of 1966 and the joint regulations issued under it by the Attorney General and the Comptroller General.
- (g) Consent to sale or assignment of, or sell or assign, direct or insured loans and security instruments, and execute any necessary assignments, endorsements, reinsurance agreements, or other instruments in connection therewith.
- (h) Approve and accept transfers of security property or interests therein to the United States of America, and approve and consent to transfers of security property or interest therein to other parties.
- (i) Accelerate and declare entire real estate indebtedness due and payable, foreclose or request foreclosures of real estate security instruments by exercise of power of sale or otherwise, and bid for and purchase at any foreclosure or other sale or otherwise acquire real property pledged, mort-

gaged, conveyed, attached, or levied upon to collect indebtedness, and accept title to any property so purchased or acquired.

(j) Execute agreements to insure and reinsure, and to purchase and repurchase insured loans and security instruments.

(k) Execute and deliver or approve in writing, suspensions, releases or terminations of assignments of income, renewals, extensions, partial and full releases and satisfactions of security and personal or indemnity liability for indebtedness, waivers, subordination agreements, severance agreements, affidavits, acknowledgments, certificate of residence, evidence of consent, and other instruments or documents.

(l) Require and accept further or additional security.

(m) Accelerate and declare entire non-real estate indebtedness due and payable, and foreclose or request foreclosure of chattel security instruments by exercise of power of sale or otherwise.

(n) Bid for and purchase at any foreclosure or other sale, or otherwise acquire personal property pledged, mortgaged, conveyed, attached, or levied upon to collect indebtedness, and accept title to any property so purchased or acquired.

(o) Take possession of, maintain, and operate security or acquired real or personal property or interests therein, sell or otherwise dispose of such personal property, and execute and deliver contracts, caretaker's agreements, leases, and other instruments in connection therewith, as appropriate.

(p) Execute proofs of loss on insurance contracts and endorse without recourse loss payment drafts and checks.

(q) Issue, publish and serve notices and other instruments.

(r) File or record instruments, whether separate instruments, or by making marginal entries, or by use of other methods permissible under State law.

##### **§ 1900.3 State office staff and county office employees.**

The following officials and employees of the Farmers Home Administration, in accordance with applicable laws, and the regulations implementing these laws, for and on behalf of, and in the name of the United States of America or the Farmers Home Administration, are also severally authorized within the area of their respective jurisdictions to perform the acts specified in paragraphs (k) to (r), both inclusive, of § 1900.2: Chief, Farmer Programs/Specialist; Chief, Rural Housing/Specialist; Chief, Community Programs/Specialist; Chief, Business and Industry/Specialist; Property Management Specialist; and State Supervisor; each District Director, County (includ-

#### **CHAPTER V—FEDERAL HOME LOAN BANK BOARD**

##### **PART 563a—COMMUNITY REINVESTMENT**

##### **COMMUNITY REINVESTMENT ACT REGULATIONS**

##### **Amendment Relating to Institutions Serving Military Personnel**

**AGENCIES:** Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Home Loan Bank Board.

**ACTION:** Final regulations.

**SUMMARY:** This amendment to the Agencies' regulations implementing the Community Reinvestment Act of 1977 reflects an amendment to that law contained in the Financial Institutions Regulatory and Interest Rate Control Act of 1978 that relates to financial institutions whose business predominantly consists of serving the needs of military personnel who are not located within a defined geographic area.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT:

C. Balrd Brown, Board of Governors of the Federal Reserve System: 202-452-3265; JoAnn Barefoot, Comptroller of the Currency: 202-447-0934; Jeffrey Tisdale, Federal Deposit Insurance Corporation: 202-389-4384; Nancy Feldman, Federal Home Loan Bank Board: 202-377-6443.

**SUPPLEMENTARY INFORMATION:** On December 7, 1978, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (collectively referred to as "the Agencies") published in the FEDERAL REGISTER (43 FR 57259) a proposed amendment to their Community Reinvestment Act ("CRA") regulations. The Agencies now adopt a final version of that amendment.

The CRA requires that in connection with their examination of institutions in their jurisdiction, the Agencies assess each institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. The CRA further requires that the appropriate Agency take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisi-

#### **[6210-01-M]**

##### **Title 12—Banks and Banking**

#### **CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY**

##### **PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS**

##### **CHAPTER II—FEDERAL RESERVE SYSTEM**

##### **PART 228—COMMUNITY REINVESTMENT**

##### **CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION**

##### **PART 345—COMMUNITY REINVESTMENT**



tion of bank or savings institution shares or assets. The amendment to the Agencies' regulations, which implements an amendment to the CRA passed as part of Title 15 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. 95-630), permits qualified institutions to delineate a "military community" of non-local customers in addition to a local community or communities. Together these comprise their "entire community" for purposes of Agency assessment and evaluation.

The Agencies have received comments on the proposed amendment and have revised the amendment after considering the concerns of the commenters. An explanation of the comments and of the changes in the amendment are set forth below.

#### QUALIFICATION FOR EXCEPTION

The proposed amendment would have permitted an institution to delineate a military community if "over half of [its] depositors are active duty or retired military personnel or their dependents who reside more than 50 miles from any of its offices." While a few commenters approved of the amendment as drafted, the majority favored liberalizing the restrictions on its application. They suggested various alternatives including reduction of the number of depositors from one half to one third, or to as little as 10 per cent, and reduction or elimination of the 50 mile limitation. While there was general agreement on reducing these numbers, no clear rationale was offered for any particular reduction. Other commenters suggested eliminating specific numerical limitations to permit the regulation to be applied more broadly and flexibly.

The Agencies' original CRA regulations give institutions flexibility in delineating their local communities, and the Agencies wish to permit similar flexibility for institutions serving military personnel. The Agencies are persuaded that particular numerical limits may operate inequitably among various institutions. They also wish to avoid burdensome recordkeeping and detailed proof of whether an institution exceeds a numerical limit. In view of these concerns, the Agencies have revised their amendment to permit delineation of a military community by an institution "whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside of its local community or communities."

In applying this revised provision, the Agencies interpret "predominantly" to refer to the most important aspect of an institution's business. In considering the reasonableness of an institution's inclusion of a military

community in its delineation of its entire community, Agency examiners may consider evidence such as numbers of depositors or accounts, loans granted, dollar volumes, marketing strategy, or other evidence that non-local military personnel are the institution's most important customer group. Ordinarily, examiners will not request detailed statistical verification of an institution's judgment as to predominance. Examiners will in all cases review the delineations of the institution's local community or communities to ensure that they are not unreasonably small thereby resulting in an inappropriate expansion of the institution's non-local customer base.

#### OTHER COMMENTS ON SCOPE

Two comments were received suggesting that institutions be allowed to delineate a military community for any branch that predominantly serves non-local military personnel. The Agencies do not believe that the CRA as amended permits this interpretation.

One comment asked that banks serving predominantly non-local military personnel be exempt from delineating a local community and three others suggested exemption if an institution's local customers were an insignificant portion of its customers. Given the emphasis of the CRA on the credit needs of local communities, the Agencies do not believe it is appropriate to exempt any institution from assessment of its record with respect to its local community. Based on the comments and other evidence available to them, the Agencies do not believe that any institution predominantly serving non-local military personnel has an insignificant proportion of local customers.

#### CRA REGULATIONS AS APPLIED TO MILITARY COMMUNITIES

One comment expressed concern that various parts of the Agencies' CRA regulations that are made applicable to military communities by section (c) of the amendment cannot be readily applied to military communities. The Agencies believe that provisions of their regulations relating to the CRA Statement, Comment Files, and Public Notice are directly applicable to military communities. For the purposes of these sections, offices of the institution may serve and hence be "located" in both a local community and the military community of the institution, and the institution may choose one of those offices, including its head office, as its designated office for Comment Files relating to its military community. The Agencies recognize that the factors in the Assessment of the Record section of their regulations were not drafted with mili-

tary communities in mind, and that therefore some may have no parallel in a military community. However, the Agencies have previously stated (43 FR 29919) that the list of factors is "only intended to be indicative of the evidence that the Agencies would consider" in assessing an institution's record of performance. Some of the listed factors clearly do apply to military communities and the Agencies may consider other evidence of an institution's service to its military community.

Accordingly, the Agencies hereby amend 12 CFR Parts 25, 228, 345, 563e as follows:

#### [4810-33-M]

#### PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

12 CFR Part 25 is amended by revising § 25.3(b), and adding § 25.3(c), as follows:

##### § 25.3 Delineation of Community.

- (a) . . .
- (b) Except as provided in paragraph (c) of this section, a local community consists of contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a national bank may be included in the same local community. Unless the Comptroller determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a national bank may use any one of the three bases set forth below.

(c) A national bank whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside its local community or communities may delineate a "military community" for those customers in addition to its local community or communities. Provisions of this part concerning local communities shall also apply to military communities, except that military communities shall be delineated by a written description rather than a map.

(Sec. 803, Pub. L. 95-128, as amended by sec. 1502, Pub. L. 95-630, 92 Stat. 3713 (12 U.S.C. 2902))

Dated: February 9, 1979.

JOHN G. HEIMANN,  
Comptroller of the Currency.

#### [6210-01-M]

#### PART 228—COMMUNITY REINVESTMENT

##### § 228.3 [Amended]

Effective, April 26, 1979 § 228.3 is amended as follows:

- (1) Paragraph (b) is revised by deleting the word "A" at the beginning of the first sentence of the paragraph and inserting, "Except as provided in paragraph (c) of this section, a".
- (2) New paragraph (c) is added:

(c) A State member bank whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside of its local community or communities, may delineate a "military community" for those customers, in addition to its local community or communities. Provisions of this part concerning local communities shall also apply to military communities, except that military communities shall be delineated by a written description rather than a map.

(Sec. 803, Pub. L. 95-128, as amended by sec. 1502, Pub. L. 95-630, 92 Stat. 3713 (12 U.S.C. 2902))

Board of Governors of the Federal Reserve System, February 22, 1979.

THEODORE E. ALLISON,  
Secretary of the Board.

#### [6714-01-M]

#### PART 345—COMMUNITY REINVESTMENT REGULATIONS

12 CFR Part 345 is amended by revising § 345.3(b), and adding § 345.3(c), as follows:

##### § 345.3 Delineation of Community.

- (a) . . .
- (b) Except as provided in paragraph (c) of this section, a local community consists of contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a bank may be included in the same local community. Unless the FDIC determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a bank may use any one of the three bases set forth below:

(c) An insured State nonmember bank whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside its local community or communities may delineate a "military

community" for those customers in addition to its local community or communities. Provisions of this part concerning local communities shall also apply to military communities, except that military communities shall be delineated by a written description rather than a map.

(Sec. 803, Pub. L. 95-128, as amended by sec. 1502, Pub. L. 95-630, 92 Stat. 3713 (12 U.S.C. 2902))

Dated: March 20, 1979.

HOYLE L. ROBINSON,  
Acting Executive Secretary.

#### [6720-01-M]

#### PART 563e—COMMUNITY REINVESTMENT

##### § 563e.3 [Amended]

Section 563e.3 is amended as follows:

- (1) Paragraph (b) is revised by deleting "A" at the beginning of the first sentence of the paragraph and inserting, "Except as provided in paragraph (c) of this section, a . . ."
- (2) New paragraph (c) is added:

(c) An insured institution whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside of its local community or communities, may delineate a "military community" for those customers, in addition to its local community or communities. Provisions of this part concerning local communities shall also apply to military communities, except that military communities shall be delineated by a written description rather than a map.

(Title 15 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95-630, 92 Stat. 381, et seq.; Pub. L. 95-128, 91 Stat. 1147, et seq.; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, and 407, 48 Stat. 1256, 1257 and 1260, as amended (12 U.S.C. 1725, 1726, and 1730); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1484); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 (Comp. p. 1071))

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,  
Assistant Secretary.

MARCH 8, 1979.

[FR Doc. 79-9178 Filed 3-26-79; 8:45 am]

#### [6720-01-M]

#### CHAPTER V—FEDERAL HOME LOAN BANK BOARD

##### SUBCHAPTER A—GENERAL

[No. 79-201]

#### PART 505—AVAILABILITY AND CHARACTER OF RECORDS

##### Price List for Copies of Public Data

MARCH 21, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These amendments revised the Bank Board's price list for copies of financial and statistical data reported by lending institutions to the Bank Board. Such data, available to the public under the Freedom of Information Act, are priced according to the Board's estimated costs of reproduction, including equipment and manpower expenses. The amendments also broaden the description of types of information to which the price list applies and include specific charges for copies of initial transcripts of Bank Board meetings.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, D.C. 20552 (202-377-6440).

SUPPLEMENTARY INFORMATION: By Board Resolution No. 79-8, dated January 4, 1979, the Federal Home Loan Bank Board proposed amendments to § 505.4(e) (12 CFR 505.4(e)) of its general rules and regulations for the purpose of revising the price list for preparing public copies of information made available to the public under section 505. The proposed amendments were published in the FEDERAL REGISTER on January 10, 1979, (43 FR. 2178-2179) with public comments to be received by January 31, 1979. Based on its consideration of public comments and other information available to it, the Bank Board has decided to adopt the amendments as proposed.

The proposed amendments were intended to (1) simplify § 505.4(e) and facilitate its application to additional types of information which may be made available under the regulation and (2) bring the total charges imposed under the regulation more closely into line with the Bank Board's costs in making information available



under it, while at the same time reducing charges to small users. The proposed amendments would also specify charges for initial transcripts of Bank Board meetings.

Of the three public comments received on the proposal, two respondents found the proposed charges and fees reasonable, but made additional comments outside the scope of these amendments. The third respondent urged that transcripts of Bank Board meetings be provided at 10 cents per page rather than \$3.00 per page, as proposed.

The \$3.00 charge represents the actual cost of transcribing material from tape recordings. Material which has been previously transcribed is provided at 10 cents per page, with provision for waiver of charges under \$3.00. The Bank Board believes such charges are fair and consistent with the purposes of these amendments. However, the Bank Board has directed that waiver of the \$3.00 fee under § 505.4(e)(5) be considered with respect to each request for a transcript and that the appropriateness of the fee be reviewed on a quarterly basis.

Accordingly, the Bank Board hereby amends § 505.4 by revising subsection (e) thereof to read as follows:

§ 505.4 Access to records.

(e) Fees for providing copies of records.—(1) Statistical and financial reports of individual institutions (including unpublished aggregates of these reports). (i) The charges for copies of such reports are as follows:

For printed copy: Search charge of \$2.00 per specific report requested (regardless of number of institutions for which data are requested) plus 30 cents a page copy charge. For magnetic tape containing all individual institution information for a single period for a specific report:

\$50.00 for Format #1 (Board's internal format, 800 or 1600 BPI, odd parity, 9 track, no label or tape mark; data recorded in Sixbit Imbedded Comp.)

\$150.00 for Format #2 (Universal EBCDIC, 800 or 1600 BPI, odd parity, 9 track, no label or tape mark; data recorded in EBCDIC.)

(ii) Procedure. Address all requests for statistical or financial records to: Office of Economic Research (Attention: Information Disclosure Section), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Include requester's name, address, and telephone number. If requesting data for an individual institution, provide its accurate and complete name and home office address and dates for specific data requested. For geographical requests, specify county and/or state in which the institutions or offices are located as well as dates for specific data requested. Requesters

will be billed for copies. No advance payment will be accepted.

(2) Other computer or information system records. With respect to information obtainable only by processing through an information systems program, which has been made available under paragraph (a) of this section, a person requesting such information shall pay a fee equal to the full cost of retrieval and production of the information requested and the Director, Office of Economic Research, or his designee is authorized to determine the cost of such retrieval and production upon recommendation, where appropriate, of the Director, Information Systems Division, or his designee.

(3) Transcripts of Bank Board meetings. The charge for initial transcripts of Bank Board meetings shall be \$3.00 per page or part thereof. This charge shall apply to all meetings open pursuant to 5 U.S.C. 552b(c) and to those portions of closed meetings which are publicly available pursuant to 5 U.S.C. 552b(f)(2).

(4) All other records. A person requesting access to or copies of particular records shall pay the cost of searching or copying such records at the rate of \$10 per hour for searching and 10 cents per page for copying. Unless a requester states in his initial request that he will pay all costs regardless of amount, he shall be notified as soon as possible if there is reason to believe that the cost for obtaining access to and/or copies of such records will exceed \$50. If such notice is given, the time limitations contained elsewhere in this Part shall not commence until the requester agrees in writing to pay such cost. The Secretary is authorized to require an advance deposit whenever in his judgment such a deposit is necessary to insure that the Board will receive adequate reimbursement of its costs. If such a deposit is required, the time limitations contained elsewhere in this part shall not commence until the deposit is paid.

(5) Waiver of charges. The Secretary or his designee or, where appropriate, the Director, Office of Economic Research, or his designee is authorized either to waive payment of charges under this section in instances in which total charges are less than \$3.00 or to waive in full or in part such charges when unnecessary hardship would be inflicted upon the requesting person or when waiver would serve the public interest.

(Pub. L. 93-502 (5 U.S.C. 552); Secs. 11, 17, 47 Stat. 733, 736, as amended; secs. 5, 402, 48 Stat. 132, 1256, as amended (12 U.S.C. 1431, 1437, 1464, 1725). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,  
Secretary.

[FR Doc. 79-9215 Filed 3-26-79; 8:45 am]

[6320-01-M]

#### Title 14—Aeronautics and Space

### CHAPTER II—CIVIL AERONAUTICS BOARD

#### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1111; Amdt. No. 65]

### PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

#### Fuel Surcharge Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 21, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule establishes a 1.40 percent fuel surcharge rate applicable to the minimum military charter rates (ER-1045, December 27, 1977) for foreign and overseas air transportation services performed for the Department of Defense (DOD) and procured by the Military Airlift Command (MAC). This surcharge amendment is triggered by an increase in the average fuel price for the participating MAC carriers of 2.34 cents per gallon—from 41.31 cents per gallon to 43.65 cents per gallon.

DATES: Adopted: March 21, 1979. Effective: March 21, 1979.

#### FOR FURTHER INFORMATION CONTACT:

James E. Gardner, Domestic Fares and Rates Division, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, Phone: 202-673-5384.

SUPPLEMENTAL INFORMATION: As indicated in ER-1024 (42 FR 58902, November 11, 1977), dated November 3, 1977, the Board monitors fuel price changes and will establish a fuel surcharge rate adjustment when the average price of fuel for participating MAC carriers changes one cent or more per gallon. ER-1088, effective December 21, 1978, established a fuel surcharge of 0.37 percent based on October 1978 data.

The Board has completed its review of the latest available fuel cost data as reported on C.A.B. Form 41, Schedule P-12(a) for foreign and overseas MAC air transportation services for the month of January 1979, and is estab-

lishing surcharge provisions in Part 288 of its Economic Regulations (14 CFR Part 288) applicable to the rates established for those services.<sup>1</sup> The basis for issuing this surcharge amendment is the increase in average fuel price for the participating MAC carriers of 2.34 cents per gallon—from 41.31 cents per gallon reflected in the currently effective base rates to the latest reported average price of 43.65 cents per gallon.

The attached Appendix sets forth the results of the surcharge rate computation for the reported fuel price changes for commercial and military fuels consumed in military charter service for the month of January 1979, and the rate impact of the changes in current average fuel prices from those reflected in the base rates. Accordingly, we will establish the fuel surcharge rate applicable to the current base final rates, effective March 21, 1979 to increase the Category B and Category A rates by 1.40 percent.

In view of the present need for a fuel surcharge to the minimum rates set forth in Part 288, we find good

<sup>1</sup>This and future surcharge amendments will be made applicable to the minimum MAC rates established in ER-1045, effective December 27, 1977, until such time as new final base rates are established.

cause exists to make these amendments effective on less than thirty (30) days' notice.

In consideration of the foregoing, the Board amends Part 288 of its Economic Regulations (14 CFR Part 288) effective March 21, 1979 as follows:

1. Amend § 288.7(a) by amending the paragraph following the tables so as to reflect an additional proviso, the amended paragraph to read as follows:

§ 288.7 Reasonable level of compensation.

(a) . . .  
(1) . . .  
(2) . . .

*Provided*, That subject to the provisions of § 288.8, the minimum rates set forth above shall not be applicable to passengers or cargo carried on a particular trip in excess of the amount that the contract calls for DOD to supply and the carrier to provide space: *And provided further*, That if a carrier performs a one-way charter flight carrying nonmilitary traffic for a nonmilitary user, the carrier may charter the return flight of that aircraft to DOD at a published one-way charter traffic rate that is in fact available to the general public for

equivalent services: *Provided, however*, That effective March 21, 1979 the total minimum compensation pursuant to the rates set forth in subparagraph (1) above for services performed with regular jet, wide-bodied jet and DC-8-61/63 aircraft shall be increased by a surcharge of 1.40 percent.

2. Amend § 288.7(d) (1) and (2) to add a proviso and to read as follows:

§ 288.7 Reasonable level of compensation.

(d) . . .  
(1) . . .  
(2) . . .

*Provided*, That effective March 21, 1979 the total minimum compensation pursuant to the rates specified in subparagraphs (1) and (2) of this paragraph shall be increased by a surcharge of 1.40 percent.

(Secs. 204, 403, 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, as amended (49 U.S.C. 1324, 1373 and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

<sup>1</sup>All Members concurred.



MAC LONG-RANGE CARRIERS  
Computation of Fuel Surcharge Based on  
January 1979 P-12(a) Fuel Data Reports

| Carrier       | January 1979 P-12(a) Data |           | Price Per Gallon<br>Used in Latest<br>Surcharge Computation | Currently<br>Effective Base<br>Average Price <sup>2/</sup> | Percent<br>Price<br>Increase<br>(Decrease)<br>Current/Base | Fuel Cost as<br>a Percent<br>of Total<br>Economic Cost <sup>3/</sup> | Fuel Price Change<br>Impact on Base<br>Economic Costs <sup>4/</sup> | Rate<br>Impact<br>Factor <sup>4/</sup> | Base<br>Rate<br>Impact<br>For<br>Fuel<br>Price<br>Change |
|---------------|---------------------------|-----------|---|--|--|--|---|--|--|
|               | Cost                      | Gallons   |   |  |  |  |   |  |  |
| Airlift       | \$ 475,533                | 1,046,718 | 45.43c  | 45.68c   | (0.55)%  | 37.25%   | (0.20)%   | 4.38%                                  | (0.009)%   |
| Capitol       | 70,111                    | 162,124   | 43.25   | 38.96  | 11.01  | 32.36  | 3.56  | 1.49                                   | 0.053  |
| Flying Tiger  | 869,447                   | 2,051,874 | 42.37   | 40.32  | 5.08   | 27.81  | 1.41  | 18.91                                  | 0.267  |
| Northwest     | 91,969                    | 215,561   | 42.66   | 40.69  | 4.84   | 29.34  | 1.42  | 16.82                                  | 0.239  |
| Pan American  | 10,612                    | 23,148    | 45.84   | 41.21  | 11.24  | 24.27  | 2.73  | 25.95                                  | 0.708  |
| Seaboard      | 235,751                   | 542,486   | 43.46   | 45.98  | (5.48)   | 32.23  | (1.77)  | 9.81                                   | (0.174)  |
| Transa Int'l. | 572,715                   | 1,340,132 | 42.74   | 40.65  | 5.14   | 30.01  | 1.54  | 13.07                                  | 0.201  |
| World         | 1,168,152                 | 2,622,806 | 44.54   | 42.83  | 3.99   | 29.50  | 1.18  | 9.57                                   | 0.113  |
| Totals        | \$3,494,290               | 8,004,849 | 43.65c  | 41.31c   |  | 28.51%   |   | 100.00%                                | 1.398%   |

<sup>1/</sup> ER-1088, Appendix A.

<sup>2/</sup> Average per gallon fuel costs used in determining currently effective base rates (ER-1045) as set out in ER-1024.

<sup>3/</sup> ER-1088, Appendix B.

<sup>4/</sup> ER-1088, Appendix D.

[FR Doc. 79-9214 Filed 3-26-79; 8:45 am]

FEDERAL REGISTER, VOL. 44, NO. 60—TUESDAY, MARCH 27, 1979

[6351-01-M]

# Title 17—Commodity and Securities Exchanges

## CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

### PART 15—REPORTS—GENERAL PROVISIONS

#### Adoption of Amendments to the Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("the Commission") has found that the growth in trading volume, open interest, and account size of individual traders in certain markets enables the Commission to carry out its market surveillance program with fewer reports from futures commission merchants, foreign brokers and traders.

Accordingly, as part of its ongoing efforts to eliminate any unnecessary reporting requirements, the Commission has adopted amendments to its reporting regulations under the Commodity Exchange Act, as amended ("Act"), to raise the position levels in certain commodities at which series '03 reports and Form 40's must be filed by traders and series '01 reports and Form 102's must be filed by futures commission merchants ("FCM's") and foreign brokers.

The intended effect of this action is to alleviate an unnecessary reporting burden on the public and to reduce the amount of paperwork processed by the Commission.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT: Wayne L. Olson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581, Telephone (202) 254-3312.

SUPPLEMENTARY INFORMATION: Reporting levels are set in various commodities to ensure that the Commission receives adequate information to carry out its market surveillance programs, which include detection and prevention of market congestion and price manipulation and enforcement of speculative limits. Generally, Parts

<sup>1</sup>The following commodities are those for which Commission speculative limits are in effect: wheat, grains (including oats, barley and flaxseed), corn, soybeans, rye, eggs, cotton, and potatoes. 17 CFR Part 150, as amended, 44 FR 7127-8, February 6, 1979.

17 and 18 of the Regulations require reports from FCM's or foreign brokers and traders respectively when a trader holds a "reportable position," i.e., the open positions held or controlled by the trader at the close of business in any one future of a commodity traded on any one contract market equal or exceed the quantities fixed by the Commission in § 15.03(a) of the Regulations.

Traders who attain a "reportable position" are required to report on a series '03 report all positions the trader owns or controls as well as trades and deliveries in the subject commodity. In addition, the trader must file a Form 40 giving certain biographical information. FCM's and foreign brokers who carry accounts in which there are "reportable positions" of traders are required to identify such traders on a Form 102 and report on the series '01 forms, positions carried for each trader that equal or exceed the reporting level in any commodity.

The Commission has determined that the growth in trading volume, open interest, and account sizes of individual traders in certain markets enables the Commission to maintain effective surveillance of those markets with fewer reports from FCM's, foreign brokers and traders public. Accordingly, as part of its ongoing efforts to eliminate any unnecessary reporting requirements, the Commission has determined that reporting levels should be raised for the following commodities: in soybean meal, soybean oil, gold bullion, copper and live cattle from 50 contracts to 100 contracts; in silver bullion, from 100 contracts to 250 contracts. Reporting levels in all other commodities are not changed. In selecting the new levels, the Commission has considered that it receives information for surveillance purposes on both the series '01 and '03 reports. If, at a later date, the Commission eliminates series '03 reports as it is considering (see e.g., 41 FR 30350 (July 23, 1976); 42 FR 62147 (December 9, 1977); 43 FR 60146 (December 26, 1978)), the Commission may find it necessary to reconsider the reporting levels for some commodities to ensure that it has sufficient data for the operation of an effective market surveillance program. Reporting levels at which merchants, processors, dealers and traders with bona fide hedging positions as defined in § 1.3(z), 17 CFR § 1.3(z) (1978), in certain commodities must file series '04 reports are unaffected by these amendments (see Regulation 15.03(b), 17 CFR § 15.03(b) (1978), as amended, 43 FR 45828-29 (October 4, 1978)).

In consideration of the foregoing, the Commission, pursuant to its authority under sections 4g(1), 4i, and

8a(5) of the Act, 7 U.S.C. 6g(1), 6i and 12a(5) (1976), hereby amends Part 15 of Chapter I of Title 17 of the Code of Federal Regulations by revising § 15.03(a) as follows:

#### § 15.03 Quantities fixed for reporting.

(a) The quantities fixed for the purpose of reports filed under Parts 17 and 18 of this Chapter are as follows:

| Commodity:                             |         |
|--|---------|
| Wheat (bushels).....                   | 500,000 |
| Corn (bushels).....                    | 500,000 |
| Soybeans (bushels).....                | 500,000 |
| Oats (bushels).....                    | 200,000 |
| Rye (bushels).....                     | 200,000 |
| Barley (bushels).....                  | 200,000 |
| Flaxseed (bushels).....                | 200,000 |
| Soybean oil (contracts).....           | 100     |
| Soybean meal (contracts).....          | 100     |
| Live cattle (contracts).....           | 100     |
| Sugar (contracts).....                 | 50      |
| Copper (contracts).....                | 100     |
| Hogs (contracts).....                  | 50      |
| Gold (contracts).....                  | 100     |
| Silver bullion (contracts).....        | 250     |
| Silver coins (contracts).....          | 50      |
| Cotton (bales).....                    | 5,000   |
| All other commodities (contracts)..... | 25      |

The foregoing amendment is adopted effective April 1, 1979. The Commission finds that the foregoing action relieves a burden heretofore imposed and therefore, that the notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued in Washington, D.C., on March 21, 1979, by the Commission.

READ P. DUNN, Jr.,  
Commissioner, Commodity  
Futures Trading Commission.

[FR Doc. 79-9196 Filed 3-26-79; 8:45 am]

[8010-01-M]

## CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15028]

### PART 200—ORGANIZATION; CON- DUCT AND ETHICS; AND INFOR- MATION AND REQUESTS

Delegation of Authority to Director of Division  
of Enforcement

AGENCY: Securities and Exchange Commission.

ACTION: Correction.

SUMMARY: This document corrects FR Doc. 78-23116 appearing at page 36621 in the FEDERAL REGISTER of August 18, 1978, by adding the statutory authority pursuant to which the action announced in Securities Exchange Act Release No. 34-15028 was taken. That statutory authority for the addition of paragraph (a)(5) to § 200.30-4 is Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2).



DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT: Michael F. Perlis, Esquire, Assistant Director, Division of Enforcement, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-1650.

MARCH 21, 1979.

SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc. 79-9183 Filed 3-26-79; 8:45 am]

[6450-01-M]

# Title 18—Conservation of Power and Water Resources

## CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RM75-27]

### SUBCHAPTER F—ACCOUNTS, NATURAL GAS ACT

#### Correction

AGENCY: Federal Energy Regulatory Commission.

ACTION: Errata notice to final rule.

SUMMARY: The errata notice amends a final rule issued by the Commission on February 2, 1977, which adopted amendments to the Uniform System of Accounts relating to allowance for funds used during construction. The correction adds a sentence that was in the regulation before it was amended and was not intended to be deleted.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 825 North Capitol St., N.E., Washington, D.C. 20426; 202-275-4168.

SUPPLEMENTARY INFORMATION: The second sentence of the first paragraph of subparagraph "(17) Allowance for Funds Used During Construction" of Gas Plant Instruction "3. Components of Construction Cost," was inadvertently omitted (42 FR 9165, February 15, 1977, first column, line 3). Accordingly, the first paragraph of subparagraph (17) shall read as follows:

#### GAS PLANT INSTRUCTIONS

#### 3. Components of Construction Cost.

(17) "Allowance for funds used during construction" includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed without prior approval of the

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Commission allowances computed in accordance with the formula prescribed in paragraph (a) below, except when such other funds are used for exploration and development or leases acquired after October 7, 1969, no allowance on such other funds shall be included in these accounts. No allowance for funds used during construction charges shall be included in these accounts upon expenditures for construction projects which have been abandoned.

Dated: March 19, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9260 Filed 3-26-79; 8:45 am]

[4110-07-M]

### Title 20—Employers' Benefits

## CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 4, 16]

### PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

#### Subpart P—Rights and Benefits Based on Disability

#### PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

#### Subpart I—Determination of Disability or Blindness

#### REVISED MEDICAL CRITERIA FOR THE DETERMINATION OF DISABILITY

AGENCY: Social Security Administration, HEW.

ACTION: Final Rule.

SUMMARY: These regulations revise the medical evaluation criteria for both the title II and title XVI disability programs. We last revised these criteria in 1968. The revisions reflect advances in the medical treatment of some conditions and in the methods of evaluating certain impairments. They provide current medical criteria for use in evaluating disability claims in these two programs.

DATES: March 27, 1979.

ADDRESSES: Comments on these regulations may be submitted at any time to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

## FOR FURTHER INFORMATION CONTACT:

Harry Short, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7415.

SUPPLEMENTARY INFORMATION: On July 12, 1978, a Notice of Proposed Rulemaking with proposed amendments to subpart P of regulations No. 4 and Subpart I of regulations No. 16 was published in the FEDERAL REGISTER (43 FR 29955).

### THE PROGRAMS

The Social Security Act provides, under title II, for the payment of Federal disability insurance benefits to disabled individuals who are insured under the Social Security Act. The Act also provides, under title XVI, for the payment of benefits under the Supplemental Security Income program (SSI) to persons who are blind or disabled and who do not have income and resources at the established Federal minimum level. Under both programs blindness means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. We consider an eye in which the field of vision is limited so that the widest diameter of the visual field subtends an angle no greater than 20 degrees to have a central visual acuity of 20/200 or less. Disability under both programs (except for widow(er) benefits under title II and children under age 18 under title XVI) means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months.

From the beginning of the disability program in 1955, we have had a list of medical impairments with sets of signs, symptoms and laboratory findings which, if present in a person applying for disability benefits, are sufficient to justify a finding that he or she is disabled, unless there is evidence to the contrary. These criteria are known as the Listing of Impairments (the Listing) and are contained in the current regulations of the Social Security Administration (SSA) as in appendix to Subpart P of Part 404 (regulations relating to disability under title II) and as an appendix to Subpart I of Part 416 (regulations relating to disability and blindness under title XVI).

The Listing includes medical conditions frequently found in people who file for disability benefits. It describes for each of the 13 major body systems, impairments that are severe enough to prevent a person from engaging in substantial gainful activity and which may be expected to result in death or

which have lasted or can be expected to last for a continuous period of not less than 12 months. From time to time we review and revise the Listing to reflect advances in medical treatment of some conditions and in the methods of evaluating certain impairments. We last revised the Listing in 1968, and added it to our regulations at that time.

### HOW WE USE THE LISTING

Since the Listing contains the medical criteria we use for evaluating disability it is an essential tool in the disability evaluation process. When we determine whether or not a person's impairment constitutes a disability, we normally follow a sequential evaluation process. We do not apply this process to claims involving statutory blindness under either program, title II claims from widow(er)s, or SSI claims by children under age 18. This process consists of 5 steps as follows:

(1) If the person is actually doing substantial gainful activity, we determine that he or she is not disabled no matter how severe his or her impairment(s) may be.

(2) If a person does not have any impairment(s) which significantly limits physical or mental capacity to perform basic work-related functions, we determine that he or she does not have a severe impairment and is not disabled, without considering the person's age, education and work experience.

(3) If a person is not actually doing substantial gainful activity and has an impairment(s) that is described in the Listing or has one or more impairments which is medically equal to one of the listed impairments, we may determine, without considering the person's age, education and work experience, that the person is disabled.

(4) If a person is not actually doing substantial gainful activity but has a severe impairment which does not meet or medically equal any of the listed impairments, we evaluate the person's residual functional capacity and consider the physical and mental demands of his or her past work. If we find that the person can do his or her past work, we determine that the person is not disabled.

(5) If a person cannot do any work that he or she did in the past because of a severe impairment(s), but has the physical and mental capacities to meet the demands of a significant number of jobs in the national economy and is able (considering the person's age, education, and past work experience) to perform work different from that done in the past, we determine that the person is not disabled. If, however, the person's physical or mental capacities, together with the factors of age, education, and past work experience

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do not permit an adjustment to work different from work the person did in the past, we determine that the person is disabled.

We do not use the sequential evaluation process when we evaluate blindness claims since blindness is defined by statute. We also do not use the sequential evaluation process when we evaluate title II widow(er) claims or SSI claims by children under age 18 since, to determine the question of disability in these claims, we consider only the person's physical or mental impairments.

### PURPOSE OF THE LISTING

Use of the Listing should insure that determinations have a sound medical basis, that we will be able to treat all persons applying for disability benefits equally, and that we will be able to readily identify the majority of persons who are unable to do any gainful activity. The Listing describes a level of severity which permits us to reasonably conclude that a person who has an impairment described in the Listing and who is not working, is unable to work because of that impairment. Thus, if a person's impairment or combination of impairments equals or exceeds the level of severity described in the Listing, we find that he or she is disabled on the basis of the medical facts, unless we have evidence to the contrary; for example, evidence that the person is actually doing substantial gainful activity.

### COMMENTS RECEIVED FOLLOWING PUBLICATION OF THE NOTICE OF PROPOSED RULEMAKING

After publication of the Notice of Proposed Rulemaking, we received over fifty letters on the proposed medical criteria. The majority were from people and organizations whose responsibilities and interests give them some expertise in the evaluation of impairments. Many were from sources with specialized backgrounds and were quite detailed.

A number of the letters included several comments on the criteria within a particular body system, and some contained multiple comments on several body systems. Most of the comments we received concerned the specific evaluation criteria for particular impairments within the 13 body systems.

We have carefully considered all comments and have adopted many of them in whole or in part. These changes are identified in the discussion that follows and, where applicable, under the appropriate body system. Some were not adopted merely because of the nature and limitations of the medical criteria. The evaluation criteria are limited to those characteristics of any medical condition that occur frequently and consistently and

at a level of medical severity that supports a determination of disability without taking into consideration the nonmedical factors of age, education, and work experience. Important aspects of many medical conditions cannot be reduced to this type of criteria.

At the end of the discussion for each body system, we discuss any additional changes we have made that were not in the Notice of Proposed Rulemaking and that do not relate to specific public comments. These changes were added as a result of discussions among our medical staff and consultants that arose from publication of the NPRM and consideration of the public comments. We believe these changes are consistent with others we are making and should not cause delay in the issuance of the final Listing. We believe that it would be contrary to public interest not to adopt the updated Listing at this time and we have found good cause to waive rulemaking procedures under section 553(b) of the Administrative Procedure Act for those changes. The Listing should be put into immediate effect so the advances in medical knowledge and technology that it includes can be used in the evaluation of disability claims. We plan to update the Listing in the future as we become aware of medical advances useful in disability evaluation. We appreciate and invite comments and suggestions from the public at any time regarding changes in the Listing.

We have renumbered certain sections of the appendices to correspond with the numbers of the sections for similar impairments in Part B of the Listing of Impairments in Appendix 1 of Subpart I of Part 416. Part B contains additional medical criteria for the evaluation of impairments for children under the age of 18 and, as we described in § 416.906(b), we are committed to maintaining a numbered relationship between these two sets of medical criteria. We have omitted numbers in the sequence for some body systems in both sets of criteria so that we can maintain the same numbers for each.

A discussion of the comments that were unrelated to the evaluation of specific impairments follows our discussion of the comments and changes in the 13 body systems.

### 1. MUSCULOSKELETAL SYSTEM

#### CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We added to the introduction a detailed discussion of the proper documentation and adjudicative principles to be used in cases involving intervertebral disc disease, which is the broad area under which nerve root compression is considered. We retitled § 1.07,



"Intervertebral disc disease (persistent)", to clarify the connection between this listing and the information in the introduction to this body system. We removed the requirement that persistent, active rheumatoid arthritis be documented by X-ray findings. We included criteria for evaluation of the residual impairment because of arthritis, whether from osteoarthritis or rheumatoid arthritis. We wrote separate sections for adjudication of the chronic arthritic impairments as they affect the upper or lower extremities. We clarified the requirements for osteoporosis. We eliminated specific requirements for tuberculosis of the spine or joints, since the residual impairment may be evaluated by referring to the criteria for arthritis or osteomyelitis.

#### Comments and changes

**Comment:** One commenter questioned the value of using a positive serologic test for rheumatoid factor when evaluating rheumatoid arthritis, since this factor is not positive in many persons who have this condition.

**Response:** The commenter's statement is correct. However, the rheumatoid factor is only one of three tests that may be used. Another test proposed in the Notice of Proposed Rulemaking is the elevated sedimentation rate. We have now added antinuclear antibodies as a third test. We require that only one of the three tests be met in addition to multiple joint involvement to justify a finding of rheumatoid arthritis.

**Comment:** This commenter also stated that our criteria for arthritis of the spine are incorrect because most patients with ankylosing spondylitis, one of the described conditions, are able to carry on their ordinary work.

**Response:** We agree that many people with this condition are able to work. However, we do not evaluate the severity of an impairment solely on a diagnosis. The criteria for this condition apply to people who have fixation of the spine at an extremely unfavorable angle, that is, at 30 degrees or more forward of the neutral upright position.

**Comment:** One letter included a comment that under the revised Listing we now require more particular and continuous abnormal findings for back cases.

**Response:** It is true that the revised introduction to this body system gives a more detailed description of the findings required to evaluate the impairment resulting from all vertebrogenic disorders, including intervertebral disc disease. This increased emphasis on detailed neurological and orthopedic findings is a result of program experience which shows that these findings are essential to confirm

a diagnosis, to determine remaining physical function, and to arrive at a reasonable judgment on expected duration. The findings and clinical history referred to in the introduction to this body system are consistent with the examination findings that should be obtained during the evaluation and treatment of these back conditions.

#### ADDITIONAL CHANGES

We explained in the introduction that reports of atrophy of the hand muscles do not require measurements of the atrophy but do require measurements of grip strength. We deleted subsection C of § 1.03, which provided for the evaluation of an immobile knee joint fixed at an unfavorable angle. Our program experience shows that this condition is rarely found alone, and that it can be evaluated under the other criteria in this section. We renumbered the back conditions in §§ 1.05, 1.06, and 1.07 under the single major heading of § 1.05—Disorders of the spine—to show a more logical relationship between the findings and the site of the back pathology described. We divided the former § 1.12 into two sections—§ 1.12 dealing with fractures of an upper extremity, and § 1.13 dealing with surgical procedures for the salvage or restoration of major function after severe soft tissue injury to an upper or lower extremity.

#### 2. SPECIAL SENSES AND SPEECH

##### CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We added a statement that tangent screen visual fields are not acceptable as a measurement of peripheral field loss. In the section on otology, we provided specific requirements for documentation, and we defined "high volume" in terms of specific decibel levels. We added a section on deaf mutism. We also expanded the discussion on disturbances of the labyrinthine-vestibular function, and we clarified the criteria. We added specific criteria for organic loss of speech, including laryngectomy.

#### Comments and changes

**Comment:** We received comments from a national association concerned with speech and hearing handicaps. These comments included a detailed discussion of the technical standards for audiometric equipment, the acceptable standards for persons performing audiometric testing, and the conditions necessary for optimal testing of speech discrimination. Other commenters, including several State rehabilitation agencies, raised a number of these same points.

**Response:** We have, for the most part, adopted these comments and

they are now reflected in the technical specifications in § 2.00B.

**Comment:** We received several comments which pointed out that multiple factors can affect the ability of a person with impaired hearing to make a vocational adjustment. For example, those who receive early diagnosis and training are more likely to develop a capacity to work.

**Response:** While these additional factors are important to the evaluation of disability, they are not included in the medical evaluation criteria because they are not medical factors. We consider factors that affect vocational adjustment to determine whether disability exists in those cases where the medical criteria of the Listing are not met.

**Comment:** We received a comment on the measurement of hearing impairments, which stated that our criteria should specify that audiometers be calibrated at least once a year.

**Response:** Our regulations refer to many types of testing equipment whose accuracy depends on periodic maintenance and monitoring. However, we believe that it is outside the scope of these regulations to cite standards of maintenance.

**Comment:** This commenter also stated that we should require people with hearing impairments to have other impairments before they can become eligible for disability benefits. The commenter pointed out that a person with severely impaired hearing may otherwise be in good general health and more able to overcome the impairment than persons with other impairments.

**Response:** We have retained severe loss of hearing in the Listing. The criteria for all of the listed impairments assume that there is a point of severity reached for each impairment at which it is unproductive and inequitable to further investigate and question a person's ability to work. The hearing loss criteria reflect that point of severity. The criteria for some impairments may describe situations where it is easier for persons with those impairments to make vocational adjustments than for persons with other impairments. We agree with the commenter that a person who suffers only severely impaired hearing may have the advantage of general good health, which should provide an opportunity and the motivation to acquire skills or education to overcome the impairment more easily than persons who have some of the other listed impairments. Even so, this is not inconsistent with keeping severe hearing loss as a listed impairment. Also, a severe impairment of one physical or mental faculty must necessarily impair other faculties and abilities; for instance, severe hearing loss often significantly impairs the ability

to communicate required in many jobs.

**Comments:** We received several comments pointing out that, unlike the other evaluation criteria, the term "deaf mutism" is merely a syndrome designation, presented without either measurable criteria or guides providing a structured approach to the evaluation of this condition.

**Response:** In response to these comments, we have deleted the term "deaf mutism" from the criteria in § 2.08. As was implied by the comments, use of this term is inconsistent with the intent of the evaluation criteria. Its deletion will not disadvantage applicants who have a combined loss of speech and hearing since they can be evaluated under other sections, as explained in the introduction.

#### ADDITIONAL CHANGES

We also changed the part of the introduction on the measurement of visual fields. This change broadens the acceptable means of field measurement by stating that perimeter devices comparable to the one in the listing (3 mm. white disc target at 330 mm.) may also be used.

#### 3. RESPIRATORY SYSTEM

##### CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

Since evidence of the activity of pulmonary tuberculosis (e.g., positive cultures, increasing lesions, or cavitation) is no longer considered a sound basis for establishing disability, we made a major change in the listing for tuberculosis. Specifically, we revised the criteria to provide that impairment caused by tuberculosis will be determined on the basis of (1) the resulting impairment to pulmonary function, or (2) the complications and abnormal clinical findings which may be present in a rare case of persistent pulmonary infection. We changed the requirement for determining arterial oxygen saturation in § 3.04C, Table III, to the more appropriate criteria of oxygen tension (arterial pO<sub>2</sub>). We removed Listing § 3.10, Organic Loss of Speech, from the Respiratory System and placed it under § 2.00, Special Senses and Speech.

#### Comments and changes

**Comment:** One commenter suggested that cystic fibrosis should be listed as a potentially disabling impairment. This commenter pointed out that while cystic fibrosis is usually associated with children, there are some adults who have this condition.

**Response:** This is quite true. However, the Listing is not intended to exclude an evaluation of any condition (even though not specifically listed) which results in chronic obstructive

airway disease. We have therefore deleted any reference to specific diseases and have instead noted that this section should be used when chronic obstructive airway disease results from any cause.

**Comment:** This same commenter noted that the criteria for obstructive airway disease do not contain values obtained from the maximum midexpiratory flow rate. These values, the commenter pointed out, are used by many doctors who treat patients who have cystic fibrosis.

**Response:** The commenter's statement may be accurate. However, the spirometric values we provide in the criteria for obstructive airway disease are the values called for by the test which is the most widely used and whose results are the most easily obtained and interpreted by most physicians.

**Comment:** Another commenter stated that the new criteria for pulmonary tuberculosis include only the impairment to a person's pulmonary function. The commenter feels this is too restrictive because it eliminates the criteria for predicting that tuberculosis will remain active for 12 months.

**Response:** This is true. However, because of advances in the treatment of tuberculosis it is no longer realistic to presume that pulmonary tuberculosis will remain active for 12 or more months. However, the material in the introduction to this system makes it clear that, in a rare case where mycobacterial infection persists for a period closely approaching 12 months, we may determine a person to be disabled on the basis of limitations caused by the continuing infection.

#### ADDITIONAL CHANGES

We expanded the criteria for bronchial asthma to provide a more uniform approach in the evaluation of recurrent, severe attacks that may, in themselves, be disabling. We replaced the statement that the reported maximum voluntary ventilation (MVV) should be the largest of at least three attempts by a statement that evaluation can be based on the value obtained from a single satisfactory performance. We expanded the introductory statement on the obtaining of spirometric values before or after administration of nebulized bronchodilators because the use of nebulized bronchodilators is the best method of determining whether the test values are adversely affected by a pulmonary condition that is temporary, episodic, or reversible by medical treatment. We deleted (in § 3.09B) the reference to the time during which the culture of specific organisms must be obtained to focus these criteria on the require-

ment of current x-ray evidence and hemoptysis.

#### 4. CARDIOVASCULAR SYSTEM

##### CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We combined the criteria dealing with ischemic heart disease, which were contained under five separate listing numbers, all of which require common symptoms, into one listing. We clarified the previous reference to "chest discomfort on effort" to show the requirement of angina pectoris or specific chest pain of cardiac origin. We also provided criteria for exercise tolerance testing and explained that treadmill testing is the method we prefer. We provided specific examples of medication or clinical findings which limit the use of findings from a resting or an exercise electrocardiogram under the Listing. We also provided specific criteria for "obstruction or narrowing" of coronary vessel(s) on angiography. We provided more definite criteria for evaluating congestive heart failure, aortic aneurysm, and peripheral vascular disease.

#### Comments and changes

**Comment:** One letter, from a professional society concerned with the treatment of heart disease, dealt with the need to base the evaluation of disability on demonstrated capacity to tolerate physical exertion without developing symptoms or ECG abnormalities. It also pointed out that many people are able to return to full activity following convalescence from a myocardial infarction, and that controlled exercise tests are now available to evaluate exertional tolerance. By using these tests, this commenter believes we would be able to determine more accurately the types of work a heart patient may still be able to perform.

**Response:** This comment reinforces a longstanding concern we have had. The criteria for this body system proposed in the NPRM and presented in these final regulations are revisions of criteria that were used in the early years of the disability program. The earlier criteria attempted to allow for determination of exertional capacity by clinical history—that is, on the claimant's own description of the types and amount of activity that he or she could tolerate without developing cardiac symptoms. We found this to be unobtainable in some cases, contradictory in others, and always highly subjective and difficult to interpret.

We favor the approach advocated by this commenter. However, before we can fully incorporate exercise testing in the criteria, we need more information on the availability and costs of these procedures in all areas of the



## 5. DIGESTIVE SYSTEM

## CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We added to the introduction a discussion to help decide whether a gastrointestinal impairment may be expected to last at least 12 months. In the Listing for chronic liver disease we included criteria where cirrhosis of the liver has not been established by liver biopsy and certain additional criteria where it has been established by liver biopsy. We added a criterion to establish recurrent upper gastrointestinal hemorrhage from undetermined cause. We wrote more specific criteria for peptic ulcer disease, and we clarified the criteria for chronic ulcerative colitis, regional enteritis, and weight loss.

## Comments and changes

*Comments:* We received no public comments on this body system.

## ADDITIONAL CHANGES

We changed the criteria for the evaluation of liver disease. We eliminated the reference to hepatic coma because it usually occurs at a level of severity well beyond that represented by the other criteria in this section. A person who experiences hepatic coma will have already demonstrated one or more of the other specified findings.

## 6. GENITO-URINARY SYSTEM

## CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We added specific criteria for determining the presence of chronic renal disease. To provide a realistic level of abnormality, we added a specific serum creatinine level and we changed the requirement for BUN (blood urea nitrogen) from 30 to 50mg. per deciliter (100 ml.). We added criteria to evaluate claims involving periodic renal dialysis and kidney transplant.

## Comments and changes

*Comment:* One commenter believes that there is a possible oversight in the renal dialysis criteria because the criteria do not mention the difficulties which dialysis patients may have working a normal 8-hour day.

*Response:* Persons who require periodic dialysis because of chronic kidney disease do meet the medical requirements for a finding of disability. Thus, it is unnecessary to make an individual judgment on whether these severely impaired persons may be able to adjust to work.

## ADDITIONAL CHANGES

As we explained in the Notice of Proposed Rulemaking, we changed the BUN value from 30 to 50 mgs. per deciliter. Raising this value, however, was an imperfect solution. The BUN is not

the most reliable index of kidney function. Although use of a higher level may exclude those persons who have few symptoms or limitations it may also exclude others who have severe limitations that should be evaluated by established medical criteria. While we received no comments on the increased BUN level, we consulted with several physicians specializing in the treatment of kidney disease. As a result of these discussions we concluded that more discrete kidney function tests are now available and that it is no longer desirable to provide for the BUN in the criteria as an option. We therefore eliminated the BUN test and added other signs of severe kidney disease. We believe these will have much broader applicability than the prior criteria that placed greater reliance on laboratory tests alone. In addition, we revised and placed the criteria for impaired renal function in a single subsection (§ 6.02C).

We also revised the criteria for nephrotic syndromes. These criteria require severe anasarca (generalized edema), in combination with widely used laboratory tests for kidney filtration, as the clinical sign of severe nephrosis. We added more introductory material to explain the revised criteria for nephrotic syndromes. We also eliminated § 6.03, which deals with renal impairments that result from permanent diversion because we can more properly evaluate severe renal impairments from this cause under § 6.02C.

## 7. HEMIC AND LYMPHATIC SYSTEM

## CHANGES PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We added the need for frequent blood transfusions to the criteria under § 7.02—Chronic Anemias. We deleted the former separate Listing for hemolytic anemia so that we may evaluate this impairment under the general criteria for chronic anemia.

Instead of including sickle cell disease under hemoglobinopathies, we listed sickle cell disease as a separate heading. We also changed the criteria from hemolytic crises with a drop in hemotocrit to the occurrence of painful (thrombotic) crises as a possible indicator of the severity of the disease. We also added criteria which take into account the occurrence of episodes of related severe disease or impairments of other body systems. The revised criteria for acute leukemia provide for a finding of disability for 2½ years from the time of initial diagnosis. Although very few adults now survive that long, we did this so that the criteria will be applicable in the future when there will likely be improved response to therapy. Persons who survive beyond that time may no longer be disabled and their claims require further evaluation.

ation. We changed the criteria for chronic leukemia to refer to other criteria in the Listing. We transferred myeloma from § 13.00—Neoplastic Diseases, Malignant, and added more definite criteria. We also added criteria for chronic granulocytopenia and chronic thrombocytopenia and clarified the criteria for hereditary telangiectasia, coagulation defects, myelofibrosis (previously titled "chronic bone marrow failure"), and macroglobulinemia.

## Comments and changes

*Comment:* We received one comment. The commenter was concerned that the requirements for evaluating hemophilia would result in the improper denial of benefits to young children.

*Response:* The commenter was apparently unaware of the supplementary Listing for children in the Appendix to Subpart I of Part 416. The additional medical criteria for evaluating impairments of children under age 18 are used when the criteria in the "adult Listing" do not give appropriate consideration to the particular disease process in childhood.

*Comment:* This commenter was also concerned that people with congenital platelet disorders such as Glanzmann's disease or hemophilia with antifactor VIII antibodies are not covered by the medical criteria in this section.

*Response:* This is true. The Listing criteria are intended to identify the more commonly occurring impairments shown in applications for social security disability benefits. However, if a person's impairment is not specifically described in these medical criteria, we decide whether the impairment is medically equal to a listed impairment or whether the impairment would otherwise prevent the person from doing substantial gainful activity.

## ADDITIONAL CHANGES

We modified § 7.06B to recognize the significance of intercranial bleeding due to chronic thrombocytopenia during the 12 months prior to adjudication rather than merely in the period from alleged onset to adjudication.

## 8. SKIN

## CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We expanded this section to provide specific criteria for several more skin disorders, including psoriasis, atopic dermatitis, and deep mycotic infections.

## Comments and changes

*Comment:* We received one comment. The commenter believes we are making it more difficult to establish disability for skin diseases because of our statement that these diseases, when properly treated, are rarely disabling.

*Response:* This comment apparently resulted from a misunderstanding. We removed this statement in the Notice of Proposed Rulemaking even though it is our experience that skin diseases are rarely disabling. We emphasized that response to treatment is an important consideration. We believe this factor is medically valid. Its purpose is to caution against making a determination of disability when the only impairment is a skin condition that can be expected to improve and not to last for at least 12 months.

## 9. ENDOCRINE SYSTEM

## CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

The only change we made was to clarify the criteria for diabetic retinopathy.

## Comments and changes

*Comment:* We received no comments on this system.

## ADDITIONAL CHANGES

We made two revisions. We deleted the section for evaluating adrenal cortical insufficiency because the severe symptoms that were described there rarely occur. We cross referred the subsection dealing with visual changes resulting from diabetes mellitus to the sections on the measurement of visual loss. We have found that, in the absence of visual loss, direct examination of the eye is not a good indicator of the impairment resulting from diabetes mellitus.

## 10. MULTIPLE BODY SYSTEMS

## CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We provided criteria for evaluating obesity based upon its usual complications. These criteria require more than the documentation of those findings that are almost universally associated with marked obesity (e.g., peripheral edema, dyspnea on exertion). They require documentation of congestive heart failure (or a history of this) with peripheral edema (or other evidence of significant vascular congestion), respiratory disease, including a finding of dyspnea, with specified abnormalities of pulmonary function tests, etc. We deleted the criteria for tuberculosis adenitis because this condition is rarely found in disability claims. We also eliminated the specific criteria for evaluating active millary tuberculosis

## Comments and changes

*Comment:* We received one comment. The commenter stated that the criteria for obesity would have little effect because the required findings are sufficient to establish disability without obesity.

*Response:* The criteria under this section do have to have some relationship to similar impairments described under other body systems. However, they also take into account the contributing complication of obesity when it reaches the extremes specified by the tables. For example, the subsection dealing with arthritis of a weight-bearing joint does not require evidence of the advanced joint pathology required in the comparable section in the musculoskeletal section. We omitted this criterion for the obese person because we recognize the decreased ability of an impaired joint to bear the stress produced by extreme obesity. We also concede that joint pathology associated with extreme obesity will progress rapidly.

## 11. NEUROLOGICAL

## CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We expanded the discussion on the documentation and adjudication of convulsive disorders. We changed the expression "moderate motor deficit" to "significant and persistent disorganization of motor function". We clarified the fact that impairments which result from degenerative disease cannot be adjudicated on the mere statement of the diagnosis. We also added criteria for cerebral trauma and syringomyelia.

## Comments and changes

*Comment:* One commenter stated that the language in this section reflects a belief that most neurological impairments, when properly controlled, do not prevent an individual from working for a continuous 12-month period.

*Response:* We did not intend to give the impression that most neurological conditions are subject to improvement or correction. Eighteen separate medical conditions are listed under the neurological section. Most of them are static or progressive in nature. The discussion in the introduction to this body system about the treatment and the duration of the impairment is directed at exceptions such as multiple sclerosis. This impairment is often characterized by periods of exacerbation and remission. Convulsive disorder



ders are also discussed in this context since they are controllable in most cases. However, we reviewed all of the references to treatment in the criteria for specific impairments and deleted these references from §§11.07D and 11.08. We believe all remaining references in this section on neurological conditions that relate to impairment duration and treatment are medically sound since they are specifically directed at particular impairments.

*Comment:* Another commenter suggested that we expand the criteria for multiple sclerosis to include the overall impact of the diverse manifestations of this condition, including loss of balance, visual disturbance, intension tremors, weakness of the limbs, and loss of coordination.

*Response:* The current criteria do include the signs and symptoms mentioned by the commenter. The criteria, however, focus on these signs and symptoms at a point of severity when they severely limit the ability to walk, to use the arms, or to see. This emphasis is consistent with the purpose of the Listing, which identifies impairments with a level of severity which can be assumed to prevent a person from doing gainful activity. As the commenter points out, multiple sclerosis, a disease with variable and multiple manifestations, can be shown to be a severe impairment by a combination of symptoms and signs other than those described by the listed criteria. It is not possible, however, to reduce these multiple manifestations to a listing. The Listing is but one item in the evaluation process. We evaluate cases of claimants whose conditions do not meet or medically equal the criteria of a listed impairment under other rules. Under these rules we consider the person's condition, age, education, and work experience to determine whether the person is disabled.

*Comment:* Another commenter felt that certain persons with severe cerebral palsy might not meet any of the four criteria that are listed in §11.07. The commenter gave as an example a person with quadriplegia or paraplegia who is still able to communicate verbally. The commenter then mentioned that one of the cerebral palsy criteria might include a person with this type of impairment.

*Response:* The commenter is correct. The criteria which relate to significant disorganization of motor function in two extremities are intended to cover the example given. We made clarifying changes in the wording of these criteria.

*Comment:* We received two comments which suggested that criteria should be included for narcolepsy. One comment stressed that there seems to be little uniformity in the treatment of narcolepsy and little un-

derstanding of the problems encountered by persons with this condition. The commenters felt that we should include specific criteria that describe narcolepsy and that this would result in more equitable evaluation.

*Response:* We share the commenters' concerns about the evaluation of narcolepsy and other sleep disorders. However, we do not agree that it should be added to the Listing at this time. Our experience shows that a detailed, individual approach is necessary to evaluate narcolepsy. The varying effects of narcolepsy prevent us from formulating at this time criteria which could be applied to many applicants. The many factors that we must consider include the frequency of the sleep episodes, their duration, the presence or absence of signs that warn of an approaching episode, the control achieved by medication, and the presence and significance of associated conditions, such as cataplexy. We are considering this problem as it relates to disability applicants. We are also considering whether to provide specific evaluation criteria at some future time.

#### ADDITIONAL CHANGES

We expanded the heading of the section on cerebrovascular accidents (§11.04) to include the evaluation of vascular accidents occurring at other sites in the central nervous system. We deleted the reference to pseudobulbar palsy (§11.04B) because it is rarely found and people who do have this condition can be evaluated under other criteria. We removed the reference to a sleep record EEG to avoid the misunderstanding that this test be purchased by us if it is not so essential to adjudication that it should be a matter of record. We added another example of a brain tumor that should be evaluated under §11.05B.

#### 12. MENTAL DISORDERS

##### CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We expanded and clarified the introduction to provide a better basis for understanding the documentation and adjudicative requirements of these criteria. We eliminated the section for antisocial and amoral behavior since these are criteria for diagnosis and not descriptions of impairment severity. We changed the initial IQ requirement for severe mental retardation from 49 to 59. We also changed the first part of the criteria for mental retardation in §12.05C by raising the IQ level from 50-69 to an IQ of 60-69. We also clarified the second part of the criteria for mental retardation in §12.05C to show that a physical or other mental impairment must impose additional and significant work-related

limitation of function. We eliminated the criterion which deals with performing routine, repetitive tasks since this criterion cannot be evaluated medically.

#### Changes and comments

*Comment:* One commenter suggested that we delete that portion of the introduction which provided for IQ tests to be administered by vocational counselors or specially-trained persons in school systems.

*Response:* We agree. We deleted that part from the introduction because it is rarely used and we no longer consider it necessary.

*Comment:* A number of commenters were concerned that the repeated use of the terms "psychiatric examination," "psychiatric diagnosis," and other similar phrases could be interpreted to exclude reports submitted by certified psychologists.

*Response:* We did not intend that interpretation. In fact, the introduction to this section describes the type of evidence we prefer for evaluating mental disorders and "psychologists' reports" are included. Nevertheless, to avoid the impression that acceptable evidence is limited to reports from physicians specializing in the practice of psychiatry we removed the word "psychiatric" from this section, wherever we could.

*Comment:* One commenter suggested that we incorporate professional standards for psychologists by adopting the standards developed by professional psychological associations.

*Response:* We have not adopted this suggestion. Psychologists are certified or licensed under State laws which generally reflect the standards recommended by psychological associations. We rely on established State licensing or certification procedures which makes it unnecessary to include a description of the professional qualifications of those contributing reports for disability evaluation.

*Comment:* Another commenter stated that we should not consider psychological tests administered by psychiatrists, because psychiatrists are not trained to evaluate and interpret these tests.

*Response:* We agree that in order to be useful, psychological tests must be administered by people who are trained and experienced in their administration and interpretation. We clarified this point in §12.00B4 by providing that these tests be administered and interpreted by a psychologist or psychiatrist who is qualified by training and experience to do this evaluation.

*Comment:* Another commenter questioned the use of IQ measurements. The commenter feels that IQ tests are

unreliable and unrelated to a person's actual performance.

*Response:* While this may be true in certain instances, it does not rule out the use of the IQ test for the purpose of disability evaluation. We use IQ tests to identify people with severe mental retardation. Under the conditions required in §12.00B4, we have found the IQ measurement to be a valuable and reliable means of determining whether a person has severe mental retardation.

*Comment:* One commenter stated that the criteria for mental retardation in §12.05 are different from the criteria used by some vocational rehabilitation programs. The commenter believes that this leads to situations where some people are found to be ineligible for disability benefits, but are found to be too disabled to benefit from vocational rehabilitation. To correct this, the commenter suggests that we change the IQ criteria to include all people who are often considered to have subaverage intelligence. This would include persons whose performance on an individual test of intelligence is at least one standard deviation below the mean; that is a level which corresponds to an IQ of approximately 85 on the most commonly used standardized intelligence tests.

*Response:* We have not adopted this suggestion because it is inconsistent with the purpose of the Listing, which is to identify people with severe mental retardation. The suggested criteria could result in eligibility for disability benefits for many people who do not have severe adjustment problems or greatly restricted work capacity.

*Comment:* One commenter stated that mental retardation becomes more difficult to establish under the proposed Listing.

*Response:* We do not agree. We revised the IQ level upward from 49 to 59. This will result in more claims being determined on the IQ standard alone without considering additional factors. Thus, the criteria are easier to meet. We did this on the basis of program experience. We found it unproductive to evaluate the potential vocational capacity of persons who score 59 or less on well-standardized, validated IQ tests which are professionally administered.

*Comment:* One commenter suggested that we use "or" instead of "and" in listing the requirements in §12.05A. These requirements are marked dependence upon others for personal needs, inability to understand the spoken word, inability to avoid physical danger, inability to follow simple directions, and inability to read, write, and perform simple calculations. They are each joined by the conjunction

"and," rather than by the conjunction "or."

*Response:* We have not adopted the suggested change. This change would, in effect, allow a person to meet the Listing if any one of these criteria were present. For example, this change would permit a person to get disability benefits merely because he or she cannot read or write. This would not be consistent with the intent of the Listing. The requirements in §12.05A are intended to describe a class of severely retarded persons for whom formal intelligence testing is unnecessary to establish disability.

*Comment:* We received extensive comments from a national organization interested in all aspects of mental retardation concerning the use of adaptive behavior scales to measure personal independence and social responsibility. This organization feels that incorporation of adaptive behavior scales in the Listing would provide valuable information on the social and environmental factors that determine a person's ability to perform appropriately in a working situation. These comments quote material from the last paragraph of the introductory §12.00B4 and from the criteria in subsection A of §12.05. They point out the subjective nature of the information called for in these sections, and state that any reservations about adaptive behavior scales on the basis of their subjectivity should be viewed in light of the general information called for in these two sections.

*Response:* The criteria for the evaluation of mental deficiency contained in §12.05 encompass two situations: (1) when the retardation is not severe enough to preclude intelligence testing; i.e., those individuals being evaluated under subsections B and C, which provide IQ values; and (2) when the degree of retardation precludes a realistic attempt at formal intelligence testing, with subsection A used as a means of determining this. Thus, we use subsection A, the section referred to by this commenter, along with the related section in the introduction, only to identify the most severe cases of mental retardation. It excludes persons who have been professionally tested with a standardized IQ test. When mental retardation is the issue in the case of a claimant who has never been tested, we arrange for an intelligence test to be given, unless the description in subsection A applies.

Our experience indicates that the group of applicants who cannot be realistically tested is not particularly difficult to identify. Most of the persons within this group require heroic care or manifest marked departures in all areas described. The type of evidence relied on in these cases, as suggested

by the comments, is largely based on observations similar to those that would be used in a behavior scale, but in this case is used only for the restricted purpose discussed in the preceding paragraph. Evidence from a behavior scale, if available, could be used in the evaluation of mental retardation. However, the utilized portion consists of the actual behaviors observed and reported, rather than any derived numerical values.

#### ADDITIONAL CHANGES

We added a statement to the introduction that provides for the use of the lowest of the three values generally obtained (verbal, performance, and full scale IQ's). This method is not only consistent with the intent of the Listing but with current practice in psychology. We have used this method in disability evaluation for some time. Also, we reorganized §§12.02, 12.03, and 12.04 to emphasize that the criteria cited in subsection B of each of the three sections must all be present and result from the person's mental condition in cases of chronic brain syndromes and functional psychotic or nonpsychotic disorders.

#### 13. NEOPLASTIC DISEASES MALIGNANT CHANGES WE PROPOSED IN THE NOTICE OF PROPOSED RULEMAKING

We clarified that other sources of the surgical and pathology findings may be used when a copy of the operative note and pathology report is not available from the hospital record. We made a number of changes in the introduction and in the criteria to clarify the requirements and to recognize current medical knowledge on the course of malignancies and their responses to therapy. We clarified the terms "distant metastasis" and "metastasis beyond the regional lymph nodes."

Previously we indicated that distant metastases which have apparently disappeared and have not been evident for 5 or more years will not be considered severe. We have changed this to show that distant metastases which have apparently disappeared and have not been evident for 3 or more years will not be considered severe. We added a new section on "Head and Neck" tumors to replace the previous section on "Epidermoid carcinoma", since many epidermoid carcinomas are already covered under other sections. We changed the Listing to take into account the much improved response of Hodgkin's disease and non-Hodgkin's lymphomas to chemotherapy in some cases. We cautioned that, in evaluating lymphomas, the tissue type and site of involvement are not necessarily indicators of the severity of the impairment. We moved myeloma to



§ 7.00—Hemic and Lymphatic System—and rewrote the general criteria for malignant primary tumors of bone (excluding the jaw) to require evidence of metastases which are not controlled by prescribed therapy. We simplified the criteria for carcinoma of the lung. We deleted criterion for metastatic carcinoma or sarcoma to the lung, since some of these conditions may respond to chemotherapy, and it would be difficult to provide an accurate list of all their signs. These cases should be adjudicated on the basis of the primary site of the malignancy. Since a number of tumors arise in the mediastinum, we combined the criteria for malignancies arising in this site and stated the requirements for all of these in terms of whether they are controlled by prescribed therapy. We changed the requirement for carcinoma of the distal one-third of the esophagus or of the stomach from metastases "beyond the regional lymph nodes" to metastases "to the regional lymph nodes". We excluded certain islet cell carcinomas of the pancreas from an automatic finding of disability.

#### Comments and changes

*Comments:* We received no comments on this body system.

#### ADDITIONAL CHANGES

We expanded the introductory material in § 13.00D to include a discussion on the effects of therapy for the control of neoplasms. Also, we changed the medical criteria for §§ 13.06, 13.13, 13.19, and 13.28 based on the probable course these conditions will take and on the treatment that is now available.

#### GENERAL COMMENTS

We received several comments that did not address the evaluation of particular impairments. These comments were concerned with the extent of physician participation in the revisions to the Listing and the extent to which a claimant who needs specialized tests would be able to pay for them. These commenters also expressed some concern about whether the medical criteria are consistent with evaluating claims on an individual basis.

*Comment:* One commenter suggested that we identify the medical schools and experts who participated in updating the Listing. The commenter felt this would increase the credibility of the Listing.

*Response:* We have not adopted the suggestion. We believe the criteria must stand on their own merit, apart from the individual professional qualifications of those who helped to make the change. However, to give readers some perspective on the professional background of those involved in devel-

oping the medical criteria we included a statement on physician participation. We also did this to establish that SSA has its own highly competent staff of physicians and other medical personnel.

*Comment:* Another commenter thought that the revised criteria are more restrictive.

*Response:* In preparing this revision, we approached each of the impairments individually. In some areas we concluded that we should include more specific findings. We also eliminated some findings in other areas where they have not proved to be essential to the evaluation of certain impairments.

The revised criteria probably call for some overall increase in documentation, since a major purpose of the revision is to recognize medical advances and changes in medical technology. As additional medical tests and procedures are developed or, as is more often the case, the use of more discrete tests becomes more widespread, it is necessary to incorporate them into the evaluation criteria. For this reason the criteria for some impairments have been expanded but this does not mean that they are more restrictive. They are intended to be more selective and to better identify persons who have severe impairments. Under the revised criteria a particular claimant should not find it more difficult to document his or her disability claim. The new or additional findings called for are those that are now used in diagnosis and treatment; thus, they should be available or readily obtainable.

*Comment:* This same commenter felt that the revised criteria are prejudiced against the poor, who do not have funds to pay for the tests needed to prove their disability.

*Response:* Neither of the disability benefit programs (titles II and XVI) requires the claimant to pay for additional specialized tests that may be needed to determine whether the Listings are met. Any additional examinations or tests, other than those available during the course of treatment, are arranged and paid for by the Social Security Administration. The claimant is not obligated to determine what additional findings are required.

*Comment:* Another commenter stated that we are not adjudicating disability claims on an "individualized" basis, as mandated by Congress.

*Response:* We recognized the possibility of a misunderstanding and so we included in the preamble to the Notice of Proposed Rulemaking a discussion of how the Listing is used as one element in the individual approach in the disability determination process. We look at each person's individual record and apply the rules pertinent to the

facts in that person's record. If a person who is not working has an impairment(s) that meets the criteria provided in this Listing (and meets all of the other eligibility requirements) we will find the person disabled. This longstanding use of a listing of severe impairments which results in findings of disability, without applying other elements used in the disability determination process, has been in our regulations for many years and is accepted as fully consistent with what the commenter describes as the individualized adjudication mandated by Congress.

*Comment:* Another commenter stated that the medical criteria do not have different requirements for different kinds of occupations. The commenter also stated that many of the conditions that are accepted as prima facie evidence of disability would actually permit many people to work at almost their normal capacity in occupations that do not require physical activity.

*Response:* The Listing is a list of severe impairments. A few people with a listed impairment may be able to work because they are making a supreme effort or because of special circumstances. These are rare cases. We can not write a set of criteria for rare cases.

For the criteria to be valuable in adjudication, they must have some flexibility. If the level of severity for each impairment were set at a point which prevents every claimant from engaging in every conceivable occupation, the Listing would be too restrictive to be useful.

*Comment:* Another commenter pointed out that in the public workshops conducted by us in several cities we did not mention the proposed medical criteria, and that our failure to do so prevented an interchange of ideas on this important issue.

*Response:* The workshops to which the commenter refers were conducted in an effort to be more responsive to public concerns about the various programs we administer. The people who were there, by and large, determined the topics we discussed. Because of their highly technical nature, the changes to the Listing were not considered appropriate for discussion and comment at a forum that was intended to cover many general social security issues.

The amendments are hereby adopted as revised and set forth below.

(Sections 205, 216(i), 223, 1102, 1614(a) and 1631 of the Social Security Act, as amended; 53 Stat. 1368, as amended; 66 Stat. 771, as amended; 70 Stat. 815, as amended; 49 Stat. 647, as amended; 86 Stat. 1471(a); 86 Stat. 1475; 42 U.S.C. 405, 416(i), 423, 1302, 1382c(a) and 1383.)

(Catalog of Federal Domestic Program Nos. 13.802, Social Security—Disability Insurance; 13.807, Supplemental Security Income Program.)

Dated: February 17, 1979.

STANFORD G. ROSS,  
Commissioner of Social Security.

Approved: March 17, 1979.

HALE CHAMPION,  
Acting Secretary of Health,  
Education, and Welfare.

Parts 404 and 416 of chapter III of the Code of Federal Regulations are amended as follows:

1. The table of contents in the appendix of subpart P of part 404 and the table of contents in part A of appendix 1 of subpart I of part 416 are revised by revising the titles of § 2.00 from "Special Sense Organs" to "Special Senses and Speech."

2. All the material following the table of contents in the appendix to subpart P of part 404 and following the table of contents in part A of appendix 1 of subpart I of part 416 is revised to read as follows:

#### 1.00 MUSCULOSKELETAL SYSTEM

A. Loss of function may be due to amputation or deformity. Pain may be an important factor in causing functional loss, but it must be associated with relevant abnormal signs or laboratory findings. Evaluations of musculoskeletal impairments should be supported where applicable by detailed descriptions of the joints, including ranges of motion, condition of the musculature, sensory or reflex changes, circulatory deficits, and X-ray abnormalities.

B. Disorders of the spine, associated with vertebrogenic disorders as in § 1.05C, result in impairment because of distortion of the bony and ligamentous architecture of the spine or impingement of a herniated nucleus pulposus or bulging annulus on a nerve root. Impairment caused by such abnormalities usually improves with time or responds to treatment. Appropriate abnormal physical findings must be shown to persist on repeated examinations despite therapy for a reasonable presumption to be made that severe impairment will last for a continuous period of 12 months. This may occur in cases with unsuccessful prior surgical treatment.

Evaluation of the impairment caused by disorders of the spine requires that a clinical diagnosis of the entity to be evaluated first must be established on the basis of adequate history, physical examination, and roentgenograms. The specific findings stated in § 1.05C represent the requirements for the level of severity of that impairment; these findings, by themselves, are not intended to represent the basis for establishing the clinical diagnosis. Furthermore, while neurological examination findings are required, they are not to be interpreted as a basis for evaluating the severity of any neurological impairment. Neurological impairments are to be evaluated under §§ 11.00–11.19. The history must include a detailed description of the character, location, and radiation of pain; mechanical factors which incite and relieve pain; prescribed treatment, including type, dose, and frequency of analgesic and typical daily activities. Care must be taken to ascertain that the report-

ed examination findings are consistent with the individual's daily activities. There must be a detailed description of the orthopedic and neurologic examination findings. The findings should include a description of gait, limitation of movement of the spine given quantitatively in degrees from the vertical position, motor and sensory abnormalities, muscle spasm, and deep tendon reflexes. Observations of the individual during the examination should be reported; e.g., how he or she gets on and off the examining table. Inability to walk on heels or toes, to squat, or to arise from a squatting position, where appropriate, may be considered evidence of significant motor loss. However, a report of atrophy is not acceptable as evidence of significant motor loss without circumferential measurements of both thighs and lower legs (or upper or lower arms) at a stated point above and below the knee or elbow given in inches or centimeters. A specific description of atrophy of hand muscles is acceptable without measurements of atrophy but should include measurements of grip strength. These physical examination findings must be determined on the basis of objective observations during the examination and not simply a report of the individual's allegation, e.g., he says his leg is weak, numb, etc. Alternative testing methods should be used to verify the objectivity of the abnormal findings, e.g., a seated straight-leg raising test in addition to a supine straight-leg raising test. Since abnormal findings may be intermittent, their continuous presence over a period of time must be established by a record of ongoing treatment. Neurological abnormalities may not completely subside after surgical or nonsurgical treatment or with the passage of time. Residual neurological abnormalities, which persist after it has been determined clinically or by direct surgical or other observation that the ongoing or progressive condition is no longer present, cannot be considered to satisfy the required findings in § 1.05C.

Where surgical procedures have been performed, documentation should include a copy of the operative note and available pathology reports. Electrophysiological procedures and myelography may be useful in establishing the clinical diagnosis, but do not constitute alternative criteria to the requirements in § 1.05C.

C. After maximum benefit from surgical therapy has been achieved in situations involving fractures of an upper extremity (§ 1.12), or soft tissue injuries of a lower or upper extremity (§ 1.13), i.e., there have been no significant changes in physical findings or X-ray findings for any 6-month period after the last definitive surgical procedure, evaluation should be made on the basis of demonstrable residuals.

D. Major joints as used herein refer to hip, knee, ankle, shoulder, elbow, or wrist and hand. (Wrist and hand are considered together as one major joint.)

E. The measurements of joint motion are based on the techniques described in the "Joint Motion Method of Measuring and Recording," published by the American Academy of Orthopedic Surgeons in 1965, or the "Guides to the Evaluation of Permanent Impairment—The Extremities and Back" (Chapter I); American Medical Association, 1971.

#### 1.01 CATEGORY OF IMPAIRMENTS,

##### MUSCULOSKELETAL

1.02 Active rheumatoid arthritis and other inflammatory arthritis. With both A and B: A. Persistent joint pain, swelling, and ten-

derness involving multiple joints with signs of joint inflammation (heat, swelling, tenderness) despite therapy for at least 3 months, and activity expected to last over 12 months; and

B. Corroboration of diagnosis at some point in time by either:

1. Postive serologic test for rheumatoid factor; or
2. Antinuclear antibodies; or
3. Elevated sedimentation rate.

1.03 Arthritis of a major weight-bearing joint (due to any cause): With limitation of motion and enlargement or effusion in the affected joint, as well as a history of joint pain and stiffness. With:

A. Gross anatomical deformity such as subluxation, contracture, bony or fibrous ankylosis, or instability; or

B. Ankylosis of the hip outside of the position of function (i.e., at less than 20° or more than 30° of flexion measured from the neutral position) and X-ray evidence of either joint space narrowing with osteophytosis or bony destruction (with erosions or cysts); or

C. Reconstructive surgery or surgical arthrodesis of a major weight-bearing joint and return to full weight-bearing status did not occur, or is not expected to occur, within 12 months of onset.

1.04 Arthritis of one major joint in each of the upper extremities (due to any cause): With limitation of motion and enlargement or effusion in the affected joints as well as a history of joint pain and stiffness and X-ray evidence of either joint space narrowing with osteophytosis or bony destruction (with erosions or cysts). With:

A. Abduction of both arms at the shoulders, including scapular motion, restricted to less than 90 degrees; or

B. Gross anatomical deformity such as subluxation, contracture, bony or fibrous ankylosis, joint instability, or ulnar deviation.

#### 1.05 Disorders of the spine:

A. Arthritis manifested by ankylosis or fixation of the cervical or dorsolumbar spine at 30° or more of flexion measured from the neutral position, with X-ray evidence of:

1. Calcification of the anterior and lateral ligaments; or
2. Bilateral ankylosis of the sacroiliac joints with abnormal apophyseal articulations; or

B. Osteoporosis, generalized (established by X-ray) manifested by pain and limitation of back motion and paravertebral muscle spasm with X-ray evidence of either:

1. Compression fracture of a vertebral body with loss of at least 50 percent of the estimated height of the vertebral body prior to the compression fracture, with no intervening direct traumatic episode; or
2. Multiple fractures of vertebrae with no intervening direct traumatic episode; or

C. Other vertebrogenic disorders (e.g., herniated nucleus pulposus, spinal stenosis) with the following persisting for at least 3 months despite prescribed therapy and expected to last 12 months. With both 1 and 2:

1. Pain, muscle spasm, and significant limitation of motion in the spine; and
2. Appropriate radicular distribution of significant motor loss with muscle weakness and sensory and reflex loss.

#### 1.08 Osteomyelitis (established by X-ray):

A. Located in the pelvis, vertebra, femur, tibia, or a major joint of an upper or lower extremity, with persistent activity or occurrence of at least two episodes of acute activi-



ty within a 5-month period prior to adjudication manifested by local inflammatory, and systemic signs and laboratory findings (e.g., heat, redness, swelling, drainage, leucocytosis, or increased sedimentation rate); or

B. Multiple localizations and systemic manifestations as in A above.

1.09 *Amputation or anatomical deformity of (i.e., loss of major function due to degenerative changes associated with vascular or neurological deficits, traumatic loss of muscle mass or tendons and X-ray evidence of bony ankylosis at an unfavorable angle, joint subluxation or instability):*

- A. Both hands, or
- B. Both feet, or
- C. One hand and one foot.

1.10 *Amputation of one lower extremity (at or above the tarsal region):*

A. Hemipelvectomy or hip disarticulation; or

B. Amputation at or above the tarsal region due to peripheral vascular disease or diabetes mellitus; or

C. Inability to use a prosthesis effectively, without obligatory assistive devices, due to one of the following:

- 1. Vascular disease; or
- 2. Neurological complications (e.g., loss of position sense); or
- 3. Stump too short or stump complications persistent, or are expected to persist, for at least 12 months from onset; or
- 4. Disorder of contralateral lower extremity causing mobility restrictions.

1.11 *Fracture of the femur, tibia, tarsal bone, or pelvis:* With solid union not evident on X-ray and not clinically solid, when such determination is feasible, and return to full weight bearing status did not, occur or is not expected to occur within 12 months of onset.

1.12 *Fractures of an upper extremity:* With non-union of a fracture of the shaft of the humerus, radius, or ulna under continuing surgical management directed toward restoration of functional use of the extremity and such function was not restored or expected to be restored within 12 months after onset.

1.13 *Soft tissue injuries of an upper or lower extremity:* Requiring a series of staged surgical procedures within 12 months after onset for salvage and/or restoration of major function of the extremity, and such major function was not restored or expected to be restored within 12 months after onset.

## 2.00 SPECIAL SENSES AND SPEECH

### A. Ophthalmology

1. *Causes of impairment:* Diseases or injury of the eyes may produce loss of central or peripheral vision. Loss of central vision results in inability to distinguish detail and prevents reading and fine work. Loss of peripheral vision restricts the ability of an individual to move about freely. The extent of impairment of sight should be determined by visual testing.

2. *Central visual acuity.* A loss of central visual acuity may be caused by impaired distant and/or near vision. However, for an individual to meet the level of severity described in §§ 2.02 and 2.04, only the remaining central visual acuity for distance of the better eye with best correction based on the Snellen test chart measurement may be used. Correction obtained by special visual aids (e.g., contact lenses) will be considered if the individual has the ability to wear such aids.

3. *Field of vision.* Impairment of peripheral vision may result if there is contraction of the visual fields. The contraction may be either symmetrical or irregular. The extent of the remaining peripheral visual field will be determined by usual perimetric methods at a distance of 330 mm under illumination of not less than 7 footcandles. Measurements obtained on comparable perimetric devices may be used; this does not include the use of tangent screen measurements. For the phakic eye (the eye with a lens), a 3 mm white disc target will be used, and for the aphakic eye (the eye without a lens), a 6 mm white disc target will be used. In neither instance should corrective lenses be worn during the examination but if they have been used, this fact must be stated.

Field measurements must be accompanied by notated field charts, a description of the type and size of the target and the test distance. Tangent screen visual fields are not acceptable as a measurement of peripheral field loss.

Where the loss is predominantly in the lower visual fields, a system such as the weighted grid scale for perimetric fields described by B. Esterman (see Grid for Scoring Visual Fields, II. Perimeter, *Archives of Ophthalmology*, 79:400, 1968) may be used for determining whether the visual field loss is comparable to that described in Table 2.

4. *Muscle function.* Paralysis of the third cranial nerve producing ptosis, paralysis of accommodation, and dilation and immobility of the pupil may cause significant visual impairment. When all the muscles of the eye are paralyzed including the iris and ciliary body (total ophthalmoplegia), the condition is considered a severe impairment provided it is bilateral. A finding of severe impairment based primarily on impaired muscle function must be supported by a report of an actual measurement of ocular motility.

5. *Visual efficiency.* Loss of visual efficiency may be caused by disease or injury resulting in a reduction of central visual acuity or visual field. The visual efficiency of one eye is the product of the percentage of central visual efficiency and the percentage of visual field efficiency. (See tables No. 1 and 2, following § 2.09.)

6. *Special situations.* Aphakia represents a visual handicap in addition to the loss of central visual acuity. The term monocular aphakia would apply to an individual who has had the lens removed from one eye, and who still retains the lens in his other eye, or to an individual who has only one eye which is aphakic. The term binocular aphakia would apply to an individual who has had both lenses removed. In cases of binocular aphakia, the central efficiency of the better eye will be accepted as 75 percent of its value. In cases of monocular aphakia, where the better eye is aphakic, the central visual efficiency will be accepted as 50 percent of its value. (If an individual has binocular aphakia, and the central visual acuity in the poorer eye can be corrected only to 20/200, or less, the central visual efficiency of the better eye will be accepted as 50 percent of its value.)

Ocular symptoms of systemic disease may or may not produce a disabling visual impairment. These manifestations should be evaluated as part of the underlying disease entity by reference to the particular body system involved.

7. *Statutory blindness.* The term "statutory blindness" refers to the degree of visual impairment which defines the term "blindness" in the Social Security Act. Both §§ 2.02 and 2.03 A and B denote statutory blindness.

### B. Otolaryngology

1. *Hearing impairment.* Hearing ability should be evaluated in terms of the person's ability to hear and distinguish speech.

Loss of hearing can be quantitatively determined by an audiometer which meets the standards of the American National Standards Institute (ANSI) for air and bone conducted stimuli (i.e., ANSI § 3.61969 and ANSI § 3.13-1972, or subsequent comparable revisions) and performing all hearing measurements in an environment which meets the ANSI standard for maximal permissible background sound (ANSI § 3.1-1977).

Speech discrimination should be determined using a standardized measure of speech discrimination ability in quiet at a test presentation level sufficient to ascertain maximum discrimination ability. The speech discrimination measure (test) used, and the level at which testing was done, must be reported.

Hearing tests should be preceded by an otolaryngologic examination and should be performed by or under the supervision of an otolaryngologist or audiologist qualified to perform such tests.

In order to establish an independent medical judgment as to the level of severity in a claimant alleging deafness, the following examinations should be reported: Otolaryngologic examination, pure tone air and bone audiometry, speech reception threshold (SRT), and speech discrimination testing. A copy of reports of medical examination and audiologic evaluations must be submitted.

Cases of alleged "deaf mutism" should be documented by a hearing evaluation. Records obtained from a speech and hearing rehabilitation center or a special school for the deaf may be acceptable, but if these reports are not available, or are found to be inadequate, a current hearing evaluation should be submitted as outlined in the preceding paragraph.

2. *Vertigo associated disturbances of labyrinthine-vestibular function, including Meniere's disease.* These disturbances of balance are characterized by hallucination of motion or loss of position sense and a sensation of dizziness which may be constant or may occur in paroxysmal attacks. Nausea, vomiting, ataxia, and incapacitation are frequently observed, particularly during the acute attack. It is important to differentiate the report of rotary vertigo from that of "dizziness" which is described as light-headedness, unsteadiness, confusion, or syncope.

Meniere's disease is characterized by paroxysmal attacks of vertigo, tinnitus, and fluctuating hearing loss. Remissions are unpredictable and irregular, but may be long-lasting; hence, the severity of impairment is best determined after prolonged observation and serial reexaminations.

The diagnosis of a vestibular disorder requires a comprehensive neuro-otolaryngologic examination with a detailed description of the vertiginous episodes, including notation of frequency, severity, and duration of the attacks. Pure tone and speech audiometry with the appropriate special examinations, such as Bekesy audiometry, are necessary. Vestibular function is assessed by positional and caloric testing, preferably by

electronystagmography. When polygrams, contrast radiography, or other special tests have been performed copies of the reports of these tests should be obtained, in addition to reports of skull and temporal bone x-rays.

3. *Organic loss of speech.* Glossectomy or laryngectomy or cicatricial laryngeal stenosis due to injury or infection results in loss of voice production by normal means. In evaluating organic loss of speech (§ 2.09), ability to produce speech by any means includes the use of mechanical or electronic devices. Impairment of speech due to neurologic disorders should be evaluated under §§ 11.00-11.19.

## 2.01 CATEGORY OF IMPAIRMENTS, SPECIAL SENSES AND SPEECH

2.02 *Impairment of central visual acuity.* Remaining vision in the better eye after best correction is 20/200 or less.

2.03 *Construction of peripheral visual fields in the better eye.*

A. To 10° or less from the point of fixation; or

B. So the widest diameter subtends an angle no greater than 20°; or

C. To 20 percent or less visual field efficiency.

2.04 *Loss of visual efficiency.* Visual efficiency of better eye after best correction 20 percent or less. (The percent of remaining visual efficiency = the product of the percent of remaining central visual efficiency and the percent of remaining visual field efficiency.)

2.05 *Complete homonymous hemianopsia* (with or without macular sparing). Evaluate under § 2.04.

## 2.06 Total bilateral ophthalmoplegia.

2.07 *Disturbance of labyrinthine-vestibular functions (including Meniere's disease),* characterized by a history of frequent attacks of balance disturbance, tinnitus, and progressive loss of hearing. With both A and B:

A. Disturbed function of vestibular labyrinth demonstrated by caloric or other vestibular tests; and

B. Hearing loss established by audiometry.

2.08 *Hearing impairments* (hearing not restorable by a hearing aid) manifested by:

A. Average hearing threshold sensitivity for air conduction of 90 decibels or greater, and for bone conduction to corresponding maximal levels, in the better ear, determined by the simple average of hearing threshold levels at the three frequencies, 500, 1000, and 2000 Hz. (§ 2.00B1); or

B. Speech discrimination scores of 40 percent or less in the better ear.

2.09 *Organic loss of speech* due to:

Any cause with inability to produce by any means speech which can be heard, understood, and sustained.

TABLE No. 1.—Percentage of central visual efficiency corresponding to central visual acuity notations for distance in the phakic and aphakic eye (better eye)

| Snellen |        | Percent central visual efficiency |                                |                                |
|---------|--------|-----------------------------------|--------------------------------|--------------------------------|
| English | Metric | Phakic <sup>1</sup>               | Aphakic monocular <sup>2</sup> | Aphakic binocular <sup>3</sup> |
| 20/16   | 6/5    | 100                               | 50                             | 75                             |
| 20/20   | 6/6    | 100                               | 50                             | 75                             |

| Snellen |        | Percent central visual efficiency |                                |                                |
|---------|--------|-----------------------------------|--------------------------------|--------------------------------|
| English | Metric | Phakic <sup>1</sup>               | Aphakic monocular <sup>2</sup> | Aphakic binocular <sup>3</sup> |
| 20/25   | 6/7.5  | 95                                | 47                             | 71                             |
| 30/32   | 6/10   | 90                                | 45                             | 67                             |
| 40/40   | 6/12   | 85                                | 42                             | 64                             |
| 50/50   | 6/15   | 75                                | 37                             | 56                             |
| 60/60   | 6/20   | 65                                | 32                             | 49                             |
| 80/80   | 6/24   | 60                                | 30                             | 45                             |
| 100/100 | 6/30   | 50                                | 25                             | 37                             |
| 20/125  | 6/38   | 40                                | 20                             | 30                             |
| 20/160  | 6/48   | 30                                | 15                             | 22                             |
| 20/200  | 6/60   | 20                                | 10                             | 15                             |

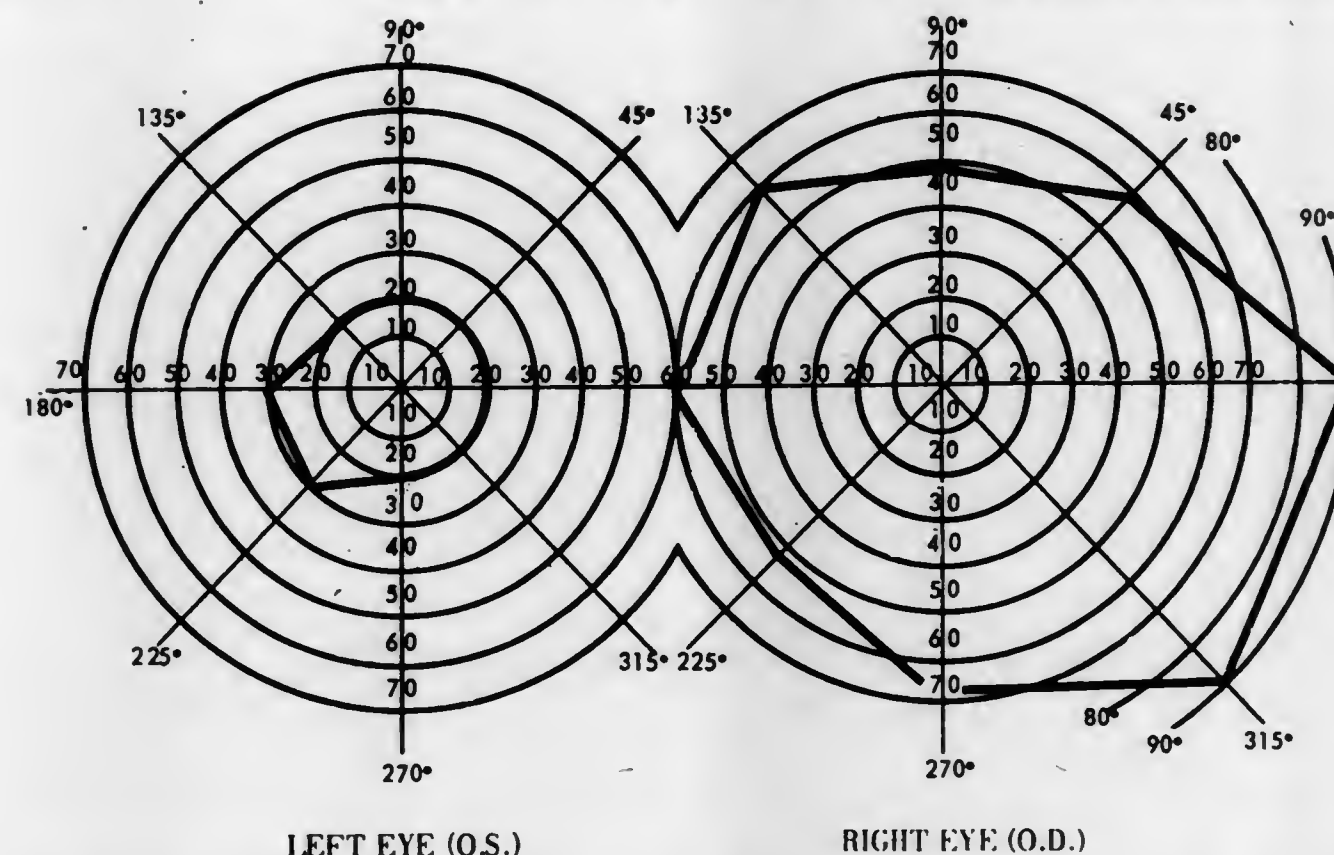
## Column and Use

<sup>1</sup>Phakic.—1. A lens is present in both eyes. 2. A lens is present in the better eye and absent in the poorer eye. 3. A lens is present in one eye and the other eye is enucleated.

<sup>2</sup>Monocular.—1. A lens is absent in the better eye and present in the poorer eye. 2. The lenses are absent in both eyes; however, the central visual acuity in the poorer eye after best correction is 20/200 or less. 3. A lens is absent from one eye and the other eye is enucleated.

<sup>3</sup>Binocular.—1. The lenses are absent from both eyes and the central visual acuity in the poorer eye after best correction is greater than 20/200.

TABLE No. 2.—Chart of visual field showing extent of normal field and method of computing percent of visual field efficiency



1. Diagram of right eye illustrates extent of normal visual field as tested on standard perimeter at 3/300 (3 mm. white disc at a distance of 330 mm.) under 7 foot-candles il-

lumination. The sum of the eight principal meridians of this field total 500°.

2. The percent of visual field efficiency is obtained by adding the number of degrees

of the eight principal meridians of the contracted field and dividing by 500. Diagram of left eye illustrates visual field contracted to 30° in the temporal and down and out me-



ridians and to 20° in the remaining six meridians. The percent of visual field efficiency of this field is:  $6 \times 20 + 2 \times 30 = 180 \div 500 = 0.36$  or 36 percent remaining visual field efficiency, or 64 percent loss.

### 3.00 RESPIRATORY SYSTEM

A. *Causes of impairment:* The impairment produced by respiratory disease usually results from chronic recurrent infection, or from pulmonary insufficiency or a combination of these factors.

B. *Pulmonary tuberculosis will be evaluated* on the basis of the resulting impairment to pulmonary function. Evidence of infectious or active pulmonary tuberculosis such as positive cultures, increasing lesions, or cavitation is not, by itself, a basis for determining that an individual has a severe impairment which is expected to last 12 months. However, if these factors are abnormally persistent, they should not be ignored. For example, in those unusual cases where there is evidence of persistence of pulmonary infection caused by mycobacteria for a period closely approaching 12 consecutive months, the clinical findings, complications, treatment considerations, and prognosis must be carefully assessed to determine whether, despite the absence of impairment of pulmonary function, the individual has a severe impairment that can be expected to last for 12 consecutive months.

C. *When a respiratory impairment is episodic in nature*, as may occur in complications of bronchiectasis and asthmatic bronchitis, the frequency of severe episodes despite prescribed treatment is the criterion for determining the level of impairment. Documentation for episodic asthma should include the hospital or emergency room records indicating the dates of treatment, clinical findings on presentation, what treatment was given and for what period of time, and the clinical response. Severe attacks of episodic asthma, as listed in § 3.03B, are defined as prolonged episodes lasting at least several hours, requiring intensive treatment such as intravenous drug administration or inhalation therapy in a hospital or emergency room.

D. *Documentation of pulmonary insufficiency.* The results of ventilatory function studies for evaluation under tables I, II, and IV should be expressed in liters or liters per minute. The reported 1 second forced expiratory volume (FEV<sub>1</sub>) should represent the largest of at least three attempts. One satisfactory maximum voluntary ventilation (MVV) is sufficient. The MVV should represent the observed value and should not be calculated from FEV<sub>1</sub>. These studies should be repeated after administration of a nebulized bronchodilator unless the prebronchodilator values are 80 percent or more of predicted normal values or the use of bronchodilators is contraindicated. The values in tables I, II, and IV assume that the ventilatory function studies were not performed in the presence of wheezing or other evidence of bronchospasm or, if these were present at the time of the examination, that the studies were repeated after administration of a bronchodilator. Ventilatory function studies performed in the presence of bronchospasm, without use of bronchodilators, cannot be found to meet the requisite level of severity in tables I, II, and IV.

The appropriately labeled spirometric tracing, showing distance per second on the abscissa and the distance per liter on the or-

dinate, must be incorporated in the file. The FEV<sub>1</sub> must be recorded at a speed of at least 20 mm. per second. Calculation of the FEV<sub>1</sub> from a flow volume loop is not acceptable. The recording device must provide a volume excursion of at least 10 mm. per liter. The MVV should be represented by the tidal excursions measured over a 10-to-15 second interval. Tracings showing only cumulative volume for the MVV are not acceptable. The height of the individual must be recorded. Studies should not be performed during or soon after an acute respiratory illness. A statement should be made as to the individual's ability to understand the directions, and cooperate in performing the test.

### 3.01 CATEGORY OF IMPAIRMENTS, RESPIRATORY

3.02 *Chronic obstructive airway disease (due to any cause).* With spirometric evidence of airway obstruction demonstrated by MVV and FEV<sub>1</sub>, both equal to, or less than, the values specified in Table I, corresponding to the person's height.

TABLE I

| Height (inches) | MVV (MBC) equal to or less than |     |
|-----------------|---------------------------------|-----|
|                 | L./Min.                         | L.  |
| 57 or less..... | 32                              | 1.0 |
| 58 or less..... | 33                              | 1.0 |
| 59 or less..... | 34                              | 1.0 |
| 60 or less..... | 35                              | 1.1 |
| 61 or less..... | 36                              | 1.1 |
| 62 or less..... | 37                              | 1.1 |
| 63 or less..... | 38                              | 1.1 |
| 64 or less..... | 39                              | 1.2 |
| 65 or less..... | 40                              | 1.2 |
| 66 or less..... | 41                              | 1.2 |
| 67 or less..... | 42                              | 1.3 |
| 68 or less..... | 43                              | 1.3 |
| 69 or less..... | 44                              | 1.3 |
| 70 or less..... | 45                              | 1.4 |
| 71 or less..... | 46                              | 1.4 |
| 72 or less..... | 47                              | 1.4 |
| 73 or more..... | 48                              | 1.4 |

### 3.03 Asthma. With:

A. Chronic asthmatic bronchitis. Evaluate under the criteria for chronic obstructive airway disease in § 3.02; or

B. Episodes of severe attacks (see § 3.00C), in spite of prescribed treatment, occurring at least once every 2 months or on an average of at least 6 times a year and prolonged expiration with wheezing or rhonchi between attacks.

3.04 *Diffuse pulmonary fibrosis (sarcoidosis, Hamman-Rich syndrome, idiopathic interstitial fibrosis, and similar diffuse fibroses substantiated by chest X-ray or tissue diagnosis. This category does not include cases of bronchitis or emphysema with incidental scarring or scattered parenchymal fibrosis on X-ray).* With:

A. Total vital capacity equal to, or less than, values specified in Table II below corresponding to the person's height.

TABLE II

| Height (inches) | V.C. equal to or less than (L.) |  |
|-----------------|---------------------------------|--|
| 57 or less..... | 1.2                             |  |
| 58 or less..... | 1.3                             |  |
| 59 or less..... | 1.3                             |  |
| 60 or less..... | 1.4                             |  |

TABLE II—Continued

| Height (inches) | V.C. equal to or less than (L.) |  |
|-----------------|---------------------------------|--|
| 61 or less..... | 1.4                             |  |
| 62 or less..... | 1.5                             |  |
| 63 or less..... | 1.5                             |  |
| 64 or less..... | 1.6                             |  |
| 65 or less..... | 1.6                             |  |
| 66 or less..... | 1.7                             |  |
| 67 or less..... | 1.7                             |  |
| 68 or less..... | 1.8                             |  |
| 69 or less..... | 1.8                             |  |
| 70 or less..... | 1.9                             |  |
| 71 or less..... | 1.9                             |  |
| 72 or less..... | 2.0                             |  |
| 73 or more..... | 2.0                             |  |

or

B. Diffusing capacity of the lungs for carbon monoxide less than 6 ml./mm. Hg./min. (steady-state methods) or less than 9 ml./mm. Hg./min. (single-breath methods) or less than 30 percent of predicted normal. (All methods—actual values and predicted normal values for the method used should be reported); or

C. Arterial oxygen tension (pO<sub>2</sub>) at rest and simultaneously determined arterial carbon dioxide tension (pCO<sub>2</sub>) equal to, or less than, the values specified in Table III.

TABLE III

| Arterial pCO <sub>2</sub> (mm. Hg.) | Arterial pCO <sub>2</sub> equal to or less than (mm. Hg.) |  |
|-------------------------------------|---|--|
| 30 or below.....                    | 65  |  |
| 31 or below.....                    | 64  |  |
| 32 or below.....                    | 63  |  |
| 33 or below.....                    | 62  |  |
| 34 or below.....                    | 61  |  |
| 35 or below.....                    | 60  |  |
| 36 or below.....                    | 59  |  |
| 37 or below.....                    | 58  |  |
| 38 or below.....                    | 57  |  |
| 39 or below.....                    | 56  |  |
| 40 or above.....                    | 55  |  |

3.05 *Other restrictive ventilatory disorders (e.g., kyphoscoliosis, thoracoplasty, pulmonary resection).* With:

Total vital capacity equal to, or less than, values specified in Table IV corresponding to the person's height.

TABLE IV

| Height (inches) | V.C. equal to or less than (L.) |  |
|-----------------|---------------------------------|--|
| 59 or less..... | 1.0                             |  |
| 60 or less..... | 1.1                             |  |
| 61 or less..... | 1.1                             |  |
| 62 or less..... | 1.1                             |  |
| 63 or less..... | 1.1                             |  |
| 64 or less..... | 1.2                             |  |
| 65 or less..... | 1.2                             |  |
| 66 or less..... | 1.2                             |  |
| 67 or less..... | 1.3                             |  |
| 68 or less..... | 1.3                             |  |
| 69 or less..... | 1.3                             |  |
| 70 or less..... | 1.4                             |  |

3.06 *Pneumoconiosis (demonstrated by X-ray evidence).* With:

A. Nodular or focal fibrosis (non-conglomerative). Evaluate under the criteria for

chronic obstructive airway disease in § 3.02; or

B. Interstitial or disseminated fibrosis or conglomerative disease. Evaluate under the criteria for pulmonary fibrosis in § 3.04; or

C. Where A and B are mixed or cannot be differentiated—evaluate under the criteria in § 3.02 or § 3.04.

3.07 *Bronchiectasis (demonstrated by radio-opaque material).* With:

A. Episodes of acute bronchitis or pneumonia or hemoptysis (more than blood streaked sputum) occurring at least once every 2 months; or

B. Impairment of pulmonary function due to extensive disease should be evaluated under the criteria for chronic obstructive airway disease in § 3.02 or where extensive fibrosis is evident on chest film, under the criteria for pulmonary fibrosis in § 3.04.

3.08 *Pulmonary tuberculosis (caused by M. tuberculosis of pathogenic atypical mycobacteria).* Impairment of pulmonary function due to extensive disease should be evaluated under the criteria in § 3.02, § 3.04, or § 3.05.

3.09 *Mycotic infection of lung.* With:

A. Culture of specific organisms from sputa and serial X-ray evidence of increasing or decreasing extent of lesion, both persisting for at least 3 months despite prescribed therapy; or

B. Culture of specific organisms from sputa and current X-ray evidence of a lesion and episodes of hemoptysis occurring at least once every 2 months; or

C. Impairment of pulmonary function due to extensive disease should be evaluated under the criteria in § 3.02, § 3.04, or § 3.05.

3.11 *Cor pulmonale.* Evaluate under the criteria for § 4.02D.

3.12 *Pleurocutaneous fistula.* With persistent purulent drainage.

### 4.00 CARDIOVASCULAR SYSTEM

A. *Severe cardiac impairment* results from one or more of three consequences of heart disease: (1) congestive heart failure; (2) ischemia (with or without necrosis) of heart muscle; (3) conduction disturbances and/or arrhythmias resulting in cardiac syncope.

With disease of arteries and veins, severe impairment may result from disorders of the vasculature in the central nervous system, eyes, kidneys, extremities, and other organs.

The criteria for evaluating impairment resulting from heart disease or diseases of the blood vessels are based on symptoms, physical signs and pertinent laboratory findings.

B. *Congestive heart failure* is considered in the Listing under one category whatever the etiology (i.e., arteriosclerotic, hypertensive, rheumatic, pulmonary, congenital, or other organic heart disease). Congestive heart failure is not considered to have been established for the purpose of § 4.02 unless there is evidence of vascular congestion such as hepatomegaly or peripheral or pulmonary edema which is consistent with the clinical diagnosis. (Radiological description of vascular congestion, unless supported by appropriate clinical evidence, should not be construed as pulmonary edema.) The findings of vascular congestion need not be present at the time of adjudication (except for § 4.02A), but must be causally related to the current episode of severe impairment. The findings other than vascular congestion must be persistent.

Other congestive, ischemic, or restrictive (obstructive) heart disease such as caused

by cardiomyopathy or aortic stenosis may result in severe impairment due to congestive heart failure, rhythm disturbances, or ventricular outflow obstruction in the absence of left ventricular enlargement as described in § 4.02B1. However, the ECG criteria as defined in § 4.02B2 should be fulfilled. Clinical findings such as symptoms of dyspnea, fatigue, rhythm disturbances, etc. should be documented and the diagnosis confirmed by echocardiography or at cardiac catheterization.

C. *Hypertensive vascular disease* does not result in severe impairment unless it causes severe damage to one or more of four end organs: heart, brain, kidneys, or eyes (retinae). The presence of such damage must be established by appropriate abnormal physical signs and laboratory findings as specified in § 4.02 or § 4.04, or for the body system involved.

D. *Ischemic heart disease* may result in severe impairment due to chest pain. Description of the pain must contain the clinical characteristics as discussed under § 4.00E. In addition, the clinical impression of chest pain of cardiac origin must be supported by objective evidence as described under § 4.00 F, G, or H.

E. *Chest pain of cardiac origin* is considered to be pain which is precipitated by effort and promptly relieved by sublingual nitroglycerin or rapid-acting nitrates or rest. The character of the pain is classically described as crushing, squeezing, burning, or oppressive pain located in the chest. Excluded is sharp, sticking or rhythmic pain. Pain occurring on exercise should be described specifically as to usual inciting factors (kind and degree), character, location, radiation, duration, and response to nitroglycerin or rest.

So-called "anginal equivalent" locations manifested by pain in the throat, arms, or hands have the same validity as the chest pain described above. Status anginosus and variant angina of the Prinzmetal type (e.g., rest angina with transitory ST elevation on electrocardiogram) will be considered to have the same validity as classical angina pectoris as described above. Shortness of breath as an isolated finding should not be considered as an anginal equivalent.

Chest pain that appears to be of cardiac origin may be caused by noncoronary conditions. Evidence for the latter should be actively considered in determining whether the chest pain is of cardiac origin. Among the more common conditions which may masquerade as angina are gastrointestinal tract lesions such as biliary tract disease, esophagitis, hiatal hernia, peptic ulcer, and pancreatitis; and musculoskeletal lesions such as costochondritis and cervical arthritis.

F. *Documentation of electrocardiography.* 1. *Electrocardiograms obtained at rest* must be submitted in the original or a legible copy of a 12-lead tracing, appropriately labeled, with the standardization inscribed on the tracing. Alteration in standardization of specific leads (such as to accommodate large QRS amplitudes) must be shown on those leads.

The effect of drugs, electrolyte imbalance, etc., should be considered as possible non-coronary causes of ECG abnormalities, especially those involving the ST segment. If needed and available, pre-drug (especially predigitalis) tracings should be obtained.

The term "ischemic" is used in § 4.04 to describe a pathologic ST deviation. Nonspe-

cific repolarization changes should not be confused with ischemic configurations or a current of injury.

Computer interpretations without the original or legible copies of the ECG tracings are not acceptable.

2. *Electrocardiograms obtained in conjunction with exercise tests* must include the original tracings or a legible copy of appropriate leads obtained before, during, and after exercise. Test control tracings, taken before exercise in the upright position, must be obtained. An ECG after 20 seconds of vigorous hyperventilation should be obtained. A tracing should be taken at approximately 5 METs of exercise (treadmill speed of 1.7 miles per hour at a 10 percent grade as in Stage I of the Bruce protocol) and at the time the ECG becomes abnormal according to the criteria in § 4.04A. The time of onset of these abnormal changes must be noted, and the ECG tracing taken at that time should be obtained. Exercise histograms without the original tracings or legible copies are not acceptable.

Whenever electrocardiographically documented stress test data are submitted, irrespective of the type, the standardization must be inscribed on the tracings and the strips must be labeled appropriately, indicating the times recorded. The degree of exercise achieved, the blood pressure levels during the test, and any reason for terminating the test should be included in the report.

### G. Exercise testing.

1. *When to purchase.* Since the results of a treadmill exercise test are the primary basis for adjudicating claims under § 4.04, they should be included in the file whenever they have been performed. There are also circumstances under which it will be appropriate to purchase exercise tests. Generally, these are limited to claims involving chest pain which is considered to be of cardiac origin but without corroborating ECG or other evidence of ischemic heart disease.

Exercise tests should not be purchased in the absence of alleged chest pain of cardiac origin. Even in the presence of an allegation of chest pain of cardiac origin, an exercise test should not be purchased where full development short of such a purchase reveals that the impairment meets or equals any Listing or the claim can be adjudicated on some other basis.

2. *Methodology.* When an exercise test is purchased, it should be a treadmill type using a continuous progressive multistage regimen (as typified by the Bruce protocol). The targeted heart rate should be not less than 85 percent of the maximum predicted heart rate unless it becomes hazardous to exercise to that heart rate or becomes unnecessary because the ECG meets the criteria in § 4.04A at a lower heart rate. Beyond these requirements, it is prudent to accept the methodology of a qualified, competent test facility. In any case, a precise description of the protocol that was followed must be provided.

3. *Limitations of exercise testing.* Exercise testing should not be purchased for individuals who have the following: unstable progressive angina pectoris; congestive heart failure; uncontrolled serious arrhythmias (including uncontrolled auricular fibrillation); second or third-degree heart block; Wolff-Parkinson-White syndrome; uncontrolled severe hypertension; severe aortic stenosis; severe pulmonary hypertension; dissecting or ventricular aneurysms; acute



illness; limiting neurological or musculoskeletal impairments, or for individuals on medication where performance of stress testing may constitute a significant risk.

The presence of noncoronary or nonschemic factors which may influence the ECG response to exercise include hypokalemia, hyperventilation, vasoregulatory asthenia, significant anemia, left bundle branch block, and other heart disease, particularly valvular.

Digitalis may cause ST segment abnormalities at rest, during, and after exercise. Digitalis-related ST depression, present at rest, may become accentuated and result in false interpretations of the ECG taken during or after exercise test.

4. *Evaluation.* Where the evidence includes the results of a treadmill exercise test, this evidence is the primary basis for adjudicating claims under § 4.04. For purposes of the social security disability program, treadmill exercise testing will be evaluated on the basis of the level at which the test becomes positive in accordance with the ECG criteria in § 4.04A. However, the significance of findings of a treadmill exercise test must be considered in light of the clinical course of the disease which may have occurred subsequent to performance of the exercise test. Section 4.04B is not applicable if there is documentation of an acceptable treadmill exercise test. If there is no evidence of a treadmill exercise test or if the test is not acceptable, the criteria in § 4.04B should be used. The level of exercise is considered in terms of multiples of METs (metabolic equivalent units). One MET is the basal O<sub>2</sub> requirement of the body in an inactive state, sitting quietly. It is considered by most authorities to be approximately 3.5 ml O<sub>2</sub>/kg/min.

H. *Angiographic evidence.*  
1. *Coronary arteriography.* This procedure is not to be purchased by the Social Security Administration. Should the results of such testing be available, the report should be considered as to the quality and kind of data provided and its applicability to the requirements of the Listing of Impairments. A copy of the report of the catheterization and ancillary studies should be obtained. The report should provide information as to the technique used, the method of assessing coronary lumen diameter, and the nature and location of any obstructive lesions.

It is helpful to know the method used, the number of projections, and whether selective engagement of each coronary vessel was satisfactorily accomplished. It is also important to know whether the injected vessel was entirely and uniformly opacified, thus avoiding the artifactual appearance of narrowing or an obstruction.

Coronary artery spasm induced by intracoronary catheterization is not to be considered as evidence of ischemic heart disease. Estimation of the functional significance of an obstructive lesion may also be aided by description of how well the distal part of the vessel is visualized. Some patients with severe proximal coronary atherosclerosis have well-developed large collateral blood supply to the distal vessels without evidence of myocardial damage or ischemia, even under conditions of severe stress.

2. *Left ventriculography.* The report should describe the local contractility of the myocardium as may be evident from areas of hypokinesia, dyskinesia, or akinesia; and the overall contractility of the myocardium as measured by the ejection fraction.

3. *Proximal coronary arteries* (see § 4.04B7) will be considered as the:

a. Right coronary artery proximal to the acute marginal branch;

b. Left anterior descending coronary artery proximal to the first septal perforator; and

c. Left circumflex coronary artery proximal to the first obtuse marginal branch.

I. *Results of other tests.* Information from adequate reports of other tests such as radionuclide studies or echocardiography should be considered where that information is comparable to the requirements in the Listing.

J. *Major surgical procedures.* The amount of function restored and the time required to effect improvement after heart or vascular surgery vary with the nature and extent of the disorder, the type of surgery, and other individual factors. If the criteria described for heart or vascular disease are met, proposed heart or vascular surgery (coronary artery bypass procedure, valve replacement, major arterial grafts, etc.) does not militate against a finding of disability with subsequent assessment of severity postoperatively.

The usual time after surgery for adequate assessment of the results of surgery is considered to be approximately 3 months. Assessment of the severity of the impairment following surgery requires adequate documentation of the pertinent evaluations and tests performed following surgery, such as an interval history and physical examination, with emphasis on those signs and symptoms which might have changed postoperatively, as well as X-rays and electrocardiograms. Where treadmill exercise test or angiography have been performed following the surgical procedure, the results of these tests should be obtained.

Documentation of the preoperative evaluation and a description of the surgical procedure are also required. The evidence should be documented from hospital records (catheterization reports, coronary arteriographic reports, etc.) and the operative note.

Implantation of a cardiac pacemaker is not considered a major surgical procedure for purposes of this section.

#### 4.01 CATEGORY OF IMPAIRMENTS, CARDIOVASCULAR SYSTEM

4.02 *Congestive heart failure* (manifested by evidence of vascular congestion such as hepatomegaly, peripheral or pulmonary edema). With:

A. Persistent congestive heart failure on clinical examination despite prescribed therapy; or

B. Persistent left ventricular enlargement and hypertrophy documented by both:

1. Extension of the cardiac shadow (left ventricle) to the vertebral column on a left lateral chest roentgenogram; and

2. ECG showing QRS duration less than 0.12 second with S<sub>1</sub> plus R<sub>1</sub> (or R<sub>1</sub>) of 35 mm. or greater and ST segment depressed more than 0.5 mm. and low, diphasic or inverted T waves in leads with tall R waves; or

C. Persistent "mitral" type heart involvement documented by left atrial enlargement shown by double shadow on PA chest roentgenogram (or characteristic distortion of barium-filled esophagus) and either:

1. ECG showing QRS duration less than 0.12 second with S<sub>1</sub> plus R<sub>1</sub> (or R<sub>1</sub>) of 35 mm. or greater and ST segment depressed

more than 0.5 mm. and low, diphasic or inverted T waves in leads with tall R waves; or

2. ECG evidence of right ventricular hypertrophy with R wave of 5.0 mm. or greater in lead V<sub>1</sub> and progressive decrease in R/S amplitude from lead V<sub>1</sub> to V<sub>6</sub> or V<sub>6</sub>; or

D. Cor pulmonale (non-acute) documented by both:

1. Right ventricular enlargement (or prominence of the right out-flow tract) on chest roentgenogram or fluoroscopy; and

2. ECG evidence of right ventricular hypertrophy with R wave of 5.0 mm. or greater in lead V<sub>1</sub> and progressive decrease in R/S amplitude from lead V<sub>1</sub> to V<sub>6</sub> or V<sub>6</sub>.

4.03 *Hypertensive vascular disease.* Evaluate under § 4.02 or § 4.04 or under the criteria for the affected body system.

4.04 *Ischemic heart disease with chest pain of cardiac origin as described in § 4.00E.* With:

A. Treadmill exercise test (see § 4.00F and G) demonstrating one of the following at an exercise level of 5 METs or less:

1. Horizontal or down-sloping ischemic depression of the ST segment to 1.0 mm. or greater, clearly discernible in at least two consecutive complexes which are on a level baseline in any lead; or

2. Premature ventricular systoles which are multifocal or bidirectional or are sequentially inscribed (3 or more); or

3. ST segment elevation to 3 mm. or greater; or

4. Development of second or third degree heart block; or

B. In the absence of a report of an acceptable treadmill exercise test (see § 4.00G), one of the following:

1. Transmural myocardial infarction exhibiting a QS pattern or a Q wave with amplitude at least 1/3rd of R wave and with a duration of 0.04 second or more. (If these are present in leads III and aVF only, the requisite Q wave findings must be shown, by labelled tracing, to persist on deep inspiration); or

2. Resting ECG findings showing ischemic-type (see § 4.00F1) depression of ST segment to more than 0.5 mm. in either (a) leads I and aVL and V<sub>1</sub> or (b) leads II and III and aVF and V<sub>1</sub> through V<sub>6</sub>; or

3. Resting ECG findings showing an ischemic configuration or current of injury (see § 4.00D) with ST segment elevation to 2 mm. or more in either (a) leads I and aVL and V<sub>1</sub> or (b) leads II and III and aVF or (c) leads V<sub>1</sub> through V<sub>6</sub>; or

4. Resting ECG findings showing symmetrical inversion of T waves to 5.0 mm. or more in any two leads except leads III or aVR or V<sub>1</sub> or V<sub>2</sub>; or

5. Inversion of T wave to 1.0 mm. or more in any of leads I, II, aVL, V<sub>1</sub> to V<sub>6</sub> and R wave of 5.0 mm. or more in lead aVL and R wave greater than S wave in lead aVF; or

6. "Double" Master Two-Step test demonstrating one of the following:

a. Ischemic depression of ST segment to more than 0.5 mm. lasting for at least 0.08 second beyond the J junction and clearly discernible in at least two consecutive complexes which are on a level baseline in any lead; or

b. Development of a second or third degree heart block; or

7. Angiographic evidence (see § 4.00H) (obtained independent of social security disability evaluation) showing one of the following:

a. 50 percent or more narrowing of the left main coronary artery; or

b. 70 percent or more narrowing of a proximal coronary artery (see § 4.00H3) (excluding the left main coronary artery); or

c. 50 percent or more narrowing involving a long (greater than 1 cm.) segment of a proximal coronary artery or multiple proximal coronary arteries; or

C. Resting ECG findings showing left bundle branch block as evidenced by QRS duration of 0.12 second or more in leads I, II, or III and R peak duration of 0.06 second or more in leads I, aVL, V<sub>1</sub>, or V<sub>6</sub>, unless there is a coronary angiogram of record which is negative (see criteria in § 4.04B7); or

D. Left ventricular ejection fraction of 30 percent or less measured at cardiac catheterization or by echocardiography.

4.05 *Recurrent arrhythmias* (not due to digitalis toxicity) resulting in uncontrolled repeated episodes of cardiac syncope and documented by resting or ambulatory (Holter) electrocardiography.

4.06 *Myocarditis, rheumatic or syphilitic heart disease.* Evaluate under the criteria in § 4.02, § 4.04, § 4.05, or § 11.04.

4.11 *Aneurysm of aorta or major branches* (demonstrated by roentgenographic evidence). With:

A. Acute or chronic dissection not controlled by prescribed medical or surgical treatment; or

B. Congestive heart failure as described under the criteria in § 4.02; or

C. Renal failure as described under the criteria in § 6.02; or

D. Repeated syncope episodes.

4.12 *Chronic venous insufficiency* of the lower extremity with incompetency or obstruction of the deep venous return, associated with superficial varicosities, extensive brawny edema, stasis dermatitis, and recurrent or persistent ulceration which has not healed following at least 3 months of prescribed medical or surgical therapy.

4.13 *Arteriosclerosis obliterans or thrombo-angiitis.* With:

A. Intermittent claudication with failure to visualize (on arteriogram obtained independent of social security disability evaluation) the common femoral or deep femoral artery in one extremity; or

B. Intermittent claudication and absence of peripheral arterial pulsations in the femoral, popliteal, dorsalis pedis, and posterior tibial arteries by Doppler or plethysmography, in one extremity; or

C. Amputation at or above the tarsal region due to peripheral vascular disease.

#### 5.00 DIGESTIVE SYSTEM

A. *Disorders of the digestive system* which result in severe impairment usually do so because of interference with nutrition, multiple recurrent inflammatory lesions, or complications of disease, such as fistulae, abscesses, or recurrent obstruction. Such complications usually respond to treatment. These complications must be shown to persist on repeated examinations despite therapy for a reasonable presumption to be made that severe impairment will last for a continuous period of at least 12 months.

B. *Malnutrition or weight loss from gastrointestinal disorders.* When the primary disorder of the digestive tract has been established (e.g., enterocolitis, chronic pancreatitis, postgastrointestinal resection, or esophageal stricture, stenosis, or obstruction), the resultant interference with nutrition will be considered under the criteria in § 5.08. This will apply whether the weight

loss is due to primary or secondary disorders, of malabsorption, malassimilation, or obstruction. However, weight loss not due to diseases of the digestive tract, but associated with psychiatric or primary endocrine or other disorders, should be evaluated under the appropriate criteria for the underlying disorder.

C. *Surgical diversion of the intestinal tract.* Including colostomy or ileostomy, are not listed since they do not represent impairments which preclude all work activity if the individual is able to maintain adequate nutrition and function of the stomach. Dumping syndrome which may follow gastric resection rarely represents a severe impairment which would continue for 12 months. Peptic ulcer disease with recurrent ulceration after definitive surgery ordinarily responds to treatment. A recurrent ulcer after definitive surgery must be demonstrated on repeated upper gastrointestinal roentgenograms or gastroscopic examinations despite therapy to be considered a severe impairment which will last for at least 12 months. Definitive surgical procedures are those designed to control the ulcer disease process (i.e., vagotomy and pyloroplasty, subtotal gastrectomy, etc.). Simple closure of a perforated ulcer does not constitute definitive surgical therapy for peptic ulcer disease.

#### 5.01 CATEGORY OF IMPAIRMENTS, DIGESTIVE SYSTEM

5.02 *Recurrent upper gastrointestinal hemorrhage from undetermined cause.* With anemia manifested by hematocrit of 30 percent or less on repeated examinations.

5.03 *Stricture, stenosis, or obstruction of the esophagus* (demonstrated by X-ray or endoscopy). With weight loss as described under § 5.08.

5.04 *Peptic ulcer disease* (demonstrated by X-ray or endoscopy). With:

A. Recurrent ulceration after definitive surgery persistent despite therapy; or

B. Inoperable fistula formation; or

C. Recurrent obstruction demonstrated by X-ray or endoscopy; or

D. Weight loss as described under § 5.08.

5.05 *Chronic liver disease* (e.g., portal, postnecrotic, or biliary cirrhosis; chronic active hepatitis; Wilson's disease). With:

A. Esophageal varices (demonstrated by X-ray or endoscopy) with a documented history of massive hemorrhage attributable to these varices; or

B. Performance of a shunt operation for esophageal varices; or

C. Serum bilirubin of 2.5 mg. per deciliter (100 ml.) or greater persisting on repeated examination for at least 5 months; or

D. Hepatic encephalopathy. Evaluate under the criteria in § 12.02; or

E. Confirmation of chronic liver disease by liver biopsy (obtained independent of social security disability evaluation) and one of the following:

1. Ascites not attributable to other causes, recurrent or persisting for at least 3 months, demonstrated by abdominal paracentesis or associated with persistent hyponatremia of 3.0 gm. per deciliter (100 ml.) or less.

2. Serum bilirubin of 2.5 mg. per deciliter (100 ml.) or greater on repeated examinations.

3. Hepatic cell necrosis or inflammation, persisting for at least 3 months, documented by repeated abnormalities of prothrombin

time and enzymes indicative of hepatic dysfunction.

5.06 *Chronic ulcerative or granulomatous colitis* (demonstrated by endoscopy, barium enema, biopsy, or operative findings). With:

A. Recurrent bloody stools documented on repeated examination and anemia manifested by hematocrit of 30 percent or less on repeated examinations; or

B. Persistent or recurrent systemic manifestations, such as arthritis, iritis, fever, or liver dysfunction, not attributable to other causes; or

C. Intermittent obstruction due to intracutaneous abscess, fistula formation, or stenosis; or

D. Recurrences of findings of A, B, or C above after total colectomy; or

E. Weight loss as described under § 5.08.

5.07 *Regional enteritis* (demonstrated by operative findings, barium studies, biopsy, or endoscopy). With:

A. Persistent or recurrent intestinal obstruction evidenced by abdominal pain, distention, nausea, and vomiting and accompanied by stenotic areas of small bowel with proximal intestinal dilation; or

B. Persistent or recurrent systemic manifestations such as arthritis, iritis, fever, or liver dysfunction, not attributable to other causes; or

C. Intermittent obstruction due to intracutaneous abscess or fistula formation; or

D. Weight loss as described under § 5.08.

5.08 *Weight loss* (due to any gastrointestinal disorder). With:

A. Weight equal to or less than the values specified in table I or II; or

B. Weight equal to or less than the values specified in table III or IV and one of the following abnormal findings on repeated examinations:

1. Serum albumin of 3.0 gm. per deciliter (100 ml.) or less; or

2. Hematocrit of 30 percent or less; or

3. Serum calcium of 8.0 mg. per deciliter (100 ml.) (4.0 mEq./L.) or less; or

4. Uncontrolled diabetes mellitus due to pancreatic dysfunction with repeated hyperglycemia, hypoglycemia, or ketosis; or

5. Fat in stool of 7 gm. or greater per 24-hour specimen; or

6. Nitrogen in stool of 3 gm. or greater per 24-hour specimen; or

7. Persistent or recurrent ascites or edema not attributable to other causes.

Tables of weight reflecting malnutrition scaled according to height and sex—To be used only in connection with § 5.08.

TABLE I.—Men

| Height (inches) <sup>1</sup> | Weight (pounds) |
|------------------------------|-----------------|
| 61.....                      | 90              |
| 62.....                      | 92              |
| 63.....                      | 94              |
| 64.....                      | 97              |
| 65.....                      | 99              |
| 66.....                      | 102             |
| 67.....                      | 106             |
| 68.....                      | 109             |
| 69.....                      | 112             |
| 70.....                      | 115             |
| 71.....                      | 118             |
| 72.....                      | 122             |
| 73.....                      | 125             |
| 74.....                      | 128             |
| 75.....                      | 131             |
| 76.....                      | 134             |



TABLE II.—Women

| Height (inches) <sup>1</sup> | Weight (pounds) |
|------------------------------|-----------------|
| 58.....                      | 77              |
| 59.....                      | 79              |
| 60.....                      | 82              |
| 61.....                      | 84              |
| 62.....                      | 86              |
| 63.....                      | 89              |
| 64.....                      | 91              |
| 65.....                      | 94              |
| 66.....                      | 98              |
| 67.....                      | 101             |
| 68.....                      | 104             |
| 69.....                      | 107             |
| 70.....                      | 110             |
| 71.....                      | 114             |
| 72.....                      | 117             |
| 73.....                      | 120             |

TABLE III.—Men

| Height (inches) <sup>1</sup> | Weight (pounds) |
|------------------------------|-----------------|
| 61.....                      | 95              |
| 62.....                      | 98              |
| 63.....                      | 100             |
| 64.....                      | 103             |
| 65.....                      | 106             |
| 66.....                      | 109             |
| 67.....                      | 112             |
| 68.....                      | 116             |
| 69.....                      | 119             |
| 70.....                      | 122             |
| 71.....                      | 126             |
| 72.....                      | 129             |
| 73.....                      | 133             |
| 74.....                      | 136             |
| 75.....                      | 139             |
| 76.....                      | 143             |

TABLE IV.—Women

| Height (inches) <sup>1</sup> | Weight (pounds) |
|------------------------------|-----------------|
| 58.....                      | 62              |
| 59.....                      | 64              |
| 60.....                      | 67              |
| 61.....                      | 69              |
| 62.....                      | 72              |
| 63.....                      | 74              |
| 64.....                      | 77              |
| 65.....                      | 80              |
| 66.....                      | 84              |
| 67.....                      | 87              |
| 68.....                      | 91              |
| 69.....                      | 94              |
| 70.....                      | 97              |
| 71.....                      | 101             |
| 72.....                      | 104             |
| 73.....                      | 107             |
| 74.....                      | 111             |
| 75.....                      | 114             |
| 76.....                      | 117             |
| 77.....                      | 121             |
| 78.....                      | 124             |
| 79.....                      | 128             |

<sup>1</sup> Height measured without shoes.

## 6.00 GENITO-URINARY SYSTEM

A. Determination of the presence of chronic renal disease will be based upon:

- (1) a history, physical examination, and laboratory evidence of renal disease, and
- (2) indications of its progressive nature or laboratory evidence of deterioration of renal function.

B. *Nephrotic Syndrome*. The medical evidence establishing the clinical diagnosis must include the description of extent of tissue edema, including pretibial, periorbital, or presacral edema. The presence of ascites, pleural effusion, pericardial effusion, and hydroarthrosis should be described if

present. Results of pertinent laboratory tests must be provided. If a renal biopsy has been performed the evidence should include a copy of the report of microscopic examination of the specimen. Complications such as severe orthostatic hypotension, recurrent infections or venous thromboses should be evaluated on the basis of resultant impairment.

C. *Hemodialysis, peritoneal dialysis, and kidney transplantation*. When an individual is undergoing periodic dialysis because of chronic renal disease, severity of impairment is reflected by the renal function prior to the institution of dialysis.

The amount of function restored and the time required to effect improvement in an individual treated by renal transplant depend upon various factors, including adequacy of post-transplant renal function, incidence and severity of renal infection, occurrence of rejection crisis, the presence of systemic complications (anemia, neuropathy, etc.), and side effects of corticosteroids or immuno-suppressive agents. A convalescent period of at least 12 months is required before it can be reasonably determined whether the individual has reached a point of stable medical improvement.

D. Evaluate associated disorders and complications according to the appropriate body system Listing.

## 6.01 CATEGORY OF IMPAIRMENTS, GENITO-URINARY SYSTEM

6.02 Impairment of renal function, due to any chronic renal disease expected to last 12 months (e.g., hypertensive vascular disease, chronic nephritis, nephrolithiasis, polycystic disease, bilateral hydronephrosis, etc.). With:

A. Chronic hemodialysis or peritoneal dialysis necessitated by irreversible renal failure; or

B. Kidney transplant. Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see § 6.00C); or

C. Persistent elevation of serum creatinine to 4 mg. per deciliter (100 ml.) or greater or reduction of creatinine clearance to 20 ml. per minute (29 liters/24 hours) or less, over at least 3 months, with one of the following:

1. Renal osteodystrophy manifested by severe bone pain and appropriate radiographic abnormalities (e.g., osteitis fibrosa, severe osteoporosis, pathologic fractures); or

2. A clinical episode of pericarditis; or

3. Persistent motor or sensory neuropathy; or

4. Intractable pruritus; or

5. Persistent fluid overload syndrome resulting in diastolic hypertension (110 mm. or above) or signs of vascular congestion; or

6. Persistent anorexia with recent weight loss and current weight meeting the values in § 5.08, Table III or IV; or

7. Persistent hematocrits of 30 percent or less.

6.06 Nephrotic syndrome, with severe anasarca, persistent for at least 3 months despite prescribed therapy. With:

A. Serum albumin of 3.0 gm. per deciliter (100 ml.) or less and proteinuria of 3.5 gm. per 24 hours or greater or

B. Proteinuria of 10.0 gm. per 24 hours or greater.

## 7.00 HEMIC AND LYMPHATIC SYSTEM

A. Impairment caused by anemia should be evaluated according to the ability of the individual to adjust to the reduced oxygen-

carrying capacity of the blood. A gradual reduction in red cell mass, even to very low values, is often well tolerated in individuals with a healthy cardiovascular system.

B. *Chronicity is indicated* by persistence of the condition for at least 3 months. The laboratory findings cited must reflect the values reported on more than one examination over that 3-month period.

C. *Sickle cell disease* refers to a chronic hemolytic anemia associated with sickle cell hemoglobin, either homozygous or in combination with thalassemia or with another abnormal hemoglobin (such as C or F).

Appropriate hematologic evidence for sickle cell disease, such as hemoglobin electrophoresis, must be included. Vaso-occlusive or aplastic episodes should be documented by description of severity, frequency, and duration.

Major visceral episodes include meningitis, osteomyelitis, pulmonary infections or infarctions, cerebrovascular accidents, congestive heart failure, genito-urinary involvement, etc.

D. *Coagulation defects*. Chronic inherited coagulation disorders must be documented by appropriate laboratory evidence. Prophylactic therapy such as with anti-hemophilic globulin (AHG) concentrate does not in itself imply severity.

E. *Acute leukemia*. Initial diagnosis of acute leukemia must be based upon definitive bone marrow pathologic evidence. Recurrent disease may be documented by peripheral blood, bone marrow, or cerebrospinal fluid examination. The pathology report must be included.

Section 7.11 contains the designated duration of disability implicit in the finding of a listed impairment. Following the designated time period, a documented diagnosis itself is no longer sufficient to establish a severe impairment. The severity of any remaining impairment must be evaluated on the basis of the medical evidence.

## 7.01 CATEGORY OF IMPAIRMENTS, HEMIC AND LYMPHATIC SYSTEM

7.02 Chronic anemia (hematocrit persisting at 30 percent or less due to any cause).

A. Evaluate the resulting impairment under criteria for the affected body system; or

B. Requiring one or more blood transfusions on an average of at least once every 2 months.

7.05 Sickle cell disease, or one of its variants. With:

A. Documented painful (thrombotic) crises occurring at least three times during the 5 months prior to, or

B. Requiring extended hospitalization (beyond emergency care) at least three times during the 12 months adjudication; or

C. Evaluate the resulting impairment under the criteria for the affected body system.

7.06 Chronic thrombocytopenia (due to any cause). With platelet counts repeatedly below 40,000/cubic millimeter. With:

A. At least one spontaneous hemorrhage, requiring transfusion, within 5 months prior to adjudication; or

B. Intracranial bleeding within 12 months prior to adjudication.

7.07 Hereditary telangiectasia. With hemorrhage requiring transfusion at least three times during the 5 months prior to adjudication.

7.08 Coagulation defects (hemophilia or a similar disorder). With spontaneous hemor-

rhage requiring transfusion at least three times during the 5 months prior to adjudication.

7.09 Polycythemia vera (with erythrocytosis, splenomegaly, and leukocytosis or thrombocytosis). Evaluate the resulting impairment under the criteria for the affected body system.

7.10 Myelofibrosis (myeloproliferative syndrome). With:

A. Chronic anemia. Evaluate according to the criteria of § 7.02; or

B. Documented recurrent systemic bacterial infections, occurring at least 3 times during the 5 months prior to adjudication; or

C. Intractable bone pain with radiologic evidence of osteosclerosis.

7.11 Acute leukemia. Consider under a disability for 24 years from the time of initial diagnosis.

7.12 Chronic leukemia. Evaluate according to the criteria of § 7.02, § 7.06, § 7.10B, or § 13.06A.

7.13 Lymphomas. Evaluate under the criteria in § 13.06A.

7.14 Macroglobulinemia or heavy chain disease, confirmed by serum or urine protein electrophoresis or immunoelectrophoresis. Evaluate impairment under criteria for affected body system or under § 7.02, § 7.06, or § 7.08.

7.15 Chronic granulocytopenia (due to any cause). With both A and B:

A. Absolute neutrophil counts repeatedly below 1,000 cells/cubic millimeter; and

B. Documented recurrent systemic bacterial infections occurring at least 3 times during the 5 months prior to adjudication.

7.16 Myeloma (confirmed by appropriate serum or urine protein electrophoresis and bone marrow findings). With:

A. Radiologic evidence of bony involvement with intractable bone pain or pathologic fracture; or

B. Evidence of renal impairment as described in § 6.02; or

C. Hypercalcemia with serum calcium levels persistently greater than 11 mg. per deciliter (100 ml.) for at least one month despite prescribed therapy; or

D. Plasma cells (100 or more cells/cubic millimeter) in the peripheral blood.

## 8.00 SKIN

A. Skin lesions may result in severe, long-lasting impairment if they involve extensive body areas or critical areas such as the hands or feet and become resistant to treatment. These lesions must be shown to have persisted for a sufficient period of time despite therapy for a reasonable presumption to be made that severe impairment will last for a continuous period of at least 12 months. The treatment for some of the skin diseases listed in this section may require the use of high dosage of drugs with possible serious side effects; these side effects should be considered in the overall evaluation of impairment.

B. When skin lesions are associated with systemic disease and where that is the predominant problem, evaluation should occur according to the criteria in the appropriate section. Disseminated (systemic) lupus erythematosus and scleroderma usually involve more than one body system and should be evaluated under § 10.04 and § 10.05. Neoplastic skin lesions should be evaluated under § 13.00ff. When skin lesions (including burns) are associated with contractures or limitation of joint motion, that

impairment should be evaluated under § 1.00ff.

## 8.01 CATEGORY OF IMPAIRMENTS, SKIN

8.02 Exfoliative dermatitis, ichthyosis, ichthyosiform erythroderma. With extensive lesions not responding to prescribed treatment.

8.03 Pemphigus, erythema multiforme bullosum, bullous pemphigoid, dermatitis herpetiformis. With extensive lesions not responding to prescribed treatment.

8.04 Deep mycotic infections. With extensive fungating, ulcerating lesions not responding to prescribed treatment.

8.05 Psoriasis, atopic dermatitis, dysidrosis. With extensive lesions, including involvement of the hands or feet which impose a severe limitation of function and which are not responding to prescribed treatment.

8.06 Hydradenitis suppurative, acne conglobata. With extensive lesions involving the axillae or perineum not responding to prescribed medical treatment and not amenable to surgical treatment.

## 9.00 ENDOCRINE SYSTEM

Cause of impairment. Impairment is caused by overproduction or underproduction of hormones, resulting in structural or functional changes in the body. Where involvement of other organ systems has occurred as a result of a primary endocrine disorder, these impairments should be evaluated according to the criteria under the appropriate sections.

## 9.01 CATEGORY OF IMPAIRMENTS, ENDOCRINE

9.02 Thyroid Disorders. With:

A. Progressive exophthalmos as measured by exophthalmometry; or

B. Evaluate the resulting impairment under the criteria for the affected body system.

9.03 Hyperparathyroidism. With:

A. Generalized decalcification of bone on X-ray study and elevation of plasma calcium to 11 mg. per deciliter (100 ml.) or greater; or

B. Evaluate the resulting impairment according to the Listing under the affected body system.

9.04 Hypoparathyroidism. With:

A. Severe recurrent tetany; or

B. Recurrent generalized convulsions; or

C. Evaluate lenticular cataracts under the criteria in § 2.00ff.

9.05 Neurohypophyseal insufficiency (diabetes insipidus). With urine specific gravity of 1.005 or below, persistent for at least 3 months and recurrent dehydration.

9.06 Hyperfunction of the adrenal cortex. Evaluate the resulting impairment under the criteria for the affected body system.

9.08 Diabetes mellitus. With:

A. Neuropathy demonstrated by significant and persistent disorganization of motor function in two extremities resulting in sustained disturbance of gross and dexterous movements, or gait, and station (see § 11.00C); or

B. Acidosis occurring at least on the average of once every 2 months documented by appropriate blood chemical tests (pH or pCO<sub>2</sub> or bicarbonate levels); or

C. Amputation at, or above, the tarsal region due to diabetic necrosis or peripheral vascular disease; or

D. Retinitis proliferans; evaluate the visual impairment under the criteria in § 2.02, § 2.03, or § 2.04.

## 10.00 MULTIPLE BODY SYSTEMS

A. The impairments included in this section usually involve more than a single body system.

B. Long-term obesity will usually be associated with disorders in the musculoskeletal, cardiovascular, peripheral vascular, and pulmonary systems and the advent of such disorders is the major cause of impairment. Extreme obesity results in restrictions imposed by body weight and the additional restrictions imposed by disturbances in other body systems.

## 10.01 CATEGORY OF IMPAIRMENTS, MULTIPLE BODY SYSTEMS

10.02 Hansen's disease (leprosy). As active disease or consider as "under a disability" while hospitalized.

10.03 Polyarteritis or periarteritis nodosa (established by biopsy). With signs of generalized arterial involvement.

10.04 Disseminated lupus erythematosus (established by a positive LE preparation or biopsy or positive ANA test). With frequent exacerbations demonstrating involvement of renal or cardiac or pulmonary or gastrointestinal or central nervous systems.

10.05 Scleroderma or progressive systemic sclerosis (the diffuse or generalized form). With:

A. Advanced limitation of use of hands due to sclerodactylia or limitation in other joints; or

B. Significant visceral manifestations of digestive, cardiac, or pulmonary impairment.

10.10 Obesity. Weight equal to or greater than the values specified in table I for males, table II for females (100 percent above desired level) and one of the following:

A. History of pain and limitation of motion in any weight bearing joint or spine (on physical examination) associated with X-ray evidence of arthritis in a weight bearing joint or spine; or

B. Hypertension with diastolic blood pressure persistently in excess of 100 mm Hg measured with appropriate size cuff; or

C. History of congestive heart failure manifested by past evidence of vascular congestion such as hepatomegaly, peripheral or pulmonary edema; or

D. Chronic venous insufficiency with superficial varicosities in a lower extremity with pain on weight bearing and persistent edema; or

E. Respiratory disease with total forced vital capacity equal to or less than 2.0 L. or a level of hypoxemia at rest equal to or less than the values of the following table:

| Arterial pCO <sub>2</sub> (mm Hg) | Arterial pO <sub>2</sub> equal to or less than (mm Hg) |
|-----------------------------------|--|
| 30 or below.....                  | 65   |
| 31 or below.....                  | 64   |
| 32 or below.....                  | 63   |
| 33 or below.....                  | 62   |
| 34 or below.....                  | 61   |
| 35 or below.....                  | 60   |
| 36 or below.....                  | 59   |
| 37 or below.....                  | 58   |
| 38 or below.....                  | 57   |
| 39 or below.....                  | 56   |
| 40 or below.....                  | 55   |



TABLE I.—Men

| Height (inches) | Weight (pounds) |
|-----------------|-----------------|
| 60              | 246             |
| 61              | 252             |
| 62              | 258             |
| 63              | 264             |
| 64              | 270             |
| 65              | 276             |
| 66              | 284             |
| 67              | 294             |
| 68              | 302             |
| 69              | 310             |
| 70              | 318             |
| 71              | 328             |
| 72              | 336             |
| 73              | 346             |
| 74              | 356             |
| 75              | 364             |
| 76              | 374             |

TABLE II.—Women

| Height (inches) | Weight (pounds) |
|-----------------|-----------------|
| 56              | 208             |
| 57              | 212             |
| 58              | 218             |
| 59              | 224             |
| 60              | 230             |
| 61              | 236             |
| 62              | 242             |
| 63              | 250             |
| 64              | 258             |
| 65              | 266             |
| 66              | 274             |
| 67              | 282             |
| 68              | 290             |
| 69              | 298             |
| 70              | 306             |
| 71              | 314             |
| 72              | 322             |

## 11.00 NEUROLOGICAL

A. *Convulsive disorders.* In convulsive disorders, regardless of etiology, severity will be determined according to type, frequency, duration, and sequelae of seizures. At least one detailed description of a typical seizure is required. Such description includes the presence or absence of aura, tongue bites, sphincter control, injuries associated with the attack, and postictal phenomena. The reporting physician should indicate the extent to which description of seizures reflects his own observations and the source of ancillary information. Testimony of persons other than the claimant is essential for description of type and frequency of seizures if professional observation is not available.

Documentation of epilepsy should include at least one electroencephalogram (EEG).

Under § 11.02 and § 11.03, a severe impairment is considered present only if it persists despite the fact that the individual is following prescribed anticonvulsive treatment. Adherence to prescribed anticonvulsant therapy can ordinarily be determined from objective clinical findings in the report of the physician currently providing treatment for epilepsy. Determination of blood levels of phenytoin sodium or other anticonvulsive drugs may serve to indicate whether the prescribed medication is being taken. Should serum drug levels appear therapeutically inadequate, consideration should be given as to whether this is caused by individual idiosyncrasy in absorption or metabo-

lism of the drug. Where adequate seizure control is obtained only with unusually large doses, the possibility of impairment resulting from the side effects of this medication must also be assessed. Where documentation shows that use of alcohol or drugs affects adherence to prescribed therapy or may play a part in the precipitation of seizures, this must also be considered in the overall assessment of impairment severity.

B. *Brain tumors.* The diagnosis of malignant brain tumor should be established under the criteria described in § 13.00B for neoplastic disease.

In histologically malignant tumors, the pathological diagnosis alone will be the decisive criterion for severity and expected duration (§ 11.05A). In cases of benign tumors (§ 11.05B) the severity and duration of the impairment will be determined on the basis of the symptoms, signs, and pertinent laboratory findings.

C. *Persistent disorganization of motor function* in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands, and arms.

D. *In conditions which are episodic in character*, such as multiple sclerosis or myasthenia gravis, consideration should be given to frequency and duration of exacerbations, length of remissions, and permanent residuals.

## 11.01 CATEGORY OF IMPAIRMENTS, NEUROLOGICAL

11.02 *Epilepsy—major motor seizures*, (grand mal or psychomotor), documented by EEG and by detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once a month, in spite of at least 3 months of prescribed treatment. With:

A. Diurnal episodes (loss of consciousness and convulsive seizures); or  
B. Nocturnal episodes manifesting residuals which interfere significantly with activity during the day.

11.03 *Epilepsy—minor motor seizures* (petit mal, psychomotor, or focal), documented by EEG and by detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once weekly in spite of at least 3 months of prescribed treatment. With alteration of awareness or loss of consciousness and transient postictal manifestations of unconventional behavior or significant interference with activity during the day.

11.04 *Central nervous system vascular accident.* With one of the following more than 3 months post-vascular accident:

A. Sensory or motor aphasia resulting in ineffective speech or communication; or  
B. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait, and station (see § 11.00C).

11.05 *Brain tumors.*  
A. Malignant gliomas (astrocytoma—grades III and IV, glioblastoma multiforme),

medulloblastoma, ependymoblastoma, or primary sarcoma; or

B. Astrocytoma (grades I and II), meningioma, pituitary tumors, oligodendroglioma, ependymoma, clivus chordoma, and benign tumors. Evaluate under § 11.02, § 11.03, § 11.04 A, or B, or § 12.02.

11.06 *Parkinsonian syndrome.* With the following signs: Significant rigidity, bradykinesia, or tremor in two extremities, which singly or in combination, result in sustained disturbance of gross and dexterous movements, or gait and station.

11.07 *Cerebral palsy.* With:

A. IQ of 69 or less; or  
B. Abnormal behavior patterns, such as destructiveness or emotional instability; or  
C. Significant interference in communication due to speech, hearing, or visual defect; or

D. Disorganization of motor function as described in § 11.04B.

11.08 *Spinal cord or nerve root lesions, due to any cause.* With disorganization of motor function as described in § 11.04B.

11.09 *Multiple sclerosis.* With:

A. Disorganization of motor function as described in § 11.04B; or  
B. Visual or mental impairment as described under the criteria in § 2.02, § 2.03, § 2.04, or § 12.02.

11.10 *Amyotrophic lateral sclerosis.* With:

A. Significant bulbar signs; or  
B. Disorganization of motor function as described in § 11.04B.

11.11 *Anterior poliomyelitis.* With:

A. Persistent difficulty with swallowing or breathing; or  
B. Unintelligible speech; or  
C. Disorganization of motor function as described in § 11.04B.

11.12 *Myasthenia gravis.* With:

A. Significant difficulty with speaking, swallowing, or breathing while on prescribed therapy; or  
B. Significant motor weakness of muscles of extremities on repetitive activity against resistance while on prescribed therapy.

11.13 *Muscular dystrophy.* With disorganization of motor function as described in § 11.04B.

11.14 *Peripheral neuropathies.* With disorganization of motor function as described in § 11.04B, in spite of prescribed treatment.

11.15 *Tabs dorsalis.* With:

A. Tabetic crises occurring more frequently than once monthly; or  
B. Unsteady, broad-based or ataxic gait causing significant restriction of mobility substantiated by appropriate posterior column signs.

11.16 *Subacute combined cord degeneration (pernicious anemia).* With disorganization of motor function as described in § 11.04B or § 11.15B, not significantly improved by prescribed treatment.

11.17 *Degenerative disease not listed elsewhere, such as Huntington's chorea, Friedreich's ataxia, and spinocerebellar degeneration.* With:

A. Disorganization of motor function as described in § 11.04B or § 11.15B; or  
B. Chronic brain syndrome. Evaluate under 12.02.

11.18 *Cerebral trauma.* Evaluate under the provisions of § 11.02, § 11.03, § 11.04, and § 12.02, as applicable.

11.19 *Syringomyelia.* With:

A. Significant bulbar signs; or  
B. Disorganization of motor function as described in § 11.04B.

## 12.00 MENTAL DISORDERS

A. *Introduction.* The evaluation of disability applications on the basis of mental disorders requires consideration of the nature and clinical manifestations of the medically determinable impairment(s) as well as consideration of the degree of limitation such impairment(s) may impose on the individual's ability to work, as reflected by (1) daily activities both in the occupational and social spheres; (2) range of interest; (3) ability to take care of personal needs; and (4) ability to relate to others. This evaluation must be based on medical evidence consisting of demonstrable clinical signs (medically demonstrable phenomena, apart from the individual's symptoms, which indicate specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality) and laboratory findings (including psychological tests) relevant to such issues as restriction of daily activities, constriction of interests, deterioration of personal habits (including personal hygiene), and impaired ability to relate to others.

The severity and duration of mental impairment(s) should be evaluated on the basis of reports from psychiatrists, psychologists, and hospitals, in conjunction with adequate descriptions of daily activities from these or other sources. Since confinement in an institution may occur because of legal or social requirements, confinement per se does not establish that impairment is severe. Similarly, release from an institution does not establish improvement. As always, severity and duration of impairment are determined by the medical evidence. A description of the individual's personal appearance and behavior at the time of the examination is also important to the evaluation process.

Diagnosis alone is insufficient as a basis for evaluation of the severity of mental impairment(s). Accordingly, the criteria of severity under mental disorders are arranged in four comprehensive groups: chronic brain syndromes (§ 12.02), functional (nonorganic) psychotic disorders (§ 12.03), functional nonpsychotic disorders (§ 12.04), and mental retardation (§ 12.05). Each category consists of a set of clinical findings, one or more of which must be met, and a set of functional restrictions, all of which must be met. The functional restrictions are to be interpreted in the light of the extent to which they are imposed by psychopathology.

The criteria for severity of mental impairment(s) are so constructed that a decision can be reached even if there are disagreements regarding diagnosis. All available clinical and laboratory evidence must be considered since it is not unusual to find, in the same individual, signs and test results associated with several pathological conditions, mental or physical. For example, an individual might show evidence of depression, chronic brain syndrome, cirrhosis of the liver, etc., in various combinations.

In some cases, the results of well-standardized psychological tests, such as the Wechsler Adult Intelligence Scale (WAIS) and the Minnesota Multiphasic Personality Inventory (MMPI), may contribute to the assessment of severity of impairment. To provide full documentation, the psychological report should include key data on which the report was based, such as MMPI profiles, WAIS subtest scores, etc.

B. *Discussion of Mental Disorders:*

1. *Chronic brain syndromes* (organic brain syndromes) result from persistent, more or less irreversible, diffuse impairment of cerebral tissue function. They are usually permanent and may be progressive. They may be accompanied by psychotic or neurotic behavior superimposed on organic brain pathology. The degree of impairment may range from mild to severe. Acute brain syndromes are temporary and reversible conditions with favorable prognosis and no significant residuals. Occasionally, an acute brain syndrome may progress into a chronic brain syndrome.

2. *Functional psychotic disorders* are characterized by demonstrable mental abnormalities without demonstrable structural changes in brain tissue. Mood disorders (involuntary psychosis, manic-depressive illness, psychotic depressive reaction) or thought disorders (schizophrenias and paranoid states) are characterized by varying degrees of personality disorganization and accompanied by a corresponding degree of inability to maintain contact with reality (e.g., hallucinations, delusions).

3. *Functional nonpsychotic disorders* are likewise characterized by demonstrable mental abnormalities without demonstrable structural changes in brain tissue (psychophysiological, neurotic, personality and certain other nonpsychotic disorders).

a. *Psychophysiological (autonomic and visceral) disorders* (e.g., cardiovascular, gastrointestinal, genitourinary, musculoskeletal, respiratory). In these conditions, the normal physiological expression of emotions is exaggerated by chronic emotional tensions, eventually leading to a disruption of the autonomic regulatory system and resulting in various visceral disorders. If the condition persists, it may lead to demonstrable structural changes (e.g., peptic ulcer, bronchial asthma, dermatitis).

b. *Neurotic disorders* (e.g., anxiety, depressive, hysterical, obsessive-compulsive, and phobic neuroses). In these conditions there are no gross falsifications of reality such as observed in the psychoses in the form of hallucinations or delusions. Neuroses are characterized by reactions to deep-seated conflicts and are classified by the defense mechanisms the individual employs to stave off the threat of emotional decompensation (e.g., anxiety, depression, conversion, obsessive-compulsive, or phobic mechanisms). Anxiety or depression occurring in connection with overwhelming external situations (i.e., situational reactions) are self-limited and the symptoms usually recede when the situational stress diminishes.

c. *Other functional nonpsychotic disorders*, including paranoid, cyclothymic, schizoid, explosive, obsessive-compulsive, hysterical, asthenic, antisocial, passive-aggressive, and inadequate personality; sexual deviation; alcohol addiction and drug addiction. These disorders are characterized by deeply ingrained maladaptive patterns of behavior, generally of long duration. Unlike neurotic disorders, conflict in these cases is not primarily within the individual but between the individual and his environment. In many of these conditions, the patient may experience little anxiety and little or no sense of distress, except when anxiety and distress are consequences of maladaptive behavior.

4. *Mental retardation* denotes a lifelong condition characterized by below-average intellectual endowment as measured by well-standardized intelligence (IQ) tests and as-

sociated with impairment in one or more of the following areas: learning, maturation, and social adjustment. The degree of impairment should be determined primarily on the basis of intelligence level and the medical report. Care should be taken to ascertain that test results are consistent with daily activities and behavior. A well-standardized, comprehensive intelligence test, such as the Wechsler Adult Intelligence Scale (WAIS), should be administered and interpreted by a psychologist or psychiatrist qualified by training and experience to perform such an evaluation. In special circumstances, non-verbal measures, such as the Raven Progressive Matrices or the Arthur Point Scale, may be substituted.

Unfortunately, identical IQ scores obtained from different tests do not always reflect a similar degree of intellectual function. In this connection, it may be noted that on the WAIS, perhaps currently the most widely used measure of intellectual ability in adults, IQ's of 69 and below are characteristic of approximately the lowest 2 percent of the general population. In instances where other tests are administered, it will be necessary to convert the IQ to the corresponding percentile rank in the general population in order to determine the actual degree of impairment reflected by the IQ scores. Where more than one IQ is customarily derived from the test administered, i.e., where Verbal, Performance, and Full Scale IQ's are provided as on the WAIS, the lowest of these is to be used in conjunction with § 12.05.

In cases where the nature of the individual's impairment is such that testing, as described above, is precluded, medical reports specifically describing the level of intellectual, social, and physical function should be obtained. Actual observations by district office or State DDS personnel, reports from educational institutions, and information furnished by public welfare agencies or other reliable, objective sources should be considered as additional evidence.

## 12.01 CATEGORY OF IMPAIRMENTS, MENTAL

12.02 *Chronic brain syndromes* (organic brain syndromes). With both A and B:

A. Demonstrated deterioration in intellectual functioning, manifested by persistence of one or more of the following clinical signs:

1. Marked memory defect for recent events; or  
2. Improperly slowed, perseverative thinking, with confusion or disorientation; or  
3. Labile, shallow, or coarse affect;

B. Resulting persistence of marked restriction of daily activities and constriction of interests and deterioration in personal habits and seriously impaired ability to relate to other people.

12.03 *Functional psychotic disorders* (mood disorders, schizophrenias, paranoid states). With both A and B:

A. Manifested persistence of one or more of the following clinical signs:

1. Depression (or elation); or  
2. Agitation; or  
3. Psychomotor disturbances; or  
4. Hallucinations or delusions; or  
5. Autistic or other regressive behavior; or  
6. Inappropriateness of affect; or  
7. Illogical association of ideas;

B. Resulting persistence of marked restriction of daily activities and constriction of in-



terests and seriously impaired ability to relate to other people.

12.04 *Functional nonpsychotic disorders* (psychophysiologic, neurotic, and personality disorders; addictive dependence on alcohol or drugs). With both A and B:

A. Manifested persistence of one or more of the following clinical signs:

1. Demonstrable and persistent structural changes mediated through psychophysiological channels (e.g., duodenal ulcer); or

2. Recurrent and persistent periods of anxiety, with tension, apprehension, and interference with concentration and memory; or

3. Persistent depressive affect with insomnia, loss of weight, and suicidal preoccupation; or

4. Persistent phobic or obsessive ruminations with inappropriate, bizarre, or disruptive behavior; or

5. Persistent compulsive, ritualistic behavior; or

6. Persistent functional disturbance of vision, speech, hearing, or use of a limb with demonstrable structural or trophic changes; or

7. Persistent, deeply ingrained, maladaptive patterns of behavior manifested by either:

a. Seclusiveness or autistic thinking; or  
b. Pathologically inappropriate suspiciousness or hostility;

B. Resulting persistence of marked restriction of daily activities and constriction of interests and deterioration in personal habits and seriously impaired ability to relate to other people.

12.05 *Mental retardation*. As manifested by:

A. Severe mental and social incapacity as evidenced by marked dependence upon others for personal needs (e.g., bathing, washing, dressing, etc.) and inability to understand the spoken word and inability to avoid physical danger (fire, cars, etc.) and inability to follow simple directions and inability to read, write, and perform simple calculations; or

B. IQ of 59 or less (see § 12.00B4); or

C. IQ of 60 to 69 inclusive (see § 12.00B4) and a physical or other mental impairment imposing additional and significant work-related limitation of function.

#### 13.00 NEOPLASTIC DISEASE—MALIGNANT

A. *Introduction*: The determination of the level of severity resulting from malignant tumors is made from a consideration of the site of the lesion, the histogenesis of the tumor, the extent of involvement, the apparent adequacy and response to therapy (surgery, irradiation, hormones, chemotherapy, etc.), and the magnitude of the post-therapeutic residuals.

B. *Documentation*: The diagnosis of malignant tumor should be established on the basis of symptoms, signs, and laboratory findings. The site of the primary, recurrent, and metastatic lesion must be specified in all cases of malignant neoplastic diseases. If an operative procedure has been performed, the evidence should include a copy of the operative note and the report of the gross and microscopic examination of the surgical specimen. If these documents are not obtainable, then the summary of hospitalization or a report from the treating physician must include details of the findings at surgery and the results of the pathologist's gross and microscopic examination of the tissues.

For those cases in which a disabling impairment was not established when therapy was begun but progression of the disease is likely, current medical evidence should include a report of a recent examination directed especially at local or regional recurrence, soft part or skeletal metastases, and significant posttherapeutic residuals.

C. *Evaluation*: Usually, when the malignant tumor consists only of a local lesion with metastasis to the regional lymph nodes which apparently has been completely excised, imminent recurrence or metastasis is not anticipated. Exceptions are noted in §§ 13.02E, 13.03, 13.05B, 13.09 B and E, 13.11 A and F, 13.13B, 13.16 B and C, 13.21B, 13.22 A and B, and 13.24A. For adjudicative purposes, "distant metastasis" or "metastasis beyond the regional lymph nodes" refers to metastasis beyond the lines of the usual radical en bloc resection.

Local or regional recurrence after radical surgery or pathological evidence of incomplete excision by radical surgery is to be equated with unresectable lesions (except for carcinoma of the breast, § 13.09C) and, for the purposes of our program, may be evaluated as "inoperable." These situations are usually followed by severe impairment within 6 months to 1 year.

Local or regional recurrence after incomplete excision of a localized and still completely resectable tumor is not to be equated with recurrence after radical surgery. In the evaluation of lymphomas, the tissue type and site of involvement are not necessarily indicators of the severity of the impairment.

When a malignant tumor has metastasized beyond the regional lymph nodes, the impairment usually will be considered to be severe. Exceptions are hormone-dependent tumors, isotope-sensitive metastases, metastases from seminoma of the testicles which are controlled by definitive therapy or distant metastases which have apparently disappeared and have not been evident for 3 or more years.

D. *Effects of therapy*. Significant posttherapeutic residuals, not specifically included in the category of impairments for malignant neoplasms, should be evaluated according to the affected body system.

Where the impairment is not listed in the Listing of Impairments and is not medically equivalent to a listed impairment, the impact of any residual impairment including that caused by therapy must be considered. The therapeutic regimen and consequent adverse response to therapy may vary widely; therefore, each case must be considered on an individual basis. It is essential to obtain a specific description of the therapeutic regimen, including the drugs given, dosage, frequency of drug administration, and plans for continued drug administration. It is necessary to obtain a description of the complications or any other adverse response to therapy such as nausea, vomiting, diarrhea, weakness, dermatologic disorders, or reactive mental disorders. Since the severity of the adverse effects of anticancer chemotherapy may change during the period of drug administration, the decision regarding the impact of drug therapy should be based on a sufficient period of therapy to permit proper consideration.

E. *Onset*. To establish onset of disability prior to the time a malignancy is first demonstrated to be inoperable or beyond control by other modes of therapy (and prior evidence is nonexistent) requires medical judgment based on medically reported

symptoms, the type of the specific malignancy, its location and extent of involvement when first demonstrated.

#### 13.01 CATEGORY OF IMPAIRMENTS, NEOPLASTIC DISEASES—MALIGNANT

13.02 *Head and neck* (except salivary glands—§ 13.07, thyroid gland—§ 13.08, and mandible, maxilla, orbit, or temporal fossa—§ 13.11):

A. Inoperable; or  
B. Not controlled by prescribed therapy; or

C. Recurrent after radical surgery or irradiation; or  
D. With distant metastasis; or

E. Epidermoid carcinoma occurring in the pyriform sinus or posterior third of the tongue.

13.03 *Sarcoma of skin*:  
A. Angiosarcoma with metastasis to regional lymph nodes or beyond; or

B. Mycosis fungoides with lymph node or visceral involvement.

13.04 *Sarcoma of soft parts*: Not controlled by prescribed therapy.

13.05 *Malignant melanoma*:  
A. Recurrent after wide excision; or

B. With metastasis to adjacent skin (satellite lesions) or elsewhere.

13.06 *Lymph nodes*:  
A. Hodgkin's disease or non-Hodgkin's lymphoma with progressive disease not controlled by prescribed therapy; or

B. Metastatic carcinoma in a lymph node (except for epidermoid carcinoma in a lymph node in the neck) where the primary site is not determined after adequate search; or

C. Epidermoid carcinoma in a lymph node in the neck not responding to prescribed therapy.

13.07 *Salivary glands*—carcinoma or sarcoma with metastasis beyond the regional lymph nodes.

13.08 *Thyroid gland*—carcinoma with metastasis beyond the regional lymph nodes, not controlled by prescribed therapy.

13.09 *Breast*:  
A. Inoperable carcinoma; or

B. Inflammatory carcinoma; or  
C. Recurrent carcinoma, except local recurrence controlled by prescribed therapy; or

D. Distant metastasis from breast carcinoma (bilateral breast carcinoma, synchronous or metachronous, is usually primary in each breast); or

E. Sarcoma with metastasis anywhere.

13.10 *Skeletal system* (exclusive of the jaw):

A. Malignant primary tumors with evidence of metastases and not controlled by prescribed therapy; or  
B. Metastatic carcinoma to bone where the primary site is not determined after adequate search.

13.11 *Mandible, maxilla, orbit, or temporal fossa*:  
A. Sarcoma of any type with metastasis; or

B. Carcinoma of the antrum with extension into the orbit or ethmoid or sphenoid sinus, or with regional or distant metastasis; or

C. Orbital tumors with intracranial extension; or

D. Tumors of the temporal fossa with perforation of skull and meningeal involvement; or

E. Adamantinoma with orbital or intracranial infiltration; or

F. Tumors of Rathke's pouch with infiltration of the base of the skull or metastasis.

13.12 *Brain or spinal cord*:  
A. Metastatic carcinoma to brain or spinal cord.

B. Evaluate other tumors under the criteria described in § 11.05 and § 11.08.

13.13 *Lungs*:  
A. Unresectable; or

B. With metastases; or  
C. Recurrent after resection; or

D. Incomplete excision; or  
E. Oat cell carcinoma.

13.14 *Pleura or mediastinum*:  
A. Malignant mesothelioma of pleura; or

B. Malignant tumors, metastatic to pleura; or

C. Malignant primary tumor of the mediastinum not controlled by prescribed therapy.

13.15 *Abdomen*:  
A. Generalized carcinomatosis; or

B. Retroperitoneal cellular sarcoma not controlled by prescribed therapy; or

C. Ascites with demonstrated malignant cells.

13.16 *Esophagus or stomach*:  
A. Carcinoma or sarcoma of the upper two-thirds of the esophagus.

B. Carcinoma or sarcoma of the distal one-third of the esophagus with metastasis to the regional lymph nodes or extension to surrounding structures; or

C. Carcinoma of the stomach with metastasis to the regional lymph nodes or extension to surrounding structures; or

D. Sarcoma of stomach not controlled by prescribed therapy; or

E. Inoperable carcinoma; or  
F. Recurrence or metastasis after resection.

13.17 *Small intestine*:  
A. Carcinoma, sarcoma, or carcinosarcoma with metastasis beyond the regional lymph nodes; or

B. Recurrence of carcinoma, sarcoma, or carcinosarcoma after resection; or

C. Sarcoma, not controlled by prescribed therapy.

13.18 *Large intestine* (from ileocecal valve to and including anal canal)—carcinoma or sarcoma.

A. Unresectable; or  
B. Metastasis beyond the regional lymph nodes; or

C. Recurrence or metastasis after resection.

13.19 *Liver or gallbladder*:  
A. Primary or metastatic malignant tumors of the liver; or

B. Carcinoma of the gallbladder; or

C. Carcinoma of the bile ducts, unresectable or with metastases.

13.20 *Pancreas*:  
A. Carcinoma except islet cell carcinoma; or

B. Islet cell carcinoma which is unresectable and physiologically active.

13.21 *Kidneys, adrenal glands, or ureters*—carcinoma.

A. Unresectable; or  
B. With metastasis.

13.22 *Urinary bladder*—carcinoma; With:  
A. Infiltration beyond the bladder wall; or

B. Metastasis; or  
C. Unresectable; or

D. Recurrence after total cystectomy; or

E. Evaluate urinary diversion after total cystectomy under the criteria in § 6.02.

13.23 *Prostate gland*—carcinoma not controlled by prescribed therapy.

13.24 *Testicles*:  
A. Choriocarcinoma; or

B. Other malignant primary tumors with progressive disease not controlled by prescribed therapy.

13.25 *Uterus*—carcinoma or sarcoma (corpus or cervix).

A. Inoperable and not controlled by prescribed therapy; or

B. Recurrent after total hysterectomy; or

C. Total pelvic exenteration.

13.26 *Ovaries*: All malignant primary or recurrent tumors. With:

A. Ascites with demonstrated malignant cells; or

B. Unresectable infiltration; or

C. Unresectable metastasis to omentum or elsewhere in the peritoneal cavity; or

D. Distant metastasis.

13.27 *Leukemia*: Evaluate under the criteria of § 7.00ff, Hemic and Lymphatic System.

13.28 *Uterine (Fallopian) tubes*—carcinoma or sarcoma, unresectable or with metastasis.

[FR Doc. 79-9154 Filed 3-26-79; 8:45 am]

[4210-01-M]

#### Title 24—Housing and Urban Development

#### CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FY-4600]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Decatur, Morgan County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Decatur, Morgan County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Decatur, Morgan County, Alabama.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Decatur, Morgan County, Alabama are available for review at North Central Alabama Regional Council of Governments, 5th floor, Decatur City Hall, Decatur, Alabama.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Decatur, Morgan County, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location                              | Elevation in feet, national geodetic vertical datum |
|---------------------|---------------------------------------|---|
| Tennessee River     | Just upstream U.S. Highways 31 and 72 | 560   |
|                     | Confluence of Flint Creek             | 561   |
| Betty Rye Branch    | Western Corporate Limits              | 566   |
|                     | Just downstream 2nd Street            | 578   |
| Dry Branch          | Just downstream Washington Street     | 561   |
|                     | Just upstream Moulton Street          | 564   |
|                     | 2nd Avenue                            | 578   |
|                     | Just downstream of 19th Avenue        | 601   |
| Flint Creek         | Just upstream of State Highway 67     | 562   |
|                     | Southern Corporate Limits             | 565   |
| Brush Creek         | Flint Road                            | 565   |
|                     | Chenault Drive                        | 569   |
| Clark Spring Branch | Stanley Street                        | 572   |
|                     | Just upstream of Sandlin Road         | 586   |



| Source of flooding                      | Location  | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Clark Spring Branch.                    | Confluence of No. 3 Tributary to Clark Spring Branch. | 801   |
| No. 3 Tributary to Clark Spring Branch. | Just downstream Danville Road.                        | 608   |
| Sheet Flow area....                     | Just upstream Danville road.                          | 610   |
|   | Intersection of Fairway Circle and Fairway Drive.     | 569   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8813 Filed 3-26-79; 8:45 am)

## [4210-01-M]

(Docket No. FI-3474)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the City of Northport, Tuscaloosa County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Northport, Tuscaloosa County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Northport, Tuscaloosa County, Ala.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Northport, Tuscaloosa County, Ala. are available for review at McGuire Engineering Company, Northport, Ala.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Northport, Tuscaloosa County, Ala.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding          | Location                                 | Elevation in feet, national geodetic vertical datum |
|-----------------------------|--|---|
| Black Warrior River.        | Confluence of Mill Creek.                | 148   |
| Black Warrior Tributary #1. | Upstream of Lurleen Wallace Blvd.        | 152   |
|                             | Upstream of Fifth Street.                | 151   |
| Mill Creek.....             | Downstream of Ninth Street.              | 151   |
|                             | Upstream of Fifth Street.                | 148   |
|                             | Upstream of 37th Street.                 | 157   |
|                             | Upstream of Flatwoods Road.              | 165   |
| Mill Creek Tributary #1.    | Upstream of 12th Street.                 | 149   |
| Mill Creek Tributary #2.    | Upstream of 17th Street.                 | 160   |
|                             | Confluence with Mill Creek Tributary #1. | 148   |
|                             | Upstream of 17th Street.                 | 153   |
|                             | Upstream of 24th Street.                 | 176   |
| Mill Creek Tributary #3.    | Upstream of 33rd Street.                 | 214   |
|                             | Forty-third Avenue (extended).           | 162   |
|                             | Downstream of U.S. Hwy. 43.              | 170   |

| Source of flooding             | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------------------|--|---|
| Mill Creek Tributary #4.       | Downstream of U.S. Hwy. 43.                                      | 178   |
| Tater Hill Creek....           | Upstream of Old Columbus Road.                                   | 149   |
|                                | Approx. 150 feet upstream of U.S. 82.                            | 159   |
| Tater Hill Creek Tributary #1. | Upstream of U.S. Hwy. 82.  | 160   |
|                                | Upstream of 34th Street.   | 172   |
| Twomile Creek.....             | Approx. 175 feet upstream of U.S. Hwy. 82.                       | 182   |
|                                | Upstream of Union Chapel Road.                                   | 205   |
|                                | Downstream of Old Barnes Road.                                   | 233   |
| Twomile Creek Tributary #1.    | Approx. 125 feet upstream of U.S. 82.                            | 181   |
| Twomile Creek Tributary #2.    | Upstream of Shirley Road.  | 205   |
|                                | Approx. 100 feet upstream of Country Road 14.                    | 232   |
|                                | Upstream of Crawford Road.                                       | 268   |
| Twomile Creek Tributary #2A.   | Confluence with Twomile Creek Tributary #2.                      | 205   |
|                                | Downstream of Country Road 14.                                   | 265   |
| Twomile Creek Tributary #3.    | Confluence with Twomile Creek.                                   | 170   |
|                                | Confluence of Twomile Creek Tributary #3A.                       | 193   |
| Twomile Creek Tributary #3A.   | Upstream of Indian Lake Road.                                    | 196   |
| Twomile Creek Tributary #4.    | Upstream of Hunter Creek Road.                                   | 191   |
|                                | Upstream of 43rd Street.   | 218   |
| Twomile Creek Tributary #5.    | Upstream of Twin Oaks Road.                                      | 218   |
|                                | Upstream of Union Chapel Road.                                   | 238   |
| Twomile Creek Tributary #5A.   | 100 feet upstream of Confluence with Twomile Creek Tributary #5. | 218   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

(FR Doc. 79-8814 Filed 3-26-79; 8:45 am)

## [4210-01-M]

(Docket No. FI-3581)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the Municipality of Anchorage, Alaska

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Municipality of Anchorage, Alaska. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Municipality of Anchorage, Alaska.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Municipality of Anchorage, Alaska, are available for review at the Loussac Library, 415 F. Street, Anchorage, Alaska.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Municipality of Anchorage, Alaska.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding                         | Location  | Elevation in feet, Greater Anchorage area borough, post quake, U.S. Coastal and Geodetic Survey, mean sea level datum of 1972 (MSL) |
|--|---|---|
| Peters Creek.....                          | Mouth.....  | 19  |
|  | Alaska Railroad.....  | 73  |
|  | Heliuva Street (extended).                                  | 142   |
|  | Valley Avenue (extended).                                   | 183   |
|  | New Glenn Highway.....                                      | 259   |
|  | Old Glenn Highway.....                                      | 271   |
|  | Confluence of Little Peters Creek.                          | 303   |
| Meadow Creek.....                          | 300' upstream of confluence with Eagle River.               | 220   |
|  | Eagle River Road.....                                       | 335   |
| Ship Creek.....                            | Eagle River Loop Road..                                     | 616   |
|  | Confluence with Knik Arm.                                   | 19  |
|  | C Street.....   | 31  |
|  | Alaska Railroad.....  | 40  |
|  | Post Road.....  | 75  |
|  | Fort Richardson Military Reservation Boundary.              | 19  |
| Chester Creek.....                         | Confluence with Knik Arm.                                   | 21  |
|  | Spenard Thruway.....  | 23  |
|  | Spenard Road.....   | 23  |
|  | Arctic Boulevard.....                                       | 28  |
|  | C Street.....   | 40  |
|  | Gambell Street.....   | 66  |
|  | Confluence with South Fork Chester Creek.                   | 66  |
| South Fork Chester Creek.                  | Confluence with Chester Creek.                              | 87  |
|  | Maplewood Street.....                                       | 92  |
|  | Lake Otis Parkway.....                                      | 114   |
|  | East Northern Lights Boulevard.                             | 121   |
|  | Mallard Drive.....  | 138   |
|  | Providence Avenue.....                                      | 174   |
|  | Wesleyan Drive.....   | 177   |
|  | Knight's Way.....   | 180   |
|  | Confluence with South Branch of South Fork Chester Creek.   | 183   |
| South Branch of South Fork Chester Creek.  | Checkmate Drive.....  | 186   |
|  | Downstream of Boniface Parkway.                             | 198   |
|  | Upstream of Boniface Parkway.                               | 196   |
|  | 33rd Avenue.....  | 202   |
|  | Campbell Field Road.....                                    | 204   |
|  | Carnaby Way.....  | 210   |
|  | Upstream of East Northern Lights Boulevard.                 | 212   |
|  | Baxter Road.....  | 232   |
|  | East 20th Avenue.....                                       | 234   |
|  | East 17th Avenue.....                                       | 252   |
|  | Muldoon Road.....   | 251   |
| Middle Branch of South Fork Chester Creek. | DeBarr Road.....  | 251   |
|  | Muldoon Road.....   | 259   |
|  | Rangeview Avenue.....                                       | 262   |
|  | Valley road.....  | 265   |
|  | Cherry Street.....  | 30  |
| Fish Creek.....                            | Alaska Railroad 1,700 feet downstream of Forest Park Drive. | 30  |

| Source of flooding                | Location  | Elevation in feet, Greater Anchorage area borough, post quake, U.S. Coastal and Geodetic Survey, mean sea level datum of 1972 (MSL) |
|-----------------------------------|---|---|
|                                   | Upstream of Forest Park Drive.                                      | 34  |
|                                   | Upstream of Northern Lights Boulevard.                              | 35  |
|                                   | Alaska Railroad 600 feet downstream of 30th Avenue.                 | 41  |
|                                   | Upstream of 30th Avenue.  | 42  |
|                                   | Upstream of McRae Road.   | 47  |
|                                   | Upstream of Spenard Road.   | 58  |
|                                   | Northwood Drive.....  | 58  |
|                                   | Upstream of 44th Avenue.  | 65  |
|                                   | Alaska Railroad 1,200 feet downstream of Minnesota Avenue.          | 76  |
|                                   | Upstream of Minnesota Avenue.                                       | 82  |
|                                   | Chugach Way.....  | 85  |
|                                   | Upstream of Arctic Boulevard.                                       | 92  |
|                                   | Upstream of 36th Avenue.  | 100   |
|                                   | Upstream of Old Seward Highway.                                     | 115   |
|                                   | Upstream of New Seward Highway.                                     | 116   |
|                                   | Upstream of Tudor Road near Becharof Street.                        | 122   |
|                                   | Upstream of Shellkef Street.  | 127   |
|                                   | Upstream of Tudor Road between Lake Otis Parkway and MacInnes Road. | 132   |
|                                   | Upstream of Lake Otis Parkway.                                      | 137   |
| Campbell Creek.....               | Campbell Lake.....  | 20  |
|                                   | Dimond Boulevard.....   | 26  |
|                                   | Mentra Street.....  | 42  |
|                                   | Rovena Street.....  | 46  |
|                                   | Arctic Boulevard.....   | 53  |
|                                   | C Street.....   | 59  |
|                                   | Alaska Railroad.....  | 78  |
|                                   | Dowling Road.....   | 98  |
|                                   | Old Seward Highway.....   | 107   |
|                                   | New Seward Highway.....   | 118   |
|                                   | Cache Drive.....  | 123   |
|                                   | Dimond Drive.....   | 134   |
|                                   | Lake Otis Parkway.....  | 141   |
| North Fork Campbell Creek.        | Confluence with Campbell Creek.                                     | 153   |
| South Fork Campbell Creek.        | Confluence with Campbell Creek.                                     | 153   |
|                                   | East 50th Avenue (extended).  | 156   |
| Little Campbell Creek.            | Confluence with Campbell Creek.                                     | 77  |
|                                   | Nathan Drive.....   | 81  |
|                                   | Glade Place.....  | 88  |
| North Fork Little Campbell Creek. | Confluence with Little Campbell Creek.                              | 89  |
|                                   | Upstream of Old Seward Highway.                                     | 95  |
|                                   | Upstream of East 72nd Avenue.                                       | 99  |
|                                   | Upstream of East 71st Avenue.                                       | 104   |
|                                   | Upstream of New Seward Highway.                                     | 113   |



## [4210-01-M]

[Docket No. FI-4650]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the Town of Buckeye, Maricopa County, Ariz.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Buckeye, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Buckeye, Maricopa County, Arizona.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Buckeye, Maricopa County, Arizona, are available for review at the Town Hall, Buckeye, Arizona.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Buckeye, Maricopa County, Arizona.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received

from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location                           | Elevation in feet, national geodetic vertical datum |
|---------------------|------------------------------------|---|
| Shallow Flooding... | North of Buckeye Canal             | 1   |
| Shallow Flooding... | South of Buckeye Canal             | 2   |
| Shallow Flooding... | North of Southern Pacific Railroad | 891   |

<sup>1</sup> AO Depth.  
<sup>2</sup> AH Elevation.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8816 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-3976]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for The City of Napa, Napa County, Calif.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Napa, Napa County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map

(FIRM), showing base (100-year) flood elevations, for the City of Napa, Calif.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Napa, are available for review at the Department of Public Works, City Hall, Napa, Calif.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Napa, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location                    | Elevation in feet, national geodetic vertical datum |
|---------------------|-----------------------------|---|
| Napa River .....    | Imola Avenue—300 feet*      | 11  |
|                     | Third Street—30 feet**      | 17  |
|                     | First Street—450 feet**     | 20  |
|                     | Lincoln Avenue—70 feet*     | 24  |
| Napa Creek .....    | Clinton Street—10 feet*     | 25  |
|                     | Seminary Street—80 feet**   | 29  |
|                     | Jefferson Street—20 feet**  | 31  |
|                     | Robinson Lane—20 feet*      | 62  |
|                     | Browns Valley Road—60 feet* | 103   |
| Redwood Creek ..... | West Pueblo Avenue—20 feet* | 90  |
| Sarco Creek .....   | Silverado Trail—20 feet*    | 29  |
| Tulucay Creek ..... | State Highway 121—440 feet* | 16  |

\*Upstream of centerline.  
\*\*Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended

(42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8817 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-4655]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the City of Oakdale, Stanislaus County, Calif.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Oakdale, Stanislaus County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Oakdale, Calif.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Oakdale, are available for review at City Hall, 280 North Third Avenue, Oakdale, Calif.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator

gives notice of the final determinations of flood elevations for the City of Oakdale, Calif.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding     | Location   | Elevation in feet, national geodetic vertical datum |
|------------------------|--|---|
| Stanislaus River ..... | Corporate limits located 5200 feet downstream Highway 120. | 99  |
|                        | Highway 120 Bridge—50 feet*.                               | 104   |
|                        | Corporate limits located 4050 feet upstream Highway 120.   | 108   |
|                        | Downstream Corporate Limits in Kerr Park.                  | 112   |
|                        | Upstream Corporate Limits in Kerr Park.                    | 113   |

\* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8818 Filed 3-26-79; 8:45 am]



[4210-01-M]

[Docket No. FI-4605]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the City of Maitland, Orange County, Fla.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Maitland, Orange County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Maitland, Orange County, Fla.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Maitland, Orange County, Fla., are available for review at the City Hall, Maitland, Fla.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Maitland, Orange County, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------|---|---|
| Lake Sybella .....   | Intersection of Lake Sybella Drive and Jackson Street.                    | 78  |
| Lake Jackson .....   | Just north of Brook Drive.  | 84  |
| Lake Destiny .....   | Just west of Lake Destiny Drive.  | 93  |
| Lake Lucien .....    | At Maitland Cemetery.   | 94  |
| Lake Hungerford ..   | Intersection of Calver Avenue and Bethune Drive.                          | 97  |
| Lake Charity .....   | Approximately 400 feet north of Maitland Boulevard.                       | 73  |
| Lake Hope .....      | Lake Hope at the northern corporate limits.                               | 74  |
| Lake Faith .....     | Just northwest of the intersection of Maitland Avenue and Greenwood Road. | 73  |
| Park Lake .....      | Just north of Gem Lake Drive.   | 73  |
| Lake Maitland .....  | Intersection of Whitecaps Circle and Adams Drive.                         | 68  |
| Lake Minnehaha ..    | At Minnehaha Lane.  | 68  |
| Lake Catherine ..... | Lake Catherine Drive.   | 71  |
| Howell Creek .....   | Just downstream of Horatio Avenue.  | 68  |
| Stream A .....       | Chippewa Trail (extended).  | 68  |
| Lake Gem .....       | Just north of the intersection of Monroe Avenue and Lewis Drive.          | 73  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8819 Filed 3-26-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4606]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the City of Pompano Beach, Broward County, Fla.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Pompano Beach, Broward County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Pompano Beach, Fla.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Pompano Beach, are available for review at City Hall, Pompano Beach, Fla.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Pompano Beach, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location   | Elevation in feet, national geodetic vertical datum |
|----------------------|--|---|
| Atlantic Ocean ..... | Intersection of Andrews Avenue and SW 8th Street.                | 8   |
|                      | Intersection of South Cypress Road and SE 11th Street.           | 8   |
|                      | Intersection of North Riverside Drive and North Ocean Boulevard. | 8   |
| Shallow Ponding ..   | Intersection of NW 15th Street and NW 14th Avenue.               | 13  |
|                      | Intersection of NW 4th Avenue and NW 10th Street.                | 12  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8820 Filed 3-26-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4685]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the City of Chickamauga, Walker County, Ga.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Chickamauga, Walker County, Ga. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood

elevations, for the City of Chickamauga, Ga.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Chickamauga, are available for review at City Hall, 240 Cove Road, Chickamauga, Ga.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Chickamauga, Ga.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding                          | Location                                   | Elevation in feet, national geodetic vertical datum |
|---|--|---|
| Coke Oven Branch.                           | Wilder Road—30 feet* ....                  | 726   |
|   | Southern Railway—50 feet*.                 | 733   |
|   | Thomas Avenue—50 feet*.                    | 734   |
|   | Georgia Highway 341—50 feet*.              | 738   |
| Unnamed Tributary No. 1 (Coke Oven Branch). | Private Road No. 1—20 feet*.               | 756   |
|   | Private Road No. 2—20 feet*.               | 756   |
|   | Private Road No. 3—20 feet*.               | 758   |
| Unnamed Tributary No. 2 (Coke Oven Branch). | Confluence with Coke Oven Branch—20 feet*. | 742   |
| Crawfish Spring Lake.                       | Southern Railway—80 feet*.                 | 725   |

\*Upstream from centerline.  
\*\*Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8821 Filed 3-26-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4543]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for Bannock County, Idaho**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in Bannock County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Bannock County, Idaho.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Bannock County, are available for review at Bannock County Courthouse, Pocatello, Idaho.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Bannock County, Idaho.

This final rule is issued in accordance with section 110 of the Flood Dis-



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aster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding         | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------------|---|---|
| Portneuf River .....       | Cheyenne Street—100 feet*                             | 4465  |
|                            | Confluence with Mink Creek                            | 4485  |
|                            | Fort Hall Mine Road—100 feet*                         | 4492  |
|                            | Union Pacific Railroad (downstream crossing)—50 feet* | 4516  |
|                            | I-15—centerline .....                                 | 4590  |
|                            | Confluence with Robbers Roost Creek                   | 4646  |
|                            | U.S. Highway 91—centerline                            | 4720  |
|                            | North Street—centerline                               | 4762  |
|                            | Confluence with Dempsey Creek                         | 4959  |
|                            | U.S. Highway 30 (upstream crossing)—centerline        | 5085  |
| Pocatello Creek .....      | Corporate Limits—downstream                           | 4685  |
|                            | Confluence with North Fork Pocatello Creek            | 4865  |
| North Fork Pocatello Creek | South Fork Pocatello Creek Road—30 feet*              | 4870  |
| Gibson Jack Creek          | Bannock Highway—Access Road—centerline                | 4541  |
| Mink Creek .....           | Bannock Highway—10 feet*                              | 4523  |
| Fort Hall Mine Creek       | Private Road—centerline                               | 4640  |
| Rapid Creek .....          | Jackson Creek Road—centerline                         | 4626  |
|                            | Confluence with Shaw Creek                            | 4718  |
|                            | Rapid Creek Road—75 feet*                             | 4920  |
|                            | Confluence with North Fork Rapid Creek                | 5061  |
| North Fork Rapid Creek     | Hoot Owl Road—25 feet*                                | 5064  |
|                            | Rapid Creek Road (downstream crossing)—50 feet*       | 5178  |
|                            | Rapid Creek Road (upstream crossing)—50 feet*         | 5386  |
| West Fork Rapid Creek      | Confluence with North Fork Rapid Creek                | 5061  |
|                            | Private Road (upstream crossing)—10 feet*             | 5354  |
| Marsh Creek .....          | Confluence with Portneuf River                        | 4527  |
|                            | Confluence with Walker Creek                          | 4563  |

| Source of flooding               | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------------------|---|---|
|                                  | Merrell Road—25 feet* ...                         | 4596  |
|                                  | Goodenough Road—100 feet downstream of centerline | 4613  |
|                                  | Goodenough Road—25 feet*                          | 4621  |
|                                  | Robin Road—centerline                             | 4622  |
| Walker Creek .....               | Marsh Creek Road—20 feet*                         | 4614  |
| Bell Marsh Creek ..              | Marsh Creek Road—20 feet*                         | 4626  |
| Unnamed Tributary to Marsh Creek | Marsh Creek Road—10 feet*                         | 4675  |
| Dry Canyon Creek                 | Marsh Creek Road—40 feet*                         | 4729  |
| Goodenough Creek                 | Confluence with Rowe Creek                        | 4699  |
| Cottonwood Creek                 | Marsh Creek Road—15 feet*                         | 4682  |
| Birch Creek .....                | Robin Road—10 feet* ...                           | 4634  |
|                                  | Marsh Creek Road—60 feet*                         | 4688  |
|                                  | Preslar Road—25 feet* ...                         | 4761  |
| Ellis Creek .....                | Preslar Road—centerline                           | 4742  |

\*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 30, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator,  
(FR Doc. 79-8822 Filed 3-26-79; 8:45 am)

## [4210-01-M]

(Docket No. FI-4608)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the City of Blackfoot, Bingham County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Blackfoot, Bingham County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in

order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Blackfoot, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Blackfoot, are available for review at City Hall, 157 North Broadway, Blackfoot, Idaho.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Blackfoot, Idaho. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding    | Location   | Elevation in feet, national geodetic vertical datum |
|-----------------------|--|---|
| Snake River .....     | County Road Bridge—50 feet*                          | 4480  |
|                       | U.S. Highway 26—50 feet*                             | 4481  |
|                       | Interstate 15—50 feet* ...                           | 4493  |
| Blackfoot River ..... | Downstream Corporate Limits                          | 4489  |
|                       | Upstream Corporate Limits                            | 4499  |
|                       | Area adjacent to Pendelbury Lane (Shallow Flooding). | **2   |

| Source of flooding    | Location   | Elevation in feet, national geodetic vertical datum |
|-----------------------|--|---|
| Blackfoot River ..... | At intersection of Willis Street and South University Avenue (Shallow Flooding). | **1   |

\*Upstream of centerline.  
\*\*Depth.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator,  
(FR Doc. 79-8823 Filed 3-26-79; 8:45 am)

## [4210-01-M]

(Docket No. FI-4307)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the City of Osburn, Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Osburn, Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Osburn, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Osburn, are available for review at City Hall, 921 East Mullan Avenue, Osburn, Idaho.

## FOR FURTHER INFORMATION CONTACT:

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Issued: January 25, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator,  
(FR Doc. 79-8824 Filed 3-26-79; 8:45 am)

## [4210-01-M]

(Docket No. FI-4490)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Shoshone County, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Shoshone County, are available for review at County Commissioner Office, Wallace, Idaho.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Shoshone County, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed

| Source of flooding       | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------------|--|---|
| South Fork Coeur D'Alene | Interstate Highway 90—110 feet*                      | 2442  |
|                          | Interstate Highway 90 and Frontage Road—130 feet*    | 2446  |
|                          | Terror Gulch Road—35 feet*                           | 2461  |
|                          | Two Mile Creek Road—50 feet downstream of centerline | 2504  |
|                          | Two Mile Creek Road—50 feet upstream                 | 2509  |
|                          | At Corporate Limits .....                            | 2560  |
|                          | Nuckols Gulch Road—10 feet*                          | 2563  |
|                          | Corporate Limits (310 feet upstream)                 | 2571  |
|                          | Corporate Limits (limit of study)                    | 2583  |

\*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.



base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding              | Location  | Elevation in feet, national geodetic vertical datum |
|---------------------------------|---|---|
| Bear Creek                      | 100 feet upstream of confluence with St. Joe River. | 2182  |
|                                 | Unnamed Road—10 feet**.                             | 2185  |
|                                 | Unnamed Road—20 feet**.                             | 2189  |
| Beaver Creek                    | Cedar Creek Road—50 feet**.                         | 2380  |
| Big Creek                       | 1st Crossing Access Road—50 feet**.                 | 2571  |
|                                 | 1st Crossing Big Creek Road—50 feet**.              | 2588  |
|                                 | 2nd Crossing Access Road—50 feet**.                 | 2604  |
|                                 | 2nd Crossing Big Creek Road—50 feet**.              | 2612  |
|                                 | Diversion Dam—40 feet*.                             | 2678  |
|                                 | Diversion Dam—20 feet*.                             | 2684  |
| Canyon Creek                    | 1st Crossing Access Road—80 feet**.                 | 2784  |
|                                 | 2nd Crossing Access Road—50 feet**.                 | 2967  |
|                                 | Railroad—20 feet**.                                 | 3069  |
| Coeur d'Alene River.            | 300 feet upstream of County Line.                   | 2150  |
|                                 | Union Pacific Railroad—50 feet**.                   | 2173  |
|                                 | 1st Crossing County Road—100 feet**.                | 2179  |
|                                 | 2nd Crossing County Road—50 feet**.                 | 2201  |
|                                 | 3rd Crossing County Road—50 feet**.                 | 2342  |
|                                 | 4th Crossing County Road—50 feet**.                 | 2376  |
|                                 | 5th Crossing County Road—100 feet**.                | 2391  |
| Eagle Creek                     | Unnamed Road—50 feet**.                             | 2534  |
| French Gulch                    | 1-90—100 feet**.                                    | 2161  |
|                                 | U.S. Highway 10—20 feet**.                          | 2164  |
|                                 | 1st Crossing Driveway—80 feet**.                    | 2183  |
|                                 | 2nd Crossing Driveway—80 feet**.                    | 2187  |
|                                 | 3rd Crossing Driveway—20 feet**.                    | 2193  |
|                                 | 4th Crossing Driveway—20 feet**.                    | 2209  |
|                                 | 5th Crossing Driveway—20 feet**.                    | 2216  |
| North Fork Coeur d'Alene River. | Unnamed Road—20 feet**.                             | 2200  |
| Pine Creek                      | Union Pacific Railroad Bridge—50 feet*.             | 2187  |
|                                 | Union Pacific Railroad Bridge—50 feet**.            | 2195  |
|                                 | I-90 Bridge—20 feet**.                              | 2198  |
|                                 | Ohio Avenue Bridge—50 feet**.                       | 2244  |
|                                 | 1st Crossing Pine Creek Road—40 feet*.              | 2285  |
|                                 | 1st Crossing Pine Creek Road—30 feet**.             | 2290  |
|                                 | 2nd Crossing Pine Creek Road—20 feet*.              | 2312  |
|                                 | 2nd Crossing Pine Creek Road—30 feet**.             | 2316  |
|                                 | 3rd Crossing Pine Creek Road—100 feet**.            | 2329  |
|                                 | 4th Crossing Pine Creek Road—30 feet*.              | 2361  |

\*Downstream of centerline.  
\*\*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the

Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8825 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4748]

### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

#### Final Flood Elevation Determination for the City of Lake Station, Lake County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Lake Station, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lake Station, Lake County, Indiana.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lake Station, Lake County, Indiana, are available for review at the Lake Station City Hall, 3625 Central Avenue, Lake Station, Indiana.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lake Station, Lake County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location   | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Deep River         | Upstream Corporate Limits.   | 603   |
|                    | State Route 51 (Approximately 5,900' downstream of Corporate Limits).  | 602   |
|                    | State Route 51 (Approximately 12,800' downstream of Corporate Limits). | 601   |
|                    | 26th Avenue  | 600   |
|                    | Grand Boulevard  | 599   |
|                    | Conrail  | 598   |
|                    | Liverpool Road   | 598   |
| Burns Ditch        | Interstate 90-94   | 597   |
|                    | Clay Street  | 596   |
|                    | State Route 51   | 596   |
|                    | Toll Road Exit 4   | 596   |
|                    | Indiana Toll Road  | 596   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-8826 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4750]

### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

#### Final Flood Elevation Determination for the Town of Mooresville, Morgan County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Mooresville, Morgan County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Mooresville, Morgan County, Indiana.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Mooresville are available for review at the Town Hall, South Indiana Street, Mooresville, Indiana.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Mooresville, Morgan County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding         | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------------|---|---|
| White Lick Creek           | Approximately 100 feet upstream of Conrail Bridge.  | 667   |
|                            | Just upstream of 1300 North Road.                   | 672   |
|                            | Approximately 0.5 mile upstream of 1300 North Road. | 674   |
| East Fork White Lick Creek | Just upstream of State Route 67.                    | 665   |
|                            | Just upstream of Bridge Road.                       | 670   |
|                            | Just upstream of Conrail Bridge.                    | 676   |
|                            | Approximately 0.4 mile upstream of Conrail Bridge.  | 677   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 2, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8827 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4689]

### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

#### Final Flood Elevation Determination for the City of Ida Grove, Ida County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Ida Grove, Ida County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in



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order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Ida Grove, Ida County, Iowa.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Ida Grove are available for review at the City Hall, Ida Grove, Iowa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Ida Grove, Ida County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Maple River .....  | Western corporate limits.                                     | 1,214   |
|                    | 400 feet downstream of U.S. Highway 59 and State Highway 175. | 1,215   |
|                    | 50 feet upstream of U.S. Highway 59 and State Highway 175.    | 1,216   |
|                    | 1400 feet upstream of U.S. Highway 59 and State Highway 175.  | 1,218   |
|                    | 3000 feet upstream of U.S. Highway 59 and State Highway 175.  | 1,220   |
|                    | Northern corporate limits.                                    | 1,222   |
| Badger Creek ..... | Western corporate limits.                                     | 1,214   |

| Source of flooding  | Location   | Elevation in feet, national geodetic vertical datum |
|---------------------|--|---|
|                     | Downstream side of Rohwer Street.  | 1,221   |
|                     | 30 feet upstream from Fifth Street.  | 1,228   |
|                     | Upstream side of Seventh Street.   | 1,233   |
|                     | Upstream side of South Main Street.  | 1,236   |
|                     | Southern corporate limits.   | 1,247   |
|                     | 1250 feet upstream of southern corporate limits at limit of flooding in community. | 1,252   |
| Odebolt Creek ..... | Western corporate limit.   | 1,215   |
|                     | Upstream side of Moorehead Avenue.   | 1,216   |
|                     | Upstream side of Washington Street.  | 1,220   |
|                     | 1630 feet upstream of Washington Street.   | 1,222   |
|                     | Just upstream of golf course footbridge.   | 1,226   |
|                     | 200 feet upstream of county road.  | 1,226   |
|                     | 470 feet downstream of Chicago and Northwestern Railroad.                          | 1,230   |
|                     | Southeastern corporate limits.   | 1,234   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8828 Filed 3-26-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4772)

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Keosauqua, Van Buren County, Iowa

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Keosauqua, Van Buren County, Iowa. These base (100-year) flood elevations are the basis for the flood plain manage-

ment measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Keosauqua, Van Buren County, Iowa.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Keosauqua are available for review at the City Hall, Keosauqua, Iowa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Keosauqua, Van Buren County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                          | Elevation in feet, national geodetic vertical datum |
|--------------------|-----------------------------------|---|
| Des Moines River.. | At downstream corporate limit.    | 574   |
|                    | 700 feet upstream of Main Street. | 576   |
|                    | At upstream corporate limit.      | 576   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8829 Filed 3-26-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4610)

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Benham, Harlan County, Ky.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the city of Benham, Harlan County, Ky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Benham, Harlan County, Ky.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Benham, Harlan County, Ky. are available for review at the City Hall, Benham, Ky.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Benham, Harlan County, Ky.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L.

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93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location                                   | Elevation in feet, national geodetic vertical datum |
|---------------------|--|---|
| Looney Creek.....   | Just downstream of Kentucky Avenue Bridge. | 1521  |
|                     | Kentucky 160 Bridge .....                  | 1580  |
| Maggard Branch ...  | Just downstream of Kentucky 160 Bridge.    | 1591  |
| Haggard Branch..... | Just upstream of Central Avenue Bridge.    | 1615  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8830 Filed 3-26-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4664)

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Hopkinsville, Christian County, Ky.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for se-

lected locations in the City of Hopkinsville, Christian County, Ky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hopkinsville, Christian County, Ky.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hopkinsville, Christian County, Kentucky, are available for review at the Municipal Building, 101 North Main Street, Hopkinsville, Ky.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hopkinsville, Christian County, Ky.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding              | Location                            | Elevation in feet, national geodetic vertical datum |
|---------------------------------|-------------------------------------|---|
| North Fork of the Little River. | Just downstream of Millbrook Drive. | 512   |
|                                 | Just downstream of North Drive.     | 523   |
|                                 | Just downstream of Virginia Street. | 527   |
| South Fork of the Little River. | Just downstream of Marietta Drive.  | 519   |



| Source of flooding              | Location   | Elevation in feet, national geodetic vertical datum |
|---------------------------------|--|---|
| South Fork of the Little River. | Just downstream of Fort Campbell Boulevard (U.S. Highway 41A). | 520   |
|                                 | Just downstream of Nashville Road.                             | 528   |
| Sanderson Creek...              | Just downstream of Glass Avenue.                               | 526   |
|                                 | Just downstream of Andrew Avenue.                              | 540   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8831 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-4611]

# PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the town of Colfax, Grant Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Colfax, Grant Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Colfax, Grant Parish, La.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Colfax,

Grant Parish, La., are available for review at Town Hall, 401 Eighth Street, Colfax, La.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Colfax, Grant Parish, La.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding       | Location                                 | Elevation in feet, national geodetic vertical datum |
|--------------------------|--|---|
| Red River .....          | Northern Corporate Limits.               | 106   |
|                          | Southern Corporate Limits.               | 106   |
| Bayou Rigolette....      | Intersection of Church and Iatt Streets. | 95  |
| System (Backwater area). | Intersection of Graham and Lake Streets. | 95  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8832 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-4497]

# PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the town of Randolph, Kennebec County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Randolph, Kennebec County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Randolph, Maine.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Randolph, are available for review at Randolph Town Office, Water Street, Randolph, Maine.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Randolph, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination

to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location                             | Elevation in feet, national geodetic vertical datum |
|---------------------|--------------------------------------|---|
| Kennebec River..... | Randolph-Gardiner Bridge-20 feet*.   | 28  |
| Togus Stream .....  | State Route 27 Bridge-20 feet*.      | 28  |
|                     | Transmission Line Crossing-30 feet*. | 30  |
|                     | Barber Road Bridge-40 feet*.         | 74  |

\*Upstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8833 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-4502]

# PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the Town of Seekonk, Bristol County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Seekonk, Bristol County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in

order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Seekonk, Bristol County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Seekonk are available for review at the Town Clerk's Office, Town Hall, Seekonk, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of Seekonk, Bristol County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location                                    | Elevation in feet, national geodetic vertical datum |
|----------------------|---|---|
| Ten Mile River ..... | 1,300 feet downstream of Fall River Avenue. | 22  |
|                      | Upstream side of Fall River Avenue.         | 42  |
|                      | Upstream side of Turner Reservoir Dam.      | 51  |
|                      | Upstream side of Newman Avenue.             | 52  |
|                      | 2,000 feet upstream of Armistice Boulevard. | 60  |
|                      | Just upstream of Central Avenue.            | 67  |
|                      | 600 feet downstream of Dye Factory Dam.     | 69  |
|                      | Just downstream of Dye Factory Dam.         | 73  |

| Source of flooding   | Location                                | Elevation in feet, national geodetic vertical datum |
|----------------------|---|---|
|                      | Just upstream of Dye Factory Dam.       | 78  |
|                      | Just upstream of Pond Street.           | 78  |
| Oak Hill Stream..... | At downstream northern corporate limit. | 79  |
|                      | Just upstream of Borden Avenue.         | 85  |
|                      | Just downstream of Bishop Avenue.       | 86  |
|                      | Just upstream of Bishop Avenue.         | 88  |
|                      | 500 feet upstream of Bishop Avenue.     | 93  |
|                      | Just upstream of Conrail.               | 105   |
| Coles Brook.....     | Mouth at Central Pond..                 | 52  |
|                      | Just downstream of Newman Avenue.       | 53  |
|                      | Just upstream of Newman Avenue.         | 57  |
|                      | Just upstream of Talbot Way.            | 59  |
|                      | 1,800 feet upstream of Talbot Way.      | 60  |
| Runnins River.....   | Mouth at Barrington River.              | 10  |
|                      | 550 feet downstream of Highland Avenue. | 11  |
|                      | Just upstream of Highland Avenue.       | 12  |
|                      | Just downstream of Interstate 195.      | 13  |
|                      | Just downstream of County Street.       | 14  |
|                      | Just upstream of County Street.         | 17  |
|                      | Just downstream of Burrs Pond Dam.      | 18  |
|                      | Just upstream of Burrs Pond Dam.        | 30  |
|                      | Just downstream of Old Grist Mill Dam.  | 33  |
|                      | Just upstream of Old Grist Mill Dam.    | 40  |
|                      | Just downstream of Pleasant Street.     | 44  |
|                      | Just upstream of Pleasant Street.       | 46  |
|                      | Just upstream of Taunton Avenue.        | 47  |
|                      | Just downstream of Ledge Road.          | 53  |
|                      | Just upstream of Ledge Road.            | 57  |
|                      | Just downstream of Greenwood Avenue.    | 60  |
|                      | Just upstream of Greenwood Avenue.      | 63  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8834 Filed 3-26-79; 8:45 am]



## [4210-01-M]

[Docket No. FI-4442]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the Town of Wellesley, Norfolk County, Mass.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Wellesley, Norfolk County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Wellesley, Mass.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Wellesley, are available for review at Town Hall, Wellesley, Mass.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Wellesley, Mass.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------|---|---|
| Lower Charles River. | Conrail—60 feet*                                | 42  |
|                      | Newton Lower Falls Dam—90 feet*                 | 47  |
|                      | Coringly Dam—80 feet**                          | 51  |
|                      | Coringly Dam—80 feet**                          | 64  |
|                      | Cochituate Aqueduct—80 feet*                    | 66  |
|                      | State Route 9 Culvert—80 feet**                 | 67  |
|                      | State Route 9 Culvert—130 feet*                 | 75  |
| Upper Charles River. | Confluence with Waban Brook.                    | 110   |
|                      | Driveway—100 feet*                              | 111   |
| Waban Brook.         | Washington Street.                              | 110   |
|                      | Footbridge.                                     | 110   |
|                      | Footpath at upstream end of Lake Waban—40 feet* | 113   |
| Morse Pond.          | Conrail—120 feet*                               | 124   |
|                      | Areas adjacent to shoreline.                    | 125   |

\*Upstream of centerline.  
\*\*Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8835 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-4707]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the City of Belton, Cass County, Mo.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Belton, Cass County, Mo. These base (100-year) flood elevations are the basis for

the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Belton, Cass County, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Belton are available for review at the City Hall, Belton, Mo.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Belton, Cass County, Mo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Oil Creek          | Northern corporate limit.               | 975   |
|                    | 1750 feet downstream of 162nd Street.   | 995   |
|                    | Upstream side of 162nd Street.          | 1,006   |
|                    | Upstream side of 163rd Street.          | 1,009   |
|                    | Upstream side of East Outer Road.       | 1,011   |
|                    | 2,200 feet upstream of East Outer Road. | 1,024   |

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Steele, Mo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Main Ditch 6       | Kelly Street—100 feet*<br>Walnut Street—100 feet* | 259<br>259  |
| Lateral A          | Steele Auxiliary Airfield                         | 258   |

\*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8837 Filed 3-26-79; 8:45 am]

| Source of flooding    | Location   | Elevation in feet, national geodetic vertical datum |
|-----------------------|--|---|
| West Fork East Creek. | Southern corporate limit.  | 974   |
|                       | Upstream side of Cambridge Road.                                     | 987   |
|                       | Downstream side of Cleveland Avenue at southwestern corporate limit. | 999   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8836 Filed 3-26-79; 8:45 am]

## [4210-01-M]

[Docket No. FI-4589]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for the City of Steele, Pemiscot County, Mo.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Steele, Pemiscot County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Steele, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Steele, are available for review at City Hall, 115 South Walnut Street, Steele, Mo.

## [4210-01-M]

[Docket No. FI-4508]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS****Final Flood Elevation Determination for The Town of Dover, Morris County, N.J.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Dover, Morris County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Dover, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Dover, are available for review at Town Hall, 37 North Sussex County, Dover, N.J.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Dover, N.J.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in



flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Rockaway River     | Blackwell Street—50 feet*                         | 556   |
|                    | Mercer Street—30 feet*                            | 556   |
|                    | Union Street—50 feet*                             | 561   |
|                    | Essex Street—50 feet*                             | 565   |
|                    | Warren Street—50 feet*                            | 570   |
|                    | Conrail—20 feet* (1st crossing)                   | 577   |
|                    | U.S. Highway 46 (West Blackwell Street)—30 feet*  | 578   |
|                    | Footbridge—70 feet*                               | 587   |
|                    | Conrail—20 feet* (2nd crossing)                   | 604   |
|                    | Dover & Rockaway Railroad—20 feet*                | 606   |
| McKeels Brook      | Richards Avenue—20 feet*                          | 556   |
|                    | East McFarland Street—20 feet*                    | 568   |
| Jackson Brook      | Clark Street—100 feet*                            | 573   |
|                    | Cooper Street—20 feet*                            | 574   |
|                    | U.S. Highway 46 (West Blackwell Street)—90 feet*  | 579   |
|                    | U.S. Highway 46 (West Blackwell Street)—100 feet* | 584   |
|                    | Brook Lane—20 feet*                               | 593   |
|                    | Spillway—40 feet*                                 | 593   |
|                    | Spillway—40 feet*                                 | 595   |

\*Upstream of centerline.  
\*\*Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8839 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-3504]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Colonie, Albany County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

#### ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Colonie, Albany County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Colonie, Albany County, N.Y.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Colonie, Albany County, N.Y., are available for review at the Planning Office, Room 205, Colonie Memorial Town Hall, Newtonville, N.Y.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Colonie, Albany County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                 | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Hudson River       | Downstream Corporate Limits              | 24  |
|                    | Upstream Corporate Limits                | 24  |
| Delphus Kill       | Bike Path                                | 197   |
|                    | Pollock Road (Downstream)                | 236   |
|                    | Pollock Road (Upstream)                  | 243   |
|                    | Interstate 87 (Downstream)               | 257   |
|                    | Interstate 87 (Upstream)                 | 266   |
|                    | Northbound I-87 Entrance Ramp (Upstream) | 272   |
|                    | Northbound I-87 Exit Ramp (Upstream)     | 283   |
|                    | Corporate Limit                          | 32  |
|                    | Delaware and Hudson Railroad             | 43  |
|                    | Lincoln Avenue                           | 43  |
| Lisha Kill         | Spring Street                            | 51  |
|                    | Corporate Limit                          | 270   |
|                    | Consaul Road                             | 278   |
|                    | Colonie Golf Course Service Road         | 287   |
|                    | State Highway 5                          | 296   |
| Mohawk River       | Albany Street (downstream)               | 298   |
|                    | Albany Street (upstream)                 | 301   |
|                    | Dam at Lukens Stables                    | 313   |
|                    | Private Road                             | 319   |
|                    | Conrail                                  | 324   |
|                    | Cordell Road (Downstream)                | 335   |
|                    | Mouth of Lisha Kill Tributary            | 316   |
|                    | Overland Street                          | 339   |
|                    | Nutwood Street                           | 340   |
|                    | Albany Street                            | 342   |
| Shaker Creek       | Corporate Limits                         | 344   |
|                    | Corporate Limit (Downstream)             | 149   |
|                    | Niagra Mohawk Dam                        | 165   |
|                    | Crescent Dam                             | 193   |
|                    | U.S. Highway 9                           | 194   |
|                    | Interstate 87                            | 195   |
|                    | Delphus Kill                             | 197   |
|                    | Shaker Creek                             | 200   |
|                    | Corporate Limit (Upstream)               | 200   |
|                    | Conrail                                  | 194   |
| Sand Creek         | Exchange Street                          | 194   |
|                    | Sand Creek Road (Downstream)             | 194   |
|                    | Everett Road                             | 200   |
|                    | Russell Road                             | 210   |
|                    | Private Road                             | 213   |
|                    | Foot Path (Downstream)                   | 228   |
|                    | Wilkins Avenue                           | 242   |
|                    | Foot Path (Upstream)                     | 242   |
|                    | Dirt Road                                | 257   |
|                    | Mouth of Shaker Creek                    | 200   |
| Shaker Creek       | River Road                               | 200   |
|                    | Mill Road                                | 236   |
|                    | Farm Road                                | 249   |
|                    | State Highway 7                          | 252   |
|                    | Old Niskayuna Road                       | 252   |
|                    | Pine Grove Road                          | 255   |
|                    | Sicker Road                              | 260   |
|                    | Airport Runway 10 (Upstream)             | 267   |
|                    | Airport Terminal Road                    | 268   |
|                    | Airport Road                             | 268   |
|                    | Ann Lee Home Road                        | 273   |
|                    | State Highway 135                        | 276   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended

(42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8838 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4720]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of New Castle, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

#### ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of New Castle, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of New Castle, Westchester County, N.Y.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of New Castle, Westchester County, N.Y., are available for review at the town Clerk's office, New Castle, N.Y.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of New Castle, Westchester County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding    | Location                             | Elevation in feet, national geodetic vertical datum |
|-----------------------|--------------------------------------|---|
| Saw Mill River        | Downstream Corporate Limits          | 309   |
|                       | Saw Mill River Parkway               | 312   |
|                       | New York Route 120                   | 346   |
| Gedney Brook          | Private Driveway                     | 365   |
|                       | Downstream Corporate Limits          | 267   |
|                       | Millwood Road                        | 309   |
| Kisco River           | Swimming Pool Culvert                | 333   |
|                       | Woodmill Road                        | 409   |
|                       | Confluence with New Croton Reservoir | 199   |
|                       | Lake Road                            | 199   |
|                       | Nitra Road                           | 215   |
| Branch 2, Kisco River | Millwood                             | 281   |
|                       | Upstream Corporate Limits            | 284   |
|                       | Downstream Corporate Limits          | 343   |
|                       | Horseshoe Road                       | 347   |
|                       | Daly Cross Road                      | 349   |
|                       | Kathleen Lane                        | 349   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8840 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4637]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Belfield, Stark County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

#### ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Belfield, Stark County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Belfield, N. Dak.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Belfield, are available for review at City Hall, Belfield, N. Dak.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Belfield, N. Dak.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.



The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding     | Location                                | Elevation in feet, national geodetic vertical datum |
|------------------------|---|---|
| Heart River.....       | U.S. Highway 85-100 feet*               | 2573  |
|                        | Pedestrian Bridge-30 feet*              | 2576  |
|                        | Second Avenue East-30 feet*             | 2578  |
| Heart River Tributary. | Main Street-30 feet*                    | 2580  |
|                        | Sixth Avenue-50 feet                    | 2583  |
|                        | 1st Crossing Pedestrian Bridge-50 feet* | 2581  |
|                        | Second Avenue West-20 feet*             | 2582  |
|                        | 2nd Crossing Pedestrian Bridge-50 feet* | 2583  |
|                        | Fourth Street Northwest-50 feet*        | 2584  |
|                        | Burlington Northern Railroad-50 feet*   | 2586  |

\*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8841 Filed 3-26-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4594]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Hebron, Morton County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hebron, Morton County, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evi-

dence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hebron, North Dakota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hebron, are available for review at Fire Hall, 620 Washington Avenue, Hebron, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hebron, North Dakota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding  | Location   | Elevation in feet, national geodetic vertical datum |
|---------------------|--|---|
| Little Knife River. | Main Avenue-50 feet*                               | 2150  |
|                     | Pulton Avenue-50 feet*                             | 2159  |
|                     | Elk Street-50 feet*                                | 2183  |
|                     | Lincoln Avenue-50 feet*                            | 2170  |
|                     | 2nd Crossing Burlington Northern Railroad-20 feet* | 2174  |

\*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8842 Filed 3-26-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4776]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Heath, Licking County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Heath, Licking County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Heath, Licking County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Heath are available for review at the Municipal Offices, 1287 Hebron Avenue, Heath, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Heath, Licking County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding        | Location                                  | Elevation in feet, national geodetic vertical datum |
|---------------------------|---|---|
| Licking River .....       | Confluence of Lateral Q                   | 812   |
|                           | Downstream corporate limit.               | 810   |
| South Fork Licking River. | Upstream corporate limit.                 | 860   |
|                           | Just upstream of Liberty Drive.           | 852   |
|                           | Just upstream of Irving Wick Drive.       | 845   |
|                           | Just upstream of Chessie System.          | 841   |
|                           | Just downstream of Chessie System.        | 839   |
|                           | Just upstream of Hopewell Drive.          | 821   |
|                           | Downstream corporate limit.               | 819   |
| Ramp Creek .....          | Just downstream of Thornwood Drive.       | 886   |
|                           | Confluence of Lateral F.                  | 879   |
|                           | 190 feet downstream of Conrail.           | 878   |
|                           | 1,875 feet downstream of Conrail.         | 873   |
| Lateral A .....           | Just upstream of State Route 79.          | 856   |
|                           | Confluence with South Fork Licking River. | 851   |
|                           | 510 feet upstream of Summit Street.       | 812   |
| Lateral Q .....           | Confluence with Licking River.            | 811   |
|                           | 3,350 feet upstream of Blue Jay Road.     | 918   |
|                           | 2,500 feet upstream of Jay Road.          | 886   |
|                           | Just upstream of Blue Jay Road.           | 888   |
|                           | Just downstream of Blue Jay Road.         | 858   |
|                           | Just upstream of Summit Street.           | 823   |
|                           | Just downstream of Summit Street.         | 814   |
| Lateral B .....           | 330 feet upstream of State Route 13.      | 870   |
|                           | Just upstream of State Route 13.          | 866   |
|                           | Downstream corporate limit.               | 841   |
| Lateral C .....           | 1.15 miles upstream of State Route 79.    | 878   |
|                           | Just upstream of State Route 79.          | 860   |
|                           | Just downstream of State Route 79.        | 855   |

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Lateral D .....    | Just upstream of 30th Street.                         | 852   |
|                    | Just downstream of 30th Street.                       | 847   |
|                    | Confluence of South Fork Licking River.               | 841   |
|                    | 1,960 feet upstream of Irving Wick Drive East.        | 936   |
| Lateral E .....    | Downstream corporate limit at Irving Wick Drive East. | 915   |
|                    | Upstream corporate limit.                             | 903   |
|                    | Just upstream of Conrail.                             | 903   |
| Lateral E-A .....  | Just downstream of Conrail.                           | 898   |
|                    | Downstream corporate limit.                           | 897   |
|                    | 2,950 feet upstream of corporate limits.              | 895   |
|                    | Downstream corporate limit.                           | 880   |
| Lateral F .....    | 1,130 feet upstream of confluence of Lateral F-A.     | 890   |
|                    | Confluence of Lateral F-A.                            | 882   |
| Lateral F-A .....  | 2,700 feet upstream of confluence with Lateral F.     | 899   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8843 Filed 3-26-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4763]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of North Olmsted Cuyahoga County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of North Olmsted, Cuyahoga County, Ohio. These base (100-year) flood elevations

are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of North Olmsted, Cuyahoga County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of North Olmsted are available for review at the Engineer's Office, City Hall, North Olmsted, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of North Olmsted, Cuyahoga County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Roots Ditch .....  | 100 feet downstream of Canterbury Road. | 757   |
|                    | Downstream of Canterbury Road.          | 756   |
|                    | Upstream of Canterbury Road.            | 761   |
|                    | 290 feet upstream of Canterbury Road.   | 762   |
|                    | 310 feet upstream of Canterbury Road.   | 763   |



| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Roots Ditch.....   | 500 feet upstream of Canterbury Road.   | 763   |
|                    | 560 feet upstream of Canterbury Road.   | 764   |
|                    | Just downstream of golf course bridge 800 feet upstream from Canterbury Road. | 765   |
|                    | Just upstream of golf course bridge 800 feet upstream from Canterbury Road.   | 766   |
|                    | At first private bridge.....  | 768   |
|                    | 40 feet downstream of Revere Road.  | 770   |
|                    | At Burns Road culvert....   | 771   |
|                    | Downstream side of Decker Road culvert.                                       | 772   |
|                    | Upstream side of Decker Road culvert.   | 774   |
|                    | Outlet of culvert about 300 feet downstream of McKenzie Road.                 | 774   |
|                    | Upstream side of McKenzie Road.   | 777   |
|                    | About 850 feet upstream of Stearns Road.                                      | 778   |
| Rocky River.....   | Downstream of Lewis Road.   | 669   |
|                    | 70 feet upstream of Lewis Road.   | 871   |
|                    | 1,360 feet upstream of Lewis Road.  | 672   |
|                    | Upstream corporate limit.   | 673   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8844 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4471]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the City of Seaside, Clatsop County, Ore.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for se-

lected locations in the City of Seaside, Clatsop County, Oregon. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Seaside, Oregon.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Seaside, are available for review at City Hall, 851 Broadway, Seaside, Oregon.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Seaside, Oregon.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Pacific Ocean..... | At shoreline near Avenue N.   | 20  |
|                    | At shoreline near 11th Avenue.  | 20  |
|                    | At intersection of South Columbia Street and Avenue U (shallow flooding). | 1*  |

| Source of flooding  | Location  | Elevation in feet, national geodetic vertical datum |
|---------------------|---|---|
|                     | At intersection of South Beach Drive and Avenue N (shallow flooding). | 1*  |
| Necanicum River.... | 12th Avenue—20 feet**   | 11  |
|                     | Avenue A—20 feet**  | 12  |
|                     | Avenue U—20 feet**  | 14  |
|                     | Farm Bridge—20 feet**   | 18  |
| Neawanna Creek....  | Mill Creek Tidegate—50 feet**   | 11  |
|                     | Abandoned Railroad Grade—50 feet**                                    | 12  |
|                     | Near Avenue R.....  | 13  |
| Circle Creek.....   | 2,000 feet upstream of confluence with Necanicum River.               | 18  |
|                     | Rippert Road—100 feet**   | 29  |

\*Depth, feet.  
\*\*Upstream of centerline.  
\*\*\*Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8845 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4777]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Borough of Beaver, Beaver County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Beaver, Beaver County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Beaver, Beaver County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Beaver, Beaver County, Pennsylvania, are available for review at the Borough Building, Beaver County, Pennsylvania.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Beaver, Beaver County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                     | Elevation in feet, national geodetic vertical datum |
|--------------------|------------------------------|---|
| Ohio River.....    | Downstream Corporate Limits. | 702   |
|                    | Upstream Corporate Limits.   | 703   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule

has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8846 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4129]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Township of Birmingham, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Birmingham, Delaware County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the township of Birmingham, Delaware County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Birmingham, Delaware County, Pa., are available for review at the Office of the Township Supervisor, Chadds Ford, Pa.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Birmingham, Delaware County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                   | Elevation in feet above mean sea level |
|--------------------|--|--|
| Brandywine Creek   | Rock Hill road (extended).                 | 160                                    |
|                    | Upstream side of Route 100 crossing.       | 162                                    |
|                    | Upstream side of Conrail crossing.         | 168                                    |
|                    | Baltimore Pike (Upstream side) (Crossing). | 170                                    |
|                    | Upstream Corporate Limits.                 | 172                                    |
| Harvey Run.....    | Route 100 crossing (Upstream side).        | 168                                    |
|                    | Upstream side Ring Road crossing.          | 185                                    |
|                    | Heyburn Road (Upstream).                   | 211                                    |
|                    | Private Road crossing at headwaters.       | 306                                    |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8847 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4780]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Township of Cecil, Washington County, Pa.

AGENCY: Federal Insurance Administration, HUD.



## RULES AND REGULATIONS

## ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of Cecil, Washington County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Cecil, Washington County, Pennsylvania.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Cecil, Washington County, Pennsylvania, are available for review at the Municipal Building, R.D. 3, McDonald, Pennsylvania.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Cecil, Washington County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location                                     | Elevation in feet, national geodetic vertical datum |
|----------------------|--|---|
| Chartiers Creek..... | Conrail Bridge                               | 862   |
|                      | Downstream of Main Street                    |   |
|                      | Main Street                                  | 866   |
|                      | South dead end of Center Avenue              | 868   |
|                      | Conrail Bridge upstream of Main Street       | 871   |
|                      | Interstate 79                                | 917   |
|                      | Confluence of Morgantown Reservoir Tributary | 918   |
|                      | Conrail Bridge downstream of Morgantown Road | 921   |
|                      | Morgantown Road                              | 922   |
|                      | Curry Avenue                                 | 925   |
|                      | Upstream Corporate Limits                    | 928   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 8848 Filed 3-26-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4764)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the Borough of Clearfield, Clearfield County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of Clearfield, Clearfield County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Clearfield, Clearfield County, Pennsylvania.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Clearfield, Clearfield County, Pennsylvania, are available for review at the Borough Office, 221 East Market Street, Clearfield, Pennsylvania.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Clearfield, Clearfield County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding             | Location                | Elevation in feet, national geodetic vertical datum |
|--------------------------------|-------------------------|---|
| West Branch Susquehanna River. | Corporate Limits (West) | 1,106   |
|                                | Timber Dam (Downstream) | 1,102   |
|                                | Corporate Limits (East) | 1,097   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule

## RULES AND REGULATIONS

has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8849 Filed 3-26-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4723)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the Borough of East Petersburg, Lancaster County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of East Petersburg, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of East Petersburg, Lancaster County, Pennsylvania.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of East Petersburg, Lancaster County, Pennsylvania, are available for review at the residence of Mrs. Mary Rose Turnpugh, 6040 Main Street, East Petersburg, Pennsylvania.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of East Petersburg, Lancaster County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L.

93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding      | Location                       | Elevation in feet, national geodetic vertical datum |
|-------------------------|--------------------------------|---|
| Little Conestoga Creek. | Manheim Pike (Upstream)        | 317   |
|                         | Petersburg Road (Upstream)     | 329   |
|                         | Upstream—most Corporate Limits | 336   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-8850 Filed 3-26-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4599)

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

## Final Flood Elevation Determination for the Borough of Halifax, Dauphin County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of Halifax, Dauphin County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Halifax, Dauphin County, Pennsylvania.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Halifax, Dauphin County, Pennsylvania, are available for review at the Halifax Borough Building, Second and Armstrong Streets, Halifax, Pennsylvania.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Halifax, Dauphin County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                               | Elevation in feet, national geodetic vertical datum |
|--------------------|--|---|
| Susquehanna River. | Corporate Limits Extended (Downstream) | 371   |
|                    | Rise Street (Upstream)                 | 372   |
|                    | Corporate Limits Extended (Upstream)   | 372   |



(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8851 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4724]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Borough of Hellertown, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Hellertown, Northampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Hellertown, Northampton County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Hellertown, Northampton County, Pennsylvania, are available for review at the Borough Hall, Hellertown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Hellertown, Northampton County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                        | Elevation in feet, national geodetic vertical datum |
|--------------------|---------------------------------|---|
| Saucon Creek.....  | Corporate Limits (Downstream).  | 259   |
|                    | Friedensville Road (Upstream).  | 277   |
|                    | Walnut Street (Upstream).       | 284   |
|                    | Conrail (Downstream of Tracks). | 291   |
|                    | Conrail (Upstream of Tracks).   | 296   |
| Silver Creek ..... | Corporate Limits (Upstream).    | 296   |
|                    | Conrail Tracks (Downstream).    | 277   |
|                    | Conrail Tracks (Upstream).      | 278   |
|                    | Front Street .....              | 279   |
|                    | Harris Street (Downstream).     | 280   |
|                    | Harris Street (Upstream).       | 281   |
|                    | Main Street (Upstream).         | 284   |
|                    | Northampton Avenue (Upstream).  | 290   |
|                    | Delaware Avenue.....            | 293   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8852 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4782]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Borough of Industry, Beaver County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Industry, Beaver County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Industry, Beaver County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Industry, Beaver County, Pennsylvania, are available for review at the Borough Building, Industry, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Industry, Beaver County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals within the community to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

dividuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                      | Elevation in feet, national geodetic vertical datum |
|--------------------|-------------------------------|---|
| Ohio River .....   | Midland-Shippingsport Bridge. | 695   |
|                    | Confluence of Wolf Run        | 696   |
|                    | Confluence of Sixmile Run.    | 697   |
|                    | Montgomery Locks and Dam.     | 698   |
|                    | Upstream Corporate Limit.     | 700   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8853 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4727]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Township of Little Mahanoy, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Little Mahanoy, Northumberland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures

that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Little Mahanoy, Northumberland County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Little Mahanoy, Northumberland County, Pennsylvania, are available for review at the residence of Mr. Carl Keller, R.D. 1, Dornsife, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Little Mahanoy, Northumberland County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                                    | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Mahanoy Creek..... | State Route 225 (Downstream).               | 497   |
|                    | State Route 225 (Upstream).                 | 499   |
|                    | 7,900 feet upstream of State Route 225.     | 511   |
|                    | Confluence of Zerbe Run/Township Route 405. | 518   |

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Zerbe Run .....    | Mahanoy Road .....  | 518   |
|                    | Private Road (3,575 feet upstream of Mahanoy Road).       | 532   |
|                    | Mine Dump Road/Township Route 409.                        | 549   |
|                    | 3,500 feet upstream of Mine Dump Road/Township Route 409. | 568   |
|                    | 7,500 feet upstream of Mine Dump Road/Township Route 409. | 605   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 28, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8854 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4733]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Township of Tremont, Schuylkill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Tremont, Schuylkill County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Tremont, Schuylkill County, Pennsylvania.



**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Tremont, Schuylkill County, Pennsylvania, are available for review at the office of Mr. Gerald Workman, Chairman of Tremont, R.D. 4, Pine Grove, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Tremont, Schuylkill County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Swatara Creek..... | Corporate Limits—Downstream.                      | 613   |
|                    | Legislative Route 53029.                          | 630   |
|                    | 1,100 feet upstream of Legislative Route 53029.   | 637   |
|                    | Confluence of Black Creek.                        | 669   |
|                    | 1,000 feet upstream of confluence of Black Creek. | 672   |
|                    | 4,500 feet upstream of confluence of Black Creek. | 718   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8855 Filed 3-26-79; 8:45 am]

**[4210-01-M]**

[Docket No. FI-4735]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS**

**Final Flood Elevation Determination for the Township of Upper Paxton, Dauphin County, Pa.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of Upper Paxton, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Upper Paxton, Dauphin County, Pennsylvania.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Upper Paxton, Dauphin County, Pennsylvania, are available for review at the Township Municipal Building, Upper Paxton, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Upper Paxton, Dauphin County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding                  | Location   | Elevation in feet, national geodetic vertical datum |
|-------------------------------------|--|---|
| Susquehanna River.                  | Confluence of Wiconisco Creek.                         | 384   |
|                                     | Confluence of Shippens Run.                            | 385   |
|                                     | Confluence of Barger Run.                              | 390   |
|                                     | Tributary No. 37 to Susquehanna River.                 | 392   |
|                                     | Confluence of Mahantango Creek.                        | 404   |
| Wiconisco Creek.....                | Confluence with Susquehanna River.                     | 384   |
|                                     | Pa. Route 147 (Market Street).                         | 392   |
|                                     | Confluence of Little Wiconisco Creek (Wiconisco Road). | 402   |
|                                     | Township Route 460.....                                | 426   |
| Tributary No. 1 to Wiconisco Creek. | Confluence with Wiconisco Creek.                       | 400   |
|                                     | State Street.....                                      | 432   |
|                                     | Township Route 466.....                                | 448   |
| Little Wiconisco Creek.             | Wiconisco Street.....                                  | 401   |
|                                     | Pa. Route 209.....                                     | 420   |
| Mahantango Creek.                   | Confluence with Susquehanna River.                     | 404   |
|                                     | Pa. Route 147.....                                     | 404   |
|                                     | Township Route 302 Bridge.                             | 420   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8856 Filed 3-26-79; 8:45 am]

**[4210-01-M]**

[Docket No. FI-4736]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS**

**Final Flood Elevation Determination for the Township of West Hempfield, Lancaster County, Pa.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of West Hempfield, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of West Hempfield, Lancaster County, Pennsylvania.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of West Hempfield, Lancaster County, Pennsylvania, are available for review at the Municipal Building, 3401 Marietta Avenue, Lancaster, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of West Hempfield, Lancaster County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been

provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding                  | Location  | Elevation in feet, national geodetic vertical datum |
|-------------------------------------|---|---|
| Strickler Run.....                  | 11,000 feet above mouth Franklin Road (Upstream). | 311   |
|                                     | Downstream Corporate Limits.                      | 267   |
| North Branch Strickler Run.         | Oswego Drive (Upstream).                          | 265   |
|                                     | Confluence with Strickler Run.                    | 298   |
| Chickies Creek.....                 | Chiquis Road (Upstream).                          | 276   |
|                                     | Siegist Road (Upstream).                          | 340   |
|                                     | Valley Road (Upstream).                           | 307   |
| West Branch Little Conestoga Creek. | Donnerville Road (Upstream).                      | 297   |
|                                     | Downstream Corporate Limits.                      | 396   |
|                                     |   | 383   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8857 Filed 3-26-79; 8:45 am]

**[4210-01-M]**

[Docket No. FI-4631]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS**

**Final Flood Elevation Determinations for the Town of Shoreham, Addison County, Vt.; Correction**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects a final rule on base (100-year) flood elevations that appeared on page 44 FR 12185 of the FEDERAL REGISTER of March 6, 1979.

**EFFECTIVE DATE:** March 6, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following

| Source of flooding           | Location   | Elevation in feet, national geodetic vertical datum |
|------------------------------|--|---|
| Lake Champlain.....          | From northern corporate limit to 2,400 feet south of northern corporate limit. | 103   |
| Should be corrected to read: |  |   |
| Lake Champlain.....          | From northern corporate limit to southern corporate limit.                     | 103   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8858 Filed 3-26-79; 8:45 am]

**[4210-01-M]**

[Docket No. FI-4673]

**PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS**

**Final Flood Elevation Determination for the City of Hopewell, Va.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Hopewell, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in



the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hopewell, Virginia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hopewell, Virginia, are available for review at the Hopewell Municipal Building, 300 North Main Street, Hopewell, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hopewell, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                         | Elevation in feet, national geodetic vertical datum |
|--------------------|----------------------------------|---|
| Appomattox River   | Confluence with James River      | 8   |
|                    | Upstream Corporate Limits        | 8   |
| Bailey Creek       | Confluence with James River      | 8   |
|                    | Confluence with Cattail Creek    | 11  |
|                    | State Route 156 (Upstream)       | 18  |
|                    | Confluence with Southerly Run    | 35  |
| Bullhill Run       | Confluence with Cabin Creek      | 27  |
|                    | Woodside Court Extended          | 85  |
| Cabin Creek        | Confluence with Appomattox River | 8   |

| Source of flooding | Location                                      | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
|                    | River Road                                    | 26  |
|                    | Jackson Farm Road                             | 47  |
|                    | Norfolk & Western Railway (Upstream)          | 74  |
| Cattail Creek      | Confluence with Bailey Creek                  | 10  |
|                    | Winston Churchill Drive (S.R. 156) (Upstream) | 24  |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8859 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4674]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Town of Scottsville, Albemarle County, Va.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Scottsville, Albemarle County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Scottsville, Albemarle County, Virginia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Scottsville, Albemarle County, Virginia, are available for review at the Scottsville Municipal Building, Scottsville, Virginia.

able for review at the Scottsville Municipal Building, Scottsville, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Scottsville, Albemarle County, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                    | Elevation in feet, national geodetic vertical datum |
|--------------------|-----------------------------|---|
| James River        | Downstream Corporate Limit  | 282   |
|                    | Confluence of Mink Creek    | 285   |
|                    | Va. Route 20                | 286   |
|                    | Upstream Corporate Limit    | 286   |
| Mink Creek         | Chesapeake and Ohio Railway | 285   |
|                    | Main Street                 | 285   |
|                    | Jackson Street              | 285   |
|                    | Building                    | 285   |
|                    | Tributary to Mink Creek     | 285   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8860 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

[Docket No. FI-4632]

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

##### Final Flood Elevation Determination for the Town of Stonewood, Harrison County, W. Va.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Stonewood, Harrison County, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Stonewood, Harrison County, West Virginia.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Stonewood, Harrison County, West Virginia, are available for review at the Treasurer's Office, Stonewood City Hall, Stonewood, West Virginia.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Stonewood, Harrison County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act

of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location                    | Elevation in feet, national geodetic vertical datum |
|--------------------|-----------------------------|---|
| Elk Creek          | Downstream Corporate Limit  | 989   |
|                    | Plainwood Avenue (Upstream) | 971   |
|                    | Upstream Corporate Limit    | 974   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 79-8861 Filed 3-26-79; 8:45 am]

#### [4830-01-M]

##### Title 26—Internal Revenue

#### CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

##### SUBCHAPTER A—INCOME TAX

[T.D. 7603]

#### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DEC. 31, 1953

##### Political and Newsletter Fund Contributions

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document provides final regulations relating to tax incentives for contributions made by individuals to candidates for elective public office and to newsletter funds. Changes to the applicable law were made by the Revenue Act of 1971, the Act of January 3, 1975, and the Revenue Act of 1978. These regulations provide necessary guidance to individuals, campaign committees, and newsletter funds for compliance with the law.

**EFFECTIVE DATE:** Except as provided, these regulations apply to political contributions made in taxable years beginning after December 31, 1971, and newsletter fund contributions made in taxable years beginning after December 31, 1974.

**FOR FURTHER INFORMATION CONTACT:**

Robert A. Katcher of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3432, not a toll-free call.

**SUPPLEMENTARY INFORMATION:**

##### BACKGROUND

On September 19, 1972, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 41, 218, 642(a)(3) (since redesignated 642(a)(2)), and 642(i) of the Internal Revenue Code of 1954 (37 FR 19140). The amendments were proposed to conform the regulations to sections 701 through 703 of the Revenue Act of 1971 (85 Stat. 560). After consideration of all comments regarding the proposed amendments; those amendments are adopted as revised by this Treasury decision.

##### 1975 STATUTORY CHANGES

In 1975, Congress made three changes to sections 41 and 218. Act of January 3, 1975 (88 Stat. 2119). First, those sections were extended to provide for a credit or deduction for contributions to newsletter funds. Second, the maximum annual credit or deduction was increased. Third, the term "candidate" was amended to include an individual who publicly announces his or her candidacy before the end of the calendar year following the calendar year in which the contribution is made. The final regulations are consistent with those changes.

##### 1978 STATUTORY CHANGES

In the Revenue Act of 1978, the Congress increased the maximum annual credit under section 41 and repealed section 218. These changes are effective for political and newsletter fund



contributions payment of which is made in taxable years of the contributor beginning after December 31, 1978.

#### PERMISSIBLE EXPENDITURES

A number of persons commented that the provision in the notice of proposed rulemaking that separated political contributions into "restricted" and "unrestricted" amounts was questionable both from a statutory and administrative viewpoint. They pointed out that, since the statute requires candidates to use political contributions to support their candidacy and since campaign committees must be organized and operated exclusively to support candidates, all amounts contributed to these persons should be used exclusively to support candidates. The final regulations adopt this position in § 1.41-1. They do provide retroactive relief in the interest of fairness, however, for those who acted in accordance with the proposed rule. § 1.41-7.

#### TIME OF QUALIFICATION

A number of commentators suggested that an individual who publicly announces for an elective public office meets the definition of "candidate" if he or she satisfies or can satisfy the statutory requirements for holding the office prior to actually taking office. The final regulations also adopt this position in § 1.41-1.

#### UNSPENT CONTRIBUTIONS

Consistent with one comment, the final regulations in § 1.41-3 adopt a more lenient position with respect to the use of unspent political contributions. Generally, these amounts must be contributed to certain organizations or must be spent to further the candidacy of any individual for any elective public office in a future election.

These rules implement the legislative policy behind the enactment of section 41, which was to encourage wider participation in election financing rather than to monitor the activities of political organizations. Since the enactment of sections 41 and 218 and the issuance of the notice of proposed rulemaking, Congress has enacted section 527, relating to the taxation of political organizations. The day-to-day operation of campaign committees is more appropriately dealt with under that section.

#### OTHER CHANGES

The final regulations in § 1.41-2(b) provide a specific rule with respect to contributions that are earmarked for a particular individual. In such a case, the taxpayer who makes the contribution is eligible for a credit or deduction only if the particular individual to whom it is earmarked is a candidate

for the year in which the contribution is made.

In response to one comment, the final regulations in § 1.41-4 (c) make it clear that the election under section 41 is revocable. A taxpayer may revoke the election by filing an amended return.

The final regulations do not include rules for allowing a credit or deduction for the cost of tickets either to participate in a raffle or admission to a party held to raise funds for a candidate's campaign. For rules in this regard see Rev. Rul. 72-411, 1972-2 C.B. 5, Rev. Rul. 72-412, 1972-2 C.B. 5, and section 276.

The final regulations provide, generally, that where a campaign debt is incurred, an individual who was a candidate remains a candidate until the debt is paid.

Candidates and campaign committees no longer are required to use Forms 4908 and 4909. This change is consistent with the December 24, 1975 announcement of the elimination of those forms. The Service feels their limited usefulness did not justify the burdens they created.

The proposed regulations under sections 218, 642(a)(3) (redesignated 642(a)(2)) and 642(i), as well as the statutory provision portion of the proposed regulations under section 41, are withdrawn. This action is in conformity with the Administration's policy not to promulgate regulations that serve little or no useful purpose. Either the proposed regulations contained material obvious on the face of the statute, or their substance was incorporated into §§ 1.41-0 through -8. The final regulations do contain a new § 1.218-0 which basically incorporates by reference the new §§ 1.41-0 through -8. To avoid confusion, the present § 1.218, which contains a statutory provision that has been redesignated section 221, is being repealed.

#### ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. The following new sections are inserted in the appropriate place.

§ 1.41-0 Credit or deduction for political and newsletter fund contributions—scope and note.

Section 41 allows a limited credit against the income tax for political and newsletter fund contributions. Section 218 allows a limited deduction for contributions. The Revenue Act of 1978, however, increases the maximum annual credit under section 41 and repeals section 218. These changes are effective for political and newsletter fund contributions payment of which is made in taxable years of the con-

tributor beginning after December 31, 1978. Section 1.41-1 through -8 apply to both sections 41 and 218.

§ 1.41-1 Same—definitions of certain items.

(a) *Campaign committee.* A "campaign committee" is any group described in section 41 (c) (1) (B). Thus, to be a campaign committee a group must be organized and operated exclusively to further the nomination or election of one or more candidates. That means it may not, except as otherwise provided in § 1.41-3(a), spend any money for any other purpose. Therefore, a group that engages in any general political, educational, or legislative activities is not a campaign committee. Such a group may, however, organize a separate campaign committee exclusively to further the nomination or election of one or more candidates.

(b) *Candidate.* A "candidate" is an individual described in section 41 (c)(2). A candidate remains a candidate until enough money has been raised to pay the debts incurred in a previous campaign for elective public office. For example, A, a candidate for Senator from State X in 1977, is elected to that office in 1978. A sustains a campaign debt with respect to A's Senatorial campaign. A remains a candidate solely for the purpose of soliciting contributions to extinguish the campaign debt.

(c) *Elective public office.* An "elective public office" is any governmental position for which one must be directly chosen by the casting of votes by the general public or the Electoral College. It does not, however, include any office or position in any national, state, or local political party or similar organization, or membership in the Electoral College.

(d) *Furthering a candidacy.* Expenditures further a candidacy within the meaning of section 41(c)(1) (A) and (B) if they are directly related to, and are intended to support, a candidate's campaign for elective public office. Examples include payments for—

- (1) Researching and polling campaign issues;
- (2) Trips in connection with campaigning by the candidate or persons acting on his or her behalf;
- (3) Raising funds; and
- (4) Campaign-related debts left over from a previous political campaign.

(e) *Meets the qualifications.* An individual "meets the qualifications prescribed by law" to hold an elective public office if the individual can be reasonably expected to meet those qualifications on or before the date the office is to be filled.

(f) *Newsletter fund contribution.* The term "newsletter fund contribution" means a contribution of money

or gift of money directly to a fund described in section 527(g) (relating to the treatment of newsletter funds as political organizations).

(g) *Political contribution.* A "political contribution" is a contribution of money or gift of money directly to a person described in section 41(c)(1). A political contribution is not limited to that portion of the contribution or gift that is eligible as a credit under section 41(b) or deduction under section 218(b).

(h) *Publicly announces.* An individual "publicly announces" that he or she is a candidate by making a positive statement available for media distribution that he or she is seeking nomination or election to a specific elective public office. An example is a news release or other statement by an individual intended for distribution via television, radio, newspapers, or magazines within the geographic area associated with the elective public office being sought which states that he or she seeks nomination or election to the office. Incumbency in an office does not constitute a public announcement that one is seeking reelection to that office. Furthermore, if because of death or any other reason an individual does not make a public announcement, the individual is not a candidate even though the individual was about to make a public announcement.

§ 1.41-2 Same—limitations and special rules.

(a) *When payment must be made.* A taxpayer may elect the credit under section 41 or the deduction under section 218 only if a political or newsletter fund contribution is actually paid within the taxable year for which the taxpayer claims the credit or deduction. The method of accounting the taxpayer uses and the date the contribution is pledged are irrelevant. Where a partnership makes a political or newsletter fund contribution, each partner is considered as having paid his or her distributive share of the political or newsletter fund contribution.

(b) *Campaign committee supporting more than one individual.* A section 41 credit or section 218 deduction may be available for a contribution of money to a campaign committee that supports, or intends to support, more than one candidate if at least one individual it supports is a candidate for the calendar year in which the contribution is made. However, if a taxpayer indicates at the time the contribution is made that it is for a specific individual, and that individual is not a candidate for the calendar year in which the contribution is made, no credit or deduction is available.

(c) *Examples.* The provisions of this section are illustrated by the following examples:

*Example (1).* B, an individual, makes a contribution of money in 1977 to the Good Government Committee, which is a campaign committee. The Good Government Committee supports C and D in 1977. C is a candidate for 1977. D is not a candidate for 1977. B may elect the credit under section 41 or deduction under section 218 for the contribution in 1977.

*Example (2).* Assume the same facts as in example (1), except that B earmarks the contribution solely to further the candidacy of D. B may not elect the credit under section 41 or deduction under section 218 for the 1977 contribution.

§ 1.41-3 Same—unspent contributions.

(a) *General rule.* Except as provided in paragraph (b) of this section, all unspent political contributions must be used within a reasonable period of time to make a deposit or contribution described in section 527 (d).

(b) *Special rules—(1) Candidates.* An individual who was a candidate may retain unspent political contributions in reasonable anticipation of using them solely to support his or her future candidacy for any Federal, State, or local elective public office.

(2) *Campaign committee.* A campaign committee may retain unspent political contributions in reasonable anticipation of using them to support the future candidacy of any individual for any Federal, State, or local elective public office.

§ 1.41-4 Same—procedure for electing a credit or deduction.

(a) *Scope note.* This section prescribes procedures for making the election under sections 41 and 218 to take either a credit or deduction for political and newsletter contributions.

(b) *How to elect.* A taxpayer elects the credit or deduction by making the appropriate entries on his or her income tax return for the taxable year in which the contribution is made.

(c) *Changing or revoking one's election.* The election may be changed or revoked. Thus, a taxpayer may change an election from credit to deduction or vice versa. In addition, if a taxpayer elects a credit or deduction for a particular taxable year to which, it later turns out, he or she is not entitled, the taxpayer must pay any additional tax that is due as a result. A taxpayer may change or revoke the election by use of an amended return.

§ 1.41-5 Same—verifications.

This section prescribes rules under sections 41(b)(3) and 218(b)(2) to tell a taxpayer how to verify political and newsletter fund contributions for which a credit or deduction is claimed. A taxpayer must have a written receipt to substantiate any claim that a contribution was made. A cancelled check, the payee of which is a person or fund described in section 41(c) (1)

or (5), ordinarily meets this requirement. However, in appropriate cases, the Internal Revenue Service may require a taxpayer to furnish additional proof that the payee was a person or fund described in section 41(c) (1) or (5), or that the purpose of the payment was to make a political or newsletter fund contribution.

§ 1.41-6 Same—taxation of certain organizations.

See section 527 and the regulations thereunder for the tax treatment of a person or fund described in section 41(c) (1) or (5) that is treated as a section 527(e)(1) political organization.

§ 1.41-7 Same—transitional rule for past contributions.

A credit or deduction for a political contribution the payment of which was made before January 1, 1980 will be allowed if it meets the requirements for a credit or deduction under the notice of proposed rulemaking published on September 19, 1972 (37 FR 19140).

§ 1.41-8 Same—effective dates.

(a) *Political contributions.* Except as otherwise provided, these regulations apply to political contributions made in taxable years of the contributor beginning after December 31, 1971.

(b) *Newsletter fund contributions.* These regulations apply to newsletter fund contributions made in taxable years of the contributor beginning after December 31, 1974.

PAR. 2. Section 1.218 is repealed and new § 1.218-0 is inserted in the appropriate place.

§ 1.218-0 Deduction for political and newsletter fund contributions.

See §§ 1.41-0 through -8 for regulations that apply to section 218.

(Secs. 41 (b) (3), 218 (b) (2) and (c), and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 41 (b) (3), 218 (b) (2), (c), 7805).)

JEROME KURTZ,  
Commissioner of  
Internal Revenue.

Approved: February 28, 1979.

DONALD C. LUBICK,  
Assistant Secretary  
of the Treasury.

[FR Doc. 79-9189 Filed 3-26-79; 8:45 am]



[4810-28-M]

**Title 31—Money and Finance:  
Treasury****CHAPTER I—MONETARY OFFICES;  
DEPARTMENT OF THE TREASURY****PART 51—FISCAL ASSISTANCE TO  
STATE AND LOCAL GOVERNMENTS****Administrative Ruling No. 79-1;  
Implementation Guidelines**

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Administrative Ruling.

SUMMARY: The purpose of this Administrative Ruling is to provide additional guidance with respect to the interpretation of § 51.0(b) of the Revenue Sharing Regulations which pertains to the applicability to administrative complaints of the amendments made to the Revenue Sharing Act by Pub. L. 94-488, and the regulations published thereunder.

EFFECTIVE DATE: Immediately March 27, 1979.

ADDRESS: Comments may be sent to: Chief Counsel, Office of Revenue Sharing (Symbol CC), Department of the Treasury, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT:

Herman Schwartz, Chief Counsel, Office of Revenue Sharing, (202) 634-5184.

**SUPPLEMENTARY INFORMATION:****BACKGROUND**

Recently some questions have arisen as to the applicability of the 1976 Amendments to the State and Local Fiscal Assistance Act to violations of the antidiscrimination provisions of the Act that occurred prior to the effective date of the Amendments (January 1, 1977). This Guideline is being published to acquaint complainants, recipient governments, and other interested persons with the Office of Revenue Sharing practice and policy.

On October 10, 1976, the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) were enacted. These Amendments extended the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, and substantially revised several aspects of the General Revenue Sharing Program, including the uses of funds, non-discrimination procedures and protected classes, public participation and fiscal procedures and auditing.

On March 4, 1977, the Office issued a Technical Memorandum for enforcement of the Amendments, which provided that all complaints filed after

January 1, 1977, would be governed by the new procedures and other aspects of such Amendments. Thereafter, on April 6, 1977, interim regulations to implement the Amendments were published, including § 51.0(b).

In pertinent part, that section provided that:

Any cause of action arising out of the expenditure of entitlement payments in violation of the prohibitions and restrictions in Subparts D, E, and F of this part prior to January 1, 1977, shall be covered by regulations in effect December 31, 1976, and any proceedings commenced thereon shall be governed by the procedures set forth in Subpart G of this part.

To implement that interim regulation, the Technical Memorandum was amended by the issuance of Technical Memorandum No. 77-1 (Amendment #1) (June 8, 1977), modifying the Office's policy for processing civil rights administrative complaints received prior to January 1, 1977, to conform to interim regulation § 51.0(b). The amended Technical Memorandum provided that complaints received on or after January 1, 1977, which relate to violations that began prior to and continued past January 1, 1977, or which relate to a pattern or practice of discrimination continuing past January 1, 1977, would be administered in accordance with the amendments made by Pub. L. 94-488, and the regulations published thereunder. This was consistent with well-established legal principles set forth in such cases as *Bradley v. City of Richmond*, 416 U.S. 696 (1974), and *The Schooner Peggy*, 1 Cranch 103 (1801).

The Technical Memorandum further provided that administrative complaints received on or after January 1, 1977, which related solely to a violation that occurred in its entirety prior to January 1, 1977, would be administered in accordance with the provisions of the Revenue Sharing Act in effect prior to the Amendments of Pub. L. 94-488.

On September 22, 1977, § 51.0(b) was published in final form after due notice and opportunity to comment, identical in language to interim regulation § 51.0(b).

**AUTHORITY**

This Administrative Ruling is issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended by Pub. L. 94-488, and Treasury Department Order No. 224 (January 26, 1973) (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision No. 1 May 17, 1977).

Dated: March 19, 1979.

BERNADINE DENNING,  
Director,  
Office of Revenue Sharing.

**ADMINISTRATIVE RULING 79-1****GUIDELINES FOR IMPLEMENTING 31 CFR 51.0(b)**

For the purpose of implementing 31 CFR 51.0(b), the following guidelines shall be used.

1. A cause of action shall be considered to arise out of the expenditure of revenue sharing funds in violation of the provisions of Subparts D, E, and F of the regulations in effect prior to January 1, 1977, if: (A) The administrative complaint with respect to such cause of action was filed with the Office of Revenue Sharing prior to January 1, 1977; or (B) the alleged violation ended prior to that date. In this circumstance, the regulations in effect on December 31, 1976, are applicable to such cause of action.

Example: An administrative complaint is received prior to January 1, 1977, alleging that a recipient government has denied a person a job promotion because of sex discrimination. The regulations in effect on December 31, 1976, would apply to this case.

2. A cause of action shall be considered to arise out of the expenditure of revenue sharing funds in violation of the provision of Subparts D, E, and F of the regulations subsequent to January 1, 1977, if: (A) The administrative complaint was filed with the Office of Revenue Sharing on or after January 1, 1977; and (B) the violation either began after that date or began before January 1, 1977, and continued subsequent thereto. In this circumstance, the provisions of the 1976 Amendments to the Revenue Sharing Act and the regulations published thereunder, are applicable to such cause of action.

Example: An administrative complaint is received after January 1, 1977, alleging that a recipient government is engaging in a pattern or practice of denying women promotions because of sex discrimination, that such discrimination began prior to January 1, 1977, and that it continues until the present. This case is governed by Pub. L. 94-488 and the regulations published thereunder. Any proceedings commenced thereon shall be governed by the procedures set forth in subpart E of the revenue sharing regulations. Note: If the complaint had alleged that the discrimination had occurred prior to January 1, 1977, and had not continued subsequent thereto or if the complaint was filed before January 1, 1977, Pub. L. 94-488 would not apply to this case.

As noted in the preamble, § 51.0(b) has consistently been interpreted by the Office of Revenue Sharing in accordance with the above guidelines and examples. Section 51.0(b) was first published in interim form (42 FR 18364, April 6, 1977) in language identical to the present § 51.0(b). That lan-

guage was construed in the above-described manner by the Office of Revenue Sharing Technical Memorandum 77-1 (Amendment #1) (June 8, 1977), which was adopted and published to implement interim regulation § 51.0(b). Both § 51.0(b) and TM 77-1 remain in effect to date, and have been consistently construed in this manner.

[FR Doc. 79-9210 Filed 3-28-79; 8:45 am]

[6560-01-M]

**Title 40—Protection of the  
Environment****CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY****SUBCHAPTER E—PESTICIDE PROGRAMS**

[FRL 1081-7; OPP-2500141]

**PART 162—REGULATIONS FOR THE  
ENFORCEMENT OF THE FEDERAL  
INSECTICIDE, FUNGICIDE, AND RO-  
DENTICIDE ACT****Subpart A—Registration, Reregistra-  
tion and Classification Procedures**

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to the Secretary of Agriculture of Final Regulation relating to the granting of authority to States to issue experimental use permits for pesticides.

SUMMARY: Notice is hereby given as required by Section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) that the Administrator of the Environmental Protection Agency (EPA) has forwarded to the Secretary of the U.S. Department of Agriculture, a copy of EPA's final regulation designed to implement Section 5(f) of FIFRA, which authorizes States to issue experimental use permits for pesticides.

FOR FURTHER INFORMATION CONTACT:

Mr. Phil Gray, Operations Division (TS-770), Office of pesticide Programs, EPA, Rm. E-509, Washington, D.C. 20460. (202/755-7014).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the FEDERAL REGISTER. If the Secretary comments in writing regarding the final regulation within 15 days after

receiving it, the Administrator shall publish in the FEDERAL REGISTER (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response thereto of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the FEDERAL REGISTER any time after such 15 day period.

Pursuant to FIFRA Section 25(a)(3) a copy of this final regulation has also been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Section 5(f) regulation was also submitted to the FIFRA Scientific Advisory Panel on January 4, 1979, as required by Section 25(d), together with a request that the Scientific Advisory Panel waive review on the grounds that the regulation will not significantly impact either public health or the environment. The waiver of review was granted on January 29, 1979.

Dated: March 19, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 79-9118 Filed 3-26-79; 8:45 am]

[6560-01-M]

[FRL 1081-5; OPP-2500121]

**PART 162—REGULATIONS FOR THE  
ENFORCEMENT OF THE FEDERAL  
INSECTICIDE, FUNGICIDE, AND RO-  
DENTICIDE ACT****Subpart A—Registration, Reregistra-  
tion and Classification Procedures**

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to Secretary of Agriculture of Interim Final Regulation relating to conditional registration.

SUMMARY: Notice is given as required by section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's interim final regulation designed to permit conditional registration of pesticide products under section 3(c)(7) of FIFRA.

FOR FURTHER INFORMATION CONTACT:

Douglas Campt, Registration Division (TS-767), Office of Pesticide

Programs, EPA, Room E-347, 401 M Street, S.W., Washington, D.C. 20460, telephone 202/426-2452.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the FEDERAL REGISTER. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall publish in the FEDERAL REGISTER (with the final regulation) the comments of the Secretary, if requested, and the response of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign such regulation for publication in the FEDERAL REGISTER any time after the 15-day period.

Pursuant to FIFRA section 25(a)(3), a copy of this interim final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The interim final regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 19, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 79-9119 Filed 3-26-79; 8:45 am]

[6560-01-M]

[FRL 1082-2; OPP-2500151]

**PART 162—REGULATIONS FOR THE  
ENFORCEMENT OF THE FEDERAL  
INSECTICIDE, FUNGICIDE, AND RO-  
DENTICIDE ACT****Subpart A—Registration,  
Reregistration and Classification  
Procedures**

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to Secretary of Agriculture of Final Regulation relating to compensation for use of data in support of applications for registration.

SUMMARY: Notice is given as required by section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S.



Department of Agriculture a copy of EPA's final regulation designed to implement the data compensation provisions of section 3(c)(1)(D) of FIFRA.

#### FOR FURTHER INFORMATION CONTACT:

Edward Gray, Office of General Counsel (A-132), EPA, Room W-425, 401 M Street, S.W., Washington, D.C. 20460, telephone 202/755-0638.

**SUPPLEMENTARY INFORMATION:** Section 25(a)(2)(B) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the FEDERAL REGISTER. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall publish in the FEDERAL REGISTER (with the final regulation) the comments of the Secretary, if requested, and the response of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign such regulation for publication in the FEDERAL REGISTER any time after the 15-day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The final regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 20, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.  
[FR Doc. 79-9120 Filed 3-26-79; 8:45 am]

[6712-01-M]

#### Title 47—Telecommunication

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21318; RM-2638; RM-2773; RM-2777; FCC 79-160]

#### PART 95—PERSONAL RADIO SERVICE

#### Amendment of Citizens Band Rule 18

**AGENCY:** Federal Communications Commission.

**ACTION:** Memorandum Opinion and Order (final rulemaking).

**SUMMARY:** The Commission is amending the Citizens Band radio rules to warn licensees of the danger of installing antenna systems near powerlines. The change was in response to a Consumer Product Safety Commission petition.

**EFFECTIVE DATE:** April 30, 1979.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

#### FOR FURTHER INFORMATION CONTACT:

Roger Holberg, Private Radio Bureau (202-632-7597).

#### SUPPLEMENTARY INFORMATION:

##### MEMORANDUM OPINION AND ORDER

Adopted: March 15, 1979.

Released: March 22, 1979.

By the Commission:

In the matter of Revision of Subpart D of Part 95 of the Commission's Rules, Citizens Band Radio Service [43 FR 13976].

1. The Commission has before it a Petition for Reconsideration of the action it took in Docket 21318 on March 15, 1978. This petition was filed on May 3, 1978, by Michael A. Brown, Executive Director of the U.S. Consumer Product Safety Commission (CPSC). While this petition was filed pursuant to § 1.106 of the Commission's Rules, it is being considered under § 1.429 which governs petitions for reconsideration filed in notice and comment rule making proceedings.

##### BACKGROUND

2. On June 30, 1977, the Commission released a Notice of Proposed Rule Making proposing the revision of its rules pertaining to the Citizens Band Radio Service. These rules were contained in subpart D of Part 95 of the Commission's Rules (47 CFR 95.401 et seq.). The purpose of this revision was to make the rules more understandable. It was thought that operators would be better able to comply with the rules if they were written in "plain English."

3. The public was invited to comment upon this proposal and was given until October 3, 1977, to file such comments. As a result of the high level of public interest shown in this proceeding, that date was later extended to November 17, 1977. Among those filing comments was the CPSC.<sup>1</sup>

4. On March 15, 1978, after having reviewed all of the material before it, including some 600 comments, the Commission adopted new rules for the

<sup>1</sup> Although the CPSC's comments were filed after the expiration of the October 3, 1977 filing deadline, the Commission waived Section 1.415 of its Rules and considered those comments in making its determination.

Citizens Band Radio Service. The Report and Order in the proceeding was released on March 22, 1978. The effective date of the new rules was August 1, 1978.

5. Among the new rules adopted was CB Rule 18. That rule extended the height to which a directional antenna may extend from 20 feet above the ground under the prior rule (Section 95.437) to 18.3 meters (60 feet) above the ground. Omni-directional antennas had been permitted to reach that height under the previous rule and remain so under the new Citizens Band Rules.

##### THE PETITION

6. There are two general grounds for reconsideration asserted in the CPSC Petition. The first is that the CPSC believes the Commission misinterpreted the data provided by the CPSC in its documents filed on December 18, 1977. The second is that data which was not available to the CPSC when it filed its comments also demonstrates a relationship between CB antenna heights and power line contact accidents. That data was contained in a report entitled "Feasibility Study for a Citizens Band Base Station Antenna Safety Standard" dated April 10, 1978. The report was prepared for the CPSC Directorate for Engineering and Science, Electrical and Electronic Engineering Division, by Systems Consultants, Inc. Two alternative forms of relief were requested by the CPSC. The first relief requested was that the Commission retain the different permissible antenna heights for directional and omni-directional antennas as they existed under the prior Rules and include a hazard warning in CB Rule 18. Alternatively, the CPSC requested that the Commission make the decision concerning the change in antenna height the subject of a separate rule-making proceeding; stay the effective date of CB Rule 18 until the CPSC has either issued a safety standard to protect against electric shock hazards connected with Citizens Band antennas or determined that such a standard is not feasible; and permit the erection of directional antennas over 30 feet in height only if the antenna is located a reasonable distance from power lines. The CPSC suggested that this distance be twice the antenna height.

7. In support of its first ground for reconsideration, the CPSC states that the data provided in its comments shows that 95% of electric shock accidents relating to antennas involved those in excess of 20 feet in height. While conceding that its data did not demonstrate that there was an increase in fatalities from 1973 to 1974 (when the allowable height for omni-directional antennas was raised to 60

feet) the CPSC is of the belief that the increase in reported electric shock accidents relating to antennas between 1974 and 1978 is "vastly in excess of that which could be expected from the increase in the number of licenses." The CPSC further points out that at least 120 people are killed annually by electrocutions involving communications antennas. Finally, the CPSC states that their analysis shows that many of the victims attempt to erect or dismantle unwieldy antennas that "are too long and thus contact power lines due to misjudgment or inability to control the antenna."

8. The second general ground urged upon the Commission is that data which was unavailable to the CPSC prior to the adoption of the new Citizens Band Rules contains information more clearly demonstrating a relationship between antenna height and power line contact accidents. The CPSC states that the data, which is contained in the report named above, indicates that a 50% increase in mast length will increase the risk of an accident by 50% or more. The report, continued the CPSC, states that a 50% increase in antenna height above the current mathematical mean antenna height of antennas involved in accidents which have been analyzed would result in a mean antenna and mast height of 57.39 feet. As this is less than the 60 foot maximum permitted by CB Rule 18, CPSC contends that the extension of height permitted to directional antennas by the new rules will result in a 50% increase in the risk of accident.

9. The petition further states that directional antennas are more unwieldy than omni-directional antennas, which were involved in all but 4 of the accidents analyzed for the report, and therefore can be considered an even greater accident risk. Finally, the CPSC Petition states that common sense indicates that the expansion of the authority to raise directional antenna heights to 60 feet will result in people taking advantage of this new authority to install a new antenna or to raise their existing antenna to the new limit.

##### DISCUSSION

10. The first ground for reconsideration set forth by the CPSC in its petition was based upon data and arguments contained in their comments filed December 16, 1977. Their position was taken into consideration by the Commission and was fully discussed in Appendix II of the Report and Order released March 22, 1978. Reconsideration will not be granted "merely for the purpose of again debating matters on which [the Commission] has once deliberated and spoken." It remains our belief that

<sup>1</sup> WWIZ, Inc., 37 FCC 685 (1964), affirmed sub nom, Lorain Journal Company v. FCC.

the data provided by the CPSC in their comments and repeated in their petition is inconclusive and incomplete. First, the height of the antennas involved in the vast majority of instances of electrocution resulting from antenna installation or removal was unknown.<sup>2</sup> Second, the data does not demonstrate an increase in the number of accidents from 1973 to 1974, when the permissible height for omni-directional antennas was increased. Additionally, CPSC's chart which shows the distribution, in percentage, of electric shock accidents by antenna heights involved does not clearly show a relationship between antenna height and risk of accident. As there is no data demonstrating the proportional distribution of antennas in use by height, it cannot be known whether the distribution of accidents reflects anything more than the distribution of antenna heights. For instance, if 18% of Citizens Band base station antenna heights are between 20 and 30 feet, one could expect that antennas of that height would be involved in 18% of all electric shock involving CB base station antennas and no valid conclusion could be drawn on the effect of height upon risk of accident.

11. However, the CPSC has also presented additional data which apparently was not available to the petitioner until after its last opportunity to present facts to the Commission in this proceeding. Accordingly, it is appropriate for the Commission to consider this new data (Section 1.429(b)(2) of the Commission's Rules).

12. The CPSC is correct that the "Feasibility Study for a Citizens Band Base Station Antenna Safety Standard" contains information that tends to demonstrate a relationship between antenna height and power line contact accidents. While factors in addition to antenna height surely play a role in such accidents, the Commission does acknowledge there are dangers involved in the installation and removal of Citizens Band radio antennas. Furthermore, it appears that the installation or removal of antennas of greater height can amplify those dangers.

13. We note, however, that the CPSC has adopted certain rules with regard to warning and instruction requirements for CB base station antennas, TV antennas, and supporting structures (see FEDERAL REGISTER, Vol. 43, No. 126—Thursday, June 29, 1978). The rule which was adopted (Section 1402 of Subchapter B of Title 16, Chapter II, of the Code of Federal

122 U.S. App. D.C. 127, 351 F. 2d 824 (1965), cert. denied, 383 U.S. 987 (1966); *In Re Cable TV Co.*, 33 FCC 2d 787 (Rev. Bd., 1972).

<sup>2</sup> Of a total of some 498 accidents shown in the chart as having come to the attention of the CPSC, the height of the antenna was known in only 71 instances.

Regulations) requires highly visible tri-color labels on CB base station antennas warning installers to watch for electrical wires. The labels are required to state:

"You can be **KILLED** if this antenna comes near electric power lines. **READ INSTRUCTIONS**" (Emphasis in original).

This rule requires the label to be affixed by the manufacturer in a place which will be conspicuous to the installer during installation. The rule also requires the first page of the document containing installation instructions, the beginning of the instructions themselves and the packaging or the parts container of any CB base station antenna to carry the following:

"**WARNING: INSTALLATION OF THIS PRODUCT NEAR POWERLINES IS DANGEROUS. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS.**"

The directions are also required by the rule to explain the risk of electrocution caused by contacting power lines while putting up or taking down the supporting structure, as well as to provide instructions on selecting and measuring the installation site and an explanation of methods that can be used to reduce the possibility of contact with power lines when installing or removing the supporting structure.

14. In adopting this rule, the CPSC stated that, "If consumers are informed of the severe hazard that they face and are given the information on how to avoid it, the (Consumer Product Safety) Commission believes that they will take the necessary steps to protect their own lives." We agree with this statement. We acknowledge that the installation or removal of a Citizens Band base station antenna can present hazards. We believe that these hazards can best be dealt with by warnings given to the consumer who, thus warned, will hopefully take those "necessary steps to protect their own lives." While the warnings required by Section 1402 have the best chance of being seen by the consumer when planning or conducting installation or removal of a base station and antenna, and will thereby most profoundly influence the taking of precautions to avoid harm, we also believe that amending CB Rule 18 to include a similar warning will serve a useful purpose and would be in the public interest. A warning contained in the CB Rules may be seen by licensees prior to the purchase of an antenna and can influence their choice of antenna and the planning for its installation. Accordingly, CB Rule 18 is being amended to include the following:

"**WARNING: INSTALLATION AND REMOVAL OF CITIZENS BAND BASE STATION ANTENNAS NEAR POWERLINES IS DANGEROUS. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS.**"



TIONS INCLUDED WITH YOUR ANTENNA."

15. We agree that the information provided by the CPSC in its petition tends to indicate an increased possibility of accident with greater antenna heights. However, we do believe that with consumer awareness of the hazards and information on methods to avoid power line contact, the risk of harm could be substantially reduced. Certainly there are recognizable benefits which will be brought about by the increase in the permissible height for directional antennas. For instance, allowing directional antennas to reach the permissible height can reduce channel congestion by directing signals in the desired direction and attenuating them in other directions. Furthermore, permitting both directional and omni-directional antennas to attain a maximum height of 60 feet will improve Citizens Band licensees' ability to communicate and will permit the more efficient use of that portion of the radio frequency spectrum assigned to the Citizens Band Radio Service. We believe that consumers warned of the hazards of installing and removing CB base station antennas will take the necessary steps to protect their own lives. Thus, we do not feel that CB Rule 18 should be amended to reduce the height permitted to directional antennas. Inasmuch as all relevant issues are resolved herein, a separate rulemaking proceeding would be unnecessary.

16. Accordingly, pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, and pursuant to Section 1.429 of the Commission's Rules, IT IS ORDERED that the Petition for Reconsideration of the Commission's action in Docket 21318 submitted by Michael A. Brown, Executive Director of the U.S. Consumer Product Safety Commission, IS GRANTED to the extent of amending CB Rule 18 to include a hazard warning (See Appendix) and the remainder of that petition IS DENIED. IT IS FURTHER ORDERED that, effective April 30, 1979, Part 95 of the Commission's Rules IS AMENDED as set out in the Appendix. IT IS FURTHER ORDERED that, as CB Rule 18 became effective on August 1, 1978, CPSC's request for a stay of the effective date IS DISMISSED as moot. For further information contact John Borkowski, Telephone No. (202) 632-7597.

(Secs. 4, 303, 48 stat., as amended, 1068, 1082; 47 U.S.C. 154, 303.).

FEDERAL COMMUNICATIONS  
COMMISSION,

WILLIAM J. TRICARICO,  
Secretary.

#### APPENDIX

Subpart D of Part 95 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

#### § 95.401 [Amended]

In § 95.401, Citizens Band Rule 18, following paragraph (a)(2) shall appear in bold capital letters and outlined in black:

**WARNING: INSTALLATION AND REMOVAL OF CITIZENS BAND BASE STATION ANTENNAS NEAR POWERLINES IS DANGEROUS. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS INCLUDED WITH YOUR ANTENNA.**

[FR Doc. 79-9142 Filed 3-26-79; 8:45 am]

#### [7035-01-M]

#### Title 49—Transportation

#### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Decision; Service Order No. 1368]

#### PART 1033—CAR SERVICE

#### INDIANA EASTERN RAILROAD AND TRANSPORTATION, INC. D/B/A THE HOOSIER CONNECTION AU- THORIZED TO OPERATE OVER TRACKS LEASED FROM THE PENN CENTRAL CORP.

MARCH 22, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Service Order No. 1368.

SUMMARY: Indiana Eastern Railroad and Transportation, Inc. d/b/a The Hoosier Connection has leased two sections of track from the Penn Central Corporation. Indiana Eastern will operate the line between Emporia, Indiana, and Carthage, Indiana, and between Shirley, Indiana, and Wilkinson, Indiana. Indiana Eastern will file an application for permanent operating authority over this line.

DATES: Effective 12:01 a.m., March 23, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washing-

ton, D.C. 20423, telephone (202) 275-7840, telex 89-2742.

#### SUPPLEMENTARY INFORMATION:

Operation of the line of the former Penn Central Transportation Company over the Anderson-Greensburg Secondary Track between Emporia, Indiana, and Carthage, Indiana, and over the Springfield Branch between Shirley, Indiana, and Wilkinson, Indiana, was discontinued on April 1, 1978, in accordance with the Final System Plan of Reorganization of the bankrupt eastern railroads authorized by the Regional Rail Reorganization Act of 1973. Consolidated Rail Corporation operated this line as a designated operator from April, 1976, until about July 1, 1977.

A newly formed company, the Indiana Eastern Railroad and Transportation, Inc., has been organized for the purposes of operating various portions of the line and is prepared to offer railroad service to those shippers on this line. There is an interchange connection between this line and Consolidated Rail Corporation at Emporia, Indiana. Indiana Eastern has effected a lease agreement with The Penn Central Corporation to allow operation of this line by Indiana Eastern Railroad and Transportation, Inc.

It is the opinion of the Commission that an emergency exists requiring immediate resumption of operations over this line in the interest of the public; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that:

§ 1033.1368 Service Order No. 1368.

(a) *Indiana Eastern Railroad and Transportation, Inc. d/b/a The Hoosier Connection Authorized to Operate Over Tracks Leased From the Penn Central Corporation.* The Indiana Eastern Railroad and Transportation, Inc. d/b/a The Hoosier Connection (HOSC) is authorized to operate over tracks leased from The Penn Central Corporation between milepost 173.95 at Emporia, Indiana, and milepost 193.50 at Carthage, Indiana, a distance of approximately 19.55 miles, and between milepost 107.3 at Shirley, Indiana, and milepost 109.0 at Wilkinson, Indiana, a distance of approximately 1.7 miles, pending disposition of the application seeking permanent authority to operate over these tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of HOSC seeking authority to operate over these tracks.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 23, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, JR.,  
Secretary.

[FR Doc. 79-9257 Filed 3-26-79; 8:45 am]

#### [7035-01-M]

[Ex Parte No. 346 (Sub-No. 1)]

#### PART 1039—RAILROAD CONTRACT RATES; POLICY STATEMENT

#### Rail General Exemption Authority— Fresh Fruits and Vegetables

AGENCY: Interstate Commerce Commission.

ACTION: Exemption and final rule.

SUMMARY: This regulation exempts the rail transportation of fresh fruits and vegetables from the provisions of Subtitle IV of Title 49, except for certain informational reporting and accounting requirements. This action is taken pursuant to 49 U.S.C. § 10505.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Office of Proceedings/Section of Rates, Washington, D.C. 20423. (202) 275-7693 or 275-7656.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by a Notice of Proposed Exemption, published in the FEDERAL REGISTER on December 13, 1978 (43 FR 58205), under the authority of 49 U.S.C. § 10505. Its purpose is to consider an exemption for the rail transportation of fresh

fruits and vegetables from the provisions of Subtitle IV of Title 49, with the following exceptions. Under the proposed exemption, the railroads would be required to: comply with the Commission's accounting and reporting requirements; include a brief statement in their annual reports of operations under the exemption; and file rate quotations on a regular basis. The commodities proposed to be exempted were:

STCC #01 2 Fresh Fruits or Tree Nuts and STCC #01 3 Fresh Vegetables.

The two basic issues raised by the parties submitting comments are the commodities to be included under the exemption and the statutory provisions which should or should not apply.

With certain modifications, this exemption is adopted as proposed. Instead of filing rate quotations on a regular basis as proposed in the prior notice, the railroads are required to maintain copies of rates, charges, rules, or regulations, for traffic moved under the exemption, at their principal office, subject to inspection, and send a letter of notification to the docket [Ex Parte No. 346 (Sub-No. 1)], within 30 days, of the fact that they are using the exemption. The record maintenance requirement will remain in effect for a period of one year, to be extended if necessary. In addition, the following commodities (which are not included under the motor carrier exemption) will be considered in a separate proceeding and are deleted from this exemption:

STCC #01 232 Bananas.  
STCC #01 294 Cocoa beans.  
STCC #01 295 Coffee, green.

Complete copies of the decision in this proceeding can be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Accordingly, Chapter X of Title 49 of the Code of Federal Regulations is amended by adding a new section, as follows:

§ 1039.10 Fresh Fruit and Vegetable Exemption.

The rail transportation of the commodities listed below are exempt from the provisions of Subtitle IV of Title 49, except that carriers must continue to comply with Commission accounting and reporting requirements, including a brief statement in their annual reports of operations under this exemption and must maintain copies, rates, charges, rules, or regulations, for traffic moved under this exemption, at their principal office, subject to inspection, and send a letter of notification to the docket [Ex Parte No. 346 (Sub-No. 1)], within 30 days, of the fact that they are using the ex-

emption. The record maintenance requirement will remain in effect for a period of one year, to be extended if necessary. All tariffs pertaining to the transportation of fresh fruits and vegetables will no longer apply to the commodities listed below except to the extent adopted by carrier quotations. The categories of commodities which are exempt under this decision, by Standard Transportation Commodity Code (STCC) number, are:

01 2: Fresh Fruits or Tree Nuts except; 01 232: Bananas; 01 294: Cocoa beans; 01 295: Coffee, green; and 01 3: Fresh Vegetables.

and shall embrace all articles assigned additional digits. The STCC shall be those code numbers in effect as of January 1, 1979, as shown in Standard Transportation Commodity Code Tariff 1-G, ICC STCC 6001-C. Nothing in this exemption shall be construed to affect our jurisdiction under section 10505 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Commission.

This rule is issued under the authority of sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and sections 10321(a) and 10505 of Title 49 (49 U.S.C. § 10505).

Decided: March 21, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford concurring. Commissioner Clapp concurring in part and dissenting in part.

H. G. HOMME, JR.,  
Secretary.

COMMISSIONER STAFFORD, concurring:

I support fully the result reached in today's historic decision. Deregulation of any segment of the industry should be complete, as we have done here, rather than piecemeal, as we seem to be doing elsewhere. In my view, regulation must be comprehensive or it ought not exist.

I was intrigued, therefore, by the comments of various parties who favored deregulation, except where they seemed to feel the most vulnerable. One smaller western railroad, for example, supported deregulation in its dealings with shippers, but urged us to retain jurisdiction over its dealings with other (and presumably larger) railroads. Another railroad (one that supplies refrigerator cars) supported the exemption, but urged us to retain jurisdiction over contracts for protective service. Another railroad supports the exemption, but wants to retain antitrust immunity for its rate bureau activities and to maintain merger protective conditions.

Shippers also supported the exemption but urged retention of jurisdiction over sections of the act of interest to them. Some wanted retention of the Carmack Amend-



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## RULES AND REGULATIONS

ment, which requires a bill of lading of every shipment. Another shipper wants us to retain authority over claims and reasonable dispatch. The list could go on.

I look forward to the results of this experiment. I will be particularly interested in the experience of shippers regarding rate levels, discrimination, and car service, and in the experience of railroads regarding interchange arrangements and rate negotiations.

Our action today must be carefully monitored to assure that the experiment is truly in the best interest of the public. Hopefully, it will serve as a model for future action by this Commission.

COMMISSIONER CLAPP, concurring in part and dissenting in part:

While I believe that our action here is both important and necessary, in my opinion we should require that carriers submit evidence of their rate experience to the Commission, at least upon request. This requirement does not appear to be burdensome, and is more efficient than sending our field staff around the country to view these documents.

[FR Doc. 79-9258 Filed 3-26-79; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6750-01-M]

## FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3008]

## INTERNATIONAL INVENTORS INC., EAST, ET AL

## Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require an Alexandria, Va. idea promotion firm and its principal officer to cease failing to provide fair and thorough evaluations as to the commercial feasibility of customers' ideas; and misrepresenting that they successfully promote and negotiate with interested manufacturers on client's behalf; that they secure lucrative contracts for clients through such efforts; and that the Document Disclosure Program of the United States Patent and Trademark Office protects clients' ideas prior to the filing of a formal patent application. The order would require that prescribed disclosures regarding the financial success of previous clients, the lack of legal protection for ideas, and the advisability of consulting with a patent attorney before signing an agreement be included in contracts and promotional material; and would prohibit the company from accepting any fees for promotional services, other than a percentage of royalties earned through its endeavors. Additionally, the firm would be required to maintain particular records for a specified period, and institute a continuing surveillance program designed to ensure compliance with the terms of the order.

DATE: Comments must be received on or before May 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW, Washington, D.C. 20580.

## FOR FURTHER INFORMATION CONTACT:

FTC/P. Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 782 3008]

## AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

## INTERNATIONAL INVENTORS INC., EAST, AND JAMES H. HAREN

The Federal Trade Commission having initiated an investigation of certain acts and practices of International Inventors Incorporated, East, a corporation, and James H. Haren, individually and as principal officer of said corporation, and it now appearing that International Inventors Incorporated, East, a corporation, and James H. Haren, individually and as principal officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between International Inventors Incorporated, East, a corporation, by its duly authorized officer, and James H. Haren, individually and as principal officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent International Inventors Incorporated, East, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of busi-

ness located at Suite 309, 4900 Leesburg Pike, Alexandria, Virginia 22302.

Proposed respondent James H. Haren is the principal officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with related materials pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto to publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding. The Commission may, at any time pending issue of this order, require hearings on the relief requirements provided by this order.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint here attached.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to the proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have



the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order; and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the complaint and order contemplated thereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order and that they may be liable for civil penalty in the amount provided by law for each violation of the order after it becomes final.

## ORDER

## I.

For the purposes of this order the following definitions shall apply:

(a) The term "idea" shall mean any idea, invention or concept.

(b) The term "client" shall mean any party that has entered into an agreement with respondents for the "promotion" of an "idea."

(c) The term "financial gain" shall mean the amount of money derived by a "client" from respondents' "promotion" of the "client's idea."

(d) The term "promotion" or "promote" shall mean the advertising, evaluation, development, manufacturing, marketing or assistance in developing, manufacturing or marketing and/or otherwise contributing to the success of growth of an "idea," but does not include the seeking of legal protection under the patent laws of the U.S.

## II.

*It is ordered*, That respondents International Inventors Incorporated, East, a corporation, its successors and assigns, and James H. Haren, individually and as an officer of said corporation, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising for, offering to enter into and entering into contracts for present or future services in connection with the promotion of ideas, or any other like or similar services, in or affecting commerce, as it is

defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Failing, in the normal course of business, to give clients' ideas a fair and thorough evaluation of the ideas' commercial feasibility, upon which said clients can rely.

2. Representing, directly or indirectly, orally or in writing, that respondents, in the normal course of business, can be expected to actively and successfully promote and negotiate, or in any way promote and negotiate, on behalf of their clients, with manufacturers who are interested in acquiring rights to ideas.

3. Representing, directly or indirectly, orally or in writing, that the United States Patent and Trademark Office's Document Disclosure Program can provide legal protection for clients' ideas prior to the filing of a formal patent application in the United States Patent and Trademark Office. Provided that nothing in this agreement shall prohibit respondents from referring clients to consult a patent attorney or licensed patent agent.

4. Representing, directly or indirectly, orally or in writing, that respondents' services can and do result in manufacturing contracts or licensing agreements between manufacturers and respondents' clients that produce financial gain for their clients.

5. Failing to make the following disclosures on any contract or other binding instrument to be executed by prospective clients. Said disclosures shall be in more conspicuous print than all other language in said instrument other than respondents' name, but in no case shall they be smaller than 12-point upper case type. Said disclosures and instrument shall be delivered to prospective clients at least 10 days prior to the time prospective clients execute said instrument. The disclosures shall be in the following form set off from the rest of the instrument by a black border and immediately above the line for the prospective clients' signatures:

## NOTICE

(A) IN THE LAST FIVE YEARS THAT WE HAVE BEEN DOING BUSINESS, WE HAVE CONTRACTED TO PROMOTE IDEAS, INVENTIONS OR CONCEPTS FOR (NUMBER) CLIENTS. AS A RESULT OF OUR SERVICES:

1. (number) (—%) OF OUR CLIENTS EARNED \$0-99.

2. (number) (—%) OF OUR CLIENTS EARNED \$100-499.

3. (number) (—%) OF OUR CLIENTS EARNED \$500-\$1,000.

4. (number) (—%) OF OUR CLIENTS EARNED OVER \$1,000.

5. (number) (—%) OF OUR CLIENTS EARNED MORE THAN THEY PAID US.

(B) WITHOUT PATENT PROTECTION, RECOGNIZED BY THE U.S. PATENT & TRADEMARK OFFICE, YOU MAY LOSE THE OPPORTUNITY TO OBTAIN FI-

NANCIAL BENEFIT FROM YOUR IDEA. WE DO NOT PROVIDE ANY LEGAL SERVICES FOR OBTAINING PATENT PROTECTION RECOGNIZED BY THE U.S. PATENT & TRADEMARK OFFICE. YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY OR AGENT BEFORE YOU SIGN THIS AGREEMENT. (C) YOU SHOULD TREAT YOUR IDEA AS A CONFIDENTIAL SUBJECT IN ORDER TO AVOID LOSING ANY PATENT RIGHTS YOU MAY HAVE.

(D) TODAY IS (Date). WE CANNOT ASK YOU TO SIGN AN AGREEMENT UNTIL 10 BUSINESS DAYS HAVE ELAPSED WHICH WILL BE ON (MONTH/DAY/YEAR).

I, (Name of Customer), hereby acknowledge receipt of a copy of this agreement on the date specified below.

Customer's Signature \_\_\_\_\_

Date \_\_\_\_\_

Accurate disclosures, given without comment, as required by this paragraph of the order, shall not be deemed a violation of PARAGRAPH 4 of this order.

6. Executing contracts or other agreements with a client prior to the expiration of the 10-day period disclosed in accordance with PARAGRAPH 5 herein.

7. Failing to retain executed copies of all disclosures required by PARAGRAPH 5 of this order for a period of five (5) years after such disclosure is made regardless of whether prospective clients ultimately execute contracts with respondents. Respondents shall make accurate statistical disclosures required by this paragraph and maintain records for a period of five (5) years sufficient to verify the accuracy of each disclosure.

8. Failing to include on all contracts or other binding instruments to be executed by prospective clients a schedule detailing the entire amount of any and all fees or other consideration which may be required from or paid by the client during the course of his business relationship with respondents.

*It is further ordered*, That:

1. Respondents shall conspicuously place in all printed advertisements, pamphlets, brochures and other promotional material, the statement below in print at least as large as the largest print in the advertising material other than respondents' name and shall state:

(Number) % of our clients have earned more than they paid to us as a result of our efforts to promote their idea.

2. In all advertisements broadcast by radio, or television, the above-required notice shall be read at the end of the advertisement at a rate of speed at least as slow as the slowest spoken part of the advertisement.

3. Respondents shall maintain for a period of three (3) years after any of

respondents' advertisements are disseminated:

(a) Records disclosing the date or dates each such advertisement was published;

(b) Records disclosing the names and addresses of the newspapers, other publications or broadcast media disseminating said advertisement; and

(c) Representative copies or representative scripts of all of respondents' advertisements published or disseminated by any media.

*It is further ordered*, That:

1. At the time respondents submit advertising to any newspaper or other written medium, they shall provide a copy of the following notice to each such medium:

## "NOTICE

The Federal Trade Commission has issued a cease and desist order against (Name of Respondent). A copy of the Commission's News Release is available from (Name of Respondent) upon request."

2. At the time respondents submit advertising to any radio or television station, they shall provide a copy of the following notice to each such station:

## "NOTICE

The Federal Trade Commission has issued a cease and desist order against (Name of Respondent). A copy of the Commission's News Release is available from (Name of Respondent) upon request. Your attention is directed to an agreement between the Federal Trade Commission and the Federal Communications Commission dated April 27, 1972."

*It is further ordered*, That respondents shall make all disclosures required by this order accurately, making such disclosures or copies thereof available to the Federal Trade Commission or any member of its staff on request.

*It is further ordered*, That respondents, upon receipt of a complaint from a client alleging facts that indicate this order may have been violated, rescind the contract, refund monies paid and cancel any outstanding obligations where respondents determine, after a good faith investigation, that one or more of the paragraphs of this order may have been violated in connection with such client's transaction with respondents.

*It is further ordered*:

1. That respondents deliver, by hand or by certified mail, a copy of this order to each of their present or future salesmen, independent brokers, franchise owners, employees or any other person who sells or promotes the sale of respondents' products or services;

2. That respondents provide each person so described in subparagraph 1. above with a form returnable to re-

spondents, clearly stating an intention to conform sales practices to the requirements of this order and retain such form for a period of three (3) years after it is executed by said persons;

3. That respondents inform each person described in subparagraph 1. above that respondents shall not use any such person, or the services of any such person, until such person agrees to and files notice with respondents to be bound by the provisions contained in this order;

4. That in the event such person will not agree to file such notice with respondents and be bound by the provisions of this order, respondents shall not use such person, or the services of such person;

5. That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in subparagraph 1. conform to the requirements of this order; and

6. That respondents discontinue dealing with any person described in subparagraph 1. of this order who engages in the acts or practices prohibited by this order.

*It is further ordered*, That respondents may accept compensation from a client for the promotion of the client's idea only as a percentage of royalties or other financial gain derived through respondents' efforts. Respondents may not accept any other fee or monetary consideration from a client.

*It is further ordered*, That respondents shall not sell, lease, exchange or otherwise alienate a client's idea or disclose a client's name, address, telephone number or other personal data to any party which will or may request such client to pay a fee or other monetary consideration for the promotion of that client's idea.

*It is further ordered*, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered*, That:

1. The individual respondent named herein, and every firm, partnership, association, corporation or other business entity which he now or hereafter controls or manages, and which offers, or purports to offer, any service, product, or program, in connection with the advertising, evaluation, development, manufacturing, marketing or assistance in developing, manufacturing, or marketing, or otherwise contributing to the success of any client's product or service shall conspicuously place in all printed contracts, agreements, advertisements, pamphlets, brochures or other promotional materials, the statement below in print at least as large as the largest print on

the material other than the business entity's name and shall state:

(Number) % of our clients have earned more than they paid us as a result of our efforts to (describe service, product, or program sold by such business entity).

2. In all advertisements broadcast by radio or television, the above-required notice shall be read at the end of the advertisement at a rate of speed at least as slow as the slowest spoken part of the advertisement.

3. Individual respondent shall maintain for a period three (3) years after any of respondent's advertisements are disseminated:

(a) Records disclosing the date or dates each such advertisement was published;

(b) Records disclosing the names and addresses of the newspapers, other publications or broadcast media disseminating said advertisement; and

(c) Representative copies or representative scripts of all advertisements published or disseminated by any media.

*It is further ordered*, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising out of this order.

*It is further ordered*, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered*, That nothing contained in this order shall relieve respondents of any additional obligations respecting idea promotion imposed by any state. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required. The Commission, upon a showing of inconsistency, shall make



such modifications as may be warranted.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

INTERNATIONAL INVENTORS INC., EAST  
FILE NO. 782 3008

#### ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from International Inventors Incorporated, East, (III,E), principally located at 4900 Leesburg Pike, Alexandria, Virginia 22302, and from James H. Haren, individually and as president of III,E.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become a part of the public record. After sixty (60) days, the Commission will again review the consent order and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that III,E has stated, contrary to fact, that it gives the ideas of prospective inventors who are its clients a fair and thorough evaluation of their commercial feasibility. The complaint further alleges that it does not actively and successfully promote clients' ideas with interested manufacturers, and does not obtain contracts with these manufacturers that result in financial gain for its clients. The complaint also alleges that III,E has misrepresented the legal protection provided by the United States Patent and Trademark Office's Document Disclosure Program. These acts and practices, the complaint finally alleges, were and are now causing pecuniary losses to persons contracting with III,E and are unfair and deceptive, and are therefore in violation of Section 5 of the Federal Trade Commission Act.

Proposed consent order prohibits III,E and Mr. Haren, from:

1. Failing, in the normal course of business, to give clients' ideas a fair and thorough evaluation of their commercial feasibility.

2. Representing that they can be expected to actively and successfully promote and negotiate on behalf of their clients with interested manufacturers.

3. Representing that the U.S. Patent and Trademark Office's Document Disclosure Program can provide protection prior to the filing of a formal patent application.

#### PROPOSED RULES

4. Representing that their services can and do result in manufacturing contracts or licensing agreements that produce financial gain for their clients.

The order includes a provision prohibiting III,E and Mr. Haren from accepting any compensation from a client for the promotion of an idea except as a percentage of the royalties that are received by the client.

In addition to the above prohibition, the consent order requires that the following be included on all sales contracts:

#### NOTICE

(A) IN THE LAST FIVE YEARS THAT WE HAVE BEEN DOING BUSINESS, WE HAVE CONTRACTED TO PROMOTE IDEAS, INVENTIONS OR CONCEPTS FOR (NUMBER) CLIENTS. AS A RESULT OF OUR SERVICE:

1. (number) (—%) OF OUR CLIENTS EARNED \$0-99.

2. (number) (—%) OF OUR CLIENTS EARNED \$100-499.

3. (number) (—%) OF OUR CLIENTS EARNED \$500-1000.

4. (number) (—%) OF OUR CLIENTS EARNED over \$1,000.

5. (number) (—%) OF OUR CLIENTS EARNED MORE THAN THE PAID US.

(B) WITHOUT PATENT PROTECTION, RECOGNIZED BY THE U.S. PATENT AND TRADEMARK OFFICE, YOU MAY LOSE THE OPPORTUNITY TO OBTAIN FINANCIAL BENEFIT FROM YOUR IDEA. WE DO NOT PROVIDE ANY LEGAL SERVICES FOR OBTAINING PATENT PROTECTION RECOGNIZED BY THE U.S. PATENT AND TRADEMARK OFFICE. YOU SHOULD AND ARE ENCOURAGED TO CONSULT AN INDEPENDENT PATENT ATTORNEY OR AGENT BEFORE YOU SIGN THIS AGREEMENT.

(C) YOU SHOULD TREAT YOUR IDEA AS A CONFIDENTIAL SUBJECT IN ORDER TO AVOID LOSING ANY PATENT RIGHTS YOU MAY HAVE.

(D) TODAY IS (DATE). WE CANNOT ASK YOU TO SIGN AN AGREEMENT UNTIL 10 BUSINESS DAYS HAVE ELAPSED WHICH WILL BE ON (MONTH/DAY/YEAR).

III,E and Mr. Haren will also be required to include the following statement in all advertisements:

"(Number) % of our clients have earned more than they paid to us as a result of our efforts to promote their idea."

Due to the lack of available III,E assets, the inclusion of an order provision requiring restitution by III,E to its clients and former clients was not feasible.

The purpose of the analysis is to facilitate public comments on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or

to modify in any way the terms of the proposed order.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9236 Filed 3-26-79; 8:45 am]

[6750-01-M]

[16 CFR Part 13]

[File No. 782 3075]

ITT CONTINENTAL BAKING CO., INC.

Consent Agreement with Analysis To Aid  
Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Rye, N.Y. manufacturer and seller of bakery products to cease disseminating advertisements which contain unsubstantiated comparative claims regarding the dietary fiber content of "Fresh Horizons" bread and other such food products; or which fail to include a statement disclosing that fiber ingredient in Fresh Horizons is derived from tree pulp. Such statement would be required for two and one-half years in all advertisements for products containing wood fiber. The order would also prohibit the company from representing that an ingredient in Fresh Horizons or in other food products has been recommended or approved by a doctor or scientist unless that party has been fully informed of the ingredient's identity and derivation. Additionally, the firm would be required to review and conform to the terms of the order all advertising claims for bakery and/or cereal-based products prepared or financed by its corporate parent.

DATE: Comments must be received on or before May 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and

#### PROPOSED RULES

complaint and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### ORDER

##### I

It is ordered, That respondent ITT Continental Baking Company, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of a bakery product called Fresh Horizons or any other food product, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement by

means of the United States mails or by any means in or affecting commerce which, directly or indirectly:

A. Makes any comparative claim regarding the amount of fiber in any such product, as compared with that in any other food product, unless the claim is based on measurement of "dietary fiber" by the neutral detergent fiber method with an amylase modification. The neutral detergent fiber method with an amylase modification shall be used until such time as the Food and Drug Administration officially adopts a method for measuring dietary fiber in foods. At that time, the officially approved method for measuring dietary fiber shall be used for comparative quantity claims.

B. Makes any representation regarding the fiber content of any such product, unless respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence for each such representation.

##### II

It is further ordered, That respondent ITT Continental Baking Company, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of a bakery product called Fresh Horizons or any other food product, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in or affecting commerce which, directly or indirectly, makes any representation that any such product or any ingredient in such product has been recommended or approved by any doctor(s) or scientist(s), unless:

A. Before giving such recommendation or approval for such product, the doctor(s) or scientist(s) had been fully informed of the identity and derivation of all of the ingredients in such product, except those incidental ingredients which are added to assist in the food processing function which amount to less than 2% each of the final product on a weight basis, or

B. Before giving such recommendation or approval for any such ingredient, the doctor(s) or scientist(s) had been fully informed of the identity and derivation of that ingredient.

##### III

It is further ordered, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of the bakery product



called Fresh Horizons or any other bread product containing alpha cellulose derived from wood, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in or affecting commerce, which fails to disclose clearly and conspicuously in each advertisement in the exact language listed below for two and one-half years from the effective date of this Order: "The source of (this/the) fiber is wood;" or

"Contains fiber derived from pulp of trees." Upon the expiration of this two and one-half year period respondent shall disclose clearly and conspicuously in each such advertisement for such bakery product in no more than ten (10) words that the source of the fiber in such product is wood or that such product contains fiber derived from the pulp of trees.

Either of these disclosures shall be required so long as wood continues to be a fiber component of such product.

Coupons without any advertising claims and point of purchase advertising without general text are exempt from the requirements of this provision. Advertisements which make advertising claims and also contain a coupon are subject to the requirements of this Order.

## IV

*It is further ordered*, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any bakery product or cereal-based product do forthwith cease and desist from disseminating or causing the dissemination of any advertisement, by means of the United States mails or by any means in or affecting commerce, which represents directly or by implication that such product contains only ingredients commonly used, or anticipated\* by consumers to be commonly used, in the making of such a product, unless

\* An ingredient shall be considered "commonly used or anticipated" for purposes of this Order:

(1) if it is enumerated under 21 C.F.R. § 170.3(n) or,

(2) if it is included under 21 C.F.R. § 170.3(o) and meets the requirements of the definition of common usage.

PROVIDED that for substances containing an ingredient which is included under 21 C.F.R. § 170.3(o) to be considered "commonly used or anticipated," such substances must be used in amounts which do not exceed levels of common usage when performing the same function in other foods.

For purposes of this Order, common usage shall mean a history of consumption of a substance by a significant number of consumers in the United States.

A. such is the case;

B. the total of the unanticipated and uncommonly used ingredients in the final product is 4 percent or less by weight; \*\* or

C. the presence, identity, and source of each unanticipated or uncommonly used ingredient is disclosed clearly and conspicuously when the total of the unanticipated and uncommonly used ingredients in the final product is greater than 4 percent of that product by weight.\*\*

## V

*It is further ordered*, That respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device review and conform all advertising claims for any bakery and/or cereal-based product prepared and/or financed by the International Telephone and Telegraph Corporation, its subsidiaries or divisions, to the provisions of this Order.

## VI

*It is further ordered*, That respondent forthwith distribute a copy of this Order to each of its operating divisions.

## VII

*It is further ordered*, That the respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate status such as dissolution, emergence of a successor corporation, the creation or dissolution of subsidiaries, and assignment or sale of the business, or any other change in the corporate respondent that may affect compliance obligations arising out of this Order.

## VIII

*It is further ordered*, That the respondent shall within sixty (60) days after service of this Order, submit to the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order. The effective date of paragraphs I-VI shall be the sixtieth day after service of this Order.

\*\* For purposes of cumulating the 4% threshold:

(a) when a subsection (o) substance is used to perform a function for which there is no common usage of that substance for that function in foods, the entire amount of the substance shall be cumulated;

(b) when a subsection (o) substance is used to perform a function for which there is common usage of that substance for that function in foods, the amount which exceeds the highest previous level which has been commonly used to perform that function shall be cumulated.

## IX

*It is further ordered*, That the respondent maintain all files and records related to the requirements of Parts I-V of this Order for a period of three (3) years after the dissemination of any advertisement of any product covered by this Order, and that such material shall be made available to the Federal Trade Commission or its staff for inspection and copying upon reasonable demand.

## ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has negotiated an agreement which includes a consent order with ITT Continental Baking Company, Inc. ("ITT Continental") to address certain claims made by the company in connection with its advertising for a bakery product called Fresh Horizons. The claims which are the subject of this agreement and order have been challenged by the Commission as false, deceptive, and misleading.

In the course of these negotiations, ITT Continental has submitted certain information to the Commission which is related to the merits of the consent order. The proposed consent order and other materials submitted by ITT Continental which are not exempt from disclosure under the Freedom of Information Act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record in this case. After sixty (60) days, the Commission will review the agreement and the comments received and will decide whether to withdraw from the agreement or to make the agreement final.

The proposed complaint in this case charges ITT Continental with failing to disclose that the fiber in Fresh Horizons is derived from wood. The proposed complaint further charges that ITT Continental's failure to disclose this fact, coupled with its comparison of the fiber content of Fresh Horizons with that of 100% whole wheat bread, provides the public with the false impression that Fresh Horizons is made only with ingredients commonly used in the manufacturing of bread.

In addition, the proposed complaint charges respondent ITT Continental with deceptively representing that one slice of Fresh Horizons contains 5 times the fiber of one slice of 100% wheat bread and as much fiber as one serving of 100% all bran cereal. It also charges respondent with deceptively representing that three out of five doctors recommend Fresh Horizons for its fiber alone.

The consent order contains the following provisions which are designed

to remedy these alleged violations. First, Part IA of the order prohibits respondent from making comparative claims in its advertising about the amount of fiber in Fresh Horizons or any other food product, unless the claim is based on a method of fiber measurement that uses the neutral detergent fiber method with an amylase modification. This method, which is presently one of the most accurate methods for measuring dietary fiber, is to be used until the Food and Drug Administration adopts an official method for measuring dietary fiber in foods.

Part IB of the order prohibits respondent from making any representations about the fiber content in Fresh Horizons or any other food product, unless it possesses and relies upon a reasonable basis for making that representation.

Part II of the order prohibits respondent from representing in any advertisement for Fresh Horizons or any other food product that the product has been recommended or approved by any doctor(s) or scientist(s) unless the doctor or scientist is told the identity and derivation of all of the ingredients in the product, except for the incidental food processing ingredients which amount to less than 2% of the final product's weight. Part II of the order also prohibits the representation that an ingredient in Fresh Horizons or any other food product has been recommended or approved by any doctor(s) or scientist(s) unless the doctor or scientist is fully informed of the identity and derivation of the ingredient.

Part III of the order prohibits respondent from advertising Fresh Horizons or any other bread product containing fiber derived from wood unless it discloses the fiber source clearly and conspicuously for two and one-half years using one of the following statements:

"The source of (this/the) fiber is wood." or "Contains fiber derived from pulp of trees."

After the two and one-half year period has expired, and as long as the bread product contains wood, respondent must clearly and conspicuously disclose in 10 words or less that the source of the fiber in this product is wood or that such product contains fiber derived from the pulp of trees. Coupons without advertising claims and point of purchase advertising without general text are exempt from the requirements of this provision. However, advertisements which make advertising claims and also contain a coupon are subject to the requirements of this provision.

Part IV of the order prohibits respondent from disseminating advertisements which represent directly or by implication that any bakery or

cereal-based product contains only ingredients commonly use, or anticipated by consumers to be commonly used, in the making of such a product unless:

(1) That is the case; or

(2) The total of the unanticipated and uncommonly used ingredients in the final product is 4% or less of the product's weight; or

(3) The presence, identity, and source of each of the unanticipated or uncommonly used ingredients is disclosed, where the total of the unanticipated or uncommonly used ingredients in the final product is greater than 4% of the product's weight.

For purposes of this order, "commonly used or anticipated" ingredients or defined in a footnote to Part IV of the order. These ingredients are defined in terms of two food additive subsections found in the Code of Federal Regulations. The order specifies that substances included in these two subsections, 21 C.F.R. §§ 170.3 (n) or (o), shall be considered "commonly used or anticipated," so long as the 21 C.F.R., § 170.3(o) substances have a history of consumption by a significant number of consumers in the United States and they are used in amounts which do not exceed levels of common usage when they are performing the same function in other foods.

A second footnote to Part IV of the order delineates how the 4% threshold triggering the "unanticipated ingredient" disclosures can be met. If a subsection (o) substance is used to perform a function for which there is no common usage of that substance for that function in foods, the entire amount of the substance is cumulated to determine the 4% threshold. If a subsection (o) substance is used to perform a function for which there is common usage of that substance for that function in foods, the amount which exceeds the highest previous level which has been commonly used to perform that function shall be cumulated to determine the 4% threshold.

In this way, new functional usages of a subsection (o) substance require cumulation of the entire amount of the substance, while established functional usages of subsection (o) substances require cumulation of only the amounts exceeding past levels of common usage to determine the 4% disclosure threshold.

Part V of the order requires respondent to review and conform to the provisions of this order all advertising claims for any bakery and/or cereal-based product prepared and/or financed by ITT Continental's parent corporation, the International Telephone and Telegraph Corporation, its subsidiaries or divisions.

Part VI requires respondent to distribute a copy of this order to each of its operating divisions.

Part VII requires respondent to notify the Commission at least thirty (30) days prior to any proposed change in its business status which may affect compliance with this order.

Part VIII requires respondent to submit to the Commission within sixty (60) days a written report which sets forth in detail the manner in which it has complied with this order.

Part IX requires respondent to maintain all files and records related to the requirements of Parts I-V of this order for three (3) years after the dissemination of any advertisement of any product covered by this order. Such material shall be available to the Commission staff upon staff's reasonable demand.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement or proposed order or to modify the terms of those documents in any way.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9229 Filed 3-26-79; 8:45 am]

## [4110-07-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Social Security Administration  
[20 CFR Parts 404 and 416]

OLD-AGE, SURVIVORS, AND DISABILITY  
INSURANCE PROGRAM

Quarters of Coverage and Insured Status  
Benefits in Case of Veterans

SUPPLEMENTAL SECURITY INCOME FOR THE  
AGED, BLIND, AND DISABLED

Eligibility, Filing of Applications and Other  
Forms, Relationship, Resources and Exclusions

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: HEW plans to rewrite and reorganize several subparts of the regulations under titles II and XVI of the Social Security Act. The objectives are: (1) to comply with Executive Order 12044 and to meet the Department's "Operation Common Sense" standards by making the regulations clearer and easier to understand; (2) to remove obsolete and rarely used provisions; and (3) as appropriate, to examine the policies and consider additions, revisions, and clarifications. The revised subparts will be published with Notice of Proposed Rulemaking. The



regulations presently being rewritten are:

(1) 20 CFR PART 404, SUBPART B

This subpart contains the rules on quarters of coverage and insured status. Quarters of coverage are used to determine a person's insured status; insured status is a basic factor in determining a person's entitlement to benefits under the Old-Age, Survivors, and Disability Insurance Program.

(2) 20 CFR PART 404, SUBPART N

Included in this subpart are the rules on granting wage credits for purposes of social security coverage to certain veterans and members of the uniformed services. These are generally referred to as World War II and post-World War II service wage credits.

(3) 20 CFR PART 416, SUBPART B

The rules in this subpart describe the basic requirements for determining a person's eligibility and continuing eligibility for supplemental security income.

(4) 20 CFR PART 416, SUBPART C

The rules on filing an application for supplemental security income are contained in this subpart. An essential requirement for the receipt of these benefits is that a valid application be filed.

(5) 20 CFR PART 416, SUBPART J

This subpart contains the rules on who is considered a husband or wife, who is considered a child, and who is considered a parent for purposes of determining eligibility for, and the amount of, supplemental security income.

(6) 20 CFR PART 416, SUBPART L

These regulations cover what "resources" are and how they are considered in determining eligibility for, and the amount of, supplemental security income.

HEW has classified the recodification of these regulations as policy significant in nature.

FOR FURTHER INFORMATION CONTACT:

Charles Rollins, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6666.

Dated: March 9, 1979.

STANFORD G. ROSS,  
Commissioner of  
Social Security.

[FR Doc. 79-9185 Filed 3-26-79; 8:45 am]

[4110-07-M]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME BENEFITS

Recovery of Overpayments

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Social Security Administration is planning to publish an amendment to regulations clarifying the circumstances under which it decides that recovery of an overpayment from an individual without fault would defeat the purpose of title XVI and thus should be waived. Present regulations in § 416.553(a) provide for a finding of "defeat the purpose" if the individual's income does not exceed a stated amount (which corresponds generally to the income level at which an otherwise eligible individual can receive Supplemental Security Income (SSI) benefits).

The amendment will make clear that this test applies only in the case of an "eligible individual" under the SSI program, since by definition the income and resources of these individuals are within SSI eligibility levels, and thus are considered necessary for subsistence needs. In all other situations, the test in § 416.553(b) will apply, and we will consider in each case whether the individual's income and resources are needed for ordinary and necessary living expenses. Although this is the intent of the present regulations, the language needs clarification.

The proposed policy will amend 20 CFR 416.553. HEW has classified the proposed amendment to regulations as policy significant.

FOR FURTHER INFORMATION CONTACT:

Mrs. Sadie Woolford, 4-J-5 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone (301) 594-6528.

Dated: March 1, 1979.

STANFORD G. ROSS,  
Commissioner of  
Social Security.

[FR Doc. 79-9187 Filed 3-26-79; 8:45 am]

[4110-07-M]

[20 CFR Part 416]

[Regulations No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Pass Along of Federal Supplemental Security Income Benefit Cost-of-Living Increases to Recipients of State Supplementary Payments; Limitations on State Costs for Hold-Harmless States

AGENCY: Social Security Administration, HEW.

ACTION: Proposed rule.

SUMMARY: The proposed regulations provide the rules we will use to implement the pass-along provisions of the social security amendments enacted October 21, 1976 (section 2 of Pub. L. 94-585). Generally, these provisions require that States that supplement the Federal SSI benefit "pass along" Federal cost-of-living increases to individuals who are eligible for State supplementary payments. In order to meet this requirement, States that make supplementary payments on or after June 30, 1977, must agree to continue making these payments and to keep them at certain levels. If a State does not agree, or if the State agrees but does not keep the payments at the required levels, the State is subject to loss of Medicaid reimbursement under title XIX of the Social Security Act. However, the State will not be found to be out of compliance because it did not keep its payments at any particular level if it maintains its total annual expenditures for State supplementary payments. Another provision known as the "preservation of hold-harmless provision," protects certain States (currently Hawaii, Massachusetts, and Wisconsin) from an increase in their State expenditures when they pass along cost-of-living increases in Federal SSI benefits.

In these regulations, we are describing (1) the requirements which States must meet under the "pass-along" amendments, (2) the general content of the agreements between the States and the Secretary, and (3) the basis for our finding that a State is not in compliance and the effect of this finding on the State. In addition, we are (1) removing the parenthetical phrase in the definition of State supplementary payments which refers to burn-outs, utility turn-offs, etc., because it is no longer necessary, and (2) amending the regulations on hold-harmless protection so that they provide protection for "passing along" Federal cost-of-living increases.

DATE: We will consider your comments if we receive them no later than May 29, 1979.

ADDRESSES: Send your written comments to: Social Security Administration,

Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Clara B. Powell, Legal Assistant, Division of Regulations, Office of Policy and Regulations, Office of Program Policy and Planning, Social Security Administration, Baltimore, Maryland 21235 (301-594-7459).

SUPPLEMENTARY INFORMATION:

If a State makes supplementary SSI payments on or after June 30, 1977, the State must comply with the provisions of section 1618 of the Social Security Act (the pass-along amendment). Generally, this section requires that States have in effect an agreement with the secretary of HEW to continue to make supplementary payments at least at the same levels as the supplementary payment levels in effect in December 1976. If the State did not make supplementary payments in December 1976, the State must maintain the levels for the first month after December 1976 in which the State makes supplementary payments. If a State does not meet these requirements, the State would be subject to loss of Medicaid reimbursement. However, a State will not be found to be out of compliance because it did not maintain its payment levels if its total expenditures for supplementary payments in the 12-month period beginning with each effective date of Federal SSI cost-of-living increases are at least equal to the State's total expenditures for supplementary payments in the immediately preceding 12-month period.

The purpose of the pass-along amendments is to encourage States to pass along to SSI beneficiaries the amount of the federal cost-of-living increase. Some States have not done this in the past. Instead, when Congress enacted cost-of-living increases in the Federal SSI benefit amount, some States would reduce the levels of the State supplementary payments by the amount of the Federal increase. The SSI beneficiaries in these States would receive the same combined Federal/State benefit they were receiving before the increase, but would not receive the additional money provided by the cost-of-living increase.

We are proposing to add new §§ 416.2095-416.2098 to the regulations, which describe (1) the scope and substance of the requirements which States must meet under the pass-along amendments, (2) the general content of the agreements between the States and the Secretary and (3) the basis for our finding that a State is not in compliance and the effect of this finding on the State. We are also making a

technical change in § 416.2001(a) which defines "supplementary payments," a term used in the pass-along amendments, and amending § 416.2080 to give full protection to hold-harmless States in passing along Federal SSI cost-of-living increases.

STATE SUPPLEMENTARY PAYMENTS WHICH ARE COVERED BY THE PASS-ALONG REQUIREMENTS

The pass-along requirements apply to the type of payments described in section 1618(a) of the Act and § 416.2001(a) of the regulations. These payments are known as optional supplementary payments. These payments must be made (1) in cash, (2) by a State or political subdivision, (3) on a regular basis, (4) to individuals who are eligible, or would be eligible except for their income, for benefits under title XVI of the Social Security Act, and (5) as assistance based on need in supplementation of Federal SSI benefits, as determined by the secretary of HEW.

The pass-along requirements also apply to State supplementary payments made under section 212 of Pub. L. 93-66 and § 416.2001(c) of the regulations. These payments are known as mandatory supplementary payments. They are available only to individuals who received aid under a State plan approved under title I, X, XIV, or XVI of the Social Security Act for the month of December 1973.

Optional or mandatory supplementary payments may be administered by the State or by the Federal government at the State's option. The pass-along requirements apply whether the State or the Federal government administers the payments. They also apply whether the person who receives those payments receives both a Federal SSI benefit and a supplementary payment or, because of his or her income, receives only a State supplementary payment.

STATE AGREEMENT WITH THE SECRETARY

In § 416.2096, we discuss the State agreement with the secretary. Basically, the State must have an agreement with the Secretary in effect and agree to continue making supplementary payments and maintain these payments at least at the same levels in effect in December 1976. If a State does not maintain these levels, but does make total State supplementary payments that are at least equal to the total payments made in the 12-month period before the Federal cost-of-living increase, we shall consider that the State has complied with the agreement with the Secretary.

STATE SUPPLEMENTARY PAYMENT LEVEL

In § 416.2097, we define the supplementary payment level as the amount

of the supplementary payment established by the State that an individual in each payment category received in the State in December 1976 if the individual had no countable income. States must maintain these levels to comply with the pass-along requirements.

For example, the Federal SSI benefit amount in June 1977 for an individual living in his or her own household and having no income was \$167.80 per month. If a State made a \$50 optional supplementary payment per month to individuals in this situation, they would receive a total payment of \$217.80 per month under the SSI program. In July 1977, the Federal cost-of-living increase was \$10 and the Federal SSI benefit amount was increased to \$177.80 per month. Under these circumstances, a State would maintain the level of its supplementary payment if the State continued to make a \$50 supplementary payment per month above the Federal SSI benefit level to individuals in this situation. Thus, the individuals would receive a total payment of \$227.80 per month under the SSI program, and the Federal cost-of-living increase of \$10 per month would be passed along to them.

This is the only definition of supplementary payment level that would carry out the intent of the statute. If we defined the supplementary payment level as the total amount of the Federal and State payments before the Federal cost-of-living increase (in our example, \$217.80 per month), the States could do exactly what Congress enacted section 1618 to discourage them from doing. When the Federal benefit increased, the State could decrease its supplementary payment and the total Federal plus State level still would be maintained. However, the SSI beneficiary would not receive the added money that he or she should have from the Federal cost-of-living increase and there would be no pass-along.

Also, it would be contrary to the intent of the statute if we defined the "level" which must be maintained in terms of the amounts of the State supplementary payment that the particular individual received (rather than the amount the State paid to individuals who in that category had no countable income). A definition requiring individual levels of payment to be maintained would not accommodate changes in current countable income. Further, it would not give pass-along protection to individual who become eligible for SSI payments after December 1976. The definition of State supplementary payment level in the proposed regulations will allow for changes in actual payments to individual beneficiaries because of changes in their income.



Some examples follow which show what will happen to SSI benefits after a cost-of-living increase under these rules. For these examples, the Federal SSI standard payment amount is \$168 before the cost-of-living increase and \$178 after the increase. The State supplementary payment is \$50.

**EXAMPLE 1.—Receipt of Federal SSI Benefits, No Outside Income**

|                           | Federal SSI cost-of-living increases |       |
|---------------------------|--------------------------------------|-------|
|                           | Before                               | After |
| Income .....              | \$0                                  | \$0   |
| Fed. Ben. ....            | 168                                  | 178   |
| State supp. payment ..... | 50                                   | 50    |
| Total .....               | \$218                                | \$228 |

**EXAMPLE 2.—State Supplementary only, Countable Income \$195 (Remains Constant)**

|                           |       |       |
|---------------------------|-------|-------|
| Income .....              | \$195 | \$195 |
| Fed. Ben. ....            | 0     | 0     |
| State supp. payment ..... | 23    | 33    |
| Total .....               | \$218 | \$228 |

**EXAMPLE 3.—State Supplementary Only, Countable Income Title II Benefit \$195 (Title II Benefit is Increased by Same Percentage as SSI Following a Cost-of-Living Increase)**

|                           |       |       |
|---------------------------|-------|-------|
| Income .....              | \$195 | \$208 |
| Fed. Ben. ....            | 0     | 0     |
| State supp. payment ..... | 23    | 20    |
| Total .....               | \$218 | \$228 |

We have already explained Example 1. Where an individual is receiving a Federal SSI benefit and has no outside income, the State maintains its supplementary payment level by continuing to pay \$50 per month. The same principle would apply if the individual did have income, but not enough to reduce the Federal SSI benefit to zero.

Example 2 and Example 3 show what happens when an individual has enough income to offset the entire Federal SSI benefit but not the State supplementary payment as well. These are the "state supplementary payment only" cases. In these situations, the State must again maintain a level of payment \$50 above the increased Federal level, i.e., to a total of \$228. In Example 2, the individual's outside income has not increased. Therefore, to maintain its payment level, the State must increase its supplementary payment by \$10.

However, Example 2 is not the typical case. Most individuals who receive only a State supplementary payment do so because they also receive title II social security benefits. These benefits also have a cost-of-living increase. Ex-

ample 3 shows that, if the title II benefits rise by \$13, the State can maintain its supplementary level up to \$228 while actually reducing the State payment by \$3. Since there are far more Example 3 cases than Example 2 cases, we believe that the States generally can maintain their payment levels for the individual receiving only State supplementary payments and at the same time can reduce their total expenditures.

**STATE COMPLIANCE WITH THE PASS-ALONG REQUIREMENTS**

In § 416.2098, we discuss what we will require that the States do to show that they are complying with the pass-along rules. Generally, a State must keep records and provide information about (1) its supplementary payment levels in December 1976 and following months, (2) its total expenditures for supplementary payments for the 12-month period beginning July 1976 through June 1977 and following 12-month periods, and (3) its advance estimates of the total State supplementary payment expenditures for each 12-month period covered by the agreement. If a State is not complying with the pass-along rules, the State will be subject to a finding of ineligibility for reimbursement under title XIX of the Social Security Act beginning with the first quarter it fails to comply.

**PROVISION FOR "HOLD-HARMLESS" STATES**

The Congress also provided, in section 2 of Public Law 94-585, that certain States, referred to as hold-harmless States, shall be able to pass along Federal increases in SSI payments to beneficiaries without increasing their fiscal liability. The States currently protected by this provision are Hawaii, Massachusetts, and Wisconsin.

Because of this provision in Pub. L. 94-585, we need to change the regulations in § 416.2080 to allow the disregard of the amount of any Federal SSI benefit increase becoming effective after June 30, 1977, in the formula for determining fiscal liability. These States are permitted to pass on the increases entirely at Federal expense whether the individual is receiving a Federal SSI benefit plus a State supplement or is receiving the State supplement only. In the latter case, either (1) the individual would be receiving Federal SSI benefits except that he or she had other income which precluded payment of the Federal SSI benefit, or (2) the increase would enable the individual to become eligible for Federal SSI benefits.

**CHANGE IN DEFINITION OF STATE SUPPLEMENTARY PAYMENTS**

We are changing the definition of "State supplementary payments" in

§ 416.2001(a) to delete the parenthetical phrase in § 416.2001(a)(2) which refers to payments for burnouts, utility turn-offs, etc. We do not believe that inclusion of these payments is appropriate for pass-along purposes. These payments were included before to make sure that they were not counted as income. Since section 1612(b)(6) of the Social Security Act now specifically excludes any payments (regular or not) made by a State or locality based on need, specific mention of those payments as State supplementary payments is no longer necessary.

The proposed amendments are to be issued under the authority of sections 1102, 1601, 1616, 1618, and 1631(d) of the Social Security Act, as amended; 49 Stat. 647 as amended; 86 Stat. 1465, 86 Stat. 1474, as amended; 90 Stat. 2901; 86 Stat. 1476; 42 U.S.C. 1302, 1381, 1382e, 1382g, 1383(d)(1); section 401 of Pub. L. 92-603, as amended by section 504 of Pub. L. 94-566; and section 2 of Pub. L. 94-585.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: January 30, 1979.

STANFORD G. ROSS,  
Commissioner of  
Social Security.

Approved: March 16, 1979.

HALE CHAMPION,  
Acting Secretary of Health,  
Education, and Welfare.

Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. In § 416.2001, paragraph (a)(2) is revised to read as follows:

§ 416.2001 State Supplementary payments; general.

(a) State supplementary payments; defined.

(2) Regularly, on a periodic recurring, or routine basis of at least once a quarter; and

2. In § 416.2080, paragraphs (c), (d), (e)(1), and (f) are revised to read as follows:

§ 416.2080 Limitation of fiscal liability of States.

(c) State fiscal protection. Except as provided in paragraph (e) of this section, the provisions of paragraphs (a) and (b) of this section apply only to that portion of the State supplementary payments made by the Secretary on behalf of a State under an agreement for any month which does not

exceed, in the case of any individual (or couple), the difference between—

(1) The adjusted payment level as defined in § 416.2085 under the appropriate approved State plan(s) as in effect for January 1972; and

(2) An amount equal to—

(i) The benefits paid for the current month under title XVI; plus

(ii) Any income not excluded under Subpart K of this part; less

(iii) The amount of any cost-of-living increase in Federal benefits under section 1617 of the Social Security Act (or any general increase enacted by law in the dollar amounts referred to in section 1617) becoming effective after June 30, 1977.

(d) Unprotected payments. Except as provided in paragraph (e) of this section, the State shall make entirely at State expense that portion of the State supplementary payment which is, in the case of any individual, more than the difference between (1) the State's January 1972 adjusted payment level and (2) the Federal benefit plus income counted under Federal eligibility rules and less the amount of any cost-of-living or general increase in the Federal benefits becoming effective after June 30, 1977.

(e) Credits and debits. For purposes of determining the extent of protected payments where State supplementary payments are paid at varying levels, to the extent that payments above the adjusted payment level do not exceed the difference by which variations in payment levels (variant payment levels) are established below the adjusted payment level, payments count toward the amount of a State's fiscal liability protection. This provision is explained as follows:

(1) The variant payment levels must be both above and below the adjusted payment level. The variant payment level is the sum of the Federal benefit plus income counted under Federal eligibility rules; less the amount of the cost-of-living and general increases in the Federal benefits becoming effective after June 30, 1977; plus the State supplementary payment.

(f) Fiscal limit not applicable. The limitation on the fiscal liability provision does not apply to any State supplementary payments which are made to individuals or couples within any category for which the adjusted payment level is less than, or equal to the Federal monthly benefit rate (excluding the cost-of-living and general increases in the Federal benefits becoming effective after June 30, 1977) for an eligible individual or eligible couple as specified in §§ 416.410 and 416.412. Further, the provisions of paragraph (a) of this section do not apply to the amount of any State supplementary

payment that results from the application of additional income exclusions specified by the State in its agreement with the Secretary (see § 416.2025(c)). In addition, the provisions of paragraph (a) of this section do not apply with respect to supplementary payments to any individual (or couple) who—

(1) Is not required to be included in the agreement administered by the Secretary (see § 416.2010(a)); and

(2) Would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972.

3. Subpart T of Part 416 is amended by adding new §§ 416.2095 through 416.2098 to read as follows:

§ 416.2095 Pass-along of Federal cost-of-living increases.

(a) General. This section and the three that follow describe the rules for passing along the cost-of-living increases in the Federal SSI benefit to recipients of State supplementary payments.

(1) Section 416.2095(b) indicates when the pass-along rules apply to State supplementary payments.

(2) Section 416.2096 describes the basic pass-along rules. The States must have an agreement to "pass along" cost-of-living increases in Federal SSI benefits. A State passes along an increase when it maintains (rather than decreases) the levels of all its supplementary payments after a Federal cost-of-living increase has occurred. Generally, a pass-along of the increase permits recipients to receive an additional amount in combined benefits equal to the Federal cost-of-living increase. A State can change its payment levels if it meets an annual expenditures test.

(3) Section 416.2097 explains how to compute a supplementary payment level.

(4) Section 416.2098 discusses what information the States must provide to the Secretary concerning their supplementation programs so that the Secretary can determine whether the State is in compliance. That section also discusses the basis for findings of noncompliance and what will occur if a State is found out of compliance.

(b) When the pass-along applies. (1) The pass-along requirements apply to all States (and the District of Columbia) that make supplementary payments after June 29, 1977, and wish to participate in the Medicaid program.

(2) The pass-along requirements apply to both optional supplementary payments of the type described in § 416.2001(a) and mandatory minimum supplementary payments as described in § 416.2001(c), whether or not these

State supplementary payments are Federally administered.

(3) The requirements apply to State supplementary payments for both recipients who also receive Federal SSI benefits and recipients who, because of countable income, receive only a State supplementary payment.

(4) The requirements apply to State supplementary payments for recipients eligible for a State supplementary payment before or after June 30, 1977.

(5) Supplementary payments made by a State include payments made by a political subdivision (including Indian tribes) where—

(i) The payment levels are set by the State; and

(ii) The payments are funded in whole or in part by the State.

§ 416.2096 Basic pass-along rules.

(a) State agreements to maintain supplementary payment levels. In order to be eligible to receive Medicaid reimbursement, any State that makes supplementary payments on or after June 30, 1977, must have in effect an agreement with the Secretary. In this agreement—

(1) The State must agree to continue to make the supplementary payments; and

(2) The State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels (or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments). The Secretary will consider a State to have made supplementary payments on or after June 30, 1977, unless the State furnishes evidence to the contrary that is satisfactory to the Secretary.

(b) Total State expenditures. (1) We shall consider a State to have met the requirements for maintaining its supplementary payment levels for a particular month or months if total State expenditures for supplementary payments in the 12-month period beginning on the effective date of a Federal cost-of-living increase are at least equal to the total State expenditures for supplementary payments in the 12-month period before the Federal cost-of-living increase.

(2) Total State expenditures for supplementary payments are the State's total payments for both mandatory and optional supplementary payments in the appropriate 12-month period less the amount of any payments recovered and other adjustments made in that period. Total State expenditures do not include State administrative expenses, interim assistance payments, vendor payments, or payments made under other Federal programs, such as title IV, XIX, or XX of the Social Security Act.



(3) Total State expenditures do not include adjustments in State supplementary payments made after the expiration of the relevant 12-month period.

#### § 416.2097 Supplementary payment levels.

(a) *General.* The supplementary payment level is the total State payment for December 1976 which a State provides an eligible individual (or couple) with no countable income in excess of the Federal SSI benefit for December 1976. We compute supplementary payment levels according to rules described in paragraphs (b)-(e) of this section. When applying these rules to States that did not make supplementary payments in December 1976, we base the supplementary payment level on the payment for the first month after that in which a State makes supplementary payments.

(b) *Mandatory minimum supplementary payment level.* The mandatory minimum supplementary payment level is a recipient's December 1973 minimum income level plus any State increases prior to January 1977, less any reductions made at any time after December 1973 due to changes in special needs or circumstances, less the December 1976 Federal standard payment amount.

(c) *Optional supplementary payment level for States with flat grant amounts.* The optional supplementary payment level for States with flat grant amounts is the total amount which an eligible individual (or couple) with no countable income received for December 1976 in excess of the Federal SSI benefit for December 1976. If the State varied its payment levels for different groups of recipients (e.g., paid recipients different amounts based on eligibility categories, geographic areas, living arrangements, or marital status), each variation represents a separate supplementary payment level.

(d) *Optional supplementary payment level for States with individually budgeted grant amounts.* The optional supplementary payment level for States with individually budgeted grant amounts is the amount which the State budgeted for December 1976 in excess of the December 1976 Federal SSI benefit for an eligible individual (or couple) having the same needs and no countable income.

(e) *Optional supplementary payment level for States with per diem grant amounts.* The optional supplementary payment level for a particular calendar month for States with per diem grant amounts is the total dollar amount which the State would have paid to an eligible individual (or couple) with no countable income for that month at rates in effect for December 1976 (number of days in the

calendar month multiplied by the December 1976 per diem rate plus any December 1976 personal needs allowance) in excess of the December 1976 Federal SSI benefit.

#### § 416.2098 Compliance with pass-along.

(a) *Information regarding compliance.* Any State required to enter into a pass-along agreement with the Secretary shall provide appropriate and timely information to demonstrate to the Secretary's satisfaction that the State is meeting the pass-along requirements. The information shall include—

(1) The State's December 1976 supplementary payment levels, any subsequent supplementary payment levels, and any change in State eligibility requirements. If the State made no supplementary payments in December 1976, it shall provide information about the first month in which it makes supplementary payments; and

(2) The total State expenditures for supplementary payments for the 12-month period beginning July 1976 through June 1977, for each subsequent 12-month period, and for any other 12-month period beginning on the effective date of a Federal SSI cost-of-living increase. The State shall also submit advance estimates of their total supplementary payments for each 12-month period covered by the agreement.

(b) *Records.* The State shall maintain records about its supplementary payment levels and total 12-month expenditures for supplementary payments and permit inspection and audit by the Secretary or someone designated by the Secretary.

(c) *Noncompliance by the States.* Any State that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement with the Secretary in effect, shall be subject to a determination by the Secretary of ineligibility for payments under title XIX of the Act. Ineligibility shall apply to expenditures for any calendar quarter beginning after June 30, 1977, for which there is no agreement. If a State makes supplementary payments beginning with a month after June 1977, ineligibility shall apply to any calendar quarter beginning after the calendar quarter in which the State first makes payments. A State that enters into an agreement but does not comply with its terms shall be subject to a determination that it does not have an agreement in effect as of the first month that the State does not comply. The State shall then be subject to a determination of ineligibility for title XIX payments for any calendar quarter for which it has

not complied with the terms of the agreement.

[FR Doc. 79-9186 Filed 3-26-79; 8:45 am]

#### [4110-03-M]

Food and Drug Administration

[21 CFR Parts 172, 182, 184, 186]

[Docket No. 78N-0174]

#### FORMIC ACID, SODIUM FORMATE, AND ETHYL FORMATE

Proposed Affirmation of GRAS Status as Direct and Indirect Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

**SUMMARY:** The agency proposes to affirm the generally recognized as safe (GRAS) status of ethyl formate as a direct human food ingredient and of formic acid and its sodium salt as indirect human food ingredients. The safety of these ingredients has been evaluated under the agency's comprehensive safety review. The proposal would list ethyl formate as a direct food substance affirmed as GRAS and formic acid and its sodium salt as indirect food substances affirmed as GRAS.

DATE: Comments by May 29, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

**SUPPLEMENTARY INFORMATION:** A comprehensive safety review of human food ingredients classified either generally recognized as safe (GRAS) or subject to a prior sanction is being conducted by the Food and Drug Administration. The Commissioner of Food and Drugs has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20035-20057)) initiating this review. Under this review, the safety of formic acid, sodium formate, and ethyl formate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of these ingredients.

Formic acid ( $\text{CH}_2\text{O}_2$ , CAS Reg. No. 64-18-6), also called methanoic acid or hydrogen carboxylic acid, is a color-

less, highly corrosive, fuming liquid with a sharp, penetrating odor. It occurs naturally in the poison of ants, wasps, bees, and other insects and is contained in the free acid state in a number of plants. It is also present in honey, coffee, rums, wines, mineral water, milk, and cheese. Under a regulation published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421), formic acid is listed in § 182.90 (21 CFR 182.90) as a generally recognized safe (GRAS) substance migrating to food from paper and paperboard products used in food packaging. It is regulated also under § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant.

Sodium formate ( $\text{CHNaO}_2$ , CAS Reg. No. 141-53-7) is a white, deliquescent solid with a slight formic acid odor. Under the June, 1961 regulation, sodium formate, the sodium salt of formic acid, is listed in § 182.90 (21 CFR 182.90) as a GRAS substance migrating to food from paper and paperboard products used in food packaging. It is regulated also under § 175.105 (21 CFR 175.105) as a component of adhesives intended for use in packaging, transporting, or holding food.

Ethyl formate ( $\text{C}_2\text{H}_5\text{O}_2$ , CAS Reg. No. 109-94-4), also known as ethyl methanoate, is an ester of formic acid. It is a colorless, unstable liquid with a peachlike odor and slightly bitter taste. Ethyl formate is found naturally in a variety of plant oils, fruits, and juices and is also present in honey, wines, and distilled liquors. It does not occur naturally in the animal kingdom. Under a regulation published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368), ethyl formate is listed in § 182.1295 (21 CFR 182.1295) as a multiple purpose GRAS food substance when used up to 0.0015 percent as a fumigant for cashew nuts. It is regulated also in § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant and may be used safely in or on specified dried fruits in accordance with § 193.210 (21 CFR 193.210).

The agency surveyed a representative cross-section of food manufacturers to determine the specific foods in which formic acid, sodium formate, and ethyl formate were used and the levels of usage, and it combined information from surveys of consumer consumption with manufacturing information to estimate consumer exposure to these substances. The total amounts of these ingredients used by the U.S. food industry in 1970 were 213 pounds of formic acid and 48,000 pounds of ethyl formate. No food use data were reported for sodium formate.

Formic acid, sodium formate, and ethyl formate have been the subject of a search of the scientific literature

from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 524 abstracts on formic acid and its derivatives was reviewed and 82 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee) established by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Formic acid, ethyl formate, and sodium formate are absorbed from the gastrointestinal tract of man and dogs. Formic acid and ethyl formate are absorbed through the respiratory tract of man, rats, guinea pigs, cats and rabbits. Formic acid is absorbed through the intact skin and from the urinary bladder of the dog. However, the data reported by Smyth *et al.* would suggest that little, if any, formic acid is absorbed through the skin of rabbits. A human subject receiving 4.44 grams of formic acid orally (about 6.3 mg per kg [corrected to 63 mg per kg]) had a blood level, expressed as sodium formate, of 11.8 mg per dl 10 minutes following ingestion.

In a review of work on the toxicity of formic acid and its esters, von Oettingen states that in the intact animal, formic acid is oxidized to carbon dioxide and water. The extent of this oxidation may be influenced by dose (small doses, 100 mg per kg, are completely oxidized; larger doses, 20 g per kg, are partly excreted unchanged), period of oral administration, amount and nature of intestinal contents, the concentration of solution used, the rate of intravenous injection and species of animal.

The biological half-life of formic acid in various species has been reported by Malorny, as shown (below).

Biological Half-Life of Formic Acid in Various Species

| Species    | Route of administration | Biological half-life (minutes) |
|------------|-------------------------|--------------------------------|
| Rat        | oral                    | 12                             |
| Guinea pig | i.v.                    | 22                             |
| Rabbit     | i.v.                    | 32                             |
| Cat        | i.v.                    | 67                             |
| Dog        | oral                    | 77                             |
| Man        | oral                    | 45-46                          |

Vitamin E deficiency results in altered patterns of biotransformation and distribution after injection of labeled sodium formate. Various workers have reported that in animals and humans folic acid, and vitamin B<sub>12</sub> deficiency result in an increase in the ex-

cretion of unchanged formic acid. Malorny found that addition of folic acid results in an acceleration of formic acid oxidation. Oro and Rappoport reported that the oxidation of formic acid to carbon dioxide and water involves a catalase-hydrogen peroxide complex with no dehydrogenases. The enzymes responsible for the formation of hydrogen peroxide include xanthine oxidase, uricase, monoamine oxidase and D-amino acid oxidase. Palese and Tephly conclude that formate is oxidized normally in rats through the one-carbon pool, but in folate deficiency, the catalase-peroxidase system serves as an alternative pathway. There are several reports that oxidation of formic acid occurs in the liver, intestinal mucosa, spleen, kidneys, lungs, and erythrocytes.

Sperling *et al.* injected <sup>14</sup>C-labeled sodium formate intraperitoneally into large (400-537 g) Osborne-Mendel albino rats. Eighty percent of the injected dose (0.07 to 0.10 millicurie) was excreted and the formate was distributed in all body tissues. The highest concentration of <sup>14</sup>C sodium formate was found in fat from testes, lungs, spleen, heart, and kidneys; and the lowest concentrations in depot fat and spinal cord. The greatest amounts of <sup>14</sup>C formate were found in tissue proteins in the stomach, spleen, kidneys, testes, and liver.

Rabbits have been found to metabolize formic acid parenterally administered almost quantitatively; alkalosis causes the urinary excretion of greater amounts of formic acid. In the dog, Lund reported that orally administered sodium formate is oxidized almost completely, and that unchanged sodium formate is absorbed through the bladder wall. Von Oettingen and Malorny have reported that formic acid ingested orally as sodium formate is oxidized by humans. Gley and Courtois stated that formic acid is a normal constituent of human urine, and that 13 to 120 mg are excreted per day.

According to reports by Annison and White, and Gley and Courtois, the role of formic acid in intermediary metabolism is well established. It is a precursor of serine, methionine, cysteine, and purines, and it is incorporated into RNA, DNA, proteins (including milk proteins), lipids, and carbohydrates.

Formic acid has been reported to inhibit lysozyme, ribonuclease, trypsin, and catalase (resulting in methemoglobinemia). Gastrointestinal activity is stimulated by formic acid. The central nervous system appears to be sensitive to the action of formate. Whereas low doses (0.46 g to 1.25 g per kg) intravenously in the rabbit may cause depression of the central nervous system, larger doses (ca. 4 g per kg) may cause convulsions, then death. In myocardial tissue, the nature and magnitude of the response have been reported to be a function of the dose; low doses may stimulate and larger doses depress the myocardial contraction rate and amplitude. Formic acid is more toxic than formaldehyde or methanol to the myocardium. Intravenously administered formic acid causes vasoconstriction and an increase in blood pressure (except at high doses); and sodium formate elicits vasodilation. In addition, formic acid exerts a diuretic effect, but large doses are nephrotoxic; rabbits were the most sensitive of all species studied.

Malorny in studies with the cat reported that folic acid antagonists inhibit the oxidation of formic acid, resulting in the excre-



tion of large amounts of unchanged formic acid.

A summary of the available acute toxicity data on formic acid, ethyl formate, and sodium formate is presented in [Table below]. Sporn *et al.* have reported that the toxicity of formic acid by intraperitoneal injection in mice is less than that of salicylic or boric acid, but greater than benzoic acid. Amdur exposed guinea pigs (7 to 16 per group) to formic acid vapors (0.34 to 42.5 ppm) alone and with sodium chloride aerosol for one hour. She concluded that formic acid is a more potent respiratory irritant than formaldehyde. Lund found that two rabbits (3.15 and 3.30 kg) tolerated subcutaneous doses of 317 and 303 mg per kg without adverse effects. In other work Lund reported that a male dog tolerated a single subcutaneous dose of 200 mg per kg, and that another dog tolerated 100 mg per kg injected into the bladder without adverse effects.

Sheep were reported by Neumark to tolerate formic acid at a level of 150 mg per kg administered orally without adverse effects. He also reported that formic acid caused anorexia in sheep because of a local irritant effect on the nerve endings in the gastric mucosa.

Human intoxication due to formic acid was reviewed by Karunakaran and Pillai, and von Oettingen. The signs and symptoms for intentional or accidental overdoses

(about 50 g or more) include salivation, vomiting, burning sensation in the mouth and pharynx, bloody vomitus, diarrhea, severe pain, rapid and soft and then slow pulse and cold and clammy skin, blood pressure drop and shock, respiratory distress and cyanosis, albuminuria, hematuria, and anuria. Death may be the result of uremia, circulatory failure, or pneumonia. The ingestion of massive quantities of formic acid may lead to such pathological changes as swollen and necrotic areas of the tongue, palate, pharynx, esophagus, larynx, trachea, stomach and intestine; hyperemic and hemorrhagic kidneys, as well as hemosiderin deposits in the liver.

Smythe *et al.* reported that rabbits tolerated 20 mg of ethyl formate per kg body weight applied to the skin under an impervious film girdle; however, ethyl formate produced a severe corneal burn in the eye of the rabbits. It was nontoxic when applied topically to the skin. Rabbits and guinea pigs, when exposed to atmospheres containing up to 130 mg per liter of ethyl formate, exhibited depression of central nervous system activity and pneumonia. The intravenous administration of ethyl formate to rabbits elicited conflicting results, i.e., 28 mg per kg administered as the undiluted ester caused an increase in respiration but no effects on the central nervous system, while 250 mg per kg administered as a 5 percent solution did not elicit any adverse effect.

## ACUTE TOXICITY

| Substance      | Animal      | Route | Dosage, mg/kg body wt | Measurement      |
|----------------|-------------|-------|-----------------------|------------------|
| Formic acid    | Mice        | p.o.  | 1,100                 | LD <sub>50</sub> |
|                | Mice        | i.p.  | 145                   | LD <sub>50</sub> |
|                | Mice        | i.v.  | 940                   | LD <sub>50</sub> |
|                | Rats        | p.o.  | 1,830                 | LD <sub>50</sub> |
|                | Rabbits     | p.o.  | 4,000+                | MLD              |
| Ethyl formate  | Rabbits     | i.v.  | 239                   | MLD              |
|                | Rats        | p.o.  | 1,850                 | LD <sub>50</sub> |
|                | Guinea pigs | p.o.  | 1,110                 | LD <sub>50</sub> |
| Sodium formate | Mice        | p.o.  | 11,200                | LD <sub>50</sub> |
|                | Mice        | i.v.  | 807                   | LD <sub>50</sub> |
|                | Dogs        | p.o.  | 4,000                 | MLD              |
|                | Dogs        | i.v.  | 3,000                 | MLD              |
|                | Man         | p.o.  | 1,000                 | MLD              |

In work by Sporn *et al.*, young white rats (about 40 g body weight, 8 per group) received formic acid in their diet at levels of 0.5 percent or 1.0 percent (2.5 g per kg per day) and two levels of casein (11.8 percent and 18.2 percent) for five to six weeks. Controls received an 18.2 percent casein ration. Formic acid at both levels appeared to cause a lower weight gain. Similar results were obtained when formic acid was added to the drinking water at levels of 0.5 percent or 1.0 percent for six weeks. In both series, treated animals showed smaller weight livers, kidneys, adrenals (except for 1 percent in the diet), and spleens (except both 1 percent dietary and drinking water levels). Sollmann fed rats (six per group) the following levels of formic acid in their drinking water: 8.2, 10.25, 90, 160, 360 mg per kg body weight daily. The exposure period was 2 to 27 weeks. Food consumption and growth were inhibited by formic acid at the highest level; but no adverse effects were seen with the lower doses. There were no fatalities reported.

Hagan *et al.* fed Osborne-Mendel rats (10 males, 10 females per level) diets containing ethyl formate at levels of 1,000, 2,500, and 10,000 ppm (100, 250, and 1,000 mg per kg per day) for 17 weeks. No observable adverse effects were reported.

Male and female Wistar rats were given 150 to 200 mg per kg body weight of calcium formate daily in drinking water (at level of 0.2 percent) for their life span. No deaths or toxic signs attributable to calcium formate were noted through five successive generations. There were no effects on fertility, pregnancy, or fetal development. Doubling the level in water to 0.45 percent for two years did not produce adverse effects. Malorny exposed Wistar rats to sodium formate (1 percent in drinking water equal to 730 mg per kg body weight) for one and a half years. No adverse effects were reported.

The daily oral administration of 0.5 g of formic acid (about 8 mg per kg) to men by Lebbin [cited in Sollmann], for four weeks failed to produce any adverse effect.

Von Oettingen noted that formic acid, at concentrations as low as 32 mg per liter of air, is corrosive to skin and mucous membranes.

Although Freese *et al.* reported that formic acid (at levels of 0.046 and 0.46 percent) did not inactivate or mutate transforming DNA at a significant rate, Demerec *et al.* reported formic acid (at concentrations of from 0.005 to 0.007 percent) to be moderately mutagenic in *Escherichia coli*, and Stumm-Tegethoff reported it to be mutagenic for *Drosophila* germ cells. However, ethyl formate was found to exhibit no mutagenic activity in *in vitro* plate and suspension tests with *Saccharomyces cerevisiae*, D4, and *Salmonella typhimurium* TA-1535, TA-1537, and TA-1538 at concentrations up to 5 percent, with or without activation by mouse, rat, or monkey liver homogenates. The Select Committee is not aware of any mutagenic studies on formic acid, sodium formate, or ethyl formate in mammals.

Malorny reported that the injection of sodium formate into chicken eggs (5, 10, 20 mg per egg) did not produce malformations. The Select Committee is not aware of other teratogenicity studies.

Frel and Stephens observed no significant histologic changes when formic acid, at a concentration of 8 percent in water, was painted twice each week on the ears of Swiss mice which were examined on days 2, 5, 10, 20 and 50 after treatment. The Select Committee is not aware of studies of carcinogenesis involving oral administration of formic acid, sodium formate, or ethyl formate.

Qualified scientists of the Select Committee have carefully evaluated all available safety information on formic acid, sodium formate, and ethyl formate. It is the opinion of the Select Committee that:

Formic acid is a natural constituent of many foods. It is a metabolite in normal intermediary metabolism, and is a precursor in the biosynthesis of several body constituents. The tolerance of the body to large amounts is relatively high. For example, 160 mg of formic acid per kg of body weight orally was tolerated by rats; men reportedly tolerated 8 mg of formic acid per kg per day orally for a period of four weeks; and no adverse effects were reported in rats that received 730 mg of sodium formate per kg in their diet for one and a half years. Average daily intake of ethyl formate and formic acid is about 1 mg per kg or less as formic acid. Although formic acid appears to be moderately mutagenic in *E. coli* and *Drosophila*, ethyl formate is not mutagenic toward strain D4 of *Saccharomyces cerevisiae* or to three strains of *Salmonella typhimurium*. No adverse effects attributable to formate were found in five successive generations of rats given up to 200 mg of calcium formate per kg of body weight daily.

The Select Committee concludes that no evidence in the available information on formic acid and sodium formate demonstrates or suggests reasonable grounds to suspect a hazard to the public when those substances are used as ingredients of paper and paperboard food-packaging materials, or as they might reasonably be expected

to be used for such purposes in the future. Furthermore, no evidence in the available information on ethyl formate demonstrates or suggests reasonable grounds to suspect a hazard to the public when that substance is used at levels now current and in the manner now practiced or that might reasonably be expected in the future. Based upon his own evaluation of all available information on formic acid, sodium formate, and ethyl formate, the Commissioner agrees with these conclusions and, therefore, believes no change in the current GRAS status of these ingredients is justified.

The Commissioner also finds that the information generated for this safety review forms a sound scientific basis for affirming that ethyl formate is GRAS as a synthetic flavoring agent and adjuvant. This use is now regulated by § 172.515. The Commissioner therefore proposes to delete the entry for ethyl formate from that section and to affirm it as GRAS for direct food use.

Formic acid also is regulated in § 172.515 for use as a synthetic flavoring substance and adjuvant. However,

evidence in the literature suggests that formic acid is mutagenic for some organisms. Because of its possible mutagenicity, the Commissioner concludes that there is insufficient data to affirm formic acid as GRAS and that additional studies are needed to resolve its potential mutagenicity in mammals. However, because only small amounts (213 pounds in 1970) of formic acid are added to food and because it is often added at levels that are less than those occurring naturally in foods, the Commissioner believes the requirement for additional data may be deferred until the agency's present flavor review program further evaluates the ingredient as a flavor.

Copies of the scientific literature review on formic acid and derivatives, a mutagenic evaluation of ethyl formate, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

| Title  | Order No.      | Price code | Price <sup>1</sup> |
|--|----------------|------------|--------------------|
| Formic acid and derivatives (scientific literature review).....              | PF-228-558/AS  | A05        | \$6.00             |
| Ethyl formate (mutagenic evaluation, Tier I).....                            | PF-2660-890/AS | A03        | 4.50               |
| Formic acid, sodium formate and ethyl formate (Select Committee report)..... | PF-266-282/AS  | A03        | 4.50               |

<sup>1</sup>Price subject to change.

This proposed action does not affect the present use of formic acid, sodium formate, and ethyl formate for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(a), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 172, 182, 184, and 186 be amended as follows:

## PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

## § 172.515 [Amended]

1. In § 172.515 *Synthetic substances and adjuvants* by deleting the entry for "Ethyl formate."

## PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

## § 182.90 [Amended]

2. In § 182.90 *Substances migrating*

to food from paper and paperboard products by deleting the entry for "Formic acid or sodium salt."

## § 182.1295 [Deleted]

3. By deleting § 182.1295 *Ethyl formate*.

## PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. By adding new § 184.1295 to read as follows:

## § 184.1295 Ethyl formate.

(a) Ethyl formate (C<sub>2</sub>H<sub>4</sub>O<sub>2</sub>, CAS Reg. No. 109-94-4) is also referred to as ethyl methanoate. It is an ester of formic acid and is prepared by esterification of formic acid with ethyl alcohol or by distillation of ethyl acetate and formic acid in the presence of concentrated sulfuric acid. Ethyl formate occurs naturally in some plant oils, fruits, and juices but does not occur naturally in the animal kingdom.

(b) The ingredient meets the specifications of the Food Chemicals Codex,

2d Ed. (1972),<sup>1</sup> which is incorporated by reference.

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(c)(12) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.05 percent in baked goods as defined in § 170.3(n)(1) of this chapter; 0.04 percent in chewing gum as defined in § 170.3(n)(6), hard candy as defined in § 170.3(n)(25), and soft candy as defined in § 170.3(n)(38) of this chapter; 0.02 percent in frozen dairy desserts as defined in § 170.3(n)(20) of this chapter; 0.03 percent in gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; and 0.01 percent in all other food categories.

## PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

5. By adding new §§ 186.1316 and 186.1756 to read as follows:

## § 186.1316 Formic acid.

(a) Formic acid (CH<sub>2</sub>O<sub>2</sub>, CAS Reg. No. 64-18-6) is also referred to as methanoic acid or hydrogen carboxylic acid. It occurs naturally in some insects and is contained in the free acid state in a number of plants. Formic acid is prepared by the reaction of sodium formate with sulfuric acid and is isolated by distillation.

(b) Formic acid meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),<sup>1</sup> which is incorporated by reference.

(c) Formic acid is used as a constituent of paper and paperboard used for food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

## § 186.1756 Sodium formate.

(a) Sodium formate (CHNaO<sub>2</sub>, CAS Reg. No. 141-53-7) is the sodium salt of formic acid. It is produced by the reaction of carbon monoxide with sodium hydroxide.

(b) Sodium formate meets the following specifications:

Total heavy metals, not more than 10 parts per million on a dry weight basis when determined by Food Chemicals Codex (FCC) test (p. 920) as modified by the first supplement to FCC (1974),<sup>1</sup> both of which are incorporated by reference.

Arsenic, not more than 3 parts per million on a dry weight basis when determined by FCC test (p. 865) as modified by the second

<sup>1</sup>Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.



supplement to FCC (1975),<sup>1</sup> which is incorporated by reference.

Mercury, not more than 1 part per million on a dry weight basis when determined by FCC test (p. 934),<sup>1</sup> which is incorporated by reference.

Assay, not less than 85 percent when determined by the following test (American Chemical Society Specifications test, p. 570 of "Reagent Chemicals," 5th ed. (1974)): Weigh accurately about 1 g, transfer to a 200-ml volumetric flask, dissolve with 50 ml of water, dilute with water to volume, and mix thoroughly. To 25.0 ml of this solution in a 250-ml glass-stoppered flask, add 3 ml of 10% sodium hydroxide reagent solution and 75.0 ml of 0.1N potassium permanganate. Heat on the steam bath for 20 minutes, cool, and add 5 ml of hydrochloric acid and 4 g of potassium iodide crystals. Titrate the liberated iodine, representing the excess permanganate, with 0.1N sodium thiosulfate, using 5 ml of starch indicator solution. Run a blank with the same quantities of permanganate and other reagents and in the same manner as the test with the sample. One milliliter of 0.1N potassium permanganate consumed corresponds to 0.003401 g of HCOONa.

(c) The ingredient is used as a constituent of paper and paperboard used for food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before May 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen

in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: March 21, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

NOTE.—Incorporations by reference were approved by the Director of the Office of the Federal Register on July 10, 1973 and July 20 and 27, 1977 and are on file in the Federal Register Library.

[FR Doc. 79-9171 Filed 3-26-79; 8:45 am]

[4110-03-M]

[21 CFR Parts 182, 184, and 186]

[Docket No. 78-0198]

#### DEXTRIN

Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm dextrin as generally recognized as safe (GRAS) as a direct and indirect human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct and indirect food substance affirmed as GRAS.

DATE: Comments by May 29, 1979.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposal (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review. Under

this review, the safety of dextrin has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of this ingredient.

Dextrins are incompletely hydrolyzed starches prepared by dry heating unmodified starch with or without an acid or alkali catalyst. They are glucans containing primarily -1, 4-glucosidic linkages present, depending on the source of the starch and the method of preparation. In the United States, dextrins are prepared primarily from corn starch, although dextrins (primarily imported dextrins) are also prepared from waxy maize, waxy milo, potato, arrowroot, wheat, rice, tapioca, or sago starch. Catalysts used include hydrochloric or sulfuric acid, ammonia, sodium bicarbonate, or sodium carbonate. The dextrins produced are generally termed white dextrins, yellow or canary dextrins, and British gums. An acid catalyst (usually hydrochloric acid) is used in the production of white or yellow dextrins; no catalyst or an alkaline catalyst is used in the production of British gums.

In previous opinion letters, FDA has considered dextrin GRAS as a direct human food ingredient when used in accordance with good commercial practice. Under regulations published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421), § 182.90 (21 CFR 182.90) lists dextrin as a GRAS substance that may migrate to food from paper and paperboard products used in food packaging. Section 182.70 (21 CFR 182.70) lists corn dextrin as a GRAS substance that may migrate to food from cotton and cotton fabrics used in dry food packaging, according to regulations published in the FEDERAL REGISTER of June 10, 1961 (26 FR 5224). A previous opinion letter of FDA considered potato dextrin GRAS as a component of adhesives for food packaging. Food standards also provide for the mixture of dextrin with other optional ingredients in frozen desserts (see § 135.20(e)(2) (21 CFR 135.20(e)(2))) and the addition of dextrinized starches to bakery products (see § 136.110(c)(11) 921 CFR 136.110(c)(11)).

A representative cross-section of food manufacturers was surveyed to identify the specific foods that use dextrin and corn dextrin and to determine the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to estimate consumer exposure to dextrins. The agency found that the major reported nonfood uses for dextrins are as an adhesive in paper products and as a sizing and printing paste component for textiles that include food packaging applications. In 1971, 183

million pounds of dextrins were produced and imported, and in 1972, 150 million pounds of dextrins were reportedly sold for industrial nonfood applications. Assuming that 150 million pounds were also used for nonfood applications in 1971, about 30 million pounds were then available for direct food uses. No information is available on the quantity of dextrins used in the manufacture of food packaging materials or the fraction which enters food by migration from these materials. The agency estimates that the quantity of dextrins entering the diet from this source is only a fraction of that from direct food uses.

Dextrins have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 305 abstracts on dextrin and corn dextrin was reviewed and 47 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), appointed by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Booher *et al.* determined the weight gain and digestibility in rats of wheat and potato starch dextrins and their parent starches. The starches were dextrinized by heating thin layers of dry starch in a rotary shelf oven at 191° C for 95 minutes which resulted in the loss, or very rapid fading, of blue coloration on addition of iodine. These products could be considered as low conversion British gums because no catalyst was used. A dextrin similar to a commercial white dextrin was prepared by autoclaving wheat starch moistened with 0.1 percent citric acid for 6 hours at 15 pounds steam pressure (120° C). Using matched feeding techniques the dextrins and their parent starches were fed at a level of 63.7 percent (approximately 60 g per kilogram body weight) in a diet containing 18.8 percent casein to weanling male rats, initial weight 45 to 60 g, for 21 to 28 days. Digestibility and assimilability of the wheat starch "British gum" were not significantly different from those of untreated wheat starch whereas the digestibility of the wheat starch "white dextrin" was somewhat lower. The "British gum" prepared from potato starch gave a higher body weight gain and digestibility coefficient than the parent starch; this was attributed to disruption of the starch granule structure by the dextrinization process making

the granule less resistant to enzymatic attack.

Reussner *et al.* compared protein efficiency values and rat growth data obtained from feeding a series of starches, modified starches, disaccharides and monosaccharides to groups of 10 male Wistar rats, (50 to 55 g) in diets at two levels of protein and carbohydrate. The diets contained 6 and 15 percent protein from casein and 77 and 86 percent carbohydrate (approximately 75 and 65 g carbohydrate per kg body weight), respectively. The diets also contained 10 percent corn oil and vitamin and mineral supplements. The corn dextrin fed was a commercial product "prepared from corn starch which was heated in the presence of mineral acid" and thus was probably a white or canary dextrin. After 28 days protein efficiency and weight gain per gram of dry food were significantly lower for corn dextrin than for corn starch but were greater or equal to values for dextrose. The corn dextrin diets caused a slight diarrhea and also enlarged ceca to about twice the weight of those in rats fed unmodified corn starch. Corn dextrin diets caused no untoward effects on liver weight or liver fat content.

Harper *et al.* investigated the influence of various carbohydrates including dextrins on the utilization of protein and liver fat deposition. Sprague-Dawley rats, initial weight 40 to 50 g, were fed for periods of 2 to 12 weeks diets containing 81.6 percent carbohydrate, 9 percent casein, 5 percent corn oil and vitamin and mineral supplements. Two dextrins were fed: Dextrin A was a laboratory product prepared by heating dry corn starch in an oven at 145° C for 10 hours; dextrin M was described only as a commercial product. Both gave red-violet colors with iodine indicating the presence of short- or branched-chain molecules. Rates of gain with dextrin A and dextrin M (approximately 80 g dextrin per kg body weight) over a four-week period were about 15 percent less than that for autoclaved corn starch. The latter rate was about double that when the carbohydrate source was glucose or sucrose. The authors attributed the greater growth response for the dextrins and autoclaved starch to concurrent absorption of carbohydrate and amino acids over a longer period of time and to possible differences in intestinal flora. Liver fat deposition was less for dextrin M, corn starch or glucose than for sucrose as the carbohydrate source. Values were not reported for dextrin A.

Hundley used Sprague-Dawley and Osborne-Mendel weanling rats, weighing 40 to 50 g, in a study of the influence of starch, dextrin, and other carbohydrates on the niacin requirement of the rat. Diets consisted of 81 percent carbohydrate (about 80 g per kg body weight), 9 percent casein, 3 percent gelatin, 3 percent corn oil, 0.15 percent L-cystine and supplemental minerals and vitamins. The dextrin was described as a white dextrin, National Formulary V (Merck). Weight gain for a four-week period with niacin supplementation was the same for dextrin, starch and glucose as carbohydrate sources; without niacin, growth rate fell about 40 percent for starch and dextrin diets as compared to 60 percent for glucose as the carbohydrate source, indicating a lesser niacin requirement on the starch and dextrin diets.

Cohen *et al.* reported physiologic effects of different dietary carbohydrates fed to male Sprague-Dawley rats for 18 months, beginning at 2 months of age. Diets consist-

ed of a rat chow (basal diet—57 percent carbohydrate, 23 percent protein, 5 percent fat) mixed with 20 percent by weight of the various carbohydrates (approximately 10 g experimental carbohydrate per kg body weight) including a dextrin, sucrose and cerelose (dextrose). The dextrin was described only as a commercial product prepared from corn starch by roasting in the presence of HCl. Protein efficiency ratios after 6 months feeding were approximately equal for the dextrin, cerelose and sucrose diets and significantly higher than that for the rat chow diet; weight gain at 20 months was about 5 percent less for dextrin than for cerelose or sucrose but about 5 percent more than on the basal rat chow. Compared to the basal diet the testicle/body weight ratio was greater for rats on the dextrin diet and less on the other carbohydrate diets; liver/body weight ratios did not differ. The toxicological significance of the observation on testicle weight is not apparent.

Several diets which differed only in the carbohydrate source were used by Guerrant *et al.* to study the effect of type of carbohydrate on the synthesis of B-vitamins in the digestive tracts of rats. Diets contained 18 percent casein, 71 percent carbohydrate, 3 percent butterfat, cod liver oil and salt mixture. Carbohydrates included corn starch, dextrinized corn starch, glucose, lactose and sucrose. The dextrin was prepared by moistening starch with a 0.1 percent solution of citric acid, autoclaving for 4 hours at 15 pounds pressure (120° C), drying and pulverizing. Rats were placed on experimental diets at 21 days of age. Animals on all diets with access to their feces, but without supplemental B-vitamins, showed low or declining growth rates after two weeks except for the group fed the dextrin diet. Growth rates were increased in all groups after receiving feces of the dextrin-fed group. Rats fed the dextrin diet had enlarged ceca. Cecotomized rats with access to their feces lost weight when fed a dextrin diet; supplementation with Baker's yeast resulted in weight gain. The authors concluded that the peculiar property of dextrinized corn starch was not due to retained B-vitamins, but rather to the formation of these vitamins in the lower part of the digestive tract of the rat as a result of incomplete digestion of this particular carbohydrate.

Fournier investigated the effect of starch, dextrin, caramel, and glucose in the diet of rats on calcium retention, serum calcium levels and cecal size. The dextrin was prepared by heating corn starch in an oven at 190° C for 5 hours. The ochre powder obtained was only slightly soluble in water and yielded 2 percent maltose in a pancreatin test as compared to a 20 percent yield from corn starch. Wistar rats, weighing 62 to 74 g, were fed a low calcium diet (50 mg Ca per 100 g diet) for 18 days after which groups of six rats were placed on diets containing 15 percent casein, 1.5 percent calcium carbonate and 45.5 to 70.5 percent experimental carbohydrate supplemented with cereal grain to bring total carbohydrate to about 70 percent. Estimated intakes per kg body weight are 70 g starch, 46 g dextrin, 59 g glucose and 59 g caramel. Calcium balance was determined during the 3rd to 5th days; after 10 days the rats were sacrificed and serum calcium determined. Observations on cecal enlargement were made after feeding for 2 weeks a diet containing 73.5 percent carbohydrate, 12 percent casein, 8 percent



peanut oil, 3 percent salt mixture and 0.5 percent TiO<sub>2</sub>.

Calcium intake was nearly the same for all diets but calcium retention for the dextrin and caramel diets was about double that for the starch and glucose diets; serum calcium levels also were greater for the dextrin and caramel diets. Dry cecal weights of rats fed dextrin and caramel were double or more those fed the starch and glucose diets. The author suggested that dextrin and caramel were less easily metabolized than their parent substances, starch and glucose, respectively, and that this property was related to the effects observed.

No reports were found on the allergenicity, carcinogenicity, teratogenicity, mutagenicity, or fetotoxicity of dextrans.

The Joint FAO/WHO Expert Committee on Food Additives regarded the white and yellow dextrans as intermediates of normal digestion of starch and as normal constituents of foods. The Committee commented that because of the nature of the applications of the white dextrans as well their flavor, their use in food is restricted; also that the yellow dextrans are used in foods in limited quantities as adjuvants in flavor encapsulation and similar minor uses. The Committee recommended no limitation on the use of these dextrans except for good manufacturing practice.

Qualified scientists of the Select Committee have carefully evaluated all available safety information on dextrin and corn dextrin. The Select Committee finds that:

The dextrans covered by this report are those produced by the dry heating of unmodified starch under the range of conditions specified in the body of the report as representative of commercial practice for this class of products. Included are the white dextrans, yellow or canary dextrans and the British gums. The dextrans are similar to their parent starches in that they are composed principally of  $\alpha$ -D-anhydroglucose units joined through 1,4-linkages; they differ in that dextrinization reduces the molecular weight and, particularly in the case of the yellow or canary dextrans and the British gums, increases branching in the molecules. Dextrinization slightly reduces the digestibility of corn and wheat starch, probably attributable to the more highly branched structure of the dextrans.

Animal feeding studies have shown dextrans to be digested and metabolized to a limited degree without toxic effects when fed at levels many times greater than those present from use of these products as a direct food additive, or at levels that are orders of magnitude greater than might occur by migration from food packaging materials containing dextrans.

The Select Committee concludes that no evidence in the available information on dextrin and corn dextrin demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when those substances are used at levels that are now current or that might be reasonably expected in the future. Based upon his own evaluation of all available information on dextrin and corn dextrin, the Commissioner agrees with this conclusion, and, therefore, concludes that no change in the current GRAS status of dextrin and corn dextrin is justified. Furthermore, he believes that the information developed for this safety review forms a sound scientific basis for not making a distinction between dextrans derived from the starches of corn, waxy maize, waxy milo, potato, arrowroot, wheat, rice, tapioca, or sago. Dry heating of these starches, or of these starches after optional acid (hydrochloric or sulfuric acid) or alkali (ammonia, sodium carbonate, or sodium bicarbonate) treatment, produces products which have only slight structural differences. The product is composed primarily of polysaccharides with minor amounts of mono- and oligosaccharides and has a typical dextrose equivalent of five or less. Dextrans produced as described above do not raise significant questions of safety. Consequently, the Commissioner is proposing to adopt the name dextrin for these incompletely hydrolyzed starches.

The Commissioner is not proposing to affirm the GRAS status of potato dextrin used as a component of adhesives for food packaging because, as a GRAS substance, potato dextrin is already approved for use as a component of adhesives for food packaging under 21 CFR 175.105(c)(1).

Copies of the scientific literature review on dextrin and corn dextrin and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

| Title  | Order No.          | Price code | Price <sup>1</sup> |
|--|--------------------|------------|--------------------|
| Dextrin and corn dextrin (Scientific literature review)..... | PB-226-539/AS..... | A04.....   | 5.25               |
| Dextrin and corn dextrin (Select Committee report).....      | PB-254-538/AS..... | A02.....   | 4.00               |

<sup>1</sup> Price subject to change.

This proposed action does not affect the present use of dextrans and corn dextrin for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat.

1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182, 184, and 186 be amended as follows:

#### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

##### § 182.70 [Amended]

1. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting the entry for "Corn dextrin."

##### § 182.90 [Amended]

2. In § 182.90 *Substances migrating to food from paper and paperboard products* by deleting the entry for "Dextrin."

#### PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 184.1277 to read as follows:

##### § 184.1277 Dextrin.

(a) Dextrin, ((C<sub>6</sub>H<sub>10</sub>O<sub>5</sub>)<sub>n</sub>·xH<sub>2</sub>O, CAS Reg. No. 9004-53-9) is an incompletely hydrolyzed starch. It is prepared by dry heating corn, waxy maize, waxy milo, potato, arrowroot, wheat, rice, tapioca, or sago starches, or by dry heating the starches after (1) treatment with dilute hydrochloric acid, sulfuric acid, ammonia, sodium bicarbonate, or sodium carbonate and (2) drying the acid or alkali treated starch.

(b) The ingredient meets the following specifications:

##### (1) Identification.

Iodine test: Addition of iodine causes a solution of the sample to turn reddish brown. Reducing sugar content: The reducing sugar content (dextrose equivalent) expressed as D-glucose, is not more than 5 percent, calculated on a dry basis.

Specific rotation:  $[\alpha]_D^{25}$  is not less than +150°.

Viscosity: The material is soluble in 3 parts of boiling water to yield a gummy solution.

##### (2) Limits of impurities.

Alcohol soluble material, not greater than 1 percent.

Chloride, not greater than 0.002 percent.

Loss on drying, not greater than 0.002 percent.

Residue on ignition, not greater than 0.5 percent.

Sulfate, not greater than 0.02 percent.

Water insoluble material, passes test.

Arsenic (as As), not greater than 3 parts per million.

Heavy metals (as Pb), not greater than 40 parts per million.

Crude fat, not greater than 0.15 percent.

Protein, not greater than 1 percent.

pH of dispersions, not less than 2.5 nor greater than 7.5.

##### (3) Tests.

Iodine test: Suspend about 1 gram of the sample in 20 milliliters of water and add a few drops of Iodine TS (Food Chemicals Codex 2d Ed. (1972), page 991).

Reducing sugars: Follow directions for reducing sugars under Dextrin in United States Pharmacopeia XIX (1975).<sup>2</sup>

Specific rotation: Food Chemicals Codex 2d Ed. (1972), page 939. Determine in a solution containing 1.0 gram (calculated on the anhydrous basis) in each 10 milliliters of water.

Alcohol soluble material, chloride, loss on drying, residue on ignition, sulfate, and water insoluble material: Tests specified under Dextrin, United States Pharmacopeia XIX (1975), p. 732.

Arsenic, heavy metals, crude fat, protein, and pH of dispersion: Tests specified under Food Starch, Modified, Food Chemicals Codex 2d Ed. (1972), p. 328.

(c) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, and surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level of 0.7 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.01 percent for nonalcoholic beverages, as defined in § 170.3(n)(3) of this chapter, 0.4 percent for chewing gum as defined in § 170.3(n)(6) of this chapter, 0.3 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter, 2.0 percent for gravies as defined in § 170.3(n)(24) of this chapter, 0.2 percent for hard candies as defined in § 170.3(n)(25) of this chapter, 3.1 percent for nuts and nut products as defined in § 170.3(n)(32) of this chapter, 94.0 percent for sugar substitutes as defined in § 170.3(n)(42) of this chapter, and 0.1 percent or less for all other food categories.

#### PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. By adding § 186.1277 to read as follows:

##### § 186.1277 Dextrin.

(a) Dextrin ((C<sub>6</sub>H<sub>10</sub>O<sub>5</sub>)<sub>n</sub>·xH<sub>2</sub>O, CAS Reg. No. 9004-53-9) is an incompletely hydrolyzed starch. It is prepared by dry heating corn, waxy maize, waxy milo, potato, arrowroot, wheat, rice,

<sup>2</sup> Copies may be obtained from: United States Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852.

tapioca, or sago starches, or by dry heating the starches after (1) treatment with dilute hydrochloric acid, sulfuric acid, ammonia, sodium bicarbonate or sodium carbonate and (2) drying the acid or alkali treated starch.

(b) The ingredient meets the specifications for dextrin as outlined in § 184.1277(b) of this chapter.

(c) The ingredient is used as a constituent of paper and paperboard used for food packaging, or of cotton and cotton fabrics used in dry food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before May 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: March 20, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

NOTE—Incorporation by reference was approved by the Director of the Office of the Federal Register on July 10, 1973 and is on file in the Federal Register Library.

[FR Doc. 79-9170 Filed 3-26-79; 8:45 am]

#### [4210-01-M]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing,  
Federal Housing Commissioner

[24 CFR Parts 880, 881 and 883]

[Docket No. R-79-626]

#### SECURITY DEPOSIT PROVISIONS

##### Proposed Rulemaking

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations for Section 8 New Construction, Substantial Rehabilitation, Housing Finance and Development Agencies and New Construction Set-Aside for Section 515 Rural Rental Housing (FmHA) Projects to: (1) to require Owners to collect security deposits equal to one month's Gross Family Contribution or \$50, whichever is greater; (2) establish the requirement that security deposits be deposited in interest-bearing accounts; and (3) add provisions concerning the refunding of the security deposit.

DATES: June 25, 1979.

ADDRESSES: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Patricia Arnaudo, Deputy Director, Project Management Division, Office of Assisted Housing Management, Department of Housing and Urban Development, Room 6248, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6460. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD has carefully reviewed the present security deposit requirements and comments received concerning the No-



## PROPOSED RULES

November 3, 1977 publication of security deposit proposed rules (42 FR 57632). Since then, HUD has decided to consider other changes in the Section 8 security deposit policy. Because the proposed rules are significantly different from those published November 3, 1977, they are again being published for comment. These rules would amend the regulations for Section 8 New Construction, Substantial Rehabilitation, Housing Finance and Development Agencies and New Construction Set-Aside for Section 515 (FmHA) Rural Rental Housing Projects, Parts 880, 881, and 883, subparts A-D and G-H, respectively.

SUMMARY OF NOVEMBER 3, 1977  
PROPOSED RULES

On November 3, 1977 proposed rules for security deposit provisions were published together with proposed rules for debt service vacancy payments. (Final rules for debt service vacancy payments were published separately.) This notice proposed an optional security deposit provision of one month's Gross Family Contribution or \$50, whichever is greater. The purpose of this proposed change was to encourage greater Family responsibility for maintaining the Section 8 unit. The rules also proposed to permit an Owner who chooses not to collect a security deposit to qualify for reimbursement for unpaid rent or other amounts owed under the Lease consistent with State or local law in an amount not to exceed the difference between the Contract Rent and the greater of the initially determined Gross Family Contribution or \$50.

## MANDATORY SECURITY DEPOSIT

The Department received six written comments in response to the proposed regulation published on November 3, 1977. Several comments on the proposed security deposit rules requested a mandatory rather than optional security deposit in an amount equal to the Gross Family Contribution or \$50, whichever is greater, to insure Family responsibility for maintaining the unit. There also were comments suggesting that Owners be permitted to collect security deposits equivalent to those permitted under the conventional public housing programs which is up to one month's rent or such reasonable fixed amount as may be required by the PHA. Two comments objected to Owners being able to receive payments for damages when a deposit was not collected from the Family or when the amount of the damage was greater than the amount of the deposit collected.

A mandatory security deposit in an amount equal to the Gross Family Contribution or \$50, whichever is greater, is not being proposed to

ensure greater Family responsibility for maintaining the unit. A provision would be added to specify that the Owner could collect security deposits on an installment basis to minimize hardship on the family. The requirement for a mandatory security deposit is a clarification of the current policy which stipulates that owners are prohibited from receiving payments for unpaid rent or damages from HUD or the PHA if a security deposit in an amount equal to Gross Family Contribution (or now \$50) has not been collected.

INTEREST-BEARING ACCOUNTS AND  
RETURN OF DEPOSITS

There were several comments on the need to establish requirements for interest-bearing security deposit accounts and the return of interest to the Family. These comments also indicated that lower-income Families who move out need to receive their security deposit refunds as soon as possible to help defray moving expenses. In response to these comments, §§ 880.116, 881.116, 883.212 and 883.715 would be revised to require Owners to: (1) Deposit security deposits in interest-bearing accounts, and (2) return security deposits including interest to Families within 30 calendar days after receiving notification of the Families' forwarding address.

Two procedures have been added to protect the rights of the Family concerning the reimbursement of the security deposit. The first procedure requires the Owner to send the Family a list itemizing the unpaid rent, damages to the unit, and costs for repairs for which the security deposit may be used, as well as information on the Family's rights under State and local law. The other provision requires a meeting between the Owner and the Family to discuss any disagreements which may arise concerning the reimbursement of the security deposit.

HUD OR PHA REIMBURSEMENT TO  
OWNER

In addition, due to the lack of uniform interpretation of the current regulations, §§ 880.116, 881.16, 883.212 and 883.715 would be revised to clarify the amount the Owner may collect from HUD or the PHA, as appropriate. We have specified that, if the security deposit collected is insufficient to reimburse the Owner for unpaid rent or other amount owed under the Lease for the period of occupancy, the Owner could claim an amount not to exceed the lesser of: (1) the amount owed the Owner, or (2) one month's Contract Rent minus the amount of security deposit. Any reimbursement would be applied first toward the unpaid Family Contribution which is the amount the Family owed under

the terms of the Lease. However, the Owner would have the right, subject to State and local law, to collect any remaining unpaid rent or other amount due from the Family.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of Rules Docket Clerk at the address set forth above.

Accordingly, 24 CFR Parts 880, 881 and 883 are proposed to be amended as follows:

Sections 880.116, 881.116, 883.212 and 883.715 *Security deposit*, are revised as follows:

§ 880.116, 881.116, 883.212, 883.715 *Security deposit*.

(a) At the time of the initial execution of the Lease, the Owner shall require each Family to pay a security deposit in an amount equal to one month's Gross Family Contribution or \$50, whichever is greater. The Family is expected to pay security deposits from its resources and/or other public or private sources. The Owner may collect security deposits on an installment basis.

(b) The Owner shall place the security deposits in a segregated, interest-bearing account. The balance of this account shall at all times be equal to the total amount collected from the Families then in occupancy, plus any accrued interest. The Owner shall comply with any applicable State and local laws concerning interest payments on security deposits.

(c) In order to be considered for the return of the security deposit, a Family which vacates its unit shall provide the Owner with its forwarding address.

(d) The Owner, subject to State and local law and the requirements of this paragraph (d), may use the security deposit, plus any accrued interest, as reimbursement for any unpaid Family Contribution or other amount which the Family owes under the Lease. Within 30 days after receiving notification of the Family's forwarding address, the Owner shall:

1. Refund to a Family owing no rent or other amount under the Lease the full amount of the security deposit, plus accrued interest.

2. Provide to a Family owing rent or other amount under the Lease a list itemizing any unpaid rent, damages to the unit, and estimated costs for repair, along with a statement of the Family's rights under State and local law. If the amount which the Owner claims is owed by the Family is less

than the amount of the security deposit, plus accrued interest, the Owner shall refund the unused balance to the Family. If the Owner fails to provide the list, the family shall be entitled to the refund of the full amount of the security deposit plus accrued interest.

(e) In the event a disagreement arises concerning the reimbursement of the security deposit, the Family shall have the right to present objections to the Owner in an informal meeting. The Owner shall keep a record of any disagreements and meetings in a tenant file for inspection by HUD or the HFA in 883 A-D, as appropriate. The procedures of this paragraph (e) do not preclude the Family from exercising its rights under State and local law.

(f) If the security deposit, including any accrued interest, is insufficient to reimburse the Owner for the unpaid Family Contribution or other amount which the Family owes under the Lease, and the Owner has provided the Family with the list required by paragraph (c)(2), the Owner may claim reimbursement from HUD or the PHA, as appropriate, for an amount not to exceed the lesser of: (1) The amount owed the Owner, or (2) one month's Contract Rent, minus the amount of the security deposit plus accrued interest. Any reimbursement under this section shall be applied first toward any unpaid Family Contribution due under the Lease. No reimbursement shall be claimed for unpaid rent for the period after termination of the Lease.

AUTHORITY: Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)); Sec. 5(b), United States Housing Act of 1937 (42 U.S.C. 1437c(b)).

Issued at Washington, D.C., November 6, 1978.

LAWRENCE B. SIMONS,  
Assistant Secretary for Housing,  
Federal Housing Commissioner.  
[FR Doc. 79-9060 Filed 3-26-79; 8:45 am]

## [6560-01-M]

ENVIRONMENTAL PROTECTION  
AGENCY

[40 CFR Part 81]

[FRL 1082-3]

NATIONAL VISIBILITY GOAL FOR FEDERAL  
CLASS I AREAS

Correction

AGENCY: United States Environmental Protection Agency ("EPA").

## PROPOSED RULES

ACTION: Correction.

SUMMARY: The following corrections should be made in EPA's February 12, 1979, proposed regulation Section 169 A (a) (2) of the Clean Air Act, published at 43 FR 8909 regarding identification of Mandatory Class I Federal Areas where visibility is an important value.

FOR FURTHER INFORMATION CONTACT:

Darryl D. Tyler, Chief, Standards Implementation Branch, Control Programs, Development Division, Office of Air Quality Planning and Standards, Environmental Protection Agency, Control Programs Development Division, (MD-15), Research Triangle Park, North Carolina, 27711.

## CORRECTIONS

In FR Doc. 79-4558 make the following changes appearing on page 8909:

1. On page 8909 in the ADDRESS section of the preamble, the sentence beginning with "Comments received" should be corrected to read as follows: "Comments received on this proposal will be available for public inspection and copying at the Environmental Protection Agency, Central Docket Section, Room 2903-B, Waterside Mall, 401 M Street, S.W., Washington, D.C."

Dated: March 21, 1979.

DAVID HAWKINS,  
Assistant Administrator for  
Air, Noise and Radiation.

[FR Doc. 79-9117 Filed 3-26-79; 8:45 am]

## [3510-22-M]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration  
[50 CFR Part 653]

NEW ENGLAND FISHERY MANAGEMENT  
COUNCIL  
Public Hearing

AGENCY: National Oceanic and At-

mospheric Administration/Commerce.

ACTION: Public Hearing Notice on amendments to the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic.

SUMMARY: The New England Fishery Management Council will hold a series of public hearings for the purpose of considering proposed amendments to the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic.

DATES: Public hearings will be held on April 9, April 10, and April 11, 1979.

ADDRESSES: The hearing locations and times are listed below in Supplementary Information.

FOR FURTHER INFORMATION CONTACT:

G. Paul Draheim, Deputy Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960 (617) 535-5450.

SUPPLEMENTARY INFORMATION: The purpose of the hearing will be to receive comments from the public on possible amendments to the plan. The amendments include, but need not be limited to, the following:

1. All herring three years of age and older taken from territorial waters of all states are to be deducted from the allocations.

2. That an optimum yield of 30,000 metric tons be established for 5Y (Gulf of Maine) and an optimum yield of 15,000 metric tons be established for 5Z and SA6 (Georges Bank and South) and that at least the following options for allocating the optimum yields be taken to public hearing:

| Area                          | Optimum yield (mt) | Seasonal allocation |                    |
|-------------------------------|--------------------|---------------------|--------------------|
|                               |                    | July-Nov.           | Dec.-June          |
| 5Y.....                       | 30,000             |                     |                    |
| North of Cape Elizabeth ..... | 8,850              |                     | 1,620.             |
| South of Cape Elizabeth ..... | 9,750              |                     | 9,750 (Opt.1).     |
|                               | 6,000              |                     | 13,500 (opt.2).    |
|                               | 6,000              |                     | 7,200 (Dec.-Mar.)  |
|                               |                    |                     | (Opt.3).           |
|                               |                    |                     | 6,300 (Apr.-June). |
| 5Z+6.....                     | 15,000             |                     |                    |
| Georges Bank .....            |                    | 10,000 (U.S.)       | 3,000.             |
| Southern New England .....    |                    | 2,000 (Canada)      |                    |
| Total .....                   | 45,000             |                     |                    |



## PROPOSED RULES

3. That two week closures of all fishing in herring spawning areas on Jeffreys Ledge and Georges Bank during October be discussed at public hearings.

4. That herring three years of age and older be defined as nine inches and that the recommended optimum yields be reduced to reflect this definition.

The public hearings are scheduled for the following dates and places:

April 9, 1979 at Treadway-Samoset Inn, Warrenton Avenue, Rockport, Maine.

April 10, 1979 at the Gloucester House Restaurant, 63 Rogers Street, Gloucester, Massachusetts.

April 11, 1979 at the Dutch Inn, Great Island Road, Galilee, Rhode Island.

All of the above hearings are scheduled to run from 7:30 p.m. to 10:00 p.m.

Dated: March 22, 1979.

WINFRED H. MEIBOHM,  
Executive Director,  
National Marine Fisheries Service.  
[FR Doc. 79-9223 Filed 3-28-79; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF  
THE UNITED STATESCOMMITTEE ON GRANTS, BENEFITS AND  
CONTRACTS

## Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, to be held at 2:00 p.m. April 2, 1979 in the library of the Administrative Conference, the Gelman Building, 2120 L Street, NW, Suite 500, Washington, D.C. This meeting has been rescheduled from its original date of March 21, 1979.

The Committee will meet to consider the comments on the report by Professor Peter W. Martin entitled "Procedures Used in Forming and Carrying Out Federal-State Agreements under the Supplemental Security Income Program" and on its proposed recommendations.

Attendance is to open to the interested public but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting. The Committee meeting has been scheduled for April 2nd in order to ensure sufficient time for further consideration of the proposed recommendations prior to the Administrative Conference's upcoming plenary session.

For further information concerning this meeting contact Charles Pou, Jr. (202-254-7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,  
Executive Secretary.

MARCH 22, 1979.

[FR Doc. 79-9193 Filed 3-26-79; 8:45 am]

[3410-30-M]

## DEPARTMENT OF AGRICULTURE

## Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAM  
FOR WOMEN, INFANTS AND CHILDREN  
(WIC)

## Program Funding Formula

AGENCY: Food and Nutrition Service.  
ACTION: Clarification Notice.

SUMMARY: The Food and Nutrition Service is publishing a clarification of the mathematical procedures used to compute the program funding formula published in the FEDERAL REGISTER on October 11, 1978, and on January 2, 1979.

DATED: March 22, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

NOTICE: The Department of Agriculture published a proposed notice on October 11, 1978, at 43 Fed. Reg. 46881 and a final notice on January 2, 1979, at 44 Fed. Reg. 72 concerning the program (food) funding formula for the WIC Program. After the final notice was published, it was brought to the Department's attention that the description of the application of the formula in the notice was not precisely accurate.

## Clarification of Procedure

In preparing an explanation of the mathematical steps performed by the computer in determining the initial program funding levels for each State agency, an attempt was made to simplify the explanation. However, the Department later discovered that the simplified explanation was misleading and, therefore believes that a clarification should be published to insure that all interested parties thoroughly understand the computation process. This notice does not alter the method by which the Department allocates WIC Program (food) funds among States. The steps used to run the formula are as follows:

(1) All State agencies are run through the formula initially. If according to the formula any State agency would receive less funds than it received for the immediately preceding fourth fiscal quarter plus 10 percent, it is "held harmless" and given the fourth quarter level plus 10 percent. Additionally, if according to the formula any State agency would receive an amount greater than its maximum grant level (potential eligible participants multiplied by food package cost), it is funded at the maximum grant level. Those State agencies with a fourth quarter annualized level of \$5 million or more that have been previously identified by a preliminary run of the formula as receiving more than a 50 percent increase by the formula are limited to a 50 percent increase. The amount of funds needed to provide allocations for the three categories listed above, namely, hold harmless, maximum grant and 50 percent cap State agencies is totaled and subtracted from the total funds available.

(2) The formula is then run on the remaining funds for the State agencies which did not fall into one of the three categories listed in step one. Any State agency receiving less than their fourth quarter level plus 10 percent in this second run is held harmless. The funds needed for allocations to hold harmless State agencies are subtracted from total funds for this second run, and the formula is run again with the remaining funds and State agencies. This procedure is repeated until no State agencies are held harmless.

The Department has allocated all available funds for the first and second quarters of fiscal year 1979 and will allocate all available funds for the third and fourth quarters of fiscal year 1979. The Department is extremely concerned that all allocated funds be expended by the State agencies. Therefore, the reallocation of funds scheduled to take place in April and July 1979 will redistribute all unspent funds according to the funding formula.

State agencies and other interested parties should be aware that the mathematical process described in this notice does not affect reallocations of funds. The reallocation levels are based entirely on the component factors which make up the formula and not on the mathematical process described in this notice which designates



hold harmless States. Maximum grant and 50 percent cap State agencies will not participate in the reallocation.

The Department is interested in receiving comments on the entire formula, including the steps discussed in this notice, before the fiscal year 1980 funds are allocated. Therefore, the Department will issue a notice describing the entire formula again and will consider all comments before fiscal year 1980 allocations are determined.

Signed in Washington, D.C., on March 24, 1979.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

[FR Doc. 79-9151 Filed 3-26-79; 8:45 am]

#### [3410-11-M]

##### Forest Service

#### NATION'S RENEWABLE RESOURCES; RPA ASSESSMENT AND ALTERNATIVE PROGRAM DIRECTIONS

##### Availability Of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, notice is hereby given that on March 27, 1979, the USDA Forest Service, filed with the Environmental Protection Agency and made available to the public a Draft Environmental Impact Statement on the Nation's Renewable Resources-RPA Assessment and Alternative Program Directions (1981-2030).

The statement discusses in detail five different alternative program directions from which a recommended long-range program for Forest Service activities will be developed. The five alternatives display a range of Forest Service programs for research, for National Forest System lands, and for cooperative programs with State and private forest landowners. There is no preferred alternative. A recommended program will be developed by January 1980. The scope will be nationwide.

The responsible official is John R. McQuire, Chief, USDA Forest Service, Washington, DC. For further information contact J. Lamar Beasley, Director of Resources Program and Assessment, USDA Forest Service, P.O. Box 2417, Washington, DC 20013, phone (202) 447-5440.

Comments on the Draft Environmental Impact Statement must be received by June 8, 1979, in the Office of the Chief or at one of the nine Regional Forester's Offices listed in the statement. Copies of the summary document are being given wide distribution, and additional copies may be obtained from the Offices of the Regional Foresters.

#### NOTICES

Dated: March 21, 1979.

R. MAX PETERSON,  
Deputy Chief.

[FR Doc. 79-9212 Filed 3-26-79; 8:45 am]

#### [3410-11-M]

##### WILD AND SCENIC RIVERS STUDIES SALT, VERDE, AND SAN FRANCISCO RIVERS ARIZ.

##### Intent To Conduct the Studies and Prepare Environmental Impact Statements

Pursuant to the Wild and Scenic Rivers Act of October 2, 1968, (PL 90-542) as amended by the National Parks and Recreation Act of 1978 (PL 95-625), the USDA Forest Service, Southwestern Region, is commencing studies on portions of the Salt, Verde, and San Francisco Rivers in Arizona to determine their eligibility and suitability for inclusion in the Wild and Scenic Rivers System.

The studies will be carried out in compliance with the National Environmental Policy Act—CEQ Regulations, FEDERAL REGISTER, Vol. 43, No. 230, November 29, 1978. The studies will be completed with the filing of a final environmental impact statement for each river on or about December 1, 1980. The Congress has directed that it receive the results of studies in April 1981. Draft environmental impact statements are scheduled for completion in May 1980, followed by a three-month review period.

Meetings with affected and interested Federal and State of Arizona Agencies, as well as interested organizations and groups and local governments, will be held early in the process.

The purpose of the meetings will be to identify agencies and groups that want to participate in the studies, to determine what the scope of the studies may be and to identify issues and concerns that should be addressed.

The studies will be conducted and the environmental impact statements will be prepared by interdisciplinary teams. Teams will consist of a team leader and individuals representing the disciplines necessary to adequately identify and evaluate the suitability of the rivers for addition to the Wild and Scenic Rivers System and the potential impacts of such designation on the natural resources as well as on the social and economic values of the affected communities.

Interdisciplinary team leaders for the studies are:

Verde River—DeWayne Morgan, Forest Planner, Prescott National Forest, 344 S. Cortez, P.O. Box 2549, Prescott, Arizona 86301.

San Francisco—Lee Redding, Recreation Staff Officer, Apache-Sitgraves National Forest, P.O. Box 640, Springerville, Arizona 85938.

Salt—Phil Gilman, Forest Planner, Tonto National Forest, 102 South 28th Street, P.O. Box 13705, Phoenix, Arizona 85002.

The studies will be coordinated by: Jim Rathbun, Rivers Coordinator, USDA Forest Service, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87102.

Comments on the studies or on the Notice of Intent should be directed to the interdisciplinary team leaders or studies coordinator as listed above.

Dated: March 18, 1979.

JOHN R. MCGUIRE,  
Chief.

[FR Doc. 79-9169 Filed 3-26-79; 8:45 am]

#### [6320-01-M]

##### CIVIL AERONAUTICS BOARD

[Order 79-3-126]

##### CHICAGO/SAN DIEGO-HONOLULU

##### Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-126, Chicago/San Diego-Honolulu Show-Cause Proceeding.

SUMMARY: The Board is proposing to grant Chicago/San Diego-Honolulu nonstop authority to American Airlines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 23, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 9, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35103, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Donna Kaylor, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C., 20428, (202) 673-5380.

SUPPLEMENTARY INFORMATION: Objections should be served upon the

following persons: Western, Trans World and American.

The complete text of Order 79-3-126 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-126 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board: March 21, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9206 Filed 3-26-79; 8:45 am]

#### [6320-01-M]

[Order 79-3-125]

##### DENVER-HAWAII; SHOW-CAUSE PROCEEDING

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-125, Denver-Hawaii Show-Cause Proceeding.

SUMMARY: The Board is proposing to grant Denver-Honolulu/Hilo nonstop authority to United Airlines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 23, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 9, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35102, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Donna Kaylor, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C., 20428, (202) 673-5380.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: United and Trans World Airlines.

The complete text of Order 79-3-125 is available from our Distribution Section, Room 516, 1825 Connecticut

#### NOTICES

Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-125 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board: March 21, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9207 Filed 3-26-79; 8:45 am]

#### [6320-01-M]

[Order 79-3-128]

##### KANSAS CITY-CHICAGO/DENVER MARKETS

##### Order To Show Cause; Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-128, removing restrictions in the Kansas City-Chicago/Denver markets by Order to Show Cause.

SUMMARY: The Board is proposing to remove Ozark's restrictions in the Kansas City-Chicago/Denver markets (Docket 34215) and Frontier's restriction in the Kansas City-Chicago market (Docket 35105). The complete text of this order is available as noted below.

DATES: Objections to the issuance of an order making final our proposed action should be filed no later than April 12, 1979, and answers should be filed no later than April 19, 1979.

ADDRESSES: Documents should be filed in Docket 34215, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Nancy B. Rosenbaum, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-3-128 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request for Order 79-3-128 to the Distribution Section.

By the Civil Aeronautics Board: March 21, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9205 Filed 3-26-79; 8:45 am]

#### [6320-01-M]

##### SOUTHWEST AIRLINES

[Docket No. 34582; Order 79-3-150]

##### Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22nd day of March 1979.

On March 1, 1979, we issued Order 79-3-14, granting a number of automatic market entry applications filed under section 401(d)(7) of the Act. We did not take final action on Southwest's application, however, since it had applied for the route "Dallas (Love Field)-New Orleans" and we recognized that controversy existed concerning the use of Love Field for interstate service. Accordingly, we directed interested persons opposing Southwest's application to object to our tentative conclusion that we were required to grant the application, and to support those objections by legal arguments specifically directed at the automatic market entry provision of the Act. We have received objections from the Dallas/Fort Worth Parties,<sup>1</sup> American Airlines,<sup>2</sup> Frontier Airlines, Congressmen Wright and Harsha, and comments from the Department of Transportation.<sup>3</sup>

As we discuss below, we have carefully considered all of the pleadings and, based on our view of them and the statute, although we cannot conclude that the Act's declaration of Policy in section 102 is applicable to automatic market entry applications as a general rule, section 401(d)(7) itself provides for modification of the automatic market entry program in certain circumstances. We will institute an investigation to determine whether those circumstances exist concerning Southwest's application in Docket 34582.

<sup>1</sup>City of Dallas, City of Fort Worth, Chambers of Commerce of the Cities of Dallas and Fort Worth, the North Texas Commission and the Dallas-Fort Worth Regional Airport Board.

<sup>2</sup>In addition to the argument we discuss below, American's objections repeat its assertion that "Dallas (Love Field)" is not a point within the meaning of the Act. Frontier joins in this objection. We rejected this contention in Order 79-3-14, and American's attempted strengthening of its argument does not convince us otherwise. It is clear from a number of our recent show-cause orders that we have concluded that a particular airport can be considered a "point". See, e.g., Order 79-2-36, February 7, 1979. Moreover, last year we concluded an entire formal proceeding involving authorization at a particular airport in Chicago; the certificates issued as a result of that case included "the terminal point Midway Airport Chicago" (Order 78-7-40, July 14, 1978, Chicago-Midway Low-Fare Route Proceeding; emphases supplied).

<sup>3</sup>While DOT's pleading is not in the style of an objection, it essentially makes the same argument we discuss in the text.



Basically, the objectors argue that section 102(a)(6) of the Act instructs us not to grant any application for interstate authority at Love Field.<sup>4</sup> They cite the colloquy which took place on the floor of the House of Representatives prior to passage of the Airline Deregulation Act of 1978, in which Congressman Wright stated his understanding that:

If the Dallas-Fort Worth Regional Airport Board or the cities inform the CAB that any interstate service to Love Field is not in accordance with the plan of the 1968 Board Ordinance, and that they do not desire it, then the CAB could not certify any such service to Love Field.<sup>5</sup>

The sponsor of the bill in the House, Congressman Anderson, agreed with this interpretation. The Dallas/Fort Worth Parties state that section 102(a) of the Act "by its very language, is made mandatory and applicable to all portions of the Act." We disagree, not with the fact that Congress very clearly stated and intended that consistency with regional airport plans should be given full weight in granting certificates pursuant to 401(d)(1), but with the further assertion being made that such a test should apply with equal strength to all provisions pursuant to which the Board may now authorize service.

Section 102(a) of the Act specifies the factors we are to take into account in determining what is in the public interest and in accordance with the public convenience and necessity. While section 401(d)(1) of the Act directs us to grant an application to provide interstate air transportation under that section if we find that the applicant

is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation

<sup>4</sup>Section 102(a)(6) states:

"In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity: "The encouragement of air service at major urban areas through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services."

The Dallas/Fort Worth local authorities have made it very clear that interstate air service out of Love Field is not consistent with their regional airport plan.

<sup>5</sup>124 Cong. Rec. 10294 (daily ed. Sept. 21, 1978).

... is consistent with the public convenience and necessity (emphasis added),

language similar to the portion emphasized above is unmistakably absent from section 401(d)(7), the automatic market entry provision. If we are not directed to consider public interest and/or public convenience and necessity factors in acting on 401(d)(7) applications, section 102(a) does not apply.<sup>6</sup> Most significantly, the very language of section 401(d)(7) demonstrates Congress' recognition that the provision may be inconsistent with section 102(a). Subparagraph (E) states:

The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act ... Not later than December 31, 1980, the Board shall complete such study and report the results of such study to the Congress.

Thus, rather than remedy any inconsistencies between sections 102(a) and 401(d)(7), we are to report them to Congress.<sup>7</sup>

<sup>6</sup>Emphasizing the distinction between sections 401(d)(1) and 401(d)(7), it seems to us that at least one subparagraph of section 401(d)(7) is specifically inconsistent with section 102(a). Although one of the factors specified in 102(a) as being in the public interest and in accordance with the public convenience and necessity is—

"[t]he prevention of ... anticompetitive practices in air transportation, and the avoidance of ... other conditions that would tend to allow one or more air carriers unreasonably to ... exclude competition in air transportation",

subparagraph (C) of section 401(d)(7) affords each carrier an opportunity to protect one market from competition through an automatic market entry award.

<sup>7</sup>The Dallas/Fort Worth Parties seem to suggest that the "fit, willing and able" provision of section 401(d)(7) is sufficient to bring the factors in 102(a) under the umbrella of 401(d)(7). Their apparent rationale is that, in order to grant an automatic market entry application, we must not find that the applicant is unable to "conform to the provisions of [the] Act," and that since section 102(a) is part of the Act, it applies to section 401(d)(7). Clearly, however, a provision of the Act must be applicable to an automatic market entry applicant before such an applicant can be required to conform to it, and that is what the Dallas/Fort Worth Parties have failed to demonstrate.

From this discussion, it should be clear why we are rejecting Frontier's arguments that sections 401(e) and 401(g), which give us the power to attach conditions to certificates when required by the public interest and the public convenience and necessity, respectively, apply to authority issued under section 401(d)(7). Congress could not have intended that we be able to achieve by restriction an actual denial of an award, a step we are precluded from taking except in the limited circumstances we discuss below in the text. As we indicate there, Congress

Section 401(d)(7) does provide that we may modify the automatic market entry program under certain circumstances. Subparagraph (D) states in part:

(i) The Board shall, on an emergency basis, by rule, modify the program established by this paragraph, if the Board finds that—

(I) the operation of such program is causing substantial public harm to the national air transportation system ...;

(II) the modification proposed by the Board is required by the public convenience and necessity in order to alleviate such harm ...; and

(III) such harm ... identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

Any emergency modification proposed by the Board under this subparagraph shall modify such program only to the minimum extent necessary to rectify the harm ... identified by the Board. Any emergency modification of such program may be limited to any pair of points.

In view of the serious concern expressed in the House of Representatives that interstate service out of Love Field could be harmful to the entire Dallas/Fort Worth area and the allegations of the Dallas/Fort Worth Parties that safety considerations compel the use of the Dallas/Fort Worth Regional Airport for interstate service, we believe that we should explore the possibility that the grant of Southwest's application could have the effect specified in 401(d)(7)(D)(i)(I) and that the issue should be litigated expeditiously with an opportunity for the presentation of evidence, cross-examination, argument and an initial decision by an administrative law judge.<sup>8</sup> This is a case of first impression for two reasons—first, the automatic market entry provision was added to the Federal Aviation Act by the Airline Deregulation Act so that we are, for the first time, considering its meaning and relationship to other provisions of the Act, and second, an air carrier is seeking to provide interstate service at Love Field for the first time since construction of the Dallas-Fort Worth Regional Airport. These factors compel us to con-

has provided very explicit standards to be used in deviating from the "automatic" nature of awards under section 401(d)(7).

<sup>8</sup>We encourage the parties and the administrative law judge to incorporate by reference any relevant and proper evidence submitted in other proceedings before us. We recognize that the issue of interstate service at Love Field is now at issue in two proceedings involving section 401(d)(1), i.e., the *Chicago-Midway Expanded Service Proceeding*, Docket 33019, and the *Dallas/Ft. Worth-Florida Service Investigation*, Docket 32711. As we explain above, the legal issues and standards involved in the proceeding we are now instituting are different but some factual evidence submitted in the other cases may be relevant here.

sider the issues raised by Southwest's application in a responsible way, on the basis of complete information. We remind the parties that their arguments must focus specifically on the standards set forth in section 401(d)(7)(D)(i). In this connection, they should consider the following:

(1) Congress indicated that any emergency modification of the automatic market entry program could be directed at one specific pair of points, but harm to the national air transportation system must be demonstrated. Obviously, we expect the parties to focus argument on the meaning of this term.

(2) Since the modification must be required by the public convenience and necessity, section 102(a) comes into play in the context of subparagraph (D)(II) of section 401(d)(7), and all parties are expected to focus on whether section 102(a)(6) gives the Dallas/Fort Worth Parties a veto over applications to provide interstate service at Love Field or, instead, whether section 102(a)(6) and the views of the civic parties are some but not all of the factors that the Board must consider, where public convenience and necessity considerations are relevant, particularly in light of the conflicting statements of legislative intent in the Senate<sup>9</sup> and House of Representatives concerning section 102(a)(6).<sup>10</sup>

(3) Since any modification of the automatic market entry program ultimately adopted by the Board must be the only means reasonable available to remedy the problem, the parties are expected to address themselves to whether the Dallas/Fort Worth Parties' objective can be achieved by an exercise of the proprietary rights of an airport operator.<sup>11</sup> In particular, the Dallas/Fort Worth Parties are expected to demonstrate why they do not have the legal power themselves to prohibit or curtail interstate service at Love Field in this particular case, without any action on our part.

In view of Congress' obvious intent that automatic market entry applications be acted upon quickly and its direction that any modification of the automatic market entry program be accomplished by emergency rule, we caution all parties that we expect expeditious handling by the administrative law judge and that they are expected to abide by the procedural

<sup>9</sup>124 Cong. Rec. S19559-19560 (daily ed. Nov. 9, 1978).

<sup>10</sup>We recognize that there is some controversy concerning the proper weight to attach to the Senate colloquy on this subject since it was placed in the Congressional Record subsequent to passage of the Airline Deregulation Act; thus, the parties should address themselves to this issue as well.

<sup>11</sup>*City of Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624 (1973).

schedule he establishes. Although we expect this proceeding to be concluded as quickly as possible, we obviously will be unable to act on Southwest's application within the 60-day time frame prescribed by section 401(d)(7)(A). Since Congress provided for possible modification of the automatic market entry program (which can be limited to a pair of points), a *fortiori* Congress must have intended that we have an adequate period to make a responsible determination as to whether such a modification is necessary. As a result, we find that a very limited, emergency modification of the program is necessary to the extent that it would require action on Southwest's application by March 26, 1979. Since Southwest's application raises a fundamental and difficult question of first impression under section 401(d)(7)(D)(i) as to whether the program can or should be modified and since we now have insufficient information with which to decide those issues responsibly, we find that action at this time on Southwest's application would cause substantial public harm to the national air transportation system; that the public convenience and necessity require a brief deferral of the application pending compilation of a formal record on the issues, an initial decision by an administrative law judge and any necessary Board review of that decision; and that the harm that would result from an action based on insufficient information as to the possible effects specified in 401(d)(7)(D)(i) from a grant of Southwest's application can only be rectified by a brief postponement of final action on that application until the expedited proceeding is concluded. We are issuing an emergency rule modifying section 401(d)(7)(A) to the extent necessary to allow more than 60 days for action on applications when unusual circumstances, as here, require it. That rule is set forth in PR-199, also adopted today.

We also find, on our own motion, that it is consistent with the public interest to exempt Southwest Airlines from the terms of section 401 to the extent necessary to permit it to serve the Dallas-New Orleans route through the Dallas-Fort Worth Regional Airport, pending final decision on its application in Docket 34582. This exemption will allow Southwest to begin service immediately in the Dallas/Ft. Worth-New Orleans market. By the same token, we will not authorize any carrier to provide service in that market from Love Field so that Southwest will not be at any competitive disadvantage pending the outcome of our determination on the Love Field question.

Accordingly,

1. We defer final action on Southwest Airlines' application in Docket 34582;

2. We institute a proceeding in Docket 34582 to be assigned immediately to an administrative law judge to consider the issues raised by this order;

3. The following are made parties to the proceeding instituted by paragraph 2: Southwest Airlines, American Airlines, Frontier Airlines, the Dallas/Fort Worth Parties, the Honorable Jim Wright, the Honorable William H. Harsha and the U.S. Department of Transportation;

4. We will automatically take review of the administrative law judge's initial decision, and objections to it will be due five days after the date of service of the decision; no answers will be accepted;

5. We exempt Southwest Airlines from the provisions of the Act and our Regulations to the extent necessary to permit it to serve the Dallas-New Orleans route through the Dallas-Fort Worth Regional Airport; and

6. The exemption granted by paragraph 4 above is effective immediately and will continue in effect for 60 days after final Board action on Southwest Airlines' application in Docket 34582.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,<sup>12</sup>  
Secretary.

[FR Doc. 79-9331 Filed 3-26-79; 8:45 am]

[6320-01-M]

[Docket No. 34582]

# SOUTHWEST AIRLINES AUTOMATIC MARKET ENTRY INVESTIGATION

## Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled proceeding will be held before the undersigned on March 28, 1979, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

The issues are those set out in Board Order 79-3-150 adopted March 22, 1979, instituting this investigation of Southwest Airlines' application under section 401(d)(7) of the Federal Aviation Act of 1958 as amended for automatic entry into the Dallas (Love Field)-New Orleans market.

The conference will consider among other things (1) the identification of relevant evidence in other proceedings which the parties propose to incorporate by reference, (2) proposed stipulations, (3) statements of position, and

<sup>12</sup>All Members concurred.



(4) subsequent procedural dates including the feasibility of a hearing commencing on April 9, 1979, and the site of such hearing.

Dated at Washington, D.C., March 22, 1979.

WILLIAM A. KANE, Jr.,  
Administrative Law Judge.

[FR Doc. 79-9330 Filed 3-26-79; 8:45 am]

[3810-70-M]

# DEPARTMENT OF DEFENSE

Office of the Secretary

## DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

### Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Monday & Tuesday, 21-22 May 1979, U.S. Army Foreign Science and Technology Center, Charlottesville, Virginia.

The entire meeting, commencing at 0900 hours, each day, is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the growth and the potential implications of Soviet technology.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department of Defense.

MARCH 22, 1979.

[FR Doc. 79-9152 Filed 3-26-79; 8:45 am]

[6450-01-M]

# DEPARTMENT OF ENERGY

Economic Regulatory Administration

## NATIONAL PETROLEUM COUNCIL, TASK GROUPS OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

### Meetings

Notice is hereby given that a task group of the Committee on Materials and Manpower requirements will meet in April 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future pro-

duction and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Business Environment Task Group. The time, location and agenda of the task group meeting follows:

The third meeting of the Business Environment Task Group will be on Wednesday, April 11, 1979, starting at 9:00 a.m. in the Main Conference Room on the 26th Floor of the General Crude Oil Company's offices, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Finalization of method for collecting the information needed for the completion of assignments.
3. Finalization of list of sources of information required by the Business Environment Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Business Environment Task Group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 20, 1979.

GEORGE S. MCISAAC,  
Assistant Secretary for  
Resource Applications.

MARCH 20, 1979.

[FR Doc. 79-9182 Filed 3-26-79; 8:45 am]

[6450-01-M]

## DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for January 1979

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: January 1979 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for January 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by March 31, 1979. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by April 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128 I Washington, D.C. 20461, (202) 254-8660.

Fred Wolgel (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for January 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign-flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); February 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for January 1979 is calculated to be .177892.

In accordance with 211.67(b)(2), to calculate the number of barrels of deemed old oil included; in a refiner's adjusted crude oil receipts for the month of January 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .206887 of a barrel of deemed old oil.

The issuance of entitlements for the month January 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists

the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(d)(4), the price at which entitlements shall be sold and purchased for the month of January 1979 is hereby fixed at \$8.74, which is the exact differential as reported for the month of January between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of January 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of January 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of January 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through December 1978 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and

1976, which adjustments are reflected in monthly installments. The number of entitlements is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the January 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its January 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d)(6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the

|  | Volume      | Weighted average cost | Percent of total volumes <sup>1</sup> |
|--|-------------|-----------------------|---------------------------------------|
| Lower Tier.....                              | 87,969,870  | \$8.20                | 18.5                                  |
| Upper Tier.....                              | 87,161,740  | 13.12                 | 18.4                                  |
| Exempt Domestic:                             |             |                       |                                       |
| Alaskan.....                                 | 33,687,612  | 13.15                 | 7.1                                   |
| Stripper.....                                | 39,748,099  | 15.10                 | 8.4                                   |
| Naval Petroleum Reserve.....                 | 3,222,032   | 13.51                 | .7                                    |
| Total Domestic.....                          | 251,769,353 | 11.02                 | 53.0                                  |
| Imported.....                                | 223,176,460 | 15.47                 | 47.0                                  |
| Total Reported Crude Oil Receipts.....       | 474,965,813 | 13.11                 | 100.0                                 |
| Total Reported Crude Oil Runs to Stills..... | 489,457,174 |                       |                                       |

<sup>1</sup>Numbers may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for January 1979 must be made by March 31, 1979.

On or prior to April 10, 1979, each firm which is required to purchase or sell entitlements for the month of January 1979 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of January. The monthly transaction report forms for the month of January have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by March 31, 1979 are requested to contact the ERA at 202-254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to March 31, 1979, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed by April 26, 1979.

Issued in Washington, D.C. on March 20, 1979.

DAVID J. BARDIN,  
Administrator,  
Economic Regulatory Administration.

United States Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Government totaled 5,779,532 barrels.

For the month of January 1979, imports of residual fuel oil eligible for entitlements issuances totaled 33,061,689 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

|                                      | Volumes    | Weighted average gravity |
|--------------------------------------|------------|--------------------------|
| California Lower Tier Crude Oil..... | 10,054,198 | 19°                      |
| California Upper Tier Crude Oil..... | 8,672,554  | 20°                      |

The total number of entitlements required to be purchased and sold under this notice is 20,789,820.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for January 1979, the pricing composition and weighted average costs thereof are as follows:



[6450-01-C]

APPENDIX  
NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

18260  
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JANUARY 1979

| REPORTING FIRM<br>SHORT NAME | DEEMED OLD OIL<br>ADJUSTED<br>RECEIPTS | *****<br>TOTAL<br>ISSUED | *****<br>EXCEPTIONS<br>AND APPEALS | *****<br>ENTITLEMENTS<br>PRODUCT CALIFORNIA | *****<br>ENTITLEMENTS<br>REQUIRED<br>TO BUY | *****<br>REQUIRED<br>TO SELL |
|------------------------------|--|--------------------------|------------------------------------|---|---|------------------------------|
| -CONSOLID-SALES              | -48,068                                | 0                        | 0                                  | 0   | 0   | 48,068                       |
| A-JOHNSON                    | 0                                      | 189,434                  | 0                                  | 6,198                                       | 0   | 189,434                      |
| ALLIED                       | 142,589                                | 70,563                   | 0                                  | 0   | 63,026                                      | 0                            |
| AMER-PETROLEUM               | 712,109                                | 755,575                  | 0                                  | 0   | 0   | 43,426                       |
| AMERADA-HESS                 | 1,297,540                              | 3,103,388                | 0                                  | 174,573                                     | 0   | 1,805,848                    |
| AMOCO                        | 9,312,654                              | 5,415,684                | 0                                  | 0   | 3,896,970                                   | 0                            |
| ANCHOR                       | 33,176                                 | 128,736                  | 0                                  | 33,209                                      | 0   | 95,560                       |
| APCO                         | 0                                      | 2,858                    | 0                                  | 0   | 0   | 2,858                        |
| ARCO                         | 3,983,123                              | 4,560,967                | 0                                  | 17,491                                      | 0   | 577,844                      |
| ARIZONA                      | 92,961                                 | 44,893                   | 0                                  | 0   | 48,068                                      | 0                            |
| ASAMEX                       | 102,927                                | 138,650                  | 0                                  | 0   | 0   | 35,723                       |
| ASHLAND                      | 1,045,019                              | 2,073,562                | 0                                  | 156,753                                     | 0   | 1,028,543                    |
| ASIATIC                      | 0                                      | 406,333                  | 0                                  | 406,333                                     | 0   | 406,333                      |
| BASIN                        | 154,329                                | 180,929                  | 0                                  | 53,568                                      | 0   | 26,600                       |
| BAYOU                        | 37,576                                 | 37,272                   | 0                                  | 35,347                                      | 0   | 0                            |
| BEACON                       | 192,454                                | 140,544                  | 0                                  | 0   | 304   | 0                            |
| BELCHER                      | 10,463                                 | 178,912                  | 0                                  | 178,912                                     | 51,910                                      | 178,912                      |
| BI-PETRO                     | 0                                      | 127,320                  | 0                                  | 0   | 0   | 116,666                      |
| BP-TRADING                   | 0                                      | 305,881**                | 0                                  | 0   | 0   | 305,881                      |
| BRUIN                        | 31,766                                 | 122,277                  | 0                                  | 0   | 0   | 90,511                       |
| CEM                          | 0                                      | 158                      | 0                                  | 0   | 0   | 110                          |
| CALCASTEU                    | 3,367                                  | 55,040                   | 0                                  | 0   | 0   | 51,662                       |
| CALUMET                      | 21,896                                 | 26,440                   | 0                                  | 0   | 0   | 4,544                        |
| CANAL                        | 63,308                                 | 72,842                   | 0                                  | 0   | 0   | 9,534                        |
| CARHUNT                      | 27,916                                 | 36,971                   | 0                                  | 0   | 0   | 9,055                        |
| CARIQUI                      | 90,496                                 | 71,386                   | 0                                  | 0   | 19,110                                      | 0                            |
| CASTLE                       | 0                                      | 35,455                   | 0                                  | 35,455                                      | 0   | 35,455                       |
| CENTRAL                      | 0                                      | 25,665                   | 0                                  | 25,665                                      | 0   | 25,665                       |
| CHAMPLIN                     | 1,606,846                              | 1,324,095                | 0                                  | 224,523                                     | 282,751                                     | 0                            |
| CHARTER                      | 224,620                                | 512,933                  | 95,235                             | 0   | 0   | 288,313                      |
| CHEVRON                      | 5,973,752                              | 6,098,057                | 0                                  | 27,215                                      | 0   | 120,305                      |
| CIRRO                        | 0                                      | 338,661                  | 0                                  | 120,402                                     | 0   | 338,661                      |
| CITGO                        | 1,642,015                              | 1,097,628                | 0                                  | 0   | 144,387                                     | 0                            |
| CLAIBORNE                    | 59,346                                 | 54,320                   | 0                                  | 0   | 5,076                                       | 0                            |

FEDERAL REGISTER, VOL. 44, NO. 60—TUESDAY, MARCH 27, 1979

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

PAGE:

| REPORTING FIRM<br>SHORT NAME | DEEMED OLD OIL<br>ADJUSTED<br>RECEIPTS | *****<br>TOTAL<br>ISSUED | *****<br>EXCEPTIONS<br>AND APPEALS | *****<br>ENTITLEMENTS<br>PRODUCT CALIFORNIA | *****<br>ENTITLEMENTS<br>REQUIRED<br>TO BUY | *****<br>REQUIRED<br>TO SELL |
|------------------------------|--|--------------------------|------------------------------------|---|---|------------------------------|
| CLARK                        | 216,172                                | 583,521                  | 0                                  | 0   | 0   | 367,349                      |
| COASTAL                      | 19,316                                 | 1,439,070**              | 0                                  | 12,497                                      | 0   | 1,419,754                    |
| COLONIAL                     | 0                                      | 34,829                   | 0                                  | 34,829                                      | 0   | 34,829                       |
| CONOCO                       | 2,603,733                              | 2,027,247                | 0                                  | 50,854                                      | 576,686                                     | 0                            |
| CONSUMERS-POWER              | 0                                      | 60,630                   | 0                                  | 60,630                                      | 0   | 60,630                       |
| CORAL                        | 12,827                                 | 144,829                  | 0                                  | 0   | 0   | 132,002                      |
| CORCO                        | 10,151                                 | 1,100,468                | 0                                  | 110,094                                     | 0   | 1,090,317                    |
| CRA-FARMLAND                 | 348,539                                | 439,700                  | 0                                  | 0   | 0   | 91,161                       |
| CROSS                        | 44,636                                 | 91,776                   | 0                                  | 0   | 0   | 47,140                       |
| CROWN                        | 272,744                                | 595,885                  | 0                                  | 0   | 0   | 323,141                      |
| CRYSTAL-OIL                  | 86,031                                 | 144,636                  | 0                                  | 0   | 0   | 58,605                       |
| CRYSTAL-REF                  | 0                                      | 26,565                   | 0                                  | 0   | 0   | 28,565                       |
| DELTA                        | 172,876                                | 284,479                  | 0                                  | 8,175                                       | 0   | 111,603                      |
| DEMENNO                      | 10,830                                 | 112,615                  | 0                                  | 0   | 0   | 101,785                      |
| DERBY                        | 0                                      | 252,996**                | 0                                  | 0   | 0   | 252,996                      |
| DETROIT-ED                   | 0                                      | 39,122                   | 0                                  | 39,122                                      | 137,854                                     | 39,122                       |
| DIAMOND                      | 487,841                                | 349,987                  | 0                                  | 0   | 0   | 0                            |
| DURCHESTER                   | 4,711                                  | 202,067                  | 0                                  | 0   | 0   | 197,356                      |
| DOW                          | 53,201                                 | 91,313                   | 0                                  | 0   | 0   | 38,112                       |
| E-SEABOARD                   | 0                                      | 70,040                   | 0                                  | 70,040                                      | 0   | 70,040                       |
| ECO                          | 96,021                                 | 98,401                   | 0                                  | 30,402                                      | 0   | 2,340                        |
| EDDY                         | 35,652                                 | 36,841                   | 0                                  | 0   | 0   | 1,189                        |
| ENERGY-COOP                  | 12,827                                 | 544,796                  | 0                                  | 0   | 0   | 531,969                      |
| ERGON                        | 8,249                                  | 126,174                  | 0                                  | 0   | 0   | 117,925                      |
| ERICKSON                     | 3,201                                  | 121,802                  | 0                                  | 0   | 0   | 118,601                      |
| EVANGELINE                   | 30,589                                 | 31,172                   | 0                                  | 0   | 0   | 583                          |
| EXXON                        | 9,383,021                              | 8,647,742**              | 0                                  | 367,102                                     | 735,279                                     | 0                            |
| EZ-SERVE                     | -38,430                                | 36,035                   | 0                                  | -7,725                                      | 0   | 74,465                       |
| FARMERS-UN                   | 145,705                                | 268,534                  | 0                                  | 0   | 0   | 122,829                      |
| FLETCHER                     | 30,040                                 | 209,771                  | 0                                  | 0   | 0   | 179,731                      |
| FLINT                        | 7,972                                  | 8,865                    | 0                                  | 7,457                                       | 0   | 893                          |
| FRIENDS-WOOD                 | 32,401                                 | 29,832                   | 0                                  | 0   | 2,569                                       | 0                            |
| FUNDING                      | 80,836                                 | 69,027                   | 0                                  | 0   | 11,809                                      | 0                            |
| GARY                         | 148,877                                | 111,253                  | 0                                  | 0   | 37,624                                      | 0                            |

FEDERAL REGISTER, VOL. 44, NO. 60—TUESDAY, MARCH 27, 1979

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

PAGE: 11 18262

| REPORTING FIRM<br>SHORT NAME | DEEMED OLD OIL<br>ADJUSTED<br>RECEIPTS | TOTAL<br>ISSUED | EXCEPTIONS<br>AND APPEALS | ENTITLEMENTS<br>PRODUCT CALIFORNIA | POSITION<br>REQUIRED<br>TO BUY | POSITION<br>REQUIRED<br>TO SELL |
|------------------------------|--|-----------------|---------------------------|------------------------------------|--------------------------------|---------------------------------|
| GETTY                        | 1,107,903                              | 1,091,721       | 0                         | 0                                  | 16,182                         | 0                               |
| GIANT                        | 36,123                                 | 41,311          | 0                         | 0                                  | 0                              | 5,188                           |
| GLACIER-PARK                 | 112,560                                | 48,367          | 0                         | 0                                  | 64,193                         | 0                               |
| GLADIOLUX                    | 67,379                                 | 118,378         | 0                         | 0                                  | 0                              | 50,999                          |
| GOLDEN-EAGLE                 | 0                                      | 150,886         | 0                         | 0                                  | 0                              | 150,886                         |
| GULF-KING                    | 84,787                                 | 132,299         | 0                         | 0                                  | 0                              | 47,512                          |
| GUDON-HOPE                   | 33,300                                 | 260,323         | 0                         | 0                                  | 0                              | 227,023                         |
| GUAM                         | 0                                      | 206,174         | 0                         | 0                                  | 0                              | 206,174                         |
| GULF                         | 7,659,583                              | 4,787,906       | 0                         | 17,407                             | 2,871,675                      | 0                               |
| GULF-STG                     | 50,030                                 | 126,074         | 0                         | 0                                  | 0                              | 76,044                          |
| HIRI                         | 0                                      | 382,662         | 0                         | 0                                  | 0                              | 382,662                         |
| HUMWELL                      | 180,433                                | 266,332         | 0                         | 0                                  | 0                              | 85,899                          |
| MUDSUN-OIL                   | 12,481                                 | 163,015         | 0                         | 0                                  | 0                              | 150,534                         |
| MUNT                         | 186,519                                | 212,853         | 0                         | 0                                  | 0                              | 26,334                          |
| MUSKY                        | 593,457                                | 593,457         | 284,780                   | 0                                  | 0                              | 0                               |
| INDEPENDENT-REF              | 51,824                                 | 125,773         | 0                         | 0                                  | 0                              | 73,949                          |
| INDIANA-FARM                 | 30,628                                 | 173,438         | 0                         | 0                                  | 0                              | 142,810                         |
| INDUST-FUEL                  | 0                                      | 72,947          | 0                         | 0                                  | 0                              | 72,947                          |
| IRVING                       | 0                                      | 16,270          | 0                         | 16,270                             | 0                              | 16,270                          |
| KAISER                       | 0                                      | 61,577          | 0                         | 61,577                             | 0                              | 61,577                          |
| KENCO                        | 20,119                                 | 44,540          | 0                         | 0                                  | 0                              | 24,421                          |
| KENTUCKY                     | 15,653                                 | 14,076          | 0                         | 0                                  | 1,577                          | 0                               |
| KERN                         | 382,356                                | 245,058         | 0                         | 0                                  | 137,298                        | 0                               |
| KERR-MCGEE                   | 971,490                                | 716,189         | 0                         | 0                                  | 255,301                        | 0                               |
| KUCH                         | 348,717                                | 756,336         | 0                         | 6,671                              | 0                              | 407,619                         |
| LAGLORIA                     | 426,060                                | 247,349         | 0                         | 0                                  | 178,711                        | 0                               |
| LAKESIDE                     | 8,346                                  | 41,605          | 0                         | 0                                  | 0                              | 33,259                          |
| LAKETON                      | 97,643                                 | 85,601          | 23,065                    | 0                                  | 0                              | 0                               |
| LITTLE-AMER                  | 1,153,263                              | 565,059         | 127,418                   | 0                                  | 12,042                         | 0                               |
| LOUISIANA-LAND               | 232,402                                | 284,300         | 0                         | 0                                  | 588,204                        | 0                               |
| MACMILLAN                    | 43,751                                 | 161,651         | 0                         | 0                                  | 0                              | 51,898                          |
| MARATHON                     | 3,481,400                              | 2,772,309       | 0                         | 0                                  | 709,091                        | 0                               |
| MARION                       | 34,847                                 | 168,792         | 0                         | 0                                  | 0                              | 117,900                         |
| METROPOLITAN                 | 0                                      | 135,870         | 0                         | 135,870                            | 0                              | 129,945                         |
|                              |  |                 |                           |                                    |                                | 135,870                         |

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NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

PAGE: 12 18263

| REPORTING FIRM<br>SHORT NAME | DEEMED OLD OIL<br>ADJUSTED<br>RECEIPTS | TOTAL<br>ISSUED | EXCEPTIONS<br>AND APPEALS | ENTITLEMENTS<br>PRODUCT CALIFORNIA | POSITION<br>REQUIRED<br>TO BUY | POSITION<br>REQUIRED<br>TO SELL |
|------------------------------|--|-----------------|---------------------------|------------------------------------|--------------------------------|---------------------------------|
| MID-AMER                     | 1,286                                  | 25,607          | 0                         | 0                                  | 0                              | 24,321                          |
| MORIL                        | 6,077,934                              | 5,094,294       | 0                         | 497,172                            | 983,640                        | 0                               |
| MORILE-BAY                   | 0                                      | 119,476         | 0                         | 0                                  | 0                              | 119,476                         |
| MONAWK                       | 377,359                                | 285,751         | -4,577                    | 64,139                             | 91,608                         | 0                               |
| MONUCO                       | 0                                      | 20,640          | 0                         | 0                                  | 0                              | 20,640                          |
| MONSANTO                     | 151,829                                | 276,709         | 0                         | 0                                  | 0                              | 124,860                         |
| MORRISON                     | 9,409                                  | 7,089           | 0                         | 0                                  | 2,311                          | 0                               |
| MOUNTAINEER                  | 7,003                                  | 6,542           | 0                         | 0                                  | 461                            | 0                               |
| MT-AIRY                      | 47,823                                 | 108,718         | 0                         | 0                                  | 0                              | 60,895                          |
| MURPHY                       | 770,751                                | 614,606         | 0                         | 0                                  | 156,145                        | 0                               |
| N-AYER-PETRO                 | 542                                    | 149,589         | 0                         | 542                                | 0                              | 149,047                         |
| NATL-COUP                    | 241,121                                | 334,152         | 0                         | 0                                  | 0                              | 93,031                          |
| NAVAJU                       | 303,552                                | 272,711         | 14,587                    | 0                                  | 30,841                         | 0                               |
| NEVADA                       | 17,235                                 | 36,377          | 0                         | 0                                  | 0                              | 19,142                          |
| NEW-EDGINGTON                | 570,954                                | 555,303         | 145,531                   | 171,820                            | 15,651                         | 0                               |
| NEW-ENGL-PETRO               | 0                                      | 25,396          | 0                         | 0                                  | 0                              | 25,396                          |
| NEW-ENGL-POMER               | 0                                      | 35,648          | 0                         | 0                                  | 0                              | 35,648                          |
| NEWHALL                      | 249,961                                | 242,060         | 0                         | 71,842                             | 7,901                          | 0                               |
| NORTHEAST-PETRO              | 37,939                                 | 37,939          | 17,692                    | 0                                  | 0                              | 90,331                          |
| NORTHVILLE                   | 0                                      | 138,459         | 0                         | 0                                  | 0                              | 0                               |
| OKC                          | 115,204                                | 192,996         | 0                         | 0                                  | 0                              | 138,459                         |
| OKLA-PFF                     | 59,305                                 | 136,450         | 0                         | 0                                  | 0                              | 77,792                          |
| OKNAPO                       | 16,644                                 | 43,796          | 0                         | 16,954                             | 0                              | 77,145                          |
| PEEKLESS                     | 0                                      | 28,411          | 0                         | 0                                  | 0                              | 27,152                          |
| PEMEX                        | 0                                      | 264,748**       | 0                         | 0                                  | 0                              | 28,411                          |
| PENNZUTL                     | 590,616                                | 326,735         | 0                         | 0                                  | 243,881                        | 264,748                         |
| PETRO-HEAT-CT                | 98,989                                 | 206,774         | 0                         | 0                                  | 0                              | 107,785                         |
| PETRO-HEAT-PA                | 0                                      | 1,547           | 0                         | 0                                  | 0                              | 1,547                           |
| PHILLIPS                     | 2,407,977                              | 1,624,290       | 0                         | 0                                  | 823,687                        | 23,806                          |
| PHILLIPS-PR                  | 0                                      | 217,298         | 0                         | 0                                  | 0                              | 217,298                         |
| PIONEER                      | 38,572                                 | 46,015          | 0                         | 0                                  | 0                              | 7,443                           |
| PLACIO                       | 218,905                                | 272,055         | 0                         | 0                                  | 0                              | 53,150                          |

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| REPORTING FIRM<br>SHORT NAME | DEEMED OLD OIL<br>ADJUSTED<br>RECEIPTS | *****<br>TOTAL<br>ISSUED AND APPEALS |           |           | *****<br>FUTURE ENTITLEMENTS<br>PRODUCT CALIFORNIA |            |            | *****<br>REQUIRED<br>TO BUY |   |   | *****<br>REQUIRED<br>TO SELL |   |   |
|------------------------------|--|--------------------------------------|-----------|-----------|--|------------|------------|-----------------------------|---|---|------------------------------|---|---|
|                              |  | TOTAL<br>ISSUED AND APPEALS          |           |           | PRODUCT CALIFORNIA                                 |            |            | REQUIRED<br>TO BUY          |   |   | REQUIRED<br>TO SELL          |   |   |
| WINSTON                      | 89,673                                 | 146,991                              | 0         | 0         | 0  | 0          | 0          | 0                           | 0 | 0 | 57,318                       | 0 | 0 |
| WIREHACK                     | 0                                      | 582                                  | 0         | 0         | 0  | 0          | 0          | 0                           | 0 | 0 | 582                          | 0 | 0 |
| WITCO                        | 60,835                                 | 191,269                              | 0         | 0         | 0  | 16,054     | 0          | 0                           | 0 | 0 | 130,434                      | 0 | 0 |
| WYATT                        | 0                                      | 60,962                               | 0         | 0         | 60,962   | 0          | 0          | 0                           | 0 | 0 | 60,962                       | 0 | 0 |
| WYOMING                      | 37,125                                 | 83,067                               | 0         | 0         | 0  | 0          | 0          | 0                           | 0 | 0 | 45,862                       | 0 | 0 |
| YETTER                       | 0                                      | 928                                  | 0         | 0         | 0  | 0          | 0          | 0                           | 0 | 0 | 928                          | 0 | 0 |
| YOUNG                        | 61,663                                 | 56,963                               | 20,612    | 0         | 0  | 0          | 0          | 4,700                       | 0 | 0 | 0                            | 0 | 0 |
| TOTAL                        | 103,122,344                            | 103,122,344                          | 1,313,677 | 3,505,408 | 3,860,552  | 20,789,820 | 20,789,820 | 0                           | 0 | 0 | 0                            | 0 | 0 |

\* See discussion in Notice.

\*\* Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

\*\*\* Authorization to sell these entitlements is subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

\*\*\*\* This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), remanded F.2d (No. 10-18 TECA, August 10, 1978).

\*\*\*\*\* This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc. 79-9136 Filed 3-26-79; 8:45 am]

NOTICES

[6450-01-M]

NORTHERN STATES POWER CO.

Order Amending Prior Authorization To Export Electric Energy to Canada via 230 kV International Transmission Line

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Order Amending Prior Authorization to Export Electric Energy to Canada.

SUMMARY: The Department of Energy gives notice of the issuance of an order amending the prior authorization to export electric energy to Canada by Northern States Power Company via 230 kilovolt International Transmission Line.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20461, 202-634-5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-633-9380.

SUPPLEMENTARY INFORMATION:

On December 5, 1977, the Northern States Power Company filed Supplement No. 1 to the Manitoba-United States Winnipeg-Grand Forks 230 Kilovolt Interconnection Agreement, dated January 16, 1969, between the Manitoba Hydro-Electric Board and Northern States. Supplement No. 1 amends Exhibits A and B of the Interconnection Agreement providing for a tap of the Interconnection at the Letellier Station in Manitoba.

On March 21, 1979, the Acting Assistant Administrator for Utility Systems of ERA, issued an order, finding that the proposed changes would not impair the sufficiency of electric energy supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of ERA.

The Acting Assistant Administrator for Utility Systems of ERA therefore ordered that the Supplement No. 1 to the Interconnection Agreement be accepted and that Exhibits A and B to the Interconnection Agreement be so amended.

NOTICES

Issued in Washington, D.C. on March 21, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration.

[FR Doc. 79-9191 Filed 3-26-79; 8:45 am]

[6450-01-M]

NORTHERN STATES POWER CO.

Issuance of Presidential Permit for 500 kV International Interconnection, PP-63

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Issuance of Presidential Permit for 500 kV International Interconnection, PP-63; Northern States Power Company.

SUMMARY: The Department of Energy gives notice of the issuance of a Presidential Permit, PP-63, to Northern States Power Company for a 500 kV International Interconnection at the United States-Canadian Border.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070-Vanguard Building, 1111 20th Street NW., Washington, D.C. 20461, 202-634-5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113-Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461, 202-633-9380.

SUPPLEMENTARY INFORMATION:

On April 18, 1977, Northern States Power Company (NSPC) applied for authorization, pursuant to the Executive Order No. 10485, as amended by Executive Order No. 12038, to construct, connect, operate and maintain an international interconnection at the United States-Canadian border. The application was transferred to the Department of Energy (DOE) upon its formation on October 1, 1977, pursuant to Section 301 of the Department of Energy Organization Act (Pub. L. 95-91) and, by virtue of DOE Delegation Order No. 0204-4, responsibility for consideration of the application was assigned to the Administrator of the Economic Regulatory Administration (ERA).

An environmental impact statement (EIS) was prepared pursuant to the requirements of the National Environmental Policy Act of 1969 to analyze the environmental impacts of a 500 kV transmission line extending to the U.S.-Canadian border. A 30-day no action period has lapsed since publication of the notice of availability of the final EIS on January 18, 1979 (44 FR

18267

3748). ERA has received no comments on the final EIS.

The Secretary of State by letter dated February 12, 1979 and the Secretary of Defense by letter dated February 26, 1979 favorably recommended that the Permit be granted.

Upon consideration of the matter, ERA found that issuance of the Permit was appropriate and consistent with the public interest. Accordingly, the Administrator of ERA issued the Permit on March 6, 1979 authorizing Northern States Power Company to construct, connect, operate and maintain an electric transmission facility at the U.S.-Canadian border.

Issued in Washington, D.C., March 20, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator  
for Utility Systems.

[FR Doc. 79-9192 Filed 3-26-79; 8:45 am]

[6450-01-M]

WEST TEXAS UTILITIES CO.

Order Authorizing Transmission of Electric Energy to Mexico and Superseding Prior Authorization

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Issuance of Order Authorizing Increased Transmission of Electric Energy to Mexico.

SUMMARY: The Department of Energy gives notice of the issuance of an order authorizing West Texas Utilities Co. to transmit electric energy to Mexico at an increased rate and in an increased amount, thereby superseding prior authorization.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20461, (202) 634-5620.

Lise Courtney Howe, Office of the General Counsel, Department of Energy, Room 5113, Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-9380.

SUPPLEMENTARY INFORMATION:

On March 24, 1978, West Texas Utilities Co. (West Texas) filed an application in ERA Docket No. IE-78-4 for a supplemental order, pursuant to Section 202(e) of the Federal Power Act, authorizing an increase in the amount and rate of transmission of electric energy which West Texas may transmit from the United States to Mexico. West Texas was previously authorized by the Federal Power Commission to



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transmit electric energy from the United States to Mexico in an amount not in excess of 6,400,000 kilowatt hours per year at a rate of transmission not to exceed 800 kilowatts. West Texas stated in its application that such export authorization is not adequate to take care of the present and anticipated electric system load requirements of the Comision Federal de Electricidad in Ojinaga, Mexico and vicinity. Therefore, West Texas sought authorization to export electric energy in an amount not in excess of 24,000,000 kwh per year at a rate of transmission not to exceed 3,000 kw.

ERA found that the proposed transmission of electric energy from the United States to Mexico would not impair the sufficiency of electric supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities subject to its jurisdiction. Accordingly, on March 19, 1979, the Acting Assistant Administrator for Utility Systems authorized West Texas to transmit electric energy to Mexico in the increased amount and at the increased rate, thereby superseding any prior authorization to export electricity.

Issued in Washington, D.C., March 19, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration.

[FR Doc. 79-9190 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. TC 79-32]

ARKANSAS LOUISIANA GAS CO.

Tariff Filing

MARCH 21, 1979.

Take notice that Arkansas Louisiana Gas Company (Arkla), Post Office Box 1734, Shreveport, Louisiana 71151, on March 20, 1979, tendered for filing Substitute 4th Revised Sheet No. 3C to its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of April 1, 1979, in Docket No. TC 79-32 to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high priority users in accordance with section 401 of the Natural Gas Policy Act of 1978 (NGPA) and part 281 of the Regulations thereunder all as more fully set forth in said sheet, which are on file with the Commission and open to public inspection.

The pertinent part of Arkla's Substitute 4th Revised Sheet No. 3 is set

forth as follows under paragraph (O) of that sheet:

(O) Relief from curtailment for essential agricultural and high priority uses will be made available to the extent and in the manner required by the FERC's interim regulations prescribed by its order issued March 6, 1979 in FERC Docket RM 79-13 during the period April 1, 1979 thru October 31, 1979.

The tariff sheet tendered by Arkla adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Arkla's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM 79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9176 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-46]

INLAND GAS CO.

Tariff Filing

MARCH 21, 1979.

Take notice that on March 20, 1979, The Inland Gas Company (Respondent), P.O. Box 1180, Ashland, Kentucky 41101, filed in Docket No. TC79-

46, First Revised Tariff Sheets Nos. 6, 7 and 8, as part of its FERC Gas Tariff, First Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent add a new Section 3.2 to Respondent's FERC Gas Tariff, First Revised Volume No. 1, to provide for adjustments to the level of curtailment on Respondent's system to the extent necessary to avoid impairment of service for essential agricultural uses during periods of curtailment. Such adjustments are to be subject to the conditions that (1) no adjustment would be granted if Respondent is curtailing high-priority uses or if the adjustment would require the curtailing of high-priority uses, and (2) no adjustment would be granted in excess of the customers contractual entitlement. High-priority use and essential agricultural use are defined by reference to 18 CFR 281.103. The proposed Section 3.2 would terminate as of October 31, 1979.

In addition, Respondent has requested a waiver of the filing requirements in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979).

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9175 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-48]

SOUTH GEORGIA NATURAL GAS CO.

Tariff Filing

MARCH 21, 1979.

Take notice that on March 20, 1979, South Georgia Natural Gas Company (Respondent), P.O. Box 1279, Thomasville, Georgia 31792, filed in Docket No. TC79-48 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hear-

## NOTICES

ing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9174 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-49]

SOUTHERN NATURAL GAS CO.

Tariff Filing

MARCH 21, 1979.

Take notice that on March 20, 1979, Southern Natural Gas Company (Respondent), Post Office Box 2563, Birmingham, Alabama 35202, filed in Docket No. TC79-49 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties

to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9173 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-232]

CAROLINA POWER & LIGHT CO.

Filing

MARCH 15, 1979.

Take notice that Carolina Power & Light Company (Carolina), on March 5, 1979, tendered for filing an Amendment to the Interchange Agreement between Carolina Power & Light Company and Duke Power Company, dated June 1, 1961. Carolina states that the Amendment deletes existing Service Schedules B, C, D and F and replaces them with Service Schedules B-1979 Spinning Reserve, C-1979 Limited Term Power, D-1979 Short Term Power, F-1979 Economy Interchange, and H-1979 Other Energy. Carolina further states that Service Schedule G-1979 Bulk Power Wheeling is being amended; however, the revised Service Schedule is being filed separately by Duke Power Company. Carolina indicates that existing Service Schedules A and E are retained.

Carolina proposes an effective date of April 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to Duke Power Company, the South Carolina Public Service Commission, and the North Carolina Utilities Commission, according to Carolina.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with



the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9198 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-197]

CITIES SERVICE GAS CO.

Application

MARCH 16, 1979.

Take notice that on February 27, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP79-197 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of minor facilities to enable Applicant to render natural gas service to authorized local natural gas distribution companies for resale to sixteen (16) rural domestic customers pursuant to right-of-way agreements and gas storage leases heretofore entered into between Applicant and said customers, or to serve same directly if no local authorized natural gas distribution company is willing or able to make such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that these right-of-way grantors and lessors have requested service for which Applicant proposes to construct and operate the following facilities:

Item 1: Tap on Applicant's Parsons 10-inch transmission pipeline in Montgomery County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Merlyn L. Bass.

Item 2: Tap on Applicant's Cherryvale 6-inch transmission pipeline in Montgomery County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to L. H. Bernd.

Item 3: Tap On Applicant's Grabham-Welda 30-inch transmission pipeline in Wilson County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Edwin H. Bideau.

Item 4: Tap on Applicant's West Edmond 12-inch transmission pipeline in Logan County, Oklahoma and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Betty Boling.

Item 5: Tap of Applicant's Wineteer School 2-inch transmission pipeline in Sedgwick County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Louie C. Brown.

Item 6: Tap on Applicant's McLouth Storage 6-inch pipeline in Jefferson County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Philip Cline.

Item 7: Tap on Applicant's Rodman Gasoline Plant 8-inch loop gathering pipeline in Garfield County, Oklahoma and construct measuring, regulating and appurtenant facilities for delivery of natural gas to John R. Conway.

Item 8: Tap on Applicant's Ottawa-Sedalia 12-inch transmission pipeline in Miami County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Leroy Fletcher.

Item 9: Tap on Applicant's St. Joe 12-inch transmission pipeline in Buchanan County, Missouri and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Paul J. Kovac.

Item 10: Tap on Applicant's Blackwell-Grabham 26-inch transmission pipeline in Kay County, Oklahoma and construct measuring, regulating and appurtenant facilities for delivery of natural gas to LaFaun Locke.

Item 11: Tap on Applicant's Barber County 20-inch gathering pipeline in Barber County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to C. Harris McCracken.

Item 12: Tap on Applicant's Ottawa-Hund Junction 26-inch transmission pipeline in Leavenworth County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to George A. Mansfield.

Item 13: Tap on Applicant's Hogshooter-Grabham 16-inch transmission pipeline in Washington County, Oklahoma and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Mildred Middlebush.

Item 14: Tap on Applicant's Soldier's Home 8-inch transmission pipeline in Leavenworth County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Thomas M. Scanlon.

Item 15: Tap on Applicant's Barber County 20-inch gathering pipeline in Woods County, Oklahoma and construct measuring, regulating and appurtenant facilities for delivery of natural gas to J. W. Surface.

Item 16: Tap on Applicant's McLouth Storage 2-inch pipeline in Leavenworth County, Kansas and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Harry J. Walker.

Applicant states that presently it is anticipated that the sale to the customers in Items 6, 15 and 16 would be made by Applicant on a direct sale

basis and the sale to the other 13 customers would be made to The Gas Service Company for resale to these customers.

Applicant estimates that the domestic usage by each of these customers would be approximately 250 Mcf of natural gas per year.

Applicant also estimates that the total cost of the proposed facilities to serve the right-of-way grantors would be approximately \$10,167 which costs Applicant states would be financed from funds on hand.

Applicant states that all of the proposed customers have relied upon the provisions for said natural gas service as contained in their respective right-of-way easements and agreements and gas storage leases, as said provisions constituted a major portion of the consideration given them by Applicant in exchange for the voluntary grant of said easements.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to

appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9199 Filed 3-26-79; 8:45 am]

[6450-01-M]

DART OIL AND GAS CORP.

Determination By a Jurisdictional Agency  
Under the Natural Gas Policy Act of 1978

MARCH 19, 1979.

On March 13, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

STATE OF MICHIGAN, DEPARTMENT OF  
NATURAL RESOURCES

FERC Control No.—JD79-748; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Edwards 1-36 (32,139); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-749; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Edwards 4-30 (32,351); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-750; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Jenema 3-25 (32,174); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-751; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Molhoek 1-31 (31,967); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-752; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Molhoek 4-31 (32,132); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-753; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Powers 2-36 (32,223); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-754; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Tacoma 1-25 (32,017); Field—Aetna; County—Mis-

saukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-755; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Tacoma 4-25 (32,175); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-756; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Tacoma 7-31 (32,163); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-757; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Tacoma 3-36 (32,421); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-758; API Well No.—None; Section of NGPA—102; Operator—Dart Oil & Gas Corp.; Well Name—Zuiderveen 1-30 (31,479); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

FERC Control No.—JD79-759; API Well No.—None; Section of NGPA—102; Operator—Dart Oil Gas Corp.; Well Name—Zuiderveen 7-30 (32,221); Field—Aetna; County—Missaukee; Purchaser—Consumers Power Co.; Volume—30 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 11, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9197 Filed 3-26-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-221]

NATIONAL FUEL GAS SUPPLY CORP.

Application

MARCH 20, 1979.

Take notice that on March 14, 1979, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14240, filed in

Docket No. CP79-221 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for two years for National Fuel Gas Distribution Corporation (Distribution), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport on an interruptible basis between 30,000 and 75,000 dt equivalent of natural gas per day proposed to be sold by Distribution to Consolidated Edison Company of New York, Inc. (Con Ed), to be used as a fuel, in lieu of imported oil for the generation of steam and/or electric energy. Applicant would perform the proposed service by backing off the physical delivery of gas to Distribution and making such gas available to Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Transcontinental Gas Pipe Line Corporation, and/or Texas Eastern Transmission Corporation for transportation and delivery to Con Ed. Deliveries by Applicant to the other pipelines would be made in Pennsylvania.

The instant application is filed as an alternative to and without prejudice to the application for a declaratory order filed by Applicant in Docket No. TC79-3. Applicant states that it desires and will accept authorization under the instant application or assurance requested in Docket No. TC79-3 that the proposed service would be within the contemplation of Section 311(a) of the Natural Gas Policy Act of 1978 without prejudice to Applicant in any future curtailment, market classification, or other proceeding. With respect to the instant application, Applicant likewise requests assurances from the Commission that, in any future curtailment, market classification, or other proceeding, its gas supply and market profiles will not include, to Applicant's detriment, the supply or market volumes of gas it receives from Distribution and transports to others for ultimate delivery to Con Ed.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to



become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9200 Filed 3-26-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-234]

PUBLIC SERVICE CO. OF INDIANA, INC.

Proposed Tariff Change

MARCH 15, 1979.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on March 5, 1979, tendered for filing pursuant to the Kentucky-Indiana Power Planning and Operating Agreement between East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, and Kentucky Utilities Company.

PSCI states that said Amendment No. 5 increases the demand charge for Back-Up Power and Short Term Power from 60¢ per kilowatt per week to 70¢ per kilowatt per week. PSCI proposes an effective date of May 2, 1979.

Copies of this filing were served upon East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, Kentucky Utilities Company, Public Service Commission of Indiana, and Public Service Commission of Kentucky, according to PSCI.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9201 Filed 3-26-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-85]

SIERRA PACIFIC POWER CO.

Order Accepting for Filing and Suspending Proposed Rates, Providing for Hearing, Granting Summary Judgment, and Granting Intervention

MARCH 16, 1979.

On November 30, 1978,<sup>1</sup> Sierra Pacific Power Company (Sierra Pacific) tendered for filing proposed changes in its FERC Electric Service Tariff, Volume 1, Schedule R, applicable to four total requirements and two partial requirements customers.<sup>2</sup> The proposed change in rates would result in increased annual revenues for jurisdictional sales and services of \$846,820 (14.5%) based on projected sales for 12 months ending June 30, 1978. Sierra Pacific also seeks waiver of the notice requirement (18 CFR 35.11), to allow an effective date for this rate change of February 1, 1979.

Public notice of Sierra Pacific's filing was issued on December 12, 1979, with petitions or protests to be filed on or before December 29, 1978.

Four petitions to intervene were filed. The Pacific Gas & Electric Company (PG&E),<sup>3</sup> City of Fallon, Nevada (Fallon), CP National Corporation (CP National), and Truckee-Donner Public Utility District (Truckee-Donner), all resale customers of Sierra Pacific, protest the proposed rate as excessive, seek leave to intervene, and urge a suspension of the proposed increased rates for five months. In addition, the petitions set forth a number of specific

<sup>1</sup>By letter dated December 26, 1978, the Commission apprised the Company that the rate filing was deficient in several respects and that a filing date would not be assigned to the application until the deficiency was cured. On January 16, 1979, Sierra Pacific provided data necessary to complete its application.

<sup>2</sup>See Attachment A for rate schedule designation.

<sup>3</sup>The petition to intervene of the Pacific Gas & Electric Company was filed with the Commission on January 3, 1979.

objections to the cost of service and cost allocations, including the use of the superseded 48% federal income tax rate, which the petitions state should be rejected. The petitions also object to Sierra Pacific's request for waiver of the notice requirement to allow an effective date for the rate change of February 1, 1979.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we determine that the allegations presented in the submitted petitions present questions of law and fact more appropriately considered at hearing. We shall accept Sierra Pacific's submittal for filing and suspend the proposed rates for five months, subject to refund, and establish procedures for an evidentiary hearing on the issues involved in this filing.

PG&E, CP National, Fallon and Truckee-Donner shall be allowed intervention in this docket and may raise at hearing all of the issues alleged in their petitions to intervene.

With regard to the Federal Income Tax rate, we shall grant summary disposition and require that Sierra Pacific compute its tax expense on the basis of the 46% tax rate. However, we shall not order Sierra Pacific to refile to reflect the Federal tax change since the net benefit to the customer may not be more than the cost of refiling, which would ultimately be passed on to the consumer as a regulatory expense.<sup>4</sup>

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Section 205, 206, 301, 307, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate increase proposed by Sierra Pacific in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Sierra Pacific on January 16, 1979, are hereby accepted for filing, suspended and the use thereof deferred until August 13, 1979, when they shall become effective, subject to refund.

(C) The Federal Energy Regulatory Commission Staff shall serve top sheets in this proceeding on or before May 25, 1979.

<sup>4</sup>Missouri Utilities Company, Docket No. ER79-21, (February 2, 1979).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within ten (10) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated Law Judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) PG&E, Fallon, CP National and Truckee-Donner shall be permitted to intervene in this proceeding subject to the Rules and Regulations of the

Commission; *Provided, however*, that participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided further*, that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) The 46% Federal Income Tax rate shall be used to compute Sierra Pacific's tax expense.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

ATTACHMENT A.—Sierra Pacific Power Co.

[Docket No. ER79-85]

Rate Schedule Designations Under FPC Electric Tariff, Original Volume No. 1

Filed: January 16, 1979.

Dated: Undated.

| Designation                      | Supersedes                 |
|----------------------------------|----------------------------|
| (1) Ninth Revised Sheet No. 4    | Eighth Revised Sheet No. 4 |
| (2) Fifth Revised Sheet No. 5    | Fourth Revised Sheet No. 5 |
| (3) Second Revised Sheet No. 5A  | First Revised Sheet No. 5A |
| (4) Sixth Revised Sheet No. 8    | Fifth Revised Sheet No. 8  |
| (5) Fourth Revised Sheet No. 8A  | Third Revised Sheet No. 8A |
| (6) Seventh Revised Sheet No. 15 | Sixth Revised Sheet No. 15 |

[FR Doc. 79-9202 Filed 3-26-79; 8:45 am]

#### [6450-01-M]

[Docket No. G-12446, et al]

TEXAS EASTERN TRANSMISSION CORP., ET AL

Order Approving Settlements

MARCH 19, 1979.

In the matter of Texas Eastern Transmission Corp. (Docket No. G-12446); Continental Oil Co. (Docket No. CI66-890); Sun Oil Co. (Docket No. CI66-891); General Crude Oil Co. (Docket No. CI66-919) and M. H. Marr (Docket No. CI66-892); settlement of court litigation refunds (producer), gas supply (onshore), advance payment (to producers) mandate of court.

These proceedings concern a lease-sale of gas from the Rayne Field in Acadia Parish in Southern Louisiana by Continental Oil Company, Sun Oil Company, General Crude Oil Company and M. H. Marr (Producers) to Texas Eastern Transmission Corporation. They are before the Commission<sup>1</sup>

<sup>1</sup>This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

after remand in *Public Service Commission of New York v. F.P.C.*, 543 F.2d 757 (CA2-1974), certiorari denied, 424 U.S. 910 (1976), a further hearing as provided by the Commission in its order of August 17, 1976, two settlement stipulations dated June 28, 1977, which were certified to the Commission by Presiding Administrative Law Judge Michel Levant on June 30, 1977, and comments filed. Marr in Docket No. CI66-892, having an interest amounting to 8.404469 percent in the transferred Rayne field leaseholds, did not participate in the negotiations leading to these settlement agreements and did not join in them. However, on January 20, 1978, the Public Service Commission of the State of New York filed a settlement with Marr, dated January 1, 1978, as discussed below.

On November 23, 1977, Continental, Sun and General Crude (Continental et al.) filed a motion requesting that the Commission consider the stipulation which covers the producer issues. An answer by the staff asked the Commission to prescribe the filing of briefs and expressed the belief that the proposal was not in the public interest. Replies were filed by the staff, Texas Eastern, Continental, et al., Algonquin Gas Transmission Company, and the

Public Service Commission of New York (New York). The Commission on March 28, 1978, determined to consider the settlement stipulations relating to all four producers and the settlement relating to Texas Eastern, after allowing opportunity for the receipt of comments on the Marr settlement.

These proceedings were initiated when on April 22, 1957, Texas Eastern applied for a certificate to effect a conventional sale from the Rayne Field reserves at a price of 22.6 cents per Mcf plus 1.3 cents tax reimbursement. Later the proposal was amended so that under a lease-sale agreement of December 4, 1958, the Producers transferred to Texas Eastern certain oil and gas leases, gathering lines and other equipment in the Rayne Field. The consideration was to be \$134,395,700 of which \$12,420,500 was paid in cash and the remainder in serial notes payable in monthly installments over a 16 year period ending in 1975. Texas Eastern was to make a monthly production payment to the Producers, and Continental was to operate the field. The Commission found that during the early years of the contract, 1959-1967, the resulting price amounted to 23.5 cents per Mcf which was in excess of the then in-line price of 20 cents per Mcf<sup>2</sup> and the just and reasonable price of 18.5 cents per Mcf effective October 1, 1968.<sup>3</sup>

The Commission approved the transaction on June 28, 1959, but was reversed in *P.S.C. of N.Y. v. F.P.C.*, 287 F.2d 143 (CA2-1960) because of its failure to consider adequately the reasonableness of the cost to the pipeline. On remand the Commission on February 6, 1963, in Opinion No. 378 (29 FPC 249, 256) determined that it had jurisdiction over the lease-sale transaction and disapproved the arrangement saying that it made regulation difficult and was not in the public interest. The Commission was eventually affirmed by the Supreme Court in *United Gas Improvement Co. v. Continental Oil Co.*, 381 U.S. 392 (1965). Thereafter the Producers on March 24, 1966, filed applications for certification.

<sup>2</sup>An "in-line" price was one prescribed by the Commission in certification proceedings before the determination of just and reasonable area rates for producers and was based on other sales in the area. See the *CATCO* case, *Atlantic Refining Co. v. F.P.C.*, 360 U.S. 378 (1959).

<sup>3</sup>*Southern Louisiana Area Rate Proceeding* Opinion No. 546, 40 FPC 530 (1968), Opinion No. 546-A, 41 FPC 301 (1969), aff'd sub nom. *Austral Oil Co. v. F.P.C.*, 428 F.2d 407 (CA5-1970), cert. denied 400 U.S. 950 (1970).



cates presenting the lease-sale arrangement, but on March 10, 1967, they agreed to reimburse the pipeline for the amount by which the production from the field eventually fell short of \$14,399,000 Mcf.

The Commission issued its Opinion No. 565 on August 16, 1969, based upon a hearing Judge's decision and a voluminous record.<sup>4</sup> The Commission found that because of a lack of certainty over the life of the Field, the lease-sale arrangement should be modified so that until the purchase price of \$134,395,700 was paid by Texas Eastern it would be equivalent in economic effect to a conventional sale at the just and reasonable price of 18.5 cents per Mcf. After that Texas Eastern would make no further payments. The Commission also granted certificates to the Producers and Texas Eastern; provided for refunds by the Producers based on a price of 20 cents per Mcf<sup>5</sup> to October 1, 1968, the effective date of the *Southern Louisiana* decision, determining just and reasonable rates applicable to the Rayne Field, and 18.5 cents thereafter; ordered Texas Eastern to flow through the refunds to its customers to the extent the excess Rayne Field costs were borne by them; provided accounting by which remaining Rayne Field cost balances on Texas Eastern's books would be amortized after the Producers had received their contract price; and required the filing of rates by Texas Eastern to reflect reduced Rayne Field costs.

On rehearing in Opinion No. 565-A issued September 29, 1970,<sup>6</sup> the Commission modified its conditions. Because the Producers would be paid over a longer period under Opinion No. 565 than under the original lease-sale arrangement the Commission determined that the Producers should be paid for the gas and receive credit for the liquids produced until the field is exhausted. Further, while the Producers had been required in Opinion No. 565 to file rates based on the 18.5 cent area rate, the Commission pointed out this rate was subject to further proceedings and provided that the producer rate schedule filing should be on the basis of the 20 cent in-line price. The Commission also determined that the just and reasonable rate, whatever that should be, should determine refunds both before and after October 1, 1968, but deferred all refunds.

On appeal in *P.S.C. of N.Y., supra*, the Court held that the Commission's attempt to extend Texas Eastern's payments over the life of the field

should be set aside; that the just and reasonable 18.5 cent area rate should have been used for rates and immediate refunds, although subject to litigation, rather than the 20-cent in-line price; that lengthening the period of payments gave the producers less than their bargain without justification and they should be compensated for the time-value of money; that rate reductions and refunds should not have been deferred; that they should have been flowed through by Texas Eastern; and that the Commission was not arbitrary or unreasonable in requiring Texas Eastern to flow through only that part of the producer refunds which represented the excess producer charges and allowing Texas Eastern to retain the balance to reduce its investment in the Field.

The Court remanded the proceedings and instructed the Commission (a) to increase, beyond the lease-sale contract price, the amount which Texas Eastern must pay to compensate for the time-value of money, (b) to utilize the existing 18.5-cent area rate for producer refunds up to August 1, 1971, (c) to compute, after due regard for Texas Eastern's Rayne Field investment, the amount of producer refunds to be flowed-through by Texas Eastern up to August 1, 1971, on the basis of the 18.5 cent area rate, (d) to update computations, and (e) to order all proper rate reductions and refunds to be made and flowed through at the earliest practicable times. The Court denied rehearing with a further opinion expanding its views (543 F.2d. 830, CADC-1975).

As a result of the Court's decision and pursuant to Commission order a further hearing was held in January and June 1977. At the end of the hearing the settlement stipulations relating to Continental et al. and Texas Eastern were presented and were certified to the Commission by the Judge.

#### THE CONTINENTAL AND TEXAS EASTERN SETTLEMENT PROPOSALS

The Continental et al. settlement provides, briefly, as follows:

(1) Each of the producers is to refund to Texas Eastern its proportionate share of \$60 million<sup>7</sup> in full satisfaction of its refund liability, together with interest accrued upon its proportionate share of \$32 million (representing an imputed principal portion of such \$60 million), at an annual rate of 9 percent, beginning August 1, 1977.

(2) Each of the producers will be permitted to withdraw their agreements of March 10, 1967, to reimburse the pipeline in case of a gas shortage.

(3) Texas Eastern will continue to pay the producers on the conventionalized basis at applicable area and national rates.

<sup>7</sup>Excluding Marr this is \$55 million.

(4) The producers will continue to receive revenues from the sale of liquids, but if these do not permit recovery of their Rayne Field costs, the producers may apply for special relief and, if this is denied, may assign to Texas Eastern all their rights in gas and liquids in the Rayne Field leaseholds involved.

(5) The producers waive their claim for the original leasehold sale price plus an additional sum as compensation for the time value attributable to the deferral of payment of such price, that was awarded by the court.

(6) Texas Eastern shall have the right to make a call on gas and to purchase gas attributable to each producer's interest in certain properties listed, both onshore and offshore.

The Texas Eastern settlement provides:

(1) After receipt of Rayne Field refunds totaling at least \$32,895,256 (representing its unrecovered Rayne Field investment) Texas Eastern shall pay to its customers their allocable shares less \$24,798,714.

(2) For accounting purposes, Texas Eastern will write off \$24,798,714 of its unrecovered investment immediately and the remaining \$8,096,542 over a five-year period, at the end of which it will file a rate reduction to reflect the removal of the investment from its rate base.

(3) During a period of five years Texas Eastern shall make expenditures totaling \$32,895,256, with interest, for developing additional onshore gas reserves.

Comments objecting to the Continental and Texas Eastern settlements were filed by the staff on July 22, 1977, and comments in support of the settlement were filed by New York, Consolidated Edison Company of New York, Inc., Continental et al., The Brooklyn Union Gas Company, and Texas Eastern, followed by reply comments from those parties and from Morton L. Simons, who represented New York in the appeal and objects to the settlement. The supporters of the settlement dwell generally on the length of the litigation and the extensive settlement negotiations, the immediate refund without the delay of further litigation, and the promise of more gas for Texas Eastern's customers. The discussion below on the issues raised by the settlement is premised on the nature of the settlement as a package deal, i.e., all terms must be considered with all other terms.

#### OBJECTIONS TO THE SETTLEMENTS OF CONTINENTAL AND TEXAS EASTERN

The staff asserts that the evidence shows that the consumers are presently entitled to a cash refund of \$76,426,000, including interest to August 1, 1977, (See Ex. 6'), and that

full litigation of this case before the Commission can be readily concluded in six months. After excluding the interest of Marr (8.404469%) the total would be \$70,003,000<sup>8</sup> and this should be compared with the settlement refund of \$55 million.

New York argues that this cash offer is significant and persuaded New York to settle although the offers by Continental et al. of a right of first call on a number of leases is valuable in view of Texas Eastern's curtailment status. Texas Eastern believes that under the D.C. Circuit's opinion the producers owe either no refunds at all or much less than the settlement amount and says that the settlement figure of \$55 million represents a compromise between litigating positions that is heavily weighted in favor of the position taken by New York, Texas Eastern, its customers and staff. Continental et al. argue that they should not have to pay any refund, since any refunds should be offset against future higher prices otherwise required to permit them to recover the time value equivalent of the total agreed consideration of the lease sale.<sup>9</sup> If they must pay a refund, it should be about \$25 million<sup>10</sup> and not include interest since they had no knowledge of the possibility of refunds until after deliveries from the Rayne Field had commenced, and it was not until later that they were determined to be subject to the Commission's jurisdiction.<sup>11</sup> If interest is due, they say, the refund should be limited to \$38 million. Brooklyn Union does not think that further litigation will produce any greater or more immediate refunds.

In view of the right given Texas Eastern to call on gas from new leases, and the agreement by Continental et al. to waive the right given by the Court to compensate for the time value of money<sup>12</sup> together with the delay and hazards of litigation, the refund settlement figure \$55,000,000 for Continental et al. is, in our opinion, reasonable. It is clear that the litigation would extend far beyond the six months contemplated by the staff.

Staff says that it has evaluated the leases on which the producers have offered a call to Texas Eastern. It says that except for 3 wells in Mississippi offered by Sun Oil Co., all leases are offshore in the Federal Domain, which are, in any case, dedicated to the interstate market and that all of the offshore properties evaluated, on which reserve information was submitted, in-

<sup>8</sup>See Ex. 42', p. 3.

<sup>9</sup>Tr. 75, 308.

<sup>10</sup>See Ex. 2'.

<sup>11</sup>Tr. 72-73.

<sup>12</sup>Producers compute that the worth as of June 30, 1976, of the time value of the note payments over conventionalized payments is \$1,255,622 (Ex. 2', Sch. 2).

clude dry holes or undeveloped properties.

Continental et al. say that these properties are reasonably deemed potentially productive of natural gas and, indeed, some are already producing natural gas under emergency sales onshore Mississippi, and a producing platform is now being located on one of the properties offshore Louisiana. The record shows possibilities and some production but not a situation on which we could rely strongly.

Appendix A of the settlement agreement<sup>13</sup> shows four offshore blocks in which Continental has an interest. The record shows (as of June 28, 1977) that a platform has been set and drilling would start soon on West Cameron Block 222; a dry exploratory well had been drilled on West Cameron Block 221; but there was a possibility of further drilling. A dry test well had been drilled in West Cameron Block 488. A test well or exploration well had been drilled in Vermillion Block 146, but evaluation had not been completed.<sup>14</sup>

Sun offers three onshore wells in Mississippi. One called the G. L. Deen Well was shown to have deliverability of 5.9 million cubic feet per day and reserves of 4.9 Bcf; another called D. R. Deen has 4.5 Bcf of reserves; a third well, Caraway No. 1, has not been fully evaluated, but it was expected to be similar.<sup>15</sup> As to Sun's offshore wells, on Eugene Island 256 and South Marsh Island Block 143 platforms had been set and drilling was in progress. On South Marsh Island Block 111 a single well had been attempted but had not reached the projected sand. Another exploratory well was not scheduled.<sup>16</sup>

General Crude had offered two offshore wells. A dry hole had been drilled in West Cameron Block 98, and no wells had been drilled in Block 99. The witness understood that General Crude intended to drill Block 99, independently of Block 98.<sup>17</sup> We conclude that the gas call program, while not clearly quantifiable, is a plus factor for the settlement in providing more gas for consumers and, because of greater volumes, in lowering the unit cost of transportation.

Staff further charges that, in addition to reducing the refund, Producers will be relieved of a \$45,000,000 obligation for underproduction of the Rayne Field reserves. As staff indicates, in order to obtain certificates, the Producers undertook to assume the risk of a reduction of the Rayne Field reserves below the estimated quantity of 830,848 Mmcf at 14.73 psia (814,339 Mmcf at 15.025 psia).<sup>18</sup> They agreed in

1967 that they would pay Texas Eastern 20.220 cents per Mmcf (14.73 psia) or 20.625 cents per Mcf (15.025 psia) for the amount of production below the estimated quantity.<sup>19</sup> Based on the presently estimated four-party interest after royalty of 596,084 Mcf,<sup>20</sup> it is contemplated that the four-party Producers would pay about \$45 million in 1991.<sup>21</sup>

New York responds that the staff has not shown why this obligation on the part of the Producers is appropriate in the context of a traditional gas sale. We agree with this view. If the Rayne Field reserves are less than contemplated, this means that, in the absence of a settlement, the refund computation would be affected, and we will assume that under the settlement this factor was taken into account. Under the settlement the Producers will continue to receive payment for the gas produced at the just and reasonable rate and will not receive payment for gas not delivered. The payment of \$45 million for unavailable gas would serve to reduce the rate received by the Producers below the just and reasonable rate. It would also appear that the gas call program discussed above could offset, or more than offset, relieving the producers of their \$45,000,000 obligation.

With respect to Texas Eastern the staff argues that the failure of these proposals to include a 0.3 cent per Mcf reduction on Texas Eastern's rates is an inflationary overcharge which the staff believes is contrary to the public interest. Over a five-year period the staff says this overcharge will amount to  $(0.293 \times 734 \text{ Bcf} \times 5) = \$10.8$  million.

According to Texas Eastern's explanation in the record here<sup>22</sup> using the national rate for the Rayne Field volumes in Docket No. RP75-73 instead of the costs on which the rate filing was based would result for illustrative purposes in a rate reduction of .293 cents per dekatherm. The amount, however, becomes .257 cents per dekatherm because of a reduced rate of return under the settlement approved by the Commission in Docket No. RP75-75. The rate reduction will be put into effect, according to the settlement, when Texas Eastern has written off the remaining \$8,096,542 of its investment during the five-year period.

Staff further argues that the settlement provision which permits Texas Eastern to retain \$32.9 million in its rate base for development of oil and gas reserves represents an illegal ad-

<sup>13</sup>Ex. 11.

<sup>14</sup>Tr. 351.

<sup>15</sup>Tr. 506, 814-596 Bcf = 218 Bcf multiplied by 20.625 cents per Mcf (Tr. 352).

<sup>16</sup>Tr. 1150-52; See Commission order in *Texas Eastern Transmission Corp.* — FPC —, Docket No. RP75-73, issued June 6, 1977, which, however, does not deal specifically with the problem.



vance payment program, for on December 31, 1975, all new advance payment programs were halted.<sup>23</sup> Staff adds that Texas Eastern does not propose to reduce the cost of gas to the consumer if any is found, and that this is double-charging.

New York argues that the \$32.9 million really represents Texas Eastern's unrecovered investment rather than an advance payment. There was a genuine risk, New York believes, that Texas Eastern might recover the entire amount out of producer refunds and not be obliged to return any of it to the customers, but by the compromise an exploration and development fund will be established for the benefit of the interstate market from the unrecovered investment. Texas Eastern also supports the E&D program and points out that the Commission has authorized an exploration fund as part of a settlement of which 75 percent would be included in the rate base for the purposes of the settlement. *El Paso Natural Gas Co.*, Docket Nos. RP72-150 *et al.*, issued February 16, 1977. In our opinion what is proposed here is a settlement of Texas Eastern's investment in connection with the flow-through of refunds and does not come within the prohibitions of the order of December 31, 1975, in Docket No. R-411.

The \$32.9 million figure representing Texas Eastern's investment in the Rayne Field is well established by the record. The Commission found that as of December 31, 1967, Texas Eastern's books showed the investment to be \$20,822,996 (42 FPC at p. 398). The Commission in Opinion No. 565 provided that Texas Eastern must flow through part of the Producers' refund and permitted Texas Eastern to apply the remainder of the refund in reduction of its investment; in the later stages of operation of the field the Commission permitted Texas Eastern to amortize the balance of its investment.

The Court of Appeals was of the opinion that the facts on which the Commission rested its flow-through disposition were well-supported and that there was no reason to disturb the Commission's conclusion that some \$20 million of Texas Eastern's unrecovered Rayne Field expenditures had been properly capitalized. Because of the deferral of refunds made by Opinion No. 565-A the Court, however, remanded the matter of refunds and flow-through, recognizing that a portion of the refunds might be retained by Texas Eastern.

Texas Eastern in the present remanded proceeding now shows that as of June 30, 1976, its investment in the

<sup>23</sup> *Accounting and Rate Treatment of Advances*, — FPC —, Docket Nos. R-411 and RM74-4, issued December 31, 1975.

Rayne Field would amount to \$32,895,256,<sup>24</sup> and this amount represents the updated figure of \$20,822,996 employed by the Commission in Opinion No. 565.<sup>25</sup> Texas Eastern's position is that its investment in the Rayne Field was prudent and that it is entitled to retain \$32,895,256 out of the producer refunds to recover its investment fully and immediately. Under these circumstances we find that Texas Eastern gave up part of an arguable claim in agreeing to write off \$24,798,714 of its unrecovered investment immediately, amortize the remaining \$8,096,542 over five years, and make expenditures totally \$32,895,256, with interest for developing additional onshore gas reserves.<sup>26</sup>

Nor do we agree that Texas Eastern is double-charging if it does not reduce its rates when gas is found. The settlement provides a means, on which the parties have agreed, by which the refunds from the Producers will be used to write off and amortize and then remove from its rate base an amount of \$32.9 million in Rayne Field investments. The cost of the new gas is a separate matter. The settlement agreement provides that it would be sold to Texas Eastern at the then applicable area or nationwide rate.

#### THE MARR SETTLEMENT

After extensive negotiations among New York, Marr, Texas Eastern and those of Texas Eastern's customers who have been active in these proceedings a stipulation and agreement was reached with Marr and, as noted, has been submitted to the Commission by New York's motion of January 20, 1978, for its consideration and approval.<sup>27</sup> Its terms are, briefly, as follows:

<sup>24</sup> Tr. 207, Ex. 9.

<sup>25</sup> Tr. 912-913.

<sup>26</sup> We are aware that under the Natural Gas Policy Act of 1978 intrastate sales will not have the economic advantage that they had formerly so that an offer of onshore reserves is no longer as valuable, but it still remains of advantage to Texas Eastern's customers.

<sup>27</sup> After the filing of the Marr stipulation on January 20, 1978, the Commission staff filed an answer with the Judge urging that the settlement be rejected and asking for a conference. Noting that New York's motion transmitting the stipulation had been filed with the Commission, the Judge found a conference unnecessary, but said that staff counsel was not precluded from conferring informally with the parties in order to obtain any information needed for the preparation of its comments.

By letter of February 23, 1978, staff counsel thereupon requested extensive information from Marr's counsel on its interests in the South Rayne Field, as well as in the Rayne Field. Marr's counsel stated that he could not provide this detailed information on the South Rayne Field, for Marr is not the operator of five wells in which it has an interest. Rather, Continental is the operator of three of them and Sun Oil Company

(1) Marr agrees to give to Texas Eastern the remaining gas and liquids in Marr's Rayne Field leasehold interest (8.404469 percent) produced on or after January 1, 1978. Revenues collected by Marr from Texas Eastern for gas and liquids on or after January 1, 1978, until the date on which the Commission's order approving the stipulation is final and nonappealable shall be placed in an interest-bearing escrow account.

(2) Within 15 days after such approval Marr shall refund to Texas Eastern either \$300,000 or the total amount, including interest, held in the escrow account, whichever is greater.

(3) Texas Eastern shall have the right to purchase gas from Marr's interests in the South Rayne Field, Louisiana, and this shall constitute a covenant running with such interest binding Marr's successors. Marr is presently selling its South Rayne gas to intrastate buyers under contracts terminating July 1, 1978, and shall have the right to continue intrastate sales until the approval date of the stipulation.

(4) The South Rayne gas will be offered to Texas Eastern at the effective area or nationwide rate, but Marr shall have the right to seek special relief.

(5) The stipulation shall not become effective until the FERC shall enter a final order approving all of the terms without modification but the parties may waive modifications.

(6) As a negotiated dollar settlement neither the parties, the Commission nor the staff shall be deemed to have approved any underlying principles.

#### OBJECTIONS TO THE MARR SETTLEMENT

Comments and responses approving the settlement were filed by Texas Eastern, Brooklyn Union Gas Company, Consolidated Edison, and New York. However, opposition to the settlement was expressed in filings by the Commission staff and Simons.

The staff again observes that the four producers owe refunds of \$76,426,000 as of August 1, 1977, of which Marr's share under the Court's mandate is \$6,410,000.<sup>28</sup> For this, the staff says, the public may receive \$300,000; no other benefit to the public is ascertainable, since the staff was unable to obtain the reserve and contract data on Rayne Field or South Rayne Field.

As stated by the other commentators, particularly New York, estimates for Marr's Rayne Field interests range from approximately 2.7 Bcf to over 5 Bcf. Assuming the lower figure and the price of 42.5 cents per Mcf for this

is the operator of two. He invited staff counsel to come to the office of Marr in Dallas, Texas, where his books and records would be made available.

<sup>28</sup> See Ex. 6.

gas, the provision for deliveries of this gas without charge could represent a saving of \$1.15 million for the gas and an additional \$1.5 million for the liquids. In addition, Texas Eastern has been given the right to purchase all gas in Marr's interests in the South Rayne Field, and estimates range between 26 and 29 Bcf.

New York argues that the immediate refunds from Marr's remaining gas and liquids in Rayne Field combined with Texas Eastern's right to purchase gas from Marr's interests in South Rayne balances the consumer interests with Marr's particular circumstances. Cognizant as we are of the length and complicated issues involved in this litigation, we agree with New York that resolution by settlement would be the most appropriate disposition of the Marr issues here.

#### SETTLEMENTS AND THE COURT'S MANDATE

In comments on August 8, 1977, and April 20, 1978, Simons who represented New York in the Court litigation, contends that the settlements do not comply with the Court's mandate and must be rejected. He notes particularly that the Court instructed the Commission "to order all proper rate reductions and refunds to be made and flowed through at the earliest practicable times." It is obvious that the settlements are not literally consistent with the Court's mandate, but have been evolved to compromise the incompletely resolved contentions of the parties.

The Court had required a computation of refunds, giving the Producers credit for the time value of money. The staff says that refunds due from the four Producers, with accrued interest up to August 1, 1977, would amount to \$76,426,000 including Marr's gas. However, the Producers contend that the refunds should not exceed \$24,918,375 without interest and, further, that no refunds should be required because they should be offset against future higher prices required to permit them to recover the time value equivalent of the Rayne Field contract consideration. Thus the amount of the refunds in controversy were never determined by the Court. Reducing the refunds and at the same time making additional gas reserves available to Texas Eastern presents a different proposition to the Court and one that was not encompassed within its mandate.

In *Utah Public Service Commission v. El Paso Natural Gas Co.*, 395 U.S. 464 (1969), cited by Simons, the Court objected to the District Court not following its mandate with respect to complete divestiture by El Paso of its Northwest Division although all the parties, except one, had agreed to a

settlement. There the Court was clearly concerned with protecting competition for the California gas market in the public interest. In the present case the Court is concerned with an equitable solution with respect to the parties as well as protecting the consumers of the gas. The settlements here have been agreed to by all parties, except the staff and Simons, some representing consumer interests. Further, the settlements are, in our opinion, designed to protect the consumer interests, as well as those of the parties. The settlements are reasonable and proper and in the public interest in carrying out the provisions of the Natural Gas Act and should be approved and made effective.

#### The Commission orders:

The Continental, *et al.*, Texas Eastern and Marr settlement agreements as referred to above are incorporated by reference and made a part of this order and are hereby approved and adopted.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-2203 Filed 3-26-79; 8:45 am)

[6450-01-M]

(Docket No. TC79-47)

TEXAS GAS TRANSMISSION CORP.

Tariff Filing

MARCH 22, 1979.

Take notice that Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, on March 20, 1979, tendered for filing Fifth Revised Sheet No. 92-C, first revised Sheet No. 92-CC, and Original Sheet No. 92-CCC to its FERC Gas Tariff, Third Revised Volume No. 1 pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement section 401 of the Natural Gas Policy Act, this filing which Texas Gas proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Texas Gas' FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent section of Texas Gas' proposed interim tariff filing submitted herein is as follows:

10.7 Relief from curtailment for high priority users and essential agriculture users: Seller shall adjust curtailment or make additional volumes of natural gas available pursuant to this section, to the extent nec-

essary to provide relief to high priority users and essential agricultural users as those terms are defined in § 281.103(5) and § 281.103(7) of the Federal Energy Regulatory Commission's (Commission) Regulations under the Natural Gas Policy Act of 1978 (NGPA). Seller shall take such action in accordance with the standards, procedures and computations set forth in §§ 281.101 through 281.111 of the Commission's Regulations under the NGPA. A curtailment adjustment made in accordance with this tariff provision shall be reduced by Seller, in an equitable manner, if such adjustment would result in the reduction of deliveries to those parties and under those conditions set forth in §§ 281.108(b)(1), 281.108(b)(2) and 281.108(b)(3) of the Commission's Regulations under the NGPA.

The tariff filing by Texas Gas adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Texas Gas' plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and § 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff filing should on or before March 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9204 Filed 3-26-79; 8:45 am)



[6560-01-M]

ENVIRONMENTAL PROTECTION  
AGENCY

[FRL 1082-1; PP8G2088/TI88]

## ETHOFUMESATE

## Establishment of a Temporary Tolerance

Fisons, Inc., Agricultural Chemicals Div., Two Preston Court, Bedford, MA 01730, submitted a pesticide petition (PP 8G2088) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for combined residues of the herbicide ethofumesate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate) and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-benzofuranyl in or on the raw agricultural commodity red beets at 0.5 part per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (10065-EUP-12) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Fisons, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires July 30, 1980. Residues not in excess of 0.5 ppm remaining in or on red beets after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this

## NOTICES

notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington D.C. 20460 (202/755-1397).

Dated: March 19, 1979.

Statutory Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348a(j)].

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9113 Filed 3-26-79; 8:45 am]

[6560-01-M]

[FRL 1081-8; PF-123]

## PESTICIDE PROGRAMS

## Filing of Pesticide Petition

Elanco Products Co., P.O. Box 1750, Indianapolis, IN 46206, has submitted a petition (PP 9F2172) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.207 be amended by establishing a tolerance for residues of the herbicide trifluralin (a,a,a-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) in or on the raw agricultural commodity group grain crops with a tolerance limitation of 0.05 part per million (ppm). The proposed analytical method for determining residues is by gas liquid chromatography. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington, DC 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/755-1397. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 19, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9114 Filed 3-26-79; 8:45 am]

[6560-01-M]

[FRL 1081-8; PF5G1582/T191]

## PESTICIDE PROGRAMS

## Renewal of a Temporary Tolerance; S-[(4-Chlorophenyl)methyl]diethylcarbamothioate

On January 30, 1978, the Environmental Protection Agency (EPA) announced (41 FR 4636) the establishment of a temporary tolerance for combined residues of the herbicides S-[(4-chlorophenyl)methyl] diethylcarbamothioate and its metabolite 4-chlorobenzyl methylsulfone in or on the raw agricultural commodity rice grain at 0.1 part per million (ppm). This temporary tolerance was established in response to a pesticide petition (PP 5G1582) submitted by Ortho Div., Chveron Chemical Co., 940 Hensley St., Richmond, CA 94804. The tolerance expired January 26, 1977.

Chevron Chemical Co. requested a 17-month renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 239-EUP-77 that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires May 31, 1980. Residues not in excess of 0.1 ppm remaining in or on rice grain after this expiration date will not be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimen-

tal use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460 (202/755-1397).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: March 19, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9116 Filed 3-26-79; 8:45 am]

[6560-01-M]

[FRL 1082-4]

## TOXIC POLLUTANT LIST

Guidance on Factors To Be Addressed in  
Petitions to Revise

On January 31, 1978, the Environmental Protection Agency, pursuant to section 307(a)(1) of the Federal Water Pollution Control Act as amended by section 53(a) of the Clean Water Act of 1977, published a list of 65 toxic pollutants (43 FR 4109). As stated in that notice, the Administrator may revise the list and is authorized to add or remove pollutants taking into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms. The January 31 notice also contained a statement to the effect that petitions for modification of this list should include sufficient information to support the proposed modification.

The purpose of this notice is to provide guidance relating to the information necessary to support any petition to the Environmental Protection Agency for a change in the toxic pollutant list.

The information factors to be addressed by a petitioner include, but are not necessarily limited to, the following:

1. Toxicity of the pollutant
  - a. Acute (96-hour LC50) toxicity to freshwater and marine organisms;
  - b. Maximum acceptable toxicant concentration to freshwater and marine organisms;
  - c. Embryo-larval and egg-fry tests on freshwater organisms;
  - d. Information on dose-related, lethal or chronic sub-lethal effects on man, nonhuman mammals, vertebrates including aquatic vertebrates, and other aquatic organisms;

## NOTICES

e. Information relating to known or suspected carcinogenicity, teratogenicity, and mutagenicity in man or in other animals.

2. Persistence of a pollutant including mobility and degradability in water of the substance.

3. Bioconcentration, bioaccumulation and biomagnification of a pollutant or of its degradation products or metabolites.

4. Synergistic propensities and effects of the pollutant.

5. Water solubility and octanol-water partition coefficient determinations for the pollutant.

6. Extent of point source discharges into water including qualitative presence and quantitative concentrations of the pollutant in effluents, ambient water, benthic sediments, fish and other plant and animal aquatic organisms.

7. Potential exposure of persons to the pollutant through drinking water, surface water, fish or shellfish consumption. Potential exposure of aquatic organisms and wildlife to the pollutant.

8. Annual production of the pollutant in the United States.

9. Use patterns.

10. The capability of analytical methods to identify and quantitatively determine the presence of the pollutant in ambient water or wastewaters.

If data for any of the above are not known, the petition should indicate this fact.

All significant information that is known to the petitioner regarding either a quantitative or qualitative measure for description of the above information factors, or that may relate to an assessment of the merit of the petition, shall be submitted as a part of the petition.

To aid in defining any of the above terms, the reader is referred to the guidelines for deriving water quality criteria for the protection of aquatic life that were published by EPA on May 18, 1978 (43 FR 21506).

Public comment is invited on this notice and should be directed to Kenneth M. Mackenthun, Director, Criteria and Standards Division, WH-585, 401 M Street SW., Washington, D.C. 20460, telephone (202) 755-0100.

Dated: March 12, 1979.

THOMAS JORLING,  
Assistant Administrator for  
Water and Waste Management.  
[FR Doc. 79-9111 Filed 3-26-79; 8:45 am]

[6560-01-M]

[FRL 1011-8]

## LIST OF TOXIC POLLUTANTS

## Petition To Remove Aromatic Haloethers

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of receipt and proposed denial of petition to remove aromatic haloethers from list of toxic pollutants under section 307(a) of the Clean Water Act, as amended, 33 USC 1317(a).

SUMMARY: This action gives notice of receipt of a petition from the Dow Chemical Company to remove aromatic haloethers from the toxic pollutant list. It reviews information available to the Agency regarding these chemicals, and proposes that aromatic haloethers be retained on the toxic pollutant list.

DATES: Public comments on this petition will be received until May 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202-755-0100).

SUPPLEMENTARY INFORMATION: This notice responds to a petition received on June 7, 1978 from Dow Chemical requesting that aromatic haloethers, found under the general class haloethers, be removed from the toxic pollutant list. The argument presented by Dow was that aromatic haloethers fail to meet EPA's criteria for listing chemicals as toxic pollutants under section 307(a)(1) of Pub. L. 92-500. The petition also asserted that leaving these substances on the list dilutes the Agency's efforts and diverts attention from more serious environmental issues, introduces unwarranted barriers to the introduction of new products containing the compounds, and results in needless expenditures of funds by industry and Government for expensive monitoring, analysis, and reporting.

In support of its assertion that haloaromatic ethers do not meet EPA criteria for listing under section 307(a), Dow made the following assertions: (1) With the exception of bromophenylphenyl ether, haloaromatic ethers have not been reported in point source effluents, in aquatic environments, in fish, in drinking water, or anywhere else in the environment. (2) Haloaromatic ethers are not manufactured or sold in significant quantities in the U.S. (3) Haloaromatic ethers are not expected to be persistent in the



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aquatic environment because they tend to volatilize from water and will be attacked by hydroxyl radicals in the atmosphere and be degraded. (4) One member of this group of compounds, chlorophenylphenyl ether, has been reported to be rapidly biodegraded in aquatic environments. (5) No evidence has been cited for the carcinogenicity, teratogenicity, or mutagenicity of haloaromatic ethers. In support of its petition, Dow Chemical submitted two references: Branson, D. R. 1977, "A new capacitor fluid—a case study in product stewardship," pages 44-61 in F. L. Mayer and J. L. Hamelink, eds., *Aquatic Toxicology and Hazard Evaluation*, ASTM STB 634, Am. Soc. Testing Mater.; and Branson, D. R., et al., "Butylated monochlorodiphenyl oxide: toxicity and tissue concentrations in rats from a subchronic study," paper No. 60 presented to Soc. Toxicol., March 12-16, 1978, San Francisco, Calif. (Manuscript). Copies are available at the address listed above.

## BACKGROUND

The Clean Water Act of 1977 (the Act) directed the Administrator to publish as toxic pollutants those substances listed in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives. The list of these substances was published pursuant to section 307(a) on January 31, 1978 (43 FR 4109). The list contained as item 37, "Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis-(dichloroisopropyl) ether, bis-(chloroethoxyl) methane and polychlorinated diphenyl ethers)."

The Act also authorizes the Administrator to add to or remove from such list any pollutant. In revising the toxic pollutant list, the Administrator is directed to take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the pollutant on such organisms. It is not necessary that a pollutant meet any particular criteria within these categories in order to be listed under sec. 307. The legislative history of the Clean Water Act of 1977 indicates Congress, clear intent that the Administrator have "the widest latitude" in designating pollutants as toxic and that "no pollutant listed in House Report 95-30 should be deleted without a clear finding that delisting will not compromise adequate control over the discharge of toxic pollutants (Cong. Rec. daily ed. S. 19649)." Thus, for instance, a pollutant which demonstrates high acute

toxicity but low persistence may be listed under sec. 307, or conversely, a pollutant with low acute toxicity but high persistence may be so listed.

The compounds on the list of 65 were themselves chosen on the basis of different sets of criteria. These criteria are described in Committee Print Number 95-32, Hearings before the Subcommittee on Investigations and Review of the Committee on Public Works and Transportation, U.S. House of Representatives, pages 399-405. Each of the 65 toxic pollutants were classified in one of three priority lists based upon three sets of overlapping criteria. The criteria described in the Committee Print Number 95-32 for the first two priority lists are:

"Priority List I contains those chemicals for which human exposure via the water route gives rise to the greatest concern. This list contains some 29 substances and/or generic categories. Essentially chemicals on the Priority List Number I satisfy the following criteria:

1. There is known occurrence of these compounds in point source effluents, in aquatic environments, in fish, and/or drinking water.

2. There is substantial evidence of carcinogenicity, mutagenicity, and/or teratogenicity in human epidemiological studies or in animal bioassay systems.

3. There is also a likelihood that point source effluents contribute substantially to human hazards, at least locally.

Priority List II contains 18 compounds and/or generic categories. These 18 satisfy the same first criteria as those on Priority List I, i.e., there is known occurrence in point source effluents in aquatic environments, in fish, and/or drinking water. However, the evidence with respect to the toxic-

ity of these compounds differs from Priority List I. In some cases the evidence for substantial release in effluents and likely exposure of humans and aquatic organisms. These other toxic effects primarily refer to toxicity to aquatic organisms."

Haloethers are found on priority list II.

## TOXICITY

Dow Chemical states in its petition that the aromatic haloethers do not meet EPA's toxicity criteria for listing chemicals under Sec. 307. The following information based on data which was submitted by the Dow Chemical Co. and available to EPA in the literature refutes this assertion and indicates that aromatic haloethers are toxic both to aquatic life and to humans and non-human mammals.

Table I summarizes aquatic species toxicity data currently available to the Agency for aromatic haloethers.

Dence of carcinogenicity is based primarily upon structural similarity to compounds in List I or upon mutagenic activity in bacterial screening systems, in the absence of adequate confirmation in mammalian systems. In other cases, the testing has given some evidence regarding the carcinogenicity, mutagenicity, or teratogenicity, but these results presently appear to be incomplete or equivocal. Also, for these compounds the possibility of significant human exposure attributable to the point source effluent is judged to be less than that for compounds in List I. This judgment could be based on a relatively small volume of effluents, or relatively low propensity to persist in water or accumulate in organisms. In addition, several compounds included in List II are included on the basis of serious toxic effects other than carcinogenicity, mutagenicity, or teratogenicity, combined

TABLE 1.—Summary of Toxicity Data for Aromatic Haloethers

|                                     | Static 96<br>hour LC50<br>bluegill <sup>a</sup><br>mg/l | Static 96<br>hour LC50<br>fathead<br>minnow <sup>b</sup><br>mg/l | Flow-<br>through<br>threshold<br>hour LC50<br>fathead<br>minnow <sup>c</sup><br>mg/l | Flow-<br>through<br>chronic<br>MATC<br>fathead<br>minnow <sup>d</sup><br>mg/l | Static 48<br>hour LC50<br>water flea <sup>e</sup><br>mg/l |
|-------------------------------------|---|--|--|---|---|
| 4-bromophenyl phenyl ether          | 4.94  |  |  | 0.122   | 0.36  |
| BCDO dielectric fluid <sup>f</sup>  |   | 15.4   | 1.81   |   | 0.24  |
| CIDPO <sup>g</sup>                  |   | 1.75   | 0.090  |   | 0.39  |
| (C <sub>1</sub> )CIDPO <sup>h</sup> |   |  |  |   | 0.32  |

<sup>a</sup>*Lepomis macrochirus*.

<sup>b</sup>*Pimephales promelas*.

<sup>c</sup>*Daphnia magna*.

<sup>d</sup>Typically contains 18.6 percent, 57.0 percent, 21.6 percent, and 2.6 percent of non-, mono-, di-, and tri-butylated monochlorodiphenyl oxides, respectively.

<sup>e</sup>100 percent nonbutylated monochlorodiphenyl oxide.

<sup>f</sup>Contains only mono-, di-, and tributylated monochlorodiphenyl oxides in the same ratio as for BCDO dielectric fluid. Complete absence of CIDPO.

<sup>g</sup>U.S. EPA, 1978.

<sup>h</sup>Alexander, et al., 1976a.

<sup>i</sup>Alexander et al., 1976b.

<sup>j</sup>Bailey, 1976.

Aromatic haloethers demonstrate acute and chronic toxicity to both non-human mammals and humans. Hake and Rowe (1963) in single-dose oral studies administered monochloro-through hexachlorodiphenyl oxides to guinea pigs via intubation. The results summarized in Table 2 show a marked delayed effect and greater toxicity in those compounds containing four or more substituted chlorine atoms. Hake

and Rowe (1963) also administered multiple, oral doses of these compounds to rabbits by intubation five times per week for 4 weeks unless death occurred. The results obtained with the various chlorinated phenyl ethers are summarized in Table 3. Again more highly chlorinated compounds appear to be more toxic in this series.

TABLE 2.—Chlorinated Phenyl Ethers Summary of Single-Dose Oral Feeding Studies on Guinea Pigs

| Material | After 4 days           |                              | After 30 days          |                              |
|----------|------------------------|------------------------------|------------------------|------------------------------|
|          | Lethal dose<br>(mg/kg) | Survival<br>dose (mg/<br>kg) | Lethal dose<br>(mg/kg) | Survival<br>dose (mg/<br>kg) |
| 1 x Cl   | 700                    | 200                          | 600                    | 100                          |
| 2 x Cl   | 1,300                  | 400                          | 1,000                  | 50                           |
| 3 x Cl   | 2,200                  | 400                          | 1,200                  | 200                          |
| 4 x Cl   | 3,000                  | 400                          | 50                     | 0.5                          |
| 5 x Cl   | 3,400                  | 1,800                        | 100                    | 5                            |
| 6 x Cl   | 3,600                  | 400                          | 50                     | 5                            |

(Hake and Rowe, 1963).

TABLE 3.—Chlorinated Phenyl Ethers Results of Repeated Oral Feeding of Rabbits

| Material                             | Dose (mg/<br>kg) | No. of<br>doses | No. of<br>days | Effect                            |
|--------------------------------------|------------------|-----------------|----------------|-----------------------------------|
| 1 x Cl                               | 100              | 19              | 29             | None.                             |
| 2 x Cl                               | 100              | 19              | 29             | Mild liver injury.                |
| 3 x Cl                               | 100              | 5               | 12             | Death.                            |
|                                      | 50               | 20              | 29             | Slight liver injury.              |
|                                      | 10               | 20              | 29             | No effect.                        |
| 4 x Cl                               | 50               | 4               | 10             | Death.                            |
|                                      | 5                | 20              | 29             | Severe liver injury.              |
| 5 x Cl                               | 50               | 8               | 21             | Death.                            |
| Pentachlorophenyl ether <sup>a</sup> | 100              | 20              | 29             | Moderate liver injury. No growth. |
|                                      | 10               | 20              | 29             | Slight liver injury.              |
|                                      | 1                | 20              | 29             | No effect.                        |
|                                      | 5                | 8               | 10             | Death.                            |
| 6 x Cl                               | 1                | 20              | 28             | Severe liver injury.              |
|                                      | 0.1              | 20              | 28             | No effect.                        |

<sup>a</sup>Highly purified pentachlorophenyl ether.  
(Hake & Rowe, 1963).

At least one aromatic haloether has been shown to be fetotoxic to non-human mammals. Kimbrough (1973) demonstrated the embryocidal properties of 2,4-dichloro-4'-nitrophenyl ether in the rat. Pregnant female rats on days 7 through 15 of gestation were fed the compound at 50 mg per kg of body weight per day. The treated animals produced 10 litters with an average of 2.2 live and 7.3 dead pups per litter at birth. The untreated control group produced 11 litters with an average of 12.7 live and zero dead pups per litter at birth.

Ambrose, et al (1971) fed male and female Wistar albino rats a diet containing 1,000 mg/kg of 2,4-dichlorophenyl-4'-nitrophenyl ether for 11 weeks, after which the treated rats were interbred. The reported overall incidence of stillborns in the litters from these treated rats was 80 percent as compared to 1 percent in the control groups.

Although experience with human subjects has not been extensive, it has

been reported that topical exposure to even small amounts of hexachlorophenyl ether may result in appreciable acneiform dermatitis (Hake and Rowe, 1963).

## PERSISTENCE AND DEGRADABILITY

Dow Chemical stated that haloaromatic ethers are not expected to be persistent in the aquatic environment because, among other reasons, they tend to volatilize from water. The following data refute this allegation and indeed suggest that haloaromatic ethers may be highly persistent in the aquatic environment.

Hake and Rowe (1963) determined the vapor pressure at 25 degrees C for CIDPO and dichlorodiphenyl oxide (Cl<sub>2</sub>DPO) to be 7×10<sup>-3</sup> mm Hg and 6×10<sup>-4</sup> mm Hg, respectively. Branson (1977) determined a similar value of 2.7×10<sup>-3</sup> mm Hg at 25 degrees C for CIDPO and vapor pressures of 1.1×10<sup>-4</sup> mm Hg and 4.2×10<sup>-6</sup> mm Hg at 25 degrees C for monobutylated-(C<sub>1</sub>)CIDPO and dibutylated monochlorodiphenyl oxides ((C<sub>1</sub>), CIDPO), respectively.

These vapor pressure values are comparable to, or less than, the vapor pressures of such highly persistent pollutants as chlordane, toxaphene, heptachlor, and lindane.

Branson (1977) determined water solubilities of 3.3 mg/l and 0.14 mg/l for CIDPO and (C<sub>1</sub>) CIDPO, respectively. These water solubility values are comparable to or greater than the water solubilities of such highly persistent pollutants as chlordane, endosulfan, toxaphene, heptachlor, DDT, tetrachlorodibenzo-p-dioxin (TCDD), endrin, and dieldrin.

The equal or lower vapor pressures and equal or higher water solubilities of many of the aromatic haloethers, as compared to those of TCDD and the pesticides previously mentioned, would result in an equal or lower air to water ratio (Henry's constant) in the case of the aromatic haloethers. These physical properties suggest that aromatic haloethers should persist in water in a manner similar to other pollutants such as chlordane, endosulfan, toxaphene, heptachlor, DDT, lindane, TCDD, endrin, and dieldrin, which are known to be highly persistent in the aquatic environment.

The petition stated further that one of the aromatic haloethers, CIDPO, is biodegraded in aquatic environments as reported by Bailey and Ambrose (1978). However, the same study indicates that degradation of two other aromatic haloethers occurred much less rapidly. Biodegradation rates of (C<sub>1</sub>) CIDPO and (C<sub>2</sub>) CIDPO were 1/30th and 1/400th respectively, that of CIDPO. Biodegradation is a function of the presence of organisms capable of metabolizing the pollutant, temperature, presence of nutrients, and the chemical characteristics of the pollutant. Furthermore, biodegradation does not necessarily mean that the environmental pollutional load is lessened. Some degradation products are persistent and may be more harmful than the original pollutant.

The test presented in support of the petition measures the rate of <sup>14</sup>CO<sub>2</sub> formation from ring-labelled <sup>14</sup>C-compounds by activated sludge and is not a definitive method for determining relief of environmental pollution load. In the test submitted by the petitioner, no degradation intermediates were isolated, chemical structures determined, or biological properties assessed. Therefore, the extent of molecular degradation and potential toxicity of intermediate chemical species are not known. Finally, no data appear to be available regarding the biodegradability of brominated or more heavily chlorinated aromatic ethers.

Dow also submitted a study showing that chlorinated dibenzofurans and chlorinated dibenzodioxins were not present in BCDO dielectric fluid before use in capacitors when this fluid was examined by gas chromatography.



graphy and mass spectrometry (Branson, 1977). However, these dibenzofurans and dibenzodioxins are formed in PCB's when PCB's are used in capacitors or exposed to the environment. Since the Branson study was conducted on BCDO before use or exposure, it cannot be read to demonstrate that the potentially toxic chlorinated dibenzofurans and dibenzodioxins will not form during use or exposure.

Although the bioconcentration factors in trout muscle reported for C1DPO and (C<sub>1</sub>) C1DPO of 736 and 298, respectively (Blanchard, et al. 1976), are lower than the bioconcentration factor of 9,550 for 2,2',4,4'-tetrachlorobiphenyl, a PCB isomer, in trout muscle (Branson, et al. 1975), the former two figures indicate a significant environmental bioconcentration potential for the two aromatic haloethers. Moreover, data on a single tissue type from one aquatic vertebrate species is inadequate to demonstrate low bioconcentration potential. Bioconcentration data must be obtained in various tissues from several freshwater and marine species before a determination of insignificant bioconcentration potential can be made.

#### USUAL AND POTENTIAL PRESENCE OF THE COMPOUNDS IN WATER

Dow Chemical stated that, "With the exception of bromophenyl phenyl ether, none of the documents cited by the EPA publication entitled 'The Process of Selection and Prioritization of Toxic Pollutants in Point Source Water Effluent Discharge' indicates that haloaromatic ethers have been found in point source effluents, in aquatic environments, in fish, in drinking water, or anywhere else in the environment. Accordingly, under this criterion there is no basis for the haloaromatic ethers being on the list." The observation that aromatic haloethers have not been found extensively in U.S. waters or effluents does not demonstrate that these compounds are not present in the aquatic environment.

In 1977, the contents of a waste pit in Missouri (Kloepfer, 1977) was shown to contain 86,000 ppm (w/w) of a mixture of three bromophenylchlorophenyl ethers with the 4-bromophenyl-3'-chlorophenyl isomer predominating. In addition, environmental contamination due to the bromochloro ether from the waste pit was determined in soils, sediments, and biota surrounding and adjacent to the pit.

Aromatic haloethers have not been widely used since the early 1960's when PCB's became the fluid of choice in electrical capacitors and transformers. Their limited use has only recently been resumed after the adverse environmental effects of PCB's became known.

Since haloaromatic ethers have not been in wide use recently, it is possible that limited monitoring and sampling

programs have simply not yet detected their presence in more than one or two instances.

Another factor which may have affected the detection of haloaromatic ethers in the environment is the strong affinity of these compounds for sediments. It has been reported that the butylated monochlorodiphenyl oxides have an even greater affinity for aqueous sediments than does 2,5,2'-PCB. Branson (1977) determined sediment to water ratios of 4:1, 40:1, 80:1, and 30:1 for C1DPO, (C<sub>1</sub>)C1DPO, (C<sub>2</sub>)C1DPO, and 2,5,2'-PCB, respectively. This marked affinity of the butylated compounds for bottom sediment suggests a potential exposure problem for benthic organisms in the aquatic environment.

Finally, since it is the evident intent of the petitioner to consider increased marketing for some of the aromatic haloethers in the future, the potential for increased future discharges exists.

#### OTHER CONSIDERATIONS

The petition states that leaving aromatic haloethers on the list dilutes the Agency's efforts and diverts attention from more serious environmental issues, introduces unwarranted barriers to the introduction of new products containing the compounds, and results in needless expenditures of funds by industry and Government for expensive monitoring, analysis, and reporting.

Listing chemicals under section 307(a) does not preclude a company from producing, marketing, and selling a product. The purpose of the section 307 list of toxic pollutants is to focus attention on the potential environmental harm which might result if such pollutants are discharged to the aquatic environment and to control such harmful discharges through the development and implementation of appropriate effluent limitations. Since haloaromatic ethers are on the § 307(a) toxic pollutant list, they may be subject to effluent limitations sooner than if they were nonconventional pollutants, and they are not eligible for waivers on water quality or economic grounds. However, haloaromatic ethers would be subject to BAT whether they are classified as toxic or nonconventional pollutants.

In summary, the broad class of compounds, aromatic haloethers, has several members that are acutely toxic to important aquatic organisms such as the bluegill, the fathead minnow, and the water flea found in United States waters. Members of this class also demonstrate both acute and chronic toxicity to several mammalian species. Higher chlorinated compounds are toxic to humans via topical exposure (Hake and Rowe, 1963). The physical and chemical properties of these compounds strongly suggest their persistence in the aquatic environment.

Available biodegradation data do not refute this conclusion. Preliminary studies with the aromatic haloethers show bioconcentration potential in fish although the values are lower than those observed for the PCB's (Branson, et al. 1975).

Available bioconcentration data do not demonstrate an insignificant bioconcentration potential.

Finally, additional monitoring must be performed to determine the presence or absence of aromatic haloethers in the water column and in sediments. Based on the physical, chemical, and biological properties of the aromatic haloethers discussed in this report, it is proposed that the class of aromatic haloether compounds should remain on the toxic substances list under the general classification of haloethers.

#### REFERENCES

- Alexander, H. C., et al. 1976a. The toxicity of alkyl chlorodiphenyl oxides and AROClOR 1018 to fish. Dow Chemical Co. Unpublished report.
- Alexander, H. C., et al. 1976b. The toxicity of butylated monochlorodiphenyl oxides to fathead minnows from continuous exposure. Dow Chemical Co. Unpublished report.
- Ambrose, A. M., et al. 1971. Toxicologic studies on 2,4-dichlorophenyl-p-nitrophenyl ether. Toxicol. Appl. Pharmacol. 19:263.
- Bailey, R. E. 1976. Toxicity of XFS-4169L and components to *Daphnia magna*. Dow Chemical Co. Unpublished report.
- Bailey, R. E., and K. I. Ambrose. 1976. Biodegradation of 14C-butylated monochlorodiphenyl oxides by activated sludge. Dow Chemical Co. Unpublished report.
- Blanchard, F. A., et al. 1976. Uptake, clearance and bioconcentration of 14-C-p-chlorodiphenyl oxide in rainbow trout. Dow Chemical Co. Unpublished report.
- Branson, D. R. 1977. A new capacitor fluid—a case study in product stewardship. Pages 44-61 in F. L. Mayer and J. L. Hamelink, eds. Aquatic Toxicology and Hazard Evaluation. ASTM STP 634. Am. Soc. Testing Matter.
- Branson, D. R., et al. 1975. Bioconcentration of 2,2',4,4'-tetrachlorobiphenyl in rainbow trout as measured by an accelerated test. Trans. Am. Fish. Soc. 104:785.
- Branson, D. R. et al. 1978. Butylated monochlorodiphenyl oxide: Toxicity and tissue concentrations in rats from a subchronic study. Paper No. 60 presented to Soc. Toxicol. March 12-16, 1978. San Francisco, California (Manuscript).
- Hake, C. L., and V. K. Rowe. 1963. Chlorinated phenyl ethers. In Industrial Hygiene and Toxicology. 2nd rev. ed. II. Toxicology. Interscience Publishers, New York.
- Kimbrough, R. D., et al. 1973. The effect of 2,4-dichlorophenyl-p-nitrophenyl ether on the rat fetus. Toxicol. Appl. Pharmacol. 25:456.
- Kloepfer, R. D. 1977. Contamination of waste oil by industrial chemicals. U.S. Environ. Prot. Agency. Region VII.
- U. S. Environmental Protection Agency. 1978. In-depth studies on health and environmental impacts of selected water pollutants. EPA Contract No. 68-01-4646. Washington, D.C.

Comments from the public including the scientific and industrial communities are invited on this notice. Com-

ments and views regarding this request for action may be filed within 60 days from the date of this notice. Such comments should be addressed to Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, OWWM, Environmental Protection Agency, 401 M. Street, S.W., Washington, D.C. 20460.

Dated: March 20, 1979.

DOUGLAS M. COSTLE,  
Administrator.

(FR Doc. 79-9110 Filed 3-26-79; 8:45 am)

[6560-01-M]

#### ENVIRONMENTAL PROTECTION AGENCY

(FRL 1083-4; OPP-180172H)

#### MISSISSIPPI AUTHORITY FOR THE CONTROL OF FIRE ANTS

Emergency Exemption for Use of Ferriamicide To Control Fire Ants in Mississippi; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Emergency exemption to use Ferriamicide in Mississippi; extension of deadline for submission of comments.

SUMMARY: On March 13, 1979, EPA announced that it would accept further public comment on new information it had received concerning the toxicology of photomirex, a degradation product of ferriamicide. The deadline for submission of comments was March 23, 1979 (44 FR 14633 (March 13, 1979)). This deadline is hereby extended to March 28, 1979.

DATE: Comments are due by March 28, 1979.

ADDRESS: Send comments to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401 East Tower, 401 M Street, S.W., Washington, D.C. 20460.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Timothy A. Gardner, Product Manager 15 (PM-15), Registration Division (TS-767), Office of Pesticide Programs, EPA, Room 229 East Tower, at the above address. Telephone: 202-426-9426.

SUPPLEMENTARY INFORMATION: See 44 FR 14633 (March 13, 1979), and the references cited in that notice.

Dated: March 22, 1979.

JAMES M. CONLON,  
Associate Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 79-9313 Filed 3-26-79; 8:45 am)

[6712-01-M]

#### FEDERAL COMMUNICATIONS COMMISSION

(PR Docket No. 79-48, 79-49, and 79-50)

WILLIAM M. ROGERS

Order to Show Cause, Suspension Order, and Designation Order; Designating Application for Hearing on Stated Issues

Adopted: March 20, 1979.

Released: March 23, 1979.

In the matters of revocation of license of William M. Rogers, 2329 N.W. 35th, Oklahoma City, Oklahoma 73112, licensee of station WD5FPO in the amateur radio service (PR Docket No. 79-48); Suspension of license William M. Rogers, 2329 N.W. 35th, Oklahoma City, Oklahoma 73112, amateur technician class operator licensee (PR Docket No. 79-49); Application of William M. Rogers, 2329 N.W. 35th, Oklahoma City, Oklahoma 73112 (PR Docket No. 79-49); for an Amateur General Class Operator License (PR Docket No. 79-50).

The Chief, Private Radio Bureau, has under consideration the license for Amateur radio station WD5FPO and the Amateur Technician Class operator license of William M. Rogers. The licenses were granted on May 30, 1978, for five year terms. Also under consideration is Rogers' application dated September 19, 1978, for an Amateur General Class operator license. Until May 13, 1978, Rogers was also the holder of Citizens Band radio station license KIX-8287 which was granted on February 11, 1975, for a five year term.<sup>1</sup>

1. On December 6, 1975, Citizens Band Radio Station KIX-8287 was operated in violation of the following rule sections: 95.37(c) (overheight antenna), 95.41(d) (authorized frequencies), and 95.95(c) (identification requirements). On January 14, 1976, an Official Notice of Violation/Notice of Apparent Liability in the amount of \$150 was issued to Rogers for those violations. Rogers paid the forfeiture, and thus is deemed to have admitted the violations.

2. Information before the Commission indicates that on March 31, 1978, Rogers' station made radio transmissions on the frequency 27.625 MHz. That frequency is assigned for use by United States Government stations. Rogers did not possess a license authorizing the use of that frequency. Thus, the operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended. Moreover, if the apparent operation was

<sup>1</sup>The license for CB radio station KIX-8287 was granted to William M. Rogers, sole proprietor of North May Champlin. That license was cancelled on May 31, 1978, pursuant to Rogers' request.

under the color of authority of Rogers amateur radio license WD5FPO, the operation was in violation of the following amateur radio service rules: §§ 97.7(e) (authorized emission type), 97.7(e) and 97.61(a) (authorized frequencies), and 97.87(e) (identification requirements). If the apparent operation was under the color of authority of Rogers CB license KIX-8287, it was in violation of the following CB rules: 95.455(a) (authorized frequencies), 95.469(b) (time limits on communications), and 95.471(c) (identification requirements).<sup>2</sup>

3. The conduct described above calls into question Rogers' qualifications to retain his amateur license or to receive a higher class amateur operator's license. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked for willful violation of the Communications Act or of the Commission's Rules. Section 303(m)(1)(A) of the Communications Act provides that an operator's license may be suspended for willful violation of the Communications Act or of the Commission's Rules. Accordingly, it is ordered that Rogers show cause why the license for WD5FPO should not be revoked and that the Technician Class operator's license of Rogers is suspended for the remainder of the license term. The suspension will be held in abeyance if Rogers request a hearing or submits a written statement for consideration.<sup>3</sup>

4. It is further ordered, That if Rogers wants a hearing on the revocation, suspension, and/or application matters, he must file a written request for a hearing within 30 days.<sup>4</sup> If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent order.

5. It is further ordered, That if Rogers waives his right to a hearing on the suspension matter and does not submit a statement, the suspension will take effect 30 days after Rogers receives this order.<sup>5</sup> If Rogers waives

<sup>2</sup>Part 95 of the Commission's Rules has been revised and renumbered. The rules cited herein are those in effect on the pertinent date.

<sup>3</sup>The apparent operation of March 31, 1978 was the subject of two Official Notices of Violation mailed to Rogers on April 24, 1978 (one pertaining to WD5FPO and the other pertaining to KIX-8287).

<sup>4</sup>Any contrary provisions of § 1.85 of the Rules are waived.

<sup>5</sup>Any contrary provisions of §§ 1.85 and 1.221(c) of the Rules are waived.

<sup>6</sup>The attached form should be used to request or waive hearing. It should be mailed to the Federal Communications Commission, Washington, D.C., 20554.

<sup>7</sup>If Rogers waives hearing and does not submit a statement on the suspension matter, he must submit his license to the commission within 30 days to be retained during the suspension period.



his right to a hearing and submits a written statement, the suspension matter will be certified to the Commission for administrative disposition.<sup>7</sup> If Rogers waives his right to a hearing on the revocation matter, it will be certified to the Commission for administrative disposition pursuant to § 1.92(c) of the Rules.

6. It is further ordered, That pursuant to Section 309(e) of the Communications Act and §§ 1.973(b) and 0.331 of the Rules, Roger's application to upgrade to General Class is designated for hearing on the issues specified, below.

7. It is further ordered, That the matters in this proceeding will be resolved upon the following issues:

(a) To determine the effect of the December 6, 1975 violations of §§ 95.37(c), 95.41(d), and 95.95(c) on William M. Rogers' qualifications to remain a Commission licensee.

(b) To determine whether the transmissions on March 31, 1978, were in violation of Section 301 of the Communications Act of 1934, as amended, or §§ 95.455(a), 95.469(b), 95.471(c), 97.7(e), 97.61(a), and/or 97.87(e) of the Commission's Rules.

(c) To determine whether William M. Rogers has the requisite qualifications to remain a Commission licensee.

(d) To determine whether the suspension order should be affirmed, modified, or dismissed.

(e) To determine whether grant of the application would serve the public interest, convenience, and necessity.

8. It is further ordered, That pursuant to § 1.227 of the Rules, the revocation, suspension, and application proceedings are consolidated for hearing.

9. It is further ordered, That copies of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record (shown in the caption).

GERALD M. ZUCKERMAN,  
Chief, Compliance Division.

[FR Doc. 79-9138 Filed 3-26-79; 8:45 am]

#### [6712-01-M]

##### TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: March 16, 1979.

Released: March 20, 1979.

By the Chief, Broadcast Facilities Division.

Notice is hereby given, pursuant to § 1.572(c) of the Commission's Rules, that on May 8, 1979, the TV broadcast applications listed below will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's Rules, an

<sup>7</sup> Any contrary provisions of § 1.85 of the Rules are waived.

application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on May 7, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on May 7, 1979.

Any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to § 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(l) of the Rules which specifies the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

BPCT-5151 (New), Richmond, Virginia, Neighborhood Communications Corporation, Channel 35. ERP: Vis.: 1589 kW, HAAT: 741 ft.

BPCT-7807201A (New), Somerset, Kentucky, TV 8, Inc., Channel 16. ERP: Vis.: 390 kW, HAAT: 413 ft.

BPCT-780920KE (New), Eugene, Oregon, Sterling Recreation Organization Co., Channel 16. ERP: Vis.: 1267.65 kW, HAAT: 931 ft.

BPCT-781023KE (New), Sandusky, Ohio, Christian Faith Broadcasting, Inc., Channel 51. ERP: Vis.: 93.05 kW, HAAT: 324 ft.

BPCT-781030KF (New), Evansville, Indiana, Channel 44, Inc., Channel 44. ERP: Vis.: 249 kW, HAAT: 405 ft.

BPCT-781220LD (KMXN-TV), Albuquerque, New Mexico, Spanish Television of New Mexico, Inc., Channel 23. Change transmitter location; Change antenna: Change ERP Vis. to 1950 kW; and Change HAAT to 4206 ft.

BPCT-781221LG (KSHO-TV), Las Vegas, Nevada, Channel 13 of Las Vegas, Inc., Channel 13. Change transmitter location; Change studio location; Change antenna: Change ERP Vis. to 316 kW; Change HAAT to 1099 ft.

BPCT-781222LC (New), Greensboro, North Carolina, American Telecasters, Inc., Channel 48. ERP: Vis.: 1099 kW, HAAT: 1695 ft.

BPCT-790104LD (New), Stockton, California, Family Stations, Inc., Channel 64. ERP: Vis.: 1063 kW, HAAT: 2765 ft.

BPCT-790118LC (New), Ashland, Kentucky, Tri-State Family Television, Inc., Channel 61. ERP: Vis.: 802 kW, HAAT: 407 ft.

[FR Doc. 79-9139 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### FEDERAL RESERVE SYSTEM

##### ALABAMA BANCORPORATION

##### Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per-

cent of the voting shares of the successor by merger to Citizens National Bank of Limestone County, Athens, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 20, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
[FR Doc. 79-9160 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### BANK HOLDING COMPANIES

##### Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank

indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 18, 1979.

A. Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, Virginia 23261:

SOUTH CAROLINA NATIONAL CORPORATION, Columbia, South Carolina (finance and insurance activities; South Carolina): to engage, through its subsidiary, Provident Finance Company of South Carolina, Inc., in making or acquiring loans and other extensions of credit, such as would be made by a consumer finance company; and offering life, accident and health, and property insurance directly related to its extensions of credit. These activities would be conducted from an office in Laurens, South Carolina, and the geographic area to be served is Laurens County, South Carolina.

B. Federal Reserve Bank of Dallas, 400 South Akard Street, Dallas, Texas 75222:

TEXAS COMMERCE BANKSHARES, INC., Houston, Texas (leasing activities; national): to engage, through its subsidiary, Texas Commerce Leasing Company, in leasing real property in accordance with the Board's Regulation Y. These activities would be conducted from offices in Houston, Texas, and the geographic area to be served is national, with an emphasis on Gulf Coast and Southwest leasing.

C. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

1. CROCKER NATIONAL CORPORATION, San Francisco, California (mortgage banking activities; California, Georgia): to engage through its subsidiary, Crocker Mortgage Company, Inc., in originating mortgages on single- and multi-family and commercial nonresidential properties; selling the mortgages to permanent investors; servicing the loans; and assisting developers and builders in obtaining construction loans and other types of development loans. These activities would be conducted from offices in Los Angeles, San Francisco, and Santa Ana, California, and Atlanta, Georgia, and the geographic areas to be served are California and Georgia.

2. RAINIER BANCORPORATION, Seattle, Washington (finance and insurance activities; Alaska): to engage, through its subsidiary, Coast Mortgage Co., in making or acquiring loans and other extensions of credit; and acting as agent or broker with regard to insurance directly related to its extensions of credit in the following cat-

egories: mortgage redemption insurance in the form of credit life and disability insurance; property and casualty insurance on real and personal property, including homeowners, fire and extended coverage, liability, builder's course-of-construction, builder-borrower, and loss of rent insurance; and performance bonds. These activities would be conducted from an office in Fairbanks, Alaska, and the geographic area to be served is within a 30-mile radius of that city.

D. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, March 20, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
[FR Doc. 79-9161 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### BANK HOLDING COMPANIES

##### Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 19, 1979.

A. Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, Virginia 23261:

SOUTH CAROLINA NATIONAL CORPORATION, Columbia, South Carolina (finance and insurance activities; South Carolina): to engage, through its subsidiary, Provident Finance Company of South Carolina, Inc., in making or acquiring loans and other extensions of credit such as would be made by a consumer finance company; and offering life, accident and health, and property insurance directly related to its extensions of credit. These activities would be conducted from an office in West Columbia, South Carolina, and the geographic area to be served is Lexington County, South Carolina.

B. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

1. BANKAMERICA CORPORATION, San Francisco, California (finance and insurance activities; California): to engage through its subsidiary, FinanceAmerica VIP Service Corporation, in making or acquiring loans and other extensions of credit such as would be made or acquired by a finance company, including making consumer installment loans by mail and making loans secured by personal property; servicing loans and other extensions of credit; and offering life and accident and disability insurance directly related to its extensions of credit. These activities would be conducted from an office in Santa Ana, California, and the geographic area to be served is California.

2. SECURITY PACIFIC CORPORATION, Los Angeles, California (escrow activities; Washington): to engage, through its subsidiary, Security Pacific Escrow, Inc., in acting as escrow agent for the purchase and sale of real property and the execution of all documents and dispersal of funds relating to loan transactions, and all other activities engaged in by an escrow company. These activities would be conducted from an office in Bellevue, Washington, and the geographic area to be served is Washington.

3. SECURITY PACIFIC CORPORATION, Los Angeles, California (escrow activities; Washington): to engage in the activities described in the preceding paragraph through the subsidiary there identified from an office in Mountlake Terrace, Washington. The geographic area to be served is Washington.

4. SECURITY PACIFIC CORPORATION, Los Angeles, California (escrow activities; Washington): to engage in the activities described in the two preceding paragraphs through the subsidiary there identified from an office in Spokane, Washington. The



geographic area to be served is Washington.

5. SECURITY PACIFIC CORPORATION, Los Angeles, California (finance and insurance activities; California): to engage, through its subsidiary, The Bankers Investment Company, in making or acquiring loans and other extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or consumer finance company; and acting as broker or agent for the sale of life, accident and health, and property and casualty insurance directly related to its extensions of credit. These activities would be conducted from an office in Pasadena, California, and the geographic area to be served is California.

6. SEILON, INC., Toledo, Ohio, and NEVADA NATIONAL BANCORPORATION, Reno, Nevada (finance and leasing activities; California): to engage, through their subsidiary, Nevada National Leasing Company, Inc., in financing personal property and equipment and leasing such property or acting as agent, broker, or advisor in the leasing or financing of such property in accordance with the Board's Regulation Y; and making or acquiring loans and other extensions of credit in the normal course of its leasing business, including making business installment loans, purchasing business installment sales finance contracts, and making loans to businesses of various sizes. These activities would be conducted from an office in Sacramento, California, and the geographic area to be served is from Sacramento south to Fresno, north to Redding, west to Oakland, and east to Auburn, California.

C. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, March 21, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
[FR Doc. 79-9162 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### CANEYVILLE BANCSHARES, INC.

Formation of Bank Holding Co.; Correction

In FR Doc. 79-7657 appearing at page 15538 of the issue for Wednesday, March 14, 1979, the final date for receipt of comments should read April 6, 1979.

Board of Governors of the Federal Reserve System, March 20, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
[FR Doc. 79-9159 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### COMMERCIAL BANCSHARES, INC.

Formation of Bank Holding Co.

Commercial Bancshares, Inc., Texarkana, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82 percent or more of the voting shares of Commercial National Bank, Texarkana, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 21, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary of the Board.  
[FR Doc. 79-9163 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### DSP INVESTMENTS, LIMITED

Formation of Bank Holding Co.

DSP Investments, Limited, La Cygne, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Linn County Bank, La Cygne, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 20, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9164 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### MANUFACTURERS HANOVER CORP.

Proposed Acquisition of Merchants Industrial Bank and Merchants Acceptance Co.

Manufacturers Hanover Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Merchants Industrial Bank ("MIB") and Merchants Acceptance Company ("MAC"), both of Denver, Colorado.

Applicant states that MAC would engage in the following activities:

Making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a consumer finance company and making or acquiring commercial loans; making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a sales finance company including purchasing installment sales finance contracts; acting as agent or broker for the sale of credit life insurance and credit accident and health insurance directly related to extensions of credit made by Merchants Acceptance Company; and acting as agent or broker for the sale of property damage and liability insurance insuring collateral securing loans and other extensions of credit made by Merchants Acceptance Company or securing sales finance contracts entered into directly by Merchants Acceptance Company or securing loans and other extensions of credit (including sales finance contracts) acquired by Merchants Acceptance Company in transactions that are the equivalent of direct extensions of credit by Merchants Acceptance Company.

Applicant states that MIB would engage in the following activities:

Making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by an industrial bank in accordance with the laws of the State of Colorado, including consumer and commercial loans; making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a sales finance company including purchasing installment sales finance contracts; accepting passbook savings deposits and offering thrift certificates as permitted industrial banks under the laws of the State of Colorado; acting as agent or broker for the sale of credit life insurance and credit accident and health insurance directly related to extensions of credit made by Merchants Industrial Bank; and acting as agent or broker for the sale of property damage and liability insurance insuring collateral secur-

ing loans and other extensions of credit made by Merchants Industrial Bank or securing sales finance contracts entered into directly by Merchants Industrial Bank or securing loans and other extensions of credit (including sales finance contracts) acquired by Merchants Industrial Bank in transactions that are the equivalent of direct extensions of credit by Merchants Industrial Bank.

These activities would be performed from offices of Applicant's subsidiary in Denver, Colorado, and the geographic area to be served is the Denver area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 20, 1979.

Board of Governors of the Federal Reserve System, March 21, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9165 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### MULESHOE BANCSHARES, INC.

Formation of Bank Holding Company; Correction

In FR Doc. 79-7133 appearing at page 13078 of the issue for Friday, March 9, 1979, the final date for receipt of comments should read April 2, 1979.

Board of Governors of the Federal Reserve System, March 20, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9158 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### SAYRE BANCORPORATION, INC.

Formation of Bank Holding Co.

Sayre Bancorporation, Inc., Colorado Springs, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96 percent or more of the voting shares of City National Bank of Sayre, Sayre, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 19, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9166 Filed 3-26-79; 8:45 am]

#### [6210-01-M]

##### ST. MICHAEL BANCORPORATION

Formation of Bank Holding Company

St. Michael Bancorporation, St. Michael, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Security State Bank of St. Michael, St. Michael, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secre-

tary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 21, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9157 Filed 3-26-79; 8:45 am]

#### [6750-01-M]

##### FEDERAL TRADE COMMISSION

###### TRANSMITTAL RULES

Early Termination of Waiting Period of the  
Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Ziff Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Norcross, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both Ziff Corporation and Norcross, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires person contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration.



and to publish notice of this action in the **FEDERAL REGISTER**.

By direction of the Commission.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9224 Filed 3-26-79; 8:45 am]

#### [6750-01-M]

##### TRANSMITTAL RULES

Early Termination of Waiting Period of the  
Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Interpace Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of J. P. Ward Foundries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by J. P. Ward Foundries, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **FEDERAL REGISTER**.

By direction of the Commission.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9225 Filed 3-26-79; 8:45 am]

#### [6750-01-M]

##### TRANSMITTAL RULES

Early Termination of Waiting Period of the  
Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Veba AG is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Creslenn Oil Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Creslenn Oil Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **FEDERAL REGISTER**.

By direction of the Commission.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9226 Filed 3-26-79; 8:45 am]

#### [6750-01-M]

##### TRANSMITTAL RULES

Early Termination of Waiting Period of the  
Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Marshall Field & Company is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Dayton-Hudson Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both Marshall Field & Company and Dayton-Hudson Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **FEDERAL REGISTER**.

By direction of the Commission.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9227 Filed 3-26-79; 8:45 am]

#### [4110-03-M]

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79P-0077]

##### COLOR ADDITIVE STATUS OF NITRITE IN BACON

Availability of Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: A citizen petition has been filed with the Food and Drug Administration (FDA) asking the agency to declare that nitrites used in bacon are "color additives" that may not be used to manufacture bacon unless the statutory requirements applicable to

color additives have been met. FDA announces the availability of the petition and invites interested persons to submit written comments to the agency.

DATES: Comments by April 17, 1979; FDA will issue its response to the petition on or before June 11, 1979.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

L. Robert Lake, Bureau of Foods (HFF-302), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C ST. SW., Washington, DC 20204, 202-245-1254.

SUPPLEMENTARY INFORMATION: On March 12, 1979, three organizations (Public Citizen, Inc., Center for Science in the Public Interest, and Community Nutrition Institute) and two individuals (Claudia Silverman and Sidney Wolfe) jointly filed a citizen petition with FDA pursuant to 21 CFR 10.30. The petition requests FDA to declare that nitrites used in bacon are a "color additive" as defined in section 201(t) of the Federal Food, Drug, and Cosmetic Act (the act), 21 U.S.C. 321(t), and that nitrites may not be used in the production of bacon unless bacon manufacturers have met the requirements of section 706 of the act (21 U.S.C. 376). The petition is on file and available for public inspection and copying at the office of the Hearing Clerk (HFA-305) (address above).

Pursuant to 21 CFR 10.30(h)(7), the agency invites interested persons to submit written comments on the petition to the Hearing Clerk. The agency is especially interested in receiving comments on whether nitrites used in the production of bacon are "color additives" within the meaning of section 201(t) of the act, including relevant data on the technical effects of nitrites in bacon.

FDA is committed to issuing its response to the citizen petition on or before June 11, 1979. For FDA to meet this deadline, it is necessary that comments be received at the Hearing Clerk's office no later than April 17, 1979.

Dated: March 22, 1979.

JOSEPH P. HILE,  
Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 79-9285 Filed 3-26-79; 8:45 am]

#### [4310-84-M]

##### DEPARTMENT OF THE INTERIOR

Bureau of Land Management

##### INITIAL WILDERNESS INVENTORY, IDAHO

Proposed Decision—Notice of Public Comment Period

The Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to inventory roadless areas of the public lands to identify those areas possessing wilderness characteristics as described in the Wilderness Act of 1964.

In September 1978 the Bureau of Land Management issued a "Wilderness Inventory Handbook" which provides the policy, direction, procedures, and guidance for conducting wilderness inventory on the public lands.

The BLM inventory process is divided into two basic steps: initial inventory and intensive inventory. This notice announces the completion of the initial inventory on public lands in Idaho.

The proposed decision on the statewide initial inventory makes one of two findings regarding all BLM lands in Idaho:

1. That they clearly and obviously do not meet the criteria for identification as Wilderness Study Areas; or
2. That they may possibly meet the criteria and should receive more intensive inventory.

The criteria for identifying units as Wilderness Study Areas is contained in wording in Section 2(c) of the Wilderness Act. The key factors in this criteria are:

1. Size. At least 5,000 contiguous roadless acres of public land.
2. Naturalness. The imprint of man's work must be substantially unnoticeable.
3. Either:
  - a. An outstanding opportunity for solitude, or
  - b. An outstanding opportunity for a primitive and unconfined type of recreation.

Those units of BLM land that clearly and obviously do not meet the above criteria are being recommended as not qualifying as Wilderness Study Areas, and thus are recommended to be dropped from the inventory process.

Those units of BLM land that may possibly meet the above criteria are being recommended for more intensive inventory (the second major step in the inventory process) before a determination is made regarding Wilderness Study Area status.

A 90-day public review on this proposed decision will begin on March 15, 1979, and conclude on June 15, 1979.

Maps of the area inventoried are available for review at each of the

BLM district offices in Idaho. In addition, a summary report and a more detailed narrative report describing the inventory units, a statewide map, and 1/2"=1 mile maps of individual units are available upon request from the district of State offices. You may request this data on a statewide, district-wide, planning unit, or individual wilderness inventory unit basis.

Comments on the proposed decision should relate specifically to whether the information gathered is correct and to the way in which BLM inventory criteria were applied to determine the existence of roads and to place lands into the two categories: 1) clearly and obviously out, or 2) requiring intensive inventory.

To provide an opportunity for public discussion and review of the proposed decision, the following meetings/workshops/open houses have been scheduled:

- April 16, 1979—7:00 p.m.—Boise Interagency Fire Center Auditorium, Boise, Idaho
- April 17, 1979—7:00 p.m.—Littletree Inn, Twin Falls, Idaho
- April 17, 1979—7:00 p.m.—Westbank Motel, Idaho Falls, Idaho
- April 18, 1979—7:00 p.m.—Elks Hall, Salmon, Idaho
- April 19, 1979—7:30 p.m.—Holiday Inn, Coeur d'Alene, Idaho
- April 19, 1979—7:00 p.m.—American Legion, Challis, Idaho
- April 19, 1979—7:00 p.m.—Holiday Inn, Pocatello, Idaho
- April 24, 1979—11:30 a.m.-8:30 p.m. (Open House)—BLM District Office, Idaho Falls, Idaho
- April 24, 1979—7:00 p.m.—County Courthouse, Murphy, Idaho
- April 24, 1979—7:00 p.m.—Ramada Inn, Burley, Idaho
- April 25, 1979—11:30 a.m.-8:30 p.m. (Open House)—High School, Aberdeen, Idaho
- April 25, 1979—7:00 p.m.—Holiday Inn, Ketchum, Idaho
- April 26, 1979—7:00 p.m.—Chamber of Commerce, Hospitality Center, Weiser, Idaho
- May 1, 1979—11:30 a.m.-8:30 p.m. (Open House)—County Courthouse, St. Anthony, Idaho
- May 2, 1979—11:30 a.m.-8:30 p.m. (Open House)—County Courthouse, Dubois, Idaho
- May 3, 1979—11:30 a.m.-8:30 p.m. (Open House)—BLM District Office, Idaho Falls, Idaho
- May 9, 1979—11:30 a.m.-8:30 p.m. (Open House)—BLM District Office, Idaho Falls, Idaho
- May 10, 1979—11:30 a.m.-8:30 p.m. (Open House)—County Courthouse, Arco, Idaho

Please direct written comments to the Idaho State Office or to the district offices of the BLM listed below:

William L. Mathews, State Director—BLM, Federal Bldg., Box 042, 550 W. Fort Street, Boise, Idaho 83720, Phone: 208-384-1401.

D. Dean Bibbes, District Manager, Boise District Office—BLM, 230 Collins Road, Boise, ID 83702, Phone: 208-384-1582.

Nick J. Cozakos, District Manager, Burley District Office—BLM, Route #3, Box 1,



200 South Oakley Highway, Burley, Idaho 83318. Phone: 208-678-5514.

O'dell A. Frandsen, District Manager, Idaho Falls District Office—BLM, 940 Lincoln Road, Idaho Falls, Idaho 83401, Phone: 208-522-7460.

Harry Finlayson, District Manager, Salmon District Office—BLM, P.O. Box 430, Salem, Idaho 83467, Phone: 208-756-2201.

Charles J. Hazler, District Manager, Shoshone District Office—BLM, P.O. Box 2B, Shoshone, Idaho 83352, Phone: 208-886-2208.

J. Martin Zimmer, District Manager, Coeur d'Alene District Office—BLM, P.O. Box 1889, Coeur d'Alene, Idaho 83814, Phone: 208-667-2567.

#### ADVANCED INVENTORIES

In portions of the Boise and Idaho Falls Districts, advanced inventories have been conducted due to the need to obtain decisions related to wilderness characteristics on certain public lands in advance of the statewide intensive inventory schedule.

The results of these advanced inventories are included with the initial inventory report; however, note that some areas are under different public review periods:

#### BOISE DISTRICT

—Agriculture ES Area (March 15, 1979-June 15, 1979)

—Birds of Prey Instant Study Area (March 15, 1979-June 15, 1979)

#### IDAHO FALLS DISTRICT

—Grassland Kipuka Instant Study Area (March 15, 1979-May 15, 1979)

—China Cup Butte Instant Study Area (March 15, 1979-June 15, 1979)

Dated: March 14, 1979.

T. G. BINGHAM,  
Acting Idaho State Director  
Bureau of Land Management.

(FR Doc. 79-9148 Filed 3-26-79; 8:45 am)

#### [4310-84-M]

(Consolidation of C-22644 and C-26913)

#### ROUTT COUNTY, COLORADO

##### Cool Lease Offering by Sealed Bid

U.S. DEPARTMENT OF THE INTERIOR, Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Notice is hereby given that certain coal resources in Routt County, Colorado will be offered for lease by sealed bid of \$25 per acre minimum to the qualified bidder of the highest cash amount per acre or fraction thereof. The sale will be held at 2:00 p.m., April 24, 1979, in

Room 708, Colorado State Bank Building, Denver, Colorado.

**Coal Offered:** The coal resource to be offered is limited to all strippable reserves of the Wadge and any overlying coal beds in the following described lands located approximately 13 miles southeast of Milner, Colorado:

T. 4 N., R. 86 W., 6th P.M.

Sec. 7: Lot 11 and SE $\frac{1}{4}$

Sec. 8: Lot 4 and SW $\frac{1}{4}$

Sec. 18: Lots 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, & 16;

Sec. 19: Lots 2, 3, 4, 5, and those parts of Lots 1, 6, 7, 8, 11, and 12 and that part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  lying north of a line described below:

Sec. 13: SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$   
Sec. 24: NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and that part of the E $\frac{1}{2}$ SE $\frac{1}{4}$  lying north of a line described below:

\*Southern boundary—Beginning at the southwest corner of the N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec. 24, T. 4 N., R. 87 W., 6th P.M., Colorado, thence N. 89° 54' E. approximately 3,960 ft. to the southwest corner of the N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , thence N. 63° 16' E. approximately 1,473 ft. to the northeast corner of the S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  of said section, thence N. 0° 30' W. approximately 63 ft. along the Range line between Ranges 86 and 87 W., 6th P.M., Colo. to the southwest corner of Lot 12 of Sec. 19, T. 4 N., R. 86 W., 6th P.M., Colo., thence N. 53° 20' E. approximately 6,651 ft. to the northeast corner of the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec. 19, T. 4 N., R. 86 W., 6th P.M., Colo.

(Containing 1,790.70 acres.) (Bonus must be computed on the basis of 1,790 acres.)

There are approximately 15,600,000 tons of recoverable coal under less than 150 feet of overburden. The coal is noncoking and has an average heating value of approximately 10,300 Btu per pound. The Wadge coal bed averages about 10 feet thick on the tracts.

The successful bidder's coal sales contract, or the successful bidder's average annual production from the existing mine as reflected on September 27, 1977 will be attached to the lease as Appendix 1. Any required rates of production from the leased lands will be included in the Special Stipulations.

**Rental and Royalty:** A lease issued as a result of this offering will provide for payment of an annual rental of \$3 per acre or fraction thereof and a royalty payable to the United States at the rate of 18.3 percent of the value of coal mined by surface methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

**Advance Royalty:** Upon request by the lessee, the Mining Supervisor may accept, for a total of not more than 10 years, the payment of advance royalties in lieu of the condition of continued operation for any particular year. Any payment of advance royalties in lieu of continued operation shall be

pursuant to an agreement, signed by the lessee and the Mining Supervisor, which shall be made a part of this lease. The agreement shall include a schedule of payments and shall be subject to the advance royalty conditions set forth in the applicable regulations in 43 CFR Part 3500. The advance royalty shall be based on a percent as specified in the lease of the value of a minimum number of tons which shall be determined on a schedule sufficient to exhaust the leased reserves in 40 years from the date of approval of the mining plan.

**Public Comments:** The public is invited to submit written comments and any recommendations concerning the Fair Market Value of the Wadge and any overlying coal beds to the Bureau of Land Management for its consideration of fair market value and for U.S. Geological Survey's consideration of resource economic evaluation. Public comments will be sent to the State Director, (CO-946), Bureau of Land Management, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, CO 80202, to arrive no later than April 19, 1979.

**Qualified Bidder:** In addition to the qualification requirements in 43 CFR 3502, the bidder will have to meet the criteria of the Amended Order in *Natural Resources Defense Council, et al. v. Royston C. Hughes, et al.*, Civil Action No. 75-1749, in the United States District Court for the District of Columbia, dated June 14, 1978. If the bidder is other than the applicant, the documents purporting to meet the criteria must be enclosed with the sealed bid.

**Warning to Bidders:** In accordance with the Federal Coal Leasing Amendments Act of 1976, it will be necessary that the high bidder, as a prospective lessee, disclose the nature and extent of his coal holdings to the Department of Justice before issuance of the lease. A lease will not be issued to a bidder who holds or controls more than 46,080 acres of Federal coal leases in any one state or 100,000 acres of Federal coal leases in the United States. Issuance of this lease is subject to Sec. 714 of the Surface Mining Control and Reclamation Act of August 3, 1977 (91 Stat. 445; 30 U.S.C. 1201).

No bids received after 2:00 p.m., April 24, 1979, will be considered. In the event of tying bids, those bidders will be allowed to submit additional oral bids to break the tie. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time and place set for opening of such bids. The Department of the Interior reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the

lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. Payment of the bonus shall be on a deferred basis, one-fifth due on the day of the sale, and the balance in equal annual installments on the first four anniversary dates of the lease. The successful bidder is obligated to pay for the newspaper publications of this notice.

**Notice of Availability:** Bidding instructions are included in the Detailed Statement of the Terms and Conditions of Lease Offer and Lease. A copy of the Statement and the Proposed Coal Lease are available at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 701.

JACK G. LORTS,  
Chief, Division of  
Technical Services.

(FR Doc. 79-9208 Filed 3-26-79; 8:45 am)

#### [4310-03-M]

#### Heritage Conservation and Recreation Service NATIONAL REGISTER OF HISTORIC PLACES

##### Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before March 1, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by April 6, 1979.

WILLIAM J. MURTAGH,  
Keeper of the National Register.

#### ARIZONA

##### Maricopa County

Lower Salt River Multiple Resource Area.

#### CALIFORNIA

##### Tuolumne County

Yosemite National Park, Soda Springs Cabin (John Lumbert Homestead) Tuolumne Meadows.

#### NOTICES

##### COLORADO

##### Denver County

Denver, Oxford Hotel, 1612 17th St.

##### Jefferson County

Evergreen, Evergreen Conference Historic District, CO 74.

##### GEORGIA

##### Barrow County

Winder, Winder Depot, Broad and Porter Sts.

##### Clarke County

Athens, Cobb-Treanor House, 1234 S. Lumpkin St.

##### Hancock County

Jewell, Jewell Historic District, GA 248 and GA 16 (also in Warren County).

##### Oglethorpe County

Philomath, Philomath Historic District, GA 22.

##### ILLINOIS

##### Cook County

Chicago, AVR 661 (Crash boat) Calumet Harbor.

##### Fulton County

Maples Mills vicinity, Tampico Mounds, SE of Maple Mills.

##### Knox County

Oneida, Conger, J. Newton, House, 334 N. Knox St.

##### Whiteside County

Sterling vicinity, Sinnissippi Site, E of Sterling.

##### INDIANA

##### Lake County

Gary, Gary Land Company Building, 4th Ave. and Pennsylvania St.

##### Ripley County

Napoleon, Conwell, Elias, House, Wilson St. and U.S. 421.

##### KENTUCKY

##### Franklin County

Frankfort, Frankfort Commercial Historic District, both sides of Kentucky River at Bridge St.

##### Harrison County

Broadwell, Kimbrough-Hehr House, U.S. 62.

##### Jefferson County

Louisville, Whiteside Bakery, 1400 W. Broadway St.

Louisville vicinity, Farnsley-Moremen House (House of Refuge) W of Louisville at 10908 Lower River Rd.

Louisville vicinity, Hise, Harriet Funk, House, E of Louisville at 9318 Hurstbourne Lane.

##### LOUISIANA

##### Caddo County

Shreveport, Texas Avenue Buildings, 824-864 Texas Ave.

##### Catahoula County

Sicily Island vicinity, Battleground Plantation, 4 mi. (6.4 km) N of Sicily Island. Sicily Island vicinity, Ferry Place, S of Sicily Island.

##### Concordia Parish

Vidalla, Tacony Plantation House, off U.S. 84.

##### Pointe Coupee Parish

Lacour vicinity, Old Hickory, SE of Lacour.

##### Rapides Parish

Alexandria vicinity, Bennett Plantation House and Store, E of Alexandria on U.S. 71.

##### Tensas Parish

Waterproof, Myrtle Grove Plantation (Old Bass Place) LA 568.

##### MARYLAND

##### Baltimore County

Owings Mills, St. Thomas Church and Parish, St. Thomas Lane and Garrison Forest Rd.

##### MASSACHUSETTS

##### Essex County

Lawrence, Essex Company Offices and Yard, 6 Essex St.  
Lynn, G.A.R. Hall and Museum, 58 Andrew St.  
Rowley, Chaplin-Clarke House, 109 Haverhill St.

##### Hampden County

Springfield, Kennedy-Worthington Blocks, 1585-1623 Main St. and 166-190 Worthington St.  
Springfield, Sanderson, Julia, Theater, (Paramount Theater) 1676-1708 Main St.  
Springfield, Winchester Square Historic District, U.S. 20.  
Wilbraham, Academy Historic District, Mountain Rd., Main and Faculty Sts.

##### Hampshire County

Amherst, Conkey-Stevens House, 664 Main St.

##### Middlesex County

Cambridge, Abbot, Edwin, House (Longy School of Music) 1 Follen St.

##### MISSISSIPPI

##### Tippah County

Blue Mountain, Blue Mountain College Historic District, MS 15.

##### MISSOURI

##### Lewis County

Lewistown, Quincy, Missouri, and Pacific Railroad Station, off MO 16.

##### Nodaway County

Maryville, Gaunt, Thomas, House, 703 College Ave.



**MONTANA****Ravalli County**

Hamilton, Ravalli County Courthouse, 225 Bedford St.

**NEBRASKA****Custer County**

Broken Bow, Custer County Courthouse and Jail, Main St.

**Dixon County**

Ponca, Ponca Historic District, roughly bounded by East, Court, 2nd and 3rd Sts.

**NEW JERSEY****Mercer County**

Trenton, Philadelphia and Reading Railroad Freight Station, 260 N. Willow St.

**Morris County**

Parsippany vicinity, Parsippany Village, NE of Parsippany on U.S. 46.

**Passaic County**

Passaic, St. Nicholas Roman Catholic Church, Washington, State and Ann Sts.

**Union County**

Plainfield, Waring, Orville Taylor, House (Runyon Funeral Home) 900 Park Ave. Union, Townley, James, House, Morris Ave. and Green Lane.

**NEW MEXICO****Catron County**

Mogollon, Mogollon Historic District, NM 78.

**Santa Fe County**

Los Cerrillos, Los Cerrillos District, off NM 10. Madrid, Madrid Historic District, NM 14 (boundary increase).

**NEW YORK****Broome County**

Binghamton, Roberson Mansion, 30 Front St.

**Columbia County**

Linlithgo vicinity, Oak Hill, N of Linlithgo on Oak Hill Rd.

**Nassau County**

Muttontown vicinity, Moore, Benjamin, Estate, N of Muttontown on NY 25A.

**OHIO****Darke County**

Greenville, Lansdowne House, 388 E. 3rd St.

**Fairfield County**

Pickerington vicinity, Stemen Road Covered Bridge, NE of Pickerington over Sycamore Creek.

**Montgomery County**

Dayton, Traxler Mansion, 42 Yale Ave.

**Morgan County**

McConnelsville, McConnelsville Historic District, OH 376 and OH 77.

**NOTICES****Stark County**

Canton, Palace Theater, 605 Market Ave., North. Canton, Saxton House, 331 S. Market St.

**OKLAHOMA****Oklahoma County**

Oklahoma City, Heritage Hills Historic and Architectural District, roughly bounded by Robinson and Walker Aves., 14th, 15th, and 21st Sts. and Classen Blvd.

**PENNSYLVANIA****Dauphin County**

Hummelstown, Henderson, Dr. William, House (Fox House) 31 E. Main St.

**Lackawanna County**

Seranton, Dickson Works, 225 Vine St.

**Northampton County**

Bethlehem, Fountain Hill Opera House (Globe Theatre) 405 Wyandotte St.

**Union County**

Lewisburg, Chamberlin Iron Front Building, 434 Market St.

**SOUTH CAROLINA****Lancaster County**

Lancaster vicinity, Mount Carmel A.M.E. Zion Campground, S. of Lancaster.

**TEXAS****Cooke County**

Lindsay, St. Peter's Roman Catholic Church, Ash St.

**Fannin County**

Bonham, Clendenen-Carleton House, 803 N. Main St.

**Nolan County**

Sweetwater, Ragland, R. A., Building, 113-117 3rd St.

[FR Doc. 79-8801 Filed 3-26-79; 8:45 am]

[4310-70-M]

**Office of the Secretary**

[INT DES 79-14]

**GUNNISON WILD AND SCENIC RIVER STUDY****Availability of Draft Environmental Statement**

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the Gunnison Wild and Scenic River Study.

The Gunnison Wild and Scenic River Study recommends inclusion of a 26-mile (41.8-km) segment of the Gunnison River, Colorado, and 12,900 acres (5,200 ha) of adjacent land to be classified as wild in the National Wild and Scenic Rivers System under the administration of the National Park Service and the Bureau of Land Man-

agement, U.S.D.I. This river segment is situated between the upstream boundary of the Black Canyon of the Gunnison National Monument and the confluence of the Gunnison with the Smith Fork River.

Inclusion of this segment of the Gunnison River in the national system will have an overall effect of preserving existing scenic, geologic, recreation, wildlife, and water quality values and other historic and cultural values within this area. Proposed water resource development projects within area will be prohibited.

In addition to the proposed action, other alternatives considered were (1) no action and (2) classification options.

Comments on the draft environmental statement are invited and will be accepted on or before May 11, 1979. Comments should be directed to the division of compliance and assistance, National Park Service, Rocky Mountain Region, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225. Superintendent Black Canyon of the Gunnison National Monument, Post Office Box 1648, Montrose, Colorado 81401.

Dated: March 16, 1979.

LARRY E. MEIEROTTO,  
Assistant Secretary  
of the Interior.

[FR Doc. 79-9140 Filed 3-26-79; 8:45 am]

[4410-01-M]

**DEPARTMENT OF JUSTICE****Office of the Attorney General****TAMPA, FLORIDA****Proposed Consent Decree in Action To Enjoin Discharge of Air and Water Pollutants**

In Accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 27, 1979, a proposed consent decree in *United States of America v. City of Tampa, Florida et al.*, Civil Action No. 77-717-Th (M.D. Fla. Tampa Division) was lodged with the United States District Court for the Middle District of Florida. The proposed consent decree requires cessation of air pollutant emissions and effluent discharges from its municipal incinerator by December 31, 1979. The proposed consent decree also establishes an interim schedule of discharge limitations for cadmium, lead, and aluminum to remain in effect until that time.

If cessation of emissions and discharge is not achieved by the date specified, the defendant is required to pay to the United States the sum of \$10,000 for each day that compliance is delayed, unless for good cause shown, the Court should order otherwise. Failure to comply with interim limitations or other decree provisions results in a \$5,000 civil penalty for each day of noncompliance.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse and Post Office Building, 611 Florida Avenue, Tampa, Florida 33601; at the Region IV office of the Environmental Protection Agency, Enforcement Division, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2645, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree on or before April 26, 1979. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America v. City of Tampa et al.*, M.D. Fla., Civil Action No. 77-717-Th, D. J. Ref. 90-5-1-1-843.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources Division.  
[FR Doc. 79-9209 Filed 3-26-79; 8:45 am]

[4410-01-M]

**JUDICIAL NOMINATING COMMISSION FOR THE DISTRICT OF PUERTO RICO****Meeting**

The Judicial Nominating Commission for the District of Puerto Rico will have its second meeting on April 6, 1979, at 10:00 a.m. for the purpose of screening individuals for interviews. Continuous meetings will also be held April 9 and 10 at 10:00 a.m. and April 11, 1979, at 3:00 p.m. The purpose of these meetings will be to commence interviews. The meetings will be held on the First Floor Theatre of the Federico de Getau Federal Building, Chardon Street, Hato Rey, Puerto Rico. These meetings will be closed to the public pursuant to Pub. L. 92-463,

**NOTICES**

Section 10(D) as amended. (CFR 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,  
Advisory Committee  
Management Officer.

MARCH 20, 1979.

[FR Doc. 79-9216 Filed 3-26-79; 8:45 am]

[4110-09-M]

**Drug Enforcement Administration**

[Docket No. 78-111]

**TWELVE OAKS TOWER PHARMACY TIMOTHY A. HAYES, R. PH.****Revocation of Registration Denial of Application**

On May 25, 1978, the Administrator of the Drug Enforcement Administration [DEA] issued to Twelve Oaks Tower Pharmacy, Timothy A. Hayes, R.Ph. [Respondent], an Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AT6058906, and to deny the Respondent's pending application for registration. Simultaneously, citing his finding of imminent danger to the public health and safety, the Administrator, pursuant to Title 21, United States Code, section 824(d), suspended the Respondent's registration pending a final determination in these proceedings.

The Order to Show Cause and the immediate suspension of The Respondent's registration were based upon the conviction of Mr. Hayes of felony offenses relating to controlled substances.

On June 23, 1978, the Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. Prehearing statements were filed, a prehearing conference was held by telephone and, on September 13, 1978, a prehearing ruling was issued. On October 16, 1978, in Houston, Texas, the hearing in this matter was held, the Honorable Francis L. Young, Administrative Law Judge, presiding. Thereafter, pursuant to 21 CFR 1316.64, counsel for the Government and for the Respondent were afforded an opportunity to file proposed findings of fact and conclusions of law with a statement of reasons therefor. The Government has filed proposed findings of fact and conclusions of law; the respondent has failed to do so.

On December 29, 1978, the Administrative Law Judge, pursuant to 21 CFR 1316.65, transmitted to the Administrator the entire record of these proceedings together with the Administrative Law Judge's report including his Opinion and Recommended Ruling, Findings of Fact, Conclusions

of Law, and a Recommended Decision. The Administrator has considered the record of this matter in its entirety and, pursuant to 21 CFR 1316.66, hereby publishes his final order in these proceedings.

Judge Young found, *inter alia*, that Respondent Timothy A. Hayes was indicted, along with Thomas Edward Bennett, D.O. [See DEA Docket No. 78-10, 43 FR 43571], and ten other defendants, in a seventy-nine count indictment charging felony violations of the Controlled Substances Act. Count One of the indictment charged the defendant with conspiracy, while Counts Six through Nine and Forty-eight through Seventy-nine charged Mr. Hayes with knowingly, intentionally and unlawfully dispensing Dilaudid and Preludin, Schedule II controlled substances, in violation to 21 U.S.C. 841(a)(1). Following his plea of not guilty, Mr. Hayes was tried and found guilty by a jury of all counts of the indictment as set forth above. On May 25, 1978, in the United States District Court for the Southern District of Texas, Timothy A. Hayes, R. Ph., was adjudged convicted of each of the aforementioned offenses.

Sgt. Donald Gene Cohn of the Texas Department of Public Safety, Narcotic Service, testified in the hearing of this matter as a witness for the Government. Sgt. Cohn became involved in the investigation of the Respondent subsequent to the arrest of one Claude W. Meade as Mr. Meade was leaving Twelve Oaks Tower Pharmacy with 32 prescription vials of Dilaudid and Preludin which Mr. Meade had obtained at the Respondent pharmacy. Mr. Meade told the investigators that Mr. Hayes had been providing him, and others, with prescription blanks of Dr. Bennett, which the recipient would usually take to Dr. Bennett for signature and then return with them, to Twelve Oaks Tower Pharmacy, to be filled. During the period of January through May, 1977, Mr. Meade, by this means, obtained and had filled some 657 prescriptions for which he received 65,700 dosage units of Schedule II controlled substances. At Mr. Hayes' trial, Dr. Bennett testified that during the period covered by these prescriptions, he was under the influence of alcohol most of the time, and that during this entire period, he had no legitimate patients.

Judge Young further found that on or about May 26, 1978, pursuant to 21 U.S.C. 824(f), agents of the Drug Enforcement Administration placed under seal, and removed for safekeeping, all controlled substances then possessed by Mr. Hayes and Twelve Oaks Tower Pharmacy pursuant to, or under the authority of, the registration which was suspended on or about May 25, 1978, pursuant to 21 U.S.C.



824(d). On or about June 21, 1978, Mr. Hayes sold to a Mr. David Walsh, the business and certain fixtures, inventory and assets of Twelve Oaks Tower Pharmacy. Although the Respondent's counsel was apparently of the opinion that the Respondent's successor in interest was entitled to possession of these controlled substances, the Administrative Law Judge found that the asset purchase agreement between Mr. Hayes and Mr. Walsh specifically provided that there were "no actions or pending litigations involving the Seller's assets to be sold hereunder which would impair, Seller's right or ability to sell such assets to purchasers as contemplated \* \* \*". Furthermore, Judge Young found that while the asset purchase agreement referred to a list of equipment, fixtures and inventory covered by the said agreement, no such list was attached to the copy of the agreement placed in evidence by the Respondent. Thus, the Administrative Law Judge concluded that there was no evidence in the record to establish that the Respondent had attempted to sell to Walsh its right, title and interest in the seized drugs.

The Respondent has raised as an issue in this matter the question of whether this administrative action could properly be based upon Mr. Hayes' felony conviction when that conviction was being appealed and, hence, was "not final." Citing several cases in what has now become long-established precedent in these proceedings, the Administrative Law Judge concluded that once a criminal trial court has entered judgment of conviction against a person, he has been "convicted" insofar as 21 U.S.C. 824(a)(2) is concerned.

Judge Young further found that the Administrator "clearly had good reason to summarily suspend the Respondent's DEA registration. This pharmacy had become an uncontrolled fountain illegally pouring forth dangerous substances into the community in enormous quantities, in flagrant violation of law, and with wanton lack of concern for the public health and welfare. This agency would have been remiss had it not acted immediately and effectively to turn it off."

The Administrative Law Judge reached the following conclusions of law:

1. Notwithstanding the fact that Timothy Alden Hayes has appealed his conviction, he has been "convicted" of felony offenses relating to controlled substances within the meaning of 21 U.S.C. 824(a)(2).

2. There is a lawful basis, pursuant to 21 U.S.C. 824(a)(2), for the revocation of the Respondent's DEA Certificate of Registration, as well as for the denial of Respondent's pending application for registration.

3. There can be no question but that Mr. Hayes' manner of handling controlled substances posed an imminent danger to the public health and safety within the meaning of 21 U.S.C. 824(d) and under the facts and circumstances shown here, the Administrator's decision to immediately suspend the Respondent's registration was totally justified and supported by evidence of gross misconduct with respect to controlled substances.

4. The controlled substances obtained or possessed by the Respondent pursuant to its suspended registration are lawfully held by the Drug Enforcement Administration.

Judge Young recommended that the Respondent's registration be revoked and that its pending application be denied. The Administrator, after reviewing the record of these proceedings, hereby adopts, in their entirety, the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge.

In consideration of the foregoing, it is the Administrator's decision that the Respondent's registration should be revoked and its pending application for registration denied. Accordingly, pursuant to the authority vested in the Attorney General by Sections 303 and 304 of the Controlled Substances Act (21 U.S.C. 823 and 824), and redelivered to the Administrator of the Drug Enforcement Administration pursuant to 28 CFR 0.100, the Administrator hereby orders that DEA Certificate of Registration AT6058906, previously issued to Twelve Oaks Tower Pharmacy, Timothy A. Hayes, R.Ph., be, and it hereby is, revoked, and that the said Respondent's application for registration be, and it hereby is, denied.

21 CFR 1316.66 provides that a final order in a proceeding such as this one shall specify the date on which it shall take effect and that such date shall not be less than thirty days from the date of publication in the Federal Register unless the Administrator finds that there exist emergency conditions necessitating an earlier effective date. The record of these proceedings clearly indicate that the Respondent, Mr. Hayes, is no longer engaged in the practice of pharmacy at Twelve Oaks Tower Pharmacy. The purpose of the thirty day rule is to permit a registrant whose registration has been terminated to commence the orderly disposal of his business. In this case, while no emergency presently appears to exist, it is neither in Mr. Hayes' interest, nor the public interest, to further delay the effective date of this order. Therefore, the Respondent's registration is revoked, and its application denied, effective March 27, 1979.

Dated: March 21, 1979.

PETER B. BENSINGER,  
Administrator, Drug  
Enforcement Administration.  
[FR Doc. 79-9172 Filed 3-26-79; 8:45 am]

[4510-43-M]

#### DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-79-20-C]

#### CARBON COUNTY COAL CO.

Petition for Modification of Application of  
Mandatory Safety Standard

Carbon County Coal Company, Post Office Box 370, Hanna, Wyoming 82327, has filed a petition to modify the application of 30 CFR 75.326 (mine entries) to its Carbon No. 1 Mine in Carbon County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, P.L. 95-164.

The substance of the petition follows:

1. Due to abutment pressures in the petitioner's mine, the use of a three-entry system would result in a diminution of safety to its miners.

2. As an alternative, the petitioner proposes to use a two-entry system with longwall mining in which the belt line is in the return entry.

3. The petitioner states that the two-entry system has the following advantages:

a. With only one chain pillar between areas to be mined by the longwall, there can be better crushing of the pillar and pressure is more gradually released than with a three-entry, two chain pillar system.

b. A two-entry system exposes less roof and rib area, reducing the chance of roof and rib failure and possible injury to miners.

c. Less area is opened up with a two-entry system, liberating less methane during the development cycle. Since ventilation requirements at the face are the same as those of a three-entry system, the percentage of methane in the return will be lessened, reducing ignition hazard.

d. Less surface area is exposed to mining in a two-entry system, reducing quantities of both respirable dust and float dust.

e. A two-entry system can be better sealed than a three-entry system in the event of spontaneous combustion occurring.

#### REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before April 26, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine

Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 16, 1979

ROBERT B. LAGATHER,  
Assistant Secretary  
for Mine Safety and Health.  
[FR Doc. 79-9222 Filed 3-26-79; 8:45 am]

[4510-43-M]

[Docket No. M-79-24-C]

#### CLINCHFIELD COAL CO.

Petition for Modification of Application of  
Mandatory Safety Standard

Clinchfield Coal Company, Dante, Va., 24237 has filed a petition to modify the application of 30 CFR 75.326 (mine entries) to its McClure No. 2 Mine in Buchanan County, Va. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner proposes to install a belt conveyor system in the return air course of a two entry system currently under development. The petitioner further proposes to direct about 50,000 cfm of air through the two entries.

2. The belt drive of the conveyor system and its electrical components will be on the surface. All electrical components (control cable, switches, and the belt sensing system) located in the belt entry will be either of the permissible type or approved as intrinsically safe.

3. A haulage system used for man-trip and supply purposes would be located in the intake airway. Only battery powered motorized equipment will be employed for transportation purposes.

4. The petitioner states that its alternative method will at all times provide a greater degree of safety than the standard for the following reasons:

a. The possibility of belt air reaching working faces is eliminated.

b. Permissible type or intrinsically safe electrical components confined to one cable, three switches and a fire sensing system will decrease the possibility of shock hazards, and a fire hazard is eliminated.

c. Trolley wire as power source, historically an electric shock and fire hazard, is eliminated.

d. Roof control would be enhanced by keeping fault area to a minimum.

e. The exposure time of persons to hazards associated with mining rock would be decreased as the development of only two entries will reduce

#### REQUEST FOR COMMENTS

the time needed to drive the tunnel by about one-third.

#### REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before April 26, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 16, 1979.

ROBERT B. LAGATHER,  
Assistant Secretary  
for Mine Safety and Health.  
[FR Doc. 79-9220 Filed 3-26-79; 8:45 am]

[4510-43-M]

[Docket No. M-79-26-C]

#### J & H COAL CO., INC.

Petition for Modification of Application of  
Mandatory Safety Standard

J & H Coal Company, Inc., P.O. Box 337, Masontown, W. Va. 26542 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 17 Mine located in Preston County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner is mining coal seams which average about 48 inches in height.

2. Due to undulating pavement, rolls in the roof and roof supports, the height of the petitioner's equipment cannot exceed 36 inches in order to allow for adequate clearance.

3. When the petitioner operated its scoop with a canopy, the canopy tore out roof bolts, wooden headers and steel plates, causing roof falls.

4. The petitioner states that the use of cabs or canopies on electric face equipment in its mine will result in a diminution of safety to its miners for the following reasons:

a. Canopies restrict an operator's field of view so he cannot see and observe roof conditions or see his helper and other miners in the area at all times.

b. The cramped and confined position of an operator under a canopy makes it impossible for him to maintain complete control of his equipment and impairs his reaction to any emergency situation.

c. Canopies do not allow sufficient clearance between the canopy top and the roof line and roof supports.

Persons interested in this petition may furnish written comments on or before April 26, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 16, 1979.

ROBERT B. LAGATHER,  
Assistant Secretary  
for Mine Safety and Health.  
[FR Doc. 79-9221; Filed 3-26-79; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4565]

#### ASG INDUSTRIES, INC., JEANNETTE, PENNSYLVANIA

Negative Determination Regarding Eligibility  
To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4565: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 2, 1979 in response to a worker petition received on December 27, 1978 which was filed by the United Glass and Ceramic Workers of North America on behalf of workers and former workers producing flat glass at the Jeannette, Pennsylvania plant of ASG Industries, Incorporated. The investigation revealed that the plant primarily produces a type of flat glass known as sheet glass.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of ASG Industries, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations,



or threat thereof, and to the absolute decline in sales or production.

The evidence developed during the Department's investigation revealed that the closure of the Jeannette plant is attributable to the switch in the flat glass industry from sheet glass to domestically produced float glass.

The Department's survey of customers of the Jeannette plant reflected the switch within the industry. Customers which increased import purchases from 1977 to 1978 represented an insignificant percentage of the decline in sales by the Jeannette plant during the same period.

Customers indicated that the sheet glass method of production is obsolete, and has been largely replaced by the float glass method. Furthermore, customers had substantially increased their float glass purchases from both ASG and other domestic sources in 1978 compared to 1977.

This view reinforces previous findings by the Department in which it determined that the major cause for the closing of sheet glass plants in the United States is the development of the float glass method, which is capable of producing glass of superior quality and at less cost than that produced by the sheet glass method. (See TA-W-513, TA-W-943, and TA-W-2084-86).

ASG Industries closed the Jeannette plant because it considered the plant and the sheet glass method of production obsolete and relatively expensive to operate in comparison to ASG Industries' other plants.

#### CONCLUSION

After careful review, I determine that all workers of the Jeannette, Pennsylvania plant of ASG Industries, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

[FR Doc. 79-9219 Filed 3-26-79; 8:45 am]

#### [4510-28-M]

[TA-W-4585 A-O]

#### CONSOLIDATION COAL CO.; SOUTHERN APPALACHIA REGION

#### Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of:

A. Eckman operation—McDowell County, W. Va.

B. Maitland operation—McDowell County, W. Va.  
C. Crane Creek operation—Mercer County, W. Va.  
D. Beechfork operation—McDowell County, W. Va.  
E. Jenkins Jones operation—McDowell County, W. Va.  
F. Buckeye operation—Wyoming County, W. Va.  
G. Turkey Gap operation—Mercer County, W. Va.  
H. Eckman Page operation—McDowell County, W. Va.  
I. Coal Bank Strip operation—McDowell County, W. Va.  
J. Three Forks Strip operation—McDowell County, W. Va.  
K. Horsepen Strip operation—McDowell County, W. Va.  
L. Reed Strip operation—McDowell County, W. Va.  
M. Pocahontas Reclaim Plant—Tazewell County, Va.  
N. Pageton Preparation Plant—McDowell County, W. Va.  
O. Amonate operation—McDowell County, W. Va.  
Rowland operation—Raleigh County, W. Va.

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4585 A-O: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 8, 1979 in response to a worker petition received on December 18, 1978 which was filed by the United Mine Workers of America on behalf of workers and former workers mining and preparing coal at facilities of Consolidation Coal Company, Southern Appalachia Region, Pocahontas, Virginia. The investigation revealed that the Southern Appalachia Region's facilities are located in McDowell, Mercer, Raleigh and Wyoming Counties, West Virginia and Tazewell County, Virginia.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4029-30). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Consolidation Coal Company, its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced

by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Eckman (TA-W-4585-A), Maitland (TA-W-4585-B) and Crane Creek (TA-W-4585-C) Operations

Evidence developed in the course of the investigation revealed that declines in sales and production at the three operations can be explained by a drop in foreign sales as well as the effect of the UMW strike in the first quarter of 1978 and the Norfolk and Western Railroad strike in the third quarter of 1978.

All production workers of Consolidation Coal Company participated in the United Mine Workers strike from December 7, 1977 to March 27, 1978. Total domestic sales of Consolidation Coal's Southern Appalachia Region increased in the period April through November, 1978 compared to the same period in 1977. Coal from the Eckman, Maitland and Crane Creek mines was cleaned at and shipped from the Crane Creek Preparation Plant. Domestic sales from the Crane Creek Plant increased in 1978 compared to 1977, while foreign sales decreased sharply. The increase in domestic sales in 1978 compared to 1977 occurred despite the effects of strikes in the first and third quarters of 1978.

Production of coal at both the Maitland and Crane Creek Operations increased in the second and fourth quarters of 1978 compared to the same quarters in 1977. The second and fourth quarters were the only quarters in 1978 in which production was unaffected by strikes. Production and sales are nearly the same at all Consolidation Coal facilities.

Beechfork (TA-W-4585-D) and Jenkins Jones (TA-W-4548-E) Operations

The Jenkin Jones and Beechfork mines produce metallurgical coal which is used to produce coke. Coke is metallurgical coal at a later stage of production, and therefore can be considered "like or directly competitive" with metallurgical coal.

Coal from the Jenkins Jones and Beechfork mines was cleaned and shipped from the Jenkins Jones preparation plant. A Department survey of domestic customers purchasing coal from this plant revealed that the only domestic customer who decreased purchases of coal from 1977 to 1978 from the Jenkins Jones preparation plant did not purchase imported metallurgical coal or coke.

Buckeye (TA-W-4585-F), Turkey Gap (TA-W-4585-G), Eckman Page (TA-W-4585-H), Coal Bank Strip (TA-W-4585-I), Three Forks Strip (TA-W-4585-J), Horsepen Strip (TA-W-4585-K), Reed Strip (TA-W-4585-L) Operations; Pocahontas Reclaim Plant (TA-W-4585-M), and Pageton Preparation Plant (TA-W-4585-N)

Evidence developed in the course of the investigation revealed that these facilities export nearly one hundred percent of their output of coal. While Consolidation Coal, Southern Appalachia Region's domestic sales increased in the period April through November, 1978 (eliminating months affected by the UMW strike) compared to the same period in 1977, foreign sales decreased significantly during this period. The cutbacks in employment which occurred, chiefly at the Buckeye and Turkey Gap Operations, resulted from a loss of foreign markets rather than any penetration of imports of coal or coke into Consolidation Coal Company's domestic markets.

Amonate Operation (TA-W-4585-O)

Evidence developed in the course of the investigation revealed that significant separations did not occur except for those idle days attributable to either the UMW coal strike or to the Norfolk and Western railroad strike or railroad car shortage. There have been no worker layoffs at the Amonate Operation, only idle days. Nearly all of these idle days are attributable to either the UMW coal strike or the Norfolk and Western railroad strike or railroad car shortage.

Rowland Operation (TA-W-4585)

The majority of the Rowland Operation's coal is exported. A Department survey revealed that the only significant domestic customer increased its purchases of coal from Rowland in 1978 compared to 1977.

#### CONCLUSION

After careful review, I determine that all workers of the following facilities of Consolidation Coal Company, Southern Appalachia Region are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

TA-W-4585-A. Eckman operation—McDowell County, W. Va.  
TA-W-4585-B. Maitland operation—McDowell County, W. Va.  
TA-W-4585-C. Crane Creek operation—Mercer County, W. Va.  
TA-W-4585-D. Beechfork operation—McDowell County, W. Va.  
TA-W-4585-E. Jenkin Jones operation—McDowell County, W. Va.  
TA-W-4585-F. Buckeye operation—Wyoming County, W. Va.

TA-W-4585-G. Turkey Gap operation—Mercer County, W. Va.  
TA-W-4585-H. Eckman Page operation—McDowell County, W. Va.  
TA-W-4585-I. Coal Bank strip operation—McDowell County, W. Va.  
TA-W-4585-J. Three Forks strip operation—McDowell County, W. Va.  
TA-W-4585-K. Horsepen strip operation—McDowell County, W. Va.  
TA-W-4585-L. Reed strip operation—McDowell County, W. Va.  
TA-W-4585-M. Pocahontas reclaim plant—Tazewell County, Va.  
TA-W-4585-N. Pageton Preparation plant—McDowell County, W. Va.  
TA-W-4585-O. Amonate operation—McDowell County, W. Va.  
TA-W-4585. Rowland operation—Raleigh County, W. Va.

Signed at Washington, D.C. this 19th day of March 1979.

JAMES F. TAYLOR,

Director, Office of Management  
Administration and Planning.  
[FR Doc. 79-9217 Filed 3-26-79; 8:45 am]

#### [4510-28-M]

Office of the Secretary

[TA-W-4538]

#### ABERDEEN SPORTSWEAR, INC.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4538: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 19, 1978, in response to a worker petition received on December 14, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing cloth outerwear for men at the Belmar, New Jersey, plant of Aberdeen Sportswear, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Aberdeen Sportswear, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's non-tailored outer jackets increased absolutely and relatively in 1977 compared to 1976 and increased absolutely in the first nine months of 1978 compared to the same period of 1977.

Evidence developed during the course of the investigation revealed that customers accounting for a significant proportion of the decline in Aberdeen's sales in 1978 compared to 1977 increased purchases of imported outer coats during the same time period. Additionally, these customers have reduced orders placed with Aberdeen for delivery in 1979. The resultant decline in output at Aberdeen was a major factor in the shutdown of the Belmar plant.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's outer coats produced at the Belmar, New Jersey, plant of Aberdeen Sportswear, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Belmar, New Jersey, plant of Aberdeen Sportswear, Incorporated engaged in employment related to the production of men's outer coats who became totally or partially separated from employment on or after September 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 79-9241 Filed 3-26-79; 8:41 am]

#### [4510-28-M]

[TA-W-4719]

#### BEMIS COMPANY, INC. BEMISTON PLANT

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4719: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 18, 1979, in response to a worker petition received on January 15, 1979, which was filed on behalf of workers and former workers producing canvas, yarn and industrial thread at Bemis Company, Incorporated, Talladega, Alabama. The investigation re-



vealed that the workers primarily produce industrial weight greige fabric, heavy twisted yarn and tying twine at the Bemiston Plant of Bemis Company, Incorporated, Talladega, Alabama.

The Notice of Investigation was published in the *FEDERAL REGISTER* on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bemis Company, Incorporated, its customers, the National Cotton Council of America, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing industrial weight greige fabric it is concluded that all of the requirements have been met.

U.S. imports of greige woven industrial cotton fabric increased from 158 million square yards during the period January through September 1977 to 193 million square yards during the same period in 1978.

The Department conducted a survey of the Bemiston Plant's customers. The survey revealed that some customers increased purchases of imported industrial weight greige fabric during the period 1976 through 1978 and decreased fabric purchases from the Bemiston Plant during that period.

With respect to workers producing heavy twisted yarn and tying twine, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of heavy twisted yarn and tying twine increased in 1978 compared with 1977.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with industrial weight greige fabric produced at the Bemiston Plant of Bemis Company, Incorporated, Talladega, Alabama, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bemiston Plant of Bemis Company, Incorporated, Talladega,

Alabama, engaged in employment related to the production of industrial weight greige fabric who became totally or partially separated from employment on or after January 12, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

I further determine that all workers of Bemiston Plant of Bemis Company, Incorporated, Talladega, Alabama, engaged in employment solely related to the production of heavy twisted yarn and tying twine are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

(FR Doc. 79-9246 Filed 3-26-79; 8:45 am)

#### [4510-28-M]

[TA-W-4695]

##### BIRWIN TROUSERS, INC.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4695: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979, in response to a worker petition received on January 9, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's trousers at Birwin Trousers, Incorporated, New York, New York.

The Notice of Investigation was published in the *FEDERAL REGISTER* on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Birwin Trousers, Incorporated, its manufacturer, the manufacturer's customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased absolutely in each year from 1973 through 1977. Imports declined slightly from 1977 to 1978. The ratio of imports to domestic

production of tailored suits increased from 19.0 percent in 1976 to 20.0 percent in 1977.

Evidence developed during the course of the investigation revealed that Birwin Trousers, Incorporated, performed contract work exclusively for one manufacturer. This manufacturing firm experienced declining sales from 1977 to 1978 and its workers have also petitioned the Department of Labor for trade adjustment assistance benefits.

A Departmental survey was conducted of the retail customers of the manufacturer from whom Birwin Trousers, Incorporated, received its contracts. The survey revealed that customers increased their purchases of imported men's suits and decreased their purchases from the manufacturer in 1977 as compared to 1976 and in 1978 as compared to 1977.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's trousers produced at Birwin Trousers, Incorporated, New York, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Birwin Trousers, Incorporated, New York, New York who became totally or partially separated from employment on or after January 14, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

(FR Doc. 79-9242 Filed 3-26-79; 8:45 am)

#### [4510-28-M]

[TA-W-4470]

##### BURLINGTON INDUSTRIES, NEW YORK SALES OFFICE OF THE SPORTSWEAR DIVISION

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4470: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978, in response to a worker petition received on December 4, 1978, which was filed on behalf of workers and former workers of the Galey and Lord Division of Burlington

Industries, New York, New York. The investigation revealed that the correct name of the subdivision employing the workers for which this petition was submitted is the New York Sales Office of the Sportswear Division, Burlington Industries, New York, New York.

The Notice of Investigation was published in the *FEDERAL REGISTER* on December 19, 1978 (43 FR 59165). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Burlington Industries, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In October, 1977 Burlington announced that the Sportswear Division would discontinue the marketing of the Galey and Lord line of fabric. Production of the Galey and Lord line ceased on March 3, 1978. Fabric continued to be sold from inventory through the third quarter of 1978.

Results of a U.S. Department of Labor survey indicated that most customers who responded to the survey did not increase purchases of imported fabric in 1977 and 1978 while decreasing purchases from the Sportswear Division.

#### CONCLUSION

After careful review, I determine that all workers of the New York Sales Office of the Sportswear Division, Burlington Industries, New York, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of March 1979.

GLORIA S. PRATT,  
Director, Office of  
Foreign Economic Policy.  
(FR Doc. 79-9243 Filed 3-26-79; 8:45 am)

#### [4510-28-M]

[TA-W-4222]

##### E. I. DUPONT DE NEMOURS AND CO., INC., CHAMBERS WORKS

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4222: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978, in response to a worker petition received on September 22, 1978, which was filed by the Chemical Workers Association, Incorporated on behalf of workers and former workers producing dyes and intermediates at the Chambers Works, Deepwater, New Jersey of E. I. Dupont de Nemours and Company, Incorporated, Wilmington, Delaware.

The Notice of Investigation was published in the *FEDERAL REGISTER* on October 17, 1978 (43 FR 44795). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of E. I. Dupont de Nemours and Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of synthetic organic dyes declined absolutely in the first three quarters of 1978 compared to the same period in 1977. Data on domestic production of organic dyes was not available for the first three quarters of 1978. The volume of U.S. exports of synthetic organic dyes exceeded the volume of imports by more than 80 percent in each year from 1974 through 1977 and by more than 150 percent in the first three quarters of 1978.

The ratio of U.S. imports to domestic production of cyclic intermediates was less than one percent in each year from 1973 through 1977. The volume of U.S. exports of cyclic intermediates

was more than five times as great as the volume of imports in every year from 1973 through 1977 and in the first three quarters of 1978.

The Office of Trade Adjustment Assistance conducted a survey of customers of the Chambers Works of Dupont. None of the customers of organic dyes surveyed reduced purchases of organic dyes from Dupont and increased purchases of imported organic dyes in 1977 compared to 1976 or in 1978 compared to 1977. Customers who reduced purchases of cyclic intermediates from Dupont and increased purchases of imported cyclic intermediates in 1977 compared to 1976 were not a significant proportion of Dupont's sales. No customer surveyed reduced purchases of cyclic intermediates from Dupont and increased purchases of imported cyclic intermediates in 1978 compared to 1977.

#### CONCLUSION

After careful review, I determine that all workers of the Chambers Works, Deepwater, New Jersey of E. I. Dupont de Nemours and Company, Incorporated, Wilmington, Delaware, engaged in employment related to the production of organic dyes and cyclic intermediates, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 79-9244 Filed 3-26-79; 8:45 am)

#### [4510-28-M]

[TA-W-4698]

##### GROSSMAN CLOTHING COMPANY, INC.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4698: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979, in response to a worker petition received on January 9, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suits and sportcoats at Grossman Clothing Company, Incorporated, New York, New York.

The Notice of Investigation was published in the *FEDERAL REGISTER* on January 26, 1979 (44 FR 5533). No



public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Grossman Clothing Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased in each year from 1973 through 1977. Imports declined slightly from 1977 to 1978. The ratio of imports to domestic production of tailored suits increased from 19.0 percent in 1976 to 20.0 percent in 1977.

U.S. imports of men's and boy's tailored dress coats and sportcoats increased from 1975 to 1976, declined from 1976 to 1977 and then increased from 1977 to 1978. The ratio of imports to domestic production was 26.5 percent in 1977; this ratio is not currently available for 1978.

A Department of Labor survey was conducted of customers of Grossman Clothing Company, Incorporated. The survey revealed that customers increased their purchases of imported men's suits and sportcoats and decreased their purchases from Grossman Clothing Company in 1977 as compared to 1976 and in 1978 as compared to 1977.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and sportcoats produced at Grossman Clothing Company, Incorporated, New York, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Grossman Clothing Company, Incorporated, New York, New York, who became totally or partially separated from employment on or after January 14, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 79-9245 Filed 3-26-79; 8:45 am]

[4510-28-M]

[TA-W-4775]

#### GULF & WESTERN, INC., TAYLOR FORGE GROUP, WOODSTOCK DIVISION

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4775: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979 in response to a worker petition received on January 29, 1979 which was filed by the International Brotherhood of Boilermakers on behalf of workers and former workers producing various types of forged fittings at the Taylor Forge-Woodstock Division, Memphis, Tennessee.

The investigation revealed that the correct name of the company is Gulf & Western, Incorporated, Taylor Forge Group, Woodstock Division, Memphis, Tennessee.

The Notice of Investigation was published in the FEDERAL REGISTER on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Gulf & Western, Incorporated, Taylor Forge Group, Woodstock Division, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of forged fittings at the Woodstock Division in terms of 1976 dollars increased in 1978 compared to 1977. Production statistics are not maintained by the company.

#### CONCLUSION

After careful review, I determine that all workers of Gulf & Western, Incorporated, Taylor Forge Group, Woodstock Division, Memphis, Tennessee are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management  
Administration and Planning.  
[FR Doc. 79-9247 Filed 3-26-79; 8:45 am]

[4510-28-M]

[TA-W-4776]

#### HERLEY SHOE CORP.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4776: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979, in response to a worker petition received on January 29, 1979, which was filed on behalf of workers and former workers producing men's leather slippers at the Herley Shoe Corporation, Haverhill, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Herley Shoe Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of house slippers decreased from 28.0 million pairs in 1976 to 24.2 million pairs in 1977 and to 13.8 million pairs in 1978. The ratio of imports to domestic production decreased from 43.1 percent in 1976 to 36.7 percent in 1977 and to 22.2 percent in 1978.

Imports of leather slippers, a subcategory of house slippers, decreased from .11 million pair in 1977 to .05 million pair in 1978.

#### CONCLUSION

After careful review, I determine that all workers of Herley Shoe Corporation, Haverhill, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

GLORIA S. PRATT,  
Director, Office of  
Foreign Economic Policy.  
[FR Doc. 79-9248 Filed 3-26-79; 8:45 am]

[4510-28-M]

[TA-W-4531]

#### LEEMAR KNITTING MILLS, INC./WINMORE KNITTING MILLS, LTD./MARLEE TRIM, INC.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4531: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing woven ladies' and men's wear at Leemar Knitting Mills, Incorporated/Winmore Knitting Mills, Limited, Long Island City, New York. The investigation revealed that the correct name should have been Leemar Knitting Mills, Incorporated/Winmore Knitting Mills, Limited/Marlee Trim, Incorporated and that the articles produced by the subject firm were women's knit sportswear and men's sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61038-9). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Leemar Knitting Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's suits (including pantsuits) decreased from 408 thousand dozen in 1976 to 384 thousand dozen in 1977, but increased from 201 thousand dozen during the period January

through September 1977 to 318 thousand dozen in the same period in 1978. Imports of women's, misses' and children's skirts decreased from 791 thousand dozen in 1976 to 654 thousand dozen in 1977, but increased from 442 thousand dozen during the period January through September 1977 to 1 million 68 thousand dozen in the same period in 1978. Imports of women's, misses' and children's blouses and shirts increased from 30 million 273 thousand dozen in 1976 to 30 million 849 thousand dozen in 1977, and increased from 24 million 36 thousand dozen during the period January through September 1977 to 28 million 505 thousand dozen in the same period in 1978. Imports of women's, misses' and children's coats and jackets increased from 2 million 252 thousand dozen in 1976 to 2 million 723 thousand dozen in 1977, and decreased from 2 million 81 thousand dozen in the first nine months of 1977 to 1 million 906 thousand dozen the same period in 1978. Imports of women's, misses' and children's dresses decreased from 1 million 614 thousand dozen in 1976 to 1 million 420 thousand dozen in 1977, but increased from 1 million 77 thousand dozen in the first nine months of 1977 to 1 million 345 thousand dozen in the same period in 1978. Imports of men's sweaters increased from 26.5 million units in 1976 to 28.3 million units in 1977, and increased again from 22.6 million units in the first nine months of 1977 to 33.2 million units in the same period in 1978.

Results of a U.S. Department of Labor survey indicated that Leemar's major customer, a producer of women's knit sportswear, reduced purchases from Leemar in response to a decrease in its sales caused by its own customers switching to imports. In addition, the survey indicated that Leemar's major men's sweater customer increased purchases of imports during the second half of 1978 as compared to the first half of the year.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's knit suits, skirts, blouses, jackets and dresses, and men's knit sweaters produced at Leemar Knitting Mills, Incorporated/Winmore Knitting Mills, Limited/Marlee Trim, Incorporated, Long Island City, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Leemar Knitting Mills, Incorporated/Winmore Knitting Mills, Limited/Marlee Trim, Incorporated, Long Island City, New York who became totally or partially separated from employment on or after June 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

ed/Marlee Trim, Incorporated, Long Island City, New York who became totally or partially separated from employment on or after June 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 79-9249 Filed 3-26-79; 8:45 am]

[4510-28-M]

[TA-W-4395-A-E; TA-W-4395]

#### LEVIN AND HECHT D.B.A. BRUNSWICK SHIRT CO. AND FLEET-LINE INDUSTRIES, INC.

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4395-A-E: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed on behalf of workers and former workers producing men's and boys' sport shirts and jeans at Levin and Hecht, d.b.a. Brunswick Shirt Company, New York, New York. The investigation revealed that Levin and Hecht is an apparel manufacturer in an integrated sales and production apparel operation. Levin and Hecht markets men's and boys' woven and knit shirts and gym shorts produced at Fleet-Line Industries, Incorporated. Levin and Hecht and Fleet-Line are commonly managed by the same parent firm. Petition TA-W-4395 has been expanded to cover workers at Fleet-Line Industries' production facilities in Garland, North Carolina (4395-A), Lumberton, North Carolina (4395-B), Salemburg, North Carolina (4395-C), Justice, North Carolina (4395-D) and Stanhope, North Carolina (4395-E). Workers at Fleet-Line Industries, Lumberton, North Carolina warehouse (serving all company plants) are included in TA-W-4395-B.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-12). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fleet-Line Industries, Incorporated, Levin and Hecht, Levin and Hecht's customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of



eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met for the Lumberton, North Carolina production facility:

That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Lumberton plant employment and hours worked increased in 1978 compared to 1977. Employment increased in the fourth quarter of 1977 and in each quarter of 1978 compared to the same quarter of the previous year. Lumberton plant production of knit shirt increased in the first eleven months of 1978 compared to the first eleven months of 1977. Plant production increased in the first, second, and third quarters of 1978 when compared to the same quarters in the previous year. Increasing production and employment at Lumberton are attributable to the introduction of contract work for another manufacturer in 1978.

With regard to Levin and Hecht (d.b.a. Brunswick Shirt Company) and to the Garland, North Carolina, Salemburg, North Carolina, Justice, North Carolina, Stanhope, North Carolina plants and Lumberton, North Carolina warehouse of Fleet-Line Industries, incorporated. It is concluded that all of the criteria have been met.

Imports of men's and boy's woven sport shirts declined absolutely but increased relative to domestic production in 1977 compared to 1976 and then increased from 56.8 million units in the first three quarters of 1977 to 72.3 million units in the first three quarters of 1978. Imports of men's and boys' knit sports and dress shirts, excluding T-shirts increased from 74.0 million units in 1976 to 75.2 million units in 1977 and increased from 54.6 million units in the first three quarters of 1977 to 82.5 million units in the first three quarters of 1978. Imports of men's and boys' woven cotton and man-made jeans and dungarees in-

creased from 14 million units in 1976 to 23 million units in 1977 and increased from 16.7 million units in the first three quarters of 1977 to 24.8 million units in the first three quarters of 1978.

Fleet-Line shirt production and jeans production from other contractors is marketed to retail customers through Levin and Hecht. A Department survey of Levin and Hecht's customers revealed that customers who decreased their purchases of men's and boys' woven shirts, knit shirts and jeans, respectively, from Levin and Hecht in January-September 1978 compared to January-September 1977 increased their purchases of these garments from foreign sources during the same period.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' woven shirts, knit shirts, and jeans marketed by Levin and Hecht, d.b.a. Brunswick Shirt Company, New York, New York and men's and boys' woven shirts and knit shirts produced at the Fleet-Line Industries, Incorporated plants listed in the appendix contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification.

All workers of Levin and Hecht, d.b.a. Brunswick Shirt Company, New York, New York and the Fleet-Line Industries, Incorporated plants listed in the appendix who became totally or partially separated from employment on or after the respective plant impact dates are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers at the Lumberton, North Carolina production facility of Fleet-Line Industries, Incorporated, except for the warehouse, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 19th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

#### APPENDIX

| Company/location   | Petition No. | Impact date   |
|--|--------------|---------------|
| Levin and Hecht, New York, New York, d.b.a. Brunswick Shirt Company. | TA-W-4395    | Nov. 9, 1977. |
| Garland, North Carolina plant  | TA-W-4395-A  | Nov. 9, 1977. |
| Lumberton, North Carolina Warehouse                                  | TA-W-4395-B  | Nov. 9, 1977. |
| Salemburg, North Carolina plant                                      | TA-W-4395-C  | July 1, 1978. |
| Justice, North Carolina  | TA-W-4395-D  | Feb. 1, 1978. |
| Stanhope, North Carolina plant                                       | TA-W-4395-E  | Nov. 9, 1977. |

[FR Doc. 79-9250 Filed 3-26-79; 8:45 am]

#### [4510-29-M]

[TA-W-4412 and TA-W-4413]

#### MACON PANT CORP. AND NATIONAL PANTS CORP.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4412, 4413: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 16, 1978, which was filed on behalf of workers and former workers producing men's and boys' pants at the Macon Pant Corporation, Macon, Mississippi. A petition was also filed on behalf of worker and former workers at the National Pants Corporation, New York, New York—the sales office for Macon Pant Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of National Pants Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' dress and sport trousers and shorts increased absolutely in 1977 compared with 1976 and in the first nine months of 1977. Imports declined relative to domestic production during 1977 compared to 1976.

The Department conducted a survey of major customers of National Pants. The survey indicated that some customers decreased purchases from Na-

tional Pants and increased purchases of men's slacks.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's slacks produced at Macon Pant Corporation, Macon, Mississippi and sold by the National Pants Corporation, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Macon Pant Corporation, Macon, Mississippi, and the National Pants Corporation, New York, New York who became totally or partially separated from employment on or after November 7, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of March 1979.

C. MICHAEL AHO,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 79-9257 Filed 3-26-79; 8:45 am]

#### [4510-28-M]

[TA-W-4738]

#### MELMAR FASHIONS, INC.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4738: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1979, in response to a worker petition received on January 12, 1979, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats, suits, and jackets at Melmar Fashions, Incorporated, Asbury Park, New Jersey. The investigation revealed that the plant primarily produce women's coats. The Department previously issued a denial of eligibility to apply for adjustment assistance on August 15, 1977, for workers of Melmar, Fashions, Incorporated (TA-W-1787).

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Melmar, Fashions, Incorporated,

rated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production of women's coats at Melmar increased in 1978 compared to 1977. The shutdown which occurred at Melmar Fashions in October 1978 can be attributed to the normal seasonal pattern of the women's coat industry.

#### CONCLUSION

After careful review, I determine that all workers of Melmar Fashions, Incorporated, Asbury Park, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 79-9250 Filed 3/26/79; 8:45 am]

#### [4510-28-M]

[TA-W-4708]

#### ZION KNITTING MILLS, INC.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4708: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979, in response to a worker petition received on January 9, 1979, which was filed on behalf of workers formerly producing men's, women's and children's sweaters at Zion Knitting Mills, Incorporated, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533-34). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Zion Knitting Mills, Incorporated,

its manufacturers and retail customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely in each year from 1975 through 1978. The ratio of imports to domestic production of sweaters in 1977 was 52.1 percent. The import to domestic production ratio is not currently available for 1978.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters in 1977 were greater than the average level of imports for the years 1973 through 1976. Imports declined from 1977 to 1978. The ratio of imports to domestic production was over 100 percent in each year from 1974 to 1977. In 1977 this ratio was 140.8 percent.

A Departmental survey was conducted with retail customers of Zion Knitting Mills and with the manufacturers from whom Zion received contract work. The survey revealed that retailers, which reduced their purchases of ladies' and children's sweaters from Zion, increased their purchases of imported sweaters in each year from 1976 through 1978. Similarly, several manufacturers, for whom Zion performed contract work, decreased their sweater orders to Zion and substantially increased their contracts for ladies' and children's sweaters with foreign contractors during the period of 1976 through 1978.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and children's sweaters produced at Zion Knitting Mills, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Zion Knitting Mills, Incorporated, Brooklyn, New York, who became totally or partially separated from employment on or after August 11, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.



## NOTICES

Signed at Washington, D.C., this 19th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 79-9253 Filed 3-26-79; 8:45 am]

## [4510-28-M]

## INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act, and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether abso-

lute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may re-

quest a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

## APPENDIX

| Petitioner Union/workers or former workers of:—                                | Location                | Date received | Date of petition | Petition No. | Articles produced                      |
|--|-------------------------|---------------|------------------|--------------|--|
| Alabama Casuals Co., Inc. (workers).....                                       | Uniontown, Ala.....     | Mar. 8, 1979  | Feb. 28, 1979    | TA-W-4,989   | Ladies' sportswear.                    |
| Bethlehem Steel Corp., Lebanon Plant (USWA).....                               | Lebanon, Pa.....        | Mar. 15, 1979 | Mar. 14, 1979    | TA-W-4,990   | Industrial fasteners.                  |
| Contessa of California (ILGWU).....  | Los Angeles, Calif..... | Mar. 15, 1979 | Mar. 5, 1979     | TA-W-4,991   | Ladies' blouses.                       |
| Harbison-Walker Refractories, Division of Dresser Industries, Inc. (USWA)..... | Cape May, N.J.....      | .....do.....  | Feb. 15, 1979    | TA-W-4,992   | Dead burned magnisite.                 |
| International Knits, Inc., A/N/A Knits International Inc. (ILGWU).....         | Los Angeles, Calif..... | .....do.....  | Mar. 5, 1979     | TA-W-4,993   | Knit fabrics.                          |
| Kaiser Steel Corp., Fabrication Division (USWA).....                           | Fontana, Calif.....     | .....do.....  | Feb. 15, 1979    | TA-W-4,994   | Fabricated structural shapes.          |
| Kaiser Steel Corp., Metal Production Plant (USWA).....                         | .....do.....            | .....do.....  | .....do.....     | TA-W-4,995   | Light steel products.                  |
| Lamson & Sessions Co. (USWA).....  | Birmingham, Ala.....    | .....do.....  | .....do.....     | TA-W-4,996   | Industrial fasteners.                  |
| Lowell Shoe Co. (workers).....   | Lowell, Mass.....       | .....do.....  | Mar. 12, 1979    | TA-W-4,997   | Women's shoes.                         |
| Myra Dress Co., Inc. (company).....  | New York, N.Y.....      | Mar. 16, 1979 | Mar. 13, 1979    | TA-W-4,998   | Women's dresses, sportswear and coats. |
| New Balance Athletic Shoes, Inc. (workers).....                                | Allston, Mass.....      | .....do.....  | Mar. 12, 1979    | TA-W-4,999   | Athletic shoes for men and women.      |
| Ted Stern Co. (ILGWU).....   | Los Angeles, Calif..... | Mar. 15, 1979 | Mar. 5, 1979     | TA-W-5,000   | Women's skirts and pants.              |
| Willett Corp. (ACTWU).....   | New Brunswick, N.J..... | .....do.....  | Mar. 12, 1979    | TA-W-5,001   | Ceramic fixtures.                      |
| Tucker Knits, Inc. (workers).....  | New York, N.Y.....      | .....do.....  | Mar. 12, 1979    | TA-W-5,002   | Women's dresses and sportswear.        |
| Wondermaid Garment Factory (workers).....                                      | Washington, Mo.....     | Mar. 14, 1979 | Mar. 8, 1979     | TA-W-5,003   | Women's underwear and slips.           |

[FR Doc. 79-9218 Filed 3-26-79; 8:45 am]

## [4510-27-M]

Wage and Hour Division  
CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant

to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special

certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the princi-

## NOTICES

pal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers.

Corbin, Ltd., Huntington, WV; 1-22-79 to 1-21-80. (Men's pants)

Crane Mfg. Company, Marionville, MO; 1-8-79 to 1-7-80. (Ladies' and men's jeans)

Crystal Springs Shirt Corporation, Crystal Springs, MS; 1-1-79 to 12-31-79. (Men's and boys' shirts)

Donlin Sportswear, Inc., New Tazewell, TN; 2-21-79 to 2-20-80. (Men's shirts)

Flushing Shirt Mfg. Co., Inc., Grantsville, MD; 1-18-79 to 1-17-80. (Men's shirts)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before April 11, 1979.

Signed at Washington, D.C., this 22nd day of March 1979.

ARTHUR H. KORN,  
Authorized Representative  
of the Administrator.

[FR Doc. 79-9230 Filed 3-26-79; 8:45 am]

## [6325-20-M]

## MERIT SYSTEMS PROTECTION BOARD

## OPERATIONS MANUAL

Publication Available for Inspection

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Availability for Inspection of Operations Manual.

SUMMARY: This notice is to inform the public of the availability of the Operations Manual of the Office of the Special Counsel for public inspection and copying.

ADDRESS: Office of the Special Counsel, 1717 H Street, NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT:

Shigeki J. Sugiyama or Lynn R. Collins, Office of the Special Counsel, Phone: 202-653-7107.

NOTICE: Copies of the Operations Manual of the Office of the Special Counsel are available for inspection and copying at the Office of the Special Counsel, Room 210, 1717 H Street, NW., Washington, D.C. 20419. Copies are available pursuant to the schedule of fees set out in Section 1272.103(a) of the Special Counsel Regulations, 44 FR 6060, 6064. The Manual sets forth the procedures to be used by the Office in the initiation, receipt, investigation and prosecution of matters within the jurisdiction of the Office.

H. PATRICK SWYGERT,  
Special Counsel, Office  
of the Special Counsel.

[FR Doc. 79-9167 Filed 3-26-79; 8:45 am]

## [4510-23-M]

MINIMUM WAGE STUDY  
COMMISSION

## Meeting

MARCH 22, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Commission meeting:

NAME: Minimum Wage Study Commission.

DATE: April 10, 1979.

PLACE: U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, D.C., Room 4832.

TIME: 10 a.m.

## PROPOSED AGENDA:

1. Pending business.
2. Strategy of planning cost analysis and methodology for overall 3-year period of studies.
3. Update on Noncompliance Survey.

Next meeting of the Commission will be held Tuesday, May, 8, 1979.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW., Suite 500,

Washington, D.C. 20005, (202) 376-2450.

LOUIS E. MCCONNELL,  
Executive Director.

[FR Doc. 79-9211 Filed 3-26-79; 8:45 am]

## [7510-01-M]

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

[Notice (79-33)]

NASA ADVISORY COUNCIL (NAC) SPACE  
AND TERRESTRIAL APPLICATIONS ADVISORY  
COMMITTEE (STAAC)

## Meeting

The Ad Hoc Informal Advisory Subcommittee on Satellite Communications Applications of the NAC-STAAC will meet on April 17 and 18, 1979 at NASA Lewis Research Center (LeRC), Room 215, Administration Building, 21000 Brookpark Road, Cleveland, Ohio 44135. The meeting is open to the public. Members of the public will be admitted at 8:30 am on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 60 persons.

This Subcommittee, comprised of five members of the NAC-STAAC including the Subcommittee Chairperson, Dr. John V. Harrington, will review the results of studies in the 30/20 GHz band program and discuss issues in this program. Five members of the NAC Space Systems and Technology Advisory Committee have been invited to participate in this meeting.

The approved agenda for the meeting is as follows:

APRIL 17, 1979

## Time and Topic

8:30 am, Welcome by Center Director.  
8:45 am, Chairperson's Remarks.  
9:00 am, Program Overview.  
10:00 am, 30/20 GHz Program Status Review.  
10:15 am, Report on Study on Forecast of Satellite Communications Service Demand.  
10:45 am, Same report as the foregoing, but by another study contractor.  
11:15 am, Report on Study of System Concept, 30/20 GHz Satellite System.  
11:45 am, Same report as the foregoing, but by another study contractor.  
1:30 pm, Tour Lewis Communications Facilities.  
4:30 pm, Adjourn.

APRIL 18, 1979

## Time and Topic

8:30 am, Working Session.  
10:30 am, Conclusions and Recommendations.



11:30 am, Adjourn.

For further information regarding the meeting, please contact Louis B.C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. (202) 755-7450.

ARNOLD W. FRUTKIN,  
Associate Administrator  
for External Relations.

MARCH 20, 1979.

(FR Doc. 79-9149 Filed 3-26-79; 8:45 am)

[7590-01-M]

# NUCLEAR REGULATORY COMMISSION

[Docket No. 50-466 CP]

HOUSTON LIGHTING AND POWER CO.  
(ALLENS CREEK NUCLEAR GENERATING STATION, UNIT 1)

## Order

On April 18, 1979,<sup>1</sup> beginning at 9:30 a.m. local time, pursuant to 10 CFR 2.752, a prehearing conference will be held at the following location:

Creditors' Meeting Room, Room 7740, U.S. Federal Building and Courthouse, 515 Rusk Street, Houston, Texas.

If necessary, the prehearing conference will continue on April 19th.

The public is invited to attend the prehearing conference but members of the public may not participate in this conference. However, an opportunity will be provided for any person who wishes to make an oral or written statement in this proceeding but who has not been admitted as a party. Any person may request permission to make a limited appearance pursuant to provisions of 10 C.F.R. § 2.715 of the Commission's "Rules of Practice". Subject to the conditions set forth in subsequent Orders, limited appearances will be permitted at the beginning of the evidentiary hearing which will be held at a later date. Persons desiring to make such a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, MD., this 20th day of March, 1979.

It is so ordered.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE, Esq.,  
Chairman.

(FR Doc. 79-9179 Filed 3-26-79 8:45 am)

<sup>1</sup>Our Order of February 16, 1979, stated that the instant prehearing conference would be held on April 17, 1979. However, conference room facilities were unavailable on April 17th.

[7590-01-M]

# NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-568-A and STN 50-569-A]

NEW ENGLAND POWER CO., ET AL

Receipt of Additional Antitrust Information:  
Time for Submission of Views on Antitrust Matters

New England Power Company, Bangor Hydro-Electric Company, Canal Electric Company, Fitchburg Gas & Electric Light Company, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, Narragansett Electric Company, Taunton Municipal Lighting Plant, and Vermont Electric Cooperative, Inc., (applicants) pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on January 15, 1979, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns two additional ownership participants, Maine Public Service Company and Massachusetts Municipal Wholesale Electric Company of the New England Power Project, Units 1 and 2 to be located in Washington County in Charlestown, Rhode Island.

The information was filed in connection with the application for construction permits filed by the New England Power Company.

Notice of Receipt of the Antitrust Application was published in the FEDERAL REGISTER under Docket No. P-533-A on July 7, 1975 (40 FR 28510).

A copy of the letter, dated January 15, 1979, filed by the New England Power Company is available for public inspection and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and in the local public document rooms located at the Cross Mill Public Library, Old Post Road, Charlestown, Rhode Island 02813 and the University of Rhode Island, University Library, Government Publications Office, Kingston, Rhode Island 02881.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Company and Maine Public Service Company presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before May 21, 1979.

Dated at Bethesda, Maryland, this 12th day of March, 1979.

OLAN D. PARR,  
Chief, Light Water Reactors  
Branch No. 3, Division of Project Management.

(FR Doc. 79-8175 Filed 3-19-79; 8:45 am)

[7590-01-M]

[Docket No. 4018698]

PLATEAU RESOURCES, LIMITED

Availability of Draft Environmental Statement for Shooter Canyon Uranium Project; Extension of Comment Period

A notice of availability of the Draft Environmental Statement for Shooter Canyon Uranium Project (identified as NUREG-0504) was published in the FEDERAL REGISTER on February 20, 1979 (44 FR 10443), with comments due by April 2, 1979. By this notice the period for receiving comments has been extended to April 6, 1979.

Dated Silver Spring, Maryland, this 19th day of March, 1979.

For the Nuclear Regulatory Commission.

ROSS A. SCARANO,  
Section Leader, Uranium Mill  
Licensing Section, Fuel Processing & Fabrication Branch,  
Division of Fuel Cycle and Material Safety.

(FR Doc. 79-9194 Filed 3-28-79; 8:45 am)

[7715-01-M]

# POSTAL RATE COMMISSION

[Docket No. A79-9]

SUPLEE, PENNSYLVANIA 19371 (MRS. ALLEN BAXTER AND OTHERS, PETITIONERS)

Notice and Order of Filing of Appeal

ISSUED: MARCH 22, 1979.

On March 16, 1979, the Commission received handwritten letters from Mrs. Allen Baxter, Lydia Fisher and Gertrude H. Wagenseller, citizens of Suplee, Pennsylvania, (hereinafter "Petitioners"), concerning the alleged plans of the United States Postal Service to close the Suplee, Pennsylvania post office. Although the letters make no explicit reference to the Postal Reorganization Act, we believe they should be liberally construed as petitions for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)]. We do so in order to preserve petitioners' right to appeal which is subject to a 30-day time limit.<sup>1</sup> The petitions apparently

<sup>1</sup>39 U.S.C. § 404(b)(5). 39 U.S.C. § 404 (b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 C.F.R. § 3001.110 et seq.

were written by laymen, rather than by attorneys, and they do not conform exactly to the Commission's rules of practice which also require that a petitioner attach a copy of the Postal Service's final determination to the petition.<sup>2</sup> However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.<sup>3</sup>

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "insure that such persons will have an opportunity to present their views."<sup>4</sup> The petitions request that the decision to close the Suplee post office be reversed. From the faces of the petitions, it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, or whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.<sup>5</sup>

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.<sup>6</sup>

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under § 404(b)(2)(A) of the Act. Petitioners variously assert that the Suplee post office is needed by them and that its closing would result in personal inconvenience and economic hardship to them. Specifically, it is said that petitioners will not be able to get to their alternative post office before closing, and that the closing of the Suplee office would cause difficulty in receiving mail matter and would engender added patron expenses, because of the necessity of the installation of mailboxes, all resulting

<sup>2</sup>39 C.F.R. § 3001.111(a).

<sup>3</sup>39 C.F.R. § 3001.1.

<sup>4</sup>39 U.S.C. § 404(b)(1).

<sup>5</sup>39 C.F.R. § 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

<sup>6</sup>39 U.S.C. § 101(b).

in great hardship. The petitions appear to set forth the Postal Service action complained of in sufficient detail to warrant a determination whether the Service complied with its own regulations for the closing of post offices.<sup>7</sup>

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.<sup>8</sup>

## The Commission Orders:

(A) The letters of March 16, 1979, from Mrs. Allen Baxter, Lydia Fisher and Gertrude H. Wagenseller shall be construed as petitions for review pursuant to section 404(b) of the Act (39 U.S.C. § 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall file the administrative record in this case on or before April 2, 1979, pursuant to the Commission's rules of practice (39 CFR § 3001.113(a)).

By the Commission.

DAVID F. HARRIS,  
Secretary.

## APPENDIX

March 16, 1979: Filing of Petition.  
March 22, 1979: Notice and Order of Filing of Appeal.

April 2, 1979: Filing of record by Postal Service (see 39 CFR § 3001.113(a)).

April 5, 1979: Last day for filing of petitions to intervene (see 39 CFR § 3001.111(b)).

April 16, 1979: Petitioners' initial brief (see 39 CFR § 3001.115(a)).

May 1, 1979: Postal Service answering brief (see 39 CFR § 3001.115(b)).

May 16, 1979: (1) Petitioners' reply brief, if petitioners choose to file such brief (see 39 CFR § 3001.115(c)). (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

July 14, 1979: Expiration of 120-day decisional schedule (see 39 U.S.C. § 404(b)(5)).

(FR Doc. 79-9177 Filed 3-26-79; 8:45 am)

[8010-01-M]

# SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-15661; File No. SR-CBOE-1979-2)

CHICAGO BOARD OPTIONS EXCHANGE, INC.

## Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L.

<sup>7</sup>42 Fed. Reg. 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).

<sup>8</sup>In the Matter of Gresham, S.C., Route No. 1, Docket No. A78-1 (May 11, 1978).

No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 28, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

## STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

With respect to the procedures for implementing the Order Book Official system (SR-CBOE-1978-23, approved by the Securities and Exchange Commission on January 11, 1979) the Exchange's policy will be to replace Board Brokers in the inverse order of the two-year volume of the options classes to which they have been appointed. Consequently, the Exchange intends to determine the volume for the period January 1, 1977, through December 31, 1978, for the options classes at each station across the floor. Once this is accomplished, the Exchange will establish the order in which Board Brokers will be replaced, beginning with the station with the lowest volume and progressing through those with increasingly higher volume. It is anticipated that the Exchange will commence on April 2, 1979 with such a procedure, and replace Board Brokers at 2 stations per month, until the entire process is completed. It is also intended that the order or replacement will be revised in 1980, commencing in April, based on volume for the calendar years 1978 and 1979.

However, there are a number of events which could occur, and which would require the Exchange to depart from its proposed schedule. These are:

(a) Board Broker resignations in advance of their scheduled replacement by Order Book Officials;

(b) Board Broker removal pursuant to Exchange Rules for reasons other than replacement by Order Book Officials;

(c) Conversion to an Order Book Official at a high volume station in advance of the proposed schedule for replacement due to the selection of such a station for further implementation of Order Support System;

(d) The introduction of additional option classes, the deletion of presently traded option classes, or the control of floor congestion and traffic patterns may require the Exchange to modify appointments or to modify the timing for or selection of stations for Board Broker replacement by Order Book Officials.

## EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of this policy will be to introduce the Order Book Official system into the Exchange's trading environment in an orderly and nondiscriminatory fashion.

The foregoing policy is consistent with Sections 6(b)(1), (6)(b)(5), 11A(a)(1)(c) (i) and (ii) in that it (1) enhances the ability of the Exchange to carry out the purposes of the Act and to enforce compliance by its members with the applicable sections of the Act, the rules and regulations thereunder and Exchange rules, (2) promotes just and equitable principles of trade, facilitates transactions in securities, protects investors and the public



interest and is designed to prevent unfair discrimination between members, and (3) furthers the Congressional desire to assure the efficient execution of securities transactions and the fair competition among brokers and dealers and among and between exchange markets, respectively.

No comments were solicited or received from members on this policy.

The Exchange does not believe that this policy will impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 26, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

MARCH 19, 1979.

[FR Doc. 79-9146 Filed 3-26-79; 8:45 am]

#### [8010-01-M]

[Rel. No. 6037; 18-39]

#### LORD, BISSELL & BROOK RETIREMENT PLAN

Filing of Application for an Order Pursuant to Section 3(a)(2) of the Securities Act of 1933 Exempting From the Provisions of Section 5 of the Act Interests or Participations in the Lord, Bissell & Brook Retirement Plan,

MARCH 19, 1979.

NOTICE IS HEREBY GIVEN that Lord, Bissell & Brook (hereinafter referred to as "Applicant" or the "Firm") 115 South LaSalle Street, Chicago, IL 60603, a law firm organized as a partnership under the laws

of the State of Illinois, has, by letter dated February 23, 1979, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Lord, Bissell & Brook Retirement Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

Applicant's Plan provides that all employees paid on a salaried basis and partners of Applicant are eligible for participation in the Plan as of the first day of the month following or coincident with becoming an employee, provided employment is commenced with Applicant prior to attaining age sixty (60). The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, certain of Applicant's partners and employees), some of whom are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"). It therefore is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participation in certain employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that the Plan was originally established effective January 1, 1968, as a defined benefit plan for all full-time employees and partners of Applicant. The Plan and related trust were restated effective January 1, 1976, to conform with the requirements of the Employee Retirement Income Security Act of 1974 ("ERISA") to which the Plan is subject. The Internal Revenue Service has issued a determination letter to the effect that the Plan and trust agreement, as amended to date, continue to meet the requirement of Section 401(a) of the Code.

Applicant states that, under the Plan, Applicant contributes to the Trustee amounts which are sufficient to fund the Plan on an actuarially sound basis and meet the minimum funding requirements for defined benefit plans under ERISA. In addition, each participant under the Plan is permitted to make voluntary contributions in an amount not less than

one per cent (1%) nor more than ten per cent (10%) of earnings (not in excess of \$100,000) from Applicant for each calendar year. The amount of voluntary contributions by participants during each fiscal year of Applicant is also limited as required by Section 415 of the Code.

Applicant states that the assets of the Plan are to be held by the Trustee pursuant to a trust agreement between the Trustee and Applicant. Presently, three partners of Applicant are acting as Trustees. The trust agreement contemplates that there will be one fund which may be segregated into one or more accounts for investment purposes. The Trustee may direct the investment of the fund itself or appoint an investment manager to manage all or a portion of the trust fund. The trust agreement also provides that all or part of the trust fund may be segregated into custodial accounts at a bank. Presently, The Northern Trust Company of Chicago, Illinois has been designated as investment advisor and custodian to hold and maintain substantially all of the Plan's assets in a single segregated fund, except assets invested on a short-term basis by the Trustee for the purposes of paying current benefits. The Trustee is responsible for establishing a funding policy which will encompass the trust fund's short-term and long-term goals for income and appreciation.

Applicant states that it maintains substantial administrative control over the Plan. The Plan is administered by Applicant's Pension Committee (the "Committee"), appointed by the partners of Applicant and consisting, as presently constituted, of three partners of Applicant. The Committee is responsible for the day-to-day administration of the Plan, including the making and enforcement of rules interpreting and construing the Plan in regard to all questions of eligibility, the status and rights of participants, beneficiaries and other persons affected thereunder, and the disbursement of benefits.

The Plan authorizes the Trustee to invest in collective or commingled funds containing assets, other than assets of the Plan, which are from plans described in Section 401(a) and exempt from tax under Section 501(a) of the Code. Since the inception of the Plan, the assets of the trust fund have not been commingled in a collective investment medium with the assets of other employers, the Trustee has expressed that it has no intention of commingling trust assets, and the Applicant has no intention of requesting the Trustee to do so.

Applicant states that it has employed independent experts to provide investment advisory and other con-

sulting services with respect to the Plan. The Committee has authority to employ actuaries, accountants and other experts to assist in the administration of the Plan. The Firm has for many years engaged the services of Compensation & Capital, Inc. to furnish actuarial consulting services and Alexander Grant & Co. to provide accounting service for employee benefit plan matters. Also, The Northern Trust Company has been appointed investment advisor and custodian to provide investment advisory services and to maintain the assets of the Plan.

Applicant further submits that as an "employee pension benefit plan" within the meaning of ERISA, the Plan is subject to certain reporting and disclosure requirements. Furthermore, Applicant is engaged in furnishing legal services of a type which necessarily involve financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by Applicant, is able to represent adequately its interests and those of its employees.

Finally, Applicant states that the Plan is not a uniform prototype or master plan designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. The Plan was prepared by attorneys of Applicant and covers only employees and partners of Applicant.

Applicant contends that the exemption from registration under Section 3(a)(2) of the Act would clearly be available if Applicant were incorporated, for there would be no Section 401(c)(1) employees. Applicant argues that merely because Applicant is unincorporated is no reason for subjecting such interests or participations to the registration requirements of the Act. Similarly, if partners of Applicant were excluded from participation, the exemption would again be clearly available. There would seem to be no policy basis for requiring registration simply because the principals responsible for establishing and administering the Plan, that is, the partners, are included as participants.

Applicant concludes that under the circumstances, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than April 11, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controvert-

ed, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following April 11, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-9143 Filed 3-26-79; 8:45 am]

#### [8010-01-M]

[Rel. No. 6031A; 18-131]

#### MCDERMOTT, WILL & EMERY PROFIT-SHARING PLAN AND TRUST

Filing of Application Pursuant to Section 3(a)(2) of the Act for an Order Exempting From the Provisions of Section 5 of the Act Interests or Participations Issued in Connection With the McDermott, Will & Emery Profit-Sharing Plan and Trust

#### ERRATA

The above-captioned Notice (44 FR 13612; March 12, 1979) erroneously described the McDermott, Will & Emery retirement plan, 111 West Monroe Street, Chicago, IL 60603, as a pension benefit plan instead of a profit-sharing plan.

The Notice stated that an order disposing of the matter would be issued following March 27, 1978; the date should have been stated as March 27, 1979.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-9144 Filed 3-26-79; 8:45 am]

#### [8010-01-M]

[Rel. No. 15659; SR-MSRB-1]

#### MUNICIPAL SECURITIES RULEMAKING BOARD

#### Order Approving Proposed Rule Changes

On January 31, 1979, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut

Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of proposed rule changes. The proposed rule changes would modify MSRB rules G-12 and G-15 to require that the confirmations of a municipal securities transaction effected on a yield basis show the yield at which the transaction was effected rather than the yield to maturity.

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of a Commission Release (Securities Exchange Act Release No. 15554, (February 8, 1979)) and by publication in the FEDERAL REGISTER (44 FR 10158 (February 16, 1979)). No comments were received by the Commission with respect to the proposed rule changes.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-9145 Filed 3-26-79; 8:45 am]

#### [8010-01-M]

[Release No. 34-15660; File No. SR-NYSE-79-10]

#### NEW YORK STOCK EXCHANGE, INC.

#### Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 12, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

#### TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

Exchange Rule 345.16 is essentially a verbatim reproduction of the contents of the agreement signed by each registered representative, branch office



manager and officer as a prerequisite for registration with the Exchange. Amended Rule 345.16 would no longer restate the agreement and only require that an agreement be signed which includes a pledge to abide by the Constitution and Rules of the Exchange. This would obviate the need to amend the rule if the agreement is changed to achieve greater industry uniformity.

Most of the standards of behavior presently contained in the agreement and restated in Rule 345.16 have been moved into new or existing rules. Other provisions in the agreement have been deleted because they are redundant with paragraphs contained in the Uniform Application For Securities and Commodities Industry Representative and/or Agent (Form U-4) which must be completed by all registered employees.

Additionally, the proposed amendments eliminate the Exchange's requirements regarding the information members and member organizations must obtain on their personnel and replace it with a reference to the similar requirements of the SEC. The requirement that an employee who is a member of the Exchange is not required to qualify as a registered representative is proposed for deletion in deference to another Exchange rule which requires the member to demonstrate competence to be a registered representative if he proposes to service customer accounts.

#### PURPOSE OF PROPOSED RULE CHANGES REGISTERED REPRESENTATIVE AGREEMENT

Exchange Rule 345.16 is essentially a verbatim reproduction of the contents of the agreement signed by each registered representative, branch office manager and officer as a prerequisite for registration with the Exchange. Amended Rule 345.16 would no longer restate the agreement and only require that an agreement be signed which includes a pledge to abide by the Constitution and Rules of the Exchange. This would obviate the need to amend the rule if the agreement is changed to achieve greater industry uniformity.

The proposed rule changes would also move standards of behavior presently contained in the agreement and restated in Rule 345.16 into other specific rules. The Exchange wants to eliminate any possible impression that some rules may be of lesser importance than the provisions in the agreement.

#### REPOSITIONED STANDARDS

The standards of behavior described below have been repositioned from the agreement and Rule 345.16 into new or existing rules:

• **Personal transactions.** The proposed amendments to Rule 407(b) retain the requirement that a registered representative's employer approve the securities or commodities accounts and any transactions therein in which he has an interest. The restriction which prohibits a registered representative from having an account with a non-member (except banks), is deleted, thereby, according him the same rights as members, allied members and officers, all of whom may have an account at other than a member organization. The proposed amendments eliminate the requirement that only a general partner or principal executive officer may be designated by a member organization to give prior written consent for such employee accounts. Instead, any qualified person could be designated such responsibility by a member or member organization in accordance with Exchange Rule 342(b)(1) which allows qualified principals or employees to be delegated responsibility and authority for supervising compliance with securities laws and regulations.

The proposed amendments also rescind the Exchange's authority to grant exceptions to Rule 407. This will insure that members and member organizations will obtain the duplicate reports required by the rule to adequately monitor the investment activity of all personnel covered by the rule.

• **Guarantees and sharing in accounts.** The prohibition against guaranteeing the payment of a customer's debit balance to an employer or any creditor carrying a customer's account is retained in Rule 352(a). However, the Exchange would no longer have the authority to approve such a guarantee, thereby, insuring that no arrangements of credit are made on terms which may ordinarily be prohibited by the regulations of the Federal Reserve Board. The proposed rule excludes individual members to insure that there are no restrictions on their ability to clear transactions.

Proposed Rule 352(b) and (c) retains the prohibitions against guaranteeing or promising to guarantee a customer against loss and sharing in the profits or losses in a customer's account, by a registered representative or officer. It incorporates the same provisions in Rule 369 as it applies to members and member organizations and includes the exception for joint, group, or syndicate accounts presently in Rule 369. A provision has been added to clarify that any person may assume any losses in a customer's account if the loss was caused in whole or in part by the action or inaction of a member, member organization, allied member, registered representative or officer.

• **Rebates and compensation.** The provision authorizing the Exchange to

disapprove of changes in the form or amount of compensation is proposed for rescission as this provision is obsolete in the environment of competitive commissions. However, proposed Rule 353(a) retains the prohibition against rebating any part of the compensation received by the personnel of a member organization for the solicitation of orders. Proposed Rule 353(b) prohibits the receipt of any compensation for business done by or through the employer after the termination of employment except with Exchange approval.

These prohibitions are essential to the enforcement of the Exchange's requirement that no person may regularly perform the duties customarily performed by a registered representative without being registered with the Exchange. The receipt of compensation on other than an isolated basis is an Exchange criterion for determining whether a person is functioning as a registered representative and, therefore, these rules serve to reduce the potential for nonregistered persons to engage in activities which may result in the procurement of customer business.

#### DELETED PROVISIONS

Other provisions in the agreement have been deleted because they are either redundant with other existing Exchange rules or paragraphs contained in the Uniform Application For Securities and Commodities Industry Representative and/or Agent (Form U-4) which must be completed by all registered employees. A comparison of the existing and proposed agreements which details all provisions being removed from the agreement is attached as Exhibit I-B.

#### PERSONNEL REGISTRATION, INVESTIGATIONS AND RECORDS

The proposed amendments to Rule 345.18 eliminate the Exchange's requirements regarding the information members and member organizations must obtain on their personnel and replace it with a reference to the similar requirements found in SEC Rule 17a-3(a)(12). In addition, the Exchange requires a signature and recent photograph from all personnel which it believes provides important means to substantiate identification. The Exchange also requires information as to whether a surety bond has ever been revoked or denied or a surety paid which it believes helps to determine an individual's ability to function in a fiduciary role.

Rule 345.12 which states that an employee who is also a member of the Exchange is not required to qualify as a registered representative is proposed for rescission. Exchange Rule 304.70 states that a member who proposes to

service customer accounts in the office of a member organization may be required to undergo a period of training and pass a qualifying exam in order to demonstrate competence to be a registered representative.

#### BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The proposed rule changes are consistent with Sections 6(b)(2), (5), (7) and (8), 6(c), 17(a) and 19(g)(1)(a) as follows:

(i) The proposed amendments would clarify the equal importance of all Exchange rules, thereby, facilitating the Exchange's capacity to enforce compliance with the Act, the rules thereunder and its own rules by moving from the registered representative's agreement to specific rules those standards of behavior which govern the following: personal securities and commodities accounts and transactions; prohibitions against guaranteeing the payment of a customer's debit balance; guaranteeing a customer against loss; sharing in the profits or losses in a customer's account; rebating compensation received for the solicitation of orders; and receiving compensation following the termination of employment. The requirement which will allow any qualified person to approve the personal accounts of members, allied members, registered representatives and officers enables the Exchange to enforce compliance with the standards of supervision set forth in Rule 342. The amendment which rescinds the Exchange's authority to grant exceptions to Rule 407 will enhance compliance with the requirement that persons covered by the rule arrange to furnish duplicate reports of their personal account activity.

(ii) Requiring that an agreement be signed and that information on surety bonds be furnished helps the Exchange to assess whether an individual meets the standards in Section 6(c) of the Act. As stated in Section 6(c), the Exchange may "examine and verify the qualifications of an applicant" in order to determine if such applicant "has engaged and there is a reasonable likelihood he will again engage in acts or practices inconsistent with just and equitable principles of trade." Requiring a member who services customer accounts to demonstrate competence to be a registered representative is consistent with Section 6(c) by assuring that the member meets "such standards of training, experience, and competence as are prescribed by the rules of the Exchange."

(iii) Inapplicable.

(iv) Inapplicable.

(v) The Exchange would enhance its ability to deter fraudulent and manipulative acts and practices by members and registered employees, pro-

mote just and equitable principles of trade and contribute to the protection of investors and the public interest in that the standards of behavior moved from the registered representative's agreement to specific rules would prohibit guaranteeing the payment of a customer's debit balance; guaranteeing a customer against loss; sharing in the profits or losses in a customer's account; rebating compensation received for the solicitation of orders; receiving compensation following the termination of employment; and would require the approval by the employer member organization of personal securities and commodities accounts and any transactions therein. Deleting the provision requiring Exchange approval for changes in the form or amount of compensation to registered representatives is consistent with Section 6(b)(5) of the Act in that it eliminates Exchange regulation of matters not related to the purposes of the Act. Eliminating restrictions against registered representatives maintaining accounts at a non-member is also consistent with Section 6(b)(5) which requires that no rule of the Exchange is designed to permit unfair discrimination between brokers and dealers.

(vi) By retaining a rule which requires that an agreement be signed, the Exchange is insuring that it can appropriately discipline registered associated persons for violations of the Act, the rules thereunder and the rules of the Exchange.

(vii) Inapplicable.

(viii) Inapplicable.

#### COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

Comments were solicited and received from the Compliance Division of the Securities Industry Association and incorporated into the proposed rule changes. Their suggestions were to retain the prohibition against the payment of rebates and of compensation following the termination of employment and, also, language clarifying the circumstances under which all or part of a loss may be assumed in a customer's account.

#### BURDEN ON COMPETITION

This proposal will not impose any burden on competition.

On or before May 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 26, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

MARCH 19, 1979.

#### EXHIBIT 1

New language italicized.  
Deleted language in [Brackets].

#### PROPOSED AMENDMENTS TO RULE 345

Supplementary Material:

#### Registration of Employees

10 Employees required to be registered or approved.—See Rule 345 and definitions of "branch office manager" and "registered representative" contained in Rules 9 ([2009] and 10 ([2010]). Any person who [prior to March 26, 1970] was an allied member of the Exchange, in good standing, and who [as of March 26, 1970] ceases to meet the definition of an allied member as such term is defined (Articles I, Sec. 3(d)(ii)) shall automatically cease his status as an allied member and may upon execution of such agreements as may be required by the Exchange, qualify as a registered representative, supervisory person or officer. Any person who was an allied member in good standing [prior to March 26, 1970] but [does not meet the definition of] who ceases to qualify as an allied member [as of March 26, 1970] may continue to perform those functions for his member corporation as he was performing [on March 26, 1970] while an allied member. If any change in the duties of such person is contemplated, the Exchange should be consulted regarding any further requirements of training and examination.

11 [(1)] Applications: Applications for the [employment] registration of a "registered representative" or the ap-



proval of an "officer" should be submitted to the Exchange on Form U-4, copies of which will be supplied on request. The application for the approval of a registered representative should be completed and filed upon the candidate's employment in order that any processing done by the Exchange [investigation] may be completed by the time the training period is finished.

[12 Members of the Exchange.—An employee who also is a member of the Exchange is not required to qualify as a registered representative. However, every such employment arrangement must be reported to the Exchange for its information, and may be disapproved by the Exchange.]

16 Agreements.—Each prospective registered representative or officer, in consideration of the Exchange's consideration of the applicant's application, shall sign an agreement, on a form prescribed by the Exchange, which includes a pledge that the registered representative or officer will abide by the Constitution and Rules adopted pursuant thereto as these now exist and as from time to time amended. [the following statements:]

[(a) "I authorize and request any and all of my former employers and any other person to furnish to the Exchange, or any agent acting on its behalf, any information they may have concerning my credit worthiness, character, ability, business activities, general reputation, mode of living and personal characteristics, together with, in the case of former employers, a history of my employment by them and the reasons for the termination thereof. Moreover, I hereby release each such employer and each such other person from any and all liability of whatsoever nature by reason of furnishing such information to the Exchange or any agent acting on its behalf.]

["Further, I recognize that I will be the subject of an investigative consumer report ordered by the Exchange and that I have the right to request complete and accurate disclosure by the Exchange of the nature and scope of the investigation requested.]

[(b) I authorize the New York Stock Exchange to make available to any prospective employer, or to any Federal, State or Municipal agency, any information it may have concerning me, and I hereby release the New York Stock Exchange from any and all liability of whatsoever nature by reason of furnishing such information.]

[(c) I agree that the decision of the New York Stock Exchange as to the results of any examinations it may require me to take will be accepted by

\* Examination requirement which may affect a member who desires to service customer accounts is found in Rule 304.70.

me as final, and that I shall be subject to the penalties provided for under Rule 345(d) of the Board of Directors, as from time to time amended, if, in the opinion of the Exchange, I have

(1) violated any provision of the Constitution or of any rule adopted by the Board of Directors;

(2) violated any of my agreements with the Exchange;

(3) made any misstatements to the Exchange; or

(4) been guilty of (i) conduct inconsistent with just and equitable principles of trade, (ii) acts detrimental to the interest or welfare of the Exchange, or (iii) conduct contrary to an established practice of the Exchange.]

[(d) I have read the Constitution and Rules of the Board of Directors of the New York Stock Exchange and, if approved, I hereby pledge myself to abide by the Constitution and Rules of the Board of Directors of the New York Stock Exchange as the same have been or shall be from time to time amended, and by all rules and regulations adopted pursuant to the Constitution, and by all practices of the Exchange.]"

[Further, each registered representative, in consideration of the Exchange's approving his application, shall sign the following statements:]

[(A) "That I will not guarantee to my employer or to any other creditor carrying a customer's account, the payment of the debit balance in such account, without the prior written consent of the Exchange.]

[(B) That I will not guarantee any customer against loss in his account or in any way represent to any customer that I or my employer will guarantee the customer against such losses.]

[(C) That I will not take or receive, directly or indirectly, a share in the profits of any customer's account, or share in any losses sustained in any such account.]

[(D) That I will not make a cash or margin transaction or maintain a cash or margin account in securities or commodities, or have any direct or indirect financial interest in such a transaction or account, except with a member organization or with a bank. I understand and agree that no such transaction may be effected and no such account may be maintained without the prior consent of my employer, and that except for Monthly Investment Plan transactions such employer must receive promptly, directly from the carrying member organization or bank, duplicate copies of all confirmations and statements relating to such transaction or account. I further understand and agree that I shall receive no compensation for commissions or profits earned on any transaction or account in which I have a direct or in-

direct financial interest, except with the approval of my employer.]

[(E) That I will not rebate, directly or indirectly, to any person, firm or corporation any part of the compensation I receive as a registered employee, and I will not pay such compensation, or any part thereof, directly or indirectly, to any person, firm or corporation, as a bonus, commission, fee or other consideration for business sought or procured for me or for any member or member organization of the Exchange.]

[(F) That at any time, upon the request of Regulation & Surveillance, or of any Committee or other Department of the New York Stock Exchange, I will appear before such Committee or Department and give evidence upon any subject under investigation by any such Committee or Department, and that I will produce, upon request of the Exchange, all of my records or documents relative to any inquiry being made by the Exchange.]

[(G) I understand that any changes in compensation in any form, or additional compensation in any form, may be subject to disapproval by the New York Stock Exchange, and that I may not be compensated for business done by or through my employer after the termination of my employment except as may be permitted by the Exchange.]

[(H) I agree that I will not take, accept, or receive, directly or indirectly, from any person, firm, corporation or association, other than my employer, compensation of any nature, as a bonus, commission, fee, gratuity or other consideration, in connection with any securities, commodities or insurance transaction or transactions, except with the prior written consent of my employer.]

[(I) I will notify my member organization and Regulation & Surveillance promptly if, during the tenure of my employment I become the subject of: any investigation or proceeding by any governmental or securities or insurance industry self-regulatory body; a refusal of registration, injunction, censure, suspension, expulsion or other disciplinary action by any governmental or securities or insurance industry self-regulatory body; a major complaint by a customer of a member organization or by broker-dealer in securities; a disciplinary action by a member organization; any litigation or arbitration alleging my violation of any agreement with or provision of any securities industry self-regulatory body's constitution, by-laws, or rules or any securities or insurance law or regulation; or any bankruptcy or contempt proceeding, cease and desist order, injunction or civil judgment as party defendant; or any arrest, sum-

mons, arraignment, indictment, or conviction for a criminal offense (other than minor traffic violations); or any material allegation that I have conducted myself in a way which may be inconsistent with just and equitable principles of trade, or detrimental to the interest and welfare of the Exchange, or contrary to an established practice of the Exchange; or if I violate any provision of the Exchange Constitution or of any rule adopted by the Board of Directors or of any securities or insurance law or regulation or of any agreement with the Exchange.]

[(J) I agree that any controversy between me and any member or member organization or affiliate or subsidiary thereof arising out of my employment or the termination of my employment shall be settled by arbitration at the instance of any such party in accordance with the arbitration procedure prescribed in the Constitution and rules then obtaining of the New York Stock Exchange.]"

[(K) If the Exchange, during the period of 90 days immediately following receipt by the Exchange of written notice of the termination of my employment gives me written notice that the Exchange is making inquiry into any specified matter or matters occurring prior to termination of such employment, I agree that I will thereafter, comply with any request of the Exchange for me to appear and testify, submit records, respond to written requests, attend hearings, and accept disciplinary charges or penalties with respect to the matter or matters specified in such notice in every respect in conformance with the Constitution, Rules and practices of the Exchange in the same manner and to the same extent as required to do if I had remained an employee. If I refuse to accept such written notice or, having been given such notice, refuse or fail to comply with any such request of the Exchange, I agree that such refusal or failure may, in the discretion of the Exchange, act as a bar to future Exchange approval of my employment until such time as the Exchange has completed investigation into the matter or matters specified in such notice; has determined a penalty, if any, to be imposed against me; and until the penalty, if any, has been carried out.]

#### GENERAL INFORMATION REGARDING EMPLOYEES

17 Power of Exchange over all employees.—The Exchange may require at any time that the name, terms of employment, and actual duties of any person employed by a member or member organization shall be stated to the Exchange, together with such other information with respect to such employee as it may deem [requisite.]

appropriate to permit it to enforce compliance with the Rules.

18 Investigations and Records.—Members and member organizations should make a thorough inquiry into the previous record and reputation of persons whom they contemplate employing. The background and reputation check should, whenever possible, include at least personal conversations with all employers during the previous 3 years. Further inquiry should be made where appropriate in the light of background information developed, the position for which the person is being considered, or other circumstances. Verification and investigation should be done by a [partner or voting stockholder] member or allied member, or by an authorized person under [their] the supervision of such member or allied member.

Members and member organizations should obtain at the time of employment of any person, whether registered with the Exchange or not, and keep on file during employment and for a minimum of three years after termination of employment[,] and any other connection with the member or member organization, all information required under Rule 17a-3(a)(12) of the Securities Exchange Act of 1934. In addition, the Exchange requires the signature and a recent photograph of such personnel and a record of whether a surety bond has ever been denied or revoked, or a surety paid because of such person. I, at least the following information concerning all personnel whether registered with the Exchange or not: (1) Name; (2) home address; (3) social security number; (4) starting date of employment or other association with member organization; (5) date of birth; (6) title or position; (7) recent photograph; (8) signature; (9) the educational institutions attended and whether or not graduated therefrom; (10) a complete consecutive statement of all business connections for at least the preceding ten years, including reason for leaving each prior employment, and whether employment was part-time or full-time, with all time accounted for including periods of unemployment and residence while unemployed; (11) a record of any arrests, indictments or convictions for any felony or any misdemeanor except minor traffic offenses; (12) a record of any other name or names by which he has been known or which he has used; (13) a record of any previous or current surety bonds under which applicant may have been covered. Also whether such a bond has ever been denied, revoked, or surety paid because of applicant; (14) a record of any denial of membership or registration, and of any disciplinary action taken, or sanction imposed, upon him by any federal or state agency, or by any na-

tional securities exchange or national securities association, including any finding that he was a cause of any disciplinary action or had violated any law; (15) a record of any denial suspension, expulsion or revocation of membership or registration of any member, broker or dealer with which he was associated in any capacity when such action was taken; (16) a record of any permanent or temporary injunction entered against him or any member, broker or dealer with which he was associated in any capacity at the time such injunction was entered.

[The above record-keeping requirements, when signed by an authorized person, include compliance with Rule 17a-3 and 17a-4 under the Securities Exchange Act of 1934 as far as employee records are concerned.]

If any employee is registered with the Exchange, a duplicate copy of the registration application form signed by an authorized person shall satisfy all the record-keeping requirements of this paragraph except the recent photograph.

#### PROPOSED AMENDMENTS TO RULE 407

Transactions-Employees of Exchange. Member Organizations, or Certain Non-Member Organizations Rule 407.(a)xxxxxx.

(b)(1) No member, allied member, registered representative or officer of a member organization shall have a securities or commodities account with respect to which he has the power, directly or indirectly, to make investment decisions, at another member organization or a non-member organization or a bank without the prior written consent of another [general partner or principal executive officer of the member organization] person designated by the member or member organization under Rule 342(b)(1) to sign such consents and review such accounts.

(2) Persons having accounts referred to in (1) above shall arrange for duplicate reports and monthly statements of said accounts to be sent to another [general partner or principal executive officer of the member organization] person designated by the member or member organization under Rule 342(b)(1) to review such accounts.

(3) For the purpose of this rule accounts referred to in (1) above shall [unless excepted upon written Exchange approval,] include, but are not limited to, the following: (A) securities and commodities accounts carried at member or non-member organizations or at banks; (B) limited and general partnership interests in investment partnerships; (C) direct and indirect participations in joint accounts; and (D) legal interests in trust accounts, provided that with respect to trust accounts the member or member organi-



zation required to approve the account may waive the requirement to send duplicate reports and monthly statements for such accounts. [to the designated general partner or principal executive officer.]

## PROPOSED RULE 352

## Guarantees and Sharing in Accounts

Rule 352. (a) No member associated with a member organization as a member, allied member, registered representative or officer shall guarantee to his employer or to any other creditor carrying a customer's account, the payment of the debit balance in such account.

(b) No member organization shall guarantee or in any way represent that it will guarantee any customer against loss in any account or on any transaction; and no member, allied member, registered representative or officer shall guarantee or in any way represent that either he or his employer will guarantee any customer against loss in any account or on any transaction.

(c) No member, member organization, allied member, registered representative or officer shall, directly or indirectly, (i) take or receive or agree to take or receive a share in the profits, or (ii) share or agree to share in any losses, in any customer's account or of any transaction effected therein. The foregoing will not prohibit the participation of an allied member, a registered representative or an officer in a joint account on investment partnership provided he obtains the prior written consent of his employer.

(See Rule 423 of for reporting requirements concerning participation in joint accounts by members, member organizations and allied members.)

Supplementary Material:  
10 Interest in customer accounts.—For the purposes of paragraphs (b) and (c) above, the term customer shall not be deemed to include the member or member organization or any joint, group, or syndicate account with such member or member organization.

20 Paragraphs (a) and (c) shall not preclude a member, member organization, allied member, registered representative or officer from sharing or agreeing to share in any losses in any customer's account after the member organization has established that the loss was caused in whole or in part by the action or inaction of such member, member organization, allied member, registered representative or officer.

## PROPOSED RULE 353

## Rebates and Compensation

Rule 353. (a) No member, allied member, registered representative or officer shall, directly or indirectly, rebate to any person, firm or corporation any part of the compensation he receives for the solicitation of orders

for the purchase or sale of securities or other similar instruments for the accounts of customers of his member organization employer, or pay such compensation, or any part thereof, as a bonus, commission, fee or other consideration for business sought or procured for him or for any member or member organization of the Exchange.

(b) No member, allied member, registered representative or officer shall be compensated for business done by or through his employer after the termination of his employment except as may be permitted by the Exchange.

PROPOSED RESCISSION OF RULE 369<sup>1</sup>

## Interest in Customer Accounts

[Rule 369. No member or member organization shall guarantee any customer against loss in his account or take or receive directly or indirectly a share in the profits of any customer's account or share in any losses sustained in any such account. For the purposes of this Rule the term customer shall not be deemed to include the member or member organization or any joint, group, or syndicate account with such member or member organization.]

[FR Doc. 79-9147 Filed 3-26-79; 8:45 am]

## [8025-01-M]

## SMALL BUSINESS ADMINISTRATION

[License No. 06/06-5207]

## CAPITAL MANAGEMENT SERVICES, INC.

Issuance of a License to Operate as a Small Business Investment Company

On December 1, 1978, a notice was published in the FEDERAL REGISTER (43 FR 56301), stating that Capital Management Services, Inc., located at 4801 North Hills Boulevard, North Little Rock, Arkansas 72116, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on December 18, 1978, and no comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 06/06-5207 to Capital Management Services, Inc.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 20, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator for Investment

[FR Doc. 79-9255 Filed 3-28-79; 8:45 am]

<sup>1</sup>Transposed in substance to proposed Rule 352.

## [4710-02-M]

## DEPARTMENT OF STATE

Agency for International Development

## JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

## Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-second meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on April 10 and 11, 1979.

The purpose of the meeting is to discuss progress in planning and implementation of authorized Collaborative Research Support Programs (CRSPs), to consider priorities and criteria for food and nutrition research, and to review five-year budget projections and priorities proposed by the Agency for International Agricultural Development in food, agricultural development and nutrition.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on April 10 and 11, 1979. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: March 16, 1979.

ERVEN J. LONG,  
A.I.D. Advisory Committee Representative,  
Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-9150 Filed 3-26-79; 8:45 am]

## [4830-01-M]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 51 (Rev. 4)]

## CHIEFS, TECHNICAL AND OFFICE COMPLIANCE BRANCH

## Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Chiefs, Technical and Office Compliance Branch are added to the Delegation Order. Technical and Office Compliance Branch represents a consolidation of the Special Procedures and Collection Office function in some districts. The text of the delegation order appears below.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Stephen M. Roche, CP:CM, 1111 Constitution Avenue, NW., Room 7231, Washington, D.C. 20224, Telephone No. 202-566-6568, (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

STEPHEN M. ROCHE,  
Program Analyst, National  
Office Collection Division.

## DELEGATION ORDER

Subject: Authority to Sign Proofs of Claim and Other Documents.

Date of Issue: March 21, 1979.

Pursuant to the authority vested in the Commissioner of Internal Revenue by 28 CFR 301.7701-9 and 28 CFR 301.6871 the authority to sign proofs of claim and other documents asserting obligations incurred under the Internal Revenue laws (including taxes, penalties and interest), in order to claim and collect such obligations in any proceeding under the Bankruptcy Act and any receivership, decedent's estate, corporate dissolution, or other insolvency proceeding is hereby redelegated to the following officers:

Chief, Special Procedures Staff  
Chief, Technical and Office Compliance Branch  
Chief, Technical and Office Compliance Group in streamlined districts

The authority herein delegated may not be redelegated.

This Order supersedes Delegation Order No. 51 (Rev. 3), issued January 29, 1979.

Effective: March 21, 1979.

JEROME KURTZ,  
Commissioner.

[FR Doc. 79-9188 Filed 3-26-79; 8:45 am]

## [8240-01-M]

## UNITED STATES RAILWAY ASSOCIATION

[Docket 211-19]

## CONSOLIDATED RAIL CORP.

## Application for a Loan

Subsection (h) of Section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. § 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (Conrail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to Section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of Section 211 requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an opportunity to comment thereon.

On March 21, 1979, Conrail submitted two new Borrowing Applications and a supplement to its Borrowing Application of November 18, 1976 pursuant to section 211(h) of the Act. Under the first Borrowing Application, Conrail requests that the following previously approved borrowing applications be amended to decrease the funds previously committed in the categories shown:

## APPLICATION DATED APRIL 25, 1977—ERIE LACKAWANNA CATEGORY

|                            |              |
|----------------------------|--------------|
| Suppliers.....             | \$40,093.24  |
| Non-Employee Injuries..... | 79,000.00    |
|                            | \$119,093.24 |

## APPLICATION DATED JULY 20, 1977—LEHIGH VALLEY CATEGORY

|                            |              |
|----------------------------|--------------|
| Suppliers.....             | \$96,994.07  |
| Shippers.....              | 123,977.26   |
| Railroads.....             | 154,635.23   |
| Non-Employee Injuries..... | 36,750.00    |
|                            | \$412,356.56 |

## APPLICATION DATED JUNE 22, 1977—READING CATEGORY

|                            |                |
|----------------------------|----------------|
| Suppliers.....             | \$212,800.62   |
| Shippers.....              | 53,092.49      |
| Railroads.....             | 1,982,551.33   |
| Non-Employee Injuries..... | 10,631.85      |
|                            | \$2,258,876.29 |

## APPLICATION DATED SEPTEMBER 19, 1977—CENTRAL OF NEW JERSEY CATEGORY

|                |              |
|----------------|--------------|
| Railroads..... | \$133,516.44 |
|----------------|--------------|

## APPLICATION DATED SEPTEMBER 22, 1977—PENN CENTRAL TRANSPORTATION COMPANY CATEGORY

|                |                |
|----------------|----------------|
| Railroads..... | \$311,270.72   |
|                | \$3,235,113.25 |

Conrail states that it will reallocate the \$3,235,113.25 as follows:

1. \$2,935,113.25 to the payment of certain Federal Employer's Liability Act Claims of the Penn Central Transportation Company.

2. \$300,000.00 to the payment of certain Federal Employer's Liability Act Claims of the Central Railroad of New Jersey.

Under the second Borrowing Application, Conrail requests that the following previously approved Borrowing Applications be amended to decrease the funds previously committed in the categories as shown:

## APPLICATION DATED JUNE 6, 1977—CENTRAL OF NEW JERSEY CATEGORY

|                            |                |
|----------------------------|----------------|
| Suppliers.....             | \$462,444.01   |
| Shippers.....              | 626,714.29     |
| Non-Employee Injuries..... | 691,904.00     |
|                            | \$1,801,062.30 |

## APPLICATION DATED JUNE 22, 1977—READING CATEGORY

|           |             |
|-----------|-------------|
| FELA..... | \$50,000.00 |
|-----------|-------------|

## APPLICATION DATED SEPTEMBER 22, 1977—PENN CENTRAL TRANSPORTATION COMPANY CATEGORY

|                |                |
|----------------|----------------|
| Railroads..... | \$6,143,403.00 |
|----------------|----------------|

## APPLICATION DATED MARCH 16, 1977—PENN CENTRAL TRANSPORTATION COMPANY, ERIE LACKAWANNA AND LEHIGH VALLEY CATEGORY

|                     |                |
|---------------------|----------------|
| Pensions, PCTC..... | \$3,169,574.02 |
| Pensions, EL.....   | 867,000.00     |
| Pensions, LV.....   | 317,000.00     |
|                     | \$4,353,574.02 |

## APPLICATION DATED JANUARY 13, 1978—PENN CENTRAL TRANSPORTATION COMPANY AND ERIE LACKAWANNA CATEGORY

|                                 |                 |
|---------------------------------|-----------------|
| FELA, EL.....                   | \$2,500,000.00  |
| Employee Wage Claims, PCTC..... | 193,000.00      |
| Employee Wage Claims, EL.....   | 42,000.00       |
| Suppliers, EL.....              | 4,200,000.00    |
| Railroads, EL.....              | 3,300,000.00    |
| Non-Employee Injuries, EL.....  | 1,700,000.00    |
|                                 | \$11,935,000.00 |



APPLICATION DATED NOVEMBER 18, 1976—  
ERIE LACKAWANNA, LEHIGH AND HUDSON  
RIVER, ANN ARBOR, CENTRAL OF NEW JERSEY,  
READING, PENN CENTRAL TRANSPORTATION  
COMPANY AND LEHIGH VALLEY CATEGORY

Variations..... \$406,890.88

APPLICATION DATED SEPTEMBER 19, 1977—  
CENTRAL OF NEW JERSEY CATEGORY

Railroads..... \$2,630,000.00

\$27,319,930.00

Conrail states that of the \$27,319,930 it will reallocate \$24,689,930 to pay insurance premiums under a Premium Deposit Fund Insurance Program and up to \$2,630,000 to fund the payment of additional premiums which would be required in the event Conrail elects to implement an alternative insurance program.

Under the supplement to its borrowing application of November 18, 1976, Conrail requests that a loan of \$1,361,667.32 be approved for payment of vacation pay obligations of the estate of the Central Railroad Company of New Jersey.

Each Borrowing Application and the supplement to the borrowing application of November 18, 1976 include the certification and exhibits required by the Loan Procedures.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, 955 L'Enfant Plaza North NW., Washington, D.C. 20595, on or before April 6, 1979, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5:00 p.m.

Dated at Washington, D.C., this 22nd of March, 1979.

PETER J. GALLAGHER,

Assistant Secretary,

United States Railway Association.

[FR Doc. 79-9228 Filed 3-26-79; 8:45 am]

#### [7035-01-M]

#### INTERSTATE COMMERCE COMMISSION

[Notice No. 53]

#### ASSIGNMENT OF HEARINGS

MARCH 22, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does

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not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-750F), Curtis, Inc., now assigned March 26, 1979, at Chicago, Illinois is canceled transferred to Modified Procedure.

MC 116077 (Sub-396F), DSI Transports, Inc., now assigned for prehearing conference on April 26, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

I&S M 30011, Increased Rates, Transcontinental Traffic, RMMTB, February 1979, now assigned for hearing on April 23, 1979, at Denver, Colorado and will be held in Division 1, U.S. Court of Appeals, 1929 Stout Street.

MC 98291 (Sub-3F), Kunkle Transfer & Storage Co., now assigned for hearing on April 17, 1979, at Phoenix, Arizona and will be held in Maricopa County Superior Court Building, 201 West Jefferson.

MC 143059 (Sub-24F), Mercer Transportation Co., MC-119988 (Sub-159F), Trucking Co., Inc., now assigned for hearing on May 14, 1979 (5 days), at Portland, Oregon in a hearing room to be later designated.

MC 140511 (Sub-7F), Autolog Corporation, a Delaware corporation, now assigned April 23, 1979 at New York, New York is postponed to a date to be hereafter fixed.

H. G. HOMME, Jr.,

Secretary.

[FR Doc. 79-9228 Filed 3-26-79; 8:45 am]

#### [7035-01-M]

[Docket No. AB-12 (Sub No. 58F)]

SOUTHERN PACIFIC TRANSPORTATION CO.  
ABANDONMENT AT SEASIDE AND LAKE  
MAJELLA IN MONTEREY COUNTY, CA

#### Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a Certificate and Decision decided February 26, 1979, a finding, which is administratively final, was made by the Commission. Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 ICC 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of a line of railroad known as the Monterey Branch extending from railroad milepost 123.30 at Seaside to the end of the branch line at railroad milepost 130.02 at Lake Majella, for a distance

of 6.72 miles, in Monterey County, CA. The line consists of two sections, Seaside-Monterey (milepost 123.30 to 125.81) and Monterey-Asilomar (milepost 125.81 to 130.01). A certificate of public convenience and necessity permitting abandonment was issued to the Southern Pacific Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the *FEDERAL REGISTER* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 11, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective May 11, 1979.

H. G. HOMME, Jr.,

Secretary.

[FR Doc. 79-9239 Filed 3-26-79; 8:45 am]

#### [7035-01-M]

[Notice No. 41]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 22, 1979.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the *FEDERAL REGISTER* publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *FEDERAL REGISTER*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make

#### NOTICES

available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

#### MOTOR CARRIERS OF PROPERTY

MC 7840 (Sub-10TA), filed February 8, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INCORPORATED, 650 Cooper Street, Watertown, NY 13601. Representative: Werner Steinaker, 650 Cooper St., Watertown, NY 13601. *Sanitary Paper Products*, from Plattsburgh, NY to points in OH and MI, for 180 days. An ETA for 90 days under R-11 was granted January 18, 1979. Supporting Shipper(s): Georgia-Pacific Corporation, Mr. Robert Ricker, Mgr. of Transportation, 800 Summer St., Stamford, CT 06901. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 18037 (Sub-10TA), filed February 7, 1979. Applicant: CHAS. LEVY CIRCULATING CO., 1200 N. Branch St., Chicago, IL 60622. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier: irregular routes: Magazines*, from Detroit, MI to pts in IL, IN, IA, KY, OH and WI for 180 days. An underlying ETA has been granted. Supporting Shipper(s): Look Magazine, Inc., 150 E. 58th St., New York, NY 10022. Send protests to: TA Annie Booker, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 28060 (Sub-49TA), filed January 16, 1979. Applicant: WILLERS, INC., d/b/a WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Meats, meat products, meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the Report in Description, in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from Winner, SD to points in CO, IA, MN,

MO, NE and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Shannon Dakota Foods, 136 W. Tripp Avenue, Winner, SD 57580. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 28060 (Sub-50TA), filed January 18, 1979. Applicant: WILLERS, INC., d/b/a WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. *Frozen foods and canned goods*, from Kansas City, MO to the facilities of Hogg Restaurant Service at or near Aberdeen, SD. Supporting Shipper(s): Hogg Restaurant Service, 810 Third Avenue, SE, Aberdeen, SD 57401. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 61825 (Sub-91TA), filed January 4, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone, Roy Stone Transfer Corporation, Post Office Box 385, Collinsville, VA 24078. *Temporary Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, (except in bulk, in tank vehicles), and filters from points in Warren County, MS to points in AL, CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WV and DC; and (2) Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies, and equipment as are used in the manufacture, sale, and distribution of the commodities named in Part (1) above, (except in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, RI, SC, TN, VA and WV to points in Warren County, MS. Restricted in Parts (1) and (2) above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS, for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Paul D. Collins DS, ICC, Room 10-502 Fed. Bldg., 400 N. 8th St., Richmond, VA 23240.*

MC 69833 (Sub-140TA), filed January 31, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Ave., N.W., Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). *Common carrier: regular route: General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, com-*

modities in bulk, and commodities requiring special equipment). Serving Reed City, MI as an intermediate point on applicant's presently authorized Route over U.S. Hwy 131 and U.S. Hwy 10, between Grand Rapids, MI and Ludington, MI for 180 days. An underlying ETA has been granted. Supporting shipper(s): Kraftube Fabricators Corp., 1215 E. Maple St., Reed City, MI 49677. Consolidated Aluminum Corp., Old 131 Hwy North, Reed City, MI 49677. Send protests to: TA Annie Booker, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 100449 (Sub-106TA), filed February 7, 1979. Applicant: MALLINGER TRUCK LINE, INC., R.R. No. 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses, except hides and commodities in bulk*, from the facilities of Armland Foods, Inc. at Denison, Carroll, Iowa Falls, Des Moines, Fort Dodge, Cherokee, and Sioux City, Iowa, and Crete and Lincoln, NE to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmland Foods, P.O. Box 403, Denison, IA 51442. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 100666 (Sub-433TA), filed February 15, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Mr. Paul L. Caplinger, P.O. Box 7666, Shreveport, LA 71107. *Composition board and building materials* from the facilities of National Gypsum Co., at Newark, OH to points in and west of AR, LA, MS, OK, KS, CO, WY, and MT, for 180 days. Applicant has filed an underlying ETA seeking 90 days operating authority. Supporting shipper(s): National Gypsum Co., Gold Bond Building Products Div., 2001 Rexford Road, Charlotte, NC 28211. Send protests to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-434TA), filed February 15, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Mr. Paul L. Caplinger, (same address as applicant). *Iron and steel articles* from the facilities of Armco, Inc., at or near Kansas City, MO to points in AR, CO, LA, MS, NM, TX, and Shelby County, TN, for 180 days. Applicant has filed an underlying ETA seeking 90 days operating authority. Supporting shipper(s): ARMCO, Inc., 703 Curtis Street, Middletown, OH 45043. Send protests to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.



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MC 107162 (Sub-50TA), filed February 14, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Lumber and lumber products*, from Bangor, WI to Nassau County, Long Island, NY; for 180 days. An underlying ETA for 90 days has been granted. Supporting shipper(s): North Shore Wood Products, Inc., P.O. Box 231, Glen Head, NY 11545. Send protests to: C. R. Flemming, ICC, 225 Federal Building, Lansing, MI 48933.

MC 107496 (Sub-1190TA), filed February 7, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Citric acid, in bulk, in tank vehicles*, from Elkhart, IN to Joliet, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economic Labs, 370 Wabasha Avenue, St. Paul, MN 55102. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1191TA), filed February 6, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Sweeteners, in bulk*, from the facilities of Industrial Sugars, Inc., subsidiary Borden Inc., at or near St. Louis, MO to all points in the states of KY, TN, AR, IA, OH, IN, KS, IL, and MO for 180 days. Supporting shipper(s): Industrial Sugars, Inc., subsidiary Borden, Inc., 180 E. Broad Street, Columbus, OH 43215. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 108119 (Sub-122TA), filed February 14, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Fencing, fencing materials, wire and wire products* from the facilities of Bekaert Steel Wire Corporation at or near Van Buren, AR to all points in the United States except AR, OK, LA, TX, NM, AK, and HI, for 180 days. Supporting shipper(s): Bekaert Steel Wire Corporation, 1-40 & Lee Creek Road, Van Buren, AR 72956. Send protests to: Delores A. Poe, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108247 (Sub-4TA), filed February 16, 1979. Applicant: WESTCHESTER MOTOR LINES, INC., 35 Edgemere Road, New Haven, CT 06512. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K

Street, NW., Washington, DC 20005. *Furniture parts and materials and supplies used in the manufacture or assembly of furniture* from Newark, OH to Milford, CT restricted to traffic which originates at and is destined to the facility of Chatham County Furniture, Division of U.S. Furniture Industries, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chatham County Furniture, Division of U.S. Furniture Industries, P.O. Box 2127, High Point, NC 27261. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06103.

MC 110012 (Sub-51TA), filed February 14, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. *Empty plastic bottles* from Port Clinton, OH to Franklin, KY and Elizabethton, TN, for 180 days. Supporting shipper(s): Aim Packaging, Inc., P.O. Box 278, Port Clinton, OH 43452. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111401 (Sub-544TA), filed February 8, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum and petroleum products*, in bulk, in tank vehicles, from Oklahoma City, OK to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crowley Chemical Company, 261 Madison Avenue, New York, NY 10016. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112627 (Sub-32TA), filed February 9, 1979. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. *Malt beverages*, from Newark and Secaucus, NJ and New York, NY, to all points in IL, IN, OH, MI and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Van Munching & Co., Inc., Mr. Matthew Nestor, Asst. Traffic Mgr., 51 West 51st St., New York, NY 10019. Send protest to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 113531 (Sub-3TA), filed February 12, 1979. Applicant: B & M SERVICE, INC., Box 888, Rangely, CO 81648. Representative: Truman A.

Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. (1) Machinery, equipment, materials and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, (2) machinery, materials equipment and supplies used in, or in connection with the dismantling of pipelines, including the stringing and picking up thereof, and (3) machinery, equipment, materials and supplies used in or in connection with the discovery, development, construction, operation, repair, servicing, maintenance and dismantling of mines, between points in ND, DS, NE, KS, OK, TX, MT, WY, CO, NM, ID, UT, AZ, NV, WA, OR and CA, for 180 days. Supporting shipper(s): There are 5 supporting shippers. Send protests to: District Supervisor Roger L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, Colorado.

MC 113678 (Sub-780TA), Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Floor coverings*, from Whitehall, PA to Denver, CO and an area within 75 miles radius thereto, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mountain States Distributing, 3900 E 39, Denver, CO 80216. Send protests to: District Supervisor, Herbert C. Ruoff, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 113828 (Sub-265TA), Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Mono propylene glycol, amines, water treatment compounds, defoamers, flame retardants, sodium hydrosulphite solution*, in bulk, in tank vehicles, from Norfolk, VA to points in MN, IA, MO, AR, LA, WI, IL, IN, OH, MI, MS, AL, FL, CT, VT, NH, RI, ME, MA, TX, for 180 days. Supporting shipper(s): Virginia Chemicals Inc., 3340 W. Norfolk Rd., Portsmouth, VA 23703. Prochimie International Inc., 488 Madison Ave., New York, NY 10022. Send protests to: T. M. Esposito, Transportation Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 113908 (Sub-465TA), filed February 13, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 0068, G.S., Springfield, MO 65804. Representative: Jim G. Erickson, Asst. Traffic Mgr. (same as applicant). *Soybean oil, in bulk*, from Fredonia, KS, and the commercial zone thereof, to Memphis, TN; Catoosa, OK; and Tulsa, OK; and their respective commercial

zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Archer Daniels Midland Co., 4666 Faries Pkwy., P.O. Box 1470, Decatur, IL 62525. Send protests to: DS John V. Barry, ICC, 600 Federal Building, 911 Walnut, Kansas City, MO 64106.

MC 114045 (Sub-530TA), filed February 15, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (address same as applicant). (1) *rubber and plastic articles (except commodities in bulk in tank vehicles)* and (2) *materials and supplies used in the manufacture of the above named articles*, (1) from the facilities of ENTEK Corp. of America at or near Irving, TX to points in the U.S. (except AK and HI) and (2) from the destinations shown in (1) to the facilities of ENTEK Corp. of America, at or near Irving, TX for 180 days. Supporting shipper(s): ENTEK Corp. of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 114273 (Sub-547TA), filed February 6, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney, P.O. Box 68, Cedar Rapids, IA 52406. *Resins, glass parts, N.O.I., brass fittings, foaming agents and water conditioners (corrosives) and commodities used in the manufacture of foam insulation*, from Florence, KY to St. Paul, MN, for 180 days. Supporting shipper(s): Academy of Insulation Products, Inc., 1925 Oak Crest Ave., St. Paul, MN 55113. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-548TA), filed February 6, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney, (same as applicant). *Iron, steel, zinc, lead and articles or products thereof, construction materials, and materials, equipment and supplies used in the manufacture and distribution of same*, from the facilities of Penn-Dixie Steel Corporation at or near Kokomo, IN to points in IA, CO, NE, KS, MN, MO AND WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penn Dixie Steel Corporation, 1111 and Main St., P.O. Box 5049, Kokomo, IN 46979. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114632 (Sub-199TA), filed February 7, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as appli-

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cant). *Meats, meat products, meat by-products and materials dealt in by meat packing houses* from the facilities of Huron Dressed Beef, Inc. at Huron, SD to points in KY for 180 days. RESTRICTION: Restricted to shipments originating at named origin and destined to named destination state. Supporting shipper(s): Huron Dressed Beef, P.O. Box 924, Huron, SD 57350. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-200TA), filed February 8, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Foodstuffs (except commodities in bulk)* from the facilities of Green Giant Co. at Glencoe, MN to points in IA, KS, MO, ND, NE and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Giant Co., Le Sueur, MN 56058. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114725 (Sub-96TA), filed February 13, 1979. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 No. 11th St., Omaha, NE 68110. Representative: Donald F. Swerczek (same address as applicant). *Tallow, in bulk, in tank vehicles*, from the facilities of Iowa Beef Processors, Inc., at Emporia, KS, to points in AR, IL, IA, MO, OK, TN, and TX, and from the facilities of Iowa Beef Processors, Inc., at Ft. Dodge and Denison, IA; West Point and Dakota City, NE; and Luverne, MN to points in IL, IN, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glen C. Echelbarger, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 115554 (Sub-18TA), filed February 5, 1979. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 89B, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *gas and electrical appliances and parts, materials, supplies, and equipment used in the manufacture, distribution or repair of appliances*, from the facilities of Whirlpool Corporation at Evansville, IN to points in the states of AR, IL, IA, MI, MN, MO, NE, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Whirlpool Corporation, Administrative Center, U.S. 33, North, Benton Harbor, MI 49022. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 115730 (Sub-65TA), filed February 2, 1979. Applicant: THE MICKOW

CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. *Iron and steel articles* from points in the St. Louis, MO commercial zone to Shenandoah, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): farmaster Division of Wickes Corporation, P.O. Box 220, Shenandoah, IA 51601. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 115826 (Sub-400TA), filed February 12, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Frozen meat* from Los Angeles, CA and its commercial zone to points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seaport Shipping Co., 1101 Pine Avenue, Long Beach, CA 90802. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-401TA), filed February 12, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Jack B. Wolfe, Kimball, Williams and Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Beads and pulverized glass*, from the facilities of Potters Industries, Inc., at or near Cleveland, OH; Brownwood, TX; Anaheim, CA; Pottsdam, NY; Carlstadt and West Caldwell, NJ and Apex, NC, to all points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Potters Industries, Inc., 377 Route 17, P.O. Box 86, Hasbrouck Height, NJ 07604. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-402TA), filed February 14, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats and packinghouse products*, from facilities of Wilson Foods Corp. at Des Moines and Cherokee, IA to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-403TA), filed February 14, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above).



*Meats and meat products*, from Fort Morgan, CO to Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Packing Co.—AZ, 2401 So. 19th Avenue, Phoenix, AZ 85009. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115841 (Sub-680TA), filed February 14, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Foodstuffs (except in bulk)* from the facilities utilized by Beatrice Foods, located at or near Archbold, OH to points in TX, OK, AR, LA, MS, AL, TN, NC, SC, GA, and FL, for 180 days. Supporting shipper(s): Beatrice Foods Company, 401 MacArthur, Archbold, OH 43502. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, Nashville, TN 37203.

MC 115841 (Sub-681TA), filed February 15, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Foodstuffs (except in bulk)* from Chicago, IL and its commercial zone, to points in NC, SC, TN, AL, FL, LA, MS, GA, TX, and CA, for 180 days. Supporting shipper(s): (1) Republic Food Prod Co., Emmart Food Prod., 3327 W. 47th St., Chicago, IL 60632; (2) Cherry Brand Meat Prod, Inc., 4750 S. California, Chicago, IL 60632; (3) Nationwide Beef Inc., 219 N. Green St., Chicago, IL 60607; (4) Campbell Soup Co., 2550 W. 35th St., Chicago, IL 60632. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116273 (Sub-221TA), filed January 31, 1979. Applicant: D & L TRANSPORT, INC., 3800 S. Laramie Ave., Cicero, IL 60650. Representative: William R. Lavery (same address as applicant). *Liquid Petrochemicals in bulk, in tank vehicles*, from Cyril, OK to Chicago, IL for 180 days. An underlying ETA has been granted. Supporting shipper(s): Thompson-Hayward Chemical Co., 2501 S. Damen Ave., Chicago, IL 60606. Send protests to: TA Annie Booker, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 116544 (Sub-169TA), filed February 9, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., P.O. Box 10061, Palo Alto, CA 94303. Representative: Kirk W. Horton (same as applicant). *Canned and preserved foodstuffs*, from facilities of Heinz U.S.A., Division of H. H. Heinz Co., at or near Iowa City, IA, to all points to MO, and to points

in IL on and south of Interstate Hwy 70, RESTRICTED to traffic originating at, and destined to the named points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburg, PA 15230. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 116763 (Sub-476TA), filed February 14, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Foodstuffs (except frozen and commodities in bulk, in tank vehicles)*, for the facilities of B. F. Trappey's Sons, Inc. at or near Lafayette and New Iberia, LA, to points in MD, VA, and DC. RESTRICTED to traffic originating at the above named origins and destined to points in the named destination states. An underlying ETA seeks 90 days authority. Supporting shipper(s): B. F. Trappey's Sons, Inc., Charles W. Rice, Transportation Manager, P.O. Drawer 400, New Iberia, LA 70560. Send protests to: Paul J. Lowry, DS, ICC, 5514-B, Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 116859 (Sub-18TA), filed February 12, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Dulty Lane and Route 130, Burlington, NJ 08016. Representative: David A. Sutherland, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. *Paperback books*, between Philadelphia, PA and Washington, DC, on the one hand, and on the other, points in DE, MD, PA, VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Hearst Magazine Division, Hearst Corporation, 224 West 57th Street, New York, NY 10019; (2) Jove Publications, Inc., 757 Third Avenue, New York, NY 10017. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 117068 (Sub-108TA), filed February 16, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, MN 55901. Representative: Allen I. Koenig (same address as applicant). (1) *Malt beverages and related advertising materials* from Jefferson County, CO to points in IA, MO and WA; and (2) *Empty used beverage containers for recycling and materials and supplies used in and dealt with by breweries* from points in IA, MO and WA to Jefferson County, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: Delores A. Poe, TA, ICC, 414 Federal

Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401. Supporting shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 117686 (Sub-235TA), filed December 22, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same as above). *Toothpaste*, from Elizabeth, TN, to the facilities of LaMaur, Inc., at or near Minneapolis, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LaMaur, Inc., 5601 East River Road, Minneapolis, MN 55432. Send protests to: Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 117765 (Sub-252TA), filed February 7, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Malt beverages*, in containers, from Peoria, IL and St. Louis, MO to Dodge City, KS, for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic originating at the named origins and destined to the named destinations. Supporting shipper(s): Western Beverage, Inc., P.O. Box 124, 811 E. Wyatt Earp, Dodge City, KS 67801. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117786 (Sub-51TA), filed February 9, 1979. Applicant: RILEY WHITLEY, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Paper and paper products, pulpboard paper boxes and pulpboard and fibreboard, NOI*, from Miamisburg, OH and Middletown, OH to points in WA, OR, CA, AZ, NV, ID, MT, WY, UT, CO, NM, OK, TX, MO, IA, and MN, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Interstate Folding Box Company, So. Verity Parkway, Middletown, OH 45042. Send protests to: Thomas E. Klobas, Acting District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 117940 (Sub-311TA), filed February 13, 1979. Applicant: NATION-WIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *Foodstuffs (except commodities in bulk)* from the facilities of Kraft, Inc. at New Ulm, MN to points in IL, IN,

IA, KY, MI, MO NE, ND, OH, SD, WV, and WI, restricted to traffic originating at named facilities and destined to named destinations, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Kraft, Inc., Transportation Analyst, 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119789 (Sub-552TA), filed February 8, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., address same as above. *Inedible meats, meat products, and meat by-products*, from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX to the facilities of Kal Kan Foods, Inc., at or near Vernon, CA for 180 days. Underlying ETA filed. Supporting Shipper(s) Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-553TA), filed February 15, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., address same as applicant. *Meat*, from the facilities of Iowa Beef Processors, Wichita, KS to points in ME, NH, VT, MA, RI, CT, NY, PA, NJ, DE, MD, VA, WV, and DC for 180 days. Underlying ETA filed. Supporting Shipper(s) Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 121517 (Sub-3TA), filed February 8, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Fuel oil*, in bulk, in tank vehicles, from Fort Worth, TX to Muskogee, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Apex Oil Company, 11 South Meramec, St. Louis, MO 63105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 125882 (Sub-3TA), filed February 12, 1979. Applicant: WESTERN HAULERS, INC., 1457 W. Maple St., Denver, CO 80223. Representative: Charles J. Kimball, 350 Capitol Life

Center, 1600 Sherman St., Denver, CO 80203. *Rock and ore samples and commodities* used by or dealt in by mining companies between Denver, CO and its commercial zone, on the one hand, and on the other, points in WY for 180 days. Restricted to traffic either originating at or destined to the facilities of Rocky Mountain Energy Company, its divisions and corporate affiliates. Underlying ETA seeks 90 days authority. Supporting shipper(s): Rocky Mountain Energy Company, 4704 Harlan, Denver, CO 80212. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 128917 (Sub-3TA), filed February 8, 1979. Applicant: HANDY TRUCK LINE, INC., P.O. Box 148, Heyburn, ID 83336. Representative: Kenneth G. Bergquist, P.O. Box 1775, Boise, ID 83701. *Boxes and sheets, corrugated and not corrugated, K.D.F.*, from the plantsite of Boise Cascade Corporation at or near Burley, ID to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 7747, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 129032 (Sub-71TA), filed February 8, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). *Meat, meat by-products, and articles distributed by meat packinghouses* as described in sections A & C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 & 766, (except hides and commodities in bulk), from the facilities of George A. Hormel & Co. at or near Austin, MN to the states of AR, OK & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): George A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-72TA), filed February 8, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: Jerry Garland (same address as applicant). *Auto parts & materials & supplies used in the manufacturing of automotive parts* (except commodities in bulk), from the facilities of Goodyear Tire & Rubber Co., at or near St. Marys, OH, to the facilities of Ford Motor Co., at or near St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Sup-

porting shipper(s): Ford Motor Company, One Parkland Blvd., Parklane Towers-East, Suite 200, Dearborn, MI 48126. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129484 (Sub-5TA), filed November 30, 1978. Applicant: MELVIN WANG, d.b.a. MELVIN WANG TRUCKING, Fertile, MN 56540. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid fertilizer ingredients*, (in bulk, in tank vehicles), from Port Neal Industrial Complex near Sioux City, IA, to points in ND and those in MN on and west of U.S. Hwy 59 and north of MN Hwy 55, under a continuing contract or contracts, with Fert-L-Flow, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fert-L-Flow, Inc., 1226 South Main, Crookston, MN 56716. Send protests to: Ronald R. Mau, DS, ICC, Room 268 Fed., Bldg., and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 134405 (Sub-60TA), filed February 8, 1979. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Liquidified petroleum gas*, in bulk, in tank vehicles, from Tulsa, OK to Bentonville, Cotter, and Huntsville, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sun Gas Liquid, Inc., P.O. Box 169, Springdale, AR 72764. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Courthouse Bldg., 215 N.W. 3rd Oklahoma City, OK 73102.

MC 135170 (Sub-30TA), filed January 3, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Metal containers*, from Wayne, NJ and Baltimore, MD, and its commercial zone to Holland, St. Joseph, Benton Harbor, Shoreham and Detroit, MI; Columbus and Worthington, OH; and Indianapolis, IN; and (b) *Pallets, packing materials, and dunnage*, from Holland, St. Joseph, Benton Harbor, Shoreham, and Detroit, MI; Columbus and Worthington, OH; Indianapolis, IN to Wayne, NJ, Baltimore, MD, and its



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commercial zone, and points in IL, IN, WI, MI, and OH, restricted to traffic destined to the facilities of the continental Group, Inc., at the named points, under a continuing contract or contracts, with the Continental Group, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Algirdas Birutis, Area Manager-Traffic, the Continental Group, Inc., 5401 W. 65th Street, Chicago, IL 60638. Send protests to: William L. Hughes DS, ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 135234 (Sub-14TA), filed February 9, 1979. Applicant: TRENCO, INC., P.O. Box 697, Williamsport, PA 17701. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Contract carrier: irregular routes: *New furniture, furniture parts, and materials, equipment and supplies* used in the manufacture of new furniture and furniture parts, between Williamsport, PA, and Louisburg, NC, on the one hand, and, on the other, points in NJ, VA, MS and IN, for the account of J. K. Rishel Furniture Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. K. Rishel Furniture Co., P.O. Box 3067, Williamsport, PA 17701. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 136605 (Sub-89TA), filed February 8, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Bentonite from the facilities of Wyo-Ben, Inc., in Big Horn and Hot Springs Counties, WY to points in ID, WA and OR, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): J. V. Wandler, General Mgr., Wyo-Ben Supply, P.O. Box 20317, Billings, MT 59107. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138732 (Sub-19TA), filed February 2, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 N. Cypress Street, Box 5546, Orange, CA 92667. Representative: Michael Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, CA 94583. *Waste paper, waste paper products, waste cardboard, and waste newsprint*, from points in Salt Lake and Davis Counties, UT, to the facilities of Crown Zellerbach at Antioch, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Crown Zellerbach Corporation, One Bush Street, San Francisco, CA 94104. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los

Angeles Street, Los Angeles, California 90012.

MC 139261 (Sub-16TA), filed January 19, 1979. Applicant: BUCKEYE EXPRESS, INC., H and 1st Streets, P.O. Box 388, Perrysburg, OH 43551. Representative: Michael M. Briley, Esq., 300 Madison Ave., 12th Fl., Toledo, OH 43603. Contract carrier-irregular routes. *Food products* (except commodities in bulk), from Napoleon, OH to points in IA, IL, IN, KS, KY, MI, MN, MO, NY, PA, TN, TX, WI and WV. Limited to transportation service to be performed for and under a continuing contract or contracts with Campbell Soup Co., for 180 days. Supporting shipper(s): Campbell Soup Co., E. Maumee St., Napoleon, OH 43545. Send protests to: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 142508 (Sub-46TA), filed February 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Drugs, medicines, and toilet preparations, in mechanically temperature trailers*, from the facilities of Smith Kline & French Laboratories, a division of Smith Kline Corporation, at Philadelphia, PA and Bellmawr, NJ, to Sparks, NV, for 180 days. An underlying ETA has been filed. Supporting shipper(s): Smith Kline & French Laboratories, 1500 Spring Garden St., Philadelphia, PA 19101. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-49TA), filed February 13, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Confectionery (except in bulk), in vehicles equipped with mechanical refrigeration*, from the facilities of E. J. Brach & Sons, Division of American Home Product Corporation, in the Chicago, IL commercial zone, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. J. Brach & Sons, Division of American Home Products, 4656 W. Kinzie St., Chicago, IL 60644. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142672 (Sub-49TA), filed February 9, 1979. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR, 72756. (1) *Floor and wall covering materials*; and (2) *Vacuum cleaners*; and (3) *materials, equipment and supplies* used in the installation and maintenance of the commodities named in (1), and (2),

for 180 days as a common carrier over irregular routes. Supporting shipper(s): Dean's Discount Carpet, Inc., 4200 Kelly Highway, Fort Smith, AR 72904. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 7220.

MC 143179 (Sub-9TA), filed December 11, 1978, and published in the FEDERAL REGISTER issue of January 23, 1979, and republished as corrected this issue. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood excelsior products*, from Rice Lake, WI, to points in AR, CO, IL, IN, IA, KS, LA, MI, MN, MO, NE, ND, OK, SD, and TX, under a continuing contract(s) with American Excelsior Company, for 180 days. Supporting shipper(s): American Excelsior Company, 850 Avenue East, P.O. Box 5067, Arlington, TX 76011. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102. The purpose of this republication is to show Michigan (MI) in lieu of Massachusetts (MA) as previously published.

MC 143540 (Sub-10TA), filed February 12, 1979. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28402. Representative: Jean H. Lewis, Esquire, 9525 Trojan Court, Richmond, VA 23229. *Meat, meat products, meat by-products and packinghouse products* between points in Denver, CO; Cherokee, Cedar Rapids, Des Moines, Denison, Iowa Falls and Tama, IA; Monmouth, IL; Logansport, IN; Albert Lea, MN; Marshall, MO; Omaha and Crete, NE; Oklahoma City, OK; and Cudahy, WI; on the one hand, and, on the other, port facilities located in Savannah, GA; Wilmington, NC; Charleston, SC; and Norfolk, VA for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Macwood Import and Export, Inc., 393 Seventh Avenue, Suite 2117, New York, NY 10001. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Washington, DC 20423.

MC 143651 (Sub-6TA), filed November 22, 1978, and published in the FEDERAL REGISTER issue of January 15, 1979, and republished as corrected this issue. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lakeview, IA 51450. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. *Potting soil and organic compost*, from LaPorte, IN to points in DE, IL, IN, IA, KS, MD, MI, MO, MN, NE, NY, ND, OH,

PA, SD, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Thumb Company, Division of Ralston Purina, P.O. Box 760, Apopka, IL 32703. Send protests to: Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to add Minnesota (MN) as a destination state as previously omitted.

MC 143910 (Sub-5TA), filed January 3, 1979. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, NH 03108. Representative: Charles E. Creager, P.O. Box 1417, Hagerstown, MD 21470. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foods, foodstuffs, food-treating compounds, chemicals and additives*, (except in bulk), and *materials, equipment and supplies* used in the manufacture, preparation, sale and distribution of spices, extracts, convenience foods, products, salad dressing, and foodstuffs, (except in bulk), and (2) *commodities*, the transportation of which is exempt from regulation under the provisions of Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, between Baltimore, MD, and its commercial zone on the one hand, and on the other, points in FL, under a continuing contract or contracts, with McCormick & Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCormick & Co., Inc., 11350 McCormick Rd., Hunt Valley, MD 21031. (Attn: William M. Pappas Manager-Distribution). Send protests to: Ross J. Seymour DS, ICC, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 144667 (Sub-4TA), filed February 8, 1979. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles)*, (1) From the facilities of Geo. A. Hormel & Co. at Scottsbluff, NE, to the commercial zones of Los Angeles, CA; Detroit, MI; Chicago, IL; Charlotte, NC; and points in NY, CT, PA, and NJ; (2) From the facilities of Geo. A. Hormel & Co. at Fremont, NE to the commercial zones of New Haven, CT and Binghamton, NY; and (3) From the facilities of Geo. A. Hormel & Co. at Ottumwa, IA and from Schuyler, NE to points in PA, for

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180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Edward C. Hunkele, Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Max H. Johnston, ICC, 285 Federal Bldg., 100 Centennial Mall North, Lincoln, NE 68508.

MC 144889 (Sub-3TA), filed February 8, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Ave., Hammond, IN 46320. Representative: Walter C. Rymarowicz, same address as applicant. *Iron and Steel articles*, from the facilities of Midwest Steel Division, National Steel Corp., Portage, IN to pts in IL on and north of U.S. Hwy 36 for 180 days. An ETA has been granted. Supporting Shipper(s): Midwest Steel Division, National Steel Corp., P.O. Box 1, Portage, IN 46368. Send protests to: Annie Booker, Transportation Assistant, 219 S. Dearborn St. Rm. 1386, Chicago, IL 60604.

MC 145152 (Sub-37TA), filed February 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 708, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Waste paper*, from Rogers, AR to Tucker, GA; Monroe, MI; St. Louis and Kansas City, MO; Long Island, NY; Asheville, NC; Cleveland, Dayton and Lebanon, OH; Easley and Charleston, SC, for 180 days, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): L & L Packaging Company, Inc., P.O. Box 1339, Rogers, AR 72756. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-38TA), filed February 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Foodstuffs* (except in bulk), from Kansas City, MO to points in AL, FL, GA, KY, MS, NC, NJ, PA, SC, TN, VA, and WV, for 180 days, as a common carrier over irregular routes. Supporting Shipper(s): Commercial Distribution Center, Inc., 16500 E. Truman Road, Independence, MO 64051. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145973 (Sub-1TA), filed January 8, 1979. Applicant: B & B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29608. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* used in the manufacture of new furniture, (1) Between Monroe,

MI, Redlands, CA, Tremonton, UT and Florence, SC, (2) From points in CA to Tremonton, UT, restricted to traffic moving for the account of La-Z-Boy Chair Co., Monroe, MI, under a continuing contract or contracts, with La-Z-Boy Chair Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): La-Z-Boy Chair Company, 1284 N. Telegraph Road, Monroe, MI 48161. Send protests to: E. E. Strotheld, DS, ICC, Room 302, 1400 Building, 1400 Pickens St., Columbia, SC 29201.

MC 146038TA, filed January 5, 1979. Applicant: QUICK-SILVER, INC., Box 213, Liberty, MO 64068. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Meat, meat products, meat by-products and articles distributed by packing houses*, as described in sections A, B and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, (except hides and commodities in bulk), food stuffs and such items dealt in wholesale, retail and chain-grocery and food business houses, (1) From Kansas City, MO, and its commercial zone to all points in MO, and KS; (2) from Wichita, KS to Kansas City, MO, and its commercial zone and all points in MO; (3) from Hutchinson, KS to Kansas City, MO and its commercial zone and all points in MO; (4) from St. Joseph, MO and its commercial zone to Kansas City, MO and its commercial zone, all points in KS and St. Louis, MO and its commercial zone; (5) between St. Louis, MO and its commercial zone, and Kansas City, MO and its commercial zone, on the one hand, and on the other hand, all points in MO and KS; (6) between Carthage and Monett, MO on the one hand, and on the other hand, St. Louis, MO and its commercial zone, Kansas City, MO and its commercial zone and all points in KS; (7) between Macon, Moberly, Carrollton and Marshall, MO on the one hand, and on the other hand, Kansas City, MO and its commercial zone and all points in KS, for 180 days. Supporting Shipper(s): There are approximately (12) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 146055 (Sub-1TA), filed February 14, 1979. Applicant: DOUBLE "S" TRUCK LINE, John H. Schueman & Denny Schueman d.b.a., 425 Livestock Exchange Building, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. *Meats*,



meat products, and meat byproducts, and articles distributed by meat packinghouses, as described in section A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates 61 MCC 209 and 766* (except hides and commodities in bulk in tank vehicles), from the facilities of Western Iowa Pork at or near Harlan, IA to points in CA, for 180 days. Supporting shipper(s): Gary McFarland, Western Iowa Pork, Harlan, IA 51537. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 146162 (Sub-1TA), filed January 29, 1979. Applicant: TRANSPORTATION EQUIPMENT CORP., 240 112th St., Hammond, IN 46320. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603. (1) *Iron and steel articles*, from the facilities of Republic Steel Corp. at Chicago, IL to pts in MI, and (2) *metal articles and building materials and supplies*, between the facilities of Master Jobbers, Inc. at Hammond, IN, on the one hand, and, on the other, pts in MI for 180 days. An underlying ETA has been granted. Supporting shipper(s): Republic Steel Corp., 116th St. & Burley Ave., Chicago, IL 60617; Master Jobbers Inc., 240 E. 112th St., Hammond, IN 46320. Send protests to: TA Annie Booker, 219 S. Dearborn St. Rm. 1386, Chicago, IL 60604.

MC 146173 (Sub-1TA), filed February 7, 1979. Applicant: PROFESSIONAL CARGO SERVICES INC., P.O. Box 9244, Wichita, KS. 67277. Representative: Bruce L. Dusenberry, 177 N. Church Ave., Suite 1008, Tucson, AZ 85701. Aircraft components, parts and systems, and related materials and supplies under an exclusive continuing contract with Gates Learjet Corporation from plant site of Gates Learjet Corporation at or near Wichita, KS., and plant site of Gates Learjet Corp. at or near Tucson, AZ.; contract carrier, irregular routes, 180 days; underlying ETA granted February 1, 1979. Supporting shipper(s): Gates Learjet Corporation, P.O. Box 11186, Tucson, AZ 85734. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS. 67202.

MC 146186 (Sub-1TA), filed February 1, 1979. Applicant: SPRUELL & SONS, INC., 3970 Bankhead Highway, Douglasville, Georgia 30134. Representative: K. Edward Wolcott, Watkins & Daniell, P.G., 1200 Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, Georgia 30303. *Such merchandise as is marketed by home products distributors for the account of Stanley Home Products, Inc.* from Atlanta, GA and its commercial zone to points in FL, in and north of Dixie, Gilchrist, Alachua, Putnam and Flagler coun-

ties; points in SC in and west of Cherokee, Union, Newberry, Lexington, Aiken, Barnwell, Bamberg, and Hampton counties; and points in AL in and south of Chambers, Tallapoosa, Macon, Bullock, Pike, Crenshaw, Butler, Conecuh, Escambia and Baldwin counties; for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Stanley Home Products, Inc., 116 Pleasant Street, Easthampton, Massachusetts 01027. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, Georgia 30309.

MC 146213 (Sub-1TA), filed February 7, 1979. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Jack Meyer, 111 E. Wisconsin Ave., Milwaukee, WI 53202. *Paper and paper products, cleaning compounds, and plastic containers and dispensers of cleaning compounds (except commodities in bulk)* from the facilities of Bay West Paper Co. in Green Bay, WI to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay West Paper Co., 1100 W. Mason St., Green Bay, WI 54303. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146223 (Sub-1TA), filed February 14, 1979. Applicant: JESSE ERWIN TRUCKING, 6915 Morman Bridge Rd., Omaha, NE 68152. Representative: Melvin C. Hansen, 610 Service Life Bldg., Omaha, NE 68102. *Contract carrier. Irregular routes: Meat*, from Omaha, NE to Chicago, IL and its commercial zone, under contract with John Roth and Son, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alfred J. Roth, John Roth & Son, Inc., 43rd and T Streets, Omaha, 68107. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 146265 (Sub-2TA), filed February 12, 1979. Applicant: JIM ENGLAND TRUCKING, 3905 Shamrock Drive, Huntsville, AL 35910. Representative: J. Michael May, Suite 508, 1447 Peachtree Street, NE., Atlanta, GA 30309. Contract, irregular: *Steel acetylene cylinders and parts for cylinders*, from Huntsville, AL, to Charlotte, NC; Chicago, IL; Eddystone, PA; Ferndale, MI; Houston, TX; Kansas City, KS; Lexington, KY; Maple Shade, NJ; Mentor, OH; and Tampa, FL. Restricted to traffic moving under a continuing contract or contracts with Coyne Cylinder Company, Hunts-

ville, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coyne Cylinder Company, 521 Green Cove Road SE., Huntsville, AL 35803. Send protests to: Mable Holston, Transportation Assistant, Suite 1616, 2121 Bldg., Bureau of Operation, ICC, Birmingham, AL 35203.

## PASSENGER CARRIER

MC 2908 (Sub-26TA), filed October 17, 1978. Applicant: CAPITAL MOTOR LINES, d.b.a. CAPITAL TRAILWAYS, P.O. Box 1427, Montgomery, AL 36102. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Penn Ave. & 13th St., NW., Washington, DC 20004. Common, regular: (A) *Passengers and their baggage and express and newspapers, in the same vehicle with passengers*, (1) between junction of U.S. Hwy 80 and Alabama Hwy 28 and junction U.S. Hwy 80 and U.S. Hwy 11 (near Cuba, AL, serving all intermediate points: From junction U.S. Hwy 80 and Alabama Hwy 28 over U.S. Hwy 80 and U.S. Hwy 11 and return over the same route. Common, irregular: (B) *Passengers and their baggage in one-way and round-trip charter operations*, from points on the route and the territory served by the route described in Part (A) above to points in the U.S. (including AK, but excluding HI). Applicant intends to tack the authority here applied for to the authority presently held by it, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately (20) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protest to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC Room 1616, 2121 Building, Birmingham, AL 35203.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.

(FR Doc. 79-9237 Filed 3-26-79; 8:45 am)

[7035-01-M]

[Decisions Volume No. 20]

## PERMANENT AUTHORITY APPLICATIONS

## Decision-Notice

Decided: March 5, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the

granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *FEDERAL REGISTER*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the *Rules of Practice* which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

## We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant quali-

fies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed by April 26, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,  
Secretary.

MC 2421 (Sub-19F), filed January 10, 1979. Applicant: NEWTON TRANSPORTATION COMPANY, INC., 510 Greer Circle, SW, P.O. Box 678, Lenoir, NC 28645. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture and furniture parts*, from the facilities of Broyhill

Furniture Industries, Inc., in Catawba and Alexander Counties, NC, to points in IL, IN, OH, PA, WV, and KY. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 7698 (Sub-13F), filed January 27, 1979. Applicant: FOWLER & WILLIAMS, INC., 1300 Meylert Avenue, Scranton, PA 18501. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *gypsum and gypsum products*, and (b) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1)(a) above, from Akron and Buchanan, NY, Milford, VA, and Wilmington, DE, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC; and (2)(a) *building materials*, and (b) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (2)(a) above, from Quakertown, PA, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC. (Hearing site: Scranton, PA.)

MC 14252 (Sub-45F), filed February 5, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *toys, games, and children's vehicles*, from the facilities of Louis Marx and Co., at (a) Glendale, WV, and (b) Columbus, OH, to points in VA, WV, PA, KY, OH, IN, IL, MO, and IA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 18088 (Sub-58F), filed January 11, 1979. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *textiles and textile products*, and (2) *equipment, materials, and supplies* used in the operation of textile mills and warehouses (except commodities the transportation of which because of size or weight requires the use of special equipment), between the facilities of Monsanto Company, at or near Gonzalez and Pensacola, FL, on the one hand, and, on the other, points in AL and TN, and the facilities of Firestone Tire and Rubber Company, at or near Bowling Green, KY. (Hearing site: Washington, DC.)



MC 19311 (Sub-56F), filed January 8, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bleneman, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48033. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Ford Motor Company, and Hessco Corporation, at or near Louisville, KY, as an off-route point in connection with carrier's otherwise-authorized regular-route operations between Atlanta, GA and Ft. Worth, TX. (Hearing site: Detroit or Lansing, MI.)

MC 34027 (Sub-13F), filed December 20, 1978. Applicant: GEETINGS INC., P.O. Box 82, Pella, IA 50219. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wood windows, sliding glass doors, wood folding doors, and partitions*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Pella, IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Des Moines, IA.)

MC 35387 (Sub-2F), filed December 20, 1978. Applicant: ORBIT EXPRESS, INC., 105 Creeper Hill Road, North Grafton, MA 01536. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), and (b) *materials, equipment, and supplies* used in the conduct of such businesses, (except commodities in bulk), between points in MA, on the one hand and, on the other, points in CT, MA, ME, NJ, NY, RI, and VT; and (2) *general commodities* (except classes A and B explosives), between points in MA. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written request of Certificate of Registration MC 35387 Sub 1. (Hearing site: Boston, MA.)

NOTE.—Applicant states that by part (2) above it seeks to convert its existing Certificate of Registration in No. MC 35387 Sub 1,

issued August 15, 1968, to a certificate of public convenience and necessity.

MC 35807 (Sub-91F), filed December 18, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, a Delaware Corporation, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, securities, and food stamps*, between Cincinnati, OH, on the one hand, and, on the other, points in KY, under continuing contract(s) with banks and banking institutions. (Hearing site: Cincinnati or Cleveland, OH.)

MC 41406 (Sub-104F), filed December 18, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX. (Hearing site: none specified.)

MC 42487 (Sub-892F), filed December 21, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, a Delaware Corporation, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Melster Candies, Inc., at Cambridge, WI, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Madison, WI.)

MC 42828 (Sub-14F), filed February 5, 1979. Applicant: THEODORE ROSSI TRUCKING CO., INCORPORATED, 9 South Vine Street, P.O. Box 332, Barre, VT 05641. Representative: William L. Rossi, P.O. Box 332, Barre, VT 05641. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *stone*, from Barre, VT, and points within 15 miles of Barre, VT, to points in OH.

NOTE.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must

either file an application under 49 U.S.C. 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Barre, VT, or Akron, OH.)

MC 48221 (Sub-20F), filed January 8, 1979. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, NE 68106. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 81 M.C.C. 209 and 766, (except hides and commodities in bulk), from Omaha, NE, to points in IA, MN, and WI. (Hearing site: Omaha, NE.)

MC 48958 (Sub-168F), filed February 5, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska Corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, MO, and Oklahoma City, OK; from Kansas City over U.S. Hwy 50 the junction U.S. Hwy 81, then over U.S. Hwy 81 to Wichita, KS, then over Interstate Hwy 35 to Oklahoma City, and return over the same route, serving the intermediate points of Wichita and Emporia, KS, and (2) between Emporia and Wichita, KS; over Interstate Hwy 35, serving no intermediate points. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 51146 (Sub-671F), filed December 28, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic products, and accessories* for plastic products, from the facilities of Airlite Plastics Company, at or near Omaha, NE, to points in AR, IA, MI, MN, TX, and WI. (Hearing site: Chicago, IL.)

MC 59457 (Sub-41F), filed December 28, 1978. Applicant: SORESEN TRANSPORTATION CO., INC., Old Amity Road, Bethany, CT 06525. Representative: Thomas W. Murrett, 342

North Main Street, West Hartford, CT 06117. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dairy products*, (except commodities in bulk), (A), from Stratford, CT to points in CT, MA, DE, ME, MD, NH, NJ, NY, PA, RI, and VT, and (B) from Springfield, MA, to points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, RI, and VI and (C) from the facilities of the Borden Corp. at (a) Baltimore, MD, (b) Pittsburgh, PA, (c) Syracuse, NY, (d) Woodbridge, NJ, and (e) Burlington, VT, to Stratford, CT; (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, except commodities in bulk, from the destination points in (1)(A) above, to Stratford, CT; (3) *aluminum dollies*, from Chattanooga, TX, to Stratford, CT; and (4) *dry ice cream stabilizers*, in containers, from Atlanta, GA, to Stratford, CT; restricted in (1)(A), (1)(C), and (2) through (4) above to the transportation of traffic originating at or destined to the facilities of Borden Corporation, at Stratford, CT. (Hearing site: Hartford, CT.)

MC 59856 (Sub-84F), filed January 2, 1979. Applicant: SALT CREEK FREIGHTWAYS, a Corporation, 3333 W. Yellowstone, Casper, WY 82602. Representative: John R. Davidson, Suite 805 Midland Bank Bldg., Billings, MT 59101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum and gypsum products*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from Heath, MT, to points in CO and WY. (Hearing site: Denver, CO, or Billings, MT.)

MC 69116 (Sub-213F), filed December 20, 1978. Applicant: SPECTOR INDUSTRIES, INC., a Delaware Corporation, d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles and agricultural discs*, from Midland, PA, to points in WI and MN. (Hearing site: Chicago, IL.)

MC 69116 (Sub-216F), filed January 2, 1979. Applicant: SPECTOR INDUSTRIES, INC., a Delaware corporation, doing business as SPECTOR FREIGHT SYSTEM, 1050 Kingery Hwy., Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, trans-

porting *paneling*, from New Orleans, LA, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 71652 (Sub-27F), filed February 6, 1979. Applicant: BYRNE TRUCKING, INC., P.O. Box 1124, Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building board*, from the facilities of Mansonite Corporation, at or near Ukiah, CA, to points in OR, ID, and WA. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 82492 (Sub-221F), filed January 15, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in WI, to those points in NY in and West of Broome, Cortland, Onondaga, and Oswego Counties, those in PA on and West of U.S. Hwy 219, and points in IL, IN, IA, KS, KY, MN, MO, NE, OH, ND, SD, and TN, restricted to the transportation originating at the indicated origins. (Hearing site: Green Bay or Milwaukee, WI.)

MC 85934 (Sub-89F), filed December 12, 1978. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming Avenue, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Road, Northville, MI 48167. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, MH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 85934 (Sub-92F), filed October 19, 1978, previously noticed in the FEDERAL REGISTER issue of January 11, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming Street, P.O. Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal tar and coal tar products*, in bulk, in tank vehicles, from Detroit, MI, to points in IL, IN,

NJ, NY, OH, PA, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—This republication changes the subnumber from 83F to 92F.

MC 93147 (Sub-4F), filed September 26, 1978. Applicant: DELTA TRANSPORT, CORP., a Massachusetts corporation, 80 James St., Jersey City, NJ 07303. Representative: Paul Sheley, 72 Irene St., Springfield, MA 01108. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between CT-NY State line near Byram, CT, and CT-RI State line at or near Clarks Falls, CT; over Interstate Hwy 95, (b) between CT-NY State line and junction U.S. Hwy 6 and CT Hwy 52; from CT-NY State line over Interstate Hwy 84 to junction U.S. Hwy 6 near Danbury, CT, then over U.S. Hwy 6 to junction CT Hwy 52 near Danielson, CT, and return over the same route, (c) between New Haven, CT and CT-MA State line at Thompsonville, CT; over Interstate Hwy 91, (d) between New Haven, CT, and CT-MA State line near Thompsonville, CT; over U.S. Hwy 5, (e) between Bridgeport, CT, and CT-MA State line at or near Algonquin State Forrest; over CT Hwy 8, (f) between Norwalk, CT, and CT-MA State line at or near Canaan, CT; over U.S. Hwy 7, (g) between junction Interstate Hwys 84 and 86 at East Hartford, CT, and CT-MA State line at or near Mashapaug, CT; over Interstate Hwy 86, (h) between New London, CT, and CT-MA State line: from New London over CT Hwy 32 to junction CT Hwy 52, then over CT Hwy 52 to CT-MA State line, and return over the same route, (i) between junction Interstate Hwy 91 and CT Hwy 9 and junction Interstate Hwy 95 and CT Hwy 9; over CT Hwy 9, (j) between Hartford, CT, and CT-RI State line at or near Pawcatuck, CT; over CT Hwy 2, (k) between junction Interstate Hwy 84 and CT Hwy 34 and New Haven CT; over CT Hwy 34, (l) between junction CT Hwys 2 and 85 near Colchester, CT, and junction CT Hwys 85 and 52 near New London, CT; over CT Hwy 85, (m) between junction U.S. Hwys 7 and 202 near New Milford, CT and junction Interstate Hwy 84 and U.S. Hwy 202 near German-town, CT; over U.S. Hwy 202, (n) between junction U.S. Hwys 7 and 44 near Canaan, CT, and junction U.S. Hwy 44 and CT 52 near Putnam, CT; from junction U.S. Hwys 44 and 7 over U.S. Hwy 44 to junction U.S. Hwy 44A at Manchester, CT, then over U.S. Hwy 44A to junction U.S. Hwy 44 near West Ashford, CT, then over U.S. Hwy 44 to junction CT Hwy 52, and return



over the same route, (o) between West Haven, CT and CT-RI State line near Pawcatuck, CT; over U.S. Hwy 1, (p) between Hamden, CT, and CT-MA State line; over CT Hwy 10, and (q) between junction Interstate Hwy 84 and CT Hwy 66 near Marion, CT, and junction U.S. Hwy 6 and CT Hwy 66 near Willamantic, CT; over CT Hwy 66; in (a) through (q) above, serving all intermediate points and serving all points in CT as off-route points. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation at applicant's written request, of the certificate in MC 93 147 Sub-2, issued February 5, 1979. (Hearing site: Boston, MA, or Washington, DC.)

NOTE.—Applicant states that the purpose of this application is to convert its irregular-route authority in the Sub-2 Certificate to regular-route authority.

MC 95876 (Sub-262F), filed January 2, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, from points in MI, to points in IA, MN, NE, ND, SD, and WI. (Hearing site: Detroit, MI.)

MC 99597 (Sub-2F), filed November 2, 1978. Applicant: CLEVELAND FREIGHT LINES, INC., 17877 St. Clair Avenue, Cleveland, OH 44110. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except articles of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in Cuyahoga County, OH. Condition: As already requested by applicants issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, of Certificate of Registration MC 99597 (Sub-1), issued June 16, 1965. (Hearing site: Cleveland, OH.)

NOTE.—Applicant states that the purpose of this application is to convert its Certificate of Registration in MC 99597 (Sub-1), to a certificate of public convenience and necessity.

MC 99653 (Sub-11F), filed January 11, 1979. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting gypsum wall

board, lumber, posts, poles, piling, cross ties, particleboard, and asphalt and composition board sheets, from the facilities of Weyerhaeuser Co., Inc., at (a) Briar, Dierks, Pine Mountain, DeQueen, and Murphreesboro, AR, and (b) Wright City and Craig, OK, to points in AL, KY, LA, MS, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Birmingham, AL.)

MC 100666 (Sub-420F), filed December 29, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center, 2601 NW Expressway, Oklahoma City, OK 73112. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) petroleum, petroleum products, vehicle body sealer, and sound deadener compounds, (except commodities in bulk, in tank vehicles), and filters, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AR, IL, IA, KS, LA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and (2) petroleum, petroleum products, vehicle body sealer, sound deadener compounds, filters, and materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from points in IL, KY, and OK, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted to the transportation of traffic destined to the named destination facilities. (Hearing site: Dallas, TX.)

MC 102616 (Sub-971F), filed January 2, 1979. Applicant: COASTAL TANK LINES, INC., a Delaware corporation, P.O. Box 5555, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting chemicals and petroleum products, (except liquefied petroleum gas, anhydrous ammonia, and fertilizer), in bulk, in tank vehicles, from the facilities of Dow Chemical, U.S.A., in Brazoria County, TX, to the ports of entry on the international boundary line between the United States and Canada in MI and NY. (Hearing site: Houston, TX, or Chicago, IL.)

MC 103993 (Sub-947F), filed January 10, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular

routes, transporting iron and steel articles, from the facilities of the Calne Steel Co., at Atlanta, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 105566 (Sub-189F), filed January 5, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting heating and air conditioning equipment, and parts for heating and air conditioning equipment, (except commodities which, because of size or weight, require the use of special equipment), from Medina, OH, to points in AZ, CA, ID, MT, NV, ND, OR, SD, WA, and WY. (Hearing site: Columbus, OH, or Washington, DC.)

MC 106074 (Sub-80F), filed December 8, 1978. Applicant: B AND P MOTOR LINES, INC., Oakland Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods, from the facilities of Ore-Ida Foods, Inc., at Greenville, MI, to points in NC, SC, TN, and VA, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 107727 (Sub-29F), filed November 7, 1978. Applicant: ALAMO EXPRESS, INC., 6013 Rittman Plaza, San Antonio, TX 78218. Representative: Damon R. Capps, Suite 1230, Capital National Bank Bldg., 1300 Main St., Houston, TX 77002. To operate as a common carrier, by motor vehicle, in interstate and foreign commerce, (A) OVER IRREGULAR ROUTES, transporting general commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Houston and San Antonio, TX, points in IN and OH, those in the Lower Peninsula of MI, and those in Jefferson and Mobile Counties, AL, Maricopa and Pima Counties, AZ, Crittenden, Miller, and Pulaski Counties, AR, Alameda, Contra Costa, Los Angeles, Napa, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Stanislaus, Ventura, and Yolo Counties, CA, Adams,

Arapahoe, and Jefferson Counties, CO, Broward, Dade, Duval, Escambia, Hillsborough, Leon, Orange, and Pinellas Counties, FL, Cobb, De Kalb, and Fulton Counties, GA, Cook, Kane, Madison, Peoria, Rock Island, St. Clair, Tazewell, and Will Counties, IL; Boone, Campbell, Kenton, and Jefferson Counties, KY, Johnson and Wyandotte Counties, KS, Greene, Jackson, Jasper, Platte, and St. Louis Counties, MO, Bernalillo County, NM, Buncome, Davidson, Durham, Forsyth, Guilford, Mecklenburg, and Wake Counties, NC, Canadian, Cleveland, Grady, Oklahoma, Osage, Pittsburg, and Tulsa Counties, OK, Greenville and Spartanburg Counties, SC, Davidson, Hamilton, Knox, and Shelby Counties, TN, Salt Lake, Tooele, Utah, and Weber Counties, UT, Milwaukee County, WI, and Bossier, Caddo, Jefferson, Orleans, and West Baton Rouge Parishes, LA; and (B) OVER REGULAR ROUTES, transporting general commodities, (a) between San Antonio and Galveston, TX: from San Antonio over Interstate Hwy 10 to Houston, then over Interstate Hwy 45 to Galveston, and return over the same route, serving all intermediate points between Houston and Galveston, and serving the facilities of Western Electric Corporation near Houston as an off-route point; (b) between San Antonio and Laredo, TX: over Interstate Hwy 35, serving all intermediate points, and serving Von Ormy, Lytle, Natalia, Devine, Moore, Pearsall, Derby, Dilley, Cotulla, Artesia Wells, Encinal, TX, and the facilities of Frio-Tex Oil and Gas Company, near Moore, TX as off-route points; (c) between San Antonio and Corpus Christi, TX: over U.S. Hwy 181, serving all intermediate points, and serving the facilities of Susquehanna Western, Inc., and the Conquistador Project, both near Falls City, TX, as off-route points; (d) between San Antonio and Corpus Christi, TX: from San Antonio over U.S. Hwy 281 to junction TX Hwy 9, then over TX Hwy 9 to junction Interstate Hwy 37, then over Interstate Hwy 37 to Corpus Christi, and return over the same route, serving no intermediate points, (e) between San Antonio and Port Lavaca, TX: over U.S. Hwy 87, serving all intermediate points between and including Cuero and Port Lavaca, TX; (f) between Houston and Larado, TX: over U.S. Hwy 59, serving intermediate points between and including Houston and Fannin, TX, and between and including Freer and Laredo, TX, and serving the Transcontinental Gas Pipe Line Corporation Compressor Station near El Campo, TX, as an off-route point; (g) between Houston and Hungerford, TX: from Houston over U.S. Hwy Alternate 90 to East Bernard, TX, then over TX Hwy 60 to Hungerford,

and return over the same route, serving all intermediate points; (h) between Houston, TX, and junction TX Hwy 35 and U.S. Hwy 181, near Gregory; over TX Hwy 35, serving all intermediate points and serving Liverpool, Danbury, Damon, Guy, Needville, Newgulf, Iago, Buff, Boling, Pledger, Danciger, Ashwood, Sweeney, Cedar Lane, Gainmore, Hawkinsville, Port O'Connor, Sargent, Buckeye, Markham, Danevang, Midfield, Blessing, Francitas, Elmaton, Collegeport, La Ward, Lolita, Vanderbilt, La Salle, Olivia, Bayside, and Austwell, TX, as off-route points; (i) between Houston and Freeport, TX: over TX Hwy 288, serving all intermediate points between and including Angleton and Freeport, TX, and serving Velsaco, Dow, and Quintana, TX, as off-route points; (j) between Galveston, TX, and junction TX Hwy 6 and U.S. Hwy 59, near Sugar Land; over TX Hwy 6, serving all intermediate points; (k) between Houston and Clute, TX: from Houston over TX Hwy 225 to junction TX Hwy 134, then over TX Hwy 134 to junction TX Hwy 146, then over TX Hwy 146 to junction Interstate Hwy 45, near Texas City, then over Interstate Hwy 45 to Galveston, then over TX Farm Road 3005 to junction unnumbered County Road on Galveston Island, then over unnumbered County Road to junction TX Hwy 332, then over TX Hwy 332 to Clute, and return over the same route, serving all intermediate points; (l) between Freeport and West Columbia, TX: over TX Hwy 36, serving all intermediate points; (m) between Bay City and Matagorda, TX: over TX Hwy 60, serving all intermediate points, and serving Lane City, Gulf, and Magnet, TX, as off-route points; (n) between Seadrift and Victoria, TX: over TX Hwy 185, serving all intermediate points; (o) between Cuero and Kenedy, TX: over TX Hwy 72, serving all intermediate points; (p) between Karnes City and Peggy, TX: over TX Farm Road 99, serving all intermediate points, and serving the facilities of Lone Star Production Company and Gulf Oil Company, both near Fashing, TX, as off-route points; (q) between Victoria and Brownsville, TX: over U.S. Hwy 77, serving all intermediate points (except those between Riviera and Raymondville), and serving the Naval Air Station P-4, near Kingsville, as an off-route point; (r) between Skidmore and Laredo, TX: over TX Hwy 359, serving all intermediate points, and serving the facilities of Wyoming Mining & Minerals, near Brunl, TX, as an off-route point; (s) between Corpus Christi and Encinal, TX: over TX Hwy 44, serving all intermediate points; (t) between Freer and Benavides, TX: over TX Hwy 339, serving all intermediate points; (u) between Gonzales and Cuero, TX: over

U.S. Hwy 183, serving all intermediate points; (v) between junction TX Hwy 9 and U.S. Hwy 281 near Three Rivers, TX, and Hidalgo, TX: over U.S. Hwy 281, serving all intermediate points (except those between junction TX Hwy 9 and U.S. Hwy 281 and Alice, TX), and serving the facilities of Trunkline Gas Corp, near Premont, TX, and Clay West Uranium Plant, near George West, TX, as off-route points; (w) between Laredo, TX, and junction U.S. Hwy 83 and 77, near San Benito, TX over U.S. Hwy 83, serving all intermediate points (except those between Laredo and Falcon, TX, and serving Baldrige, Los Ebanos, Carrizelos, Grulla, and Garcia (Garciasville), TX, and the facilities of (i) King Pipe Yard, (ii) Jackson Station of the Valley Pipe Line Co, and (iii) Fordyce Gravel Co, all near Mission, TX, as off-route points; (x) between Mission and Harlingen, TX: over TX Hwy 107, serving all intermediate points; (y) between Port Mansfield, TX, and junction U.S. Hwy 281 and TX Hwy 186: over TX Hwy 186, serving all intermediate points between Port Mansfield and Raymondville; (z) between Harlingen, TX, and junction TX Farm Road 1420 and TX Hwy 186 near San Perlita: over TX Farm Road 1420, serving all intermediate points; (aa) between junction TX Farm Roads 106 and 1420, and junction TX Farm Roads 106 and 1847: over TX Farm Road 106, serving all intermediate points; (bb) between Brownsville, TX, and junction TX Farm Roads 1847 and 106: over TX Farm Road 1847, serving all intermediate points; (cc) between South Padre Island, TX, and junction TX Hwy 100 and U.S. Hwy 83-77: over TX Hwy 100, serving all intermediate points; (dd) between Brownsville, TX, and junction TX Hwy 48 and 100: over TX Hwy 48, serving all intermediate points; (ee) between Harlingen and McAllen, TX: over U.S. Hwy 83 (Business Route), serving all intermediate points; (ff) between Monte Alto and Santa Maria, TX: from Monte Alto over TX Farm Road 88 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Santa Maria, and return over the same route, serving all intermediate points; (gg) between junction U.S. Hwy 77 and U.S. Hwy 77 (Business Route), near Raymondville, TX, and junction U.S. Hwy 77 and U.S. Hwy 77 (Business Route), near San Benito: over U.S. Hwy 77 (Business Route), serving all intermediate points; (hh) between Lasara, TX, and junction TX Farm Road 490 and U.S. Hwy 77: over TX Farm Road 490, serving all intermediate points; (ii) between Kenedy, TX, and junction TX Hwy 239 and U.S. Hwy 59: from Kenedy over TX Hwy 72 to junction TX Hwy 239, then over TX Hwy 239 to junction U.S. Hwy 59, and return over the same route,



serving no intermediate points; (jj) between Port Aransas, TX, and junction TX Hwy 361 and U.S. Hwy 181, near Gregory; over TX Hwy 361, serving all intermediate points; (kk) between San Benito, TX, and junction TX Hwy 345 and TX Farm Road 106, over TX Hwy 345, serving all intermediate points; (ll) between Brownsville and Port Brownsville, TX: from Brownsville over TX Hwy 48 to junction TX Farm Road 1792, then over TX Farm Road 1792 to Port Brownsville, and return over the same route, serving all intermediate points, and serving the facilities of Union Carbide Chemical Co. near Port Brownsville, as an off-route point; (mm) between Kingsville, TX and junction TX Hwy 141 and U.S. Hwy 281; over TX Hwy 141, serving all intermediate points, and serving the facilities of the King Ranch Gas Plant of Humble Oil & Refining Co. near Ella, TX, as an off-route point; (nn) between Karnes City and Harmony Community, TX: from Karnes City over TX Hwy 80 to junction TX Farm Road 627, then over TX Farm Road 627 to Harmony Community, and return over the same route, serving all intermediate points; (oo) between Corpus Christi, TX, and the United States Naval Air Base, near Flour Bluff, TX: over Ocean Drive, serving all intermediate points; (pp) between Sullivan City and Rio Grande City, TX: from Sullivan City over U.S. Hwy 83 to junction unnumbered county roads, then over unnumbered county roads to Rio Grande City, and return over the same route, serving all intermediate points; (qq) between Harlingen, TX, and the United States Air Corps Gunnery School near Harlingen; over the Rio Hondo Road, serving all intermediate points; (rr) between Mission, TX, and the United States Army Air Base, near Mission, TX: from Mission over TX Hwy 107 to junction Seven Mile Line Road, then over Seven Mile Line Road to junction Palm Drive, then over Palm Drive to the United States Army Air Base, and return over the same route, serving all intermediate points; (ss) Between Rio Hondo, TX, and the United States Naval Auxiliary Landing Field, near Rio Hondo: from Rio Hondo over TX Farm Road 106 to junction TX Farm Road 803, then over TX Farm Road 803 to the United States Naval Auxiliary Landing Field, and return over the same route; (tt) between Rosenberg, TX, and junction U.S. Hwy 59 and TX Farm Road 360, near Kendleton: from Rosenberg over TX Hwy 36 to Needville, then over TX Farm Road 360 to junction U.S. Hwy 59, and return over the same route, serving no intermediate points; (uu) between Beeville, TX, and the facilities of Trunkline Gas Corp., near Beeville: over TX Hwy 202 serving no intermediate

points; (vv) between junction TX Hwys 9 and 72, near Three Rivers, TX, and the facilities of Susquehanna Western, near Three Rivers: over TX Hwy 72, serving no intermediate points; (ww) between Victoria, TX, and the facilities of the Coleta Creek Power Station of Central Power and Light Company, near Fannin, TX: from Victoria over U.S. Hwy 59 to Fannin, then over TX Farm Road 2987 to the facilities of the Coleta Creek Power Station of Central Power and Light Company, and return over the same route, serving no intermediate points; (xx) between junction TX Hwy 60 and TX Farm Road 521, near Wadsworth, and junction TX Farm Road 521 and TX Hwy 35; over TX Farm Road 521, serving all intermediate points, and serving the facilities of the South Texas Project, Houston Lighting & Power Company, as an off-route point; (yy) between Bay City, TX, and junction TX Farm Roads 2668 and 521; over TX Farm Road 2668, serving all intermediate points, and (zz) between Corpus Christi and Chapman Ranch, TX: from Corpus Christi over unnumbered county road to junction TX Hwy 286, then over TX Hwy 286 to Chapman Ranch, and return over the same route, serving to intermediate points. **CONDITION:** (1) To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from its date of issuance. (2) Issuance of a certificate is conditioned upon receipt of applicant's written request for prior or coincidental cancellation of its certificate of registration in Nos. MC-107727 Subs 15, 20, 21, 22, 23, 24, 25, 26, 27, and 28; and (3) The person or persons who it appears may be engaged in common control of applicant and another regulated carrier must either file and application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: San Antonio or McAllen, TX.)

**NOTE.**—Applicant states that part (B) of this application is to convert its Certificates of Registration in No. MC-107727 Subs 15, 20, 21, 22, 23, 24, 25, 26, 27, and 28 to a certificate of public convenience and necessity.

MC 108119 (Sub-121F), filed February 5, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55420. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) pipe, fittings, valves, hydrants, and castings, and (2) materials and supplies used in the installation of the com-

modities in (1) above, from the facilities of United States Pipe and Foundry Company, at (a) Birmingham and Bessemer, AL and (b) Chattanooga, TN, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MO, MT, NE, NV, NM, OK, OR, TX, UT, WA, and WY. (Hearing site: Birmingham, AL.)

MC 109584 (Sub-187F), filed December 12, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, an Arizona corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting liquid chocolate coating and liquid confections coating, in bulk, in tank vehicles, from Burlingame, CA, to Seattle, WA. (Hearing site: Oakland or Los Angeles, CA.)

MC 109584 (Sub-188F), filed December 12, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, an Arizona corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting inedible animal fats and vegetable oils, in bulk, in tank vehicles, from Albuquerque and Clovis, NM, to points in AZ and CA. (Hearing site: Albuquerque, NM, or Los Angeles, CA.)

MC 109584 (Sub-189F), filed December 12, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, an Arizona corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO. Representative: Rick Barker (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting urea resin, in bulk, in tank vehicles, from Fremont and Uklah, CA, to Navajo, NM. (Hearing site: Phoenix, AZ.)

MC 111274 (Sub-33F), filed December 12, 1978. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting natural gas engines and materials used in the manufacture of natural gas engines, between Rockford, IL, on the one hand, and, on the other, Denver, CO, Houston, TX, Tulsa, OK, Houma, LA, and Baltimore, MD, under continuing contract(s) with MEP Industries, of Rockford, IL. (Hearing site: Chicago or Springfield, IL.)

MC 111496 (Sub-26F), filed November 22, 1978. Applicant: TWIN CITY

FREIGHT INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting general commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Williston, ND, and Kalispell, MT, over U.S. Hwy 2, serving all intermediate points and the off-route points of Whitefish and Columbia Falls, MT, and the Glasgow Air Force Base at Valley City, MT, (2) between Butte and Sweetgrass, MT: over U.S. Hwy 91, serving all intermediate points, and (3) between Havre and Great Falls, MT: from Havre over U.S. Hwy 2 to junction U.S. Hwy 87, then over U.S. Hwy 87 to Great Falls, and return over the same route, serving all intermediate points. (Hearing site: St. Paul, MN, and Great Falls, MT.)

MC 111594 (Sub-81F), filed December 11, 1978. Applicant: C W TRANSPORT, a Delaware corporation, 610 High Street, Wisconsin Rapids, WI 54494. Representative: Thomas D. O'Connor (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by manufacturers and distributors of iron and steel articles, (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of Waupaca Foundry, Inc., in Waupaca County, WI, on the one hand, and, on the other, points in GA, IL, IN, KY, MI, MN, MO, NC, SC, OH, and WI, restricted to the transportation of traffic originating at or destined to the above named facilities. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 111812 (Sub-611F), filed January 29, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Rolph H. Jinks (same as above). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting foodstuffs (except commodities in bulk), from points in WI to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at points in Wisconsin. (Hearing site: Green Bay, WI.)

MC 113271 (Sub-49F), filed January 8, 1979. Applicant: CHEMICAL TRANSPORT, a corporation, P.O. Box 2844, Great Falls, MT 59403. Representative: Ray F. Koby, 314 Montana Bldg., Great Falls, MT 59401. To

operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting coal, in bulk, between points in MT, on the one hand, and, on the other, points in WY. (Hearing site: Great Falls, MT.)

MC 113668 (Sub-146F), filed December 27, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Rd., Freeport, PA 16229. Representative: D. R. Smetanick (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting soy bean meal, in bulk, in tank vehicles, from Louisville, KY, to Pearl River, NY. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114273 (Sub-516F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel shot, (except in bulk, in tank vehicles), from Cleveland and Toledo, OH, to Kansas City, KS, Keokuk, IA, St. Louis, MO, and those points in IL on and north of U.S. Hwy 36. **CONDITION:** The certificate to be issued shall be limited to two years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-518F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, from the facilities of Pittsburgh Tube Co., at Monaca, PA, to Milan, East Moline, and Rock Island, IL, and points in IA, MN, NE, and SD. **CONDITION:** The certificate to be issued shall be limited to two years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-519F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting coal resins, tar resins, and petroleum resins, (except commodities in bulk, in tank vehicles), from Neville Island,

PA, to Kankakee, IL. **CONDITION:** The certificate to be issued shall be limited to two years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-520F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting rough iron castings, from Sinking Spring, PA, to Lindsay, NE. **CONDITION:** The certificate to be issued shall be limited to two years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-521F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting foodstuffs, (except in bulk, in tank vehicles), from Livonia, MI, to Milan, IL. **CONDITION:** The certificate to be issued shall be limited to 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-523F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) rock crushing equipment, shredders, conveyors, and screens, and (2) parts for the commodities named in (1) above, from Cedar Rapids, IA, to points in IL, IN, OH, MI, KY, PA, NY, MD, NJ, VT, VA, and WV. **CONDITION:** The certificate to be issued shall be limited to two years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub-466F), filed December 26, 1978. Applicant: DART TRANSPORT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: Wayne W. Wilson, 150



East Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture sale, and distribution of foodstuffs, (except commodities in bulk), between points in WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Paul, MN, or Milwaukee, WI.)

MC 114457 (Sub-470F), filed December 22, 1978. Applicant: DART TRANSPORT, INC., a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by home improvement centers, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: St. Paul, MN, or Fort Worth, TX.)

MC 114604 (Sub-64F), filed December 14, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at or near Lakeland, FL, to points in AL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Tampa, FL or Atlanta, GA.)

MC 114604 (Sub-65F), filed December 15, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by grocery houses, (except commodities in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, KS, NE, OK, and TX. (Hearing site: Atlanta, GA or Birmingham, AL.)

MC 114632 (Sub-195F), filed January 31, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peter-

son (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Huron Dressed Beef, Inc., at Huron, SD, to points in KY, MI, and OH, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing Site: Pierre, SD, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 115036 (Sub-27F), filed December 28, 1978. Applicant: VAN TASSEL, INC., 5th and Grand, Pittsburg, KS 66762. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *clay and clay products*, from Pittsburg, KS, to points in CA, CT, DE, ID, ME, MD, MA, MT, NV, NH, NJ, NC, OR, PA, RI, SC, UT, VT, VA, WA, WV, and DC, and (2) *jointing materials* used in the installation of clay products, from Pittsburg, KS, to points in AZ, AR, CA, CO, CT, DE, GA, ID, KS, KY, ME, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WY, and DC, under continuing contract(s) with W. S. Dickey Clay Manufacturing Company, of Pittsburg, KS. (Hearing site: Kansas City, MO.)

NOTE.—Dual operations are involved in this proceeding.

MC 115311 (Sub-326F), filed January 8, 1979. Applicant: J & M TRANSPORTATION CO. INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry animal feed* (except in bulk), from Red Bay, AL and Tupelo, MS, to points in IL, IN, MO, MI, WI, VA, and OH. (Hearing site: Atlanta, GA.)

MC 115353 (Sub-33F), filed January 11, 1979. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, a corporation, 342 Schuyler Avenue, Kearney, NJ 07032. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign com-

merce, over irregular routes, transporting *prestressed concrete panels* from Cranbury, NY, to points in MA, RI, CT, NY, NJ, PA, DE, MD, and DC, under continuing contract(s) with Johns Manville Structural Systems Corp., of Cranbury, NJ. (Hearing site: New York, NY.)

MC 115498 (Sub-112F), filed December 18, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and composition board*, from the facilities of MacMillan Bloedel Building Materials, at Ashtabula, OH, to points in AL, DE, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NY, NC, PA, SC, TN, VA, and WV. (Hearing site: Atlanta, GA.)

MC 116254 (Sub-224F), filed December 13, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum rods*, from Columbia, TN, to those points in the United States in and east of MN, IA, MO, OK, and TX; (2) *aluminum plate and aluminum sheet*, from Hannibal and Omal, OH, Jackson, TN, and Madison, IL, to the destination in (1) above; (3) *aluminum rod and aluminum wire*, from Florence, AL, to the destinations, in (1) above; (4) *aluminum foil*, from Iuka, MS, and Jackson, TN, to points in the destinations in (1) above; (5) *aluminum extrusions aluminum pipe, and fittings*, from Madison, IL, Gulfport, MS, and Murphysboro, IL, to the destinations in (1) above; and (6) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), (2), (3), (4), and (5) above, from those points in the United States in and east of MN, IA, MO, OK, and TX, to Columbia and Jackson, TN, Hannibal and Omal, OH, Florence, AL, Madison and Murphysboro, IL, and Gulfport and Iuka, MS. (Hearing site: Nashville, TN, or Washington, DC.)

MC 116544 (Sub-166F), filed December 14, 1978. Applicant: ALTRUK FREIGHT SYSTEMS, INC., A Missouri corporation, P.O. Box 10061, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Kirk Wm. Horton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrig-

eration, from the facilities of Kraft, Inc., at (a) New Ulm, MN, and (b) Champaign, IL, to points in CA, OR, and WA, restricted to the transportation of traffic originating at the named origins facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 116763 (Sub-471F), filed January 11, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by distributors and suppliers of brick, masonry and tile, (except paper and paper products, and commodities in bulk, in tank vehicles), from points in the United States (except AK, HI, and WI), to points in WI. (Hearing site: Chicago, IL.)

MC 116778 (Sub-2F), filed January 31, 1979. Applicant: FLOYD R. BEARD, P.O. Box 43, Denmark, SC 29042. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Seaboard Coastline Railroad, at or near Orangeburg, SC, on the one hand, and, on the other, points in Bamberg County, SC, restricted to the transportation of traffic having a prior or subsequent movement by rail to foreign commerce service. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 117574 (Sub-328F), filed December 13, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material-handling equipment, winches, compaction and road-making equipment, rollers, mobile cranes, and trailers* (except those designed to be drawn by passenger automobiles), and (2) *parts, attachments, and accessories* for the commodities in (1) above (except commodities in bulk), between the facilities of Hyster Company, at or near (a) Danville and Kewanee, IL, (b) Crawfordsville, IN, and (c) Berea, KY, on the one hand, and, on the other, points in CT, DE, IN, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC, restricted to the transportation of

traffic originating at or destined to the named facilities. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 117892 (Sub-5F), filed January 31, 1979. Applicant: THREE "T" TRUCK LINE, INC., 3906 Elm Street, Bettendorf, IA 52722. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum*, from the facilities of Aluminum Company of America, at Riverdale, IA, to Adrian, Detroit, Dearborn, Battle Creek, Cadillac, Constantine, Decker, Hazel Park, Lansing, Lincoln Park, Flint, Troy, and Grosse Ile, MI. (Hearing site: Chicago, IL.)

MC 118959 (Sub-200F), filed February 1, 1979. Applicant: JERRY LIPPS, INC., a Florida Corporation, P.O. Drawer F, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, (except commodities in bulk), (1) from Avery Island, LA, to points in AL, AR, FL, GA, MS, NC, SC, and TN, and (2) from Cleveland, OH, to points in AL, AR, FL, GA, IL, IN, KY, MS, MO, NC, SC, and TN. (Hearing site: Chicago, IL, or Atlanta, GA.)

MC 118959 (Sub-201F), filed February 1, 1979. Applicant: JERRY LIPPS, INC., A Florida Corporation, P.O. Drawer F, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bituminous fibre pipe*, from the facilities used by Bermico Company, at or near West Bend, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 119493 (Sub-255F), filed January 10, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (Same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and filters from the facilities of Quaker State Oil Refining Corp., in Warren County, MS, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX (except ME, MA, NH, VT, RI, and CT), restricted to the transportation of traffic originating at the named

origin facilities, and (2) the *commodities* named in (1) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the origin facilities in (1) above, restricted to the transportation of traffic destined to the named facilities. (Hearing site: Pittsburgh, PA, or Chicago, IL.)

MC 120181 (Sub-14F), filed January 9, 1979. Applicant: MAIN LINE HAULING COMPANY, INC., P.O. Box C, St. Clair, MO 63077. Representative: William H. Schawn, 1730 M ST. NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers*, from Memphis and Chattanooga, TN, to points in IN and NE; and (2) *materials and supplies* used in the manufacture and distribution of containers, from points in IN and NE, to Memphis, and Chattanooga, TN. (Hearing site: Memphis, TN.)

MC 120364 (Sub-17F), filed December 12, 1978. Applicant: A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109. Representative: Robert M. Kaske (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Beloit, WI, on the one hand, and, on the other, Chicago, Des Plaines, Mt. Prospect, Arlington Heights, Elizabeth, Savanna, Mundelein, Round Lake, Woodbine, Apple River, Waukegan, Hanover, North Chicago, and Scales Mound, IL, and those points in that part of IL bounded by a line beginning at the IL-WI State line, and extending along IL Hwy 78 to junction IL Hwy 88, then along IL Hwy 88 to junction IL Hwy 92, then along IL Hwy 92 to junction U.S. Hwy 34 then along U.S. Hwy 34 to junction IL Hwy 59, then along IL Hwy 59 to junction IL Hwy 83, then along IL Hwy 83 to the IL-WI State line. (Hearing site: Washington, DC, or Chicago, IL.)

MC 120978 (Sub-24F), filed January 29, 1979. Applicant: REINHART MAYER, d.b.a. MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agri-*



cultural implements and agricultural machinery, and (2) attachments, accessories, and parts for the commodities in (1) above, from Fargo, Wahpeton, and West Fargo, ND, to points in ID, MT, OR, and WA. (Hearing site: Fargo, ND.)

MC 121496 (Sub-16F), filed January 3, 1979. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Bldg., Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW, Washington, DC 20001. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting petroleum products, vehicle body sealers, sound deadening compounds, and acoustical control products, in bulk, in tank vehicles, from the facilities of Quaker State Oil Refining Corp., in Warren County, MS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Washington, DC.)

MC 123872 (Sub-97F), filed January 30, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting new furniture and furniture parts, from points in Caldwell County, NC, to points in CA. NOTE: Dual operations are involved in this proceeding. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 124078 (Sub-941F), filed February 1, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting chemicals, in bulk, from Decatur, AL, to Savannah, GA, Jacksonville, FL, and Charleston, SC, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: St. Louis, MO.)

MC 124078 (Sub-942F), filed February 7, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting inedible oil, in bulk, in tank vehicles, from Lake Worth, FL, to Jasper, AL, Alma, GA, New Orleans, LA, Fayetteville, NC,

and Columbia, SC. (Hearing site: Jacksonville, FL.)

MC 124251 (Sub-55F), filed January 10, 1979. Applicant: JACK JORDAN, INC., P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting chemicals, in bulk, (1) from Bartow and Gordon Counties, GA, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) from points in Gordon County, GA, to points in NE, OK, and TX. (Hearing site: Atlanta, GA.)

MC 124692 (Sub-264F), filed January 17, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglass (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting chimney flue liners, from Denver, CO, to points in IA, KS, MT, NE, NM, OK, TX, UT, and WY. (Hearing site: Denver, CO.)

MC 124813 (Sub-194F), filed January 11, 1979. Applicant: UMTUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting steel articles, (1) from Green Bay, WI, to points in IA, KS, MO, NE, ND, and SD, and (2) from Chicago, IL, to Green Bay, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

NOTE.—Dual operations are involved.

MC 125433 (Sub-193F), filed January 10, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) knocked down prefabricated metal buildings, and (2) parts, components and accessories used in the manufacture of the commodities in (1) above, from the facilities of Kirby Building Systems, at or near Spanish Fork, UT, to those points in the United States in and west of ND, SD, NE, KS, CO, and NM, (except UT, AK, and HI). (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

MC 125433 (Sub-195F), filed January 11, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. An-

derson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting paper and paper products, from Burlington, IA, to Salt Lake City, UT, Denver, CO, Phoenix, AZ, El Paso, TX, Fresno and Los Angeles, CA, and Seattle, WA. (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 126118 (Sub-127F), filed February 5, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) reflective traffic control products (except electric), and (2) equipment, materials, and supplies used in the manufacture, distribution and installation of the commodities in (1) above (except commodities in bulk, in tank vehicles), from Marietta, GA, to points in AZ, CA, CO, ID, IL, IN, IA, KY, MI, NE, NV, NM, OH, OK, OR, TN, TX, UT, VA, WA, WV, and WI. (Hearing site: Atlanta, GA, or Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 126118 (Sub-128F), filed February 5, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) containers, and accessories for containers, and (2) equipment, materials, and supplies used in the manufacture and distribution of the commodities in (1) above, between Beatrice, NE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 127064 (Sub-9F), filed December 12, 1978. Applicant: E. J. PETER TRUCKING, INC., Route 2, Box 21, Athens, WI 54411. Representative: Robert S. Lee, 1000 First National Bank Building Minneapolis, MN 55402. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting feed and feed ingredients, soybean, grain and seed products and byproducts, (except commodities in bulk, in tank vehicles), from Red Wing, MN, to points in CO, IA, IL, KS, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at the facilities of Archer Daniels Midland Co., at Red Wing, MN. (Hearing site: St. Paul or Minneapolis, MN.)

MC 128246 (Sub-36F), filed December 27, 1978. Applicant: SOUTHWEST TRUCK SERVICE, a Corporation, P.O. Box AD, Watsonville, CA 95076. Representative: Michael P. Groom, 500 The Swenson Bldg., 777 N. 1st St., San Jose, CA 95112. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Swift & Company, at or near Clovis, NM, to points in CO, KS, OK, TX, and UT, under continuing contract(s) with Swift & Company, of Chicago, IL. (Hearing site: San Francisco, CA, or Chicago, IL.)

MC 128273 (Sub-330F), filed January 8, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting materials, equipment, and supplies used in the manufacture and distribution of mining company products, (except commodities in bulk, in tank vehicles), from points in the United States (except AK, CO, and HI), to the facilities of Colorado Aggregate Co., Inc., at points in Costilla County, CO, restricted to the transportation of traffic originating at the named origins and destined to the named facilities. (Hearing site: Denver, CO, or Washington, DC.)

MC 128273 (Sub-331F), filed January 8, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) containers, container ends, and container closures, (2) commodities manufactured and distributed by manufacturers and distributors of containers, in mixed loads with containers, and (3) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI). (Hearing site: none specified.)

MC 128273 (Sub-332F), filed January 8, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or for-

ign commerce, over irregular routes, transporting (1) petroleum, petroleum products, vehicle body sealer compounds, and sound deadener compounds, (except commodities in bulk, in tank vehicles), and filters from points in Warren County, MS, to points in the United States (except AK and HI), and (2) the commodities named in (1) above, and materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to points in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation at points in Warren County, MS. (Hearing site: Pittsburgh, PA.)

MC 128273 (Sub-334F), filed January 9, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by manufacturers and converters of paper and paper products, (except commodities in bulk, in tank vehicles), (1) from the facilities of Hammermill Paper Company at Erie, PA, to points in FL, AL (except Selma), GA, SC, TN, and KY, (2) from the facilities of Hammermill Paper Company, at Lock Haven, PA, to points in FL, AL (except Mobile), GA, and SC, and (3) from the facilities of Hammermill Paper Company at Oswego, NY, to points in FL, MS, AL, GA, SC, TN, and KY, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 128279 (Sub-35F), filed February 2, 1979. Applicant: ARROW FREIGHTWAYS, INC., P.O. Box 25125, Albuquerque, NM 87125. Representative: Olif Q. Boyd (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) metal products, roofing, roofing products, and insulation materials (except commodities in bulk) and (2) supplies and equipment for roofing, roofing products, and insulation materials, (except commodities in bulk), between points in AZ, CA, CO, NM, NV, OK, TX, and UT. (Hearing site: Albuquerque, NM, or Houston, TX.)

MC 128527 (Sub-129F), filed December 21, 1978. Applicant: MAY TRUCKING COMPANY, a corporation, P.O.

Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, TX 75224. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting salt, from points in UT, to points in ID, MT, and WY, and points in Malheur County, OR. (Hearing site: Boise, ID.)

MC 129032 (Sub-70F), filed January 5, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Ave., Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at or near (a) Albert Lea, MN, (b) Cedar Rapids, and Des Moines, IA, and (c) Marshall, MO, to points in CA, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Oklahoma City, OK, or St. Louis, MO.)

MC 133534 (Sub-14F), filed November 15, 1978. Applicant: ROBERT V. MARKT, 1409 Rifle Terrace, St. Joseph, MO 64503. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, OK 73112. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of MBPXL Corporation at or near Nebraska City, NE, to points in AR, IA, KS, MO, OK, and TX. (Hearing site: Kansas City, MO.)

MC 133671 (Sub-8F), filed January 9, 1979. Applicant: MILLER BROS. CO., INC., Box EA, Hyrum, UT 84319. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting cheese, cheese products, and synthetic cheese, from the facilities of L. D. Schreiber Cheese Company, Inc., at or near Logan, UT, to those points in CA on and south of a line beginning at the CA-NV State line and extending along Interstate Hwy 80 to junc-



tion CA Hwy 20, then over CA Hwy 20 to Fort Bragg, CA, under continuing contract(s) with L. D. Schreiber Cheese Company, Inc., of Green Bay, WI.

NOTE.—Dual operations are involved in this proceeding. (Hearing site: Washington, DC.)

MC 134182 (Sub-36F), filed January 19, 1979. Applicant: ALLIED TRANSPORTATION SERVICES, INC., P.O. Box 7424, Shawnee Mission, KS 66207. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods, from the facilities of Banquet Foods Corporation, at or near Carrollton, Macon, Marshall, and Moberly, MO, to points in IL, IN, KY, MI, and OH. (Hearing site: Kansas City or St. Louis, MO.)

MC 134286 (Sub-92F), filed December 20, 1978. Applicant: ILLINI EXPRESS, INC., A Nebraska Corporation, P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen onion rings and frozen diced onions, (except commodities in bulk), from the facilities of Platte Valley Foods, Inc., at or near Wahoo, NE, to points in CA. (Hearing site: Sioux City, IA, or Omaha, NE.)

NOTE.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 134552 (Sub-6F), filed January 29, 1979. Applicant: TRANSAMERICAN CARRIER CO., a Corporation, Route 1, Box 28, Winthrop, MN 55396. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting fertilizer and fertilizer materials, in bulk, from Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Omaha, NE.)

MC 134813 (Sub-5F), filed December 18, 1978. Applicant: WESTERN CARTAGE, INC., 2921 Dawson Road, Tulsa, OK 74110. Representative: Michael R. Vanderburg, 5200 South Yale, Suite 400, Tulsa, OK 74135. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) electrode conductors, metal, and metal articles and (2) parts, materials, and supplies for the commodities named in (1) above, from

Fort Smith, AR, to points in AL, AR, CO, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI, under continuing contract(s) with Leckenby Company, of Fort Smith, AR.

NOTE.—Dual operations are involved in this proceeding. (Hearing site: Tulsa, OK, or Fort Smith, AR.)

MC 134813 (Sub-6F), filed December 18, 1978. Applicant: WESTERN CARTAGE, INC., 2921 Dawson Road, Tulsa, OK 74110. Representative: Michael R. Vanderburg, 5200 South Yale, Suite 400, Tulsa, OK 74135. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, from the facilities of Good Manufacturing Company, at Tulsa, OK, to points in the United States (except AK and HI), under continuing contract(s) with Good Manufacturing Company, of Tulsa, OK. (Hearing site: Tulsa, OK.)

NOTE.—Dual operations are involved in this proceeding.

MC 135618 (Sub-19F), filed December 18, 1978. Applicant: PERRYBURG TRUCKING CO., INC., 24298 Thompson Rd., Perrysburg, OH 43551. Representative: E. Stephen Heisley, 805 McLachlene Bank Bldg., 666 Eleventh St., NW., Washington, D.C. 20001. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) glass, and (2) materials, equipment, and supplies used in the manufacture and distribution of glass, (except commodities in bulk), between the facilities of ASG Industries, Inc., at or near Kingsport and Greenland, TN, on the one hand, and, on the other, the facilities of Fourco Glass Company, in Harrison and Taylor Counties, WV, under continuing contract(s) with ASG Industries, Inc., of Kingsport, TN. (Hearing site: Washington, D.C., or Nashville, TN.)

MC 136343 (Sub-155F), filed January 10, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) plastic and plastic articles, and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities in (1) above, (except commodities in bulk), between the facilities of International Paper Company, at or near Hudson, NC, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities and destined to

the indicated destinations. (Hearing site: New York, N.Y., or Washington, D.C.)

MC 136786 (Sub-146F), filed January 2, 1979. Applicant: ROBCO TRANSPORTATION, INC., a Minnesota corporation, 4333 Park Ave., Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Rd., Eden Prairie, MN 55344. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting foodstuffs (except in bulk). (1) from Paw Paw, MI, to points in AZ, AR, CA, DE, GA, IA, KS, KY, MD, MN, MO, NE, NV, NJ, NY, NC, OK, OR, PA, SC, TN, TX, UT, VA, WA, WV, and DC, and (2) from Franklin, ME and Middleport, NY, to points in AZ, AR, CA, DE, GA, IA, KS, KY, MD, MN, MO, NE, NV, NC, OK, OR, SC, TN, TX, UT, VA, WA, WV, and D.C., restricted in both (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 138018 (Sub-48F), filed February 1, 1979. Applicant: KODIAK REFRIGERATED LINES, INC., a Nebraska corporation, P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities used by John Morrell & Co., at (a) Estherville and Sioux City, IA, and (b) Worthington, MN, to points in CA, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 138104 (Sub-62F), filed December 7, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Ft. Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Rd., Ft. Worth, TX 76116. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) construction materials (except commodities in bulk), from the facilities of the Celotex Corporation, at or near Marrero, LA, to points in AR, CO, OK, NM, and TX, and (2) materials used in the manufacture and distribution of the commodities in (1) above, from the destinations in (1) above to the origin facilities in (1) above. (Hearing site: Dallas or Ft. Worth, TX.)

MC 138126 (Sub-34F), filed December 28, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods, from the facilities of Ore-Ida Foods, Inc., at Greenville, MI, to points in FL. (Hearing site: Washington, DC.)

MC 138157 (Sub-107F), filed December 20, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., dba SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market St., Chattanooga, TX 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TX 37412. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting wheels and parts for wheels, from Benicia, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 138253 (Sub-10F), filed January 11, 1979. Applicant: MONFORT TRANSPORTATION CO., a corporation, P.O. Box G, Greeley, CO 80631. Representative: David R. Parker, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) meats, meat products and meat byproducts, and articles distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 206 and 766, and (b) such other commodities as are dealt in or used by restaurants and restaurant supply houses, (except commodities in bulk, in tank vehicles), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Monfort of Colorado, Inc., at San Angelo, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Monfort of Colorado, Inc., of Greeley, CO. (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 138253 (Sub-11F), filed January 11, 1979. Applicant: MONFORT TRANSPORTATION CO., a corporation, P.O. Box G, Greeley, CO 80631. Representative: David R. Parker, 717 17th Street, Suite 2600, Denver, CO

80202. To operate as a contract carrier, by motor vehicle, in interstate and foreign commerce, over irregular routes, transporting (1)(a) meats, meat products and meat byproducts, and articles distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 206 and 766, and (b) such commodities as are dealt in or used by restaurants and restaurant supply houses, (except the commodities in (1)(a) above and except commodities in bulk, in tank vehicles), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Monfort of Colorado, Inc., at Jacksonville, FL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Monfort of Colorado, Inc., of Greeley, CO. (Hearing site: Denver, CO.)

NOTE.—Dual operations are involved in this proceeding.

MC 138253 (Sub-12F), filed January 10, 1979. Applicant: MONFORT TRANSPORTATION CO., a corporation, P.O. Box G, Greeley, CO 80631. Representative: David R. Parker, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a contract carrier, by motor vehicle, in interstate and foreign commerce, over irregular routes, transporting (1) meats, meat products and meat byproducts, and articles distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 206 and 766, and (b) such commodities as are dealt in or used by restaurants and restaurant supply houses, (except commodities in bulk, in tank vehicles), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Monfort of Colorado, Inc., at Grand Island, NE, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Monfort of Colorado, Inc., of Greeley, CO. (Hearing site: Denver, CO.)

NOTE.—Dual operations are involved in this proceeding.

MC 138383 (Sub-4F), filed December 6, 1978. Applicant: SAWYER CORPORATION, 3761 Wolf Road, Saginaw, MI 48605. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48993. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting scrap

iron and scrap steel, between the ports of entry on the International Boundary line between the United States and Canada, located at Detroit and Port Huron, MI, on the one hand, and, on the other, points in MI. (Hearing site: Lansing or Saginaw, MI.)

MC 138627 (Sub-45F), filed December 21, 1978. Applicant: SMITHWAY MOTOR EXPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) pre-cut log buildings, knocked down, (2) accessories and fixtures for pre-cut log buildings, and (3) materials and supplies used in the construction and erection of log buildings, from Claremore, OK, Chadron, NE, and Brainerd, MN, to points in AR, IL, IN, IA, KS, KY, MN, MO, NE, ND, OH, SD, TN, and WI. (Hearing site: Omaha, NE.)

MC 138627 (Sub-49F), filed December 26, 1978. Applicant: SMITHWAY MOTOR EXPRESS INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) grain storage equipment, and grain handling equipment, (2) parts and accessories for the commodities in (1) above, (3) metal buildings, and (4) materials, equipment and supplies used in the manufacture of the commodities in (1), (2), and (3) above, between Grand Island, York, and Elm Creek, NE, Bluffton and Crawfordville, IN, Webster City, IA, Greenville, MS, Middletown, PA, Saginaw, MI, and Oklahoma City, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 138882 (Sub-220F), filed January 30, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting laminated veneer, from the facilities of Trus Joist Corporation, at Junction City, Portland, and Eugene, OR, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Portland, OR, or Montgomery, AL.)

MC 138902 (Sub-11F), filed January 19, 1979. Applicant: ERB TRANSPORTATION CO., INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street,



N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* (except commodities in bulk, in tank vehicles), (1) from points in Cumberland County, NJ, to those points in PA on and west of U.S. Hwy 219, and points in AR, GA, IL, IN, IA, KS, KY, MI, MO, NC, OH, SC, TN, VA, and WV, and (2) from Grand Rapids, Hart, and Lake Odessa, MI, to points in AR, GA, IL, IN, IA, KS, KY, MO, NJ, NC, OH, PA, SC, TN, VA, and WV. (Hearing site: Washington, DC.)

MC 139276 (Sub-5F), filed January 3, 1979. Applicant: ALOHA FREIGHTWAYS, INC., 1069 Bryn Mawr Ave., Bensenville, IL 60106. Representative: Donald S. Mullins, 4704 W. Irving Park Rd., Chicago, IL 60641. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel sheet*, from the facilities of Pre-Finish Metals, Inc., at or near Elk Grove Village, IL, to Indianapolis and North Vernon, IN, under continuing contract(s) with Pre-Finish Metals, Inc., of Elk Grove Village, IL, and Bethlehem Steel Corp., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 139482 (Sub-87F), filed January 19, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of American Original Corp., at or near Cannon, DE, to points in IL, IN, IA, KY, MI, MN, MO, OH, and WI. (Hearing site: New York, NY.)

MC 139587 (Sub-13F), filed December 19, 1978. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center 2601 N.W. Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rails, coils, upholstered day beds, frames, springs, spring assemblies, and metal sleeper fixtures*, and (2) *materials* used in the manufacture of the commodities in (1) above, (a) between points in TX, on the one hand and, on the other, points in CA, KY, and MS, (b) from points in TX, to points in AL, AR, LA, NV, and TN, (c) from Carthage, MO, to Independence, LA, (d) from Grafton, WI, to Dallas, TX, (e) from Simpsonville, KY, to Los Angeles, CA, and (f) from Hominy, OK and Carthage and

Springfield, MO, to points, in CA. (Hearing site: Kansas City, MO.)

Note.—Dual operations are involved, in this proceeding.

MC 140033 (Sub-80F), filed January 8, 1979. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL, to points in RI, MA, MD, NY, NJ, PA, OH, CT, WV, VA, and DC. (Hearing site: Dallas, TX.)

Note.—Dual operations are involved in this proceeding.

MC 140166 (Sub-8F), filed December 19, 1978. Applicant: JOHN B. McNABB, d.b.a., McNABB FARMS, P.O. Box 4366, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal and poultry feed and animal and poultry feed ingredients*, between Pocatello, ID, and Wheatland, Big Horn, Golden Valley, Musselshell, Treasure, Yellowstone, Stillwater, and Sweet Grass, MT. (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 140172 (Sub-4F), filed January 29, 1979. Applicant: ED DAVENPORT, INC., P.O. Box 907, Brady, TX 76825. Representative: Billy R. Reid, P.O. Box 8335, Forth Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand*, from points in OK, to points in TX. (Hearing site: Dallas or San Antonio, TX.)

MC 140447 (Sub-2F), filed November 29, 1978. Applicant: BOYCE HOWARD, d.b.a. BOYCE HOWARD TRUCKING, Highway 67, Newport, AR 72112. Representative: Thomas J. Presson, P.O. Box 71, Lot 27 River Bend Estates, Redfield, AR 72132. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, in bulk, in dump vehicles, (a) from points in Johnson, Sebastian, Pope, and Franklin Counties, AR, to points in IL, KS, LA, MO, MS, OK, and TN, (b) from the origin points in (a) above, to points in AR, restricted to the transportation of traffic having a subsequent movement by water, and (c) from points in IL, MO, OK, and TN, to points in AR. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 140484 (Sub-35F), filed November 29, 1978. Applicant: LESTER

COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *motors, generators, controllers, power transmission equipment, power transmission machinery, and scales* (except commodities the transportation of which because of size or weight requires the use of special equipment), and (2) *parts and accessories* for the commodities in (1) above (except commodities the transportation of which because of size or weight requires the use of special equipment), from the facilities of Reliance Electric Co., at Lawrenceburg, KY, to points in MO, KS, and NV. (Hearing site: Lexington, KY, or Washington, DC.)

MC 141533 (Sub-8F), filed November 28, 1978. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, 118-21 Queens Blvd., Forest Hills, NY 11375. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Cliffstar Corporation, at or near Dunkirk, NY, to New York, NY, points in Suffolk County, NY, and points in CT, ME, MA, NH, RI, and VT. (Hearing site: New York, NY.)

MC 142364 (Sub-5F), filed December 12, 1978. Applicant: KENNETH SAGELY d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *unfrozen foodstuffs*, in containers, from the facilities of Pet Incorporated and Ozark Terminal, Inc., at or near Neosho, MO, to Memphis, TN, and points in AR, LA, MS, OK, and TX. (Hearing site: St. Louis, MO.)

MC 142864 (Sub-4F), filed December 13, 1978. Applicant: RAY E. BROWN TRUCKING CO. INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal briquettes, boxed fireplace coal, fireplace logs, and fuel lighting liquids*, from Sebring, Canton, and Alliance, OH, Paris and Cotter, AR, Louisville, KY, Salem, MO, and Princeton, NJ, to points in AR, CT,

FL, GA, IL, IN, MA, MO, MI, NJ, NY, NC, OH, PA, SC, VA, WV, and WI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 143436 (Sub-24F), filed December 27, 1978. Applicant: CONTROLLED TEMPERATURE TRANSPORT, INC., 9049 Stonegate Rd., Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main St., Speedway, IN 46224. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Indianapolis, IN and Chicago, IL, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Indianapolis, IN.)

MC 14378 (Sub-6F), filed February 1, 1979. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glassware and cartons*, from Vienna, WV, to points in AL, FL, GA, LA, MS, and TN, under continuing contract(s) with Brockway Glass Company, Inc., of Brockway, PA. (Hearing site: Pittsburgh, PA.)

Note.—Dual operations are involved in this proceeding.

MC 143552 (Sub-10F), filed February 1, 1979. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield St., Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of the Paramount Macaroni Co., at or near Deer Park, NY, to Bridgeport, CT, Chicago, West Chicago, and Galesburg, IL, Buffalo, NY, Fostoria, OH, Mechanicsburg, PA, Chattanooga, TN, and Dallas, TX, under continuing contract(s) with Paramount Macaroni Co., of Deer Park, Long Island, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 143891 (Sub-18F), filed January 10, 1979. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commercial papers, documents, and*

*written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between Lincoln, NE, on the one hand, and, on the other, points in Woodbury, Ida, Sac, Monona, Crawford, Carroll, Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Adams, Fremont, Page, and Taylor Counties, IA, under continuing contract(s) with banks and banking institutions. (Hearing site: Lincoln, NE.)

Note.—Dual operations are involved in this proceeding.

MC 143698 (Sub-1F), filed January 29, 1979. Applicant: CAST NORTH AMERICA, LTD., 4150 Ste-Catharine Street West, Montreal, Quebec, Canada H3Z 2R8. Representative: Richard H. Streeter, 1729 H Steet, NW, Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), in containers or in trailers, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MO, and WI, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Chicago, IL, or Washington, DC.)

MC 144051 (Sub-5F), filed January 8, 1979. Applicant: ALFORD-LOGSTON, INC., 1714 Tabor, Houston, TX 77009. Representative: Michael Connelly, Esperson Buildings, Houston, TX 77002. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *home care products*, from Memphis, TN, to points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans (except New Orleans), Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, LA, under continuing contract(s) with Stanley Home Products, Inc., of Westfield, MA. (Hearing site: Houston or Fort Worth, TX.)

MC 144188 (Sub-2F), filed January 9, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay* (except in bulk), from the facilities of Waverly Mineral Products Company, at Quality, GA, to points in CT, DE,

MD, NJ, NY, PA, VA, and DC. (Hearing site: Washington, DC.)

Note.—Dual operations are involved in this proceeding.

MC 144303 (Sub-2F), filed January 10, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and zinc ingots*, from Maple Heights, OH, to points in AL, GA, KY, NC, SC, and SC, under continuing contract(s) with Aluminum Smelting and Refining Co., and Certified Alloys, Inc., both of Maple Heights, OH. (Hearing site: Washington, DC.)

Note.—Dual operations are involved in this proceeding.

MC 144356 (Sub-1F), filed January 2, 1979. Applicant: E & S TRANSPORTATION CO., INC., P.O. Box 1892, North Wilkesboro, NC 28659. Representative: Charlotte S. Bennett, P.O. Box 889, Wilkesboro, NC 28697. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, between Athens, TN, on the one hand, and, on the other, points in CA, CO, ID, KS, MT, NV, OK, OR, UT, WA, and WY. (Hearing site: Charlotte or Raleigh, NC.)

MC 144428 (Sub-5F), filed February 2, 1979. Applicant: TRUCKADYNE, INC., a Delaware corporation, Route 16, Mendon, MA 01756. Representative: Peter A. North (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *confectionery* (except commodities in bulk), and (2) *materials* used in the manufacture of confectionery between the facilities of Nabisco Confections, Inc., at (a) Cambridge and Mansfield, MA, and (b) Ashton, RI, on the one hand, and, on the other, points in CA, CO, FL, GA, IL, MI, NY, NC, OR, PA, TN, TX, UT, and VA, under continuing contract(s) above with Nabisco Confections, Inc., of Cambridge, MA. (Hearing site: Springfield or Boston, MA.)

MC 144436 (Sub-4F), filed December 18, 1978. Applicant: JOHN PRINCE TRANSPORTATION, INC., P.O. Box 440, Forsyth, MT 59327. Representative: Jerome Anderson, 100 Transwestern Bldg., Billings, MT 59101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick, building block, sewer tile, and clay products*, from Billings and Lewistown, MT, to points in CA,



under continuing contract(s) with The Lovell Clay Products Co., of Billings, MT. (Hearing site: Billings or Helena, MT.)

MC 144452 (Sub-7F), filed January 24, 1979. Applicant: ARLEN LINDQUIST, d.b.a. ARLEN E. LINDQUIST TRUCKING, 3242 Old Highway 8, Minneapolis, MN 55415. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in containers, from St. Louis, MO, to points in CO. (Hearing site: Minneapolis-St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 144733 (Sub-1F), filed January 8, 1979. Applicant: RAY ROUTH & SONS, INC., Rural Route 2, 105, New Richland, MN 56072. Representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry animal feed and dry poultry feed*, from the facilities of Cargill, Inc., Nutrena Feed Division, at New Richland, MN, to points in IA, SD, WI, and the Upper Peninsula of MI. (Hearing site: St. Paul or Minneapolis, MN.)

MC 144748 (Sub-1F), filed January 10, 1979. Applicant: MICHAEL KOHUTICH and DOROTHY KOHUTICH, a partnership, d.b.a. MICK-EY'S MOVING, 7 Yolanda Drive, Little Falls, NJ 07424. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dining room sets, rockers, bar stools, and benches*, from Clifton, NJ, to points in CT, DE, MD, NY, PA, VA, and DC; and (2) *materials and supplies* used in the manufacture and sale of the commodities in (1) above, from the destination States in (1) above, to Clifton, NJ, all of the service in (1) and (2) above to be performed under continuing contract(s) with S. K. Products Corp., of Atlanta, GA. (Hearing site: Newark, NJ.)

NOTE.—Dual operations are involved in this proceeding.

MC 144798 (Sub-4F), filed February 2, 1979. Applicant: JAMES W. BERG and JOHN W. BERG, a partnership, d.b.a. DUTCH LINE, 2120 Harbor Street, Pittsburg, CA 94565. Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid paraffin*

*wax*, in bulk, in tank vehicles, between Richmond, CA, and Scappoose, OR, under continuing contract(s) with Neu-Glo Candles, Incorporated, of Scappoose, OR. (Hearing site: San Francisco, CA.)

MC 144816 (Sub-1F), filed December 27, 1978. Applicant: FLOYD G. HARPER, doing business as PARCEL DELIVERY SERVICE, 9 Mullin St., Cumberland, MD 21502. Representative: Martin B. Lessans, 206 Baltimore-Annapolis Blvd. NW., Glen Burnie, MD 21061. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by cosmetic manufacturers, between Newark, DE, on the one hand, and, on the other, points in Allegany, Garrett, and Washington Counties, MD, Bedford, Fulton, Somerset, Blair, Huntingdon, Mifflin, and Juniata Counties, PA, Clarke, Frederick, Page, Shenandoah, and Warren Counties, VA, and Barbour, Berkeley, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Upshur, Wirt, and Wood Counties, WV, under continuing contract(s) with Avon Products, Incorporated, of New York, NY. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 145096 (Sub-2F), filed January 4, 1979. Applicant: LIBERTY WASTE CARRIERS, INC., P.O. Box 3370, Baytown, TX 77520. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry plastic waste and dry plastic scrap*, in bulk, between points in LA and TX. (Hearing site: Houston or Dallas, TX.)

MC 145102 (Sub-9F), filed January 17, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at (a) Albert Lea, MN, (b) Cedar Rapids, Cherokee, and Des Moines, IA, (c) Loganport, IN, (d) Monmouth, and Peoria, IL, and (e) Marshall, MO, to points in CA, restricted to the

transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Oklahoma City, OK, or St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 145158 (Sub-1F), filed January 29, 1979. Applicant: REX L. AUSTIN, d.b.a. REX TRANSPORT, 598 Hermes Avenue, Encinitas, CA 92024. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers designed to be drawn by passenger automobiles*, and (2) *buildings*, in sections, between points in AZ, CA, and NV. (Hearing site: Los Angeles, CA.)

MC 145581 (Sub-1F), filed January 9, 1979. Applicant: HAROLD L. HOOD, R.R. #1, Rushville, IL 62681. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients*, between Beardstown, IL, on the one hand, and, on the other, points in IN, IA, and MO, under continuing contract(s) with Kent Feeds, Inc., of Muscatine, IA. (Hearing site: St. Louis, MO.)

MC 145671 (Sub-2F), filed January 5, 1979. Applicant: TAYLOR BROTHERS WHOLESALE DISTRIBUTION, a corporation, 246 South Robson, Mesa, AZ 85202. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared foods*, from Mesa, AZ, to Los Angeles, CA, under continuing contract(s) with Rosarita Mexican Foods, of Mesa, AZ. (Hearing site: Phoenix, AZ.)

MC 145804F, filed November 29, 1978. Applicant: WILLIAM T. SMEESTER, d.b.a. UPPER PENINSULA, SPECIAL DELIVERY SERVICE, Box 207, Iron Mountain, MI 49801. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk and those the transportation of which required because of size of weight the use of special equipment), between the facilities of Niagara of Wisconsin Paper Corporation, at Niagara, WI, on the one hand, and, on the other, points in IL, IN, MI, MN,

OH, and WI; and (2) *machinery parts and machinery supplies*, (except commodities the transportation of which because of size or weight requires the use of special equipment), between the facilities of W. B. Thompson Company, at Iron Mountain, MI, on the one hand, and, on the other, points in IL, IN, MI, MN, OH, and WI. (Hearing site: Iron Mountain, MI, or Green Bay, WI.)

MC 145924F, filed December 7, 1978. Applicant: L. E. CARLSON SCRAP IRON AND METAL, INC., P.O. Box 603, 1525 Factory Street, Boone, IA 50036. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *concrete pipe form equipment and metal castings*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, between Boone, IA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Quinn Machinery Division of Zelders, Inc., of Boone, IA. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 145987F, filed December 22, 1978. Applicant: INTER-CITY EXPRESS, LTD., 2655 Dollarton Highway, North Vancouver, British Columbia, Canada V7H 1B1. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, between those ports of entry on the International Boundary line, located at or near Blaine, Lynden, and Sumas, WA, on the one hand, and, on the other, points in OR and WA, under continuing contract(s) with Van Waters & Rogers, Ltd., of British Columbia, Canada. (Hearing site: Seattle, WA.)

MC 146027F, filed December 26, 1978. Applicant: HAROLD H. HORNING, d.b.a. HORNING TRUCKING COMPANY, 4042 Waterloo Rd., Randolph, OH 44265. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *charcoal briquettes, boxed fireplace coal, fireplace logs, and fuel lighting liquids*, from Sebring, Canton, and Alliance, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk),

from the destinations in (1) above, to the origins in (1) above, (3) *charcoal briquettes*, from Paris and Cotter, AR, and Salem, MO, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, (4) *fireplace coal*, in boxes, from Louisville, KY, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (5) *fuel lighting liquids*, from Princeton, NJ, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Columbus, OH, or Washington, DC.)

MC 146038 (Sub-1F), filed February 1, 1979. Applicant: QUICK SILVER, INC., Box 213, Liberty, MO 64068. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in sections A, B, and C, of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), and (2) *such commodities* as are dealt in by grocery and food business houses, (except the commodities in (1) above), (a) from Wichita and Hutchinson, KS, to Kansas City, KS, and points in MO, (b) from St. Joseph, MO, to Kansas City and St. Louis, MO, and points in KS, (c) between St. Louis and Kansas City, MO, on the one hand, and, on the other, points in MO and KS, (d) between Carthage and Monett, MO, on the one hand, and, on the other, St. Louis, and Kansas City, MO, and points in KS, and (e) between Macon, Moberly, Carrollton, and Marshall, MO, on the one hand, and, on the other, Kansas City, MO, and points in KS. (Hearing site: Kansas City, MO.)

MC 146051F, filed January 10, 1979. Applicant: WITTENBURG TRUCK LINE, INC., P.O. Box 98, Readlyn, IA 50668. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between Grand Rapids, MI, Marengo, IL, and points in Cook County, IL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with American United Steel Corp., of North Brook, IL. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 146171F, filed January 10, 1979. Applicant: SEFCO PRODUCTS, INC., 15 Upland Way, P.O. Box 187, Had-

donfield, NJ 08033. Representative: Samuel F. Fabian (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *office equipment and office supplies*, between points in NJ, DE, and PA, under continuing contract(s) with 3M Business Products Sales, Inc., of Pennsauken, NJ. (Hearing site: Philadelphia, PA.)

MC 146181F, filed January 9, 1979. Applicant: NORTHEAST TRANSPORT COMPANY, Division of MS Industries, Inc., P.O. Box 1252, Secaucus, NJ 07094. Representative: Rick A. Rude, 1730 Rhode Island Ave. NW., Suite 801, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers and distributors of printed matter, paper, and paper products, between East Greenville, PA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, VA, WV, and DC, under continuing contract(s) with Brown Printing Company, Inc., of Waseca, MN. (Hearing site: Minneapolis, MN, or Newark, NJ.)

MC 146274F, filed December 11, 1978. Applicant: JACKSON TRANSPORTATION, INC., R.R. 1, Box 410A, Clayton, IN 46118. Representative: Donald W. Smith, Suite 945, 9000 N. Keystone Crossing, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, from the facilities of R. R. Donnelley & Sons Company, Inc., at Crawfordsville, IN, to Corinth, MS, Kirkwood, NY, Wichita and Topeka, KS, and points in CA, WA, OR, AR, CO and UT, under continuing contract(s) with R. R. Donnelley & Sons Company, Inc., of Crawfordsville, IN. (Hearing site: Indianapolis, IN.)

MC 123178 (Sub-8F), filed February 13, 1979. Applicant: COLUMBIA COACHWAYS, INC., P.O. Box 569, St. Helens, OR 97051. Representative: David C. White, 2400 S.W. Fourth Avenue, Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicles with passengers, in charter operations, from points in OR and WA, to the ports of entry on the international boundary line between the United States and the Republic of Mexico, located in CA. (Hearing site: Portland, OR.)

[FR Doc. 79-9096 Filed 3-26-79; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### [6320-01-M]

1

[M-206; Mar. 23, 1979]

#### CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1:30 p.m., April 2, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument—Docket 34965: Direct Sale of Charter Air Transportation.

STATUS: Open.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-595-79 Filed 3-23-79; 3:14 pm]

### [6740-02-M]

2

MARCH 21, 1979.

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., March 28, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

#### MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

#### CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

POWER AGENDA—251ST MEETING, MARCH 28, 1979, REGULAR MEETING (10 A.M.)

CAP-1. Docket No. ER79-169 and ER79-170, Pennsylvania-New Jersey-Maryland interconnection.

CAP-2. Docket No. ER79-196, Idaho Power Co.

CAP-3. Docket No. ER78-1, Kansas Power & Light Co.

CAP-4. Docket No. ER76-495 (phase II), Carolina Power & Light Co.

CAP-5. Docket Nos. ER76-304, et al., New England Power Co.

GAS AGENDA—251ST MEETING, MARCH 28, 1979, REGULAR MEETING

CAG-1. Docket Nos. RP79-22 and RP 78-52, Consolidated Gas Supply Corp.

CAG-2. Docket No. RP72-115 (PGA No. 79-1), Oklahoma Natural Gas Gathering Corp.

CAG-3. Docket No. RP74-41 (PGA No. 79-2A), Texas Eastern Transmission Corp.

CAG-4. Docket Nos. RP74-61 (PGA 79-1) and RP 76-10 (PGA 79-1), Arkansas Louisiana Gas Co.

CAG-5. Docket No. RP79-50, Algonquin Gas Transmission Co.

CAG-6. Docket No. RP79-30, United Gas Pipe Line Co.

CAG-7. Docket No. RP79-51, Algonquin Gas Transmission Corp.

CAG-8. Docket No. RP79-42, Columbia Gas Transmission Corp. Docket No. RP79-47, Consolidated Gas Supply Corp. Docket No. RP79-37, El Paso Natural Gas Co.

CAG-9. Docket No. RP79-35, Florida Gas Transmission Co. Docket No. RP79-43, Michigan Wisconsin Pipe Line Co. Docket No. RP79-23, Mid Louisiana Gas Co. Docket No. RP79-38, Natural Gas Pipeline Co. of America. Docket No. RP79-41, Northern Natural Gas Co. Docket No. RP79-34, Panhandle Eastern Pipe Line Co. Docket No. RP79-45, Sea Robin Pipeline Co.

CAG-10. Docket No. RP79-48, Southern Natural Gas Co. Docket No. RP79-52, Tennessee Gas Pipeline (Division of Tenneco Inc. Docket No. RP79-40, Texas Eastern Transmission Corp. Docket No. RP79-31, Texas Gas Transmission Corp. Docket No. RP79-33, Trunkline Gas Co. Docket No. RP79-46, Transcontinental Gas Pipe Line Corp. Docket No. RP79-44, United Gas Pipe Line Co. Docket No. RP79-53 and RP 79-54, Arkansas Louisiana Gas Co.

CAG-11. Docket No. RP73-14, (PGA No. 78-3 and DCA No. 78-2), Michigan Wisconsin Pipe Line Co.

CAG-12. Docket Nos. RP75-30, RP74-20 and RP74-83, United Gas Pipe Line Co.

CAG-12. Docket Nos. CI76-633 and CI76-644, Tenneco Exploration, LTD.

CAG-13. Docket Nos. CS73-273, et al., John G. Arnold, Trustee, et al.

CAG-14. Docket Nos. CS86-56, et al., Penrose-Zachery Operating Co.

CAG-15. Docket Nos. CS66-74, et al., Magdalene C. Hammonds, et al.

CAG-16. Docket Nos. CS66-5, et al., Estate of Scott B. Appleby, Deceased, W. O. Anderson and Demova K. Frost.

CAG-17. Valley Gas Transmission, Inc.

CAG-18. Docket Nos. CP75-17 and CP75-277, Transwestern Pipeline Co.

CAG-19. Docket No. CP79-149, Transcontinental Gas Pipe Line Corp.

CAG-20. Docket No. G-19618, Valley Gas Transmission, Inc.

CAG-21. Docket No. CP79-3, Transcontinental Gas Pipe Line Corp. and Michigan Wisconsin Pipe Line Co.

CAG-22. Docket No. CP79-83, Carnegie Natural Gas Co. and Equitable Gas Co.

CAG-23. Docket Nos. CP78-546, CP78-547 and CP77-263, Northwest Pipeline Corp. Docket No. CP77-625, RMNG Gathering Co.

CAG-24. Docket No. CP78-467, Columbia Gas Transmission Corp. Docket No. CP79-14, Texas Eastern Transmission Corp. and Consolidated Gas Supply Corp.

CAG-25. Docket No. CP79-129, Michigan Wisconsin Pipe Line Co.

CAG-26. Docket No. CP76-255, Michigan Wisconsin Pipe Line Co. Docket No. CP76-254, Michigan Consolidated Gas Co. Docket No. CP76-271, Northern Natural Gas Co. Docket No. CP76-325, Natural Gas Pipeline Co. of America. Docket No. CP76-353, Natural Gas Pipeline Co. of America.

CAG-27. Docket No. CP79-127, Northwest Pipeline Corp.

CAG-28. Docket No. G-8110, Piedmont Natural Gas Co. Docket No. CP79-38 and CP79-39, Transcontinental Gas Pipe Line Corp. Docket No. CP79-40, Southern Natural Gas Co. Docket No. CP79-41, Carolina Pipe Line Co.

CAG-29. Docket No. CP79-66, United Gas Pipe Line Co.

CAG-30. Docket No. CP79-34, South Texas Natural Gas Gathering Co. and Coastal States Gas Producing Co.

MISCELLANEOUS AGENDA—251ST MEETING, MARCH 28, 1979, REGULAR MEETING

CAM-1. Docket No. RA79-3, Texaco Inc.

POWER AGENDA—251ST MEETING, MARCH 28, 1979, REGULAR MEETING

1. ELECTRIC RATE MATTERS

ER-1. Docket No. ER79-21, Missouri Utilities Co.

ER-2. Docket No. ER79-195, Florida Power Corp.

ER-3. Docket No. ER79-121, Utah Power & Light Co.

ER-4. Docket No. ER79-182, Commonwealth Edison Co.

ER-5. Docket No. ER79-197, Ohio Edison Co.

ER-6. Docket No. ER78-304, Boston Edison Co.

GAS AGENDA—251ST MEETING, MARCH 28, 1979, REGULAR MEETING

#### I. PIPELINE RATE MATTERS

RP-1. Docket No. RP72-122 and RP79-1, Colorado Interstate Gas Co.

RP-2. Docket No. RP72-155 and RP78-18 (PGA No. 79-1 and AP No. 79-1), El Paso Natural Gas Co.

RP-3. Docket No. RP79-39, Michigan Wisconsin Pipeline Co.

#### II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP79-130, Cortez Pipeline Co.

CP-2. Docket No. CP79-200, Natural Gas Pipeline Co. of America.

CP-3. Docket Nos. CP75-140, et al., Pacific Alaska LNG Co., et al. Docket Nos. CP74-160, et al., Pacific Indonesia LNG Company, et al. Docket Nos. CP75-83-1, 2 & 3, et al., Western Terminal LNG Associates. Docket No. CP79-102, Southern California LNG Terminal Co.

CP-4. Docket No. CP75-362, El Paso Natural Gas Co.

CP-5. Docket No. CP74-192, Florida Gas Transmission Co.

CP-6. Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.

CP-7. Docket No. RP72-6, et al., El Paso Natural Gas Co.

CP-8. Docket No. RP71-29, et al., United Gas Pipe Line Co.

MISCELLANEOUS AGENDA—251ST MEETING, MARCH 28, 1979, REGULAR MEETING

M-1. Docket No. RM79- , Proposed rule by ERA Concerning issuance of certificates of public convenience and necessity to interstate Natural Gas Pipelines in order to transport gas purchased by an End-user to replace fuel.

M-2. Docket No. RM78-12, Alaska Natural Gas Transportation System Incentive Rate of return.

KENNETH F. PLUMB, Secretary.

[S-590-79 Filed 3-23-79; 10:17 am]

### [6735-01-M]

3

#### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

MARCH 23, 1979.

TIME AND DATE: 10 a.m., March 26, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: This meeting may be closed.

#### MATTER TO BE CONSIDERED: The Commission will consider and act upon the following agenda item:

Secretary of Labor *ex rel. Roy A. Jones v. James Oliver and Wayne Seal d/b/a Oliver Mine Maintenance*, NORT 78-415.

## SUNSHINE ACT MEETINGS

18343

It was determined by unanimous vote of the Commissioners that pressing Commission business required that a meeting be held on this matter and that no earlier announcement of the meeting was practicable.

#### CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-596-79 Filed 3-23-79; 3:27 pm]

### [6210-01-M]

4

#### FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, March 30, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

1. Proposed termination of activities engaged in by bank holding companies on the basis of Section 4(c)(5) of the Bank Holding Company Act.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve Systems employees.

3. Any agenda items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; 202-452-3204.

Dated: March 22, 1979.

GRIFFITH L. GARWOOD, Deputy Secretary of the Board.

[S-588-79 Filed 3-23-79; 9:34 am]

### [6210-01-M]

5

#### FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

Forwarded to FEDERAL REGISTER on March 22, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:

Closed meeting: 11 a.m., Friday, March 30, 1979.

CHANGES IN THE MEETING: Addition of the following open item to the meeting: (The open portion will begin at 10 a.m., to be followed by the closed portion.)

Request by the American Bankers Association for an extension of time to comment on a proposal to establish international banking facilities within the United States.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph E. Coyne, Assistant to

the Board; 202-452-3204.

Dated: March 23, 1979.

GRIFFITH L. GARWOOD, Deputy Secretary of the Board.

[S-59-592-79 Filed 3-23-79; 1:50 pm]

### [7020-02-M]

6

#### USITC SE-79-15. INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Monday, April 2, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.

2. Minutes.

3. Ratifications.

4. Petitions and complaints, if necessary.

5. Certain fish and certain shellfish from Canada (Inv. 303-TA-9)—briefing and vote.

6. Any items left over from previous agenda: Resistor chips (Docket No. 561).

Portions closed to the public:

7. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-594-79 Filed 3-23-79; 2:01 pm]

### [7590-01-M]

7

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of March 26, 1979.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

TUESDAY, MARCH 27, 3 P.M.

1. Continuation of meeting on petition for institution of proceedings regarding proposal to use shorter plings for the foundation of the Bailey generating facility, nuclear-1 (approximately 1½ hours) (closed—exemption 10).

THURSDAY, MARCH 29, 9:30 A.M.

1. Continuation of discussion of staff's final report, "Regulation of Federal Radioactive Waste Activities" (approximately 2 hours—public meeting).



## SUNSHINE ACT MEETINGS

THURSDAY, MARCH 29, 2 P.M.

1. Continuation of discussion of report to Congress: Means for improving State participation in the Federal nuclear waste management programs (approximately 1½ hours—public meeting).

2. Discussion of NRC legislative proposals (approximately 1½ hours (If time permits)—public meeting).

FRIDAY, MARCH 30, 9:30 A.M.

1. Commission meeting with IAEA Director-General for safeguards (approximately 1½ hours) (closed—exemptions 1 & 4).

2. Discussion of personnel matter (approximately 1 hour) (closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: March 22, 1979.

WALTER MAGEE,  
Office of the Secretary.

[S-593-79 Filed 3-23-79; 1:50 pm]

[7600-01-M]

OCCUPATIONAL SAFETY AND  
HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on April 5, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Patricia Bausell, 202-634-4015.

Dated: March 23, 1979.

[S-597-79 Filed 3-23-79; 3:54 pm]

[4410-01-M]

PAROLE COMMISSION—National  
Commissioners (The Commissioners

presently maintaining offices at Washington, D. C. Headquarters.)

TIME AND DATE: 9 a.m., Tuesday, March 20, 1979.

PLACE: Room 828, 320 First Street NW., Washington, D. C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

FEDERAL REGISTER CITATION  
OF PREVIOUS ANNOUNCEMENT  
March 15, 1979, 44 FR No. 52, p. 15864.

CHANGES IN THE MEETING: On March 21, 1979, the Commission determined that the date and time for the above meeting be changed to Friday, March 23, 1979, at 9:30 a.m.; and that the above change be announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202-724-3094.

[S-591-79 Filed 3-23-79; 10:57 am]

[7715-01-M]

POSTAL RATE COMMISSION.

TIME AND DATE: 8:30 a.m., March 29, 1979.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Office reorganization and personnel matters (Closed pursuant to 5 U.S.C. § 552b(c)(2)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer,  
Postal Rate Commission, Room 500,  
2000 L Street NW., Washington,  
D.C. 20268, Telephone 202-254-5614.

[S-589-79 Filed 3-23-79; 9:34 am]

TUESDAY, MARCH 27, 1979

PART II



POSTAL SERVICE

INTERNATIONAL MAIL

Postal Service Publication 42;  
Miscellaneous Amendments



[7710-12-M]

## Title 39—Postal Service

## CHAPTER I—U.S. POSTAL SERVICE

## PART 10—INTERNATIONAL POSTAL SERVICE

## Postal Service Publication 42, International Mail; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

**SUMMARY:** The Postal Service hereby describes and publishes the full text of numerous miscellaneous revisions of Postal Service Publication 42, International Mail. Some of the revisions are minor, editorial, and technical; other are substantive. The changes reflect current postage rates, fees for services, availability of services, changes in country names, maximum weight limits for parcel post packages, and items prohibited or restricted to certain countries. As to changes in rates and fees, the Postal Service previously published the changes in the FEDERAL REGISTER in the course of providing notice with an opportunity to comment. Publication of all the changes at this time is in accordance with the incorporation by reference in the FEDERAL REGISTER of all amendments to Postal Service Publication 42, International Mail (except amendments to Appendix B). This document also corrects several technical errors appearing in Transmittal Letter 85. The errors are explained below in Supplementary Information.

**EFFECTIVE DATE:** October 16, 1978, except that the rates and fees, referred to in d. (6), i. (1)(a), i. (2), i. (4)(a), i. (5)(a), i. (6)(a), i. (7)(a), i. (8)(a), i. (12), i. (14), i. (16)(a), i.

(17)(a), i. (18), i. (19), i. (20), i. (21), i. (22), i. (23), i. (24) in the Explanation of Changes in the Supplementary Information below became effective on May 29, 1978, 43 FR 23773 and the rates referred to in d. (9) and i. (25) became effective August 12, 1978, 43 FR 31997.

## FOR FURTHER INFORMATION CONTACT:

Neva R. Watson, (202) 245-4642.

**SUPPLEMENTARY INFORMATION:** Postal Service Publication 42, International Mail, all of which, except Appendix B, has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 10.1) has been amended by the issuance of Postal Service Publication 42, International Mail, Transmittal Letter 85, dated October 16, 1978.

Transmittal Letter 85 contains several technical errors which are corrected in this document. In the Explanation of Changes below in g. (5), the third word has been corrected to read "revised" instead of "reviewed", and in i. (17), (c) has been deleted and (d) has been redesignated (c). A printing error repeating the designation and first line of 822.521 where the designation and first line of existing 822.522 should appear is also corrected.

Consistent with 39 CFR 10.3, the amendments made by Transmittal Letter 85, are hereby published in full text, and notice of this publication is added as an amendment to § 10.3. In addition, the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to Publication 42 will receive these amendments automatically from the Government Printing Office. (For other availability of Postal Service Publication 42, International Mail, see 39 CFR 10.2)

Explanation of the principal changes follows:

[7710-12-C]

## 2 EXPLANATION OF CHANGES

## a. Chapter 1

(1) Section 132.222, Footnote 1 is amended to delete reference to the Spanish Sahara since the Spanish Postal Administration no longer maintains post offices in the Sahara.

## b. Chapter 2

(1) Section 221.322 is amended to indicate that items prepaid at the letter rate of postage must be placed in envelopes or prepared in package form.

(2) Section 221.341(b)3 is expanded to provide examples of proper address makeup.

(3) Section 224.82 has been amended to specify proper make-up for markings of regular printed matter paid with permit imprint.

(4) Section 225.3 is amended to reference the correct tables in Appendix A for mailing conditions for matter for the blind.

(5) Section 226.2 is amended to:

(a) Reflect the change in country name for Kampuchea (Democratic), (formerly Khmer Republic);

(b) Delete North and South Vietnam from the list of those countries not accepting small packets.

(6) Section 232.2 is revised to reflect new procedures for handling shortpaid and unpaid mail.

## c. Chapter 3

(1) Section 326.41 is expanded to provide examples of proper address makeup.

(2) Section 326.42 is added to specify that addresses in Russian, Greek, Arabic, Hebrew, Japanese, or Chinese characters must bear an interline translation of the names of the post office, province, and country of destination in English.

(3) Sections 326.42, 326.43, and 326.44 are renumbered 326.43, 326.44, and 326.45 respectively.

## d. Chapter 4

(1) Section 442.1 is amended to reflect:

(a) The change in country name for Kampuchea (Democratic), (formerly Khmer Republic);

(b) The availability of registry service to the Socialist Republic of Vietnam.

(2) Section 442.2 is amended to include single entries for Angola, Guinea-Bissau, and St. Thomas and Príncipe (formerly Portuguese West Africa).

(3) Section 447.13 is amended to indicate an exception exists for the handling of incoming registered printed matter from countries other than Canada.

(4) Section 447.14 is added to provide instructions for handling incoming registered matter from countries other than Canada.

(5) Section 447.14 is renumbered 447.15.

(6) Section 453.1 is revised to reflect the new fee for a return receipt.



## RULES AND REGULATIONS

## (7) Part 462 is amended to:

(a) Include single entries for Angola, Guinea-Bissau, and St. Thomas and Príncipe (formerly Portuguese West Africa);

(b) Reflect the change in country name for Djibouti (formerly French Territory of the Afars and Issas) and East Timor (formerly Portuguese Timor).

(8) Part 493 is expanded to present definitions, availability, fees, and requirements for issuing and cashing international money orders.

(9) Part 494 is added to present information on availability, rates (effective August 12, 1978), and procedures for shipments of International Express Mail.

## e. Chapter 5

(1) Section 532.2 is amended to reflect the change in country name for Kampuchea (Democratic), (formerly Khmer Republic) and the Socialist Republic of Vietnam (formerly North and South Vietnam).

(2) Section 541.212 is amended to reflect the change in country name for:

(a) Kampuchea (Democratic), (formerly Khmer Republic);

(b) The Socialist Republic of Vietnam (formerly North and South Vietnam).

## f. Chapter 6

(1) Subchapter 630 is amended to include the acceptability of foreign articles bearing the endorsements *ON POSTAL SERVICE* and *SERVICE DES POSTES* with a postmark as prepaid mail.

## g. Chapter 8

(1) Section 821.1 is expanded to reference PSM 115.91(b), 115.94, and 115.96 for customs examination procedures to be followed for mail addressed for delivery in the Virgin Islands, Guam, and Puerto Rico respectively.

(2) Section 821.3 is revised to indicate that the postmaster or other designated postal employee must be present when registered and sealed letter mail (except green label mail) is opened by customs officers for examination.

(3) Section 821.61 is revised to indicate forwarding procedures for items other than sealed letter class mail which have failed to receive proper customs treatment.

(4) Section 822.611 is amended to refer to Section 822.612 for procedure to be followed when addressee desires to request a refund of duty from the U.S. Customs Service and intends to file an indemnity claim with the U.S. Postal Service.

(5) Section 822.612 is <sup>revised</sup> to specify procedure to be followed when addressee desires to request a refund of duty from the U.S. Customs Service and intends to file an indemnity claim with the U.S. Postal Service.

(6) Part 831 is expanded to reference PSM 115.92 for procedures to be followed for agriculture quarantine inspection by the U.S. Department of Agriculture.

## h. Chapter 9

(1) Section 923.122 has been rewritten to note that the inquiry form and Form 2865, *Return Receipt For International Insured or Registered Mail*, are to be sent to the appropriate exchange office.

(2) Section 923.311 is amended to reflect the revised title of Form 1510, *Mail Nondelivery Report*.

(3) Sections 923.321c, 923.321d(1) and (2), 923.322d, 923.322e(2), 923.323(b), and 923.341(b) are amended to reflect instructions for proper completion and distribution of parts of revised Form 1510, *Mail Nondelivery Report*, in connection with inquiries concerning mail exchanged with Canada.

## RULES AND REGULATIONS

## i. Appendix A

## (1) Table 3-1 is amended to:

(a) Reflect new surface rates for letters and letter packages;

(b) Cross-reference Table 3-2 for rates for letters and letter packages to Canada and Mexico, since mail to Canada and Mexico bearing postage paid at the surface letter rate receives first class service in the United States and airmail service in Canada and Mexico.

(2) Table 3-2 is amended to reflect new rates for air service for letters and letter packages to Canada and Mexico.

## (3) Table 3-3 is amended to:

(a) Change minimum to maximum under B.1., *Maximum Dimensions*;

(b) Delete *Note* under B.2., *Minimum Dimensions*, since articles smaller than the prescribed minimum size are nonmailable.

## (4) Table 3-4 is revised to:

(a) Reflect new rates for post cards;

(b) Indicate the minimum size standard for post cards to all countries is 5½ x 3½ inches.

## (5) Table 3-5 is revised to:

(a) Reflect new surface rates for printed matter; rates for PUAS countries have been discontinued;

(b) Delete reference to the Spanish Sahara since the Spanish Postal Administration no longer maintains post offices in the Sahara.

## (6) Table 3-6 is revised to:

(a) Reflect new surface rates for books and sheet music; rates for PUAS countries have been discontinued.

(b) Delete in Footnote 1 reference to the Spanish Sahara since the Spanish Postal Administration no longer maintains post offices in the Sahara.

## (7) Table 3-7 is revised to:

(a) Reflect new surface rates for second class publications; rates for PUAS countries have been discontinued;

(b) Delete in Footnote 2 reference to the Spanish Sahara since the Spanish Postal Administration no longer maintains offices in the Sahara.

## (8) Table 3-8 is revised to:

(a) Reflect new surface rates for controlled circulation publications; rates for PUAS countries have been discontinued;

(b) Delete in Footnote 2 reference to the Spanish Sahara since the Spanish Postal Administration no longer maintains offices in the Sahara.



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## RULES AND REGULATIONS

(9) Table 3-9 is amended to:

(a) Reflect the proper rate for AO articles sent to Canada by air;

(b) Clarify the calculation of rates for direct sacks of printed matter to one addressee only.

(10) Table 3-10 is amended to:

(a) Delete *Note* under B. *Size Limits, Minimum Dimensions* since articles smaller than the prescribed minimum size are nonmailable;

(b) Item E. *Marking and Endorsing* is expanded to indicate that the *PRINTED MATTER* endorsement may appear in the ad plate area of postage meter stamps.

(11) Table 3-11 is amended to delete *Note* under D.2 *Minimum Dimensions* since articles smaller than the prescribed minimum size are nonmailable.

(12) Table 3-12 is revised to reflect new surface rates for small packets; rates for PUAS countries have been discontinued.

(13) Table 3-13 is amended to:

(a) Delete *Note* under B.2 *Minimum Dimensions* since articles smaller than the prescribed minimum size are nonmailable;

(b) Item E. *Marking and Endorsing* is expanded to indicate that the *SMALL PACKET* endorsement may appear in the ad plate area of postage meter stamps.

(14) Table 3-14 is revised to reflect new surface rates for parcel post.

(15) Table 3-15 is amended to:

(a) Include single entries for Angola, Guinea-Bissau and, St. Thomas and Príncipe (formerly Portuguese West Africa);

(b) Reflect the correct country name for the Central African Empire;

(c) Reflect the increased maximum weight limit for parcels to Cyprus;

(d) Reflect the change in country name for Djibouti (formerly French Territory of the Afars and Issas);

(e) Reflect the change in country name for East Timor (formerly Portuguese Timor).

(f) Reflect the increased maximum weight limit for parcels to the Gilbert Islands;

(g) Reflect the increased maximum weight limit for parcels to Israel;

(h) Reflect the change in country name for Kampuchea (Democratic), (formerly Khmer Republic);

(i) Reflect the change in country name for the Socialist Republic of Vietnam (formerly North and South Vietnam);

## RULES AND REGULATIONS

(j) Reflect the increased maximum weight limit for parcels to Yemen (Aden).

(16) Table 6-2 is revised to:

(a) Reflect new fees for insurance;

(b) Reflect increase in the maximum indemnity limit from \$200 to \$400 for insured parcels to Canada.

(17) Table 6-3 is revised to reflect:

(a) New registry fees;

(b) The change in country name for Kampuchea (Democratic), (formerly Khmer Republic);

~~Reflect the change in country name for East Timor (formerly Portuguese Timor).~~

(c) The change in country name for Angola, Guinea-Bissau and St. Thomas and Príncipe (formerly Portuguese West Africa).

(18) Table 6-4 is revised to reflect new fee for return receipts.

(19) Table 6-5 is revised to reflect new fee for restricted delivery.

(20) Table 6-6 is revised to reflect new fees for special delivery;

(21) Table 6-7 is revised to reflect new fees for special handling; the fee for articles weighing not more than two pounds has been discontinued.

(22) Table 6-8 is revised to reflect new fees for certificate of mailing.

(23) Table 6-9 is revised to reflect new registry fee.

(24) Tables 7-1 and 7-2 are added to reflect the new fees for international money orders.

(25) Tables 8-1 through 8-10 are added to reflect the standards, rates, and summary conditions for shipments of International Express Mail.



RULES AND REGULATIONS

[7710-12-M]

In consideration of the foregoing, 39 CFR 10.3 is amended as follows:

§ 10.3 Amendments to Postal Service Publication 42, International Mail.

Transmittal Letter 85.  
Dated: October 16, 1978.  
Federal Register Publication 44 FR

W. ALLEN SANDERS,  
Acting Deputy  
General Counsel.  
(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408)

Accordingly, the amendments made by Transmittal Letter 85, are hereby published and read as follows:

<sup>1</sup>Actual page number of this document not known in time for publication.

710-12-C]

132 DIFFERENCES BETWEEN POSTAL UNION MAIL AND PARCEL POST MAIL

.222 Postal Union of the Americas and Spain  
The United States and the following countries are also members of the Postal Union of the Americas and Spain (PUAS):

|                    |                                    |
|--------------------|------------------------------------|
| Argentina          | Guatemala                          |
| Bolivia            | Haiti                              |
| Brazil             | Honduras Republic                  |
| Canada             | Mexico                             |
| Chile              | Nicaragua                          |
| Colombia           | Panama                             |
| Costa Rica         | Paraguay                           |
| Cuba               | Peru                               |
| Dominican Republic | Spain and Possessions <sup>1</sup> |
| Ecuador            | Uruguay                            |
| El Salvador        | Venezuela                          |

<sup>1</sup> Spanish possessions include the Balearic Islands, the Canary Islands, the Spanish Offices in Northern Africa.

221 CONDITIONS FOR ALL ARTICLES

.232 Availability of Reply Coupons

b. International reply coupons sold in other countries are exchangeable at U.S. post offices for postage stamps, at the rate of 20 cents each.

.321 Envelopes

b. Window envelopes meeting the conditions in PSM 141.114 are acceptable in international mail. Open-panel envelopes and window envelopes with more than one panel are not acceptable in the international mails.

.341 Address

Mail must be addressed legibly, with roman letters and arabic numerals placed lengthwise on one side of the article only. The name and address of the addressee must be written plainly and completely so that post employees distributing the mail will be able to route mail to its proper destination without difficulty. For example:

(3) The name of the post office and country of destination must be written in full in capital letters, and the postal delivery zone number included if known. The country name, written in full in capital letters, must be the last item in the address. For example:

Mr. Thomas Clark  
117 Russell Drive  
LONDON W1P 6HO  
ENGLAND  
On mailings to Canada only, either of the following address formats may be used when the postal delivery zone number is included in the address:  
Ms. Helen Saunders  
1010 Clear Street  
OTTAWA ON K1A 0B1  
CANADA  
Ms. Helen Saunders  
1010 Clear Street  
OTTAWA ON CANADA  
K1A 0B1

.342 Return Address

The complete address of the sender, including ZIP Code, must be shown in the upper left corner of the address side of the envelope, package, or card, and placed so that it will not affect either the clarity of the address of destination or the application of service labels and notations (postmarks, etc.). Ordinary (unregistered) articles bearing a return address in another country are accepted only at the sender's risk.

224 CONDITIONS FOR PRINTED MATTER

.322 Postage on second-class and controlled circulation publications mailed by the publisher or by a registered news agent may be paid (1) by means of postage stamps or meter stamps, (2) in cash before the mailings are dispatched, or (3) from deposits of money made with the postmaster by the publisher or news agent. When the postage is to be paid in cash or from money on deposit with the postmaster, the postage charges are computed on Form 3541, Statement of Mailing - Second-Class Publications, or on Form 3541-A, Statement of Mailing - Controlled Circulation Publications, filed by the publisher or news agent.

2245 Preparation for Mailing Printed Matter



RULES AND REGULATIONS

**.522 Bundles**  
a. Publishers mailing at the second-class or controlled circulation publication rate having five or more individually addressed copies to subscribers at the same post office must place them in bundles with a conspicuous label attached showing the post office and country of destination. Mail not made up to direct cities must be separated into State (province, county, etc.) bundles. All bundles must be secured with string or rubber bands.  
When there is a sufficient quantity of mail for one city, one State (province, county, etc.), or one country to fill approximately one-third of a sack, the mailer must insert the prepared bundles in a sack appropriately labeled to identify the destination. Mail for countries that have a postal code sort system may be made into bundles and sacks based on the postal code.

\* \* \* \* \*  
**224.8 Mailing Locations**

\* \* \* \* \*  
.82 All second-class and controlled circulation publications to be mailed at second-class and controlled circulation publication rates must be made up in accordance with 224.521 and .522 and taken to the post office or such other place as may be designated by the postmaster. Mailers sending regular printed matter bearing a permit imprint must arrange all pieces with the address side facing the same way. It is recommended that the mailer separate the pieces to the finest extent possible in the manner prescribed by section 224.522a. This mail must be taken to the post office or such other place as may be designated by the postmaster.

**224.9 Direct Sacks of Printed Matter to One Addressee**

.91 Definition  
Ordinary (unregistered) printed matter being sent in quantity (minimum 22 pounds, maximum 65 pounds—sack and contents) to one addressee may be mailed in direct sacks, except to Ethiopia.

\* \* \* \* \*  
**225 CONDITIONS FOR MATTER FOR THE BLIND**

\* \* \* \* \*

**225.3 All Other Mailing Conditions**

See the appropriate table in appendix A and chapter 2, as needed:

| CONDITIONS              | APPENDIX A<br>Specific Provisions for<br>Matter for the Blind | CHAPTER 2<br>General Provisions for<br>Postal Union Mail |
|-------------------------|---|--|
| Postage Rates           | Free  | —  |
| Surcharge               | Table 3-9   | —  |
| Airmail                 | Table 3-11  | —  |
| Weight & Size Limits    | Table 3-11  | —  |
| Preparation for Mailing | Table 3-11  | 221.3  |
| Forms Required          | Table 3-11  | 221.4  |
| Marking & Endorsement   | Table 3-11  | 221.4  |

**226 CONDITIONS FOR SMALL PACKETS**

\* \* \* \* \*

**226.2 Items Accepted, Restricted, or Prohibited**

.21 Countries Not Accepting Small Packets

Small packets are not accepted to the following countries:  
Cuba  
Kampuchea (Democratic)  
North Korea

.45 Sufficient space must be left on the outside wrapper for the addition of necessary service notations and for stamps or labels.

\* \* \* \* \*

**442 AVAILABILITY OF REGISTRY SERVICE AND INDENT-NITY LIMITS**

**442.1 Postal Union Mail**  
Registry service is available for postal union mail, except direct sacks of printed matter, to most countries. Registry service is not available to *Kampuchea (Democratic)* and *Democratic People's Republic of Korea* (North Korea). Indemnity is limited to \$15.76, except for Canada, which has an indemnity limit of \$200.00. (See 933.4 or table 6-3 in appendix A.)

**442.2 Parcel Post**

.21 Registry service is unavailable, except for the following countries with which there are arrangements for registry of parcels:

|                          |                       |
|--------------------------|-----------------------|
| Angola                   | Guinea-Bissau         |
| Belize                   | Jamaica               |
| Bermuda                  | St. Thomas & Príncipe |
| Cape Verde (Republic of) | Turks Island          |
| Ecuador                  | Zaire                 |

\* \* \* \* \*  
**444 PREPARATION OF REGISTERED MAIL BY SENDER**  
**444.1 Sealing**

.11 Senders must securely seal letters or letter packages presented for registration. Wax or paper seals on envelopes must bear a distinctive mark of the sender and must be affixed in such a way as to allow sufficient space at the intersections of the flaps for postmarking. Self-sealing envelopes and envelopes or packages that appear to have been opened and resealed will not be registered.

\* \* \* \* \*  
**447 TREATMENT OF INCOMING REGISTERED MAIL**  
**447.1 Determining Whether Mail is Registered**

.13 Except for incoming registered printed matter (from countries other than Canada), mail articles or parcels obviously registered by the country of origin must be given this same handling as domestic registered mail. Refer to 447.14 for treatment of incoming registered printed matter from countries other than Canada.

.14 Incoming registered printed matter (from countries other than Canada) must be removed from the registered mail system and given the same handling as domestic certified mail.

.15 Any article or parcel that is without evidence of formal registration must be dispatched as ordinary mail. A sender's registry endorsement, if it appears on such articles or parcels, must be crossed out.

\* \* \* \* \*

RULES AND REGULATIONS

232 POSTAGE \* \*

232.2 Shortpaid and Unpaid Postage

.21 General Procedure

Carefully check all locally mailed articles and mail received at sectional centers from associated offices for postage payment before the mail is dispatched. Return short-paid or unpaid mail to sender for deficient postage, using stock rubber stamp R-1300-230, *Returned For*. Additional postage, except as provided in 232.22.

.22 Exceptions

.221 Shortpaid special delivery mail and shortpaid or unpaid letters, letter packages, and post cards that bear no return address - forward to the appropriate exchange office, applying stock rubber stamp R-1300-4, *Postage Due*. *Cent* Do not indicate the amount of the deficiency.

.222 Shortpaid or unpaid printed matter or small packets that bear no return address - forward to appropriate dead letter branch.

.223 Shortpaid letters, letter packages, and post cards to Canada - apply stock rubber stamp R-1300-4, *Postage Due*. *Cent* Enter double the amount of the deficiency.

.23 Credit for Postage Already Affixed

Credit is allowed for postage already affixed in computing the correct amount on articles returned to sender for deficient postage.

233 IMPROPERLY PREPARED MAIL \* \*

326 PREPARATION FOR MAILING \* \*

326.2 Addressing

.41 The name and address of the sender and of the addressee must be (1) written legibly and correctly, when possible on the parcel itself, or on a **permanently** label affixed to the parcel, and (2) written on a separate slip enclosed in the parcel.  
The name of the post office and country of destination must be written in full in capital letters, and the postal delivery zone number included if known. The country name, written in full in capital letters, must be the last item in the address. For example:  
Mr. Thomas Clark  
117 Russell Drive  
LONDON W1P 6HQ  
ENGLAND

On mailings to Canada only, either of the following address formats may be used when the postal delivery zone number is included in the address:

Ms. Helen Saunders  
1010 Clair Street  
OTTAWA ON K1A 0B1  
CANADA

Ms. Helen Saunders  
1010 Clair Street  
OTTAWA ON CANADA  
K1A 0B1

.42 Addresses in Russian, Greek, Arabic, Hebrew, Japanese, or Chinese characters must bear an interline translation of the names of the post office, province, and country of destination in English. If the English forms are not known, the foreign spellings must be shown in Roman characters (print or script).

.43 Parcels will not be accepted (1) when addressed to a "care" in one country and the addressee (or person for whom intended) in another country, or (2) when the sender or addressee is designated by initials, unless the initials are the adopted trade name of the sender or addressee.

.44 Addresses in ordinary pencil are not allowed, but copying ink or indelible pencil on a surface previously dampened may be used.

453 FEES OR CHARGES

453.1 The fee for a return receipt for all countries permitting such service is \$5.00. That fee is in addition to regular postage for the article or parcel, the registry or insurance fee, and applicable fees for any other available special service. [NOTE: ALL RETURN RECEIPTS WILL BE RETURNED TO THE UNITED STATES BY AIR-MAIL.]

\* \* \* \* \*

454 PROCESSING REQUESTS FOR RETURN RECEIPTS FOR OUTGOING MAIL

454.1 Processing Requests at Office of Mailing

When the sender requests a return receipt at the time of mailing, for registered or insured mail, the office of mailing will proceed as follows:

a. Complete Form 2865 *Return Receipt for International Insured or Registered Mail*. Mark it on its address side RENOVI PAR AVION. Attach airmail Label 19 bearing the words PAR AVION. [NOTE: Some Form 2865 already have the words PAR AVION imprinted.]

\* \* \* \* \*

462 AVAILABILITY OF RESTRICTED DELIVERY

Restricted delivery can be purchased at the time of mailing. (Restricted delivery is not available for registered parcels.)

a. Only for registered postal union articles. (Restricted delivery is not available for registered parcels.)

b. And, only if accompanied by a return receipt (see 450).

c. And, only to the following countries:

| Country                | Endorsement required   |
|------------------------|--|
| Albania                | A remettre en main propre.   |
| Angola                 | ne doreni e vet  |
| Anguilla (Leeward Is.) | A remettre en main propre.   |
| Austria                | Deliver to addressee in person.  |
| Belgium                | A remettre en main propre.   |
| Brazil                 | A remettre en main propre.   |
| Bulgaria               | A remettre en main propre.   |
| Cameroon               | A remettre en main propre.   |
| Cape Verde Islands     | A remettre en main propre.   |
| China (Taiwan)         | A remettre en main propre or the equivalent in the language known at the place of destination. |
| Congo (Brazzaville)    | A remettre en main propre.   |
| Cyprus                 | A remettre en main propre.   |
| Czechoslovakia         | A remettre en main propre.   |
| Denmark                | A remettre en main propre.   |
| Djibouti               | A remettre en main propre.   |
| Dominican Republic     | To be delivered to the addressee in person.  |
| East Timor             | A remettre en main propre.   |
| El Salvador            | A remettre en main propre or A entregar en propia mano.  |
| Estonia                | A remettre en main propre.   |
| Ethiopia               | A remettre en main propre.   |
| Falkland Islands       | To be delivered to the addressee in person.  |
| Fiji Islands           | Personal delivery.   |
| Finland                | A remettre en main propre.   |
| France                 | A remettre en main propre or Eigenhandig.  |
| Guinea-Bissau          | A remettre en main propre or LAIAX XEPEIN  |
| Hungary                | A remettre en main propre or Sajlat kezbe keltesendo.  |
| Iceland                | A remettre en main propre or Afirreidist vidtakas sjalum.                                      |
| Iran                   | A remettre en main propre.   |
| Italy                  | A remettre en main propre.   |
| Jamaica                | To be delivered to the addressee in person.  |











92 Photostats of Paid Money Orders Issued Pursuant to an International Authorization Form

Upon request, a photostat of a paid money order issued pursuant to an International money order authorization form will be furnished to the purchaser by the Money Order Division, Postal Data Center, Box 14964, St. Louis, MO 63182. Form 6684, *Inquiry Concerning International Money Order Issued in the United States*, shall be completed by the person or firm applying for the photostat. There is no charge for this service.

494 International Express Mail

494.1 International Express Mail Described

International Express Mail is available for high speed, high reliability service to certain countries. International Express Mail is similar to domestic Express Mail, except as provided in this subchapter. There is no service guarantee for International Express Mail. See PSM 180 for description of domestic Express Mail.

494.2 Availability of International Express Mail

International Express Mail is available to countries with which special arrangements have been made. Items accepted, restricted, or prohibited for shipment at International Express Mail and service offerings vary by country of destination (see 494.3).

International Express Mail is available to mailers for shipment of material (as described in 494.3) which is tendered to the Postal Service, properly prepared, and in accordance with the terms of this subchapter as follows:

- a. From designated postal facilities throughout the United States; or
- b. By prior arrangement pursuant to a service agreement between the Postal Service and the mailer from designated locations throughout the United States.

494.3 Service Offerings

Two service options are available subject to restrictions outlined in 494.32, Custom Designed Service, and 494.33, On Demand Service.

494.32 Custom Designed Service

International Express Mail Custom Designed Service is available:

- a. on a scheduled basis from designated postal facilities or other designated locations for items tendered in accordance with the Service Agreement (Form 5631), *Express Mail Service-Agreement*, and attachments between the Postal Service and the mailer, subject to the provisions of this subchapter. The designated locations may be any of the following: designated airport facilities, designated post offices, or any address within designated 3-digit ZIP Code areas (See Pub. 97, *Express Mail Custom Designed Service: Service Directory*). Service from facilities or from 3-digit ZIP Code areas not listed is not available (see PSM 182.32); and
- b. to the countries and for shipment of the articles specified below:

INTERNATIONAL EXPRESS MAIL CUSTOM DESIGNED SERVICE

| Available to     | Australia <sup>1</sup>                         | Belgium <sup>1</sup>                           | Brazil, <sup>1</sup><br>France, <sup>1</sup><br>Hong Kong <sup>2</sup> | Great Britain<br>& Northern<br>Ireland, <sup>1</sup><br>Netherlands <sup>1</sup> | Japan <sup>3</sup>                    |
|------------------|--|--|--|--|---------------------------------------|
| For shipments of | business documents, letters, commercial papers | business documents, letters, commercial papers | business documents, letters, commercial papers, samples of merchandise | business documents, letters, commercial papers                                   | business documents, commercial papers |

<sup>1</sup> Service to all points within country.

<sup>2</sup> Service to all points in Hong Kong (including Kowloon and New Territories).

<sup>3</sup> Delivery only to Post Office box addresses at Tokyo International Post Office and Osaka Central Post Office.

[NOTE: Pickup service is available under a service agreement for an added charge for each pickup stop, regardless of the number of pieces picked up. Refer to appropriate table of charges for pickup service in Appendix A. (See 494.512.)]

33 On Demand Service

International Express Mail On Demand Service is available:

- a. at designated postal facilities; and
- b. to the countries and for shipment of the articles specified below:

INTERNATIONAL EXPRESS MAIL ON DEMAND SERVICE

| Available to     | Australia, <sup>1</sup> Great Britain & Northern Ireland, <sup>1</sup> Netherlands <sup>1</sup> | Hong Kong <sup>2</sup>   |
|------------------|---|--|
| For shipments of | business documents, letters, commercial papers  | business documents, letters, commercial papers, samples of merchandise |

<sup>1</sup> Service to all points within country.

<sup>2</sup> Available to Amsterdam, the Hague and Rotterdam.

<sup>3</sup> Service to all points in Hong Kong (including Kowloon and New Territories).

[NOTE: Pickup service is available for On Demand Service only on a scheduled basis as provided in PSM 182.43.]

494.4 Service Standards

See Table 8-1 in Appendix A.

494.5 Postage

51 Rates

International Express Mail postage rates are based on zones measured by great circle air miles between the airport serving the origin postal facility and the airport serving the international exchange office as follows:

| Zone   | Greater than | Miles | Up to and including |
|--------|--------------|-------|---------------------|
| 3..... | 0            | 300   | 300                 |
| 4..... | 300          | 600   | 600                 |
| 5..... | 600          | 1,000 | 1,000               |
| 6..... | 1,000        | 1,400 | 1,400               |
| 7..... | 1,400        | 1,800 | 1,800               |
| 8..... | 1,800        | 2,400 | 2,400               |
| 9..... | 2,400        | ..... | .....               |

512 Refer to table in Appendix A indicated below for International Express Mail Custom Designed and On Demand Service rates to the appropriate country:

| Country                          | Custom Designed Service Rates - Reference | On Demand Service Rates - Reference |
|----------------------------------|---|-------------------------------------|
| Australia                        | Table 8-2                                 | Table 8-7                           |
| Belgium                          | Table 8-3                                 | No service                          |
| Brazil                           | Table 8-4                                 | No service                          |
| France                           | Table 8-3                                 | No service                          |
| Great Britain & Northern Ireland | Table 8-3                                 | Table 8-9                           |
| Hong Kong                        | Table 8-5                                 | Table 8-5                           |
| Japan                            | Table 8-6                                 | No service                          |
| Netherlands                      | Table 8-3                                 | Table 8-9                           |

52 Payment Method

521 Mailers of International Express Mail matter may pay postage by adhesive stamps, meter stamps, special permit, or through the use of an Express Mail trust account.

522 A written application for "insured before mailings" can be made under special permit or postage trust accounts. (See Chapter 7 of the Methods Handbook M-68, *Express Mail Service*, for procedures.)

494.6 Insurance and Indemnity

International Express Mail cannot document reconstruction insurance against loss, damage, or theft at no additional cost. Indemnity will be paid by the U.S. Postal Service as outlined in PSM 189.4.

494.7 Weight Limits

See Table 8-10 in Appendix A.

494.8 Preparation for Mailing

81 Custom Designed Service

811 Preparation by Sender

a. Prepare the mail as a flat or package with address label 155, *International Express Mail* (shown in Figure 8-1) on the piece of mail itself. Each piece of International Custom Designed Express Mail must bear label 155.

b. Prepare appropriate customs declarations specified in Table 8-10 of Appendix A for:

- (1) all items to France;
- (2) merchandise samples to Brazil;
- (3) merchandise samples to Hong Kong.

c. Insert the mail in an Express Mail pouch. A separate pouch must be used for each mail piece.

d. Affix label 153, *Express Mail Custom Designed Service* (shown in Figure 8-2), to the receipt envelope (P-13). Enter the designated international exchange office on the To AMF line and the agreement number. DO NOT ENTER FROM OR TO ADDRESSES.

e. Complete the appropriate portions of Form 5625, *Express Mail Service Receipt*, (and Form 5625-A, *Express Mail Custom Designed Service Mailing Statement*, for special permit mailings) as for domestic custom designed Express Mail. Apply postage (meter strips or stamps) to the front of Form 5625 in the space provided. This form must accompany all pouches and must be given to the Postal Service acceptance employee. See Figure 8-3.

812 Preparation by Acceptance Employee

Upon receipt of the pouch(es), verify that each has been properly closed and sealed and check Form 5625 to assure that:

- a. Customer has properly completed his portion of the receipt;
- b. Customer has properly completed required customs declarations. See 494.811b.

c. Postage has been applied and the amount applied corresponds with the amount(s) entered in the postage block on Form 5625. If adhesive postage stamps have been used, cancel them by drawing several lines across the face of the stamps.

d. Enter on Form 5625 the date, time of acceptance, and signature.

e. Distribute Form 5625 as follows:

- (1) Destination post office copy-in the express mail envelope attached to the pouch;
- (2) Origin post office copy to accompany pouch to the origin AMF/ATO.

(3) Customer copy-to the customer as his receipt.

f. Transfer pouch to a relay point for transfer to the international exchange AMF.



.82 On Demand Service

- .821 Preparation by Sender
- a. Complete the FROM, VALUE DECLARED, and TO portions of label 11B, Express Mail Service Post Office to Addressee, (shown in Figure 8-4), for each piece of mail and affix the completed label to each piece.
  - b. Prepare the customs declarations specified in Table 8-10 of Appendix A when shipping merchandise samples to Hong Kong (including Kowloon and New Territories).
  - c. If pickup service or a postage trust account is utilized, prepare Form 5625-B, Next Day and Same Day Airport Express Mail Service Mailing Statement, (shown in Figure 8-5).

- .822 Preparation by Acceptance Employee
- FROM, VALUE DECLARED, AND TO portions.
- a. Check the address label to ensure that the sender has completed the FROM, VALUE DECLARED, AND TO portions.
  - b. Verify that customer has properly completed appropriate customs declarations for shipment of merchandise samples to Hong Kong (including Kowloon and New Territories).
  - c. Enter the originating facility ZIP Code, date and time received, weight and postage, and initial. Ensure that the correct postage is applied to the shipment.
  - d. Grasp the prepared address label at stub and trap apart. Give the customer receipt copy to the mailer and retain the finance copy. Peel off backing of remaining portion and affix to article.
  - e. After acceptance, place each piece of Express Mail in the appropriate working pouch and forward to the international exchange AMF authorized to handle On Demand International Express Mail.

Figure 8-1

SPECIAL SERVICE

Figure 8-1, International Express Mail Label 155

RULES AND REGULATIONS

Figure 8-2, Custom Designed Express Mail Service Label 153.

FEDERAL REGISTER, VOL. 44, NO. 60—TUESDAY, MARCH 27, 1979

SPECIAL SERVICE

Figure 8-4

Figure 8-3, Express Mail Service Receipt (Form 5625).

Figure 8-4, Express Mail Post Office to Addressee address label 11B.

Figure 8-5

SPECIAL SERVICE

Figure 8-5, Mailing Statement for Next Day and Same Day Airport Express Mail Service (Form 5625-B).

RULES AND REGULATIONS











Table 3-2 (p. 1)

Appendix A

AIR RATES - LETTERS & LETTER PACKAGES

| WEIGHT STEPS |         | A | B | C |
|--------------|---------|---|---|---|
| Over         | Through |   |   |   |
| lbs.         | oz.     |   |   |   |
| 0            | 1/4     |   |   |   |
| 0            | 1/2     |   |   |   |
| 0            | 3/4     |   |   |   |
| 0            | 1       |   |   |   |
| 0            | 1 1/4   |   |   |   |
| 0            | 1 1/2   |   |   |   |
| 0            | 1 3/4   |   |   |   |
| 0            | 2       |   |   |   |
| 0            | 2 1/4   |   |   |   |
| 0            | 2 1/2   |   |   |   |
| 0            | 2 3/4   |   |   |   |
| 0            | 3       |   |   |   |
| 0            | 3 1/4   |   |   |   |
| 0            | 3 1/2   |   |   |   |
| 0            | 3 3/4   |   |   |   |
| 0            | 4       |   |   |   |
| 0            | 4 1/4   |   |   |   |
| 0            | 4 1/2   |   |   |   |
| 0            | 4 3/4   |   |   |   |
| 0            | 5       |   |   |   |
| 0            | 5 1/4   |   |   |   |
| 0            | 5 1/2   |   |   |   |
| 0            | 5 3/4   |   |   |   |
| 0            | 6       |   |   |   |
| 0            | 6 1/4   |   |   |   |
| 0            | 6 1/2   |   |   |   |
| 0            | 6 3/4   |   |   |   |
| 0            | 7       |   |   |   |
| 0            | 7 1/4   |   |   |   |
| 0            | 7 1/2   |   |   |   |
| 0            | 7 3/4   |   |   |   |
| 0            | 8       |   |   |   |

Table 3-2 (p. 1)

Appendix A

Table 3-2 (p. 2)

AIR RATES - LETTERS & LETTER PACKAGES (Cont.)

| WEIGHT STEPS                    |         | A | B | C |
|---------------------------------|---------|---|---|---|
| Over                            | Through |   |   |   |
| lbs.                            | oz.     |   |   |   |
| 0                               | 8       |   |   |   |
| 0                               | 8 1/2   |   |   |   |
| 0                               | 9       |   |   |   |
| 0                               | 9 1/2   |   |   |   |
| 0                               | 10      |   |   |   |
| 0                               | 10 1/2  |   |   |   |
| 0                               | 11      |   |   |   |
| 0                               | 11 1/2  |   |   |   |
| 0                               | 12      |   |   |   |
| 0                               | 12 1/2  |   |   |   |
| 0                               | 13      |   |   |   |
| 0                               | 13 1/2  |   |   |   |
| 0                               | 14      |   |   |   |
| 0                               | 14 1/2  |   |   |   |
| 0                               | 15      |   |   |   |
| 0                               | 15 1/2  |   |   |   |
| 1                               | 0       |   |   |   |
| 1                               | 8       |   |   |   |
| 2                               | 0       |   |   |   |
| 2                               | 8       |   |   |   |
| 3                               | 0       |   |   |   |
| 3                               | 8       |   |   |   |
| MAXIMUM WEIGHT TO MEXICO 4 LBS. |         |   |   |   |
| 4                               | 0       |   |   |   |
| 4                               | 8       |   |   |   |
| 5                               | 0       |   |   |   |
| 6                               | 0       |   |   |   |
| 7                               | 0       |   |   |   |
| 8                               | 0       |   |   |   |
| 9                               | 0       |   |   |   |
| 10                              | 0       |   |   |   |
| 11                              | 0       |   |   |   |
| 12                              | 0       |   |   |   |
| 13                              | 0       |   |   |   |
| 14                              | 0       |   |   |   |
| 15                              | 0       |   |   |   |

NOTE: Aerogrammes (see 425) are sold at a single rate of 22¢ each and may be sent to all countries.

Table 3-2 (p. 2)

RULES AND REGULATIONS

Table 3-2 (p. 3)

Appendix A

AIR RATES - LETTERS & LETTER PACKAGES (Cont.)

| WEIGHT STATES |         | A | B | C |
|---------------|---------|---|---|---|
| Over          | Through |   |   |   |
| lbs.          | oz.     |   |   |   |
| 15            | 0       |   |   |   |
| 16            | 0       |   |   |   |
| 17            | 0       |   |   |   |
| 18            | 0       |   |   |   |
| 19            | 0       |   |   |   |
| 20            | 0       |   |   |   |
| 21            | 0       |   |   |   |
| 22            | 0       |   |   |   |
| 23            | 0       |   |   |   |
| 24            | 0       |   |   |   |
| 25            | 0       |   |   |   |
| 26            | 0       |   |   |   |
| 27            | 0       |   |   |   |
| 28            | 0       |   |   |   |
| 29            | 0       |   |   |   |
| 30            | 0       |   |   |   |
| 31            | 0       |   |   |   |
| 32            | 0       |   |   |   |
| 33            | 0       |   |   |   |
| 34            | 0       |   |   |   |
| 35            | 0       |   |   |   |
| 36            | 0       |   |   |   |
| 37            | 0       |   |   |   |
| 38            | 0       |   |   |   |
| 39            | 0       |   |   |   |
| 40            | 0       |   |   |   |
| 41            | 0       |   |   |   |
| 42            | 0       |   |   |   |
| 43            | 0       |   |   |   |
| 44            | 0       |   |   |   |
| 45            | 0       |   |   |   |

Appendix A

Table 3-2 (p. 4)

AIR RATES - LETTERS & LETTER PACKAGES (Cont.)

| WEIGHT STATES                            |         | A | B | C |
|--|---------|---|---|---|
| Over                                     | Through |   |   |   |
| lbs.                                     | oz.     |   |   |   |
| 45                                       | 0       |   |   |   |
| 46                                       | 0       |   |   |   |
| 47                                       | 0       |   |   |   |
| 48                                       | 0       |   |   |   |
| 49                                       | 0       |   |   |   |
| 50                                       | 0       |   |   |   |
| 51                                       | 0       |   |   |   |
| 52                                       | 0       |   |   |   |
| 53                                       | 0       |   |   |   |
| 54                                       | 0       |   |   |   |
| 55                                       | 0       |   |   |   |
| 56                                       | 0       |   |   |   |
| 57                                       | 0       |   |   |   |
| 58                                       | 0       |   |   |   |
| 59                                       | 0       |   |   |   |
| 60                                       | 0       |   |   |   |
| MAXIMUM WEIGHT LIMIT TO CANADA 60 POUNDS |         |   |   |   |
| MAXIMUM WEIGHT LIMIT 4 POUNDS            |         |   |   |   |

NOTE: Aerogrammes (see 425) are sold at a single rate of 22¢ each and may be sent to all countries.



Table 3-3

Appendix A

SUMMARY CONDITIONS -  
LETTERS & LETTER PACKAGES

- A. WEIGHT LIMITS  
All countries except Canada ..... 4 pounds  
Canada ..... 60 pounds
- B. SIZE LIMITS  
1. MAXIMUM DIMENSIONS  
- maximum length: 24 inches (36 inches if sent in the form of a roll)  
- maximum length, breadth, and thickness combined: 36 inches (42 inches if sent in the form of a roll, measured by the length plus twice the diameter)  
2. MINIMUM DIMENSIONS  
- minimum length of address side: 5 1/2 inches (4 inches if sent in the form of a roll)  
- minimum length and width of address side: 5 1/2 X 3 1/2 inches (6 3/4 inches if sent in the form of a roll, measured by the length plus twice the diameter)
- C. PREPARATION REQUIREMENTS (See 221.3)  
1. Sealing is optional, unless registered (see 444.11 for sealing requirements for registered letters or letter packages).  
2. The use of tape or suckers to seal *aerogrammes* is prohibited; no enclosures are permitted in *aerogrammes*.
- D. FORMS REQUIRED  
1. Form 2976, Green Customs Label (See 221.42)  
- completed and placed by sender on address side of each letter or letter package containing dutiable merchandise. [NOTE: The top portion, at a minimum, must be affixed].  
2. Form 2976-A, *Customs Declaration* (See 221.43)  
- completed and enclosed by sender in articles whose content value exceeds \$120 when otherwise required by the country of destination (see appendix B), or when sender does not choose to reveal contents on Form 2976.
- E. MARKING AND ENDORSING  
1. Whenever articles, because of size or manner of preparation, may be mistaken for articles of another class, sender should add the word *LETTER* or *LETTRE* on the address side.  
2. If sent airmail, sender should affix *Label 19* or add the words *PAR AVION* (in blue color) immediately below the return address.

Table 3-3 •

Appendix A

Table 3-4

RATES AND SUMMARY CONDITIONS - POST CARDS

| Rates                                  |          |          |
|--|----------|----------|
|  | SURFACE  | AIR      |
| Countries other than Canada and Mexico | 14¢ each | 21¢ each |
| Canada and Mexico <sup>1</sup>         |          | 10¢ each |

<sup>1</sup> Post cards to Canada and Mexico receive first class service in the United States and air service in Canada and Mexico.

Summary Conditions

- A. WEIGHT LIMITS Approximately the quality and weight of a postal card.
- B. SIZE LIMITS  
MAXIMUM: 6 X 4 1/4 inches  
MINIMUM: 5 1/2 X 3 1/2 inches
- C. PREPARATION REQUIREMENTS (See 223.3)  
1. Reply-paid cards and folded (double) cards are not accepted in international mail.  
2. Cards must be sent unenclosed.  
3. See 223.22 for permissible attachments and other requirements.
- D. FORMS REQUIRED None.
- E. MARKING AND ENDORSING  
If sent airmail, sender should affix *Label 19* or add the words *PAR AVION* (in blue color) immediately below the return address.

Table 3-4

Table 3-5

Appendix A

SURFACE RATES - REGULAR PRINTED MATTER

| WEIGHT STEPS     | A<br>Canada   | B<br>Mexico  | C<br>PUAS Countries <sup>1</sup><br>(except Canada<br>& Mexico)   | D<br>All Other<br>Countries   |
|------------------|---|--|---|---|
| Over ... Through |   |  |   |   |
| 0 oz ... 2 oz    |   |  | .20   |   |
| 2 oz ... 4 oz    |   |  | .40   |   |
| 4 oz ... 6 oz    |   | .53  |   | .66   |
| 6 oz ... 8 oz    |   | .66  |   |   |
| 8 oz ... 10 oz   |   | .79  |   |   |
| 10 oz ... 12 oz  |   | .92  |   |   |
| 12 oz ... 14 oz  |   | 1.05   |   | 1.05  |
| 14 oz ... 1 lb   |   | 1.18   |   |   |
| 1 lb ... 2 lb    |   |  | 1.26  |   |
| 2 lb ... 4 lb    |   |  | 1.68  |   |
| 4 lb ... 11 lb   | MAXIMUM<br>LIMIT of 4<br>pounds, except<br>as follows: .84<br>per additional<br>2 pounds or frac-<br>tion for catalogs<br>& directories, up<br>to 11 pounds | .84 per additional 2 pounds or<br>fraction up to<br>MAXIMUM LIMIT<br>of<br>22 pounds | MAXIMUM<br>LIMIT of 4<br>pounds, except<br>as follows: .84<br>per additional<br>2 pounds or frac-<br>tion for catalogs<br>& directories, up<br>to 11 pounds | MAXIMUM<br>LIMIT of 4<br>pounds, except<br>as follows: .84<br>per additional<br>2 pounds or frac-<br>tion for catalogs<br>& directories, up<br>to 11 pounds |
| 11 lb ... 22 lb  |   |  |   |   |
| 22 lb ... 66 lb  |   |  | .84 each 2 pounds or fraction to all countries<br>MINIMUM of 22 pounds,<br>MAXIMUM of 66 pounds—sack & contents)  |   |

<sup>1</sup> PUAS Countries include Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras Republic, Mexico, Nicaragua, Panama, Paraguay, Peru, Spain & Possessions (Balearic Islands, Canary Islands, the Spanish offices in Northern Africa), Uruguay & Venezuela.

<sup>2</sup> Direct sacks to one addressee only.

Table 3-5

Appendix A

Table 3-6

SURFACE RATES - BOOKS & SHEET MUSIC

| WEIGHT STEPS                       | A<br>Canada                  | B<br>Mexico                   | C<br>PUAS Countries <sup>1</sup><br>(except Canada,<br>Mexico,<br>Spain, &<br>Possessions) | D<br>Spain &<br>Possessions   | E<br>All<br>Other<br>Countries         |
|------------------------------------|------------------------------|-------------------------------|--|-------------------------------|--|
| Over ... Through                   |                              |                               |  |                               |  |
| 0 lb ... 1 lb                      |                              |                               | .48  |                               |  |
| 1 lb ... 2 lb                      |                              |                               | .66  |                               |  |
| 2 lb ... 4 lb                      |                              |                               | .84  |                               |  |
| 4 lb ... 6 lb                      |                              |                               | 1.26   |                               |  |
| 6 lb ... 8 lb                      |                              |                               | 1.68   |                               |  |
| 8 lb ... 10 lb                     |                              |                               | 2.10   |                               |  |
| 10 lb ... 11 lb                    |                              |                               | 2.52   |                               |  |
| 11 lb ... 12 lb                    |                              |                               |  |                               |  |
| 12 lb ... 14 lb                    | MAXIMUM                      |                               | 2.94   |                               | MAXIMUM                                |
| 14 lb ... 16 lb                    | LIMIT                        |                               | 3.36   |                               | LIMIT                                  |
| 16 lb ... 18 lb                    | of                           |                               | 3.78   |                               | of                                     |
| 18 lb ... 20 lb                    | 11 pounds                    |                               | 4.20   |                               | 11 pounds                              |
| 20 lb ... 22 lb                    |                              |                               | 4.62   |                               |  |
|                                    |                              |                               | MAXIMUM LIMIT of 22 pounds   |                               |  |
| 22 lb ... 66 lb                    | 42 each 2 pounds or fraction | .42 each 2 pounds or fraction | MAXIMUM LIMIT of 22 pounds   | .42 each 2 pounds or fraction | MAXIMUM LIMIT of 22 pounds or fraction |
| DIRECT SACKS TO ONE ADDRESSEE ONLY |                              |                               | MINIMUM of 22 pounds - MAXIMUM of 66 pounds (sack & contents)                              |                               |  |

<sup>1</sup> PUAS Countries include Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras Republic, Mexico, Nicaragua, Panama, Paraguay, Peru, Spain & Possessions (Balearic Islands, Canary Islands, the Spanish offices in Northern Africa), Uruguay, & Venezuela.

Table 3-6







Table 3-9 (p. 3)

Appendix A

AO AIR RATES -  
ALL PRINTED MATTER, MATTER FOR THE BLIND, & SMALL  
PACKETS (Cont.)

| Over . . . Through<br>lbs. oz. | A | B     | C     | D     |
|--------------------------------|---|-------|-------|-------|
| 5 0 . . . 5 2                  |   | 7.00  | 12.33 | 17.66 |
| 5 2 . . . 5 4                  |   | 7.16  | 12.62 | 18.08 |
| 5 4 . . . 5 6                  |   | 7.32  | 12.91 | 18.50 |
| 5 6 . . . 5 8                  |   | 7.48  | 13.20 | 18.92 |
| 5 8 . . . 5 10                 |   | 7.64  | 13.49 | 19.34 |
| 5 10 . . . 5 12                |   | 7.80  | 13.78 | 19.76 |
| 5 12 . . . 5 14                |   | 7.96  | 14.07 | 20.18 |
| 5 14 . . . 6 0                 |   | 8.12  | 14.36 | 20.60 |
| 6 0 . . . 6 2                  |   | 8.28  | 14.65 | 21.02 |
| 6 2 . . . 6 4                  |   | 8.44  | 14.94 | 21.44 |
| 6 4 . . . 6 6                  |   | 8.60  | 15.23 | 21.86 |
| 6 6 . . . 6 8                  |   | 8.76  | 15.52 | 22.28 |
| 6 8 . . . 6 10                 |   | 8.92  | 15.81 | 22.70 |
| 6 10 . . . 6 12                |   | 9.08  | 16.10 | 23.12 |
| 6 12 . . . 6 14                |   | 9.24  | 16.39 | 23.54 |
| 6 14 . . . 7 0                 |   | 9.40  | 16.68 | 23.96 |
| 7 0 . . . 7 2                  |   | 9.56  | 16.97 | 24.38 |
| 7 2 . . . 7 4                  |   | 9.72  | 17.26 | 24.80 |
| 7 4 . . . 7 6                  |   | 9.88  | 17.55 | 25.22 |
| 7 6 . . . 7 8                  |   | 10.04 | 17.84 | 25.64 |
| 7 8 . . . 7 10                 |   | 10.20 | 18.13 | 26.06 |
| 7 10 . . . 7 12                |   | 10.36 | 18.42 | 26.48 |
| 7 12 . . . 7 14                |   | 10.52 | 18.71 | 26.90 |
| 7 14 . . . 8 0                 |   | 10.68 | 19.00 | 27.32 |
| 8 0 . . . 8 2                  |   | 10.84 | 19.29 | 27.74 |
| 8 2 . . . 8 4                  |   | 11.00 | 19.58 | 28.16 |
| 8 4 . . . 8 6                  |   | 11.16 | 19.87 | 28.58 |
| 8 6 . . . 8 8                  |   | 11.32 | 20.16 | 29.00 |
| 8 8 . . . 8 10                 |   | 11.48 | 20.45 | 29.42 |
| 8 10 . . . 8 12                |   | 11.64 | 20.74 | 29.84 |
| 8 12 . . . 8 14                |   | 11.80 | 21.03 | 30.26 |
| 8 14 . . . 9 0                 |   | 11.96 | 21.32 | 30.68 |

Table 3-9 (p. 3)

Appendix A

AO AIR RATES -  
ALL PRINTED MATTER, MATTER FOR THE BLIND, & SMALL  
PACKETS (Cont.)

| Over . . . Through<br>lbs. oz. | A | B     | C     | D     |
|--------------------------------|---|-------|-------|-------|
| 9 0 . . . 9 2                  |   | 12.12 | 21.61 | 31.10 |
| 9 2 . . . 9 4                  |   | 12.28 | 21.90 | 31.52 |
| 9 4 . . . 9 6                  |   | 12.44 | 22.19 | 31.94 |
| 9 6 . . . 9 8                  |   | 12.60 | 22.48 | 32.36 |
| 9 8 . . . 9 10                 |   | 12.76 | 22.77 | 32.78 |
| 9 10 . . . 9 12                |   | 12.92 | 23.06 | 33.20 |
| 9 12 . . . 9 14                |   | 13.08 | 23.35 | 33.62 |
| 9 14 . . . 10 0                |   | 13.24 | 23.64 | 34.04 |
| 10 0 . . . 10 2                |   | 13.40 | 23.93 | 34.46 |
| 10 2 . . . 10 4                |   | 13.56 | 24.22 | 34.88 |
| 10 4 . . . 10 6                |   | 13.72 | 24.51 | 35.30 |
| 10 6 . . . 10 8                |   | 13.88 | 24.80 | 35.72 |
| 10 8 . . . 10 10               |   | 14.04 | 25.09 | 36.14 |
| 10 10 . . . 10 12              |   | 14.20 | 25.38 | 36.56 |
| 10 12 . . . 10 14              |   | 14.36 | 25.67 | 36.98 |
| 10 14 . . . 11 0               |   | 14.52 | 25.96 | 37.40 |
| 11 0 . . . LIMIT               |   |       |       |       |

Table 3-9 (p. 4)

Table 3-9 (p. 5)

Appendix A

AO AIR RATES -  
ALL PRINTED MATTER, MATTER FOR THE BLIND, & SMALL  
PACKETS (Cont.)

| Over . . . Through<br>lbs. oz.                      | A                                 | B  | C  | D   |
|---|-----------------------------------|--|--|---|
| 11 0 . . . LIMIT<br>(cont'd from<br>bottom of p. 4) |                                   |  |  |   |
| 22 0 . . . 66 0                                     |                                   |  |  |   |
| DIRECT SACKS<br>TO ONE<br>ADDRESSEE ONLY            | MAXIMUM<br>WEIGHT<br>of 60 POUNDS | If there are no<br>ounces, add<br>.44 to the<br>rate at \$7.28<br>per pound. | If there are no<br>ounces, add<br>.44 to the<br>rate at \$2.32<br>per pound. | Compute the<br>rate for the<br>pounds alone at<br>\$3.36 per lb., &<br>add the rate for<br>the ounces as<br>shown at the<br>beginning of<br>this table.<br>If there are no<br>ounces, add .44<br>to the total<br>rate computed<br>at \$3.36<br>per pound. |
|   |                                   | Calculate rates as indicated above.  |  | MINIMUM WEIGHT - 22 pounds,<br>MAXIMUM WEIGHT - 66 pounds<br>(sack & contents)  |

Table 3-9 (p. 5)

Appendix A

Table 3-10 (p. 1)

SUMMARY CONDITIONS - PRINTED MATTER

| A.   | WEIGHT LIMITS | Regular<br>Printed<br>Matter             | Books &<br>Sheet Music | Second-Class<br>& Controlled<br>Circulation<br>Publications |
|--|---------------|--|------------------------|---|
| INDIVIDUAL PACKAGES                            |               |  |                        |   |
| Canada   |               | 4 pounds <sup>2</sup>                    | 11 pounds              | 30 pounds <sup>3</sup>                                      |
| PUAS Countries <sup>1</sup><br>(except Canada) |               | 22 pounds                                | 22 pounds              | 22 pounds   |
| All Other Countries                            |               | 4 pounds <sup>2</sup>                    | 11 pounds              | 4 pounds  |
| DIRECT SACKS TO ONE<br>ADDRESSEE <sup>4</sup>  |               |  |                        |   |
| All Countries except Canada                    |               | MINIMUM - 22 pounds, MAXIMUM - 66 pounds |                        |   |
| Canada only                                    |               | MINIMUM - 22 pounds, MAXIMUM - 60 pounds |                        |   |

<sup>1</sup> See Footnote 2 in Table 3-7 or Table 3-8.  
<sup>2</sup> Packages of catalogs and directories may weigh up to 11 pounds, but are subject to the postage rates for regular printed matter [Table 3-5].  
<sup>3</sup> Packages or bundles of second-class and controlled circulation publications mailed to Canada by publishers or registered news agents may weigh up to 30 pounds. When mailed by other than publishers or news agents, the weight limit is 4 pounds.  
<sup>4</sup> The above weight limits do not apply to the individual packages included in the sack.

B. SIZE LIMITS

- Prints in envelopes or in package form:  
MAXIMUM DIMENSIONS  
- maximum length: 24 inches (36 inches if sent in the form of a roll)  
- maximum length, breadth, and thickness combined: 36 inches (42 inches if sent in the form of a roll, measured by the length plus twice the diameter)  
MINIMUM DIMENSIONS  
- minimum length of address side: 5 1/2 inches (4 inches if sent in the form of a roll)  
- minimum length and width of address side: 5 1/2 X 3 1/2 inches (6 3/4 inches if sent in the form of a roll, measured by length plus twice the diameter)
- Prints in the form of single cards:  
- MINIMUM: 5 1/2 X 3 1/2 inches  
- MAXIMUM: 6 X 4 1/4 inches
- Direct sacks to one addressee:  
- sacks are obtained from the local post office.  
- above size limits do not apply to the individual packages included in the sack.

Table 3-10 (p. 1)



Table 3-10 (p. 2)

Appendix A

- C. PREPARATION REQUIREMENTS (See 221.3 and 224.5)  
Sealing is permitted, whether or not registered. (See 221.332.)
- [NOTE: Direct sacks of prints may not be registered.]
- D. FORMS REQUIRED (See 224.6)
- For all dutiable printed matter:
    - Form 2976, Green Customs Label (see 221.42), completed by sender on address side of each package containing dutiable prints.
    - Form 2976-A, Customs Declaration (see 221.43), completed and enclosed by sender in packages whose content value exceeds \$120, when otherwise required by the country of destination — see appendix B, or when sender does not choose to list contents on Form 2976.
  - For second-class and controlled circulation publications (when postage is to be paid in cash or from money on deposit with the postmaster):
    - Form 3541, Statement of Mailing — Second-Class Publications, or Form 3541-A, Statement of Mailing — Controlled Circulation Publications, prepared by the postal retail employee.
    - Form 3543, Record of Second-Class Postage, prepared by the publisher or news agent.

- E. MARKING AND ENDORSING
- If surface mail, sender must endorse the address side of all cards, envelopes, wrappers, or packages with a specific identification of the type of printed matter being sent. (See 224.71 for specific endorsements.)
  - If sent airmail, sender should affix Label 19 or add the words **PAR AVION** (in blue color) immediately below the return address. Sender must also endorse the address side with the words **PRINTED MATTER**.
  - The endorsement **PRINTED MATTER** may appear in the ad plate area of postage meter stamps. The words **PRINTED MATTER** must be in bold, capital letters no smaller than 18-point type.

Appendix A

Table 3-11

RATES AND SUMMARY CONDITIONS —  
MATTER FOR THE BLIND

Rates

- A. SURFACE RATES
- FREE to all countries, for items acceptable as matter for the blind (see 224.2 for items accepted). [Note weight limit below.]
  - Items not acceptable as matter for the blind are subject to the regular international rates of postage.

B. AIR RATES

Items accepted as matter for the blind are subject to AO air rates listed in table 3-9. [Note weight limit below.]

Summary Conditions

- C. WEIGHT LIMITS
- All countries.....15 pounds

D. SIZE LIMITS

- MAXIMUM DIMENSIONS
  - maximum length: 24 inches (36 inches if sent in the form of a roll)
  - maximum length, breadth, and thickness combined: 36 inches (42 inches if sent in the form of a roll, measured by the length plus twice the diameter)

2. MINIMUM DIMENSIONS

- minimum length of address side: 5 1/2 inches (4 inches if sent in the form of a roll)
- minimum length and width of address side: 5 1/2 X 3 1/2 inches (6 3/4 inches if sent in the form of a roll, measured by the length plus twice the diameter)

E. PREPARATION REQUIREMENTS (See 221.3)

Envelope or wrappers must be unsealed, even if registered, to permit easy examination.

F. FORMS REQUIRED None.

G. MARKING AND ENDORSING

- For surface mail accepted as matter for the blind, the word **FREE** must be placed in the upper right corner, immediately above the words **MATTER FOR THE BLIND**.

- For airmail accepted as matter for the blind, the words **MATTER FOR THE BLIND** must be placed in the upper right corner near the stamps.

- The officially recognized institution for the blind must appear in the address or the return address for the following items:

- Discs, tapes, or wires bearing voice recordings.
- Special paper intended solely for the use of the blind

Table 3-10 (p. 2)

Table 3-11

Table 3-12

Appendix A

SURFACE RATES — SMALL PACKETS

| WEIGHT STEPS<br>Over ... Up To | A<br>Canada                               | B<br>Mexico                                | C<br>All<br>Other<br>Countries  |
|--------------------------------|---|--|---|
| 0 ... 2 oz                     | .20                                       |  |   |
| 2 oz ... 4 oz                  | .40                                       |  |   |
| 4 oz ... 6 oz                  | .53                                       |  |   |
| 6 oz ... 8 oz                  | .66                                       |  | .66   |
| 8 oz ... 10 oz                 | .79                                       |  |   |
| 10 oz ... 12 oz                | .92                                       |  |   |
| 12 oz ... 14 oz                | 1.05                                      |  | 1.05  |
| 14 oz ... 1 lb                 | 1.18                                      |  |   |
| 1 lb ... 2 lb                  |   | \$1.26                                     | \$1.26  |
|                                | MAXIMUM LIMIT<br>FOR CANADA<br>in 1 pound | MAXIMUM LIMIT<br>FOR MEXICO<br>is 2 pounds | MAXIMUM LIMIT<br>for Australia,<br>Bolivia, Burma,<br>Chile, & Colombia<br>is 1 pound<br>MAXIMUM LIMIT<br>for all other<br>countries is<br>2 pounds |

<sup>1</sup> AIR RATES  
Items accepted as small packets are subject to AO air rates listed in TABLE 3-9.  
[Note weight limit below.]

Table 3-12

Table 3-13

Appendix A

Table 3-13

SUMMARY CONDITIONS — SMALL PACKETS

- A. WEIGHT LIMITS
- Australia, Bolivia, Burma.....1 pound
- Canada, Chile, and Colombia.....2 pounds
- All other countries.....2 pounds

B. SIZE LIMITS

- MAXIMUM DIMENSIONS
  - maximum length: 24 inches (36 inches if sent in the form of a roll)
  - maximum length, breadth, and thickness combined: 36 inches (42 inches if sent in the form of a roll, measured by the length plus twice the diameter)

2. MINIMUM DIMENSIONS

- minimum length of address side: 5 1/2 inches (4 inches if sent in the form of a roll)
- minimum length and width of address side: 5 1/2 X 3 1/2 inches (6 3/4 inches if sent in the form of a roll, measured by the length plus twice the diameter)

C. PREPARATION REQUIREMENTS (See 221.3)

- Small packets may be sealed, whether or not registered.
- See 226.2 for permitted and prohibited enclosures.

D. FORMS REQUIRED

SMALL PACKETS, WHETHER OR NOT THEY ARE SUBJECT TO CUSTOMS INSPECTION, MUST BEAR THE FOLLOWING:

- Form 2976, Green Customs Label (see 221.42), completed and placed by sender on address side.
- Form 2976-A, Customs Declaration (see 221.43), completed and enclosed by sender in the small packet.

E. MARKING AND ENDORSING

- Sender must mark in bold letters on address side the words **SMALL PACKET** or its equivalent in a language known in the country of destination:  
**PETIT PAQUET** (French) **PACKCHEN** (German)  
**PEQUEÑO PAQUETE** (Spanish)

- If sent airmail, sender should affix Label 19 or add the words **PAR AVION** (in blue color) immediately below the return address.
- The endorsement **SMALL PACKET** may appear in the ad plate area of postage meter stamps. The words **SMALL PACKET** must be in bold, capital letters no smaller than 18-point type.



Table 3-15 (p. 1)

Appendix A  
AIR PARCEL RATES -- PARCEL POST

| Weight Steps                                     | Albania  | Algeria  | Weight Steps                                     | Over   | Through  | Argentina  | Ascension  |
|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |
| 0-4oz. \$3.14<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$3.30<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$3.71<br>add'l 4oz.<br>or part<br>\$1.01 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.01 | 0-4oz. \$2.93<br>add'l 4oz.<br>or part<br>\$1.01 | 0-4oz. \$2.93<br>add'l 4oz.<br>or part<br>\$1.01 | 0-4oz. \$2.93<br>add'l 4oz.<br>or part<br>\$1.01 | 0-4oz. \$2.93<br>add'l 4oz.<br>or part<br>\$1.01 |
| \$3.14   | \$3.30   | \$3.71   | \$2.79   | \$2.93   | \$2.93   | \$2.93   | \$2.93   |
| 4.34   | 4.50   | 4.91   | 3.99   | 4.15   | 4.15   | 4.15   | 4.15   |
| 5.54   | 5.70   | 6.11   | 5.19   | 5.35   | 5.35   | 5.35   | 5.35   |
| 6.74   | 6.90   | 7.31   | 6.39   | 6.55   | 6.55   | 6.55   | 6.55   |
| 7.94   | 8.10   | 8.51   | 7.59   | 7.75   | 7.75   | 7.75   | 7.75   |
| 9.14   | 9.30   | 9.71   | 8.79   | 8.95   | 8.95   | 8.95   | 8.95   |
| 10.34  | 10.50  | 10.91  | 9.99   | 10.15  | 10.15  | 10.15  | 10.15  |
| 11.54  | 11.70  | 12.11  | 11.19  | 11.35  | 11.35  | 11.35  | 11.35  |
| 12.74  | 12.90  | 13.31  | 12.39  | 12.55  | 12.55  | 12.55  | 12.55  |
| 13.94  | 14.10  | 14.51  | 13.59  | 13.75  | 13.75  | 13.75  | 13.75  |
| 15.14  | 15.30  | 15.71  | 14.79  | 14.95  | 14.95  | 14.95  | 14.95  |
| 16.34  | 16.50  | 16.91  | 15.99  | 16.15  | 16.15  | 16.15  | 16.15  |
| 17.54  | 17.70  | 18.11  | 17.19  | 17.35  | 17.35  | 17.35  | 17.35  |
| 18.74  | 18.90  | 19.31  | 18.39  | 18.55  | 18.55  | 18.55  | 18.55  |
| 19.94  | 20.10  | 20.51  | 19.59  | 19.75  | 19.75  | 19.75  | 19.75  |
| 21.14  | 21.30  | 21.71  | 20.79  | 20.95  | 20.95  | 20.95  | 20.95  |
| 22.34  | 22.50  | 22.91  | 21.99  | 22.15  | 22.15  | 22.15  | 22.15  |
| 23.54  | 23.70  | 24.11  | 23.19  | 23.35  | 23.35  | 23.35  | 23.35  |
| 24.74  | 24.90  | 25.31  | 24.39  | 24.55  | 24.55  | 24.55  | 24.55  |
| 25.94  | 26.10  | 26.51  | 25.59  | 25.75  | 25.75  | 25.75  | 25.75  |
| 27.14  | 27.30  | 27.71  | 26.79  | 26.95  | 26.95  | 26.95  | 26.95  |
| 28.34  | 28.50  | 28.91  | 27.99  | 28.15  | 28.15  | 28.15  | 28.15  |
| 29.54  | 29.70  | 30.11  | 29.19  | 29.35  | 29.35  | 29.35  | 29.35  |
| 30.74  | 30.90  | 31.31  | 30.39  | 30.55  | 30.55  | 30.55  | 30.55  |
| 31.94  | 32.10  | 32.51  | 31.59  | 31.75  | 31.75  | 31.75  | 31.75  |
| 33.14  | 33.30  | 33.71  | 32.79  | 32.95  | 32.95  | 32.95  | 32.95  |
| 34.34  | 34.50  | 34.91  | 33.99  | 34.15  | 34.15  | 34.15  | 34.15  |
| 35.54  | 35.70  | 36.11  | 35.19  | 35.35  | 35.35  | 35.35  | 35.35  |
| 36.74  | 36.90  | 37.31  | 36.39  | 36.55  | 36.55  | 36.55  | 36.55  |
| 37.94  | 38.10  | 38.51  | 37.59  | 37.75  | 37.75  | 37.75  | 37.75  |
| 39.14  | 39.30  | 39.71  | 38.79  | 38.95  | 38.95  | 38.95  | 38.95  |
| 40.34  | 40.50  | 40.91  | 39.99  | 40.15  | 40.15  | 40.15  | 40.15  |
| 41.54  | 41.70  | 42.11  | 41.19  | 41.35  | 41.35  | 41.35  | 41.35  |
| 42.74  | 42.90  | 43.31  | 42.39  | 42.55  | 42.55  | 42.55  | 42.55  |
| 43.94  | 44.10  | 44.51  | 43.59  | 43.75  | 43.75  | 43.75  | 43.75  |
| 45.14  | 45.30  | 45.71  | 44.79  | 44.95  | 44.95  | 44.95  | 44.95  |
| 46.34  | 46.50  | 46.91  | 45.99  | 46.15  | 46.15  | 46.15  | 46.15  |
| 47.54  | 47.70  | 48.11  | 47.19  | 47.35  | 47.35  | 47.35  | 47.35  |
| 48.74  | 48.90  | 49.31  | 48.39  | 48.55  | 48.55  | 48.55  | 48.55  |
| 49.94  | 50.10  | 50.51  | 49.59  | 49.75  | 49.75  | 49.75  | 49.75  |
| \$48.00  | \$51.60  | \$52.00  | \$52.00  | \$52.00  | \$52.00  | \$52.00  | \$52.00  |

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.

TABLE 3-15 (p.1)

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Appendix A  
SURFACE PARCEL RATES -- PARCEL POST

| Weight Steps                                     | Canada, Mexico, Central America, the Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon | All Other Countries                              | All Other Countries                              | All Other Countries                              |
|--|---|--|--|--|
|  |   |  |  |  |
| 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20  | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 |
| \$2.79   | \$2.79  | \$2.79   | \$2.79   | \$2.79   |
| 3.99   | 3.99  | 3.99   | 3.99   | 3.99   |
| 5.19   | 5.19  | 5.19   | 5.19   | 5.19   |
| 6.39   | 6.39  | 6.39   | 6.39   | 6.39   |
| 7.59   | 7.59  | 7.59   | 7.59   | 7.59   |
| 8.79   | 8.79  | 8.79   | 8.79   | 8.79   |
| 9.99   | 9.99  | 9.99   | 9.99   | 9.99   |
| 11.19  | 11.19   | 11.19  | 11.19  | 11.19  |
| 12.39  | 12.39   | 12.39  | 12.39  | 12.39  |
| 13.59  | 13.59   | 13.59  | 13.59  | 13.59  |
| 14.79  | 14.79   | 14.79  | 14.79  | 14.79  |
| 15.99  | 15.99   | 15.99  | 15.99  | 15.99  |
| 17.19  | 17.19   | 17.19  | 17.19  | 17.19  |
| 18.39  | 18.39   | 18.39  | 18.39  | 18.39  |
| 19.59  | 19.59   | 19.59  | 19.59  | 19.59  |
| 20.79  | 20.79   | 20.79  | 20.79  | 20.79  |
| 21.99  | 21.99   | 21.99  | 21.99  | 21.99  |
| 23.19  | 23.19   | 23.19  | 23.19  | 23.19  |
| 24.39  | 24.39   | 24.39  | 24.39  | 24.39  |
| 25.59  | 25.59   | 25.59  | 25.59  | 25.59  |
| 26.79  | 26.79   | 26.79  | 26.79  | 26.79  |
| 27.99  | 27.99   | 27.99  | 27.99  | 27.99  |
| 29.19  | 29.19   | 29.19  | 29.19  | 29.19  |
| 30.39  | 30.39   | 30.39  | 30.39  | 30.39  |
| 31.59  | 31.59   | 31.59  | 31.59  | 31.59  |
| 32.79  | 32.79   | 32.79  | 32.79  | 32.79  |
| 33.99  | 33.99   | 33.99  | 33.99  | 33.99  |
| 35.19  | 35.19   | 35.19  | 35.19  | 35.19  |
| 36.39  | 36.39   | 36.39  | 36.39  | 36.39  |
| 37.59  | 37.59   | 37.59  | 37.59  | 37.59  |
| 38.79  | 38.79   | 38.79  | 38.79  | 38.79  |
| 39.99  | 39.99   | 39.99  | 39.99  | 39.99  |
| 41.19  | 41.19   | 41.19  | 41.19  | 41.19  |
| 42.39  | 42.39   | 42.39  | 42.39  | 42.39  |
| 43.59  | 43.59   | 43.59  | 43.59  | 43.59  |
| 44.79  | 44.79   | 44.79  | 44.79  | 44.79  |
| \$42.80  | \$42.80   | \$42.80  | \$42.80  | \$42.80  |

SEE BOTTOM OF TABLE 3-15 FOR MAXIMUM WEIGHT LIMITS OF EACH COUNTRY TO WHICH SURFACE PARCELS ARE PERMITTED

Table 3-14

For parcels addressed to Panama weighing over 44 pounds but not over 70 pounds, charge \$20.00 for the first 40 pounds plus the rate given above for the remaining pounds.

Table 3-15 (p. 5)

Appendix A  
AIR PARCEL RATES -- PARCEL POST

| Weight Steps                                     | Canada, Mexico, Central America, the Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon | All Other Countries                              | All Other Countries                              | All Other Countries                              |
|--|---|--|--|--|
|  |   |  |  |  |
| 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20  | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 |
| \$2.79   | \$2.79  | \$2.79   | \$2.79   | \$2.79   |
| 3.99   | 3.99  | 3.99   | 3.99   | 3.99   |
| 5.19   | 5.19  | 5.19   | 5.19   | 5.19   |
| 6.39   | 6.39  | 6.39   | 6.39   | 6.39   |
| 7.59   | 7.59  | 7.59   | 7.59   | 7.59   |
| 8.79   | 8.79  | 8.79   | 8.79   | 8.79   |
| 9.99   | 9.99  | 9.99   | 9.99   | 9.99   |
| 11.19  | 11.19   | 11.19  | 11.19  | 11.19  |
| 12.39  | 12.39   | 12.39  | 12.39  | 12.39  |
| 13.59  | 13.59   | 13.59  | 13.59  | 13.59  |
| 14.79  | 14.79   | 14.79  | 14.79  | 14.79  |
| 15.99  | 15.99   | 15.99  | 15.99  | 15.99  |
| 17.19  | 17.19   | 17.19  | 17.19  | 17.19  |
| 18.39  | 18.39   | 18.39  | 18.39  | 18.39  |
| 19.59  | 19.59   | 19.59  | 19.59  | 19.59  |
| 20.79  | 20.79   | 20.79  | 20.79  | 20.79  |
| 21.99  | 21.99   | 21.99  | 21.99  | 21.99  |
| 23.19  | 23.19   | 23.19  | 23.19  | 23.19  |
| 24.39  | 24.39   | 24.39  | 24.39  | 24.39  |
| 25.59  | 25.59   | 25.59  | 25.59  | 25.59  |
| 26.79  | 26.79   | 26.79  | 26.79  | 26.79  |
| 27.99  | 27.99   | 27.99  | 27.99  | 27.99  |
| 29.19  | 29.19   | 29.19  | 29.19  | 29.19  |
| 30.39  | 30.39   | 30.39  | 30.39  | 30.39  |
| 31.59  | 31.59   | 31.59  | 31.59  | 31.59  |
| 32.79  | 32.79   | 32.79  | 32.79  | 32.79  |
| 33.99  | 33.99   | 33.99  | 33.99  | 33.99  |
| 35.19  | 35.19   | 35.19  | 35.19  | 35.19  |
| 36.39  | 36.39   | 36.39  | 36.39  | 36.39  |
| 37.59  | 37.59   | 37.59  | 37.59  | 37.59  |
| 38.79  | 38.79   | 38.79  | 38.79  | 38.79  |
| 39.99  | 39.99   | 39.99  | 39.99  | 39.99  |
| 41.19  | 41.19   | 41.19  | 41.19  | 41.19  |
| 42.39  | 42.39   | 42.39  | 42.39  | 42.39  |
| 43.59  | 43.59   | 43.59  | 43.59  | 43.59  |
| 44.79  | 44.79   | 44.79  | 44.79  | 44.79  |
| \$42.80  | \$42.80   | \$42.80  | \$42.80  | \$42.80  |

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.

TABLE 3-15 (p.5)

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Table 3-15 (p. 7)

Appendix A  
AIR PARCEL RATES -- PARCEL POST

| Weight Steps                                     | Canada, Mexico, Central America, the Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon | All Other Countries                              | All Other Countries                              | All Other Countries                              |
|--|---|--|--|--|
|  |   |  |  |  |
| 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20  | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 | 0-4oz. \$2.79<br>add'l 4oz.<br>or part<br>\$1.20 |
| \$2.79   | \$2.79  | \$2.79   | \$2.79   | \$2.79   |
| 3.99   | 3.99  | 3.99   | 3.99   | 3.99   |
| 5.19   | 5.19  | 5.19   | 5.19   | 5.19   |
| 6.39   | 6.39  | 6.39   | 6.39   | 6.39   |
| 7.59   | 7.59  | 7.59   | 7.59   | 7.59   |
| 8.79   | 8.79  | 8.79   | 8.79   | 8.79   |
| 9.99   | 9.99  | 9.99   | 9.99   | 9.99   |
| 11.19  | 11.19   | 11.19  | 11.19  | 11.19  |
| 12.39  | 12.39   | 12.39  | 12.39  | 12.39  |
| 13.59  | 13.59   | 13.59  | 13.59  | 13.59  |
| 14.79  | 14.79   | 14.79  | 14.79  | 14.79  |
| 15.99  | 15.99   | 15.99  | 15.99  | 15.99  |
| 17.19  | 17.19   | 17.19  | 17.19  | 17.19  |
| 18.39  | 18.39   | 18.39  | 18.39  | 18.39  |
| 19.59  | 19.59   | 19.59  | 19.59  | 19.59  |
| 20.79  | 20.79   | 20.79  | 20.79  | 20.79  |
| 21.99  | 21.99   | 21.99  | 21.99  | 21.99  |
| 23.19  | 23.19   | 23.19  | 23.19  | 23.19  |
| 24.39  | 24.39   | 24.39  | 24.39  | 24.39  |
| 25.59  | 25.59   | 25.59  | 25.59  | 25.59  |
| 26.79  | 26.79   | 26.79  | 26.79  | 26.79  |
| 27.99  | 27.99   | 27.99  | 27.99  | 27.99  |
| 29.19  | 29.19   | 29.19  | 29.19  | 29.19  |
| 30.39  | 30.39   | 30.39  | 30.39  | 30.39  |
| 31.59  | 31.59   | 31.59  | 31.59  | 31.59  |
| 32.79  | 32.79   | 32.79  | 32.79  | 32.79  |
| 33.99  | 33.99   | 33.99  | 33.99  | 33.99  |
| 35.19  | 35.19   | 35.19  | 35.19  | 35.19  |
| 36.39  | 36.39   | 36.39  | 36.39  | 36.39  |
| 37.59  | 37.59   | 37.59  | 37.59  | 37.59  |
| 38.79  | 38.79   | 38.79  | 38.79  | 38.79  |
| 39.99  | 39.99   | 39.99  | 39.99  | 39.99  |
| 41.19  | 41.19   | 41.19  | 41.19  | 41.19  |
| 42.39  | 42.39   | 42.39  | 42.39  | 42.39  |
| 43.59  | 43.59   | 43.59  | 43.59  | 43.59  |
| 44.79  | 44.79   | 44.79  | 44.79  | 44.79  |
| \$42.80  | \$42.80   | \$42.80  | \$42.80  | \$42.80  |

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 1



**- PARCEL POST**

| French Guinea | French<br>Palmolive            |                  | Weight Slope                            |         | Gallon | Gambie                         |                                | German<br>Democratic<br>Republic |
|---------------|--------------------------------|------------------|---|---------|--------|--------------------------------|--------------------------------|----------------------------------|
|               | 0-4oz. \$2.18                  | 0-4oz. \$2.28    | Over                                    | Through |        | 0-4oz. \$2.28                  | 0-4oz. \$2.38                  |                                  |
|               | add'l 4oz.<br>at part<br>\$4.0 | at part<br>\$4.0 |   |         |        | add'l 4oz.<br>at part<br>\$4.0 | add'l 4oz.<br>at part<br>\$4.0 |                                  |
|               | \$2.19                         | \$2.70           | 0                                       | 0 - 0   | 4      | \$2.39                         | \$2.10                         |                                  |
|               | 2.25                           | 2.46             | 0                                       | 0 - 0   | 8      | 3.15                           | 2.80                           |                                  |
|               | 3.31                           | 4.22             | 0                                       | 0 - 1   | 12     | 4.90                           | 3.91                           | 3.50                             |
|               | 3.87                           | 4.98             | 0                                       | 12 - 1  | 0      | 5.97                           | 4.67                           | -4.20                            |
|               | 4.83                           | 5.74             | 1                                       | 0 - 1   | 4      | 7.04                           | 5.43                           | 4.90                             |
|               | 4.90                           | 6.30             | 1                                       | 4 - 1   | 8      | 8.11                           | 6.19                           | 5.60                             |
|               | 5.55                           | 7.26             | 1                                       | 8 - 1   | 12     | 9.18                           | 6.95                           | 6.30                             |
|               | 6.11                           | 8.02             | 1                                       | 12 - 2  | 0      | 10.25                          | 7.71                           | 7.00                             |
|               | 6.67                           | 8.78             | 2                                       | 0 - 2   | 4      | 11.32                          | 8.47                           | 7.70                             |
|               | 7.23                           | 9.54             | 2                                       | 4 - 2   | 8      | 12.39                          | 9.23                           | 8.40                             |
|               | 7.79                           | 10.30            | 2                                       | 8 - 2   | 12     | 13.46                          | 9.99                           | 9.10                             |
|               | 8.35                           | 11.06            | 2                                       | 12 - 3  | 0      | 14.53                          | 10.75                          | 9.80                             |
|               | 8.91                           | 11.82            | 3                                       | 0 - 3   | 4      | 15.60                          | 11.51                          | 10.50                            |
|               | 9.47                           | 12.58            | 3                                       | 4 - 3   | 8      | 16.67                          | 12.27                          | 11.20                            |
|               | 10.03                          | 13.34            | 3                                       | 8 - 3   | 12     | 17.74                          | 13.03                          | 11.90                            |
|               | 10.59                          | 14.10            | 3                                       | 12 - 4  | 0      | 18.81                          | 13.79                          | 12.60                            |
|               | 11.15                          | 14.86            | 4                                       | 0 - 4   | 4      | 19.88                          | 14.55                          | 13.30                            |
|               | 11.71                          | 15.62            | 4                                       | 4 - 4   | 8      | 20.95                          | 15.31                          | 14.00                            |
|               | 12.27                          | 16.38            | 4                                       | 8 - 4   | 12     | 22.02                          | 16.07                          | 14.70                            |
|               | 12.83                          | 17.14            | 4                                       | 12 - 5  | 0      | 23.10                          | 16.83                          | 15.40                            |
|               | 13.39                          | 17.90            | 5                                       | 0 - 5   | 4      | 24.16                          | 17.59                          | 16.10                            |
|               | 13.95                          | 18.66            | 5                                       | 4 - 5   | 8      | 25.23                          | 18.35                          | 16.80                            |
|               | 14.51                          | 19.42            | 5                                       | 8 - 5   | 12     | 26.30                          | 19.11                          | 17.50                            |
|               | 15.07                          | 20.18            | 5                                       | 12 - 6  | 0      | 27.37                          | 19.87                          | 18.20                            |
|               | 15.63                          | 20.94            | 6                                       | 0 - 6   | 4      | 28.44                          | 20.63                          | 18.90                            |
|               | 16.19                          | 21.70            | 6                                       | 4 - 6   | 8      | 29.51                          | 21.39                          | 19.60                            |
|               | 16.75                          | 22.46            | 6                                       | 8 - 6   | 12     | 30.58                          | 22.15                          | 20.30                            |
|               | 17.31                          | 23.22            | 6                                       | 12 - 7  | 0      | 31.65                          | 22.91                          | 21.00                            |
|               | 17.87                          | 23.98            | 7                                       | 0 - 7   | 4      | 32.72                          | 23.67                          | 21.70                            |
|               | 18.43                          | 24.74            | 7                                       | 4 - 7   | 8      | 33.79                          | 24.43                          | 22.40                            |
|               | 18.99                          | 25.50            | 7                                       | 8 - 7   | 12     | 34.86                          | 25.19                          | 23.10                            |
|               | 19.55                          | 26.26            | 7                                       | 12 - 8  | 0      | 35.93                          | 25.95                          | 23.80                            |
|               | 20.11                          | 27.02            | 8                                       | 0 - 8   | 4      | 37.00                          | 26.71                          | 24.50                            |
|               | 20.67                          | 27.78            | 8                                       | 4 - 8   | 8      | 38.07                          | 27.47                          | 25.20                            |
|               | 21.23                          | 28.54            | 8                                       | 8 - 8   | 12     | 39.14                          | 28.23                          | 25.90                            |
|               | 21.79                          | 29.30            | 8                                       | 12 - 9  | 0      | 40.31                          | 28.99                          | 26.60                            |
|               | 22.35                          | 30.06            | 9                                       | 0 - 9   | 4      | 41.28                          | 29.75                          | 27.30                            |
|               | 22.91                          | 30.82            | 9                                       | 4 - 9   | 8      | 42.35                          | 30.51                          | 28.00                            |
|               | 23.47                          | 31.58            | 9                                       | 8 - 9   | 12     | 43.42                          | 31.27                          | 28.70                            |
|               | 24.03                          | 32.34            | 9                                       | 12 - 10 | 0      | 44.49                          | 32.03                          | 29.40                            |
|               | \$22.40                        | \$30.40          | Rates over 10 lbs<br>10 lbs incremental |         |        | \$42.80                        | \$30.40                        | \$28.00                          |

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.

**TABLE 3-15 (p.10)**

## Appendix A

### EL RATES -- PARCEL POST

| Frontland | Gadalupe   |  | Guatemala                           | Weight Steps | Gained (Percentage of)                           |  | Summer Games | Days    | Net |
|-----------|--|--|-------------------------------------|--------------|--|--|--------------|---------|-----|
|           | O-4oz. \$2.30<br>add'l 4oz.<br>or part<br>\$4.00 | O-4oz. \$2.80<br>add'l 4oz.<br>or part<br>\$4.50 |                                     |              | O-4oz. \$2.40<br>add'l 4oz.<br>or part<br>\$4.10 | O-4oz. \$2.60<br>add'l 4oz.<br>or part<br>\$3.90 |              |         |     |
| \$2.35    | \$2.00   | \$2.51   | 0 - 0 - 0                           | 0 - 0 - 0    | \$2.46   | \$2.93   | \$2.42       | \$2.25  |     |
| 3.21      | 2.97   | 3.27   | 0 - 0 - 0                           | 0 - 0 - 0    | 3.42   | 3.94   | 3.92         | 2.60    |     |
| 4.28      | 2.72   | 3.23   | 0 - 0 - 0                           | 0 - 0 - 0    | 4.38   | 4.95   | 3.42         | 2.95    |     |
| 5.14      | 3.08   | 3.89   | 0 1/2 - 1                           | 0 1/2 - 1    | 5.14   | 5.96   | 3.92         | 3.30    |     |
| 6.07      | 3.44   | 4.35   | 1 - 0 - 1                           | 0 - 1 - 0    | 6.30   | 6.97   | 4.42         | 3.65    |     |
| 7.00      | 3.80   | 4.81   | 1 - 0 - 1                           | 1 - 0 - 1    | 7.06   | 7.98   | 4.92         | 4.00    |     |
| 7.93      | 4.16   | 5.27   | 1 1/2 - 1                           | 1 1/2 - 1    | 8.22   | 8.99   | 5.42         | 4.35    |     |
| 8.86      | 4.52   | 5.73   | 1 1/2 - 2                           | 1 1/2 - 2    | 9.18   | 10.00  | 5.92         | 4.70    |     |
| 9.79      | 4.88   | 6.19   | 2 - 0 - 2                           | 0 - 2 - 4    | 10.14  | 11.01  | 6.42         | 5.05    |     |
| 10.72     | 5.24   | 6.65   | 2 - 4 - 2                           | 2 - 4 - 2    | 11.06  | 12.02  | 6.92         | 5.40    |     |
| 11.65     | 5.60   | 7.11   | 2 - 8 - 2                           | 2 - 8 - 2    | 12.06  | 13.03  | 7.42         | 5.75    |     |
| 12.58     | 5.96   | 7.57   | 2 1/2 - 3                           | 3 - 0 - 3    | 13.02  | 14.04  | 7.92         | 6.10    |     |
| 13.51     | 6.32   | 8.03   | 3 - 0 - 3                           | 4 - 0 - 4    | 13.98  | 15.05  | 8.42         | 6.45    |     |
| 14.44     | 6.68   | 8.49   | 3 - 4 - 3                           | 4 - 4 - 3    | 14.94  | 16.06  | 8.92         | 6.80    |     |
| 15.37     | 7.04   | 8.95   | 3 - 8 - 3                           | 4 - 8 - 3    | 15.90  | 17.07  | 9.42         | 7.15    |     |
| 16.30     | 7.40   | 9.41   | 3 1/2 - 4                           | 4 - 0 - 4    | 16.86  | 18.08  | 9.92         | 7.50    |     |
| 17.23     | 7.76   | 9.87   | 4 - 0 - 4                           | 4 - 0 - 4    | 17.82  | 19.09  | 10.42        | 7.85    |     |
| 18.16     | 8.12   | 10.33  | 4 - 4 - 4                           | 4 - 4 - 4    | 18.78  | 20.10  | 10.92        | 8.20    |     |
| 19.09     | 8.48   | 10.79  | 4 - 8 - 4                           | 4 - 8 - 4    | 19.74  | 21.11  | 11.42        | 8.55    |     |
| 20.02     | 8.84   | 11.25  | 4 1/2 - 5                           | 4 1/2 - 5    | 20.70  | 22.12  | 11.92        | 8.90    |     |
| 20.95     | 9.20   | 11.71  | 5 - 0 - 5                           | 4 - 0 - 5    | 21.66  | 23.13  | 12.42        | 9.25    |     |
| 21.88     | 9.56   | 12.17  | 5 - 4 - 5                           | 4 - 5 - 5    | 22.62  | 24.14  | 12.92        | 9.60    |     |
| 22.81     | 9.92   | 12.63  | 5 - 8 - 5                           | 5 - 8 - 5    | 23.58  | 25.15  | 13.42        | 9.95    |     |
| 23.74     | 10.28  | 13.09  | 5 1/2 - 6                           | 6 - 0 - 6    | 24.54  | 26.16  | 13.92        | 10.30   |     |
| 24.67     | 10.64  | 13.55  | 6 - 0 - 6                           | 6 - 0 - 6    | 25.50  | 27.17  | 14.42        | 10.65   |     |
| 25.60     | 11.00  | 14.01  | 6 - 4 - 6                           | 6 - 4 - 6    | 26.46  | 28.18  | 14.92        | 11.00   |     |
| 26.53     | 11.36  | 14.47  | 6 - 8 - 6                           | 6 - 8 - 6    | 27.42  | 29.19  | 15.42        | 11.35   |     |
| 27.46     | 11.72  | 14.93  | 6 1/2 - 7                           | 7 - 0 - 7    | 28.38  | 30.20  | 15.92        | 11.70   |     |
| 28.39     | 12.08  | 15.39  | 7 - 0 - 7                           | 7 - 0 - 7    | 29.34  | 31.21  | 16.42        | 12.05   |     |
| 29.32     | 12.44  | 15.85  | 7 - 4 - 7                           | 7 - 4 - 7    | 30.30  | 32.22  | 16.92        | 12.40   |     |
| 30.25     | 12.80  | 16.31  | 7 - 8 - 7                           | 7 - 8 - 7    | 31.26  | 33.23  | 17.42        | 12.75   |     |
| 31.18     | 13.16  | 16.77  | 7 1/2 - 8                           | 8 - 0 - 8    | 32.22  | 34.24  | 17.92        | 13.10   |     |
| 32.11     | 13.52  | 17.23  | 8 - 0 - 8                           | 8 - 0 - 8    | 33.18  | 35.25  | 18.42        | 13.45   |     |
| 33.04     | 13.88  | 17.69  | 8 - 4 - 8                           | 8 - 4 - 8    | 34.14  | 36.26  | 18.92        | 13.80   |     |
| 33.97     | 14.24  | 18.15  | 8 - 8 - 8                           | 8 - 8 - 8    | 35.10  | 37.27  | 19.42        | 14.15   |     |
| 34.90     | 14.60  | 18.61  | 8 1/2 - 9                           | 8 1/2 - 9    | 36.06  | 38.28  | 19.92        | 14.50   |     |
| 35.83     | 14.96  | 19.07  | 9 - 0 - 9                           | 9 - 0 - 9    | 37.02  | 39.29  | 20.42        | 14.85   |     |
| 36.76     | 15.32  | 19.53  | 9 - 4 - 9                           | 9 - 4 - 9    | 37.98  | 40.30  | 20.92        | 15.20   |     |
| 37.69     | 15.68  | 19.99  | 9 - 8 - 9                           | 9 - 8 - 9    | 38.94  | 41.31  | 21.42        | 15.55   |     |
| 38.62     | 16.04  | 20.45  | 9 1/2 - 10                          | 9 1/2 - 10   | 39.90  | 42.32  | 21.92        | 15.90   |     |
| \$37.28   | \$14.40  | \$18.40  | Rise over 10 lbs<br>10 lb increment |              | \$38.40  | \$40.40  | \$39.00      | \$14.00 |     |

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.

**TABLE 3-15 (p.12)**



| PARCEL RATES -- PARCEL POST |  |  |        |         |              |          |                       |  |  |
|-----------------------------|--|--|--------|---------|--------------|----------|-----------------------|--|--|
| Commodity                   | Japan  |  | Jordan |         | Weight Steps |          | Kansai (Dum. Ship or) |  |  |
|                             | 0-4oz. \$2.10<br>add'l 4oz.<br>or part<br>\$0.60 | 0-4oz. \$2.12<br>add'l 4oz.<br>or part<br>\$0.60 | Over   | Through | 1b. Or.      | 1lb. Or. |                       |  |  |
| N O                         | \$2.19   | \$2.72   | 0      | 0       | 0            | 4        | \$2.93                |  |  |
|                             | 2.99   | 3.62   | 0      | 4       | 0            | 8        | 4.03                  |  |  |
|                             | 3.79   | 4.32   | 0      | 8       | 0            | 12       | 5.13                  |  |  |
| A I R                       | 4.59   | 5.42   | 0      | 12      | 1            | 0        | 6.23                  |  |  |
|                             | 3.35   | 3.49   | 1      | 0       | 1            | 0        | 7.33                  |  |  |
|                             | 3.68   | 3.92   | 1      | 0       | 1            | 4        | 8.43                  |  |  |
| P A R C E L                 | 4.01   | 6.19   | 7      | 22      | 1            | 8        | 9.53                  |  |  |
|                             | 4.34   | 6.99   | 8      | 12      | 1            | 8        | 10.63                 |  |  |
|                             | 4.67   | 7.79   | 9      | 02      | 1            | 12       | 11.73                 |  |  |
| P O S T                     | 5.00   | 8.59   | 2      | 0       | 2            | 4        | 12.83                 |  |  |
|                             | 5.33   | 9.39   | 2      | 4       | 2            | 8        | 13.93                 |  |  |
|                             | 5.66   | 10.19  | 11     | 72      | 2            | 8        | 15.03                 |  |  |
| S E R V I C E               | 5.99   | 10.99  | 12     | 62      | 2            | 12       | 16.13                 |  |  |
|                             | 6.32   | 11.79  | 13     | 52      | 3            | 0        | 17.23                 |  |  |
|                             | 6.65   | 12.59  | 14     | 42      | 3            | 4        | 18.33                 |  |  |
| N O                         | 6.98   | 13.39  | 15     | 32      | 3            | 8        | 19.43                 |  |  |
|                             | 7.31   | 14.19  | 16     | 22      | 3            | 12       | 20.53                 |  |  |
|                             | 7.64   | 14.99  | 17     | 12      | 4            | 0        | 21.63                 |  |  |
| A I R                       | 7.97   | 15.79  | 18     | 02      | 4            | 4        | 22.73                 |  |  |
|                             | 8.30   | 16.59  | 18     | 92      | 4            | 8        | 23.83                 |  |  |
|                             | 8.63   | 17.39  | 19     | 82      | 4            | 12       | 24.93                 |  |  |
| P A R C E L                 | 8.96   | 18.19  | 20     | 72      | 5            | 0        | 26.03                 |  |  |
|                             | 9.29   | 18.99  | 21     | 62      | 5            | 4        | 27.13                 |  |  |
|                             | 9.62   | 19.79  | 22     | 52      | 5            | 8        | 28.23                 |  |  |
| P O S T                     | 9.95   | 20.59  | 23     | 42      | 5            | 12       | 29.33                 |  |  |
|                             | 10.28  | 21.39  | 24     | 32      | 6            | 0        | 30.43                 |  |  |
|                             | 10.61  | 22.19  | 25     | 22      | 6            | 4        | 31.53                 |  |  |
| S E R V I C E               | 10.94  | 22.99  | 26     | 12      | 6            | 8        | 32.63                 |  |  |
|                             | 11.27  | 23.79  | 27     | 02      | 6            | 12       | 33.73                 |  |  |
|                             | 11.60  | 24.59  | 27     | 92      | 7            | 0        | 34.83                 |  |  |
| N O                         | 11.93  | 25.39  | 28     | 82      | 7            | 4        | 35.93                 |  |  |
|                             | 12.26  | 26.19  | 29     | 72      | 7            | 8        | 37.03                 |  |  |
|                             | 12.59  | 26.99  | 30     | 62      | 7            | 12       | 38.13                 |  |  |
| A I R                       | 12.92  | 27.79  | 31     | 52      | 8            | 0        | 39.23                 |  |  |
|                             | 13.25  | 28.59  | 32     | 42      | 8            | 4        | 40.33                 |  |  |
|                             | 13.58  | 29.39  | 33     | 32      | 8            | 8        | 41.43                 |  |  |
| P A R C E L                 | 13.91  | 30.19  | 34     | 22      | 8            | 12       | 42.53                 |  |  |
|                             | 14.24  | 30.99  | 35     | 12      | 9            | 0        | 43.63                 |  |  |
|                             | 14.57  | 31.79  | 36     | 02      | 9            | 4        | 44.73                 |  |  |
| P O S T                     | 14.90  | 32.59  | 37     | 92      | 9            | 8        | 45.83                 |  |  |
|                             | 15.23  | 33.39  | 38     | 82      | 9            | 12       |                       |  |  |
|                             | 15.56  | 34.19  | 39     | 72      | 9            | 16       |                       |  |  |
| S E R V I C E               | 15.89  | 34.99  | 40     | 62      | 9            | 20       |                       |  |  |
|                             | 16.22  | 35.79  | 41     | 52      | 9            | 24       |                       |  |  |
|                             | 16.55  | 36.59  | 42     | 42      | 9            | 28       |                       |  |  |
| N O                         | 16.88  | 37.39  | 43     | 32      | 9            | 32       |                       |  |  |
|                             | 17.21  | 38.19  | 44     | 22      | 9            | 36       |                       |  |  |
|                             | 17.54  | 38.99  | 45     | 12      | 9            | 40       |                       |  |  |
| A I R                       | 17.87  | 39.79  | 46     | 02      | 9            | 44       |                       |  |  |
|                             | 18.20  | 40.59  | 47     | 92      | 9            | 48       |                       |  |  |
|                             | 18.53  | 41.39  | 48     | 82      | 9            | 52       |                       |  |  |
| P A R C E L                 | 18.86  | 42.19  | 49     | 72      | 9            | 56       |                       |  |  |
|                             | 19.19  |  | 50     | 62      |              |          |                       |  |  |
|                             | 19.52  |  | 51     | 52      |              |          |                       |  |  |
| P O S T                     | 19.85  |  | 52     | 42      |              |          |                       |  |  |
|                             | 20.18  |  | 53     | 32      |              |          |                       |  |  |
|                             | 20.51  |  | 54     | 22      |              |          |                       |  |  |
| S E R V I C E               | 20.84  |  | 55     | 12      |              |          |                       |  |  |
|                             | 21.17  |  | 56     | 02      |              |          |                       |  |  |
|                             | 21.50  |  | 57     | 92      |              |          |                       |  |  |
| N O                         | 21.83  |  | 58     | 82      |              |          |                       |  |  |
|                             | 22.16  |  | 59     | 72      |              |          |                       |  |  |
|                             | 22.49  |  | 60     | 62      |              |          |                       |  |  |
| A I R                       | 22.82  |  | 61     | 52      |              |          |                       |  |  |
|                             | 23.15  |  | 62     | 42      |              |          |                       |  |  |
|                             | 23.48  |  | 63     | 32      |              |          |                       |  |  |
| P A R C E L                 | 23.81  |  | 64     | 22      |              |          |                       |  |  |
|                             | 24.14  |  | 65     | 12      |              |          |                       |  |  |
|                             | 24.47  |  | 66     | 02      |              |          |                       |  |  |
| P O S T                     | 24.80  |  | 67     | 92      |              |          |                       |  |  |
|                             | 25.13  |  | 68     | 82      |              |          |                       |  |  |
|                             | 25.46  |  | 69     | 72      |              |          |                       |  |  |
| S E R V I C E               | 25.79  |  | 70     | 62      |              |          |                       |  |  |
|                             | 26.12  |  | 71     | 52      |              |          |                       |  |  |
|                             | 26.45  |  | 72     | 42      |              |          |                       |  |  |
| N O                         | 26.78  |  | 73     | 32      |              |          |                       |  |  |
|                             | 27.11  |  | 74     | 22      |              |          |                       |  |  |
|                             | 27.44  |  | 75     | 12      |              |          |                       |  |  |
| A I R                       | 27.77  |  | 76     | 02      |              |          |                       |  |  |
|                             | 28.10  |  | 77     | 92      |              |          |                       |  |  |
|                             | 28.43  |  | 78     | 82      |              |          |                       |  |  |
| P A R C E L                 | 28.76  |  | 79     | 72      |              |          |                       |  |  |
|                             | 29.09  |  | 80     | 62      |              |          |                       |  |  |
|                             | 29.42  |  | 81     | 52      |              |          |                       |  |  |
| P O S T                     | 29.75  |  | 82     | 42      |              |          |                       |  |  |
|                             | 30.08  |  | 83     | 32      |              |          |                       |  |  |
|                             | 30.41  |  | 84     | 22      |              |          |                       |  |  |
| S E R V I C E               | 30.74  |  | 85     | 12      |              |          |                       |  |  |
|                             | 31.07  |  | 86     | 02      |              |          |                       |  |  |
|                             | 31.40  |  | 87     | 92      |              |          |                       |  |  |
| N O                         | 31.73  |  | 88     | 82      |              |          |                       |  |  |
|                             | 32.06  |  | 89     | 72      |              |          |                       |  |  |
|                             | 32.39  |  | 90     | 62      |              |          |                       |  |  |
| A I R                       | 32.72  |  | 91     | 52      |              |          |                       |  |  |
|                             | 33.05  |  | 92     | 42      |              |          |                       |  |  |
|                             | 33.38  |  | 93     | 32      |              |          |                       |  |  |
| P A R C E L                 | 33.71  |  | 94     | 22      |              |          |                       |  |  |
|                             | 34.04  |  | 95     | 12      |              |          |                       |  |  |
|                             | 34.37  |  | 96     | 02      |              |          |                       |  |  |
| P O S T                     | 34.70  |  | 97     | 92      |              |          |                       |  |  |
|                             | 35.03  |  | 98     | 82      |              |          |                       |  |  |
|                             | 35.36  |  | 99     | 72      |              |          |                       |  |  |
| S E R V I C E               | 35.69  |  | 100    | 62      |              |          |                       |  |  |
|                             | 36.02  |  |        | 52      |              |          |                       |  |  |
|                             | 36.35  |  |        | 42      |              |          |                       |  |  |
| N O                         | 36.68  |  |        | 32      |              |          |                       |  |  |
|                             | 37.01  |  |        | 22      |              |          |                       |  |  |
|                             | 37.34  |  |        | 12      |              |          |                       |  |  |
| A I R                       | 37.67  |  |        | 02      |              |          |                       |  |  |
|                             | 38.00  |  |        | 92      |              |          |                       |  |  |
|                             | 38.33  |  |        | 82      |              |          |                       |  |  |
| P A R C E L                 | 38.66  |  |        | 72      |              |          |                       |  |  |
|                             | 38.99  |  |        | 62      |              |          |                       |  |  |
|                             | 39.32  |  |        | 52      |              |          |                       |  |  |
| P O S T                     | 39.65  |  |        | 42      |              |          |                       |  |  |
|                             | 39.98  |  |        | 32      |              |          |                       |  |  |
|                             | 40.31  |  |        | 22      |              |          |                       |  |  |
| S E R V I C E               | 40.64  |  |        | 12      |              |          |                       |  |  |
|                             | 40.97  |  |        | 02      |              |          |                       |  |  |
|                             | 41.30  |  |        | 92      |              |          |                       |  |  |
| N O                         | 41.63  |  |        | 82      |              |          |                       |  |  |
|                             | 41.96  |  |        | 72      |              |          |                       |  |  |
|                             | 42.29  |  |        | 62      |              |          |                       |  |  |
| A I R                       | 42.62  |  |        | 52      |              |          |                       |  |  |
|                             | 42.95  |  |        | 42      |              |          |                       |  |  |
|                             | 43.28  |  |        | 32      |              |          |                       |  |  |
| P A R C E L                 | 43.61  |  |        | 22      |              |          |                       |  |  |
|                             | 43.94  |  |        | 12      |              |          |                       |  |  |
|                             | 44.27  |  |        | 02      |              |          |                       |  |  |
| P O S T                     | 44.60  |  |        | 92      |              |          |                       |  |  |
|                             | 44.93  |  |        | 82      |              |          |                       |  |  |
|                             | 45.26  |  |        | 72      |              |          |                       |  |  |
| S E R V I C E               | 45.59  |  |        | 62      |              |          |                       |  |  |
|                             | 45.92  |  |        | 52      |              |          |                       |  |  |
|                             | 46.25  |  |        | 42      |              |          |                       |  |  |
| N O                         | 46.58  |  |        | 32      |              |          |                       |  |  |
|                             | 46.91  |  |        | 22      |              |          |                       |  |  |
|                             | 47.24  |  |        | 12      |              |          |                       |  |  |
| A I R                       | 47.57  |  |        | 02      |              |          |                       |  |  |
|                             | 47.90  |  |        | 92      |              |          |                       |  |  |
|                             | 48.23  |  |        | 82      |              |          |                       |  |  |
| P A R C E L                 | 48.56  |  |        | 72      |              |          |                       |  |  |
|                             | 48.89  |  |        | 62      |              |          |                       |  |  |
|                             | 49.22  |  |        | 52      |              |          |                       |  |  |
| P O S T                     | 49.55  |  |        | 42      |              |          |                       |  |  |
|                             | 49.88  |  |        | 32      |              |          |                       |  |  |
|                             | 50.21  |  |        | 22      |              |          |                       |  |  |
| S E R V I C E               | 50.54  |  |        | 12      |              |          |                       |  |  |
|                             | 50.87  |  |        | 02      |              |          |                       |  |  |
|                             | 51.20  |  |        | 92      |              |          |                       |  |  |
| N O                         | 51.53  |  |        | 82      |              |          |                       |  |  |
|                             | 51.86  |  |        | 72      |              |          |                       |  |  |
|                             | 52.19  |  |        | 62      |              |          |                       |  |  |
| A I R                       | 52.52  |  |        | 52      |              |          |                       |  |  |
|                             | 52.85  |  |        | 42      |              |          |                       |  |  |
|                             | 53.18  |  |        | 32      |              |          |                       |  |  |
| P A R C E L                 | 53.51  |  |        | 22      |              |          |                       |  |  |
|                             | 53.84  |  |        | 12      |              |          |                       |  |  |
|                             | 54.17  |  |        | 02      |              |          |                       |  |  |
| P O S T                     | 54.50  |  |        | 92      |              |          |                       |  |  |
|                             | 54.83  |  |        | 82      |              |          |                       |  |  |
|                             | 55.16  |  |        | 72      |              |          |                       |  |  |
| S E R V I C E               | 55.49  |  |        | 62      |              |          |                       |  |  |
|                             | 55.82  |  |        | 52      |              |          |                       |  |  |
|                             | 56.15  |  |        | 42      |              |          |                       |  |  |
| N O                         | 56.48  |  |        | 32      |              |          |                       |  |  |
|                             | 56.81  |  |        | 22      |              |          |                       |  |  |
|                             | 57.14  |  |        | 12      |              |          |                       |  |  |
| A I R                       | 57.47  |  |        | 02      |              |          |                       |  |  |
|                             | 57.80  |  |        | 92      |              |          |                       |  |  |
|                             | 58.13  |  |        | 82      |              |          |                       |  |  |
| P A R C E L                 | 58.46  |  |        | 72      |              |          |                       |  |  |
|                             | 58.79  |  |        | 62      |              |          |                       |  |  |
|                             | 59.12  |  |        | 52      |              |          |                       |  |  |
| P O S T                     | 59.45  |  |        | 42      |              |          |                       |  |  |
|                             | 59.78  |  |        | 32      |              |          |                       |  |  |
|                             | 60.11  |  |        | 22      |              |          |                       |  |  |
| S E R V I C E               | 60.44  |  |        | 12      |              |          |                       |  |  |
|                             | 60.77  |  |        | 02      |              |          |                       |  |  |
|                             | 61.10  |  |        | 92      |              |          |                       |  |  |
| N O                         | 61.43  |  |        | 82      |              |          |                       |  |  |
|                             | 61.76  |  |        | 72      |              |          |                       |  |  |
|                             | 62.09  |  |        | 62      |              |          |                       |  |  |
| A I R                       | 62.42  |  |        | 52      |              |          |                       |  |  |
|                             | 62.75  |  |        | 42      |              |          |                       |  |  |
|                             | 63.08  |  |        | 32      |              |          |                       |  |  |
| P A R C E L                 | 63.41  |  |        | 22      |              |          |                       |  |  |
|                             | 63.74  |  |        | 12      |              |          |                       |  |  |
|                             | 64.07  |  |        | 02      |              |          |                       |  |  |
| P O S T                     | 64.40  |  |        | 92      |              |          |                       |  |  |
|                             | 64.73  |  |        | 82      |              |          |                       |  |  |
|                             | 65.06  |  |        | 72      |              |          |                       |  |  |
| S E R V I C E               | 65.39  |  |        | 62      |              |          |                       |  |  |
|                             | 65.72  |  |        | 52      |              |          |                       |  |  |
|                             | 66.05  |  |        | 42      |              |          |                       |  |  |
| N O                         | 66.38  |  |        | 32      |              |          |                       |  |  |
|                             | 66.71  |  |        | 22      |              |          |                       |  |  |
|                             | 67.04  |  |        | 12      |              |          |                       |  |  |
| A I R                       | 67.37  |  |        | 02      |              |          |                       |  |  |
|                             | 67.70  |  |        | 92      |              |          |                       |  |  |
|                             | 68.03  |  |        | 82      |              |          |                       |  |  |
| P A R C E L                 | 68.36  |  |        | 72      |              |          |                       |  |  |
|                             | 68.69  |  |        | 62      |              |          |                       |  |  |
|                             | 69.02  |  |        | 52      |              |          |                       |  |  |
| P O S T                     | 69.35  |  |        | 42      |              |          |                       |  |  |
|                             | 69.68  |  |        | 32      |              |          |                       |  |  |
|                             | 70.01  |  |        | 22      |              |          |                       |  |  |
| S E R V I C E               | 70.34  |  |        | 12      |              |          |                       |  |  |
|                             | 70.67  |  |        | 02      |              |          |                       |  |  |
|                             | 71.00  |  |        | 92      |              |          |                       |  |  |
| N O                         | 71.33  |  |        | 82      |              |          |                       |  |  |
|                             | 71.66  |  |        | 72      |              |          |                       |  |  |
|                             | 71.99  |  |        | 62      |              |          |                       |  |  |
| A I R                       | 72.32  |  |        | 52      |              |          |                       |  |  |
|                             | 72.65  |  |        | 42      |              |          |                       |  |  |
|                             | 72.98  |  |        | 32      |              |          |                       |  |  |
| P A R C E L                 | 73.31  |  |        | 22      |              |          |                       |  |  |
|                             | 73.64  |  |        | 12      |              |          |                       |  |  |
|                             | 73.97  |  |        | 02      |              |          |                       |  |  |
| P O S T                     | 74.30  |  |        | 92      |              |          |                       |  |  |
|                             | 74.63  |  |        | 82      |              |          |                       |  |  |
|                             | 74.96  |  |        | 72      |              |          |                       |  |  |
| S E R V I C E               | 75.29  |  |        | 62      |              |          |                       |  |  |
|                             | 75.62  |  |        | 52      |              |          |                       |  |  |
|                             | 75.95  |  |        | 42      |              |          |                       |  |  |
| N O                         | 76.28  |  |        | 32      |              |          |                       |  |  |
|                             | 76.61  |  |        | 22      |              |          |                       |  |  |
|                             | 76.94  |  |        | 12      |              |          |                       |  |  |
| A I R                       | 77.27  |  |        | 02      |              |          |                       |  |  |
|                             | 77.60  |  |        | 92      |              |          |                       |  |  |
|                             | 77.93  |  |        | 82      |              |          |                       |  |  |
| P A R C E L                 | 78.26  |  |        | 72      |              |          |                       |  |  |
|                             | 78.59  |  |        | 62      |              |          |                       |  |  |
|                             | 78.92  |  |        | 52      |              |          |                       |  |  |
| P O S T                     | 79.25  |  |        | 42      |              |          |                       |  |  |
|                             | 79.58  |  |        | 32      |              |          |                       |  |  |
|                             | 79.91  |  |        | 22      |              |          |                       |  |  |
| S E R V I C E               | 80.24  |  |        | 12      |              |          |                       |  |  |
|                             | 80.57  |  |        | 02      |              |          |                       |  |  |
|                             | 80.90  |  |        | 92      |              |          |                       |  |  |
| N O                         | 81.23  |  |        | 82      |              |          |                       |  |  |
|                             | 81.56  |  |        | 72      |              |          |                       |  |  |
|                             | 81.89  |  |        | 62      |              |          |                       |  |  |
| A I R                       | 82.22  |  |        | 52      |              |          |                       |  |  |
|                             | 82.55  |  |        | 42      |              |          |                       |  |  |
|                             | 82.88  |  |        | 32      |              |          |                       |  |  |
| P A R C E L                 | 83.21  |  |        | 22      |              |          |                       |  |  |
|                             | 83.54  |  |        |         |              |          |                       |  |  |

**TABLE 3-15 (p.15)**

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.

| AIR PARCEL RATES -- PARCEL POST                 |   |   |   |   |   |  |  |  |  |
|---|---|---|---|---|---|--|--|--|--|
| Quar  | Reunion   | Weight Steps  | Rhodesia  | Banania   | Peruvia   |  |  |  |  |
| O-oz. \$2.42<br>adft. doz.<br>or part<br>\$1.50 | O-oz. \$2.89<br>adft. doz.<br>or part<br>\$1.57 | Over<br>La. Oz. Thru<br>La. Oz. 10 lbs<br>or part<br>\$1.54 | O-oz. \$2.86<br>adft. doz.<br>or part<br>\$1.54 | O-oz. \$2.42<br>adft. doz.<br>or part<br>\$1.50 | O-oz. \$2.76<br>adft. doz.<br>or part<br>\$1.50 |  |  |  |  |
| \$2.42  | \$2.89  | 0 0 - 0 4   | \$2.66  | \$2.42  | \$2.76  |  |  |  |  |
| 3.45  | 4.16  | 0 4 - 0 8   | 3.90  | 3.21  | 3.83  |  |  |  |  |
| 4.48  | 5.43  | 0 8 - 0 12  | 5.14  | 4.00  | 4.90  |  |  |  |  |
| 5.51  | 6.70  | 0 12 - 1 0  | 6.38  | 4.79  | 5.97  |  |  |  |  |
| 6.54  | 7.97  | 1 0 - 1 4   | 7.62  | 5.58  | 7.04  |  |  |  |  |
| 7.57  | 9.24  | 1 4 - 1 8   | 8.86  | 6.37  | 8.11  |  |  |  |  |
| 8.60  | 10.51   | 1 8 - 1 12  | 10.10   | 7.16  | 9.18  |  |  |  |  |
| 9.63  | 11.78   | 1 12 - 2 0  | 11.34   | 7.95  | 10.25   |  |  |  |  |
| 10.66   | 13.05   | 2 0 - 2 4   | 12.58   | 8.74  | 11.32   |  |  |  |  |
| 11.69   | 14.32   | 2 4 - 2 8   | 13.82   | 9.53  | 12.39   |  |  |  |  |
| 12.72   | 15.59   | 2 8 - 2 12  | 15.06   | 10.32   | 13.46   |  |  |  |  |
| 13.75   | 16.86   | 2 12 - 3 0  | 16.30   | 11.11   | 14.53   |  |  |  |  |
| 14.78   | 18.13   | 3 0 - 3 4   | 17.54   | 11.90   | 15.60   |  |  |  |  |
| 15.81   | 19.40   | 3 4 - 3 8   | 18.78   | 12.69   | 16.67   |  |  |  |  |
| 16.84   | 20.67   | 3 8 - 3 12  | 20.02   | 13.48   | 17.74   |  |  |  |  |
| 17.87   | 21.94   | 3 12 - 4 0  | 21.26   | 14.27   | 18.81   |  |  |  |  |
| 18.90   | 23.21   | 4 0 - 4 4   | 22.50   | 15.06   | 19.88   |  |  |  |  |
| 19.93   | 24.48   | 4 4 - 4 8   | 23.74   | 15.85   | 20.95   |  |  |  |  |
| 20.96   | 25.75   | 4 8 - 4 12  | 24.98   | 16.64   | 22.02   |  |  |  |  |
| 21.99   | 27.02   | 4 12 - 5 0  | 26.22   | 17.43   | 23.09   |  |  |  |  |
| 23.02   | 28.29   | 5 0 - 5 4   | 27.46   | 18.22   | 24.16   |  |  |  |  |
| 24.05   | 29.56   | 5 4 - 5 8   | 28.70   | 19.01   | 25.23   |  |  |  |  |
| 25.08   | 30.83   | 5 8 - 6 12  | 29.94   | 19.80   | 26.30   |  |  |  |  |
| 26.11   | 32.10   | 6 12 - 6 0  | 31.18   | 20.59   | 27.37   |  |  |  |  |
| 27.14   | 33.37   | 6 0 - 6 4   | 32.42   | 21.38   | 28.44   |  |  |  |  |
| 28.17   | 34.64   | 6 4 - 6 8   | 33.66   | 22.17   | 29.51   |  |  |  |  |
| 29.20   | 35.91   | 6 8 - 6 12  | 34.90   | 22.96   | 30.58   |  |  |  |  |
| 30.23   | 37.18   | 6 12 - 7 0  | 36.14   | 23.75   | 31.65   |  |  |  |  |
| 31.26   | 38.45   | 7 0 - 7 4   | 37.38   | 24.54   | 32.72   |  |  |  |  |
| 32.29   | 39.72   | 7 4 - 7 8   | 38.62   | 25.33   | 33.79   |  |  |  |  |
| 33.32   | 40.99   | 7 8 - 7 12  | 39.86   | 26.12   | 34.86   |  |  |  |  |
| 34.35   | 42.26   | 7 12 - 8 0  | 41.10   | 26.91   | 35.93   |  |  |  |  |
| 35.38   | 43.53   | 8 0 - 8 4   | 42.34   | 27.70   | 37.00   |  |  |  |  |
| 36.41   | 44.80   | 8 4 - 8 8   | 43.58   | 28.49   | 38.07   |  |  |  |  |
| 37.44   | 46.07   | 8 8 - 8 12  | 44.82   | 29.28   | 39.14   |  |  |  |  |
| 38.47   | 47.34   | 8 12 - 9 0  | 46.06   | 30.07   | 40.21   |  |  |  |  |
| 39.50   | 48.61   | 9 0 - 9 4   | 47.30   | 30.86   | 41.28   |  |  |  |  |
| 40.53   | 49.88   | 9 4 - 9 8   | 48.54   | 31.65   | 42.35   |  |  |  |  |
| 41.56   | 51.15   | 9 8 - 9 12  | 49.78   | 32.44   | 43.42   |  |  |  |  |
| 42.59   | 52.42   | 9 12 - 10 0   | 51.02   | 33.23   | 44.49   |  |  |  |  |
| \$41.20   | \$50.80   | Rates over 10 lbs<br>to lbs incremental<br>rate             | \$49.78   | \$31.00   | \$42.80   |  |  |  |  |

**TABLE 3-15 (p.23).**

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and the 10 pound increment rate for each even 10 pounds thereafter.

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.



## AIR PARCEL RATES - PARCEL POST

| African City | Vaccines<br>Required                             | Vaccines<br>Required                             | Weight<br>Stops                                 | Western<br>Series                                |  | Weighted<br>Tend. |
|--------------|--|--|---|--|--|-------------------|
|              |  |  |   | 0-4oz. \$2.71<br>add'l 4oz.<br>or part<br>\$4.00 | 0-4oz. \$2.39<br>add'l 4oz.<br>or part<br>\$4.00 |                   |
| Algeria      | 0-4oz. \$2.42<br>add'l 4oz.<br>or part<br>\$4.00 | 0-4oz. \$2.71<br>add'l 4oz.<br>or part<br>\$4.00 | Over Through<br>Lb. Oz. Lb. Oz.                 |  |  |                   |
|              |  | N O  | 0 0 - 0 4                                       | \$2.71   | \$2.39   |                   |
|              | 3.16   | 3.14   | 0 4 - 0 8                                       | 3.51   | 2.87   |                   |
|              | 3.50   | 3.57   | 0 8 - 0 12                                      | 4.31   | 3.35   |                   |
|              | 4.64   | 4.00   | 0 12 - 1 0                                      | 5.11   | 3.83   |                   |
|              | 5.38   | 4.43   | 1 0 - 1 4                                       | 5.91   | 4.31   |                   |
|              | 6.12   | 4.86   | 1 4 - 1 8                                       | 6.71   | 4.79   |                   |
|              | 6.86   | 5.29   | 1 8 - 1 12                                      | 7.51   | 5.27   |                   |
|              | 7.60   | 5.72   | 1 12 - 2 0                                      | 8.31   | 5.75   |                   |
|              | 8.34   | 6.15   | 2 0 - 2 4                                       | 9.11   | 6.23   |                   |
|              | 9.08   | 6.58   | 2 4 - 2 8                                       | 9.91   | 6.71   |                   |
|              | 9.82   | 7.01   | 2 8 - 2 12                                      | 10.71  | 7.19   |                   |
|              | 10.56  | 7.44   | 2 12 - 3 0                                      | 11.51  | 7.67   |                   |
|              | 11.30  | 7.87   | 3 0 - 3 4                                       | 12.31  | 8.15   |                   |
|              | 12.04  | 8.30   | 3 4 - 3 8                                       | 13.11  | 8.63   |                   |
|              | 12.78  | 8.73   | 3 8 - 3 12                                      | 13.91  | 9.11   |                   |
|              | 13.52  | 9.16   | 3 12 - 4 0                                      | 14.71  | 9.59   |                   |
|              | 14.26  | 9.59   | 4 0 - 4 4                                       | 15.51  | 10.07  |                   |
|              | 15.00  | 10.02  | 4 4 - 4 8                                       | 16.31  | 10.55  |                   |
|              | 15.74  | 10.45  | 4 8 - 5 2                                       | 17.11  | 11.03  |                   |
|              | 16.48  | 10.88  | 4 12 - 5 0                                      | 17.91  | 11.51  |                   |
|              | 17.22  | 11.31  | 5 0 - 5 4                                       | 18.71  | 11.99  |                   |
|              | 17.96  | 11.74  | 5 4 - 5 8                                       | 19.51  | 12.47  |                   |
|              | 18.70  | 12.17  | 5 8 - 5 12                                      | 20.31  | 12.95  |                   |
|              | 19.44  | 12.60  | 5 12 - 6 0                                      | 21.11  | 13.43  |                   |
|              | 20.18  | 13.03  | 6 0 - 6 4                                       | 21.91  | 13.91  |                   |
|              | 20.92  | 13.46  | 6 4 - 6 8                                       | 22.71  | 14.39  |                   |
|              | 21.66  | 13.89  | 6 8 - 6 12                                      | 23.51  | 14.87  |                   |
|              | 22.40  | 14.32  | 6 12 - 7 0                                      | 24.31  | 15.35  |                   |
|              | 23.14  | 14.75  | 7 0 - 7 4                                       | 25.11  | 15.83  |                   |
|              | 23.88  | 15.18  | 7 4 - 7 8                                       | 25.91  | 16.31  |                   |
|              | 24.62  | 15.61  | 7 8 - 7 12                                      | 26.71  | 16.79  |                   |
|              | 25.36  | 16.04  | 7 12 - 8 0                                      | 27.51  | 17.27  |                   |
|              | 26.10  | 16.47  | 8 0 - 8 4                                       | 28.31  | 17.75  |                   |
|              | 26.84  | 16.90  | 8 4 - 8 8                                       | 29.11  | 18.23  |                   |
|              | 27.58  | 17.33  | 8 8 - 8 12                                      | 29.91  | 18.71  |                   |
|              | 28.32  | 17.76  | 8 12 - 9 0                                      | 30.71  | 19.19  |                   |
|              | 29.06  | 18.19  | 9 0 - 9 4                                       | 31.51  | 19.67  |                   |
|              | 29.80  | 18.62  | 9 4 - 9 8                                       | 32.31  | 20.15  |                   |
|              | 30.54  | 19.05  | 9 8 - 9 12                                      | 33.11  | 20.63  |                   |
|              | 31.28  | 19.48  | 9 12 - 10 0                                     | 33.91  | 21.11  |                   |
|              | \$29.60  | \$17.20  | Notes over 10 lbs.<br>to be incremental<br>rate | \$32.00  | \$19.20  |                   |

For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the appropriate weight step rate in the table for the remaining pounds and/or ounces. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), then charge the rate from the table for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter.

**TABLE 3-15 (p.31)**

| 44 LBS.  | 44 LBS. | 22 LBS.        | 22 LBS. |
|--|---------|----------------|---------|
|  |         | Maximum weight | limit   |
| For rates over 10 pounds, charge the 10 pound increment rate above for each even 10 pounds, plus the weight of the parcel in excess of 10 pounds. If there is no remainder (that is, the weight of the parcel is exactly a multiple of 10 pounds), charge the rate for the first 10 pounds and add the 10 pound increment rate for each even 10 pounds thereafter. |         |                |         |

TABLE 3-15 (p.31)

\*

**FEES AND INDEMNITY LIMITS FOR INSURANCE**

| INDEMNITY (\$) |       | FEES' |      |      |      |      |      |      |      |      |      |      |      |      |
|----------------|-------|-------|------|------|------|------|------|------|------|------|------|------|------|------|
| Over           | Up To | A     | B    | C    | D    | E    | F    | G    | H    | I    | J    | K    | L    | M    |
| 0              | 15    | .90   | .90  | .90  | .90  | .90  | .50  | .90  | .90  | .90  | .90  | .90  | .90  | .90  |
| 15             | 20    | 1.20  | 1.20 | 1.20 | 1.20 | 1.20 | .85  | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 |
| 20             | 50    |       |      |      |      |      |      |      |      |      |      |      |      |      |
| 50             | 70    |       |      |      |      |      |      |      |      |      |      |      |      |      |
| 70             | 80    | 1.50  | 1.50 | 1.50 | 1.50 | 1.50 | 1.10 | 1.50 | 1.50 | 1.50 | 1.50 | 1.50 | 1.50 | 1.50 |
| 80             | 100   |       |      |      |      |      |      |      |      |      |      |      |      |      |
| 100            | 120   |       |      |      |      |      |      |      | 2.10 |      |      |      |      |      |
| 120            | 145   | 2.10  | 2.10 | 2.10 | 2.10 | 2.10 | 1.40 | 2.10 |      |      |      |      |      |      |
| 145            | 150   |       |      |      |      |      |      |      |      |      |      |      |      |      |
| 150            | 200   |       |      |      |      |      | 1.75 |      |      |      |      |      |      |      |
| 200            | 225   |       |      | 2.70 |      |      |      |      |      |      |      |      |      |      |
| 225            | 300   | 2.70  | 2.70 | 2.70 |      |      | 2.25 |      |      |      |      |      |      |      |
| 300            | 395   |       |      | 3.30 |      |      |      |      |      |      |      |      |      |      |
| 395            | 400   | 3.30  | 3.30 |      |      |      | 2.75 |      |      |      |      |      |      |      |
| 400            | 500   |       |      |      |      |      |      |      |      |      |      |      |      |      |
| 500            | 600   | 3.60  | 3.60 |      |      |      |      |      |      |      |      |      |      |      |
| 600            | 700   | 3.90  | 3.90 |      |      |      |      |      |      |      |      |      |      |      |
| 700            | 800   | 4.20  | 4.20 |      |      |      |      |      |      |      |      |      |      |      |
| 800            | 900   | 4.50  | 4.50 |      |      |      |      |      |      |      |      |      |      |      |
| 900            | 1,000 | 4.80  | 4.80 |      |      |      |      |      |      |      |      |      |      |      |
| 1,000          | 1,200 | 5.10  | 5.10 |      |      |      |      |      |      |      |      |      |      |      |

Maximum Indemnity Limits

|   |         |
|---|---------|
| A | \$1,200 |
| B | 1,000   |
| C | 395     |
| D | 225     |
| E | 200     |
| F | 400     |
| G | 145     |
| H | 120     |
| I | 100     |
| J | 80      |
| K | 70      |

|                   |      |
|-------------------|------|
| 1,100 . . . 1,200 | 5.70 |
|-------------------|------|

Table 6-2

|                   |     |   |    |
|-------------------|-----|---|----|
| 1,000 . . . 1,100 | 540 | K | 70 |
| 1,100 . . . 1,200 | 570 | L | 50 |
|                   |     | M | 20 |

\*



Table 6-4, 6-5, 6-6

FEE FOR RETURN RECEIPTS

Return receipt requested at time of mailing . . . . . 45 cents  
(In addition to regular postage, fees for registry or insurance, and any other applicable fees)

Table 6-4

FEE FOR RESTRICTED DELIVERY

Single fee . . . . . 80 cents  
(In addition to regular postage, fees for registry and return receipt, and any other applicable fees)

Table 6-5

FEE FOR SPECIAL DELIVERY

| POSTAL UNION ARTICLES   | FEES <sup>1</sup>      |  |
|---|------------------------|--|
|   | Not more than 2 pounds | More than 2 pounds but not more than 10 pounds |
| Letters, letter packages, post cards (surface or airmail)     |                        |  |
| Printed matter, matter for the blind, small packets (airmail) | 2.00                   | 2.25   |
| Printed matter, matter for the blind, small packets (surface) | 2.25                   | 3.25   |

<sup>1</sup> In addition to regular postage and any other applicable fees.

Table 6-6

Table 6-3

FEES AND INDEMNITY LIMITS FOR REGISTRY SERVICE

| INDEMNITY (\$)          | FEES <sup>1</sup> |   |
|-------------------------|-------------------|---|
|                         | A                 | B   |
| Over . . . . . Through  | Canada            | All Other Countries (Except Canada, Kampuchea (Dem.), & N. Korea) |
| NONE                    |                   |   |
| 0 . . . . . 15.76       |                   | NO SERVICE  |
| 15.76 . . . . . 20.00   |                   | 3.00  |
| 20.00 . . . . . 50.00   | 3.00              | INDEMNITY LIMITS  |
| 50.00 . . . . . 100.00  |                   | A   |
| 100.00 . . . . . 200.00 | 3.30              | B   |
|                         |                   | \$200.00<br>15.76   |

| INDEMNITY (\$)          | FEES <sup>1</sup> |  |   |                     |                             |
|-------------------------|-------------------|--|---|---------------------|-----------------------------|
|                         | C                 | D  | E   |                     |                             |
| Over . . . . . Through  | Ecuador           | Angola, Cape Verde, Guinea-Bissau, St. Thomas & Principe | Belize, Bermuda, Jamaica, Turks Island, Zaire | All Other Countries |                             |
| NONE                    |                   |  |   |                     | NO SERVICE                  |
| 0 . . . . . 15.76       |                   |  |   | 3.00                |                             |
| 15.76 . . . . . 20.00   |                   |  |   |                     |                             |
| 20.00 . . . . . 50.00   | 3.00              | 3.00   |   |                     |                             |
| 50.00 . . . . . 100.00  |                   |  |   |                     | INDEMNITY LIMITS            |
| 100.00 . . . . . 200.00 |                   |  |   |                     | C                           |
|                         |                   |  |   |                     | D                           |
|                         |                   |  |   |                     | E                           |
|                         |                   |  |   |                     | 50.00<br>20.00<br>None Paid |

<sup>1</sup> In addition to regular postage and any other applicable fees.

Table 6-3

Appendix A

Table 6-7, 6-8

FEES FOR SPECIAL HANDLING

| SURFACE ARTICLES OR PARCELS  | FEES <sup>1</sup>       |                     |
|--|-------------------------|---------------------|
|  | Not more than 10 pounds | More than 10 pounds |
| Printed matter, matter for the blind, small packets (surface only) |                         |                     |
| Parcels (surface only)   | .70                     | 1.25                |

<sup>1</sup> In addition to regular surface postage and any other applicable fees.

Table 6-7

FEES FOR CERTIFICATE OF MAILING

| CERTIFICATES   | FEES <sup>1</sup>                         |             |
|--|---|-------------|
|  | POSTAL UNION                              | PARCEL POST |
| Individually Listed Pieces:  |   |             |
| Original certificate for ordinary mail   | .15 for each piece described <sup>2</sup> |             |
| Copy of original certificate of mailing  |   |             |
| Copy of original mailing receipt for registered or insured mail                  | .15 for each piece described              |             |
| Identical pieces paid with ordinary stamps, precanceled stamps, or meter stamps: |   |             |
| Up to 1,000 pieces (1 certificate for total number)                              | .75 per certificate <sup>2</sup>          | NOT         |
| For each additional 1,000 pieces, or fraction                                    | .15 per certificate <sup>2</sup>          | APPLICABLE  |
| Duplicate copy   | .15 per copy                              |             |

<sup>1</sup> For further information on fees for U. S. Department of Treasury or Agriculture forms, see 822.43, and \$50 or \$60, respectively.

<sup>2</sup> In addition to regular postage and any other applicable fees.

Table 6-8

RULES AND REGULATIONS

Table 6-9

FEES OR CHARGES FOR RECALL OR CHANGE OF ADDRESS

| SERVICE REQUESTED  | FEE OR CHARGE  | PAYMENT             |
|--|--|---------------------|
| A. At Immediate Office of Mailing:   |  |                     |
| 1. Search  | No charge  | —                   |
| 2. Return or address change  | No charge  | —                   |
| B. At Main Post Office or other Connection Point:  |  |                     |
| 1. Search  | \$1.00   | Prepay              |
| 2. Return of letters or post cards or address change   | No charge  | —                   |
| 3. Return of any other article or parcel   | Domestic postage (post office to sender)                 | Postage due         |
| C. At U. S. Dispatching Exchange Office:   |  |                     |
| 1. Normal search   | \$1.00   | Prepay <sup>1</sup> |
| 2. Further search of made-up sacks   | Cost of opening, search, & closing sacks                 | Written Guarantee   |
| 3. Transmission of search request by telegraph   | Cost of telegram   | Prepay              |
| 4. Return of letters or post cards or address change   | No charge  | —                   |
| 5. Return of any other article or parcel   | Domestic postage (to exchange office & return to sender) | Postage due         |
| D. In Country of Destination:  |  |                     |
| 1. Search  | \$1.00 <sup>2</sup>                                      | Prepay <sup>1</sup> |
| 2. Transmission of search request (mandatory) by either:   |  |                     |
| - Telegraph or cable   | Cost of telegram or cable                                | Prepay              |
| - Registered surface mail  | \$3.00 <sup>2</sup>                                      | Prepay              |
| - Registered airmail   | \$3.00 <sup>2</sup> & air postage                        | Prepay              |
| 3. Return of postal union article or address change  | No charge  | —                   |
| 4. Return of parcel post package   | International postage                                    | Postage due         |
| 5. Forwarding parcel post package to another country (as a result of request for address change) | Forwarding charges (if not paid by addressee)            | Written Guarantee   |
| 6. Transmission of report of action taken (optional) by:   |  |                     |
| - Airmail  | Airmail postage  | Prepay              |
| - Telegraph or cable   | Cost of telegram or cable                                | Prepay <sup>3</sup> |

<sup>1</sup> Unless already paid for search at another location.  
<sup>2</sup> No charge if request being made as result of official notice to sender in reply to an inquiry, or in the form of advice of nondelivery by the postal service of destination, showing nondeliverability as addressed.  
<sup>3</sup> Any amount remaining after transmitting a telegram or cable gram will be returned to the sender.

Table 6-9



Table 7-1

| Amount of Money Order | Fee    |
|-----------------------|--------|
| \$ 0.01 to \$10       | \$0.55 |
| \$10.01 to \$50       | \$0.80 |
| \$50.01 to \$300      | \$1.10 |

<sup>1</sup> Domestic money orders are issued for payment only to payees in the countries listed in 493.22.

### Table 7-1

### Table 7-2

| Amount of Money Order         | Fee    |
|-------------------------------|--------|
| \$ .01 to \$10                | \$0.90 |
| \$10.01 to \$50               | \$1.10 |
| \$50.01 to \$300 <sup>a</sup> | \$1.40 |

<sup>1</sup> International money orders are paid in the countries listed in 493.23 and 493.24.  
<sup>2</sup> Exceptions are that money orders may not exceed 50 pounds (approximately \$90) when payable in Great Britain, \$250 when payable in Syria, and \$100 when payable in Morocco.

### Table 7-2

Table 8-1

**International Express Mail Service  
Standards (from International  
Exchange Office)**

| Country of Destination  | Custom Designed                                | On Demand                                       |
|---|--|---|
| Australia –<br>Sydney, Melbourne,<br>& Brisbane<br>All other points         | Next day <sup>1</sup><br>Second day            | Second day<br>Third day                         |
| Belgium   | Next day                                       | Not available                                   |
| Brazil –<br>Rio de Janeiro<br>Sao Paulo<br>All other points                 | Next day<br>Next day<br>Second day             | Not available<br>Not available<br>Not available |
| France –<br>Paris<br>All other points                                       | Next day<br>Second day                         | Not available<br>Not available                  |
| Great Britain &<br>Northern Ireland –<br>Central London<br>All other points | Next day<br>Second day                         | Second day<br>Third day                         |
| Hong Kong   | Next day <sup>1</sup>                          | Next day <sup>1</sup>                           |
| Japan <sup>1</sup> –<br>Tokyo<br>Osaka                                      | Next day <sup>1</sup><br>Next day <sup>1</sup> | Not available<br>Not available                  |
| Netherlands   | Next day                                       | Second day <sup>1</sup>                         |

<sup>1</sup> Due to crossing the International Dateline, next day means 24 hours lapsed time, not next calendar day.

<sup>2</sup> Delivery available to limited number of cities.

**Note:** International Express Mail is not subject to a service guarantee.

### Table 8-1

**AUSTRALIA**  
INTERNATIONAL EXPRESS MAIL  
CUSTOM DESIGNED SERVICE

| ZONE TO INTERNATIONAL EXCHANGE OFFICE |        |        |        |        |        |        |        |        |  |
|---------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--|
| POUNDS                                | 3      | 4      | 5      | 6      | 7      | 8      |        |        |  |
| total<br>(including)                  |        |        |        |        |        |        |        |        |  |
| 1                                     | 529.15 | 529.16 | 529.32 | 529.80 | 530.30 | 529.35 | 529.48 |        |  |
| 2                                     | 33.82  | 33.54  | 33.66  | 33.74  | 33.82  | 33.92  | 33.92  |        |  |
| 3                                     | 38.89  | 38.96  | 39.10  | 39.22  | 39.34  | 39.49  | 39.64  |        |  |
| 4                                     | 38.24  | 38.34  | 38.50  | 38.70  | 38.90  | 39.08  | 40.08  | 40.26  |  |
| 5                                     | 42.63  | 42.76  | 42.90  | 43.18  | 43.38  | 43.68  | 43.98  | 43.98  |  |
| 6                                     | 48.07  | 48.12  | 48.26  | 48.46  | 48.66  | 48.90  | 49.10  | 49.10  |  |
| 7                                     | 46.37  | 46.56  | 46.84  | 47.14  | 47.42  | 47.70  | 48.02  | 48.02  |  |
| 8                                     | 52.74  | 52.86  | 53.00  | 53.22  | 53.44  | 54.04  | 54.74  | 54.74  |  |
| 9                                     | 56.11  | 56.24  | 56.74  | 57.10  | 57.46  | 57.81  | 58.36  | 58.36  |  |
| 10                                    | 59.44  | 59.78  | 60.18  | 60.58  | 60.96  | 61.46  | 61.96  | 61.96  |  |
| 11                                    | 62.83  | 63.19  | 63.62  | 64.08  | 64.50  | 65.06  | 65.60  | 65.60  |  |
| 12                                    | 66.37  | 66.56  | 67.00  | 67.54  | 68.02  | 68.62  | 69.22  | 69.22  |  |
| 13                                    | 69.56  | 69.96  | 70.50  | 71.02  | 71.54  | 72.18  | 72.84  | 72.84  |  |
| 14                                    | 72.86  | 73.24  | 73.84  | 74.50  | 75.06  | 75.78  | 76.46  | 76.46  |  |
| 15                                    | 76.22  | 76.78  | 77.46  | 78.26  | 79.16  | 80.16  | 81.26  | 81.26  |  |
| 16                                    | 79.70  | 80.10  | 80.68  | 81.48  | 82.10  | 82.90  | 83.70  | 83.70  |  |
| 17                                    | 82.47  | 83.58  | 84.84  | 86.34  | 88.02  | 89.82  | 91.72  | 91.72  |  |
| 18                                    | 86.41  | 86.96  | 87.70  | 88.42  | 89.14  | 90.04  | 90.94  | 90.94  |  |
| 19                                    | 89.61  | 90.26  | 91.14  | 91.90  | 92.86  | 93.81  | 94.86  | 94.86  |  |
| 20                                    | 93.15  | 93.76  | 94.58  | 95.36  | 96.16  | 97.16  | 98.16  | 98.16  |  |
| 21                                    | 96.35  | 97.16  | 98.02  | 98.86  | 99.70  | 100.70 | 101.80 | 101.80 |  |
| 22                                    | 100.92 | 100.96 | 101.74 | 102.54 | 103.32 | 104.32 | 105.42 | 105.42 |  |
| 23                                    | 105.66 | 106.26 | 106.94 | 107.64 | 108.32 | 109.14 | 109.94 | 109.94 |  |
| 24                                    | 109.66 | 110.26 | 110.94 | 111.64 | 112.32 | 113.06 | 113.86 | 113.86 |  |
| 25                                    | 114.02 | 114.78 | 115.78 | 116.66 | 117.20 | 118.02 | 118.90 | 118.90 |  |
| 26                                    | 118.77 | 119.58 | 120.54 | 121.14 | 122.02 | 123.02 | 124.02 | 124.02 |  |
| 27                                    | 123.14 | 123.96 | 125.10 | 125.22 | 126.34 | 126.74 | 127.14 | 127.14 |  |
| 28                                    | 127.51 | 128.36 | 129.54 | 129.70 | 130.86 | 131.06 | 132.14 | 132.14 |  |
| 29                                    | 131.96 | 132.78 | 134.02 | 134.26 | 135.46 | 135.86 | 136.96 | 136.96 |  |
| 30                                    | 136.80 | 137.18 | 138.42 | 138.66 | 139.84 | 140.24 | 141.42 | 141.42 |  |
| 31                                    | 141.26 | 142.06 | 143.42 | 143.66 | 144.82 | 145.22 | 146.42 | 146.42 |  |
| 32                                    | 146.26 | 147.06 | 148.42 | 148.66 | 149.82 | 150.22 | 151.42 | 151.42 |  |
| 33                                    | 151.26 | 152.06 | 153.42 | 153.66 | 154.82 | 155.22 | 156.42 | 156.42 |  |
| 34                                    | 156.26 | 157.06 | 158.42 | 158.66 | 159.82 | 160.22 | 161.42 | 161.42 |  |
| 35                                    | 161.26 | 162.06 | 163.42 | 163.66 | 164.82 | 165.22 | 166.42 | 166.42 |  |
| 36                                    | 166.26 | 167.06 | 168.42 | 168.66 | 169.82 | 170.22 | 171.42 | 171.42 |  |
| 37                                    | 171.26 | 172.06 | 173.42 | 173.66 | 174.82 | 175.22 | 176.42 | 176.42 |  |
| 38                                    | 176.26 | 177.06 | 178.42 | 178.66 | 179.82 | 180.22 | 181.42 | 181.42 |  |
| 39                                    | 181.26 | 182.06 | 183.42 | 183.66 | 184.82 | 185.22 | 186.42 | 186.42 |  |
| 40                                    | 186.26 | 187.06 | 188.42 | 188.66 | 189.82 | 190.22 | 191.42 | 191.42 |  |
| 41                                    | 191.26 | 192.06 | 193.42 | 193.66 | 194.82 | 195.22 | 196.42 | 196.42 |  |
| 42                                    | 196.26 | 197.06 | 198.42 | 198.66 | 199.82 | 200.22 | 201.42 | 201.42 |  |
| 43                                    | 201.26 | 202.06 | 203.42 | 203.66 | 204.82 | 205.22 | 206.42 | 206.42 |  |
| 44                                    | 206.26 | 207.06 | 208.42 | 208.66 | 209.82 | 210.22 | 211.42 | 211.42 |  |
| 45                                    | 211.26 | 212.06 | 213.42 | 213.66 | 214.82 | 215.22 | 216.42 | 216.42 |  |
| 46                                    | 216.26 | 217.06 | 218.42 | 218.66 | 219.82 | 220.22 | 221.42 | 221.42 |  |
| 47                                    | 221.26 | 222.06 | 223.42 | 223.66 | 224.82 | 225.22 | 226.42 | 226.42 |  |
| 48                                    | 226.26 | 227.06 | 228.42 | 228.66 | 229.82 | 230.22 | 231.42 | 231.42 |  |
| 49                                    | 231.26 | 232.06 | 233.42 | 233.66 | 234.82 | 235.22 | 236.42 | 236.42 |  |
| 50                                    | 236.26 | 237.06 | 238.42 | 238.66 | 239.82 | 240.22 | 241.42 | 241.42 |  |
| 51                                    | 241.26 | 242.06 | 243.42 | 243.66 | 244.82 | 245.22 | 246.42 | 246.42 |  |
| 52                                    | 246.26 | 247.06 | 248.42 | 248.66 | 249.82 | 250.22 | 251.42 | 251.42 |  |
| 53                                    | 251.26 | 252.06 | 253.42 | 253.66 | 254.82 | 255.22 | 256.42 | 256.42 |  |
| 54                                    | 256.26 | 257.06 | 258.42 | 258.66 | 259.82 | 260.22 | 261.42 | 261.42 |  |
| 55                                    | 261.26 | 262.06 | 263.42 | 263.66 | 264.82 | 265.22 | 266.42 | 266.42 |  |
| 56                                    | 266.26 | 267.06 | 268.42 | 268.66 | 269.82 | 270.22 | 271.42 | 271.42 |  |
| 57                                    | 271.26 | 272.06 | 273.42 | 273.66 | 274.82 | 275.22 | 276.42 | 276.42 |  |
| 58                                    | 276.26 | 277.06 | 278.42 | 278.66 | 279.82 | 280.22 | 281.42 | 281.42 |  |
| 59                                    | 281.26 | 282.06 | 283.42 | 283.66 | 284.82 | 285.22 | 286.42 | 286.42 |  |
| 60                                    | 286.26 | 287.06 | 288.42 | 288.66 | 289.82 | 290.22 | 291.42 | 291.42 |  |
| 61                                    | 291.26 | 292.06 | 293.42 | 293.66 | 294.82 | 295.22 | 296.42 | 296.42 |  |
| 62                                    | 296.26 | 297.06 | 298.42 | 298.66 | 299.82 | 300.22 | 301.42 | 301.42 |  |
| 63                                    | 301.26 | 302.06 | 303.42 | 303.66 | 304.82 | 305.22 | 306.42 | 306.42 |  |
| 64                                    | 306.26 | 307.06 | 308.42 | 308.66 | 309.82 | 310.22 | 311.42 | 311.42 |  |
| 65                                    | 311.26 | 312.06 | 313.42 | 313.66 | 314.82 | 315.22 | 316.42 | 316.42 |  |
| 66                                    | 316.26 | 317.06 | 318.42 | 318.66 | 319.82 | 320.22 | 321.42 | 321.42 |  |
| 67                                    | 321.26 | 322.06 | 323.42 | 323.66 | 324.82 | 325.22 | 326.42 | 326.42 |  |
| 68                                    | 326.26 | 327.06 | 328.42 | 328.66 | 329.82 | 330.22 | 331.42 | 331.42 |  |
| 69                                    | 331.26 | 332.06 | 333.42 | 333.66 | 334.82 | 335.22 | 336.42 | 336.42 |  |
| 70                                    | 336.26 | 337.06 | 338.42 | 338.66 | 339.82 | 340.22 | 341.42 | 341.42 |  |
| 71                                    | 341.26 | 342.06 | 343.42 | 343.66 | 344.82 | 345.22 | 346.42 | 346.42 |  |
| 72                                    | 346.26 | 347.06 | 348.42 | 348.66 | 349.82 | 350.22 | 351.42 | 351.42 |  |
| 73                                    | 351.26 | 352.06 | 353.42 | 353.66 | 354.82 | 355.22 | 356.42 | 356.42 |  |
| 74                                    | 356.26 | 357.06 | 358.42 | 358.66 | 359.82 | 360.22 | 361.42 | 361.42 |  |
| 75                                    | 361.26 | 362.06 | 363.42 | 363.66 | 364.82 | 365.22 | 366.42 | 366.42 |  |
| 76                                    | 366.26 | 367.06 | 368.42 | 368.66 | 369.82 | 370.22 | 371.42 | 371.42 |  |
| 77                                    | 371.26 | 372.06 | 373.42 | 373.66 | 374.82 | 375.22 | 376.42 | 376.42 |  |
| 78                                    | 376.26 | 377.06 | 378.42 | 378.66 | 379.82 | 380.22 | 381.42 | 381.42 |  |
| 79                                    | 381.26 | 382.06 | 383.42 | 383.66 | 384.82 | 385.22 | 386.42 | 386.42 |  |
| 80                                    | 386.26 | 387.06 | 388.42 | 388.66 | 389.82 | 390.22 | 391.42 | 391.42 |  |
| 81                                    | 391.26 | 392.06 | 393.42 | 393.66 | 394.82 | 395.22 | 396.42 | 396.42 |  |
| 82                                    | 396.26 | 397.06 | 398.42 | 398.66 | 399.82 | 400.22 | 401.42 | 401.42 |  |
| 83                                    | 401.26 | 402.06 | 403.42 | 403.66 | 404.82 | 405.22 | 406.42 | 406.42 |  |
| 84                                    | 406.26 | 407.06 | 408.42 | 408.66 | 409.82 | 410.22 | 411.42 | 411.42 |  |
| 85                                    | 411.26 | 412.06 | 413.42 | 413.66 | 414.82 | 415.22 | 416.42 | 416.42 |  |
| 86                                    | 416.26 | 417.06 | 418.42 | 418.66 | 419.82 | 420.22 | 421.42 | 421.42 |  |
| 87                                    | 421.26 | 422.06 | 423.42 | 423.66 | 424.82 | 425.22 | 426.42 | 426.42 |  |
| 88                                    | 426.26 | 427.06 | 428.42 | 428.66 | 429.82 | 430.22 | 431.42 | 431.42 |  |
| 89                                    | 431.26 | 432.06 | 433.42 | 433.66 | 434.82 | 435.22 | 436.42 | 436.42 |  |
| 90                                    | 436.26 | 437.06 | 438.42 | 438.66 | 439.82 | 440.22 | 441.42 | 441.42 |  |
| 91                                    | 441.26 | 442.06 | 443.42 | 443.66 | 444.82 | 445.22 | 446.42 | 446.42 |  |
| 92                                    | 446.26 | 447.06 | 448.42 | 448.66 | 449.82 | 450.22 | 451.42 | 451.42 |  |
| 93                                    | 451.26 | 452.06 | 453.42 | 453.66 | 454.82 | 455.22 | 456.42 | 456.42 |  |
| 94                                    | 456.26 | 457.06 | 458.42 | 458.66 | 459.82 | 460.22 | 461.42 | 461.42 |  |
| 95                                    | 461.26 | 462.06 | 463.42 | 463.66 | 464.82 | 465.22 | 466.42 | 466.42 |  |
| 96                                    | 466.26 | 467.06 | 468.42 | 468.66 | 469.82 | 470.22 | 471.42 | 471.42 |  |
| 97                                    | 471.26 | 472.06 | 473.42 | 473.66 | 474.82 | 475.22 | 476.42 | 476.42 |  |
| 98                                    | 476.26 | 477.06 | 478.42 | 478.66 | 479.82 | 480.22 | 481.42 | 481.42 |  |
| 99                                    | 481.26 | 482.06 | 483.42 | 483.66 | 484.82 | 485.22 | 486.42 | 486.42 |  |
| 100                                   | 486.26 | 487.06 | 488.42 | 488.66 | 489.82 | 490.22 | 491.42 | 491.42 |  |
| 101                                   | 491.26 | 492.06 | 493.42 | 493.66 | 494.82 | 495.22 | 496.42 | 496.42 |  |
| 102                                   | 496.26 | 497.06 | 498.42 | 498.66 | 499.82 | 500.22 | 501.42 | 501.42 |  |
| 103                                   | 501.26 | 502.06 | 503.42 | 503.66 | 504.82 | 505.22 | 506.42 | 506.42 |  |
| 104                                   | 506.26 | 507.06 | 508.42 | 508.66 | 509.82 | 510.22 | 511.42 | 511.42 |  |
| 105                                   | 511.26 | 512.06 | 513.42 | 513.66 | 514.82 | 515.22 | 516.42 | 516.42 |  |
| 106                                   | 516.26 | 517.06 | 518.42 | 518.66 | 519.82 | 520.22 | 521.42 | 521.42 |  |
| 107                                   | 521.26 | 522.06 | 523.42 | 523.66 | 524.82 | 525.22 | 526.42 | 526.42 |  |
| 108                                   | 526.26 | 527.06 | 528.42 | 528.66 | 529.82 | 530.22 | 531.42 | 531.42 |  |
| 109                                   | 531.26 | 532.06 | 533.42 | 533.66 | 534.82 | 535.22 | 536.42 | 536.42 |  |
| 110                                   | 536.26 | 537.06 | 538.42 | 538.66 | 539.82 | 540.22 | 541.42 | 541.42 |  |
| 111                                   | 541.26 | 542.06 | 543.42 | 543.66 | 544.82 | 545.22 | 546.42 | 546.42 |  |
| 112                                   | 546.26 | 547.06 | 548.42 | 548.66 | 549.82 | 550.22 | 551.42 | 551.42 |  |
| 113                                   | 551.26 | 552.06 | 553.42 | 553.66 | 554.82 | 555.22 | 556.42 | 556.42 |  |
| 114                                   | 556.26 | 557.06 | 558.42 | 558.66 | 559.82 | 560.22 | 561.42 | 561.42 |  |
| 115                                   | 561.26 | 562.06 | 563.42 | 563.66 | 564.82 | 565.22 | 566.42 | 566.42 |  |
| 116                                   | 566.26 | 567.06 | 568.42 | 568.66 | 569.82 | 570.22 | 571.42 | 571.42 |  |
| 117                                   | 571.26 | 572.06 | 573.42 | 573.66 | 574.82 | 575.22 | 576.42 | 576.42 |  |
| 118                                   | 576.26 | 577.06 | 578.42 | 578.66 | 579.82 | 580.22 | 581.42 | 581.42 |  |
| 119                                   | 581.26 | 582.06 | 583.42 | 583.66 | 584.82 | 585.22 | 586.42 | 586.42 |  |
| 120                                   | 586.26 | 587.06 | 588.42 | 588.66 | 589.82 | 590.22 | 591.42 | 591.42 |  |
| 121                                   | 591.26 | 592.06 | 593.42 | 593.66 |        |        |        |        |  |

**NOTES:** 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement pending for tender by the customer at a Designated Post Office.  
2) Pick-up is available under a Service Agreement for an added charge of \$5.00 for each pick-up, also, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incur only one pick-up charge.  
3) Rates are based on origin, current mail facility, deduct \$3.00 from these rates.

### Table 8-2

**BELGIUM, FRANCE, NETHERLANDS,  
& UNITED KINGDOM**  
INTERNATIONAL EXPRESS MAIL  
CUSTOM DESIGNED SERVICE

| ZONE TO INTERNATIONAL EXCHANGE OFFICE |        |        |        |        |        |        |        |        |        |
|---------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| POUNDS                                | 1      | 2      | 3      | 4      | 5      | 6      | 7      | 8      | 9      |
| (including)                           |        |        |        |        |        |        |        |        |        |
| 1                                     | £17.63 | £27.68 | £37.92 | £27.96 | £20.00 | £20.00 | £20.00 | £20.00 | £20.00 |
| 2                                     | 39.92  | 29.04  | 30.08  | 30.14  | 20.22  | 30.32  | 30.32  | 30.42  |        |
| 3                                     | 21.99  | 32.08  | 32.08  | 32.32  | 32.34  | 33.34  | 33.34  | 33.74  |        |
| 4                                     | 34.08  | 34.10  | 34.24  | 34.54  | 34.54  | 34.86  | 34.86  | 35.06  |        |
| 5                                     | 36.13  | 36.26  | 36.42  | 36.58  | 36.66  | 36.96  | 37.13  | 37.36  |        |
| 6                                     | 38.20  | 38.36  | 38.62  | 38.86  | 39.10  | 39.46  | 39.70  | 39.70  |        |
| 7                                     | 40.27  | 40.42  | 40.79  | 41.04  | 41.32  | 41.74  | 42.34  | 42.34  |        |
| 8                                     | 42.54  | 42.54  | 42.92  | 43.22  | 43.54  | 43.94  | 44.34  | 44.34  |        |
| 9                                     | 44.41  | 44.66  | 45.04  | 45.49  | 45.78  | 46.21  | 46.41  | 46.46  |        |
| 10                                    | 46.41  | 46.78  | 47.16  | 47.56  | 47.94  | 48.31  | 48.71  | 48.71  |        |
| 11                                    | 48.53  | 48.86  | 49.33  | 49.78  | 50.20  | 50.75  | 51.32  | 51.32  |        |
| 12                                    | 50.93  | 50.96  | 51.41  | 51.84  | 52.42  | 53.02  | 53.62  | 53.62  |        |
| 13                                    | 52.95  | 53.09  | 53.60  | 54.13  | 54.64  | 55.19  | 55.84  | 55.84  |        |
| 14                                    | 54.76  | 55.16  | 55.74  | 56.30  | 56.86  | 57.46  | 58.29  | 58.29  |        |
| 15                                    | 56.93  | 57.29  | 57.66  | 58.46  | 59.00  | 59.63  | 59.63  | 59.54  |        |
| 16                                    | 58.50  | 58.56  | 59.02  | 59.66  | 61.30  | 61.30  | 61.30  | 61.30  |        |
| 17                                    | 60.97  | 61.46  | 62.18  | 62.84  | 64.37  | 64.37  | 64.37  | 64.37  |        |
| 18                                    | 63.54  | 63.54  | 64.50  | 65.07  | 66.04  | 66.04  | 66.04  | 66.04  |        |
| 19                                    | 66.11  | 66.54  | 67.41  | 67.90  | 68.91  | 68.91  | 68.91  | 68.91  |        |
| 20                                    | 68.71  | 68.76  | 69.58  | 69.58  | 70.19  | 71.18  | 72.18  | 72.18  |        |
| 21                                    | 69.25  | 69.68  | 70.53  | 71.56  | 72.45  | 73.45  | 74.90  | 74.90  |        |
| 22                                    | 71.92  | 71.96  | 72.66  | 73.74  | 74.62  | 75.78  | 76.82  | 76.82  |        |
| 23                                    | 75.99  | 75.99  | 76.82  | 76.82  | 77.96  | 77.96  | 79.14  | 79.14  |        |
| 24                                    | 78.19  | 78.19  | 79.10  | 79.10  | 79.00  | 80.90  | 81.46  | 81.46  |        |
| 25                                    | 77.53  | 78.36  | 79.26  | 80.25  | 81.00  | 82.52  | 83.78  | 83.78  |        |
| 26                                    | 79.60  | 80.20  | 81.42  | 82.46  | 83.50  | 84.60  | 86.10  | 86.10  |        |
| 27                                    | 81.97  | 82.46  | 83.54  | 84.84  | 86.72  | 87.97  | 88.42  | 88.42  |        |
| 28                                    | 83.74  | 84.50  | 85.79  | 86.82  | 87.94  | 89.34  | 90.74  | 90.74  |        |
| 29                                    | 86.81  | 86.86  | 87.64  | 88.08  | 90.10  | 91.81  | 93.36  | 93.36  |        |
| 30                                    | 87.66  | 88.76  | 89.66  | 91.16  | 92.36  | 93.66  | 94.96  | 94.96  |        |
| 31                                    | 90.99  | 90.99  | 92.12  | 93.36  | 94.80  | 96.16  | 97.70  | 97.70  |        |
| 32                                    | 92.92  | 93.96  | 95.54  | 96.84  | 98.42  | 100.00 | 101.66 | 101.66 |        |
| 33                                    | 94.95  | 95.00  | 96.42  | 97.73  | 99.04  | 100.90 | 102.34 | 102.34 |        |

**NOTES:**

- 1) Rates in this table are applicable to each price of International Custom Designed Express Mail shipped under a Service Agreement proceeding for tender by the customer by a Designated Post Office.
- 2) Pick-up is available under a Service Agreement for an added charge of \$3.95 for each pick-up 1000, regardless of the number of pieces included under the same International Express Mail period as together under the same Service Agreement incurs only one pick-up charge.

\* For domestic mail facilities, deduct \$3.00 from these rates.

### Table 8-3

### Table 8-3



Table 8-4

Appendix A

Appendix A

RULES AND REGULATIONS

# HONG KONG

## INTERNATIONAL EXPRESS MAIL

### CUSTOM DESIGNED SERVICE

#### ZONE TO INTERNATIONAL EXCHANGE OFFICE

| POUNDS (up to and including) | 3      | 4      | 5      | 6      | 7      | 8      | 9      |
|------------------------------|--------|--------|--------|--------|--------|--------|--------|
| 1                            | 528.85 | 529.88 | 530.92 | 531.95 | 532.98 | 534.01 | 535.04 |
| 2                            | 531.92 | 532.95 | 533.98 | 535.01 | 536.04 | 537.07 | 538.10 |
| 3                            | 534.99 | 536.02 | 537.05 | 538.08 | 539.11 | 540.14 | 541.17 |
| 4                            | 538.06 | 539.09 | 540.12 | 541.15 | 542.18 | 543.21 | 544.24 |
| 5                            | 541.13 | 542.16 | 543.19 | 544.22 | 545.25 | 546.28 | 547.31 |
| 6                            | 544.20 | 545.23 | 546.26 | 547.29 | 548.32 | 549.35 | 550.38 |
| 7                            | 547.27 | 548.30 | 549.33 | 550.36 | 551.39 | 552.42 | 553.45 |
| 8                            | 550.34 | 551.37 | 552.40 | 553.43 | 554.46 | 555.49 | 556.52 |
| 9                            | 553.41 | 554.44 | 555.47 | 556.50 | 557.53 | 558.56 | 559.59 |
| 10                           | 556.48 | 557.51 | 558.54 | 559.57 | 560.60 | 561.63 | 562.66 |
| 11                           | 559.55 | 560.58 | 561.61 | 562.64 | 563.67 | 564.70 | 565.73 |
| 12                           | 562.62 | 563.65 | 564.68 | 565.71 | 566.74 | 567.77 | 568.80 |
| 13                           | 565.69 | 566.72 | 567.75 | 568.78 | 569.81 | 570.84 | 571.87 |
| 14                           | 568.76 | 569.79 | 570.82 | 571.85 | 572.88 | 573.91 | 574.94 |
| 15                           | 571.83 | 572.86 | 573.89 | 574.92 | 575.95 | 576.98 | 578.01 |
| 16                           | 574.90 | 575.93 | 576.96 | 577.99 | 579.02 | 580.05 | 581.08 |
| 17                           | 577.97 | 579.00 | 580.03 | 581.06 | 582.09 | 583.12 | 584.15 |
| 18                           | 581.04 | 582.07 | 583.10 | 584.13 | 585.16 | 586.19 | 587.22 |
| 19                           | 584.11 | 585.14 | 586.17 | 587.20 | 588.23 | 589.26 | 590.29 |
| 20                           | 587.18 | 588.21 | 589.24 | 590.27 | 591.30 | 592.33 | 593.36 |
| 21                           | 590.25 | 591.28 | 592.31 | 593.34 | 594.37 | 595.40 | 596.43 |
| 22                           | 593.32 | 594.35 | 595.38 | 596.41 | 597.44 | 598.47 | 599.50 |
| 23                           | 596.39 | 597.42 | 598.45 | 599.48 | 600.51 | 601.54 | 602.57 |
| 24                           | 599.46 | 600.49 | 601.52 | 602.55 | 603.58 | 604.61 | 605.64 |
| 25                           | 602.53 | 603.56 | 604.59 | 605.62 | 606.65 | 607.68 | 608.71 |
| 26                           | 605.60 | 606.63 | 607.66 | 608.69 | 609.72 | 610.75 | 611.78 |
| 27                           | 608.67 | 609.70 | 610.73 | 611.76 | 612.79 | 613.82 | 614.85 |
| 28                           | 611.74 | 612.77 | 613.80 | 614.83 | 615.86 | 616.89 | 617.92 |
| 29                           | 614.81 | 615.84 | 616.87 | 617.90 | 618.93 | 619.96 | 620.99 |
| 30                           | 617.88 | 618.91 | 619.94 | 620.97 | 622.00 | 623.03 | 624.06 |
| 31                           | 620.95 | 621.98 | 623.01 | 624.04 | 625.07 | 626.10 | 627.13 |
| 32                           | 624.02 | 625.05 | 626.08 | 627.11 | 628.14 | 629.17 | 630.20 |
| 33                           | 627.09 | 628.12 | 629.15 | 630.18 | 631.21 | 632.24 | 633.27 |
| 34                           | 630.16 | 631.19 | 632.22 | 633.25 | 634.28 | 635.31 | 636.34 |
| 35                           | 633.23 | 634.26 | 635.29 | 636.32 | 637.35 | 638.38 | 639.41 |
| 36                           | 636.30 | 637.33 | 638.36 | 639.39 | 640.42 | 641.45 | 642.48 |
| 37                           | 639.37 | 640.40 | 641.43 | 642.46 | 643.49 | 644.52 | 645.55 |
| 38                           | 642.44 | 643.47 | 644.50 | 645.53 | 646.56 | 647.59 | 648.62 |
| 39                           | 645.51 | 646.54 | 647.57 | 648.60 | 649.63 | 650.66 | 651.69 |
| 40                           | 648.58 | 649.61 | 650.64 | 651.67 | 652.70 | 653.73 | 654.76 |
| 41                           | 651.65 | 652.68 | 653.71 | 654.74 | 655.77 | 656.80 | 657.83 |
| 42                           | 654.72 | 655.75 | 656.78 | 657.81 | 658.84 | 659.87 | 660.90 |
| 43                           | 657.79 | 658.82 | 659.85 | 660.88 | 661.91 | 662.94 | 663.97 |
| 44                           | 660.86 | 661.89 | 662.92 | 663.95 | 664.98 | 666.01 | 667.04 |
| 45                           | 663.93 | 664.96 | 665.99 | 667.02 | 668.05 | 669.08 | 670.11 |
| 46                           | 667.00 | 668.03 | 669.06 | 670.09 | 671.12 | 672.15 | 673.18 |
| 47                           | 670.07 | 671.10 | 672.13 | 673.16 | 674.19 | 675.22 | 676.25 |
| 48                           | 673.14 | 674.17 | 675.20 | 676.23 | 677.26 | 678.29 | 679.32 |
| 49                           | 676.21 | 677.24 | 678.27 | 679.30 | 680.33 | 681.36 | 682.39 |
| 50                           | 679.28 | 680.31 | 681.34 | 682.37 | 683.40 | 684.43 | 685.46 |
| 51                           | 682.35 | 683.38 | 684.41 | 685.44 | 686.47 | 687.50 | 688.53 |
| 52                           | 685.42 | 686.45 | 687.48 | 688.51 | 689.54 | 690.57 | 691.60 |
| 53                           | 688.49 | 689.52 | 690.55 | 691.58 | 692.61 | 693.64 | 694.67 |
| 54                           | 691.56 | 692.59 | 693.62 | 694.65 | 695.68 | 696.71 | 697.74 |
| 55                           | 694.63 | 695.66 | 696.69 | 697.72 | 698.75 | 699.78 | 700.81 |
| 56                           | 697.70 | 698.73 | 699.76 | 700.79 | 701.82 | 702.85 | 703.88 |
| 57                           | 700.77 | 701.80 | 702.83 | 703.86 | 704.89 | 705.92 | 706.95 |
| 58                           | 703.84 | 704.87 | 705.90 | 706.93 | 707.96 | 708.99 | 710.02 |
| 59                           | 706.91 | 707.94 | 708.97 | 710.00 | 711.03 | 712.06 | 713.09 |
| 60                           | 710.00 | 711.03 | 712.06 | 713.09 | 714.12 | 715.15 | 716.18 |
| 61                           | 713.07 | 714.10 | 715.13 | 716.16 | 717.19 | 718.22 | 719.25 |
| 62                           | 716.14 | 717.17 | 718.20 | 719.23 | 720.26 | 721.29 | 722.32 |
| 63                           | 719.21 | 720.24 | 721.27 | 722.30 | 723.33 | 724.36 | 725.39 |
| 64                           | 722.28 | 723.31 | 724.34 | 725.37 | 726.40 | 727.43 | 728.46 |
| 65                           | 725.35 | 726.38 | 727.41 | 728.44 | 729.47 | 730.50 | 731.53 |
| 66                           | 728.42 | 729.45 | 730.48 | 731.51 | 732.54 | 733.57 | 734.60 |
| 67                           | 731.49 | 732.52 | 733.55 | 734.58 | 735.61 | 736.64 | 737.67 |
| 68                           | 734.56 | 735.59 | 736.62 | 737.65 | 738.68 | 739.71 | 740.74 |
| 69                           | 737.63 | 738.66 | 739.69 | 740.72 | 741.75 | 742.78 | 743.81 |
| 70                           | 740.70 | 741.73 | 742.76 | 743.79 | 744.82 | 745.85 | 746.88 |
| 71                           | 743.77 | 744.80 | 745.83 | 746.86 | 747.89 | 748.92 | 749.95 |
| 72                           | 746.84 | 747.87 | 748.90 | 749.93 | 750.96 | 751.99 | 753.02 |
| 73                           | 749.91 | 750.94 | 751.97 | 753.00 | 754.03 | 755.06 | 756.09 |
| 74                           | 752.98 | 754.01 | 755.04 | 756.07 | 757.10 | 758.13 | 759.16 |
| 75                           | 756.05 | 757.08 | 758.11 | 759.14 | 760.17 | 761.20 | 762.23 |
| 76                           | 759.12 | 760.15 | 761.18 | 762.21 | 763.24 | 764.27 | 765.30 |
| 77                           | 762.19 | 763.22 | 764.25 | 765.28 | 766.31 | 767.34 | 768.37 |
| 78                           | 765.26 | 766.29 | 767.32 | 768.35 | 769.38 | 770.41 | 771.44 |
| 79                           | 768.33 | 769.36 | 770.39 | 771.42 | 772.45 | 773.48 | 774.51 |
| 80                           | 771.40 | 772.43 | 773.46 | 774.49 | 775.52 | 776.55 | 777.58 |
| 81                           | 774.47 | 775.50 | 776.53 | 777.56 | 778.59 | 779.62 | 780.65 |
| 82                           | 777.54 | 778.57 | 779.60 | 780.63 | 781.66 | 782.69 | 783.72 |
| 83                           | 780.61 | 781.64 | 782.67 | 783.70 | 784.73 | 785.76 | 786.79 |
| 84                           | 783.68 | 784.71 | 785.74 | 786.77 | 787.80 | 788.83 | 789.86 |
| 85                           | 786.75 | 787.78 | 788.81 | 789.84 | 790.87 | 791.90 | 792.93 |
| 86                           | 789.82 | 790.85 | 791.88 | 792.91 | 793.94 | 794.97 | 795.00 |
| 87                           | 792.89 | 793.92 | 794.95 | 795.98 | 797.01 | 798.04 | 799.07 |
| 88                           | 795.96 | 796.99 | 798.02 | 799.05 | 800.08 | 801.11 | 802.14 |
| 89                           | 799.03 | 800.06 | 801.09 | 802.12 | 803.15 | 804.18 | 805.21 |
| 90                           | 802.10 | 803.13 | 804.16 | 805.19 | 806.22 | 807.25 | 808.28 |
| 91                           | 805.17 | 806.20 | 807.23 | 808.26 | 809.29 | 810.32 | 811.35 |
| 92                           | 808.24 | 809.27 | 810.30 | 811.33 | 812.36 | 813.39 | 814.42 |
| 93                           | 811.31 | 812.34 | 813.37 | 814.40 | 815.43 | 816.46 | 817.49 |
| 94                           | 814.38 | 815.41 | 816.44 | 817.47 | 818.50 | 819.53 | 820.56 |
| 95                           | 817.45 | 818.48 | 819.51 | 820.54 | 821.57 | 822.60 | 823.63 |
| 96                           | 820.52 | 821.55 | 822.58 | 823.61 | 824.64 | 825.67 | 826.70 |
| 97                           | 823.59 | 824.62 | 825.65 | 826.68 | 827.71 | 828.74 | 829.77 |
| 98                           | 826.66 | 827.69 | 828.72 | 829.75 | 830.78 | 831.81 | 832.84 |
| 99                           | 829.73 | 830.76 | 831.79 | 832.82 | 833.85 | 834.88 | 835.91 |
| 100                          | 832.80 | 833.83 | 834.86 | 835.89 | 836.92 | 837.95 | 838.98 |
| 101                          | 835.87 | 836.90 | 837.93 | 838.96 | 839.99 | 841.02 | 842.05 |
| 102                          | 838.94 | 839.97 | 840.00 | 841.03 | 842.06 | 843.09 | 844.12 |
| 103                          | 842.01 | 843.04 | 844.07 | 845.10 | 846.13 | 847.16 | 848.19 |
| 104                          | 845.08 | 846.11 | 847.14 | 848.17 | 849.20 | 850.23 | 851.26 |
| 105                          | 848.15 | 849.18 | 850.21 | 851.24 | 852.27 | 853.30 | 854.33 |
| 106                          | 851.22 | 852.25 | 853.28 | 854.31 | 855.34 | 856.37 | 857.40 |
| 107                          | 854.29 | 855.32 | 856.35 | 857.38 | 858.41 | 859.44 | 860.47 |
| 108                          | 857.36 | 858.39 | 859.42 | 860.45 | 861.48 | 862.51 | 863.54 |
| 109                          | 860.43 | 861.46 | 862.49 | 863.52 | 864.55 | 865.58 | 866.61 |
| 110                          | 863.50 | 864.53 | 865.56 | 866.59 | 867.62 | 868.65 | 869.68 |
| 111                          | 866.57 | 867.60 | 868.63 | 869.66 | 870.69 | 871.72 | 872.75 |
| 112                          | 869.64 | 870.67 | 871.70 | 872.73 | 873.76 | 874.79 | 875.82 |
| 113                          | 872.71 | 873.74 | 874.77 | 875.80 | 876.83 | 877.86 | 878.89 |
| 114                          | 875.78 | 876.81 | 877.84 | 878.87 | 879.90 | 880.93 | 881.96 |
| 115                          | 878.85 | 879.88 | 880.91 | 881.94 | 882.97 | 883.00 | 884.03 |
| 116                          | 881.92 | 882.95 | 883.98 | 885.01 | 886.04 | 887.07 | 888.10 |
| 117                          | 885.00 | 886.03 | 887.06 | 888.09 | 889.12 | 890.15 | 891.18 |
| 118                          | 888.07 | 889.10 | 890.13 | 891.16 | 892.19 | 893.22 | 894.25 |
| 119                          | 891.14 | 892.17 | 893.20 | 894.23 | 895.26 | 896.29 | 897.32 |
| 120                          | 894.21 | 895.24 | 896.27 | 897.30 | 898.33 | 899.36 | 900.39 |
| 121                          | 897.28 | 898.31 | 899.34 | 900.37 | 901.40 | 902.43 | 903.46 |
| 122                          | 900.35 | 901.38 | 902.41 | 903.44 | 904.47 | 905.50 | 906.53 |
| 123                          | 903.42 | 904.45 | 905.48 | 906.51 | 907.54 | 908.57 | 909.60 |
| 124                          | 906.49 | 907.52 | 908.55 | 909.58 | 910.61 | 911.64 | 912.67 |
| 125                          | 909.56 | 910.59 | 911.62 | 912.65 | 913.68 | 914.71 | 915.74 |
| 126                          | 912.63 | 913.66 | 914.69 | 915.72 | 916.75 | 917.78 | 918.81 |
| 127                          | 915.70 | 916.73 | 917.76 | 918.79 | 919.82 | 920.85 | 921.88 |
| 128                          | 918.77 | 919.80 | 920.83 | 921.86 | 922.89 | 923.92 | 924.95 |



Table 8-8

Appendix A

Table 8-9

| HONG KONG<br>INTERNATIONAL EXPRESS MAIL<br>ON DEMAND SERVICE |        |        |        |        |        |        |        |  |  |
|--|--------|--------|--------|--------|--------|--------|--------|--|--|
| ZONE TO INTERNATIONAL EXCHANGE OFFICE                        |        |        |        |        |        |        |        |  |  |
| POUNDS<br>up to<br>including                                 | 3      | 4      | 5      | 6      | 7      | 8      | 9      |  |  |
| 1  | 518.57 | 618.80 | 618.84 | 518.86 | 518.72 | 518.77 | 618.82 |  |  |
| 2  | 71.84  | 21.70  | 21.76  | 21.86  | 21.94  | 22.04  | 22.14  |  |  |
| 3  | 24.71  | 24.80  | 24.92  | 25.04  | 25.16  | 25.31  | 25.46  |  |  |
| 4  | 27.78  | 27.90  | 28.06  | 28.22  | 28.38  | 28.58  | 28.79  |  |  |
| 5  | 30.85  | 31.00  | 31.20  | 31.40  | 31.60  | 31.83  | 32.10  |  |  |
| 6  | 33.92  | 34.10  | 34.34  | 34.56  | 34.82  | 35.12  | 35.42  |  |  |
| 7  | 36.99  | 37.20  | 37.48  | 37.76  | 38.04  | 38.35  | 38.72  |  |  |
| 8  | 40.06  | 40.30  | 40.62  | 40.94  | 41.26  | 41.64  | 42.08  |  |  |
| 9  | 43.13  | 43.40  | 43.76  | 44.12  | 44.48  | 44.93  | 45.38  |  |  |
| 10   | 46.20  | 46.50  | 46.90  | 47.30  | 47.70  | 48.20  | 48.70  |  |  |
| 11   | 49.27  | 49.60  | 50.04  | 50.45  | 50.93  | 51.47  | 52.02  |  |  |
| 12   | 52.34  | 52.70  | 53.19  | 53.66  | 54.16  | 54.74  | 55.34  |  |  |
| 13   | 55.41  | 55.80  | 56.32  | 56.84  | 57.36  | 58.01  | 58.68  |  |  |
| 14   | 58.48  | 58.90  | 59.46  | 60.02  | 60.56  | 61.29  | 61.98  |  |  |
| 15   | 61.55  | 62.00  | 62.60  | 63.20  | 63.80  | 64.55  | 65.30  |  |  |
| 16   | 64.62  | 65.10  | 65.74  | 66.38  | 67.02  | 67.82  | 68.62  |  |  |
| 17   | 67.69  | 68.20  | 68.86  | 69.54  | 70.24  | 71.09  | 71.94  |  |  |
| 18   | 70.76  | 71.30  | 72.02  | 72.74  | 73.48  | 74.36  | 75.26  |  |  |
| 19   | 73.83  | 74.40  | 75.16  | 75.94  | 76.68  | 77.63  | 78.54  |  |  |
| 20   | 76.90  | 77.60  | 78.30  | 79.10  | 79.90  | 80.80  | 81.90  |  |  |
| 21   | 79.97  | 80.80  | 81.61  | 82.26  | 83.12  | 84.17  | 85.22  |  |  |
| 22   | 83.04  | 83.70  | 84.58  | 85.48  | 86.54  | 87.71  | 88.94  |  |  |
| 23   | 86.11  | 86.90  | 87.79  | 88.64  | 89.54  | 90.71  | 91.94  |  |  |
| 24   | 89.18  | 89.90  | 90.86  | 91.82  | 92.79  | 93.94  | 95.16  |  |  |
| 25   | 92.25  | 93.00  | 94.00  | 95.00  | 96.00  | 97.29  | 98.58  |  |  |
| 26   | 95.32  | 96.10  | 97.14  | 98.16  | 99.22  | 100.52 | 101.82 |  |  |
| 27   | 98.39  | 99.20  | 100.29 | 101.36 | 102.44 | 103.79 | 105.14 |  |  |
| 28   | 101.46 | 102.30 | 103.42 | 104.54 | 105.86 | 107.08 | 108.46 |  |  |
| 29   | 104.53 | 105.46 | 106.58 | 107.72 | 108.88 | 110.33 | 111.76 |  |  |
| 30   | 107.60 | 108.50 | 109.70 | 110.90 | 112.10 | 113.60 | 115.10 |  |  |
| 31   | 110.67 | 111.60 | 112.64 | 113.68 | 115.32 | 116.87 | 118.42 |  |  |
| 32   | 113.74 | 114.70 | 115.96 | 117.29 | 118.54 | 120.14 | 121.74 |  |  |
| 33   | 116.81 | 117.80 | 118.12 | 120.44 | 121.76 | 123.41 | 125.06 |  |  |

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of \$2.25 for each pickup stop, regardless of the number of parcels. 2) Customs forms must be completed and attached to each parcel as required under the same Service Agreement. Return only one pickup charge.

| NETHERLANDS<br>AND<br>UNITED KINGDOM<br>INTERNATIONAL EXPRESS MAIL<br>ON DEMAND SERVICE |        |        |        |        |        |        |        |  |  |
|---|--------|--------|--------|--------|--------|--------|--------|--|--|
| ZONE TO INTERNATIONAL EXCHANGE OFFICE   |        |        |        |        |        |        |        |  |  |
| POUNDS<br>up to<br>including  | 3      | 4      | 5      | 6      | 7      | 8      | 9      |  |  |
| 1   | 617.57 | 617.60 | 617.64 | 617.64 | 617.72 | 617.77 | 617.82 |  |  |
| 2   | 19.64  | 19.70  | 19.76  | 19.84  | 19.94  | 20.04  | 20.14  |  |  |
| 3   | 21.71  | 21.80  | 21.92  | 22.04  | 22.16  | 22.31  | 22.46  |  |  |
| 4   | 23.78  | 23.90  | 24.08  | 24.22  | 24.36  | 24.56  | 24.76  |  |  |
| 5   | 25.85  | 26.00  | 26.20  | 26.40  | 26.60  | 26.85  | 27.10  |  |  |
| 6   | 27.92  | 28.10  | 28.34  | 28.56  | 28.82  | 29.12  | 29.42  |  |  |
| 7   | 29.95  | 30.20  | 30.48  | 30.76  | 31.04  | 31.36  | 31.74  |  |  |
| 8   | 32.06  | 32.30  | 32.62  | 32.84  | 33.28  | 33.66  | 34.08  |  |  |
| 9   | 34.13  | 34.40  | 34.76  | 35.12  | 35.48  | 35.93  | 36.38  |  |  |
| 10  | 36.43  | 36.90  | 37.30  | 37.70  | 38.20  | 38.70  |        |  |  |
| 11  | 38.27  | 38.80  | 39.04  | 39.48  | 39.92  | 40.42  | 41.02  |  |  |
| 12  | 40.34  | 40.70  | 41.18  | 41.68  | 42.14  | 42.74  | 43.34  |  |  |
| 13  | 42.81  | 43.60  | 43.32  | 43.84  | 44.36  | 45.01  | 45.66  |  |  |
| 14  | 44.46  | 44.96  | 45.46  | 46.02  | 46.58  | 47.26  | 47.96  |  |  |
| 15  | 46.55  | 47.08  | 47.80  | 48.70  | 49.60  | 50.55  | 51.50  |  |  |
| 16  | 48.62  | 49.10  | 49.74  | 50.38  | 51.02  | 51.82  | 52.62  |  |  |
| 17  | 50.69  | 51.16  | 51.96  | 52.56  | 53.24  | 54.09  | 54.94  |  |  |
| 18  | 52.76  | 53.24  | 54.09  | 54.94  | 55.80  | 56.76  | 57.76  |  |  |
| 19  | 54.83  | 55.40  | 56.12  | 56.84  | 57.68  | 58.63  | 59.58  |  |  |
| 20  | 56.90  | 57.50  | 58.30  | 59.10  | 59.90  | 60.90  | 61.90  |  |  |
| 21  | 58.97  | 59.60  | 60.44  | 61.28  | 62.12  | 63.17  | 64.22  |  |  |
| 22  | 61.04  | 61.70  | 62.54  | 63.46  | 64.34  | 65.44  | 66.54  |  |  |
| 23  | 63.11  | 63.80  | 64.72  | 65.64  | 66.56  | 67.71  | 68.66  |  |  |
| 24  | 65.18  | 65.90  | 66.86  | 67.82  | 68.78  | 69.96  | 71.16  |  |  |
| 25  | 67.25  | 68.00  | 69.00  | 70.00  | 71.00  | 72.25  | 73.50  |  |  |
| 26  | 69.32  | 70.10  | 71.14  | 72.16  | 73.25  | 74.52  | 75.82  |  |  |
| 27  | 71.39  | 72.20  | 73.26  | 74.38  | 75.44  | 76.79  | 78.14  |  |  |
| 28  | 73.46  | 74.30  | 75.42  | 76.54  | 77.66  | 79.06  | 80.46  |  |  |
| 29  | 75.53  | 76.40  | 77.56  | 78.72  | 79.88  | 81.33  | 82.78  |  |  |
| 30  | 77.60  | 78.50  | 79.70  | 80.90  | 82.10  | 83.90  | 85.10  |  |  |
| 31  | 79.67  | 80.60  | 81.84  | 83.08  | 84.32  | 86.87  | 88.42  |  |  |
| 32  | 81.74  | 82.70  | 83.96  | 85.24  | 86.54  | 89.14  | 90.74  |  |  |
| 33  | 83.81  | 84.80  | 86.12  | 87.44  | 88.76  | 90.41  | 92.06  |  |  |

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of \$1.25 for each pickup stop, regardless of the number of parcels. 2) Customs forms must be completed and attached to each parcel as required under the same Service Agreement. Return only one pickup charge.

Table 8-8

Table 8-9

Table 8-10

Appendix A

SUMMARY CONDITIONS - INTERNATIONAL  
EXPRESS MAIL SERVICE

- A. SERVICE OFFERINGS
1. CUSTOM DESIGNED SERVICE
- Available to: Australia, Belgium, Brazil, France, Great Britain & Northern Ireland, Hong Kong, Japan, and the Netherlands. See 494.33b for a list of the items which may be sent by this service.
2. ON DEMAND SERVICE
- Available to: Australia, Great Britain & Northern Ireland, Hong Kong, and selected cities in the Netherlands. See 494.33b for a list of the items which may be sent by this service.
3. PICKUP SERVICE
- Available for both Custom Designed and On Demand International Express Mail Service.
- B. RATES
- Items accepted are subject to International Express Mail Service rates listed by service offerings in Tables 8-2 through 8-9.
- C. WEIGHT LIMITS
1. Brazil ..... 50 pounds
2. Japan ..... 10 pounds
3. All other countries to which service is available ..... 33 pounds
- D. PREPARATION REQUIREMENTS (see Sections 221.3 and 326).
1. The name and address of both the sender and the addressee must appear on each mail piece.
- E. FORMS REQUIRED
1. CUSTOM DESIGNED SERVICE
- Label 155, *International Express Mail* (Figure 8-1). See 494.811a.
- Label 153, *Express Mail Custom Designed Service* (Figure 8-2). See 494.811d.
- Customs Declarations (Forms 2976 and 2976-A) are required for shipments to:
- (a) France for each item containing business documents, letters, or merchandise samples.
- (b) Brazil for each item containing merchandise samples.
- (c) Hong Kong for each item containing merchandise samples. See Sections 221.42 and 221.43.
- Form 5625, *Express Mail Service Receipt* (Figure 8-3), appropriate actions completed by sender and acceptance employee. See 494.811 and 494.812.
2. ON DEMAND SERVICE
- Label 11B, *Express Mail Service, Post Office to Addressee* (Figure 8-4). See 494.821a.
- Customs Declarations (Forms 2976 and 2976-A) are required for shipments to Hong Kong containing merchandise samples. See Sections 221.42 and 221.43.
- Form 5625-B, *Next Day and Same Day Air/Port Express Mail Service Mailing Statement* (Figure 8-5), is to be completed by the sender if pickup service is utilized. See 494.821c.

Table 8-10

[FR Doc. 79-5915 Filed 3-26-79; 8:45 am]



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TUESDAY, MARCH 27, 1979

PART III



## DEPARTMENT OF LABOR

Employment and Training  
Administration

■

FY 1979 VETERANS  
PREFERENCE INDICATORS  
OF COMPLIANCE LEVELS

Final Rule



[4510-30-M]

## Title 20—Employees' Benefits

## CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

## PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

## Subpart C—Services for Veterans

## FISCAL YEAR 1979 VETERANS PREFERENCE INDICATORS OF COMPLIANCE LEVELS

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Rule.

**SUMMARY:** The Department of Labor is republishing the final regulations published on Friday, March 9, 1979 (44 FR 13244) to correct errors in the rules and omissions to the supplementary information provisions. These regulations are published to establish the fiscal year 1979 levels for the veterans preference indicators of compliance, used by the Department of Labor to monitor State employment service agencies to insure that veteran applicants receive priority service.

EFFECTIVE DATE: April 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Rell, Director, Office of Program Review, U.S. Employment Service, Room 8324, 601 D Street, NW., Washington, D.C. 20213, (202) 376-6914.

**SUPPLEMENTARY INFORMATION:** As mentioned above, the Department is republishing final fiscal year 1979 Veterans Preference Indicators of Compliance which were initially published on March 9, 1979. This version corrects errors and omissions in the earlier publication. Significant changes to the regulatory provisions contained in that issuance include:

• § 653.230(c)(1)(iv), is changed to read: "A minimum of (individual state values listed below) percent of all veteran applicants shall be placed in jobs." (The individual state values are set forth in a table appearing in § 653.230(c)).

• § 653.230(c)(1)(v), is changed to read: "A minimum of 60 percent of all veteran applicants shall be inactivated with some reportable service."

• A number of sections have been revised to correct the titles and acronyms for Veterans Employment Service staff to reflect recent organizational changes.

In addition, the supplementary information section has been expanded in

response to comment 5. That response now reflects the fact that veterans receive additional services which are not reportable under the Department's Employment Security Automated Reporting System. Following are the previously published supplementary information section and regulatory provisions as revised to reflect these corrections.

The Department published proposed regulations for the fiscal year 1979 compliance levels on October 27, 1978, at 43 FR 50379. Interested persons were advised to submit comments on the proposed levels until November 27, 1978. The Department received approximately thirty comments from components of the public employment service system, veterans organizations and general public. The most significant comments and the Department's responses thereto are listed below:

1. Some commenters suggested uniform job development and inactivated with some reportable service floor levels be established for all States to eliminate the inequity among States and, at the same time, more effectively promote service to veterans. The Department, in accordance with 20 CFR 653.230(c), based its computations of individual State job development and inactivated with some reportable service floor levels on State agency past year accomplishments and the influence of external factors such as State employment conditions and occupational differences among the applicant population. The regression analysis used to set the proposed floor levels, however, did not reflect the direct and substantial control that State agencies have over delivery of these services to veterans. Thus, the Department acknowledges that various State agencies have successfully undertaken specific management actions to increase job development and overall reportable services to veterans.

In light of these experiences, the Department has determined that management control over the provision of these services is an appropriate factor under 20 CFR 653.230(c) to be used in computing State agency floor levels. Therefore, based on State agency past performance and influence of management control, the Department has changed the proposed fiscal year 1979 individual State floor levels as published in the FEDERAL REGISTER on October 27, 1978 to a uniform floor level of 7.5 percent for job development and 60.0 percent for inactivated with some reportable service to be applied to all States.

2. Several State employment service agencies objected to the variation in individual State floor levels established for placement of veterans. Commenters indicated individual State floor levels for this service area were

too high for high performing States and too low for the low performing States. A national floor level requirement that would not vary among States was suggested as a substitute for the proposed FY 1979 individual State placement floor levels. The Department, however, has found that the proposed individualized placement floor levels are necessary to allow for differing economic and other external conditions among States.

Unlike job development and inactivated with some reportable service (discussed above), placement is an area over which management does not have substantial control. External factors such as employer hiring decisions, level of unionization in nonfarm employment, level of unemployment and distribution of occupational skills among applicants affect the ability of the State agency to achieve placement success. The Department anticipates that high performing States will have little difficulty in meeting their assigned floor level for this indicator. It should also be remembered that failure to meet the placement floor level or preference indicators does not automatically place a State agency into noncompliance with the standards of performance in the regulations. Changed economic conditions may be taken into account when the Department determines whether or not a State agency is in compliance. Accordingly, the proposed floor levels for each State have been adopted without change.

3. Several State employment service agencies commented that the proposed referred to training indicators and corresponding floor and preference levels were based on insufficient data and did not take into account the limited training opportunities which will be available to ES veteran applicants given the emphasis of the 1978 CETA Reauthorization on serving the economically disadvantaged. Some commenters stressed the need to clarify the definition of "referral to training" in view of the different interpretation by State agencies as to what can appropriately be reported for these indicators. One commentator believed the preference level for disabled veterans referred to training was too high and did not reflect the exposure to counseling and rehabilitation services disabled veterans receive from the Veterans Administration prior to filing job applications with ES. Several commenters suggested that the Department conduct further review of the proposed referred to training indicators before including them in the veterans indicators of compliance package.

The Department proposed the establishment of referred to training indicators to measure services provided in

accordance with the requirements of 38 U.S.C. Chapter 41 and the performance standards described in Federal regulations at 20 CFR 653.221(a)(7). However, the Department considers the comments received pertaining to the 1978 CETA Reauthorization and interpretation of Federal reporting instructions to be persuasive at this time. The emphasis of the 1978 CETA Reauthorization on serving the disadvantaged could limit training opportunities available to veteran applicants since less than one-fourth of ES's veteran applicants are economically disadvantaged during any given year. In addition, the Department agrees that inadequate historical data is currently available to set meaningful levels for the referred to training indicators. Since the decision to include referred to training as a reporting item on the Department's Employment Security Automated Reporting System (ESARS) was not reflected on the FY 1978 ESARS reporting forms, some confusion arose concerning how to record these referred to training counts. The result was inconsistent implementation of the referred to training reporting standards during FY 1978. In view of these concerns the Department believes the inclusion of referred to training floors and preference level indicators of compliance for FY 1979 would not be appropriate at this time. Accordingly, the Department will reconsider the establishment of referred to training indicators for FY 1980.

As a result of the Department's decision to delay implementation of the referred to training indicators, State agencies will be required to meet the placement and any two of the remaining floor levels of accomplishment and meet nine of the sixteen veterans preference indicators described at 20 CFR 653.230.

4. One commentator complained that the proposed FY 1979 preference level for placement of disabled veterans was too high, since some disabled veterans are very selective in their job choices due to the adverse impact acceptance of a job can have on their receipt of disability payments. The Department was informed by the Veterans Administration (VA) that compensation received by disabled veterans is affected by job acceptance only in the case where a disability rating is based on a determination of unemployability. The VA indicated further that only veterans with a disability rating between 60 and 90 percent would possibly have a rating based on unemployability and that less than 5 percent of all veterans receiving disability payments would have these payments affected by job acceptance. The Department also considers the proposed placement preference level for dis-

abled veterans necessary to ensure that the special needs of these veterans are addressed by all State agencies. Therefore, the proposed FY 1979 preference level for placement of disabled veterans will remain unchanged.

5. Several commenters felt that the proposed indicators were too low in view of the statutory requirement in 38 U.S.C. 2007(a)(1) that the Secretary of Labor establish administrative controls to insure that each eligible veteran and each eligible person receives some specific form of employment assistance. In accordance with this provision, the Department has established in 20 CFR 653.221-226, comprehensive standards of performance governing services to veterans and eligible persons which must be met by State agencies. ETA Regional Administrators have responsibility for the quarterly review and assessment of State agency compliance with these standards of performance pursuant to 20 CFR 653.230(k).

The veterans preference indicators provide an additional monitoring and assessment instrument for determining compliance in accordance with the mandate of 38 U.S.C. 2007(b). The indicators set numerical values for measuring several key areas of service to veterans and eligible persons utilizing data available through the Department's ESARS reporting system. The Department drafted the proposed indicators for FY 1979 after analyzing performance data from FY 1977 and FY 1978. The intent was to set the indicators at a level which could be realistically achieved but which would encourage improvement by low performing State agencies. The value of this approach has been demonstrated by the continuing decline, over the past two years, in the number of State agencies not meeting the indicators. Furthermore, veterans receive a number of additional services designed to substantially enhance their employment prospects, but which are not reportable items on the ESARS reporting system. Finally, the Department intends to analyze this year's results carefully so that any appropriate adjustments may be made for FY 1980.

6. Three commenters discussed the problems involved with the placement preference for recently separated Vietnam-era veterans in the so-called mandatory job listing openings which government contractors are required to list with the employment service under 38 U.S.C. 2012(a). The comments pointed out that the number of recently separated Vietnam-era veterans would be minimal after May 1979 because of the definitional limitation to veterans submitting job applications within four years of their discharge from the military. This definitional restriction would in turn make

it difficult for State employment service agencies to meet the preference indicator for mandatory job listings. One commentator also expressed concern that veterans who faced combat in Vietnam and who were discharged from the military more than four years ago would not be eligible for the preference.

The Department notes that Congress was explicit in its determination that recently separated Vietnam-era veterans be provided preference in job openings which government contractors are required to list with the employment service under 38 U.S.C. 2012(a). Any change with regard to this statutory preference would therefore have to be made by Congress. The Department does not anticipate that the definitional limitation for recently separated Vietnam-era veterans will be a significant barrier to State agency compliance with the mandatory job listing preference indicator in FY 1979 and, therefore, the preference level has not been changed. However, to the extent that the definitional limitation may be shown to substantially prevent a State agency from complying with the indicator requirements, the Department may consider such a showing as good cause evidence for noncompliance under 20 CFR 653.230(k)(2). Since the impact of the definitional limitation will be felt most heavily in FY 1980, the Department will reconsider its position on this issue at that time.

7. One commentator suggested that the number of veterans inactivated with some reportable service be measured against the total number of veterans who were inactivated. Current practice is to measure the number of veterans inactivated with some reportable service against the total number of veteran applicants, in both active and inactive status. Although this suggested change would provide a more technically accurate measure of service rates for veterans inactivated with some reportable service, the Department has determined that it would not be in the best interest of the veterans served to change the method of computation at this time. The current method of computation affords a reasonably accurate measure of overall services provided to veterans. Moreover, such a substantial change in methodology following only one year of experience with the current formulas may create unnecessary confusion and reduce the potential effectiveness of the compliance indicators in promoting increased services to veterans. However, the Department will further consider the suggested computational change in the future.

The final regulations also make several clarifying and technical changes to reflect recent organizational



changes within ETA. For the convenience of its readers, the Department is republishing the entire 20 CFR part 653, Subpart C, as amended.

Accordingly, 20 CFR Chapter V, Part 653, Subpart C, is revised to read as follows:

#### Subpart C—Services for Veterans

##### PURPOSE AND DEFINITIONS

- Sec.  
653.200 Purpose and scope of subpart.  
653.201 Definitions of terms used in subpart.

##### FEDERAL ADMINISTRATION

- 653.210 Role of the Administrator.  
653.211 Role of the Veterans Employment Service (VES).  
653.212 Role of Regional Administrator (RA).  
653.213 Assignment and role of Regional Directors for Veterans' Employment (RDVE's).  
653.214 Assignment and role of State Directors for Veterans' Employment (SDVE's).

##### STANDARDS OF PERFORMANCE GOVERNING STATE AGENCY SERVICES TO VETERANS AND ELIGIBLE PERSONS

- 653.220 Standards of performance.  
653.221 Standards of performance governing State agency service.  
653.222 Performance standard on facilities for VES staff.  
653.223 Performance standards on reporting.  
653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVER's).  
653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of veterans and eligible persons.  
653.226 Standards of performance governing complaints of veterans and eligible persons.

##### FEDERAL MONITORING OF STATE AGENCY COMPLIANCE

- 653.230 Veterans preference indicators of compliance.  
653.231 Secretary's annual report to Congress.

AUTHORITY: 38 U.S.C. chapters 41 and 42; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; sec. 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 Pub. L. 93-567, 88 Stat. 1845.

#### Subpart C—Services for Veterans

##### PURPOSE AND DEFINITIONS

- § 653.200 Purpose and scope of subpart.

(a) This subpart contains the Department of Labor's regulations for implementing 38 U.S.C. 2001-2008 (Chapter 41) which requires the Secretary of Labor to refer eligible veterans and eligible persons to employment and training opportunities through the public employment service system established pursuant to the Wagner-

Peyser Act, as amended, 49 U.S.C. et seq.

(b) This subpart reiterates the requirement contained in the Department of Labor's Office of Federal Contract Compliance Programs' regulation under 38 U.S.C. 2012(a) at 41 CFR 60-250.33, 41 CFR 60-250.33, paragraphs (a) and (b), require State employment service agencies to refer qualified disabled veterans and veterans of the Vietnam era on a priority basis to job openings listed with them by certain Federal contractors pursuant to 38 U.S.C. 2012(a). Section 653.221(a)(7)(i), moreover, goes beyond the requirement of 41 CFR 60-250.33 by requiring State agencies to give priority in referral to qualified disabled veterans and veterans of the Vietnam era with respect to all job openings listed with the State agency's local offices.

(c) This subpart references the Department of Labor's Office of Federal Contract Compliance Programs' regulation under 38 U.S.C. 2012(b) at 41 CFR 60-250.26. That regulation provides that disabled veterans and veterans of the Vietnam era may file with Local Veterans' Employment Representatives complaints alleging violations of 38 U.S.C. 2012 or of the Department's regulations at 41 CFR Part 60-250. 41 CFR 60-259.26 also sets forth the procedures for handling such complaints.

(d)(1) This subpart partially implements section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845, Sec. 104 of that Act requires the Secretary of Labor, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, to provide for an outreach and public information program to produce jobs and training opportunities for all persons who were discharged from the Armed Forces within four years of the date they apply for such jobs or job training.

(2) The Department has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 in the regulations under the Comprehensive Employment and Training Act (CETA) at 29 CFR Parts 94-99.

(3) The Secretary has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 by Secretary's Order 17-76, which established within the Department of Labor a Secretary's Committee on Veterans' Affairs, and which assigns to the Committee the following functions:

(i) Serving as the principal advisory and coordinating group to the Secretary of Labor on matters affecting veterans;

(ii) Consulting with and providing guidance to the appropriate DOL Agencies and the DOL Program and Budget Review Committee (PBRC) [reconstituted as the Management Review Committee by Secretary's Order 3-77] on the formulation, implementation and redirection of departmental policies and programs as they affect veterans, especially in the areas of unemployment, job training, employment and reemployment;

(iii) Reviewing the operational effectiveness of departmental plans and programs affecting veterans;

(iv) Facilitating DOL executive-level communications on veterans' affairs within the Department and with other governmental agencies, veterans' organizations, labor, management, and the Congress;

(v) Reviewing and suggesting research essential to the implementation of effective departmental programs on behalf of veterans; and

(vi) Coordinating the preparation of any reports to the Congress concerning veterans' affairs which involve the activities of more than one DOL agency.

(e)(1) This subpart also implements 38 U.S.C. Chapter 42 in that: (i) Title IV of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 amended 38 U.S.C. Chapter 41, section 2007 by adding a new subsection (b) which states:

The Secretary of Labor shall establish definitive performance standards for determining compliance by State public employment agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary of Labor required by subsection (c) of this section.

(ii) Title VI of the Veterans' Education and Employment Assistance Act of 1976 amended 38 U.S.C., Chapter 42, section 2012, by adding a new subsection (c) which states:

The Secretary shall include as part of the annual report required by section 2007(c) of this title the number of complaints filed pursuant to subsection (b) of this section [2012], the actions taken thereon, and the resolutions thereof. Such report shall also include the number of contractors listing suitable employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2) of this section.

(2) Since section 2012 of 38 U.S.C. Chapter 42 places responsibilities on State employment service agencies, this subpart prescribes performance standards for such agencies. The Department has also prescribed regulatory standards under 38 U.S.C. 2012 for such agencies at 41 CFR Part 60-250.

(f) This subpart references section 205(c)(5) of the Comprehensive Employment and Training Act of 1973 (CETA), as amended, 29 U.S.C. 801 et seq. Section 205(c)(5) requires that applicants for public service employment funds under Title II of CETA must provide the Department of Labor with assurances that they will give special consideration to certain unemployed veterans who served in the Armed Forces in Indochina or Korea on or after August 5, 1964. (See 29 CFR 94.4(2).)

- § 653.201 Definitions of terms used in subpart.

"Administrator, United States Employment Service (Administrator)" shall mean the chief official of the United States Employment Service (USES).

"Assistant State Director for Veterans' Employment (ASDVE)" shall mean a Federal employee who is designated as an assistant to a State Director for Veterans' Employment (SDVE).

"Deputy Assistant Secretary for Veterans' Employment (DASVE)" shall mean the Department of Labor official who is the chief official of the Veterans Employment Service.

"Disabled Veteran" shall mean either: (1) A person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at less than 30 per centum, or (2) a person who is a "special disabled veteran" as defined in this section. (Note: Special disabled veterans are a subcategory of disabled veterans. Persons who are special disabled veterans, therefore, are one kind of disabled veterans, but they shall be designated as special disabled veterans for application and referral purposes.)

"Eligible person" shall mean:

(1) The spouse of any person who died of a service-connected disability; or

(2) The spouse of any member of the armed forces serving on active duty who, at the time of application for assistance under this subpart, is listed, pursuant to 37 U.S.C. 556 and the regulations issued thereunder, by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than 90 days: (i) Missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power; or

(3) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

"Eligible veteran" shall mean a person who served in the active mili-

tary, naval or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"Local Veterans' Employment Representative (LVER)" shall mean an official in a local office of a State employment service agency, designated by the State Director to serve veterans and eligible persons pursuant to this subpart.

"Recently separated veteran of the Vietnam era" means a "veteran of the Vietnam era" who was discharged or released from active duty within 48 months of his/her application for employment.

"Regional Administrator (RA)" shall mean the chief official of the Employment and Training Administration in each Department of Labor region.

"Regional Director for Veterans' Employment (RDVE)" shall mean the Federal official designated by the DASVE, in each Department of Labor regional office who serves veterans and eligible persons pursuant to this subpart. The RDVE shall report to, be responsible to, and be under the administrative direction of the DASVE. In addition, the RDVE shall report to, be responsible to, and be under the operational direction of the RA.

"Reportable service" shall mean counseling, job development, referral to a job, referral to training, enrollment in training, referral to supportive services, testing, and placement.

"Special disabled veteran" shall mean a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

"State Director for Veterans' Employment (SDVE)" shall mean a Federal official, designated by the DASVE, who, under the RDVE, serves the employment needs of veterans and eligible persons in a particular State pursuant to this subpart.

"United States Employment Service (USES)" shall mean the component of the Employment and Training Administration of the Department of Labor, established under the Wagner-Peyser Act of 1933 to coordinate a national system of public employment service agencies.

"Veteran" shall mean "eligible veteran", "disabled veteran", "special disabled veteran", and "Veteran of the Vietnam era".

"Veteran of the Vietnam era" shall mean a person who: (1) Served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) and was discharged or released therefrom with other than a dishonorable discharge;

or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

"Veterans Employment Service (VES)" shall mean the organizational component within the Employment and Training Administration which is concerned with policies and services relating to employment development on behalf of veterans and eligible persons.

##### FEDERAL ADMINISTRATION

- § 653.210 Role of the Administrator.

The Administrator, USES, shall have overall responsibility for administering this subpart and for monitoring, in coordination with other ETA components, State agency compliance with the regulations under this subpart.

- § 653.211 Role of the Veterans Employment Service (VES).

(a) The Deputy Assistant Secretary for Veterans' Employment (DASVE) shall monitor and evaluate the performance of the State agencies under this subpart. The DASVE shall make every effort, in coordination with the Veterans Administration, Department of Health, Education, and Welfare, other Federal and State agencies, educational institutions, unions, veterans organizations, and community groups to produce job and training opportunities for veterans and eligible persons through Department of Labor administered programs relating to unemployment, job training, and employment.

(b) The DASVE, shall have a VES field staff comprised of Regional Directors for Veterans' Employment (RDVE's), State Directors for Veterans' Employment (SDVE's), and assistants to the SDVE's (ASDVE's) and their staffs. RDVE's, SDVE's and ASDVE's shall provide functional supervision, guidance and assistance to the State agencies pursuant to this subpart.

[43 FR 9093, Mar. 3, 1978; 43 FR 12855, Mar. 28, 1978]

- § 653.212 Role of the Regional Administrator (RA).

Each RA shall have overall responsibility in the region for administering this subpart and for monitoring State agency compliance with the regulations under this subpart.

- § 653.213 Assignment and role of Regional Directors for Veterans' Employment (RDVE's).

(a) The DASVE shall assign an RDVE to each Employment and Training Administration (ETA) regional office. Every RDVE shall be an



eligible veteran, who shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments in the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51, and Chapter 53 of subchapter III.

(b) An RDVE shall be stationed in each ETA regional office. The RDVE shall be a member of the ETA regional executive staff.

(c) The RDVE shall provide advice and expertise to the RA on matters relating to ETA services to veterans and eligible persons. The RDVE shall also:

(1) Supervise the activities of all VES field staff within the region;

(2) Provide support for, and assist in the coordination of, all ETA policies and programs as they affect veterans, especially policies and programs relating to unemployment, job training, and employment by;

(i) Providing direction and support to SDVE's and ASDVE's;

(ii) Reviewing SDVE and other findings regarding State agency compliance with the regulations under this subpart and recommending appropriate corrective action to the RA;

(iii) Assisting other ETA regional office staff in the coordination of ETA employment and training programs as they affect veterans;

(iv) Coordinating within the region ETA activities relating to veterans' services with other agencies and organizations, such as the Department of Defense, the Veterans Administration, the U.S. Civil Service Commission, the President's Committee on Employment of the Handicapped, the Office of Vocational Rehabilitation and other Department of Health, Education, and Welfare agencies, labor unions, veterans organizations, employers and community organizations;

(v) Cooperating with the Employment Standards Administration of the Department of Labor in the resolution of complaints by veterans under the Department's regulations at 41 CFR Part 60-250; and

(vi) Monitoring and assessing unemployment, job training, employment and other services to veterans under ETA regulations.

(3) Monitor and evaluate State agency performance under this subpart by:

(i) Reviewing and analyzing monthly, quarterly and annual reports required by ETA data systems. RDVEs shall compare actual services to veterans by each State agency by comparing the statistics generated by the veterans preference indicators of compliance set forth in § 653.230 against the

performance standards set forth at § 653.221-26; and

(ii) With input from SDVEs as appropriate, assisting the RA in conducting that portion of periodic and special reviews of State agency performance pertaining to the provision of services to veterans.

#### § 653.214 Assignment and role of State Directors for Veterans' Employment (SDVEs).

(a) A representative of the VES shall be assigned to each State agency to serve as the State Director for Veterans' Employment (SDVE). One Assistant State Director for Veterans' Employment (ASDVE) shall be assigned to each State agency per each 250,000 eligible veterans and eligible persons in the State population and additional ASDVEs shall be assigned whenever the data collected under this subpart indicates that additional ASDVEs are necessary.

(b) Each SDVE and ASDVE shall be an eligible veteran, who, at the time of appointment, shall have been a bona fide resident of the State for at least 2 years, and shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments to the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51 and Chapter 53, Subchapter III.

(c) The SDVE, ASDVEs, and their VES Federal support staff shall be attached to the State office staff of the State agency to which they are assigned.

(d) Under the direction and supervision of the RDVE, and in cooperation with the State agency staff and the staffs of other ETA funded employment and training programs in the State, the ASDVEs and SDVE shall:

(1) Provide support and assist in coordinating all ETA policies and all ETA funded programs in the State as they affect veterans and eligible persons, especially policies and programs relating to unemployment, job training, and employment;

(2) Functionally supervise services to veterans by the State agency. Functional supervision shall consist of assisting State agency personnel in carrying out services to veterans and eligible persons and evaluating their performance. Functional supervision shall entail providing technical assistance, making suggestions for improvement of services, helping to plan programs and projects, checking for compliance with ETA regulations affecting veterans helping to correct errors by working with local and State staffs, analyzing work as it affects veterans and eligible persons, training new State agency employees and providing refresher courses for State agency staff, bringing matters which require correc-

tive action to the attention of those State agency personnel who have authority over policy, procedures and staff. Functional supervision does not authorize an SDVE or ASDVE to hire, fire, discipline or issue directives to State agency employees. Nor does it authorize an SDVE or ASDVE to make regulations, change procedures or establish policies for the State agency without specific authority from the State agency;

(3) Engage in job development and job advancement activities on behalf of veterans and eligible persons, including coordination with the Veterans Administration in its carrying out of the Veterans Outreach Services program under subchapter IV of chapter 3 of 38 U.S.C., and including the conduct of job fairs, job marts and other special programs to match veterans and eligible persons with appropriate job and job-training opportunities;

(4) Assist in securing and maintaining current information on available employment and training opportunities, using, when feasible, electronic data processing and telecommunications systems, and in matching veteran and eligible persons applicants' qualifications with available jobs, training and apprenticeship opportunities;

(5) Promote the interest of employers and labor unions in employing and in conducting on-the-job training and apprenticeship programs for veterans and eligible persons;

(6) Maintain regular contact with employers, labor unions, training program sponsors and veterans organizations to keep them advised of veterans and eligible persons who are available for employment and training;

(7) Keep veterans and eligible persons advised of opportunities for employment and training; and

(8) Coordinate, in conjunction with the RDVE as appropriate, ETA activities relating to veterans services within the State with the activities of other agencies and organizations such as the Veterans Administration, the Department of Defense, the U.S. Civil Service Commission, the Department of Health, Education, and Welfare, State agencies such as Vocational Rehabilitation agencies, Governors Committees on Employment of the Handicapped, and unions, veterans organizations, employer associations, and other community groups.

(9) Monitor and evaluate State agency performance under this subpart using local office and State agency reports including:

(i) Monthly, quarterly and annual reports of actual activity levels generated by required data systems;

(ii) Reports generated by the State agency Self-Appraisal System; and

(iii) Internal reports prepared by State agency staffs such as field super-

visory, technical assistance and research staffs.

(10) Compare actual services to veterans and eligible persons against the standards for State agency performance set forth at § 653.221-26.

(11) Conduct periodic onsite reviews of local offices to assess their performance under this subpart. Such reviews shall include detailed, comprehensive analyses of all local office activities related to serving veterans and eligible persons, and spot-checks of particular local offices to validate information the SDVE has obtained through the State agency Self-Appraisal System, regular data systems, field supervisors, technical staff or otherwise. The SDVE shall review the performance of large local offices at least once each fiscal year on a formal, comprehensive, in-depth basis, and shall periodically review smaller local offices which evidence problems in providing services to veterans and eligible persons pursuant to this subpart until the problems are resolved.

#### STANDARDS OF PERFORMANCE GOVERNING STATE AGENCY SERVICES TO VETERANS AND ELIGIBLE PERSONS

##### § 653.220 Standards of performance.

Sections 653.221-226 set forth the standards of performance governing services to veterans and eligible persons which must be met by the State employment service agencies.

##### § 653.221. Standards of performance governing State agency services.

(a) Each State agency shall assure that all of its local offices, using LVERs and other staff, offer the following services to all veterans and eligible persons:

(1) *Registration.* Local offices shall encourage all veterans and eligible persons to file complete applications for appropriate job or training opportunities by explaining the services they may expect to receive on the filing of a full application. Local offices, however, may take partial applications for veterans and eligible persons if they are job attached, or if they are on strike or layoff and expecting to return to work unless such applicants request the opportunity to file full applications. Local offices may also take partial applications on veteran and eligible person applicants who say they do not wish to file full applications after the benefits of filing a full application have been explained to them.

(2) *Interviewing.* As appropriate, local offices shall interview veterans and eligible persons on a priority basis to review and analyze the information on their application cards, to assure that all of the applicant's qualifications for employment are adequately

presented, to determine any need for employment counseling, to evaluate the occupationally significant facts about the applicants, and to select suitable job choices and job-finding techniques.

(3) *Counseling.* As appropriate, qualified local office staff shall discuss with veteran and eligible person applicants on a priority basis their present and potential qualifications for work, alternative vocational choices, and occupational requirements to assist them in formulating a plan to achieve their occupational and/or training goals. As appropriate, the counselors shall also provide such applicants with assistance in solving problems relating to the obtaining or holding of jobs.

(4) *Testing.* As appropriate, qualified local office staff shall administer objective aptitude and proficiency tests to veteran and eligible person applicants on a priority basis.

(5) *Referral to supportive services.* As appropriate, local offices shall refer veteran and eligible person applicants on a priority basis to supportive services available in the community such as medical, legal aid, child care and transportation assistance, which are likely to assist them to obtain employment and/or training.

(6) *Job development.* As appropriate, local offices shall attempt to develop job openings for veteran and eligible person applicants on a priority basis through employer contacts and otherwise whenever suitable job openings are not available in local office files. Such efforts shall include attempts to foster the elimination of hiring requirements not related to job performance.

(7) *Job and training referral.* (i) Whenever there is more than one applicant qualified for a job opening, or for a training opportunity, local offices, except as provided in paragraphs (a)(7)(ii) and (iii) of this section, shall observe the following order of priority in making referrals to the job openings or training opportunity:

(A) Qualified special disabled veterans;

(B) Qualified veterans of the Vietnam era;

(C) Qualified disabled veterans other than special disabled veterans;

(D) All other qualified veterans and eligible persons;

(E) Qualified nonveterans.

(ii) Whenever there is more than one applicant qualified for a job opening listed under the mandatory listing requirement of 38 U.S.C. 2012, local offices shall observe the order of priority in making referrals set forth in paragraph (a)(7)(i) of this section, except that qualified *recently separated* veterans of the Vietnam era shall be referred ahead of other qualified veterans of the Vietnam era.

(iii) Whenever a State agency or a local office is a subgrantee or contractor under the Comprehensive Employment and Training Act (CETA) or title IV of the Social Security Act (Work Incentive (WIN) Program), the local office shall refer veterans to job and training opportunities under those programs in accordance with the CETA regulations at 29 CFR Parts 94-99 or the WIN regulations at 29 CFR Part 56.

(b) State agencies shall:

(1) Establish outreach programs designed to make veterans and eligible persons aware of the ES services available to them. Such programs shall include contact with veterans organizations, Veterans Administration facilities, military bases, military hospitals and other appropriate organizations. The State agency public information program shall develop and disseminate labor market information to assist veterans and eligible persons in job search activities, using public service announcements in the media as appropriate.

(2) Provide special designation, filing and retrieval procedures in each local office to readily identify veteran and eligible person applications and to monitor the provision of services to veteran and eligible person applicants on a priority basis. Separate special designation shall also be given to applications of disabled veterans.

(c) Local offices shall review veteran and eligible person applications each 30 calendar days and, if no reportable service has been recorded during the previous 30 calendar days, shall, if possible, determine each applicant's current status and desire for further ES assistance by telephone, visit, or mail. If further assistance is desired by the applicant, the local office shall initiate reportable services as appropriate. All reportable services given shall be noted on the applicant's application card.

(d) Local offices shall assure that the applications of veterans and eligible persons are not automatically inactivated in accordance with normal procedures without the following special review:

(1) Identification of the applications of veterans and eligible persons scheduled for inactivation;

(2) A file search for their records; and evidence that warrants inactivation such as placement in a job or training opportunity, an explicit request from an applicant to inactivate an application, notice that applicant has moved out of the local office jurisdiction, etc. If inactivation is scheduled but not warranted, appropriate reinstatement actions should be taken.

(e) Whenever feasible, local offices shall refer qualified veterans and eligible applicants within two working days



after they file their applications to job opportunities developed under the mandatory listing requirement of the Department's regulations at 41 CFR Part 60-250, under the Comprehensive Employment and Training Act (CETA), or contained in Job Bank listings. If necessary, local office hours and staff working schedules shall be adjusted so that this requirement can be met.

**§ 653.222 Performance standard on facilities for VES staff.**

Each State agency shall provide adequate and appropriate facilities including office space, furniture, telephone, etc. to the SDVE, ASDVEs and VES support staff attached to the State agency.

**§ 653.223 Performance standards on reporting.**

(a) State agencies shall provide RDVEs, SDVEs, and ASDVEs with access to regular and special internal State agency reports which relate in whole or in part with services to veterans and/or eligible persons.

(b) No special reporting requirements are established by this subpart. Existing reporting systems include information on services to veterans and eligible persons and shall be used by ETA and the State agencies to administer the provisions of this subpart. ETA, however, may require special reports from State agencies from time to time.

**§ 653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).**

(a) At least one member of each State agency staff, preferably an eligible veteran, shall be assigned by the State Director as a full-time Local Veterans' Employment Representative (LVER) to every local office which:

(1) Has had 1,000 new and renewal applications from veterans and eligible persons during the last Federal fiscal year; or

(2) Has a total of 6,000 veterans and eligible persons in the local office administrative area population.

(b) The State Director may:

(1) Assign additional full-time LVERs to local offices described in paragraph (a) of this section based on the State Director's determination of need; and

(2) Assign less than full-time LVERs to local offices described in paragraph (a) of this section if a lack of need for a full-time LVER is documented to the satisfaction of the DASVE as evidenced by the written approval of the DASVE.

(c) The State Director shall assign LVERs on a part-time basis to local offices other than those described in

paragraph (a) of this section. State Directors shall assure that periodic evaluations are made to determine the adequacy of services provided to veterans and eligible persons, and if necessary, they shall reallocate the time devoted to serving veterans and eligible persons by, for example, assigning additional full-time LVERs.

(d) Each LVER shall discharge, at the local office level, the duties prescribed for the SDVE in paragraph (d) of § 653.214. The LVER may also be delegated line supervision over veteran units assistant LVERs and veteran aides and may be assigned direct duties with respect to services for veterans and eligible persons by the local office manager.

(e) Each LVER shall be administratively responsible to the local office manager and shall provide functional supervision over all local office services to veterans and eligible persons. The term "functional supervision" as used in this paragraph shall mean evaluating local office personnel in their performance of services to veterans and eligible persons and assisting them to carry out these services more effectively.

(1) Functional supervision entails providing technical assistance, making suggestions for the improvement of services, helping to plan programs, initiating projects, checking for compliance with regulations, helping to correct errors by working with local office staff, analyzing work as it affects veterans and eligible persons, training new local office employees, providing refresher courses for other staff, and assisting all local office personnel to improve services to veterans and eligible persons. It also involves the bringing of matters which the LVER believes require corrective action to the attention of the local office manager and other officials who have line authority to set or change policy and procedure and to supervise staff.

(2) Functional supervision does not entail the right to hire, fire, or discipline any local office employee. Nor does it authorize an LVER to make regulations, change procedures or establish policies for the local office without specific authority from the local office manager.

**§ 653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of veterans and eligible persons.**

(a) Each State agency shall establish cooperative working relationships with the Veterans Administration (VA) office serving the State to maximize the use of VA training programs for veterans and eligible persons, particularly on-the-job and other skill train-

ing. Such working relationships should provide for the exchange of information on available training opportunities and on veterans and eligible persons available to be trained, the placing of job orders with the ES by employers who provide VA-approved on-the-job training, the referral of veterans and eligible persons to such job openings, and joint ES-VA programs to aid VA field staff in providing assistance to employers with VA programs. Each State agency should develop a written agreement with its VA counterpart covering areas of mutual concern and delineating each agency's areas of responsibility.

(b) Each State agency shall develop cooperative arrangements with public agencies and other organizations who are sponsors of programs under the Comprehensive Employment and Training Act of 1973 (CETA). State agencies shall make their staffs aware of the fact that, under section 205(c)(5) of the Comprehensive Employment and Training Act, sponsors of public service employment programs under Title II of that Act are required to make special efforts to acquaint veterans with the public service jobs available under Title II of CETA and to coordinate their efforts on behalf of veterans with ES activities under this subpart.

**§ 653.226 Standards of performance governing complaints of veterans and eligible persons.**

(a) Any veteran or eligible person may file a complaint with the LVER. The LVER shall handle the complaint in accordance with the provisions of Subpart E of Part 658 of this chapter except that, if the complaint relates to the responsibilities of an employer under 38 U.S.C. 2012, the LVER shall follow the Department's complaint procedures set forth at 41 CFR Parts 60-250.

(b) Each local office shall have information on the complaint system available to veterans and eligible persons at all times, and shall display a poster which advises applicants about the system.

**FEDERAL MONITORING OR STATE AGENCY COMPLIANCE**

**§ 653.230 Veterans preference indicators of compliance.**

(a) To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to non-veterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "non-veteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods, and locations. The floor levels of accomplishment for FY 1979 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

Veterans Counseled/Veteran Applicants=6 percent.

(ii) A minimum of (NA FY 1979) percent of all veteran applicants shall be referred to training.

Veterans Referred to Training/Veteran Applicant=(NA FY 1979) percent.

(iii) A minimum of 7.5 percent of all veteran applicants shall be provided job development.

Veteran Job Development Contacts/Veteran Applicants=7.5 percent.

(iv) A minimum of (individual State values listed below) percent of all veteran applicants shall be placed in jobs.

Veteran Applicants Placed/Veteran Applicants=(see list below for State values).

(v) A minimum of 60 percent of all veteran applicants shall be inactivated with some reportable service.

Veteran Applicants Inactivated With Some Service/Veteran Applicants=60 percent.

|                            | (iv)<br>Placed | Percent |
|----------------------------|----------------|---------|
| Region I (Boston):         |                |         |
| Connecticut                | 14             |         |
| Maine                      | 24             |         |
| Massachusetts              | 19             |         |
| New Hampshire              | 24             |         |
| Rhode Island               | 24             |         |
| Vermont                    | 24             |         |
| Region II (New York):      |                |         |
| New Jersey                 | 22             |         |
| New York                   | 22             |         |
| Puerto Rico                | 23             |         |
| Virgin Islands             |                |         |
| Region III (Philadelphia): |                |         |
| Delaware                   | 14             |         |
| District of Columbia       | 24             |         |
| Maryland                   | 20             |         |
| Pennsylvania               | 19             |         |
| Virginia                   | 22             |         |
| West Virginia              | 23             |         |
| Region IV (Atlanta):       |                |         |
| Alabama                    | 24             |         |
| Florida                    | 24             |         |
| Georgia                    | 24             |         |
| Kentucky                   | 23             |         |
| Mississippi                | 24             |         |
| North Carolina             | 23             |         |
| South Carolina             | 22             |         |
| Tennessee                  | 23             |         |
| Region V (Chicago):        |                |         |
| Illinois                   | 18             |         |
| Indiana                    | 19             |         |
| Michigan                   | 16             |         |
| Minnesota                  | 24             |         |
| Ohio                       | 18             |         |
| Wisconsin                  | 24             |         |
| Region VI (Dallas):        |                |         |
| Arkansas                   | 24             |         |
| Louisiana                  | 24             |         |
| New Mexico                 | 24             |         |
| Oklahoma                   | 24             |         |
| Texas                      | 24             |         |
| Region VII (Kansas City):  |                |         |
| Iowa                       | 24             |         |
| Kansas                     | 24             |         |
| Missouri                   | 24             |         |
| Nebraska                   | 24             |         |
| Region VIII (Denver):      |                |         |
| Colorado                   | 24             |         |
| Montana                    | 24             |         |
| North Dakota               | 24             |         |
| South Dakota               | 24             |         |
| Utah                       | 24             |         |
| Wyoming                    | 24             |         |
| Region IX (San Francisco): |                |         |
| Arizona                    | 24             |         |
| California                 | 23             |         |
| Guam                       | 24             |         |
| Hawaii                     | 24             |         |
| Nevada                     | 23             |         |
| Region X (Seattle):        |                |         |
| Alaska                     | 24             |         |
| Idaho                      | 24             |         |
| Oregon                     | 24             |         |
| Washington                 | 24             |         |

other appropriate characteristics to make them as comparable as possible within the limitations of available data systems.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

- (1) Veterans versus nonveterans;
- (2) Veterans of the Vietnam era versus nonveterans; and
- (3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be stated as follows:

(1) The ratio of veteran applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 25 percent.

Veteran's counseled/Veteran applicants + Nonveterans counseled/Nonveteran applicants - 1.00 = 25 percent

(2) The ratio of veteran applicants referred to training to the total number of veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least (NA FY 1979) percent.

Veterans referred to training/Veteran applicants + Nonveterans referred to training/Nonveteran applicants - 1.00 = (NA FY 1979) percent.

(3) The ratio of job development contacts made for veterans to the total number of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 50 percent.

Job development contacts for veterans/Veteran applicants + Job development contacts for nonveterans/Nonveteran applicants - 1.00 = 50 percent.

(4) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 10 percent.

Veterans placed/Veteran applicants + Nonveterans placed/Nonveteran applicant - 1.00 = 10 percent.

(5) The ratio of veteran applicants inactivated with some reportable service to the total number of veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some reportable service to the total number of nonveteran applicants by at least 15 percent.

Veterans inactivated with some reportable service/Veteran applicants + Nonveterans inactivated with some reportable service/Nonveteran applicants + 1.00 = 15 percent.



(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 35 percent.

Vietnam-era veterans counseled/Vietnam-era veteran applicants + Nonveterans counseled/Nonveteran applicants - 1.00 = 35 percent.

(2) The ratio of Vietnam-era veteran applicants referred to training to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least (NA FY 1979) percent.

Vietnam-era veterans referred to training/Vietnam era veteran applicants + Nonveterans referred to training/Nonveteran applicants - 1.00 = (NA FY 1979) percent.

(3) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 60 percent.

Job development contacts for Vietnam-era veterans/Vietnam-era veteran applicants + Job development contacts for nonveterans/Nonveteran applicants - 1.00 = 60 percent.

(4) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 15 percent.

Vietnam-era veterans placed/Vietnam-era veteran applicants + Nonveterans placed/Nonveteran applicants - 1.00 = 15 percent

(5) The ratio of Vietnam-era veteran applicants inactivated with some reportable service to the total number of Vietnam-era veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some reportable service to the total number of nonveteran applicants by at least 20 percent.

Vietnam-era veterans inactivated with some reportable service/Vietnam-era veteran applicants + Nonveterans inactivated with some reportable service/Nonveteran applicants - 1.00 = 20 percent

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall

exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100 percent.

Disabled veterans counseled/Disabled veteran applicants + Nonveterans counseled/Nonveteran applicants - 1.00 = 100 percent

(2) The ratio of disabled veteran applicants referred to training to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least (NA FY 1979) percent.

Disabled veterans referred to training/Disabled veteran applicants + Nonveterans referred to training/Nonveteran applicants - 1.00 = (NA FY 1979) percent

(3) The ratio of job development made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 75 percent.

Job development contacts for disabled veterans/Disabled veteran applicants + Job development nonveterans/Nonveteran applicants - 1.00 = 75 percent

(4) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 20 percent.

Disabled veterans placed/Disabled veteran applicants + Nonveterans placed/Nonveteran applicants - 1.00 = 20 percent

(5) The ratio of disabled veteran applicants inactivated with some reportable service to the total number of disabled veteran applicants shall exceed the ratio of nonveterans inactivated with some reportable service to the total number of nonveteran applicants by at least 25 percent.

Disabled veterans inactivated with some reportable service/Disabled veteran applicants + Nonveterans inactivated with some reportable service/Nonveteran applicants - 1.00 = 25 percent

(i) The veterans preference indicator of compliance for State agency action under the mandatory job listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of recently separated veterans of the Vietnam era and special disabled veterans placed in mandatory listing job openings to total number of individuals placed in mandatory listing job openings shall exceed 7 percent.

(j) Following analysis of the past fiscal year's accomplishments, the numerical value for each of the veterans preference compliance indicators for the next fiscal year will be published in the FEDERAL REGISTER as amend-

ments to paragraphs (f) through (i) of this section.

(k)(1) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular Operational Planning and Review System (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. In order to meet the indicators of compliance, a State agency must:

(i) Meet the placement and any two of the remaining three floor levels of accomplishment at paragraph (c) of this section; and

(ii) Meet 9 of the 16 veterans preference indicators of compliance at paragraphs (f) through (i) of this section, giving each of the three placement indicators double weight.

(2) ETA shall consider failure to meet either of these conditions as evidence that the State agency is not complying with the performance standards at § 653.221-226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA, pursuant to Subpart H of Part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to Subpart H of Part 658 of this chapter.

(l) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to Subpart H of Part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

§ 653.231 Secretary's annual report to Congress.

(a) The Secretary shall report, after the end of each Federal fiscal year, on the success of the Department and the State agencies in carrying out the provisions of this subpart. The report shall include, by State:

(1) The number of recently discharged or released eligible veterans, disabled veterans, other eligible veterans and eligible persons who requested assistance through the State agency; and

(2) Of the categories set forth in paragraph (a)(1) of this section, the number placed in employment, placed in job-training opportunities, or otherwise assisted.

(b) The report shall include any determinations that:

(1) A State agency demonstrated a lack of need for assigning a full-time LVER in accordance with § 653.224(b)(2); and

(2) Funds made available under the prior year's appropriations Act were not needed for carrying out the purposes of this subpart.

(c) The report shall include a designation of State agencies which ETA formally designated as out of compliance pursuant to § 653.230(k) with the standards of performance set forth in this subpart along with those agencies' plans for corrective action during the succeeding Federal fiscal year.

Signed at Washington, D.C., this 22d day of March 1976 and supra 79.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.  
[FR Doc. 79-9254 Filed 3-26-79; 8:45 am]



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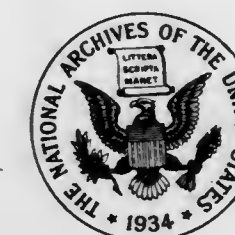
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TUESDAY, MARCH 27, 1979

PART IV



## DEPARTMENT OF ENERGY

Economic Regulatory  
Administration

■

## GRANTS FOR OFFICES OF CONSUMER SERVICES

Proposed Rulemaking and Public  
Hearing



[6450-01-M]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 460]

[Docket No. ERA-R-79-13]

## GRANTS FOR OFFICES OF CONSUMER SERVICES

Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes to amend the regulations which established a program of grants for offices of consumer services as authorized by section 205 of the Energy Conservation and Production Act. These regulations were established by the Federal Energy Administration (FEA), a predecessor agency of DOE, to provide for a discretionary program of grants to States for the establishment and operation of State offices of consumer services to assist the representation of consumer interests in electric proceedings of utility regulatory commissions. Any State, the District of Columbia, any territory or possession of the United States, and the Tennessee Valley Authority are eligible to apply for a grant under this program. DOE is now proposing revisions to these regulations in response to experience gained while operating the program and to bring the program under the current financial assistance procedures of DOE. Grants will be awarded annually on a competitive basis to a limited number of States. Written comments will be received and public hearings held with respect to this proposal.

DATES: Comments by May 28, 1979, 4:30 p.m. Requests to speak by April 23, 1979, 4:30 p.m. Hearing dates: Washington, D.C. hearing: May 8, 1979, 11:00 a.m.-7:00 p.m.; Denver, Colorado hearing: May 15, 1979, 11:00 a.m.-7:00 p.m.

ADDRESSES: All comments to: Department of Energy, Docket Control Center, Docket No. ERA-R-79-13, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Requests to speak: Washington, D.C. hearing: Docket Control Center, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461 (Telephone: 202-254-5201); Denver, Colorado hearing: Department of Energy, Attention: Dale Eriksen, 1075 S. Yukon Street, Post Office Box 26247, Belmar Branch, Lakewood,

## PROPOSED RULES

Colorado 80202 (Telephone: 303-234-2420).

HEARING LOCATIONS: Washington, D.C. hearing: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461; Denver, Colorado hearing: Room 300-A, Auraria Student Center, 9th Street between Lawrence and Larimer, Denver, Colorado 80202.

## FOR FURTHER INFORMATION CONTACT:

Nancy E. Tate, Office of Utility Systems, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, N.W. (526 Vanguard), Washington, D.C. 20461, Telephone: (202) 254-9755.

Joshua Smith, Office of the Assistant General Counsel for Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Room 3228, Washington, D.C. 20545, Telephone: (202) 376-4011.

Robert C. Gillette, Hearing Procedures, U.S. Department of Energy, 2000 M Street, N.W., Room 2214, Washington, D.C. 20461, Telephone: (202) 254-5201.

William L. Webb, Office of Public Information, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Telephone: (202) 634-2170.

## SUPPLEMENTARY INFORMATION:

- I. Background.
- II. The Program.
  - A. Award of Funds.
  - B. Statutory Requirements.
  - C. Eligible Consumer Groups.
  - D. Allowable Expenditures.
  - E. Minimum Program Requirements.
  - F. Applications.
  - G. Selection of Grantees.
  - H. Termination of Grants.
- III. Proposed Amendments.
- IV. Relationship of the Program to Section 122 of PURPA.
- V. Specific Requests for Comments.
- VI. Written Comment and Public Hearing Procedures.
  - A. Written Comments.
  - B. Public Hearings.
  - C. Other Relevant Hearings.
- VII. Other Matters.
  - A. Environmental Impact.
  - B. Regulatory Review.
  - C. Urban Impact Analysis.
  - D. Nondiscrimination.

## I. BACKGROUND

Regulations establishing a grants program for offices of consumer services were issued by the FEA as 10 CFR Part 460 on June 30, 1977 (42 FR 35163, July 8, 1977), and amended on August 10, 1977 (42 FR 41270, August 16, 1977). An advance notice of a program rule had been issued on May 13, 1977 (42 FR 24768, May 16, 1977) and comments solicited from interested parties. FEA received and considered

39 substantive comments, most of which endorsed the basic concepts and goals of the program.

The regulations established a program of discretionary grants to States, pursuant to section 205 (42 U.S.C. 6805) of the Energy Conservation and Production Act (ECPA), Pub. L. 94-385, 90 Stat. 1125 *et seq.* (42 U.S.C. 6801 *et seq.*). The purpose of this program is to provide financial assistance to establish or operate a State office of consumer services (Office) to support consumer representation in proceedings involving electric regulatory matters before a utility regulatory commission (commission).

A total of 41 grant applications were received and reviewed by FEA in accordance with the evaluation criteria specified in the regulations. FEA awarded grants to the 12 highest ranking applicants. Grantees established and began operation of Offices which met the program requirements of the regulations. DOE, to which responsibility for the program was transferred under the DOE Organization Act, Pub. L. 95-91, did not prescribe or endorse policy positions taken by Offices in proceedings. Instead, DOE approved a set of general operating procedures for each grantee, as required by the regulations, and monitored each Office's performance against the regulations' requirements, the procedures, and the statement of work contained in its grant application. DOE received a \$2 million appropriation for this program in Fiscal Year 1978. With this level of available program funding and the pending passage of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117, DOE asked each grantee to submit an application for second year funding. These applications were reviewed and funded by DOE in September 1978.

Section 142 of PURPA amended Title II of ECPA by adding a section 208 which authorized to be appropriated amounts not to exceed \$10,000,000 for each of fiscal years 1979 and 1980, to carry out section 205 of ECPA.

DOE proposes to amend the regulations for this program in order to improve the program based on experience gained in its operation as well as to conform the program to the current financial assistance procedures of DOE. A description of the major elements of the program and major proposed amendments to it is set forth in II below. A more complete discussion of the proposed changes is contained in III.

## II. THE PROGRAM

The program is a discretionary grants program of annual awards to States selected on a competitive basis

to establish and operate State offices of consumer services. Its major elements, as proposed to be amended, are as follows.

## A. AWARD OF FUNDS

Section 460.15 of the regulations prescribes the criteria used by DOE to evaluate an application submitted by a State. In general, the criteria used are: the quality and feasibility of a State's proposed Office and a State's need for an Office. The regulations establish a rating system with a total of 100 points under which a State application could receive up to 50 points for quality and feasibility and up to 50 points for need. The proposed amendments to the regulations do not change the weighting of these two factors, but alter the criteria used to evaluate need for an office operated with Federal financial assistance.

The ceiling on the amount of funds which may be requested from DOE during any one fiscal year remains at \$200,000.

## B. STATUTORY REQUIREMENTS

Pursuant to section 205 of ECPA, § 460.12(a) of the regulations requires that an Office be empowered and have the authority under local law to carry out three enumerated functions and to be operated independently of a commission.

Section 460.12(c) requires an Office to undertake activities either to assist consumer groups or to advocate on its own behalf a position it determines represents positions most advantageous to consumers. While an Office is required to assist electric consumers in proceedings, ECPA does not prescribe or restrict the classes of consumers which an Office must assist. Section 460.12 allows the Office to take into account the needs of all classes of consumers, not just residential consumers.

In its application, as prescribed by § 460.11(b)(2), a State must provide a legal opinion describing the manner in which it meets, or will in a timely manner satisfy, the statutory program requirements. The current regulations state that prior to the expenditure of funds and no later than 6 months from the date of grant award, an Office must be empowered and authorized under local law to perform the functions set forth under § 460.12(a)(2). DOE proposes to shorten this time period to 4 months since experience under the program indicates that 4 months is adequate to meet this requirement.

## C. ELIGIBLE CONSUMER GROUPS

No amendments are proposed for those sections of the regulations dealing with eligible consumer groups. The existing regulations are based upon the assumption that if an Office

## PROPOSED RULES

should decide to offer assistance to consumer groups, as defined in § 460.3 of the regulations, it should have considerable flexibility in determining which consumer groups are most in need of such assistance. Accordingly, the regulations do not restrict eligibility to a specific consumer class or group.

Section 460.14 of the regulations uses a "fairness test" to determine consumer group eligibility for assistance. This test requires that a consumer group represent a consumer interest, the representation of which would substantially contribute to a full and fair determination of the issues to be considered in the proceeding. DOE continues to believe that the fairness test is likely to result in a broad spectrum of views being incorporated in a commission's decisionmaking process, and thus increases the likelihood that consumer participation will provide a commission with access to the information it needs to identify and evaluate accurately and impartially the costs and benefits that alternative resolutions of a given issue entail.

In addition, § 460.14 provides that a consumer group must show that it does not have reasonably available, and cannot reasonably obtain, sufficient resources to participate effectively in a proceeding. Thus, if a consumer group could raise funds to participate in a proceeding only by drastically reducing its staff or their salaries, and the Office concludes that such a solution is unreasonable, funding can be provided under § 460.14. The "reasonably obtainable" test is designed to prevent an Office from concluding, for example, that a group of consumers who own or have equity in their homes are ineligible for assistance on the theory that the consumers could obtain the necessary resources to fund their participation by selling or taking out additional mortgages on their houses.

The regulation in § 460.14(b)(2) establishes an alternative test of need employing a class action standard. Under this class action test, a consumer group may be eligible for funding if and Office finds, on the one hand, that the economic interest of both the consumer group and any consumer is small in relation to the costs of effective participation in a proceeding; and, on the other hand, that the costs of the consumer group's effective participation are small in relation to the social, economic or environmental consequences for consumers of the outcome of the proceeding. In this situation, the interest, though substantial, will remain unrepresented because no individual or group has a sufficiently strong financial incentive to intervene.

The class action test does not take financial need into consideration. A

consumer group may qualify for financial or technical assistance irrespective of the extent of its financial resources. Where the cumulative consequences of the outcome for consumers are exceptionally important, the consumer interest should be protected regardless of ability to pay.

## D. ALLOWABLE EXPENDITURES

Expenses incurred by an Office and its subgrantees in participating in Federal utility regulatory proceedings are allowable program expenditures.

The existing regulations also specify and limit the other expenditures that an Office may incur with program funds. An additional limitation is proposed in § 460.13(a)(6) to limit the aggregate expenditures subject to newly numbered § 460.13(a)(4) and § 460.13(a)(5).

## E. MINIMUM PROGRAM REQUIREMENTS

The existing regulations establish minimum program requirements in § 460.12(a) which call for compliance with the statutory requirements of the Act. Section 460.12(b) prescribes minimum program requirements concerning the development and publication of procedures. To comply with these requirements an Office must plan its program for assisting consumers by developing procedures that are essential to its effective operation. The existing regulations require an Office to establish and publish these procedures within either 6 months of the award date of the grant, or 3 months from the date on which the requirements of § 460.12(a) are met, whichever occurs later. DOE proposes to curtail the 6 month time period to 4 months in order to allow the Office to provide assistance to consumers within a shorter time. Those procedures relating to providing assistance to eligible consumer groups should reflect a grantee's awareness and understanding of other sources of funding available to consumer groups in the State.

An Office must develop all of the enumerated procedures, regardless of whether they pertain to a function proposed for an Office in its application, because DOE believes that in the long run, an Office should have the capability to carry out all three functions. To be viable, an Office needs to be able to perform analyses, intervene in proceedings on its own behalf and assist eligible consumer groups. Only in this way will an Office be able to discharge fully its obligation to act effectively on behalf of consumers.

## F. APPLICATIONS

Application procedures are set forth in § 460.11 to which certain amendments are proposed. To be eligible for a grant, a State must submit an application to DOE no later than the



August 15th preceding the fiscal year for which financial assistance is sought, or such other date as DOE may establish by a notice published in the FEDERAL REGISTER. Since DOE will accept only one application per State, a State must designate the department or agency which shall apply to DOE for a grant.

The regulations require an application to include information on how the State proposes to establish, where none currently exists, and operate an Office. The application must include a description of the goals and objectives of the proposed Office; a discussion of how it proposes to meet the minimum program requirements; a description of the functions the Office will perform, and the activities by which they will be performed; a program budget and a description of the Office's proposed organizational structure and staffing; and a statement of task sequence and a timetable. The application also shall include an assurance that Federal funds requested under this Part will not be used to supplant State funds appropriated to perform functions to be conducted for this program.

A State must also provide information concerning any State department or agency which represents consumers with respect to commission proceedings.

In addition, the application shall contain information concerning a State's need for an Office, which shall be evaluated by DOE as described in § 460.15(c). The requirements for the information to be supplied for this purpose are proposed to be amended as noted in III below.

#### G. SELECTION OF GRANTEES

Grantees will be selected on the basis of DOE's evaluation of their applications through the use of the rating system set forth in § 460.15. An application may receive up to 50 points for the feasibility and quality of the proposed Office, taking into account the overall planning of the proposal and the feasibility of implementation. An application may receive up to 50 points for a State's demonstration of its need for an Office. Of this, up to 25 points will be awarded on the basis of the magnitude of need demonstrated with respect to the information provided in response to § 460.11(b)(11). The existing regulations provide for the remaining 25 points to be awarded on the basis of DOE's analysis of the following three factors: first, the average revenue per kWh calculated for all electric utilities in the State, as an indication of where the costs to consumers for a kWh of electricity are already high or likely to increase sharply; second, the percentage of per capita income of a State's

residential consumers which is spent for electricity for residential use, as an indication of the impact of an average electric bill on a typical family; and third, the extent to which a State uses natural gas to generate electricity, as an indication of where consumers are likely to experience sharp increases in the price of electricity. DOE proposes to amend § 460.15(c)(2) to delete the natural gas factor. DOE will obtain the necessary data on and will perform the analyses of the two factors.

#### H. TERMINATION OF GRANTS

Existing § 460.19 provides for suspension and termination of grants upon written notice to a grantee in the event DOE determines there has been a substantial failure to comply with the requirements of this regulation. It is proposed that this section be amended to bring it into conformity with the DOE Assistance Regulations (10 CFR Part 600) and to make it clear that grants may be terminated for convenience by mutual agreement. It is proposed that this section be renumbered as § 460.16.

#### III. PROPOSED AMENDMENTS

As the preceding discussion has indicated, DOE does not propose to make substantial revisions to the basic elements of the program. DOE is satisfied that the program has operated in a successful manner. A detailed discussion of the proposed amendments and their basis follows. For the public's convenience, DOE is publishing the entire rule and not just the proposed changes.

1. It is proposed that Part 460 be amended to replace the terms "Federal Energy Administration," "FEA" and "Administrator," wherever they appear in the part, with the terms "Department of Energy," "DOE" and "Secretary," respectively. Definitions of the terms "Administrator" and "FEA" are proposed to be deleted from § 460.3 and definitions of the terms "DOE" and "Secretary" are proposed to replace them. These nomenclature changes do not affect the substance of the regulations but reflect the transfer of FEA responsibilities, including this program, to DOE pursuant to the DOE Organization Act.

2. DOE proposes to amend § 460.1 to clarify that financial assistance is to be used to establish or operate an Office which assists the representation of consumer interests in a proceeding before a utility regulatory commission. When read in conjunction with the revised definition of "proceeding," the proposed language better defines the general purpose for which Federal assistance may be provided under the program.

The last sentence of § 460.1 is proposed to be revised to make clear that

grants will be awarded annually on a competitive basis. States which receive a grant in one year will be required, if they wish to be considered for a later award, to reapply and compete with other applicants for grants in subsequent years. The regulations provide for an ongoing program of annual grants, subject, of course, to the continued authorization and appropriation of funds for the program.

3. DOE proposes to retitle § 460.2 as "General Requirements," and to set forth in that section the documents (updated and renumbered) which govern the award and administration of grants under the program, except where the program regulations otherwise provide. The reference to Federal Procurement Regulation 1-15.7 would be deleted because the cost principles set forth therein are also contained in Federal Management Circular 74-4. Federal Management Circulars 73-2 and 74-7 have been superseded by Office of Management and Budget (OMB) Circulars A-73 and A-102, respectively. Most importantly, this section would reference the DOE Assistance Regulations (10 CFR Part 600) which were issued on March 1, 1979 (44 FR 12920, March 8, 1979).

4. In addition to the proposed changes to § 460.3 Definitions already described, DOE proposes to add the phrase "as amended" to update the definition of the term "Act," and revise the definition of "Proceeding" to clarify that a utility regulatory commission proceeding must involve consideration of electric rates or other proposed electric regulatory actions involving an electric utility. Definitions of "Technical assistance" and "Fiscal year" would also be added to this section. "Technical assistance" was discussed in the preamble to the original regulations but was not defined. The proposed definition conforms to that discussion and allows an Office to provide to an eligible consumer group a wide variety of services which may be necessary to make a presentation in a proceeding before a utility regulatory commission. The term "Fiscal year" is defined because certain information required in a State's application must be listed on a fiscal year basis.

5. It is proposed that § 460.11(a) be amended to require that an application for a grant must be on a form provided by DOE and be received on or before 5:30 p.m. e.d.t. on the August 15th preceding the fiscal year for which financial assistance is sought. The proposed revision also allows DOE to revise the due date for applications by publishing a notice of revised date in the FEDERAL REGISTER. DOE is developing application forms utilizing standard form 424 found in OMB Circular A-102, Attachment M.

DOE would annually provide application forms and a copy of Part 460 to the Governor of every State and invite him or her to submit an application, and would revise § 460.11(b)(7) to make it clear that the \$200,000 application ceiling applies to a fiscal year. These proposed changes and a proposed addition to § 460.11(b)(10) more firmly establish the annual operation of the applications process.

6. It is proposed that § 460.11(b)(4) be revised to clarify the requirements that the applicant assure DOE that funds received under this program will not supplant funds from other sources.

7. It is proposed that § 460.11(b)(5) be amended to require a description of the specific activities through which the Office will implement the functions it proposes to carry out. DOE is proposing this change to allow the applicant to provide a thorough description of the work it proposes to perform and thereby offer DOE evidence that its Office is well planned and conceived.

8. DOE is proposing to amend § 460.11(b)(11) to revise the information an applicant must submit describing its need for an Office operated with Federal financial assistance. This is because the needs of consumer interest offices already operated with State, Federal, or other funding are different from the needs of those applicants requesting financial assistance from DOE which do not currently receive financial assistance to represent consumers in proceedings. Accordingly, § 460.11(b)(11) recognizes this distinction and allows the applicant to describe the unique situation in the State which justifies its need for an Office operated with Federal financial assistance.

9. It is proposed that the time period which a grantee is given to establish or have in existence an Office meeting the criteria set forth in § 460.12(a) be reduced from 6 months to 4 months. Experience under the program to date has shown that Offices were establishing in far less time than 6 months. DOE desires to encourage the prompt establishment of Offices by successful applicants.

Similarly, it is proposed that § 460.12(b) be amended to shorten the time period allowed for an Office to establish the procedures required by § 460.12(b) from 6 months to 4 months. DOE wishes to encourage timely representation of consumer interests. Experience gained under the program leads DOE to believe that 4 months is a sufficient period of time for procedures to be developed. If it is not possible for a State to meet these time limits, § 460.12(c) allows DOE, upon a showing of good cause, to extend the time limits.

10. DOE is proposing to amend § 460.13 by adding a new aggregate limit on the amount of a grant award that may be expended for payments to consultants and subgrantees. This proposed change would retain the 45 percent ceilings on expenditures for consultants and for subgrantees established by § 460.13(a)(4) and § 460.13(a)(5), but a new § 460.13(a)(6) would limit the aggregate amount of those expenditures to 60 percent of a grant award and would require the renumbering of subparagraphs after (2). DOE continues to recognize the need for expenditures for subgrantees and for consultants, but the 60 percent ceiling on aggregate expenditures is intended to balance this need against the objectives of promoting an Office's long term viability by requiring it to develop in-house expertise.

11. It is proposed to amend the selection procedures established by § 460.15 by clarifying subparagraph (c)(2) and by deleting factor (iii) of that subparagraph. That factor makes the extent to which a State uses natural gas to generate electricity one of the factors evaluated in determining need for an Office. DOE has determined that this factor is no longer of such significance that it merits special consideration. DOE believes that the remaining two factors, the average revenue per kWh calculated for all electric utilities in the State, and the percentage of per capita income of residential consumers within a State which is spent for electricity for residential use, provide sufficient information about the current and anticipated electricity prices and supply characteristics in each State.

12. It is proposed that existing § 460.16 Oversight Responsibility, § 460.17 Recordkeeping, and § 460.18 Reporting Requirements, be deleted from the regulations. These sections establish administrative requirements which are duplicative of the requirements established by OMB Circular A-102 and the DOE Assistance Regulations, and made applicable to this program under § 460.2. Current § 460.19, entitled Grant Termination, is renumbered as § 460.16, and a new paragraph (a) would be added to it to allow for the termination of grants for convenience by mutual agreement. Other paragraphs in that section would be relettered. In addition, paragraph (b) would be revised slightly to indicate that termination procedures discussed in that section would be in conformity with § 600.114 of Subpart B of the DOE Assistance Regulations.

#### IV. RELATIONSHIP OF THE PROGRAM TO SECTION 122 OF PURPA

The intervenor funding provisions of section 122 of PURPA do not supersede the Grants for Offices of Consumer Services Program. Section 122

established certain criteria and conditions under which consumers may receive compensation for their involvement in PURPA related proceedings from certain non-DOE sources. The Grants for Offices of Consumer Services Program, whose authorization was extended for 2 years by section 142 of PURPA, provides for financial assistance for the establishment or operation of Offices under section 205 of ECPA. The Offices can provide assistance to consumer groups and/or intervene in electric proceedings which may or may not be related to PURPA.

PURPA-related proceedings would consider the extent to which certain regulatory policies would tend to encourage: (1) Conservation of energy supplied by electric utilities, (2) the optimization of the efficiency of use of facilities and resources by electric utilities, and (3) equitable rates to electric consumers. Of particular interest to DOE is the efficient use by utilities of imported energy resources, such as oil.

#### V. SPECIFIC REQUESTS FOR COMMENTS

Public attention and comments on this regulation should be focused on the following topics:

(1) The proposed amendments to the existing regulations discussed in section III of this preamble.

(2) Those aspects of the existing regulations described below:

(a) The feasibility and need criteria for evaluating a State's application;

(b) The standards for determining those consumer groups which are eligible for financial or technical assistance in the presentation of their positions before utility regulatory commission;

(c) The appropriateness of the \$200,000 ceiling placed on the amount of funds which may be requested from DOE;

(d) Whether an Office should be allowed the option of either assisting consumer groups or advocating on its own behalf or whether § 460.12(c) should be amended to make both functions mandatory.

#### VI. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

##### A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration, information, views, or arguments with respect to the matters set forth in this proposed rule. Comments should be submitted by 4:30 p.m., May 28, 1979, to the address indicated in the "ADDRESSES" section of this proposed rulemaking, and should be identified on the outside envelope and on the document with the docket number and the designation: "Grants for Offices of Consumer Service Programs, Docket



No. ERA-R-79-13." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 100 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

#### B. PUBLIC HEARINGS

The times and places for the hearings are indicated in the "DATES", and "ADDRESSES" section of this preamble.

1. *Procedures for Request to Make Oral Presentation.* If you have any interest in the matters discussed in this proposed rulemaking, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make an oral presentation by 4:30 p.m. April 23, 1979. You should also provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m. April 27, 1979. For distribution at the Washington, D.C. hearing, you should submit 100 copies of your hearing testimony by May 7, 1979 to Public Hearing Management, Department of Energy, Room 2214, 2000 M Street, N.W., Washington, D.C. 20461. One hundred (100) distribution copies of written testimony should be submitted for the Denver hearing at the given location on the day of the hearing.

2. *Conduct of the Hearing.* We reserve the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard. We encourage groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the groups.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to have a question asked at a hearing, you may submit the question, in writing, to the presiding officer. The ERA, or, if the question, is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for an answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

#### C. OTHER RELEVANT HEARINGS

In addition to holding hearings on the Grants for Offices of Consumer Services Program, DOE will be holding public hearings on two other PURPA-related regulations on two consecutive days. Public hearings on the proposed rule on the PURPA Financial Assistance Programs will be held in Washington, D.C. on May 9, 1979, 9:30 a.m. and in Denver, Colorado on May 16, 1979, 9:30 a.m. Public hearings on the proposed Rule on Annual Reports From States and Nonregulated utilities on Progress in Considering and Implementing Rate-making Standards under PURPA will be held in Washington, D.C. on May 10, 1979, 9:30 a.m. and in Denver, Colorado on May 17, 1979, at 9:30 a.m.

#### VII. OTHER MATTERS

##### A. ENVIRONMENTAL IMPACT

DOE has determined that this action does not constitute a major Federal action which may have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq.

DOE's involvement is confined to funding State offices to assist consumers in electric proceedings of utility regulatory commissions. DOE will not restrict nor can it anticipate the posi-

tions that may be advocated by an office or subgrantee.

As required by section 7(a)(1)(15 U.S.C. 776) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, a copy of this notice was submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

#### B. REGULATORY REVIEW

DOE has determined that this proposed rulemaking is significant as that term is used in Executive Order 12044 and amplified in the DOE procedures for developing DOE regulations. This is considered a significant proposal because it provides for institutionalized access for consumers in proceedings and will: (1) Enhance the ability of consumers to have adequate energy supplies at reasonable prices; (2) enhance the likelihood that objectives of national energy policy will be met; and (3) has the continued interest of Congress and the public.

DOE has further determined that the proposed rulemaking is not likely to have a major impact as defined by Executive Order 12044 and as amplified in the DOE procedures for developing regulation because it is not likely to impose a gross economic annual cost of \$100 million or more; is not likely to impose a major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups; is not likely to have a substantial effect on any of the objectives of national energy policy or energy statutes; is not likely to have an adverse impact on competition; and has not been considered by the Secretary, Deputy Secretary or Under Secretary likely to have a major impact for any other reason. Accordingly, no regulatory analysis will be performed.

#### C. URBAN IMPACT ANALYSIS

This proposed rulemaking has been reviewed in accordance with OMB Circular A-116 to assess the impact on urban centers and communities. In accordance with DOE's finding that the proposed regulations are not likely to have a major impact, DOE has determined that no community and urban impact analysis of this proposed rulemaking is necessary, pursuant to section 3(a) of Circular A-116.

#### D. NONDISCRIMINATION

In addition to current Federal non-discrimination regulations applicable to this regulation, DOE has published a proposed rulemaking in the FEDERAL REGISTER entitled "Nondiscrimination in Federally Assisted Programs" (43 FR 53658, November 18, 1978). All ap-

plicable grantees will be responsible for compliance with the provisions of that regulation when it is made effective upon its final publication.

(Energy Conservation and Production Act, Pub. L. 94-385, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, Part 460 of Chapter II, Title 10 of Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., March 21, 1979.

DAVID J. BARDIN  
Administrator, Economic  
Regulatory Administration.

Chapter II of Title 10, Code of Federal Regulations, Part 460 is revised to read as follows:

#### PART 460—GRANTS FOR OFFICES OF CONSUMER SERVICES

- Sec.  
460.1 Purpose and scope.  
460.2 General requirements.  
460.3 Definitions.  
460.10 Grant awards.  
460.11 Applications.  
460.12 Minimum program requirements.  
460.13 Allowable expenditures.  
460.14 Eligible consumer groups.  
460.15 Selection of grantees.  
460.16 Grant termination.

AUTHORITY: Energy Conservation and Production Act, Pub. L. 94-385, as amended by the Public Utility Regulatory Policies Act, Pub. L. 95-617; Department of Energy Organization Act, Pub. L. 95-91.

##### § 460.1 Purpose and scope.

This part contains the regulations adopted by the Department of Energy to conduct a discretionary grant program to provide Federal financial assistance to a State. This financial assistance shall be used to establish or operate a State office of consumer services which shall assist the representation of consumer interests in proceedings before a utility regulatory commission pursuant to section 205, 42 U.S.C. 6805, of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq., as amended. Grants will be awarded annually on a competitive basis to a limited number of States.

##### § 460.2 General requirements.

Except where this part provides otherwise, the award and administration of grants under this part will be governed by the following:

- (a) Office of Management and Budget Circular A-73, entitled "Audit of Federal Operations and Programs;"  
(b) Federal Management Circular 74-4, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(c) Office of Management and Budget Circular A-89, entitled "Catalog of Federal Domestic Assistance;"

(d) Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(e) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(f) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(g) Office of Management and Budget Circular A-110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations;"

(h) Treasury Circular 1082, entitled "Notification to States of Grant-in-Aid Information;"

(i) Treasury Circular 1075, entitled "Regulations Governing Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs;"

(j) DOE Assistance Regulations (10 CFR Part 600); and

(k) Such procedures applicable to this part as DOE may from time to time prescribe for the award or administration of grants.

##### § 460.3 Definitions.

As used in this part—

"Act" means the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq. (42 U.S.C. 6801 et seq.), as amended.

"Commission" means a utility regulatory commission.

"Consultant" means a person who contracts to provide personal services for an Office and includes an attorney, accountant, economist, or other expert witness.

"Consumer" means a person who buys electricity for purposes other than resale.

"Consumer group" means an association or organization consisting of not less than three individuals that represents a consumer interest, and may include a corporation, nonprofit corporation, unincorporated association, unit of general purpose local government, tribal organization, law firm, committee, or association of concerned consumers.

"Consumer interest" means a potential benefit or detriment to a consumer from the social, economic or environmental consequences of the outcome of a proceeding.

"Consumer-interest office" means a department, agency, or office of a State which engages in activities on behalf of a consumer interest.

"DOE" means the Department of Energy.

"Electric utility" means a person, State agency or Federal agency which sells electric energy for purposes other than resale.

"Federal agency" means an agency or instrumentality of the United States.

"Fiscal year" means the 12 month period beginning October 1.

"Fuel adjustment clause" means a clause in a rate schedule that provides for an adjustment of the consumer's bill if the cost of the fuel used for electrical generation varies from a specified unit of cost.

"Governor" means the chief executive officer of a State or territory, the Mayor of the District of Columbia, or the Chairman of the Tennessee Valley Authority.

"Grantee" means the State or other entity named in the notification of grant award as the recipient.

"Kilowatt-hour" means a unit of measuring electricity usage which represents a unit of work or energy equal to that expended by one kilowatt in one hour.

"kWh" means a kilowatt-hour.

"Local law" means the laws in force and effect in a State and includes the statutes, rules and regulations, judicial decisions, administrative findings and determinations and executive orders and proclamations as enforced by the State and its judicial system.

"Office" means an Office of Consumer Services.

"Person" means an individual, partnership, corporation, unincorporated association or any other group, entity or organization.

"Proceeding" means a proceeding before a utility regulatory commission involving consideration of electric rates or other proposed electric regulatory actions involving an electric utility.

"Secretary" means the Secretary of the Department of Energy.

"State" means a State, the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands and the Tennessee Valley Authority.

"Subgrantee" means the eligible consumer group named as the recipient in a grant which shall be made by an Office.

"Technical assistance" means providing data, technical analyses, or other information necessary to make a presentation in a proceeding and may include preparing testimony, providing legal assistance, and providing expert testimony.



"Tribal organization" means the recognized governing body of an Indian Tribe, or any legally established organization of Native Americans which is controlled, sanctioned or chartered by such governing body.

"TVA" means Tennessee Valley Authority.

"Unit of general purpose local government" means any city, county, town, parish, village or other general purpose political subdivision of a State.

"Utility regulatory commission" means TVA or a regulatory authority empowered by Federal or local law to fix, modify, approve, or disapprove rates for the sale of electric energy by an electric utility other than itself.

#### § 460.10 Grant awards.

(a) DOE shall provide financial assistance to a State from sums appropriated for any fiscal year, only upon annual application.

(b) Grants shall be awarded to States, selected at the discretion of DOE on the basis of the evaluation made in accordance with § 460.15, for the establishment or operation of an Office.

#### § 460.11 Applications.

(a) To be eligible to receive a grant under this part a State shall submit an application in conformity with paragraph (b) of this section, on a form to be provided by DOE, which shall be received by DOE on or before 5:30 p.m. e.d.t. on the August 15th preceding the fiscal year for which financial assistance is sought, or such other date as DOE may establish by notice published in the FEDERAL REGISTER. DOE shall annually send a copy of this regulation and an application form to the Governor of every State and invite him or her to submit an application.

(b) Each application shall include:

(1) An overview statement of the specific goals and objectives of the proposed Office and an explanation of how they relate to the goals and objectives of an existing State Consumer-Interest Office and any commission before which the Office intends to assist the representation of consumer interests;

(2) A legal opinion setting forth the manner in which the State has complied, or will, in a timely manner, comply with the requirements of § 460.12(a);

(3) Where applicable, an explanation of the authority, functions, organization, activities, budget and financial resources of a Consumer-Interest Office operating within the State;

(4) An assurance that Federal funds requested under this part will not be used to supplant State or other funds appropriated to perform the functions

proposed to be conducted in this application;

(5) A statement of which of the functions set forth in § 460.12(a)(2) are proposed to be carried out by the Office with financial assistance under this part, the reasons for choosing to perform those functions and a description of the specific activities through which these functions will be carried out;

(6) A detailed description of how the Office will meet the minimum program requirements prescribed by § 460.12(b) and a timetable for satisfying these requirements;

(7) The amount of Federal financial assistance being applied for under this part, which shall not exceed \$200,000 for any fiscal year, and a budget including identification and a description of resources or financial assistance which shall be provided to an Office from sources other than the financial assistance provided under this part;

(8) A description of the organizational structure of the Office including the extent of coordination proposed between the Office and other parts of the State government representing consumers or regulating electric utilities;

(9) A description of the responsibilities and the experience and qualifications, if known, of key personnel and consultants proposed to be used by the Office;

(10) A statement of the task sequence and a timetable for establishing the Office, where applicable, and for implementing the activities for a 12 month period, by calendar quarter, beginning October 1, of the fiscal year for which financial assistance is sought;

(11) A detailed description of the State's need for an Office operated with Federal financial assistance which shall identify the conditions and circumstances existing within the State that give rise to that need, including the following:

(i) If the office for which the State is submitting the application currently receives State, Federal, or other financial assistance (such as assessments from utilities) to represent consumers in proceedings, the description shall include—

(A) This office's accomplishments to date with respect to electric utility regulatory matters including—

(1) Studies conducted by this office which were directly related to its involvement in a proceeding;

(2) Proceedings in which this office was involved, issues discussed, commission decisions rendered, and known impact, if any, of this involvement on the outcome of the proceeding; and

(3) Assistance provided by this office to consumer groups on electric utility regulatory matters.

(B) The degree to which financial assistance obtained from sources other than under this part is inadequate to perform the activities for which DOE financial assistance under this part is requested. This description shall include a discussion of the prospects for increases or decreases in the existing State, Federal, or other financial assistance.

(ii) If the office for which the State is submitting the application does not currently receive State, Federal, or other financial assistance (such as assessments from utilities) to represent consumers in proceedings, this description shall include—

(A) This office's and the State's past attempts to obtain funding from State, Federal or other sources to represent consumer interests and the reasons that these attempts were unsuccessful;

(B) The magnitude of the electric utility regulatory matters in the State requiring consumer representation in proceedings including—

(1) Recent increases in average electric bills of different types of consumers;

(2) The commission's positions on rate reform initiatives; and

(3) The type, quality and amount of participation by consumer groups in proceedings within the State and the responsiveness of the commission to these consumer interventions.

(C) The resources available to any other consumer-interest office in the State which represents consumer interests in proceedings.

(D) The potential benefits to consumers in the State if Federal financial assistance under this part is made available by DOE.

#### § 460.12 Minimum program requirements.

(a) Prior to the expenditure of any grant funds and no later than 4 months from the date of a notification of grant award made under this part, a grantee shall have in existence or establish an Office which—

(1) Is a consumer-interest office;

(2) Is empowered and has authority under local law to—

(i) Make general factual assessments of the impact of proposed electric utility rate changes and other proposed regulatory actions upon consumers, including residential consumers;

(ii) Provide technical or financial assistance to an eligible consumer group meeting the requirements of § 460.14 in the presentation of its position in a proceeding; and

(iii) Advocate on its own behalf, a position which it determines represents the position most advantageous to consumers, including residential

consumers, taking into account developments in earlier utility rate design reform; and

(3) Is independent of a commission with respect to the following—

(i) The commission has no direct control over the Office's budget or its disbursement of funds;

(ii) The commission has no authority over the hiring, management, or dismissal of the personnel employed by an Office; and

(iii) Employees of the Office do not perform services for, report to, or act on behalf of, the commission.

(b) Each Office shall develop and publish within 4 months of the date of a grant award or 3 months from the date upon which the Office meets the requirements of paragraph (a) of this section, whichever shall be later, procedures to be approved by DOE, to—

(1) Determine whether a consumer group is an eligible consumer group in accordance with the requirements of this part;

(2) Provide technical assistance to an eligible consumer group, and financial assistance on a full funding or cost sharing basis to a subgrantee to make one or more presentations in a proceeding;

(3) Establish priorities for providing technical and financial assistance to eligible consumer groups taking into consideration—

(i) Consumer interests;

(ii) The consumer interest of, or represented by, an eligible consumer group;

(iii) The composition, diversity and number of members of an eligible consumer group;

(iv) The relative effectiveness of an eligible consumer group's proposed presentation, including the extent to which—

(A) The eligible consumer group is familiar with and understands the subject matter and issues involved in the proceeding;

(B) Its proposed presentation is feasible and well-conceived; and

(C) The eligible consumer group can effectively represent a consumer interest in a proceeding;

(v) The uniqueness or novelty of an eligible consumer group's position or point of view; and

(vi) Where financial assistance is to be provided, the experience and expertise of a consultant which an eligible consumer group intends to engage;

(4) Advocate on its own behalf a position in a proceeding which it determines represents the position most advantageous to consumers which shall involve the performance of activities including—

(i) Consideration of views and data obtained from consumers through the use of such information gathering techniques as a public hearing, survey,

or consumer advisory committee, to ensure that the Office obtains and considers the broadest possible spectrum of consumer views;

(ii) Obtaining qualified witnesses and preparing testimony and other submissions for presentation in a proceeding;

(iii) Analysis and consideration of development in innovative utility rate design reform;

(5) Making general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon consumers; and

(6) Identifying consumer groups and providing them with information concerning this program and its operation.

(c) After complying with the requirements of paragraph (b) of this section, an Office shall carry out activities for the functions prescribed in § 460.12(a)(2)(i) or (iii). DOE may upon application by a grantee or Office and for good cause shown, extend the time limit set to meet the requirements of paragraphs (a) and (b) of this section.

#### § 460.13 Allowable expenditures.

(a) Financial assistance provided under this part shall be used for the establishment or operation of an Office, and grant funds awarded in any year shall only be expended for the following—

(1) Compensation of employees of the Office;

(2) No more than 10 percent shall be used for administrative expenses of an Office, exclusive of compensation provided under subparagraph (1) of this paragraph;

(3) No more than 20 percent may be paid to contract for the use of computers and similar equipment for the storage and analysis of data;

(4) No more than 45 percent may be paid for the services of consultants: *Provided*, That no consultant shall receive in excess of 20 percent, subject to the aggregate limitation of subparagraph (6) of this paragraph;

(5) Payments to subgrantees to carry out the function described in § 460.12(a)(2)(ii) in accordance with the requirements of this part: *Provided*, That total payments to subgrantees shall not exceed 45 percent of the grant funds awarded, subject to the aggregate limitation of subparagraph (6) of this paragraph;

(6) No more than 60 percent in the aggregate may be paid for the services of consultants and to subgrantees under subparagraphs (4) and (5) of this paragraph;

(7) Payments to a consultant by an Office or subgrantee shall not exceed the prevailing market rate for the level and quality of the personal service but not to exceed \$75 per hour, ex-

clusive of reasonable costs for travel and incidental disbursements such as mailing and photocopying; and

(8) Reasonable costs of an Office or subgrantee for travel and transportation for an employee, consultant or a person performing services, such as a volunteer, provided that such costs are incurred in connection with preparing or making a presentation at a proceeding.

(b) No grant funds shall be expended until a State has established an Office which meets the requirements of § 460.12(a).

(c) For the purposes of paragraph (a)(3) of this section, a consultant shall include—

(1) Any person which employs or otherwise uses the personal services of the consultant including employment by a partnership, corporation, sole proprietorship, or other business enterprise engaged in performing personal services;

(2) Any person in which the consultant owns 10 percent or more of the stock, including options to purchase stock, or other securities issued by a corporation, or any person engaged in performing personal services in which the consultant has a financial interest which is equal to or exceeds 10 percent;

(3) Any person, such as a parent company or affiliate, which owns 10 percent or more of the stock, including options to purchase stock, of the consultant, or other securities issued by the consultant, or owns a financial interest of any kind in the consultant which is equal to or exceeds 10 percent;

(4) Any business entity engaged in performing personal services including a corporation, partnership, consortium or other enterprise in which the consultant is an officer or director, partner or active principal; and

(5) Any business entity including a corporation, partnership, consortium or other business enterprise engaged in providing personal services in which the consultant participates in a profit-sharing program.

#### § 460.14 Eligible consumer groups.

No consumer group shall receive financial or technical assistance from an Office unless—

(a) The consumer group's—

(1) Representation of a consumer interest would substantially contribute to a full and fair determination of the issues to be considered in the proceeding; and

(2) Participation in the proceeding is necessary to the effective representation of the consumer interest; and

(b) The consumer interest would not be effectively represented because—

(1) The consumer group does not have reasonably available and cannot



reasonably obtain sufficient resources to participate effectively in the proceeding; or

(2)(i) The economic gain or loss to the consumer group and any consumer with regard to the outcome of the proceeding is small relative to the costs of effective participation in the proceeding; and

(ii) The costs of effective participation are small relative to the social, economic or environmental consequences of the outcome of the proceeding.

#### § 460.15 Selection of grantees.

(a) DOE shall evaluate an application submitted in accordance with § 460.11 through the use of a rating system with a total of 100 points under which up to 50 points may be scored for the quality of the proposed Office and up to 50 points may be scored for a State's need to establish and operate an Office.

(b) DOE shall evaluate the quality of a proposed Office on the basis of its conceptualization and the feasibility of its implementation taking into account—

(1) The precision with which goals and objectives for the Office are defined;

(2) Whether the activities proposed for the Office will effectively carry out the functions selected in accordance with § 460.11(b)(5);

(3) The responsibilities, experience and competence of the key personnel and consultants proposed between the Office;

(4) The organizational structure of the Office including the extent of coordination proposed between the Office and other parts of the State government representing consumers or regulating electric utilities;

(5) The feasibility of the Office's complying with the requirements of § 460.12;

(6) The task sequence for activities and the likelihood that an Office can meet the schedule of the proposed timetable as required by § 460.11(b)(10); and

(7) The adequacy of the budget required by § 460.11(b)(7) in relationship to the proposed activities.

(c) DOE shall evaluate a State's need for an Office based upon—

(1) The magnitude of need demonstrated in the description provided in response to § 460.11(b)(11), for which up to 25 points may be scored; and

(2) DOE's analysis of a State's need for an Office based on the State's ranking against the following needs factors as computed by DOE, for which up to 25 points may be scored;

(i) The average revenue per kWh calculated for all electric utilities within the State; and

(ii) The percentage of per capita income of residential consumers within the State which is spent for electricity for residential use.

#### § 460.16 Grant termination.

(a) Grants may be terminated for convenience at any time by mutual agreement of both the grantee and DOE.

(b) DOE shall give notice to a grantee in the event DOE finds there is a failure by the grantee to comply substantially with the provisions of this part. Such notice shall be issued in accordance with § 600.114 of Subpart B of the DOE Assistance Regulations (10 CFR Part 600).

(c) DOE shall issue this notice in the form of a written notice mailed by registered mail, return receipt requested, to the grantee and shall include (1) a statement of the reasons for the finding referred to in paragraph (b) of this section together with an explanation of any remedial action which, if undertaken, would result in compliance; and (2) the date upon which the grant will be terminated.

(d) A grantee which receives the notice referred to in paragraph (b) of this section may file a written response containing an explanation of how it will comply with the requirements of this part, or a statement of its views and supporting data explaining why the grant should not be terminated. This response shall be made by registered mail, return receipt requested, not later than 10 days after the receipt of the notice referred to in paragraph (c) of this section.

(e) Within 20 days after the grantee's receipt of notice in accordance with the procedure set forth in paragraph (c) of this section, the Secretary, after consideration of any response filed by the grantee, shall determine whether or not to terminate the grant for failure to comply substantially with the requirements of this part and issue a written statement explaining the reasons for this determination.

(f) Upon issuance of the notice referred to in paragraph (b) of this section, DOE may suspend payments to any grantee pending a final determination. If the Secretary makes a final determination of substantial failure to comply, the grantee will be ineligible to participate in the program unless and until DOE is satisfied that the failure to comply has been corrected.

[FR Doc. 79-9256 Filed 3-26-79; 8:45 am]

TUESDAY, MARCH 27, 1979

## PART V



# INTERSTATE COMMERCE COMMISSION

## ENTRY CONTROL OF BROKERS

registered  
proposed



[7035-01-M]

## Title 49—Transportation

CHAPTER X—INTERSTATE  
COMMERCE COMMISSIONSUBCHAPTER A—GENERAL RULES AND  
REGULATIONS

[Ex Parte No. MC-96]

## ENTRY CONTROL OF BROKERS

AGENCY: Interstate Commerce Commission.

ACTION: 1. Deletion of vacated rules. 2. Interim procedures for property broker applicants. 3. Policy statement regarding licensed brokers.

SUMMARY: A decision by the United States Court of Appeals for the District of Columbia Circuit in No. 77-1501, *National Tour Brokers Association v. U.S. and I.C.C.*, has voided the rules adopted pursuant to the Commission's decision in Ex Parte No. MC-96, *Entry Control of Brokers*, 126 M.C.C. 476 (1977). These rules eased requirements for motor carrier brokers. The Commission is reinstituting Ex Parte No. MC-96 to reexamine the issue of entry control for passenger and property brokers.<sup>1</sup> Consistent with the Court's decision, this notice will delete the previously adopted rules. Finally, this notice establishes interim procedures for persons wishing to apply for a property broker license under those procedures existing prior to the adoption of the special licensing rules and policies with regard to property brokers licensed under the vacated rules.

DATES: All actions announced are effective April 26, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Donald J. Shaw, Jr., phone: 202-275-7292 or Peter Metrinko, phone: 202-275-7885.

DELETION OF PREVIOUSLY ADOPTED  
RULES

The Court's decision requires that we delete the adopted rules and other

<sup>1</sup>See FR Doc. 79-9282 published in this separate part of this issue.

## RULES AND REGULATIONS

modifications made pursuant to the decision at 126 M.C.C. 476. Accordingly, the following modifications are made, as follows:

PART 1043—SURETY BONDS AND  
POLICIES OF INSURANCE

§ 1043.4 [Amended]

1. 49 CFR 1043.4 shall be amended by deleting the surety bond amount of \$10,000, and replacing it with the former amount of \$5,000.

PART 1045A—BROKER SPECIAL  
LICENSING PROCEDURE

2. 49 CFR 1045A shall be deleted in its entirety.

## PART 1002—FEES

§ 1002.2 [Amended]

49 CFR 1002.2(d)(9) shall be revised to read as follows: "An application for a broker's license. 49 U.S.C. 10924 . . . \$350."

## PART 1003—LIST OF FORMS

§ 1003.1 [Amended]

49 CFR 1003 is amended in § 1003.1 by deleting the present language under the heading *OP-OR-11* and replacing it with:

## OP-OR-11.

Applications under 49 U.S.C. 10924 for licenses to operate as brokers of motor carrier transportation.

INTERIM PROCEDURES FOR PROPERTY  
BROKER APPLICANTS

Persons may no longer apply for broker licenses under the vacated rules at 49 CFR Part 1045A. All applications which were being processed at the time of the Court's decision are being returned to the applicants. Several applications had been denied pursuant to review board decisions. They were pending, applicants having sought reconsideration. None of these decisions was administratively final. They will be dismissed as moot.

Persons still desiring to apply for a property broker license can use the current Form OP-OR-11 (Revised 10/

78). Applicants shall indicate in Item III(a) of the form the commodities for which they seek authority to arrange transportation.

## CURRENTLY LICENSED BROKERS

Those property brokers which have been authorized to begin operations pursuant to the rules at 49 CFR Part 1045A will be allowed to continue operations pending resolution of this proceeding. The Commission realizes that it is possible that the operations of these brokers, in whole or in part, may be terminated if it is decided that no change in our past licensing policy is warranted. Outright termination was decided against, since immediate economic harm might result to those who have begun operations based upon this Commission's approval. Our actions here will allow the property brokers to evaluate individually their investment commitments.

We urge these licensed brokers to contribute their views on the notice of proposed rulemaking as well as the need for any change in our practice regulations at 49 CFR 1045.<sup>2</sup>

Copies of this notice will be served on all persons that filed applications under 49 CFR Part 1045A, and all parties of record in Ex Parte Nos. MC-96, 87 and 93.

## AUTHORITY FOR PROMULGATION

The above-described actions are taken under the authority contained in 49 U.S.C. 10101, 10321, 10921, 10924, 10925, and 10927, and 5 U.S.C. 552, 553, 558 and 559.

Dated: March 14, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9282 Filed 3-26-79; 8:45 am]

<sup>2</sup>See the notice of proposed rulemaking, FR Doc. 79-9283 also published in this separate part of the FEDERAL REGISTER.

## PROPOSED RULES

[7035-01-M]

INTERSTATE COMMERCE  
COMMISSION

[49 CFR Ch. X]

[Ex Parte No. MC-96]

## ENTRY CONTROL OF BROKERS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: A decision by the United States Court of Appeals for the District of Columbia Circuit in No. 77-1501, *National Tour Brokers Association v. U.S. and I.C.C.*, has voided the rules adopted pursuant to the Commission's decision in Ex Parte No. MC-96, *Entry Control of Brokers*, 126 M.C.C. 476 (1977). These rules eased requirements for motor carrier brokers. The Commission is reinstituting Ex Parte No. MC-96 to reexamine the issue of entry control for passenger and property brokers.

DATES: Comments on the proposed rulemaking are due on or before April 26, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Donald J. Shaw, Jr., Phone: 202-275-7292, or

Peter Metrinko, Phone: 202-275-7885.

## SUPPLEMENTARY INFORMATION:

A decision by the United States Court of Appeals for the District of Columbia Circuit has vacated the rules adopted in Ex Parte No. MC-96, *Entry Control of Brokers*, 126 M.C.C. 476 (1977). The Commission proposes to reexamine its regulation of brokers in expanded form, covering entry control as well as operational practices and regulations. Interested persons are encouraged to comment on all aspects of this rulemaking. However, if comments apply only to either passenger or property brokerage, it would be helpful if this were indicated at the beginning of the comments. Please send 15 copies of your comments.

Following is a list of subjects for which comments are solicited. Persons are free to comment on issues they believe relevant outside of those raised here. However, we ask that comments corresponding to specific questions raised in this notice be identified or numbered in a manner that will allow easier correlation on our part.

## PASSENGER BROKERS—ENTRY CONTROL

1. Should the Commission's present licensing procedure for passenger brokers be changed? Options include, but are not limited to the following:

a. Adopt a format similar to that suggested in the previous report of the Commission, at 126 M.C.C. 557-559. This would involve a general prospective finding that operations by qualified applicants between all points in the United States (including Alaska and Hawaii) are consistent with the public interest and the national transportation policy; issuance of a master license; limiting the application process to examining the issue of an applicant's fitness; permitting protests only on the subject of fitness; continuation of the surety bonding requirement (at either the present \$5,000 amount, or a higher amount); and, substituting a letter process for the present formal application process which uses Form OP-OR-11.

A procedure of this type would use the following application process:<sup>1</sup>

## § A.1 Procedures.

(a) *Scope of special rules.* These special rules govern the filing and handling of requests for authority to operate as a broker in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and property, between all points in the United States (including Alaska and Hawaii). The grants of authority are subject to the findings made in *Entry Control of Brokers*, M.C.C. (1977).

(b) *Request for authority.* Persons desiring to perform broker operations must file with this Commission, at its office in Washington, DC 20423, a sworn and notarized request (which may be in letter form) containing the following information:

(1) The name and address of the applicant's representative (which may include the applicant in a self-representing role) to whom inquiries may be made.

(2) The designation of the applicant's statutory agent for service of process for each State in which the person will have either an office or write contracts. This designation is made by completing Form BOC-3. If a broker will operate out of only one office in one State, the broker applicant may designate itself to receive service of process in that State. The original of the Form BOC-3 must accompany the application. An applicant should keep one copy for its own files.

(3) Evidence of the applicant's surety bond coverage. Applicants must submit two completed copies of Form BMC-84. Applicant or its insurance agent should request the surety company to complete the forms and return them to applicant for submittal

<sup>1</sup>We have included property brokers in this application process. One of the entry control options for property brokers is a simplified licensing process, as explained in Item V of this notice.

with the application. Applicant should not let the surety company send the forms to the Commission. The company which furnishes the surety bond must be one that has been approved by the Commission. Most major companies that write surety bonds have this approval, but an applicant should check with a local Commission office or the Commission's Section of Insurance for the company's acceptability. A surety bond must be kept in force at all times or a broker's license will be revoked.

(4) Passenger broker applicants shall also file the information described below under Passenger Broker Applications. Property broker applicants shall file the information asked for under Property Broker Applications.

## § A.2 Passenger Broker Applications.

(a) Write on the face of the application (which may be in letter form), in bold letters, **SPECIAL PASSENGER BROKER LICENSE PROCEDURE**.

(b) Applicant shall submit a notarized (sworn) statement which contains all the evidence it plans to submit. This statement shall include:

(1) Applicant's name.  
(2) The name under which it will be doing business.  
(3) Present or planned locations for doing business.

(4) Names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and shareholders (up to five principal shareholders), whichever is applicable.

(5) Names and business addresses of person(s) who will manage daily operations of the business.

(6) Evidence of applicant's good character (such as statements from reputable members of the community and any other evidence deemed pertinent).

(7) Evidence of applicant's ability to conduct the operations in a satisfactory manner (such as past experience in the transportation or tour industries, a description of the planned operations, and any other information deemed pertinent).

(8) A statement that applicant is familiar with our regulations and willing to comply with these regulations.

(9) Evidence as to any affiliation between the applicant and any carrier subject to the Commission's regulations.

## § A.3 Property Broker Applications.

(a) Write on the face of the application (which may be in letter form), in bold letters, **SPECIAL PROPERTY BROKER LICENSE PROCEDURE**.

(b) Applicant shall submit a notarized (sworn) statement which contains all the evidence it plans to submit. This statement shall include:



- (1) Applicant's name.
- (2) The name under which it will be doing business.
- (3) Present or planned locations for doing business.
- (4) Names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and shareholders (up to five principal shareholders), whichever is applicable.
- (5) Names and business addresses of person(s) who will manage daily operations of the business.
- (6) Evidence of applicant's good character (such as statements from reputable members of the community, and any other evidence deemed pertinent).
- (7) Evidence of applicant's ability to conduct the operations in a satisfactory manner (such as past experience in the transportation or tour industries, and any other information deemed pertinent).
- (8) A statement that applicant is familiar with our regulations and willing to comply with these regulations.
- (9) Evidence as to any affiliation between the applicant and any carrier subject to the Commission's regulations.
- (10) Evidence as to any affiliation between applicant and any (a) shipper or (b) receiver (such as a warehouse).
- (11) A complete description of the planned operations, including the services to be offered and how compensation will be collected.

#### § A.4 Processing.

- (a) *Incomplete applications* will be rejected and returned to applicant's representative, with a notation as to why the application was rejected. Applicant may refile a complete application at any time.
- (b) *Existing brokers* need not file applications for the same type authority. Existing licenses will be interpreted to authorize operations between all points in the United States, arranging the transportation either of (1) passengers and their baggage, or (2) general commodities, whichever is applicable.
- (c) *Opposition.* Once a complete and properly submitted request for authority has been filed, the Commission will publish a notice in the *FEDERAL REGISTER* identifying the applicant and related persons [those described in lines (4) and (5) of §§ A.2(b) or A.3(b)]. Any interested person may file a sworn statement in opposition within 30 days from the date of publication of the notice. Sworn statements in opposition shall be filed at the offices of the Commission in Washington, D.C. 20423. Opposition is limited to the issue of applicant's fitness, which includes the evidence described in §§ A.2(b) and A.3(b). If there is opposi-

tion, applicant will be notified. If no opposition is received and the Commission's examination does not reveal any fitness problems, *applicant will be informed in a letter that it may begin operations.* The Commission reserves the right to require that a broker terminate its operations if it is later discovered that the broker's operations do not qualify for the benefits of this procedure.

**NOTE.**—This ends the proposed rules. We request specific comments on these rules.

- b. Leave the present application process, with individual filings under OP-OR-11, unchanged.
- c. Use the present application process and Form OP-OR-11, but alter the present standards. Brokers have always been held to a lower standard of proof than motor carriers seeking operating authority under the public convenience and necessity standard. Presently, broker applicants are required to show that they are fit to conduct the proposed operation and that their services will contribute something of value or be of benefit to the public or carriers. Consideration of existing broker service is made to assure that there will be no creation of needless duplicative services. Should the standard instead be that an applicant will be granted in the absence of a showing by an existing broker that destructive competition would result, and absent an adverse fitness finding? What other standard would be appropriate?

II. What policy considerations and economic factors indicate that the present passenger broker licensing system should be changed, or allowed to remain the same? Comment on the following factors is requested:

- A. Improved processing of applications.
- B. Environmental benefits.
- C. Effects of increased competition.
- D. Intermodal operations.
- (1) Discuss the feasibility of granting territorially unrestricted licenses.
- (2) Should the Commission allow license holders the flexibility of using a bus for any portion of a tour, as long as the tour starts and ends in the prescribed origin and destination territory?
- E. Consumer protection and integrity of the broker industry.
- (1) Comment on the effectiveness of surety bonding as a deterrent to unscrupulous business practices.
- (2) Is the present \$5,000 bond high enough? What should the amount be? and why?
- (3) Are general travel agents qualified to operate as brokers?
- F. Any other factors deemed important.

#### PASSENGER BROKERS—OPERATIONS AND PRACTICES

III. In Ex Parte No. MC-93, *Passenger Broker Affiliated with Motor Carriers*, 128 M.C.C. 345 (1977), the Commission declined to adopt certain regulations which would have restricted the dual holding by the same person of a broken license and a certificate of public convenience and necessity to transport passengers. The Commission there determined that such dual holdings had not caused problems in the past. The proceeding was discontinued, but this was conditioned upon the effectiveness of the rules adopted previously in Ex Parte No. MC-96. Since that time the Commission has granted authority which would result in these dual holdings. Have any problems resulted because the same or affiliated persons held both common carrier passenger authority and passenger broker authority?

IV. In Ex Parte No. MC-87, *Interpretation of Operating Authorities*, the Commission began a rulemaking proceeding to examine the issue of whether, effectively to execute a contract for a tour, the passenger broker must sell and arrange for transportation only at the point which it is authorized to serve and whether the parties must mutually sign the contract at that point. The Commission dismissed this rulemaking proceeding in an order decided May 18, 1977. However, dismissal was conditioned upon the effectiveness of the now vacated rules in Ex Parte No. MC-96. Parties are asked to comment on this issue [also described in *Trails West, Inc., v. Continental Trailways, Inc.*, 115 M.C.C. 269 (1972)]. Copies of this notice will be served on the parties in Ex Parte No. MC-87 and Ex Parte No. MC-93.

#### PROPERTY BROKERS—ENTRY CONTROL

V. Should the Commission's present licensing procedure for property brokers using form OP-OR-11 be changed? Options for changing either the procedures or existing standards are the same as listed under I. a, b, and c above. Many persons were licensed under the vacated procedures. Those persons are especially urged to comment upon the merits of the vacated procedures.

VI. What policy considerations require either the present licensing system for property brokers to be changed or allowed to continue under the OP-OR-11 process? Comment on the following:

- A. Benefits to shippers and carriers.
  - B. Environmental benefits.
  - C. Improved application processing.
  - D. Effects on shippers or existing carriers.
- VII. Should any change in the licensing procedure be extended to include applications for authority to

transport household goods? This type broker applications was expressly excluded from the vacated licensing process, for the reasons noted at 126 M.C.C. 514-524.

#### PROPERTY BROKERS—PRACTICES

VIII. Should any of the Commission's operational regulations with regard to property brokers be changed? These are listed at 49 CFR 1045. Please indicate in your comments the specific subsection being addressed.

IX. A number of currently licensed brokers of property are also freight forwarders. There are similarities between brokers and freight forwarders, although the Commission has on many occasions stated functional differences between the two. Address the issue of whether the Commission should continue to recognize the concept of these two transportation intermediaries as separate. Should the Commission only recognize one type of transportation intermediary; e.g., should we require all intermediaries to obtain permits to operate as freight forwarders, file tariffs, etc? Are there functional reasons for maintaining these two separate classifications?

X. The Commission has in the past stated its concern over affiliations between property brokers and shippers of regulated commodities. *Merriman Broker Application*, 43 M.C.C. 372 (1944). Close scrutiny has been given to broker applications by those who are able to control the traffic of large shippers because of past or present shipper connections. *Copes Broker Ap-*

*plication*, 27 M.C.C. 153, 166 (1940). Abuses which could result have been said to include the following: (1) a shipper could set up a sham broker operation and insist that carriers solicit through the broker, the carrier being required to pay a fee for sham services to the broker, thus accomplishing an illegal rebate; (2) a shipper-affiliated broker would arranged traffic for the shipping public using carriers that provided preferential treatment to its affiliated shipper. This would contravene the duty of the broker to act in an independent manner, providing the best service possible.

Comment on the above described, or other potential, abuses, and whether the Commission should continue its past policy of denying licenses to shipper-affiliated broker applicants.

Copies of this notice will be served on all persons that filed applications under 49 CFR 1045A, and all parties of record in Ex Parte Nos. MC-96, 87 and 93.

#### AUTHORITY FOR PROMULGATION

The above-described actions are taken under the authority contained in 49 U.S.C. 10101, 10321, 10921, 10924, 10925, and 10927, and 5 U.S.C. 552, 553, 558 and 559.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

Dated: March 14, 1979.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9283 Filed 3-26-79; 8:45 am]



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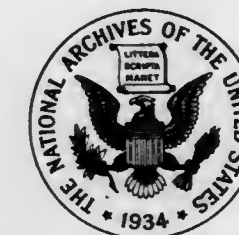
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# Federal register

TUESDAY, MARCH 27, 1979

PART VI



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INTERSTATE  
COMMERCE  
COMMISSION

LEASE AND  
INTERCHANGE OF  
VEHICLES



[7035-01-M]

## Title 49—Transportation

CHAPTER X—INTERSTATE  
COMMERCE COMMISSIONSUBCHAPTER A—GENERAL RULES AND  
REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 7)]

PART 1057—LEASE AND  
INTERCHANGE OF VEHICLES

## Lease and Interchange of Vehicles

AGENCY: Interstate Commerce Com-  
mission.ACTION: Decision on petitions for  
stay of final rules.

SUMMARY: Several parties to the proceeding<sup>1</sup> have filed petitions seeking a stay of the effective date of the final rules adopted in this proceeding (44 Fed. Reg. 4680 (1979)). The petitions are denied to the extent and for the reasons indicated below. However, we are providing for a period of time within which interested persons may comment whether, and to what extent, the Commission's recently adopted leasing rules should apply between motor carriers and their agents as those terms are utilized in 49 CFR 1056. Pending the outcome of this proceeding, the new leasing rules will not apply to arrangements between motor carriers of household goods and their agents.

DATES: Effective date. The rules (44 Fed. Reg. 4680) as modified by this notice shall apply to leasing contracts between authorized motor carriers and owners (as defined by 49 CFR 1057.2(d)) as of the scheduled date of March 26, 1979.

Comment date. Comments are requested on or before April 26, 1979.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION  
CONTACT:

Richard Armstrong, 202-275-7426.

SUPPLEMENTARY INFORMATION: ATA, Inc., has petitioned for a stay in this proceeding for 90 days (from the original effective date of February 22, 1979) because of the complexity of re-writing all outstanding lease agree-

<sup>1</sup>American Red Ball Transit Company, Inc., Global Van Lines, Inc., and Wheaton Van Lines, Inc. (jointly) and American Trucking Associations, Inc.

## PROPOSED RULES

ments and the difficulties attendant to that (drafting new leases, analyzing tax consequences, reprogramming computers, printing the leases, getting the leases signed). These contentions were disposed of in a notice of February 13, 1979, published in the FEDERAL REGISTER on February 27, 1979 (44 Fed. Reg. 11070) in response to a similar petition filed by North American Van Lines, Inc. Nothing in the ATA petition causes us to alter the notice of February 13, 1979, that only an additional 30 days should be permitted carriers to comply with the final leasing regulations (now to become effective March 26, 1979).

Global, Wheaton, and American Red Ball petition the Commission for a partial stay of the effectiveness of 49 CFR 1057.12(g) (payment period), pending judicial review, to the extent that this rule would require motor common carriers of household goods to pay their agent-lessors for the lease of equipment within the prescribed 15 day payment period. These carriers argue that there are important reasons for distinguishing between owner-operators (who the carriers claim are the intended beneficiaries of the rule) and household goods carrier agents. This is because such agents engage in a number of revenue-producing activities (local moving, warehousing, interstate and intrastate transportation under their own operating rights, as agents for freight forwarders, booking, packing and unpacking, storage, etc.) while owner-operators are singly dependent upon the transportation services provided for the carrier for their livelihood, and, therefore, are entitled to prompt payment following completion of the transportation. Petitioners assert that there is a strong likelihood that they will prevail on the merits because the Commission issued this regulation without considering the household goods carriers' objections filed in their comments in this proceeding. Petitioners further assert that no mention was made as to the applicability of the rule to agent lessors in the notice in this proceeding.

To the extent that the Commission failed to address this issue in our decision we have been remiss. The studies performed in implementing the rules pointed out a number of problems areas between owner-operators and authorized motor carriers. The new rules were intended to remedy many of those problems. As they are written, however, the definition of owner (at 49 CFR 1057.2(d)) can be read to apply to agents of motor carriers, thereby bringing such contracts within the ambit of the leasing regulations. It may be valid to do so, either for ad-

ministrative uniformity, or because such agents are often small operators too, because carrier agents may argue that they will refuse to tender settlement with owner-operators until they receive payment from their principal motor carriers; because the definition of "owner" has not been changed from the old rules and consequently petitioners had notice of the applicability of these rules; or because the relationship of owner-operators and carrier agent-lessors requires it. On the other hand, it may be that the agency situation is so unique that the rules should not apply or should apply in modified form.

We believe that a constructive purpose would be served by receiving comments from all interested parties on this issue: whether and to what extent, the new leasing rule requirements contained at 49 CFR 1057.12 should apply as to contracts between motor carriers and their agents. Consequently, we are denying the petition of American Red Ball, Global, and Wheaton for a stay of the rules at this time because the rules (which go into effect March 26, 1979) will only be applied between owner-operators and motor carriers. We are initiating a procedure to solicit comments to determine whether and to what extent, if any, the new leasing rules should be applied to arrangements between motor carriers and their agents.

This notice is issued under the authority contained at 49 U.S.C. 10321 and 11107, and 5 U.S.C. 553.

Decided: March 20, 1979.

By the Commission. Chairman O'Neal, vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian. Commissioner Stafford concurring in part and dissenting in part.

H. G. HOMME, Jr.,  
Secretary.

Commissioner Stafford, concurring in part, dissenting in part:

I would grant the extension of time requested by ATA. I believe it is unreasonable to give the industry such a limited period of time to effect compliance with these sweeping revisions of the regulations.

Also, I see no reason why comments must be expedited and limited to a 30-day response time. Parties need time to develop a position, research it, and write a legal brief. There is no great urgency in reaching a decision in this matter.

[FR Doc. 79-9390 Filed 3-26-79; 8:45 am]

## PROPOSED RULES

[7035-01-M]

INTERSTATE COMMERCE  
COMMISSION

[49 CFR Part 1057]

## LEASE AND INTERCHANGE OF VEHICLES

AGENCY: Interstate Commerce Com-  
mission.

ACTION: Proposed rule.

SUMMARY: This document concerns the new leasing regulations adopted by the Commission at 44 FR 4680, Jan. 23, 1979 and which become effective March 26, 1979. It proposes to revise the provisions in § 1057.26, *Exemption from requirement of exclusive possession and control*, and include them with the general requirements in § 1057.12(d), *Written lease requirements*, so as to avoid interpretive problems. It is not intended for this revision to change substantively any of the Commission's leasing regulations which were in effect prior to the institution of the proceeding.<sup>1</sup>

DATES: Comments are requested on or before April 26, 1979.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION  
CONTACT:

Richard Armstrong, 202-275-7426.

SUPPLEMENTARY INFORMATION: It has come to our attention that there may be interpretation problems with the provisions in the new leasing rules concerning the requirements of exclusive possession of, and responsibility for, leased equipment by the authorized carrier lessee. The general requirements appear at § 1057.12(d) and an exemption appears at § 1057.26. Arguably, the wording of § 1057.26(a) allows the parties to exempt completely the authorized carrier lessee from the general requirements of § 1057.12(d) for the duration of the lease merely by including a provision in the lease that the authorized carrier lessee may be considered as the owner of the equipment for the purpose of subleasing it. We intended only to continue to allow parties to include a provision in the lease authorizing subleasing. Exclusive possession of,

<sup>1</sup>See FR Doc. 79-9390 also appearing in this separate part of the FEDERAL REGISTER.

and responsibility for, the leased equipment would continue to be required of the authorized carrier lessee at all times other than when the equipment is actually being subleased. Accordingly, we propose to revise the provisions in § 1057.26 and include them with the general requirements in § 1057.12(d) as set forth below, so as to avoid any interpretive problems of this nature. Again, we do not intend for this revision to change substantively any of the Commission's leasing regulations which were in effect prior to the institution of this proceeding.

Interested parties are invited to file comments on this proposal.

This notice is issued under the authority contained at 49 U.S.C. 10321 and 11107, and 5 U.S.C. 553.

Decided: March 20, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford concurring in part and dissenting in part.<sup>2</sup>

H. G. HOMME, Jr.,  
Secretary.

Accordingly, we propose to make the following change to our new leasing regulations as follows:

Excise § 1057.26 and amend § 1057.12(d) to read as follows:

(d) *Exclusive possession and responsibilities.* (1) The lease shall provide that the authorized carrier lessee shall have exclusive possession, control, and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease. (2) Provision may be made in the lease for considering the authorized carrier lessee as the owner of the equipment for the purpose of subleasing it under these regulations to other authorized carriers during the lease. (3) When an authorized carrier of household goods leases equipment for the transportation of household goods, as defined by the Commission, the parties may provide in the lease that the provisions required by paragraph (1) of this subsection apply only during the time the equipment is operated by or for the authorized carrier lessee.

[FR Doc. 79-9391 Filed 3-26-79; 8:45 am]

<sup>2</sup>See FR Doc. 79-9390 also appearing in this separate part of the FEDERAL REGISTER.



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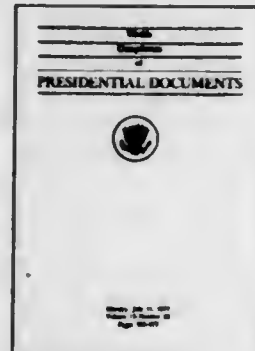
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# Register Federal

WEDNESDAY, MARCH 28, 1979



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HOW TO USE THE FEDERAL REGISTER  
KANSAS CITY, MISSOURI WORKSHOP  
May 17, 1979

CORRECTED NOTICE

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**WHERE:** Federal Building, Room 109, 601 E. 12th Street, Kansas City, Missouri.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list, has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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Command, Control and Communications Subpanel of Chief of Naval Operations Executive Panel Advisory Committee, San Diego, Calif. (closed), 4-3 and 4-4-79 ..... 16030; 3-16-79

Office of the Secretary—  
Defense Advisory Committee on Women in the Services (DACOWITS), Washington, D.C. and Norfolk, Va. (open), 4-1 through 4-5-79 ..... 12727; 3-8-79  
Defense Science Board Task Force on High Energy Lasers, Washington, D.C. (closed), 4-5 and 4-6-79 ..... 16469; 3-19-79  
DOD Advisory Group on Electron Devices, New York, N.Y. (closed), 4-4-79 15757; 3-15-79  
Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense, Washington, D.C. (Closed), 4-5 and 4-6-79 ..... 17207; 3-21-79  
Wage Committee, Washington, D.C. (Closed), 4-3-79 ..... 11268; 2-28-79

#### HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Center for Disease Control—  
Laboratory Investigations of Whole Body Vibration Effects, Cincinnati, Ohio (open), 4-5-79 ..... 12763; 3-8-79  
Education Office—  
National Advisory Council on Extension and Continuing Education, Washington, D.C. (open), 404 through 4-6-79 ..... 15540; 3-14-79  
Women's Educational Programs National Advisory Council, Washington, D.C. (partially open), 4-3-through 4-6-79...16961; 3-20-79  
Health Resources Administration—  
National Advisory Council on Health Professions Education, Hyattsville, Md. (partially open), 4-2 through 4-5-79 ..... 15773; 3-15-79  
National Institutes of Health—  
Diabetes National Advisory Board, Bethesda, Md. (open), 4-2 and 4-3-79..14643; 3-13-79  
General Research Support Review Committee, Bethesda, Md. (open), 4-2 through 4-4-79 ..... 16498; 3-19-79  
Minority Access to Research Careers Review Committee, Dallas, Tex. (partially open), 4-6 and 4-7-79.. 14643; 3-13-79  
Transplantation Biology and Immunology Committee, Dallas, Tex. (partially open), 4-5-79 ..... 11126; 2-29-79  
Office of the Secretary—  
Secretary's Advisory Committee on the Rights and Responsibilities of Women, Washington, D.C. (open), 4-5 and 4-6-79 ..... 12109; 3-5-79

#### INTERIOR DEPARTMENT

Land Management Bureau—  
Riverside District Grazing Advisory Board, El Centro, Calif. (open), 4-6 and 4-7-79 ..... 12775; 3-8-79  
Utah wilderness area inventory, open house to facilitate public comment, Salt Lake City, 4-4-79 ..... 17597; 3-22-79  
National Park Service—  
Kalaupapa National Historical Park Advisory Commission, Honolulu, Hi. (open), 4-3-79 ..... 14646; 3-13-79

#### INTERNATIONAL TRADE COMMISSION

Carbon steel plate from Taiwan, Washington, D.C. (open), 4-3-79 ..... 11854; 3-2-79



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### LABOR DEPARTMENT

Occupational Safety and Health Administration—  
National Advisory Committee on Occupational Safety and Health, Washington, D.C. (open), 4-2-79 ..... 12781; 3-8-79

### MANPOWER POLICY, NATIONAL COMMISSION

Washington, D.C. (open), 4-6-79 ..... 16502; 3-19-79

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council, Space and Terrestrial Applications Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Technology Transfer, Washington, D.C. (open), 4-3 and 4-4-79 .. 15544; 3-14-79  
NASA Advisory Council (NAC), Space Science Advisory Committee, Washington, D.C. (open), 4-4 through 4-8-79 .. 13595; 3-12-79  
Space and Terrestrial Applications Steering Committee (STASC), Proposal Evaluation Advisory Subcommittee, Greenbelt, Md. (closed), 4-3, 4-4 and 4-5-79 ..... 13595; 3-12-79

### NATIONAL SCIENCE FOUNDATION

Advisory Council, Task Group No. 6, Washington, D.C. (open), 4-5-79 ..... 16504; 3-19-79  
Astronomy Advisory Committee, Washington, D.C. (open), 4-5 and 4-6-79 ..... 16503; 3-19-79  
Social Sciences Advisory Committee, Law and Social Sciences Subcommittee, Washington, D.C. (partially open), 4-5 and 4-6-79 ..... 16503; 3-19-79

### NUCLEAR REGULATORY COMMISSION

Reactor Safeguards Advisory Committee, Combination of Dynamic Loads Subcommittee, Washington, D.C. (open), 4-3-79 ..... 16512; 3-19-79  
Reactor Safeguards Advisory Committee, Subcommittee on Consideration of Class-9 Accidents, Washington, D.C. (open), 4-4-79 ..... 16985; 3-20-79  
Reactor Safeguards Advisory Committee, Procedures Subcommittee, Washington, D.C. (open), 4-4-79 ..... 16986; 3-20-79  
Reactor Safeguards Advisory Committee, Subcommittee on Regulatory Activities, Washington, D.C. (open), 4-4-79 .. 16986; 3-20-79  
Reactor Safeguards Advisory Committee, Subcommittee on Consideration of Class-9 Accidents, Washington, D.C., 4-4-79 ..... 11279; 2-28-79  
Reactor Safeguards Advisory Committee, Subcommittee on Regulatory Activities, Washington, D.C., 4-4-79 ..... 11279; 2-28-79  
Reactor Safeguards Advisory Committee, Subcommittee on Plant Arrangements, Washington, D.C., 4-4-79 ..... 11279; 2-28-79  
Reactor Safeguards Advisory Committee, Washington, D.C. (partially open), 4-5 through 4-7-79 ..... 17237; 3-21-79

### SMALL BUSINESS ADMINISTRATION

Region III Advisory Council, Clarksburg, W. Va. (open), 4-5-79 ..... 16525; 3-19-79  
Region VI Advisory Council, New Orleans, La. (open), 4-6-79 ..... 12312; 3-6-79  
Region VI Advisory Council Board, Dallas, Tex., 4-6-79 ..... 17250; 3-21-79  
Region VII Advisory Council, St. Louis, Mo. (open), 4-2-79 ..... 15553; 3-14-79

### STATE DEPARTMENT

Office of the Secretary—  
Shipping Coordinating Committee, Washington, D.C. (open), 4-3-79 ..... 15822; 3-15-79  
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 4-4 and 4-5-79 (2 documents) ..... 15821; 3-15-79  
Study Group 1, U.S. Organization for the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 4-5-79 ..... 15820; 3-15-79  
Study Group 4, U.S. Organization for International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 4-6-79 ..... 15820; 3-15-79

### TRADE NEGOTIATIONS, OFFICE OF THE SPECIAL REPRESENTATIVE

Advisory Committee for Trade Negotiations, Washington, D.C. (closed), 4-4-79 ..... 16058; 3-16-79

### TRANSPORTATION DEPARTMENT

Coast Guard—  
Chemical Transportation Advisory Committee, Chemical Vessels Subcommittee, Washington, D.C. (open), 4-4-79 ..... 12125; 3-5-79  
National Highway Traffic Safety Administration—  
Regional Safety Belt Usage Workshops, Chicago, Ill. (open), 4-4 through 4-6-79 ..... 15823; 3-15-79

### VETERANS ADMINISTRATION

Career Development Committee, Washington, D.C. (open), 4-4 through 4-6-79 ..... 15828; 3-15-79  
Wage Committee, Washington, D.C., 4-5-79 ..... 17251; 3-21-79

### WORLD HUNGER, PRESIDENTIAL COMMISSION

International Policy Subcommittee, New York, N.Y. (open), 4-5-79 ..... 17241; 3-21-79

### Next Week's Public Hearings

### ENERGY DEPARTMENT

Office of the Secretary—  
Northern Tier Study Report, Seattle, Wash., 4-3-79 ..... 12486; 3-7-79  
Northern Tier Study Report, Billings, Mont., 4-5-79 ..... 12486; 3-7-79  
Northern Tier Study Report, St. Paul, Minn., 4-6-79 ..... 12486; 3-7-79  
Residential Conservation Service Program, Philadelphia, Pa., 4-2 through 4-4-79 ..... 16546; 3-19-79

Federal Energy Regulatory Commission—  
Mechanics on incremental pricing, Washington, D.C., 4-3-79 ..... 17526; 3-22-79  
Natural gas; incremental pricing, Washington, D.C., 4-2-79 ..... 16937; 3-20-79

### HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—  
Propoxyphene safety and effectiveness, Washington, D.C., 4-6-79 ..... 11837; 3-2-79

### INTERIOR DEPARTMENT

Land Management Bureau—  
Land acquisition, Albuquerque, N.M., 4-5-79 ..... 12458; 3-7-79  
Land acquisition, Minneapolis, Minn., 4-3-79 ..... 12458; 3-7-79  
Land acquisition, Oklahoma City, Okla., 4-3-79 ..... 12458; 3-7-79  
Land acquisition, Pierre, S.D., 4-5-79 ..... 12458; 3-7-79  
Land acquisition, Spokane, Wash., 4-4-79 ..... 12458; 3-7-79  
Routt County, Colo.; leasing of coal resources, Steamboat Springs, Colo., 4-3-79 ..... 14644; 3-13-79

### INTERNATIONAL TRADE COMMISSION

Rayon Staple Fiber From Italy, Washington, D.C., 4-5-79 ..... 13590; 3-12-79

### TREASURY DEPARTMENT

Internal Revenue Service—  
Employment taxes; employees of related corporations, Washington, D.C., 4-5-79 ..... 12213; 3-6-79  
Various estate tax elections, Washington, D.C., 4-3-79 ..... 12459; 3-7-79

### List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

(Last Listing Mar. 9, 1979)

### Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the FEDERAL REGISTER during the previous week.

### Rules Going Into Effect:

HEW/HDSO—Child care services and services for drug and alcohol abusers; effective 10-1-78 ..... 16399; 3-19-79

### Deadlines for Comments on Proposed Rules:

Commerce/NOAA—Outer Continental Shelf State Participation Grant Program; comments by 5-3-79 ..... 16852; 3-19-79  
CSA—Summer Youth Recreation Programs; purposes, conditions, funding, financial policies, and application procedures; comments by 4-18-79 ..... 16455; 3-19-79  
HEW—Financial assistance; debarment and suspension of organizations and individuals from eligibility; comments by 5-18-79 ..... 16444; 3-19-79

## REMINDERS—Continued

HDSO—Child care services and services for drug and alcohol abusers; comments by 4-18-79 ..... 16399; 3-19-79  
PHS—Financial distress grants to health professions schools; comments by 5-21-79 ..... 17159; 3-21-79

### Applications Deadlines:

HEW/HDSO—Child Welfare Services Training grants; apply by 5-21-79 (4 documents) ..... 17797-17806; 3-23-79  
HSA—Project grants for family planning training; apply by 7-2-79 ..... 16963; 3-20-79

### Meetings:

HEW/NIH—Cancer Control Grant Review Committee, Bethesda, Md., 3-29 and 3-30-79 cancelled ..... 16497; 3-19-79  
Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (partially open), 4-26 and 4-27-79 ..... 16497; 3-19-79  
General Research Support Review Committee, Bethesda, Md. (partially open), 4-2 through 4-4-79 ..... 16498; 3-19-79  
National Cancer Institute advisory committees; review of contract proposals and

grant applications; various places and dates in April ..... 16499; 3-19-79  
NFAH—Humanities Panel, Washington, D.C. (closed), 4-5, 4-6, 4-10, 4-11, and 4-19-79 ..... 16503; 3-19-79  
NSF—Advisory Council, Task Group No. 6, Washington, D.C. (open), 4-5-79 ..... 16504; 3-19-79  
Astronomy Advisory Committee, Washington, D.C. (open), 4-5 and 4-6-79 .. 16503; 3-19-79  
Environmental Biology Advisory Committee, Ecological Sciences Subcommittee, Washington, D.C. (closed), 4-19 and 4-20-79 ..... 16503; 3-19-79  
Social Sciences Advisory Committee, Law and Social Sciences Subcommittee, Washington, D.C. (partially open), 4-5 and 4-6-79 ..... 16503; 3-19-79

### Other Items of Interest:

EPA—Water pollution control: Clean Water Act, Safe Drinking Water Act and Resource Conservation and Recovery Act programs; guidance for FY 1980 State/EPA agreements ..... 17294; 3-21-79

HEW/HCFR—Medicaid, grants to States for medical assistance ..... 17929; 3-23-79  
NIH—National Diabetes Advisory Board; long-range plan to combat diabetes; hearings: Washington, D.C., 5-9-79 .. 16498; 3-19-79  
St. Louis, Mo., 6-20-79 .. 16498; 3-19-79  
San Francisco, Calif., 7-11-79 ..... 16498; 3-19-79

Program of research grants on law and government studies in education; information on applying for small and major grants ..... 16963; 3-20-79  
OE—Basic Educational Opportunity Grant Program; family contribution schedule ..... 17898; 3-23-79  
PHS—National Alcohol Research Centers grants provisions ..... 17920; 3-23-79  
LSC—Legal Services of Northeastern Wisconsin, et al., grants and contracts; solicitation of written comments or recommendations ..... 17236; 3-21-79  
Labor/ETA—Employment Transfer and Business Competition Determinations; applications ..... 17809; 3-23-79



# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-05-M]

## Title 7—Agriculture

### CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Reg.; 1979 Crop Rye Supplement]

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

##### Subpart—1979 Crop Rye Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1979-crop rye. This rule will enable eligible rye producers to obtain loans and purchases on their eligible 1979-crop rye.

EFFECTIVE DATE: March 28, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on August 23, 1978, 43 FR 37458 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1979 crop of feed grains including rye. Such determinations included determining loan and purchase rates and other related program provisions. Interested persons were given until October 6, 1978, to respond. Two recommendations were received concerning the loan and purchase program for rye. Both recom-

mendations received called for increasing the loan rate for rye. After considering applicable factors, it has been determined that the loan and purchase rates for 1979 crop rye on a national average will be \$1.70 per bushel. Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

#### FINAL RULE

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Rye Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1979 crop of rye. Accordingly, the regulations in 7 CFR 1421.350 and through 1421.354 and the title of the subpart are revised to read as provided below effective as to the 1979 crop of rye. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

##### Subpart—1979 Crop Rye Loan and Purchase Program

Sec.

1421.350 Purpose.

1421.351 Availability.

1421.352 Maturity of loans.

1421.353 Warehouse charges.

1421.354 Loans and purchases rates and premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444 c, 1421).

##### Subpart—1979 Crop Rye Loan and Purchase Program

#### § 1421.350 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Rye Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchase of the 1979 crop of rye.

#### § 1421.351 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1979 crop

of eligible rye on or before March 31, 1980.

(b) *Purchases.* A producer desiring to offer eligible 1979 crop rye not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1980, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1979 crop rye they will sell to CCC.

#### § 1421.352 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

#### § 1421.353 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

#### § 1421.354 Loan and purchase rates, premiums and discounts.

(a) *Basic loan and purchase rates.* Basic county rates per bushel for loan and settlement purposes for rye and established for rye grading U.S. No. 2 or better, or U.S. No. 3 on the factor of test weight only and are as follows:

##### 1979 CROP RYE LOAN AND PURCHASE RATES

| County                  | Rate per bushel |
|-------------------------|-----------------|
| ALABAMA                 |                 |
| All Counties.....       | \$1.81          |
| ARIZONA                 |                 |
| All Counties.....       | 1.78            |
| ARKANSAS                |                 |
| All Counties.....       | 1.75            |
| CALIFORNIA              |                 |
| Alameda.....            | 1.95            |
| Los Angeles.....        | 1.95            |
| Sacramento.....         | 1.95            |
| San Diego.....          | 1.95            |
| San Francisco.....      | 1.95            |
| San Joaquin.....        | 1.95            |
| All Other Counties..... | 1.82            |
| COLORADO                |                 |
| All Counties.....       | 1.64            |
| CONNECTICUT             |                 |
| All Counties.....       | 1.79            |
| DELAWARE                |                 |
| All Counties.....       | 1.84            |



1979 CROP RYE LOAN AND PURCHASE RATES—  
Continued

| County                  | Rate per bushel |
|-------------------------|-----------------|
| FLORIDA                 |                 |
| All Counties.....       | 1.88            |
| GEORGIA                 |                 |
| All Counties.....       | 1.88            |
| IDAHO                   |                 |
| All Counties.....       | 1.73            |
| ILLINOIS                |                 |
| Cook.....               | 1.82            |
| St. Clair.....          | 1.82            |
| All Other Counties..... | 1.76            |
| INDIANA                 |                 |
| All Counties.....       | 1.74            |
| IOWA                    |                 |
| Pottawattamie.....      | 1.73            |
| Woodbury.....           | 1.73            |
| All Other Counties..... | 1.69            |
| KANSAS                  |                 |
| Wyandotte.....          | 1.73            |
| All Other Counties..... | 1.63            |
| KENTUCKY                |                 |
| All Counties.....       | 1.81            |
| LOUISIANA               |                 |
| East Baton Rouge.....   | 1.97            |
| Jefferson.....          | 1.97            |
| Orleans.....            | 1.97            |
| St. Charles.....        | 1.97            |
| West Baton Rouge.....   | 1.97            |
| All Other Counties..... | 1.76            |
| MAINE                   |                 |
| All Counties.....       | 1.79            |
| MARYLAND                |                 |
| Baltimore.....          | 1.95            |
| All Other Counties..... | 1.8             |
| MASSACHUSETTS           |                 |
| All Counties.....       | 1.79            |
| MICHIGAN                |                 |
| All Counties.....       | 1.66            |
| MINNESOTA               |                 |
| Hennepin.....           | 1.75            |
| St. Louis.....          | 1.75            |
| All Other Counties..... | 1.69            |
| MISSISSIPPI             |                 |
| All Counties.....       | 1.83            |
| MISSOURI                |                 |
| St. Louis.....          | 1.88            |
| All Other Counties..... | 1.73            |
| MONTANA                 |                 |
| All Counties.....       | 1.54            |
| NEBRASKA                |                 |
| All Counties.....       | 1.63            |
| NEVADA                  |                 |
| All Counties.....       | 1.68            |
| NEW HAMPSHIRE           |                 |
| All Counties.....       | 1.79            |
| NEW JERSEY              |                 |
| All Counties.....       | 1.81            |
| NEW MEXICO              |                 |
| All Counties.....       | 1.68            |
| NEW YORK                |                 |
| Albany.....             | 1.95            |
| New York City.....      | 1.95            |
| All Other Counties..... | 1.79            |
| NORTH CAROLINA          |                 |
| All Counties.....       | 1.88            |
| NORTH DAKOTA            |                 |
| All Counties.....       | 1.59            |

1979 CROP RYE LOAN AND PURCHASE RATES—  
Continued

| County                    | Rate per bushel |
|---------------------------|-----------------|
| OHIO                      |                 |
| All Counties.....         | 1.74            |
| OKLAHOMA                  |                 |
| All Counties.....         | 1.71            |
| OREGON                    |                 |
| Clatsop.....              | 1.96            |
| Multnomah.....            | 1.96            |
| All Other Counties.....   | 1.83            |
| PENNSYLVANIA              |                 |
| Philadelphia.....         | 1.95            |
| All Other Counties.....   | 1.79            |
| RHODE ISLAND              |                 |
| All Other Counties.....   | 1.79            |
| SOUTH CAROLINA            |                 |
| Charleston.....           | 1.95            |
| All Other Counties.....   | 1.88            |
| SOUTH DAKOTA              |                 |
| All Other Counties.....   | 1.63            |
| TENNESSEE                 |                 |
| Shelby.....               | 1.88            |
| All Other Counties.....   | 1.83            |
| TEXAS                     |                 |
| Galveston.....            | 1.97            |
| Harris.....               | 1.97            |
| Jefferson.....            | 1.97            |
| Nueces.....               | 1.97            |
| San Patricio.....         | 1.97            |
| All Other Counties.....   | 1.76            |
| UTAH                      |                 |
| All Counties.....         | 1.63            |
| VERMONT                   |                 |
| All Counties.....         | 1.79            |
| VIRGINIA                  |                 |
| Chesapeake (Norfolk)..... | 1.95            |
| All Other Counties.....   | 1.94            |
| WASHINGTON                |                 |
| Clark.....                | 1.96            |
| Cowlitz.....              | 1.96            |
| King.....                 | 1.96            |
| Pierce.....               | 1.96            |
| All Other Counties.....   | 1.83            |
| WEST VIRGINIA             |                 |
| All Counties.....         | 1.81            |
| WISCONSIN                 |                 |
| Douglas.....              | 1.75            |
| Milwaukee.....            | 1.83            |
| All Other Counties.....   | 1.74            |
| WYOMING                   |                 |
| All Counties.....         | 1.63            |

## (b) Schedule of Premiums and Discounts for 1979-Crop Rye. (1) Premiums.

- Rye, grading U.S. No. 1: +2. (2) Discounts.
- a. Rye, grading U.S. No. 3 on account of test weight: -2.
- b. Rye, grading U.S. No. 3 on account of "thin" rye: 15.1-17.0% thins, -3; 17.1-19.0% thins, -5; 19.1-21.0% thins, -7; 21.1-23.0% thins, -9; and 23.1-25.0% thins, -11.
- c. Rye, grading U.S. No. 3 for factors other than test weight or % of thins: -5.
- d. Weed control discount (where required by § 1421.24): -10.

(c) Other. Rye with quality factors exceeding limits shown in foregoing schedule or rye that (1) contains in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) is sour, shall not be eligible for loan. In the event quantities of rye exceeding limits

shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of rye to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

NOTE: This rule has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average for 1979 rye loan and purchase rates announced November 11, 1978. An approved Final Impact Statement is available from Bruce Weber, ASCS (202) 447-7987.

Signed at Washington, D.C., on March 21, 1979.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.  
(FR Doc. 79-9310 Filed 3-27-79; 8:45 am)

[6210-01-M]

## Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE  
SYSTEMSUBCHAPTER A—BOARD OF GOVERNORS OF  
THE FEDERAL RESERVE SYSTEM

[Reg. E; Docket No. R-0193]

PART 205—ELECTRONIC FUND  
TRANSFERS

## Authority, Purpose and Scope, Definitions, Exemptions, Issuance of Access Devices, Liability of Consumer for Unauthorized Transfers, and Model Disclosure Clauses

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form portions of Regulation E to implement two sections of the Electronic Fund Transfer Act that became effective on February 8, 1979. The regulatory proposal was published for comment on Friday, December 29, 1978 (43 FR 60933). Section 205.4 implements section 911 of the Act and relates to issuance of access devices; section 205.5 implements § 909 and relates to liability of consumers for unauthorized electronic fund transfers. The Board is also adopting sections on the regulation's scope and purpose

(§ 205.1), definitions (§ 205.2) exemptions (§ 205.3), and model disclosure clauses (Appendix A). Finally, the Board is issuing an analysis of the economic impact of the adopted portions of the Act and regulation, as required by section 904 of the Act.

The Board believes that it is important for consumers to be informed about their liability for unauthorized transfers. Consequently, the Board is separately publishing for comment a proposal that would require financial institutions to give consumers certain disclosures prior to the effective date of the remaining sections of the Act. The Board proposes to make delivery of those disclosures a precondition to imposing any liability on a consumer. (See FR Doc. 79-9262, a proposed rule document affecting 12 CFR 205 in this issue).

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Regarding the regulation: Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-2412). Regarding the economic impact analysis: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-2584).

SUPPLEMENTARY INFORMATION: (1) *Introduction; General Matters.* The Board is adopting in final form five sections and an appendix of Regulation E<sup>1</sup> to implement certain provisions of the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. 95-630), enacted on November 10, 1978. These sections of Regulation E were published for comment on December 29, 1978. The Board received 134 comments on the proposal and, based on the comments received and its own analysis, has revised the proposed regulation, the model clauses contained in the appendix, and the analysis of the economic impact of the regulation.

Section 909 of the Act sets limits on consumer liability for unauthorized electronic fund transfers which occur after loss, theft or unauthorized use of an EFT card or other access device. Section 911 establishes a partial ban on the unsolicited issuance of EFT access devices. Because these two sections of the Act became effective on February 8, 1979, and financial institutions need to know the requirements of the regulation implementing them, the Board believes the public interest

<sup>1</sup> Please note that the original Regulation E, Purchase of Warrants, was rescinded as of November 8, 1978 (43 FR 53708, Friday, November 17, 1978).

requires that the regulation be effective immediately. The delayed effective date requirement of 12 CFR 262.2(d) is therefore suspended, as permitted by 12 CFR 262.2(e). The expanded procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), were not followed in developing the regulation since the proposal was initiated before the policy statement was adopted and since expedited action was necessary because of the early effective date of these statutory provisions.

Section 904(a)(1) of the Act requires the Board, when prescribing regulations, to consult with the other Federal agencies that have enforcement responsibilities under the Act. Members of the Board's staff met with staff members from the enforcement agencies prior to the issuance of the proposal, and have consulted again with them on the final rule.

Federal savings and loan associations should note that they are subject to the provisions of Regulation E and that there may be some inconsistency between this regulation and the Federal Home Loan Bank Board's regulation governing remote service units (12 CFR 545.2). The Board of Governors has been advised by the Bank Board that § 545.4-2 will be amended promptly to conform to the Act and Regulation E.

Section 904(a)(2) requires the Board to prepare an analysis of the economic impact of the regulation on the various participants in electronic fund transfer systems, the effects upon competition in the provision of electronic fund transfer services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. Section 904(a)(3) requires the Board to demonstrate, to the extent practicable, that the consumer protections provided by the proposed regulation outweigh the compliance costs imposed upon consumers and financial institutions. The Board's analysis of the regulation's economic impact is published in section (4) below. The final regulation and the economic impact statement have been transmitted to Congress.

The Board is also adopting Appendix A to the regulation, Model Disclosure Clauses. Although section 904(b) of the Act, which requires the Board to issue model disclosures for optional use by financial institutions, does not become effective until May 1980, the Board believes that issuance of these clauses now is appropriate because certain disclosures are presently required by §§ 205.4(a)(3), (b), and (d). The clauses are discussed in greater detail in section (3) below.

The Board had solicited comment on whether certain requirements of the

regulation should be modified, as permitted by section 904(c), to alleviate undue compliance burdens on small financial institutions. Comments on this issue do not, in the Board's opinion, presently justify any modification of the regulatory requirements for small financial institutions. The Board will again solicit comment on possible modifications when the rest of the regulation is issued for comment.

The Board had proposed rescinding five public information letters on Regulation Z (445, 520, 528, 921, and 1082). Letters 445, 520, 528, and 1082 will not be rescinded as they do not conflict with the provisions of Regulation E. The last paragraph of Letter 921 is rescinded effective immediately, as it states that unsolicited issuance of an access device permitting credit extensions under a preexisting overdraft agreement is not permitted. Issuance of such devices (in accordance with the requirements of § 205.4(b)) is now permitted by § 205.4(c)(iii).

Section 914, which assigns administrative enforcement of the Act and the regulation to various Federal agencies, does not become effective until 1980. The Board intends, however, to enforce the effective requirements of the Act and Regulation E as to State member banks under the general enforcement authority contained in § 1818b of the Financial Institutions Supervisory Act (12 U.S.C. 1818b (1974)). Other financial institutions should consult the agency with supervisory jurisdiction over them to determine the agency's position as to enforcement.

(2) *Regulatory Provisions. Section 205.1—Authority, Purpose and Scope.* This section had been proposed as a general introduction to electronic fund transfer services for consumers and financial institutions. Comments on this section generally opposed inclusion of a descriptive statement of the scope of electronic fund transfers within the body of the regulation, arguing that doing so might limit the development of new EFT services. The Board has therefore amended this section to provide a general statement concerning the scope and purpose of the Act and regulation.

*Section 205.2—Definitions.* In response to numerous comments pointing out that a user of the regulation cannot fully grasp the meaning of the substantive provisions before learning the meaning of the defined terms, the definitions have been placed near the beginning of the regulation.

(a) "Access device" and "accepted access device." The phrase "that may be used by the consumer" has been inserted in the definition of "access device" to indicate that an access device must be something that the consumer uses to make electronic fund



transfers. For example, data on magnetic tape, used by an institution to initiate preauthorized transfers, do not constitute access devices.

The definition of "accepted access device" has been expanded by the addition of two clauses. The first makes an access device "accepted" if it was issued on an unsolicited basis but has subsequently been validated upon the consumer's request in accordance with § 205.4(b). As pointed out in public comments, a request for validation, like a request for the device itself, indicates that the consumer wishes to have and use the device.

The second clause renders "accepted" any access device issued in renewal of or in substitution for an accepted access device, when the new device is received by the consumer. This corresponds to similar language in the Regulation Z definition of "accepted credit card."

Note that under § 205.4(a)(3), a financial institution will be permitted to renew an access device that was issued on an unsolicited basis before February 8, 1979, and that may not be an "accepted access device," provided certain disclosures are given. Any renewal device thus issued does not become an "accepted access device" until the consumer for whom the access device is intended has received the device and has signed it or used it or has authorized another person to use it. (See the discussion regarding § 205.4(a)(3), below.)

(b) "Account." There are two changes in this definition. One is the substitution of "credit plan" for "open end credit plan" in the exclusion of occasional or incidental credit balances. In the proposed regulation, "open end credit plan" was defined in § 205.12(1); the term has been deleted since it tied "open end credit plan" to certain Regulation Z concepts, and would have narrowed the exclusion to credit plans meeting the precise qualifications of Regulation Z. The Board believes that occasional or incidental credit balances in other types of credit plans should also qualify for the exclusion. "Credit plan" hinges on the broad definition of "credit," discussed below, and therefore serves this purpose better than "open end credit plan."

The other change is the deletion of the last sentence, excluding accounts held pursuant to bona fide trust agreements. Virtually identical language has been added to the section on exemptions (§ 205.3(f)); the purpose of the change is to group together all exemptions.

(c) "Act." This definition is identical to the proposed version.

(d) "Business day." The definition of this term differs from the proposed definition. The phrase "or the issuer," following "financial institution," has

been deleted as unnecessary, since the definition of "financial institution" now includes persons who issue access devices and provide EFT services by agreement with a consumer.

"Business day" is defined as any day on which the offices of the consumer's financial institution are open to the public for carrying on "substantially all business functions." "Substantially all business functions" includes the "back-office" operations of the institution. Thus, for example, if the offices of an institution are open on Saturday for handling most transactions with customers (such as deposits, withdrawals, and loan applications) but not for processing claims of account errors or performing other internal functions, then Saturday is not a business day for that institution.

The Board solicited comment on whether the regulation should set a uniform rule as to what constitutes a business day, such as that set forth in § 226.9 of Regulation Z for rescission purposes. Some comments favored the Regulation Z rule (Monday through Saturday, exclusive of Federal holidays) or a similar rule, such as Monday through Friday, exclusive of Federal and State holidays. Others advocated defining as a business day any day on which the institution is capable of receiving notice of loss or theft of access devices. Under this definition, for example, a Sunday on which all offices of an institution were closed, but on which the institution maintained telephone lines for reporting loss or theft of an access device, would be a business day.

The Board believes that while weekend availability of telephone lines for reporting stolen or lost access devices is desirable, most consumers will not consider a weekend day a business day, especially if the institution's offices are closed. However, institutions should have the flexibility to keep their offices open on a weekend day and have it considered a business day. Loss or theft would, of course, be reportable at the institution's offices. The Board has added a requirement, discussed below, that an institution disclose what its business days are when it issues an access device on an unsolicited basis, as well as when it renews a device under § 205.4(a)(3).

(e) "Consumer." This definition is identical to the proposed definition.

(f) "Credit." A definition of the term "credit" has been added. "Credit" is defined broadly, using the same language as in Regulation B. This term replaces "extension of credit" (proposed § 205.12(i)) and "open end credit plan" (proposed § 205.12(1)), both of which have been deleted.

(g) "Electronic fund transfer." This definition is identical to the proposed version.

(h) "Electronic terminal." This definition is identical to the proposed version. It should be noted that this term includes merchant-operated terminals through which the consumer can make deposits or withdrawals.

(i) "Financial institution." The definition has been revised in the following ways. First, the phrase "State or Federal" is inserted before "mutual savings bank" to reflect the fact that, by recent legislation, mutual savings banks may have Federal charters. Second, reference to agents is omitted. Third, language has been added to include within the definition persons who, by agreement with consumers, provide electronic fund transfer services and who also issue access devices for such services. The addition of this language makes it possible to eliminate the term "issuer" from the regulation, and to use "financial institution" instead (including in the provisions on issuance of access devices).

Restructuring the definitional framework as it relates to financial institutions and issuers carries out the intent of § 904(d) of the Act, which directs the Board to ensure that the requirements of the regulation generally (and not merely those relating to issuance) are made applicable to persons who provide EFT services but do not hold consumers' accounts.

Finally, a new paragraph within § 205.2(i) permits two or more institutions that are subject to the regulation, with respect to a given EFT system or service, to agree among themselves as to which of them will carry out the duties imposed by the Act and the regulation. This does not alter an institution's obligations (to provide disclosures, for example), but merely sanctions indirect compliance with those obligations.

(j) "State." The statutory definition of "State" has been added to the regulation.

(k) "Unauthorized electronic fund transfer." This definition is identical to the proposed version. Some comments suggested that language be added so as to exclude from the scope of this term any transfer made possible by the consumer's negligence. However, the Board believes that it was the intent of Congress to adopt the framework set forth in the definition and in rules on liability for unauthorized use (§ 205.5) in place of a negligence standard, not in addition to it.

Definitions that appeared in the proposed regulation and that have been deleted from the final version are "credit card" (§ 205.12(f)), "extension of credit" (§ 205.12(i)), "issuer" (§ 205.12(k)), and "open end credit plan" (§ 205.12(1)). Reasons for the deletion of "issuer" and "open end credit plan" have been discussed above. "Credit card" has been deleted be-

cause it appears only in §§ 205.4(c) and 205.5(d); references to Regulation Z have been added as appropriate in order to specify the meaning of the term. "Extension of credit" has been deleted because its function is served by the new term "credit."

Some commenters urged that the Board add a definition of the term "error," which appears in the definition of "unauthorized electronic fund transfer" (§ 205.2(j)). The Board has decided not to do so. The error resolution provisions of the Act (section 908) do not become effective until May 1980, which gives the Board the time necessary to develop regulations implementing these provisions. As part of that process, the Board may decide to modify the statutory definition of "error," as authorized by section 908(f)(7). In the interim, the statutory definition is available as a guide.

Section 205.3—Exemptions. This section corresponds to § 205.2 of the proposal and implements the exemptions contained in section 903 of the Act. It remains unchanged, with three exceptions discussed below.

Section 205.3(a) exempts from the regulation's requirements check guarantee or authorization services that do not "directly result in a debit or credit to a consumer's account." Some comments asked whether the practice of "memo-posting" or putting a hold on the consumer's funds, in the amount of the guaranteed or authorized check, constitutes a direct debit to the account for purposes of Regulation E. It is the Board's opinion that memo-posting does not directly result in a debit to the account, and services employing such holds are exempt (because the transfer of funds is not complete until the paper instrument, i.e., the check, is cleared through the check payment system).

The Board has amended the language of § 205.3(b). Wire transfers, to clarify that transfers for consumers by any network similar to Fedwire (that is used primarily for financial institution or business transfers) are exempt.

Section 205.3(c), dealing with securities and commodities transfers, has been amended to specifically exempt purchases or sales of commodities through brokers registered with the Commodity Futures Trading Commission. The Board had solicited comment on whether transfers involving mutual fund or pension accounts should be exempted, but will defer any action on such exemptions pending further public comment on the rest of the regulation, as such accounts do not appear to be seriously affected by the effective sections of the regulation.

The Board had also solicited comment on whether § 205.3(d), dealing with automatic transfers, should be

expanded to include other intrainstitutional transfers. The comments generally supported expansion of the exemption; the three major suggested changes were (1) to exempt all automatic transfers between a consumer's deposit accounts (including transfers between checking and savings accounts, share and share draft accounts, and savings and NOW accounts) within a single financial institution or between institutions, (2) to exempt all automatic transfers between a consumer's accounts and between the consumer's accounts and the financial institution's accounts (e.g., automatic mortgage or other loan payments, automatic debiting of checking account service charges), and (3) to exempt all preauthorized automatic transfers between a consumer's accounts, and between a consumer's accounts and the institution's or third parties' accounts.

The Board has decided to defer any action on whether intrainstitutional transfers other than those specified by the Act should be similarly exempted pending further public comment and analysis. The issues raised by the proposed expansion of the exemption are, in the Board's opinion, best considered in the context of the other requirements of the Act. The Board believes that such transfers are not materially affected by the portions of the Act now in effect and will again raise the issue when proposing the relevant sections of the regulation.

The exemption from the scope of the Act and regulation for any trust account held by a financial institution pursuant to a bona fide trust agreement was contained in the definition of "account." It has been moved to the exemption section for clarity. The Board does not believe, as suggested by some commenters, that the Act intended to limit the exempted accounts to those for which the financial institution is the trustee.

Section 205.4—Issuance of Access Devices. Section 205.4 corresponds to § 205.3 of the proposed regulation. Proposed § 205.3(a)(1) permitted issuance of access devices in response to either oral or written requests. The Act is silent on this point. The majority of the commenters favored permitting oral requests, arguing that this would be more convenient for both financial institutions and consumers. For this reason, and because it is desirable to have the same rules apply to EFT devices and to credit cards (which under Regulation Z may be issued upon oral request), the Board has decided to adopt § 205.4(a)(1) in the form proposed; an oral request for an access device will suffice to authorize issuance. Note that if an institution issues an access device in response to a fraudulent request (whether oral or writ-

ten) and the device is intercepted and used, the consumer whose account is affected will bear no liability, since the device will not be an "accepted access device."

Footnote 1, which has been added to § 205.4(a)(1), addresses the question of whether all holders of a joint account must request an access device before the institution may issue a device or devices. The footnote explains that if a holder of a joint account requests an access device, the institution may issue a device to the requesting holder; it may also issue a device for the other holder(s) in response to a specific request for the additional card(s). The Board believes it is appropriate for an account holder to be able to request an access device for a joint account holder. In addition, a more stringent requirement could easily be circumvented, since oral requests are permitted under the regulation.

Section § 205.4(a)(2) remains unchanged; its applicability is limited to the issuance of renewal or substitute devices that take the place of accepted access devices.

Many commenters asked the Board for a "grandfather" provision that would permit them to renew access devices that were issued on an unsolicited basis before the effective date of the Act, without regard to whether the device being replaced is an accepted access device. They argued that such a provision is necessary because in many cases where unsolicited access devices were sent out, the financial institution is unable to determine (or is able to do so only at great expense) whether a particular device was ever used by the consumer. Since these institutions do not know which of their existing EFT devices are "accepted," they would have to treat all devices as unaccepted and to seek a request for renewal rather than renew automatically. This, it was suggested, would be confusing and irritating to a consumer who has been using the device, and burdensome for the institution. In addition, since some institutions may have access devices outstanding that require renewal only infrequently or not at all, imposing greater requirements on institutions whose access devices require renewal more frequently would be anticompetitive.

The Board has therefore added § 205.4(a)(3), which permits the issuance of a validated renewal or substitute access device, but only on the condition that the financial institution disclose to the consumer the consumer's liability for unauthorized transfers, the telephone number and address to be used to report the loss or theft of the card or an unauthorized transfer, and the institution's business days.



The Board believes it would not be fair to consumers who are using their access devices to have financial institutions require a further application. At the same time, the Board recognizes that other consumers will not want the renewal devices. Requiring these disclosures about the consumer's liability to be made when an institution renews a device that may or may not have been accepted will, in the Board's opinion, enable consumers to make an informed decision about whether or not to keep and use the access device.

Note that while § 205.4(a)(3) sanctions the renewal of a prior access device that may not have been accepted, the consumer will incur no liability from the issuance since the renewal device does not become an accepted access device until the consumer accepts the device by signing or using it, or by authorizing another person to use it.

Section 205.4(b) specifies the conditions under which access devices may be issued on an unsolicited basis. Sections § 205.4(b)(1), (2) and (3) correspond to §§ 205.3(b)(1)(i), (ii) and (iii) of the proposal and are substantially unchanged.

Section 205.4(b)(4) combines proposed §§ 205.3(b)(1)(iv) and § 205.3(b)(2). The change in structure emphasizes that the requirement for verification of personal identity applies only to access devices issued on an unsolicited basis.

The substance of proposed § 205.3(b)(2) has been revised by the addition, to the four specified means of verification of personal identity, of language that would also permit use of any other reasonable means of verification. The Board believes that limiting verification methods to a specified few would risk hampering technological innovation in this area. Such innovation might produce methods that would provide greater certainty and security than any of the four methods listed. In any event, it should be noted that if an institution fails to verify identity (even if it employed reasonable means), and thus validates an access device for an imposter, the device will not become an "accepted access device." Hence the consumer whose account is depleted will bear no liability whatever.

The provision concerning what constitutes validation (proposed § 205.3(b)(3)) has been incorporated as a continuation of the introductory language of § 205.4(b). The phrase "all procedures" has been substituted for "any procedure" to make clear that, if several steps are needed to activate the access device, validation consists of performing not just one, but all of

them. (On the other hand, note that if a solicited access device can be used in the institution's system to initiate a transfer immediately upon issuance, then it is "validated" even though no validation procedure was performed after issuance.) The word "enable" replaces the word "permit," to underscore that validation relates to the physical possibility of use of the device, not merely the permissibility of use under an agreement between the institution and the consumer.

The Board solicited comment on whether it should specify methods of validation. The vast majority of comments urged that limiting means of validation would stifle technological development. On this basis, the Board has decided not to make any change in the validation provisions in this respect.

Section 205.3(a) concerns the relationship of this regulation to Regulation Z, and corresponds to proposed § 205.3(c). The provision has been restructured for clarity and one significant change has been made. Section 205.4(c)(1) lists the activities that are covered by the issuance rules of Regulation E, while § 205.4(c)(2) states what is covered by the counterpart provisions of Regulation Z. A category, set forth in § 205.4(c)(1)(iii), has been added to the coverage of Regulation E (with a corresponding exception in § 205.4(c)(2)(iii)). The category is access devices that are also credit cards solely by virtue of their capacity to access an existing overdraft credit line attached to the consumer's account.

The Board believes this change is appropriate for a number of reasons. First, as comments pointed out, the consumer has already requested the overdraft credit line itself, and thus the issuance of an access device does not force unwanted credit on the consumer. Also, since the device must be issued unvalidated (to comply with § 205.4(b)(1)), it cannot be used until validated at the recipient's request and upon verification of the recipient's identity. Thus, there is less danger of unauthorized use following interception of the device than in the case of ordinary credit cards. Finally, this revision brings the rules on the relationship between the EFT and TIL Acts in the area of issuance into closer conformity with the corresponding rules regarding liability for unauthorized use.

The disclosures to be given with an unsolicited access device appear in § 205.4(d). The Board believes these disclosures are necessary to provide adequate information to consumers receiving access devices they did not re-

quest. This provision differs in several ways from proposed § 205.3(d). Language has been added clarifying the rule that the disclosures must be in a form that the recipient can retain. A new disclosure is required (§ 205.4(d)(3)), namely, what days constitute the institution's business days. This disclosure is necessary because the regulation permits variance among institutions as to what constitutes a business day, and it is important for consumers to know which days count toward the two days that they have to report a lost or stolen access device. The disclosure concerning the right to stop payment of preauthorized transfers (proposed § 205.3(d)(6)) has been deleted, since preauthorized transfers are not made by use of access devices.

The remaining disclosure requirements are substantially the same as proposed. Section 205.4(d)(4), corresponding to proposed § 205.3(d)(3), has been changed by the deletion of the words "and nature," which added nothing to "type." It should be pointed out that if there are limitations on the frequency or dollar amount of transfers for security reasons, the institution must disclose that fact. Only the details of the limitations are exempt from disclosure. Sections 205.4(d)(7), (8) and (9) (corresponding to proposed §§ 205.3(d)(7), (8) and (9)) have been revised so that the requirements are to disclose the institution's policies and not the consumer's rights (under State law, for example).

The disclosure requirement regarding charges, set forth in § 205.4(d)(5), gives rise to the question of whether the institution must disclose the entire account maintenance charge, even if part of it is imposed on similar accounts not accessible by electronic means. The Board believes that the answer is no; the disclosure need include only those charges, or components of charges, that relate to electronic fund transfers or to EFT capability on an account.

As adopted, the regulation imposes disclosure requirements only when a financial institution issues an unsolicited access device under § 205.4(b) or renews what may be an unaccepted access device issued before February 8, 1979, under § 205.4(a)(3). Note, however, that the Board is separately publishing for comment in this issue a proposal that would require financial institutions, as to all accounts that can be accessed by an EFT device, to disclose a consumer's potential liability and that would make delivery of those disclosures a precondition of imposing any liability on the consumer.

*Section 205.5—Liability of Consumer for Unauthorized Transfers.*

This section implements section 909 of the Act and sets forth the conditions under which a consumer may be held liable for unauthorized electronic fund transfers involving an access device, and the limits on such liability.

Section 205.5(a) sets forth two general conditions that must be met before any liability can be imposed upon a consumer for unauthorized transfers. First, the access device must be an "accepted access device," as that term is defined in § 205.2(a). Under that definition, an accepted access device is one that (1) the consumer requests and receives, signs, uses, or authorizes another person to use; (2) was issued on an unsolicited basis and has been validated at the consumer's request; or (3) is a renewal or substitute device that takes the place of an accepted access device.

The second condition that must be met before any liability can be imposed on a consumer is that the financial institution must have provided a means whereby the consumer to whom the access device was issued can be identified. Comments on this second requirement raised two questions. The proposal employed the word "user" instead of "consumer" (now in the final rule) for identification purposes. Commenters asked whether this word meant that each user of the card had to have a separate identifier (e.g., a personal identification number or PIN). The Board believes that such a requirement is not mandated by the Act, and that the requirement of identification is a general one (i.e., electronic terminals need not have the capability to identify each separate user of an access device as an authorized user as a precondition to liability).

Commenters also inquired whether the examples of means of identification (which are not exclusive) permit the use of PINs and other alphabetical or numerical codes as sufficient identifiers. The Board believes that the words "electronic or mechanical confirmation" include within their scope the use of PINs.

Note that, under the statutory language of section 909(b), the financial institution has the burden of proving that a transfer was unauthorized, that the access device was an accepted access device, and that the financial institution has complied with the consumer identification requirement. Note also that the Board is publishing for comment a proposal that would make disclosure of consumer liability a precondition to imposing any liability on the consumer.

Section 205.5(b) has been substantially revised. As a preliminary matter, the Board continues to believe that the intention of Congress was to pro-

vide limits on liability for a series of unauthorized transfers arising from a single loss or theft of the device, not for each unauthorized transfer from an account; the regulation so provides. The comments addressing this issue were divided, but the comments in support of the Board's interpretation argued, and the Board agrees, that a significant consumer benefit of the Act would be lost if the provision were changed.

The most significant revision of this subsection is the deletion of the words "or possible unauthorized transfer" after the words "loss or theft of the access device." A significant number of comments pointed out that the statutory language imposing liability before the end of 60 days after the transmittal of a periodic statement showing unauthorized transfers is limited to unauthorized use following loss or theft of an access device and does not include, as the proposed regulatory language and accompanying footnote suggested, any affirmative duty on the part of a consumer to be aware of and report possible unauthorized use not resulting from loss or theft of the device, or to examine a periodic statement before 60 days. The Board agrees with this position and has accordingly deleted the phrase.

Some commenters indicated that the proposed regulation did not make clear what liability limits apply in the case of failure to report unauthorized transfers appearing on a periodic statement. It was suggested that the proposed language could be interpreted to impose zero liability for transfers occurring before the end of the 60 day period after transmittal of a statement. Section 205.5(b) has been restructured to clarify that the \$50 liability limit (or the amount of unauthorized transfers, if less) applies to transfers before the close of the 60 days.

Section 205.5(b)(3) makes clear that all three tiers of liability can apply to a series of unauthorized transfers. For example, a consumer could be liable for \$50 for transfers that occurred before the close of two business days after the consumer learns of the loss or theft, for another \$450 for transfers occurring after the close of the two business days and before the elapse of the 60-day period following transmittal of a periodic statement, and for an unlimited amount of liability for transfers occurring after the close of the 60 days, if the financial institution can prove when the consumer learned of the loss or theft, and that the losses occurring after the close of 2 business days and after the close of the 60 days would not have occurred but for the failure of the consumer to notify the financial institution.

A number of comments suggested that the Board specify maximum time periods for extension of the notice periods when extenuating circumstances prevent the consumer from notifying the institution of loss or theft of the access device or unauthorized transfers. The Board does not believe that such time periods can be uniform, given the wide variety of circumstances that may arise which could delay notification by the consumer.

Section 205.5(b)(5) (corresponding to proposed § 205.4(d)(3)) has been amended to conform more closely to the statutory language. It states that an applicable State law, or an agreement between the consumer and the institution, that provides for less liability than is imposed by the Federal law will determine the consumer's liability for unauthorized transfers. Some commenters suggested that the Board preempt State credit card liability laws (that have been interpreted to apply to EFT cards) that provide for less consumer liability than the Federal EFT law. The Board declines to do so at this time.

The Board had solicited comment on whether a financial institution could specify a particular person or office to be notified in the event of loss or theft of the access device or unauthorized transfer. The comments from financial institutions on this question were in favor of such latitude; other commenters opposed it. The Board believes that § 909(a) precludes it from permitting an institution to designate a particular person to receive such notice; consequently, no change has been made to that portion of § 205.5(c).

The Board has added, however, a provision similar to one contained in § 226.13(e) of Regulation Z. It provides that written communication of loss, theft or unauthorized transfer is effective upon receipt by the financial institution or, if not actually received, upon expiration of the time usually required for transmission, whichever is earlier. The Board believes that the disclosure of a telephone number and address for notification of loss, theft or unauthorized transfer will encourage prompt communication by consumers. Additionally, the model disclosure clause implementing the provision as to advisability of prompt reporting of loss or theft (§ A(2) of Appendix A) has been amended to encourage telephone notification.

Section 205.5(d) remains virtually unchanged from the proposal. It provides that a consumer's liability for unauthorized transfers shall be determined solely in accordance with the EFT Act and Regulation E if the electronic fund transfer was accomplished by means of an access device that is also a credit card or if the transfer was



also an extension of credit under an overdraft plan. It also provides that the Truth in Lending Act and Regulation Z determine the liability of a consumer for unauthorized use with a credit card that is also an access device, but that does not involve an electronic fund transfer.

(3) *Model Disclosure Clauses.* Appendix A to the regulation sets forth model clauses for use in fulfilling the disclosure requirements of §§ 205.4(a)(3), (b), and (d). These clauses, and others to be issued by the Board, will satisfy the requirements for initial disclosures (section 905 of the Act) when these go into effect in May 1980. The Board may, however, revise these clauses when it issues the additional clauses.

Use of the model clauses is optional. Further, financial institutions may make changes as appropriate in order to reflect the services they offer. Note that this is true even for § A(2), the model disclosure of liability for unauthorized use, contrary to what was stated in the FEDERAL REGISTER material accompanying the proposed regulation. The Board has decided that since § 205.5 mandates lesser liability than the limits set forth in the EFT Act if contract or State law so provides, it would be appropriate for the disclosure to reflect the lesser liability. Institutions may choose to use the model clauses or only some of the required disclosures, while making other required disclosures by using clauses of their own design.

Use of the model clauses that appropriately reflect the institution's EFT program will protect the institution from civil and criminal liability under sections 915 and 916 of the Act for failure to make disclosure in proper form, as provided in section 915(d)(2). Note that sections 915 and 916 do not take effect until May 1980.

In response to comments on the proposed versions, the model clauses have been revised, and one new clause added. The more noteworthy changes are discussed briefly below.

In § A(1), the phrase "to transfer money into or out of your account" has been added, to distinguish use of the access device for EFT purposes from other possible use (for example, as a credit card).

In § A(2), a sentence has been added to one of the options for the first paragraph, encouraging consumers to telephone rather than write to report loss or theft of an access device. Also, the phrase "or money is missing from your account" has been deleted from both alternative first paragraphs, reflecting a corresponding change in § 205.5.

Section A(4), the institution's business days, is a new model clause, corresponding to the new disclosure re-

quirement set forth in § 205.4(d)(3). The remaining clauses have been renumbered accordingly.

In § A(5)(a), the item relating to learning account balances has been deleted, since while some EFT devices may indeed be usable for this purpose, no electronic fund transfer is involved and the required disclosure concerns only such transfers. The item concerning periodic payments has also been deleted, since such payments are preauthorized and no access device is used. A sentence has been added at the end of A(5)(a) in response to comments pointing out that some institutions, because of legal restrictions or because they share some terminals but not others, may not be able to offer the same EFT services at all terminals.

Section A(5)(b) contains two new items. Item (3) relates to frequency limitations in point-of-sale systems; item (4) provides language for use when security considerations prevent disclosure of frequency limits other than those set forth in item (1), (2) or (3), or of any frequency limits whatever. A new disclosure, for dollar limits in point-of-sale systems, has been added to § A(5)(c).

Section A(7) has been rephrased to make clear that the listed items are instances in which the institution will routinely disclose information about the consumer's account, but that they are not the only instances in which the institution will ever disclose such information. Item (2) has been reworded to indicate, among other things, that reports to credit bureaus and the like are not made only upon request. The item relating to the Right to Financial Privacy Act of 1978 has been deleted, since the disclosure requirement under that Act was repealed by Congress on February 27, 1979.

(4) *Economic Impact Analysis of sections 909 and 911. Introduction.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulations that the Board issues to implement the Act. The following economic analysis accompanies § 205.4 of the regulation, which implements section 911 of the Act, and § 205.5 of the regulation, which implements section 909 of the Act.<sup>3</sup> The analysis must consider the costs and benefits of the regulation to suppliers and users of EFT services, the effects of the regulation on competition in the provision of electronic fund transfer services among large and

<sup>3</sup>These sections took effect on February 8, 1979. Another economic analysis will be prepared by the Board when additional sections of the regulation are written to implement the other sections of the Act. Costs, benefits and effects identified in the present analysis will be re-evaluated at that time to take into account newly available information on the development and use of EFT services.

small financial institutions, and the effects of the regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers.

The regulation in part reiterates provisions of the statute and in part amplifies the statute. Therefore, the economic analysis considers impacts of both the regulations and the statute, and throughout the analysis a distinction will be made between costs and benefits of the regulation and those of the statute. *It is also important to note that the following analysis assumes that the regulation and the Act have no relevant economic impact if they are less restrictive than current industry practices or State law. In this case, the regulation will not affect costs, benefits, competition, or availability and will not inhibit the market mechanism. The following analysis of the regulation and the Act is relevant only if their provisions are more constraining than those provisions under which institutions would otherwise operate.*

*Section 205.4—Issuance of Access Devices.* (a) Impact of the Act and regulation on costs and benefits to institutions, consumers and other users. A primary purpose of the Act is the prevention of loss from unauthorized electronic fund transfers from consumers' accounts. The Act seeks to prevent such loss by restricting unsolicited distribution of validated EFT cards<sup>3</sup> which might be intercepted and used without the consumer's knowledge. The potential risk to the consumer of such a loss varies depending upon whether or not the consumer had an existing account with the financial institution. If the institution sent a card to a consumer without an existing account, perhaps as a marketing device to gain new customers, an interception of the card could not result in any potential loss to the consumer since the consumer had not placed funds in the associated account. Consumers who already hold accounts will benefit most from the prohibition on unsolicited issuance of validated cards because these consumers will be protected from the potential loss of both funds on deposit and funds available through preexisting overdraft credit lines.

The Act establishes a two-step procedure which requires that validation occur separately from the issuance of unsolicited cards; the regulation reiterates this requirement without amplification. This provision of the Act creates the important benefit of preventing losses from unauthorized use that might occur from interception of already validated cards in transit to con-

<sup>3</sup>The term "card" in this economic impact analysis refers to any access device as defined in § 205.2(a) of the regulation.

sumers or in the possession of consumers who never requested them and do not use them. It also prevents costs and consumer inconvenience associated with establishing that any losses were from an unaccepted card.

Losses from interception have been experienced both with EFT cards and credit cards. Results of a 1976 survey of 292 institutions issuing EFT cards showed that 40 institutions reported losses related to mail-intercept since first offering EFT services, and that these losses were 11 per cent of total losses.<sup>4</sup> For these 40 institutions, there were 170 instances of loss, with average dollar loss of \$291.00 per instance.<sup>5</sup> However, the dollar loss per outstanding card was low since the total number of cardholding customers for the institutions in the survey was several million. For credit cards issued prior to the 1970 prohibition on unsolicited cards, 300,000 per year were estimated to be stolen out of an estimated 200 million credit cards outstanding in the late 1960's; this figure includes mail-intercept as well as other card theft.<sup>6</sup>

The Act does permit the distribution of unsolicited, but unvalidated, cards. The most general effect of this provision will be seen in the number of accepted cards. Although the quantitative impact of the Act's validation rules on the number of accepted cards cannot be predicted, experience in the credit card industry in the years prior to the prohibition of unsolicited cards under Regulation Z can give an indication of the bounds of acceptance rates relative to either a more or less restrictive regulation.<sup>7</sup> Unsolicited credit card distribution resulted in a much higher acceptance and usage rate than distribution based on solicitation of consumer requests for cards. The Marine Midland experience in 1966 points out these differences; 33,357

<sup>4</sup>Linda Fenner Zimmer, "Cash Dispensers and Automated Tellers: Statistical Data and Analysis with Selected Case Histories," Fourth Status Report (Park Ridge, N.J.: August 1977), pp. 222-224. These data must be interpreted with the awareness that security measures have greatly improved since 1976.

<sup>5</sup>Ibid.

<sup>6</sup>Sylvia Porter as quoted from *The Washington Star* in U.S. Congress, "Unsolicited Credit Cards," Hearings before the Subcommittee on Financial Institutions of the Committee on Banking and Currency, Senate, 91st Congress, 1st Session, 1969, p. 243.

<sup>7</sup>Analogies with credit card distribution are illustrative and not intended to obscure fundamental differences between credit cards and EFT cards. For example, fraudulent use could occur immediately for an intercepted credit card, but the consumer's liability would be strictly limited to \$50. An intercepted EFT card could be used fraudulently only if the personal identification number (PIN) were intercepted or discovered, but the consumer's liability would be determined in accordance with the Act.

promotional mailings resulted in only 221 applications for credit cards (less than one percent) while 731 direct mailings of cards resulted in 19 percent usage in a short period and 99 percent retention.<sup>8</sup> Based on this experience, it is expected that allowing distribution of unsolicited, but unvalidated, EFT cards will result in a larger card base and more chance of acceptance by merchants and consumers than would the complete prohibition of distribution of unsolicited cards. On the other hand, the card base, the acceptance level and some of the potential benefits due to economies of scale in EFT are expected to be smaller than would be the case if issuers were able to issue validated cards that were not solicited. Because the Act requires a two-step procedure for distributing and validating cards, costs to financial institutions will be increased through additional postage and handling. Costs are also increased by the Act's requirement of positive validation by the consumer. Required processing costs will be greater for every card that is accepted, and marketing expenses needed to achieve given acceptance rates for unsolicited cards will increase.

The lower acceptance rate expected for unsolicited cards under the Act may have the anti-competitive effect of raising a barrier to entry for financial institutions wanting to expand their card bases in markets in which they have small or zero shares, and where other financial institutions are already well established. The higher processing cost per new accepted card intensifies the effect, making entry by new competitors less likely.

The regulation has classified unsolicited cards issued before February 8, 1979, as accepted for purposes of § 205.4(a). In this way the regulation allows institutions to renew or replace already issued, unsolicited cards without having to verify the consumer's identity, validate the cards and make disclosures under § 205.4(b)(2). This provision imposes no direct costs on consumers or institutions and, at the same time, it eliminates costs that institutions would otherwise incur if, regarding unsolicited cards issued prior to February 8, 1979, as not accepted, the institutions had to comply with the Act's requirements governing unsolicited cards.

Furthermore, the regulation shifts to financial institutions all liability for unauthorized use of unaccepted, unsolicited cards that have already been issued. This provision, which conforms with the specific provisions of the statute, protects consumers who have re-

<sup>8</sup>Bank Credit-Card and Check-Credit Plans (Washington, D.C.: Board of Governors of the Federal Reserve System, July 1968, p. 27.

ceived unsolicited cards and never accepted them. Financial institutions are exposed to all risks from unauthorized use of those cards, but institutions may protect themselves from the risks by invalidating unaccepted cards.

The regulation's provision that verification may be by any reasonable means appears flexible enough to ensure that benefits from innovation in verification technology are not precluded. Several commenters expressed concern that specification of permissible methods of verification would stifle cost-reducing innovation.

The Act further requires that a disclosure of consumers' rights and liabilities accompany each unsolicited access device, but the Act's full set of disclosures, as set forth in section 905, is not required until May 1980. To implement § 911 of the Act, the regulation, in § 205.4(b)(2), requires an interim set of disclosures to accompany each unsolicited card sent before May 1980. Two costs to financial institutions arise. One is the cost due to legal fees and paperwork resulting from the requirement of two sets of disclosures. Model disclosure clauses provided by the Board pursuant to the Act should mitigate this cost. The other cost arises from the Act's requirement that disclosures accompany the card.

Third-party processors argued,<sup>9</sup> in particular, that this requirement would increase costs of issuance because of the need to match proper disclosure statements with cards for different institutions and customers. Different disclosures may be needed for different card recipients because of variations in State laws or practices of issuing institutions within an EFT system (as, for example, in a multi-bank holding company). Particularly when cards are issued by a party other than the financial institution, sorting costs may be significant. Another cost would occur if third-party processors were unwilling to bear the risk of failing to make the proper disclosures to each consumer, or if they were to require costly insurance against such risk. However, commenters provided no estimates of the additional costs expected to be associated with compliance with this statutory provision.

(b) Effects of the Act and regulation upon competition among large and small financial institutions in the provision of electronic transfer services. A critical factor in a financial institution's ability to compete in the issuance of debit cards, particularly for point-of-sale systems, is the willingness of merchants to accept the cards. One influence on merchant acceptance of EFT cards is the size of the outstanding card base. Financial institutions attempt to use marketing strategies that will achieve a high acceptance ratio for the lowest cost. The



credit card experience in the late 1960's showed that the institutions' most successful strategy in achieving a large card base was large mailings of unsolicited cards. By allowing the distribution of unsolicited (although unvalidated) cards, the Act does not restrict entry potential for institutions as severely as was the case in the credit card industry when distribution of unsolicited cards was completely prohibited. As a result of this prohibition, companies that had not already entered the industry on a large scale were at a major disadvantage compared to the large-scale participants. Entry into the industry was difficult and competition was restrained. If a financial institution seeks to develop a point-of-sale system, a larger card base and greater volume of transactions will probably be required to make the system economically feasible than would be the case with the operation of a system of automated teller machines. For this reason, the Act's issuance restrictions may make entry into the point-of-sale EFT market more difficult for smaller institutions, thereby disadvantaging them to the extent that point-of-sale EFT is an important means of competing. These institutions have a smaller base of existing customers to whom to issue cards and hence may not be able to generate sufficient transaction volumes. The issuance restrictions may make it more difficult to increase their card bases to sufficient sizes to cost-justify POS systems.

A majority of commenters on the size issue stated that small institutions neither need nor should have special provisions under the regulation. Small financial institutions might enter EFT markets directly, or by means of a holding company, a correspondent institution, a shared system, or other organizational structure that can confer on small institutions some of the entry advantages of large size. Special provisions for small institutions might leave consumers who deal with them less protection in EFT activities.

Several public comments argued that small institutions know their customers and communities more personally and would likely experience relatively lower EFT losses than larger institutions. It was also pointed out, however, that a small institution trying to expand might know as little about its target customers as a large institution. Therefore, no clear effect, by size of firm, is likely to be exerted by the Act or regulation.

(c) Effects of the Act and regulation on availability of electronic transfer services to different classes of consumers, especially low-income. If cards are sent unsolicited only to institutions' present consumer deposit account holders, then EFT service availability

would be distributed, by this means, to low-income consumers according to their representation in the group of all account holders. Table I presents data on financial assets by income class, from which it can be seen that usage of depository services rises with income.

Public comments on the proposed regulation indicated that, while most institutions do not limit EFT and other financial service availability by income or employment status of existing account holders, other institutions do. Therefore, financial institutions might not send unsolicited cards to all present account holders. To the extent that such cards represent a costly non-price means of attracting or maintaining deposits, institutions may send cards only to high-volume customers to reduce the cost per dollar of account balance. In such an event, the distribution of EFT services would evolve away from low-income to higher-income customers. On the other hand, marketing opportunities may exist that will encourage institutions to offer EFT services to low-income consumers.

The provisions of the Act and regulation do not appear likely to influence these aspects of card issuance, nor to affect the availability of EFT services to different classes of consumers.

**Section 205.5—Conditions of liability of consumer for unauthorized transfers.** (a) Impact of the Act and regulation on costs and benefits to institutions, consumers and other users. Another primary purpose of the Act is the limitation of consumer and financial institution liability for losses due to unauthorized electronic fund transfers involving consumers' accounts. The total net cost or benefit of the Act to society is related to the extent to which the Act promotes an efficiency gain in the payments mechanism and reduces losses (including security costs) associated with all fund transfers, including the expected dollar loss resulting from fraud or unauthorized use of debit cards.

The impact of the liability provisions of the Act, which are reiterated in the implementing regulation, on the aggregate loss may be felt in three ways, two of which are benefits and the third a cost. First, by building in incentives for consumers to report quickly loss or theft of a card or discovery of unauthorized use, the Act should reduce the number of unauthorized transfers. Second, the relatively long period which consumers have in which to report unauthorized use before they assume full liability for loss will increase financial institutions' incentives for tight security systems. Third, however, is the possibility of increased unauthorized use because

the Act does not hold the consumer specifically liable for negligence. For example, a consumer's liability for unauthorized use of a card does not increase if the consumer puts the identification number on the card. Through these same effects, the liability provisions of the Act will also influence the efficiency of the economy's payments mechanism.

The regulation provides that, for unsolicited cards issued before February 8, 1979, the consumer is not subject to the Act's liability provisions unless the cards have been requested and received, signed, used, or authorized for another person to use, and thus accepted. The regulation thereby extends protection from loss to all consumers holding unaccepted cards. This is a benefit to consumers that may be offset to some extent by the increased liability exposure of institutions that otherwise would have had the option of not restoring funds transferred from these consumers' accounts by unauthorized use of unaccepted debit cards. This provision of the regulation goes beyond the explicit language of the statute but clearly expresses the intent of Congress to protect consumers from losses due to unsolicited cards.

Limited data on actual loss experience for unauthorized use of EFT and credit cards indicate that losses have not been high. For example, an Interbank ATM (Automated Teller Machine) loss survey of 125 banks showed that, on transactions volume of 10,486,000 and dollar volume of \$41.0 million, the total annual fraud loss was \$290,000, less than one per cent of dollar volume, and represented less than \$0.03 per transaction.<sup>9</sup> A payment Systems, Inc., survey of officials at 45 financial institutions offering card-activated EFT services estimated that annual average fraud loss per active card was about \$0.10 compared to an average of about \$0.03 per card for the total card base.<sup>10</sup> *Nilson Reports* estimated that total credit card fraud loss for 1978 would be \$62.8 million on total transactions volume of \$44 billion, which is less than two-tenths of one per cent of dollar volume.<sup>11</sup>

Although few specific data on loss experience were reported in public comments, there were several general observations. Commenters noted that

<sup>9</sup>John A. Collin, *What's New in Money-Matics?* Remarks made at the Bank Administration Institute Eighth National Security Conference (Atlanta, Ga.: n.p.: 1977), quoted in Veronica M. Bennett, "Card Fraud and Security in EFT Systems," (Atlanta: Payment Systems, Inc., White Paper, September 7, 1978), p. 13.

<sup>10</sup>Bennett, p. 17.

<sup>11</sup>Spencer Nilson, editor of *Nilson Reports*, during a telephone interview, November 1978.

losses from unauthorized or fraudulent use of EFT were lower per transaction than check losses. Many financial institutions commented that most or all EFT-related losses were absorbed by the institution; three reasons were given for this practice. First, competitive strategies lead institutions to make EFT as attractive as possible, particularly when EFT systems are new, operating costs are relatively higher, and customer usage is being actively solicited. Second, institutions may seek to maintain customers' good will by absorbing losses. Third, and perhaps most significantly, the costs of investigation, proof of consumer negligence, and other litigation are high per instance of loss, making absorption of losses often the economically best alternative. When the behavior of financial institutions is determined by these factors, the Act and implementing regulation will have little impact.

The conditions of liability imposed by the Act set a minimum liability standard that must be assumed by all financial institutions offering EFT services. This means that all institutions are treated equally in terms of a floor on requirements. The Act sets the limits within which an institution can shift the liability burden to consumers. The distribution of liability between user and supplier of EFT services depends on the timing of reporting of loss, theft or unauthorized use; under the Act, the consumer assumes more liability by taking more time to report.

However, competition may lead banks to assume more liability than the regulation requires and thus reduce costs to the consumer and increase consumer acceptance. Results of a 1978 ATM Security Survey by the American Bankers Association indicate that, at present, banks do not have standard liability provisions.<sup>12</sup> The respondents of the survey (approximately 135 banks, half of which had deposits greater than \$1.0 billion and only 6 per cent of which had deposits less than \$100 million) established liability as follows: (i) case-by-case basis: 55.8 per cent; (ii) bank absorbs all losses: 24.3 per cent; (iii) set dollar limit: 9.9 per cent; and (iv) customer responsible for all losses until loss reported: 8.1 per cent.

The Act imposes a liability structure that would require financial institutions to establish details of the fact pattern surrounding loss, theft or unauthorized use of an EFT card in order to recover more than \$50 from a consumer alleging EFT losses. For example, a consumer's liability for loss

of funds due to loss or theft of an EFT card depends on the consumer's claim as to when the loss or theft was discovered, not when it actually occurred. The burden of proof as to when the discovery was made is on the financial institution. In most cases the costs of litigation would far exceed the amount potentially recoverable. Furthermore, the Act relieves consumers of any negligence burden, which discourages careful handling of cards. These provisions of the Act, while limiting the losses of consumers, may increase overall system loss, and therefore social costs, by reducing incentives for consumers to provide security. The liability provisions of the Act may not be constraints, however, as when State law or policies of a financial institution are even more favorable to consumers.

On balance, to the extent that they are constraining, the Act's liability provisions, as reiterated in the regulation, may shift an additional cost burden onto the financial institutions. While the Act states that a consumer is to be liable for up to \$50 for each unauthorized EFT, the regulation states that liability is limited to \$50 for a series of unauthorized transfers occurring prior to the time the institution is notified or otherwise believes that an unauthorized transaction has taken place. This interpretation of the Act, based on the legislative history, shifts more of the liability to financial institutions.

Many commenters stated that EFT losses were relatively lower per transaction dollar than either credit card or check losses. Institutional controls and security are improving, and, as EFT services become more widespread, more lost, stolen and unauthorized cards will be captured by on-line ATMs or point-of-sale terminals. These factors and the tendency of institutions to absorb EFT-related losses make even a qualitative assessment of the economic impact of the Act's liability provisions difficult.<sup>13</sup> Perhaps the clearest benefits of the Act's liability rules derive from the prevention of individual cases of catastrophic losses by consumers in the case of loss or theft and the promotion of greater consumer confidence in EFT, circumstances that may promote EFT use and thereby increase the social benefits flowing from it.

Finally, commenters asserted that the Act's liability provisions are complicated and difficult to assess. The consumer faces greater liability under the Act than under statutes that govern credit card liability. This liability differential and the more complicated liability rules for debit cards rel-

ative to credit cards may make debit cards less attractive and hinder the widespread acceptance of EFT services, thereby reducing the contribution of EFT to efficiency gains in the payments mechanism. An additional disadvantage of the Act's provisions is that liability incurred for unauthorized transfers is not always within the control of the consumer or the financial institution, but depends on the timing of the unauthorized transfers. This characteristic of the Act may be another factor making debit cards inferior instruments to credit cards in the view of consumers, and thus hindering the acceptance of debit cards relative to credit cards.

(b) Effects of the Act and regulation upon competition among large and small financial institutions in the provision of electronic transfer services. Under the liability provisions of the Act, all institutions, regardless of size, are subject to the same standards. The regulation makes no exceptions or special provisions for small institutions. As noted above, most commenters favored this approach, arguing that exceptions and special provisions would not promote competition and would lead to confusion and possibly higher liability for some consumers, extensive litigation, and inequity. Entry barriers in markets for EFT services were thought to depend more on issuance restrictions than liability limits set by the Act.

A major difficulty in analyzing the impact of the Act on competition between small and large financial institutions is that the impact depends very much on the nature of the EFT systems involved. Thus, the effects of the Act depend on such considerations as whether widely-accepted franchise systems develop, whether systems are national or regional, or whether they are on-line or off-line. For example, systems that are widespread or off-line have a greater chance for unauthorized use. The Act could have a significant impact on the structure of the industry if small proprietary systems cannot bear the higher degree of risk.

Even without making predictions about the manner in which EFT systems will evolve, some general observations on the impact of the Act can be made. First, the Act will have the least impact on those institutions and franchise systems that are best able to assume the liability and incur per-unit costs related to determining liability according to the Act. To the extent that large systems and institutions benefit from scale and scope economies, they would be less affected than small institutions. In addition, larger institutions may enjoy economies of scale in purchasing security systems, thereby having a lower loss rate and more consumer confidence in their

<sup>12</sup>American Bankers Association, Payments System Planning Division, "Results of an ATM Security Survey," n.p., June 1978.

<sup>13</sup>The insurance industry may contract with consumers or financial institutions to bear the risk of EFT-related losses.



system than small institutions. On the other hand, to the extent that the Act shifts the burden to the institutions, small institutions may avoid some of the costs since they are more likely to have a close relationship with customers and may therefore be better able to prescreen and educate them. Finally, with respect to POS systems, small institutions are less likely to be in large metropolitan areas. Therefore, they would tend to be in areas in which there is less crime and in which there is a lessened likelihood of unauthorized use because proprietors would recognize customers.

While most commenters agreed that smaller institutions were less exposed to EFT risk by virtue of more personal customer contact and location, there was disagreement as to whether the Act impeded competition by exposing smaller institutions to greater liability for losses. Comments also indicated that security systems and other means of limiting liabilities by limiting EFT losses were not necessarily less accessible or less cost justified for smaller institutions; rather, liability-related costs depended on card base, type of customer, and type of security chosen, regardless of institutional size.

(c) Effects of the Act and regulation on availability of electronic transfer services to different classes of consumers, especially low-income. In order to evaluate the effects of the Act's liability provisions on availability of EFT services to different classes of consumers, it is useful to look at present usage rates of available EFT systems by income class. Data from the Air Force showing use of automatic payroll deposit by income level of active duty personnel can be seen in Table II. Similar data for employees of the Board of Governors of the Federal Reserve System can be seen in Table III. The data indicate that usage of available systems increases with income level. A 1976 consumer panel survey in South Carolina shows reasons that households, arranged by income, have chosen not to use ATMs (see Table IV).<sup>14</sup> The two major reasons for not using ATMs were that the service was not needed or was unavailable; there is no apparent relationship between either the need for or availability of ATMs and income level. Thus, the two sets of data suggest that even when EFT services are available to all income classes, usage rate varies by income.

The Act may affect both EFT service availability to, and usage by, different income classes of consumers, especially low-income consumers. In this respect, the impact of the Act will probably be related to the amount of

potential liability and the complexity of the liability provisions. The amount of potential liability as a percentage of consumer assets will be, on average, greater for low-income consumers than for higher-income consumers. However, the absolute dollar value of potential loss through unauthorized use for low-income consumers is relatively low. As can be seen in Table V, only a small proportion of lower-income families have more than \$500 in a checking or savings account. An institution would be more likely to refund a given percentage loss from a low-balance account, relative to a higher-balance account, to avoid incurring investigation and litigation costs needed to prove the consumer's liability; this likelihood, which would benefit the low-income consumer, is increased by the Act's liability provisions.

Finally, attention is focused on two additional issues. First, because consumer liability depends in part on the consumer's examination and understanding of periodic statements, the Act will disadvantage the low-income consumer to the extent that he or she is not educated to inspect and be able to understand statements. Second, the lack of any consumer negligence provision in the statute may, if it causes financial institutions to incur higher costs through increased liability, encourage institutions to charge EFT service fees that would make EFT more expensive for low-income con-

sumers than it now is. The net impact of these and other aspects of the Act on EFT availability to low-income consumers is not possible to quantify and therefore cannot be empirically assessed.

**Conclusion.** This analysis has considered costs and benefits of the Act and regulation to existing and potential users and suppliers of EFT services. Because EFT systems are still rapidly evolving, because few data are available on existing EFT systems, and because the long-run effects of the Act and regulation will have to be measured historically, the net costs and benefits of the statutory and regulatory provisions cannot be quantified at this time. For similar reasons, it is difficult to determine the net impact of the Act and regulation on competition among large and small institutions and on the availability of EFT services to low-income and other consumers until effects identified here can be meaningfully measured.

Section 904(a)(3) of the Act directs the Board to assess whether the consumer protections of the proposed regulation outweigh total compliance costs. Sections (1) and (2) above indicate the ways in which the proposed regulation makes provisions for consumer protection not explicitly made in the Act. The Board's preliminary assessment is that the compliance costs arising from these provisions and not directly from the Act are likely to be outweighed by the consumer protections these provisions afford.

TABLE I.—Families Without Savings or Checking Accounts or Liquid Assets by Family Income, 1977\*  
(Percentage distribution)

| Family income             | No savings accounts | No checking accounts | No liquid assets* |
|---------------------------|---------------------|----------------------|-------------------|
| Less than \$3,000.....    | 57.2                | 44.7                 | 30.2              |
| \$3,000 to \$4,999.....   | 52.7                | 49.7                 | 33.5              |
| \$5,000 to \$7,499.....   | 38.3                | 33.8                 | 15.7              |
| \$7,500 to \$9,999.....   | 33.3                | 23.8                 | 9.9               |
| \$10,000 to \$14,999..... | 21.4                | 15.2                 | 5.6               |
| \$15,000 to \$19,999..... | 11.7                | 11.3                 | 3.4               |
| \$20,000 to \$24,999..... | 10.4                | 4.4                  | 1                 |
| \$25,000 and more.....    | 5.9                 | 2.0                  | .6                |

\* Liquid assets include savings accounts, certificates of deposit, checking accounts, and U.S. Government bonds.

<sup>b</sup> Less than one-half of 1 percent.

<sup>c</sup> Source: Thomas A. Durkin and Gregory E. Elliehausen, "1977 Consumer Credit Survey," (Washington, D.C.: Board of Governors of the Federal Reserve System, 1977): tables 21-7, 21-8, and 21-9.

TABLE II.—Air Force Active Duty Personnel Usage of Automatic Payroll Deposit by Income in 1978\*

| Annual income*            | Number of employees | Employees using automatic payroll deposit |         |
|---------------------------|---------------------|---|---------|
|                           |                     | Number                                    | Percent |
| Less than \$7,500.....    | 0                   |   |         |
| \$7,500 to \$9,999.....   | 168,611             | 77,297                                    | 45.8    |
| \$10,000 to \$11,999..... | 142,981             | 97,400                                    | 68.1    |
| \$12,000 to \$14,999..... | 96,107              | 72,931                                    | 75.9    |
| \$15,000 to \$19,999..... | 78,858              | 64,203                                    | 81.4    |
| \$20,000 to \$24,999..... | 41,106              | 36,717                                    | 89.3    |
| \$25,000 and over.....    | 41,876              | 37,876                                    | 90.5    |

\* Dollar income equals regular military compensation rates plus a factor to account for bonuses, special pay, and special allowances.

<sup>b</sup> Source: Accounting and Finance Center, Department of the Air Force.

<sup>14</sup> The panel surveyed includes urban households with annual income greater than \$6,000.

TABLE III.—Employees of the Board of Governors of the Federal Reserve System Usage of Automatic Payroll Deposit by Income in 1978\*

| Annual income*            | Number of employees | Employees using automatic payroll deposit |         |
|---------------------------|---------------------|---|---------|
|                           |                     | Number                                    | Percent |
| Less than \$7,500.....    | 21                  | 1   | 4.8     |
| \$7,500 to \$9,999.....   | 59                  | 5   | 8.5     |
| \$10,000 to \$11,999..... | 133                 | 29  | 21.8    |
| \$12,000 to \$14,999..... | 262                 | 109                                       | 41.6    |
| \$15,000 to \$19,999..... | 312                 | 179                                       | 57.4    |
| \$20,000 to \$24,999..... | 163                 | 103                                       | 63.2    |
| \$25,000 and over.....    | 530                 | 423                                       | 81.7    |

\* This includes some part-time employees.

<sup>b</sup> Source: Board of Governors of the Federal Reserve System.

TABLE IV.—Selected Reasons Households Have Not Used Automated Teller Machines, by Income<sup>1</sup> (Percent)

| Income of total household | Unsafe, poor lighting and local | Not needed; other facilities available | Not available | Suspicious of system | Encourages overspending | Never heard of them | Misc. |
|---------------------------|---------------------------------|--|---------------|----------------------|-------------------------|---------------------|-------|
| Under \$7,000.....        | 0                               | 43.8                                   | 33.3          | 8.3                  | 0                       | 10.4                | 4.2   |
| \$7,000-10,999.....       | 1.3                             | 32.9                                   | 44.7          | 14.5                 | 0                       | 2.6                 | 3.9   |
| \$11,000-15,999.....      | 0.6                             | 37.3                                   | 39.9          | 15.8                 | 0                       | 3.8                 | 2.5   |
| \$16,000-20,000.....      | 0.9                             | 47.9                                   | 38.5          | 8.5                  | 2.6                     | 1.7                 | 0     |
| Over \$20,000.....        | 0.5                             | 47.3                                   | 37.4          | 12.6                 | 0.5                     | 1.4                 | 0.5   |

<sup>1</sup> Source: Olin S. Pugh and Franklin J. Ingram, "EFT and the Public," *The Bankers Magazine* 161 (March-April 1978): p. 45, table 4.

TABLE V.—Percentage Distribution of Checking and Savings Accounts—1977<sup>1</sup>

| Family income (dollars): | Amount of checking accounts (dollars) |      |         |         |             |             |             |                 | Total |
|--------------------------|---------------------------------------|------|---------|---------|-------------|-------------|-------------|-----------------|-------|
|                          | None                                  | 1-99 | 100-499 | 500-999 | 1,000-1,999 | 2,000-4,999 | 5,000-9,999 | 10,000 and more |       |
| Less than 3,000.....     | 44.7                                  | 15.3 | 22.7    | 6.0     | 6.0         | 4.0         | .7          | .7              | 100   |
| 3,000-4,999.....         | 49.7                                  | 14.5 | 26.8    | 3.4     | 2.8         | 2.8         | (?)         | (?)             | 100   |
| 5,000-7,499.....         | 33.8                                  | 16.9 | 29.0    | 10.6    | 5.8         | 2.4         | 1.0         | .5              | 100   |
| 7,500-9,999.....         | 23.8                                  | 21.0 | 31.4    | 12.4    | 5.7         | 3.3         | 1.9         | .5              | 100   |
| 10,000-14,999.....       | 15.2                                  | 19.3 | 38.3    | 13.1    | 6.9         | 4.6         | 1.4         | .9              | 100   |
| 15,000-19,999.....       | 11.3                                  | 16.6 | 36.9    | 12.5    | 12.8        | 6.3         | 2.8         | .9              | 100   |
| 20,000-24,999.....       | 4.4                                   | 10.3 | 42.9    | 16.3    | 14.7        | 7.5         | 2.4         | 1.8             | 100   |
| 25,000 and more.....     | 2.0                                   | 7.4  | 19.2    | 20.9    | 23.2        | 18.3        | 4.0         | 4.9             | 100   |

|                          | Amount of savings accounts (dollars) |       |         |         |             |             |             |               |               |                | Total |
|--------------------------|--------------------------------------|-------|---------|---------|-------------|-------------|-------------|---------------|---------------|----------------|-------|
|                          | None                                 | 1-199 | 200-499 | 500-999 | 1,000-1,999 | 2,000-4,999 | 5,000-9,999 | 10,000-14,999 | 15,000-24,999 | 25,000 or more |       |
| Family income (dollars): |                                      |       |         |         |             |             |             |               |               |                |       |
| Less than 3,000 .....    | 57.2                                 | 10.5  | 8.6     | 2.0     | 5.9         | 5.3         | 3.9         | 1.3           | 3.9           | 1.3            | 100   |
| 3,000-4,999 .....        | 52.7                                 | 9.6   | 9.8     | 5.4     | 5.4         | 6.6         | 5.4         | 1.8           | 1.2           | 2.4            | 100   |
| 5,000-7,499 .....        | 38.3                                 | 10.7  | 13.8    | 7.1     | 7.1         | 13.3        | 3.6         | 1.5           | 2.0           | 2.6            | 100   |
| 7,500-9,999 .....        | 33.3                                 | 12.6  | 15.0    | 7.7     | 6.3         | 13.0        | 2.4         | 3.4           | 1.0           | 5.3            | 100   |
| 10,000-14,999 .....      | 21.4                                 | 11.8  | 15.3    | 8.9     | 10.3        | 11.6        | 6.9         | 4.7           | 4.2           | 5.2            | 100   |
| 15,000-19,999 .....      | 11.7                                 | 12.0  | 14.0    | 11.7    | 10.4        | 17.9        | 8.8         | 5.8           | 3.2           | 4.5            | 100   |
| 20,000-24,999 .....      | 10.4                                 | 4.1   | 10.8    | 9.1     | 14.9        | 21.2        | 17.0        | 4.1           | 5.4           | 2.9            | 100   |
| 25,000 and more .....    | 5.9                                  | 2.1   | 4.7     | 4.7     | 7.0         | 18.2        | 14.1        | 15.8          | 13.8          | 13.6           | 100   |

<sup>1</sup> Source: Thomas A. Durkin and Gregory E. Elliehausen, "1977 Consumer Credit Survey," (Washington, D.C.: Board of Governors of the Federal Reserve System, 1977): tables 21-8 and 21-9.

<sup>2</sup> Less than .5 percent.



(5) Therefore, pursuant to the authority granted in Pub. L. 95-630 (to be codified in 15 U.S.C. 1693b), the Board hereby adopts 12 CFR Part 205, effective March 30, 1979, as follows:

#### PART 205—ELECTRONIC FUND TRANSFERS

- Sec.  
205.1 Authority, Purpose, and Scope.  
205.2 Definitions.  
205.3 Exemptions.  
205.4 Issuance of Access Devices.  
205.5 Liability of Consumer for Unauthorized Transfers.

Appendix A—Model Disclosure Clauses.

AUTHORITY: Pub. L. 95-630, 92 Stat. 3730 (15 U.S.C. 1693b).

#### REGULATION E

#### PART 205—ELECTRONIC FUND TRANSFERS

##### § 205.1 Authority, Purpose, and Scope.

(a) *Authority.* This regulation, issued by the Board of Governors of the Federal Reserve System, implements Title IX (Electronic Fund Transfer Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.).

(b) *Purpose and Scope.* In November 1978, the Congress enacted the Electronic Fund Transfer Act. The Congress found that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers, but that the unique characteristics of these systems make the application of existing consumer protection laws unclear, leaving the rights and liabilities of users of electronic fund transfer systems undefined. The Act establishes the basic rights, liabilities, and responsibilities of consumers who use electronic money transfer services and of financial institutions that offer these services. This regulation is intended to carry out the purposes of the Act, including, primarily, the protection of individual consumers engaging in electronic transfers. Except as otherwise provided, this regulation applies to all persons who are financial institutions as defined in § 205.2(i).

##### § 205.2 Definitions.

For the purposes of this regulation, the following definitions apply, unless the context indicates otherwise:

(1) "Access device" means a card, code, or other means of access to a consumer's account, or any combination thereof, that may be used by the consumer for the purpose of initiating electronic fund transfers.

(2) An access device becomes an "accepted access device" when the consumer to whom the access device was issued:

(i) Requests and receives, or signs, or uses, or authorizes another to use, the access device for the purpose of transferring money between accounts or obtaining money, property, labor or services;

(ii) Requests validation of an access device issued on an unsolicited basis; or

(iii) Receives an access device issued in renewal of, or in substitution for, an accepted access device, whether such access device is issued by the initial financial institution or a successor.

(b) "Account" means a demand deposit (checking), savings, or other consumer asset account (other than an occasional or incidental credit balance in a credit plan) held either directly or indirectly by a financial institution and established primarily for personal, family, or household purposes.

(c) "Act" means the Electronic Fund Transfer Act (Title IX of the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq.).

(d) "Business day" means any day on which the offices of the consumer's financial institution are open to the public for carrying on substantially all business functions.

(e) "Consumer" means a natural person.

(f) "Credit" means the right granted by a financial institution to a consumer to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(g) "Electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transfers, direct deposits or withdrawals of funds, and transfers initiated by telephone.

(h) "Electronic terminal" means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. The term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines.

(i) "Financial institution" means a State or National bank, a State or Federal savings and loan association, a State or Federal mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer. The term also includes any person who issues an access device and agrees with a consumer to provide electronic fund transfer services.

Two or more financial institutions that jointly provide electronic fund transfer services may contract among themselves to fulfill the requirements that the Act and this regulation impose on any or all of them.

(j) "State" means any State, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the above.

(k) "Unauthorized electronic fund transfer" means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate the transfer and from which the consumer receives no benefit. The term does not include any electronic fund transfer (1) initiated by a person who was furnished with the access device to the consumer's account by the consumer, unless the consumer has notified the financial institution involved that transfers by that person are no longer authorized, (2) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (3) that constitutes an error committed by the financial institution.

##### § 205.3 Exemptions.

This regulation does not apply to the following:

(a) *Check guarantee or authorization services.* Any service that guarantees payment or authorizes acceptance of a check, draft, or similar paper instrument and that does not directly result in a debit or credit to a consumer's account.

(b) *Wire transfers.* Any wire transfer of funds for a consumer through the Federal Reserve Communications System or other similar network that is used primarily for transfers between financial institutions or between businesses.

(c) *Certain securities or commodities transfers.* Any transfer the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with, or regulated by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(d) *Automatic transfers from savings to demand deposit accounts.* Any automatic transfer from a savings account to a demand deposit (checking) account under an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining a specified minimum balance in the consumer's checking account as permitted by 12 CFR Part 217 (Regulation Q) and 12 CFR Part 329.

(e) *Certain telephone-initiated transfers.* Any transfer of funds that (1) is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution and (2) is not under a telephone bill-payment or other prearranged plan or agreement in which periodic or recurring transfers are contemplated.

(f) *Trust accounts.* Any trust account held by a financial institution under a bona fide trust agreement.

##### § 205.4 Issuance of access devices.

(a) *General rule.* A financial institution may issue an access device to a consumer only:

(1) In response to an oral or written request or application for the device;<sup>15</sup> or

(2) As a renewal of, or in substitution for, an accepted access device, whether issued by the initial financial institution or a successor.

(3) As a renewal of, or in substitution for, an access device issued before February 8, 1979 (other than an accepted access device, which can be renewed or substituted under paragraph (a)(2) of this section), provided that the disclosures set forth in paragraphs (d)(1), (2), and (3) of this section accompany the renewal or substitute device; except that for a renewal or substitution that occurs before July 1, 1979, the disclosures may be sent within a reasonable time after the renewal or substitute device is issued.

(b) *Exception.* Notwithstanding the provisions of paragraph (a)(1) of this section, a financial institution may distribute an access device to a consumer on an unsolicited basis if:

(1) The access device is not validated;

(2) The distribution is accompanied by a complete disclosure, in accordance with paragraph (d) of this section, of the consumer's rights and liabilities that will apply if the access device is validated;

(3) The distribution is accompanied by a clear explanation that the access device is not validated and how the consumer may dispose of the access device if validation is not desired; and

(4) The access device is validated only in response to the consumer's oral or written request or application for validation and after verification of the consumer's identity by any reasonable means, such as by photograph, fingerprint, personal visit, or signature comparison. An access device is considered validated when a financial institution has performed all procedures necessary to enable a consumer to use it to initiate an electronic fund transfer.

(c) *Relation to Truth in Lending.* (1) The Act and this regulation govern

(i) Issuance of access devices;

(ii) Addition to an accepted credit card, as defined in 12 CFR 226.2(a) (Regulation Z), of the capability to initiate electronic fund transfers; and

(iii) Issuance of access devices that permit credit extensions only under a preexisting agreement between a con-

<sup>15</sup> In the case of a joint account, a financial institution may issue an access device to each account holder for whom the requesting holder specifically requests an access device.

sumer and a financial institution to extend the credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account.

(2) The Truth in Lending Act (15 U.S.C. 1601 et seq.) and 12 CFR Part 226 (Regulation Z), which prohibit the unsolicited issuance of credit cards, govern

(i) Issuance of credit cards as defined in 12 CFR 226.2(r);

(ii) Addition of a credit feature to an accepted access device; and

(iii) Issuance of credit cards that are also access devices, except as provided in paragraph (c)(1)(iii) of this section.

(d) *Transitional disclosure requirements.* Until May 10, 1980, a financial institution may satisfy the disclosure requirements of paragraph (b)(2) of this section by disclosing to the consumer, in a written statement that the consumer may retain, the following terms in readily understandable language:

(1) The consumer's liability under § 205.5, or under other applicable law or agreement, for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized transfers.

(2) The telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be made.

(3) The financial institution's business days, as determined under § 205.2(d).

(4) The type of electronic fund transfers that the consumer may initiate, including any limitations on the frequency or dollar amount of the transfers. The details of the limitations need not be disclosed if their confidentiality is necessary to maintain the security of the electronic fund transfer system.

(5) Any charges for electronic fund transfers or for the right to make transfers.

(6) The conditions under which the financial institution in the ordinary course of business will disclose information about the consumer's account to third parties.

(7) Whether or not the financial institution will provide documentation of electronic fund transfers, such as receipts or periodic statements, to the consumer.

(8) Whether or not the financial institution has error resolution procedures, and, if so, a summary of those procedures.

(9) The conditions under which the financial institution will assume liability for the institution's failure to make electronic fund transfers.



### § 205.5— Liability of Consumer for Unauthorized Transfers.

(a) *General rule.* A consumer is liable, within the limitations described in paragraph (b) of this section, for unauthorized electronic fund transfers involving the consumer's account only if the access device used for the transfers is an accepted access device and the financial institution has provided a means (such as by signature, photograph, fingerprint, or electronic or mechanical confirmation) to identify the consumer to whom the access device was issued.

(b) *Limitations on amount of liability.* The amount of a consumer's liability for an unauthorized electronic fund transfer or a series of transfers arising from a single loss or theft of the access device shall not exceed \$50 or the amount of unauthorized electronic fund transfers that occur before notice to the financial institution under paragraph (c) of this section, whichever is less, unless one or both of the following exceptions apply:

(1) If the consumer fails to notify the financial institution within 2 business days after learning of the loss or theft of the access device, the consumer's liability shall not exceed the lesser of \$500 or the sum of

(i) \$50 or the amount of unauthorized electronic fund transfers that occur before the close of the 2 business days, whichever is less, and

(ii) the amount of unauthorized electronic fund transfers that the financial institution establishes would not have occurred but for the failure of the consumer to notify the institution within 2 business days after the consumer learns of the loss or theft of the access device, and that occur after the close of 2 business days and before notice to the financial institution.

(2) If the consumer fails to report within 60 days of transmittal of the periodic statement any unauthorized electronic fund transfer that appears on the statement, the consumer's liability shall not exceed the sum of

(i) The lesser of \$50 or the amount of unauthorized electronic fund transfers that appear on the periodic statement or that occur during the 60-day period, and

(ii) The amount of unauthorized electronic fund transfers that occur after the close of the 60 days and before notice to the financial institution and that the financial institution establishes would not have occurred but for the failure of the consumer to notify the financial institution within that time.

(3) Paragraphs (b)(1) and (2) of this section may both apply in some circumstances. Paragraph (b)(1) shall determine the consumer's liability for any unauthorized transfers that appear on the periodic statement and

occur before the close of the 60-day period, and paragraph (b)(2)(ii) shall determine liability for transfers that occur after the close of the 60-day period.

(4) If a delay in notifying the financial institution was due to extenuating circumstances, such as extended travel or hospitalization, the time periods specified above shall be extended to a reasonable time.

(5) If applicable State law or an agreement between the consumer and financial institution imposes lesser liability than that provided in paragraph (b) of this section, the consumer's liability shall not exceed that imposed under that law or agreement.

(c) *Notice to financial institution.* For purposes of this section, notice to a financial institution is given when a consumer takes such steps as are reasonably necessary to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive the information. Notice may be given to the financial institution, at the consumer's option, in person, by telephone, or in writing. Notice in writing is considered given at the time of receipt or, whether or not received, at the expiration of the time ordinarily required for transmission, whichever is earlier. Notice is also considered given when the financial institution becomes aware of circumstances that lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be made.

(d) *Relation to Truth in Lending.* (1) A consumer's liability for an unauthorized electronic fund transfer shall be determined solely in accordance with this section if the electronic fund transfer

(i) Was initiated by use of an access device that is also a credit card as defined in 12 CFR 226.2(r), or

(ii) Involves an extension of credit under an agreement between a consumer and a financial institution to extend the credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account.

(2) A consumer's liability for unauthorized use of a credit card that is also an access device but that does not involve an electronic fund transfer shall be determined solely in accordance with the Truth in Lending Act and 12 CFR Part 226 (Regulation Z).

#### APPENDIX A—MODEL DISCLOSURE CLAUSES

This appendix contains model disclosure clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of §§ 205.4(a)(3), (b) and (d). Section 915(d)(2) of the Act provides that use of these clauses in conjunction with other requirements of the regula-

tion will protect financial institutions from liability under §§ 915 and 916 of the Act to the extent that the clauses accurately reflect the institutions' electronic fund transfer services.

Financial institutions need not use any of the provided clauses, but may use clauses of their own design in conjunction with the model clauses. The inapplicable portions of words or phrases in parentheses should be deleted. Financial institutions may make alterations, substitutions or additions in the clauses in order to reflect the services offered, such as technical changes (e.g., substitution of a trade name for the word "card," deletion of inapplicable services), or substitution of lesser liability limits in § A(2).

#### SECTION A(1)—DISCLOSURE THAT ACCESS DEVICE IS NOT VALIDATED AND HOW TO DISPOSE OF DEVICE IF VALIDATION IS NOT DESIRED (§ 205.4(b)(3))

(a) *Accounts using cards.* You cannot use the enclosed card to transfer money into or out of your account until we have validated it. If you do not want to use the card, please (destroy it at once by cutting it in half).

#### FINANCIAL INSTITUTION MAY ADD VALIDATION INSTRUCTIONS HERE

(b) *Accounts using codes.* You cannot use the enclosed code to transfer money into or out of your account until we have validated it. If you do not want to use the code, please (destroy this notice at once).

#### FINANCIAL INSTITUTION MAY ADD VALIDATION INSTRUCTIONS HERE

#### SECTION A(2)—DISCLOSURE OF CONSUMER'S LIABILITY FOR UNAUTHORIZED TRANSFERS AND OPTIONAL DISCLOSURE OF ADVISABILITY OF PROMPT REPORTING (§ 205.4(d)(1))

(a) *Liability disclosure.* (Tell us AT ONCE if you believe your (card) (code) has been lost or stolen. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within 2 business days, you can lose no more than \$50 if someone used your (card) (code) without your permission.) (If you believe your (card) (code) has been lost or stolen, and you tell us within 2 business days after you learn of the loss or theft, you can lose no more than \$50 if someone used your (card) (code) without your permission.)

If you do not tell us within 2 business days after you learn of the loss or theft of your (card) (code), and we can prove we could have stopped someone from using your (card) (code) without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time.

If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

#### SECTION A(3)—DISCLOSURE OF TELEPHONE NUMBER AND ADDRESS TO BE NOTIFIED IN EVENT OF UNAUTHORIZED TRANSFER (§ 205.4(d)(2))

(a) *Address and telephone number.* If you believe your (card) (code) has been lost or

stolen or that someone has transferred or may transfer money from your account without your permission, call:

[Telephone number]

or write:

[Name of person or office to be notified]

[Address]

#### SECTION A(4)—DISCLOSURE OF WHAT CONSTITUTES BUSINESS DAY OF INSTITUTION (§ 205.4(d)(3))

(a) *Business day disclosure.* Our business days are (Monday through Friday) (Monday through Saturday) (any day including Saturdays and Sundays). Holidays are (not) included.

#### SECTION A(5)—DISCLOSURE OF TYPES OF AVAILABLE TRANSFERS AND LIMITS ON TRANSFERS (§ 205.4(d)(4))

(a) *Account access.* You may use your (card) (code) to (1) withdraw cash from your (checking) (or) (savings) account.

(2) Make deposits to your (checking) (or) (savings) account.

(3) Transfer funds between your checking and savings accounts whenever you request.

(4) Pay for purchases at places that have agreed to accept the (card) (code).

(5) Pay bills directly (by telephone) from your (checking) (or) (savings) account in the amounts and on the days you request.

Some of these services may not be available at all terminals.

(b) *Limitations on frequency of transfers.*

(1) You may make only [insert number, e.g., 3] cash withdrawals from our terminals each [insert time period, e.g., week].

(2) You can use your telephone bill-payment service to pay [insert number] bills each [insert time period] (telephone call).

(3) You can use our point-of-sale transfer service for [insert number] transactions each [insert time period].

(4) For security reasons, there are (other) limits on the number of transfers you can make using our (terminals) (telephone bill-payment service) (point-of-sale transfer service).

(c) *Limitations on dollar amounts of transfers.*

(1) You may withdraw up to [insert dollar amount] from our terminals each [insert time period] (time you use the (card) (code)).

(2) You may buy up to [insert dollar amount] worth of goods or services each [insert time period] (time you use the (card) (code)) in our point-of-sale transfer service.

#### SECTION A(6)—DISCLOSURE OF CHARGES FOR TRANSFERS OR RIGHT TO MAKE TRANSFERS (§ 205.4(d)(5))

(a) *Per transfer charge.* We will charge you [insert dollar amount] for each transfer you make using our (automated teller machines) (telephone bill-payment service) (point-of-sale transfer service).

(b) *Fixed charge.* We will charge you [insert dollar amount] each [insert time period] for our (automated teller machine service) (telephone bill-payment service) (point-of-sale transfer service).

(c) *Average or minimum balance charge.* We will only charge you for using our (automated teller machines) (telephone bill-payment service) (point-of-sale transfer service) if the (average) (minimum) balance in your (checking account) (savings account) (accounts) falls below [insert dollar amount]. If it does, we will charge you [insert dollar amount] each (transfer) (insert time period).

#### SECTION A(7)—DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES (§ 205.4(d)(6))

(a) *Account information disclosure.* We will disclose information to third parties about your account or the transfers you make: (1) Where it is necessary for completing transfers, or

(2) In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant, or

(3) In order to comply with government agency or court orders, or

(4) If you give us your written permission.

By order of the Board of Governors, March 21, 1979.

GRIFFITH L. GARWOOD,  
Deputy Secretary.

[FR Doc. 79-9261 Filed 3-27-79; 8:45 am]

[4210-01-M]

#### Title—24 Housing and Urban Development

### CHAPTER X—FEDERAL INSURANCE ADMINISTRATION; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 5300]

### PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

#### Status of Participating Communities; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone: (800) 638-6620.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.



## § 1914.6 List of eligible communities.

| State          | County              | Location                  | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|----------------|---------------------|---------------------------|---------------|---|--------------------------------------|
| New York       | Delaware and Broome | Deposit, village of       | 360043-B      | Feb. 15, 1979, suspension withdrawn.  | June 14, 1974 and Oct. 24, 1975.     |
| Do             | Cattaraugus         | Ellicottville, village of | 360070-B      | do  | May 24, 1974 and July 30, 1976.      |
| Do             | Westchester         | Pleasantville, village of | 360927-B      | do  | Apr. 12, 1974.                       |
| Do             | do                  | Tuckahoe, village of      | 360934-B      | do  | May 10, 1974 and June 16, 1976.      |
| Oklahoma       | Pittsburg           | McAlester, city of        | 400170-B      | do  | Feb. 15, 1974 and May 26, 1976.      |
| Oregon         | Grant               | Unincorporated areas      | 410074-A      | do  | Oct. 18, 1974.                       |
| Pennsylvania   | Northumberland      | Ralpho, township of       | 421027-B      | do  | June 28, 1974 and June 4, 1976.      |
| South Carolina | Lexington           | West Columbia, city of    | 450140-C      | do  | June 26, 1974 and July 9, 1976.      |
| South Dakota   | Davison             | Mitchell, city of         | 460021-B      | do  | Mar. 22, 1974 and Feb. 6, 1976.      |
| Utah           | Utah                | Provo, city of            | 490159-B      | do  | Feb. 15, 1974 and June 4, 1976.      |
| Do             | Cumberland          | Unincorporated areas      | 510043-A      | do  | Oct. 18, 1974.                       |
| Vermont        | Lamoille            | Johnson, town of          | 500063-B      | do  | June 21, 1974 and Jan. 28, 1977.     |
| Do             | do                  | Johnson, village of       | 500232-C      | do  | Apr. 5, 1974 and Nov. 26, 1976.      |
| Do             | Windsor             | Woodstock, village of     | 500161-B      | do  | Sept. 13, 1974 and Dec. 10, 1976.    |
| Wisconsin      | Marathon            | Unincorporated areas      | 550245-A      | do  | Feb. 1, 1979.                        |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-9087 Filed 3-27-79; 8:45 am]

## [4210-01-M]

[Docket No. FI 5299]

## PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

## Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or

broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone: (800) 638-6620.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

## § 1914.6 List of eligible communities.

| State          | County     | Location                | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|----------------|------------|-------------------------|---------------|---|--------------------------------------|
| Wisconsin      | Racine     | Union Grove, village of | 550588        | Mar. 15, 1979, emergency.   | June 27, 1975 and Dec. 9, 1977.      |
| North Carolina | Rutherford | Spindale, town of       | 370356-A      | Mar. 16, 1979, emergency, Mar. 16, 1979, regular.                                     | June 27, 1976, and Dec. 9, 1977.     |
| New Hampshire  | Merrimack  | Henniker, town of       | 330114-B      | Mar. 14, 1979, emergency, Mar. 14, 1979, regular.                                     | Mar. 15, 1974 and Feb. 11, 1977.     |
| Illinois       | Whiteside  | Lyndon, village of      | 170917        | Mar. 15, 1979, emergency.   | Oct. 8, 1976.                        |
| Missouri       | Platte     | Lake Waukomis, city of  | 290700        | Mar. 20, 1979, emergency.   | Sept. 10, 1976.                      |
| South Dakota   | Lake       | Unincorporated areas    | 460276-A      | do  | June 7, 1977.                        |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-9086 Filed 3-27-79; 8:45 am]

## [4210-01-M]

[Docket No. FI 5301]

## PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

## Withdrawal of Flood Insurance Maps

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is: (1) For acquisition and construction of buildings, and (2) for buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FIA's) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period

of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 24 CFR Part 1909 et seq.)

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 1915.6 is revised to read as follows:

§ 1915.6 Administrative withdrawal of maps.

(a) Flood Hazard Boundary Maps (FHBM's).

The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 5149, 40 FR 17015, 40 FR 20798, 40 FR 46102, 40 FR 53579, 40 FR 56672, 41 FR 1478, 41 FR 50990, 41 FR 13352, 41 FR 17726, 42 FR 8895, 42 FR 29433, 42 FR 46226, 42 FR 64076, 43 FR 24019, 44 FR 815, and 44 FR 6383. (Enter page number of this notice in Federal Register.)

(b) Flood Insurance Rate Maps (FIRM's).

The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 17015, 41 FR 1478, 42 FR 49811, 42 FR 64076, and 43 FR 24019.

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 1915.6:



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| State      | Community name and number     | County         | Hazard ID date | Recession date | Reason |
|------------|-------------------------------|----------------|----------------|----------------|--------|
| Alabama    | City of Fruithurt<br>010236   | Cleburne       | Oct. 15, 1976  | Feb. 9, 1979   | 1      |
| Arizona    | Town of Surprise<br>040053 C  | Maricopa       | Dec. 5, 1975   | Dec. 15, 1978  | 1A     |
| California | City of Cypress<br>- 060217 C | Orange         | June 7, 1974   | do             | 1A     |
| Do         | City of Irwindale<br>060129 C | Los Angeles    | Sept. 26, 1975 | do             | 1A     |
| Do         | City of Rialton<br>060280 C   | San Bernardino | June 6, 1974   | Feb. 9, 1979   | 1A     |
| Illinois   | City of Burbank<br>170069     | Cook           | June 11, 1976  | do             | 1A     |
| Louisiana  | Cullen, town<br>220235 C      | Webster        | Oct. 17, 1975  | Feb. 12, 1979  | 1A     |
| Missouri   | Concordia, city<br>290745 C   | LaFayette      | Feb. 2, 1975   | Feb. 9, 1979   | 1A     |
| Maryland   | City of Maryland<br>240115    | Caroline       | Feb. 4, 1977   | do             | 1      |
| Minnesota  | Clearbrook, city<br>270559    | Clearwater     | Nov. 1, 1974   | do             | 1      |
| Do         | Lexington, city<br>270014 C   | Anoka          | Mar. 29, 1974  | Feb. 12, 1979  | 1A     |
| Do         | Nicollet, city<br>270315      | Nicollet       | Apr. 5, 1974   | Feb. 9, 1979   | 1      |
| Do         | Pease, city<br>2702911        | Mille          | Feb. 13, 1976  | do             | 1      |
| Montana    | Dawson, county<br>300140      |                | Jan. 16, 1979  | Feb. 12, 1979  | 4      |
| Oklahoma   | Hugo, city<br>400040 C        | Choctaw        | May 7, 1976    | do             | 1A     |
| Oregon     | City of Haines<br>410003      | Bater          | Dec. 6, 1974   | do             | 1      |
| Texas      | Electra, city<br>480659       | Wichita        | Dec. 13, 1976  | Feb. 9, 1979   | 1      |
| Washington | Coulee, city<br>530050        | Grant          | Oct. 24, 1975  | do             | 1      |
| Do         | Rock Island, city<br>530039   | Douglas        | Jan. 24, 1975  | do             | 1      |
| Wisconsin  | Village of Woodman<br>550156  | Grant          | Aug. 8, 1975   | do             | 1      |
| California | City of Paramount<br>065049 C | Los Angies 20  | Mar. 31, 1972  | Feb. 20, 1979  | 1A     |
| Iowa       | City of Dickens<br>190355     | Clay           | Sept. 5, 1975  | do             | 1      |
| Do         | City of Tiffin<br>190173      | Johnson        | Nov. 22, 1974  | do             | 1      |
| Do         | City of Vincent<br>190819     | Iowa           | June 3, 1977   | do             | 1      |
| Do         | City of Dixon<br>190726       | Scott          | Sept. 19, 1975 | do             | 1      |
| Do         | City of Doon<br>190446        | Lyons          | do             | do             | 1      |
| Do         | City of Everly<br>190356      | Clay           | do             | do             | 1      |
| Do         | City of Fontanelle<br>190579  | Adair          | July 18, 1975  | do             | 1      |
| Do         | City of Garnerville<br>190580 | Clayton        | Aug. 8, 1975   | do             | 1      |
| Do         | City of Granville<br>190737   | Sioux          | Sept. 26, 1975 | do             | 1      |
| Do         | City of Allerton<br>190543    | Wayne          | do             | do             | 1      |
| Do         | City of Altoona<br>190546     | Polk           | do             | do             | 1      |
| Do         | City of Aurora<br>190698      | Buchanan       | Aug. 22, 1975  | do             | 1      |
| Do         | City of Baxter<br>190552      | Jasper         | Sept. 12, 1975 | do             | 1      |
| Do         | City of Beaman<br>190400      | Grundy         | Aug. 22, 1975  | do             | 1      |
| Do         | City of Boone<br>190555       | Boone          | Sept. 22, 1975 | do             | 1      |
| Do         | City of Boyden<br>190556      | Sioux          | Aug. 29, 1975  | do             | 1      |
| Do         | City of Britt<br>190556       | Hancock        | Aug. 8, 1975   | do             | 1      |
| Do         | City of Callender<br>190277   | Webster        | Nov. 8, 1974   | do             | 1      |
| Do         | City of Clarksville<br>190336 | Butler         | Oct. 10, 1978  | do             | 1      |
| Do         | City of Deep River<br>190496  | Poweshiek      | Sept. 19, 1975 | do             | 1      |
| Do         | City of Gravity<br>190738     | Taylor         | do             | do             | 1      |
| Do         | City of Ireton<br>190511      | Van Burgen     | Jan. 24, 1975  | do             | 1      |
| Do         | City of Kalona<br>190601      | Washington     | Sept. 26, 1975 | do             | 1      |
| Do         | City Of Keota<br>190435       | Keokuk         | do             | do             | 1      |

| State     | Community name and number      | County    | Hazard ID date | Recession date | Reason |
|-----------|--------------------------------|-----------|----------------|----------------|--------|
| Do        | City of Keystone<br>190602     | Benton    | Sept. 19, 1975 | do             | 1      |
| Do        | City of LaMotte<br>190430      | Jackson   | Sept. 26, 1975 | do             | 1      |
| Do        | City of Lynnville<br>190165    | Jasper    | Jan. 3, 1975   | do             | 1      |
| Do        | City of Modale<br>190148       | Harrison  | Oct. 18, 1974  | do             | 1      |
| Do        | City of Nodaway<br>190003      | Adams     | Aug. 22, 1975  | do             | 1      |
| Do        | City of Ogden<br>190634        | Boone     | Aug. 29, 1975  | do             | 1      |
| Do        | City of Okoboji<br>190788      | Dickinson | Sept. 19, 1975 | do             | 1      |
| Do        | City of San Born<br>190651     | O'Brien   | July 16, 1976  | do             | 1      |
| Minnesota | Lona Lake, city<br>270168 C    | Hennepin  | Apr. 16, 1976  | do             | 1A     |
| Michigan  | Birch Run, village<br>260590 C | Saginaw   | Oct. 17, 1975  | do             | 1A     |

KEY TO SYMBOLS

- E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FFBM.
- C The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.
- R The community is participating in the Regular Program.
1. The Community is appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
- 1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. The Flood Hazard Boundary Map (FHBH) contained printing errors or was improperly distributed. A new FHBH will be prepared and distributed.
3. The Community lacked land-use authority over the special flood hazard area.
4. A more accurate FIA map is the effective map for this community.
5. The FHBH does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBH will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBH within a reasonable period of time was not possible. A new FHBH will be prepared and distributed.
- (National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969 as amended 39 FR 2787, Jan. 24, 1974.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 79-9038 Filed 3-27-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4710]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Oak Grove, Jackson County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for se-

lected locations in the city of Oak Grove, Jackson County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Oak Grove, Jackson County, Mo.

ADDRESS: Maps and other information showing the detailed outlines of

the flood-prone areas and the final elevations for the city of Oak Grove are available for review at the City Hall, Oak Grove, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Oak Grove, Jackson County, Mo.



This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding         | Location  | Elevation in feet, national geodetic vertical datum |
|----------------------------|---|---|
| Horseshoe Creek Tributary. | At county boundary.....                                     | 784   |
|                            | 870 feet upstream of county boundary.                       | 784   |
|                            | At corporate limits, 0.39 mile upstream of county boundary. | 793   |
|                            | At corporate limits, 0.70 mile upstream of county boundary. | 805   |
|                            | 1.0 mile upstream of county boundary.                       | 816   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 23, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-9083 Filed 3-27-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4567)

#### PART 1917—APPEALS FROM FLOOD PROPOSED ELEVATION DETERMINATIONS

#### Final Flood Elevation Determination for the city of Elkton, Douglas County, Ore.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Elkton, Douglas County, Ore. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Elkton, Ore.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Elkton, are available for review at city hall, Elkton, Ore.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Elkton, Ore.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location  | Elevation in feet, national geodetic vertical datum |
|--------------------|---|---|
| Umpqua River.....  | 2,400 feet downstream of confluence with Elk Creek. | 117   |
|                    | 720 feet downstream of confluence with Elk Creek.   | 119   |
| Elk Creek.....     | State Highway 38—40 feet upstream of centerline.    | 120   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-9084 Filed 3-27-79; 8:45 am)

[4210-01-M]

(Docket No. FI-4669)

#### PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

#### Final Flood Elevation Determination for Minnehaha County, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Minnehaha County, S. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Minnehaha County, S. Dak.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Minnehaha County, S.

Dak., are available for review at the lobby of the Courthouse, Minnehaha, County, S. Dak.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Minnehaha County, S. Dak.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding   | Location                              | Elevation in feet, national geodetic vertical datum |
|----------------------|---------------------------------------|---|
| Big Sioux River..... | Downstream State Route 38.            | 1,289   |
|                      | U.S. Route 16.....                    | 1,293   |
|                      | Chicago Northwestern Railroad Bridge. | 1,301   |
|                      | Burlington Northern Railroad Bridge.  | 1,307   |
|                      | County Route 121.....                 | 1,310   |
|                      | State Route 38A.....                  | 1,431   |
|                      | Interstate Route 90.....              | 1,433   |
|                      | County Route 130.....                 | 1,440   |
| Skunk Creek.....     | U.S. Route 29.....                    | 1,419   |
|                      | Marion Road.....                      | 1,425   |
|                      | U.S. Route 16.....                    | 1,432   |
|                      | County Route 139.....                 | 1,442   |
|                      | County Route 142.....                 | 1,447   |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional

review requirements in order to permit it to take effect on the date indicated.

Issued: February 27, 1979.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
(FR Doc. 79-9085 Filed 3-27-79; 8:45 am)

[3710-08-M]

Title 32—National Defense

#### CHAPTER V—DEPARTMENT OF THE ARMY

(NDR 638-40)

#### PART 564—NATIONAL GUARD REGULATIONS

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The National Guard Bureau is revising its regulations concerning the care and disposition of remains of members of the National Guard. A major change is the assignment of responsibility to the State adjutants general for reporting deaths of Army National Guard members. In the review of this regulation, the proponent office has updated the information and rewritten the document to improve the regulatory language for better understanding by the public.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel Charles E. Coverdale, Jr. (202) 695-3312 or write: HQDA (NGB-ARL-T) Washington, D.C. 20310.

Dated: March 21, 1979.

ROBERT H. NEITZ,  
Colonel, USAF,  
Executive, National Guard Bureau.

Accordingly 32 CFR 564.41 is revised as set forth below.

#### § 564.41 Burial.

(a) *Purpose.* The purpose of this section is to provide policies and designate responsibilities for the care and disposition of remains of members of the Army National Guard entitled to burial at Federal expense.

(b) *Authority.* Act of 10 August 1956 (70A Stat. 112) as amended, Title 10, U.S. Code, Sections 1481 through 1488, applicable to military personnel and their dependents.

(c) *Policy.* The provisions of AR 638-40 are applicable to battalion and higher level units of the Army National Guard, except as modified herein.

(d) *Responsibilities.*  
(1) The Chief, National Guard Bureau is responsible for prescribing procedures for the care and disposi-

tion of remains of members of the ARNG who die while—

(i) Performing full-time training at other than an Active Army installation under sections 316, 502, 503, 504, and 505, Title 32, U.S.C.

(ii) Performing authorized travel to or from training outlined in (i) above.

(iii) Being hospitalized or undergoing treatment at Government expense for an injury incurred or disease contracted while performing duty indicated in (i) and (ii) above.

(iv) Performing inactive duty training (IDT) under section 502, Title 32, U.S.C. (It is to be noted that present law does not provide for payment of burial expenses from Federal funds for ARNG personnel killed while traveling to or from IDT.)

(2) Active Army installations are responsible for the care and disposition of remains of members of the National Guard who die while—

(i) Performing active duty for training under Title 10 and training or other full-time training duty at an Active Army installation under sections 502, 503, 504, and 505, Title 32, U.S.C.

(ii) Performing authorized travel to or from training specified in (i) above.

(iii) Being hospitalized or receiving treatment at Government expense as a result of injury incurred or disease contracted while performing duty indicated in (i) and (ii) above.

(3) State adjutants general are responsible for notification of death in accordance with Chapter 10, AR 600-10.

(e) *Limitation of burial expense.* Payment of burial expenses is limited to an amount not exceeding that allowed by the Government for such services and in no circumstances may payment exceed the amount actually expended. The amount allowed when relatives incur the expenses will be in accordance with the following limitation:

(1) If death occurs where a properly approved Contract for Care of Remains is in force (Army, Navy, or Air Force contracts), the amount to be allowed for each item will not exceed the amount allowable under such contract.

(2) If death occurs where no contract is in force, reimbursement for items or services, including preparation and casketing will be limited to the stipulated amount included in Chapter 4, AR 638-40.

(3) Reimbursement for transportation will be limited to the amount for which the Government could have obtained required common carrier transportation plus the charge made for hearse service from the common carrier terminal to the first place of delivery.



## RULES AND REGULATIONS

[6560-01-M]

**Title 40—Protection of Environment**  
**CHAPTER I—ENVIRONMENTAL**  
**PROTECTION AGENCY**

**SUBCHAPTER C—AIR PROGRAMS**  
 (FRL 1078-3)

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Oklahoma SIP—Chapter 7: Air Quality Surveillance**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to Chapter 7: Air Quality Surveillance, of the Oklahoma Implementation Plan (SIP). The revision to Chapter 7 was submitted by the Governor as a general update of Oklahoma's air quality surveillance network. This revision reflects the latest information on the number of monitoring sites for applicable pollutants, their location, and their intended purpose.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: The revision to Chapter 7 was submitted by the Governor on July 19, 1978, after adequate notice and public hearing. The revised Chapter 7 is a general update of Oklahoma's air quality surveillance network for particulate matter, sulfur dioxide, and photochemical oxidants.

Upon completion of a review of the revision, EPA published a proposed approval notice in the FEDERAL REGISTER on January 9, 1979 (44 FR 1990). In this notice, a detailed discussion on each revised part of Chapter 7 was provided. Interested persons were invited to comment on EPA's intended action within 30 days of the published proposal. No comments were received.

**CURRENT ACTION**

In this action, the revisions to Chapter 7: Air Quality Surveillance, of the Oklahoma SIP are being approved as proposed.

This notice of final rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: March 21, 1979.

DOUGLAS M. COSTLE,  
 Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart LL—Oklahoma**

In § 52.1920, paragraph (c) is amended by adding a new paragraph (13) as follows:

§ 52.1920 Identification of plan.

(c) \* \* \*

(13) A general update of Chapter 7: Air Quality Surveillance, was submitted by the Governor on July 19, 1978. (non-regulatory).

[FR Doc. 79-9233 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1078-3]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Louisiana**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves numerous administrative and procedural changes to Louisiana's State Implementation Plan (SIP). Also in this action, Sections 4.47, 4.72, 6.7 and 6.9 of the Louisiana regulations are disapproved. Revisions to Regulations 2.0 through 17.0 are made by the State as a general update of the SIP. These revisions reflect current applicability, operational procedures, and organizational structure.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2742.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the Governor of Louisiana, after adequate notice and public hearing, submitted administrative and procedural revisions to the Louisiana SIP. The revisions involve a general update of Regulations 2.0 through 17.0 and with the exception of four sections of these regulations, EPA's review indicated the revisions to be approvable. Accordingly, a notice of proposed rulemaking was published in the FEDERAL REGISTER on January 4, 1979 (44 FR 1189). In this notice, a description of the revisions was provided

along with EPA's reasons for proposing disapproval of Sections 4.47, 4.72, 6.7, and 6.9.

Interested persons were invited to comment on EPA's proposed action. Comments were to be submitted within 30 days of publication of the proposed action. No comments were received.

The four sections cited as having deficiencies fall into two general categories, definitions and new source review.

**DEFINITIONS**

The definitions of "particulate matter" are provided in Sections 4.47 and 4.72. The definitions include aerosols and finely divided liquids, which suggest that entrained water would be subject to control. Since the reference method used to determine compliance does not differentiate uncombined water, applicable emission limits could be unenforceable. EPA is promulgating definitions for particulate matter, one to be used for determining ambient concentrations, and one to be used for determining compliance with applicable emission limitations.

**NEW SOURCE REVIEW**

Section 6.7 allows the Technical Secretary of the Louisiana Air Control Commission (LACC) to grant a variance to Section 6.1, which will allow preliminary site preparation work to be accomplished prior to obtaining an approved permit. While examples of preliminary site preparation work are provided, construction activities are not limited to the examples, nor is a continuous construction program prohibited. As a result, a source could commence construction, as defined in Section 165 of the Clean Air Act. This procedure would be in conflict with preconstruction requirements for the prevention of significant deterioration (PSD), and is therefore, not approvable.

Section 6.9 allows the Technical Secretary to grant a variance to Section 6.1 of up to three months for conducting tests of proposed source modifications. This procedure also conflicts with PSD preconstruction requirements, as well as the Interpretative Ruling concerning emission offsets. Therefore, Section 6.9 is not approvable.

**CURRENT ACTION**

No comments or information has been received which would cause EPA's final action to be different than the action proposed on January 4, 1979. Therefore, the approvals and disapprovals are being promulgated as proposed.

This notice of final rulemaking is issued under the authority of Section

## RULES AND REGULATIONS

110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: March 21, 1979.

DOUGLAS M. COSTLE,  
 Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart T—Louisiana**

1. In § 52.970 paragraph (c) is amended by adding a new paragraph (8) as follows:

§ 52.970 Identification of plan.

(c) \* \* \*

(8) Minor changes and administrative revisions to regulations 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 16.0, and 17.0 of the Louisiana SIP were submitted by the Governor on December 9, 1977.

2. Subpart T is amended by revising § 52.976 to read as follows:

§ 52.976 Review of new sources and modification.

(a) Section 6.7 of Regulation 6.0 is disapproved since it could conflict with the preconstruction requirements for the prevention of significant deterioration (PSD) of air quality.

(b) Section 6.9 of Regulation 6.0 is disapproved since it could conflict with the preconstruction requirements for the prevention of significant deterioration (PSD) of air quality and the Administrator's Interpretative on Rule of December 21, 1976.

§ 52.982 [Reserved]

3. Section 52.982 is revoked and reserved.

4. Subpart T is amended by adding § 52.988 to read as follows:

§ 52.988 Rules and regulations.

(a) The requirements of § 51.22 of this chapter are not met since the definitions of "particulate matter" and "suspended particulate matter", as provided in Sections 4.47 and 4.72 respectively, could in some circumstances make applicable emission limitations of the Louisiana Air Control Commission unenforceable. Therefore, Section 4.47 and 4.72 are disapproved.

(b) The following definition of particulate matter applies to Regulations 9.0 and 27.0: "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the high volume method prescribed in Appendix B of Part 50, Title 40 of the Code of Federal Regulations.

(c) The following definition of particulate matter applies to Regulations 19.0, 20.0, 21.0, 23.0, and 28.0: "Particulate matter" means any finely divided solid or liquid material, other than un-

combined water, as measured by Method 5, or an equivalent or alternative method, of Appendix A, Part 60, Title 40 of the Code of Federal Regulations.

[FR Doc. 79-9231 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1080-6]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**California Plan Revision: South Coast Air Quality Management District**

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, take no action on changes to the South Coast Air Quality Management District (AQMD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION: On September 27, 1978 EPA published a Notice of Proposed Rulemaking for revisions to the South Coast AQMD's rules submitted on June 22 and July 13, 1978 by the California Air Resources Board for inclusion in the California SIP.

A listing of the rules submitted and being considered in this FEDERAL REGISTER notice was included in the September 27, 1978 Notice of Proposed Rulemaking. The rules listed were revised to correct deficiencies, to add clarity and to make needed additions. All of the rule revisions were evaluated as to their consistency with the Clean Air Act, 40 CFR Part 51 and EPA policy.

The Notice of Proposed Rulemaking provided for a 30-day comment period. No comments were received during the public comment period.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions.



## RULES AND REGULATIONS

## SUBCHAPTER B—ARCHIVES AND RECORDS

## Appendix—Temporary Regulations

[FPMR Temp. Reg. B-3]

## PART 101-11—RECORDS MANAGEMENT

## Declassification of and Public Access to National Security Information

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Temporary regulation.

**SUMMARY:** This temporary regulation amends General Services Administration regulations relating to the processing of requests for mandatory review of security classified information in the legal and physical custody of the National Archives and Records Service (NARS). Executive Order 12065, National Security Information, requires that Federal agencies establish a mandatory review procedure to handle requests to declassify and release security classified information. This temporary regulation ensures that requests for mandatory review of security classified information in NARS legal and physical custody will be processed in accordance with the requirements of Executive Order 12065.

**DATES:** Effective date: March 28, 1979. Expiration date: December 1, 1979. Comments due: May 29, 1979.

**ADDRESS:** Address comments to General Services Administration (NAA), Washington, DC 20408.

## FOR FURTHER INFORMATION CONTACT:

Adrienne C. Thomas, Director, Planning and Analysis Division, Office of the Executive Director, National Archives and Records Service, General Services Administration (NAA), Washington, DC 20408, 202-523-3214.

**SUPPLEMENTARY INFORMATION:** The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. On December 1, 1978, Executive Order 12065 and its implementing directive, Information Security Oversight Directive Number 1, superseded Executive Order 11652, Classification and Declassification of National Security Information and Material, and its implementing directive, National Security

Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information. In order for NARS to continue its declassification program under this new authority, it is necessary that these regulations become effective in advance of the receipt of public comments. NARS will consider all comments received during the 60-day comment period before issuing final regulations implementing Executive Order 12065.

This temporary regulation establishes revised rules for the processing of mandatory review requests by NARS.

With the exception of information originated by the White House, by defunct agencies, or for which NARS has applicable declassification guidelines, Executive Order 12065 requires that mandatory review requests for information accessioned into the National Archives shall be forwarded to the responsible agency for review, coordination, and direct response to the requester.

Under Executive Order 11652, NARS coordinated requests for all classified information accessioned into the National Archives or donated to the Presidential libraries and responded directly to the requester.

Agencies which have reviewed requests for declassification forwarded by NARS and determined that only portions of the information may be released must provide NARS with: (1) Instructions for deleting from documents to be released the information with must remain classified and (2) the reason for denying the release of the information. NARS will then be able to respond directly to subsequent requests for the same information and avoid the necessity of contacting agencies concerning mandatory review requests for information which had previously been declassified.

NARS must be informed when an agency determines that information forwarded to it by NARS for declassification is the primary declassification responsibility of another agency. This information will enable NARS to send similar information to the appropriate agency for review.

NARS will bill persons requesting mandatory review for copies of documents which an agency received from NARS, declassified, and furnished to the requester. NARS will forward the bill to the requester after receiving notification from the responsible agency of its declassification determinations.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter B to read as follows:

## FEDERAL PROPERTY MANAGEMENT REGULATIONS

[Temporary Regulation B-3]

TO: Heads of Federal agencies.

**SUBJECT:** Declassification of and public access to national security information.

1. **Purpose.** This temporary regulation contains revised procedures relating to the processing of requests for mandatory review of security classified information in the legal and physical custody of the National Archives and Records Service (NARS).

2. **Effective date.** This regulation is effective upon publication in the Federal Register (March 28, 1979).

3. **Expiration date.** This regulation expires December 1, 1979, unless sooner revised or superseded. Prior to that date, this regulation will be codified in the permanent regulations of GSA appearing in Title 41 CFR, Public Contracts and Property Management.

4. **Applicability.** The provisions of this regulation apply to all executive agencies.

5. **Background.** Executive Order 12065, National Security Information, which became effective on December 1, 1978, requires revisions in the mandatory review procedures established by NARS to handle requests to declassify and release security classified information.

6. **Effect on other directives.** Section 101-11.3a, Declassification of and Public Access to National Security Information, is revised as follows:

a. **§ 101-11.320 General provisions.** Declassification of and public access to national security information and material (hereafter referred to as "classified information" or collectively termed "information") is governed by Executive Order 12065 of June 28, 1978 (43 FR 28949, July 3, 1978), and by the Information Security Oversight Office Directive No. 1 of October 2, 1978 (43 FR 46280, October 5, 1978).

b. **§ 101-11.321 Public requests for mandatory review of classified information under E.O. 12065.**

(1) Members of the public wishing to request mandatory review of classified information which has been accessioned into the National Archives of the United States or which has been donated to the Government and is in the custody of a Presidential library administered by the National Archives and Records Service (NARS) should (1) identify the record or information desired and (2) apply in writing to the appropriate NARS depository listed in 41 CFR 105-61.5101.

(2) Information originated or received by an agency of the United States Government is subject to mandatory review from the date of its creation. Information originated by the

## RULES AND REGULATIONS

President, by the White House staff, by committees or commissions appointed by the President, or by others acting on behalf of the President, hereafter referred to as "White House information," is subject to mandatory review after it becomes 10 years old. All requests must reasonably describe the information sought. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARS capacity to serve all requesters on an equitable basis, the requester will be notified that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. The requested information or any reasonable segregable portion thereof that no longer requires protection under Executive Order 12065 shall be declassified and released unless withholding is otherwise warranted under applicable law.

c. **§ 101-11.322 Mandatory review of classified U.S. Government originated information.**

(1) **§ 101-11.322-1 NARS action.**

(a) **Information less than 20 years old.** NARS will promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information and within 20 calendar days of receipt of the request will forward it, with copies of the documents containing the requested information, to the agency which originated the information or to the agency which the Archivist determines has primary subject matter interest. NARS will inform the requester of all such referrals.

(b) **Information more than 20 years old.** NARS will acknowledge receipt of a request for mandatory review of classified U.S. Government originated information which NARS may declassify using systematic review guidelines and within 60 calendar days of receipt of the request will act upon it and notify the requester of the action taken. Information which NARS may not declassify using the systematic review guidelines will be promptly forwarded, with copies of documents containing the requested information, to the responsible agency. NARS will inform the requester of all such referrals.

(2) **§ 101-11.322-2 Agency action.** Upon receipt of a request for mandatory review of classified U.S. Government originated information forwarded by NARS, the originating or responsible agency shall:

(a) Review the information; coordinate the review of the information with all other agencies having primary

subject matter interest; and determine whether the information may be wholly or partially declassified or must continue to be exempt from declassification.

(b) Notify the requester and NARS of the determination. If the request is denied in whole or in part, the agency must also furnish:

(i) To the requester and NARS, a brief statement of the reasons the requested information cannot be declassified;

(ii) To NARS, a copy of each document released only in part marked to indicate the portions which remain classified; and

(iii) To the requester, a statement of the right to appeal within 60 calendar days, the procedures for taking such an action; and the name, title, and address of the appeal authority.

(c) If applicable, notify NARS of the agency to which it forwarded requests determined to be the primary responsibility of another agency.

d. **§ 101-11.323 Mandatory review of foreign government information provided to the United States in confidence.**

(1) **§ 101-11.323-1 NARS action.**

(a) **Information less than 30 years old.** NARS will promptly acknowledge receipt of a request for mandatory review of foreign government information provided to the United States. Within 20 calendar days of receipt of the request NARS will forward the request, together with copies of the documents containing the requested information, to the agency which initially received or classified the information. If unable to identify the agency, NARS will forward the request to the agency which has primary subject matter interest. NARS will inform the requester of all such referrals.

(b) **Information more than 30 years old.** NARS will acknowledge receipt of a request for mandatory review of foreign government information which NARS may declassify using systematic review guidelines, and within 60 calendar days of receipt of the request will act upon it and notify the requester of the action taken. Requests for information which NARS may not declassify using the systematic review guidelines will be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARS will notify the requester of all such referrals.

(2) **§ 101-11.323-2 Agency action.** Upon receipt of a request forwarded by NARS for review of foreign government information, the agency shall:

(a) Review the information and coordinate its further review with all other agencies having primary subject matter interest. In those cases where available agency policy or guidelines do not apply, the agency may consult

It is the purpose of this Notice to approve the rules listed in the Notice of Proposed Rulemaking, and to incorporate them into the California SIP, with the exception of those rules noted below.

No action is being taken on Rule 301, Permit Fees, and Rule 303, Hearing Board Fees, submitted July 13, 1978, because they have been superseded by rules submitted January 2, 1979 by the State of California. Action will be taken on the more recent revisions.

No action is being taken on Rule 442, Usage of Solvents, because a clerical error in the July 13, 1978 submittal makes this rule unenforceable. This rule will be acted upon when the rule is revised and resubmitted.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: March 20, 1979.

DOUGLAS M. COSTLE,  
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(44)(v) and (c)(45)(ii) as follows:

§ 52.220 Identification of plan.

• • • • •  
(c) • • •  
(44) • • •  
(v) South Coast Air Quality Management District.  
(A) Rules 102, 501.1, and 503.

• • • • •  
(45) • • •  
(ii) South Coast AQMD.  
(A) Rules 302, 461, 465, 1102, and 1113.

[FR Doc. 79-9383 Filed 3-27-79; 8:45 am]

[6820-26-M]

## Title 41—Public Contracts and Property Management

## CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS



through appropriate channels with the foreign originator;

(b) Notify the requester and NARS of the determination made. If the request is denied in whole or in part, the agency must also furnish the information cited in § 101-11.322-2(b) above; and, if applicable.

(c) Notify NARS of the agency to which it forwarded requests determined to be the primary responsibility of another agency.

e. § 101-11.324 *Information originated by a defunct agency or received by a defunct agency from a foreign government.*

(1) § 101-11.324-1 *NARS action.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS will promptly acknowledge receipt of requests for such information, review the information using systematic review guidelines, and, when necessary, consult with all agencies having primary subject matter interest. NARS will act upon the request within 60 calendar days of its receipt and inform the requester of the action taken. If the request is denied in whole or in part, the Assistant Archivist for the National Archives will furnish the requester a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States, National Archives and Records Service (ND), Washington, DC 20408. Upon receipt of an appeal, the Deputy Archivist will, within 30 days:

(a) Review the previous decision made to deny information over which NARS has classification jurisdiction; and, as necessary.

(b) Consult with the appellate authorities in agencies having primary subject matter interest in the information previously denied; and

(c) Notify the requester of the final determination and make available to the requester information that has been declassified as a result of the appeal.

To ensure that NARS will be able to respond promptly to appeals of mandatory review decisions, the head of each agency shall be requested to provide NARS with the current name, title, and address of that agency's designated appellate authority.

(2) § 101-11.324-2 *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding the declassification of foreign government information originally received or classified by a defunct agency, the

agency with primary subject matter interest shall:

(a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(b) Return the request to NARS along with a brief statement of the reasons any requested information should not be declassified and a copy of each document released only in part marked to indicate those portions which remain classified.

(f) § 101-11.325 *Mandatory review of classified White House originated information more than 10 and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House.*

(1) *NARS action.*

(a) NARS will promptly acknowledge receipt of a request for mandatory review of classified White House originated information more than 10 years old and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified in the White House.

(b) NARS will review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendations regarding declassification.

(c) NARS will review the recommendations returned by the agencies and make its declassification determination.

(d) If the request is denied in whole or in part, NARS will furnish the requester:

(i) A brief statement of the reasons the requested information cannot be declassified;

(ii) Access to those portions of documents that are releasable only in part; and

(iii) A notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States, National Archives and Records Service (ND), Washington, DC 20408.

(e) *NARS appellate process.* Upon receipt of an appeal, the Deputy Archivist will, within 30 calendar days:

(i) Review the previous decision made to deny information;

(ii) Consult with the appellate authorities in agencies having primary subject matter interest in the information previously denied;

(iii) Notify the requester of the determination and make available to the requester information which has been declassified as a result of the appeal;

(iv) Notify the requester of the right to appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (AT), Washington, DC 20405).

(2) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information more than 10 years old and less than 20 years old and foreign government information more than 10 years old and less than 30 years old received or classified in the White House, the agency with primary subject matter interest shall:

(a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(b) Return the request to NARS along with a brief statement of the reasons any requested information should not be declassified and a copy of each document which should be released only in part marked to indicate those portions which remain classified.

g. § 101-11.326 *Mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified in the White House more than 30 years old.*

(1) *NARS action.*

(a) NARS will promptly acknowledge the receipt of a request for mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified in the White House more than 30 years old, and will act upon that request within 60 calendar days.

(b) NARS will review the information using applicable systematic review guidelines and will make available to the requester information declassified using those guidelines.

(c) Information which cannot be declassified by NARS using systematic review guidelines will be forwarded to the agencies with primary subject matter interest and further processed in accordance with section 101-11.325(1) (b) through (e) and (2) above.

(2) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information more than 20 years old and foreign government information more than 30 years old received or classified in the White House, the agency with primary subject matter interest shall:

(a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(b) Return the request to NARS along with a brief statement of the reasons any requested information should not be declassified and a copy of each document which should be released only in part marked to indicate those portions which remain classified.

h. § 101-11.327 *Mandatory review of classified White House information more than 10 years old in the custody of other agencies.* Agencies having custody of classified White House information more than 10 years old shall forward requests for mandatory review of such information to the Office of National Archives, (mailing address: General Services Administration (NN), Washington, DC 20408) together with copies of documents containing the requested information and the agency's recommendations regarding declassification. NARS will make a declassification determination on such requests after consulting with agencies with primary subject matter interest, and will reply to the requester. If the request is denied in whole or in part, the requester may appeal within 60 calendar days to the Deputy Archivist of the United States, (mailing address: General Services Administration (ND), Washington, DC 20408). Appeals are processed according to the procedures listed in 101-11.325(1)(e).

i. § 101-11.328 *Access by historical researchers and former Presidential appointees.* Access to classified information may be granted to persons who are engaged in historical research projects or who previously occupied policy-making positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/Presidential appointees access program should contact NARS at least 4 months in advance of the date they desire access to the materials to permit time for the responsible agencies to process the request for access. NARS will inform requesters of the agencies to which they will have to apply for permission to examine classified information and, if necessary, will provide requesters with the information and forms to apply for permission from the Archivist of the United States to examine classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency. Researchers may examine such records only after the responsible agencies have authorized access.

j. § 101-11.329 *Fees.* NARS will charge requesters for copies of declassified documents according to the fees listed in 41 CFR 105-61.5206. These fees will apply to:

(1) Copies furnished to researchers directly by NARS; and

(2) Copies which an agency received from NARS and furnished to a requester.

PAUL E. GOULDING,  
Acting Administrator  
of General Services.

MARCH 16, 1979.

[FR Doc. 79-9285 Filed 3-27-79; 8:45 am]

[6820-27-M]

#### CHAPTER 105—GENERAL SERVICES ADMINISTRATION

[ADM 7900.2 CHGE 12]

#### PART 105-61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

##### Public Use of Archives and FRC Records and Public Use of Donated Historical Materials

AGENCY: National Archives and Records Service (NARS), GSA.

ACTION: Final rule.

SUMMARY: This rule revises regulations relating to the processing of requests for mandatory review of security classified information in the legal and physical custody of NARS to reflect the requirements of Executive Order 12065, National Security Information.

DATES: Effective date: March 28, 1979. Comments due: On or before May 29, 1979.

ADDRESS: Address comments to General Services Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT:

Adrienne C. Thomas, Director, Planning and Analysis Division, Office of the Executive Director, National Archives and Records Service, General Services Administration (NAA), Washington, DC 20408, 202-523-3214.

SUPPLEMENTARY INFORMATION: On December 1, 1978, Executive Order 12065 and its implementing directive, information Security Oversight Office Directive Number 1, superseded Executive Order 11652, Classification and Declassification of National Security Information and Material, and its implementing directive, National Security Council Directive Governing the Classification, Downgrading, Declassification, and Safeguarding of National Security Information. In order for NARS to continue its declassification program under this authority, it is

necessary that these regulations become effective in advance of the receipt of public comments. GSA procedures require a proposed rule with a 60-day comment period before issuing this type of final rule. This exemption to GSA procedures implementing Executive Order 12044, Improving Government Regulations, is authorized by James B. Rhoads, Archivist of the United States. However, NARS will consider all comments received during the 60-day comment period and, if necessary, propose revisions to these regulations.

NARS will bill persons requesting mandatory review for copies of documents which an agency received from NARS, declassified, and furnished to the requester. NARS will forward the bill to the requester after receiving notification from the responsible agency of its declassification determinations.

The table of contents for Part 105-61 is amended by revising three entries, adding seven entries, and deleting three entries, as follows:

- Sec.
- 105-61.104-1 Freedom of Information Act requests.
  - 105-61.104-2 Declassification responsibility.
  - 105-61.104-3 Public requests for mandatory review of classified information under Executive Order 12065.
  - 105-61.104-4 Mandatory review of classified U.S. Government originated information.
  - 105-61.104-5 Mandatory review of foreign government information provided to the United States in confidence.
  - 105-61.104-6 Information originated by a defunct agency or received by a defunct agency from a foreign government.
  - 105-61.104-7 Mandatory review of classified White House originated information more than 10 and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House.
  - 105-61.104-8 Mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified by the White House more than 30 years old.
  - 105-61.104-9 Access by historical researchers and former Presidential appointees.
  - 105-61.104-10 Fees for copies of documents declassified through mandatory review procedures.
  - 105-61.203-105-61.203-2 [Deleted]

##### Subpart 105-61.1—Public Use of Archives and FRC Records

1. Sections 105-61.103-1 (a) and (c) are revised to read as follows:

##### § 105-61.103-1 Archives.

(a) *Restrictions.* The use of archives is subject to the restrictions prescribed by statute or Executive order or by the restrictions specified in writing in accordance with 44 U.S.C. 2104 by the agency from which the records were



transferred. The restrictions are published in the "Guide to the National Archives of the United States," which is hereby incorporated by reference, and supplemented by restriction statements approved by the Archivist of the United States and set forth in § 105-61.202 and Subpart 105-61.53. The Guide is available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The Guide may also be consulted at the NARS research facilities set forth in § 105-61.5101 and the GSA Business Service Center reading rooms set forth in § 105-60.303. NARS makes available any reasonably segregable portion of a record after the restricted portion has been deleted.

(c) *Denials and appeals.* Denials under the Freedom of Information Act of access to archives are made by the appropriate director of a Federal records center or a Presidential library or by the Assistant Archivist for the National Archives, who, within 10 workdays, shall notify the requester of the reasons for denial and of the procedures for appeal. A requester may appeal a denial by writing to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). The Deputy Archivist shall consult with the agency specifying the restriction, when appropriate, and make a determination within 20 workdays after the date of receipt of the appeal. If an extension is required, the Deputy Archivist shall notify the requester within 20 workdays from receipt of the request. Time extensions shall not exceed 10 workdays in the aggregate: Either solely in the initial stage or solely in the appellate stage, or divided between them. If the determination is adverse in whole or in part, the Deputy Archivist shall notify the requester of the right to judicial review. Denials and appeals of denials of information under the Freedom of Information Act exemption 552(b)(1), National security information, are processed in accordance with the provisions of § 105-61.104-1.

2. Section 105-61.103-3 is revised to read as follows:

§ 105-61.103-3 Records of defunct agencies.

Access to archives and FRC records received from agencies which have ceased to exist without a successor in function are handled in accordance with §§ 105-61.103-1 and 105-61.104-6.

3. Section 105-61.104 is revised to read as follows:

§ 105-61.104 Access to national security information.

Public access to national security information and material, hereinafter referred to as "classified information" or collectively termed "information," is governed by Executive Order 12065 of June 28, 1978 (43 FR 28949, July 3, 1978), the Implementing Information Security Oversight Office Directive Number 1 of October 2, 1978 (43 FR 46280, October 5, 1978), and the Freedom of Information Act (5 U.S.C. 552).

§ 105-61.104-1

Freedom of Information Act requests.

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the Freedom of Information Act are processed in accordance with the provisions of § 105-61.103-1(b). Time limits for responses to Freedom of Information Act requests for national security information are those provided in the act rather than the longer time limits provided for responses to mandatory review requests specified by Executive Order 12065.

(b) *Denials and appeals.* Denials under the Freedom of Information Act of access to archives are made by designated officials of the originating or responsible agency. Appeals of denials must be made in writing to the appropriate authority in the agency having declassification responsibility for the denied information as indicated in § 105-61.104-2.

§ 105-61.104-2 Declassification responsibility.

(a) *Classified U.S. Government originated information less than 20 years old and foreign government information less than 30 years old.* Declassification of U.S. Government originated information less than 20 years old and foreign government information (which was provided in confidence) less than 30 years old is the responsibility of (1) the agency that classified the information or originally received the information from a foreign originator or (2) the agency with primary subject matter interest. NARS may make a declassification determination on these records only when the responsible agency has specifically authorized this action.

(b) *Classified U.S. Government originated information more than 20 years old and foreign government information more than 30 years old.* Systematic reviews of U.S. Government originated information more than 20 years old and foreign government information (which was provided in confidence) more than 30 years old which have been accessioned by NARS are the responsibility of NARS. NARS

shall declassify this information unless the head of the responsible agency determines personally and in writing that the information must remain classified and notifies the Archivist of the United States of this determination.

(c) *White House information.* Declassification of information more than 10 years old which was originated by the President, by the White House staff, by committees or commissions appointed by the President, or by others acting on the President's behalf (hereinafter referred to as "White House information") is the responsibility of NARS. NARS makes these determinations after consulting with the agencies that have primary subject matter interest in the information.

(d) *Defunct agency information.* Declassification of information originated by or received from a foreign originator by an agency which has ceased to exist and whose functions were not transferred to another agency is the responsibility of NARS. NARS makes these determinations after consulting with the agencies having primary subject matter interest.

§ 105-61.104-3 Public requests for mandatory review of classified information under Executive Order 12065.

(a) Members of the public wishing to request mandatory review of classified information which has been accessioned into the National Archives of the United States or which has been donated to the Government and is in the custody of a Presidential library administered by the National Archives and Records Service (NARS) should identify the record or information desired and apply in writing to the appropriate NARS depository listed in § 105-61.5101.

(b) Information originated or received by an agency of the United States Government is subject to mandatory review from the date of its creation. Information originated by the President, by the White House staff, by committees or commissions appointed by the President, or by others acting on behalf of the President, is subject to mandatory review after it becomes 10 years old. All requests must reasonably describe the information sought. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARS' capacity to serve all requesters on an equitable basis, NARS shall notify the requester that, unless additional information is provided or the scope of the request is narrowed, no further action

will be taken. NARS shall declassify and release the requested information or any reasonably segregable portion thereof that no longer requires protection under Executive Order 12065 unless withholding is otherwise warranted under applicable law.

§ 105-61.104-4 Mandatory review of classified U.S. Government originated information.

(a) *NARS action—(1) Information less than 20 years old.* NARS shall promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information and within 20 calendar days of receipt of the request shall forward it, with copies of the documents containing the requested information, to the agency which originated the information or the agency which the Archivist determines has primary subject matter interest. NARS shall inform the requester of all such referrals.

(2) *Information more than 20 years old.* NARS shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information which NARS may declassify using systematic review guidelines and within 60 days of receipt of the request shall act upon it and notify the requester of the action taken. Information which NARS may not declassify using the systematic review guidelines shall be promptly forwarded, with copies of documents containing the requested information, to the responsible agency. NARS shall inform the requester of all such referrals.

(b) *Agency action.* Upon receipt of a request for mandatory review of classified U.S. Government originated information forwarded by NARS, the originating or responsible agency shall:

(1) Review the information; coordinate the review of the information with all other agencies having primary subject matter interest; and determine whether the information may be wholly or partially declassified or must continue to be exempt from declassification.

(2) Notify the requester and NARS of the determination. If the request is denied in whole or in part, the agency must also furnish:

(i) To the requester and NARS, a brief statement of the reasons the requested information cannot be declassified;

(ii) To NARS, a copy of each document released only in part, marked to indicate the portions which remain classified; and

(iii) To the requester, a statement of the right to appeal within 60 calendar days; the procedures for taking such action; and the name, title, and address of the appeal authority.

(3) If applicable, notify NARS of the agency to which it forwarded requests

determined to be the primary responsibility of another agency.

§ 105-61.104-5 Mandatory review of foreign government information provided to the United States in confidence.

(a) *NARS action—(1) Information less than 30 years old.* NARS shall promptly acknowledge receipt of a request for mandatory review of foreign government information provided to the United States in confidence. Within 20 calendar days of receipt of the request, NARS shall forward the request, with copies of the documents containing the requested information, to the agency which initially received or classified the information. If unable to identify that agency, NARS shall forward the request to the agency which has primary subject matter interest. NARS shall inform the requester of all such referrals.

(2) *Information more than 30 years old.* NARS shall acknowledge receipt of a request for mandatory review of foreign government information which NARS may declassify using systematic review guidelines and within 60 calendar days of receipt of the request shall act upon it and notify the requester of the action taken. Requests for information which NARS may not declassify using the systematic review guidelines shall be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARS shall notify the requester of all such referrals.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for review of foreign government information, the agency shall:

(1) Review the information and coordinate its further review with all other agencies having primary subject matter interest. If agency policy or guidelines do not cover a particular situation, the agency may consult through appropriate channels with the foreign originator;

(2) Notify the requester and NARS of the determination. If the request is denied in whole or in part, the agency must also furnish the information cited in § 105-61.104-4(b)(2); and

(3) If applicable, notify NARS of the agency to which it forwarded requests determined to be the primary responsibility of another agency.

§ 105-61.104-6 Information originated by a defunct agency or received by a defunct agency from a foreign government.

(a) *NARS action.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information

originally received or classified by such an agency. NARS shall promptly acknowledge receipt of requests for such information, review the information using systematic review guidelines, and, when necessary, consult with all agencies having primary subject matter interest. NARS shall act upon the request within 60 calendar days of its receipt and inform the requester of the action taken. If the request is denied in whole or in part, the Assistant Archivist for the National Archives shall furnish the requester a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). Upon receipt of an appeal, the Deputy Archivist shall, within 30 calendar days:

(1) Review the decision to deny information over which NARS has classification jurisdiction;

(2) As necessary, consult with the appellate authorities in agencies having primary subject matter interest in the information denied; and

(3) Notify the requester of the final determination and make available to the requester information that has been declassified as a result of the appeal. To ensure that NARS will be able to respond promptly to appeals of mandatory review decisions, the head of each agency will be requested to provide NARS with the current name, title, and address of that agency's designated appellate authority.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding the declassification of foreign government information originally received or classified by a defunct agency, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS with a brief statement of the reasons any requested information should not be declassified and a copy of each document released only in part, marked to indicate those portions which remain classified.

§ 105-61.104-7 Mandatory review of classified White House originated information more than 10 and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House.

(a) *NARS action.* (1) NARS shall promptly acknowledge receipt of a request for mandatory review of classified White House originated information



tion more than 10 years old and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House and shall act upon that request within 60 calendar days.

(2) NARS shall review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendations regarding declassification.

(3) NARS shall review the recommendations returned by the agencies and make its declassification determination.

(4) If the request is denied in whole or in part, NARS shall furnish the requester:

(i) A brief statement of the reasons the requested information cannot be declassified;

(ii) Access to the portions of documents that are releasable only in part; and

(iii) A notice of the right to appeal the determination within 60 days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, D.C. 20408).

(5) Upon receipt of an appeal, the Deputy Archivist shall, within 30 calendar days:

(i) Review the decision to deny information;

(ii) Consult with the appellate authorities in agencies having primary subject matter interest in the information denied;

(iii) Notify the requester of the determination and make available to the requester information which has been declassified as a result of the appeal; and

(iv) Notify the requester of the right to further appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (AT), Washington, D.C. 20405).

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information more than 10 years old and less than 20 years old and foreign government information more than 10 years old and less than 30 years old received or classified in the White House, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS with a brief statement of the reasons any requested information should not be declassified and a copy of each document which should be released only in part, marked to indicate the portions which remain classified.

ument which should be released only in part, marked to indicate the portions which remain classified.

§ 105-61.104-8 *Mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified by the White House more than 30 years old.*

(a) *NARS action.* (1) NARS shall promptly acknowledge the receipt of a request for mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified by the White House more than 30 years old and shall act upon that request within 60 days.

(2) NARS shall review the information using applicable systematic review guidelines and shall make available to the requester information declassified using those guidelines.

(3) Information which cannot be declassified by NARS using systematic review guidelines shall be forwarded to the agencies with primary subject matter interest and further processed in accordance with § 105-61.104-7(a) (2) through (5) and (b).

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information more than 20 years old and foreign government information more than 30 years old received or classified in the White House, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS with a brief statement of the reasons any requested information should not be declassified and a copy of each document which should be released only in part, marked to indicate the portions which should remain classified.

§ 105-61.104-9 *Access by historical researchers and former Presidential appointees.*

(a) Access to classified information may be granted to persons who are engaged in historical research projects or who previously occupied policymaking positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/Presidential appointees access program should contact NARS at least 4 months before they desire access to the materials to permit time for the responsible agencies to process the requests for access. NARS shall inform requesters of the agencies to which they will have to apply for permission to examine classified information and

shall provide requesters with the information and forms to apply for permission from the Archivist of the United States to examine classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency. Researchers may examine these records only after the responsible agencies have authorized access.

(b) To guard against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided in § 105-61.102.

§ 105-61.104-10 *Fees for copies of documents declassified through mandatory review procedures.*

NARS will charge requesters for copies of declassified documents according to the fees listed in § 105-61.5206. These fees apply to:

(a) Copies furnished to researchers directly by NARS; and

(b) Copies which an agency received from NARS and furnished to a requester.

#### Subpart 105-61.2—Public Use of Donated Historical Materials

1. Section 105-61.201 is revised to read as follows:

§ 105-61.201 *General.*

The use of donated historical materials, as defined in § 105-61.001-4, is governed by the provisions of Subpart 105-61.1.

2. Section 105-61.203 is deleted.

§ 105-61.203 [Deleted]

§ 105-61.203-1 [Deleted]

§ 105-61.203-2 [Deleted]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000-2)

Dated: March 16, 1979.

PAUL E. GOULDING,  
Acting Administrator  
of General Services.

[FR Doc. 79-9312 Filed 3-27-79; 8:45 am]

[4110-02-M]

#### Title 45—Public Welfare

#### CHAPTER I—OFFICE OF EDUCATION; DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### PART 186—INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

##### Interpretation

AGENCY: Office of Education, HEW.

**ACTION:** Notice of interpretation.

**SUMMARY:** This notice explains to Indian tribes and tribal organizations that operate schools for the children of their tribes under a Pub. L. 93-638 contract how to apply for fiscal year 1979 assistance as a local educational agency (LEA) under Part A of the Indian Education Act.

**DATE:** This notice is expected to take effect 45 days after it is transmitted to Congress. This notice will be transmitted to Congress several days before it is published in the FEDERAL REGISTER. The effective date is changed by statute if Congress disapproves the provisions of the notice or takes certain adjustments. If you want to know the effective date of this notice, call or write the Office of Education contact person.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Hakim Khan, Office of Indian Education, Division of Local Educational Agency Assistance, U.S. Office of Education, 400 Maryland Avenue, SW., Room 2167, Washington, D.C. 20202. Telephone: (202) 245-9159.

**SUPPLEMENTARY INFORMATION:** This notice explains to Indian tribes and organizations that operate schools under a Pub. L. 93-638 contract, and that wish to apply under Part A of the Indian Education Act for fiscal year 1979 assistance for those schools, which provisions of the Part A regulations apply to them.

For the reasons set forth below, the Commissioner has determined that applicants eligible for assistance under Part A of the Indian Education Act by reason of section 1146 of the Education Amendments of 1978 are not required to comply with the Part A regulations at 45 CFR 186.13-186.17 and the parenthetical reference to consultation with the parent committee and the Indian community in 45 CFR 186.18, relating to the content of applications and, in particular, prescribing procedures for the development, operation, and evaluation of projects. In addition, the Commissioner has determined that the regulations in 45 CFR 186.23 and 186.24 limiting the making of payments to grantees do not apply to these applicants. The Commissioner will approve applications that comply with the remaining provisions of 45 CFR 186.1-186.30.

Section 1146 of the Education Amendments of 1978 (Pub. L. 95-561, enacted November 1, 1978) took effect on October 1, 1978. That section provides that certain Indian tribes and tribal organizations are considered to be local educational agencies (LEAs) for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act. That statute is

also known as Part A of the Indian Education Act, and as Title III of Pub. L. 81-874. In the rest of this notice it is referred to as "the Act".

Under section 1146 of the new law, an Indian tribe or an organization which is controlled or sanctioned by an Indian tribal government is considered an LEA under section 303(a) of the Act if it operates a school for the children of that tribe and that school meets either of two requirements. First, the school qualifies if it provides an educational program that meets the standards to be established by the Bureau of Indian Affairs (BIA) under section 1121 of Pub. L. 95-561. Since those standards will not be established before the February 15, 1979 closing date for submitting applications for fiscal year 1979 under the Act (see 43 FR 57979, December 11, 1978), a school will not be able to qualify on the basis of those standards for a fiscal year 1979 grant. Second, a school qualifies if it is operated by the tribe or tribal organization under a contract with the BIA in accordance with Pub. L. 93-638, the Indian Self-Determination and Education Assistance Act.

In order to receive funds as an LEA under the Act, those tribes and organizations which operate qualifying schools need to know which provisions of the Part A regulations apply to them. Neither section 1146 of Pub. L. 95-561 nor its legislative history provides clear guidance on this matter.

Section 1146 provides, in its entirety, as follows:

Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

This section was passed, in virtually identical form, by the House of Representatives as section 1145 of H.R. 15. The accompanying report of the Committee on Education and Labor states that:

This amendment provides that Indian-controlled schools under contract with the Bureau of Indian Affairs (sic) alternative schools are granted status as a local educational agency for the purpose of receiving Part A entitlement payments under section 303(a) of the Act. These schools shall remain eligible to compete for program monies under the 10 percent set-aside currently in the Act. Due to the increased number of alter-

native and contract schools in the past five years and problems which some schools have had in the awarding of competitive grants from their tribes, it was determined that the needs of the alternative and contract schools would best be served by including them as eligible participants under both programs for Part A. (H.R. Rep. No. 1137, 95th Cong., 2d Sess. 126 (1978))

The Senate adopted a version identical to that passed by the House, as part of a floor amendment sponsored by Senators Abourezk and Bartlett, both of whom are members of the Senate Select Committee on Indian Affairs. A section-by-section analysis submitted by Senators Abourezk and Bartlett states that:

Section 536 (enacted as 1146) qualifies contract and alternative schools for the entitlement program funded under the Indian Education Act as well as the 10 percent set aside competitive program. (124 Cong. Rec. S13885, (daily ed. August 21, 1978))

Because section 1146 of Pub. L. 95-561 refers only to section 303(a), and because the legislative history of that section does not compel a contrary result, it is the Commissioner's view that the Congress did not intend to apply to applicants operating Pub. L. 93-638 contract schools all the provisions that apply to LEAs seeking assistance under the Act. In addition, the substantial differences between those applicants and LEAs suggest that some statutory provisions relating to LEAs would be inappropriate if applied to those applicants.

Therefore, with respect to the content of applications, the Commissioner has determined that the Congress meant to apply to applicants operating Pub. L. 93-638 contract schools those provisions of the Act that apply to applications generally, but not provisions that are limited by their terms to applications from LEAs.

Accordingly, the provisions of section 305(b) of the Act, relating in large part to the involvement of parents, teachers, and students in the development, operation and evaluation of projects, do not apply to applicants operating Pub. L. 93-638 contract schools. The Commissioner strongly encourages these applicants to involve parents, teachers, students, and other members of the affected communities in the operation and evaluation of Part A projects. However, these applicants need not comply with the provisions of section 305(b) or the regulations that implement those provisions (45 CFR 186.13-186.17 and the parenthetical language on consultation in section 186.18).

In addition, the Commissioner has determined that the provisions of section 306(b) of the Act do not apply to applicants operating Pub. L. 93-638 contract schools. Those provisions set out certain restrictions on payments to



grantees that are designed to deal with the financial relationship of an LEA to the State in which it is located. Because Pub. L. 93-638 contract schools have a very different relationship to States, the provisions of section 306(b) are not appropriate to those schools. Accordingly, the Commissioner will not apply 45 CFR 186.23 and 186.24, which implement section 306(b), to grantees that operate those schools.

(20 U.S.C. 241aa-241ff; section 1146 of Pub. L. 95-561)

Dated: March 20, 1979.

(Catalog of Federal Domestic Assistance Number 13.534, Indian Education—Part A)

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
[FR Doc. 79-9273 Filed 3-27-79; 8:45 am]

[6730-01-M]

#### Title 46—Shipping

#### CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Orders 13 and 38; Docket No. 78-30]

#### PART 531—FILING OF FREIGHT AND PASSENGER RATES, FARES, AND CHARGES IN THE DOMESTIC OFFSHORE TRADE, PUBLICATION AND POSTING

#### PART 536—FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

#### Time Limit for Filing of Overcharge Claims; Stay of Final Rule

AGENCY: Federal Maritime Commission.

ACTION: Stay of final rule.

SUMMARY: The Commission's final rules in this proceeding were published February 6, 1979 (44 FR 7144). The effective date was subsequently deferred to April 1, 1979 (44 FR 11547). The Commission has now determined to stay the effective date of these rules pending further order of the Commission. The stay is designed to allow the Commission time to complete its consideration of various petitions for reconsideration.

DATES: Effective date stayed pending further order of the Commission.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

#### SUPPLEMENTARY INFORMATION: None.

By the Commission.

FRANCIS C. HURNEY,  
Secretary.  
[FR Doc. 79-9378 Filed 3-27-79; 8:45 am]

[6712-01-M]

#### Title 47—Telecommunication

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-174]

#### PART 0—COMMISSION ORGANIZATION

#### Delegations of Authority to the Chief, Common Carrier Bureau and to the Telecommunications Committee

AGENCY: Federal Communications Commission.

ACTION: Final order.

SUMMARY: FCC rules amended to make explicit the existing practice of referring routine facilities applications involving expenditures in excess of \$10 million to the Telecommunications Committee. Authority to approve consolidations, acquisitions and control involving \$10 million or less and authority to designate for hearing facility applications which do not involve novel questions of fact, law or policy delegated to Chief, Common Carrier Bureau. Authority to issue notices of inquiry, notices of proposed rulemaking and reports or orders in rulemaking and inquiry proceedings expressly reserved to the Commission.

EFFECTIVE DATE: April 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Larry A. Blosser, Common Carrier Bureau (202) 632-4890.

#### SUPPLEMENTARY INFORMATION:

Adopted: March 20, 1979.

Released: March 22, 1979.

Order. In the matter of amendment of part 0 of the Commission's rules with respect to delegations of authority to the Chief, Common Carrier Bureau and to the Telecommunications Committee.

1. The Commission has reviewed the delegations of authority to the Chief, Common Carrier Bureau, and to the Telecommunications Committee, and has concluded that the public interest would be served by revision of §§ 0.215 and 0.291 of the rules to more clearly reflect the existing practice with re-

spect to applications for common carrier facility authorizations, by elimination of the recitation of specific delegations contained in other sections (0.292, 0.302, 0.303, 0.308), and by addition to § 0.291 of an express exception relating to investigatory and rulemaking proceedings. Matters which do not involve novel questions of fact, law or policy and precedent will be disposed of at staff level. It further appears desirable to revise existing § 0.291 to permit the Chief, Common Carrier Bureau to act upon applications filed under section 221(a) of the Communications Act of 1934, as amended, where the proposed expenditure does not exceed \$10 million, and to designate for hearing those applications for radio facilities filed pursuant to Parts 21, 23 and 25 of the rules in those instances where novel questions of fact, law or policy are not presented.

2. Authority for the adoption of this Order is contained in Section 5(d) of the Communications Act of 1934, as amended. Since it relates to internal Commission management, practices, and procedure, and since the early implementation of these changes will expedite the transaction of public business, compliance with the notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, is not required.

3. Accordingly, it is ordered, That §§ 0.292, 0.302, 0.303 and 0.308 of the Commission's rules are deleted, effective April 2, 1979.

4. It is further ordered, That §§ 0.304, 0.307, and 0.309 of the Commission's rules are renumbered §§ 0.301, 0.302 and 0.303, respectively, effective April 2, 1979.

5. It is further ordered, That §§ 0.215 and 0.291 of the Commission's rules are amended in the manner set forth in the Appendix, effective April 2, 1979.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303.))

FEDERAL COMMUNICATIONS COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

#### APPENDIX

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.215 is revised to read as follows:

§ 0.215 Telecommunications Committee.

A Telecommunications Committee, composed of three Commissioners, designated as such by the Commission, or a majority thereof, will act, except as otherwise ordered by the Commission, upon all applications or requests (except requests for special temporary authorization covered by § 0.291) sub-

mitted under Sections 214 or 319 of the Communications Act of 1934, as amended, by communications common carriers, where the estimated cost of construction (or value of radio facilities where an assignment or transfer of facilities is involved) is in excess of \$10 million.

2. Section 0.291 is revised to read as follows:

§ 0.291 Authority delegated.

The Chief, Common Carrier Bureau, is hereby delegated authority to perform all functions of the Bureau, described in § 0.91, subject to the following exceptions and limitations.

(a) Authority concerning applications. (1) The Chief, Common Carrier Bureau shall not have authority to act on any formal or informal radio applications or Section 214 applications for common carrier services (including all marine and aeronautical applications) which are in hearing status or where the estimated cost of construction (or value of radio facilities where an assignment or transfer of facilities is involved) is in excess of \$10 million or the annual rental is in excess of \$2 million. (The only exception to these monetary limitations will be special temporary authorizations in the event of extraordinary circumstances requiring the immediate restoration or institution of public service.) (2) The Chief, Common Carrier Bureau shall not have authority to act on any applications or requests which present novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.

(b) Authority concerning sections 219 and 220 of the Act. The Chief, Common Carrier Bureau shall not have authority to promulgate regulations or orders pursuant to section 219 or section 220 of the Communications Act of 1934, as amended, except that the Chief, Common Carrier Bureau shall have authority to approve depreciation charges to operating expenses on an interim basis subject to commission prescription prior to the end of January of the year following that in which interim approval is given.

(c) Authority concerning section 221(a) of the Act. (1) The Chief, Common Carrier Bureau shall not have authority to determine whether hearings shall be held on applications filed under section 221(a) of the Communications Act of 1934, as amended, where a request has been made by a telephone company, an association of telephone companies, a State Commission or local government authority. (2) The Chief, Common Carrier Bureau shall not have authority to act upon applications filed under Section 221(a) of the Communications Act of 1934, as amended, where the proposed expenditure for consolidation, acquisition or

control is in excess of \$10 million. (3) The Chief, Common Carrier Bureau shall not have authority to act upon any application, petition or request under section 221(a) of the Communications Act of 1934, as amended, which presents novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.

(d) Authority concerning tariff regulations. The Chief, Common Carrier Bureau shall not have authority to determine whether a tariff shall be suspended. However, the Chief, Common Carrier Bureau may issue orders requiring the issuing carrier to defer the effective date of a tariff filing made on less than 90 days public notice so as to provide for a maximum total of 90 days public notice regardless of whether petitions opposing the tariff filing have been filed.

(e) Authority concerning non-common carrier satellite systems. The Chief, Common Carrier Bureau shall not have authority to determine whether a construction permit shall be granted for a non-common carrier satellite system, or any part thereof, where the construction costs are in excess of \$10 million.

(f) Authority to designate for hearing. The Chief, Common Carrier Bureau shall not have authority to designate for hearing any formal complaints or any applications except: (1) applications for radio facilities filed pursuant to Parts 21, 23 and 25 of this chapter which are mutually exclusive and (2) applications for facilities where the issues presented relate solely to whether the applicant has complied with outstanding precedents and guidelines.

(g) Authority concerning forfeitures. The Chief, Common Carrier Bureau shall not have authority to impose, reduce or cancel forfeitures pursuant to section 203 or section 510 of the Communications Act of 1934, as amended, in amounts of \$10,000 or more.

(h) Authority concerning applications for review. The Chief, Common Carrier Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Common Carrier Bureau, pursuant to any delegated authority.

(i) Authority concerning rulemaking and investigatory proceedings. The Chief, Common Carrier Bureau shall not have authority to issue notices of proposed rulemaking, notices of inquiry or to issue reports or orders arising from either of the foregoing.

§ 0.292 [Deleted]

3. Section 0.292 is deleted.

§ 0.302 [Deleted]

4. Section 0.302 is deleted.

§ 0.303 [Deleted]

5. Section 0.303 is deleted.

§ 0.304 [Deleted and renumbered § 0.301]

6. Section 0.304 is deleted and renumbered 0.301.

§ 0.307 [Deleted and renumbered § 0.302]

7. Section 0.307 is deleted and renumbered 0.302.

§ 0.308 [Deleted]

8. Section 0.308 is deleted.

§ 0.309 [Deleted and renumbered § 0.303]

9. Section 0.309 is deleted and renumbered 0.303.

[FR Doc. 79-9337 Filed 3-27-79; 8:45 am]

[6712-01-M]

[Docket No. 21089; RM-2760, FCC 79-162]

#### PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

#### Implementing an Inter-Governmental Maritime Consultative Organization's resolution Pertaining to the Safety of Life at Sea Convention, and; Petition for continued use of A3 emission in the Maritime Service

AGENCY: Federal Communications Commission.

ACTION: Final order.

SUMMARY: Amendment of the rules to provide for the carriage of radiotelephone installations on compulsorily fitted radiotelegraph vessels as recommended by Intergovernmental Maritime Consultative Organization. Rules additionally are amended to permit continued carriage of double sideband equipment on voluntarily fitted vessels as an adjunct to the Marine VHF distress system.

EFFECTIVE DATE: January 1, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert C. McIntyre, Private Radio Bureau, (202 632-7197).

#### SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 to implement an Inter-Governmental Maritime Consultative Organization's resolution pertaining to the Safety of Life at Sea Convention, and; petition for continued use of A3 emission in the Maritime Service; Report and order (proceeding terminated). Adopted: March 15, 1979.

Released: March 23, 1979.



## RULES AND REGULATIONS

By the Commission: Chairman Ferris abstaining from voting.

1. On February 4, 1977, we released a Notice of Proposed Rule Making (NPRM) in this Docket<sup>1</sup> proposing to amend Part 83 of the rules to implement an Inter-Governmental Maritime Consultative Organization's (IMCO)<sup>2</sup> Resolution pertaining to the Safety of Life at Sea Convention. The Notice also responded to a Petition for Rule Making filed by the Queen City Yacht Club<sup>3</sup> in a related matter concerning the continued use of double sideband (DSB) A3 emission<sup>4</sup> on 2182 kHz for distress and safety purposes. At the same time two associated Orders were released: (1) allowing the use of A3 emissions on an interim basis<sup>5</sup> and (2) denying the Queen City petition in part.<sup>6</sup>

## THE PROPOSAL

2. A detailed description and text of the IMCO Resolution A.335 were appended to the Notice. The Resolution recommends that member states of the organization "put into effect as soon as possible the provisions of these recommendations." IMCO intended to strengthen the effectiveness of certain provisions of Chapter IV of the International Convention for the Safety of Life at Sea (Safety Convention) by adopting the following recommendations detailed in the resolution:

(i) Increases the number of radiotelephone operators required on ships be-

tween 500 and 1600 gross tons equipped with radiotelephony only (Regulation 7(a));

(ii) Provides data to describe the minimum normal range of main and reserve transmitter used with self supporting antenna (Regulation 9(g));

(iii) Includes in the radiotelegraph installation facilities for radiotelephony transmission and reception on the radiotelephony distress frequency 2182 kHz (Regulation 9);

(iv) Extends the provisions concerning the minimum range of radiotelephone transmitters to new vessels of 300-500 gross tons and to all vessels 500-1600 gross tons (Regulation 15(c)).

The Commission stated in the Notice that it thought implementation of these recommendations, not mandatorily required by treaty,<sup>7</sup> would improve maritime safety and serve the public interest, convenience and necessity.

3. The Commission agreed to consider that part of the Queen City Yacht Club petition which requested that use of double sideband (A3 emission) be continued "for safety calls on 2182 kHz at any time if communications cannot first be established on VHF Channel 16." In previous action we had established<sup>8</sup> a mandatory date of January 1, 1977, for conversion of ship stations operating in the medium frequency (MF) band to the single sideband modes of emission.<sup>9</sup> The Commission agreed to reconsider continuation of DSB in conjunction with implementation of the IMCO Resolution, particularly Recommendation (a) (iii) of A. 335, which provides for inclusion in radiotelegraph installations facilities for radiotelephone communications on the international distress frequency 2182 kHz.

<sup>1</sup>Docket 21089; Notice of Proposed Rule Making, adopted January 26, 1977, (42 FR 8674, February 9, 1977).

<sup>2</sup>The Inter-Governmental Maritime Consultative Organization (IMCO) is a specialized agency of the United Nations concerned solely with maritime affairs. The organization's main objective is to facilitate cooperation among governments on technical matters affecting the safety of life at sea. IMCO through its Assembly approves all recommendations prepared by the organization. The Assembly during its ninth session on November 12, 1975, adopted Resolution A.335, "Recommendations Related to Chapter IV of the International Convention for the Safety of Life at Sea (Safety Convention) which is concerned with radiotelegraphy and radiotelephony requirements for compulsorily equipped vessels."

<sup>3</sup>RM-2760, Queen City Yacht Club, Petition for Rule Making, filed September 20, 1976.

<sup>4</sup>Double sideband (A3) signals are comprised of a full carrier and two sidebands (upper and lower). One-half of the power is in the carrier and one-half of the power is divided between the two sidebands when fully modulated. This type of emission is employed on the international distress safety and calling frequency rather than more efficient single sideband emissions because of the number of double sideband emergency equipments in use and the simplicity of the DSB system compared to single sideband.

<sup>5</sup>Order, adopted January 26, 1977, FCC 77-68, 42 FR 8694.

<sup>6</sup>Order, adopted January 28, 1977, FCC 77-67.

<sup>7</sup>Resolutions are not part of the Safety Convention to which the United States is signatory. IMCO, in the interest of safety, however, has requested all administrations to implement recommendations contained in its resolutions. It is noted that none of the recommendations contained in the subject resolution are contrary to the requirements set forth in SOLAS (1960) or the 1974 Safety Convention which has been ratified by the Senate.

<sup>8</sup>Docket 18307, First Report and Order, Adopted June 10, 1970, FCC 70-608, 35 FR 10212.

<sup>9</sup>Single sideband emissions include:

*Full carrier (A3H).* The carrier is radiated at one half to one quarter of the (peak envelope) power in the sideband. This mode provides compatibility with DSB systems.

*Reduced carrier (A3A).* The carrier is radiated at one fortieth ( $\frac{1}{40}$ ) of the (peak envelope) power in the sideband. This mode is more efficient in the use of power than the A3H mode. The A3A mode is used where the carrier provides receiver frequency control and line amplifier gain control functions.

*Suppressed carrier (A3J).* The carrier is radiated at one ten thousandth ( $\frac{1}{10,000}$ ) of the (peak envelope) power in the sideband. This is the most efficient SSB mode in the utilization of power.

<sup>10</sup>The following comments were received in response to the Notice of Proposed Rule Making in Docket No. 21089: Offshore Marine Electronics Association (OMEA), E. Miller, Queen City Yacht Club (Queen City), The Interclub Association of Washington (Interclub), Southern California Boating Safety Association (SCBSA), R. L. Nelson, C. D. Cummins, Konel Corporation (Konel), Roche Harbor Yacht Club (Roche Harbor), ITT Mackay Marine (ITT), Northern California Marine Radio Council (NCMRC), Communications Associates, Inc. (CAI), Central Committee on Telecommunications of the American Petroleum Institute (API), Southern California Marine Radio Council (SCMRC), American Institute of Merchant Shipping (AIMS), National Marine Electronics Association (NMEA), Swinomish Yacht Club (SYC), V. Johnson, N. Collins, American Telephone and Telegraph Company (ATT). Reply Comments were received from Northern Pacific Marine Radio Council (NPMRC) and Northern California Marine Radio Council (NCMRC).

## COMMENTS

4. The time for filing comments and reply comments has passed. We have received twenty comments<sup>10</sup> on the proposed rules from equipment manufacturers, maritime organizations, vessel owners and vessel operators concerned with recreational, as well as commercial craft.

5. Comments received were supportive of the Commission's proposals with regard to a(i), a(ii) and a(iv) of IMCO Resolution A.335 which pertain, respectively, to carriage of radiotelephone operators on ships between 500 and 1600 gross tons, minimum normal range of the main and reserve radiotelegraph installations, and the extension of the provisions concerning the minimum normal range of radiotelephone transmitters. No objections were raised to reducing the peak envelope power limit of stations operated by holders of a third class radiotelephone permit, from 1500 to 1000 watts. With regard to a(iii) of the IMCO Resolution, the majority of respondents supported implementation of this proposal; comments received of a technical nature, however, have resulted in modifications to the proposed rules concerning certain aspects of radiotelephone installations.

6. Comments concerning the portion of our proposal related to the Queen City petition, which requests continued use of DSB for distress and safety purposes, were more contentious. Several commenters opposed any extension of the use of double sideband on 2182 kHz and recommended, further, that the Commission should provide for the implementation of a safety system on the MF international distress, safety and calling frequency (2182 kHz) which would use only A3J emissions. The use of single sideband emissions in a national safety system is the subject of a separate Commis-

## USE OF DSB BY COMPULSORILY FITTED VESSELS

7. The proposed rules provide for the continued use of A3 emission on the frequency 2182 kHz for compulsorily fitted radiotelegraph vessels to satisfy the requirements of a(iii) of IMCO Resolution A.335. Of the comments received only Konel, SCMRC and CAI oppose the extension of the cut off date for the use of class A3 emissions in the MF band for all vessels. NCMRC objected to the extension of time permitting use of this emission on voluntarily equipped vessels and those compulsorily fitted vessels subject to Part III of Title III of the Communications Act.

8. The present maritime distress system is operationally prescribed by the Inter-Governmental Maritime Consultative Organization's Safety of Life at Sea Convention of 1960 and explicitly defined in the technical standards set out in the international Radio Regulations. The United States is signatory to these IMCO and ITU treaties, which have been ratified by Congress and are therefore legally binding on US citizenry. The Safety Convention requires that ships equipped with radiotelephone stations comply with the following regulations of Chapter IV:

15(b) The transmitter shall be capable of transmitting on the radiotelephone distress frequency and on at least one other frequency in the bands between 1,605 kc/s and 2,850 kc/s, using the class of emission assigned by the Radio Regulations for these frequencies (emphasis provided). In normal operation the transmitter shall have a depth of modulation of at least 70 per cent at peak intensity.

15(f) The receiver required by paragraph (a) of this Regulation shall be capable of receiving the radiotelephone distress frequency and at least one other frequency available for maritime radiotelephone stations in the bands between 1,605 kc/s and 2,850 kc/s, using the class of emission assigned by the Radio Regulations for these frequencies (emphasis provided). In addition the receiver shall permit the reception of such other frequencies, using the class of emission assigned by the Radio Regulations, as are used for the transmission by radiotelephony of meteorological messages and such other communications relating to the safety of navigation as may be considered necessary by the Administration. The receiver shall have sufficient

sensitivity to produce signals by means of a loudspeaker when the receiver input is as low as 50 microvolts.

9. The international Radio Regulations, article 28, Subsection 19(a), 1976, require that all ship stations equipped with radiotelephone apparatus in the 1605-2800 kHz band be able to transmit class A3 or A3H emissions on 2182 kHz and be able to receive class A3 and A3H emissions on this same frequency. Therefore, the Commission's proposal concerning radiotelegraph vessels subject to the Safety Convention is fully consistent with international regulations. Konel, SCMRC and CAI in their comments fail to weigh sufficiently the fact that compulsorily fitted vessels voyaging worldwide participate in a distress, safety and calling system which must be internationally compatible if it is to be viable. For this reason, and those previously stated in the Notice, radiotelephone installations, which may include existing A3 installations, are required effective January 1, 1980, on compulsorily fitted radiotelegraph vessels subject to the Safety Convention.

10. NCMRC recommends that no extension of time be granted to vessels compulsorily fitted under Part III of Title III of the Act. In this matter we believe our proposed rules have not been clearly understood. Our proposal in this matter modified the rules to incorporate previous Commission actions<sup>12</sup> implementing SSB and increasing the output power of the transmitter consistent with paragraph a(iv) of the IMCO Resolution. The instant rulemaking does not propose to permit DSB to be used in lieu of SSB emissions. However, an existing licensee may retain installed DSB equipment as an adjunct to his compulsorily fitted radiotelephone equipment. The attached rules include the emission designators (A3H and A3J) adopted in the Commission action providing for SSB<sup>13</sup> on 2182 kHz and the power limits proposed in the instant proceeding.

## USE OF DSB BY VOLUNTARILY FITTED VESSELS

11. The Queen City petition requested that existing licensees of DSB equipment be permitted to continue its use for distress and safety purposes only in the event that communications cannot be established using the VHF maritime mobile system. The Commission agreed that the Queen City petition had merit in this regard, and in paragraphs 11 and 12 of the Notice gave its rationale for extending the use of DSB emissions on 2182 kHz. Stated briefly these reasons were (1) the international Radio Regulations provide for indefinite use of A3 emissions on

2182 kHz; (2) foreign flag vessels and coast stations are equipped to receive A3 emissions on 2182 kHz; (3) most of the maritime emergency equipment in use employs A3 emissions. The majority of comments received were supportive of the Commission's proposal; however, Konel, SCMRC, CAI, NCMRC and NMEA were opposed.

12. Konel and SCMRC object to the proposal on the basis that harmful effects will accrue to the maritime mobile SSB implementation program which the Commission initiated in 1967.<sup>14</sup> Konel states that the instant proposal would blunt "the imperative to convert to SSB." However, since this Notice was adopted, the Commission has released rules<sup>15</sup> providing for a national SSB system using A3J emissions, as Konel advocated in its comments. For this reason, we must conclude that this matter is now moot.

13. NCMRC states that the most serious shortcoming of the Commission's proposal is in the area of small vessel DSB equipment reliability, and that "In general, the only assurance that the operator of a smaller vessel normally has that the radio equipment is functioning properly is by its performance in day-to-day operation under relatively familiar conditions." The Commission recognizes the merits in this statement with regard to the older DSB equipment. Our proposal did not address testing, and this may have in part precipitated NCMRC's comments on DSB equipment reliability. Several inquiries from the general public, including comments from Konel, ITT, NMEA and CAI, were received concerning the legality of testing the equipment. Our present rules, while discouraging two way communications during tests, permit ship stations to test equipment on 2182 kHz with other ship stations and coast stations, except those operated by the U.S. Coast Guard, for the purpose of obtaining signal reports. In addition to the test capability currently provided in our rules, we are modifying our proposal to permit the brief testing of this equipment on 2182 kHz with ship or coast stations to assure compatibility with the SSB (A3J) system. This added test capability should permit the small vessel operator to determine more readily that his or her equipment is functioning properly. We be-

<sup>11</sup>Docket No. 17295, Report and Order, released July 25, 1968, FCC 68-740, 33 FR 10849.

<sup>12</sup>Docket No. 18307, First Report and Order, released June 16, 1970, FCC 70-608, 35 FR 10212.

<sup>13</sup>Docket No. 18632, Report and Order, released October 26, 1971, FCC 71-1044, 36 FR 20949.

<sup>14</sup>Docket No. 18633, First Report and Order, released June 28, 1971, FCC 71-663, 36 FR 12502.

<sup>15</sup>Docket 78-208, Op. cit.

<sup>16</sup>Docket 18307, op. cit.

<sup>17</sup>Docket 78-208, op. cit.

## RULES AND REGULATIONS

tion action<sup>11</sup> and is not being considered within the scope of this proceeding. This report will focus on the merits of extending the use of A3 emissions for distress and safety purposes only, as requested in the Queen City petition, taking into account the pertinent aspects of the proceeding in Docket 78-208.

## USE OF DSB BY COMPULSORILY FITTED VESSELS

7. The proposed rules provide for the continued use of A3 emission on the frequency 2182 kHz for compulsorily fitted radiotelegraph vessels to satisfy the requirements of a(iii) of IMCO Resolution A.335. Of the comments received only Konel, SCMRC and CAI oppose the extension of the cut off date for the use of class A3 emissions in the MF band for all vessels. NCMRC objected to the extension of time permitting use of this emission on voluntarily equipped vessels and those compulsorily fitted vessels subject to Part III of Title III of the Communications Act.

8. The present maritime distress system is operationally prescribed by the Inter-Governmental Maritime Consultative Organization's Safety of Life at Sea Convention of 1960 and explicitly defined in the technical standards set out in the international Radio Regulations. The United States is signatory to these IMCO and ITU treaties, which have been ratified by Congress and are therefore legally binding on US citizenry. The Safety Convention requires that ships equipped with radiotelephone stations comply with the following regulations of Chapter IV:

15(b) The transmitter shall be capable of transmitting on the radiotelephone distress frequency and on at least one other frequency in the bands between 1,605 kc/s and 2,850 kc/s, using the class of emission assigned by the Radio Regulations for these frequencies (emphasis provided). In normal operation the transmitter shall have a depth of modulation of at least 70 per cent at peak intensity.

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sensitivity to produce signals by means of a loudspeaker when the receiver input is as low as 50 microvolts.

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<sup>14</sup>Docket No. 18633, First Report and Order, released June 28, 1971, FCC 71-663, 36 FR 12502.

<sup>15</sup>Docket 78-208, Op. cit.

<sup>16</sup>Docket 18307, op. cit.

<sup>17</sup>Docket 78-208, op. cit.



lieve that such over-the-air testing can be used as a substitute for the normal day-to-day operation considered so necessary by NCRMC.

14. SCMR in its comments points out that because of the Commission's previous action<sup>16</sup> to require all ship stations to convert to SSB on January 1, 1977, maintenance of older DSB equipment may be difficult to obtain and parts may not be available to make repairs. We are not overly concerned with the problem of maintenance, because any such difficulty encountered by the user will serve to encourage the fitting of SSB equipment which, as stated in paragraph 14 of the Notice, is consistent with the Commission's long term goals for the maritime mobile service.

15. CAI has recommended that, in the event the Commission sees fit to grant an extension of time for the use of A3 emissions, multichannel equipment be modified to provide for transmission only on 2182 kHz. While we understand the intent of CAI's comment, our proposal only permits operation on 2182 kHz and communications on other frequencies would be in violation of the Commission's rules. In the maritime mobile service we have generally relied on the operator to comply with our rules. Further, we are not certain of the technical problems which would be encountered in modifying equipment to eliminate all frequencies except 2182 kHz if such a regulation were adopted. Should abuses of the nature envisioned by CAI occur, the Commission will take appropriate action at that time to assure compliance with our rules.

16. NMEA states that our proposal to extend the use of DSB will damage the Commission's and its own credibility with the public, since NMEA devoted considerable effort to educating the public with regard to the Commission's SSB program and the 1 January 1977, cut off date for DSB. In this regard, we sincerely appreciate NMEA's concern and efforts to educate the maritime community with regard to the Commission's proceedings. However, our reasons for modifying the SSB program to permit the continued carriage of existing DSB equipment for distress and safety purposes are clearly enunciated in the Notice and supported by a majority of respondents. It is our opinion that the safety benefits to be derived by the modification of our program far outweigh the concerns expressed by NMEA. Consequently, we consider it in the public interest to permit the continued use of DSB for the purpose proposed.

17. Queen City, Interclub, SCBSA, SYC, Mr. Nelson, Roche Harbor, Mr. C. D. Cummins and Mr. E. Miller in

their comments requested the Commission to provide for the use of another medium frequency channel in addition to 2182 kHz for safety communications. NPMRC and NCMRC filed reply comments objecting to the use of A3 on other frequencies in the MF band. We expect that vessels which repeatedly sail in areas that require use of MF propagation characteristics to assure good communications are presently fitted with SSB equipment. The majority of vessels equipped to operate in the medium frequency have SSB capability and we are reluctant to provide for use of DSB at the expense of SSB. No valid data indicating a need for additional channels has been submitted; we agree with the reply comments filed and are not convinced that an additional MF channel should be made available to users of DSB emissions.

#### THE RADIOTELEPHONE INSTALLATION

18. Several commenters including ITT, API and AIMS addressed the specific rules we proposed concerning the radiotelephone installation required on compulsorily fitted vessels and we will address these matters in the following paragraphs.

19. The proposed rule, § 83.445(e), concerning the requirement for connection of the double sideband radiotelephone installation to a vessel reserve power supply was commented on by ITT, API and AIMS. ITT indicates that to operate existing radiotelephone installations from the radiotelegraph reserve power supply would require the addition of many ampere-hours capacity to the radiocommunications reserve supply. API and AIMS stated that the proposed rules are ambiguous since they do not define whether the supply referred to is the ship's reserve power supply or its radiocommunications reserve supply. The Commission's proposed rules refer to the radiocommunications reserve supply defined in § 83.444 of our rules. We did not anticipate costly expansion of the ampere-hour capacity of the existing reserve supply which ITT has indicated would be necessary. It is our intent to permit existing DSB equipment to be utilized with minimum modification to the installation. In light of the ITT comment, we are of the opinion that this end can be best achieved by deleting § 83.445(e) of the proposed rules.

20. The Commission proposed (§ 83.445(b)) that the receiver used be capable of reception of A3H or A3 class of emission. ITT points out that the ITU frequency tolerance for class A3 emission on 2182 kHz is  $\pm 655$  Hz for survival craft stations and  $\pm 436$  Hz for ship stations. Further, ITT notes that A3 signals become unintelligible using an SSB receiver when the

carrier frequency is removed by more than 350 Hz. For this reason, and the specific requirements of IMCO and ITU previously discussed in paragraph 8 of this Report the Commission is modifying the proposed rules to specify that the receiver shall be capable of A3 and A3H for compulsorily fitted vessels subject to the SOLAS Convention.

21. ITT requests that the Commission clarify § 83.445(a) (1) and (3), which concern, respectively, the duty cycle of the transmitter and the requirement for a visual indication that the transmitter is operating. Section 83.445(a)(1) as proposed is intended to ensure that the transmitting device, which is generally used for voice communications, has sufficient power handling capability to permit the sending of a continuous tone for a period of up to one minute. It does not relate to the on-off period of the radiotelephone two tone alarm signal, which is discussed in Subpart J of Part 83 of the Commission's rules. Our rules (§ 83.235)(c)) establish the absolute priority of the distress call over all messages and require other stations capable of causing interference with distress traffic to cease transmissions. Since the vessel in distress has priority on the use of the channel, we see no reason to limit the period between distress calls and are of the opinion that § 83.445(a)(1) should not be changed. The visual indication required to show that the transmitter is supplying power to the antenna must be activated by a portion of the transmitter output power. A light operating from the transmitter push-to-talk switch, as suggested by ITT, is not adequate. This requirement is the same as the present Commission's rules governing radiotelephone transmitters subject to Part II of Title III of the Communications Act and the Safety Convention.

22. API and AIMS submitted comments concerning the omnidirectional property of the antenna required for the radiotelephone installation. The proposed rules require that the antenna "be nondirectional." The respondents correctly point out that a truly nondirectional antenna cannot be realized in practice and recommend that the wording be modified to indicate that the antenna be as nondirectional "as practicable." The Commission agrees with the wording recommended by AIMS for the reasons stated above and § 83.445(c) is modified accordingly.

23. API and AIMS further note that our proposed modification to § 83.106(a), requiring A3H, A3A, and A3J on 2182 kHz and two other frequencies in the band 1605–3500 kHz, creates problems for vessels fitted with preprogrammed equipment. Programmable cards are used to control the receiver; a separate card is used

for each separate frequency and class of emission. The equipment would require 9 cards to comply with the proposed rule. It is pointed out that, in the commenter's opinion, this requirement is excessive and unnecessary to satisfy the Commission's objective to provide an integrated radiotelegraph/radiotelephone distress communication system in accordance with IMCO's Resolution A.335. The Commission has considered this section of the rules in a recent proceeding<sup>17</sup> providing for SSB on the frequency 2182 kHz. We believe that § 83.106(a) as adopted in the Report and Order in Docket 78-208 satisfies the concerns expressed by API and AIMS. The transmitter is required to transmit A3J on 2182 kHz, A3A and A3J on at least two other frequencies in the 1605–3500 MHz band. Ship stations are, additionally, authorized to transmit using emission A3H for communications with foreign coast stations and with vessels of foreign registry. Section 83.106(a) is modified to reflect these changes.

24. The proposed rules (§ 83.445(d)) require that the radiotelephone installation shall be provided with a device to permit rapid changeover from transmission to reception. ITT in its comments seeks clarification of the Commission's intent with regard to these rules. The device referred to is a push-to-talk switch, and, where practicable, is intended to be located in the microphone or on the telephone handset. A voice operated relay (VOX) may also be used to satisfy this requirement but it is not mandatory that this method be used to effect rapid changes between transmitting and receiving equipment.

25. AIMS and API request that we permit the radiotelephone installation to be located in the chart room because they do not consider it is necessary that the equipment be mounted on the bridge or in the radiotelegraph operating room. The 1974 Safety Convention, Regulation 7, specifically requires that the radiotelephone watches be maintained in the place to be determined by the administration concerned. We have in the proposed rules provided latitude to permit loudspeakers to be installed in the room from which the vessel is normally steered and in the radiotelegraph room to allow the radio operator to stand the required continuous watch during the hours he is on duty. API and AIMS have not supported their comments with factual information showing why installation in a chart room would not degrade the efficiency of the required radio watch. Therefore the rules as proposed in the Notice are adopted.

26. AIMS and API provided comments concerning the Commission's

requirement that the equipment be adequately protected from excessive voltages and currents to prevent damage to any component which is used in the equipment. API states that it is not possible to completely protect every component in all cases. However, API does not describe specific instances for our consideration. AIMS states that the rules should be modified to provide protection to the equipment itself rather than the components used in the equipment. The rules proposed in the Notice (§ 83.445(h)) require that the equipment be "adequately protected," which is construed to mean that the equipment or components used therein, when subject to power variations normally experienced in ship power supplies, will not be damaged. Protection of any component in cases which fall outside of what can normally be expected is not required. Further, we see little to be gained by replacing the word "component" with "equipment" as suggested by AIMS since protection of the equipment implies protection of individual components. Therefore, we are adopting the rules as proposed.

27. The radiotelephone installation which we are proposing to make mandatory on radiotelegraph equipped ships is supplemental to the 500 kHz radiotelegraph safety system presently used on such vessels. Since this is a supplementary safety system, we proposed (§ 83.445) that a malfunction of the radiotelephone equipment should not cause the ship to be delayed in port if "repair is not practicable." AIMS states that this wording is highly subjective and suggests in its place the phrase "adequate repairs are not readily available." We consider AIMS comment to be a difference without a distinction, and the rule as proposed is adopted.

#### OPERATIONAL CONSIDERATIONS

28. AIMS in its comments draws attention to the inconsistency between § 83.484(a), 83.106(a) and 83.517(a), which define technical specifications for MF radiotelephone transmitters carried on various classes of vessels and, in particular, the channel capacity requirements. The subject rule sections pertain to vessels which have dissimilar operational needs and the authority for these regulations are derived from different national and international statutes. The changes in this rulemaking are consequential to previous Commission proceedings implementing SSB<sup>18</sup> and §§ 83.106, 83.484 and 83.517 have been further considered by the Commission in General Docket 78-208. The appended rules are modified to take this action into ac-

count. In other respects the rules are adopted as proposed.

29. The rules set out in the Notice did not address testing of the radiotelephone two tone alarm signal generator. ITT in its comments recommends that the Commission require periodic checks of the radiotelephone installation using an artificial antenna. The Commission agrees with this recommendation and § 83.445 is modified to require a weekly check of the radiotelephone alarm signal generator on frequencies other than the radiotelephone distress frequency using a suitable artificial antenna.

30. AIMS notes in its comments that the 1974 Safety Convention, which has yet to be signed by a sufficient number of administrations permitting it to come into force, will require a continuous radio frequency watch using a radiotelephone distress frequency watch receiver using a loudspeaker, a filtered loudspeaker or a radiotelephone auto alarm. AIMS and ITT advocate permitting the use of a receiver capable of responding to the two tone alarm signal (auto alarm) to meet the radiotelephone watch requirement. Existing Commission rules require an aural watch on the distress frequency and do not permit the use of automatic devices. There are many aspects of the proposal put forth by AIMS and ITT which require further examination, including safety considerations and technical specifications governing the design of such a receiver. These matters have not been discussed in this proceeding and further, there is mounting concern internationally regarding the effectiveness of the filtered loudspeaker feature in these receivers. For these reasons, the Commission feels it is premature to include regulations providing for use of radiotelephone watch receivers in this proceeding. We are aware, however, that use of such a receiver on vessels plying waters further than 200 miles from shore may offer advantages with regard to the safety of navigation. The broad scope of this subject is sufficient to warrant a separate rulemaking and we are considering initiating such action in this matter.

31. Regarding questions on matters covered in this document contact Robert McIntyre, telephone (202) 632-7197.

32. Accordingly, it is ordered, That pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached Appendix, effective January 1, 1980.

33. It is further ordered, That this proceeding is terminated.

<sup>16</sup>Docket 18307, Op. Ct.

<sup>17</sup>Docket 78-208, op. cit.

<sup>18</sup>Dockets No. 17295, 18307, 18632 and 18633, op. cit.



(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

## APPENDIX

PART 83—STATIONS ON SHIPBOARD  
IN THE MARITIME SERVICES

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.106(a) is amended to read as follows:

§ 83.106 Required frequencies for radiotelephony.

(a) Each ship radiotelephone station licensed to operate in the band 1605 to 3500 kHz shall be able to receive and transmit the emission A3J<sup>1</sup> on the carrier frequency 2182 kHz. Ship stations are, additionally, authorized to receive and transmit using emission A3H for communications with foreign coast stations and with vessels of foreign registry. If the station is used for other than safety communications, it shall be capable also of receiving and transmitting the emission A3A and A3J on at least two other frequencies in that band. For ship stations on vessels operating (1) exclusively on the Mississippi River and its connecting waterways, and (2) also on high frequency bands above 3500 kHz, such stations may be equipped with only one, instead of two, other frequencies within the band 1605-3500 kHz in addition to the frequency 2182 kHz. Additionally, use of A3 emissions are permitted for distress and safety purposes on 2182 kHz for portable survival craft equipment having the capability to operate on 500 and 8364 kHz and for transmitters authorized for use prior to January 1, 1972, in accordance with applicable rules of this part.

2. Section 83.132(a)(2)(i) is amended to read as follows:

§ 83.132 Authorized classes of emission.

(a) \* \* \*

(2) Stations using radiotelephony:

(i) For frequencies below 23 MHz designated in § 83.351(a): 2182 kHz A3J<sup>1</sup>, A3H<sup>2</sup>, A3<sup>3</sup>.

<sup>1</sup>Capability for A3J emission 2182 kHz shall be completed on or before April 30, 1979.

<sup>2</sup>Ship stations are, additionally, authorized to receive and transmit using emission A3H for communication with foreign coast stations and with vessels of foreign registry.

<sup>3</sup>The transition from emission A3H to emission A3J shall be completed on or before April 30, 1979.

<sup>4</sup>A3: A3 emission permitted pursuant to § 83.139 and for portable survival craft equipment having the capability to operate on 500 and 8364 kHz.

3. Section 83.139(c) and (c)(3) are amended and a new (c)(4) is added to read as follows:

§ 83.139 Acceptability of transmitters for licensing.

(c) DSB transmitters, except for portable survival craft equipment, operating in the band 2000-2850 kHz will not be authorized in new ship stations. DSB transmitters authorized for use prior to January 1, 1972, may continue to be used by the same licensee for testing, distress and safety purposes on the frequency 2182 kHz subject to the following:

(3) Stations aboard vessels registered in the State of Alaska, or documented vessels with a home port in Alaska, which employ a DSB transmitter under a ship station license which expired during the period January 1, 1971 to January 1, 1973, may be renewed for use by the licensee on 2182 kHz for distress and safety purposes if an application for renewal of the ship station license is submitted; *And provided further*, That the license has not been:

(i) Cancelled at the request of the licensee; or

(ii) Revoked by action of the Commission.

(4) DSB transmitters, other than survival craft equipment, in use after March 1, 1979, shall be clearly and indelibly marked as follows to indicate the purpose for which it may be used: "Distress and Safety Use Only." In some cases due to different frequency tolerance requirements DSB equipment may not provide satisfactory communications with coast and ship stations equipped to operate in the SSB mode.

4. Section 83.155 is amended by revising paragraph (d) to read as follows:

§ 83.155 Operator(s) required by Title III of Communications Act of 1934.

(d) Each cargo ship of the United States which, in accordance with Part II of Title III of the Communications Act, is equipped with a radiotelephone station shall for distress and safety purposes carry at least one qualified operator. Where the power of the station does not exceed 250 watts carrier power for A3 emission, or 1000 watts peak envelope power for A3A, A3H and A3J emissions, such operator shall

All other frequencies A3, A3A, A3H or A3J as specified in § 83.351(a) and (b).

hold a radiotelephone third-class operator permit or higher class of operator authorization. Where the power of the station exceeds 250 watts carrier power for A3 emission, or 1000 watts peak envelope power for A3A, A3H and A3J emissions such operator shall, as a minimum, hold a radiotelephone second-class operator license.

5. In § 83.156, paragraph (b) is amended to read as follows:

§ 83.156 Operator(s) required by the Safety Convention.

(b) Each cargo ship of the United States which, in accordance with the Safety Convention, is equipped with a radiotelephone station, shall for distress and safety purposes carry the following number and class of radiotelephone operators:

(1) On ships of 300 tons gross tonnage and upward but less than 500 tons gross tonnage, at least one operator;

(2) On ships of 500 tons gross tonnage and upward but less than 1600 tons gross tonnage one radiotelephone operator exclusively employed for duties related to radiotelephony or two radiotelephone operators when one is not exclusively employed for duties related to radiotelephony.

(3) Where the power of the station does not exceed 250 watts carrier power for A3 emission, or 1000 watts peak envelope power for A3A, A3H and A3J emissions such operator shall hold a radiotelephone third-class operator permit or higher class of operator authorization. Where the power of the station exceeds 250 watts carrier power for A3 emission or 1000 watts peak envelope power for A3A, A3H and A3J emissions such operator shall, as a minimum, hold a radiotelephone second-class operator license.

6. Section 83.202(a) is amended to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

(a) Each ship of the United States which is equipped with a radiotelegraph station for compliance with Part II of Title III of the Communications Act shall, while being navigated in the open sea outside of a harbor or port, keep a continuous and efficient watch on 500 kHz by means of radio officers. In lieu thereof, on a cargo ship equipped with a radiotelegraph auto alarm in proper operating condition, an efficient watch on 500 kHz shall be maintained by means of a radio officer for at least 8 hours per day in the aggregate, i.e., for at least one-third of each day or portion of

each day that the vessel is navigated in the open sea outside of a harbor or port. Ships equipped with a radiotelegraph station shall also maintain a continuous watch when in the open sea outside a harbor or port on the radiotelephone distress frequency 2182 kHz from the principal radio operating position or the room from which the vessel is normally steered.

7. Section 83.203(a) is amended to read as follows:

§ 83.203 Watch required on vessels subject only to the Safety Convention.

(a) Each ship of the United States which is equipped with a radiotelegraph station for compliance with the Safety Convention, but which is not fitted with a radiotelegraph auto alarm in proper operating condition, shall while at sea keep a continuous and efficient watch on 500 kHz by means of radio officers. Ships equipped with a radiotelegraph station shall also maintain a continuous watch when in the open sea outside a harbor or port on the radiotelephone distress frequency 2182 kHz from the principal operating position or the room from which the vessel is normally steered. If fitted with a radiotelegraph auto alarm in proper operating condition, the 500 kHz watch shall be kept while at sea as follows:

(1) Each cargo ship, and each passenger ship carrying or certificated to carry 250 passengers or less, or more than 250 passengers but engaged on a voyage of less than 16 hours duration between two consecutive ports, at least 8 hours watch a day;

(2) Each passenger ship carrying or certificated to carry more than 250 passengers and engaged on a voyage exceeding 16 hours duration between two consecutive ports, at least 16 hours watch a day.

8. Section 83.351(c)(2) is amended and a new paragraph (d) added to read as follows:

§ 83.351 Frequencies available.

(c)(2) Transmitters, except portable survival craft equipment, employing A3 emission which were authorized (see Section 83.139(c)) prior to January 1, 1972, may continue to be used by the same licensee on the frequency 2182 kHz for testing, distress and safety purposes when the ship station is equipped for use of F3 emission on frequencies in the band 156-162 MHz.

(d) Ship stations in international waters or waters controlled by foreign countries may communicate with ship and coast stations operating under authority granted by other administrations using A3H emissions in the band 1605-4000 kHz until January 1, 1982.

9. In § 83.365, paragraph (a)(4) is amended to read as follows:

§ 83.365 Procedure in testing.

(a) \* \* \*

(4) Testing of transmitters shall, insofar as practicable, be confined to working frequencies without two way communications. However, 2182 kHz and 156.8 MHz may be used to contact other ship or coast stations when signal reports are necessary. Short tests, by vessels which continue to rely upon the use of DSB equipment for distress and safety purposes, are permitted on 2182 kHz to evaluate the compatibility of that equipment with an SSB emission A3J system. U.S. Coast Guard stations may be contacted on 2182 kHz for test purposes only when tests are being conducted during inspections by Commission representatives or when qualified radio technicians are installing equipment or correcting deficiencies in the station radiotelephone equipment. In these cases the test shall be identified as "FCC" or "technical" and logged accordingly.

10. The title of Subpart R is changed as follows:

**Subpart R—Radiotelegraph Stations  
Provided for Compliance With Part  
II of Title III of the Communications  
Act or the Radio Provisions of the  
Safety Convention**

11. In § 83.442 the heading and text are amended to read as follows:

§ 83.442 Radio station.

The station required to be provided on a radiotelegraph equipped ship by reason of the provisions of Part II of Title III of the Communications Act, or on a U.S. ship by reason of the Safety Convention, shall comply in an efficient manner with the provisions of this subpart in addition to all other applicable requirements of this part. The station comprises a main and a reserve radiotelegraph installation, electrically separate and electrically independent of each other (except as otherwise provided in paragraph (b) of § 83.443), a radiotelephone installation<sup>4</sup> and such other equipment as may be necessary for the proper use and operation of these installations.

<sup>4</sup>Effective January 1, 1980, radiotelephone installations are required.

12. In § 83.443 the heading and paragraphs (a) and (b) are amended, and a new paragraph (c) is added to read as follows:

§ 83.443 Radio installations.

(a) The main radiotelegraph installation includes a main transmitter, a main receiver, a main power supply, and a main antenna system.

(b) The reserve radiotelegraph installation includes a reserve transmitter, a reserve receiver, a reserve power supply, emergency electric lights, and reserve antenna system: *Provided, however, That:*

(c) The radiotelephone installation includes a radiotelephone transmitter, a radiotelephone receiver and an appropriate antenna system.

13. A new § 83.445 is added to read as follows:

§ 83.445 Requirements of radiotelephone installation.

All radiotelephone installations in radiotelegraph equipped vessels shall comply with the following conditions in addition to all other requirements.

(a) The radiotelephone transmitter shall be capable of effective transmission of A3 or A3H emission on 2182 kHz and shall be capable of transmitting clearly perceptible signals from ship to ship during daytime, under normal conditions and circumstances over a minimum normal range of 150 nautical miles when used with an antenna system in accordance with paragraph (c) of this section. The transmitter shall:

(1) Have a duty cycle which allows for effective transmission of the international radiotelephone alarm signal.

(2) Be capable of delivering not less than 25 watts carrier power for A3 emission or 60 watts peak power for A3H emission into an artificial antenna consisting of 10 ohms resistance and 200 picofarads capacitance of 50 ohms nominal impedance to demonstrate compliance with the 150 nautical mile range requirement.

(3) Be equipped with a device which will provide visual indication whenever the transmitter is supplying power to the antenna.

(4) Be equipped with a device capable of generating the international two-tone alarm pursuant to § 83.142 and type approved by the Commission for such use.

(b) The radiotelephone receiver shall be capable of efficiently receiving A3 and A3H when connected to the antenna system specified in paragraph (c) of this section and shall be preset and capable of accurate and convenient selection of 2182 kHz. The receiver shall additionally:



(1) Have sufficient sensitivity to provide an audio output of 50 milliwatts to a loudspeaker when the input is as low as 50 microvolts. The 50 microvolt input signal shall be modulated 30 percent at 400 Hertz and provide at least a 6 dB signal-to-noise ratio when measured in the rated audio bandwidth.

(2) Be equipped with one or more loudspeakers capable of being effectively used to maintain a watch on 2182 kHz at the principal operating position or in the room from which the vessel is normally steered.

(c) The antenna system shall be as nondirectional and efficient as is practicable for the transmission and reception of radio ground waves over seawater. The installation and construction of the required antenna shall be such as to ensure, insofar as is practicable, proper operation in time of emergency. If the required antenna is suspended between masts or other supports subject to whipping, an approved device (safety link) shall be installed which under heavy stress will operate to greatly reduce such stress without breakage of the antenna, the halyards, or any other supporting elements.

(d) The radiotelephone installation shall be provided with a device for permitting changeover from transmission to reception and vice versa without manual switching.

(e) An artificial antenna shall be provided to permit weekly checks, without causing interference, of the automatic device for generating the radiotelephone alarm signal on frequencies other than the radiotelephone distress frequency.

(f) The radiotelephone installation shall be located in the radiotelegraph operating room or in the room from which the ship is normally steered.

(g) Demonstration of the equipment comprising the radiotelephone installation may be required to show compliance with applicable regulations whenever in the judgment of the Commission this is deemed necessary.

(h) Equipment used in the radiotelephone installation shall be adequately protected by means of suitable devices from excessive currents and voltages which cause damage to any component thereof.

(i) The radiotelephone installation should be maintained in an efficient condition however, malfunction of this equipment shall not be considered as making the vessel unseaworthy or as a reason for delaying the ship in ports where repair is not practicable.

14. In § 83.484, paragraph (d)(2) is amended to read as follows:

§ 83.484 Radiotelephone transmitter.

(d) \*\*\*

(2) The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable, with normal operating voltages applied, of delivering not less than 60 watts peak envelope power for A3H and A3J<sup>1</sup> emissions on each of the frequencies 2182 and 2638 kHz into either an artificial antenna consisting of a series network of 10 Ohms effective resistance and 200 picofarads capacitance or an artificial antenna of 50 Ohms nominal impedance; *Provided, however*, That an individual demonstration of the power output capability of the transmitter, with the radiotelephone installation normally installed on board ship, may be required whenever in the judgment of the Commission this is deemed necessary.

§ 83.517 Medium frequency transmitter. (a) The transmitter shall have a peak envelope output power of at least 60 watts for A3H and A3J<sup>1</sup> emissions on 2182 kHz, in accordance with § 83.351, and at least one ship-to-shore working frequency within the band 1605 to 2850 kHz enabling communication with a public coast station serving the region in which the vessel is navigated.

§ 83.517 Medium frequency transmitter.

(a) The transmitter shall have a peak envelope output power of at least 60 watts for A3H and A3J<sup>1</sup> emissions on 2182 kHz, in accordance with § 83.351, and at least one ship-to-shore working frequency within the band 1605 to 2850 kHz enabling communication with a public coast station serving the region in which the vessel is navigated.

(c) \*\*\*

(2) The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable, with normal operating voltages applied, of delivering not less than 60 watts peak envelope power for A3H and A3J<sup>1</sup> emissions on each of the frequencies 2182 and 2638 kHz into either an artificial antenna consisting of a series network of 10 Ohms effective resistance and 200 picofarads capacitance or an artificial antenna of 50 Ohms nominal impedance. An individual demonstration of the power output capability of the transmitter, with the radiotelephone installation normally installed on board ship, may be required whenever in the judgment of the Commission this is deemed necessary.

[FR Doc. 79-9348 Filed 3-27-79; 8:45 am]

<sup>1</sup>Capability for A3J emission on 2182 kHz shall be completed on or before April 30, 1979.

[1505-01-M]

#### Title 50—Wildlife and Fisheries

### CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

#### PART 611—FOREIGN FISHING

##### Reports and Recordkeeping

##### Correction

In FR Doc. 79-7772, appearing at page 15726 in the issue of Thursday, March 15, 1979, the effective date was inadvertently omitted. The effective date should be "Effective March 13, 1979."

[3510-22-M]

#### PART 653—ATLANTIC HERRING FISHERY

##### Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency regulations and request for comments.

SUMMARY: These emergency regulations implement an amendment to the fishery management plan for Atlantic herring which changes statistical procedures. The purpose of this amendment is to conserve migrating Gulf of Maine herring while giving fishermen a better opportunity to harvest the optimum yield in the Georges Bank and South area.

DATES: Effective date: March 23, 1979. Comments are invited until >May 23, 1979.

ADDRESS: Send comments to Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; Telephone (617) 281-3600.

FOR FURTHER INFORMATION CONTACT:

Same address as above.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP), prepared by the New England Fishery Management Council, was approved December 11, 1978, by the Assistant Administrator for Fisheries. On December 28, 1978, the FMP was implemented through emergency regulations and published in the FEDERAL REGISTER (43 FR 60474). Those regulations took effect December 28, 1978, for a period of 45

days. The emergency regulations were extended until March 19, 1979 (44 FR 7711). Final regulations were promulgated March 19, 1979 (44 FR 17186, March 21, 1979).

Two separate stocks of herring from U.S. waters, the Gulf of Maine stock and the Georges Bank stock, are managed by the FMP. A primary objective of the FMP is to prevent excess removal from the depressed Gulf of Maine stock. The 1978-79 quota for the Gulf of Maine was set at 8,000 mt, less than half the average annual harvest for that area since 1972. To offset the decreased harvest from the Gulf of Maine and to stimulate greater fishing effort on the Georges Bank stock, the FMP provided a 10,000 mt annual quota for the Georges Bank and South area, 2,500 mt in the winter/spring (December 1-June 30) season and 7,500 mt in the summer/fall (July 1-November 30) season. The winter/spring quota is low, to protect the Gulf of Maine stock present during those months.

Some of the Gulf of Maine herring migrate south of the Gulf and overwinter east of 71°50' W. longitude, but no tagged Gulf of Maine herring have been recaptured west of the line (see Figure 1). Therefore, there is no evidence that harvesting herring from west of 71°50' W. longitude will have a significant impact on the critical Gulf of Maine stock.

The New England Fishery Management Council voted unanimously at its regular meeting, November 29, 1978, to adopt an amendment to the FMP to allow all herring caught west of 71°50' W. longitude to be counted against the summer/fall Georges Bank and South area quota regardless of when caught.

The amendment is intended to give fishermen a better opportunity to harvest the optimum yield in the Georges Bank and South area. Because the fishermen are encouraged to concentrate their fishery in the area west of 71°50' (a longitude which roughly intersects the boundary between Connecticut and Rhode Island), the Gulf of Maine stock which seasonally moves south of Cape Cod will not be subjected to heavy fishing pressure

outside of the Gulf of Maine. At the same time, the Georges Bank stock will be adequately harvested. This amendment does not change any numbers. The total annual adult herring quota for the Georges Bank and South area will remain at 10,000 mt; the only change is that herring caught west of 71°50' W. longitude from December 1 through June 30 will be counted against the 7,500 mt summer/fall quota.

The winter/spring fishing season is more than half over. This amendment is being implemented by emergency regulations to provide fishermen the opportunity to harvest the optimum yield under the current quota. The closure of the Gulf of Maine to herring fishing on March 15, 1979, has increased fishing effort in the Georges Bank and South area, which increases the probability that the winter/spring quota soon will be reached. This measure also provides the incentive for fishermen to conserve the critical Gulf of Maine stock by concentrating their fishery west of 71°50'.

The amendment has been reviewed, and was approved March 12, 1979, under a delegation of authority from the Secretary of Commerce to the Assistant Administrator for Fisheries, NOAA.

The FMP is amended as follows:

1. The following paragraph is added to the end of Section 3.2.3.2: Herring tagging studies indicate that stock overlapping in the Georges Bank and South area is significant during the winter/fall fishery primarily east of 71°50' W. longitude. The relatively low allowable catch for that area and period will provide further protection to the Gulf of Maine spawning stock. The stock overlapping is believed to be less significant west of that line. Therefore, all herring caught west of 71°50' W. longitude shall be counted against the summer/fall (July 1-November 30) 5Z/SA6 quota, regardless of when caught.

2. The second paragraph of Section 3.2.3.4. is amended to read: The TALFF for herring in the Georges Bank and South area for the fishing year 1978/79 has been determined to

be zero (Block K in Figure 3.2.). It should be noted that all herring caught west of 71°50' W. longitude will be counted against the relatively large summer/fall quota for this area, thereby increasing the likelihood that the entire quota for this area and period will be completely harvested. This is consistent with the New England Fishery Management Council's intent to secure a maximum rate of stock recovery in 1978/79 (Block G in Figure 3.2.), given that the expected domestic catch for herring in the area is to be accommodated within the OY (Block F in Figure 3.2.).

The final environmental impact statement for the FMP for Atlantic herring was filed with the Environmental Protection Agency on September 18, 1978.

The Assistant Administrator finds and determines that, based on the above, an emergency exists in the fishery. Consequently, these regulations are promulgated as emergency regulations according to Section 305 (e)(2) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.* These regulations have been issued in response to an emergency and are, therefore, exempt from the provisions of E. O. 12044. Comments on these regulations are invited until May 23, 1979.

Signed at Washington, D.C. this the 23d day of March 1979.

(16 U.S.C. 1801 *et seq.*)

WINFRED H. MEIBOHM,  
Executive Director, National  
Marine Fisheries Service.

Amend 50 CFR 653.21(b) by adding a new paragraph (3) as follows:

§ 653.21 Seasonal catch quotas.

(b) \*\*\*

(3) All herring caught west of 71°50' W. longitude will be counted against the quota in § 653.21(b)(1), no matter when they are caught.



[3510-22-C]

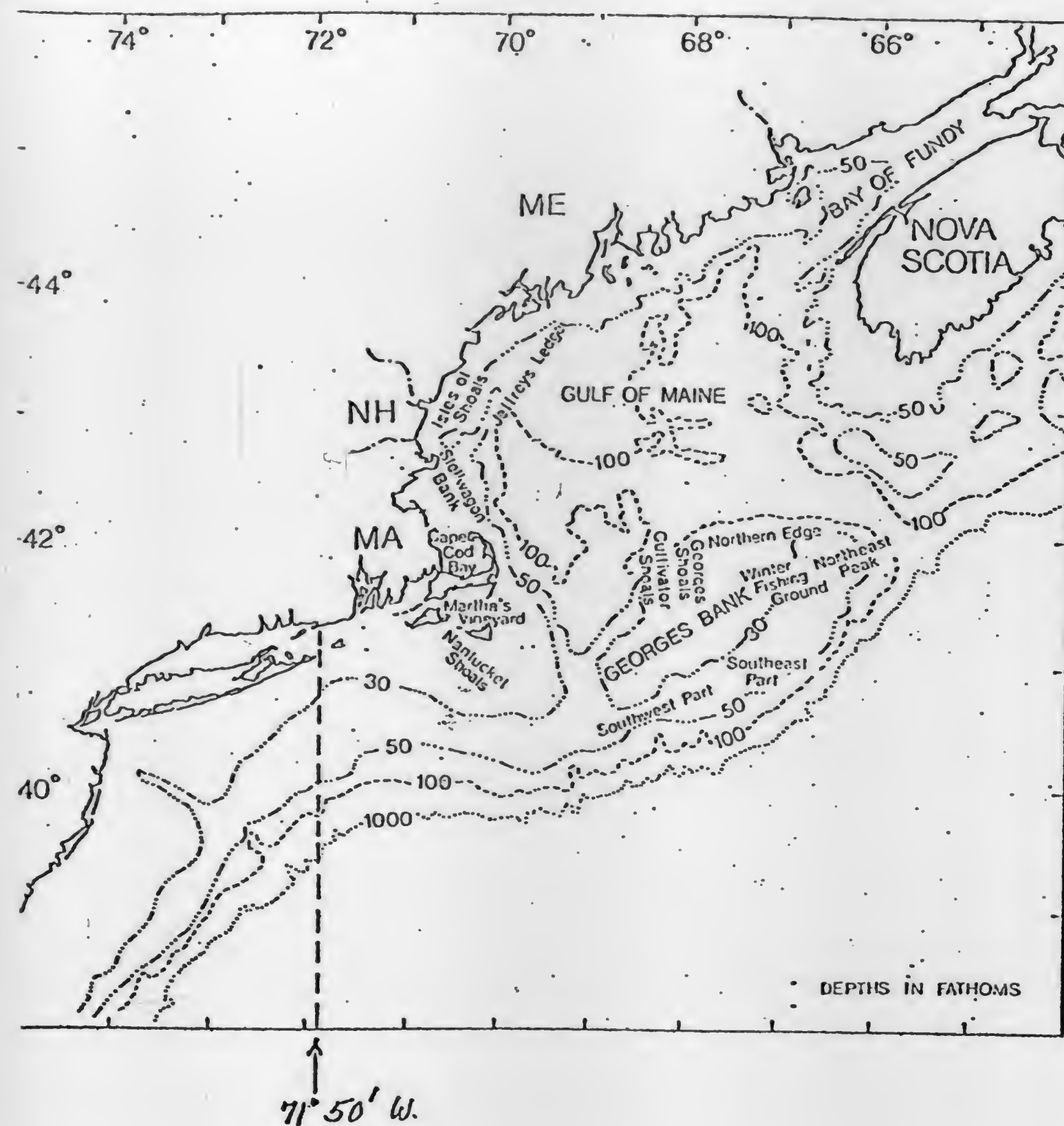


Figure 1

[FR Doc. 79-9404 Filed 3-27-79; 8:45 am]

[3510-22-M]

**Title 50—Wildlife and Fisheries**  
**CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**  
**PART 671—TANNER CRAB OFF ALASKA**

**Early Closure of Portion of Registration Area J (Westward) to Fishing by U.S. Vessels**

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final regulation.

SUMMARY: The Director, Alaska Region, (Regional Director), National Marine Fisheries Service (NMFS) issues a final regulation (Field Order) applicable to fishing by vessels of the United States in the Alaska Tanner crab fishery, in accordance with the fishery management plan for Tanner Crab Off Alaska (FMP), and the regulations implementing this FMP (50 CFR 671.27(b)) (see 43 FR 57149). This Field Order closes the portion of the Kodiak District of Registration Area J (Westward) from 150°30' W. longitude to 156°20'13" W. longitude (Kilokak Rocks) to fishing for Tanner crab by vessels of the United States effective beginning at 12:00 noon Alaska Standard Time (AST) on March 26, 1979, rather than on April 30, 1979, as currently provided in 50 CFR 671.26(f)(3)(i). This closure remains in effect until January 1, 1980. Public comments are invited until May 25, 1979.

EFFECTIVE DATE: 12:00 noon, Alaska Standard Time (AST), March 26, 1979. Public comments are invited until May 25, 1979.

ADDRESS: Comments may be sent to: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586-7221.

FOR FURTHER INFORMATION: Contact Mr. Rietze at the above address.

SUPPLEMENTARY INFORMATION: The FMP (see 43 FR 21170) provides for in-season adjustments to season and area openings and closures. The FMP's implementing regulations at 50 CFR Part 671 (43 FR 57149) specify in § 671.27(b) that these decisions shall be made by the Regional Director in accordance with the criteria set out in that section. On October 20, 1978, the

Assistant Administrator of Fisheries, NOAA, with the approval of the Administrator, NOAA, delegated to the Regional Director authority to promulgate Field Orders making in-season adjustments.

The FMP has set the Optimum Yield for Tanner crab in the Kodiak District at 35 million pounds (15,876 mt) for the current season, based on preseason abundance estimates and historic harvest levels. Using the overall fishing effort last season as a guide, it was anticipated that the effort this season would be similarly dispersed throughout the Kodiak District and that the OY would be reached approximately the end of April, 1979. Accordingly, 50 CFR 671.26(f)(3)(i) of the FMP's implementing regulations established a closing date for the Tanner crab fishery in the Kodiak District of April 30, 1979.

However, it has become apparent that the overall fishing effort in the Kodiak District for this season is considerably greater than the effort during previous years. Over 200 vessels have already recorded 670 landings, which is a 37 percent increase over the number of landings for the entire 1977/78 season. The total number of pot lifts per week this season is 50,000 compared to only 18,000 lifts per week during the 1977/78 season.

Further, this total effort is not uniformly distributed over the Kodiak District. It is concentrated in the area between 150°30' W. longitude and 156°20'13" W. longitude, which does not contain the entire Optimum Yield. A sampling of the commercial fishery within this area of greater fleet concentration shows that the Catch Per Unit Effort (CPUE) is less than last season's—42 crabs per pot this season compared to 65 crabs per pot in 1977/78. This indicates that the stocks in that portion of the Kodiak District are being overfished.

It is expected that the overall fishing effort and fleet distribution will remain the same and that by March 26 the catch in that portion of the Kodiak District between 150°30' W. longitude and 156°20'13" W. longitude will reach 30 million pounds. The Regional Director has determined that overfishing of the Tanner crab stocks in this part of the Kodiak District would occur if more than 30 million pounds are harvested there. Therefore, in order to prevent overfishing of Tanner crab stocks in that area, the Regional Director has determined, in accordance with 50 CFR 671.26(b), and following consultation with the Commissioner, Alaska Department of Fish and

Game, that an emergency exists and that the portion of the Kodiak District west of 150°30' W. longitude and east of 156°20'13" W. longitude will be closed to Tanner crab fishing at 12 noon AST on March 26, 1979.

The rest of the Kodiak District, which is not affected by this closure and remains open until April 30 or earlier closure by a subsequent field order, consists of "fringe" areas in which stocks have been subjected to little or no effort and harvest this season. Leaving these areas open will provide the opportunity to achieve, without overfishing of any stocks, the Optimum Yield for Tanner Crab in the entire Kodiak District.

The Regional Director further finds that, in order to protect the resource, public comment prior to issuance of this Field Order is impracticable and contrary to the public interest. However, public comments on the necessity for, and extent, of this closure will be received by the Regional Director for a period of 60 days after the effective date of the Field Order. (Address: Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802). During this 60-day period, the data and information from which this decision is based will be available for inspection during business hours at the NMFS, Alaska Regional Office, Federal Building, Room 453, 709 West 9th Street, Juneau, Alaska.

If comments are received during the 60-day period the Regional Director shall, if appropriate, reconsider the necessity for the closure and, as soon as practicable after that reconsideration, publish in the FEDERAL REGISTER either:

- (A) A notice of continued effectiveness of this closure; or
- (B) A notice to modify or rescind the closure.

An environmental impact statement was prepared for the FMP and is on file with the Environmental Protection Agency.

Signed in Washington, D.C., this the 23rd day of March, 1979.

(16 U.S.C. 1801 et seq.)

WINFRED H. MEIBOHM,  
 Executive Director,  
 National Marine Fisheries Service.

In accordance with 50 CFR 671.27(b), 50 CFR 671.26(f)(3)(i) is amended to read:

§ 671.26 (f)(3)(i) [Amended]



## RULES AND REGULATIONS

(i) In the Kodiak District from January 5 through April 30 only, with the following exceptions:

(A) In that portion of the Kodiak District between 156°20'13"W. longitude (Kilokak Rocks) to 157°27'W. longitude (Cape Kumlik) Tanner crab may be taken from January 5 through May 15 only; and

(B) In that portion of the Kodiak District between 150°30'W. longitude and 156°20'13"W. longitude (Kilokak Rocks) Tanner crab may be taken from January 5 through 12:00 noon (AST), March 26 only.

(FR Doc. 79-9324 Filed 3-27-79; 8:45 am)

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 991]

## HOPS OF DOMESTIC PRODUCTION

Proposed Salable Quantity and Allotment Percentage for the 1979-80 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish the quantity of hops that may be freely marketed from the 1979 crop, the action is taken under the marketing order for domestic hops to promote orderly marketing conditions.

DATE: Comments due April 12, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-4722.

SUPPLEMENTARY INFORMATION: The proposed salable quantity and allotment percentage would be established in accordance with the provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Hop Administrative Committee.

The proposed salable quantity and allotment percentage for the ensuing marketing year are based upon a recommendation of the Committee made at its meeting January 16, 1979, and the following estimates for the marketing year beginning August 1, 1979.

- (1) Total domestic consumption of 39,000,000 pounds of hops;
- (2) Minus imports of 12,000,000 pounds of hops to result in domestic consumption of U.S. hops of 27,000,000 pounds;
- (3) Plus total exports of 27,000,000 pounds of hops to equal 54,000,000 pounds total usage of U.S. hops;

(4) Plus 3,000,000 pounds to adjust for weight loss for hops processed into pellets and extract;

(5) Plus an adjustment of 6,233,500 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Under the proposal, the salable quantity for the 1979-80 marketing year would be 63,233,500 pounds.

The proposed salable percentage of 105 percent is computed by subtracting from this salable quantity 1,000,000 pounds for additional allotment bases for hops of the Fuggle variety pursuant to §§ 991.38(b) and 991.138(c) and dividing the remainder by 59,270,000 pounds, the total of all allotment bases less the 1,000,000 pounds additional allotment bases for Fuggle variety hops.

The proposal is as follows:

§ 991.217 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1979.

The allotment percentage during the marketing year beginning August 1, 1979, shall be 105 percent, and the salable quantity shall be 63,233,500 pounds.

Dated: March 23, 1979.

CHARLES R. BRADER,  
Acting Director,  
Fruit and Vegetable Division.  
(FR Doc. 79-9309 Filed 3-27-79; 8:45 am)

[7590-01-M]

## NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

## DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Fracture Toughness Requirements for Nuclear Power Reactors

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering amending its regulations specifying fracture toughness and material surveillance program requirements for nuclear reactor to permit greater flexibility in meeting certain of these requirements and to simplify others by substituting references to National Standards that have already been in-

corporated by reference into the NRC's Regulations.

DATES: Comment period expires May 14, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Dr. P. N. Randall, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5997.

SUPPLEMENTARY INFORMATION: In applying Appendix G, "Fracture Toughness Requirements," and Appendix H, "Reactor Vessel Material Surveillance Program Requirements," to current licensing actions, the NRC has concluded that certain requirements described below are unnecessarily restrictive and may be deleted without causing any undue risk to the public health and safety. Any associated safety concerns can be satisfied by requiring compliance with pertinent parts of the ASME Boiler and Pressure Vessel Code (the ASME Code). The proposed amendments are intended to respond, in part, to past requests for exemptions from Appendices G and H and to staff determinations that such exemptions were required and were justified in all respects. The proposed amendments would reduce significantly the number of exemptions to Appendices G and H that are expected to be required in the future.

In Appendix G to 10 CFR Part 50, paragraph IV.A.4 contains requirements for the material toughness of bolts that are very similar to present ASME Code requirements. Paragraph IV.A.4 would be deleted and Paragraph IV.A.3 would be revised to add language requiring compliance with the pertinent ASME Code requirements for bolts. As an additional revision of paragraph IV.A.3, the requirements for piping, pumps and valves would be clarified by referencing a different paragraph in the ASME Code than is presently referenced. This newly referenced paragraph contains the specific fracture toughness requirements for those components.

In Appendix H to CFR Part 50, paragraph II.C.2 would be revised in two respects. The prohibition against at-



## PROPOSED RULES

tachment of surveillance capsules to the vessel wall would be deleted because, for some vessel designs, the advantages of attachment to the wall (fewer problems in achieving the desired lead factor and the structural integrity of the capsule holder) outweigh the disadvantage of concern for vessel integrity. Language is added to require that, if capsule holders are attached to the vessel wall, the attachments must meet ASME Code requirements for construction and inspection of permanent structural attachments to reactor vessels.

The fixed limits on lead factor (the ratio of neutron flux at the capsule to the maximum flux at the vessel inner wall) of greater than one but less than three would be deleted. Enforcement of the present requirement would require modification of certain designs that have satisfactorily met all surveillance and structural requirements in service. Safety concerns are satisfied by retention of the general requirement on lead factor.

The Commission's Office of Standards Development has prepared a value/impact statement for the proposed amendment, which provides additional technical details and justification. This statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. Single copies of the value/impact statement may be obtained by request addressed to the Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: P. N. Randall.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 53 title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by May 14, 1979. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

1. Appendix G to 10 CFR Part 50 is amended by deleting paragraph IV.A.4. and revising paragraph IV.A.3. to read as follows:

3. Materials for piping, pumps, and valves, and materials for bolting and other fasteners, shall meet the requirements of the ASME Code, paragraphs NB-2332 and NB-2333, respectively.

2. Appendix H to 10 CFR Part 50 is amended by revising paragraph II.C.2. to read as follows:

2. Surveillance specimen capsules shall be located near the inside vessel wall in the beltline region, so that the specimen irradiation history duplicates to the extent practicable, within the physical constraints of the system, the neutron spectrum, temperature history, and maximum neutron fluence experienced by the reactor vessel inner surface. If the capsule holders are attached to the vessel wall or to the vessel cladding, construction and in-service inspection of the attachments and attachment welds shall be done according to the requirements for permanent structural attachments to reactor vessels given in the ASME Code<sup>2</sup> Sections III and XI. The design and location of the capsules shall permit insertion of replacement capsules. Accelerated irradiation capsules may be used in addition to the required number of surveillance capsules specified in section II.C.3.

(Secs. 103, 104, 2811, Pub. Law 83-703; 68 Stat. 936, 937, 948; Sec. 201, Pub. Law 93-438, 88 Stat. 1242; (42 U.S.C. 2133, 2134, 2201(i), 5841).)

Dated at Washington, D.C. this 21st day of March 1979.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.  
[FR Doc. 79-9195 Filed 3-27-79; 8:45 am]

[6210-01-M]

## FEDERAL RESERVE SYSTEM

[12 CFR Part 205]

(Reg. E; Docket No. R-0212)

## ELECTRONIC FUND TRANSFERS

Disclosure of Consumers' Liability for Unauthorized Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: Section 909 of the Electronic Fund Transfer Act, which relates to a consumer's liability for unauthorized transfers, became effective on February 8, 1979. The Board is publishing for comment two proposals that relate to disclosing the consumer's liability for unauthorized use of an access device. Proposal A would require financial institutions to give consumers certain disclosures regarding their potential liability. Proposal B would make compliance with the disclosure requirement a precondition to the institution's imposing any liability on the consumer.

DATE: Comments must be received on or before April 30, 1979.

<sup>2</sup>Defined in Paragraph IIA. of Appendix G to 10 CFR Part 50.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should refer to docket number R-0212.

## FOR FURTHER INFORMATION CONTACT:

Regarding the regulation: Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-2412). Regarding the economic impact analysis: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-2584).

## SUPPLEMENTARY INFORMATION:

(1) The Board has adopted regulations published in the Rules section of this issue to implement Sections 909 and 911 of the Electronic Fund Transfer Act, the two sections that became effective on February 8, 1979. Under those regulations, some consumers will receive notice of their potential liability for unauthorized transfers before May 1980, but the vast majority of users of EFT devices will not learn of their liability until after the remainder of the Act and regulation go into effect. The Board believes that all consumers should be informed of their potential liability and of the need for prompt reporting. Consumers should be aware that unless they report the loss or theft of an access device within two days of learning of the loss or theft, their liability may increase from \$50 to \$500. Similarly, they need to know that they must report an unauthorized transfer appearing on a periodic statement within 60 days; and that if they fail to report it, their liability for later transfers could be unlimited.

The Board is publishing two proposals for public comment. Proposal A would require financial institutions to disclose to consumers who now hold EFT access devices (as well as consumers who apply for access devices prior to May 1980): (1) what their liability for unauthorized transfers would be; (2) how to report the loss of theft of the access device; and (3) the institution's business days. These disclosures would have to be made by August 1, 1979, as to all accounts now in existence or established between now and July 31, 1979. After August 1, 1979, and before May 1980, institutions would be required to make the disclosures before the first electronic fund transfer is made on an account.

The Board's Proposal B would make delivery of these interim disclosures a precondition to imposing liability. (Section 909(b) of the Act will make delivery of the disclosures a precondition

of imposing liability after May 1980.)

Under either proposal, if a financial institution assumes all risk and imposes no liability on a consumer for unauthorized transfers, then the institution would not be required to provide disclosures.

(2) Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulations that the Board issues to implement the Act. The following economic analysis accompanies proposed §§ 205.4(e) and 205.5(a) of the regulation, which are designed to implement, in part, section 909 of the Act.<sup>1</sup>

Two proposals are offered for comment. Proposal A requires that financial institutions make liability disclosures before August 1, 1979, to holders of all accounts that can be accessed by an electronic fund transfer (EFT) access device unless they impose no liability on a consumer for unauthorized transfers. Proposal A does not change the consumer's liability limits as set forth in § 205.5(b). Proposal B, on the other hand, in effect allows a financial institution to choose whether or not to make interim liability disclosures to consumers, given that consumers can be held liable only if the institution makes the disclosures.

Interim liability disclosures under both Proposals A and B would provide consumers with information that might improve their ability to plan financial activities and might encourage them to exercise greater care in the use of EFT access devices and accounts. Greater consumer care may benefit financial institutions by reducing unauthorized use of EFT systems. Another potential benefit to institutions is greater consumer acceptance of EFT stemming from increased certainty about the liability rules applicable to unauthorized transfers.

Proposal A would force financial institutions to incur disclosure costs if they impose liability for unauthorized use. Costs for disclosure statement drafting, legal advice, printing, and distribution may be high, even if the Regulation E model disclosure clauses are used. The proximity of the August 1, 1979, disclosure deadline may impose additional costs. Financial institutions, particularly those that

<sup>1</sup>The analysis must consider the costs and benefits of the proposed regulation to suppliers and users of EFT services, the effects of the proposed regulation of competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the proposed regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers. The analysis presented here is to be read in conjunction with the economic impact analysis that accompanied the Board's Regulation E, published in the Rules section of this issue.

## PROPOSED RULES

issue periodic statements in a cycle less frequent than monthly, may have to make special disclosure mailings to account holders. Special mailings to holders of inactive accounts would be required in any case. Costs associated with the disclosure program would be passed on to consumers to some degree.

Proposal B would permit financial institutions to choose optimal disclosure programs after weighing the expected costs and benefits associated with making the interim liability disclosures to all or some of their account holders. A more efficient allocation of resources would result with no loss of consumer protection relative to the liability provisions established by the Act. The provision conditioning consumer liability on whether interim disclosures were made would protect consumers not covered by other disclosure provisions of the Act and would guarantee that a consumer would not be held liable for any loss from unauthorized use unless disclosures were made.

It is not apparent whether small financial institutions are likely to be placed at a cost disadvantage relative to larger institutions under either Proposal A or B. Proposal B, however, would allow institutions more flexibility to adapt to the ultimate disclosure requirement mandated by the Act for May 1980, so that small institutions would be better able to schedule the relatively larger fixed-cost expenditures associated with their disclosure programs. It is also not apparent whether low-income consumers would be affected differently from higher-income consumers under the different proposals.

The Board solicits comments and information on the possible costs, benefits, and significance of the effects discussed above.

(3) Pursuant to the authority granted in Pub. L. 95-630, Title XX, section 904 (November 10, 1978), 92 Stat. 3730 (15 U.S.C. 1693b) the Board proposes to amend Regulation E, 12 CFR Part 205, as follows:

## PROPOSAL A

The Board proposes to add a new paragraph (e) to § 205.4 as follows:

§ 205.4 Issuance of Access Devices.

(e) *Interim disclosure of consumer's liability.* (1) For any account accessible by an access device, the financial institution shall disclose to the consumer, in a written statement that the consumer may retain, the following terms in readily understandable language:

(i) The consumer's liability under § 205.5, or under other applicable law or agreement, for unauthorized elec-

tronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized transfers.

(ii) The telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be made.

(iii) The financial institution's business days, as determined under § 205.2(d).

(2) The disclosures set forth in paragraph (e)(1) of this section shall be made before August 1, 1979, for any account accessible by an access device and in existence on February 8, 1979, or established after February 8, 1979. For any such account established on or after August 1, 1979, and before May 10, 1980, these disclosures shall be made the first electronic fund transfer is made involving the consumer's account.

(3) The disclosure set forth in paragraph (e)(1) of this section need not be made by any financial institution that imposes upon the consumer no liability for unauthorized transfers.

## PROPOSAL B

1. The Board proposes to add a new paragraph (e) to § 205.4 as set forth under Proposal A.

2. The Board proposes, in addition, to amend § 205.5(a) to read as follows:

§ 205.5 Liability of Consumer for Unauthorized Transfers.

(a) *General rule.* A consumer is liable, within the limitations described in paragraph (b) of this section, for unauthorized electronic fund transfers involving the consumer's account only if:

(1) the access device used for such transfers is an accepted access device;

(2) the financial institution has provided a means (such as by signature, photograph, fingerprint, or electronic or mechanical confirmation) to identify the consumer to whom the access device was issued; and

(3) the financial institution discloses to the consumer, in accordance with the requirements of § 205.4(e), the terms specified in § 205.4(e)(1).

By order of the Board of Governors,  
March 21, 1979.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 79-9282 Filed 3-27-79; 8:45 am]



[6355-01-M]

CONSUMER PRODUCT SAFETY  
COMMISSION

[16 CFR Part 1306]

## UNVENTED GAS-FIRED SPACE HEATERS

## Withdrawal of Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Commission withdraws its proposed ban of unvented gas-fired space heaters published on February 14, 1978. Recent information indicates that a standard to adequately protect the public from the hazard of carbon monoxide poisoning associated with these products is feasible. Therefore, the Commission believes it is not necessary to ban these products. The Commission also advises that its staff is preparing for Commission review and possible proposal a draft proposed standard that incorporates an oxygen-depletion detection and control device to help reduce the possibility of carbon monoxide poisoning associated with unvented gas-fired space heaters.

DATE: The withdrawal of the proposed ban is effective on, March 28, 1979.

ADDRESS: Copies of the staff briefing package and related materials are available at the Office of the Secretary, 3rd floor, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: George P. Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453.

## BACKGROUND

On November 29, 1978, the Commission proposed to withdraw its proposed ban of unvented gas-fired space heaters (43 FR 55772). The proposed ban was published in the FEDERAL REGISTER on February 14, 1978 (43 FR 6235) after the Commission had preliminarily determined that unvented gas-fired space heaters present an unreasonable risk of injury to the public because of the hazard of carbon monoxide (CO) poisoning associated with these products. In addition, from the information available at that time, the Commission concluded that no feasible standard under the Consumer Product Safety Act (CPSA) could adequately protect the public from the unreasonable risk. Therefore, in accordance with section 8 of the CPSA (15 U.S.C. 2057), the Commission proposed that unvented gas-fired space heaters be declared banned hazardous products.

During the comment period on the proposed ban, the Commission was advised that mandatory standards adopted by several foreign countries require that unvented gas-fired space heaters incorporate a sensing and control device that does not directly measure the presence of carbon monoxide but is designed to detect the depletion of oxygen in the living space and shut off the flow of gas to the heater before carbon monoxide can build up and create a hazardous atmosphere. Such a device, known as an oxygen-depletion sensor (ODS), had not to the Commission's knowledge ever been adopted for use on unvented gas-fired space heaters produced by American manufacturers. In addition, a voluntary standard of the American National Standards Institute (ANSI) has optional provisions for an ODS on heaters certified under that standard.

Another device, known as a temperature-limiting device (TLD) which is purported to help avoid a hazardous buildup of carbon monoxide in the living space by shutting off the gas supply to the heater when a room temperature of 100°F is reached, was also called to the Commission's attention.

The National Bureau of Standards was requested to test both of these devices to help determine their effectiveness in reducing the hazard of carbon monoxide poisoning in unvented gas-fired space heaters. The results of the National Bureau of Standards evaluation of the ODS show that the device repeatedly operated satisfactorily to shut down unvented gas-fired space heaters when the room oxygen content was depleted to between 18.2 and 20.3 percent. Carbon monoxide concentrations at these levels of oxygen depletion ranged from 7 to 90 parts per million (ppm) with a mean concentration of 37 ppm. Deliberate changes to the heater air shutter and blockage of the ODS air ports to simulate burner and sensor maladjustment and abnormal conditions did not significantly affect the operation of the ODS. In addition, the ODS operated satisfactorily when used with a variety of representative fuel gases used in the United States including propane, butane and natural gases.

NBS investigations of the TLD indicated that the device appeared to be inadequate to address the carbon monoxide hazard under a variety of limited ventilation and heat loss conditions. It was shown that high concentrations of carbon monoxide could exist at various levels of oxygen depletion in ventilated rooms and at temperatures below the shutoff point of the TLD. (Copies of these NBS reports are available through the Office of the Secretary.)

Upon review of the test results, the Commission concluded that a feasible consumer product safety standard for unvented gas-fired heaters could be implemented under the CPSA. Such a standard could incorporate an ODS device to detect, indirectly, a hazardous atmosphere resulting from carbon monoxide emissions and to shut off the gas supply to the heater. Since it appeared to the Commission that a feasible standard could adequately protect the public from the hazards of carbon monoxide poisoning associated with unvented gas-fired space heaters, the Commission decided in accordance with section 9(a)(1)(B) of the CPSA to propose withdrawal of the proposed ban.

In its proposal to withdraw the proposed ban, the Commission stated its belief that the oxygen-depletion sensor for optional use by manufacturers described in the ANSI Z21.11.2 voluntary industry standard, *Gas-Fired Room Heaters, Vol. II—Unvented Room Heaters*, would be adequate for the task of reducing carbon monoxide poisoning associated with these products. Therefore, the Commission directed its staff to prepare for Commission review a draft proposed standard that would incorporate appropriate sections of the ANSI standards dealing with oxygen-depletion systems for unvented gas-fired space heaters. The Commission directed its staff to prepare for Commission review at the same time, additional information on health and economic matters, on a precise definition of oxygen depletion sensor and a discussion of labeling.

In order to receive and evaluate comments on the proposal to withdraw, the Commission extended from November 29, 1978 to April 2, 1979, the period in which it must either publish a final banning rule or withdraw the proposal to ban.

## RESPONSE TO COMMENTS

Of the five comments received on the proposal to withdraw the proposed ban, none opposed withdrawal. In addition, since the proposed withdrawal also announced that the Commission intends to take further action on unvented gas-fired space heaters, several of the commenters also suggested directions that future Commission action could take in this matter. Although these suggestions will be briefly discussed here, the Commission believes it would be premature to evaluate and discuss them in detail at this time. Rather, these suggestions will be analyzed in the context of any future action the Commission considers as to unvented gas-fired space heaters.

1. Lawrence G. Spielvogel, Inc., a consulting engineering firm, states that withdrawal of the ban is acceptable to them as long as "infrared heat-

ers or infrared radiant heaters" are included in the withdrawal. The Commission advises that the withdrawal applies to the unvented gas-fired space heaters defined in the proposed ban, including radiant room heaters. Infrared heaters were excluded from the proposed ban because they are generally used for heating outdoor spaces or for indoor non-consumer environments.

2. The American Rental Association agrees with withdrawal and notes, as a matter of future interest, that it would favor the use of a sensing and control device on newly-manufactured unvented gas-fired space heaters only. This commenter's attention is called to section 9(d)(1) of the Consumer Product Safety Act (15 U.S.C. 2058(d)(1)) which provides that a standard is applicable only to products manufactured after the effective date of a standard. Therefore, any standard on unvented gas-fired space heaters proposed by the Commission would apply only to products manufactured after the stated effective date.

3. The Corporate Attorney for the Coleman Company agrees with the decision not to ban unvented gas-fired space heaters, but is opposed to any standard that would require oxygen-depletion sensors. He believes such devices sense only reduced levels of oxygen or excessive levels of carbon dioxide, and, therefore, he believes that what is really needed is a low-cost carbon monoxide sensing device.

Since this comment is addressed to a proposal for a standard that the Commission staff is working on and the Commission has yet to consider, and since the purpose of this document is to withdraw the proposed ban, the Commission believes it is premature to now discuss the various issues related to oxygen-depletion sensors and carbon monoxide sensors. However, this comment will be evaluated by the staff and the Commission in considering possible further action concerning unvented gas-fired space heaters.

4. A comment on the proposed withdrawal by the secretariat of the American National Standards Committee Z21 (ANSI) which deals with the voluntary unvented room heater standard (Z21.11.2) was sent to the Commission's Executive Director. The secretariat advised that the Subcommittee on Standards for Unvented Gas-Fired Heating Appliances would consider proposed revisions to the voluntary standards to require the use (now optional) of ODS on unvented room heaters and deletion of the provision requiring a temperature limiting device. The secretariat suggested that CPSC may wish to take this effort into account when considering the need for a mandatory standard for ODS systems.

The Commission is aware that the staff has been following the process whereby ANSI may conclude that an oxygen-depletion sensor should be a required part of the voluntary standard, and that the voluntary standard's present requirement for a temperature limiting device would be eliminated. A review of the progress made by ANSI in this matter will be included in staff briefing materials for future Commission decisions concerning unvented gas-fired space heaters.

5. The National LP Gas Association agrees that the proposed ban should be withdrawn in order that unvented gas-fired space heaters may be available to the public. In addition, the Association believes that the Commission should terminate any further involvement with unvented gas-fired space heaters, and permit industry to institute appropriate changes as it finds them necessary, including possible incorporation of an ODS as a mandated part of the voluntary standard for unvented gas-fired space heaters.

As indicated in response to the previous comment, these and any other views of industry groups on unvented gas-fired space heaters will be reviewed in the context of considering further Commission action in this matter.

## CONCLUSION

Having considered the information referred to indicating that a feasible consumer product safety standard could adequately protect the public from any unreasonable risk of injury from carbon monoxide poisoning associated with unvented gas-fired space heaters, and having considered the comments received in response to its proposal to withdraw the proposed ban, the Commission determines that a consumer product safety rule banning these products is not reasonably necessary to eliminate or reduce the risk. Therefore, in accordance with section 9(a)(1)(B) of the CPSA (15 U.S.C. 2058(a)(1)(B)) the Commission withdraws its proposal of February 14, 1978 (43 FR 6253) to declare that unvented gas-fired space heaters are banned hazardous products.

*Effective date:* Section 4 of the Administrative Procedure Act (APA), 5 U.S.C. 553, requires that the effective date of a rule shall be not less than 30 days after it is published, unless this period is shortened for good cause found and published by the agency. In this case, delaying the effective date of withdrawal for 30 days or any other period beyond publication would have no substantive effect since the withdrawal applies to a proposed rule rather than a final rule which would have had an impact. Since no useful purpose would be served by such delay, the Commission finds for good

cause that the effective date of the withdrawal be the date of its publication in the FEDERAL REGISTER.

Accordingly, pursuant to 5 U.S.C. 553(d)(3), the effective date of the Commission's withdrawal of its proposed consumer product safety rule concerning unvented gas-fired space heaters is March 28, 1979.

(Sections 8, 9; 96 Stat. 1215-1217, as amended, 90 Stat. 506; 15 U.S.C. 2057, 2058.)

Dated: March 23, 1979.

SADYE E. DUNN,  
Secretary, Consumer  
Product Safety Commission.

(FR Doc. 79-9327 Filed 3-27-79; 8:45 am)

[6450-01-M]

## DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 1a, 1b]

[Docket No. RM78-15]

## RULES RELATING TO INVESTIGATIONS

## Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing revised regulations relating to investigations as a result of comments on its interim regulations which have been in effect since June 14, 1978 (43 FR 27174, June 21, 1978). The interim regulations had been adopted to state clearly the Commission's policy and procedures for investigations conducted under the statutes it administers. The revisions are proposed based on the comments received and experiences of the Commission under the interim regulations and also because of new powers granted the Commission under the Natural Gas Policy Act of 1978, the Public Utility Regulatory Policies Act and the Outer Continental Shelf Lands Act Amendments of 1978.

DATE: Written comments due by April 16, 1979.

ADDRESS: All filings should reference Docket No. RM78-15 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Charles J. Friedman, Office of Enforcement, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, (202) 275-0303.

SUPPLEMENTARY INFORMATION:



## PART I

This Order denies the Petition of Certain Electric Utilities for Amendment of Commission's Regulations with Respect to Form 423, filed October 15, 1976,<sup>1</sup> to amend the collection and dissemination procedures established from Form 423. The Petitioners offered two alternative proposals:<sup>2</sup> Proposal A would modify the information to be reported on Form 423 by:

1. "Requiring that the average cost of fossil fuels delivered to a plant be reported instead of the actual price of each delivery," and

2. "Eliminating the reporting of information with respect to the identity of the fuel supplier and the date of contract expiration."

Proposal B would allow for the collection of the same information presently reported, but limit the distribution of Form 423 by:

1. Treating information furnished as confidential and restricting availability of the forms "to the staff members of (the) Commission and to other federal agencies upon written request of the head of the agency," and

2. Making public only a summary of information on each form "reporting the average cost of fuel delivered to a plant instead of the actual price of each delivery and eliminating information with respect to the fuel supplier and the date of contract expiration."

The Petitioners contended that such restrictions were necessary because the existing Form 423 reporting system placed "... the reporting utilities at a decided disadvantage in negotiations for available fuel supplies," and may have "set the stage for anti-competitive behavior."<sup>3</sup>

## BACKGROUND

This is not the first time that the Commission has reviewed the issues involved in the collection and dissemination of Form 423 data. Many of the same contentions were made when the original Form 423 reporting system was initiated in Docket No. R-432<sup>4</sup> and

<sup>1</sup>This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission," when used in context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC. The twelve original petitioners were: New England Power Co., Alabama Power Co., Carolina Power & Light Co., Consumers Power Co., Duke Power Co., Jersey Central Power & Light Co., Metropolitan Edison Co., Pennsylvania Electric Co., Rochester Gas & Electric Corp., South Carolina Electric & Gas Co., Utah Power & Light Co., and Wisconsin Electric Power Co. Four additional utilities who subsequently joined in the petition are: Georgia Power Co., Gulf Power Co., Indianapolis Power & Light Co., Mississippi Power Co.

<sup>2</sup>Petition, pp. 1 and 2.

<sup>3</sup>Petition, pp. 5 and 12.

<sup>4</sup>Order No. 453 issued June 7, 1972, in Docket No. R-432, 47 FPC 1469, 37 FR

again when the Form was altered to collect additional information in Docket No. R-432(a).<sup>5</sup> At that time, the Commission decided that the benefits of such a reporting system clearly outweighed its potential harm. The Commission's reasoning and procedures in Docket No. R-432 were upheld. *Alabama Power Company v. FPC*, 511 F.2d 383 (D.C. Cir. 1974).

The Commission decided to examine the issues once again in this proceeding because the Petitioners declared that Form 423 reporting had, in fact, caused injury to utilities and their customers. Petitioners also contended that since 1973, in a series of cases argued under the Freedom of Information Act,<sup>6</sup> the courts had altered the evidentiary standards needed to show that the reporting of information should be restricted to avoid undue injury to the respondent. Since the Petitioners' allegations were related to antitrust matters the Commission paid particular attention, as suggested by the Court in *Alabama Power*, to the comments of the Federal Trade Commission (FTC) and the Justice Department (Justice), the agencies having principal responsibility for interpreting the Nation's antitrust policies.

Prior to issuance of the Notice of Proposed Rulemaking, FTC and Justice both recommended that this Commission limit dissemination of Form 423 information in order to lessen the likelihood of anticompetitive effects. The initial views of the FTC were presented by letter dated May 27, 1977. In this letter, reproduced as APPENDIX C to the Notice of Proposed Rulemaking, the Chairman of the FTC observed that "prompt disclosure of Form 423 data creates the risk of anti-

competitive behavior." He went on to suggest that this Commission adopt a variant of Petitioners' Proposal B: all Form 423 information would continue to be collected but it would be made available only to Federal agencies and the state regulatory commissions, and then only upon written request. Initially, the general public's access to the data would be limited to a summary, showing a "utility's average cost of fuel." The FTC recommended that the detailed data be made public after a delay of perhaps two years since it would lose its "competitive significance" by that time.

The Justice Department concurred in these recommendations. By letter dated July 19, 1977, reproduced as APPENDIX D to the Notice of Proposed Rulemaking, the Acting Assistant Attorney General of the Antitrust Division indicated that Justice shared the "FTC's concern that the public dissemination could have harmful anticompetitive effects" and therefore urged this Commission to adopt the FTC's proposal.

## PROCEEDINGS IN THE DOCKET

In issuing its Notice of Proposed Rulemaking on August 15, 1977, 42 FR 51609, the Commission gave considerable weight to these initial FTC and Justice recommendations. It proposed to continue collecting the Form 423 data but to withhold the detailed data from the public for one year. During this one year period, it proposed to issue a monthly summary showing the average cost of fuel delivered to the plants of each reporting utility. The summary would not identify individual fuel suppliers nor would it show expiration dates of particular contracts. During the one year period, access to the detailed data would be limited to the Commission and its Staff and to other Federal and state agencies upon written request by the head of the agency.

Due to a delay in publication of the Notice of Proposed Rulemaking in the FEDERAL REGISTER, the Secretary extended the time for filing comments to October 28, 1977, by Notice of Further Extension of Time issued October 14, 1977, 42 FR-56756. Comments on the Petition and the Proposed Rulemaking were received from the Petitioners, fifteen investor-owned utilities, six publicly owned utilities, one public power association, three fuel companies, ten nongovernment consumer or public interest groups, two state consumer agencies, fourteen state regulatory bodies, two regulatory associations, one Governor, one state legislative body, four Federal agencies, four U.S. Senators, four cities, and eight private individuals, corporations or trade associations.

<sup>5</sup>11860. See also Order Denying Application for Rehearing issued August 3, 1972, 48 FPC 217 (National Coal Association); Order Denying Petition for Amendment of the Commission's Regulations with Respect to Form No. 423 issued March 2, 1973, 49 FPC 588 (group of utilities); and Order Denying Rehearing, issued April 16, 1973, 49 FPC 1010 (same Group of utilities). The latest Order issued was appealed, resulting in the *Alabama Power* decision, *infra*.

<sup>6</sup>Order No. 512 issued September 12, 1974, 52 FPC 745, 39 FR 34030. See also Order Denying Motion to Stay Reporting with Respect to Coal in Accordance with Instruction (6) on New Form 423 issued December 13, 1974, 52 FPC 1803 (Ohio Edison Company).

<sup>7</sup>*National Parks and Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974); *Continental Oil Company v. FPC*, 519 F.2d 31 (5th Cir. 1975), cert. denied sub. nom. *Superior Oil Company v. FPC*, 425 U.S. 971 (1976); *Pennzoil Co. v. FPC*, 534 F.2d 627 (5th Cir. 1976); *Union Oil Co. of California v. FPC*, 542 F.2d 1038 (9th Cir. 1976); *National Parks and Conservation Association v. Kleppe*, 547 F.2d 673 (D.C. Cir. 1976). See also *Superior Oil Company v. FERC*, 563 F.2d 191 (5th Cir. 1977).

Upon review of the comments received, Staff decided that certain specific questions needed clarification for a more complete understanding of the issues involved. By Notice issued February 1, 1978, 43 FR 5524, the Secretary scheduled a public conference on March 9, 1978, to discuss these specific questions. At the conference, presided over by the Commission's Chief Trial Counsel, oral comments were made by fourteen persons representing the Petitioners, state and Federal agencies, industry and private individuals, followed by questioning from Commission Staff. In addition to oral comments, written comments were accepted through April 10, 1978 (Transcript at 174). Comments received in response to the Notice of Conference included comments from two investor-owned utilities, two state consumer agencies, one non-government consumer organization and one coal company, which had not submitted comments earlier.

## RESPONSES

All 17 investor-owned electric utilities commenting, in addition to the 16 petitioner utilities, supported restricting the availability of Form 423 data. Several expressed the view that the one year delay in availability proposed by the Commission should be lengthened. Of the six publicly-owned systems that provided comments, four expressed support for restriction of price data availability, one opposed such restriction, and one expressed no objection to delayed release of the data so long as the data are collected. However, the American Public Power Association recommended that there be no restriction on availability of the data.

Generally, the 19 state agencies or offices commenting were opposed to restrictions of data availability to the public. Some of the regulatory bodies expressed a principal concern for continued state access to the complete data set. Several expressed the view that public access facilitated intervention by consumer groups, which enhanced the effectiveness of their own regulatory efforts. The National Association of Regulatory Utility Commissioners expressed a similar view. The 11 responding consumer interest groups were also opposed to restriction of data availability; several indicated that their data needs for monitoring utility fuel buying practices could not be satisfied by the average price data proposed to be made available. Three coal companies and a coal consultant indicated that the Form 423 data were highly useful in maintaining a current awareness of the coal market. The small firms stated that they find the specific price data useful in making competitive bids, while the larger firm was willing to forego price data in

order to continue to have available the general pattern of coal quality and supply discernible from the Form 423 data. The Office of Consumer Affairs, United States Department of Health, Education and Welfare (HEW), opposed restricting data availability because it considers that anti-competitive effects in the coal market were highly unlikely and price information was generally helpful to the consumer.

Comments from industrial firms and consultants stated that they regard the price data as valuable in showing the trends of fuel supply and prices and that the detailed information is both important and unavailable to them from other sources. One industrial group reported that the detailed data had been useful in monitoring utility use of natural gas as a boiler fuel in relation to the supply and cost of natural gas for industrial purposes.

Two publishing organizations which regularly report the Form 423 price data contended that the availability of the data provided benefits to industry and the public which outweighed any possible harm from anticompetitive effects.

In supplementary statements filed after the Public Conference, both Justice and the FTC reversed their earlier positions and recommended continuing to make all of the data collected on Form 423 available to the public without delay. Citing studies which had become available since its July 1977 letter, Justice indicated that the potential for anticompetitive behavior was "substantially less than previously thought." The FTC indicated that after further analysis of the coal market and a review of the comments filed, it had reached the conclusion that the "antitrust risks" were "not sufficient to require or justify modification of the FERC's current policy of promptly publishing all Form 423 data."

## ISSUES RAISED

The Petitioners contend that a series of cases decided under the Freedom of Information Act (cited in Footnote 1, page 4, *supra*), required us to consider whether unrestricted public disclosure would be likely to result in injury to the disclosing parties. If this is found to be the case, the Commission must then consider alternatives to full disclosure, which would mitigate the harm of full disclosure while at the same time satisfying the public's need for information.

In fact, a more comprehensive procedure was prescribed by the Court in *Pennzoil* to be used in determining the balance between the benefit to the public interest and the harm to those supplying the data resulting from its disclosure. We are required to consid-

A. Whether disclosure will significantly aid us in fulfilling our mandates;

B. The harm to those supplying the data and the harm to the public in general; and,

C. The alternatives to full disclosure that will provide the public with adequate knowledge to participate fully in our proceedings and other useful information, but at the same time protect the interests of those supplying the data.

Each of these three requirements has been met in this Docket. The consideration of these three questions is discussed in some detail below.<sup>7</sup>

A. Will disclosure significantly aid the Commission in fulfilling its functions?

The first consideration is viewed in broad terms, including within its purview our responsibility for assuring that rates for electric power wholesale sales under the Commission's jurisdiction are just and reasonable,<sup>8</sup> and including also the responsibilities under the Federal Power Act formerly exercised by the FPC, and now by the Department of Energy, for promoting conservation of resources<sup>9</sup> and providing a wide range of electric power information to the Congress and the public.<sup>10</sup> The latter function aids effective participation in electric regulatory matters and supports the formulation of electric power policies. Form 423 was initiated at a time when it was becoming clear that the Nation would experience increasing energy supply difficulties. Its basic intent was to provide visibility for the Commission and the public of the trends of electric power fuel supply patterns and costs. This information was needed by the Commission to evaluate potential electric power fuel supply problems, to determine fuel alternatives available to power plants and the costs of fuel switching and to monitor the interfuel competition between electricity and natural gas. Various statistical compilations of the reported data have been prepared and published on a regular basis. See, for instance, the Monthly Report on Fuel Cost and Quality. These compilations represent the primary output of the Form 423 reporting system and are apparently widely used by government and industry as reliable indicators of utility fuel purchase patterns, variations, between short and long term contract fuel

<sup>7</sup>In *Union Oil*, the use of rulemaking was upheld in this type of proceeding so long as the record contains sufficient factual data, however informally presented, to provide substantial evidentiary support for the action taken.

<sup>8</sup>Federal Power Act, Sections 205, 208

<sup>9</sup>Federal Power Act, Section 202(a).

<sup>10</sup>Federal Power Act, Sections 311, 312.



prices, and differentials in useage and price of fuels of varying qualities.<sup>11</sup>

The Form 423 reporting system was not designed to serve as a compliance system auditing utility fuel cost accounting, nor as a mechanism for establishing the prudence of specific utility fuel acquisition decisions. In the experience of this Commission, such investigations require far more information than is provided by the Form 423 reports. Nevertheless, the original utility reports do contain information on each fuel delivery and, together with the statistical summaries, can be used as a starting point for conducting a fuel audit.<sup>12</sup> The remarks of the Pennsylvania Public Utility Commission on this point are illustrative:<sup>13</sup>

"There are currently before (the Pennsylvania PUC) complaints against the major electric utilities under its jurisdiction alleging that contracts for fuel procurement were not enforced as to agreed price and Btu content. The structure of Form No. 423 currently permits review on a contract-by-contract basis of statistical information on price and Btu content as well as identification of contract type and mine location."

It also appears that availability of the utility Form 423 reports as filed has aided the intervention of consumer groups before various regulatory bodies.<sup>14</sup>

"The information has been used by the Economic Regulatory Administration, Department of Energy, to determine coal prices and availability for the Coal Conversion Program; by the Environmental Protection Administration to track quantities and quality of electric utility fossil fuel purchases to assess environmental impacts; by the Bureau of Labor Statistics, Department of Labor, to calibrate its Industrial Commodity Price Index; by the Corps of Engineers, Department of the Army, to survey utility coal flow patterns for lock and dam planning; by the U.S. Geological Survey, Department of the Interior, in its update of coal reserve estimates; by the Department of Commerce in its econometric models of income distribution; by the Council on Wage and Price Stability in its study of price formation in the coal industry; by the Department of Justice and the Federal Trade Commission in their analyses of market concentration in the coal industry."

The data are abstracted and published in various forms in a number of trade publications serving the electric utility industry, the coal and oil industries and industrial energy users.

<sup>11</sup>Letter from Office of Consumers' Utility Counsel, State of Georgia, March 6, 1978, p.9, and statement of Alvin Garber, representing the Office of Peoples' Counsel of Maryland at Public Conference, March 9, 1978, transcript p.143.

<sup>12</sup>Statement of Pennsylvania Public Utility Commission for Public Conference, Docket RM 77-2, filed February 27, 1978.

<sup>13</sup>See for example: Consumer's Council of Ohio, comments filed October 17, 1977; Environmental Action Foundation, comments dated September 13, 1977; Colorado Public Interest Research Group letter of September 29, 1977; Public Interest Research

The Office of Consumer Affairs, U.S. Department of Health, Education and Welfare contended that "many abuses of automatic fuel adjustment clause mechanisms and other fuel buying practices would go undetected if consumer groups were not able to investigate and challenge them" since a number of "state commissions are understaffed."<sup>15</sup>

The Environmental Defense Fund describes the usefulness of Form 423 in the following way:<sup>16</sup>

"Every time a choice is made by a utility or an official body regarding which kind or what grade of fuel to use, not only must the environmental costs be considered, but also the economic costs, namely price. Environmental and citizen groups must know what is economically feasible when presenting their recommendations regarding these choices to boards and government agencies . . . ."

Since 1973, EDF has participated in several electric utility rate hearings to present the case for peakload pricing . . . . The price data for fuels reported on Form 423, unavailable otherwise, has been an invaluable aid in our economic analysis . . . ."

We note that Congress recently has expressed its belief that consumer intervention is helpful to regulatory bodies at both the federal and state levels. The Public Utilities Regulatory Policies Act of 1978 provides for grants to state offices of consumer services. The same law also establishes an FERC Office of Public Participation.

Interventions at the state level can be directly helpful to us. Generally, the same fuel is used to generate electricity for both retail and wholesale sales.<sup>17</sup> If a state commission finds that a utility's fuel purchases have been imprudent, that finding is of considerable interest to us. It provides a signal to us to take a very careful look at the utility's fuel costs before passing on the justness and reasonableness of its wholesale rates.

The assistance to state level intervention provided by Form 423 data can be of direct benefit to us in monitoring captive coal costs. Clearly, intervenors in state proceedings can be more effective with access to a complete and timely body of data on fuel costs. The complete Form 423 data set is particularly useful for this purpose because it allows comparison of the prices paid for captive coal with the prices paid for comparable non-captive coal by a particular utility or by neighboring utilities. We note that the significance

Group letter of September 14, 1977; Utility Consumer Action Group comments of September 28, 1977.

<sup>15</sup>Prepared statement of I. Curtis Jernigan, Jr., Director of Economic Policy and Planning, Office of Consumer Affairs, March 9, 1978.

<sup>16</sup>Environmental Defense Fund Letter, October 14, 1977.

<sup>17</sup>One exception would be unit sales designated for a specific wholesale customer.

of captive coal operations is increasing.<sup>18</sup>

Form 423 has also been used in other regulatory forums. The Petrochemical Energy Group (PEG), an organization of petro-chemical producers, indicated that data available from Form 423 has been of considerable use to them in interventions before the Economic Regulatory Administration (ERA) with respect to the allocation of liquid-based synthetic natural gas (SNG). The group stated:<sup>19</sup>

"Thanks to the invaluable assistance of the supplier data contained on Form No. 423, PEG has often assisted proper allocation decisions and enforcement efforts by identifying violations, developing factual data and presenting arguments in agency proceedings. The Form No. 423 data enables interested groups to make the following determinations: whether gas is being supplied for the generation of electricity at the same time that SNG is being produced; whether gas is being supplied for low priority gas utility boilers with alternative fuel capability while high priority users with no alternate fuel capability are being curtailed; whether users are properly bearing the costs of the expensive SNG; and whether the cost to the ultimate consumer of SNG is comparable to the cost of other available fuels."

In summary, the evidence developed in this rulemaking proceeding indicates that availability of the Form 423 reports as filed can significantly assist the regulatory processes of State and other Federal agencies, as well as those of this Commission. It is also apparent that the detailed information present in the reports as filed, such as the origin of the fuel shipments and cost of individual deliveries, permits independent non-government analyses of fuel supply patterns and trends which can usefully supplement government studies.

We conclude, therefore, that continued availability of the data as filed assists this Commission in discharging its broad responsibilities for just and reasonable wholesale rates and in fulfilling the requirements of the Federal Power Act for supplying significant electric power information to the Congress and the public.

**B. What is the harm to those supplying the data and what is the harm to the public in general?**

In *Alabama Power*, the Court indicated that the utilities which sought to limit public disclosure of Form 423 had to show evidence of actual harm resulting from the reporting require-

<sup>18</sup>A staff study indicates that by 1985, U.S. electric utilities will be supplying 18.8 percent of their total coal needs from captive sources. In 1974, captive coal accounted for only 9.0 percent of total coal deliveries to U.S. utilities. See *Electric Utilities Captive Coal Operations*, Staff Report by the Bureau of Power, June 1977.

<sup>19</sup>Testimony of the Petrochemical Energy Group, March 9, 1978.

ments at that time.<sup>20</sup> In this proceeding, the Petitioners have argued that a new standard has been developed materially changing the evidentiary standards that are relevant to their petition. In particular, they argue that this "likely to harm" standard:

"does not require a showing of actual injury (though such showing has been made here, as discussed infra). Rather, it requires a showing that disclosure would likely result in competitive injury."<sup>21</sup>

We believe that the issue of what is the appropriate evidentiary standard is moot in this proceeding because the Petitioners have not presented evidence which would satisfy either standard.<sup>22</sup>

1. The "Likely to Harm" Standard. It is the contention of Petitioners that the Present Form 423 reporting system "may set the stage for anti-competitive behavior by suppliers." It appears that this allegation is likely to be true only under certain conditions: (1) the utilities are generally purchasing fuel in oligopolistic markets; (2) the information is released with sufficient timeliness so that it can be used to coordinate actions among fuel suppliers; (3) the information being released provides a complete description of the transaction.

A detailed analysis as to whether these conditions currently prevail is presented in PART II of this order. We conclude, based on this analysis, that coal markets are workably competitive and that the current Form 423 reporting system is not likely to contribute to anti-competitive behavior by coal suppliers. We also conclude that the two month delay in availability of Form 423 data makes it unlikely that the data could serve to maintain price coordination in any spot fuel market.

<sup>20</sup>The Court noted that, "The utilities remain free to present a new petition for amendment of regulation 141.81 accompanied by factual representations sufficient to fill the gaps that have been identified in their earlier submissions." (511 F.2d. 393). The Court also observed that, "the utilities were not prepared to give any specifics whatever as to the existence of an injury." (511 F.2d. 391).

<sup>21</sup>Response to Request for Conference and Supplemental Comments of Sixteen Company Electric Utility Groups, October 28, 1977, p. 2. (hereinafter *Response to request*).

<sup>22</sup>The record shows that the Petitioners believed that they had succeeded in making an adequate showing under both standards. On October 28, 1977, they stated that, "Public Disclosure Of Form 423 Has Caused And Is Likely To Further Cause, Substantial Harm To Utilities and Their Customers." (Response to Request p.3). In their most recent brief, filed one month after the public conference, they asserted that "Unrestricted public disclosure of Form 423 has caused and will likely further cause, substantial harm to utilities and their customers through higher fuel prices." (Supplemental Comments of Electric Utility Group, April 10, 1978, p. 1.)

2. The "Actual Injury" Standard. The evidence offered by the Petitioners in support of their contention that disclosure of Form 423 data has already led to anti-competitive conduct by fuel suppliers is not convincing. The petitioners cite a letter filed by the South Carolina Public Service Authority (SCPSA), which states that soon after SCPSA began filing Form 423's, "coal suppliers with which we had lower cost contracts immediately began to pressure us for higher prices."<sup>23</sup> The Petitioners also draw attention to a similar statement made by the American Electric Power Company (AEP). In comments filed September 30, 1977, AEP asserted that public availability of Form 423 data "has altered to the disadvantage of the AEP system and its customers the bargaining position of the utility vis-a-vis coal producers." AEP also pointed out that it had been "confronted by fuel suppliers using data which they boasted was taken" from the Commission public records.<sup>24</sup>

These comments do not prove the existence of anti-competitive behavior. SCPSA's suppliers may have "pressured" and AEP's suppliers may have "boasted," but that in itself does not prove that either set of suppliers actually succeeded in obtaining higher prices. Assume, for the sake of argument that the Petitioners could show that AEP and SCPSA's fuel suppliers succeeded in charging prices higher than the prices that would have prevailed if the suppliers had not had access to Form 423 data. This still would not necessarily prove anti-competitive behavior. A shift towards higher prices might reflect oligopolistic coordination (the Petitioners contention), but such a shift would also be consistent with the operation of a competitive market in which the quality of price data available to sellers had suddenly improved. In such a market it would not be unreasonable to expect a seller to demand a higher price if he learned from Form 423 data that he had been offering his coal at less than the going market price. While it is true that this would injure buyers in that they would have to pay higher prices for coal, it is incorrect to characterize this improvement in the bargaining position of sellers as anti-competitive.

In fact, under certain circumstances, an improvement in sellers' bargaining power resulting from disclosure of Form 423 data would be pro-competitive. This point was made by Dr. Zellner, economic consultant for the Petitioners. Citing the specific case of

a market in which "the supply side is competitive and the demand side is oligopolistic," (commonly described as an oligopsony market) Dr. Zellner observed that, "an improvement in the bargaining position of suppliers can be expected to move the price/quantity solution closer to the competitive one." Dr. Zellner also noted that the "effect of Form 423 disclosure" can be characterized as "pro- or anti-competitive" only "insofar as it can be predicted to move this price/quantity solution closer to or further away from that which would be achieved in a competitive market."<sup>25</sup> Essentially the same position was taken by the Federal Trade Commission (FTC). The FTC stated that:

"An increase in the bargaining power of an individual coal producer would not necessarily be anti-competitive. If the Form No. 423 data were used to facilitate price fixing or conscious parallelism, such a situation would clearly be anti-competitive. The improvement in the bargaining position of an individual fuel supplier would not be anti-competitive unless the fuel supplier thereby obtained some measure of monopoly power."<sup>26</sup>

In summary, there are two problems with the evidence presented by the Petitioners. First, it cannot be determined from the evidence presented whether fuel suppliers actually succeeded in obtaining higher prices because they had access to Form 423. Fuel suppliers may have "pressured" for higher prices, but that does not prove that they actually received higher prices. Second, even if the evidence were clear that the Form 423 data improved the bargaining position of certain sellers so that they were able to charge higher prices than they could have in the absence of the data that, in itself, does not prove anti-competitive conduct. If the "actual injury" standard is to make any sense in an antitrust context, it must be shown that the injury (i.e., the higher price) was the direct result of anti-competitive behavior on the part of fuel suppliers. It is the Commission's conclusion, based on a review of the record, that neither the Petitioners nor anyone else made such a showing.

**C. What alternatives to full disclosure exist (if any) that will provide the public with adequate knowledge to participate fully in the Commission's proceedings and other useful information, but at the same time protect the interests of those supplying the data?**

The Notice of Proposed Rulemaking observed that the average fuel purchase price data by utility and plant, which are published monthly, provide a basic means for public monitoring of

<sup>23</sup>Response to questions posed by FERC staff in Notice of Public Conference Issued February 1, 1978, in Docket No. RM77-2, March 9, 1978, p. 10.

<sup>24</sup>1978 FTC Letter, p. 12.



utility fuel expenses, allowing comparisons between utilities and over time. It was thought that such data would provide for reasonable public oversight of utility fuel purchasing operations. However, evidence has been presented that instances of possible fuel purchasing imprudence are more visible in the individual fuel delivery data, where correlations of specific fuel grade, source and price can be made.

For example, in comments made at the public conference, the representative of the Office of Consumer Affairs, HEW, stated:

"The substantial benefits which result from public participation in electric utility rate proceedings have been recognized by both the federal government and state utility commissioners. . . . The information in Form 423 is necessary for analysis of many of the issues. . . . An average price which includes old contracts, new contracts, and spot purchases would be almost useless in analyzing fuel prices. An average price cannot be used to investigate whether a utility is paying too much for captive coal, paying more than necessary for spot coal purchases, or engaging in other inefficient purchasing policies."<sup>22</sup>

The State of New Jersey<sup>23</sup> and Amax Coal Company<sup>24</sup> have presented specific examples of why detailed data are required for use in rate hearings and environmental hearings. The California Public Utilities Commission sheds more light on this subject:<sup>25</sup>

"The summary reveals nothing about when particular contracts were negotiated, and this feature alone renders comparison between listings of different utilities' costs uninformative. . . . The purpose of a state commission's inquiry into the fuel cost of a regulated utility is not to determine whether the company has done a good or bad job as a bargain seeker. It is the much more precise goal of deciding whether a utility has paid an unreasonably high price for some or all of its fuel. That question can be answered only by detailed analysis and comparison of specific fuel supply contracts. For members of the general public to take an active role in such an inquiry requires that such persons have access to detailed contract information in order to judge when objection is warranted."

It appears, then, that certain public uses of the Form 423 data require the detailed information available only on the as-filed forms. We are unable to conceive of any means of satisfying these public uses while at the same time withholding the data alleged by

<sup>22</sup>Prepared Statement of I. Curtis Jernigan, Jr., pp. 38, 39, 46.

<sup>23</sup>Comments Submitted by the Division of Rate Counsel, Department of the Public Advocate, State of New Jersey, March 8, 1978.

<sup>24</sup>Comments dated March 7, 1978, Part I, page 2; See also Memorandum of John W. Wilson, March 8, 1978, pages 8-11.

<sup>25</sup>Additional Comments dated March 7, 1978, page 3. See also the letter from the Georgia Consumers' Utility Counsel, March 6, 1978, pages 9-10.

the Petitioners to be damaging. In fact, the focus of public interest is on the very price data Petitioners wish to conceal, and this recognition leads to the conclusion that there is no alternative to full disclosure which can provide the public with equivalent information.

#### CONCLUDING OBSERVATIONS

This case has presented some special difficulties for the Commission. During the proceeding it was apparent that there are strongly held beliefs on both sides of the issue, supported by various theories, but a scarcity of evidence to demonstrate convincingly the correctness of the beliefs. Our decision is based on the available evidence, on analyses submitted by various groups and on our own independent evaluations. However, it necessarily relies importantly on the absence of an adequate showing that harms alleged to result from various actions do in fact occur, or are likely to occur.

We noted particularly that a large number of utilities apparently are convinced that they can purchase fuel more economically if knowledge of their detailed transactions is withheld from the fuel industry for a considerable period of time. This belief was not restricted to investor owned utilities. Although the American Public Power Association supported full disclosure, four out of six of the individually-responding publicly owned utilities also favored limiting disclosure. However, despite the belief, we could not find evidence that disclosure has had a significant adverse effect on utility fuel expenses, or would be likely to.

Our problem in assessing the effects of data availability is perhaps best illustrated by the reversal of the recommendations of the Federal Trade Commission and the Department of Justice. Both agencies, prior to the issuance of the Notice of Proposed Rulemaking, recommended to the Commission that it restrict disclosure, to minimize the likelihood of anti-competitive behavior. Following the Commission's proposal to limit disclosure, the two agencies advised the Commission that their views had changed and that they now favor continued full disclosure. We have no objection to the shift in position of the agencies and, in fact, very much appreciate their continued analysis and counsel. But the change in recommendations by the two agencies in charge of monitoring competitive conditions in the economy certainly shows that the issue is not easy to resolve.

We note that most of the evidence and comments filed in the proceeding concerned coal markets, even though expenditures for oil constituted almost 40 percent of total utility fuel purchases in 1977. Apart from expressions

of concern by two utilities that Form 423 data may have increased their fuel oil costs,<sup>26</sup> no specific information was presented relating to the oil market. No attempt was made to restrict the scope of the proceeding to coal markets. In fact, the Notice of Public Conference asked for evidence and comments on the Petitioners' allegations with respect to all fuel markets. However, neither the Petitioners nor any intervenor brought forth information on oil markets.<sup>27</sup> While our finding that the current Form 423 reporting has not "set the stage for anti-competitive behavior", nor is likely to in the future, is based specifically on our analysis of coal markets, the general absence of evidence of harm in any fuel market is the most important single consideration in our decision.

Finally, we note that the public interest is generally served by the open availability of information concerning matters which directly affect the public, a principle widely recognized in statutes concerning the operations of public agencies. With some 78 percent of electric generation being dependent upon coal, oil or gas fuels in 1977, at a total fuel cost of \$22.5 billion, the topic of utility fuel supply is clearly a legitimate matter for public interest and scrutiny. In view of both the general desirability of information availability and the present concerns regarding the efficiency of utility fuel procurement, we believe a convincing showing of harm would be needed to justify limiting access to the data.

#### The Commission Finds:

1. The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently pending before this Commission through the submission, in writing, and presentation at a public conference held on March 9, 1978, of data, views, comments and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

2. The use of Form 423 data by public intervenors offers significant assistance and benefit to this Commission in fulfilling its functions under the Federal Power Act.

3. There is no known alternative to full disclosure of Form 423 data which can provide equivalent information to public intervenors, and to the public in general.

4. Evidence has not been presented showing that electric utilities have ac-

<sup>26</sup>Comments of the Consolidated Edison Company, October 12, 1977 and comments of Pacific Gas and Electric Company, October 17, 1977.

<sup>27</sup>The Petitioners alleged in their final set of comments that "With respect to fuel oil broad market analyses are not available." Supplemental Comments Of Electric Utility Group, April 10, 1978, p. 3.

tually been injured by anti-competitive behavior resulting from or facilitated by the disclosure of Form 423 data.

5. Evidence has not been presented showing that the continuation of the present Form 423 disclosure procedure is likely to lead to anti-competitive behavior in any utility fuel market. The plausibility of this allegation would have to be based on a showing that fuel suppliers currently possess or are likely to acquire some significant degree of market power.

6. Based on our analysis of coal markets, we conclude that the regional short and long term markets are workably competitive and are likely to remain so in the future.<sup>28</sup>

7. No showing has been made on the record that oil suppliers currently possess or are likely to acquire a significant degree of market power in the oil markets of concern to utilities.

8. The two month lag in the release of Form 423 data makes it unlikely that the data could be used to maintain a noncompetitive price structure in any spot fuel market.

9. It is unlikely that the limited long term contract information available from Form 423 could be used to maintain a tacit or explicit price coordination agreement by producers in long term coal markets.

The Commission, acting pursuant to authority granted by the Federal Power Act, as amended, particularly Sections 301, 304, 307, 308, 309, and 311 thereof (49 Stat. 854, 855-856, 856-857, 858, 858-859; 16 U.S.C. 825, 825c, 825f, 825g, 825h, 825j) orders:

(A) The petition of certain electric utilities for amendment of the Commission's Regulations with respect to Form No. 423 filed October 15, 1976, is hereby denied.

(B) Effective upon issuance of this order, the proposed rulemaking in Docket No. RM77-2, is terminated.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

<sup>28</sup>The Department of Justice concurs with this conclusion. In a letter dated March 9, 1978, the Assistant Attorney General, Antitrust Division, advised the Commission that "Further analysis has convinced us that the structure at the coal industry indicates a market conducive to healthy competition" (at 2). The letter went to conclude that, "the market conditions which might give rise to concern over the public availability of disaggregated price information are not present, and taking into account the position of a number of nongovernmental utility monitoring groups that the continued availability of this data is helpful in discharging their responsibilities, the Department now believes that any balancing of interests should now be struck in favor of continued public access to this information. Therefore, the Department of Justice recommends that the Commission continue its present policy of making the data collected via Form 423 accessible to the public" (at 4-5).

By the Commission.

KENNETH F. PLUMB,  
Secretary.

#### PART II—MARKET CONDITIONS AND DATA REQUIREMENTS NEEDED TO SUPPORT PRICE COORDINATION BY FUEL SUPPLIERS

The Petitioners in Docket No. RM77-2 contend that the present Form 423 reporting system, "may set the stage for anticompetitive behavior by suppliers." This allegation is likely to be true only under certain conditions: (1) that the utilities are generally purchasing fuel in oligopolistic markets; (2) that the information is released with sufficient timeliness so that it can be used to coordinate actions among fuel suppliers; and (3) that the information being released provides a complete description of the transaction. In this part of the Order, we examine the evidence as to whether these conditions currently prevail.

#### MARKET STRUCTURE—THEORY

Frederic Scherer, in analyzing the impact of information on market performance, makes the following observation:

"It might seem paradoxical that there could be anything harmful about information dissemination activities, which at first glance appear only to perfect the market. However, perfect information is unambiguously beneficial only in the context of purely competitive markets. When the market is oligopolistic, it may impair rather than invigorate rivalry."<sup>29</sup>

In an oligopolistic market,<sup>30</sup> information may "impair rather than invigorate rivalry" by serving as a basis for the maintenance of a tacitly or explicitly collusive price structure. It is generally agreed among economists that the potential for collusive behavior exists in virtually every oligopolistic market. Collusion, as both Justice and the FTC noted, can take many different forms.<sup>31</sup> At one extreme it may involve an explicit price fixing agree-

<sup>29</sup>Frederic Scherer, *Industrial Market Structure and Economic Performance*, Chicago Rand McNally & Company, 1970, p. 449. Dr. Scherer, currently Professor of Economics at Northwestern University, was formerly Director of the Bureau of Economics at the Federal Trade Commission.

<sup>30</sup>An oligopolistic market is a "market in which sellers are sufficiently few in number so that each believes his economic fortunes are perceptibly influenced by the market action of other individual firms and that those firms are in turn affected significantly by his own actions." (Scherer, p. 10.)

<sup>31</sup>Letter from John Shenefield, Assistant Attorney General, Antitrust Division to the Secretary (FERC), March 9, 1978, p. 1 (hereinafter the 1978 *Justice Department Letter*) and a letter from Carol M. Thomas, Secretary, Federal Trade Commission to the Secretary (FERC), April 4, 1978, p. 2 (hereinafter the 1978 *FTC Letter*).

ment with regular communication among sellers regarding the appropriate price level and share of total market sales that each seller will be allowed the capture.<sup>32</sup> Or, at the other end of the spectrum, it may involve a loose and more subtle form of pricing coordination known as "conscious parallelism."<sup>33</sup>

Fortunately, sellers participating in a collusive agreement always have an incentive to cheat on that agreement. The incentive, of course, is the opportunity to earn higher profits. A seller who is able to cut prices to buyers without having this price shading detected by other sellers will be able to capture a larger share of the market's total sales and thereby earn higher profits. The existence of this phenomenon was explicitly recognized by the court in *Alabama Power*: "In markets characterized by few sellers, secret shading of announced prices may provide the only form of price competition." (511 F.2d at 389). The court went on to note that, "publicizing transaction prices will chill price competition by foreclosing any opportunity for a seller to lower his price without fear of detection and retaliation. The chilling effect flows from publicity itself and does not depend on who collects or disseminates the information." (551 F.2d at 389). The paradox, then, is that within a concentrated market the free flow of detailed information about individual transactions may serve to stabilize the operation of a collusive agreement.

In contrast, within a less concentrated market, the disclosure of detailed price information is likely to have a pro-competitive impact. As the number of sellers increases and the share of total sales supplied by an individual seller decreases, sellers are more likely to compete rather than collude.<sup>34</sup> In a competitive environment

<sup>32</sup>A careful analysis of factors which facilitated formal or explicit agreements among competitors in cases initiated by the Justice Department between January 1963, and December 1972, under Section 1 of the Sherman Act can be found in George Hay and Daniel Kelley, "An Empirical Survey of Price Fixing Conspiracies," *Journal of Law and Economics*, Volume 17, No. 1, April 1974, pp. 13-38.

<sup>33</sup>This term is used to describe a situation in which sellers in a oligopoly market have come to realize that price cutting will probably induce counteractions from rivals that in the end will leave all sellers worse off. In order to avoid this competition each seller exercises restraint in the hope that other sellers will act in a similar fashion. If sellers generally observe this "understanding," then prices will tend to stabilize above competitive levels.

<sup>34</sup>This occurs for a variety of reasons. First, as the number of sellers increases, each seller is more likely to believe that a unilateral price cut will have a less noticeable impact on the sales of other sellers. Second, as the number of sellers increases,

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information will tend to make the market operate more efficiently. This means, in effect, that prices will be distributed within a narrower range. The widespread dissemination of price information reduces the likelihood that in any given transaction a seller will mistakenly sell at too low a price or that a buyer will needlessly pay too high a price.<sup>7</sup>

There was general agreement by the Justice Department, the Federal Trade Commission and the Office of Consumer Affairs (HEW), that the Petitioners' allegation required the implicit assumption of an oligopolistic market.<sup>8</sup> It is noteworthy that even the Petitioners acknowledged this point, though in a somewhat indirect fashion. For example, the Petitioners thought it important to draw our attention to a comment of Professor William Baxter (Stanford Law School) in which he observed that "to the extent that the exchange of data among competitors in a concentrated industry is to be tolerated, it should be tolerated only as to data which is aggregated to a fairly high level and which is not too contemporaneous."<sup>9</sup> Unfortunately, the Petitioners did not seem to see any significance in the fact that the Baxter recommendation was limited to a "concentrated industry" nor did they find it useful to bring to the Commission's attention another sentence in the preceding paragraph of the same article in which Baxter emphasized that the principal danger of information exchange was that it would facilitate "oligopolistic interdependence." In another communication (Supplement to Petition, January 17, 1977), the Petitioners supplied the Commission with a copy of the stipulations agreed to by the Department of Justice, the General Electric Company and Westinghouse Electric Corporation on December 10, 1976, which modified the 1962 decree prohibiting certain price-fixing practices in connection with the sales of large steam turbines. The main thrust of the stipulations is to prohibit the exchange of price and related information between these two manufacturers.

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there is a higher probability that at least one seller will have a different cost structure and therefore a different notation as to what constitutes the most advantageous price. Finally, collusion will simply become difficult as more and more sellers have to agree to a common price level.

<sup>7</sup>See the 1978 FTC Letter, p. 11.

<sup>8</sup>1978 Justice Department Letter, p. 1, 1978 FTC Letter, p. 9, and Prepared Statement of I. Curtis Jernigan, Jr., Director of Economic Policy and Planning Office of Consumer Affairs, March 9, 1978, p. 7.

<sup>9</sup>William Baxter, Review of Richard Posner's "Antitrust Law: An Economic Perspective," *The Bell Journal of Economics*, Autumn 1977, p. 615 quoted in *Response to Request*, p. 7, footnote 1.

The Petitioners suggested that these stipulations were very relevant to our deliberations in this proceeding. We reviewed the stipulations; their relevance was not obvious to us. The heavy electrical equipment industry is a tight oligopoly with a long and well-documented history of collusive behavior.<sup>10</sup> We did not see evidence which indicated similar characteristics for the coal industry, which was the subject of most of the record developed by the Petitioner's and other parties. In fact, we did not see any similarity between the two industries apart from the fact that electric utilities are the principal customers for both industries.

#### EVIDENCE ON MARKET STRUCTURE AND OTHER FACTORS

The plausibility, then, of the Petitioner's allegation rests in part on an analysis of the structure of coal markets. The Petitioners did not present any studies of market structure. It was their contention that a "full-blown market analysis is not required to determine the need to limit public disclosure."<sup>11</sup> Nevertheless, they did agree that such studies would be relevant for our deliberations.<sup>12</sup> Since the Petitioners did not present evidence on market structure, we relied on several studies of the coal industry that became available during the last year.

The two studies that were cited most frequently by participants in this proceeding were: *The State of Competition In The Coal Industry* issued by the General Accounting Office on December 30, 1977 (hereinafter the "GAO Report") and *Coal Price Formation (1977)* prepared by Charles River Associates, Incorporated, for the Electric Power Research Institute (hereinafter the "Charles River report"). A third study, *Competition In The Coal Industry* prepared by the Justice Department (hereinafter the "Justice Department report") was initially described to us in summary form.<sup>13</sup> The full report became available in May 1978, and generally confirmed the findings of the GAO and Charles River reports.<sup>14</sup>

<sup>10</sup>See Ralph G. M. Sultan, *Pricing in the Electrical Oligopoly*, Volumes I and II, Cambridge, Massachusetts: Harvard University Press, 1974 and Clarence C. Walton and Frederick W. Cleveland, Jr., *Corporations on Trial: The Electric Cases*, Belmont, California: Wadsworth Publishing Company, Inc., 1964.

<sup>11</sup>Response to Request, p. 8.

<sup>12</sup>Transcript, p. 23.

<sup>13</sup>The 1978 Justice Department Letter, p. 2-3.

<sup>14</sup>Citing nine earlier studies, the Justice Department observed that "the coal industry seems recently to have been the object of more studies of competition than any other industry in our economy." (Justice Department report, p. 83, ff. 166). Most of these studies have been reported widely in

There is general agreement in all three reports that electric utilities purchase coal in regional markets.<sup>15</sup> The reports do disagree, however, on the number of regional markets and the boundaries of these markets. The Justice Department report identifies four regional markets—the Appalachian, Midwest, Northern Plains and Southwest markets. In contrast, the GAO and Charles River studies identify only three regional markets. The difference is attributable to the fact that the GAO and Charles Rivers reports combine the Midwest and Northern Plains markets in a single market (designated the Central Western market in the GAO report and the Midwest market in the Charles River Report).

Among the various dimensions of market structure that affect the potential for collusion, seller concentration generally receives the most attention.<sup>16</sup> While the level of seller concentration is not the sole determinant of the degree of competition in a market, it is accepted in the economics literature that the likelihood of sellers colluding the raise prices above competitive levels increases, other things being equal, as the degree of seller

the industry and trade press. Therefore, given the nature of the Petitioners' allegations it is rather surprising that both their chief counsel and their economic witness were completely unaware of the existence of such studies. Transcript, p. 22-23.

<sup>15</sup>The FTC raised the possibility that some transactions might take place in sub-regional markets, but observed that "it is noteworthy that the petitioners have not been able to identify any such situations." (1978 FTC Letter p. 6.) The FTC also noted that within the general category of bituminous coal a particular type of coal, such as low sulfur high Btu coal, might constitute a distinct submarket. This further segmentation would be justified only if utilities had limited ability to substitute between high and low quality coal. We do not believe this to be the case. It is clear that no buyer will pay more for higher quality coal than the incremental cost of using lower quality coal. The Justice Department has reported that "Recent estimates based on engineering data suggest that, at least for quality as measured by Btu and ash content, these incremental costs are low." (Justice Department report, p. 40.) Another factor which enhances the purchasing flexibility of utilities is blending. By blending different kinds of coal, utilities can achieve almost any quality level they want. Finally, distinctions between low-sulfur "compliance" and high-sulfur "non-compliance" coal may disappear with implementation of the 1977 Clean Air Amendment Act's requirement that utilities install sulfur-removing scrubbers on all new plants regardless of the type of coal burned in them.

<sup>16</sup>Other factors which may affect the ability of sellers to maintain prices above competitive levels are: barriers to entry; similarity of competitors; degree of buyer concentration; opportunities for communication; and nature of the product and the dominant mode of transaction.

concentration increases. The explanation for this phenomenon is that it is easier to coordinate pricing decisions, either tacitly or explicitly, in markets that contain a small number of sellers, each with a significant market share.<sup>17</sup> The key question, then, is: at what level of concentration does an oligopolistic market become susceptible to anticompetitive practices? In a recently published analysis of various energy markets, Professor Markham of Harvard University concludes that "there is a consensus among economists, antitrust law scholars, and public policy makers that a four-firm concentration ratio of 50 percent or less is a cut-off below which it cannot reasonably be inferred that market power is significant, or that tacit collusion among firms is a likelihood."<sup>18</sup> Professor Markham's view is shared by the Justice Department: "Virtually all economists agree, however, that when sellers are numerous and diverse, collusion becomes more difficult and is less likely to be effective if four-firm concentration is below 50 percent."<sup>19</sup>

Using the 50 percent standard, we looked at two types of concentration ratios, one which measured the percentage of total production accounted for by the four leading firms and the other which measured the percentage of uncommitted non-Federal reserves owned or controlled by the leading four firms. The first ratio provides a rough measure of the potential for collusion in spot sales.<sup>20</sup> The second ratio

<sup>17</sup>It should be emphasized that the fact that a utility regularly purchases coal from only two or three sellers does not prove that the relevant market for that utility is highly concentrated. As the Office of Consumer Affairs pointed out, it is not "inconsistent with the existence of a completely competitive market to see relatively stable buyer-seller relationships" and that to determine the extent of the relevant market it is necessary "to look at the alternative such as how many equivalent sellers were available in that market area" and not how many were transacting business with the buyer at a particular moment in time. (Transcript at p. 111.)

<sup>18</sup>Jesse E. Markham, Anthony P. Hourihan, Francis L. Sterling, *Horizontal Divestiture and the Petroleum Industry*, Cambridge, Massachusetts: Ballinger Publishing Company, Inc., 1977, p. 5.

<sup>19</sup>Justice Department report, p. 55.

<sup>20</sup>It is a less than perfect measure since, for most fuel suppliers, some portion of current production is dedicated to existing long term contracts and is therefore not available for spot sales. However, if spot prices are favorable most coal producers have the capability of increasing production by mining existing seams more intensively or opening up previously uneconomic seams and thus being able to supply new spot contracts in addition to existing long term contracts. In addition, there is evidence that coal producers do not always honor existing long-term contracts. In 1974, when spot prices moved significantly above prices on long term contracts many coal suppliers reneged on their

provides evidence regarding the potential for collusion in the market for sales under long-term contracts.

#### THE MARKET FOR SHORT TERM SALES

The evidence on concentration ratios in current sales is mixed. In the Appalachian market, both the Justice Department and the GAO reported that in 1974 the four leading producers accounted for 22.3 percent of the region's total coal production.<sup>21</sup> Based on this evidence, the Justice Department concluded that "This market appears to offer little potential for competitive problems."<sup>22</sup>

In the remaining regional markets, concentration ratios are higher. Using 1974 data, the Justice Department calculated a four firm production concentration ratio of 56.1 percent in the Midwest market and 37.7 percent in the Northern Plains market. As was noted earlier, GAO combines these two smaller markets into a single larger market designated the Central Western market. For this market the 1974 four firm production concentration ratio was found to be 44.3 percent. There is reason to believe that the technique used by GAO for delineating market boundaries may tend to overstate market size.<sup>23</sup> Therefore, we are inclined to accept the Justice Department's delineation of the Midwest and Northern Plains market as more accurately reflecting the realities of the market place as they existed in 1974. It should be noted, however, that the 56.1 percent concentration ratio probably overstates the potential for oligopolistic coordination in the Midwest market. According to Justice, in recent years, "the most important fea-

long term contracts and shifted their output to the spot market. See *Report to the FTC on the Use of Automatic Fuel Adjustment Clauses and the Fuel Procurement Practices of Investor-Owned Electric Utilities*, Bureau of Economics and Bureau of Competition, May 1977, p. 135-138 and Justice Department report, p. 42.

<sup>21</sup>We gave less weight to the concentration ratios presented in the Charles River report because they are based on 1970 data.

<sup>22</sup>Justice Department report, p. 64.

<sup>23</sup>The GAO report uses a technique developed by Elzinga and Hogarty for delineating the geographic market. (See Kenneth Elzinga and Thomas Hogarty, "The Problem of Geographic Market Delineation in Antitrust Suits," *The Antitrust Bulletin*, Spring, 1973, p. 45-82). In general, an area is considered to be a separate geographic market if it receives few imports and makes few exports of the product in question. The "few exports" condition may overstate size of the market. This occurs because it pushes the markets proposed boundaries "far enough beyond the exporting 'core' area to include the destinations of much of the core's exports." As a result, the "few exports" criterion may fail "to capture the power of a monopolist (or oligopolist) in an exporting region to charge non-competitive, high prices to customers in that region." (Justice Department report, p. 46.)

ture of competition" in the Midwest market was the "severe competition pressure from producers in the Northern Rockies basin."<sup>24</sup> The presence of this competition from suppliers outside the market would reduce the likelihood that Midwestern producers could successfully engage in tacit or explicit price coordination.

Concentration in the southwest market, based on current production was somewhat higher. According to the Justice Department, in 1974 the four leading producers accounted for 64.1 percent of the Southwest's total coal production. There are two factors which offset the anti-competitive potential of this relatively higher level of production concentration. First, most coal produced in this region is sold under long term rather than spot contracts.<sup>25</sup> Therefore, even if seller concentration is high in the short term sales market, it is of less importance given the small volume of coal that is sold under spot contracts. Second, and more importantly, of all the regional markets, the level of buyer concentration is highest in the Southwest market. In 1976, four utilities consumed 83.6 percent of the total amount of coal produced in the Southwest market for sale to electric utilities.<sup>26</sup> It has been shown empirically that a high level of buyer concentration often serves as a countervailing force against a high level of seller concentration.<sup>27</sup> Large buyers are able to "play off sellers against each other and thereby impose a sort of competition which will resemble that which exists when no buyer or seller has market power." (footnote omitted)<sup>28</sup> Thus, even though seller concentration in production is relatively high in the Southwest, the existence of an even higher level of buyer concentration greatly reduces the potential for oligopolistic coordination.

In summary, the potential for collusive behavior in spot sales appears to be very small. Evidence on concentration levels in the Appalachian and Northern Plains markets suggests that there is very little potential for anti-competitive behavior in either of these markets. The Midwest market exhibits a higher concentration ratio. However, the simple four firm concentration

<sup>24</sup>Justice Department Report, p. 65.

<sup>25</sup>Justice Department Report, p. A-28.

<sup>26</sup>Justice Department Report, p. 79.

<sup>27</sup>Sales to Electric utilities accounted for approximately three-fourths of coal production in the Southwest market in 1975.

<sup>28</sup>See S. Lustgarten, "The Impact of Buyer Concentration in Manufacturing Industries," *Review of Economics and Statistics*, Vol. 57, p. 125 and R. McGuckin and H. Chen, "Interactions Between Buyer and Seller Concentration and Industry Price-Cost Margins," *Industrial Organization Review*, Vol. 4, p. 123.

<sup>29</sup>Justice Department Report, p. 78.



ratio in production overstates the potential for oligopolistic coordination. The ability of Midwestern producers to maintain prices above competitive levels is effectively constrained by the availability of coal imports from the Northern Rockies. The highest concentration ratio in current production is found in the Southwest market. Here the four leading producers accounted for 64.1 percent of production. This high level of seller concentration is offset, however, by an even higher level of buyer concentration. Therefore, we conclude that it is unlikely that producers in the Southwest market have sufficient market power to maintain spot prices above competitive levels.

#### FORM 423 DATA DISSEMINATION AND SHORT TERM SALES

We conclude, therefore, that coal producers generally do not have market power that would allow them, either individually or as a group, to maintain spot prices above competitive levels. But, even if the conclusion is incorrect, it would still be necessary under the "likely to harm" standard to show that the public availability of Form 423 data is a significant factor contributing to the ability of coal producers to maintain a non-competitive price structure in spot sales. Neither the Petitioners nor anyone else was able to make such a showing.

The Petitioner's inability to produce such evidence is understandable if one takes a closer look at how Form 423 data is disseminated. Under the present reporting system, the information relating to a particular purchase, whether it is spot or long term, is generally not made public until at least two months after the transaction has occurred. Given the volatility of the spot market, it is hard to imagine how the release of information which is two months out of date will enable coal producers to maintain a price floor for spot sales in different regional markets.

#### THE MARKET FOR LONG TERM SALES

Sales under long term contracts represent a somewhat different case. Here it is helpful to examine concentration ratios based on uncommitted non-Federal reserves. This requires some explanation. It will be recalled that a concentration ratio is a useful statistic only to the extent that it measures the likelihood that sellers, either individually or collectively, will be able to raise prices above competitive levels. In general, the ability of sellers to influence prices in future transactions will depend critically on how much of the commodity or product they can bring to market. In the case of coal sales under long term contracts, current production levels are not very

useful for making this determination. A firm "may account for a large share of current deliveries yet have little or no ability to market coal in the future" if it has "contractually committed or extracted the bulk of its reserves."<sup>30</sup> The potential for collusion in long term contracts depends on the level of concentration that exists in uncommitted reserves. Since the resumption of coal leasing on Federal lands is not likely for several years, the present potential for anticompetitive behavior is best assessed by examining concentration levels in uncommitted non-Federal reserves.

Once again, the level of concentration varies considerably across regions. The 1974 four firm concentration ratios in uncommitted non-Federal reserves were as follows: 19.3 percent in the Appalachian market; 25.6 percent in the Midwest market; 46.9 percent in the Northern Plains market; and 66.3 percent in the Southwest market. An analysis based solely on seller concentration ratios would indicate a substantial potential for anticompetitive behavior in the Southwest market. Therefore, it is important to take note of the Justice Department's conclusion that "the prospects for non-competitive activity are not as serious as suggested by simple concentration ratios" and that "there is no apparent reason to expect more competition problems in the coal market of the Southwest than in the nation's other workably competitive industries."<sup>31</sup>

The Justice Department points to several factors that have to be considered in addition to the level of seller concentration. First, as was noted earlier, the level of buyer concentration is very high in the Southwest market. The exercise of countervailing power by strong buyers will in most instances effectively thwart attempts by sellers to collude on prices. This applies to the market for long term purchases as well as in the market for spot purchases. A second consideration is the large size and relative infrequency of coal supply contracts in the Southwest market. The Justice Department states that this factor, by itself, would make "successful collusion quite difficult."<sup>32</sup> The Department's explanation is worth quoting at some length:

Foregoing a contract with a utility pursuant to a cartel allocation scheme would mean giving up a substantial portion of the potential market. Some cartel members would be required to wait for a long period before their "turn" for a contract came around. They might well fear that the cartel would dissolve before their turn arrived thus putting them in the position of having subsidized their fellow conspirators' monopoly gain without a corresponding monopoly gain for themselves.<sup>33</sup>

<sup>30</sup> Justice Department Report, p. 56.

<sup>31</sup> Ibid., p. 69 and p. A-49.

<sup>32</sup> Ibid., p. A-48.

<sup>33</sup> Ibid., p. A-48.

We believe that these considerations would apply even more strongly to the informal collusive agreements that are the stated concern of the Petitioners.

A third consideration which militates against anticompetitive conduct in the Southwest market is the fact that the Justice Department will have considerable influence over future Federal leasing policy. Section 15 of the Federal Coal Leasing Amendments Act requires the Justice Department to advise the Secretary of Interior as to "whether the issuance, renewal or readjustment of any coal lease would create or maintain a situation inconsistent with the antitrust laws." It is likely that coal producers, cognizant of the Justice Department's new role, will be very hesitant to undertake any activities that give any appearance of being anticompetitive.

It has been argued that the Form 423 reporting system may help to maintain a collusive agreement in the market for long term sales by serving as a policing mechanism. We find this argument unconvincing. For example, it would be very easy for a coal producer to cheat on a collusive agreement by initially charging a higher collusive price, but then lowering the price in later years by giving the buyer very favorable terms in the escalator clause of the contract. By doing so, the producer could capture a contract that he otherwise would not have obtained and his "price shading" would probably go undetected by his fellow conspirators for a least a year or two since the details of escalator clauses are not reported on Form 423. In a recent study, the MITRE Corporation listed some nineteen different provisions that have come into widespread use in long term contracts signed by electric utilities.<sup>34</sup> Any one of these provisions could have a significant impact on price depending on the provision. Yet, the Form 423 reporting system, as it is presently constituted, provides no information on any of these provisions. It therefore does not appear to us that the public availability of Form 423 data would be a significant factor contributing to the ability of coal producers to maintain a non-competitive price structure in the market for long term sales.

[FR Doc. 79-9545 Filed 3-27-79; 8:45 am]

<sup>34</sup> MITRE Corporation, Analysis of Steam Coal Sales and Purchases, April, 1975, p. 85. (Report prepared for Office of Coal, Federal Energy Administration.)

[4210-01-M]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 203]

[Docket No. R-79-636]

#### MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS Mortgagee Eligibility—Federal Reserve Members, Other Institutions

AGENCY: Department of Housing and Urban Development/Office of the Secretary.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) days of continuous session of Congress prior to such rule's publication for comment in the FEDERAL REGISTER. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

#### FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrent with issuance of this Notice, the Secretary is forwarding to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the proposed rule listed below.

#### 24 CFR PART 203, PROPOSED RULE—FEDERAL RESERVE MEMBERS, OTHER INSTITUTIONS

This proposed rule amends 24 CFR 203.2, which deals with categories of lending institutions eligible for approval by HUD as mortgagees. The amendment adds credit unions chartered by the National Credit Union Administration to the list of eligible lending institutions. This action would make it possible for credit unions to finance mortgages insured under the National Housing Act.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., March 21, 1979.

PATRICIA ROBERTS HARRIS, Secretary, Department of Housing and Urban Development.

[FR Doc. 79-9289, Filed 3-27-79; 8:45 am]

[4210-01-M]

[24 CFR Part 868]

[Docket No. R-79-637]

#### MODERNIZATION PROGRAM, PHA-OWNED PROJECTS

AGENCY: Housing and Urban Development/Office of the Secretary.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication for comment in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

#### FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking described below:

#### PART 868, SUBPART A—MODERNIZATION OF PUBLIC HOUSING RENTAL PROJECTS, AND SUBPART B—MODERNIZATION OF PUBLIC HOUSING HOMEOWNERSHIP OPPORTUNITIES PROJECTS

This proposed rule would amend 24 CFR Part 868, Modernization Program—PHA-Owned Projects, to expand the scope of the public housing modernization program to include homeownership projects assisted under the Low-Income Housing Homeownership Opportunities Program (Turnkey III) and the Mutual Help Homeownership Opportunities Program (Indian Housing). The amendments clarify requirements for eligibility of both participants and work items, and also set forth the rights and obligations of the homebuyer family.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Urban Development Amendments of 1978).

Issued at Washington, D.C., March 21, 1979.

PATRICIA ROBERTS HARRIS, Secretary, Department of Housing and Urban Development.

[FR Doc. 79-9290 Filed 3-27-79; 8:45 am]

[3710-08-M]

#### DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 505]

[Army Reg. 340-21]

#### PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

##### Proposed Rule

AGENCY: Department of Defense, Department of the Army.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Army proposes to amend its rule (Army Regulation 340-21) which implements the Privacy Act of 1974 by withdrawing from consideration requests from individuals to amend criminal investigation records of the U.S. Army Criminal Investigation Command. These records are contained in systems of records which have been exempted from the amendment provisions of the Act.

DATES: Comments must be received on or before April 27, 1979.

ADDRESS: Send comments to: Mr. Guy B. Oldaker, HQDA, The Adjutant General Center, Washington, DC 20314.

#### FOR FURTHER INFORMATION CONTACT:

Guy B. Oldaker, (202) 693-0973.

SUPPLEMENTARY INFORMATION: Department of the Army policy and procedures implementing the Privacy Act of 1974 were adopted in the FEDERAL REGISTER of November 28, 1975 (40 FR 55551) and are contained in 32 CFR Part 505.

It is proposed to amend §§ 505.2 (h) and (i) to withdraw from consideration under the Privacy Act, requests from individuals to amend criminal investigation records of the US Army Criminal Investigation Command. These records are contained in systems of records identified as A0501.08e, Informant Register; A0508.11a, Criminal Investigation and Crime Laboratory Files; A0508.11b, Criminal Information Reports and Cross Index Card Files; and A0508.25a, Index to Criminal Investigative Case Files which, pursuant to Section 552a(j)(2), Title 5, U.S.C., have been exempted from the amendment provisions of the Privacy Act (see 32 CFR 505.9(b)).

While the effect of this proposed amendment is to deny requesters amendment rights as well as agency appellate procedures and other remedial provisions of subsection (d) of the Privacy Act, procedures set forth in Chapter 4, Army Regulation (AR) 195-



2 provide that requests to amend investigative reports of the US Army Criminal Investigation Command will be considered under this regulation by the Commander, US Army Criminal Investigation Command. Action by the Commander, US Army Criminal Investigation Command on such requests will constitute final action on behalf of the Secretary of the Army under AR 195-2. Thus, these viable procedures afford individuals a right to seek amendment of exempt investigatory records pertaining to them and, at the same time, insure that the agency maintains only such information about an individual as is relevant and necessary to accomplish a purpose required to be accomplished by statute or by executive order of the President. This amendment is proposed pursuant to 5 U.S.C. 552a(f).

H. E. LOFDAIL,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

MARCH 22, 1979.

In § 505.2, the following paragraphs are revised to read as follows:

1. In paragraph (h), *Procedure for requesting amendment of records*, delete information and substitute the following:

(h) Upon request an individual (or his authorized representative) may have a record pertaining to him amended by correction, addition, deletion or otherwise, regardless of whether it is part of a system of records, if such record is not accurate, relevant, timely, or complete. Such requests will be processed in accordance with this rule, irrespective of whether the Privacy Act is cited, except for those records specified in paragraph (h) (3) and (4) of this section.

2. In paragraph (h)(3), add the following sentence:

(h) \* \* \* Requests for amendment of judgmental matters should be processed under applicable existing procedures (e.g., Army Regulation 623-105 for officer evaluation report appeals).

3. Paragraph (h)(4), add new paragraph as follows:

(4) US Army Criminal Investigation Command (USACIDC) reports of investigation are exempt from amendment provisions of the Privacy Act. Requests for amendment of criminal investigation reports that fall within the scope of Chapter 4 of AR 195-2

will not be considered under the provisions of AR 340-21. The action of the Commander, USACIDC pursuant to Chapter 4 will constitute final action on behalf of the Secretary of the Army with respect to AR 195-2.

4. Paragraph (i), *Processing of requests for amendment of records*.

In paragraph (i)(1), delete entry and substitute the following:

(i) \* \* \*  
(1) The custodian of a record who initially receives a request for amendment pursuant to paragraph (h) of this section will:

5. In paragraph (i)(5), insert after the third sentence the following:

(i) \* \* \*  
(5) \* \* \* This does not apply to criminal investigation reports on which the Commander, US Army Criminal Investigation Command takes final action (see paragraph (h)(4) of this section). If the Board determines not to amend the records, it will take the action specified in paragraph (i)(3)(i) of this section, and inform the individual in writing—

[FR Doc. 79-9308 Filed 3-27-79; 8:45 am]

[6560-01-M]

#### ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 62]

[FRL 1083-5]

#### APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

LOUISIANA PLAN FOR CONTROLLING SULFURIC ACID MIST; ARKANSAS NEGATIVE DECLARATION—FLUORIDE EMISSIONS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval, with certain exceptions, of Louisiana's plan for controlling sulfuric acid mist emissions from existing sulfuric acid production facilities. Louisiana's plan was submitted in response to the publication of emission control guidelines by the Administrator under section 111(d) of the Clean Air Act. The plan satisfies, in part, EPA's requirement for adoption and

submittal of a plan to control sulfuric acid mist.

DATES: Interested persons are invited to comment on this proposed rulemaking. Comments must be received on or before April 27, 1979, to be considered by EPA in the final approval/disapproval decision. Included is a negative declaration concerning phosphate fertilizer plants in Arkansas.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270. Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following address: Environmental Protection Agency, Public Information Reference Unit, Room 2932, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

#### FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. (214) 767-2742.

SUPPLEMENTARY INFORMATION: On July 18, 1978, the Governor of Louisiana, after adequate notice and public hearing submitted the State's plan for controlling sulfuric acid mist from sulfuric acid production facilities. The plan was developed on the basis of the requirements of 40 CFR Part 60, Subpart B.

#### STANDARDS AND COMPLIANCE SCHEDULES

In § 60.24, a distinction is made between the requirements for health-related and welfare-related pollutants. For health-related pollutants, which sulfuric acid mist has been determined to be, emission standards shall be no less stringent than that specified in the Guideline (EPA 450/2-77-019), and the final compliance time shall be no later than that specified in the Guideline.

The emission standard for sulfuric acid mist is provided in § 24.7.2 of Regulation 24.0, Emission Standards for Sulfur Oxides. It applies to all designated facilities and is identical to that specified in the Guideline. The State's plan also contains compliance milestones similar to those in the Guideline, with identical elapsed time estimates. The plan provides for submittal of compliance schedules after submittal of the plan, and it contains statements that schedules will be developed in accordance with the requirements for public hearings and legally enforceable increments of progress. Regulation 24.0, as it applies to emission standards for sulfuric acid mist and other requirements of § 60.24, is considered approvable with two excep-

tions. The requirements of § 60.24(b), with respect to test methods and procedures, are not met, and the malfunction/upset provisions of § 24.9 of the regulation make the acid mist emission standard unenforceable. Section 24.9 is being proposed for disapproval in another action under Section 110 of the Act. Therefore, no action on § 24.9 will be taken in this rulemaking.

#### EMISSION INVENTORY

Section 60.25 requires that an emission inventory for all designated facilities be submitted as part of the plan, and that each inventory meet the specifications of Appendix D to Part 60. In addition, emissions shall be correlated with applicable emission standards and made available to the general public. In Louisiana's plan, emission data for nine facilities are provided. While the facility name, location, and annual emissions are provided, the inventories do not meet all of the specifications of Appendix D. Therefore, the State's plan does not meet the requirements of Section 60.25(a).

Under the requirements of Section 110 of the Clean Air Act, Sections 6.4 and 7.5 of the Louisiana Air Control Commission (LACC) regulations are intended to satisfy public disclosure requirements for emission data. These sections were disapproved by EPA on September 26, 1974 (39 FR 34536). Since these same sections are intended to satisfy disclosure requirements under Section 111(d) of the Act, the plan, with respect to § 60.25(c), is not considered approvable.

#### LEGAL AUTHORITY

The State identified the Louisiana Air Control Law as the authority for its plan to control sulfuric acid mist, and a copy was included in the submittal. That portion of the law, Section 2210, which concerns legal authority for making emission data available to the public, was disapproved by EPA on September 26, 1974 (39 FR 34536). Therefore the legal authority requirement under § 60.26(a), which concerns disclosure of emission data, is not met.

#### PLAN REVISIONS

Section 24.8 authorizes the LACC to grant variances to the provisions to Regulation 24.0. Such variances must be handled in accordance with the requirements of 40 CFR 60.28. Under these requirements, variances would be treated as plan revisions. Under paragraph (c) of § 60.28, a plan revision is not considered part of an applicable plan until it is approved by the Administrator. Approval of § 24.8 of Regulation 24.0 does not relieve the LACC of the responsibility of complying with the requirements of 40 CFR 60.28.

#### NEGATIVE DECLARATION

Whenever sources covered by a Guideline are not located in a State, the State is required to submit a certification to this fact. Included in this notice is a declaration from the Arkansas Department of Pollution Control and Ecology that there are no phosphate fertilizer plants in Arkansas which require control of fluoride emissions. Similar declarations have already been published in Part 62 for New Mexico and Oklahoma (43 FR 51393).

This action is taken under the authority of Section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

Dated: February 20, 1979.

EARL KARI,  
Regional Administrator.

It is proposed to amend Part 62 of Chapter 1, Title 40 of the Code of Federal Regulations by adding Subparts E and T as follows:

#### Subpart E—Arkansas

#### FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

#### § 62.850 Identification of plan-Negative declaration.

The State Department of Pollution Control and Ecology submitted a letter on November 9, 1977, certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this chapter.

#### Subpart T—Louisiana

#### SULFURIC ACID MIST FROM EXISTING SULFURIC ACID PLANTS

#### § 62.4620 Identification of plan.

(a) Title of plan: "Control of Sulfuric Acid Mist from Existing Sulfuric Acid Production Units."

(b) The plan was officially submitted on July 18, 1978.

(c) Identification of sources: The plan includes the following sulfuric acid plants:

(1) Agrico Chemical Company in St. James Parish.

(2) Allied Chemical Corporation in Ascension and Iberville Parishes.

(3) Beker Industries in St. Charles Parish.

(4) Cities Services Oil Company in Calcasieu Parish.

(5) E. I. DuPont De Nemours & Company, Inc. in Ascension Parish.

(6) Freeport Chemical Company in St. James Parish.

(7) Freeport Chemical Company in Plaquemines Parish.

(8) Olin Corporation in Caddo Parish.

(9) Stauffer Chemical Company in East Baton Rouge Parish.

#### § 62.4621 Emission standards and compliance schedules.

(a) The requirements of § 60.24(b) of this chapter are not met since the test methods and procedures for determining compliance with the sulfuric acid mist emission standards are not specified.

(b) Emissions from sulfuric acid plants must be measured by the methods in Appendix A to Part 60, or by equivalent or alternative methods as defined in § 60.2(t) and (u) respectively.

#### § 62.4622 Emission inventories, source surveillance, reports.

(a) The requirements of § 60.25(a) of this chapter are not met since the emission inventories do not provide information as specified in Appendix D to Part 60.

(b) The requirements of § 60.25(c) of this chapter are not met since the plan does not provide for the disclosure of emission data, as correlated with applicable emission standards, to the general public.

(c) *Regulation for Public Availability of Emission Data.* (1) Any person who cannot obtain emission data from the Agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any source subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such data. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the applicable plan.

(2) Commencing after the initial notification by the Regional Administrator pursuant to paragraph (b)(1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1-June 30 and July 1-December 31.



## PROPOSED RULES

(3) Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the State designated by the Regional Administrator.

§ 62.4623 Legal authority.

(a) The requirements of § 60.26(a) of this chapter are not met since the plan does not provide adequate legal authority for the State to make emission data, as correlated with applicable emissions standards, available to the general public.

§§ 62.4624-62.4639 [Reserved]

[FR Doc. 79-9388 Filed 3-27-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1084-4]

## DELAYED COMPLIANCE ORDERS

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the State of Utah, through the Air Conservation Committee to Spanish Fork Foundry in Spanish Fork, Utah. The order requires Spanish Fork Foundry to complete construction and installation of new buildings and electric furnaces, discontinue use of existing furnaces and achieve compliance with Section 2.2.1 of the Air Conservation Regulations by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by this order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before April 27, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

## FOR FURTHER INFORMATION CONTACT:

Ms. Christine Phillips, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone (303) 837-2361.

SUPPLEMENTARY INFORMATION: Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has preliminarily determined that the order complies with those requirements, but specifically requests public comment on those matters.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Utah SIP. Compliance with the proposed order will not exempt the foundry from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: March 16, 1979.

ALAN MERSON,  
Regional Administrator,  
Region VIII.

Before the Utah State Air Conservation Committee.

In the matter of Spanish Fork Foundry; Order.

The following Order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended 42 USC Section 7401, et seq. in that Spanish Fork Foundry is not in

compliance with Section 2.2.1 of the Utah Air Conservation Regulations. Public hearing on this order was conducted on January 4, 1979. After consideration of all relevant facts it is determined that the schedule for compliance set forth in this Order is as expeditious as practicable, and,

It is hereby ordered that:

1. The Spanish Fork Foundry shall complete the following acts on or before the dates specified:

a. By July 1, 1979, complete construction and installation of new buildings and electric furnaces.

b. By July 1, 1979, discontinue use of existing furnaces.

2. The Foundry shall achieve compliance with Section 2.2.1 of the Air Conservation Regulations by July 1, 1979.

3. Pursuant to Section 113(d)(7), during the period in which this Order is in effect, the Foundry shall use the best practicable systems of emission reduction so as to minimize particulate emissions and to avoid any imminent and substantial endangerment to the health of persons and shall further comply with the requirements of the applicable implementation plan insofar as it is able to so comply.

4. The Foundry shall submit reports to the Committee within five (5) days of completion of dates detailed in paragraph 1 certifying compliance with the outlined schedule.

5. Nothing in this Order shall be construed so as to affect the Foundry's responsibility to comply with any other Federal, State or local regulations.

6. Spanish Fork Foundry has agreed to the above compliance schedule and conditions thereof and considers such schedule reasonable.

7. The Foundry is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Federal Clean Air Act.

Dated this 19th day of January, 1979.

By the Air Conservation Committee.

J. RALPH MACFARLANE,  
Chairman.

[FR Doc. 79-9379 Filed 3-27-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1084-3; Delayed Compliance Order A-78-18]

## DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for Great Salt Lake Minerals & Chemicals Corp., Ogden, Utah

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Great Salt Lake Minerals and Chemicals Corporation. The order requires the Corporation to bring air emissions from its potash rotary dryer into compliance with certain regulations contained in the federally-approved Utah State Implementation Plan (SIP) for control of

air quality. Because the Corporation is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring a demonstration of final compliance by October 1, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATE: Written comments must be received on or before April 27, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

## FOR FURTHER INFORMATION CONTACT:

Helen M. Knoll, Attorney-Advisor, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone (303) 837-4812.

SUPPLEMENTARY INFORMATION: Great Salt Lake Minerals & Chemicals Corporation operates a plant in Ogden, Utah, which produces sodium sulfate and potassium sulfate. The proposed Order concerns emissions from the potash rotary dryer of the plant, which tests have shown to be out of compliance with 40 CFR 52.2330(c)(1). This regulation limits the emission of particulates as part of the federally-approved Utah State Implementation Plan. The order requires that final compliance with the Federal regulation be demonstrated by October 1, 1979. Great Salt Lake Minerals & Chemicals Corporation has consented to its terms and has agreed to meet the increments contained in the Order pending final compliance.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Clean Air Act (the Act). These requirements are as follows:

(1) Notice to the public concerning the proposed Order;

(2) A schedule for compliance;

## PROPOSED RULES

(3) Provisions for compliance with applicable interim requirements, including measures to avoid endangering the health of persons, the continuing use of such control devices as have already been installed or can reasonably be installed prior to final compliance, and compliance with the SIP insofar as possible pending final compliance; and

(4) Notice to Great Salt Lake Minerals & Chemicals Corporation that a failure to achieve final compliance by October 1, 1979, may subject the Corporation to penalties under Section 120(a) of the Act, unless an exemption pursuant to Section 120(a)(2) (B) or (C) applies.

If the Order is issued, compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order as an amendment to 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: March 16, 1979.

ALAN MERSON,  
Regional Administrator,  
Region VIII.

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION VIII

In the matter of Great Salt Lake Minerals & Chemicals Corp., Ogden, Utah; Proceeding pursuant to Section 113(d)(1) of the Clean Air Act, as amended (42 U.S.C. 7413(d)).

The following Delayed Compliance Order is issued this date pursuant to Section 113(d)(1) of the Clean Air Act, as amended (42 U.S.C. 7413(d)(1)), (hereinafter referred to as the "Act").

1. In accordance with the terms of the Statement of Consent appended to this Order, Great Salt Lake Minerals & Chemicals Corporation (hereinafter the "Corporation") has admitted that its potash rotary dryer, as demonstrated by tests conducted on October 17 and 18, 1978, is operating in violation of 40 CFR 52.2330(c)(1), which establishes particulate emissions limitations as part of Utah's Federally-approved plan for the control of air quality. The Corporation has waived the receipt of a Notice of Violation under Section 113(a)(1) of the Act (42 U.S.C. 7413(a)(1)).

2. A conference was held regarding this Order on December 18, 1978, attended by representatives of the United States Environmental Protection Agency (hereinafter referred to as "EPA"), the Corporation, and Gulf Resources & Chemical Corporation.

3. After a thorough investigation of all relevant facts, including the seriousness of the violation and the Corporation's good faith efforts to comply, it has been determined that compliance in accordance with the schedule hereinafter set forth is reasonable and that compliance will be achieved as expeditiously as practicable.

4. Therefore, it is hereby ordered that the Corporation make improvements to reduce particulate emissions from the potash rotary dryer in accordance with the following schedule:

Submit final control plan and specifications for control devices; April 1, 1979.

Initiate on-site construction of control devices; June 1, 1979.

Complete on-site construction of control devices; August 1, 1979.

Submit acceptable report of valid and representative tests demonstrating compliance; October 1, 1979.

5. Within fifteen days after the deadline for each increment, the Corporation will certify to the Enforcement Division of EPA, Region VIII, whether or not the required increment has been met.

6. At least forty-five (45) days prior to the date of any emissions test to be conducted pursuant to this Order, the Corporation will give notice to EPA of the actual test date.

7. Pending achievement of compliance with this Order, the Corporation will use the best practicable system of emission reduction in accordance with Section 113(d)(7) of the Act, as amended (42 U.S.C. 7413(d)(7)). During this period the Corporation will comply with the requirements of the Utah Implementation plan for the control of air quality insofar as it is able to do so. The Corporation will also avoid any imminent and substantial endangerment to the health of the persons by taking any measures determined to be necessary by the EPA Administrator.

8. The Corporation is hereby notified that failure to achieve compliance according to the schedule set forth hereinabove may result in the imposition of a noncompliance penalty pursuant to Section 113(b)(4) of the Act (42 U.S.C. 7413(b)(4)). In any event, a noncompliance penalty shall be imposed and become effective on July 1, 1979, pursuant to Section 120(a) of the Act (42 U.S.C. 7420(a)). If the Corporation does not achieve final compliance by that date, unless an exemption under Section 120(a)(2)(B) or (C) of the Act is applicable. It is so ordered this 16th day of March, 1979.

ALAN MERSON,  
Regional Administrator,  
Region VIII.

## STATEMENT OF CONSENT

Great Salt Lake Minerals & Chemicals Corporation acknowledges that the potash rotary dryer located at its facilities in Ogden, Utah, is operating in violation of 40 CFR 52.2330(c)(1), as demonstrated by tests conducted on October 17 and 18, 1978.

In addition, the Corporation has received this Order, believes it to be a reasonable means to attain compliance and agrees to comply with its terms.



Dated February 23, 1979.

PETER BEHRENS,  
for Great Salt Lake Minerals &  
Chemicals Corporation.

[FR Doc. 79-9380 Filed 3-27-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1084-5]

#### DELAYED COMPLIANCE ORDERS

Proposed Approval of an Administrative Order  
Issued by Minnesota Pollution Control  
Agency to Wilson Foods Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. Environmental Protection Agency proposes to approve an Administrative Order issued by the Minnesota Pollution Control Agency to Wilson Foods Corporation. The Order requires the company to bring air emissions from its boilers #1, 2, and 3 in Albert Lea, Minnesota, into compliance with certain regulations contained in the federally approved Minnesota State Implementation Plan (SIP) by May 15, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. Environmental Protection Agency before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. Environmental Protection Agency, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. Environmental Protection Agency's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before April 27, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, the State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

#### FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn

Street, Chicago, Illinois 60604, (312) 353-2082.

**SUPPLEMENTARY INFORMATION:** Wilson Foods Corporation operates a meat packing plant at Albert Lea, Minnesota. The Order under consideration addressed emission from boilers #1, 2, and 3 at the facility, which are subject to Minnesota Regulation APC 4(c)(1) and (a)(2). The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally approved Minnesota State Implementation Plan. The Order requires final compliance with the regulations by May 15, 1979, through installation of fabric filter (baghouse) equipment.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations, it must be approved by U.S. Environmental Protection Agency before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. Environmental Protection Agency may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. Environmental Protection Agency, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Minnesota SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. Environmental Protection Agency may approve the Order. After the public comment period, the Administrator of U.S. Environmental Protection Agency will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: March 8, 1979.

JOHN MCGUIRE,  
Regional Administrator,  
Region V.

STATE OF MINNESOTA, COUNTY OF RAMSEY  
MINNESOTA POLLUTION CONTROL AGENCY

Air Quality Stipulation Agreement

In the matter of Wilson Foods Corporation, Albert Lea, Minnesota 56007.

#### A. RECITALS

1. *Parties.* The parties to this Stipulation Agreement are the Minnesota Pollution Control Agency, hereinafter referred to as the "Agency", and Wilson Foods Corporation, hereinafter referred to as the "Company".

2. *Company.* The Company is a Delaware corporation that operates meat packing facilities in Freeborn County, Minnesota.

3. *Agency Authority.* The Agency is charged with overall power and duties to administer and enforce all laws, including but not limited to, standards, regulations, and stipulation agreements relating to the prevention, control or abatement of air pollution in the State. This authority is specifically described in Minn. Stat. chs. 115 and 116 (1976).

4. *Regulations.* The Agency, after legal notice and hearing thereon, adopted and has filed in the Office of the Secretary of State air pollution control regulations that have the force and effect of law and general application throughout the State of Minnesota.

5. *Duty.* It is the duty of every person affected to comply with the provisions of the state air pollution control laws, as now in force or hereafter amended, and all regulations adopted by the Agency thereunder, and to do and perform all acts and things within such person's power required to effectuate, carry out, and accomplish the purposes of such laws and regulations.

6. *Chronology of Events.* At the Company's meat packing facilities in Albert Lea, Minnesota, the Company operates three gas/coal fired boilers (Nos. 1, 2 and 3) which have a total heat input of 225 million BTU per hours. The present boiler pollution abatement equipment consists of Zurn multicellone mechanical collectors, breeching, induced draft fan and a chimney. Said equipment was installed pursuant to a Stipulation Agreement between the Company and Agency dated August 20, 1974. As amended on March 18, 1976, the Agreement provided that the Company would achieve full compliance with Minn. Regs. APC-4 and APC-11 by July 31, 1976.

To this end, on January 9, 1975, the Agency issued Installation Permit No. 799-75-1-1 for the Zurn pollution abatement system. Condition No. 2 of the permit required that, in the event that said system failed to achieve emission reduction sufficient to comply with then existing Minn. Regs. APC-4 and APC-11, the Company would install and place into operation additional or modified pollution abatement equipment in order to achieve full compliance no later than nine (9) months after conducting the compliance emissions test.

Due to late equipment delivery and construction, testing of the boilers and abatement equipment could not be conducted until September 14 and 15, 1976. Test results, as submitted to the Agency, did not demonstrate compliance with Minn. Regs. APC-4 and APC-11. Consequently, the Company looked to its equipment supplier and contractor to take such steps as were necessary to improve the performance of the equipment so as to meet not only the supplier's compliance guarantee but also the above-referenced Condition No. 2 of the installation permit. Included within these steps was the potential utilization of a device which had been made available in the original system as a means of gaining fur-

ther emission reductions should this prove necessary.

Unfortunately, it was not until June 23, 1977, after numerous suggestions, theories and equipment adjustments that the Company was advised that its equipment supplier could not meet its guarantee. Since that time, the Company, through the employment of other experts, has both completed modifications to existing pollution control equipment to ensure that appropriate noise levels are not exceeded and made a decision to install additional pollution control abatement equipment of an advanced type to ensure compliance with Minn. Reg. APC-4, i.e., fabric collectors or their equivalent. The Agency was informed of this decision on December 12, 1977—a decision that represents a substantial investment both per se and in light of the pollution control expenditures already made.

During the period of new construction, the Company will continue to burn natural gas to the degree of its availability as it has done throughout the period from the execution of the Stipulation Agreement to the present. This operating decision has resulted for the majority of said period in no emissions of a kind envisioned by Minn. Regs. APC-4 and APC-11.

#### 7. Violations.

a. The Agency finds that the Company, in the operation of its plant in Albert Lea, Minnesota, has violated and will, during the term of this stipulation agreement violate the following air pollution control regulations and statutes:

(1) Minn. Stat. §116.081, subd. 1 which provides that it shall be unlawful for any person to construct, install or operate an emission facility until permits therefor have been granted by the Agency;

(2) Minn. Reg. APC-3(b)(1) which provides that no person shall operate any emission facility or control equipment without an operating permit therefor from the Agency;

(3) Minn. Reg. APC-4(c)(1) and (c)(2) which provide that existing indirect heating equipment shall not cause to be discharged into the atmosphere any gases which are in excess of 0.6 pounds of particulate per million BTU or exhibit greater than 20% opacity except that a maximum of 60% opacity shall be permissible for four minutes and 40% opacity for four additional minutes in any 60 minute period.

b. The Agency also finds that the Company has failed to comply with the terms and conditions of Installation Permit No. 799-75-1-1 and the Stipulation Agreement between the Agency and the Company entered into on August 20, 1974, and amended on March 18, 1976, in the following manner:

(1) The Company failed to install and place into operation additional or modified pollution abatement equipment to ensure compliance with Minn. Regs. APC-4 and APC-11 within nine (9) months after compliance emissions tests demonstrated that the Zurn multicellone collector system failed to achieve compliance with air quality standards, in violation of Condition No. 2 of Installation Permit No. 799-75-1-1.

(2) The Company has failed to achieve compliance with applicable air quality standards in violation of Section 1.5) of the Amendment to Air Quality Stipulation Agreement, dated March 18, 1976.

c. Although the Company neither admits nor denies these unilateral findings of the Agency, it is desirous of resolving this

matter without resorting to litigation as has already been demonstrated by its decision to install additional pollution abatement equipment independent of this document.

#### B. AGREEMENT

Now therefore, for the purposes of ensuring compliance by the Company with applicable air pollution control laws and regulations and settling the claims of the parties to this Stipulation Agreement, it is hereby agreed and stipulated as follows:

#### 1. Company.

a. *Air Pollution Abatement Program for Boilers Nos. 1, 2 and 3.* The Company shall purchase, install and place into operation fabric filter (baghouse) equipment in order to achieve compliance with all applicable air quality regulations in accordance with the following schedule:

| Item  | Date                                 |
|---|--------------------------------------|
| (i) Submit final engineering design to the Agency.  | May 31, 1978.                        |
| (ii) Apply for installation permit from the agency for fabric filter (baghouse) equipment; commence construction. | October 1, 1978 (Already Completed). |
| (iii) Complete installation of fabric filter (baghouse) equipment.  | April 1, 1979.                       |
| (iv) Conduct emission tests for demonstration of particulate and opacity compliance.                              | April 15, 1979.                      |
| (v) Submit final compliance test results to the Agency and apply for an operating permit from the Agency.         | May 15, 1979.                        |
| (vi) Achieve compliance with Minn. Reg APC 4(c)(1) and (c)(2).  | May 15, 1979.                        |

b. *Interim Pollution Abatement Activities.* The parties to this Stipulation Agreement recognize that the current pollution abatement equipment must be shut down to allow installation of the new pollution abatement equipment. In order to minimize air emissions, the Company shall use natural gas to the extent of its availability. When natural gas is unavailable, the Company shall use oil to the extent that it is available and able to be burned by the Company's existing equipment.

c. *Reporting.* The Company shall submit such quarterly progress reports as are designated in Agency Installation Permit No. 799-75-1-1.

d. *Past Violations.* The Company agrees to pay into the Treasury of the State of Minnesota twenty thousand dollars (\$20,000) for its alleged past violations of air pollution statutes and regulations and of permit and stipulation agreement terms and conditions, as well as such violations as may occur before compliance with the terms of this Stipulation Agreement are achieved. Said amount shall be paid in four (4) quarterly payments of five thousand dollars (\$5,000) with the first payment being due thirty (30) days following the execution of this Agreement by the last signatory. Any payments made pursuant to this paragraph shall not be considered a defense or set-off to any penalties which may be found to be applicable under section 120 of the Clean Air Act.

e. *Liquidated Damages.* The Company agrees to pay into the Treasury of the State of Minnesota, the sum of one hundred dollars (\$100) for each day the Company is in violation of any of the dates contained in part B.1.a.

1. *Noncompliance Penalties.* The Company agrees that this Stipulation Agreement shall serve as notice to it that this Stipulation Agreement does not release the Company from assessment of noncompliance penalties as they may be applicable, pursuant to Section 120 of the Clean Air Act, in the event the Company fails to comply with all applicable air pollution control laws and regulations by the date specified by the U.S. Environmental Protection Agency, pursuant to Section 120 of the Clean Air Act.

2. *Agency.* a. In consideration of the Company's performance of the terms, covenants and agreements contained herein, the Agency agrees that for such period of time as the Company is in compliance with this Stipulation Agreement, it shall stand in lieu of administrative, legal and equitable remedies available to the Agency regarding the violations specified in part A.7. of this Stipulation Agreement which have occurred prior to the effective date of this Stipulation Agreement and such violations as may occur during the term of this Stipulation Agreement.

b. *Air Permits.* Upon compliance by the Company with applicable laws, regulations and standards of the Agency, and upon proper application by the Company, the Agency shall issue appropriate installation and operating permits with respect to the air pollution control equipment and emission facilities at the Company's Albert Lea, Minnesota, facility.

3. *General Conditions.* a. *Remedies of the Parties.* It is intended that the terms of this Stipulation Agreement shall be legally enforceable by either of the parties in a court of competent jurisdiction and each of the parties retains the right to assert any legal, equitable or administrative right of action or defense which may be available by law in order to implement or enforce the terms of this Stipulation Agreement.

b. *Liability and Obligation.* This Stipulation Agreement shall not release the Company from any liability or obligation imposed by Minnesota Statutes, regulations or local ordinances now in effect or which may hereinafter be adopted except as specifically set forth herein.

c. *Extensions of Time.* Unless prohibited by Federal law, the Agency shall grant extensions of the time schedules stated herein in the event the Company demonstrates good cause to the Agency for granting such extensions. Such extensions shall be commensurate with the delays involved.

d. *Agency Information.* The Company shall allow the Agency or any authorized member, employee or agent thereof, upon presentation of credentials, access at reasonable times to the Company's property and facilities to obtain such information and documentation as is authorized by Minn. Stat. §116.091 (1976) which is relevant to making a determination that the Company is in compliance with the terms of this Stipulation Agreement.

e. *Informational Errors.* Neither the Agency nor the Company shall knowingly make any false statement, representation or certification regarding any record, report, plan or other document filed or required to be submitted to the Agency under the Stipulation Agreement. Any party hereto discovering such error in said reports, records, plans or other documents shall immediately report same to the other party.

f. *Prior Stipulation Agreement.* The Company and the Agency agree that the Stipu-



lation Agreement entered into between the Company and the Agency on August 20, 1974, as amended March 18, 1976, will terminate as of the effective date of this Stipulation Agreement.

g. *Effective Date.* This Stipulation Agreement shall be effective upon the date it is executed by the last signatory hereto.

h. *Successors.* This Stipulation Agreement shall be binding upon the Company, its successors and assigns, and upon the Agency its successors and assigns.

i. *Emergency Powers.* Nothing in this Stipulation Agreement shall prevent the Agency from exercising emergency power pursuant to Minn. Stat. § 116.11 (1976) in the event conditions warranting such action should arise.

j. *Amendments.* This agreement may be amended in writing at any time by the agreement of the parties.

WILSON FOODS CORPORATION, STATE OF MINNESOTA POLLUTION CONTROL AGENCY.

Dated: January 23, 1979.

JOSEPH F. GRINNELL,  
Chairman.

SANDRA S. GARDEHING,  
Executive Vice President.

Dated: November 16, 1978.

RICHARD T. BERG,  
Executive Vice President.

[FR Doc. 79-9381 Filed 3-27-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1085-3; Delayed Compliance Order  
Docket De 79-154]

#### DELAYED COMPLIANCE ORDERS

Proposed Approval of an Administrative Order  
Issued by the State of Washington Department  
of Ecology to Louisiana Pacific Corp.

AGENCY: Environmental Protection  
Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the State of Washington Department of Ecology to the Louisiana Pacific Corporation. The order requires the company to bring all emissions from its sawmill in Ione, Washington into compliance with certain regulations contained in the federally approved Washington State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this

notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before April 27, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth D. Brooks, Environmental Protection Agency, M/S 513, 1200 Sixth Avenue, Seattle, Washington 98101, telephone (206) 442-1387.

SUPPLEMENTARY INFORMATION: Louisiana Pacific Corporation operates a sawmill in Ione, Washington. The order under consideration addresses emissions from the wigwam burner at the facility, which are subject to Washington Administrative Code (WAC) 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new conveyor, a new dome and automatic top damper, repair of existing equipment and relocation of a shavings cyclone. The source has consented to the terms of the order. Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA proposes to approve the order because it satisfies the appropriate requirements of this subsection.

If the order is approved EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Washington SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the

public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(AUTHORITY: 42 U.S.C. 7413, 7601).

Dated: March 16, 1979.

DONALD P. DUBOIS,  
Regional Administrator,  
Region 10.

In the matter of the compliance by Louisiana-Pacific Corporation with Chapter 70.94 RCW and the rules and regulations of the Department of Ecology.

TO: MR. VARL McAVOY, MANAGER,  
Louisiana-Pacific Corporation,  
P.O. Box 257,  
Ione, WA 99139.

Louisiana-Pacific Corporation operates a sawmill operation in Ione, Washington. Emissions from their wigwam burner do not comply with the provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Louisiana-Pacific Corporation for the control of visible emissions from their wigwam burner operation by the installation of a new conveyor, a new dome and automatic top damper, repair of existing equipment, and relocation of shavings cyclone.

In accordance with the provisions of 173-400-150 WAC and as provided in Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

#### FINDINGS

1. The present wigwam burner is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040, recodified as 173-400-040 (part of S.I.P.).
2. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040, recodified as 173-400-040.
3. The proposed schedule is as expeditious as practicable.
4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

#### ORDER

Therefore, it is ordered that the methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following instructions:

1. Complete engineering and begin construction by April 13, 1979.
2. Repair damage to shell and clean out doors.
3. Replace 20-foot section of conveyor.
4. Relocate shavings cyclone to better mix fuel.
5. Reposition of conveyor to dump fuel in center of burner.
6. Replace top with new dome and automatic top damper.
7. Repair or replace all damaged grates and air pots on underfire air system.
8. Wigwam burner in compliance by July 1, 1979.

ADDRESS COMMENT TO: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, East Tower, 401 M Street, SW., Washington, DC 20460.

#### FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow at the above address (202/755-4851).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Illinois, Indiana, and Michigan, has submitted a pesticide petition (PP 6E1767) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.184 be amended by increasing the established tolerance for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the raw agricultural commodity asparagus from 0.25 ppm to 3 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance of 3 ppm in or on asparagus were a two-year rat feeding study with a no-observable-effect level (NOEL) of 125 ppm (exhibiting no oncogenic effects), a two-year dog feeding study with an NOEL of 25 ppm, a three-generation rat reproduction study with an NOEL of 125 ppm, and a rabbit teratology study with an NOEL of 125 ppm (3.7 milligrams (mg)/kilogram (kg) of body weight (bw)/day).

Data lacking from the petition include an oncogenic study in a second mammalian species, an additional teratology study using a higher exposure level, and mutagenicity studies. E.I. du Pont de Nemours & Co., Inc., indicated that results of the teratology study will be submitted to the Agency in 1979 and that the second oncogenicity study will be initiated in March 1979. Mutagenicity assays are, however, generally deferred until Agency requirements are finalized. The acceptable daily intake (ADI) for linuron has been calculated to be 0.0063 mg/kg bw/day based on the NOEL of the two-year dog feeding study using a 100-fold safety factor. Thus, for a 60-kg human, the maximum permissible intake (MPI) for this chemical is calculated to be 0.375 mg/day. Since asparagus normally constitutes less than 0.2 percent of the daily human diet, the requested tolerance will increase the theoretical maximal residue contribution (TMRC) by less than 2 percent.

The nature of the residue is adequately understood, and an adequate

analytical method (spectrophotometric analysis) is available for enforcement purposes. Tolerances have been established for residues of linuron on a variety of raw agricultural commodities at levels ranging from 0.25 ppm to 1 ppm, including a tolerance of 0.25 ppm on asparagus. There is no expectation of secondary residues in meat, milk, poultry, or eggs as delineated in 40 CFR 180.6(a)(3) resulting from this use. No actions are currently pending against continued registration of the herbicide, nor are any other considerations involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 3 ppm for residues of linuron on asparagus established by amending 40 CFR 180.184 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before April 27, 1979, that this rule-making proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP6E1767/P107". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 315, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: March 20, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

It is proposed that Part 180, Subpart C, § 180.184 be revised by editorially reformatting the section into an alphabetized columnar listing to include asparagus at 3 ppm, as follows:

§ 180.184 Linuron; tolerances for residues.

Tolerances are established for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the following raw agricultural commodities:

| Commodity:          | Parts per million |
|---------------------|-------------------|
| Asparagus.....      | 3                 |
| Barley, forage..... | 0.5               |
| Barley, grain.....  | 0.25              |
| Barley, hay.....    | 0.5               |
| Barley, straw.....  | 0.5               |



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| Commodity:                           | Parts per million |
|--------------------------------------|-------------------|
| Carrots.....                         | 1                 |
| Cattle, fat.....                     | 1                 |
| Cattle, mby.....                     | 1                 |
| Cattle, meat.....                    | 1                 |
| Celery.....                          | 0.5               |
| Corn, field, fodder.....             | 1                 |
| Corn, field, forage.....             | 1                 |
| Corn, fresh (inc. sweet K+CWHR)..... | 0.25              |
| Corn, grain (inc. pop).....          | 0.25              |
| Corn, pop, fodder.....               | 1                 |
| Corn, pop, forage.....               | 1                 |
| Corn, sweet, fodder.....             | 1                 |
| Corn, sweet, forage.....             | 1                 |
| Cottonseed.....                      | 0.25              |
| Goats, fat.....                      | 1                 |
| Goats, mby.....                      | 1                 |
| Goats, meat.....                     | 1                 |
| Hogs, fat.....                       | 1                 |
| Hogs, mby.....                       | 1                 |
| Hogs, meat.....                      | 1                 |
| Horses, fat.....                     | 1                 |
| Horses, mby.....                     | 1                 |
| Horses, meat.....                    | 1                 |
| Oats, forage.....                    | 0.5               |
| Oats, grain.....                     | 0.25              |
| Oats, hay.....                       | 0.5               |
| Oats, straw.....                     | 0.5               |
| Parsnips (with or without tops)..... | 0.5               |
| Parsnips, tops.....                  | 0.5               |
| Potatoes.....                        | 1                 |
| Rye, forage.....                     | 0.5               |
| Rye, grain.....                      | 0.25              |
| Rye, hay.....                        | 0.5               |
| Rye, straw.....                      | 0.5               |
| Sheep, fat.....                      | 1                 |
| Sheep, mby.....                      | 1                 |
| Sheep, meat.....                     | 1                 |
| Sorghum, fodder.....                 | 1                 |
| Sorghum, forage.....                 | 1                 |
| Sorghum, grain (milo).....           | 0.25              |
| Soybeans (dry or succulent).....     | 1                 |
| Soybeans, forage.....                | 1                 |
| Soybeans, hay.....                   | 1                 |
| Wheat, forage.....                   | 0.5               |
| Wheat, grain.....                    | 0.25              |
| Wheat, hay.....                      | 0.5               |
| Wheat, straw.....                    | 0.5               |

[FR Doc. 79-9385 Filed 3-27-79; 8:45 am]

[4110-86-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Public Health Service  
Center for Disease Control  
[42 CFR Part 71]  
FOREIGN QUARANTINE  
Disinsection of Aircraft

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed revision will provide for disinsection of an aircraft if it arrives from an area that is infected with insect-borne communicable diseases and is suspected of harboring insects of public health importance. The procedures for disinsecting aircraft will be revised to require that aircraft be disinsected by airline personnel immediately after the plane lands and all passengers and crew deplane. The cargo compartment will be disinsected before the discharge of

mail, baggage, and cargo. Three insecticidal formulations may be used.

DATES: Written comments must be received on or before April 27, 1979. Proposed effective date: 60 days after publication of the final rule in the FEDERAL REGISTER.

ADDRESS: Inquiries may be addressed, and data, views, and arguments may be submitted in writing, in duplicate, to the Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, Atlanta, Georgia 30333. All relevant material received within the comment period will be considered. Comments received will be available for public inspection at the Center for Disease Control, 1600 Clifton, Road, NE., Room 4067, Atlanta, Georgia, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, PHS, HEW, Atlanta, Ga. 30333, telephone 404-329-3674, or FTS: 236-3674.

SUPPLEMENTARY INFORMATION: Aircraft are disinsected for the purpose of preventing the introduction into the United States of insect-transmitted communicable diseases such as yellow fever, dengue fever, malaria, plague, and the encephalitis. Current procedures provide for disinsection of all planes departing from or landing at any foreign port in the zone between 35° north and 35° south latitude if coming to a port under the control of the United States located in this same zone. The only exceptions are that (1) all planes arriving from Africa must be routinely disinsected, and (2) all planes arriving from Japan are exempt from being disinsected. Disinsection is performed on board the aircraft, with passengers and crew aboard, either while the aircraft is on the ground prior to takeoff or aloft no later than 30 minutes prior to landing in the United States.

The insecticidal formulations containing pyrethrin (which is extracted from a plant) currently used to disinsect aircraft cause undue discomfort to many passengers and, in some cases, place those exposed at risk of developing acute allergic (anaphylactic) reaction. Because of the discomfort the insecticidal aerosol causes passengers, airline personnel minimize the dosage in spraying; therefore, the efficacy of the entire procedure is questionable.

The proposed revision will provide for disinsection of an aircraft if it arrives from an area that is infected with insect-borne communicable diseases and is suspected of harboring in-

sects of public health importance. The procedures for disinsecting aircraft will be revised to require that aircraft be disinsected by airline personnel immediately after the plane lands and all passengers and crew deplane. The cargo compartment will be disinsected before the discharge of mail, baggage, and cargo. The regulation will prescribe the insecticidal formulas which may be used. The determinations as to the permissible formulations are based upon recommendations made by the World Health Organization. In addition, manufacturers must comply with U.S. Environmental Protection Agency's registration and labeling requirements. The list of permissible formulations may be revised from time to time in accordance with subsequent recommendations and requirements.

On January 30, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 4600) to revise § 71.102 of 42 CFR Part 71. In view of the passage of time and additional changes in procedures, this NPRM is withdrawn.

It is, therefore, proposed to revise § 71.102 in Part 71 of Title 42, Code of Federal Regulations, as set forth below.

Dated: March 21, 1979.

JULIUS B. RICHMOND,  
Assistant Secretary for Health.

Approved: March 22, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

## § 71.102 Disinsection of aircraft.

(a) The Director, Center for Disease Control, may require disinsection of an aircraft if it has left a foreign area that is infected with insect-borne communicable disease and is suspected of harboring flying insects of public health importance.

(b) Disinsection shall be accomplished by airline personnel after the plane lands and immediately after all passengers and crew deplane. The cargo compartment shall be disinsected before the discharge of mail, baggage, and cargo.

(c) The insecticides used shall be either (1) Insecticide Aerosol G-1707, or (2) Insecticide Aerosol Resmethrin-2%, or (3) Insecticide Aerosol d-Phenothrin-2%. The formulas for these insecticides are set forth below. Personnel shall disinsect aircraft in accordance with the instructions contained in the labeling accompanying the particular insecticide.

## FORMULA FOR INSECTICIDE AEROSOL G-1707

| Component                                      | By weight (percent) |
|--|---------------------|
| Active Ingredients:                            |                     |
| Pyrethrum extract (20 percent pyrethrins)..... | 2.25                |
| Tropital (R) Synergist.....                    | 2.70                |
| Petroleum Distillate.....                      | 10.05               |
| Inert Ingredients.....                         | 85.00               |
|  | 100.00              |

FORMULA FOR INSECTICIDE AEROSOL  
RESMETHRIN-2

| Component  | By weight (percent) |
|--|---------------------|
| Active Ingredients:  |                     |
| (5-Benzyl-3-furyl) methyl 2, 2-di-methyl-3-(2-methylpropenyl) cyclopropanecarboxylate..... | 2.00                |
| Inert Ingredients.....   | 98.00               |
|  | 100.00              |

\*Cis/trans ratio: max. 11% (±) cis. and min. 89% (±) trans.

FORMULA FOR INSECTICIDE AEROSOL d-  
PHENOTHRIN-2

| Component  | By weight (percent) |
|--|---------------------|
| Active Ingredients:  |                     |
| 3-phenoxybenzyl d-cis and trans* 2, 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate..... | 2.00                |
| Inert Ingredients.....   | 98.00               |
|  | 100.00              |

\*Cis/trans isomer ratio: max. 25% (±) cis and min. 75% (±) trans.

\*Piperonal bis [2-(2-butoxyethoxy) ethyl] acetal and related compounds.

\*Deodorized kerosene: shall conform to requirements of Federal Specification VV-K-220, June 1963, as amended, Standardization Division, General Services Administration, Washington, D.C. Kerosene, water-white deodorized (for use in insecticide). (Available at U.S. Government Printing Office.)

[FR Doc. 79-9396 filed 3-27-79; 8:45 am]

[4310-84-M]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3400]

## FEDERAL COAL MANAGEMENT PROGRAM

Public Hearings on Proposed Coal Management Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcing Public hearings.

SUMMARY: The Bureau of Land Management announces public hearings on its proposed coal management rulemaking which was published on

## PROPOSED RULES

December 15, 1978 at 43 FR 58776. A clarification document was also published on February 21, 1979 at 44 FR 10518. Formal hearings will be conducted during April and May 1979 at four locations in the United States which are: Denver, Colorado; Salt Lake City, Utah; Billings, Montana; and Washington, D.C. Oral testimony and submissions of written comments will be received at the hearings.

DATES: Hearings will be held on April 30, May 1, May 2, and May 4, 1979.

ADDRESSES: The locations of the public hearings are shown on the attached list below. Additional information regarding the hearings is also available from the listed Bureau of Land Management (BLM) Offices.

FOR FURTHER INFORMATION  
CONTACT:

Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: Hearings will be one-day sessions only and will be held from 1:00 pm-5:00 pm at each location. Oral testimony from each witness at the hearings will be restricted to 10 minutes maximum length in lieu of written comments or in addition to any written comments submitted by each witness. The 10 minute time limitation will be strictly enforced. The complete text of prepared testimony may be filed with the presiding officer at the hearing.

Written requests to testify orally at the hearings should be received by the appropriate Bureau of Land Management Office indicated on the attached list prior to the close of business five calendar days prior to the scheduled hearing date. Requests should identify the organization represented and should be signed by the prospective witness. The deadline date is necessary so that a witness list can be made available in each appropriate BLM Office on the day before the public hearing.

Speakers will be heard, if present, in their established order on the witness list. After the last listed witness has been heard the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to present the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written and oral comments on the proposed rulemaking will receive equal consideration in preparation of the

final rulemaking scheduled for publication in June 1979.

ARNOLD E. PETTY,  
Acting Associate Director,  
Bureau of Land Management.

Date, Location of Hearing and BLM State Office Contact

April 30, 1979, Wyer Auditorium, Denver Public Library, 1357 Broadway, Denver, Colorado; BLM State Office, Colorado State Bank Bldg., 1600 Broadway, Denver, Colorado 80202.

May 1, 1979, Salt Palace, Room 128, 100 South West Temple, Salt Lake City, Utah; BLM State Office, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111.

May 2, 1979, Library Building, Room 152, Eastern Montana College, Billings, Montana; BLM State Office, Granite Tower, 222 N. 32nd Street, P.O. Box 30157, Billings, Montana 59107.

May 4, 1979, Main Auditorium, Main Interior Building, 18th and C Streets, NW, Washington, D.C.; BLM, Office of Coal Mgmt., 18th and C Streets, NW, Washington, D.C. 20240.

[FR Doc. 79-9403 Filed 3-27-79; 8:45 am]

[6730-01-M]

## FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[Docket No. 79-18]

EXEMPTIONS FROM PROVISIONS OF THE  
SHIPPING ACT, 1916, AND THE INTER-  
COASTAL SHIPPING ACT, 1933

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission requests comments from interested parties on activities that might be exempted under section 35 of the Shipping Act, 1916 (46 U.S.C. 833a). The purpose of this inquiry is to assist the Commission in identifying those aspects of its regulation which may be minimized or eliminated without substantial impairment of the Commission's effectiveness in fulfilling its statutory responsibilities.

DATES: Comments on or before May 28, 1979.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION  
CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is charged with the responsibility of administering the Shipping Act, 1916 (46



U.S.C. 801 *et. seq.*) and the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 *et. seq.*).<sup>1</sup> These statutes provide that carriers engaged in common carriage in the foreign commerce and the domestic offshore commerce<sup>2</sup> of the United States and certain other persons<sup>3</sup> are subject to the Commission's regulation. The FMC's primary functions involve the regulation of agreements between persons subject to the Shipping Act and the regulation of rates and practices applicable to transportation services performed by persons subject to the Commission's jurisdiction.

#### SUBJECTS QUALIFYING FOR SECTION 35 EXEMPTION

Section 35<sup>4</sup> of the Shipping Act, 1916 permits the Commission to exempt certain activities from regulation. The legislative intent of section 35 was to permit exemptions only in those instances where regulation is serving no substantive purpose.

The Commission has recently reviewed its regulatory activities for the purpose of identifying types of ocean transportation industry conduct within the scope of section 35 which may warrant at least a partial exemption from present statutory requirements.

Examples of regulatory activity where section 35 exemptions might be considered:

—“Husbanding” arrangements for the procurement of pilotage, tug hire, dock and pier facilities, and to obtain bunkers and stores for the vessels of another party.

—Container and chassis and related equipment interchange agreements,

<sup>1</sup>The FMC also administers portions of the Merchant Marine Acts of 1920 and 1936, the Safety of Life At Sea Act, the Federal Water Pollution Control Act, the Trans-Alaska Pipeline Authorization Act and the Outer Continental Shelf Lands Act.

<sup>2</sup>Domestic offshore commerce means that trade carried by common carriers by water operating: (1) between the United States and its territories, possessions, and Puerto Rico; (2) between or within those territories, possessions, and Puerto Rico; (3) between the continental United States and Hawaii and Alaska; and (4) between, but not within, Hawaii and Alaska.

<sup>3</sup>Sections 1 of the Shipping Act (46 U.S.C. § 801) defines those persons, other than common carriers, subject to its provisions, as anyone, “carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water.”

<sup>4</sup>Section 35 reads in pertinent part: The Federal Maritime Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act or any specified activity of such persons from any requirement of the Shipping Act, 1916, or Intercoastal Shipping Act, 1933, where it finds that such exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commerce.

and agreements relating to the repair or management of containers, chassis and related equipment.

—Nondiscriminatory, nonexclusive and non-preferential leases or real terminal property (except dock, berth, apron, or pier space) where all users are charged equal terms based upon prevailing tariff charges.

—Terminal leases or arrangements solely involving facilities located in foreign countries.

—Tariff matter covering the movement of cargo between foreign countries either transshipped from one water carrier to another in U.S. ports or transported overland.

—Tariff matter covering noncargo handling charges by independent terminal operators (e.g., lighting, gangway placement, line handling, etc.).

Public comment is invited as to the feasibility and desirability of exempting these as well as other similar activities from current Commission requirements. These suggestions should concern *general types* of agreements or activities, and should not discuss specific, individual agreements or operations. All comments should articulate the reason(s) why suggested exemptions will not contravene the regulatory requirements of the shipping statutes.

#### OTHER SUGGESTED SUBJECTS FOR EXEMPTION

In addition to comments on these examples and other proposals, suggestions are solicited as to any other areas of regulation which might warrant consideration for exemption for failure to serve a useful regulatory purpose. As noted above, the Commission does not currently have the authority to exempt activities which serve a substantive purpose or which are essential to the regulatory objectives of the statutes it administers. The Commission, however, to function as an efficient and effective regulator must identify such areas and make appropriate legislative recommendations to Congress to possibly expand the scope of section 35. Comment on proposals of this nature is also invited.

Comments should be directed in writing to the Secretary, Federal Maritime Commission, Washington, D.C. 20573. An original and fifteen copies of each comment should be received by the Commission on or before May 28, 1979.

By the Commission, March 22, 1979.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 79-9377 Filed 3-27-79; 8:45 am]

[4310-55-M]

#### DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

##### ENDANGERED SPECIES CONVENTION

Public Debriefing by Members of the U.S. Delegation to the Second Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Public meeting to report on actions taken at the Second Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

SUMMARY: This notice announces a public meeting which will be held to report to the public on actions taken by the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Endangered Species Convention) at their second meeting in San Jose, Costa Rica from March 19 through 30, 1979.

The Service is responsible for developing, after consultation with the interested public, the States, and other government and non-government organizations, the U.S. position on agenda items to be considered at the Second Meeting of the Conference of the Parties to the Endangered Species Convention.

After a series of six public consultations and numerous intra-governmental meetings, U.S. positions were developed. The final U.S. determinations on a review of native species to be considered by the Parties was published in the FEDERAL REGISTER on February 14, 1979 (see Vol. 44, No. 32, Pages 9690-9697.) A draft position paper outlining the proposed U.S. position on all other items on the agenda was distributed to the public at a meeting at the Interior Department on March 8, 1979.

After the Endangered Species Convention meeting in Costa Rica ends, the U.S. delegation to the meeting will return to Washington and report on the actions taken by Parties to the Convention.

DATE: The meeting will be held on April 4, 1979 from 1:00 p.m. to 3:15 p.m.

ADDRESS: The meeting will be held in Room 7000-B of the Main Interior Building, 18th & C Streets N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Further information on the meeting can be obtained by calling the Management Operations Branch, Federal

Wildlife Permit Office at (703) 235-2418.

LYNN A. GREENWALT,  
Director, Fish and Wildlife Service.

MARCH 23, 1979.

[FR Doc. 79-9287 Filed 3-27-79; 8:45 am]

[3510-12-M]

#### DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 651]

##### NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Public Hearing Notice on the Fishery Management Plan for Atlantic Groundfish (haddock, cod, and yellowtail flounder).

SUMMARY: The New England Fishery Management Council announces a series of public hearings for the consideration of amendments to the Fishery Management Plan for Atlantic Groundfish.

DATES: Public hearings will be held on April 12 and April 16, 1979.

ADDRESSES: The locations and times of the hearings are listed below in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT

G. Paul Draheim, Deputy Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, 617-535-5450.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council recognizes that the best scientific information available indicates that the appropriate optimum yields for cod, haddock, and yellowtail flounder are:

Cod—Gulf of Maine—12,000 metric tons (mt)  
Cod—Georges Bank and South—35,000 mt  
Haddock—All Areas—32,500 mt  
Yellowtail Flounder—All Areas—10,000 mt

Therefore, the Council amends the current optimum yields of the Fishery Management Plan for Atlantic Groundfish by the appropriate amounts for the final quarter of the 1978-79 fishing year as follows:

| Species             | Area                   | Increase over current OY's (percent) | Amount increase over current OY's (mt) |
|---------------------|------------------------|--------------------------------------|--|
| Cod                 | Gulf of Maine          | 24                                   | 2,800                                  |
| Cod                 | Georges Bank and South | 25.8                                 | 8,960                                  |
| Haddock             | Gulf of Maine          | 20.5                                 | 1,998                                  |
| Haddock             | Georges Bank and South | 27.5                                 | 6,256                                  |
| Yellowtail Flounder | West of 69°W           | 20.5                                 | 1,025                                  |
| Yellowtail Flounder | East of 69°W           | 32.9                                 | 1,645                                  |

These changes, if implemented, would change the optimum yield for the 1978-79 fishing year as follows:

| Species             | Area                   | Current OY's (mt) | Amended OY's (mt) |
|---------------------|------------------------|-------------------|-------------------|
| Cod                 | Gulf of Maine          | 8,500             | 11,380            |
| Cod                 | Georges Bank and South | 26,000            | 34,960            |
| Haddock             | All areas              | 20,000            | 28,254            |
| Yellowtail Flounder | All areas              | 8,100             | 10,770            |

A portion of these public hearings 7:30 to 8:30 p.m., will be devoted to the acceptance of public comment with respect to an amendment to the plan increasing optimum yield for the fishing year October 1, 1978-September 30, 1979. This portion of the public meeting is to be conducted by the Council in cooperation with the National Marine Fisheries Service.

The proposed amendment is that vessels which fish for groundfish in more than one area are entitled only to a catch limitation for one area. This limitation shall be the highest of the applicable catch limitations for the

areas in which the vessel has fished.

The public hearings will be held:

April 12, 1979, at the Holiday Inn, Downtown, 88 Spring Street, Portland, Maine 04111; 7:30 p.m.-10:00 p.m.

April 16, 1979, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts 01960; 7:30 p.m.-10:00 p.m.

Dated: March 23, 1979.

WINFRED H. MEIBOHM,  
Executive Director,  
National Marine Fisheries Service.

[FR Doc. 79-9326 Filed 3-27-79; 8:45 am]



# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### MEAT PRICING TASK FORCE

##### Meeting

Pursuant to the provisions of section 10(a)(2) or the Federal Advisory Committee Act (Pub. L. 92-463), the following meetings are hereby announced for the Meat Pricing Task Force.

The purpose of the Meat Pricing Task Force is:

1. To provide advice and factual information to the Secretary of Agriculture as to constructive improvements in meat marketing, including meat pricing and price reporting;

2. To provide advice and factual information to the Secretary of Agriculture so that he may determine USDA response to proposed legislation regarding meat marketing; and

3. To provide advice and factual information to the Secretary of Agriculture so that he may determine whether USDA should seek legislation relative to current methods of meat marketing.

Membership of this Task Force will consist of representatives of every segment of the industry and a representative of the public sector.

There will be five meetings of the Task Force. All meetings are open to the public. Public participation is described for each meeting listed below:

1. April 17, 1979, 10:00 a.m., Room 218A, Administration Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C. 20250, Phone: (202) 447-7051.

This meeting is an organizational meeting. Written statements by the public will be accepted at this meeting. Oral participation by the public will be deferred as noted below for subsequent meetings.

2. April 23, 1979, 9:00 a.m., The Winnebago Room, The Omaha Hilton Hotel, 1616 Dodge Street, Omaha, Nebraska, Hotel Phone: (402) 346-7600.

This meeting will consist primarily of an oral hearing where all interested persons are invited to present information and comments concerning the matters being considered by the Task Force. If warranted, the oral hearing and Task Force meeting may be continued on April 24, 1979, at the same

time and same location as stated above for April 23.

3. April 26, 1979, 9:00 a.m., Texas A&M University Research and Extension Center—Auditorium, 6500 Amarillo Boulevard West, Amarillo, Texas, Center Phone: (806) 359-5401.

This meeting will consist primarily of an oral hearing where all interested persons are invited to present information and comments concerning the matters being considered by the Task Force. If warranted, the oral hearing and Task Force meeting may be continued on April 27, 1979, at the same time and same location as stated above for April 26.

4. May 10, 1979, 10:00 a.m., Room 218A, Administration Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C. 20250, Phone: (202) 447-7051.

This meeting will consist primarily of an oral hearing where all interested persons are invited to present information and comments concerning the matters being considered by the Task Force.

5. May, 11, 1979, 8:30 a.m. Room 218A, Administration Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C. 20250, Phone: (202) 447-7051.

This meeting as well as all of the other meetings will be open to the public. However, there will be no public participation invited at the May 11 meeting.

In addition to oral statements from the public at the hearings, the Task Force solicits written statements from any interested person. Please address such statements only to the matters relevant to the purpose of the Task Force, as stated above. All written statements should be directed to Chas B. Jennings, Deputy Administrator, Packers and Stockyards, AMS, U.S. Department of Agriculture, Room 3039S, Washington, D.C. 20250, and must be postmarked no later than May 5, 1979.

A detailed agenda for the Task Force meetings in Omaha, Nebraska, Amarillo, Texas, and Washington, D.C. (May 10 meeting only) may be obtained from the office of Chas B. Jennings at the address above any time after April 17, 1979.

Written transcripts will be made of all Task Force meetings where public participation is invited. All transcripts, written statements and minutes, as

well as the final report of the Task Force, will be made available for public inspection at the Office of the Deputy Administrator, Packers and Stockyards, AMS, during regular business hours.

Dated: March 22, 1979.

CHAS B. JENNINGS,  
Deputy Administrator.  
[FR Doc. 79-9232 filed 3-27-79; 8:45 am]

[3410-01-M]

### Office of the Secretary

#### SECTION 22 IMPORT FEES

##### Determination of Quarterly Import Fees on Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15 and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the second calendar quarter of 1979.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-67230).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15 and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Or-

ganization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect: (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent; or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound. The fee, in any event, may not be greater than 50 per centum of the average of such daily spot price quotations.

The average of the daily spot (world) price quotations for raw sugar for the applicable period prior to the second calendar quarter of 1979 has been calculated to be 8.53 cents per pound. This results in a fee of 2.76 cents per pound for item 956.15 (15.0 cents—(8.53 cents average spot price + 2.81 cents duty+.90 cents attributed costs) = 2.76 cents). Accordingly, the fee for items 956.05 and 957.15 for the second calendar quarter of 1979 is 3.28 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amount of such fees to the Secretary of the Treasury and file notice thereof with the FEDERAL REGISTER prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

### NOTICE

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the second calendar quarter of 1979 shall be as follows:

| Item   | Fee                |
|--------|--------------------|
| 956.05 | 3.28 cents per lb. |
| 956.15 | 2.76 cents per lb. |
| 957.15 | 3.28 cents per lb. |

## NOTICES

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of Headnote 4.

Signed at Washington, D.C. on March 23, 1979.

BOB BERGLAND,  
Secretary of Agriculture.

[FR Doc. 79-9374 Filed 3-27-79; 8:45 am]

[6320-01-M]

## CIVIL AERONAUTICS BOARD

[Order 79-3-127]

### DALLAS/FORT WORTH-OKLAHOMA CITY Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-127, The Dallas/Ft. Worth-Oklahoma City Show Cause Proceeding.

SUMMARY: The Board is making final the tentative findings of Order 78-12-94 and awarding Dallas/Ft. Worth-Oklahoma City authority to Texas International Airlines, Inc. (Docket 32954). The Board is also proposing to grant Dallas/Ft. Worth-Oklahoma City to Ozark Air Lines (Docket 35104) and any other fit, willing and able applicant the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board making final the tentative findings and conclusions or to the issuance of the proposed authority shall file, and serve upon all applicant carriers, no later than April 23, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 35104 with the Dockets Section, Civil Aeronautics Board, Washington, D.C., 20428. Copies should be served on: American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., Ozark Air Lines, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., the Governor of Oklahoma, the Governor of Texas, the Mayor of Oklahoma City, Oklahoma, the Mayor of Dallas, Texas, and the Mayor of Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT:

Charles Stohr, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5348.

The complete text of Order 79-3-127 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-127 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board:  
March 21, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9333 Filed 3-27-79; 8:45 am]

[6320-01-M]

[Order 79-3-141; Docket 35107]

## HAWAII COMMON FARES INVESTIGATION

### Order of Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Order of Investigation, Order 79-3-141, *Hawaii Common Fares Investigation*, Docket 35107.

SUMMARY: The Board is instituting an evidentiary investigation to be set for hearing before an administrative law judge of the Board to consider whether the common fare condition of these currently authorized to provide Mainland-Hawaii authority either by certificate or exemption, and the agreements and tariffs relating thereto, are in the public interest and should be continued; and if so, whether this condition should be made applicable to future awards of Hawaii authority.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-3-141 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-3-141 to that address.

By the Civil Aeronautics Board:  
March 21, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9332 Filed 3-27-79; 8:45 am]

[3510-24-M]

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### TWELVE PRODUCING FIRMS

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from twelve firms: (1) Frank Saltz & Sons, Inc., 347 Chestnut Street, Passaic, New Jersey 07055, a



## NOTICES

producer of men's suits and sportcoats (accepted March 8, 1979); (2) Wilson-Tek Corporation, 949 East National Avenue, P.O. Box 278, Brazil, Indiana 47834, a producer of plastic pipe making machinery and equipment (accepted March 9, 1979); (3) Revere Sportswear Company, 1349 North Milwaukee Avenue, Chicago, Illinois 60622, a producer of women's skirts, pants, jackets and blouses (accepted March 12, 1979); (4) Menser Industries, Inc., 2110 North Michigan Street, Plymouth, Indiana 46563, a producer of blankets, sleeping bags, mitts, quilting and potholders (accepted March 12, 1979); (5) Parlone Sportswear Company, Inc., 70 Harrison Avenue, Boston, Massachusetts 02111, a producer of women's sportswear, including suits, skirts, pants, shorts, tops and dresses (accepted March 15, 1979); (6) Plesco Products, Inc., 207 Main Street, P.O. Box 15, Worcester, Massachusetts 01613, a producer of disposable shoe covers and headwear (accepted March 16, 1979); (7) Acoustic Fiber Sound Systems, Inc., 8050 Castleway Drive, P.O. Box 50829, Indianapolis, Indiana 46250, a producer of speakers and accessories for CB and auto radios (accepted March 16, 1979); (8) Bobbie Ellen, Inc., 575 Eighth Avenue, New York, New York 10018, a producer of coats and jackets for women and men (accepted March 20, 1979); (9) Peerless Umbrella Company, Inc., 6 West 32nd Street, New York, New York 10001, a producer of umbrellas (accepted March 20, 1979); (10) Cayey Industries, Inc., Industrial Avenue, P.O. Box 1127, Cayey, Puerto Rico 00633, a producer of men's and women's sweaters (accepted March 21, 1979); (11) Wayne Floral Company, Inc., P.O. Box 6, Newark, New York 14513, a producer of cut flowers and potted plants (accepted March 21, 1979); and (12) Winlit Fashions, Inc., 250 West 39th Street, New York, New York 10018, a producer of women's coats and jackets (accepted March 21, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A re-

quest for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,  
Chief, Trade Act Certification  
Division, Office of Eligibility  
and Industry Studies.

(FR Doc. 79-9293 Filed 3-27-79; 8:45 am)

## [3510-25-M]

Industry and Trade Administration  
ELECTRONIC INSTRUMENTATION TECHNICAL  
ADVISORY COMMITTEE

## Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, April 17, 1979, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) world-wide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports to the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statement may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 8, 1978, pursuant to Section 10(d) of the

Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

For further information, contact Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 27, 1978 (43 FR 60328).

Dated: March 23, 1979.

LAWRENCE J. BRADY,  
Acting Director, Office of Export  
Administration, Bureau of  
Trade Regulation, U.S. Department  
of Commerce.

(FR Doc. 79-9351 Filed 3-27-79; 8:45 am)

## [3910-01-M]

## DEPARTMENT OF DEFENSE

## Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD  
Meeting

MARCH 22, 1979.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will hold meetings on April 12, 1979 from 8:30 a.m. to 5:00 p.m. and April 13, 1979 from 8:30 a.m. to 12:00 p.m. at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control and Communications Programs. The meetings concern matters listed in Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof and accordingly, the meetings will be closed to the public.

## NOTICES

For further information contact the Scientific Advisory Board Secretariat (202) 697-8404.

CAROL M. ROSE,  
Air Force Federal Register  
Liaison Officer.

(FR Doc. 79-9264 Filed 3-27-79; 8:45 am)

## [3710-08-M]

## Department of the Army

U.S. ARMY MEDICAL RESEARCH AND DEVELOPMENT  
ADVISORY PANEL AD HOC STUDY  
GROUP ON MEDICAL ENTOMOLOGY

## Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medical Entomology.

Date of meeting: April 12 and 13, 1979.

Place: Room 3092, Walter Reed Army Institute of Research.

Time: 1300 hours.

Proposed agenda: This meeting will be open to the public on April 12, 1979, from 1300 to 1345 hours to discuss the scientific research program of the Medical Entomology Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 12, 1979 from 1345 hours to adjournment, and on April 13, 1979 from 0830 to 1200 hours for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, D.C. 20012 (202/576-3061) will furnish summary minutes, roster of Committee members, and substantive program information.

By authority of the Secretary of the Army.

ROME D. SMYTH,  
Colonel, U.S. Army, Director, Administrative Management,  
TAGCEN.

(FR Doc. 79-9543 Filed 3-27-79; 8:45 am)

## [3810-70-M]

## Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON  
HIGH ENERGY LASERS

## Change in Meeting Date

The meeting date for the Defense Science Board Task Force on High Energy Lasers scheduled for a closed session on April 6-7, 1979 in Washington, D.C., published in the FEDERAL REGISTER on March 19, 1979 (44 FR 16470, FR Doc. 79-8208) has been changed to April 5-6, 1979. All other aspects of the original notice remain the same.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

MARCH 23, 1979.

(FR Doc. 79-9397 Filed 3-27-79; 8:45 am)

## [6450-01-M]

## DEPARTMENT OF ENERGY

## Bonneville Power Administration

(DOE/EIS-0030-F)

## PROPOSED FISCAL YEAR 1980 PROGRAM

Availability of Final Environmental Impact  
Statement

Notice is hereby given that a Final Environmental Impact Statement, DOE/EIS-0030-F, Bonneville Power Administration (BPA), Proposed Fiscal Year 1980 Program (March 1979) has been issued pursuant to the Department of Energy's (DOE) implementation of the National Environmental Policy Act of 1969. The statement was prepared to assess the anticipated environmental impacts that may be associated with the construction and maintenance programs proposed by BPA for FY 1980. The draft of this statement was issued in September 1978.

Copies of the final Environmental Impact Statement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, Oregon 97208) and at DOE public document rooms located at:

Library, FOI—Public Reading Room  
GA152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

BPA, Washington, D.C. Office, Federal Building, Room 3352, 12th & Pennsylvania Avenue NW., Washington, D.C.

Library, BPA Headquarters, 1002 NE Holladay Street, Portland, Oregon  
And in the following BPA Area and District Offices:

Eugene District Office, U.S. Federal Building, East 211 7th Street, Room 206, Eugene, Oregon  
Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho  
Kalispell District Office, Highway 2 (East of Kalispell), Kalispell, Mont.  
Portland Area Office, 919 NE 19th Avenue, Room 210, Portland, Oregon  
Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Wash.  
Spokane Area Office, U.S. Court House, Room 561, W. 920 Riverside Avenue, Spokane, Wash.

Walla Walla Area Office, West 101 Poplar, Walla Walla, Wash.

Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, Wash.

Copies of this document have also been furnished to those who commented on the draft statement.

Single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, or the BPA Area and District Office mentioned above.

Dated at Portland, Oregon, this 23rd day of February 1979.

STERLING MUNRO,  
Administrator.

(FR Doc. 79-9352 Filed 3-27-79; 8:45 am)

## [6450-01-M]

## Federal Energy Regulatory Commission

[Docket No. ER79-249]

THE CLEVELAND ELECTRIC ILLUMINATING CO.,  
ET ALProposed Amendment to Interconnection  
Agreement

MARCH 23, 1979.

Take notice that on March 7, 1979 the CAPCO Group filed Amendment No. 4 dated as of January 1, 1979, to the CAPCO Basic Operating Agreement dated as of January 1, 1975, as amended, which is filed with the Commission under the following Rate Schedule designations:

|   | Rate Schedule |
|---|---------------|
| The Cleveland Electric Illuminating Company | FERC No. 13   |
| Duquesne Light Company                      | FERC No. 14   |
| Ohio Edison Company                         | FERC No. 120  |
| Pennsylvania Power Company                  | FERC No. 29   |
| The Toledo Edison Company                   | FERC No. 26   |

Amendment No. 4 extends the term of the CAPCO Basic Operating Agreement which currently expires March 1, 1979, to the earlier of March 1, 1980 or execution of a CAPCO Generating Capacity Agreement now being formulated according to the CAPCO Group.

Amendment No. 4 also increases the Demand Charge under the System Capacity and Energy Schedule from



\$3.25 to \$3.75 per kilowatt per month, according to the CAPCO Group.

No new facilities will be installed nor will existing facilities be modified in connection with the proposed Amendment according to the CAPCO Group. It is requested that Amendment No. 4 become effective January 1, 1979.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice should on or before April 6, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9271 Filed 3-27-79; 8:45 am)

#### [6450-01-M]

(Docket No. TC79-17)

CITIES SERVICE GAS CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Cities Service Gas Company (Respondent), Post Office Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. TC79-17 a tariff sheet as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent adds a new Section 9, entitled Interim Adjustments, to the General Terms and Conditions of Respondent's FERC Gas Tariff, Original Volume No. 1. The filed tariff sheet provides that adjustments to the respondent's priority of service shall be granted to the extent necessary to supply the essential agricultural uses and high-priority uses of direct sale customers and indirect sale customers as provided for in Part 281, Subpart A, Subchapter I, Chapter 1 of Title 18 of

the Code of Federal Regulations. The tariff sheet further provides that volumes delivered under any such adjustment shall be reduced proportionately if such adjustments would otherwise result in the reduction of deliveries of natural gas:

(a) To a direct sale customer, local distribution company or interstate pipeline customer to any level which would cause a direct or indirect supply deficiency for service to essential agriculture or high-priority uses; for

(b) Which the Company determines is reasonably necessary for injection into storage by the Company or by any of its customers except to the extent the Federal Energy Regulatory Commission, upon complaint, determines that such storage is not reasonably necessary to serve high-priority uses or essential agricultural uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protests with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9314 Filed 3-27-79; 8:45 am)

#### [6450-01-M]

IDAHO POWER CO.

(Project No. 2258)

Notice of Application for Surrender of License

MARCH 19, 1979.

Take notice that an application for surrender of license for the construct-

ed American Falls Project No. 2258 was filed on November 21, 1977, by Idaho Power Company (Applicant) pursuant to Article 37 of the project license. Project No. 2258 is located on the Snake River in Power County, Idaho, near the City of American Falls. Correspondence concerning the application should be sent to: Mr. Paul Jauregui, General Counsel, Idaho Power Company, 1220 Idaho Street, P.O. Box 70, Boise, Idaho 83701.

Article 37 of the license for Project No. 2258—issued March 31, 1975—requires the Applicant to surrender its license when the project becomes inoperative because of the construction or operation of the new American Falls Project No. 2736. Project No. 2258 ceased operation on September 10, 1977, and Applicant has removed the forebay dam and the generating units. Applicant intends to demolish the eastshore powerhouse.

Anyone desiring to be heard or to make protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure (Rules), 18 CFR § 1.10 or § 1.8 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before April 24, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9315 Filed 3-27-79; 8:45 am)

#### [6450-01-M]

(Docket No. TC79-18)

INTER-CITY MINNESOTA PIPELINES LTD., INC.

Notice of Tariff Filing

MARCH 23, 1979.

Take notice that on March 16, 1979, Inter-City Minnesota Pipelines Ltd., Inc. (Respondent), 1500 Richardson Building, One Lombard Place, Winnipeg, Manitoba, R3B 2A4 Canada, filed in Docket No. TC79-18 tariff sheets as part of its FERC Gas Tariff to provide an interim plan for the delivery of natural gas for essential agricultural and high priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regu-

lations thereunder, all as more fully set forth in the tariff sheets, which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent provide that notwithstanding the priorities of section 19.3 of its gas tariff, any local distribution company or direct customer may request an adjustment to permit relief from curtailment to satisfy deficiencies for essential agricultural uses and for high priority uses. The terms "essential agricultural use" and "high priority use" are defined as set out at 18 CFR 281.103(a).

The filed tariff sheets also provide that supply deficiencies shall be calculated as set out at 18 CFR 281.106. Requests for adjustments shall be accompanied by the statements required by § 281.109(a).

Under the terms of the proposed tariff sheets, direct sale customers requesting relief from curtailment for high-priority or essential agricultural uses will receive amounts of gas that do not exceed the lesser of the direct supply deficiency or the direct supply obligation as calculated pursuant to 18 CFR §§ 281.106(b) and 281.107. Local companies will receive relief from curtailment for their essential agricultural use customers and high priority use customers in an amount that "does not exceed the lesser of the sum of the indirect supply obligations with respect to such customers (determined under 18 CFR § 281.106(c) and 18 CFR § 281.107), respectively."

Supply deficiencies of customers who purchase gas from pipelines other than Respondent's are to be attributed as required by 18 CFR § 281.106(e). The tariff sheets would require buyers to give prompt notice of any decrease in supply deficiency and at any time Respondent could require a customer to recalculate its supply deficiency. In addition Respondent would be under no obligation to provide relief if information in its own records conflicted with information provided in a request for waiver of curtailment.

Section 19.5(d) of the tariff sheets tendered states that

(Notwithstanding the provisions of Section 19.5(b) above, volumes delivered under a request for waiver of curtailment shall be adjusted, in an equitable manner, if such adjustment would otherwise result in the reduction of deliveries of natural gas for uses specified in 18 CFR § 281.108(b).

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for

filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No request for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9288 Filed 3-27-79; 8:45 am)

#### [6450-01-M]

(Docket No. CP79-189)

MICHIGAN WISCONSIN PIPE LINE CO. AND  
TRUNKLINE GAS CO.

Notice of Application

MARCH 20, 1979.

Take notice that on February 22, 1979, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, (Applicants) filed in Docket No. CP79-189 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 6,000 Mcf of natural gas per day, all as more fully set forth in the application on file with the Commission and open to the public inspection.

It is indicated that Applicants propose to exchange gas pursuant to an agreement dated November 14, 1978, between the two companies, which agreement provides that Michigan Wisconsin would deliver to Stingray Pipeline Company (Stingray) for the account of Trunkline daily quantities of gas, up to a maximum of 6,000 Mcf, at an existing connection in West Cameron Block 269, offshore Louisiana, and that Trunkline would redeliver equivalent quantities of exchange gas to High Island Offshore System (HIOS) for the account of Michigan Wisconsin at a proposed connection in High Island Block A-332, or the point

of connection between HIOS's facilities and Stingray's facilities on jointly owned Stingray and HIOS facilities in High Island Block A-330, offshore Texas. Applicants indicate that any imbalances in deliveries would be corrected as soon as possible. It is stated that no charge would be made and no new facilities would be required to provide for the proposed exchange.

Any person desiring to be heard or to make any protest with reference to said application should be on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission in its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9316 Filed 3-27-79; 8:45 am)

#### [6450-01-M]

(Docket No. ER79-245)

OHIO POWER CO.

Notice of Filing

MARCH 19, 1979.

Take notice that American Electric Power Service Corporation (AEP) on



## NOTICES

[6450-01-M]

(Project No. 2570)

OHIO POWER CO.

Notice of Application for Amendment of License

MARCH 19, 1979.

March 12, 1979 tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio), Modification No. 9 dated November 15, 1978 to the Interconnection Agreement dated December 1, 1963 between Ohio and Columbus & Southern Ohio Electric Company (Columbus), designated Ohio's Rate Schedule FERC No. 32.

AEP states that this Modification No. 9 provides that, for the purpose of conserving energy resources during extended fuel shortages Ohio or Columbus may arrange to obtain Conservation Energy from the other. AEP further states that when supplied the charge for Conservation Energy generated on the supplying party's will be 110% of the out-of-pocket replacement cost of generating the energy, plus 5.00 mills per kilowatt-hour. AEP indicates that the new Modification No. 9 also provides for a transmission service charge of 1.7 mills per kilowatt-hour for deliveries of Conservation Energy from systems interconnected with Ohio or Columbus.

AEP states that because the current uncertainty of fuel supplies and the possibility that transactions will be required immediately under the proposed Modification No. 9, the parties have requested that the Commission waive its notice requirements and that the proposed Schedule become effective as soon as possible.

Copies of this filing were served upon Columbus & Southern Ohio Electric Company and the Public Utilities Commission of Ohio, according to AEP.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9317 Filed 3-27-79; 8:45 am]

[FR Doc. 79-9318 Filed 3-27-79; 8:45 am]

[6450-01-M]

(Docket No. TC79-13)

PANHANDLE EASTERN PIPE LINE CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet Avenue, P.O. Box 1642, Houston, Texas 77001, on March 15, 1979, tendered for filing Fourth Revised Interim Original Sheet 42-A to its FERC Gas Tariff, Original Volume No. 1 pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement section 401 of the Natural Gas Policy Act. This filing which Panhandle proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Section 16.3 of Panhandle's FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent part of Panhandle's proposed interim tariff sheet tendered for filing herein is as follows:

During the period April 1, 1979, through October 31, 1979, curtailments pursuant to Section 16.3 shall be subject to adjustment pursuant to the provisions of Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, to the extent necessary to supply the certified essential agricultural uses or high priority uses.

The tariff sheet tendered by Panhandle adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Panhandle's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protests with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9319 Filed 3-27-79; 8:45 am]

[6450-01-M]

RATON NATURAL GAS CO.

(Docket No. RP78-84 (PGA79-1))

Notice of Changes in Rates

MARCH 19, 1979.

Take notice that Raton Natural Gas Company (Raton), on March 6, 1979, tendered for filing proposed changes in its FPC Gas Tariff, Volume No. 1, consisting of Nineteenth Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is April 1, 1979.

Raton states that the instant notice of change in rates is occasioned solely by increase in the cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost Increase results in increased rate from \$1.75 to \$1.78 per Mcf of Demand and from 148.56¢ to 175.47¢ per Mcf of Commodity. The annual revenue increase, by reason of the tracking, amounts to \$284,298.

Raton states that copies of this filing were served on its jurisdictional customer and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

## NOTICES

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9320 Filed 3-27-79; 8:45 am]

[6450-01-M]

(Docket No. CP79-202)

TEXAS GAS TRANSMISSION CORP.

Notice of Application

MARCH 19, 1979.

Take notice that on March 6, 1979, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP79-202 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of approximately 7.94 miles of 8-inch pipeline, together with appurtenant facilities, extending from the "A" Platform located in Block 296, Ship Shoal Area, South Addition, offshore Louisiana, to an interconnection in Block 320, Eugene Island, South Addition, offshore Louisiana, with the 30-inch pipeline jointly owned by Texas Gas, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Texas Eastern Transmission Corporation, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Texas Gas states it is currently negotiating with Texas Gas Exploration Corporation (Exploration), Chevron U.S.A., Inc. (Chevron), and Samedan Oil Corporation (Samedan) for the purchase of their natural gas reserves located in Block 296. It is stated that if Texas Gas is not able to purchase 100 percent of Block 296 reserves, it would sell an undivided interest in the pipeline to be constructed based on the actual cost of construction to the party or parties which purchase the remainder of such reserves. Texas Gas estimates that proved and probable gas reserves in Block 296 are approximately 20,000,000 Mcf. Texas Gas anticipates that the initial rate of delivery from such gas reserves would be 20,000 Mcf based upon information furnished to Texas Gas by the producers. Texas Gas states that upon execution of the respective gas purchase contracts, each producer would obtain appropriate authorization as may be required to sell the reserves located in Block 296.

Texas Gas asserts that the total estimated cost of the proposed facilities is \$3,477,000, which would be financed by funds on hand.

Texas Gas indicates that the additional gas supplies from Block 296,

should they be made available to Texas Gas's system promptly, would help alleviate the gas supply shortages on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9321 Filed 3-27-79; 8:45 am]

[6450-01-M]

(Docket No. TC79-12)

TRUNKLINE GAS CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 15, 1979, Trunkline Gas Company (Respondent), P.O. Box 1642, Houston, Texas 77001, pursuant to section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Regulations thereunder filed in Docket No. TC79-12 a tariff sheet as part of its FERC Gas



Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses, all as more fully set forth in said sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent would amend Section 17.6 of its FERC Gas Tariff, Original Volume No. 1, to add subsection c which states that during the period April 1, 1979 through October 31, 1979, curtailments shall be subject to the provisions of Part 281, Subpart A, Subchapter I, Chapter 1 of Title 18, Code of Federal Regulations, to the extent necessary to supply the certified essential agricultural uses or high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9322 Filed 3-27-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP79-192]

UNITED GAS PIPE LINE CO.

Notice of Application

MARCH 20, 1979.

Take notice that on February 23, 1979, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-192 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and ne-

cessity authorizing the construction and operation of an additional 2,000 horsepower compressor facility at its existing Sterlington Compressor Station in Ouachita Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that on cold winter days, heating load on Applicant's Sterlington-Sarepta 18-inch line exceeds the supply on that line requiring additional gas to be moved into the line from Sterlington. The application further states that presently during these periods the existing horsepower at Applicant's Sterlington Compressor Station is being fully utilized in order to distribute low pressure gas in the Monroe area to Applicant's customers in that area. On warm winter days and during spring and summer the supply of gas on this line exceeds the demand and the flow is reversed toward Sterlington, it is stated. It is further stated that this additional low pressure gas must be compressed at the Sterlington Compressor Station in order to deliver such gas to Applicant's pipeline customers at Perryville, and that at present, the additional gas cannot be delivered to these pipeline customers because of a lack of compression at Sterlington. Applicant states that it has purchased, or has outstanding offers to purchase, additional volumes of gas in the Greenwood-Waskom Field, Caddo Parish, Louisiana, Rodessa Field, Caddo Parish, Louisiana and from the Hico-Knowles Field, Lincoln Parish, Louisiana, (estimated to be 25,000 Mcf of natural gas per day) which gas would flow into the Sterlington-Sarepta 18-inch line. This low pressure gas, would also require compression before it can be delivered into the high pressure pipelines of Applicant's customers at the discharge side of the Sterlington Compressor Station, it is asserted.

It is stated that the initial cost for installation of two-1,000 horsepower packaged compressor units is estimated to be \$512,240. Applicant proposes to lease the units at a monthly rental rate of \$9,850 with an option to purchase. Applicant states that the purchase price of said units is \$577,302.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make

the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9323 Filed 3-27-79; 8:45 am]

#### [6450-01-M]

Office of Assistant Secretary for International Affairs

#### PROPOSED SUBSEQUENT ARRANGEMENT

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada.

The subsequent arrangements to be carried out under the above mentioned agreement involves the following sales:

Contract S-EU-548, 100 mg of Thorium-230, 99.86% enriched, to Transurane-Institut, West Germany, for preparation of sources for Messbauer spectroscopy of Pa-231 and irradiation of the sources in order to obtain Thorium-231.

Contract S-EU-565, 10 mg of Thorium-230, 80-90% enriched, to Energieonderzoek Centrum Nederland, the Netherlands, for mass spectrometric isotope dilution analysis.

Contract S-CA-271, 1 mg of Thorium-230, 99.86% enriched to the Royal Ontario Museum, Canada, for isotope dilution analysis for uranium and thorium in geological materials by solid mass spectrometry.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than April 12, 1979.

For the Department of Energy.

Dated: March 21, 1979.

HAROLD D. BENIGSDORF,  
Director for Nuclear Affairs  
International Programs.

[FR Doc. 79-9281 Filed 3-27-79; 8:45 am]

#### [6450-01-M]

#### NATIONAL PETROLEUM COUNCIL, TASK GROUPS OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

##### Meetings

Noticer is hereby given that a task group of the Committee on Materials and Manpower Requirements will meet in March and April 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling meetings is the Regulatory Impact Task Group. The time, location and agenda of the task group meetings follows:

The second meeting of the Regulatory Impact Task Group will be on Friday, March 30, 1979, starting at 9:00 a.m. in Conference Room 2626, on the 26th floor of the Tenneco Building, 1010 Milam Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of information needed for the completion of assignments.
3. Discussion of sources of information required by the Regulatory Impact Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Regulatory Impact Task Group.

The third meeting of the Regulatory Impact Task Group will be on Monday, April 9, 1979, starting at 9:00 a.m. in Conference Room 2626, on the 26th floor of the Tenneco Building, 1010 Milam Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Finalization of method for collecting the information needed for the completion of assignments.
3. Finalization of list of sources of information required by the Regulatory Impact Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Regulatory Impact Task Group.

The meetings are open to the public. The chairman of the task group is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on March 22, 1979.

GEORGE S. McISAAC,  
Assistant Secretary for  
Resource Applications.

MARCH 22, 1979.

[FR Doc. 79-9353 Filed 3-27-79; 8:45 am]

#### [1505-01-M]

#### ENVIRONMENTAL PROTECTION AGENCY

(OTS-050003; FRL 1069-1)

#### TOXIC SUBSTANCES CONTROL ACT PREMANUFACTURE TESTING OF NEW CHEMICAL SUBSTANCES

Guidance for Premanufacture Testing: Discussion of Policy Issues, Alternative Approaches, and Test Methods

##### Correction

In FR Doc. 79-6561, appearing at page 16240 in the issue for Friday, March 16, 1979, the comments deadline is June 14, 1979 which is (90 days after publication)".

#### [6560-01-M]

[FRL 1083-2; OPP-50410]

#### CIBA-GEIGY CORP. AND AMCHEM PRODUCTS, INC.

##### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 100-EUP-61. Ciba-Geigy Corp., Greensboro, North Carolina 27409. This experimental use permit allows the use of 800 pounds of the herbicide metolachlor in a tank mixture to evaluate control of weeds in sorghum. A total of 435 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Georgia, Kansas, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Dakota, and Texas. The experimental use permit is effective from April 6, 1979 to April 6, 1980. Temporary tolerances for residues of the active ingredient in or on sorghum forage and fodder, sorghum grain, eggs, milk, fat and meat by-products of cattle, goats, hogs, horses, poultry and sheep have been established. (PM-23, Room: E-351, telephone: 202/755-1397)

No. 264-EUP-56. Amchem Products, Inc., Ambler, Pennsylvania 19002. This experimental use permit allows the use of 500 pounds of the plant regulator ethephon on carrots to evaluate its ability to increase yield of processing carrots and allow earlier harvest of fresh market carrots. A total of 720 acres is involved; the program is authorized only in the States of California, Michigan, Minnesota, Texas, Washington, and Wisconsin. The experimental use permit is effective from March 7, 1979 to March 7, 1980. A temporary tolerance for residues of the active ingredient in or on carrots has been established. (PM-25, Room: E-301, telephone: 202/755-2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)



Dated: March 20, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9386 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1084-2; OPP-50411]

CIBA-GEIGY CORP. AND MONSANTO CO.

#### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 100-EUP-62. Ciba-Geigy Corp., Greensboro, North Carolina 27409. This experimental use permit allows the use of a mixture of approximately 113.22 pounds of the herbicide metolachlor with approximately 58.44 pounds of the herbicide propanil on sorghum grain to evaluate control of weeds. A total of 50 acres is involved; the program is authorized only in the States of Arkansas, Colorado, Kansas, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, and Texas. The experimental use permit is effective from March 8, 1979 to April 6, 1980. Temporary tolerances for residues of the active ingredient on sorghum grain, eggs, milk, and meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep have been established. A permanent tolerance for residues of the active ingredient in or on sorghum grain has been established (40 CFR 180.243). (PM-23, Room: E-351, Telephone: 202/755-1397)

No. 524-EUP-48. Monsanto Co., St. Louis, Missouri 63168. This experimental use permit allows the use of 2,800 pounds of the herbicide alachlor in a tank mixture with 2,800 pounds of atrazine on corn to evaluate aerial control of weeds. A total of 960 acres is involved; the program is authorized only in the States of Colorado, Kansas, Missouri, and Nebraska. The experimental use permit is effective from April 1, 1979 to July 1, 1979. Permanent tolerances for residues of the active ingredients in or on corn have been established (40 CFR 180.249 and 180.220). (PM-25, Room: E-301, Telephone: 202/755-2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: March 21, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9382 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1083-3; OPP-50408]

FISONS, INC. ET AL.

#### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10065-EUP-12. Fisons, Inc., Bedford, Massachusetts 01730. This experimental use permit allows the use of 1,740 pounds of the herbicide ethofumesate on red beets to evaluate control of weeds. A total of 580 acres is involved; the program is authorized only in the States of California, New York, Oregon, Texas, Washington, and Wisconsin. The experimental use permit is effective from February 23, 1979 to July 30, 1980. A temporary tolerance for residues of the active ingredient in or on red beets has been established. (PM-23, Room: E-351, Telephone: 202/755-1397)

No. 100-EUP-42. Ciba-Geigy Corp., Greensboro, North Carolina 27409. This experimental use permit allows the use of 2,000 pounds of the growth regulator ethephon on oranges as a citrus abscission agent. A total of 2,000 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from March 1, 1979 to March 1, 1980. A temporary tolerance for residues of the active ingredient in or on oranges has been established. (PM-25, Room: E-301, Telephone: 202/755-2196)

No. 524-EUP-45. Monsanto Co., St. Louis, Missouri 63166. This experimental use permit allows the use of 862.5 pounds of the plant growth regulator sodium salt of glyphosate on sugarcane to evaluate hastened ripening and increased sucrose levels in sugarcane. A total of 1,150 acres is involved; the program is authorized only in the States of Florida, Hawaii, Louisiana, and Texas. The experimental use permit is effective from March 5, 1979 to March 5, 1981. A temporary tolerance for residues of the active ingredient in or on sugarcane has been established. A temporary food/feed additive

regulation for residues of the active ingredient in sugarcane molasses has also been established. (PM-25, Room: E-301, Telephone: 202/755-2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: March 20, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9387 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1082-8; pp 8G2019/T193]

#### PESTICIDE PROGRAMS

##### Metolachlor: Extension of Temporary Tolerances

The Environmental Protection Agency (EPA) established temporary tolerances for combined residues of the herbicide metolachlor (2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl) acetamide) and its metabolites 2-[(2-ethyl-6-methylphenyl)amino] propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the raw agricultural commodities sorghum forage and fodder at 1 part per million (ppm); sorghum grain at 0.3 ppm; and in eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 ppm. These tolerances were established in response to a pesticide petition (pp 8G2019) submitted by Ciba-Geigy Corp., Agricultural Div., PO Box 11422, Greensboro, NC 27409. These temporary tolerances will expire April 6, 1979.

Ciba-Geigy Corp. requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 100-EUP-61 that has been extended under the Fed-

eral Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 6, 1980. Residues not in excess of 1 ppm remaining in or on sorghum fodder and forage; 0.3 ppm remaining in or on sorghum grain; and 0.02 ppm remaining in eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep after the expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street, SW, Washington, DC 20460 (202/755-1397).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)))

Dated: March 20, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9384 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1085-4]

#### SCIENCE ADVISORY BOARD, WATER QUALITY CRITERIA SUBCOMMITTEE

##### Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee

of the Science Advisory Board will be held on April 17 and 18, 1979, beginning at 9:00 a.m., in Conference Room 1112A, Crystal Mall, Building 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

This is the first meeting of the Water Quality Criteria Subcommittee. The Agenda includes presentations on the methodologies used for development of water quality criteria to protect aquatic life and human health and review of those methodologies; development of procedures for reviewing the criteria documents; preliminary consideration of the documents; and subcommittee organizational matters.

Paragraph 11 of the Settlement Agreement in Natural Resources Defense Council, et al. v. Train, 8 ERC 2120 (D. D. C. 1976), required EPA to publish water quality criteria for 65 specified pollutants by June 30, 1978. Subcommittee deliberations will be directed toward the 27 specified pollutants that appeared in the FEDERAL REGISTER, Part V, pages 15926-15981, March 15, 1979. Members of the public are invited to submit by April 11, 1979, a list of priorities and other information that they wish to offer on the pollutants listed in Part V that they consider most important for Subcommittee review. These submissions will be considered by the Subcommittee in reaching its decision on selection of documents for its attention. Opportunity will be provided for some discussion of these submissions. Submissions should be sent to Dr. J. Frances Allen, Science Advisory Board (A-101C), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The meeting is open to the Public. Because of limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than April 12, 1979, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Mrs. Joni Perry, 703-557-7720.

RICHARD M. DOWD,  
Staff Director,  
Science Advisory Board.

MARCH 23, 1979.

[FR Doc. 79-9378 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1083-7]

#### SOLID WASTE DISPOSAL PRACTICES

##### Availability of Iron and Steel Industry Waste

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of availability of draft report on iron and steel industry solid waste.

SUMMARY: EPA is today making available to the public a draft report entitled "Steel Industry Solid Waste Environmental and Resource Conservation Considerations" by Research Triangle Institute. The study includes a characterization of iron and steel industry and the solid waste generated by it, current and projected disposal practices, estimation of the cost impact of the Section 4004 Resource Conservation and Recovery Act (RCRA) criteria, and an assessment of alternate technologies and resource recovery practices applicable to the waste.

The report is in draft form and has not been approved by EPA. Copies of the study are available for public inspection at the EPA Public Information Reference Unit (library), Room 2404, 401 M Street SW., Washington, D.C. and at all EPA regional office libraries.

DATE: Public comments on the accuracy of the report are due April 27, 1979.

ADDRESS: All comments should be addressed to William Kline, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

William Kline at the above address (202-755-9120).

Dated: March 21, 1979.

THOMAS C. JORLING,  
Assistant Administrator.

[FR Doc. 79-9394 Filed 3-27-79; 8:45 am]

[6560-01-M]

[FRL 1083-6]

#### SOLID WASTE DISPOSAL PRACTICES

##### Availability of Mining Waste Cost Study

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of availability of draft report on cost of compliance by the mining industry with Section 4004 RCRA criteria.

SUMMARY: EPA is today making available to the public a draft report entitled "A Study of the Cost Impact of the Resource Conservation and Recovery Act (RCRA) on the Disposal of Nonhazardous Wastes from Mining." The report includes an assessment of the disposal practices necessary to bring mining sites into compliance with Section 4004 Resource Conservation and Recovery Act (RCRA) criteria and provides a total cost estimate for the implementation of the practices. This study is a sequel to the "Study of Adverse Effects of Solid



Wastes from all Mining Activities on the Environment" by PEDCo Environmental, the availability of which was announced in the FEDERAL REGISTER on March 12.

The report is in draft form and has not been approved by EPA. Copies of the study are available for public inspection at the EPA Public Information Reference Unit (library), Room 2404, 401 M Street, S.W., Washington, D.C. and at all EPA regional office libraries.

DATE: Public comments on the accuracy of the report are due April 27, 1979.

ADDRESS: All comments should be addressed to Joanne Slaboch, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Joanne Slaboch at the above address (202-755-9120).

Dated: March 21, 1979.

THOMAS C. JORLING,  
Assistant Administrator.

(FR Doc. 79-9389 Filed 3-27-79; 8:45 am)

#### [6560-01-M]

(FRL 1083-8)

#### SOLID WASTE DISPOSAL PRACTICES

Availability of Nonferrous Metal Industrial Waste

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of availability of draft report on nonferrous metal industry solid waste.

SUMMARY: EPA is today making available to the public a draft report entitled "Assessment of Solid Waste Management Problems and Practices in Nonferrous Smelters" by PEDCo Environmental. The study includes a characterization of the nonferrous metal industry and the solid waste generated by it, current and projected disposal practices, estimation of the cost impact of the Section 4004 Resource Conservation and Recovery Act (RCRA) criteria, and an assessment of alternate disposal and resource recovery practices applicable to the waste.

The report is in draft form and has not been approved by EPA. Copies of the study are available for public inspection at the EPA Public Information Reference Unit (library), Room 2402, 401 M Street, S.W., Washington, D.C. and at all EPA regional office libraries.

DATE: Public comments on the accuracy of the report are due [30 days after publication]. Comments are re-

quested particularly on the assumptions used regarding the number of disposal sites currently out of compliance with the Section 4004 criteria and the disposal practices required to ensure that a site complies with the Section 4004 criteria.

ADDRESS: All comments should be addressed to Jon R. Perry, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jon R. Perry at the above address (202-755-9120).

Dated: March 21, 1979.

THOMAS C. JORLING,  
Assistant Administrator.

(FR Doc. 79-9392 Filed 3-27-79; 8:45 am)

#### [6730-01-M]

#### FEDERAL MARITIME COMMISSION

##### AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573 on or before April 9, 1979, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10250-1.

FILING PARTY: Edward Schmeltzer, Schmeltzer, Aptaker & Sheppard, 1900 Massachusetts Avenue, NW., Washington, D.C. 20036.

SUMMARY: Agreement No. 10250-1, consisting of six identical letters, is an agreement whereby Farrell Lines, Inc., Columbus Line, Associated Container Transportation (Australia) Ltd., The Australian National Line and Atlantafrik Express Service (AES) are designated by Australian Meat and Livestock Corporation as its container lines and Refrigerated Express Lines Pty. Ltd. (REL) is designated the breakbulk conventional carrier to be available for the carrying of meat from Australian ports to the East and Gulf ports of the United States. Agreement No. 10250-1 amends and restates the basic agreement as follows: (1) A schedule of the maximum rates which apply to the carriage of meat is provided; (2) AES is designated to ship meat in containers from Wyndham to the United States and the previous maximum limitation on AES of 1200 TEU per year is no longer imposed; and (3) the previous minimum tonnage provisions for the carriage of meat by REL has been removed.

Dated: March 23, 1979.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

(FR Doc. 79-9275 Filed 3-27-79; 8:45 am)

#### [1610-01-M]

#### GENERAL ACCOUNTING OFFICE REGULATORY REPORTS REVIEW

##### Notice of Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on March 21, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed OSM requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before April 16, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

#### DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING

The Office of Surface Mining, Department of the Interior, requests clearance of new recordkeeping and reporting requirements contained in 30 CFR Parts 700, 707, 730, 731, 732, 733, 741, 742, 743, 745, 761, 764, 769, 771, 776, 778, 779, 780, 782, 783, 784, 785, 786, 788, 800, 805, 806, 807, 808, 816, 817, 822, 826, 840, 842, 843, and 845. The Office of Surface Mining has determined that such information is necessary to perform its responsibilities under the Surface Mining Control and Reclamation Act of 1977, 33 U.S.C. 1201 et seq., and must be collected, submitted or retained. On March 13, 1979, the OSM published these requirements, subject only to review by GAO to assure that a minimum burden is imposed in the manner in which such information is proposed to be obtained. The requirements contained in each part are as follows:

##### 30 CFR PART 700

Section 700.12(b) provides any person, State, or local government an opportunity to file a petition to initiate rulemaking proceedings. OSM estimates 10 petitions will be filed each year and preparation of each petition will take one person hour, or ten person hours annually. Section 700.13 requires any person who intends to initiate a civil action in his own behalf shall give notice of intent to do so to the Secretary, the Director and the State regulatory authority 60 days prior to filing suit. OSM assumes 10 notices of intent will be sent per year, estimating 2 hours per notice, for a total of 20 hours annually.

##### 30 CFR PART 707

Section 707.12 requires any person extracting coal incident to government financed highways or other construction to make available for inspection documents which show a description of the construction project. OSM estimates compliance burden to be 1 hour per operator with a total of 50-100 hours per year for 50-100 operators.

##### 30 CFR PART 730

Section 730.12(b) requires States to notify the Director of the issuance of any injunction which prevents or prohibits the State from implementing a State program. Notification will be triggered by the issuance of an injunction. OSM assumes that 5 States will receive such an injunction and that their compliance burden will be 1 hour

per state for a total of 5 hours per year.

##### 30 CFR PART 731

Section 731.12(a) requires each State, in which there are or may be surface coal mining operations on non-federal lands, to submit for OSM's approval a proposed program that demonstrates "capability" to assume exclusive jurisdiction over the regulation of such operations. None of these requirements is annual: OSM expects that States will only be subject to these requirements once. Because it is difficult to estimate the compliance burden for each section of Part 731, we have calculated the total estimated person hours for the development and submission of a State program and included it here. Therefore, the estimated compliance burdens for §§ 731.12, 731.13, and 731.14 are combined in the person hours below. OSM estimates that a State would incur from 1 to 5 person years, or 2,080 to 10,400 person hours, to develop and submit a proposed program. The variability to the estimate is due to the State's variation in the size and number of mine operations and the respective levels of sophistication of the regulatory agencies which are peculiar to each state. Assuming 27 states submit a proposed program, it would total 56,160 to 280,800 hours. Section 731.13 permits States to request variations from the regulations of Part 731 in order to develop regulatory programs to fit the specific circumstances of each State. Section 731.14 enumerates the special types of information required to be included in a program submission.

##### 30 CFR PART 732

Section 732.11(d) requires that, when missing parts of proposed State Programs are identified, the States must make appropriate additions and modifications for resubmission to the Regional Director. OSM estimates that 24 States will be required to make such resubmissions and they will need 360 hours per submission, for a total of 8,640 hours. Section 732.13(f) provides for resubmission of State programs within 60 days of official disapproval by the Secretary of a State's submission. OSM estimates that 8 States can be expected to re-submit portions of their State programs. OSM estimates 500 hours per resubmission, for a total of 4,000 hours. Section 732.14 provides for resubmission of a new State program. OSM estimates no more than 5 revised State programs will finally be disapproved and a new state program will have to be submitted. OSM estimates that a State will incur from 1 to 5 person years or 2,080 to 10,400 person hours to re-develop and resubmit a State program, for a total of 10,400 to 52,000 hours. OSM

expects that these state changes and resubmissions will be required only once. Section 732.16 requires the Director to establish terms and conditions for a State program including reporting of information to the Office and providing the Office with books and records upon request. OSM estimates that 27 States will have to supply this information on a monthly basis and will need from 12 days to ½ year per State per year, for a total of 96 hours to 8,320 hours annually. Sections 732.17(b), (f) and (g) require States operating under an approved program to notify the Director in writing, of any significant events which affect the operation of a State program. As many as 10 States per year can be expected to provide notification and/or approval and will subsequently submit an amendment. OSM estimates 40 hours per State, for a total of 400 hours per year.

##### 30 CFR PART 733

Section 733.12(a)(2) provides that any interested person may request the Director to evaluate a State program. The Director is responsible for investigating any allegations and determining within 60 days if an evaluation will be made and mail a written decision to the requester. OSM estimates 10 such requests per year and approximately 40 hours per request for a total of 400 person hours per year.

##### 30 CFR PART 741

Section 741.11(a)(1) requires the regulatory authority to establish, in writing, a time schedule within which all surface mining operations on Federal lands, including those operating under existing approved mine plans, will comply with the permanent regulatory program performance standards. OSM estimates approximately 5 state regulatory authorities will prepare approximately 25 time-schedules. Each schedule will require an estimated 20 person hours. OSM estimates a total of 450 person hours per year to comply with this provision.

Sections 741.11(c)(1), 741.12(c) and 741.13(c) provide for the filing of a complete permit application before surface mining operations can be conducted on Federal lands. Section 741.11(c)(1) establishes the time limits for operators to file a complete application; § 741.12(c) specifies that the mining plan, which is part of the permit application, shall be filed with the Regional Director; and § 741.13(c) specifies the required contents of the application. OSM estimates that 144 permit applications will be filed the first year. A total of 720,000 person hours will be required the first year to complete the requirements under these provisions; thereafter, a total of 240,000 hours is estimated for the



second year and 75,000 hours for the third year.

Section 741.15(a)(1) provides that all permits will be issued for a period of five years provided that if the applicant demonstrates that a longer term is reasonably needed to obtain financing for the operation, the regulatory authority may grant a permit for a longer term. The Office believes it is necessary for the creditor to verify such terms in writing. OSM estimates a range of 5 to 10 operations will seek longer permit terms. The Office estimates that 1 person hour will be needed to prepare credit verification for a total of 5 to 10 person hours per year.

Section 741.15(b)(1) requires automatic termination of the permit if the operator has not commenced operations within three years, unless otherwise exempted by the regulatory authority. OSM estimates a range of two-three requests for exemptions per year. The Office estimates that one hour per request will be required for a total of two-three person hours per year.

Section 741.21(b) requires any operation of Federal lands to provide proof that any violations of other State or Federal laws or regulations have been, or are being, corrected or that the operator has a valid existing appeal prior to issuance of a permit. OSM estimates that 4-5 operations on Federal lands will have to supply this proof. The Office estimates that 1 hour per "proof showing" will be required for a total 4-5 person hours per year.

Section 741.23(c) requires operators to apply for permit revisions whenever they depart from the method of mining or reclamation approved in their original permit. OSM estimates 10 such permit revision applications and 100 person hours per revision, for a total of 1,100 person hours per year.

Section 741.24(b) requires the regulatory authority to give written approval of any transfer, assignment, or sale of the rights granted under the permit. OSM estimates five requests for approval per year on Federal lands at 5 hours per written approval, for a total of 5 person hours per year.

#### 30 CFR PART 742

Section 741.11(a) provides for the release of liability for that portion of a Federal lease bond, required by 43 CFR 3504. After the effective date of surface mining regulations, leases issued under 43 CFR 3500 will not require performance bonding for reclamation. OSM estimates 100 requests for release of duplicate bonding requirements consisting of 1 hour per request and a total of 100 person hours per year.

Section 742.13(a) may require approximately 10 operators to secure a

Federal lease protection bond, if they are unable to secure written consent of a permittee or lessee to enter and commence surface coal mining operations. OSM estimates ½ hour per application, for a total of 5 hours per year.

Section 742.18(c) provides for the Regional Director to request information from surface owners, to be taken into consideration when determining if a performance bond should be released. Approximately 5-10 surface owners will submit such information consisting of 2 hours per person, for a total of 10-20 hours per year.

Section 742.18(d) requires the surface lessee to provide the authorized officer with consent for release of the Federal lessee protection bond. The information is needed to verify the surface permittee's or lessee's concurrence that the surface coal mine operation has not caused, or has corrected, any damage to crops or tangible improvements on the surface. OSM estimates 10 consents per year and 1 hour per written consent, for a total of 10 hours per year.

#### 30 CFR PART 743

Section 743.11(b) provides that the regulatory authority may have access to and copy any records and inspect any monitoring equipment or method of operations. OSM estimates approximately 4 inspections per year per operation on Federal lands for a total of 576 inspections (144 operations); at the rate of 2 person hours per inspection, the total is 1,152 person hours per year.

#### 30 CFR PART 745

Section 745.11 (a) and (b) establishes procedures and information requirements for submitting applications for State-Federal cooperative agreements. OSM estimates 7 States will submit such agreements, which will require 600 hours per agreement, totalling 4,200 hours per year.

Section 745.15(a) enables the State to terminate its cooperative agreement by written request. OSM estimates 1 State may make such a request, which will take 8 hours. Section 745.16 allows for States to correct deficiencies causing a State-Federal cooperative agreement to be terminated. OSM estimates 1 State request per year which will take 100 hours.

#### 30 CFR PART 761

Section 761.12(b)(2) requires state regulatory authorities, which are unable to determine whether a proposed operation is located within the boundaries of certain Federal land systems, to transmit a copy of the relevant portion of the permit application to the appropriate Federal, State or local government for clarification. OSM estimates 10 such notices at 4

person hours per notice, for a total of 40 person hours. Section 761.12(d) requires a state regulatory authority to require permit applicants to obtain necessary approvals of the authority for public roads within 100 feet of the outside right-of-way. OSM estimates 3 such public road determinations at 50 person hours per determination, for a total of 150 person hours. Section 761.12(e) requires permit applicants within 300 feet of an occupied dwelling to obtain a waiver of the owner of the dwelling. OSM estimates 5 incidents times 5 owners at 1 hour per waiver, for a total of 25 person hours per month nationwide. Section 761.12(f) requires regulatory authorities to make an "adverse effect" determination where mining might affect public parks or places included in the National Register of Historic Places. OSM estimates 10 such determinations per month at 20 person hours per determination, for a total of 200 person hours per month and 2,400 person hours annually.

#### 30 CFR PART 764

All sections of Part 764, except §§ 764.13 (b), (c) and 764.21 and 25(b), are incorporated in the compliance estimates because each section is an interconnected part of the petition process.

Section 764.11 requires each State to establish a process consisting of the requirements of 30 CFR 764.13-764.25.

Sections 764.13 (b) and (c) require the petitioner to gather a minimum amount of data in order to compile a petition to have the State regulatory authority designate an area unsuitable for surface coal mining operations or to terminate such a designation. OSM has no way, at this time, of knowing how many petitions will result from this regulation. However, we estimate approximately 10 petitions and that preparation of a complete petition would probably take 20 hours for a total of 200 hours.

Section 764.15(a)(1) requires the regulatory authority to notify the petitioners whether or not the petition is complete.

Section 764.15(a)(2) requires the regulatory authority to determine whether any identified coal resources exist in the area covered by the petition. Section 764.15(a)(4) requires the regulatory authority to return to the petitioners, new petitions for areas which were previously and unsuccessfully proposed for designation unless the new petition presents new allegations of facts. Section 765.15(a)(5) requires the regulatory authority to return to the petitioner incomplete or frivolous petitions with a written statement of the reasons for the determination and the categories of information needed to make the petition complete. Section

765.15(a)(6) requires the regulatory authority to notify the person who submits a petition of any application for a permit received which proposes to include any area covered by a petition. Section 764.15(b)(1) requires the regulatory authority to circulate copies of the petition to and request submissions of relevant information from other interested persons. Section 764.15(b)(2) requires the regulatory authority to notify the general public of the receipt of the petition and request submissions of relevant information by a newspaper advertisement in the area, and in any official register of State notices. Section 764.15(c) provides that, until three days before the regulatory authority holds a hearing, any person may intervene in the proceedings by filing allegations of facts and supporting evidence. Section 764.15(d) requires the regulatory authority to compile and maintain a record (such information must be available to the public) consisting of all documents relating to the petition.

Section 764.17(a) requires the regulatory authority to hold a public fact-finding hearing in the area covered by the petition unless all the petitioners and interviewers agree that the hearing not be held. Section 764.17(b) requires the regulatory authority to give not less than 30 days' notice of the hearing to local, State and Federal agencies which may have an interest in the decision on the petition, the petitioner and intervenors, and any person with an ownership or other interest. Section 764.17(c) requires the regulatory authority to notify the general public of the hearing by weekly newspaper advertisement in the local area between 4 and 5 weeks before the scheduled date of the public hearing. Section 764.17(e) requires the regulatory authority, prior to designating any land areas unsuitable, to prepare a detailed statement using existing and available information on the potential coal resources of the area, the demand for coal resources, and the impact of a designation on the environment, the economy and the supply of coal.

Section 764.19(b) requires the regulatory authority to issue a final written decision including a statement of reasons, within 60 days of completion of the public hearing or, if no public hearing is held, then within 12 months after receipt of the complete petition. The regulatory authority is required to send the decision by certified mail to the petitioner, every other party to the proceeding, and to the Regional Director for the region in which the State is located.

OSM has no way of knowing the number of petitions that will be generated under these regulations. However, we do estimate that a State regulatory authority will spend 300 hours

per petition and that approximately 10 petitions will be generated for a total of 3,000 hours in gathering the information and complying with all the notice and recordkeeping requirements listed above, in addition to Section 764.13 (b) and (c) as described above.

Section 764.21 and 25(b) require each State to develop a data base and inventory system containing all relevant information concerning coal mine operations. OSM estimates that 26 States will develop such a system and that each State will spend, depending on the amount of mining in a State, from 200 to 40,000 hours per year, for a total of 5,200 to 1,040,000 hours a year for all States, in developing, maintaining, and updating the data base and inventory system including maintaining a map of areas designated unsuitable for mining.

#### 30 CFR PART 769

Sections 769.11 and 13 provide for citizens to petition to have Federal lands designated unsuitable for mining. This parallels § 764.13 (b) and (c) for the petition process on private lands. OSM has no way, at this time, of knowing how many petitions will be prepared as a result of this regulation, but estimates 20 hours preparation time for each petition to designate Federal lands, and estimates 10 petitions for a total 200 hours.

#### 30 CFR PART 771

Section 771.15(c) provides (1) that the State regulatory authority must issue an order once, requiring the permittee to comply with any additional requirements of an approved State program not contained in the Federal program for the State within 60 days or as determined by regulatory authority; and (2) that the permittee must be notified in writing, by the regulatory authority, of his right to an adjudicatory hearing with respect to such order. OSM estimates 10 State regulatory authorities will issue such orders and notices. Total reporting time is estimated by OSM to be 4 hours per order and notice, for a total of 40 hours.

Section 771.21(a)(1) sets forth time tables for filing permit applications with the regulatory authority under an approved State regulatory program. OSM estimates 6,100 surface coal mining and reclamation operations will be subject to this requirement, approximately once every 5 years. Total reporting time is estimated by OSM to be 8 hours per operation for a total of 48,800 hours.

Section 771.21(b)(2) requires all permit applicants to renew their permits at least 120 days before the expiration of the permit involved, if the operator wishes to continue oper-

ations. OSM estimates approximately 5490 operators will be subject to this requirement, approximately once every 5 years. The reporting time is estimated to be 4 hours per renewal for a total of 21,960 hours.

Section 771.21(b)(3) establishes procedures for submission of applications for revision for the approximately 1525 coal mining and reclamation operations subject to this requirement. The reporting time is estimated by OSM to be 4 hours per operation or a total of 6,100 hours.

Section 771.23 sets forth the general requirements for the permit application format and content. OSM estimates 6,100 surface coal mining and reclamation operations will have to file applications, approximately once every 5 years. The reporting time is estimated to be 8 hours per operation, for a total of 48,800 hours.

#### 30 CFR PART 776

Section 776.11 requires coal mine operators who intend to undertake coal exploration involving less than 250 tons to file written notice of intention to explore. OSM estimates 250 such notices; ten hours per notice and a total of 2,500 person hours. Section 776.12 requires coal mine operators who intend to undertake coal exploration involving more than 250 tons to obtain prior consent. OSM estimates 2000 operators will file for consent at 40 hours per application, for a total of 80,000 person hours. Section 776.14 requires regulatory authority to provide written approval or disapproval for approximately 10 requests to undertake coal exploration to remove over 250 tons of coal. OSM estimates 1½ hours per regulatory authority decision, for a total of 15 person hours annually.

#### 30 CFR PART 778

Sections 778.13-778.21 require approximately 3800 surface mining operations to provide the regulatory authority with all relevant information regarding ownership and control of the property to be affected by the activities, their compliance status and history, and a copy of the advertisement that is to be published in a local newspaper of general circulation. OSM estimates 3800 surface mines will submit such information, at 20 hours per application, for a total of 76,000 person hours. This requirement will have to be met by all surface mines approximately once every 5 years.

#### 30 CFR PART 779

Sections 779.13-17 require approximately 3800 surface mines to present a statement of the geology, hydrology, and water quality and quantity for all lands within and adjacent to the proposed mine plan area. OSM estimates



40 hours per statement and a total of 152,000 person hours.

Sections 779.11-12 require adequate descriptions of the existing pre-mining environmental resources within and around the proposed mine plan area. OSM estimates approximately 3800 surface mines will file at 20 hours per description, for a total of 76,000 person hours.

Section 779.18 requires approximately 3800 surface mines to file a statement of the climatological and air quality factors that are representative of the mine plan area if requested by the regulatory authority. OSM estimates approximately 8 hours per operation, for a total of 30,400 person hours. Section 779.19 requires all surface mines to submit a reclamation plan with data on the capability of the land with particular reference to vegetation cover. Approximately 8 hours each will be required for approximately 1900 plans, for a total of 15,200 person hours. Section 779.20 requires that mining operations will meet applicable performance standards and minimize disturbances and adverse impacts of the operation on fish, wildlife and related environmental values. OSM estimates approximately 40 hours per study with 3800 mines and a total of 152,000 person hours.

Section 779.24 requires approximately 3800 mine operations to submit with their applications maps locating all boundaries, structures, roads, parks, cemeteries, etc. of the affected area. OSM estimates 24 hours per map, for a total of 91,200 person hours.

Section 779.25 requires approximately 3800 mine operations to submit maps and plans and cross sections to enable the regulatory authority to approve the minimum requirements for environmental resources. OSM estimates 40 hours per permit application, for a total of 152,000 hours.

Section 779.27 requires approximately 3800 mine operations to conduct pre-application investigations of the proposed mine area to determine if lands within the area may be prime farmlands. OSM estimates 2 hours per investigation, for a total of 7,600 person hours. All of these requirements will have to be met approximately once every 5 years.

#### 30 CFR PART 780

Section 780.11 requires approximately 3800 applicants for a surface mining permit to include a description of the mining operations proposed to be conducted during the life of the mine within the proposed mine plan area. OSM estimates 8 hours per operation plan and 30,400 person hours annually.

Section 780.12 requires these 3800 mine operations to provide with their application, a description of each ex-

isting structure proposed to be used in the mining or reclamation operation and a compliance plan for structures proposed to be modified or constructed for use in the operation. OSM estimates 8 hours per plan, for a total of 30,400 person hours.

Section 780.13 requires these permit applicants to submit a blasting plan for the permit area explaining how the applicant intends to comply with sections 30 CFR 816.61-68. OSM estimates 4 hours per plan, for a total of 15,200 person hours.

Section 780.14 requires these permit applicants to submit maps and plans of the proposed mine plan and adjacent areas as identified in 30 CFR 784.14. OSM estimates 40 hours per mining permit for a total of 152,000 hours.

Section 780.15 requires permit applicants to submit an air pollution control plan that shall include an air quality monitoring program to provide data to evaluate the effectiveness of fugitive dust control practices, and a plan for fugitive dust control as required under 30 CFR 816.95. OSM estimates that 30 operators will be required to establish a monitoring program consisting of 2 hours per report and submit between 360-400 reports for a total of 720-800 hours. In addition, all 3800 applicants must submit a fugitive dust control program consisting of 8 hours per program and totaling 30,400 hours.

Section 780.16 requires permit applicants to include a plan of how operators will minimize disturbances and adverse impacts to fish, wildlife and related environmental values. Approximately 3,800 operators will be affected by this requirement. OSM estimates that each plan will require 16 hours to complete, for a total of 60,800 hours.

Section 780.18 requires that a reclamation plan be submitted as part of the permit requirements. Approximately 3800 surface coal operators will be affected by this section. OSM estimates that 16 hours will be required to complete each report, for a total of 60,800 hours.

Section 780.21 requires approximately 3800 surface coal mine operators to submit a reclamation plan containing narrative descriptions with supporting materials to assure the protection of the quality and quantity of water and the rights of present users of the water in the mine plan and adjacent areas. OSM estimates 8 hours to prepare each plan, for a total of 30,400 hours.

Section 780.23 requires the permit applicant to provide a detailed description of the post mining land use in the permit area. Approximately 3800 surface coal operators will be affected by this requirement. OSM estimates that

8 hours will be required to complete each plan for a total of 30,400 hours.

Section 780.25 requires the permit applicant to include in reclamation plans specific elements with maps and cross sections of all water-holding facilities subject to approval of the regulatory authority under Subchapter K. Approximately 3800 surface operators will be affected by this requirement and each operation will have 3 impoundments. OSM estimates that 35 hours will be required for each plan, with 3 impoundments per operation, for a total of 399,000 person hours.

Section 780.27 requires the approximately 190 coal mine operations, that may be within 500 feet of an underground mine, to file an application describing the measures to be used to comply with 30 CFR 816.79. OSM estimates 8 hours per application, for a total of 1620 person hours.

Section 780.29 requires the permit applicant to provide descriptions including maps and cross sections of diversions within the proposed permit area. Approximately 80 percent of the 3800 surface operators will be affected by this requirement. OSM estimates that 8 hours per plan will be required, for a total of 24,320 hours.

Section 780.31 requires permit applicants to describe measures to minimize or prevent adverse impacts to public parks of historic places. Approximately 3800 surface operators will be affected by this part. OSM estimates that 4 hours per permit will be required, for a total of 15,200 hours.

Section 780.33 requires the permit applicant to describe, with appropriate maps and cross sections, ways by which public roads in the permit area will be protected. Approximately 80 percent of the 3800 surface operators will be affected. OSM estimates that 2 hours per plan will be required for a total of 6080 hours.

Section 780.35 requires the permit applicant to provide descriptions, maps, and cross sections of spoil disposal sites and disposal structures. Approximately 80 percent of the 3800 operators will be affected. OSM estimates that 24 hours per plan is required for a total of 72,960 hours.

Section 780.37 requires permit applicants to provide a plan with a description of each road, conveyor and rail system to be constructed, used or maintained within the mine plan area. Approximately 3800 operators will be affected by this requirement. OSM estimates that 30 hours per plan will be required for a total of 114,000 hours.

All of these requirements of Part 780 must be met by each surface mine operator approximately once every 5 years.

#### 30 CFR PART 782

Sections 782.13-21 require approximately 2300 underground coal mine operators to provide the regulatory authority with all relevant information regarding ownership and control of the property to be affected, their compliance status and history and a copy of the advertisement that is to be published in a local newspaper of general circulation. OSM estimates 20 hours per applicant and 46,000 hours for all permit applications. This requirement must be met approximately once every 5 years.

#### 30 CFR PART 783

Sections 783.11-.12 require approximately 2300 underground mine operators to present, with the permit application, adequate descriptions of the existing pre-mining environmental resources within and around the proposed mine plan area. OSM estimates 20 hours per permit, for a total of 18,400 hours.

Sections 783.13-.16 require approximately 2300 underground mine operators to submit a statement of the geology, hydrology, and water quality and quantity for all lands within and adjacent to the proposed mine plan area. OSM estimates 40 hours per plan, for a total of 92,000 hours.

Section 783.17 requires 2300 underground permit applicants to submit a plan identifying the alternative sources of water if contamination occurs. OSM estimates 4 hours per permit application, for a total of 9200 hours.

Section 783.18 requires approximately 2300 underground coal mine operators to provide a statement, if requested by the regulatory authority, of the climatological factors that are representative of the permit area. OSM estimates 1 hour per plan, for a total of 2300 hours.

Section 783.19 requires approximately 2300 underground coal mine operators to submit a reclamation plan containing data regrading the capability of the land, giving consideration to vegetation cover. OSM estimates 1 hour per plan for a total of 2300 hours.

Section 783.20 requires 2300 underground coal mine operators to submit a plan with their permit application to minimize the adverse effects on fish and wildlife. OSM estimates 20 hours per plan, for a total of 46,300 hours.

Section 783.21 requires 2300 underground coal mine operators to submit a plan for top-soil preservation areas and information pertaining to soil samples. OSM estimates 4 hours per plan, for a total of 9200 hours.

Section 783.22 requires the 2300 applicants for underground mining permits to describe the pre-mining land-use condition of the land within the

proposed mine plan and adjacent areas. OSM estimates 8 hours per plan, for a total of 18,400 hours.

Sections 783.24 and 25 require approximately 2300 underground coal mine operators to submit maps and supporting data, with the permit application, describing the affected land area. OSM estimates 40 hours per plan, for a total of 92,000 hours.

Section 783.27 requires 2300 underground coal mine operators to maintain records for an investigation by the regulatory authority as to whether the affected land is prime farmland. OSM estimates 2 hours per operator, for a total of 4600 hours.

OSM estimates that underground mine operators will have to meet these requirements of Part 783 approximately once every 5 years.

#### 30 CFR PART 784

Section 784.11 requires approximately 2300 underground permit applicants to submit a description of all mining operations proposed during the life of the operation within the permit area. OSM estimates 8 hours per application, for a total of 18,400 hours.

Section 784.12 requires approximately 2300 operations to submit a description of each existing structure to be used in the operation. OSM estimates 8 hours per plan, for a total of 18,400 hours.

Section 784.13 requires approximately 2300 underground operations to submit a detailed plan specifying the reclamation of affected lands. OSM estimates 16 hours per reclamation plan, for a total of 36,800 hours.

Section 784.14 provides for the submission of annual reports of the quantity and quality of water measurements. OSM estimates 8 hours per report, assuming information is already available, for a total of 18,400 hours.

Section 784.15 requires approximately 2300 coal mine operations to provide a plan annually on the proposed post mine land uses. OSM estimates 2 hours per plan, for a total of 4600 hours.

Section 784.16 requires 2300 coal mine operations to submit, as part of reclamation plans, specific elements such as maps and cross-sections for each water-holding facility. OSM estimates 3 facilities per operation. Preparation time is estimated to be 35 hours per plan, for a total of 241,500 hours.

Section 784.17 requires approximately 2 percent of the 2300 underground operations to implement measures to minimize or eliminate adverse effects to public parks and historic places. This information is to be submitted with the permit application. OSM estimates 2 hours per permit, for a total of 92 hours.

Section 784.18 requires approximately 1840 underground operations to submit, with permit application, appropriate maps and cross sections, the measures to ensure public usage of public roads within 100 feet of mining areas. OSM estimates 2 hours per permit, for a total of 3,680 hours.

Section 784.19 requires approximately 2300 underground operations to submit appropriate maps and cross-section drawings of the proposed disposal methods and sites for placing underground development waste. OSM estimates approximately 8 hours per permit, for a total of 18,400 hours.

Section 784.20 requires approximately 2300 underground operations to conduct a survey to show whether structures which exist in or adjacent to the permit area could suffer damage from subsidence. OSM estimates 24 hour per survey, for a total of 55,200 hours.

Section 784.21 requires approximately 2300 underground operations to submit a fish and wildlife plan including maps, to minimize disturbances and adverse impacts to fish, wildlife and related environmental values and achieve enhancement where applicable. OSM estimates 16 hours per plan, for a total of 36,800 hours.

Section 784.22 requires approximately 2300 underground operations to submit plans, maps, and cross-sections showing the underground mining activities to be conducted, lands affected and changes in facilities and features to be caused by proposed operations. OSM estimates 16 hours per plan, based upon an average mine site of 60 acres, for a total of 92,000 hours.

Section 784.24 requires approximately 2300 underground operations to submit a plan containing a description of each road, conveyor, and rail system to be constructed within the mine area. OSM estimates 30 hours to complete and prepare the plan, totalling 69,000 hours.

Section 784.25 requires approximately 2300 underground operations to submit a plan describing the design, operation and maintenance of any coal processing waste disposal facility. OSM estimates 16 hours per plan, for a total of 36,800 hours.

Other than the requirements of Section 784.14, which must be met annually, all of these provisions of Part 784 must be satisfied by underground operators approximately once every 5 years.

#### 30 CFR PART 785

Section 785.13 (e) and (f) require each operator who intends to conduct experimental practices to submit an application to the regulatory authority and the Director for approval. OSM estimates 500-600 operators will submit an application at 16 hours per



application, for a total of 8,000-9,600 person hours.

Section 785.13(g) requires that all experimental practices for which variances are sought shall be specifically identified through newspaper advertisements by the applicant and written notification by the regulatory authority. OSM estimates 500-600 applicants and 1 hour per advertisement, for a total of 500-600 hours.

Section 785.13(h) outlines the requirements the application for experimental practices must meet before the Director may grant a permit. Approximately 600 operations will be affected at 48 hours per practice, for a total of 28,800 hours.

Section 785.14 requires the regulatory authority to issue a permit for mountain top removal. Approximately 50 operations will seek such a permit at 8 hours per operation, for a total of 400 person hours.

Section 785.15 requires approximately 1,100 operations to provide sufficient information on mining operations that will affect steep slopes. OSM estimates 8 hours per operation, for a total of 8,800 hours.

Section 785.16 applies to operations where the affected land is not to be reclaimed to the approximate original contour. Approximately 4 hours per operation will be required, for total of 1,760 hours.

Section 785.17(b)(1) requires a soil survey of all prime farmlands. Approximately 600 permit applications will be affected at 24 hours per permit and 400 permit applications at two hours per permit, for a total of 15,200 person hours.

Section 785.17(b) (2), (4), (6) and (8) require applicants to provide information concerning soil removal, stockpiling, stabilization, replacement and scientific studies showing that reclamation to equivalent or higher levels of yield are possible. Approximately 1,000 permit applications will be on prime farmlands. OSM estimates approximately 16 hours per permit, for a total of 16,000 person hours.

Section 785.18(c) applies to operations who intend to conduct combined surface mining and underground mining activities and request a delay of reclamation. OSM estimates 5 percent of the 6,100 operations will conduct such activities at 4 hours per request, for a total of 1,220 person hours.

Section 785.19 requires an onsite investigation to determine that the proposed operations will not interrupt, discontinue, or preclude farming on alluvial valley floors. OSM estimates 20 percent of the western operations located west of the 100th meridian west longitude (approximately 250) will conduct such determinations. 300 hours per investigation will be re-

quired, for a total of 15,000 person hours.

Section 785.20 requires coal mine operators who intend to conduct auger mining to submit a permit application describing augering methods to be used. OSM estimates 1,100 operators will conduct this type of mining; 8 hours per operation will be required, for a total of 8,800 hours.

Section 785.21 requires coal mine operators who intend to utilize coal processing plants or support facilities not within a permit area of a specific mine to submit specific plans, including descriptions, maps and cross-sections of the construction, operation, maintenance and removal of the processing plants and associated support facilities. OSM estimates 50 percent of the 6,100 operations will be affected by this requirement, at 3 hours per application, for a total of 9,150 hours.

Section 785.22 requires operators to submit, with their permit application, information regarding in suit processing activities. OSM estimates 10 percent of the 6,100 operations will involve such activities, at 8 hours per application for a total of 4,880 person hours.

These requirements of Part 785 must be met by affected operators approximately once every 5 years.

#### 30 CFR PART 786

Section 786.11(a) requires approximately 6100 coal mine operators to place an advertisement of their permit applications in a local newspaper once a week for four weeks depicting precise boundaries of affected areas. OSM estimates 2 hours per advertisement, for a total of 12,200 hours.

Section 786.11 (b) and (c) requires the approximately 27 State regulatory authorities to notify various local government bodies, planning agencies, and sewage and water treatment authorities, of the operator's intention to surface mine a particular described tract of land. OSM estimates that these 27 states will spend approximately 452 hours per state on these notices.

Section 786.11(d) requires the approximately 6100 mining operations to submit copies of their permit applications to the recorder at the courthouse of the county where the mining is proposed to occur for public inspection. OSM estimates 1 hour per operation, for a total of 6100 hours.

Section 786.12-13 requires any governmental unit which receives notice of the filings of a permit application to file comments to the State regulatory authority, any person adversely affected by the issuance of a permit to file objections to the application to the State regulatory authority, and that the regulatory authority file a copy of comments and objections for

public inspection at the public office which the applicant filed a copy of his application. OSM estimates approximately 10 comments and/or objections will be filed at approximately 1 hour preparation time for a total of 10 hours.

Section 786.14 provides for the regulatory authority to conduct an informal conference to determine whether a permit should be issued for the 6100 coal mine operations. OSM estimates that 10 persons will submit written requests for conferences annually and the reporting burden will be 1 hour per request.

Section 786.17(b) requires the applicant to file a performance bond or an equivalent guarantee. OSM estimates approximately 6100 operations will file a performance bond and each performance bond will take 4 hours, for a total of 24,400 hours.

Section 786.17(c) requires an undetermined number of coal mine operations to prove to the satisfaction of the regulatory authority that the operation is not currently in violation of any law or prove that they are attempting to correct any violation, as the occasion arises. OSM estimates 4 hours per request and estimates 10 requests, for a total of 40 hours.

Section 786.19 sets forth the criteria by which a regulatory authority may approve or disapprove a permit application. Any of the 6100 mine operations may be required to comply. OSM estimates approximately 8 hours per application for a total of 48,800 hours.

Section 786.21(c) requires applicants to demonstrate that the use of existing structures by the permittee will comply with §701.11(c)(1)(ii). OSM estimates 8 hours per demonstration for all 6100 operators, for a total of 48,800 hours.

Section 786.23(c) requires that, in the event an informal conference is held, the regulatory authority shall submit a written report stating reasons for disapproval or approval. OSM estimates 2 hours per report and approximately 10 reports for a total of 20 hours.

Section 786.23(d) provides that, in the event no informal conference has been held, the regulatory authority shall submit a written report stating action on permit application OSM estimates 2 hours per report and approximately 10 reports for a total of 20 hours.

OSM estimates that all of these requirements of Part 786 will have to be met approximately once every 5 years.

#### 30 CFR PART 788

Section 788.11 requires the regulatory authorities to review each permit issued and outstanding, no later than the middle of the permit term. OSM

estimates 16 hours per permit update for approximately 1220 operations to total 17,520 hours annually.

Section 788.12 requires coal mine operators to submit a permit revision, if a change from the original application constitutes a significant departure from the proposed method of mining or reclamation. OSM estimates 1220 operators will submit revisions at 8 hours per operation for a total of 9,760 hours annually.

Section 788.14 provides requirements for general renewals, applications, terms, and approval or denial of renewals. OSM estimates each application for renewal will require 16 hours for approval or denial and estimates 1525 applications totalling 24,400 hours. Sections 788.17-19 require approximately 10 percent of the 6100 mine operators or 610 to submit general requirements to obtain approval for assignments of rights and requirements for new permits. OSM estimates 8 hours per operation times 6100 permits to total 4880 hours annually.

#### 30 CFR PART 800

Section 800.11 requires coal mine operators to file a bond with the regulatory authority prior to the issuance of a permit. OSM estimates 4 hours per bond for 1500 operations for a total of 6,000 person hours.

Section 800.12 requires approximately 6100 coal mines to file a certificate issued by an insurance company with the permit application. OSM estimates ½ hour per operation, for a total of 3050 hours. Both of these requirements will have to be met by mine operators approximately once every 5 years.

#### 30 CFR PART 805

Section 805.14(b) requires the regulatory authority to adjust the bond when the affected acreage of land changes. OSM estimates 100 revisions per year and 16 hours per revision, for a total of 1600 hours.

#### 30 CFR PART 806

806.11 sets forth the requirements for self-bonding. OSM estimates 600 operations; 16 hours per operation, for a total of 9600 person hours. Section 806.14 identifies the requirements of bonding of mining operations. Approximately 6100 coal mine operations must comply with these requirements. OSM estimates 1 hour per operation, for a total of 6,100 hours.

#### 30 CFR PART 807

Section 807 requires that the permittee file a written request in order to get the bond, or a portion of it, released by the regulatory authority. This section also requires that a copy of an advertisement be placed at least

once a week for four successive weeks in a newspaper of general circulation in the locality of the operation. Furthermore, the section requires letters to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities or water companies. Approximately 3% of the 6,100 operations may request bond release in any given year. OSM estimates 2½ hours per request, and annual burden of 6,575 person hours.

Section 807.11 (c) and (e) provide for the citizens or governmental units to file objection and requests for hearings and informal conferences relative to proposed bond release which may effect 10 percent of the 6100 coal operations. The State regulatory authorities must schedule the hearings or conferences. OSM estimates 10 persons and/or governmental units, 27 States and 610 coal mine operations must comply with these requirements for a total of 647 respondents. OSM estimates burden to be 8 hours per request and hearing or conference for a total of 5,176 hours annually.

Section 807.11(f) provides for the regulatory authority to review and detail specific points which the applicant must have satisfied and provides for notification of the regulatory authority's decision. Approximately 40% of the 6,100 operations will request such a review, which will take 16 hours per review, for an annual compliance burden of 39,040 hours.

Section 807.11(g) provides for the filing of written objections to all or a portion of a bond release and also provides for a public hearing. Approximately 10% of the 6,100 operations will request such a review, which will take 4 hours per request for an annual compliance burden of 2,440 hours.

#### 30 CFR PART 808

Section 808.13 provides the procedures for forfeiture of performance bonds. Approximately 2% of the 6,100 coal mining operations will be required to post a performance bond in any given year. OSM estimates 8 hours per operation, for a total of 976 hours per year.

#### 30 CFR PART 816

Section 816.48(c)(4) requires documentation on theoretical detention time be included with the permit application. Approximately 3800 surface coal mine operations must submit this information. OSM estimates 16 hours per application for a total of 60,800 hours. Section 816.48(r) requires approximately 3800 surface coal mine operations to have the construction of each sedimentation pond supervised and certified by a registered professional engineer. OSM estimates 16

hours per operation for a total of 60,800 worker hours.

Section 816.46(t) requires approximately 3800 surface coal mine operations to examine ponds, quarterly, for structure weakness, erosion and other hazardous conditions and submit reports to the regulatory authority. OSM estimates 8 hours per report for a total 4 times per year, 121,600 hours annually.

Section 816.49(h) requires approximately 1000 surface coal mine operations to submit, annually certification and reporting of each dam or embankment. OSM estimates 16 hours per report, for a total 16,000 hours annually.

Section 816.52(a)(3) establishes provisions for ground water monitoring for approximately 3,040 surface coal mine operations. Operations must submit a report once per year after conducting the tests. OSM estimates 8 hours per operation for a total of 24,320 hours.

Section 816.53(b)(1)(iii) requires approximately 3040 surface coal mine operations to submit a copy of quarterly reports on the analytical results of sample collection of surface water monitoring. OSM estimates 4 hours per report, 4 times per year, for a total of 48,640 hours annually.

Section 816.53(a) requires approximately 950 operations, whenever the occasion arises, to submit a request for approval to the regulatory authority before a monitoring or an exploratory well may be transferred for further use as a water well. OSM estimates that 950 written requests will be filed per year at 1 hour per request for a total of 950 hours annually.

Section 816.62 requires approximately 3800 surface coal mine operations to submit a preblast record. OSM estimates 3 requests per year per mine at 2 hours per request for a total of 22,800 hours annually.

Section 816.64 requires approximately 2800 surface coal mine operation to give advance written notice to local governments and residents that might be affected by use of explosives. OSM estimates the average number of house required per operator to be 20 hours, at 4 times per year, for a total of 224,000 hours annually.

Section 816.65(a)(iii) requires approximately 380 coal mine operations to submit a report specifying the reasons why blasting must be undertaken at night rather than the next day. This section requires operations to submit this report within three days after blasting at night has occurred. OSM estimates 6 hours per report, for a total 2,280 hours annually.

Section 816.67 requires approximately 3800 surface coal mine operations to maintain a seismograph record of blasting at the time of the blast. OSM



estimates 2 hours per record and that each operation will make one record daily totaling 1,907,600 hours annually.

Section 816.68 requires approximately 3800 surface coal mine operations to maintain logs of blasting with detailed information for a period of three years. OSM estimates 1/2 hour for each record and approximately 251 blasts per operator for a total of 476,900 hours. Section 816.71 (j) requires approximately 3800 operations to submit, quarterly, a report certifying that all excess spoil material be placed in a controlled manner. OSM estimates 8 hours per report and 121,600 annually.

Section 816.82(a)(4) and (b) requires 3800 surface coal mine operations to submit a report quarterly, to certify that coal processing waste piles do not present a potential hazard. OSM estimates 8 hours per report and 121,600 hours annually. Section 816.87 requires approximately 380 surface coal mine operations to adhere to environmental performance standards with respect to disposal of mine wastes. OSM estimates 8 hours per operation and 3,040 hours annually.

Section 816.91(b) requires approximately 3300 surface coal mine operations to demonstrate, annually, to the regulatory authority that dams and embankments that will be constructed out of coal processing waste will meet design and construction specifications. OSM estimates 12 hours per demonstration and 39,600 hours annually.

Section 816.117(b)(4), (c), (1), (c)(3) requires approximately 1200 surface coal mine operations to conduct an inventory of woody plants that are to be affected. Inventory plans must be submitted every 10 years for the west and 5 years for the east. OSM estimates 40 hours per plan and 1200 of the plans to be submitted per year totaling 48,000 hours annually.

Section 816.131(b) requires approximately 900 surface coal mine operations to submit a report prior to cessation advising the regulatory authority of their intentions. OSM estimates 4 hours per notice and 3600 hours annually. Section 816.133(c)(1)-(4), (c)(8)-(9) requires approximately 900 surface coal mine operations to submit, once, specific plans for supporting approved alternative land uses. OSM estimates approximately 40 hours per operation and a total of 36,000 hours. Section 816.150(d)(1) requires approximately 3800 surface coal operations to certify the design and construction of Class I roads, as the occasion arises. OSM estimates 8 hours per demonstration and 30,400 annually. Section 816.152(d) (13) requires approximately 3800 surface coal mine operations to demonstrate, as

the occasion arises, that no additional acid will leave the confines of the coal processing waste bank of Class I road embankments. OSM estimates 16 hours per demonstration and 60,800 hours annually.

Section 816.160(d)(1) requires approximately 925 surface coal mine operations, as the occasion arises to employ a professional engineer to certify the design and construction of Class II roads. OSM estimates 8 hours per certification and 7,400 hours annually. Section 816.163(d) requires approximately 900 surface coal mine operations, as the occasion arises to adhere to specifications with respect to construction of roads up a drainage channel. OSM estimates approximately 2 hours per operator and 1800 hours annually.

#### 30 CFR PART 817

Section 817.46(c)(4) requires approximately 2300 underground coal mine operators to calculate theoretical detention time and supporting documentation for permit application. OSM estimates 16 hours per application and 36,800 hours annually.

Section 817.46(r) requires approximately 2,300 underground coal operations to have each sedimentation pond under construction, be supervised and certified by a professional engineer to meet design specifications. OSM estimates 16 hours per operation and a total of 36,800 person hours.

Section 817.46(t) requires approximately 2,300 underground mine operations to examine ponds quarterly for structure weakness, erosion and other hazardous conditions and submit reports to the regulatory authority. OSM estimates eight hours per inspection and four inspections per year for a total of 73,600 person hours.

Section 817.49(h) requires 600 underground coal mine operators to submit annual certification and reporting of each dam or embankment that meets criteria of 30 CFR 177.216(a). OSM estimates 16 hours per application and 9,600 hours annually.

Section 817.52(a)(3) requires 1,840 underground coal mine operators to submit the results of additional hydrological tests to the regulatory authority, once, after conducting tests. OSM estimates eight hours per operation and 14,720 hours annually.

Section 817.52(b)(1)(iii) requires approximately 1,840 underground coal mine operators to submit a copy of quarterly reports of analytical results of sample collections on surface water monitoring and a copy of the discharge monitoring reports required by NPDES to the regulatory authority. OSM estimates four hours per operator and 7,360 hours annually.

Section 817.53(a) requires approximately 560 operators to submit a re-

quest, whenever the occasion arises, for approval to the regulatory authority before a monitoring or exploratory well may be transferred for further use in surface mining. OSM estimates that approximately 560 written requests will be filed per year consisting of one hour per request, totaling 560 hours annually.

Section 817.62 requires 560 underground coal mine operations to perform a pre-blast survey when requested by a resident or owner of a structure within one-half mile of any portion of the permitted area and to keep a record of the the surveys. It is estimated by OSM that operators will receive three requests per year consisting of two hours per request, totaling 3,360 annually.

Section 817.65(b)(2)(iii) requires approximately 500 underground coal mine operators to submit within three days after blasting a report to the regulatory authority specifying the reasons why blasting has to be undertaken at night rather than the next day. OSM estimates six hours per request and 3,000 hours annually.

Section 817.67 requires approximately 1,700 operations to maintain seismography records when operations do not use the formula provided in 30 CFR 817.65(L) for determining the maximum quantity of explosives. OSM estimates an average per blast of two hours for recording information during blast and preparing reports and one blast per day for the 1,700 operations and a total of 853,400 person hours per year.

Section 817.68 requires approximately 2,300 underground coal mine operators to maintain logs of blasting for a period of three years. OSM estimates one-half hour for recording information and assumes one blast per day for each of the 2,300 coal operators totaling 414,150 hours annually.

Section 817.71(j) requires approximately 1,700 underground coal mine operators, to submit quarterly, a report certifying that all excess spoil material and underground development waste be placed in a controlled manner. OSM estimates eight hours per operator with 1,700 reports in 1979 and an additional 400 reports in 1980 totaling 67,200 hours annually.

Sections 817.82 (a)(4) and (b) require approximately 2,300 underground coal mine operators to submit a report, quarterly, to certify that coal processing waste piles do not present a potential hazard. OSM estimates eight hours per report totaling 73,600 hours annually.

Section 817.87 requires approximately 230 underground coal mine operators to adhere to environmental performance standards with respect to moving mine wastes and submit a report annually. OSM estimates eight

hours per operator and 1,840 hours annually.

Section 817.91(b) requires approximately 2,000 underground coal mine operators to submit once, during the life of the mine, a report that dams and embankments that will be constructed out of coal processing waste will meet design and construction specifications. OSM estimates 12 hours per report and 24,000 hours annually.

Sections 817.117 (b)(4), (c)(1), (c)(3) require approximately 1,380 underground coal mine operators to submit, once every 10 years for the west and five years for the east, an inventory of woody plants to be affected by the mining. OSM estimates 1,380 inventories per year consisting of 40 hours per inventory, totaling 55,200 hours annually.

Section 817.131(b) requires approximately 560 underground operators to advise the regulatory authority, prior to cessation, of such intention by submitting a notice of intention to cease mining and reclamation operations. OSM estimates four hours preparation time per notice totaling 2,240 hours annually.

Sections 817.133 (c)(1)-(4) and (c)(8)-(9) require approximately 560 underground coal mine operators to submit specific plans, prior to the release of lands from the permit area within a years time, for reclamation of the land. OSM estimates 40 hours per report and 22,400 hours annually.

Section 817.150(d)(1) requires approximately 2,300 underground coal mine operators to have a professional engineer to certify the design and construction of Class I roads, as the occasion arises. OSM estimates eight hours per certification and 18,400 hours annually.

Section 817.152(d)(13) requires approximately 1,840 underground coal mine operators to demonstrate, as the occasion arises, to the regulatory authority that no additional acid will leave the confines of the coal processing waste banks of Class I road embankments. OSM estimates 16 hours per operator and 29,440 hours annually.

Section 817.160(d)(1) requires approximately 560 underground coal mine operators to provide, as the occasion arises, a professional engineer to certify the design and construction of Class II roads. OSM estimates eight hours per operator and 4,486 hours annually.

Section 817.163(d) requires approximately 560 underground coal mine operators to submit specific plans, as the occasion arises, pertaining to construction of roads up a drainage channel. OSM estimates approximately two hours per report and 1,120 hours annually.

#### 30 CFR PART 822

Section 822.14(a)(d) specifies the type of monitoring data and analysis that an operator must make available to the regulatory authority for an environmental monitoring system on alluvial valley floors west of the 100th meridian. Data required to be collected varies in frequency as follows: Topography—annual topographic map; water quality—monthly; water flow—monthly; vegetation—annual (seasonal); soil and soil moisture—annual. OSM estimates 10 plans must be submitted and computes compliance burden to be as follows: Topography—16 hours/year; Water quality—8 hours/month; Water flow—8 hours/month; vegetation—16 hours/year; soil and soil moisture—20 hours/year; and aerial imagery—8 hours/year. OSM estimates total compliance burden to be 2,520 hours annually.

#### 30 CFR PART 826

Section 826.12(b) requires underground and surface coal mine operators to demonstrate to the regulatory authority, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the reclaimed land is at least 1.3. OSM estimates 1460 operators must meet this requirement. Total reporting time is estimated at 16 hours per demonstration for a total of 23,360 hours for all permit applicants.

#### 30 CFR PART 840

Section 840.11(a)(c)(d)(3) sets forth the minimum requirements for the Secretary's approval of provisions for inspections and enforcement. OSM estimates 27 states will have an approved program and each state must file a report. OSM estimates 47,600 reports will be filed comprising of 1 hour per report for a total of 47,600 hours. Additionally, Section 840.11(b) requires one complete inspection quarterly which would require 4 reports a year, estimated at 2 hours per report for a total of 47,600 hours. Therefore, the compliance burden for this section totals 95,200 hours annually. Section 840.14(a)(b) provides for citizen participation in enforcement by making information readily available for their use. OSM assumes 27 states will implement an approved program and would require 4 hours per state to make information available, totaling 108 hours annually.

#### 30 CFR PART 842

Section 842.12(a) governs those occurrences which necessitate a Federal inspection as a result of citizen complaints pursuant to Section 842.11(b)(1). This Section requires all citizen complaints to be initiated by a signed written statement or an oral

report followed by a written statement. OSM estimates 20 requests per month or 240 requests per year, consisting of 2 hours per request and an annual compliance burden of 480 person hours. Section 842.14 states that any person who is or may be adversely affected by a surface coal mining and reclamation operation may notify the Regional Director in writing of OSM's alleged failure to make adequate and complete or periodic inspections. OSM estimates 10 notifications per month or 120 per year consisting of 2 hours per notice, an annual compliance burden of 240 person hours. Section 842.15(a)(b) require a citizen to request, in writing, that the Regional Director review informally an inspector's decision not to inspect or to take appropriate enforcement action on alleged violations. OSM assumes 5 requests per month or 60 requests per year and estimates 2 hours per request and an annual compliance burden of 120 hours.

#### 30 CFR PART 843

Section 843.11(a)(2), (b)(2), (c), (f) sets forth the provisions regarding the issuance of cessation orders. OSM estimates a range of 12 in states with a few mines to 100 orders a year in states with extensive mining. OSM estimates 1/2 hour per order and a range of 3500 to 21,000 orders to total 1750 to 10,500 hours. Section 843.12(a)(2), (b), (e) sets forth provisions regarding the issuance of notices of violation. OSM estimates a range of 2 notices of violation per year for states with few coal mines and 100 notices of violation per year for states with extensive mining. OSM estimates 2 hours per notice and a range of 4 hours to 200 hours annually. Section 843.13(c), (d), (e) sets forth the general rules regulating the suspension or revocation of permit. OSM estimates a low of 2 suspensions or revocations per year by states with few coal mines to 30 per year by states with extensive mining. OSM estimates a range of 1/2 hour per suspension and a range of 1 hour to 15 hours. The state, if requested, must also provide a notice of hearing consisting of 1/4 hour per hearing and a range of 1 hour to 15 hours per state. In addition, the state regulatory authority must prepare a written determination as to whether a pattern of violations exists; comprising 2 hours per statement and a range of 4 to 60 hours annually.

Section 843.14(a), (b), (c), (d) sets forth the general procedures for serving notices of violation and cessation orders. OSM estimates a range of 1 notice to 100 notices per state depending on the number of mines in that state. OSM estimates a range of 1/2 hour to 50 hours for notices and an additional 50 hours for orders for total



annual burden estimates of a range from 14 hours to 1400 hours for notices and 1400 hours for orders. Section 843.15(d), (f) requires the regulatory authority to post and publish notices of hearings and shall affirm, modify or vacate the notice 5 days after the hearing regarding the alleged violations. OSM estimates 6 hours per notice and decision and 162 hours annually. Section 843.16 enables a person, who is issued a notice of violation or cessation order, to request a review of said action by filing an application for review and request for hearing. OSM estimates 300 requests per year with 1 hour preparation time and 300 hours annually.

## 30 CFR PART 845

Section 845.17(a) enables any of the 6100 coal mine operators, if a notice of violation or cessation order has been issued to them, to submit written information about the violation to the State and to the inspector that issued the violation. OSM estimates one hour preparation per response depending on the State and assumes 100 responses, comprising 100 hours annually. Section 845.17(b) requires the State, upon receipt of the operator's response, to serve a copy of the proposed assessment and a copy of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued. OSM estimates 1 hour per assessment and 100 assessments per year, comprising of 100 hours annually.

Section 845.18(c) provides for the State to arrange for a conference to review the proposed assessment, upon written request of the person to whom the notice was issued. OSM estimates ½ hour per request and estimates there will be 10 requests that the State regulatory authority will receive, for a total of 5 hours. Section 845.18(d) provides that if the conference is granted then the person assessed will be deemed to have waived all rights to further review of the violation, except as otherwise expressly provided in the settlement agreement. OSM estimates 30 minutes per agreement with 10 requests estimated, for a total of 5 hours. Section 845.19(a) enables the person charged with the violation to contest the proposed penalty or the fact of the violation by submitting a petition. OSM estimates 3 hours per petition and a range of 2 petitions per year in States with few mines to 100 petitions per year in States with extensive mines. Therefore, OSM estimates from 6 hours to 300 hours.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 79-9354 Filed 3-27-79; 8:45 am]

[6820-61-M]

GENERAL SERVICES  
ADMINISTRATION

(Intervention Notice 86; Formal Case No. 715)

## POTOMAC ELECTRIC POWER CO.

Proposed Intervention in Electric Rate Increase  
Proceeding Public Service Commission of the  
District of Columbia

The administrator of General Services seeks to intervene in a proceeding before the Public Service Commission of the District of Columbia involving an application by the Potomac Electric Power Company for an increase in its retail rates. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. 20405, telephone (202) 566-0726, on or before April 27, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: March 12, 1979.

JAY SOLOMON,  
Administrator of  
General Services.

[FR Doc. 79-9272 Filed 3-27-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Office of Education

VETERANS' COST-OF-INSTRUCTION PAYMENTS  
PROGRAM—PAYMENTS TO INSTITUTIONS  
OF HIGHER EDUCATIONClosing Date for Transmittal of Applications  
for Fiscal Year 1979

Applications for funds are being accepted from institutions of higher education under the Veterans' Cost-of-Instruction Payments Program.

Authority for this program is contained in Section 420 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070e-1)

This program issues awards to institutions or combinations of institutions of higher education.

The purpose of the awards is to assist institutions in providing specific

educational services to veterans enrolled at the institution.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards must be mailed or hand delivered by May 16, 1979.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Bureau of Higher and Continuing Education, Veterans' Cost-of-Instruction Program Branch, Room 3514, ROB-3, 400 Maryland Avenue SW., Attention: 13.540, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application to be hand delivered must be taken to the U.S. Office of Education, Veterans' Cost-of-Instruction Program Branch, Room 3514, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. (Washington, D.C. time) except Saturday, Sunday and Federal holidays.

Applications that are hand-delivered will not be accepted after 4 p.m. on the closing date.

PROGRAM INFORMATION AND APPLICATION FORMS: Program information packages and application forms are expected to be ready for mailing by April 10, 1979. They may be obtained by writing to the U.S. Office of Education, Bureau of Higher and Continuing Education, Veterans' Cost-of-Instruction Program Branch, Room 3514, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

APPLICABLE REGULATIONS: The regulations applicable to this Program appear at 45 CFR Part 189, and amendments published on November 3, 1977 (42 FR 57638). However, these regulations do not reflect amendments to the authorizing legislation contained in Pub. L. 94-482 and Pub. L. 95-336.

FURTHER INFORMATION: For further information contact Mr. Stanley Patterson, Acting Director, Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education,

Room 3514, ROB-3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone: 202-245-2806.

(20 U.S.C. 1070e-1)

Dated: March 20, 1979.

(Catalog of Federal Domestic Assistance Number 13.540; Higher Education—Veterans' Cost-of-Instruction Program (VCIP).)

ERNEST L. BOYER,

U.S. Commissioner of Education.

[FR Doc. 79-9274 Filed 3-27-79; 8:45 am]

[4110-12-M]

## Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE  
RIGHTS AND RESPONSIBILITIES OF WOMENCancellation of the Family Policy Task Force  
Meeting

This notice is to cancel the Family Policy Task Force meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women on Thursday, April 5, 1979 from 10:00 to 5:00 p.m., and on Friday, April 6, 1979 from 10:00 to 3:00 p.m. as listed in the March 5 FEDERAL REGISTER, page 12109.

It will be rescheduled at a later date.

Dated: March 22, 1979.

SUSAN C. LUBICK,  
Executive Secretary, Secretary's  
Advisory Committee on the  
Rights and Responsibilities of  
Women.

[FR Doc. 79-9335 Filed 3-27-79; 8:45 am]

[4110-07-M]

## Social Security Administration

## ADVISORY COUNCIL ON SOCIAL SECURITY

## Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Friday, May 11, 1979, from 9:00 a.m. to 5:00 p.m. and Saturday, May 12, 1979, from 9:00 a.m. to 5:00 p.m. at the Marriott Twin Bridges Hotel, U.S. 1 and I-395, Washington, D.C. 20024. The meetings will be devoted to the topics of Medicare and the treatment of women under Social Security.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the Social Security program taken into account by the Council may submit written com-

ments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT:

Mr. Lawrence H. Thompson, Executive Director, Advisory Council on Social Security, P.O. Box 17054, Baltimore, Maryland 21235. Telephone inquiries should be directed to Mr. Edward F. Moore, (301) 594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program)

LAWRENCE H. THOMPSON,  
Executive Director, Advisory  
Council on Social Security.

[FR Doc. 79-9292 Filed 3-27-79; 8:45 am]

[4310-02-M]

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

INDIAN TRIBES PERFORMING LAW AND  
ORDER FUNCTIONS

## Determination

MARCH 19, 1979.

This notice is published in exercise of authority delegated by the Secre-

tary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 1 and 2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973 issue of the FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law enforcement functions they have responsibility to exercise. Determination and certification of those tribes not listed will be made on an individual basis upon application by such tribes.

It has been determined by the Assistant Secretary—Indian Affairs that the Swinomish Tribe of Indians in the State of Washington has responsibility to perform the functions listed below.

Therefore, the listing published beginning on page 13758 of the May 25, 1973 FEDERAL REGISTER (38 FR 13758), is further amended by adding the entry for the Swinomish Indian Tribe in the State of Washington, to read as follows:

| Tribal entities recognized by the Federal Government and listed by State | Employ tribal police | Establish a tribal court | Adopt a tribal law and order code | Undertake correction function | Undertake program for prevention of adult crime and juvenile delinquency | Undertake juvenile and adult rehabilitation program |
|--|----------------------|--------------------------|-----------------------------------|-------------------------------|--|---|
| Washington: Swinomish Tribe.....   | X                    | X                        | X                                 | X                             | X  | X   |

RICK LAVIS,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-9276 Filed 3-27-79; 8:45 am]

[4310-02-M]

## SENECA NATION

Plan for the Use and Distribution of Seneca  
Nation Judgment Funds Awarded in Docket  
342-G Before the Indian Claims Commission

MARCH 19, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 210 DM 1.2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of any Indian tribe. Funds were appropriated by the Act of May 4, 1977, 91 Stat. 61, in satisfaction of the award granted to the Seneca Nation of Indi-

ans in Indian Claims Commission Docket 342-G. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated August 8, 1978, and was received (as recorded in the Congressional Record) by the House of Representatives on August 10, 1978, and by the Senate on August 15, 1978. Congress not having adopted a resolution disapproving it, the plan became effective on February 1, 1979, as provided by Section 5 of the 1973 Act, *supra*.

The plan reads as follows:

The funds appropriated by the Act of May 4, 1977, 91 Stat. 61, in satisfaction of a judgment awarded to the Seneca Nation in Docket 342-G before the Indian Claims Commission, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.







## NOTICES

pose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 13 N., R. 101 W.,  
Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$ .

The proposed pipeline will transport natural gas from the Canyon Creek #15-34 well located in the SE $\frac{1}{4}$  of section 34 into their existing natural gas pipeline facilities located in the SW $\frac{1}{4}$  section 35, T. 13 N., R. 101 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187, N., Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9297 Filed 3-27-79; 8:45 am]

## [4310-84-M]

[Wyoming 67246]

## WYOMING

## Application

MARCH 16, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4 $\frac{1}{2}$ , 6 $\frac{1}{2}$  and 8 $\frac{1}{2}$  inch pipeline and anode facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 93 W.,  
Sec. 6, S $\frac{1}{2}$ SE $\frac{1}{4}$ .  
T. 20 N., R. 94 W.,  
Sec. 10, S $\frac{1}{2}$ S $\frac{1}{2}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 12, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$  and S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ .

The proposed pipeline will transport natural gas across federal lands in section 6, T. 20 N., R. 93 W., and sections 10, 12 and 22, T. 20 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Man-

ager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9298 Filed 3-27-79; 8:45 am]

## [4310-84-M]

## DRAFT INTERIM MANAGEMENT POLICY AND GUIDELINES FOR WILDERNESS STUDY AREAS

## Clarification of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of clarification of comment period.

SUMMARY: This notice makes it clear that comments on the draft Interim Management Policy and Guidelines for Wilderness Study Areas received by the Bureau of Land Management after March 14, 1979, the date listed in 44 FR 2694 as the date by which comments should be submitted will be considered to the extent time permits before final revision of the policy is published. This is in keeping with the general policy of the Bureau of Land Management.

ADDRESS: Send comments to Director (303), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Terry R. Sopher, 202-343-6064.

SUPPLEMENTARY INFORMATION: This notice clarifies how the Bureau of Land Management will handle comments received on the proposed revision of the policy after March 14, 1979. The Bureau of Land Management announced a public review period by publishing the draft document on January 12, 1979, 44 FR 2694. The notice advised the public of the availability of the draft document, and stated that comments were to be submitted by March 14, 1979. The Bureau does not expect to publish the final policy document until approximately May 15, 1979, and has received questions about its policy on considering written and oral comments received after March 14. The Bureau will analyze and consider comments received after March 14, 1979, and will attempt to incorporate responses in the preamble to the final revision of the policy to the extent time permits.

ARNOLD E. PETTY,  
Acting Associate Director,  
Bureau of Land Management.

MARCH 26, 1979.

[FR Doc. 79-9547 Filed 3-27-79; 8:45 am]

## [4310-31-M]

## Geological Survey

## KREBS, OKLA.

## Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (P.L. 94-377, August 4, 1976), Federal lands within the State of Oklahoma have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

## (36) OKLAHOMA

Krebs (Oklahoma) Know Recoverable Coal Resource Area; June 30, 1978; 2,001 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: March 21, 1979.

J. S. CRAGWALL, Jr.,  
Acting Director.

[FR Doc. 79-9277 Filed 3-27-79; 8:45 am]

## [4310-31-M]

## MORGAN MOUNTAIN, OKLA.

## Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (P.L. 94-377, August 4, 1976), Federal lands within the State of Oklahoma have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

## (36) OKLAHOMA

Morgan Mountain (Oklahoma) Known Recoverable Coal Resource Area; August 9, 1978; 4,708 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: March 21, 1979.

J. S. CRAGWALL, Jr.,  
Acting Director.

[FR Doc. 79-9278 Filed 3-27-79; 8:45 am]

## [4310-03-M]

## Heritage Conservation and Recreation Service

## (INT FES 79-16)

## MILL CREEK METROPARK

## Notice of Availability of Final Environmental Statement

Pursuant to section 201(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Mill Creek Metropark.

The environmental statement considers the effects on two rural townships of a proposed 3501-acre impoundment-type regional park designed to help satisfy the water-oriented recreation need in one sector of southeast Michigan. The Heritage Conservation and Recreation Service is considering providing financial assistance for land acquisition through the Land and Water Conservation Fund.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Public Affairs, Room 7200, Washington, D.C. 20260, Telephone (202) 343-3171.  
Heritage Conservation and Recreation Service, Lake Central Region Office, Federal Building, Ann Arbor, Michigan 48107, Telephone (313) 668-2000.  
Huron Clinton Metropolitan Authority, 3050 Penobscot Building, Detroit, Michigan 48226.  
Office of Budget and Federal Aid, Michigan Department of Natural Resources, Mason Building, Box 30028, Lansing, Michigan 48909.

Dated: March 22, 1979.

LARRY E. MEIEROTTO,  
Assistant Secretary of the Interior.  
[FR Doc. 79-9279 Filed 3-27-79; 8:45 am]

## NOTICES

## [7020-02-M]

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-52]

## CERTAIN APPARATUS FOR THE CONTINUOUS PRODUCTION OF COPPER ROD

Extension of the Completion Date for the Evidentiary Hearing and the Filing Date for the Recommended Determination

On March 6, 1979, all parties to this investigation filed a joint motion (Motion Docket No. 52-205) for a 30-day extension of the completion date of the evidentiary hearing being held in this investigation pursuant to rule 210.41(a)(1) of the Commission's rules of practice and procedure (19 CFR 210.41(a)(1)). On March 7, 1979, the administrative law judge (ALJ) certified this motion to the Commission for its consideration and recommended that the additional time be granted. The ALJ also requested that the Commission extend the required filing date for the ALJ's recommended determination to August 22, 1979.

Having considered Motion Docket No. 52-205 and the ALJ's recommended determination, the Commission is granting a 21-day extension of the hearing completion date pursuant to rule 201.14(b) of the Commission's rules (19 CFR 201.14(b)). The Commission also extending the required date for filing the ALJ's recommended determination to August 13, 1979, pursuant to rule 210.53(a).

Copies of the Commission Action and Order are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 253-0161. Notice of the institution of the Commission's investigation was published in the FEDERAL REGISTER of May 22, 1978 (43 F.R. 21951).

Issued: March 23, 1979.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 79-9398 Filed 3-27-79; 8:45 am]

## [7020-02-M]

[Investigation No. 337-TA-64]

## CERTAIN HIGH-VOLTAGE CIRCUIT INTERRUPTERS AND COMPONENTS THEREOF

## Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 16, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the Westing-

house Electric Corp., Gateway Center, Pittsburgh, Pa. 15222, alleging that unfair methods of competition and unfair acts exist in the importation of certain high-voltage circuit interrupters and components thereof into the United States, or in their sale, by reason of the alleged coverage of such circuit interrupters by claims 5, 6, and 7 of U.S. Letters Patent No. 3,291,947. Supplements to the complaint were filed with the Commission on March 9, 1979, and March 14, 1979.

The complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complaint requests an exclusion from entry into the United States, except under bond, of the imports in question during the period of the investigation. Complainant requests that, after a full investigation, a permanent exclusion of said imports, and such other relief as is authorized by the statute be ordered.

Having considered the complaint as supplemented, the Commission, on March 15, 1979, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is, or there is reason to believe that there is, a violation of subsection (a) of this section in the unlawful importation into or the sale in the United States of certain high-voltage circuit interrupters and components thereof by reason of the alleged coverage of such high-voltage circuit interrupters by claims 5, 6, and 7 of U.S. Letters Patent No. 3,291,947, the effect or tendency of which is to destroy or substantially injure an industry efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Westinghouse Electric Corp., Gateway Center, Pittsburgh, Pa. 15222.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint and the supplements to the complaint are to be served:

BBC Brown, Boveri & Co., Ltd., CH-5401 Baden, Haselstrasse, Switzerland.  
Delle-Alsthom, 130 rue Leon Blum, 69611 Villeurbanne, France.  
BBC Brown, Boveri Corp., 1460 Livingston Avenue, North Brunswick, N.Y. 08902.  
High Voltage Breakers, Inc., 6901 Elmwood Avenue, Philadelphia, Pa. 19142.



## NOTICES

Cogenel, Inc., 45 Rockefeller Plaza, New York, N.Y. 10020.  
 Hitachi, Ltd., 5-1, Marunouchi 1-Chome, Chiyoda-ku, Tokyo 100, Japan.  
 Hitachi America Ltd., 437 Madison Avenue, New York, N.Y. 10022.  
 Siemens AG Corp., 186 Wood Avenue South, Iselin, N.J. 08830.  
 Campagne Generale D'Electricite, 54 Rue la Boetie, 75382 Paris Cedex 08, France.  
 Siemens Aktiengesellschaft, Wittelsbacherplatz 2, D-8000 Munich 2, Federal Republic of Germany.  
 Siemens-Allis, Inc., 223 Perimeter Center Parkway, Atlanta, GA. 30338.  
 Merlin Gerin S. A., 20 Rue Henri Tarze, P.O. Box 83, 38041 Grenoble Cedex France.

(c) Louis S. Mastriani, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the U.S. International Trade Commission's rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the U.S. International Trade Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and may authorize the presiding officer and the U.S. International Trade Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint and the supplements to the complaint are available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: March 22, 1979.

KENNETH R. MASSON,  
 Secretary.

[FR Doc. 79-9400 Filed 3-27-79; 8:45 am]

## [7020-02-M]

## WATCHES AND WATCH MOVEMENTS FROM INSULAR POSSESSIONS

Determination of Apparent U.S. Consumption of Watch Movements in 1978 and of Quotas for Duty-Free Entry

In accordance with headnote 6(c) of schedule 7, part 2, subpart E, of the Tariff Schedules of the United States (TSUS), the U.S. International Trade Commission has determined that the apparent U.S. consumption of watch movements for the calendar year 1978 was 67,694,000 units. The number of watches and watch movements, the product of the Virgin Islands, Guam, and American Samoa, which may be entered free of duty during calendar year 1979 under headnote 6(b) of subpart E of the TSUS is as follows:

|                |                  |
|----------------|------------------|
| Virgin Islands | 6,581,000 units. |
| Guam           | 627,000 units.   |
| American Samoa | 314,000 units.   |

The above determination was derived as follows:

| Item  | 1,000 units |
|---|-------------|
| U.S. production   | 27,137      |
| Plus inventory decrease                                 | 583         |
| Less exports of domestic merchandise                    | 5,730       |
| Apparent U.S. consumption of domestic units             | 21,990      |
| U.S. imports  | 41,665      |
| Less re-exports of foreign merchandise                  | 898         |
| Net imports   | 40,767      |
| Shipments from Virgin Islands, Guam, and American Samoa | 4,937       |
| Apparent U.S. consumption                               | 67,694      |

By order of the Commission.

KENNETH R. MASON  
 Secretary.

Issued: March 21, 1979.

[FR Doc. 79-9399 Filed 3-27-79; 8:45 am]

## [4410-01-M]

## DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, SOUTHERN NINTH CIRCUIT PANEL

## Meeting

A meeting of the Southern Ninth Circuit Panel of the United States Cir-

cuit Judge Nominating Commission will be held on April 16 and 17, 1979, at the State Bar Offices, 1230 West Third Street, Los Angeles, California. The April 16 meeting will begin at 10:00 a.m.; the April 17 meeting at 8:30 a.m. The purpose of this meeting is to interview applicants from the Southern part of California. This meeting will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,  
 Advisory Committee  
 Management Officer.

MARCH 20, 1979.

[FR Doc. 79-9280 Filed 3-27-79; 8:45 am]

## [4510-23-M]

## NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

## PUBLIC MEETING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on April 30 and May 1, 1979, in Room 6510, 2020 K Street, N.W., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Public Law 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:30 a.m. to review public comments on the Commission's Preliminary Draft Report. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street, N.W., Washington, D.C. 20006.

Signed at Washington, D.C., this 5th day of March 1979.

SAR A. LEVITAN,  
 Chairman.

[FR Doc. 79-9259 Filed 3-27-79; 8:45 am]

## NOTICES

## [7590-01-M]

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304]

## COMMONWEALTH EDISON CO.

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 45 and 42 to Facility Operating License Nos. DPR-39 and DPR-48, issued to Commonwealth Edison Company (the licensee), which revised the licenses for operation of the Zion Station, Unit Nos. 1 and 2, (the facility), located in Lake County, Illinois. The amendments became effective on February 23, 1979.

The amendments add license conditions to include the Commission-approved physical security plan as part of the licenses.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filings dated November 18, 1977, as revised May 26 and July 25, 1978, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment Nos. 45 and 42 to License Nos. DPR-39 and DPR-48, and (2) the licensee's related letter to the licensee dated March 14, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C.

20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of March, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
 Chief, Operating Reactors  
 Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-9302 Filed 3-27-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-213]

## CONNECTICUT YANKEE ATOMIC POWER CO.

Notice of Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (the licensee) which revised the Technical Specifications for operation of the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

The amendment modifies the Appendix B (Environmental) Technical Specifications to: (1) Add a qualification to the allowable rate of change of discharge temperature which states that the temperature change must be related to a change in plant operation; (2) Change the pH limit to allow for fluctuations in naturally occurring pH of the river water; (3) Change the dissolved oxygen limit to relate it to the dissolved oxygen at the intake and any change caused by plant operation; (4) Change the reporting requirements for fish impingement; (5) Delete the requirement for fish deterrent studies which have been completed; and (6) Delete the requirement for phytoplankton studies which have been completed.

The amendment also incorporates numerous editorial and clarifying changes, Environmental Review Board authority and membership changes and organizational changes within the Northeast Utilities Service Company.

The Commission has determined that the portions of the amendment dealing with numerous editorial and clarifying changes, and the changes associated with the Environmental Review Board and organizational structure will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with these matters. Prior public notice of this amendment was not required since the amendment

does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal relating to Items (1)-(6) above and has concluded that an environmental impact statement for these items is not warranted because there will be no significant environmental impact attributable to these items other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated June 4, 1976, and supplements thereto dated May 6, 1977 and November 28, 1977, and applications dated February 16, 1978 and August 15, 1978, (2) Amendment No. 32 to License No. DPR-61, including its letter of transmittal, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of March, 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
 Chief, Operating Reactors  
 Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-9303 Filed 3-27-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-302]

## FLORIDA POWER CORPORATION, ET AL

Notice of Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72 issued to Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility), a pressurized water reactor located in Citrus



County, Florida, and currently authorized to operate at power levels up to 2452 MWt.

In accordance with the licensee's requests dated November 29, 1978 and February 28, 1979, the amendment would revise the provisions of the Technical Specifications to reflect plant operating limits for the fuel loading to be used during Cycle 2 and would authorize operation of the facility at 2544 MWt in lieu of the current licensed power level of 2452 MWt.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 27, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy

the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); Crystal River; and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to S. A. Brandimore, Vice President and General Counsel, P.O. Box 14042, St. Petersburg, Florida 33733, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing

of the factors specified in 10 CFR § 2.714(a)(1)-(v) and § 2.714(d).

For further details with respect to this action, see the licensee's requests dated November 29, 1978 and February 28, 1979, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida.

Dated at Bethesda, Maryland this 22nd day of March 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-9300 Filed 3-27-79; 8:45 am]

[7590-01-M]

[Docket No. 50-77]

#### THE CATHOLIC UNIVERSITY OF AMERICA

##### Notice of Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. R-31, issued to The Catholic University of America (the licensee), which renews the license for operation of the AGN-201 nuclear research reactor (the facility) located in Washington, D.C. The facility is a research reactor that has been operating since November 15, 1957, and is currently licensed to operate at 0.1 watts (thermal). The amendment is effective as of its date of issuance.

The amendment extends the duration of Facility License No. R-31 until November 15, 1997.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of the proposed issuance of this action was published in the FEDERAL REGISTER on November 11, 1977, 42 FR 58800. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated October 12, 1977, as supplemented April 21, 1978 and January 5, 1979, (2) Amendment No. 7 to License No. R-31, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of March 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-9301 Filed 3-27-79; 8:45 am]

[7590-01-M]

[Docket No. 50-220]

#### NIAGARA MOHAWK POWER CORP.

##### Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-63 to the Niagara Mohawk Power Corporation (the licensee) which revised the license for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment became effective on February 23, 1979.

The amendment modifies the license condition to include the current Commission-approved physical security plan as part of the license.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filings dated June 15, 1978, June 19, 1978 and December 8, 1978, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendment No. 28 to License No. DPR-63 and (2) the Commission's related letter to the licensee dated March 16, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of March 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,  
Chief, Operating Reactors  
Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-9304 Filed 3-27-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-282 and 50-306]

#### NORTHERN STATES POWER CO.

##### Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 34 and 28 to Facility Operating License Nos. DPR-42 and DPR-60, issued to Northern States Power Company (the licensee), which revised the licenses for operation of the Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2, (the facility), located in Goodhue County, Minnesota. The amendments became effective on February 23, 1979.

The amendments add license conditions to include the Commission-approved physical security plan as part of the licenses.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not

required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filing dated March 3, 1978, as supplemented September 25, 1978, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendments Nos. 34 and 28 to License Nos. DPR-42 and DPR-60, and (2) the Commission's related letter to the licensee dated March 14, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of March, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-9305 Filed 3-27-79; 8:45 am]

[7590-01-M]

[Docket No. 50-29]

#### YANKEE ATOMIC ELECTRIC CO.

##### Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which amended the license and its appended Technical Specifications for operation of the Yankee Nuclear Power Station (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment adds license conditions relating to the completion of fa-



ility modifications for fire protection and modifies the Technical Specifications to require additional sprinkler systems, water hose stations and yard hydrants to be operable, and surveillance for these features. In addition, the amendment requires increasing the onsite fire brigade from 3 to 5 members.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated January 31, 1977, May 10, 1978, June 26, 1978, August 14, 1978, August 22, 1978, October 16, 1978, February 5, 1979, and February 22, 1979, (2) Amendment No. 56 to License No. DPR-3, including the Commission's letter of transmittal, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of March, 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch Number 2, Division of  
Operating Reactors.

[FR Doc. 79-9306 Filed 3-27-79; 8:45 am]

#### [7590-01-M]

#### REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

##### Issuance and Availability

As a part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has deleted the following sections from the Standard Review Plan.

1. Appendix A to SRP Section 2.1.1, "Site Visits—Suggested Procedure for Site Analysts".

2. Appendix A to SRP Section 3.5.1.3, "High Trajectory Turbine Missile Analyses".

3. SRP Section 6.1.3, "Post-Accident Chemistry".

4. BTP-ETSB No. 11-1, attached to SRP Section 11.2, "Design Guidance for Radioactive Waste Management Systems Installed in Light-Water-Cooled Nuclear Power Plants."

5. Appendix A to SRP Section 13.3, "Emergency Plans for Nuclear Power Plants."

The content of these sections has been incorporated into other SRP sections or Regulatory Guides.

The NRC has also published Revision 2 to the Table of Contents, which lists the current revision number of each section of the SRP.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is \$70.00, including first-year supplements. Annual subscriptions for supplements alone are \$30.00. Individual sections are available at current prices. The domestic price for Revision No. 2 to the Table of Contents is \$4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, this 16th day of March, 1979.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATSON,  
Director,  
Division of Systems Safety.

[FR Doc. 79-9307 Filed 3-27-79; 8:45 am]

#### [7600-01-M]

#### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

##### PRIVACY ACT OF 1974

##### Systems of Records and New Routine Uses

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-479, 5 U.S.C. 552a(e)(4), the Occupational Safety and Health Review Commission, hereafter referred to as the Commission or OSHRC, hereby publishes this notice that the systems of records maintained by the Commission and originally published at 40 FR 40060, August 29, 1975, and amended at 41 FR 56188, December 23, 1976, remain

unchanged since the amended report except for the following:

1. The agency is abbreviated as OSHRC rather than OSAHRC to maintain consistency with the abbreviation used by the agency in other matters.

2. The official to whom all Privacy Act requests should be made is now the Executive Director.

3. Two new systems of records, "Cases pending in the decisional process after oral decision" (OSHRC-9) and "Cases acted on by Judge" (OSHRC-10), are established, with routine uses as proposed.

4. The system location for travel records is now the Office of Financial Management rather than the Office of Chief Judge. Record systems concerning the processing of OSHRC cases (OSHRC-3, OSHRC-4, and OSHRC-5) are now located in the Office of Executive Secretary.

5. The record system "Parties, correspondence records-OSHRC" (OSHRC-7) has been deleted as it has been determined that the system neither contains personal information subject to the provisions of the Privacy Act nor is any information in the system capable of being retrieved by a personal identifier.

6. The listings herein of records systems managed by the Office of Executive Secretary (OSHRC-3, OSHRC-4 and OSHRC5) contain several minor changes. These were made to describe more accurately these systems as they are presently operating. The titles of these record systems have also been changed to describe more accurately their function.

As in our December 23, 1976 publication, the appendix contained herein describes routine uses that apply to all the listed systems.

All changes since our December 23, 1976 publication contained herein are published for comment. Any person interested in commenting on such changes may do so by submitting comments in writing to the Executive Secretary, OSHRC, 1825 K Street NW., Washington, D.C. 20006. Comments must be submitted on or before April 27, 1979. These changes will become final April 30, 1979, without further publication, unless the Commission publishes a notice to the contrary.

Dated at Washington, D.C., on March 21, 1979

RAY H. DARLING, Jr.,  
Executive Secretary.

OSHRC-1

##### System name:

Travel Records-OSHRC

##### System location:

Office of Financial Management, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

#### OSHRC-2

##### Categories of individuals covered by the system:

Names of persons who use OSHRC funds for travel

##### Categories of records in the system:

This system of records shows all places to which travel was accomplished and the costs of such travel including subsistence costs.

##### Authority for maintenance of the system:

29 U.S.C. § 651 et seq.

##### Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system of records is used for budgetary purposes within the agency and for reporting to Members of Congress and other agencies when appropriate.

##### Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:  
These records are maintained in folders.

##### Retrievability:

These records are indexed by the names of the individuals on whom they are maintained.

##### Safeguards:

Access to and use of such records are limited to those persons whose official duties require such access.

##### Retention and disposal:

The records are maintained indefinitely.

##### System manager(s) and address:

Director, Office of Financial Management, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

##### Notification procedure:

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

##### Record access procedures:

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

##### Contesting record procedures:

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

##### Record source categories:

Information in this system of records comes from the individual to whom it applies.

##### System name:

Mailing lists for news releases, speeches, reports-OSHRC

##### System location:

Office of Information and Publication, 1825 K Street NW., Washington, D.C. 20006.

##### Categories of individuals covered by the system:

This system contains the names of all persons who routinely are sent information on OSHRC.

##### Categories of records in the system:

This system contains information relating to the individual's address, business affiliation, and the information he desires to receive.

##### Authority for maintenance of the system:

29 U.S.C. § 651 et seq.

##### Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used to mail information relating to case dispositions, speeches, and statistical reports.

##### Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:  
These records are stored on magnetic tape and on labels.

##### Retrievability:

These records are indexed by the names of the individual on whom they are maintained.

##### Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access.

##### Retention and disposal:

These records are maintained indefinitely unless the individuals requests that his/her reference be deleted and then that reference is disposed immediately.

##### System manager(s) and address:

Director of Information, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

##### Notification procedure:

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

##### Record access procedures:

Individuals who wish to gain access to their records should notify in writing.

ing, including their name, the Executive Director.

##### Contesting record procedures:

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

##### Record source categories:

Information in this system either comes from the individual to whom it applies or was derived from private source directories.

#### OSHRC-3

##### System name:

Cases Pending With the Commissioners.

##### System location:

Office of the Executive Secretary, 1825 K Street NW., Washington, D.C. 20006.

##### Categories of individuals covered by the system:

Commission members formerly or currently employed by OSHRC who call cases for review and issue decisions.

##### Categories of records in the system:

This system identifies the Commissioner who has directed a case for review. It lists: (1) the case name and docket number; (2) the petitioner and date of petition; (3) the date of a direction for review; (4) the dates parties file briefs; and (5) the months from both the notice of contest and direction for review.

##### Authority for maintenance of the system:

29 U.S.C. sec. 651 et seq.

##### Routine uses of records maintained in the system, including categories of users and purposes of such uses:

These records may be used:  
a. By Commission personnel working with cases under review.  
b. To respond to a member of the public concerning the status of a case under review.  
c. As a date source to make management decisions as to case processing activities.  
d. For statistical and budgetary purposes.

##### Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

##### Storage:

Records are maintained on magnetic disk and in binders.

##### Retrievability:

Records are indexed by docket number.



## NOTICES

**Retention and disposal.**

These records are retained permanently on magnetic disk. Information in binders is retained one year.

**System manager(s) and address:**

Executive Secretary, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Notification procedure:**

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Record access procedures:**

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

**Contesting record procedures:**

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

**Record source categories:**

Information in this system either comes from the individual to whom it applies, or is derived from information he supplied or by the parties who appear before the Commission.

**OSHRC-4****System name:**

Judge report on pending cases.

**System location:**

Office of the Executive Secretary, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Categories of individuals covered by the system:**

This system summarizes the status of all cases currently pending before the Commission's Administrative Law Judges.

**Categories of records in the system:**

This system shows the Judge's name and pertinent information about each case assigned to him including the scheduled dates for a hearing; the number of times the hearing was rescheduled and the time span between dates; the opening and closing dates of hearing and the number of hearing days; the receipt date of transcripts and the number of transcript pages; dates of settlement; dates briefs are filed; number of days since assignment; and notations for cases assigned for more than 180 days.

Authority for maintenance of the system: 29 U.S.C. § 651 *et seq.*

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system is used by Administrative Law Judges and other Commission employees for administrative purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

**Storage:**

Records are maintained on magnetic disk and in binders.

**Retrievability:**

Records are indexed by docket number.

**Safeguards:**

Access to and use of these records are limited to those persons whose official duties require such access.

**Retention and disposal:**

These records are retained permanently on magnetic disk. The written records pertaining to each Judge are given to the Judge and disposed of by the Judge. Information in binders is retained one year.

**System manager(s) and address:**

Executive Secretary, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Notification procedure:**

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Record access procedures:**

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

**Contesting record procedures:**

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

**Record source categories:**

Information in the system either comes from the individual to whom it applies, or is derived from information he or the Chief Administrative Law Judge supplied or by the parties who appear before the Commission.

**OSHRC-5****System name:**

Judge summary report.

**System location:**

Office of the Executive Secretary, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Categories of individuals covered by the system:**

OSHRC Administrative Law Judges currently employed who are assigned to hear and decide case.

**Categories of records in the system:**

This system contains the name of each OSHRC judge, the number of cases greater than 180 days on the judge's docket, the number of cases pending for each judge, the number of cases pending for all judges, the number of settlements, and the region for each judge.

Authority for maintenance of the system: 29 U.S.C. § 651 *et seq.*

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used by the Chairman and the Chief Administrative Law Judge for administrative purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Records are maintained on magnetic disk and in binders.

**Retrievability:**

Records are indexed by judge number.

**Safeguards:**

Access to and use of these records are limited to those persons whose official duties require such access.

**Retention and disposal:**

These records are retained permanently on magnetic disk. Information in binders is retained one year.

**System manager(s) and address:**

Executive Secretary, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Notification procedure:**

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street NW., Washington, D.C. 20006.

**Record access procedures:**

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

## NOTICES

**Contesting record procedures:**

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

**Record source categories:**

Information in this system either comes from the individual or is derived from information he or the Chief Administrative Law Judge supplied or by the parties who appear before the Commission.

**OSHRC-6****System name:**

Applications for employment-OSHRC.

**System location:**

Personnel Office, 1825 K Street NW., Washington, D.C. 20006.

**Categories of individuals covered by the system:**

All those desiring employment with OSHRC who have submitted a Form 171 or resume.

**Categories of records in the system:**

This system contains information relating to birth date, veteran preference, tenure, past and present salaries, grades and position titles, awards and other information relating to the status of the individual, as well as education and test scores.

Authority for maintenance of the system: 5 U.S.C. §§ 3301; 1302.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in the records may be used to refer applications to those sections within the agency having position vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

These records are maintained in folders.

**Retrievability:**

These records are indexed by the names of the applicants.

**Safeguards:**

Access to and use of these records are limited to those persons whose official duties require such access.

**Retention and disposal:**

The records are maintained up to one year and then are destroyed.

**System manager(s) and address:**

Personnel Director, OSHRC, 1825 K Street N.W., Washington, D.C. 20006.

**Notification procedure:**

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street N.W., Washington, D.C. 20006.

**Record access procedures:**

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

**Contesting record procedures:**

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

**Record source categories:**

Information in this system comes from the individual to whom it applies.

**OSHRC-8****System name:**

Payroll Records-Occupational Safety and Health Review Commission.

**System location:**

General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the Commission under contract.)

**Categories of records in the system:**

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also, 29 U.S.C. § 651, *et seq.*

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction

which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. §§ 5518, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the OSHRC Director of Personnel. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to the tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5220), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Director of Personnel.

In the absence of a withholding agreement, the Social Security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Paper and microfilm.

**Retrievability:**

Social Security Number.

**Safeguard:**

Stored in guarded building; OSHRC copies stored in secure room and locked file drawers; released only to authorized personnel.

**Retention and disposal:**

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

**System manager(s) and address:**

Director of Personnel, Occupational Safety and Health Review Commission, 1825 K Street N.W., Washington, D.C. 20006.

**Notification procedure:**

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street N.W., Washington, D.C. 20006.

**Record access procedures:**

Individuals who wish to gain access to their records should notify in writing.



ing, including their name, the Executive Director.

#### Contesting record procedures:

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

#### Record sources:

Information in this system of records either comes from the individual to whom it applies or is derived from information compiled by Commission employees performing administrative duties.

#### OSHR-9

##### System name:

Cases pending in the decisional process after oral decision.

##### System location:

Office of the Executive Secretary, 1825 K Street, N.W., Washington, D.C. 20006.

##### Categories of individuals covered by the system:

Commission members formerly or currently employed by OSHRC who call cases for review and issue decisions.

##### Categories of records in the system:

This system identifies cases pending after a Commission meeting. It identifies the Commissioner who directed the case for review together with the opinions or comments filed by the Commissioners as well as the dates of filing.

##### Authority for maintenance of the system:

29 U.S.C. § 651 *et seq.*

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used by Commission members and their staffs in processing cases under review. The records are used to determine the status of a case after a vote has been taken at a Commission meeting.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

##### Storage:

These records are maintained on magnetic disk and in binders.

##### Retrievability:

Records are indexed by docket number.

##### Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access.

#### Retention and disposal:

These records are retained permanently on magnetic disk. Information in binders is retained one year.

#### System manager(s) and address:

Executive Secretary, OSHRC, 1825 K Street, N.W., Washington, D.C. 20006.

#### Notification procedure:

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street N.W., Washington, D.C. 20006.

#### Record access procedures:

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

#### Contesting record procedures:

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

#### Record source categories:

Information in this system is derived from the individual to whom it applies or is derived from the official minutes of Commission meetings and other records submitted to the Office of the Executive Secretary.

#### OSHR-10

##### System name:

Cases acted on by Judge.

##### System location:

Office of the Executive Secretary, OSHRC, 1825 K Street, N.W., Washington, D.C. 20006.

##### Categories of individuals covered by the system:

Administrative Law Judges currently employed by the Commission.

##### Categories of records in the system:

This system contains names of the OSHRC Administrative Law Judges and gives a comparison of each with the averages of all judges of a one-month period. Comparisons are made for the number of cases assigned, the number of trials held, the average days per trial, the number of heard and unheard cases, the average elapsed days for heard and unheard cases that are completed, and the number of cases pending at the end of a time period together with the average days pending.

##### Authority for maintenance of the system:

29 U.S.C. 651 *et seq.*

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used by the Chairman and the Chief Administrative Law Judge for administrative purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

##### Storage:

Records are maintained on magnetic disk and in binders.

##### Retrievability:

Records are indexed by the Judge's name.

##### Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access.

#### Retention and disposal:

The information used to generate these records is retained permanently. Information in binders is retained one year.

#### System manager(s) and address:

Executive Secretary OSHRC, 1825 K Street, N.W., Washington, D.C. 20006.

#### Notification procedure:

Individuals interested in inquiring about their records should notify: Executive Director, OSHRC, 1825 K Street N.W., Washington, D.C. 20006.

#### Record access procedures:

Individuals who wish to gain access to their records should notify in writing, including their name, the Executive Director.

#### Contesting record procedures:

Individuals who wish to contest their records should notify in writing, including their name, the Executive Director.

#### Record source categories:

Information in this system either comes from the individual to whom it applies or is derived from information the individual judge, other judges, or the Chief Administrative Law Judge have supplied or by the parties who appear before the Commission.

#### APPENDIX—OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

A record of this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to a request from the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this Agency under agreement with GSA.

[FR Doc. 79-9334 Filed 3-27-79; 8:45 am]

#### [8025-01-M]

#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1597]

#### CONNECTICUT

##### Declaration of Disaster Loan Area

The area of Pearl and High Streets in the town of Enfield, Hartford County, Connecticut, constitutes a disaster area because of damage resulting from a fire which occurred on March 12, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 21, 1979 and for economic injury until the close of business on December 21, 1979, at:

Small Business Administration, District Office, One Financial Plaza, Hartford, Connecticut 06103.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 21, 1979.

WILLIAM H. MAUK, Jr.,  
Acting Administrator.  
[FR Doc. 79-9358 Filed 3-27-79; 8:45 am]

#### [8025-01-M]

[Declaration of Disaster Loan Area No. 1598]

#### ILLINOIS

##### Declaration of Disaster Loan Area

Union and Williamson Counties and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by heavy snows which occurred on February 24 and 25, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 21, 1979, and for economic injury until the close of business on December 21, 1979, at:

Small Business Administration, Branch Office, One North Old State Capitol Plaza, Springfield, Illinois 62701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 21, 1979.

WILLIAM H. MAUK, Jr.,  
Acting Administrator.  
[FR Doc. 79-9359 Filed 3-27-79; 8:45 am]

#### [8025-01-M]

[Declaration of Disaster Loan Area No. 1593]

#### MARYLAND

##### Declaration of Disaster Loan Area

Allegany, Carroll, Montgomery, Prince Georges and Washington Counties and adjacent counties within the State of Maryland constitute a disaster area as a result of damage resulting from snow, heavy rains and flooding which occurred on February 18, 1979 through February 26, 1979, followed by rising temperature, heavy rains and flooding. Applications will be processed under provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 21, 1979, and for economic injury until the close of business on December 20, 1979, at:

Small Business Administration, District Office, Oxford Building, Room 630, 8600 La Salle Road, Towson, Maryland 21204.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 20, 1979.

WILLIAM H. MAUK, Jr.,  
Acting Administrator.  
[FR Doc. 79-9360 Filed 3-27-79; 8:45 am]

#### [8025-01-M]

[Declaration of Disaster Loan Area No. 1592]

#### MICHIGAN

##### Declaration of Disaster Loan Area

Allegan, Ionia, Kent, Montcalm, Muskegon, and Ottawa Counties and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by ice and snow storm which occurred on December 31, 1978 through January 1, 1979 and January 13, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 21, 1979, and for economic injury until the close of business on December 21, 1979 at:

Small Business Administration, District Office, 477 Michigan Avenue, McNamee Bldg., Detroit, Michigan 48226.

or other locally announced locations.



(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 21, 1979.

WILLIAM H. MAUK, Jr.,  
Acting Administrator.

[FR Doc. 79-9361 Filed 3-27-79; 8:45 am]

# [8025-01-M]

[License No. 09/09-5230]

## MINORITY ENTERPRISE FUNDING, INC.

### Issuance of a License To Operate as a Small Business Investment Company

On January 11, 1979, a notice was published in the FEDERAL REGISTER (44 FR 2445), stating that Minority Enterprise Funding, Inc., located at 4061 East Whittier Blvd., Los Angeles, California 90023, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on January 26, 1979, and no comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-5230 to Minority Enterprise Funding, Inc.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 22, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator for Investment.

[FR Doc. 79-9355 Filed 3-27-79; 8:45 am]

# [8025-01-M]

[Declaration of Disaster Loan Area No. 1594]

## MISSOURI

### Declaration of Disaster Loan Area

Andrew County and adjacent counties within the State of Missouri constitute a disaster area as a result of damage caused by flooding and ice jamming which occurred on March 3, 1979, through March 4, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 21, 1979, and for economic injury until the close of business on December 21, 1979, at:

Small Business Administration, District Office, Mercantile Tower, Suite 2500, One Mercantile Tower, St. Louis, Missouri 63101.

or other locally announced locations.

## NOTICES

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 21, 1979.

WILLIAM H. MAUK, Jr.,  
Acting Administrator.

[FR Doc. 79-9362 Filed 3-27-79; 8:45 am]

# [8025-01-M]

[Declaration of Disaster Loan Area NO. 1599]

## NEW YORK

### Declaration of Disaster Loan Area

Broome, Cortland, Montgomery, Oneida and Tioga Counties and adjacent counties within the State of New York constitute a disaster area as a result of damage caused by flooding which occurred on March 5-9, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 17, 1979, and for economic injury until the close of business on December 17, 1979, at:

Small Business Administration, District Office, 26, Federal Plaza, Room 3100, New York, New York 10007.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 20, 1979.

WILLIAM H. MAUK, Jr.,  
Acting Administrator.

[FR Doc. 79-9363 Filed 3-27-79; 8:45 am]

# [8025-01-M]

[License No. 05/05-5133]

## NORTHERN CAPITAL CORP.

### Issuance of a License to Operate as a Small Business Investment Company

On February 7, 1979, a notice was published in the FEDERAL REGISTER (44 FR 7857), stating that Northern Capital Corporation, located at 1017 Walnut Street, Batavia, Illinois 60510, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on February 22, 1979, and no comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 05/05-5133 to Northern Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 21, 1979.

PETER F. McNEISH,  
Deputy Associate  
Administrator for Investment.

[FR Doc. 79-9356 Filed 3-27-79; 8:45 am]

# [8025-01-M]

[License No. 02/02-0324]

## PIONEER INVESTORS CORP.

### Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Pioneer Investors Corp. (Pioneer), One Battery Park Plaza, New York, New York 10004, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004(b) of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.1004 (1978)), for an exemption from the provisions of the conflict of interest regulations.

The exemption, if granted, will permit Pioneer to purchase \$400,000 of the common stock of Grassland Resources Inc. (GRI), P.O. Box 1596 Santa Fe, New Mexico 87501. The purchase will be part of \$1.5 million stock offering by GRI.

GRI is considered to be "Associate" of the Licensee as defined by § 107.3 of the Regulations because of the prior financing within the past year by a partnership owned by two directors of the Licensee. This transaction, therefore, will require an exemption pursuant to § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any person may, no later than April 12, 1979, submit written comments on the proposed transaction to: Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: March 20, 1979.

PETER F. McNEISH,  
Deputy Associate Administrator  
for Finance and Investment.

[FR Doc. 79-9357 Filed 3-27-79; 8:45 am]

## NOTICES

# [8025-01-M]

## REGION I ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, New Hampshire will hold a public meeting at 10:00 a.m., on Friday, April 20, 1979, in the conference room No. 418 on the fourth floor of the Concord Federal Building, 55 Pleasant Street, Concord, New Hampshire, to discuss such business as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Bert Teague, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301—(603) 224-5588.

Dated: March 21, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9364 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION I ADVISORY COUNCIL MEETING

### Cancellation of Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Providence, Rhode Island, meeting scheduled for 12:00 Noon, on Thursday, April 19, 1979, at the Governor Dyer's Buffet House, Providence, Rhode Island, has been cancelled.

For further information, write or call Charles J. Fogarty, District Director, U.S. Small Business Administration, 57 Eddy Street, Providence, Rhode Island 02903 (401) 528-4580.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9365 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION I ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 10:00 a.m., on Friday, April 27, 1979, in Room 201, Federal Building, 40 Western Avenue, Augusta, Maine, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Thomas A. McGillicuddy, District Director, U.S. Small Business Adminis-

tration, Federal Building, 40 Western Avenue, Augusta, Maine 04330—(207) 622-6171—Ext. 225.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9366 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION I ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 9:30 a.m., on Wednesday, May 2, 1979, in the Federal Court Room of the Federal Building, Third Floor, 87 State Street, Montpelier, Vermont, to discuss such business as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, 87 State Street, P.O. Box 605, Federal Building, Montpelier, Vermont 05602—(802) 229-0538.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9367 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION II ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:30 a.m., on Wednesday, April 25, 1979, at the Sheraton Garden, Route 537 & Gibson Place, Freehold, New Jersey, to discuss such business as may be presented by members and the staff of the Small Business Administration, or others attending.

For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 970 Broad Street, Newark, New Jersey 07102—(201) 645-3580.

Dated: March 21, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9368 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION III ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:30 a.m., on Thursday, May 3, 1979, at the Holiday Inn, City Line and Monument Road, Philadelphia, Pennsylvania, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Raleigh Jones, Acting District Director, U.S. Small Business Administration, Philadelphia District Office, One Bala Cynwyd Plaza, Suite 400-East Lobby, Bala Cynwyd, Pennsylvania 19004—(215) 596-5801.

K DREW,  
Deputy Advocate for  
Advisory Councils.

Dated: March 22, 1979.

[FR Doc. 9369 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION IV ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Atlanta, Georgia, will hold a public meeting from 9:00 a.m. to 2:00 p.m., on Friday, May 4, 1979, in the Dean's Conference Room, School of Business, University of Georgia, Athens, Georgia, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Clarence B. Barnes, District Director, U.S. Small Business Administration Peachtree-25th Complex, 1720 Peachtree Road, N.W., 6th Floor, Atlanta, Georgia 30309—(404) 257-4749.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9370 Filed 3-27-79; 8:45 am]

# [8025-01-M]

## REGION IV ADVISORY COUNCIL MEETING

### Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Charlotte, North Carolina, will hold a public meeting at 2:00 p.m. on Wednesday, April 25, 1979, and Thursday, April 26, 1979, at 9:00 a.m., at the Center for



Continuing Education, Appalachian State University, Boone, North Carolina, to discuss such business as may be presented by members of the staff of the Small Business Administration or others attending.

For further information, write or call George W. Marschall, District Director, U.S. Small Business Administration, 230 South Tryon Street, Suite 700, Charlotte, North Carolina 28202—(704) 371-6561.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9371 Filed 3-27-79; 8:45 am]

#### [8025-01-M]

##### REGION VIII ADVISORY COUNCIL MEETING Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, Utah, will hold a public meeting at 9:00 a.m., on Friday, April 27, 1979, at the Fort Douglas Hidden Valley Country Club—#2 Medical Drive (near University Medical Center) Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Clair R. Hopkins, District Director, U.S. Small Business Administration, 2237 Federal Building, 125 South State Street, Salt Lake City, Utah 84138—(801) 524-5804.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9372 Filed 3-27-79; 8:45 am]

#### [8025-01-M]

##### REGION VIII ADVISORY COUNCIL MEETING Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Friday, April 27, 1979, from 9:00 a.m. to 3:30 p.m., at the Downtown Holiday Inn, 100 West 8th, Sioux Falls, South Dakota, to discuss such business as may be presented by members, the staff of the Small Business Administration and others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, 402 National Bank of South Dakota Building, Sioux Falls, South

#### NOTICES

Dakota 57102—(605) 336-2980—Ext. 231.

Dated: March 22, 1979.

K DREW,  
Deputy Advocate for  
Advisory Councils.

[FR Doc. 79-9373 Filed 3-27-79; 8:45 am]

#### [4710-02-M]

##### DEPARTMENT OF STATE

###### Agency for International Development

[Redelegation of Authority No. 99.1.73,  
Amdt. No. 3]

###### MISSION DIRECTOR, INDIA

###### Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority 99.1.73 dated September 19, 1975 (40 FR 45451) as amended on August 2, 1976 (41 FR 33312) and January 9, 1979 (14 FR 2050) as follows:

The first paragraph is hereby amended to reflect the following changes:

a. "Redelegation of Authority No. 99.1.51" is deleted and "Redelegation of Authority 99.1.73" inserted in lieu thereof.

b. The designation "AID Affairs Officer, India" is deleted and "Mission Director USAID, India" inserted in lieu thereof.

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

Dated: March 18, 1979.

HUGH L. DWELLEY,  
Director,  
Office of Contract Management.

[FR Doc. 79-9299 Filed 3-27-79; 8:45 am]

#### [4910-22-M]

##### DEPARTMENT OF TRANSPORTATION

###### Federal Highway Administration

[Docket No. 78-15T]

###### IN THE MATTER OF THE TOLLS, ON BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

###### Order of the Administrator

Following complaints received by the Administrator concerning the February 1, 1978, toll increase on bridges owned by the Delaware River Port Authority (DRPA), the Administrator, by Order dated April 20, 1978, established

an Investigation Team pursuant to the Federal Highway Administration's Bridge Toll Procedural Rules (49 CFR 310). The Team submitted its final report on November 15, 1978, and recommended that no formal administrative hearing be held and concluded that the tolls imposed by DRPA on February 1, 1978, are reasonable and just.

The complainants are the Automobile Club of Southern New Jersey (Auto Club), Mr. Henry Ward, Mr. Harry Wilson, Mr. John T. Chesluk, and Mr. David Creskoff.

The matter is now before the Administrator to determine whether, from the record compiled by the Investigation Team, a formal hearing is required or, if not, whether the tolls imposed by the DRPA are reasonable and just.

The bridges in question are the Benjamin Franklin, Walt Whitman, Betsy Ross, and Commodore Perry, crossing the Delaware River between New Jersey and Philadelphia. The DRPA is an agency created by the Interstate Compact entered into by the States of New Jersey and Pennsylvania. It owns and operates the four bridges, a rail mass transit facility (PATCO), and a World Trade Division for the promotion of trade of the Philadelphia Port. The old and new toll schedules are set forth in Attachment 1 to this opinion. As can be seen, the tolls in five categories of vehicles were raised: (1) Passenger automobiles and trucks less than 7,000 pounds, raised from 55 cents to 60 cents; (2) automobiles and trucks over 7,000 pounds, from 85 to 90 cents; (3) motorcycles, from 35 cents to 40 cents; (4) trucks, 2 or more axles over 7,000 pounds per axle, from 75 cents to 85 cents; and (5) commuter decals, good for 30 days reduced from \$12 to \$6 with the individual crossing rate raised from 5 cents to 25 cents.

The Team, in conducting its investigation, compiled a voluminous record, consisting of interrogatories and answers thereto and prepared a draft Investigation Report which was submitted to all parties on September 5, 1978. An opportunity was given to the parties to comment on the draft Investigation Report and an informal conference was held with the parties on September 13, 1978, to review the comments on the draft Investigation Report.

Further, in the submission of the final report by the Investigation Team on November 15, 1978, the parties were allowed 20 days to submit alternative recommendations and an additional 10 days for responding to any submitted recommendations.

###### NECESSITY FOR FULL HEARING

First, we consider the question of necessity for a full hearing. The test in

determining whether a hearing is necessary is whether there are any material factual issues in dispute. The Team's Report amply covers this question and the Administrator accepts the recommendation that no hearing be held. In a sense, from the record compiled, the Team has conducted an administrative hearing.

One of the complainants, the Auto Club, submitted a statement on December 14, 1978, requesting a formal hearing at which it stated that its case will be proven in detail. DRPA, by its attorney, suggests that the submission of the Auto Club be disregarded for the reason that it was not a timely submission and that the statements therein are merely "a rephrasing of past, frequently-made statements, which were given consideration by the Investigation Team."

The Auto Club's submission of December 15 does not, in the Administrator's opinion, present any new factual issues that have not been raised and considered during the investigation process. In fact, the submission appears to be a call for the Administrator to require in some way that DRPA secure operating subsidies for PATCO, the rapid transit line owned by DRPA, from sources other than bridge tolls. DRPA presented adequate evidence of its efforts to obtain capital and operating subsidy funds from both State and Federal Governments. (See answer to Interrogatory 27, with Exhibits "A" through "QQ.") This evidence has not been refuted by the Auto Club's submission of December 14, 1978. Therefore, the Administrator hereby determines that this issue has been adequately presented thereon.

###### THE TEST TO BE APPLIED TO REASONABLE AND JUST TOLLS

The second determination to be made by the Administrator is whether the toll schedule imposed by DRPA on February 1, 1978, is a reasonable and just toll. On this question, the Administrator concludes that the tolls are reasonable and just, and this determination is made based upon the findings of the Investigation Team in the November 15, 1978, report and the record compiled thereon. The Administrator hereby adopts the report as his own, except those parts dealing with the test to be applied in finding a reasonable and just toll and particularly the rate of return found to be fair for DRPA. The Administrator's conclusion on these matters follows.

The tolls on the bridges owned by DRPA are regulated under section 503 of the General Bridge Act of 1946, 33 U.S.C. 526. That section states that the tolls shall be reasonable and just and gives the Secretary of Transportation (delegated to the FHWA, 49 CFR

1.48(i)), the authority to prescribe reasonable rates, 66 Stat. 746, 747.

The Investigation Team used the recent toll procedure involving the Port Authority of New York and New Jersey (FHWA Docket No. 76-9) in evaluating the toll increase of DRPA. The Administrator's decisions (August 9, 1977, and November 7, 1977) in that case identified three major factors to be considered in toll rate determinations: the financial need of the bridge owner, fairness to bridge user, and the public interest. The Administrator's Order in the case was upheld by the U.S. District Court (*Automobile Club of New York v. Cox*, 444 F. Supp. 174 (S.D. N.Y. 1978)) and subsequent to the Investigation Team report of November 15, 1978, in this DRPA case, upheld by Court of Appeals, 2d Cir., No. 78-6054 on January 12, 1979.

The Administrator on several occasions previously has considered the toll schedules of DRPA, the latest by an Order of May 19, 1975. This Order found the toll schedule of DRPA to be unreasonable and instituted reduced tolls. The Order was litigated in court and finally upheld. *DRPA v. Tiemann*, 403 F. Supp. 1117 (D.N.J. 1975), *vacated and remanded*, 531 F. 2d 699 (3d Cir. 1976), *on remand*, 421 F. Supp. 142 (D.N.J. 1976). The Administrator's Order was limited in effect to 2 years, which expired December 1, 1977. Hence, on February 1, 1978, the DRPA again increased the tolls which are the subject of the current proceeding.

The Administrator's Order of May 19, 1975, declared that a reasonable and just toll schedule should generate a return sufficient to support DRPA's total activities, including the operation of the bridges, the PATCO rapid transit system, the World Trade Division, and provide sufficient coverage for financings. It was this criteria that was upheld by the court. The court also accepted the Administrator's judgment that "within the definition of reasonable and just, the criteria of national interest and public policy must, at this time, also be inserted. The national interest and public policy in this case being the conservation of fuel."

The Investigation Team says, now, that it is appropriate to use the criteria developed in the New York case since it represents the latest thinking of the Administrator and "provides a further refinement of the principles set out in the last DRPA case." This pronouncement by the Team is a matter of judgment on its part which the Administrator must examine somewhat more closely. Indeed, one aspect of the criteria used in the New York case—financial need of the bridge owner—is determined by establishing a rate base and a fair rate of return thereon. This method was uti-

lized in another bridge toll case, *City of Burlington v. Turner*, 136 F. Supp. 594, (S.D. Iowa 1972) modified and affirmed, 471 F. 2d 120 (8 Cir. 1973) which said that "Congress intended the term [reasonable and just] to have a certain flexibility so that it might, in the discretion of the Administrator, be tailored to varying, multi-factorial circumstances." *Id.* at 604. The Court of Appeals modified the District Court's decision and remanded the matter to the Administrator with a direction that his definition of "reasonable and just" must include a reasonable return on invested capital.

On the other hand, the Administrator must take note of the fact, that the District Court of New Jersey, in the first DRPA opinion, *DRPA v. Tiemann*, 403 F. Supp. 1117 (1975), at p. 1124, after discussing the term "reasonable and just," cites several cases defining the term as applied to regulated private utilities, declares that those principles were fashioned for private, profit-oriented utilities so as to set rates which allow them to attract capital and compensate investors. The court further said that the DRPA is not such a utility, but rather it is a public agency. "Therefore, the DRPA has no right to profit from public use of its facilities." To support this conclusion, the court quotes at length from the legislative history when Congress gave its consent to the compact creating DRPA which expresses concern that the Authority not be allowed to retain excess revenue which would have the effect of watering its capital.

Hence, it would appear that the Investigation Team, in using the fair rate of return procedure employed in the New York case, runs counter to the court's approach as set forth above, and the Administrator feels constrained to reject such method. That is not to say that the method is not useful, but it cannot be permitted to become such a dominant factor as perceived here.

The fallacy of using the fair rate of return method in this case can be seen in looking at the facts of the case. The Team, for example, declares that a 6.5 rate of return on investments "would allow DRPA to compete in the capital market by encouraging investor confidence." Team Report, p. 8. Two things must be said about this statement:

(1) Accepting a 6.5 rate of return in this case as fair has the effect, for all practicable purposes of foreclosing any future successful complaints of toll increases. The Team indicates that under this toll schedule, DRPA will realize a rate of return ranging from 2.1 to 2.5 for the years 1979-1982 (after deduction of World Trade expenses). Attachment 5 to the Team's Report. Theoretically then, DRPA could raise



its tolls substantially to achieve the 6.5 rate of return. Such a return on its unamortized investment for the year 1980 would yield DRPA an additional \$19 million (\$448,658,000 x 6.5 = \$29,162,000 vs. \$10,355,000 net revenue under the current toll schedule). (Attachment 5, Team's Report.) There is nothing in the Team's report, record or DRPA assertions to support a need for this much additional revenue. Perhaps the Team was guided to a large extent by the Administrator's opinion in the New York case which accepted as fair a 6.5 rate of return. But in that case, the record advocated a rate ranging from 5.03 percent to a high of 10 percent, and that actual and projected rates of return ranged from 4.0 percent in 1976 to 2.6 percent in 1981.

(2) The record does not show that DRPA is planning to issue any bonds in the near future which would compel it to enter the competitive financing world. The DRPA states, in response to the Team's Interrogatory No. 3, that it is estimated that the balance in the Construction Fund (proceeds from bonds) will be sufficient to pay for its construction projects and no additional bonds should be needed. This obviates the necessity to attract investment capital. Funds for capital improvements, etc., come from the General Fund after payment of operating expenses and debt service.

The Administrator, in accepting the 6.5 rate as fair in the New York case, cautioned that since it was possible for the New York and New Jersey Port Authority to increase its tolls beyond the present limits without exceeding a 6.5 percent rate of return, the need for a toll to produce revenues sufficient to maintain this rate of return is not paramount in the ultimate determination of whether a toll is reasonable and just. The Administrator said, "Thus any further toll increase would have to be assessed in the light of the other factors mentioned in this decision." Op. August 9, 1977, pp. 18 and 19. The Team, in recommending the 6.5 percent in the instant case, did not insert such caveat, but merely concludes that the 6.5 percent rate would allow DRPA to compete in the capital market.

The Investigation Team's choice of the 6.5 percent rate of return was based solely on Attachment 4 to the Team Report. This attachment is a statement by an FHWA economist setting forth a brief economic analysis of the fair rate of return on total assets involved in transportation for DRPA. Without questioning the accuracy of method and conclusions contained therein, the document can only be accepted as showing a method of determining DRPA's fair rate of return. In view of the fact that the report does not reconcile the reason for accepting

a 6.5 rate of return when the toll schedule yields less than 2.5, the Administrator can give little credence to Attachment No. 4, mainly because it appears unneeded. This report would have been just as valid by concluding that the 2.4 rate of return is not excessive.

The Administrator therefore makes no determination as to what is a fair rate of return, but merely concludes that the rate set out in Attachment 6 to the Team's Report (2.1-2.5 after deduction of World Trade expenses) appears to be reasonable in view of this record, and reiterates that a fair rate of return on investment is only one facet in the determination of the financial needs of the bridge owner. In DRPA's case, the financial needs can be met by a toll schedule which will generate revenues sufficient to achieve a return which will support its total activities, including the operation of the bridges, the PATCO rapid transit system and the World Trade Division, and provide sufficient coverage for financings. "The Authority's ability to maintain its operations and meet its bond commitments are essential aspects of the concept of reasonable and just tolls. Equally important are the relevant public interests, including public policy favoring the conservation of fuel and the aforesaid interest of the tollpaying public in reasonable and just tolls." *DRPA v. Tiemann*, 403 F. Supp. 1117 at 1125 (1975). The toll schedule of February 1, 1978, meets this test.

#### NEED FOR TOLL INCREASE

The Team's Report is not clear in establishing the need for the toll increase which will yield an estimated additional \$3 to \$4 million per year in toll revenues. Attachment 6 to the Report refers to DRPA allegations of "losses" amounting to \$1 million in 1976 and \$2 million in 1977, and projections to \$7.2 million in 1978. These deficits have the effect of reducing the Authority's equity balances (reserves) and Figure 4 of Attachment 6 indicates that without the toll increase the equity balance would be \$4.0 million in 1979 and minus \$4.3 million in 1980. It is further said that as a matter of policy, DRPA's Board of Commissioners believes that the reserves should not be allowed to drop below \$10 million, which is considered a minimum safe level to provide for major contingencies, and, in particular, for major repairs and modernization of Authority-owned facilities. Examples of major repairs are the total replacement of all suspended cables on the Ben Franklin Bridge, which must be done over the next 3 years as a cost of \$6.8 million, and replacement of deteriorated finger-dam joints on the same bridge at an estimated cost of

\$350,000. Because of the age of the two older bridges, unforeseeable major repairs and replacement of this type are anticipated to occur in the future. An example of the modernization costs which will be incurred is the Authority's share of the costs of ramps to connect the Walt Whitman Bridge to the new North-South Freeway (I-76) in New Jersey, estimated at \$4 million payable over the period of 1979, 1980, and 1981.

These assertions appear to be accepted unqualifiedly by the Team and undisputed by the complainants, except in one respect. The Auto Club contends that the reserves should be exhausted before tolls are raised which might, in the Club's opinion, have the effect of forcing DRPA to try harder for State and Federal subsidies for the PATCO deficits. With this position, the Administrator cannot agree. To require the DRPA to exhaust its reserves to take care of apparent reasonable long-range capital maintenance expenses on the rare chance of forcing the State or Federal Governments to come forward with additional funds to subsidize the PATCO deficits is a gamble that the Administrator cannot ask DRPA to take. The maintenance of a healthy reserve for a financial operation of this size appears to be a necessity to take care of unforeseen contingencies. The Administrator, at this time, finds reasonable the DRPA's policy of maintaining a reserve sufficient to take care of such large capital expenditures.

#### CONCLUSION

For the reasons stated herein and the Investigation Team's Report, the Administrator finds that there are no material factual issues outstanding which would necessitate a full administrative hearing, and further that the toll schedule adopted by DRPA on February 1, 1978, is reasonable and just. Therefore, the complaints filed by the Auto Club, Mr. Henry Ward, Mr. Harry Wilson, Mr. John T. Chesluk, and Mr. David Creskoff are hereby dismissed.

In accordance with the Toll Bridge Procedural Rules, 49 CFR 310.16, it is the intention of the Administrator to limit the effect of his final Order to a period of 3 years, measured from February 1, 1978, the date the new toll rates went into effect.

Within 20 days after the date of this Order, any party may petition the Administrator for reconsideration of this Order, and after due consideration of such petitions, the Administrator will take appropriate action.

Issued this 20th day of March, 1979.

KARL S. BOWERS,  
Federal Highway Administrator.

#### ATTACHMENT 1 TO THE ADMINISTRATOR'S ORDER

##### DELAWARE RIVER PORT AUTHORITY

Toll schedule for Benjamin Franklin Bridge, Betsy Ross Bridge, Walt Whitman Bridge, Commodore Barry Bridge

| Type passage   | Previous Feb. 1, 1978, rate | rate   |
|--|-----------------------------|--------|
| Passenger Automobiles and Trucks to and including 7,000 lbs gross wt.  | \$ .55                      | \$ .60 |
| Passenger Automobiles and Trucks to and including 7,000 lbs gross wt.:<br>With one axle trailer  | .85                         | .90    |
| Each additional trailer axle   | .30                         | .30    |
| Motorcycle   | .35                         | .40    |
| Buses:<br>2 axle   | .80                         | .80    |
| 3 axle   | 1.20                        | 1.20   |
| Trucks—2 or more axles, 7,001 lbs or more gross wt., per axle  | .75                         | .85    |
| Commutation Rate for Passenger Automobiles and 2-Axle Trucks up to and including 7,000 lbs gross wt.:<br>Decal valid for 30 days after date of purchase  | 12.00                       | 6.00   |
| Plus cash per crossing   | .05                         | .25    |
| Carpool Commutation rate for Registered Passenger Automobiles only, occupied by three (3) or more persons (including driver)—accepted at all times—transferrable book of 40 tickets valid until the end of the calendar month following the month in which purchased | 4.00                        | 4.00   |
| Special Permits (Non-Commercial Motor Vehicles 60,001 lbs gross wt. and upward, Commercial Vehicles operating under official permit):<br>Permit Fee  | 10.00                       | 10.00  |
| First 40,000 lbs   | 1.50                        | 1.50   |
| Ea. add'l 2,000 lbs or fraction thereof  | .25                         | .25    |
| Bus and Truck Scrip (25 crossings)   | .80                         | .80    |
|  | 1.20                        | 1.20   |
|  | 1.50                        | 1.70   |
|  | 2.25                        | 2.55   |
|  | 3.00                        | 3.40   |
|  | 3.75                        | 4.25   |

#### DEFINITION AND RESTRICTIONS

Commutation Decal valid ONLY in EXACT-CHANGE automatic toll lanes and not valid in manned lanes. Motorist using a manned toll lane with a valid Decal will be charged \$.60. Decal is non-transferrable.

Carpool Commutation Ticket accepted in manned lane only and not valid in automatic lanes. A \$.60 toll will be levied if there are less than three persons in a car. Tickets detached from book will not be honored for passage. Unused tickets will not be redeemable or refundable.

Bus and Truck Scrip shall be good and valid until used. Toll Scrip in excess of the required toll may be tendered in payment; however, no refund of the excess shall be made. Toll Scrip in denominations of less than the fare and the balance in cash may be tendered in payment of the fare. Toll Scrip may not be used to purchase other reduced rate fares. Toll Scrip may be purchased by mail or in person at the Toll Accounting Offices located in the Administration Building for each of the Bridges.

Toll Scrip will not be accepted in payment of a Special Permit.  
Cash only will be accepted in payment for Commutation Decals and Carpool Commutation Tickets.  
(FR Doc. 79-9291 Filed 3-27-79; 8:45 am)

[4810-40-M]

#### DEPARTMENT OF THE TREASURY

Office of the Secretary

##### 9 PERCENT TREASURY BONDS OF 1994

MARCH 23, 1979.

(Dept. CIRCULAR Public Debt Series—No. 7-79)

#### 1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$1,500,000,000 of United States securities, designated 9% Treasury Bonds of 1994 (CUSIP No. 912810 CF 3). The securities will be sold at auction, with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks, as agents of foreign and international monetary authorities.

#### 2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 9% Treasury Bonds of 1994 (CUSIP No. 912810 CF 3) issued under Department of the Treasury Circular, Public Debt Series—No. 31-78, dated December 28, 1978, except that the interest will accrue from April 5, 1979, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from January 11, 1979, with this exception, the securities are as described in the following excerpt from the above circular:

"2.1. The securities will be dated January 11, 1979, and will bear interest from that date, payable on a semi-annual basis on August 15, 1979, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 1994, and will not be subject to call for redemption prior to maturity.

"2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the

On January 5, 1979, the Secretary of the Treasury announced that the interest rate on the bonds would be 9 percent per annum.

principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

"2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

"2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date."

#### 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, March 29, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, March 28, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 96.50 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from



commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3. 5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3. 6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

#### 4. RESERVATIONS

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

#### 5. PAYMENT AND DELIVERY

5. 1. Settlement for allotted securities must be made or completed on or before Thursday, April 5, 1979, at the Federal Reserve Bank or Branch or at

the Bureau of the Public Debt, whenever the tender was submitted, and must include accrued interest from January 11, 1979, to April 5, 1979, in the amount of \$20.74210 per \$1,000 of securities allotted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, April 3, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, April 2, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific

instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. GENERAL PROVISIONS

6. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

**SUPPLEMENTARY STATEMENT:** The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

PAUL H. TAYLOR,  
Fiscal Assistant Secretary.

[FR Doc. 79-9294 Filed 3-23-79; 3:06 pm]

[6035-01-M]

#### INTERSTATE COMMERCE COMMISSION

##### AGRICULTURAL COOPERATIVE NOTICE TO THE COMMISSION OF INTENT TO PERFORM INTERSTATE TRANSPORTATION FOR CERTAIN NONMEMBERS

MARCH 23, 1979.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform non-member, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Cross Country Farming Cooperative, Inc. Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Pine Island Turnpike, Pine Island, New York 10969. Principal Mailing Address (Street No., City, State, and Zip Code): c/o Arnold Ellerin, 41 Dolson Avenue, Middletown, New York 10940. Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Kalter & Gottlieb, Esq., Church Street, Woodbourne, New York 12788. Person To

Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address).

(2) North State Farm Lines, Inc. Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Post Office Box 690, Hawthorne, Florida 32640. Principal Mailing Address (Street No., City, State and Zip Code): Route 3 Box 28, Hawthorne, Florida 32640. Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Robert J. Spence, P.O. Box 690, Hawthorne, Florida 32640. Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address).

(3) Tierras Unidas, Inc. Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: P.O. Box 10790, Santa Ana, California 92711. Principal Mailing Address (Street No., City, State and Zip Code): 2201 E. 4th Street, Santa Ana, California 92705. Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Dale Wells, P.O. Box 10790, Santa Ana, California 92711. Person To Whom Inquiries and Correspondence Should Be Addressed.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9349 Filed 3-27-79; 8:45 am]

[7035-01-M]

[Notice No. 54]

#### ASSIGNMENT OF HEARINGS

MARCH 23, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish no-

tices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MCC 10143 O.N.C. Freight Systems, Inc., v Herbert D. Needel DBA Tucson Package Delivery, now assigned for hearing on April 3, 1979, at Tucson, Arizona and will be held in Room 4T, U.S. Federal Building, 301 West Congress.

No. MC 71593 (Sub-No. 10F), Forwarders Transport, Inc., now assigned for hearing on April 17, 1979, at New York, New York and will be held in room D-22206, Federal Building, 26 Federal Plaza.

No. MC 93649 (Sub-No. 22F), Gaines Motor Lines, Inc., now assigned for hearing on April 18, 1979, at New York, New York and will be held in Room D-22206, Federal Building, 26 Federal Plaza.

No. MC 107295 (Sub-No. 873F), Pre-Fab Transit Company, now assigned for hearing on April 23, 1979, at Boston, Massachusetts and will be held on Fifth Floor, 150 Causeway.

No. MC 142887 (Sub-No. 1), New England Bulk Terminal, Inc., now assigned for hearing on April 24, 1979, at Boston, Massachusetts, and will be held on the Fifth Floor, 150 Causeway.

No. MC 68909 (Sub-no. 8F), Mullen Bros., of North Adams, Mass., Downing Inc., now assigned for hearing on April 25, 1979, at Boston, Massachusetts and will be held on the Fifth Floor, 150 Causeway.

No. MC 114569 (Sub-No. 236F), Shaffer Trucking, Inc., now assigned for hearing on April 24, 1979, (2 days), at Tampa, FL in a hearing room to be later designated.

No. MC-C-10300 Fogarty Van Lines, Inc.—Investigation And Revocation of Certificates, now assigned for hearing on April 26, 1979, (2 days), at Tampa, FL, in a hearing room to be later designated.

No. MC 11746 (Sub-No. 58F), Newman and Pemberton Corporation, now assigned for continued hearing on April 10, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9350 Filed 3-27-79; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) U.S.C. 552b(e)(3).

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### [6714-01-M]

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

##### NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on March 22, 1979, the Corporation's Board of Directors met by telephone conference call to consider certain matters which it determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac, and concurred in by Director John G. Heimann, (Comptroller of the Currency), required its consideration on less than seven days' notice to the public.

The following matters were considered in open session:

Memorandum proposing that the Corporation process national bank call reports and trust asset surveys.

Memorandum proposing the negotiation of a contract for the performance of a study as to the feasibility of the Corporation's providing computer support to the Office of the Comptroller of the Currency.

The Board then considered certain personnel actions in closed session, pursuant to subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)), after determining, on motion of Director John G. Heimann (Comptroller of the Currency), seconded by Chairman Irvine H. Sprague, and concurred in by Director William M. Isaac (Appointive), that the public interest did not require consideration of the matters in a meeting open to public observation.

The Board further determined that no earlier notice of the meeting was practicable.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Acting Executive

Secretary of the Corporation, at 202-389-4425.

Dated: March 23, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,  
HOYLE L. ROBINSON,  
Acting Executive Secretary.

[S-599-79 Filed 3-26-79; 10:45 am]

### [7545-01-M]

#### NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 11:30 a.m., Wednesday, April 4, 1979.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Promotion of staff attorneys in view of the "demise" of Whitten rider.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington D.C. 20570, Telephone, 202-254-9430.

Dated, Washington, D.C., March 26, 1979.

By direction of the Board:

NATIONAL LABOR RELATIONS BOARD,  
GEORGE A. LEET,  
Associate Executive Secretary.

[S-600-79 Filed 2-26-79; 11:15 am]

### [7710-12-M]

#### POSTAL SERVICE.

##### BOARD OF GOVERNORS

##### Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 A.M. on Tuesday, April 3, 1979, at the Sectional Center, 21st South and Redwood Road, Rooms 210-215, Salt Lake City, Utah. The meeting is open to the public. The Board expects to discuss

the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

## AGENDA

- Minutes of the Previous Meeting.
- Remarks of the Postmaster General.  
(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
- Report of the Regional Postmaster General.  
(Mr. Morris, Regional Postmaster General, will report on postal conditions in the Western Region.)
- Recommended Decision of the Postal Rate Commission on the Domestic Mail Classification Schedule.  
(The Governors will consider the Recommended Decision of November 29, 1978, concerning the Proper Scope and Extent of the Mail Classification Schedule (Commission Docket No. MC76-5).)
- Recommended Decision of the Postal Rate Commission re surcharge for nonstandard mail. (The Governors will consider the Recommended Decision of February 26, 1979, proposing that a seven-cent surcharge be adopted for nonstandard first-class mail and single piece third-class Mail (Docket No. R78-1).)
- Effective date for minimum size standards.  
(Section 002.1 of the Domestic Mail Classification Schedule currently states that the minimum size standards therein prescribed will become effective not earlier than November 30, 1978. The Board will consider fixing the effective date for these standards, pursuant to 39 U.S.C. 3625(f).)
- Modification to the Bylaws of the Board to reflect the advent of the Postal Career Executive Service.  
(Section 3.4 of the Bylaws of the Board of Governors (39 CFR parts 1-6) provides that a number of matters are reserved for decision by the Board. One of these is the compensation of officers and executives "in PES grade 34 and above". (The "PES" salary schedule has been changed to the "EAS" schedule.) Since adoption of the Postal Career Executive Service will generally result in the elimination of grades for senior officers and executives in the Postal Service, it is proposed that the Bylaws be modified so as to reserve for Board decision the salaries of officers of the Postal Service. "Officers" will be defined as including Assistant Postmasters General and above, as well as a small number of ancillary positions.)

## SUNSHINE ACT MEETINGS

### [8240-01-M]

#### UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., April 4, 1979.

PLACE: 955 L'Enfant Plaza North, S.W., Board Room, Room 2-500, Fifth Floor, Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.)

- Consideration of internal personnel matters.
- Review of Conrail proprietary and financial information for monitoring and investment purposes.
- Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.
- Litigation report.

Portions open to the public (1:30 p.m.)

- Approval of minutes of the March 1, 1979 Board of Directors meeting.
- Report on Conrail monitoring.
- Consideration of Financing Agreement.
- Appoint Conrail Board Members.
- Election of Executive Committee.
- Consideration of Conrail Quarterly Investment Commitment.
- Consideration of Conrail April draw-down request.
- Consideration of 211(h) request.
- Contract Actions (extensions and approvals).

[S-601-79 Filed 3-26-78; 3:03 p.m.]

8. Temporary classification change proposal for Express Mail Metro Service.

(Under the Postal Reorganization Act (39 U.S.C. 3641(e)), if the Postal Rate Commission does not transmit a recommended decision on a change in the Mail Classification Schedule to the Governors of the Postal Service within ninety days after the Postal Service has submitted to the Commission a request for such a recommended decision, the Postal Service, upon ten days notice in the Federal Register, may place into effect temporary changes in the Mail Classification Schedule in accordance with proposed changes under consideration by the Commission. The Postal Service requested a recommended decision on December 7, 1978, to change the Domestic Mail Classification Schedule to include a new Express Mail Metro Service. It does not appear that the Postal Rate Commission will transmit its recommended decision on this matter within ninety days after December 7. The Board will consider the question of whether the Postal Service should place the proposal into effect on a temporary basis.)

9. Report on Finance Group Programs.  
(Mr. Finch, Senior Assistant Postmaster General, Finance Group, will brief the Board on current developments in the Finance Group.)

10. Capital Investment Projects:

a. Proposed purchased of post office building, Honolulu, Hawaii.

(The Board will consider a proposal to purchase the currently leased post office building at 335 Merchant Street in Honolulu, Hawaii, and a nearby parking lot. The building is currently owned by the United States and maintained by the General Services Administration.)

b. Proposed new General Mail Facility at Norfolk, Virginia.

(The Board will consider investment in a proposed new general mail facility and vehicle maintenance facility in Norfolk, Virginia.)

LOUIS A. COX,  
Secretary.

[S-598-79 Filed 3-26-79; 10:27am]



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# Register Federal

WEDNESDAY, MARCH 28, 1979

PART II



## DEPARTMENT OF COMMERCE

National Oceanic and  
Atmospheric  
Administration

### COASTAL ZONE MANAGEMENT PROGRAM

Development and Approval  
Provisions



[3510-08-M]

## Title 15—Commerce and Foreign Trade

## CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

## PART 923—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT AND APPROVAL REGULATIONS

## Final Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: These final regulations revise and incorporate several sets of existing regulations dealing with development and approval of State coastal management programs. These regulations reflect the most current and accurate interpretation of the program approval requirements of the Office of Coastal Zone Management (OCZM), NOAA.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Carol Sondheimer, Chief, Policy and Program Evaluation, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, 202-634-4245.

SUPPLEMENTARY INFORMATION: NOAA is issuing these final regulations pursuant to sections 305, 306 and 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), hereafter referred to as the "Act".

These final regulations revised and supersede the Interim-Final Program Development and Approval Regulations (15 CFR Part 923) published in the FEDERAL REGISTER on March 1, 1978. (43 FR 8378.)

When NOAA issued the Interim-Final Regulations (FR, Vol. 43, No. 41, pages 8378-8432), a 60-day comment period ending April 30, 1978 was provided. During the comment period, NOAA received a number of requests to consider additional comments related to five major issues: (1) changes to approved State coastal management programs, (2) adequate consideration of the national interest, (3) uses of regional benefit, and (4) incorporation of State and local air and water quality control standards pursuant to the Clean Water and Clean Air Acts, and (5) amendments to approved State programs. In order to consider additional comments and to resolve some

of the complexities related to these issues, NOAA issued a notice in the FEDERAL REGISTER on July 6, 1978 (Vol. 43, No. 130, pages 29106-29109) extending the comment period on the Interim-Final Regulations to August 31, 1978.

During the period from March 1 to August 31, 1978, OCZM received comments from 11 States (Alaska, Illinois, Massachusetts, Michigan, New Hampshire, New York, Oregon, Texas, Washington and Wisconsin), 9 Federal agencies (Department of the Army—Corps of Engineers, Department of Commerce—National Marine Fisheries Service, Department of Energy, Environmental Protection Agency, Federal Energy Regulatory Commission, Department of Housing and Urban Development, Department of the Interior, Nuclear Regulatory Commission, and Department of Transportation), 4 public interest groups (Environmental Defense Fund, Natural Resources Defense Council, Rhode Island League of Cities and Towns, Sierra Club), 3 groups representing energy industries (American Petroleum Institute, Edison Electric Institute, and Florida Power and Light Company), and 5 from unclassified groups or individuals (Coastal Environmental Resources Institute, Louis Galtanis, Brad Green, Rose, Schmidt, Dixon, Whyte and Hardesty, and Wald, Harkrader and Ross). In addition, during the comment period, OCZM met with representatives of the following: Department of the Interior, the Environmental Protection Agency, the Natural Resources Defense Council, the American Petroleum Institute, the Edison Electric Institute, and the Florida Power and Light Company.

All comments were given full consideration. Some recommendations were adopted in their entirety or in modified form. Others were rejected as being inappropriate or legally impermissible. NOAA would like to take this opportunity to express its gratitude to each government agency, organization or individual that submitted comments.

Comments on the Interim-Final Regulations tended to reiterate issues raised in connection with the August 29, 1977 Proposed Program Approval Regulations (42 FR 43552). Comments tended to fall into two broad categories: the first relating to basic philosophical differences on the part of reviewers with NOAA's interpretation of the statute and Congressional intent. In this category fall issues related to the adequacy of environmental protection provided by the regulations, what constitutes adequate consideration of the national interest, the relationship between facilities in which there is a national interest and uses of regional benefit.

The second major category of comments addresses technical issues, such as the addition or deletion of Federal agencies and other items from lists and tables. NOAA has accommodated these reviewers to the extent the recommended changes are legally permissible and add to the sense and clarity of the regulations.

In addition, NOAA has revised section 923.62—Environmental Assessment to reflect changes made in the Council of Environmental Quality's Final Regulations (FR, Vol. 45, No. 230, November 29, 1978) on the content of environmental impact statements.

## DISCUSSION OF MAJOR ISSUES AND NOAA RESPONSE

## FORMAT OF THE REGULATIONS

A number of reviewers suggested that the format in the Interim-Final Regulations was confusing. These commentators noted that "comments" frequently were separated from relevant "requirements" by several unrelated sections and that, occasionally, requirements were found in "comments." Several reviewers suggested that some "comments" contained language that did not clarify or complement the "requirements," and that some "comments" contained contradictory or confusing language.

In keeping with the intent of Executive Order 12044 (issued March 23, 1978) to keep government regulations clear and brief and in response to the recommendations of commentators, NOAA has made a number of changes in the format of these final regulations. Comments related to a particular requirement have been placed under the requirement and are clearly distinguished from the requirement by type size. General comments that relate to several requirements have been clearly labeled as such and placed after the entire set of requirements. NOAA has endeavored to make the regulations clearer and more understandable by simplifying the length and type of commentary. A number of comments have been rewritten, consolidated or deleted. Where appropriate, some of the requirements also have been rewritten or consolidated. Despite these changes in format, relatively few substantive changes have been made in the requirements for program development and approval. Where substantive changes have been made, they are noted in this preamble.

## ADEQUACY OF ENVIRONMENTAL PROTECTION

Several reviewers, especially environmental groups, questioned the degree to which the regulations provide sufficient assurance that resource protection will be the major focus of state

coastal management programs. A number of these reviewers objected to the emphasis on resource management rather than on resource protection. These commentators were concerned that unless the regulations were strengthened, inadequate programs would qualify for Federal approval.

In order to emphasize resource protection, one reviewer suggested that the regulations contain a clear statement that state programs would be evaluated in light of the primary conservation thrust of the Act, and recommended reinstating language that had appeared in earlier program approval regulations.

Some commentators requested that the determination of uses subject to the management program be based on an analysis of capability and suitability of coastal resources for development, and on analysis of the impacts various uses may have on these resources.

Other reviewers objected to the manner in which NOAA incorporated the Executive Orders on Wetlands (E.O. 11990) and Floodplains (E.O. 11988) into the Interim-Final Regulations. These reviewers suggested that OCZM specify the substantive standards that would be used to evaluate the adequacy of state coastal programs in this regard.

NOAA Response: While the Act emphasizes resource protection, it does not exclude resource use and development where appropriate. The States are given the responsibility in the Act to choose the appropriate mix between preservation and development based on requirements for consultation with a wide variety of governmental bodies, interest groups and the public. A major part of OCZM's review involves an assessment of the appropriateness of the mix. Nonetheless, resource protection can be given greater emphasis in the regulations, while still recognizing appropriate resource use and development.

Accordingly, section 923.3(b), containing the overall policy requirements on which OCZM relies most heavily to assure adequate resource protection in state programs, has been rewritten to require that states . . .

"take steps to assure the appropriate protection of those significant resources and areas, such as wetlands, beaches and dunes, and barrier islands, that make the state's coastal zone a unique, vulnerable or valuable area."

In response to the suggestion that capability and suitability analyses be required, NOAA does not find any statutory language or legislative history that would make such analyses mandatory nor does NOAA believe these are or need be the sole means for determining use permissibility.

NOAA has revised the final regulations to be more explicit about the types of policies state programs must contain in order to be responsive to the Executive Orders on Wetlands and Floodplains. In addition, NOAA has added more detailed guidance to assist states in their response to this requirement. (See § 923.3(b)(2)(ii) and Comment.)

## ADEQUATE CONSIDERATION OF THE NATIONAL INTEREST

Comments were received addressing two major issues regarding the interpretation of section 306(c)(8) of the Act, and related § 923.52 of these regulations, having to do with (1) how the "national interest" is defined, and (2) what constitutes "adequate consideration" of this interest. Comments of a similar or identical nature have been received and responded to in previous publication of these regulations. (See Preamble to Interim-Final Regulations issued March 1, 1978, pages 8379-8380 and 8391-8393. See also Notice of Extension of Comment Period issued July 6, 1978, pages 29107-29109.) A related concern of reviewers—the relationship of section 306(c)(8) of the Act ("national interest") to section 306(e)(2) ("uses of regional benefit")—is discussed in connection with comments on "Uses of Regional Benefit."

To review the major issues:

(1) The determination of what constitutes a facility in which there is a national interest and how that interest is defined has been difficult because the statute and legislative history provide little, if any, guidance on this matter and because numerous parties involved with or affected by this program have differed greatly as to the proper interpretation.

Some reviewers have maintained that there is a single national interest for any particular type of facility and that that interest is defined in national legislation relating to that type of facility. Thus, for example, the national interest in interstate highways would be defined in the National Highways Act.

Others have suggested that the national interest in a particular type of facility should be defined by those Federal agencies most closely associated with the facility. Under this approach, as an example, the Department of Energy and the Department of the Interior would define the national interest in energy production and transmission facilities, based on their legislatively defined missions.

Still others have suggested that there is no single national interest associated with a particular type of facility; rather there are a number of associated, sometimes conflicting, national interests. As an example, the national interest associated with pro-

viding interstate transportation facilities would include the need for efficient and economical transportation modes and the need to provide this transportation in a manner that recognizes the national interest in preserving wetlands, protecting rare and endangered species, avoiding development of floodplains, etc.

Some have maintained that it is the responsibility solely of Federal agencies to determine what constitutes the national interest in any particular type of facility; others have suggested that this determination should be left to the States; and still others have suggested that the national interest should be distilled from a variety of sources including local governments, interest groups and the general public as well as Federal and state agencies.

NOAA Response: The final regulations (section 923.52(c)) require that, at a minimum, States solicit views on what constitutes the national interest in particular types of facilities from Federal agencies most directly associated with the need for those facilities. However, the final regulations acknowledge (as did the Interim-Final Regulations) that there can be several sources which may specify the national interest in a particular facility. These sources may include Federal laws and legislation, policy statements from the President, statements from Federal agencies, and plans, reports or studies from Federal, State or interstate groups. The predominant emphasis is on the Federal perspective and input. In practice, States have tended to rely on statements of mission from Federal agencies (when these have been made available to the States). The other issue related to the definition of facilities is the extent to which resource types (such as wetlands, endangered flora and fauna, historic and cultural resources, etc.) should be considered "facilities," and the national interest in those resources considered as part of the requirements of section 306(c)(8) of the Act. This issue has more to do with what constitutes "adequate consideration" of the national interest than with the definition of facilities and is addressed below in greater detail in the discussion of what constitutes "adequate consideration" of the national interest. It should be noted here; however, that the final regulations do not define resources as "facilities" for which the national interest must be considered.

(2) Once the relevant national interest has been identified, the issue remains what constitutes adequate consideration thereof on the part of a State.

Some have suggested that accommodation of Federal agency views of the national interest should constitute



adequate consideration. Others have suggested that accommodation of the facility itself is required to constitute adequate consideration. Other commentators have suggested that adequate consideration requires a balancing of the national interest in the need for a particular type of facility with other national concerns related to resource protection. Still others have suggested that a procedure to consider the national interest must be set forth specifically in State legislation in order to be judged adequate.

NOAA Response: The final regulations (see § 923.52(c)) stipulate that in order for a State's consideration of the national interest in a particular type of facility to be deemed adequate, a State must:

(1) Describe the national interest in the planning for and siting of facilities considered during program development, and the sources relied upon for the statement of national interest;

(2) Indicate how and where the consideration of this national interest is reflected in the substance of the management program; and

(3) Describe a process for continued consideration of the national interest in particular facilities during program implementation, including a clear and detailed description of the administrative procedures and decision points where this interest will be considered.

These requirements do not stipulate that a State accommodate the national interest in a particular facility to the extent of assuring that such facilities will be sited in a state's coastal zone. They do assure, however, that there is a procedure during both program development and program implementation to assess the national interest in such facilities as well as their locational requirements. The regulations do not treat resources as facilities subject to the special consideration afforded facilities by section 306(c)(8) of the Act. They do, however, recognize that natural resource considerations of a national nature can and should enter into the assessment of the demand for and locational needs of particular types of facilities (see § 923.52(c)(4)). The regulations do not require the procedure for considering the national interest to be set forth specifically in State legislation. They do, however, require a legally enforceable basis (either in State legislation or agency rules and regulations) for establishing and implementing the procedure for national interest consideration that will be used once the management program is approved.

Reviewers should note the addition of a new comment to § 923.52(c)(4) which indicates OCZM's availability during program implementation to assist states in soliciting relevant Federal agency views regarding the na-

tional interest in a particular facility when it is proposed to be built in a State's coastal zone.

#### USES OF REGIONAL BENEFIT

NOAA has continued to receive comments regarding two basic issues related to section 306(e)(2) of the Act, and related sections § 923.13 and § 923.43 of the Interim-Final Regulations, dealing with uses of regional benefit. These two issues have to do with (1) whether facilities in which there is a national interest are included as uses of regional benefit (URBs) and (2) whether States must have the ability to override local regulations in order to satisfy the requirement of section 306(e)(2) that local regulations "do not unreasonably restrict or exclude land and water uses of regional benefit." These issues have been raised and responded to previously. (See same pages of the FEDERAL REGISTER cited in connection with comments on "Adequate Consideration of the National Interest.")

(1) A number of reviewers continue to maintain that facilities referred to in section 306(c)(8) of the Act should be defined by regulation to be uses of regional benefit and the requirements of sections 306(c)(8) and (e)(2) should be read in conjunction.

Others have expressed the view that these two sections of the Act should not be read in conjunction because they are derived from different concerns and were meant to address different issues. Accordingly, they were intended as separate and distinct requirements. Under this interpretation, consideration of the national interest is seen as a mechanism to assure States consider national (or multi-state) impacts and benefits of major facilities. The URB requirement of section 306(e)(2) of the Act is viewed as being similar to the concept of "development of regional benefit" contained in Federal land use legislation under consideration at approximately the same time the Coastal Zone Management Act was being considered in 1972. In the Federal land use legislation, the area of benefit is defined in terms of multilocality, intrastate areas, and not in terms of national considerations. The "development of regional benefit" concept is derived from the American Law Institute (ALI) Model Land Development Code.

NOAA Response: These Final Regulations (see section § 923.12(b)(1)) contain requirements similar to those in the Interim-Final Regulations. The interpretation of URB in the regulations is similar to that contained in the ALI code. There is no statutory language or legislative history to indicate that sections 306(c)(8) and (e)(2) of the Act were meant to be read in conjunction nor that "national interest" facilities were meant to be URBs. Accordingly,

these regulations leave it to States to define URBs, using multicounty effect and direct and significant impact on coastal waters as suggested criteria. The option is left to States, however, to define "national interest" facilities as URBs since there is nothing in the Act or legislative history to preclude such option.

Beyond the relationship of sections 306(c)(8) and (e)(2) of the Act, reviewers have questioned whether the Interim-Final regulations contained adequate criteria for defining URBs. Section 923.13(d) of the Interim-Final Regulation suggested two criteria that could be used to identify URBs: (1) effect on more than one unit of local government (consistent with the ALI Code) and (2) direct and significant impact on coastal waters (consistent with the focus in the Act on coastal waters). In the July 6, 1978 Extension Notice, NOAA indicated it was considering adding two other criteria to identify URBs: (1) public ownership (which would be consistent with the ALI commentary on the Model Land Development Code) and (2) coastal dependency (which would be consistent with the focus in the Act on the interrelationship of land and water).

Several reviewers objected to the addition of these criteria. Some suggested that public ownership was not necessarily synonymous with public benefit; others that the concept of public ownership was too restrictive and that rather, the criterion should be based on whether a use was subject to regulation by a public agency. Some suggested that coastal dependency was too ambiguous; others objected that it was without statutory benefit. One reviewer suggested that URBs be defined as uses which provide income, services or improvements in environmental quality to residents of more than one unit of local government.

NOAA Response: In light of these comments, NOAA has reconsidered and rejected the addition of public ownership and coastal dependency as criteria for identifying uses of regional benefit. NOAA also has rejected regulation by a public agency as a criterion as being too broad. Nor does NOAA feel that defining URBs as uses providing income, services or improvements in environmental quality adds any more clarity or specificity to the guidance contained in the Interim-Final Regulations (now part of the *Comment* contained in § 923.12(b)(1)).

(2) Some reviewers have maintained that States must have the ability to override local regulations in order to be able to meet the requirement of section 306(e)(2) of the Act that local regulations not unreasonably exclude or restrict uses of regional benefit.

NOAA Response: Nothing in the statute or the legislative history indi-

cates that a State override was intended as the sole means for assuring unreasonable local restrictions or exclusions not occur. The Interim-Final Regulations noted at least 4 other techniques that would satisfy this requirement. (See § 923.43(c) of the Interim-Final Regulations.) None of the comments received on these other techniques has dissuaded NOAA that they represent satisfactory responses to the requirements of section 306(e)(2). Accordingly, the requirements of § 923.43 of the Interim-Final Regulations have not been changed (now § 923.12(b)(2) of these regulations).

Readers should note that §§ 923.13 and 923.43 of the Interim-Final Regulations have been consolidated. All requirements pertaining to URBs may be found in § 923.12 of these regulations.

#### INCORPORATION OF MORE STRINGENT STANDARDS PURSUANT TO THE CLEAN WATER ACT (CWA) AND CLEAN AIR ACT (CAA)

A number of commentators continued to express concern that air and water quality requirements adopted by a State or locality pursuant to the CWA and CAA may be extremely broad and thereby may lead to preclusion of facilities in which there may be a national interest. These concerns have been raised and responded to previously. (See Preamble to Interim-Final Regulations issued March 1, 1978, (43 FR 8378). See also Notice of Extension of Comment Period issued July 6, 1978 (43 FR 29106).)

NOAA Response: To date, NOAA has not been provided with any examples where incorporation into a State's coastal management program of more stringent State or local air or water pollution control standards (adopted pursuant to the CAA or CWA) has led to the preclusion of any facilities in which there may be a national interest.

Moreover, section 307(f) of the Act clearly states that "any requirements established by the CWA or CAA or by any State or local government pursuant to such Acts" (emphasis added) shall be the air and water pollution control requirements applicable to a State's coastal management program. Accordingly, § 923.45 of these regulations continues to reflect this provision of the Act.

#### AMENDMENTS TO APPROVED STATE COASTAL MANAGEMENT PROGRAMS

On December 29, 1978, NOAA issued a proposed rule (FR, Vol. 43, No. 251, pages 60949-60954) revising Subpart I of the Interim-Final Regulations. Subpart I defines changes to approved State management programs, procedures for incorporating these changes

into a states program, and establishes conditions and procedures by which administrative funding may be terminated for programmatic reasons. The proposed rule was issued to provide additional opportunity for public comments on changes NOAA proposed in response to earlier comments on this particularly controversial subpart of the regulations.

By the close of the comment period on January 29, 1979, NOAA has received comments from 16 states (Alaska, California, Connecticut, Georgia, Louisiana, Maine, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, and Washington), 1 local government (Anchorage, Alaska), 4 Federal agencies (Department of the Army (Corps of Engineers), Department of Energy, Department of the Interior, and Department of the Navy), 6 groups representing energy interests (American Petroleum Institute; Exxon; Mobil, Rose, Schmidt, Dixon, Hasley Whyte and Hardesty; Southern California Gas Company; and Tenneco), and 3 groups representing environmental interests (Friends of the Earth, Natural Resources Defense Council, and Natural Resources Law Institute).

Comments related primarily to the following: (1) the definition of amendments (§ 923.80(c) of the proposed regulations); (2) whether initial state approval of local coastal programs should be treated as amendments (§ 923.80(d) of the proposed regulations); (3) whether changes to approved local programs should be treated as amendments (§ 923.80(d) of the proposed regulations), and (4) whether notice of and opportunity to comment on routine state program implementation should be provided (§ 923.84 of the proposed regulations). A discussion of the comments and NOAA's response follows:

(1) *Definition of Amendments.* A number of comments were received that the definition of amendments (§ 923.80(c)) was too narrow.

(a) A number of reviewers were concerned that the language of § 923.80(c) indicated only changes in policies or authorities related to boundaries, uses subject to management, criteria or procedures for designating areas of particular concern (APCs) or Areas for Preservation or Restoration (APRs), and consideration of the national interest would constitute amendments but that actual boundary changes or deletions of APCs would not constitute amendments.

Relatedly, two reviewers were concerned that if the intent was to cover actual changes, potentially minor boundary alterations would be subject to an unnecessary and burdensome amendment process.

NOAA Response: NOAA did not intend proposed § 923.80(c) to be construed narrowly. The purpose of the amendment provision is to insure that all major program changes are subject to public review before their adoption as part of a State's approved management program. NOAA agrees that the language of proposed § 923.80(c) is ambiguous as to whether actual changes to the above are covered.

Accordingly § 923.80(c) has been rewritten to clarify that amendments are *substantial changes in, or substantial changes to enforceable policies or authorities* related to:

(1) Boundaries;  
(2) Uses subject to the management program; (3) Criteria or procedures for designating or *managing* areas of particular concern or areas for preservation or restoration; and

(4) Consideration of the national interest involved in the planning for, and in the siting of, facilities which are necessary to meet requirements which are other than local in nature.

The term "substantial changes in," has been added to assure that major, substantive changes to a management program will be accorded the benefit of a full review. Under this definition, for example, the deletion of a APC, originally included as part of a State's approved management program, would represent a substantial change in the criteria or procedures for managing that APC. Similarly, designation of a new special management area, with new management controls applied as a result of designation, that had not been identified as part of the approved program, would represent an amendment. However, where a State's management program includes procedures for APC designation and what management will occur as a result of designation and these are approved by the Assistant Administrator as part of the State's program, such designations will constitute routine program implementation.

(b) One reviewer maintained that the energy facility planning process (required pursuant to section 305(b)(8) of the Act) should be acknowledged as amendments to approved programs.

NOAA Response: NOAA concurs that the energy facility planning process (§ 923.13) as well as shorefront access and protection planning (§ 923.24), and shoreline erosion/mitigation planning (§ 923.25) (required pursuant to sections 305(b)(7) and (9)), respectfully constitute amendments, because section 306(g) of the Act mandates that they be treated as such. NOAA has not included the planning elements as amendments in the Final Regulations because they already are being processed as amendments under procedures contained in the Interim-Final regulations and



therefore will not come up as amendments under the Final Regulations. Any future changes states may make to these planning processes will be treated as amendments if these changes result in any of the substantial changes defined in § 923.80(c). These procedures will apply to program changes initiated after the effective date of these regulations.

(c) Several reviewers suggested that changes in uses of regional benefit (URBs), federal consistency procedures, and APC/APR designations be included in § 923.80(c) as criteria for triggering the amendment process. Other reviewers suggested the addition of items such as changes in the rate of accomplishing program goals and objectives.

NOAA Response: The addition of a special category for uses of regional benefit (URBs) is unnecessary as these represent uses subject to the management program and already are covered by § 923.80(c)(2). As further clarification that URBs are included as uses subject to management, NOAA has added a new paragraph (D) to § 923.82(a)(1)(ii) to indicate that amendments pertaining to uses subject to management will be reviewed to determine that any amendments related thereto continue to identify URBs and method(s) for assuring local regulations do not unreasonably restrict or exclude such uses.

NOAA has not added changes in Federal consistency procedures as program amendments because any substantive changes that would affect consistency determinations already are covered by the items listed in § 923.80(c). In addition, procedures for making consistency determinations are covered by other NOAA regulations (15 CFR Part 930).

The concern about APCs/APRs has been addressed by changing the language in § 923.80(c) to address "substantial changes in" and by adding the word "managing" to § 923.80(c)(3).

NOAA feels a number of items suggested as amendments by reviewers, such as changes in rate of accomplishing program goals and objectives or organizational changes, are addressed more appropriately as part of the continuing review and evaluation of approved State programs, required by section 312 of the Act. Issues related to continuing program review and evaluation will be addressed by NOAA in separate regulations. These will be issued as a proposed rule in the FEDERAL REGISTER in order to assure full opportunity for public review and comment.

(2) *Initial Approval of Local Land Use Programs.* Of the sixteen States that commented on the proposed regulations, fifteen took major exception with proposed § 923.80(d) which would

have required local coastal programs developed pursuant to section 306(e)(1)(A) of the Act to be incorporated into a State's management program as amendments.

A number of State reviewers pointed out that, as part of the requirements for approval for a State employing control technique A, the program must contain specific policies, standards and criteria—including those covering local programs—that meet the requirements of § 923.3. Accordingly when the Assistant Administrator approves a State program, he/she is indicating that the program—including policies, standards and criteria governing local program development—are sufficiently complete and specific to indicate that the range of what these local programs will cover is acceptable. In addition § 923.42(c)(4) of the regulations require that States using control technique A include, as part of their approved program procedures, a number of different opportunities for the public and government agencies to be involved in the development of local programs and their approval at the State level. In light of these existing requirements, State reviewers felt treating initial approval of mandated local programs would be duplicative, extremely expensive, time delaying, an extraordinary administrative burden (given the number of local coastal programs that would be subject to the amendment procedure) and counterproductive to implementation of sound and efficient coastal management practices. Most State reviewers recommended that adoption of local coastal programs be treated as routine program implementation.

On the other hand, reviewers representing Federal agencies, the energy industry, and environmental interests supported the treatment of initial local program adoption as amendments.

NOAA Response: NOAA concurs with the analysis of State commentators that there is nothing in the Act that indicates State approval of local programs should be held to different standards than other major program changes, especially in light of the fact that States using control technique A must meet the requirements of § 923.42(c). NOAA also is concerned about the tremendous and unnecessary administrative burden proposed § 923.80(d) could place on State and local governments. NOAA does not agree, however, that local program approval always would constitute routine program implementation.

Incorporation of State approved local management programs should be held to the same standards as any other major program changes (defined in § 923.80(c)). Accordingly, when incorporation of a State approved local

program will result in any of the changes defined in § 923.80(c), these will be treated as amendments to State's approved management program. Thus, for example, the process for local program development in Alaska may result in substantial changes in the approved State coastal zone management boundary or in uses of State concern. Where this occurs, such changes will constitute amendments and be processed as such. Where adoption of local programs does not result in the changes described in § 923.80(c), this will constitute routine program implementation, subject to the notice requirements contained in § 923.84(b)(2) and (4).

Accordingly, proposed § 923.80(d)—which dealt with local program incorporation as a separate item—has been deleted since incorporation of local programs now is subject to the requirements of § 923.80(c).

(3) *Subsequent Changes to Local Programs.* A number of commentators objected to the provision in proposed § 923.80(d) which would have exempted subsequent changes to local management programs from the amendment process. These reviewers suggested that changes in local programs potentially could result in major changes into a State's approved program.

NOAA Response: NOAA concurs with these reviewers. Subsequent changes to local programs that result in any of the changes contained in § 923.80(c) will be treated as amendments. Accordingly, § 923.80(d) of the proposed regulations has been deleted.

(4) *Routine Program Implementation.* The majority of reviewers supported the concept of routine program implementation. Some expressed concern regarding the opportunity for comment, particularly as it relates to federal review.

NOAA Response: NOAA appreciates this concern and has added a new § 923.84(b)(2) which requires States to provide notice to the general public and affected parties, including local governments, State agencies and regional offices of Federal agencies, of the proposed routine program implementation action at the same time OCZM is notified. In addition, routine program implementation is subject to serious disagreement on the part of Federal agencies and the mediation provisions of § 923.54. It also should be noted that § 923.82(c)(2)(ii) has been altered to emphasize that all comments will be considered by the Assistant Administrator in making a decision on whether to approve an amendment.

Having considered the comments received and other relevant information, there are adopted below final regulations regarding the development and

approval of State coastal management programs.

Dated: March 16, 1979.

R. L. CARNAHAN,  
Acting Assistant Administrator  
for Administration.

15 CFR is amended by revising Part 923 to read as follows:

#### Subpart A—General

- Sec.
- 923.1 Purpose.
- 923.2 Definitions.
- 923.3 General requirements.

#### Subpart B—Uses Subject to Management

- 923.10 General.
- 923.11 Uses subject to management.
- 923.12 Uses of regional benefit.
- 923.13 Energy facility planning process.

#### Subpart C—Special Management Areas

- 923.20 General.
- 923.21 Areas of particular concern.
- 923.22 Areas for preservation or restoration.
- 923.23 Other areas of particular concern.
- 923.24 Shorefront access and protection planning.
- 923.25 Shoreline erosion/mitigation planning.

#### Subpart D—Boundaries

- 923.30 General.
- 923.31 Inland boundaries.
- 923.32 Seaward boundaries.
- 923.33 Excluded lands.
- 923.34 Interstate boundaries.

#### Subpart E—Authorities and Organization

- 923.40 General.
- 923.41 Identification of authorities.
- 923.42 State establishment of criteria and standards for local implementation—Technique A.
- 923.43 Direct State land and water use planning and regulation—Technique B.
- 923.44 State review on a case-by-case basis of actions affecting land and water uses subject to the management program—Technique C.
- 923.45 Air and water pollution control requirements.
- 923.46 Organizational structure.
- 923.47 Designated State agency.
- 923.48 Documentation.

#### Subpart F—Coordination, Public Involvement and National Interest

- 923.50 General.
- 923.51 Federal-State consultation.
- 923.52 Consideration of the national interest in facilities.
- 923.53 Federal consistency procedures.
- 923.54 Mediation.
- 923.55 Full participation by State and local governments, interested parties, and the general public.
- 923.56 Plan coordination.
- 923.57 Continuing consultation.
- 923.58 Public hearings.

#### Subpart G—Miscellaneous

- 923.60 General.
- 923.61 Segmentation.
- 923.62 Environmental assessment.

## RULES AND REGULATIONS

#### Subpart H—Review/Approval Procedures

- 923.70 General.
- 923.71 Recommended format for program submission.
- 923.72 Review/approval procedures.
- 923.73 Miscellaneous.
- 923.74 Preliminary approval.
- 923.75 Requirements for preliminary approval.
- 923.76 Preliminary review/approval procedures.

#### Subpart I—Amendments to and Termination of Approved Management Programs

- 923.80 General.
- 923.81 Requests for amendments.
- 923.82 Amendment review/approval procedures.
- 923.83 Mediation of amendments.
- 923.84 Routine program implementation.
- 923.85 Termination and withdrawal of administrative funding.

#### Subpart J—Applications for Program Development or Implementation Grants

- 923.90 General.
- 923.91 State responsibility.
- 923.92 Allocation.
- 923.93 Geographic segments.
- 923.94 Eligible implementation costs.
- 923.95 Application for initial program development or implementation grants.
- 923.96 Applications for subsequent program development grants.
- 923.97 Applications for subsequent program implementation grants.
- 923.98 Applications for preliminary approval grants.
- 923.99 Approval of applications.
- 923.100 Grant amendments.

AUTHORITY: Secs. 305, 306, 307 and 312, Coastal Zone Management Act of 1972, as amended, Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013 (16 U.S.C. 1451 et seq.).

#### Subpart A—General

##### § 923.1 Purpose.

(a) The primary purpose of these regulations is to set forth the requirements for State coastal management program approval by the Assistant Administrator for Coastal Zone Management pursuant to the Coastal Zone Management Act of 1972, as amended (hereafter, the Act). Also, included in these regulations are the grant application procedures for program development and program implementation funds (pursuant to sections 305 and 306 of the Act, respectively); and conditions under which grants may be terminated.

(b) Sections 305, 306, and 307 of the Act set forth requirements which must be fulfilled as a condition of program approval. The specifics of these requirements are set forth below under the following headings: General Requirements; Uses Subject to Management; Special Management Areas; Boundaries; Authorities and Organization; Coordination, Public Involvement and National Interest; and, Miscellaneous. All relevant sections of the

Act are dealt with under one of these groupings, but not necessarily in the order in which they appear in the Act.

(c) In summary, the requirements for program approval are that a State develop a management program that:

(1) Identifies and evaluates those coastal resources recognized in the Act as requiring management or protection by the State;

(2) Reexamines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive, and enforceable;

(3) Determines specific use and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns;

(4) Identifies the inland and seaward areas subject to the management program;

(5) Provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and

(6) Includes sufficient legal authorities and organizational arrangements to implement the program and to ensure conformance to it. In arriving at these elements of the management program, States are obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, State, interstate, and Federal agencies.

(d) These regulations revise, consolidate, and supersede the following sets of existing regulations and guidance related to management program development and approval:

(1) Interim—Final Program Development and Approval Regulations published March 1, 1978 (15 CFR Part 923) published in the FEDERAL REGISTER on March 1, 1978, dealing with all sections 305 and 306 program development and approval requirements;

(2) Final Coastal Zone Management Program Development Regulations (15 CFR Part 920) published in the FEDERAL REGISTER on April 29, 1977, dealing with section 305 program development, preliminary approval and grant applications;

(3) Proposed Coastal Zone Management Program Approval Regulations Amendments (15 CFR Part 923) published in the FEDERAL REGISTER on December 30, 1976, dealing with subsections 306(c)(2)(B), 306(g), and 312 of the Act having to do with a continuing state-local consultation mechanism, changes to approved management programs, and termination and withdrawal of funding of approved management programs;

(4) Final Coastal Zone Management Program Approval Regulations amendment (15 CFR Part 923) published in the FEDERAL REGISTER on No-



ember 2, 1976, dealing with subsection 306(h) of the Act having to do with island segments;

(5) The "Threshold Papers," informal guidance papers issued by Office of Coastal Zone Management (OCZM) in December 1975, but never published in the FEDERAL REGISTER;

(6) Interim Coastal Zone Management Federal-State Consultation Regulations (15 CFR Part 925) published in the FEDERAL REGISTER on February 2, 1975, dealing with subsections 307 (b) and (h) of the Act which deal with federal consultation, review and approval procedures, and mediation during program development and preliminary approval; and

(7) Final Coastal Zone Management Program Approval Regulations (15 CFR Part 923) published in the FEDERAL REGISTER on January 9, 1975, dealing with section 306 program approval requirements.

(e) Each subpart of the regulations is organized as follows:

(1) An introductory section describing which subsections of the Act are addressed in the subpart;

(2) Relevant statutory citations;

(3) The requirements. Where comments are included among the requirements, they are clearly distinguished by label and type face from the requirements. Comments on individual requirements are included for the purpose of providing a clearer understanding of acceptable or recommended ways to meet the requirement; and

(4) General commentary applicable to all the requirements.

(f) While states must meet the requirements of these regulations, their presentation—either to the Assistant Administrator or to the public—need not be in the order or terminology used herein. (See § 923.71 for further discussion of the program submission format.)

#### § 923.2 Definitions.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "Secretary" means the Secretary of Commerce and his/her designee. With the exception of the mediation functions discussed in § 923.54, all functions of the Act have been vested in the Assistant Administrator for Coastal Zone Management based on duly executed delegations of authority from the Secretary to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) by Department of Commerce Organizational Order 25-5A, and from the Administrator to the Assistant Administrator for Coastal Zone Management by NOAA Circular 78-14.

(c) The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, Na-

tional Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d)(1) The term "relevant Federal agencies" means those Federal agencies with programs, activities, projects, regulatory, financing, or other assistance responsibilities in the following fields which could impact or affect a State's coastal zone:

- (i) Energy production or transmission,
- (ii) Recreation of a more than local nature,
- (iii) Transportation,
- (iv) Production of food and fiber,
- (v) Preservation of life and property,
- (vi) National defense,
- (vii) Historic, cultural, aesthetic, and conservation values,
- (viii) Mineral resources and extraction, and
- (ix) Pollution abatement and control.

(2) The following are defined as relevant Federal agencies:

Department of Agriculture;  
Department of Commerce;  
Department of Defense;  
Department of Energy;  
Department of Health, Education, and Welfare;  
Department of Housing and Urban Development;  
Department of the Interior;  
Department of Transportation;  
Environmental Protection Agency;  
Federal Energy Regulatory Commission;  
General Services Administration;  
Nuclear Regulatory Commission.

[Comment: Should governmental reorganization occur, relevant Federal agencies shall be those with programs, activities, projects or responsibilities in the fields cited above. States should include other Federal agencies as appropriate to their program development or implementation efforts.]

(e) The term "Federal agencies principally affected" shall mean the same as "relevant Federal agencies." The Assistant Administrator may expand upon the term for purposes of reviewing the management program and environmental impact statement.

(f) The term "Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. Pursuant to section 304(3) of the Act, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa. Pursuant to section 703 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the term also includes the Northern Marianas.

(g) The term "management program" includes, but is not limited to, a comprehensive statement in words,

maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone. The management program shall include an articulation of enforceable policies and citation of authorities providing this enforceability.

(h) The following terms, as used in these regulations, have the same definition as provided in section 304 of the Act:

- (1) Coastal zone,
- (2) Coastal waters,
- (3) Estuary,
- (4) Land use.

(i) The term "grant" means a financial assistance instrument and refers to both grants and cooperative agreements.

#### § 923.3 General requirements.

(a) Statutory Citations, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: (1) the State had developed and adopted a management program for its coastal zone . . . which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

#### Section 302:

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and aesthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional ar-

rangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(i) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet State and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

#### Section 303:

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations; (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and aesthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### (b) Requirements.

The approvability of any state program will be determined by the Assistant Administrator in accordance with the following general requirements:

(1) The management program must provide for the management of those land and water uses having a direct and significant impact on coastal waters and must take steps to assure the appropriate protection of those significant resources and areas, such as wetlands, beaches and dunes, and barrier islands, that make the state's coastal zone a unique, vulnerable, or valuable area;

(2) The management program must contain three broad classes of policies, consistent with the findings of section 302 of the Act, that are related to resource protection, management of coastal development, and simplification of governmental processes.

[Comment: The Act emphasizes that important ecological, cultural, historic, and aesthetic values such as living marine resources, wildlife habitats, public and open space, and nutrient rich areas are being lost or adversely affected by population growth and economic development in the coastal zone. The Act clearly envisions that such activities as population growth and economic development will continue to occur in the coastal zone but in a manner that recognizes the ecological and social values of important coastal resources and prevents or mitigates, to the extent possible, damage to or loss of these resources.]

(i) Within these three broad classes, states must include specific policies that provide the framework for the exercise of various management techniques and authorities governing coastal resources, uses, and areas.

[Comment: Resource protection policies should be directed toward the management and conservation of valuable or vulnerable coastal resources in a state's coastal zone such as wetlands, floodplains, estuaries, intertidal area, beaches and dunes, barrier islands, cliffs and bluffs, other areas subject to erosion or accretion, areas containing fishery spawning and harvesting grounds, other wildlife habitats including those of endangered species, and aesthetic, cultural and historic resources;

(Coastal development management policies should address such matters as shore-front access, ports and harbors, energy facilities, coastal dependency of large-scale industrial, commercial, residential and institutional developments, mineral extraction, on-shore OCS-related development; and

(Government process policies should address such matters as the roles and responsibilities of different levels of government, or clarification and simplification of regulatory and permitting procedures.)

(ii) As part of these three broad classes of policies, the management program must include policies that address uses of or impacts on wetlands and floodplains within the State's coastal zone. These particular policies shall minimize the destruction, loss or degradation of wetlands and preserve and enhance their natural values in accordance with the purposes of Presidential Executive Order 11990, pertaining to wetlands. These policies also shall reduce risks of flood loss, minimize the impact of floods on human safety, health and welfare, and preserve the natural, beneficial values served by floodplains, in accordance with the purposes of Presidential Executive Order 11988, pertaining to floodplains.

[Comment: In addressing the intent of these Executive Orders, states should develop and incorporate into their management programs policies and procedures for:

(A) determining the effect of a proposed development's location in a wetland or floodplain located within a State's coastal zone boundaries. Factors that should enter into this determination include considerations of public health, safety and welfare; maintenance of natural systems for diverse ecological and conservation purposes; and

other uses in the public interest including recreation, scientific and cultural uses;

(B) identifying and evaluating practicable alternatives to location of a proposed project, including alternative sites (including inland sites) or alternative actions (including no action), which could accomplish the purpose of the project but minimize harm to the floodplain or wetland; and

(C) mitigating the effect of locating a proposed project in a floodplain or wetland if there is no practicable alternative.]

(3) The policies in the program must be appropriate to the nature and degree of management needed for uses, areas, and resources identified as subject to the program.

[Comment: States may include, as part of their management program, enhancement policies which provide guidance or preferences regarding certain activities but which are not legally binding. Where unenforceable policies are included in a management program, states should be aware that:

(A) the Assistant Administrator shall judge the adequacy of a state's authorities to carry out its program only on the enforceable policies of a state's management program; and

(B) enhancement policies are binding for consistency purposes, pursuant to section 307 of the Act, only to the extent binding on the state and its agencies.]

(4) The policies, standards, objectives, criteria, and procedures by which program decisions will be made must provide (i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decisionmakers who must take actions pursuant to or consistent with the management program.

#### Subpart B—Uses Subject to Management

##### § 923.10 General.

This subpart deals with land and water uses which, because of their direct and significant impacts on coastal waters, are subject to the terms of the management program. Determination of these uses will assist in determining the appropriate coastal management boundary (see Subpart D). This subpart deals in full with the requirements of subsections 305(b)(2)—Uses Subject to Management, 305(b)(8)—Energy Facility Planning, and 306(e)(2)—Uses of Regional Benefit.

##### § 923.11 Uses Subject to Management.

(a) Statutory Citation, Subsection 305(b)(2):

The management program for each coastal state shall include . . . A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal water.

(b) Requirements.



(1) States must identify those land and water uses that will be subject to the terms of the management program. These uses shall be those with direct and significant impacts on coastal waters.

[Comment. In determining if uses and their management are sufficiently comprehensive, the Assistant Administrator will consider whether significant coastal-related issues raised by the public and/or governmental entities during the course of program development or related to the findings and national policies of Sections 302 and 303 of the Act have been addressed.]

(2) The management program must explain how those uses identified in paragraph (b)(1) of this section will be managed. The management program must contain those enforceable policies, legal authorities, performance standards or other techniques or procedures that will govern whether and how uses will be allowed, conditioned, modified, encouraged or prohibited.

[Comment. To the extent a State's management program policies are generalized, performance standards that will be used to enforce these policies will need to be sufficiently explicit and specific that persons affected by the management program will have a reasonable understanding of what uses would be permitted in which locations of the coastal zone and under what conditions. Further, while performance standards represent an acceptable procedure for managing uses, they do not substitute for the requirement of paragraph (1) to identify uses subject to the management program.]

#### (c) General Comments.

(1) In identifying uses and their appropriate management, States should analyze the quality, location, distribution and demand for the natural and man-made resources of their coastal zone.

(2) States also should consider potential individual and cumulative impacts of uses on coastal waters including, but not limited to the following uses:

(i) Residential and commercial developments such as subdivisions, highrise apartments or hotels, trailer parks and second-home developments, and shopping centers;

(ii) Industrial developments, such as tank farms and refineries, power plants, manufacturing complexes, industrial parks, onshore and offshore port facilities, mineral and sand extraction operations; liquefied natural gas (LNG) facilities, petrochemical plants, and Outer Continental Shelf (OCS) development;

(iii) Recreational facilities such as beaches, amusement parks, marinas and other boating facilities;

(iv) Public facilities and public works such as schools, hospitals, government buildings, dams and water treatment facilities; and

(v) Transportation facilities such as highways, railroads, airports, ports and harbors.

(3) States should utilize the following types of analyses:

(i) Capability and suitability of resources to support existing or projected uses;

(ii) Environmental impacts on coastal resources;

(iii) Compatibility of various uses with adjacent uses or resources;

(iv) Evaluation of inland and other location alternatives;

(v) Water dependency of various uses and other social and economic considerations.

(4) Since management of uses must take into account the full range of considerations called for in Sections 302, 303 and 307(f) of the Act, examination of the following representative factors is suggested:

(i) Air and water quality;

(ii) Historic, cultural and aesthetic resources where coastal development resources is likely to affect these resources;

(iii) Open space or recreational uses of the shoreline where increased access to the shorefront is a particularly important concern;

(iv) Floral and faunal communities where loss of living marine resources or threats to endangered or threatened coastal species are particularly important concerns.

#### § 923.12 Uses of regional benefit.

(a) Statutory Citation, Subsection 306(e)(2):

Prior to granting approval, the Secretary shall also find that the program provides . . . for a method of assuring that local and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

#### (b) Requirement.

In order to meet the requirements of subsection 306(e)(2) of the Act, States must:

(1) Identify what constitute uses of regional benefit.

[Comment. In determining these uses, States should consider use of the following criteria:

(i) Effect on more than one local unit of government, multicounty or intrastate effect;

(ii) Direct and significant impact on coastal waters. Using these criteria, such uses as electrical utilities, regional waste treatment plants, multi-county garbage disposal sites or landfills, State highways, or multi-county parks and beaches could be identified as uses of regional benefit.

States also have the option, under these criteria, of defining uses of which there may be a national interest in their planning and siting facilities as regional benefit. See § 923.52 which discusses consideration of facilities in which there may be a national interest. This could include ports, highways, energy production and transmission facilities,

ties, national seashores, parks and forests, and military bases.]

(2) Identify and utilize any one or a combination of methods, consistent with the control techniques employed by the State, to assure local land and water use regulations do not unreasonably restrict or exclude uses of regional benefit.

[Comment. These methods may include:

(i) Statewide siting laws that supersede local regulations when necessary;

(ii) State acquisition authorities for sites as the need arises for identified uses of regional benefit;

(iii) Provision of sites for identified uses of regional benefit in local maps or ordinances provided that the State has the ability to assure that if local maps or ordinances are changed, there still will remain a sufficient number of sites throughout the coastal zone to meet projected needs;

(iv) State criteria defining uses of regional benefit that are required to be considered and incorporated into local implementation programs;

(v) Definition of what constitutes unreasonable restrictions or exclusions and identification of standing and an administrative or judicial mechanism to assure that such unreasonable restrictions or exclusions do not occur.]

#### § 923.13 Energy facility planning process.

(a) Statutory Citation Subsection 305(b)(8):

The management program for each coastal state shall include . . . (8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process anticipating and managing the impacts from such facilities . . .

(b) Requirements. States must develop a planning process which is capable, at a minimum, of anticipating and managing the impacts from energy facilities in or affecting a State's coastal zone. This process must include the following elements:

(1) Identification of energy facilities which are likely to locate in, or which may significantly affect, a State's coastal zone;

[Comment. This may be accomplished by:

(i) Pre-identification of likely facilities and their probable or acceptable locations within or significantly affecting the coastal zone as part of the management program;

(ii) Provision of sufficient and specified lead time in a permitting or licensing process applying to energy facilities to assure proper consideration of the coastal management program;

(iii) A regular reporting requirement for responsible government agencies or non-governmental entities which identifies, within a reasonable future time frame, likely future facilities or sites within or significantly affecting the coastal zone; or

(iv) Any other procedure which identifies likely facilities and their potential impacts in a timely manner.]

(2) In determining energy facilities which may significantly affect the coastal zone, States must consider, at a

minimum, those facilities listed in subsection 304(5) of the Act.

[Comment. States have the option of expanding this list for planning and management purposes to include any related or secondary energy activities, which a State feels may significantly affect its coastal zone.]

(ii) At a minimum, "significantly affect" shall be defined in terms of substantial or potentially substantial changes in coastal zone resources which could be affected by a proposed energy facility. These include changes in land, air, water, mineral, flora, fauna, noise, and objects of historic, cultural, archeological or aesthetic significance.

[Comment. States have the option of using a more expansive definition of "significantly affect" which could include any or all of the concepts in the National Environmental Policy Act of 1969 (Pub. L. 91-190, as amended). These concepts include the following: (A) Effects which are noteworthy in an overall, cumulative way, considering the impacts of a given energy facility and related facilities, either existing or contemplated; (B) effects which may be positive, negative or both; (C) effects which may come about or increase in magnitude because of the particular location of an energy facility; and (D) effects which cover a broad range of environmental, social and economic impacts.]

(2) Procedures for assessing the suitability of sites for such facilities. This assessment procedure shall be designed to evaluate, to the extent practicable, the costs and benefits of proposed and alternative sites in terms of State and national interests as well as local concerns.

[Comment. Many of the requirements contained in paragraphs (1) and (2) can be met by completing the work called for in section 923.11.]

(3) Articulation and identification of enforceable State policies, authorities and techniques for managing energy facilities and their impacts;

(i) States must identify any conditions that may be attached to State energy facility, planning and siting procedures;

[Comment. The actual analysis of particular sites may be accomplished using planning funds authorized under subsection 308(3) of the Act.]

(ii) States must list relevant constitutional provisions, laws, regulations, judicial decisions and other appropriate official documents or actions that are specifically related to planning for, anticipating and managing energy facilities or impacts, including licensing or permitting procedures.

(4) Identification of how interested and affected public and private parties will be involved in the planning process.

(i) States must identify the organization and structure and procedure means by which energy facility plan-

ning and siting decisions are carried out in the State.

(ii) States must address the respective roles of relevant State agencies and their relationship to the lead agency and to the management program's requirements as well as the respective roles and opportunity for participation by Federal agencies, local governments, other interested and affected public and private parties.

(iii) States must integrate into this planning process the procedures by which the national interest in the planning for and siting of energy facilities, identified pursuant to § 923.52(c) can continue to be considered after program approval.

[Comment. See § 923.52(c) regarding requirements for considering the national interest.]

(c) General Comments. (1) States are encouraged to develop the elements required in paragraph (b) in consultation and cooperation with other State, local and Federal agencies. General consultation requirements for program development, of which this consultation should be considered a part, are discussed more fully in § 923.51. Depending on the approach taken to energy facilities management, this consultation and coordination should include, but need not be limited, to procedures for:

(i) assessing need/demand projections;

(ii) allocating these needs among coastal and inland locations;

(iii) identifying potential coastal impacts; and

(iv) determining site suitability of alternative locations for particular facilities.

(2) In developing this planning process, States should address several common problems having to do with weak policy and planning linkages and, relatedly, fragmented and overlapping jurisdictions.

(i) Often there is no comprehensive planning process. While one state agency may develop energy plans or policy regarding energy facilities, other state or local agencies may have the responsibility for issuing necessary siting and operating permits. Often these other agencies operate independently of and without regard to state energy or coastal management policies.

(ii) Relatedly, the responsibility for permitting of facilities is diffuse. Often several permits are required from several different agencies at different levels of government.

(iii) Additionally, there frequently are differing permitting processes for different types of energy facilities (e.g., oil and gas facilities as distinct from electric power plants). This may result in a lack of standardized proce-

dures as well as inconsistent application of coastal management policies.

(3) In order to address these problems and to assure the full integration of coastal management considerations with the energy facility planning process, States should consider the following:

(i) Establishment of the designated State coastal management agency as the lead agency in reviewing and making decisions related to siting and conditions of development for energy facilities located in or significantly affecting the coastal zone;

(ii) In states where siting authority is vested in an agency other than the coastal management agency, establishment of a formal means to assure the input and consideration of the coastal management agency's views as part of the decision-making process;

(iii) Establishment of a procedure whereby the management program policies are incorporated into locational or developmental decisions (e.g., licenses, permits, zoning approvals).

#### Subpart C—Special Management Areas

##### § 923.20 General.

(a) This subpart deals with areas that are of particular concern because of their coastal-related values or characteristics, or because they may face pressures which require detailed attention beyond the general planning and regulatory system which is part of the management program. As a result, these areas require special management attention within the terms of the State's overall coastal program. This special management may include regulatory or permit requirements applicable only to the area of particular concern. It also may include increased intergovernmental coordination, technical assistance, enhanced public expenditures, or additional public services and maintenance to a designated area. This subpart deals with the following subsections of the Act: 305(b)(3)—Geographic Areas of Particular Concern; 305(b)(5)—Guidelines on Priorities of Uses; 305(b)(7)—Shorefront Access and Protection Planning; 305(b)(9)—Areas for Preservation and Restoration.

(b) The importance of designating areas of particular concern for management purposes and the number and type of areas that should be designated is directly related to the degree of comprehensive controls applied throughout a State's coastal zone. Where a State's general coastal management policies and authorities address state and national concerns comprehensively and are specific with respect to particular resources and uses, relatively less emphasis need be placed on designation of areas of particular



concern. Where these policies are limited and non-specific, greater emphasis should be placed on areas of particular concern to assure effective management and an adequate degree of program specificity.

#### § 923.21 Areas of particular concern.

(a) Statutory Citations Subsection 305(b)(3):

The management program for each coastal state shall include . . .

(a) an inventory and designation of areas of particular concern within the coastal zone.

#### Subsection 305(b)(5):

The management program for each coastal state shall include . . .

(b) broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(b) *Requirements.* (1) Inventory and designate geographic areas that are of particular concern, on a generic (i.e., by type of area, such as all wetlands or port areas) or site-specific basis, or both;

(i) In developing criteria for inventorying and designating areas of particular concern, States shall consider whether the following represent areas of concern requiring special management:

(A) Areas of unique, scarce, fragile or vulnerable natural habitat; unique or fragile, physical, figuration (as, for example, Niagara Falls); historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National Register of Historic Places.);

(B) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and endangered species and the various trophic levels in the food web critical to their well-being;

(C) Areas of substantial recreational value and/or opportunity;

(D) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(E) Areas of unique hydrologic, geologic or topographic significance for industrial or commercial development or for dredge spoil disposal;

(F) Areas or urban concentration where shoreline utilization and water uses are highly competitive;

(G) Areas where, if development were permitted, it might be subject to significant hazard due to storms, slides, floods, erosion, settlement, and salt water intrusion;

(H) Areas needed to protect, maintain or replenish coastal lands or resources including coastal flood plains, aquifers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches, offshore sand deposits and mangrove stands.

(ii) Where states will involve local governments, other state agencies, federal agencies and/or the public in the process of designating areas of particular concern, States must provide guidelines to those who will be involved in the designation process. These guidelines shall contain the purposes, criteria, and procedures for nominating areas of particular concern.

(2) Identify areas by location (if site specific) or category of coastal resources (if generic) in sufficient detail that affected landowners, governmental entities and the public can determine with reasonable certainty if a given area is or is not designated.

[*Comment.* Maps that indicate the location of designated areas or types of areas are encouraged as part of a State's program submission.]

(3) Describe the nature of the concern and the basis on which designations are made in order to: (i) indicate why areas or types of areas have been selected for special management attention, and (ii) provide a basis for appropriate management policies and use guidelines.

(4) Describe how the management program addresses and resolves the concerns for which areas are designated; and

(5) Provide guidelines regarding priorities of uses in these areas, including guidelines on uses of lowest priority.

[*Comment.* These guidelines will serve:

(i) To provide a basis for special management in areas of particular concern;

(ii) To provide a common reference point for resolving conflicts; and

(iii) To articulate further the nature of the interests to be promoted, prohibited or managed as a result of designation. States may also establish priority use of guidelines that apply throughout the coastal zone and are encouraged to do so, especially as an aid to resolving use conflicts.]

#### § 923.22 Areas for preservation or restoration.

(a) Statutory Citation, Subsection 306(c)(9):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that . . . The management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or aesthetic values.

(b) *Requirements.* (1) The criteria by which designations will be made must be included in the management program. Designations may be made for the purposes of preserving or restoring areas for their conservation, recreational, ecological, or aesthetic values.

(2) The procedures by which designations will be made must be included in the management program.

#### § 923.23 Other areas of particular concern.

(a) States must meet the requirements of § 923.21(b) in order to receive program approval. Beyond this, States have the option of designating specific areas known to require additional or special management, but for which additional management techniques have not been developed or necessary authorities have not been established at the time of program approval. Where States exercise this option, they must meet the requirements of paragraph (b) of this section.

(b) *Requirements.* (1) The basis for designation of these additional special management areas must be clearly stated;

(2) A reasonable time frame and procedures must be established for developing and implementing appropriate management techniques. These procedures must provide for the development of those items required in § 923.21(b);

(3) An agency (or agencies) capable of formulating the necessary management policies and techniques must be identified.

(c) States must meet the requirements of § 923.22(b) for having procedures for designating areas for preservation or restoration. Beyond this, States have the option of including procedures for designating areas of particular concern for other than preservation or restoration purposes after program approval. Where States exercise this option, they must meet the requirements of paragraph (d) of this section.

(d) *Requirements.* (1) The criteria by which designations of additional areas of particular concern will be made must be included in the management program; and

(2) The procedures by which such designations will be made must be included in the management program.

#### § 923.24 Shorefront access and protection planning.

(a) Statutory Citation, Subsection 305(b)(7):

The management program for each coastal state shall include . . . (a) a definition of the term "beach" and a planning process for the protection to, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value.

(b) The basic purpose in focusing special planning attention on shorefront access and protection is to provide public beaches and other public coastal areas of environmental, recreational, historic, esthetic, ecological or cultural value with special management attention within the purview of the State's management program. This special management attention may be achieved by designating public

shorefront areas requiring additional access or protection as areas of particular concern pursuant to § 923.21 or areas for preservation or restoration pursuant to § 923.22.

(c) *Requirements.* (1) The management program must contain a procedure for assessing public beaches and other public areas, including State owned lands, tidelands and bottom lands, which require access or protection, and a description of appropriate types of access and protection.

[*Comment.* In meeting this requirement, States should:

(i) Make use of the analyses developed to meet the requirements of § 923.21 as well as information contained in State Outdoor Comprehensive Recreation Plans;

(ii) Consider the need and priority for the protection of islands if they are not already designated as areas of particular concern or areas for preservation or restoration pursuant to §§ 923.21 and 923.22. This analysis will be useful in establishing eligibility for such funds as may be available for islands acquisition pursuant to subsection 315(2) of the Act;

(iii) Analyze the supply of existing public facilities and areas, the anticipated demand for future use of these facilities, the capability and suitability of existing areas to support increased access, and governmental and public preferences and priorities;

(iv) Consider both provision of increased physical and visual access. Emphasis should be on the provision of increased physical access. Physical access could include, but need not be limited to, footpaths, bikepaths, boardwalks, jitneys, rickshaws, parking facilities, ferry services and other public transport. Visual access could involve, but need not be limited to, viewpoints, setback lines, building height restrictions, and light requirements;

(v) Give special attention to recreational needs of urban residents;

(vi) Define public coastal areas broadly to include, but not necessarily be limited to: public recreation areas, scenic natural areas, threatened or endangered floral or faunal habitat, wetlands, barrier islands, bluffs, historic, cultural or archaeological artifacts, and urban waterfronts; and

(vii) Consider, in determining protection needs, such factors as (A) environmental, esthetic or ecological preservation (including protection from over-use and mitigation of erosion or natural hazards), (B) protection for public use benefits (including recreational, historic or cultural uses), (C) preservation of islands, and (D) such other protection as may be necessary to insure the maintenance of environmental, recreational, historic, esthetic, ecological or cultural values of existing public shorefront attractions.]

(2) There must be a definition of the term "beach" that is the broadest definition allowable under state law or constitutional provisions, and an identification of public areas meeting that definition.

[*Comment.* The purpose of defining the term "beach" is to aid in the identification of those existing public beach areas requiring further access and/or protection as a part of the State's management program.

(i) the extent and location of erosion problems;

"beach" in terms of characteristic physical elements (e.g., submerged lands, tidelands, foreshore, dry sand area, line of vegetation, dunes) or in terms of public characteristics (e.g., local, State or Federal ownership, or other demonstrated public interest such as easements, leases, licenses, or traditional and habitual usage.)

(3) There must be an identification and description of enforceable policies, legal authorities, funding programs and other techniques that will be used to provide such shorefront access and protection that the State's planning process indicates is necessary.

#### § 923.25 Shoreline erosion/mitigation planning.

(a) Statutory Citation, Section 305(b)(9):

The management program for each coastal state shall include . . . A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

(b) The basic purpose in developing this planning process is to give special attention to erosion issues. This special management attention may be achieved by designating erosion areas as areas of particular concern pursuant to § 923.21 or as areas for preservation or restoration pursuant to § 923.22.

(c) *Requirements.* (1) The management program must include a method for assessing the effects of shoreline erosion and evaluating techniques for mitigating, controlling or restoring areas adversely affected by erosion.

[*Comment.* In developing assessment and evaluation techniques, states should consider:

(i) loss of land along the shoreline or estuarine banks;

(ii) whether the loss resulted from natural or man induced forces;

(iii) whether the erosion is regularly occurring, cyclical, or a one time event;

(iv) impacts of the erosion on adjacent shorelines, and land and water uses;

(v) probable impacts of mitigation on adjacent shorelines, land and water uses, littoral drift and other natural processes such as accretion; and

(vi) probable impacts of re-establishment of pre-erosion shoreline or rebuilding on wetlands and natural habitat, particularly as the re-establishment or rebuilding might relate to the Executive Orders on Wetlands and Floodplains (see § 923.3(b)(2)(ii)).]

(2) There must be an identification and description of enforceable policies, legal authorities, funding techniques and other techniques that will be used to manage the effects of erosion as the State's planning process indicates is necessary.

[*Comment.* In developing a process to manage the effects of erosion, States should consider:

(i) the extent and location of erosion problems;

(ii) the necessity for control versus non-control of erosion;

(iii) whether structural (e.g., groins) or nonstructural controls (e.g., land use setbacks) are appropriate;

(iv) costs of alternative solutions (including operation and maintenance costs); and

(v) the National Flood Insurance Program (24 CFR 1909 et seq.) and regulations of the Federal Insurance Administration on flood-related erosion-prone areas (24 CFR 910.5).]

[*Comment.* Due to restrictions on the use of section 306 funds (see § 923.94), not all means of restoration proposed by States may be eligible for funding under section 306 or other sections of the Act. Accordingly, particular attention should be given to coordination of shoreline erosion management objectives with funding programs pursuant to the U.S. Army Corps of Engineers Beach Erosion Control Program (33 U.S.C. 426 et seq.), the Hurricane Protection Program (33 U.S.C. 701 et seq.) and other programs as may be appropriate.]

#### Subpart D—Boundaries

##### § 923.30 General.

(a) This subpart deals in full with subsection 305(b)(1) of the Act—Boundaries of the Coastal Zone.

(b) There are four elements to a State's boundary: The inland boundary, the seaward boundary, areas excluded from the boundary, and, in most cases, interstate boundaries. Specific requirements with respect to procedures for determining and identifying these boundaries are discussed in the sections of this subpart that follow.

(c) Statutory Citations, Subsection 305(b)(1):

The management program for each coastal state shall include . . . (1) An identification of the boundaries of the coastal zone subject to the management program.

##### Subsection 304(1):

The term "coastal zone" means the coastal waters (including the lands therein and thereunder), and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

##### Subsection 304(2):

The term "coastal waters" means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, estuary-type areas such as bays, shallows and



marshes, and (B) in other areas, those waters adjacent to shorelines which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

#### § 923.31 Inland boundaries.

(a) *Requirements.* The inland boundary of a State's coastal management area must include:

(1) Those areas the management of which is necessary to control uses which have direct and significant impacts on coastal waters, pursuant to § 923.11 of these regulations;

(2) Those special management areas identified pursuant to § 923.21;

(3) Waters under saline influence—Waters containing a significant quantity of seawater, as defined by and uniformly applied by the State;

(4) Salt marshes and wetlands—Areas subject to regular inundation of tidal salt (or Great Lakes) waters which contain marsh flora typical of the region;

(5) Beaches—The area affected by wave action directly from the sea. Examples are sandy beaches and rocky areas usually to the vegetation line;

(6) Transitional and intertidal areas—Areas subject to coastal storm surge, and areas containing vegetation that is salt tolerant and survives because of conditions associated with proximity to coastal waters. Transitional and intertidal areas also include dunes and rocky shores to the point of upland vegetation;

[*Comment.* Because there are a number of different floodplains and methods of determining floodplains, no single definition is appropriate for all coastal states. Accordingly, it is left to the states to determine which concept of floodplain should be utilized for the purposes of this section, although use of the 100 year coastal floodplain is recommended.]

(7) Islands—Bodies of land surrounded by water on all sides. Islands must be included in their entirety, except when uses of interior portions of islands do not cause direct and significant impacts.

(8) The inland boundary must be presented in a manner that is clear and exact enough to permit determination of whether property or an activity is located within the management area. States must be able to advise interested parties whether they are subject to the terms of the management program within, at a maximum, 30 days of receipt of an inquiry. An inland coastal zone boundary defined in terms of political jurisdiction (e.g., county, township or municipal lines) cultural features (e.g., highways, railroads), planning areas (e.g., regional agency jurisdictions, census enumeration districts), or a uniform setback line is acceptable so long as it includes the areas identified.

[*Comment.* The program submission should contain maps, charts or other graphics appropriate to understanding the provisions and geographic scope of the management program.]

(b) Beyond those areas required by paragraph (a) of this section above States have the option of including the following within the coastal zone boundaries:

(1) Watersheds—A State may determine some uses within entire watersheds have direct and significant impact on coastal waters. In such cases it may be appropriate to define the coastal zone as including these watersheds.

(2) Areas of tidal influence that extend further inland than waters under saline influence; particularly in estuaries, deltas and rivers where uses inland could have direct and significant impacts on coastal waters.

(3) Indian lands not held in trust by the Federal Government.

[*Comment.* Because such lands often are interspersed with trust lands (which must be excluded from the management area), it may be difficult to develop a discrete management program for non-trust lands alone. Moreover, in some cases, because of longstanding jurisdictional disputes, it often may be difficult to determine which lands are trust lands and which are non-trust lands. Accordingly, States have the option of including or excluding non-trust lands from the management program. See § 923.33(b) regarding tribal participation in coastal management.]

(c) *General Comments.* Urban areas: In many urban areas or where the shoreline has been modified extensively, natural system relationships between land and water may be extremely difficult, if not, impossible, to define in terms of direct and significant impacts. Two activities that States should consider as causing direct and significant impacts on coastal waters in urban areas are sewage discharges and urban runoff. In addition, States should consider dependency of uses on water access, and visual relationships as factors appropriate for the determination of the inland boundary in highly urbanized areas.

#### § 923.32 Seaward boundaries.

(a) *Requirements.*

(1) For States adjoining the Great Lakes, the seaward boundary is the international boundary with Canada or the boundaries with adjacent States. For all other States participating in the program, the seaward boundary is the outer limit of the United States territorial sea.

(2) The requirement for defining the seaward boundary of a State's coastal zone can be met by a simple restatement of the limits defined in this section, unless there are water areas which require a more exact delineation

because of site specific policies associated with these areas.

[*Comment.* Examples of areas that could require more precise delineation include areas where a State specifically allows or, conversely, conditions construction of a monobuoy; designates marine sanctuaries, protected resource habitats or preserves; reserves corridors for pipelines; or reserves areas for siting of offshore islands or other structures.]

Where States have site specific policies for particular water areas, these shall be mapped, described or referenced so that their location can be determined reasonably easily by any party affected by the policies.

(b) *General Comments.* The seaward limits, as defined in this section, are for purposes of this program only and represent the area within which the State's management program may be authorized and financed. These limits are irrespective of any other claims States may have by virtue of the Submerged Lands Act or any changes that may occur as a result of the Fisheries Conservation and Management Act of 1976.

#### § 923.33 Excluded lands.

(a) *Requirement.* States must exclude from their coastal management zone those lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government, its officers or agents. To meet this requirement, States must describe, list or map lands or types of lands owned, leased, held in trust or otherwise used solely by Federal agencies.

(b) *Indian lands.* Tribal participation in coastal management efforts may be supported and encouraged through a State's program provided that:

(1) tribal lands are not held in trust by the Federal Government or otherwise excluded from the coastal zone; and

(2) such efforts are compatible with a State's coastal management policies and are in furtherance of the national policies of Section 303 of the Act.

[*Comment.* See § 923.92(b)(4) for further guidance on tribal participation in coastal management activities.]

(c) *General comments.* (1) The exclusion of Federal lands does not remove Federal agencies from the obligation of complying with the consistency provisions of section 307 of the Act when Federal actions on these excluded lands have spillover impacts that significantly affect coastal zone areas, uses or resources within the purview of a State's management program. Therefore, States should consider mapping the following types of excluded Federal lands:

(i) Large-scale holdings (of 100 or more acres), especially those on which

Federal activities may have spillover effects;

(ii) Lands near special management areas; and,

(iii) Lands that may be declared surplus or excess in the near future, especially those for which the State has reuse priorities or policies.

(2) In excluding Federal lands from a State's coastal zone for the purposes of this Act, a State does not impair any rights or authorities that it may have over Federal lands that exist separate from this program.

#### § 923.34 Interstate boundaries.

*Requirement.* States must document that there has been consultation and coordination with adjoining coastal States regarding delineation of adjacent inland and lateral seaward boundaries.

[*Comment.* While it is not required that boundaries of contiguous States be coterminous, the purpose of consultation and coordination should be to ensure compatible management of a common resource and to minimize the possibility of incompatible uses occurring at the juncture of States' boundaries.]

### Subpart E—Authorities and Organization

#### § 923.40 General.

(a) The authorities and organizational structure on which a State will rely to administer its management program are the crucial underpinnings for enforcing the policies which guide the management of the uses and areas identified according to the previous subparts. There is a direct relationship between the adequacy of authorities and the adequacy of the overall program. The authorities need to be broad enough in both geographic scope and subject matter to ensure implementation of the State's enforceable policies. These enforceable policies must be sufficiently comprehensive and specific to regulate land and water uses, control development, and resolve conflicts among competing uses in order to assure wise use of the coastal zone. (Issues relating to the adequate scope of the program are dealt with in § 923.3.)

(b) The entity or entities which will exercise the program's authorities is a matter of State determination. They may be the State agency designated pursuant to section 306(c)(5) of the Act, other State agencies, regional or interstate bodies, and local governments. The major approval criterion is a determination that such entity or entities are required to exercise their authorities in conformance with the policies of the management program. Accordingly, the essential requirement is that the State demonstrate that there is a means of ensuring such compliance. This demonstration will be in

the context of one or a combination of the three control techniques specified in section 306(e)(1) of the Act. The requirements related to section 306(e)(2) are described in §§ 923.42-923.44 of this Subchapter.

(c) In determining the adequacy of the authorities and organization of a State's program, the Assistant Administrator will review and evaluate authorities and organizational arrangements in light of the requirements of this subpart and the finding of section 302(g) of the Act, which provides:

In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present State and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(d) The authorities requirements of the Act dealt with in this subpart are those contained in subsections 305(b)(4)—Means of Control; 306(c)(7)—Authorities; 306(d)(1)—Control Development and Resolve Conflicts; 306(d)(2)—Powers of Acquisition; 306(e)(1)—Techniques of Control; and 307(f)—Air and Water Quality Control Requirements. The organizational requirements of the Act dealt with in this subpart are those contained in subsections 305(b)(6)—Organizational Structure; 306(c)(5)—Designated State Agency; and 306(c)(6)—Organization.

#### § 923.41 Identification of authorities.

(a) Statutory Citations, Subsection 305(b)(4):

The management program for each coastal state shall include . . . (4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

#### Subsection 306(c)(7):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that . . . (7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

#### Subsection 306(d):

Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone, in accordance with the management program. Such authority shall include power:

(1) To administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) To acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(b) *Requirements.* In order to meet the requirements of the preceding subsections of the Act, States must:

(1) Identify relevant constitutional provisions, statutes, regulations, case law and such other legal instruments (including executive orders and inter-agency agreements) that will be used to carry out the State's management program.

[*Comment.* When, in the opinion of the Assistant Administrator, there is serious question as to the enforceability of any of the authorities asserted to be part of the management program, the Assistant Administrator may request the designated State agency to seek an opinion from the State's Attorney General.]

(2) This identification will include the authorities pursuant to sections 306(d) and 306(e) of the Act which require a State have the ability to:

(i) Administer land and water use regulations in conformance with the policies of the management program;

(ii) Control such development as is necessary to ensure compliance with the management program; and

(iii) Resolve conflicts among competing uses;

[*Comment.* Examples of acceptable conflict resolution mechanisms include, but are not limited to, mediation procedures, administrative review, gubernatorial action, or judicial appeal provisions provided that any such mechanisms results in a decision which is binding upon the entities involved.]

(iv) Acquire appropriate interest in lands, waters or other property as necessary to achieve management objectives. Where acquisition will be a necessary technique for accomplishing particular program policies and objectives, the management program must indicate for what purpose acquisition will be used (i.e., what policies or objectives will be accomplished); the type of acquisition (e.g., fee simple, purchase of easements, condemnation); and what agency (or agencies) of government have the authority for the specified type of acquisition.

#### § 923.42 State establishment of criteria and standards for local implementation—Technique A.

(a) Statutory Citation, Subsection 306(e)(1)(A):

Prior to granting approval, the Secretary shall also find that the program provides:

(1) for anyone or a combination of the following general techniques for control of land and water uses within the coastal zone;

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance . . .



(b) Control technique 306(e)(1)(A) of the Act allows for State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance. There are 5 principal requirements associated with use of this control technique. They are that:

(1) The State have in place adequate standards and criteria to guide local program development;

(2) During the period while local programs are being developed, the State has sufficient authority to assure compliance with the management program's enforceable policies;

(3) The State can ensure that local coastal programs will be developed pursuant to its standards and criteria;

(4) The State review and approve local coastal programs to assure their conformance to State standards and criteria; and

(5) The State has the ability to assure local compliance with its program once approved.

More detailed and specific requirements for each of these general items are contained in paragraph (c) below.

(c) *Requirements.* (1) The State must have developed and have in effect at the time of program approval enforceable policies that meet the requirements of § 923.3. These policies must serve as the standards and criteria for local program development or the State must have separate standards and criteria, related to these enforceable policies, that will guide local program development.

(2) During the period while local programs are being developed, a State must have sufficient authority to assure that land and water use decisions subject to the management program will comply with the program's enforceable policies. The adequacy of these authorities will be judged on the same basis as specified for direct State controls or case-by-case reviews.

[*Comment.* For a discussion of direct State control requirements, see § 923.42. For a discussion of case-by-case review requirements, see § 923.43.]

(3) A State must be able to ensure that coastal programs will be developed pursuant to the State's standards and criteria, or failing this, that the management program can be implemented directly by the State. This requirement can be met if a State can exercise any one of the following techniques:

(i) Direct State enforcement of its standards and criteria in which case a State would need to meet the requirements of § 923.42 which address the direct State control technique;

(ii) Preparation of a local program by a State agency which the local government then would implement. To use this technique the State must

have (A) statutory authority to prepare and adopt a program for a local government, and (B) a mechanism by which the State can cause the local government to enforce the State-created program. Where the mechanism to assure local enforcement will be judicial relief, the program must include the authority under which judicial relief can be sought;

(iii) State preparation and enforcement of a program on behalf of a local government. Here the State must have the authority to (A) prepare and adopt a plan, regulations, and ordinances for the local government and (B) enforce such plans, regulations and ordinances;

[*Comment.* The distinction between this approach and the preceding one is that in this case the State both adopts and implements while in the preceding case, the State adopts but the local government implements.]

(iv) State review of local government actions on a case-by-case basis or on appeal, and prevention of actions inconsistent with the standards and criteria. Under this technique, when a local government fails to adopt an approvable program, the State must have the ability to review activities in the coastal zone subject to the management program and the power to prohibit, modify or condition those activities based on the policies, standards and criteria of the management program; or

(v) If a locality fails to adopt a management program, the State may utilize a procedure whereby the responsibility for preparing a program shifts to an intermediate level government, such as a county. If this intermediate level of government fails to produce a program, then the State must have the ability to take one of the actions described above. This alternative cannot be used where the intermediate level of government lacks the legal authority to adopt and implement regulations necessary to implement State policies, standards and criteria.

(4) A State must have a procedure whereby it reviews and certifies the local program's compliance with State standards and criteria. This procedure must include provisions for:

(i) Opportunity for the public and governmental entities (including Federal agencies) to participate in the development of local programs; and

(ii) Opportunity for the public and governmental entities (including Federal agencies) to make their views known (through public hearings or other means) to the State agency prior to approval of local programs; and

(iii) Review by the State of the adequacy of local programs consideration of facilities identified in a State's management program in which there is a national interest.

(A) A State must be able to assure implementation and enforcement of a local program once approved. To accomplish this a State must:

(1) Establish a monitoring system which defines what constitutes and detects patterns of non-compliance. In the case of uses of regional benefit and facilities in which there is a national interest, the monitoring system must be capable of detecting single instances of local actions affecting such uses or facilities in a manner contrary to the management program.

[*Comment.* Following are some monitoring techniques States may want to use, either singly or in combination. The list is not exhaustive and does limit States to only these techniques:

(i) Periodic reports—monthly reports submitted by each local government listing all building permits issued, variances and exceptions granted, subdivision plats approved, etc. during the preceding month.

(ii) Spot checks by State Agency.

(iii) Procedures for submission of citizen complaints followed by State review of complaint.

(iv) Establishment of citizen "overview" committees, or

(v) Selective review of local decisions.]

[*Comment.* In developing a definition of a pattern of noncompliance, State may want to consider the number of activities improperly managed, the size and type of such activities, their proximity to coastal waters and to special management areas.]

(2) Be capable of assuring compliance when a pattern of deviation is detected or when a facility involving identified national interests or a use of regional benefit is affected in a manner contrary to the program's policies. When State action is required because of failure by a local government to enforce its program, the State must be able to do one or a combination of the following:

(i) Directly enforce the entire local program;

(ii) Directly enforce that portion of the local program that is being enforced improperly. State intervention would be necessary only in those local government activities that are violating the policies, standards or criteria.

[*Comment.* For example, if a subdivision regulation were the only part of a program that was being enforced improperly, State enforcement could be limited to that regulation. In such a case, the State, would need to have the statutory authority to ensure compliance of subdivision applications.]

(iii) Seek judicial relief against local government for failure to properly enforce;

(iv) Review local government actions on a case-by-case basis or on appeal and have the power to prevent those actions inconsistent with the policies and standards.

(v) Provide a procedure whereby the responsibility for enforcing a program shifts to an intermediate level of government, assuming statutory authori-

ty exists to enable the immediate of government to assume this responsibility.

#### § 923.43 Direct State land and water use planning and regulation—Technique B.

(a) Statutory Citation, Subsection 306(e)(1)(B):

Prior to granting approval, the Secretary shall also find that the program provides:

(1) For any one or a combination of the following general techniques for control of land and water uses within the coastal zone: . . . Direct state land and water use planning regulation.

(b) Control technique 306(e)(1)(B) of the Act allows for direct state control of land and water uses subject to the management program on the basis of direct State authority. This authority can take the form of:

(1) Comprehensive legislation: A single piece of comprehensive legislation specific to coastal management and the requirements of this Act.

[*Comment.* While it is possible that a State will be able to put together into a single piece of legislation all the authorities needed to meet the requirements of this subpart, it is more likely that even a single, major piece of coastal legislation will be supplemented with other State authorities to meet all the authorities requirements. Where this will be the case, States are advised to review the commentary on networking that follows. Also, in cases where a State will be relying primarily—but not exclusively—on a single piece of legislation, it is important to be explicit about those other authorities included in the management program as part of the listing called for in § 923.41.]

(2) Networking: The utilization of authorities which are compatible with and applied on the basis of coastal management policies developed pursuant to § 923.3.

[*Comment.* Even though each agency is statutorily mandated to carry out its own, often more narrowly focused policies, the effect of networking is to tie the implementation of these individual authorities into a comprehensive and unified framework for managing coastal land and water resources.]

(c) *Requirements.* In order to apply the networking concept, State must:

(1) Demonstrate that, taken together, existing authorities can and will be used to implement the full range of policies and management techniques identified as necessary for coastal management purposes; and

(2) Bind each party which exercises statutory authority that is part of the management program to conformance with relevant enforceable policies and management techniques. Parties may be bound to conformance through an executive order, administrative directive or a memorandum of understanding provided that:

(i) The management program authorities provide grounds for taking action to ensure compliance of

networked agencies with the program. It will be sufficient if any of the following can act to ensure compliance: The State agency designated pursuant to subsection 306(c)(5) of the Act, the State's Attorney General, another State agency, a local government, or a citizen.

(ii) The executive order, administrative directive or memorandum of understanding establishes conformance requirements of other State agency activities or authorities to management program policies.

[*Comment.* These instruments will be most effective if they contain the following:

(A) A description of how the networked agency, in implementing or enforcing its particular authorities, will operate those authorities in conformance with the management program's policies;

(B) A description of procedures to be followed to resolve conflicts between agency activities and management program policies or conflicts between agencies regarding what constitutes conformance with the policies;

(C) A description of the enforcement mechanism that will be used to assure implementation of and adherence to the program's enforceable policies.]

(3) A gubernatorial executive order will be an acceptable instrument to meet the requirements of paragraph (2) above in those States where networked State agency heads are directly responsible to the Governor.

(4) Where networked State agencies can enforce the management program policies at the time of section 306 approval without first having to revise their operating rules and regulations, then any proposed revisions to such rules and regulations which would enhance or facilitate implementation need not be accomplished prior to program approval. Where State agencies cannot enforce coastal policies without first revising their rules and regulations, then these revisions must be made prior to approval of the State's program by the Assistant Administrator.

[*Comment.* Examples explaining this paragraph follow: Assuming State X has established as a management program policy that only specified types of development henceforth will be permitted on barrier islands. Assume further that such a policy statement is contained in State legislation that proclaims such policy to be effective immediately and directs all State agencies to revise their existing operating procedures (including rules and regulations) within a certain time period to conform with the policy. In this case, the policy is enforceable at time of management program approval and the revision of associated rules and regulations could occur after program approval. Now, however, assume the same policy is part of the management program but the corresponding State legislation states the policy becomes effective when State regulations have been revised to reflect this policy mandate. In this example, rule revision

would be necessary prior to program approval.]

#### § 923.44 State review on a case-by-case basis of actions affecting land and water uses subject to the management program—Technique C.

(a) Statutory Citation; Subsection 306(e)(1)(C):

Prior to granting approval, the Secretary shall find that the program provides:

(1) For any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(b) Under case-by-case review, States have the power to review individual development plans, projects or land and water use regulations (including variances and exceptions thereto) proposed by any State or local authority or private developer which have been identified in the management program as being subject to review for consistency with the management program.

This control technique requires the greatest degree of policy specificity because compliance with the program will not require any prior actions on the part of anyone affected by the program. Specificity also is needed to avoid challenges that decisions (made pursuant to the management program) are unfounded, arbitrary or capricious.

(c) *Requirements.* To use this control technique States must:

(1) Identify the plans, projects or regulations subject to review, based on their significance in terms of impacts on coastal resources, potential for incompatibility with the State's coastal management program, and having greater than local significance;

(2) Identify the State agency that will conduct this review;

(3) Include the criteria by which identified plans, projects and regulations will be approved or disapproved;

(4) Have the power to approve or disapprove identified plans, projects or regulations that are inconsistent with the management program, or the power to seek court review thereof; and

(5) Provide public notice of reviews and the opportunity for public hearing prior to rendering a decision on each case-by-case review.

[*Comment.* The public notice required by this paragraph should be provided in those communities most likely to be affected by the proposal. Such public notice should provide information on the nature of the proposal (such as size, location, type, etc.), where further information is available, and notice of hearing dates, if any.]



### § 923.45. Air and water pollution control requirements.

#### (a) Statutory Citation, Subsection 307(f);

Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Act as amended, or the Clean Air Act as amended, or (2) established by the Federal Government or any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(b) *General Comments.* (1) Incorporation of the air and water quality requirements pursuant to the Clean Water Act, as amended (CWA) and Clean Air Act (CAA), as amended, should involve their consideration during program development, especially with respect to use determinations and designation of areas for special management. In addition, this incorporation will prove to be more meaningful if close coordination and working relationships between the State agency and the air and water quality agencies are developed and maintained throughout the program development process and after program approval.

(2) Following is a table of the most important Clean Air Act requirements. These requirements are categorized as either uniform, nationwide requirements or non-uniform requirements applicable to a specific State or local area. The first category of requirements is established in the Clean Air Act or by the Environmental Protection Agency (EPA) pursuant to provisions of the CAA, and applies uniformly in all areas of the country. The second category of requirements is based on the nature of air quality problems that exist or are forecast in coastal areas, in locations where emission sources may affect air quality in coastal areas, and in other areas of a State. The majority of the second category of requirements will be included in the State Implementation Plans (SIPs) required by the Clean Air Act.

TABLE—CLEAN AIR ACT REQUIREMENTS

|   |   |
|---|---|
| Uniform, nationwide requirements.   | Nonuniform, nationwide requirements (SIPs).   |
| National ambient air quality standards.   | New source review.  |
| Motor vehicle emission standards (except where States have been granted a waiver by EPA). | Emissions or air quality standards more stringent than Federal standards.   |
| New source performance standards.   | Prevention of significant deterioration.  |
| National emissions standards for hazardous air pollutants.                                | Attainment and maintenance of national ambient air quality standards. Other attainment or maintenance measures such as transportation control measures. |

(3) Water quality standards are established by EPA promulgation or approval of State standards, taking into consideration public water supplies, protection and propagation of fish, shellfish and wildlife, recreation, agriculture, industry and navigation, EPA itself develops standards on effluent limitations, new source performance standards, pre-treatment standards and toxic pollutant discharge standards.

(c) *Requirements.* (1) States must incorporate into their program, by reference or otherwise, requirements established pursuant to the Clean Water Act (CWA), as amended, and the Clean Air Act (CAA) as amended.

(2) If more stringent standards are developed, by a State or locality pursuant to the CWA or CAA, and where such standards can be enforced under State authorities, they must be incorporated, by reference or otherwise, into the State's management program.

[*Comment.* If incorporation of more stringent standards leads to the restriction or exclusion of some facilities in which there is a national interest in their siting, such exclusion or restriction is established pursuant to the requirements of the Clean Air Act and Federal Water Pollution Control Act in which there is also a national interest.]

#### § 923.46 Organizational structure.

##### (a) Statutory Citation, Subsection 305(b)(6);

The management program for each coastal state shall include . . . A description of the organizational structure proposed to implement such management program including the responsibilities and interrelationships of local, areawide, state, regional and interstate agencies in the management process.

##### Subsection 306(c)(6);

Prior to grant approval of management program submitted by a coastal state, the Secretary shall find that . . . the State is organized to implement the management program required under paragraph (1) of this subsection.

(b) The main purpose of this requirement is to provide a clear understanding of the entities that have responsibility for administering various aspects of the management program and the interrelationship of these entities.

(c) *Requirements.* (1) States must describe the organizational structure that will be used to implement and administer the management program including a discussion of those State and other agencies, including local governments, that will have responsibility for administering, enforcing and/or monitoring those authorities or techniques required pursuant to the following subsections of the Act: 306(c) (B); 306(c)(7); 306(d) (1) and (2); 306(e) (1) and (2) and 307(f)

[*Comment.* See §§ 923.27, 923.41, 923.42-923.44, 923.12 and 923.45 respectively for further discussion of the authorities contained in these subsections of the Act.]

(2) States must describe the relationship of these administering agencies to the State agency designated pursuant to subsection 306(c)(5) of the Act.

#### § 923.47 Designated State agency.

##### (a) Statutory Citation, Subsection 306(c)(5);

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that . . . The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this section.

(b) *Requirements.* (1) The Governor must designate a single State entity to receive and administer section 306 grants.

(2) This entity must have the fiscal and legal capability to accept and administer grant funds, to make contracts or other arrangements (such as passthrough grants) with participating agencies for the purpose of carrying out specific management tasks and to account for the expenditure of the implementation funds of any recipient of such monies, and

(3) This entity must have the administrative capability to monitor and evaluate the management of the State's coastal resources by the various agencies and/or local governments with specified responsibilities under the management program (irrespective of whether such entities receive section 306 funds); to make periodic reports to OCZM, the Governor, or the State legislature, as appropriate, regarding the performance of all agencies involved in the program. The entity must be capable of presenting evidence of adherence to the management program or justification for deviation as part of the review of State performance required by section 312 of the Act.

(c) *General Comments.* (1) The 306 agency designated is designed to establish a single point of accountability for prudent use of administrative funds in the furtherance of the management and for monitoring of management activities. Designation does not imply that this single agency need be a "super agency" or the principal implementation vehicle. It is however, the focal point for proper administration and evaluation of the State's program and the entity to which OCZM will look when monitoring and reevaluating a State's program during program implementation.

(2) The requirements for the single designated agency contained herein need not be viewed as confining or otherwise limiting the role and respon-

sibilities which may be assigned to this agency. It is up to the State to decide in what manner and to what extent the designated State agency will be involved in actual program implementation or enforcement. In determining the extent to which this agency should be involved in program implementation or enforcement, specific factors should be considered, such as the manner in which local and regional authorities are involved in program implementation, the administrative structure of the State, the authorities to be relied upon and the agencies administering such authorities. Because the designated State agency may be viewed as the best vehicle for increasing the unity and efficiency of a management program, the State may want to consider the following in arriving at a designation:

(i) Whether the designated State entity has a legislative mandate to coordinate other State or local programs, plans and/or policies within the coastal zone;

(ii) To what extent linkages already exist between the entity, other agencies, and local governments;

(iii) To what extent management or regulatory authorities affecting the coastal zone presently are administered by the agency; and

(iv) Whether the agency is equipped to handle monitoring, evaluation and enforcement responsibilities.

#### § 923.48 Documentation.

(a) *Requirements.* Documentation in the form of a transmittal letter signed by the Governor; accompanying the management program submittal, is required to the effect that the Governor:

(1) Has reviewed and approved as State policy, the management program, and any changes thereto, submitted for the approval of the Assistant Administrator.

(2) Has designated a single State agency to receive and administer implementation grants;

(3) Attests to the fact that the State has the authorities necessary to implement the management program; and

(4) Attests to the fact that the State is organized to implement the management program.

#### Subpart F—Coordination, Public Involvement and National Interest

#### § 923.50 General.

##### (a) Statutory Citation, Section 303:

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and, where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs

to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint, action particularly regarding environmental problems.

(b) Coordination with governmental agencies having interests and responsibilities affecting the coastal zone, and involvement of interest groups as well as the general public is essential to the development and administration of State coastal management programs. The coordination requirements of this subpart are intended to achieve a proper balancing of diverse interests in the coastal zone. The policies of section 303 of the Act require that there be a balancing of varying, sometimes conflicting, interests, including:

(1) The preservation, protection, development and, where possible, the restoration or enhancement of coastal resources;

(2) The achievement of wise use of coastal land and water resources with full consideration for ecological, cultural, historic, and esthetic values and needs for economic development; and

(3) The involvement of the public, of Federal, State and local governments and of regional agencies in the development and implementation of coastal management programs.

(c) In order to be meaningful, coordination with and participation by various units and levels of government including regional commissions, interest groups, and the general public should begin early in the process of program development and should continue throughout on a timely basis to assure that such efforts will result in substantive inputs into a State's management program. State efforts should be devoted not only to obtaining information necessary for developing the management program but also to obtaining reactions and recommendations regarding the content of the management program and to responding to concerns by interested parties. The requirements for intergovernmental cooperation and public participation continue after program approval

(d) This Subpart deals with requirements for coordination with governmental entities, interest groups and the general public to assure that their interests are fully expressed and con-

sidered during the program development process and that procedures are created to insure continued consideration of their views during program implementation. In addition, this Subpart deals with mediation procedures for serious disagreements between States and Federal agencies that occur during program development and implementation. This Subpart addresses the requirements of the following subsections of the Act: 306(c)(1)—Opportunity for Full Participation; 306(c)(2)(A)—Plan Coordination; 306(c)(2)(B)—Continued State-Local Consultation; 306(c)(3)—Public Hearings; 306(c)(8)—Consideration of the National Interest in Facilities; 307(b)—Federal Consultation; and 307(h)—Mediation.

#### § 923.51 Federal-State consultation.

##### (a) Statutory Citations, Subsection 306(c)(1);

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: The state has developed and adopted a management program for its coastal zone . . . with the opportunity for full participation by relevant Federal agencies.

##### Subsection 307(b);

The Secretary shall not approve the management program submitted by a State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(b) The requirements of subsections 306(c)(1) and 307(b) of the Act and those of subsections 307 (c) and (d) establish reciprocal State-Federal relationships. In exchange for providing relevant Federal agencies with the opportunity for full participation during program development and for adequately considering the views of such agencies, States can effectuate the Federal consistency provisions of subsections 307 (c) and (d) of the Act once their programs are approved. (See 15 CFR Part 930 for a full discussion of the Federal consistency provisions of the Act.)

(c) In addition to the consideration of relevant Federal agency views required during program development, Federal agencies have the opportunity to provide further comment during the program review and approval process. (See Subpart H for details on this process.) Moreover, in the event of a serious disagreement between a relevant Federal agency and designated State agency during program development or during program implementation, the mediation provisions of subsection 307(h) of the Act are available. (See § 923.54 for details on mediation.)

(d) *Requirements.* In order to address that portion of subsection 306(c)(1) of the Act that deals with Federal agency participation, each State must:



(1) Contact each relevant Federal Agency listed in § 923.2(d) and such other Federal agencies as may be relevant, owing to a State's particular circumstances, early in the development of its management program. The purpose of such contact is to develop mutual arrangements or understandings regarding that agency's participation during program development;

(2) Provide for Federal agency input on a timely basis as the program is developed. Such input shall be related both to information required to develop the management program and to evaluation of and recommendations concerning various elements of the management program;

(3) Solicit statements from the head of Federal agencies identified in Table 1 of § 923.52(c)(1) as to their interpretation of the national interest in the planning for and siting of facilities which are more than local in nature;

(4) Summarize the nature, frequency, and timing of contacts with relevant Federal agencies;

(5) Evaluate Federal comments received during the program development process and, where appropriate in the opinion of the State, accommodate the substance of pertinent comments in the management program. States must consider and evaluate relevant Federal agency views or comments about the following:

(i) Management of coastal resources for preservation, conservation, development, enhancement or restoration purposes;

(ii) Statements of the national interest in the planning for or siting of

facilities which are more than local in nature;

(iii) Uses which are subject to the management program;

(iv) Areas which are of particular concern to the management program;

(v) Boundary determinations;

(vi) Shorefront access and protecting planning, energy facility planning and erosion planning processes; and

(vii) Federally developed or assisted plans that must be coordinated with the management program pursuant to subsection 306(c)(2)(A) of the Act.

[Comment. See also section 923.56 for additional plan coordination requirements.]

(6) Indicate the nature of major comments by Federal agencies provided during program development (either by including copies of comments or by summarizing comments) and discuss any major differences or conflicts between the management program and Federal views that have not been resolved at the time of program submission.

§ 923.52 Consideration of the national interest in facilities.

(a) Statutory Citation, Subsection 306(c)(8):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that . . . The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has

given such considerations to any applicable interstate energy plan or program.

(b) The primary purpose of this requirement is to assure adequate consideration by States of the national interest involved in the planning for and siting of facilities (which are necessary to meet other than local requirements) during (1) the development of the State's management program, (2) the review and approval of the program by the Assistant Administrator, and (3) the implementation of the program as such facilities are proposed.

(c) Requirements. States must:

(1) Describe the national interest in the planning for and siting of facilities considered during program development.

[Comment. Table 1 below describes those uses that normally should be considered by states during program development and implementation as having a national interest in the planning for and siting of associated facilities.]

(2) Indicate the sources relied upon for a description of the national interest in the planning for and siting of the facilities.

[Comment. Other sources, which specify the national interest in the planning for and siting of facilities and which may be relied upon for articulation of this interest, include:

(i) Federal legislation, for example the Outer Continental Shelf Lands Act, the Department of Energy Reorganization Act, the Federal Aid Highways Act;

(ii) Policy statements from the President, for example the National Energy Plan; the National Environmental Message; and the National Outdoor Recreation Plan; and the President's Water Policy Message;

(iii) Plans, reports and studies from Federal, State, interstate agencies or from interstate groups, for example interstate energy plans.]

TABLE 1

| Uses                               | Associated facilities   | Associated Federal agencies   |
|------------------------------------|---|---|
| National defense and aerospace     | Military bases and installations; defense manufacturing facilities; aerospace facilities.   | Department of Defense, National Aeronautics and Space Administration.   |
| Energy production and transmission | Oil and gas rigs, storage, distribution and transmission facilities; power plants; deep-water ports; LNG facilities; geothermal facilities; coal mining facilities. | Department of Energy, Department of the Interior, Department of Commerce, National Oceanic and Atmospheric Administration, Department of Transportation, Corps of Engineers, Federal Energy Regulatory Commission, and Nuclear Regulatory Commission. |
| Recreation                         | National seashores, parks, forests; large and outstanding beaches and recreational waterfronts.   | Department of the Interior, Department of Agriculture, Department of Housing and Urban Development.   |
| Transportation                     | Interstate highways, railroads; airports; ports; aids to navigation including Coast Guard stations.   | Department of Transportation, Department of Commerce, Corps of Engineers.   |

(3) Indicate how and where the consideration of the national interest is reflected in the substance of the management program. In the case of energy facilities in which there is a na-

tional interest, the program must indicate the consideration given any interstate energy plans or programs, developed pursuant to section 309 of the Act, which are applicable to or affect a State's coastal zone.

[Comment. Consideration of the national interest should enter into such determinations as uses subject to the management program, the type of management afforded these uses, designation of areas of particular concern and areas for preservation and restoration, and the design of the required energy facility planning process.]

(4) Describe the process for continued consideration of the national interest in the planning for and siting of facilities during program implementation, including a clear and detailed description of the administrative procedures and decisions points where such interest will be considered.

[Comment. A process for adequate consideration of the national interest during pro-

gram implementation generally will need to involve the utilization of a State administrative process that deals with individual facility siting decisions as these facilities are proposed. Normally this process should be contained in a State permit procedure that deals with the siting of energy, recreation or transportation facilities. Accordingly, States should review their existing permit procedures and, if necessary, modify existing or develop new procedures to assure that the

TABLE 2

| Resources                             | Major related Federal legislation   | Associated Federal agencies  |
|---------------------------------------|---|--|
| Water                                 | Clean Water Act   | Environmental Protection Agency, Corps of Engineers.   |
| Air                                   | Clean Air Act   | Environmental Protection Agency.   |
| Wetlands                              | Fish and Wildlife Coordination Act  | Corps of Engineers, Environmental Protection Agency, Department of the Interior, Department of Commerce. |
| Endangered flora and fauna            | Endangered Species Act, Marine Mammal Protection Act.                           | Department of the Interior, Department of Commerce, Marine Mammal Commission.                            |
| Flood plains and erosion hazard areas | Flood Insurance Act   | Housing & Urban Development, Corps of Engineers, Department of Agriculture.                              |
| Barrier islands and beaches           | Coastal Zone Management Act   | Department of the Interior, Department of Commerce, Corps of Engineers.                                  |
| Historic and cultural resources       | National Historic Preservation Act  | Advisory Council on Historic Preservation.   |
| Wildlife refuges and reserves         | Pitman-Robinson Act; Dingell-Johnson Act; Land and Water Conservation Fund Act. | Department of the Interior, Department of Commerce, Marine Mammal Commission.                            |
| Areas of unique cultural significance | National Historic Preservation Act  | Advisory Council on Historic Preservation, Department of the Interior.                                   |
| Minerals                              | Mineral Leasing Act, Outer Continental Shelf Lands Act.                         | Department of the Interior, Department of Energy, Department of Commerce.                                |
| Prime agricultural lands              | Homestead Act   | Department of Agriculture.   |
| Forests                               | National Forest Management Act  | Department of Agriculture, Department of the Interior.   |
| Living marine resources               | Fisheries Conservation and Management Act, Marine Mammal Protection Act.        | Department of Commerce, Department of the Interior, Marine Mammal Commission.                            |

[Comment. As part of the State's procedure during program implementation for considering the national interest in particular facilities, States may request OCZM's assistance in determining the nature of the national interest in a particular facility when a request to site that facility occurs. Under this process, OCZM will solicit from relevant Federal agencies their statement of the national interest in the particular facility under consideration. OCZM will make these statements available to a State in a timely fashion so that these statements are considered under a State's procedure for consideration of the national interest involved in the siting of a particular facility.]

§ 923.53 Federal consistency procedures.

(a) Requirements. States shall include in their management program submission; as part of the body of the submission an appendix or an attachment, the procedures they will use to implement the Federal consistency requirements of subsections 307 (c) and (d) of the Act. At a minimum, the following shall be included:

(1) An indication of whether the state agency designated pursuant to subsection 306(c)(5) of the Act or a single other state agency will handle consistency review (see 15 CFR 930.18);

(2) A list of Federal license and permit activities that will be subject to review (see 15 CFR 930.53);

(3) For States anticipating coastal zone effects from Outer Continental Shelf (OCS) activities, the license and permit list also must include OCS plans which describe in detail Federal license and permit activities (see 15 CFR 930.74); and

(4) The public notice procedures to be used for certifications submitted for Federal License and permit activities and, where appropriate, for OCS plans (see 15 CFR 930.61-930.62 and 930.78).

[Comment. For detailed guidance on structuring implementation of the Federal consistency provisions, see 15 CFR Part 930.]

(b) Beyond the minimum requirements contained in (a) above, States have the option of including the following in their management programs:

(1) A list of Federal activities, including development projects, which in the opinion of the State agency are likely to significantly affect the coastal zone and thereby will require a Federal agency consistency determination (see 15 CFR 930.35); and

(2) A description of the types of information and data necessary to assess the consistency of Federal license and permit activities and, where appropriate, those described in detail in OCS plans (see 15 CFR 930.56 and 930.75).

national interest in the planning for and siting of these facilities will be considered as part of the permit process. A process for "adequate consideration of the national interest" can and should include those important state and national resource concerns that will enter into the decisionmaking process. Table 2 below indicates types of resources for which states may want to include special consideration in their permit procedures.]

§ 923.54 Mediation.

(a) Statutory Citation, Subsection 307(h):

In the case of serious disagreement between any Federal agency and a coastal State:

(1) in the development or the initial implementation of a management program under section 305; or

(2) in the administration of a management program approved under section 306; the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

(b) The Act provides for the mediation of "serious disagreements" between any Federal agency and a coastal State during the development and implementation of a management program. In certain cases, mediation by the Secretary or his/her designee, with the assistance of the Executive Office of the President, may be an appropriate forum for conflict resolution. This section describes the conditions of and processes for mediation of serious disagreements that may arise during program development or implementation.

(c) State-Federal differences should be addressed initially by the parties involved. Whenever a serious disagreement cannot be resolved between the



parties concerned, either party may request the informal assistance of the Assistant Administrator in resolving the disagreement. This request shall be in writing, stating the points of disagreement and the reason therefor. A copy of the request shall be sent to the other party to the disagreement.

(d) If a serious disagreement persists, the Secretary or other head of a relevant Federal agency, or the Governor or the head of the State agency designated by the Governor as administratively responsible for program development (if a state still is receiving section 305 program development or preliminary approval grants) or for program implementation (if a State is receiving section 306 program implementation grants) may notify the secretary in writing of the existence of a serious disagreement, and may request that the Secretary seek to mediate the serious disagreement. A copy of the written request must be sent to the agency with which the requesting agency disagrees and to the Assistant Administrator.

(e) Within 15 days following receipt of a request for mediation, the disagreeing agency shall transmit a written response to the Secretary, the agency requesting mediation and to the Assistant Administrator indicating whether it wishes to participate in the mediation process. If the disagreeing agency declines the offer to enter into mediation efforts, the basis for refusal must be indicated. Upon receipt of a refusal to participate in mediation efforts, the Secretary shall seek to resolve the basis for refusal and persuade the disagreeing agency to reconsider its decision and enter into mediation efforts. The Secretary will not provide mediation assistance unless all parties to the serious disagreement agree to participate.

(f) In the case of a serious disagreement that occurs during program development, if all parties agree to mediation, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, the disagreeing Federal and State agencies, and other interested parties whose participation is deemed necessary by the Secretary. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference. Notice also shall be placed in the FEDERAL REGISTER to allow other parties an opportunity to make known to the Secretary in writing their interest in the disagreement.

(g) If the mediation efforts do not resolve the disagreement, the Assistant Administrator shall determine whether inclusion in the management program of the State agency's position in the disagreement affects the Assistant Administrator's ability to approve the State's management program. The Assistant Administrator shall commu-

nicate his/her determination in writing, with the reason(s) therefor, the parties to the disagreement.

(h) In the case of a serious disagreement that occurs during program implementation, if the parties agree to the mediation process, the Secretary shall appoint a hearing officer who shall schedule a hearing in the local area concerned. The hearing officer shall give the parties at least 30 days notice of the time and place set for the hearing. Notice of the hearing also shall be placed in the FEDERAL REGISTER. At the time public notice is provided, the Federal and State agencies shall provide the public convenient access to public data and information related to the serious disagreement. Hearing shall be informal and shall be conducted by the hearing officer with the objective of securing, in a timely fashion, information related to the disagreement. The Federal and State agencies, as well as other interested parties, may offer information at the hearing subject to the hearing officer's supervision as to the extent and manner of presentation. Unduly long or repetitious oral presentations may be excluded at the discretion of the hearing officer. In the event of such exclusion, the party may provide the hearing officer with a written submission of the proposed oral presentation. Hearings will be recorded and the hearing officer shall provide transcripts and copies of written information offered at the hearing to the Federal and State agency parties. The public may inspect and copy the transcripts and written information provided to these agencies. Following the close of the hearing, the hearing officer shall transmit the hearing record to the Secretary. Upon receipt of the hearing record, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, the disagreeing Federal and State agencies, and other interested parties whose participation is deemed necessary by the Secretary. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference.

(i) Secretarial mediation efforts shall last only so long as the parties agree to participate. The Secretary shall confer with the Executive Office of the President, as necessary, during the mediation process.

(j) Mediation shall terminate: (1) At any time the parties agree to a resolution of the serious disagreement, (2) if one of the parties withdraws from mediation, (3) in the event the parties fail to reach a resolution of the serious disagreement within 15 days following Secretarial mediation efforts, and the parties do not agree to extend media-

tion beyond that period, or (4) for other good cause.

(k) The availability of the mediation services provided in this section is not intended expressly or implicitly to limit the parties' use of alternate forums to resolve disputes. Specifically, judicial review where otherwise available by law may be sought by any party to a serious disagreement without first having exhausted the mediation process provided herein.

#### § 923.55 Full participation by state and local governments, interested parties and the general public.

##### (a) Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: the state has developed and adopted a management program for its coastal zone . . . with the opportunity of full participation by . . . state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private . . .

(b) *Requirements.* In addition to consultation with Federal agencies, subsection 306(c)(1) of the Act requires that the opportunity for full participation in program development be provided State agencies, local governments, regional commissions and organizations, port authorities, and other interested public or private parties. To meet this requirement with respect to governmental entities (other than Federal) and other public or private parties States must:

(1) Develops and make available general information regarding the program design, its content and its status throughout program development;

[*Comment.* Public information may take many forms:

- (i) Brochures and reports made available in places of public congregation such as libraries, government buildings, stores or transit facilities;
- (ii) Radio, television and personal presentations;
- (iii) Press announcements;
- (iv) Public meetings or hearings;
- (v) Exhibits;
- (vi) Telephone "hot lines;" and
- (vii) Films and slide shows.)

(2) Provide a listing, as comprehensive as possible, of all governmental agencies, regional organizations, port authorities and public and private organizations likely to be affected by or to have a direct interest in the development and implementation of the management program;

(3) Indicate the nature of major comments received from interested or affected parties, identified in (2) above, and the nature of the State's response to these comments; and

(4) Hold public meetings, workshops, etc., during the course of program development at accessible locations and

convenient times, with reasonable notice and availability of materials.

[*Comment.* States may want to consider establishing advisory committees and/or technical advisory boards comprised of public citizens representing specific interest, local government representatives, and/or State and Federal agency representatives. These committees and boards may serve a number of useful purposes: providing information needed to develop the management program; serving as a conduit and evaluator of public interests and concerns; and determining major program directions.]

[*Comment.* Related requirements concerning plan coordination, continuing consultation after program approval and public hearings may be found in §§ 923.56, 923.57 and 923.58 respectively.]

#### § 923.56 Plan coordination.

##### (a) Statutory Citation, Subsection 306(c)(2)(A):

Prior to granting approval to a management program submitted by a coastal state, the Secretary shall find that . . .

The State has: coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, and areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency . . .

(b) *Requirements.* States must insure that the contents of their management programs have been coordinated with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Assistant Administrator for approval. To document this coordination, the management program must:

(1) Identify local governments, areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and regional or interstate agencies which have plans affecting the coastal zone in effect on January 1 of the year in which the management program is submitted;

(2) List or provide a summary of contacts with these entities for the purpose of coordinating the management program with plans adopted by a governmental entity as of January 1 of the year in which the management program is submitted. At a minimum, the following plans, affecting a State coastal zone, shall be reviewed: land use plans prepared pursuant to section 701 of the Housing and Urban Development Act of 1968, as amended; State and areawide waste treatment facility or management plans prepared pursuant to section 201 and 208 of the Clean Water Act, as amended; plans and des-

ignations made pursuant to the Flood Insurance Act of 1974; any applicable interstate energy plans or programs developed pursuant to section 309 of the Act; regional and interstate highway plans; plans developed by Regional Action Planning Commission; and fishery management plans developed pursuant to the Fisheries Conservation and Management Act.

[*Comment.* State and areawide clearinghouses, established pursuant to OMB Circular A-95 (revised) may be used as a means of contacting relevant local, areawide or interstate entities provided such entities are recipients of clearinghouse notices.]

(3) Identify conflicts with those plans of a regulatory nature that are unresolved at the time of program submission and the means that can be used to resolve these conflicts.

#### § 923.57 Continuing consultation.

##### (a) Statutory Citation, Subsection 306(c)(B):

Prior to granting approval to a management program submitted by a coastal state, the Secretary shall find that . . .

The state has . . . established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this section and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be "effective" for purposes of this subparagraph unless it includes each of the following requirements:

(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision unless such local government waives its rights to comment.

(iii) Such management agency, if any such comments are submitted to it, within such 30-day period, by any local government:

- (I) is required to consider any such comments,
- (II) is authorized, in its discretion, to hold a public hearing on such comments, and
- (III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.

(b) *Requirements.* (1) Establish a mechanism or mechanisms which will provide for continuing consultation and coordination after program approval between local governments, re-

gional, areawide, multistate and other State agencies with activities in the coastal zone and the State agency designated pursuant to subsection 306(c)(5) of the Act;

[*Comment.* States may want to consider use of the OMB Circular No. A-95 (revised) Project Notification and Review System as a mechanism for continuing consultation and coordination with affected local governments, areawide, regional, interstate and other State agencies after program approval. States also may want to consider the possibility of establishing or utilizing councils, committees, or task forces with representation from affected local governments, areawide, regional, multi-state and other State agencies as a vehicle for providing continuing consultation and coordination after program approval. Such a council, when it includes local government representation, may be helpful in meeting the requirements below.]

(2) Establish a procedure whereby local governments with zoning authority are notified of State management program decisions which would conflict with any local zoning ordinance decision.

(i) "Management agency" refers to the State agency designated by the Governor pursuant to subsection 306(c)(5) of the Act and to any other State agency responsible for implementing a management program decision;

(ii) "Management program decision" refers to any major, discretionary policy decisions on the part of a management agency, such as the determination of permissible land and water uses, the designation of areas or particular concern or areas for preservation or restoration, or the decision to acquire property for public uses. Regulatory actions which are taken pursuant to these major decisions are not subject to the State-local consultation mechanisms;

[*Comment.* Examples of what might constitute a major management program decision include, but are not limited to:

- (A) A state management agency decision that a certain class of wetlands may not be filled or developed;
- (B) A decision prohibiting the development of non-water dependent facilities along certain shoreline areas;
- (C) A decision requiring that new development of the shoreline may not interfere with existing public rights of access to the sea and that new developments of a certain magnitude are required to provide public access as part of the development;
- (D) A decision to acquire urban shoreline for recreational purposes; or
- (E) Designation of coastal historic resources or natural areas as areas for preservation or restoration, when any of these are discretionary, and not legislatively mandated, decisions of a management agency.]

(iii) A State management program decision shall be considered to be in conflict with a local zoning ordinance if the decision is contradictory to that ordinance. A State management pro-



gram decision that consists of additional but not contradictory requirements shall not be considered to be in conflict with a local zoning ordinance, decision or other action;

(iv) "Local government" refers to those defined in section 304(10) of the Act which have some form of zoning authority.

(v) "Local zoning ordinance, decision or other action" refers to any local government land or water use action which regulates or restricts the construction, alteration of use of land, water or structures thereon or thereunder. These actions include zoning ordinances, master plans and official maps. A local government has the right to comment on a State management program decision when such decision conflicts with the above specified actions;

(vi) Notification must be in writing and must inform the local government of its right to submit comments to the State management agency in the event the proposed State management program decision conflicts with a local zoning ordinance, decision or other action. The effect of providing such notice is to stay State action to implement its management decision for at least a 30-day period unless the local government waives its right to comment.

(vii) "Waiver" of the right of local government to comment (thereby permitting a State agency to proceed immediately with implementation of the management program decision) shall result:

(A) Following State agency receipt of a written statement from a local government indicating that it either:

(1) Waives its right to comment; or  
(2) Concurs with the management program decision; or

(3) Intends to take action which conflicts or interferes with the management program decision; or

(B) Following a public statement by a local government to the same effect as (A) above; or

(C) Following an action by a local government that conflicts or interferes with the management program decision.

[Comment. A waiver of the right to comment or a waiver indicating concurrence may be presumed if the local government fails to submit written comments to the State agency within the 30-day comment period. State management programs should indicate what action the State agency will take in the event a local government pursues a conflicting or interfering action. States are encouraged to develop their responses to conflicting local action within the framework of sections 306(d)(1) and 306(d)(2) of the Act. Section 306(d)(1) of the Act provides, among other things, that the State have the management authority to resolve conflicts among competing uses. Section 306(d)(2) of the Act requires that the management program provide for a method

of assuring local land and water regulations within the coastal zone do not unreasonably restrict or exclude uses or regional benefit.]

[Comment. OCZM strongly encourages local governments not to effect a waiver by silence as this process causes needless delay in implementing a management program decision.]

(viii) The management program shall include procedures to be followed by a management agency in considering a local government's comments. These procedures shall include, at a minimum, circumstances under which the agency will exercise its discretion to hold a public hearing. Where public hearings will be held, the program must set forth notice and other hearing procedures that will be followed. Following State agency consideration of local comments (when a discretionary public hearing is not held) or following public hearing, the management agency shall provide a written response to the affected local government, affected local government, within a reasonable period of time and prior to implementation of the management program decision, on the results of the agency's consideration of public comments.

[Comment. In the event that a local government requests a public hearing and such a request is granted, the State management program may provide or require that the local government requesting such hearing shall provide the required public notice and/or meeting facility.]

#### § 923.58 Public hearings.

(a) Statutory Citations, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

The state has developed and adopted a management program for its coastal zone . . . after notice . . .

Subsection 306(c)(3):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

The state has held public hearings in the development of the management program.

#### Section 311:

All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(b) Requirements. States shall:

(1) Hold a minimum of two public hearings during the course of program development, at least one of which will be on the total scope of the coastal management program. Hearings on the total management program do not

have to be held on the actual document submitted to the Assistant Administrator for section 306 approval. However, such hearing(s) must cover the substance and content of the proposed management program in such a manner that the general public, and particularly affected parties, have a reasonable opportunity to understand the impacts of the management program. If the hearing(s) are not on the management document per se, all requests for such document must be honored and comments on the document received prior to submission of the document to the Assistant Administrator must be considered;

(2) Provide a minimum of 30 days public notice of hearing dates and locations;

[Comment. Announcement of the hearings should be through media designed to inform the public—not merely to provide "technical notice." In addition to any publication of legal notice as required by State law, reasonably informative news releases should be made available to the news media in the affected communities.]

[Comment. In many cases, the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to hold hearings when those populations most likely to be affected are present.]

(3) Make available for public review, at the time of public notice, all agency materials pertinent to the hearings;

(4) Include a transcript or summary of the public hearing(s) with the State's program document or submit same within thirty (30) days following submittal of the program to the Assistant Administrator. At the same time this transcript or summary is submitted to the Assistant Administrator, it must be made available, upon request, to the public.

#### Subpart G—Miscellaneous

##### § 923.60 General.

The purposes of this subpart are to provide guidance on meeting the requirements of subsection 306(h) of the Act dealing with segmented management programs and fulfilling the requirements for an environmental impact assessment which all management program submissions, whether for a State's total coastal zone or for a segment, must contain.

##### § 923.61 Segmentation.

(a) Statutory Citation, Section 306(h):

At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: Provided, that the state adequately provides for the ultimate coordination of the various segments of the management program into a single, unified pro-

gram, and that the unified program will be completed as soon as reasonably practicable.

(b) This section of the Act reflects a recognition that it may be desirable for a State to develop and adopt its management program in segments rather than all at once because of a relatively long coastline, developmental pressures or public support in specific areas, or earlier regional management programs already developed and adopted. It is important to note, however, that the ultimate objective of segmentation is completion of a management program for the coastal zone of the entire State in a timely fashion.

(c) A segmented management program shall not be developed solely for the purpose of protecting or controlling a single coastal resource or use.

(d) Segmentation is at the State's option, but requires the approval of the Assistant Administrator.

(e) Requirements. If a State intends to adopt its management program in two or more segments, it shall advise the Assistant Administrator as early as practicable, stating the reasons for segmenting the program, and requesting the Assistant Administrator's approval. Upon receipt of the Assistant Administrator's approval, the segment submission shall include:

(1) A geographic area on both sides of the coastal land/water interface;

(2) A timetable and budget for the timely completion of the remaining segment(s); and

(3) The management boundary for the entire coastal zone throughout the state as part of the segment submission.

[Comment. Where islands within a State's coastal zone form separate and valuable ecological units for which a segment of the management program may be established with relatively few problems, the Assistant Administrator may waive this requirement.]

(4) Documentation of how the requirements of Subparts A-F are met for the segment.

##### § 923.62 Environmental assessment.

(a) Requirements. All State management program submissions must contain an environmental assessment at the time of submission of the management program to OCZM for threshold review. In accordance with the Council on Environmental Quality Regulations (FEDERAL REGISTER Vol. 43, No. 230, November 29, 1978) Sections 1506.5(a) and (b), state environmental assessments shall contain the following information:

(1) A summary of the state's management program;

[Comment. The summary should not exceed 10 pages and should be a descriptive statement of the management program and how it will operate. Specific references to the Federal CZMA requirements are not necessary. It is intended that this summary

be part of the overall summary section of the Federal Environmental Impact Statement (EIS).]

(2) A brief discussion of the need for the State's participation in the Federal program;

[Comment. Since participation under the Federal CZMA is a voluntary process, States should describe briefly the reasons for applying for Federal approval. This may include the importance of Federal funding to the State, the use of Federal consistency as an additional management tool and/or that participation is mandated by State law.]

(3) A succinct description of the environment to be affected by program implementation:

[Comment. A description of the affected environment should not exceed 30 pages. Reference to technical documents and data which were produced or used by the State in analyzing the coastal zone may be useful. The importance of this section lies in relating the productivity and vulnerability of the coastal environment with socio-economic importance. Cross-reference should be made to relevant sections of the management program. If following format suggested in § 923.71, reference to "Framework of Program Development" would be appropriate.]

(4) A description and discussion of the major alternatives which were considered by the State in developing the coastal management program;

[Comment. A description of alternatives should not exceed fifteen pages and should be limited to the major or controversial alternatives that have been seriously considered and reviewed at some length by the State. Included should be the alternative of no action or non-participation in the Federal program and alternatives which raised substantial public debate as a result of consultation and public participation during program development. Usually these alternatives will relate to management techniques, boundaries and uses subject to management. To the extent these alternatives are discussed in the management program, cross-reference will suffice; environmental impacts of the proposal and the alternatives' comparative focus would be helpful.]

(5) A discussion of the environmental impacts of implementing the program;

[Comment. Describing the environmental impacts will vary with each state and will be a function of which type of management system will be used, whether new legislation, policies or permits were promulgated, etc. These impacts should be discussed to the levels of detail commensurate with the detail in the program. This description should not exceed 50 pages. OCZM considers that the direct impacts of the Federal action are those associated with the expenditures of Section 306 funds, the use of the Federal consistency provisions under Section 307, recognition given by the State to the siting of facilities which are in the national interest, and the thrust of a State program in attempting to achieve the national objectives identified in Sections 302 and 303 of the Act. Indirect impacts associated with the State management program, and which the State should address, include

socio-economic impacts of land and water use regulations, impacts upon the natural environment and impacts that can be attributable to specific policies or control techniques. See also §§ 1502.16(c)-(h) of the CEQ regulations.]

(6) A listing of agencies or persons consulted in determining the impacts of the management program.

[Comment. The views of local governments, State and Federal agencies, industrial and environmental groups, etc. to their perspective on the impacts of program implementation is desirable. This normally will occur as part of the program development process. Cross-reference to the management program is sufficient.]

(b) General Comments. OCZM will independently evaluate the State's environmental assessment and use as much as possible in developing an EIS on the management program. An EIS will be produced for all state programs submitted for 306 approval. The timing and review procedures for the EIS are discussed in § 923.72.

#### Subpart H—Review/Approval Procedures

##### § 923.70 General.

The purpose of this Subpart is to describe the process of State program review and approval following submission of a State's management program to the Assistant Administrator. Because the review process involves preparation and dissemination of draft and final environmental impact statements and lengthy Federal agency review, States should at least anticipate that it normally will take 7 months between the time a State first submits a draft management program to OCZM for threshold review and the point at which the Assistant Administrator makes a final decision on whether to approve the management program. Certain factors will contribute to lengthening or shortening this time table; these factors are discussed in the sections that follow. This Subpart also provides guidance on a recommended format for the program document submitted to the Assistant Administrator for review and approval. In addition, this Subpart provides criteria for providing preliminary approval of State coastal management programs pursuant to subsection 305(d) of the Act.

##### § 923.71 Recommended format for program submission.

(a) This guidance is provided in response to requests from a number of States for a suggested format. States should note, however, that this format is not mandatory. As long as States address all the sections of the Act and associated requirements of these regulations, the presentation may be in such format as best suits their needs



provided that such format has been discussed with and agreed to by OCZM.

(b) States should include an index with their program submission that indicates where in the management program document the information can be found which is necessary to make the findings required by the Act and

associated requirements of these regulations. A chart is provided below of the findings required by the Act and associated requirements of these regulations. This chart should assist States in developing the index. If States use the chart below as an index, it is recommended that a third column entitled Page Number be added to expedite review.

TABLE 2.—Chart—Findings Necessary for Section 306 Approval

| Section of the Act   | Associated section(s) of these regulations |
|--|--|
| Sec. 306(a) which includes the requirements of sec. 305:                       |  |
| 305(b)(1): Boundaries.....   | 923.31-923.34.                             |
| 305(b)(2): Uses subject to management.....                                     | 923.11.                                    |
| 305(b)(3): Areas of particular concern.....                                    | 923.21-923.23.                             |
| 305(b)(4): Means of control.....   | 923.41.                                    |
| 305(b)(5): Guidelines on priorities of uses.....                               | 923.21.                                    |
| 305(b)(6): Organizational structure.....                                       | 923.46.                                    |
| 305(b)(7): Shorefront planning process.....                                    | 923.24.                                    |
| 305(b)(8): Energy facility planning process.....                               | 923.13.                                    |
| 305(b)(9): Erosion planning process.....                                       | 923.25.                                    |
| Sec. 306(c) which includes:  |  |
| 306(c)(1): Notice: full participation; consistent with sec. 303.....           | 923.3, 923.51, 923.55, and 923.58.         |
| 306(c)(2)(A): Plan coordination.....   | 923.56.                                    |
| 306(c)(2)(B): Continuing consultation mechanisms.....                          | 923.57.                                    |
| 306(c)(3): Public hearings.....  | 923.58.                                    |
| 306(c)(4): Gubernatorial review and approval.....                              | 923.48.                                    |
| 306(c)(5): Designation of recipient agency.....                                | 923.47.                                    |
| 306(c)(6): Organization.....   | 923.46.                                    |
| 306(c)(7): Authorities.....  | 923.41.                                    |
| 306(c)(8): Adequate consideration of national interest.....                    | 923.52.                                    |
| 306(c)(9): Areas for preservation/restoration.....                             | 923.22.                                    |
| Sec. 306(d) which includes:  |  |
| 306(d)(1): Administer regulations, control development; resolve conflicts..... | 923.41.                                    |
| 306(d)(2): Powers of acquisition, if necessary.....                            | 923.41.                                    |
| Sec. 306(e) which includes:  |  |
| 306(e)(1): Technique of control.....   | 923.42-923.44.                             |
| 306(e)(2): Uses of regional benefit.....                                       | 923.12.                                    |
| Sec. 306(h): Segments.....   | 923.61.                                    |
| Sec. 307 which includes:   |  |
| 307(b): Adequate consideration of Federal agency views.....                    | 923.51.                                    |
| 307(f): Incorporation of air and water quality requirements.....               | 923.45.                                    |
| Applicable only to segmented management programs                               |  |

(c) OCZM recommends the following format for program submission: Summary; Framework of Program Development; Policies; 306 Requirements. OCZM also recommends the following items as appendices: Documentation of Government Consultation and Public Participation Efforts; Summaries of Required Public Hearings; Text of Relevant Legal Authorities; Environmental Assessment; and such other technical reports, maps, organizational charts or other materials a State feels would be useful in reviewing the management program. The elements of the main body of the management program are discussed in greater detail below:

(1) Summary—This section should serve as an executive summary of the program and should describe briefly the major elements of the State's management program. This section also should include a discussion of objectives the State will seek to attain through implementation of its management program. Specific milestones and timeframes for accomplishment of

these objectives should be established where possible.

(2) Framework of Program Development—This section should address the major coastal issues and problems identified during the program development process, the nature of those issues and problems, and how the management program can help to resolve them. This section should include a discussion of the major coastal natural resources and human activities which are important, unique and/or subject to intense pressures or conflicts. A brief discussion of the institutional setting within which the program was developed and some of the major considerations or alternatives that led to particular management approaches is appropriate as part of this section. In addition, there should be a brief discussion of those issues and problems which the program may not address initially but which will be taken into consideration during program implementation and/or future program refinements.

(3) Policies—This section should contain those policies that provide for a comprehensive, enforceable and predictable management program. These policies should be tied to issues and problems (discussed in (2) above) and to legal authorities (discussed in (4) below).

(4) 306 Requirements—In this section States should demonstrate that the requirements of the Act and these regulations have been met. The following contents are suggested:

(i) Boundaries—The requirements of subsection 305(b)(1) of the Act and Subpart D of these regulations should be addressed. States may want to indicate here, or as part of the EIA, major boundary alternatives considered. General maps of the management boundaries and of excluded Federal lands, if provided, are recommended for inclusion in this section (or if more easily handled as a separate appendix, their location in the appendix should be indicated in this section).

(ii) Uses Subject to Management—The requirements of subsections 305(b)(2), 305(b)(8) and 306(e)(2) of the Act and related sections 923.11-923.13 of these regulations should be addressed.

(iii) Special Management Areas—The requirements of subsections 305(b)(3), 305(b)(5), 305(b)(7), 305(b)(9), and 306(c)(9) and the associated requirements of Subpart C of these regulations should be addressed. States are encouraged to include generalized maps locating designated Areas of Particular Concern.

(iv) Authorities and Organization—The requirements of subsections 305(b)(4), 305(b)(6), 306(c)(5), 306(c)(7), 306(d), 306(e)(1) and 307(f) of the Act and the associated requirements of Subpart E of these regulations should be addressed. This should include a discussion of the administrative and legal bases that will be used to implement and insure enforcement of and compliance with the policies of the management program. This section should include, as applicable, discussion of six types of legal authorities: State legislation, State agency regulations, gubernatorial executive orders, interagency agreements, significant judicial decisions and significant constitutional provisions. With respect to the organizational structure that will be used to implement the management program, this section should include a discussion of the roles and responsibilities during the program implementation of the State agency designated pursuant to subsection 306(c)(5) of the Act and of other

State, local or regional agencies that will be involved in carrying out the management program. The relationship of the designated State agency to these other agencies also should be described.

(v) Consultation, Participation and National Interests—The requirements of subsections 306(c)(1)-(c)(3), 306(c)(8) and 307(b) of the Act and the related requirements of Subpart F of these regulations should be addressed. Included herein should be a summary of consultation efforts with relevant Federal and State agencies, local governments, regional, areawide and/or interstate entities. A summary of public information and participation during program development should be included. Also included herein should be discussions of national interest considerations; what procedures the State will use to implement the Federal consistency provisions of the Act; and what mechanisms will be used to insure continued governmental consultation and public participation after program approval. Detailed documentation regarding a number of the requirements addressed in this section can be reserved for appendices.

(vi) Miscellaneous—Normally, States will address the requirements of subsection 306(c)(4) and related § 923.48 in the gubernatorial transmittal that will accompany the program submission.

(d) For a segment submission, the same format should be used. All the requirements of the Act and these regulations apply, unless otherwise noted in § 923.61. Segment submissions also must address the requirements of subsection 306(h) of the Act and the associated requirements of § 923.61.

#### § 923.72 Review/approval procedures.

(a) Upon submission by a State of its draft management program, OCZM is to determine if it adequately meets the requirements of the Act and these regulations. Assuming positive findings are made and major revisions to the State's draft management program are not required, OCZM will prepare a Draft Environmental Impact Statement (DEIS). The DEIS will incorporate the State's program document. This combined document, hereinafter referred to as the DEIS, will be distributed to principally affected Federal agencies, State, local and regional agencies, national interest groups and to interested individuals. Preparation of the DEIS, printing of the document, delivery to EPA, and publication in the FEDERAL REGISTER of notice of availability of the DEIS and notice of date and location of public hearing on the DEIS usually will take 45 days. Since States normally will be responsible for printing the DEIS, the time in-

involved will vary depending on State printing capabilities.

(b) From the time of notice of availability in the FEDERAL REGISTER of the DEIS, each Federal agency, other person or entity normally has 45 days, pursuant to CEQ regulations to provide comments, if any, on the DEIS to the Assistant Administrator. During this time period, a public hearing will be held in one or more locations in the coastal State whose program is under review. At least fifteen (15) days notice, pursuant to CEQ regulations and the Administrative Procedures Act, will be provided, including announcement of availability of the DEIS. Following the public hearing(s), the comment period normally will remain open for fifteen days.

(c) Following the close of the DEIS comment period, the Assistant Administrator will review and evaluate comments received, in keeping with the requirement of subsection 307(b) of the Act to adequately consider the views of principally affected Federal agencies, and in keeping with the requirements of the National Environmental Policy Act (NEPA). Preparation of response to comments, revisions to the State's management program (if appropriate), submission of a final program, and preparation and printing of a Final Environmental Impact Statement (FEIS) normally will take a minimum of three months. Factors that will vary this time frame are: the nature of comments received on the DEIS, the nature and extent of revisions necessary to the management program, and State capabilities with respect to printing the FEIS (since States normally also will be responsible for printing the FEIS).

(d) Notice of the availability of the FEIS will be published in the FEDERAL REGISTER. The Assistant Administrator shall send a copy of such statement to each Federal agency or other person or entity which received a copy of the DEIS and to any additional persons who request a copy of the FEIS.

(e) The Assistant Administrator will review and evaluate any comments received during the thirty day review in keeping with the requirements of subsection 307(b) of the Act. The Assistant Administrator shall then approve or disapprove a State's management program. In the event of approval, the Assistant Administrator shall prepare a set of findings with respect to the requirements of the Act. These findings shall be available upon request. Notice of availability of these findings shall be published in the FEDERAL REGISTER. Principally affected Federal agencies will be sent a copy of the findings as a matter of course.

(f) In the event review of comments on the FEIS leads to a decision by the Assistant Administrator not to ap-

prove the management program, the Assistant Administrator shall so advise the State in writing, including the reason therefor. Notice of this decision also will be published in the FEDERAL REGISTER.

#### § 923.73 Miscellaneous.

The timelines laid out in § 923.72 may be shortened if any of the following occur:

(a) Reduction of the time allotted to review environmental impact statements is proposed consistent with applicable procedures and guidelines of CEQ and their concurrence is requested. Reductions in review time normally are limited to emergency circumstances or conditions which would result in impaired program effectiveness; or

(b) A draft environmental impact statement has been issued in connection with preliminary approval pursuant to subsection 305(d) of the Act (see § 923.74 et seq.) and a supplementary or final impact statement is all that is necessary for full approval pursuant to subsection 306(a) of the Act; or

(c) In the case of segmented programs only, a determination is made that the proposed segment management program will not significantly affect the environment. In such cases a negative declaration will be prepared. The program submission still shall be sent to principally affected Federal agencies for their review and comment.

#### § 923.74 Preliminary approval.

(a) Statutory Citation, Subsection 305(d):

The Secretary may make a grant annually to any coastal state . . . if a coastal state has a developed management program which (A) is in compliance with the rules and regulations promulgated to carry out subsection (b), but has not been approved by the Secretary under section 306; (B) specifically identified . . . any deficiency in such program which makes it ineligible for approval . . . and has established a reasonable time schedule during which it can remedy any such deficiency; (C) specified the purposes for which the grant will be used; (D) taken or is taking adequate steps to meet any requirement under sections 306 or 307 which involves any Federal official or agency; and (E) complied with any other requirement . . . necessary and appropriate to carry out the purposes of this subsection.

(b) The basic purpose of preliminary approval is to allow a State additional time to implement fully a coastal management program which, in its design and description, meets the requirements of section 306 of the Act. In granting preliminary approval, recognition is given to the need to describe, in a subsection 305(d) work program, those deficiencies precluding section 306 approval, the specifics for remedy-



ing those deficiencies, and a timetable within which this is to occur.

(c) Another objective is to provide funding to support initial implementation of selected elements of a State's coastal management program, provided that the overall design and description of the program meets the section 306 requirements. For selected elements to be initially implemented, necessary section 306 legal authorities and administrative capabilities must be in place;

(d) A third objective is to provide a State with additional time to resolve problems, uncovered during DEIS review of a program submitted for section 306 approval, when such problems would preclude full approval.

(e) The following are examples of situations under which States may apply for preliminary approval:

(1) A State may be able to describe the legislative authority it needs in order to meet the requirements under section 306 to have an approvable program, and to draft a bill carrying this out, but not be able to enact same within the time period provided pursuant to subsection 305(c). This could be because the legislature meets only every two years, or because the process is too complicated to accomplish in a matter of months.

(2) A State program may call on local units of government to prepare their own coastal plans in accordance with State guidelines. However, one or more years may be required for these units to carry out their work. Under this example, it should be noted that, depending on the nature of the State-local relationships and existing legal authorities, this activity also can be accomplished as part of a State's subsection 305(c) program development grant or as part of a section 306 program administrative grant.

(3) A State may need to reorganize within the Executive branch before a program can gain approval and funding under section 306.

(4) A State may be encountering problems resolving differences with one or a number of Federal agencies with respect to specific aspects of its coastal management program.

(f) Preliminary approval is not seen as a necessary continuum from section 305 to section 306 status. States may move directly from subsection 305(c) (program development) grants to section 306 (program implementation) grants. Progression from subsection 305(c) status to subsection 305(d) (preliminary approval) status is not automatic, nor is progression from preliminary approval status to section 306 status automatic. Application for preliminary approval requires consultation with the Assistant Administrator to insure that the State meets the el-

gibility conditions and approval criteria.

(g) Preliminary approval is meant to apply to a fully described coastal management program for a State's entire coastal zone. Accordingly, segments are not eligible for approval pursuant to this subsection but shall continue to be considered under provisions of section 306 of the Act and related § 923.61 of these regulations.

(h) In order to be eligible for consideration for preliminary approval, a State must be in one of the following situations:

(1) All subsection 305(c) program development grants must have been expended and the State can describe a program that meets the basic approval criteria but there are still aspects of the program which must be instituted before section 306 approval can be given; or

(2) At any time during section 305 program development when a State has elements of its coastal management program to implement and meets the basic approval requirement (that the overall program as described would be approvable when fully implemented); or

(3) During the course of section 306 review, problems are uncovered that preclude section 306 approval but do not preclude preliminary approval.

§ 923.75 Requirements for preliminary approval.

(a) *Requirements.* For a State's coastal management program to receive preliminary approval pursuant to subsection 305(d) of the Act, the State must submit a document which:

(1) Describes the overall management program in sufficient detail that the Assistant Administrator can determine the program meets all section 305(b) requirements at the time submitted for preliminary approval and that it will meet all section 306 requirements at the time submitted for final approval;

(2) Identifies deficiencies that prohibit achievement of section 306 program approval, the means and a timetable for remedying these deficiencies.

[Comment. States must meet all section 305 provisions and associated regulations. Therefore, an acceptable 305(d) program can be deficient only in its lack of having translated fully described but pending implementing actions into accomplished fact.]

[Comment. The schedule for remedying deficiencies should be sufficiently long to be realistic, given the nature and number of deficiencies and the particulars of a State's situation. At the same time it should be sufficiently tight to insure an enhanced and expeditious state effort.]

(3) Specifies the purposes for which the subsection 305(d) grant is to be used.

[Comment. See § 923.98(b) regarding eligible section 305(d) grant expenditures.]

(4) Demonstrate that adequate steps have been or are being taken to meet the requirements under 306 or 307 of the Act, which involve Federal agencies. For purposes of this paragraph, the particular sections of 306 and 307 are:

(i) Subsection 306(a)(1)—identification of excluded Federal lands;

(ii) Subsection 306(c)(1)—opportunity for full participation by relevant Federal agencies. This shall include advising Federal agencies (especially at the regional level) of the State's intent to apply for preliminary approval;

(iii) Subsection 306(c)(8)—adequate consideration of the national interest involved in planning for, and in the siting of, facilities necessary to meet requirements which are other than local in nature;

(iv) Subsection 307 (c) and (d)—development of procedures for implementing the Federal consistency requirements upon full approval of the State's program; and

(v) Subsection 307(h)(1)—participation in mediation procedures, if appropriate.

(5) Demonstrates that the necessary legal authorities and organizational capability for implementation exists at the time of preliminary approval for those elements to be implemented under subsection 305(d).

(6) Includes an Environmental Assessment.

§ 923.76 Preliminary review/approval procedures.

(a) States interested in preliminary approval should consult with the Assistant Administrator well in advance of the point at which they would like to receive such approval. As a general rule, such consultation should begin six months before approval is desired. The purpose of this consultation is to determine:

(1) If the program will be sufficiently developed, designed and described to warrant consideration for preliminary approval at the time desired;

(2) If there are any elements of the State's management program eligible for implementation funding as part of preliminary approval;

(3) The content and detail of the Environmental Assessment (EA) which must accompany the State's preliminary approval submission; and

(4) If an EIS will be necessary prior to granting preliminary approval. If the Assistant Administrator indicates that the program appears to meet the subsection 305(d) approval criteria, and if a determination is that an EIS will not be necessary prior to preliminary approval, States should plan on submitting the subsection 305(d) pro-

gram document, including an EA, two to three months prior to the desired date of approval. If the Assistant Administrator determines an EIS will be necessary prior to granting preliminary approval, States should plan on submitting the program document, including the EA shortly after this determination is made. The EIS procedures discussed in § 923.72 then will be followed. The subsection 305(d) program document should follow the general format recommended by OCZM in § 923.71. In addition, the information required in § 923.75(a) (2) and (3) with respect to describing deficiencies, timetable for remedying, and purposes for which the grant will be used must be included. The application for grant funds and the accompanying work program is separate document that may be submitted in conjunction with or subsequent to submission of the subsection 305(d) program document. The requirements for the grant application are contained in § 923.98.

(b) Upon submission by a State of a subsection 305(d) program document, the Assistant Administrator shall review the document for compliance with the approval criteria contained in § 923.75. If a State meets the approval criteria, the Assistant Administrator may award a subsection 305(d) grant and will issue a set of findings with respect to deficiencies and the timetable for their resolution.

(c) Copies of the subsection 305(d) program document and the Assistant Administrator's finding of deficiencies will be distributed to relevant Federal agencies.

(d) If a State applies for preliminary approval after formal section 306 program review has begun, preliminary approval will be issued at that point in the section 306 review process when the DEIS review reveals problems that preclude full program approval and implementation but do not preclude preliminary approval. States will be required to take into consideration those items raised by DEIS reviews as part of the subsection 305(d) work program.

#### Subpart I—Amendments to and Termination of Approved Management Programs

##### § 923.80 General.

(a) This subpart establishes the criteria and procedures by which amendments to approved management programs may be made. This subpart also establishes the conditions and procedures by which administrative funding may be terminated for programmatic reasons.

(b) Statutory Citations, Subsection 306(g):

Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary under this section, pursuant to the required procedures described in subsection (c) . . . . [N]o grant shall be made under this section to any coastal state after the date of such amendment of modification, until the Secretary approves such amendment or modification.

##### Subsection 312(b):

The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary, and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

(c) For purposes of this subpart, amendments are defined as substantial changes in, or substantial changes to enforceable policies or authorities related to:

(1) Boundaries;

(2) Uses subject to the management program;

(3) Criteria or procedures for designating or managing areas or particular concern or areas for preservation or restoration; and

(4) Consideration of the national interest involved in the planning for and in the siting of, facilities which are necessary to meet requirements which are other than local in nature.

##### § 923.81 Requests for amendments.

(a) *Requirement.* Requests for amendments shall be submitted to the Assistant Administrator by the Governor of a coastal State with an approved management program or by the head of the State agency (designated pursuant to section 306(c)(5)) if the Governor has delegated this responsibility and such delegation is part of the approved management program.

(b) *Requirements.* Amendment requests shall contain the following:

(1) Description of the proposed change, including specific pages and text of the management program that will be changed if the amendment is approved by the Assistant Administrator;

(2) Explanation of why the change is necessary and appropriate, including a discussion of the following factors, as relevant: changes in coastal zone needs, problems, issues, or priorities. This discussion also shall identify which findings, if any, made by the Assistant Administrator in approving the management program may need to be modified if the amendment is approved;

(3) Copy of public notice(s) announcing the public hearing(s) on the proposed amendments;

(i) At least one public hearing must be held on the proposed amendment, pursuant to sections 306(c)(3) of the Act;

(ii) Pursuant to section 311 of the Act, notice of such public hearing(s) must be announced at least 30 days prior to the hearing date.

[Comment. Where administratively possible, States should endeavor to tie the public hearing(s) on the proposed amendment to existing State hearing procedures, for example, State agency hearings required under State law prior to approval of local coastal programs. Since hearings on amendments to approved management programs are subject to a minimum 30 day notice, States may want to alter or supplement their notice procedures where these presently provide less than 30 days notice.]

(iii) At the time of the announcement, relevant agency materials pertinent to the hearing must be made available to the public;

(4) Summary of the hearing(s) comments;

(i) Where OCZM is providing Federal agency review concurrent with the notice period for the State's public hearing, this summary of hearing(s) comments may be submitted to the Assistant Administrator within 60 days after the hearing;

[Comment. See related discussion in paragraph (c).]

(ii) Where hearing(s) summaries are submitted as a supplement to the amendment request (as in the case described in (1) above), the Assistant Administrator will not take final action to approve or disapprove an amendment request until the hearing(s) summaries have been received and reviewed;

(5) Documentation of opportunities provided relevant Federal, State, regional and local agencies, port authorities and other interested public and private parties to participate in the development and approval at the State level of the proposed amendment.

(c) Requests for amendments should be submitted to the Assistant Administrator whenever possible prior to final State action to implement a major program.

[Comment. Where a program change will be effectuated by State administrative action, such as adoption of State agency rules and regulations, the request for an amendment of the State's approved management program should occur before final State agency action in order that OCZM may coordinate its review period with that occurring at the State level.

Where a program amendment is the result of legislative action OCZM recognizes it will be more difficult to submit amendment requests as a matter of course prior to final State action. Even in these cases, nonetheless, OCZM encourages States to submit



amendment requests prior to final legislative action.]

§ 923.82 Amendment review/approval procedures.

(a) Upon submission by a State of its amendment request, OCZM will review the request to determine preliminarily if:

(1) The management program, if changed according to the amendment request, still will constitute an approvable program.

(i) For amendments affecting management program boundaries, this will involve a determination that the program, if changed, will continue to include the following areas (as defined in § 923.31(a)) within the State's coastal zone:

(A) Areas the management of which is necessary to control uses with direct and significant impacts on coastal waters;

(B) Transitional and intertidal areas;

(C) Salt marshes and wetlands;

(D) Islands;

(E) Beaches; and

(F) Waters under tidal influence.

(ii) For amendments affecting uses subject to the management program, this will involve a determination that the program, if changed, will continue to:

(A) Identify which uses are subject to the management program (see § 923.10(b)(1)); (B) Assure that policies and authorities governing the management of these uses incorporate a sufficient range of considerations to address the findings and policies of section 302 and 303 of the Act (see § 923.3(b)(1) and (2)); and (C) Assure that policies and authorities related to use management are capable of effective implementation at the time of amendment approval (see § 923.10(b)(2)).

(D) Identify uses considered by the State to be of regional benefit and a method (or methods) of assuring local regulations do not unreasonably restrict or exclude such uses (see § 923.12(b)).

(iii) Amendments affecting criteria for designating or managing areas of particular concern, this will involve a determination that the management program, if changed, will continue to provide for:

(A) Criteria for designations (see § 923.21(b)(1));

(B) Designation of areas on a generic or site-specific basis (see § 923.21(b)(1) and (2));

(C) Description of how the management program addresses and resolves the management concerns for which areas are designated (see § 923.21(b)(3) and (4)); and

(D) Guidelines regarding priority of uses, including uses of lowest priority (see § 923.21(b)(5)).

(iv) For amendments affecting criteria for designating or managing areas

for preservation or restoration, this will involve a determination that the management program, if changed, will continue to provide for criteria and procedures for designations that are for the purposes of preserving or restoring areas for their conservation, recreational, ecological or esthetic values (see § 923.22(b)).

(v) For amendments affecting procedures for considering the national interest in particular facilities, this will involve a determination that the management program, if changed, will continue to provide for:

(A) A description of the national interest in the planning for and siting of the facilities which is taken into account by the consideration procedures (see § 923.52(c)(1));

(B) The sources relied upon for such consideration (see § 923.52(c)(2));

(C) A clear and detailed description of the administrative procedures and decisions points where this interest will be considered (see § 923.52(c)(4)); and

(D) In the case of energy facilities, consideration of any applicable interstate energy plan or program developed pursuant to section 309 of the Act (see § 923.52(c)(3)).

(2) The procedural requirements of section 306(c) of the Act have been met. These procedural requirements are that:

(i) The State has developed the amendment with the opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested public and private parties (section 306(c)(1) of the Act);

(ii) The State has coordinated the amendment with local, area-wide and interstate plans applicable to areas within the coastal zone affected by the amendment and existing on January 1 of the year in which the amendment request is submitted (section 306(c)(2));

(iii) Notice has been provided and a public hearing held on the proposed amendment (sections 306(c)(1) and (c)(3); and

(iv) The Governor or the head of the State agency, designated pursuant to section 306(c)(5), has reviewed and approved the proposed amendment (section 306(c)(4)).

(b) If the Assistant Administrator, as a preliminary matter, determines that the management program, if changed, would no longer constitute an approvable program, or if any of the procedural requirements of section 306(c) of the Act have not been met, the Assistant Administrator shall advise the State in writing of the reasons why the amendment request cannot be considered.

(1) Where problems exist with respect to the procedural requirements, States may redress these and resubmit its amendment request.

(2) Where problems exist with respect to basic program approvability, States also may modify their amendment request to redress the deficiencies with respect to approvability and thereafter may resubmit their amendment request.

(3) Where a State acts to implement the amendment request despite the Assistant Administrator's notification that such amendment would render the management program unapprovable, that State may be subject to termination of program approval and withdrawal of administrative funding. (See § 923.85.)

(c) If the Assistant Administrator, as a preliminary matter, determines that the management program, if changed, would still constitute an approvable program and that the procedural requirements of section 306(c) of the Act have been met, the Assistant Administrator will then determine, pursuant to the National Environmental Policy Act of 1969, as amended, whether an environmental impact statement (EIS) is required.

(1) If an EIS is appropriate, OCZM will prepare and distribute a DEIS and FEIS consistent with CEQ guidelines and NOAA procedures.

(i) Following review of comments on the FEIS, the Assistant Administrator will take final action to approve or disapprove the amendment request.

(ii) Notice of the Assistant Administrator's decision will be given in the FEDERAL REGISTER. If the Assistant Administrator's decision is to approve the amendment, the notice also shall indicate that Federal consistency applies as of the time of the Assistant Administrator's approval.

(2) If an EIS is not required pursuant to CEQ guidelines and regulations, notice will be published in the FEDERAL REGISTER of the Assistant Administrator's intent to approve the amendment request.

(i) This notice will include the content of the proposed amendment; the basis for determining an EIS is not required; and a specified comment period of not less than 30 days.

(ii) If no serious disagreement is raised by the head of a Federal agency (see § 923.83) during the comment period and after taking into account all comments received, the Assistant Administrator will make a final decision on whether to approve the proposed amendment and issue notice thereof in the FEDERAL REGISTER.

§ 923.83 Mediation of amendments.

(a) Section 307(h)(2) of the Act provides for mediation of "serious dis-

agreements" between a Federal agency and a coastal State during administration of an approved management program. Accordingly mediation is available to states or federal agencies when a serious disagreement regarding a proposed amendment arises.

(b) Mediation may be requested by a Governor or head of a State agency designated pursuant to section 306(c)(5) or by the head of a relevant Federal agency. Mediation is a voluntary process in which the Secretary of Commerce attempts to mediate between disagreeing parties over major problems.

(c) The specific mediation procedures to be followed when there are serious disagreements over amendments are the same as those utilized for serious disagreements during program implementation. (See § 923.54.)

§ 923.84 Routine program implementation.

(a) Further detailing of a State's program that is the result of implementing provisions approved as part of a State's approved management program, that does not result in the type of action described in § 923.80(c), will be considered routine program implementation. Routine implementation is not subject to the amendment procedures contained in § 923.81-923.82. It is subject to mediation provisions of § 923.83.

(b) Requirements. (1) States shall notify OCZM of routine program implementation actions in order that OCZM may review the action to ensure it does not constitute an amendment.

(i) States have the option of notifying OCZM of routine implementation on a case-by-case basis, periodically throughout the year, or annually.

(ii) In determining when and how often to notify OCZM of such actions, States should be aware that Federal consistency will apply only after the notice required by paragraph (4) below has been provided.

(2) Concurrent with notifying OCZM, States shall provide notice to the general public and affected parties, including local governments, other State agencies and regional offices of relevant federal agencies of the notification given OCZM.

(i) This notice shall:

(A) describe the nature of the routine program implementation;

(B) indicate that the State considers it routine program implementation and has requested OCZM's concurrence in that determination; and

(C) indicate that any comments on whether or not the action does or does not constitute routine program implementation may be submitted to OCZM within 3 weeks of the date of issuance of the notice.

(ii) Where relevant Federal agencies do not maintain regional offices,

notice must be provided to the headquarters office.

(3) Within 4 weeks of receipt of notice from a State, OCZM shall inform the State whether it concurs that the action constitutes routine program implementation. Failure to notify a State in writing within 4 weeks of receipt of notice shall be considered concurrence.

(4) Where OCZM concurs, a State then must provide notice of this fact to the general public and affected parties, including local governments, other State agencies and relevant Federal agencies.

(i) This notice shall:

(A) indicate the date on which the State received concurrence from OCZM that the action constitutes routine program implementation;

(B) reference the earlier notice (required in paragraph (2) above) for a description of the content of the implementation action; and

(C) indicate if Federal consistency applies as of the date of the notice called for in this paragraph.

(ii) Federal consistency shall not be required until this notice has been provided.

(5) Where OCZM does not concur, a State will be advised to submit the action as an amendment, subject to the provisions of §§ 923.81-923.82.

§ 923.85 Termination and withdrawal of administrative funding.

(a) Statutory Citation, Subsection 312(b):

The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

(b) In addition to the provisions contained in OMB Circular A-102 relating to termination and withdrawal of funding awarded pursuant to a grant award, the Assistant Administrator may recommend to the NOAA Grants Office that section 306 grant funding be terminated and withdrawn if the Assistant Administrator determines that:

(1) A State has failed or is failing to adhere to and was or is not justified in deviating from its approved management program; and

(2) The State has been provided notice of intent to terminate and withdraw funding; and

(3) That State has been provided an opportunity to demonstrate adherence, or justification for program alteration.

(c) Situations which may lead to notice of intent to terminate and withdraw funding include:

(1) In evaluating a State's performance as part of the continuing review function pursuant to section 312 of the Act, the Assistant Administrator determines that the State has not adhered to its management program approved pursuant to section 306 of the Act, and such lack of adherence is not justified.

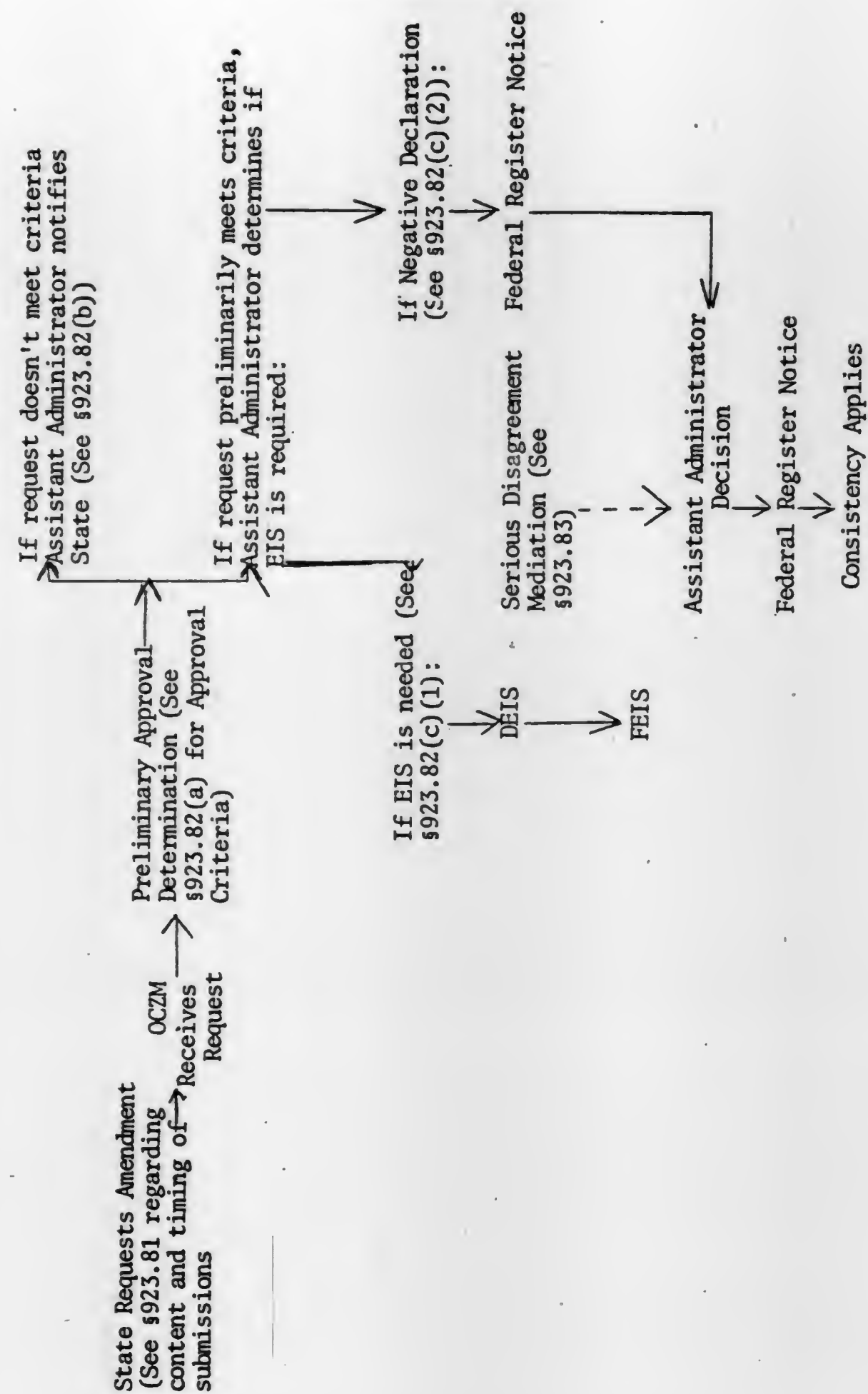
(2) In going through the amendment process, a State acts to implement that amendment prior to approval by the Assistant Administrator; or

(3) In being notified by OCZM that an action the State considered to be routine program implementation is deemed by OCZM to be an amendment, the State does not submit such action for amendment.

(d) In the event there is cause for terminating and withdrawing section 306 funding, a notice in the form of written documents from the Assistant Administrator and the NOAA Grants Office to the Governor of the State in question or the head of the designated State agency shall be provided advising of the intent to terminate and approve grant and to withdraw any unexpended portions of funding assistance. Included in this notice will be the reasons for the proposed termination and withdrawal of funds as well as notice of opportunity for the State to present evidence of adherence or justification for alteration of its program. Such opportunity to present evidence is referred to in subsection 312(b) of the Act shall consist of a thirty day period, commencing on receipt of notice, within which the State may respond by providing written materials demonstrating adherence to or justification for altering its program. Within this thirty day period, a State may request additional time beyond the thirty day period to present evidence of adherence or justification for alteration. Such additional time shall not extend beyond a subsequent thirty days from receipt the termination of the first thirty day period. In total then, a State may have a maximum of sixty days, from receipt of notice, in which to respond. Following receipt and evaluation of a State's evidence with respect to adherence or justification for alteration, a final determination shall be made by NOAA with respect to termination and withdrawal of funding assistance. If termination and withdrawal of funding is deemed appropriate, the NOAA Grants Office shall take appropriate action to terminate or withdraw funds. If funding is terminated and withdrawn pursuant to this section notice shall be placed in the FEDERAL REGISTER. Once funding is terminated and withdrawn pursuant to this section Federal consistency pursuant to section 307 of the Act shall cease to apply to that State's program.



CHART  
AMENDMENT PROCESS



FEDERAL REGISTER, VOL. 44, NO. 61—WEDNESDAY, MARCH 28, 1979

Subpart J—Applications for Program Development or Implementation Grants

§ 923.90 General.

(a) The primary purpose of development grants made pursuant to section 305 of the Act is to assist coastal States in the development of comprehensive coastal management programs that can be approved by the Assistant Administrator. The primary purpose of implementation grants made pursuant to section 306 of the Act is to assist coastal States in implementing coastal management programs following their approval. The purpose of the guidelines in this subpart is to define the procedures by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Office of Management and Budget Circular A-102, Administrative Requirements for Grants-in-Aid to State and local governments, and other directives from the NOAA and OCZM grants offices.

(b) Grants awarded to a State must be expended for the development or administration, as appropriate, of a management program that meets the requirements of the Act.

(c) All applications for funding under sections 305 or 306 of the Act, including proposed work programs, funding priorities and allocations are subject to the administrative discretion of the Assistant Administrator.

(d) Grants shall not exceed eighty per cent of the annual total cost of the program.

(e) For purposes of this subpart, the term "development grant" means a grant awarded pursuant to subsection 305(a) of the Act. "Administrative grant" and "implementation grant" are used interchangeably and mean grants awarded pursuant to subsections 306(a) or (h) of the Act.

(f) All application and preapplication forms are to be requested from and submitted to:

National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, Grants and Loans Operations Staff, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

§ 923.91 State responsibility.

(a) Applications for program grants shall be submitted by the Governor of a participating State or by the head of the State entity designated by the Governor pursuant to subsection 306(c)(5) of the Act.

(b) In the case of section 305 grant, the application shall designate a single State agency or entity to receive development grants and to be responsible for development of the State's coastal management program. The designee

need not be that entity designated by the Governor pursuant to subsection 306(c)(5) of the Act as the single agency to receive and administer implementation grants.

(c) One State application will cover all program activities for which funds under this Act and matching State funds are provided, irrespective of whether these activities will be carried out by State agencies, areawide or regional agencies, local governments, or interstate entities.

(d) The designated State entity is fiscally responsible for all expenditures made under the grant, including expenditures by subgrantees and contractors.

§ 923.92 Allocation.

(a) Statutory Citations, Subsections 305(g):

With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any regional agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.

Subsection 306(f):

With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, that such allocation shall not relieve the state of the responsibility of ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

(b) A State may allocate a portion or portions of its grant to other State agencies, local governments, areawide or regional agencies, interstate entities, of Indian tribes. If the work to result from such allocation(s) contributes to the effective development or implementation of the State's management program:

(1) *Local governments.* Should a State desire to allocate a portion of its grant to a local government, units of general-purpose local government are preferred over special-purpose units of local government.

(2) *Local governments.* Where a State will be relying on direct State controls as provided for in subsection 306(e)(1)(B) of the Act, pass-throughs to local governments for local planning, regulatory or administrative efforts under a section 306 grant cannot be made, unless they are subject to adequate State overview and are part of the approved management program. Where the approved management program provides for specified local activities or one-time projects,

again subject to adequate State overview, then a proportional amount of administrative grant funds can be allocated to local governments.

(3) *Areawide agencies.* If a State wishes, it may allocate a portion of its administrative grant to an areawide agency, and absent State law to the contrary, preference shall be given to those agencies recognized or designated as areawide comprehensive planning or development agencies under the provisions of the Office of Management and Budget Circular No. A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(4) *Indian Tribes.* In furtherance of the policy enunciated in § 923.33(b)(2), individual tribes or groups of tribes may be considered regional agencies and may be allocated a portion of a State's grant for the development of independent tribal coastal management programs or the implementation of specific management projects provided that:

(i) The State certifies that such tribal programs or projects are compatible with its approved coastal management policies; and

(ii) On excluded tribal lands, the State demonstrates that the tribal program or project would or could directly affect the State's coastal zone.

§ 923.93 Geographic segments.

(a) Application procedures for a grant to be awarded pursuant to subsection 306(h) of the Act for a geographic segment of a State's coastal zone are the same as those set forth in this subpart for a grant to administer the approved management program of the entire coastal zone of a State.

(b) When a State has a program for a geographic segment of its coastal zone approved pursuant to subsection 306(h) of the Act, that portion of a State's coastal zone not awarded segment approval will continue to be eligible for section 305 grants until authorization for such funds terminates.

§ 923.94 Eligible implementation costs.

(a) Costs claimed must be beneficial and necessary to the objectives of the grant project. As used herein the terms cost and grant project pertain to both the Federal and the matching share. Allowability of costs will be determined in accordance with the provisions of Federal Management Circular (FMC) 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(b) Federal funds awarded pursuant to section 306 of the Act may not be used for land acquisition purposes and may not be used for construction purposes except as described in paragraph (d) below.



(c) The primary purpose for which implementation funds, pursuant to section 306 of the Act, are to be used is to assure effective implementation and administration of the management program, including especially administrative actions to carry out and enforce program policies, authorities and other management techniques. Implementation activities should be related to achieving substantive results in the following 4 major areas, which are derived from the policies and findings of §§ 302 and 303 of the Act:

(1) Protection of significant natural coastal resources, and areas including, as appropriate, wetlands, beaches, dunes, barrier islands, reefs and fisheries.

(2) Management of coastal development to:

(i) Prevent or mitigate loss of life and property in such coastal hazard areas as floodplains, erosion-prone areas, areas subject to subsidence or saltwater intrusion;

(ii) Provide priorities for water-dependent uses such as ports, fishing facilities and water-dependent energy facilities; and

(iii) Identify environmentally acceptable sites for dredge spoil disposal.

(3) Increase in public access for recreational purposes, including revitalization of urban waterfront and protection and restoration, where possible, of important historic, cultural and aesthetic coastal resources.

(4) Improvement in the predictability and efficiency of governmental decisionmaking especially with respect to permitting.

(d) Implementation funding may be applied to the management of designated areas of particular concern, especially areas designated for preservation or restoration purposes pursuant to § 306(c)(9) of the Act. Within areas designated for the purpose of restoring or preserving their ecological or conservation values, section 306 funds may be spent for projects involving expendable materials (as for example, seeds to be used as a non-structural erosion control technique or, for another example, materials to restore lighthouses designated as areas for restoration). All costs associated with such projects may not exceed a total of \$50,000 per grant, except in the case of a demonstration grant which may be negotiated with and approved by the Assistant Administrator. In addition the following conditions must be met:

(1) The project must be consistent with and fulfill the objectives of a related policy (or policies) in the State's management program;

(2) Basic program administration requirements discussed in paragraph (c) are provided for;

(3) No other sources of funding are readily available; and

(4) An explanation is provided of how the area will be maintained and operated once preserved or restored.

(e) Section 306 funding in support of any of these purposes, except as limited in paragraph (d) above, may be used to fund:

(1) Personnel costs,

(2) Supplies and overhead,

(3) Equipment (subject to the limitations in paragraph (f) below), and

(4) Feasibility studies and preliminary engineering reports. A feasibility study is defined as a document, independent of a particular design solution for a project, which presents an analysis of the economic practicality of the project. A preliminary engineering report is defined as a document which presents both engineering criteria, in sufficient detail to form the basis for the preparation of final design documents and detailed engineering cost estimates. Detailed architectural drawings and engineering specifications are eligible costs if:

(i) They are directly related to preservation and restoration projects discussed in (d) above;

(ii) They are for projects which are not in APC's but are directly related to the State's management program and the State can provide written documentation to OCZM that the other sources of funding have been secured to complete such projects.

(f) Equipment purchases by the grantee of more than one thousand (1,000) dollars per item require NOAA approval prior to purchase. Equipment purchases by sub-awardees may be approved by the grantee. Such purchases may be deemed eligible costs if the State:

(1) Has examined lease, rental or other non-purchase alternatives and purchase represents an equal or lesser cost alternative; and

(2) The equipment is essential to management activities that are anticipated to continue for more than 1 year.

(g) States are encouraged to coordinate administrative funding requests with funding possibilities pursuant to sections 308, 309, 310 and 315 of the Act. When in doubt as to the appropriate section of the Act under which to request funding, States should consult with OCZM. States should consult with OCZM on technical aspects of consolidating requests into a single application.

§ 923.95 Application for initial program development or implementation grants.

(a) The form SF-424, and an Application for Federal Assistance (Non-Construction Programs) constitutes the formal application. An original and two (2) copies must be submitted

45 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. Grants will not be awarded until A-95 requirements have been completed.

(b) States have the option of using a Preapplication for Federal Assistance. If used, the Preapplication must be submitted 120 days prior to the beginning date of the requested grant. The Preapplication shall include documentation, signed by the Governor, designating the State office, agency, or entity to apply for the administer the grant. The SF-424 and Preapplication for Federal Assistance, should be transmitted to the appropriate clearinghouses at the time it is submitted to OCZM.

(c) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein, the terms "cost" and "grant project" pertain to both the Federal grant and the matching share. Allowability of costs will be determined in accordance with the provisions of FMC 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments. Eligible implementation costs also shall be determined in accordance with § 923.94 of these regulations.

(d) In Part IV—Program Narrative of the Form SF-424, the applicant shall describe clearly and briefly the activities that will be undertaken with grant funds in support of implementation and administration of the management program. This description shall include:

(1) An identification of those elements of the approved management program that are to be supported in whole or in part by the Federal and the matching share,

(2) A clear statement of the major tasks required to implement each element,

(3) For each task:

(i) Specify how it will be accomplished and by whom;

(ii) Identify any sub-awardees (other State agencies, local governments, individuals, etc.) that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of the sub-awards for each allocation. Identify, if any, that portion of the task that will be carried out under contract with private firms or individuals and indicate the estimated cost of such contract(s);

(iii) Indicate the estimated total cost. Also indicate the estimated total person-months if any, allocated to the task from the applicant's staff;

(iv) Indicate the percent estimated to be completed during the grant period.

(4) The sum of all task costs in subparagraph (3) above should equal the total estimated grant project cost.

(5) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff who will be assigned to the grant project. Also indicate the number assigned full time and the member assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project.

§ 923.96 Applications for subsequent program development grants.

(a) Subsequent development grants will follow the procedures set forth in § 923.95. Additionally, the program design discussed in § 923.95(d) shall be updated to:

(1) Describe the anticipated design and content of the management program, including the major issues the program will address, and the policies and management techniques that will be proposed to address these issues;

(2) Describe how the past year's work contributed to the accomplishment of the overall program design and specifically to meeting the requirements for program approval;

(3) Examine and assess the need, if any, to modify the overall program design or the program's goals and objectives or both in view of the above or any emerging opportunities or problems; and

(4) Indicate when the State will submit a management program to the Assistant Administrator for review and final approval pursuant to section 306 of the Act or for preliminary approval pursuant to subsection 305(d) of the Act.

(b) In evaluating whether a State is making satisfactory progress toward completion of an approvable management program which is necessary to establish eligibility for subsequent grants, the Assistant Administrator will consider:

(1) The progress made toward meeting management program goals and objectives;

(2) The progress demonstrated in completing the past year's work program;

(3) The cumulative progress toward meeting the requirements for preliminary or final approval of a coastal management program;

(4) The applicability of the proposed work program to fulfillment of the requirements for final approval; and

(5) The effectiveness of mechanisms for insuring public participation and consultation with affected Federal, State, regional and local agencies in program development.

§ 923.97 Applications for subsequent program implementation grants.

(a) Second and subsequent year applications will follow the procedures set forth in § 923.95 except that:

(1) The Governor's document designating the State agency to receive and administer the grant is not required unless there has been an approved change of designation; and

(2) Copies of the approved management program and approved changes are not required.

(b) No award for continued funding pursuant to section 306 will be made until an evaluation of the State's program pursuant to § 312 of the Act has been conducted and findings have been made by the Assistant Administrator.

§ 923.98 Applications for preliminary approval grants.

(a) The primary purposes of preliminary approval grants are to assist a State in insuring ultimate implementation of a fully developed program design and to provide for initial implementation of approved management elements. The purpose of these guidelines is to define the procedures by which grantees apply for and administer grants under the Act.

(b) The following represent allowable subsection 305(d) costs:

(1) Resolving section 306 deficiencies;

(2) Implementing those portions of a State's coastal management program for which sufficient authorities and organizational structures are in place;

(3) Updating coastal management programs if this updating would be an allowable cost after section 306 approval.

(c) The Form SF-424 and the Application for Federal Assistance (Non-Construction Programs), constitutes the formal application. An original and two (2) copies must be submitted at least 45 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. A grant will not be awarded until A-95 requirements have been completed.

(d) In Part IV, Program Narrative of the Form SF-424, the applicant should respond to the following requirements:

(1) Set forth a work program describing the activities to be undertaken during the grant period. This work program shall include:

(i) A precise description of each major task to be undertaken to resolve section 306 deficiencies, and a specific timetable for remedying these deficiencies;

(ii) a precise description of implementation activities for approved management components, including a dem-

onstration that these implementation funds will not be applied outside the approval coastal management boundaries;

(iii) A precise description of any other tasks necessary for and allowable under subsection 305(d);

(iv) For each task, identify any subawardees that will be allocated responsibility for carrying out all or portions of the tasks, and indicate the estimated cost of the subaward for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s); and

(v) For each task, indicate the estimated total cost. Also, indicate the estimated total person-months of effort, if any, allocated to the task from the applicant's staff.

(2) The sum of all task cost in the above paragraph should equal the total estimated grant project cost.

(3) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full time and the number assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project.

§ 923.99 Approval of applications.

(a) The application for a grant by any coastal State which complies with the policies and requirements of the Act and these guidelines shall be approved by the Assistant Administrator, assuming available funding.

(b) Should an application be found deficient, the Assistant Administrator will notify the applicant in detail of any deficiency when an application fails to conform to the requirements of the Act or these regulations. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Assistant Administrator may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained in this subpart.

§ 923.100 Grant amendments.

(a) Actions which require an amendment to a grant award such as a request for additional Federal funds, changes in the amount of the non-Federal share, changes in the approved project budget as specified in Attachment K of OMB Circular A-102, or extension of the grant period must be submitted to the Assistant Administrator and approved in writing



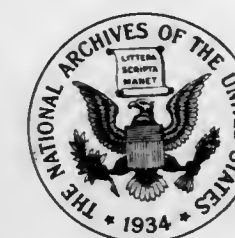
by him/her and the NOAA Grants Officer prior to initiation of the contemplated change. Such requests should be submitted at least 30 days prior to the proposed effective date of the change and, if appropriate, accompanied by evidence of compliance with A-95 requirements.

(b) NOAA shall acknowledge receipt of the grantee's request within the ten (10) working days of receipt of the correspondence. This notification shall indicate NOAA's decision regarding the request; or indicate a time-frame within which a decision will be made.

[FR Doc. 79-9127 Filed 3-27-79; 8:45 am]

**WEDNESDAY, MARCH 28, 1979**

## PART III



**DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE**

# Health Care Financing Administration

# HEALTH FINANCING RESEARCH AND DEMONSTRATION GRANTS

உயர்நீதிமன்றம்



[4110-35-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFAREHealth Care Financing Administration  
HEALTH FINANCING RESEARCH AND  
DEMONSTRATION GRANTS

## SUMMARY

This Notice supersedes the original Notice published in the FEDERAL REGISTER on April 13, 1978 (43 FR 15594) and;

1. revises the priority areas for grants,
2. changes the original schedule for submittal, review and funding of grant applications from quarterly to semi-annual and
3. clarifies that Section 1115 "Waiver-Only" projects are subject to the same formal review process as are all other grant applications.

## AVAILABILITY OF GRANTS

The Office of Policy, Planning and Research (OPPR) of the Health Care Financing Administration (HCFA) has funds for research and demonstrations. Applications for grants may be made by nonprofit or public organizations and institutions (including state agencies responsible for administering the Medicaid Program). Grants may be made for research, planning or conduct of demonstrations, conferences, or data collection activities.

## GENERAL POLICY CONSIDERATIONS

The grant activities we fund are intended to assist in the resolution of major health financing policy and program issues and to assist in developing new methods for the administration of HCFA programs. In general we will consider funding projects which:

- Develop or demonstrate new financing mechanisms or controls, management or administrative procedures, service delivery concepts or technological innovations designed to improve HCFA programs, or
- Develop knowledge about the basic nature of costs and inflation in the health care field or the economic and behavioral relationships between health care financing methods and the activities in the health care sector.

Applicants who have ideas in either of these general areas are encouraged to develop them into complete applications.

There are several areas of interest and concern which are considered as priority. These areas are not exhaustive of our interests.

Applications which fit one of the priority areas will be considered as "solicited." Applications which do not fit one of the areas will be considered if they fit within the two general areas described above. However, there is no guarantee that there will be sufficient

funds to make awards in all the topics. These applications will have to compete with one another and across areas.

## HCFA PRIORITY AREAS FOR GRANTS

The 17 areas announced in the April 13, 1978 Notice are being consolidated. Two of these priority areas have been eliminated; Clinical Efficacy Studies and Health Education/Consumer Awareness.

The new priority areas are:

- Beneficiary Awareness in Consuming Health Care Services
- Beneficiary Impact and Data Base Development
- Fraud and Abuse
- Health Systems Organization
- Hospital Costs
- Industrial Organization Reimbursement
- Integrated Data Systems
- Long Term Care
- Long Term Care Demonstrations
- Long Term Care Research
- Physician Reimbursement
- Quality and Effectiveness

An explanation of the new priority areas will be published in a brochure which will be available from:

Program Support Office, Office of Policy, Planning, and Research, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 5046 Switzer Building, 330 C Street, Southwest, Washington, D.C. 20201.

This brochure is the basic source for information on the content of the current priority areas for this grants program. As changes are made in these priority areas new editions of the brochure will be prepared and made available.

## DURATION OF FUNDING

Grants are awarded for a period of 1 year, and may be continued on a non-competing basis generally for up to 5 years if originally awarded as a multiple year project. Continuation funding is contingent upon the availability of future year funds, the meeting of project objectives, and the continued relevance of the project to the declared interests of HCFA.

## GENERAL CRITERIA FOR FUNDING NEW PROJECTS

The Associate Administrator for Policy, Planning and Research determines which projects will be funded. These decisions are based on the recommendations of technical review panels and on the comments of other Department components and outside individuals or organizations. More specifically, the factors that are considered in arriving at the award decision are:

1. Whether the project addresses an area of declared interest, and the relevance of the anticipated results to HCFA programs or general issues, involving HCFA programs.

2. The adequacy and creativity of the research design and questions, the validity and appropriateness of the methods and data bases(s) proposed, and the experience and competence of the researchers.

3. Whether the knowledge base, project design or methodology is such that the project can be carried out within the times specified.

4. Whether the proposed project methodology is rigorous and consistent with what is generally agreed to be the state of the art.

5. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the project and to the concern of HCFA for that issue.

6. If it is a demonstration project it shows a commitment of the parties necessary to the success of the planned project.

## PROJECT REQUIREMENTS

In addition to meeting the general criteria described above the application must meet the following requirements.

1. The project goals and objectives must be clearly stated and be measurable.
2. The research design, including the questions to be addressed, the methods and the data to be used must be explicitly described. The methodology must be well defined and scientifically valid.

3. A demonstration project must include a demonstration design, objectives and proposed analytical and evaluation methods.

4. The relevance of the findings to HCFA policy concerns should be discussed.

5. Tasks and milestones must be clearly described and scheduled.

6. The application must specify the availability of the data to be used. If data are to be collected, the discussion should describe the nature of the data sought, the sample design and size, controls (if any) and the problems that might be encountered. Data that are collected under a HCFA grant must be available to anyone the Project Officer designates at any time and only to those individuals or organizations designated by the Project Officer. The applications must assure the confidentiality of data and the protection of the privacy of individuals when the data allow for such identification.

7. The Application should show the qualifications and experience of the personnel and demonstrate how their qualifications make the individuals capable of performing the tasks in the project. The application should also show how the personnel are to be organized in the project; who will be responsible for which portions of the project and what lines of authority will exist.

8. The application should show the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

9. The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results. Applicants should directly share in the costs of the projects (see Application Procedures, 2 Grant Policies below).

10. Funds will not be available for construction or remodeling; or for project activities that take place before the applicant has received official notification of HCFA approval of the project.

11. Experiments and demonstration projects must have a proposed evaluation com-

ponent. This must describe data collection and analysis procedures for an evaluation that will assess the degree to which the objectives of the project were met. The evaluation component may, at the discretion of the HCFA, be separately funded. Therefore, the evaluation effort should be separately and distinctly budgeted.

12. Sections 1115 and 222 projects that require waivers must define the services, list the waivers, discuss the implications if such waivers are granted, state the effect on Federal, State and local laws as well as the effect (beneficial or adverse) on beneficiaries enrolled in the project.

13. Plans for utilization of the project's results should be discussed along with the deliverable products and the points in the project schedule when these reports/products will be available.

14. The application must assure the applicant's willingness to comply with the human subjects regulations by the inclusion of a completed form HEW-596 (Rev. 1975) "Protection of Human Subjects" (45 CFR Part 46).

## REVIEW OF THE APPLICATIONS

The review process will consist of two phases. During the first phase applications will be separated into two groups, those that are relevant to the interests of HCFA and those that are not. The criteria used for this decision will be whether the project fits within the language of HCFA's general interest appearing in the first paragraph of "General Policy Considerations" of this Notice. The first group will be screened for completeness and assigned to review panels; the second group will be returned to the applicants. The second phase will consist of the review, ranking and award. The review will be conducted by a panel of not less than three experts (who are not staff members of OPPR).

There will be at least one panel for each area of interest. A OPPR/HCFA Project Officer will coordinate the panel's review but will not vote. This individual will also prepare the panel's recommendation to the Director, Office of Policy, Planning and Research. The panel's recommendations will contain numerical ratings, ranking of acceptable projects and a written assessment of each application.

## SECTION 1115 PROJECTS

Under section 1115(a)(1) of the Act, compliance with statutory State Medicaid Plan requirements may be waived to enable a State Medicaid agency to carry out a significant demonstration project which will further the general objectives of the Medicaid program.

To assure that all HCFA decisions on waivers reflect our needs and priorities and so that we can properly analyze the results of such projects, section 1115 applications which only seek waivers of HCFA regulations are reviewed as are other grant applications. The closing, review and award dates established for grant applications will be used as well for section 1115 waiver-

only projects unless otherwise stated in a FEDERAL REGISTER Notice.

All requirements of the Social Security Act, the Code of Federal Regulations and other issuances that pertain to the Title XIX categorical program are applicable to a project approved under section 1115, except as specifically waived.

When a State Medicaid agency applies for a section 1115 project special attention should be given to the preparation of the budget. These budgets are substantially more extensive than the budget for other grant applications (see HCFA-PG-11A, Instructions for Completion of Federal Assistance Application, form HCFA-PG-11).

## NUMBER AND SIZE OF AWARDS

Awards may range from \$25,000 to \$1,000,000, in total cost. Most grants will range between \$25,000 and \$250,000 per year and range from 1 to 5 years. The number of awards in the priority areas will depend on the size of the highest quality/greatest interest applications.

The number and size of awards will depend on the availability of funds and on the need of projects that are continuing from prior years.

## AUTHORITIES

The authorities for these grants are:

Social Security Act, Title XI, and Sections 1110 and 1115.  
Section 222(a) of the Social Security Amendments of 1972.  
Section 402(a) of Social Security Amendments of 1967.  
Public Health Act, Section 1526(a), as restricted by Section 1521(b)(3).  
Public Health Act, Section 1533(a), as it relates to Section 1533(d).

## APPLICATION PROCEDURES

1. *Applications forms.* A standard application form has been developed for the HCFA research and demonstration grant program. Application kits and guidance for the completion of the forms are available from:

Health Care Financing Administration,  
Project Grants Branch, 4200-C Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0671.

The application should include, in the project title, the solicited area to which the applicant is responding. The solicited area designation should also be clearly marked on the outside of the package/envelope. If the application is unsolicited (not in response to any of the priority areas) the project title should include the phrase, "... an unsolicited grant application" and the package/envelope should indicate the same.

2. *Grant Policies.* The funding of grants is made through a competitive process based on a choice of proposals submitted in response to this notice. All grantees are expected to share directly (not in-kind) in the costs of the projects. This sharing should not be

less than 5 percent of the total project cost.

Other policies in terms of grantee responsibilities, awarding and payment procedures, special provisions and assurances may be found in the following documents that are included in the application kit:

Project Grants Policy Handbook, DHEW Publication No. (SRS) 76-04001  
45 Code of Federal Regulations, Part 74: Administration of Grants

3. *Closing Dates and Times.* Because of the time required to carry out a complete review and reach decisions on grant application funding while continuing to manage existing grants and contracts, we are changing from a quarterly to a semi-annual schedule. Accordingly, we will regularly process grant applications twice a year with award decisions being announced in January and July.

For fiscal year 1979 the second and last closing date will be Monday, June 4, 1979. For fiscal year 1980 the closing dates are Monday, October 1, 1979 and Monday, April 7, 1980. For all dates the closing time is not later than 3:00 PM Washington, D.C. time.

(Applications which were received in response to the previously announced January 8, 1979 closing are being held for review with applications to be received by June 4, 1979.)

A summary of this schedule is as follows:

| Closings              | Reviews            | Award Decisions |
|-----------------------|--------------------|-----------------|
| June 4, 1979 .....    | July/August .....  | September.      |
| October 1, 1979 ..... | November/December. | January.        |
| April 7, 1980 .....   | May/June .....     | July.           |

Applications received after these cut-off dates will not be considered unless they were sent by Registered, Certified or Express mail 5 working days in advance of the specified dates. The postmark on the package will establish the date the application was mailed. Late applications will be carried over until the next closing date unless the applicant notifies the Project Grants Branch that it is being withdrawn.

Applications received for the second cycle in any fiscal year will be reviewed with the intent of making awards in the fourth quarter of that fiscal year. However, these applications may be held for award in the first quarter of the subsequent fiscal year.

(Catalog of Federal Domestic Assistance Program No. 13.766 Health Financing Research, Demonstrations and Experiments)

Dated: March 23, 1979.

LEONARD D. SCHAEFFER,  
Administrator, Health Care  
Financing Administration.

[FR Doc. 79-9329 Filed 3-27-79; 8:45 am]



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# Register Federal

WEDNESDAY, MARCH 28, 1979

PART IV



## NATIONAL ARCHIVES AND RECORDS SERVICE

Office of the  
Federal Register

INCORPORATION BY  
REFERENCE

Publication Procedures



## RULES AND REGULATIONS

[68-20-27-M]

## Title 1—General Provisions

CHAPTER II—OFFICE OF THE  
FEDERAL REGISTERPART 51—INCORPORATION BY  
REFERENCE

## Publication Procedures

AGENCY: Office of the Federal Register.

ACTION: Final rule.

SUMMARY: The Office of the Federal Register (OFR) amends its regulations on incorporation by reference to require that agencies follow new procedures to maintain approval of their incorporations by reference in the Code of Federal Regulations (CFR). These amendments are necessary for the OFR to compile inventories of all materials approved for incorporation by reference and to keep those materials approved for incorporation by reference up-to-date.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Ann Stevens, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408, 202-523-4534.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

Under certain circumstances, a Federal agency may comply with the requirement that regulations must be published in the FEDERAL REGISTER by referring to materials that have already been published elsewhere. Use of this device, called "incorporation by reference," was authorized in 1966 by the Congress in 5 U.S.C. 552(a) to reduce the volume of material published in the FEDERAL REGISTER and the CFR. The legal effect of incorporation by reference is that the material is treated as though it were actually published in full in the FEDERAL REGISTER and the CFR.

Under §552(a), the Director of the FEDERAL REGISTER is authorized to decide when an agency may incorporate material by reference. The Director was given this authority to insure that use of incorporation by reference did not undermine the notice-giving function of the FEDERAL REGISTER system created by the Federal Register Act of 1935 (44 U.S.C. Ch. 15). To carry out this objective, the OFR established procedures in 1967 that agencies must follow before an incorporation by reference will be approved (32 FR 7899). These procedures, as

amended, appear in Title 1, Part 51 of the CFR. One of the most important of the required procedures is the filing of the incorporated material with the OFR. The filing requirement is consistent with the policy behind the Federal Register Act that the OFR be the central depository of all Government regulatory documents.

## PROCEDURES

In this document, we announce new procedures that agencies must follow to continue the Director's approval of material previously incorporated by reference. We developed these procedures: (1) to make it easier for the public to identify incorporated material; and (2) to insure that only material currently enforced by the agency is incorporated by reference.

IDENTIFICATION OF INCORPORATED  
MATERIALS

Before 1967, some agencies used the incorporation by reference device even though it was not explicitly authorized by statute. There are numerous examples of these pre-1967 incorporations by reference throughout the CFR. There are also numerous examples of incorporations by reference published after 1967 that were not approved by the Director of the Federal Register. Neither of these incorporations by reference have the legal standing that is available under 5 U.S.C. 552(a) and 1 CFR Part 51.

While the OFR established procedures for incorporation by reference in 1967 (32 FR 7899), we did not require agencies to file a copy of incorporated materials with us until 1973 (37 FR 23614). Therefore, we do not have a complete file of all materials that we have approved for incorporation by reference. We have since determined that a complete file of incorporated material is necessary to enable us to carry out our central depository function under the Federal Register Act.

We receive numerous inquiries from the public and from Government agencies about material that has been approved for incorporation by reference. The new procedures will help us handle these inquiries effectively and maintain and publish in the FEDERAL REGISTER an inventory of all material incorporated by reference. This inventory was recommended in the Administrative Conference of the United States Recommendation 78-4, Federal Agency Interaction with Private Standards-setting Organizations in Health and Safety Regulations (44 FR 1357). We also plan to list incorporated material at relevant parts throughout the CFR. This agency listing is necessary for historical research purposes. It will reflect exactly what material was incorporated by reference on a given date after July 1, 1980, and

will help researchers determine what was in effect on that date.

We believe that the most effective way to assure the accuracy of this inventory is to withdraw all existing incorporations by reference and to require agencies that wish to do so to apply again to the Director for approval to incorporate by reference.

## MAINTENANCE OF MATERIALS

Much of the material that has been incorporated by reference has been revised since its approval. Agencies that wish to apply these revisions are required by 1 CFR and §§51.5 and 51.8 to send us any revisions of the material and to publish a document in the FEDERAL REGISTER giving the public notice of these revisions. However, not all agencies follow this procedure. As a result, there are numerous references in the early editions of the CFR to materials that have been revised, even though the agency enforces the later edition.

We believe that withdrawal of all existing approvals of incorporations by reference is the most effective way to insure that only material currently enforced by the agency is incorporated by reference. If agencies reapply for incorporation by reference approval, we will review material submitted to determine if it is still eligible for incorporation by reference in light of our experience since 1967 and in light of recent trends toward increased public participation in the rulemaking process.

To assure that the system is kept up-to-date after material is approved and that we periodically review the eligibility of this material, we developed new procedures for maintaining incorporations by reference. These procedures require agencies to submit to the Director a list identifying all incorporated material enforced by the agency and the date of its last revision. This information will be published in relevant portions of the CFR.

## PUBLICATION AS A FINAL RULE

The public will be affected by these procedures only to the extent that they will benefit from publication of the inventories of incorporated materials and from the maintenance of material approved for incorporation by reference. Since the procedures outlined in this document relate to agency management they are exempt from the notice and comment requirements of 5 U.S.C. 553.

FRED J. EMERY,  
Director, Office of  
the Federal Register.

MARCH 23, 1979.

Accordingly, under the authority vested in the Office of the Federal Register by 5 U.S.C. 552(a), 1 CFR

## RULES AND REGULATIONS

Part 51 is amended by adding a new section 51.13 to read as follows:

§ 51.13. Procedures for approval and  
maintenance of incorporations by reference.

(a) The Director withdraws approval of all material incorporated by reference in the Code of Federal Regulations (CFR) effective on the following dates:

| Incorporations by reference<br>appearing in | Are withdrawn on |
|---|------------------|
| CFR Titles 1 through 16.....                | January 1, 1981  |
| CFR Titles 17 through 27.....               | April 1, 1981    |
| CFR Titles 28 through 41.....               | July 1, 1980     |
| CFR Titles 42 through 50.....               | October 1, 1980  |

(b) Each agency that wishes material incorporated by reference in the CFR to be effective after the dates set forth in paragraph (a) of this section shall—

(1) Request the Director's approval as required by this Part and send with the request a copy of the material to be incorporated by reference unless the material is on file with the Office of the Federal Register and is currently enforced by the agency; or

(2) Submit to the Director a list of that material and the date of its last revision unless the material is on file with the Office of the Federal Register and is currently enforced by the agency.

(c) Each agency that wishes material incorporated by reference in the CFR to remain effective shall annually submit to the Director a list of that material and the date of its last revision. The agency shall submit this list at least 30 days before the revision date of the CFR title in which the incorporation by reference appears.

[FR Doc. 79-9578 Filed 3-27-79; 8:45 am]



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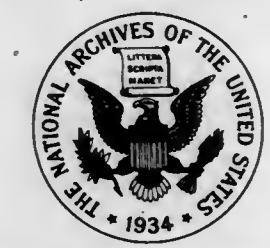
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| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
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presidential documents

Title 3—  
The President

Presidential Determination No. 79-6 of March 7, 1979

Sales of Defense Articles and Defense Services Under the  
Arms Export Control Act to the Yemen Arab Republic

Memorandum for the Secretary of State, the Secretary of Defense

In accordance with section 36(b)(1) of the Arms Export Control Act (the Act), I hereby certify that an emergency exists which requires the sale under the Act of the following defense articles and defense services to the Yemen Arab Republic in the national security interests of the United States:

- 12 F-5E aircraft
- 64 M60-A1 tanks
- 50 M113-A1 Armored Personnel Carriers
- Related support, spares, training and munitions for the above systems.

This certification shall be made part of the certification transmitted to the Congress under section 36(b)(1) of the Act with respect to each of the above sales, and shall be published in the FEDERAL REGISTER.

*Jimmy Carter*

THE WHITE HOUSE,  
Washington, March 7, 1979.

[FR Doc. 79-9723  
Filed 3-27-79; 2:02 pm]  
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Proclamation 4649 of March 27, 1979

Law Day, U.S.A., 1979

By the President of the United States of America

A Proclamation

The Congress of the United States has set aside the first day of May as Law Day, U.S.A.

This year will mark the Nation's twenty-second annual celebration of Law Day—a special day for reflection on our heritage of individual liberty and for rededication to the observance of the rule of law.

The rule of law is not automatic. Each citizen must accept a share of responsibility to administer and obey the law, if the rights and opportunities of all citizens are to be preserved.

Americans also have a responsibility and a constitutional right to change the law by orderly process, when such change is needed. Our forefathers gave us this birthright, so that the Nation and its people might remain free.

In the words of Thomas Jefferson, "Laws and institutions must go hand in hand with the progress of the human mind."

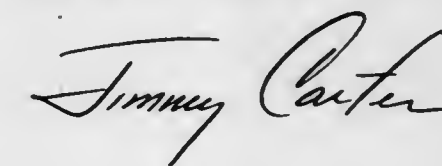
The theme selected in recognition of Law Day, 1979, therefore, is most appropriate: "Our Changing Rights."

In a rapidly changing world, it is vital that we preserve and strengthen our ability to respond to the needs for legitimate change while safeguarding the rights of all citizens.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, invite the American people to observe Tuesday, May 1, 1979, as Law Day, U.S.A., and to reflect upon individual and collective responsibilities for the effective administration of the law.

I call upon the legal profession, the courts, educators, clergymen, and all interested individuals and organizations to mark the twenty-second nationwide observance of Law Day, U.S.A., with programs and events which underscore our Nation's devotion to the principle of equal justice for all. To that end, I call upon all public officials to display the flag of the United States on all government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of March, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 79-9837  
Filed 3-28-79; 10:02 am]  
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THE PRESIDENT

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Proclamation 4650 of March 28, 1979

Asian/Pacific American Heritage Week, 1979

By the President of the United States of America

A Proclamation

America's greatness—its ideals, its system of government, its economy, its people—derives from the contribution of peoples of many origins who come to our land seeking human liberties or economic opportunity. Asian-Americans have played a significant role in the creation of a dynamic and pluralistic America, with their enormous contributions to our science, arts, industry, government and commerce.

Unfortunately, we have not always fully appreciated the talents and the contributions which Asian-Americans have brought to the United States. Until recently, our immigration and naturalization laws discriminated against them. They were also subjected to discrimination in education, housing, and employment. And during World War II our Japanese-American citizens were treated with suspicion and fear.

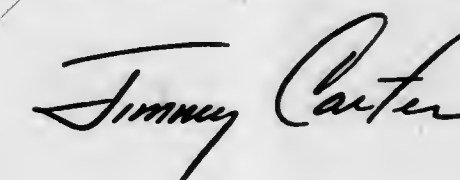
Yet, Asians of diverse origins—from China, Japan, Korea, the Philippines, and Southeast Asia—continued to look to America as a land of hope, opportunity, and freedom.

At last their confidence in the United States has been justified. We have succeeded in removing the barriers to full participation in American life, and we welcome the newest Asian immigrants to our shores—refugees from Indochina displaced by political, and social upheavals. Their successful integration into American society and their positive and active participation in our national life demonstrates the soundness of America's policy of continued openness to peoples from Asia and the Pacific.

The Ninety-fifth Congress has requested the President by House Joint Resolution 1007, approved October 5, 1978, to designate the seven-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, declare the week beginning on May 4, 1979, as Asian/Pacific American Heritage Week. I call upon the people of the United States, especially the educational community, to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of March, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 79-9908  
Filed 3-28-79; 11:47 am]  
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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.  
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1610-01-M]

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER G—STANDARDS FOR WAIVER OF CLAIMS FOR ERRONEOUS PAYMENT OF PAY AND ALLOWANCES

PART 91—STANDARDS FOR WAIVER

Waiver of Claims for Erroneous Payment of Pay and Allowances

PART 92—PROCEDURE

Procedure of Head of Agency or Secretary Concerned after Receiving Report of Investigation

AGENCY: General Accounting Office.  
ACTION: Final rule.

SUMMARY: These Amendments to Parts 91 and 92 of Title 4, Code of Federal Regulations, will permit heads of agencies or Secretaries concerned to deny requests by employees and members of the uniformed services for waiver of claims of the United States arising out of erroneous payments of pay and allowances regardless of the aggregate amount of the claim. Previously, all requests for waiver involving claims aggregating more than \$500 were required to be settled by the Comptroller General of the United States. The Amendments will improve the efficiency of the Government's waiver processing operations by eliminating duplicative action by agencies and the General Accounting Office, and by expediting the processing and resolution of certain waiver requests. It will still be necessary to submit recommendations for waiver of all or part of claims aggregating more than \$500 to the Comptroller General.

EFFECTIVE DATE: March 29, 1979.  
FOR FURTHER INFORMATION CONTACT:

J. Chris Farley, Jr., U.S. General Accounting Office, Claims Division, Room 5860, 441 G Street, N.W., Washington, D.C. 20548, (202) 275-6088.

SUPPLEMENTARY INFORMATION: Authority to waive claims of the United States against employees and members of the uniformed services

arising out of erroneous payments of pay and allowances is contained in 5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716, which generally authorize the heads of agencies or Secretaries concerned to waive such claims aggregating not more than \$500 and the Comptroller General of the United States to waive claims in any amount. Under 4 CFR 92.3(b), agency heads and the Secretaries concerned are authorized to grant or deny waiver requests involving \$500 or less. However, under § 92.3(c), all requests for waiver involving claims aggregating more than \$500 were required to be referred for settlement to the Comptroller General of the United States. With the present Amendments to Parts 91 and 92 of Title 4, Code of Federal Regulations, heads of agencies or Secretaries concerned will be permitted to deny requests for waiver in any amount, provided that in those cases where the claim is in an amount aggregating more than \$500 the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

The heads of executive agencies or Secretaries concerned have been exercising waiver authority since October 21, 1968, and October 2, 1972, under Pub. L. 90-616, and Pub. L. 92-453, respectively. The agencies' expertise in handling waiver requests has grown over the years through the guidelines contained in determinations by the Comptroller General dealing with various questions raised in such cases. Analysis of waiver requests settled by the Comptroller General of the United States shows that he usually agrees with the recommendation for denial made by the head of an executive agency or Secretary concerned and that most of the recommendations for denial were based on issues well settled by prior Comptroller General determinations. The previous requirement that requests for waiver involving claims aggregating more than \$500, in which the heads of agencies or Secretaries concerned recommended denial of waiver, be settled by the Comptroller General has resulted in additional costs to the Government and significantly lengthened the time period required to settle these requests. The present Amendments will improve the efficiency of the Govern-

ment's waiver processing operations. An employee or member will not relinquish any previous rights under the waiver laws because if his request for waiver involving a claim aggregating more than \$500 is denied by a head of agency or Secretary concerned, the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

Accordingly, 4 CFR Parts 91 and 92 are amended as follows:

1. By revising § 91.4(b) to read as follows:

§ 91.4. Waiver of claims for erroneous payment of pay and allowances.

.....  
(b) The head of the agency or the Secretary concerned, as appropriate, may waive in whole or in part a claim of the United States in an amount aggregating not more than \$500, without regard to any repayments, against any person arising out of an erroneous payment of pay or allowances to or on behalf of an employee or member when all of the conditions set out in § 91.5 are present, except that he may not waive such a claim which is the subject of an exception made by the Comptroller General in the account of any accountable official, or which has been transmitted to the General Accounting Office for collection or to the Attorney General for litigation. He may deny an application for waiver of a claim in any amount, provided that in those cases where the claim is in an amount aggregating more than \$500 the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

2. By revising § 92.3(b), (c) and (d) to read as follows:

§ 92.3. Procedure of head of agency or Secretary concerned after receiving report of investigation.

.....  
(b) Waive the claim of the United States in whole or in part without regard to any repayment, if it is in an amount aggregating not more than \$500, and he determines that waiver would be proper, and record the date and reasons for the waiver, unless the claim has been referred to the Comp-



troller General for collection or the Attorney General for litigation in which case the report of investigation together with his recommendation will be referred to the Comptroller General of the United States. He may deny an application for waiver of a claim in any amount, provided that in those cases where the claim is in an amount aggregating more than \$500 the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

(c) Refer the report of investigation to the Comptroller General of the United States for determination if he recommends waiver and the claim is in an amount aggregating more than \$500, or

(d) Refer the report of investigation to the Comptroller General of the United States in any case in which he can take final action if he has doubt as to whether waiver action is proper, setting forth the basis for his doubt.

ELMER B. STAATS,  
Comptroller General  
of the United States.

[FR Doc. 79-9564 Filed 3-28-79; 8:45 am]

[3410-02-M]

#### Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 459]

### PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 30-April 5, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as

amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 27, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges continues to be reasonably firm on all sizes and grades.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.759 Navel Orange Regulation 459.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 30, 1979, through April 5, 1979, are established as follows:

- (1) District 1: 935,000 cartons;
- (2) District 2: 165,000 cartons;
- (3) District 3: Unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: March 28, 1979.

CHARLES R. BRADER,  
Acting Deputy Director, Fruit  
and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-9927 Filed 3-28-79; 8:45 am]

[6450-01-M]

#### Title 10—Energy

### CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-20]

### PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

#### Amendment To Extend Special Set-Aside Program for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule and Requests for Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts, on an emergency basis, an amendment to the Mandatory Petroleum Allocation Regulations which provides, by the adoption of a Special Rule No. 7, for a special middle distillate set-aside program for those states electing to participate for the period April 1 through June 30, 1979. The special set-aside procedures will permit ultimate consumers of middle distillates who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified requirements.

DATES: Effective date: April 1, 1979. Written comments to be submitted by May 1, 1979. Hearing date: April 19, 1979, 9:30 a.m. Requests to speak by April 11, 1979.

ADDRESSES: Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. All comments, requests to speak and statements to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-78-20, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B 110, 2000 M

Street, N.W., Washington, D.C. 20461 (202) 634-2170.

William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-7422.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-6739.

#### SUPPLEMENTARY INFORMATION:

I. Introduction.  
II. Special Set-Aside Procedures Adopted.

- III. Procedural Requirements.
  - A. Section 12 of the EPAA.
  - B. Section 501 of the DOE Act.
  - C. Section 404 of the DOE Act.
  - D. Section 7 of the FEA Act.
  - E. Section 553 of the Administrative Procedure Act.
  - F. Executive Order 12044.
- IV. Written Comment and Public Hearing Procedures.
  - A. Written Comments.
  - B. Public Hearing.

#### I. INTRODUCTION

On January 12, 1979, we issued a final rule (44 FR 3467, January 17, 1979) which reinstated special middle distillate set-aside procedures for the period January 12 through March 31, 1979 by adopting Special Rule No. 6 for Subpart A of 10 CFR Part 211. At that time we believed that decreasing demand for middle distillates due to the advent of warm weather would make set-aside procedures unnecessary after March 31. An unusually cold winter and the prolonged curtailment of Iranian crude oil exports, however, have resulted in continued shortages of middle distillate products.

In view of current and projected middle distillate supply inadequacies, we believe there will be a continuing need in the near future for special set-aside procedures to insure adequate supplies of middle distillate products to wholesale purchaser-consumers and end-users in the event emergency and hardship situations arise after March 31. In particular, we believe the availability of set-aside procedures after March 31 is necessary to prevent the interruption of adequate supplies of middle distillate home heating oil in colder areas of the nation and middle distillate diesel fuel for agricultural and high-priority transportation purposes. Therefore, we are adopting today, on an emergency basis, a new Special Rule No. 7 establishing a

middle distillate set-aside program for the period April 1 through June 30, 1979.

#### II. SPECIAL SET-ASIDE PROCEDURES ADOPTED

Notwithstanding the exemption of middle distillates from controls, Special Rule No. 7 provides for a special set-aside program for middle distillates for the period April 1 through June 30, 1979 so as to permit assignments to consumers and marketers by state energy offices in those states which have notified the ERA of their election to participate in the extended set-aside program established by Special Rule No. 7.

A state electing to participate in the extended set-aside program shall notify each supplier which operates as a prime supplier in the state of such election as well as the percentage of the set-aside. Within 5 days of such notification by a state, a prime supplier shall designate for that state a representative who will act on behalf of the prime supplier with regard to the special procedures provided by Special Rule No. 7. The set-aside will constitute four or less percent, as determined by the state, of a prime supplier's estimated portion of its total supply of middle distillates for the particular month to be sold into the distribution system of the state for consumption therein. The set-aside requirement for a particular month will not be carried over to the following month. States are urged to order the release of any unrequired set-aside volumes as early as possible during the month.

Set-aside volumes will be available for assignment by participating state energy offices to wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies to meet an emergency or hardship. Such assignments will be limited to that volume required to satisfy certified requirements and conditioned upon the demonstration of hardship. Assignments may also be made to wholesale purchaser-resellers who are unable to obtain a sufficient volume of product to meet the emergency or hardship needs of those wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on March 1, 1979.

Applications for assignment of set-aside volumes should be made to the appropriate state energy office which will approve or disapprove the application. Since an assignment will only be made in response to emergency situations, an applicant will not be required to make its application in writing. Each applicant will be required, however, to submit a written certification as to the validity of the emergency or

hardship situation to the state energy office within five days of its verbal or written application.

If the state energy office approves an application, it will assign a prime supplier to furnish the applicant an amount from the set-aside. The state energy office will issue to both the applicant and the representative of the prime supplier a document authorizing such assignment. This document will entitle the applicant to receive the assigned volume from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Such document will expire ten days after issuance unless it has been presented to the prime supplier or a designated local distributor of the prime supplier.

Each month participating state energy offices will submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

#### III. PROCEDURAL REQUIREMENTS

##### A. SECTION 12 OF THE EPAA

In reimposing special set-aside procedures for middle distillates for the months April through June 1979, we are taking action under section 12(f) of the emergency petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159), which permits the establishment of such a regulation upon determination that such action is necessary to and consistent with the attainment of the objectives specified in section 4(b)(1) of the EPAA. In particular, we determined that this rule will promote public health, safety and welfare (including maintenance of residential heating for individual homes, apartments and similar occupied dwelling units); the maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto; and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users.

##### B. SECTION 501 OF THE DOE ACT

Under section 501(e) of the Department of Energy organization Act (Pub. L. 95-91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance in view of our determination that the availability of middle distillate set-



aside procedures effective April 1, 1979 is necessary to prevent the interruption of adequate supplies of middle distillate home heating oil in colder areas of the nation and middle distillate diesel fuel for agricultural and high-priority transportation purposes. However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we will receive both oral and written comments on the emergency rule adopted today as soon as practicable after the Special Rule is issued. We will reconsider today's action with regard to the comments received in order to determine whether we should take any further action in this rule-making proceeding.

#### C. SECTION 404 OF THE DOE ACT

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any or its functions under sections 402(a)(1), (b) and (c)(1) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 7, the FERC has declined to determine that the rule may significantly affect one of its functions under the sections noted above.

#### D. SECTION 7 OF THE FEA ACT

Under section 7(a) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275, FEA Act), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior

comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support making Special Rule No. 7 effective April 1, 1979 and are set forth in the preceding sections of this preamble. A copy of Special Rule No. 7 and this preamble has been provided to the EPA.

#### E. SECTION 553 OF THE ADMINISTRATIVE PROCEDURE ACT

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of making Special Rule No. 7 effective April 1, 1979.

#### F. EXECUTIVE ORDER 12044

The sixty-day public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030.1 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy for the reasons previously stated for making Special Rule No. 7 effective April 1, 1979.

#### IV. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

##### A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by 4:30 p.m., e.s.t., May 1, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Amendment to Extend Special Set-Aside Program for Middle Distillates." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

##### B. PUBLIC HEARING

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., April 11, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., April 12, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 4:30 p.m., e.s.t., April 18, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a

copy of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective April 1, 1979.

Issued in Washington, D.C., March 21, 1979.

HAZEL R. ROLLINS,  
Deputy Administrator, Economic  
Regulatory Administration.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 7 to read as follows:

#### SPECIAL RULE NO. 7

##### SPECIAL SET-ASIDE PROCEDURES FOR MIDDLE DISTILLATES

1. *Scope.* This Special Rule provides for a set-aside program for middle distillates for the period April 1, 1979 through June 30, 1979, as provided below, notwithstanding the exemption of middle distillates from the Mandatory Petroleum Allocation and Price Regulations effective July 1, 1976.

2. *Provision for middle distillate set-aside.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of part 210 of this chapter and of subparagraphs (b)(5) and (6) of § 211.1 of this part, a set-aside is hereby established for the period April 1, 1979 through June 30, 1979, for designated middle distillates for assignment by State Offices in accordance with the provisions of this Special Rule.

For purposes of this Special Rule the term middle distillates includes the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1-D diesel fuel, No. 2 heating oil, No. 2-D diesel fuel and kerosene.

3. *State election to participate in set-aside program.* The special set-aside procedures provided in this Special Rule will not be in effect in a particular State prior to notification to the office of Fuels Regulation, ERA, by the appropriate State Office that such State elects to participate in the set-aside program provided for by this Special Rule.

4. *State representative.* A State electing to participate shall notify each prime supplier operating within that State of such election. A prime supplier receiving such notification shall designate a representative for that State to act for and on behalf of the

prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. The appropriate State Office shall be informed in writing of such designation within five (5) days following the State's notification to the prime supplier of its election to participate. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Set-aside volume.* A prime supplier shall inform each appropriate participating State Office monthly of the estimated volume of middle distillates to be sold into a State for consumption within that State. The set-aside volume available in a participating State for a particular month shall be that percent elected by the State. The amount will be calculated by multiplying the elected percentage of no more than four (4) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State. The set-aside for a particular month cannot be accumulated from prior months or deferred to later months; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-reseller.

6. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by participating State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on March 1, 1979.

7. *Term of assignments.* Assignments to eligible end-users and wholesale purchaser-consumers under section 6 of this Special Rule by a State Office shall be made to meet the emergency or hardship conditions being experienced during that period. Assignments to wholesale purchaser-resellers shall be only for the period necessary to preclude hardship and provide emergency requirements to that wholesale purchaser-reseller's wholesale purchaser-consumers and end-users. No assignments under this Special Rule

shall relate to any period subsequent to June 30, 1979.

8. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211-218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule. Within five (5) days of its application for assignment of middle distillates under these special procedures, an applicant shall submit to the State Office a written certification that such application was for a valid hardship or emergency situation.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier an amount from the set-aside to the applicant necessary to meet the expressed emergency or hardship condition. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that ten-day period. The State Office shall by the twentieth day of each month submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

11. *Supplier's responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of middle distillates to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation and shall not delay deliveries required by the authorizing documents while confirming such deliveries with the prime supplier. Any non-prime supplier which provides middle distillates pursuant to an authorizing document shall in turn receive from its prime supplier an equivalent volume



## RULES AND REGULATIONS

[Docket 79-GL-03; Amdt. 39-3442]

## PART 39—AIRWORTHINESS DIRECTIVES

## ESB Wisco, Inc., Exide Battery AC 78M and Willard Battery W 78M Standard Lead Acid Battery

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that requires immediate removal from service of all Exide and Willard aircraft batteries (manufactured by ESB Wisco, Inc., Racine, Wisconsin) constructed during December 1978, January and February of 1979, identified by "N-8", "A-9" and/or "B-9" stamped on the positive or negative terminal. This AD is needed to preclude the possibility of these batteries exploding and damaging the aircraft due to venting problems.

**DATES:** Effective March 29, 1979. Compliance schedule as prescribed above, and in the body of the AD.

**ADDRESSES:** Information is further available from ESB Wisco, Inc., 1222 18th Street, Racine, Wisconsin 53403, Telephone (414) 637-9131.

## FOR FURTHER INFORMATION CONTACT:

Cornelius Biemond, Engineering and Manufacturing Branch, Flight Standards Division, AGL-217, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone (312) 694-4500, extension 460.

**SUPPLEMENTARY INFORMATION:** ESB Wisco, Inc. has advised that a battery has been returned from the field with a venting problem. It has been determined that this problem could cause an explosion of the battery in an aircraft in flight. This problem potentially exists in a production run including batteries built only during December 1978, January and February 1979.

A total of 559 batteries have been produced, for which approximately 25%, or about 140 batteries, are either in service or enroute to potential users.

This Airworthiness Directive is being issued which requires the immediate removal and replacement of these batteries. This covers one type of battery manufactured under two brand names as stated above—EXIDE AC 78M and WILLARD W 78M. Currently no explosions have occurred in flight. Most batteries will be noted as defective during the initial filling and charging sequence prior to installation in the aircraft.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

## ESB WISCO, INCORPORATED

Exide AC 78M and Willard W 78M BATTERIES. Applies to those batteries manufactured during December 1978, January and February 1979, identified by the figures N-8, A-9, or B-9 stamped on either terminal post. They may be installed in, but not limited to, the following aircraft:

Aero Commander—1960 on—various models.  
Bellanca—1959 on—various models.  
Callair—1964 on—various models.  
Champion—7 series models: 7GC, 7HC, etc.,  
Enstrom—P-28 series, possible other models.  
Hello—All series.  
Lake Amphibian—Model C-1 and LA-4.  
Navion—Rangemaster and others.  
Piper—Cherokee and Pawnee PA-28 and PA-25, but not limited to these models.  
Rockwell—All models.  
Stinson—All models.  
Wing—Derringer models.

Compliance is required as follows. Remove from service before next flight and replace with any approved battery of comparable rating.

This amendment becomes effective March 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines. (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Illinois, on March 16, 1979.

WAYNE BARLOW,  
Acting Director,  
Great Lakes Region.

[FR Doc. 79-9568 Filed 3-28-79; 8:45 am]

of the product. The requirements of paragraph (b) of § 210.62 of Part 210 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall supply designated middle distillates from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for such middle distillates for that month for the State concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

14. *Orders issued by State Offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the DOE Regional Office that has jurisdiction over the State involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 79-9509 Filed 3-28-79; 8:45 am]

## [4910-13-M]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

## RULES AND REGULATIONS

[4910-13-M]

[Docket No. 79-WE-3-AD; Amdt. 39-3441]

## PART 39—AIRWORTHINESS DIRECTIVES

## Hiller Helicopter Models UH-12D and UH-12E

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

**SUMMARY:** This amendment supersedes the currently effective airworthiness directive (AD) which requires inspection and replacement, if necessary, of main rotor blade forks on Hiller UH-12D and UH-12E helicopters. This amendment limits the effectiveness of the mandatory action to certain serial numbered main rotor blade forks because experience has indicated the original safety problem is limited, as a result of design changes incorporated at a specific serial number change point on the main rotor blade forks.

**DATES:** Effective April 3, 1979. Compliance Schedule—As prescribed in the body of the AD.

## FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board Federal Aviation Administration, Western Region, P. O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

**SUPPLEMENTARY INFORMATION:** Amendment 573, Part 507 FEDERAL REGISTER June 7, 1963, AD 63-12-01 requires inspection and replacement, if necessary, of main rotor blade forks on UH-12D and UH-12E helicopters.

After issuing AD 63-12-01 the FAA has concluded based upon service experience, that main rotor blade forks P/N 52110-3, of a modified design identifiable by serial number change point may be excluded from the inspection requirements of the AD without prejudicing safety. Therefore, the FAA is superseding AD 63-12-01 with a new AD limited in its applicability to those forks of the old design which had demonstrated cracking problems.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator,

§ 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 573 Part 507 FEDERAL REGISTER June 7, 1963 is superseded by adding the following new airworthiness directive:

**HILLER AVIATION:** Applies to models UH-12D and UH-12E helicopters, certificated in all categories, equipped with main rotor blade fork P/N 52110-3, S/N 4000P and lower serial numbered fork.

Compliance required as indicated.

To detect cracks and prevent failures which have occurred in the main rotor blade fork P/N 52110-3 at the outboard tension-torsion bar retention bolt hole, the following inspections shall be conducted:

(a) Perform daily visual inspection of P/N 52110-3 forks for cracks in the area of the outboard tension-torsion bar retention bolt hole. Washers and nuts need not be removed for this inspection.

(b) On forks having 240 or more hours' time in service on the effective date of this AD, within the next 10 hours' time in service, unless already accomplished within the last 90 hours' time in service, and within each 100 hours' time in service thereafter from the last inspection, accomplish the inspection specified in (d).

(c) On forks having less than 240 hours' time in service on the effective date of this AD, accomplish the inspection specified in (d) prior to the accumulation of 250 hours' time in service and within each 100 hours' time in service thereafter from the last inspection.

(d) Perform a dye penetrant inspection, or FAA approved equivalent, of the bolt hole and adjacent milled surfaces. For this inspection remove the nut, washer and pin.

(e) Replace cracked forks before further flight.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(g) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes Amendment 573 Part 507 FEDERAL REGISTER June 7, 1963, AD 63-12-01.

This amendment becomes effective April 3, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, California on March 16, 1979.

JAMES V. NIELSEN,  
Acting Director,  
FAA Western Region.

[FR Doc. 79-9569 Filed 3-28-79; 8:45 am]

[4910-13-M]

## SUBCHAPTER C AIRCRAFT

[Docket No. 78-NW-26-AD; Amdt. 39-3443]

## PART 39—AIRWORTHINESS DIRECTIVE

## Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) to require that thrust lever actuated switches, which operate the takeoff warning system, auto-speedbrake, and auto-wheelbrake inhibit circuits for the Boeing Model 737 series airplanes, be set to provide positive operation down to -65° F temperature.

This AD is necessary because at low temperatures, in combination with reduced thrust and for engine derate operations, it is possible to set the thrust levers for takeoff power at a position (angle) insufficient to actuate the thrust takeoff warning system lever switches. The result is that the auto-speedbrake or auto-wheelbrakes would not be inhibited and could be actuated during the takeoff or go-around, causing an unsafe condition.

**DATES:** Effective date May 4, 1979. Compliance times as described in the body of this AD.

The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at the Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

## FOR FURTHER INFORMATION CONTACT:

Mr. Mark Quam, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

## SUPPLEMENTARY INFORMATION:

## HISTORY

Prior to 1969, variations existed in the Boeing 737 equipped with Pratt and Whitney JT8D-7 and -9 engine throttle switch settings. The systems affected were the takeoff warning system and the auto-speedbrake system which did not function down to -65° F. Airworthiness Directive 70-WE-10-AD was issued by the FAA on February 26, 1970, (Amendment 39-952; 35 FR 4395 (1970)), that required



that these systems be functional down to -65° F, as implemented by Boeing Service Bulletin 27-1031. Subsequent to this AD, Pratt and Whitney JT8D-15 and -17 engines and auto-wheelbrakes have been approved for use on the Model 737 airplane. The use of derated thrust, expansion of the use of reduced thrust takeoffs, and the use of engine intermix have also been approved. While operating with these variations of airplane and engine operational configurations, the thrust lever advance for a cold-day takeoff thrust level may be insufficient to actuate the throttle mounted switches that actuate the inhibit circuits for the auto-speedbrake and auto-wheelbrake systems. Inadvertent speedbrake extension or wheelbrake application during takeoff or go-around could create an unsafe condition.

#### PUBLIC PARTICIPATION

A Notice of Proposed Rule Making (NPRM) was published in the *FEDERAL REGISTER* (44 FR 1752) on January 8, 1979, proposing an amendment which would require that adjustment be made to the throttle switch settings to provide actuation down to a minimum temperature of -65° F for all Model 737's with any engine configuration and while being operated at any engine rating. Interested persons were invited to participate in the making of the amendment and due consideration has been given to all comments received.

#### COMMENTS

The Air Transport Association of America (ATA) provided the only comments in response to the notice of proposed rule making. It contends the regulations do not now prohibit the use of temperature limitations higher than -65° F, such as those specified in Appendix 39 of the Model 737 airplane flight manual, and the use of Appendix 39 is no more complex than the ordinary allowable takeoff weight and engine thrust setting determination made now by line pilots. The FAA has determined that indefinite use of the limitations specified in Appendix 39 of the airplane flight manual complicates the flight manual and introduces new possibilities for crew error. The adoption of the proposed amendment would minimize this potential hazard by requiring that the airplane equipment discussed in this rule operate to the Model 737 certificated low-temperature operational limitation of -65° F. This approval will not only correct the unsafe condition by correcting the throttle switch angle setting, but will also eliminate the need for Appendix 39 of the airplane flight manual.

The ATA also stated that the proposed AD would result in a large in-

crease in takeoff nuisance warnings will occur at high ambient temperatures when the flaps are retracted and the pilot initiates taxi by a momentary breakaway thrust setting. The warning will cease when the thrust levers are retarded for taxi. The benefit of having the takeoff warning system protection, preventing the unwanted deployment of the automatic speedbrakes, and preventing the unwanted activation of the automatic wheelbrakes during takeoff and go-around at low ambient temperatures, outweigh the consideration of the momentary nuisance warnings that might occur at taxi initiation during ambient temperatures.

Two members of the ATA indicated they would need 1,500 to 2,000 hours to comply with the AD because of lead time for parts and scheduling difficulty. The FAA has confirmed there is a lead time problem for parts and that the compliance time of the proposed rule would be difficult to meet. Therefore, the compliance times of the proposed rule have been extended from 1,000 hours time in service, or 6 months calendar time, to 2,000 hours/1 year respectively.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**BOEING:** Applies to all Model 737 series airplanes, except airplanes with the engine pressure ratio (EPR) activated takeoff warning system. Compliance required as indicated.

Within 2,000 hours time in service or one year after the effective date of this AD, whichever comes first, unless already accomplished, set the thrust lever operated switches, S283 and S133, to provide actuation down to and including -65° F in accordance with the applicable part of Boeing Service Bulletin 737-31-1026, or later FAA approved revisions, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 60, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of

Transportation Act (49 U.S.C. 1855(c); and 14 CFR 11.85).

**NOTE.**—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on March 20, 1979.

C. B. WALK, Jr.,  
Director,  
Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the *FEDERAL REGISTER* on June 19, 1967.

[FR Doc. 79-9570 Filed 3-28-79; 8:45 am]

[6320-01-M]

#### CHAPTER II—CIVIL AERONAUTICS BOARD

##### SUBCHAPTER F—POLICY STATEMENTS

[Regulation PS-84/PSDR-55A; Amendment No. 63; Docket 34683]

#### PART 399—STATEMENTS OF GENERAL POLICY JOINT FARES INVOLVING INTRASTATE PAIRS OF POINTS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on March 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Clarification of interim rule and request for comments.

**SUMMARY:** The Civil Aeronautics Board recently adopted and invited comments on an interim suspension policy on standard industry fare levels for intrastate pairs of points in California, Texas, and Florida. This notice explains that that policy on local fares does not apply to the construction of maximum joint fares involving intrastate pairs of points.

**DATES:** Adopted: March 23, 1979. Effective: March 23, 1979. Comments by: April 16, 1979. Reply Comments by: May 7, 1979.

Comments should be incorporated with those requested in PSDR-55. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

**ADDRESSES:** Twenty copies of comments should be sent to Docket Section, Civil Aeronautics Board, 1825

Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

#### FOR FURTHER INFORMATION CONTACT:

Steven K. McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, 202-673-6064, or Mark Kahan, Assistant Chief, Pricing and Entry Division, Office of General Counsel, 202-673-5205, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

#### SUPPLEMENTARY INFORMATION:

In PS-80 (43 FR 39522, September 5, 1978), the Board amended 14 CFR 399.33 to establish a suspension-free zone for domestic passenger fares. Ceiling fares are based on the fare formula adopted by the Board in Phase 9 of the *Domestic Passenger-Fare Investigation (DPFI)*, Docket 21866-9. Maximum joint fares are addressed in section 399.33(c).

In PS-82 (44 FR 9940, February 15, 1979), the Board amended section 399.33(a) to establish a suspension policy on standard industry fare levels for intrastate pairs of points in California, Florida, and Texas, where local fare ceilings may be lower than those otherwise calculated according to the PS-80 policy. PS-82 is an interim rule and was accompanied by a request for comments (PSDR-55, 44 FR 9953, February 15, 1979).

This is a clarification of the Board's intent regarding use of the local fare ceilings resulting under PS-82 to construct joint fares under the policies adopted previously in PS-80. The Board did not intend the local fare ceilings resulting under PS-82, which in some cases may be lower than the PS-80 local fare ceilings, to replace the PS-80 formula local fare ceilings for purposes of constructing maximum joint fares. For all markets, maximum joint fares should be constructed using the local fare ceilings adopted in PS-80, even though intrastate pairs of points in California, Florida, or Texas are combined with points beyond.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, Statements of General Policy, as set forth below. The Board also invites public comments on this amendment in connection with the request for comments set out in PSDR-55.

In § 399.33, paragraph (c) is amended by inserting a sentence, so that it reads:

§ 399.33 Domestic passenger fare—structure policies.

(c) There should be joint fares in all markets over all routings at a level not to exceed the sum of the maximum local fares permitted by this policy statement minus one tax-rounded coach ceiling terminal charge for each interline connection. For purposes of constructing joint fares, maximum local fares in all markets, including California, Florida, and Texas, will be based on the *DPFI* fare formula. All required joint fares should be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement, provided, however, that where joint fares are based on the actual sum of the local fares, each carrier should get the local fare as its share of these joint fares.

(Sections 204, 403, 404 and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 765 and 788, as amended; 49 U.S.C. 1324, 1373, 1374 and 1482.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9615 Filed 3-28-79; 8:45 am]

[6450-01-M]

#### Title 18—Conservation of Power and Water Resources

#### CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket No. RM79-30]

##### SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

##### PART 276—REPORTS

##### Subpart A—Reports for Sales of Natural Gas Under Sections 105, 106(b), and 109 of the NGPA

FINAL REGULATIONS AMENDING AND CLARIFYING AND PROMULGATING FERC FORMS 122, 123, AND 124 WITH ACCOMPANYING AFFIDAVITS AND INSTRUCTIONS

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Regulations.

**SUMMARY:** The Natural Gas Policy Act of 1978 (NGPA), enacted November 9, 1978 took effect with respect to certain first sales of natural gas delivered on or after December 1, 1978. In-

terim regulations implementing the NGPA were issued on December 1, 1978, (43 FR 56448) and called for written comments by January 31, 1979.

On February 2, 1979, the due date for initial reports under Part 276 of Subchapter H of the Interim Regulations was amended.

The regulations under Part 276 are amended further and are now issued as final regulations under the NGPA. The amendments revise reporting periods and deadlines, change record retention requirements, and clarify or otherwise change certain other reporting requirements. In addition, FERC Forms 122, 123, and 124 and accompanying affidavits and instructions are promulgated as part of the reports system of Part 276.

EFFECTIVE DATE: March 23, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4808.

Brooks Carter, Office of Pipeline and Produce Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4557.

MARCH 23, 1979.

#### I. BACKGROUND

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA). (43 FR 56448) Part 276 of the interim regulations sets forth reporting requirements applicable to first sales of natural gas sold pursuant to the provisions of Subparts E, F, and I of Part 271 which implement Sections 105, 106(b), and 109 of the NGPA. These provisions deal with first sales of natural gas under existing intrastate, contracts, intrastate rollover contracts, as well as first sales of other categories of natural gas.

Part 276 created a general reporting obligation on first sellers of natural gas qualifying under Sections 105, 106(b) and 109 of the NGPA. An initial report was to be filed March 1, 1979, followed by an annual report each March 1st thereafter. Two exceptions to the general reporting rule were established in the case of sales under either Sections 105 or 106(b) of the NGPA. The first exception applies to persons who sold less than 10,000 MMcf of natural gas between December 1, 1977, and November 30, 1978.

<sup>1</sup>By order issued February 2, 1979 in Docket No. RM79-3, Part 276 was amended to extend the deadline for initial reports from March 1, 1979 to May 1, 1979.



The second exception applies to first sellers of natural gas who sell to either inter- or intrastate pipelines. In the first exception, the first seller has an option to forgo the general reporting obligation and file an oath undertaking instead. In the case of the second exception, there is no option; the pipeline is obligated to make the general report filings and the first seller, regardless of the amount of sales it makes, need only file an oath undertaking.

Upon further analysis of the data needs of a viable compliance and enforcement program versus the reporting burdens on respondents, initial reporting forms with accompanying detailed instructions were prepared and submitted to the Office of Management and Budget (OMB). The forms, designated FERC Forms 122, 123, and 124, were approved by OMB on December 29, 1978. These forms are now designed to be easily completed by the respondent, suitable for automated data processing (ADP) procedures, and yet provide the types of information necessary to monitor the subject sales and assure compliance with the NGPA. Revisions to the forms and instructions that result from our order today were approved by OMB on March 12, 1979. The forms, oaths, and instructions, attached as Appendix A to this order, will be reproduced for distribution following today's order.

In addition to promulgating oath affidavits and Forms 122, 123, and 124, our order today revises the reporting obligations of Part 276 in several respects: (1) It extends the due date for the first Part 276 reports to June 1, 1979. (2) It revises the reporting period to coincide with the calendar year. (3) It extends the annual reporting deadline to April 1 of each year beginning in 1980. (4) It deletes § 276.102(a)(1)(vi) which called for the contract price on December 31, 1984. (5) It changes the commencement date of the period during which records must be retained. (6) It amends the exceptions in § 276.101(b) for purposes of clarification. (7) It adds two new exceptions to § 276.101 by adding new paragraphs (b)(3) and (b)(4) relating respectively to small volume direct sales and sales by States. (8) It adds a new § 276.106 which promulgates reduced reporting obligations relative to small volume direct sales. (9) It amends § 276.104(d)(2) by deleting the previous condition respecting dedication to interstate commerce. (10) It adds a new section, § 276.109, *Forms, instructions and affidavits*, which specifies the particular Part 276 forms and affidavits to be used by respondents.

## II. SUMMARY OF FORMS

Pursuant to today's order, the Commission's reporting system under Part 276 of the regulations under the NGPA now includes the following forms:

FERC Form 122—Report of First Sales of Natural Gas Under Section 109 of NGPA—Other Categories of Natural Gas.

FERC Form 123—Initial report of First Sales of Natural Gas Under Section 105 of NGPA—Existing Intrastate Contracts.

FERC Form 124—Report of First Sales of Natural Gas Under Section 106(b) of NGPA—Intrastate Rollover Contracts.

A fourth form, FERC Form 125, will be promulgated later and will be used beginning with the 1980 report to provide the Commission with an annual update of contract information submitted in FERC Forms 122, 123, and 124. Accompanying these forms is a title page on which the respondent will identify itself, sign an affidavit and indicate which of the forms is being filed. The forms also are accompanied by a detailed set of instructions and definitions of terms used in the forms.

FERC Form 122 is an initial report of first sales under Section 109 of the NGPA. The form calls for an identification of the sale including the date the contract was entered into, the purchaser, the highest contract price during the reporting period, average Btu content, and sales volume during the reporting period. In addition, in order to fully comply with § 276.104 of the interim regulations, the instructions indicate that respondents must accompany Form 122 with an affidavit and certain supporting statements that specify the basis for qualification of the sale under Section 109 of NGPA. Certain other identifying information is also called for which will aid in the Commission's review of such sales.

FERC Form 123 is a one-time report for first sales of natural gas qualifying under Section 105 of the NGPA, which are sales under "existing intrastate contracts" as that term is defined in § 270.102(b)(8) of the interim regulations. In addition to basic buyer, seller, and contract identification, Form 123 requires a specification of the contract price on November 9, the highest contract price during the reporting period, the contract term, the average Btu content of the gas and the volume delivered during the reporting period. Also, as required by § 276.102 of the interim regulations, the filing must include an affidavit and if the contract price on November 9, 1978, is \$2.060 per MMBtu or less, a copy or summary of the contract price escalator terms.

Based on discussions with state jurisdictional agencies, it is estimated that approximately 50,000 contracts will be reported on FERC Form 123. In most cases the respondent will be a pipeline since sellers must report only those sales to non-pipeline purchasers. The total number of respondents is therefore not expected to exceed 750.

FERC Form 124 is an initial report designed to collect data on sales qualifying under Section 106(b) of the NGPA, which are "intrastate rollover contracts," as defined in § 270.102(b)(11) of the interim regulations. This form calls for information identifying the sale, including the date the expired contract was entered into, and the last price paid under the expired contract. The Form 124 also calls for information on the new (rollover) contract which includes the sale commencement date and the initial price, average Btu content and sales volumes during the report period. Because the first Form 124 reports to be filed by June 1, 1979, only cover a reporting period consisting of the month of December 1978, the initial price paid under the rollover contract will be deemed sufficient in lieu of the highest price paid for that month, as required by § 276.103(b). In the future, the highest price paid during the reporting period will be reported on the FERC Form 125. In addition, as with the other forms, the filing is required by § 271.103 to include an affidavit and certain other information.

The reporting population for FERC Form 124 is expected to be the same as the respondent population for Form 123. It is estimated that approximately 2,000 intrastate contracts in existence on November 9, 1978, will "roll over" in each subsequent annual reporting period.

In the case of all three forms, annual reports will be required commencing with the 1980 report. A separate FERC Form 125 will be developed at a later time for this purpose. Respondent may exclude any information which has been included in a previous report. However, pursuant to §§ 276.102(b) and 276.103(b), the respondent will be required to report the sales volume during the report period, the highest price charged and collected, and the month in which the highest price was charged. In addition Forms 122 and 124 must also be submitted for initial reporting of sales that qualify in the future under Sections 106(b) or 109 of the NGPA.

In addition to supporting a monitoring and compliance program, the information gathered on Forms 122, 123, and 124 will be useful in preparing statistical summaries. Separate analyses are to be conducted for sales under Section 109 and for contracts that ini-

tially qualify under Section 106(b) during the reporting period.

It should be noted that data submitted on FERC Forms 122, 123, and 124 will be held confidential only to the extent that they are determined to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act, 5 U.S.C. 552(b)(4).

## III. SUMMARY OF COMMENTS AND REVISIONS TO PART 276

### A. PERSONS REQUIRED TO FILE REPORTS AND OATHS

Several parties requested clarification of the term "seller" and stated that the regulations could be interpreted to require all parties with an interest in the gas, even royalty owners, to file a report. One party recommended that treatment similar to § 154.91 of the Commission's regulations should be accorded to interest owners under one contract.

Although maximum lawful prices under the NGPA apply to any person who makes a first sale of natural gas, we do not consider it necessary for every interest owner to file a separate report or to be identified separately in a combined report. From a compliance viewpoint, it is the sales transactions which are important, and the parties of significance are those persons responsible for administering the sales. We are aware that there are many different contractual arrangements and payment methods involved in the sale of natural gas and that many of the producers and pipelines now under the jurisdiction of the NGPA have not previously been required to file reports with the Commission.

We therefore have specified in the attached instruction sheets the following general reporting requirements for the Part 276 reports. Royalty interest owners will not be required to report except where royalty payments taken in kind are subsequently sold in first sale transactions. In the case of a report filed by a seller for sales to non-pipeline purchasers, working interest owners who are nonsignatories to the gas sales contract are not required to report. One signatory party under the contract may be designated to file on behalf of all co-owners of interest in sales under the contract, including all other signatory parties. The report shall include total sales under the contract including sales of all signatories and non-signatories to the contract. Except in the case of a report of intrastate rollover contracts, where there is more than one co-owner under a single contract, it will not be necessary to identify the other co-owners included in the report. However, all working interest owners who are signatory parties to a gas sales contract will still be required to file an oath statement,

even where the report is filed by another signatory party on their behalf.

In the case of reports filed by pipelines under §§ 276.102 or 276.103 the pipeline shall report price and volume information for each contract. Where there is more than one interest owner under a single contract, only one seller must be identified—either the operator if a signatory, or the major interest owner.

Comments were received from producers who argued that the oath requirement in § 276.102(e) is "inconsistent with the general pattern of the remainder of the regulations." They suggested that the oath statement should be filed by the seller himself, rather than an official of the seller as that section requires. We shall reject this suggestion. First, we cannot agree that the "general pattern" of the remainder of the regulations, a fact wholly irrelevant to this issue, dictates that the seller rather than a responsible official of the seller should file oath statements. Second, it is not clear who would file on behalf of a seller that is a corporation, trust, partnership or some other form of business entity, other than a responsible official of that entity. Third, if the seller is an individual, then the regulation requires him to sign the oath statement.

We would note at this point that the forms package includes four affidavits to be used for purposes of filing the appropriate oath statements in Part 276. One covers the oaths required by §§ 276.102 and 276.103 while the other three are separate oaths for § 276.104, § 276.105, and § 276.106. In addition, a responsible official of the party actually filing reports under Part 276 must sign an oath included as part of the title page to the reports that to the best of his information, knowledge and belief all information submitted in the report is true.

A state agency questioned whether states are required to file Part 276 reports and oath statements. They are not. Even though states are included in the definition of "person" under section 2(26) of the NGPA, we believe states should be accorded a presumption of regularity. We have therefore included a new subparagraph (b)(4) to § 276.101(b) which exempts state governments from the general reporting and oath obligations under Part 276. State governments that make first sales of natural gas under sections 105, 106(b) or 109 of the NGPA shall only be required to comply with the record retention obligations of § 276.108.

Producers have also requested an exemption from the filing requirements for sales to an "independent producer" and to a "first sale" reseller, including sales to processing plants under percentage sales contracts, asserting that regulation of the resale automatically

regulates sales prior to the resale. Percentage sale contracts generally involve a sale to the operator of a processing plant at a price which is a percentage of the net proceeds from the resale of the residue gas and may appear in various forms.

Even though it is arguable that some degree of duplicate regulation results, we cannot abrogate our responsibilities under sections 105 and 106(b) of the NGPA to scrutinize first sales on a contract-by-contract basis. Where there are multiple parties under the same contract, our obligations can be met by requiring only one such person to report. But where there are multiple contracts, Sections 105 and 106(b) of the NGPA mandate compliance by the sales under each contract with the maximum lawful price provisions of the act.

Accordingly, we fail to find good cause to exempt persons selling to processing plants or other resellers from the reporting requirements of Part 276. As a practical matter, many of these sellers will qualify under the exemption in § 276.101(b)(1) and thus will only be required to file an oath statement.

In this regard we perceive the need to clarify how percentage sellers are to report their "contract price" on November 9, 1978, for purposes of Part 276 reports and oath statements. Percentage sale contracts have no specific price stipulated under the terms of the contract. Rather, they are generally based on the recovery of a fixed or volumetrically-determined percentage of net proceeds received from the sale at a plant tailgate of a mix of residue gas derived from many different producers. A "contract price" on November 9, 1978, might be computed by dividing sales volumes attributable to the percentage seller on that date into the revenue received for sales on that date. Such a computed "contract price" could change from day-to-day depending on various factors including the mix of resale prices at the plant tailgate and the price of liquids.

Accordingly, we find it appropriate to simplify the reporting of percentage proceeds sales by permitting the percentage received from the plant to be reported in lieu of a "contract price". Volumes to be reported shall be residue gas volumes.

Another comment requested clarification of how the 10,000 MMBtu sales cutoff is to be determined for purposes of § 276.101(b)(1). This qualification concerns all sales by the respondent or any affiliate thereof, including all resales and including all sales as signatories or non-signatories to sales contracts and whether in inter- or intrastate commerce. Royalty interests in sales shall not be considered. However, where royalty gas taken in kind is



later sold, such sales shall be included in the 10,000 MMCF determination. Part II-E of the instructions attached to the Part 276 reports now includes this clarification.

We also received several comments via the Commission's "Hotline" that expressed confusion as to the interrelationship between the exceptions created in paragraphs (b)(1) and (b)(2) in § 271.101. We have revised § 271.101(b) to make it clear that the exception in paragraph (b)(1) only applies in the case of a sale to someone other than a pipeline.

Two comments from large producers suggested that sellers involved in certain small volume direct or "field sales" should also be exempted from the general Part 276 reporting obligations and should only be required to file oath statements.

Under the NGPA, all first sales, however small, are subject to maximum lawful prices. However, we are also cognizant of the fact there are many thousands of small volume sales, such as for irrigation purposes, where the purchaser is the end-user. There is a point where administrative infeasibility outweighs the need to obtain full reports for each such sale. One comment suggests a cutoff of 500 mcf per day or a term of less than one year to non-pipeline purchasers for consumption.

Recognizing that any cutoff is somewhat arbitrary, we shall create a new exception to the general Part 276 reporting obligations and permit respondents to file blanket reports covering all direct sales to non-pipelines made during the reporting period where the average of the total sales by all persons under each contract covering such sales did not exceed an average of 60 mcf per day during the previous calendar year. Data obtained from various producers and from reviewing Form 45 reports indicates that this cutoff will account for most, if not all, of the typical small volume direct sales which sales volumes make up only a small percentage of the total sales volumes in the United States.

We have added a new subparagraph (b)(3) to § 276.101(b) which permits a respondent to elect to forego the general Part 276 reporting obligations for such exempt small direct sales and to file a simplified and greatly reduced report pursuant to new § 276.106. Persons making such exempt sales will be permitted to aggregate these sales in a single report consisting of a title page and attached affidavits and need only report total exempt volumes sold, total revenues received for such sales, and the total number of contracts covered by the report. It should be noted that this exemption only applies to the particular sales that qualify. Persons making such sales may still be obligat-

ed to file reports covering other sales pursuant to the other provisions of Part 276.

For the purposes of determining whether this exemption applies with respect to the initial reports due June 1, 1979, the volumes sold during the full calendar year 1978 are to be considered.

Another comment dealing with § 276.101(b)(2) suggested that pipelines should only be required to report in the case of large sales, for example, greater than 1 Bcf per year. We decline to do so. Such a further condition would unduly complicate the reporting requirements and would run counter to the purpose of eliminating reporting burdens on small companies.

Finally, several pipeline company comments suggested that §§ 276.101(b)(2), 276.102(d), and 276.103(d), could be read to require duplicate reports. Only one report is required. Section 276.101(b)(2) only designates who is to file reports in certain cases. The actual reporting requirements are designated in §§ 276.102 and 276.103, whichever is applicable.

#### B. BASIS OF REPORTING

One pipeline company commented that it is unable to allocate volumes by contract when several contracts are involved in the purchase of gas from a well or unit and it is the operator who distributes the proceeds of the sale. Where volumes cannot be allocated by contract, the total volume may be included in the entry for the operator. However, all other contracts must be listed, including price data for each, following the entry for the operator.

One commentator suggested that the pipeline purchaser be permitted to report volumes and contract information by purchase point identifying number (i.e., well, plant outlet, or gathering system) instead of by contract. Each station number identifies a particular stream of gas being purchased, and price and contract information for each seller is identical except for contract date.

Since maximum lawful prices under sections 105 and 106(b) of the NGPA are determined as a function of either the contract price on a specific date or the price under the terms of the contract in effect on a specific date, it follows that a reporting system for compliance purposes should be based on contract data. We recognize that many intrastate respondents, absent prior Federal reporting requirements, have not developed their recordkeeping systems in accordance with uniform reporting standards. However, we believe there are only a few cases where companies will be unable to report on a contract basis. In those cases, respondents may petition the Commission under section 502(c) of the NGPA for

an alternative filing procedure more adaptable to their recordkeeping system and reporting capability. However, any such requests are subject to prior approval and will not be granted where information which the Commission deems essential to its compliance effort is omitted.

Finally, one company requested clarification of the pressure base to be used in reporting price and volume information. The appropriate pressure base for all respondents is 14.73 psia at a standard temperature of 60 degrees Fahrenheit. The attached instructions contain conversion factors to be used in converting to this pressure base.

#### C. CONTRACT PRICE FOR EXISTING INTRASTATE CONTRACTS

One commentator argued that the requirements of § 276.102 do not recognize the different pricing criteria established in §§ 271.502(a) and 271.502(b) in that only the contract price on November 9, 1978, is called for in § 276.102 without a requirement for reporting the price under the terms of the contract on November 9, 1978. Since the "contract price" on November 9, 1978 (as defined in § 271.504(a)) means the price paid or that would have been paid on November 9, 1978, and that since such "contract price" must be computed for that date according to the terms of the existing contract as they appeared on that date, there is no difference between the "contract price" on November 9, 1978, and the price on November 9, 1978 under the terms of the existing contract on November 9, 1978. Though the "price under the terms of the existing contract" may later change, the fact remains that on November 9, 1978, the two terms mean the same thing.

However, following the language of section 105(b) of the NGPA, it is the term "contract price" on November 9, 1978, which governs whether the general rule of § 271.502(a) or the exception of § 271.502(b) applies. The contract price is therefore a significant item of information which should be reported under § 276.102.

Another commentator suggested that we add contract prices on November 8 and 10, 1978, to the list of items required in § 276.102. We shall decline to do so. The key date for purposes of compliance is November 9, 1978.

Several other comments noted that the contract price on December 31, 1984, cannot be determined with certainty if the contract contains indefinite price escalator provisions. We agree that in many cases the price on this date will be indeterminate. Since the highest price for each contract is reported annually, better data on intrastate contract prices on December 31, 1984, can be obtained from reports

submitted in subsequent years. Accordingly, we shall delete § 276.102(a)(1)(vi) which called for the contract price on December 31, 1984.

#### D. CONTRACT PRICE ESCALATOR TERMS FOR EXISTING INTRASTATE CONTRACTS

One comment suggested that a format similar to that used on FERC Form 45 be used to summarize price escalator terms. Another cited the number of pages and identification problems associated with attaching copies of the contract escalator terms for each contract reported. However, several commentators, notably several public utilities, all recommended that the reporting party be required to submit a copy of the complete gas sales contract, notwithstanding their voluminous nature.

In reporting price escalator terms, respondents, at their option, may provide either a copy of the escalator terms in a contract or a brief summary of the provisions and effective dates. The format used on FERC Form 45 shall be deemed acceptable for providing summaries. We have also simplified the requirements for identifying copies of escalator provisions that are submitted in lieu of summaries. We believe a copy or summary of pricing provisions will be adequate for compliance purposes and reject the suggestion to require a copy of the complete contract.

#### E. REPORT PERIOD AND FILING DATE

Most comments stated that additional time would be required to file reports under Part 276. They suggest that this is due to the time required to obtain and allocate volume figures. Several requested that the reporting period be changed to a calendar year basis. One company commented that where volume information is not available on a calendar month basis, pipelines should be permitted to report volumes for the billing period most closely corresponding to the calendar month.

We agree that the filing date in the Interim Regulations does not allow sufficient time to prepare a report for a reporting period ending on January 31. To allow sufficient time to report, and to be consistent with previous FERC and industry practice, we have changed the reporting period to a calendar year basis with reports to be filed annually by April 1 following the end of the period. In view of the short time remaining before initial reports are due, as required by Commission order issued on February 2, 1979 in Docket No. RM79-3, we have amended Part 276 to provide for a June 1, 1979 deadline. The initial report shall include data for only one month—December 1978. Where the billing period does not correspond to a calendar

month, the sales volume reported should be the volume delivered during the billing period most closely corresponding to the calendar month.

#### F. RECORDKEEPING REQUIREMENTS

Because of the inclusion of new § 276.106, we have redesignated previous § 276.106 as § 276.107 and § 276.107 as § 276.108. Several comments suggested that the record retention period of three years following contract expiration imposed by § 276.108 on sellers is unrealistically long and should be based on the actual transaction or event to which the books and records relate.

We agree that, except with respect to the contract itself, the record retention period prescribed in § 276.108 is too long. However, we cannot agree that a three year record retention period referenced to a transaction or event is sufficient for purposes of compliance. We therefore find that the general record retention requirement of § 276.108 should be referenced to the date of the reports. In all cases, however, the contract itself must be retained three years after expiration. Accordingly, we have amended §§ 276.102(a)(2)(ii), 276.102(e)(2), 276.103(a)(2)(ii), 276.103(c)(2), 276.105(a)(2), and 276.108 and the associated oath statements to reflect this change.

One pipeline company has requested that instrument charts not be considered "books and records" for purposes of § 276.108. We shall reject this suggestion. Instrument charts are the only viable means of verifying sales volumes. We also believe that a three year retention obligation is not unduly burdensome.

#### G. SUPPORTING STATEMENT FOR SALES UNDER SECTION 109

In the Interim Regulations, § 276.104(d)(2) requires a statement identifying the well, reservoir, and acreage from which natural gas qualifying under Section 109 is produced. The statement is only required, however, if the natural gas was not committed or dedicated to interstate commerce on November 8, 1978. We believe that the importance of well and reservoir identification for sales under Section 109 is not a function of the commitment status of the natural gas and therefore find good cause to delete the condition "if the natural gas was not committed or dedicated to interstate commerce on November 8, 1978" from § 276.104(d)(2) and to redesignate that section as § 276.104(e). It is not anticipated that this change will increase the burden on respondents.

#### IV. PUBLIC PROCEDURES AND EFFECTIVE DATE

The regulations in Part 276 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448 (Dec. 1, 1978)). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA.

The amendments to Part 276 contained in this order and the attendant forms, instructions, and affidavits for Subpart A of Part 276 rest upon considerations given to the information received during the above described notice, comment, and hearing process. In addition, Part 276, as amended on February 2, 1979, requires the filing of information on or before May 1, 1979. The amendments set forth below reduce some of the reporting burdens contained in the Interim Regulations. The amendments, including the forms to be used in making the required filings must be promulgated now in order to give to those persons subject to the regulations adequate time for the preparation and filing of the forms. Accordingly, the Commission finds that further notice and public procedure on these rules is unnecessary and impractical and that good cause exists to dispense with additional notice and procedure, and to make Part 276 as amended, effective immediately as final regulations.

(Natural Gas Act, as amended, 15 U.S.C. 717, et seq.; Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, et seq.; Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350; Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, FERC Forms 122, 123, and 124 and accompanying affidavits and instructions as set forth below as Appendix A are hereby promulgated effective immediately, and Part 276 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as issued as interim regulations (43 FR 56448 (Dec. 1, 1978)), and amended by order of the Commission dated February 2, 1979, are promulgated as final regulations and amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

1. Section 276.101(b) is amended by revising paragraph (b)(1), by revising



the first sentence of paragraph (b)(2), and by adding new paragraphs (b)(3) and (b)(4) to read as follows:

#### § 276.101 Reporting entities.

(b) *Exceptions.* (1) In the case of a first sale under section 105 or 106(b) of the NGPA, other than a first sale to an interstate pipeline or intrastate pipeline, by any person who, in the 12 month period which began on December 1, 1977, and ended on November 30, 1978, sold less than 10,000 MMcf of natural gas (including all sales whether by any affiliate of such person or whether such sales occurred in interstate commerce), such person may in lieu of the reports otherwise required under §§276.102 and 276.103, elect to file the statements under oath described in §276.105.

(2) In the case of a first sale under section 105 and 106(b) of the NGPA to an interstate pipeline or an intrastate pipeline, the provisions of paragraph (a) of this section shall not apply and the reports specified in §§276.102 and 276.103 of this subpart shall be filed by the purchasing interstate pipeline or intrastate pipeline.

(3) In the case of a first sale of natural gas under section 105, 106(b) or 109 of the NGPA to a person consuming such gas and not to an interstate or intrastate pipeline where the total volumes sold by all persons under the contract covering such sale does not exceed an average of 60 Mcf per day during the previous calendar year, the person making such sale may elect to report such sale in a blanket affidavit pursuant to §276.106 covering all such sales in lieu of filing the reports otherwise required for such sale under §§276.102, 276.103, or 276.104.

(4) In the case of a first sale under section 105, 106(b) and 109 of the NGPA by a state government, or any of its subdivisions or agencies, the provisions of paragraphs (a), (b)(1), (b)(2) and (b)(3) shall not apply and such state government or subdivision or agency shall only be obligated to comply with the provisions of §276.108.

2. Section 276.102 is amended in paragraph (a) by deleting paragraph (a)(1)(vi), by revising the introductory text of paragraph (a), by revising paragraph (a)(2)(ii), by revising the first sentence of paragraph (d), by revising introductory text of paragraph (e), and by revising paragraph (e)(2) to read as follows:

#### § 276.102 Existing intrastate contracts.

(a) Any person who makes a first sale of natural gas under an existing intrastate contract shall file with the Commission on June 1, 1979, and April

1 annually thereafter, a report in accordance with forms and instructions issued by the Commission which contains:

(2) A statement under oath to be filed by a responsible official of such person: (i) \* \* \* (ii) that books and records kept and maintained by such person reflect all the information reported pursuant to this section and that such person undertakes to retain such books and records in accordance with the provisions of §276.108.

(d) An interstate or intrastate pipeline purchasing natural gas under an existing intrastate contract shall file on June 1, 1979, and April 1 annually thereafter, a report to the Commission or, in the case of an intrastate pipeline, the appropriate state regulatory agency if a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274.

(e) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an existing intrastate contract shall file with the Commission by June 1, 1979, and April 1 annually thereafter a statement under oath by a responsible official of such person:

(2) That books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (d) of this section and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

3. Section § 276.103 is amended by revising the introductory text of paragraph (a), by revising paragraph (a)(2)(ii), by revising the first sentence of paragraph (d), by revising the introductory text of paragraph (e), and by revising paragraph (e)(2) to read as follows:

#### § 276.103 Intrastate rollover contracts.

(a) Any person who makes a first sale of natural gas under an intrastate rollover contract shall file with the Commission on June 1, 1979 and April 1 annually thereafter, a report in accordance with forms and instructions issued by the Commission which contains:

(2) A statement under oath to be filed by a responsible official of such person:

(ii) That books and records kept and maintained by such person reflect all the information reported pursuant to this section and that such person undertakes to retain such books and rec-

ords in accordance with the provisions of § 276.108.

(d) An interstate or intrastate pipeline purchasing natural gas under an intrastate rollover contract shall file on June 1, 1979, and April 1 annually thereafter, a report with the Commission or, in the case of an intrastate pipeline, the appropriate state regulatory agency where a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274.

(e) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an intrastate rollover contract shall file with the Commission by June 1, 1979, and April 1 annually thereafter, a statement under oath by a responsible official of such person:

(2) That books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (d) of this section and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

4. Section 276.104 is amended by redesignating subparagraph (d)(1) as paragraph (d), paragraph (e) as (f), and paragraph (f) as (g).

5. Section 276.104 is further amended by revising the introductory text and by redesignating paragraph (d)(2) as paragraph (e) and revising paragraph (e) to read as follows:

#### § 276.104 Other categories of natural gas.

A person who makes a first sale of natural gas which qualifies under Subpart I of Part 271 shall file in accordance with forms and instructions issued by the Commission, a report with the Commission on June 1, 1979, and April 1 annually thereafter, which contains the following items:

(e) A statement identifying the wells and reservoirs from which the natural gas is produced.

6. Section 276.105 is amended by revising the introductory text of paragraph (a), by revising paragraph (a)(2), and by revising paragraph (b) to read as follows:

#### § 276.105 Elective filing for certain sellers.

(a) Any person described in paragraph (b)(1) of § 276.101 who elects to file an oath statement and undertaking, in lieu of reports otherwise required under §§276.102 and 276.103, shall file with the Commission no

later than June 1, 1979, and April 1 annually thereafter, a statement under oath to be filed by a responsible official of such person:

(2) That books and records kept and maintained by such person reflect all the information required to be reported under §§ 276.102 and 276.103 and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

(b) Any person filing annual statements with the Commission under this section, beginning with the report to be filed by April 1, 1980, shall only be required to file the information required by paragraphs (a)(2) and (a)(3) of this section.

7. Sections 276.106 and 276.107 are redesignated as § 276.107 and § 276.108 respectively, and revised to read as follows:

#### § 276.107 Definition.

For purposes of this subpart, the term "reporting period" means:

(a) In the case of the June 1, 1979, report, the period which begins on December 1, 1978, and ends on December 31, 1978; and

(b) In the case of annual reports filed beginning with April 1, 1980, the preceding calendar year ending on December 31.

#### § 276.108 Record retention.

Each person who makes a first sale under sections 105, 106(b) or 109 of the NGPA shall maintain such books and records as may be necessary to reflect all the information required to be reported under §§ 276.102, 276.103 or 276.104, or which would be required to be reported but for the exceptions in § 276.101(b). Such books and records shall be retained for a period of three years after the filing date for the reporting period in which the first sales occurred. Any contract under which any first sales have occurred in the reporting period must be maintained and preserved for at least three years after expiration.

8. Part 276 is amended by adding a new § 276.106 to read as follows:

#### § 276.106 Elective filing for certain small volume direct sales.

Any person making sales describing in § 276.101(b)(3) may elect to file, in lieu of the reports otherwise required by this subpart, by June 1, 1979, and April 1 annually thereafter, a report in accordance with affidavits and instructions issued by the Commission covering all such sales which contains:

(a) The total volume of all sales by all persons under the contracts covering such sales during the reporting period;

(b) The total revenues received for all sales by all persons under the contracts covering such sales during the reporting period;

(c) The number of contracts covered by the report;

(d) The oath statements required by §§ 276.102(a)(2), 276.103(a)(2), or 276.104(b), whichever are applicable to the sales covered by this report; and

(e) A statement under oath by a responsible official of such person that to the best of his information, knowledge and belief all sales reported under this section were made pursuant to contracts in which the total sales by all persons under each such contract during the previous calendar year did not exceed an average of 60 Mcf per day.

9. The forms appearing immediately after § 276.108 and designated as "FERC Form No. 123" and "FERC Form No. 124," as well as the two unnumbered forms following these designated forms, are deleted.

10. Part 276 is further amended by adding a new § 276.109 to read as follows:

#### § 276.109 Forms, instructions, and affidavits.

(a) *Forms.* The forms and accompanying instructions prescribed and to be used for reporting under this subpart are as follows:

(1) For § 276.104: FERC Form 122—Report of First Sales of Natural Gas Under Section 109 of NGPA—Other Categories of Natural Gas;

(2) For § 276.102: FERC Form 123—Initial Report of First Sales of Natural Gas Under Section 105 of NGPA—Existing Intrastate Contracts; and

(3) For § 276.103: FERC Form 124—Report of First Sales of Natural Gas Under Section 106(b) of NGPA—Intrastate Rollover Contracts.

(b) *Affidavits.* The "Affidavit for Filing Under § 276.102 or § 276.103," "Affidavit for Filing Under § 276.104," "Elective Affidavit for Certain Sellers Filing Under § 276.105" and the "Affidavit for Filing Under § 276.106" are prescribed to be used in accordance with the provisions of this subpart.

(c) *Availability.* Copies of the Part 276 reports containing FERC Forms 122, 123, and 124 and accompanying affidavits and instructions are available at the Office of Public Information, Room 1000, 825 N. Capitol Street NE., Washington, D.C. 20426.

#### APPENDIX A—INSTRUCTIONS FOR FERC FORMS 122, 123 AND 124

##### I. INTRODUCTION

This packet includes the material needed to complete an initial report to the Federal Energy Regulatory Commission if you are making first sales which qualify for maximum lawful

prices under any of the following sections of the Natural Gas Policy Act of 1978 (NGPA):

Section 105: Ceiling Price for Sales Under Existing Intrastate Contracts.

Section 106(b): Ceiling Price for Sales Under Intrastate Rollover Contracts.

Section 109: Ceiling Price for Other Categories of Natural Gas.

Read all instructions carefully prior to completing this report. Certain sales to pipelines must be reported by the purchasing pipeline instead of the seller. In addition, elective filing requirements apply to certain small sellers and small volume direct sales, as defined herein.

Please type your report or print all entries legibly. Each filing must contain a title page and all material specified in the General Requirements Section below for each form applicable to your report. Any person filing FERC Forms 122, 123 or 124 must sign the attestation statement on the title page. Persons making first sales may also be required to file other affidavits in lieu of, or in addition to, the attestation statement on the title page. All forms and affidavits in this packet may be combined in a single report with all pages numbered sequentially.

##### II. GENERAL REQUIREMENTS

In the case of a report filed by a seller, only those working interest owners who are signatory to the gas sales contract are required to file reports and/or oath statements. While the general requirements apply to any person making a first sale, one signatory party under a contract, at the option of the respondents, may file to cover all co-owners of interest in sales under the contract, including all other signatory and non-signatory parties. However, each person making a first sale as a signatory party under any contract which initially qualifies for a maximum lawful price under Sections 105, 106(b), or 109 of NGPA must file an affidavit with the Commission, whether or not such person files a report. Non-signatory co-owners are not required to file reports or affidavits. Similarly, State agencies are not required to file reports or affidavits for State owned production.

A. *Report of First Sales of Natural Gas Under Section 109 of NGPA: Other Categories of Natural Gas.* Each person making a first sale as a signatory party under any contract which initially qualifies for a maximum lawful price under Section 109 of the NGPA during any reporting period must file a report with the Commission by June 1, 1979, following the close of the initial reporting period and by April 1 following the close of subsequent reporting periods. This report must include:



(1) Affidavit for Filing Under § 276.104;

(2) FERC Form 122;

(3) Supporting statement containing the basis for qualification under Section 109 of NGPA, and:

(a) Identification of the wells, by API Well Number, and location, by field and reservoir name, from which the natural gas under each contract is produced.

(b) The basis for any conclusion that a just and reasonable rate under the Natural Gas Act was not in effect on November 8, 1978, if the natural gas was committed or dedicated to interstate commerce on that date.

B. *Initial Report of First Sales of Natural Gas Under Section 105 of NGPA: Existing Intrastate Contracts.* Any person who makes a first sale of natural gas as a signatory party under any intrastate contract in existence on November 8, 1978, to a purchaser other than an intrastate or interstate pipeline, must file a report with the Commission by June 1, 1979. Sales to pipelines should not be included in a report filed by a seller (See Paragraph D below). The filing must include:

(1) Affidavit for Filing Under § 276.102.

(2) FERC Form 123.

(3) A copy or summary of the contract price escalator terms for each contract having a contract price less than or equal to \$2.060 per million Btu on November 9, 1978.

(4) The dates all successors to the existing intrastate contract were entered into and an identification of all agreements, by modification of the existing intrastate contract, or otherwise, in which a purchaser who was not a party to the existing intrastate contract agrees to bear responsibility and pay for any increase (or portion thereof) in production-related costs, the incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the existing intrastate contract.

C. *Report of First Sales of Natural Gas Under Section 106(b) of NGPA: Intrastate Rollover Contracts.* Any person who makes a first sale of natural gas as a signatory party under an intrastate rollover contract, to other than an intrastate or interstate pipeline, must file a report with the Commission by June 1, 1979. The report must be filed annually thereafter by April 1 for all intrastate rollover contracts entered into during the report period. Sales to pipelines should not be included in a report filed by a seller (See Paragraph D below). The report must include:

(1) Affidavit for Filing Under § 276.103.

(2) FERC Form 124.

(3) A supporting statement containing:

(a) The identity of all parties to each existing intrastate contract which expired and to the rollover contract.

(b) A specification of all changes, if any, in price related terms in the intrastate rollover contract from those price related terms contained in the existing intrastate contract which expired. Include an identification of all contract provisions, if any, in which a purchaser who was not party to the expired contract agrees to bear responsibility and pay for any increase (or portion thereof) in production-related costs, the incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the intrastate rollover contract.

D. *First Sales of Natural Gas Under Section 105 or 106(b) of NGPA to Intrastate or Interstate Pipelines.* In the case of any first sale under an existing intrastate contract or intrastate rollover contract to an intrastate or interstate pipeline the report shall be filed by the purchasing pipeline instead of the seller. Pipelines submitting reports as purchasers on FERC Forms 123 or 124 are not required to file an "Affidavit for Filing Under § 276.102 or § 276.103." This affidavit must be filed by any signatory party making first sales to pipelines under Sections 105 or 106(b) of NGPA.

E. *Elective Filing for Certain Sellers.* Any person who, in the 12-month period which began on December 1, 1977, and ended on November 30, 1978, sold, in the aggregate, less than 10 billion cubic feet of natural gas at 14.73 psia and 60° Fahrenheit may, in lieu of filing FERC Forms 123 and 124 for sales to other than an inter- or intrastate pipeline, file an "Elective Affidavit for Certain Sellers Filing Under § 276.105." This affidavit must be filed by June 1, 1979 and annually thereafter by April 1. In determining qualification for this option, include sales by any affiliate of such person and sales as a signatory or non-signatory party to a contract whether the sales occurred in inter- or intrastate commerce. Royalty interests are not included except where royalty gas taken in kind is subsequently sold.

F. *Elective Filing for Small Volume Direct Sales.* Sales under Section 105, 106(b) and 109 of NGPA which qualify as small volume direct sales (See DEFINITIONS) may be reported in summary form using the "Affidavit for Filing Under § 276.106" in lieu of the requirements of paragraphs A, B and C of the General Requirements.

G. *Subsequent Annual Reports.* Annual reports are required by April 1 each year for all contracts previously reported by the Commission on FERC Forms 122, 123 and 124. A separate form, will be distributed prior to the end of each annual report period. For these contracts, respondents will be re-

quired to report sales volume and highest price paid or collected during the report period, and the month in which this price occurred. Detailed instructions will be issued at a later date.

### III. DEFINITIONS

(1) "Reporting Period" means: (a) In the case of the June 1, 1979, report, the period which begins on December 1, 1978, and ends on December 31, 1978; and (b) in the case of annual reports filed beginning with April 1, 1980, the preceding calendar year ending December 31.

(2) "Existing Intrastate Contract" means any intrastate contract in existence on November 8, 1978 for the first sale of natural gas. A contract is in existence on November 8, 1978 if on that date, there is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. For the purposes of this report "existing intrastate contract" includes a "successor to an existing intrastate contract."

(3) "Successor to an existing intrastate contract" means an intrastate contract, other than an intrastate rollover contract, entered into on or after November 9, 1978, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract. The term "successor to an existing intrastate contract" includes a contract the primary term of which has not expired but which has been assigned to a different party in interest.

(4) "Intrastate contract" means any contract applicable to the sale of natural gas which was not committed or dedicated to interstate commerce on November 8, 1978.

(5) "Intrastate rollover contract" means any contract, entered into on or after November 9, 1978, for the first sale of natural gas that was previously subject to an existing intrastate contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after November 9, 1978), specified by the provisions of such existing contract, as such contract was in effect on November 9, 1978, whether or not there is an identity of parties or terms with those of such existing contract.

(6) "Contract price", when used with respect to any specific date and contract, means the price paid per million Btu under a contract for deliveries of natural gas occurring on that date; or, if no deliveries of natural gas occurred under such contract on that date, the price per million Btu that would have been paid had such deliveries occurred on that date.

(7) "Btu content", when used in making rate adjustments, means, the number of British thermal units (Btu) produced by the combustion, at constant pressure, of the amount of the gas which would occupy a volume of 1.0 cubic foot at a temperature of 60°F saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32°F and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

(8) "Production-related costs" means costs of compressing, gathering, processing, treating, liquefaction, conditioning, or transporting natural gas, or other similar costs.

(9) "Small volume direct sale", for the purposes of this report, means any first sale of natural gas under Sections 105, 106(b) or 109 of NGPA, for consumption, where the total volume sold by all persons under a single contract does not exceed an average of 60 Mcf per day during the reporting period or, in the case of the June 1, 1979 report, during the calendar year 1978.

### IV. GENERAL INSTRUCTIONS

Report contract information on lines 1-12 of the appropriate form, using a separate line to report sales at more than one price under the same contract. For sales which sellers are required to report, working interest owners who are signatory to gas sales contracts may file individually, or, at the option of the respondent, one party under a contract may file to cover all co-owners of interest in sales under the contract. Pipelines may report purchases by contract totals, provided the same price is paid for all gas purchased under the contract.

All rates and volumes in this report are referenced to a standard pressure of 14.73 psia and a standard temperature of 60° Fahrenheit. The following conversion factors shall be used in converting to the prescribed pressure base:

From 14.85 psia to 14.73 psia—1.00546.

From 15.025 psia to 14.73 psia—0.98037.

From 15.325 psia to 14.73 psia—0.96117.

The sales volume of natural gas to be reported is the total volume actually delivered during the report period under a contract at the price reported and shall be reported in thousands of cubic feet (Mcf). It should include the interests of all parties under the contract. Prices must be reported in dollars per million Btu (\$/MMBtu).

Average Btu content refers to the most recent approximate average Btu

rounded to the nearest mill (3 decimal places).

For sales to gas processing plants under a percentage sales contract, the sales volume to be reported is the residue gas volume. In the appropriate price column, enter the contract percentage of net proceeds received from the plant. All percentage entries may be rounded to the nearest whole percent. To distinguish a percentage entry from a price entry, place an asterisk (\*) before each percentage entry.

All dates must be entered numerically in the order of month, day, and year (MMDDYY). For example, January 8, 1977, should be reported as 01-08-77.

Code numbers required to complete this report can be obtained from two publications in the FERC Register of Data Standards:

1. Buyer/Seller Codes, DOE/EIA-0176.

2. Geographic Codes, DOE/ERC-0028.

Copies of these publications are available from: U.S. Department of Energy, Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37830.

If a Buyer/Seller code is not available for a particular purchase or seller, please leave the code number blank. A code will be assigned by FERC. State codes correspond to the standard 2-letter Post Office abbreviations.

### V. SPECIFIC INSTRUCTIONS

A. *All Forms.* Columns (a), (b), and (c) identify each contract. In Columns (a) and (b) enter the 2-character state code and 3-digit county code, respectively, for the area in which the gas is delivered. Where gas is delivered in more than one county, use the code designation for the county having the largest volume.

In Column (c) enter the contract date in the form MMDDYY. The date required is the contract date of the existing contract or, in the case of an intrastate rollover contract, the contract date of the expired contract.

Use Column (d) to assign a unique identification character to those contracts which have identical data in Columns (a), (b) and (c). Place an "A" in Column (d) for all entries pertaining to the first contract, "B" for all entries related to the second contract, etc. Columns (a)-(d) must be used in all future references to contracts previously reported to the Commission.

Use Columns (e) and (f) to report the name of the purchaser or seller and the Buyer/Seller Code, if available. For contracts involving gas processing plants, identify both the plant owner and the name of the plant. Abbreviations may be used as necessary.

Average Btu content refers to the most recent approximate average Btu

content per cubic foot of the gas at the point of sale to the purchaser.

B. *FERC Form 122.* In Column (g), enter the highest price per MMBtu charged and collected for sales of natural gas under the contract during the report period. In Column (h) enter the 2-digit number of the month in which this price occurred (not required for the June 1, 1979 report).

C. *FERC Form 123.* Enter in Column (g) the contract price on November 9, 1978, if any. In Column (h) enter the highest price per MMBtu charged and collected for sales of natural gas under the contract during the report period.

Contract term is reported in years in Column (i). If an expiration date is specified in the contract in lieu of a number of years, compute the nearest whole number of years from contract date to expiration date and enter this number in Column (i). If the term is expressed as "Life of well", "Life of lease", etc., enter "99" in Column (i).

Use Column (1) to identify copies or summaries of contract price escalator terms attached to your report. Assign a sequential reference number to each copy or summary. Where the same provisions apply to more than one contract, include only one copy or summary of the escalator terms and enter the reference number in Column (1) for all contracts to which such terms apply. Summaries should include a brief description of the escalator terms (e.g., no further adjustment, spiral, favored nation, redetermination, renegotiation, periodic, etc.) and effective dates or frequency of escalation (e.g., annual).

D. *FERC Form 124.* For existing intrastate contracts which became rollover contracts during the reporting period, the initial price under the rollover contract is referenced to the sales commencement date. The last price under the expired contract is the price paid, or which would have been paid, under such contract for the month in which first sales began under the rollover contract.

### VI.

Submit one original and two copies of the completed report to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. If there are any questions, call 202-275-4530.

AFFIDAVIT FOR FILING UNDER § 276.102 OR § 276.103

This statement must be signed by a responsible official of the filing party: \_\_\_\_\_ (the undersigned) certifies that he is \_\_\_\_\_ (legal title of the undersigned) of \_\_\_\_\_ (filing party) and swears or affirms that to the best of his knowledge, information and belief:



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RULES AND REGULATIONS

(1) Any first sales of natural gas occurring in the reporting period under existing intrastate contracts were made in compliance with applicable maximum lawful prices specified in Section 105 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission's regulations under Subpart E of Part 271, and

(2) Any first sales of natural gas occurring in the reporting period under intrastate rollover contracts were made in compliance with applicable maximum lawful prices specified in Section 106(b) of NGPA and the Commission's regulations under Subpart F of Part 271.

He further swears or affirms that books and records kept and maintained by such person for all such first sales reflect all the information reported by such person, or required to be reported by the purchasing and reporting pipeline, under §§ 276.102 and 276.103 of the Commission's regulations, that such person undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: \_\_\_\_\_

Signature.

AFFIDAVIT FOR FILING UNDER § 276.104

This statement must be signed by a responsible official of the filing party: \_\_\_\_\_ (the undersigned) certifies that he is \_\_\_\_\_ (title of the undersigned) of \_\_\_\_\_ (filing party) and swears or affirms that, to the best of his knowledge, information, and belief, the natural gas sold in the reporting period under each contract which qualifies under Subpart I of Part 271:

(1) Was not committed or dedicated to interstate commerce on November 8, 1978, and is not subject to an existing intrastate contract or an intrastate rollover contract; or

(2) Was committed or dedicated to interstate commerce on November 8, 1978, but a just and reasonable rate was not in effect under the Natural Gas Act on such date for such natural gas.

The undersigned further swears or affirms that such natural gas does not qualify for a maximum lawful price under any subpart of Part 271 that is lower than the maximum lawful price permitted under § 271.902. If the natural gas was committed or dedicated to

interstate commerce on November 8, 1978, the undersigned certifies that either: (1) A notice of change in rate schedule pursuant to § 154.94 has been filed with the Federal Energy Regulatory Commission, or (2) the producer holds or has applied for a small producer certificate under § 157.40 of the Commission's regulations.

The undersigned swears or affirms that, to the best of his knowledge, information, and belief, any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in Section 109 of the NGPA, and the Commission's regulations under Subpart I of Part 271. He further swears or affirms that books and records kept and maintained by such person reflect all the information reported for sales covered by this affidavit, that he undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: \_\_\_\_\_

Signature.

ELECTIVE AFFIDAVIT FOR CERTAIN SELLERS FILING UNDER § 276.105

This statement must be signed by a responsible official of the filing party: \_\_\_\_\_ (the undersigned) certifies that he is \_\_\_\_\_ (title of the undersigned) of \_\_\_\_\_ (filing party) and, that such person in the 12-month period which began December 1, 1977, and ended on November 30, 1978, sold less than a total of 10 billion cubic feet of natural gas, including the sales by any affiliate of such person and including all sales which occurred both in inter- and intrastate commerce.

The undersigned swears or affirms that to the best of his knowledge, information, and belief:

(1) Any first sales of natural gas occurring in the reporting period under existing intrastate contracts were made in compliance with applicable maximum lawful prices specified in Section 105 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission's regulations under Subpart E of Part 271, and

(2) Any first sales of natural gas occurring in the reporting period under intrastate rollover contracts were made in compliance with applicable maximum lawful prices specified in Section 106(b) of NGPA and the Com-

mission's regulations under Subpart F of Part 271.

He further swears or affirms that books and records kept and maintained by such person reflect all the information required to be reported under §§ 276.102 and 276.103 of the Commission's regulations, that such person undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: \_\_\_\_\_

Signature.

AFFIDAVIT FOR FILING UNDER § 276.106

This statement must be signed by a responsible official of the filing party: \_\_\_\_\_ (the undersigned) cer-

tifies that he is \_\_\_\_\_ (title of the undersigned) of \_\_\_\_\_ (filing party) and swears or affirms that, to the best of his knowledge, information and belief, the small volume direct sales summarized herein consist only of those sales to end users under Sections 105, 106(b) and 109 of NGPA where the total volumes sold by all persons under each contract did not exceed an average of 60 Mcf per day during the preceeding calendar year.

Number of contracts \_\_\_\_\_  
Total revenues under these contracts during report period \_\_\_\_\_

Total volume delivered under these contracts during report period \_\_\_\_\_ Mcf.

The undersigned further swears or affirms that, to the best of his knowledge, information and belief, the information in this affidavit is true and all first sales covered by this affidavit were made in compliance with the applicable maximum lawful prices specified in Sections 105, 106(b) and 109 of NGPA and Subparts E, F and I of the Commission's regulations.

The undersigned also swears or affirms that books and records kept and maintained by such person for all such first sales reflect all the information required under §§ 276.102, 276.103 and 276.104 of the Commission's regulations, that such person undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: \_\_\_\_\_

Signature.

RULES AND REGULATIONS

18657

[6450-01-C]

U.S. Department of Energy  
Federal Energy Regulatory Commission  
Washington, D.C. 20426

FORM SUBMISSION TITLE PAGE

FOR

FERC FORMS 122, 123 AND 124

In accordance with Sec. 14 of the FEA Act in responding to specific requests received from members of the public, data will be held confidential only to the extent that they are determined by DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act (5 USC Sec. 552 (b) (4)).

Please read the instructions for FERC Forms 122, 123 and 124 before completing this report.

Respondent  
Name and  
Address:

Name \_\_\_\_\_  
Street \_\_\_\_\_  
City/Town \_\_\_\_\_  
State \_\_\_\_\_ Zip Code \_\_\_\_\_

☐ Check if address above changed since last filing.

☐ Check if name above changed since last filing.

If changed, previous name was: \_\_\_\_\_

Respondent Buyer/Seller Code \_\_\_\_\_

Report for Period Ending December 31, 19 \_\_\_\_\_

Indicate Forms Included In This Report:

- ☐ FERC Form 122  
☐ FERC Form 123  
☐ FERC Form 124  
☐ Elective Affidavit Under § 276.105

ATTESTATION:

(To be signed by a responsible official of the filing party if FERC Forms 122, 123 or 124 are attached to this report.)

\_\_\_\_\_ (the undersigned) certifies that he is \_\_\_\_\_  
(legal title of the undersigned) of \_\_\_\_\_ (filing party) and swears or affirms that he has prepared or reviewed this report and that to the best of his knowledge, information and belief all information submitted in the report is true.

Signature

Date











There are three specific changes in this amendment; (1) it extends the overall time limit on the transitional period for full implementation of the regulation; (2) it prescribes certain limits on the CHAMPUS coverage on abortions; and (3) it continues authorization for reasonable care for which benefits were authorized or reimbursed under CHAMPUS prior to the implementation of the comprehensive CHAMPUS Regulation, even though the reasonable care comes within the limitation on "custodial care" set forth in the regulation. These three changes are the result of administrative reevaluation of the time required to implement fully the provisions of the regulations; revised statutes; and the consideration of public comment on certain previously granted "reasonable care" benefits. The amendment, therefore, will make the comprehensive CHAMPUS regulation conform to current statutory and other provisions.

**DATES:** Regarding change (1), the transitional implementation period is extended to January 10, 1980. Regarding change (2), the effective date on the limitations imposed on the CHAMPUS coverage on abortions is October 1, 1978. Regarding change (3), the retroactive effective date is June 1, 1977.

#### FOR FURTHER INFORMATION CONTACT:

LTC L. Rowlette, Special Assistant for CHAMPUS, Office of the Deputy Assistant Secretary of Defense (Health Resources & Programs), OASD(HA), Washington, D.C. 20301, telephone 202-695-6281.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 77-7834, appearing in the FEDERAL REGISTER on April 4, 1977 (42 FR 17972) the Department of Defense published its regulation, DOD 6010.8-R, "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)." This is the first amendment to the regulation and constitutes the following changes:

#### 12 MONTH EXTENSION OF OVERALL TIME LIMIT ON TRANSITIONAL PERIOD § 199.7(n)(4)

This change is the extension for another 12 months, namely, to January 10, 1980, of the transitional period to implement the provisions of the regulation. The extension is required to develop fully the administrative and operational capability for implementation of all provisions of the regulation.

#### LIMITATIONS ON ABORTION COVERAGE, § 199.10(e)(2)

The second change prescribes certain limitations on abortion services as defined in Pub. L. 95-457 which restricts the use of DOD appropriated funds for Fiscal Year 1979 to pay for

abortion services and supplies. Therefore, funds appropriated for CHAMPUS for Fiscal Year 1979 may not be used to pay for abortion services and supplies provided on and after October 1, 1978, except under certain circumstances set forth in the revised § 199.10(e)(2).

#### REASONABLE CARE FOR WHICH BENEFITS WERE AUTHORIZED OR REIMBURSED PRIOR TO JUNE 1, 1977, § 199.10(g)(8)

The third change adds a paragraph to § 199.10, Program Benefits, which will continue authorization for "reasonable care" for which benefits were authorized or reimbursed under CHAMPUS before the comprehensive CHAMPUS regulation was issued which limits "custodial care." This change is being made to accommodate public comments relative to the custodial care provision made at public rule making hearings on DOD 6010.8-R, held on September 7 and 8, 1977, as well as specific case review. During these hearings it was stipulated that changes resulting from valid comments would be effective retroactively, if feasible; therefore, this change is effective June 1, 1977.

Accordingly, 32 CFR, CHAPTER I, Part 199, is amended, reading as follows:

1. Section 199.7(n)(4) is revised to read as follows:

#### § 199.7 General provisions.

(n) \* \* \*

(4) *Overall time limit on transitional period.* It is the intent that OCHAMPUS and the CHAMPUS Contractors make all reasonable effort to implement fully all provisions of this regulation as expeditiously as possible; in any event transitional authority granted under paragraph (n) of this section shall terminate 36 months from the effective date of this regulation.

2. Section 199.10 is amended by revising (e)(2), by adding a new (e)(12)(v) and by revising (g)(8) to read as follows:

#### § 199.10 Basic program benefits.

(e) \* \* \*

(2) *Abortion.* Benefits under the CHAMPUS Basic Program are available for otherwise covered services and supplies provided in connection with abortion, when legally performed in accordance with the applicable rulings of the United States Supreme Court in *Doe v. Bolton*, 410 U.S. 179 (1973), *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52 (1976).

(i) Covered abortion services are limited to medical services and/or supplies only and do not include abortion counseling or referral fees.

(ii) Further, the Department of Defense Appropriation Act of 1979 (Pub. L. 96-457, § 863) specifically prohibits CHAMPUS coverage during Fiscal Year 1979 of abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians; or except medical procedures are necessary to terminate an ectopic pregnancy.

(e) \* \* \*

(12) *Custodial care.* The statute under which CHAMPUS operates specifically excludes custodial care. This is a very difficult area to administer. Further, many beneficiaries (and sponsors) misunderstand what is meant by custodial care, assuming that because custodial care is not covered, it implies the custodial care is not necessary. This is not the case; denial of benefits only means the care being provided is not a type of care for which CHAMPUS benefits can be extended.

(v) *Reasonable care for which benefits were authorized or reimbursed prior to June 1, 1977.* It is recognized that care for which benefits were authorized or reimbursed prior to the implementation date of the regulation may be excluded under the custodial care limitations set forth in this regulation. Therefore, an exception to the custodial care limitations set forth in this regulation exists whereby reasonable care for which benefits authorized or reimbursed under the Basic Program prior to June 1, 1977 shall continue to be authorized even though the care would be excluded as a benefit under the custodial care limitations of the regulations. Continuation of CHAMPUS benefits in such cases is limited as follows:

(a) *Initial authorization or reimbursement prior to June 1, 1977.* The initial CHAMPUS authorization or reimbursement for the care occurred prior to 1 June 1977; and,

(b) *Continuous care.* The care has been continuous since the initial CHAMPUS authorization or reimbursement; and

(c) *Reasonable care.* The care is reasonable. CHAMPUS benefits shall be continued for such reasonable care up to the same level of benefits and for the same period of eligibility authorized or reimbursed prior to June 1, 1977. Care that is excessive or otherwise unreasonable will be reduced or eliminated from the continued care authorized under this exception.

(g) \* \* \*

(8) *Custodial care.* Custodial care regardless of where rendered except as specifically provided in paragraph (e)(12)(v) of this section.

(10 U.S.C. 1079, 1086, 5 U.S.C. 301)

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Headquarters  
Services, Department  
of Defense.

MARCH 23, 1979.

[FR Doc. 79-9566 Filed 3-28-79; 8:45 am]

#### [4910-14-M]

#### Title 33—Navigation and Navigable Waters

#### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[ICGD 77-143]

#### PART 110—ANCHORAGE REGULATIONS

#### Special Anchorage Areas, Jacobs Nose Cove, Elk River, Md.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** This rule establishes a special anchorage at Jacobs Nose Cove, Elk River, MD. This regulation is needed to accommodate existing and anticipated increases of recreational boating in this area. Vessels not more than 65 feet in length, when at anchor in any special anchorage area are not required to carry or exhibit anchor lights. Establishing this special anchorage will enhance navigational safety in the area by encouraging pleasure craft to anchor in the cove in lieu of anchoring in the Lower Elk River.

**EFFECTIVE DATE:** This amendment is effective on April 26, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315,

Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1934.

**SUPPLEMENTARY INFORMATION:** On November 30, 1978, the Coast Guard published a proposed rule (43 FR 56058) concerning this amendment. Interested persons were given until January 16, 1979 to submit comments. No comments were received.

**DRAFTING INFORMATION:** The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended by adding § 110.71 to read as follows:

#### § 110.71 Jacobs Nose Cove, Elk River, Md.

The water area of Jacobs Nose Cove, on the west side of the mouth of Elk River, Maryland, comprising the entire cove south of Jacobs Nose as defined by the shoreline and a line bearing 046°-226° true across the entrance of the cove tangent to the shore on both the north and south sides.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); Sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)), 49 CFR 1.46(c)(2)).

Dated: March 23, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast  
Guard,  
Acting Commandant.

[FR Doc. 79-9625 Filed 3-28-79; 8:45 am]

#### [4910-14-M]

[ICGD 78-142]

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

#### Perquimans River, N.C.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** At the request of the North Carolina Department of Transportation, the Coast Guard is changing the regulations governing the operation of the U.S. highway 17 drawbridge across the Perquimans River, mile 12.0, Hertford, North Carolina, to allow periods when the draw need not open for the passage of vessels. This change is being made because of limited openings during the periods affected. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

**EFFECTIVE DATE:** April 26, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

**SUPPLEMENTARY INFORMATION:** On November 16, 1978, the Coast Guard published a proposed rule (43 FR 53472) concerning this amendment. The Commander (oan), Fifth Coast Guard District, also published these proposals as a Public Notice dated December 4, 1978. Interested persons were given until December 18, 1978 and January 12, 1979, respectively, to submit comments.

**DRAFTING INFORMATION:** The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

#### DISCUSSION OF COMMENTS

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding § 117.245(g)(1-a) immediately after § 117.245(g)(1) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(g) \* \* \*

(1-a) Perquimans River, mile 12.0, U.S. highway 17 drawbridge at Hertford, N.C. The draw shall open on signal, except that from midnight to 8 a.m., from April 1 through September 30, and from 10 p.m. through 10 a.m., from October 1 through March 31, the draw need not open for the passage of vessels.

(Sec. 5, 28 Stat. 362, as amended, sec 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 21, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard,  
Acting Commandant.

[FR Doc. 79-9623 Filed 3-28-79; 8:45 am]



[CGD 77-205]

**PART 117—DRAWBRIDGE  
OPERATION REGULATIONS****Lake Champlain, Vt.**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** At the request of the Central Vermont Railway, the Coast Guard is changing the regulations governing the drawbridge across the mouth of Missisquoi Bay, Lake Champlain, by requiring the draw to open on signal during certain periods and requiring advance notice during other periods. This change is being made because of limited openings. This action will relieve the bridge owner of the burden of having a person available at all times to open the draw while still providing for the reasonable needs navigation.

**EFFECTIVE DATE:** This amendment is effective on April 26, 1979.

**FOR INFORMATION CONTACT:**

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

**SUPPLEMENTARY INFORMATION:** On February 2, 1978, the Coast Guard published a proposed rule (43 FR 4440) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated March 15, 1978. Interested persons were given until March 6, 1978 and April 17, 1978, respectively, to submit comments.

**DRAFTING INFORMATION:** The principal persons involved in drafting this rule are: Frank L. Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

**DISCUSSION OF COMMENTS**

The Notice of Proposed Rulemaking required four hours advance notice between 5 p.m. and 11 p.m., from June 15 through September 15. Since publication of the proposed rule, the bridge owner has agreed to open the bridge on signal from 7 a.m. to 11 p.m., from June 15 through September 15. The final rule has been changed accordingly.

Two comments were received. One has no objection to the proposal. The other objected, stating that due to high spring lake levels all vessels required an opening and that vessels on the south side of the bridge would be in danger in rough weather due to the lack of safe anchorage or mooring

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facilities. A review of the bridge logs, however, showed no significant difference in the openings required in spring versus later in the season. The Burlington, Vermont, Coast Guard Station reports that there is adequate anchorage for periods of heavy weather south of the bridge. In view of the above, the Coast Guard is satisfied that the regulations as amended will provide for the reasonable needs of navigation. If conditions change, these regulations may be further amended.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.191(b) to read as follows:

§ 117.191 Navigable waters in the State of Vermont and their tributaries; bridges where constant attendance of draw tenders is not required.

(b) Lake Champlain; Missisquoi Bay, Central Vermont railroad bridge, mile 105.6:

(1) The draw shall open on signal from 7 a.m. to 11 p.m., from June 15 through September 15.

(2) The draw shall open on signal at all other times if at least 24 hours notice is given.

(3) Public vessels of the United States and Vermont Fish and Game Department vessels shall be passed through the draw as soon as possible at any time

(Sec. 5, 28 Stat. 362, as amended, sec 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 21, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard  
Acting Commandant.

[FR Doc. 79-9624 Filed 3-28-79; 8:45 am]

[1505-01-M]

**PART 126—HANDLING OF EXPLOSIVES OR OTHER DANGEROUS  
CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES****CFR Correction**

In the 1978 volume of the Title 33 Code of Federal Regulations please make the following correction to § 126.31 which appears on page 674:

In the 10th and 11th lines, delete "nation, the general permit may be re-" so that the sentence will now read "Confirmation of such termination or suspension shall be given to the permittee in writing."

[6560-01-M]

**Title 40—Protection of Environment****CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY**

[FRL 1080-3]

**PART 65—DELAYED COMPLIANCE  
ORDERS****Delayed Compliance Order for  
Lawrence Refractories Company**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Lawrence Refractories Company. The Order requires the Company to bring air emissions from its dryer mixer and grinding mill at Pedro, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Lawrence Refractories' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

**DATES:** This rule takes effect on March 29, 1979.

**FOR FURTHER INFORMATION  
CONTACT:**

Peter Kelly, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

**SUPPLEMENTARY INFORMATION:** On May 31, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 23614) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Lawrence Refractories. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Lawrence Refractories by the Administrator of U.S. EPA pursuant to the authority of section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Lawrence Refractories on a schedule to bring its dryer mixer and grinding mill at Pedro, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-12, a part of the

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federally approved Ohio State Implementation Plan. Lawrence Refractories is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Lawrence Refractories to delay compliance with the SIP regulations covered by the Order until April 1, 1979.

Compliance with the Order by Lawrence Refractories will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under section 304 of the Act to enforce against the source are simi-

larly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Lawrence Refractories is in violation of a requirement contained in the Order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Lawrence Re-

fractories on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: March 20, 1979.

DOUGLAS M. COSTLE,  
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

I. By amending Section 65.400 by adding the following entry to the table to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under section 113(d) (1), (3), and (4) of the Act.

| Source                | Location    | Order No.     | Date of FR proposal | SIP regulation involved | Final compliance date |
|-----------------------|-------------|---------------|---------------------|-------------------------|-----------------------|
| Lawrence Refractories | Pedro, Ohio | EPA-5-79-A-24 | May 31, 1978        | AP-3-12                 | Apr. 1, 1979.         |

2. The text of the order reads as follows:

**UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY**

In the Matter of Lawrence Refractories Company, Pedro, Ohio.

Proceeding under Section 113, Clean Air Act, as Amended.

Order No.: EPA-5-79-24.

**ORDER**

The following ORDER is issued this date pursuant to Section 113 of the Clean Air Act, as amended, 42 U.S.C. Section 7413 (hereinafter referred to as the "Act"). Public notice and opportunity for public hearing have been provided. The ORDER contains a schedule with a timetable for compliance, interim requirements, and requires emission monitoring and reporting. Final compliance is required as expeditiously as practicable, but not later than July 1, 1979. The source is hereby notified that it may be required (depending on the applicability of Section 120) to pay a noncompliance penalty in the event it fails to achieve final compliance by such date. The State of Ohio has been given thirty (30) days notice of this ORDER.

On October 14, 1977, Mr. Dale S. Bryson, Acting Director, Enforcement Division, Region V, the United States Environmental Protection Agency (hereinafter referred to as U.S. EPA), pursuant to authority delegated to him by the Administrator, issued a Notice to Lawrence Refractories Company (hereinafter referred to as the Company) and the State of Ohio that a dryer mixer and crushing mill owned by the Company and located and operated in Pedro, Ohio, were found in violation of the federally enforceable Ohio Implementation Plan as defined in Section 110(d) of the Act. The dryer mixer and crushing mill are subject to Ohio Air Pollution Control Regulation AP-3-12, restricting of emissions of particulate matter from industrial processes. Regula-

tion AP-3-12 is a currently enforceable regulation. In response to the Notice, the Company indicated that it intended to achieve compliance with the applicable Ohio State Implementation Plan by installing dust collectors. The Company has proposed to achieve compliance by April 1, 1979.

It is found that the violations have continued beyond the 30th day after the date of notification by the Acting Director, Enforcement Division and after a thorough investigation of all relevant facts, it has been determined that because immediate compliance is infeasible, compliance in accordance with the schedule hereinafter set forth is reasonable. Therefore, it is hereby ORDERED:

I. That the Company shall install a wet scrubber for controlling the dryer mixer emissions. This control device shall be equipped with a flow meter and pressure drop indicator. It will have pickup points at the front and rear of the rotary dryer, the bucket elevator, and the box filling station. The Company shall demonstrate compliance with Ohio Regulation AP-3-12 at the dryer mixer by not later than April 1, 1979.

The Company shall also install a baghouse for controlling emissions from the crushing mill. This control device shall be equipped with a pressure drop indicator. It will have pickup points at the dry pan, pan elevator, screens, and hammer mill elevator. The Company shall demonstrate compliance with Ohio Regulation AP-3-12 at the crushing mill by not later than April 1, 1979.

II. That quarterly progress reports be submitted to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, with copies to the Ohio Environmental Protection Agency, beginning April 1, 1979, and ending on January 1, 1982. Said reports shall include certification of compliance with any increment falling due during the previous quarter or detailed reasons for

failure to do so, and reports on the Company's compliance with Paragraph VI hereof.

III. The Company must maintain the control devices in good working order, and shall include in its quarterly reports the quantity of excess emissions for each calendar quarter, including the nature and cause of the excess emissions, and corrective action taken. If no excess emissions were recorded, the source should certify this factor to the U.S. EPA in the quarterly report.

IV. That copies of all submissions required to be made pursuant hereto be sent to the Ohio Environmental Protective Agency, P.O. Box 1049, Columbus, Ohio 43216, and the Portsmouth Air Pollution Control Agency, Griffin Hall, Second Street, Portsmouth, Ohio 45662.

V. That this ORDER in no way affects the Company's responsibilities to comply with other Federal, State, and local regulations.

VI. Commencing immediately and throughout the pendency of this Order the Company shall (consistent with good operating practice) operate its dryer mixer, crushing mill and existing control equipment so as to reduce to the maximum extent possible emissions of particulate matter.

Dated: March 20, 1979.

DOUGLAS M. COSTLE,  
Administrator.

Lawrence Refractories Company by the duly authorized undersigned, agrees that the foregoing is a reasonable means by which to comply with Ohio Air Pollution Control Regulation AP-3-12.

Dated: February 21, 1979.

E.W. SHARP,  
Lawrence Refractories Company,  
President.

[FR Doc. 79-9234 Filed 3-28-79; 8:45 am]



[6560-01-M]

[FRL 1080-2]

**PART 65—DELAYED COMPLIANCE ORDERS****Delayed Compliance Order for Department of Energy, Feed Materials Production Center, Fernald, Ohio**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to the Department of Energy, Feed Materials Production Center (Department of Energy). The Order requires the Department of Energy to bring air emissions from its boilers at Fernald, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Department of Energy's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered by the order.

**DATES:** This rule takes effect March 29, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Louise C. Gross, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

**SUPPLEMENTARY INFORMATION:** On September 8, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FED-

ERAL REGISTER (43 FR 40041) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Department of Energy. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No request for a public hearing was received in response to the notice. Following comments made by the Department of Energy, a few minor changes were made in the compliance schedule. The result was that the final compliance date was changed from February 1, 1979 to February 23, 1979, and two of four boilers are to be shut down by January 26, 1979.

Therefore, a Delayed Compliance Order effective this date is issued to the Department of Energy by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Department of Energy on a schedule to bring its four boilers at Fernald, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-11, a part of the federally approved Ohio State Implementation Plan. The Department of Energy is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Department of Energy to delay compliance with the SIP regulation covered by the Order until February 23, 1979.

Compliance with the Order by the Department of Energy will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the

Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines the Department of Energy is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the Department of Energy on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: March 20, 1979.

DOUGLAS COSTLE,  
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

**PART 65—DELAYED COMPLIANCE ORDERS**

By adding the following entry to the table in § 65.400 to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

• • • • •

| Source  | Location | Order No.     | Date of FR proposal | SIP regulation involved | Final compliance date |
|---|----------|---------------|---------------------|-------------------------|-----------------------|
| •   | •        | •             | •                   | •                       | •                     |
| Department of Energy, Feed Materials Production Center, Fernald, Ohio | •        | EPA-5-79-A-18 | Sept. 8, 1978       | AP-3-11                 | Feb. 15, 1979.        |
| •   | •        | •             | •                   | •                       | •                     |

2. The text of the order reads as follows:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Department of Energy, Feed Materials Production Center, Fernald, Ohio. Proceeding Under Sections 113(d) and 114(a) of the Clean Air Act, as Amended; Order No. EPA-5-79-A-18.

**ORDER**

The following ORDER is issued this date pursuant to Sections 113(d) and 114(a) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act. This

ORDER contains a schedule for compliance, interim control requirements, continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than February 15, 1979.

On November 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to

as the "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the Department of Energy Feed Materials Production Center in Fernald, Ohio, upon finding that the four boilers located at the Center were found to be in violation of the applicable Ohio Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited the Center for violation of Ohio Regulation AP-3-11 (hereinafter referred to as AP-3-11), as demonstrated by emission factor calculations and material contained in the Office of Federal Activities file. A copy of this Notice was sent to the State of Ohio.

After a thorough investigation of all relevant facts, it is determined that the Department of Energy is presently unable to comply with the Ohio Implementation Plan, that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. Therefore, it is hereby ORDERED that:

1. The Department of Energy shall achieve compliance with AP-3-11 at the Feed Materials Production Center in accordance with the following schedule:

A. Install electrostatic precipitators on boilers 1 and 3 in accordance with the following schedule:

1. Award contract for procurement and erection of electrostatic precipitators—has been completed prior to the issuance of this ORDER.

2. Commence construction of precipitators—has been commenced prior to the issuance of this ORDER.

3. Award contract for tie-in of precipitators—has been completed prior to the issuance of this ORDER.

4. Commence tie-in of precipitators—has been completed prior to the issuance of this ORDER.

5. Complete construction—December 15, 1978.

6. Commence performance testing—January 22, 1979.

7. Complete emission testing—January 26, 1979.

8. Demonstrate compliance with AP-3-11—February 23, 1979.

B. Discontinue use of boilers 2 and 4 no later than January 28, 1979. Use of boilers 2 and 4 shall not be resumed without installation of appropriate control devices to meet applicable emission limitations.

11. The Department of Energy shall achieve and demonstrate final compliance with AP-3-11 at its Feed Materials Production Center by February 23, 1979.

111. Pursuant to the authority granted in Sections 113(d)(1)(C) and Section 114(a)(1) of the Clean Air Act, the Department of Energy shall install a continuous monitoring system for the measurement of opacity on the effluent stacks of boilers 1 and 3, following any control devices. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in 40 CFR 60.13 and Appendix B of 40 CFR Part 60, and shall be properly calibrated and operational upon the achievement of final compliance.

The Feed Materials Production Center is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio Regulation AP-3-07 and corrective action

taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of two years and made available for inspection by the U.S. EPA or its agent upon request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to Section 113(d)(7) of the Act, during the period in which this ORDER is in effect, the Department of Energy shall minimize particulate emissions by implementation of the following:

A. Maintain and operate the existing control devices in a manner which insures their present collection efficiencies will not diminish.

B. Utilize fuel whose ash content to BTU ratio, on a dry basis, does not exceed, on the average, 1.31 x 10<sup>-5</sup> lb./BTU. This figure was calculated from data contained in the Department of Energy's Semiannual Fuel Analysis, for the Feed Materials Production Center, dated July 28, 1977.

Adherence to the above provisions has been determined to be reasonable and representative of the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in Section I, above) for the period during which this ORDER is in effect.

V. The Department of Energy shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this ORDER. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than February 23, 1979, the Department of Energy shall certify to the U.S. EPA that the Center is in final compliance with AP-3-11.

VI. All submissions and notifications to the U.S. EPA pursuant to this ORDER shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

VII. Nothing in this ORDER shall be construed so as to affect the Department of Energy's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this ORDER shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7603.

IX. The Department of Energy is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Department of Energy will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This ORDER is effective upon promulgation in the FEDERAL REGISTER (March 29, 1979).

Dated: March 20, 1979.

DOUGLAS M. COSTLE,  
Administrator or Delegate.

The Department of Energy has reviewed this ORDER and believes it to be a reasonable means by which the Feed Materials Production Center can achieve compliance with Ohio Regulation AP-3-11. The Department of Energy stipulates as to the correct-

ness of all facts stated above and consents to the requirements and terms of this ORDER.

Dated: December 15, 1978.

By: CHARLES A. KELLER,  
Acting Manager.

[FR Doc. 79-9563 Filed 3-28-79; 8:45 am]

[6820-24-M]

**Title 41—Public Contracts and Property Management****CHAPTER I—FEDERAL PROCUREMENT REGULATIONS**

[FPR Amendment 197]

**PART 1-16—PROCUREMENT FORMS****New Editions of Standard and Optional Forms**

AGENCY: General Services Administration.

ACTION: Final rule.

**SUMMARY:** This amendment of the Federal Procurement Regulations prescribes the use of the June 1978 editions of Standard Form 37, Report on Procurement by Civilian Executive Agencies, and Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns. The action is taken in order to physically incorporate requirements on the forms for reporting data concerning labor surplus area subcontracting programs. The intended effect of this amendment is to provide for the uniform submission of data concerning labor surplus area subcontracting programs.

**EFFECTIVE DATE:** This amendment is effective April 30, 1979, but may be observed earlier if the standard forms involved are available.

**FOR FURTHER INFORMATION CONTACT:**

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

**SUPPLEMENTARY INFORMATION:** a. Subsequent to the development of the June 1978 editions of SF 37 and OF 61, it became necessary to require the reporting of additional data items which do not appear on the new editions of the forms. These additional data item requirements are prescribed by FPR Amendment 192 and FPR Temporary Regulation 48. Although the data items do not physically appear on the June 1978 editions of the forms, they should be reported as provided in the referenced FPR amendment and temporary regulation.



New editions of the forms which include the data items are being developed.

b. It is anticipated that copies of the forms will be available for use by March 15, 1979, and may be obtained by submitting a requisition in FED-STRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

The table of contents for Part 1-16 is amended to revise two entries as follows:

#### Sec.

1-16.804-5 Report by Contractors under Small Business Subcontracting Program, Minority Business Enterprises Subcontracting Program, and Labor Surplus Area Subcontracting Program.

1-16.902-OF 61 Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns.

#### Subpart 1-16.8—Miscellaneous Forms

1. Section 1-16.804-3 is amended by revising paragraph (a) as follows:

§ 1-16.804-3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) *Forms prescribed.* (1) Standard Form 37, Report on Procurement by Civilian Executive Agencies (June 1978 edition), is prescribed for use when reporting procurement in accordance with this section. However, where determined advantageous by the reporting agency, mechanized printout reports containing the same information and in the same format as called for on Standard Form 37 may be submitted instead of Standard Form 37.

(2) Pending the publication of a new edition of the form, (i) add a definition of woman-owned business as paragraph C(7) under "General Instructions," as follows:

(7) **WOMAN-OWNED BUSINESS**—A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management. For the purposes of this definition, businesses which are publicly

owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, women-owned if this information is available.

(ii) Report data under Remarks on the number and dollar value of awards to woman-owned businesses.

(3) The reporting of the percent of foreign content identified by contractors is not required on Standard Form 37.

2. Section 1-16.804-5 is amended by revising paragraph (a) as follows:

§ 1-16.804-5 Report by contractors under Small Business Subcontracting Program, Minority Business Enterprise Subcontracting Program, and Labor Surplus Area Subcontracting Program.

(a) Optional Form 61, June 1978 edition (illustrated in § 1-16.902-OF 61), is designed for use when obtaining information from large business concerns; e.g., other than small business concerns, on the dollar value of their subcontract and purchase commitments under the Small Business, Minority Business Enterprises, and/or Labor Surplus Area Subcontracting Programs. Reports are not required under prime contracts for standard commercial items unless the contracting agency specifically provides for such reports. In the latter case paragraph (a)(8) of the clause prescribed by § 1-1.710-3(b) must be modified. Also, unless otherwise provided by the contracting agency, reports are not required under contracts or subcontracts with small business concerns, minority business enterprises, and educational and nonprofit institutions.

#### Subpart 1-16.9—Illustrations of Forms

Sections 1-16.901-37 and 1-16.902-OF 61 are revised to illustrate the June 1978 editions of Standard Form 37 and Optional Form 61.

§ 1-16.901-37 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) Page 1 of Standard Form 37. (Insert form, copy attached)

(b) Page 2 of Standard Form 37. (Insert form, copy attached)

[6820-24-C]

§ 1-16.901-37 Standard Form 37: Report on Procurement by Civilian Executive Agencies.

(a) Page 1 of Standard Form 37.

| REPORT ON PROCUREMENT BY<br>CIVILIAN EXECUTIVE AGENCIES  |  | Read the instructions on the back.                                       | PERIOD COVERED                          | FORM APPROVED<br>OMB NO. 28-80618<br>INTERAGENCY REPORT<br>CONTROL NO. 1118-GSA-SA |
|--|--|--|---|--|
| REPORTING AGENCY (Include bureau, office, etc.)  |  | REPORT DUES<br>TERMS<br>TO   | TYPED NAME AND TITLE                    |  |
|  |  | TELEPHONE NUMBER<br>(If valid and necessary)                             |   |  |
| <b>PART I—TOTAL PRIME PROCUREMENT</b>  |  |  |   |  |
| PROCUREMENTS REPORTED  |  | NET DOLLAR AMOUNT PROCURED (Round to nearest thousand)                   |   |  |
|  |  | TOTAL<br>(Col. c + d)  | SMALL BUSINESS<br>CONCERNS<br>(e)       | OTHER THAN<br>SMALL BUSINESS<br>(f)  |
| 1 TOTAL (Add lines 2 + 3 + 4)  |  |  |   |  |
| 2 Formally advertised  |  |  |   |  |
| 3 Negotiated   |  |  |   |  |
| 4 Procurement under other agency contracts (Add lines 5 + 6)   |  |  |   |  |
| 5 Fed. Sup. Schedule and other GSA contracts   |  |  |   |  |
| 6 Other agency contracts   |  |  |   |  |
| <b>PART II—STATISTICS ON SELECTED TYPES OF PROCUREMENT—BREAKOUTS OF PROCUREMENT REPORTED ABOVE</b><br>(Procurement not broken out under agency's reporting system, due to dollar value floors on reportable transactions, may be omitted below; however, the dollar amounts of such cut-offs must be entered under "Remarks.") |  |  |   |  |
| NOTE—Round all dollar amounts to nearest thousand  |  | NET DOLLAR AMOUNT PROCURED   |   |  |
| PROCUREMENTS REPORTED  |  | NO. OF<br>ACTIONS<br>(g)   | TOTAL<br>(Col. h + i)                   | SMALL BUSINESS<br>CONCERNS<br>(j)  |
| 7 SMALL BUSINESS SET-ASIDES (Add lines 8 + 9 + 10)   |  |  |   |  |
| 8 Total set-asides other than construction   |  |  |   |  |
| 9 Partial set-asides other than construction   |  |  |   |  |
| 10 Construction set-asides   |  |  |   |  |
| 11 Public or private organizations or individuals  |  |  |   |  |
| 12 PROCUREMENT IN LABOR SURPLUS AREAS (Add lines 13 + 14)  |  |  |   |  |
| 13 Under preference procedures (Add lines 14 + 15)   |  |  |   |  |
| 14 Total labor surplus set-asides (Small Business)   |  |  |   |  |
| 15 Total labor surplus set-asides (General)  |  |  |   |  |
| 16 Under nonpreference procedures  |  |  |   |  |
| 17 PROCUREMENT OF CONSTRUCTION   |  |  |   |  |
| 18 PROCUREMENT FROM EDUCATIONAL INSTITUTIONS AND NON-PROFIT ORGAN.   |  |  |   |  |
| <b>PART III—SMALL BUSINESS SUBCONTRACTING PROGRAM</b>  |  |  |   |  |
| 19 Dollar amount of subcontract and purchase commitments under the Small Business Subcontracting Program   |  |  |   |  |
| 20 Number of prime contractors submitting small business subcontracting reports  |  |  |   |  |
| <b>PART IV—MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM</b>  |  |  |   |  |
| PROCUREMENTS REPORTED<br>(Round dollar amounts to nearest thousand)  |  | NET DOLLAR AMOUNT PROCURED   |   |  |
|  |  | TOTAL<br>(Col. c + d)  | MINORITY BUSINESS<br>ENTERPRISES<br>(e) | OTHER THAN MINORITY<br>BUS. ENTERPRISES<br>(f)                                     |
| 21 Dollar amounts of subcontract and purchase commitments under the Minority Business Enterprises Subcontracting Program   |  |  |   |  |
| 22 Number of prime contractors submitting minority business enterprises subcontracting reports   |  |  |   |  |
| <b>PART V—LABOR SURPLUS AREA SUBCONTRACTING PROGRAM</b>  |  |  |   |  |
| PROCUREMENTS REPORTED<br>(Round dollar amounts to nearest thousand)  |  | NET DOLLAR AMOUNT PROCURED   |   |  |
|  |  | TOTAL<br>(Col. c + d)  | LABOR SURPLUS<br>AREA CONCERNS<br>(e)   | OTHER THAN LABOR<br>SURPLUS AREA<br>CONCERNS<br>(f)                                |
| 23 Dollar amounts of subcontract and purchase commitments under the Labor Surplus Area Subcontracting Program  |  |  |   |  |
| 24 Number of prime contractors submitting labor surplus area contracting reports   |  |  |   |  |
| REMARKS (If more space is required continue on the back of this form.)   |  |  |   |  |
| SUBMITTED BY (Signature)   |  | TITLE  |   | DATE SIGNED  |
| 37 107   |  | STANDARD FORM 37 (REV. 6-78)<br>Prescribed by GSA FPMR (41 CFR) 1-16.804 |   |  |



# 1 4 4 6 2 M R 2 9 7 9 UMI

RULES AND REGULATIONS

(b) Page 2 of Standard Form 37.

## I. GENERAL INSTRUCTIONS

**A. Submission of Reports.** Cumulative reports are to be submitted semi-annually within 45 calendar days after the end of each reporting period. One report for the 6-month period ending March 31, and the other for the 12-month period ending September 30 of each year.

**B. Procurements to be Reported.** Except as otherwise provided herein, the report shall include the dollar amount of all commitments which obligate the Government to an expenditure of funds for property and services including maintenance, repair and construction of buildings, roads, etc., and research and development. The dollar amount for small purchases under \$10,000 may be developed by generally accepted statistical sampling methods, and purchases under \$100 may be excluded from lines numbered 2 and 3. Also, exclude procurements (1) from Governmental sources of supply, such as D.C. Government, Federal Prison Industries, Inc., Government Printing Office, and General Services Administration (supply depots, fuel yards, etc.); and (2) for transportation by government bill of lading and transportation of personnel.

### C. Definitions.

(1) "Net Dollar Amount Procured" or "Dollar Amount" means the actual or estimated cost to the Government of the property or services procured. In most instances, this is the obligation incurred.

(2) "Small Business Concern" means any firm which meets the criteria established by Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

(3) "Labor Surplus Area" means any geographical area of substantial unemployment, persistent unemployment, and any section of concentrated unemployment or underemployment, as defined and classified in the Department of Labor publication "Area Trends in Employment and Unemployment" (See FPR 1-16.804-4 regarding principal place of performance).

(4) "Other Than Small Business" means large business concerns non-profit organizations, educational institutions, and any others which do not meet the criteria for classification as a small business concern.

(5) "Minority Business Enterprise" is a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-orientals, American-Indians, American Eskimos, and American Aleuts.

(6) LABOR SURPLUS AREA CONCERN—A labor surplus area concern is a concern that together with its first tier subcontractors will perform substantially in labor surplus areas identified by the Department of Labor at the time of contract award as an area of concentrated unemployment or underemployment or area of labor surplus (See 20 CFR 654.1). The term "perform substantially in labor surplus areas" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50% of the contract price.

## II. INSTRUCTIONS FOR LINE ENTRIES

(Except self-explanatory lines)

**Line 1.** Enter the total dollar amount of all reportable procurements for construction, supplies, equipment and services, including set-asides for small business, set-asides under Defense Manpower Policy 4, and minority business enterprise.

**Line 2.** Enter the dollar amount of reportable procurements awarded by the reporting agency which involve formal advertising (see FPR Part 1-2). NOTE: "Restricted" advertising for small business and balance of payments is reportable in Line 3.

**Line 3.** Enter the dollar amount of reportable procurement awarded by the reporting agency which involve negotiation (see FPR Part 1-3), including "restricted" advertising for small business, and balance of payments, the set-aside portion for partial set-asides, and minority business enterprise.

**Line 4.** Enter the dollar amount of reportable procurements, under contracts established by another agency, from non-Federal established sources of supply, including orders placed with commercial suppliers under Federal Supply Schedule contracts, GSA local service contracts, Defense Supply Agency contracts for petroleum, etc.

**Line 5.** Enter the dollar amount of all procurements (regardless of amount) under Federal Supply Schedule contracts and GSA local service contracts with non-Federal sources of supply.

**Line 6.** Enter the dollar amount of all procurements under contracts entered into by other agencies, except those reported on Line 5.

**Line 11.** Enter the dollar amount and number of Small Business set-aside awards to public or private organizations or individuals eligible for assistance under section 7(h) of the Small Business Act (See section 502(c) of Public Law 95-89, August 4, 1977, 15 USC 644(c)).

**Line 13.** Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under preference procedures, including set-asides and tie bids (see FPR 1-1.807).

**Line 17.** Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under non-preference procedures (see FPR 1-1.807).

**Line 17.** Enter the dollar amount of contracts for construction, alteration, and repair (including painting and decorating) of buildings, bridges, roads or other real property.

**Line 18.** Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Small Business Subcontracting Program (see 1-16.804-5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

**Line 20.** Enter the number of prime contractors that are currently submitting small business subcontracting reports.

**Line 21.** Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Minority Business Enterprises Subcontracting Program (see FPR 1-16.804-5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

**Line 22.** Enter the number of prime contractors that are currently submitting minority business enterprises subcontracting reports.

**Line 23.** Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Labor Surplus Area Subcontracting Program (see FPR 1-1.805-3). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

**Line 24.** Enter the number of prime contractors that are currently submitting Labor Surplus Area subcontracting reports.

STANDARD FORM 37 BACK, REV. 5-78

GPO: 1979 O-360-880-02

# RULES AND REGULATIONS

18671

**§ 1-16.902-OF 61 Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns.**

(a) Page 1 of Optional Form 61. (Insert form, copy attached)

(b) Page 2 of Optional Form 61. (Insert form, copy attached)

**§ 1-16.902-OF 61 Optional Form 61: Subcontracting Program - Quarterly Report of Participating Large Company on Subcontract Commitments (To Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns).**  
(a) Page 1 of Optional Form 61.

| SUBCONTRACTING PROGRAM—QUARTERLY REPORT OF PARTICIPATING LARGE COMPANY ON SUBCONTRACT COMMITMENTS (To Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns) |   | Form Approved OMB No. 29-R0190 |
|--|---|--------------------------------|
| 1. CONTRACTING AGENCY AND REPRESENTATIVE   |   | 2. QUARTERLY PERIOD<br>FROM TO |
| 3a. NAME OF COMPANY, PLANT OR DIVISION COVERED   | b. ADDRESS (Number, Street, City, State and ZIP Code) |                                |
| 4a. NAME OF COMPANY IF DIFFERENT FROM ITEM 3a  | b. ADDRESS (Number, Street, City, State and ZIP Code) |                                |
| 5a. SUBCONTRACT AND PURCHASE COMMITMENTS TO SMALL BUSINESS CONCERNS (Net)  | DOLLAR AMOUNT (To nearest dollar)                     | c. TOTAL (5a+5b)               |
| 5b. SUBCONTRACT AND PURCHASE COMMITMENTS TO LARGE BUSINESS CONCERNS (Net)  | DOLLAR AMOUNT (To nearest dollar)                     |                                |
| 6a. SUBCONTRACT AND PURCHASE COMMITMENTS TO MINORITY BUSINESS ENTERPRISES (Net)  | DOLLAR AMOUNT (To nearest dollar)                     | c. TOTAL (6a+6b)               |
| 6b. SUBCONTRACT AND PURCHASE COMMITMENTS TO OTHER THAN MINORITY BUSINESS ENTERPRISES (Net)   | DOLLAR AMOUNT (To nearest dollar)                     |                                |
| 7a. SUBCONTRACT AND PURCHASE COMMITMENTS TO LABOR SURPLUS AREA CONCERNS (Net)  | DOLLAR AMOUNT (To nearest dollar)                     | c. TOTAL (7a+7b)               |
| 7b. SUBCONTRACT AND PURCHASE COMMITMENTS TO OTHER THAN LABOR SURPLUS AREA CONCERNS (Net)   | DOLLAR AMOUNT (To nearest dollar)                     |                                |
| 8a. TYPED NAME AND TITLE OF COMPANY OR SUBDIVISION LIAISON OFFICER   | 8. DATE OF REPORT                                     |                                |

## GENERAL INSTRUCTIONS

1. This report is to be submitted for each calendar quarter by all contractors maintaining SMALL BUSINESS, MINORITY BUSINESS ENTERPRISE, and/or LABOR SURPLUS AREA SUBCONTRACTING PROGRAM(S), and required to report. The original and copies of each report shall be submitted to:

Reports shall be submitted not more than 25 calendar days after the close of the quarter being reported. Data pertaining to individual companies will be treated as confidential.

2. Each reporting company, division or plant shall report the required information for the reporting unit as a whole on the basis of the total "mix" of contracting agency business (e.g., commitments for subcontracting work shall not be segregated as between subcontracts under prime or under subcontracts).

## SPECIFIC INSTRUCTIONS

ITEM 1.—Specify the agency and its representative who established reporting arrangements under the small business, minority business enterprise, and/or labor surplus area subcontracting program(s).

ITEM 2.—Enter the day, month and year of the first and last days of the period covered by this report.

ITEM 3.—Enter the name of the reporting company or subdivision thereof (e.g., division or plant) which is covered by the data submitted. A company may elect to report on a corporate, division or plant basis.

ITEM 4.—If the report is for a division, plant or other subdivision of a company, enter the name of the company of which the reporting subdivision is a part.

(INSTRUCTIONS CONTINUED ON REVERSE)

5061-104

OPTIONAL FORM 61 (Rev. 6-78)  
FPR (1 CFR) 1-16.902



RULES AND REGULATIONS

(b) Page 2 of Optional Form 61.

ITEM 5a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to small business concerns for agency (see Item 1) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a small business concern under Definition No. 1.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to large business concerns for agency (see Item 1) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (see Item 1) subcontracts and purchases.

ITEM 6a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to minority business enterprises for agency (see Item 1) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a minority business enterprise under Definition No. 2.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to other than minority business enterprises for agency (see Item 1) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (see Item 1) subcontracts and purchases.

ITEM 7a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to labor surplus area concerns for agency (see Item 1) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a labor surplus area concern under Definition No. 3.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to other than labor surplus area concerns for agency (see Item 1) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (see Item 1) subcontracts and purchases.

ITEM 8.—Self explanatory.

ITEM 9.—Enter the date (day, month, year) this report is submitted.

DEFINITIONS

1. **SMALL BUSINESS CONCERN.**—A small business concern is a concern that meets the pertinent criteria established by the Small Business Administration and set forth in Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

2. **MINORITY BUSINESS ENTERPRISE.**—A minority business enterprise is a "business, at least 50 percent of which is owned by minority group members or, in case of publicly traded companies, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Indians, American Eskimos, and American Aleuts.

3. **LABOR SURPLUS AREA CONCERN.**—A labor surplus area concern is a concern that together with its first tier subcontractors will perform substantially in labor surplus area(s) identified by the Department of Labor at the time of contract award as an area of concentrated unemployment or underemployment or area of labor surplus. (See 20 CFR 654.) The term "perform substantially in labor surplus area(s)" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50% of the contract price.

4. **SUBCONTRACTS AND PURCHASES.**—Subcontracts and purchases as used herein means procurement by a business concern of any article, material or service, including agency (see Item 1) portion of stock inventory and, where reasonably determined to be attributable to such agency contracting, purchases of plant maintenance, repair, operation, and capital equipment, entering into the performance of such agency supply, service or facility contract received by that business concern from (i) the agency (see Item 1), or (ii) another business concern. Procurement of Experimental, Development and Research work is to be included.

5. **COMMITMENTS.**—Commitments as used herein means contracts, purchase orders or other legal obligations executed by the reporting Company for goods and services to be received by the reporting Company. Commitments shall include increases to purchase orders and contracts less downward adjustments to purchase orders and contracts as a result of contract changes, cut-backs, or terminations.

6. **SUBCONTRACT AND PURCHASE COMMITMENTS.**—Subcontract and purchase commitments will include all commitments (net, after adjustments) to a supplier of subcontracted or purchased articles, materials or services, as defined in 3 above, except purchases from a company, division, or plant which is an affiliate of the reporting company.

U.S. GOVERNMENT PRINTING OFFICE: 1979-O-289-461 P52

OPTIONAL FORM 61 Back (Rev. 5-78)

FEDERAL REGISTER, VOL. 44, NO. 62—THURSDAY, MARCH 29, 1979

RULES AND REGULATIONS

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: March 14, 1979.

PAUL E. GOULDING,  
Acting Administrator of  
General Services.

[FR Doc. 79-9311 Filed 3-28-79; 8:45 am]

[4310-10-M]

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Aircraft services

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule amends the Interior Procurement Regulations by adding a reference to the requirements of Part 353 of the Departmental Manual which covers the procurement of aircraft and aircraft-related services and maintenance.

EFFECTIVE DATE: This amendment is effective on April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, (202) 343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of Interior, (202) 343-5914

NOTE.—The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is the general policy of the Department of Interior to allow time for interested parties in the rulemaking process. However, the amendments contained herein are entirely administrative in nature. Therefore, the rulemaking process is waived.

Dated: March 21, 1979.

RICHARD R. HITE,  
Deputy Assistant Secretary  
of the Interior.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR is amended as stated below.

FEDERAL REGISTER, VOL. 44, NO. 62—THURSDAY, MARCH 29, 1979

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. The Table of Contents for Part 14-4 is amended by adding new entries as follows:

Subpart 14-4.53—Aircraft Services

Sec. 14-4.5300 Requirements for acquiring aircraft services.

AUTHORITY: 5 U.S.C. 301

2. New Subpart 14-4.53 and § 14-4.5300 are added as follows:

Subpart 14-4.53—Aircraft Services

§ 14-4.5300 Requirements for acquiring aircraft services.

Procurement of aircraft and aircraft-related services and maintenance shall be performed by the Office of Aircraft Services in accordance with the procedures contained in Part 353 of the Department Manual (353 DM).

[FR Doc. 79-9507 Filed 3-28-79; 8:45 am]

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-160; Amdt. No. 172-47, 173-123, 174-33, 175-7, 176-6, 177-44]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Transportation of Asbestos; Revision of Amendment No. 173-123; Effective Date Extension

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Revision of previous Amendment No. 173-123 and extension of the effective date for all amendments.

SUMMARY: This revision of Amendment No. 173-123 regarding the transportation of asbestos as published on December 4, 1978, in the FEDERAL REGISTER (43 FR 56664) will allow shipments of asbestos when packaged in bags or other non-rigid packagings to be transported in closed freight containers, motor vehicles, or rail cars when loaded by the consignor and unloaded by the consignee; or in bags and other non-rigid packagings that are dust and sift proof which are palletized and unitized. Unitized loads in slings need not be palletized during

transportation by vessel. The effective date of the entire Docket HM-160 is revised from April 30, 1979 to August 20, 1979.

EFFECTIVE DATE: August 20, 1979.

ADDRESS: All written comments received in this rulemaking action are available for examination during regular business hours in the Docket Branch, Room 6500, TransPoint Building, 2100 Second Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Delmer F. Billings, Standards Division, Materials Transportation Bureau, Research and Special Programs Administration, 2100 Second Street, S.W., Washington, D.C. 20590, phone 202-755-4902.

SUPPLEMENTARY INFORMATION: On December 4, 1978, the MTB published a final rule under Docket HM-160 in the FEDERAL REGISTER (43 FR 56664). Since this publication, the MTB has received several petitions for reconsideration in accordance with the provisions of 49 CFR 106.35. The petitions requested reconsideration of the provisions and/or extension of the effective date of the final rule. This document will incorporate methods of shipment which were identified in the notice of proposed rulemaking (43 FR 8562, March 2, 1978) and also those which were included in the final rule. These amendments represent minimum safety requirements and are intended to reduce the risks to public health associated with the generation of unacceptable airborne concentrations of asbestos that may result from packaging and handling of asbestos shipments in commercial transportation.

Two petitioners based their petitions on the fact that the final rule contained a provision requiring bags and other non-rigid containers of asbestos to be palletized and unitized by some method such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping. It was noted that this requirement was not included in the notice of proposed rulemaking (43 FR 8562), thus making comments on this requirement impossible during the normal comment period for the proposed rulemaking. Petitioners also posed the question of whether or not freight containers, rail cars, etc., constituted rigid, airtight packagings as required in § 173.1090(d)(1). It was stated that if such containers were not included in this provision, all shipments of bags or non-rigid containers would be required to be palletized and unitized according to the provisions of § 173.1090(d)(2), and that this requirement would impose great hardship on the asbestos industry and on shippers

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of large volumes of asbestos who normally ship using exclusive use vehicles and rail cars. It was also indicated that neither the equipment nor facilities exist at the present time to achieve compliance with the palletizing and unitizing requirement of the final rule by the published effective date. The MTB has determined that freight containers and, probably, motor vehicles and rail cars would not satisfy the requirements of § 173.1090(d)(1).

By allowing the use of unitized pallet loads as identified in the final rule, the MTB intended to recognize less restrictive handling requirements for bagged asbestos than those that would have been required by the "loading by consignor/unloading by consignee" approach. However, it was not the intent of the MTB to eliminate the more restrictive consignor/consignee approach. Therefore, § 173.1090(d) is being revised to allow the option of either the consignor/consignee approach as identified in the original proposed rulemaking with inclusion of an exclusive use provision or the unitized pallet approach using bags or other non-rigid packagings as required by the final rule.

One petitioner noted that a method of shipment of asbestos via water was the use of slings which are shrink-wrapped or stretch-wrapped and transported in the hold of a vessel without the use of pallets. It was the petitioner's contention that the use of pallets would increase the incidents of unintentional release of asbestos due to the interaction of the pallets against the bags which are unitized by the slings. It was noted that pallets were used in all instances except when placed in the hold of the transport vessel. Given the lack of detailed data on the amount of asbestos fibers released in transportation and the circumstances and cause for such release, the MTB is in general agreement that increased unintentional releases may be likely if pallets were used under the method identified in the petition. Therefore, § 173.1090(d) is being revised to allow slings in loads that are shrink-wrapped or stretch-wrapped to be transported by water without the use of pallets. Future monitoring of hazardous materials incident reports will assist the MTB in determining the safety and efficiency of this and other methods for shipment of asbestos.

One petitioner suggested that the terms "pallet" and "palletized" be defined in the rulemaking. The MTB does not intend to publish a definition of pallet or palletized. It is the MTB's opinion that any rigid platform or board upon which goods may be placed for transportation would meet the requirements when unitizing a load of bags or other non-rigid packagings.

Several petitioners cited a need for the MTB to define the term "dust and sift proof". For the purposes of this amendment, the MTB considers dust and sift proof to mean packagings which are constructed so as to prevent the release of their contents either through materials of construction, seams, or closures during conditions normally incident to transportation.

One petitioner requested that the use of gluing of bags into a unit be allowed as an alternative to the unitizing methods identified in the final rule. It is the MTB's opinion that the use of shrink-wrapping or other similar methods of enclosure assist not only in unitizing a pallet load of bags or other non-rigid packagings, but also assist in the prevention of airborne asbestos contamination of individuals involved in the transportation of asbestos. Simply gluing these packagings together to form a unit would not provide this added measure of safety to which the final rule addresses itself. Therefore, gluing of bags into a unit is not being included as an alternative unitizing method.

One petitioner requested that quantities of less than 2,000 pounds, net weight, per vehicle be excepted from the palletizing and unitizing requirement. It is MTB's opinion that the palletizing and unitizing requirement does not unreasonably restrict the shipment of asbestos in any quantity. This requirement is necessary to provide a minimum level of safety.

Several petitioners requested an extension of the effective date of the final rule. The effective date has been extended to allow five months for compliance as originally intended by the December 4, 1978 publication.

Primary drafters of this document are Delmer F. Billings, Standards Division, Office of Hazardous Materials Regulation, and Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulations.

In consideration of the foregoing, the effective date and paragraph (d) of § 173.1090 as they appeared in the FEDERAL REGISTER published on December 4, 1978 (43 FR 56664) are revised to read as follows:

1. The effective date of the final rule as it appeared in HM-160 on December 4, 1978, is revised to read as follows:

EFFECTIVE DATE: August 20, 1979.

2. In § 173.1090 paragraph (d) as it appeared at 43 FR 56669 is revised to read as follows:

§ 173.1090 Asbestos.

(d) Commercial asbestos must be offered for transportation and transported in—

(1) Rigid, airtight packagings such as metal or fiber drums, portable tanks;

(2) Bags or other non-rigid packagings in closed freight containers, motor vehicles, or rail cars that are loaded by and for the exclusive use of the consignor and unloaded by the consignee; or

(3) Bags or other non-rigid packagings which are dust and sift proof and which are palletized and unitized by methods such as shrink wrapping in plastic film or wrapping in fiberboard secured by strapping. Pallets need not be used during transportation by vessel for loads with slings that are unitized by methods such as shrink wrapping, if the slings adequately and evenly support the loads and the unitizing method prevents shifting of the bags or other non-rigid packagings during conditions normally incident to transportation.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53).

NOTE.—The Materials Transportation Bureau has determined that these amendments do not require a regulatory analysis under the Items of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the Docket.

Issued in Washington, D.C. on March 22, 1979.

L.D. SANTMAN,

Director,

Materials Transportation Bureau.

[FR Doc. 79-9325 Filed 3-28-79; 8:45 am]

[4910-59-M]

## CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-3; Notice 13]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

#### School Bus Passenger Seating and Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice makes final an existing interim amendment to Standard No. 222, *School Bus Passenger Seating and Crash Protection*, increasing the maximum allowable seat spacing in school buses from 20 to 21 inches. In issuing the original standard, the agency intended that the seats be spaced approximately 20 inches apart (S5.2). However, because of manufacturing tolerances, some school bus manufacturers were spacing their seats at distances less than

20 inches to ensure that the spacing does not exceed the prescribed maximum. A seat spacing specification of 21 inches permits 20-inch spacing of seats by taking manufacturing tolerances into fuller account. This spacing will accommodate large high school students while still ensuring a safe level of school bus seat performance.

EFFECTIVE DATE: Since this amendment merely makes final an existing interim rule, it is effective March 29, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: On December 22, 1977, the National Highway Traffic Safety Administration issued a proposal to increase the allowable seat spacing in school buses from 20 to 21 inches (42 FR 64136). Concurrently with that proposal, the NHTSA issued an interim final rule permitting buses to be constructed immediately with the increased seat spacing (42 FR 64119). This action was taken to provide the amount of seat spacing in school buses originally intended by the agency and to relieve immediately problems created by the unnecessarily limited seat spacing in buses then being built. The action resulted from numerous complaints by school bus users relating to seat spacing. The proposal and interim final rule responded to petitions from the Wisconsin School Bus Association and the National School Transportation Association asking for increased seat spacing.

The agency received many comments in response to its December 1977 proposal. Most comments favored some extension in the seat spacing allowance in school buses. Commenters differed as to the amount of seat spacing needed to accommodate fully the larger school children. Some commenters suggested that the agency provide still more seat spacing than proposed in the December 22 notice. Other commenters supported the agency's suggested modification.

The agency has reviewed all of the comments and the petitions concerning this issue and has concluded that the proposal and interim rule provide sufficient seat spacing in school buses for all school children. To provide greater seat spacing, as suggested by some commenters, might necessitate changing the seat structures to absorb more energy. See the December proposal for further discussion of this point. The NHTSA does not believe that such a costly change is warranted at this time. The agency notes that as

a result of the interim rule seat spacing in buses has become adequate to meet the needs for pupil transportation to and from school. The agency continues, however, to research the proper seating for activity buses and will address that issue in a separate notice as soon as all of the research and analysis is completed.

In accordance with the foregoing, Volume 49 of the Code of Federal Regulations, Part 571, Standard No. 222, *School Bus Passenger Seating and Crash Protection*, is amended by making final the existing interim rule as follows:

§ 571.222 [Amended]

1. Paragraph S5.2 of 49 CFR 571.222 is amended to read:

S5.2 *Restraining barrier requirements.* Each vehicle shall be equipped with a restraining barrier forward of any designated seating position that does not have the rear surface of another school bus passenger seat within 21 inches of its seating reference point, measured along a horizontal longitudinal line through the seating reference point in the forward direction.

2. Paragraph S5.2.1 of 49 CFR 571.222 is amended to read:

S5.2.1 *Barrier-seat separation.* The horizontal distance between the restraining barrier's rear surface and the seating reference point of the seat in front of which the barrier is required shall not be more than 21 inches measured along a horizontal longitudinal line through the seating reference point in the forward direction.

The principal authors of this notice are Robert Williams of the Crashworthiness Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 203, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50.)

Issued on March 21, 1979.

JOAN CLAYBROOK,  
Administrator.

[FR Doc. 79-9141 Filed 3-28-79; 8:45 am]

[4310-55-M]

#### Title 50—Wildlife and Fisheries

### CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

#### PART 26—PUBLIC ENTRY AND USE

##### Kenai National Moose Range, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: These special regulations govern the use of aircraft, snowmobiles and watercraft on the Kenai National Moose Range in Alaska. The Director has determined that these regulations are consistent with the primary objectives for which the range was established, and will provide additional recreational opportunity to the public.

DATES: These regulations are effective from date of publication through May 31, 1980.

#### FOR FURTHER INFORMATION CONTACT:

James E. Frates, Refuge Manager, Kenai National Moose Range, P.O. Box 500, Kenai, Alaska 99611, 907-283-4877.

SUPPLEMENTARY INFORMATION: The primary author of this document is James E. Frates. Regulations and maps describing the designated areas are available at the Headquarters, Kenai National Moose Range, Kenai, Alaska. The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. The recreational use authorized by these regulations will not interfere with the primary purposes for which the Kenai National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 26.34 Special regulations, concerning public access, use and recreation for individual national wildlife refuges.

#### ALASKA-KENAI NATIONAL MOOSE RANGE

(a) The landing and operation of aircraft in the Kenai National Moose Range, under other than emergency conditions, is prohibited except as authorized in the following areas: North of the Sterling Highway aircraft may land on lakes except those lakes with recreational developments including campgrounds, camp sites, road waysides with connecting lakes and lakes within the Moose Research Center enclosures including Coyote Lake. Fur-



thermore, the Swan Lake Canoe Area including the several public recreational lakes bounded on the west by the Swanson River Road, bounded on the north by the Swan Lake Road, bounded on the east by the north-south section line immediately west of Arrow Lake (located at the eastern terminus of Swan Lake Road open to the public) and continuing south 5.8 miles to its intersection with the Moose River (one-half mile southwest of the eastern-most shore of Swan Lake), thence downstream the Moose River, and bounded on the south by the Moose Range boundary, is not designated aircraft landing area; south of the north shoreline of the Kenal River and Skilak Lake, aircraft may land on lakes and rivers except the following lakes not authorized for aircraft operations include: Benchland, Cirque, Crater, Emma, Horsetrail, Marmot Lakes, Newman's, Timberline, Trophy and Wolverine.

(1) The landing of aircraft on any road, glacier or ice field is prohibited.

(2) Hidden Lake, Swanson Lake, Gene Lake and Pepper Lake are designated aircraft landing areas in season, for the purpose of sport ice fishing only.

(3) Bottenintnin Lake is a designated aircraft landing area.

(b) The operation of off-road vehicles commonly referred to as all-terrain vehicles (ATV's) is prohibited on the Kenal National Moose Range except the use of lightweight motorized vehicles commonly identified by the general term "snowmobile" are authorized on certain designated areas of the Moose Range and subject to the following special conditions:

(1) Only snowmobiles with an overall width less than 40 inches will be permitted.

(2) The use of snowmobiles may be authorized during the period December 1, 1979 through April 30, 1980, and only when the snow depth is sufficient to protect underlying vegetation and terrain along the route of travel and when determined and announced by the refuge manager.

(3) The use of snowmobiles is prohibited in those game management units of the Kenal National Moose Range during an established moose hunting season. The use of snowmobiles as an aid in big game hunting or for transporting big game animals, except fur animals, is not authorized.

(4) The use of snowmobiles on main-

tained roads within the Moose Range is prohibited, except that, a snowmobile may cross a maintained road only after stopping and when traffic on the roadway allows crossing safely.

(5) That area above timberline located between Skilak Lake and Tustumena Lake is not authorized for snowmobile use.

(6) The area within T 4 N, R 10 W, Section 5 and those portions of Sections 6 and 7 east of the Sterling Highway right-of-way, including the Soldotna Ski Hill, the cross-country ski trails, Headquarters Lake and Nordic Lake, is not a designated snowmobile area.

(7) The use of snowmobiles for racing purposes is prohibited.

(8) The Swanson River Canoe Route lakes and portages are closed to snowmobile use.

(9) An area including the Swan Lake Canoe Route and several road connected public recreational lakes is not a designated snowmobile area. That area closed to such use is bounded on the west by the Swanson River Road, bounded on the north by the Swan Lake Road, bounded on the east by the section line immediately west of Arrow Lake (which is located at the eastern terminus of Swan Lake Road open to the public) and proceeds south 5.8 miles to its intersection with the Moose River (one-half mile southeast of the eastern-most shore of Swan Lake), thence downstream along the west bank of Moose River, and bounded on the south by the Moose Range boundary.

(c) The use of motorized boats and canoes, other motorized watercraft, engines, including chain saws, auxiliary power units, etc., is prohibited within the Moose Range Canoe System, except that boats and canoes with outboard motors will be permitted on Moose River and Swanson River. The Canoe System includes those lakes and their related shore areas, waterways, tributaries and portages within the existing Swan Lake Canoe Route and Swanson River Canoe Route as described on maps available at Kenal Moose Range Headquarters.

(d) The use of airboats is authorized only on Skilak Lake, Tustumena Lake, the Kenal River and Kaslof River.

(e) The provisions of this special regulation supplement the regulations which govern public entry and use on national wildlife refuges which are set forth in Title 50, Code of Federal Regulations, Part 26.

Dated: March 14, 1979.

KEITH M. SCHREINER,  
Alaska Area Director,  
U.S. Fish and Wildlife Service.  
[FR Doc. 79-9506 Filed 3-28-79; 8:45 am]

[4310-55-M]

#### PART 26—PUBLIC ENTRY AND USE

##### Cibola National Wildlife Refuge

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Correction—public access, use and recreation regulation.

SUMMARY: In FR Doc. 79-7672, appearing on page 15495 of the issue for Wednesday, March 14, 1979, an additional special condition No. 9 should be included to make the public access, use and recreation regulations more effective. This document adds special condition No. 9 to the eight already implemented for Cibola National Wildlife Refuge.

DATE: Special Condition No. 9 is effective on April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Wesley V. Martin, Refuge Manager,  
Cibola National Wildlife Refuge,  
Box AP, Blythe, Calif. 92225, Telephone number (714) 922-4433.

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

After condition (8) add:

(9) Camping; i.e., overnight camping is prohibited, effective April 1, 1979. It has been determined that camping is detrimental to the accomplishment of refuge wildlife ecological objectives.

JERRY L. STEGMAN,  
Acting Regional Director,  
Albuquerque, N. Mex.

MARCH 23, 1979.

[FR Doc. 79-9518 Filed 3-28-79; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

#### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

[Docket No. AO-198-A10]

#### RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Termination of Proposed Amendment Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This document terminates amendment proceedings on proposed changes to the marketing order for California raisins because it was not favored by the required two-thirds majority of growers in the referendum. The changes had been proposed by the Raisin Administrative Committee, which administers the order locally for USDA, and three raisin dehydrators. The proposed changes would have clarified existing volume regulation provisions used to tailor supplies to needs, and would have created a new raisin varietal type for regulatory purposes under the order. The marketing order continues in effect unchanged.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued March 30, 1978; published April 4, 1978 (43 FR 14024).

Notice of Recommended Decision—Issued July 12, 1978; published July 17, 1978 (43 FR 30567).

Final Decision—Issued December 26, 1978; published January 2, 1979 (44 FR 47).

#### PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of

1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900) in Fresno, CA, April 18, 1978, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on July 12, 1978, issued his recommended decision (43 FR 30567), and on December 26, 1978, (44 FR 47) the Assistant Secretary issued a final decision setting forth the proposed amendment as a means of further effectuating the declared policy of the act. The final decision directed that a referendum be conducted among producers in the production area to determine whether or not the required percentage of producers favored issuance of the proposed amendment.

It is hereby determined on the basis of the referendum conducted February 17—March 2, 1979, that the proposed amendment failed to get the required two-thirds favorable producer vote, and therefore, the proposed amendment to the marketing agreement and order should not be made effective. Accordingly, the proceedings with respect to the proposed amendment are terminated.

It is hereby further determined that the order currently effective (7 CFR Part 989) tends to effectuate the declared policy of the act and continues in effect.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C. on March 23, 1979.

JERRY C. HILL,  
Deputy Assistant Secretary.  
[FR Doc. 79-9621 Filed 3-28-79; 8:45 am]

[6450-01-M]

#### DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 211, 212]

[Docket No. ERA-R-77-1]

#### TERTIARY INCENTIVE CRUDE OIL

Amendment to Permit Higher Prices

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Further Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes

to amend 10 CFR § 212.78 of the Mandatory Petroleum Price Regulations to provide "front-end" money to producers engaged in the initiation or expansion of tertiary enhanced crude oil recovery projects that involve substantial pre-production expenses and a high risk of failure by permitting some of the crude oil currently produced by or for the interest of these producers to sell at market-clearing prices. No repayment of this front-end money would be required.

By increasing the incentives for investment in tertiary projects, the proposal would help increase domestic crude oil production since much of the domestic crude oil in place can only be recovered through the application of tertiary enhanced recovery techniques. In addition, the increased number of tertiary projects which we believe would result from this proposal should promote rapid technical and commercial advances in enhanced recovery techniques.

DATES: Comments by May 30, 1979, 4:30 p.m.; requests to speak by April 18, 1979, 4:30 p.m.; hearing date: May 1, 1979.

ADDRESSES: All comments and requests to speak to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-77-1, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management) Economic Regulatory Administration, Room 2222 A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Douglas Harnish (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7477.

Eugene Glass (Office of Fuels Regulation), Economic Regulatory Administration, Room 6128-C, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5338.



Lisle Reed (Resource Applications), Department of Energy, Room 3334, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8395.

Raymond J. Braitsch (Energy Technologies), Department of Energy, Room 6G-087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6503.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739.

#### SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Proposal.
- A. Participation.
- B. Recoupment Mechanism.
- C. Reporting Requirements.
- III. Specific Comments.
- IV. Comments Procedures.
- V. Other Matters.

#### I. INTRODUCTION

On July 26, 1978, we issued a final rule, effective September 1, 1978, that provided, through the addition of section 212.78 to the Mandatory Petroleum Price Regulations (10 CFR Part 212), that the first sale of the incremental crude oil produced from a qualified and certified tertiary enhanced recovery project could occur at the market-clearing price (43 FR 33679, August 1, 1978). This final rule sought to encourage the implementation, expansion or continuation of tertiary projects through the incentive of higher prices for crude oil produced from such projects. The full background to section 212.78 is set forth in the Notice of Proposed Rulemaking (42 FR 2646, January 12, 1977), a Notice of Decision which announced in advance the concepts that would be embodied in the final rule (42 FR 41572, August 17, 1977), and the preamble of the July 26 Notice.

The July 26 Notice also continued the rulemaking for the limited purpose of determining whether a producer should be permitted higher prices for some current production from a property on which a tertiary project is located in order to permit adequate capital formation for that tertiary project. To qualify, a producer would have been required to show that (1) the project involved both a high risk of failure and substantial pre-production expenses; and (2) the project could not be financed but for the release of some current production. The proposal would have required the repayment of such an incentive through an adjustment in the price of any incremental oil produced from a tertiary project that had received the incentive.

A public hearing on this proposal was held on September 27, 1978. Most of the comments opposed adoption of the proposal, even though they agreed that investment money was a serious problem for many tertiary projects. Generally speaking, the comments asserted that the proposal was too restrictive to assist most tertiary projects because the repayment provision would reduce the incentive to undertake tertiary projects and because very little assistance would be offered to projects located on properties currently producing small amounts of crude oil.

On the basis of the comments received, we have determined not to adopt the July 26 proposal at this time. As an alternative, we are proposing an incentive program to provide producers with front-end money to initiate or expand certain types of tertiary projects. Under this proposal, a producer could charge market-clearing prices for some current production, provided that the revenue from such sales in excess of what would otherwise be permitted under the pricing regulations could not exceed seventy-five percent of certain specified expenses actually incurred and reported to DOE. The expenses that could be recouped would be dependent upon the type of enhanced oil recovery (EOR) technique which the project employed. No more than twenty million dollars of expenses could be recouped with respect to a particular project. Unlike the proposal in the July 26 Notice, this proposal does not contain a repayment provision and would permit producers to charge market-clearing prices for crude oil produced from properties other than the one on which their project is located. Moreover, the availability of this proposed incentive would be based on the investment risk presented by a particular project and not on the financial resources of the producer engaged in that project. The proposal and comments requested thereon are discussed below.

#### II. PROPOSAL

##### A. PARTICIPATION

We believe that the proposed incentive should be available, with as little administrative burden as possible, to each producer engaged in the initiation or expansion of a tertiary project that would not otherwise present an attractive investment opportunity. We have determined that certain EOR techniques involve, in most instances, such substantial pre-production expenses and such a high risk of failure that a general finding can be made that projects employing such techniques are not an attractive investment opportunity. (Those techniques determined to be high risk EOR tech-

niques would be set forth in Appendix A to § 212.78.) To require a producer engaged in a project employing such techniques to demonstrate that the project is not an attractive investment opportunity would be an unnecessary burden in light of this finding. Therefore, we are proposing a self-certification procedure in paragraph (e)(1) of § 212.78 that would permit a producer to receive the proposed incentive with respect to a particular project upon certification by it and a professional engineer to ERA by registered mail that it is engaged in a tertiary project and that project employs a EOR technique listed in Appendix A to § 212.78. Although this self-certification procedure would greatly facilitate participation in the proposed incentive program, we recognize its potential for abuse. Accordingly, we would review self-certified projects and take appropriate enforcement action if we discovered fraud or other misuse of the procedure.

We realize that a particular tertiary project which does not employ one of the specified EOR techniques might also involve substantial pre-production expenses and require some front end revenues in order to be an attractive investment opportunity. Therefore, we propose a procedure in paragraph (e)(2) of § 212.78 that would permit a producer engaged in the initiation or expansion of such a project to request ERA to issue an order allowing participation in the proposed incentive program with respect to that project. Such an order would be granted upon a showing that the pre-production expenses and high risk of failure would combine to make the project an unattractive investment opportunity without front-end assistance. The general procedures set forth in subpart G of 10 CFR part 205 (§ 205.90 *et seq.*) would govern applications for such orders. After reviewing an application, we would issue an order, pursuant to § 205.95, either allowing or denying participation. If participation were allowed, the order would include a list of expenses that a producer could partially recoup through charging market-clearing prices for a portion of his current crude oil production.

##### B. RECOUPMENT MECHANISM

Market-clearing prices would be permitted for the first sale of any crude oil produced by or for the interest of a producer as long as the "tertiary incentive revenue" from such sales did not exceed the "incurred recoupable expenses" attributable to that producer. Tertiary incentive revenue would be defined in paragraph (c) of § 212.78 as the amount by which the market-clearing price per barrel exceeded what would otherwise be the ceiling price, less any severance and *ad va-*

*lorem* taxes attributable to the price increase permitted under this proposal, times the number of barrels sold at the market clearing price.

Incurred recoupable expenses would be defined in paragraph (c) of § 212.78 as seventy-five percent of the "recoupable expenses" for a particular tertiary project that had actually been incurred and reported to DOE pursuant to the provisions of paragraph (h) of § 212.78. Incurred recoupable expenses for a particular project would be attributable to the "qualified producer(s)" (i.e., producers that complied with the requirements of paragraph (e)(1) or (e)(2) of § 212.78) for that particular project. If there would be more than one qualified producer with respect to a particular project, these producers would attribute the incurred recoupable expenses among themselves in whatever proportion they determined, regardless of their actual interest in the project. This flexibility would permit participants in a tertiary project to agree upon internal business arrangements with minimal governmental interference.

The total amount of incurred recoupable expenses with respect to any particular project would be limited to 20 million dollars. We believe this amount would be sufficient, in most instances, to assist producers to initiate at least the first stage of field development. This stage generally involves higher levels of expenses and risks than any other stage in a tertiary project.

We have tentatively determined those EOR techniques for which self-certification would be permitted and the recoupable expenses for each of these techniques. Appendix B to § 212.78 would set forth these expenses. We have based our tentative determinations on the extent to which an expense is directly attributable to a tertiary project and the extent to which the expense may benefit the producer other than through implementation of the tertiary project. We have sought to include only those expenses that are peculiar to a tertiary project and, thus, prevent the use of this program to underwrite non-tertiary ventures of a producer. Recoupable expenses for those projects for which an order is issued pursuant to subparagraph (e)(2) of § 212.78 would be set forth in that order. We anticipate that these recoupable expenses would be similar to those set forth in Appendix B.

In keeping with the general requirement that producers and resellers of crude oil certify to their purchasers the composition (i.e., pricing tiers) of the crude oil sold to such purchasers, a producer that sold crude oil at market clearing prices under this proposal would be required to certify any

such crude oil as tertiary incentive crude oil. The Entitlements Program (10 CFR 211.67) would also be amended to provide for the treatment of tertiary incentive crude oil on a parity with other domestic crude oil for which the market-clearing price may be charged.

#### C. REPORTING REQUIREMENTS

Paragraph (h) of § 212.78 would require the submission of several reports by participating producers. A producer that received tertiary incentive revenue would be required to submit a monthly report to DOE in which the producer would state (1) the incurred recoupable expenses attributed to it during the previous month; (2) the project from which each such expense is attributed; (3) the cumulative total of incurred recoupable expenses attributed to it at the close of the previous month; (4) the amount of tertiary incentive revenue received by it during the previous month; (5) the cumulative total of tertiary incentive revenue received by it at the close of the previous month; (6) the properties from which tertiary incentive crude oil was sold by or for the interest of the producer and the amounts sold from each such property; (7) the maximum lawful selling price(s) of crude oil from each such property absent the provisions of subparagraph (a)(2) of this section; (8) the price at which tertiary incentive crude oil was actually sold at each such property; and (9) the names of the purchasers of tertiary incentive crude oil. We would also require copies of the certifications provided to these purchasers under § 212.131.

With respect to a particular project, the qualified producers would be required to submit a consolidated monthly report in which they would state (1) the incurred recoupable expenses for the previous month; and (2) the amount of such incurred recoupable expenses attributable to each qualified producer. We also would require the qualified producers to submit an annual opinion by a certified public accountant concerning the accuracy of these reports. The qualified producers may also be required to substantiate the incurred recoupable expenses through the submission of invoices, receipts, contracts, or any other document evidencing the actual incurrence of an expense.

We intend to audit participants in this program to insure that reported expenses are actually incurred and that no overrecoupment occurs. In the event of abuses, we would take the appropriate enforcement action.

Also, with respect to a particular project, the qualified producers would be required to file with DOE's Office of Energy Technology an initial report on that tertiary project and, thereaf-

ter, an annual report on the status of that project. (Appendix 1 to this Notice describes the type of information that would be requested by these reports.) We would use such reports to establish a program through which potential participants in tertiary projects could obtain information on EOR techniques and how such techniques might relate to their particular circumstances.

#### III. SPECIFIC COMMENTS

Although we welcome your comments on any aspect of the proposed incentive program, we specifically request comments on the following issues:

A. Appendix A sets forth the EOR techniques for which a general finding can be made that the technique is not an attractive investment opportunity without tertiary incentive revenues. We request your views as to the validity of this finding for each technique and whether it should be extended to include other tertiary enhanced recovery techniques, especially immiscible fluid displacement, massive polymer waterflooding and caustic waterflooding. We also request your comments on any need to revise or clarify the definitions of the techniques listed in Appendix A.

B. We intend to permit a producer that initiates or expands a tertiary project that does not employ an EOR technique listed in Appendix A to apply to ERA for approval of its participation in the proposed incentive program with respect to that project. We welcome any suggestions concerning the establishment of a simple and efficient process for obtaining approval.

C. We are considering in this rulemaking the advisability of limiting the number of projects in a field or reservoir for which the proposed incentive could be received in order to limit the total amount of money that an individual field or reservoir could receive under this program. Such limitation might be premised on the overall number of projects or on the number of projects with respect to an individual producer. We solicit your comments on this option.

D. We are considering what would be an appropriate definition of a tertiary project. Among the questions are whether the definition should include tertiary activity at a single site on a property-wide basis only, whether it should include tertiary activity which influences a contiguous producing area, and whether it should include tertiary activity by an individual producer that does not constitute a tertiary project by itself but is part of an overall plan. We welcome your views on the appropriate definition of a tertiary project and on the appropriate



definition of the extension of a tertiary project.

E. We intend to assist producers with certain high cost items related and peculiar to an EOR technique. These expenses may be generally classified as (1) the cost of injectants at the point of delivery to the project and prepared for injection; or (2) the intangible drilling costs of new wells or of wells converted from producers to injectors needed for the project; or (3) the costs of environmental protection equipment needed for the project. We do not intend to assist producers with normal operating costs.

Appendix B sets forth proposed recoupable expenses associated with EOR techniques for which self-certification would be permitted. We welcome your suggestions for additions to or deletions from this appendix and also as to the need for more specificity in describing these recoupable expenses. We also solicit your comments on the adequacy of a seventy-five percent rate of recoupment for these expenses and especially on the appropriateness of providing higher or lower rates of recoupment for specific expenses. We are especially interested as to whether any recoupment of expenses should be permitted for natural gas used as an injectant.

F. We are proposing that a producer not be permitted to recoup an expense prior to incurring that expense. An expense, however, could be viewed for these purposes as being incurred when a producer becomes liable, or when a producer actually makes payment or at some other point. We invite your comments on the point at which an expense should be considered incurred.

G. Expenses are proposed to be recoupable only to the extent that they represent the fair market value of an item and are incurred in an arm's-length transaction that confers no indirect benefit to any party in the transaction. We welcome your views concerning methods to insure compliance with this standard, especially in transactions between a producer and an entity affiliated with that producer or between a producer and a crude oil purchaser.

H. We welcome your comments as to how adjustments should be made if our audits of producers disclose violations. We also welcome your comments on the need for adjustments regarding producers that receive the proposed incentive with respect to a project that is subsequently abandoned.

I. We are also considering in this rulemaking an additional incentive for independent producers that initiate or expand tertiary projects alone or in conjunction only with other independent producers. Under this supplemental program, independent producers

would be allowed to recoup expenses in excess of 20 million dollars. The additional recoupment might be limited, however, to 50 percent of the recoupable expenses. We have not determined whether production (e.g., less than 18,000 BPD), amount of assets, or lack of integrated operations (i.e., no crude oil pipelines, refineries or marketing facilities) should be the criteria for classification as an independent producer. We solicit your comments on this supplemental program. We also solicit your comments on whether this additional incentive should be extended to independent producers engaged in tertiary projects with non-independent producers.

J. We solicit comments generally on the proposed monthly reporting requirement, with particular regard to frequency of the filings and the necessity for certification by a certified public accountant. We currently intend to require the submission of an opinion by a certified public accountant attesting to the accuracy of the monthly consolidated reports with respect to a particular project. We solicit your comments as to what procedures and standards a certified public accountant should be required to abide with in preparing such an opinion. We also request your comments on the necessity for special reports on a particular project to be attested to by a certified public accountant.

As to the proposed annual report to the Office of Energy Technology, we believe that the information described in Appendix 1 is normally gathered in a well-run tertiary recovery project, so that the report would not increase the data gathering burden of the producer. We would welcome comments on the validity of this assumption and on any omissions or unnecessary items on the list. We are considering requiring abbreviated quarterly reports, in addition to the annual report, so that another producer contemplating a similar project could obtain this information more frequently. Any advantages of this quarterly report, however, must be weighed against the burden to the producer. We solicit your comments on whether these additional reports would be justified, or whether less frequent reporting, such as on a semi-annual or annual (as proposed) basis would be adequate. We also solicit your comments on the extent to which these reports, if made publicly available, could inappropriately disclose proprietary information of a producer.

K. Although we currently intend to permit a producer to charge market-clearing prices for tertiary incentive crude oil, we are considering a provision that would permit the Administrator of ERA to set an upper limit on the price that could be charged for

such crude oil. We invite your views on the necessity for such a provision, and as to how such a provision could be structured.

L. We are proposing that tertiary incentive revenue be adjusted to reflect *ad valorem* and severance taxes. We request your comments concerning the need to adjust tertiary incentive revenue to reflect other taxes or royalty payments.

M. We welcome your views on the necessity for environmental review, in accordance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), of projects that qualify for tertiary incentive revenues, and whether it makes any difference how they qualify (i.e., through self-certification or through specific designation by ERA).

N. Finally, we welcome your comments on any required changes to the existing pricing rule for incremental tertiary crude oil to insure that that rule and the proposed pricing rule for tertiary incentive crude oil are consistent.

#### IV. COMMENT PROCEDURES

##### A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this notice of proposed rulemaking. All comments should be submitted by 4:30 p.m., e.s.t., May 30, 1979 to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Tertiary Incentive Crude Oil," Docket No. ERA-R-79—. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., and in the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

##### B. PUBLIC HEARING

##### 1. Procedure for Request to Make Oral Presentation

The time and place for the hearing are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, the hearing will resume at 9:30 a.m. on the

next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation. If so, you should describe the interest concerned; if appropriate, state why you are a proper representative of a group or class of persons that has such an interest; and provide a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing. If you are selected to be heard at the hearing, we will notify you before 4:30 p.m., April 20, 1979. You will be required to bring 100 copies of your statement to Room 2214, 2000 M Street, N.W., Washington, D.C. 20461 by 4:30 p.m. on April 30, 1979.

##### 2. Conduct of the Hearing

We reserve the right to select the persons to be heard at the hearing (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may also submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before April 27, 1979. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., and in the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., be-

tween the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

##### V. OTHER MATTERS

As required by Section 7(a) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had the following comments on this proposal:

On the basis of our preliminary review, we believe that consideration should be given as to the types of site specific projects which may be subject to NEPA review and that an appropriate approach be developed to facilitate early application of the NEPA process. In addition, we are concerned that applicable environmental quality standards, particularly air quality standards, not be violated either directly or indirectly by the proposed regulation.

We would like to direct your attention to the EPA Office of Planning and Evaluation's final report of July 1976 entitled, "Potential Environmental Consequences of Tertiary Oil Recovery." The environmental considerations detailed in that report should form the basis of a site by site analysis of proposed tertiary oil recovery projects.

In accordance with Order No. 12044, on Improving Government Regulations (43 FR 12661, March 24, 1978) and the DOE Interim Management Directive Procedures for the Development and Analysis of Regulations, Standards, and Guidelines (43 FR 18634, May 1, 1978), we have prepared a preliminary regulatory analysis which examines the potential economic impact of these proposed regulations. Copies of the preliminary regulatory analysis may be obtained from ERA's Office of Public Information, Room B-210, 2000 M Street, N.W., Washington, D.C. You are invited to provide comments on the preliminary regulatory analysis at the same time you submit comments on the proposed rule. Such comments will be taken into account before the preparation of a final regulatory analysis on any final rule that may be adopted.

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91), we have referred this proposed rule, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385,

Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267).

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., March 22, 1979.

DAVID J. BARDIN,  
Administrator, Economic Regu-  
latory Administration.

1. Section 211.66 is amended by revising paragraph (h)(5) to read as follows:

##### § 211.66 Reporting requirements.

(h) *Monthly report.* On or prior to the fifth day of each month, commencing with the month of August 1978, each refiner shall file with the ERA a report certifying the following information as to the second month prior to the month in which the report is filed:

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph should be derived from the landed costs set forth in such reports.

2. Section 211.67 is amended by revising paragraphs (b)(2), (g)(2), (i)(4), and (1) to read as follows:

##### § 211.67 Allocation of domestic crude oil.

(b) *Required purchase of entitlements by refiners.* . . .

(2) To calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the definition of national domestic crude oil supply ratio in § 211.62 of this subpart, paragraph



(b)(1) of this section and paragraph (c) of this section, each barrel of old oil shall be equal to one barrel of deemed old oil and each barrel of upper tier crude oil shall constitute that fraction of a barrel of deemed old oil the numerator of which is equal to the reported weighted average cost per barrel to refiners of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less the sum of 21 cents and such weighted average cost per barrel to refiners of upper tier crude oil, and the denominator of which is the entitlement price for that month.

(g) *Exchange of crude oil.*

(2) Subject to the provisions of paragraph (g)(3) below, volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g)(1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), or any other domestic crude oil the first sale of which is exempt from the provisions of Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transaction is sold to another firm.

(i) *Issuance and transfer of entitlements.*

(4) The price at which entitlements shall be sold and purchased shall be fixed by the ERA for each month and shall be the exact differential between the weighted average cost per barrel to refiners of old oil and such weighted average cost of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of

which is exempt from the provisions of Part 212 of this chapter, less 21 cents, such costs to be equivalent to the delivered costs to the refinery.

(1) *Certification by non-refiners.* Within twenty-eight (28) days following each month, commencing with the month of January 1978, each firm other than a refiner that has delivered crude oil to a refiner for processing for the account of such firm pursuant to a processing agreement in that month shall certify to that refiner the respective volumes of and that firm's costs for old oil (separately identifying any California lower tier crude oil), upper tier crude oil (separately identifying any California upper tier crude oil), ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), other domestic crude oils the first sale of which is exempt from Part 212 of this chapter, and imported crude oil contained in the crude oil so delivered to that refiner.

3. Section 212.73 is amended in paragraph (a) to read as follows:

§ 212.73 Lower tier ceiling price rule.

(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil; except as provided in § 212.75 for certain crude oil produced from unitized properties; except as provided in § 212.78 for incremental crude oil produced from qualified tertiary enhanced recovery projects and for tertiary incentive crude oil; and except as provided in Subpart C of this Part for exempt crude oil, no producer may charge a price higher than the lower tier ceiling price for any first sale of domestic crude oil.

4. Section 212.78 is revised to read as follows:

§ 212.78 Incremental crude oil produced from qualified tertiary enhanced recovery projects and tertiary incentive crude oil.

(a) *Rule.* (1) *Incremental tertiary crude oil.* Notwithstanding the provisions of § 212.73(a), and subject to the procedures and limitations hereinafter provided in this section, first sales of incremental crude oil resulting from the implementation or expansion of a qualified tertiary enhanced recovery project are not subject to the ceiling price limitations of this subpart.

(2) *Tertiary incentive crude oil.* Notwithstanding the provisions of § 212.73(a), and subject to the procedures and limitations hereinafter provided in this section, first sales of crude oil by or for the behalf of a producer are not subject to the ceiling price limitations of this subpart, provided that the tertiary incentive revenue from such sales does not exceed the incurred recoupable expenses attributable to that producer.

(3) No domestic crude oil shall be eligible for pricing in accordance with paragraph (a)(1) of this section, unless the producer has obtained the required certifications pursuant to paragraph (d) of this section, and unless such crude oil is sold in accordance with the determinations and conditions of such certifications.

(b) *Applicability of subparagraph (a)(1) to existing tertiary enhanced recovery projects.* (1) Except as provided in paragraph (b)(2) of this section only crude oil which is produced from a qualified tertiary enhanced recovery project initiated after the effective date of this section and after receipt of the required certifications, or crude oil produced from a qualified expansion, initiated after the effective date of this section and after receipt of the required certifications, of a previously existing tertiary enhanced recovery project, may qualify for pricing in accordance with paragraph (a)(1) of this section. For purposes of this paragraph, a project or expansion is initiated at the time of the first expenditure or incurrence of a binding obligation for capital necessary for the project or expansion.

(2) Incremental crude oil produced from a tertiary enhanced recovery project, or expansion thereof, which was initiated prior to the effective date of this section or prior to receipt of the required certifications, may qualify for pricing in accordance with paragraph (a)(1) of this section only if:

(i) The producer affirms that he intends to discontinue the project (or the particular high-cost phase of the project) in the absence of permission to price production therefrom in accordance with paragraph (a)(1) of this section, because continuation of the project (or the particular high-cost phase) would be uneconomic at the otherwise applicable ceiling price;

(ii) There has been a material change of circumstances since the time that the project or expansion was initiated; and

(iii) The project is certified under the criteria and pursuant to the procedures provided in paragraph (d). For the purposes of determining eligibility for certification, an existing project shall be examined prospectively, on the basis of the circumstances existing

at the time such certification is sought.

(c) *Definitions.* For purposes of this section—

(1) A "qualified tertiary enhanced recovery project" is a project for the enhanced recovery of crude oil, to the extent that such project involves the application of one or more of the following techniques and is certified pursuant to paragraph (d) of this section as being uneconomical at the otherwise applicable ceiling prices:

(i) Miscible fluid displacement, i.e., an oil displacement process in which gas or alcohol is injected into an oil reservoir, at pressure levels such that the injected gas or alcohol and reservoir oil are miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected gas may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas, carbon dioxide, nitrogen, or flue gas. Gas cycling, i.e., gas injection into gas condensate reservoirs, is not a miscible fluid displacement technique nor a tertiary enhanced recovery technique within the meaning of this section.

(ii) Steam drive injection, i.e., the continuous injection of steam into one set of wells (injection wells) or other injection source to effect oil displacement toward and production from a second set of wells (production wells).

(iii) Microemulsion, or micellar/emulsion, flooding, i.e., an augmented waterflooding technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, cosurfactant, an electrolyte and water, and polymers for mobility control.

(iv) In situ combustion, i.e., combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells.

(v) Polymer augmented waterflooding, i.e., augmented waterflooding in which organic polymers are injected with the water to improve areal and vertical sweep efficiency.

(vi) Cyclic steam injection, i.e., the alternating injection of steam and production of oil with condensed steam from the same well or wells.

(vii) Alkaline (or "caustic") flooding i.e., an augmented waterflooding technique in which the water is made chemically basic as a result of the addition of alkali metals.

(viii) Carbon dioxide augmented waterflooding, i.e., injection of carbonated water, or water and carbon dioxide, to increase waterflood efficiency.

(ix) Immiscible carbon dioxide displacement, i.e., injection of carbon dioxide into an oil reservoir to effect oil displacement under conditions in

which miscibility with reservoir oil is not obtained.

(x) Specific variations of any of the above-listed general techniques as determined in any particular case by the certifying authority.

(2) "Certifying authority" means the Administrator, Economic Regulatory Administration, Department of Energy, or any officer of the Department of Energy to whom the Administrator has delegated such functions.

(3) "Incremental crude oil" (resulting from the implementation of a qualified tertiary enhanced recovery project) means, in the case of a new project, the amount of crude oil which is or will be produced as a result of such a project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from methods of production employed on the property prior to the receipt of the certifications provided for in paragraph (d) of this section. As applied to expansion of existing tertiary enhanced recovery projects, the term means the amount of crude oil which is or will be produced as a result of the expanded project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from the methods of production employed on the property prior to the receipt of the certifications provided for in paragraph (d) of this section. As applied to an existing project within the meaning of paragraph (b)(2) of this section, the term means the amount of crude oil which is or will be produced as a result of the continuation of the project or of the particular high-cost phase of the project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from methods of production (other than the tertiary method, or that phase of such method, that would be discontinued in the absence of the incentive) employed on the property prior to receipt of the certification provided for in paragraph (d) of this section. The actual amount of incremental crude oil in the case of any particular project shall be the amount produced from the property or project area during the period in question which is in excess of the amount of the non-incremental crude oil for that period as determined in the certification issued pursuant to paragraph (d) of this section; provided, that no incremental production shall be deemed to occur prior to the date established in

such certification for the commencement of incremental production.

(4) "Incurred recoupable expenses" means, with respect to any particular tertiary project, seventy-five percent of the recoupable expenses for that project, up to twenty million dollars, provided that such expenses have been incurred and reported pursuant to paragraph (h) of this section. The assigned recoupable expenses of a particular project shall be attributable to the qualified producer(s) with respect to that project. Where there is more than one qualified producer, the qualified producers shall allocate these expenses among themselves in whatever manner they determine.

(5) "Qualified producer" means, with respect to a particular tertiary project, a producer that possesses an interest in the property on which the project is located and contributes to the initiation or expansion of the project, provided that the producer has complied with the requirements of paragraph (e) of this section.

(6) "Recoupable expense" means an expense listed as recoupable in Appendix B of this section or in a order issued pursuant to paragraph (e)(2) of this section.

(7) "Tertiary incentive revenue" means, in the case of first sales of crude oil pursuant to the provisions of paragraph (a)(2) of this section, the excess of the market-clearing price over the otherwise applicable ceiling price less any *ad valorem* or severance taxes attributable to this excess.

(d) *Certification requirements and procedures for incremental tertiary crude oil.* A producer desiring to initiate a tertiary enhanced recovery project, or to expand an existing project, shall obtain final certification that the project (or expansion) is a qualified tertiary enhanced recovery project within the meaning of paragraph (c) of this section, including a determination that the project would not be economic at the otherwise applicable ceiling prices, prior to charging pursuant to paragraph (a)(1) of this section any price in excess of the ceiling which would otherwise be applicable under any other provision of this subpart. In addition, such producer shall obtain final certification of the amount of incremental and non-incremental crude oil which will result from the implementation (or expansion) of such project, prior to charging any price in excess of the ceiling which would otherwise be applicable to such crude oil under any other provision of this subpart.

(1) *General procedures.* The producer shall submit a signed "Application for Certification of Tertiary Enhanced Recovery Project" to the certifying authority. The producer shall have the burden of establishing entitlement



to certification, and shall submit all data, required by these regulations or guidelines issued pursuant thereto or reasonably demanded by the certifying authority, necessary to enable the certifying authority to determine whether it can make the necessary findings and certifications. Except as otherwise provided in this section, the general procedures of Subpart G of Part 205 of this Chapter (§ 205.90 *et seq.*) shall apply to applications for certification submitted under this section.

(2) *Determinations to be made.* In determining whether and to what extent to certify a project, the certifying authority shall determine: (i) whether the project qualifies as a qualified tertiary enhanced recovery project within the meaning of paragraph (c); and (ii) the amount of incremental and non-incremental crude oil (as defined in paragraph (c)) which will result from such project. The amount of incremental and non-incremental crude oil shall be expressed in terms of both the total amount of incremental and non-incremental recovery over the life of the project (or such shorter period as the certifying authority determines to be appropriate) incremental and non-incremental production estimates, commencing with the time that the project is estimated to begin producing incremental crude oil. The certifying authority will not certify a project as a qualified tertiary enhanced recovery project unless it is determined that, under all the circumstances, the producer could not reasonably be expected to undertake (or expand or continue) the project in the absence of an ability to charge prices for the expected incremental crude oil in accordance with paragraph (a) of this section, because the project would not be economic under the otherwise applicable ceiling price. Except as otherwise provided in this section, the certifying authority may, in the course of making these determinations, further define the terms used in this section.

(3) *Conditions and limitations of certifications.* In addition to the conditions and limitations set forth elsewhere in this section, the certifying authority may, in its discretion and in connection with a grant of certification, prescribe such other conditions and limitations upon such certification as are consistent with the requirements of this section and are determined to be reasonably necessary, either to assure that the tertiary enhanced recovery incentive prices provided in this section are not being or will not be applied in a manner which would frustrate the purposes of this section, or to promote the effective administration of these provisions or of

the tertiary enhanced recovery incentive program generally.

(4) *Producer pricing obligations.* A producer may charge the price permitted for incremental crude oil under paragraph (a) only after receipt of and strictly in accordance with the terms of a final certification. In particular, the producer may not treat any crude oil as incremental crude oil until the date established in the certification for the commencement of incremental production and until the amount of crude oil produced during a particular period exceeds the amount of non-incremental crude oil established for that period in the certification.

(5) *Revocation or modification of certifications.* A final certification shall be subject to revocation or modification, at any time and either retroactively or prospectively or both, as and to the extent that the ERA determines to be appropriate: (i) if the producer does not obtain certification in good faith or implement the project in good faith; or (ii) if certification was given on the basis of a material error or omission of fact of which the producer knew or should have known or to which the producer contributed; or (iii) if the producer does not adhere to the requirements of this section or any additional conditions and limitations which the certifying authority may prescribe pursuant to paragraph (d)(3) of this section.

(e) *Requirements for qualified producers with respect to tertiary incentive crude oil.* A producer shall not be considered a qualified producer with respect to a particular tertiary project unless the producer complies with the requirements of either subparagraph (e)(1) or (2) of this section.

(1) *Self-certification.* A producer and a nonaffiliated professional engineer shall certify to ERA by registered mail that the producer is engaged in the initiation or expansion of a tertiary project that employs an enhanced oil recovery technique listed in Appendix A to this section.

(2) *Designation by ERA.* A producer shall obtain a final order from ERA that designates it as a qualified producer engaged in the initiation or expansion of a tertiary project that would be an unattractive investment opportunity without the availability of tertiary incentive revenue pursuant to the provisions of paragraph (a)(2) of this section and that sets forth what expenses will be recoupable with respect to that project pursuant to the provisions of paragraph (a)(2) of this section.

(i) *General procedures.* The producer shall submit a signed "Application for Designation as Qualified Producer" to ERA. The producer shall have the burden of establishing entitlement to the designation and shall submit all

data, required by these regulations or guidelines issued pursuant thereto or reasonably demanded by ERA, necessary to enable ERA to determine whether it can make the necessary findings. The general procedures of Subpart G of Part 205 of this Chapter (§ 205.90 *et seq.*) shall apply to applications for designation submitted under this section.

(ii) *Determinations to be made.* In determining whether and to what extent to designate a producer as a qualified producer with respect to a particular tertiary project, ERA shall determine: (A) whether the project would be undertaken without the availability of tertiary incentive revenue pursuant to the provisions of paragraph (a)(2) of this section; (B) whether the producer has an interest in the property on which the project is located and will contribute to the initiation or expansion of the project; and (C) the expenses associated with the project that can be recouped pursuant to the provisions of paragraph (a)(2) of this section.

(iii) *Conditions and limitations of designations.* In addition to the conditions and limitations set forth elsewhere in this section, ERA may, in its discretion, prescribe such other conditions and limitations upon such designation as are consistent with the requirements of this section as determined to be reasonably necessary, either to assure that the tertiary incentive revenues provided in this section are not being or will not be applied in a manner which would frustrate the purposes of this section, or to promote the effective administration of these provisions or of the tertiary incentive program generally.

(iv) *Revocation or modification of order.* A final order shall be subject to revocation or modification, at any time and either retroactively or prospectively or both, as and to the extent that the ERA determines to be appropriate: (A) if the producer does not obtain the order in good faith or implement the project in good faith; or (B) if the order was issued on the basis of a material error or omission of fact of which the producer knew or should have known or to which the producer contributed; or (C) if the producer does not adhere to the requirements of this section or any additional conditions and limitations which ERA may prescribe pursuant to paragraph (e)(2)(iii) of this section.

(f) *Additional procedures and criteria.* The ERA may from time to time publish, or otherwise make available to producers and the public, additional instructions or guidelines setting forth procedures to be followed and criteria to be applied in obtaining or making the determinations provided for in paragraphs (d) or (e) of this section;

provided, however, that such instructions or guidelines shall not be mandatory or binding upon the ERA or the certifying authority, and shall not create or enlarge any procedural or substantive rights against the ERA.

(g) *Base production control level adjustments; measurement of post-certification production.* Notwithstanding any other provision of this part, and except as otherwise prescribed by the certifying authority pursuant to paragraph (d)(3) of this section, a producer receiving certification shall adjust the base production control level for the property (including any unitized property for which a unit base production control level has been established) on which the tertiary enhanced recovery project is being implemented, and shall measure production from such property, as follows:

(1) *Projects involving an entire property.* Where the project is determined to involve or affect the entire property, upon commencement of the production of incremental crude oil (as determined in the certification) the property's base production control level shall be deemed to be the same proportion to the total amount of non-incremental crude oil (as such non-incremental crude oil is determined in the certification for the period concerned) as the amount of old crude oil produced from such property in the twelve-month period immediately preceding the month in which incremental crude oil production commences bears to total crude oil produced from that property during the same twelve-month period. The property's base production control level shall not thereafter be adjusted except as provided in the preceding sentence, i.e., except as the nonincremental crude oil production from the property (as determined in the certification) may vary from period to period.

(2) *Projects involving a portion of a property.* Where the project is determined to involve or affect only a portion of a property (including a unitized property for which a unit base production control level has been established), upon commencement of the production of incremental crude oil (as determined in the certification) the unaffected portion of the property shall receive the entire property's base production control level existing at the time incremental crude oil production commences. The amount of crude oil production to be credited against such base production control level shall be the sum of (i) the separately measured actual production from the unaffected portion of the property, plus (ii) the amount of non-incremental production (as established in the certification) for the project area for the period concerned (or the actual production from the project area for

that period, if less than said non-incremental production). The base production control level may thereafter be adjusted as provided in § 212.76. It shall be a condition of any certification applying to only a portion of a property that the producer shall undertake to measure actual production from the affected portion and the unaffected portion separately, by such means as certifying authority may from time to time prescribe either at the time of certification or at any time thereafter.

(h) *Reporting requirements.* (1) By the close of each month, a qualified producer shall file a report in which the producer shall certify (i) the incurred recoupable expenses attributed to it during the previous month; (ii) the project from which each such expense as attributed; (iii) the cumulative total of incurred recoupable expenses attributed to it at the close of the previous month; (iv) the amount of tertiary incentive revenue received by it during the previous month; (v) the cumulative total of tertiary incentive revenue received by it at the close of the previous month; (vi) the properties from which tertiary incentive crude oil was sold by or for the interest of the producer and the amounts sold from each such property; (vii) the maximum lawful selling price(s) of crude oil from each such property absent the provisions of subparagraph (a)(2) of this section; (viii) the price at which tertiary incentive crude oil was actually sold at each such property; and (ix) the names of the purchasers of tertiary incentive crude oil. Copies of the certifications provided to purchasers of tertiary incentive crude oil under § 212.131 shall be attached to this report.

(2)(i) With respect to a particular project, the qualified producers therefor shall submit a consolidated monthly report in which they shall certify (A) the incurred recoupable expenses for the previous month and; (B) the amount of such incurred recoupable expenses attributable to each qualified producer.

(ii) By January 31 of each year the qualified producers with respect to a particular project shall submit an opinion by a certified public accountant attesting that nothing has come to its attention that causes it to believe that the reports with respect to that project submitted during the prior calendar year in accordance with paragraph (b)(2)(i) of this section are inaccurate.

(3) A producer shall file with the Office of Energy Technology an initial report on each project with respect to which the producer is a qualified producer and an annual report on the status of that project. The ERA shall

publish guidelines setting forth the data to be included in such reports.

5. Appendix A is added to § 212.78 to read as follows:

#### APPENDIX A TO § 212.78—DEFINITION OF ENHANCED OIL RECOVERY TECHNIQUES FOR WHICH SELF-CERTIFICATION IS AVAILABLE

(1) *Miscible fluid displacement* means an oil displacement process in which gas or alcohol is injected into an oil reservoir, at pressure levels such that the injected gas or alcohol and reservoir oil are reasonably expected to be miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected fuel may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas, carbon dioxide or alcohol. The injected fluid must, with reasonable expectations, be more than 25 percent of the reservoir pore volume being served by the injection well or wells (in the case of alcohol injection).

(2) *Steam drive injection* means the continuous injection of at least 50 percent quality steam into one set of wells (injection wells) to effect oil displacement toward and production from a second set of wells (production wells). This applies only to steam drive projects with an average depth greater than 3000' or steam drive projects which recover oil with a gravity less than 10°API or greater than 25°API.

(3) *Microemulsion, or micellar/emulsion, flooding, technique* in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, consurfactant, and electrolyte and water, and polymers for mobility control. The size of the micellar slug (not including the polymers) must be more, with reasonable expectations, than 10 percent of the reservoir pore volume being served by the injection well or wells.

(4) *In situ combustion* means combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells, provided that such combustion must be intended to continue until at least 15 percent of the reservoir volume being served by the injection well or wells has been burned.

6. Appendix B is added to § 212.78 to read as follows:

#### APPENDIX B TO § 212.78—RECOUPABLE EXPENSES

##### 1. THERMAL—STEAM FLOODING

• The cost of pressured steam fossil fuel fired boilers plus any additives or



gases in conjunction with the steam flood as incurred by the operator or purchased from a third party. The cost of conventional fossil fuel fired boilers could be recouped only at the rate of depreciation as reported to the IRS.

• The cost of surface boilers not fueled by oil, gas, or coal or non-surface boilers (such as solar or down hole steam generators) could be recouped as obligations are incurred.

• Intangible drilling costs, as defined and recognized by the Internal Revenue Service.

• Environmental protection expenditures including outlays for stack gas scrubbers, waste gas collection equipment, and water disposal.

## 2. THERMAL—IN SITU COMBUSTION

• The costs of compressed air plus any injection of oxygen, steam or water in association with combustion, as incurred by the operator or as purchased at the project site from a third party. The cost of air compressors and prime movers used for air compression could be recouped only at the rate of depreciation as reported to the IRS.

• Intangible drilling costs, as defined and recognized by the Internal Revenue Service.

• Environmental protection equipment and outlays, including waste gas collection and thermal sensors.

## 3. MISCIBLE FLUID FLOODING

• The costs of injected fluid and additives, as purchased at the project site from a third party or under "arms length" financial transactions by separate organizational entities within the same company. The cost of compressors and prime movers used for the compression of injection fluids could be recouped only at the rate of depreciation as reported to IRS.

• Intangible drilling costs, as defined and recognized by the Internal Revenue Service.

• Environmental protection equipment, including collection and separation of produced gas, expenses incurred in H<sub>2</sub>S removal and disposal of waste water or gas.

## 4. CHEMICAL FLOODING

• The costs of the chemicals (including surfactants, polymers, alcohols, caustics, etc.) injected into the formation plus any fluids (e.g., water) used in association with the surfactant flood as incurred by the operator or as purchased by the operator from a third party.

• The costs of capital equipment used for mixing chemicals on the project site could be recouped only at the rate of depreciation as reported to the IRS.

• All intangible drilling costs, as defined and recognized by the Internal Revenue Service.

• Environmental protection equipment and outlays including chemical storage tanks, waste fluid disposal monitoring of chemical fluid injection vis a vis fresh water aquifers.

7. Section 212.131 is amended by revising paragraphs (a)(2)(i), (a)(3)(i), (a)(3)(ii), (a)(4), and (b)(1) to read as follows:

## § 212.131 Certification of domestic crude oil sales.

### (a)(1) Stripper well properties.

(2) *Non-stripper well properties.* (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline; and

(D) Incremental tertiary crude oil as determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78.

With respect to any property (except a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(2)(i) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76; provided, however, that the producer shall certify to the purchaser the amounts and gravity of California

lower tier crude oil and California upper tier crude oil in each sale.

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil, if any (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API in such California upper tier crude oil at the time of the sale), including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline, if any;

(D) Incremental tertiary crude oil determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78; and

(F) Imputed stripper well crude oil, if any, determined pursuant to § 212.75(b).

(ii) With respect to any unitized property (except such a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(3)(i) may be complied with by a one-time written certification to the purchaser of—

(A) The monthly unit base production control level, determined pursuant to § 212.75(b);

(B) The number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(C) The number of barrels of crude oil transported through the trans-Alaska pipeline, if any; and

(D) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); provided, however, that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

(4) *Other domestic crude oils the first sale of which is exempt from this part.* (i) With respect to each sale of crude oil exempt from the provisions of this part, other than crude oil produced from a stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property that the first sale of crude oil produced and sold from that property is exempt from the provisions of this part.

(ii) For purposes of this paragraph (a)(4), domestic crude oil the first sale of which is exempt from the provisions of this part includes U.S.-owned petroleum sold by the Secretary of the Navy under the Naval Petroleum Reserves Production Act of 1976 (Pub. L. 94-258); but domestic crude oil the first sale of which is exempt from this part does not include incremental tertiary crude oil or tertiary incentive crude oil determined pursuant to § 212.78.

(b)(1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(ii) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) Crude oil transported through the trans-Alaska pipeline;

(iv) Stripper well crude oil;

(v) Incremental tertiary crude oil;

(vi) Tertiary incentive crude oil; and

(vii) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

## APPENDIX 1 TO NOTICE OF PROPOSED RULE MAKING

### A. Initial Report

1. Name and address of producer (firm or individual)

2. Parent, subsidiary, unit operator

3. Parent company if subsidiary

4. Name, address, and working interest fraction of each working interest in project

5. Location of project: state, counties, field, reservoir (I.D. number if available), leases embraced in project (if fractional leases, describe boundaries precisely)

6. Tertiary method(s) employed

7. Reservoir characteristics

Oil gravity, (°API) —

Oil saturation, (fraction) —

Oil in place (bbls) —

Present oil in place (bbls) —

Oil type

Paraffinic —

Naphthenic —

Asphaltic —

Oil viscosity (cp) —

Rock type

Sandstone —

Carbonate —

Coarse Clastic —

Other (describe) —

Depth (feet) —

Thickness (feet) —

Temperature (°F) —

Permeability (md) —

Free gas

Significant

Insignificant

Wettability

Oil wet

Water wet

Dip

Significant, degree, direction and

Insignificant

Stratification

Significant

Insignificant

Salinity (% tds)

Consolidation

Friable

Indurated

Clay Swelling

Significant

Insignificant

Other significant reservoir characteristics: describe.

8. Laboratory Analysis

Certifying firm (producer) —

Contract Lab — (Name and address)

9. Project Characteristics (if applicable)

a. In-Situ Combustion Pilots

Project area, (acres) —

Pattern

Line

Single

Multiple (describe)

Pattern area (acres)

Pre-soak? (yes, no)

Method:

Wet

Dry

b. Steam flood and steam soak pilots or projects

Project area (acres) —

Pattern

Line

Single

Multiple (describe)

Pre-soak? (yes, no)

Average operation BHP

## c. Micellar-Polymer Pilots and Projects

Project area (acres)

Pattern

Line

Single

Multiple

Preflush? (yes, no)

Agent

Surfactant slug

Size

Concentration

Mobility Buffer

Size

Polymer

Synthetic

Biologic

d. Miscible Gas

Miscibility

Partial

Complete

Project Area (acres)

Pattern

Line

Single

Multiple

Pattern area (acres)

Slug (% PV)

Drive fluid

Water

Other (describe)

WAG (yes, no)

10. Planned project time schedule

Laboratory analysis

Field Pilot (same for Field Development)

Workover existing wells

Install surface tertiary equipment

Preflush

Injection

Initial incremental response

(preceding date of initial incremental response)

11. Project Costs

Contract; (or inhouse) laboratory analysis

Contract engineering

Authorized surface installations

Authorized downhole equipment

Authorized drilling

Injected fluids

Preflush

Injection

Direct project supervision

Direct project operation

Data (If Applicable)

a. Injectant Rate Per Well Per Day (Average/Month)

b. Steam Quality

c. Oil Rate Per Well Per Day (Average/Month)

d. Water Rate Per Well Per Day (Average/Month) Cumulative

e. Injection Volumes Per Well

f. Cumulative Oil Production Per Well

g. Cumulative Water Production Per Well

h. Average Oil Cut Per Well Per Month

i. Average Pressure Per Injection Well Per Month

j. Total Project Oil Rate

k. Total Project Water Rate

l. Total Project Injection Volumes

m. Cumulative Project Oil Produced

n. Cumulative Project Water Produced

o. Cumulative Project Injection Volumes

p. Fluid Being Injected

q. Quality Control of Injected Fluid

r. Number of Producers and Injectors

B. Annual Report

The Annual Report will include a narrative and applicable data on the following items:



Well Work  
 a. New Wells  
 b. Workovers  
 c. Remedial Work  
 Field Facilities  
 a. Injection Plant  
 b. Tank Battery  
 c. Distribution Systems  
 Injection and Production Status  
 Problem Areas  
 Special Testing  
 Produced Fluid Analysis (if available)  
 Produced Gas Analysis  
 Emulsion Treating  
 Corrosion  
 Special Tests:  
 a. Interwell Tracers  
 b. Injection Profiles  
 c. Transient Tests  
 d. Special Logs  
 Produced Water Handling  
 Project Economics  
 a. Development Costs  
 b. Facility Costs  
 c. Lease Operating Expenses  
 d. Compressor Facilities Expenses  
 e. Summary Project Economics

[FR Doc. 79-9614 Filed 3-28-79; 8:45 am]

[4910-13-M]

#### DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-SO-78]

#### PROPOSED ALTERATION OF VOR FEDERAL AIRWAY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Victor Airway V-159 in the vicinity of Fort Lauderdale, Fla. The realignment of this airway would provide an alternate route for traffic between Fort Lauderdale and Vero Beach, Fla. The proposed airway alteration would reduce congestion in the Palm Beach, Fla., area.

DATES: Comments must be received on or before April 30, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-78, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regula-

tions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

#### SUPPLEMENTARY INFORMATION:

##### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 30, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

##### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

##### THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would realign a segment of V-159 between Fort Lauderdale and Vero Beach, Fla. The realignment would provide more flexibility for traffic operations in the area and also reduce traffic congestion in the Palm Beach, Fla., area. This action would increase aviation safety, and reduce controller workload by providing a reliever route thereby improving traffic flow between Fort Lauderdale and Vero Beach. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 2, 1979, (44 FR 307).

##### THE PROPOSED AMENDMENT

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to

amend § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

In V-159: "From Miami, Fla., INT Miami 337° and Palm Beach, Fla., 222° radials; Palm Beach; INT Palm Beach 326° and Vero Beach, Fla., 178° radials; Vero Beach;" would be deleted and "From Fort Lauderdale, Fla., via Fort Lauderdale 339°T(339°M) and Vero Beach, Fla., 178°T(178°M) radials, Vero Beach;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C. on March 22, 1979.

WILLIAM E. BROADWATER,  
 Chief, Airspace and Air  
 Traffic Rules Division.

[FR Doc. 79-9567 Filed 3-28-79; 8:45 am]

[6320-01-M]

#### CIVIL AERONAUTICS BOARD

[EDR-373; PDR-64; PS DR-57; Docket 35119]

[14 CFR Parts 221, 302, 399]

#### CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS; RULES OF PRACTICE IN ECONOMIC PROCEEDINGS; STATEMENTS OF GENERAL POLICY

Change in Tariff Justification and Revision of Complaint Procedures

MARCH 21, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Proposed Rule.

SUMMARY: The Board is proposing to extend the policies developed for the *Domestic Passenger-Fare Rule-making* to the U.S. Mainland-Hawaii and Intra-Hawaii ratemaking entities. The policies allow carriers to experiment with price/quality of service options tailored to their individual costs and the requirements of individual markets. Under the new policies, ceiling fares are established as a base from which carriers are permitted to set fares upward and downward within

specified zones. Fares within the zones ordinarily would not be suspended on grounds that they might be unreasonable. The zones would permit fare competition, while the maximums would protect against unwarranted fare increases where competition is an insufficient check. This proposal is consistent with the Board's pro-competition policies and the Airline Deregulation Act of 1978.

DATES: Comments due by: May 29, 1979. Reply Comments due by: June 19, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to Docket 35119, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Steven K. McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-873-6064.

#### SUPPLEMENTAL INFORMATION:

##### I. BACKGROUND

By Order 76-10-37, the Board in the *Hawaii Fares Investigation*, Docket 25474 (*Hawaii Fares*) determined that carriers in Mainland-Hawaii markets should have maximum flexibility to fashion discount fares so long as they are not unjustly discriminatory or predatory and normal-fare passengers would not have to pay more than the level needed to cover the costs of efficient, adequate service.<sup>1</sup> We also recognized the desirability of a differentiated normal-fare structure<sup>2</sup> and estab-

<sup>1</sup> Second-class fares were deemed reasonable if they did not exceed the fully allocated costs of second-class service, at a 62 percent load factor and DPFI seating configuration standards, plus allowances for peak-day surcharges and for dilution from the Hawaii Common Fares Agreement and from military and basic children's fares.

<sup>2</sup> We approved a continuation of differentials for the midweek-weekend fares and third-class fares.

lished a minimum relationship between first-class and second-class fares.<sup>3</sup>

Our findings and conclusions in *Hawaii Fares* presaged our recent adoption of policies for broad fare flexibility in the domestic ratemaking entity, *Domestic Passenger-Fare Rule-making* (PS-80),<sup>4</sup> which provide new standards for a more price competitive industry. Those policies (1) permit carriers to set fares within broad zones of reasonableness with a limited risk of suspension;<sup>5</sup> (2) replace uniform normal fares for all carriers and markets of equal distance with ceilings; (3) provide downward fare filing flexibility of 50 percent<sup>6</sup> from the ceiling and upward flexibility of 5 and 10 percent, depending upon the number of carriers authorized to serve a market;<sup>7</sup> and (4) eliminate the prescribed relationship between first-class and coach fares.<sup>8</sup>

Congress has since enacted the Airline Deregulation Act of 1978, Pub. L. 95-504, which provides zones of reasonableness with upward and downward flexibility based upon standard industry fare levels. Fares in the zones cannot be found unreasonable by the Board.<sup>9</sup> A downward zone of 50 per-

<sup>3</sup> Implementation of this prescribed minimum relationship was stayed by Order 76-12-123, pending reconsideration of Order 76-10-37. On reconsideration, by Order 78-11-19, we rescinded that portion of Order 76-10-37 concerning first-class fares.

<sup>4</sup> Amends Part 399—Statements of General Policy on Domestic Passenger-Fare Level, Structure, and Discount Fares, 43 FR 39522, September 5, 1978.

<sup>5</sup> Fares within a zone would not be subject to suspension on grounds or reasonableness unless a complainant could demonstrate that the injury to competition was greater than the injury to the traveling public from being deprived of lower fares during the period of suspension.

<sup>6</sup> Carriers have a downward fare filing flexibility of up to 70 percent on 40 percent of their weekly available seat miles.

<sup>7</sup> Specifically:

(1) In markets where four or more carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

(2) In markets where two or three carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, each carrier should have the opportunity to establish fares in a zone ranging up to five percent above the ceiling on 110 days throughout the year; and

(3) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to five percent above the ceiling on 58 days throughout the year.

<sup>8</sup> In addition to these policy changes, the Board modified its policies on the level and division of joint fares.

<sup>9</sup> Section 1002(d)(4). The Board still has authority to determine the reasonableness of increases filed on or after July 1, 1979, by monopoly carriers, defined under section

cent, which became effective on enactment, allows decreases below the standard fare levels for interstate or overseas air transportation, while the upward zone of five percent, which becomes effective on July 1, 1979, allows increases above them. The amended Act provides a mechanism for updating the standard industry fare levels on not less than a semiannual basis<sup>10</sup> and expressly gives the Board power to increase the downward zones of reasonableness.<sup>11</sup> Congress also amended the "Rule of Ratemaking" in section 1002(e). These guidelines along with a new Declaration of Policy,<sup>12</sup> which they incorporate by reference, make clear the intent of the Congress that we rely more upon competitive market forces, actual and potential, in exercising our responsibilities under the Act.<sup>13</sup> Lastly, the Act contains sunset provisions that terminate our authority to regulate fares in interstate and overseas air transportation by January 1, 1983.<sup>14</sup>

As we progress from more to less regulation of fares, we intend to exercise our responsibilities in accordance with the mandate of the Act and, where warranted, to interpret its provisions liberally. It is timely that we implement its provisions in a workable manner so that the objectives of the Act can be reached in an orderly fashion. The policies we have already adopted favoring market forces, now vindicated by the Act, are a good beginning.

The policies we formulate must be consistent with the Act in that they must provide, at a minimum, the

1002(d)(4)(A), and decreases that would be predatory under the proviso to 1002(d)(4)(B). We read sections 1002(d)(4)(A) and 1002(d)(4)(B) to also permit the suspension of such filings. All other fares set within the statutory zones would not be subject to suspension. See section 1002(g) which provides that the Board shall not suspend any proposed tariff unless the Board is empowered to find the proposed fare unjust or unreasonable and empowered to determine and prescribe the lawful, or maximum, or minimum fare. With regard to fares within the zones that are not subject to a finding of unreasonableness but may be unjustly discriminatory, unduly preferential, or unduly prejudicial, the Board retains jurisdiction to investigate, but not to suspend, such fares and determine their lawfulness. See sections 1002(d)(1) and 1002(d)(2). In any proceeding under section 1002(d)(1), applicable to the interstate and overseas air transportation of persons, the party opposing any fare on the basis that it is too low has the burden of proof.

<sup>10</sup> Section 1002(d)(6)(B).

<sup>11</sup> Section 1002(d)(7).

<sup>12</sup> Section 102(a).

<sup>13</sup> See Introduction to Joint Explanatory Statement of the Committee of Conference, Conference Report on S. 2493, H. Rept. No. 95-1779, page 53; Congressional Record-House H12650, October 12, 1978.

<sup>14</sup> Section 1601(a)(2).



downward and upward fare flexibility provided by it. The Act provides for standard industry fare levels for each class of service existing on July 1, 1977, and established thereafter. Each class would have, from the date of enactment, a downward zone of reasonableness of 50 percent and, after July 1, 1979, an upward zone of five percent. Both the downward and upward zones would depend on each standard industry fare level. Some difficult choices confront us. At the very least, we have to define the term "standard industry fare level" because the description provided in the Act leaves room for differing interpretations. We must, for example, determine what the standard industry fare level is for a class of service having both peak and off-peak fares because the Act speaks of one level for each class of service, not levels. Moreover, the Act does not say which fare—peak, off-peak, or an average thereof—should be the "standard industry fare level" for a class of service. With regard to the zones of reasonableness provided in the Act for each class of service, one zone based on a standard industry fare level for second-class service can be designed to provide as much fare flexibility on the downside for both second and third-class fares as two zones based respectively on standard industry fare levels for each.<sup>14</sup> A downward zone keyed to second-class service with a floor 50 percent below the standard industry fare level for that class will give carriers the flexibility provided by the Act for second-class fares. For third-class fares, which are normally only a few dollars less than second-class (e.g., \$8.00 from West Coast gateways), the added downward flexibility afforded by our proposed zone of 70 percent on 40 percent of a carrier's available seat miles should provide more downward flexibility for most carriers offering third-class service than would the statutory zone of 50 percent applied to the standard industry fare level for third-class service. Some carriers, however, such as Continental, who rely heavily in Mainland-Hawaii markets on the third-class fare, may want more downward flexibility than the 70 percent/40 percent policy provides. In that case, the policy we propose would permit carriers to set fares below those minima, on the basis of such factors as individual costs or specialized marketing needs. Our proposed policy for downward fare flexibility is intended to provide as much as the Act provides for each class of service and then some. On the up side, we propose to let carriers set fares for

<sup>14</sup>In PS-80, we adopted a zone of limited suspension with one ceiling fare level and one zone covering all fares of any class. The ceilings were coach-class fares; first-class fares were not subjected to ceilings.

any class, other than first class which we will discuss separately, above the standard industry fare levels described in the Act, provided the fares do not exceed the upward zones proposed for second-class fares. Those zones would be 10 percent in workably competitive markets and five percent in others, further limited by a specified number of days, except where the statutory criteria for determining the existence of a monopoly carrier would permit upward flexibility without restrictions on the number of days (see discussion, *infra*, of fare flexibility above the ceiling). Our proposal for upward flexibility would give carriers the latitude provided by the Act for each fare class on or after July 1, 1979—i.e., five percent—at an earlier date and would permit more upward flexibility—i.e., 10 percent—than the Act in markets which in our judgment are workably competitive. Our proposed policy for first-class fares, on the other hand, is to give carriers the freedom to set first class fares without limiting them to the statutory zones of reasonableness. This policy recognizes our recent determination in *Hawaii Fares* that first-class fares do not have to bear a fixed relationship to coach fares and parallels our policy for domestic first-class fares.

Because of their importance, we are setting forth our views in this notice on the relationship between Pub. L. 95-504 and our general powers to regulate fares. The new Act does not diminish our powers to regulate fares outside of the statutory zones of reasonableness, nor does the legislative history reveal an intent on the part of Congress to do so. The Act restricts the powers of the Board to disapprove fares inside of specified zones:

1002(d)(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if (increases or decreases are within the specified zones).

This language affects our powers to regulate inside of the statutory zones.<sup>15</sup> We do not intend to reduce the size of the zones specified by Congress, and our proposal is in no way designed to do this. What it does provide for is a gradual expansion of those zones both downward and upward, consistent with the Act as amended.

Congress enacted the provisions on fares in Pub. L. 95-504 to gradually replace our responsibilities to regulate fares. The zones defined in the Act are there because Congress, fully aware of the Board's recent actions giving carriers

<sup>15</sup>How we exercise those powers will, of course, reflect the amended "Rule of Rate-making" and Declaration of Policy in the Act.

more pricing freedom, wanted to keep our policies from sliding back to the more restrictive ones of the past and to minimize risks from legal challenges to the innovations.<sup>16</sup> Congress has recognized our authority to approve lower fares, without statutorily imposed zones.<sup>17</sup> On fare increases, Congress understandably held more reservations than on downward flexibility, but they did not take away the Board's powers to approve fares above the statutory zones,<sup>18</sup> even though section 1002(d)(7) expressly authorizes the Board to increase the zone for fare decreases but does not mention increases.

We must conclude that Congress has preserved to us the power to determine the reasonableness of fares outside of the statutory zones including the power to establish policies giving to carriers the opportunities and to the public the safeguards similar to those encompassed by the zones. Whether and how we exercise that power is the subject of the remainder of this rulemaking.

## II. THE BOARD'S PROPOSAL

### A. INTRODUCTION

We propose to give carriers serving Mainland-Hawaii and Intra-Hawaii markets downward and upward pricing freedom beyond the statutory zone for fares which are not unjustly discriminatory, unduly preferential and prejudicial, or predatory. Within specified zones, fares would not be subject to suspension unless a strong showing were made that they would ultimately be found predatory. The standard or ceiling fares upon which downward and upward flexibility are based should cover the levels of average costs of normal-fared traffic. We would permit carriers to charge fares up to 10 percent above and down to 70 percent below these standard fare

<sup>16</sup>Comments of Senator Cannon during floor discussion of S. 2493, Congressional Record-Senate S5850, April 19, 1978; Representative Anderson (Calif.) in Committee of the Whole on H.R. 12611, Congressional Record-House H9842, September 14, 1978; Representative Johnson (Calif.) in Committee of the Whole on H.R. 12611, Congressional Record-House H9844, September 14, 1978.

<sup>17</sup>Representative Levitas in Committee of the Whole on H.R. 12611 stated that "much of what needs to be done to improve the regulatory system could be done under inherent powers of the Civil Aeronautics Board in existing law." Congressional Record-House H9845, September 14, 1978; Representative Ertel in Committee of the Whole on H.R. 12611 commented that there was a need for legislation "to catch up with the CAB." Congressional Record-House H9846, September 14, 1978.

<sup>18</sup>See Comments of Senators Magnuson and Stevenson, respectively, during floor discussion on S. 2493, Congressional Record-Senate S5859 and S5898, April 19, 1978.

levels in certain markets. Adjustments to the standard fare levels would be made on the basis of the periodic percentage change in the actual operating cost per available seat mile for all interstate and overseas ratemaking entities combined.

We discuss the tentative conclusions below. In arriving at them, we have given full consideration to the Airline Deregulation Act of 1978, the *Domestic Passenger-Fare Rulemaking*, and our existing policies established in the *Hawaii Fares* case. The proposed rule is consistent with the provisions of the new Act. Where the Act restricts our powers to suspend or find fares unreasonable, we will observe those limitations. On the other hand, the Act preserves our powers to determine the reasonableness of fares outside of the statutory zones of reasonableness, and, in keeping with our own policies to give carriers more fare freedom, we propose to expand the zones both upward and downward.

### B. CEILING FARES

We propose that the ceilings be the (a) second-class fares for the Mainland-Hawaii markets determined on the basis of a standard industry fare level and (b) first-class fares for Intra-Hawaii markets.

1. *Standard Industry Fare Level for Mainland-Hawaii Markets.* In the Mainland-Hawaii markets, second-class fares are normal fares, with first-class and third-class fares, respectively, set above and below. These classes are augmented by a variety of discount or promotional fares. As we pointed out previously, we are tentatively inclined to adopt second-class fares as the standard industry fare level for all classes inferior to them,<sup>19</sup> and this would include third-class fares.

We again stress that our policies will protect the maximum flexibility of the statutory zones—e.g., for third-class fares—but, in addition, will afford more flexibility for lowering second-class fares, discount fares, and off-peak fares than would the statutory zones. Moreover, simplifying the downward zone concept in this way will permit carriers to file fares below the standard industry fare level without "reaching" to classify them as failing within one class or another. We believe our proposal is consistent with the Act.

We come to the question of what the standard industry fare level should be for second-class service. The Act describes the term "standard industry fare level" as follows:

"... 'standard industry fare level' means the fare level (as adjusted only in accordance with subparagraphs (B)

<sup>19</sup>First-class fares are covered by a separate policy, discussed *infra*.

of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977. \* \* \* [Section 1002(d)(6)(A)]

This description leaves us some discretion to decide and does not prescribe what the standard industry fare level is for the Mainland-Hawaii entity.

At the threshold, we are confronted with the problem of determining what the standard industry fare level is for second-class fares in this entity, a class of service which traditionally has consisted of two tiers of fares in these markets.<sup>20</sup> Here second-class fares in effect on July 1, 1977, the reference date in section 1002(d)(6)(A), were set at two fares, peak and off-peak. For example, the second-class peak fare between Los Angeles and Honolulu was \$145, whereas the off-peak fare was \$129. The differential between these day-of-week peak/off-peak fares was \$15, a common standard in all of the markets. This seeming dilemma is more apparent than real. The generally accepted connotation of the term "fare level" as well as the legislative history of section 1002(d)(6) suggest that the term "standard industry fare level" can have a meaning other than "fares in effect." The term "fare level" is often used to describe a fare which will cover the average costs of operations, and there are comments in the legislative history of P.L. 95-504 which incorporate this meaning.<sup>21</sup> On the other hand, the fares in effect and the fare level may be the same—e.g., the domestic 48-state coach fares in the summer of 1977 were generally set according to the Board's industrywide *DPFI* fare formula. The terms, nevertheless, do not necessarily mean the same thing.<sup>22</sup>

<sup>20</sup>Section 1002(d) speaks of "the standard industry fare level for the same or essentially similar class of service." For second-class peak/off-peak fares in these markets, the class of service is the same, only the fares differ depending on the day of travel. Tiers of fares for the same class of service are not unique. Third-class fares in the Mainland-Hawaii markets have peaks and off-peaks; in the Mainland-Puerto Rico markets, some fares have up to three tiers, depending upon the season and day of the week. For the Mainland-Hawaii markets, the origins of the peak/off-peak pricing concept are summarized in the Initial Decision in *U.S. Mainland-Hawaii Fares Case*, Docket 22364, pp. 32-38.

<sup>21</sup>See comments of Senator Magnuson during debate on S. 2493, comparing S. 889 which used the term "fares in effect" and S. 2493 which used "standard industry fare level." Congressional Record-Senate S. 5859, April 19, 1978. Also, see discussion of the *DPFI* fare formula in the Committee Report on S. 2493, Report No. 95-631 at p. 101.

<sup>22</sup>S. 889 and H.R. 12611, bills which were considered before S. 2493, both contained

For purposes of this rulemaking, we have looked at to approaches to establishing a standard industry fare level related to second-class fares. One approach would use the peak fares in effect on July 1, 1977, as the base for a standard industry fare level. The other would estimate the average costs for second-class services during Calendar Year 1977 and, from that base, extrapolate a standard industry fare level. Our preference, tentatively, for a standard industry fare level is one based on the peak second-class fares in effect on July 1, 1977. While this approach produces ceilings which are higher than those based on average costs,<sup>23</sup> it comes closer to meeting the objectives of Pub. L. 95-504 which are, in essence, to let the marketplace function with less regulatory interference.

A standard industry fare level based on peak fares will, as a result of its derivation, cover the average costs of both peak and off-peak services. The peak typifies that fare charged when passenger demand is greatest and capacity is at its peak. The off-peak fares, on the other hand, are lower, and because they are lower, may be used by travellers who would otherwise travel on weekends or not at all. Under our proposal, the average fare charged second-class passengers (i.e., the weighted average yield for both peak and off-peak traffic) should closely approximate the average costs (i.e., long-run marginal costs), if the competitive forces of the marketplace are allowed to function relatively free from regulatory constraints. The presence of multi-carrier service in many of the Mainland gateway-Hawaii markets affords a check on increases within the zones capped by the proposed ceilings and holds promise for lower fares through competitive pricing.<sup>24</sup> Using the peak second-class fares as the base for standard industry fare levels will give carriers more upward flexibility to make peak/off-peak fare adjustments than would the average cost approach which produces a lower ceiling.<sup>25</sup> A standard industry fare level

the language "fares in effect" rather than "standard industry fare level" to describe the base from which upward and downward fare flexibility would extend. It is doubtful that Congress in adopting "standard industry fare level" to supplant the term "fares in effect" intended that they be synonymous.

<sup>23</sup>See Appendix A for fare comparisons. The increments between the standard industry fare levels based on the peak fares and on average costs vary from \$3 (shorter-haul markets) to \$30 (longer-haul markets).

<sup>24</sup>Most of the west coast gateway-Honolulu markets are served by at least four carriers. In other mainland gateways, applicants have filed for additional authority, and those await Board action.

<sup>25</sup>See Appendix A for a comparison of the different ceilings.



based on peak fares permits carriers to maintain, if they choose, the existing \$15 differential between peak and off-peak fares and, in addition, provides an environment in which carriers have more discretion to experiment with price differentials and depart from the uniform applications in effect.<sup>24</sup>

In arriving at our tentative conclusion that the standard industry fare level should be based on peak fares, we have followed the revised Declaration of Policy<sup>25</sup> and Rule of Ratemaking<sup>26</sup> in the Airline Deregulation Act of 1978. These guidelines emphasize reliance on competitive market forces to provide low prices, and to determine the variety, quality, and price of air transportation services.<sup>27</sup> They, moreover, stress the desirability of, first, a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service<sup>28</sup> and, second, allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.<sup>29</sup> In a ratemaking entity where existing route authorizations provide a competitive market structure, a standard industry fare level based on peak fares is more in keeping with the letter and spirit of these provisions than is the relatively lower basis of average costs.<sup>30</sup>

Our proposed ceiling would permit carriers to leave in place existing fares, both peak and off-peak, if they choose. For example, in the Honolulu-Los Angeles market, the standard industry fare level, projected to February 1979, would be \$161 (see Appendix A). The current peak fare in that

<sup>24</sup>Today, the peak/off-peak fare differentials are \$15 in all markets. Among other things, they ignore differences between markets such as length of haul. See Appendix A.

<sup>25</sup>Section 102(a).

<sup>26</sup>Section 1002(e).

<sup>27</sup>See Sections 102(a)(4) and 102(a)(9).

<sup>28</sup>Section 1002(e)(4).

<sup>29</sup>Section 1002(e)(5).

<sup>30</sup>The Senate Committee on Commerce, Science, and Transportation in its Report on S. 2493, Report No. 95-631, said:

... the proposed Reform Act amends subsection 1002(e) of the Federal Aviation Act governing the standards the Board uses in exercising its pricing powers so as to specifically require the Board to give strong weight to the desirability of increased pricing and service options, including off-peak pricing, and the desirability of allowing each air carrier to determine prices in response to its own costs and the competitive market conditions of the route it serves. (page 108)

Moreover, the Act specifically charges the Board to expand the availability of off-peak fares to greater periods. In order to encourage such expansion, we must consider the opportunity for higher peak fares. See section 1002(d)(6)(C).

market is \$156, while the off-peak fare is \$141. Our proposed policy would also give carriers serving this market an additional ten percent upward fare flexibility on top of the standard industry fare level (see discussion, *infra*) because it is a market where at least four carriers are authorized to serve. By contrast, a ceiling based upon average costs would produce a maximum fare of \$148 (see Appendix A), well below the existing peak fare of \$156 in this market. In other markets, such as Dallas, which have less than four carriers authorized to serve them, a standard industry fare level based upon average costs (\$218) would not come close to covering the existing peak fare (\$231) and, even with the additional five percent upward fare flexibility afforded by our proposed policy in such markets (\$229), would still not reach the peak fare.<sup>31</sup>

Encouragement of new entry has been mandated by Congress as being in the public interest [see section 102(10) of the Act], and this statutory policy should be observed in our formulation of ratemaking policies. The less restrictive policy of basing the ceilings on the peak fares should provide more of an incentive for new entry in the Mainland-Hawaii markets than would the more restrictive ceilings based on average costs. The overall goals of the statute will be better served by further entry, rather than rate regulation. We do not expect fares to be increased precipitously as a result. In the first place, fares in this entity have conventionally lagged behind the maximum permitted by our existing fare policies, and current peak fares are below the maxima permitted under the proposed policy based on the update of costs required by the Act. Next, in the workably competitive west coast-Hawaii markets, such as Los Angeles-Honolulu, the average second-class fare just about equals the average cost of that class. See Appendixes A and D where the average cost-based fare for the market is \$148.38 and the average mean fare is \$148.50. This relationship contrasts with that in markets where competition has not been as workable. In all markets—west coast/interior gateways/other internal points-Hawaii—we can expect significant entry in the near future. In fact, the threat of new entry is there. Eight carriers have filed applications to serve the west coast gateways Los Angeles/San Francisco-Honolulu;<sup>32</sup> four have filed to

<sup>31</sup>In the long-haul New York-Honolulu market, a ceiling based upon average costs (\$287) does not even cover the current off-peak fare (\$290).

<sup>32</sup>Aeroamerica (Dockets 33633, 34532), American (32291), Braniff (33600), Hawaiian (33309), Northwest (32384), Trans International (33541), Trans World (32260), and World (33403).

serve Portland/Seattle-Honolulu;<sup>33</sup> and six have filed to serve San Diego-Honolulu.<sup>34</sup> For gateway service from interior points, such as Chicago, Denver, Kansas City, and St. Louis, applications are pending with up to six carriers waiting on authority for the Kansas City/St. Louis-Honolulu markets. For other internal points-Hawaii markets, the influx of new entrants into transcontinental and shorter-haul markets with the promise of lower domestic fares will operate to keep a check on increases in through fares to Hawaii. *see, e.g., Transcontinental Low-Fare Route Proceeding*, Order 79-1-75, and applications of several carriers for Dallas/Ft. Worth-Los Angeles authority. In light of these factors, our ratemaking policies should be designed to facilitate the continuation and growth of competition in this entity.

With regard to using a standard industry fare level based on the average costs of peak and off-peak second-class service, we have developed an average cost for Calendar Year 1977 using the methodology applied by the Board in *Hawaii Fares, supra*.<sup>35</sup> In that proceeding, the Board estimated an average fare-per-mile for second-class service which, when increased or decreased by half the differential between peak and off-peak fares, produced fares that would cover the total cost of second-class service, peak and off-peak. Those peak and off-peak fare estimates were then used to determine the reasonableness of existing fares. The standard industry fare levels resulting from this average cost methodology are less adaptable to serve as ceilings on the fare zones proposed than are the peak fares. For example, a ceiling based upon an average of the costs of both peak and off-peak operations will, by definition, be lower than existing peak fares; therefore, carriers may have an incentive to make changes in the fares that will tend toward narrowing the differential or, ultimately, eliminating it. This outcome would not benefit consumers who now have a choice between peak and off-peak fares (and the relative convenience of service) and could eventually destroy the favorable cost advantages of a differentiated fare structure.<sup>36</sup> At the same time, a ceiling

<sup>33</sup>Aeroamerica (Docket 33633), Braniff (33553), Hawaiian (33557), and United (33566).

<sup>34</sup>Aeroamerica (Dockets 33633, 34532), American (34062), Braniff (33600), Hawaiian (33309), Trans International (33541), and World (33403).

<sup>35</sup>Order 76-10-37, Appendix 2.

<sup>36</sup>An objective of peak/off-peak pricing is to bring prices more in line with true economic costs, and the consequent improvement in the efficiency with which the factors of production are used should lower the average cost of service below what it would be absent a price differential.

based on average costs would tend to retain the relationship between fares and costs produced by the historical peak/off-peak prices. It is reasonable to assume that the current \$15 fare differential and the related positions of the peak and off-peak fares have influenced the level of average costs and that those costs are lower than they would be without the differential. It would be presumptuous to conclude, however, that the average cost based on the historical fares and their differentials represents an optimum that should serve as the touchstone of fare policy. Experience in markets where fares have not been regulated reveals that fares (and the related costs of service) have been significantly lower as a result of greater freedom on the part of each carrier to set peak/off-peak fares in relation to its own perceptions.<sup>37</sup>

It is obvious that standard industry fare levels based on peak fares will provide carriers with an environment in which they can maintain and expand the existing peak/off-peak concept. There is no reason to believe that ceilings based on peak fares will open the gates to a flood of fare increases. They will, however, do more to assure the continuation of peak/off-peak fares and encourage innovations.

2. *Standard Industry Fare Level for Intra-Hawaii Markets.* For the Intra-Hawaii markets, first-class fares will be the basis for determining a standard industry fare level. First-class fares are a standard fare in this entity, and the ceiling can be related to them. A comparison of Intra-Hawaii fares and the standard industry fare levels is shown in Appendix A. In this instance, we are tentatively adopting fares in effect on July 1, 1977, as the base for standard industry fare level. As we stated previously, actual fares may, where warranted, serve as the standard industry fare level, but they are not prescribed by the Act. If the standard industry fare levels, updated for anticipatory costs, are below the existing fares, the latter could remain in effect even if they exceed the upward zones of reasonableness proposed in this rulemaking.

#### C. FARE FLEXIBILITY ABOVE THE CEILING

We propose to extend the upward fare flexibility provided by our domestic fare policies to the Mainland-Hawaii and Intra-Hawaii markets, as long as those policies do not reduce the opportunity to increase fares afforded by P. L. 95-504. Our domestic policy for fares above the ceiling gives carriers the opportunity to set fares five percent above the ceiling on 58

days annually in monopoly markets, five percent above the ceiling on 110 days annually in two and three carrier markets,<sup>38</sup> and ten percent above the ceiling in four or more carrier markets. The Airline Deregulation Act of 1978 provides for fare increases up to five percent above standard industry fare levels on or after July 1, 1979:

1002(d)(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

(A) With respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides are transportation to 70 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act), such proposed fare would not be more than 5 per centum higher than the standard industry fare level for the same or essentially similar class of service, except that, while no increase of any fare within the limits specified in this subparagraph may be suspended, an increase in such fare, above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory. . . .

Congress has thus recognized a need for some margin of carrier discretion above industry ceilings, and we must provide that margin of discretionary pricing opportunity to airline management by July 1, 1979. Nevertheless, as we discussed earlier, the Act does not prohibit our adoption now of no-suspend zones above the ceilings. Although our proposed policy involves judgment in many respects, any policy by definition has to look forward, instead of backward, and experimentation accompanied by adequate safeguards is, of necessity, inherent in policymaking. For purposes of some fare freedom above the ceilings proposed, we would permit increases up to ten percent in markets with at least four carriers authorized to serve them. These should be workably competitive—capable of generating their own check on uneconomic price increases. A more limited zone of five percent would apply to markets with fewer carriers. In view of the impending five percent upward flexibility above standard industry fare levels permitted by the Act on or after July 1, 1979, we see little reason not to go ahead

<sup>37</sup>In these markets, we would propose to here permit upward flexibility without a limitation on the number of days.

<sup>38</sup>See Report of the Senate Committee on Commerce, Science, and Transportation on S. 2493, Report No. 95-631, p. 103.

and provide it now in all markets with less than four carriers, except monopoly markets. Carriers in monopoly markets—defined in PS-80 as one carrier markets and in section 1002(d)(4)(A) as any pair of points between which any carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points—would have the opportunity to set fares up to five percent above the ceiling on 58 days throughout the year.

The zones we propose are in accordance with the purpose of the amendments to the Act and are lawful, even though they do exceed the zones specified in the Act. For some time now, carriers serving Hawaii have sought discretion to implement a seasonal peak/off-peak pricing differential tailored to the individual characteristics of each market and carrier. Our proposal would, if adopted, open the way for implementation of such programs, particularly in markets served by four or more carriers where each would have upward discretion of ten percent. Travelers in these markets should ultimately benefit from the favorable influence such differentials have on average unit costs and availability of seats during peak seasons. When passengers shift from peak to off-peak seasons, carriers can adjust schedules so that fewer peak season flights are needed. In this way, less peak season capacity (which may not be fully used off-peak) need be purchased by the carrier and paid for by the traveler. At the same time, those shifts in demand reduce peak season queues by leveling demand between seasons. Limited pricing freedom above the ceiling can also reduce degradation of service availability on demand which we have acknowledged in the past is a risk of policies that encourage traffic-generating low fares. We expect carriers to use this upward discretion responsibly. If not, then we can always reevaluate our policy.<sup>39</sup>

#### D. FARE FLEXIBILITY BELOW THE CEILING

We have tentatively concluded that a downward zone comparable to the

<sup>39</sup>Whenever the statutory definition of monopoly conflicts with our own, we believe it reasonable and consistent with the purposes of the Act to allow whichever definition to control that gives the carrier more upward flexibility. For example, if a carrier in a market served by two to three carriers provided transportation to 70 percent or more passengers in the market, the carrier would have the five percent upward flexibility provided by our proposed rule.

<sup>40</sup>Our proposed upward flexibility goes only to the exercise of suspension powers. Until the summer of 1979, we still have the power to find any fare increase of fare above the standard industry fare level to be unreasonable. After that date, we would no longer have the power to either suspend fares in the statutory upward zone or find them unreasonable.



one we adopted in the *Domestic Passenger-Fare Rulemaking* should be superimposed on the statutory zones. The results should satisfy both the requirements of the Act and the need for an administratively workable, effective zone of reasonableness. Unlike P. L. 95-504 which specifies a downward zone for each class of service, our proposal would apply to all fares:

Each carrier<sup>4</sup> should have the opportunity to set fares in each market within a zone ranging to 50 percent below the ceiling fares. Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the ceiling. Fares within these zones will not be suspended by the Board absent the following extraordinary circumstances:

(1) The high-probability that the fare would be found to be unlawful after investigation;

(2) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

(3) The harm to competition would be greater than the injury to the travelling public if the proposed fare were available; and

(4) The suspension is in the public interest.

Carriers should be free to set market fares below these minimums on the basis of such factors as their individual costs or specialized marketing needs, unless the level of the proposed fare reductions will result in an inability of the carrier in the market to provide adequate service to the public or the fares are otherwise unlawful.

This would permit carriers to leave existing fares in place or to change them if they choose to do so, in the absence of a substantial likelihood that the fare would be found predatory.

A primary goal of proponents of less regulation has been a system that permits fare decreases to become effective quickly without risk of suspension. In *Hawaii Fares*, we adopted a policy which permits discount fares provided they are not predatory or unjustly discriminatory. We continued, though, to require full justification for such fares. In PS-80, we put into effect a "no suspend" policy which gives carriers the opportunity to set fares in a wide zone relatively free from the risks of suspension. The reasonableness of fare decreases, with the exception of those which are predatory, is no longer justiciable under the zones specified in P.L. 95-504. As a matter of law, we cannot suspend or determine a

<sup>4</sup>Monopoly carriers as defined in section 1002(d)(4)(A) of the Act are included under this policy.

fare decrease unreasonable as long as it falls within the statutory zones.

Section 1002(d)(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low \* \* \* if \* \* \*

(B) with respect to any proposed decrease filed after the date of enactment of this paragraph, the proposed fare would not be more than 50 percent lower than the standard industry fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare would be predatory. \* \* \*

This provision moves us beyond the "no suspend" zone concept of PS-80 to a zone of lawfulness, where airline management may make pricing decisions with little risk of reversal.

There is, however, no permanence in the downward zone of 50 percent. Congress has, in fact, recognized the role of judgment here by authorizing the Board to increase that percentage by rule.<sup>5</sup> We are concerned that the zones be broad enough to encourage new types of fares and service, which may not fit the mold of conventional fare classes.<sup>6</sup> Instead of multiple

<sup>5</sup>After July 1, 1979, fare increases, as well as fare decreases, will not be subject to suspension. See section 1002(d)(4)(A) and note 8, *supra*.

<sup>6</sup>Section 1002(d)(7) states: "The Board may by rule increase the percentage specified in paragraph (4)(B) of this subsection."

<sup>7</sup>The Rule of Rate-making requires us to consider the desirability of innovative services and prices.

Section 1002(e) In exercising and performing its powers and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

(1) The criteria set forth in section 102 of this Act; (2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service; (3) the effect of prices upon the movement of traffic; (4) the desirability of a variety of price and service options such as peak and off-peak pricing mechanisms to improve economic efficiency and provide low-cost air service; and (5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs \* \* \* (emphasis added)

And the Declaration of Policy states:

Section 102(a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity \* \* \*

(9) The encouragement, development, and maintenance of an air transportation

system, we believe that one zone, applicable to all fares, can be implemented as readily and administered more effectively.<sup>8</sup> It is not our intention to require changes in existing fares through implementation of the proposed downward zone nor to inhibit subsequent fare filings if they meet the statutory standards. We ask that commenters explore this aspect of our proposed policies thoroughly.

#### E. FIRST-CLASS FARES

Existing first-class fares in the Mainland-Hawaii entity are generally below the statutory maxima and, in all likelihood, will remain there; nevertheless, we have tentatively decided not to impose any zones of reasonableness at this time on first-class fares. First-class fares in those markets are currently free from restraints on the down side (see Order 78-11-19) and, in keeping with our policy in PS-80, we would not impose a ceiling on first-class fares. As a result, carriers are free to set first-class fares in the Mainland-Hawaii markets.

In the Intra-Hawaii markets, however, first-class fares are a standard fare and should be provided upward flexibility similar to what we are providing other fare classes. Standard first-class fare levels for those markets are shown in Appendix A. In addition, we would permit them the upward fare flexibility afforded by our policies for other fares.

#### III. ADJUSTMENT OF THE FARE CEILING

We propose to utilize a methodology for updating the fare ceilings that will be based on changes in costs for the combined ratemaking entities<sup>9</sup> unadjusted for load-factor, seating, utilization, depreciation, and discount fare standards. This comports with our interpretation of the following language in section 1002(d)(6):

(6)(A) For purposes of paragraph (4) of this section, "standard industry fare level" means the fare level (as adjusted

system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality and price of air transportation services \* \* \*

<sup>8</sup>See Appendix C for a comparison of existing fares with the floor under a 50 percent zone. From the carriers' standpoint, one zone should facilitate their decisions on prices because they would then not have to decide which class the contemplated fare was like in order to comply with the downward floor standard.

<sup>9</sup>See Appendix A for representative fares and standard industry fare levels.

<sup>10</sup>The 50 states including the domestic 48 states, Mainland-Hawaii, and Mainland-Alaska are used without Mainland-Puerto Rico/Virgin Islands and South Pacific entities. The latter are not reported separately on the Form 41 and allocations would have to be made in order to remove expenses and traffic related to foreign air transportation.

ed only in accordance with subparagraph (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977. (B) *The Board shall, not less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for interstate and overseas transportation combined. In determining the standard, the Board shall make no adjustment to costs actually incurred.* \* \* \* (Emphasis added)

The Act clearly changes our conventional method for updating fare level. In the past, we adjusted operating costs to a hypothetical norm, which reflected ratemaking standards for load factor, seating, aircraft utilization, depreciation, and discount fares. The elimination of these from our periodic updates of fare level is, in and of itself, a significant change. We read P.L. 95-504, moreover, to exclude from consideration an allowance for rate-making return on investment and income tax standards.

Details of the method we have employed are shown in Appendix B. It should be noted that, in determining actual cost per available seat-mile, we did not include costs attributable to traffic other than passengers in scheduled service. For example, we did not include costs related to non-scheduled operations and all-cargo service, and we have offset the revenues from belly-cargo transported on passenger-cargo combination aircraft in order to estimate seat-mile costs. The difference is 6.61 percent. We have also projected costs through February 1979, a midpoint for our semiannual update in fare level.<sup>10</sup> The method used to obtain this percentage change will be used subsequently to adjust ceilings for the Mainland-Hawaii and Intra-Hawaii fares. We encourage comments on the methodology.

#### IV. PROCEDURES FOR FARE FILING

In the *Domestic Passenger-Fare Rulemaking*, we also amended our economic and procedural regulations in order to (a) relieve the proponent of a fare within the zones from having to justify the fare initially and (b) provide complainants an opportunity to reply to a justification filed in answer to a complaint. Those modifications

<sup>11</sup>The Act does not speak of standard industry fare levels in terms of anticipatory costs; however, for our purposes here, we have included them. See 1002(d)(4) re anticipatory costs.

should also apply here. We propose to modify section 221.165 of the Board's Economic Regulations so that the requirement of economic data with fare filings no longer applies to fares within the proposed zones. We also propose to amend section 302.505 of our Rules of Procedure in order to give complainants an opportunity to reply to answers filed in justification of fares filed within the zones. Any modifications in tariff notice requirements brought about by the amendments to section 403(c) of the Act will be determined separately.<sup>11</sup>

#### V. ENVIRONMENT

We find and conclude that our proposal is not a major federal action significantly affecting the environment. No appreciable increase in operations is expected to result from implementation of the proposed policy. Relatively low fares and high load factors already exist in the markets at issue. The Board's staff, in its environmental assessment for the earlier fare rule-making covering the 48 states (PS-80), concluded that allowing carriers the flexibility to engage in price competition would shift emphasis away from service competition to the former. Since efficiency gains are expected to accompany a system encouraging price competition, these gains may be passed on to the consumer in the form of lower fares. As a result, fare reductions (depending on the relevant price elasticity of demand) will generate traffic and may be expected to lead to an increased number of aircraft operations. In the Mainland-Hawaii markets, however, recent history shows that average yields have been consistently low. In 1978, the reported Mainland-Hawaii average yield was 4.5 cents, well below the experienced domestic average. Thus we do not expect fare decreases of a magnitude that will greatly stimulate additional traffic. Moreover, carriers in the Mainland-Hawaii markets already have considerable upward and downward flexibility to set fares, including peak/off-peak differentials with their implicit traffic levelling tendencies. Given these conditions, we do not expect the proposed policy to affect the levels of traffic and service operated. Consequently, this action will not significantly affect the environment.

Accordingly, we tentatively find and conclude that we should adopt the following:

#### PROPOSED RULES

The Board proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221); Part 302 of its Proce-

<sup>12</sup>Section 403(c) provides for minimum notice of 30 days whenever a proposed fare is within the statutory zones of reasonableness and 60 days for other filings.

dural Regulations (14 CFR Part 302); and Part 399 of the Policy Statements (14 CFR Part 399) as set forth below.<sup>12</sup>

[Material in italics is new.]

#### PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Amend § 221.165 by revising paragraph d(4) to read as follows:

§ 221.165 Explanations and data supporting tariff changes and new matter in tariff publications.

(d) Exceptions:

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to fares for scheduled passenger service within the 48-contiguous states, the District of Columbia, and Hawaii or between the 48-contiguous states and the District of Columbia, on the one hand, and Puerto Rico, the Virgin Islands, and Hawaii, on the other, which are within the zones set forth under Part 399.31 and Part 399.34 of this Title.

#### PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Amend § 302.505 by revising paragraphs (b) and (f) as follows:

§ 302.505 Complaints requesting suspension of tariffs—answers to such complaints; replies to such answers.

(b)(2) A complaint requesting suspension pursuant to 1002(g) of the Act of a fare for the scheduled air transportation of persons within the 48-contiguous states, the District of Columbia, and Hawaii or between the 48-contiguous states and the District of Columbia, on the one hand, and Puerto Rico, the Virgin Islands, and Hawaii on the other, which is within the zones set forth in Part 399.31 and Part 399.34 of this Title, will not be considered unless made in conformity with this section and filed at least thirty-nine (39) days before the effective date of the tariff or, in the event a posting date is printed on the tariff, unless a complaint is filed six (6) days after said posting date.

(f) Answers to complaints shall be filed within six (6) days after the com-

<sup>13</sup>The amended portions below include those proposed in our Rulemaking on U.S. Mainland-Puerto Rico/Virgin Islands Fares. 43 FR 51646 and 51647, November 6, 1978.



plaint if filed: *Provided, however*, That answers to complaints seeking suspension of a tariff pursuant to section 1002(j) of the Act shall be filed within five (5) calendar days after the complaint is filed: *Provided, further*, That answers to complaints requesting suspension of a fare for scheduled air transportation of persons within the 48-contiguous states, the District of Columbia, and Hawaii or between the 48-contiguous states and the District of Columbia, on the one hand, and Puerto Rico, the Virgin Islands, and Hawaii, on the other, which is within the zones set forth in Part 399.31 and Part 399.34 of this Title, shall be filed within seven (7) calendar days after the complaint is filed. (footnote omitted)

#### PART 399—STATEMENTS OF GENERAL POLICY

1. Add section 399.34 to read as follows:

§ 399.34 Passenger-Fare policies for other entities.

It is the policy of the Board to extend the principles of fare flexibility established for domestic fares to other entities as follows:

(b) For the Mainland-Hawaii and Intra-Hawaii ratemaking entities:

(1) Ceiling fares, other than first class, for the Mainland-Hawaii entity should be based upon second-class peak fares in effect July 1, 1977, adjusted for changes in the actual operating cost per available seat-mile for interstate and overseas transportation combined.

In determining that standard, the Board shall make no adjustment to costs actually incurred. Ceiling fares for the Intra-Hawaii entity should be based upon the first-class fares adjusted for changes in the actual operating cost determined in accordance with the changes for all other entities. Fare proposals priced above these ceilings or the upper limits specified under § 399.34(b)(4) should be suspended unless otherwise justified;<sup>53</sup> carriers may propose fares lower than the ceiling in individual markets;

(2) Each carrier<sup>54</sup> should have the opportunity to set fares in each

<sup>53</sup>For peak fares above any of these levels, the justification should include a showing that off-peak fares are available in the market.

<sup>54</sup>Monopoly carriers as defined in section 1002(d)(4)(A) of the Act are included under this policy.

market within a zone ranging to 50 percent below the ceiling fares. Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the ceiling. Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent the following extraordinary circumstances:

(i) The high probability that the fare would be found to be unlawful after investigation;

(ii) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

(iii) The harm to competition would be greater than the injury to the travelling public if the proposed fare were unavailable; and

(iv) The suspension is in the public interest;

(3) Carriers should be free to set market fares below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level of the proposed fare reductions will result in an inability of the carriers in the market to provide adequate service to the public or the fares are otherwise unlawful; and

(4) Each carrier should have the opportunity to set fares above the ceiling fares as follows:<sup>55</sup>

<sup>55</sup>As of the date of policy effectiveness, fares already in effect above these zones do not have to be refiled.

#### APPENDIX A.—Fares Effective in Selected Markets June, 1977, November, 1978 and Proposed Ceiling Fare (one-way)

| Time period and fare class  | To Honolulu from |          |             |                |        |        |
|-----------------------------|------------------|----------|-------------|----------------|--------|--------|
|                             | Chicago          | New York | Los Angeles | Seattle/Tacoma | Denver | Dallas |
| June, 1977 <sup>1</sup>     |                  |          |             |                |        |        |
| Fare Class:                 |                  |          |             |                |        |        |
| F                           | \$352            | \$414    | \$209       | \$205          | \$278  | \$314  |
| YW                          | 243              | 287      | 145         | 142            | 192    | 217    |
| YX                          | 226              | 270      | 129         | 126            | 176    | 200    |
| KW                          | 230              |          | 137         | 134            | 183    | 205    |
| KX                          | 214              |          | 121         | 119            | 166    | 189    |
| November, 1978 <sup>1</sup> |                  |          |             |                |        |        |
| Fare Class:                 |                  |          |             |                |        |        |
| F                           | 374              | 439      | 224         | 231            | 295    | 333    |
| YW                          | 258              | 305      | 156         | 163            | 204    | 231    |
| YX                          | 243              | 290      | 141         | 148            | 189    | 216    |
| KW                          | 244              |          | 148         | 155            | 194    | 217    |
| KX                          | 229              |          | 133         | 140            | 179    | 202    |
| Ceiling Fare <sup>2</sup>   |                  |          |             |                |        |        |
| Fare Class:                 |                  |          |             |                |        |        |
| Y                           | 270              | 316      | 161         | 158            | 213    | 241    |
| F <sup>3</sup>              | 391              | 459      | 232         | 227            | 308    | 348    |

(i) In markets where four or more carriers are authorized to provide non-stop service either on an unrestricted or restricted basis,<sup>56</sup> each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

(ii) In markets where two or three carriers are authorized to provide non-stop service either on an unrestricted or restricted basis,<sup>57</sup> each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling; and

(iii) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 58 days throughout the year;

Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent a showing of unusual or extraordinary circumstances.

We are directing that this Notice of Proposed Rulemaking be served on all parties to Docket 25474.

(Secs. 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760 and 788, as amended; 49 U.S.C. 1324, 1373, 1374, 1482; and 5 U.S.C. 553.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

<sup>56</sup>Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

<sup>57</sup>If one carrier has 70 percent or more of the traffic in one of these markets, the no-suspend upward zone provided here would still apply.

#### APPENDIX A.—Fares Effective in Selected Markets June, 1977, November, 1978 and Proposed Ceiling Fare (one-way)—Continued

| Time period and fare class  | To Honolulu from |          |             |                |         |        |
|-----------------------------|------------------|----------|-------------|----------------|---------|--------|
|                             | Chicago          | New York | Los Angeles | Seattle/Tacoma | Denver  | Dallas |
|                             |                  |          |             |                |         |        |
|                             |                  |          |             |                |         |        |
|                             |                  |          |             |                |         |        |
|                             |                  |          |             |                |         |        |
| June, 1977 <sup>1</sup>     |                  |          |             |                |         |        |
| Fare Class: FH              | \$17.59          | \$22.22  | \$23.15     | \$35.19        | \$27.78 |        |
| November, 1978 <sup>1</sup> |                  |          |             |                |         |        |
| Fare Class: FH              | 21.30            | 25.93    | 26.85       | 38.89          | 31.48   |        |
| Ceiling Fare: FH            | 19.52            | 24.66    | 25.69       | 39.05          | 30.82   |        |

<sup>1</sup>Tariff filed with the Civil Aeronautics Board.

<sup>2</sup>The ceiling fare is based upon the peak coach fare on July 1, 1977, increased by the percentage change in industry operating cost per ASM for the year ended June, 1977 to the year ended June, 1978, cost-projected to February 15, 1979 (Appendix B). Constructing and average fare for June, 1977 and cost projecting to the same date would result in the lower ceiling shown below (constructed in Appendix D). Fare Class Y 245 287 148 155 193 218.

<sup>3</sup>As the Board, under PS-80, no longer requires the first class fare to be set as a percentage of coach fare, the shown first class fares are those effective in June, 1977 times the increase percentage developed in Appendix B.

#### A. PENDIX B—Methodology for Determining Change in Operating Expense per Available Seat-Mile

| 1978   | Trunks   | Locals  | Trunks plus locals | Total pass/cargo |
|--|----------|---------|--------------------|------------------|
| Total Oper. Exp. <sup>1</sup>                                      | \$13,721 | \$1,935 | \$15,644           | \$15,976         |
| Less:  |          |         |                    |                  |
| All-Cargo Exp. <sup>2</sup>  | 261      |         | 261                | 261              |
| Belly offset <sup>3</sup>  | 884      | 142     | 1,026              | 1,069            |
| Non-Sched. <sup>4</sup>  | 212      | 50      | 262                | 275              |
| Trans. Related <sup>5</sup>  | 380      | 25      | 405                | 409              |
| Pass. Oper. Expense  | \$11,984 | \$1,718 | \$13,690           | \$13,964         |
| Sch. Svc. ASM's (000)  | 258268   | 26167   | 284433             | 287465           |
| Oper. Exp./ASM   | .04640   | .06566  | .04813             | .04858           |
| 1977   |          |         |                    |                  |
| Total Oper. Exp. <sup>1</sup>                                      | 12,112   | 1,647   | 13,759             | 14,051           |
| Less:  |          |         |                    |                  |
| All-Cargo Exp. <sup>2</sup>  | 247      |         | 247                | 247              |
| Belly offset <sup>3</sup>  | 740      | 99      | 839                | 879              |
| Non-Sched. <sup>4</sup>  | 225      | 37      | 262                | 276              |
| Trans. Related <sup>5</sup>  | 306      | 25      | 331                | 335              |
| Sch. Svc. ASM's (000)  | 10,594   | 1,488   | 12,080             | 12,314           |
| Oper. Exp./ASM   | .043448  | .06191  | .04517             | .04557           |
| Percent change in Oper. Exp./ASM                                   | 6.62     | 6.06    | 6.55               | 6.61             |
| Projected change from June, 1977 to February 15, 1979 <sup>6</sup> |          |         |                    | 10.96            |

<sup>1</sup>Total operating expenses for all operations and services.

<sup>2</sup>Operations performed in all-cargo services, carrier estimate.

<sup>3</sup>Total cargo revenues (less carrier all-cargo revenue) carried as by-product in aircraft belly compartments (freight, express, mail, ex. baggage).

<sup>4</sup>Total non-scheduled revenues times .98.

<sup>5</sup>Total transport-related expenses, less any excess of expenses over total transport-related revenues.

<sup>6</sup>For fares effective through May 15, 1979, with costs projected through February 15, 1979. Projection factor is 106.61 to the 1.825 power = 1.825 log 106.61 = 1.1096.

Sources: Air Carrier Financial Statistics, Air Carrier Traffic Statistics, CAB Forms 41 and 242.



## PROPOSED RULES

## APPENDIX C.—Present Peak Full-Fare, Fare Floor with 50 Percent Downward Flexibility, and Selected Current Discount Fares

|                                     | To Honolulu from |          |             |                |        |        |
|-------------------------------------|------------------|----------|-------------|----------------|--------|--------|
|                                     | Chicago          | New York | Los Angeles | Seattle/Tacoma | Denver | Dallas |
| Present Peak Full-Fare <sup>1</sup> | \$516            | \$610    | \$312       | \$326          | \$408  | \$482  |
| Proposed Ceiling Fare <sup>2</sup>  | 540              | 638      | 322         | 316            | 426    | 482    |
| Fare Floor <sup>3</sup>             | 270              | 318      | 181         | 158            | 213    | 241    |
| Discount Fare Class <sup>4</sup>    |                  |          |             |                |        |        |
| YWE 40                              | 340              | 380      |             |                | 340    | 350    |
| YXE 40                              | 310              | 340      |             |                |        | 300    |
| YWG 68                              |                  |          |             |                |        | 386    |
| YXG 68                              |                  |          |             |                |        | 325    |
| YVW 10                              |                  |          |             |                |        | 386    |
| YXV 10                              |                  |          |             |                |        | 325    |
| YWE 38                              | 340              | 380      |             | 273            | 330    |        |
| YXE 38                              | 310              | 340      |             | 223            | 290    |        |
| YXV 5                               | 321              | 363      |             |                |        |        |
| YVW 5                               | 381              | 425      |             |                |        |        |
| YWE 24                              | 370              | 478      |             | 300            | 330    |        |
| YXE 24                              | 340              | 448      |             | 270            | 290    |        |
| YVW 38                              |                  |          | 282         | 293            |        |        |
| YXV 38                              |                  |          | 248         | 259            |        |        |
| KWE 40                              |                  |          |             |                | 330    | 340    |
| KXE 40                              |                  |          |             |                | 290    | 290    |

<sup>1</sup> Round-trip fare effective November 1, 1978.<sup>2</sup> All fares are round-trip, subject to restrictions, and may not be available on all carriers.<sup>3</sup> Appendix A, see note 2.<sup>4</sup> 50 percent of ceiling fare.

## APPENDIX D.—U.S. Mainland-Hawaii Constructed Second Class Average Fare Y.E. December, 1977

|  |          |
|--|----------|
| At Cost <sup>1</sup>   | .04623   |
| Military Dilution Ratio <sup>2</sup>                                       | 1.0092   |
| Hawaii Common Fare Dilution Ratio <sup>3</sup>                             | 1.1140   |
| At Cost Including Dilution (per mile)                                      | .05197   |
| Second Class Average Fare @ 2714 miles <sup>4</sup>                        | \$141.05 |
| West Coast Common-Fare Second Class Average Fare @ 2527 miles <sup>5</sup> | \$131.33 |
| Actual Average Fare <sup>6</sup>   | \$119.85 |

<sup>1</sup> Solve for x, where 1.88= ratio of first class cost/RPM to second class cost/RPM 731,540=first class RPM's (000) 11,898,858=coach plus economy RPM's (000) \$613,736=total economic cost less other revenue (Page 2) 713,540 (1.88x) + 11,898,858X = \$613,736 13,274,153X = \$613,736X = .04623.<sup>2</sup> Average length of haul for 12 months ended December, 1977.<sup>3</sup> West Coast common-fare second class fare times cost escalation from June, 1977 to February 15, 1979 for fares effective through May 15, 1979. Cost escalation factor=1.1096, Appendix B.<sup>4</sup> Revenues divided by enplaned passengers, CAB Form 41.<sup>5</sup> Order 76-10-37, Appendix.

## TOTAL ECONOMIC COST AT A 12% RATE OF RETURN ON INVESTMENT, U.S. MAINLAND-HAWAII, YEAR ENDED DECEMBER, 1977

|  |           |
|--|-----------|
| Total Operating Expense (000) <sup>1</sup> | \$563,570 |
| Investment (000) <sup>2</sup>              | 343,946   |
| Return at 12% (000)                        | 41,274    |
| Interest <sup>3</sup>                      | 15,552    |
| Net Return <sup>4</sup>                    | 25,722    |
| Tax @ 48% <sup>5</sup>                     | 23,744    |
| Total Economic Cost <sup>6</sup>           | 628,588   |
| Other Revenue <sup>7</sup>                 | 14,852    |
| Economic Cost less Other Revenue           | \$613,736 |

<sup>1</sup> Workpapers for Hawaii fare increase proposals.<sup>2</sup> Return at 12.0 percent less interest expense.<sup>3</sup> Net Return times .9231, factor allowance for tax rate of 48 percent.<sup>4</sup> Return at 12 percent plus tax.

## PROPOSED RULES

## CONSTRUCTED COST-BASED FARE FOR SELECTED MARKETS, C.Y. 1977

| City-Pair            | Nonstop distance <sup>1</sup> | Cost-based fare <sup>2</sup> | Ceiling fare <sup>3</sup> |
|----------------------|-------------------------------|------------------------------|---------------------------|
| Chicago-Honolulu     | 4,248                         | \$220.77                     | \$244.97                  |
| Honolulu-New York    | 4,974                         | 258.50                       | 286.83                    |
| Honolulu-Los Angeles | 2,573                         | 133.72                       | 148.38                    |
| Honolulu-Seattle     | 2,677                         | 139.12                       | 154.37                    |
| Denver-Honolulu      | 3,353                         | 174.26                       | 193.36                    |
| Dallas-Honolulu      | 3,785                         | 196.71                       | 218.27                    |

<sup>1</sup> Shortest authorized nonstop mileages, weighted.<sup>2</sup> Second-class average yield of .05197, Page 1, times distance.<sup>3</sup> Column 2 fare, times cost escalation factor of 1.1096, Appendix B.

[FR Doc. 79-9395 Filed 3-28-79; 8:45 am]

[4710-06-M]

## DEPARTMENT OF STATE

[22 CFR Part 51]

[Docket No. SD-144]

## PASSPORTS

Denial of Passport Facilities to Minors; Denial of Passport Facilities in Cases Involving a Criminal Court Order

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the regulation governing passport issuance in cases involving the custody of minors. The proposal would deny issuance of a passport to a minor involved in a custody controversy when the passport issuing office receives an order issued by a court in the country where the passport is being sought. The court order must give custody to the objecting parent, guardian or person in loco parentis or must forbid the child's departure from the country in which the passport services are sought.

In addition, the Department further proposes to amend the regulation governing the denial of passports in cases in which the applicant is subject to a court order, conditions of probation, or conditions of parole any of which forbid the applicant's departure from the United States. The proposal would make this section applicable only to criminal cases in which the applicant's departure from the United States in violation of the court order, condition of parole or condition of probation could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073).

The proposed amendments will clarify the Department's policy with respect to passport denial in cases involving child custody controversies or restrictive actions.

DATES: Comments must be received on or before May 29, 1979.

ADDRESS: Send comments to the Chief, Advisory Opinions Division, Office of Citizenship, Nationality and Legal Assistance, Bureau of Consular

Affairs, Department of State, PPT/C/O Room 5813, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kott, (202) 632-0897.

## SUPPLEMENTARY INFORMATION:

The proposed revision of the Department's passport regulation pertaining to child custody matters is designed to alleviate confusion about the Department's policies and practices with regard to passport issuance in cases where there is controversy concerning the custody of a minor. It is, and has been, the Department's policy to deny issuance of a passport to a child involved in a custody controversy when, prior to issuance of a passport in the United States, the objecting parent provides the Department with a copy of a court order awarding that parent custody of the child or forbidding the child's departure from the United States. The Department's policy has been against denial of passport services to United States citizen minors outside the United States. This section was not designed to serve as a basis for revoking a minor's passport.

A child residing or traveling abroad will be documented upon request unless a court in the country in which passport services are sought has issued an order which restricts the child's travel or which awards custody to the objecting parent and that order is presented to the embassy or consulate where the passport application has been executed.

By amending the regulation pertaining to passport denial in cases in which the applicant is the subject of a court order forbidding his departure from the United States, the Department will clarify the intent of the existing language of the regulation by making it applicable only to cases involving criminal court orders, conditions of probation or conditions of parole the violation of which could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073).

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations,

Part 51, §§ 51.27 and 51.70 to read as set forth below:

1. In § 51.27, paragraph (d) is revised to read:

§ 51.27 Minors.

(d) Objection by parent or guardian in cases involving the custody of a minor. When there is controversy concerning the custody of a minor, the passport issuing office may deny issuance of a passport to the minor if it receives a court order from a court within the country in which passport services are sought. The court order must give custody of the minor to the objecting parent, legal guardian or person in loco parentis or must forbid the child's departure from the country in which passport services are sought without the permission of the court.

2. In § 51.70, paragraph (a)(2) is revised to read as follows:

§ 51.70 Denial of passports.

(a) A passport except for direct return to the United States, shall not be issued in any case in which:

(1) . . .

(2) The applicant is subject to a criminal court order, condition of probation or condition of parole, any of which forbid departure from the United States and the violation of which could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 comp., p. 507)

For the Secretary of State,

BARBARA M. WATSON,  
Assistant Secretary  
for Consular Affairs.

[FR Doc. 79-9508 Filed 3-28-79; 8:45 am]

[1505-01-M]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4708]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Grain Valley, Jackson County, Mo.; Correction

In FR Doc. 79-6995 appearing at page 13516 in the issue for Monday, March 12, 1979, the heading is incorrect. The correct heading is published above.



[4830-01-M]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 54]

[EE-37-78]

## EXCISE TAXES ON EXCESS CONTRIBUTIONS TO PLANS COVERING SELF-EMPLOYED INDIVIDUALS

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations prescribing rules for determining when there are excess contributions to "H.R. 10" or "Keogh" plans, and imposing an excise tax upon the excess, if any. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations would provide the public with additional guidance needed to comply with that Act and would affect employers maintaining these plans.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by May 29, 1979. The amendments are proposed to be effective for employer taxable years beginning on or after January 1, 1976.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-37-78), Washington, D.C. 20224.

## FOR FURTHER INFORMATION CONTACT:

Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (EE-37-78) (202-566-3430). (Not a toll-free number.)

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

This document contains proposed amendments to the Pension Excise Tax Regulations (26 CFR Part 54) under section 4972 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2001(f)(1) of the Employee Retirement Income Security Act of 1974 (88 Stat. 955) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.

(68A Stat. 917; 26 U.S.C. 7805).

## PROPOSED RULES

## STATUTORY PROVISIONS

Section 4972 of the Code imposes a nondeductible excise tax of 6 percent on the employer maintaining a qualified "H.R. 10 plan" on account of certain excess contributions to such a plan. The excise tax is imposed for each employer taxable year beginning on or after January 1, 1976, if, with respect to such year, there are excess contributions to such a plan.

## COMPUTATION OF EXCESS CONTRIBUTIONS

Proposed § 54.4972-1(c) defines "excess contributions." In general, they are the sum of employee contributions by owner-employees, and nondeductible employer contributions. The nondeductible employer contributions are computed differently, depending upon whether the plan is a defined benefit or defined contribution plan. Excess contributions can be reduced by correcting distributions from the plan to employees or employers so that the excise tax can be avoided or reduced.

## COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

## DRAFTING INFORMATION

The principal author of these proposed regulations was Richard J. Wickersham of the Employee Plans and Exempt Organizations division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

## PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 54 are as follows:

§ 54.4972-1 Tax on excess contributions to plans benefiting self-employed individuals.

(a) *In general.* Section 4972 imposes a tax of 6 percent on the amount of the excess contributions (as defined in section 4972(b) and paragraph (c) of this section) under certain qualified plans (as defined in paragraph (b) of

this section) for each taxable year beginning after December 31, 1975, of the employer who maintains such plan. Partnerships and sole proprietors are to report this tax by filing Form 5330 (or other designated form) and the tax is to be paid annually at the time prescribed for filing such return (determined without regard to any extension of time for filing).

(b) *Employers to whom section applies.* The tax under section 4972 is imposed on employers who maintain a qualified plan during their taxable year. For this purpose, the term "qualified plan" means a pension or profit-sharing plan which includes a trust described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a). In addition to being a qualified plan, the plan must provide contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1). For this purpose, the plan does not have to provide contributions or benefits for employees who are employees within the meaning of section 401(c)(1) during the taxable year; it is sufficient that the plan so provided in a prior taxable year.

(c) *Excess contributions—(1) In general.* For a taxable year of an employer for purposes of section 4972 and this section, the term "excess contributions" means—

(i) The amount (if any) by which the sum of—

(A) The amount (if any) determined under section 4972(b)(2) and paragraph (d) of this section, plus

(B) The amount (if any) determined under section 4972(b)(3) and paragraph (e) of this section, plus

(C) The amount (if any) determined under section 4972(b)(4) and paragraph (f) of this section, exceeds

(ii) the amount (if any) of any correcting distributions (as defined in section 4972(b)(5) and paragraph (g) of this section) made in all prior taxable years beginning after December 31, 1975.

(2) *Contributions allocable to insurance.* For purposes of section 4972(b) and this section, the amount of any contribution made under the plan which is allocable to the purchase of life, accident, health, or other insurance is not taken into account. The amount of any contribution which is allocable to the cost of insurance protection is determined in accordance with the provisions of paragraph (g) of § 1.404(e)-1A and paragraph (b) of § 1.72-16.

(d) *Contributions by owner-employees—(1) General rule.* In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees, within the meaning of section 401(c)(3), the

amount determined under section 4972(b)(2) and this paragraph for the employer's taxable year is the amount computed separately with respect to each owner-employee equal to the sum of—

(i) The excess (if any) of

(A) The amount contributed under the plan by each owner-employee as an employee (that is, each owner-employee's contributions within the meaning of section 401(c)(5)(B)) for such taxable year of the employer, over

(B) The amount permitted under section 4972(c) and paragraph (h) of this section to be contributed by each owner-employee as an employee for such taxable year of the employer, and

(ii) The amount determined under section 4972(b)(2) and this paragraph for the immediately preceding taxable year of the employer, reduced by the excess (if any) of the amount described in subdivision (i)(B) of this subparagraph over the amount described in subdivision (i)(A) of this subparagraph for such taxable year of the employer.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

**EXAMPLE (1).** (i) A and B are the only owner-employees covered under the X Employees' trust. The X Partnership, the X Trust, and the X Plan all use the calendar year as their annual accounting period, at all relevant times. The amount determined under section 4972(b)(2) for 1975 is 0 because this section does not apply to contributions made for taxable years beginning before January 1, 1976. In calendar year 1976, A contributes \$2,500 and B contributes \$2,500 to the trust. The amount permitted to be contributed to the trust for 1976 with respect to A as an employee is \$1,800 and with respect to B as an employee is \$2,200.

(ii) The amount determined under this paragraph for 1976 with respect to A is \$700, computed as follows: the sum of the excess of the amount contributed by A (\$2,500) over the amount permitted to be contributed by A (\$1,800), and the amount determined under this paragraph for A in 1975 (0).

(iii) The amount determined under this paragraph for 1976 with respect to B is \$300, computed as follows: the sum of the excess of the amount contributed by B (\$2,500) over the amount permitted to be contributed by B (\$2,200), and the amount determined under this paragraph for B in 1975 (0).

(iv) The amount determined under section 4972(b)(2) and this paragraph for 1976 with respect to the employer, X Partnership, is \$1,000, the sum of the amounts determined separately under this paragraph with respect to A (\$700) and B (\$300). The tax under section 4972 for 1976 on the X Partnership (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of \$1,000 or \$60.

**EXAMPLE (2).** (i) Assume the facts stated in Example (1). In calendar year 1977, A con-

## PROPOSED RULES

tributes \$1,500 and B contributes \$2,300 to the trust. Assume that the amount permitted to be contributed to the trust for 1977, under section 4972 (c) for A and B is \$2,500 each.

(ii) The amount determined under this paragraph for 1977 with respect to A is 0, computed as follows: the sum of 0 (the excess of the amount contributed by A (\$1,500) over the amount permitted to be contributed (\$2,500)) and \$700, the amount determined under this paragraph for A in 1976, reduced by \$1,000 (the amount permitted to be contributed by A (\$2,500) over the amount contributed by A (\$1,500)).

(iii) The amount determined under this paragraph for 1977 with respect to B is \$100, computed as follows: the sum of 0 (the excess of the amount contributed by B (\$2,300) over the amount permitted to be contributed (\$2,500)) and \$300, the amount determined under this paragraph for B in 1976, reduced by \$200 (the amount permitted to be contributed (\$2,500) by B over the amount contributed by B (\$2,300)).

(iv) The amount determined under section 4972(b) and this paragraph for 1977 with respect to the employer, X Partnership, is \$100, the sum of the amounts determined separately under this paragraph with respect to A (\$0) and B (\$100). The tax imposed under section 4972 for 1977 on the X Partnership (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of \$100, or \$6.

(e) *Defined benefit plans—(1) General rule.* In the case of a defined benefit plan (as defined in section 414(j) and the regulations thereunder), the amount determined under section 4972(b)(3) and this paragraph for the taxable year of the employer is the amount contributed under the plan by the employer during the taxable year plus the amounts, if any, contributed by the employer during any prior taxable year beginning after December 31, 1975, if—

(i) As of the close of the taxable year, the full funding limitation of the plan (determined under section 412(c)(7) and the regulations thereunder) is zero, and

(ii) Such amounts contributed have not been deductible by the employer for the taxable year or for any prior taxable year beginning after December 31, 1975.

See section 404 and the regulations thereunder for the determination of the amount deductible by the employer for the taxable year. If the amounts contributed by the employer exceed the amounts which have been deductible, the amount determined under this paragraph shall not exceed the amounts which have not been deductible. For purposes of this paragraph, the determination of both the amounts contributed and the amounts deductible by the employer for any relevant taxable year includes amounts contributed and deductible on behalf of any employee covered under the plan, including common-law

employees and other self-employed individuals who are not owner-employees in addition to owner-employees. The determination of whether the full funding limitation is zero shall be made taking into account all the plan assets unreduced by any deduction carryover under section 404(a)(1)(D). The determination of whether the full funding limitation is zero as of the close of the employer's taxable year shall be made with respect to the plan year ending with or within the employer's taxable year. Consequently, if an employer whose taxable year is the calendar year establishes and maintains a defined benefit plan whose plan year begins on July 1 and ends on June 30, the full funding limitation for that plan will be determined with respect to the plan year ending on June 30 within the calendar taxable year including that June 30.

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

**EXAMPLE.** (i) X Partnership ("X") adopts the Y Defined Benefit Plan ("Y Plan") on January 1, 1977. The taxable year of X is the calendar year. The Y Plan also has a calendar plan year. For 1977, \$25,000 is contributed to the Y Plan by X. Assume that for 1979, (1) only \$10,000 is deductible by X for 1977 under section 404 and (2) the full funding limitation of the Y Plan (determined under section 412(c)(7)) on December 31, 1977, is greater than zero. For 1978, X makes no additional contributions to the Y Plan. Assume that for 1978, (1) no amount is deductible by X under section 404 and (2) the full funding limitation of the Y Plan (determined under section 412(c)(7)) on December 31, 1978, is zero. The amount determined under section 4972(b)(3) and this paragraph for the 1978 taxable year is \$15,000, computed as follows: the difference between (A) the sum of the amounts contributed by X for taxable year 1978 (0), and the amounts contributed by X for taxable year 1977 (\$25,000) and (B) the sum of the amount deductible for taxable year 1978 (0) and the amount deductible for taxable year 1977 (\$10,000). The tax imposed under section 4972 for 1978 on X (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of \$15,000 or \$900.

(ii) For 1979, X makes no additional contributions to the Y Plan. Assume that for 1979, (1) the full funding limitation of the Y Plan determined under section 412(c)(7) is greater than zero. Assume further that \$10,000 of the amounts contributed for 1977 is deductible by X for 1979 under section 404. There is no amount determined under section 4972(b)(3) and this paragraph for 1979 because the condition described in subparagraph (1)(i) of this paragraph is not satisfied.

(iii) For 1980, X makes no additional contributions to the Y Plan. Assume that for 1980, (1) no amount is deductible under section 404 and (2) the full funding limitation of the Y Plan (determined under section 412(c)(7)) on December 31, 1980, is zero. The amount determined under section 4972(b)(3) and this paragraph for the 1980 taxable year is \$5,000, computed as follows: the difference between (A) \$25,000, the sum of the



amounts contributed by X for taxable years 1980 (0), 1979 (0), 1978 (0), and 1977 (\$25,000) and (B) \$20,000, the sum of the amounts deductible for taxable years 1980 (0), 1979 (\$10,000), 1978 (0), and 1977 (\$10,000). The tax imposed under section 4972 for 1980 on X (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of \$5,000, or \$300.

(f) *Defined contribution plans*—(1) *General rule.* In the case of a defined contribution plan (as defined in section 414(i) and the regulations thereunder), the amount determined under section 4972(b)(4) and this paragraph for the taxable year of the employer is equal to the portion of the amounts contributed under the plan by the employer during the taxable year plus the amounts contributed by the employer during any prior taxable year beginning after December 31, 1975, which has not been deductible by the employer for the taxable year or for any such prior taxable year. For purposes of this paragraph, the determination of both the amounts contributed and the amounts deductible by the employer for any relevant taxable year includes amounts contributed and deductible on behalf of any employee covered under the plan, including common-law employees and other self-employed individuals who are not owner-employees in addition to owner-employees.

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

**EXAMPLE.** (i) The X Partnership ("X") adopts the Z Defined Contribution Plan and Trust ("Z Plan") on January 1, 1976. X's taxable year and the plan year of Z are both calendar years. For 1976, X contributes \$40,000, of which \$30,000 is deductible under section 404 for taxable year 1976. The amount determined under section 4972(b)(4) and this paragraph for 1976 is \$10,000 (the difference between (A) \$40,000, the amount contributed by X for taxable year 1976 and (B) \$30,000, the amount deductible for taxable year 1976).

(ii) For 1977, X contributes \$25,000, and the amounts deductible by X under section 404 for taxable year 1977 is \$30,000 (\$5,000 for the contribution carryover from 1976 and \$25,000 with respect to the 1977 contribution). The amount determined under section 4972(b)(4) and this paragraph for 1977 is \$5,000, computed as follows: the difference between (A) \$65,000, the sum of the amounts contributed by X for taxable year 1976 (\$40,000) and the amounts contributed by X for taxable year 1977 (\$25,000), and (B) \$60,000, the sum of the amounts deductible for taxable year 1976 (\$30,000) and the amounts deductible for taxable year 1977 (\$30,000).

(g) *Correcting distribution*—(1) *General rule.* For purposes of section 4972(b) and this paragraph, the term "correcting distribution" means, for the taxable year of the employer, the sum of—

(i) In the case of a contribution made as an employee by an owner-employee, within the meaning of section 401(c)(3), to a defined benefit or defined contribution plan, the amount, or any part thereof, determined under section 4972(b)(2) and paragraph (d) of this section which is distributed to the owner-employee who contributed such amount to the plan;

(ii) In the case of a defined benefit plan, the amount, or any part thereof, determined under section 4972(b)(3) and paragraph (e) of this section which is distributed from the plan to the employer, and

(iii) In the case of a defined contribution plan, the amount, or any part thereof, determined under section 4972(b)(4) and paragraph (f) of this section which is distributed to (A) the employer or (B) to the employee for whom such amount was contributed.

If, for any employer taxable year in which a defined contribution plan is maintained, there is a correcting distribution to an employee which could be from amounts described in subparagraph (i)(i) and (iii) of this paragraph for such employee, then such correcting distribution shall be deemed to be made first from amounts described in such subparagraph (i)(i) and then from amounts described in such subparagraph (i)(iii) for purposes of this section and section 72. For the income tax treatment of such distributions to employees, see section 72 and the regulations thereunder. Any such distributions to employees shall not be subject to the tax imposed by section 4975 nor result in the defined contribution plan failing to satisfy the exclusive benefit requirement of section 401(a), solely by reason of being a correcting distribution within the meaning of this paragraph. If, for any employer taxable year in which a defined benefit or defined contribution plan is maintained, there is a correcting distribution described in subparagraph (i) (ii) or (iii) of this paragraph to the employer maintaining the plan, such distribution shall not be subject to the tax imposed by section 4975 nor result in the plan's failing to satisfy the exclusive benefit or the definitely determinable requirements under section 401(a). If, for any employer taxable year in which a money purchase pension plan is maintained, a correcting distribution described in subparagraph (i)(iii) of this paragraph is made to an employee who has not yet become eligible to receive retirement benefits under the plan, the qualification of the pension plan (and trust) under section 401(a) may be adversely affected. See § 1.401-1(b)(1)(i). A correcting distribution described in subparagraph (i)(iii) of this paragraph prior to age 59½ must be precluded under the plan. See section 401(d)(4).

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

**EXAMPLE.** (i) A and B are owner-employees covered under the X Employees' Defined Contribution Plan and Profit-Sharing Trust ("Plan Y"). The X Partnership ("X") and Plan Y are on calendar years. In calendar year 1976, A contributes \$2,500 and B contributes \$2,500 to Plan Y. The amount permitted to be contributed to Plan Y for 1976 with respect to A as an employee is \$1,800 and with respect to B as an employee is \$2,200. X contributes to Plan Y \$5,000 on behalf of A and \$5,000 on behalf of B. Of this amount, assume that \$2,700 is deductible with respect to A and \$3,300 is deductible with respect to B by X under section 404. The amount determined under section 4972(b)(2) and paragraph (d) of this section (the excess owner-employee contributions made by A and B to Plan Y) for taxable year 1976 is \$1,000, computed as follows: the sum of (A) for A, \$700, the difference between his own contributions (\$2,500) and the amount permitted to be contributed by A (\$1,800) and (B) for B, \$300, the difference between his own contributions (\$2,500) and the amount permitted to be contributed by B (\$2,200). The amount determined under section 4972(b)(4) and paragraph (f) of this section (the excess contributions made by X to Plan Y) for taxable year 1976 is \$4,000, computed as follows: the sum of (A) by X for A, \$2,300, the difference between contributions by X (\$5,000) and the amount deductible by X for A (\$2,700) and (B) by X for B, \$1,700, the difference between contributions by X for B (\$5,000) and the amount deductible by X for B (\$3,300). During 1976, there is no correcting distribution, within the meaning of section 4972 and this paragraph, because there are no distributions to A, B, or X.

(ii) Assume that, for taxable year 1977, the amounts determined under sections 4972(b)(2) and 4972(b)(4) remain the same as for taxable year 1976, that is, \$1,000 (\$700 for A and \$300 for B) and \$4,000 (\$2,700 by X for A and \$1,300 by X for B), respectively. Assume further that, in 1977, Plan Y distributes \$3,000 to A and \$1,000 to B. The amount determined under section 4972(b)(5) and this paragraph (the correcting distribution for Plan Y) for taxable year 1977 is \$4,000, computed and attributed as follows: the sum of (A) \$3,000 with respect to A, the amount of the distribution to A applied first to A's \$700 amount described in subparagraph (i)(i) of this paragraph and next to A's \$2,300 amount described in subparagraph (i)(iii) of this paragraph and (B) \$1,000 with respect to B, the amount of the distribution to B applied first to B's \$300 amount described in subparagraph (i)(i) of this paragraph and next to B's \$1,700 amount described in subparagraph (i)(iii) of this paragraph. For purposes of computing the excess contributions for taxable year 1977, the correcting distribution of \$4,000 would not be taken into account because only correcting distributions for prior years are considered. However, for taxable year 1978 the correcting distribution of \$4,000 would be taken into account.

(iii) Assume that, for taxable year 1978, there are no additional amounts determined under sections 4972(b)(2) and 4972(b)(4) and that Plan Y distributes \$900 to B. The amount determined under section 4972(b)(5) and this paragraph (the correcting distribution for Plan Y) for the 1978 taxable year is

\$900, computed and attributed as follows: the amount of the distribution to B, \$900, applied to B's \$1,000 amount described in subparagraph (i)(iii) of this paragraph. For purposes of computing the excess contributions for taxable year 1978, the correcting distribution of \$900 would not be taken into account. However, for taxable year 1979, the correcting distribution of \$900 would be taken into account.

(h) *Amount permitted to be contributed by owner-employee*—(1) *General rule.* Except as provided in subparagraph (2), for purposes of section 4972(b)(2) and paragraph (d), the amount permitted to be contributed under a plan by an owner-employee as an employee for any taxable year of the employer is the smallest of the following—

(i) \$2,500,

(ii) 10 percent of the earned income (as defined in section 401(c)(2)) for such taxable year derived by the owner-employee from the trade or business with respect to which the plan is established, or

(iii) The amount of the contribution which would be contributed by the owner-employee (as an employee) if such contribution were made at the rate of contributions which is permitted to be made by employees who are not owner-employees during such taxable year.

(2) *Special rule.* In the case of a taxable year of the employer in which there are no employees other than owner-employees, the amount permitted to be contributed under a plan by an owner-employee (as an employee) is zero.

(i) *Special rules and cross references*—(1) *Time of contributions.* For purposes of this section, time of employer contributions made with respect to any taxable year shall take into account the rules specified in section 404(a)(6), relating to time when contributions deemed made.

(2) *Disallowance of deduction.* For disallowance of deduction for taxes paid under this section, see section 275(a)(6).

(3) *Certain annuity contracts.* For a special rule relating to owner-employee contributions for premiums on annuity, etc. contracts, see § 1.401(e)-4(a).

(4) *Disqualification for excess contributions.* For plan qualification requirements relating to excess contributions, see section 401(d)(5).

JEROME KURTZ,  
Commissioner of  
Internal Revenue.

[FR Doc. 79-9571 Filed 3-28-79; 8:45 am]

[4910-14-M]

## DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 77-067]

### ANCHORAGE REGULATIONS

Anchorage Grounds, Vieques Passage and Vieques Sound, near Vieques Island, P. R.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** The Coast Guard is proposing to change the size and location of Vieques Passage explosives anchorage and ammunition handling berth (Area 1). A portion of the anchorage area extends into a buoyed channel. This proposal will eliminate a potentially unsafe situation by removing that portion of the anchorage from the channel.

**DATES:** Comments must be received on or before May 10, 1979.

**ADDRESS:** Comments should be submitted to and are available for examination at the Office of the Commander, Seventh Coast Guard District (mps), 51 S.W. First Avenue, Miami, Fla. 33130.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-1934.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify this notice (CGD 77-067) and give the reasons for the comment. All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

**DRAFTING INFORMATION:** The principal persons involved in drafting this proposal are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

FEDERAL REGISTER, VOL. 44, NO. 62—THURSDAY, MARCH 29, 1979

### DISCUSSION OF THE PROPOSED REGULATION

Vieques Passage explosives anchorage and ammunition handling berth (Area 1) presently extends into a buoyed channel on the north side of the anchorage. This proposal would reduce the radius of the anchorage by 300 yards and move its center southward so that the anchorage lies entirely outside the channel. Moving the anchorage will ensure that vessels navigating the channel do not inadvertently enter the anchorage while explosives are present.

An Environmental Assessment was completed in August 1978 which determined that there would be no impact on the quality of the human environment.

This regulation has been reviewed under DOT Notice "Improving Government Regulations" (44 FR 11035, February 26, 1979) and a Draft Evaluation has been prepared and is available for public inspection at the Project Manager and Commander, Seventh Coast Guard District addresses indicated above.

In consideration of the foregoing it is proposed to amend Part 110 of Title 33 of the Code of Federal Regulations by revising § 110.245(a)(1) to read as follows:

§ 110.245 Vieques Passage and Vieques Sound, near Vieques Island, P.R.

(a) The anchorage grounds—(1) Vieques Passage explosives anchorage and ammunition handling berth (Area 1). A circular area having a radius of 1700 yards with its center at latitude 18°09'00"N., longitude 65°32'40"W.

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); Sec. 6(g)(1)(A), 80 Stat. 937, (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1)).

Dated: March 23, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard,  
Acting Commandant.

[FR Doc. 79-9627 Filed 3-28-79; 8:45 am]

[4910-14-M]

[33 CFR Part 117]

[CGD 78-134]

PROPOSED REGULATIONS FOR THE FLORIDA EAST COAST RAILROAD BRIDGE ACROSS THE NEW RIVER, FLORIDA

Public Hearing

AGENCY: Coast Guard, DOT.



**ACTION:** Supplemental Notice—Public Hearing and Extension of Comment Period.

**SUMMARY:** The Commandant has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, to receive comments on the proposed amendment to the regulations governing the operation of the Florida East Coast railroad bridge across the New River, mile 2.5. This hearing is being held to gather information and data necessary to attempt to resolve the differences between various factions who support or oppose the proposed regulation to control the operation of the Florida East Coast Railway Company bridge.

**DATES:** The public hearing will be held on Wednesday, May 9, 1979, from 7 p.m. to 10 p.m. Written comments must be received by the Commander, Seventh Coast Guard District by close of business June 8, 1979.

**ADDRESSES:** The public hearing will be held at the Fort Lauderdale City Hall, Commissioner's Room, 100 North Andrews Avenue, Fort Lauderdale, Florida 33302. Written comments will be received by Commander (oan) Seventh Coast Guard District, 51 S.W. 1st Avenue, Miami, Florida 33130.

**FOR FURTHER INFORMATION CONTACT:**

James Kretschmer, Bridge Administrator, Seventh Coast Guard District, 51 S.W. 1st Avenue, Miami, Florida 33130 (305-350-4108).

**SUPPLEMENTAL INFORMATION:** This proposal was published in the FEDERAL REGISTER on 30 November 1978 (43 CFR 56060) and distributed as Public Notice 16593/2794 by the Commander, Seventh Coast Guard District, on 24 November 1978.

The existing regulation requires the bridge to open on signal.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed regulation and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Seventh Coast Guard District, by 4 May 1979. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulations by submitting their comments, in writing, on or before 8 June 1979, to the Commander (oan), Seventh Coast Guard District. Each comment should state the rea-

sons for support or opposition or proposed changes to the regulations, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Seventh Coast Guard District. All comments received will be considered before final action is taken on the proposed drawbridge regulation. After the time set for the submission of comments, the Commander (oan) Seventh Coast Guard District, will forward the record, including all written comments and his recommendations, to the Commandant, United States Coast Guard, Washington, D.C. 20590, who will make the final determination on this matter.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 23, 1979.

F. P. SCHUBERT,  
Captain, U.S. Coast Guard,  
Acting Chief, Office of Marine  
Environment and Systems.

[FR Doc. 79-9577 Filed 3-28-79; 8:45 am]

**[4910-14-M]**

[33 CFR Part 117]

[CGD 79-009]

**DRAWBRIDGE OPERATION REGULATIONS**

Shrewsbury River, N.J.

**AGENCY:** Coast Guard, DOT.

**ACTION:** Proposed Rule.

**SUMMARY:** At the request of the County of Monmouth, N.J., the Coast Guard is considering revising the regulations governing the operation of the drawbridge across the Shrewsbury River, mile 4.0, to provide more restrictive opening periods during periods of peak vehicular traffic in the spring and fall.

**DATE:** Comments must be received on or before April 30, 1979.

**ADDRESS:** Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, New York 10004.

**FOR FURTHER INFORMATION CONTACT:**

Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-425-0942).

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to par-

ticipate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

**DRAFTING INFORMATION:** The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann Mc Cabe, Project Attorney, Office of the Chief Counsel.

**DISCUSSION OF THE PROPOSED REGULATIONS**

This proposal is being made in an effort to relieve vehicular traffic during the spring, summer, and fall months when it is at its peak. The present regulations restrict openings from May 15 to September 30. This proposal would extend the restricted period to April 15 through October 30. The Coast Guard is requesting comments from interested and affected parties regarding this proposal.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by revising § 117.215(j)(3) to read as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

(j) . . . . .  
(3) Shrewsbury River (South Branch), mile 4.0, N.J. (i) Monmouth County Bridge between the boroughs of Rumson and Sea Bright. From April 15 through October 30, on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day, from 9 a.m. to 8 p.m., local time, the draw shall open on the hour and half-hour if any vessels are waiting to pass.

(ii) From April 15 through October 30, Monday through Friday, delays of the openings of the draw may be made

for a maximum of 10 minutes in order to consolidate vessels or clear road traffic.

(iii) The draw shall not open for a sailboat unless it is under auxiliary power or is towed by a powered vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 23, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard,  
Acting Commandant.

[FR Doc. 79-9628 Filed 3-28-79; 8:45 am]

**[4910-14-M]**

[33 CFR Part 183]

[CGD 77-191]

**BOATS AND ASSOCIATED EQUIPMENT**

Raceboats; Safety and Labeling Exemptions

**AGENCY:** Coast Guard, DOT.

**ACTION:** Termination of Proposed Rulemaking.

**SUMMARY:** In an Advance Notice of Proposed Rulemaking published May 25, 1978, the Coast Guard sought public participation in the formulation of a proposed rule that would except manufacturers of raceboats from requirements for displaying capacity information, and flotation, design, and construction standards. The Coast Guard is terminating this advance notice due to the unfavorable public response, the inability to adequately resolve answers to the questions raised in the advance notice, and because the existing exemption procedures afford the manufacturer an opportunity to seek an exemption from these requirements.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Lysle B. Gray, Office of Boating Safety (G-BBT-2/TP42), Room 4314, Department of Transportation, TRANSPORT Building, 2nd and V St., S.W., Washington, D.C. 20590 (202/426-4027).

**SUPPLEMENTARY INFORMATION:**

**DRAFTING INFORMATION**

The principal persons involved in drafting this notice are: Mr. Lysle B. Gray, Project Manager, Office of Boating Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

**DISCUSSION**

On May 25, 1978, an advance notice soliciting public participation in the formulation of a proposed rule that

would except raceboat manufacturers from the requirements of Part 183 of Title 33 of the Code of Federal Regulations was published in the FEDERAL REGISTER (43 FR 22411).

The Coast Guard received only four comments on this advance notice. All four commenters indicated that they were not in favor of a blanket exception from the regulations for raceboats. They believed that persons manufacturing or using boats which were not truly raceboats would abuse such an exception. The lack of a single comprehensive definition of a "raceboat" seems to be at the root of the problem. The Coast Guard has discussed this with the National Boating Safety Advisory Council and with other members of the affected public. No satisfactory definition of "raceboat" has been proposed.

Furthermore, since none of the comments received were from manufacturers of raceboats, the Coast Guard believes that the manufacturers are satisfied with the existing exemption procedures and that there is no need to develop a rule having general applicability as contemplated in the advance notice.

Therefore, the Coast Guard has determined that the continuation of the proposed rulemaking, as indicated in the advance notice, is not appropriate at this time. The termination of this rulemaking does not preclude the Coast Guard from issuing a similar notice in the future nor commit the Coast Guard to any particular course of action.

In consideration of the foregoing, the rulemaking action as indicated in the advance notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1978, (43 FR 22411), entitled, "Raceboat; Safety and Labeling Exemptions" (CGD 77-191) is hereby terminated.

(46 U.S.C. 1454, 1455; 49 CFR 1.46(n)(1)).

Dated: March 20, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard,  
Acting Commandant.

[FR Doc. 79-9630 Filed 3-28-79; 8:45 am]

**[6820-23-M]**

**GENERAL SERVICES ADMINISTRATION**

Public Buildings Service

[41 CFR PARTS 101-17, 101-18, AND 101-19]

**FEDERAL SPACE MANAGEMENT**

**AGENCY:** General Services Administration, Public Buildings Service.

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) proposes to amend its regulations to incorporate appropriate procedures for the planning, acquisition, utilization, and management

of Federal space facilities. These revisions are necessary to implement Executive Order 12072, dated August 16, 1978, and the memorandum of the Director of the Office of Management and Budget dated March 9, 1979.

**DATE:** Comments must be received on or before: May 29, 1979.

**ADDRESS:** Written comments should be sent to the General Services Administration, Washington, D.C. 20405.

**FOR FURTHER INFORMATION CONTACT:**

Joseph P. Yiakis, Acting Assistant Commissioner for Space Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1025).

**SUPPLEMENTARY INFORMATION:** The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. However, its provisions represent a significant shift in emphasis on GSA's facility siting policies. Specifically, the regulations accomplish the following:

1. Restate and reaffirm GSA's commitment to giving primary consideration to locating Federal activities in central business areas;
2. Establish a limited number of specific circumstances which justify non-central business area locations;
3. Recognize that in urban areas with more than one city Federal activities should be located in the most distressed central city;
4. Establish the framework for close coordination with local elected officials to ensure that Federal activities are housed in a manner consistent with local development objectives;
5. Recognize the application of the Rural Development Act of 1972 to the facility program and provide for central business area locations in order to encourage development, redevelopment and growth of rural areas.
6. Require agencies which acquire and utilize space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, to establish agreements to provide for GSA review of their compliance with Executive Order 12072; and
7. Define the terms "urban areas," "central business areas," "rural areas," and "central cities."

In developing the proposed rules, GSA obtained the advice and guidance of the Interagency Coordinating Council created by Executive Order 12075, the Department of Housing and Urban Development, the Executive Office of the President, the National League of Cities, and the Center for National Policy Review.



Therefore, it is proposed to amend subchapter D of 41 CFR chapter 101 as follows:

**PART 101-17—ASSIGNMENT AND UTILIZATION OF SPACE**

The table of contents for Part 101-17 is amended by adding four sections and deleting one section as follows:

101-17.003-33 Urban areas.  
101-17.003-34 Central business areas.  
101-17.003-35 Central city.  
101-17.003-36 Rural areas.  
101-17.101-1c (Deleted).

1. Section 101-17.001 is revised to read as follows:

**§ 101-17.001 Authority.**

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Act of July 1, 1898 (40 U.S.C. 285); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.); the Rural Development Act of 1972 (86 Stat. 674); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); and Executive Order 12072 of August 16, 1978 (43 FR 36869).

2. Section 101-17.002 is revised to read as follows:

**§ 101-17.002 Basic policy.**

GSA will acquire and use federally owned and leased office buildings and space located in the United States and will issue standards and criteria for the use of such space. GSA will assign and reassign such space to Federal agencies and certain non-Federal organizations. GSA shall have primary responsibility for Federal agency compliance with Executive Order 12072, including space acquisitions accomplished under authority other than the Federal Property and Administrative Services Act of 1949, as amended. GSA and other Federal agencies shall be governed by the following policies for the assignment, reassignment, and utilization of office buildings and space.

(a) Federal facilities and Federal use of space in urban areas shall serve to strengthen the Nation's cities and to make them attractive places to live and work. Such Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities.

(b) Serious consideration shall be given to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in an urban area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the devel-

opment, redevelopment, and revitalization objectives and priorities of cities in urban areas as well as enhance and support the employment and economic base of these cities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maximum socioeconomic benefits from such actions.

(c) In meeting space needs in urban areas:

(1) First consideration shall be given to a centralized business area and adjacent areas of similar character in the central city of Standard Metropolitan Statistical Areas (SMSA) defined by the Department of Commerce publication (Government Printing Office Stock Number 041-001-00010-8), including other specific areas of a city recommended by local officials, except where such consideration is otherwise prohibited. Space needs will be met outside the central business area of a central city of an SMSA only when one of the following circumstances exist:

(i) The service area of an activity is limited to a clearly defined sector of a city or a suburban or rural community, as is the case with satellite or branch offices; or where onsite activities are involved, such as inspection and/or maintenance operations at border stations, airports, seaports, or other similar activities;

(ii) Immediate compliance is not possible due to existing leasing commitments in areas outside the central business area (CBA). In these cases, plans for future compliance will be made, i.e., the activity will be relocated to the central business area upon expiration of the lease; and

(iii) Local officials (mayors, city councils, and others) indicate that an activity or facility should be located in an area of the city other than the CBA.

(2) If a location outside an SMSA is required, the central business areas of non-SMSA cities shall be given first consideration; and

(3) If a location outside the central business area is required, location within the city shall be given first consideration.

(d) In SMSA's with more than one central city, or in urban areas with more than one city, GSA will make space assignments in the CBA of the most distressed city. In addition, consideration may be given to meeting space needs in other than central cities when the following conditions exist: (1) A city in an SMSA is not a central city but has over 50,000 population and (2) the level of distress in that city is determined by the Secretary of Housing and Urban Development to be equal to or greater than any of the central cities.

(e) Consistent with the policies cited in § 101-17.002 (a), (b), (c), and (d) above, consideration shall be given to the following criteria in meeting Federal space needs in urban areas:

(1) Impact on economic development and employment opportunities in the urban area, including utilization of human, natural, cultural, and community resources with the objective of targeting distressed areas;

(2) Compatibility of the site with State, regional, or local development or conservation objectives;

(3) Conformity with the activities and objectives of other Federal agencies;

(4) Availability of adequate low- and moderate-income housing for Federal employees and their families on a non-discriminatory basis; and

(5) Availability of adequate public transportation and parking and accessibility to the public.

(f) Consistent with the policies cited in § 101-17.002 (a), (b), (c), and (d) above, the following alternative sources will be considered in meeting Federal space needs in urban areas:

(1) Availability of existing federally controlled facilities. Maximum use will be made of such facilities which, in the judgment of the Administrator of General Services, are adequate or economically adaptable to meeting the space needs of executive agencies;

(2) Utilization of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507);

(3) Acquisition or utilization of existing privately owned facilities;

(4) Construction of new facilities; and

(5) Opportunities for locating cultural, educational, recreational, or commercial activities within the proposed facility.

(g) Site selection and space assignment shall take into account:

(1) The management needs for consolidation of agencies or activities in common or adjacent space in order to improve management and administration and effect economies; and

(2) Give consideration to the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance of safe and healthful working conditions for employees.

(h) To the maximum extent feasible, GSA will maintain continuous liaison with local planning bodies and elected officials to obtain their advice and consultation with respect to space assignment, acquisition and construction activities. In order to establish the framework for consultation on space

actions, GSA will seek agreements with local governments, which will:

(1) Establish acceptable geographic boundaries of the central business area;

(2) Identify areas of the city outside the central business area targeted for development or redevelopment which would benefit from the stimulus of the location of Federal space;

(3) Define the types and sizes of GSA projects of interest to local government;

(4) Establish appropriate timing for notifying local officials of a GSA project;

(5) Advise local officials of the availability of data on GSA plans and programs, and agree upon the provision of such data to local officials;

(6) Identify appropriate periodic reviews of the agreement to ensure it is providing maximum consultation; and

(7) Include other appropriate information.

(i) Federal facilities and Federal use of space in rural areas shall serve to strengthen the Nation's rural communities. Such Federal space shall encourage growth and economic development and redevelopment in rural areas. Consistent with the provisions of section 601(b) of the Rural Development Act of 1972 (86 Stat. 674), first priority will be given to meeting Federal space needs in rural areas.

(j) In meeting space needs in rural areas:

(1) First consideration shall be given to the central business area of incorporated jurisdictions, including adjacent areas of similar character and specific areas recommended by local officials, except where such consideration is prohibited.

(2) Serious consideration shall be given to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in a rural area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of communities in rural areas, as well as enhance and support the employment and economic base of these communities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maximum socioeconomic benefits from such actions.

(3) In rural areas with more than one incorporated jurisdiction, space assignments will be made in the most distressed jurisdiction.

(4) Space needs will be met outside the central business area only when one of the exceptions contained in § 17.002(c) (1), (2), or (3) apply, or when the program requirements and needs of their clientele preclude locat-

ing an agency's county level field office in the central business area.

(k) Consistent with the policies cited in § 101-17.002 (i) and (j) above, the site selection criteria contained in § 17.002(d) and the alternative space acquisition methods contained in § 17.002(e) shall be considered. In addition, consultation with local officials in rural areas shall be consistent with the requirements of § 17.002(g).

(l) In accordance with the memorandum of the Director, Office of Management and Budget, dated March 9, 1979, heads of executive agencies which acquire or utilize federally owned or leased space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, shall establish notification and review procedures in agreement with the Administrator of General Services. These agreements shall identify: (1) the kinds of space acquisition or utilization activities which will be reviewed by the Administrator; (2) the process and timing for conducting such reviews; and (3) the procedures to be followed in resolving disagreements between the Administrator and the head of executive agencies. Agreements between the Administrator and the heads of executive agencies shall be published as part of this regulation.

2. Section 101-17.003 is amended by adding four subsections as follows:

**§ 101-17.003-33 Urban area.**

"Urban area" means any Standard Metropolitan Statistical Area (SMSA) as defined by the Department of Commerce. An area which is not an SMSA is classified as an urban area if it is one of the following:

(a) A geographical area within the jurisdiction of any incorporated city, town, borough, village or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants;

(b) that portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or (c) that portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: The Intergovernmental Cooperation Act of 1968, 40 U.S.C. 535.)

**§ 101-17.003-34 Central business area.**

"Central business areas" means those areas within a central city in an SMSA or any non-SMSA which en-

compass the community's principal business and commercial activities, and the immediate fringes thereof, as geographically defined in consultation with local officials.

**§ 101-17.003-35 Central city.**

"Central city" means any city whose name appears in the title of an SMSA. Criteria for determining SMSA titles are established by the Department of Commerce.

**§ 101-17.003-36 Rural area.**

"Rural area" means any area which is within a city or town with a population of less than 10,000 or any area which is not within the outer boundary of any city having a population of 50,000 or more and its immediate adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile.

**Subpart 101-17.1—Assignment of Space**

1. Section 101-17.101 is amended by revising paragraphs (a) and (b) (1) through (4), as follows:

**§ 101-17.101 Request for space.**

(a) Except as provided in § 101-17.101-2, Federal agencies shall satisfy their space needs by submitting a Standard Form 81, Request for Space, to the GSA regional office responsible for the geographic area in which the space is required. A listing of GSA regional offices and the areas they service is shown in § 101-17.4801.

(b) . . . . .  
(1) Cooperate with and assist the Administrator of General Services in carrying out his responsibilities with respect to buildings and space, recognizing the requirement that primary consideration be given to locating within the CBA in urban areas.

(2) Give the Administrator of General Services early notice of new or changing space requirements.

(3) Economize in their requirements for space.

(4) Review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services of activities which can be accomplished elsewhere in the Nation without excessive costs or significant loss of efficiency.

2. Section 101-17.101-1c is deleted.

**§ 101-17.101-1c (Deleted)**

3. Section 101-17.102-1(b) is revised to read as follows:

**§ 101-17.102-1 Assignment by GSA.**

(b) GSA may, in accordance with policies and directives prescribed by the President, including Executive



Order 12072 of August 16, 1978 (43 FR 36869), under section 205(a) and 210(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a) and 490(e)), and after consultation with the agencies affected, assign or reassign space of any executive agencies after determining that such assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

#### PART 101-18—ACQUISITION OF REAL PROPERTY

1. Section 101-18.001 is revised to read as follows:

##### § 101-18.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 and 490); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601-615), 73 Stat. 479; Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244; 40 U.S.C. 531-535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, the Rural Development Act of 1972, 86 Stat. 657, as amended, and OMB Circular A-95 (41 FR 2052).

##### Subpart 101-18.1—Acquisition by Lease

Section 101-18.100 is amended by revising paragraph (d) and reserving paragraphs (f) and (g) to read as follows:

##### § 101-18.100 Basic policy.

(d) When considering acquisition or when acquiring space by lease, the policies contained in § 101-17.002, regarding determination of the location of Federal facilities, shall be strictly adhered to.

(f) [Reserved]  
(g) [Reserved]

#### PART 101-19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

1. Section 101-19.001 is revised to read as follows:

##### § 101-19.001 Authority.

This part 101-19 implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended;

the Public Buildings Act of 1959 (40 U.S.C. 601-615 as amended); Pub. L. 90-480, 82 Stat. 718, as amended (42 U.S.C. 4151-4156); the Clean Air Act (42 U.S.C. 1857-1858); the Federal Water Pollution Control Act (33 U.S.C. 1151-1175; the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244, 40 U.S.C. 531-535); Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects (Office of Management and Budget Circular A-95 Revised); Section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383 as amended by section 601 of the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 1322(b)); Executive Order 11752 (3 CFR 829 (1971-1975 compilation)); Executive Order 11724 (3 CFR 777 (1971-1975 compilation)); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

2. Section 101-19.002 is amended to revise paragraph (a) and to reserve paragraph (b) as follows:

##### § 101-19.002 Basic policy.

(a) In the process of developing building projects, the policies contained in § 101-17.002, regarding the determination of the location of Federal facilities, shall be strictly adhered to.

(b) [Reserved]

##### Subpart 101-19.1—General

Section 101-19.100 is amended by revising paragraphs (c)(1), (c)(2), (f)(1), and (f)(4) as follows:

##### § 101-19.100 Intergovernmental consultation on Federal projects.

(c) . . .

(1) The GSA Regional Administrator will notify the planning agencies at least 30 calendar days prior to the initiation of any survey conducted for the purpose of preparing a prospectus, or Report of Buildings notification will specify the approximate date(s) on which the survey will be conducted and request that those agencies provide GSA with all pertinent planning and development information that will be considered in connection with the space plan for the community as soon as practicable. This information will include city, county, State, and regional plans for land use and development, model cities and urban renewal, neighborhood revitalization, mass transit, highways, flood control, and air, water, solid waste, and other relevant environmental data.

(2) Within 30 calendar days following the approval of a proposed action by the Congress, the GSA Regional Administrator will inform the previously notified planning agencies of the results of the survey. Particular reference will be made to the need, if any, for a new Federal building with a 10-year period or a major lease consolidation which could result in new commercial construction in the community. The letter will request that the GSA Regional Administrator be advised of all changes or refinements in the planning information initially provided, and set forth the following minimum data relative to the proposed Federal project:

- (i) Area or city in which the project will be located;
- (ii) Type of building (office building, post office, courthouse, etc.);
- (iii) Approximate size of building;
- (iv) Specific site location requirements;
- (v) Estimated building population; and
- (vi) Estimated total project cost.

(f) . . .

(1) GSA will transmit copies of the draft environmental statement, prepared in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act and the regulations of the Council on Environmental Quality to the Environmental Protection Agency, and to the Governor of the State, the U.S. Senators of the State, and the U.S. Representative from the congressional district of the State where the project will be located.

(4) Copies of the final environmental statement will be transmitted to the Environmental Protection Agency and to those persons who submitted substantive comments on the draft statement or requested copies of the final statement. Unless waived by EPA, no irreversible or irretrievable action shall be taken on a project until 30 calendar days after submission of the final statement to EPA.

(Sec. 205(c), 62 Stat. 390; 40 U.S.C. 486(c)).

Dated: March 23, 1979.

DENNIS J. KEILMAN,  
Acting Commissioner,  
Public Buildings Service.

[FR Doc. 79-9834 Filed 3-28-79; 8:45 am]

[4310-84-M]

#### DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

#### MINING CLAIMS UNDER THE GENERAL MINING LAWS

Clarification of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of clarification of comment period.

SUMMARY: This notice makes it clear that comments on the proposed rulemaking Exploration and Mining—Wilderness Review Program received by the Bureau of Land Management after March 14, 1979, the date listed in 44 FR 2623 as the date by which comments should be submitted will be considered to the extent time permits before final rulemaking is published. This is in keeping with the general policy of the Bureau of Land Management.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert M. Anderson, 202-343-7722, or Robert C. Bruce, 202-343-7424.

SUPPLEMENTARY INFORMATION: This notice clarifies how the Bureau of Land Management will handle comments received on the proposed rulemaking received after March 14, 1979. The Bureau of Land Management published the proposed rulemaking on January 12, 1979, 44 FR 2623. The notice advised the public that comments were to be submitted by March 14, 1979. The Bureau does not expect to publish the final rule until approximately May 15, 1979, and has received questions about its policy on considering written and oral comments received after March 14. The Bureau will analyze and consider comments received after March 14, 1979, and will attempt to incorporate responses in the preamble to the final rulemaking to the extent time permits.

ARNOLD E. PETTY,  
Acting Associate Director,  
Bureau of Land Management.

MARCH 26, 1979.

[FR Doc. 79-9546 Filed 3-28-79; 8:45 am]

[4910-14-M]

#### DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 31 and 35]

[CGD 73-243]

#### FLAMMABLE AND COMBUSTIBLE CARGOES

Information Cards

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard is proposing to amend the rules for a barge that carries flammable or combustible cargoes to require cargo information cards for the flammable and combustible cargoes it has on board. The cargo information cards would be required to be displayed on the barge and carried on any towboat handling the barge. The cargo information cards would give emergency information on firefighting and precautions to take if exposed to the cargo as well as indicating what cargoes were on the barge.

DATE: Comments must be received on or before May 11, 1979.

ADDRESS: Comments should be submitted to: Commandant (G-CMC/81) (CGD 73-243), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Query, Office of Merchant Marine Safety (G-MHM/83), Room 8309, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202 426-1217).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 73-243), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (44 FR 11035, February 26, 1979). A draft evaluation has been prepared and placed in the public docket.

#### DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Mr. Robert M. Query, Project Manager, Office of Merchant Marine Safety and Mr. Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

#### DISCUSSION OF THE PROPOSED REGULATION

Regulations in Part 35 of Title 46 of the Code of Federal Regulations require some cargo hazards to be described on warnings signs for barges carrying bulk flammable or combustible cargoes. At one time, § 35.01-55 of Part 35 required barges carrying some unusually hazardous cargoes to be handled somewhat differently than other barges and display information in addition to the warning sign that described the unusual hazards and described how the crew or emergency personnel should treat spills or fires involving the cargoes. In a rulemaking that partly reorganized the regulations treating unusually hazardous cargoes, § 35.01-55 was removed from Part 35, but references to the section were erroneously left unchanged. This proposal would eliminate those references.

The Coast Guard believes that some of the information originally required for the carriage of unusually hazardous cargoes in § 35.01-55 would be useful to towboat crews and to any emergency personnel that had to deal with accidents involving barges carrying the flammable and combustible cargoes regulated by Parts 30-40. Consequently, the Coast Guard is proposing to add a new § 35.30-3 to Part 35. Section 35.30-3 would require that each towing vessel handling a barge that carries a flammable or combustible cargo carry a cargo information card. The cargo information card would contain emergency information regarding the cargo's appearance and odor, the hazards the cargo poses, instructions on safe handling of the cargo, and handling of the cargo in a fire or other emergency. The barge itself would be required to have a cargo information card posted on deck. This card would serve to show the contents of the barge in addition to describing the cargo's hazards. The watchman responsible for barges carrying liquefied gases or certain grade A cargoes under § 35.01-50 would also be required to have a cargo information card. During cargo transfer, the



person in charge of cargo transfer on a barge would have to ensure that a cargo information card for any flammable or combustible cargo on the barge was posted near the warning sign required by section 35.30-1(b).

Cards meeting the proposed requirements for cargo information cards are available at nominal cost from the Manufacturing Chemists' Association. Alternatively, any legible card meeting the requirements described in the proposed rule could be used.

In consideration of the foregoing, it is proposed that Parts 31 and 35 of Title 46 of the Code of Federal Regulations be amended as follows:

#### PART 31—INSPECTION AND CERTIFICATION

§§ 31.15-5 and 31.15-6 [Amended]

1. By deleting § 31.15-5(b).
2. In § 31.15-6(a), by striking the reference "§ 35.01-55" and inserting the reference "§ 35.01-50" in place thereof.

#### PART 35—OPERATIONS

§ 35.01-50 [Amended]

3. In § 35.01-50, by striking the reference "§ 35.01-55" in paragraph (f) and inserting the reference "§ 35.30-3" in place thereof, and by striking the words "and information cards as required by § 35.01-55" in paragraph (g).

§ 35.30-1 [Deleted]

4. By deleting § 35.30-1(d).

§ 35.35-1 [Amended]

5. In § 35.35-1(b), by striking the reference "§ 35.01-55" and inserting the reference "§ 35.01-50" in place thereof.
6. By adding a new § 35.30-3 to read as follows:

§ 35.30-3 Cargo information cards-B/ALL.

(a) *Required on tank barges.* (1) Each tank barge that is not gas free must have a cargo information card for each cargo on board that is listed in Table 30.25-1.

(2) The person in charge of a barge shall ensure that the cargo information card is mounted near the warning sign required by § 35.30-1(b) so that the card may be read by a person standing on the deck of the barge.

(b) *Required on towing vessels.* (1) Each towing vessel must have a cargo information card for each cargo in its tow that is listed in Table 30.25-1.

(2) The cargo information card must be carried in the pilothouse or in another accessible location on the towing vessel.

(c) *Description of the cargo information card.* Each cargo information card must be at least 17 cm x 24 cm (6.7 in. x 9.4 in.) and have the following information legibly printed on one side of the card:

(1) The name of the cargo, as listed in Table 30.25-1.

(2) A description of the appearance of the cargo.

(3) A description of the odor of the cargo.

(4) The hazards involved in handling the cargo.

(5) Instructions for safe handling of the cargo.

(6) The procedures to be followed if the cargo spills or leaks, or if a person is exposed to the cargo.

(7) A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.

(46 U.S.C. 170; 46 U.S.C. 391a; 49 U.S.C. 1655(b)(1); 49 CFR 1.46 (b) and (n)(4)).

Dated: March 16, 1979.

J. B. HAYES,

Admiral,

U.S. Coast Guard Commandant.

[FR Doc. 79-9626 Filed 3-28-79; 8:45 am]

[4910-14-M]

[46 CFR Part 157]

[CGD 77-062]

#### MANNING OF TOWING VESSELS

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Interpretative Rule.

SUMMARY: This document withdraws a proposed interpretative rule regarding the manning of uninspected towing vessels. The proposal is being withdrawn because the comments received indicate that further clarification of the statute is unnecessary and, indeed, might create more problems than it would resolve.

FOR FURTHER INFORMATION CONTACT:

Commander Scott McCowen, Office of Merchant Marine Safety (G-MVP/82), Room 8214, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-2240.

SUPPLEMENTARY INFORMATION:

#### DRAFTING INFORMATION

The principal persons involved in drafting this document are: Commander Scott McCowen, Project Manager, Office of Merchant Marine Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

#### DISCUSSION

In the September 14, 1978, issue of the FEDERAL REGISTER (43 FR 41178), the Coast Guard published a proposed interpretative rule (Docket No. CGD 77-062) regarding the application of manning statutes to uninspected towing vessels. Interested persons

were given until October 30, 1978 to comment on the proposal. On December 14, 1978, a supplemental notice was published in the FEDERAL REGISTER (43 FR 58394) extending the comment period until February 2, 1979, and announcing public hearings in Portland, Oregon, and Washington, D.C.

The majority of the comments received by mail, as well as those presented at the public hearings, indicate that the issues which the Coast Guard is seeking to clarify by the proposal are for the most part being carried out in the manner indicated in the proposal. Furthermore, the Coast Guard has concluded that publishing a rule regarding what constitutes work time versus rest time would create more problems than it would solve. In light of the foregoing, the Coast Guard has concluded that no useful purpose would be served by issuance of this proposed rule.

Accordingly, the proposal published in the FEDERAL REGISTER (43 FR 41178) on September 14, 1978, entitled "Manning of Towing Vessels" (CGD 77-062) is hereby withdrawn.

(46 U.S.C. 224a, 405(b), 872, 873; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).

Dated: March 16, 1979.

J. B. HAYES,

Admiral,

U.S. Coast Guard Commandant.

[FR Doc. 79-9631 Filed 3-28-79; 8:45 am]

[4910-60-M]

Materials Transportation Bureau

[49 CFR Part 193]

[Docket No. OPSO-46; Notice 41]

LNG Facilities; Federal Safety Standards Development of New Standards; Correction

AGENCY: Materials Transportation Bureau.

ACTION: Correction.

SUMMARY: This document corrects a notice of proposed rulemaking that appeared at page 8142 in the FEDERAL REGISTER of Thursday, February 8, 1979 (FR Doc. 79-4374).

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Walt Dennis (202) 426-2082.

The following corrections are made:

1. On page 8146, column (1), in the last line of the first paragraph, change the word "if" to "is".

2. On page 8147, column (3), in the seventh line of the first paragraph, change the word "in" to "is".

3. On page 8148, column (1), delete the sentence on the twelfth and thir-

teenth lines which reads "The suggested definitions of "LNG" and "LNG facility" are combined."

4. On page 8151, column (2), in the tenth line of the last paragraph, change the word "if" to "of".

5. On page 8153, column (1), starting at the seventh line of the second paragraph, change the words "probability of being exceeded 0.5 percent" to read "0.5 percent probability of being exceeded."

6. On page 8157, column (1), in the third line from the top delete the word "is".

7. On page 8159, column (1), starting in the eleventh line from the top, delete the incomplete sentence beginning with the words "A choice" and ending with the words "to mixing".

8. On page 8161, column (2), in the first line, add the words "a heat transfer medium such as" immediately after the words "indirectly by" and immediately before the words "steam, or".

9. On page 8164, column (2), in the fourteenth and twenty-second lines of the third paragraph, change the word "dye" to "die".

10. On page 8165, column (2), in line sixteen, add the word "may" immediately after the words "LNG tank" and immediately before the words "justifiably be based".

11. On page 8168, § 193.107(b), the symbol for flame tilt angle is corrected by changing "( )" to "(0)".

12. On page 8170, § 193.107(c)(1) is corrected by deleting the definition of "A" and replacing it with the following:

12. "A=Assumed emissive area of the flame surface in square feet, determined by multiplying the perimeter of the top of the impounding space times the calculated value of the flame length (L) and adding to this product, twice the area of the top of the impounding space."

13. On page 8170, § 193.109(d)(3) is corrected by adding the words "in seconds" immediately after the term "time (t)" and immediately before the words "required for". Also, in the same paragraph, the equation for calculating (t) is corrected to read as follows:

$$t = \frac{2A (h_1)^{0.5} - (h_2)^{0.5}}{ca (2g)^{0.5}}$$

14. On page 8175, § 193.433 is corrected by changing the word "of" to the word "or", immediately following the words "low temperature" and immediately before the words "fire resulting".

Issued in Washington, D.C., on March 26, 1979.

LUCIAN M. FURROW,  
Acting Associate Director for  
Pipeline Safety Regulation,  
Materials Transportation  
Bureau.

[FR Doc. 79-9729 Filed 3-28-79; 8:45 am]

[7035-01-M]

#### INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1039]

[Ex Parte No. 346 (Sub-No. 2)]

#### RAIL GENERAL EXEMPTION AUTHORITY- MISCELLANEOUS COMMODITIES

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Commission proposes to consider the following consolidated requests for an exemption under 49 U.S.C. § 10505 for the rail transportation of certain miscellaneous commodities not covered, by the fresh fruit and vegetable exemption in Ex Parte No. 346 (Sub-No. 1). The commodities are listed in the supplementary information.

DATES: Comments by interested persons must be filed with the Secretary of the Commission on or before May 29, 1979.

ADDRESSES: An original and 10 copies, if possible, of each submission should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Office of Proceedings/Section of Rates, Washington, D.C. 20423, (202) 275-7693 or 275-7656.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 346 (Sub-No. 1) *Rail General Exemption Authority-Fresh Fruits and Vegetables*, we exempted the rail transportation of fresh fruits and vegetables included in: STCC #01 2 Fresh Fruits and Tree Nuts, except 01 232 Bananas, 01 294 Cocoa beans, and 01 295 Coffee, green; and STCC #01 3 Fresh Vegetables, from the provisions of Subtitle IV of Title 49, with the exception of certain informational reporting and accounting requirements. There were requests in that proceeding to expand the commodity list. Accordingly, this proceeding was initiated to consider an exemption under 49 U.S.C. 10505 for the following commodities: 01 143 peanuts; 01 194 potatoes, sweet; 01 195 potatoes,



other than sweet; 01 232 bananas; 01 294 cocoa beans; 01 295 coffee, green; 01 916 mushrooms, fresh; and 09 1 fresh fish or other marine products.

The parties are requested specifically to address the following issues:

(1) Whether a complete exemption from regulation is warranted for these commodities, based on the criteria of section 10505;

(2) Whether a partial exemption from certain statutory provisions is preferable for any of these commodities;

(3) Whether any exemption should be nationwide in scope, or should exclude any geographic or product sub-markets;

(4) The particular effects on railroads, shippers, or distinct market areas of any exemption which excludes some geographic or product sub-markets.

Depending on the scope of the exemption sought, specific evidence should be produced that continued regulation (1) is not necessary to carry out the national transportation policy (2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) would serve little or no useful public purpose. It must be shown that the transactions or services to be exempted are limited in scope. Particular attention should be given, in the case of commodities whose transportation is not exempt by another mode, to the question of why continued regulation would be an unreasonable burden.

This decision does not significantly affect the quality of the human environment.

Dated: March 21, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9618 Filed 3-28-79; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

### DEPARTMENT OF AGRICULTURE

#### SISKIYOU NATIONAL FOREST

##### Forest Service

Chetco Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Chetco Ranger District, involving the control of competing vegetation on 3,445 acres of conifer plantations and roadside vegetation management on approximately 35 miles of Forest road, has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Chetco Ranger Station in Brookings, Oregon and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to all proposed treatment areas to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft

over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and no treatment will be conducted on the treatment areas for which it was selected.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out, and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.

[FR Doc. 79-9494 Filed 3-28-79; 8:45 am]

[3410-11-M]

#### SISKIYOU NATIONAL FOREST

Chetco Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Chetco Ranger District, involving the control of competing vegetation on 2,135 acres of conifer plantations and roadside vegetation management on approximately 78 miles of Forest road and an administrative study on prevention of resprouting of competing hardwoods on three study sites totaling approximately 5 acres has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Chetco Ranger Station in Brookings, Oregon and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 2,105 acres of conifer plantations and 78 miles of roadside, and manual cutting of hardwoods on 30 acres of conifer plantations to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wet-



land, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological effects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and no treatment will be conducted on the treatment areas of which it was selected.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out, and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.  
(FR Doc. 79-9495 Filed 3-28-79; 8:45 am)

#### [3410-11-M]

##### SISKIYOU NATIONAL FOREST

Galice Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Galice

Ranger District, involving the control of competing vegetation on 165 acres of conifer plantations and site preparation for planting conifers on 6 acres of forest land has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Josephine and Curry Counties, Oregon. The report is available for public review at the Galice Ranger Station in Grants Pass, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicides 2,4-D to 165 acres, and Dalapon plus Atrazine plus 2,4-D to 6 acres, to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological effects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treat-

ment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment area. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.  
(FR Doc. 79-9496 Filed 3-28-79; 8:45 am)

#### [3410-11-M]

##### SISKIYOU NATIONAL FOREST

Galice Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Galice Ranger District, involving the control of competing vegetation on 2,279 acres of conifer plantations and site preparation for planting conifers on 212 acres of forest land has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Josephine and Curry Counties, Oregon. The report is available for public review at the Galice Ranger Station in Grants Pass, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicides 2,4-D to 2,367 acres, Tordon to 53 acres, and

glyphosate to 56 acres, and manual cutting of hardwoods on 15 acres to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological effects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include

application measures to protect water quality and minimize drift from the treatment area. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.  
(FR Doc. 79-9497 Filed 3-28-79; 8:45 am)

#### [3410-11-M]

##### SISKIYOU NATIONAL FOREST

Gold Beach Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Gold Beach Ranger District, involving the control of competing vegetation on 1,861 acres of conifer plantations has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Gold Beach Ranger Station in Gold Beach, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 1,806 acres, and manual cutting of hardwoods on 61 acres of conifer plantations to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and con-

straints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological effects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provisions that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low drift additives. State and Federal water quality standards will be met. No action will be taken prior to 30 days from the date this Finding is published in the FEDERAL REGISTER.

The responsible Official William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1978.

DALE L. FARLEY,  
Acting Forest Supervisor.  
(FR Doc. 79-9498 Filed 3-28-79; 8:45 am)



[3410-11-M]

## SISKIYOU NATIONAL FOREST

Gold Beach Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Gold Beach Ranger District, involving the control of competing vegetation on 2,232 acres of conifer plantations has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised) for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Gold Beach Ranger Station in Gold Beach, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 2,223 acres, and manual cutting of hardwoods on 9 acres of conifer plantations to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological effects are limited to the treat-

ment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.

(FR Doc. 79-9499 Filed 3-28-79; 8:45 am)

[3410-11-M]

## SISKIYOU NATIONAL FOREST

Illinois Valley Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Illinois Valley Ranger District, involving the control of competing vegetation on 1,532 acres of conifer plantations and site preparation for planting conifers on 789 acres of forest land has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Jose-

phine County, Oregon, and Del Norte County, California. The report is available for public review at the Illinois Valley Ranger Station in Cave Junction, Oregon, the Siskiyou National Forest Office in Grants Pass, Oregon, and the Josephine County Library branch in Cave Junction, Oregon.

The proposed program includes application of the herbicides 2,4-D to 304 acres and glyphosate to 357 acres, and manual cutting of hardwoods on 1,660 acres to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. low-drift additive required adjacent to any buffer, 4. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 5. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered animals within affected areas; (e) physical and biological effects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treat-

ment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

ment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality, the environment, and threatened or endangered plants from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality, minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 22, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.

(FR Doc. 79-9500 Filed 3-28-79; 8:45 am)

[3410-11-M]

## SISKIYOU NATIONAL FOREST

Powers Ranger District Fiscal Year 1979 Vegetation Management Program; Finding of No Significant Impact

An Environment Assessment that discusses the Fiscal Year 1979 vegetation management program on the Powers Ranger District, involving the control of competing vegetation on 90 acres of conifer plantations, has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Coos and Curry Counties, Oregon. The report is available for public review at the Powers Ranger Station in Powers, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to all proposed treatment areas to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. low-drift additive required adjacent to any buffer, 4. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 5. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within effected areas; (e) physical and biological effects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment, that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State

and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting Forest Supervisor.

(FR Doc. 79-9501 Filed 3-28-79; 8:45 am)

[3410-11-M]

## SISKIYOU NATIONAL FOREST

Powers Ranger District Fiscal Year 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the fiscal year 1979 vegetation management program on the Powers Ranger District, involving the control of competing vegetation on 373 acres of conifer plantations, has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Coos and Curry Counties, Oregon. The report is available for public review at the Powers Ranger Station in Powers, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 307 acres, and manual cutting on 66 acres to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. low-drift additive required adjacent



to any buffer, 4. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 5. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm), 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,  
Acting.

[FR Doc. 79-9502 Filed 3-28-79; 8:45 am]

#### [3410-11-M]

##### BEAR-SLEDS, CHESNIMNUS AND JOSEPH RANGER DISTRICTS, WALLOWA-WHITMAN NATIONAL FOREST

###### Site Preparation for Reforestation Project; Finding of No Significant Effect

An Environmental Assessment Report that discusses the Site Preparation for Reforestation on the Bear-Sleds, Chesnimnus and Joseph Ranger Districts in Wallowa County, Oregon is available for public review at National Forest Headquarters for the Wallowa-Whitman National Forest, Federal Office Building, Baker, Oregon or the Chesnimnus-Joseph Ranger Station, Joseph, Oregon.

The Environmental Assessment Report does not indicate there will be any significant effect on the quality of the human environment. Therefore, it has been determined that an environmental statement is not needed.

The determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: 1) control of competing vegetation in reforestation areas; 2) no irreversible or irretrievable resource commitments or losses; 3) no known threatened or endangered plants or animals within the affected area; 4) satisfaction of the Forest Service objective to establish trees on areas requiring reforestation.

Use of Dalapon in accordance with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to thirty (30) days from date this finding is published in the FEDERAL REGISTER.

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814.

Dated: March 14, 1979.

TED YAROSH,  
Acting Forest Supervisor.  
[FR Doc. 79-9580 Filed 3-28-79; 8:45 am]

#### [3410-11-M]

##### CHESNIMNUS/JOSEPH RANGER DISTRICT; WALLOWA-WHITMAN NATIONAL FOREST

###### Noxious Weed Control Project; Finding of No Significant Effect

An Environmental Assessment Report that discusses the control of noxious weeds along 330 miles of Forest roads on the Chesnimnus and Joseph Ranger Districts in Wallowa

County, Oregon is available for public review at National Forest Headquarters for the Wallowa-Whitman National Forest, Federal Office Building, Baker, Oregon or the Chesnimnus-Joseph Ranger Station, Joseph, Oregon.

The Environmental Assessment Report does not indicate there will be any significant effect on the quality of the human environment. Therefore, it has been determined that an environmental statement is not needed.

The determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: 1) control of noxious weeds along roads through rangelands; 2) no irreversible or irretrievable resource commitments or losses; 3) no known threatened or endangered plants or animals within the affected area; 4) satisfaction of the Forest Service objective to control the spread of noxious weeds on rangelands.

Use of 2,4-D in accordance with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to thirty (30) days from date this finding is published in the FEDERAL REGISTER.

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814.

Dated: March 14, 1979.

TED YAROSH,  
Forest Supervisor.  
[FR Doc. 79-9581 Filed 3-28-79; 8:45 am]

#### [6320-01-M]

##### CIVIL AERONAUTICS BOARD

[Order 79-3-145; Docket 35121]

##### ALL AIR TAXI OPERATORS AND COMMUTER AIR CARRIERS

###### Order Granting Blanket Exemption

Issued under delegated authority March 22, 1979.

On October 24, 1978, the President signed into law the Airline Deregulation Act of 1978 (Pub. L. 95-504). The new law, among other things, amends section 416(b) of the Act by adding a new subsection (4) to provide an exemption from the certificate requirements of section 401(a) to air carriers operating aircraft having a maximum passenger capacity of fewer than 56 seats or a maximum payload capacity of less than 18,000 pounds. The amendment also permits the Board to exempt these carriers from other provisions of the Act and to subject the

carriers to such liability insurance requirements and other regulations as the Board may adopt in the public interest.

At present, Part 298 of the Board's Economic Regulations provides exemptions from all or portions of sections 401, 403, 404, 405, 407, 408, 409, and 412, for air taxi operators and commuter air carriers which operate aircraft in passenger service with a maximum seating capacity of 30 and in all-cargo service with a maximum payload capacity of 18,000 pounds. The new section 416(b)(4) exemption does not go that far, granting relief only from section 401(a), and the Board has not yet amended Part 298 to apply to aircraft in the 30 to 55 seat range.<sup>1</sup> Therefore, operators of aircraft in this size range must now either comply with the provisions of Title IV of the Act (with the exception of section 401(a)) or obtain individual exemptions from Part 298 in order to allow them to use these larger aircraft in their air taxi and commuter operations.<sup>2</sup>

Because Congress clearly intended, in enacting the Airline Deregulation Act, that air taxi operators and commuter air carriers be permitted to operate passenger service with up to 55 seat aircraft and cargo service with aircraft having a maximum payload capacity of 18,000 pounds, we shall grant a blanket exemption from Part 298 to these carriers to engage in such operations until such time as the Board takes final action on EDR-361.<sup>3</sup> In addition, we shall make this authority effective, with respect to any air taxi operator or commuter air carrier, only when that carrier has obtained all required authorizations from the Federal Aviation Administration to permit this type of operation.<sup>4</sup>

For the reasons described above, and acting under authority delegated by the Board in its Regulations, 14 CFR 385, we find that (1) enforcement of the provisions of Part 298 for these operations would not be consistent with the public interest; (2) our action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; (3) our action is not a major regulatory action within the

<sup>1</sup>In EDR-361, the Board has proposed to increase the capacity limits of Part 298 to 60 seats/18,000 pounds for all operations.

<sup>2</sup>See Order 78-12-127, dated December 19, 1978, in which we granted six air taxi/commuter exemptions to operate under the terms of the Deregulation Act.

<sup>3</sup>The Board plans to take final action on this rulemaking in the near future.

<sup>4</sup>We are not imposing on this interim authority the consumer protection requirements proposed in EDR-361. Rather, the Board will, in taking final action on the rulemaking, resolve the issue of the need for these requirements.

meaning of the Energy Policy and Conservation Act of 1975;<sup>5</sup> and (4) our action is not a hardship which qualifies the carriers involved for additional fuel allocation under the Mandatory Aviation Fuel Allocation Program administered by the Department of Energy.

Accordingly,

1. We exempt all air taxi operators and commuter air carriers from Part 298 of the Board's Economic Regulations to the extent necessary to permit them to operate passenger service with aircraft having a maximum seating capacity of 55 and cargo service with aircraft having a maximum payload capacity of 18,000 pounds;

2. In the conduct of these operations, these carriers are subject to all of the provisions of Part 298 of the Economic Regulations (including the requirement to register with the Board, obtain insurance for their aircraft, and file evidence of such insurance with the Board before commencing operations);

3. We shall make this authority effective only if each carrier involved first secures and maintains from the FAA all required authorizations for the aircraft and operations contemplated;

4. We shall grant this authority for a period terminating upon final Board action on EDR-361; and

5. At its discretion, the Board may amend, modify, or revoke this order at any time and without hearing.

Persons entitled to petition the Board for review of this order under the Board's Regulations, 14 CFR 385.50, may file their petitions within 10 days after the date of service of this order.

This order shall be effective immediately and the filing of a petition for review shall not preclude such effectiveness.

PHYLLIS T. KAYLOR,  
Secretary.  
[FR Doc. 79-9605 Filed 3-28-79; 8:45 am]

#### [6320-01-M]

[Docket 33136]

##### NORTH CENTRAL-SOUTHERN MERGER CASE

###### Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on April 18, 1979, at 10:00 a.m. (local time), in

<sup>5</sup>Our action here is merely implementing a previous action taken by Congress, i.e., to allow air taxi/commuters to use larger aircraft. For this reason, our action is not a major action under either the National Environmental Policy Act or the Energy Policy and Conservation Act.

Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before April 11, 1979, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., March 27, 1979.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9604 Filed 3-28-79; 8:45 am]

#### [3510-07-M]

##### DEPARTMENT OF COMMERCE

###### Bureau of the Census

##### 1977 CENSUS OF MANUFACTURES SUPPLEMENTAL INQUIRY OF CONSUMPTION OF MATERIALS, PARTS, CONTAINERS, AND SUPPLIES

###### Notice of Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct, as part of the 1977 Census of Manufactures, a sample survey requesting supplementary information on materials consumed under authority of title 13, United States Code, sections 193 and 225. This survey will provide basic statistical data needed by the Bureau of Economic Analysis, Department of Commerce, to prepare the input-output tables that provide the benchmark for the gross national product estimates.

The Bureau of the Census presently collects data once every 5 years on the materials consumed by manufacturing establishments in its census of manufacturers program. However, the industries covered in this supplement inquiry are characterized by the Bureau of Economic Analysis as being substantially undercovered in terms of the reporting of the consumption of specific materials on the 1977 Census of Manufactures report forms. There are no other sources for this kind of consumption information.

This survey shall begin not earlier than April 30, 1979.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this survey should be submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication to receive consideration.



Dated: March 26, 1979.

MANUEL D. PLOTKIN,  
Director,  
Bureau of the Census.

[FR Doc. 79-9597 Filed 3-28-79; 8:45 am]

## [3510-07-M]

**1978 SURVEY OF THE CONSUMPTION OF SELECTED HYDROCARBON RAW MATERIALS BY MANUFACTURERS**

**Notice of Consideration**

Notice is hereby given that the Bureau of the Census is planning to initiate a new survey on hydrocarbon raw material consumption for the year 1978 and for each year thereafter, under authority of title 13, United States Code, sections 182, 224, and 225. The data collected in this survey will provide information on the consumption of selected hydrocarbons. This information is timely and important in the consideration of energy supply and usage. Comprehensive raw material consumption data are not currently available for chemical plants, blast furnaces or refineries.

The Bureau of the Census presently collects a limited amount of hydrocarbon raw material consumption data once every 5 years in the census of manufactures, but it is too general for many types of analysis. The new survey will involve report forms specifically designed for chemical plants, blast furnaces, and refineries. Inquiries concerning selected hydrocarbon raw material consumption, produced and consumed fuels, fuel oil stocks, and coal and coke stocks, appear on the forms as applicable. The few detailed items that have been collected previously in the census of manufactures are included among the new items. The responses to the inquiries should provide much more detailed results than before regarding the consumption of fuels for nonenergy purposes. These data will be used as a supplement to the data on fuels used for heat and power that are collected in the annual survey of manufactures, Form MA-100. The statistical aggregates developed from this survey will be used as an aid in policy development by the Department of Energy and as an indicator of economic activity.

This survey shall begin not earlier than April 30, 1979.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this survey should be submitted in writing to the Director of the Bureau of the Census on or before April 30, 1979, to receive consideration.

Dated: March 26, 1979.

MANUEL D. PLOTKIN,  
Director,  
Bureau of the Census.

[FR Doc. 79-9596 Filed 3-28-79; 8:45 am]

## [3510-17-M]

(Dept. Organization Order 30-2B, Amdt. 3)

**National Bureau of Standards**

**STATEMENT OF ORGANIZATION, FUNCTIONS AND DELEGATION OF AUTHORITY**

This order effective February 9, 1979 further amends the material appearing at 43 FR 15473 of April 13, 1978, 43 FR 43534 of September 26, 1978, and 44 FR 6976 of February 5, 1979.

Department Organization Order 30-2B dated March 8, 1978, is hereby further amended as shown below. The purpose of this amendment is to (1) abolish Centers as organizational entities reporting to the Director of Administrative and Information Systems, and (2) realign the organizational grouping of divisions to allow more efficient supervision of their operations.

1. Section 6. is revised to read as follows:

**"SECTION 6. OFFICE OF THE DIRECTOR OF ADMINISTRATIVE AND INFORMATION SYSTEMS.**

"The Office of the Director of Administrative and Information Systems shall manage and operate Bureau-wide information and administrative systems; shall establish the related policies and plans, and implement these systems, ensuring maximum responsiveness to the needs of NBS technical programs.

".01 Under the direction of the Deputy Director for Information Systems, information functions shall be carried out by the following divisions:

"a. The *Computing Systems Design Division* shall design, program, implement, and maintain the automated administrative information system; provide consulting, advisory, training, and user-communication services on computing and information processing; serve as a central point for automated information needs by technical and administrative staff members; initiate developmental and experimental projects to evaluate and implement new hardware and software systems; and identify the need for and the implement improvements in central computer resources such as data base management systems, computer graphics, and text handling facilities.

"b. The *Library Division* shall furnish full bibliographic, document, information, and information referral services to the staff of the Bureau; provide consulting and training services for computerized information search and retrieval systems; initiate experimental projects to evaluate ap-

plications of new information storage, transmission, and retrieval technologies to the library's operations and services; participate in library and information networking and consortia activities in order to facilitate resource sharing among area and regional libraries; carry out the Bureau's library services and related information retrieval functions using both traditional and computerized information resources and methods; provide limited reference, loan, information, and training services to members of the outside scientific and academic communities.

"c. The *Technical Information and Publications Division* shall carry out the overall planning and management of the NBS publications program, including: NBS policy, editorial, and procedural guidelines, publication budgeting, publication editing, design, and production, research and development on advance electronic typesetting technologies and their adaptation to NBS use, computer automation of publication statistics, and the distribution and archiving of all publications that record results of NBS scientific and technical research; coordinate technical and policy review of manuscripts prepared at Gaithersburg for publication; provide secretariat for the Washington Editorial Review Board; and serve as the central information center for users of the Bureau's outputs.

"d. The *Computer Services Division* shall provide computing and information processing services to NBS and other agencies on a reimbursable basis, together with the supporting technical services, as required, to maintain an effective and responsive central computer facility.

"e. The *Public Information Division* shall serve as the focal point of Bureau communications with the public through interaction with the print and broadcast media, and by means of conferences, tours, and exhibits; advise on the public affairs impact and ramifications of program decisions; and coordinate handling and dissemination of information for the public.

"f. The *Management and Organization Division* shall provide consultative services to line management in organization, procedures, and management practices; maintain the directives system; perform reports management and committee management functions; and serve as liaison with the Departmental Office of Procurement and ADP Management.

".02 Under the direction of the Deputy Director for Administrative Systems, administrative functions shall be carried out by the following divisions:

"a. The *Plant Division* shall be responsible for the design, construction, alterations, and maintenance of all buildings, structures, roads, grounds, and utilities systems for NBS-Gaithersburg; manage all Bureau-owned and leased real property; operate and maintain the central steam and chilled water generation plant at NBS-Gaithersburg; provide administration and field inspection on all physical plant and construction, alteration, and repair contracts; manage space planning and utilization; and coordinate the energy conservation program for the NBS-Gaithersburg site.

"b. The *Instrument Shops Division* shall design, fabricate, modify, and repair scientific instruments, apparatus, and equipment to meet the requirements of the Bureau's research, developmental work, and other agency work; provide engineering design and drafting, machining, finishing, welding, optical, glassblowing, and electronic fabricating services; and coordinate advisory service to the Statutory Import Programs Staff (ITA) on Scientific Equivalency of Instruments (Florence Agreement).

"c. The *Facilities Services Division* shall provide physical security protection, fire protection, ambulance service, building, laboratory, and office cleaning for the NBS-Gaithersburg site; maintain property records; arrange for the transportation of materials and household moves; operate NBS storerooms; distribute and store Standard Reference Materials; provide audio-visual and conference facilities, mail, messenger, telecommunications, and warehouse services; and manage the NBS motor vehicle fleet.

"d. The *Occupational Health and Safety Division* shall administer the Bureau's occupational safety/health (OSH) program; provide radiation protection services to Bureau users of ionizing and nonionizing radiation sources and lasers; conduct educational and preventive health programs for the staff; provide treatment of minor ailments and injuries with initial treatment and referral of emergencies of a more serious nature; carry out the NBS workman's compensation program; provide technical direction on safety matters to the NBS fire protection unit; and conduct medical surveillance as determined by Occupational Safety and Health Administration (OSHA) standards.

"e. The *Personnel Division* shall advise on personnel policy and utilization; administer recruitment, placement, classification, employee development, employee relations, labor relations, and special programs activities; advise and assist operating officials and employees on these and other aspects of personnel management; and process employee security clearances.

"f. The *Office Management Division* shall, within the limitations on procurement authority spelled out in pertinent Department Orders, procure materials/services, prepare awards and administer grants, cooperative agreements, and contracts; arrange for repair of office machines and equipment; provide visual arts, quick copy, and printing services; conduct records and forms management programs; operate NBS records holding area; insure safeguarding of classified records materials; manage the WAE/Clerical Staffing Program; and provide office support for organizations reporting to the Office of the Director of Administrative and Information Systems and for other organizational units in the Bureau who request the service."

2. The organization chart attached to this amendment supersedes the chart dated January 8, 1979. A copy of the organization chart is on file with the original of this document in the Office of the FEDERAL REGISTER.

Effective date: February 9, 1979.

GUY W. CHAMBERLIN, JR.,  
Acting Assistant Secretary  
for Administration.

[FR Doc. 79-9542 Filed 3-28-79; 8:45 am]

## [3510-04-M]

**National Technical Information Service**

**GOVERNMENT-OWNED INVENTIONS**

**Availability for Licensing**

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,  
Patent Program Coordinator,  
National Technical Information Service.

CHIEF, INTELLECTUAL PROP. DIVISION,  
OTJAG, DEPARTMENT OF THE ARMY,  
ROOM 2D 444, PENTAGON, WASHINGTON,  
D.C. 20310.

Patent application 773,563: Printed Circuit Traveling Wave Tube. Filed Mar. 2, 1977.  
Patent application 895,421: High Voltage Nanosecond Pulser Using a Repetitive Series Interrupter. Filed Apr. 12, 1978.

Patent application 907,648: Short Circuit Protection of Regulated Power Supplies. Filed May 22, 1978.

Patent application 931,638: Analog-to-Digital Integrated Converter. Filed Aug. 7, 1978.

Patent application 932,729: Body Armor for Women. Filed Aug. 10, 1978.

Patent application 936,447: Sintered Polycrystalline Nitrogen Stabilized Cubic Aluminum Oxide Material. Filed Aug. 24, 1978.

Patent 4,083,048: Time Alignment Error Sensor System for Range Tracking. Filed Dec. 20, 1976; patented Apr. 4, 1978; not available NTIS.

Patent 4,085,319: Spatial-Multiplex, Spatial-Diversity Optical Communication Scheme. Filed Feb. 1, 1977; patented Apr. 18, 1978; not available NTIS.

Patent 4,087,750: Receiver for Detecting and Analyzing Amplitude or Angle Modulated Waves in the Presence of Interference. Filed May 23, 1968; patented May 2, 1978; not available NTIS.

Patent 4,096,283: Method of Compacting Freeze-Dried Particulate Foods. Filed Nov. 8, 1976; patented June 20, 1978; not available NTIS.

Patent 4,097,868: Antenna for Combined Surveillance and Foliage Penetration Radar. Filed Dec. 6, 1976; patented June 27, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, ASSISTANT CHIEF FOR PATENTS, OFFICE OF NAVAL RESEARCH, CODE C-302, ARLINGTON, VA. 22217.

Patent application 946,003: Chemical Agent Injection System for Fire Fighting Equipment. Filed Sept. 27, 1978.

Patent application 947,379: Adiabatic Laser Calorimeter. Filed Oct. 2, 1978.

Patent application 954,031: Alkanediamide-Linked Polyphthalocyanines Coordinated with SnCl<sub>2</sub>. Filed Oct. 23, 1978.

Patent application 954,377: An Improved Electrically Excited Mercury Halide Laser. Filed Oct. 24, 1978.

Patent 4,092,627: Calibration Circuit for Expandable Sonobuoys. Filed Dec. 30, 1976; patented May 30, 1978; not available NTIS.

Patent 4,103,849: Catapult Restraint/Release System. Filed Sept. 15, 1977; patented Aug. 1, 1978; not available NTIS.

Patent 4,106,875: Explosively-Separated Tongue and Groove Joint. Filed Sept. 23, 1977; patented Aug. 15, 1978; not available NTIS.

NATIONAL AERONAUTICS & SPACE ADMINISTRATION, ASSISTANT GENERAL COUNSEL FOR PATENT MATTERS, NASA CODE GP-2, WASHINGTON, D.C. 20546.



Patent application 945,043: Time Delay and Integration Detectors Using Charge Transfer Devices. Filed Sept. 22, 1978.

Patent application 961,831: Portable Appliance Security Apparatus. Filed Nov. 17, 1978.

Patent application 966,549: A System for Concurrently Delivering a Stream of Powdered Fuel and a Stream of Powdered Oxidizer to a Combustion Chamber for a Reaction Motor. Filed Dec. 5, 1978.

Patent 4,106,218: Simulator Method and Apparatus for Practicing the Mating of an Observer-Controlled Object with a Target. Filed Feb. 25, 1977; patented Aug. 15, 1978; not available NTIS.

Patent 4,106,687: Totally Confined Explosive Welding. Filed Sept. 10, 1973; patented Aug. 15, 1978; not available NTIS.

Patent 4,107,627: Stabilization of He<sup>2+</sup> A 3 sigma U+) Molecules in Liquid Helium by Optical Pumping for Vacuum UV Laser. Filed Mar. 29, 1977; patented Aug. 15, 1978; not available NTIS.

Patent 4,107,919: Heat Exchanger. Filed Mar. 19, 1975; patented Aug. 22, 1978; not available NTIS.

Patent 4,108,241: Heat Exchanger and Method of Making. Filed Mar. 19, 1975; patented Aug. 22, 1978; not available NTIS.

Patent 4,122,454: Conical Scan Tracking System Employing a Large Antenna. Filed July 25, 1977; patented Oct. 24, 1978; not available NTIS.

[FR Doc. 79-9492 Filed 3-28-79; 8:45 am]

### [3510-17-M]

Office of the Secretary

[Dept. Organization Order 10-10, Amdt. 1]

#### ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION

#### Statement of Organization and Functions and Delegation of Authority

This order effective March 15, 1979 amends the material appearing at 43 FR 24348 of June 5, 1978.

Department Organization Order 10-10, dated May 9, 1978, is hereby amended as shown below. The purpose of this amendment is to delegate the authority to administer certain portions of the Public Telecommunications Act of 1978.

In Section 5. DELEGATION OF AUTHORITY: A new subparagraph 5.01d. is added to read as follows:

"d. 47 U.S.C. sections 390-394, which relate to the implementation and administration of Title I of the Public Telecommunications Financing Act of 1978 (Pub. L. 95-567 of November 2, 1978)."

Effective date: March 15, 1979.

GUY W. CHAMBERLIN, Jr.,  
Acting Assistant Secretary  
for Administration.

[FR Doc. 79-9541 Filed 3-28-79; 8:45 am]

### [3125-01-M]

#### COUNCIL ON ENVIRONMENTAL QUALITY

#### ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

Executive Order 12144; Implementing and Explanatory Documents

MARCH 21, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Implementing Documents Concerning Executive Order 12114.

SUMMARY: On January 4, 1979, the President signed Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957 (Jan. 9, 1979)). The Council has received numerous requests for the implementing and explanatory documents. In order efficiently to respond to such public requests, the relevant documents are reprinted in this issue of the FEDERAL REGISTER. They include: (1) Memorandum for Heads of Agencies With International Activities, from Charles Warren, Chairman, Council on Environmental Quality, and Thomas R. Pickering, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (February 27, 1979), and (2) White House Fact Sheet, Executive Order on Environmental and Scientific Effects Abroad (January 5, 1979).

#### FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C.; 202-395-5750.

NICHOLAS C. YOST,  
General Counsel.

FEBRUARY 27, 1979.

#### MEMORANDUM FOR HEADS OF AGENCIES WITH INTERNATIONAL ACTIVITIES

From: Charles Warren, Chairman, Council on Environmental Quality; Thomas R. Pickering, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Subject: Implementation of Executive Order 12114.

On January 4, 1979, President Carter signed Executive Order 12114, entitled Environmental Effects Abroad of Major Federal Actions. The purpose of this memorandum is to initiate the consultation process required by this Executive Order.

Section 2-1 of the Order provides that every Federal agency taking major federal actions encompassed by and not exempted from the Order,

which have significant effects on the environment outside the geographical borders of the United States, its territories and possessions, shall within 8 months after January 4, 1979, have in effect procedures for implementing the Order. This Section requires agencies to consult with the Department of State and the Council on Environmental Quality concerning their implementing procedures before placing them in effect.

Categories of federal activities or programs encompassed by the Order are listed below. The Executive Order defines the activities or programs as those which significantly harm the natural and physical environment even though on balance the agency believes the action to be beneficial to the environment.

1. Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation. This category includes major federal actions significantly affecting Antarctica, and the oceans and weather and stratospheric conditions in areas outside the jurisdiction of any nation. Section 2-3(a).

2. Major Federal actions significantly affecting the environment of a foreign nation which is not participating with the United States in the activity and which is not otherwise involved in the action. This would include, *inter alia*, planning, financing, programming or implementing the action. Section 2-3(b).

3. Major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(a) A product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk. Attached to this memorandum is an illustrative list showing the kinds of products, emissions or effluents which are covered by the Order and those that are not. Section 2-3(c)(1).

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances except for actions exempted by Section 2-5(a)(v). This category includes nuclear reactors and nuclear waste management facilities, and excludes nuclear fuel. The Department of State will act as lead agency for conducting environmental reviews for this category of actions. Section 2-3(c)(2).

4. Major Federal action outside the United States, its territories and possessions significantly affecting natural or ecological resources of global importance that are designated for protec-

tion by the President or, in the case of such a resource protected by international agreement binding on the United States by the Secretary of State. There have been no designations by the President or the Secretary of State as yet. Any agency making a recommendation to the President under Section 2-3(d) shall first consult with the Council on Environmental Quality and the Department of State. Agencies will be promptly advised of any designations made by the President and the Secretary of State under Section 2-3(d).

The State Department and the Council on Environmental Quality will be available to assist agencies in preparing their implementing procedures. Questions should be directed to: Foster Knight, 395-4616, Council on Environmental Quality; William H. Mansfield, 632-2418, Department of State.

It would be helpful in planning the consultations under the Executive Order if agencies would inform the Department of State and the Council on Environmental Quality as soon as feasible if they determine their authorities, programs, and activities are not encompassed by the Order.

#### ILLUSTRATIVE LIST<sup>1</sup> for Determining Compliance With Section 2-3(c)(1) OF EXECUTIVE ORDER 12114

1. The following is an illustrative list of the products, emissions, and effluents encompassed by Section 2-3(c)(1): asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, pesticides, mercury, beryllium, arsenic, cadmium, and benzene.

2. The following is an illustrative list of the products, emissions and effluents not encompassed by Section 2-3(c)(1): chlorine, caustic soda, ammonia, sulphuric acid, phosphoric acid, nitric acid, sulfur dioxide, nitrogen oxides, and sulfate and sulfite liquors. [For Immediate Release, January 5, 1979]

#### Office of the White House Press Secretary

#### WHITE HOUSE FACT SHEET—EXECUTIVE ORDER ON ENVIRONMENTAL EFFECTS ABROAD

Better understanding of the effects which U.S. actions may have on the world's environment is important both for the nation's welfare and for the welfare of present and future generations of mankind. The President has signed an Executive Order which will help to carry out his Administration's strong commitment to global environmental protection through environmental review of U.S. actions affecting the rest of the world.

This Executive Order establishes for the first time government wide procedures for review of environmental effects abroad of

<sup>1</sup>These illustrative lists are non-inclusive, for guidance in complying with Section 2-3(c)(1) of E.O. 12114. At the request of the White House these lists were prepared and agreed on by the Council on Environmental Quality and the Export-Import Bank.

major federal actions. The Order reconciles competing but legitimate goals of environmental protection and those of foreign and export policy and national security. The Order is based on my independent Constitutional authority, and also furthers the purpose of the National Environmental Policy Act and other environmental laws.

There is growing concern that governments are undertaking major actions without enough consideration of the environmental consequences. The unintended results may be to endanger health, safety, and the human environment. Under this Executive Order, federal agencies taking certain kinds of actions which may have significant environmental effects abroad will now establish procedures for taking these effects into consideration before taking action. When appropriate, agencies will make this information available to affected foreign nations.

At the same time, consideration of environmental impacts abroad bears on important foreign, economic and national security policy goals and interests. The Order is designed to minimize any adverse effects upon U.S. exports and to further the Administration's nuclear non-proliferation, national security and other foreign policy objectives.

The Executive Order applies to all federal agencies with activities outside the United States. Within eight months these agencies are to put into effect procedures for implementing the Order. The Council on Environmental Quality and the Department of State will work with agencies in preparing their implementing procedures, and will remain available to provide any advice or information that agencies may request to help them review environmental effects of their actions.

#### TYPES OF FEDERAL ACTIONS COVERED BY THE ORDER

For the global commons (such as oceans or Antarctica), the Order provides that environmental impact statements will be prepared for all major federal actions having significant environmental effects.

For foreign countries when their environments are significantly affected by major federal actions, agency procedures are to provide for the preparation of environmental review documents in the following situations:

—When the foreign nation affected is not participating with the United States and is not otherwise involved in the project (for example, a U.S.-financed dam in one country that cuts off water to another "innocent bystander" country);

—When the federal action provides a facility which is prohibited or strictly regulated in the United States to protect against radioactive hazards (for example, U.S. exports of nuclear reactors);

—When the federal action provides products or facilities whose principal products, emissions or effluents are prohibited or strictly regulated in the United States because their toxic effects on the environment create a serious public health risk. To clarify the kinds of products and discharges in this category, the President has directed the Export-Import Bank and the Council on Environmental Quality to prepare illustrative lists;

—When the federal action significantly affects natural or ecological resources of global importance that may in the future be designated by the President, or, in the case

of resources protected by International agreement, by the Secretary of State.

Where the environmental effects of federal actions are within foreign countries, agencies have flexibility under the Executive Order to prepare either concise environmental reviews of the issues involved, or to undertake bilateral or multilateral environmental studies. Environmental Impact Statements will not be required in these circumstances. The Order does not limit agencies from providing in their procedures for measures in addition to the government-wide requirements in the Order to further the purpose of the National Environmental Policy Act and other environmental laws.

The Order provides agencies with flexibility in developing their procedures. Certain kinds of actions or categories of actions are exempted by the Order altogether. Agencies will also be able to provide for categorical exclusions. Thus, for example, Eximbank may exclude its Exporter Credits, Guarantee and Insurance Program from the procedures that it establishes to implement the Order. The Order also allows agencies to modify their procedures for individual actions to take account of certain important national interests and considerations which are specified in the Order. These decisions will be made by each agency for its own actions. In addition, agencies may provide for other exemptions to meet emergency circumstances or situations involving exceptional foreign policy or national security sensitivities.

The Executive Order clarifies the kinds of environmental reviews required for U.S. actions abroad, and removes uncertainties faced by the agencies and exporters. The Order states that it is not to be construed to create a cause of action. A minor fraction of the dollar volume of U.S. exports will require environmental reviews under this Order. The Order's procedures define and focus on those export actions which should receive special scrutiny because of their serious impacts on the environment and public health.

Nuclear reactors are subject to the environmental review requirements of the Order, but exports of nuclear fuel are not. The President has designated the Department of State as the lead agency to work with other relevant agencies to develop unified procedures for environmental reviews of nuclear exports covered by the Order. These procedures will provide for consideration of environmental issues without impairing U.S. reliability as a nuclear supplier.

This Executive Order supplements the United States efforts to promote international measures to protect the environment. Very recently, Secretary Vance signed the new Great Lakes Water Quality Agreement with Canada—a major element in our continuing cooperation with Canada in environmental protection. Earlier this year, in response to an administration initiative, the major shipping nations undertook stringent new obligations in the protection of the marine environment from oil pollution. The treaty embodying these obligations has been forwarded to the Senate for its action. We have made similar efforts—and progress—in the draft law of the sea treaty. In negotiations now under way, the United States has been pressing strongly for protection of porpoises by all countries involved in Pacific tuna fishing. We are currently working on a number of other international programs in the environmental area, such as



transboundary pollution with Canada and the European states, prevention of desertification with Mexico and implementation of Senate Resolution 49. International cooperation in environmental protection has proved increasingly effective, and the United States intends to continue its strong role in this sphere.

[FR Doc. 79-9493 Filed 3-28-79; 8:45 am]

### [3710-GC-M]

#### DEPARTMENT OF DEFENSE

##### Army Corps of Engineers

#### PROPOSED SECOND POWERHOUSE AT McNARY LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON

##### Intent to Prepare a Draft Supplement to the Final Environmental Impact Statement

The proposed action is the construction and operation of an additional 742 megawatts of generating capacity at McNary Dam. Other features of the proposal include construction of visitor facilities, subimpoundments, levee beautification, and incorporation of water supply facilities into the powerhouse for future use.

Alternatives for additional generating capacity include: No action, thermal power plants, combustion turbines, and pumped storage. Alternatives for the second powerhouse include various plant sizes, locations, and alignments.

A final EIS for a 1,200-MW second powerhouse was filed with the Council on Environmental Quality on February 14, 1977. The purpose of the Draft Supplement is to discuss modifications of the original proposal and new or altered environmental effects. Socioeconomic aspects of construction and effects of aquatic disposal of dredged and fill material will be included.

Coordination with appropriate Federal, state, and local agencies and organizations was begun in December 1973 and has been achieved through information brochures, public meetings, workshops, and informal meetings. The most recent public meetings were held in Richland, Washington, and Hermiston, Oregon, on October 3 and 4, 1978 respectively.

Coordination with the Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act and the Endangered Species Act has been undertaken.

The Draft Supplement is scheduled to be available to the public about May 31, 1979.

Questions about the proposed action and Draft Supplement can be answered by: Witt Anderson, Walla Walla District, Corps of Engineers, Bldg. 603, City-County Airport, Walla Walla, Washington 99362.

### NOTICES

Dated: March 20, 1979.

R. T. PHARES,  
Executive Assistant.

[FR Doc. 79-9491 Filed 3-28-79; 8:45 am]

### [3710-GW-M]

#### NORTH DAKOTA

##### Application

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Amerada Hess Corporation has applied for a fuel-carrying pipeline right-of-way in, through, and across the following U.S. Government-owned lands, said lands being a part of Lake Sakakawea Project, North Dakota:

McKENZIE COUNTY, NORTH DAKOTA

T 154 N, R 95 W  
Sec. 33.

The pipeline, in its entirety, will convey gas from a compressor site to an AHC-USA-YTTREDAHL Unit, a distance of approximately 1,500 feet.

The purpose of this notice is to inform the public that the Corps of Engineers will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Those persons who desire to make comments or objections should state their views in detail and send them to the District Engineer, Omaha District, Corps of Engineers, 6014 U.S. Post Office & Courthouse, Omaha, Nebraska 68102, on or before April 30, 1979.

JAMES W. RAY,  
Colonel, Corps of Engineers,  
District Engineer.

[FR Doc. 79-9582 Filed 3-28-79; 8:45 am]

### [3710-08-M]

#### Department of the Army

#### U.S. ARMY MEDICAL RESEARCH AND DEVELOPMENT ADVISORY PANEL, AD HOC STUDY GROUP ON VIRAL AND RICKETTSIAL DISEASES

##### Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Viral and Rickettsial Diseases.  
Date of meeting: April 17 and 18, 1979.  
Time: 0830 hours.  
Place: Room 3092, Walter Reed Army Institute of Research.

Proposed agenda: This meeting will be open to the public on April 17, 1979, from 0830 hours to 0915 hours to discuss the scientific research program of the Viral and Rickettsial Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 5526(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 17, 1979, from 0915 hours to adjournment, and on April 18, 1979, from 0830 to 1200 hours for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576-3061) will furnish summary minutes, roster of Committee members, and substantive program information.

By authority of the Secretary of the Army.

ROME D. SMYTH,  
Colonel, U.S. Army, Director, Administration Management, TAGCEN.

[FR Doc. 79-9544 Filed 3-28-79; 8:45 am]

### [3810-71-M]

#### Department of the Navy

##### DATA INDUSTRIES, INC.

##### Intent to Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of Title 32, Code of Federal Regulations, (41 FR 55711-55714, December 22, 1976) the Department of the Navy announces its intention to grant to Data Industries, Inc., a corporation of the State of Rhode Island, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 3,693,440, issued September 26, 1972, entitled "Electromagnetic Flowmeter," inventor Jack R. Olson.

This license will be granted unless on or before May 29, 1979 an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217, and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of

Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 on or before May 29, 1979. Also, copies of the patent application may be obtained for fifty cents (\$0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. (202) 696-4005.

Dated: March 22, 1979.

P. B. WALKER,  
Captain, JAGC, U.S. Navy,  
Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-9583 Filed 3-28-79; 8:45 am]

### [3810-71-M]

#### NAVAL DISCHARGE REVIEW SYSTEM

##### Notice of Hearing Locations; Correction

In FR Doc. 79-7181, appearing at pages 15756-57 in the FEDERAL REGISTER of March 15, 1979, the telephone number of Captain John G. Shaw, U.S. Navy, Executive Secretary, Naval Discharge Review Board, is corrected to read: 202-696-4881.

Dated: March 23, 1979.

P. B. WALKER,  
Captain, JAGC, U.S. Navy,  
Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-9584 Filed 3-28-79; 8:45 am]

### [3810-70-M]

#### Office of the Secretary

#### DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

##### Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92-463, as amended by Section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Friday, 27 April, 1979, Pomponio Plaza, Rosslyn, VA.

### NOTICES

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1). Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the intelligence data base required for intelligence assessments.

H. E. LOFDAHL,  
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 23, 1979.

[FR Doc. 79-9513 Filed 3-28-79; 8:45 am]

### [6450-01-M]

#### DEPARTMENT OF ENERGY

#### NOTICE OF REQUESTS FOR INTERPRETATION FILED WITH THE OFFICE OF GENERAL COUNSEL

##### Month of February 1979

Notice is hereby given that during the month of February 1979, the Requests for Interpretation listed in the Appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the Requests for Interpretation listed herein are on file in and should be obtained from the DOE's Public Reading Room, Information Access Office, Room GA-152, For-

restal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-5968.

The statement of issue that follows each Request for Interpretation listed in the Appendix is not intended to be definitive or final. Rather, the issue statement should be regarded as the initial restatement by the DOE of the question that appears to have been presented for resolution. The issue may, of course, be refined and modified during the interpretative process.

Interested parties may submit written comments on the listed interpretation requests on or before April 30, 1979. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 1111, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue, NW., Room 1111, Washington, D.C. 20461, 202-633-9070.

Dated: MARCH 22, 1979.

EVERARD A. MARSEGLIA, JR.,  
Assistant General Counsel for Interpretations and Rulings,  
Office of General Counsel.

#### APPENDIX.—LIST OF REQUESTS FOR INTERPRETATION RECEIVED BY THE OFFICE OF GENERAL COUNSEL

(Month of February 1979)

| Date received | Name and location of Requestor  | File No. |
|---------------|---|----------|
| 2/5/79.....   | Winnie Pipeline Company, G. Edward Ellison, Vinson & Elkins, First City National Bank Building, Houston, Texas 77002.<br>Issue: May a natural gas processor compute its maximum lawful selling prices for NGL's by utilizing the increased product costs attributable solely to the natural gas stream from which the products were removed, or must the processor aggregate these costs with the costs of products derived from other processing plants? (10 CFR 212.163, 212.168, and 212.111). | A-381    |
| 2/8/79.....   | Century Oil Management, Inc., Richard C. Russell, 1538 North Century Boulevard, Santa Ana, California 92703.<br>Issue: Are sales of crude oil by an operator of a lease, which purchases crude oil from the working interest owners and then resells it a producer, subject to 10 CFR Part 212, Subpart D?  | A-382    |
| 2/9/79.....   | Standard Oil Company (California), Thomas J. Carmichael, 10-5th Street, Astoria, California 97103.<br>Issue: Is a consignee-agent for covered products, who operates a plant, owns the delivery trucks and pays all operating costs including salaries of employees, a wholesale purchaser-reseller as defined in 10 CFR 211.51?  | A-383    |
| 2/14/79.....  | The Gulf Companies, Robert F. Ochs, Esq., P.O. Box 3725, Houston, Texas 77001.<br>Issue: Does a former commissioned agent retain motor gasoline allocation rights from the base period supplier upon the mutual cancellation of all agreements regarding the distributorship, the sale of his business assets, and the cessation of his ongoing business so as to enable him to broker such gasoline as an unbranded jobber under 10 CFR 211.11 (a) and (c)?                                      | A-384    |



## APPENDIX.—LIST OF REQUESTS FOR INTERPRETATION RECEIVED BY THE OFFICE OF GENERAL COUNSEL—Continued

(Month of February 1979)

| Date received | Name and location of requestor   | File No. |
|---------------|--|----------|
| 2/16/79       | Arizona Fuels Corporation, Martin Lobel, Esq., Lobel, Novins & Lamont, 1523 L Street, NW., Washington, D.C. 20005.<br>Issue: Does the existence of a standard termination clause in a crude oil supply contract constitute mutual consent to terminate a supplier/purchaser relationship in effect pursuant to 10 CFR 211.63?  | A-385    |
| 2/23/79       | The Termo Company, Eldredge E. Combs, P.O. Box 213, Long Beach, California 90801.<br>Issue: Can a property qualify as a stripper well property under 10 CFR 212.54 if it produced less than 10 barrels of crude oil per well per day for 42 days in a calendar year and no crude oil during the rest of the year because of operational problems?  | A-386    |
| 2/26/79       | Concord Oil Company, Joseph M. Tomaino, 147 Lowell Road, Concord, Massachusetts 01742.<br>Issue: Does 10 CFR 211.10(g)(5) require a supplier to distribute to a wholesale purchaser-reseller a share of the supplier's surplus product which is based on the wholesale purchaser-reseller's current allocation entitlement, including adjustments?   | A-387    |
| 2/26/79       | C. M. Dining, Inc., Bruce F. Dining, 104 Epping Road, Exeter, New Hampshire 03833.<br>Issue: May a supplier and wholesale purchaser-reseller in a supplier/purchaser relationship utilize the mutual termination provisions of 10 CFR 211.9 to transfer a portion of a base-period allocation entitlement from the base-period supplier to a new supplier?   | A-388    |
| 2/26/79       | Cooper Ltd., Garrett F. Cooper, Route 188 & 184, Southbury, Connecticut 06488.<br>Issue: How does a retailer calculate, under 10 CFR 212.93, maximum lawful selling price for gasoline which is offered for sale on a self-service or full-service basis where that retailer sold gasoline on a full-service basis only on May 15, 1973?   | A-389    |
| 2/28/79       | Sun Production Company, Elaine Boze, Esq., Campbell Centre II, P.O. Box 2880, Dallas, Texas 75221.<br>Issue: Can a liquid hydrocarbon mixture that is collected as a by-product of the natural gas compression process and which consists of approximately 71% pentanes, 18.5% butanes, 9% propane and 1.5% ethane be classified as a natural gas liquid for purposes of the Mandatory Petroleum Price Regulations? (10 CFR 212.31 and 212.162). | A-390    |

[FR Doc. 79-9409 Filed 3-28-79; 8:45 am]

## [6450-01-M]

Economic Regulatory Administration

[ERA DOCKET NO. 79-07-NG]

TENNESSEE GAS PIPELINE CO.

## Order Granting Request for Emergency Authorization To Import Canadian Natural Gas Into the United States

On February 21, 1979, the Tennessee Gas Pipeline Company (TGP), a Division of Tenneco, Inc., filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) a request for emergency authorization to import up to 5 billion cubic feet (Bcf) (141.6 million cubic meters or Mm<sup>3</sup>) of natural gas from Canada. The gas would be purchased from TransCanada Pipelines Limited (TransCanada). TGP supplemented its application with additional filings and

information on February 23, 1979, and March 6, 1979, which, together with the original document, constitute the application in this docket.

TGP states that the natural gas is needed to meet an emergency situation which has developed in natural gas markets served by the TGP system.

TGP states that, as of February 15, 1979, it was forced to restrict deliveries on its system so that only Priority 1 and approximately 87 percent of Priority 2 customers were to be served. (The Priority categories are as defined by FPC Order No. 467-B.) The curtailments were due, according to TGP, to higher than projected demand because of unexpected cold weather in its market areas, and to technical problems in its supply areas causing interruptions in supplies. In addition, TGP states that its storage balances have

been sharply reduced and are at dangerously low levels.

TGP asserts a need for this gas to aid it in maintaining its system deliveries during the remaining winter period. Additionally, to the extent the Canadian gas makes withdrawals of base storage gas unnecessary, TGP states that it will not be forced to curtail its summer customers as severely to restore the storage balance necessary for the 1979-80 winter heating season.

The natural gas which TGP proposes to import would be purchased from TransCanada at the rate prescribed by the National Energy Board (NEB) of Canada and permitted by DOE. The price to be paid would include all transmission costs of moving gas in Canada to the international boundary line interconnection, and would not be greater than the current border price of \$2.16 (U.S.) per MMBtu. The cost of the gas purchased would be reflected in subsequent purchased gas adjustment filings to be made by TGP.

TGP seeks authorization to import a total of 5 Bcf (141.6 Mm<sup>3</sup>) until April 1, 1979, or until such later time as may be needed. The import would utilize existing facilities and would be at a point on the U.S.A.-Canada boundary near Niagara Falls, New York, where the TGP system interconnects with facilities of TransCanada.

TGP further states that it has been advised by TransCanada that the latter's currently available gas supply deliverability exceeds TransCanada's requirements, and that TransCanada is presently seeking authorization from the NEB to export from Canada the volume proposed in TGP's application. TGP also has submitted a copy of an agreement between TGP and TransCanada which confirms the above assertions regarding TransCanada. TGP has further stated to ERA that it and TransCanada anticipate no difficulty in obtaining NEB approval for the import.

On January 3, 1979, ERA issued a "Proposed Special Rule for Temporary Public Interest: Exemption for Use of Natural Gas by Existing Powerplants under the Powerplant and Industrial Fuel Use Act of 1978" (44 FR 1694-1696, January 5, 1979). The intent of the Special Rule was to encourage short-term switching to natural gas and propane by industrial and utility powerplants which are burning

fuel oil. The purpose was to take advantage of the current surplus of domestic natural gas and propane to help reduce imports of oil and depletion of stocks of middle distillate.

The request of TGP is in some respects consistent with the objectives of the Special Rule. While the gas to be used would be foreign rather than domestic, it would nonetheless tend to ease the pressure on domestic stocks of distillate available for home heating and other high priority uses.

Because the policy embodied in the Special Rule contemplates the substitution of domestic rather than imported gas for fuel oil, ERA has investigated the extent to which domestic rather than Canadian gas would be available in the present case. In that regard, TGP stated in its filing of February 23, 1979:

Since a substantial portion of Priority Category 2 service can use oil as a substitute fuel, the continued service to this category at the highest possible level is an important factor in retaining these loads as a permanent market for domestic natural gas. Increases in either degree of or frequency of curtailment multiply the probability of a consumer's permanently switching to oil. Thus, curtailments work directly contrary to efforts to cause the utilization of domestic gas instead of imported oil. Thus, the proposed purchase from Canada will, in the longer term, aid in the utilization of domestic sources of energy. Particularly, the maintenance of gas markets is important during the interim until Alaskan gas becomes available to the lower 48 States, since any consumer switching to oil decreases the market for that U.S. source of natural gas.

Finally, the proposed purchase simply makes economic sense and results in lower costs to Tennessee's [TGP] customers. As already stated, this gas is available at a price competitive with possible U.S. sources. In addition, the purchase of gas from TransCanada has other advantages. There is an existing interconnection between the facilities of TransCanada and Tennessee [TGP] at Niagara Falls. Thus, the gas can be delivered directly into Tennessee's [TGP] system at a point very near Tennessee's [TGP] storage fields and Tennessee's [TGP] major market areas. A purchase of similar volumes of domestic gas, if available, would be subject to the availability of [TGP's] pipeline capacity from the supply sources in Texas and Louisiana to the market areas. Installation of an interconnection and metering facilities for large daily volumes of gas would probably be necessary, and could be costly and time consuming. Further, if such gas were not delivered directly

into Tennessee's [TGP] system (a good possibility) the supply of gas would be subject to necessary arrangements with intermediate pipelines.

Again, valuable time could be lost in negotiating agreements concerning transportation costs and other terms.

TGP has, in addition, made the following assertions to ERA:

1. The price of the Canadian gas, taking into account cost of transportation to the areas in the northeastern U.S.A. where it is primarily needed, would be less than that of emergency purchase domestic gas.

2. TGP has already made emergency purchases of domestic gas from Texas and Oklahoma of up to 200,000 Mcf per day, and requires the Canadian gas in addition to such domestic purchases.

3. The volume of Canadian gas requested would result in the release of approximately 33,500 barrels per day of Number 2 fuel oil, primarily in the northeastern U.S.A. where such oil is in short supply.

On March 12, 1979, ERA published in the FEDERAL REGISTER (43 FR 13572) a notice of receipt of TGP's application and a request that petitions to intervene and briefs on the merits of the application be submitted on an expedited basis. No responses were received.

In view of TGP's uncontested assertions, and in light of the apparent exigent situation, ERA finds that in this instance the importation of limited quantities of Canadian gas for a short period is consistent with DOE's efforts to reduce the use of oil by substituting natural gas; by preserving base storage gas volumes will help insure continued natural gas service to high priority customers during the 1979-1980 winter heating season; and is "not inconsistent with the public interest."

Since TGP has advised ERA that, due to the passage of time, it may not be able physically to move the entire volume of gas requested by April 1, 1979, ERA will allow TGP a reasonable period of time in which to effect the importation, as stated in the order below.

The present application presents ERA with a situation in which prompt regulatory action is required. TGP has requested, in view of the emergency, that ERA waive the procedural requirements for import applications prescribed in Part 153 of the Regulations under the Natural Gas Act (Title 18 CFR), including 18 CFR 153.2, which provides that applications must be filed thirty (30) days prior to the date of importation. Although ERA hereby waives the procedural requirements for good cause shown, ERA conditions this authorization to import upon TGP's complying with the terms of Part 153 as set forth below. It

should also be noted that TGP's emergency application has been judged solely on its merits and that ERA's order in this case will have no bearing on any other proceedings in which TGP or TransCanada may be involved before ERA.

## ORDER

1. TGP is hereby authorized to import up to 5 Bcf (141.6 Mm<sup>3</sup>) of natural gas from Canada, as proposed in its application, for a period of sixty (60) days from the date of issuance of this order, upon the terms and conditions outlined below.

2. TGP shall file within thirty (30) days of the issuance of this order an application complying with the terms of Part 153 of Title 18 CFR including the submission of all relevant contracts pertaining to the importation of this natural gas.

3. DOE shall cause prompt notice of the issuance of this order to be published for comment in the FEDERAL REGISTER and may rescind the import authority granted herein if further proceedings appear warranted and result in a determination that this authorization is inconsistent with the public interest.

Issued in Washington, D.C., on March 17, 1979.

BARTON R. HOUSE,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-9408 Filed 3-28-79; 8:45 am]

## [6450-01-M]

Economic Regulatory Administration

A. TARRICONE, INC.

## Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to A. Tarricone, Inc., 1337 Saw Mill River Road, Yonkers, New York on February 16, 1979. This Proposed Remedial Order charges Tarricone with Entitlement Program violations in the amount of \$115,785. The violation occurred in the month of November 1974 when Tarricone reported imported residual fuel oil that preceded the inception of the program.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Director, Program Operations Division, Office of Enforcement, 2000 M Street NW., Washington, D.C. 20461. On or before March 13, 1979, any aggrieved person must file a Notice of Objection.



in duplicate, with the Office of Hearings and Appeals in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 23rd day of March, 1979.

BARTON ISENBERG,  
Assistant Administrator for Enforcement, Economic Regulatory Administration.

(FR Doc. 79-9652 Filed 3-28-79; 8:45 am)

## [6450-01-M]

## COSBY OIL CO.

## Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to the Cosby Oil Company, 13601 E. Whittier Blvd., Suite 505, Whittier, CA 90605. This Proposed Remedial Order charges Cosby Oil with pricing violations in the amount of \$103,734.61, connected with the resale of motor gasoline during the time period November 1, 1973, through April 30, 1974, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone 415/556-7200. On or before March 13, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR § 205.193.

Issued in Washington, DC, on the 23rd day of March 1979.

BARTON ISENBERG,  
Assistant Administrator, for Enforcement, Economic Regulatory Administration.

(FR Doc. 79-9653 Filed 3-28-79; 8:45 am)

## [6450-01-M]

## DELTA REFINING CO.

## Proposed Remedial Order

Pursuant to 10 CFR 205.191, the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to the Delta Refining Company, 1200 One Energy Square, Dallas, Texas 75206. This Proposed Remedial Order charges Delta Refining Company with reporting erroneously and with receiving entitlements in the amount of \$404,465.71 over and above the amount which it would have otherwise been

issued during the period November 1974 through December 1976.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Director, Program Operations Division, Office of Enforcement, 2000 M St. N.W., Washington, D.C. 20461. Telephone 202/254-8877. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 23rd day of March, 1979.

BARTON ISENBERG,  
Assistant Administrator for Enforcement, Economic Regulatory Administration.

(FR Doc. 79-9564 Filed 3-28-79; 8:45 am)

## [6450-01-M]

## MORAN OIL CO., INC.

## Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Moran Oil Company, Inc., 1923 Southeast Ankeny Street, Portland, Oregon 97124. This Proposed Remedial Order charges Moran Oil with pricing violations in the amount of \$84,744.08 connected with the sale of residual fuel during the time period November 1973, to December 1975, in the State of Oregon.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Lyle L. Nelson, Deputy District Manager of Enforcement, 915 Second Avenue, Room 1992, Seattle, WA 98174, phone 206/442-7285. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR § 205.193.

Issued in Washington, D.C., on the 23rd day of March 1979.

BARTON ISENBERG,  
Assistant Administrator for Enforcement, Economic Regulatory Administration.

(FR Doc. 79-9655 Filed 3-28-79; 8:45 am)

## [6450-01-M]

## Federal Energy Regulatory Commission

[Docket No. RP79-54]

## ARKANSAS LOUISIANA GAS CO.

## Filing of Revised Tariff Sheets

MARCH 23, 1979.

Take notice that on March 15, 1979, Arkansas Louisiana Gas Company (Arkla) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 3, the following tariff sheets to become effective on April 1, 1979:

Original Sheet No. 188D  
Original Sheet No. 188E  
Original Sheet No. 188F  
Original Sheet No. 188G  
First Substitute 17th Revised Sheet No. 185

These tariff sheets are filed pursuant to Commission Order Nos. 10, 10-A and 10-B and contain provisions whereby Arkla's rates will be adjusted to recover tax expenditures under the Louisiana First Use Tax and reflect Arkla's initial First Use Tax Adjustment to recover estimated tax expenditures from April 1, 1979 through September 30, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to Cities Service Gas Company and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9514 Filed 3-28-79; 8:45 am)

## [6450-01-M]

[Docket No. RP79-54]

## ARKANSAS LOUISIANA GAS CO.

## Filing of Revised Tariff Sheets

MARCH 26, 1979.

Take notice that on March 15, 1979, Arkansas Louisiana Gas Company (Arkla) tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff

sheets to become effective on April 1, 1979:

Original Sheet No. 12F  
Original Sheet No. 12G  
Original Sheet No. 12H  
Original Sheet No. 12I  
First Substitute 19th Revised Sheet No. 4

These tariff sheets are filed pursuant to Commission Order Nos. 10, 10-A and 10-B and contain provisions whereby Arkla's rates will be adjusted to recover tax expenditures under the Louisiana First Use Tax and reflect Arkla's initial First Use Tax Adjustment to recover estimated tax expenditures from April 1, 1979 through September 30, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to Arkla's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9515 Filed 3-28-79; 8:45 am)

## [6450-01-M]

[Docket No. RP79-37]

## EL PASO NATURAL GAS CO.

## Tariff Filing

MARCH 26, 1979.

Take notice that on March 15, 1979, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Substitute Original Sheet Nos. 68-E and 68-F to its FERC Gas Tariff, Original Volume No. 1.

El Paso states that, on February 28, 1979, pursuant to the Commission's Order No. 10 which issued August 28, 1978, and Order No. 10-A which issued December 20, 1978, El Paso tendered to the Commission a tariff filing at Docket No. RP79-37 which was designed to: (i) establish a temporary Louisiana First-Use Tax tracking provision in El Paso's FERC Gas Tariff,

Original Volume No. 1, which provides for semi-annual rate adjustments to coincide with El Paso's semi-annual Purchased Gas Cost adjustment Provision rate adjustments, and (ii) give notice of a change in rate pursuant to the provisions of said LFUT tracking mechanism to be effective April 1, 1979. El Paso states that the proposed LFUT tracking provision provided, *inter alia*, that all revenues collected by El Paso attributable to the LFUT would be placed in escrow during the pendency of litigation concerning the constitutionality of such tax, as required by Commission Order Nos. 10 and 10-A. On March 12, 1979, at Docket No. RP79-37, the Commission noticed El Paso's filing of February 28, 1979.

El Paso states that subsequent to said February 28, 1979, tariff filing, the Commission, pursuant to Order No. 10-B which issued March 2, 1979, at Docket No. RM78-23, modified Order No. 10-A and amended the regulation promulgated therein to allow pipelines to select, on or before March 15, 1979, either said escrow procedure or a corporate undertaking procedure whereby a pipeline will be able to collect the LFUT, subject to refund, pursuant to the tracking mechanism established in the Commission's Order Nos. 10 and 10-A. By the instant filing, El Paso notified the Commission that it selects the corporate undertaking procedure set forth in the Commission's Order No. 10-B, in lieu of the escrow arrangements, and in this regard agrees to comply with the conditions established therein to protect pipeline customers. Further, El Paso states that, in order to implement said tariff modification, it tendered said tariff sheets in substitution for their respective counterparts included in said tariff tender of February 28, 1979.

As required by said Order No. 10-B, El Paso has included in the instant filing its Agreement and Undertaking to comply with the terms and conditions of § 154.38(h) of the Commission's Regulations, which section establishes procedures governing pipeline recovery of the LFUT. El Paso has also included in the instant filing a copy of its Motion to place tariff sheets into effect.

El Paso has requested that the tendered tariff sheets be substituted for their respective counterparts and that such sheets be included as a part of said tariff tender currently pending effectiveness before the Commission in this proceeding. El Paso has requested that tariff filing, reflecting such substitution, be made effective on April 1, 1979, as originally proposed by El Paso. Accordingly, El Paso requested that the Commission grant waiver of its Rules and Regulations, as may be deemed necessary, in order that the

substitute tariff sheet tendered in the instant filing, together with the applicable tariff sheets filed on February 28, 1979, be permitted to become effective on April 1, 1979.

El Paso states that the Agreement and Undertaking and the tendered tariff sheets have been served upon all of El Paso's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before March 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 79-9516 Filed 3-28-79; 8:45 am)

## [6450-01-M]

[Docket No. RP79-52]

## TENNESSEE GAS PIPELINE CO.

## Filing of First Use Tax Rate Adjustment Provision

MARCH 26, 1979.

Take notice that on March 15, 1979, Tennessee Gas Pipeline, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, consisting of the following:

Substitute Twenty-Fourth Revised Sheet Nos. 12A and 12B  
First Revised Sheet No. 213Q  
Original Sheet Nos. 213R and 213S

Tennessee states that in conformance with Order No. 10-B these tariff sheets will add a new Article XXVIII to the General Terms and Conditions of its FERC Gas Tariff to provide a mechanism for recovering amounts related to the State of Louisiana First Use Tax as well as the initial Rate Adjustment thereunder. Tennessee proposes that the tariff sheets become effective on April 1, 1979.

Tennessee states that copies of the filing have been mailed to all of its ju-



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NOTICES

isdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9517 Filed 3-28-79; 8:45 am]

[1505-01-M]

ENVIRONMENTAL PROTECTION  
AGENCY

[OPP-30000/28B; 1077-5]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Certain Pesticide products Containing Coal Tar, Creosote, and Coal Tar Neutral Oil.

Correction

In FR Doc. 79-7902 appearing on page 15771 in the issue for Thursday, March 15, 1979, the Product Search Listing is inaccurate as published. A corrected version of the Product Search Listing is printed as follows:

NOTICES

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[1505-01-C]

\*\*\*\* PRODUCT SEARCH LISTING \*\*\*\*

02/15/79 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR AS AN INERT

\*\*\*\*\*  
\*REGISTRANT\* \*NAME AND ADDRESS\*  
\* 000043 CARBOT SAMUEL INC  
ONE UNION ST  
BOSTON MA 02108

\*\*\*\*\* PRODUCT NAME \*\*\*\*\*  
\*\*000022\* CARBOT'S CREOSOTE SHINGLE STAINS 280 LIGHT WEATHER BROWN

\*\*\*\*\*  
\*REGISTRANT\* \*NAME AND ADDRESS\*  
\* 000607 CARBOLA CHEMICAL COMPANY INC  
NATURAL BRIDGE, NY 13665

\*\*\*\*\* PRODUCT NAME \*\*\*\*\*  
\*\*000044\* CARBOLA WHITE INTERIOR COATING AND INSECTICIDE

\*\*\*\*\*  
\*REGISTRANT\* \*NAME AND ADDRESS\*  
\* 001678 DYALL PRODUCTS  
35E. BLECKE AVE  
ADDISON IL 60101

\*\*\*\*\* PRODUCT NAME \*\*\*\*\*  
\*\*000002\* NO. 125-WTS TOXIC CERASEAL

\*\*\*\*\*  
\*REGISTRANT\* \*NAME AND ADDRESS\*  
\* 000763 THOMPSON PORCELITE PAINT CO  
PO BOX 5550  
PHILADELPHIA PA 19103

\*\*\*\*\* PRODUCT NAME \*\*\*\*\*  
\*\*000001\* THOMPSON'S PORCELITE MARINE FIN.SHIPSTN.ANTIFOUL. SUPER TROP.09005

\*\*\*\*\*  
\*REGISTRANT\* \*NAME AND ADDRESS\*  
\* 010148 NATIONWIDE CHEMICAL COMPANY INC  
395 JOHNSON AVENUE  
BROOKLYN NY 11211

\*\*\*\*\* PRODUCT NAME \*\*\*\*\*  
\*\*000008\* COMPLETE VEGETATION KILLER

\*\*\*\*\*  
\*REGISTRANT\* \*NAME AND ADDRESS\*  
\* 011553 SOUTHERN IMPERIAL COATING CO CORP INC  
PO BOX 29077  
NEW ORLEANS LA 70120  
5042541033

\*\*\*\*\* PRODUCT NAME \*\*\*\*\*  
\*\*000001\* VITRON ANTI-FOULING MASTIC BASE ANTI-FOULING MASTIC CURING AGENT



[6560-01-M]

[FRL 1082-7]

**REGION II; GROUNDWATER SYSTEM OF THE BURIED VALLEY AQUIFER SYSTEM OF WESTERN ESSEX AND EASTERN MORRIS COUNTIES, N.J.**

Request for EPA Determination Regarding Aquifers

A petition has been submitted by the City of East Orange, New Jersey and the Passaic River Coalition, pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying western Essex and eastern Morris Counties, New Jersey is the sole or principal drinking water source for the central basin of the Passaic River Watershed which, if contaminated, would create a significant hazard to public health.

This petition is reprinted in full below:

Before the United States Environmental Protection Agency; Douglas M. Costle, Administrator, and Eckardt C. Beck, Region II Administrator.

In the matter of the Petition of the city of East Orange, New Jersey and the Passaic River Coalition Under Section 1424 (e) of the Safe Drinking Water Act of 1974 with Respect to the Buried Valley Aquifer System of Western Essex and Eastern Morris Counties, New Jersey.

**PETITION**

1. The City of East Orange, New Jersey was incorporated in 1909 and is located in Essex County (northeastern), New Jersey. The City has a population of 88,000 and is totally dependent on the Buried Valley Aquifer System, that is the subject of this petition, as a sole source of drinking water for its residents. City Hall is located at 44 City Hall Plaza, East Orange, New Jersey 07017, (201, 675-8049).

The Passaic River Coalition is a non-profit incorporated in 1971 urban watershed association concerned with water quality, water supply, land use, and the overall quality of the environment in the Passaic River Basin in northern New Jersey. Its main office is located at 246 Madisonville Road, Basking Ridge, New Jersey 07920, (201, 766-7550).

2. A petition to the Administrator and Region II Administrator of the United States Environmental Protection Agency, requesting that the Pleistocene Buried Valley and Associated Bedrock Aquifer System in the Central Basin of the Passaic River Watershed, New Jersey, be designated as a sole source aquifer as provided, under Section 1424 (e) of the Safe Drinking Water Act (Pub. L. 93-523), which provides as follows:

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area in which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the FEDERAL REGISTER. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be

entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

3. President Jimmy Carter's Urban Policy consists of an integrated set of commitments to urban America including Policy Statement number nine:

"Improve the urban physical environment and the cultural and aesthetic aspects of urban life."

Protection of the Buried Valley Aquifer System under Section 1424 (e) of the Safe Drinking Water Act would help protect the environment of the urban centers in northern New Jersey that are dependent on this aquifer as a source of drinking water, thereby responding to objectives of the President's Urban Policy.

4. The area proposed for Sole Source Aquifer designation is a portion of the Central Basin of the Passaic River Watershed in southeast Morris, west Essex and portions of Union and Somerset Counties, New Jersey. Geologically, the area lies within the Piedmont Physiographic Province and is underlain by Triassic-Jurassic (about 190 million years old) shales and sandstones of the Brunswick Formation, along with interspersed basaltic lava flows (the Watchung Mountains). The Brunswick Formation is overlain by a thick covering of Pleistocene (14,000 to 80,000 years ago) glacial deposits, consisting of unconsolidated sands, gravels, silts and clays. The proposed designation would apply to buried valley and channel deposits of glacial origin and the associated bedrock (Brunswick Formation and Watchung Basalt).

5. The boundary of the proposed designation is shown in Figure 1. The area being proposed is generally the Central Basin of the Passaic River Watershed as defined by the U.S. Army Corps of Engineers with some modifications. The area is bordered on the north by Hook Mountain (a basaltic lava flow) and by a line which roughly bisects the Town of Montville. The western boundary is defined by the trace of the Ramapo Fault and the beginning of the Highlands Physiographic Province. The boundary to the south and the east is formed by the Second Watchung Mountain range, including portions of Union, Essex and Somerset Counties, New Jersey.

6. The public water supply systems, as well as a large private water company and many industrial and private well owners depend on this aquifer system as a source of drinking water. Groundwater withdrawn from within the boundary of the designated area is also exported to municipalities outside of the proposed designation area. Therefore, a second map termed the service area (Figure 3) shows distribution outside of the proposed designation area for the aquifer. The two purveyors exporting groundwater outside of the proposed aquifer boundary are the City of East Orange and the Commonwealth Water Company. The total population of the proposed designation area and the service area is approximately 587,188 residents. A total of 31 municipalities are included in the service and designation areas, and of this number nearly 90 percent of the municipalities are dependent on the aquifer as a source of drinking water. Table I gives a breakdown of drinking water sources by municipality, along with population figures.

7. A listing of public water supply systems utilizing the aquifer appears on Table 2.

8. Figure 2 shows an outline of the Buried Valley Aquifer System and shows the location of major public supply and private well fields. Figure 4 shows a cross section of the aquifer and demonstrates the hydraulic connection between the Buried Valley and the surrounding Brunswick Formation and the Watchung Basalt.

9. Continued development in the area makes protection of recharge areas imperative. Development in northern New Jersey has already degraded surface water quality, placing greater reliance and demands on groundwater. The Borough of Chatham, which is totally dependent on the aquifer for drinking water, notes in its Natural Resource Inventory:

"The static water level in our No. 1 well has dropped 31 feet from 1931 to 1969. This is of course due to increased local usage, but it is also indicative of increased urbanization in the surrounding region. With this have come increased demands on the aquifer and, at the same time, a reduced recharge capability due to the construction of homes, buildings, and paved areas in the region. This is supported by the experience of the well fields in Millburn Township and southwestern Livingston where two water companies—Commonwealth, and the City of East Orange—operate pumping stations. Their wells have experienced a drop in the static water level of 54 feet from 1925 through 1965."

10. The U.S. Army Corps of Engineers is currently undertaking a Phase I Advanced Engineering and Design Study of the Passaic River Basin to develop a basin-wide plan for meeting the flood control and other associated water resource and related land resources needs of the basin. The Buried Valley Aquifer is located within their study area. The Army Corps of Engineers, in its Preliminary Draft Plan of Study (August, 1978) of the Passaic River Basin, stated that:

"The major surface water supply developments are located primarily in the upstream tributaries and serve the urban concentrations in the Lower Valley. As a result, groundwater is the major water supply source in the Central Basin and Highland Area. Groundwater provides 75% of the water used above Little Falls and represents 16% of that Area's total developed water supply including that exported below Little Falls."

11. The Policy Advisory Committee of the Northeast Water Quality Planning Program (established under Section 208 of Pub. L. 92-500) recognized the necessity of protecting sole source aquifers and their recharge areas and recommended the following policy:

"The required information for 'sole source determination' of the Buried Valley Aquifer in east Morris and west Essex Counties, New Jersey, should be developed and submitted to the U.S. EPA for Sole Source Designation pursuant to the Safe Drinking Water Act (42 U.S.C. 300f, 300h-3(e); 88 Stat. 1660 et seq. Public Law 93-523)."

12. The City of East Orange, New Jersey (population: 88,000) depends entirely on groundwater from wells overlying the Buried Valley Aquifer System. A 1976 study by Geraghty and Miller, consulting groundwater geologists, Port Washington, New York, of the groundwater conditions at the East Orange Water Reserve determined that increased pumpage and loss of recharge area to urbanization in the region has had a significant effect on the ground-

water resources of the water reserve. The Geraghty and Miller study made the following observation:

"The quality of groundwater within the reserve is more than adequate to meet the needs of a potable water supply but has been degraded over the past 20 years by the effect of changing land-use patterns in the areas surrounding the reserve and from the incursion of highways and sewer lines within the Reserve."

13. A 1978 study by Geraghty and Miller identified a section of the Buried Valley Aquifer near Pine Brook, New Jersey (see Figure 2) which could provide an additional 5 to 1.0 mgd of groundwater. Until further studies are completed, Geraghty and Miller suggested that the designated area should temporarily be set aside and any land development there should be halted until each site can be thoroughly tested as to its potential for groundwater development.

14. The Morris County Master Plan Water Supply Element (1971) recognized the importance of groundwater in the County:

"Despite the extensive development of surface supplies within the County, the major source of supply for consumption within the county is from well water supplies. Over the past three years, surface supplies in the County have accounted for only 10 percent of the consumption from public water supplies within the County."

15. The Township of Livingston, New Jersey (population: 32,500) is totally dependent on groundwater from the Buried Valley Aquifer System. The 1976 Geraghty and Miller study for the East Orange Water Reserve made the following reference to Livingston:

"In Livingston, most of the areas overlying promising sites for groundwater development have been urbanized. In addition, recharge has been reduced due to the covering of prime aquifer recharge areas with impervious surfaces, resulting in a reduction of overall groundwater availability. A third problem is the preponderance of potential sources of groundwater pollution. For example, several well sites have shown that groundwater quality has been impaired as a result of leakage from nearby gasoline and/or oil storage tanks."

16. Thompson (1932) showed the importance of the groundwater resource in supplying drinking water to the area. In the publication, *GROUND WATER SUPPLIES OF THE PASSAIC RIVER VALLEY NEAR CHATHAM, NEW JERSEY*:

"The principal supply of groundwater is obtained from beds of sand and gravel, of Pleistocene age, which lie at a depth of approximately 100 to 135 feet and which are confined to pre-glacial channels cut in the bedrock. Elsewhere in the region the bed rock, which consists of red sandstone and shale and trap rock of Triassic age, is struck at depths as shallow as 60 to 75 feet, and the overlying material consists largely of clay which yields little or no water. In the well fields that have been studied, 'the water-bearing formation is overlain by relatively impervious clay and there is little if any recharge directly from rain in the immediate vicinity. An unresolved problem is as to whether there is sufficient recharge to meet the present and future draft.'"

In addition, Thompson noted that the first well was drilled in the region in 1899.

17. In the *COMPUTER SIMULATION MODEL OF THE PLEISTOCENE VALLEY-FILL AQUIFER IN SOUTHWESTERN ESSEX AND SOUTHEASTERN MORRIS COUNTIES, NEW JERSEY*, Harold Melsier, U.S. Geological Survey, Water-Resources

Investigations 78-25, the importance of the Buried Valley Aquifer as a water supply source is noted in the following introductory statement:

"Sand and gravel deposits of Pleistocene age have been an important source of water for communities and industries in southwestern Essex and southeastern Morris Counties for several decades. Withdrawal from these deposits has increased from an estimated 5 Mgal/d during the period 1900-29 to approximately 28.5 Mgal/d during the period 1972-73. Yet virtually all this water was withdrawn from a buried valley-fill aquifer occupying an area of approximately 20 mi<sup>2</sup>."

18. Current land use and water quality laws do not adequately protect the Buried Valley Aquifer System or its recharge areas.

19. The highly developed and industrialized environment of northern New Jersey provides for many sources of groundwater contamination including septic systems, accidental spills, landfill leachate, waste lagoons, etc.

20. We, therefore, conclude: The Buried Valley Aquifer System is a sole source of drinking water for municipalities and private well owners in the region, and contamination of this aquifer would create a significant hazard to public health.

Therefore, we respectfully request that the Administrator and Region II Administrator of the United States Environmental Protection Agency determine that the Buried Valley Aquifer System in eastern Morris and western Essex Counties, New Jersey, be designated as the sole or principal drinking water source for the area and that this determination be printed in the FEDERAL REGISTER, as required by Section 1424(e) of the Safe Drinking Water Act of 1974.

Respectfully submitted,

Dated: January 16, 1979.

THOMAS H. COOKE, JR.,  
Mayor, City of East Orange,  
New Jersey.

Dated: January 16, 1979.

ELLA F. FILIPPONE,  
Executive Administrator, Passaic  
River Coalition, Basking Ridge,  
New Jersey.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data, and references to additional sources of information relevant to the determination required by Section 1424(e). In particular, information is sought concerning the hydrogeology of the Buried Valley Aquifer System, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, the significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this notice should be submitted in writing to Eckardt C. Beck, Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 1009, New York, N.Y. 1007, attention: Buried Valley Aquifer; within 60 days of this Notice. Information concerning the Buried Valley Aquifer System will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold a public hearing on May 23, 1979, 7 p.m., at the Northland Recreational Building, Jefferson Court-Rooms 1 and 2, Livingston, N.J.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. John S. Malleck, Water Supply Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-1347. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: March 26, 1979.

ECKARDT C. BECK,  
Regional Administrator.

[FR Doc. 79-9600 Filed 3-28-79; 8:45 am]

[6560-01-M]

[FRL 1085-8]

**THIRD REPORT OF THE INTERAGENCY TESTING COMMITTEE**

Extension of the Public Comment Period;  
Correction

Notice is given that the Environmental Protection Agency is extending the period for public comment on the Third Report to the Interagency Testing Committee (ITC) from March 30, 1979, to May 1, 1979.

In the Availability section of the Agency's request for comments on ITC's Third Report, published on October 30, 1978 (43 FR 50630), it was stated that the Committee would transmit the information dossiers it used in developing its recommendations to EPA within a few weeks. Because of difficulties encountered by EPA in printing the dossiers, they did not become available to the public until March 15, 1979; as a result, the period for public comment is being extended by 30 days, to May 1, 1979.

In transmitting the dossiers to EPA, the ITC sent a correction to an example cited in the rationale for carcinogenicity testing for the category "Glycidol and its Derivatives." The second sentence under the heading "Carcinogenicity" in Chapter 3.3.C of the ITC Report (at 43 FR 50634) is changed to read:

In view of the potential alkylating properties of these compounds, and the demonstrated carcinogenicity of triethylene glycol diglycidyl ether and



the structurally related glycidol, the Committee recommends carcinogenicity studies.

The ITC also noted in transmitting the dossiers to EPA that it has had considerable discussion with manufacturers of glycidyl ethers about the choice of the name of this category. The Committee is aware that the glycidyl ethers and esters are not commercially synthesized from glycidol. However, in the interest of simplicity in naming the category, the term "derivatives" is being used to mean esters and ethers, which are, regardless of

synthetic route, considered to be derivatives of the alcohol glycidol.

Copies of the ITC's dossiers are available from: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Room 711-A, EPA, 401 M Street, SW, Washington, D.C., 20460; or call, toll free, 800-424-9065; in Washington, D.C., call 554-1404.

Comments should bear the identifying number OTS-040005 and should be submitted to Joyce Barbour, Document Control Officer, Chemical Information Division, Office of Toxic Sub-

stances (TS-793), Room 711-A, EPA, 401 M Street, SW, Washington, D.C., 20460.

All written comments will be available for public inspection in Room 711, East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Dated: March 23, 1979.

STEVEN D. JELLINEK,

Assistant Administrator  
for Toxic Substances.

(FR Doc. 79-9599 Filed 3-28-79; 8:45 am)

[6712-01-M]

# FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1169]

Petitions for Reconsideration of Actions in Rule Making Proceedings Filed

MARCH 26, 1979.

| Docket or RM No.     | Rule No.     | Subject   | Date received  |
|----------------------|--------------|---|----------------|
| 19528.....           |              | Proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS):   |                |
| 20774.....           | Part 68..... | Revision of Part 68 of the Commission's Rules to Specify Standard Plugs and Jacks for the Connection of Telephone Network; and  |                |
| 21182 (RM 2829)..... | Part 68..... | Amendment of Part 68 of the Commission's Rules (Telephone Equipment Registration) to Specify Standard for and Means of Connection of Telephone Equipment to Lamp and/or Annunciator Functions of Systems. |                |
|                      |              | Filed by Stephen R. Bell & James E. Makree, Attorneys for Independent Date Communications Manufacturers Association.  | Mar. 9, 1979.  |
|                      |              | Filed by O. J. Gusella, Jr., Chairman, Telephone Equipment Section & John Sedolski, Vice President for the Communications Division, Electronic Industries Association.                                    | Mar. 12, 1979. |
|                      |              | Filed by Richard M. Cahill & Vincent Gallo, Attorneys for GTE Service Corporation.  | Do.            |
|                      |              | Filed by William E. Ebben, Asst. Vice President & Edward L. Friedman, T. Larry Barnes and J. Richard Teel, Attorneys for American Telephone and Telegraph Company.  | Do.            |

NOTE.—Oppositions to Petitions for reconsideration must be filed on or before April 13, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

(FR Doc. 79-9559 Filed 3-28-79; 8:45 am)

[6712-01-M]

## RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

### Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows: Special Committee No. 70 "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"

Notice of 15th Meeting  
Monday, April 16, 1979

### Agenda

1. Call to Order.
2. Old Business.
3. New Business.
4. Administrative Matters.

Captain Alfred E. Fiore, Chairman,  
SC-70  
U.S. Merchant Marine Academy  
Kings Point, New York 11024  
Phone: (516) 484-8200

The RTCM has acted as a coordinator for maritime telecommunications

since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,

Secretary.

(FR Doc. 79-9560 Filed 3-28-79; 8:45 am)

[6730-01-M]

## FEDERAL MARITIME COMMISSION

[Docket No. 79-19]

SEA-LAND SERVICE, INC., V. EURO-PACIFIC JOINT SERVICE, HAPAG-LLOYD AKTIENGESSELLSCHAFT, COMPAGNIE GENERALE MARITIME, AND INTERCONTINENTAL TRANSPORT (ICT) B.V.

### Filing of Complaint

Notice is given that a complaint filed by Sea-Land Service, Inc. against Euro-Pacific Joint Service, Hapag-Lloyd Aktiengesellschaft, Compagnie Generale Maritime, and Intercontinental Transport (ICT) B.V. was served March 23, 1979. The complaint alleges that respondents have, without approval of the Commission, chartered space or otherwise employed vessels exceeding the Commission authorized limitations of their joint service in violation of section 15 of the Shipping Act, 1916.

Hearing in this matter, if any is held shall commence on or before September 23, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,  
Secretary.

(FR Doc. 79-9598 Filed 3-28-79; 8:45 am)

[6210-01-M]

## FEDERAL RESERVE SYSTEM

### BANK HOLDING COMPANIES

#### Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or

gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 17, 1979.

A. Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, Ohio 44101:

PITTSBURGH NATIONAL CORPORATION, Pittsburgh, Pennsylvania (mortgage activities; Kentucky, Ohio, South Carolina); to engage, through its subsidiary, The Kissell Company, in mortgage banking activities, including the making or acquiring and servicing of loans and other extensions of credit. These activities would be conducted from offices in the Chillicothe, Ohio, and Columbia, South Carolina metropolitan areas, and the geographic areas to be served are 16 counties in South Carolina, 11 in Ohio, and 2 in Kentucky.

B. Federal Reserve Bank of Atlanta, 104 Marietta Street, N.W., Atlanta, Georgia 30303:

FIRST ALABAMA BANCSHARES, INC., Montgomery, Alabama (insurance activities; Alabama); to engage, through its subsidiary, FAB Agency, Inc., in the sale as agent or broker of the following kinds of property and casualty insurance directly related to extensions of credit by its subsidiaries, First Alabama Leasing, Inc., and Real Estate Financing, Inc.; insurance protecting collateral in which the lender has acquired a security interest and insurance customarily sold to individual borrowers in connection with or as part of an insurance package with insurance protecting collateral. These activities would be conducted from office of the subsidiaries in Montgomery, Alabama, and the geographic area to be served is the market area of that city. Applicant also proposes to act as agent or broker for the sale of certain insurance for Applicant's subsidiary banks. Applicant now has subsidiary banks in Notasulga, Athens, Bay Min-

nette, Birmingham, Cullman, Dothan, Gadsden, Guntersville, Hartselle, Huntsville, Rogersville, Bayou La Batre, Montgomery, Phenix City, Selma, and Tuscaloosa, Alabama, and the geographic areas to be served are the market areas expressed by the city locations of these subsidiaries.

C. Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois 60690:

1. CITIZENS BANCORPORATION, Sheboygan, Wisconsin (trust company activities; Wisconsin); to engage through its subsidiary, Citizens Trust Company, in performing or carrying on any activities of a trust company (fiduciary, agency, or custodian activities) in the manner authorized by Wisconsin law, except that the subsidiary will not accept deposits or make loans and investments (other than deposits generated from trust funds not currently invested or other funds received for special use as custodian or agent). The subsidiary would assume the current duties of the Citizens Bank of Sheboygan's trust department and would provide trust services to customers of Applicant's affiliates and other nonaffiliated banks. These activities would be conducted from offices in Sheboygan, Green Bay, Shorewood, Chilton, Kaukauna, Oostberg, and Howards Grove, Wisconsin, and the geographic area to be served is Wisconsin.

2. MIDLAND MORTGAGE CORPORATION, Detroit, Michigan (mortgage servicing activities; Arizona, Colorado, District of Columbia, Florida, Georgia, Maryland, Michigan, Nevada, Ohio, Virginia); to engage through its subsidiary, Midland Mortgage Service Corporation, in servicing real estate mortgage loans. These activities would be conducted from an office in Detroit, Michigan, and the geographic areas to be served are the nine states listed in the caption to this notice and the District of Columbia.

D. Other Federal Reserve Banks. None.

Board of Governors of the Federal Reserve System, March 16, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

(FR Doc. 79-9530 Filed 3-28-79; 8:45 am)

[6210-01-M]

## COMMUNITY HOLDING CO.

### Acquisition of Bank

Community Holding Company, Knoxville, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares (less directors' qualifying shares) of The



Community National Bank & Trust Company of Knoxville, Knoxville, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 15, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9531 Filed 3-28-79; 8:45 am]

#### [6210-01-M]

##### FAMILY FINANCIAL INSTITUTION, INC. Formation of Bank Holding Company

Family Financial Institution, Inc., Yorktown, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84 per cent or more of the voting shares of First National Bank, Yorktown, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 15, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9532 Filed 3-28-79; 8:45 am]

#### [6210-01-M]

##### MERCANTILE BANKSHARES CORP.

##### Proposed Acquisition of Mercantile Insurance Co. of Maryland

Mercantile Bankshares Corporation, Baltimore, Maryland, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mercantile Insurance Company of Maryland, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, as reinsurer, credit life insurance and credit related and health insurance directly related to extensions of credit by the bank holding company system. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served is the State of Maryland. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 13, 1979.

Board of Governors of the Federal Reserve System, March 15, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9333 Filed 3-28-79; 8:45 am]

#### [6210-01-M]

##### SCHUYLER BANCORP, INC.

##### Formation of Bank Holding Company

Schuyler Bancorp, Inc., Springfield, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Schuyler State Bank, Rushville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than April 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 16, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9534 Filed 3-28-79; 8:45 am]

#### [6210-01-M]

##### STANLEY BANCORPORATION, INC. Formation of Bank Holding Company

Stanley Bancorporation, Inc., Stanley, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 per cent or more of the voting shares of Farmers and Merchants State Bank, Stanley, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than April 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dis-

pute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 16, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9035 Filed 3-28-79; 8:45 am]

#### [6210-01-M]

##### WOOD & HUSTON BANCORPORATION, INC. Formation of Bank Holding Company

Wood & Huston Bancorporation, Inc., Marshall, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of Wood & Huston Bank, Marshall, Missouri, and Missouri Southern Bank, West Plains, Missouri, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 15, 1979.

EDWARD T. MULRENIN,  
Assistant Secretary  
of the Board.

[FR Doc. 79-9536 Filed 3-28-79; 8:45 am]

#### [1610-01-M]

##### GENERAL ACCOUNTING OFFICE

##### REGULATORY REPORTS REVIEW

##### Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on March 19 and 22, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collec-

tion of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before April 16, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

##### NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of a revision to 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material. New section 30.34(f) would require those licensees who decide to discontinue a program licensed under Part 30 to notify the Commission in a timely manner. Under the present system the NRC sometimes does not find out that a licensee has discontinued a licensed program until an inspection or the end of the five-year license term. This is the only alternative data source and it is not satisfactory. The report is necessary to allow NRC to communicate with the licensee, in a timely manner regarding disposition of the licensed material and a cleanup of the facility. The NRC estimates that approximately 40 licensees annually will be affected by this new reporting requirement and that the reporting burden will average 20 minutes per response.

The NRC requests clearance of a revision to 10 CFR Part 40, Licensing of Source Material. New section 40.41(f) would require those licensees who decide to discontinue a program licensed under Part 40 to notify the Commission in a timely manner. Under the present system the NRC sometimes does not find out that a licensee has discontinued a licensed program until an inspection or the end of the five-year license term. This is the only alternative data source and it is not satisfactory. The report is necessary to allow NRC to communicate with the licensee, in a timely manner, regarding disposition of the licensed material and a cleanup of the facility. The NRC estimates that approximately 15 licensees annually will be affected by this new reporting requirement and that the burden per licensee will average 20 minutes.

The NRC requests clearance of a revision to 10 CFR Part 70, Special Nu-

clear Material. New section 70.32(h) would require those licensees who decide to discontinue a program licensed under Part 70 to notify the Commission in a timely manner. Under the present system the NRC sometimes does not find out that a licensee has discontinued a licensed program until an inspection or the end of the five-year license term. This is the only alternative data source and it is not satisfactory. The report is necessary to allow NRC to communicate with the licensee, in a timely manner, regarding disposition of the licensed material and a cleanup of the facility. The NRC estimates that approximately 12 licensees annually will be affected by this new reporting requirement and that the burden per licensee will average 20 minutes.

The NRC requests an extension-without-change clearance for Form NRC-314, Certificate of Disposition of Materials. Form NRC-314 is completed by NRC licensees whose licenses are expiring and who do not file an application for renewal of their licenses. Form NRC-314 is reviewed by the NRC to determine whether the licensee has materials on hand which must be transferred or otherwise disposed of prior to expiration of the license and, if materials have been transferred or disposed of, to determine whether transfer or disposition of the materials is in accordance with the NRC's regulations. Respondents are firms, institutions, and individuals licensed to possess and use radioactive materials under NRC licenses. The NRC estimates that approximately 200 respondents will file one certificate annually and that preparation time will average 10 minutes per certificate.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 79-9601 Filed 3-28-79; 8:45 am]

#### [4110-86-M]

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Center for Disease Control

##### COMMUNITY ORGANIZATION FOR PREVENTIVE HEALTH SERVICES

##### Open Meeting

The following meeting will be convened by the Bureau of State Services of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: April 17, 1979.  
Time: 9 a.m. to 4 p.m.  
Place: Room 511, 255 East Paces Ferry Road, N.E., Center for Disease Control, Atlanta, Georgia 30333.



Purpose: To discuss plans for community organization as it pertains to the development of preventive dental health services. Additional information may be obtained from:

Dr. Vernon N. Houk, Director, Environmental Health Services Division, Bureau of State Services, Center for Disease Control, Atlanta, Georgia 30333. Telephones: FTS: 236-6645, Commercial: 404/262-6645.

Dated: March 23, 1979.

WILLIAM H. FOEGE,  
Director, Center for  
Disease Control.

(FR Doc. 79-9585 Filed 3-28-79; 8:45 am)

#### [4110-35-M]

##### Health Care Financing Administration

##### STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCIL OF CALIFORNIA

##### Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on September 30, 1979.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have 3 or more PSROs to: (1) help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

- (1) Knowledgeable about health care provided in California under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;
- (2) Willing and able to represent the interests of the public; and

- (3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

- (1) Organizations and groups that must, under law, be represented on the Council (PSROs and physicians groups); or
- (2) Organizations and groups that must, under law, be represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians.)

Please include biographical data which demonstrates each nominee's qualifications, particularly his or her knowledge of health care in the State and willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Philip Nathanson, Regional Administrator, Health Care Financing Administration, 100 Van Ness Avenue, 14th Floor, San Francisco, California 94102.

After consideration of all nominations received within 60 days of this Notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA (415) 556-0254.

Dated: March 23, 1979.

PHILIP NATHANSON,  
Regional Administrator, Health  
Care Financing Administration.

(FR Doc. 79-9490 Filed 3-28-79; 8:45 am)

#### [4110-84-M]

##### Health Services Administration

##### PROJECT GRANTS FOR HEMOPHILIA TREATMENT CENTERS

##### Announcement of Availability of Grants

The Bureau of Community Health Services, Health Services Administration, announces that competitive applications for grants for projects to establish comprehensive hemophilia diagnostic and treatment centers are being accepted. Section 1131(a) of the Public Health Service Act (42 U.S.C. 300c-21) authorizes the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private entities to support projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. The amount available for these grants in fiscal year 1979 is \$650,000. It is expected that approximately five awards will be made under this program and that the amount of each award will be approximately \$130,000.

The Secretary will make grants to eligible applicants for projects to establish centers which will provide on an outpatient basis, among other things, diagnosis and treatment of individuals suffering from hemophilia and will assure access to services for all such individuals residing within the geographic area served by the project. See, 42 CFR Part 51d, Subpart A, for regulations applicable to these grants.

Application kits, including all necessary forms, instructions, and information may be obtained upon written request from, and completed applications returned to, the address below:

Grants Management Branch, Bureau of Community Health Services, Health Services Administration, Room 6-49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Consultation and technical assistance regarding the development of an application are available from the Bureau of Community Health Services, Room 7-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-2350.

Applicant's proposals must be submitted for review by the Health Systems Agency(s) in the applicant's area and must be submitted for review and comment to State and Area-wide A-95 Clearinghouses. It is strongly recommended that applicants submit proposals to reviewing agencies at least 60 days before the deadline for receipt of applications.

Completed applications must be received by June 1, 1979, to be considered for funding.

Dated: March 16, 1979.

GEORGE I. LATHCOTT,  
Administrator,  
Health Services Administration.

(FR Doc. 79-9489 Filed 3-28-79; 8:45 am)

#### [4110-39-M]

##### National Institute of Education

##### PROGRAM OF RESEARCH GRANTS ON ORGANIZATIONAL PROCESSES IN EDUCATION

##### Closing Dates for Applications

National Institute of Education gives notice that, under the authority contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), applications are being accepted for support of research related to organizational processes in elementary and secondary education. This notice is a republication of remaining deadline dates in Fiscal Year 1979 (announced December 8, 1978, at 43 FR 57658), and an announcement of planned dates in Fiscal Year 1980.

A. *Types of awards.* The program funds two types of grants. Small grants may be made for projects of up to twelve months' duration in amounts not to exceed \$10,000 of direct costs. Grants (other than small grants) may be made in any amount for projects of up to three years' duration. Note the increase in the limit on small grants, from \$7,500 to \$10,000.

B. *Application procedures.* Application for a grant (other than a small grant) requires a preliminary proposal, which is reviewed by NIE staff, scholars, and educators. NIE returns to the applicant an indication of the relative standing of the preliminary proposal, and information on any major strengths or weaknesses found in the review. An applicant may submit a full proposal for a grant (other than a small grant) only after receiving the review of the preliminary proposal.

Application for a small grant requires only a full proposal, not a preliminary proposal.

In order to conduct its reviews, NIE requires 10 copies of any proposal submitted.

C. *Closing dates.* Applications for new awards are reviewed in batches at four-month intervals. Future closing dates for submitting small grant, preliminary, and full proposals are:

April 16, 1979  
August 15, 1979  
December 17, 1979  
April 14, 1980

D. *Applications sent by mail.* An application sent by mail must be addressed to: National Institute of Education, Proposal Clearinghouse, Washington, D.C. 20208. Attention: Organization Research.

A mailed proposal will be accepted for review if it is mailed on or before the closing date. Proof of timely mailing may consist of a legible U.S. Postal Service postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted.

NOTE—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use first-class mail, registered or certified. Each late applicant will be notified that the proposal will not be considered in the current review cycle. Late applications may be withdrawn or held over for review in the next cycle.

E. *Hand-delivered applications.* An application to be hand-delivered must be taken to the Proposal Clearinghouse, National Institute of Education, room 813, 1200 19th Street NW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:30 p.m. Washington, D.C. time, except

Saturdays, Sundays, and federal holidays.

F. *Program information.* Interested persons may obtain a program announcement from the Head, School Organization and Management Studies, Program on Educational Policy and Organization, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. Telephone 202-254-7930. The announcement contains all rules governing the program, as well as information on eligibility and review criteria, available funds and award history, and instructions on how to apply. Persons interested in applying for research support under this program are strongly urged to obtain the program announcement. Written requests for the program announcement should be accompanied by a self-addressed mailing label.

G. *Multiple year awards.* Grants (other than small grants) may be for projects lasting up to three years. If an application for a multi-year project is approved, an initial grant award will be made for one year. Continuation awards will be made on a noncompetitive basis subject to satisfactory performance and the availability of funds in future fiscal years.

H. *Availability of funds and estimated number of awards.* Research projects approved for support in the April 1979 review cycle announced in this notice will be awarded initial funds from the NIE fiscal year 1979 appropriation. From this appropriation, the total amount of funds available for support of new projects of all kinds in this program is about \$0.9 million. Approximately 10 new grants will be awarded in the balance of Fiscal Year 1979; of which about 4 will be small grants. The range of funding for projects in 1978 was from about \$35,000 to \$100,000 per year for grants, and \$5,000 to \$12,000 for one-year small grants. However, the majority of awards was for under \$80,000 per year for grants, and under \$9,000 for small grants.

Funds for the program in Fiscal Year 1980 will not be known until fall 1979, but the amount is expected to be approximately the same as in previous years.

The program will support only projects of the highest quality, whether or not the program's resources are exhausted. Nothing in this announcement commits NIE to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun in earlier years, for contract or in-house research, or because of budget or staffing restrictions.

I. *Applicable regulations.* The regulations applicable to this program include the NIE General Provisions Reg-

ulations (45 CFR Part 1400) published in the FEDERAL REGISTER on November 4, 1974, at 39 FR 38992, and the final regulations for the Program of Research Grants on Organizational Processes in Education published in the FEDERAL REGISTER on November 22, 1977, at 42 FR 59487.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: MARCH 21, 1979.

PATRICIA ALBJERG GRAHAM,  
Director,  
National Institute of Education.

(FR Doc. 79-9733 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### National Institutes of Health

##### ADVISORY COMMITTEES

##### Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the establishment of the following committees by the Secretary, HEW.

*The Biochemical Endocrinology Study Section.* This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to chemical and biochemical aspects of endocrinology, including reproduction. Also covered will be studies on non-endocrine (pharmacological) action of hormones.

*Chemical Pathology Study Section.* This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to various aspects of pathology with emphasis on linking the disciplines of chemistry and pathology in basic and clinical studies of the etiology of disease at the cellular level.

*Diagnostic Radiology and Nuclear Medicine Study Section.* This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to various aspects of clinical and basic research in diagnos-



tic radiology, nuclear medicine and ultrasound. A common thread uniting these modalities and areas of scientific expertise is optical imaging and its attendant instrumentation.

**Mammalian Genetics Study Section.** This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to the search for new knowledge in the field of mammalian genetics. The subject matter would focus on the broad hereditary aspects of humans and warm-blooded animals. The range would be from theoretical models and basic studies to human clinical studies with the use of molecular, population, or classical methodologies, including somatic cell, immunogenetic, behavioral, cytogenetic, and formal techniques pertaining to genetic defects or diseases of humans. The specific areas covered would be:

1. Biochemical and molecular genetics of higher organisms.
2. Somatic cell genetics and immunogenetics.
3. Human and mammalian developmental genetics.
4. Human and mammalian behavioral genetics.
5. Human and mammalian studies of genetic variability, evolution and population genetics.
6. Human and mammalian cytogenetics and gene mapping.
7. Evaluation of genetic counseling methodologies.

Authority for these Study Sections shall expire on June 30, 1980, unless the Secretary, HEW, formally determines that continuance is in the public interest.

Dated: March 15, 1979.

DONALD S. FREDRICKSON,  
Director,  
National Institute of Health.  
(FR Doc. 79-9520 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

###### Notice of Open Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: Breast Cancer Task Force Committee.  
Dates: May 3-4, 1979: 1 p.m. to 5 p.m., May 3; 8:45 a.m. to adjournment, May 4.  
Place: Building 31C, Conference Room 10, National Institutes of Health.  
Times: Open for the entire meeting.  
Agenda: (1) Breast Cancer Task Force Committee workshop on aspects of genetic risk for breast cancer and (2) program review.  
Executive secretary: Dr. D. Jane Taylor.  
Address: Landow Building, Room 4A22, National Institutes of Health.  
Phone: 301-496-6718.

Name of committee: Chemical selection subgroup of the Clearinghouse on Environmental Carcinogens.  
Dates: May 25, 1979, 9 a.m. to adjournment.  
Place: Building 31C, Conference Room 7, National Institutes of Health.  
Times: Open for the entire meeting.  
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.  
Executive secretary: Dr. James M. Sontag.  
Address: Building 31, Room 3A16, National Institutes of Health.  
Phone: 301-496-5108.

Dated: March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9521 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### BOARD OF SCIENTIFIC COUNSELORS, DIVISION OF CANCER CAUSE AND PREVENTION

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCCP, National Cancer Institute, April 26 and 27, 1979, Building 31, 6th Floor, "C" Wing, conference room 9, National Institutes of Health. This meeting will be open to the public on April 27, 1979, from 9:00 a.m. to 5:00 p.m. to discuss aspects of the research and resources activities of the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 26, 1979, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the

competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. David McB. Howell, Executive Secretary, Board of Scientific Counselors, Division of Cancer Cause and Prevention, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496-2927) will furnish summary minutes, roster of committee members, and substantive program information.

Dated March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institute of Health.  
(FR Doc. 79-9522 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### MEETING

##### BIOMEDICAL LIBRARY REVIEW COMMITTEE

Pursuant to P.L. 92-463, notice is hereby given of the special meeting of the Biomedical Library Review Committee, National Library of Medicine, on May 1-3, 1979, from 8:30 a.m. to 5:00 p.m. on May 1, and May 2, and from 8:30 a.m. to adjournment on May 3, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 to 10:30 a.m. on May 3 for the discussion of program directions in regard to three newly established programs—the new investigator research grants, the research development awards, and the program project support for research in biomedical information systems. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 522b(c)(4) and 522b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 1 and 2 from 8:30 a.m. to 5:00 p.m., and from 10:30 to adjournment on May 3 for the review, discussion and evaluation of individual grant applications.

These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301-496-4191, will

provide summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879-National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institute of Health.  
(FR Doc. 79-9529 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### MICROBIOLOGY AND INFECTIOUS DISEASES ADVISORY COMMITTEE

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases on April 24-25, 1979, at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public from 9:00-9:30 a.m. on April 24 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 9:30 a.m. on April 24 until adjournment on April 25 for the review, discussion, and evaluation of individual contract proposals. These proposals and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20014, (301) 496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9527 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### NATIONAL ADVISORY EYE COUNCIL

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, May 21, 22, and 23, 1979, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will convene each day at 9:00 a.m. and will be open to the public from 9:00 a.m. until noon on May 21 for opening remarks by the Director, National Eye Institute, discussion of procedural matters, and presentations by the extramural staff of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(b) of Pub. L. 92-463, the meeting will be closed to the public from 1:00 p.m. until adjournment on Monday, May 21, and the entire day on Tuesday and Wednesday, May 22 and 23, until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Chief, Office of Scientific Reports and Program Planning, National Eye Institute, Building 31, Room 6A-25, AC 301/496-5248, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9525 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### NATIONAL CANCER ADVISORY BOARD SUBCOMMITTEE

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of an ad hoc subcommittee of the National Cancer Advisory Board, National Cancer Institute, April 26, 1979, Building 31, Room 7A24, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 a.m. to adjournment to review the role of the National Cancer Advisory Board. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of Board members, upon request.

Dr. Thomas J. King, Executive Secretary, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5147) will provide substantive program information.

Dated: March 14, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9523 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### NATIONAL DIABETES ADVISORY BOARD

###### Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meetings of the National Diabetes Advisory Board on April 2 and 3, 1979, which was published in the FEDERAL REGISTER, March 13, 1979, 44 FR 14643, due to unanticipated conflicts with other scheduled meetings.

Dated: March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9524 Filed 3-28-79; 8:45 am)

#### [4110-08-M]

##### NATIONAL ARTHRITIS ADVISORY BOARD WORK GROUP

###### Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the Private Sector Work Group, National Arthritis Advisory Board, April 11, 1979, which was published in the FEDERAL REGISTER on March 5, 1979, 44 FR 12108. The full



Board and other Work Groups will meet as planned April 11-12, 1979. Times and meeting location may be obtained by contracting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301) 496-1991.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health.)

Dated: March 15, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9528 Filed 3-28-79; 8:45 am)

## [4110-08-M]

**NATIONAL HEART, LUNG, AND BLOOD ADVISORY COUNCIL AND MANPOWER SUBCOMMITTEE AND RESEARCH SUBCOMMITTEE MEETINGS**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, May 31, June 1 and 2, 1979, National Institutes of Health, Building 31, Conference Room 10, at 9 a.m.

This meeting will be open to the public on May 31, from 9 a.m. to approximately 3:30 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held May 30, 1979, at 8 p.m. in Building 31, Conference Room 9 and 10 respectively.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on May 31, from 3:30 p.m. until recess, and on June 1, from 9 a.m. to adjournment on June 2, for the review, discussion and evaluation of individual grant applications. The Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8 p.m. to adjournment on May 30, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National In-

stitutes of Health, Bethesda, Maryland 20014, (301) 496-4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, (301) 496-7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 79-9526 Filed 3-28-79; 8:45 am)

## [4310-84-M]

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

(Coal Lease Application C-27103; C-27432)

**LAND IN GUNNISON COUNTY, COLO. AND LANDS IN DELTA COUNTY, COLO.**

**Public Hearing**

United States Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on April 18, 1979 at 7:00 p.m. in the Paonia High School gymnasium in Paonia, Colorado. Applications have been made to the United States that it offers for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Technical Examination-Environmental Assessment Report and on the following items: (1) the method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leaseholds may have on the area, including but not limited to impacts on the environment, agriculture, and other economic activities; and (3) methods of evaluation of the coal to be offered. Written requests to testify orally at the April 18th public hearing should be received at the Montrose District Office, Bureau of Land Management, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81401, prior to the close of business (4:30 p.m.) on April 16, 1979. People who indicate they wish to testify when they check in at the hearing room may also have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be reviewed at the public hearings, but speakers will be limited to a maximum of 3 to 5 minutes each depending on the number of persons desiring to

comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to the District Manager, Montrose District Office at the above address, prior to close of business on April 20, 1979. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments on the fair market value of the coal resources described herein, to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

**APPLICATION C-27103**

The coal resource to be offered is to be mined underground from the E-seam in the following lands located approximately 12 miles northeast of Paonia, Colorado:

T. 13 S., R. 90 W., 6th P.M.,  
Sec. 1: Lots 13, 14, 19, 20;  
Sec. 12: Lots 1, 2 and that part of Lot 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and SE $\frac{1}{4}$ NW $\frac{1}{4}$  lying north of the North Fork of the Gunnison River.

Containing approximately 304 acres.

**APPLICATION C-27432**

The coal resource to be offered is limited to 5,600,000 tons to be mined underground from the D-seam in the following lands located approximately 3 miles north of Paonia, Colorado:

T. 13 S., R. 92 W., 6th P.M.,  
Sec. 12: Lots 9, 15;  
Sec. 13: Lots 1, 3, 4, 5, 6, 11, 12.  
T. 13 S., R. 91 W., 6th P.M.,  
Sec. 7: Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 18: Lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
Sec. 19: NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

Containing 864.41 acres.

**NOTICE OF AVAILABILITY**

The draft Technical Examination-Environmental Assessment Report will be available for review in the Montrose District Office, Bureau of Land Management, at the address set out above, and at the Uncompahgre Resource Area Office, Bureau of Land Management, 336 South 10th Street, Montrose, Colorado 81401.

A copy of the Technical Examination-Environmental Assessment Report, the case files, and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commentator, will be available for public inspection at the Colorado State

Office, Bureau of Land Management at the address set out above.

MERRILL G. ANDERSON,  
Leader, Montrose Team,  
Branch of Adjudication.

(FR Doc. 79-9481 Filed 3-28-79; 8:45 am)

## [4310-84-M]

**MONTANA**

**Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River**

MARCH 21, 1979.

Notice is hereby given that all recreation users on the public lands within the Upper Missouri National Wild and Scenic River corridor from Fort Benton, Montana, to the Fred Robinson Bridge will be required to have in possession a permit issued by the Lewistown District, Bureau of Land Management, Lewistown, Montana.

**NONCOMMERCIAL USE**

A free use permit will be required for noncommercial recreational users of this River during the primary recreation use season. These permits will be issued on a first come, first serve basis and will not fall under "open season" restrictions. They will be issued at all major launch points along the River.

**COMMERCIAL OPERATORS**

Filing—Application for a Special Recreation Use Permit (SRUP) must be filed during the "open season" established by the District Manager prior to the beginning of the primary recreation use season (the weekend before Memorial Day through the weekend following Labor Day). This open season will extend until April 30, 1979.

Applicants must submit in duplicate completed Form 6260-5, obtainable from any Bureau of Land Management office, along with required supplementary data, to the District Manager, Bureau of Land Management, Airport Road, Drawer 1160, Lewistown, Montana 59457.

In addition to the information requested in the SRUP, the applications must be accompanied by (1) an estimate of the total number of passenger days required for the upcoming use season, (2) an estimate of the number of passenger days required during the primary recreation use season, (3) a record of past use on the Missouri River extending back a period of five years, (4) a listing of anticipated launch dates (if known) and, (5) a record of any other past outfitting or guiding permits acquired.

Final approval or disapproval of the permit will occur within a maximum of 30 days following the close of the

open season. The District Manager will inform the applicant within 15 days following the close of the open season if the decision to issue the permit will be delayed and the reason for the delay.

Approved permits will be valid until December 31 of the year of issuance.

Use allocations will be determined by the District Manager. Allocations will be based on (1) established carrying capacity limits for the river, (2) historic use, and, (3) requested use needs. Allocations will be granted for the primary recreation use season only. Use fees and the SRUP will apply, however, to the total annual use actually recorded by each outfitter or guide.

Fees—Applicants for special recreation permits shall include with their application a \$10 nonrefundable filing fee. A minimum fee of \$25 is required for each 100 passenger days or a fraction thereof. (A passenger day is any calendar day, or portion thereof, on the public lands or use otherwise authorized by special recreation permit.) The following schedule of rates will apply: 1 to 100 passenger days = \$25 (minimum payment not subject to refund). Additional passenger days will be compiled in increments of 100 days at \$25 per 100 days. Days at the beginning and ending of trips will count as full days.

Payment of use fees will be required at the time the permit is issued. Because the amount of intended use cannot be precisely determined at this time, the fee will be based on an estimation of total annual use and payment will be required of that amount.

**PERFORMANCE BONDS**

Minimum of a \$100.00 Performance Bond will be required. The amount of the bond may be larger and shall be sufficient to defray the cost of restoration and rehabilitation of the lands affected by the permitted use. The amount of the bond will be at the discretion of the district manager.

**INSURANCE**

An insurance policy, naming the United States as coinsured, will be required for issuance of permits. Amounts of public liability insurance required are:

- (1) Property damage in the amount of \$5,000;
- (2) Damage to persons in the minimum amount of \$100,000 in the event of death or injury to one individual; and
- (3) The minimum amount of \$250,000 in the event of death or injury to more than one individual.

Permit holders will also be required to comply with other applicable State and Federal agency requirements, use

restrictions, laws, and regulations. These include, but are not limited to:

- (1) U.S. Coast Guard regulations pertaining to water safety, personal flotation devices, and equipment (including inspection);
- (2) Montana boating regulations;
- (3) Business licenses (if applicable); and
- (4) Montana Outfitters and Guides License (if applicable).

EDWIN ZAIDLICZ,  
State Director.

(FR Doc. 79-9483 Filed 3-28-79; 8:45 am)

## [4310-84-M]

**MONTANA**

**Wilderness Inventory**

MARCH 20, 1979.

Notice is hereby given that the Montana Bureau of Land Management has completed the second phase of wilderness inventories on certain public lands in Montana. The inventories which followed guidelines established in the BLM Wilderness Inventory Handbook dated September 27, 1978, were conducted in advance of the statewide inventory. Time commitments previously established for completion of the environmental statement for the Northern Tier Pipeline necessitated the accelerated inventory.

**PROPOSED DECISIONS**

The Montana State Director's proposed decision on the wilderness inventory of three inventory units crossed by the proposed Northern Tier Pipeline in the Miles City and Butte Districts is as follows:

MT-024-665 Woody-Flat Creek (9,800 acres). This unit originally contained 25,500 acres of public land. 15,700 acres of the original unit were found to be unsuitable for further wilderness consideration on the basis of existing roads and opportunities for solitude or primitive and unconfined types of recreation.

The remaining 9,800 acres in the central portion of the inventory unit were found to have wilderness characteristics and are recommended for further study.

MT-024-684 Terry Badlands (44,515 acres). This unit originally contained 52,000 acres of public land. The boundaries were modified on the basis of roads and other manmade intrusions found during the intensive inventory. The remaining 44,515 acres were found to contain wilderness characteristics and are recommended for further wilderness study.

MT-074-150 Wales Creek (16,143 acres). This unit originally contained 20,056 acres. Boundary modifications were made during the intensive inventory to exclude a road area where



extensive logging had taken place which clearly and obviously did not meet wilderness characteristics criteria. A second modification was made to eliminate state and private lands originally included in the unit, but which were not actually contiguous to the remainder of the area. The remaining 16,143 acres were found to contain wilderness characteristics and are recommended for further wilderness study.

#### MILES CITY DISTRICT INVENTORY UNITS NOT RECOMMENDED FOR FURTHER STUDY

The Montana State Director's proposed decision on the wilderness inventory of six inventory units in the MT-7's City District proposed to be crossed by the Northern Tier Pipeline is as follows:

MT-048-689 Cabin Creek (13,200 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on the density and distribution of vehicular ways and the impact of manmade intrusions.

MT-048-674 Nelson Creek (5,499 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on the density and impact of manmade intrusions.

MT-048-666 Hagen Gap (10,800 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on the density and impact of manmade intrusions.

MT-024-667 Timber Creek-Big Dry Creek (10,100 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area on the basis of not providing outstanding opportunities for primitive and unconfined recreation.

MT-048-690 Cedar Creek (15,000 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on a high level of manmade developments in the form of oil wells and associated equipment.

MT-048-668 Big Dry Arm (9,478 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area on the basis of not providing outstanding primitive and unconfined recreational opportunities.

A public review period on the proposed decisions began on March 7, 1979, and will conclude on April 16, 1979. A final wilderness inventory decision will be made by the State Director on or before May 1, 1979.

For further information or to submit written comments on the wilderness inventory for the affected units, individuals should contact:

Wilderness Coordinator, Butte District Office, 220 N. Alaska, P.O. Box 308, Butte, Montana 59701. Telephone: 406-723-6561.  
Wilderness Coordinator, Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301. Telephone: 406-232-4331.

EDWIN ZAIDLICZ,  
State Director.

[FR Doc. 79-9484 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

(NM 36312)

#### NEW MEXICO

#### Application

MARCH 19, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4 1/2-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 29 E.,  
Sec. 6, SE 1/4, SE 1/4,  
Sec. 8, NW 1/4, NW 1/4.

This pipeline will convey natural gas across 0.423 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 79-9485 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

[Colorado 24128 j; Colorado 24128 o;  
Colorado 24128 p; Colorado 22771 m]

#### NORTHWEST PIPELINE CORPORATION

#### R/W Applications for Pipeline

MARCH 22, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for rights-of-way for 4 1/2" o.d. natural gas pipeline for the Philadel-

phia Creek and Trail Canyon Gathering Systems approximately 3.682 miles long, across the following Public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 2 S., R. 101 W.  
Section 9: NW 1/4 NE 1/4, NE 1/4 NW 1/4,  
S 1/2 NW 1/4, NW 1/4 SW 1/4,  
Section 10: S 1/2 SE 1/4,  
Section 11: SW 1/4 SW 1/4,  
Section 12: SE 1/4 SW 1/4,  
Section 13: NE 1/4 NW 1/4, W 1/2 NW 1/4,  
Section 14: SE 1/4 NE 1/4, N 1/2 SE 1/4,  
Section 15: NW 1/4 NE 1/4, E 1/2 NW 1/4,  
T. 4 S., R. 101 W.  
Section 11: SE 1/4 NE 1/4,  
Section 12: W 1/2 NW 1/4.

The above-named gathering systems will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of the environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the applications. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claims or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corporation.

Any comments, claims, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,  
Leader, Craig Team,  
Branch of Adjudication.

[FR Doc. 79-9482 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

#### OFFICIAL PROTRACTION DIAGRAM

#### Approval Outer Continental Shelf

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram, approved on the date indicated, is available for information in the Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil

and gas lease offers in the geographic area represented.

#### OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description: NN 3-5, Unalaska.  
Approval date: Revised October 24, 1978.

2. Copies of this diagram are for sale at two dollars (\$2.00) per sheet by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The Street address is 800 A Street, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

ROBERT J. BROCK,  
Acting Manager, Alaska Outer  
Continental Shelf Office.

[FR Doc. 79-9480 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

(2300; U-31031; (U-942))

#### UTAH

#### Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application filed by the Bureau of Land Management, U.S. Department of the Interior, U-31031, for withdrawal and reservation of national resource lands was published as FEDERAL REGISTER Document 75-28561 on pages 49583 and 49584 of the issue for October 23, 1975. A modification of the Proposed Withdrawal was published as FEDERAL REGISTER Document No. 76-6955 on pages 10455 and 10456 of the issue for March 11, 1976. The Bureau of Land Management has canceled its application involving the lands described in the FEDERAL REGISTER publications referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) such lands will be at 10:00 a.m. on May 4, 1979 relieved of the segregative effect of the above-mentioned application.

PAUL L. HOWARD,  
State Director.

March 20, 1979.

[FR Doc. 79-9486 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

#### NEVADA

#### Airport Lease Application

MARCH 20, 1979.

1. Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), County of Lincoln has applied for an airport lease for the following lands:

#### MOUNT DIABLO MERIDIAN

T. 7 S., R. 60 E.  
sec. 1, SE 1/4,  
sec. 12, NE 1/4.  
T. 7 S., R. 61 E.,  
sec. 6, SW 1/4,  
sec. 7, NW 1/4.

2. The application was filed on February 16, 1979, and on that date the land was segregated from all other forms of appropriation under the public land laws.

3. Interested persons may submit comments to the District Manager, Bureau of Land Management, 4765 W. Vegas Drive, Box 5400, Las Vegas, NV 89102.

WM. J. MALENCIK,  
Chief,  
Division of Technical Services.

[FR Doc. 79-9589 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

(NM 36310 and 36311)

#### NEW MEXICO

#### Notice of Applications

MARCH 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for two 4-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 26 E.,  
sec. 34, S 1/2 SW 1/4.  
T. 23 S., R. 29 E.,  
sec. 4, lots 3, 4, SW 1/4 NE 1/4, S 1/2 NW 1/4 and  
N 1/2 SE 1/4,  
sec. 6, SE 1/4 SE 1/4.

These pipelines will convey natural gas across 1.431 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 87107.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9587 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

(NM 36291)

#### NEW MEXICO

#### Notice of Application

MARCH 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 10 W.,  
Sec. 7, lot 12;  
Sec. 18, lots 5, 11 and 12.

This pipeline will convey natural gas across 0.40 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9588 Filed 3-28-79; 8:45 am]

#### [4310-84-M]

#### UTAH

#### Kanab-Escalante Grazing Statement; Notice of Intent To Prepare an Environmental Statement and Scoping Meetings

The Department of the Interior, Bureau of Land Management, Cedar City District Office will be preparing a Grazing Management Environmental Impact Statement in connection with a 1974 Federal court order to prepare site specific environmental statements concerning the effects of livestock grazing activities on public lands. The BLM was directed to address specific areas, identify particular grazing management programs, analyze the environmental impacts associated with the management programs and analyze viable grazing management alternatives.

BLM administered land in Garfield and Kane counties west of Capitol Reef National Park and Glen Canyon National Recreation Area with the exception of those lands along the Sevier River and East Fork of the Sevier River, will be considered. The Cannan



## NOTICES

Mountain area of Washington County will also be included.

Three public meetings will be held for the purpose of scoping the environmental statement. Scoping is the process of determining the scope of issues to be addressed, and identifying the significant issues related to the proposed grazing management programs.

The meetings will be held as follows: May 2, 1979, at the BLM office in Kanab, Utah, from 1:00 pm to 7:00 pm; May 3, 1979, at the BLM office in St. George, Utah, from 1:00 pm to 7:00 pm; May 3, 1979, at the BLM office in Escalante, Utah, from 1:00 pm to 7:00 pm. Interested individuals may attend any of these meetings or send written comments to the address below.

These meetings will be held as Open Houses. Those who wish to attend may come at their convenience and will have an opportunity to go over the Management Framework Plan grazing proposals which the environmental statement will address and provide any information they desire to an attendant employee at the Open House.

For information concerning the proposed grazing management programs or the environmental statement, contact the following individual: Morgan S. Jensen, Bureau of Land Management, Post Office Box 724, Cedar City, Utah 84720, Area Code 801-586-2401.

Dated: March 22, 1979.

MORGAN S. JENSEN,  
District Manager,  
Cedar City, Utah.

[FR Doc. 79-9590 Filed 3-28-79; 8:45 am]

## [4310-84-M]

[W-65973 Amendment]

## WYOMING

## Notice of Application

MARCH 21, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana-Dakota Utilities Co. of Bismarck, North Dakota filed an application to amend their existing right-of-way, W-65973, to construct an additional 6 inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING  
T. 49 N., R. 94 W.,  
sec. 13, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

The proposed 6 inch pipeline will transport natural gas from the American Quasar #1-13 well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of section 13 to a point of connection with their existing 8 inch pipeline located in the SW $\frac{1}{4}$  of section

12, all within T. 49 N., R. 94 W., Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9591 Filed 3-28-79; 8:45 am]

## [4310-84-M]

[W-66684]

## WYOMING

## Notice of Application

MARCH 21, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application for a right-of-way to construct an 8 inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 48 N., R. 92 W.,  
sec. 18,  
T. 48 N., R. 92 $\frac{1}{2}$  W.,  
secs. 1, 12 and 13,  
T. 49 N., R. 92 W.,  
sec. 31,  
T. 48 N., R. 93 W.,  
sec. 1,  
T. 49 N., R. 93 W.,  
secs. 3, 4, 10, 11, 13, 14, 24, 25 and 36,  
T. 50 N., R. 93 W.,  
secs. 5, 8, 9, 21, 28 and 33,  
T. 51 N., R. 93 W.,  
secs. 28, 32 and 33.

The proposed pipeline will transport crude oil from the River Dome Station located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of section 18, T. 48 N., R. 92 W., Washakie County, Wyoming to the Basin Station located in lot 2 of section 18, T. 51 N., R. 93 W., Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management,

1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9592 Filed 3-28-79; 8:45 am]

## [4310-84-M]

[W-62916 Amended]

## WYOMING

## Notice of Application

MARCH 21, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an amendment to re-route their pending right-of-way application and to change the size of pipeline to be constructed to a 6 $\frac{1}{2}$  inch O.D. and a 4 $\frac{1}{2}$  inch O.D. for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,  
Secs. 25, 26, 27, 28, 32 and 33.

The proposed pipeline will transport natural gas from the Paparone Federal #1 well located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of section 25, T. 24 N., R. 111 W., to a point of connection with Northwest Pipeline Corporation's Lateral A-2 pipeline located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of section 32, T. 24 N., R. 111 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 79-9593 Filed 3-28-79; 8:45 am]

## [4310-10-M]

## Office of the Secretary

## HEARINGS

Lands Withdrawals in Alaska by the Secretary of the Interior Under Section 204(c) of the Federal Land Policy and Management Act

AGENCY: Department of the Interior.  
ACTION: Notice.

**SUMMARY:** The Department of the Interior will conduct a series of public hearings to collect written and oral testimony on the desirability and need to withdraw lands pursuant to the provisions of Section 204(c) of the Federal Land Policy and Management Act, primarily as additions to the National Wildlife Refuge System.

**DATES:** Simultaneous public hearings will be held in the following cities on the dates and times listed: Galena and Kotzebue, Alaska, on April 24, 1979; Kaktovik and Bethel, Alaska, on April 25, 1979; Arctic Village and Dillingham, Alaska, on April 26, 1979. All hearings will begin at 2:00 p.m. Written comments will be accepted by the Alaska Area Director, U.S. Fish and Wildlife Service for 30 days following each public hearing. In addition, at a later date, hearings will be held in Anchorage and Fairbanks, Alaska; Denver, Colorado; San Francisco, California; and Washington, D.C. Information concerning these later hearings will be the subject of a subsequent notice in the FEDERAL REGISTER.

**ADDRESS:** Written requests to testify must be mailed in advance to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99507, (telephone 907-276-3800). Written statements may either be mailed to the Alaska Area Director at the above address in advance of the hearing, or handed to the hearing officer at the hearing.

**FOR FURTHER INFORMATION CONTACT:** Burkett S. Neely, Jr., Alaska Native Claims Staff, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (telephone 202-343-7533).

**SUPPLEMENTARY INFORMATION:** The primary author of this document is Burkett S. Neely, Jr.

## BACKGROUND

On November 16, 1978, Public Land Order 5653, as amended by Public Land Order 5654, was issued under the emergency withdrawal authority provided to the Secretary by section 204(e) of the Federal Land Policy and Management Act of 1976 (FLPMA). The Secretary of the Interior determined that an emergency situation existed and that extraordinary measures had to be taken to protect values of the approximately 110 million acres that were withdrawn.

On December 1, 1978 President Carter used his authority under the Antiquities Act of 1906 to designate 17 new national monuments in Alaska, totaling approximately 56 million acres. President Carter's proclamations covered thirteen units to be administered

by the National Park Service, two units to be managed by the U.S. Fish and Wildlife Service and two National Forest units which will continue to be managed by the Forest Service. Most of these lands are included within the 110 million acres in Alaska which were withdrawn by the Secretary on November 16, 1978 under Section 204(e) of FLPMA.

## DISCUSSION

The public hearings are being scheduled in six Alaskan villages to hear comment on proposals for final withdrawal under Section 204(c) of the FLPMA. The approximately 57 million acres of lands under consideration are generally the remainder of those lands which were withdrawn by the Secretary but not designated as National Monuments by the President. Mostly, these lands would become additions to the National Wildlife Refuge System. These lands are now protected by the emergency withdrawal issued by the Secretary on November 16, 1978, after Congress failed to pass legislation placing these critical federal lands in conservation system units—national parks, national wildlife refuges, wild and scenic rivers.

When the National Monuments were established by Presidential Proclamation, the Secretary was directed to "proceed with necessary steps" for final withdrawals for the remaining areas. These steps involve holding public hearings first and then providing Congress with documentation similar to that submitted in connection with the emergency withdrawals. Appropriate documents pertaining to the areas and withdrawal actions being proposed will be available for review at U.S. Fish and Wildlife Service offices in Anchorage, Fairbanks, Nome, Bethel, Juneau, Kenai, and Kodiak, Alaska, and other locations as appropriate, beginning April 16, 1979. After May 1, documents will be available at all U.S. Fish and Wildlife Service Regional Offices. These documents will also be available during the hearings.

All interested parties including Federal, State, Borough and municipal agencies, local interests, and individual citizens and groups are invited to write to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, requesting to be scheduled to testify at one of the hearings listed above. Those persons scheduled will be afforded 10 minutes to express their views concerning the proposed withdrawals. Oral statements will be heard, but for accuracy of the record, all testimony should be submitted in writing. Translators will be provided for oral testimony as necessary. The record of the hearing will be forwarded

ed to the Secretary for final consideration.

The Department of the Interior encourages written expression relative to the proposal at any time. However, in order to be incorporated in the official record, all communications should be mailed to the Alaska Area Director at the above address within 30 days following each hearing.

Dated: March 26, 1979.

JAMES A. JOSEPH,  
Under Secretary  
of the Interior.

[FR Doc. 79-9639 Filed 3-28-79; 8:45 am]

## [4410-18-M]

## DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration  
NATIONAL INSTITUTE OF LAW ENFORCEMENT  
AND CRIMINAL JUSTICE

## Solicitation

The National Institute of Law Enforcement and Criminal Justice plans to initiate an exploratory research project entitled "Utilization of Forensic Sciences in Police Investigations," intended to develop empirical information that can provide guidance in enhancing the utilization of physical evidence in what is considered the initial stage of the criminal justice process—the criminal investigation responsibility of law enforcement agencies. Recognizing that there is a serious lack of basic information systematically describing the current utilization, costs, and benefits of criminalistic laboratories, as well as their proper role in the criminal justice system, the National Institute is seeking research proposals that address aspects of four general themes which are enumerated in the actual solicitation. The purpose of the solicitation is to invite researchers with a particular interest in this topic area to compete for the research grant.

The solicitation asks for the submission of preliminary proposals rather than formal grant applications. Formal proposals will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than May 1, 1979. The grant is planned for award in July 1979 with funding support not to exceed \$150,000 and a grant period of 24 months in duration.

Further information and copies of the solicitation can be obtained by contacting: William E. Saulsbury or David J. Farmer, Office of Research Programs, NILECJ, 633 Indiana



Avenue, N.W., Washington, D.C. 20531 (301/492-9110).

BLAIR G. EWING,  
Acting Director, National Institute of Law Enforcement and Criminal Justice.

(FR Doc. 79-9487 Filed 3-28-79; 8:45 am)

#### [44-1018-M]

Law Enforcement Assistance Administration

##### NOTICE OF MEETING

Notice is hereby given that the Appeal of Nova University from the denial of a Law Enforcement Education Program (LEEP) grant will be heard on April 5, 1979, at 9:30 a.m. The location of the hearing will be the Federal Court House, 299 East Broward Boulevard, Ft. Lauderdale, Florida, Room 205A.

Administrative Law Judge Paul N. Pfeiffer of the U.S. Consumer Product Safety Commission will preside. The hearing is open to the public. For any further information contact Jay A. Brozost at this number (202) 376-3691.

CHARLES A. LAUER,  
Deputy General Counsel.

(FR Doc. 79-9594 Filed 3-28-79; 8:45 am)

#### [4910-58-M]

##### NATIONAL TRANSPORTATION SAFETY BOARD

(N-AR 79-13)

##### ACCIDENT REPORTS, SAFETY RECOMMENDATIONS AND RESPONSES

###### Availability

###### Aviation

*Aircraft Accident Report No. NTSB-AAR-79-2, Allegheny Airlines, Inc., BAC 1-11 N1550, Rochester, N.Y., July 9, 1978.*—The National Transportation Safety Board's formal investigation report on the runway overrun crash of the British Aerospace Corporation's BAC 1-11 was released March 16.

The report shows that after the aircraft overran the departure end of runway 28 at the Monroe County Airport, it crossed a drainage ditch and came to rest 728 ft past the end of the runway threshold. Although the aircraft was damaged substantially when it hit the drainage ditch, there was no fire. There were 73 passengers and a crew of four on board; one passenger was injured seriously. The landing aircraft passed over the runway threshold at 184 KIAS—61 kts above reference speed—and landed nosewheel first at a point about 2,540 ft down the 5,500-ft runway at a speed of about 163 KIAS—40 to 45 kts above the

normal touchdown speed. A go-around was not attempted.

The Safety Board has determined that the probable cause of the accident was the captain's lack of awareness of airspeed, vertical speed, and aircraft performance throughout an ILS approach and landing in visual meteorological conditions which resulted in his landing the aircraft at an excessively high speed and with insufficient runway remaining for stopping the aircraft, but with sufficient aircraft performance capability to reject the landing well after touchdown. Contributing to the accident was the first officer's failure to provide required callouts which might have alerted the captain to the airspeed and sink-rate deviations. The Safety Board was unable to determine the reasons for the captain's lack of awareness or the first officer's failure to provide required callouts.

The Safety Board made no recommendations as a result of its investigation of this accident.

###### Highway

*Highway Accident Report No. NTSB-HAR-79-1, Osterkamp Trucking, Inc., Truck/Full Trailer and Dodge Van Collision, U.S. 91, near Scipio, Utah, August 26, 1977.*—The Safety Board's report on the investigation of this head-on collision was released on March 19. The collision occurred during a moderate-to-heavy rainstorm 8 miles north of Scipio. The eight occupants of the van were killed and the truckdriver was injured.

The Safety Board determined that the probable cause of the accident was that either or both drivers failed to maintain their vehicle in the proper traffic lane for reasons that could not be determined.

As a result of its investigation, the Safety Board on March 6 recommended that the National Highway Traffic Safety Administration accelerate research into commercial vehicle tire skid-resistance and study the full potential effect of low friction pavements on vehicle performance (recommendations H-79-5 and 6), and further recommended that the Federal Highway Administration consider Board accident investigation techniques for possible use in FHWA guidelines which help the States identify highways which are too slippery (H-79-7). (For the full text of these recommendations, see 44 FR 15815, March 15, 1979.)

*Highway Safety Recommendations Nos. H-79-8, H-79-9, and H-79-10 and 11.*—About 10 a.m. on April 11, 1978, a "schoolbus" type bus, occupied by 56 boys and two adults, was southbound on I-75 near Tifton, Ga., en route to Disney World, Fla., from Ypsilanti, Mich. The bus was operated by the

Ypsilanti Boys Club. As the bus exited I-75 at a safety rest area, it went off the road while negotiating a right curve on the exit lane, overturned, and struck a tree. Three passengers were killed and the driver and 25 passengers were injured.

Evidence gathered during the Safety Board's investigation of this accident indicated that somewhere near the exit ramp the accelerator return spring failed, permitting the accelerator to remain in a "wide open" position. Consequently, when the driver removed her foot from the accelerator the engine did not slow down but continued operating at maximum speed. The Board believed that this condition was not detected by the driver because of fatigue. When the brakes were applied the bus did not decelerate normally because the braking action was working against an engine at full throttle. The driver's reaction after she applied the brakes was that "nothing happened." However, in the 700 feet of roadway before the curve the driver took no evasive action other than to apply the brakes which she had already concluded had failed. The driver's evasive action, the Board suggested, could have included turning off the ignition or steering back onto the highway from the slower speed exit lane.

The speed of the bus at the ramp curve could not be determined, but evidence indicated that the speed exceeded the critical speed of the curve, thus preventing the driver from maintaining the degree of turn required by the road's curvature. Further, the Board found that the bus was not maintained properly. Post-crash inspection revealed an inoperative parking brake, broken spring leaves, excessive brake pedal travel and severely underinflated tires. The underinflated tires, the luggage load on the roof of the bus, and poor rear end suspension, could have created an "oversteer condition" resulting in poor handling characteristics.

As a result of its investigation of this accident, the Safety Board on March 22 issued safety recommendation letters to:

###### State of Michigan—

Provide at least an annual motor vehicle inspection program for vehicles that seat 10 or more persons and buses that are not presently required to be inspected. (H-79-8)

###### State of Georgia—

Continue pavement edge lines through the length of an exit ramp at locations where these lines have been terminated prior to the ramp's ending. (H-79-9)

###### National Highway Traffic Safety Administration—

Request that the individual States identify individuals or groups in the State that transport persons on a nonscheduled, not-for-hire basis, with group- or institution-owned vehicles that have a seating capacity of 10 or more persons and encourage the

States to disseminate material to these groups on vehicle maintenance. (H-79-10)

Request that each State identify individuals or groups that transport persons on a not-for-hire basis, with vehicles that seat 10 or more persons and to disseminate information about the National Highway Traffic Safety Administration's Schoolbus Driver Instructional Program and the National Safety Council's Defensive Driving Course to these individuals and groups. (H-79-11)

Each of the above recommendations is designated "Class II, Priority Action." Copies of the Safety Board's report on investigation of this accident are being prepared for release and will be made available in the near future.

*Highway Safety Recommendation No. H-79-12.*—The Safety Board has completed a safety effectiveness evaluation of the "Passive Restraint Evaluation Program" within the National Highway Traffic Safety Administration. This evaluation was requested by the Senate Appropriations Committee and was performed under the specific authority of the Independent Safety Board Act of 1974. The report will be printed and publicly distributed within the next few weeks.

Based on this evaluation, the Safety Board has concluded that:

1. It is essential that NHTSA evaluate the real world effectiveness of the passive restraint standard.
2. NHTSA is committed to evaluating the passive restraint standard, but the current program is unorganized.
3. An evaluation program plan is required to effectively coordinate the evaluation activities and to address the complexities of this task.
4. NHTSA has a contract study underway to develop an evaluation plan for the period up to the effective date of the standard, September 1, 1981. However, the study appears limited in scope to gross measures of effectiveness.
5. NHTSA has no evaluation plan documented or under development to cover the period after September 1, 1981.
6. The effectiveness of the evaluation program will be improved by providing for public comment on the proposed evaluation plan.

In view of this evaluation, the Safety Board on March 20 recommended that NHTSA:

Develop and publish a formal evaluation program plan to effectively manage NHTSA evaluation activities related to the passive restraint standard (FMVSS 208 as amended July 5, 1977). As part of its development, the proposed program plan should be published for public comment by October 1, 1979. (Class II Priority Action) (H-79-12)

The Safety Board, also on March 20, forwarded a letter to the Chairman of the Subcommittee on Transportation and Related Agencies, Senate Committee on Appropriations, advising of its recommendation to NHTSA.

###### Railroad

*Railroad Accident Report No. NTSB-RAB-79-1, Brief Format, Issue No. 1, 1978.*—The first issue of reports of 1978 railroad accidents was released by the Safety Board on March 16. The 165-page volume contains in brief format the basic facts, conditions, circumstances, and probable cause(s) of 152 rail accidents. Each involved a fatality, a passenger train operation, or substantial property damage. The volume may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

*NOTE.*—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 17 cents per page for printed matter, \$5 per page for black-and-white photographs, and \$4 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

*Railroad Safety Recommendations Nos. R-79-14 Through 28.*—Last June the Conferees of the House and Senate Appropriation Committees directed the Safety Board to conduct a thorough review of hazardous materials rail shipments and the applicable track standards as well as determine how the Federal Railroad Administration can more effectively prevent the occurrence and reduce the severity of derailments of hazardous materials.

The Safety Board believes that, in spite of the facts that the involvement of tank cars in derailments with release of any of their contents is low, every reasonable effort should be made to prevent derailments which involve tank cars and to reduce the severity of those derailments which do occur. The potential for disaster each time a tank car of compressed flammable gas or other toxic gas is involved in a derailment requires additional efforts not indicated by normal statistical trend analyses based on occurrence of derailments.

Based on its safety effectiveness evaluation and findings, the Safety Board by letter dated March 20 recommended that the Federal Railroad Administration:

Select and install a railroad safety expert as Associate Administrator for Safety. Assure that he has the authority commensurate with his responsibility for the railroad safety program. (R-79-14)

Change the organization so that the lines of authority are compatible with the functional requirements of the various organizational elements of the Office of Safety. (R-79-15)

Develop a data base that will allow the definition and rating of railroad safety problems, particularly those problems relat-

ed to the derailment of hazardous materials. (R-79-16)

Develop and document a track safety program based on risk as indicated by a comprehensive safety analysis which will include: desired level of safety (risk) to be achieved; program goals and objectives based on that level; and criteria by which the success of the program will be measured. (R-79-17)

Insure the selective upgrading of those sections of track with the worst derailment records to a condition which will not cause derailments. (R-79-18)

Immediately revise the track safety standards to eliminate the subjectivity, incompatibility, vagueness, and unenforceability. The requirements should be made more explicit so as to insure the detection and correction of all combinations of track conditions which cause derailments (R-79-19)

Insure that the Automated Track Inspection Program includes goals and objectives and measurable criteria for program evaluation. (R-79-20)

Determine through an independent study why some States have been unable or unwilling to join in the existing State Participation Program and implement a productive program as contemplated by the Federal Railroad Safety Act of 1970 in which the States are true partners. (R-79-21)

Determine in cooperation with the Interstate Commerce Commission the feasibility of establishing hazardous materials routes to bypass populous areas. If hazardous materials routing is operationally feasible, require that the track on those routes be maintained at a minimum of Class 4 condition. (R-79-22)

Maintain the schedule for owners to complete the head shield and insulation program. (R-79-23)

In cooperation with the Inter-Industry Task Force, determine what additional cost-effective steps, based on risk-ranking results, can be taken to make tank cars more resistant to hazardous materials releases in derailments. (R-79-24)

Determine the ultimate safety effect of allowing the indiscriminate lowering of main track classifications instead of maintaining the track at original intended class. (R-79-25)

In cooperation with the Interstate Commerce Commission, develop railroad economic and safety policies which are compatible. (R-79-26)

Revise the policies at the Transportation Test Center to insure that the data which is developed is analyzed systematically and published. (R-79-27)

Require that all trains with placarded loaded tank cars of the 112A and 114A types not equipped with the required shelf couplers and tank head protection, which are loaded with liquefied flammable gases and other liquids or toxic compressed gases, operate at a speed 10 mph less than the maximum speeds authorized for those trains on classes 3, 4, 5, and 6 track. (R-79-28)

Of the above 15 recommendations, Nos. R-79-14, R-79-19, R-79-23, and R-79-28 are designated "Class I, Urgent Action"; the remaining recommendations are designated "Class II, Priority Action." The Safety Board's study, "Safety Effectiveness Evaluation-Review of The Federal Railroad Administration's Hazardous Materials Program and the Applicable Safety



Standards," is being prepared for release and copies will be available in the near future.

**Railroad Safety Recommendations Nos. R-79-29 through 31 and R-79-32 through 36.**—Last June 9, northbound Conrail commuter train No. 400, consisting of four self-propelled cars, struck the rear of Amtrak train No. 60, the Montrealer, consisting of one locomotive unit and 14 cars, at Seabrook, Md. The impact caused eight cars of train No. 60 and three cars of train No. 400 to be derailed. Sixteen crewmembers and 160 passengers were injured and damage was estimated to be \$248,050.

Investigation indicated that train No. 60 received an "approach" indication at signal 128R near the Capitol Beltway Station. After stopping, the train departed from signal 128R at medium speed as authorized by the operating rules. However, the locomotive developed operating problems and the engineer called the Lanover (Md.) operator by radio to advise him that he was going to stop. As the train was slowing to a stop, it was struck in the rear by train No. 400.

Investigation showed that many passengers were injured when seats on the passenger train rotated because of defective locking mechanisms, and when passengers on the commuter train were thrown against metal strips and ticket holders on seats. Rescue personnel could not open the commuter car side doors from the outside. Further, train crewmen were not trained to give emergency assistance to passengers.

The Safety Board believes that proper design could have eliminated the new commuter cars' injury-producing features, but neither the Federal Railroad Administration nor the Urban Mass Transportation Administration now requires this despite Board recommendations from four passenger train accidents dating back to 1970.

In light of its findings during investigation of this accident, the Safety Board on March 21 forwarded the following recommendations to:

**New Jersey Department of Transportation.**—Change the emergency release mechanism for the doors on all cars of the type involved in this accident so that the doors can be opened by passengers under emergency conditions, and properly identify the operating emergency equipment. (R-79-29)

Provide a means for emergency personnel to open car doors from the outside. (R-79-30)

Alter the interiors of the commuter cars to correct the injury-producing features of the car design. (R-79-31)

**National Railroad Passenger Corporation.**—Restrict the New Jersey Department of Transportation commuter car from use on the northeast corridor until the interiors of the cars are altered to correct the injury-

producing features of the car design. (R-79-32)

Accept the responsibility for training and qualifying train crewmembers operating trains over territory of the National Railroad Passenger Corporation. Require crewmembers operating on the mainline in passenger, freight, and commuter service to be certified, by Amtrak as to types of service for which crewmembers are qualified. (R-79-33)

Establish train spacing so a following train will not be scheduled to operate on repetitive restrictive signals. Consideration should be given to departure time, train speeds, and station stops to avoid having following trains overtake and closely follow preceding trains. (R-79-34)

Arrange for a program along passenger train routes for training and familiarizing emergency rescue organizations in the type of train equipment being used. (R-79-35)

Establish a program to train crewmembers in the proper procedures for care of passengers in derailment and emergency situations. (R-79-36)

Each of the above recommendations is designated "Class II, Priority Action." The Safety Board's formal report on the investigation of the Seabrook accident is being prepared for release and copies will be available within a few weeks.

#### RESPONSES TO SAFETY RECOMMENDATIONS

**Aviation: A-74-14.**—On February 15, 1978, the Federal Aviation Administration updated information on actions taken to implement, in cooperation with the National Weather Service (NWS), a system to relay severe thunderstorm and tornado warning bulletins expeditiously to inbound and outbound flights when such bulletins include the terminal area. The recommendation was issued April 18, 1974, following investigation of the crash of an Ozark FH-227B at St. Louis, Mo., July 23, 1973; the aircraft crashed while on an instrument approach into a thunderstorm.

FAA reports that in the spring of 1978, NWS meteorologists were assigned to 13 air route traffic control centers (ARTCC's). Their function is to provide air traffic personnel with timely weather intelligence. This intelligence should permit air traffic control personnel and pilots to make appropriate decisions concerning flight safety. This weather intelligence is disseminated not only within the center, but to any FAA facility within its boundaries that may be affected. FAA says that it intends to place meteorologists in all ARTCC's throughout the country.

**Aviation: A-76-128.**—FAA's letter of February 5 advises that action with respect to this recommendation has been completed. The recommendation evolved from a Safety Board special study on flightcrew coordination procedures in air carrier ILS approach ac-

cidents, and asked FAA to include in air carrier training programs flightcrew discussions of formal reports involving approach and landing accidents or incidents, placing special emphasis on those mishaps involving human limitations.

FAA reports that Operations Review Program Amendment No. 5, effective June 26, 1978, was issued on May 15, 1978. Federal Aviation Regulations § 121.417(b)(4) requires, during crewmember emergency training, a review and discussion of previous aircraft accidents and incidents pertaining to actual emergency situations.

**Highway: H-78-40 through 44.**—On February 2 the Federal Highway Administration further responded to the Safety Board regarding recommendations issued as a result of investigation of the May 12, 1977, truck-semitrailer/van collision near Marion, N.C. The recommendations concerned identification of all carriers and drivers under FHWA jurisdiction, compliance with the Federal Motor Carrier Safety Regulations (FMCSR). Federal funding of programs to provide escape routes for out-of-control vehicles, and design and construction of runway-truck control ramps.

FHWA's February 2 letter is in response to the Safety Board's comments of December 12 on FHWA's responses of September 21 with reference to H-78-42 and October 4 with reference to H-78-43 and 44 (see 43 FR 47018, October 12, 1978, and 43 FR 48744, October 19, 1978, respectively). In its December 12 letter, the Board stated that FHWA's safety compliance surveys of the Ford Construction Co., owner of the accident truck, already held and scheduled to be completed were satisfactory and advised that recommendation H-78-42 has been closed—acceptable action. Concerning H-78-43 and 44, the Board's files will be kept open pending completion of actions initiated by FHWA. The Board accepted FHWA's rationale for not wanting to create a new funding category for escape routes and indicated willingness to observe the effect that the technical advisory and notice being prepared by FHWA will have on the States' reaction to the problem of runaway vehicles on long and/or steep grades. Also the Board believed FHWA's actions to provide for a design criteria to be satisfactory, especially with respect to the interim technical advisory to provide guidelines until such time as the AASHTO (American Association of State Highway and Transportation Officials) publication is updated.

In response, essentially with reference to H-78-43 and 44, FHWA reports that its notice to emphasize the need for out-of-control truck counter-measures and a technical advisory on the

design of truck escape ramps are in the final stages of preparation and copies will be furnished to the Safety Board as soon as they are issued. FHWA notes that the gathering of Federal fund usage data for escape ramps would be "extremely difficult to obtain." Several States have given positive reaction concerning experiences with escape ramps. In response to the Board's December 12 request for a viewing of the slide/tape presentation on escape ramps, FHWA reports that the program is ready and can be made available for viewing and a copy provided is desired.

The Safety Board on March 15 replied to FHWA's February 2 letter, advising that both recommendations H-78-43 and 44 would be kept open—H-78-43 until copies of the proposed notice and technical advisory are issued and H-78-44 until the new AASHTO policy on geometric design is published. The Board also repeated its December 12 request for a before-and-after funding data comparison as a means to evaluate the effectiveness of the proposed notice and technical advisory on truck ramp construction. The Safety Board will arrange for a viewing of the slide/tape presentation on escape ramps but will not need a copy of the program, believing that highway safety would be better served if it were sent to field unit for use in training design engineers.

With reference to recommendations H-78-40 and 41, the Safety Board on January 29 replied to FHWA's October 30 response (43 FR 53514, November 16, 1978). The Board was pleased to note that FHWA and the Interstate Commerce Commission are working closely to insure identification of all carriers in interstate commerce and to provide these carriers with information as to their responsibility with regard to the FMCSR. However, noting that FHWA considers the current nonsystematic procedure for identifying drivers in interstate commerce to be "responsive and effective" under current resource levels, the Board suggests that a more systematic procedure would prove more profitable in carrying out FHWA's regulatory responsibilities. The Board asked for certain statistical information regarding registered carriers and owner/operators working under lease agreements with carriers. Since the Board continues to find drivers involved in major accidents, and in violation of one or more FMCSR and claiming no knowledge of these regulations, the Board is continuing to recommend that a systematic procedure be devised to make these drivers aware of the regulations.

The Safety Board is holding both recommendations H-78-40 and H-78-41 open. Believing that the issue of driver awareness of and compliance

with FMCSR is extremely important, and that a statement of the status quo is not an acceptable solution to the problem, the Safety Board encourages FHWA to seek ways and means to monitor the activities of drivers involved in interstate commerce through registered carriers, through State agencies, or through an increased Bureau of Motor Carrier Safety effort.

A response to the Safety Board's January 29 letter has not yet been received from FHWA.

**Intermodal: I-76-9 through 11 and I-78-9 through 12.**—On January 24 the Research and Special Programs Administration of the U.S. Department of Transportation provided the Safety Board with a copy of the Department's response to seven recommendations issued by the Committee on Government Operations in a report entitled "Emergency Response to Hazardous Materials Accidents," published last September. The recommendations were based on hearings held before the House Subcommittee on Government Activities and Transportation in April 1978.

DOT's response to the Committee's recommendations includes discussion of the Department's progress in implementing Safety Board recommendations I-76-9 through 11 and I-78-9 through 12. The latter four recommendations were issued to DOT last June 29 (see 43 FR 30149, July 13, 1978), predicated on the three-day, full-board hearing held April 4-6, 1978, on the hazardous materials derailment problem. Forty-nine witnesses from the railroad industry, tank car builders and operators, shippers, State and local officials, firefighters, labor representatives, and the public testified at the Board hearing.

**Marine: M-78-56 through 61.**—Letter of January 26 from the U.S. Coast Guard is in response to recommendations issued following investigation of the fire and explosion which occurred on the tankship SS SANSINENA as the ship was pumping seawater ballast into its cargo tanks, preparing to depart Union Oil Co. Terminal Berth 46, Los Angeles Harbor, Calif., on December 17, 1976. (See 43 FR 36533, August 17, 1978.)

Recommendation M-78-56 asked Coast Guard to establish minimum criteria for vapor-emitting operations on tank vessels carrying flammable cargoes in U.S. ports to include monitoring of vapor concentrations on deck and in enclosed spaces located above the cargo tanks, and stopping vapor-emitting operations when vapor concentrations exceed safe limits and under certain low wind velocity conditions. In response, Coast Guard states that protection through operating restrictions is considered as secondary to protection by design. The monitoring

and enforcement aspects of the recommendation are considered impractical. Coast Guard has a project underway to investigate vapor concentrations in relation to time, position, wind, humidity, and vessel configuration. This study will provide information on vent height requirements and arrangement and is to be completed by 1981. Coast Guard reports that the results of the International Tanker Safety and Pollution Prevention Conference and the Port Tanker and Safety Act of 1978 are being implemented through regulation. These regulations will deal with ballast tanks and inert gas systems. Coast Guard believes that these regulatory and research efforts will significantly reduce the hazards associated with flammable mixtures and vapors.

Recommendation M-78-57 asked Coast Guard to require operators of tank vessels carrying flammable cargoes in U.S. ports to develop guidelines for the amount of ballast needed in cargo tanks for the expected range of operating conditions to minimize import ballasting of cargo tanks, and establish other ballasting requirements which may be imposed when high velocity venting is installed. Coast Guard states that the proposed regulations for tanker safety and pollution prevention will accomplish the intent of this recommendation. New vessels (20,000 DWT crude, 30,000 DWT other tankers) will have segregated ballast tanks; heavier existing vessels (40,000 DWT and over) will have segregated ballast, clean ballast tanks, or crude oil washing. Existing vessels of 20,000 DWT and over will be required to have inert gas systems. These requirements will reduce the probability of discharging an explosive mixture during ballasting more effectively than a reduction in ballasting. According to Coast Guard, it can be done without restricting the master's use of his judgment as to the amount of ballast necessary.

Recommendation M-78058 called for requirements for cargo tank vent systems on tank vessels carrying flammable cargoes in U.S. ports, including independent venting of each cargo tank; location, size, and height of vent outlets, with consideration of ship structures; means of protecting vent systems from flame entry, including proper fit and attachment of flame-quenching devices; and vent system configurations that provide ease of inspection and maintenance. Coast Guard reports that, as related in response to M-78-56, it is working on a study to develop technical information related to vent height and arrangements. As related in M-78-57, Coast Guard is developing regulations for inert gas systems and segregated ballast tanks.



Coast Guard was asked in recommendation M-78-59 to require operators of tankships carrying flammable cargoes in U.S. ports to develop training plans for the instruction of persons responsible for cargo handling and vapor-emitting operations, to make these training plans available for Coast Guard review, and to train responsible persons in accordance with the plans, and appropriately document the training. Coast Guard reports that on April 25, 1977, it published a notice of proposed rulemaking concerning tankerman requirements of 46 CFR 10.11 and 46 CFR 12.20. Due to lengthy comments from the public, the General Accounting Office's Liquefied Energy Gas Report, the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and the requirements of Public Law 94-474 (Port and Tanker Safety Act of 1978), this proposal is being withdrawn and will be reissued as a new proposal by mid-1979. There will be a requirement for tankermen to complete a Coast Guard approved product school. These regulations will apply only to U.S. seafarers. The recently adopted IMCO International Convention on Standards of Training, Certification and Watchkeeping of Seafarers, 1978, will, when ratified, require minimum service and training for certain crewmembers of all tank vessels.

In response to M-78-60, which asked Coast Guard to require the installation and use of closed cargo level gauging systems on tank vessels carrying flammable cargoes in U.S. ports, Coast Guard states that the inert gas systems previously referred to will require closed gauging arrangements.

Recommendation M-78-61 asked Coast Guard to test flame-quenching devices under conditions of vapor concentrations, constituencies, and size of flammable regions that might occur on the main deck of a tank vessel, to determine the adequacy of such devices. In response, Coast Guard lists two studies to examine the adequacy of commercially available flame-quenching devices: "Experimental Study of Flame Control Devices for Cargo Venting Systems," Arthur D. Little and Company, August 1978; and "Flame Screen Testing," National Aeronautical and Space Administration's Jet Propulsion Laboratory, beginning in January 1979. These studies will be used to recommend possible regulatory changes for existing flame arresting devices. Coast Guard claims that the size of the flammable cloud that might occur on the deck should have no effect on the adequacy of the flame-quenching device. The ability of a device to quench a flame depends on the propagation velocity of the flame front when it encounters the device

and the ability of the device to cool the flame below its ignition temperature. An unconfined flame will propagate at a constant speed regardless of cloud size. The only driving force for acceleration of the flame is pressure buildup; there is no pressure buildup if the flame is unconfined, Coast Guard stated.

NOTE.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters and response letters are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,  
Federal Register Liaison Officer.

MARCH 26, 1979.

[FR Doc. 79-9548 Filed 3-28-79; 8:45 am]

[3110-01-M]

#### OFFICE OF MANAGEMENT AND BUDGET

##### AGENCY FORMS UNDER REVIEW

###### BACKGROUND

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

###### LIST OF FORMS UNDER REVIEW

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;  
the office of the agency issuing this form;  
the title of the form;  
the agency form number, if applicable;

how often the form must be filled out; who will be required or asked to report;  
an estimate of the number of forms that will be filled out;  
an estimate of the total number of hours needed to fill out the form; and  
the name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (\*).

###### COMMENTS AND QUESTIONS

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

#### DEPARTMENT OF AGRICULTURE

AGENCY CLEARANCE OFFICER—DONALD W. BARROWMAN—447-6202

###### NEW FORMS

Agricultural Stabilization and Conservation Service  
Report of Unmarketed Tobacco  
MQ-108-1  
Annually  
Tobacco producers  
478,300 responses, 23,915 hours  
Charles A. Ellett, 395-5080

###### EXTENSIONS

Agricultural Stabilization and Conservation Service  
Uniform Rice Storage Agreement

CCC-26, 26-1 and 26-2  
On occasion  
Rice Warehousemen  
275 responses, 275 hours  
Charles A. Ellett, 395-5080

Agricultural Stabilization and Conservation Service  
Application for Transfer of Acreage Due To Disaster  
ASCS-364  
Annually  
ELS cotton, peanut, rice, tobacco producers  
5,000 responses, 1,250 hours  
Charles A. Ellett, 395-5080

Agricultural Stabilization and Conservation Service  
Bean Storage Agreement  
CCC-28, 28-1 and 28-2  
On occasion  
Bean warehousemen  
370 responses, 370 hours  
Charles A. Ellett, 395-5080

Economics, Statistics, and Cooperatives Service  
Fruit Processing Survey  
Annually  
Fruit processors  
1,670 responses, 278 hours  
Charles A. Ellett, 395-5080

Food and Nutrition Service  
Model Food Stamp Forms  
On occasion  
Food stamp applicants and State agencies  
62,953,340 responses, 17,979,457 hours  
Charles A. Ellett, 395-5080

#### DEPARTMENT OF COMMERCE

AGENCY CLEARANCE OFFICER—EDWARD MICHAELS—377-4217

###### REVISIONS

Bureau of the Census  
Annual Survey of Oil and Gas  
MA-13K  
Annually  
Operators and lessees of oil and gas field properties  
560 responses, 14,000 hours  
Office of Federal Statistical Policy and Standard, 673-7974

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AGENCY CLEARANCE OFFICER—PETER GNESS—245-7488

###### NEW FORMS

Center for Disease Control  
Measles Surveillance Questionnaire  
Single time  
City, county health officers  
150 responses, 60 hours  
Richard Elisinger, 395-3214  
Health Care Financing Administration (Medicaid)  
Survey of State Medicaid Drug Benefit Programs  
HCFA-116T

Single time  
Pharmacy consultants employed by Medicaid S.A.  
39 responses, 39 hours  
Richard Elisinger, 395-3214

###### REVISIONS

Center for Disease Control  
Evaluation of Historical Immunization Data with Antibody Level Determinations Made Via Serologic Analysis  
Single time  
Households in selected SMSA  
2,758 responses, 920 hours  
Richard Elisinger, 395-3214  
National Institutes of Health  
Hypertension Detection and Follow-Up Program Five Year Follow-Up Survey  
Other (See SF-83)  
HDFP enumerated households—age eligible  
45,300 responses, 15,075 hours  
Richard Elisinger, 395-3214

Social Security Administration  
Applications and Discontinuances for Aid to Families With Dependent Children (AFDC) and Medicaid  
SSA-3800  
Quarterly  
State agencies for public assistance  
75 responses, 17,400 hours  
Barbara F. Reese, 395-6132

###### EXTENSIONS

Food and Drug Administration  
Notice of Availability of Sample Electronic Product  
FD 2767  
On occasion  
Electronic product manufacturers and importers  
1,000 responses, 250 hours  
Richard Elisinger, 395-3214

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AGENCY CLEARANCE OFFICER—JOHN KALAGHER—755-5184

###### NEW FORMS

Policy Development and Research  
Participation and Benefits in the Urban Section 8 Program  
Single time  
Participants in Section 8 program  
12,050 responses, 10,987 hours  
Arnold Strasser, 395-5080  
Policy Development and Research  
Request for Grant Application  
Single time  
Inventors  
200 responses, 200 hours  
Arnold Strasser, 395-5080

###### EXTENSIONS

Policy Development and Research  
Preliminary Application and Enrollment Forms of the Housing Assistance Supply Experiment—EMAP

Annually  
Households in Green Bay and South Bend  
20,000 responses, 21,000 hours  
Arnold Strasser, 395-5080

#### DEPARTMENT OF LABOR

AGENCY CLEARANCE OFFICER—PHILIP M. OLIVER—523-6341

###### NEW FORMS

Employment Standards Administration  
Survey of Employees and Insurers  
ESA-78 (T)  
Single time  
Employ. w/over 100 employees, insurance carriers  
570 responses, 188 hours  
Arnold Strasser, 395-5080

###### REVISIONS

Employment and Training Administration  
CETA Grant Application and Reporting Requirements  
ETA 2202 and 5134, etc.  
Other (see SF-83)  
State and local agencies  
1,997,311 responses, 1,099,000 hours  
Arnold Strasser, 395-5080

#### DEPARTMENT OF STATE (EXC. MID)

AGENCY CLEARANCE OFFICER—GAIL J. COOK—632-3538

###### NEW FORMS

Application for Dependent Care Training Grant  
JF-52  
On occasion  
State department employees and family members  
300 responses, 150 hours  
Marsha D. Traynham, 395-6140

###### ACTION

AGENCY CLEARANCE OFFICER—W. D. BALDRIDGE—254-8028

###### REVISIONS

Action Volunteer Reference Form  
Peace Corps/Vista  
On occasion  
Volunteer  
320,000 responses, 320,000 hours  
Barbara F. Reese, 395-6132  
Action Volunteer Application—Peace Corps/Vista  
A-35  
On occasion  
Volunteer  
50,000 responses, 50,000 hours  
Barbara F. Reese, 395-6132



# OFFICE OF PERSONNEL MANAGEMENT

AGENCY CLEARANCE OFFICER—JOHN P.  
WELD—632-7737

## REVISIONS

Financial Disclosure Report for Ex-  
ecutive Branch' Personnel  
SP-278  
On occasion  
Ethics in government financial disclo-  
sure records  
500 responses, 500 hours  
Marsha D. Traynham, 395-6140

## VETERANS ADMINISTRATION

AGENCY CLEARANCE OFFICER—R. C.  
WHITT—389-2282

## REVISIONS

Counseling Record Personal Informa-  
tion  
22-1902  
On occasion  
Veterans  
40,000 responses, 30,000 hours  
David P. Caywood, 395-6140

STANLEY E. MORRIS,  
Deputy Associate Director for  
Regulatory Policy and Reports  
Management.

[FR Doc. 79-9656 Filed 3-28-79; 8:45 am]

## [4510-23-M]

### PRESIDENT'S COMMISSION ON COAL

#### SEMINAR ON LABOR RELATIONS ORGANIZATION AND APPROACHES IN THE COAL INDUSTRY

The President's Commission on Coal will conduct a seminar on labor relations organization and approaches in the coal industry on April 12, 1979, from 9:30 a.m. until 4:30 p.m. in room N5437 of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Commission was created by executive order to conduct a comprehensive review of the state of the coal industry in the United States considering, among other issues, "collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate."

After presentations by invited experts and representatives of coal industry labor and management, there will be a round table discussion with Commission members and those who presented papers.

The proposed revisions to this report have already been approved for use by OMB because of urgent need as described by the requesting agency. The report itself was originally approved in January. Public comments will still be carefully considered, and any changes indicated will be made either immediately or in the next revision of the report, as warranted.

## NOTICES

The seminar will not be a formal hearing, but will be open to the public. Interested persons may file written statements with the Commission on the topics under discussion. These statements must be filed no later than May 11, 1979, to be included in the record of the proceedings.

Persons wishing more information, or who wish to submit a statement with the Commission on labor relations organization and approaches in the coal industry, should contact Mr. Allen Wampler, The President's Commission on Coal, 600 E Street, N.W., Suite 500, Washington, D.C. 20004; telephone 202/376-2001.

Dated: March 27, 1979.

MICHAEL S. KOLEDAR,  
Executive Director,  
The President's Commission on Coal.  
[FR Doc. 79-9830 Filed 3-28-79; 9:11 am]

## [8010-01-M]

### SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5665;  
File No. 81-467]

#### APPLIED INDUSTRIES, INC.

##### Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Applied Industries, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. As a result of an offer made by the Applicant in September 1978 to repurchase shares of its common stock, the Applicant's number of shareholders was reduced to below 300. Registration of the Applicant's common stock under Section 12(g) was terminated on February 7, 1979 pursuant to Rule 12(g)(4) of the 1934 Act.

2. In Connection with its repurchase offer, the Applicant provided each shareholder with an information statement which contained, among other things, audited financial statements for the years ended June 30, 1978 and 1977.

3. There is very little trading in Applicant's common stock.

4. In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act for the fiscal year ending June 30, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate, in view of the fact that

the time, effort and expense involved in the preparation of additional periodic reports will be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested persons not later than April 9, 1979 may submit to the commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the commission's own motion.

For the Commission, by the Division  
of Corporation Finance, pursuant to  
delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-9549 Filed 3-28-79; 8:45 am]

## [8010-01-M]

[Administrative Proceeding File No. 3-5605;  
File No. 81-432]

#### CINERAMA, INC.

##### Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Cinerama, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities and Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On August 29, 1978, Applicant merged with and became a wholly-owned subsidiary of Forkel, Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission on October 27, 1978, a Form 8-K which reflects the merger.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is

## NOTICES

on file in the offices of the Commission at 1100 L Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division  
of Corporation Finance, pursuant to  
delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-9550 Filed 3-28-79; 8:45 am]

## [8010-01-M]

[Administrative Proceeding File No. 3-5666;  
File No. 81-403]

#### COCA-COLA BOTTLING CO. OF LOS ANGELES

##### Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Coca-Cola Bottling Company of Los Angeles, a California corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

(1) The Applicant was a publicly held company with two classes of securities registered pursuant to Section 12(g) of the 1934 Act, and was thus subject to the reporting provisions of Section 13 of the 1934 Act.

(2) On July 28, 1978, all of the Applicant's registered preferred stock was redeemed pursuant to authorization by its Board of Directors.

(3) On August 10, 1978, the Applicant was merged with a wholly-owned subsidiary of NIW Inc., a Delaware corporation, which is itself a wholly-owned subsidiary of Northwest Industries, Inc. As a result of the merger, each share of the outstanding common stock of the Applicant not then owned by NIW Inc. was converted into the right to receive \$40 in cash,

and NIW Inc. became the sole shareholder of the Applicant.

Applicant believes that its request for an order exempting it from the reporting provisions of Section 13 and 15(d) of the 1934 Act is appropriate in that NIW Inc. now owns all of the Applicant's common stock, and all of its preferred stock has been redeemed.

Applicant further states that the filing of these reports is unnecessary for the protection of public investors and, if required, would entail considerable expense on the part of the Applicant.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division  
of Corporation Finance, pursuant to  
delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 79-9551 Filed 3-28-79; 8:45 am]

## [8010-01-M]

[Release No. 10633; 812-4428]

#### MERCANTILE NATIONAL BANK AT DALLAS

##### Two Trusts to be Established Pursuant to the Coastal States—Lo-Vaca Settlement Plan; Filing of Application

MARCH 21, 1979.

Notice is hereby given that Mercantile National Bank at Dallas ("Applicant"), Main at Ervay, Dallas, Texas 75222, the trustee of an irrevocable securities ("Securities Trust") and an irrevocable has search trust ("Gas Trust") which are proposed to be established as a settlement of certain

legal claims against Coastal States Gas Corporation and certain of its affiliated companies, filed an application on February 1, 1979 and an amendment thereof on March 15, 1979, pursuant to Sections 6(c) and 6(e) of the Act for an order exempting the Securities Trust and Gas Trust from all provisions of the Investment Company Act of 1940 ("Act") and the rules and regulations thereunder, other than Sections 9, 17, 36 and 37 to the extent set forth in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

#### BACKGROUND LEADING TO CREATION OF THE PROPOSED TRUSTS

Applicant states that as a result of unforeseen increases in well-head prices of natural gas in the early 1970's, Lo-Vaca Gathering Company ("Lo-Vaca"), a subsidiary of Coastal States Gas Producing Company ("Producing"), which in turn is a subsidiary of Coastal States Gas Corporation ("Coastal"), was in a position under its long-term natural gas sales contracts of incurring increased costs for purchased gas, and was initially permitted by the Railroad Commission of Texas ("Railroad Commission") to pass through its increased costs to its customers through a revised rate structure. Subsequently, the Railroad Commission ordered Lo-Vaca to refund such additional charges to its customers and to return to its original contract prices for future gas sales. Applicant represents that if these refunds, estimated by Lo-Vaca to be approximately \$1,600,000,000, and the original contract prices had been enforced, Lo-Vaca could no longer have operated and Coastal's continued existence would have been uncertain. Consequently, Applicant states that the parties to the Railroad Commission's order proposed a settlement plan ("Settlement Plan") as an alternative to the order, which was approved by the Railroad Commission and would establish for the benefit of the injured customers of Lo-Vaca the Securities Trust and the Gas Trust ("Trusts") to receive and distribute cash to be received pursuant to certain contract rights established in the Settlement Plan. Applicant, a national bank which is a wholly-owned subsidiary of Mercantile Texas Corporation, has been appointed by the Presiding Judge of the District Courts of Travis County, Texas ("Presiding Judge"), to serve as trustee of the Securities and Gas Search Trusts. Applicant represents that it did not participate in the settlement negotiations or the drafting of the Settlement Trust Agree-



ment ("Agreement") which established the Trusts.

#### OPERATION OF THE TRUSTS

Pursuant to the terms of the Settlement Plan, the Securities Trust will receive (i) Coastal Common Stock having a pro forma book value of \$20,835,000 (approximately 1,171,526 shares), (ii) approximately 2,593,420 shares of Producing Common Stock (having a pro forma book value of approximately \$19,220,000), (iii) 1,150,000 shares of Producing Series A Preferred Stock (\$115,000,000 aggregate liquidation value), and (iv) an \$8,000,000 one-year promissory note of Producing. The Applicant represents that subject to complex resale restrictions it is directed to sell all of these securities (except the one-year note) for cash as promptly as practicable, with an outside limit of seven years, and distribute the net proceeds to the Settling Customers annually as realized. According to the application, Applicant will serve as Escrow Agent to hold certain securities of Coastal and funds of Coastal and Producing to ensure that the Securities Trust realizes at least \$115,000,000 from the sale of and dividends on the Producing Series A Preferred Stock.

In addition, Applicant states that a Gas Search Agreement requires Coastal to spend in excess of \$180,000,000 over a period of no longer than 15 years for the discovery and development of natural gas reserves, the majority of which will ultimately be sold to customers of Lo-Vaca, including the Settling Customers. Applicant represents that this gas will be sold by Coastal to Producing, which will be recognized, spunoff from Coastal and renamed Valero Corporation ("Valero"), at less than market prices and then resold by Valero to Lo-Vaca at market prices, with the difference being transferred by Valero to the Gas Trust for annual distribution to the Settling Customers. Applicant states that it is impossible to estimate the amount of cash which will be received by the Gas Trust, but if no gas were discovered, Coastal could theoretically pay \$190,000,000 into the Gas Trust in lieu of certain additional gas search and development expenditures.

Applicant has the responsibility for making all decisions relating to the timing and method of disposition of securities in the Securities Trust. Because of the size of the Securities Trust and the potential importance of such decisions, however, the Applicant states that it presently intends to engage Duff and Phelps, Chicago, Illinois, an investment adviser registered under the Investment Advisers Act of 1940 who is independent of Applicant, Coastal, Producing and Lo-Vaca, to assist in matters relating to securities

in the Securities Trust, including the timing and method of sales. Applicant represents that the investment adviser will be paid on a basis unrelated to proceeds realized on the sale of securities held by the Securities Trust and that such fees are not expected to exceed \$20,000 annually.

With regard to the Gas Trust, Applicant states that it will periodically receive cash payments from Valero equal to the bargain element of gas sales, as described above. Applicant states that it will receive reports from Coastal relating to its required expenditures and gas dedications, and from Valero relating to amounts paid to Coastal for the purchase of gas and amounts received from Lo-Vaca from the sale of such gas, and that reports relating to expenditures by Coastal for the development of qualified gas projects will be certified by independent certified public accountants selected and paid for by Coastal. In addition, Applicant represents that gas projects and the amounts of gas dedicated will be certified by independent petroleum engineers selected and paid for by Coastal, and that Lo-Vaca and the Applicant are authorized to engage an independent petroleum engineer, at the expense of Lo-Vaca, to verify the amounts of gas dedicated. Applicant states that annual reports relating to the employment of correct accounting procedures in the determination of amounts to be paid by Valero and Coastal to the Applicant under the Gas Search Agreement will be certified by officers of Coastal and Valero, respectively.

Applicant represents that it is required to make annual distributions of cash held by the Trusts and that all funds held pending distribution are required to be continually invested in interest bearing bank deposits or short-term fixed income securities explicitly authorized by the Agreement. Applicant states that any amounts which are not invested in such authorized securities must be either fully insured by an agency of the United States, or fully collateralized to the extent of market value by earmarked authorized securities, or a combination of both.

With respect to compensation for its duties as trustee, Applicant represents that it has negotiated with the Settling Customers having the largest interests in the Trusts, and that although the compensation arrangement is not yet finalized, it will be substantially in the following manner. Applicant will receive an acceptance fee of \$150,000 plus reimbursement of its expenses upon consummation of the Settlement Plan. For as long as there are assets in the Securities Trust, Applicant will receive annual fees of \$50,000 for administering both trusts, and when the Securities Trust no

longer has assets, the Applicant will receive annual fees of \$25,000 for administering the Gas Trust (subject to downward adjustments in years in which the gas Trust only realizes small amounts). Applicant will receive aggregate investment management fees for the Securities Trust equal to 0.75% of the net proceeds of sales of securities held in the Securities Trust, and management fees for the gas Trust based on hourly rates for officer time, ranging from \$40 to \$125 per hour. As compensation for short-term investment management of funds held pending distribution, Applicant will receive 3% of net investment income. Applicant represents that its total compensation, other than the acceptance fee, will be subject to an upper limit of \$50,000 per year, plus officer time at the above hourly rate, plus 0.02% of the cash invested by Applicant.

Applicant represents that throughout the duration of the trusts, the presiding Judge and the Railroad Commission will be monitoring the performance of Coastal, Valero and Applicant. Applicant states that the Railroad Commission's order approving the Settlement Plan specifically requires that it receive all reports furnished by Coastal, Valero or Applicant, and that Applicant is required to make quarterly and annual reports to the Settling Customers, the presiding judge and the Railroad Commission detailing all receipts and dispositions of assets, including expenses by the Trusts. Applicant states that the presiding judge will have continuing jurisdiction over all of the parties to ensure their compliance with all of the provisions of the Settlement plan and related agreements, and that any Settling Customer may petition the Presiding Judge for the appointment of a successor trustee, or the Presiding Judge may act *sua sponte* with respect to any matter affecting the Trusts. Lastly, Applicant states that Valero, through Lo-Vaca, will be subject to the jurisdiction of the Railroad Commission, which controls the rates charged by Lo-Vaca for the transmission of gas.

#### THE EXEMPTION REQUEST

Applicant submits that by virtue of the assets to be held by the Trusts and the transactions contemplated, the trusts might be deemed an investment company within the meaning of Section 3(a) of the Act. Accordingly, Applicant has sought an order pursuant to Sections 6(c) and 6(e), exempting the Trusts from all provisions of the Act and the rules and regulations thereunder, which Applicant submits would be in the public interest, consistent with the protection of Settling Customers and within the policy intentment of the Act.

Applicant submits that the Trusts lack "key characteristics" of investment companies such as the continuous purchase of securities of the investment company by the investing public and the continuing trading activities of the investment company. In this regard, Applicant states that after formation of the Trusts, no further interests in the Trusts will be created and the already existing interests in the Trusts will not be transferable. Similarly, Applicant asserts that the Trusts are not viewed by the parties as an investment vehicle, but rather as a means of permitting the realization of cash settlement of claims pending against coastal and others through the sale of Coastal and Producing securities, and of receiving funds and monitoring Coastal's performance under the Gas Agreement.

In order to effectuate the Settlement Plan, Coastal and Producing have filed a registration statement pursuant to the Securities Act of 1933 registering the offering of interests in the Trusts to the Settling Customers. Applicant states that a complete description of the settlement plan and the Trusts is contained in the registration statement. Applicant states that substantially all of the economic interest in the Trusts is accounted for by customers who, it is alleged, are large sophisticated corporations and municipalities which have been well represented and have carefully reviewed the terms of the Settlement Plan. The provisions of the Settlement Plan and the Trusts have been reviewed and approved by the Presiding Judge and the Railroad Commission.

Applicant further submits that it did not participate in the settlement negotiations and that the Trusts will not be subject to domination by their investment adviser or by a combination of their investment adviser and board of directors, stating that the Applicant's acts will be subject to the scrutiny of the Presiding Judge and that Applicant may be removed by 51% of the Settling Customers. Applicant represents that it has no pre-existing business relationships with Coastal or Valero and is required by the settlement Agreement to be unaffiliated with Coastal and Valero within the meaning of Section 2(a)(3) of the Act. Applicant also submits that it is subject to the regulations of the Federal Reserve Board, the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

Moreover, Applicant claims that the policy objectives inherent in the exemptions contained in Sections 7(a) and 7(b) of the Act for transactions incidental to the dissolution of an investment company argue in favor of the exemption. From the moment the Trusts are established, all of their

transactions will be directed toward the liquidation of all of the assets of the Trusts into cash and the distribution of the cash proceeds to the Settling Customers.

Finally, Applicant submits that each provision of the Act and the rules and regulations thereunder, other than those from which complete exemption is not sought, is either inapplicable to the Trusts, or if applied would unnecessarily duplicate regulation provided by other federal agencies, or would not serve the public interest or that of the Settling Customers. No exemption is sought with respect to section 9, which relates to ineligibility of certain persons to serve investment companies in certain capacities, with respect to the Applicant and any employee or agent of Applicant who services the Trusts or has access to assets of the Trusts. Applicant and the Trusts undertake that all transactions by the Trusts with affiliated persons of a type which are not contemplated or authorized by the Settlement plan, the Agreement or the Gas Search Agreement, will be subject to the provisions of Section 17, which prohibits or regulates certain transactions between investment companies and their affiliates. Lastly, the Trusts, Applicant and its investment adviser undertake to be bound by the provisions of Sections 36 and 37 which relate to breaches of fiduciary duty and larceny or embezzlement.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(e) of the Act provides that, if, in connection with any order under Section 6 exempting any investment company from section 7, the Commission deems it necessary or appropriate in the public interest or for the protection of investors that certain specified provisions of the Act pertaining to registered investment companies shall be applicable in respect of such company, the provisions so specified shall apply to such company, and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

Notice is further given that any interested person may, not later than April 13, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or

law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-9554 Filed 3-28-79; 8:45 am)

[8010-01-M]

(Release No. 20969; File 70-6280)

#### NORTHEAST NUCLEAR ENERGY CO.

##### Proposed Nuclear Fuel Financing

MARCH 22, 1979.

Notice is hereby given that Northeast Nuclear Energy Company ("NNEC"), P.O. Box 270, Hartford, Connecticut 06101, a wholly owned subsidiary of Northeast Utilities ("Northeast"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12(d) of the Act and Rules 44 and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

NNEC acts as agent for The Connecticut Light and Power Company, The Hartford Electric Light Company and Western Massachusetts Electric Company (collectively, the "Owners"), each a public utility subsidiary of Northeast and owners as tenants in common of the nuclear generating units known as Millstone Units 1 and 2. NNEC owns the nuclear fuel for Millstone Units 1 and 2 and supplies such fuel to the Owners for use in the reactors of Millstone Units 1 and 2.



NNEC has financed the acquisition, conversion, enrichment and fabrication into assemblies of nuclear fuel through a variety of methods, including unsecured bank borrowings by NNEC and the use of internally generated funds provided by the Owners to NNEC pursuant to the fuel supply contract between the Owners and NNEC. The long-term financing of the nuclear fuel assemblies after their arrival at the plant site has been accomplished through the sale by NNEC of secured notes under the Trust Indenture dated December 1, 1972 ("Indenture") between NNEC and the Connecticut Bank and Trust Company, as trustee.

In February 1978, in order to provide a comprehensive framework for the financing of nuclear fuel primarily during the off-site portions of the nuclear fuel cycle, NNEC entered into arrangements for Millstone Units 1 and 2 with Manufacturers Hanover Trust Company, not in its individual capacity but solely as trustee ("Trustee") of the Waterford Fuel Supply Trust ("Trust"), which was specially created for the purpose of such financing pursuant to a Trust Agreement ("Trust Agreement") dated November 15, 1977 between The Connecticut Bank and Trust Company as trustor ("Trustor"), the Trustee and NNEC, as Beneficiary. Pursuant to a Nuclear Fuel Sale Agreement ("Sale Agreement") dated November 15, 1977 between NNEC and the Trustee, NNEC agreed to assign to the Trustee all of its rights, title and interest in and to all or part of certain nuclear fuel contracts and nuclear fuel pursuant to one or more assignments ("Assignments"). The Trustee, in turn, agreed to either reimburse NNEC for payments made to fuel vendors under the assigned nuclear fuel contracts or to make such payments directly to the fuel vendors. The Sale Agreement and the Assignments allow NNEC to assign to the Trustee the nuclear fuel contract rights with respect to one or more reload batches of fuel, and to request the Trustee to finance such reload batches, without assigning or asking the Trustee to finance all of the reload batches covered by a given contract.

Upon making a payment with respect to any nuclear fuel, the Trustee acquires title to such nuclear fuel (or, in some circumstances, the right to acquire title in the future) and the related nuclear fuel contract rights. Upon the completion of the processing and fabrication of the nuclear fuel assemblies constituting a reload batch and delivery of such fuel assemblies to the plant site, or, on any earlier date selected by NNEC, NNEC is required under the Sale Agreement to repurchase such fuel assemblies at a price equal to the "seller's cost", as defined

in the Sale Agreement. Under the Sale Agreement, NNEC's obligation to repurchase the fuel and to make such payments to the Trustee is absolute and unconditional. NNEC is required to repurchase the fuel assemblies at a time no later than the day preceding insertion into a nuclear reactor. The Sale Agreement will terminate on the earlier of June 30, 1987, or the occurrence of certain other events specified therein.

Pursuant to a Credit Agreement ("Credit Agreement") dated November 15, 1977 between the Trustee and Manufacturers Hanover Trust Company, acting in its individual capacity ("Bank"), the Trustee finances its own payments to NNEC and the fuel vendors through the sale of the Trust's commercial paper notes ("CP Notes"), backed by irrevocable letters of credit of the Bank, which are preprinted on the CP Notes. If the Trustee cannot sell the CP Notes or if certain other circumstances arise, the Bank is obligated to make loans to the Trustee which are sufficient in amount to enable the Trustee to make nuclear fuel payments to NNEC or to fuel vendors. NNEC may also instruct the Trustee to borrow from the Bank instead of issuing CP Notes. The Bank's obligation to extend credit to the Trustee by issuing letters of credit preprinted on CP Notes or making loans is limited to a total commitment of \$35,000,000. The Trustee must pay to the Bank a letter of credit fee computed at a rate of 1 1/4% per annum through December 31, 1978 and 1 1/4% per annum thereafter of the daily average amount of letters of credit outstanding during each calendar quarter. In addition, the Trustee must pay the Bank a commitment fee computed at the rate of 1/4 of 1% per annum on the daily average unused portion of the commitment during each calendar quarter. The Trustee is required to pay the Bank interest on loans made by the Bank at a rate equal to 125% of the Base Rate, which is defined in the Credit Agreement as the higher of the Bank's prime rate or the then current commercial paper rate.

The Bank has also agreed to act as the Trustee's agent for the issuance, delivery and payment of the Trust's CP Notes in accordance with the terms of a Depositary Agreement ("Depositary Agreement") dated as of November 15, 1977. The Bank receives a fee of \$6.50 per CP Note issued under the Depositary Agreement. Pursuant to the terms of a Dealer Agreement dated February 7, 1978 between the Trustee and Lehman Brothers, Kuhn Loeb Incorporated, acting for itself and for Lehman Commercial Paper Incorporated (collectively "Lehman"), Lehman has agreed to act as dealer for

the sale of the CP Notes of the Trust. For arranging the sale of any CP Note, Lehman receives a fee equal to 1/4% of the principal amount thereof.

In order to secure the Trustee's obligations to the Bank, the Trustee has assigned to the Bank, as collateral security, all of its rights in the nuclear fuel being financed by the Trustee and the related nuclear fuel contract rights and has granted a security interest to the Bank in such fuel and such nuclear fuel contract rights. These arrangements have been accomplished pursuant to a Security Agreement and Assignment of Contracts ("Security Agreement") dated November 15, 1977 between the Trustee and the Bank, which also provides for the assignment to the Bank of all of the Trustee's rights (but not its obligations) under the Sale Agreement and the Assignments. When NNEC repurchases the nuclear fuel from the Trustee, the Bank will release to the Trustee all of its rights in such fuel, including its security interest.

Since February, 1978, the Trustee has made payments to NNEC totaling approximately \$23,000,000 pursuant to these arrangements. The use of these arrangements has permitted NNEC to obtain a portion of the funds necessary for the off-site portion of its nuclear fuel procurement program in a manner which is consistent with the terms of NNEC's Indenture and the Commission's own limitations on NNEC's short-term borrowings.

It is proposed that the Sale Agreement between NNEC and the Trustee, will be amended to allow NNEC to repurchase nuclear fuel from the Trustee up to 30 days following the day on which nuclear fuel is placed in a nuclear reactor. The amendment is designed to cure the existing arrangements under which it is possible that NNEC would be required by the Sale Agreement to repurchase fuel assemblies prior to the time that it was able to obtain the funds needed for such repurchase through the issue and sale of additional secured notes under its Indenture. The additional 30-day grace period is expected to provide greater flexibility in coordinating the sale of additional secured notes with the repurchase of fuel from the Trustee. As a result of this proposed modification, it is possible that the Trustee will own nuclear fuel assemblies after they have been inserted into a reactor.

In addition, NNEC proposes to add three more nuclear fuel contracts to the list of fuel contracts which may be financed pursuant to these arrangements and to execute assignments partially assigning such contracts to the Trustee.

It is proposed that the Credit Agreement between the Trustee and the Bank, will be amended to implement

the following changes. First, the total commitment of the Bank to extend credit to the Trustee by letters of credit or loans will be increased from \$35,000,000 to \$50,000,000. Second, in connection with the increase in the commitment as described above and the amendment to the Sale Agreement allowing financing of fuel provided under the Millstone 1 Fuel Contract, the following arrangements have been agreed upon with respect to the Bank's letter of credit fee and commitment fee. For financing any nuclear fuel for a reload batch for Millstone Unit 2, the Trustee must pay to the Bank a letter of credit fee computed at the rate of 1 1/4% per annum on the daily average amount of letters of credit outstanding during each calendar quarter; for financing any nuclear fuel for a reload batch for Millstone Unit 1, the Trustee must pay to the Bank a letter of credit fee computed at the rate of 1% per annum on the daily average amount of letters of credit outstanding.

The Security Agreement and Assignment of Contracts will be amended to provide that the total amount of the obligations of the Trustee to the Bank which are secured thereby will be increased from \$35,000,000 to \$50,000,000 to reflect the increase in the Bank's commitment. In addition, the Security Agreement will be amended to reflect the addition of the three nuclear fuel contracts referred to above.

Although no formal commitments for NNEC's bank borrowings to be effected in continuance of the financing program have been made with any bank, NNEC expects that such borrowings will be effected from the following banks through the use of joint usage credit lines of Northeast. These joint usage credit lines were approved in the Commission's order of June 26, 1978 (HCAR No. 20601):

| Bank   | Maximum amount |
|--|----------------|
| The First National Bank of Boston, Boston, Massachusetts.....        | \$8,000,000    |
| Chase Manhattan Bank, New York, New York .....                       | 10,000,000     |
| The Connecticut Bank and Trust Company, Hartford, Connecticut.....   | 8,000,000      |
| Hartford National Bank and Trust Company, Hartford, Connecticut..... | 8,000,000      |
| The Colonial Bank and Trust Company, Waterbury, Connecticut .....    | 5,000,000      |
| Connecticut National Bank, Bridgeport, Connecticut.....              | 3,000,000      |

NNEC presently contemplates that its projected capital requirements will necessitate the borrowing of up to \$30,000,000 from the above banks, and the maximum aggregate amount of such borrowings outstanding at any time will not exceed \$30,000,000.

The notes which will be issued to evidence these bank borrowings

("Bank Notes") will each be dated the date of issue, will have a maximum maturity date of nine months with right or renewal, will bear interest at the prime rate in effect from time to time at the lending bank or at the prime rate plus a fraction thereof, will be subject to prepayment at any time at NNEC's option without premium and will be subordinated to any secured notes issued by NNEC. Compensating balances of up to 10% of the credit line plus up to 10% of the average borrowings are required by the above banks. The maximum cost for any of these borrowings will not exceed an amount equal to the sum of (i) interest computed at the prime rate, plus (ii) the cost of maintaining compensating balances equal to (a) 10% of the credit line, plus (b) 10% of the average borrowings. Based on the assumed prime rate of 11.5%, the maximum effective interest rate would be 14.375%. No minimum interest rate is specified by any bank.

Although NNEC's permanent financing program contemplates that the Bank Notes will be issued, renewed, repaid and/or re-issued from time to time through December 1, 1982 to meet the proposed financing program, NNEC proposes to issue Bank Notes to the banks specified above in an aggregate amount not to exceed \$30,000,000 at any time only for the period through June 30, 1980.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The proposed transactions have been approved by the Connecticut Public Utilities Control Authority. It is stated that no other state commission and no federal commission, other than this commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 20, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issuance of facts or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regula-

tions promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-9552 Filed 3-28-79; 8:45 am)

[8010-01-M]

[Release No. 10639; 812-4431]

SELECTED MONEY MARKET FUND, INC.

Filing of Application

MARCH 22, 1979.

Notice is hereby given that Selected Money Market Fund, Inc. ("Applicant"), 111 West Washington Street, Chicago, Illinois 60602, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 8, 1979 and an amendment thereto on March 14, 1979, for an order, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund whose investment policy is to maximize current income consistent with preservation of capital through investment in short-term debt instruments. Applicant states that its portfolio presently may be invested in a variety of money market instruments, including United States Government securities, domestic and Canadian bank certificates of deposit, domestic savings and loan certificates and other money market instruments maturing in 30 months or less. However, Applicant may not invest over 20 percent of the value of its portfolio in securities maturing in over one year.



Applicant asserts that in actual practice and in keeping with its policies, its portfolio since its inception in 1977, has been invested largely in commercial paper of major United States corporations, United States Government obligations and the certificates of deposit of banks which are among the largest commercial banks in the United States and Canada and has not purchased any securities with maturities in excess of one year from acquisition.

Applicant states that it values its portfolio securities maturing over 60 days at market and its portfolio securities maturing in 60 days or less at amortized cost and includes unrealized portfolio gains or losses in determining its daily dividend so that its net asset value per share has remained at \$1.00 a share since it commenced operations on November 9, 1977. Applicant states that if the Application is granted, it will (a) no longer include unrealized gains or losses in its dividend determinations, and (b) pay an approximately 900 percent stock dividend on its outstanding shares on a basis of approximately 9 new shares for each old share outstanding, so that after the dividend, each new share will have a net asset value of \$1.00. Applicant expects that, as a result of rounding the net asset value per share to the nearest cent on a \$1.00 price, its price per share for the purpose of sales and redemptions normally should remain at \$1.00.

Applicant states that its board of directors believes this proposal will benefit Applicant and its shareholders. Applicant, designed as an investment vehicle for institutional and individual investors who seek liquidity for their investment, has as its investment objective the maximization of current income consistent with the preservation of capital. Applicant asserts that its investors prefer that the daily income dividends declared by Applicant reflect income as earned, and that its sales and redemption price remain fixed. Applicant's directors have concluded that stability of capital and a steady, relatively consistent flow of investment income would benefit existing shareholders. Moreover, it is asserted that, with a relatively fixed price per share, investors will have the convenience of being able to determine the value of their holdings, simply by knowing the number of shares they own. The task of maintaining an investment record would also be made easier for Applicant's shareholders. Furthermore, Applicant expects this proposal to eliminate the need to include unrealized gains or losses in calculating its dividends, thereby providing more stability in its dividend payments.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission expressed its view that it is inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of \$1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer the public a stable \$1.00 price for their shares. Applicant has agreed that, in order to attempt to assure the stability of its price per share, the order it seeks may be conditioned upon its adherence to the following conditions:

1. Applicant's board of directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to the shareholders of Applicant—to assure to the extent reasonably practicable, taking into account current

market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of sales and redemptions, rounded to the nearest cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its purchases of portfolio instruments to the following:

A. Obligations issued or guaranteed by the United States Government or its agencies or instrumentalities.

B. Domestic bank and savings and loan association certificates of deposits and bankers' acceptances of issuers which have total assets of at least one billion dollars (\$1,000,000,000) and which are subject to regulation by the United States Government or any agency thereof.

C. Repurchase agreements with respect to which the underlying securities are issued or guaranteed by the United States Government or its agencies or instrumentalities, limited to transactions with financial institutions believed by Applicant's adviser to present minimum credit risks.

D. Commercial paper of domestic issuers, rated A1 or A2 by Standard & Poor's Corporation or Prime 1 or Prime 2 by Moody's Investors Service, Inc. or issued by companies having an outstanding unsecured debt issue rated AA or better by Standard & Poor's Corporation or Aa or better by Moody's Investors Service, Inc.

E. Other non-convertible debt securities of domestic issuers rated A or better by Standard & Poor's Corporation or Moody's Investors Service, Inc.

Notice is further given that any interested person may, not later than April 16, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules

and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-9553 Filed 3-28-79; 8:45 am)

#### [8010-01-M]

[Administrative Proceeding File No. 3-5671;  
File No. 81-473]

UPDW, INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that UPDW, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 ("The 1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act for reports required to be filed by The United Piece Dye Works, Inc. (the "Company").

The Applicant states, in part: 1. On January 26, 1979, the Company was merged into the Applicant. As a result, there is no longer any market for the Company's securities. All of Applicant's shares of common stock are owned by three corporate shareholders.

2. The Company has filed its report on Form 10-Q for the period ended October 1, 1978.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than April 9, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or re-

questing the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 79-9555 Filed 3-28-79; 8:45 am)

#### [8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-0209]

EVERGREEN CAPITAL CORP.

Application for a License To Operate as a  
Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations, governing small business investment companies (13 CFR 107.102 (1978)), under the name of Evergreen Capital Corporation, 1500 City National Bank Building, 9th and Congress, Austin, Texas 78701, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and major shareholders are as follows:

John F. Turben, Chairman of the Board, Secretary, 8966 Booth Road, Kirtland Hills, Ohio 44060.  
Jack R. Crosby, Vice Chairman, 28.0 percent shareholder, 752 East Bee Caves Road, Austin, Texas 78746.  
Frank P. Krasovec, President, Treasurer, Director, 2.75 percent shareholder, 2600 Woolridge Drive, Austin, Texas 78703.  
Peter B. Fritzsche, Chairman of Executive Committee, Director, 901 Grein Bay Road, Winnetka, Illinois 60093.  
John W. Cullen III, Director, 6 Meadow Lane, Baltimore, Maryland 21212.  
Robert W. Hughes, Director, 2.75 percent shareholder, 3405 Timberwood Circle, Austin, Texas 78703.  
George B. Sweeney, Jr., Director, 589 Magnolia Circle, Houston, Texas 77024.  
Houston H. Harte, Director, 2207 Camelback, San Antonio, Texas 78209.  
Jeffrey C. Garvey, Executive Vice President, Investment Manager, 451 Elliger Avenue, Ft. Washington, Pennsylvania 19034.  
Chagrin Valley Company, Ltd., 50 percent shareholder, Three Commerce Park Square, 23200 Chagrin Boulevard, Cleveland, Ohio 44122.

There will be two classes of stock authorized: One million shares each of common and preferred. Initially only

20,000 shares of common stock will be issued with a resultant private capital of \$2 million. Applicant proposes to conduct its operations principally in the states of Texas, Ohio and Illinois.

On or about April 15, 1979, Applicant's main office will be located at Suite 180, 7700 San Felipe, Houston, Texas 77024. The branch offices will be at Three Commerce Park Square, 23200 Chagrin Boulevard, Cleveland, Ohio 44122, and at Suite 1990, 208 South LaSalle Street, Chicago, Illinois 60604.

Applicant intends to follow a diversified investment policy with emphasis on "venture capital" type investments.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders, and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than April 13, 1979, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in newspapers of general circulation in Austin and Houston, Texas; Chicago, Illinois; and Cleveland, Ohio.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 22, 1979.

PETER F. MCNEISH,  
Deputy Associate

Administrator, for Investment.

(FR Doc. 79-9608 Filed 3-28-79; 8:45 am)

#### [8025-01-M]

[Declaration of Disaster Loan Area No. 1370; Amdt. No. 3]

IDAHO

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 56657) Amendment No. 1 (see 42 FR 58472) and Amendment No. 2 (see 43 FR 6667) are amended by reopening the filing period for physical damage until the close of business on May 31, 1979, and for economic injury until the close of business on May 31, 1979. Applications will be processed under the provisions of Public Law 95-89.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).



Dated: March 22, 1979.

**WILLIAM H. MAUK, JR.,**  
*Acting Administrator.*

(FR Doc. 79-9612 Filed 3-28-79; 8:45 am)

# [8025-01-M]

(Declaration of Disaster Loan Area No. 1572; Amendment No. 1)

## ILLINOIS

### Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 7858), is amended by extending the filing date for physical damage until the close of business on June 1, 1979. All other information remains the same; i.e., the termination date for filing applications for economic injury is until the close of business on November 1, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 23, 1979.

**WILLIAM H. MAUK, JR.,**  
*Acting Administrator.*

(FR Doc. 79-9613 Filed 3-28-79; 8:45 am)

# [8025-01-M]

(Proposed License No. 02/02-0359)

## LAMONT & WATERMAN CAPITAL CORP.

*Application for a License To Operate as a Small Business Investment Company*

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)), under the name of Lamont & Waterman Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended, (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York and it will commence operations with a capitalization of \$2,000,000 which will be raised through a private placement of 36,000 shares of Class A Common Stock, 4,081 shares of Class B Common Stock, and 9,134 shares of Class C Common Stock.

The Applicant will have its principal place of business at 230 Park Avenue, New York, New York 10022, and it intends to conduct operations primarily in the State of New York.

The proposed officers, directors and stockholders are as follows:

## Name

George H. Waterman, 898 Park Avenue, New York, New York 10021; Chairman of the Board—Secretary, Director.

Nicholas S. Lamont, 8318 St. Martins Lane, Philadelphia, PA. 19118; President-Treasurer and Director.

Joseph P. Wells, 5222 Klinge Street, Washington, D.C. 20016; Chief Operating Officer—Director.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant, under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may not later than April 13, 1979, submit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: March 26, 1979.

**PETER F. McNEISH,**  
*Deputy Associate Administrator for Finance and Investment.*

(FR Doc. 79-9607 Filed 3-28-79; 8:45 am)

# [8025-01-M]

## REGION II ADVISORY COUNCIL

### Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, New York, will hold a public meeting at 9:00 a.m., on Friday, April 27, 1979, at the School of Hotel Administration, Statler Hall, West Lounge Statler Inn, Cornell University, Ithaca, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 1071 Federal Building, 100 South Clinton Street, Syracuse, New York 13260, (315) 423-5371.

Dated: March 26, 1979.

**K DREW,**  
*Deputy Advocate for Advisory Councils.*

(FR Doc. 79-9609 Filed 3-28-79; 8:45 am)

# [8025-01-M]

(Declaration of Disaster Loan Area No. 1579; Amdt. No. 1)

## NEW YORK

### Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 11019) is amended by extending the filing date for physical damage until the close of business on April 17, 1979, and for economic injury until the close of business on November 14, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 13, 1979.

**A. VERNON WEAVER,**  
*Administrator.*

(FR Doc. 79-9611 Filed 3-28-79; 8:45 am)

# [8025-01-M]

(Declaration of Disaster Loan Area No. 1358; Amdt. No. 3)

## OREGON

### Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 44323), Amendment No. 1 (see 42 FR 56990) and Amendment No. 2 (see 43 FR 6666) are amended by reopening the filing period for Baker, Grant, Harney, Malheur, Union and Wallowa Counties for physical damage until the close of business on May 31, 1979, and for economic injury until the close of business on May 21, 1979. Applications will be processed under the provisions of Public Law 95-89.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 22, 1979.

**WILLIAM H. MAUK, JR.,**  
*Acting Administrator.*

(FR Doc. 79-9606 Filed 3-28-79; 8:45 am)

# [8025-01-M]

## REGION V ADVISORY COUNCIL

### Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Cleveland, Ohio, will hold a public meeting from 9:00 a.m. to 12:00 Noon on Friday, April 20, 1979, in the Small Business Administration Conference Room 317, of the AJC Federal Building, 1240 East Ninth Street, Cleveland, Ohio, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call S. Charles Hemming, District Director, U.S. Small Business Adminis-

tration, AJC Federal Building, Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199—(216) 293-4182.

Dated: March 23, 1979.

**K DREW,**  
*Deputy Advocate for Advisory Councils.*

(FR Doc. 79-9610 Filed 3-28-79; 8:45 am)

# [4710-01-M]

## DEPARTMENT OF STATE

### INTERNATIONAL SECURITY ASSISTANCE PROGRAMS

#### Secretarial Determination

In accordance with Section 502B of the Foreign Assistance Act of 1961, as amended (the Act), I have reviewed the international security assistance programs of the United States for the fiscal year 1979 in order to assure that:

(1) all security assistance programs are consistent with the provisions of Section 502B of the Act concerning the promotion and advancement of human rights and the avoidance of United States identification with human rights violations, and

(2) with respect to those countries where human rights conditions give rise to the most serious concerns, the security assistance provided by the United States is warranted in each case by extraordinary circumstances involving the national security interests of the United States.

On the basis of this review, I certify that these security assistance programs are in compliance with the requirements of section 502B of the Act.

This determination shall be reported to the Congress and published in the FEDERAL REGISTER as required by law. Specific allocations of funds for security assistance programs for the fiscal year 1979 have been reported to the Congress in accordance with Section 653(a) of this Act.

**WARREN CHRISTOPHER,**  
*Acting Secretary of State.*

(FR Doc. 79-9488 Filed 3-28-79; 8:45 am)

# [8120-01-M]

## TENNESSEE VALLEY AUTHORITY

### POICIES RELATED TO ELECTRIC POWER RATES

#### Notice of Intent to Prepare an Environmental Impact Statement

The Tennessee Valley Authority (TVA) hereby gives notice that it intends to prepare, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq. (1976), and Environmental Impact Statement (EIS) on policies relating to electric power rates. In accordance with the Public Utility Regulatory

Policies Act of 1978 (PURPA), Pub. L. No. 95-617, TVA is required to consider whether it is appropriate to implement certain Federal standards, as defined in that act, regarding rates. The EIS will consider the proposed adoption of these standards and the changes in rates to the consumers of TVA power needed to implement the standards. The rates considered will include those applicable to industries served directly by TVA and to residential, commercial, and industrial customers served by the distributors of TVA power.

A basic purpose of PURPA is to encourage conservation of energy and to promote the efficient use of power generation and transmission facilities to avoid or delay the need to construct new plants. In considering the PURPA standards and any rate changes necessary to implement those standards, TVA will recognize the desirability of these objectives as well as the other requirements and purposes of PURPA and the Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. §§ 831-831dd (1976). The rate changes considered will be of a conceptual or rate design nature. The EIS will not consider the level of rates needed to produce sufficient revenue to meet the financial tests required by the TVA Act and TVA's bond covenants. Rate levels will continue to be adjusted up or down to assure adequate revenues in accordance with regular adjustment procedures in TVA's power contracts.

After the draft EIS is prepared and released to the public, TVA will hold the public hearing on rate standards required by PURPA, and in connection therewith will accept comments from the public concerning the EIS.

The rate concepts which are expected to be discussed in the statement are: rates based on cost of service, inverted rates, flat rates, time-of-day rates, seasonal rates, load management techniques, and interruptible rates. In 1978 TVA made an environmental assessment of the environmental impacts which might be associated with certain alternative rate concepts. Public hearings were held on the draft statement and a final statement made available to the public on October 1, 1976. With the exception of interruptible rates, the alternatives to be covered in the present EIS were discussed in the 1976 assessment. While lifeline rates were considered in the 1976 assessment and are required to be considered by PURPA, section 114 of PURPA provides a separate procedure for their consideration. Thus, lifeline rates will not be one of the alternatives in this EIS.

As a first step in its preparation of the EIS, TVA will determine its scope utilizing the scoping process described

in the Council on Environmental Quality regulations. Written comments from the public as to the scope of the document are requested now. Since a detailed assessment of the same matters was prepared in 1976, and public hearings were held in connection with it, no hearings are needed for the scoping process.

A hearing on the draft EIS itself will be held at a time and place to be announced later. Comments on the draft EIS can be submitted in writing or at the hearing. TVA will consider the written comments on the draft and the record of the hearings in preparing the final EIS.

TVA requests comments concerning the scope of the EIS from interested Federal, state, and local agencies, and other interested persons. TVA's preliminary views on the scope of the document are that the principal impacts to be considered are changes in the emission of pollutants, consumption of natural resources, and socioeconomic effects, such as changes in employment. These effects may result from changes in the operation of TVA's electric generating plants, changes in the need for new generating capacity, and the substitution of other energy sources, such as natural gas, coal, oil, and wood for electricity by the ultimate consumer. It is expected that the relatively insignificant impacts on water quality and land use will not require extensive analysis.

Comments and suggestions about the scope of the EIS may be submitted in writing on or before 30 days after publication addressed to Robert F. Hemphill, Jr., Director of Energy Conservation, 830 Power Building, Chattanooga, Tennessee 37401.

Copies of the 1976 assessment are available for inspection at TVA's technical libraries in Knoxville, Chattanooga, and Muscle Shoals, and at various public libraries in the TVA region. A limited number of copies is available for distribution. Requests for single copies should be addressed to the Director of Information, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902. Copies of the draft EIS may also be reserved by writing this address.

Requests for further information should be directed to Robert F. Hemphill, Jr., Director of Energy Conservation, 830 Power Building, Chattanooga, Tennessee 37401, telephone number (615) 755-2061.

Dated: March 22, 1979

**LEON E. RING,**  
*General Manager.*

(FR Doc. 79-9595 Filed 3-28-79; 8:45 am)



[4910-14-M]

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

[CGD 79-044]

## COAST GUARD ACADEMY ADVISORY COMMITTEE

## Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held at the U.S. Coast Guard Academy, New London, CT, on Monday, Tuesday, and Wednesday, April 23-25, 1979. The sessions on Monday will be held from 10:30 to 11:45 a.m., and from 2:00 to 3:15 p.m. An open session will also be held on Wednesday to begin at 10:15 a.m. and adjourn at 11:15 a.m.

The agenda for this meeting is as follows: (a) faculty, (b) curricula, (c) cadets, (d) physical facilities, equipment, (e) summer program, (f) admissions, recruiting.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend or present oral statements should notify, not later than the day before the meeting: CAPT Roderick M. White, USCG, Dean of Academics/Executive Secretary of Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT, 06320, phone 203-443-8463.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on March 20, 1979.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard,  
Acting Commandant.

[FR Doc. 79-9576 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 78-169]

## NATIONAL PLAN FOR NAVIGATION

## Implementation of Loran-C Radionavigation System

This notice announces the activation of a new Loran-C radionavigation service for the U.S. East Coast and the Gulf of Mexico, and changes the previously published termination date of existing East Coast Loran-C service. In

addition, announcement of updated information concerning reconfiguration plans for U.S. East Coast Loran-C service is included.

The Coast Guard's plans for implementing Loran-C radionavigation service throughout the Coastal Confluence Zone (CCZ) of the United States were published in the FEDERAL REGISTER on March 10, 1977 (42 FR 13372) and the Department of Transportation National Plan for Navigation, November 1977, available from the National Technical Information Service, Springfield, VA 22161.

In order to implement the expanded Loran-C service along the U.S. East Coast and provide service in the Gulf of Mexico, the Coast Guard has added five new transmitting stations to four existing stations to form two new partial Loran-C chains. These changes were accomplished by establishment of a new partial Northeast U.S. chain and a new partial Southeast U.S. Loran-C chain. The partial Northeast U.S. chain began operating on September 9, 1978, and the partial Southeast U.S. chain began operating on December 27, 1978. Additionally, Loran-C service from the existing East Coast chain was to continue until approximately July 1, 1979. The Commandant of the U.S. Coast Guard has approved an extension of service from the existing East Coast Loran-C chain until September 30, 1979, which supersedes the previously published July 1, 1979 termination date.

This action will allow users of the existing East Coast Loran-C chain additional time for changeover from the present East Coast Loran-C service to the new service.

The arrangement of stations to form the three chains is shown in the following tables:

TABLE 1.—Existing east coast Loran-C chain (rate 9930)

| Station                 | Function   |
|-------------------------|------------|
| Carolina beach, NC      | Master.    |
| Jupiter, FL             | Secondary. |
| Nantucket, MA           | Do.        |
| Dana, IN                | Do.        |
| Cape Race, Newfoundland | Do.        |

Cape race is dual-rated, transmitting on rate 7930 as part of the existing North Atlantic chain, as well as on rate 9930 as part of the existing East Coast chain.

TABLE 2.—Partial Southeast U.S. Loran-C chain (rate 7980)

| Station          | Function   |
|------------------|------------|
| Malone, FL       | Master.    |
| Grangeville, LA  | Secondary. |
| Raymondville, TX | Do.        |
| Jupiter, FL      | Do.        |

TABLE 3.—Partial Northeast U.S. Loran-C chain (rate 9960)

| Station            | Function   |
|--------------------|------------|
| Seneca, NY         | Master.    |
| Caribou, ME        | Secondary. |
| Nantucket, MA      | Do.        |
| Carolina Beach, NC | Do.        |

Upon termination of service from the existing East Coast Loran-C chain on September 30, 1979, certain reconfiguration actions planned previously will occur at the dates indicated. The station at Dana, Indiana, was scheduled to go off-air for about two months, beginning July 1, 1979, to permit installation of additional equipment before joining and completing the Northeast U.S. chain. The off-air period has been eliminated and the Dana Station is now scheduled to join the Northeast U.S. Chain in April, 1979. When the existing East Coast chain is terminated, Cape Race, Newfoundland, will continue transmitting on rate 7930 as a part of the North Atlantic Loran-C Chain; Seneca, Caribou, Nantucket, and Carolina Beach will continue transmitting on the Northeast U.S. rate; Carolina Beach will begin dual-rated operation, joining the Southeast U.S. chain in addition to the Northeast U.S. chain; Jupiter will continue transmitting on the Southeast U.S. rate. The addition of Carolina Beach will complete the Southeast chain.

On October 1, 1979, the configuration of the two new Loran-C chains will be as shown in Table 4 and Table 5:

TABLE 4.—Southeast U.S. Loran-C chain (rate 7980)

| Station            | Function   |
|--------------------|------------|
| Malone, FL         | Master.    |
| Grangeville, LA    | Secondary. |
| Raymondville, TX   | Do.        |
| Jupiter, FL        | Do.        |
| Carolina Beach, NC | Do.        |

TABLE 5.—Northeast U.S. Loran-C chain (rate 9960)

| Station            | Function   |
|--------------------|------------|
| Seneca, NY         | Master.    |
| Caribou, ME        | Secondary. |
| Nantucket, MA      | Do.        |
| Carolina Beach, NC | Do.        |
| Dana, IN           | Do.        |

On approximately February 1, 1980, the planned expansion of Loran-C service in the continental United States will be completed by formation of the Great Lakes Loran-C chain. This will be accomplished by dual-rating Seneca, Dana, and Malone, and the addition of one new station at Baudette, MN. Table 6 shows the ar-

range of stations that will make up the Great Lakes chain.

TABLE 6.—Great Lakes Loran-C chain (rate 9930)

| Station      | Function   |
|--------------|------------|
| Dana, IN     | Master.    |
| Seneca, NY   | Secondary. |
| Baudette, MN | Do.        |
| Malone, FL   | Do.        |

Dated: March 19, 1979.

F. P. SCHUBERT,  
Captain, U.S. Coast Guard  
Acting Chief, Office of Marine  
Environment and Systems.

[FR Doc. 79-9632 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 79-042]

## PROPOSED HIGHWAY BRIDGE ACROSS TURNER CUT, MILE 2.3, NEAR STOCKTON, CALIF.

## Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Twelfth Coast Guard District, at the Stagg High School, 1621 West Brookside Road, Stockton, California, at 8:00 p.m. on Friday, April 27, 1979. The purpose of the hearing is to consider the application from the County of San Joaquin and Reclamation District Number 2030 for a Coast Guard permit to construct a fixed highway bridge across Turner Cut near Stockton, California. All interested persons may present data, views and comments orally or in writing at the public hearing concerning the impacts the proposed bridge may have on the environment and on navigation. Of particular importance at this time are the effects a fixed bridge with a vertical clearance of 20 feet above MHW may have on navigation. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, San Francisco, California 94126, by April 23, 1979. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral

statements to the hearing officer. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (oan), Twelfth Coast Guard District, by May 11, 1979. Each comment should identify the proposed project, and clearly state the reasons for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Twelfth Coast Guard District. All comments received will be considered before final agency action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, Twelfth Coast Guard District, will forward the case record, including all written comments, his findings, conclusions and recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will review the case record and make the final determination of issuance or denial of the bridge permit application.

Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(e)(6)(C); 49 CFR 1.46(e)(10)

Dated: March 26, 1979.

F. P. SCHUBERT,  
Captain, U.S. Coast Guard  
Acting Chief, Office of Marine  
Environment and Systems.

[FR Doc. 79-9575 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 78-163]

## EQUIPMENT REQUIREMENTS

## Windsurfer Personal Flotation Device Exemption

AGENCY: Coast Guard, DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice solicits public participation in a review of an exemption from the Personal Flotation Device (PFD) carriage requirement granted to Windsurfing International, Inc. on February 18, 1973. The Coast Guard is considering whether it would be appropriate to extend the exemption to other similar devices or, because of objections raised to the grant of exemption, withdraw the exemption entirely.

DATES: Comments must be received on or before April 30, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/

81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

## FOR FURTHER INFORMATION CONTACT:

Mr. David R. Gauthier, Office of Boating Safety (G-BLC-3/TP42), Room 4308, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4176.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written data, views, or arguments. Written comments should include the docket number (CGD 78-163), the name and address of the person submitting the comments, and the specific question to which each comment is addressed.

## DRAFTING INFORMATION

The principal persons involved in drafting this notice are: Mr. David R. Gauthier, Project Manager, Office of Boating Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

## DISCUSSION

The Windsurfer is basically a surfboard with a triangular sail on a swivel mounted mast. There is no rudder nor any rigging or stays. The operator maneuvers the boat through the trim of the hand-held sail and distribution of body weight on the surfboard. On February 18, 1973, the Coast Guard granted a request from the manufacturer of Windsurfers for exemption from 33 CFR 175.15, allowing the device to be used without a PFD aboard.

This advance notice of proposed rulemaking is being issued to seek public assistance in deciding whether to expand or withdraw the exemption granted to Windsurfers, or in suggesting alternative approaches to the problem. Comments are specifically requested in the following areas:

## A. OTHER MANUFACTURERS

(1) Since the exemption was granted to Windsurfing International, Inc. in 1973, several other persons have begun producing or importing similar devices. One of the alternatives being considered is extending the exemption to the other Windsurfer-type devices. This could involve amending the PFD carriage requirement to provide a general exception for Windsurfer-type devices and could include developing a general term for this type of device as well as a definition of the term.



## Questions

(1) Who are the manufacturers and importers of Windsurfer-type devices?  
 (2) Can a definition of Windsurfer-type devices be developed which could be used as a general exception category in a regulation rather than granting exemptions through individually named manufacturers?

## B. BASIS FOR EXEMPTION

(1) The exemption was granted on the basis of several assumptions. These assumptions were:  
 (a) The Windsurfers had limited ability to travel offshore.  
 (b) There were only about 1,500 boats involved.  
 (c) There existed no accident statistics indicating any hazard existed. These assumptions may no longer be valid and should be reviewed.

## Questions

(1) How far away from shore can Windsurfers operate? What is the typical sailing range?  
 (2) How many Windsurfer-type devices are used in the United States? Are they concentrated in any one region of the country?  
 (3) Have there been any accidents involving injuries or fatalities on Windsurfer-type devices? Were PFDs carried? Were they effective in saving lives? If PFDs were not carried, would PFDs have saved lives or prevented injuries?

## C. BOATING LAW ENFORCEMENT

Law enforcement and boating safety officials in several States continue to object to the exemption. These officials find that not only does the exemption itself run contrary to good boating safety practices, but it also misleads the public about boating safety regulations for small sailing craft. Additionally, carriage requirement exemptions unnecessarily confuse the job of the water safety enforcement officer. The Coast Guard is reviewing the exemption to Windsurfer in light of these objections.

## Questions

(1) What effect does the existing exemption have on boating safety enforcement?  
 (2) Could any PFD carriage requirement reasonably be enforced on Windsurfer-type devices while underway?

(46 U.S.C. 1454, 1455, 1458; 49 CFR 1.46(n)(1).)

Dated: March 23, 1979.

R. H. SCARBOROUGH,  
 Vice Admiral, U.S. Coast Guard,  
 Acting Commandant.

[FR Doc. 79-9629 Filed 3-28-79; 8:45 am]

## NOTICES

[4910-13-M]

## Federal Aviation Administration

## EIELSON RADAR APPROACH CONTROL

## Notice of Closing

Notice is hereby given that on or about March 20, 1979, the Eielson Radar Approach Control (RAPCON), Fairbanks, Alaska, will be closed. Air traffic services formerly provided by this facility will be provided by the Fairbanks Terminal Radar Approach Control (TRACON).

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Anchorage, Alaska on March 13, 1979.

DONALD T. KEIL, Jr.,  
 Acting Director, Alaskan Region.

[FR Doc. 79-9512 Filed 3-28-79; 8:45 am]

[4910-13-M]

## RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 134—ELECTRONIC TEST EQUIPMENT FOR GENERAL APPLICATION

## Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. D) notice is hereby given of a meeting of the RTCA Special Committee 134 of Electronic Test Equipment for General Application to be held April 19-20, 1979, in Conference Room 9W67, National Center No. 1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Virginia commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting held February 15 and 16, 1979; (3) Consideration of Issue Papers submitted by Working Groups; (4) Review Committee List of Issue Papers, Work Schedule and Priorities; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on March 19, 1979.

KARL F. BIERACH,  
 Designated Officer.

[FR Doc. 79-9511 Filed 3-28-79; 8:45 am]

[4910-13-M]

## TURBOJET SUBSONIC AIRPLANES

## Fleet Inventory and Noise Rules Compliance

AGENCY: Federal Aviation Administration.

SUBJECT: Report of Fleet Inventory and Status of Compliance with FAR Part 36 or Subpart E of FAR Part 91 for turbojet subsonic airplanes with maximum gross weights of 75,000 pounds or more. Subpart E of Part 91 specifies phased compliance dates for FAR Parts 121 and 135 certificate holders, and a final compliance date of January 1, 1985, for all operators.

SUMMARY: A report of the fleet inventory and noise rules compliance status of turbojet subsonic airplanes as of January 1, 1977, is published below. The inventory information was obtained from FAA aircraft records, while the compliance status was, in most instances, provided by the individual operator. Where operator-provided data were not available, the FAA has shown the status of the aircraft at the time they were placed on the records.

As stated in the preamble to Subpart E (Amendment 91-136, 41 FR 56046, December 23, 1976), compliance can be achieved by the acoustical modification, or "retrofit," of noncomplying airplanes or through their replacement with complying airplanes. The purpose of the amendment is not to force the retrofit (acoustical modification or re-engining) of older airplanes but rather to encourage each operator to select that option or those options which are best suited to each individual economic situation, and to the airplane fleet age and mix.

The FAA will monitor the progress being made by Parts 121 and 135 certificate holders in meeting the phased compliance dates of § 91.305(b) and administer replacement plans submitted under § 91.305(c). The FAA will also monitor the fleet mix being operated by Parts 91 and 123 operators which must be brought into compliance on or before December 31, 1984. Compliance requirements for airplanes engaged in foreign air commerce as addressed in § 91.307 (for U.S. operators and for airplanes being operated at U.S. airports by Part 129 certificate holders) will be the subject of future rulemaking.

The January 1977 fleet inventory summary shows, for each operator, the number of airplanes by make and model and their reported compliance status with Part 36 or Subpart E of Part 91. Those noncomplying (Stage I) airplanes must be brought into compliance with Part 36 without the use of tradeoffs (see § 91.301(b)) unless the operator shows that, after full applica-

## NOTICES

tion of existing technology, the use of tradeoffs is required for compliance with Part 36 (column marked E/Part 91 NO). All other airplanes have been reported as meeting either the Stage II or Stage III requirements of Part 36 (column marked Part 36 YES).

FOR FURTHER INFORMATION: Operators desiring to submit updated information and compliance/replacement plans and persons desiring a more detailed listing identifying each individual airplane should address Richard N. Tedrick, Noise Policy and Regulatory Branch, AEE-110, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 755-9027.

Issued in Washington, D.C. on March 16, 1979.

JOHN E. WESLER,  
 Acting Director  
 of Environment and Energy.



[4910-13-C]

SUMMARY OF  
U.S. REGISTERED CIVIL SUBSONIC TURBOJET AIRPLANES OF  
75000 POUNDS OR MORE WITH STANDARD AIRWORTHINESS CERTIFICATES  
IN THE OPERATOR'S FLEET JANUARY 1, 1977

## AIR CARRIER INVENTORY

| OPERATOR                         | AIRPLANE<br>(Make/Model) | TOTAL<br>No. | REPORTED<br>COMPLIANCE STATUS |              |            |
|----------------------------------|--------------------------|--------------|-------------------------------|--------------|------------|
|                                  |                          |              | PART<br>36                    | E/PART<br>91 | PART<br>36 |
|                                  |                          |              | YES                           | NO           | (%)        |
| *Aero America, Inc.              | B-720                    | 8            | -                             | 8            | 0          |
|                                  | FLEET                    | 8            | -                             | 8            | 0          |
| Air California, Inc.             | B-737                    | 8            | -                             | 8            | 0          |
|                                  | FLEET                    | 8            | -                             | 8            | 0          |
| Airlift International, Inc.      | B-727                    | 1            | -                             | 1            | 0          |
|                                  | DC-8                     | 8            | -                             | 8            | 0          |
|                                  | FLEET                    | 9            | -                             | 9            | 0          |
| Alaska Airlines, Inc.            | B-727                    | 9            | -                             | 9            | 0          |
|                                  | FLEET                    | 9            | -                             | 9            | 0          |
| Allegheny Airlines               | BAC 1-11                 | 31           | -                             | 31           | 0          |
|                                  | DC-9                     | 49           | 8                             | 41           | 16.3       |
|                                  | FLEET                    | 80           | 8                             | 72           | 10.0       |
| Aloha Airlines                   | B-737                    | 6            | -                             | 6            | 0          |
|                                  | FLEET                    | 6            | -                             | 6            | 0          |
| American Airlines                | B-707-100                | 47           | -                             | 47           | 0          |
|                                  | B-707-300                | 41           | -                             | 41           | 0          |
|                                  | B-720                    | 1            | -                             | 1            | 0          |
|                                  | B-727                    | 115          | 17                            | 98           | 14.8       |
|                                  | B-747                    | 10           | -                             | 10           | 0          |
|                                  | DC-10                    | 25           | 25                            | -            | 100.0      |
|                                  | FLEET                    | 239          | 42                            | 197          | 17.6       |
| Braniff International            | BAC 1-11                 | 1            | -                             | 1            | 0          |
|                                  | B-727                    | 73           | 21                            | 52           | 28.8       |
|                                  | B-747                    | 1            | 1                             | -            | 100.0      |
|                                  | DC-8                     | 12           | -                             | 12           | 0          |
|                                  | FLEET                    | 87           | 22                            | 65           | 25.3       |
| Capitol International<br>Airways | DC-8                     | 12           | -                             | 12           | 0          |
|                                  | FLEET                    | 12           | -                             | 12           | 0          |
| Continental Airlines             | B-727                    | 52           | 8                             | 44           | 15.4       |
|                                  | DC-10                    | 15           | 15                            | -            | 100.0      |
|                                  | FLEET                    | 67           | 23                            | 44           | 34.3       |

| OPERATOR                           | AIRPLANE<br>(Make/Model) | TOTAL<br>NO. | REPORTED<br>COMPLIANCE STATUS |              |            |
|------------------------------------|--------------------------|--------------|-------------------------------|--------------|------------|
|                                    |                          |              | PART<br>36                    | E/PART<br>91 | PART<br>36 |
|                                    |                          |              | YES                           | NO           | (%)        |
| Delta Airlines                     | B-727                    | 84           | 71                            | 13           | 84.5       |
|                                    | B-747                    | 3            | -                             | 3            | 0          |
|                                    | DC-8                     | 31           | -                             | 31           | 0          |
|                                    | DC-9                     | 58           | -                             | 58           | 0          |
|                                    | L-1011                   | 21           | 21                            | -            | 100.0      |
|                                    | FLEET                    | 197          | 92                            | 105          | 46.7       |
| Eastern Airlines                   | B-727                    | 118          | 6                             | 112          | 5.1        |
|                                    | DC-8                     | 2            | -                             | 2            | 0          |
|                                    | DC-9                     | 87           | 10                            | 77           | 11.5       |
|                                    | L-1011                   | 30           | 30                            | -            | 100.0      |
|                                    | FLEET                    | 237          | 46                            | 191          | 19.4       |
| Evergreen International<br>Airways | DC-8                     | 3            | -                             | 3            | 0          |
|                                    | FLEET                    | 3            | -                             | 3            | 0          |
| Flying Tiger Line                  | B-747                    | 3            | 3                             | -            | 100.0      |
|                                    | DC-8                     | 16           | -                             | 16           | 0          |
|                                    | FLEET                    | 19           | 3                             | 16           | 15.8       |
| Frontier Airlines                  | B-737                    | 21           | 1                             | 20           | 4.8        |
|                                    | FLEET                    | 21           | 1                             | 20           | 4.8        |
| Hawaiian Airlines                  | DC-9                     | 13           | 3                             | 10           | 23.1       |
|                                    | FLEET                    | 13           | 3                             | 10           | 23.1       |
| Hughes Airwest                     | B-747                    | 3            | 3                             | -            | 100.0      |
|                                    | DC-9                     | 34           | -                             | 34           | 0          |
|                                    | FLEET                    | 37           | 3                             | 34           | 8.1        |
| National Airlines                  | B-727                    | 41           | -                             | 41           | 0          |
|                                    | DC-10                    | 15           | 15                            | -            | 100.0      |
|                                    | FLEET                    | 56           | 15                            | 41           | 26.8       |
| North Central Airlines             | DC-9                     | 27           | 8                             | 19           | 29.6       |
|                                    | FLEET                    | 27           | 8                             | 19           | 29.6       |
| Northwest Airlines                 | B-707-300                | 8            | -                             | 8            | 0          |
|                                    | B-727                    | 63           | 8                             | 55           | 12.7       |
|                                    | B-747                    | 20           | 3                             | 17           | 15.0       |
|                                    | DC-10                    | 22           | 22                            | -            | 100.0      |
|                                    | FLEET                    | 113          | 33                            | 80           | 29.2       |
| *Overseas National Airways         | DC-8                     | 12           | -                             | 12           | 0          |
|                                    | FLEET                    | 12           | -                             | 12           | 0          |
| Ozark Airlines                     | DC-9                     | 27           | 1                             | 26           | 3.7        |
|                                    | FLEET                    | 27           | 1                             | 26           | 3.7        |



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| OPERATOR                     | AIRPLANE<br>(Make/Model) | TOTAL<br>NO. | REPORTED<br>COMPLIANCE STATUS |                    |                   |
|------------------------------|--------------------------|--------------|-------------------------------|--------------------|-------------------|
|                              |                          |              | PART<br>36<br>YES             | E/PART<br>91<br>NO | PART<br>36<br>(%) |
|                              |                          |              |                               |                    |                   |
| *Pacific American Airlines   | BAC 1-11                 | 1            | -                             | 1                  | 0                 |
|                              | FLEET                    | 1            | -                             | 1                  | 0                 |
| Pacific Southwest Airlines   | B-727                    | 24           | 1                             | 23                 | 4.2               |
|                              | FLEET                    | 24           | 1                             | 23                 | 4.2               |
| Pan American World Airways   | B-707-300                | 68           | -                             | 68                 | 0                 |
|                              | B-720                    | 2            | -                             | 2                  | 0                 |
|                              | B-727                    | 13           | -                             | 13                 | 0                 |
|                              | B-747                    | 38           | 14                            | 24                 | 36.8              |
|                              | FLEET                    | 121          | 14                            | 107                | 11.6              |
| Piedmont Aviation, Inc.      | B-737                    | 19           | -                             | 19                 | 0                 |
|                              | Fleet                    | 19           | -                             | 19                 | 0                 |
| Seaboard World Airlines      | B-747                    | 2            | 2                             | 0                  | 100.0             |
|                              | DC-8                     | 12           | -                             | 12                 | 0                 |
|                              | FLEET                    | 14           | 2                             | 12                 | 14.3              |
| Southern Airways, Inc.       | DC-9                     | 28           | -                             | 28                 | 0                 |
|                              | FLEET                    | 28           | -                             | 28                 | 0                 |
| Southwest Airlines           | B-737                    | 6            | 3                             | 3                  | 50.0              |
|                              | FLEET                    | 6            | 3                             | 3                  | 50.0              |
| Texas International Airlines | DC-9                     | 25           | 2                             | 23                 | 8.0               |
|                              | FLEET                    | 25           | 2                             | 23                 | 8.0               |
| Trans International Airlines | DC-8                     | 11           | -                             | 11                 | 0                 |
|                              | DC-10                    | 3            | 3                             | -                  | 100.0             |
|                              | FLEET                    | 14           | 3                             | 11                 | 21.4              |
| Trans World Airlines         | B-707-100                | 40           | -                             | 40                 | 0                 |
|                              | B-707-300                | 60           | -                             | 60                 | 0                 |
|                              | B-727                    | 74           | 39                            | 35                 | 52.7              |
|                              | B-747                    | 11           | -                             | 11                 | 0                 |
|                              | CV-22                    | 25           | -                             | 25                 | 0                 |
|                              | DC-9                     | 19           | -                             | 19                 | 0                 |
|                              | L-1011                   | 30           | 30                            | -                  | 100.0             |
|                              | FLEET                    | 259          | 69                            | 190                | 26.7              |
| United Airlines              | B-727                    | 150          | -                             | 150                | 0                 |
|                              | B-737                    | 59           | -                             | 59                 | 0                 |
|                              | B-747                    | 18           | 6                             | 12                 | 33.4              |
|                              | DC-8                     | 100          | -                             | 100                | 0                 |
|                              | DC-10                    | 37           | 37                            | -                  | 100.0             |
|                              | FLEET                    | 364          | 43                            | 321                | 11.8              |

## NOTICES

| OPERATOR                      | AIRPLANE<br>(Make/Model) | TOTAL<br>NO. | REPORTED<br>COMPLIANCE STATUS |                    |                   |
|-------------------------------|--------------------------|--------------|-------------------------------|--------------------|-------------------|
|                               |                          |              | PART<br>36<br>YES             | E/PART<br>91<br>NO | PART<br>36<br>(%) |
|                               |                          |              |                               |                    |                   |
| Western Airlines              | B-707-300                | 5            | -                             | 5                  | 0                 |
|                               | B-720                    | 18           | -                             | 18                 | 0                 |
|                               | B-727                    | 21           | 15                            | 6                  | 71.4              |
|                               | B-737                    | 24           | -                             | 24                 | 0                 |
|                               | DC-10                    | 7            | 7                             | -                  | 100.0             |
|                               | FLEET                    | 75           | 22                            | 53                 | 29.4              |
| Wien Air Alaska               | B-737                    | 7            | 3                             | 4                  | 42.9              |
|                               | FLEET                    | 7            | 3                             | 4                  | 42.9              |
| World Airways, Inc.           | B-727                    | 4            | -                             | 4                  | 0                 |
|                               | B-747                    | 3            | 3                             | -                  | 100.0             |
|                               | DC-8                     | 5            | -                             | 5                  | 0                 |
|                               | FLEET                    | 12           | 3                             | 9                  | 25.0              |
| U.S. AIR CARRIER FLEET TOTALS |                          | 2256         | 465                           | 1791               | 20.6              |

## NON-AIR CARRIER INVENTORY

| OPERATOR/OWNER                      | AIRPLANE<br>Make/Model | TOTAL<br>NO. | COMPLIANCE STATUS |                    |                   |
|-------------------------------------|------------------------|--------------|-------------------|--------------------|-------------------|
|                                     |                        |              | PART<br>36<br>YES | E/PART<br>91<br>NO | PART<br>36<br>(%) |
|                                     |                        |              |                   |                    |                   |
| American Capitol Aviation Corp.     | B-727                  | 1            | 1                 | -                  | 100.0             |
|                                     | DC-9                   | 1            | -                 | 1                  | 0                 |
|                                     | FLEET                  | 2            | 1                 | 1                  | 50.0              |
| Ambassador, Inc. Travel Clubs       | B-720(FLEET)           | 1            | -                 | 1                  | 0                 |
| *Airmanmia, Inc.                    | B-720(FLEET)           | 1            | -                 | 1                  | 0                 |
| *Air Travel, LTD.                   | CV-22(FLEET)           | 1            | -                 | 1                  | 0                 |
| Allis Chalmers Corp.                | BAC 1-11(FLEET)        | 1            | -                 | 1                  | 0                 |
| *American Jet Industries            | CV-22                  | 2            | -                 | 2                  | 0                 |
|                                     | DC-8                   | 2            | -                 | 2                  | 0                 |
|                                     | FLEET                  | 4            | -                 | 4                  | 0                 |
| Amway Corporation                   | BAC 1-11(FLEET)        | 2            | -                 | 2                  | 0                 |
| Atlas Aircraft Corp.                | B-720(FLEET)           | 1            | -                 | 1                  | 0                 |
| Aviation Sales, Inc.                | B-720(FLEET)           | 4            | -                 | 4                  | 0                 |
| Aero Exchange                       | DC-8(FLEET)            | 2            | -                 | 2                  | 0                 |
| Aero Service Corp.                  | SE-210(FLEET)          | 1            | -                 | 1                  | 0                 |
| *Aircraft Investors(1976)           | DC-9(FLEET)            | 1            | -                 | 1                  | 0                 |
| *Aircraft Investors Retaining Corp. | CV-22(FLEET)           | 5            | -                 | 5                  | 0                 |



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| OPERATOR/OWNER                        | AIRPLANE<br>Make/Model | TOTAL<br>NO. | REPORTED<br>COMPLIANCE STATUS |                    |                   |
|---------------------------------------|------------------------|--------------|-------------------------------|--------------------|-------------------|
|                                       |                        |              | PART<br>36<br>YES             | E/PART<br>91<br>NO | PART<br>36<br>(%) |
|                                       |                        |              |                               |                    |                   |
| Aircraft Owners (1975)                | DC-9 (FLEET)           | 1            | -                             | 1                  | 0                 |
| *Frederick B. Ayers & Assoc.          | CV-30                  | 1            | -                             | 1                  | 0                 |
|                                       | DC-8                   | 3            | -                             | 3                  | 0                 |
|                                       | FLEET                  | 4            | -                             | 4                  | 0                 |
| *Basna Air Services, Inc.             | B-707-300 (FLEET)      | 1            | -                             | 1                  | 0                 |
| Boeing Commercial Airplane<br>Company | B-707-100              | 1            | -                             | 1                  | 0                 |
|                                       | B-727                  | 2            | -                             | 2                  | 0                 |
|                                       | B-737                  | 1            | -                             | 1                  | 0                 |
|                                       | B-747                  | 1            | -                             | 1                  | 0                 |
|                                       | FLEET                  | 5            | -                             | 5                  | 0                 |
| Cameron Iron Works, Inc.              | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| *Chandler Air Lease Corp.             | B-727 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Charollte Aircraft Corp.              | DC-8 (FLEET)           | 5            | -                             | 5                  | 0                 |
| Chase Manhattan Bank                  | B-737 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Chemical Bank Trustee                 | B-707-300 (FLEET)      | 4            | -                             | 4                  | 0                 |
| Chessie Services, Inc.                | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| *Concare Aircraft Leasing<br>Corp.    | DC-8 (FLEET)           | 1            | -                             | 1                  | 0                 |
| *Contemporary Entertainment           | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *Continental ILL. Nat'l Bank          | B-727 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *Commonwealth Plan                    | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| Crocker National Bank                 | DC-8 (FLEET)           | 1            | -                             | 1                  | 0                 |
| Doral Trading Corp.                   | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Douglas Aircraft                      | DC-8                   | 4            | -                             | 4                  | 0                 |
|                                       | DC-9                   | 10           | 1                             | 9                  | 10.0              |
|                                       | DC-10                  | 1            | 1                             | -                  | 100.0             |
|                                       | FLEET                  | 15           | 2                             | 13                 | 13.4              |
| DOT/FAA                               | B-720                  | 1            | -                             | 1                  | 0                 |
|                                       | B-727                  | 4            | -                             | 4                  | 0                 |
|                                       | CV-22                  | 1            | -                             | 1                  | 0                 |
|                                       | DC-9                   | 1            | -                             | 1                  | 0                 |
|                                       | FLEET                  | 7            | -                             | 7                  | 0                 |
| Dresser Industries                    | BAC 1-11               | 3            | -                             | 3                  | 0                 |
|                                       | B-707-100              | 1            | -                             | 1                  | 0                 |
|                                       | FLEET                  | 4            | -                             | 4                  | 0                 |

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| OPERATOR/OWNER                            | AIRPLANE<br>Make/Model | TOTAL<br>NO. | REPORTED<br>COMPLIANCE STATUS |                    |                   |
|---|------------------------|--------------|-------------------------------|--------------------|-------------------|
|   |                        |              | PART<br>36<br>YES             | E/PART<br>91<br>NO | PART<br>36<br>(%) |
|   |                        |              |                               |                    |                   |
| *Eastern Aircraft Services                | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *Exchange National Bank                   | B-727 (FLEET)          | 1            | 1                             | -                  | 100.0             |
| Vincent Faix                              | CV-22 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *Four Winds, Inc.                         | CV-22 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *First National Bank Chicago              | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| *General Synamics Corp.                   | CV-30 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *General Electric Credit<br>Corp.         | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| *James H. Goodwin and<br>Associates       | DC-8 (FLEET)           | 1            | -                             | 1                  | 0                 |
| Hilton Hotels                             | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| Hirschman Corporation                     | CV-22 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Independent Air, Inc.                     | B-720                  | 1            | -                             | 1                  | 0                 |
|   | SE-210                 | 2            | -                             | 2                  | 0                 |
|   | FLEET                  | 3            | -                             | 3                  | 0                 |
| *International Air Leases,<br>Inc.        | B-720                  | 1            | -                             | 1                  | 0                 |
|   | B-727                  | 1            | -                             | 1                  | 0                 |
|   | CV-22                  | 1            | -                             | 1                  | 0                 |
|   | FLEET                  | 3            | -                             | 3                  | 0                 |
| *International Air Limited                | SE-210 (FLEET)         | 3            | -                             | 3                  | 0                 |
| *International Tele & Tele<br>Corp.       | B-727 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *International Transport<br>Leasing Corp. | DC-8 (FLEET)           | 1            | -                             | 1                  | 0                 |
| *International Travel<br>Marketing Corp.  | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *Jet Power, Inc.                          | B-707-100              | 1            | -                             | 1                  | 0                 |
|   | B-707-300              | 1            | -                             | 1                  | 0                 |
|   | DC-8                   | 1            | -                             | 1                  | 0                 |
|   | FLEET                  | 3            | -                             | 3                  | 0                 |
| Jet Set Travel Club                       | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Kidde Credit Corp.                        | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| Ely Lilly International<br>Corp.          | BAC 1-11               | 1            | -                             | 1                  | 0                 |
|   | B-707-300              | 1            | -                             | 1                  | 0                 |
|   | FLEET                  | 2            | -                             | 2                  | 0                 |
| Ledbetter Leasing Co                      | B-727 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Los Angeles Dodger, Inc.                  | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *L & S Leasing Co                         | B-707-300 (FLEET)      | 1            | -                             | 1                  | 0                 |
| Mark III Leasing Co                       | B-727 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Miba, Inc.                                | DC-8 (FLEET)           | 1            | -                             | 1                  | 0                 |
| *W. A. Moncrief                           | BAC 1-11 (FLEET)       | 1            | -                             | 1                  | 0                 |
| My Seven Children, Inc.                   | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| *National Aircraft Leasing<br>Ltd.        | BAC 1-11               | 7            | -                             | 7                  | 0                 |
|   | B-707-100              | 1            | -                             | 1                  | 0                 |
|   | B-727                  | 1            | -                             | 1                  | 0                 |
|   | FLEET                  | 9            | -                             | 9                  | 0                 |
| National Aircraft Leasing                 | BAC 1-11 (FLEET)       | 2            | -                             | 2                  | 0                 |
| *National Equipment Rental,<br>Ltd.       | B-720 (FLEET)          | 1            | -                             | 1                  | 0                 |
| Nomands, Inc.                             | CV-30 (FLEET)          | 1            | -                             | 1                  | 0                 |



| OPERATOR/OWNER                                      | AIRPLANE<br>Make/Model | TOTAL<br>NO. | REPORTED<br>COMPLIANCE STATUS |                    |                   |
|---|------------------------|--------------|-------------------------------|--------------------|-------------------|
|   |                        |              | PART<br>36<br>YES             | E/PART<br>91<br>NO | PART<br>36<br>(%) |
|   |                        |              |                               |                    |                   |
| Offset, Inc.  | B-707-100(FLEET)       | 1            | -                             | 1                  | 0                 |
| *Oceanic Air, Inc.                                  | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| *Omni Aircraft Sales, Inc.                          | B-727(FLEET)           | 1            | -                             | 1                  | 0                 |
| Onyx Aviation, Inc.                                 | CV-22(FLEET)           | 1            | -                             | 1                  | 0                 |
| Orient Pacific Airways                              | CV-22(FLEET)           | 1            | -                             | 1                  | 0                 |
| *Perfect Air Tours, Inc.                            | B-707-300(FLEET)       | 2            | -                             | 2                  | 0                 |
| Ports of Call Travel Club                           | CV-30(FLEET)           | 7            | -                             | 7                  | 0                 |
| Pegasus International T.C.                          | DC-8(FLEET)            | 1            | -                             | 1                  | 0                 |
| Elvis A. Presley                                    | CV-22(FLEET)           | 1            | -                             | 1                  | 0                 |
| Walter Probst                                       | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| *RDC Marine, Inc.                                   | CV-22(FLEET)           | 1            | -                             | 1                  | 0                 |
| Rockwell International Corp.                        | BAC 1-11               | 1            | -                             | 1                  | 0                 |
|   | B-727                  | 1            | -                             | 1                  | 0                 |
|   | FLEET                  | 2            | -                             | 2                  | 0                 |
| Roger Brothers                                      | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| Rosenbaum Aviation, Inc.                            | DC-8(FLEET)            | 6            | -                             | 6                  | 0                 |
| Richard M. Scaife                                   | DC-9(FLEET)            | 1            | -                             | 1                  | 0                 |
| Sharon Steel Corp.                                  | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| *James E. Stewart                                   | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| *Tenneco, Inc.                                      | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| Todd Equipment Leasing                              | B-720(FLEET)           | 1            | -                             | 1                  | 0                 |
| Tracinda Investment Corp.                           | B-707-100(FLEET)       | 1            | -                             | 1                  | 0                 |
| *Transexecutive Aviation Inc.                       | CV-22(FLEET)           | 5            | -                             | 5                  | 0                 |
| Trans Union Aircraft Leasing                        | DC-8(FLEET)            | 1            | -                             | 1                  | 0                 |
| *Unilease, Inc.                                     | DC-8(FLEET)            | 1            | -                             | 1                  | 0                 |
| *Universal Applicators, Inc.                        | B-720(FLEET)           | 1            | -                             | 1                  | 0                 |
| *United Aircraft Leasing Corp.                      | DC-8(FLEET)            | 5            | -                             | 5                  | 0                 |
| United States Trust Co.                             | B-737                  | 2            | -                             | 2                  | 0                 |
|   | B-747                  | 4            | 4                             | -                  | 100.0             |
|   | DC-10                  | 2            | 2                             | -                  | 100.0             |
|   | FLEET                  | 8            | 6                             | 2                  | 75.0              |
| United Technologies                                 | B-727(FLEET)           | 1            | -                             | 1                  | 0                 |
| *United Trade International, Inc.                   | B-707-300(FLEET)       | 1            | -                             | 1                  | 0                 |
| *Westinghouse Electric Corp.                        | DC-9(FLEET)            | 1            | -                             | 1                  | 0                 |
| Williams Companies                                  | BAC 1-11(FLEET)        | 1            | -                             | 1                  | 0                 |
| Wilmington Trust Co.                                | B-747(FLEET)           | 2            | 2                             | -                  | 100.0             |
| U.S. NON-AIR CARRIER FLEET TOTALS                   |                        | 191          | 12                            | 179                | 6.3               |
| OVERALL U.S. REGISTERED FLEET                       |                        | 2447         | 477                           | 1970               | 19.5              |
| (Combined air carrier and non-air carrier - 1/1/77) |                        |              |                               |                    |                   |

\*NONVERIFIED BY OWNER

[FR Doc. 79-9510 Filed 3-28-79; 8:45 am]

FEDERAL REGISTER, VOL. 44, NO. 62—THURSDAY, MARCH 29, 1979

[1505-01-M]

## Materials Transportation Bureau

## GRANTS AND DENIALS OF APPLICATIONS FOR EXEMPTIONS

NOTE.—This document was originally published in the FEDERAL REGISTER on Monday, March 19, 1979, at page 16527. Due to extensive printing errors, this document is being republished today.

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B),

notice is hereby given of the exemptions granted February 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

## RENEWALS

| Application No. | Exemption No. | Applicant   | Regulation(s) affected   | Nature of exemption thereof   |
|-----------------|---------------|---|--|---|
| 2709-X          | DOT-E 2709    | U.S. Department of Defense, Washington, D.C.  | 49 CFR 173.52, 177.834(LX1)  | To ship a Class A explosive in non-DOT specification drums. (Mode 1.)   |
| 3095-X          | DOT-E 3095    | Dow Chemical Co., Midland, Mich.  | 49 CFR 173.119(b), 173.263, 173.245.   | To ship certain corrosive liquids and flammable liquids in non-DOT specification cargo tank motor vehicles. (Modes 1, 3.)                                     |
| 3330-X          | DOT-E 3330    | Babcock and Wilcox Co., Lynchburg, Va.; General Electric, Schenectady, N.Y.   | 49 CFR 173.214(d)  | To ship a flammable solid in insulated containers overpacked in a DOT Specification 17C, 17H, or 37A metal drum. (Modes 1, 2.)                                |
| 4612-P          | DOT-E 4612    | Aldrich Chemical Co., Inc., Milwaukee, Wis.   | 49 CFR Part 173  | To become a party to Exemption 4612. (See Application No. 4612-X). (Mode 1.)  |
| 5792-X          | DOT-E 5792    | Northern Petrochemicals Co., Des Plaines, Ill.; Chemplex Co., Rolling Meadows, Ill.   | 49 CFR 172.101, 173.314(c)   | To ship a flammable liquefied compressed gas in AAR proposed specification 113D60W tank cars. (Mode 2.)   |
| 5959-P          | DOT-E 5959    | Mobil Chemical Co., Beaumont, Tex.  | 49 CFR 172.101, 173.315(a)   | To become a party to Exemption 5959. (See Application No. 5959-X). (Mode 1.)  |
| 6083-X          | DOT-E 6083    | Stauffer Chemical Co., Westport, Conn.  | 49 CFR 172.101, 173.273, 175.3   | To ship a corrosive material in any DOT specification cylinder except those prescribed for acetylene. (Modes 1, 2, 4.)  |
| 6281-X          | DOT-E 6281    | E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.  | 49 CFR 172.101, 173.272(a)(5)  | To ship certain corrosive liquids in DOT specification MC-311 or MC-312 cargo tanks. (Mode 1.)  |
| 6418-X          | DOT-E 6418    | Dow Chemical Co., Midland, Mich.  | 49 CFR 173.357(b)  | To ship Class B poisonous liquids in DOT Specification MC-303, MC-304, MC-306 or MC-307 steel cargo tanks. (Mode 1.)  |
| 6944-X          | DOT-E 6944    | U.S. Department of Defense, Washington, D.C.  | 49 CFR 173.69(a), 177.834(LX1)   | To ship a certain Class A explosive in non-DOT specially designed stainless steel desiccators. (Mode 1.)  |
| 7052-P          | DOT-E 7052    | Battery Engineering, Inc., Newton, Mass.; Jet Propulsion Laboratory, Pasadena, Calif.   | 49 CFR 172.101, 173.302(e)(1), 175.3   | To become a party to Exemption 7052. (See Application No. 7052-X). (Modes 1, 2, 3, 4.)  |
| 7063-X          | DOT-E 7063    | Hooker Chemicals and Plastics Corp., Niagara Falls, N.Y.  | 49 CFR 173.191(a)  | To ship a corrosive material in a non-DOT single-trip, removable-head polyethylene container. (Modes 1, 2, 3.)  |
| 7076-X          | DOT-E 7076    | LaMotte Chemical Products Co., Chertown, Md.  | 49 CFR 173.286(b)  | To ship certain corrosive liquids and flammable liquids in inside polyethylene containers as chemical kits. (Modes 1, 2, 3.)                                  |
| 7435-X          | DOT-E 7435    | Ross Aviation, Inc., Albuquerque, N. Mex.   | 49 CFR 172.101, 172.204(c)(3), 173.27, 173.304(a)(1), 175.320(b); 49 CFR Part 107. | To transport a type or quantity of Class A and Class B explosives that are not permitted for shipment by air in 49 CFR Parts 172 through 178. (Mode 4.)       |
| 7574-X          | DOT-E 7574    | Remmers-Tomkins Flight Service, Inc., Burlington, Iowa.   | 49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b); 49 CFR Part 107.  | To transport a type or quantity of Class A, B, and C explosives that are not permitted for shipment by air in 49 CFR Parts 172 through 178. (Mode 4.)         |
| 7773-X          | DOT-E 7773    | Valley Chemical Co., Greenville, Miss.; Kerr-McGee Chemical Corp., Oklahoma City, Okla.                                       | 49 CFR 173.358, 173.359  | To ship certain Poison B liquids in a DOT Specification MC-312 cargo tank. (Mode 1.)  |
| 7936-X          | DOT-E 7936    | Eurotainer, Paris, France; Lowaco, S.A., Geneva, Switzerland; Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France. | 49 CFR Part 173  | To ship certain flammable, corrosive, Class B poisonous and combustible liquids and ORM-A materials in non-DOT specification portable tanks. (Modes 1, 2, 3.) |
| 8000-X          | DOT-E 8000    | Fauvet-Girel, Paris, France   | 49 CFR Part 173  | To ship certain flammable, corrosive, irritating, Class B poison and combustible liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)            |
| 8116-X          | DOT-E 8116    | U.S. Environmental Protection Agency, Cincinnati, Ohio.   | 49 CFR Parts 100-199   | To ship small quantities of several liquid hazardous materials in special type composite packagings. (Modes 1, 2, 3, 4, 5.)                                   |

## NEW EXEMPTIONS

|        |            |                                     |  |  |
|--------|------------|-------------------------------------|--|--|
| 8021-N | DOT-E 8021 | Degussa, Frankfurt, Germany         | 49 CFR 173.119                             | To ship methyl methacrylate, a flammable liquid, in non-DOT specification portable tanks. (Modes 1, 3.)  |
| 8023-N | DOT-E 8023 | Acurex Corp., Mountain View, Calif. | 49 CFR 173.304(a)(1), 173.336(a)(2), 175.3 | To manufacture, mark and sell non-DOT specification seamless FRP aluminum cylinders for shipment of various compressed gases and other hazardous materials. (Modes 1, 2, 3, 4, 5.) |
| 8060-N | DOT-E 8060 | Ugine Kuhlmann, Paris, France       | 49 CFR 173.315(a)                          | To ship certain nonflammable, liquefied gases in non-DOT specification portable tanks. (Modes 1, 2, 3.)  |

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## New Exemptions—Continued

| Application No. | Exemption No. | Applicant  | Regulation(s) affected  | Nature of exemption thereof   |
|-----------------|---------------|--|---|---|
| 8067-N          | DOT-E 8067    | Container Corporation of America, Wilmington, Del. | 49 CFR 173.272(g)   | To manufacture, mark and sell DOT Specification 34 polyethylene containers for shipment of sulfuric acid. (Modes 1, 2, 3.)  |
| 8071-N          | DOT-E 8071    | Ethyl Corp., Baton Rouge, La.                      | 49 CFR 173.206  | To ship sodium potassium alloy in DOT Specification 51 portable tanks. (Modes 1, 2, 3.)   |
| 8079-X          | DOT-E 8079    | Container Corporation of America, Wilmington, Del. | 49 CFR 178.35a-1  | To manufacture, mark and sell inside polyethylene containers having material properties deviating from DOT Specification 2SL for shipment of certain hazardous materials. (Modes 1, 2, 3.)  |
| 8095-N          | DOT-E 8095    | U.S. Department of Defense, Bethesda, Md.          | 49 CFR 172.402(a), 173.65   | To ship a radioactive Class A explosive in DOT Specification 7A containers. (Modes 1, 2.)   |
| 8115-N          | DOT-E 8115    | Acurex Corp., Mountain View, Calif.                | 49 CFR 173.302(a)(1), 175.3   | To manufacture, mark and sell a limited number of non-DOT specification FRP seamless aluminum cylinders for shipment of compressed air for underwater test purposes. (Modes 1, 2, 3, 4, 5.) |
| 8120-N          | DOT-E 8120    | Starflight Inc., Memphis, Tenn.                    | 49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b); 49 CFR Part 107. | To transport Class A, B and C explosives of a type or quantity not permitted for air shipment in 49 CFR Parts 170-178. (Mode 4.)  |

## EMERGENCY EXEMPTIONS

## APPLICATIONS RECEIVED AND GRANTED

|          |            |  |                         |   |
|----------|------------|--|-------------------------|---|
| EE7621-X | DOT-E 7621 | Great Lakes Chemical Corp., West Lafayette, Ind. | 49 CFR 173.353, 173.357 | To ship chloropicrin, liquid in a non-DOT specification portable tank. (Modes 1, 2, 3.) |
|----------|------------|--|-------------------------|---|

## DENIALS

6611-X Request by Air Products and Chemicals, Inc. Allentown, Pa.—For reconsideration of denial of application to modify portions of DOT Exemption 6611, denied February 26, 1979.

7060-P Request by NRG Scientific Inc., Bayse, Va.—To become a party to Exemption 7060 for shipment of radioactive materials in small aircraft with certain exceptions, denied February 26, 1979.

8026-N Request by Oscar E. Erickson, Inc., Richmond, Calif.—To transport corrosive and flammable materials in non-DOT specification cargo tanks, denied February 13, 1979.

8112-N Request by IRECO Chemicals, Salt Lake City, Utah.—To authorize the transportation of nitro carbo nitrate and ammonium nitrate through the Port of Gulfport, Mississippi, denied February 9, 1979.

EE8161-N Request by Carib West Airways Limited, Miami, Fla.—For an emergency

exemption to transport a shipment of high explosives (shaped charges) to an overseas destination, denied February 8, 1979.

J.R. GROTHE,  
Chief, Exemptions Branch,  
Office of Hazardous Materials  
Regulation, Materials Transportation  
Bureau.

[FR Doc. 79-8034 Filed 3-16-79; 8:45 am]

## [1505-01-M]

## GRANTS AND DENIALS OF APPLICATIONS FOR EXEMPTIONS

NOTE.—This document was originally published in the FEDERAL REGISTER on Monday, March 19, 1979, at page 16528. Due to extensive printing errors, this document is being republished today.

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted January 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo-vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

## RENEWALS

| Application No. | Exemption No. | Applicant   | Regulation(s) affected                         | Nature of exemption thereof   |
|-----------------|---------------|---|--|---|
| 1479-X          | DOT-E 1479    | U.S. Department of Defense, Washington, DC.   | 49 CFR 173.315(a)(1)                           | To ship a nonflammable compressed gas in non-DOT specification cargo tanks. (Mode 1.)   |
| 2000-X          | DOT-E 2000    | Union Carbide Corp., Tarrytown, NY  | 49 CFR 142.101, 173.304(a)(2), 173.316(a)(2)   | To ship flammable liquefied compressed gases in a non-DOT specification portable tank or a DOT Specification 4L cylinder. (Mode 1.)   |
| 3126-P          | DOT-E 3126    | Hercules Inc., Wilmington, Del.   | 49 CFR 173.62, 177.821, 177.822(b), 177.835(k) | To become a party to Exemption 3126. (See Application No. 3126-X). (Mode 1.)  |
| 3193-X          | DOT-E 3193    | E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.                              | 49 CFR 173.314(c), 173.315(a)(1)               | To ship liquefied compressed gases in DOT Specification 105A300-W, 105A500-W, Class 106A tank car tanks, MC-330 and MC-331 cargo tanks, and DOT-51 portable tanks. (Modes 1, 2, 3.) |
| 3667-X          | DOT-E 3667    | Greendyke Transport, Inc., Enid, Okla.; Phillips Petroleum Co., Bartlesville, Okla. | 49 CFR 173.315(a)                              | To ship a flammable liquefied compressed gas in a DOT Specification MC-330 cargo tank. (Mode 1.)  |
| 4453-X          | DOT-E 4453    | Maynes Explosives Co., Lee's Summit, Mo.  | 49 CFR 173.182(c)                              | To ship an oxidizer in a non-DOT specification bulk, hopper-type tank. (Mode 1.)  |
| 4490-X          | DOT-E 4490    | Air Products and Chemicals, Inc., Allentown, Pa.                                    | 49 CFR 173.316(a)                              | To ship a flammable gas in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)                 |
| 4684-X          | DOT-E 4684    | Honeywell, Inc., Minneapolis, Minn.   | 49 CFR 173.202, 173.206, 175.3                 | To ship liquid sodium and potassium in valve actuators individually packed in a non-DOT fiberboard container. (Modes 1, 2, 4.)  |

## RENEWALS—Continued

| Application No. | Exemption No. | Applicant   | Regulation(s) affected  | Nature of exemption thereof   |
|-----------------|---------------|---|---|---|
| 4717-X          | DOT-E 4717    | Northern Petrochemical Co., Des Plaines, Ill.; El Paso Products Co., Odessa, Tex.; Union Carbide Corp., Bound Brook, N.J.   | 49 CFR 172.101, 173.314(c)  | To ship a flammable liquefied compressed gas in a non-DOT specification, insulated tank car tank designed and constructed to comply with the AAR proposed specification 113D120W. (Mode 2.)   |
| 5186-X          | DOT-E 5186    | Liquid Carbonic Corp., Chicago, Ill.  | 49 CFR 172.101, 173.315   | To ship a flammable liquefied compressed gas in a non-DOT specification cargo tanks. (Mode 1.)  |
| 5649-X          | DOT-E 5649    | Great Lakes Chemical Corp., Adrian, Mich.   | 49 CFR 173.154(a)   | To ship an oxidizer in non-DOT specification polypropylene or polyethylene bags overpacked in fiberboard boxes. (Modes 1, 2.)   |
| 5704-X          | DOT-E 5704    | IMC Chemical Group, Inc., Allentown, Pa.; U.S. Department of Defense, Washington, DC.   | 49 CFR 173.93(e), 173.62  | To ship certain Class A and B explosives in DOT and non-DOT specification metal drums. (Modes 1, 2, 3.)   |
| 5895-X          | DOT-E 5895    | Explosive Technology, Fairfield, Calif.   | 49 CFR 173.100(cc), 173.104(b), 175.3   | To ship a Class C explosive in non-DOT specification inner containers overpacked in a DOT 12H fiberboard box. (Modes 1, 2, 3, 4.)   |
| 5995-X          | DOT-E 5995    | Roper Plastics, Inc., Oakbrook, Ill.  | 49 CFR 173.154(a), 172.101  | To manufacture, mark and sell non-DOT specification removable head polyethylene containers for shipment of certain organic peroxides. (Modes 1, 2, 3.)  |
| 6016-X          | DOT-E 6016    | Airco Welding Products, Springfield, N.J.; O. E. Meyer & Sons, Inc., Sandusky, Ohio; Wilson Welding Supply, Warren, Mich.; Acety-Arc, Inc., Paduch, Ky.; Harvey Co., Greensburg, Pa.; Gutman Supply Co., Belle Vernon, Pa.; Weller Welding Co., Inc., Dayton, Ohio. | 49 CFR 173.315(a)   | To ship certain non-flammable gases in non-DOT specification portable tanks. (Mode 1.)  |
| 6293-X          | DOT-E 6293    | Olin Corp., East Alton, Ill.  | 49 CFR 173.245(a)(31), 173.21(b)  | To ship certain corrosive liquids in DOT Specification MC-311 or MC-312 tank motor vehicle. (Mode 1.)   |
| 6334-X          | DOT-E 6334    | Allied Chemical Corp., Morristown, N.J.   | 49 CFR 172.101, 172.504   | To ship an oxidizer in DOT Specification MC-312, MC-330 or MC-331 cargo tanks. (Mode 1.)  |
| 6369-X          | DOT-E 6369    | E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.  | 49 CFR 172.101, 173.346(a)(10), 173.347(a)(2), 173.352(a)(4), 173.374(a)              | To ship certain Class B poisonous liquids in DOT Specification 105A400W, 112A400W, 114A400W, 120A300W and proposed 120A400W tank car tanks. (Mode 2.)   |
| 6392-X          | DOT-E 6392    | Northern Petrochemical Co., Des Plaines, Ill.; El Paso Products Co., Odessa, Tex.   | 49 CFR 172.101, 173.314(c)  | To ship a liquefied flammable compressed gas in a non-DOT specification vacuum insulated tank car tank designed and constructed to comply with AAR proposed specification 113C120W. (Mode 2.) |
| 6484-X          | DOT-E 6484    | International Minerals and Chemical Corp., Mundelein, Ill.  | 49 CFR 172.101  | To ship flammable liquids in MC-307 or MC-312 tank motor vehicles. (Mode 1.)  |
| 6516-X          | DOT-E 6516    | Union Carbide Corp., Bound Brook, N.J.  | 49 CFR 172.101, 172.302, 173.119, 173.134, 173.154                                    | To ship a flammable liquid or solid in non-DOT specification steel portable tanks. (Mode 1, 3.)   |
| 6543-X          | DOT-E 6543    | The Synthatron Corp., Edgewater, N.J.; M & T Chemicals, Inc., San Francisco, Calif.   | 49 CFR 173.135(a)(6), 173.136(a)(5), 173.247, 175.3                                   | To ship certain corrosive liquid and certain flammable liquids in non-DOT specification stainless steel cylinders. (Modes 1, 2, 4.)   |
| 6610-X          | DOT-E 6610    | Oxirane Chemical Co., Pasadena, Tex.  | 49 CFR 173.221  | To ship an organic peroxide in DOT Specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1, 2.)  |
| 6611-P          | DOT-E 6611    | Cities Service Co., Tulsa, Okla.; L'Air Liquide, Paris, France; L'Air Liquide, Belge, Liege, Belgium.   | 49 CFR 172.101, 173.315(a)  | To become a party to Exemption 6611. (See Application No. 6611-X). (Modes 1, 3.)  |
| 6632-X          | DOT-E 6632    | Roper Plastics, Inc., Oakbrook, Ill.  | 49 CFR 173.217(a)   | To manufacture, mark and sell non-DOT removable-head polyethylene containers for shipment of certain oxidizing materials. (Modes 1, 2, 3.)  |
| 6657-P          | DOT-E 6657    | Kelsey Welding Supply Corp., New Berlin, Wis.   | 49 CFR 173.34(e)(15)(i), 175.3  | To become a party to Exemption 6657. (See Application No. 6657-X). (Modes 1, 2, 3, 4, 5.)   |
| 6672-X          | DOT-E 6672    | Chandler Evans, Inc., West Hartford, Conn.  | 49 CFR 173.302(a)(4), 175.3   | To manufacture, mark and sell non-DOT specification cylinders for shipment of certain nonliquefied compressed gases. (Modes 1, 2, 4.)   |
| 6793-X          | DOT-E 6793    | Trapak Limited, Aylesbury, England; Containers and Pressure Vessels Ltd., Monaghan, Ireland.  | 49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 173.347; 46 CFR 90.05-35, 98.35-3 | To ship hazardous materials in a non-DOT specification portable tank. (Modes 1, 2, 3.)  |
| 6802-X          | DOT-E 6802    | Fitch Industrial and Welding Supply, Lawton, Okla.; Lincoln Welding Supply Co., Lincoln, Neb.; Harvey Co., Greensburg, Pa.  | 49 CFR 173.315(a)   | To ship certain nonflammable liquefied compressed gases in a non-DOT specification cargo tank. (Mode 1.)  |
| 6815-X          | DOT-E 6815    | Mobay Chemical Corp., Kansas City, Mo.  | 49 CFR 173.359  | To ship a poison B liquid in DOT Specification MC-312 tank motor vehicle. (Mode 1.)   |
| 6894-X          | DOT-E 6894    | U.S. Department of Defense, Washington, DC.   | 49 CFR 173.302(a)(1)  | To ship certain nonliquefied gases in a non-DOT specification pressure vessel assembly. (Modes 1, 2.)   |
| 6901-X          | DOT-E 6901    | Monsanto Co., St. Louis, Mo.  | 49 CFR 173.28(m), 173.365(a)(2)   | To ship certain Class B poisonous solids in reconditioned DOT Specification 17E steel drums. (Mode 1.)  |
| 6939-X          | DOT-E 6939    | Warren Petroleum Co., Tulsa, Okla.  | 49 CFR 173.315(a)(1), (c)(1)  | To ship a flammable gas in a DOT Specification MC-331 tank motor vehicle. (Mode 1.)   |
| 6969-P          | DOT-E 6969    | Fairbanks Memorial Hospital, Fairbanks, Alaska; Providence Hospital, Anchorage, Alaska.   | 14 CFR 121.574(a), 135.114(a); 49 CFR 175.85(a), (e)                                  | To become a party to Exemption 6969. (See Application No. 6969-X). (Mode 5.)  |



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NOTICES

RENEWALS—Continued

| Application No. | Exemption No. | Applicant   | Regulation(s) affected               | Nature of exemption thereof  |
|-----------------|---------------|---|--------------------------------------|--|
| 7277-X          | DOT-E 7277    | Structural Composites Industries, Inc., Azusa, Calif.   | 49 CFR 173.302(a)(1), 175.3          | To manufacture, mark and sell non-DOT specification aluminum lined FRP cylinders for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.) |
| 7413-X          | DOT-E 7413    | Chilton Metal Products Division, Chilton, Wis.  | 49 CFR 173.304(a)                    | To manufacture, mark and sell nonDOT specification brazed steel cylinders for shipment of carbon dioxide, liquefied. (Modes 1, 2, 4.)                          |
| 7543-X          | DOT-E 7543    | Monsanto Co., St. Louis, Mo.  | 49 CFR 173.154                       | To ship a flammable solid in DOT Specification 58 portable tanks. (Mode 1.)  |
| 7600-X          | DOT-E 7600    | Lubbock Manufacturing Co., Lubbock, Tex.  | 49 CFR 172.101, 173.315(a)(1)        | To manufacture, mark and sell non-DOT specification insulated cargo tanks for shipment of a flammable gas. (Mode 1.)   |
| 7620-X          | DOT-E 7620    | W. P. Butterfield (Engineers) Ltd., Shipley West Yorkshire, England; Eastern Mediterranean (Containers) Co., Ltd., London, England. | 46 CFR 90.05-35; 49 CFR Part 173.    | To ship hazardous materials in a non-DOT specification portable tank. (Modes 1, 3.)  |
| 7650-X          | DOT-E 7650    | ICI Americas, Inc., Wilmington, Del.  | 49 CFR 173.315                       | To ship certain nonflammable compressed gases in non-DOT Specification portable tanks. (Modes 1, 3.)   |
| 7677-X          | DOT-E 7677    | San Diego Gas and Electric Co., San Diego, Calif.   | 49 CFR 172.101, 173.315(a)           | To ship a flammable gas in a non-DOT specification truck mounted portable tank. (Mode 1.)  |
| 7752-X          | DOT-E 7752    | Hugonnet, S.A., Paris, France.  | 46 CFR 90.05-35; 49 CFR Part 173.    | To ship certain hazardous materials in non-DOT specification IMCO Type 2 insulated portable tanks. (Modes 1, 2, 3.)  |
| 7765-X          | DOT-E 7765    | Carleton Controls Corp., East Aurora, N.Y.  | 49 CFR 173.302(a)(4), 175.3          | To ship a nonflammable gas in non-DOT specification spheres. (Modes 1, 2, 4.)  |
| 7840-X          | DOT-E 7840    | Douglas Aircraft Co., Long Beach, Calif.  | 49 CFR 173.87, 175.3, 176.83         | To ship Class C explosive and a nonflammable compressed gas in DOT Specification 3AA2100 steel cylinder. (Modes 1, 2, 3, 4, 5.)                                |
| 7876-X          | DOT-E 7876    | Ashland Chemical Co., Columbus, Ohio.   | 49 CFR 173.299(a)                    | To ship corrosive materials described as etching acid, liquid. (Modes 1, 2, 3, 4.)   |
| 7881-X          | DOT-E 7881    | FMC Corp., Philadelphia, Pa.  | 49 CFR 173.245b(a)(4), (a)(7)        | To authorize stowage of sodium sulfide, shipped as a corrosive solid, under deck. (Mode 3.)  |
| 8077-X          | DOT-E 8077    | Depandable Welding Service, Berkeley, Calif.  | 49 CFR 173.136(a)(3), 173.247(a)(7). | To manufacture, mark and sell non-DOT specification steel drums for shipment of corrosive materials and flammable liquids. (Modes 1, 2.)                       |

NEW EXEMPTIONS

|        |            |   |                                      |   |
|--------|------------|---|--------------------------------------|---|
| 7939-N | DOT-E 7939 | Lea-Ronal, Inc., Freeport, N.Y.                               | 49 CFR 173.346(a)(20); 175.3         | To ship certain Class B poisonous liquids in DOT Specification 37M cylindrical steel overpack with inside DOT Specification 2SL polyethylene container. (Modes 1, 2, 4.)                  |
| 8046-N | DOT-E 8046 | Degussa Central Transport Department, Frankfurt, Germany.     | 49 CFR 173.247                       | To ship certain corrosive liquids in non-DOT specification portable tank. (Modes 1, 2, 3.)  |
| 8055-N | DOT-E 8055 | NL Industries, Inc., New York, N.Y.                           | 49 CFR 173.154                       | To ship a certain flammable solid in DOT Specification 44C multiwall paper bag. (Modes 1, 2, 3.)  |
| 8056-N | DOT-E 8056 | Hapag-Lloyd AG, Hamburg, Germany.                             | 49 CFR Part 173; 46 CFR 90.05-35.    | To ship certain flammable, corrosive, Class B poisonous and combustible liquids and oxidizing materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)                         |
| 8057-N | DOT-E 8057 | Hapag-Lloyd AG, Hamburg, Germany.                             | 49 CFR Part 173; 46 CFR 90.05-35.    | To ship certain flammable, corrosive, Class B poisonous and combustible liquids and oxidizing materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)                         |
| 8072-N | DOT-E 8072 | Mobay Chemical Corp., Kansas City, Mo.                        | 49 CFR 173.377(b)(6).                | To ship organic phosphate compound mixtures in DOT Specification 12B fiberboard boxes. (Modes 1, 2, 3.)   |
| 8078-N | DOT-E 8078 | Aerojet Solid Propulsion Co., Sacramento, Calif.              | 49 CFR 172.101(b)(6); 175.3          | To ship a rocket motor, Class B explosive, exceeding the weight limitation presently authorized by cargo-only aircraft. (Mode 4.)   |
| 8078-P | DOT-E 8078 | National Aeronautics and Space Administration, Greenbelt, Md. | 49 CFR 172.101(b)(6); 175.3          | To become a party to Exemption 8078. (See Application No. 8078-N). (Mode 4.)  |
| 8084-N | DOT-E 8084 | Ireco Chemicals, Salt Lake City, Utah.                        | 49 CFR 173.85(a)(5)                  | To ship high explosives with no liquid explosive ingredient nor any chlorate, containing over 5% moisture, in laminated plastic tubes overpacked in wooden or fiberboard boxes. (Mode 1.) |
| 8091-N | DOT-E 8091 | Western Electric Co., Inc., Greensboro, N.C.                  | 49 CFR Parts 100-177                 | To ship mercury relays excepted from the majority of the regulations. (Modes 4, 5.)   |
| 8096-N | DOT-E 8096 | Pressure-Pak Container Co., East Hampton, Conn.               | 49 CFR 173.302(a)(1), 175.3, 178.42. | To manufacture, mark and sell non-DOT specification steel cylinders made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)                          |
| 8098-N | DOT-E 8098 | Witco Chemical Corp., Richmond, Calif.                        | 49 CFR 173.157                       | To transport benzoyl peroxide, wet in DOT Specification 21C fiber drums. (Modes 1, 2, 3.)   |

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NEW EXEMPTIONS—Continued

| Application No. | Exemption No. | Applicant                                    | Regulation(s) affected | Nature of exemption thereof   |
|-----------------|---------------|--|------------------------|---|
| 8101-N          | DOT-E 8101    | U.S. Department of Defense, Washington, D.C. | 49 CFR 173.392(c)(7)   | To ship rocket ammunition, class B explosive containing depleted uranium, in the same outside container with packages of Class A explosives, without displaying the "radioactive" placards. (Mode 1.) |
| 8111-N          | DOT-E 8111    | U.S. Department of Energy, Washington, D.C.  | 49 CFR 173.304(a)      | To ship a nonflammable gas mixture in non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5.)   |

EMERGENCY EXEMPTIONS  
APPLICATIONS RECEIVED AND GRANTED

|          |            |  |                |   |
|----------|------------|--|----------------|---|
| EE8138-N | DOT-E 8138 | Metropolitan Sewer District, Louisville, Jefferson County, Ky. | 49 CFR 173.365 | To ship a Class B poison waste sludge in non-DOT specification metal boxes. (Mode 1.) |
|----------|------------|--|----------------|---|

DENIALS

6538-X Request by Wonder Corporation of America, Stamford, Conn.—To allow the placing of three notches in the top of the cylinder manufactured under the terms of DOT-E 6538, denied January 23, 1979, as being unnecessary.

6672-X Request by U.S. Department of Defense, Washington, D.C.—To renew the exemption for shipment of certain non-liquefied compressed gases in non-DOT specification cylinders, denied January 23, 1979.

7914-X Request by Southern Pacific Transportation Co., San Francisco, Calif.—For reconsideration of denial of application to allow operation of unit tank car trains of petroleum crude oil without buffer cars, denied January 19, 1979.

8066-N Request by International Marketing Associates, New York, N.Y. To transport certain devices as toy caps without the Class C explosives label applied to the outside packaging, denied January 30, 1979.

8135-N Request by Schlumberger Well Services, Houston, Tex.—To transport charged oil well jet perforating guns by air when highway or water transportation is not available, denied January 30, 1979.

EE8143-N Request by LNG Services, Inc., Pittsburgh, Pa.—For an emergency exemption to make one shipment of liquefied natural gas in a tank motor vehicle, denied January 25, 1979.

EE8160-N Request by Uniroyal, Inc., Middlebury, Conn.—For an emergency exemption for a 90-day extension of the shelf coupler retrofit deadline for eight tank cars in vinyl chloride monomer service, denied January 31, 1979.

WITHDRAWALS

6348-P Request by Georgia-Pacific Corp., Newport Beach, Calif.—To become a party to Exemption 6348 for shipment of certain dry oxidizing materials in non-DOT specification polyethylene container, withdrawn January 22, 1979.

6530-X Request by Burdett Oxygen Co., Norristown, Pa.—To ship certain flammable gases in DOT Specification 3A, 3AA, 3AX, or 3AAX steel cylinders, withdrawn January 22, 1979.

8117-N Request by U.S. Department of Defense, Washington, D.C.—To ship ammunition for cannon, Class A or B explosive, containing depleted uranium in non-DOT specification containers in other than exclusive use vehicles, withdrawn January 30, 1979.

NOTE.—Inadvertently omitted from the 44 FR 23 publication of Exemptions issued during December 1978 is the following:

7884-N Request by Suburban Airservice, Inc., Laurel, Md.—To carry radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50

and/or the separation criteria cannot be met, denied December 27, 1978.

J. R. GROTHE,  
Chief, Exemptions Branch,  
Office of Hazardous Materials  
Regulation, Materials Transportation Bureau.

[FR Doc. 79-8035 Filed 3-16-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety  
Administration

[Docket No. IP78-10; Notice 2]

PINETREE SERVICE CORP.

Denial of Petition for Determination of  
Inconsequential Noncompliance

This notice denies the petition by Pinetree Service Corp. of Long Beach, California, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.222, Motor Vehicle Safety Standard No. 222, *School Bus Passenger Seating and Crash Protection*. The basis of the petition was that the noncompliance is inconse-



quential as it relates to motor vehicle safety.

Notice of receipt of the petition was published in the *FEDERAL REGISTER* on November 24, 1978 (43 FR 55027), and an opportunity afforded for comment.

Pinetree is an alterer of motor vehicles, modifying vans produced by Dodge Division of Chrysler Corp., to school buses. Paragraph S5.3.1.1 of Standard No. 222 establishes head impact protection zones which are the spaces in front of each school bus passenger seat that are not occupied by bus sidewall, window, or door structures, and which, in relation to that seat and its seating reference point, are enclosed by certain specified planes. One of these horizontal planes is 40 inches above the seating reference point. On 60 vehicles converted by Pinetree the planes measure only 34 inches (outboard) and 36 inches (inboard) above the reference point. The effect is that impact absorbant padding would have to be added to correct the noncompliance.

Pinetree argued that the noncompliance was inconsequential because it operates the buses itself under contract with school districts. All buses are equipped with seat belts, there are signs posted in the buses requiring all passengers and the driver to use seat belts, and company rules and contract require the belts to be used while the vehicles are in motion. The petitioner further argued that "the use of seat belts modifies this impact zone providing they are used and enforced." The agency's investigative file in this matter is CIR 1959.

One comment was received on the petition from the California Highway Patrol which opposed it. In the opinion of the Patrol, "there is good probability that some of the occupants will be unrestrained and their heads may enter the obstructed and unpadded area during an accident."

The National Highway Traffic Safety Administration concurs with this comment. Although the petitioner, who is the operator as well as the manufacturer of the school buses, is contractually required to enforce the use of seat belts, there is no information about the effectiveness of the enforcement effort and there is no assurance that enforcement efforts will be continued by the present owner, or future owners, throughout the life of the buses. Since petitioner as operator appears to have the buses under its control, recall and remedy of all 60 should be a relatively simple matter.

The regulatory scheme of the National Traffic and Motor Vehicle Safety Act requires the establishment of "minimum standards for motor vehicle performance." To decide that a deviation of 5 inches is "inconsequential" could encourage manufacturers

to be less careful in design and production, and possibly lead to further deviations and erosion of the standard.

Petitioner has failed to meet its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety. Accordingly its petition is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on March 22, 1979.

MICHAEL M. FINKELSTEIN,  
Associate Administrator  
for Rulemaking.

[FR Doc. 79-9538 Filed 3-28-79; 8:45 am]

#### [4810-22-M]

##### DEPARTMENT OF THE TREASURY

###### Customs Service

##### CERTAIN VALVES AND PARTS THEREOF FROM JAPAN

###### Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Japan to manufacturers or exporters of certain valves and parts thereof. A preliminary determination will be made not later than August 16, 1979, and a final determination not later than February 16, 1980.

EFFECTIVE DATE: March 29, 1979.

##### FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on February 16, 1979, alleging that benefits conferred by the Government of Japan upon the manufacture, production or exportation of valves and parts thereof from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "valves and parts thereof" include taps, cocks,

valves, and similar devices, however operated, used to control the flow of liquids, gases, or solids, all the foregoing and parts thereof. The imports of valves from Japan subject to this investigation are classified in the Tariff Schedules of the United States under item numbers 680.20, 680.22, 680.25, and 680.27.

The bounties or grants alleged in the petition are as follows:

(1) "The Temporary Measures Act for Small and Midsize business with Regard to the High Yen Exchange Market" established a number of methods by which the Japanese Government can provide assistance to small and midsize businesses which are export oriented and whose competitive position has been adversely affected by the rapid appreciation of the yen. These include:

(a) Preferential financing at interest rates lower than those commercially available from the National Finance Corporation, the Okinawa Development Finance Corporation, the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and from so-called "Authorized Cooperative" trade associations.

(b) Preferential financing from the same sources as mentioned above for the building of facilities necessary for conversion of manufacturing operations.

(c) Those firms which previously had been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law" were allowed to defer repayment for up to three years.

(d) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligible firms.

(e) Revision of an already existing law, to now allow eligible firms to carry-back losses incurred currently to the preceding three fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

(2) Under the "Specific Depressed Industries Stabilizing Temporary Measures Law," a special credit fund was created by the Government of Japan which guarantees repayment of loans obtained by depressed industries to assist in the disposition of idle facilities.

(3) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR).

(4) Promotional assistance for exports from the Japanese External Trade Organization (JETRO).

(5) Preferential financing by the Japan Development Bank (JDB).

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within six months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within twelve months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than August 16, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than February 16, 1980.

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and §159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

MARCH 22, 1979.

[FR Doc. 79-9558 Filed 3-28-79; 8:45 am]

#### [4810-22-M]

##### CERTAIN SCALE AND WEIGHING MACHINERY FROM JAPAN

###### Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that an investigation has been started for the purpose of determining whether or not benefits are paid by the Government of Japan to manufacturers/exporters of certain scale and weighing machinery which constitute the payment of a bounty or grant within the meaning of the U.S. countervailing duty law. A preliminary determination will be made not later than August 15, 1979, and a final determination not later than February 15, 1980.

EFFECTIVE DATE: March 29, 1979.

##### FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on February 15, 1979, alleging that benefits conferred by the Government of Japan upon the manufacture, production or exportation of certain scale and weighing machinery from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The merchandise specified in the petition is described as fully automatic weighing machinery requiring no manual operation for weight determinations, and accurate to 1/2 of 1 percent or better of the maximum weighing capacity, on weight tests within the weighing range of the scale, as provided for under item 662.26 of the Tariff Schedules of the United States (TSUS), and other weighing machinery and scales as provided for under item 662.30 of the Tariff Schedules of the United States (TSUS).

The bounties or grants alleged in the petition are as follows:

(1) "The Temporary Measures Act for Small and Midsize Business with Regard to the High Yen Exchange Market" established a number of methods by which the Japanese Government can provide assistance to small and midsize businesses which are export oriented and whose competitive position has been adversely affected by the rapid appreciation of the yen. These include:

(a) Preferential financing at interest rates lower than those commercially available from the National Finance Corporation, the Okinawa Development Finance Corporation, the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and from so-called "Authorized Cooperative" trade associations.

(b) Preferential financing from the same sources as mentioned above for the building of facilities necessary for conversion of manufacturing operations.

(c) Those firms which previously had been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law" were allowed to defer repayment for up to three years.

(d) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligible firms.

(e) Revision of an already existing law, to now allow eligible firms to carry-back losses incurred currently to the preceding three fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

(2) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR).

(3) Promotional assistance provided by the Japanese External Trade Organization (JETRO).

(4) Preferential financing to small and midsize enterprises from Government owned banks including the Small Business Finance Corporation, the Peoples Finance Corporation and the Bank for Commerce and Industrial Cooperatives.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination within 6 months of the receipt of a petition in proper form and a final determination within 12 months of the receipt of such petition, as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute.

Therefore, a preliminary determination on this petition will be made no later than August 15, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than February 15, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provision of Treasury Department Order 165, Revised, November 2, 1954, and §159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

MARCH 22, 1979.

[FR Doc. 79-9557 Filed 3-28-79; 8:45 am]



[4810-22-M]

Office of the Secretary  
SODIUM ACETATE FROM CANADA  
Antidumping Proceeding Notice

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether sodium acetate from Canada is being sold, or is likely to be sold, to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On March 5, 1979, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from the Niacet Corporation of Niagara Falls, New York, a domestic producer of sodium acetate, alleging that sodium acetate from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

For purposes of this investigation, the term sodium acetate means sodium acetate as provided for in item number 426.8600, Tariff Schedules of the United States Annotated (TSUSA).

Based upon the information set forth in the petition and that derived from the Customs Service's summary investigation, it appears that that margin of dumping is 65 percent.

There is evidence on record concerning injury to, or likelihood of injury to, the United States from the alleged less than fair value imports of sodium acetate from Canada. This information indicates that the petitioner has experienced declining production, price suppression, low profitability, and a declining level of production workers and capacity utilization. Further, the margins of underselling claimed in the petition are completely accounted for by the alleged dumping margins.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29),

## NOTICES

and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.  
MARCH 22, 1979.  
(FR Doc. 79-9558 Filed 3-28-79; 8:45 am)

[7035-01-M]

INTERSTATE COMMERCE  
COMMISSION

[Volume No. 23]

PERMANENT AUTHORITY DECISIONS

Decision-Notice

MARCH 15, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before April 30, 1979. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness

of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,  
Secretary.

MC 13123 (Sub-96F), filed January 22, 1979. Applicant: WILSON FREIGHT COMPANY, a corporation, 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Electric Company at or near Mt. Vernon, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 26396 (Sub-222F), filed January 17, 1979. Applicant: POPELKA TRUCKING CO., a corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting lumber, lumber products, and wood products, from Lewistown, MT, to points in AR, CO, IA, IL, IN, KS, KY, MN, MO, NE, ND, OK, SD, TN, WI, and WY. (Hearing site: Billings, MT.)

MC 33641 (Sub-140F), filed January 11, 1979. Applicant: IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 30277, Salt Lake City, UT 84125. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, (A) over regular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cedar City, UT, and New Orleans, LA; from Cedar City, over Interstate Hwy

## NOTICES

15 to junction UT Hwy 59, then over UT Hwy 59 to the UT-AZ State line, then over AZ Hwy 389 to junction Alternate U.S. Hwy 89, then over Alternate U.S. Hwy 89 to junction U.S. Hwy 89, then over U.S. Hwy 89 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 20 at Fort Worth, TX, then over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge, LA, then over Interstate Hwy 10 to New Orleans, and return over the same route, and (2) Between Fort Worth, TX, and Baton Rouge, LA: from Fort Worth, over Interstate Hwy 20 to junction Interstate Hwy 45, then over Interstate Hwy 45 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Baton Rouge, and return over the same route, serving in (A)(1) and (2) above, the intermediate and off-route points of Dallas, Fort Worth, Tyler, Longview, Houston, Beaumont, Galveston, and Amarillo, TX, and Shreveport, and Baton Rouge, LA; and (B) over irregular routes, transporting potato products, and frozen foods, from those points in ID in and south of Adams, Valley, and Lemhi Counties, to points in TX and LA. (Hearing sites: Salt Lake City, UT, Houston, TX, New Orleans, LA, Dallas, TX, and Boise, and Pocatello, ID.)

MC 41951 (Sub-37F), filed January 19, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Hwy, Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting unfrozen foodstuffs (except in bulk), from the facilities of RJR Foods, Inc., at or near Cambridge, MD, to Kansas City, KS, Garland and Houston, TX, and Kenner, LA. (Hearing site: Washington, DC, or Cambridge, MD.)

MC 47583 (Sub-81F), filed January 15, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) fibrous glass products and materials, mineral wool, mineral wool products and materials, air ducts, insulating products and materials, glass fiber rovings, yarn and strands, and glass fiber mats (except commodities in bulk), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above (except commod-

ities in bulk), between the facilities of CertainTeed Products Corporation at or near (a) Athens, GA, (b) Kansas City, MO, (c) Williamstown Junction, NJ, and (d) Mountain Top, PA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Kansas City, MO.)

MC 51146 (Sub-673F), filed January 12, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) such commodities as are dealt in or used by grocery and food business houses, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Ralston Purina Company, at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, MI, OH, and WI. (Hearing site: Chicago, IL.)

MC 51146 (Sub-674F), filed January 15, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting tires, inner tubes, and wheels, from Carlisle, PA, to Indianapolis, IN. (Hearing site: Chicago, IL.)

MC 58923 (Sub-53F), filed January 22, 1979. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., P.O. Box 6944, Atlanta, GA 30315. Representative: William W. West (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA and Greenville, SC, over Interstate Hwy. 85, serving no intermediate points, restricted to the transportation of traffic received from or delivered to connecting carriers at Greenville, S.C. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 61403 (Sub-259F), filed January 22, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. To oper-



ate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lacquers and paints*, in bulk, in tank vehicles, from Morganton, NC, to Jacksonville, FL, Evansville, IN, Towanda, PA, Jefferson City and Johnson City, TN, Orangeburg, SC, and Doswell and Norfolk, VA. (Hearing site: Charlotte, NC.)

MC 61825 (Sub-92F), filed January 25, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Gary, IN, Kalamazoo, MI, Plattsburgh, Warwick, and Lyons Falls, NY, and Lockport, IL, to points in NJ, NY, DE, MD, PA, VA, WV, NC, SC, and DC. (Hearing site: Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 67646 (Sub-77F), filed August 15, 1978, previously noticed in the FEDERAL REGISTER issue of November 28, 1978. Applicant: HALL'S MOTOR TRANSIT COMPANY, a Corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Norfolk and Richmond, VA, (1) over U.S. Hwy 60 or Interstate Hwy 64, (2) from Norfolk over U.S. Hwy 460 to Petersburg, VA, then over U.S. Hwy 1 or Interstate U.S. Hwy 95 to Richmond, and return over the same routes, serving Richmond for the purpose of joinder only, and serving the intermediate or off-route points of Chesapeake, Franklin, Hampton, New Port News, Suffolk, Virginia Beach, Williamsburg, and Yorktown, VA. NOTE: The purpose of this application is to eliminate the gateway of Hagerstown, MD, used by applicant currently by tacking regular and irregular route authority, in order to handle traffic moving between the Norfolk, VA, area, on the one hand, and, on the other, generally Washington, DC, Baltimore, MD, and points north. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—This republication deletes the restriction that was inadvertently imposed in this application.

MC 73688 (Sub-84F), filed February 2, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Robert E. Tate, P.O. Box 517, Evergreen AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and (b) *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities; and (2) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds, and materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), and (b) *filters* from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted to the transportation of traffic destined to the named destinations. (Hearing site: Washington, DC.)

MC 78687 (Sub-55F), filed January 2, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heasley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in containers, between the facilities of Allied Chemical Corporation, at Solvay and Syracuse, NY, on the one hand, and, on the other those points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: New York, NY.)

NOTE.—Dual operations are involved in this proceeding.

MC 87103 (Sub-30F), filed January 17, 1979. Applicant: MILLER TRANSFER AND RIGGING CO., a corporation, P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (Same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *coal cutting machines, parts for coal cutting machines, furnaces, furnace parts, structural and fabricated steel, valves, valve parts, and gear and pinion wheels*, and (2) *equipment, materials, and supplies* used in the manufacture and distribu-

tion of the commodities named in (1) above, between Arden, North East, and Washington, PA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Millcraft Industries at Arden, North East and Washington, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 94265 (Sub-285F), filed November 6, 1978, previously published in the FEDERAL REGISTER issue of December 28, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in DE, IL, IN, IA, MD, MN, MO, NC, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, KS, or Washington, DC.)

NOTE.—This republication adds WI as a destination State.

MC 95305 (Sub-28F), filed December 28, 1978. Applicant: NORTHERN NECK TRANSFER, INC., P.O. Box 168, King George, VA 22485. Representative: L. C. Major, Suite 400, Overlook Building, 6121 Lincoln Road, Alexandria, VA 22312. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of building materials, between the facilities of Georgia-Pacific Corporation, at or near Quakertown, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, NC, VA, and DC. (Hearing site: Washington, DC.)

MC 100666 (Sub-423F), filed January 12, 1979. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *composition board*, from the facilities of Champion International Corporation, at or near Catawba, SC, to points in AZ, AR, CA, CO, IA, ID, IL, KS, LA, MN, MO, MS, MT, NE, NV, NM, ND, OK, OR, TN, TX, UT, WA, and WY. (Hearing site: Dallas, TX.)

MC 105007 (Sub-43F), filed January 5, 1979. Applicant: MATSON TRUCK LINE, INC., 1407 St. John Ave., P.O. Box 328, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Albert Lea, MN, to points in IL (except Chicago) and KY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 107403 (Sub-1162F), filed January 16, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *silica sand*, in bulk, in tank or hopper type vehicles, (a) from points in NJ, to Greenland, NH, and (b) from Lipe, TN, to Versailles, KY, (2) *feldspar*, in bulk, in tank or hopper type vehicles, from Spruce Pine, NC, to Versailles, KY, (3) *limestone*, in bulk, in tank or hopper type vehicles, from Gibsonburg and Findlay, OH, to Versailles, KY, and (4) *limestone, and limestone products*, in bulk, in tank vehicles, from Carey, OH, to points in FL, ME, NE, NH, ND, OK, SD, TX, and VT. (Hearing site: Washington, DC.)

MC 107403 (Sub-1163F), filed January 16, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sodium silicate*, in bulk, in tank vehicles, from the facilities of E. I. DuPont de Nemours & Company, at Pineville, LA, to points in AL, AR, GA, MS, MO, TN, and TX. (Hearing site: Washington, DC.)

MC 107496 (Sub-1178F), filed January 4, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand

Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 108119 (Sub-123F), filed February 12, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Fencing and fencing materials*, (except wire and wire products), and (2) *wire and wire products*, from the facilities of Bekaert Steel Wire Corporation, at or near Van Buren, AR, to points in the United States (except AK, AR, HI, LA, NM, OK, and TX). (Hearing site: Oklahoma City, OK.)

MC 108119 (Sub-124F), filed February 12, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *self-propelled vehicles* (except automobiles, buses, and trucks), (2) *road construction and road maintenance equipment*, (3) *mixers*, and (4) *attachments, parts, and accessories* for the commodities in (1), (2), and (3) above, between Milwaukee, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 108523 (Sub-11F), filed January 18, 1979. Applicant: POLMAN TRANSFER, INC., Rte. 3, Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *packaging material* from points in IL, to the facilities of Tuffy's Division of Star-Kist Foods, Inc., at Perham, MN, under continuing contract(s) with Tuffy's, Division of Star-Kist Foods, Inc., of Perham, MN. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 108743 (Sub-44F), filed January 22, 1979. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Binghamton, NY and Harriman, NY, over NY Hwy 17, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Boston, MA.)

MC 110563 (Sub-258F), filed January 15, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *shortening, cooking and salad oils, and oleomargarine*, in vehicles equipped with mechanical refrigeration, from the facilities of PVO International, Inc., at St. Louis, MO, to points in AL, FL, GA, NC, and TN. (Hearing site: St. Louis, MO.)

MC 110563 (Sub-259F), filed January 17, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Larsen Company at points in WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Green Bay, WI.)

MC 110563 (Sub-260F), filed January 22, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Great Atlantic & Pacific Tea Co., Inc., at or near Plymouth, WI, to points in CT (except East Hartford), ME, MD (except Baltimore), MA (except Springfield, Westwood, and Woburn), NJ (except Edison, Florence, and Secaucus), NY (except Garden



City), PA (except Altoona and Yeadon), and VA (except Richmond), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Washington, DC, or New York, NY.)

MC 111231 (Sub-258F), filed January 18, 1979. Applicant: JONES TRUCK LINES INC., 610 East Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and pallets* (except commodities in bulk, in tank vehicles), from points in Pope, Conway, Yell, and Johnson Counties, AR, to points in IL, IN, IA, KS, MO, MI, WI, OK, TX, MN, OH, TN, MS, and LA. (Hearing site: Russellville or Little Rock, AR.)

MC 111401 (Sub-542F), filed January 19, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals*, in bulk, in tank vehicles, from Amarillo, TX, to points in AR, AZ, CO, IL, IA, LA, MO, NE, NM, OK, TN, TX, and WI, (2) *soybean oil*, in bulk, in tank vehicles, from Wichita, KS, to the facilities of the Tulsa/Port Authority-Catoosa, OK, at or near Tulsa, OK; and (3) *petroleum, petroleum products, and lubricating oil*, in bulk, in tank vehicles, from Princeton, LA, to points in CA. (Hearing site: Dallas or Houston, TX.)

MC 112063 (Sub-19F), filed December 27, 1978. Applicant: P.I. & I. MOTOR EXPRESS, INC., Broadway Avenue Extension, Masury, OH, P.O. Box 685, Sharon, PA 16146. Representative: Milan Tatalovich, 11 West Liberty Street, Girard, OH 44420. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron or steel railway car parts*, from Chicago, IL, to Altoona, Berwick, Butler, Erie, Greenville, Holidaysburg, Irving, Johnstown, Meadville, Milton, Reading, and Renovo, PA. (Hearing site: Cleveland, OH, or Pittsburgh, PA.)

MC 112304 (Sub-162F), filed December 20, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *fireplace air heaters and ventilators, and parts and accessories for fireplace air*

heaters and ventilators (a) from Fullerton, CA, to those points in the United States in and west of MT, WY, CO, NM, and El Paso County, TX (except AK and HI), (b) from Union City, TN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except El Paso County, TX), and (c) from Baltimore, MD, to those points in the United States in and east of MN, IA, MO, AR, and LA, and (2) *sheet steel* from the facilities of Pleassey Steel Company, in Los Angeles County, CA, to Union City, TN, and Baltimore, MD. (Hearing site: Washington, DC, or Los Angeles, CA.)

MC 112617 (Sub-419F), filed January 5, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *inedible tallow*, in bulk, in tank vehicles, from Henderderson and Russellville, KY and Hurricane, WV, to points in AR, GA, IL, KY, LA, MD, MO, MA, MS, NJ, OH, PA, TN, and VA. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112713 (Sub-241F), filed January 19, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. Deland (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Acme Tube, Inc. at Mansfield, LA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 112713 (Sub-242F), filed January 22, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. Deland (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Holley Carburetor Division of Colt Industries, Inc., at Salisaw, OK, as an off-route point in connection with the carrier's otherwise authorized regular-route operations.

(Hearing site: Chicago, IL, or Washington, DC.)

MC 113434 (Sub-121F), filed December 26, 1978. Applicant: GRA-BELL TRUCK LINE, INC., A-5253 144th Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vinegar*, in bulk, in tank vehicles, from the facilities of Heinz U.S.A., at Hooland, MI, to the facilities of Heinz U.S.A., at Winchester, VA. (Hearing site: Pittsburgh, PA, or Detroit, MI.)

MC 113751 (Sub-28F), filed January 19, 1979. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Sts., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen vegetables*, from the facilities of The Larsen Company, at Green Bay, WI, to points in IL, IN, KY, MI, and OH. (Hearing site: Green Bay or Madison, WI.)

MC 114273 (Sub-525F), filed January 16, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foot-stuffs* (except in bulk), from the facilities of The Larsen Company at points in WI, to points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, MI, MD, MA, ME, MN, MO, MS, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SD, TN, TX, VA, WV, SC, VT, and DC, restricted to the transportation of traffic originating at the named origin facilities. Condition: The certificate to be issued in the proceeding shall be limited to 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114569 (Sub-288F), filed February 5, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AZ,

CO, FL, GA, IL, IN, IA, KS, KY, MD, MN, MO, NE, NJ, NM, NY, OH, OK, PA, TN, TX, VA, and WI, and (2) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), and filters, from points in GA, KY, NY, OH, and PA, to the origin facilities in (1) above, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the above named facilities of Quaker State Refining Corporation. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 115311 (Sub-329F), filed January 18, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, carpet tacking strip, fabricated and shaped metal articles, building materials, polyurethane, plastic articles, and fiberglass articles* (except commodities in bulk), (2) *materials, equipment, and supplies* used in the manufacture, distribution, production, and installation of the commodities named in (1) above (except commodities in bulk), and (3) commodities which, because of size or weight, require the use of special equipment), between the facilities of Kinkead Industries, Inc., at or near (a) Atlanta, GA, (b) Garden Grove, CA, (c) Johnson Creek, WI, (d) McCook and Kewanee, IL, (e) Oconomowoc, WI, and (f) Union City, TN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM, restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Chicago, IL.)

MC 115311 (Sub-330F), filed January 19, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Union Camp Corporation, at or near Tifton and Savannah, GA, on the one hand, and, on the other, those points in the United

States in and east of MT, WY, CO, and NM. (Hearing site: New York, NY.)

MC 115654 (Sub-123F), filed December 27, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth Street, N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *food-stuffs* (except commodities in bulk), from Lawton, MI to points in AL, AR, IL, IN, KY, LA, MS, MO, OH, and TN. (Hearing site: Nashville, TN, or New York, NY.)

NOTE.—The certificate to be issued in this proceeding shall be limited to 3 years from its date of issue, unless prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for permanent extension of the certificate.

MC 115826 (Sub-373F), filed January 15, 1979. Applicant: W. J. DIGBY, INC., A Nevada Corporation, 6016 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared foods, frozen foods, and restaurant equipment and supplies*, from points in CA, to points in CO and NM. (Hearing site: Denver, CO.)

MC 116254 (Sub-228F), filed December 26, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum plate, aluminum sheet and aluminum foil*, from Terre Haute, IN, to points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Nashville, TN, or Washington, DC.)

MC 116254 (Sub-229F), filed December 29, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid weed killing chemicals*, from LeMoyne, AL, to Omaha, NE, and (2) *aluminate sulphate*, in bulk, from Counce, TN, to points in AR. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 116254 (Sub-230F), filed December 28, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common*

*carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from Atlanta and Cartersville, GA, to points in AL, IN, IL, LA, MS, MO, KY, NJ, NY, TN, TX, OH, PA, VA, and NC; and (2) *steel tubing*, from Tallapoosa, GA, to the destination States in (1) above. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 116254 (Sub-231F), filed December 26, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sodium silicate*, in bulk, from the facilities of E. I. du Pont de Nemours & Company, at or near East Chicago and Fortville, IN, and Cleveland, OH, to the facilities of E. I. du Pont de Nemours & Company, at or near New Johnsonville, TN. (Hearing site: Wilmington, DE or Washington, DC.)

MC 116273 (Sub-220F), filed January 23, 1979. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery (same as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *transformer oil*, in bulk, in tank vehicles, from Chicago, IL, to points in ND and MT, and those points in SD east of US Hwy 83. (Hearing site: Chicago, IL.)

MC 116602 (Sub-7F), filed October 30, 1978. Applicant: JAMES F. HERLIHY TRUCKING CO., INC., 20 Emma St., Binghamton, NY 13905. Representative: Russell S. Bernhard, 1625 K St. NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Binghamton, NY, and Broome County Airport, Broome County, NY, on the one hand, and, on the other Stewart Field Airport, Orange County, NY, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Binghamton, NY, or Washington, DC.)

NOTE.—Tacking is authorized at Binghamton, NY with carrier's authority in MC 116602 (Sub-5), issued September 19, 1972, to provide a through service transporting general commodities with the exceptions noted above, between Stewart Field Airport, Orange County, NY, on the one hand, and, on the other, points in NY.



MC 116763 (Sub-466F), filed January 19, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heating and air conditioning equipment, and parts and accessories* for heating and air conditioning equipment (except commodities the transportation of which because of size or weight require the use of special equipment, and commodities in bulk, in tank vehicles), from LaVergne and Nashville, TN, to points in AL, FL, GA, KY, MS, NC, SC, and VA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Atlanta, GA.)

MC 116763 (Sub-467F), filed January 22, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), between the facilities of Kraft, Inc., at points in Clayton, Cobb, DeKalb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in AL, FL, KY, LA, MS, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Atlanta, GA, or Tampa, FL.)

MC 117119 (Sub-717F), filed February 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* (except commodities in bulk), from Lake City, PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Portland, OR.)

MC 117119 (Sub-718F), filed February 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from The City of Industry and Baldwin Park, CA, to points in ID,

OR, and WA. (Hearing site: New York, NY.)

MC 117119 (Sub-719F), filed February 8, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Morton Frozen Foods, at Crozet, VA, to New York, NY, and points in CT, DE, MA, NJ, NC, PA, and RI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 117883 (Sub-237F), filed January 15, 1979. Applicant: SUBLER TRANSPORT, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), from the facilities of Life Savers, Inc., at or near Canajoharie, NY, to Holland, MI, Kansas City, KS, and Port Chester, NY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 118535 (Sub-131F), filed January 25, 1979. Applicant: TIONA TRUCK LINE, INC., 111 S Prospect, Butler, MO 64730. Representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 N.W. 58th St., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lead and lead alloys*, (except commodities which because of size or weight require the use of special equipment), from Frisco, TX, to points in AR, CO, IL, IA, IN, KS, LA, MO, NE, OK, and TN. (Hearing site: Kansas City, MO.)

MC 119399 (Sub-95F), filed February 1, 1979. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beverages*, from Lenexa, KS, to points in AR, MO, NE, OK, and TX. (Hearing site: Kansas City, MO, or Oklahoma City, OK.)

MC 119493 (Sub-258F), filed January 15, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign com-

merce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Larsen Company at points in WI, to those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Green Bay, WI.)

MC 119493 (Sub-259F), filed January 22, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *utility boxes, tool boxes, chests, medical cabinets, tools, benches, and shelving*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Waterloo Industries, Inc., at (a) Waterloo, IA, (b) Sedalia, MO, and (c) Pocahtontas, AR, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 119767 (Sub-348F), filed January 5, 1979. Applicant: BEAVER TRANSPORT CO., a corporation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), and (2) *materials and supplies* used in the conduct of such businesses, (except commodities in bulk), from the facilities of Fostoria Distribution Services Company, at or near Fostoria, OH, to points in KY and MI. (Hearing site: Chicago, IL, or Cleveland, OH.)

MC 119767 (Sub-349F), filed January 5, 1979. Applicant: BEAVER TRANSPORT CO., a corporation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal oils, vegetable oils, animal oil products, vegetable oil products, food seasoning compounds, and food curing compounds*, (except commodities in bulk, in tank vehicles), from Chicago, IL, Louisville, KY, and points in Will County, IL, to points in CT, DE, IL, IN, IA, KY, MD, MI, MN, MO, NJ,

NY, OH, PA, TN, and WI. (Hearing site: Chicago, IL, or Cleveland, OH.)

MC 119789 (Sub-549F), filed February 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical capacitors and parts* for electrical capacitors, from Pickens, SC, to points in AL, KY, MS, and TN. (Hearing site: Atlanta, GA.)

MC 119789 (Sub-550F), filed February 9, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from Murfreesboro, TN, to points in CA. (Hearing site: Buffalo, NY.)

MC 119789 (Sub-551F), filed February 12, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by department, discount, and variety stores (except foodstuffs and commodities in bulk), from points in the United States (except AK and HI), to the facilities of Gibson Cooperative Warehouse, Inc., at Dallas, TX. (Hearing site: Dallas, TX.)

MC 119789 (Sub-554F), filed February 14, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Hereford, TX, to points in CT, KY, ME, MI, NH, RI, VT, and DC. (Hearing site: Phoenix, AZ.)

MC 119789 (Sub-555F), filed February 9, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative:

James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *unfrozen foodstuffs* (except commodities in bulk), from the facilities of RJR Foods, Inc., at or near Cambridge, MD, to Kansas City, KS, Garland and Houston, TX, and Kenner, LA. (Hearing site: Winston-Salem, NC.)

MC 123819 (Sub-78F), filed February 1, 1979. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt* (except in bulk), from points in Fort Bend and Harris Counties, TX, to points in AR, LA, MS, and TN. (Hearing site: Houston, TX.)

MC 124078 (Sub-929F), filed January 10, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dry fertilizers*, and (2) *pesticides*, in containers, in mixed loads with the commodities in (1) above, from the facilities of Swift Agricultural Chemicals Corporation, at or near Shreveport, LA, to points in TX. (Hearing site: Chicago, IL.)

MC 124211 (Sub-354F), filed January 19, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc oxide and zinc dust*, from Palmerton, PA, to those points in the United States in and west of MI, IN, IL, MO, AR, and LA (except AK and HI). (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 124211 (Sub-355F), filed January 19, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are manufactured or dealt in by manufacturers or converters of paper and paper products, from the facilities of The Mead Corporation, at or near Chillicothe and Schooleys, OH, to those points in the United States in and west of ND, SD, IA, MO, AR, and

MS (except AK and HI); and (2) *paper and paper articles* (except commodities in bulk), from the facilities of The Mead Corporation, at or near Kingsport and Gray, TN, to the destination points in (1) above. The service in both (1) and (2) above is restricted above except for operation in foreign commerce to the transportation of traffic originating at the above-named origins and destined to the above-indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 124579 (Sub-28F), filed February 12, 1979. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron, OH 44839. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sodium bicarbonate*, in bulk, and (2) *materials and supplies* used in the manufacture of sodium bicarbonate, in bulk, between Old Fort, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

MC 124579 (Sub-29F), filed February 13, 1979. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron, OH 44839. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal fats and animal oils*, in bulk, in tank vehicles, from Ft. Branch, IN, Chesaning, MI, and Archbold, Defiance, Greenfield, Napoleon, Tiffin, and Troy, OH, to points in CT, DE, MD, MI, NJ, NY, OH, PA, RI, and DC. (Hearing site: Columbus, OH.)

MC 124947 (Sub-125F), filed January 4, 1979. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 54104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, couplings, pilings, well casings, and well screens*, from the facilities of Stanron Supply, Inc., at or near Lubbock, TX, to points in the United States (except AK and HI); (2) *pipe, pilings, well screens, and well casings*, from Fontana and Long Beach, CA, Valley, NE, Pueblo, CO, Houston, TX, and parts of entry located on the International boundary line between the United States and Canada, in MT and ND, to points in the United States (except AK and HI); and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except com-



modities in bulk, in tank vehicles), from the destinations in (1) above to the origin facilities in (1) above. (Hearing site: Dallas, TX, or Salt Lake City, UT.)

MC 124947 (Sub-127F), filed January 5, 1979. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile and tile products*, and (2) *materials and supplies*, used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), from the facilities of Structural Stoneware, Inc., at or near Minerva, OH, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Washington, DC, or Chicago, IL.)

MC 125146 (Sub-8F), filed January 8, 1979. Applicant: BOB WHITAKER & SON, INC., P.O. Box 65, Roswell, NM 88201. Representative: Edwin E. Piper, Jr., 1115 Sandia Savings Bldg., Albuquerque, NM 87102. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat packinghouses*, between the facilities of Farmland Foods, Inc., at or near Garden City, KS, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Farmland Foods, Inc., of Garden City, KS. (Hearing site: Albuquerque, NM.)

MC 125433 (Sub-196F), filed January 15, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tote pans, refrigeration tunnels, and air vents*, and (2) *parts and accessories* for the commodities named in (1) above, from the facilities of Aero Tech Mfg., Inc., at or near North Salt Lake, UT, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

MC 125433 (Sub-197F), filed January 17, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, trans-

porting *railroad crossing modules*, from the facilities of Onelda Manufacturing, at or near Malad, ID, to points in the United States (except AK and HI). (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 125433 (Sub-198F), filed January 19, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buildings*, from the facilities of Kirby Building Systems, at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Salt Lake City, UT.)

MC 125433 (Sub-200F), filed January 22, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe and fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of Certain-teed Corporation, at or near Hillsboro, TX, to points in the United States, (except AK and HI). (Hearing site: Dallas, TX, or Salt Lake City, UT.)

MC 125533 (Sub-32F), filed January 14, 1979. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon 100 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe and fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, from the facilities of Certain-teed Corporation, at Ambler, PA, to those points in the United States in and east of WI, IL, KY, TN, and AL. (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be involved.

MC 127303 (Sub-52F), filed January 25, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *insulation and materials and supplies* used in the manufacture and distribution of insulation, (except commodities in bulk), between South Bend and Fort

Wayne, IN, Allentown, PA, and Columbus, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 128095 (Sub-25F), filed February 6, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from the facilities of Furniture Shippers Association, at or near Hickory an High Point, NC, to Memphis, TN. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 128095 (Sub-26F), filed February 12, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of household appliances (except commodities in bulk), from the facilities of The General Electric Company, at Louisville, KY, to points in MS. (Hearing site: Louisville, KY, or Washington, D.C.)

MC 128205 (Sub-58F), filed February 12, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 N. La Salle Street, Chicago, IL 60601. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry edible sugar*, in bulk, in tank vehicles, from (a) the facilities of American Crystal Sugar Company, at or near Chaska, Crookston, and Moorhead, MN, and (b) Renville, MN, and Wahpeton, ND, to Chicago and Kankakee, IL, Lafayette, IN, and Battle Creek, MI. (Hearing site: Chicago, IL.)

MC 128205 (Sub-59F), filed February 12, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 N. La Salle Street, Chicago, IL 60601. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal feed, animal feed ingredients, and animal health care products*, in bulk, (a) from the facilities of Supersweet Feeds at or near Nappanee, IN, to points in IL, MI, and OH, and (b) from the facilities of Supersweet Feeds at or near Dan-

ville, IL, to points in IN. (Hearing site: Chicago, IL.)

MC 129701 (Sub-8F), filed January 19, 1979. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 146, Huntingburg, IN 47542. Representative: Orville G. Lynch, P.O. Box 364, Westfield, IN 46074. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *loudspeakers and loudspeaker cabinets*, (2) *materials and supplies* used in the manufacture and distribution of loudspeakers and loudspeaker cabinets (except commodities in bulk), between the facilities of Tiffin Enterprises, Inc., at or near Tiffin, OH, on the one hand, and, on the other, Los Angeles, CA, Miami, FL, Atlanta, GA, Chicago, IL, Dallas and Houston, TX, Albany, NY, New Brunswick, NJ, Portland, OR, and Seattle, WA. (Hearing site: Indianapolis, IN.)

NOTE.—Dual operations may be involved.

MC 129701 (Sub-9F), filed January 19, 1979. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 146, Huntingburg, IN 47542. Representative: Orville G. Lynch, (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fireplace logs*, and (2) *materials and supplies* used in the manufacture and distribution of fireplace logs (except commodities in bulk), between the facilities of Tiffin Enterprise, Inc., at or near Tiffin, OH, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Indianapolis, IN.)

NOTE.—Dual operations may be involved.

MC 133324 (Sub-4F), filed December 28, 1978. Applicant: CAR CARRIERS, INC., a Delaware corporation, 13101 S. Torrence Ave., Chicago, IL 60633. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new automobiles*, in initial movements, in truckaway service, from Wixom, MI, to Milwaukee, WI. (Hearing site: Chicago, IL.)

MC 133684 (Sub-28F), filed December 26, 1978. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway East, Tacoma, WA 98422. Representative: Michael D. Duppenhaler, 211 South Washington Street, Seattle, WA 98104. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine* (except in bulk in tank vehicles), from Seattle, WA, to points in CA, AZ, NV, and UT. (Hearing site: Seattle, WA.)

MC 133883 (Sub-8F), filed January 22, 1979. Applicant: GERALD N. EVENSON, INC., 835 First Street SW., P.O. Drawer 1, Pelican Rapids, MN 56572. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boxed frozen meat*, (1) from points in CA, IL, TX, and WI, to points in IA, MN, MT, ND, and SD, and (2) from Portland, OR, to Chicago, IL, under continuing contract(s) with Kloster Dakota Franchising, Inc., of Grand Forks, ND. (Hearing site: Fargo, ND.)

NOTE.—Dual operations may be involved.

MC 134467 (Sub-36F), filed January 4, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in AR, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Little Rock, AR.)

MC 134467 (Sub-37F), filed January 4, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of the Nestle Company, at or near Burlington, WI, to Memphis, TN. (Hearing site: Atlanta, GA, or New York, NY.)

MC 134501 (Sub-35F), filed January 16, 1979. Applicant: INCORPORATED CARRIERS, LTD., a corporation, P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from points in WA, to points in CA, AZ, WY, NE, IA, and DC; and (2) *fixtures*, from points in WA, to points in the United States (except AK and HI). (Hearing site: Seattle, WA, or Dallas, TX.)

MC 134813 (Sub-7F), filed January 15, 1979. Applicant: WESTERN CARTAGE, INC., 2921 Dawson Road, Tulsa, OK 74110. Representative: Michael R. Vanderburg, 5200 South Yale, Suite 400, Tulsa, OK 74135. To oper-

ate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wire and wire products*, between the facilities of Bekaert Steel Wire Corporation, at Van Buren, AR, on the one hand, and, on the other, points in TX, LA, OK, KS, MO, IL, KY, TN, MS, AL, AR, and IN, under continuing contract(s) with Bekaert Steel Wire Corporation of Van Buren, AR. (Hearing site: Van Buren, AR, or Tulsa, OK.)

NOTE.—Dual operations may be involved.

MC 135874 (Sub-149F), filed December 27, 1978. Applicant: LTL PERISHABLES, INC., a Nebraska corporation, 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and (2) *materials* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except TN), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN.)

MC 136818 (Sub-51F), filed January 23, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *laminated wood beams*, from Magna, UT, to points in AZ, CA, CO, NM, NV, and TX. (Hearing site: Salt Lake City, UT, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-52F), filed January 23, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *articles distributed by meat-packing houses*, as described in section C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near (a) Carroll, Denison, Iowa Falls, Cherokee, Des



Moines, Fort Dodge, and Sioux City, IA, and (b) Crete, Lincoln, and Omaha, NE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Omaha, NE, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-53F), filed February 1, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting lime, from Dolomite, UT, to points in AZ, CO, NM, and TX. (Hearing site: Salt Lake City, UT, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-54F), filed February 5, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting foodstuffs (except commodities in bulk), (1) from Kansas City, MO, to points in AR, AZ, LA, NM, OK, and TX, and (2) from Bonner Springs, KS, to points in AR, AZ, LA, MO, NM, OK, and TX. (Hearing site: Kansas City, MO, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-55F), filed February 7, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, from points in Los Angeles County, CA, to points in CO. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 138313 (Sub-48F), filed January 15, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting fertilizer and soil conditioners, (1) from ports of entry on the international boundary line between the United States and Canada at points in WA, ID, and MT, to points in MT, ID,

WA, and OR, and (2) from points in Caribou and Kootenai Counties, ID, and Benton and Franklin Counties, WA, to points in MT. (Hearing site: Billings, MT, or Salt Lake City, UT.)

MC 138313 (Sub-50F), filed January 22, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting bentonite, in bags, from the facilities of American Colloid Company, at or near (a) Belle Fourche, SD, and (b) Upton, WY, to points in Kings County, WA. (Hearing site: Salt Lake City, UT.)

MC 138313 (Sub-51F), filed January 23, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting lumber, millwork, and wood products, from points in MT, to points in ID, WA, OR, and CA. (Hearing site: Billings, MT.)

MC 138469 (Sub-107F), filed February 6, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) new furniture, and (2) such equipment and supplies as are used by food business houses, from the facilities of Unarco Commercial Products, Division of Unarco Industries, Inc., at Oklahoma City, OK, to points in the United States (except AK, HI, and OK), restricted to the transportation of traffic originating at the named origin facilities, and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above, from the destinations indicated in (1) above, to the facilities named in (1) above, restricted to the transportation of traffic destined to the named facilities. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 138469 (Sub-109F), filed February 14, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting drugs, veterinary preparations, and materials, equipment and

supplies used in the manufacture, sale and distribution of drugs and veterinary preparations (except commodities in bulk), in vehicle equipped with mechanical refrigeration, from the facilities of Hoechst-Roussel Pharmaceuticals, Inc., at or near Somerville, NJ, to the facilities of Hoechst-Roussel Pharmaceuticals, Inc., at or near (a) Indianapolis, IN, and (b) Dallas, TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destination facilities. (Hearing site: New York, NY, or Washington, DC.)

MC 138469 (Sub-110F), filed February 14, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting bicycles, tricycles, and (2) materials equipment and supplies used in the manufacture and distribution of bicycles and tricycles, between the facilities of Huffy Corporation, at Ponca City, OK, on the one hand, and, on the other, points in the United States (except AK, HI, and OK), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Columbus, OH, or Oklahoma City, OK.)

MC 138469 (Sub-111F), filed February 13, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting kitchen cabinets, and materials, equipment, and supplies used in the manufacture of kitchen cabinets, from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Triangle Pacific Corp., at Lodi, CA. (Hearing site: Dallas, TX.)

MC 138861 (Sub-12F), filed January 19, 1979. Applicant: C-LINE, INC., Tourtellot Hill Rd., Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) steel bolts, from the facilities of Robbins Manufacturing Co., at or near Fall River, MA, to points in CT, NJ, NY, and PA; and (2) materials, equipment, and supplies used in the manufacture and distribution of steel bolts (except commodities in bulk), from points in CT, NJ, and PA, to the facilities of Robbins Manufacturing Co., Inc., at or

near Fall River, MA. (Hearing site: Washington, DC, or Boston, MA.)

NOTE.—Dual operations are involved.

MC 138875 (Sub-140F), filed February 2, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting materials and supplies used in the manufacture and distribution of construction and mining equipment (except commodities in bulk), from points in IL, IN, MI, NJ, NY, OH, PA, VA, and WI, to the facilities of Bucyrus-Erie Company, at Pocatello, ID, restricted to the transportation of traffic originating at the indicated origins and destined to the named destination facilities. (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 138875 (Sub-141F), filed February 2, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting plastic and plastic articles (except commodities in bulk), from the facilities of Mobil Chemical Co., at or near Temple, TX, to points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139391 (Sub-7F), filed January 22, 1979. Applicant: G & H TRANSPORTATION CO., INC., a corporation, P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting printed matter, between the facilities of R. R. Donnelley & Sons Company, at or near (a) Old Saybrook, CT, (b) Chicago, Dwight, and Mattoon, IL, (c) Crawfordville and Warsaw, IN, (d) Glasgow, KY, (e) Willard, OH, (f) Lancaster, PA, and (g) Gallatin, TN, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, NM, OK, OR, TX, UT, and WA, under continuing contract(s) with R. R. Donnelley & Sons Company, of Chicago, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 139847 (Sub-4F), filed January 5, 1979. Applicant: W-H TRANSPORTATION CO., INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne W. Wilson, 150 E. Gilman St.,

Madison, WI 53703. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting building materials and supplies, from points in the United States (except AK and HI), to points in WI and the Upper Peninsula of MI, under continuing contract(s) with Schuette Building Centers, Inc., of Wausau, WI. (Hearing site: Wausau or Madison, WI.)

MC 139923 (Sub-58F), filed January 19, 1979. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer D, Stroud, OK 74079. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods (except in bulk), from Nashville, TN, to points in AR, CA, FL, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OR, SD, WA, and WI. (Hearing site: Nashville, TN.)

NOTE.—Dual operations are involved.

MC 140273 (Sub-13F), filed January 15, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, NM 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting salt, from St. Paul, MN, to points in WI, IA, ND, SD, IL, and the Upper Peninsula of MI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 140768 (Sub-33F), filed February 2, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., a Delaware corporation, P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting alumina tri-hydrate (except in bulk), from South Plainfield, NJ, to Willow Grove, PA, Fitchburg and Leominster, MA, Newburgh, Utica, and Hicksville, NY, Bridgeport, CT, Bow and Contoocook, NH, Martinsburg, WV, and Wilmington, DE. (Hearing site: New York, NY.)

NOTE.—Dual operations are involved.

MC 141124 (Sub-34F), filed December 29, 1978. Applicant: EVANGELIST COMMERCIAL CORPORATION, a Delaware corporation, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by manufacturers and con-

verters of paper and paper products, between Groveton, NH, and Old Town, ME, on the one hand, and, on the other, points in OH, MI, IN, PA, NY, AL, FL, GA, TN, NC, KY, NJ, VA, and MO. (Hearing site: Washington, DC, or Columbus, OH.)

MC 141804 (Sub-161F), filed December 26, 1978. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) automotive parts, (2) recreational vehicle parts, and (3) accessories used in the manufacture and distribution of the commodities in (1) and (2) above, from points in Los Angeles and San Bernardino Counties, CA, to points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142036 (Sub-2F), filed January 2, 1979. Applicant: J. A. MODULAR HOMES, INC., 3400 Mt. View Drive, Anchorage, AK 99501. Representative: Robert L. Hartig, 717 K St., Suite 201, Anchorage, AK 99501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) trailers designed to be drawn by passenger automobiles, in truckaway service, (2) boats, and (3) prefabricated buildings, complete or in sections, mounted on wheeled undercarriages, between points in AK. (Hearing site: Anchorage, or Fairbanks, AK.)

MC 143059 (Sub-56F), filed February 5, 1979. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting cement roofing tile, and materials, equipment and supplies used in the installation of cement roofing tile, from the facilities of Staco Roof Tile Co., at Phoenix, AZ, to points in AZ, CA, CO, NJ, and NM, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143183 (Sub-8F), filed January 18, 1979. Applicant: L. M. ROACH, d.b.a. D & L TRUCKING COMPANY, P.O. Box 1741, 145 Sampson Road, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting dry fer-



tilizer, from Wilmington and Statesville, NC, to points in TN and WV. (Hearing site: Wilmington or Raleigh, NC.)

MC 143267 (Sub-45F), filed January 4, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, *zinc articles*, and *lead articles* (except commodities in bulk), (2) *construction materials, equipment, and supplies* (except commodities in bulk), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between the facilities of Penn-Dixie Steel Corporation, at (a) Denver, CO, (b) Blue Island and Joliet, IL, (c) Fort Wayne and Kokomo, IN, (d) Centerville, IA, (e) Grand Rapids and Lansing, MI, (g) Jackson, MS, (h) Albuquerque, NM, and (i) Columbus and Toledo, OH, and the facilities of Steven Spring, Inc., at (a) Cicero and Elkhart, IN, and (b) Newton, KS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143775 (Sub-56F), filed January 5, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in TX, MO, and TN, to Patchogue, Binghamton, Utica, Albany, Buffalo, Rochester, and Syracuse, and New York, NY, Scranton, Harrisburg, Allentown, and Philadelphia, PA, New Haven, CT, Worcester, MA, Burlington, VT, Baltimore, MD, Washington, DC, and Norfolk and Richmond, VA, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) [formerly Section 402(a)(5) of the Interstate Commerce Act]. (Hearing site: St. Louis, MO, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-58F), filed January 18, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or for-

eign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Chef Pierre, Inc., at or near Traverse City, MI, to points in AZ, CA, CO, CT, DE, ID, MA, MD, ME, MT, ND, NH, NJ, NM, NY, NV, OR, PA, RI, UT, VA, VT, WA, WV, and DC. (Hearing site: Traverse City, MI, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-66F), filed February 7, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (1) from the facilities of Potlatch Corporation, at or near (a) Ft. Wayne, IN, and (b) Sikeston, MO, to Salt Lake City, UT, Fresno, Emeryville, Lemon Grove, Oakland, San Diego, Los Angeles, Modesto, Ontario, Pomona, Sacramento, San Bernardino, San Francisco, San Jose, Santa Ana, Santa Clara, South Gate, and Watsonville, CA, and (2) between Ft. Wayne, IN, on the one hand, and, on the other, Sikeston, MO. (Hearing site: St. Louis, MI, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-67F), filed February 9, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials, building equipment, and building supplies*, from the facilities of Leigh Products, Division/Leigh Products, Inc., at or near Coopersville and Saranac, MI, to points in the United States (except AK, HI, MI, IL, IN, KY, and OH). (Hearing site: Grand Rapids or Lansing, MI.)

NOTE.—Dual operations are involved.

MC 144027 (Sub-7F), filed December 28, 1978. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route No. 4, Glasgow, KY 42141. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden curtain rods, metal curtain rods, iron hooks, and steel hooks*, from the facilities of Scotscraft, Inc., at or near Scottsville, KY, to the facilities of Kirsch Co., at or near Tampa and Miami, FL. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 144363 (Sub-6F), filed January 19, 1979. Applicant: HIRSCHBACH MOTOR LINES, a corporation, 5000

South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail department stores (except commodities in bulk, and foodstuffs), between the facilities of Ardan Wholesale, Inc., located in CA, NV, and TX, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, KY, MN, MS, NC, NV, SC, and TN, continuing under contract(s) with Ardan Wholesale, Inc., of Des Moines, IA. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

NOTE.—Dual operations are involved.

MC 144621 (Sub-4F), filed January 23, 1979. Applicant: CENTURY MOTOR LINES, INC., a Delaware corporation, P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by variety and discount stores (except foodstuffs and commodities in bulk), from the facilities of (a) Chicago Shippers Association and (b) United States Packing and Shipping, Inc., at or near Jersey City, NJ, to Sparks, NV and points in CA, OR, and WA. Condition: The person or persons who it appears may be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) [formerly section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Jersey City, NJ, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 144761 (Sub-3F), filed January 18, 1979. Applicant: R. B. (PARKER) GOODLOE, d.b.a. GOODLOE TRUCKING CO., 7919 Louisville Ave., Lubbock, TX 79423. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *vegetable oil*, in bulk, in tank vehicles, from Clinton, OK, and Lubbock, Sweetwater, Quanah, Plainview, Sherman, and Lamesa, TX, to Houston, TX, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: Lubbock or Dallas, TX.)

MC 144958 (Sub-1F), filed January 16, 1979. Applicant: TRANSPORT COMMODITIES, INC., P.O. Box 450, Pharr, TX 78577. Representative:

Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *canned foods*, from Brownsville, Hidalgo, and Laredo, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 145276 (Sub-3F), filed January 15, 1979. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Ave., S.W., P.O. Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., Suite 329, 4601 Excelsior Blvd., Minneapolis, MN 55416. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Minneapolis, MN, to Sioux Falls, SD, restricted to the transportation of traffic originating at the facilities of Schweigert Meat Company, at or near Minneapolis, MN. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations are involved.

MC 145398 (Sub-2F), filed February 5, 1979. Applicant: GIPSON TRANSPORTATION, INC., Rte. 2, Box 382, Casa Grande, AZ 85222. Representative: Phil B. Hammond, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *cottonseed meal*, from Casa Grande, Gilbert, and Phoenix, AZ, to San Diego, Wilmington, and Los Angeles, CA, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: Phoenix, AZ.)

MC 145441 (Sub-11F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulators, electric wiring, and pottery*, and (2) *parts* for the commodities named in (1) above, from Sandersville, GA, to points in AZ, AR, CA, CO, DE, ID, IL, IN, KS, LA, MD, MS, MO, NV, NJ, MN, OH, OK, OR, PA, TX, UT, WA, and WV. (Hearing site: Little Rock, AR, or Atlanta, GA.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-12F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E.

Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery and cough drops*, from the facilities of Luden's Inc., at Reading, PA, to points in AZ, AR, CA, KS, LA, NV, NM, OK, OR, TX, and WA. (Hearing site: Little Rock, AR, or New York, NY.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-13F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned tuna*, and *canned animal feed*, from Terminal Island, CA, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Little Rock, AR, or Los Angeles, CA.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-14F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and *prepared animal food* (except commodities in bulk), from the facilities of General Foods Corporation, at or near Lafayette and Evansville, IN, to Kansas City, MO, Arlington, TX, Denver, CO, South Anaheim and San Leandro, CA, and Portland, OR, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Little Rock, AR, or New York, NY.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-17F), filed January 23, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from St. Martinville, LA, to Chicago, IL. (Hearing site: Little Rock, AR, or New Orleans, LA.)

NOTE.—Dual operations are involved.

MC 145489 (Sub-2F), filed February 6, 1979. Applicant: ROSE-WAY INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities

of Reynolds Metals Company, at or near McCook, IL, to points in AZ, CA, OR, and WA, under continuing contract(s) with Reynolds Metals Company, of Richmond, VA. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved.

MC 145489 (Sub-3F), filed February 12, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid Ave., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum ingots*, and (2) *aluminum scrap*, in packages, (a) from Fontana, CA, to points in AL, AR, CO, IA, IL, IN, KY, MI, MS, MO, OH, OK, TN, TX, and WI, (b) from Russellville, AL, to points in CA, OK, OR, TX, and WA, and (c) from East Chicago, Hammond, and Gary, IN, and Madison and Alton, IL, to those points in the United States in and west of MT, WY, CO, and NM (except AK and HI), under continuing contract(s) with U.S. Reduction Co., of East Chicago, IN. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved.

MC 145597 (Sub-2F), filed January 4, 1979. Applicant: JAMES H. EDWARDS, SR., JAMES H. EDWARDS, JR., a partnership, d.b.a. E & E TRUCKING CO., 202 Randy Circle, Warner Robins, GA 31093. Representative: James H. Edwards, Jr., (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textile scrap*, between points in AL, FL, GA, and MS, under continuing contract(s) with O'Neill Brothers, Incorporated, of East Point, GA. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 145797 (Sub-3F), filed January 4, 1979. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Drive, Chesterfield, MO 63017. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores, from North Bergen, NJ, to St. Louis, MO. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 145875 (Sub-1F), filed February 6, 1979. Applicant: SWAIN AND SONS TRANSPORTS, INC., 208 Poplar Avenue, Memphis, TN 38103. Representative: William R. Swain, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery



house, between the facilities of Southern Warehouses, Inc., at Memphis, TN, on the one hand, and, on the other, points in TN, AL, MO, IL, KY, IN, GA, TX, MS, LA, OK, AR, and FL. (Hearing site: Memphis, TN.)

MC 145998 (Sub-2F), filed February 4, 1979. Applicant: JERROLD J. KAUFFMAN, d.b.a. J. KAUFFMAN INDUSTRIES, 205 2nd Street, P.O. Box 832, Kalona, IA 52247. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pet food ingredients* (except commodities in bulk in tank vehicles), from the facilities of Turlock Pet Foods, Inc., at or near Kalona, IA, to Points in Buchanan County, MO, Saline County, NE, Franklin and Mahoning Counties, OH, Lehigh and Northampton Counties, PA, and Jefferson County, WI. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 146033 (Sub-1F), filed January 22, 1979. Applicant: LARRY H. WINEBARGER, d.b.a. WINEBARGER TRUCK LINES, P.O. Box 244, Lenoir, NC 28465. Representative: Jon F. Hollengreen, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, DC 20004. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from Lenoir, NC, to points in CA, ID, NV, OR, UT, and WA, and (2) *new furniture parts*, and *materials, equipment, and supplies* used in the manufacture and distribution of new furniture, from points in CA, ID, NV, OR, UT, and WA, to Lenoir, NC, under continuing contract(s) with Singer Furniture Division of Lenoir, NC. (Hearing site: Lenoir or Charlotte, NC.)

MC 146111F, filed January 16, 1979. Applicant: INDUSTRIAL TRANSPORT, INC., 2301 East 65th Street, Cleveland, OH 44104. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Parkersburg, WV, or Washington, DC.)

NOTE—Dual operations are involved.

MC 146123F, filed January 15, 1979. Applicant: KROFLITE MOTOR EXPRESS, INC., 1018 West 37th Street,

Chicago, IL 60609. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Bedford Park and Milan, IL, and Davenport, IA. (Hearing site: Chicago, IL.)

MC 146188 (Sub-2F), filed February 5, 1979. Applicant: J-B TRUCK LINES, INC., 4727 W. Rosecrans Avenue, Hawthorne, CA 90250. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the plantsite of Inryco, Inc., at Los Angeles, CA, to points in AZ, NV, and OR; and (2) *building materials* (except cement and commodities in bulk), from points in AZ, NV, and OR, to the facilities of Matspor, Inc., d.b.a. California Material Co., at Hawthorne, CA. (Hearing site: Los Angeles, CA.)

MC 146218F, filed January 15, 1979. Applicant: REMO G. RICCI, d.b.a. RICCI BROTHERS TRUCKING, 600 Stage Gulch Road, Petaluma, CA 94952. Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *processed animal and poultry feed*, in bulk between Petaluma, CA, on the one hand, and, on the other, points in Douglas, Lyon, Churchill, Storey, Humboldt, Pershing, and Washoe Counties, NV. (Hearing site: San Francisco, CA.)

\*NOTE—Dual operations are involved.

MC 146233F, filed January 24, 1979. Applicant: BOBBY REEVES CO., INC., Box 360, Route No. 3, Adairsville, GA 30103. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by auto supply stores, from Topeka, KS, and Radford, VA to points in the United States (except AK and HI), under continuing contract(s) with Brad Ragan, Inc., of Spruce Pine, NC. (Hearing site: Atlanta, GA or Charlotte, NC.)

MC 146339F, filed February 5, 1979. Applicant: John D. Clark, 318 Grant Ave., Ext., Butler, PA 16001. Representative: Arthur J. Diskin, 806 Frick

Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction and mining equipment and parts* for construction and mining equipment, between the facilities of Highway Equipment Co., in Butler County, PA, on the one hand, and, on the other, points in OH and WV, under continuing contract(s) with Highway Equipment Co., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 146349 F, filed February 5, 1979. Applicant: D. D. & B. TRUCKING, INC., R.R. No. 1, Shoals, IN 47581. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *railroad cross-ties and lumber*, from the facilities of Midwest Treating, Inc., in Pike County, IN, to points in the United States (except AK and HI), and (2) *creosote*, in bulk, in tank vehicles, from Ironton, OH, and Detroit, MI, to the facilities of Midwest Treating, Inc., in Pike County, IN, under continuing contract(s) in (1) and (2) above, with Midwest a subsidiary of L. B. Foster, Inc., Treating, Inc., of Northbrook, IL; and (3) *iron and steel articles*, between points in IL, IN, KY, MI, MO, OH, and PA, on the one hand, and, on the other, Bedford Park, IL, Plymouth, MI, St. Louis, MO, and Lorain, OH, under continuing contract(s) with L.B. Foster, Inc., Northbrook, IL. (Hearing site: Chicago, IL, or Washington, DC.)

#### PASSENGER AUTHORITY

MC 1515 (Sub-260F), filed February 6, 1979. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Lincoln and Grand Island, NE; from Lincoln over Interstate Hwy 80 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Grand Island, and return over the same route, serving no intermediate points. (Hearing site: Lincoln, NE.)

MC 143475 (Sub-4F), filed January 25, 1979. Applicant: POTOMAC VALLEY TRANSIT AUTHORITY, d.b.a. POTOMAC COMMUTER, P.O. Box 278, 46 South Main Street, Petersburg, WV 26847. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common*

*carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, (1) between Petersburg, WV, and the facilities of Virginia Electric and Power Company, in Bath County, VA; from Petersburg over U.S. Hwy 220 to Vanderpool, VA, then over VA Hwy 84 to junction Bath County Route 600, then over Bath County Route 600 to the Virginia Electric and Power Company tunnel site, and return over the same route, serving the intermediate points of Vanderpool, VA, and Franklin, WV; and (2) between Keyser, WV, and the facilities of Westvaco, at Westernport, MD; from Keyser over U.S. Hwy 220 to junction WV Hwy 46, then over WV Hwy 46 to Piedmont, WV, then over MD Hwy 36 to junction MD Hwy 135, then over MD Hwy 135 to the facilities of Westvaco at Westernport, and return over the same route, serving the intermediate point of Piedmont, WV. (Hearing site: Petersburg, WV.)

#### BROKER AUTHORITY

MC 13054F, filed December 27, 1978. Applicant: BRISTOL TOURS, INC., 117 Brookdale Circle, Bristol, VA 24201. Representative: Rev. John A. Thrasher, P.O. Box 552, Bristol, TN 37620. To engage in operation, in interstate or foreign commerce, as a *broker* at Bristol, VA, in arranging for the transportation by motor vehicle, of passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending at Bristol, Abingdon, Wytheville, and Roanoke, VA, and points in Washington County, VA, and Sullivan, Carter, and Washington Counties, TN, and extending to points in the United States, (including AK, but excluding HI). (Hearing site: Bristol or Richmond, VA.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauk Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

[FR Doc. 79-9504 Filed 3-28-79; 8:45 am]

[70350-01-M]

[Volume No. 24]

#### PERMANENT AUTHORITY DECISIONS

##### Decision-Notice

MARCH 16, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or

before April 30, 1979. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving, duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each appli-

cant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before April 30, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,  
Secretary.

MC 8535 (Sub-68F), filed January 8, 1979. Applicant: GEORGE TRANSPORTER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery and machine parts*, from the facilities of Black-Clawson Co. at Fulton, NY, to points in the United States (except NY, PA, NJ, DE, MD, VA, WV, OH, KY, AK, HI, and DC) (Hearing site: Syracuse, NY, or Washington, DC.)



MC 8535 (Sub-69F), filed February 14, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles (except in dump vehicles), from the facilities of Green River Steel, a Division of Jessop Steel Co., at or near Steelton, KY, to points in IL and IN. (Hearing site: Louisville, KY, or Washington, DC.)

MC 8535 (Sub-70F), filed February 22, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting aluminum and aluminum articles, from the facilities of Anaconda Co., at or near Terre Haute, IN, to points in CT, DE, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Louisville, KY or Indianapolis, IN.)

MC 8535 (Sub-71F), filed February 22, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting machinery and machine parts, and iron and steel articles, from the facilities of Xtek, Inc., at Cincinnati and Sharonville, OH, to points in AL, IL, IN, and TN. (Hearing site: Cincinnati or Columbus, OH.)

MC 8535 (Sub-72F), filed February 22, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting refractory products (except in dump vehicles), (1) from the facilities of Harbison-Walker Refractories, Division of Dresser Industries, Inc., at or near Hammond, IN, to points in DE, IL, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC, and (2) from the facilities of Harbison-Walker, Division of Dresser Industries, Inc., at or near Portsmouth and Windham, OH, Templeton, PA, and Baltimore, Jennings, and Leslie, MD, to points in IL, IN, MI, and TN. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 8535 (Sub-73F), filed February 26, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles (except in dump vehicles), (1) from the facilities of Bethlehem Steel Corp., at Bethlehem, Johnstown, Lebanon, Steelton, and Williamsport, PA, Baltimore and Sparrows Point, MD, and Lackawanna, NY, to points in IL, IN, and MI, and (2) from the facilities of Bethlehem Steel Corp., at Burns Harbor, IN, to points in KY, MI, NY, OH, PA, TN, and WV. (Hearing site: Washington, DC.)

MC 8973 (Sub-54F), filed January 25, 1979. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07057. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting chemicals, in containers, between points in the United States, restricted to the transportation of traffic originating at or destined to the facilities of U.S. Industrial Chemicals Co., Division of National Distillers & Chemical Corp. (Hearing site: New York, NY, or Washington, DC.)

MC 14252 (Sub-46F), filed February 12, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Friendly and Ravenswood, WV, over WV Hwy 2 serving all intermediate points and all off-route points in Pleasants and Wood Counties, WV. (Hearing Site: Columbus, OH.)

MC 20992 (Sub-53F), filed February 5, 1979. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting materials, equipment, and supplies used in the production and distribution of loaders and agricultural equipment, (except commodities in bulk, in tank vehicles),

from points in the United States (except AK and HI), to the facilities of Gehl Company, at or near West Bend, WI, and Madison, SD. (Hearing Site: Milwaukee, WI, or Chicago, IL.)

MC 25798 (Sub-359F), filed February 14, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina Corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting canned foodstuffs, from Austin, Brownstown, Converse, and Franklin, IN, to points in AL, AR, FL, GA, LA, NS, NC, OK, SC, and TX. (Hearing site: Tampa, FL.)

MC 25798 (Sub-360F), filed February 23, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting liquid yeast, in bulk, in tank vehicles, from the facilities of Anheuser-Busch, Inc., at East Brunswick, NJ, to the facilities of Anheuser-Busch, Inc., at Jacksonville, FL. (Hearing site: Jacksonville, FL.)

MC 25798 (Sub-361F), filed February 26, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) newsprint paper, from points in Laurens County, GA, to points in AL, AR, FL, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV; and (2) waste newspapers, cores, and materials, equipment, and supplies used in the manufacture and distribution of newsprint paper, (except commodities in bulk), in the reverse direction. (Hearing site: Tampa, FL.)

MC 25798 (Sub-363F), filed February 26, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) aluminum and aluminum products, tin foil, plastic and plastic articles, and paper and paper articles, from Bellwood, Richmond, and Grottoes, VA, to points in CA, FL, IN, MI, MN, MO, OH, and WI, restricted against the transportation of plastic film from Grottoes, VA, to Kansas City, MO; (2) aluminum and

aluminum products, tin foil, plastic and plastic articles, and paper and paper articles, from Richmond, Bellwood, and Grottoes, VA, to points in CO, KS, LA, NE, OK, TX, and AR, restricted against the transportation of plastic film from Grottoes, VA; and (3) materials, equipment, and supplies used in the manufacture, distribution, and storage of the commodities in (1) and (2) above (except commodities in bulk, in tank vehicles, and those commodities which because of size or weight require the use of special equipment), from points in AR, CA, CO, FL, IN, KS, LA, MI, MN, MO, NE, OH, OK, TX, and WI to Richmond, Bellwood and Grottoes, VA, restricted in (1) and (2) above to the transportation of traffic originating at the facilities of Reynolds Metals Co., at the named origins, and further restricted in (3) above to the transportation of traffic destined to the facilities of Reynolds Metals Co., at the indicated destinations. (Hearing site: Tampa, FL.)

MC 30378 (Sub-63F), filed February 7, 1979. Applicant: ASSOCIATED TRANSPORTS, INC., 9050 Pershall Road, Hazelwood, MO 63042. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting automobiles, trucks, and chassis, in initial movements, in truckaway service, from the facilities of The Ford Motor Company, in Clay County, MO, to points in TX. (Hearing site: Detroit, MI.)

MC 48958 (Sub-170F), filed February 14, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) insulating materials, and (2) materials, equipment, and supplies used in the manufacture, installation, and distribution of insulating materials, from the facilities of Pabco, Division of Louisiana Pacific Corp., at or near Fruita, CO, to points in AR, AZ, CA, IL, IN, IA, KS, MO, NE, NV, NM, OH, OK, and TX. (Hearing site: Denver, CO.)

MC 48958 (Sub-172F), filed February 26, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) plumbers' goods, bathroom fixtures, and lavatory fixtures, (2)

bathroom vanities, (3) accessories for (1) and (2) above, and (4) materials, equipment and supplies for the manufacture and distribution of the commodities in (1), (2), and (3) above (except commodities in bulk), between Phoenix, AZ, Redlands, CA, Hondo and Corsicana, TX, Crawfordsville and Rensselaer, IN, Milwaukee, WI, and Ottumwa, IA, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, IL, IN, KS, MO, NE, NM, NV, OH, OK, TX, UT, and WY. (Hearing site: Washington, DC.)

MC 52709 (Sub-356F), filed February 12, 1979. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Robert P. Tyler (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting building materials, (except in bulk), from the facilities of Space Vinyl Division Aluma-King Corp., at West Salem, OH, to points in AZ, AR, CA, CO, ID, IL, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. (Hearing site: Akron, OH, or Denver, CO.)

MC 70832 (Sub-28F), filed February 12, 1979. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, DC 20005. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Harrisburg, PA, and Dayton, OH. (Hearing site: Harrisburg, PA.)

MC 73165 (Sub-466F), filed February 13, 1979. Applicant: EAGLE MOTOR LINES, INC., 830-33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, from Kansas City, MO, to points in AR, LA, MS, TN, AL, GA, FL, SC, and NC. (Hearing site: Kansas City, MO, or Birmingham, AL.)

MC 78118 (Sub-41F), filed February 15, 1979. Applicant: W. H. JOHNS, INC., a Delaware corporation, 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) paper and paper products, from the facilities of Container Corporation of America, in

Hanover Township (Lehigh County), PA, to those points in NJ south of U.S. Hwy 40; and (2) materials and supplies used in the manufacture of the commodities in (1) above, from points in NJ to the facilities of Container Corporation of America, in Hanover Township (Lehigh County), PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 80443 (Sub-16F), filed January 23, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) air filtration systems, internal combustion, air silencers, air compressors, dust collectors, and mufflers, (2) parts, accessories, and attachments, for the commodities named in (1) above, and (3) fabricated steel articles, from the (a) facilities of Hutchinson Manufacturing and Sales, Inc., at or near Hutchinson, MN, and (b) from the facilities of Canby Manufacturing, Inc., at or near Canby, MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis or St. Paul, MN.)

MC 82063 (Sub-99F), filed January 25, 1979. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting hydrobromic acid, in bulk, in rubber-lined tank vehicles, from Eldorado, AR, to Selkirk, NY, Channelview, TX, McIntosh, AL, Livonia, MI, and Joliet, IL. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 87103 (Sub-31F), filed January 19, 1979. Applicant: MILLER TRANSFER & RIGGING CO., P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting equipment, materials, and supplies used in the manufacture and distribution of glass and plastic containers, and glass and plastic container accessories, between the facilities of Brockway Glass Co., Inc., at or near Brockway, DuBois and Washington, PA, Freehold, NJ, Boylston, AL, Zanesville, OH, Rosemont, MN, Ada and Muskogee, OK, Oakland and Pomona, CA, Parkersburg, Lynchburg, and Danville, WV, Hartford and Windsor, CT, Nashua, NH, and Sloatsburg, NY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transporting of traffic originating at



or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Dual operations may be involved.

MC 90870 (Sub-17F), filed December 18, 1978. Applicant: RIECHMANN ENTERPRISES, INC., a Missouri corporation, Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Schuch, 1100 Des Moines Bldg., Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing, pipe, and steel*, between the facilities of Livingston Pipe and Tube, Inc., at or near Staunton, IL, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, LA, MS, MO, MI, OK, OH, PA, TN, TX, WI, and WV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 95540 (Sub-1052F), filed November 1, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: E. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Atlanta, GA, and Cuba, AL, from Atlanta over US Hwy 78 to Birmingham, AL, then over US Hwy 11 to Cuba, and return over the same route, (2) between Atlanta, GA, and Tuskegee, AL, over US Hwy 29, (3) between Tuskegee, AL, and Montgomery, AL, over US Hwy 80, (4) between Montgomery, AL, and Grand Bay, AL, from Montgomery over US Hwy 31 to junction US Hwy 90, then over US Hwy 90 to Grand Bay, and return over the same route, (5) between Columbus, GA, and Tuskegee, AL, over US Hwy 80, (6) between Montgomery, AL, and Cuba, AL, over US Hwy 80, (7) between Bainbridge, GA, and Ardmore, AL, from Bainbridge over US Hwy 84 to Dothan, AL, then over US Hwy 231 to Montgomery, AL, then over US Hwy 31 to junction AL Hwy 251, then over AL Hwy 251 to junction AL Hwy 53, then over AL Hwy 53 to Ardmore, and return over the same route, (8) between Dothan, AL, and Isney, AL, over US Hwy 84, (9) between Montgomery, AL, and Stafford, AL, over US Hwy 82, (10) between Birmingham, AL, and junction US Hwy 27 and GA Hwy 2, from Birmingham over US Hwy 11 to junction US Hwy 27, then over US Hwy 27 to junction GA Hwy 2, and return over the same route, (11) between junction US Hwy 27 and GA Hwy 2 and Rossville, GA, over US Hwy

27, (12) between Birmingham, AL, and Bexar, AL, over US Hwy 78, (13) between Atlanta, GA, and Hamilton, AL, over US Hwy 278, (14) between Rossville, GA, and Cherokee, AL, from Rossville over US Hwy 27 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction US Hwy 72, then over US Hwy 72 to Cherokee, and return over the same route, (15) between Anniston, AL, and junction US Hwy 72 and Alternate US Hwy 72, from Anniston over US Hwy 431 to Huntsville, AL, then over Alternate US Hwy 72 to junction US Hwy 72, and return over the same route, (16) between Columbus, GA, and Birmingham, AL, over US Hwy 280, (17) between Columbus, GA, and Mobile, AL, from Columbus over US Hwy 431 to Dothan, AL, then over US Hwy 231 to junction US Hwy 90, then over US Hwy 90 to Mobile, and return over the same route, (18) between Bainbridge, GA, and Pensacola, FL, from Bainbridge over US Hwy 27 to Tallahassee, FL, then over US 319 to Carrabelle, FL, then over US Hwy 98 to Pensacola, and return over the same route, (19) between Pensacola, FL, and Flomaton, AL, over US Hwy 29, and (20) between junction US Hwy 27 and GA Hwy 2 and Atlanta, GA, from junction US Hwy 27 and GA Hwy 2 over GA Hwy 2 to junction US Hwy 41, then over US Hwy 41 to Atlanta, and return over the same route, serving, in (1) through (20), inclusive, all intermediate points, all off-route points in AL, those off-route points in FL on and west of US Hwy 319, and those off-route points in GA on, north, and west of US Hwy 411, restricted, in (1), (2), (5), (7), (10), (11), (13), (14), (16), (17), (18), and (20), to the transportation of traffic moving from, to, or through a point in AL, and further restricted, in (3), (4), (6), (8), (9), (11), (12), (15), and (20) to the transportation of traffic having a prior or subsequent movement in interstate commerce. (Hearing site: Atlanta, GA.)

MC 97397 (Sub-14F), filed December 27, 1979. Applicant: BARKLEY TRUCK LINES, INC., 604 Fourth Street, P.O. Box 970, Watertown, SD 57201. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), and (2) *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, (except foodstuffs, hides and commodities in bulk), from Watertown, SD, to points in Traverse, Grant, Stevens, Big Stone, Swift, Lac qui Parle, Chippewa, Yellow Medicine, Lincoln, Lyon, Pipestone, Murray, Rock, and Nobles Counties, MN, those in Lyon, Osceola,

Sioux, O'Brien, Plymouth, Cherokee, and Woodbury Counties, IA, and those in SD in and east of Campbell, Walworth, Potter, Sully, Stanley, Jones, Mellette, and Todd Counties. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 100449 (Sub-107F), filed February 1, 1979. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Monmouth, IL, to points in IA, MN, MO, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 100666 (Sub-424F), filed January 15, 1979. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc oxide, zinc dust, and slab zinc*, from the facilities of St. Joe Zinc Company, at Josephstown, PA, to points in AL, AR, GA, IA, IL, KY, LA, MO, MS, NE, OK, TN, TX, and WI, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

MC 100666 (Sub-425F), filed January 15, 1979. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground clay, floor sweeping compounds, and absorbents* (except commodities in bulk), from the facilities of Oil-Dri Corporation of America, at or near Ripley, MS, to points in AR, IA, IL, IN, KS, KY, LA, MN, MO, NE, OH,

OK, TN, TX, and WI. (Hearing site: Jackson, MS.)

MC 106398 (Sub-861F), filed February 15, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Vulcraft, a Division of Nucor Corporation, at Grapeland, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 106398 (Sub-862F), filed February 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from the facilities of Darlington Veneer Co., Inc., at Darlington, SC, to points in the United States (except AK and HI). (Hearing site: Columbia, SC.)

MC 106398 (Sub-863F), filed February 23, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from the facilities of Brunswick Pulp and Paper Company, at Pearson, GA, and McCormick, SC, to points in the United States (except AK and HI). (Hearing site: Savannah, GA.)

MC 107496 (Sub-1145F), filed December 12, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *propellants*, in bulk, from E. Chicago, IN, to Atlanta, GA, (2) *fertilizer solutions*, in bulk, from Columbus, NE, to points in IA, KS, and SD, and (3) *aluminum sulfate*, in bulk, from Denver, CO, to points in TX. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 107515 (Sub-1207F), filed February 6, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular

routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from La Grange, KY, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1208F), filed February 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the manufacture, distribution, and installation of floor coverings (except commodities in bulk), from Salem, NJ, to points in AR, OK, and TX. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1209F), filed February 16, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South, 3390 Peachtree Road, NE, Atlanta, GA 30326. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Nashville, TN, to points in the United States (except AK and HI). (Hearing site: Nashville, TN, or Atlanta, GA.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1210F), filed February 21, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chain saws*, (2) *snow-throwers*, and (3) *garden, lawn, turf, and golf course care equipment*, from the facilities of the Toro Company, at or near Windom, MN, and Tomah, WI, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be involved.

MC 108207 (Sub-492F), filed January 10, 1979. Applicant: FROZEN FOOD

EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AZ, CA, CO, IL, IN, IA, KS, MI, MN, MO, NE, MN, OK, TX, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Pittsburgh, PA, or Dallas, TX.)

MC 109448 (Sub-22F), filed February 8, 1979. Applicant: PARKER TRANSFER CO., a corporation, P.O. Box 256, Elyria, OH 44035. Representative: Robert W. Gardier, Jr., 100 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating and air-conditioning plants*, (2) *equipment and parts* for the commodities in (1) above, and (3) *materials and supplies* used in the installation of the commodities in (1) and (2) above, between Elyria, OH, on the one hand, and, on the other, points in NC and SC. (Hearing site: Columbus, OH.)

MC 109448 (Sub-23F), filed February 23, 1979. Applicant: PARKER TRANSFER CO., a corporation, P.O. Box 256, Elyria, OH 44035. Representative: Robert W. Gardier, Jr., 100 East Broad Street, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (1) from the facilities of United States Steel Corporation, at Lorain and Cleveland, OH, to points in MI, those in IN on and north of U.S. Hwy 40, and those in IL on and north of Interstate Hwy 74, and (2) from the facilities of the United States Steel Corporation, at Gary, IN, to points in OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 109538 (Sub-28F), filed January 26, 1979. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem Street, Eau Claire, WI 54701. Representative: Carl L. Steiner, 39 S. La Salle Street, Chicago, IL 60603. To operate as a common carrier, by motor vehicle, in interstate of foreign commerce, transporting *general commodities* (except those of unusual value, class A explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Logansport, IN, as an off-route point in connection



with carrier's otherwise authorized regular-route operations. (Hearing site: Chicago, IL.)

NOTE.—To the extent the certificate granted in this proceeding authorizes the transportation of class B explosives, it will expire 5 years from the date of issuance.

MC 109649 (Sub-27F), filed February 21, 1979. Applicant: L. P. TRANSPORTATION, INC., Main and Cross Streets, Chester, NY 10918. Representative: Roy A. Jacobs, 550 Mamaronck Ave., Harrison, NY 10528. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in bulk, in tank vehicles, from Olean, NY, to points in NJ, OH, and PA. (Hearing site: New York, NY.)

MC 110525 (Sub-1288F), filed February 7, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals* (except petrochemicals), in bulk, in tank vehicles, from DeRidder, LA, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

MC 110525 (Sub-1289F), filed February 9, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry caustic soda*, in bulk, in tank vehicles, from Natrium, WV, to points in IN, KY, MD, MI, NY, NC, OH, PA, SC, TN, and VA. (Hearing site: Pittsburgh, PA.)

MC 110667 (Sub-2F), filed December 27, 1978. Applicant: G. B. "BOOTS" SMITH, INC., P.O. Box 1987, Laurel, MS 39440. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and disman-

ting of pipe lines, including the stringing and picking up thereof, (a) between points in Lea, Eddy, Roosevelt, and Chaves Counties, NM, and in TX, LA, OK, MS, GA, AL, and FL, on the one hand, and, on the other, points in KY, IL, and TN, and (b) between points in KY, IL, and TN. (Hearing site: Jackson, MS.)

MC 111302 (Sub-142F), filed February 8, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn products and blends of corn products*, in bulk, in tank vehicles, from Auburndale and Clewiston, FL, to points in AL, GA, and FL. (Hearing site: Memphis, TN.)

MC 111401 (Sub-543F), filed January 22, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *para-dimethoxybenzene*, in bulk, in tank vehicles, from Marinette, WI, to LaPorte, TX. (Hearing site: Dallas or Houston, TX.)

MC 112713 (Sub-240F), filed January 17, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dover, OH, and Charlotte, NC, over Interstate Hwy 77, serving Charleston and the junction of Interstate Hwy 77 and Interstate Hwy 81 for the purpose of joinder only, and (2) between Roanoke, VA, and Knoxville, TN, over Interstate Hwy 81, serving the junction of Interstate Hwy 77 and Interstate Hwy 81 for the purpose of joinder only. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 114273 (Sub-522F), filed January 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter, and materials, equipment, and supplies* used in the manufacture and distribution of printed matter, (except

commodities in bulk), (1) between Chicago, IL, Indianapolis, IN, Versailles and Lexington, KY, Taunton, MA, Ossining, NY, and Nashville, TN, and (2) between the points named in (1) above, on the one hand, and, on the other, points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI, and DC, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities used by Rand McNally & Company. CONDITION: The certificate to be issued shall be limited to 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114552 (Sub-202F), filed February 6, 1979. Applicant: SENN TRUCKING CO., a corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Sunbury, PA, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, DE, MD, VA, WV, NC, SC, GA, FL, AL, MS, LA, TX, AR, TN, KY, OH, IN, IL, and MI, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of construction materials (except in bulk), from the destination points in (1) above to the facilities of The Celotex Corporation, at or near Sunbury, PA. (Hearing site: Tampa, FL, or Washington, DC.)

MC 114569 (Sub-289F), filed February 28, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except frozen foodstuffs and commodities in bulk), from the facilities of RJR Foods, Inc., at or near Cambridge, MD, to Kansas City, KS, Kenner, LA, and Garland and Houston, TX. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114632 (Sub-203F), filed February 8, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a common carrier, by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting *green hides and green salted hides*, from the facilities of John Morrell & Co., at Sioux Falls, SD, and Estherville, IA, to Kansas City, MO. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 114632 (Sub-204F), filed February 12, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meal products and meat byproducts, and articles*, distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of Oscar Mayer & Co., Inc., at Perry and Des Moines, IA, to Madison and Jefferson, WI, and points in Cook, Will, Dupage, Kane, Winnebago, Dekalb, and Lake Counties, IL, and (2) from the facilities of Oscar Mayer & Co., Inc., at Madison, WI, to points in ND. (Hearing site: Chicago, IL, or Madison, WI.)

NOTE.—Dual operations are involved in this proceeding.

MC 114632 (Sub-205F), filed February 12, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of the Green Giant Company, at Glencoe, MN, to points in SD, ND, IA, KS, MO, and NE. (Hearing site: Minneapolis, MN, or Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 115092 (Sub-79F), filed February 5, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap paper and waste paper*, from points in CA, to Toledo, OR. (Hearing site: Portland, OR.)

MC 115162 (Sub-450F), filed January 24, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a common carrier,

by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kiln dust*, in bulk, from Mobile, AL, to points in FL, GA, LA, and MS. (Hearing site: Mobile, AL, or Denver, CO.)

MC 115162 (Sub-459F), filed February 5, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and materials, supplies, and equipment* used in the manufacture and distribution of paper and paper products, (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by the Scott Paper Company. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 115311 (Sub-335F), filed January 22, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand and gravel*, from points in Marion County, GA, Benton County, TN, and Tuscaloosa County, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 116544 (Sub-165F), filed December 27, 1978. Applicant: ALTRUK FREIGHT SYSTEMS, INC., P.O. Box 10061, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Harry Ross, Jr., 58 South Main Street, Winchester, KY 40391. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from points in FL, to points in AZ, AR, CA, CO, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, SD, TX, UT, WI, and WY. (Hearing site: Tampa or Orlando, FL.)

MC 116763 (Sub-465F), filed January 18, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *doors, door sections, and accessories and materials* used in the installation and distribution of doors and door sections, (except commodities in bulk, in tank vehicles), from the facilities of Clopay Corporation, Overhead Door Division, at or

near Hialeah and Orlando, FL, to points in OH, OK, and VT, and (2) *accessories, equipment, materials, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above, in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Miami, FL.)

MC 116763 (Sub-468F), filed January 26, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furnaces, heating and air conditioning units, and equipment, parts, and accessories* for furnaces, heating and air conditioning units, (except commodities the transportation of which because of size and weight require the use of special equipment, and commodities in bulk, in tank vehicles), from the facilities of Johnson Corporation, at or near Columbus and Bellevue, OH, to points in FL, GA, NC, and SC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Columbus, OH.)

MC 118142 (Sub-209F), filed February 5, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the manufacture of bakery goods, (except commodities in bulk), from the facilities of Pillsbury Company, at or near Springfield, IL, to points in CO. (Hearing site: Minneapolis, MN, or Kansas City, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 119493 (Sub-275F), filed January 15, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *plastic film and plastic articles* (except commodities in bulk), from Little Rock, AR, to points in AL, CO, FL, GA, IL, IN, LA, MS, MO, NM, NC, OK, RI, SC, TN, and TX, and (b) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk) in the reverse direction, and (2) *containers*, from Memphis, TN, to points in IA,



and IL. (Hearing site: Little Rock, AR, or Springfield, MO.)

MC 119741 (Sub-119F), filed November 9, 1978, previously noticed in the FEDERAL REGISTER of January 30, 1979. Applicant: GREEN FIELD TRANSPORT CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meals, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), between the facilities of Dold Foods, Inc., at Wichita, KS, on the one hand, and, on the other, points in IL, IA, MN, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Wichita, KS.)

NOTE.—This republication modifies the restriction.

MC 119767 (Sub-350F), filed January 10, 1979. Applicant: BEAVER TRANSPORT, CO., a corporation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) such commodities as are dealt in by grocery and food business houses, drug stores, and discount stores (except commodities in bulk), and (2) materials, equipment, and supplies used in the conduct of such businesses (except commodities in bulk), between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Chicago, IL.)

MC 121060 (Sub-84F), filed December 22, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington, Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) construction materials (except in bulk), from the facilities of The Flintkote Company, at or near Chicago Heights, IL, to points in AL, GA, MS, NC, SC, KY, LA, TN, AR, and FL; and (2)(a) materials, equipment, and supplies used in the manufacture or distribution of construction materials (except commodities in bulk), and (b) construction materials (except in bulk), in

the reverse direction. (Hearing site: Dallas, TX.)

MC 123502 (Sub-51F), filed February 23, 1979. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: W. Wilson Corroum (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting potash muriate, potash sulphate, and potassium nitrate, in bulk, in dump vehicles, from Baltimore, MD, to points in DE, NJ, NY, OH, PA, VA, and WV. (Hearing site: Washington, DC.)

MC 123872 (Sub-98F), filed February 5, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting furniture parts, and articles used in the manufacture of new furniture, (except commodities in bulk, in tank vehicles), from points in AZ, CA, CO, ID, IL, IA, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, to points in NC. (Hearing site: Charlotte, NC, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124078 (Sub-943F), filed February 15, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting liquid corn syrup and dry corn starch, between Hammond, IN, and points in KY, MD, NY, NC, OH, PA, SC, TN, VA, and WV. (Hearing site: Chicago, IL.)

MC 124078 (Sub-944F), filed February 21, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting fertilizer and fertilizer ingredients, in bulk, in tank vehicles, from Walnut Ridge, AR, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, TN, and TX. (Hearing site: Birmingham, AL.)

MC 124078 (Sub-945F), filed February 22, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI

53201. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting muriatic acid, in bulk, in tank vehicles, from Brunswick, GA, to points in NC. (Hearing site: Atlanta, GA.)

MC 124328 (Sub-127F), filed February 14, 1979. Applicant: BRINK'S INC., a Delaware corporation, Thornadal Circle, P.O. Box 1225, Darien, CT 06820. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting coin, between Denver, CO, Philadelphia, PA, Stateline, Las Vegas, Reno, and Lake Tahoe, NV, and Phoenix, AZ, under contract with General Services Administration, of Washington, DC. (Hearing site: Washington, DC.)

MC 124679 (Sub-99F), filed February 5, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) foodstuffs, from the facilities of Universal Foods Corporation, at South San Francisco and Hayward, CA, to points in ID, OR, WA, and UT, (2) foodstuffs (except yeast, bread making compounds and bread ingredients), from the facilities of Universal Foods Corporation, at Oakland, CA, to points in ID, OR, WA, and UT, and (3) foodstuffs, from the facilities of Universal Foods Corporation, at South San Francisco, Hayward, and Oakland, CA, to Reno, NV. (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 124692 (Sub-268F), filed February 9, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting plastic and rubber liquid containment systems, from Denver, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 124692 (Sub-269F), filed February 15, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting lumber and wood products, from points in MO, AR, LA,

OK, and TX, to those points in the United States in and west of MI, IN, KY, TN, and MS (except AK and HI). (Hearing site: Dallas, TX.)

MC 124692 (Sub-270F), filed February 21, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting fencing and fencing materials, from Denver, CO, to points in KS, NE, NM, OK, AZ, WY, MT, SD, ID, ND, and UT. (Hearing site: Denver, CO.)

MC 124947 (Sub-128F), filed January 10, 1979. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) plastic and styrofoam articles, between the facilities of Thompson Industries Company, at or near (a) Phoenix, AZ, (b) Alexandria, VA, (c) City of Industry, CA, (d) Des Plaines, IL, (e) Fort Worth, TX, (f) Higginsville, MO, (g) Milford, NH, (h) Monroeville and Mt. Sterling, OH, (i) Renton, WA, (j) Shreveport, LA, (k) Stone Mountain, GA, and (l) Tinton Falls, NJ; and (2) styrofoam beads, (A) from Fort Worth, TX, to the facilities of Thompson Industries Company, at or near (a) Phoenix, AZ, (b) City of Industry, CA, (c) Higginsville, MO, and (d) Shreveport, LA, and (B) from Kobuta, PA, to the facilities of Thompson Industries Company, at or near (a) Phoenix, AZ, (b) Alexandria, VA, (c) City of Industry, CA, (d) Des Plaines, IL, (e) Fort Worth, TX, (f) Higginsville, MO, (g) Milford, NH, (h) Monroeville and Mt. Sterling, OH, (i) Renton, WA, (j) Shreveport, LA, (k) Stone Mountain, GA, and (l) Tinton Falls, NJ. (Hearing site: Phoenix, AZ, or Salt Lake City, UT.)

MC 124988 (Sub-11F), filed February 14, 1979. Applicant: TRUCK SERVICE COMPANY, an Oklahoma corporation, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mammoth Avenue, Harrison, NY 10528. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by manufacturers and distributors of tile and bathroom fixtures, (except commodities in bulk, and those which because of size of weight require the use of special equipment), (1) Roseville, CA, on the one hand, and, on the other, those points in the United States in and west

of MN, WI, IL, MO, AR, and LA (except AK and HI), (2) between Cloverport and Lewisport, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, WY, CO, and NM (except CT, DE, ME, MD, MA, NH, NJ, NY, PA, and DC), and (3) between Olean, NY, Lansdale and Quakertown, PA, and Jackson, TN, on the one hand, and, on the other, points in the United States (except AK, CT, DE, HI, ME, MD, MA, NH, NJ, NY, PA, VT, VA, WV, and DC), under continuing contracts with American Olean Tile Company, of Lansdale, PA. (Hearing site: Philadelphia, PA.)

MC 125433 (Sub-199F), filed January 22, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting plastic pipe and plastic pipe fittings and accessories, (except commodities in bulk), from the facilities of Nipak, Inc., at or near (1) Abbeville, SC, (2) Corsicana, TX, and (3) Fresno, CA, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or San Francisco, CA.)

MC 125433 (Sub-201F), filed January 24, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) sewerage treatment plants and sewerage lift stations, and (2) parts and accessories for the commodities named in (1) above, from Richmond, KY, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 125708 (Sub-159F), filed February 7, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) pipe and cable, and attachments for pipe and cable, and (2) sheet and strip steel, from the facilities utilized by Triangle PWC, Inc., at Glendale, WV, to points in AL, AR, IA, IN, IL, KS, LA, MN, MI, MS, MO, OH, OK, PA, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Pittsburgh, PA.)

MC 126196 (Sub-16F), filed November 16, 1978. Applicant: BLANCHOWSKIE TRUCK LINE, INC., R.R. 1, Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) feed and feed ingredients, (2) grain products and grain byproducts, (3) soybean products and soybean byproducts, and (4) seed products and seed byproducts, (except commodities in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company, at or near Red Wing, MN, to points in CO, IA, IL, KS, MO, NE, ND, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 126305 (Sub-106F), filed December 18, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting construction materials (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Sunbury, PA, to points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 126305 (Sub-107F), filed December 18, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting construction materials (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Lockland, OH, to points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 126305 (Sub-109F), filed December 18, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting construction materials (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Birmingham,



ham, AL, to points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 127042 (Sub-247F), filed February 6, 1979. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar, (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Glenwood, IA, to points in CA. (Hearing site: Omaha, NE.)

MC 127579 (Sub-16F), filed February 13, 1979. Applicant: HAULMARK TRANSFER, INC., a Delaware corporation, 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting paper and paper articles, from the facilities of Union Camp Corp., at or near Richmond, VA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 127602 (Sub-20F), filed February 5, 1979. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., 5555 East 58th Street, Commerce City, CO 80022. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61MCC 209 and 766, (except commodities in bulk, in tank vehicles), (1) from Denver, CO, to points in AZ, CA, and NV, (2) from Fort Morgan, CO, to points in CA, and (3) from Sterling, CO, to points in CA, NV, and UT. (Hearing site: Denver, CO.)

MC 128205 (Sub-60F), filed February 16, 1979. Applicant: BULKOMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a

common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting bentonite clay and potash, in bulk, from Colony, WY, and points in Lea and Eddy Counties, NM, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 128205 (Sub-61F), filed February 21, 1979. Applicant: BULKOMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting starch, in bulk, from the facilities of Clinton Corn Processing Co., at or near Clinton, IA, to points in IL, IN, OH, WI, and MI. (Hearing site: Chicago, IL.)

MC 128205 (Sub-62F), filed February 26, 1979. Applicant: BULKOMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting salt, in bulk, from Akron, OH, to points in IN, IL, and MI. (Hearing site: Chicago, IL.)

MC 129455 (Sub-38F), filed February 6, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) drugs, toilet preparations, and pet products, (except commodities in bulk), from Cranbury, Lakewood, and Paramus, NJ, to points in WI, MN, NE, IA, MO, KS, OK, AR, NM, NV, WA, MS, LA, AL, GA (except Atlanta GA), FL (except Jacksonville, FL) NC, SC, and KY, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above, from points in the United States (except AK and HI), to Cranbury, NJ, under contract in (1) and (2) above, with Carter-Wallace, Inc., of Cranbury, NJ. (Hearing site: New York, NY.)

NOTE.—Dual operations may be involved.

MC 134501 (Sub-38F), filed January 23, 1979. Applicant: INCORPORATED CARRIERS, LTD., a corporation, P.O. Box 3128, Irving, TX 75061. Representative: T.M. Brown P.O. Box 1540, Edmond, OK 73034. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) new furniture, from Forest City, NC, to

points in the United States (except points in Shelby County, TN, and those in AK, HI, WA, OR, ID, MT, CA, NV, UT, WY, CO, AZ, NM, KS, OK, TX, AR, and NC); and (2) fixtures, from Forest City, NC, to points in the United States (except AK and HI). (Hearing site: Washington, DC, or Atlanta, GA.)

MC 134501 (Sub-40F), filed January 22, 1979. Applicant: INCORPORATED CARRIERS, LTD., a corporation, P.O. Box 3128, Irving, TX 75061. Representative: T.M. Brown P.O. Box 1540, Edmond, OK. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting new furniture, from Tupelo, MS, to points in Cocke, Hamblin, and Knox Counties, TN, and those in AL, AR, FL, GA, MD, SC, VA, WV, and DC. (Hearing site: Jackson, MS, or Dallas, TX.)

MC 134755 (Sub-171F), filed February 8, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building Des Moines, IA 50309. To operate as to a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting earthenware and stoneware, from Cambridge, OH, to Chicago, IL, and points in WI and NY. (Hearing site: Kansas City, Mo.)

NOTE.—Dual operations are involved.

MC 134755 (Sub-172F), filed February 15, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) rubber articles, plastic articles, and rubber and plastic products, from the facilities of ENTEK Corporation of America, at or near Irving, TX, to points in the United States (except AK and HI), and (2) material and equipment used in the manufacture and distribution of rubber and plastic articles (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

NOTE.—Dual operation are involved.

MC 134755 (Sub-173F), filed February 16, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods, from the facilities of Kitchens of Sara Lee, at or near Deerfield and Chicago, IL, to points in KS, OK, TX,

AR, LA, MS, and AL. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved.

MC 134978 (Sub-18F), filed February 13, 1979. Applicant: C. P. BELUE, d.b.a. BELUE'S TRUCKING, Route 6, Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting prestressed and precast concrete products, from points in Spartanburg and Greenville Counties, SC, to points in GA, NC, and TN. (Hearing site: Charlotte, NC.)

MC 135070 (Sub-25F), filed December 22, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods, from the facilities of Pet Inc., Frozen Foods Division, at or near (1) Frankfort, Benton Harbor, and Hart, MI, and (2) South Bend, IN, to points in AZ, AR, CA, CO, KS, LA, MO, NE, NM, OK, and TX. (Hearing site: St. Louis, MO, or Amarillo, TX.)

NOTE.—Dual operations are at issue in this proceeding.

MC 135078 (Sub-41F), filed February 9, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) malt beverages, from points in Jefferson County, CO, to points in KS and NE; and (2) empty containers for recycling, and materials and supplies used in breweries, from points in KS and NE, to points in Jefferson County, CO. (Hearing site: Denver, CO, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 135874 (Sub-146F), filed December 26, 1978. Applicant: LTL PERISHABLES, INC., a NEBRASKA Corporation, 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting frozen foods, from the facilities of The Pillsbury Company and Fox Deluxe Pizza Company, at or near Joplin and Carthage, MO, to points in ND, SD, NE, CO, KS, MN, IA, MI, WI, IL, IN, KY, and TN, restricted to the transportation of traf-

fic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 135874 (Sub-147F), filed December 26, 1978. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Boston, MA, New York, NY, Philadelphia, PA, and Wilmington, DE, to points in AR, IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic destined to the indicated destination points. (Hearing site: Pittsburgh, PA, or New York, NY.)

MC 136008 (Sub-102F), filed February 12, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, Ardmore, OK 73401. Representative: John Tipsword, 8005 S. I-35, Suite 102, Oklahoma City, OK 73149. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting quicklime, hydrated lime, and ground limestone, from Sallisaw and Marble City, OK, to points in Cass and Bowie Counties, TX, Marion County, IN, Adams, Issaquena and Warren Counties, MS, and those in AR, KS, and LA. (Hearing site: Oklahoma City or Tulsa, OK.)

MC 138469 (Sub-112F), filed February 13, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting alcoholic beverages (except in bulk), from points in CA to the facilities of Lone Star Company, in TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Dallas or Ft. Worth, TX.)

MC 138469 (Sub-113F), filed February 22, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting automobile glass, from the facilities of Libbey Owens Ford Company, at or near Ottawa, IL, to points

in AL, AZ, CA, CO, GA, KS, MO, NE, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 138469 (Sub-114F), filed February 23, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting alcoholic beverages, (except in bulk, in tank vehicles), from Chicago, IL, New Orleans, LA, New Ulm, MN, Newark, NH, Monroe, WI, and points in CA, and TX, to the facilities of Hirst Imports, Inc., at Oklahoma City, OK, restricted to the transportation of traffic originating at the named origins and destined to the named destination. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 138805 (Sub-5F), filed February 6, 1979. Applicant: S & L SERVICES, INC., R.D. 1, Milton, PA 17847. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) foodstuffs, (except in bulk), from the facilities of American Home Foods, at Milton, PA, to points in CT, NJ, and NY, and (2) materials, equipment, and supplies used in the manufacture and distribution of foodstuffs, (except commodities in bulk), in the reverse direction. (Hearing site: Washington, DC.)

MC 138882 (Sub-221F), filed February 13, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting paper, paper products, materials, equipment, and supplies used in the manufacture and distribution of paper and paper products, (except commodities in bulk), between the facilities of Scott Paper Company, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Mobile, AL.)

MC 138882 (Sub-222F), filed February 16, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) wrapping paper, from the facilities of Damsky Paper Company, at Birming-



ham, AL, to points in IN, OH, NJ, and WI; and (2) *scrap and waste paper* for recycling, from points in IN, OH, NJ, and WI, to the facilities of Damsky Paper Company, at Birmingham, AL. (Hearing site: Birmingham or Montgomery, AL.)

MC 138882 (Sub-223F), filed February 23, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood and lumber*, from Union Camp Corporation, at or near Chapman, AL, to points in NC and SC. (Hearing site: Birmingham, AL, or Newark, NJ.)

MC 139458 (Sub-6F), filed February 6, 1979. Applicant: RICHNER, INC., Colorado Highway 160 South, P.O. Box 1488, Durango, CO 81301. Representative: J. Albert Sebald, 1700 Western Federal Building, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, mineral feed mixtures, and animal health aid products*, from Denver, CO, to points in San Juan County, NM. (Hearing site: Denver, CO.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (1978) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 139482 (Sub-94F), filed February 5, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, from the facilities of Associated Milk Producers, Inc., at or near Paynesville, MN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, from points in the United States (except AK and HI), to the facilities of Associated Milk Producers, Inc., at points in IA, MN, and WI. (Hearing site: St. Paul, MN.)

MC 139482 (Sub-95F), filed February 23, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, and food curing,*

*preserving, and seasoning compounds*, (1) from Owensboro and Henderson, KY, to points in AL, AR, GA, IL, IA, KS, LA, MN, MO, MS, NE, NC, ND, OK, SC, SD, TN, TX, WV, and WI, (2) between Owensboro and Henderson, KY and points in CA and NY, and (3) from Merced and North Hollywood, CA, to points in WA, OR, NV, ID, MT, WY, UT, CO, AZ, NM, TX, and NY. (Hearing site: New York, NY.)

MC 139587 (Sub-14F), filed December 26, 1978. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from facilities of The Pillsbury Company and Fox DeLuxe Pizza Company, at or near Joplin and Carthage, MO, to points in AZ, AR, CA, CO, IL, IN, IA, KS, KY, LA, MI, MN, NE, NM, OK, OR, TN, TX, UT, WA, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 139962 (Sub-3F), filed February 1, 1979. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic bags and plastic film*, from West Hazleton, PA, to points in the United States (except AK and HI), under contract with St. Regis Paper Company, of New York, NY. (Hearing site: New York, NY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 139973 (Sub-58F), filed January 22, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk), (1) from Hazleton and York, PA, to Frankfort, IN, and points in CA, OR, and WA, and (2) from Frankfort, IN, to points in TX, CA, OR, and WA. (Hearing site: Hartford, CT.)

NOTE.—Dual operations may be involved.

MC 139973 (Sub-59F), filed January 19, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398,

Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products vehicle body sealer and sound deadener compounds, and filters* (except commodities in bulk, in tank vehicles), from points in Warren County, MS, to points in CO, IA, IL, IN, KS, MN, MO, NE, OH, OK, and WI, and (2) the *commodities* named in (1) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), restricted to the transportation of traffic originating at or destined to the facilities of Quaker State Refining Corporation at points in Warren County, MS. (Hearing site: Pittsburgh, PA.)

NOTE.—Dual operations may be involved.

MC 140665 (Sub-43F), filed February 15, 1979. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automotive parts and accessories, rubber and rubber products, tires and tire treads, and vehicle wheels*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in Portage, Summit, and Stark Counties, OH, on the one hand, and, on the other, points in CA and TX. (Hearing site: Washington, DC, or Columbus, OH.)

MC 140665 (Sub-44F), filed February 15, 1979. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rust preventing compounds, caulking compounds, petroleum oil and grease, paint, roofing cement, roof coatings, and (2) materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from Fort Worth, TX, to points in AZ, CA, CO, UT, NV, NM, ID, WY, MT, OR, and WA. (Hearing site: Washington, DC, or Columbus, OH.)

MC 140665 (Sub-45F), filed February 15, 1979. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign com-

merce, over irregular routes, transporting (1) *cleaning compounds, rust preventing compounds, chemicals, electroplating additives, paint products, petroleum products, and nickel*, and (2) *materials and supplies* used in the marketing and distribution of the commodities in (1) above (except commodities in bulk), from Cleveland, OH, to points in AZ, CA, CO, ID, NM, UT, WY, MT, IA, TX, and WA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 140665 (Sub-46F), filed February 23, 1979. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Trojan Shippers Association, in Miami County, OH, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: Columbus, OH, or Washington, DC.)

MC 140829 (Sub-185F), filed February 5, 1979. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz, U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in AR, NM, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140829 (Sub-187F), filed February 26, 1979. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum ingots and zinc alloy ingots*, from the facilities of Aluminum Smelting & Refining Co., and Certified Alloys Company, at or near Maple Heights, OH, to points in IL, IA, KS, MN, MO, NE, OK, TX, and WI, restricted to the transportation of traffic originating at the named origin

and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 140829 (Sub-188F), filed February 28, 1979. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Hides*, from Sioux City, IA, to points in CA, IL, KY, ME, MA, MI, MN, NH, NJ, NY, PA, TN, TX, and WI; and (2) *Materials, equipment and supplies* used in the process of tanning, from points in AZ, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, ME, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, OK, PA, SD, TN, TX, VT, VA, WV, and WI, to Sioux City, IA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140986 (Sub-9F), filed January 15, 1979. Applicant: GREAT NORTH-EARN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulating products*, from Denville, NJ, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture and sale of insulating products (except commodities in bulk), in the reverse direction, under contract with Lamtec Corporation, of Denville, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 141652 (Sub-31F), filed February 12, 1979. Applicant: ZIP TRUCKING, INC., Post Office Box 5717, Jackson, MS 39208. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals* (except commodities in bulk), from Mobile, AL to points in NM, CO, WY, MT, ID, UT, AZ, NV, CA, OR, and WA. (Hearing site: Mobile, AL, or New Orleans, LA.)

MC 141758 (Sub-3F), filed February 22, 1979. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *protective packaging and containers*, and (2) *materials, equipment, and supplies* used in the manufacture of the com-

modities in (1) above, (a) from Minneapolis, MN, to Omaha, NE, and Kokomo, IN, and (b) from Hanging Rock, OH, Omaha, NE, and Baltimore, MD, to Minneapolis, MN, under contract with Lydall Atlantic, Inc., of Manchester, CT. (Hearing site: Hartford, CT, or Washington, DC.)

MC 142062 (Sub-21F), filed February 8, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., Post Office Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or distributed by a manufacturer of animal feed, (except commodities in bulk), from the facilities of Sunshine Mills, Inc., at Red Bay, AL, and Tupelo, MS, to points in IL, IN, KY, and OH, under contract with Sunshine Mills, Inc., of Red Bay, AL. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 142205 (Sub-8F), filed February 9, 1979. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, VA 22075. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *expanded polystyrene foam, expandable polystyrene resin, and (2) equipment and supplies* used in the manufacture and packaging of expanded polystyrene foam (except commodities in bulk), between points in the United States in and east of MN, IA, NE, KS, OK, and TX, under contract with Preferred Plastics, Inc., of Sterling, VA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 142508 (Sub-53F), filed February 23, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Schrafft Candy Company, in Middlesex and Suffolk Counties, MA, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Boston, MA, or Washington, DC.)



MC 142508 (Sub-54F), filed February 2, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionary* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from the facilities of E. J. Brach & Sons, Division of American Home Products Corporation, at or near Chicago, IL, to points in MD, NJ, NY, PA, and TX, and (2) from the facilities of E. J. Brach & Sons, Division of American Home Products Corporation, at or near Linden, NJ, to points in CT and MA, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 142672 (Sub-50F), filed February 12, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs*, from Alma, Ft. Smith, and Van Buren, AR, Westville, OK, and points in Benton and Washington Counties, AR, to points in CT, DE, IL, IN, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Ft. Smith or Fayetteville, AR.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142672 (Sub-51F), filed February 6, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at or near Albert Lea, MN, and Cedar Rapids, IA, to points in AL, GA, LA, and MS, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 143059 (Sub-57F), filed February 15, 1979. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal buildings, complete, knocked down, or in sections, and parts and accessories* for metal buildings, from the facilities of Kirby Building Systems, Inc., at Spanish Fork, UT, Portland, TN, and Houston, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143267 (Sub-49F), filed January 8, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th St., NW, Washington, DC 20005. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143436 (Sub-21F), filed November 17, 1978. Applicant: CONTROLLED TEMPERATURE TRANSPORT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise as is dealt in by grocery houses, retail chain department stores, and drug stores*, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the facilities of City Haul and Storage, Inc., at or near Indianapolis, IN, to points in IN, restricted to the transportation of traffic destined to the named destinations. (Hearing site: Indianapolis, IN.)

MC 144239 (Sub-6F), filed February 9, 1979. Applicant: J. L. T. CORPORATION, Route 22, White House Station, NJ 08889. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese* in vehicles equipped with mechanical refrigeration, from Lena, WI, to points in the United States (except AK, CT, HI, ME, MD, MA, NJ, NY, PA, RI, VA, and DC), under continuing contract

with Frigo Cheese Corporation, of Lena, WI. (Hearing site: Chicago, IL.)

MC 144239 (Sub-7F), filed February 12, 1979. Applicant: J. L. T. CORPORATION, Route 22, White House Station, NJ 08889. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese* in vehicles equipped with mechanical refrigeration, from Superior, NE and Bloomer, WI, to points in IL, IN, NJ, NY, OH, PA, and VT, under continuing contract with Valley Lea Dairies, Inc., of South Bend, IN. (Hearing site: Chicago, IL.)

MC 144303 (Sub-3F), filed January 16, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW, Washington, DC 20036. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical equipment and parts*, and (2) *materials and supplies* used in the manufacture and distribution of electrical equipment and parts, (except commodities in bulk, those requiring special equipment, and aerospace craft and aerospace craft parts), between the facilities of General Electric Company, at or near East Flat Rock and Fletcher, NC, on the one hand, and, on the other, points in the United States (except AK and HI), and those points on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the MN-IA State line, then along the MN-IA State line to its junction with the MN-SD State line, then north along the MN-SD State line to the International Boundary line between the United States and Canada), under contract with General Electric Company of Schenectady, NY. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 144412 (Sub-1F), filed February 26, 1979. Applicant: PHOTO EXPRESS, INC., 2300 Higgins Road, Elk Grove Village, IL 60007. Representative: Stuart T. Edelstein, 134 North LaSalle Street, Chicago, IL 60602. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corrosive liquid, poisonous liquid, poisonous solid, flammable solid, flammable liquid, oxidizing material, irritating agent, flammable gas, chemicals, unexposed photo paper, unexposed photo film, photo printing plates, unexposed photo dry plates, glass, photo printing plates, advertising matter, matrix paper, copying, du-*

*plicating, and reproducing machines, camera, camera outfits, and magnetic tapes blank*, (except commodities in bulk), (1) from Chicago, IL, to points in MA, IN, KY, OH, MS, KS, NE, IA, SD, ND, MN, and WI, and (2) from points in MA, IN, KY, OH, MS, KS, NE, IA, SD, ND, MN, and WI, to Chicago, IL, under contract with Agfa-Gevaert, Inc., of Teterboro, NJ. (Hearing site: Chicago, IL.)

MC 144622 (Sub-33F), filed February 15, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Omaha and Madison, NE, and Worthington, MN, to points in AZ and CA. (Hearing Site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144622 (Sub-34F), filed February 15, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Omaha and Madison, NE, and Worthington, MN, to points in CT, DE, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing Site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144688 (Sub-12F), filed February 26, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances, and materials, equipment, and supplies* used in the manufacture and distribution of household appliances, (except commodities in bulk), from

the facilities of General Electric Company, at or near Atlanta, GA, to points in FL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Louisville, KY, or Omaha, NE.)

MC 144876 (Sub-1F), filed January 8, 1979. Applicant: J & R TRUCKING, INC., 300 Second Ave., N.W., Montgomery, MN 56069. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55043. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter*, from Minneapolis, MN, to points in the United States (except AK, HI, and MN), and (2) *materials, equipment, and supplies* used in the manufacture of printed matter, (except commodities in bulk, in tank vehicles), in the reverse direction, under contract with Franchise Mailing Systems, of Montgomery, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 144889 (Sub-1F), filed December 18, 1978, previously published in the FEDERAL REGISTER issue of February 8, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Ave., Hammond, IN 46320. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Union Rolls Corporation, at Valparaiso, IN, the facilities of Midwest Steel Division of National Steel Corp., at Portage, IN, and the facilities of LaSalle Steel Company, at Griffith and Hammond, IN, to those points in IL on and north of U.S. Hwy 36, and (2) *building materials and sound deadening materials*, from the facilities of Globe Industries, Inc., at Lowell and Whiting, IN, to those points in IL on and north of U.S. Hwy 36. (Hearing site: Indianapolis, IN, or Chicago, IL.)

NOTE.—This republication clarifies the authority in part (1) above.

MC 145062 (Sub-2F), filed February 13, 1979. Applicant: DARL DAILY & SONS, INC., Route 3, Kewanee, IN 46939. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, trucks, and parts and accessories* for roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, and trucks, from the facilities of Galbreath, Inc., at or near Winamac, IN, to points in the United States (except

AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, and trucks, from points in the United States (except AK and HI), to the facilities of Galbreath, Inc., at or near Winamac, IN, under contract with Galbreath, Inc., of Winamac, IN. (Hearing site: Chicago, IL.)

MC 145072 (Sub-6F), filed January 24, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are manufactured, processed, distributed, and dealt in by manufacturers or converters of paper and paper products* (except commodities in bulk), between Memphis, TN and points in LA. (Hearing site: Memphis, TN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145073 (Sub-2F), filed January 25, 1979. Applicant: DANCO TRANSPORT CORP., 260 Northland Boulevard, Suite 216, Cincinnati, OH 45246. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sand and aggregates*, in bulk, in dump vehicles, from points in Hamilton County, OH, to points in Breathitt, Clark, Estill, Fayette, Floyd, Gerrard, Harlan, Jackson, JesSamime, Johnson, Knott, Knox, Laurel, Lee, Letcher, Madison, Magoffin, Montgomery, Owsley, Perry, Powell, Rockcastle, Whitley, Wolfe, and Clay Counties, KY, under contract with Hilltop Basic Resources, Inc., of Cincinnati, OH, and (2) *coal*, in bulk, in dump vehicles, from points in Boyd, Breathitt, Carter, Clay, Elliott, Estill, Floyd, Greenup, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Powell, Rockcastle, Rowan, Whitley, and Wolfe Counties, KY, to points in OH and IN, under contract with Danis Coal Corporation of Cincinnati, OH. (Hearing site: Cincinnati or Columbus, OH.)

MC 145102 (Sub-12F), filed February 9, 1979. Applicant: FREYMILLER TRUCKING, INC., Post Office Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese*



and cheese products, from points in MO, IL, IA, and WI, to points in the United States (except AK and HI). (Hearing Site: Madison, WI, or Los Angeles, CA.)

MC 145102 (Sub-13F), filed February 13, 1979. Applicant: FREYMILLER TRUCKING, INC., Post Office Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting rough brass castings, from Fresno, CA, to Dubuque, IA. (Hearing Site: Madison, WI, or Chicago, IL.)

MC 145243 (Sub-3F), filed January 17, 1979. Applicant: REDBIRD DEVELOPMENT, INC., 1018 Whitlock Road, Rochester, NY 14609. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting scrap metal, from Rochester and Syracuse, NY, to Danbury, CT, Hagerstown, MD, those points in NJ on and north of NJ Rt. 33, those in OH on and east of U.S. Hwy 23, those in PA on and west of U.S. Hwy 15, and points in NY, under contracts with (a) Roth Steel Corp., of Syracuse, NY, (b) American Bag & Metal Co., Inc. of Syracuse, NY, (c) Lyell Metal Co., Inc. of Rochester, NY, (d) Gold Iron & Metal, Inc., of Rochester, NY, and (e) Klein Metal Co., Inc. of Rochester, NY. (Hearing site: Rochester or Syracuse, NY.)

MC 145948 (Sub-2F), filed February 21, 1979. Applicant: ROY W. and JOANNE GRAHAM, d.b.a. ROY GRAHAM TRUCKING, P.O. Box 936, Lovelock, NV 89419. Representative: Mike Soumbeniotis, 402 North Division Street, P.O. Box 646, Carson City, NV 89701. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting pallet shoo and random length dimensional lumber for pallet construction, (1) from points in Stanislaus, San Joaquin, Shasta, Modoc, Mendocino, and Sacramento Counties, CA, and Josephine, Jackson, Marion, Klamath, Lane, and Douglas Counties, OR, to Lovelock, NV, and (2) from Lovelock, NV, to Sacramento, CA, under contract with Ro-Mark Pallet, Inc., of Lovelock, NV. (Hearing site: Carson City or Reno, NV.)

MC 146121F, filed January 8, 1979. Applicant: BAY CARTAGE CO., A CORPORATION, P.O. BOX 4363, MUSKEGON, MI 49444. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. To operate as a contract carrier, by motor vehicle, in interstate or foreign com-

merce, over irregular routes, transporting (1) paper and paper products, and (2) materials used in the manufacture and distribution of paper and paper products, between the facilities of S. D. Warren Paper Company, a division of Scott Paper Company, at Muskegon, MI, on the one hand, and, on the other, points in PA, NY, NJ, ME, MA, CT, RI, VT, and NH, under contract with S. D. Warren Paper Company, of Muskegon, MI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 146322F, filed February 6, 1979. Applicant: METRO LIQUID CARRIERS LTD., 4545 Lavale Blvd., St-Vincent-de-Paul, Laval, Quebec, Canada H7C 1A1. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting liquid asphalt, in tank vehicles, from points on the International Boundary line between the United States and Canada, at points in NY and VT, to points in VT and NY. (Hearing Site: Washington, DC, or Albany, NY.)

MC 146338F, filed February 6, 1979. Applicant: DAVID McWILLIAMS and HOWARD WELDON, d.b.a. McWILLIAMS AND WELDON TRUCKING CO., Route 1, Gallatin, MO 64640. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) furnaces, stoves, pipe, brushes, motors, and dampers, and (b) parts and accessories for the commodities in (1)(a) above, from the facilities of Longwood Furnace Corp., at or near Gallatin, MO, to points in CT, IA, MA, ME, MI, MN, NH, OH, PA, and WI; and (2)(a) dampers, castings, stove pipe, chimneys, air filters, and controls, and (b) supplies used in the manufacture of furnaces and stoves, and (c) accessories for furnaces and stoves, from points in CT, IL, MA, and OH, to the facilities of Longwood Furnace Corp., at or near Gallatin, MO. (Hearing site: Kansas City, MO.)

## PASSENGER AUTHORITY

MC 172 (Sub-9F), filed February 12, 1979. Applicant: ROBERT E. WADE, 1312 Helderberg Avenue, Schenectady, NY 12306. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K street, NW., Washington, DC 20005. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting passengers and their baggage in the same vehicle with passengers, in one-way charter operations, and one-way special operations, (1) from points in Albany, Greene,

Montgomery, Rensselaer, Saratoga, Schenectady, and Schoharie Counties, NY, to points in the United States (including AK, excluding HI), restricted to passengers having a subsequent movement by air, water, or rail carrier to point of origin, including supplemental motor carrier service to actual point of origin, and (2) from points in the United States (including AK, excluding HI), to points in Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, and Schoharie Counties, NY, restricted to passengers having a prior movement by air, water, or rail carrier from the named New York counties. (Hearing site: Albany, NY.)

MC 146342F, filed February 12, 1979. Applicant: LANGS BUS LINES LIMITED, 66 Zimmerman Avenue South, Strathroy, ON, Canada N7G 2G7. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting passengers and their baggage in the same vehicle with passengers, in special and charter operations, beginning and ending at points on the International Boundary line between the United States and Canada, and extending to points in the United States (including AK, excluding HI). (Hearing site: Buffalo, NY.)

## BROKER AUTHORITY

MC 130540F, filed December 6, 1978. Applicant: MONTAINEER TOURS, 1704 18th St., Huntington, WV 25701. Representative: Janet S. Heck (same address as applicant). To engage in operations, in interstate or foreign commerce, as a broker, at Huntington, WV, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations, in round-trip sightseeing and pleasure tours by motor common carrier, beginning and ending at points in Cabell, Lincoln, Logan, Mason, McDowell, Mingo, Putnam, Raleigh, Wayne, and Wyoming Counties, WV, Boyd, Carter, Elliott, Floyd, Johnson, Greenup, Lawrence, Lewis, Magoffin, Martin, Mason, Morgan, Pike, and Rowan Counties, KY, and Gallia and Lawrence Counties, OH, and extending to points in the United States (including AK and HI). (Hearing site: Huntington or Charleston, WV.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauk Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

## WATER CARRIER AUTHORITY

W 1152 (Sub-5F), filed January 18, 1979. Applicant: UNITED TRANSPORTATION, INC., 1046 First Avenue, Bethel, AK 99559. Representative: Andrew E. Hoge, 3201 "C" Street, Suite 706, Anchorage, AK 99503. To operate as a common carrier, by water, by self-propelled vehicles, in interstate or foreign commerce, transporting general commodities between Tuluksak, AK, and points north of Tuluksak, AK, including Medfra and Nikolai, AK, on the Kuskokwim River and its tributaries, in seasonal operations from May 15 to October 15. CONDITION: Carrier must submit additional information on energy conservation and energy efficiency as provided in 49 CFR § 1106.5(c) (1-3) and (5-6). See *The Energy Policy and Conservation Act of 1975*, 357 I.C.C. 599, 604 (1978). This additional information must (1) be direct, (2) include a general statement of conclusions, (3) provide a brief description of the basis for any conclusions reached, including the methodology employed, (4) include pertinent statistics where appropriate, and (5) where conclusions cannot be reached explain the reasons for failing to reach conclusions. (Hearing site: Aniak or Bethel, AK.)

[FR Doc. 79-9505 Filed 3-28-79; 8:45 am]

[7035-01-M]

[Notice No. 53]

## ASSIGNMENT OF HEARINGS

MARCH 26, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB-7 (Sub-65), Stanley E. G. Hillman, Trustee of the Property Of Chicago, Milwaukee St Paul and Pacific Railroad Company, Debtor Abandonment Near Walworth and Avalon, in Rock and Walworth Counties, now assigned for on April 18, 1979 (3 days), at Council Chamber, Municipal Building, 4th floor, 18 North Jackson Street, Janesville, WI., is canceled and reassigned at the Walworth Big Foot High School, Walworth, WI.

MC 121683 (Sub-3F), Jackson Express, Inc., now assigned for continued hearing on April 4, 1979 (2 days) at the Ramada Inn, U.S. 45 By-Pass at I-40, Jackson, TN.

MC 66746 (Sub-21F), Shippers Express, Inc., now assigned for continued hearing on April 18, 1979 (2 days), at the Executive Inn, 1471 E. Brooks Road, Memphis, Tennessee.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9574 Filed 3-28-79; 8:45 am]

[7035-01-M]

[Amdt. No. 2]

MAINE MOTOR RATE BUREAU—AGREEMENT  
Section 5a Application 92

MARCH 5, 1979.

The Commission is in receipt of an application in the above, proceeding for approval of amendments to the approved agreement.

Filed November 7, 1978 by: Donald E. Martin, Executive Vice President, Maine Motor Rate Bureau, 94 Auburn Street, Portland, Maine 04103; Roland Rice, Suite 501 Perpetual Bldg., 1111 E Street, N.W., Washington, D.C. 20004. The amendments involve: Changes to comply with Ex Parte 297, 349 ICC 811 and 351 ICC 437.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before April 18, 1979. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9573 Filed 3-28-79; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS

Civil Aeronautics Board.....  
Equal Employment Opportunity Commission.....  
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Interstate Commerce Commission.....  
National Transportation Safety Board.....  
Occupational Safety and Health Review Commission.....

[6320-01-M]

[M-207; Mar. 27, 1979]

## CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., April 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Presentation to be made by the Commuter Airline Association of America regarding views of the commuters on essential air service.

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-604-79 Filed 3-27-79; 9:35 am]

[6570-06-M]

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## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-674-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, March 27, 1979.

CHANGES IN THE MEETING: The following matter is added to the agenda for the open portion of the meeting.

Report on Legal Units in Field Offices.

The following matter is deleted from the agenda for the open portion of the meeting.

Freedom of Information Act Appeal No. 78-3-FOIA-176.

The requesting party has withdrawn this appeal.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

In favor of changes: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued March 26, 1979. [S-609-79 Filed 3-27-79; 2:44 pm]

[6712-01-M]

3

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 30, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting to follow the open meeting.

## MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition for reconsideration of Commission's decision denying renewal to the trustees of the University of Pennsylvania for station WXPB(FM), Philadelphia, Pa., et al.

General—1—WARC 1979 proposals. General—2—Subpena of FCC records by A.T. & T. in connection with Litton Systems, Inc. v. A.T. & T., et al., 76 Civ. 2512 (S.D.N.Y.)

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number 202-632-7260.

Issued: March 26, 1979.

[S-608-79 Filed 3-27-79; 3:30 pm]

[6712-01-M]

4

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 30, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

## MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition for Reconsideration of Commission Order for a new standard broadcast station at Lares, Puerto Rico, (Docket No. 20969).

Hearing—2—Request for Commission review of a Review Board Order denying petitioner's late-filed request for an extension of time in which to file exceptions (Docket No. 21379).

Hearing—3—Petition for reconsideration of the designation order in the Omaha, Nebraska/Council Bluffs, Iowa, consolidated AM/FM broadcast proceeding (BC Docket Nos. 78-337 through 78-345).

General—1—Sales cutoff date for 27 MHz walkie-talkies.

General—2—Waiver of use limitation for auditory training device.

Private Radio—1—Exemption of public coast stations from the watch requirement on 156.8 MHz.

Common Carrier—1—Refund Proposal submitted by American Television Relay, Inc.

Common Carrier—2—Application of French Telegraph Cable Company seeking authority to establish facilities for the provision of its authorized international services from the gateways of San Francisco and Washington, D.C. in addition to its New York gateways.

Cable Television—1—Petitions for Reconsideration filed by Clearview Cable TV and Media Statistics, Inc.

Cable Television—2—Petition for waiver filed by Cablecom-General, Inc., Gulfport, Miss.

Cable Television—3—Applications for Review filed by: Post-Newsweek Stations (WFSB-TV), Hartford, Conn., Midwest Television, Inc. (WCIA), Champaign, Ill., and Hubbard Broadcasting, Inc. (WTOG), St. Petersburg, Fla.

Cable Television—4—Application for Review filed by Cable Systems Inc., Boroughs of Oaklyn, Audubon Park, Audubon, Haddon Heights and Collingswood, N.J.

Assignment and Transfer—1—Application for the voluntary transfer of control of Nevada Independent Broadcasting Corp., KVVU-TV, Henderson, Nev., from William H. Hermsdorf, et al. to Carson Broadcasting Corp., and request for the issuance

of a tax certificate in connection with the application, (BTC-780929KP).

Aural—1—Application for a construction permit for a new class A FM station filed by Stearns County Broadcasting Co., Albany, Minn., BPH-10,396.

Aural—2—Application of Millard V. Oakley for a new AM broadcast station in Dayton, Tenn., and an informal objection thereto.

Aural—3—Seven applications for the facilities of KROQ, Burbank, Calif., and KROQ-FM, Pasadena, Calif., et al.

Broadcast—1—Request for partial waiver of prime time access rule filed by UHF station WUHQ-TV, Battle Creek, Mich. (in Grand Rapids-Kalamazoo Creek market).

Complaints and Compliance—1—Application for review filed by Mr. Friedrich P. Berg, Corresponding Secretary, the Ridge-wood Group, of the Broadcast Bureau's ruling denying his complaint filed against WNBC-TV, New York, N.Y.

Complaints and Compliance—2—Application for review of a letter by the Broadcast Bureau stating that a proposed 2½ hour auction program would be considered as commercial time.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number 202-632-7260.

Issued: March 26, 1979.

[S-607-79 Filed 3-27-79; 2:30 pm]

[6720-01-M]

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## FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 59, page 18136, March 26, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., March 29, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

## CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting: Application for conversion from Federal to State charter and subsequent merger into a Mutual Savings Bank: Arlington Federal Savings and Loan Association, Baltimore, Md., into Central Savings Bank, Baltimore, Md.

The following item has been added to the agenda for the open meeting: Application by Beneficial Corp. to acquire First Texas Financial Corp.

No. 221, March 26, 1979.

[S-605-79 Filed 3-27-79; 10:11 am]

## SUNSHINE ACT MEETINGS

## NOTICE OF MEETINGS

### ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

### Date, Time, and Subject Matter

Wednesday, April 4, 1979, at 10:30 a.m.;  
Wednesday, April 11, 1979, at 10:30 a.m.;  
Wednesday, April 18, 1979, at 10:30 a.m.;  
Wednesday, April 25, 1979, at 10:30 a.m.  
Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on March 23, 1979.

FRANCIS T. MASTERSON,  
Executive Director.

[S-611-79 Filed 3-27-79; 3:50 pm]

[7035-01-M]

9

## INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, April 3, 1979.

PLACE: Hearing Room C, Interstate Commerce Commission Building, 12th and Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Regular Conference.

MATTER TO BE CONSIDERED: New procedures in intrastate rate cases.

## CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, Telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-610-79 Filed 3-27-79; 3:51 pm]

[6730-01-M]

6

## FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m. April 4, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

## MATTERS TO BE CONSIDERED:

### Portions open to the public:

1. Agreement No. 10028-9: Modification of a cargo revenue pooling agreement in the Brazil/U.S. Atlantic trade to include revenues derived from transshipments.

2. Neutral Body Policing of Independent Liner Operators in the United States Foreign Commerce: Advance Notice of Proposed Rulemaking.

3. Appeal from staff denial of special permission application of Mediterranean North Pacific Coast Freight Conference.

4. Docket No. 78-51: Agreement No. 10349-A cargo Revenue Pooling and Sailing Agreement, Argentina/U.S. Atlantic Trade—Requests for depositions of persons located in foreign countries.

### Portions closed to the public:

1. Agreement No. 9929-3: Petition for reconsideration of Commission order on remand.

2. Docket No. 78-11: In Re Agreement Nos. 150 DR-7 and 3103 DR-7—Discussion of the record.

## CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-603-79 Filed 3-27-79; 9:35 am]

[7600-01-M]

7

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 17637, March 22, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: At 1 p.m., March 29, 1979.

CHANGES IN THE MEETING: Rescheduled for 2 p.m. on same date as above (March 29, 1979).

Dated: March 26, 1979.

[S-602-79 Filed 3-27-79; 9:35 am]

[6770-01-M]

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## FOREIGN CLAIMS SETTLEMENT COMMISSION.

F.C.S.C. Meeting Notice No. 3-79







[4810-25-M]

## DEPARTMENT OF THE TREASURY

Office of the Secretary

## EFFECTS OF OIL IMPORTS ON NATIONAL SECURITY

Publication of Report of Investigation To Determine the Effects on the National Security of Oil Imports

Notice is hereby given pursuant to section 232(d) of the Trade Expansion Act of 1962, as amended, 19 U.S.C. 1962, and 31 CFR 9.9, of the publication of a report by the Secretary of the Treasury to the President of an investigation under section 232(b) of the same Act. The Secretary of the Treasury initiated this investigation on March 15, 1978, to determine the effects on the national security of imports of crude oil, crude oil derivatives and products, and related products derived from natural gas and coal tar (referred to collectively as "oil"). The report to the President, dated March 14, 1979, states that oil imports are entering the United States in such quantities and under such circumstances as to threaten to impair the national security. Accordingly, the report recommends that action be taken to reduce domestic oil consumption and increase domestic production of oil and other sources of energy, by providing appropriate incentives and eliminating programs and regulations which inhibit the achievement of these goals. The report notes that specific recommendations on achieving these conservation and production objectives are being evaluated in an interagency group charged with presenting the President with policy options for his consideration.

The Secretary's report to the President is based on the investigation conducted by the General Counsel of the Treasury Department. The General Counsel's report of that investigation examines the nation's growing dependence on imported oil, particularly since 1975, when Secretary of the Treasury Simon reported to President Ford that oil imports threatened to impair the national security, and concludes that the threat to the national security is greater now than before.

During the course of his investigation, the General Counsel solicited (see 44 FR 7264 (1979)) and considered comments from the public as well as from a number of agencies. The agencies' comments are appended to the General Counsel's report. The Secretary's report to the President and the General Counsel's report are published herein and copies thereof are available through the Office of Public Affairs, Department of the Treasury, by contacting the individual listed at the conclusion of this notice. Com-

ments received from other agencies and the public in the course of this investigation are available for public reading and copying at the Library of the Treasury Department, Room 5030, Main Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C.

The principal authors of these reports were Leonard E. Santos, Dell V. Perry, William E. Steger, Cathryn A. Goddard, Ernest F. Chase, and Barry S. Newman of the Office of the Secretary of the Treasury. Contact Alvin M. Hattal, (202) 566-8381.

Dated: March 21, 1979.

ROBERT H. MUNDHEIM,  
General CounselMEMORANDUM FOR THE PRESIDENT FROM  
THE SECRETARY OF THE TREASURYSUBJECT: REPORT OF SECTION 232  
INVESTIGATION ON OIL IMPORTS

MARCH 14, 1979.

I have completed the investigation I initiated last year pursuant to Section 232 of the Trade Expansion Act of 1962 to determine whether oil imports are entering the United States in such quantities or under such circumstances as to threaten to impair the national security. I am transmitting herewith a detailed report of our investigation.

On January 14, 1975, acting pursuant to the same Section 232 authority, Treasury Secretary Simon found that the nation's dependence on imported oil was so great as to threaten to impair the national security and recommended to President Ford that action be taken to remove the threat. That conclusion is, unfortunately, even more valid today.

The nation's dependence on imported oil has increased dramatically since the 1975 finding. At the time of Secretary Simon's finding, 37 percent of United States demand for oil was supplied from foreign sources. In 1978, oil imports accounted for 45 percent of oil consumed in the United States. During that same period, the nation became more dependent on oil to meet overall energy demand, and oil imports increasingly originated in a small number of distant foreign countries. The increasing dependence on foreign sources of oil is a consequence of both rising levels of consumption and declining domestic production.

This growing reliance on oil imports has important consequences for the nation's defense and economic welfare. Because so much of the oil used in the United States originates thousands of miles away, supplies are vulnerable to interruption from a variety of causes.

\*The term "oil", as used in this report, means crude oil, crude oil derivatives and products, and related products derived from natural gas and coal tar.

Recent developments in Iran have dramatized the consequences of this excessive dependence of foreign sources of petroleum. Furthermore, the rising level of oil imports adversely affects our balance of trade and our efforts to strengthen the dollar; in 1978, outflows of dollars for our oil imports amounted to \$42 billion, \$15 billion more than in 1975 and offsetting much of the rise in our exports of industrial and farm products.

The continuing threat to the national security which our investigation has identified requires that we take vigorous action at this time to reduce consumption and increase domestic production of oil and other sources of energy. To the extent feasible without impairing other national objectives, we must encourage additional domestic production of oil and other sources of energy, and the efficient use of our energy supplies, by providing appropriate incentives and eliminating programs and regulations which inhibit the achievement of these important goals.

Specific recommendations on achieving these conservation and production objectives are being evaluated by an interagency group in which Treasury is participating. The committee's work will be finished shortly and specific policy options will be formulated for your consideration.

W. MICHAEL BLUMENTHAL

REPORT OF INVESTIGATION UNDER SECTION 232 OF THE TRADE EXPANSION ACT, 19 U.S.C. 1862, AS AMENDED

## I. INTRODUCTION

## 1. Background.

Section 232(b) of the Trade Expansion Act of 1962 authorizes the President to take action to adjust imports of crude oil, crude oil derivatives and products and related similar products derived from natural gas and coal tar (hereinafter referred to collectively as "oil") if the Secretary of the Treasury finds that such commodities are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

Previous findings that oil imports threaten to impair the national security were made in 1959 and 1975.<sup>1</sup> Those findings have served as the basis for programs to control oil imports, first by means of quotas and later through use of license fees.<sup>2</sup> The use of license fees was upheld by the United States Supreme Court in an opinion which emphasized the breadth of the remedies permitted under Section 232(b).<sup>3</sup> On its face, Section 232(b) authorizes any remedy reasonably related to the adjustment in the importation of a particular article.

This investigation was initiated by the Secretary of the Treasury on March 15, 1978 (see Appendix A—Order Initiating Investigation) to examine developments since 1975 and to determine:

1. Whether increased reliance (since 1975) on oil imports from a small number of distant foreign suppliers continues to threaten to impair the national security;

2. Whether the monetary repercussions accompanying continued large payments outflows for oil imports threaten to impair the national security.

At the time he initiated the investigation, the Secretary of the Treasury stated that the investigation was to be undertaken for contingency purposes only and that it should be conducted on a confidential basis. Initially, in the Secretary's judgment, national security interests required that public comments not be invited. Accordingly, the Secretary requested the General Counsel to proceed immediately with the investigation. Information and advice were solicited from the following agencies in the course of the investigation: Central Intelligence Agency, Department of Defense, Department of Energy, National Security Council, Federal Reserve Board, Department of State, Council of Economic Advisers, Department of Commerce, Department of Labor, Department of the Interior, and Department of Transportation.

On February 2, 1979, the Secretary invited comments from the public, having reviewed his earlier determination and concluded that it was then appropriate to issue the invitation. None of the agency submissions or public comments challenged the proposition that oil imports threaten to impair the national security. The overwhelming conclusion of these submissions and comments is that such a threat continues to exist.

2. Conclusion.

The conclusion of this report is that oil continues to be imported in such quantities and under such circumstances as to threaten to impair the national security. This threat arises both from increased reliance on a small number of foreign oil suppliers and the monetary repercussions accompanying continued large payments outflows for imported oil. Unlike temporary crises in the nation's ability to satisfy its oil import needs, the national security threat arising from growing reliance on imported oil has its gravest implications in the long-term.

## II. INCREASED RELIANCE ON OIL IMPORTS FROM A RELATIVELY SMALL NUMBER OF FOREIGN SUPPLIERS THREATENS TO IMPAIR THE NATIONAL SECURITY

1. A threat to the national security has previously been established.

The 1959 finding. In 1959, the President's Special Committee to Investi-

gate Crude Oil Imports determined that oil imports constituted a threat to the national security.<sup>4</sup> The Committee concluded that, in order to have enough oil to meet the nation's security needs, "there must be a limitation on imports that will insure a proper balance between imports and domestic production . . . [Absent that balance,] in an emergency the nation would be confronted with all of the liabilities inherent in a static, as contrasted with a dynamic, mobilization base, including the delays, waste and inefficiency that accompany efforts to strengthen any part of the mobilization base on a 'crash' basis."<sup>5</sup>

The 1975 finding. In 1975 the Secretary of the Treasury found that oil imports threatened to impair the national security. That investigation considered all factors relevant to a finding under Section 232(b), including the relationship of the nation's economic welfare to its national security. The Treasury report concluded that oil imports should be reduced in order to "wean ourselves away from a dependence upon imported oil, conserve our use of petroleum, promote the use of alternative sources of energy, and at least in part, stanch the outflow of payments resulting from our purchases of this commodity."<sup>6</sup>

Congressional declarations. In August 1977, Congress, in enacting Title I of the Department of Energy Organization Act, declared that the "energy shortage and our increasing dependence on foreign energy supplies present a serious threat to the national security of the United States."<sup>7</sup> This declaration echoed an earlier Congressional finding in section 2 of the Emergency Petroleum Allocation Act of 1973 that oil shortages will create severe economic dislocations and hardships which constitute a national energy crisis threatening the public health, safety and welfare.<sup>8</sup> More recently, section 102 of the National Energy Conservation Policy Act of 1978 emphasized the need to stem the nation's increasing reliance on imported oil and the vulnerability which accompanies such reliance.<sup>9</sup>

2. The nation has increased its dependency on a small number of distant foreign oil suppliers.

Since 1975, United States oil imports have increased as a share of oil consumed and of all energy consumed in the United States. In addition, because oil imports increasingly originate from a small number of foreign and mostly distant sources, they have become more vulnerable to interruption.

Level of oil imports. Oil imports have risen steadily over the past 20 years.<sup>10</sup>

|      |                                     |
|------|-------------------------------------|
| 1959 | 1.8 mmbpd (million barrels per day) |
| 1975 | 6.5 mmbpd                           |

|      |   |
|------|---|
| 1978 | 8.7 mmbpd (including the Strategic Petroleum Reserve) |
|------|---|

Over the same period, oil imports have increased both as a share of domestic demand for oil.<sup>11</sup>

|      |     |
|------|-----|
| 1959 | 18% |
| 1975 | 39% |
| 1978 | 45% |

and as a share of demand for energy of all types.<sup>12</sup>

|      |     |
|------|-----|
| 1959 | 9%  |
| 1975 | 19% |
| 1978 | 23% |

A growing share of our oil imports come from OPEC nations:<sup>13</sup>

|      |     |
|------|-----|
| 1959 | 70% |
| 1975 | 78% |
| 1978 | 83% |

Oil imports averaged 8.7 mmbpd during 1978—down 6 percent from 1977.<sup>14</sup> However, this decline resulted from a rundown of domestic inventories and a one-time buildup of Alaskan production which more than offset the 1.6 percent rise in domestic oil demand and the 4 percent decline from 1977 in the crude oil production of the lower 48 States.<sup>15</sup> Alaskan oil, which began to flow in June 1977, approached the capacity pipeline flow of 1.2 mmbpd in the second quarter of 1978.<sup>16</sup>

Sources of oil imports. In the early 1960's, Venezuela was the largest external supplier of oil to the United States, providing about 46 percent of total oil imports.<sup>17</sup> Later Canada (non-OPEC) became a large supplier, accounting for about 22 percent of imports by 1970.<sup>18</sup> However, imports from Venezuela have declined sharply as a percentage of total imports, and Canada has adopted procedures which could virtually phase out all light crude oil exports to the United States by 1981.<sup>19</sup> As imports from these traditional Western Hemisphere suppliers have receded in significance, there has been a corresponding rise of the nation's reliance on Eastern Hemisphere sources, particularly those in the Middle East. The proportion of oil imports originating in Middle Eastern countries was:<sup>20</sup>

|      |     |
|------|-----|
| 1959 | 21% |
| 1975 | 27% |
| 1978 | 34% |

For the next decade, the United States will probably continue to rely heavily on Middle Eastern supply sources. Although recent developments in Iran have diminished expectations for continuing the previous levels of production in that country, in all likelihood, U.S. dependence on other Middle Eastern producers will increase further.<sup>21</sup>

As oil production in the United Kingdom and Norwegian sectors of



the North Sea develops, some demand for Middle Eastern oil will shift to North Sea oil. However, the change-over is likely to have its greatest effect on the European markets, with substantial U.S. reliance on Middle Eastern oil remaining relatively undiminished. The expanding production in Mexico, for which the United States forms a natural market,<sup>22</sup> offers another alternative to imported Middle Eastern oil. Nevertheless, through 1985, U.S. dependence on Middle Eastern producers is not expected to be reduced significantly because of the development lead time required.

**Value of oil imports.** Not only has the volume of U.S. oil imports expanded, but the landed price of foreign petroleum has jumped sharply as well. For example, the average unit value (f.a.s.) of U.S. petroleum imports has risen as follows:<sup>23</sup>

|           |                            |
|-----------|----------------------------|
| 1959..... | \$2.26 pb<br>(per barrel). |
| 1975..... | \$11.45 pb.                |
| 1978..... | \$13.28 pb.                |

As a consequence, the nation's annual oil import bill has grown dramatically over the past 20 years:<sup>24</sup>

|           |                 |
|-----------|-----------------|
| 1959..... | \$1.5 billion.  |
| 1975..... | \$27.0 billion. |
| 1978..... | \$42.3 billion. |

The cost of oil imports may be expected to increase further in 1979 as a result of the OPEC price increase of 14.5 percent—fourth quarter to fourth quarter—agreed upon at the meeting of OPEC ministers in December. Recent interruptions in Iranian production have put upward pressure on market prices and have prompted many oil producers to seek to obtain price increases beyond those scheduled in the December OPEC price decision.

3. The risk of detrimental interruption has not lessened.

**Risk of interruption.** As noted above, the U.S. is heavily dependent for its imported oil on a small number of distant countries. These countries are a diverse group of nations with different resources and goals. While, in the main, the U.S. shares common interests with them, there are also some areas of political disagreement. In 1973, some of these countries demonstrated their willingness to use oil as a political weapon. For the first time in history, this country's access to major petroleum supplies was cut off by an embargo, as a result of dissatisfaction with our foreign policy. This action was prompted by a major military conflict in the Middle East. Although hostilities have generally subsided, the underlying political dispute has not yet been resolved. Despite the intervening years and strengthened relations with Middle Eastern nations, the United States cannot discount the pos-

sibility of another political disagreement with the nations on which it depends for its oil supplies.

In addition, recent developments in Iran have highlighted the potential for internal domestic upheavals to disrupt oil supplies. As a result of the events beginning with a strike in October 1978, Iranian exports until very recently have been limited to small amounts of heavy residual oil not usable within Iran. Although Iranian oil exports have been renewed, the Iranian government has stated its intention to limit oil exports to 3 mmbpd, well below the 5 mmbpd level that prevailed before the interruptions. Even though Iranian oil accounted for only 5 percent of U.S. oil consumption prior to December 1978, Secretary Schlesinger recently indicated that the continued interruption of even this relatively less important U.S. supply source could require the U.S. to consider mandatory conservation measures. This assertion serves to emphasize, as the Central Intelligence Agency has noted, the vulnerability of the U.S. economy to supply disruption. See Appendix B—Compilation of Agency Submissions.

Furthermore, other types of supply interruption are possible. For example, six of the Middle Eastern nations which are major suppliers of oil to the U.S. ship their oil through the narrow Strait of Hormuz at the southern end of the Arabian Gulf.<sup>25</sup> This geographical situation alone renders this oil supply route vulnerable. Moreover, the producing nations themselves face a risk of terrorist action with attendant harm to oil production and shipment facilities. Indeed, the Central Intelligence Agency has stated:

There is a high probability that acts of nature, human error, or deliberately targeted terrorist attack will interrupt the flow of oil in one or more of the oil exporting nations during the next several years.

Interruptions of oil supply owing to guerrilla operations, acts of terrorism, or acts of nature are not likely, by themselves, to be of a magnitude and duration which would result in severe economic disruption of Free World economies, though they could exert strong upward pressure on prices in a tight world oil market. Extensive terrorist action against key oil storage and transportation facilities in the Persian Gulf could, in particular, significantly affect the market by substantially reducing oil supplies for the time required to put those facilities back into operation, which could be several months.

See Appendix B—Compilation of Agency Submissions.

According to the Defense Department:

The concentration of oil production facilities in the area presents the major physical risk. This creates a risk of interdiction, or even the risk of natural or accidental disturbances. The extensive damage in the Abqayq fires in May and June 1977, caused

by accident, highlights the fragility of these facilities. Destruction of key facilities could cause major interruptions of oil deliveries to the U.S. and to our NATO and Japanese allies which would adversely affect U.S. and Western World political, economic and military security.

See Appendix B—Compilation of Agency Submissions.

In short, the overall potential for an embargo or other interruption has not decreased since the embargo of 1973, nor since the 1975 finding by the Secretary of the Treasury that such a risk threatened to impair the national security. On the contrary, developments in Iran demonstrate that U.S. oil imports can be seriously affected by internal disruptions in a country even if it is not a primary supplier of the U.S. oil imports. Disruption in any source of supply serves to concentrate U.S. reliance on the other supply sources and, at a minimum, leads to unscheduled price increases, thereby increasing the nation's vulnerability.

**Strategic petroleum reserve only recently initiated.** Congress has ordered the establishment of a Strategic Petroleum Reserve (SPR)<sup>26</sup> to reduce the impact of a potential interruption. However, the reserve currently contains only about 77 million barrels, or 7.7 percent of the one billion barrel goal proposed by the Department of Energy for 1985.<sup>27</sup>

**International Energy Agency Sharing Plan gives limited protection.** To minimize the effect on member countries of oil shortages created by an embargo or other circumstances, the United States and the 19 other International Energy Agency (IEA) member countries have agreed to an International Energy Program under which allocation of oil and mandatory demand and restraint measures can be triggered when the group as a whole sustains a 7 percent reduction in oil import supplies or when any one country (or group of countries) sustains a 7 percent reduction in its oil supplies.<sup>28</sup> Each country is required to have demand restraint mechanisms in place that are capable of reducing its oil consumption by 7 percent—about three and one half mmbpd for the IEA countries as a group—based on IEA estimates of probable 1980 consumption. The supply sharing mechanism is coupled to the activation of the demand restraint program. In addition, countries have the obligation to build stocks equivalent to 60 days of imports.

The interruption of Iranian oil exports has not led to activation of the IEA oil-sharing agreement. Nevertheless, IEA member countries are greatly concerned regarding the current situation in the oil market, which has brought severe pressure on prices. Accordingly, the IEA Governing Board,

meeting on March 1-2, 1979, agreed that IEA countries would promptly reduce their demand for oil on the world market by about 2 mmbpd. This amount corresponds to about 5 percent of IEA consumption. The share of the U.S. in this reduction would be just under one mmbpd.

The degree of protection afforded by the combined SPR and IEA sharing plans depends on a number of variables, including the amount of oil stored at the time of any interruption, as well as the magnitude and length of the interruption. The current level of protection afforded by the existing SPR and contingency conservation plans is limited. Because of the relatively small inventory in the SPR at the present time, conservation contingency plans take on added significance as a means of meeting our March 2 commitment to the IEA or, more generally, our potential commitment under the provisions of the IEA. Besides measures to reduce oil consumption by encouraging the use of natural gas, which is temporarily in surplus, and by shifting to non-oil generated electric power, the Administration has submitted to Congress for approval three contingency conservation plans. These three conservation plans, which were submitted on March 1, are estimated to save as much as 614,000 bpd. It is anticipated that these demand restraint plans will play a significant part in achieving the consumption reduction agreed upon on March 2 or in meeting our obligations in case of activation of the international sharing plans.

**Impact of the National Energy Act on oil imports.** It is estimated the National Energy Act will save between 2.4 and 3.0 mmbpd of oil imports by 1985. Sizeable savings will occur from the displacement of imported oil by additional supplies of domestically produced natural gas. This potential displacement is estimated to be in excess of one mmbpd. Increased gas supplies are anticipated to result primarily from provisions in the National Energy Act which raise the prices of natural gas and permit tapping supplies, formerly available only to the intrastate market, for the interstate market.

At the beginning of 1979 there were variously estimated to be between 1 and 1.4 trillion cubic feet of additional natural gas supplies immediately available as a result of the National Energy Act.<sup>29</sup> If these supplies were promptly put to use, they could displace over 500,000 bpd of imported oil for the next two or three years. However, there is uncertainty as to how much oil consuming equipment can be physically converted to use the additional gas and whether or not such conver-

sion will be practical for the short term.

In summary, while the provisions of the National Energy Act are estimated to reduce oil imports by about 2.5 mmbpd by 1985, for the immediate future, reductions in oil use will be modest and will not significantly lessen U.S. vulnerability to disruptions in foreign supply.

**Limited possibilities for the development of alternative energy sources.** Despite national programs to encourage use of alternative energy sources, immediate savings from conversion to other fuels are limited by the time required to change existing energy-using capital stock, i.e., industrial equipment, buildings, and transportation vehicles. For example, the conversion of industrial plants and electric utilities from oil and gas use to coal is slow, costly and constrained by environmental considerations. Thus, despite the recent emphasis on shifting the source of energy in major oilburning installations, the use of oil in utility plants increased from 396 mmb in 1971 to 624 mmb in 1977.<sup>30</sup>

In the last decade, nuclear generating capability has grown, but nuclear power's share of domestic energy production remains small. The power generated from nuclear plants increased from 38.1 billion kilowatt hours in 1971 to 250.9 billion kilowatt hours in 1977.<sup>31</sup> Even so, nuclear sources provide only about 4 percent of total energy production.<sup>32</sup> As the United States' nuclear capability increases, demand for oil and gas by utilities may decline, but at a slow rate. In addition, the lead time currently required for placing a nuclear power plant in operation is 10-12 years.<sup>33</sup> Overall, the provisions of the National Energy Act anticipated that nuclear power would reach an oil equivalent of 3.8 mmbpd by 1985, up from 1.0 mmbpd oil equivalent in 1976.<sup>34</sup> However, more recent projections of nuclear power generation provided by the Energy Information Administration to Congress are somewhat lower.<sup>35</sup>

To date, renewable sources of energy, such as solar, wind, and geothermal, have not made significant contributions as substitutes for oil and gas. The 1977 National Energy Plan forecasts that these domestic energy supplies will increase from 1.5 mmbpd of oil equivalent in 1976 to 1.7 mmbpd oil equivalent in 1985.<sup>36</sup> This increase of only 200,000 bpd of oil equivalent indicates that any significant energy contribution from such new sources will not take place until after 1985.

**Expanded domestic production hampered under current conditions.** Domestic production of crude oil has declined, from a peak of 9.6 mmbpd in 1970 to 8.7 mmbpd in 1978, despite the addition of production from the Alas-

kan North Slope.<sup>37</sup> Production from Alaska began in 1977 and by 1978 reached the current design capacity of the Alaskan pipeline of 1.2 mmbpd. Absent further incentives for the sale of Alaskan crude, production is estimated to remain at this level offering no further offset to the decline in production in the lower 48 states.

Of particular concern is the rapid decline of lower tier "old" oil production under the current pricing structure. The production of old oil is important because it constituted over 50 percent of domestic production at the beginning of 1977.<sup>38</sup>

Production of old oil was projected to decline from 3.5 mmbpd in 1978 to 1.95 mmbpd by 1985, an annual decline rate of 8 percent over the seven year period.<sup>39</sup> However, Treasury studies have placed the actual annual decline rate for old oil at over 16 percent for the 12 month period beginning in December 1977. Decline rates are greatly influenced by the economics of production which may account for the abnormally high rates experienced in recent months.

Proven domestic reserves of crude oil have declined steadily from 39 billion barrels in 1970 (at the time of the Alaskan North Slope discovery) to an estimated 29.5 billion barrels at the end of 1977.<sup>40</sup> Moreover, subsequent to the discovery of oil at Prudhoe Bay, the new reserves added each year have not equaled annual production. The outlook for discovering significant quantities of new domestic petroleum reserves is uncertain from a geological standpoint.<sup>41</sup> Undiscovered oil resources in the U.S. are estimated to range from 46 to 143 billion barrels with a median amount of roughly three times the current proven reserves.<sup>42</sup> New reserves can only be proven by drillings. In addition, there is a significant potential for enhanced recovery from known deposits of oil.

Domestic production from existing wells has been hampered by price regulations that discourage some categories of marginal production. There are indications that at \$15 per barrel (1976 \$), enhanced production may amount to as much as 1.5 mmbpd by 1990.<sup>43</sup> In addition, the entitlements program, designed to equalize the price of imported and domestic crude oil to domestic refiners, has in fact encouraged oil consumption by indirectly subsidizing purchasers of foreign oil.<sup>44</sup>

Under the current pricing structure, there appears little prospect for substantially increasing oil production or even stemming the natural decline of old oil. On the other side of the supply-demand system, conservation measures taken to date have not been sufficient to slow the rise in demand adequately. Thus, the nation's current prospects of reducing its vulnerability



to interruptions in oil imports are not promising.

4. The impression of vulnerability created by the nation's seeming inability to control its increasing dependence on oil imports directly affects the nation's defense and foreign policy.

The United States' increasing reliance on foreign oil is perceived by its industrialized allies, the developing world, the Soviet bloc and the oil exporting countries themselves both as a sign of weakness and of a lack of internationally cooperative behavior. This perception works to the nation's disadvantage in terms of its national defense and its foreign policy.

**National Defense.** The Department of Defense has described the national defense impact of the nation's dependence on imported oil:

The threatened impairment of the national security must be assessed not only in terms of the domestic capability to support national defense needs . . . but also in terms of international perceptions. Other countries make decisions on foreign relations and defense matters based upon their perception of our strengths. The impact of petroleum import . . . (dependency) on the United States could alter these perceptions significantly causing them to misjudge U.S. intentions. Such decisions would affect directly the security of the United States.

See Appendix B—Compilation of Agency Submissions.

The State Department concurred that dependence impairs the national defense:

Our treaty obligations, particularly those that relate to mutual security, require the United States to be able to conduct an effective defense of its own interest and to make an effective contribution to the defense of its allies. Heavy dependence on imported oil can create doubts about our ability to sustain prolonged conflicts and assist our allies in an optimum way.

See Appendix B—Compilation of Agency Submissions.

**Foreign policy.** The dependence of the nation on imported oil also adversely affects its ability to achieve its foreign policy objectives and fulfill its international obligations. Other countries may doubt this country's resolve to fulfill political commitments or respond to challenges when the contingencies to which it may have to respond could affect the availability of oil. Respect for the United States' ability to take charge of its energy problem is critical to maintaining a position of world leadership. The State Department reported:

It is our view that the current oil import situation impairs our ability to achieve our foreign policy objectives, both economic and political . . . Moreover, the way in which we deal with this situation is widely regarded by other countries as a test of United States leadership and determination to play a constructive role in international relations.

See Appendix B—Compilation of Agency Submissions.

5. Conclusion. The nation's current and projected dependence on foreign oil is appreciably greater than when past findings determined that dependence on foreign oil threatened the national security. The risk of interruption has not significantly lessened, and measures to reduce substantially the impact of interruption are not yet in place. The threat to the national security is thus greater now than at any time in the past.

### III. THE MONETARY REPERCUSSIONS OF EXCESSIVE DEPENDENCE ON IMPORTED OIL THREATEN TO IMPAIR THE NATIONAL SECURITY<sup>45</sup>

1. The efforts of the U.S. to strengthen the dollar at home and abroad are being hampered by the excessive dependence on imported oil.

**Efforts to strengthen the dollar.** Although the United States is pursuing a broad array of policies to establish the fundamental economic conditions for a strong dollar, these efforts are being hampered by excessive dependence on imported oil. A program of monetary and fiscal restraint, supplemented by voluntary wage-price programs, is being implemented to bring inflation down and achieve a more sustainable economic expansion. This will contribute to a substantial reduction in the U.S. trade and current account deficits, which is a prerequisite for the maintenance of a strong and stable dollar. A new export promotion program is expected to help increase exports further. However, curbing this country's reliance on imported oil is essential to any major and lasting improvement. As pointed out in a previous section, the actual cost of annual oil imports increased nearly thirty-fold from 1959 to 1978, from \$1.5 billion to about \$42 billion. In 1978, oil imports represented roughly 25 percent of the total imports of the United States and amounted to about one and a quarter times the total merchandise trade deficit.

In 1979, oil import costs are expected to rise substantially. The December 1978 OPEC price hike alone will add about \$4 billion to the cost of U.S. oil imports during 1979 and even more in 1980. The disruption in world supply patterns due to political developments in Iran has already led to some further price rises and created the risk of substantial increases.

The continuing excessive dependence on imported oil is making it more difficult to achieve U.S. economic objectives. The rising price of imported oil increases inflationary pressures by directly raising costs and by heightening inflationary expectations. Uncertainties about supplies and costs hamper confidence and inhibit invest-

ment required for non-inflationary growth. The growth of oil imports puts greater adjustment burdens on other elements of the U.S. balance of payments since it greatly increases the need for expansion of exports or decreases in other imports. With reduced dependence on oil imports, the U.S. economy could maintain appropriate levels of growth and grow faster with a lower inflation rate and a stronger dollar.

**Exchange market perceptions.** Because of its impact on the U.S. trade and current account deficits, excessive and growing U.S. dependence on oil imports increases the danger of reduced confidence in the dollar and makes the dollar more vulnerable to downward pressures in the foreign exchange market.

If downward pressures on the dollar were to become so severe as to damage world confidence in the dollar, the national security of the United States would be impaired. The dollar serves as the principal international currency for the world economy. The dominant share of world trade is denominated in dollars. About three-fourths of all medium- and long-term borrowing in international capital markets is in dollars. The IMF indicates that nearly 80 percent of official foreign currency reserves held by foreign central banks is in dollars. Thus, loss of confidence in the dollar, if widespread, would be likely to precipitate sudden and large-scale international capital flows in ways which would be disruptive to the banking system and world financial markets. The danger of resort to restrictive measures which would jeopardize the open trade and payments system would be greatly increased.

As the Federal Reserve Board has indicated:

Concern about the U.S. deficit and the international value of the dollar could lead holders of dollars to undertake reductions in their dollar assets. Exchange market uncertainties would thereby be heightened and instability increased. It is, therefore, necessary to demonstrate our resolve to contain our oil imports and to help avoid the economic disruption that could follow from such portfolio shifts.

See Appendix B—Compilation of Agency Submissions.

Chairman Miller of the Federal Reserve Board has noted the relationship between the exchange value of the dollar and the health of the U.S. economy:

At current quantity and price levels, imported petroleum is a major factor in the large U.S. trade and current account deficits. This has contributed to the substantial depreciation of the dollar in relation to other major currencies. Such depreciation adds to domestic inflation, fosters higher U.S. interest rates, creates instability in the international financial markets, and threatens further increases in international oil

prices. These in turn foster conditions that could lead to lower domestic economic activity and higher unemployment.

See Appendix B—Compilation of Agency Submissions.

Moreover, the world associates a strong currency with a strong country. The United States' relations with other nations and its ability to exercise leadership in political and military affairs are closely linked to confidence in the dollar.

According to the Department of State:

Our high level of oil import dependence has contributed substantially to a current account deficit that has reduced international confidence in the dollar. This in turn has created difficulties in achieving the maximum degree of international cooperation to further our objective of promoting a stable, balanced recovery of the world economy . . .

See Appendix B—Compilation of Agency Submissions.

### 2. Conclusion.

A perception of continued inability of the nation to resolve its oil import problem could have significant consequences for the value of its currency and could thus seriously harm the nation's economic welfare. Such a perception, therefore, threatens to impair the national security.

### IV. FINDINGS

This investigation has established that:

- U.S. dependence on foreign oil has increased since 1975 and there has been no change in the risks of interruption, resulting in a greater threat to the national security than before;

- The monetary repercussions accompanying the growing dependency on imported oil constitute a threat to the national security, even apart from the possibility supply interruptions.

ROBERT H. MUNDHEIM,  
General Counsel,  
Department of Treasury.

MARCH 14, 1979.

### FOOTNOTES

<sup>1</sup>The 1959 finding was announced in Presidential Proclamation 3279, on March 10, 1959, 24 Fed. Reg. 1781 (1959). The 1975 Treasury finding appeared as U.S. Dep't of Treasury, Report on Investigation of Effect of Petroleum Products on the National Security pursuant to Section 232 of the Trade Expansion Act, as amended, 40 Fed. Reg. 4467 (1975).

<sup>2</sup>See Presidential Proclamation 3279, 24 Fed. Reg. 1781 (1959) as amended (quotas), modified by Presidential Proclamation 4210, 38 Fed. Reg. 9645 (1973) (license fees). The supplemental license fees imposed by President Ford following the 1975 finding were subsequently revoked.

<sup>3</sup>FEA v. Algonquin SNG Inc., 426 U.S. 548 (1976).

<sup>4</sup>President's Special Committee to Investigate Crude Oil Imports, Report to the President, March 6, 1959.

<sup>5</sup>Presidents' Special Committee to Investigate Crude Oil Imports, Report to the President, July 29, 1957.

<sup>6</sup>U.S. Dep't of Treasury, Report, *supra* note 1.

<sup>7</sup>Department of Energy Organization Act, Pub. L. No. 95-91, Sec. 101, 91 Stat. 567 (to be codified at 42 U.S.C. sec. 7112 (1977)).

<sup>8</sup>Emergency Petroleum Allocation Act of 1973, sec. 2, 15 U.S.C. sec. 751 (1973).

<sup>9</sup>National Energy Conservation Policy Act of 1978, Pub. L. No. 95-619, sec. 102, 92 Stat. 3206. (to be codified at 42 U.S.C. 820 (1978)).

<sup>10</sup>3 (1977) Energy Information Adm. Ann. Rep. to Cong. 23 (hereinafter cited as EIA Annual Report). Imports for 1975 and 1978 are on balance of payments basis, derived from Bureau of Census statistics and covering imports from foreign countries into U.S. Customs territory plus the Virgin Islands and Guam; data obtained from Balance of Payments Division, Bureau of Economic Analysis, Department of Commerce.

<sup>11</sup>Data from Monthly Energy Review, Feb. 1979, at 30, adjusted to a balance of payments basis.

<sup>12</sup>For 1959, see EIA Annual Report, *supra* note at 5, 23. For 1978, see Monthly Energy Review, Feb. 1979, at 4, 30, adjusted to a balance of payments basis.

<sup>13</sup>Data by source are from Department of Energy and differ slightly from balance of payments data. For 1978 data, see Letter from Deputy Secretary of Energy John O'Leary to Secretary of Treasury W. Michael Blumenthal (March 9, 1979). For 1975 data, see Monthly Energy Review, May 1978, at 12, 14. For 1959 data, see Independent Petroleum Association of America, United States Petroleum Statistics 1978 (preliminary). The 1959 data are for countries which are not OPEC members. Estimated indirect imports for all year have been included.

<sup>14</sup>Monthly Energy Review, Feb. 1979, at 30, adjusted to a balance of payments basis.

<sup>15</sup>Production data based on first 9 months of 1977 and 1978. See U.S. Dep't of Energy, Energy Data Reports, Petroleum Statement, Monthly, Sept. 1978, at 7.

<sup>16</sup>American Petroleum Institute, Estimated U.S. Supply/Demand Situation, June 1978, at 2.

<sup>17</sup>U.S. Dep't of the Interior, Energy Perspectives II, June 1976, at 191.

<sup>18</sup>*Id.* at 194.

<sup>19</sup>Canadian National Energy Board, Report, "In the Matter of Exportation of Oil," October 1974, 4-7.

<sup>20</sup>Data are Department of the Treasury estimates, based on information supplied by Department of Energy and the Central Intelligence Agency. Includes both direct and indirect imports.

<sup>21</sup>An indication of productive capacity can generally be estimated from the proven reserves. It should be noted that the Middle East contains approximately 385 billion barrels of proven crude oil reserves. This is almost 60% of the entire world's reserves. Within the Middle East, Saudi Arabia, Kuwait and Iran have 281 billion barrels. These three countries dwarf the rest of the world in their current reserves. By contrast, the reserves of Indonesia are only 14 billion barrels; Nigeria, 19 billion barrels; and Venezuela, 14 billion barrels. See "Estimated Proved and Provable Petroleum Reserves," in Central Intelligence Agency, International

Energy statistical Review, Feb. 7, 1979 at 4.

<sup>22</sup>Mexican exports to the U.S. constituted 0.3 percent of U.S. oil imports in 1973, about 2 percent in 1977, and are expected to continue to rise in the future. See Monthly Energy Review, May 1978, at 12, 14.

<sup>23</sup>Unit value for 1959 is for crude oil only; those for 1975 and 1978 cover crude and products. Data are based on Bureau of Census import statistics, and were obtained from Balance of Payments Division, Bureau of Economic Analysis, Department of Commerce.

<sup>24</sup>Balance of Payments basis. Represents Bureau of Census statistics covering imports from foreign countries into U.S. Customs territory plus the Virgin Islands and Guam.

<sup>25</sup>Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and United Arab Emirates.

<sup>26</sup>Energy Policy and Conservation Act, secs. 151-166, 42 U.S.C. secs. 6231-46 (1976).

<sup>27</sup>The Department of Energy's Strategic Petroleum Reserve Plan, amendment no. 2 to increase the size to one billion barrels became effective June 13, 1978.

<sup>28</sup>Agreement on an International Energy Program, Brussels, September 27, 1974, ch. IV.

<sup>29</sup>See, e.g., Section 232 Investigation Comment of American Gas Association dated February 21, 1979 (on file at U.S. Dep't of Treasury).

<sup>30</sup>Monthly Energy Review, May 1978, at 38.

<sup>31</sup>See EIA Annual Report, *supra* note 10, at 5.

<sup>32</sup>Monthly Energy Review, Feb. 1979 at 6.

<sup>33</sup>The Administration supported a nuclear siting and licensing bill in Congress which would reduce lead time to 6-7 years. H.R. 11704, 124 Cong. Rec. H. 2,298 (daily ed. March 21, 1978). The Administration anticipates introducing a similar bill in the near future.

<sup>34</sup>Executive Office of the President, National Energy Plan, April 29, 1977, at 95 (hereinafter cited as the NEP).

<sup>35</sup>According to the NEP, nuclear power will equal 24.5 percent of total electricity generated in 1985. NEP, *supra* note 32, at 95. The EIA forecasts 19 percent nuclear power for slightly less electricity generated in 1985. 2 EIA Annual Report, *supra* note 10, at 215.

<sup>36</sup>NEP, *supra* note 35, at 96.

<sup>37</sup>For 1970 data, see 3 EIA Annual Report, *supra* note 10, at 23; includes lease condensate. For 1978 data, see Monthly Energy Review, Feb. 1979, at 28.

<sup>38</sup>Monthly Energy Review, Feb. 1979, at 76.

<sup>39</sup>2 EIA Annual Report, *supra* note 10, at 139 (table 6.9).

<sup>40</sup>American Petroleum Institute, Reserves of Crude Oil, Natural Gas Liquids and Natural Gas in the United States and Canada as of Dec. 31, 1977 24 (1978).

<sup>41</sup>2 EIA Annual Report, *supra* note 10, at 149 (figure 6.3).

<sup>42</sup>2 EIA Annual Report, *supra* note 10, at 149 (table 6.14).

<sup>43</sup>National Petroleum Council, Enhanced Oil Recovery, Dec. 1976, at 6 (figure 2).

<sup>44</sup>Entitlements essentially average the cost of crude oil to refiners. Higher priced imported oil is averaged in with lower priced, price-controlled domestic oil. The cost to refiners of a composite barrel is approximately \$2/bbl. less than the cost of imported oil.



\*The data in this section were developed by the Office of International Monetary Affairs, Department of Treasury.

#### APPENDIX A—ORDER INITIATING INVESTIGATION

Memorandum for Robert Mundheim, General Counsel

SUBJECT: REQUEST FOR SECTION 232 INVESTIGATION

MARCH 15, 1978.

Pursuant to my authority under Section 232 of the Trade Expansion Act, 19 U.S.C. section 1862, I request that you immediately initiate an investigation to determine whether imports of petroleum and petroleum products threaten to impair the national security.

Since the investigation is being initiated only for contingency purposes at this time, it should be conducted on a confidential basis by selected persons within the Treasury Department. Other Departments and agencies should be consulted as appropriate in the future.

In my judgment, national security interests require that an opportunity for public comment should not be afforded in this case. Accordingly, I exercise my discretion under section 232, reflected in Treasury Regulations 31 CFR sections 9.7 and 9.8, to proceed without public notice, hearings, or opportunity for comment. Therefore, I request that you dispense with these procedures and proceed immediately with the investigation.

W. MICHAEL BLUMENTHAL.

#### APPENDIX B—COMPILATION OF AGENCY SUBMISSIONS

##### INDEX

1. February 12, 1979 submission of Board of Governors of the Federal Reserve System.
2. February 23, 1979 submission of the Central Intelligence Agency.
3. February 26, 1979 submission of the Department of Defense.
4. March 9, 1979 submission of the Department of Energy (including Appendices A through G).
5. February 9, 1979 and April 3, 1978 submission of the Department of State.
6. October 26, 1978 submission of the Department of Transportation.
7. February 12, 1979 revision of September 11, 1978 submission of the Council of Economic Advisers.
8. February 12, 1979 submission of the Department of the Interior.
9. April 24, 1978 submission of the Department of Labor.
10. September 14, 1978 submission of the Department of Commerce.

#### NOTICES

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#### BOARD OF GOVERNORS, OF THE FEDERAL RESERVE SYSTEM

Washington, D.C.  
February 12, 1979.

The Honorable W. MICHAEL BLUMENTHAL, Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR SECRETARY BLUMENTHAL: In response to your request, the following comments are being submitted on behalf of the Federal Reserve Board to assist in an investigation by the Secretary of the Treasury under Section 232(b) of the Trade Expansion Act of 1962 with respect to U.S. imports of petroleum and petroleum products.

In particular, you have asked for an analysis of the impact of petroleum imports on (1) the domestic economy, including growth, employment and inflation, (2) the U.S. balance of payments and the value of the dollar in foreign exchange markets, and (3) the stability of the domestic and international financial system generally.

##### General Discussion

(1) Prior experience indicates the adverse effects on the U.S. economy of excessive reliance on foreign sources for the oil upon which our economy critically depends. In a matter of months, the 1973-74 oil embargo disrupted the world economy with serious direct and indirect repercussions on U.S. economic activity, production and employment. The current disruption of Iranian production and exports of oil has once again illustrated our vulnerability. The continuing risk of supply interruption is a serious threat to the U.S. economy and thus to U.S. national security. The U.S. program for stockpiling oil, while providing some short-term protection, would not eliminate this risk.

(2) International petroleum prices, which are set in terms of U.S. dollars, are now at a level more than six times that prevailing in mid-1973. Further price increases have already occurred in 1979 and additional substantial price increases are scheduled for later in the year. These increases could well be larger if oil supplies from Iran remain sharply curtailed.

(3) Increases in the price of imported petroleum—an essential commodity in the U.S. economy—have contributed directly and indirectly to inflationary pressures in the United States. High or accelerating rates of inflation can lead to a slackening in economic activity through adverse effects on real personal income, expectations and markets. These effects can pose a threat to economic stability.

(4) Even at current prices, oil imports have been a substantial factor

contributing to the emergence of a very large U.S. trade deficit. The U.S. oil import bill is now running at an annual rate of over \$40 billion, up from \$8½ billion in 1973; oil imports now constitute one-quarter of the dollar value of U.S. imports. The trade balance, meanwhile, has moved from an approximate balance in 1973 to a deficit of almost \$35 billion in 1978. Although the trade deficit was reduced in the last three quarters of 1978, and a significant further improvement is in prospect for 1979, the trade deficit will remain large.

(5) Large U.S. trade deficits have contributed to an environment in which the dollar depreciated in 1978 by over 10 per cent against major foreign currencies in often disorderly trading conditions. This decline in the foreign exchange value of the dollar has increased uncertainty in world financial markets and inhibited the development of conditions conducive to world economic growth. If severely unsettled exchange market conditions were to reemerge, the risk is increased of potential capital outflows that would exert additional downward pressure on the dollar, with it associated inflationary implications. The depreciation of the dollar from mid-1977 through most of 1978 added about 1 per cent to U.S. price inflation last year, and the lagged effects of the depreciation will add further to our inflation problem in 1979 and 1980. Moreover, the depreciation of the dollar was apparently a consideration influencing OPEC to schedule substantial price increases for 1979. The November 1 actions have helped to correct the excessive decline in the dollar's international value and to restore a measure of stability to exchange markets. Fundamental corrective steps must continue to be pursued to deal effectively with those conditions that have depressed the dollar. Reduction in U.S. dependence on imported oil represents one such fundamental corrective step.

(6) The U.S. dollar plays a major world role as a reserve asset and as a medium for investments and other transactions. Concern about the U.S. deficit and the international value of the dollar could lead holders of dollars to undertake reductions in their dollar assets. Exchange market uncertainties would thereby be heightened and instability increased. It is, therefore, necessary to demonstrate our resolve to contain our oil imports and to help avoid the economic disruption that could follow from such portfolio shifts.

(7) Large U.S. current-account deficits not only contribute to downward pressure on the dollar but also create economic uncertainties and expectations of future declines in the value of

the dollar. The present situation has fostered protectionist pressures both here and abroad. The rest of the world is looking to the United States to limit its demand for petroleum. If we fail to do so, U.S. credibility and leadership will be weakened with adverse implications for our foreign policy.

##### Conclusion

An adequate and secure supply of petroleum and petroleum products is critical to the functioning of the U.S. economy now and in the foreseeable future. The United States is currently heavily dependent upon imports in order to fulfill that critical need, and such dependence threatens to impair our national security because:

(a) Even at current quantity and price levels, imported petroleum is a major factor in the large U.S. trade and current account deficits. This has contributed to the substantial depreciation of the dollar in relation to other major currencies. Such depreciation adds to domestic inflation, fosters higher U.S. interest rates, creates instability in the international financial markets, and threatens further increases in international oil prices. These in turn, foster conditions that could lead to lower domestic economic activity and higher unemployment.

(b) Requirements for higher quantities of oil or imposition of higher oil prices will aggravate these adverse conditions.

(c) An embargo of the type experienced in 1973-74, or a similar interruption in the supply of imported oil, would adversely affect the U.S. economy.

(d) The November 1 actions to correct the excessive depreciation of the dollar have had beneficial effects, but continuing corrective steps are necessary to ensure the dollar's stability.

All this indicates the need to reduce the U.S. dependence on imported petroleum and petroleum products. Please let me know if you desire further data or analysis.

Sincerely,

G. WILLIAM MILLER,  
Chairman.

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#### CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C.,  
February 23, 1979.

The Honorable ROBERT H. MUNDHEIM, General Counsel, Department of the Treasury, Washington, D.C.

DEAR MR. MUNDHEIM: In response to your letter of 6 February 1979, relating to the investigation of US imports of petroleum and petroleum products under Section 232 of the Trade Expansion Act, we are forwarding an update of the analysis we provided you on 16

#### NOTICES

May 1978 addressing the impact of oil imports on national security.

We stand by our previous conclusion that the economy of the United States is critically dependent on oil imports. Imports of crude oil and petroleum products accounted for 42 percent of US oil consumption during the first half of 1978. Total imports for the year are estimated at 8.2 million b/d, 44 percent of consumption. This dependence is expected to increase further in the years ahead as Alaskan oil production levels off and output in the lower 48 states continues its downward trend.

As you requested we have also included a brief unclassified assessment of the current Iranian situation for your use. Although Iran provided only 5 percent of US oil consumption during the first half of last year, the recent disruption in Iranian oil supplies clearly points up the vulnerability of the US economy to supply disruption. We have also enclosed an update of the table provided earlier indicating the major countries exporting oil to the United States. The data in the table includes both direct and indirect US oil imports.

Yours,

FRANK C. CARLUCCI,  
Director.

Enclosure:  
As stated.

#### Section 232 Investigation on Petroleum Imports

In 1978 the United States imported 8.2 million b/d—44 percent of total oil consumption. During first-half 1978, the latest six-month period for which country data are available, more than 40 percent of US direct and indirect oil imports originated in Arab countries. In 1970 the US was dependent on oil imports for only 22 percent of oil consumption and only 11 percent of the oil imports originated in Arab countries.

As demonstrated by recent events in Iran, oil supply interruptions can emerge from political upheavals among the governments of major oil producers in the Persian Gulf. The probability that another oil exporter may suddenly undergo an unsettling change in the next several years is hard to assess. But, should a political discontinuity occur, one possible consequence would be a reduction, for an indeterminate period of time, in oil output. The underlying motivations of the new leadership in such a contingency could range from the desire to conserve resources, to the desire to pressure importers to act on some issue of interest to the oil exporter.

#### Accidents and Terrorist or Guerrilla Action

There is a high probability that acts of nature, human error, or deliberately targeted terrorist attack will interrupt the flow of oil in one or more of the oil exporting nations during the next several years.

Interruptions of oil supply owing to guerrilla operations, acts of terrorism, or acts of nature are not likely, by themselves, to be of a magnitude and duration which would result in severe economic disruption of Free World economies, though they could exert strong upward pressure on prices in a tight world oil market. Extensive terrorist action against key oil storage and transportation facilities in the Persian Gulf could, in particular, significantly affect the market by substantially reducing oil supplies for the time required to put those facilities back into operation, which could be several months.

#### Regional War

Recent history provides many examples of practical cooperation among the states of the Persian Gulf, but there are a number of regional territorial and political disputes involving Middle Eastern oil exporting nations that could escalate to armed conflict, including insurrections, guerrilla wars, and more conventional international wars. The concentration and physical vulnerability of production and transportation facilities in the area are so high that some damage to facilities is likely to occur, resulting in a decline in oil production in the area of hostilities. In the principal Middle Eastern oil producing nations a reduction of production by one-fourth would have a significant impact on the dependent Free World within three months or so.

#### Communist Countries

At present, the USSR and China do not have the US vulnerability to oil supply interruption. Both countries are net exporters of petroleum. In 1977, the USSR exported more than 3 million b/d, almost half to non-Communist countries. China exported about 200,000 b/d in 1977.

#### The Iranian Situation

The interruption of Iranian oil production and exports has demonstrated the vulnerability of oil consumers to disruptions in the oil exporting nations. Iran has produced less than 1 million b/d since late December 1978, instead of the 5-6 million b/d that would have been expected under normal circumstances. The shortfall has been only partially offset by other producers. Saudi Arabia is averaging about 1 million b/d more than would have been expected, and other OPEC



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producers are producing about 1 million b/d above the level anticipated.

Spot market prices have climbed sharply during the prolonged cutoff in Iranian oil supply, prompting several OPEC members to increase their selling prices over and above the increase in 1979 oil prices already scheduled. Many OPEC countries are selling increasing quantities of crude at spot prices; Saudi Arabia is selling part of its production at fourth quarter 1979 prices.

Unless substantial Iranian oil production and exports are restored or Free World oil consumption is restrained, severe market pressures could arise as early as second quarter 1979, and the situation could become critical by the winter of 1979/80. Companies will probably hold on to their stocks—many, including those with relatively little dependence on Iran, have already cut back their deliveries substantially—forcing an adjustment in consumption. This process would include higher prices as well as informal rationing by the companies. Government conservation measures would probably also be required.

We expect a tight oil situation to continue for the next several years. The new Iranian leadership, apparently intending to pursue a more moderate development strategy than the Shah's regime, probably will produce less oil than in the past. It will also support OPEC oil price hikes, adding to the bargaining strength of the OPEC hawks. Rising prices, of course, will restrain oil consumption, but at the cost of reduced economic growth.

## NOTICES

## Direct and Indirect US Oil Imports by Source

|                      | (Thousand b/d) |         |       |         |                           |
|----------------------|----------------|---------|-------|---------|---------------------------|
|                      | 1975           | % Total | 1977  | % Total | 1978 <sup>1</sup> Jan-Jun |
| Algeria              | 290            | 4.8     | 565   | 6.5     | 684                       |
| Iraq                 | 10             | 0.2     | 105   | 1.2     | NA                        |
| Kuwait               | 30             | 0.5     | 60    | 0.7     | NA                        |
| Libya                | 330            | 5.5     | 845   | 9.7     | 707                       |
| Qatar                | 90             | 1.5     | 100   | 1.1     | NA                        |
| Saudi Arabia         | 850            | 14.1    | 1,545 | 17.7    | 1,220                     |
| United Arab Emirates | 170            | 2.8     | 430   | 4.9     | 478                       |
| Arab Members of OPEC | 1,770          | 29.4    | 3,650 | 41.8    | 3,257                     |
| Ecuador              | 70             | 1.2     | 65    | 0.7     | NA                        |
| Gabon                | --             | --      | 55    | 0.6     | NA                        |
| Indonesia            | 450            | 7.5     | 615   | 7.0     | 575                       |
| Iran                 | 500            | 8.3     | 815   | 9.3     | 920                       |
| Nigeria              | 820            | 13.6    | 1,255 | 14.4    | 903                       |
| Venezuela            | 1,040          | 17.2    | 895   | 10.2    | 872                       |
| OPEC                 | 3,810          | 63.2    | 7,350 | 84.1    | 6,639                     |
| Canada               | 800            | 13.3    | 460   | 5.3     | 463                       |
| Mexico               | --             | --      | 180   | 2.1     | 244                       |
| Others               | 580            | 9.6     | 750   | 8.6     | NA                        |
| TOTAL                | 6,030          | 100.0   | 8,740 | 100.0   | 7,912                     |
|                      |                |         |       |         | 100.0                     |

1. Estimated. Imports for strategic petroleum reserve included in total but not in data for individual countries.

2. The decline in imports is due primarily to increased availability of Alaskan oil during first half 1978. Imports for the entire year are estimated at 8.2 million b/d, but data are unavailable by source.



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ASSISTANT SECRETARY OF DEFENSE,

Washington, D.C. 20301,

February 26, 1979.

Hon. ROBERT H. MUNDHEIM,  
General Counsel, Department of Treasury,  
Washington, D.C.

DEAR MR. MUNDHEIM: This is in response to your February 6, 1979, letter which requested Department of Defense comments on the impact of oil imports on the national security of the United States. You requested our comments in connection with an investigation you are conducting pursuant to Section 232(b) of the Trade Expansion Act of 1962. This letter confirms the conclusions stated in our classified report to you on this subject on September 12, 1978.

The Department of Defense concludes that imports of petroleum in current quantities make us vulnerable to energy supply disruptions. Such disruptions could threaten the national security of the United States. We base this conclusion on analysis of two aspects of the national security: the potential domestic effects of disruption of normal levels of petroleum imports, and the way in which foreign governments, when making decisions on foreign affairs and defense matters, perceive the United States' dependence on oil imports. These analyses are summarized below.

#### I. Potential Domestic Effect on Defense Capability Due to Disruption of Normal Levels of Petroleum Imports

We evaluated two separate factors: first, the risk that there will be a disruption; and second, the domestic effects that will ensue if there is a disruption.

##### A. Risk of disruption

The Department of Defense has analyzed the risk of disruption. We are following closely the impact of the various situations in the Middle East on the nation's petroleum supply. The concentration of oil production facilities in the area presents the major physical risk. This creates a risk of interdiction, or even the risk of natural or accidental disturbances. The extensive damage in the Abqayq fires in May and June 1977, caused by accident, highlights the fragility of these facilities. Destruction of key facilities could cause major interruptions of oil deliveries to the U.S. and to our NATO and Japanese allies which would adversely affect U.S. and Western World political, economic and military security.

Many ideological disputes in the Middle East have the potential to escalate to armed conflict in a single country, on a regional scale, within the Middle East, or could draw in powers outside the Middle East. Also, various terrorist groups operate in the

Middle East with the capability to mount an attack on oil production or transportation facilities. We estimate that resumption of production and distribution of oil following such an attack could require six months to a year. The time required could be even longer depending on the availability of specialized personnel and repair equipment and the extent of the destruction.

##### B. Defense-related results of disruption

A disruption which threatens the supply of fuel to the military has profound implications. Secretary of Defense Harold Brown has summarized the problem succinctly.

"The present deficiency of assured energy resources is the single surest threat that the future poses to our security and to that of our allies. . . . Such a cut-off could grow from conflict between others—as in the Middle East in a crisis which did not involve our own forces; or it could be directed primarily at the United States—as in a war in which our adversary interdicted or destroyed our sources of foreign supply. Under either condition, until we lessen the import habit we are terribly vulnerable."

Disruption of petroleum imports has a direct impact on the economic and political security of the United States. The impact could include the lack of adequate fuel to operate industries, increased inflation and, ultimately, rising unemployment. Impacts such as these affect the military security, because they weaken one of this country's greatest assets, its industrial vitality. The Department of Defense relies on the industrial base to provide the weapons and equipment it needs to project its military power when and where needed to protect the national interests of the United States. As a result, adverse economic conditions in the United States weaken the industrial base. Reduction of oil supplies could cause some contractors, upon whom the Department of Defense relies, to curtail operations altogether. Other contractors could be forced to limit their operations (e.g., close some plants) in a way that would make them less flexible and responsive to Department of Defense requirements.

Preoccupation with domestic economic problems could result from a petroleum import disruption. This preoccupation could cause us as a nation to emphasize a solution to the domestic economic dislocation at hand at the expense of longer term international interests.

##### II. Potential Effect on Perceptions of Other Countries

The threatened impairment of the national security must be assessed not only in terms of the domestic capability

to support national defense needs as we discussed above, but also in terms of international perceptions. Other countries make decisions on foreign relations and defense matters based upon their perception of our strengths. The impact of petroleum import restrictions on the United States could alter these perceptions significantly causing them to misjudge U.S. intentions. Such decisions would affect directly the security of the United States.

##### A. Allied and uncommitted nations

The substantial dependence of the United States on imported oil may strain security arrangements with allies and may make productive relations with uncommitted nations about defense matters more difficult. Included here is the perception on the part of a foreign government that the United States may be unable to meet its international defense commitments.

##### B. Hostile nations

The national security also is affected by how hostile nations perceive our resolve and ability to respond effectively to challenges. Decisions of hostile nations which could entail intervention in the affairs of or aggressive acts toward other nations will depend as often on our economic health and the will of our people as on our military capabilities. Other nations' perceptions of these factors, as well as the objective facts, are critical to the national security.

The concerns of the Department of Defense, as expressed above, are reinforced by recent developments. The reality of the current problem in Iran underscores the potential dangers that our reliance on petroleum imports has.

If I can be of further help, please let me know.

Sincerely,

ROBERT B. PIRIE, Jr.,  
Principal Deputy Assistant  
Secretary of Defense (MRAEL).

MARCH 9, 1979.

Hon. W. MICHAEL BLUMENTHAL, Secretary of the Treasury, Fifteenth Street & Pennsylvania Avenue NW., Washington, D.C.

DEAR MR. SECRETARY: This letter is in response to your request of April 4, 1978, for information which would assist you in determining, pursuant to Section 232(b) of the Trade Expansion Act of 1962, as amended, whether petroleum and petroleum products are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. The specific information which you requested is contained in the appendices accompanying this letter.

In addition, I have included an appendix which compares the data chiefly relied upon during the 1975 investigation of petroleum imports<sup>1</sup> with current data. That comparison reveals that the United States has become even more dependent on foreign sources of oil which are subject to the threat of interruption than in 1975 when the conclusion was reached that petroleum and petroleum products were being imported "in such quantities and under such circumstances as to threaten to impair the national security."

In the intervening period the United States has not fully achieved a capability to avoid the serious consequences to the national security which would result from a significant interruption in imports of petroleum. The Department of Energy adopted an Interim Response Plan for Petroleum Contingencies in June 1978 which addresses the use and interrelationship of the three primary classes of options the DOE currently has for mitigating the effects of a petroleum import interruption. Those options are:

(1) *Drawdown of the Strategic Petroleum Reserve*—In June 1978 the Congress approved DOE-proposed changes<sup>2</sup> to the SPR Plan which authorized expansion of the Reserve to one billion barrels from the previous target of 500 million barrels. DOE expects that the initial target of 248 million barrels in SPR storage will be met by the end of 1980. In view of the Iranian situation, however, it is uncertain whether the current objective of acquiring 10 million barrels a month for the SPR can be maintained. As of February 11, 1979 approximately 77 million barrels had been delivered to the SPR (See Appendix C). Other than the limited quantity which has been placed in SPR storage, emergency supply availability is limited to current inventories, domestic and interna-

tional stocks, and exports from countries which decline to participate in a possible future embargo. Those stocks are currently being drawn down due to the cessation of Iranian exports which further limits our flexibility to withstand any additional interruption in our supply.

(2) *Regulatory Demand Reduction and Supply Management*—Current regulatory measures for emergencies have been revised and are in the final development process. These include crude and product allocation and pricing regulations, and rationing and contingency plans (See Appendix B).

(3) *International Energy Program*—In the event of an international supply disruption, the International Energy Program (IEP) is designed to coordinate a collective response of most of the major oil importing countries, including the United States. This could ease to some degree the effects of an embargo directed against a single member. In the event of a general embargo the IEP would tend to equalize the disruption in its members' imported supplies and minimize competition for the available supplies. Proposed regulations to allow the Secretary of Energy to require U.S. oil companies to allocate petroleum internationally in order to carry out U.S. obligations under Chapters III and IV of the IEP Agreement were published in February of 1978 and a public hearing was held in June of 1978. Final regulations are in the process of being reviewed internally and will be published shortly.

Recent events in the Middle East have underscored our vulnerability and mandate that the President retain authority to adjust imports in a manner consistent with current conditions. Therefore, the conclusion that petroleum and petroleum products were being imported "in such quantities and under such circumstances as to threaten to impair the national security", reached by the 1975 national security investigation conducted by the Department of the Treasury, clearly remains an accurate and valid one.

Sincerely,

JOHN F. O'LEARY,  
Deputy Secretary.

<sup>1</sup>Report of Investigation of Effect of Petroleum Imports and Petroleum Products on the National Security Pursuant to Section 232 of the Trade Expansion Act, as amended, Department of the Treasury: January 13, 1975 (Report).

<sup>2</sup>*Id.* at 1.

<sup>3</sup>Strategic Petroleum Reserve Plan—Expansion of the Strategic Petroleum Reserve—Amendment No. 2: Energy Action DOE No. 1: March 1978.







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## NOTICES

### Domestic Petroleum Imports from OPEC Countries

**Total Petroleum Imports**  
(Crude Oil and Refined Products)

Total Refined Petroleum Products

| Domestic Demand | Imports <sup>a</sup> | Imports <sup>b</sup> | Imports <sup>c</sup> |                      |                      | Total Imports (Including SPI) | Total Imports (Excluding SPI) | Thousands of barrels per day |         |         |           |         |       |         |              |          |  | United Arab Emirates | Venezuela | Other OPEC <sup>d</sup> | Total OPEC | Non-OPEC |
|-----------------|----------------------|----------------------|----------------------|----------------------|----------------------|-------------------------------|-------------------------------|------------------------------|---------|---------|-----------|---------|-------|---------|--------------|----------|--|----------------------|-----------|-------------------------|------------|----------|
|                 |                      |                      | Domestic Demand      | Imports <sup>a</sup> | Imports <sup>b</sup> |                               |                               | SPI                          | Imports | Algeria | Indonesia | Iran    | Libya | Rigiera | Saudi Arabia | Thailand |  |                      |           |                         |            |          |
| 18,347          | 2,523                | 222                  | 4,741                | 1973                 | 134.2                | 212.7                         | 222.7                         | 144.3                        | 418.9   | 447.3   | 70.8      | 1,124.7 | 100.5 | 2,381.9 | 914.4        |          |  |                      |           |                         |            |          |
| 17,106          | 2,012                | 229                  | 6,256                | 1974                 | 190.2                | 300.1                         | 448.8                         | 4.4                          | 817.5   | 440.5   | 70.5      | 879.3   | 88.3  | 3,255.8 | 748.5        |          |  |                      |           |                         |            |          |
| 18,653          | 2,635                | 218                  | 8,112                | 1975                 | 211.5                | 304.4                         | 250.4                         | 223.0                        | 711.5   | 716.0   | 118.7     | 687.8   | 116.1 | 3,599.2 | 1,341.3      |          |  |                      |           |                         |            |          |
| 18,322          | 1,951                | 204                  | 6,006                | 1976                 | 428.3                | 537.4                         | 285.5                         | 433.3                        | 1,025.2 | 1,229.8 | 256.2     | 689.2   | 134.0 | 4,060.8 | 2,431.9      |          |  |                      |           |                         |            |          |
| 17,481          | 2,025                | 215                  | 7,313                | 1977                 | 493.0                | 619.2                         | 395.6                         | 627.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,481          | 2,594                | 179                  | 8,882                | January              | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | February             | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | March                | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | April                | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | May                  | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | June                 | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | July                 | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | August               | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | September            | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | October              | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | November             | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,827          | 2,872                | 175                  | 9,930                | December             | 458.0                | 571.0                         | 413.0                         | 680.0                        | 1,285.6 | 1,326.0 | 318.5     | 641.9   | 324.2 | 4,238.0 | 3,000.0      |          |  |                      |           |                         |            |          |
| 20,446          | 2,163                | 206                  | 8,311                | TOTAL                | 552.0                | 632.8                         | 532.8                         | 632.8                        | 1,115.1 | 1,377.0 | 333.4     | 657.0   | 288.3 | 4,190.5 | 3,162.2      |          |  |                      |           |                         |            |          |
| 18,618          | 2,176                | 183                  | 8,724                | 1978                 | 687.3                | 867.7                         | 681.5                         | 559.9                        | 827.9   | 1,196.2 | 344.7     | 628.4   | 277.9 | 4,812.5 | 2,925.1      |          |  |                      |           |                         |            |          |
| 19,691          | 2,065                | 158                  | 8,040                | January              | 705.5                | 873.5                         | 681.5                         | 559.9                        | 827.9   | 1,196.2 | 344.7     | 628.4   | 277.9 | 4,812.5 | 2,925.1      |          |  |                      |           |                         |            |          |
| 20,874          | 2,137                | 200                  | 7,887                | February             | 705.5                | 873.5                         | 681.5                         | 559.9                        | 827.9   | 1,196.2 | 344.7     | 628.4   | 277.9 | 4,812.5 | 2,925.1      |          |  |                      |           |                         |            |          |
| 21,307          | 2,100                | 199                  | 7,887                | March                | 705.5                | 873.5                         | 681.5                         | 559.9                        | 827.9   | 1,196.2 | 344.7     | 628.4   | 277.9 | 4,812.5 | 2,925.1      |          |  |                      |           |                         |            |          |
| 21,307          | 2,100                | 199                  | 7,887                | April                | 705.5                | 873.5                         | 681.5                         | 559.9                        | 827.9   | 1,196.2 | 344       |         |       |         |              |          |  |                      |           |                         |            |          |

\*Includes Ecuador, Gabon, Iraq, Kuwait, and Qatar  
Re-vised data  
Sources: Direct imports—Bureau of Mines Mineral Industry Survey, "Petroleum Statement Monthly" and "PAD District Supply Demand Monthly" through April 1977; EIA Energy Data Reports, "PAD Districts Supply Demand Monthly" for May 1977 through August 1978; EIA "Monthly Petroleum Statistics Report" for September 1978 through November 1978

Na = Not available

Sources: 1977 through 1976: Bureau of Mines (BOM) *Mineral Industry Surveys*, "Petroleum Statement, Annual," January 1977 through April 1977; Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement Monthly," May 1977 through August 1978; Energy Information Administration (EIA), *Energy Data Reports*, "Petroleum Statement, Monthly," September 1978 through November 1978; EIA, "Monthly Petroleum Statistics Report," December 1978 data are EIA estimates based on data from the American Petroleum Institute (API), "Weekly Statistical Bulletin."

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## NOTICES

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## Residual Fuel Oil

### Domestic Petroleum Imports from Non-OPEC Sources



Executive Summary (Continued)

Domestic Energy Consumption by Primary Energy Type

|           | Coal <sup>1</sup> | Natural Gas (dry) | Petroleum <sup>2</sup> | Hydro-Electric Power <sup>3</sup> | Nuclear Electric Power <sup>4</sup> | Geothermal Power <sup>5</sup> and Other <sup>6</sup> | Yearly Cumulative Total |
|-----------|-------------------|-------------------|------------------------|-----------------------------------|-------------------------------------|--|-------------------------|
| 1972      | 12 451            | 22 599            | 32 366                 | 3 829                             | 0 577                               | 0 011  | 71 643                  |
| 1973      | 13 315            | 22 512            | 34 862                 | 3 010                             | 0 890                               | 0 042  | 74 620                  |
| 1974      | 12 895            | 21 732            | 33 468                 | 3 308                             | 1 215                               | 0 117  | 72 736                  |
| 1975      | 12 842            | 18 948            | 32 742                 | 3 218                             | 1 835                               | 0 085  | 70 678                  |
| 1976      | 12 16             | 2337              | 3 177                  | 0 282                             | 0 153                               | 0 006  | 7 169                   |
| January   | 1 076             | 1 977             | 2 791                  | 0 266                             | 0 153                               | 0 006  | 6 268                   |
| February  | 1 117             | 1 755             | 2 948                  | 0 287                             | 0 149                               | 0 006  | 6 262                   |
| March     | 1 173             | 1 755             | 2 948                  | 0 287                             | 0 149                               | 0 006  | 6 262                   |
| April     | 1 073             | 1 463             | 2 772                  | 0 276                             | 0 127                               | 0 004  | 5 627                   |
| May       | 1 112             | 1 362             | 2 774                  | 0 276                             | 0 127                               | 0 004  | 5 627                   |
| June      | 1 165             | 1 399             | 2 859                  | 0 281                             | 0 189                               | 0 007  | 5 891                   |
| July      | 1 194             | 1 343             | 2 835                  | 0 298                             | 0 186                               | 0 009  | 5 836                   |
| August    | 1 135             | 1 255             | 2 714                  | 0 276                             | 0 184                               | 0 008  | 5 613                   |
| September | 1 131             | 1 653             | 2 812                  | 0 278                             | 0 185                               | 0 010  | 5 613                   |
| October   | 1 191             | 1 912             | 3 107                  | 0 216                             | 0 172                               | 0 008  | 6 607                   |
| November  | 1 190             | 2 277             | 3 503                  | 0 221                             | 0 225                               | 0 010  | 7 524                   |
| December  | 1 190             | 2 277             | 3 503                  | 0 221                             | 0 225                               | 0 010  | 7 524                   |
| TOTAL     | 13 748            | 20 345            | 35 123                 | 3 076                             | 2 037                               | 0 064  | 74 413                  |
| 1977      | 1 287             | 2 458             | 3 459                  | 0 233                             | 0 236                               | 0 006  | 7 710                   |
| January   | 1 144             | 1 954             | 3 073                  | 0 176                             | 0 209                               | 0 007  | 6 530                   |
| February  | 1 144             | 1 954             | 3 073                  | 0 176                             | 0 209                               | 0 007  | 6 530                   |
| March     | 1 057             | 1 468             | 2 897                  | 0 212                             | 0 171                               | 0 005  | 5 852                   |
| April     | 1 120             | 1 408             | 2 890                  | 0 213                             | 0 220                               | 0 006  | 6 856                   |
| May       | 1 178             | 1 361             | 2 876                  | 0 197                             | 0 229                               | 0 007  | 6 949                   |
| June      | 1 178             | 1 361             | 2 876                  | 0 197                             | 0 229                               | 0 007  | 6 949                   |
| July      | 1 148             | 1 385             | 2 892                  | 0 193                             | 0 233                               | 0 008  | 6 854                   |
| August    | 1 148             | 1 385             | 2 892                  | 0 193                             | 0 233                               | 0 008  | 6 854                   |
| September | 1 144             | 1 552             | 3 038                  | 0 189                             | 0 203                               | 0 012  | 6 947                   |
| October   | 1 157             | 1 725             | 3 043                  | 0 231                             | 0 207                               | 0 008  | 6 369                   |
| November  | 1 126             | 2 152             | 3 415                  | 0 255                             | 0 253                               | 0 013  | 7 314                   |
| December  | 1 126             | 2 152             | 3 415                  | 0 255                             | 0 253                               | 0 013  | 7 314                   |
| TOTAL     | 14 133            | 18 831            | 36 947                 | 2 511                             | 2 874                               | 0 103  | 76 299                  |
| 1978      | 1 237             | 2 435             | 3 355                  | 0 278                             | 0 275                               | 0 009  | 87 590                  |
| January   | 1 099             | 2 160             | 3 212                  | 0 251                             | 0 233                               | 0 008  | 86 912                  |
| February  | 1 099             | 2 160             | 3 212                  | 0 251                             | 0 233                               | 0 008  | 86 912                  |
| March     | 1 038             | 1 545             | 2 971                  | 0 281                             | 0 187                               | 0 011  | 86 797                  |
| April     | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| May       | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| June      | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| July      | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| August    | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| September | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| October   | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| November  | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| December  | 1 181             | 1 381             | 3 009                  | 0 317                             | 0 188                               | 0 021  | 85 965                  |
| TOTAL     | 14 044            | 18 778            | 37 626                 | 3 131                             | 3 002                               | 0 191  | 77 672                  |

<sup>1</sup> Includes bituminous coal, lignite, and anthracite coal.  
<sup>2</sup> Includes industrial and utility production, and net imports of electricity.  
<sup>3</sup> Other includes electricity produced from wood and waste, and net imports of coal.  
<sup>4</sup> Estimated data.  
<sup>5</sup> Estimated data.  
<sup>6</sup> Estimated data.  
Note: Totals may not equal sum of components due to independent rounding.  
Source: EIA calculations based on data reported elsewhere in this publication.

Executive Summary (Continued)

Domestic Energy Consumption by Economic Sector<sup>1</sup>

|           | Residential Commercial | Industrial | Transportation | Total  |
|-----------|------------------------|------------|----------------|--------|
| 1973      | 24 579                 | 28 171     | 18 870         | 74 620 |
| 1974      | 25 935                 | 28 543     | 19 256         | 72 736 |
| 1975      | 24 202                 | 28 117     | 18 359         | 70 678 |
| 1976      | 24 579                 | 28 171     | 18 870         | 74 620 |
| January   | 2 691                  | 2 436      | 1 630          | 7 169  |
| February  | 2 691                  | 2 436      | 1 630          | 7 169  |
| March     | 2 691                  | 2 436      | 1 630          | 7 169  |
| April     | 1 919                  | 2 193      | 1 553          | 5 627  |
| May       | 1 919                  | 2 193      | 1 553          | 5 627  |
| June      | 1 866                  | 2 232      | 1 595          | 5 697  |
| July      | 1 975                  | 2 279      | 1 637          | 5 891  |
| August    | 1 983                  | 2 279      | 1 637          | 5 891  |
| September | 1 958                  | 2 256      | 1 556          | 5 770  |
| October   | 2 377                  | 2 568      | 1 647          | 6 607  |
| November  | 3 012                  | 2 716      | 1 794          | 7 524  |
| December  | 3 012                  | 2 716      | 1 794          | 7 524  |
| TOTAL     | 22 270                 | 27 871     | 18 272         | 74 413 |
| 1977      | 24 579                 | 28 171     | 18 870         | 74 620 |
| January   | 2 453                  | 2 453      | 1 722          | 7 710  |
| February  | 2 453                  | 2 453      | 1 722          | 7 710  |
| March     | 2 453                  | 2 453      | 1 722          | 7 710  |
| April     | 2 155                  | 2 122      | 1 675          | 6 530  |
| May       | 1 932                  | 2 122      | 1 675          | 6 530  |
| June      | 1 977                  | 2 273      | 1 608          | 5 856  |
| July      | 1 977                  | 2 273      | 1 608          | 5 856  |
| August    | 1 977                  | 2 273      | 1 608          | 5 856  |
| September | 1 977                  | 2 273      | 1 608          | 5 856  |
| October   | 1 977                  | 2 273      | 1 608          | 5 856  |
| November  | 2 475                  | 2 568      | 1 645          | 6 689  |
| December  | 2 475                  | 2 568      | 1 645          | 6 689  |
| TOTAL     | 22 270                 | 27 871     | 18 272         | 74 413 |
| 1978      | 24 579                 | 28 171     | 18 870         | 74 620 |
| January   | 2 453                  | 2 453      | 1 722          | 7 710  |
| February  | 2 453                  | 2 453      | 1 722          | 7 710  |
| March     | 2 453                  | 2 453      | 1 722          | 7 710  |
| April     | 2 155                  | 2 122      | 1 675          | 6 530  |
| May       | 1 932                  | 2 122      | 1 675          | 6 530  |
| June      | 1 977                  | 2 273      | 1 608          | 5 856  |
| July      | 1 977                  | 2 273      | 1 608          | 5 856  |
| August    | 1 977                  | 2 273      | 1 608          | 5 856  |
| September | 1 977                  | 2 273      | 1 608          | 5 856  |
| October   | 1 977                  | 2 273      | 1 608          | 5 856  |
| November  | 2 475                  | 2 568      | 1 645          | 6 689  |
| December  | 2 475                  | 2 568      | 1 645          | 6 689  |
| TOTAL     | 22 270                 | 27 871     | 18 272         | 74 413 |

<sup>1</sup> See Explanatory Note 6 for definitions of the Residential, Commercial, Industrial, and Transportation sectors. The methodology used for sector calculations is provided in the footnotes on page 22.  
Note: Totals may not equal sum of components due to independent rounding.  
R- Revised data.  
E- Estimated data.  
Source: See footnotes on page 22.

Energy Consumption (Continued)

Energy Consumption by the Residential and Commercial Economic Sectors<sup>1</sup>

|           | Coal  | Natural Gas (dry) | Petroleum <sup>2</sup> | Electricity Distributed | Electricity Loss Distributed | Total Energy Use | Yearly Cumulative Total |
|-----------|-------|-------------------|------------------------|-------------------------|------------------------------|------------------|-------------------------|
| 1973      | 0 296 | 2 877             | 7 077                  | 3 445                   | 0 184                        | 28 578           | 3 433                   |
| 1974      | 0 297 | 7 427             | 8 484                  | 3 424                   | 0 207                        | 25 539           | 6 920                   |
| 1975      | 0 293 | 7 088             | 8 138                  | 3 336                   | 0 508                        | 25 202           | 11 025                  |
| 1976      | 0 031 | 1 754             | 0 659                  | 0 340                   | 0 839                        | 3 174            | 18 095                  |
| January   | 0 019 | 1 090             | 0 580                  | 0 315                   | 0 686                        | 2 691            | 5 816                   |
| February  | 0 018 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| March     | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| April     | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| May       | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| June      | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| July      | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| August    | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| September | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| October   | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| November  | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| December  | 0 016 | 0 852             | 0 571                  | 0 286                   | 0 702                        | 2 433            | 8 248                   |
| TOTAL     | 0 293 | 7 088             | 8 138                  | 3 336                   | 0 508                        | 25 202           | 11 025                  |
| 1977      | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| January   | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| February  | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| March     | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| April     | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| May       | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| June      | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| July      | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| August    | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| September | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| October   | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| November  | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| December  | 0 019 | 0 645             | 0 607                  | 0 306                   | 0 730                        | 2 507            | 6 920                   |
| TOTAL     | 0 293 | 7 088             | 8 138                  | 3 336                   | 0 508                        | 25 202           | 11 025                  |
| 1978      | 0 043 | 2 706             | 6 734                  | 3 676                   | 0 911                        | 27 270           | 18 231                  |
| January   | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| February  | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| March     | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| April     | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| May       | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| June      | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| July      | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| August    | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| September | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| October   | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| November  | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| December  | 0 035 | 1 276             | 0 713                  | 0 367                   | 0 942                        | 3 433            | 18 231                  |
| TOTAL     | 0 293 | 7 088             | 8 138                  | 3 336                   | 0 508                        | 25 202           | 11 025                  |

<sup>1</sup> See Explanatory Note 6 for definitions of the Residential and Commercial sectors. The methodology used for sector calculations is provided in the footnotes on page 22. Private utility may differ slightly from the sum of the two sectors.  
<sup>2</sup> The percentage share used in calculating Residential and Commercial consumption of petroleum was 52.5 percent for 1973 and 50.7 percent for 1974, 1975, 1976, 1977, and 1978.  
<sup>3</sup> The percentage share used in calculating Industrial consumption of petroleum was 47.6 percent for 1973 and 49.3 percent for 1974, 1975, 1976, 1977, and 1978.  
<sup>4</sup> The percentage share used in calculating Transportation consumption of petroleum was 3.9 percent for 1973 and 3.6 percent for 1974, 1975, 1976, 1977, and 1978. This percentage share is applied to total natural gas minus electric utility consumption.  
R- Revised data.  
Source: See footnotes on page 22.

(See footnotes on page 26)  
Source: See footnotes on page 22.

Energy Consumption (Continued)

Energy Consumption by the Transportation Economic Sector<sup>1</sup>

|           | Coal  | Natural Gas (dry) | Petroleum <sup>2</sup> | Electricity Distributed | Electricity Loss Distributed | Total Energy Use | Yearly Cumulative Total |
|-----------|-------|-------------------|------------------------|-------------------------|------------------------------|------------------|-------------------------|
| 1973      | 0.003 | 0.732             | 17.840                 | 0.058                   | 0.138                        | 18.870           | 1.630                   |
| 1974      | 0.002 | 0.864             | 17.382                 | 0.060                   | 0.145                        | 18.256           | 3.093                   |
| 1975      | 0.001 | 0.801             | 17.844                 | 0.082                   | 0.181                        | 18.368           | 6.281                   |
| 1976      | negl  | 0.077             | 1.533                  | 0.006                   | 0.015                        | 1.630            | 1.630                   |
| January   | negl  | 0.064             | 1.382                  | 0.006                   | 0.017                        | 1.463            | 3.093                   |
| February  | negl  | 0.055             | 1.352                  | 0.005                   | 0.013                        | 1.676            | 4.719                   |
| March     | negl  | 0.047             | 1.516                  | 0.005                   | 0.012                        | 1.580            | 6.306                   |
| April     | negl  | 0.038             | 1.545                  | 0.005                   | 0.012                        | 1.599            | 7.905                   |
| May       | negl  | 0.038             | 1.545                  | 0.005                   | 0.012                        | 1.599            | 9.450                   |
| June      | negl  | 0.038             | 1.545                  | 0.005                   | 0.012                        | 1.599            | 11.087                  |
| July      | negl  | 0.038             | 1.545                  | 0.005                   | 0.012                        | 1.599            | 12.679                  |
| August    | negl  | 0.036             | 1.538                  | 0.005                   | 0.013                        | 1.592            | 14.277                  |
| September | negl  | 0.037             | 1.504                  | 0.005                   | 0.011                        | 1.558            | 15.835                  |
| October   | negl  | 0.050             | 1.531                  | 0.006                   | 0.013                        | 1.600            | 17.436                  |
| November  | negl  | 0.051             | 1.511                  | 0.006                   | 0.013                        | 1.600            | 19.036                  |
| December  | negl  | 0.074             | 1.689                  | 0.006                   | 0.015                        | 1.794            | 20.830                  |
| TOTAL     | negl  | 0.819             | 18.434                 | 0.064                   | 0.155                        | 19.272           | 19.272                  |
| 1977      | negl  | 0.081             | 1.670                  | 0.006                   | 0.016                        | 1.772            | 1.772                   |
| January   | negl  | 0.064             | 1.570                  | 0.006                   | 0.013                        | 1.560            | 3.303                   |
| February  | negl  | 0.054             | 1.560                  | 0.005                   | 0.012                        | 1.562            | 4.865                   |
| March     | negl  | 0.045             | 1.564                  | 0.005                   | 0.012                        | 1.625            | 6.491                   |
| April     | negl  | 0.041             | 1.549                  | 0.005                   | 0.013                        | 1.608            | 8.099                   |
| May       | negl  | 0.037             | 1.584                  | 0.005                   | 0.012                        | 1.649            | 9.748                   |
| June      | negl  | 0.035             | 1.621                  | 0.005                   | 0.011                        | 1.668            | 11.416                  |
| July      | negl  | 0.035             | 1.621                  | 0.005                   | 0.012                        | 1.669            | 13.085                  |
| August    | negl  | 0.040             | 1.557                  | 0.005                   | 0.011                        | 1.614            | 14.811                  |
| September | negl  | 0.045             | 1.567                  | 0.005                   | 0.012                        | 1.650            | 16.461                  |
| October   | negl  | 0.053             | 1.571                  | 0.006                   | 0.014                        | 1.645            | 18.105                  |
| November  | negl  | 0.069             | 1.716                  | 0.006                   | 0.015                        | 1.807            | 19.913                  |
| December  | negl  | 0.689             | 18.094                 | 0.064                   | 0.156                        | 18.913           | 18.913                  |
| TOTAL     | negl  | 0.719             | 1.600                  | 0.006                   | 0.016                        | 1.701            | 1.701                   |
| 1978      | negl  | 0.070             | 1.574                  | 0.006                   | 0.013                        | 1.612            | 3.313                   |
| January   | negl  | 0.067             | 1.574                  | 0.005                   | 0.012                        | 1.600            | 4.913                   |
| February  | negl  | 0.067             | 1.552                  | 0.005                   | 0.012                        | 1.617            | 6.530                   |
| March     | negl  | 0.060             | 1.560                  | 0.005                   | 0.012                        | 1.637            | 8.167                   |
| April     | negl  | 0.040             | 1.679                  | 0.005                   | 0.013                        | 1.737            | 9.904                   |
| May       | negl  | 0.033             | 1.653                  | 0.005                   | 0.013                        | 1.704            | 11.608                  |
| June      | negl  | 0.035             | 1.631                  | 0.005                   | 0.013                        | 1.684            | 13.292                  |
| July      | negl  | 0.033             | 1.717                  | 0.005                   | 0.013                        | 1.735            | 15.027                  |
| August    | negl  | 0.033             | 1.717                  | 0.005                   | 0.013                        | 1.735            | 16.762                  |
| September | negl  | 0.041             | 1.639                  | 0.006                   | 0.013                        | 1.699            | 18.461                  |
| October   | negl  | 0.052             | 1.640                  | 0.006                   | 0.014                        | 1.712            | 20.173                  |
| November  | negl  | 0.051             | 1.652                  | 0.006                   | 0.014                        | 1.724            | 21.897                  |
| December  | negl  | 0.068             | 1.685                  | 0.006                   | 0.015                        | 1.871            | 23.768                  |
| TOTAL     | negl  | 0.894             | 18.956                 | 0.065                   | 0.162                        | 20.418           | 20.418                  |



## Oil and Gas Exploration and Development

Energy Consumption by the Industrial Economic Sector<sup>1</sup>

| Year       | Coal  | Natural Gas (Btu) | Petroleum <sup>2</sup> (Btu) | Hydroelectric <sup>3</sup> (Btu) | Electricity <sup>4</sup> (Btu) | Total (Btu) | Yearly Cumulative Total (Btu) | Monthly Average | Exploration and Development Wells Drilled <sup>5</sup> |       |        |        | Total Footage of Wells Drilled <sup>6</sup> (Thousands of feet) |
|------------|-------|-------------------|------------------------------|----------------------------------|--------------------------------|-------------|-------------------------------|-----------------|--|-------|--------|--------|---|
|            |       |                   |                              |                                  |                                |             |                               |                 | Oil  | Gas   | Dry    | Total  |   |
| 1973 TOTAL | 4,377 | 10,457            | 6,403                        | 6,033                            | 2,341                          | 29,171      | 29,171                        | 1,107           | 11,306   | 4,829 | 11,097 | 27,291 | 134,602   |
| 1974 TOTAL | 4,089 | 10,132            | 6,305                        | 6,033                            | 2,337                          | 28,943      | 28,943                        | 1,104           | 11,302   | 4,825 | 11,093 | 26,952 | 134,391   |
| 1975 TOTAL | 3,769 | 9,448             | 6,040                        | 6,033                            | 2,304                          | 28,117      | 28,117                        | 1,076           | 11,284   | 4,740 | 11,074 | 26,128 | 134,351   |
| 1976       | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| January    | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| February   | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| March      | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| April      | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| May        | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| June       | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| July       | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| August     | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| September  | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| October    | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| November   | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| December   | 3,316 | 8,796             | 5,641                        | 6,033                            | 2,196                          | 26,436      | 26,436                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| 1977 TOTAL | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| January    | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| February   | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| March      | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| April      | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| May        | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| June       | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| July       | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| August     | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| September  | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| October    | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| November   | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| December   | 3,776 | 9,467             | 6,040                        | 6,033                            | 2,326                          | 27,671      | 27,671                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| 1978       | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| January    | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| February   | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| March      | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| April      | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| May        | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| June       | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| July       | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| August     | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| September  | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| October    | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| November   | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| December   | 3,877 | 9,847             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| 1979       | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| January    | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| February   | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| March      | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| April      | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| May        | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| June       | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| July       | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| August     | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| September  | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| October    | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| November   | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |
| December   | 3,844 | 9,848             | 6,040                        | 6,033                            | 2,378                          | 27,803      | 27,803                        | 1,046           | 11,210   | 4,655 | 11,055 | 25,320 | 134,351   |

<sup>1</sup>Excludes service wells and stratigraphic and core tests.  
<sup>2</sup>NA=Not available.  
<sup>3</sup>NA=Not available.  
<sup>4</sup>NA=Not available.  
<sup>5</sup>NA=Not available.  
<sup>6</sup>NA=Not available.  
 Source: Bureau of Economic Analysis, "Monthly Energy Review," and "Quarterly Review of Drilling Statistics for the United States."

(See footnotes on page 28).  
 Source: See footnote on page 28.

## NOTICES

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## NOTICES

## Crude Oil (Continued)

Estimated Landed Cost of Imports From Selected Countries<sup>1</sup>

| Year | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October | November | December | AVERAGE | January | February | March | April | May | June | July | August | September | October</ |
|------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|-----------|
|------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|---------|---------|----------|-------|-------|-----|------|------|--------|-----------|-----------|



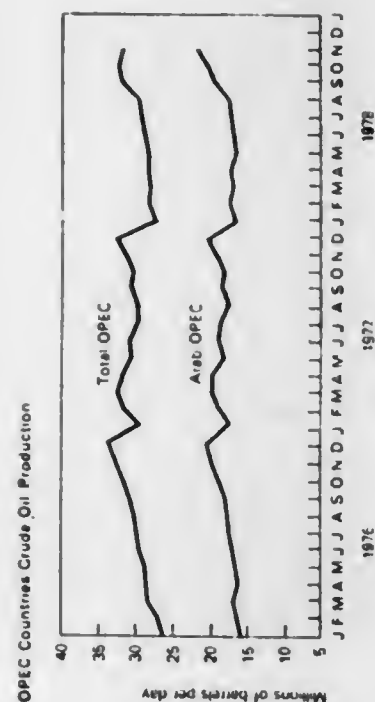
## Crude Oil Production

Crude Oil Production for Major Petroleum Exporting Countries

| Country                | 1972   | 1973   | 1974   | 1975   | 1976   | 1977   | 1978   | 1979   | Maximum Sustainable Annual Production |
|------------------------|--------|--------|--------|--------|--------|--------|--------|--------|---------------------------------------|
| Algeria                | 1,040  | 1,070  | 1,070  | 960    | 960    | 1,040  | 1,230  | 1,300  | 1,300                                 |
| Arabia                 | 1,465  | 2,020  | 1,970  | 2,260  | 2,415  | 2,330  | 2,100  | 2,100  | 2,100                                 |
| Libya                  | 2,239  | 2,175  | 1,520  | 1,480  | 1,480  | 1,480  | 1,480  | 1,480  | 1,480                                 |
| Qatar                  | 482    | 570    | 620    | 440    | 440    | 430    | 460    | 460    | 460                                   |
| Saudi Arabia           | 8,018  | 7,595  | 8,480  | 7,075  | 8,575  | 9,200  | 10,350 | 10,700 | 10,700                                |
| United Arab Emirates   | 1,202  | 1,535  | 1,680  | 1,665  | 1,835  | 2,010  | 1,830  | 2,350  | 2,350                                 |
| Subtotal Arab OPEC     | 15,727 | 17,865 | 17,775 | 16,965 | 18,480 | 18,060 | 21,440 | 23,250 | 23,250                                |
| Ecuador                | 78     | 210    | 175    | 160    | 185    | 160    | 200    | 275    | 275                                   |
| Gabon                  | 125    | 150    | 200    | 225    | 225    | 230    | 270    | 275    | 275                                   |
| Indonesia              | 1,080  | 1,340  | 1,375  | 1,305  | 1,505  | 1,690  | 1,590  | 1,700  | 1,700                                 |
| Iran                   | 5,023  | 5,850  | 6,022  | 6,350  | 6,895  | 6,660  | 6,600  | 6,600  | 6,600                                 |
| Nigeria                | 3,815  | 3,085  | 2,255  | 1,785  | 2,070  | 2,700  | 2,800  | 2,800  | 2,800                                 |
| Venezuela              | 3,219  | 3,385  | 3,375  | 2,243  | 2,295  | 2,260  | 2,260  | 2,260  | 2,260                                 |
| Subtotal Non-Arab OPEC | 11,340 | 12,960 | 13,000 | 11,170 | 12,166 | 12,240 | 10,030 | 12,450 | 12,450                                |
| TOTAL OPEC             | 27,067 | 30,825 | 30,775 | 28,135 | 30,645 | 31,160 | 31,470 | 35,700 | 35,700                                |
| Canada                 | 1,540  | 1,890  | 1,695  | 1,460  | 1,300  | 1,320  | 1,520  | 1,800  | 1,800                                 |
| Mexico                 | 410    | 465    | 560    | 720    | 850    | 940    | 1,330  | 1,500  | 1,500                                 |
| TOTAL OPEC Canada      | 23,047 | 33,230 | 32,950 | 29,315 | 32,805 | 33,440 | 34,320 | 40,000 | 40,000                                |
| TOTAL WORLD            | 50,559 | 64,055 | 63,725 | 57,450 | 63,450 | 64,600 | 65,790 | 75,700 | 75,700                                |

Includes about one-half of the former Kuwaiti Saudi Arab & Neutral Zone. Production in November 1978 amounted to approximately 65,000 barrels per day.

Sources: Central Intelligence Agency, National Foreign Assessment Center, International Energy Statistical Review, 7 February 1979; National Energy Board of Canada and U.S. Department of Energy.



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## Petroleum Consumption

Petroleum Consumption for Major Free World Industrialized Countries

| Country                | 1972   | 1973   | 1974   | 1975   | 1976   | 1977   | 1978   | 1979   | Maximum Sustainable Annual Consumption |
|------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--|
| Algeria                | 1,040  | 1,070  | 1,070  | 960    | 960    | 1,040  | 1,230  | 1,300  | 1,300                                  |
| Arabia                 | 1,465  | 2,020  | 1,970  | 2,260  | 2,415  | 2,330  | 2,100  | 2,100  | 2,100                                  |
| Libya                  | 2,239  | 2,175  | 1,520  | 1,480  | 1,480  | 1,480  | 1,480  | 1,480  | 1,480                                  |
| Qatar                  | 482    | 570    | 620    | 440    | 440    | 430    | 460    | 460    | 460                                    |
| Saudi Arabia           | 8,018  | 7,595  | 8,480  | 7,075  | 8,575  | 9,200  | 10,350 | 10,700 | 10,700                                 |
| United Arab Emirates   | 1,202  | 1,535  | 1,680  | 1,665  | 1,835  | 2,010  | 1,830  | 2,350  | 2,350                                  |
| Subtotal Arab OPEC     | 15,727 | 17,865 | 17,775 | 16,965 | 18,480 | 18,060 | 21,440 | 23,250 | 23,250                                 |
| Ecuador                | 78     | 210    | 175    | 160    | 185    | 160    | 200    | 275    | 275                                    |
| Gabon                  | 125    | 150    | 200    | 225    | 225    | 230    | 270    | 275    | 275                                    |
| Indonesia              | 1,080  | 1,340  | 1,375  | 1,305  | 1,505  | 1,690  | 1,590  | 1,700  | 1,700                                  |
| Iran                   | 5,023  | 5,850  | 6,022  | 6,350  | 6,895  | 6,660  | 6,600  | 6,600  | 6,600                                  |
| Nigeria                | 3,815  | 3,085  | 2,255  | 1,785  | 2,070  | 2,700  | 2,800  | 2,800  | 2,800                                  |
| Venezuela              | 3,219  | 3,385  | 3,375  | 2,243  | 2,295  | 2,260  | 2,260  | 2,260  | 2,260                                  |
| Subtotal Non-Arab OPEC | 11,340 | 12,960 | 13,000 | 11,170 | 12,166 | 12,240 | 10,030 | 12,450 | 12,450                                 |
| TOTAL OPEC             | 27,067 | 30,825 | 30,775 | 28,135 | 30,645 | 31,160 | 31,470 | 35,700 | 35,700                                 |
| Canada                 | 1,540  | 1,890  | 1,695  | 1,460  | 1,300  | 1,320  | 1,520  | 1,800  | 1,800                                  |
| Mexico                 | 410    | 465    | 560    | 720    | 850    | 940    | 1,330  | 1,500  | 1,500                                  |
| TOTAL OPEC Canada      | 23,047 | 33,230 | 32,950 | 29,315 | 32,805 | 33,440 | 34,320 | 40,000 | 40,000                                 |
| TOTAL WORLD            | 50,559 | 64,055 | 63,725 | 57,450 | 63,450 | 64,600 | 65,790 | 75,700 | 75,700                                 |

The 13 signatory nations of the International Energy Agency (IEA) are: Australia, Belgium, Canada, Denmark, Federal Republic of Germany, France, Great Britain, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, Turkey.

Not a member of IEA.  
Principal products only.  
Not available.  
Note: Total IEA data represent domestic demand in the United States and sales of petroleum products for all other member States.  
Excludes refinery fuel, refinery losses, and ocean bunkers. Experience has shown that this total IEA quantity is between 83 and 85 percent of total IEA consumption.  
Source: Central Intelligence Agency, National Foreign Assessment Center, International Energy Statistical Review, 7 February 1979.

## APPENDIX B—STATUS OF REGULATORY SUPPLY MANAGEMENT AND DEMAND RESTRAINT PLANS

**Standby Crude Oil Allocation and Price Regulations, and Refinery Yield Program**

Proposed standby regulations were published in the FEDERAL REGISTER on February 10, 1978, and covered the following regulatory programs:

- Standby Crude Oil Allocation Program.
- Emergency Standby Mandatory Allocation Crude Oil Pricing Program.
- Refinery Yield Control Program.

Public hearings were held in June 1978, and a further hearing was held on September 26, 1978, regarding a provision for the allocation of crude oil to product importers. The final standby regulations were published on January 16, 1979, and further comments were requested by March 15.

## Standby Product Allocation and Pricing Regulations

Standby product allocation and pricing regulations were promulgated and published in a Notice of Proposed Rulemaking in the FEDERAL REGISTER in July 1978. Public hearings began in Washington, D.C. on September 12, 1978. Following the review of comments offered, final regulations were published in the FEDERAL REGISTER on January 18, 1979. Further comments were requested by March 15.

## Gasoline Rationing

**Background.**—Federal planning for gasoline rationing was first undertaken in the fall of 1973 as one of several possible responses to declining domestic petroleum production and to the growing dependence of the United States on foreign sources of supply. These efforts were accelerated during the 1973-74 embargo and implementation activities were initiated. After the embargo, the Federal Energy Administration decided, in 1975, to complete the rationing planning process begun during the embargo, and a draft plan was prepared.

In December 1975, Congress passed and the President signed the Energy Policy and Conservation Act (EPCA) which required, among other things, the development of a gasoline rationing contingency plan. During early 1976, the FEA prepared a draft rationing plan to meet the EPCA requirement. Proposed regulations were published in the FEDERAL REGISTER and hearings were held in several cities. In January 1977, the rationing plan was prepared for submission to Congress. After the current Administration assumed office, however, it was decided to delay the Congressional review process until there was a reevaluation of the plan's provisions.

**Current Status.**—The reevaluation of the previous rationing plan has led to important changes to make it more quickly implementable and more effective. A revised plan was published in proposed form in the FEDERAL REGISTER of June 28, 1978, and public hearings were held during July and August, resulting in over 1,000 oral and written comments. The President transmitted the plan to Congress on March 1, 1979.

## Conservation Contingency Plans

**Background.**—The Energy Policy and Conservation Act of 1975 required the Administration to develop conservation contin-

gency plans for petroleum emergencies. Six such plans were developed during the previous Administration, covering the areas of:

- Heating, cooling and hot water restrictions;
- Commuter parking management and car-pooling incentives;
- Weekend gasoline and diesel fuel retail distribution restrictions;
- Boiler combustion efficiency requirements;
- Restrictions on illuminated advertising;
- Restrictions on certain gas lighting.

These plans were prepared for submission to Congress in 1976 but were withheld by the current Administration for further evaluation and study.

**Current Status.**—On March 1, 1979, the President submitted the following plans to the Congress:

**Plan No. 1—Emergency Weekend Gasoline Sales Restrictions.** This program would allow DOE to prohibit owners or operators of retail stations from dispensing gasoline and diesel fuel during designated weekend hours, except to specified commercial and emergency vehicles.

**Plan No. 2—Emergency Building Temperature Restrictions.** Under this plan, DOE could impose energy reducing heating, cooling and hot water temperature restrictions on the owners and operators of commercial and public buildings.

**Plan No. 3—Emergency Advertising Lighting.** This plan would allow DOE to prohibit the use of illuminated advertising signs except for those necessary during business hours to identify a business and the goods or services it offers and to direct customers to it.

We are also analyzing and evaluating a number of new contingency conservation plans. We expect to complete the development of a selected group of these additional plans during FY 1979.

PRODUCTION LIMITS FOR NEW AND EMERGING TECHNOLOGIES  
(Trillions of Btu Per Year)

|  | 1985            |                  | 1990            |                  |
|--|-----------------|------------------|-----------------|------------------|
|  | Lowest of limit | Highest of limit | Lowest of limit | Highest of limit |
| Synthetic Fuels:   |                 |                  |                 |                  |
| Shale Oil  | 106             | 108              | 106             | 425              |
| Synthetic & liquid boiler fuels from coal                    | 68              | 68               | 68              | 275              |
| High Btu coal gas  | 91              | 91               | 365             | 365              |
| Medium Btu coal gas  | 0               | 0                | 340             | 340              |
| Methanol (from coal)   | 0               | 0                | 0               | 33               |
| Solid Waste Conversion                                       | 0               | 120              | 0               | 400              |
| Subtotal   | (285)           | (385)            | (879)           | (1,838)          |
| Geothermal Central Electric                                  | 73              | 73               | 194             | 194              |
| Dispersed  | 6               | 10               | 10              | 30               |
| Subtotal   | (79)            | (83)             | (204)           | (224)            |
| Central Electric Technologies:                               |                 |                  |                 |                  |
| Wind Systems   | 1               | 1                | 7               | 7                |
| Photovoltaic & Solar Thermal                                 | 2               | 2                | 14              | 14               |
| Ocean Thermal  | 1               | 1                | 6               | 6                |
| Biomass or electricity                                       | 9               | 12               | 18              | 30               |
| Low-Med Btu-Combined Cycle                                   | 0               | 0                | 0               | 250              |
| Subtotals  | (13)            | (16)             | (45)            | (307)            |
| Dispersed Technologies Solar & Wood Heat & Cooling of bldgs. | 27              | 32               | 66              | 104              |
| Photovoltaic   | 0               | 0                | 1               | 1                |
| Wind   | 1               | 2                | 5               | 20               |
| Subtotals  | (28)            | (34)             | (72)            | (126)            |

## APPENDIX C—PRESENT AND PROJECTED QUANTITIES OF PETROLEUM STORED IN THE STRATEGIC PETROLEUM RESERVE

The Department of Energy is in the process of implementing plans for the storage of an initial 250 million barrels of petroleum in the Strategic Petroleum Reserve (SPR). As of February 11, 1979, 77,000,000 barrels had been delivered to the SPR and it is expected that a goal of 248 million barrels will be met by the end of 1980. However, in view of the Iranian situation it is uncertain whether the current rate of fill, which is 10 million barrels a month, can be maintained. DOE plans currently call for a total of 348 million barrels to be purchased and stored by the end of 1981, 418 million by the end of 1982, and 524 million by the end of 1983. The Department also has submitted to the Congress, in Energy Action DOE No. 1, May 1978, a second amendment to the SPR Plan, this amendment became effective in June, 1978, and provides for expansion of the SPR program to one billion barrels of petroleum, to be in storage by 1985; however, specific implementation plans have not been formulated nor have funding decisions been made as of this date.

## APPENDIX D—PRODUCTION PROJECTIONS FOR NEW AND EMERGING TECHNOLOGIES\*

Production of energy from new and emerging energy technologies currently comprises a negligible portion of domestic energy needs. In the near future, however, energy production from solar, wind, and geothermal sources is expected to provide a small but increasingly significant contribution to domestic energy self-sufficiency, as the following table illustrates:

\*These projections have been developed by the Energy Information Administration of DOE. Because the assumptions upon which the projections are based constantly change and are subject to differing interpretations, the data expressed herein solely represent the conclusions of the Energy Information Administration.



**PRODUCTION LIMITS FOR NEW AND EMERGING TECHNOLOGIES—Continued**  
(Trillions of Btu Per Year)

|   | 1985            |                  | 1990            |                  |
|---|-----------------|------------------|-----------------|------------------|
|   | Lowest of limit | Highest of limit | Lowest of limit | Highest of limit |
| Industrial & Agric.                           |                 |                  |                 |                  |
| Solar Process Heat                            | 20              | 50               | 60              | 250              |
| Biomass (over 1978 levels)                    | 100             | 200              | 200             | 500              |
| Subtotals                                     | (120)           | (250)            | (260)           | (750)            |
| Transportation Liquids from biomass (gasohol) | 2               | 5                | 15              | 40               |
| Total   | 507             | 773              | 1,475           | 3,285            |
| Adjusted Total <sup>1</sup>                   | (707)           | (1,013)          | (2,025)         | (4,413)          |
| Oil Equivalent (MMB/D) <sup>2</sup>           | 330             | 477              | 953             | 2,077            |

<sup>1</sup>The amounts shown are technically possible and on a case by case bases economically possible, but in an integrative analysis the technologies here noted frequently do not enter the forecast in the amounts shown.

<sup>2</sup>The solid waste conversion figures are highly uncertain and are currently being reviewed.

<sup>3</sup>The amounts shown for centralized electricity is the heat value of the electricity produced. An estimate of the heat value of the possible fuel saved to generate the same amount of electricity can be obtained by multiplying the figures shown by 3.

<sup>4</sup>It is estimated that one-half the energy saved by these dispersed technologies is electricity. The heat value of the fuel saved in electricity generation can be estimated by taking one-half of the figure shown and multiplying it by 3.

<sup>5</sup>The adjusted total is an estimate of heat value of gas and oil saved by using the new technologies at the limit shown. The adjustment for heat losses in electricity generation is included in these figures.

<sup>6</sup>The oil equivalent figure is shown for the adjusted totals. It was computed assuming  $5.82 \times 1,000,000$  Btu per barrel of crude oil.

**APPENDIX E—IMPACT OF THE CURTAILMENT OF IRANIAN EXPORTS, "THE OUTLOOK FOR THE IMPLEMENTATION OF THE INTERNATIONAL ENERGY AGREEMENT'S EMERGENCY OIL SUPPLY PROGRAM," AND THE OUTLOOK FOR ADDITIONAL OIL IMPORTS FROM MEXICO**

**Shortages Created by the Iranian Situation.** The political situation in Iran has resulted in a net reduction in world oil production of approximately 2 million barrels per day compared with the level of late 1978. On the basis of the percentage of reliance upon imports alone, the United States' share of the shortfall would be approximately 500,000 barrels per day. If the International Energy Agreement were triggered, the shortfall could be apportioned ultimately on the basis of total petroleum demand. In that event, the U.S. share of the shortfall could increase to approximately 800,000 barrels per day.

The Iranian situation underscores the danger to national security of excessive consumption of oil and consequent undue dependence upon imported petroleum.

**The Outlook for Implementing IEA Sharing Plans.** The IEA Governing Board will meet on March 1-2, 1979, to review the impact of the Iranian situation and to discuss appropriate policy responses designed to reduce consumption, increase production, encourage fuel switching, and ensure equitable allocation of available production.

It does not now appear that the emergency oil supply program will be fully implemented. Aggregate oil supplies available to IEA countries have not fallen seven percent below consumption in the base period, which would trigger the emergency sharing mechanism. A limited sharing program could be triggered if oil supplies to any single member country fall 7 percent below its base period consumption. Three or four countries are possible candidates for such selective triggering. If an individual country did trigger the emergency sharing mechanism, it would be required first to reduce its oil consumption by 7 percent.

A voluntary commercial redirection of oil supplies is already underway which should help distribute available supplies to accommodate the more severely affected countries.

**The Outlook for Additional Oil Imports from Mexico.** Mexican oil production is currently approximately 1.5 million barrels daily of which some 500,000 b/d are being exported. The United States receives about 80-90 percent of Mexican oil exports. Mexico's production efforts are substantial but it is unlikely that oil production can be increased significantly in the near term beyond the levels already targeted. Mexico's end of 1980 production goal is 2.2 million b/d, with exports of about 1.1 million b/d. Beyond 1980, oil production levels will be determined by the Mexican Government; President Lopez Portillo has recently suggested the pace of future development will be somewhat slower than previously expected.

**APPENDIX F—THE IMPACT OF THE NEA ON THE REDUCTION OF U.S. OIL IMPORTS**

The National Energy Act is principally a longer term program that does not have large potential for reducing oil imports in 1979-80. The principal near term impact will be through the Natural Gas Policy Act, which has created a national market for natural gas and made available to the interstate market substantial volumes of gas that is surplus to the demands of the intrastate markets. If the full potential were realized, the import reduction could be a few hundred thousand barrels per day. In the short term, however, there are institutional and other constraints that will prevent realization of the maximum potential. The acts relating to Conservation, Utility Rate Reform, Coal Conversion, and Energy Tax Credits will have a relatively small impact in 1979 and 1980.

For the longer term, it is projected that the National Energy Act will reduce the demand for imports in 1985 by 2.5 to 3 million barrels per day. Nevertheless, 1985 imports of petroleum are expected to be between 9.0 and 10.0 million barrels per day.

Thus, while the NEA is a significant step in the right direction, it will not alone solve the energy and economic problem of heavy dependence upon imports.

**APPENDIX G—COMPARISON OF CURRENT DATA WITH THE DATA UTILIZED IN THE 1975 REPORT OF INVESTIGATION OF EFFECT OF PETROLEUM IMPORTS AND PETROLEUM PRODUCTS ON THE NATIONAL SECURITY**

**1. PERCENT OF DOMESTIC ENERGY CONSUMPTION BY PRIMARY ENERGY TYPE**

|                  | 1975 Report | Current Data <sup>1</sup> |
|------------------|-------------|---------------------------|
| A. Petroleum     | 48%         | 48%                       |
| B. Natural Gas   | 31%         | 25%                       |
| C. Coal          | 18%         | 18%                       |
| D. Hydroelectric | 4%          | 4%                        |
| E. Nuclear       | 1%          | 4%                        |

**2. CRUDE OIL PRODUCTION**

|                        | 1975 Report | Current Data      |
|------------------------|-------------|-------------------|
| A. World               | 55          | 62.9              |
| B. OPEC                | 30          | 31.8              |
| C. Communist Countries | 11          | ( <sup>1</sup> —) |
| D. U.S.                | 8.8         | 8.7               |

**3. DOMESTIC PETROLEUM PRODUCT DEMAND**

|  | 1975 Report | Current Data |
|--|-------------|--------------|
|  | 16.3        | 18.7         |

**4. CRUDE AND PRODUCT IMPORTS**

|  | 1975 Report | Current Data |
|--|-------------|--------------|
|  | 5.8         | 8.1          |

**5. IMPORTS AS A PERCENT OF DOMESTIC PETROLEUM DEMAND**

|  | 1975 Report | Current Data |
|--|-------------|--------------|
|  | 35.6%       | 43.4%        |

**6. DIRECT CRUDE AND PRODUCT IMPORTS FROM OPEC**

|  | 1975 Report | Current Data |
|--|-------------|--------------|
|  | 3.5         | 5.5          |

**7. INDIRECT CRUDE AND PRODUCT IMPORTS FROM OPEC**

|  | 1975 Report | Current Data |
|--|-------------|--------------|
|  | .85         | 1.2          |

**8. PERCENTAGE OF TOTAL PETROLEUM IMPORTS ORIGINATING IN OPEC**

|             | 1975 Report | Current Data |
|-------------|-------------|--------------|
| A. Direct   | 60%         | 61.9%        |
| B. Indirect | 15%         | 14.8%        |
| C. Total    | 75%         | 82.7%        |

**9. PERCENTAGE OF DOMESTIC PETROLEUM DEMAND ORIGINATING IN OPEC**

|  | 1975 Report | Current Data |
|--|-------------|--------------|
|  | 25%         | 35.8%        |

**10. IMPORTS FROM MAJOR WESTERN HEMISPHERE PRODUCER/SUPPLIERS**

|                                  | 1975 Report      | Current Data <sup>1</sup> |
|----------------------------------|------------------|---------------------------|
| A. Canada                        | 1.0              | .45                       |
| B. Venezuela (OPEC)              | 1.1              | .62                       |
| C. Mexico                        | ( <sup>1</sup> ) | .31                       |
| D. Total as a percent of imports | 36%              | 17%                       |

(All numbers are in Millions of Barrels Per Day unless otherwise noted.)

<sup>1</sup>The source for the following data is the Monthly Energy Review, February 1978, published by the Department of Energy.

<sup>2</sup>Numbers equal less than 100% due to rounding—Average for 1978.

<sup>3</sup>November 1978.

<sup>4</sup>Ibid.

<sup>5</sup>Average for 1978.

<sup>6</sup>Ibid.

<sup>7</sup>Ibid.

<sup>1</sup>Average for 1978; DOE not account for refinery loss of processing imported crude.

<sup>2</sup>Average for first eleven months of 1978.

<sup>3</sup>Average for first five months of 1978.

<sup>4</sup>Average for first eleven months of 1978.

<sup>5</sup>No comparable date immediately available.

<sup>6</sup>Not reported.

WASHINGTON, D.C., FEBRUARY 9, 1979.

DEAR MR. MUNDHEIM: I am replying to your letter of February 6, requesting the review, and if needed, revision of my April 3, 1978 letter to you regarding the impact of oil imports on the national security of the United States.

I have reviewed the earlier exchange, and conclude that the comments contained in my April 3 letter are still current, and are responsive to the specific questions posed in your letter of March 27, 1978.

You further requested the Department's views on the impact of the recent cessation of Iranian oil exports on the national security, pursuant to Section 232(b) of the Trade Expansion Act of 1962. The Iranian situation has underscored the serious implications of our dependence upon foreign suppliers for nearly one-half of all petroleum and petroleum products consumed in the United States. It further reinforces our judgment, as stated in my letter of April 3, that oil and oil products are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

Sincerely,

RICHARD N. COOPER,  
Under Secretary of State  
For Economic Affairs.

DEPARTMENT OF STATE

WASHINGTON, D.C.,  
April 3, 1978.

Mr. ROBERT H. MUNDHEIM, The General Counsel of the Treasury, Washington, D.C.

DEAR MR. MUNDHEIM: I am responding to your March 27 letter to Secretary Vance requesting the views of the State Department as to whether oil or oil products are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States.

Notwithstanding the economic disruption suffered by the United States as a direct consequence of the 1973-74 oil embargo and owing to the massive price increases which came in its wake, our dependence on imported oil has been increasing. Last year, the United States depended upon imports of petroleum and petroleum products to meet almost 50 percent of domestic

demand. Forty-seven percent of our crude oil imports came from the Arab nations which imposed the embargo, and another 40 percent came from non-Arab members of the market-dominating Organization of Petroleum Exporting Countries (OPEC).

Thus, the United States remains vulnerable to interruptions in the supply of imported oil and to substantial price increases which could severely disrupt our economy. Furthermore, it is our view, and that of major OPEC producers and our allies, that a continuation of the current trend in United States imports eventually could be a major factor in creating a seller's market for internationally traded oil, increasing the possibility of large oil price increases. Such increases would not only affect the United States economy directly, but seriously damage the prospects for the growth and stability of the world economy.

It is true that there are other countries which are even more heavily dependent on imported oil as a source of energy than is the United States. However, their role in the maintenance of world peace and global security is less than that of the United States, and they have less potential than do we to increase their energy production. They also, like the United States, feel a great sense of unease at their dependence on imported petroleum, and their sense of vulnerability is heightened when they see the degree to which the United States, the leader in the NATO Alliance, relies so heavily on outside sources of crude oil.

The following are our comments on the five specific points you asked us to address:

1. Our treaty obligations, particularly those that relate to mutual security, require the United States to be able to conduct an effective defense of its own interest and to make an effective contribution to the defense of its allies. Heavy dependence on imported oil can create doubts about our ability to sustain prolonged conflicts and assist our allies in an optimum way.

2. It is our view that the current oil import situation impairs our ability to achieve our foreign policy objectives, both economic and political, in ways that are spelled out in this letter. Moreover, the way in which we deal with this situation is widely regarded by other countries as a test of United States leadership and determination to play a constructive role in international relations.

3. The International Energy Agency's oil sharing program, particularly when the full amount of the oil stocks it contemplates is in place, can significantly lessen the impact of potential supply disruptions on us and our allies. Nevertheless, even when the

United States strategic Petroleum Reserve is full, it can only delay the impact of a prolonged, severe shortage of oil and is not designed to offer protection against the effects of abrupt price increases. In recognition of this, the members of the International Energy Agency have adopted a separate objective of reducing the group's projected dependence on imported oil to no more than 26 million barrels a day by 1985. Currently, owing in large part to projections of oil imports by the United States on the basis of current policies, achievement of that objective is endangered.

4. Both the Soviet Union and China are net oil exporters. The United States, dependent on far-flung lines of supply and foreign sources for a large percentage of its needs, is at an obvious strategic disadvantage.

5. Our high level of oil import dependence has contributed substantially to a current account deficit that has reduced international confidence in the dollar. This in turn has created unwonted difficulties in achieving the maximum degree of international cooperation to further our objective of promoting a stable, balanced recovery of the world economy from the present severe recession.

In sum, it is our overall judgment that oil and oil products are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States; effective action is required to remedy this situation.

Sincerely,

RICHARD N. COOPER,  
Acting Secretary.

**POTENTIAL ECONOMIC IMPACTS OF A PARTIAL OIL EMBARGO**

U.S. DEPARTMENT OF TRANSPORTATION

OCTOBER 26, 1978.

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**APPENDIX A—AVAILABILITY OF PETROLEUM STOCKS**

**SECTION I—INTRODUCTION**

An embargo is assumed that cuts off 3 million barrels of imported oil per day for a six-month period, accounting for approximately 15.7 percent of current consumption.

The economic impacts are examined under two scenarios:



## NOTICES

1. Petroleum consumption is reduced 15.7 percent in all sectors of the economy.

2. All the reduction of 3 million barrels per day is concentrated in personal auto use.

Neither of these scenarios represents an optimum allocation of petroleum products; they reflect a pessimistic forecast of the economic impact of two extreme allocation policies. The impacts could probably be reduced by an improved allocation policy; drawdown of stocks of petroleum products and substitute fuels; increases in domestic production of fuels; and further conservation. However, it should be remembered that it is difficult to change institutional patterns of energy consumption, production and distribution in the short term, especially without warning and careful advance planning. Therefore, the results presented here may be realistic for a disruptive period following a sudden embargo.

Background information on trends in the consumption of petroleum products and other fuels, domestic production of oil, and oil imports is presented in Table 1. It may be noted that total energy consumption has been growing somewhat slower than real GNP; however, based on data for the first five months of 1978, total energy consumption may grow at about the same rate as GNP in 1978. The consumption of petroleum products has been growing as fast or faster than the GNP for several years (reflecting a sharp decrease in the production of natural gas while coal production has kept pace with GNP growth) but has slowed in 1978. Oil imports have been increasing dramatically until 1978 as a result of a sharp decline in domestic production of oil. However, imports of oil have declined in 1978 largely reflecting the increase in domestic supply from Alaska. In fact, for the first six months of 1978 crude oil imports declined 14 percent, compared to the same six months a year earlier.

## NOTICES

TABLE 1. CONSUMPTION OF PETROLEUM PRODUCTS BY SECTOR AND SELECTED ENERGY INDEXES

| CATEGORY                            | 1973  | 1974  | 1975  | 1976  | 1977  | Estimated          |       |          |
|-------------------------------------|-------|-------|-------|-------|-------|--------------------|-------|----------|
|                                     |       |       |       |       |       | 1978               | 1979  | 78:4-79: |
| <u>Thousands of Barrels Per Day</u> |       |       |       |       |       |                    |       |          |
| Industrial <sup>a</sup>             | 3145  | 3098  | 2958  | 3192  | 3393  | 3444               | 3638  | 3541     |
| Residential and Commercial          | 3500  | 3207  | 3018  | 3301  | 3502  | 3553               | 3751  | 3652     |
| Transportation <sup>b</sup>         | 9131  | 8881  | 8957  | 9430  | 9746  | 9907               | 10162 | 10035    |
| Electric Utilities                  | 1532  | 1467  | 1389  | 1520  | 1709  | 1803               | 1847  | 1825     |
| Total                               | 17308 | 16653 | 16322 | 17443 | 18350 | 18707              | 19398 | 19053    |
| Oil Imports (crude and products)    | 6256  | 6112  | 6056  | 7313  | 8744  | 7938 <sup>c</sup>  | —     | —        |
| <u>Indexes: 1973 = 100</u>          |       |       |       |       |       |                    |       |          |
| Real GNP (Constant 1972 dols.)      | 100.0 | 98.6  | 97.4  | 103.2 | 108.3 | 112.7              | 117.7 | —        |
| <u>Energy Consumption</u>           |       |       |       |       |       |                    |       |          |
| Total Energy                        | 100.0 | 97.5  | 94.7  | 99.8  | 101.8 | 106.1              | —     | —        |
| Petroleum Products                  | 100.0 | 96.2  | 94.3  | 100.8 | 106.0 | 108.1              | 112.1 | —        |
| Coal                                | 100.0 | 97.5  | 96.6  | 103.5 | 106.3 | —                  | —     | —        |
| Natural Gas                         | 100.0 | 96.5  | 88.6  | 90.4  | 87.1  | —                  | —     | —        |
| <u>Energy Supply</u>                |       |       |       |       |       |                    |       |          |
| Crude Oil, Domestic Production      | 100.0 | 95.3  | 91.0  | 88.3  | 88.8  | 95.2               | —     | —        |
| Oil Imports (crude and products)    | 100.0 | 97.7  | 96.8  | 116.9 | 139.8 | 126.9 <sup>d</sup> | —     | —        |

<sup>a</sup>Includes agriculture, mining, construction, and manufacturing.

<sup>b</sup>Includes military operations.

<sup>c</sup>Average for January through June 1978.

<sup>d</sup>Based on January through June 1978.

Source: Monthly Energy Review, August 1978, Energy Information Administration, U.S. Department of Energy, Survey of Current Business, various issues, Bureau of Economic Analysis, U.S. Department of Commerce.



## SECTION II—IMPACTS ON GNP

A reduction of 15.7 percent in the consumption of petroleum products in all sectors (the first scenario) would tend to reduce GNP in the short term by a like percentage if no conservation was possible, no fuel substitution was possible, no sustained drawdown of petroleum stocks was possible, and the mix of products and services demanded in the economy remained the same. This follows since petroleum products are an essential input, directly or indirectly, to all industries in the economy, and a balanced level of production among intermediate and final products would settle down to the reduced level. The full effects would occur with a one- to two-month lag as fuel in transit and working stocks were depleted.

Freight transportation would be affected by essentially the same percentage as all other sectors of the economy in this worst case assumption. The demand for discretionary travel, however, would probably decline more than the 15.7 percent drop postulated, due to a reduction in incomes and an increase in uncertainty with respect to future incomes. Discretionary travel, largely by auto, is estimated to account for about 12 percent of total petroleum consumption. If this travel is cut voluntarily by 33 percent (due to income declines) which seems reasonable, then petroleum products would be freed up for use elsewhere in the economy, resulting in a reduction of only 13.4 percent in the remainder of the economy.

Some conservation would be possible in industry, transportation (in addition to discretionary travel), and commercial use without reducing output or economic activity. Households might be persuaded to reduce consumption for space heating and other uses. It is estimated that these sectors could absorb on the average a 5 percent decrease in consumption, without decreasing output. Therefore, an 8.4 percent reduction in output is estimated to occur in all sectors, except those associated with discretionary auto driving, increasing to this level over a one to two month period.

A best estimate is an 8.4 percent reduction in the GNP over a six-month period for the scenario under which a 15.7 percent drop in oil consumption is assumed without any formal allocation system or drawing down of petroleum industry stocks of oil and other fuels. Again, it should be pointed out

<sup>1</sup>Discretionary travel accounts for about 40 percent of all auto vehicle miles. It includes all social and recreational driving and about a third of family business driving. These estimates are reported in the National Personal Transportation Study, *Household Travel in the United States*, Report No. 7, December 1972.

that this is a pessimistic forecast, and the results could possibly be mitigated through some of the steps discussed in the next section.

The second scenario under which all of the reduction would be concentrated in personal auto would mean a 52 percent reduction in auto usage, but only about a 1.2 percent reduction in GNP over the six-month period. Even if all discretionary driving is eliminated, a 20 percent reduction in commutation and business use would be needed to accommodate the 3 million barrel per day reduction in petroleum demand. The effect on the tourist and recreational industry would be major. Hotels and motels would probably lose over 25 percent of their business. Auto service stations and repair shops would probably suffer revenue losses of up to 50 percent. The impact on auto sales could be severe in the short term, but the losses would probably be largely recouped later. The effect on GNP is estimated at about a 1.2 percent annual rate over the six-month period (see Section V). This GNP loss would affect some establishments more severely than others. Lodging and eating establishments located in tourist areas would suffer extensive losses while establishments in business areas would realize only minor losses.

## SECTION III—POSSIBLE MITIGATION OF IMPACTS

The impacts under the first scenario could probably be reduced by one or more of several actions that might be feasible:

1. drawdown of stocks of petroleum products;
2. drawdown of stocks of other fuels to substitute for petroleum use;
3. higher conservation in the residential and commercial sector for space heating and cooling; and

TABLE 2.—Mitigation of Impacts on Gross National Product 1978:4-1979:1  
(Barrels per day in thousands)

|  | Scenario 1<br>across-the-board<br>reduction |                      | Scenario 2<br>personal auto reduction<br>only |                      |
|--|---|----------------------|---|----------------------|
|  | Barrels per<br>day                          | Percent <sup>1</sup> | Barrels per<br>day                            | Percent <sup>2</sup> |
| Total petroleum cutback.....   | 3,000                                       | 15.7                 | 3,000   |                      |
| Mitigation of GNP reduction  |   |                      |   |                      |
| Demand reduction from discretionary travel.....                      | 762   |                      | 2,308   |                      |
| Demand reduction required from other sectors.....                    | 2,238                                       | 13.4                 | 692   |                      |
| Demand reduction from business travel.....                           |   |                      | 692   | 1.18                 |
| Demand reduction from conservation.....                              | 837   |                      | 837   |                      |
| Shortfall.....   | 1,401                                       | 8.4                  | 0   |                      |
| Drawdown from industry stocks.....                                   | 1,111                                       |                      | 1,111   |                      |
| Shortfall.....   | 290   | 1.7                  | 0   |                      |
| Excess supply available from conservation and stock<br>drawdown..... | 0   |                      | 1,948   |                      |

<sup>1</sup>Reduction in total GNP after each mitigation effort.

<sup>2</sup>Reduction in total GNP.

<sup>3</sup>In Scenario 2 the petroleum available from industry stock drawdown and conservation could be used to eliminate the reduction in business travel and cut the reduction in discretionary travel to 1052 TBD (46 percent of discretionary travel demand) and thus the GNP impact could be reduced to about 0.5 percent.

4. higher reduction in consumption in energy intensive industries.

Drawdown of petroleum industry and user stocks (crude and products) might be feasible up to 200 million barrels. This would be from safety and cyclical stocks estimated at 600 million barrels normally.<sup>1</sup> However, a large drawdown of these stocks would inevitably lead to imbalances in specific locations. Over recent years, including the 1973-74 embargo period, the maximum drawdown in these stocks over a few-months period has been around 200 million barrels. To achieve this much drawdown by design would probably entail very close scheduling in the transportation and distribution system. A drawdown of this amount would significantly mitigate the necessary reduction in petroleum consumption across-the-board. Under the 15.7 percent across-the-board reduction in consumption scenario, the GNP impact might be reduced to about 2 percent (from the 8.4 percent best estimate without a drawdown of petroleum stocks, see Section II).

Scenario 2 concentrates the reduction in petroleum use in automobile travel for both discretionary and business uses. Under this scenario the GNP would be reduced by about 1 percent from the impacts on auto related industries (see Section V). If conservation in other sectors of the economy and industry stock drawdown were encouraged, the GNP impacts could be reduced and the cutbacks in discretionary driving could be brought down to 46 percent from 100 percent and the cutbacks in business travel would be limited to the 5 percent savings from conservation. Table 2 presents a summary of the effects of various mitigation efforts on each Scenario.

<sup>1</sup>See Appendix A.

TABLE 3.—ESTIMATED 1978 TRANSPORTATION CONSUMPTION  
OF PETROLEUM PRODUCTS

|                           | Thousands of Barrels Per Day |          |                |                 |             |            |
|---------------------------|------------------------------|----------|----------------|-----------------|-------------|------------|
|                           | Petroleum<br>Products        | Gasoline | Diesel<br>Fuel | Residual<br>Oil | Jet<br>Fuel | Av.<br>Gas |
| All Modes                 | 9469.2                       | 7195.0   | 1197.9         | 381.4           | 663.3       | 31.6       |
| Railroads                 | 283.0                        |          | 283.0          |                 |             |            |
| Water Modes               | 543.5                        | 50.0     | 112.1          | 381.4           |             |            |
| Domestic Freight          | 218.3                        |          | 45.0           | 173.3           |             |            |
| International Freight     | 236.1                        |          | 35.1           | 208.1           |             |            |
| Commercial Fishing Boats  | 36.7                         | 3.6      |                |                 |             |            |
| Recreation Boats          | 50.4                         | 46.4     | 4.0            |                 |             |            |
| Highway Total             | 7935.5                       | 7145.0   | 790.5          |                 |             |            |
| Auto (and personal truck) | 5770.8                       | 5770.8   |                |                 |             |            |
| Truck                     | 2091.5                       | 1349.9   | 741.6          |                 |             |            |
| For Hire                  |                              |          |                |                 |             |            |
| Local                     | 58.5                         | 47.7     | 10.8           |                 |             |            |
| Inter-city                | 473.6                        | 36.9     | 406.7          |                 |             |            |
| Private                   |                              |          |                |                 |             |            |
| Local Freight             | 235.9                        | 231.2    | 4.7            |                 |             |            |
| Inter-city Freight        | 312.9                        | 112.6    | 201.3          |                 |             |            |
| Non-Freight               | 512.5                        | 800.2    | 112.3          |                 |             |            |
| Government                | 97.1                         | 91.3     | 6.8            |                 |             |            |
| Buses                     |                              |          |                |                 |             |            |
| Inter-city                | 18.4                         | .7       | 17.7           |                 |             |            |
| Transit                   | 31.4                         | .3       | 31.1           |                 |             |            |
| Private                   | 23.4                         | 33.1     | .1             |                 |             |            |
| School                    | 18.8                         | 18.7     | .1             |                 |             |            |
| Other                     | 4.6                          | 4.6      | 0.0            |                 |             |            |
| Pipelines                 | 12.3                         |          | 12.3           |                 |             |            |
| Aviation                  | 694.9                        |          |                | 663.3           |             | 31.6       |
| Commercial Aviation       | 647.1                        |          |                | 644.0           |             | 3.1        |
| General Aviation          | 47.8                         |          |                | 19.3            |             | 28.5       |

<sup>1</sup>1972 data; most energy consumed by pipelines is natural gas or electricity.

Sources: Monthly Energy Review, U.S. Department of Energy, August 1978; Highway Statistics, U.S. Department of Transportation, various issues; Monthly Report of Gasoline Sales, Ethyl Corporation, various issues; Railroad Facts, 1977 and preliminary 1978 edition; Association of American Railroads; Aviation Forecasts, 1978-1979 and 1979-1980 preliminary edition; FAA, U.S. Department of Transportation; and Energy Consumption by Transportation Mode, report submitted by Jack Faucett Associates, May 1973 to OST, U.S. Department of Transportation.

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## TRANSPORTATION MODES AS TRANSPORTERS OF CRUDE OIL AND PETROLEUM PRODUCTS

Forced curtailments in imports of crude oils and/or petroleum products would reduce the quantities of these products that have to be transported. Some highlights of the kinds of impacts that might be expected on different modes are as follows:

## International Water

Virtually all crude oil and petroleum product imports except those from Canada enter the U.S. via water. Thus a 50 percent cutback in imports would cause a comparable percentage reduction in the tonnage output required. Most crude oil is carried on foreign flag vessels. These may be owned by U.S. based multinational corporations. It seems likely that the reductions would not be made proportionately by port of entry but adjusted so that supplies of crude to refineries would be kept in balance and so that the requirements for further transport of the refined products could be minimized. Specifically this would mean

that a higher percentage of the imports would be focused on PAD I (Northeast-Atlantic Coast Area) since this region's refineries receive over 90% of their crude from foreign sources.

## Domestic Water

The domestic water carriers provide significant service in the transportation of petroleum products and also crude oil. It is expected that the transportation requirements placed on the transportation of crude oil and petroleum products would be reduced somewhat less than the reduction in overall petroleum product demands. For example, transportation requirements for Alaskan oil would not be reduced and could be expanded if more of the oil was shipped over water to Gulf and East Coast ports. Also for petroleum products most production based on domestic oil is located away from consumption areas while for imports the refineries which use this crude are located close to consumption areas.

In 1976 about 60 percent of crude oil and petroleum product ton miles in

Drawdown of natural gas and coal stocks might also be feasible and, to the extent that these fuels could be substituted for oil, would reduce the impacts further.

It should be kept in mind that a drawdown of either stocks of petroleum or other fuels would have the effect of spreading the impact over a longer time frame than the six-month period and at a lower rate of impact. These stocks would need to be replenished after the embargo and the extent to which stock replenishment would affect the economy would be determined by the rate at which supplies would be available after the embargo. In a case where the supply rate required for stock replenishment could be obtained in addition to the supply rate for normal petroleum demand, the impacts would not carry over into the post-embargo period.

In the future the Strategic Petroleum Reserve (SPR) could provide some additional relief. When the reserve is filled, it is designed to satisfy all petroleum requirements above the domestic production for a 125 day period. The current fill is about 35 million barrels. Estimates for the fill by December 1980 range from a base case of 325 million barrels to a maximum achievable under an accelerated program of 465 million barrels. The long range goal is 1 billion barrels. As the current supply would account for less than two weeks of the shortfall assumed in this study, the SPR is not considered in the analysis.

Higher cut-backs in residential and commercial consumption for space heating and other uses would probably be possible only with stringent rationing and controls over consumption since a significant reduction has already been postulated. (13.4 percent under the assumptions of the first scenario).

Higher cut-backs in energy intensive industries probably do not hold much promise since these are generally basic industries upon which the rest of the economy is dependent. Some higher cut-back might be possible, by depleting the inventories of the products of these industries, for a limited time and still maintain balanced production in the remainder of the economy.

## SECTION IV—IMPACTS ON TRANSPORTATION MODES

A cutoff of a specified amount of present crude oil and/or petroleum product imports would affect transportation modes in two ways, as transporters of the crude oil and petroleum products and as consumers of petroleum products. The estimated consumption of petroleum products by mode is presented in Table 3.



domestic water were handled by private carriers. In these cases most of the economic impacts of the loss of business in transporting these products would be part of the total impact on the petroleum companies which own most of the vessels. The remaining 40 percent are provided by for-hire carriers. They are likely to be specialized carriers and therefore could individually be significantly impacted by curtailed business.

#### Pipelines

Pipelines may be divided along the line of the products carried, crude oil vs. petroleum products although many companies are engaged in carrying both these goods though in separate lines. The pipelines serve to carry crude oil from coastal import landing areas to inland refinery locations and from areas of excess domestic crude production to other areas for refining. Individual pipelines which carry imported crude might therefore face a reduction in throughput while those which transport domestic oil might not.

Petroleum product flows would also be cut as a result of the decreased imports. Overall pipeline flow decreases might approximate the overall 15.7 percent average decline in petroleum product consumption.

#### Trucking

Trucks are involved in the final delivery of most motor fuels and distillate fuels for heating. These companies would, therefore, suffer a loss in business that might be proportional to the overall percentage reduction in petroleum product consumption if the reduction is made proportionally across the board. The total effect on the industry would be similar under both scenarios, as in each case the demand reduction is 3 million barrels per day. However, scenario 2 concentrates this reduction in auto use (52 percent reduction in scenario 2 vs. 21 percent in scenario 1) and thus, those industry segments that typically deliver motor fuels would suffer greater losses than other segments of the trucking industry. Carrying these products apparently accounted for about 8 percent of trucking intercity ton-miles in 1972.

#### TRANSPORTATION AS USERS OF PETROLEUM PRODUCTS

As users of petroleum products in a partial embargo situation, transportation modes will be balancing reduced demands for their services vs. reduced fuel availabilities to see whether they will be able to provide the demanded services with the available fuels or whether lack of fuels might constrain their output. The ability to reduce fuel use without affecting output is

likely to differ significantly across the modes, for instance those that tend to operate at low load factors (as most of the passenger modes do) should be able through rescheduling to accommodate the desired passenger travel, though at some inconvenience due to the rescheduling with significantly lower energy consumption. This can cause other disruptions such as employee layoffs.

Among the freight modes the load factors are higher, and the scheduling problems more complicated (especially for trucks) and there could, therefore, be less opportunity for retaining output levels while reducing energy consumption.

The last section of this report which reviews the impacts of the 1973-1974 embargo may also be helpful to give a feel for the type of modal impacts that might be expected.

#### SECTION V—IMPACT ON AUTO TRAVEL RELATED INDUSTRIES

The impact on GNP and employment would be minimized by concentrating the reduction in oil consumption more heavily in personal auto. However, this would have very serious impacts on a number of auto travel related industries.

In Scenario 1 GNP is reduced by \$10.2 billion in auto related industries or approximately 0.49 percent of total GNP measured at annual rates. The largest reduction in terms of total GNP is in auto repair services where GNP is reduced by \$2.5 billion (annual rate). The reduction is about 21 percent of the Gross Product Originating (GPO) of this sector. Gasoline service stations and eating and drinking places cut GNP by \$1.9 billion and \$1.7 billion respectively.

Gross Product Originating (GPO) is the portion of GNP contributed by each sector of the economy. The sum of GPO across all sectors is GNP.

TABLE 4.—Estimated Reduction in Gross Product Originating by Sector Resulting From the Impact on Auto Travel Related Industries of a Partial Oil Embargo

| Sector                                 | 1978<br>GPO<br>by industry<br>Millions \$ | Reduction in GPO |         |             |         |
|--|---|------------------|---------|-------------|---------|
|  |   | Scenario 1       |         | Scenario 2  |         |
|  |   | Millions \$      | Percent | Millions \$ | Percent |
| Motor vehicle dealers .....            | 9,338                                     | 934              | 10.0    | 1,868       | 20.0    |
| Other auto and accessory dealers ..... | 4,988                                     | 1,047            | 21.0    | 2,593       | 52.0    |
| Auto repair services .....             | 11,914                                    | 2,502            | 21.0    | 8,195       | 52.0    |
| Gasoline service stations .....        | 8,820                                     | 1,852            | 21.0    | 4,586       | 52.0    |
| Motor vehicle manufacturing .....      | 8,339                                     | 834              | 10.0    | 1,668       | 20.0    |
| Eating and drinking places .....       | 63,233                                    | 1,666            | 2.6     | 4,391       | 6.9     |
| Hotels and other lodging places .....  | 11,333                                    | 1,326            | 11.7    | 3,487       | 30.0    |
| Total .....                            |   | 10,161           | 0.49    | 24,786      | 1.18    |

\* Based on a Gross National Product of \$2,095 billion.  
Scenario 1: 21 percent reduction in overall auto use; 33 percent reduction in the use of auto for discretionary auto travel; and a 13.4 percent reduction in the use of auto for all other purposes.  
Scenario 2: 52 percent reduction in overall auto use; 100 percent reduction in the use of auto for discretionary auto travel; and a 20 percent reduction in the use of auto for all other purposes.

Scenario 2 results in \$24.8 billion, or 1.18 percent, cut in GNP at annual rates. The actual dollar reduction would be approximately half the reduction of the annual rate as shown in Table 4. Auto repair services are again the most heavily affected sector cutting total GNP by \$6.2 billion. Reduced activity in gasoline service stations reduce GNP by \$4.6 billion. The hotel and lodging industry derives about thirty percent of its revenue from pleasure as opposed to business and convention customers. Of these approximately 80 percent arrive by private auto. Only 40 percent of the business and convention customers arrive at their lodging via private auto. This translates into a GNP reduction of \$3.5 billion from a 100 percent cutback in discretionary auto use and a 20 percent cutback in other auto use. The food and beverage industries also rely heavily on tourist purchases. In 1970 about 15 percent of food and beverages purchased away from home were purchased more than 50 miles from home. Of all trips of 100 miles or more made in 1976, the private auto was the primary mode for 72.3 percent of them. The cutback in auto use reduces the contribution to GNP from the food and beverage industry by about 7 percent of \$4.4 billion.

The impacts on the auto related industries are based on driving cutbacks of 21 percent in Scenario 1 and 52 percent in Scenario 2. Fuel conservation and industry stock drawdown could reduce the GNP impacts somewhat. In Scenario 1, this available fuel would probably be employed in the manufacturing sector and would have only a minor effect on total GNP reductions in the auto related industries. However, in Scenario 2, this fuel would be available to auto users and could cut the GNP impact by more than 50 percent.

Other impacts not considered could include the effect on construction of vacation homes and real estate values in recreational developments. These impacts, along with the impact on new car sales, could be dramatic initially but probably could be recouped later if there were confidence that the embargo would be lifted. It should also be noted that some establishments will be impacted more than others and the revenues for some resort hotels could be reduced by as much as 80 percent.

#### SECTION VI—IMPACTS OF THE 1973-74 EMBARGO

The oil embargo, which was imposed October 18, 1973, by the Organization of Petroleum Exporting Countries, remained in effect until March 18, 1974. By the first quarter of 1974, there was an estimated shortfall of 3.1 million barrels per day in petroleum products, or 15.1 percent of total anticipated consumption.

Table 5 presents data measuring the imports of petroleum products just prior to and during the embargo. During the months just prior to the embargo and before the embargo impacted on actual deliveries, imports were running approximately 2.1 million barrels per day above the previous year. As the embargo took effect, imports fell to approximately 1 million barrels below the same month a year earlier.

TABLE 5.—U.S. petroleum imports (thousand barrels per day)

| Date                 | Total imports | Total one year before | Change from previous year |
|----------------------|---------------|-----------------------|---------------------------|
| Aug. 24, 1973 .....  | 5,767         | 3,649                 | 2,118                     |
| Sept. 21, 1973 ..... | 6,291         | 4,170                 | 2,121                     |
| Oct. 19, 1973 .....  | 6,720         | 4,594                 | 2,126                     |
| Nov. 18, 1973 .....  | 6,639         | 4,531                 | 2,108                     |
| Feb. 1, 1974 .....   | 5,200         | 6,536                 | -1,336                    |
| Feb. 6, 1974 .....   | 4,446         | 5,353                 | -907                      |
| Feb. 15, 1974 .....  | 4,576         | 5,707                 | -1,129                    |
| Feb. 22, 1974 .....  | 4,933         | 5,900                 | -967                      |
| Mar. 1, 1974 .....   | 5,211         | 6,354                 | -1,143                    |
| Mar. 22, 1974 .....  | 5,502         | 6,627                 | -1,125                    |

Source: Oil and Gas Journal.

Federal policies, aided by market forces, were designed to minimize the impact of the embargo on the Gross National Product. This is illustrated in Table 6 by estimates of the extent of the shortfall in required energy experienced by major segments of the economy.

TABLE 6.—The distribution of embargo oil shortfall on the sectors of the economy

|                                |     |
|--------------------------------|-----|
| Household and commercial ..... | 17% |
| Industrial .....               | 5%  |
| Transportation .....           | 17% |
| All sectors .....              | 15% |

Source: The Economic Impacts of an Interruption in United States Petroleum Imports: 1975-2000. Office of Naval Research, Department of the Navy, November 1974.

The Federal Energy Administration estimated that the overall impact of

the embargo on the economy resulted in a reduction in projected GNP of 1.2 to 2.5 percent, below its anticipated level.

As noted in Table 6, the embargo had a substantial impact on both commercial and non-commercial transportation. The following are some indications of the extent of this impact.

#### Automobile

During the embargo the consumption of gasoline in autos decreased by approximately 8 percent, as a result of the higher prices and the inconvenience of queuing to get gasoline when compared to the previous years consumption. Had consumption continued to grow at its previous rate, auto fuel use would have been approximately 14 percent higher than the embargo levels. Based on a survey conducted in the summer of 1974, in Portland, Oregon, an estimate was made of the effect of the embargo on the behavior of families with automobiles. Table 7 identifies the extent to which these families changed their modal use pattern due to the embargo.

TABLE 7.—Effect of the 1973-74 embargo on the use of autos by urban families in Portland, Oregon

| Type of change                   | Percent of families |
|----------------------------------|---------------------|
| No change .....                  | 52                  |
| Switch to other modes .....      | 28                  |
| Reduced auto travel .....        | 16                  |
| Miscellaneous mode changes ..... | 4                   |
| Total .....                      | 100                 |

Source: Boris W. Becker, et al., "Behavior of Car Owners During the Gasoline Shortage," Traffic Quarterly, July 1976.

The decline in the use of autos severely impacted on the auto industry. General Motors' sales dropped by 5.6 percent, Ford's fell by 13.8 percent and Chrysler declined by 19 percent during the first ten days of November 1973. In December, there were week-long shutdowns of 16 GM plants, while Chrysler closed 7 of its plants in January, putting more than 38,000 employees out of work.

The decline in the use of autos is also reflected in the reduced sales of motor gasoline. As indicated in Table 8 sales in the first quarter of 1974 were approximately 7.9 percent below the same quarter a year earlier. While sales improved through the rest of the year, they did not exceed the 1973 levels until the third quarter of 1974.

TABLE 8.—Sales of motor gasoline

| Quarter  | 1973<br>(Millions of gallons) | 1974<br>(Millions of gallons) | Percent change<br>1973-74 |
|----------|-------------------------------|-------------------------------|---------------------------|
| I .....  | 22,945                        | 21,129                        | -7.9                      |
| II ..... | 24,931                        | 24,403                        | -2.1                      |

TABLE 8.—Sales of motor gasoline—Continued

| Quarter     | 1973<br>(Millions of gallons) | 1974<br>(Millions of gallons) | Percent change<br>1973-74 |
|-------------|-------------------------------|-------------------------------|---------------------------|
| III .....   | 25,709                        | 25,296                        | -1.6                      |
| IV .....    | 24,120                        | 24,413                        | -1.2                      |
| Total ..... | 97,705                        | 95,241                        | -2.5                      |

Source: Yearly Report of Gasoline Sales, Ethyl Corporation, 1974.

#### Trucking

Trucking was also severely affected by the embargo. This was illustrated by a strike of owner-operators which began on January 31, 1974, due to several circumstances resulting from the embargo, including the lowering of the speed limit to 55 miles per hour, the sharp rise in the price of fuel, and the general scarcity of fuel which forced many drivers to chase from truck stop to truck stop to obtain fuel. Approximately 100,000 workers were reportedly laid off due to the truckers' strike.

Due to the increase in the cost of fuel between May 1973 and February 1974, and partially in reaction to the independent operators' stoppage, the ICC allowed a 6 percent fuel surcharge for general commodity regulated carriers. This surcharge was strongly contested by many of the industries which rely on trucking for the movement of their manufactured products.

#### Railroad

The use of passenger service and freight service increased during the embargo. Commodities transported by rail reached a record 845 billion ton-miles in 1973, or nearly 9 percent over the previous record. The increased use of rail obviously resulted in higher operating revenues, though the more than 50 percent increase in fuel prices from the previous year severely impacted on the financial position of the railroads. In February of 1974, the Interstate Commerce Commission permitted interim increases in rates of 4 percent to offset the increased cost of fuel and wages.

The availability of operating fuel was also a problem for railroads. While there was an increase in the use of rail service, this industry was limited to 100 percent of current needs for fuel consumption for the movement of fuel and passengers, and 110 percent of the 1972 level for the movement of other commodities.

#### Maritime Industry

Even though bunker oil was not subject to fuel allocation controls several shipping lines took action to reduce their consumption of bunker oil. Sea-Land Service took four ships out of



service, Sea-Train laid up two ships, while Matson Navigation Co. curtailed service of one vessel. Trans-American Trail and United States Lines reduced the speeds of some of their vessels to conserve on fuel. Energy conservation was also achieved through rationalization, which is the procedure by which sailing are spaced on a given trade to maximize the utilization of ship capacity.

#### Airlines

Airlines were severely affected by the embargo. Initially, the mandatory allocation program limited the fuel consumption of airlines to their 1972 levels, which was approximately 10 percent below requirements. To meet this situation, airlines competing in the same markets agreed on reduction in capacity. American, TWA, and United agreed to reduce capacity in 20 major markets through the cancellation of 82 flights in 15 markets and down-grading equipment in the remaining areas.

As the embargo continued and worsened, the President called for the further reductions in the consumption of fuel by air service. Table 9 identifies the extent of the reductions requested below 1972 consumption levels.

TABLE 9.—Requested reduction in fuel consumption below 1972 levels

| Type of Air Service                        | Percent Reduction |
|--|-------------------|
| Domestic Trunk.....                        | 15                |
| Local Service Carriers.....                | 10                |
| International Carriers.....                | 15                |
| Commercial and Industrial Users.....       | 10                |
| Business and Executive Users.....          | 20                |
| Personal, Pleasure, and Instructional..... | 30                |

Source: Unpublished memoranda, Transportation Systems Center, U.S. Department of Transportation, May 21, 1975.

By December, 400 daily domestic flights were cut from the original 13,800 scheduled.

Layoffs were widespread in the industry by January 7, 1974. Table 10 identifies the extent of the employment cuts.

TABLE 10.—Layoffs by selected domestic carriers due to the embargo as of January 7, 1974

| Airlines     | Number of Employees |
|--------------|---------------------|
| Eastern..... | 3,800               |
| TWA.....     | 3,300               |

| Airlines          | Number of Employees |
|-------------------|---------------------|
| American.....     | 3,100               |
| Pan American..... | 1,000               |
| Continental.....  | 732                 |
| Frontier.....     | 550                 |
| United.....       | 970                 |
| Northwest.....    | 129                 |

Source: Unpublished memoranda, Transportation Systems Center, U.S. Department of Transportation, May 21, 1975.

Paul R. Ignatius, president of the Air Transportations Association of America described the plight of the airlines during the embargo. He noted that from November 1973 until the fuel allocation program took full effect, the airlines had furlough 15,000 employees, cancel 2,200 daily departures and ground 125 aircraft.

Fuel costs for domestic airlines, which rose only 13 percent in the five year period from 1967 to 1972, jumped approximately 20 percent from December 1973 to January 1974 and by March were 47 percent higher than a year earlier.

#### APPENDIX A—AVAILABILITY OF PETROLEUM STOCKS

Since 1972 the petroleum industry has normally maintained petroleum stocks of between 1,000 and 1,225 million barrels.<sup>1</sup> A report prepared<sup>2</sup> for the Department of Energy's Office of Strategic Petroleum Reserves (SPRO) estimates that for April 1977 stocks averaged 1,120 million barrels and were made up as follows:

|                                |                              |
|--------------------------------|------------------------------|
| Operating Inventory:           |                              |
| Safety Stock.....              | 233 million barrels          |
| Cycle Stock.....               | 391 million barrels          |
| Seasonal Inventory:            |                              |
| Seasonal Stock.....            | 90 million barrels           |
| Storage Tank Bottoms.....      | 104 million barrels          |
| Unavailable Inventory:         |                              |
| Equipment Fill.....            | 1 million barrels            |
| Pipeline Fill.....             | 267 million barrels          |
| In transit (non-pipeline)..... | 35 million barrels           |
| <b>Total</b>                   | <b>1,121 million barrels</b> |

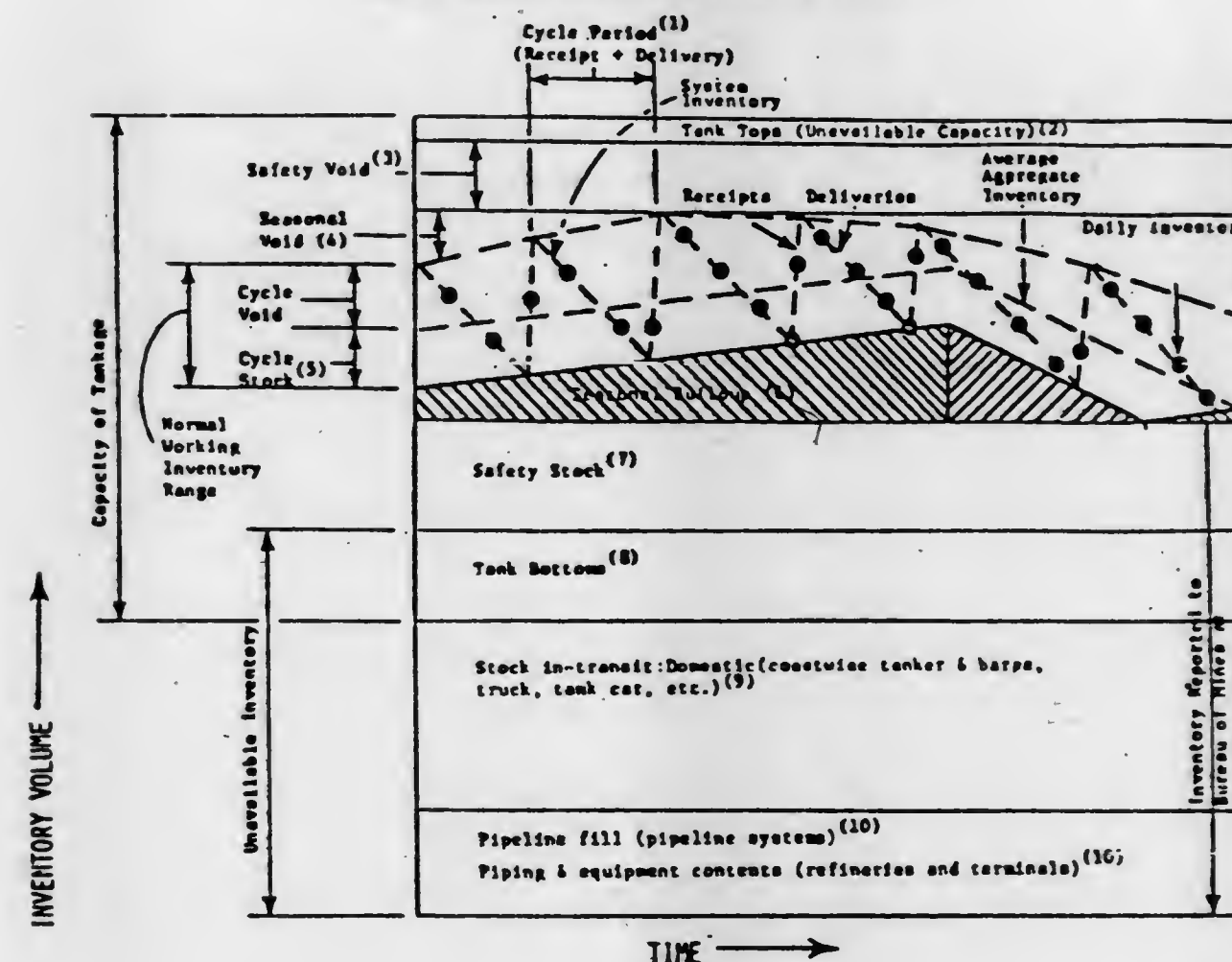
Exhibit 1 schematically illustrates the volume of the petroleum industry and shows how crude and oil products fill that volume over time.

<sup>1</sup>Per Bureau of Mines Mineral Industry Surveys.

<sup>2</sup>Evaluation Research Corporation, *Inventory Management in the Petroleum Industry*, October 1977.

#### EXHIBIT 1

#### GENERALIZED PETROLEUM INVENTORY DIAGRAM FOR SEASONALLY INFLUENCED STOCK



#### NOTES/DEFINITIONS

- Cycle Period** - Receipt and delivery cycle time period - function of transportation mode (e.g., barge, tanker, pipeline).
- Tank Tops** - To allow for thermal expansion and safety margin against spillage.
- Safety Void** - To allow for early resupply or delays in transfers from tankage.
- Seasonal Void** - To provide room to hold seasonal buildup.
- Cycle Stock** - Inventory held as a result of the interaction between receipt and delivery patterns.
- Seasonal Buildup** - To accumulate the product which exceeds resupply capability during the peak demand period.
- Safety Stock** - To allow for delays in receipts, larger than anticipated demand, etc.
- Tank Bottom** - Cannot be withdrawn from tankage under normal operating conditions.
- In-transit** - Resupply stock in custody of shippers.
- Pipe & Equipment Fill** - To assure continuous processing and/or handling.



As shown above, only part of the stocks are available. Equipment and pipeline fill and tank bottoms are not normally available. Also, over a period of a year the seasonal inventory will change, particularly for products such as heating oil and gasoline. Seasonal stocking of petroleum products changes significantly, however, the total stock of all crude and products changes less significantly due to season changes. From June 1976 through May 1977 total oil stocks fluctuated by about 153 million barrels and as that change occurred between October and February, it can probably be assumed that this was in part a seasonal change over the heating season. (However, since the winter of 1976-77 was abnormally cold, not all this difference can be assigned to the seasonal inventory.)

The petroleum operating inventory was stated by the earlier referenced SPRO report to be made up of the cycle stock and safety stock. These two components of the total stock are assumed to make up the oil industry's operating inventory and are estimated to be about 600 million barrels.

If, in fact, the oil industry's safety stock is part of its operating inventory, the effect of shortages could be felt very soon after the beginning of an embargo were it not for the practice in the oil industry of operators borrowing and lending to each other. It is this cooperative practice that allows safety stocks to be part of operating inventory. Nonetheless, if there were an embargo, spot shortages could probably begin occurring very soon in particular geographic areas, while other areas might even have surpluses. However, as the embargo continued, spot shortages would become more and more common until the safety and cycle inventories were completely depleted.

While spot shortages would probably be felt early, they would probably not become a general problem until the 230 million barrel safety reserve was depleted.

On the issue of stock drawdown the experience of the 1973-74 embargo is interesting. That embargo lasted from October 18, 1973 to March 18, 1974—five months.

A review of Bureau of Mines data from 1972 to 1978 on petroleum stocks suggests that during the year (September 1973 through August 1974) that contained the 1973-74 oil embargo, aggregate petroleum stocks fluctuated less than they did during the same September to August period in 1972-73 and 1976-77. In fact, aggregate petroleum stocks were drawn down nearly three times more from October 1972 to March 1973 (231 million barrels) than they were during the October 1973 to March 1974 embargo (88

million barrels). At the aggregate level stocks were not used abnormally during the 1973-74 embargo and, in fact, were used less than they often have been during "normal" (non-embargo) times. The availability of stocks appears to have played no important role in mitigating the effects of the 1973-74 embargo.

7

SEPTEMBER 11, 1978

Memorandum for Robert Mundheim,  
Department of Treasury

From: Charles L. Schultze  
Subject: Oil Import Investigation  
Under Section 232(b) of The Trade  
Expansion Act of 1962 as Amended

We have examined the relation between U.S. imports of petroleum and petroleum products and U.S. national security pursuant to your investigation under Section 232(b) of The Trade Expansion Act of 1962 as amended, 19 U.S.C. 1962(b). We find that the current level of imports significantly impairs our economic welfare and thereby threatens our national security in two ways:

(1) Interruptions in our oil supply comparable to the embargo of 1973-74 are still possible and would impose serious economic losses if they occur.

(2) Even in the absence of interruptions of supply, continued high levels of U.S. imports threaten to induce substantial increases in the world price of oil in the 1980s exposing the United States to the risk of severe economic harm in the future.

These dangers can be minimized without causing severe economic dislocation only by measures which promise to reduce the dependence of the United States on foreign sources of oil.

The U.S. economy has become steadily more dependent on oil imports over time. In 1960, imports satisfied 19 percent of total petroleum product consumption. By 1973, that fraction had grown to 36 percent. In 1977, it stood at 47 percent. In the absence of effective actions to hold down the level of oil imports, this fraction could rise further in the years to come.

Such high oil import levels have made, and continue to make, the United States vulnerable to interruptions in supply. This vulnerability was dramatically demonstrated by the 5-month Arab oil embargo of 1973-74. The economic impacts of that embargo and the oil price rise that accompanied it have been intensively studied by researchers both within and outside the government. Estimates of those effects are shown below. We have carefully reviewed these studies and find that the estimates span the probable range of actual effects on the economy.

|  | Average<br>percent<br>reduction in<br>real GNP,<br>1974 |
|--|---|
| Perry (in Edward R. Fried and Charles L. Schultze, eds., <i>Higher Oil Prices and the World Economy</i> (1975), pp. 96-97: |   |
| Michigan model (percent).....  | 1.6   |
| Federal Reserve Board model (percent).....   | 2.0   |
| DRI (DRI November 1975 Review) (percent).....  | 2.3   |

The range of percentage GNP loss (1.6-2.3 percent) implies an increase in the 1974 unemployment rate of between 0.5 percent and 0.8 percent (400,000-730,000 jobs). The oil price increase is estimated to have increased the level of prices by 1.3 percent-2.9 percent in 1974—accounting, therefore, for one-third to one-half of the increase in inflation that year. These are extremely serious economic effects by any standard of comparison.

A repeat of the 1973-74 embargo could have even more disruptive effects today. U.S. dependence on oil exports from Arab members of OPEC (OAPEC) has grown. In 1973, OAPEC supplied 22 percent of U.S. oil imports, directly or indirectly through foreign refiners. By 1977, that fraction had risen to over 40 percent.

On the other hand, after 1973, an international oil sharing program was formed under the auspices of the International Energy Agency. The program is designed to distribute any shortfall resulting from an embargo equitably among the IEA members and thereby reduce the incentive of individual nations to bid up world oil prices unnecessarily. Whether the program would actually succeed in this endeavor is not certain.

We have estimated the economic impacts that could be expected if another embargo were to occur in the future. Specifically, we have investigated the effects of a 6-month embargo starting on January 1, 1980. To parallel the 1973-74 experience, we have assumed a 25 percent cutback of OAPEC production and applied the IEA oil-sharing formula—assuming it is fully effective—to determine a net cutback to the United States (2.1 million barrels/day). Because the strategic oil reserve will contain only a small fraction of its eventual size by that time, we have assumed that no part of the oil cutback is offset through distribution of oil held in the reserve.

Since the economic impacts are highly sensitive to a number of macroeconomic variables, we specified an "optimistic" and a "pessimistic" case to generate a plausible range of impacts. The optimistic case represents the absolute minimum set of impacts that we can reasonably foresee from an

embargo of this size and duration. It assumes an expansive monetary policy, no change in business or consumer confidence, a relatively large world demand response to changes in the world price of oil (a price elasticity of demand of -0.2), and, at the end of the embargo, a return of world oil prices to pre-embargo levels.

The pessimistic case represents a set of maximum impacts—it assumes a replication of the tight monetary policy which occurred during the 1973-74 embargo, a substantial loss in business and consumer confidence (like the 1973-74 experience), a relatively inelastic demand for world oil (elasticity of -0.1) and a permanent 20 percent increase in the world oil price after the embargo. Each case assumes that a domestic oil allocation program and price controls are in place as in 1973-74 and that a portion of the cutback is offset by reductions in privately-held oil stockpiles and industrial conversions to coal and natural gas.

The impact estimate for each case are given below:

|   | Optimistic | Pessimistic |
|---|------------|-------------|
| Real GNP:   |            |             |
| Percent change in 1980.....   | -0.8       | -3.5        |
| Percent change in 1981.....   | -1.5       | -7.0        |
| Cumulative dollar loss through 1984 (billions of 1973 dollars)..... | \$80       | \$410       |
| Labor Market Effects:   |            |             |
| Change in unemployment rate, 1980.....                              | 0.2        | 0.9         |
| Change in unemployment rate, 1981.....                              | 0.8        | 2.8         |
| Change in unemployed, 1981.....                                     | 200,000    | 900,000     |
| Change in unemployed, 1981.....                                     | 550,000    | 2,800,000   |
| Change in employment rate, 1980.....                                | -250,000   | -1,100,000  |
| Change in employment rate, 1981.....                                | -825,000   | -4,200,000  |
| Inflation:  |            |             |
| Percent change in consumer price index (CPI), 1980.....             | 1.0        | .....       |
| Percent change in CPI, 1981.....                                    | 1.0        | .....       |

In both cases, the effects grow over time because of the lagged responses in the economy to both the shortfall and loss in domestic purchasing power induced by the rise in the world oil price during the period of the embargo. Though the estimated range of impacts is wide, even the favorable impacts are nevertheless quite serious. Any event which could alone induce an increase in unemployment of at least 750,000 persons in two years poses serious hardships. Moreover, the fabric of our economy could be threatened if the pessimistic case of nearly 3 million in additional unemployment were realized.

The impacts of any future supply interruption would, as in the case of the 1973-74 experience, be felt disproportionately in different regions and industries. The effects would be particularly severe in the northwestern and northeastern parts of the country where over three-fourths of all crude petroleum demand is met from imports.

Because petroleum products are of critical importance in virtually every major industry, the industrial effects would be spread more evenly. So long as consumption in industry can be maintained in an embargo period by reducing available inventories and conservation in other sectors, production and employment impacts can be alleviated. The 1973-74 experience, however, indicates that this period of protection is short. Furthermore, the agricultural, construction, chemicals, and transportation sectors are especially vulnerable because of their far greater than average dependence on petroleum and their inability to substitute other sources of energy for petroleum. Finally, restrictions of activity in the transportation industry, in particular, affect all other industries almost immediately.

The supply of petroleum is crucial to the overall strength of the economy beyond its effects on needed industrial inputs. Roughly one-third of all petroleum is consumed by households, of which nearly three-fourths is used by gasoline. A major conservation effort directed at household gasoline use to enhance industrial supplies of petroleum would directly affect demand for new cars, recreational goods, and tourist services. The 1973-74 oil embargo was largely responsible for the 10 percent decline in auto sales that coincided with the embargo and which precipitated large employment declines in related industries. Similar effects could be expected in the event of another supply interruption of comparable size.

*Economic Dangers Other Than Supply Interruptions.* Even in the absence of any risks of supply interruptions, continued growth in the level of U.S. oil imports poses severe dangers to our economic health. Combined with expected increases in import demands by other nations, growth in U.S. oil imports could strain available world supplies sometime during the 1980s. The resulting increases in the price of world oil which could result could have substantial economic impacts. At the current level of imports, each \$1.00 increase in the real price of world oil increases U.S. oil costs by \$4.5 billion (in 1978 dollars) and domestic inflation by 0.2 percent. The increase in the balance of trade deficit, adjusted for a partial offsetting increase in U.S. exports to OPEC, is estimated at \$3.2 billion. By way of com-

parison, the U.S. balance of trade deficit in 1977 was \$31 billion.

Even a modest rise in the real price of world oil, therefore, could have a significant economic impact. The outflow of dollars would reduce domestic purchasing power, force a deterioration in the value of the dollar, and thereby increase domestic inflation (above and beyond the direct effect caused by the rise in world oil prices). The presence of these events would severely hinder the ability of fiscal and monetary authorities to achieve both high levels of employment and price stability. In particular, either a significant decline in employment or increase in the inflation rate endured over a long period of time could upset our social fabric and thereby threaten our national security.

Based on our understanding of the law and the evidence as we have examined it, we find that the importation of petroleum at current levels threatens the national security of the United States.

U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
Washington, D.C., February 12, 1979.

Mr. ROBERT F. MUNDHEIM,  
General Counsel of the Treasury,  
Washington, D.C.

DEAR MR. MUNDHEIM: This letter is in response to yours of February 6, 1979. As asked in your letter, we have prepared a revised report on the availability of energy resources from Federal lands. This report is attached. We defer to the views of other agencies on whether the level of imports of petroleum and petroleum products into the United States is such as to threaten national defense or the economy.

Our report indicates that new energy production from Federal lands could not offset an interruption of imported supplies of oil. Oil and coal resources on Federal lands constitute an important source of energy for the future, but the magnitude of these resources is not such that they could fully replace currently imported supplies of oil. Further, our short term ability to increase production of energy resources from Federal lands is limited. Increased diligence recruitment on lessees of Federal oil and coal resources can produce only marginal increases in production. New leasing could be a more significant source of new energy, but the time period between leasing and production is a minimum of 1-2 years for oil and 5 years for coal.

Sincerely yours,

LEO KRULITZ,  
Solicitor.



Enclosure.

DEPARTMENT OF TREASURY, SECTION  
(232(b)) INVESTIGATION

OIL

Production of oil from the public lands<sup>1</sup> has declined in recent years. In 1950, 103.1 million barrels of oil were produced. This figure rose steadily each year, reaching 618.5 million barrels in 1971. Thereafter production began to decline. Geological Survey figures show production of 489.8 million barrels in 1976. Fiscal Year 1978 figures were 477 million barrels. We believe that this figure will continue to decline although the decline should not be so sharp in the near future due to the effects of the Department's program to enforce diligence requirements. Production from public lands as related to total domestic production, while relatively steady, has nevertheless shown a decline from approximately 18.2% in 1972 to 17.5% in 1976 and 16.3% in FY 1978. This decline is attributable in part to the lessening of production on the outer continental shelf (OCS) which was 11.9% of total domestic production in 1972, 10.8% in 1976 and 9.9% in FY 1978.

Currently, the Department is engaged in enforcing more rigorously than in the past the requirement contained in our leases that operators diligently pursue production. We believe that this is, for the short term, increasing production in some areas; however, the increase is not significant enough to reverse the general decline. It is possible that more production could be generated by issuing regulations (in cooperation with the Department of Energy) providing for some greater diligence and even stricter enforcement. But, given the size of Federal oil resources relative to total U.S. resources, we do not believe that this could result in a substantial increase in over-all domestic production.

Estimates of the demonstrated and inferred oil reserves in the United States are about 62 billion barrels. The range of estimates for undiscovered recoverable resources is 50-127 billion barrels.<sup>2</sup> OCS resources constitute a major part of the estimated resources, disproportionate to its current share of U.S. production. We believe that the public lands (onshore and offshore) contain relatively great possibilities for significant new oil production. Nevertheless, even assuming acceleration so that more oil is recovered from the OCS, we believe domestic production will still not match consumption.

<sup>1</sup>Includes public lands, acquired lands, OCS lands, military lands and Indian lands.  
<sup>2</sup>U.S. Geological Survey Circular 725 (1975).

NOTICES

There is one major problem with forecasting significant increases in production from any source—timing. The Geological Survey has estimated that the time from lease sale to initial production will range from 4 to 11 years and from sale to peak production, 7 to 14 years. These figures do not include the time from selection of general areas for lease through a sale, which would be a minimum of 1.5 years barring delays caused by judicial challenges. In some areas the time from lease sale to initial production may be as short as 1-2 years. This, of course, would lessen the time to peak production.

COAL

Consideration of oil resources should include information relative to coal since coal in some cases may be used as a substitute for oil.

In recent years, coal production on Federal lands has been increasing. From 1950-69, production varied between 5 to 10 million tons annually. This number rose to 18.9 million tons in FY 1972, to 43.6 in FY 1975 and 78.8 in FY 1978. The Federal share of total domestic production for recent years has increased from 3.2% in 1972 to 11.0% in FY 1978.<sup>2</sup>

In June, 1976, the Department adopted regulations applying new diligence requirements to Federal coal leases. In August, 1976, Congress enacted P.L. 94-377, which contains a statutory diligence requirement for new Federal coal leases. These diligence requirements have promoted more timely development of coal resources under leasing. The effect of diligence requirements is necessarily limited by physical constraints, however. Development of a coal mine after issuance of a lease is estimated to require from 5 to 7 years for initial production.

Demonstrated total U.S. coal reserves are approximately 438 billion short tons, 40% of which are located on or under Federal lands. It is estimated that, of this total, the coal that is actually recoverable is in the range of 219 to 260 billion tons. Assuming that U.S. consumption will reach 1 billion tons by 1985, the Federal contribution will increase to about 13%.

With additional leases these projections of potential future coal production from Federal lands would increase by 50%. At present, however, the Department is precluded by an injunction in *National Resources Defense Council v. Hughes*, No. 75-1749 (D.C.C. Sept. 27, 1977) from issuing

<sup>2</sup>Federal leases accounted for 58.8 million tons, or 8% of domestic production, while Indian leases contributed 20 million tons, or 3%.

new leases until completion of a programmatic environmental impact statement. This statement is scheduled to be completed by April 30, 1979.

U.S. DEPARTMENT OF LABOR,  
OFFICE OF THE SECRETARY,  
Washington, April 24, 1978.

Honorable ROBERT MUNDHEIM,  
General Counsel,  
U.S. Department of Treasury,  
Washington, D.C. 20220.

DEAR MR. MUNDHEIM: This is in response to your inquiry regarding the investigation of oil imports under Section 232B of the Trade Expansion Act of 1962. Enclosed is an analysis of the 1973-74 oil embargo and its effects on employment. This examines some of the direct effects of the 1973-74 interruption. Also, we have prepared an examination of the likely current effects of an interruption of imported oil supplies on employment.

We will send you shortly a discussion of some of the policy alternatives available at this time.

Sincerely,

RAY MARSHALL,  
Secretary of Labor.

Enclosures.

EFFECT OF DISRUPTION OF OIL IMPORTS

EFFECT OF 1973/74 OIL EMBARGO UPON  
EMPLOYMENT

Between November, 1973 and March, 1974 the following changes in employment, as measured by seasonally adjusted establishment payroll data, occurred (more details are available in articles attached):

The net direct job loss owing to energy shortages during the period was estimated between 150,000 and 225,000 or .2 to .3 percent of all non-agricultural jobs according to a special tabulation of the regular payroll reports. Direct effects are those related to an inability of an establishment to obtain sufficient fuels or electrical energy to provide power for its operation or sufficient petroleum-based products for its own use or sale.

Some industries expected to experience direct effects (insufficient fuels) of an oil shortage posted the following job losses during the four month period according to the regularly collected payroll reports: gasoline service stations (64,000 jobs); airline transportation (after accounting for the impact of a strike, about 15,000 jobs); laundries and dry cleaning (9,000 jobs); and special trade contractors (9,000 jobs).

On the other hand, some industries likely to experience direct effects of an oil shortage posted job increases: electric, gas, and sanitary services (22,000 jobs); heavy construction contractors (20,000 jobs); and general

building contractors (13,000 jobs). The electric services industry reflected numerous conflicting factors such as the lack of petroleum to run its generators but the increased demand for electricity.

Some industries likely to experience indirect effects of an oil shortage posted the following job losses according to regularly collected payroll reports: motor vehicles and equipment (140,000 jobs); motor vehicle dealers, retail (53,000 jobs); hotels and other lodging places (27,000 jobs); and metal stampings (17,000 jobs). These indirect effects reflect insufficient demand for an industry's products arising from their potential customer's actual or anticipated inability to obtain fuel. Some sectors such as hotels and motels were related to the restricted auto travel during the period.

As measured by seasonally adjusted household data, the following unemployment changes occurred. These changes in unemployment during the four month period reflect not only the impact of the Arab oil embargo but all other factors in the economy whether oil related or other:

During the 4-months, unemployment increased by 239,000 or .2 percentage points. This increase in unemployment occurred almost exclusively among job losers, 242,000, of whom 157,000 were on layoff and 85,000 were not on layoff. The unemployed persons who were entering for the first time or reentering the labor force increased 36,000; unemployed persons who left their last job declined 66,000.

During the 4-months, unemployment among nonfarm occupation rose 52,000 for white collar workers; 113,000 for blue collar workers and 13,000 for service workers. Unemployment by farm occupations declined 1,000. The remaining unemployed persons had no previous work experience.

These data illustrate the employment and unemployment changes occurring during late 1973 and early 1974. Do these data reflect only the embargo impact or do they signal the beginning of the 1974-75 economic recession?

The 1973/74 employment decline occurred in only 47 percent of all private industries. During 1960 and 1970 recessions, employment declines over a 4-month period occurred in about 70 percent of all industries.

The total employment declines in all the private nonagricultural industries was only .1 percent during 1973-74 compared to an .9 percent decline during the 1960 and 1970 recession.

The duration of employment declines by industry during 1973-74 period was less than during two earlier recessions. Only 24 percent of all private industries experienced 6-month declines during 1973-74 while 41 per-

cent and 56 percent experienced 6-month declines respectively during the 1960 and 1970 recessions.

These few statistics suggest the 1973-74 problems were related to energy, not the beginning of a business cycle. The problems were limited to fewer industries and of smaller magnitude than might be expected during a business cycle. Further, these changes particularly affected the energy related industries. However, November, 1973 has been designated as the beginning of the 1974-75 recession.

EFFECT OF INTERRUPTION OF OIL  
SUPPLIES

These data illustrate the employment impact of the 1973-74 oil disruption. However because of numerous changes since 1973, the impacts might be different in 1978. For example, the oil embargo and higher oil prices were a surprise in 1973; the higher oil prices are well known in 1978 and, perhaps, all concerned might be better prepared. As the recent coal strike illustrates, what seems like a large change in the supply of a good can have a small impact on other industries over a relatively short period. Also, a strategic petroleum reserve is being prepared.

Still, the best estimate of the effects of an oil interruption in 1978 remains the 1973 experience. Thus, an interruption in U.S. oil supply of the same magnitude and same duration as the 1973-74 embargo would likely impact upon 400,000-575,000 jobs or 150,000-225,000 direct jobs and 250,000-350,000 indirect jobs. Further, unless there were important differences in how the burden was shared among industrial, households or automotive users the industrial and occupational impact would very likely be similar to that which occurred in 1973-74. If the magnitude and duration of an oil interruption were greater, i.e. doubled, these employment effects could easily double, 300,000-450,000 direct jobs and 500,000-700,000 indirect jobs would be affected.

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U.S. DEPARTMENT OF COMMERCE,  
WASHINGTON, D.C.,  
September 14, 1978.

Mr. ROBERT H. MUNDHEIM,  
General Counsel,  
Department of the Treasury,  
Washington, D.C.

DEAR MR. MUNDHEIM: This is in reply to your letter of April 3 requesting the Department's comments on the impact of petroleum and petroleum products imports on the national security of the United States. We understand that you are conducting an investigation of this matter under authority of Section

232(b) of the Trade Expansion Act of 1962 as amended, 19 U.S.C. 1862(b).

Increasing Dependency on Foreign  
Supply

Any assessment of the national security implications of our oil imports has to start from the fact that within the last five years the Nation has become increasingly dependent upon foreign supply. During 1972, the last full year before the Arab embargo, oil imports into the United States amounted to 4.7 million b/d, or 29 percent of domestic consumption. In 1977, oil imports reached 8.7 million b/d, or 47 percent of domestic consumption. A variety of initiatives now underway may reverse this trend, but, under most assumptions, it appears safe to conclude that our foreign dependency will exceed 40 percent over the next few years.

This fact tends to overwhelm all other considerations. It emphasizes the increased vulnerability of the U.S. economy to interruptions of foreign supply, even if the interruptions were not to extend to all foreign sources.

In general, it can be said that in the last five years our economy has been in a race between building increasing adaptability to supply interruptions (a response to the lessons of the 1973/74 embargo) and accepting increased dependency on foreign supply. This implies that the effects of a future interruption will almost certainly differ from those experienced in 1973/74. This also implies, however, that, for whatever reasons, the Nation now stands more exposed to the possibility of interruption than heretofore. In short, the risks of interruption seem to have outrun whatever we might hope for in the way of slightly diminished penalties of interruption.

In response to your specific questions, we submit the following:

(1) *Damage to the Economy from 1973/74 Arab Oil Embargo.* The effects of the 1973/74 embargo were minimized by forceful Federal responses which shifted the impact of reduced supply onto final demands for petroleum products and then limited consumers access to those products, notably gasoline. As a result, during the embargo period, inventories of petroleum products mounted rather than declined, except for a 16 percent dip in residual fuel oil.

On the supply side of the economy, sufficient shortage arose to impact significantly on the petrochemical industry. On the demand side of the economy, the uncertainty associated with limited access to gasoline and other transportation fuels led to a significant drop in automobile sales and services associated with automobile and air travel. This uncertainty was sufficient to have an adverse impact in the con-



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NOTICES

sumer durable and housing construction sectors as well.

(2) *Economic Impact of an Oil Supply Interruption Now or in the Near Future.* We assumed for purposes of this review a crude oil impact of about 4 mm b/d occurring in the late 1970's or early 1980's and lasting at least six months beyond a significant drawdown of domestic inventories and stored reserves. We postulated final demand reductions comparable to those which occurred in 1973/74 and passed them through models to check for their consistency with a loss of about 4 mm b/d of imported crude oil. We then modeled the results and found a range of impacts in the order of 1.1 to 1.5 million additional unemployed and a 2 to 3.6 percent decline of 1977 GNP, or \$40 to \$65 billion (1977 dollars).

(3) *Sectoral Impacts.* We find that a 4 mm b/d reduction in crude oil imports will impact heavily first on the refining industry, most certainly leading to some refinery closings. In turn, this impact will increase the shortage in terms of refined products somewhat above 4 mm b/d, possibly as high as 6 mm b/d (some of which may be offset by an increase of product imports). The next impact will be on the petrochemical industry, probably in the order of a \$800 million reduction in shipment, with a decrease in employment of 80,000.

Other sectors will be impacted by decreases in demand as during the 1973/74 embargo, but on a larger scale.

(4) *Overall Judgment.* In our judgment, present levels of oil imports do threaten to impair the national security. Our postulated 4 mm b/d reduction is approximately 50 percent of what our oil imports are expected to be in the early 1980's—4 mm b/d would be equivalent to about 20 percent of domestic consumption. Impacts in the order of \$40 to \$65 billion decline in GNP, with very adverse impacts on key industries (petroleum refining, petrochemical and automotive), pose such a threat. Of course, given a predicted foreign dependency in the 40-50 percent range, a total cutoff of foreign supply would lead to adverse impacts well beyond those identified above. Still, in our judgment, a 20 percent reduction is more plausible, and, as demonstrated it would suffice to harm the economy.

We appreciate the opportunity to work with you on this investigation. Following the investigation, as you work toward policy and procedural alternatives, we hope we may continue to work closely with you.

Sincerely,

JERRY J. JASINOWSKI,  
Assistant Secretary For Policy.

[FR Doc. 79-9047 Filed 3-28-79; 8:45 am]

THURSDAY, MARCH 29, 1979

PART III



DEPARTMENT OF  
ENERGY

Economic Regulatory  
Administration

STATE UTILITY  
REGULATORY  
COMMISSIONS AND  
ELIGIBLE  
NONREGULATED  
ELECTRIC UTILITIES

Financial Assistance Programs

Registered  
Proprietary



[6450-01-M]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 461]

[Docket No. ERA-R-79-12]

## FINANCIAL ASSISTANCE PROGRAMS FOR STATE UTILITY REGULATORY COMMISSIONS AND ELIGIBLE NONREGULATED ELECTRIC UTILITIES

## Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes to issue a rule for the establishment and administration of two programs to provide financial assistance to State utility regulatory commissions and certain nonregulated electric utilities.

The first program, the PURPA Grant Program, provides financial assistance through grants for carrying out duties and responsibilities under Title I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978 (PURPA). These duties and responsibilities relate to considering and making determinations with regard to Federal standards established by PURPA for electric and gas utilities, reporting to DOE regarding the status of the standards, and implementing Federal Energy Regulatory Commission (FERC) rules applicable to electric utilities regarding cogeneration and small power production.

The second program, the Innovative Rates Program, would provide financial assistance for electric utility regulatory rate reform initiatives relating to innovative rate structures under Title II of the Energy Conservation and Production Act, as amended by PURPA. Funds will be awarded to a limited number of proposers to assist them in carrying out initiatives which are designed to encourage energy conservation, electric utility efficiency and reduced costs and equitable rates to consumers.

To establish these financial assistance programs, DOE proposes to add a new Part 461 to Title 10 of the Code of Federal Regulations, titled "Financial Assistance Programs for State Utility Regulatory Commissions and Eligible Nonregulated Electric Utilities." The proposed Part 461 contains eligibility and application requirements for financial assistance, the manner in which applicants will be selected for awards of financial assistance, and the manner in which financial assistance will be administered. Written comments will be received and public hear-

## PROPOSED RULES

ings will be held with respect to this proposal.

DATES: Comments by May 29, 1979, 4:30 p.m. Requests to speak by April 23, 1979, 4:30 p.m. Hearing dates: Washington, D.C. hearing: May 9, 1979, 9:30 a.m.; Denver, Colorado hearing: May 16, 1979, 9:30 a.m.

ADDRESSES: All comments to: Department of Energy, Docket Control Center, Docket No. ERA-R-79-12, Department of Energy, Room 2313, 2000 M Street, N.W. Washington, D.C. 20461. Requests to speak: Washington, D.C. hearing—Docket Control Center, Department of Energy, Room 2313, 2000 M Street, N.W. Washington, D.C. 20461, telephone (202) 254-5201; Denver, Colorado hearing—Department of Energy, Attention: Dale Eriksen, 1075 S. Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80202, telephone (303) 234-2420. Hearing Locations: Washington, D.C. hearing—Room 2105, 2000 M Street N.W., Washington, D.C. 20461; Denver, Colorado hearing—Room 300-A Auraria Student Center, 9th Street between Laurence and Larimar, Denver, Colorado 80202.

## FOR FURTHER INFORMATION CONTACT:

Nancy E. Tate, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W. (Vanguard 526), Washington, D.C. 20461, (202) 254-9755.

Joshua Smith, Office of the Assistant General Counsel for Conservation and Solar Applications, Department of Energy, Room 3228, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-4100.

Robert C. Gillette, Hearing Procedures, Department of Energy, Room 2214, 2000 M Street N.W., Washington, D.C. 20461, (202) 254-5201.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street N.W., Washington, D.C. 20461, (202) 634-2170.

## SUPPLEMENTARY INFORMATION:

## I. Background:

## A. Summary.

## B. Overview of PURPA.

## II. The PURPA Grant Program:

## A. Eligibility.

## B. Duties and Responsibilities Eligible for Funding.

## C. Allowable Expenditures.

## D. Grant Applications.

## E. Apportionment and Selection.

## F. General Requirements.

## III. The Innovative Rates Program:

## A. Eligibility.

## B. Purpose.

## C. Funding Through Cooperative Agreements.

## D. Tasks Eligible for Funding.

## IV. Specific Comments Requested:

## A. The PURPA Grant Program.

## B. The Innovative Rates Program.

## V. Written Comments and Public Hearing Procedures:

## A. Written Comments.

## B. Public Hearings.

## C. Other Relevant Hearings.

## VI. Other Matters:

## A. Environmental Impact.

## B. Regulatory Review.

## C. Urban Impact Analysis.

## D. Nondiscrimination.

## I. BACKGROUND

## A. SUMMARY

On November 9, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* Two sections of PURPA, sections 141 and 142, authorize the Department of Energy (DOE) to provide financial assistance to State utility regulatory commissions and nonregulated electric utilities.

Section 141 of PURPA, "Grants to carry out Titles I and III," provides for the establishment of the PURPA Grant Program by authorizing DOE to provide financial assistance to State utility regulatory commissions and nonregulated electric utilities of greater than specified minimum size to carry out duties and responsibilities under Titles I and III, and section 210, of PURPA. These duties and responsibilities relate to the consideration of certain Federal standards for electric and gas utilities and the preparation of determinations regarding the standards, provision of access to information for intervenors, submission of reports to DOE, collection and filing of data required by the Federal Energy Regulatory Commission (FERC), and implementation of FERC rules on cogeneration facilities and small power production. The grants are solely to assist in the carrying out of the duties and responsibilities under the relevant parts of PURPA, and are not intended to influence the outcome of deliberations concerning the Federal standards.

Section 142 of PURPA provides for the Innovative Rates Program by extending the authorization for financial assistance under section 204(1)(B), (42 U.S.C. 6804 (1)(B)), of the Energy Conservation and Production Act (ECPA), Pub. L. 94-385, 90 Stat. 1125 *et seq.* (42 U.S.C. 6801 *et seq.*), as it relates to innovative rate structures. Section 204(1)(B) provides for funding of regulatory rate reform initiatives. Any State utility regulatory commission and large nonregulated electric utility, as well as the Tennessee Valley Authority (TVA), is eligible to apply for funding under this program.

## B. OVERVIEW OF PURPA

The Act, particularly Titles I and III, will have a direct and substantial impact on the responsibilities of State utility regulatory commissions and large nonregulated electric utilities.

Titles I and III have three common purposes, which supplement otherwise applicable State law. These purposes are conservation of the energy supplied by utilities, equitable rates to consumers, and optimization of the efficient use of electric generating and related facilities. Of particular interest to DOE is the efficient use by utilities of imported energy resources, such as oil.

Titles I and III impose certain requirements on State utility regulatory commissions and large nonregulated utilities. Each utility regulatory commission and each nonregulated utility covered by PURPA's size requirements must:

(a) Complete its consideration and determination process for six electric rate design standards within 3 years, and for five electric and two natural gas regulatory policy standards within 2 years. However, considerations and determinations regarding one or more of the standards made before November 9, 1978, will constitute compliance with the requirements of Titles I and III of PURPA regarding those standards, if the proceedings and actions substantially conform to the requirements of PURPA.

(b) Include public notice and public hearings in its consideration process and allow consumer and Federal participation.

(c) Render a written determination, based both upon its findings and the evidence presented at the hearings, and make it available to the public.

(d) Determine, to the maximum extent practicable, cost of service by customer class on the basis of a method that identifies cost differences by both time of use and major cost category. (Each regulated and nonregulated electric utility covered by PURPA must gather and report such information as FERC determines necessary to determine cost of service. Each covered utility is to file such information with FERC and the State regulatory authority which has rate-making authority for such utility.)

(e) Hold an evidentiary hearing on "lifeline" rates, as an exception to the cost-of-service standard, for any utility not having such a rate.

(f) Report annually to DOE, in such a manner as DOE may prescribe, on its progress in carrying out its duties and responsibilities under PURPA.

As mentioned, PURPA establishes a series of Federal standards that, if adopted when appropriate, are intended to carry out the purposes of Titles I and III of the Act. There are six rate

design standards, established by and set forth in section 111(d) of PURPA, which pertain to electric utilities. These standards generally provide that:

(1) Rates to each class of consumers shall be designed to the maximum extent practicable to reflect the costs of providing service to that class;

(2) Declining block energy charges that are not cost-based shall be eliminated;

(3) Time-of-day rates shall be established, if cost-effective, where costs vary by time of day;

(4) Seasonal rates shall be established where costs vary by season;

(5) Interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers; and

(6) Load management techniques shall be offered to consumers where practicable, cost-effective, reliable and useful to the utility for energy or capacity management.

Five additional regulatory policy standards, established by and set forth in section 113(b) of PURPA for electric utilities, provide that:

(1) Master metering shall be prohibited or restricted for new buildings to the extent necessary to carry out the purposes of Title I;

(2) Automatic adjustment clauses shall not be allowed unless they provide efficiency incentives and are reviewed in a timely manner;

(3) All consumers shall receive a clear and concise explanation of applicable rate schedules;

(4) Service shall not be terminated except pursuant to certain enumerated procedures;

(5) Political or promotional advertising shall not be charged to ratepayers.

Only the standards concerning service termination and advertising pertain to natural gas utilities.

## II. THE PURPA GRANT PROGRAM

## A. ELIGIBILITY

Section 461.12 of the proposed regulations, as required by section 207(a) of ECPA, provides for grants to State utility regulatory commissions which have rate-making authority over electric or gas utilities covered by PURPA, and to non-regulated electric utilities covered by PURPA, except for Federal agencies. The utilities covered by PURPA are defined in PURPA and the proposed regulations as those above a certain minimum size. Utility regulatory commissions and nonregulated electric utilities from all States, the District of Columbia and Puerto Rico are eligible. Federal agencies excluded by section 207(a) of ECPA, are defined in ECPA and the proposed regulations as executive agencies as defined in section 105 of Title 5 of the United States Code.

## B. DUTIES AND RESPONSIBILITIES ELIGIBLE FOR FUNDING

Also as required by section 207(a) of ECPA, § 461.13(a) of the proposed regulations provides that grants will be awarded for activities which carry out the duties and responsibilities under Titles I and III, and section 210, of PURPA. These duties and responsibilities, set forth in the enumerated parts of PURPA, include the consideration of certain Federal standards for electric and gas utilities and the preparation of determinations regarding these standards, provision of access to information for intervenors, submission of reports to DOE, collection and filing of data required by the FERC, and implementation of FERC rules on cogeneration and small power production. These grants are solely to assist State public utility commissions and large nonregulated electric utilities in meeting these requirements of PURPA, and are not an attempt to influence the outcome of deliberations concerning the Federal standards. The Federal standards are listed in § 461.11 of the proposed regulations.

Though each State utility regulatory commission and covered nonregulated electric utility must carry out the duties and responsibilities required under Titles I and III of PURPA, the need for Federal financial assistance in the form of grants under this program will depend on the individual requirements of each grant applicant. Some State utility regulatory commissions and nonregulated electric utilities may have already carried out certain of the PURPA duties and responsibilities and will not require Federal financial assistance with respect to those duties and responsibilities. Grant applicants must designate those duties and responsibilities for which financial assistance is requested, as well as the specific activities to be undertaken to carry out those duties. A number of such activities are specified in proposed § 461.13(c). This list, however, is not exhaustive. Rather, any activity may be eligible for funding, provided that it is one which carries out the duties and responsibilities of PURPA Titles I and III, and section 210.

## C. ALLOWABLE EXPENDITURES

Congress intended that funds awarded under this program may not be used primarily for paying personnel salaries and related costs (House Report No. 95-1750, p. 88). Consequently, § 461.14(b)(1) of the proposed regulations states that not more than 49 percent of the funds awarded to any applicant may be expended for these purposes. Other limitations on expenditures are set forth in § 461.14.



## D. GRANT APPLICATIONS

Section 207(c) of ECPA provides that grants cannot be made under the section unless an application is submitted to DOE in such form and manner as required by DOE. Section 461.15 of the proposed regulations implements this requirement and sets forth the time for submission of the application and its contents.

DOE proposes to require the submission of information which describes the duties and responsibilities to be carried out and by which activities. DOE also would require information which would enable it to evaluate the ability of the applicant to carry out the activities in an efficient and timely fashion. In addition, as required by section 207(c) of ECPA, the regulations would require that an applicant assure DOE that funds made available under the program will be in addition to, and not in substitution for, funds made available to the applicant from other governmental sources. Governmental sources include any funds received from any Federal, State or local governmental entity.

## E. APPORTIONMENT AND SELECTION

Section 207(d) of ECPA requires that grants made under the program to any State, shall not exceed the total amount available for grants divided by the number of States from which applications are received. Subsection (d) further stipulates that no State may receive more funds than DOE is authorized to provide pursuant to subsections (b) and (c).

In light of these requirements, DOE proposes in § 460.16 to apportion funds equally among States from which applications eligible for funding are received and to allocate funds, within a State, between the State utility regulatory commission and any covered nonregulated electric utilities. DOE also proposes in § 460.17 a set of criteria for evaluating applications and selecting them for award.

The proposed allocation procedure is intended to set aside for a State an amount of funds for its utility regulatory commission and an amount for which eligible nonregulated utilities, as a group, may compete. By allocating funds in this manner, the nonregulated utilities are assured of the availability of some funds if they meet the other requirements for financial assistance. DOE is also proposing that the commissions and the nonregulated utilities as a group receive a minimum allocation of at least 25 percent of the funds apportioned to the State, as well as a provision for reallocation of funds within a State to the extent that the full allocation to the commission or the utilities as a group is not awarded.

The proposed evaluation criteria are intended to determine the extent to

which an applicant is likely to carry out its PURPA duties and responsibilities in a logical, competent and efficient manner. Each application may receive up to 100 evaluation points, and the criteria are divided into three categories: program plan (30 points), administrative management (40 points), and financial management (30 points). Applications which receive fewer than 26 evaluation points will not be selected for funding. Applications which receive more than 25 evaluation points will be funded, with the amount of funding dependent upon the quality of the applications, using the selection criteria, and the apportionment, allocation, and reallocation of funds provisions of § 460.16 (b) and (c). Any funds apportioned to a State and not granted to applicants from that State, may not be reallocated for grants to applicants from another State.

## F. GENERAL REQUIREMENTS

The general requirements which govern the award and administration of financial assistance under both programs, except where the program regulations otherwise provide, are set forth in § 461.2 of the proposed regulations. This section references the various relevant Federal documents, as well as the DOE Assistance Regulations (10 CFR Part 600) which were issued on March 1, 1979 (44 FR 12920, March 8, 1979).

## III. THE INNOVATIVE RATES PROGRAM

## A. ELIGIBILITY

This program is a discretionary financial assistance program in which cooperative agreements will be awarded to proposers annually selected by DOE on a competitive basis. State utility regulatory commissions, or large nonregulated electric utilities and the Tennessee Valley Authority (TVA), are eligible to apply for financial assistance under this program.

Under the statutory language which authorizes this program, section 204(1)(B) of the Energy Conservation and Production Act, as amended by PURPA, there is no restriction on eligibility for funding. DOE, however, is proposing to restrict eligibility to State regulatory commissions, large nonregulated electric utilities and TVA. Since the purpose of this program is to plan and carry out regulatory rate reform initiatives relating to innovative rate structures, DOE intends to fund initiatives which will change, or are likely to change, regulatory ratemaking policies or practices. State utility regulatory commission, nonregulated electric utilities and TVA have ratemaking authority and are, therefore, able to develop and implement initiatives to reform rates.

Other entities, such as regulated electric utilities, while intimately involved in the regulatory process, do not have ratemaking authority and cannot offer rate changes without obtaining the approval of their regulatory authority. Accordingly, DOE has concluded that the purposes of this program would be most effectively and efficiently accomplished by limiting eligibility to those entities which most likely and most directly can achieve regulatory rate reform.

## B. PURPOSE

The purpose of this program is to reform regulatory policies and practices by the development and implementation of rate reform initiatives, relating to innovative rate structures, designed to carry out the purposes of ECPA. To accomplish this purpose, DOE will award financial assistance under cooperative agreements for the performance of tasks which further the purposes of ECPA. Most State near-term regulatory activities are likely to be devoted to meeting the PURPA requirements for which funding is provided under subpart B. DOE is also making available funding through subpart C for developing and implementing regulatory rate reform initiatives which may relate to the PURPA requirements, but receipt of funds under subpart B is not meant to preclude or replace the receipt of funds under subpart C. This is because subpart C funds initiatives which produce regulatory change, whereas subpart B is primarily concerned with the consideration of various regulatory policies.

## C. FUNDING THROUGH COOPERATIVE AGREEMENTS

Cooperative agreement is the appropriate funding instrument for this program since substantial involvement is anticipated between DOE and the recipient during performance of the tasks. Substantial involvement is anticipated for three reasons.

First, the tasks to be performed under this program represent relatively new areas of complex work and, yet, are to be completed within a minimum period of time. In order to ensure necessary progress and completion of the tasks, DOE anticipates frequent review of and communication regarding performance of the tasks. Second, DOE intends that the results of the tasks performed by capable of replication in other State utility regulatory commissions and nonregulated electric utilities. In order to provide that the tasks are focused in this direction, DOE anticipates close monitoring of task performance. Third, the innovative and often complex nature of the tasks requires collaboration between DOE and the recipient to provide as-

sistance to the recipient in those areas in which DOE experience may be helpful.

DOE is equipped to be actively involved in the performance of the various tasks to be undertaken in this program. DOE's substantial involvement is anticipated to include technical assistance in the design and operation of specific tasks, review and approval during the performance of tasks, and redirection as necessary to endure the quality and national applicability of the findings and products resulting from the cooperative agreements.

## D. TASKS ELIGIBLE FOR FUNDING

In the Innovative Rates Program, DOE has identified a number of tasks which are expected to be of general applicability to man State utility regulatory commissions and nonregulated electric utilities. Each task identified incorporates the study and adoption, by the proposer, of electric utility ratemaking practices or policy initiatives. The tasks cover the following ten subject areas: (1) rate-related consumer information and the role of regulatory entities in the communication process, (2) regulatory and other alternatives available to assist low income electric utility ratepayers, (3) compensation for intervenors in electric rate proceedings, (4) comprehensive cost-of-service information systems that allow both embedded and marginal cost approaches to pricing electricity, (5) estimation of consumer class load characteristics, (6) ratemaking incentives that promote efficient use of electric utility resources, (7) allocating the costs incurred by electric utilities in providing conservation services to consumers, (8) use of digital display and other metering systems with innovative rates (9) nondiscriminatory electric rates for consumers who use supplementary solar systems, and (10) other electric regulatory rate reform initiatives, relating to innovative rate structures, which carry out the purposes of the program.

The tasks covered by the Innovative Rates Program share one or more of the following key characteristics. First, the activities undertaken in performing each task are to result in decisions by the proposer regarding the adoption of a regulatory policy or practice. Second, in developing innovative ratemaking policies and practices, the tasks are to focus on practical, immediate issues faced by regulatory authorities. Consequently, the activities are not to focus heavily on developing theoretical studies and models or initiating large primary data collection efforts. Third, the performance of the activities is to expand the proposer's areas of knowledge and level of expertise. Fourth, completed tasks are to

result in basic tools, techniques, and organizational resources essential to innovative rate reform. Fifth, the products resulting from performance of the tasks are to be largely applicable to other regulatory authorities.

DOE may provide financial assistance to individual proposers for the performance of up to three of the tasks described in proposed § 461.32. In order to be considered for financial assistance, a proposer must submit a proposal in accordance with § 461.33. The proposal is to contain a separate task work plan outlining specific activities to be undertaken for each proposed task. DOE anticipates that an applicant will undertake the types of activities specified for each task in § 461.32. However, the activities listed are not intended to be exhaustive.

DOE will evaluate each proposal using the criteria outlined in § 461.34. These evaluation criteria focus on determining the quality and feasibility of the proposed approach to performing the task. Each task work plan will be evaluated separately and may receive a maximum of 100 points. However, any task work plan receiving an evaluation score of less than 45 points will not be considered for a cooperative agreement.

DOE will utilize the evaluation scores for the proposals as means of selecting, on a competitive basis, those tasks to be funded. Given the level of funding available, DOE anticipates making only a few awards for any given task. It is anticipated that awards for each task could range from \$100,000 to \$250,000. Consequently, a cooperative agreement award for the performance of up to three tasks could be for as much as \$500,000. The cooperative agreements will be funded on an annual basis. Tasks for which cooperative agreements are awarded must be completed within 2 years. Award of a cooperative agreement for the second year of the task will depend on evaluation of the recipient's performance, evaluation of new applications and availability of Federal funding.

## IV. SPECIFIC COMMENTS REQUESTED

DOE is issuing the proposed rule to invite public comment on the manner in which it intends to implement the financial assistance programs under sections 141 and 142 of PURPA. While the public is encouraged to comment on any aspect of the proposed regulations, DOE specifically invites comments on those issues listed below.

## A. THE PURPA GRANT PROGRAM

1. Personnel expenditures. The Congress intends that grants under this program not be used primarily for paying personnel salaries and related costs. DOE proposes that not more than 49 percent of the funds awarded

to any applicant be expended for these purposes. DOE solicits comments on this proposed limitation, and any suggestions for maximum levels of expenditure for personnel and consultant costs.

2. Apportionment of funds. DOE is proposing a system for apportioning grant funds among States from which eligible applications are received and for allocating funds within a State where nonregulated electric utilities as well as the State utility regulatory commissions are eligible applicants. In addition, DOE may reallocate funds within a State, in some circumstances, in determining the actual amount of funds to be awarded to each applicant. DOE solicits comments on each of these apportionment and allocation procedures.

3. Application evaluation criteria. DOE solicits comments on the criteria which are proposed to be used for evaluating each application, and the importance attributed to them.

## B. THE INNOVATIVE RATES PROGRAM

1. Tasks eligible for funding. DOE solicits comments on the design, relevance, practicality and replicability of each of the specified tasks. Specifically, DOE requests comments on whether the task "Procedures for Intervenor Compensation" should be included in the program in light of the purpose of the program to fund regulatory rate reform initiatives relating to innovative rate structure. In addition, DOE solicits comments on whether the scope and design of each task will allow for specific results or accomplishments at the end of the first year of the program, and whether each task can be completed within 2 years of the cooperative agreement award.

2. Identification of alternative tasks. DOE invites suggestions of additional tasks to be considered for specific incorporation into the program. These suggestions should identify tasks that would promote regulatory rate reform, lead to adoption of a regulatory policy within 1 to 2 years within a given jurisdiction, and result in basic tools, techniques and organizational experience that are applicable to other regulatory commissions and nonregulated electric utilities.

3. Task funding levels. DOE solicits comments on the proposed limits on the amount which may be awarded to an applicant in any fiscal year.

4. Evaluation criteria. DOE solicits comments and suggestions regarding the criteria proposed to be used to evaluate the submitted proposals, and their relative importance.



## V. WRITTEN COMMENTS AND PUBLIC HEARING PROCEDURES

## A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views, or arguments with respect to the matters set forth in this proposed rule. Comments should be submitted by 4:30 p.m., May 28, 1979, to the addresses indicated in the "ADDRESSES" section of this proposed rule and should be identified on the outside envelope and on the document with the document control number and the designation: "PURPA Financial Assistance Programs, Docket No. ERA-R-79-12." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

## B. PUBLIC HEARINGS

The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this preamble.

1. *Procedure for Requests to Make Oral Presentation.*—If you have any interest in the matters discussed in this proposed rule, or represent a group of class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m. April 23, 1979. You should also provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., April 30, 1979 for both the Denver, Colorado and the Washington, D.C. hearings. For distribution at the Washington, D.C. hearing, you should submit 100 copies of your hearing testimony by May 8, 1979 to Public Hearing Management, Department of Energy, Room 2214, 2000 M Street NW., Washington, D.C. 20461. One hundred (100) distribution copies of written testimony should be submitted for the Denver hearing at the given location on the day of the hearing.

2. *Conduct of the Hearing.*—We reserve the right to schedule partici-

pants' presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard. We encourage groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the groups.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to have a question asked at a hearing, you may submit the question, in writing, to the presiding officer. The ERA, or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 and the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

## C. OTHER RELEVANT HEARINGS

In addition to holding hearings on the PURPA Financial Assistance Programs, DOE will be holding public hearings on two other PURPA-related rules on two consecutive days. Public hearings on proposed amendments to the rule for Grants for Offices of Consumer Services will be held in Washington, D.C. on May 8, 1979, 11:00 a.m., and in Denver, Colorado on May 15, 1979, 11:00 a.m. Public hearings on the Proposed Rule on Annual Reports from States and Nonregulated Utilities on Progress in Considering and Implementing Rate-making Standards under PURPA will be held in Washington, D.C. on May 10, 1979, 9:30 a.m., and in Denver, Colorado on May 17, 1979, 9:30 a.m.

## VI. OTHER MATTERS

DOE has determined that the publication of this regulation will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Assessment or an Environmental Impact Statement, pursuant to the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq. DOE's involvement is confined to award of funds based on procedures set out in the regulation to assist State utility regulatory commissions and nonregulated electric utilities to carry out certain duties and responsibilities under PURPA. Consideration and determination of standards and initiatives, and compliance with other PURPA requirements applicable to the State utility regulatory commission or nonregulated utility are the responsibility of these entities. Therefore, while the application of certain rate structures or other initiatives that the State commission or nonregulated utilities may establish pursuant to PURPA may result in certain environmental impacts, these activities are not dictated or restricted by any DOE decisions and would occur in any event since the PURPA requirements must be met with or without Federal assistance.

As required by section 7(a)(1) (15 U.S.C. 776) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment.

The Administrator had no comments.

## B. REGULATORY REVIEW

DOE has determined that this rule-making is significant as that term is used in Executive Order 12044 and DOE Order 2030, but is not likely to have a major impact as defined in these two documents. The rule is not considered significant since it would provide funds to carry out national energy legislation. The rule is considered likely to have a major impact, with respect to its incremental effect on the existing regulatory environment, since it would not impose a gross economic annual cost of \$100 million or more; is not likely to impose a major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups, or to have an adverse impact on competition; is not likely to have a substantial effect on any of the objectives of national energy policy or energy statutes; and has not been considered by the Secretary, Deputy Secretary or Under Secretary as likely to have a major impact for any other

reason. Accordingly, no regulatory analysis will be performed.

## C. URBAN IMPACT ANALYSIS

This proposed rule has been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. In accordance with DOE's finding that the proposed regulation is not likely to have a major impact, DOE has determined that no community and urban impact analysis of this proposed rule-making is necessary pursuant to section 3(a) of Circular A-116.

## D. NONDISCRIMINATION

In addition to current Federal non-discrimination regulations applicable to this rulemaking, DOE has published a proposed rulemaking in the FEDERAL REGISTER entitled "Nondiscrimination in Federally Assisted Programs" (43 CFR 53658 November 16, 1978). All applicable grantees will be responsible for compliance with the provisions of that regulation when it is made effective upon its final publication.

(Energy Conservation and Production Act, Pub. L. 94-385, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (16 U.S.C. 2601 et seq.); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.))

In consideration of the foregoing, it is proposed to amend Chapter II, Title 10 of Code of Federal Regulations, by establishing Part 461 as set forth below.

Issued in Washington, D.C. on March 21, 1979.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

Chapter II of Title 10, Code of Federal Regulations is amended by establishing Part 461 as follows:

## PART 461—FINANCIAL ASSISTANCE PROGRAMS FOR STATE UTILITY REGULATORY COMMISSIONS AND ELIGIBLE NONREGULATED ELECTRIC UTILITIES

## Subpart A—General

- Sec.  
461.1 Purpose and scope.  
461.2 General requirements.  
461.3 Definitions.

## Subpart B—PURPA Grant Program

- 461.10 Purpose and scope.  
461.11 PURPA standards.  
461.12 Eligibility requirements.  
461.13 Duties and responsibilities eligible for funding.  
461.14 Allowable expenditures.  
461.15 Grant application.  
461.16 Apportionment of funds.  
461.17 Selection.

## Subpart C—Innovative Rates Program

- 461.30 Purpose and scope.

- Sec.  
461.31 Eligibility requirements.  
461.32 Tasks eligible for funding.  
461.33 Proposal requirements.  
461.34 Evaluation criteria.  
461.35 Selection process.

AUTHORITY: Energy Conservation and Production Act, Pub. L. 94-385, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (16 U.S.C. 2601 et seq.); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.).

## Subpart A—General

## § 461.1 Purpose and scope.

(a) This part establishes two programs to provide financial assistance to State utility regulatory commissions and certain nonregulated electric utilities.

(b) The first program, the PURPA Grant Program, provides for financial assistance through grants for carrying out duties and responsibilities under Titles I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 et seq. These duties and responsibilities relate to the consideration of certain Federal standards for electric and gas utilities and the preparation of determinations regarding the standards, provision of access to information for intervenors, submission of reports to DOE, collection and filing of data required by the Federal Energy Regulatory Commission (FERC), and implementation of FERC rules on cogeneration facilities and small power production.

(c) The second program, the Innovative Rates Program, provides for financial assistance for electric utility regulatory rate reform initiatives relating to innovative rate structures under Title II of the Energy Conservation and Production Act, (ECPA) Pub. L. 94-385, 90 Stat. 1125 et seq. (42 U.S.C. 6801 et seq.) as amended by PURPA. Funds will be awarded to a limited number of proposers to encourage the development and implementation of regulatory policies and practices which carry out the purposes of Title II of ECPA.

## § 461.2 General requirements.

Except where this part provides otherwise, the award and administration of financial assistance under this part will be governed by:

(a) Federal Management Circular 74-4, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(b) Office of Management and Budget Circular A-95, entitled "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects;"

(c) Office of Management and Budget Circular A-97 entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or

Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(d) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(e) Office of Management and Budget Circular A-110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations;"

(f) Treasury Circular 1075, entitled "Regulations Governing Withdrawals of Cash from the Treasury for Advance Under Federal Grants and Other Programs;"

(g) 10 CFR Part 600, entitled "Assistance Regulations;" and

(h) Such procedures applicable to this part as DOE may from time to time prescribe for the award or administration of grants and cooperative agreements.

## § 461.3 Definitions.

As used in this part—

"Class" means, with respect to electric and gas consumers, any group of such consumers who have similar characteristics of electric or gas energy use, respectively.

"Consultant" means a person who contracts to provide services for a State utility regulatory commission or non-regulated electric utility, and includes an attorney, accountant, economist or other expert.

"Cogeneration facility" means a facility which produces electric energy and other forms of useful energy (such as steam or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

"Covered electric utilities" and "covered nonregulated electric utilities" are those electric utilities whose total sales of electric energy for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

"Covered gas utilities" are those gas utilities whose total sales of natural gas for purposes other than resale exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

"DOE" means the Department of Energy.

"ECPA" means the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq. (42 U.S.C. 6801 et seq.), as amended.

"Electric consumer" means any person, State agency or Federal agency, to which electric energy is sold other than for purposes of resale.



"Electric membership cooperative" means a group of persons who have organized a nonprofit joint venture, owned and controlled by the people it serves, for the purpose of supplying electric energy to a specified area.

"Electric utility" means any person, State agency or Federal agency which sells electric energy.

"Evidentiary hearing" means—

(a) In the case of a State agency, a proceeding which (1) is open to the public, (2) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (3) includes a written decision, based upon evidence appearing in a written record of the proceeding; and (4) is subject to judicial review;

(b) In the case of a Federal agency, a proceeding conducted as provided in sections 554, 556 and 557 of Title 5, U.S.C.; and

(c) In the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of paragraph (a).

"Federal agency" means an executive agency (as defined in section 105 of Title 5 of the United States Code).

"Federal standards" means the six electric rate design standards, five electric regulatory policy standards, and two natural gas regulatory policy standards established by sections 111, 113 and 303 of PURPA.

"FERC" means the Federal Energy Regulatory Commission.

"Fiscal year" means the 12 month period beginning October 1.

"Gas consumer" means any person, State agency or Federal agency to which natural gas is sold other than for purposes of resale.

"Gas utility" means any person, State agency or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas.

"Grantee" means the State or other entity named in DOE's Notification of Grant Award as the awardee of the grant.

"Kilowatt-hour (kwh)" means a unit of measuring electricity usage which represents a unit of work or energy equal to that expended by one kilowatt in one hour.

"Lifeline rate" means a rate for essential needs of residential electric consumers which is lower than a cost of service rate as defined in section 111(d)(1) of PURPA.

"Nonregulated electric utility" means any electric utility with respect to which no State regulatory authority has ratemaking authority.

"Nonregulated gas utility" means any gas utility with respect to which

no State regulatory authority has ratemaking authority.

"Person" means an individual, partnership, corporation, unincorporated association or any other group, organization or entity.

"PURPA" means the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.*

"Rate" means (a) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation, or practice respecting any such rate, charge, or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

"Ratemaking authority" means authority to fix, modify, approve or disapprove rates.

"Recipient" means the State or other entity named in the cooperative agreement as the recipient of financial assistance.

"Sale" means a transfer to a purchaser for consideration, and when used with respect to electric energy includes any exchange of electric energy, and when used with respect to natural gas includes any exchange of natural gas.

"Secretary" means the Secretary of Energy.

"Small power production" means the production of electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof.

"State" means a State, the District of Columbia, and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility, or the sale of natural gas by any gas utility, other than by such State agency, and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

"State utility regulatory commission" or "commission" means any State agency which has ratemaking authority with respect to the sale of natural gas or electric energy by any natural gas utility or electric utility (other than by such State agency).

#### Subpart B—PURPA Grant Program

##### § 461.10 Purpose and scope.

This subpart establishes a program of grants to State utility regulatory

commissions and certain nonregulated electric utilities to assist them in carrying out their duties and responsibilities under Titles I and III, and section 210, of PURPA.

##### § 461.11 PURPA standards.

PURPA Titles I and III, among other things, require each State regulatory authority with ratemaking authority for a covered State regulated electric or gas utility, as well as each covered nonregulated electric and gas utility, to consider certain Federal standards for each such utility and to prepare determinations about whether it is appropriate to implement each of these standards.

(a) Title I of PURPA established six electric rate design standards. They are:

(1) *Cost of Service*—Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under PURPA section 115(a).

(2) *Declining Block Rates*—The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) *Time-of-Day Rates*—The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under PURPA section 115(b).

(4) *Seasonal Rates*—The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) *Interruptible Rates*—Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the costs of providing interruptible service to the class of which such consumer is a member.

(6) *Load Management Techniques*—Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will be practicable and cost-effective as determined under PURPA section 115(c); be reliable; and provide useful energy or capacity management advantages to the electric utility.

(b) Title I of PURPA establishes five electric regulatory policy standards. They are:

(1) *Master Metering*—To the extent determined appropriate under PURPA section 115(d), master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of Title I of PURPA.

(2) *Automatic Adjustment Clauses*—No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of PURPA section 115(e).

(3) *Information to Consumers*—Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of PURPA section 115(f).

(4) *Procedures for Termination of Electric Service*—No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in PURPA section 115(g).

(5) *Advertising*—No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in PURPA section 115(h).

(c) Title III of PURPA establishes two natural gas regulatory policy standards. They are:

(1) *Procedures for Termination of Natural Gas Services*—No gas utility may terminate natural gas service to any gas consumer except pursuant to procedures described in PURPA section 304(a).

(2) *Advertising*—No gas utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in PURPA section 304(b).

##### § 461.12 Eligibility requirements.

(a) Grants under this subpart may be made only to State utility regulatory commissions which have ratemaking authority over covered electric or covered gas utilities, and to covered nonregulated electric utilities, except for Federal agencies.

(b) Each applicant must certify that it meets the eligibility requirements of paragraph (a).

##### § 461.13 Duties and responsibilities eligible for funding.

(a) DOE will award financial assistance under this subpart for activities which carry out the duties and responsibilities of applicants under Titles I and III, and section 210, of PURPA.

(b) The duties and responsibilities, set forth in Titles I and III, and section 210, of PURPA, include:

(1) The consideration, after public notice and hearing, of the Federal standards, and the preparation of written determinations about the appropriateness of implementing each standard.

(2) A determination, after an evidentiary hearing, by the State regulatory authority or a nonregulated electric utility as to whether a State regulated electric utility or the nonregulated electric utility not having a lifeline rate should implement such a rate.

(3) Consideration of other concepts which contribute to the achievement of any of the three purposes of Title I of PURPA when raised by the Secretary, any affected electric utility, or any electric consumer of an affected electric utility in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design conducted by a State regulatory authority or by a nonregulated electric utility.

(4) Provision to intervenors or participants of access to information available to parties to a ratemaking proceeding described in section 121(a) of PURPA, if the information is relevant to the issues to which his or her intervention or participation in such proceedings relates.

(5) Submission, not later than November 9, 1979, and annually thereafter for 10 years, of reports to DOE respecting consideration of the Federal standards. The reports must include a summary of the determinations made and actions taken with respect to each standard on a utility-by-utility basis.

(6) The gathering and filing by electric utilities of information determined by FERC to be necessary to determine costs associated with providing electric service.

(7) Implementation, after notice of opportunity for public hearings, of rules prescribed by FERC to encourage cogeneration and small power production.

(c) The activities referred to in paragraph (a) may include, among other things:

(1) Recruiting, hiring, training, and compensating staff to perform analytical, technical, legal, and administrative work;

(2) Soliciting and engaging consultants to perform appropriate assignments;

(3) Identifying and removing any policy, organizational, management, or other barriers to effective accomplishment of the duties and responsibilities;

(4) Conducting hearings;

(5) Establishing the format for and collecting information and data necessary to the effective and efficient consideration and determination of the Federal standards and necessary to the development of rates based on a utility's costs of service;

(6) Collecting cost of service data as required by FERC and submitting these data to FERC;

(7) Developing or refining data handling techniques or procedures, including computer programs and other technical resources;

(8) Developing new, or revising existing, procedural requirements to improve the quality of the regulatory process or to obtain a more complete record upon which to consider and determine immediate and future rate-making or policy issues;

(9) Developing and implementing methods of effective communicating useful information to electric consumers on issues relevant to rates or rate designs; and

(10) Developing procedures by which to secure, format, and update data for inclusion in the annual reports to DOE.

##### § 461.14 Allowable expenditures.

(a) Grant funds provided under this subpart may be used only to carry out duties and responsibilities under Titles I and III, and section 210, of PURPA.

(b) Expenditures of grant funds awarded in any year are subject to the following limitations:

(1) Not more than 49 percent of the grant funds awarded in any year may be used for the combined expenses incurred under the following two categories:

(i) training of personnel; and

(ii) personnel salaries and related costs. Personnel salaries and related costs will be considered to be compensation of every kind to employees for time and effort devoted to carrying out grant activities. Compensation includes, but is not limited to, wages, salaries, and supplementary compensation and benefits.

(2) No grant funds awarded in any year may be used for acquisition of data processing equipment, whether by outright purchase, rental-purchase or other method of acquisition. The costs of data processing services utilized in performing grant activities are allowable.

(3) Other limitations imposed by DOE pursuant to applicable statutes or regulations, in order to ensure ef-



fective performance by the grantee under the grant.

#### § 461.15 Grant application.

(a) To be eligible to receive a grant under this subpart, an applicant shall submit an application in conformity with paragraph (b) of this section on a form to be provided by DOE, which shall be received by DOE on or before 5:30 p.m. e.d.t. on the August 15th preceding the fiscal year for which financial assistance is sought, or such other date as DOE may establish by notice published in the *FEDERAL REGISTER*.

(b) Each application must include—

(1) A brief overview statement of the objectives to be accomplished with the financial assistance received by the grantee, and an explanation of how these objectives relate to the applicant's ongoing work.

(2) A statement of which duties and responsibilities set forth in Titles I and III, and section 210, of PURPA are proposed to be carried out by the applicant with financial assistance received under this subpart.

(3) A detailed description of the activities proposed to be undertaken by the applicant with financial assistance received under this subpart, and of how the activities are related to the duties and responsibilities proposed to be carried out.

(4) A timetable, by calendar quarter, for implementing the activities for the fiscal year for which financial assistance is sought.

(5) A description of the organizational structure of the applicant, including an identification of which organizational units will expend the financial assistance.

(6) A description of the responsibilities, experience and qualifications of key personnel proposed to be used to expend and to administer the financial assistance received under this subpart.

(7) A certification of eligibility as provided in § 461.12(b).

(8) An assurance that funds made available under this program will be in addition to, and not in substitution for, funds made available to the applicant from other governmental sources. Other governmental sources, for this purpose, includes any funds received from any Federal, State or local governmental entity.

(9) The amount of funds requested.

#### § 461.16 Apportionment of funds.

(a) DOE may, subject to funds appropriated and available, provide financial assistance upon annual application submitted as provided in § 461.15.

(b) DOE shall apportion funds among the States by dividing the total fiscal year funds available for grants under this part equally among the

States from which applications eligible for funding are received.

(c) If a State regulatory commission and one or more covered nonregulated electric utilities in that State apply for grants from funds available for a fiscal year, then the total funds apportioned to that State for that fiscal year will be allocated between the State utility regulatory commission, and the covered nonregulated electric utilities, as a group. Subject to compliance with the other terms and provisions of this part, the State regulatory commission shall have an allocation equal to that percentage of the total funds so available determined by dividing (1) the number of electric customers served by the covered electric utilities over which the commission has ratemaking authority by (2) the number of electric customers served by covered regulated and covered nonregulated electric utilities in the State; and the covered nonregulated utilities shall have an allocation equal to the balance of the funds apportioned to the State. Notwithstanding the foregoing, the allocation to the commission or to the covered nonregulated electric utilities, as a group, will not be less than 25 percent of the total funds apportioned to that State. Moreover, the allocation of funds within a State does not entitle a commission or the covered nonregulated electric utilities within the State to receive a grant or grants equal to its allocation. In the event that DOE does not award grants under this part to either the commission or the covered nonregulated electric utilities, as the case may be.

#### § 461.17 Selection.

(a) No application will be considered unless it meets the requirements of this subpart and applicable law.

(b) Applications which meet the requirements of § 461.17(a) will be evaluated by DOE using the following criteria, which provide for a total of 100 possible points. These criteria are designed to assure that grant funds are expended in a prudent and effective manner.

(1) *Program Plan*. 30 points maximum.

(i) The extent to which the objectives of the project are clearly stated and logically related to the applicant's duties and responsibilities;

(ii) The extent to which the proposed activities are clearly described and logically related to the project objectives;

(iii) The extent to which the applicant's timetable realistically relates the proposed activities to one another and to attaining the project objectives.

(2) *Administrative Management*. 40 points maximum.

(i) The extent to which the applicant has evaluated or proposes to evaluate its current management, organization, and staff capabilities in order to increase its effectiveness;

(ii) The extent to which the applicant establishes clear organizational responsibilities for the proposed activities;

(iii) The extent to which the applicant's staff and other personnel resources are qualified to carry out the proposed activities;

(iv) The extent to which the proposed activities are likely to augment the long-term capabilities of the applicant to effectively carry out its duties and responsibilities;

(v) The extent to which the applicant demonstrates the capability and procedures for prudent and effective use of any contractors or consultants; and

(vi) The extent to which the applicant proposes to use, rather than duplicate the development of, published materials.

(3) *Financial Management*. 30 points maximum.

(i) The extent to which the applicant demonstrates that the proposed activities will be carried out efficiently;

(ii) The extent to which the proportion of contractor and consultant costs is reasonable in relation to total project budget.

(c) Any applicant which scores 25 points or less shall not receive a grant. An applicant which scores 26 points or more shall receive a grant in an amount determined by DOE based upon the evaluation of the applicant's proposal, considering the foregoing criteria, and the funds available to it pursuant to the provisions of § 461.16 (b) and (c).

#### Support C—Innovative Rates Program

#### § 461.30 Purpose and scope.

This subpart establishes a program of financial assistance through cooperative agreements with State utility regulatory commissions, nonregulated electric utilities and the Tennessee Valley Authority (TVA), pursuant to section 204(1)(B) of ECPA. The purpose of this program is to provide financial assistance to these entities for planning and carrying out electric utility regulatory rate reform initiatives relating to innovative rate structures that encourage conservation of energy, electric utility efficiency and reduced costs and equitable rates to consumers.

#### § 461.31 Eligibility requirements.

(a) Cooperative agreements awarded under this subpart may be awarded

only to State utility regulatory commissions, nonregulated electric utilities and TVA.

(b) A cooperative agreement may be only for an initiative which will be completed within 2 years, and no recipient may receive an award exceeding 15 percent of the funds available for any fiscal year.

#### § 461.32 Tasks eligible for funding.

DOE may award cooperative agreements under this subpart for initiatives which carry out the purpose of the program as expressed in § 461.30 and which perform up to three of the following 10 ratemaking tasks.

(a) *Cost-of-service Information System*. Activities undertaken in performance of this task could include:

(1) Identifying the data collection, reporting and filing requirements for a cost-of-service information system to assist the proposer in setting electric utility rates and in implementing both embedded and marginal cost approaches to cost-of-service determinations.

(2) Identifying the need for DOE assistance in investigating and determining the costs of electricity production and transmission within the service area(s) covered by the proposer, as authorized by section 206(b) of the Federal Power Act, as amended;

(3) Identifying, evaluating, and selecting methodological approaches that might be used by the proposer to analyze rate, financial and load management data;

(4) Developing data files, input procedures, software programs, and documentation procedures that will result in an operating information system that can be implemented on generally available computer facilities; and

(5) Adopting guidelines for cost-of-service filing requirements, and developing procedures and organizational resources necessary to insure public access to and release of cost-of-service data and data handling programs.

(b) *Estimating Consumer Class Load Characteristics*. Activities undertaken in performance of this task could include:

(1) Identifying and assessing existing approaches and methods in the public and private sectors that might be used within the proposer's service area(s) for determining electric load characteristics by consumer class;

(2) Developing and testing, without extensive data collection efforts or load research studies, innovative methods of estimating consumer class load characteristics;

(3) Adopting, as a standard, one or more such methods for estimating electric load characteristics, by consumer class, for electric ratemaking purposes;

(4) Developing, as necessary, a model rate provision which allows a residual charge or credit to compensate for inaccurate estimation of load;

(5) Identifying and documenting procedures that can be used to conduct electric load research studies; and

(6) Adopting appropriate guidelines for the design, operation, analysis, documentation and reporting of utility load research studies.

(c) *Metering for Innovative Electric Rates*. Activities undertaken in performance of this task could include:

(1) Assessing electric metering alternatives currently available to the proposer, in terms of function, reliability, life cycle cost, security, accuracy and clarity of any digital display feedback to electric consumers;

(2) Performing cost/benefit analyses, in terms of consumer and/or utility impacts, of different metering technologies under a number of rate and load management/conservation scenarios;

(3) Conducting public hearings to consider offering a combination of digital display metering and innovative rates to electric consumers, with full consideration of the eligibility of such metering for a Federal income tax credit.

(d) *Rate Information for Consumers*. Activities undertaken in performance of this task could include:

(1) Reviewing and analyzing recent utility related communications to electric consumers within the proposer's service area(s) regarding rates and associated load management/conservation techniques to determine the effectiveness of such communications in changing consumers' electricity usage patterns.

(2) Documenting and assessing current practices and resources within the proposer's service area(s) for monitoring and evaluating rate-related communication to electric consumers; and

(3) Developing, testing, and implementing innovative regulatory approaches with respect to rate-related communications in order to improve consumer acceptance and use of rate reforms in effect in the proposer's service area.

(e) *Assistance to Low Income Electric Consumers*. Activities undertaken in performance of this task could include:

(1) Identifying and assessing current regulatory policies and practices, including but not limited to rate design, which are applied to low income electric consumers in the proposer's service area(s);

(2) Identifying and assessing alternative policies and programs which address the impact of rising electric utility rates on these low income electric consumers; and

(3) Developing and adopting a ratemaking policy or other regulatory initiative with respect to low income electric consumers.

(4) *Procedures for Intervenor Compensation*. Activities undertaken in performance of this task could include:

(1) Establishing criteria by which the proposer will determine whether an intervenor would not otherwise be adequately represented in an electric ratemaking proceeding and whether such representation is necessary for a fair determination in the proceeding;

(2) Establishing criteria for determining whether the intervenor has substantially contributed to the proposer's determination regarding any rate reform policy; and

(3) Identifying allowable expenses and payment recordkeeping procedures.

(g) *Solar Rate Initiative*. Activities undertaken in performance of this task could include:

(1) Developing a solar electric rate study to help design a rate structure for residential electric consumers in the proposer's service area(s) who use supplementary solar systems on existing electric appliances and/or heating and cooling systems;

(2) Collecting and analyzing appropriate data including weather, demographic, household and load characteristics to assess possible solar rate structures, including traditional and time-of-use electric rate structures; and

(3) Developing guidelines for establishing rates for electric consumers who use supplementary solar systems on electric appliances and/or heating and cooling systems.

(h) *Allocation of Conservation Service Costs*. Activities undertaken in performance of this task could include:

(1) Identifying and evaluating, for possible adoption by the proposer, current procedures for allocating the costs incurred by electric utilities in providing end-use conservation services to consumers;

(2) Developing the proposer's own alternative procedures, as required, for allocating the costs of end-use conservation services for electric ratemaking purposes;

(3) Assessing the impact of the cost of end-use conservation services on the electric utility's cost-of-service, taking into account the short and long-run effects of demand (kilowatt-hour and/or kilowatt) reduction; and

(4) Incorporating and adopting, through a public hearing, conservation cost allocation procedures as ratemaking guidelines.

(i) *Rate Incentives for Utility Efficiency*. Activities undertaken in performance of this task could include:



## PROPOSED RULES

(1) Identifying and assessing, for possible adoption by the proposer, current regulatory policies and practices with respect to incentives for efficient electric utility resource utilization, including such aspects of utility operation as fuel use and powerplant availability;

(2) Reviewing and assessing alternative regulatory approaches that might increase the efficiency of electric utility operation, including incentive rates of return and restrictions on automatic adjustment clauses; and

(3) Developing and adopting regulatory guidelines and ratemaking standards to increase the efficiency of electric utility operation.

(j) *Other Tasks.* Other activities may be undertaken to plan and carry out electric utility regulatory rate reform initiatives, relating to innovative rate structures, that carry out the purposes expressed in § 461.30 and that will, or are likely to, result in the adoption by the proposer of a reform in its rate-making practices or policies.

## § 161.33 Proposal requirements.

(a) To be eligible to receive a cooperative agreement under this subpart, a proposer must submit to DOE a proposal on a form to be provided by DOE in conformity with paragraph (b) of this section. This proposal must be received by DOE on or before 5:00 p.m. e.d.t., on the August 15 preceding the fiscal year for which financial assistance is sought, or such other date as may be established by DOE and published in the FEDERAL REGISTER. A proposer must submit a separate proposal for each fiscal year for which assistance is sought.

(b) Each proposal must include—

(1) A brief overview, including a summary of each of the tasks proposed to be carried out with the financial assistance requested by the proposer.

(2) A separate Task Work Plan for each task to be carried out by the proposer. Each Task Work Plan shall not exceed 25 pages in length and shall include—

(i) A brief statement of the specific objectives of the task and an identification of how the objectives relate to the proposer's ongoing work and needs;

(ii) A detailed Scope of Work describing the activities to be undertaken to complete the task, including—

(A) a discussion of how the activities will accomplish the objectives of the task;

(B) a detailed description of each activity;

(C) a statement of anticipated problems associated with carrying out the activities;

(D) an identification of methodological issues associated with the activities; and

(E) an identification of data requirements, sources, and availability associated with the activities.

(iii) A timetable by calendar month showing the activities to be performed;

(iv) A description of task management and administration, which identifies the responsibilities of key personnel and the organizational units assigned to undertake the task;

(v) A description of the experience of key personnel including an identification of the percent of time each will devote to the task;

(vi) A cost estimate for each task;

(vii) A budget by cost category for each task, the amount requested of DOE, and the total amount estimated for each task;

(viii) The amount, if any, of cost sharing or funds from other sources, relating to (vi) and (vii).

(3) An assurance that funds received by the proposer under this subpart will be used in addition to, and not in substitution for, funds made available to the proposer from other governmental sources.

(4) A commitment to submit a Management Plan 60 days after receipt of any cooperative agreement under this subpart. The Management Plan will set forth in detail the organizational, budgetary, technical, and scheduling requirements necessary for successful completion of each task covered in the cooperative agreements. The Management Plan must be submitted for DOE review and approval, and the recipient may not proceed with the subsequent task until the Management Plan is approved.

(5) Identification of the person responsible for coordination and management of the cooperative agreement, including the person's name, title, address, and telephone number.

(6) Appendices, including any pertinent legislation and regulatory orders which are cited or referenced in the proposal.

## § 161.34 Evaluation criteria.

The following criteria will be used to evaluate each proposed task.

(a) *Task Objectives.* 10 points maximum.

(1) The extent to which the proposed task describes specific objectives; and

(2) The extent to which the proposed task demonstrates that accomplishments of the task will be applicable and usable by other State utility regulatory commissions and/or nonregulated electric utilities;

(b) *Task Work Plan.* 40 points maximum.

(1) The extent to which the activities and objectives in the Task Work Plan evidence innovative, effective, and practical approaches to utility rate regulation;

(2) The extent to which the activities described in the Task Work Plan are clearly related to, and show promise of attaining, the objectives;

(3) The extent to which activities in the Task Work Plan are integrated into a realistic timetable.

(4) The extent to which the anticipated results, accomplishments and associated products (including studies, procedures, guidelines and policy directives), are identified;

(5) The extent to which the Task Work Plan evidences that the proposer

plans to use, rather than duplicate the development of, available published materials;

(6) The extent to which potential problems and alternative courses of action to resolve the problems are identified and addressed;

(c) *Analytical and Methodological Approaches for Task.* 20 points maximum.

(1) The extent to which the evaluation procedures to be used by the proposer in selecting the methodologies and policy alternatives to be employed in the task are clearly described and are workable;

(2) The extent to which the issues associated with data requirements, sources, availability, costs, and validity are clearly and adequately addressed.

(d) *Task Management.* 10 points maximum.

(1) The extent to which the staffing plan:

(i) evidences an evaluation of the proposer's current organization with respect to its capability to carry out the task; and

(ii) establishes clear organizational responsibilities for carrying out the task;

(2) The extent to which the proposer's staff are qualified to perform their functions and will be involved with the work performed by any consultants; and

(3) The extent to which the Task includes provisions for making maximum use of present staff and/or provide for training of staff in order to increase the proposer's effectiveness in carrying out the task.

(e) *Budget for Task.* 20 points maximum.

(1) The extent to which the proposed Task Work Plan contains evidence that the amount of funds requested is realistically related to the activities, especially in terms of achieving the stated objectives; and

(2) The extent to which costs for consultant services are reasonable, related directly to the activities, and will assist in accomplishing the objectives of the task.

## § 161.35 Selection process.

The following evaluation and selection process will be used to award cooperative agreements to proposers.

(a) DOE shall evaluate each proposal in accordance with the criteria specified in § 161.34, and shall give each a point score according to these criteria.

(b) Any proposal receiving a point score of 45 points or less will not be considered for a cooperative agreement.

(c) DOE shall select proposals for award taking into account—

(1) the proposal's evaluation score;

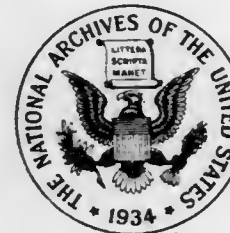
(2) the proposer's past performance under a previous cooperative agreement, if any, under this program;

(3) the availability of funds;

(d) When determined to be necessary and appropriate by DOE, DOE may negotiate with the proposer on Task Work Plans and budgets, prior to the award of a cooperative agreement.

IFR Doc. 79-9402 Filed 3-28-79; 8:45 am

THURSDAY, MARCH 29, 1979  
PART IV



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

IMPLEMENTATION OF  
OMB CIRCULAR NO. A-95

Final Regulations:  
General Applicability



[4210-01-M]

**Title 24—Housing and Urban Development****SUBTITLE A—OFFICE OF THE SECRETARY**

[Docket No. R-79-630]

**PART 52—IMPLEMENTATION OF OMB CIRCULAR NO. A-95****Final Regulations: General Applicability**

AGENCY: Department of Housing and Urban Development.

ACTION: Withdrawal and Reissue of Rule.

SUMMARY: This rule reissues the final regulations implementing the requirements of OMB Circular No. A-95 as they apply to HUD's programs. These regulations are intended to provide for a more consistent implementation of the A-95 process for Departmental programs by establishing uniform processing procedures and clearly defining the roles and responsibilities of program staff in complying with the overall intent of OMB Circular No. A-95.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Crichton Schacht, Office of Community Planning and Program Coordination, Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room 7262, Washington, D.C. 20410 (202-755-6201).

SUPPLEMENTARY INFORMATION: On March 20, 1979, 44 FR 17124, there was published in the FEDERAL REGISTER an incorrect copy, inadvertently transmitted by the Department, with respect to Part 52. This document withdraws that publication scheduled to become effective April 19, 1979, and reissues it retaining that same effective date.

On January 13, 1976, the Office of Management and Budget published in the FEDERAL REGISTER (41 FR 2052) a revision to OMB Circular No. A-95. Paragraph 7 of the main body of the Circular requires that certain Federal Departments and Agencies publish regulations which implement the requirements of the Circular as revised (41 FR 2052) and provide a basis for a higher degree of consistency in the application of the A-95 process to Departmental programs. The purpose of this issuance is to set forth the final Departmental implementing instructions in conformance with the Circular. Emphasis has been placed on establishing uniform processing procedures

for the applicable programs and clearly defining the roles and responsibilities of program staff in complying with the overall intent of the Circular.

Interim regulations which summarized and clarified procedures and responsibilities for meeting A-95 requirements pertaining to HUD programs were published for effect on September 23, 1976 (41 FR 41874). Based on comments received and numerous changes in program references, the interim regulations have been revised and are hereby set forth as final regulations.

The purpose of these regulations is to further the objectives of: (1) Title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1103); (2) Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1263, 82 Stat. 208); (3) Section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853); (4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); (5) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.); (6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U); and (7) the Housing and Community Development Act of 1974 (42 U.S.C. 5301).

Subpart A defines the administrative responsibilities for carrying out Departmental responsibilities in the evaluation, review and coordination of Departmental programs pursuant to the OMB Circular. A special effort has been made to clarify the processing procedures and identify responsibilities at the Headquarters, Regional and Field Office levels.

Subpart B describes the evaluation and review procedures for all applicable HUD programs from which Federal assistance or insurance is being sought (listed in the appendix) and includes the limitations and procedural variations that apply. Special emphasis has been placed on the coordination and planning functions of the clearinghouse and HUD with respect to reviewing applications for assistance.

Subpart C establishes the procedures to assure that:

(a) All direct Federal development activities which significantly affect area and community development are in compliance with Part II, Attachment A of the Circular. (Reserved)

(b) All HUD programs which require a State plan as a condition of assistance are in compliance with Part III, Attachment A of the Circular, and

(c) HUD encourages States to exercise their leadership in establishing a system of coordinated planning and development districts in accordance with Part IV, Attachment A of the Circular.

In developing these regulations particular attention has been given to the concerns of program personnel, HUD field personnel, applicants, and the A-95 clearinghouses. In an attempt to achieve better program coordination in the development and implementation of State, areawide and local Comprehensive Plans, emphasis has been placed on the following key areas of the Project Notification and Review System established in Circular No. A-95:

1. Early applicant contact and discussion with clearinghouses prior to submitting applications to HUD.

2. The timing requirements for clearinghouse consultation and review of the applicant's proposals.

3. The attachment of clearinghouse comments and recommendations to the application when submitted to HUD, unless concurrent review is allowed by program regulations.

4. Clarification of the procedures for HUD's notification to clearinghouses of action taken on the application.

5. Consultation with other Federal agencies when interagency conflicts or duplication in funding have been identified.

6. HUD use of clearinghouse comments in making decisions on applications for assistance.

7. HUD responsibilities for administration of the A-95 process at various organizational levels.

**DISCUSSION OF MAJOR COMMENTS AND CHANGES**

HUD received eighteen responses to the September 23, 1976, publication. All of these comments were seriously considered and as a result many changes have been incorporated in the final regulations. The major comments and changes are discussed below:

1. A comment concerning the definition of "HUD field office" has resulted in its definition being added to § 52.2(d).

2. Some revisions have been made to § 52.3(c) (3) and (4); as well as (d) (1) and (2) in order to reflect the new delegation of responsibilities in the Department's organizational handbook.

One comment questioned whether § 52.3(c)(3), which stated that the Regional Office A-95 liaison officer has the duty to train clearinghouses, was appropriate since OMB has delegated such matters to the Federal Regional Councils. Therefore, § 52.3(c)(3) has been clarified, as has § 52.101(a), to indicate that HUD's responsibility to train clearinghouses is limited to HUD's A-95 program procedures.

3. Several comments requested clarification of § 52.3(d)(1), concerning field office consultations with clearinghouses. As a result, changes have been made to clarify that the

HUD Area Office A-95 liaison is responsible for contacting clearinghouses and periodically providing them with feedback regarding the usefulness of the clearinghouses' comments to HUD's decisionmaking. Another comment resulted in the addition of § 52.3(d)(1)(iv), which states that the Area Office A-95 liaison is responsible for periodically providing clearinghouses with information on changes in program funding levels, number of applicants, application time schedules and other changes which might affect clearinghouse workload or procedures.

4. An appendix listing all HUD programs covered by OMB Circular No. A-95 as of the date of this publication has been added to these regulations as the result of one request.

5. One comment requested that § 52.101(e)(1) provide instructions regarding the consideration of adverse clearinghouse comments and comments from environmental and civil rights agencies which are received after the review period has ended. Such instructions have not been added, since HUD's course of action would depend on the reason for late arrival of comments. If the applicant is at fault and did not provide the appropriate clearinghouses with adequate time for review, HUD will not take any action on the application until the clearinghouses are given adequate time to review and comment, and all comments are considered. However, where the applicant has provided the clearinghouses with the required time for review and comment and clearinghouses are late in submitting their comments, we cannot assure that such comments will be considered. Although late comments will be considered insofar as possible, processing and timing pressures may make this infeasible in some instances.

6. We have revised § 52.101(e)(1), as requested, to clarify that any comments by individuals, groups or agencies forwarded to HUD through the clearinghouses are to be considered along with clearinghouse comments.

7. Based on a comment, § 52.101(e)(2) has been revised to state that comments from substate agencies involved in the State coastal zone management program as well as those from the State coastal zone management agency will be considered by HUD in meeting its responsibilities under the Coastal Zone Management Act of 1972.

8. The provision in § 52.101(e)(3)(ii), whereby an application with unresolved negative comments citing inconsistency with plans or statutory non-compliance cannot be approved without concurrence by the Regional Administrator, resulted in both headquarters and field office comments

that this provision could cause processing delays and might be particularly difficult where there are statutory limitations on processing time. Consequently, the revised regulations now specify that the program official shall notify the clearinghouse in writing that HUD intends to approve the application with an explanation why this is necessary. The clearinghouse may request reconsideration in writing to the Regional Administrator. The steps in this process are then described.

9. The interim regulations erroneously stated in § 52.101(f)(1) that HUD must provide clearinghouses with notification of action taken on a reviewed application "within seven calendar days". In accordance with OMB Circular No. A-95, Attachment A, Part I, 6(c), this has been corrected in the final regulations to require notification "within seven working days."

10. Several comments with regard to § 52.101(f)(3) stated that HUD should provide an explanation regarding approval of applications receiving negative comments to any organization or group submitting such comments, not just to clearinghouses. In accordance with OMB's interpretation of this requirement, described on page 20 of the OMB Handbook "A-95 What It Is—How It Works," these regulations will not require that program officials send explanations of action taken to agencies other than clearinghouses, although they may do so if they feel it is appropriate. However, a statement has been added to the regulations to indicate that upon request by the clearinghouse, HUD will provide the clearinghouse with an explanation, which can then be forwarded to the commenting agency.

11. Several comments suggested clarification or revisions of the description of application amendments requiring clearinghouse review in § 52.101(g). This section has not been changed since the thresholds at which amendments become significant enough to require HUD approval and, therefore, clearinghouse review will vary from program to program. Applicants should consult the program regulations, HUD Regional and field office program staff and the A-95 liaison or the appropriate clearinghouses to determine whether application amendments require A-95 review.

12. One comment requested clarification in the review requirements under OMB Circular No. A-95 and Section 213 of the Housing and Community Development Act of 1974, implemented by 24 CFR Part 891. In order to facilitate coordination of these two review requirements, the final regulations in § 52.102(c) now provide for simultaneous initiation of the 30-day A-95 and 213 review periods. Clearinghouses are also encouraged to develop

arrangements with units of general local government to coordinate submission of A-95 and 213 comments. Although these two somewhat duplicative review systems cannot be combined under current legislation, the relationship between them should be simplified and clarified by these new provisions.

13. Conflicting comments were received regarding § 52.102 (b) and (c) which state that applications for HUD housing assistance, or insurance may be sent to clearinghouses prior to submission to HUD or may be submitted directly to HUD, in which case HUD must send them to the clearinghouses for review. The regulations encourage applicants to obtain A-95 comments prior to submission of applications to HUD since early contact with clearinghouses can save considerable time and effort by eliminating major problems before the applications are completed. However, OMB Circular No. A-95 does not require that housing applications be submitted to clearinghouses prior to submission to HUD since early application submission could be premature for applicants in some instances and put an additional burden on the clearinghouses. Applicants are encouraged to contact the appropriate HUD field office and clearinghouses regarding their preferred procedure for obtaining A-95 review on housing applications.

14. Based on an observation by HUD staff that clearinghouses should not have to complete reviews on housing applications which, after preliminary screening, are found to be unacceptable to HUD for technical processing, a new § 52.102(d) has been added to allow early termination of clearinghouse reviews.

15. Numerous comments were submitted regarding A-95 review procedures for community development block grants in § 52.103. Because new regulations for 24 CFR Part 570 (43 FR 8476, March 1, 1978) allow preapplications to be submitted simultaneously to HUD and clearinghouses we cannot state, as requested, that HUD will only consider preapplications complete when submitted with A-95 comments or a statement that no comments have been received. However, where preapplications are received without comments HUD may not make a final determination until A-95 comments are received and considered or until the comment period is over and no comments have been received. Many commenters stated that application assurances should be sent to clearinghouses for review. Since assurances are submitted in a standardized format providing little basis for clearinghouse comments, they need not be sent to the clearinghouses for review. Although it is HUD's responsi-



bility to review the applicants' compliance with required assurances, clearinghouses may submit for HUD's consideration comments regarding the applicants' ability or efforts to fulfill the assurances, which are described in program regulations and application forms, available from HUD field offices. Other revisions to this section have been made to reflect the most current regulations for 24 CFR Part 570.

16. Because of comments concerning the purpose of submitting the community development block grant applicants' performance reports to clearinghouses in § 52.103(c) (previously § 52.103(b)), the final regulations have been clarified to indicate that performance reports are to be submitted to clearinghouses for background information purposes only, not for review.

17. Section 52.106 has been expanded to include a reference to the A-95 review provisions in 24 CFR Part 600.73(e)(2) for land use and housing elements developed by recipients of Comprehensive Planning Assistance Program funds.

18. A new section, § 52.109, has been added which incorporates the A-95 requirements for Areawide Housing Opportunity Plans, as the Areawide Housing Opportunity Plan program is now an on-going HUD program, it is now being brought under the normal A-95 requirements.

19. § 52.201, concerning State Plans, has been clarified to emphasize that States and areawide clearinghouses should work together in the development of State and areawide plans as well as in their formal A-95 review to assure intergovernmental coordination and consistency.

20. Due to questions regarding the applicability of the provision in § 52.202(b)(1) requiring a memorandum of agreement to coordinate planning in multi-jurisdictional areas, language has been added to clarify that this provision applies only to multi-jurisdictional or areawide applicants for planning assistance. The question was raised concerning whether urban counties receiving HUD community block grant funds for planning purposes would be considered multi-jurisdictional agencies in this context. It was determined that this would be left up to the discretion of the appropriate areawide comprehensive planning agency, which would decide whether a memorandum of agreement was necessary to assure coordination of planning undertaken by the urban county with areawide planning activities.

21. One general comment noted that it would be helpful if excerpts from program regulations describing A-95 procedures were included in the HUD A-95 regulations, rather than simply

being referenced. Because specific procedures and regulations for any program may change frequently, inclusion of excerpts from program regulations would be impractical.

#### IMPACT STATEMENTS

The Department determined that an Environmental Impact Statement was not required with respect to the interim rule. As the revisions to the final regulations are not substantial, this determination still applies. The economic and inflationary impacts of the interim regulations were carefully evaluated in accordance with OMB Circular A-107 and a Finding of Inapplicability was made in accordance with HUD Handbook 1390.1 (38 FR 19182). This Finding still applies and is available for public inspection in the Office of the Rules Docket Clerk at the above address.

In consideration of the foregoing, Title 24 CFR, Subtitle A is amended by revising Part 52 to read as follows:

### PART 52—IMPLEMENTATION OF OMB CIRCULAR NO. A-95

#### Subpart A—General Provisions

##### Sec.

52.1 Scope and applicability.

52.2 Definitions.

52.3 Responsibilities for administration.

#### Subpart B—Project Notification and Review Procedures

52.100 General.

52.101 Requirements applicable to all HUD programs.

52.102 Housing programs.

52.103 Community development block grants.

52.104 Freestanding housing assistance plans (Reserved).

52.105 Assistance for new communities.

52.106 Comprehensive planning assistance.

52.107 National flood insurance program.

52.108 Federal disaster assistance program.

52.109 Areawide Housing Opportunity Plans.

#### Subpart C—Other Circular Requirements

52.200 Direct Federal development (Reserved).

52.201 State plans.

52.202 Multijurisdictional areas.

Appendix A HUD Programs Covered by OMB Circular No. A-95.

AUTHORITY: Sec. 7(d) of Department of Housing and Urban Development Act; (42 U.S.C. 3535(d)).

#### Subpart A—General Provisions

§ 52.1 Scope and applicability.

(a) This Subpart of the regulations covers those policies and procedures relating to the roles and responsibilities of HUD, in cooperation with authorized A-95 clearinghouses, in the Departmental programs pursuant to OMB Circular No. A-95.

(b) The policies and procedures contained herein are applicable to establishing uniform regulations for implementing the A-95 process in Departmental programs identified in:

(1) Appendix I of the *Catalog of Federal Domestic Assistance*, or Attachment D of OMB Circular No. A-95, whichever bears the later date.

(2) Direct Federal Development Activities as defined in Part II, Attachment A of OMB Circular No. A-95.

(3) State plans as defined in Part III, Attachment A of OMB Circular No. A-95.

(4) Coordination of Planning in Multijurisdictional Areas as defined in Part IV, Attachment A of OMB Circular No. A-95.

#### § 52.2 Definitions.

(a) The definitions and terminology used in these regulations shall be consistent with:

(1) Those contained in Departmental program regulations as published in the *FEDERAL REGISTER*, and

(2) Those used in Part V, Attachment A of OMB Circular No. A-95, Revised (41 FR 2052).

(b) "Freestanding Housing Assistance Plan." A Freestanding Housing Assistance Plan (HAP) is an approved housing assistance plan under Title II of the Housing and Community Development Act of 1974 which has been submitted by a unit of general local government which is not participating in the Community Development Block Grant program at the time of approval of the HAP.

(c) "OMB Circular No. A-95." All references to "OMB Circular No. A-95" or "the Circular" shall mean the Office of Management and Budget (OMB) Circular No. A-95, Revised (41 FR 2052), dated January 13, 1976 or subsequent amendments.

(d) "HUD Field Offices." All references to HUD field offices shall mean all HUD Area Offices, Service Offices and Valuation Stations with the exception that it shall apply to Regional Offices for any programs not delegated to Area and Service Offices.

#### § 52.3 Responsibilities for administration.

(a) The Assistant Secretary for Community Planning and Development shall be assisted by the Director of the Office of Community Planning and Program Coordination in carrying out the following functions:

(1) Provide lead responsibility for coordinating and developing a uniform set of departmental procedures for implementing these regulations;

(2) Serve as the Department's liaison with the Office of Management and Budget and other Federal agencies on A-95 matters;

(3) Serve as liaison with other Headquarters units and Regional Offices

and concur in all Headquarters instructions and regulations which refer to the A-95 process;

(4) Issue policies and procedures within the scope of these regulations in consultation with other Assistant Secretaries, and develop such written supplemental material as may be necessary to implement these regulations;

(5) Develop and conduct training and information programs, monitoring systems and periodic evaluations designed to further HUD program officials' understanding of the A-95 process, to improve HUD's implementation of the process, and to increase the benefits of the A-95 process with regard to HUD's programs.

(b) All other Assistant Secretaries, the General Counsel and program Administrators with A-95 compliance responsibilities shall assist the Assistant Secretary for Community Planning and Development in the implementation of these regulations, including the insertion of the A-95 requirements in their program regulations and other program guidance material, the development of special A-95 procedures and guidelines where needed, and the designation of an A-95 official for the purposes of contact and coordination.

(c) Within the Regional Office, the Director, Office of Regional Community Planning and Development has, on behalf of the Regional Administrator, primary responsibility for the function of coordinating, monitoring and overseeing the OMB Circular No. A-95 functions in Field Offices. The Director of the Office of Regional Community Planning and Development shall designate a staff member responsible for A-95 matters. The Regional Administrator may designate the staff liaison to the Federal Regional Commission (FRC) or other staff related to the A-95 function in place of the Director, Office of Regional Community Planning and Development if the Regional Office staff configuration requires such flexibility. The A-95 responsibilities shall be set forth in the designee's job description and time shall be allocated to this function through the Regional Employee Time Reporting System (formerly Departmental Time and Cost Reporting System). The designee shall be the principal advisor on A-95 matters delegated to field offices and have the following duties:

(1) Oversee and monitor A-95 activities on all HUD programs in the Region, including field office compliance with the A-95 review requirements;

(2) Act as the principal point of contact for all field offices relating to A-95 policies and procedures;

(3) Assist the Area Office A-95 liaison officer in the training of field staff and clearinghouses concerning HUD

program procedures under OMB Circular No. A-95;

(4) Serve as the HUD representative to the appropriate Federal Regional Council (FRC) in its A-95 activities;

(5) Assist field offices in resolving problems or issues raised through the A-95 process;

(6) With the assistance and input of other HUD Regional units and field offices, periodically evaluate the A-95 process and procedures for the purpose of improving compliance, upgrading the procedures, and recommending changes where needed;

(7) Serve as liaison with the staff of the Assistant Secretary for Community Planning and Development on issues related to intergovernmental coordination and A-95 matters;

(d) Within each Area Office, Service Office and Valuation Station, a designated staff member shall be responsible for A-95 liaison. The A-95 responsibilities shall be set forth in the designee's job description and time shall be allocated to this function through the Regional Employee Time Reporting System (formerly Departmental Time and Cost Reporting System). He shall be the principal advisor to the Office Manager or Supervisor on A-95 matters and have the functions outlined below:

(1) In Area Offices, the Director of the Community Planning and Development Division has overall responsibility for providing leadership in the implementation of OMB Circular A-95, including monitoring and evaluating Field Office performance of this function. Within the CPD Division, the Planning Branch Chief is responsible for:

(i) Ensuring compliance with OMB Circular A-95 and HUD implementation requirements thereunder; and coordinating the planning in multi-jurisdictional areas pursuant to OMB Circular A-95 and implementing the basic A-95 procedures.

(ii) Overseeing and monitoring A-95 activities on all HUD programs through periodic evaluations of the A-95 process.

(iii) Advising and providing assistance to local governments and clearinghouses to strengthen the coordination and intergovernmental relations aspect of the A-95 process and ensuring that the obligatory referrals are being made by clearinghouses to State and local environmental and civil rights agencies, and to the Coastal Zone management agencies.

(iv) Maintaining periodic contact with clearinghouses in the Area Office jurisdiction to (a) discuss any changes in HUD program requirements, funding level or time tables which might impact on clearinghouse procedures or work load, so that clearinghouses have sufficient notice to make necessary adjustments in their processing; (b) explain the types of comments which would be helpful to HUD in reviewing applications, and (c) provide periodic feedback to clearinghouses regarding the usefulness of comments received and the way in which they have been incorporated into HUD's decision-making process;

(2) In Service Offices and Valuation Stations, the Supervisor shall designate a staff member responsible for A-95 liaison functions.

(3) The following functions shall be performed in the Area Offices, Service Offices and Valuation Stations by the appropriate A-95 liaison person.

(i) Develop definitive procedures for carrying out the A-95 responsibilities in the field office to assure efficient processing and review of all documents related to A-95 activities and to assure adherence to all A-95 requirements and time constraints including coordination with personnel responsible for planning, environmental and civil rights concerns;

(ii) Advise on the maintenance of appropriate A-95 and community development and other relevant information to be kept in a field office reference library available to all program staff, for A-95 purposes;

(iii) Maintain liaison with the Regional Office for purposes of identifying problems and issues and suggesting how policies and procedures can be modified to improve the A-95 process.

#### Subpart B—Project Notification and Review Procedures

##### § 52.100 General.

(a) *Purpose.* The principal purpose of this subpart is to provide for intergovernmental coordination of Federally assisted and insured programs and projects. Other purposes are set forth in paragraph 1 of Part I, Attachment A of the OMB Circular No. A-95.

(b) *Applicability to HUD programs.* The general requirements of this subpart are set forth in Part I, Attachment A of OMB Circular No. A-95, and are fully applicable to all projects and activities for which Federal assistance or insurance is being sought from HUD under the programs listed in Appendix I of the *Catalog of Federal Domestic Assistance* or Attachment D of OMB Circular No. A-95, whichever bears the later date.

(c) *Coverage and interpretation.* Questions of program coverage, requests for procedural variations from the normal review procedures by HUD officials, and questions of interpretation of the A-95 Circular and these regulations shall be addressed to the Assistant Secretary for Community Planning and Development (CPD). The Assistant Secretary for CPD shall refer those matters required by para-



graph 8 of Part I, Attachment A of OMB Circular No. A-95 (coverage, exemptions and variations to the Project Notification and Review system), to OMB for overall policy determination.

(d) *General description.* Part I, Attachment A of OMB Circular No. A-95, sets forth a general A-95 review and comment process for applications for most types of Federal assistance and describes specific procedures applicable only to Federal housing assistance programs. § 52.101 of these regulations sets forth procedures applicable to all of HUD's programs, both housing and nonhousing, which are covered by Part I, Attachment A of the Circular. A-95 procedures unique to HUD's housing programs are described in § 52.102. Specific procedures for other HUD programs are described under the appropriate program title, beginning with § 52.103.

#### § 52.101. Requirements applicable to all HUD programs.

This section sets forth specific A-95 requirements or procedures which apply to all HUD programs listed in Appendix I of the *Catalog of Federal Domestic Assistance* or the Appendix to these regulations, whichever bears the later date. (For variations or procedures unique to individual programs, see the applicable sections of the regulations for those programs and subsequent sections of these regulations.)

(a) *Informing potential applicants.* HUD field office staff responsible for specific programs will provide potential applicants and clearinghouses with information on the requirements of the Circular and these implementing regulations in program information materials, in response to inquiries, in pre-application conferences, in Developers' Packets or by other appropriate means which will assure that applicants and clearinghouses understand HUD program procedures under OMB Circular No. A-95.

(b) *Applicants working closely with clearinghouses.* Whether a particular program requires or permits review of an application by clearinghouses before submission to HUD or whether HUD submits the application to clearinghouses, applicants shall be advised by HUD field office staff that prior contact with a clearinghouse may facilitate clearinghouse reviews and HUD processing of the application.

(c) *Contents and basis of clearinghouse comments.* (1) The subject matter of clearinghouse comments and recommendations is discussed in paragraph 5, Part I, Attachment A of OMB Circular No. A-95. In addition, HUD program officials shall, with concurrence of the Office of Community Planning and Program Coordination, issue A-95 review guidelines specifying

the types of clearinghouse comments which would be useful to the responsible HUD officials in making a determination on an application. Although these guidelines will be designed for clearinghouses to use when developing comments, their comments need not be restricted to the subject matter of the guidelines. HUD program staff are required to consider all A-95 comments submitted by or through clearinghouses prior to making a determination on an application.

(2) HUD expects that State and areawide clearinghouses will use all relevant comprehensive and functional plans, such as the housing and land use elements required by the Comprehensive Planning Assistance Program (24 CFR Part 600), State Coastal Zone Management Programs, Housing Opportunity Plans and other State and regional planning considerations as a basis for their review of applications for HUD assistance and for their assessment of the consistency of proposed projects with existing plans. Comments which are based on documented sources resulting from the planning process should be identified by the clearinghouse and will be used by the responsible HUD official in making decisions on applications. Comments should clearly indicate whether the clearinghouse recommends that the application be approved; it recommends approval only with the specific and major substantive changes; or it recommends against approval.

(d) *Acceptance of application.* Except in those instances when program regulations state that HUD is responsible for sending the application to the clearinghouse for review or provide for concurrent submission to HUD and the clearinghouses, no application for HUD assistance shall be accepted for processing without assurance by the applicant that the A-95 process has been followed, or is not applicable, depending on the regulations or instructions for each program. For all program applications for which clearinghouse review is required or permitted prior to submission to HUD, note paragraph 4(f) of Part I, Attachment A of OMB Circular No. A-95, which states that applications submitted to a Federal agency shall be accompanied by (1) all comments and recommendations made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or (2) where no comments have been received from a clearinghouse, a statement that the A-95 procedures for the relevant program have been followed and that no comments or recommendations have been received.

(e) *HUD use of clearinghouse comments.* (1) General. Prior to making a

decision on an application, HUD staff responsible for review of applications will take into consideration all clearinghouse comments and comments from public or private organizations and agencies, or units of government submitted through clearinghouses to HUD within the designated time period.

(2) Any comments resulting from review by the State clearinghouse or State agency responsible for the State coastal zone management program or a substate agency or local government which has designated responsibilities under the State coastal zone management program regarding a project's relationship to the approved coastal zone management program shall be considered by HUD in meeting its responsibilities under the Coastal Zone Management Act of 1972 (86 Stat. 1280). Comments resulting from the obligatory referrals by clearinghouses to State and local environmental agencies and civil rights agencies shall be considered by HUD in meeting its responsibilities under the relevant environmental and civil rights statutes.

(3) *Adverse comments.* (i) Clearinghouse comments on an application or proposal which (A) recommend against approval, (B) recommend approval only with specific and major substantive changes, (C) identify inconsistency with a State, areawide, or local plans, or (D) identify failure to provide equal opportunity or non-compliance with environmental laws should be fully substantiated and documented when submitted to HUD. Program staff shall carefully examine all such comments received on applications submitted to HUD and shall take appropriate actions to resolve the problems if it is possible that the application could be selected or approved. Appropriate actions might include discussions and conferences with the applicant, the clearinghouse(s) and other relevant Federal, State and local agencies to attempt to resolve the problem. In such cases the program staff shall consult with the staff member designated to provide A-95 liaison, who shall be involved in preparing the official recommendations to the responsible HUD program official. In instances where clearinghouse comments identify equal opportunity or environmental problems, the program staff shall consult legal counsel and appropriate equal opportunity or environmental quality staff at the appropriate field office level and/or Headquarters.

(ii) If after consulting in accordance with (i) above, the HUD program official (a) disagrees with a clearinghouse conclusion that an application is inconsistent with a State, areawide or local plan or, if in agreement, feels the application should nevertheless be ap-

proved, or (B) disagrees with a clearinghouse conclusion that an application fails to provide equal opportunity or violates environmental laws, that official shall, after consultation with the Regional A-95 liaison and review of the pertinent statutory provisions, notify the clearinghouse in writing that HUD intends to approve the application with an explanation why such action is necessary. The clearinghouse may make a request for reconsideration in writing to the Regional Administrator, with a copy to the HUD Field Office. If within ten (10) working days of the date of postmark of the letter of notification to the clearinghouse of HUD intent to approve the application, the HUD Field Office does not receive a copy of the clearinghouse request for reconsideration by the Regional Administrator, the HUD Field Office may approve the application. The Regional Administrator shall complete his decision within five (5) working days of receipt of the clearinghouse request for reconsideration. When a clearinghouse requests reconsideration from the Regional Administrator within the specified time limit, no approval action may be taken on the application by the HUD Field Office until final action is taken by the Regional Administrator and a written response is made to the clearinghouse with a copy to the HUD Field Office. When a clearinghouse recommendation against approval is received on an application for programs administered in Washington, the responsible program official shall, after consulting in accordance with (i) above, and reaching the conclusions in (ii) (A) or (B) above, and after consultation with the Headquarters A-95 liaison and review of the pertinent statutory provisions, notify the clearinghouse in writing that HUD intends to approve the application. The same timing and reconsideration process applied at the Regional Office shall be applied by the Assistant Secretary for Community Planning and Development for Washington Office administered programs.

(iii) When comments have identified conflicts or duplication with projects funded by another Federal agency, the responsible HUD official shall take necessary action to resolve the problem, including consultations with the other agency to determine whether the application should be approved, which agency should be the funding agency and/or if the project can be jointly funded.

(f) *Notification to clearinghouses of HUD actions.* (1) In accordance with paragraph 6(c), Part I, Attachment A of OMB Circular No. A-95, all clearinghouses that have reviewed an application must be notified by HUD within 7 working days of any major

action taken on the application by HUD, such as an award, rejection, return for amendment, deferral or withdrawal. Standard Form 424, promulgated by Federal Management Circular 74-7 and published as Attachment E to OMB Circular No. A-95, shall be used for this purpose unless otherwise provided for in HUD issuances.

(2) In accordance with paragraph 6(d), Part I, Attachment A of OMB Circular No. A-95, an explanation shall be provided by HUD to a clearinghouse along with the notification of action taken described above whenever HUD approves an application substantially as submitted although the clearinghouse recommended against approval or recommended approval only with specific and major substantive changes. Standard Form 424 shall be used for this purpose by checking block No. 37, "yes", and inserting the explanation in Section IV of the Form.

(3) Explanations required in § 52.101(f)(2) of these regulations shall be provided only to clearinghouses themselves and not to agencies commenting through such clearinghouses. HUD will respond only to recommendations that are clearly identified as the official comments of the clearinghouse. Where other agencies or groups submit comments recommending disapproval and these comments are merely attached to a transmittal letter from the reviewing clearinghouse without an indication that the clearinghouse concurs, HUD will consider such comments, but will not provide an explanation should the application be approved unless the clearinghouse specifically requests an explanation. Where a clearinghouse has requested a response to negative comments submitted by another agency, the clearinghouse is responsible for transmitting HUD's explanation back to the agency originating the comment.

(g) *Amendments after application approval.* Program regulations should specify the types of changes or amendments to an approved application, project or program which are considered significant enough to require submission to HUD for approval. All such changes or amendments which are not administrative and that in general may alter the direction, nature, scope, location or scale of a project or activity being supported or might involve changes in the beneficiary population or target group being served are subject to the A-95 process and require clearinghouse review. Amendments not required to be submitted to HUD for approval need not be submitted for clearinghouse review. Applicants should be instructed to consult with the clearinghouse to determine if it

wishes to review the proposed changes or amendments if there is a question regarding their significance. Clearinghouses shall have 30 calendar days from receipt to review all proposed amendments to approved applications unless the applicant and funding agency decide jointly to extend the review period. HUD may not approve such amendments until clearinghouse comments are received. HUD review, however, may run concurrently with the review by the clearinghouse.

(h) *Compliance with Executive Order 11988 Regarding Floodplain Management.* [Reserved]

#### § 52.102. Housing programs.

The purpose of this section is to implement, with regard to HUD housing programs, the requirements of the OMB Circular No. A-95, and to clarify application review procedures consistent with those identified above and included in Part I, Attachment A of the OMB Circular No. A-95 (regarding the Project Notification and Review System).

(a) *Scope.* The programs covered by the Circular which are related to housing development are subject to the review procedures, thresholds, and special exemptions identified in paragraph 7, Part I, Attachment A of the Circular. These special provisions apply to HUD housing programs listed in Appendix I of the *Catalog of Federal Domestic Assistance*, or the Appendix to these regulations, whichever bears the later date.

(b) *Submission to clearinghouses.* All applicants intending to apply for HUD housing assistance are strongly encouraged to follow the procedure identified in paragraph 7(d), Part I, Attachment A of OMB Circular No. A-95, whereby the application is submitted directly to the appropriate clearinghouses for review at least 30 calendar days prior to submission to HUD. All comments would then be attached to the application when submitted to HUD. In such cases the application does not have to be transmitted to the clearinghouses by HUD unless significant changes or amendments are made in the application subsequent to its receipt by the clearinghouse. Where such changes or amendments have been made, HUD shall send the revised application to appropriate clearinghouses for a 30 day review. Regional or field offices should issue written instructions to developers and applicants with respect to this procedure describing submission procedures for clearinghouse review and identifying all appropriate clearinghouses.

(c) *HUD processing.* After direct receipt of an application still requiring clearinghouse review, the Area or Service Office will forward a copy of it



the complete application and attachments to the appropriate State and areawide clearinghouses. Where applicable, HUD will also notify, in accordance with 24 CFR Part 891 (Section 213 of the Housing and Community Development Act of 1974), the unit of general local government of the proposed project and send a copy of that notice to the appropriate areawide clearinghouse. Whenever possible, simultaneous submission to the clearinghouse shall be made. Arrangements should be worked out between areawide clearinghouses and units of general local government to coordinate the submission of comments under the A-95 and 213 review systems. During the clearinghouse and/or local government reviews, processing should proceed concurrently in the HUD Office. However, no decisions will be made until the expiration of the 30-day review period and all A-95 comments, if any, received during that time period have been considered.

(d) *Early termination of clearinghouse review.* If HUD determines that an application which is undergoing the 30-day clearinghouse review has deficiencies which prevent further HUD processing of the application, HUD will provide the clearinghouses with notification to that effect, initially by telephone and followed up by a formal notification of action taken (SF 424) in order that the clearinghouse may quickly terminate its review.

(e) *Clearinghouse review.* Clearinghouses have 30 calendar days from their receipt of an application to review and comment on the application submitted to them from HUD. At their discretion, field office Program Directors may allow clearinghouses more than 30 days in which to submit comments to HUD. Clearinghouse reviews and comments may include, but need not be limited to, those items identified in paragraphs 5 and 7(b), Part I, Attachment A of OMB Circular No. A-95 and items specified in any A-95 review guidelines issued for that program by HUD officials. Clearinghouses are encouraged to include a statement about the extent to which the proposed project is consistent with State or areawide plans.

(f) *Application for housing located in new communities.* Applications for Federally-assisted and/or insured housing which has been the subject of A-95 review as part of an approved New Community Development Plan (as defined in NCDC Regulations) are not subject to additional clearinghouse review.

#### § 52.103 Community Development Block Grants.

(a) *Complete applications and preapplications.* When submitting an application or preapplication to a

clearinghouse, all application materials required to be submitted to HUD, except for Assurances, shall be included for clearinghouse review. Unless program regulations exempt the application from A-95 review requirements or make specific provisions for concurrent review by HUD and clearinghouses, Community Development Block Grant applications will be considered to be complete by HUD only when they are submitted to HUD along with comments from all appropriate State and areawide clearinghouses or, in lieu of comments, with a statement that the clearinghouse has not provided comments.

(b) *Records.* The requirements for records to be maintained by both entitlement and small cities grantees are set forth in Subpart J of the Community Development Block Grant Regulations (24 CFR Part 570).

(c) *Entitlement grants.* The special procedures to be followed in applying for grants as Entitlement Communities are set forth in Subpart D of the Community Development Block Grant Regulations (24 CFR Part 570). General procedures for meeting the requirements of Part I, Attachment A of OMB Circular No. A-95 (Project Notification and Review System), and provisions concerning the certifications of A-95 compliance and the acceptance of an application for HUD review are also set forth in Subpart D of the Community Development Block Grant Regulations (24 CFR Part 570.300). Requirements concerning the submission of an information copy of the grantee performance report to appropriate clearinghouses simultaneously with submission to HUD are contained in 24 CFR Part 570.906. Clearinghouses should not comment on the performance report, since it is submitted as background information in the review of the current application.

(d) *Small Cities grants.* Modified A-95 procedures involving preapplications for the Small Cities Program are set forth in Subpart F of the Community Development Block Grant regulations (24 CFR Part 570.435).

(e) *Urban Development Action Grant Program.* Modified procedures for the Urban Development Action Grant Program pertaining to eligibility determinations are found in Subpart G (24 CFR Part 570.455).

(f) *Secretary's Special Discretionary Fund.* The Community Development Block Grant three percent Secretary's Discretionary Fund includes the following programs:

- New Communities (24 CFR 570.403)
- Areawide Programs (24 CFR 570.404)
- Guam, Virgin Islands, American Samoa & Trust Territories (24 CFR 570.405)

—Innovative Grants (24 CFR 570.406)

—Federally-recognized Disaster (24 CFR 570.407)

—Inequities Funds (24 CFR 570.408)

—Reallocated Funds (24 CFR 570.409)

—Categorical Program Settlement Grants (24 CFR 570.480)

New Communities and areawide programs are subject to the normal A-95 timing requirements whereas the remaining programs following the provisions for the CDBG Entitlement Program (24 CFR Part 570.300).

(1) *Disaster assistance.* Exemption from the normal A-95 process for discretionary grants authorized by Section 107(a)(5) of the Housing and Urban Development Act of 1974 (42 U.S.C. 5307) applies only to Federally recognized disaster areas and only to applications received by HUD within 120 days of the declaration of the disaster. However, applicants are required to submit an information copy of their application to the appropriate clearinghouses at the same time the application is submitted to HUD.

(2) *New communities.* Applications involving proposed activities which have previously been the subject of A-95 review as part of an approved New Community Development Plan (as defined in 24 CFR Part 720.2) are not subject to an additional clearinghouse review. 24 CFR Part 720.43(c)(3) defines significant changes or amendments to applications or Development Plans which are subject to the A-95 review conditions identified in Section 52.101(g) of these regulations.

#### § 52.104 Freestanding Housing Assistance Plans (HAPs). (Reserved)

#### § 52.105 Assistance for new communities.

There are separate procedures governing the application for assistance to develop New Communities under Title VII of the Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4511, *et seq.*).

(a) *Applicability.* Preapplications and applications for initial guarantee assistance for a Determination of Eligibility are subject to A-95 review pursuant to 24 CFR Part 720.43.

(b) *Significant amendments.* Significant amendments to applications or approved Projects which require A-95 review are defined in 24 CFR Part 720.43(c). In accordance with § 52.101(g) of these regulations, clearinghouses shall have 30 days in which to review and comment on such changes or amendments.

#### § 52.106 Comprehensive planning assistance.

All applicants for Comprehensive Planning Assistance are required to comply with the requirements of Part

I, Attachment A of OMB Circular No. A-95 and any additional requirements identified in the Comprehensive Planning Assistance Regulations (24 CFR Part 600). In addition to the A-95 review of regular applications required under 24 CFR Part 600.160, clearinghouses will, under § 600.73(e)(2), have the opportunity to review the land use and housing elements developed by applicants.

#### § 52.107 National Flood Insurance Program.

(a) *Applications for eligibility and participation in program.* Communities that submit an application for participation under the emergency provisions of Part 1909 of the National Flood Insurance Program shall follow the A-95 procedures identified in Part 1909 of those regulations. The A-95 procedures identified in Part 1910 shall be followed in establishing eligibility for conversion to the Regular Program.

(b) *Requests for actions affecting floodplain management requirements.* The A-95 procedures also apply when communities request exceptions from the flood plain management requirements pursuant to Part 1910 of the National Flood Insurance Program.

#### § 52.108 Federal Disaster Assistance Program.

The assistance authorized by the Disaster Relief Act of 1974 (Pub. L. 93-288) and implemented by 24 CFR Part 2205 is not covered by the requirements of the A-95 Circular except for the State Disaster Preparedness Grant program. Applications for State Disaster Preparedness Grants (Title II of the Disaster Relief Act of 1974 and implemented by 24 CFR Part 2205) are subject to the provisions of Parts I and III, Attachment A of the A-95 Circular (Project Notification and Review System) and HUD Handbook 3300.8. For disaster assistance under Title I of the Housing and Community Development Act of 1974, see § 52.103(d)(3) of these regulations.

#### § 52.109 Areawide Housing Opportunity Plans.

Requirements for Areawide Housing Opportunity Plans are set forth in 24 CFR 891, Subpart E (43 FR 2358, January 16, 1978). These regulations set forth slightly modified A-95 requirements since the areawide planning organizations (APOs) eligible to submit "requests for Plan approval" to HUD will, in most instances, be designated A-95 areawide clearinghouses.

(a) Section 891.504(d) of the regulations for this program requires that in order to be approvable, an Areawide Housing Opportunity Plan must be "coordinated with appropriate State and areawide agencies, including A-95

clearinghouses and Housing Finance Development Agencies to ensure general consistency of data on areawide needs between the Plan and any State or other areawide housing and housing-related plans applicable to all or part of the Plan area." At a minimum, this coordination must meet the normal A-95 notification and review requirements, including (1) notification to the appropriate State clearinghouse(s) and any appropriate areawide clearinghouses other than the APO at least 60 days prior to submission of the "request for Plan approval" to HUD and, (2) if the APO is a clearinghouse, making the referrals to civil rights, environmental, coastal zone and other appropriate agencies as required by OMB Circular No. A-95. In accordance with paragraph 4.f., Part I, Attachment A of the Circular, any A-95 comments received as a result of these notifications and referrals must be submitted to HUD along with the request for Plan approval. Under § 891.505(b)(14), the APO may also submit a statement describing other coordination activities undertaken to meet the requirements of § 891.504(d).

#### Subpart C—Other Circular Requirements

#### § 52.200 Direct Federal Development. (Reserved)

#### § 52.201 State Plans.

The purpose of this section is to assure that all HUD programs requiring State plans as a precondition for assistance are in compliance with Part III, Attachment A of OMB Circular No. A-95. Currently, these requirements cover State plans developed under the Comprehensive Planning Assistance Program and State Disaster Preparedness Grants. (For a definition of State plans, see paragraph 2(b), Part III, Attachment A of OMB Circular No. A-95.)

(a) The Comprehensive Planning Assistance Program regulations in 24 CFR Part 600 require that States develop housing and land use elements in order to remain eligible for assistance. In accordance with Part III of the Circular, the Governor or his designee will be afforded 45 days prior to submission of the State plans to HUD in which to comment on the relationship of the plans and strategies developed under the Comprehensive Planning Assistance Program to other State plans, strategies and programs and to those of affected areawide and local jurisdictions. The Governor is urged to involve areawide clearinghouses in the early development and review of State plans, particularly where such plans or strategies have specific applicability to or should reflect areawide or local plans, strategies

and programs. Any such comments shall be transmitted with the required plans, plan element or strategy. State agencies are also encouraged to work with areawide clearinghouses in the development of areawide plans and strategies to assure their consistency with State plans and policies.

(b) State disaster preparedness grants (Pub. L. 93-288, Sections 201 (c) and (d)) are subject to the provisions of Parts I and III, Attachment A of OMB Circular No. A-95, except as modified in HUD Handbook 3300.8, Requirements and Guidelines for State Disaster Preparedness Grants. This includes a requirement for the submittal of a State plan (work plan) as part of the grant application.

#### § 52.202 Coordination of planning in multi-jurisdictional areas.

In the interest of improving the quality and reducing the costs of regional development, the Department will encourage States to establish areawide planning and development districts which, to the maximum degree feasible, serve to coordinate all development planning occurring within each governmental unit; between jurisdictions at the same level of government; and between States, regions and local governments and which have the capacity to participate in a unified fashion in the review and comment procedures under part I, Attachment A of OMB Circular A-95. The Department will encourage each State, acting so as to involve all of its principal agencies having planning and development responsibilities, to assume a leadership role in delineating areawide planning jurisdictions and establishing unified or coordinated areawide organizations as called for in Part IV of OMB Circular A-95.

(a) *Coordinated planning and development districts.* In allocating assistance under the Comprehensive Planning Assistance Program and other programs funding multijurisdictional agencies, HUD will utilize to the fullest extent possible, agencies and geographical areas that have been designated by a State for carrying out planning and coordination on a multijurisdictional basis.

(1) Prior to the recognition or redesignation of any planning and development district or region, the Department will provide the Governor(s) of the State(s) a period of 30 calendar days to review the proposed boundaries thereof and comment on their relationship to the planning and development districts established by the State. The boundaries of areas recognized under any HUD program are to conform to those of State-established planning and development districts unless there is clear justification for not doing so, such as non-recognition



of contiguous potential growth areas in cases where State-established planning and development districts are not used, the Governor or his designee shall be provided an explanation for not doing so.

(2) Where a State has not established planning and development districts or regions, units of general local government and the appropriate Federal Regional Council will be consulted prior to HUD recognition of the area to assure consistency with districts or regions which may have been established by local agreement or under other Federal programs.

(3) In Interstate Areas, HUD will, whenever possible, utilize agencies designated to perform metropolitan areawide comprehensive planning which have the capacity to represent entire metropolitan areas. If, after consultation with the Governors or their designees, the Federal Regional Council and the elected official of the principal general local governments in the area, it appears impossible to agree on a single organization and common boundaries, HUD will require one subregional intrastate planning agency within such metropolitan area to coordinate any planning assistance activities supported by HUD through the designated A-95 clearinghouse mechanism or, in the absence of such a clearinghouse, a metropolitan coordinating mechanism recognized by HUD.

(4) HUD field offices will notify the Office of Community Planning and Program Coordination at HUD Headquarters and the appropriate Federal Regional Council of any districts proposed to be recognized at least 30 days prior to a final determination. Any conflicts regarding proposed recognition shall be brought before the appropriate Federal Regional Council. The Federal Regional Council will notify OMB of all proposed designations.

(b) *Coordination of planning Activities.* Applications for Comprehensive planning Assistance, Community Development Block Grants and/or other forms of HUD planning assistance shall, to the fullest extent possible, be coordinated with related planning and development activities now being carried out by the A-95 clearinghouse or the areawide comprehensive planning agency where there is no clearinghouse performing the planning function.

(1) If the proposed planning assistance is for a multijurisdictional area or district including some or all of the officially designated area, and the submission is from an applicant other than the designated areawide comprehensive planning agency, a memorandum of agreement shall be entered into between the applicant and the of-

ficially designated comprehensive planning agency which describes the means by which their planning activities will be coordinated. (The designated multijurisdictional comprehensive planning agency may determine whether an urban county receiving HUD community development block grant funds for planning purposes will be required to enter into a memorandum of agreement.) Such agreements shall include but need not be limited to the following matters:

(i) Identification of relationships between the planning activities proposed by the applicant and the planning and related activities of the areawide comprehensive planning agency which will require coordination;

(ii) The organizational and procedural arrangements for coordinating such activities such as overlapping board memberships, procedures for joint reviews of projected activities and policies and information exchange;

(iii) Cooperative arrangement for sharing planning resources including funds, personnel, facilities, and services;

(iv) Agreements regarding social, economic, demographic and environmental base data, statistics, and projections constituting the basis on which planning in the area will proceed.

(2) Where the applicant has been unable to develop such an agreement, he will submit to HUD a statement indicating the efforts he has made to secure agreement and the issues that have prevented it. In such case, the responsible HUD official in consultation with the appropriate Federal Regional Council and State clearinghouse will have 30 days in which to resolve these issues before acting on the application.

(c) *Joint funding.* In allocating assistance, HUD will utilize, to the fullest extent possible, opportunities for joint funding with other Federal programs which will enhance the quality, comprehensive scope and coordination of planning in multijurisdictional areas.

Issued at Washington, D.C. March 14, 1979

PATRICIA ROBERTS HARRIS,  
Secretary, Department of  
Housing and Urban  
Development.

#### APPENDIX A—HUD PROGRAMS COVERED BY OMB CIRCULAR NO. A-95

This appendix contains a listing of HUD programs which are currently covered by OMB Circular No. A-95. For convenience, these HUD programs are divided into housing and non-housing programs and the housing programs are listed by categories. Each entry contains the program number by which the program is listed in the *Catalog of Federal Domestic Assist-*

*ance*, the program title, the popular name (usually from the pertinent section of the authorizing legislation) and the authorization.

#### HOUSING PROGRAMS

##### Single Family Housing

14.105 Interest Reduction—Homes for Lower Income Families (Section 235(i) of the National Housing Act, as amended in 1968; PL 90-448; 12 U.S.C. 1715(b), 1715(z))

14.117 Mortgage Insurance—Homes (Section 203(b) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.118 Mortgage Insurance—Homes for Certified Veterans (Section 203(b) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.119 Mortgage Insurance—Homes for Disaster Victims (Section 203(h) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.120 Mortgage Insurance—Homes for Low and Moderate Income Families (Section 211(d)(2) of the National Housing Act, as amended in 1954; PL 83-560; 12 U.S.C. 1715(b), 1715(l))

14.121 Mortgage Insurance—Homes in Outlying Areas (Section 203(i) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.122 Mortgage Insurance—Homes in Urban Renewal Areas (Section 220 Homes; Housing Act of 1954; PL 83-560; 12 U.S.C. 1715(b), 1715(k))

14.125 Mortgage Insurance—Land Development and New Communities (Title X of the National Housing Act, as amended in 1965 and thereafter; PL 89-117, 12 U.S.C. 1749(aa))

##### Multifamily Housing

###### Subsidized

14.103 Interest Reduction Payments—Rental and Cooperative Housing for Lower Income Families (Section 236 of the National Housing Act, as amended in 1968; PL 90-448; 12 U.S.C. 1715)

14.146 Low Income Housing—Assistance Program (Public Housing) U.S. Housing Act of 1937, as amended; PL 75-412; 42 U.S.C. 1401-1435)

14.149 Rent Supplements—Rental Housing for Lower Income Families (Title I of the Housing and Urban Development Act of 1965; PL 89-117; 12 U.S.C. 1701(s))

14.156 Lower Income Housing Assistance Program (Section 8 Housing Assistance Payments Program for Lower Income Families (new and rehab. only); Housing Act of 1937, Section 8, as amended by the

Housing and Community Development Act of 1974; PL 93-383; 88 Stat. 662; 42 U.S.C. 1437(f))

14.157 Housing for the Elderly and Handicapped (Section 202 Housing; Housing Act of 1959, as amended by the Housing and Community Development Act of 1974, Title II, P.L. 86-372, 12 U.S.C. 1701q, 73 Stat. 654, 667)

###### Unsubsidized

14.127 Mortgage Insurance—Mobile Home Parks (Section 207 Mobile Home Parks; National Housing Act, as amended in 1955; PL 84-345; 12 U.S.C. 1713)

14.134 Mortgage Insurance—Rental Housing (Section 207 of the National Housing Act, as amended in 1938; PL 75-424; 12 U.S.C. 1713)

14.135 Mortgage Insurance—Rental Housing for Moderate Income Families (Section 221(d)(4) of the National Housing Act, as amended in 1959; PL 86-372; 12 U.S.C. 1715(l))

14.137 Mortgage Insurance—Rental Housing for Low and Moderate Income Families, Market Interest Rate (Section 221(d)(3) Market Rate; National Housing Act, as amended in 1954; PL 83-560; 12 U.S.C. 1715(l))

14.138 Mortgage Insurance—Rental Housing for the Elderly (Section 231 of the National Housing Act, as amended in 1959; PL 86-372; 73 U.S.C. 654; 12 U.S.C. 1715(v))

14.139 Mortgage Insurance—Rental Housing in Urban Renewal Areas (Section 220 Multifamily; National Housing Act as amended in 1954; PL 560; 12 U.S.C. 1745(k))

14.141 Nonprofit Housing Sponsor Loans—Planning Projects for Low and Moderate Income Families (Section 106(b), Nonprofit Sponsor Loan Fund; Housing and Urban Development Act of 1968; PL 90-448)

14.154 Mortgage Insurance—Experimental Rental Housing (Section 233 (Multifamily) Experimental Housing; Section 233 of the National Housing Act, as amended in 1961 and thereafter; PL 87-70; 12 U.S.C. 1715(x))

#### Condominiums and Cooperatives

14.112 Mortgage Insurance—Construction or Rehabilitation of Condominium Projects (Section 234(d); National Housing Act, as amended by the Housing Act of 1964, Section 234(d), PL 88-560; 1968, Section 234(c), PL 90-448, 82 Stat. 476, 507; 1969, Section 234(c), PL 91-152, 83 Stat. 379, 384; 12 U.S.C. 1715(y))

14.115 Mortgage Insurance—Development of Sales-type Cooperative Projects (Section 213 of the National Housing Act; Housing Act of 1950; PL 81-475; 12 U.S.C. 1715(e))

14.124 Mortgage Insurance—Investor Sponsored Cooperative Housing (Section 213 Investor Sponsored; National Housing Act as amended, Section 213(a)(3); Housing Act of 1956; PL 84-1020; 12 U.S.C. 1715(e))

14.126 Mortgage Insurance—Management-type Cooperative Projects (Section 213 Management Type; National Housing Act, Section 213; Housing Act of 1950; PL 81-475; 12 U.S.C. 1715(e); 1969, PL 91-152, 83 Stat. 379, 383; 1955, PL 84-345, 69 Stat. 635; 1961, PL 87-70, 75 Stat. 149, 179; 1959 PL 86-372, 73 Stat. 654, 656; 1965, PL 89-117, 79 Stat. 451, 469; 1966, PL 89-754, 80 Stat. 1255-66)

##### Health Facilities

14.116 Mortgage Insurance—Group Practice Facilities (Title XI of the National Housing Act, as amended in 1966; PL 89-754; PL 93-383; 12 U.S.C. 1749)

14.128 Mortgage Insurance—Hospitals (Section 242 of the National Housing Act, as amended in 1968, PL 90-448; PL 93-383; 82 Stat. 476)

14.129 Mortgage Insurance—Nursing Home and Intermediate Care Facilities (Section 232 of the National Housing Act; Housing Act of 1959; PL 86-372; Housing and Urban Development Act of 1969; PL 91-152; 73 Stat. 654 and 83 Stat. 379)

##### College Housing

14.100 College Housing Debt Service Grants (Title IV, Housing Act of 1950, PL 81-475)

#### NON-HOUSING PROGRAMS

14.001 Flood Insurance (Applications for community eligibility; Housing and Urban Development Act of 1968, Title XIII; PL 90-448, 82 Stat. 476, 572, as amended; 42 U.S.C. 4011, 4127; 83 Stat. 39, 42 U.S.C. 4056; 83 Stat. 579, 42 U.S.C. 4021, and Flood Disaster Protection Act of 1973, PL 93-234)

14.203 Comprehensive Planning Assistance (701 Planning Assistance; Housing Act of 1954, Section 701, as amended; PL 83-560, 68 Stat. 590, 640; 40 U.S.C. 461)

14.207 New Communities—Loan Guarantees (Title VII Guarantees; Housing and Urban Development Act of 1970 (Urban Growth and New Community Development Act of 1970); PL 91-609; and Title IV of the Housing and Urban Development Act of 1968)

14.218 Community Development Block Grants—Entitlement Grants (Title I of the Housing and Community Development Act of 1974, PL 93-383, 42 U.S.C. 5301-5317)

14.219 Community Development Block Grants—Discretionary (Small Cities) Grants (Title I of the Housing and Community Development Act of 1974, PL 93-383, 42 U.S.C. 5301-5317)

14.221 Urban Development Action Grants (UDAG) (Title I of the Housing and Community Development Act of 1974, PL 93-383, 42 U.S.C. 5301-5317)

14.702 State Disaster Preparedness Grants (Disaster Plans and Programs; Disaster Relief Act of 1974, PL 93-288, Section 201 (c) and (d), 42 U.S.C. 5133, 88 Stat. 145; Reorganization Plan No. 1 of 1973; Executive Order 11749, 38 FR 34177; Executive Order 11795, 39 FR 25939; Delegation of Authority, Secretary of HUD to the Administrator of the Federal Disaster Assistance Administration, 39 FR 28227; Redefinition of Authority to Regional Directors of Federal Disaster Assistance Administration, as amended, 39 FR 32045 and 39 FR 40186)

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# Register Federal

THURSDAY, MARCH 29, 1979

PART V



## FEDERAL HOME LOAN BANK BOARD

CONVERSION FROM  
MUTUAL TO STOCK  
FORM



[6720-01-M]

## Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN  
BANK BOARDSUBCHAPTER D—FEDERAL SAVINGS AND  
LOAN INSURANCE CORPORATION

[No. 79-200]

PART 563b—CONVERSION FROM  
MUTUAL TO STOCK FORM

MARCH 21, 1979.

AGENCY: Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Savings and Loan Insurance Corporation's present regulations governing conversions of FSLIC insured institutions from mutual to stock form of ownership provide for sale of conversion stock by means of a subscription offering to eligible account holders, other association members, and officers, directors and employees. All shares unsubscribed for may be sold in a public offering, if such an offering is practicable, otherwise in a private distribution. This amendment will continue to provide for the sale of conversion stock by means of a subscription offering but would generally increase the rights of eligible account holders and other association members and limit purchases by officers and directors. In addition, the amendments will provide for the sale of all unsubscribed for shares in a public offering either through an underwriter or by a direct community marketing by the association. The purpose of these changes is to promote wider participation in conversions by account holders and the public at large and to limit the degree of concentration of stock held by officers and directors.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Douglas P. Faucette, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone Number (202) 377-6410.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-541, published in the FEDERAL REGISTER on October 19, 1978 (43 FR 48956-48980), proposed to amend Part 563b of the Rules and Regulations for Insurance of Accounts and related forms regarding conversions of institutions insured by the Federal Savings and Loan Insurance Corporation from mutual to stock form.

Having considered all relevant material presented by interested persons and otherwise available to it, the Bank Board has decided to adopt the proposed regulations, modified as discussed below.

Part 563b now provides that a converting association must offer its stock to its eligible account holders based on their deposit balances as of a record date prior to adoption of the plan of conversion by the association's board of directors. That part further provides that any stock not purchased by account holders must be sold either in a publicly underwritten offering or a private placement. Officers and directors are subject under that part to few restrictions other than a one year holding requirement.

The Bank Board's proposal substantially expands the class of account holders given subscription rights in cases where significant time has passed, creating a supplemental class of eligible subscribers composed of persons with deposits as of a date within three months prior to Bank Board approval. The proposal also eliminates private placement of shares not subscribed for by account holders. It contains several other provisions all of which are intended to diminish concentration of ownership and encourage account holder participation. Also, it prescribes several restrictions on officers and directors in connection with their purchase of conversion stock both during and after a conversion. The most significant of these are the 25% overall limitation on officer and director purchases and the three year holding period for such purchases.

The proposal left unchanged the optional provision in paragraph (d)(5) of § 563b.3 which allows an association to place a percentage limitation on each purchase priority of not less than 1% on account holder subscriptions. The Bank Board determined after careful consideration that the optional limitation is consistent with its goals of enhancing the wide distribution of the stock offering and expanding account holder participation especially if the limitation applies to the aggregated subscriptions by persons in the subscription offering. The Bank Board, therefore is adopting the proposal modified to extend the limitation on subscriptions to the total subscriptions by any person in the subscription offering.

The proposal also categorized the requirement that stock not purchased by account holders be sold publicly through an underwriter or a direct community marketing as an optional provision. Inasmuch as the converting association is required to do one or the other, and to avoid any confusion as to the mandatory nature of this provi-

sion, the proposal is adopted with this provision classified as a required step.

Further modifications are revisions of the prescribed form for the Offering Circular, to clarify that the association may commence both its subscription and public offering simultaneously, and the form for the proxy statement, to standardize and improve the disclosure requirements relating to management remuneration. Also, the language of the form for 4(b) notices has been changed to clarify that failure to make timely objection may foreclose subsequent action in opposition to the plan. The remaining changes merely conform other provisions to these modifications.

## DISCUSSION OF MAJOR COMMENTS

Thirty public comments were received. Five approved the proposal without exception. Twenty two approved but took exception to some provision. Three opposed.

Six respondents argued that the twenty-five percent limit on purchases by officers, directors and their associates is too restrictive. Several respondents opposed the breadth of the associate definition, while others argued that 25 percent is too low a number.

Analysis of completed conversions as of December 31, 1977, indicates that officers and directors purchased an average of 34.1 percent of conversion stock and 21 percent of conversion stock was purchased through other than account holder subscriptions. This was primarily a result of conversions involving private placements, although officers and directors did take large amounts of stock in some public offerings. The Bank Board determined that the unlimited ability of insiders to take stock not purchased by account holders created undue pressure on the process in that in many cases insiders dominated the conversion. The Bank Board believes the fairness of conversions can be assured only by striking a proper balance between account holder and insider participation. It further believes that the twenty-five percent limitation is an appropriate and accepted measure of significant ownership as it is the level of definitional control in other statutes governing savings and loan ownership.

The Bank Board also determined that it would be administratively too difficult to enforce this limitation effectively without the broad definition of associate contained in the proposal.

Four respondents opposed creation of a supplemental class of eligible account holders as of a more current date on grounds of cost and the problem of deposits in anticipation of subscription rights. The primary purpose of this classification is to promote account holder participation. As this

new category substantially increases the breadth of account holder eligibility, the Bank Board believes its cost is justified. Moreover, the Bank Board is confident that with the requirements that all unsold shares be offered to the public and individual purchases be restricted to a total of five percent, deposits in anticipation of receiving rights will not be a significant problem.

Five respondents commented, four negatively, on the increased holding period of three years required for conversion stock purchased by officers and directors. The Bank Board determined that an increase in the holding period from one to three years is desirable in order to provide assurance that purchases by insiders are made for investment and not for speculative purposes or as a step in an ultimate distribution not subject to the regulatory disclosure requirements.

Two respondents recommend that the liquidation account be changed. One argued that it should be created exclusively for the benefit of eligible account holders; the other argued it should be for the exclusive benefit of the current account holders. The Bank Board determined that the account should recognize the interest of as large a class as is consistent with the regulatory scheme. That is, it believes that an account which includes the interests of both eligible and supplemental account holders is the most desirable.

Two respondents commented that all of the stock should not be required to be sold in a conversion. The Bank Board determined that this comment, which opposes one of the principle criteria of a conversion, that the stock be sold for its total pro forma market value, and similar comments in opposition to other basic requirements for conversions were not relevant to the proposal and did not present any justification for revision.

The Bank Board also determined to adopt the proposed limit on cash dividends of 50% of net income for a period of 10 years. One respondent argued that the prior limit of 66% percent of net income be retained. The Bank Board determined that the amount of dividends permitted under the new restriction far exceeds the normal dividend amounts paid by companies listed on national exchanges or by other public savings and loan associations.

Two commentators opposed the requirement that actual notice of the filing of a plan of conversion (4b notice) be given to account holders in addition to publication of such notice. The Bank Board determined, based on its experience with the use of actual notice in some experimental cases, that it is the most effective manner in

which to assure full participation of the association's membership in the conversion. Moreover, it gives the Bank Board assurance that an association's members are aware of their right to bring relevant matters before the Bank Board for resolution. Finally, the public benefits this requirement bring to the process, in the Bank Board's view, justify the expense.

Accordingly, the Bank Board amends 12 CFR Part 563b and accompanying forms to read as follows:

Part 563b is revised in its entirety to read as follows:

PART 563b—CONVERSIONS FROM  
MUTUAL TO STOCK FORM

Sec.

563b.1 Scope of part.

563b.2 Definitions.

563b.3 General principles for conversions.

563b.4 Notice of filing; public statements; confidentiality.

563b.5 Solicitation of proxies; proxy statement.

563b.6 Vote by members.

563b.7 Pricing and sale of securities.

563b.8 Procedural requirements.

563b.9 Acquisitions of Securities of Converted Associations.

AUTHORITY: Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

## § 563b.1 Scope of part.

(a) *General.* Except as the Corporation may otherwise determine, the provisions of this part shall exclusively govern the conversion of mutual insured institutions to capital stock insured institutions. No such mutual insured institution shall convert to the capital stock form of organization without the prior written approval of the Corporation pursuant to the provisions of this part, except as the Corporation may otherwise provide in supervisory cases.

(b) *Provisions of prescribed forms.* Any provision in a form prescribed under this part and covering the same subject matter as any provision of this part shall have the same force and effect as if it were a provision of this part except as it relates to information not deemed material.

(c) *Conflicts with State law.* (1) In the event an applicant finds that compliance with any provision of this part would be in conflict with applicable State law, the applicant may file with the Corporation a written request for waiver of compliance with such provision. Such request may be incorporated in the application for conversion; otherwise, the applicant shall file four copies of such request.

(2) In making any such request, the applicant shall:

(i) Specify the provision or provisions of this part with respect to which the applicant desires waiver;

(ii) Furnish an opinion of counsel demonstrating that applicable State law is in conflict with the specified provision or provisions of this part; and

(iii) Demonstrate that the requested waiver would not result in any effects that would be inequitable or detrimental to the applicant, its account holders or other insured institutions or be contrary to the public interest.

## § 563b.2 Definitions.

(a) As used in this part and in the forms under this part, the following definitions apply, unless the context otherwise requires:

(1) *Affiliate.* An "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) *Amount.* The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) *Applicant.* An "applicant" is an insured institution which has applied to convert pursuant to this part.

(4) *Associate.* The term "associate", when used to indicate a relationship with any person, means (i) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the applicant or any of its parents or subsidiaries.

(5) *Association members.* The term "association members" refers to persons who, pursuant to the charter or bylaws of the applicant, are eligible to vote at the applicant's meeting at which conversion will be voted upon.

(6) *Board.* The term "Board" refers to the Federal Home Loan Bank Board.

(7) *Broker.* The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(8) *Capital stock.* The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock,



or any similar certificate evidencing nonwithdrawable capital.

(9) *Charter.* The term "charter" includes articles of incorporation, articles of association, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(10) *Control.* The term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(11) *Corporation.* The term "corporation" refers to the Federal Savings and Loan Insurance Corporation.

(12) *Dealer.* The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(13) *Director.* The term "director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(14) *Eligibility record date.* The term "eligibility record date" means the record date for determining eligible account holders of a converting institution.

(15) *Eligible account holder.* The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with § 563b.3(e).

(16) *Employee.* The term "employee" does not include a director or officer.

(17) *Equity security.* The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such security; or any such warrant or right.

(18) *Insured institution.* The term "insured institution" has the same meaning as in section 561.1 of this subchapter.

(19) *Market Maker.* The term "market maker" means a dealer who, with respect to a particular security, (i) regularly publishes a bona fide competitive bid and offer quotations in a recognized inter-dealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on request; and (iii) is ready, willing and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.

(20) *Material.* The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant, or matters as to which an average prudent association member ought reasonably to be informed in voting upon the plan of conversion of the applicant.

(21) *Member.* The term "member" means any person qualifying as a member of an insured institution pursuant to its charter or bylaws.

(22) *Offer.* The term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(23) *Officer.* The term "officer" means the chairman of the board, president, vice-president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(24) *Person.* The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(25) *Proxy.* The term "proxy" includes every form of authorization by which a person is, or may be deemed to be, designated to act for an association member in the exercise of his voting rights in the affairs of an insured institution. Such an authorization may take the form of failure to dissent or object.

(26) *Purchase.* The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(27) *Sale.* The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but such terms do not include an exchange of securities in connection with a merger or acquisition approved by the Board or the Corporation.

(28) *Savings account.* The term "savings account" has the same meaning as in section 561.11 of this subchapter and includes certificates of deposit.

(29) *Security.* The term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-

trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(30) *Solicitation; solicit.* The terms "solicitation" and "solicit" refer to (i) any request for a proxy whether or not accompanied by or included in a form of proxy; (ii) any request to execute, not execute, or revoke a proxy; or (iii) the furnishing of a form of proxy or other communication to association members under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to the furnishing of a form of proxy to an association member upon the unsolicited request of such association member, the performance of acts required by § 563b.5(f), or to the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(31) *Subscription offering.* The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (1) eligible account holders as required by § 563b.3(c)(2); (2) supplemental eligible account holders as required by § 563b.3(c)(4); (3) members entitled to vote at the meeting called to consider the conversion as required by § 563b.3(c)(5); (4) directors, officers and employees, as permitted by § 563b.3(d)(1); and (5) eligible account holders, supplemental eligible account holders and voting members as permitted by § 563b.3(d)(2).

(32) *Subsidiary.* A "subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly through one or more intermediaries.

(33) *Supervisory Agent.* The term "Supervisory Agent" means (i) the President of the Bank of the Federal Home Loan Bank district in which the applicant has its principal office, or (ii) any other person who is specifically designated as an agent by the Corporation to act in its behalf in the administration of this part.

(34) *Supplemental eligibility record date.* The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting institution required by § 563b.3(c)(3). The date shall be the last day of the calendar quarter preceding Board approval of the application for conversion.

(35) *Supplemental eligible account holder.* The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors and their associates,

as of the supplemental eligibility record date.

(36) *Underwriter.* The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which he is the underwriter.

(b) Terms defined in other parts of this subchapter, when used in this part, shall have the meanings given in such definitions, to the extent such definitions are not inconsistent with the definitions contained in this part, unless the context otherwise requires.

#### § 563b.3 General principles for conversions.

(a) *Findings of Federal Home Loan Bank Board.* (1) The regulations contained in this part are promulgated to provide rules by which mutual insured institutions may convert to the stock form of organization on an equitable basis. In determining the equity of conversion standards and procedures, the Board, both directly and as operating head of the Corporation, finds that it is necessary to consider the effects of various standards and procedures that might be adopted, not only on an individual applicant but also on the entire system of insured institutions. Indeed, the Board believes that it has a public responsibility also to consider the effects on financial institutions which are not thrift institutions and on thrift institutions which are not subject to the Board's regulatory jurisdiction. If a particular method of conversion would unacceptably threaten the financial stability of such institutions, or a substantial portion of them, the Board cannot consider such method of conversion to be on an equitable basis. Further, if a particular method of conversion would tend to force individual mutual insured institutions to convert to the stock form irrespective of whether such institutions or the communities they serve would be benefited thereby, the Board cannot consider such a method of conversion to be on an equitable basis.

(2) The Board has determined that a method of conversion which provides a so-called "windfall" distribution to the account holders of a converting mutual insured institution would create strong incentives for significant

shifts of savings funds among insured institutions and other financial institutions and that such shifts of savings funds would unacceptably threaten the financial stability of such institutions. The Board has also determined that a method of conversion which provides a so-called "windfall" distribution would tend to force individual mutual insured institutions to convert to the stock form irrespective of whether such institutions or the communities they serve would be benefited thereby. The Board therefore finds that no method of conversion can be considered equitable unless such "windfall" distribution is virtually eliminated. The Board further finds that such "windfall" distribution is not virtually eliminated by methods of conversion under which the control of such distribution is intended to be effected by systems of averaging or weighting deposits, by restricting transferability of the capital stock of converted insured institutions, by placing such stock in escrow or trust, by delayed distribution of such stock or its equivalent in cash by placing such stock in escrow or trust, by delayed distribution of such stock or its equivalent in cash, or by segregating the net worth accounts of converted insured institutions and proportionally allocating the future income of such institutions to such accounts, or by any of the foregoing methods taken in combination. The Board also finds that, in order for conversion regulations to be effective against the undesirable results of such "windfall" distributions, the basic provisions of such regulations must operate with substantial uniformity with respect to mutual insured institutions on a national scale.

(3) The regulations contained in this part, while providing the account holder with rights to a share in the equity of the converting mutual insured institution in the event of a subsequent complete liquidation, are designed virtually to eliminate the "windfall" aspect of conversion and the resulting disruptive effect on the economy. Accordingly, the Board finds that these regulations provide a means by which mutual insured institutions may convert to stock form on an equitable basis.

(b) *General requirements.* No application for conversion shall be approved by the Corporation if:

(1) The plan of conversion adopted by the applicant's board of directors is not in accordance with the provisions of this part;

(2) The conversion would result in any reduction of the Federal insurance reserve or would cause the applicant to fail to meet any net worth requirement of § 563.13 of this subchapter;

(3) The conversion may result in a taxable reorganization of the applicant under the Internal Revenue Code of 1954, as amended; or

(4) The converted institution would not have its accounts insured by the Corporation.

(c) *Required provisions in plan of conversion.* The plan of conversion shall:

(1) Provide that the converting insured institution shall issue and sell its capital stock at a total price equal to the estimated pro forma market value of such stock in the converted insured institution, based on an independent valuation, as provided in § 563b.7.

(2) Provide that each eligible account holder shall receive without payment, nontransferable subscription rights to purchase capital stock in an amount equal to the greater of 200 shares, one tenth of one per cent of the total offering of shares or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting insured institution. If the allotment made in this paragraph (c)(2) results in an oversubscription, shares shall be allocated among subscribing eligible account holders so as to permit each such account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation equal to 100 shares. Any shares not so allocated shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits as may be provided in the plan of conversion.

(3) Nontransferable subscription rights to purchase capital stock received by officers and directors and their associates of the converting insured institution based on their increased deposits in the converting association in the one year period preceding the eligibility record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to paragraph (c)(2) of this section.

(4) Provide that, in plans involving an eligibility record date that is more than fifteen months prior to the date of the latest amendment to the application for conversion filed prior to Board approval, a supplemental eligibility record date be determined whereby each supplemental eligible account holder of the converting insured institution, shall receive without payment, nontransferable subscription



rights to purchase supplemental shares in an amount equal to the greater of 200 shares, one tenth of one per cent of the total offering of shares or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the supplemental eligible account holder and the denominator is the total amount of the qualifying deposits of all supplemental eligible account holder in the converting insured institution on the supplemental eligibility record date.

(i) Subscription rights received pursuant to this paragraph (c)(4) shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to paragraph (c), (2) and (3) of this section.

(ii) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with paragraph (c)(2) of this section shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this paragraph (c)(4).

(iii) In the event of an oversubscription for supplemental shares pursuant to this paragraph (c)(4), shares shall be allocated among the subscribing supplemental eligible account holders as follows:

(A) Shares shall be allocated among subscribing supplemental eligible account holders so as to permit each such supplemental account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation (including the number of shares, if any, allocated in accordance with paragraph (c)(2) of this section) equal to 100 shares.

(B) Any shares not allocated in accordance with paragraph (c)(4)(iii)(A) of this section shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits as may be provided in the plan of conversion.

(5) Provide that association voting members who are not either eligible account holders or supplemental eligible account holders shall receive, without payment, nontransferable subscription rights to purchase 200 shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders and supplemental eligible account holders provided for under paragraphs (c)(2) and (4) of this section. In the event of an oversubscription for shares under the provisions of this paragraph (c)(5), the shares available shall be allocated among the subscribing voting members on such equitable

basis as may be provided in the plan of conversion.

(6) Provide that any shares of the converting insured institution not sold in the subscription offering shall either be sold in a public offering through an Underwriter or directly by the converting insured institution in a direct community marketing, subject to the applicant demonstrating to the Corporation the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. Such conditions shall include, but not be limited to:

(i) A condition limiting purchases by each officer and director or their associates in this phase of the offering to one tenth of one percent of the total offering of shares;

(ii) A condition limiting purchases by persons and their associates in this phase of the offering to a number of shares or a percentage of the total offering so long as such limitation does not exceed two percent of the share to be sold in the total offering;

(iii) A condition that any direct community offering by the converting institution shall give a preference to natural persons residing in the counties in which the institution has an office.

(7) Provide that the number of shares which any person together with any associate or group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed five percent of the total offering of shares. For purposes of this paragraph (c)(7) the members of the converting insured institution's board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.

(8) Provide that the number of shares which officers and directors of the converting insured institution and their associates may purchase in the conversion shall not exceed twenty-five percent of the total offering of shares.

(9) Provide that no officer, or director or their associates, shall purchase without the prior written approval of the Corporation the capital stock of the converted insured institution except from a broker or dealer registered with the Securities and Exchange Commission for a period of three years following the conversion. This provision shall not apply to negotiated transactions as defined by § 563.8-1(d)(3)(i) involving more than one per cent of the outstanding capital stock of the converted insured institution.

(10) Provide that the sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with § 563b.7; and specify the underwriting and/or other marketing arrangements

to be made to assure the sale of all shares not sold in the subscription offering.

(11) Provide that each savings account holder of the converting insured institution shall receive, without payment, a withdrawable savings account or accounts in the converted insured institution equal in withdrawable amount to the withdrawal value of such account holder's savings account or accounts in the converting insured institution.

(12) Provide for the establishment and maintenance of a liquidation account for the benefit of eligible account holders and supplemental eligible account holders in the event of a subsequent complete liquidation of the converted insured institution, in accordance with the provisions of paragraph (f) of this section.

(13) Provide for an eligibility record date, which shall be not less than 90 days prior to the date of adoption of the plan by the converting insured institution's board of directors.

(14) Provide that the holders of the capital stock of the converted insured institution shall have exclusive voting rights, unless in the case of a State-chartered converted insured institution State law requires savings account holders and/or borrowers of the converted insured institution to have voting rights, in which case the charter of the converted insured institution shall (i) limit such voting rights to the minimum required by State law, and (ii) provide for the management of the converted insured institution to solicit proxies from such savings account holders and/or borrowers in the same manner as it solicits proxies from its shareholders.

(15) Provide that the plan of conversion adopted by the applicant's board of directors may be substantively amended by such board of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from members to vote on the plan and at any time thereafter with the concurrence of the Corporation; and that the conversion may be terminated by such board of directors at any time prior to the meeting of members called to consider the plan of conversion and at any time thereafter with the concurrence of the Corporation.

(16) Provide that all shares of capital stock purchased by directors and officers on original issue in the conversion either directly from the insured institution (by subscription or otherwise) or from an underwriter of such shares, shall be subject to the restriction that such shares shall not be sold for a period of not less than three years following the date of purchase, except in the event of death of the director or officer.

(17) Provide that, in connection with shares of capital stock subject to restriction on sale for a period of time:

(i) Each certificate for such stock shall bear a legend giving appropriate notice of such restriction;

(ii) Appropriate instructions shall be issued to the transfer agent for the converted insured institution's capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(iii) Any shares issued as a stock dividend, stock split or otherwise with respect to any such restricted stock shall be subject to the same restrictions as may apply to such restricted stock.

(18) Provide that the converting insured institution shall:

(i) promptly following the conversion register the securities issued in connection therewith pursuant to the Securities Exchange Act of 1934 and undertake not to deregister such securities for a period of three years thereafter;

(ii) use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

(iii) use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the NASDAQ quotation system.

(19) Provide that the expenses incurred in the conversion shall be reasonable.

(20) Contain no provision which the Corporation shall determine to be inequitable or detrimental to the applicant, its savings account holders or other insured institutions or to be contrary to the public interest.

(d) *Optional provisions in plan of conversion.* The plan of conversion may provide any or all of the following:

(1) That directors, officers, and employees of the converting insured institution, as part of the subscription offering, shall be entitled to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders, supplemental eligible account holders and members provided for under paragraphs (c)(2), (4) and (5) of this section, subject to the following conditions:

(i) The total number of shares which may be purchased under this paragraph (d)(1) shall not exceed 25 percent of the total number of shares to be issued in the case of a converting insured institution with total assets of less than \$50 million or 15 percent in the case of a converting insured institution with total assets of \$500 million or more; in the case of a converting insured institution with total assets of

\$50 million or more but less than \$500 million, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, 20 percent in the case of a converting insured institution with total assets of approximately \$275 million); and

(ii) The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to period of service, compensation and position, subject to a reasonable limitation on the amount of shares which may be purchased by any person associate thereof, or group of affiliated persons or group of persons otherwise acting in concert.

(2) Any account holder receiving rights to purchase stock in the subscription offering, shall also receive, without payment, nontransferable subscription rights to purchase up to one percent of the total offering of shares of capital stock, to the extent that such shares are available after satisfying the subscriptions provided for under paragraphs (c)(2), (4), and (5) of this section, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription for such additional shares, the shares available shall be allocated among the subscribing eligible account holders, supplemental eligible account holders and voting members on such equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion. Where possible such subscriptions shall be allocated in such a manner that total purchases by eligible account holders, supplemental eligible account holders, and voting members shall be rounded to the nearest 100 shares.

(3) That any insignificant residue of shares of the converting insured institution not sold in the subscription offering or in a public offering referred to in paragraph (c)(6) of this section may be sold in such other manner as provided in the plan with Board approval.

(4) That the number of shares which any person, or group of persons affiliated with each other or otherwise acting in concert, may subscribe for in the subscription offering may be made subject to a limit of not less than one percent of the total offering of shares.

(5) That any person exercising subscription rights to purchase capital stock shall be required to purchase a minimum of up to 25 shares to the extent such shares are available (but the aggregate price for any minimum share purchase shall not exceed \$500).

(6) That a stock option plan may be adopted at the meeting at which the plan of conversion is voted upon by the members of the converting insured institution. The number of shares re-

served for such stock option plans should be limited to ten percent of the number of shares sold in the conversion.

(7) That the converted insured institution shall issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock and long-term warrants or other equity securities, in which event any reference in the provisions of this part to capital stock shall apply to such units of equity securities unless the context otherwise requires.

(8) That the Corporation may approve such other equitable provisions as are necessary to avert imminent injury to the converting insured institution.

(e) *Determination of amount of qualifying deposit; predecessor and successor accounts.* (1) Unless otherwise provided in the plan of conversion, for the purposes of this section, the amount of the qualifying deposit of an eligible account holder or supplemental eligible account holder shall be the total of the deposit balances in the eligible account holder's or supplemental eligible account holder's savings accounts in the converting insured institution as of the close of business on the eligibility record date or supplemental eligibility record date. However, the plan of conversion may provide that any savings accounts with total deposit balances of less than \$50 (or any lesser amount) shall not constitute a qualifying deposit.

(2) As used in this section, the term "savings account" includes a predecessor or successor account of a given savings account which is held only in the same right and capacity and on the same terms and conditions as the given savings account. However, the plan of conversion may provide for lesser requirements for consideration as a predecessor or successor account.

(f) *Liquidation account.* (1) Each converted insured institution shall, at the time of conversion, establish a liquidation account in an amount equal to the amount of net worth of the converting insured institution as of the latest practicable date prior to conversion. For the purposes of this paragraph, the insured institution shall use the net worth figure no later than that set forth in its latest statement of financial condition contained in the final offering circular. The function of the liquidation account is to establish a priority on liquidation and, except as provided in paragraph (g)(2) of this section, the existence of the liquidation account shall not operate to restrict the use or application of any of the net worth accounts of the converted insured institution.

(2) The liquidation account shall be maintained by the converted insured institution for the benefit of eligible



account holders and supplemental eligible account holders who maintain their savings accounts in such institution. Each such eligible account holder and supplemental eligible account holder shall, with respect to each savings account held, have a related inchoate interest in a portion of the liquidation account balance ("subaccount").

(3) In the event of a complete liquidation of the converted insured institution (and only in such event), each eligible account holder and supplemental eligible account holder shall be entitled to receive a liquidation distribution from the liquidation account, in the amount of the then current adjusted subaccount balances for savings accounts then held, before any liquidation distribution may be made with respect to capital stock. No merger, consolidation, purchase of bulk assets with assumption of savings accounts and other liabilities, or similar transaction, in which the converted institution is not the surviving institution, is considered to be a complete liquidation for this purpose. In such transactions, the liquidation account shall be assumed by the surviving insured institution.

(4) The initial subaccount balance for a savings account held by an eligible account holder and/or supplemental eligible account holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of qualifying deposits in such savings account on the eligibility record date and/or the supplemental eligibility record date and the denominator is the total amount of qualifying deposits of all eligible account holders and supplemental eligible account holders in the converting insured institution on such dates. For savings accounts in existence at both dates, separate subaccounts shall be determined on the basis of the qualifying deposits in such saving accounts on such record dates. Such initial subaccount balances shall not be increased, and it shall be subject to downward adjustment as provided in paragraph (f)(5) of this section.

(5) If the deposit balance in any savings account of an eligible account holder or supplemental eligible account holder at the close of business on any annual closing date subsequent to the respective record dates is less than the lesser of (i) the deposit balance in such savings account at the close of business on any other annual closing date subsequent to the eligibility record date or supplemental eligibility record date or (ii) the amount of qualifying deposit as of the eligibility record date or the supplemental eligibility record date, the subaccount balance for such savings account shall be

adjusted by reducing such subaccount balance in an amount proportionate to the reduction in such deposit balance. In the event of such a downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related savings account. If any such savings account is closed, the related subaccount balance shall be reduced to zero.

(g) *Restrictions on repurchase of stock and payment of dividends.* Each insured institution that converts pursuant to this Part shall be subject to the following conditions:

(1) No converted insured institution shall for a period of 10 years repurchase any of its capital stock from any person except in the case of a repurchase, on a pro rata basis pursuant to an offer, approved by the corporation, made to all shareholders of such institution and except for the repurchase of qualifying shares of a director.

(2) No converted insured institution shall declare or pay a cash dividend on, or repurchase any of, its capital stock if the effect thereof would cause the net worth of the converted insured institution to be reduced below (i) the amount required for the liquidation account or (ii) the net worth requirements contained in § 563.13(b) of this subchapter.

(3) Without the prior approval of the Corporation, no converted insured institution shall, for a period of 10 years after the date of its conversion, declare or pay a cash dividend on, or repurchase any of, its capital stock in an amount in excess of one half of the greater of:

(i) The institution's net income (as defined in § 563c.12 of this subchapter) for the current fiscal year; or

(ii) The average of the institution's net income (as so defined) for the current fiscal year and not more than two of the immediately preceding fiscal years.

(h) *Manipulative and deceptive devices.* In the offer, sale or purchase of securities issued incident to its conversion, no insured institution, or any director, officer, attorney agent or employee thereof, shall (1) employ any device, scheme, or artifice to defraud, or (2) obtain money or property by means or any untrue statement of a material fact of any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) engage in any act, transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

(i) *Acquisition of converted insured institutions.* (1) *General.* The Board finds that the new capital to be received by converted insured institu-

tions upon the sale of capital stock will cause such insured institutions, during an initial period following conversion, to be specially vulnerable to attempts by other companies to acquire control of such insured institutions. The Board further finds that acquisition of control of such insured institutions by companies significantly engaged in unrelated business activities is inconsistent with the provision of economical home financing by such insured institutions. Accordingly, the provisions of this paragraph are designed to prevent such acquisitions of newly converted insured institutions for a limited period of time following conversion sufficient to reduce or eliminate their special vulnerability and the adverse impact on the provision of economical home financing.

(2) *Required agreement.* No conversion shall be approved by the Corporation unless the plan of conversion provides that the converted insured institution shall enter into an agreement with the Corporation, in form satisfactory to the Corporation, which shall provide that for a period of three years following the conversion any company significantly engaged in an unrelated business activity, either directly or through an affiliate thereof, shall not be permitted, regardless of the form of the transaction, to acquire control of the converted insured institution.

(3) *Optional charter provision.* To the extent permitted by applicable Federal or State law, a plan of conversion may provide for a provision in the charter of the converted insured institution containing, in substance, the restriction set forth in paragraph (i)(2) of this section. There may also be included a restriction providing that such charter provision may be amended only by a vote of up to 75 percent of the votes eligible to be cast at a regular or special meeting of shareholders of the converted insured institution. If the converted insured institution elects to adopt the foregoing optional charter provision, the Corporation will impose, as a condition to its approval of the conversion, a requirement that the converted institution fully enforce such charter provision.

(4) *Definitions.* As used in this paragraph:

(i) the term "affiliate" means any person or company which controls, is controlled by, or is under common control with, a specified company.

(ii) The term "control" shall have the meaning given to it by section 408(a)(2) of the National Housing Act, as amended.

(iii) A company shall be deemed to be "significantly engaged" in an unrelated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis,

more than 15 percent of its consolidated net worth at the close of this preceding fiscal year or of its consolidated net earnings for such fiscal year.

(iv) The term "unrelated business activity" means any business activity not authorized for a multiple savings and loan holding company under section 408(c)(2) of the National Housing Act, as amended, or under regulations adopted pursuant thereto.

§ 563b.1 Notice of filing; public statements; confidentiality.

(a) *Information prior to approval of plan of conversion.* (1) An insured institution which is considering converting pursuant to this part and its directors, officers and employees shall keep

such consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached the Corporation may require remedial measures including:

(i) A public statement by the institution that its board of directors is currently considering converting pursuant to this Part;

(ii) Providing for an eligibility record date which shall be as of such a date prior to the adoption of the plan by the converting insured institution's board of directors as to assure the equitability of the conversion;

(iii) Limitation of the subscription rights of any person violating or aiding the violation of this section to an amount deemed appropriate by the Corporation; and

(iv) Any other actions the Corporation may deem appropriate and necessary to assure the fairness and equitability of the conversion.

(2) If it should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, a public statement limited to that purpose may be made by the applicant.

(3) Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the insured institution shall:

(i) Notify its members of such action by publishing a statement in a newspaper having general circulation in each community in which an office of the insured institution is located and/or by mailing a letter to each of its members; and

(ii) Have copies of the adopted plan of conversion available for inspection by its members at each office of the insured institution. The insured institution may also issue a press release with respect to such action. Copies of the proposed statement, letter and press release are not required to be filed with the Corporation, but may be submitted for comment to the Office

of General Counsel. Copies of the definitive statement, letter and press release shall be filed with the Corporation as part of the application for conversion.

(4) The statement, letter and press release, unless otherwise authorized by the Corporation shall contain only (but need not contain all of) the following:

(i) A statement that the board of directors has adopted a proposed plan to convert the insured institution from a Federal (or State, as the case may be) mutual institution to a Federal (or State, as the case may be) capital stock insured institution;

(ii) A statement that the proposed plan of conversion must be approved by at least a majority of the votes eligible to be cast either in person or by proxy by association members at a meeting at which the plan will be submitted for their approval;

(iii) A statement that existing proxies held with respect to voting rights in the insured institution will not be voted regarding the conversion, and that new proxies will be solicited for voting on the proposed plan of conversion;

(iv) A statement that a proxy statement setting forth more detailed information with respect to the proposed plan of conversion will be sent to association members prior to the meeting of members;

(v) A statement that the proposed plan of conversion is subject to approval by the Federal Home Loan Bank Board and by the appropriate State regulatory authority or authorities (naming such an authority or authorities) before such plan can become effective and that members of the applicant will have an opportunity to file written comments including objections and materials supporting such objections to the Board;

(vi) A statement that the proposed plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

(vii) A statement that there is no assurance that the approval of the Federal Home Loan Bank Board or the approval of any appropriate State authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

(viii) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;

(ix) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant;

(x) A brief statement as to the extent to which voting members will participate in the conversion;

(xi) A brief description of the proposed plan of conversion;

(xii) The par value (if any) and approximate number of shares of capital stock to be issued and sold under the proposed plan of conversion;

(xiii) A brief statement as to the extent to which directors, officers and employees will participate in the conversion;

(xiv) A statement that savings account holders will continue to hold accounts in the converted insured institution identical as to dollar amount, rate of return and general terms, and that their accounts will continue to be insured by the Federal Savings and Loan Insurance Corporation;

(xv) A statement that the insured institution will continue to be a member of the Federal Home Loan Bank System;

(xvi) A statement that borrowers' loans will be unaffected by conversion, and that the amount, rate, maturity, security and other conditions will remain contractually fixed as they existed prior to conversion;

(xvii) A statement that the normal business of the insured institution in accepting savings and making loans will continue without interruption; that the converted insured institution will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;

(xviii) A statement that the proposed plan of conversion may be substantially amended by the board of directors as a result of comments from the regulatory authorities or otherwise prior to the meeting, and that the proposed plan may also be terminated by the board of directors; and

(xix) A statement that questions of members will be answered in the proxy material to be sent after the regulatory approvals of the proposed plan of conversion have been obtained and that any questions at this time may be answered by telephoning or writing to the insured institution.

(4) Such statement, letter and press release shall not in any manner solicit proxies, include financial statements or describe the benefits of conversion or the value of the capital stock of the insured institution upon conversion. In replying to inquiries, the insured institution should limit its answers to the matters listed in paragraph (a)(3) of this section.

(b) *Notice of filing.* (1) Upon determination that an application for conversion is properly executed and is not materially incomplete, the Corporation will advise the applicant, in writ-



ing, to publish notices of the filing of such application. Promptly after receipt of such advice, the applicant shall furnish a written notice of such filing to each eligible account holder and member and also publish a notice of such filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

**NOTICE OF FILING OF AN APPLICATION FOR CONVERSION TO CONVERT TO A STOCK SAVINGS AND LOAN ASSOCIATION**

Notice is hereby given that, pursuant to Part 563b of the Rules and Regulations for Insurance of Accounts

(fill in name of applicant)

has filed an application with the Federal Savings and Loan Insurance Corporation for approval to convert to the stock form of organization.

(state chartered or Federally-chartered)

Copies of the application have been delivered to the Securities Division, Office of General Counsel of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and to the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of \_\_\_\_\_.

(Street address)

(City)

(State)

(Zip Code)

Written comments, including objections to the plan of conversion and materials supporting such objections, from any member of the applicant or aggrieved person will be considered by the Corporation if filed within 20 business days after the date of this notice. Failure to make such written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of such comments should be sent to the aforementioned Securities Division of the Office of General Counsel with one copy to said Office of the Supervisory Agent. The proposed plan of conversion and any comments thereon will be available for inspection by any member of the applicant as said Office of General Counsel and at said Office of the Supervisory Agent. A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's members speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of such notice shall also be published in such newspaper.

(2) Promptly after publication of the notices prescribed in paragraph (b)(1) of this section, the applicant shall file four copies thereof with the Corporation. The applicant shall also file four copies of an affidavit of publication from each newspaper publisher.

(c) **Confidential information.** Should the applicant desire to submit any information it deems to be of a confidential nature regarding the answer to any item or a part of any exhibit included in any application under this part, such information pertaining to such item or exhibit shall be separately bound and labeled "confidential", and a statement shall be submitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications under this part shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the Corporation determines to withhold from public availability under 5 U.S.C. 552 and Part 505 of this chapter. The Corporation will withhold the public availability of preliminary copies of proxy soliciting materials without the necessity of their being bound and labeled as "confidential". The applicant will be advised of any decision by the Corporation to make public information designated as "confidential" by the applicant. Even though sections of the application are considered "confidential" as far as public inspection thereof is concerned, to the extent it deems necessary the Corporation may comment on such confidential submissions in any public statement in connection with its decision on the application without prior notice to the applicant.

**§ 563b.5 Solicitation of proxies; proxy statement.**

(a) **Solicitations to which rules apply.** This section applies to every solicitation of a proxy from an association member of an insured institution for the meeting at which a conversion plan will be voted upon, except the following:

(1) Any solicitation made otherwise than on behalf of the management of the insured institution where the total number of persons solicited is not more than 50;

(2) Any solicitation through the medium of a newspaper advertisement which informs association members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy, or any other soliciting material and does not more than (i) name the insured institution, (ii) state the reason for the advertisement, (iii) identify the proposal or proposals to be acted upon by association members, and (iv) urge the member to vote at the meeting.

(b) **Use of proxy soliciting material to be authorized.** No proxy soliciting

material required to be filed with the Corporation prior to use shall be furnished to association members or otherwise released for distribution until the use of such material has been authorized in writing by the Corporation.

(c) **Information to be furnished association members.** No solicitation subject to this section shall be made unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy statement the use of which has been authorized by the Corporation.

(d) **Requirements as to proxy.** (1) The form of proxy (i) shall indicate in bold face type whether the proxy is solicited on behalf of the management, (ii) shall provide specifically designated blank spaces for dating and signing the proxy, (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, (iv) shall be clearly labeled "Revocable Proxy" in bold face type (at least as large as 18 point), (v) shall describe any charter or State law requirement restricting or conditioning voting by proxy, (vi) shall contain an acknowledgement by the person giving the proxy that he has received a proxy statement prior to signing the form of proxy, (vii) shall contain the date, time and place of meeting, if practicable, and (viii) shall provide by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter referred to therein as intended to be acted upon, and (ix) shall indicate in bold face type how the proxy shall be voted on each such matter to which no choice is so specified.

(2) No proxy subject to this section shall confer authority to vote at any meeting other than the meeting (or any adjournment thereof) to vote on conversion. A proxy may be deemed to confer authority to vote with respect to matters incident to the conduct of such meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion.

(3) The proxy statement or form of proxy shall provide that the votes represented by the proxy will be voted; that, where the person solicited specifies by means of a ballot provided pursuant to paragraph (d)(1)(viii) of this section a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specifications so made; and that if no choice is so specified, the votes will be cast as indicated in bold face type on the form of proxy.

(e) **Material required to be filed.** (1) Applicants shall file ten preliminary

copies of such proxy materials as are required by the form for applying for approval to convert under this part.

(2) Ten preliminary copies of any additional soliciting material subject to this section including soliciting material in the form of press releases, and radio or television scripts, to be used or furnished to association members subsequent to furnishing the proxy statement, shall be filed with the Corporation at least five business days prior to the date on which the Corporation is requested to authorize the use of such material. Speeches may, but need not be, filed with the Corporation prior to use.

(3) Twenty-five copies of the proxy statement and ten copies of the form of proxy and all other soliciting material, in the form in which such material is furnished to association members, shall be filed with or mailed for filing to the Corporation not later than the date such material is first sent or given to association members. All materials filed pursuant to this paragraph (e)(3) shall be accompanied by a statement of the date on which copies of such materials are to be released to association members.

(4) If the solicitation is to be made in whole or in part by personal solicitation, ten preliminary copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is to be furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Corporation at least five business days prior to the date on which the Corporation is requested to authorize the use of such material.

(5) All preliminary copies of material filed pursuant to paragraph (e) (1), (2) and (4) of this section shall be clearly marked on the cover page "Preliminary Copy". Such preliminary copies shall be for the information of the Corporation only and shall not be deemed available for public inspection except that such material may be disclosed to any department or agency of the United States Government or appropriate State Government and the Corporation may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Corporation.

(6) Unless requested by the Corporation, copies of replies to inquiries from members of the insured institution and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this paragraph (e).

(7) Where any proxy statement, form of proxy or other material filed

pursuant to this paragraph (e) is amended or revised, four of the required copies of such amended or revised material filed with the Corporation shall be marked to indicate clearly and precisely the changes effected therein subsequent to the last prior filing.

(f) **Mailing communications for associations members.** If the management of the applicant has adopted a plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at the meeting to vote on the plan of conversion by any association member who will defray the reasonable expenses to be incurred by the applicant in the performance of the act or acts requested.

(1) The applicant shall mail or otherwise furnish to such association member the following information as promptly as practicable after the receipt of such request:

(i) A statement of the approximate number of association members who have been or are to be solicited on behalf of the management, or any group of such holders which the association member shall designate.

(ii) An estimate of the cost of mailing a specified proxy statement, form of proxy or other communication to such association member.

(2) Copies of any proxy statement, form of proxy or other communication furnished by the association member and as approved by the Corporation shall be mailed by the applicant to such of the association members specified in paragraph (f)(1)(i) Special Rule of this section as the association member shall designate.

(3) Any such material which is furnished by the association member shall be mailed with reasonable promptness by the applicant after receipt of the material to be mailed, envelopes or other containers therefor and postage or payment for postage.

(4) Neither the management nor the applicant shall be responsible for such proxy statement, form of proxy or other communication.

(g) **False or misleading statements.**

(1) No solicitation of a proxy by the applicant, its management, or any other person for the meeting to vote on conversion shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication.

tion with respect to the solicitation of a proxy for such meeting which has become false or misleading.

(2) The fact that a proxy statement, form of proxy or other soliciting material has been filed with or examined by the Corporation and authorized for use shall not be deemed a finding by the Corporation that such material is accurate or complete or not false or misleading, or that the Corporation has passed upon the merits of or approved any proposal contained therein. No representation contrary to the foregoing shall be made by any person.

(3) If a solicitation by management violates any provision of this section, the Corporation may require remedial measures including:

(i) Correction of any such violation by means of a retraction and new solicitation;

(ii) Rescheduling of the meeting for a vote on the conversion; and

(iii) Any other actions the Corporation may deem appropriate in the circumstances in order to ensure a fair vote.

(h) **Prohibition of certain solicitations.** No person soliciting a proxy from an association member for the meeting to vote on conversion shall solicit:

(1) Any undated or post-dated proxy; or

(2) Any proxy which provides that it shall be deemed to be dated as of any data subsequent to the date on which it is signed by the association members; or

(3) Any proxy which is not revocable at will by the association member giving it; or

(4) Any proxy which is part of any other document or instrument (such as an account card).

**§ 563b.6 Vote by members.**

(a) **Vote at special meeting.** Following Corporation approval of an application for conversion, the plan of conversion shall be submitted to a special meeting of members, unless in the case of a State-chartered converting insured institution State law requires that the plan be considered at an annual meeting of members.

(b) **Determining members eligible to vote.** The record date for determining those members eligible to vote at the meeting called to consider a plan of conversion shall be not more than 50 nor less than 20 days prior to the date of such meeting, unless State law requires a different voting record date.

(c) **Notice to members.** Notice of the meeting to consider a plan of conversion shall be given by means of the proxy statement authorized for use by the Corporation which notice shall be given not more than 45 nor less than 20 days prior to the date of the meet-



ing to each association member, each eligible account holder and supplemental eligible account holder, postage paid, at his last address as shown on the books of the applicant unless State law requires a different notice period.

(d) *Required vote.* The plan shall be approved by a vote of at least a majority of the total outstanding votes of the association members, unless State law requires a higher percentage for a State-chartered converting insured institution, in which case the higher percentage shall be used. Voting may be in person or by proxy.

#### § 563b.7 Pricing and sale of securities.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the Corporation of the application for conversion and until the proxy statement has been authorized for use by the Corporation. No sale of such securities in the subscription offering may be made except by means of the final offering circular for the subscription offering. No sale of unsubscribed securities may be made except by means of the offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may commence during the subscription offering upon the declaration of effectiveness of the Offering Circular proposed for such community offering. The provisions of this paragraph shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

(b) *Distribution of offering materials.* Any preliminary offering circular for the subscription offering or direct community marketing which has been filed with the Corporation, may be distributed to eligible account holders or supplemental eligible account holders not entitled to vote on the plan of conversion and to others in connection with the subscription offering at the same time as or after the proxy statement is mailed to association members pursuant to § 563b.6(c). Any preliminary offering circular for the public offering or direct community marketing of unsubscribed securities, which has been filed with the Corporation, may also be distributed in connection with such offering at the same time as or after such proxy statement is mailed to association members pursuant to § 563b.6(c). No final offering circular shall be distributed until such offering circular has been declared effective by the Corporation.

(c) *Estimated price information in proxy statements and preliminary offering circulars.* With respect to the capital stock of the applicant to be

sold under the plan of conversions, the proxy statement and any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of such price range should normally be no more than 15 percent above the average of the minimum and maximum of such price range and the minimum should normally be no more than 15 percent below such average. The maximum price used in the price range should normally be no more than \$50 per share and the minimum no less than \$5 per share.

(d) *Prohibited representations.* The Corporation will review the price information required under paragraph (c) of this section in determining whether to give approval to the applications for conversion. No representations may be made in any manner that such price information has been approved by the Corporation or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the Federal Home Loan Bank Board or the Corporation or that the Board or the Corporation has passed upon the accuracy or adequacy of any offering circular covering such shares.

(e) *Underwriting expenses.* Underwriting commissions shall not exceed an amount or percentage per share acceptable to the Corporation. No underwriting commission shall be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

(f) *Pricing materials.* (1) In considering the pricing information required under paragraph (c) of this section, the Corporation will apply the following guidelines:

(i) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the Corporation;

(ii) The materials shall contain data which are sufficient to support the conclusions reached therein;

(iii) The materials shall contain a complete and detailed description of the appraisal methodology employed; and

(iv) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted insured institution, the materials must indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demon-

strate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock associations, the materials must demonstrate the appropriate comparability of the form and substance of such outstanding capital stock and the appropriate comparability of such existing stock associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(2) In addition to the information required in subparagraph (1) above, the applicant shall submit information demonstrating to the satisfaction of the Corporation the independence and expertise of any person preparing materials under this paragraph. However, a person will not be considered as lacking independence for the reason that such person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with such appraisal.

(g) *Order forms for purchase of capital stock.* (1) Promptly after the Corporation has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), voting members and other persons who may subscribe for such shares under the plan of conversion.

(2) Each order form shall be accompanied or preceded by the final offering circular for the subscription offering and a set of detailed instructions explaining how to properly complete such order forms.

(3) The maximum subscription price stated on each order form shall be the amount to be paid when the order form is returned. The maximum subscription price and the actual subscription price shall be within the subscription price range stated in the Board's approval and the offering circular. If either the maximum subscription price or the actual subscription price is not within such subscription price range, the applicant must obtain an amendment to the Board's approval. If appropriate, the Board will condition its amended approval by requiring a resolicitation of proxies and/or order forms. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to

those who have paid the maximum subscription price.

(4) Each order form shall be prepared so as to indicate to the person receiving it, in as simple, clear and intelligible a manner as possible, the actions which are required or available to him with respect to the form and the capital stock offered for purchase thereby. Specifically, each order form shall:

(i) Indicate the maximum number of shares that may be purchased pursuant to the subscription offering.

(ii) Indicate the period of time within which the subscription rights must be exercised, which period of time shall not be less than 20 days following the date of the mailing of the order form;

(iii) State the maximum subscription price per share of capital stock;

(iv) Indicate any requirements as to the minimum number of shares of capital stock which may be purchased;

(v) Provide a specifically designated blank space or spaces for indicating the number of shares of capital stock which the eligible account holder or other person wishes to purchase;

(vi) Indicate that payment may be made by cash if delivered in person or by check or by withdrawal from an account holder's passbook savings account or certificate of deposit without penalty. If payment is to be made by such withdrawal, a box to check should be provided;

(vii) Provide specifically designated blank spaces for dating and signing the order form;

(viii) Contain an acknowledgement by the account holder or other person signing the order form that he has received the final offering circular for the subscription offering prior to so signing; and

(ix) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are nontransferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places to which the order forms are to be returned and when the applicant will consider order forms received, such as by date and time of actual receipt in the applicant's offices or by date and time of postmark.

(5) The order form may provide that it may not be modified without the applicant's consent after its receipt by the applicant. If payment is to be made by withdrawal from a passbook savings account or certificate of deposit, the applicant may, but need not, cause such withdrawal to be made upon receipt of the order form. If such withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to

the account holder on the account withdrawn as if such amount had remained in the account from which it was withdrawn until such closing date.

(h) *Withdrawal from certificate accounts.* Notwithstanding any regulatory provision regarding penalties for early withdrawal from certificate accounts, the applicant may allow payment for capital stock during the subscription period by withdrawal from a certificate account without the assessment of such penalties. In the case of early withdrawal of only a portion of such account, the certificate evidencing such account shall be cancelled if the applicable minimum balance requirement ceases to be met. The remaining balance will earn interest at the passbook rate.

(i) *Period for completion of sale.* The sale of all shares of capital stock of the converting insured institution to be made under the plan of conversion, including any sale in a public offering or direct community marketing, shall be completed as promptly as possible and within 45 calendar days after the last day of the subscription period, unless extended by the Corporation.

#### § 563b.8 Procedural requirements.

(a) *Filing an application for conversion.* An applicant that desires to convert in accordance with this part shall file ten copies of an application for approval in the form prescribed by the Corporation.

(b) *Return of improperly executed or materially incomplete filings.* Any application for approval that is improperly executed, or that does not contain copies of (1) a plan of conversion, (2) a preliminary proxy statement with signed financial statements, and (3) a preliminary form of proxy, shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion, proxy statement, or form of proxy may be returned by the Corporation to the applicant.

(c) *Additional filing requirements.* An applicant whose plan of conversion has been approved by the Corporation shall fulfill the following requirements.

(1) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion a certified copy of each resolution adopted at such meeting relating to the plan of conversion, together with the following information:

(i) The total number of votes eligible to be cast;

(ii) The total number of votes represented in person or by proxy at the meeting;

(iii) The total number of votes cast in favor of and against each such matter; and

(iv) The percentage of votes necessary to approve each such matter.

The compilation of the votes cast at the meeting may be prepared for the insured institution, by an independent public accountant or by an independent transfer agent.

(2) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion an opinion of counsel to the effect that (1) the meeting of members was duly held in accordance with all requirements of applicable State and Federal law and regulation; and (2) all requirements of State law applicable to the conversion have been complied with.

(3) The offering circulars for the subscription offering and for the public offering or direct community marketing shall be prepared in compliance with this part and Form OC. The applicant shall file with the Corporation ten copies of each preliminary offering circular and twenty-five copies of each final offering circular.

(d) *Termination or amendment of charter.* (1) Upon approval of a plan of conversion by the members of a State-chartered insured institution or a Federal association which is converting to a State-chartered stock insured institution, the charter of such insured institution shall terminate effective upon the issuance to it of a stock charter under the laws of the State in which the home office of the applicant is located. If such converting insured institution is a Federal association, its Federal charter shall promptly be surrendered to the Board for cancellation. An insured institution converting to a State-chartered stock insured institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall promptly be surrendered to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federal association converting to a Federal stock association shall apply to amend its charter and bylaws to read in the form of a charter and bylaws for a Charter S Association. The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(3) The corporate existence of a Federal mutual association converting to a Federal Stock association shall not terminate but the converted association shall be deemed to be a continuation of the entity of the association so converted. In the case of a Federal or a State-chartered mutual insured



institution converting to a State-chartered stock insured institution, unless State law otherwise prescribes, the corporate existence of the converting insured institution shall similarly not terminate and the converted insured institution shall be deemed to be a continuation of the entity of the insured institution so converted.

(e) *Number of copies; place of filing; binding; signatures.* (1) Whenever a requirement is made under this part for the filing of four copies of any document with the Corporation, one copy shall be filed with the Supervisory Agent and the remaining copies with the Securities Division, Office of the General Counsel of the Board. Whenever a requirement is made under this part for the filing of ten or more copies of any document with the Corporation, three copies shall be filed with the Supervisory Agent and the remaining copies with the Securities Division, Office of the General Counsel of the Board. Whenever a requirement is made under this part that a document to be filled be manually signed, one manually signed copy shall be filed with the Supervisory Agent and another with such Securities Division, Office of the General Counsel. Other copies shall be conformed. Each of the copies filed under this part shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side or stitching margin in such manner as to leave the reading matter legible.

(2) At least two copies of every application and every amendment thereto filed shall be manually signed by (i) a duly authorized representative of the applicant on its behalf, (ii) its principal executive officer, (iii) its principal financial officer, (iv) its principal accounting officer, and (v) at least two-thirds of its directors.

(3) If any name is signed to an application or any amendment thereto pursuant to a power of attorney, four copies of such power of attorney, including two manually signed, shall be filed with the application.

(4)(i) Except as provided in paragraph (e)(4)(ii) of this section, the filing of any application or amendment thereto under this part shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether or not such director has signed the application or any amendment thereto) severally that (A) he has read such application or amendment, (B) in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an

informed opinion that such application or amendment complies to the best of his knowledge and belief with the applicable requirements of this part and forms prescribed hereunder, and (C) each such person holds such informed opinion.

(ii) The representations specified in paragraph (e)(4)(i) of this section shall not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, such director files with the Corporation within 10 business days after the filing of such application or amendment a statement describing those portions of such filing as to which he does not so represent.

(f) *Requirements as to paper and printing.* (1) Applications shall be filed on good quality, unglazed, white paper approximately 8½ by 13 or 8½ by 11 inches in size, insofar as practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to such sizes, and the plan of conversion, proxy statement and offering circular may be on smaller paper if the applicant so desires.

(2) Applications and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed or typewritten. However, applications for any portion thereof may be prepared by any similar process which, in the opinion of the Corporation, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(g) *Method of preparation.* Every application shall furnish information in item-and-answer form in response to the items of the appropriate form, and shall include the captions of the form, but omit the text of all items and instructions. Every proxy statement and offering circular shall present information as provided in paragraph (n) of this section in response to the items of the appropriate form in lieu of furnishing the information in item-and-answer form, and shall omit the captions and text of all items and instructions. Every application shall include a cross reference sheet showing the location in the proxy statement and offering circular of the response to the items of the appropriate form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted, a statement to that effect shall be made in the cross reference sheet.

(h) *Interpretation of requirements.* (1) Unless the context indicates other-

wise, the forms require information only as to the applicant.

(2) Whenever words relate to the future, they have reference solely to present intention.

(3) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

(i) *Additional information.* In addition to the information expressly required to be included in any application under this part, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they made, not misleading.

(j) *Information unknown or not reasonably available.* Information required need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

(1) The Applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(k) *Incorporation of certain information by reference.* (1) Where an item in an application calls for information not required to be included in the proxy statement or offering circular, matter contained in any part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to such item. No information may be incorporated by reference in a proxy statement or offering circular, unless the document containing such information is attached thereto or is summarized or outlined as provided in paragraph (l) of this section. However, an offering circular may incorporate by reference the information contained in a proxy statement previously delivered, without need of summary or outline.

(2) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the

information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(l) *Summaries or outlines of documents.* Where a summary or outline of the provisions of any document is required, only a brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be qualified in its entirety by such reference.

(m) *Legibility of materials.* The body of all printed plans of conversion, proxy statements, and offering circulars, including all notes to financial statements and other tabular data included therein, shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(n) *Presentation of information.* (1) The information required in a proxy statement or offering circular need not follow the order of the items or other requirements in the appropriate form. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in tabular form it shall be given in substantially the tabular form specified in the item.

(2) All information contained in a plan of conversion, proxy statement or offering circular shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth thereunder. Except as to financial statements and other tabular data, all information set forth in any form under this part shall be divided into reasonably short paragraphs or sections.

(3) Every proxy statement and offering circular shall include in the forefront thereof a reasonably detailed table of contents showing the subject matter of its various sections or subdivisions and the page number on which each such section or subdivision begins.

(4) All information required to be included in a proxy statement or offering circular shall be clearly understandable without the necessity of referring to the particular form or to the regulations under this part. Except as to financial statements and

information required in tabular form, the information set forth in a proxy statement or offering circular may be expressed in condensed or summarized form.

(5) Financial statements are to be set forth in comparative form, and shall include the notes thereto and the accountants' certificate or certificates. Section 563c.1 of this subchapter governs the certification, form and content of such financial statements, including the basis of consolidation.

(o) *Application of amendments to regulations and forms.* (1) The form and contents of any filing made under the provisions of this part need conform only to the applicable regulations and forms then in effect, and contain the information, including financial statements specified therein, required at the time the filing is made, notwithstanding subsequent amendments to such regulations, except as otherwise provided in any such amendment or in paragraph (o)(2) of this section.

(2) Whenever the Corporation prohibits by order or otherwise the use of any filing under this part, the form and contents of any filing used thereafter shall conform to the requirements of such order and the applicable regulations and forms in effect at the time such prohibition ceases to be effective.

(3) Applications for conversion filed pursuant to this part shall conform to the regulations and forms of this part as revised by the Corporation effective May 1, 1979.

(p) *Consents of experts.* (1) If any accountant, attorney, investment banker, appraiser, or other persons whose professions give authority to a statement made in any application under this part is named as having prepared, reviewed, passed upon, or certified any part thereof, or any report or valuation for use in connection therewith, the written consent of such person shall be filed with the application. If any portion of a report of an expert is quoted or summarized as such in any filing under this part, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization.

(2) All written consents filed pursuant to this paragraph (p) shall be dated and signed manually. A list of such consents shall be filed with the application. Where the consent of the expert is contained in his report, a reference shall be made in the list to the report containing such consent.

(q) *Consents of persons about to become directors.* If any person who has not signed an application is named in the proxy statement or offering circular as about to become a director, the written consent of such person

shall be filed with the appropriate form.

(r) *Date of Filing.* The date on which any documents are actually received by the Office of the Secretary of the Board shall be the date of filing thereof.

(s) *Amendments.* All amendments to any application under this part shall be filed under cover of an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall conform to all pertinent regulations applicable to the type of application which they amend.

(t) *Pre-filing conferences with applicants.* (1) The staff of the Board and the Supervisory Agent will be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held for the purpose of discussing generally the problems confronting an applicant in effecting conversion or to resolve specific problems of an unusual nature.

(2) Pre-filing review of an application may be refused by the staff of the Board and the supervisory agent if such review would delay the examination and processing of material which has already been filed or would favor certain applicants at the expense of others. In any conference under this paragraph (t), the staff of the Board and the Supervisory Agent will not undertake to prepare material for filing but will limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

(u) *Review of the Board action.* Any person aggrieved by a final action of the Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this part may obtain review of such action by filing in the court of appeals of the United States for the circuit in which the principal office or residence of such person is located, or in the United States Court of Appeals for the District of Columbia Circuit, a written petition praying that the final action of the Board or Corporation be modified, terminated or set aside. Such petition must be filed within 30 days after publication of notice of such final action in the FEDERAL REGISTER, or 30 days after the mailing by the applicant of the notice to members as provided for in § 563b.6(c), whichever is later. The further procedure for review is as follows: A copy of the petition is forthwith transmitted to the Board or the Corporation by the clerk of the court and thereupon the Board or the Corporation files in the court the record in the proceeding, as provided in Section 2112 of Title 28 of the United States Code. Upon the filing of the petition,



the court has jurisdiction, which upon the filing of the record is exclusive, to affirm, modify, terminate, or set aside in whole or in part, the final action of the Board or the Corporation. Review of such proceedings is had as provided in Chapter 5 of Title 5 of the United States Code. The judgment and decree of the court is final, except that they are subject to review by the Supreme Court upon certiorari as provided in Section 1254 of Title 28 of the United States Code.

(1) *Post-Conversion reports.* The applicant shall file such post-conversion reports concerning its conversion as the Corporation may require.

§ 563b.9 Acquisitions of securities of converted associations.

(a) *Definitions.* (1) For the purpose of this section, the term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value.

(2) For the purpose of this section, the term "person" means an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, and any unincorporated organization or similar company.

(3) Without limitation on the generality of its meaning, the term "security" includes nontransferable subscription rights issued pursuant to a plan of conversion.

(b) *Prohibited transfers.* Prior to completion of a conversion, no person shall transfer or enter into any agreement or understanding to transfer, the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another.

(c) *Prohibition of offers during conversion.* Prior to completion of a conversion, no person shall make any offer, or announcement of an offer or intent to make an offer, for any security of a converting association issued or to be issued in connection with such conversion.

(d) *Prohibition on offers to acquire and acquisitions of stock for three years following conversion.* No person for a period of three years following the date of the completion of the conversion shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of any class of an equity security of an association converted in accordance with the provisions of this Part, without the prior written approval of the Federal Savings and Loan Insurance Corporation.

(e) *Exceptions.* (1) Paragraphs (b) and (c) of this section shall not apply to a transfer, agreement or understanding to transfer, offer, or an-

nouncement of an offer or intent to make an offer which (i) pertains only to securities to be purchased pursuant to § 563b.3 (c)(6), (d)(3) or (8) of this part; and (ii) has prior written approval of the Corporation.

(2) Paragraphs (c) and (d) of this section shall not apply to any offer with a view toward public resale made exclusively to the association or underwriters or selling group acting on its behalf.

(3) Unless made applicable by the Corporation by prior advice in writing, the prohibition contained in paragraph (d) of this section shall not apply to any offer or announcement of an offer which if consummated would result in acquisition by a person, together with all other acquisitions by such person of the same class of securities during the preceding 12-month period, of not more than one percent of the same class of securities.

(f) *Criteria for denial.* The Corporation shall not approve an application involving an offer for, an announcement thereof or an acquisition of any security of a converted association submitted under paragraph (d) of this section if it finds that such offer frustrates the purposes of the foregoing provisions of this Part 563b, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the association, is not consistent with economical home financing, or is otherwise violative of law or regulation.

(g) *Penalty for willful violations.* For willful violation or assistance of any such violation of any provision of this section, any person who (1) has any connection with the management of a converting or converted association, including any director, officer, employee, attorney, or agent, or (2) controls more than ten percent of the outstanding shares of any class of equity security or voting rights thereto of a converting or converted association, shall be subject to a civil penalty of not more than \$500 (which penalty shall be cumulative to any other remedies) for each day that such violation continues, which penalty the Corporation may recover by suit or otherwise for its own use. The Corporation in its discretion may, at any time before collection of such penalty (whether before or after the bringing of any action or other legal proceedings, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process thereof), compromise or remit in whole or in part any such penalty.

## FORM AC

(Facing Sheet)

## FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN  
INSURANCE CORPORATION1700 G Street, N.W.  
Washington, D.C. 20552

## Application for Conversion

(Exact name of Applicant as specified in  
charter)

(Street address of applicant)

(City, State and Zip Code)

Date of Application

## GENERAL INSTRUCTIONS

## A. RULE AS TO USE OF FORM AC

Form AC shall be used by any insured institution seeking Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation approval of conversion from the mutual to the stock form of organization pursuant to Part 563b of the Rules and Regulations for Insurance of Accounts.

## B. APPLICATION OF RULES AND REGULATIONS

Attention is directed to Insurance Regulation § 563b.8. That section contains general requirements regarding preparation and filing of this Form. The definitions in Insurance Regulation § 563b.2 also should be noted.

## Item 1. Form of Application.

Set forth an application for approval of the plan of conversion in the following form with the names and titles of the officers and directors signing the application indicated below their signatures:

The undersigned hereby makes application for approval to convert into a stock association, and submits herewith a statement of its proposed plan of conversion and other information and exhibits as required by Part 563b of the Rules and Regulations for Insurance of Accounts of the Federal Savings and Loan Insurance Corporation.

In submitting this application the applicant understands and agrees that, if further examinations or appraisals, or both, are required by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, they will be conducted by, or as approved by, the Board or the Corporation at the expense of the applicant; and applicant will pay the costs thereof as computed by the Board or the Corporation.

This application has been approved by at least two-thirds of the board of directors of the applicant. In accordance with section 563b.8(e)(4) of the Rules and Regulations for Insurance of Accounts, by the filing of this application, the applicant by its duly authorized representative, the undersigned officers and each member of the applicant's board of directors severally represent, except to the extent otherwise provided in said section, (1) that each such person has read this application; (2) that in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that this application complies to the

best of his knowledge and belief with the applicable requirements of Part 563b of the Rules and Regulations for Insurance of Accounts and forms thereunder; and (3) that each such person holds such informed opinion.

Attest:

Applicant

By (Duly Authorized Representative)

(Principal Executive Officer)

(Principal Financial Officer)

(Principal Accounting Officer)

(Director)

(Director)

(Director)

(Director)

(Director)

(Signatures of at least two-thirds of the  
Board of Directors)

## Item 2. Plan of Conversion.

Furnish the complete formal written plan adopted by the board of directors for conversion of the applicant to the stock form of organization. The terms of the plan submitted pursuant to this Item will be a basis for the Corporation's approval and the plan as approved will be distributed as an attachment to the proxy statement and the offering circular.

## Item 3. Proxy Statement and Offering Circular.

Furnish preliminary copies of the proxy statement and offering circular. The proxy statement and offering circular should be prepared in accordance with Forms PS and OC, respectively.

## Item 4. Form of Proxy.

Furnish preliminary copies of the form of proxy to be distributed to association members by the management.

## Item 5. Sequence and Timing of the Plan.

Set forth the expected chronological order of the events connected with the plan of conversion beginning with the filing of this application through completion of the sale of all the capital stock under the plan. Indicate the expected timing of any requisite approvals by State authorities. Indicate the proposed timing of all aspects of the subscription offering. If there will be an underwritten public or direct community marketing of the applicant's securities as part of the plan of conversion, indicate the proposed timing of all aspects of such offering.

## Item 6. Record Dates.

If the applicant's plan of conversion contains an eligibility record date substantially earlier than 90 days prior to the date of adoption of the plan of conversion by the

EXHIBIT 1. RESOLUTION OF BOARD OF  
DIRECTORS

Set forth a certified copy or copies of a resolution or resolutions of the board of directors (1) adopting the plan of conversion filed with this application; (2) authorizing the filing of this application; and (3) applying for continued insurance of accounts by the Federal Savings and Loan Insurance Corporation and continued membership in the appropriate Federal Home Loan Bank. The action adopting the plan of conversion and authorizing the filing of this application must be approved by two-thirds of the board of directors.

EXHIBIT 2. COPIES OF DOCUMENTS, CONTRACTS,  
AND AGREEMENTS

Furnish the following documents, contracts and agreements: (a) proposed certificates for capital stock and any other securities to be issued; (b) proposed order forms with respect to the subscription rights; (c) proposed charter and bylaws of the applicant to take effect upon conversion including, if applicable, the optional charter provision provided for in § 563b.3(i)(3); (d) any proposed stock option plan and form of stock option agreement; (e) any proposed management employment contracts; (f) any contract described in response to Item 6(e) of Form PS; (g) contracts or agreements with paid solicitors described in response to Item 3(b) of Form PS; (h) any material loan agreements relating to borrowings by the applicant other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the Corporation; (i) any appraisal agreement or proposed agreement, underwriting contracts or agreements among underwriters; (j) the agreement with the Corporation required by § 563b.3(i)(2); (k) any charter amendment filed for the purpose of converting a Federal mutual association to a Federal stock association; (l) any proposed contracts or agreements among members of a group regarding the purchase of unsubscribed shares pursuant to § 563b.3(d)(3); (m) any required undertaking or affidavits by officers or directors purchasing shares in the conversion that they are acting independently; (n) any documents referred to in the answer to Item 9; (o) any trustee agreements or indentures; and (p) any agreements for the making of markets or the listing on exchanges of the stock of the converted insured institution. Documents, contracts and agreements which are furnished in proposed form under this exhibit shall be furnished in final form immediately after the meeting of association members to consider the plan of conversion, except for documents which by their nature cannot be practically expected until a later time required by subdivisions (i) and (l) in which case they shall be furnished in substantially final form.

## EXHIBIT 3. OPINION OF COUNSEL

Furnish an opinion of counsel for the applicant regarding each of the following matters: (a) the legal sufficiency of the applicant's proposed certificates and order forms for capital stock and any other securities; (b) State law requirements applicable to the plan of conversion including citations to applicable State law and whether such requirements will be fulfilled by the plan; (c) the legal sufficiency of the applicant's bylaws; (d) the type and extent of each class of voting rights in the applicant after conversion, including any requirement of State

board of directors, state the reason for the selection of such earlier date.

Indicate the circumstances that will require the use of a supplemental eligibility record date.

## Item 7. Savings Account Balances of Personnel.

For each director and officer of the applicant whose total account balances, including the balances of each associate of the foregoing persons, were more than \$5,000 as of the eligibility record date and which balances had increased by more than 25 percent during the two year period prior to that date, set forth in tabular form his total account balances as of (a) the eligibility record date and (b) each of the eight earnings distribution dates of the applicant immediately preceding such date.

## Item 8. Expenses Incident to the Conversion.

Provide in substantially the tabular form indicated below the estimated expense of the conversion to the applicant.

|                         |       |
|-------------------------|-------|
| Legal                   | ..... |
| Postage and Mailing     | ..... |
| Printing                | ..... |
| Escrow or Agent Fees    | ..... |
| Underwriting Fees       | ..... |
| Appraisal Fees          | ..... |
| Transfer Agent Fees     | ..... |
| Auditing and Accounting | ..... |
| Proxy Solicitation Fees | ..... |
| Advertising             | ..... |
| Other Expenses          | ..... |

Total ..... \$ .....

*Instructions.* 1. The applicant may exclude costs represented by salaries and wages of regular employees and officers, if a statement to that effect is made.

The cost of solicitation by specially engaged employees or paid solicitors under paragraph (b) of Item 3 of Form PS shall be stated under "Proxy Solicitation Fees" in this Item.

2. If the applicant has any category of expense exceeding \$10,000 which is not specified in this Item, such expense shall be itemized rather than including it under the category "Other Expenses".

3. If the solicitation is conducted other than by management of the applicant, the information required in this Item shall be provided with respect to the cost of such solicitation.

## Item 9. Indemnification.

State the general effect of any charter provisions, bylaw, contract, arrangement, statute, or regulation to be in effect during or after the conversion under which any underwriter, appraiser, lawyer, accountant or expert, or director or officer of the applicant will be insured or indemnified in any manner against any liability which he may incur in his capacity as such.

## Item 10. Federally Chartered Stock Associations—Charter S Association.

State whether the converting Federal association is applying to amend its charter and bylaws to read in the form of the charter and bylaws of a Charter S association.

## EXHIBITS

The following exhibits shall be attached to this Form.



## RULES AND REGULATIONS

## FORM PS

(Facing Sheet)

## FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN  
INSURANCE CORPORATION1700 G Street, N.W.  
Washington, D.C. 20552

## Proxy Statement

(Exact name of applicant as specified in  
charter)

(Street address of applicant)

(City, State and Zip Code)

## PROXY STATEMENT FORM

## INDEX TO ITEMS

- Item 1. Notice of Meeting
- Item 2. Revocability of Proxy
- Item 3. Persons Making Solicitation
- Item 4. Voting Rights and Vote Required for Approval
- Item 5. Directors and Executive Officers
- Item 6. Remuneration and Other Transactions with Management and Others
- Item 7. Business of the Applicant
- Item 8. Description of the Applicant's Plan of Conversion
- Item 9. Description of Capital Stock
- Item 10. Capitalization
- Item 11. Use of New Capital
- Item 12. Stock Option Plans
- Item 13. New Charter, Bylaws or Other Documents
- Item 14. Other Matters
- Item 15. Financial Statements
- Item 16. Consents of Experts and Reports
- Item 17. Attachments

## FORM PS

INFORMATION REQUIRED IN CONVERSION PROXY  
STATEMENT

## Notes

1. Except as otherwise specifically provided, where any item calls for information for a specified period in regard to directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which such person did not hold any such position or relationship provided a statement to that effect is made.
2. The proxy statement shall include such information which the General Counsel or Director of the Securities Division of the Office of General Counsel by interpretative release or otherwise have deemed necessary to comply with Items of this Form PS.

## Item 1. Notice of Meeting.

The cover page of the proxy statement shall give notice of the meeting of the association members called by the board of directors to act upon the conversion. The cover page shall include the date, time, and place of the meeting, a brief description of each matter to be acted upon at the meeting, the date of record for association mem-

bers entitled to vote at the meeting, the date of the statement, and the full address, ZIP code and telephone number of the applicant.

## Item 2. Revocability of Proxy.

State that the person giving the proxy has the power to revoke it before the proxy is exercised at the meeting. If the right of revocation is subject to compliance with any formal procedure, briefly describe such procedure. Briefly describe any charter, bylaw or applicable Federal or State law requirements otherwise restricting voting by proxy. State that the proxy is solicited for that meeting, and any adjournment thereof, and will not be used for any other meeting. (See also § 563b.5(d)(3)).

## Item 3. Persons Making the Solicitation.

(a) State whether the solicitation is made by the management of the applicant. Give the name of any director of the applicant who has informed the management by writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and identify the parties.

(c) If the solicitation is made otherwise than by the management of the applicant, so state and give the names of the persons by whom and on whose behalf it is made. Any such solicitation normally need not respond to Items 5 through 17, but must include such information as to make such solicitations comply with § 563b.5(g)(1).

## Item 4. Voting Rights and Vote Required for Approval.

(a) Describe briefly the voting rights of each class of association members. State the approximate total number of votes entitled to be cast at the meeting, and the approximate number of votes to which each class is entitled.

(b) As part of the description give the date of record for association members entitled to vote at the meeting.

(c) As to each matter which will be submitted to a vote of association members, state the vote required for its approval.

## Item 5. Directors and Executive Officers.

(a) List the names and ages of all directors of the applicant, indicate all positions and offices held with the applicant by each such person, state his term of office as director and the period during which he has served as such and briefly describe any arrangement or understanding between him and any other person pursuant to which he was selected as a director.

(b) List the names and ages of all executive officers of the applicant and indicate all positions and offices held with the applicant by each such person.

*Instruction.* The term "executive officer" means the president, vice-president, secretary, treasurer, controller, principal accounting officer, any officer in charge of a principal lending or savings function and any other officer or person who performs similar policy making functions for the applicant.

(c) State the nature of any family relationship between any director or executive officer and any other director or executive officer.

*Instruction.* The term "family relationship" means any relationship, by blood, marriage or adoption, not more remote than first cousin.

(d) Give a brief account of the business experience during the past five years of each director and each executive officer, including his principal occupations and employments during that period and the name and principal business of any corporation or other organization in which such occupations and employments were carried on.

(e) Describe any of the following events which occurred during the past ten years and which are material to an evaluation of the ability and integrity of any director of the applicant:

(1) A petition under the Bankruptcy Act of any State insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of, such person, or any partnership in which he was a general partner at or within two years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is the subject of a criminal proceeding which is presently pending (excluding proceedings for traffic violations and other minor offenses); or

(3) Such person was the subject of any order, judgment or decree of any court of competent jurisdiction permanently or temporarily enjoining him from acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank or insurance company, or removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of an insured institution, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security, or was the subject of any order of a Federal or State authority barring or suspending, for more than 60 days, the right of such person to be engaged in any such activity, which order has not been reversed or suspended.

*Instruction.* If any event specified in paragraph (c) has occurred but information in regard thereto is omitted on the ground that it is not material, the applicant shall furnish, as supplemental information and not as a part of the statement the reasons for the omission of information in regard thereto.

(f) State whether control of the applicant has been exercised through the use of proxies and the nature of such control.

## Item 6. Remuneration and Other Transactions with Management and Others. (See the Note at the beginning of this Form.)

(a)(1) *Current Information.* Furnish the information required in the table below, in substantially the tabular form as specified, concerning all remuneration of the following persons and groups for services in all capacities to the applicant and its subsidiaries during the applicant's last fiscal year:

(i) Each director of the applicant whose aggregate direct remuneration exceeded

## RULES AND REGULATIONS

\$40,000, and each of the five highest paid officers of the applicant whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(ii) All directors and officers of the applicant as a group, stating the number of persons in the group without naming them.

(b) Furnish the following information in substantially the tabular form indicated as to all annuity, pension or retirement benefits proposed to be paid to the following persons in the event of retirement at their normal retirement dates pursuant to any existing plan provided or contributed to by the applicant or any of its subsidiaries:

(1) Each director or officer named in answer to paragraph (a)(1)(i), naming each such person.

(2) All directors and officers of the applicant who are eligible for such benefits, as a group, stating the number of persons in the group without naming them.

| (A)  | (B)   | (C)                                       |
|--|---|---|
| Name of individual or number of persons in group | Amount set aside or accrued during applicant's last fiscal year | Estimated annual benefits upon retirement |

*Instructions.* 1. The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified number of years of service. In such case, Columns (A) and (C) need not be answered with respect to directors and officers as a group.

3. The information called for by Column (C) may be given in the form of a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction (2)) where the amount set aside each year depends upon the amount of earnings of the applicant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported in (a) or (b) of this Item) proposed to be made in the future, directly or indirectly, by the applicant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1)(i), naming each such person, and (ii) all directors and officers of the applicant as a group without naming them.

*Instruction.* Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments shall be

stated, together with an explanation of the basis for future payments.

(d) State as to each of the following persons who was indebted to the applicant or its subsidiaries at any time during the last three years, (i) the largest aggregate amount of indebtedness outstanding at any time during such period; (ii) the nature of the indebtedness and of the transaction in which it was incurred; (iii) the amount thereof outstanding as of the latest practicable date, and (iv) the annual percentage rate paid or charged thereon (as computed under 12 CFR Part 226);

(1) Each director or officer of the applicant; and

(2) Each associate of any such director or officer.

*Instructions.* 1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. This paragraph does not apply to amounts due a person for ordinary travel and expense advances and similar transactions.

3. If the loans to such persons (a) are secured by a first lien on a single-family dwelling owned and occupied by a director or officer of the applicant at the time of making the loan and such loan at such time did not exceed the amount then specified in section 5(c) of the Home Owner's Loan Act of 1933, as amended, with respect to single-family dwellings if applicable or (b) are fully secured by a savings account, and if the lender is the applicant, such disclosure may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

4. Computation of the annual percentage rate under paragraph (d)(iv) is to be done as though 12 CFR Part 226 was applicable to the transaction.

(e) Describe briefly any transactions during or since the applicant's last three fiscal years or any presently proposed transactions, to which the applicant or any of its subsidiaries or any borrower from the applicant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant.

*Instructions.* 1. No information need be given in response to this Item 6(e) as to any remuneration or other transaction reported in response to Item 6 (a), (b), (c), or (d), or as to any transaction with respect to which information may be omitted pursuant to instructions relating to such items.

2. No information need be given in answer to this Item 6(e) as to any transaction where—



(b) The transaction involves services as a bank depository of funds, transfer agent, registrar, or similar services;

(c) The amount involved in the transaction or a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed \$40,000, or \$5,000 in the case of transactions giving rise to expenses of the type indicated in Item 8 of Form AC; or

(d) The interest of the specified person arises solely from the ownership of savings accounts of the applicant and the specified person receives no extra or special benefit not shared on a pro rata basis by all savings account holders as a class.

3. It should be noted that this Item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the applicant or its subsidiaries or with any borrower from the applicant or any of its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 6(e) where—

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) and (2) above, in the aggregate, of less than a ten percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in subparagraphs (1) and (2) above had an interest of less than ten percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the applicant or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale of assets by or to the applicant, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller.

6. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering paragraph (e) of this Item. There may be situations where, although the foregoing instructions do not expressly authorize non-disclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this Item.

(f) Describe briefly any transactions during or since the applicant's last three fiscal years or any presently proposed transactions, to which any, retirement or similar plan provided by the applicant or any of its subsidiaries, was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant; or

(3) The applicant or any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4 and 5 to Item 6(e) shall apply to this Item 6(f).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 6(f) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to this paragraph (f) with respect to—

a. Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

b. Payment of remuneration for services not in excess of five percent of the aggregate remuneration received by the specified person during the applicant's last fiscal year from the applicant and its subsidiaries; or

c. Any interest of the applicant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

Item 7. *Business of the Applicant.*

(a) *Organization.* State the year in which the applicant was organized and whether its present charter was issued by the State or Federal government. Describe briefly any previous conversion of the applicant.

(b) *Selected Statement of Financial Condition and Other Items.* As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts of the following items: (1) total assets, (2) real estate loans outstanding, (3) savings accounts, (4) advances from the Federal Home Loan Bank, (5) other borrowed money, if material, (6) net worth and (7) number of offices indicating any which are less than full service. The applicant may use other substantially similar captions, and may include other items such as number of real estate loans outstanding and number of savings accounts.

(c) *Mergers and Acquisitions.* Indicate in tabular form, any mergers, bulk purchase of assets and similar acquisitions which have occurred in the periods covered by statements of operations required by Item 15(b). With respect to each such acquisition, give names of the association involved, its location, its total assets immediately prior to such acquisition, the number of offices acquired, the method of accounting for such acquisition, and any excess of cost over the net assets acquired (goodwill) included in the latest statement of financial condition. The information provided in this section should be referenced to any appropriate

notes to the financial statements required by Item 15.

(d) *Lending Activities.*

(1) Describe briefly applicable Federal and State restrictions on the lending activities of the applicant including applicable laws affecting mortgage loan interest rates. Describe the applicant's general policy concerning loan to value ratios. Describe briefly the applicant's customary methods of obtaining loan originations such as the use of loan consultants and approval of security properties and use of a loan committee, if any. Describe briefly the applicant's policies as to requiring title insurance and fire and casualty insurance on security properties.

(2) As of the end of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amount and percentage of the loan portfolio of the applicant (i) by type of loan and (ii) by type of security.

Instructions. 1. For the classification required by subparagraph (2)(i), separate types of loans into real estate loans for other purposes. Also, separate real estate loans into conventional loans and FHA/VA loans, and conventional loans shall be separated into loans for construction, loans on existing property and loans refinanced.

2. For the classification required by subparagraph (2)(ii), type of security shall be separated into residential and other types. Residential loans shall be separated into single-family dwellings, and other dwelling units. Also, indicate any material classification of other loans such as mobile home loans, home improvement loans, home equipping loans, passbook loans, commercial or industrial loans, and undeveloped land loans.

(3) For each of the periods covered by the statements of operations required by Item 15(b), set forth in tabular form the amount for each period of (i) loans originated, (ii) loans purchased, (iii) loans sold, and (iv) total net loan activity. Also describe briefly the applicant's total activity as of the date of the latest statement of financial condition required by Item 15(a), and briefly indicate the applicant's general future intentions with respect to activities in secondary mortgage markets including transactions with the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or mortgage bankers. If significant, indicate loan service fee income as a percentage of gross income for the year ended as of the latest statement of financial condition required by Item 15(a).

Instructions. 1. For the classification required by subparagraph (3)(i), loans originated shall be separated into real estate loans, loans for other purposes, and total loans originated. Real estate loans shall be further separated into conventional loans and FHA/VA loans, and conventional loans shall be separated into loans for construction, loans on existing property, and loans refinanced.

2. For the classification required by subparagraph (3)(ii), loans purchased shall be separated into real estate loans, loans for other purposes, and total loans purchased. Real estate loans shall be further separated into conventional loans and FHA/VA loans.

3. For the classification required by subparagraph (3)(iii), loans sold shall be separated into whole loans, participation loans, and total loans sold.

4. For the classification required by subparagraph (3)(iv), total net loan activity shall be equal to total loans originated plus total loans purchased minus total loans sold.

(4) As to the lending area of the applicant, describe briefly (i) the lending area restrictions applicable to the applicant, (ii) the areas in which the applicant normally lends, and (iii) any material loan concentration areas of the applicant. Such descriptions may include a map illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.

(5) Describe briefly the general long term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings and loan associations. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time such loans are outstanding.

(6) As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form, excluding origination fees, discounts and premiums on real estate loans originated, the following: (i) weighted average of return on loans originated and purchased during each period, (ii) weighted average rate of return on loans held at the end of each period, (iii) weighted average interest cost savings at the end of each period, (iv) weighted average interest cost of Federal Home Loan Bank advances and other borrowings during the period, (v) total weighted average interest cost of savings and borrowings for the period (the total of (iii) and (iv)), and (vi) the gross margin ((ii) minus (v)).

Instruction. As an example of the calculation of the weighted average rate, the following method should be used to calculate the weighted average interest rate on savings:

1. Determine the percentage of total savings represented by each type of savings instrument.
2. Multiply these percentages by the contractual interest rate the applicant is committed to pay on such instruments.
3. The resulting percentages are then totaled, giving the weighted rate.

(7) As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form loan origination fees charged to borrowers expressed as a percentage of the total amount of loans originated and net income. In addition, fee income, broken down into its various components including but not limited to GHMA commitment fees, serving fees, loan commitment fees, should all be expressed as a percentage of both gross and net income.

(8) Describe briefly the applicant's method of loan origination fee and discount amortization and the total of such balances deferred by the applicant as of the date of the latest statement of financial condition required by Item 15(a). Describe briefly the normally volatile nature of loan fee income.

(9) Describe briefly the regulatory classifications of scheduled items and the applicant's customary procedures regarding delinquent loans. As of the end of each of the

periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts and categories (slow loans, real estate owned, loans to facilitate, and others) of scheduled items and the ratio of such scheduled items to specified assets and to total assets. Where real estate owned is a significant portion of scheduled items, include a brief description of the major properties included therein and a statement as to the applicant's probable loss, if any, upon disposition of such properties.

(e) *Savings Activities.* (1) As of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts and percentages of savings accounts by categories of interest rate. As to certificates of deposit, indicate the term and minimum balances required for each. As of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts of such certificates maturing by quarter during the three years following such date and the total maturing thereafter, the percentage of such amounts to total savings.

(2) Describe the applicant's methods of computing and paying interest for both passbook savings accounts and certificates of deposit. State that the maximum rate of interest which the applicant may pay is established by the Board. State that in the event of liquidation of the applicant after conversion, savings account holders will be entitled to full payment of their accounts prior to payment to shareholders. Also, indicate the percentage of total savings accounts which are from out-of-state sources, if such total is significant.

(f) *Insurance of Accounts.* (1) Describe briefly insurance of accounts and the general regulatory authority of the Corporation.

(2) Describe briefly the Federal insurance reserve requirements, the results of failure to meet those requirements, and the applicant's Federal insurance reserve account position in relation to those requirements. Also describe the annual insurance premium payment and prepayment requirements.

(g) *Federal Home Loan Bank System.* (1) Describe briefly the Federal Home Loan Bank System and state that the applicant is a member. Such description shall include (i) limitations on borrowings, (ii) recent loan policies of the applicant's Federal Home Loan Bank and current interest rates, and (iii) Federal Home Loan Bank stock purchase requirements and the applicant's position with respect to those requirements.

(2) Describe briefly applicable liquidity requirements under section 5A of the Federal Home Loan Bank Act, as amended, the regulations thereunder, and State law. State the applicant's position with respect to those requirements.

(h) *State Savings and Loan Association Law.* If the applicant is converting to a State-chartered stock association, describe briefly applicable provisions of State law which have a material effect on the business of the applicant.

(i) *Federal and State Taxation.* Describe briefly the Federal income tax laws applicable to the applicant including (1) permissible bad debt reserves, (2) the applicant's position with respect to the maximum bad debt reserve limitations as of the date of the latest statement of financial condition required under Item 15(a), (3) future increases

in the effective income tax rate, (4) the date through which the applicant's Federal income tax returns have been audited by the Internal Revenue Service, and (5) the tax effect to the applicant of the payment of cash dividends on capital stock of the applicant after conversion. Also describe briefly the State taxation of the applicant.

(j) *Competition.* Describe the material sources of competition for savings and loan associations generally and indicate to the extent practicable the applicant's position in its principal lending and savings markets.

Instruction. In answering Item 7(j) give to the extent known the association's savings and mortgage product market shares by county in its geographic market. Also indicate its rank and any material changes or trends in its competitive standing.

(k) *Office and Other Material Properties.* (1) Furnish the location of the applicant's home office and each existing and approved branch office and other office facilities (such as mobile or satellite offices). State the total net book value of all such offices as of the date of the latest statement of financial condition required by Item 15(a). If any such office is leased, state the expiration dates of such leases.

(2) Describe briefly undeveloped land owned by the applicant, including location, net book value, and prospective use and holding period. If the applicant or a subsidiary owns or leases electronic data processing equipment principally for its own use, describe briefly such equipment indicating net book value if owned or the principal lease terms if leased.

(l) *Employees.* State the number of persons employed fulltime by the applicant including executive officers listed under Item 5. State whether employees are represented by a collective bargaining group and whether the applicant's relations with its employees is satisfactory. Summarize briefly any loans, profit sharing, retirement, medical, hospitalization or other remuneration plans provided for employees not already included pursuant to Item 6.

(m) *Service Corporations.* Describe briefly the applicant's investment in any subsidiary and the major lines of business (including any joint ventures) of the subsidiary which are material to its operations.

(n) *Pending Legal Proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the applicant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding, the relief sought and counsel's opinion as to the merits of the applicant's position in each such matter. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

(o) *Additional Information.* The Corporation may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of any of the information required by this Item or the furnishing is substitution therefor of appropriate information of comparable character. The Corporation may also require the furnishing of other information in addition to, or in substitution for, the information required by this Item in any case where such information is neces-



sary or appropriate for an adequate description of the applicant's business done or intended to be done.

**Item 8. Description of the Plan of Conversion.**

(a) A statement to the following effect shall be inserted in the proxy statement immediately preceding the information required by this Item: The Federal Home Loan Bank Board has given approval to the plan of conversion, subject to its approval by association members and the satisfaction of certain other conditions. However, such Board approval does not constitute a recommendation or endorsement of the plan by the Board.

(b) The proxy statement shall contain a description of the plan of conversion. Such description shall contain the information required by paragraphs (c) through (j) of this Item and such additional information as may be necessary to accurately describe the material provisions of the plan.

(c) Briefly describe the effects of conversion from a mutual institution to a stock institution including the following information: (1) state that savings accounts of the applicant will not be affected by the conversion with respect to such matters as balances in the accounts and the extent of insurance of savings accounts by the Corporation; (2) state whether savings and borrowing members of the applicant will continue to have voting rights in the applicant after conversion, and describe any voting rights they will have; (3) state the present liquidation rights of account holders and describe the liquidation account to be established and maintained by the applicant, including the conditions under which such account will be paid, the interest of eligible account holders and supplemental eligible account holders in such account and the formula by which such account will be adjusted; (4) state that the rights and obligations of borrowers from the applicant will not be changed in any manner; (5) state that capital stock to be sold by the applicant will not be insured by the Corporation; (6) state that none of the assets of the applicant will be distributed in order to effect the conversion other than to pay expenses incident thereto; and (7) state briefly the reasons why management is recommending the conversion, including any advantages to the community served by the applicant.

(d) With respect to the subscription offering, furnish the following information: (1) the formula to be used for determining the subscription rights of account holders to purchase shares pursuant to § 563b.3(c) (2), (4), and (5); (2) any optional provisions included in the plan of conversion pursuant to § 563b.3(d) for the purchase of shares of capital stock including the purchase priorities, limitation on total purchases, the total number of shares which may be purchased, and the formula for their allocation; (3) the allocation formulas to be used in the event that there is an oversubscription of shares at any time during the sale of stock under the plan of conversion; and (4) the use and timing of the order forms with respect to the subscription offering.

(e)(1) Set forth on a per share basis the estimated public offering price range of the shares of capital stock to be sold pursuant

to the plan of conversion; (2) state that the public offering price will be the pro forma market value of such shares based on an independent valuation; (3) state that all of the shares are required to be sold; and (4) describe briefly the results of the appraisal of the association made by an independent appraiser for the purpose of determining the estimated price range.

(f) Discuss (1) the earnings per share on a pro forma basis of the capital stock to be sold as of the end of the most recent period covered by the statements of operation required by Item 15(b)(1); and (2) the book value per share on a pro forma basis as of the date of the latest statement of financial conditions required by Item 15(a).

*Instruction.* Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock, and then after giving effect to such proceeds with all assumptions used clearly stated.

(g) With respect to the subscription offering, state the proposed commencement and expiration dates of the subscription period and describe any provisions in the plan of conversion related to the timing of the subscription offering or extension of the subscription period. Also, state (1) that a maximum subscription price will be set forth in the offering circular used for the subscription offerings; (2) that the actual subscription price will be the public offering price; (3) that the actual subscription price will not exceed the maximum subscription price shown on the order form; and (4) that any difference between the maximum and actual subscription prices will be refunded.

(h) Furnish the following information: (1) state that the converted insured institution will enter into an agreement with the Corporation in accordance with § 563b.3(i) and briefly describe the material terms of such agreement; (2) describe to the extent practicable the applicant's present intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future; (3) describe briefly the tax effect of the conversion both to the applicant and to the various classes of account holders receiving nontransferable subscription rights to purchase capital stock in the conversion, and (4) state that the plan of conversion is attached as an exhibit to the proxy statement and should be consulted for further information.

(i)(1) State whether the plan of conversion provides for the capital stock not purchased in the subscription offering to be offered to the public through underwriters or directly by the converting institution. If such is the case, provide the information to the extent known required by Item 6 of Form OC and indicate the estimated timing of the proposed offering. (2) State whether the plan of conversion provides for the purchase by any person or group of any insignificant residue of shares remaining at the conclusion of the subscription offering or the public offering.

(j) Furnish the following information in tabular form regarding proposed purchases of capital stock involving directors and officers of the applicant:

(1) State the total number of shares proposed to be purchased by all officers, direc-

tors and their associates as a group without naming them.

(2) As to each officer and director named in Item 6(a)(1)(i), name him, state his position, and the number of shares proposed to be purchased by him.

(3) As to any officer, director or associate thereof who proposes to purchase 1 percent or more of the total number of shares of capital stock of the applicant to be outstanding, name him, state his position, and the number of shares proposed to be purchased by him.

(4) With respect to the information required by (1), (2) and (3) above, indicate separately the number of shares proposed to be purchased in each offering category.

*Instruction.* With respect to the information requested as to associates of officers and directors such information is required only to the extent known. In a case where such confirmation is not obtainable, only the number of shares which the associate is given subscription rights to purchase need be disclosed.

**Item 9. Description of Capital Stock.**

(a) Furnish the following information concerning the capital stock of the applicant to be sold upon conversion:

(1) Outline briefly (i) dividend rights and restrictions; (ii) voting rights; (iii) liquidation rights; (iv) pre-emptive rights; (v) liability to further calls or to assessment by the applicant; and (vi) other material provisions.

(2) If the rights of holders of such capital stock may be modified otherwise than by a vote of a majority or more of the capital stock outstanding, voting as a class, so state and explain briefly.

(3) Outline briefly any restrictions on the repurchase or redemption of, and payment of dividends on, capital stock, or any part thereof, by the applicant.

*Instructions.* 1. This Item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the capital stock will be materially limited or qualified by the rights of savings account holders or borrowers, include such information regarding such limitation or qualification as will enable investors to understand the rights evidenced by the capital stock.

(b) An undertaking should be included in the proxy statement that the applicant where practical will use its best efforts to encourage and assist a professional market maker in establishing and maintaining a market for the capital stock of the applicant.

(c) Outline briefly the trading market that is expected to exist for the capital stock following the conversion including the estimated number of market members and stockholders, and the anticipated success of the applicant in listing the stock.

*Instructions.* Any discussion of the listing of the applicant's stock should include the basic requirement that must be met for such listing.

**Item 10. Capitalization.**

Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant:

|                                      | (A)<br>Capitalization<br>as of latest<br>statement of<br>condition date | (B)<br>Adjustments<br>as a result<br>of conversion | (C)<br>Pro-forma<br>capitalization<br>after giving<br>effect to the<br>conversion |
|--------------------------------------|---|--|---|
| 1. Saving accounts.....              | \$.....   | \$.....  | \$.....   |
| 2. FHL bank advances.....            | .....   | .....  | .....   |
| 3. Subordinated debt securities..... | .....   | .....  | .....   |
| 4. Other borrowings.....             | .....   | .....  | .....   |
| 5. Capital stock.....                | .....   | .....  | .....   |
| 6. Paid in capital.....              | .....   | .....  | .....   |
| 7. Undivided profits.....            | .....   | .....  | .....   |
| 8. Federal insurance reserve.....    | .....   | .....  | .....   |
| 9. Other reserves.....               | .....   | .....  | .....   |
| 10. Total.....                       | .....   | .....  | .....   |

*Instructions.* 1. With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, and the number of shares to be sold as part of the conversion.

2. With respect to the funds to be received by the applicant from the sale of its capital stock, indicate in the table the estimated total amount of funds to be obtained and in a footnote state the price per share used in making such estimate. Such total amount and price per share shall be clearly identified as being estimates.

**Item 11. Use of New Capital.**

State the principal purposes for which the net proceeds to the applicant from the capital stock to be sold are intended to be invested or otherwise used, and the approximate amount intended for each such purpose.

*Instruction.* Details of proposed investments are not to be given. There need be furnished, for example, only a brief statement of any investment or other activity of the applicant which will be affected materially by availability of the proceeds. Examples of such activities may include expanded secondary market activities, larger scale lending projects, loan portfolio diversification, increased liquidity investments, repayment of debt, additional branch offices and other facilities, service corporation investments, and acquisitions.

**Item 12. Stock Option Plan.**

If action is to be taken with respect to the granting to officers and employees of any stock options to purchase capital stock of the applicant to take effect after conversion, furnish the following information:

(a) State (1) the title and number of shares to be called for by such options; (2) the prices, expiration dates and other material conditions upon which the options may be exercised; (3) the consideration to be received by the applicant for the granting of the options and (4) the Federal income tax consequences of the issuance and exercise of such options to the recipient and to the applicant.

(b) State separately the amount of options to be received by the following persons, naming each such person: (1) each director or officer named in answer to Item 6(a)(1)(i); (2) each associate of such directors or officers; and (3) each other person who is to receive five percent or more of such options to be received by all directors and officers of the applicant as a group, without naming them.

(c) Furnish such information, in addition to that required by Item 6, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit

sharing, pension, retirement, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 6(a)(1)(i) who may participate in the stock option plan to be acted upon; (ii) all directors and officers of the applicant as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

*Instructions.* The term "plan" as used in paragraph (c) of this Item means any plan as defined in Instruction 1 to Item 6(b).

State whether the adoption of any stock option or purchase plan is contemplated following the completion of the conversion. If so, indicate the material terms of the proposed plan.

**Item 13. New Charter, Bylaws or Other Documents.**

Describe briefly any material differences between the provisions of existing charter, bylaws and any similar documents of the applicant and those which will take effect after conversion, including, if applicable, the optional charter provision provided for in § 563b.3(i)(3).

*Instruction.* This Item requires only a brief summary of the provisions which are pertinent from both an investment standpoint and a voting standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions verbatim; only a succinct resume is required.

**Item 14. Other Matters.**

State that the applicant will register its capital stock under section 12(g) of the Securities Exchange Act of 1934, as amended, and that it will not deregister such stock for a period of three years. It should be noted that upon such registration the proxy rules, insider trading reporting and restrictions, annual and periodic reporting and other requirements of that Act will be applicable.

**Item 15. Financial Statements.**

Notes: 1. The following instructions specify the statements of financial condition, the statement of operations and statements of stockholders' equity required to be included in the proxy statement. Section 563c.1 governs the certification, form and content of such financial statements including the basis of consolidation.

2. If the applicant has previously used an audit period in connection with its certified financial statements which does not coincide with its fiscal year, such audit period may be used in place of any fiscal year requirement provided it covers a full twelve months' operations and is used consistently.

3. To enable investors to understand and

evaluate material periodic changes in the various items of the statement of operations, a separately captioned section (entitled "Management's Discussion and Analysis of the Statement of Operation") immediately following such statement of operation should include a statement explaining (1) material changes from period to period in the amounts of the items of revenues and expenses, and (2) changes in accounting principles or practices or in the method of their application that have a material effect on net income as reported. The purpose of this statement is to provide investors with management's analysis of the financial data included in the statement of operation through a discussion of the causes of material changes in the items of the statement of operation and of disclosure of the dollar amount of each such change and the effect of each such change on the reported results for the applicable periods. This discussion is necessary to enable investors to compare periodic results of operations and to assess the source and probability of recurrence of earning (losses). The analysis should include a discussion of material facts, whether favorable or unfavorable, which, in the opinion of management, may make historical operation or earnings as reported in the statement of operations not indicative of current or future operations or earnings.

(a) In general, the discussion of material periodic changes should be limited to: (1) the latest interim period presented and the comparable interim period in the immediately preceding fiscal year; (2) the most recent fiscal year presented and the fiscal year immediately preceding it; and (3) the second most recent fiscal year presented and the fiscal year immediately preceding it. There may be circumstances, however, under which an explanation of revenue or expense item changes between two or more of the earlier periods of the five year summary may be material to an understanding of the summary. Further, to better explain revenue and expense items changes for interim periods it may be necessary to give an analysis of changes between consecutive fiscal quarters.

(b) While it is not feasible to specify all subjects which should be covered in the discussion and analysis of the statement of operation, the following are examples which applicants should consider in making disclosure:

1. Material changes in the revenues generated by types of operation;
2. Material changes in the line items contained in the statement of operations;
3. Material changes in advertising, promotion or other discretionary costs;
4. The acquisition or disposition of a material asset other than in the ordinary course of business;
5. Material and unusual charges or gains, including credits or charges associated with discontinuation of operations;
6. Material changes in assumptions underlying deferred costs and/or income and the plan for amortization of such costs or income;
7. Material changes in the associations categorized or nonproductive, slow loans or scheduled items;
8. Material changes of any kind in the statements of condition and/or operations of a subsidiary; and
9. Material concentration of loans made to one or more borrowers.

(c) The textual analysis should be presented in a manner that will best communicate the significant elements necessary to a clear



understanding by the investor of the financial results. Favorable as well as unfavorable trends and changes should be discussed. Tables and charts may be used where appropriate. A mechanistic approach to this analysis which uses boiler plate or mere notation of percentage change by classification or line item should be avoided.

(d) A discussion of a change in an item of revenue or expense generally is required when an item required to be set forth in the statement of operations or disclosed pursuant to Section 563c.7(a) through (v) increased or decreased by more than 10% as compared to the prior period (but only if such prior period is presented), and increased or decreased by more than 2% of the average net income or loss for the most recent three years presented. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent years, the average loss shall be used for purposes of this test. Should the applicant be of the opinion that an explanation of a change is not necessary to an understanding of the statement of operations even though the change meets the foregoing standards, the applicant shall furnish the Corporation, as supplemental information, a written statement of the reasons for the omission.

(e) Notwithstanding the fact that a change in an item of revenue or expense does not meet the standards set forth in paragraph (d) it should be discussed if the applicant believes an explanation of such a change is necessary to an understanding of the statement of operations.

(f) When the text of the proxy statement or offering circular contains a discussion of factors indicating a material change in operating results, whether favorable or unfavorable subsequent to the latest period included in the statement of operations the management discussion and analysis should call attention to the change and refer to the place in the proxy statement or offering circular where it is discussed.

(a) *Statements of Financial Condition of the Applicant.* (1) Furnish certified statements of financial condition as of the close of the applicant's latest fiscal year and as of the close of the preceding fiscal year. (2) If the latest statement furnished under (1) is in excess of 120 days from the date of filing of the application for conversion, or any amendment thereto, furnish an additional statement of financial condition as of a date within 120 days of such filing. This additional statement need not be certified.

(b) *Statements of Operations and Statement of Stockholders' Equity.* Furnish in comparative columnar form statements of operations and statements of stockholders' equity of the applicant (1) for each of the five fiscal years preceding the date of the statement of financial condition as of the close of the applicant's latest fiscal year filed under paragraph (a) and (2) for the period, if any, between the close of the latest of such fiscal years and the date of the statement of financial condition filed under paragraph (a). Furnish a statement of operations for the period comparable to (b)(2) in the immediately preceding fiscal year. Statements for the three latest fiscal years under (b)(1) shall be certified.

*Instructions.* 1. Reflect information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the proxy statement. In-

clude comparable data for any additional fiscal years necessary to keep the statements from being misleading. The statements shall reflect the retroactive adjustment of any material items affecting the comparability of the results.

2. In connection with capital stock sold pursuant to the plan of conversion, the statements shall reflect earnings that would have been applicable to such outstanding stock.

(c) *Statements of Changes in Financial Position.* Furnish certified statements of changes in financial position (1) for each of the three fiscal years preceding the date of the latest statement of financial condition filed under paragraph (a) and (2) furnish a statement for the period if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed under paragraph (a). This additional statement need not be certified.

(d) *Omission of Applicant's Statements in Certain Cases.* Notwithstanding paragraphs (a), (b), and (c), the individual financial statements of the applicant may be omitted if (1) the conditions specified in either of the following paragraphs are met, and (2) the Corporation is advised as to the reasons for such omission.

(1) The applicant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally-held subsidiaries; or

(2) The applicant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85% or more of the total assets shown by the consolidated statement of financial condition filed and the applicant's total gross revenues for the period for which its statements of operations would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85% or more of the total gross revenue shown by the consolidated statements of operations filed.

(e)(1) *Consolidated Statements.* Furnish consolidated statements for the same periods and as of the same dates as would be required for the applicant. These statements shall be certified as would be required for the applicant's statements. (Paragraphs (a), (b), and (c) above).

(2) *Unconsolidated Subsidiaries and Other Persons.* Subject to 563c.1(q)(2) regarding group statements of unconsolidated subsidiaries, there shall be set forth for each majority-owned subsidiary of the applicant not consolidated the financial statements which would be required if the subsidiary were itself an applicant. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the applicant.

(3) *Fifty-Percent-Owned Persons and Other Persons.* If the applicant owns directly or indirectly approximately 50 per cent of the voting securities of any person and approximately 50 per cent of the voting securities of such person is owned directly or indirectly by another single interest, or if the applicant takes up the equity in undistributed earnings of any other unconsolidated person, there shall be set forth for each such person the financial statements which would be required if it were an applicant, subject to 563c.1(q)(2) regarding group statements. The statements set forth for each person shall identify the other single interest, or other interests in any person operated jointly.

(4) *Omission of Statements Required by Paragraphs (2) and (3).* Notwithstanding paragraphs (2) and (3), there may be omitted from the proxy statement all financial statements of any one or more unconsolidated subsidiaries or 50-percent-owned persons or other persons: (1) if all such subsidiaries and 50-percent-owned and other persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary; or (2) if the income from the subsidiary reported by the applicant does not exceed 10 per cent of the consolidated net income for the latest

(f) *Special Provisions.* (1) *Succession to Other Business.* (i) If during the period for which its statements of operations are required, the applicant has by merger, consolidation or otherwise succeeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the statements of financial condition set forth. In addition, statements of operations for each constituent business, or combined statements if appropriate, shall be set forth for such period prior to the succession as may be necessary when added to the time, if any, for which statements of operations after the succession are set forth to cover the equivalent of the period specified in paragraph (a), (b), and (c) above.

(ii) If the applicant by merger, consolidation or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined, if appropriate, which would be required by these instructions. In addition, there shall be set forth a statement of financial condition of the applicant giving effect to the plan of succession. These statements of financial condition shall be set forth in such form, preferably columnar, as will show in related manner the statements of financial condition of the constituent business, the changes to be effected in the succession and the statement of financial condition of the applicant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(iii) This subparagraph (1) shall not apply with respect to the applicant's succession to the business of any totally-held subsidiary, or to the acquisition of one or more businesses by purchase if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(2) *Acquisition of Other Businesses.* (i) There shall be set forth for any business directly or indirectly acquired by the applicant after the date of the statement of financial condition set forth pursuant to paragraph (a) and for any business to be directly or indirectly acquired by the applicant, the financial statements which would be required if such business were an applicant.

(ii) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(iii) No financial statements need be set forth pursuant to this subparagraph (2), however, for any business acquired or to be acquired from a totally-held subsidiary. In addition, the statements of any one or more businesses may be omitted if such business-

es, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(g) *Filing of Other Statements in Certain Cases.* The Corporation may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of one or more of the statements herein required or the filing in substitution thereof of appropriate statements of comparable character. The Corporation may also require the inclusion of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of account holders and others.

(h) *Historical Financial Information.* (1) *Applicability of Paragraph (h).* The information required by this paragraph (h) shall be included in the proxy statement if in the opinion of the applicant it is material to the understanding of its financial condition. If the applicant determines to omit the information required by this paragraph, it shall file with its application for conversion a statement briefly explaining such omission.

(2) *Scope of Paragraph (h).* The information required by paragraph (h) shall be furnished for the seven-year period preceding the period for which statements of operations are set forth, as to the accounts of each person whose statement of financial condition is set forth. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Paragraph (h) does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to account holders and others.

(3) *Revaluation of Property.*

(i) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state (a) in what year or years such revaluations were made; (b) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (c) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(ii) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluations made for the purpose of entering on the books current values, reproduction cost or any values other than original cost.

(iii) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

(4) *Other Changes in Surplus.* If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration of payment of dividends, state (i) the year or years in which such increases or decreases were made; (ii) the nature and amounts thereof; and (iii) the accounts affected, including all material related entries. Paragraph (3)(iii) shall also apply here.

## OFFERING CIRCULAR FORM

## Item 1. Information Required by and use of Form OC.

The offering circular shall be dated as of the date of its issuance. The offering circular shall contain substantially the same information required to be included in the proxy statement of the applicant distributed to association members to vote upon the plan of conversion. Information of the type required to be included in the proxy statement may be omitted from the offering circular only to the extent that it is clearly inapplicable. The offering circular may be in "wrap around" form with the proxy statement attached.

*Instructions 1.* The term "offering circular" refers to both the offering circular for the subscription offering and the offering circular for the public offering through an Underwriter or the direct community marketing by the converting insured institution of the unsubscribed shares, unless otherwise indicated.

2. The offering circular shall include such information which the General Counsel or Director of the Securities Division of the Office of General Counsel, by interpretive release or otherwise, has deemed necessary to comply with this Form OC.

3. An offering circular for the subscription offering in "wrap around" form distributed to association members and other persons who have previously been furnished a copy of the proxy statement need not contain the proxy statement as an attachment provided such offering circular states that a copy of the proxy statement has previously been furnished to such persons and that an additional copy thereof will be furnished promptly upon request to the applicant (with the telephone number and mailing address of the applicant stated).

## Item 2. Additional Current Information Required.

The final offering circular for the subscription offering, the preliminary offering circular for the public offering or the direct community marketing used during the subscription period and the final offering circular for the public offering or the direct community marketing shall as of their respective dates of issuance include, to the extent available, the following additional current information to the extent that such information is not already included in the proxy statement:

(a) Information with respect to the vote of association members upon the plan of conversion and any other proposals considered at the meeting of members;

(b) Information with respect to any recent material developments in the business or affairs of the applicant;

(c) Information with respect to the trading market that is expected to exist for the capital stock following the conversion.

(d) Information, on the outside front cover page, summarizing the results of the subscription offering including the number of shares sold to eligible account holders, voting members and others, the price at which the shares were sold, and the number of unsubscribed shares.

(e) Any other information necessary to make such offering circular current, including full financial statements of the applicant within six months prior to the date of issuance of such offering circular.

(5) *Predecessors.* The information shall be furnished, to the extent it is material, as to any predecessor of the applicant from the beginning of the period to that date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

(6) *Omission of Certain Information.*

(i) No information need be furnished as to any subsidiary whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the applicant or of the predecessor for which information is required above.

(ii) No information need be furnished to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(iii) Only the information specified in paragraph (3) need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession thereto by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

## Item 16. Consents of Experts and Reports.

(a) The proxy statement shall briefly describe all consents of experts filed pursuant to section 563b.8(p).

(b) The statement shall contain a report of the independent public accountants who have certified the financial statements and other matters in the statement.

*Instruction.* The instruction to Item 13 shall apply to paragraph (a) of this Item.

## Item 17. Attachments.

There shall be attached to the proxy statement distributed to association members and others a copy of the applicant's plan of conversion as approved by the Corporation. There may also be attached to such statement a copy of any stock option plan described under Item 12.

## FORM OC

(Facing Sheet)

## FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation

1700 G Street, N.W.

Washington, D.C. 20552

Offering Circular

(Exact name of Applicant as specified in charter)

(Street address of applicant)

(City, State and Zip Code)



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# RULES AND REGULATIONS

## Item 3. Statement Required in Offering Circulars.

There shall be set forth on the outside cover page of every offering circular the following statement in capital letters printed in bold-face Roman type at least as large as ten-point modern type and at least two points leaded:

THESE SHARES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE FEDERAL HOME LOAN BANK BOARD OR FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION NOR HAS SUCH BOARD OR CORPORATION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFERING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

## Item 4. Preliminary Offering Circular.

The outside front cover page of any preliminary offering circular shall bear, in red ink, the caption "Preliminary Offering Circular", the date of its issuance, and the following statement printed in type as large as that used generally in the body of such offering circular:

"This offering circular has been filed with the Federal Savings and Loan Insurance Corporation, but has not been authorized for use in final form. Information contained herein is subject to completion or amendment. The shares covered hereby may not be sold nor may offers to buy be accepted prior to the time the offering circular is declared effective by the Federal Savings and Loan Insurance Corporation. This offering circular shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these shares in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State."

## Item 5. Information with respect to Subscription Offering.

The offering circular used for the subscription offering shall describe all material terms of the subscription offering to the extent that such description is not already in the proxy statement. Such terms include the expiration date, any subscription agent, method of exercising subscription rights, payment for shares, delivery of stock certificates for shares purchased, maximum subscription price, possible reduction of subscription price, relationship of subscription price to public offering price, requirement that all unsubscribed shares be sold, and any other material conditions of the subscription offering.

## Item 6. Information With respect to Public Offering or Direct Community Marketing.

The offering circular for the subscription offering and the offering circular for the public offering or direct community marketing shall both describe the material terms of the plan or plans of distribution for all unsubscribed shares of capital stock not purchased by account holders or others pursuant to the subscription offering to the extent such description is not already in the proxy statement, including the following:

(a) If the shares are to be offered through underwriters, the outside front cover page of both offering circulars shall give the information called for by this paragraph. In the case of the offering circular for a public offering, such information shall be given in substantially the tabular form set forth below. In the case of the offering circular for the subscription offering, and the direct community marketing such information may be given in narrative form. If the information is not known at the time of the subscription offering, so state and estimate.

|                | Underwriting<br>Price to public | discounts<br>and<br>commissions | Proceeds to<br>applicant |
|----------------|---------------------------------|---------------------------------|--------------------------|
| Per share..... | \$.....                         | \$.....                         | \$.....                  |
| Total.....     | \$.....                         | \$.....                         | \$.....                  |

(b) An offering circular for a public offering or direct community marketing may omit the description for the subscription offering required by Item 5.

(c) If the unsubscribed shares are to be offered through underwriters, the offering circular for the public offering shall state the names of the principal underwriters and the respective amounts underwritten by each. The names of the principal underwriters other than the managing underwriters and the respective amounts to be underwritten may be omitted from the offering circular for the subscription offering. Both offering circulars shall identify each principal underwriter having a material relationship to the applicant and state the nature of the relationship. Both underwriting circulars shall state briefly the nature of the underwriters' obligation to take the unsubscribed shares.

(d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. Such information may be

omitted from the offering circular for the subscription offering.

(e) If the unsubscribed shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. Such information may be omitted from the offering circular for the subscription offering.

Instructions. 1. Commissions include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings made with or for the benefit of any persons in which any underwriter or dealer is interested, in connection with the sale of the shares.

2. Only commissions paid by the applicant in cash are to be included in the table. Any other consideration to the underwriters shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.

3. All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the shares if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such shares as they may sell to the public. Conditions precedent to the underwriters' taking the shares, including customary "market outs", need not be described. If a "best efforts" arrangement is used, describe any standby commitments for shares not sold.

(f) If the unsubscribed shares are to be sold by the converting insured institution by direct community marketing, indicate the timing of the offering, the geographical area wherein the offering will be made, the method to be employed to market the shares including the frequency and nature of communications or contacts with potential purchasers, any preferences that will be given any such geographical area or class of potential purchasers and the limitations on purchases by potential purchaser.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,  
Secretary.

[FR Doc. 79-9579 Filed 3-28-79; 8:45 am]

THURSDAY, MARCH 29, 1979

## PART VI



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

## BILINGUAL EDUCATION

Interim Final Regulations and  
Notices of Closing Dates for Grant  
Applications for Fiscal Year 1979



[4110-02-M]

## Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION,  
DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## PART 123—BILINGUAL EDUCATION

## Interim Final Regulations

AGENCY: Office of Education; HEW.

ACTION: Interim Final Regulations.

**SUMMARY:** The Commissioner amends existing regulations for the purpose of governing awards under the Bilingual Education Act made in fiscal year 1979. The amendments implement changes made by the Education Amendments of 1978. These interim final regulations are necessary because it is not possible to use regular procedures for proposed rulemaking and still make awards on a timely basis.

**EFFECTIVE DATE:** These interim final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the *FEDERAL REGISTER*. The effective date is changed if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these interim final regulations, call or write the Office of Education contact person.

**ADDRESSES:** Any comments or questions concerning these interim final regulations should be addressed to Ms. Barbara Wells, U.S. Office of Education, 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202. Telephone: 202-447-9273.

FOR FURTHER INFORMATION  
CONTACT:

Ms. Barbara Wells, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: 202-447-9273.

## SUPPLEMENTARY INFORMATION:

WAIVER OF PROPOSED RULEMAKING  
PROCEDURES

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), it has been the practice of the Office of Education to offer interested parties the opportunity to review and comment on proposed regulations. For the reasons described in the following paragraphs, the use of this practice in connection with these interim final regulations is impracticable and contrary to the public interest under 5 U.S.C. 553(b).

Regulations needed to implement changes in the Bilingual Education Act made by the Education Amendments of 1978 must become effective in time to make awards in fiscal year (FY) 1979. The use of regular procedures for proposed rulemaking would involve a substantial delay in the effective date of the regulations resulting from: (1) The period for public comment, and (2) a further period for the review of any comments received and preparation, clearance, and publication of regulations in final form.

Given these considerations, the Commissioner has determined that final regulations would not be in effect in time to govern timely awards for assistance for the coming school year if regular procedures for proposed rulemaking were used. As a result, these regulations are being published as interim final regulations. They govern only FY 1979 awards.

More comprehensive amendments to the regulations will be developed to govern awards in FY 1980 and subsequent years. The Commissioner will use regular procedures for proposed rulemaking in preparing those amendments.

While the interim final regulations are issued as a final rule, comments on them are welcomed. These comments will be considered in developing the comprehensive amendments to the regulations for FY 1980. In addition, if the comments indicate that provisions of these interim final regulations are substantially incorrect in their direction, the Commissioner may make changes in these interim final regulations to govern awards for 1979.

## SCOPE OF INTERIM FINAL REGULATIONS

Awards made in FY 1979 will be based on the existing program regulations (45 CFR Parts 123 *et seq.*) subject to—

1. Amendments to the Bilingual Education Act enacted by the Education Amendments of 1978; and
2. Amendments to the existing regulations contained in this document.

A number of the statutory changes are self-explanatory and do not require the development of regulations for FY 1979. The major self-explanatory statutory changes affecting grants that will be awarded this year are listed under Heading I. Amendments to the existing regulations needed to implement changes in the statute for FY 1979 are listed under Heading II. The application package will contain a modified version of the existing regulations reflecting both the self-explanatory changes and the amendments to the regulations.

I. SELF-EXPLANATORY STATUTORY  
CHANGES

The following major changes to the Bilingual Education Act ("the Act") were enacted by the Education Amendments of 1978 and are referred to as the self-explanatory statutory changes. These changes will be implemented without the development of regulations for FY 1979.

A. The statute defines a program of bilingual education as a program of instruction in elementary or secondary schools designed for children of limited English proficiency. The program shall include instruction given in, and the study of, English. The native language of the children of limited English proficiency shall be used to the extent that is necessary to allow these children—

1. To achieve competence in the English language; and
2. To progress effectively through the educational system.

The program's instruction shall be given with appreciation for the cultural heritage of children of limited English proficiency and of other children in American society.

B. All references in the statute to "children of limited English speaking ability" are replaced by references to "children of limited English proficiency." The term "limited English proficiency," as defined by the statute, refers to individuals who have sufficient difficulty speaking, reading, writing, or understanding the English language to deny them the opportunity to learn successfully in classrooms in which the language of instruction is English. These individuals are of limited English proficiency if they—

1. Were not born in the United States or their native language is a language other than English; or
2. Come from environments where a language other than English is dominant; or
3. Are American Indian or Alaskan Native students and come from environments where a language other than English has had significant impact on their level of English language proficiency.

C. In order to prevent the segregation of children on the basis of national origin, the statute provides that a program of bilingual education may include the participation of children whose language is English. These children may not make up more than 40 percent of the children in the program and participate in the program in order to assist children of limited English proficiency improve their English language skills. The program may provide for centralization of teacher training and curriculum development, but the program shall serve the children in the schools that they normally attend.

D. The statute provides that parents of children participating in a program of bilingual education shall be informed of—

1. The instructional goals of the program; and
2. The progress of their children in the program.

E. The statute provides that the Commissioner may not issue a termination order to a local educational agency (LEA) under the following circumstances:

1. The LEA shows adequate progress in meeting the goals of the Act and demonstrates it is fiscally unable to provide a bilingual education program without assistance; and
2. The LEA meets one of the following requirements:

a. The number of children of limited English proficiency participating in the program is substantial; or

b. There has been a recent, substantial increase in the number of children of limited English proficiency enrolled in the program; or

c. The LEA is required to comply with a court order or a plan approved by the Secretary of Health, Education, and Welfare under Title VI of the Civil Rights Act of 1964 regarding services to be provided for children of limited English proficiency.

3. In issuing a termination order, the Commissioner—

a. Determines—after giving the LEA notice and opportunity for a hearing—that a school or group of schools does not have a long-term need for continued assistance.

b. Issues a termination order requesting the LEA to submit, within one year, an application setting forth a schedule under which the school or group of schools will stop receiving assistance in five years.

c. Provides the LEA with an opportunity to request the Commissioner to review the termination order within 60 days of its issuance.

d. Reduces the amount made available for the third, fourth, or fifth year of the project to ensure that the LEA gradually assumes the cost of the project.

e. Annually reviews the conditions in the school(s) for which a termination order was issued.

f. Withdraws the termination order if changed conditions warrant withdrawal.

4. A project approved for multi-year funding prior to October 1, 1978 may continue to receive funds for the duration of the project.

F. The statute provides that an application for a grant for a bilingual education program may be approved only if the Commissioner determines that—

1. The program of bilingual education will use the most qualified person-

nel, including, to the extent possible, only those personnel who are proficient both in English and in the language of instruction;

2. The program includes a plan for evaluation;

3. In designing the program, the applicant has taken into account the needs of private school children by—

a. Consulting with private school officials; and

b. Providing for the participation of private school children in the program if their educational needs, language, and grade levels are similar to those of the public, school children to be served.

The services provided these private school children shall be comparable to the services provided public school children.

4. The assistance will help build the applicant's capacity to provide a program of bilingual education on a regular basis. That program shall be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency;

5. The applicant will have sufficient resources and commitment to continue the program of bilingual education when Federal assistance is reduced or no longer available;

6. The program will—

a. Serve those children most in need of assistance;

b. Provide measurable goals for determining when these children no longer need assistance. This shall include individual evaluations every two years for children enrolled in the program; and

c. Provide follow-up services from State and local sources to sustain the academic achievement of children after they leave the program.

G. The statute provides that an application for a project or activity under part A of the Act may be approved only if the Commissioner determines that—

1. Federal funds will be used to supplement, and not supplant, State and local funds that would have been expended for special programs for children of limited English proficiency in the absence of Federal funds. However, the statute states that nothing in this provision precludes an LEA from using funds under the Act to carry out activities under a court order or a plan approved by the Secretary of Health, Education, and Welfare as meeting the requirements of Title VI of the Civil Rights Act of 1964 with respect to services to children of limited English proficiency; and

2. To the extent possible, personnel recruited and employed to carry out projects and activities under the Act will be bilingual.

H. The statute provides that programs of bilingual education in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed to meet the needs of—

1. Children of limited English proficiency; and

2. Children of limited Spanish proficiency.

I. The statute provides that an LEA's application may cover a project period of from one to three years. The length of time for which it is approved shall be based on—

1. The severity and likely duration of the problems addressed by the program; and

2. The nature of the proposed activities.

J. The statute provides that an LEA that has had a project approved for a period of more than one year need not submit another application for that project until that period has expired, unless it proposes to carry out new activities. After the first year of the project period, the Commissioner continues the funding only if—

1. Sufficient appropriations are available;

2. The LEA is still eligible for assistance; and

3. The LEA demonstrates that satisfactory progress is being made toward meeting the objectives of the program.

K. The statute provides that if an applicant is unable or unwilling to provide for the participation of children of limited English proficiency enrolled in nonprofit private schools in the area to be served, the Commissioner shall either—

1. Withhold approval of the application until the applicant demonstrates that it will provide for their participation in the program; or

2. Reduce the amount of the grant. The reduction shall be equal to the amount required to arrange to assess the needs of nonprofit private school children for a program of bilingual instruction and to carry out that program.

L. The statute defines "eligible applicants" for the purposes of section 723 of the Act (relating to all training activities, including training resource centers) as—

1. Institutions of higher education and nonprofit private organizations that apply jointly or after consultation with one or more LEAs or a State educational agency (SEA);

2. LEAs; and

3. SEAs.

II. AMENDMENTS TO EXISTING  
REGULATIONS

Provisions of the Education Amendments of 1978 that are not self-ex-



## RULES AND REGULATIONS

planatory and require regulations in FY 1979 follow:

A. The statute requires that an applicant establish both an advisory council and an advisory committee.

## 1. Advisory Council:

The advisory council shall have a majority of parents and other representatives of children of limited English proficiency. The council's role is to advise applicants during the preparation of the application. The applicant shall describe how the council members were selected. The council shall comment on the application and document the extent to which it was consulted.

## 2. Advisory Committee:

The advisory committee shall have a majority of parents of children of limited English proficiency. The committee's role is to participate in the implementation and operation of the program. The committee shall be selected by parents of participating children.

B. The statute provides that before approving an LEA's application the Commissioner shall determine that adequate funds will be spent for auxiliary and supplementary training under a basic program.

In order for the Commissioner to determine that adequate funds are provided for, the regulations require an LEA to conduct a needs assessment of its staff and to submit to the Commissioner a comprehensive staff development plan addressing the needs.

C. The statute provides that the Commissioner shall prescribe the authorized training activities for the basic program (subpart B of the regulations) and for the training program (subpart D). The regulations list the type of training activities that are authorized.

D. The statute provides that the Commissioner shall prescribe activities which satisfy the work requirement under the fellowship program. The regulations list the type of activities that are authorized to satisfy the work requirement.

E. The regulations also contain—

1. Procedures for paying back assistance if a fellowship recipient does not work in an authorized activity; and

2. Circumstances under which the Commissioner will grant a waiver or a deferment of the repayment requirement.

F. Some requirements in the Education Amendments of 1978 that are self-explanatory and for which no new regulations have been written are the basis for additional criteria for assistance. These additional criteria are included in the new regulations. The requirements on which they are based are listed in paragraphs F and G under Heading I.

## CITATION OF LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of these interim final regulations has been placed in parentheses on the line following the text of the section.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: February 2, 1979.

JAMES PICKMAN,  
Acting U.S. Commissioner  
of Education.

Approved: March 18, 1979.

HALE CHAMPION,  
Acting Secretary of Health,  
Education, and Welfare.

Part 123 of Title 45 of the Code of Federal Regulations is amended as follows:

1. The table of contents is amended by adding an entry for new § 123.35 and revising the authority citation to read as follows:

## SUBPART D—TRAINING PROGRAMS

Sec.  
123.35 Funding procedures.  
123.36–123.40 [Reserved]

AUTHORITY: Title VII of the Elementary and Secondary Education Act of 1965, as amended. 92 Stat. 2268–2282 (20 U.S.C. 3221–3252).

2. Section 123.12 (c)(1)–(4) is revised and a new paragraph (e) is added as follows:

## § 123.12 Authorized activities.

(c) Providing auxiliary and supplementary training activities for all persons, including paraprofessionals, who conduct or who are preparing to conduct basic programs. The following activities are authorized:

(1) Necessary language training in the languages used in the basic program;

(2) Opportunities for career development, including opportunities to:

(i) Enroll in degree programs in bilingual education at institutions of higher education; and

(ii) Improve the special skills necessary to conduct a program of bilingual education;

(3) Training designed to help participants meet State certification requirements for teachers; and

(4) Any other training activity for which the Commissioner gives prior written approval.

(e) The Commissioner may pay stipends to persons participating in any of the training activities described in paragraph (c) of this section.

(20 U.S.C. 3231(a), 3233(a)(7))

3. Section 123.13(c) is revised and paragraph (f) is added as follows:

## § 123.13 Requirements of a basic program.

(c) An applicant shall:

(1) Include in its budget for a basic program adequate funds for the auxiliary and supplementary training activities described in § 123.12(c) for its teachers, counselors, paraprofessionals, and any other persons who conduct or are preparing to conduct basic programs;

(2) Include in its application a comprehensive plan for providing the training activities on the basis of an assessment of the needs of its personnel for these activities;

(3) Include in its application a copy of the needs assessment.

(20 U.S.C. 3231(d)(3)(B), (b)(3)(B))

(f)(1) A recipient of funds under this subpart may use these funds only to supplement, and not to supplant, State and local funds that, in the absence of these Federal funds, would have been spent for special programs for children of limited English proficiency.

(2) Notwithstanding the requirement of paragraph (f)(1) of this section, a local educational agency may use funds under this subpart in order to:

(i) Comply with an order of a court of the United States or of any State concerning services to be provided to children of limited English proficiency; or

(ii) Carry out a plan, approved by the Secretary—as meeting the requirements of Title VI of the Civil Rights Act of 1964—to provide services to children of limited English proficiency.

(20 U.S.C. 3231(b)(3)(G))

4. Section 123.14(b)(5)(i) is revised and (b)(7)(iii)(D) is added; (b)(10) is revised; (b)(11)–(14) are added as follows:

## § 123.14 Applications.

(b) . . .

(5)(i)(A) The number and percentage of children of limited English proficiency enrolled in the schools of the applicant local educational agency or agencies as of the date of the application, including those who have never participated in a Federal program of bilingual education; and

(B) Among those children in (A), the number and percentage of those who are from low-income families.

(7)(iii)(D) Provision for setting measurable goals for determining when children enrolled in a bilingual education program under this part no longer need assistance in developing English language proficiency. This includes an individual evaluation of each child who has been enrolled in a bilingual education program under this part for two years to determine if the child should remain in the program;

(10) Cross-reference. The assurances and information described in § 123.16 and § 123.17 and an assurance that the requirement of § 123.13(f) will be met.

(11) Capacity building. A description of how the assistance provided under this part will contribute toward building the applicant's capacity to provide a program of bilingual education.

(12) State and local resources. A description of State and local resources that the applicant will use to continue the program when assistance under this part is no longer available, including its plan for providing follow-up services to sustain the academic achievement of children after they have left the program.

(13) Use of bilingual personnel. A description of the extent to which the applicant will recruit, hire, and use in the program of bilingual education personnel who are bilingual.

(14) Commitment. Evidence of the applicant's commitment to continue a program of bilingual education when Federal assistance is no longer available.

(20 U.S.C. 3231(b)(1), (b)(3), (b)(4); 1232(a)(1), (2), (b)(3))

5. Section 123.15(a)(1)(i) is revised and (iv) is added; (a)(2)(ii)(D) and (2)(iii) are revised; (a)(2)(iv)(B) is revised and (C) is added; (a)(2)(vi) and (vii) are added; (a)(3)(iii) and (v) are revised; (a)(3)(vi) is added to read as follows:

## § 123.15 Criteria for assistance.

(a)(1)(i) The number and percentage of children of limited English proficiency enrolled in the schools of the applicant local educational agency or agencies as of the date of the application; and, among those children, the

## RULES AND REGULATIONS

number and percentage from low-income families.

(iv) The extent to which the applicant demonstrates that the proposed program will serve children who have never participated in programs of bilingual education under this title or under similar Federal programs.

(2)(ii)(D) Affords promise of facilitating among children of limited English proficiency conceptual development and the improvement of skills in speaking, reading, writing, and understanding English in order to permit these children to progress through the educational system at the same rate as other children of the same age and ability; and

(iii) The quality of the applicant's plan to:

(A) Ensure, through selective criteria, that services are provided to children most in need of assistance;

(B) Identify participating children who have achieved proficiency in English;

(C) Provide for the transfer of these students to English language classrooms;

(D) Provide services from State and local funds to sustain the academic achievement of children who have left the program;

(iv)(B) Demonstrates that the advisory council described in § 123.17(a) participated extensively in planning the proposed program;

(C) Provides for the extensive participation of the advisory committee described in § 123.17(b) in implementing and operating the proposed program;

(vi) The quality of the applicant's plan to use, recruit, and employ, to the extent possible, the services of persons with proficiency both in the native language of participating children and in English to carry out the basic program;

(vii) The quality of the applicant's plan for informing parents of participating children of the instructional goals of the program and of their children's progress in the program;

(3) . . .

(iii) Reasonable costs for the proposed program, and evidence that efforts have been made to minimize

funds requested for the purchase of equipment;

(v) Evidence that assistance under this part will build the applicant's capacity to provide a program of bilingual education of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency.

(vi) Evidence of:

(A) The commitment of the applicant to continue the program of bilingual education without Federal support; and

(B) The sufficiency of the resources that the applicant can provide to continue the program.

(20 U.S.C. 3223; 3231 (b)(1), (b)(3), (b)(4).

6. Section 123.16 is revised to read as follows:

## § 123.16 Participation of children enrolled in nonpublic schools.

An application for assistance under this subpart shall contain:

(a)(1) Evidence that the applicant has assessed the needs of children in nonprofit private schools through consultation with appropriate private school officials;

(2) Evidence that:

(i) The applicant has provided for the participation, in the proposed project, of children enrolled in nonprofit private schools in the area to be served whose language, grade level, and educational needs are similar to those that the project is intended to address; and

(ii) The participation of these children is on a basis comparable to that provided for public school children;

(3) A description of the nature and extent of such participation; and

(4) The information relating to program participants described in § 123.14(b)(5) as applied to eligible children enrolled in nonprofit private schools.

(b) The number of children of limited English proficiency enrolled in nonprofit private schools who participate in the program, in relation to the total number of such children in the area to be served whose educational needs are of the type the program is designed to meet, shall be consistent with the number of public school children of limited English proficiency who participate in the program in relation to the total number of public school children in the area to be served whose educational needs are of the type the program is designed to meet.

(c) The applicant shall provide information satisfactory to ensure that services to participating private school children will be provided under public administrative direction and control.

(20 U.S.C. 3231(b)(3)(C)(ii))



7. Section 123.17 is revised to read as follows:

**§ 123.17. Parent and community participation.**

(a) Advisory Council.

(1) An applicant shall establish an advisory council before preparing the application for assistance. The council shall consist of at least seven persons, a majority of whom shall be parents and other representatives of children of limited English proficiency. The applicant shall describe as part of its application for assistance the process used to select council members.

(2) The advisory council shall:

- (i) Participate in planning the proposed project;
- (ii) Review drafts of the application for assistance;
- (iii) Prepare comments on the content of the application;

(3) The applicant shall include in its application documentation from the council indicating that the council participated in the preparation of the application;

(4) The applicant shall also include in its application comments from the council concerning the content of the application;

(5) The applicant shall provide adequate staff and resources for the council to prepare comments and recommendations concerning the application.

(b) Advisory Committee.

(1) The applicant shall include in its application an assurance that, after the application is approved, it will provide for continuing consultation with, and participation by, an advisory committee in conducting the basic program;

(2) Parents of children participating in the program shall select the committee;

(3) Parents of children of limited English proficiency who are participating in the program shall be a majority of the committee;

(4) The committee may also include:

- (i) Parents of other participants in the proposed program;
- (ii) Teachers; and
- (iii) Other interested individuals.

(5) In the case of programs carried out in secondary schools, the committee shall include secondary students participating in the program who are selected by secondary students participating in the program.

(c) An advisory council member may serve as a member of the advisory committee.

(20 U.S.C. 3223(a)(4)(E))

**Subpart D—Training Programs**

8. Section 123.31 is amended by relettering existing paragraph (c) as (d) and adding a new paragraph (c) to read as follows:

**§ 123.31 Eligibility for assistance.**

(c) In the case of a joint application submitted by one or more nonprofit private organizations under this section, a single application with a single budget shall be submitted, and a single nonprofit private organization shall serve as the fiscal agent for all joint applicants.

(d) Not more than 15 percent of the funds obligated for training activities under this subpart and Subparts B, C, and E of this part in any fiscal year shall be made available to State educational agencies in that fiscal year.

(20 U.S.C. 3233(b))

9. Section 123.32 is revised to read as follows:

**§ 123.32 Authorized activities.**

(a) The following activities are authorized to be carried out with financial assistance made available under this subpart if they are designed to carry out the purposes described in § 123.01 (Purpose):

(1) Providing, through an institution of higher education, training programs that lead to a degree or a teaching credential with a specialization in bilingual education. These programs may be offered only to persons who conduct or are preparing to conduct bilingual education programs.

(2) Encouraging reform, innovation, and improvement relating to bilingual education through:

(i) Developing curricula for bilingual education programs at institutions of higher education;

(ii) Recruiting and retaining qualified bilingual faculty members at institutions of higher education; and

(iii) Providing training in language, research, or administrative skills to faculty members at institutions of higher education who are directly involved in training personnel for bilingual education programs.

(3) Providing, through an institution of higher education, training leading to a graduate degree in administration for individuals who are preparing to become administrators or supervisors of bilingual education programs.

(4) Training persons associated with programs of bilingual education, including teachers, administrators, counselors, paraprofessionals, teacher aides, and parents. The training may include projects using bilingual techniques to help parents of limited English proficiency children participate in the educational process of their children.

(5) Operating short term training institutes designed to improve the skills of participants in programs of bilingual education and facilitate their effectiveness in carrying out responsibilities

in connection with these programs.

(6) Training leading to a graduate degree at an institution of higher education to prepare specialists in various fields to staff adequately bilingual education programs.

(b)(1) The Commissioner may pay stipends, as defined in § 123.02 (Definitions), to personnel participating in training programs under this section.

(2) However, stipends to persons who are enrolled in a full-time program of study at an institution of higher education, and who are gainfully employed on a full-time basis shall include only the costs of tuition, books, and fees and other costs directly related to the program of study and required by the institution of higher education.

(c) In selecting participants for activities authorized under this section, the applicant shall give priority to persons who are bilingual and who demonstrate a high degree of interest in bilingual education.

(20 U.S.C. 3233(a)(1), (a)(3), (a)(7))

10. Section 123.33(b)(11) is added to read as follows:

**§ 123.33 Applications.**

(b) \* \* \*

(11) A description of the degree of proficiency in the target language and in English that will be required of the participants in the training programs described in § 123.32(a)(1).

(20 U.S.C. 3233(a)(1), (a)(8), (b))

11. Section 123.35 is added to read as follows:

**§ 123.35 Funding procedures.**

(a) An applicant may include as separate components of one application, one or more of the authorized activities described in § 123.32.

(b) Applications or components of applications proposing a particular activity compete against other applications or components of applications proposing that activity.

(c) The Commissioner sets aside funds for each of the activities listed in § 123.32 (Authorized activities). The notice of closing date published in the FEDERAL REGISTER indicates the amount of funds set aside for each activity.

(20 U.S.C. 3233(a)(1), (a)(7))

§§ 123.36 through 123.40 [Reserved]

12. Section 123.43(e)-(n) are added to read as follows:

**§ 123.43 Awards of fellowships to individuals.**

(e)(1) A recipient of a fellowship shall agree to work in an activity related to the training of bilingual education teachers and other bilingual education personnel for a period of time equivalent to that for which he or she received assistance under this subpart.

(2) The recipient shall begin working in such an activity within one year of the date he or she is no longer enrolled as a full-time student at an institution of higher education.

(3) If the recipient does not work in such an activity, he or she shall repay the full amount of assistance received.

(f) The recipient of a fellowship award may satisfy the requirement of paragraph (e) by working in one or more of the following activities:

(1) Training personnel for bilingual education programs at institutions of higher education.

(2) Doing research related to training bilingual education personnel.

(3) Conducting evaluations of programs designed to train bilingual education personnel.

(4) Developing curriculum materials designed for bilingual instruction.

(5) Training personnel employed by a State or local agency, or by a nonprofit private organization to meet the special educational needs of students of limited English proficiency.

(6) Training parent or community advisory groups in school districts serving students of limited English proficiency.

(7) Working in any other activity that relates to training bilingual personnel and that has been approved in advance by the Commissioner.

(g) Each recipient of a fellowship under this subpart shall comply with one of the following requirements no later than one year from the date he

or she ceases to be enrolled as a full-time student at an institution of higher education:

(1) Submit to the Commissioner a description of the authorized activity described in paragraph (f) in which he or she is employed; or

(2) Submit to the Commissioner the first monthly payment required under paragraph (h); or

(3) Submit to the Commissioner a request for a waiver or deferment under paragraphs (j) or (k) and a statement of the circumstances justifying such a waiver or deferment.

(h) A recipient who does not work in an authorized activity described in paragraph (f), and who has not received a waiver or deferment under paragraphs (j) or (k), shall repay the amount of the fellowship award to the Office of Education in the following manner:

(1) Payment shall begin one year from the date the recipient ceases to be enrolled as a full-time student at an institution of higher education.

(2) The recipient shall repay the amount owed in equal monthly installments, except that a monthly installment shall be at least \$30.

(3) The recipient shall repay the amount owed, including interest, no later than 15 years after the beginning of the repayment period. This 15 year period will be extended to include any periods for which the recipient is granted a deferment under paragraphs (j) or (k).

(4) If the recipient has completed part of the work requirement contained in paragraph (e), the amount he or she is required to repay will be prorated accordingly.

(i) Interest will be charged on the unpaid balance owed by the recipient under paragraph (h) at the rate of seven percent per year. No interest will accrue for the period of time—

(A) That precedes the date on which the recipient is required to commence repayment under paragraph (h); or

(B) During which repayment has been deferred under paragraphs (j) or (k).

(j) The Commissioner may waive or defer enforcement of the requirement of paragraph (h) if the recipient—

(1) Suffers from a serious physical or mental disability that prevents or substantially impairs the recipient from being employed in a position described in paragraph (f); or

(2) Demonstrates the existence of other extraordinary circumstances.

(k) The Commissioner may defer the enforcement of the requirement of paragraph (h) if the recipient—

(1) Is unable to secure employment in any of the authorized work activities listed in paragraph (f);

(2) Re-enrolls as a full-time student at an institution of higher education;

(3) Is a member of the Armed Forces of the United States;

(4) Is in service as a volunteer under the Peace Corps Act;

(5) Is a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973; or

(6) Demonstrates to the Commissioner's satisfaction the existence of circumstances that prevent him or her from making a scheduled payment(s).

(l) A recipient granted a deferment under paragraphs (j) or (k) shall renew that deferment on a yearly basis, unless the Commissioner determines otherwise.

(m) A deferment granted under paragraphs (k) (3), (4), or (5) may not exceed three years.

(n) Upon selection for a fellowship award, the recipient will be required to sign a contract, provided by the Commissioner, agreeing to the requirements, terms and conditions described in paragraphs (e) through (m) of this section.

(20 U.S.C. 3231(c), 3233(a)(2), (a)(6))

§§ 123.44-123.50 [Reserved]

[FR Doc. 79-9338 Filed 3-28-79; 8:45 am]



[4110-02-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of Education

BILINGUAL EDUCATION—ELEMENTARY AND  
SECONDARY PROGRAMSClosing Date for Transmittal of Applications—  
Basic Non-Competing Continuations Fiscal  
Year 1979

Applications are invited for basic noncompeting continuation awards under the Bilingual Education Act.

Authority for this program is contained in sections 703-722 of the Elementary and Secondary Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants are current recipients of basic grants who are operating bilingual education projects with an approved project period in excess of one year, and are proposing to continue their present projects.

The purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education programs that meet the educational needs of children of limited English proficiency.

**Closing date for transmittal of applications.**—To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

**Applications delivered by mail.**—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

**Applications delivered by hand.**—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

**Program information.**—Basic noncompeting continuation projects must meet all the new requirements of the Bilingual Education Act enacted in the Education Amendments of 1978 (Pub. L. 95-561). The new legislative provisions and the corresponding regulation changes are summarized in the preamble of the 1979 interim final regulations. Applicants may propose activities

covering the remainder of their approved project periods, but not to exceed three years. Applicants will not be required to submit additional applications in subsequent years unless they wish to carry out activities not included in this year's approved application.

**Available funds.**—Approximately \$80,650,000 are available for 456 continuation projects in Fiscal Year 1979. These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms.**—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations.**—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in fiscal Year 1979 (45 CFR Part 123, Subparts A and B).

**Further information.**—For further information contact Rudolph Munis, Director, Division of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245-2595.

(20 U.S.C. 3222-3223; 3231-3232)  
(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9339 Filed 3-28-79; 8:45 am)

[4110-02-M]

BILINGUAL EDUCATION—ELEMENTARY AND  
SECONDARY PROGRAMSClosing Date for Transmittal of Applications—  
New Projects Fiscal Year 1979

Applications are invited for new basic awards under the Bilingual Education Act.

Authority for this program is contained in sections 703-722 of the Elementary and Secondary Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants are:  
(1) One or more local educational agencies including—

(a) Certain nonprofit institutions or organizations of Indian tribes that operate elementary or secondary schools for Indian children, and

(b) Elementary or secondary schools for Indian children that are on reservations and that are operated or funded by the Bureau of Indian Affairs; or

(2) An institution of higher education, including a junior or community college—applying jointly with one or more local educational agencies.

The purpose of this program is to provide financial assistance to successful applicants to establish and operate bilingual education programs that meet the educational needs of children of limited English proficiency.

**Closing date for transmittal of applications.**—Applications for new awards must be mailed or hand delivered by June 1, 1979.

**Applications delivered by mail.**—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403D, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

**NOTE.**—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method. Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

**Applications delivered by hand.**—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

**Program information.**—Awards for basic grants are made to successful applicants to establish, operate, or improve programs of bilingual education in elementary and secondary schools under the provisions of Pub. L. 95-561 and program regulations as amended in Fiscal Year 1979. An applicant may propose a project covering a period of from one to three years.

**Available funds.**—Approximately \$21,700,000 is available for 134 new projects in Fiscal Year 1979, with an

expected average amount for initial awards of \$161,900.

These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms.**—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Elementary and Secondary Programs, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations.**—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subparts A and B).

**Further information.**—For further information contact Rudolph Munis, Director, Division of Elementary and Secondary Programs, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245-2595.

(20 U.S.C. 3222-3223; 3231-3232)

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9340 Filed 3-28-79; 8:45 am)

[4110-02-M]

BILINGUAL EDUCATION—SUPPORT SERVICES  
PROGRAMSClosing Date for Transmittal of Applications—  
Noncompeting Continuations Fiscal Year  
1979

Applications are invited for noncompeting continuation projects for support centers under the Bilingual Education Program.

Authority for this program is contained in sections 721 and 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants for noncompeting continuation Support Services Centers are those centers presently in operation with an approved project period in excess of one year, who are proposing to continue their present projects.

**Closing date for transmittal of applications.**—To be assured of considera-

tion for funding, applications for noncompeting continuation awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

**Applications delivered by mail.**—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

**Applications delivered by hand.**—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

**Program information.**—Authorized activities for support services for programs of bilingual education are listed under § 123.23 of the program regulations as amended in Fiscal Year 1979 (45 CFR 123.23).

Each noncompeting continuation applicant is expected to submit an application for continuing the scope of work approved when the initial award was made. If new activities are proposed that will alter the approved scope of work, the application will be reviewed with other competing applications, and will no longer be considered a noncompeting continuation application.

**Available funds.**—Approximately \$11,250,000 will be available for 13 continuation materials development centers, 2 continuation dissemination and assessment centers, and 10 continuation training resource centers in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms.**—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations.**—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart C).

**Further information.**—For further information contact Rudy Cordova, Director, Division of Program Development, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9227.

(20 U.S.C. 3231(a)(4), (b)(1); 3233(a)(1), (b))  
(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9341 Filed 3-28-79; 8:45 am)

[4110-02-M]

BILINGUAL EDUCATION—FELLOWSHIP  
PROGRAMSClosing Date for Transmittal of New Requests  
for Participation in the Fellowship Program,  
Fiscal Year 1979

The Commissioner invites, from institutions of higher education, new requests for participation in the fellowship program for trainers of bilingual education personnel.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

The purpose of this program is to provide financial assistance to full time graduate students who are preparing to become trainers of bilingual education personnel.

Eligible applicants are institutions of higher education that have graduate degree programs with an emphasis in bilingual education.

The Office of Education awards fellowships to individuals nominated by institutions whose programs of study are approved by the Commissioner. Payments to individuals are made through these institutions.

**Closing Date for Transmittal of Requests.**—Requests for participation must be mailed or hand delivered by May 4, 1979.

**Requests delivered by mail.**—A request sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.



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**NOTE.**—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each institution of higher education that submits a late request will be notified that its request will not be considered in the current competition.

**Requested delivered by hand.**—A request that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. The Application Control Center will accept hand delivered requests between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Requests that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

**Program information.**—The Commissioner will review the institutional request in accordance with the criteria in § 123.42 of the program regulations as amended in Fiscal Year 1979. From those institutions whose programs are approved, the Commissioner will make final selections of fellowship recipients. A student nominated who is not initially selected as a fellowship recipient may be designated as an alternate and may subsequently be selected if a vacancy becomes available.

An individual interested in receiving a fellowship must apply directly to an institution of higher education that has submitted an application for this program. The application forms required of an individual by the institutions vary, but all must include the information which is specified in §§ 123.41-43 of the program regulations as amended in Fiscal Year 1979. Fellowships are awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll.

In accordance with the program regulations as amended in Fiscal Year 1979, individuals who receive a fellowship will be required to sign a contract by which they will agree to either work for an equivalent period of time in an activity related to training bilingual education personnel, or to repay the assistance received. Additional information on this agreement is contained in the program regulations.

**Available funds.**—Approximately \$1,000,000 is available for 150 fellowships at an average cost of \$6,700 through 15 institutions of higher education.

These figures are only estimates and do not bind the U.S. Office of Education.

**Request forms.**—Request forms and instructions are expected to be ready

for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program request package.

**Applicable regulations.**—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart E).

**Further information.**—For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a) (2), (3), (4), (6))  
(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education.)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9342 Filed 3-28-79; 8:45 am)

#### [4110-02-M]

#### BILINGUAL EDUCATION—COORDINATION OF TECHNICAL ASSISTANCE BY STATE EDUCATIONAL AGENCIES

##### Closing Date for Transmittal of Applications for Non-Competing Awards, Fiscal Year 1979

Applications are invited for noncompeting awards under the Title VII program for States to coordinate technical assistance for bilingual education programs.

Authority for this program is contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants for these awards are State Educational Agencies in the states where programs of bilingual education assisted under the Bilingual Education Act were operated during Fiscal Year 1978. A State educational agency may receive up to 5 percent of the amount received under the Bilingual Education Act by local educational agencies in its State in Fiscal Year 1978.

**Closing date for transmittal of applications.**—To be assured of consideration for funding, applications for noncompeting awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time

to review it with other noncompeting continuation applications and may decline to accept it.

**Applications delivered by mail.**—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403H, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

**Application delivered by hand.**—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

**Program information.**—The activities authorized to be carried out with financial assistance made available to States are technical assistance activities related to needs identified by each State, including monitoring, evaluation of impact, and dissemination of information.

**Available funds.**—Approximately \$4,875,000 is available for 49 projects in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms.**—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations.**—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart F).

**Further information.**—For further information contact Rudy Cordova, Director, Division of Program Development, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9227.

(20 U.S.C. 3231(b)(5))  
(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9343 Filed 3-28-79; 8:45 am)

#### [4110-02-M]

#### BILINGUAL EDUCATION—FELLOWSHIP PROGRAMS

##### Closing Date for Transmittal of Continuation Requests for Participation in the Fellowship Program, Fiscal Year 1979

The Commissioner invites continuation requests from institutions of higher education for participation in the fellowship program for trainers of bilingual education personnel.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

The purpose of this program is to provide financial assistance to full time graduate students who are preparing to become trainers of bilingual education personnel.

Eligible applicants are institutions of higher education whose programs have been previously approved by the Commissioner for a period in excess of one year.

The Office of Education awards fellowships to individuals nominated by these approved institutions and makes payments to the participants through these institutions.

**Closing date for transmittal of requests.**—To be assured of consideration for participation, requests for continuation in the fellowship program should be mailed or hand delivered by May 4, 1979.

If the request is late, the Office of Education may lack sufficient time to review it with other continuation requests and may decline to accept it.

**Requests delivered by mail.**—A request sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

Institutions of higher education that submit a request are encouraged to use registered or at least first class mail.

**Requests delivered by hand.**—A request that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand delivered requests between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

**Program information.**—Each continuation institution is asked to submit a ranked list of nominees for fellowships together with the institution's request. This list should also in-

dicate the language and degree program for each nominee. The Commissioner will make final selections from this list. A student nominated who is not initially selected as a recipient may be designated as an alternate and may subsequently be selected if a vacancy becomes available.

An individual interested in receiving a fellowship must apply directly to approved institutions of higher education. The application forms required of an individual by the institutions vary, but all must include the information which is specified in §§ 123.41-43 of the program regulations as amended in Fiscal Year 1979. Fellowships are awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll.

In accordance with the program regulations as amended in Fiscal Year 1979, individuals who are selected will be required to sign a contract by which they will agree to either work for an equivalent period of time in an activity related to training bilingual education personnel, or to repay the assistance received. Additional information on this agreement is contained in the program regulations.

**Available funds.**—Approximately \$4,000,000 will be available to support 600 fellowships, at an average cost of \$6,700, through 34 institutions of higher education.

These figures are only estimates and do not bind the U.S. Office of Education.

**Request forms.**—Requests forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations.**—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart E).

**Further information.**—For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a)(2)(3)(4), (6))  
(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9344 Filed 3-28-79; 8:45 am)

#### [4110-02-M]

#### BILINGUAL EDUCATION—TRAINING PROGRAMS

##### Closing Date for Transmittal of Applications Training—Noncompeting Continuations, Fiscal Year 1979

Applications are invited for noncompeting continuation training projects under the Bilingual Education Training Program.

Authority for this program is contained in section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants for noncompeting continuation projects are those who are proposing to continue projects presently in operation under an approved project period in excess of one year.

**Closing date for transmittal of applications.**—To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

**Applications delivered by mail.**—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

**Applications delivered by hand.**—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

**Program information.**—Authorized activities for the training program are listed under section 123.32 of the program regulations, as amended in Fiscal Year 1979. All applications are expected to be in compliance with these regulations.

Each noncompeting continuation applicant should submit an application for continuing the scope of work which was approved when the initial award was made. If new activities are proposed which alter the approved



scope of work, the application will be reviewed along other competing applications, and will no longer be considered a noncompeting continuation application.

**Available funds.**—Approximately \$4,500,000 is available for 39 noncompeting continuation projects in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms.**—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations.**—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart D).

**Further information.**—For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a)(1), (7), (8), (b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9345 Filed 3-28-79; 8:45 am)

#### [4110-02-M]

##### BILINGUAL EDUCATION—TRAINING PROGRAMS

###### Closing Date for Transmittal of Applications Training—New Projects, Fiscal Year 1979

Applications are invited for new training projects under the Bilingual Education Training Program.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

An application for this program may be submitted by:

(1) An institution of higher education (including a junior college or a community college) that applies after consultation with, or jointly with, one

or more local educational agencies or a State educational agency;

(2) A nonprofit private organization that applies after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(3) A local educational agency; or

(4) A State educational agency.

**Closing date for transmittal of applications:** Applications for new awards must be mailed or hand delivered by June 1, 1979.

**Applications delivered by mail:** An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

**NOTE.**—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

**Applications delivered by hand:** An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

**Program information:** Authorized activities for the Training Program are listed under section 123.32 of the program regulations, as amended in Fiscal Year 1979. An applicant may include as separate components of one application, one or more of the authorized activities described in section 123.32. Applications or components of applications proposing a particular activity compete against other applications or components of applications proposing that activity.

**Available funds:** Approximately \$11,500,000 are available for funding new applications for training projects. These funds are reserved for the authorized activities described in § 123.32 of the program regulations, as amended in Fiscal Year 1979, in the following estimated amounts:

(1) **Activity:** Degree or credential oriented projects and projects for reform.

innovation and improvement in bilingual education (§ 123.32(a)(1), (2)).

**Available funds:** \$6,100,000 for approximately 55 projects at an average award of \$110,000.

(2) **Activity:** Graduate degree in administration (§ 123.32(a)(3)).

**Available funds:** \$2,000,000 for approximately 20 projects at an average award of \$100,000.

(3) **Activity:** Training projects for parents and others (§ 123.32(a)(4)).

**Available funds:** \$800,000 for approximately 8 projects at an average award of \$100,000.

(4) **Activity:** Short-term training institutes (§ 123.32(a)(5)).

##### FOR MANAGEMENT TRAINING FOR ADMINISTRATORS

**Available funds:** \$300,000 for approximately 28 projects at an average award of \$75,000.

##### FOR MANAGEMENT TRAINING FOR NON-ADMINISTRATORS

**Available funds:** \$3,000,000 for approximately 6 projects at an average award of \$50,000.

(5) **Activity:** Graduate degree programs for specialists (§ 123.32(a)(6)).

**Available funds:** \$300,000 for approximately 5 projects at an average award of \$60,000.

These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms:** Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

**Applicable regulations:** The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart D).

**Further information:** For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a)(1), (7), (8), (b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9346 Filed 3-28-79; 8:45 am)

#### [4110-02-M]

##### BILINGUAL EDUCATION—SUPPORT SERVICES PROGRAMS

###### Closing Date for Transmittal of Applications—New Projects Fiscal Year 1979

Applications are invited for new centers under Title VII—Bilingual Education Support Services Programs.

Authority for this program is contained in sections 721 and 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

An application for assistance for a Training Resource Center may be submitted by:

(1) An institution of higher education (including a junior college or a community college) that applies after consultation with, or jointly with, one or more local educational agencies, or a State educational agency;

(2) A private nonprofit organization that applies, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(3) A local educational agency; or

(4) A State educational agency.

An application for assistance for a Materials Development Center or a Dissemination/Assessment Center may be submitted by:

(1) One or more local educational agencies; or

(2) An institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies.

**Closing date for transmittal of applications:** Applications for new awards must be mailed or hand delivered by June 1, 1979.

**Applications delivered by mail.**—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202.

Proof of mailing may consist of a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted with-

out a legible date stamped by the U.S. Postal Service.

**NOTE.**—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

**Applications delivered by hand.**—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

**Program information.**—Authorized activities and designated service areas for Support Services for programs of bilingual education are listed under §§ 123.22 and 123.23 of the program regulations as amended in Fiscal Year 1979 (45 CFR 123.22; 123.23).

Under § 123.22(d)(1) of the program regulations (45 CFR 123.22(d)(1)), no more than one award for a training resource center, one award for a materials development center, and one award for a dissemination/assessment center will be made in a fiscal year in each service area designated under § 123.22 (a), (b), and (c), unless the Commissioner determines that additional awards are required to meet needs for such activities in a service area. Also, the Commissioner may award one or more specific projects without regard to the designated service area to meet the needs for such activities or to carry out the purposes of this subpart most effectively.

Applicants that purpose authorized activities without regard to the designated service area must set forth special justification of need for not following the service area designation.

Potential applicants for initial awards, in order to assess their own chances for funding, should be aware of those service areas in which projects have already been approved in a prior fiscal year and will be reviewed for continuation on a noncompetitive basis in Fiscal Year 1979, in accordance with § 123.04 of the program regulations as amended in Fiscal Year 1979 (45 CFR 123.04).

With respect to training resource activities, service areas 1, 2, 3, and 4 have training resource centers in operation which will be reviewed for refunding on a noncompetitive basis.

With respect to materials development center activities, service areas 5, 6, and 7 have materials development centers in operation which will be reviewed for refunding on a noncompetitive basis.

With respect to dissemination/assessment center activities, service areas 1 and 3 have dissemination/assessment centers in operation which will be reviewed for refunding on a noncompetitive basis.

**Available funds.**—Approximately \$7,375,000 will be available for funding no more than 6 Materials Development Centers, 10 Training Resource Centers, and 1 Dissemination and Assessment Center.

These figures are only estimates and do not bind the U.S. Office of Education.

**Application forms.**—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application packages.

**Applicable regulations.**—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart C).

**Further information.**—For further information contact Rudy Cordova, Director, Division of Program Development, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9227.

(20 U.S.C. 3231(a)(4), (b)(1); 3233(a)(1), (b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 79-9347 Filed 3-28-79; 8:45 am)



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Federal Paper

THURSDAY, MARCH 29, 1979

PART VII



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DEPARTMENT OF  
JUSTICE

Law Enforcement  
Assistance Administration

■  
NOTICE OF A  
REEXAMINATION OF THE  
DEFINITION OF  
DETENTION AND  
CORRECTION FACILITIES  
CONTAINED IN STATE  
PLANNING AGENCY  
GRANTS MANUAL



[44-1018-M]

STATE PLANNING AGENCY GRANTS  
GUIDELINE MANUALRe-examination of the Definition of Detention  
and Correctional Facilities

The Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.*, is in the process of re-examining the present definition of juvenile detention and correctional facilities contained in the State Planning Agency Grants Guideline Manual, M 4100.1F, July 25, 1978, Chapter 3, Paragraph 52n(2).

Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act requires as a condition for the receipt of formula grants funds that the state plan submitted in accordance with the Act shall:

provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities . . .

On March 24, 1978, the Office of Juvenile Justice and Delinquency Prevention published in the FEDERAL REGISTER the criteria for determining whether an institution constituted a detention and correctional facility within the meaning of Section 223(a)(12)(A). The Office invited interested persons to submit comments on or before April 25, 1978.

As a result of the comments received, the Office modified the criteria and published them in the August 16, 1978, FEDERAL REGISTER. See LEAA Guideline Manual, M 4100.1F, July 25, 1978, Paragraph 52n(2). As defined, a detention and correctional facility would consist of the following:

(a) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders; or

(b) Any public or private facility, secure or non-secure which is also used for the lawful custody of accused or convicted adult criminal offenders; or

(c) Any non-secure public or private facility that has a bed capacity for more than 20 accused or adjudicated juvenile offenders or non-offenders unless:

1. The facility is community-based and has a bed capacity of 40 or less; or

2. The facility is used exclusively for the lawful custody of status offenders or non-offenders.

NOTE.—The underlined terms are defined in LEAA's State Planning Agency Grants Guideline M 4100.1F, Chg. 3, Appendix 1, Sec. 4. To assist the public in this, the devel-

opmental stage of the significant guideline process, these definitions appear as Appendix A to this publication.

Concern has, however, been expressed over these definitional criteria. The areas of concern that have been raised involve both the scope and the underlying basis of the present definition, its impact on such groups as private non-profits and community-based organizations as well as its potential impact on the eligibility of a number of jurisdictions to participate further in the Act. The Office of Juvenile Justice and Delinquency Prevention has determined that these concerns merit a re-examination of the above definition.

In light of the above, consideration will be given to definitional alternatives. One such alternative would be to develop a definition of detention and correctional facilities which is predicated solely on a secure/non-secure distinction. If adopted, this would result in the elimination of sub-parts (b) and (c) of the present definition. In order to assist this Office in formulating a draft guideline and in order to ensure that interested organizations, agencies and individuals have an opportunity to participate in its development, this notice and opportunity to submit written views, comments and specific recommendations is being provided. Following receipt and analysis of the comments, a proposed change will be published in the FEDERAL REGISTER. At that point in time, the views of the public will again be solicited.

Interested parties are invited to submit written comments or suggestions to Mr. John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W. Washington, D.C. 20531, on or before April 30, 1979.

JOHN M. RECTOR,  
Administrator, Office of Juvenile Justice and Delinquency Prevention.

## APPENDIX A

## DEFINITIONS RELATING TO PAR. 52 REQUIREMENTS FOR PARTICIPATION IN FUNDING UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

(a) *Juvenile Offender*—an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law.

(b) *Criminal-type Offender*—a juvenile who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(c) *Status Offender*—a juvenile who has been charged with or adjudicated

for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(d) *Non-offender*—a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(e) *Accused Juvenile Offender*—a juvenile with respect to whom a petition has been filed in the juvenile court alleging that such juvenile is a criminal-type offender or is a status offender and no final adjudication has been made by the juvenile court.

(f) *Adjudicated Juvenile Offender*—a juvenile with respect to whom the juvenile court has determined that such juvenile is a criminal-type offender or is a status offender.

(g) *Facility*—a place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public or private agencies.

(h) *Facility, Secure*—one which is designed and operated so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

(i) *Facility, Non-secure*—a facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its residents access to the surrounding community with minimal supervision.

(j) *Community-based*—facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family, and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services. This definition is from Section 103(1) of the JJDP Act. For purposes of clarification the following is being provided:

(1) *Small*: Bed capacity of 40 or less.

(2) *Near*: In reasonable proximity to the juvenile's family and home community which allows a child to maintain family and community contact.

(3) *Consumer Participation*: Facility policy and practice facilitates the involvement of program participants in planning, problem solving, and deci-

sion making related to the program as it affects them.

(4) *Community Participation*: Facility policy and practice facilitates the involvement of citizens as volunteers, advisors, or direct service providers; and provide for opportunities for communication with neighborhood and other community groups.

(k) *Lawful Custody*—the exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(l) *Exclusively*—as used to describe the population of a facility, the term "exclusively" means that the facility is used only for a specifically described category of juvenile to the exclusion of all other types of juveniles.

(m) *Criminal Offender*—an individual, adult or juvenile, who has been charged with or convicted of a criminal offense in a court exercising criminal jurisdiction.

(n) *Bed Capacity*—the maximum population which has been set for day to day population and, typically, is the result of administrative policy, licensing or life safety inspection, court order, or legislative restriction.

[FR Doc. 79-9539 Filed 3-28-79; 8:45 am]



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\*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

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Executive Order 12126 of March 29, 1979

Correction in Executive Order No. 12107

By the authority vested in me as President by the Constitution of the United States of America, and in order to delete an erroneous reference to a revoked Executive order in Executive Order No. 12107 of December 28, 1978, relating to the Civil Service Commission and Labor-Management in the Federal Service, the number "11512" is deleted from Section 2-101(b) of that Order.

*Jimmy Carter*

THE WHITE HOUSE,  
March 29, 1979.

[FR Doc. 79-10111

Filed 3-29-79; 12:33 pm]

Billing code 3195-01-M



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THE PRESIDENT

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Proclamation 4651 of March 29, 1979

Prayer for Peace

Memorial Day, May 28, 1979

By the President of the United States of America

A Proclamation

This day was originally set aside to honor the dead in a conflict that divided our Nation more than a century ago. That wound has healed.

We come now also to honor the dead of many other wars. That we must do so is a tragic reminder that the freedoms we cherish are constantly under siege. Each generation is called upon to preserve and defend our liberties anew, often with their lives. The fact that their suffering has not yet bought a permanent peace does not make their sacrifice in vain. They preserved that which we hold most dear so that we might strive again for what they sought—a just and honorable peace in which all people settle their differences without bloodshed or oppression.

Today America celebrates peace. We gratefully remember those who gave up their hopes and lives that we might enjoy the liberties they loved—on this day and through all our tomorrows—in peace. We cannot call them back to give them our thanks, nor can we raise a monument to them any more meaningful than the one they have already left us, a free and peaceful America. They have given us a gift too valuable ever to repay, save by preserving that peace, that liberty, that America.

We have seen how easily the hopes of peace are dashed. Yet we must keep faith with those who have gone before, with those throughout the world who share our dream, and with the generations yet unborn whose very existence may depend upon the success of our efforts.

We earnestly pray that all the people of the world will join us in our struggle, so that one day all the earth may share the blessings of liberty, justice and peace.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Memorial Day, Monday, May 28, 1979, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11 o'clock in the morning of that day as a time to unite in prayer.

I urge the press, radio, television, and all other information media to join in suitable observances of this day.

I also call upon the appropriate officials of all levels of government to fly the flag at half-staff until noon during Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control, and I request the people of the United States to display the flag at half-staff from their homes for the same customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.

*Jimmy Carter*

[FR Doc. 79-10114

Filed 3-29-79; 1:15 pm]

Billing code 3195-01-M

FEDERAL REGISTER, VOL. 44, NO. 63—FRIDAY, MARCH 30, 1979



## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

## Title 5—Administrative Personnel

CHAPTER 1—OFFICE OF PERSONNEL  
MANAGEMENTPART 317—APPOINTMENT, REAS-  
SIGNMENT, TRANSFER AND DEVEL-  
OPMENT IN THE SENIOR EXECU-  
TIVE SERVICE

## Interim Regulations

AGENCY: Office of Personnel Man-  
agement.

ACTION: Interim regulation with  
comments invited for consideration in  
final rulemaking.

SUMMARY: These interim regula-  
tions implement Sec. 413 of Title IV of  
the Civil Service Reform Act of 1978.  
They cover the conversion of employ-  
ees to the Senior Executive Service.

DATES: Effective Date: March 30,  
1979 and until final regulations are  
issued. Comment Date: Written com-  
ments will be considered if received no  
later than May 29, 1979.

ADDRESS: Send written comments to  
the Associate Director, Executive Per-  
sonnel and Management Development,  
Office of Personnel Management,  
Room 6R54, 1900 E Street, N.W.,  
Washington, D.C. 20415.

FOR FURTHER INFORMATION  
CONTACT:

Ann Ugelow, (202) 632-6820.

**SUPPLEMENTARY INFORMATION:**  
Pursuant to section 553(d)(3) of title 5,  
U.S.C., the Director finds that good  
cause exists for making this amend-  
ment effective in less than 30 days, in  
order to provide continuity of oper-  
ations and to give immediate and  
timely effect to the appropriate provi-  
sions of the Civil Service Reform Act  
of 1978.

A new Part 317 is being added to  
Title 5, Code of Federal Regulations to  
cover appointment, reassignment,  
transfer, and development in the  
Senior Executive Service. Two sub-  
parts of Part 317 are being issued now:

(1) Subpart A consists of the statu-  
tory requirements for conversion to  
the Senior Executive Service, as found

in Section 413 of title IV of the Civil  
Service Reform Act of 1978.

(2) Subpart B consists of regulations  
to implement the conversion process.

Regulations to implement Sub-  
chapter VIII of Chapter 33 of title 5,  
United States Code on appointments  
and other matters, will be issued at a  
later date.

Accordingly, the Office of Personal  
Management is adding interim regula-  
tions to Chapter I, 5 CFR Part 317, as  
set forth below:

PART 317—APPOINTMENT, REAS-  
SIGNMENT, TRANSFER AND DEVEL-  
OPMENT IN THE SENIOR EXECU-  
TIVE SERVICE

## Subpart A—Principal Statutory Requirements

Sec.  
317.101 Statutory Requirements for Con-  
version.

Subpart B—Regulatory Requirements of the  
Office of Personnel Management

- 317.201 Regulatory Requirements.
- 317.301 Conversion Coverage.
- 317.302 Conversion Procedures.
- 317.303 Status of Employees Who Decline  
Voluntary Conversion to the Senior Ex-  
ecutive Service.
- 317.304 Conversion of Career and Career-  
type Appointees.
- 317.305 Conversion of Excepted Appoint-  
ees.
- 317.306 Conversion of Employees Under  
Time Limited Appointments.

AUTHORITY: 5 U.S.C. 1302, Pub. L. 95-454

## Subpart A—Statutory Requirements

## § 317.101 Statutory Requirements.

This subpart sets forth for the bene-  
fit of the user the statutory require-  
ments governing conversion to the  
Senior Executive Service.

Sec. 413. (a) For the purpose of this  
section, "agency", "Senior Executive  
Service position", "career appointee",  
"career reserved position", "limited  
term appointee", "noncareer appoint-  
ee", and "general position" have the  
meanings set forth in section 3132(a)  
of title 5, United States Code (as  
added by this title), and "Senior Ex-  
ecutive Service" has the meaning set  
forth in section 2101a of such title 5  
(as added by this title).

(b)(1) Under the guidance of the  
Office of Personnel Management, each  
agency shall—

(A) designate those positions which  
it considers should be Senior Execu-  
tive Service positions and designate  
which of those positions it considers  
should be career reserved positions;  
and

(B) submit to the Office a written re-  
quest for—

(i) a specific number of Senior Ex-  
ecutive Service positions; and  
(ii) authority to employ a specific  
number of noncareer appointees.

(2) The Office of Personnel Manage-  
ment shall review the designations and  
requests of each agency under para-  
graph (1) of this subsection, and shall  
establish interim authorizations in ac-  
cordance with sections 3133 and 3134  
of title 5, United States Code (as  
added by this Act), and shall publish  
the titles of the authorized positions  
in the FEDERAL REGISTER.

(c)(1) Each employee serving in a po-  
sition at the time it is designated as a  
Senior Executive Service position  
under subsection (b) of this section  
shall elect to—

(A) decline conversion and be ap-  
pointed to a position under such em-  
ployee's current type of appointment  
and pay system, retaining the grade,  
seniority, and other rights and bene-  
fits associated with such type of ap-  
pointment and pay system; or

(B) accept conversion and be ap-  
pointed to a Senior Executive Service  
position in accordance with the provi-  
sions of subsections (d), (e), (f), (g),  
and (h) of this section.

The appointment of an employee in an  
agency because of an election under  
subparagraph (A) of this paragraph  
shall not result in the separation or re-  
duction in grade of any other employ-  
ee in such agency.

(2) Any employee in a position  
which has been designated a Senior  
Executive Service position under this  
section shall be notified in writing of  
such designation, the election required  
under paragraph (1) of this subsec-  
tion, and the provisions of subsections  
(d), (e), (f), (g), and (h) of this section.  
The employee shall be given 90 days  
from the date of such notification to  
make the election under paragraph (1)  
of this subsection.

(d) Each employee who has elected  
to accept conversion to a Senior Ex-  
ecutive Service position under subsec-  
tion (c)(1)(B) of this section and who  
is serving under—



(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service position, as determined by the Office;

in a position which is designated as a Senior Executive Service position shall be appointed as a career appointee to such Senior Executive Service position without regard to section 3393(b)-(e) of title 5, United States Code (as added by this title).

(e) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under an excepted appointment in a position which is not designated a career reserved position in the Senior Executive Service, but is—

(1) a position in Schedule C of subpart C of part 213 of title 5, Code of Federal Regulations;

(2) a position filled by noncareer executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations; or

(3) a position in the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, other than a career Executive Schedule position;

shall be appointed as a noncareer appointee to a Senior Executive Service position.

(f) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a career reserved position under subsection (b) of this section shall be appointed as a noncareer appointee to an appropriate general position in the Senior Executive Service or shall be separated.

(g) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a Senior Executive Service position and who has reinstatement eligibility to a position in the competitive service, may, on request to the Office, be appointed as a career appointee to a Senior Executive Service position. The name of, and basis for reinstatement eligibility for, each employee appointed as a career appointee under this subsection shall be published in the FEDERAL REGISTER.

(h) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under a limited executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations, shall—

(1) be appointed as a limited term appointee to a Senior Executive Service position if the position then held by such employee will terminate within 3 years of the date of such appointment;

(2) be appointed as a noncareer appointee to a Senior Executive Service position if the position then held by such employee is designated as a general position; or

(3) be appointed as a noncareer appointee to a general position if the position then held by such employee is designated as a career reserved position.

(i) The rate of basic pay for any employee appointed to a Senior Executive Service position under this section shall be greater than or equal to the rate of basic pay payable for the position held by such employee at the time of such appointment.

(j) Any employee who is aggrieved by any action by any agency under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of title 5, United States Code (as added by this title). An agency shall take any corrective action which the Board orders in its decision on an appeal under this subsection.

(k) The Office shall prescribe regulations to carry out the purpose of this section.

#### Subpart B—Regulatory Requirements of the Office Of Personnel Management

##### § 317.201 Regulatory requirements.

This subpart contains the regulations of the Office of Personnel Management which implement subchapter VIII of chapter 33 of title 5, U.S.C. and section 413 of title IV of the Civil Service Reform Act of 1978.

##### § 317.301 Conversion coverage.

(a) *When applicable.* These conversion provisions apply during:

(1) The initial conversion to the Senior Executive Service to be completed by July 13, 1979; and

(2) Conversion to the Senior Executive Service following revocation of a Presidential exclusion under 5 U.S.C. 3132(e).

(b) *Employees covered.* This subpart covers:

(1) An employee serving in a position at the time it is designated a Senior Executive Service position;

(2) An individual appointed or reinstated to a position after it has been designated a Senior Executive Service position;

(3) An employee transferred, promoted, voluntarily reassigned or voluntarily demoted to a position after it has been designated a Senior Executive Service position;

(4) An employee involuntarily reassigned or involuntarily demoted to a position after it has been designated a Senior Executive Service position; and

(5) An employee serving in a position which meets the grade level but not the functional criteria for designation as a Senior Executive Service position.

(c) *Employees excluded.* The following employees are excluded from coverage of this subpart and are not entitled to conversion to the Senior Executive Service.

(1) An employee in a position designated as Senior Executive Service who is serving under a time limited appointment which will terminate before the operational date of the Senior Executive Service.

(2) An employee serving under a temporary promotion, detail, or temporary assignment in a position designated as Senior Executive Service unless the position which the employee encumbered on a permanent basis just prior to the current temporary action has been designated as Senior Executive Service.

##### § 317.302 Conversion procedures.

(a) *Employees appointed prior to designation; employees involuntarily reassigned or demoted after designation.*—(1) *Notice.* Each employee covered by this subpart who was appointed prior to the designation of his or her position as a Senior Executive Service position, or who was involuntarily reassigned or involuntarily demoted to a position after it was designated a Senior Executive Service position, shall be given a written notice which includes the following information:

(i) A statement that the employee's position has been designated as either "general" or "career reserved";

(ii) A statement that the employee is being offered an appointment under the Senior Executive Service or that the employee is not being offered an appointment under the Senior Executive Service but will be separated from the civil service pursuant to § 317.305(b)(4) or § 317.306(b)(4); If the employee is offered conversion, the notice shall also include:

(iii) A statement that the employee has 90 calendar days from the date of receipt of the written notice to elect either to join the Senior Executive Service or to remain in his or her current appointment system;

(iv) Identification of the position, SES pay rate, and kind of appointment which the employee will receive if the employee elects to convert to the Senior Executive Service;

(v) For excepted appointees who have reinstatement eligibility to a position in the competitive service, a statement that the employee may request conversion to career appointment;

(vi) For employees under limited executive assignment who have reinstatement eligibility to a position in the competitive service and who are covered under § 317.306(b)(3), a statement that the employee may request conversion to career appointment;

(vii) A summary of the features of the Senior Executive Service (this can be accomplished by appending descriptive material prepared by the Office);

(viii) A statement that the employee must submit his or her decision with regard to paragraphs (a)(1)(iii), (v) and (vi) of this section, in writing, on or before the end of the notice period; and

(ix) A statement of the employee's right to appeal an action under this subpart to the Merit Systems Protection Board.

An employee whose involuntary reassignment or involuntary demotion to a designated position occurs less than 90 days before the operational date of the Senior Executive Service, shall be given this notice at the time of the personnel action. The employee shall have 90 calendar days from the date of receipt of the notice to make an election on conversion.

(2) *Pay.* Pay shall be set at an authorized SES pay rate. The pay rate given to an employee upon conversion shall not be less than the employee's basic payable salary just prior to conversion. An employee's payable salary upon conversion is subject to pay limitations, if any, imposed by chapter 53 of title 5, United States Code, or other statutes.

(3) *Freedom of choice.* The employee shall decide whether he or she accepts conversion to the Senior Executive Service. The employing agency shall not attempt to influence the employee's decision through coercion, intimidation or duress.

(4) *Employee's election.* On or before the end of the notice period, the employee shall signify in writing his or her decision to accept or to decline an appointment under the Senior Executive Service. An excepted or limited assignment employee covered under § 317.305(b)(3) or § 317.306(b)(3), respectively, shall also indicate whether he or she request conversion to career appointment. Failure to respond shall be deemed declination.

(b) *Employees receiving appointments after designation but before the operational date of the Senior Executive Service.*—(1) *Condition of appointment.* Each individual appointed, reinstated, transferred, promoted, voluntarily reassigned or voluntarily demoted to a position after it has been designated a Senior Executive Service position shall be required to accept conversion to the Senior Executive

Service. The agency shall advise the individual of this requirement prior to the appointment or other personnel action. The individual shall signify his or her acceptance of conversion in writing at the time of the personnel action.

(2) *Notice.* At the time of the personnel action, or 90 days before the Senior Executive Service becomes operational, whichever is later, the agency shall give the employee a written notice which identifies the position, SES pay rate, and kind of appointment the employee will receive under the Senior Executive Service.

(3) *Pay.* Pay shall be set at an authorized SES pay rate. The pay rate given to a Federal employee who enters the Senior Executive Service without a break in service shall not be less than the employee's basic payable salary just prior to his or her entry into the Senior Executive Service. An employee's payable salary under the Senior Executive Service is subject to pay limitations, if any, imposed by chapter 53 of title 5, United States Code, or other statutes.

(c) *Employees whose positions are not designated Senior Executive Service positions.* *Notice.* Each employee covered by § 317.301(b)(5) shall be given a written notice advising the employee that his or her position is not designated a Senior Executive Service position; that the employee is not entitled to conversion to the Senior Executive Service; and that the employee has a right to appeal an action under this subpart to the Merit Systems Protection Board.

##### § 317.303 Status of employees who decline voluntary conversion to the Senior Executive Service.

(a) An employee who declines conversion pursuant to § 317.302(a)(4) shall remain in his or her current appointment and pay system, and shall retain the grade, seniority, and other rights and benefits associated with such type of appointment and pay system. The employee may continue in the current SES position or be reassigned to another position within or outside the Senior Executive Service.

(b) The assignment of an employee who declines conversion under this subpart shall not result in the separation or reduction in grade of any other employee in the agency.

(c) Nothing in these regulations affects an agency's right to terminate a limited executive appointment pursuant to Civil Service Rule IX.

##### § 317.304 Conversion of career and career-type appointees.

(a) *Coverage.* This section covers employees serving under:

(1) A career or career-conditional appointment; or

(2) A similar type of appointment in an excepted service position, as determined by the Office.

(b) *Senior Executive Service appointment.* An employee covered by this section shall be converted to a Senior Executive Service career appointment. The employee may be assigned to either a "general" or a "career reserved" position.

##### § 317.305 Conversion of excepted appointees.

(a) *Coverage.* This section covers employees serving under an excepted appointment in a position:

(1) In Schedule C of Subpart C of Part 213 of Title 5, Code of Federal Regulations;

(2) Filled by noncareer executive assignment under subpart F of Part 305 of Title 5, Code of Federal Regulations;

(3) In the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, other than a career Executive Schedule position; or

(4) Filled under an authority equivalent to paragraph (a) (1), (2), or (3) of this section.

(b) *Senior Executive Service appointment.* An employee covered by this section shall be subject to one of the following actions.

(1) If the employee's position is designated a "general" position, the agency may convert the employee to a Senior Executive Service noncareer appointment. The employee may be assigned only to a "general" position.

(2) If the employee's position is designated a "career reserved" position, the agency may convert the employee to a Senior Executive Service noncareer appointment and assign the employee to a "general" position. The employee cannot remain in a "career reserved" position.

(3) If the employee has reinstatement eligibility to a position in the competitive service, the employee may request conversion to a career appointment. Such request must be made on or before the end of the notice period.

(i) If the request is approved by the Office, the agency will convert the employee to a Senior Executive Service career appointment. The employee may be assigned to a "general" or a "career reserved" position.

(ii) If the employee's request for conversion to career is not approved by the Office, or if the employee elects not to make such a request, the agency will convert the employee to a Senior Executive Service noncareer appointment. The employee may be assigned only to a "general" position.

(4) In lieu of action under paragraph (b) (1), (2), or (3) of this section, the agency may separate the employee from the civil service.



§ 317.306 Conversion of employees under time limited appointments.

(a) *Coverage.* This section covers employees serving under:

(1) A limited executive assignment under Subpart E of Part 305 of Title 5, Code of Federal Regulations; or

(2) A similar type of time limited appointment in an excepted service position.

(b) *Senior Executive Service appointment.* An employee covered by this section shall be subject to one of the following actions.

(1) If the position in which the employee is serving under a limited executive assignment or similar type of time limited appointment will terminate within three years from the date of the proposed conversion action, the agency may convert the employee to a Senior Executive Service limited term appointment.

(2) If the position in which the employee is serving under a limited executive assignment or similar type of time limited appointment will not terminate within three years from the date of the proposed conversion action, the agency may convert the employee to a Senior Executive Service noncareer appointment and assign the employee to a "general" position. The agency may not assign the employee to a "career reserved" position.

(3) If the employee under a limited executive assignment has reinstatement eligibility to a position in the competitive service, and if immediately prior to the limited executive assignment and without a break in service the employee served under a career appointment in a position now being designated a Senior Executive Service position then the employee may request conversion to a career appointment. Such request must be made on or before the end of the notice period.

(i) If the employee requests conversion to career, the agency will convert the employee to a Senior Executive Service career appointment. The employee may be assigned to a "general" or a "career reserved" position.

(ii) If the employee does not request conversion to career, the agency will convert the employee as provided for in paragraphs (b) (1) and (2) of this section.

(4) In lieu of action under paragraph (b) (1), (2), or (3) of this section, the agency may separate the employee from the civil service.

OFFICE OF PERSONNEL  
MANAGEMENT,  
BEVERLY M. JONES,  
Issuance System Manager.

MARCH 27, 1979.

[FR Doc. 79-9753 Filed 3-29-79; 8:45 am]

[3410-05-M]

#### Title 7—Agriculture

### CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

##### PART 730—RICE

##### Subpart—Rice Program For Crop Years 1978-1981

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule sets forth the rice program provisions for 1978-1981, permitting the use of a set-aside, land diversion payments, and a normal crop acreage to control rice production. The rice program is authorized by the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, as amended by the Rice Production Act of 1975, Pub. L. 94-214, 90 Stat. 181, and by the Food and Agriculture Act of 1977, Pub. L. 95-113, 91 Stat. 940. This rule incorporates changes in the rice program as a result of enactment of the Food and Agriculture Act of 1977.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7633.

SUPPLEMENTARY INFORMATION: This rule permits the use of a set-aside, land diversion payments, and a normal crop acreage (NCA) to control rice production. The NCA limits the acreage of rice and other NCA crops whenever one or more crops for which a set-aside requirement is in effect is produced on a farm complying with program requirements. Because this rule merely incorporates determinations which have already been made public and since farmers have harvested or are harvesting their 1978 crops and are planning their 1979 operations, it is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impractical and contrary to the public interest.

Similarly, due to the need for farmers to have these regulations effective as soon as possible, it is hereby found in accordance with the provisions of Executive Order 12044 (43 F.R. 12661,

March 24, 1978) that it is not possible to publish these regulations in proposed form and allow sixty days for public comment. Therefore, these regulations are issued without compliance with such procedure.

The material previously appearing in 7 CFR Part 730 remains in full force and effect as to prior crop years. Accordingly, the regulations at 7 CFR Part 730 and the title of the subpart are revised, effective for crop years 1978-1981, to read as follows:

##### Subpart—Rice Program for Crop Years 1978-1981

- Sec.
- 730.1 Applicability.
  - 730.2 Administration.
  - 730.3 Definitions.
  - 730.4 Rule of fractions.
  - 730.5 National rice allotment.
  - 730.6 Farm and producer allotments.
  - 730.7 Release and reapportionment of rice allotment.
  - 730.8 General allotment transfer provisions—sale, lease, or by owner.
  - 730.9 Record of transfer.
  - 730.10 Amount or allotment transferable.
  - 730.11 Additional conditions and limitations.
  - 730.12 County committee action.
  - 730.13 Allocation of producer allotments to farms.
  - 730.14 Transfer of farm rice acreage affected by a natural disaster.
  - 730.15 Farm and rice operator yields.
  - 730.16 Notice of normal crop acreage, allotments, and yields.
  - 730.17 Reconstitution of farms.
  - 730.18 Requirements for program participation.
  - 730.19 Required set-aside.
  - 730.20 Voluntary Diversion.
  - 730.21 Designation, use and care of set-aside and voluntary diversion acreage.
  - 730.22 Cross Compliance and Offsetting Compliance.
  - 730.23 Determination of compliance.
  - 730.24 General payment provisions.
  - 730.25 Disaster payments.
  - 730.26 Established (target) prices.
  - 730.27 Deficiency payments.
  - 730.28 Division of payments and additional provisions relating to tenants and sharecroppers.
  - 730.29 Successors-in-interest.
  - 730.30 Misrepresentation and scheme or device.
  - 730.31 Setoffs and assignments.
  - 730.32 Appeals.
  - 730.33 Performance based upon advice or action of county or State committee.
  - 730.34 Recordkeeping.

AUTHORITY: Secs. 101(h), 408(b), 91 Stat. 940, 90 Stat. 181 (7 USC 1441, 1428(b)); Secs. 352, 385, 52 Stat. 60, 52 Stat. 68, (7 USC 1352, 1385).

##### Subpart—Rice Program for Crop Years 1978-1981

##### § 730.1 Applicability.

(a) The regulations in this subpart provide terms and conditions for the rice program for the 1978 thru 1981 crops of rice, under which producers on farms for which a rice allotment is

applicable may qualify for payments authorized under the program when eligibility requirements in 7 CFR § 730.18 are met.

(b) In accordance with section 101 of the Food and Agriculture Act of 1977, as amended, and the regulations in Part 795 of this chapter, as amended, the total amount of payments (excluding disaster payments) which a person shall be entitled to receive annually under the program shall not exceed \$52,250 for the 1978 crop and \$50,000 for each of 1979, 1980, and 1981 crops of rice (including such payments under the feed, grain, upland cotton, and wheat programs for the 1980 and 1981 crops).

(c) In accordance with the regulations in Part 796 of this chapter, as amended, payments are prohibited to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(d) The program is applicable in the States of Arkansas, California, Florida, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

##### § 730.2 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and ASCS Management Field Office (herein called "MFO").

(b) State and county committees, MFO, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also (1) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

(d) No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

##### § 730.3 Definitions.

In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires. All other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms, Part 719 of this chapter as amended.

(a) "Annual nonconserving crop" means any annual crop intended for harvest or utilized in any feed form, except for the following:

(1) Grasses regardless of use, including sweet sorghum, millet, and sudan grass.

(2) Legumes, other than peas or beans produced for seed, grain, or processing.

(3) Immature small grains (other than barley or wheat) destroyed by any means or used for other than grain.

(b) "Current year" means the calendar year in which the rice crop with respect to which payment may be made under this subpart would normally be harvested.

(c) "Farm administrative area" means: Each of the States of Arkansas, Mississippi, Missouri, North Carolina, Oklahoma, and the farm administrative area within the State of Louisiana consisting of the parishes of Union, Lincoln, Jackson, Winn, Grant, Rapides, Avoyelles, St. Landry, St. Martin, Iberia, St. Mary, and all parishes within the State west of such parishes, in which farm allotments are established on the basis of past production of rice on the farm.

(d) "Feed grain program" means the program authorized under Title V of the Food and Agriculture Act of 1977, and contained in Part 713 of this chapter, as amended.

(e) "Marketing year" means the 12-month period beginning August 1 of the current year and ending July 31 of the next year.

(f) "Producer administrative area" means: Each of the States of California, Florida, South Carolina, Tennessee, Texas, and the producer administrative area within the State of Louisiana consisting of the parishes of Morehouse, Ouachita, Caldwell, LaSalle, Catahoula, Concordia, West Feliciana, Pointe Coupee, Iberville, Assumption, Terrebonne, and all parishes within the State east of such parishes, in which producer allotments are established on the basis of past production of rice by the producers.

(g) "Rice acreage" means any acreage planted to rice and any acreage of volunteer rice that is harvested, excluding any acreage:

(1) Of sweet, glutinous, or candy rice such as Mochi Gomi.

(2) Which failed and could have been replanted by the end of the rice planting period set by the State committee for the county but was not replanted.

(3) Mechanically destroyed without feed or other benefit and not reported to ASCS as rice acreage.

(4) Approved for a wildlife food plot in accordance with instructions issued by the Deputy Administrator.

(5) Designated as set-aside or voluntary diversion.

(h) "Rice operator" means a person who has operational control over the production of specific acreage of rice, managerial responsibility for making day to day decisions involving the planting, harvesting, and marketing of that rice, and who shares in the crop or crop proceeds.

(i) "Rice planted and considered planted acreage" means the rice acreage defined in paragraph (g) of this section and:

(1) Any acreage which the county committee determines was not planted to rice because of drought, flood, or other natural disaster or condition beyond the control of the operator;

(2) Any acreage credited as rice acreage (except for new farms) under the provisions of Part 719 of this chapter, as amended;

(3) Any allotment acreage temporarily transferred from a farm or producer allotment; *Provided*, That acreage transferred from a producer allotment is allocated to a farm;

(4) Any allotment acreage temporarily released to the county committee; and

(5) Any other acreage which is planted to annual nonconserving crops or which the county committee determines was not planted because of drought, flood, or other natural disaster or conditions beyond the control of the operator; *Provided*, That such nonconserving crops shall not be considered as planted to rice for purposes of § 730.6(b)(4)(iii).

(j) "Upland cotton program" means the program authorized under Title VI of the Food and Agriculture Act of 1977 and contained in Part 713 of this chapter, as amended.

(k) "Wheat Program" means the program authorized under Title IV of the Food and Agriculture Act of 1977 and contained in Part 713 of this chapter, as amended.

##### § 730.4 Rule of fractions.

Fractions shall be rounded in accordance with Part 793 of this chapter.

##### § 730.5 National rice allotment.

The national rice allotment for crop years 1978-1981 is 1.8 million acres each crop year.



## § 730.6 Farm and producer allotments.

(a) *How obtained.* The national allotment is apportioned to farms in farm administrative areas and to producers in producer administrative areas on the basis of the farm and producer allotments established for the preceding year, adjusted to reflect any reserve established by the State committee for new farms or new producers, appeals, and corrections, to reflect adjustments authorized by the Deputy Administrator for crop rotation practices, and to reflect permanent adjustments made as required or permitted in this subpart.

(b) *New rice allotment.*

(1) *Written application.* Each year, the county committee, with the approval of the State committee, shall establish a rice allotment (herein called "new rice allotment") for each eligible farm or producer for which an allotment is requested in writing by February 15 of the current year. Each request shall be made by the farm owner or current year rice operator on Form MQ-25, Application for New Farm or Producer Allotment or Quota, which shall contain data necessary to enable the county committee to determine whether the conditions of eligibility prescribed in paragraph (b)(2) of this section have been met.

(2) *Eligibility requirements for owner or rice operator.* Eligibility for a new rice allotment shall be conditioned upon the following:

(i) *Allotment.* The farm or rice operator does not otherwise qualify for a rice allotment.

(ii) *Interest in another rice allotment.* The owner or rice operator does not for the current year own, have an ownership interest in, or operate any other rice allotment acreage.

(iii) *Availability of equipment and facilities.* The rice operator has adequate equipment and other facilities, including irrigation water, readily available for the successful production of the crop on the farm.

(iv) *Income requirement.* The applicant expects to obtain during the current year more than 50 percent of such applicant's income from the production of agricultural commodities or products from farming.

(A) *Computing applicant's income.* The following shall be considered in computing applicant's income:

(1) *Income from farming.* Income from farming shall include the estimated return from the production of the requested allotment and from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s), but shall exclude payments authorized under the rice program.

(2) *Income from nonfarming.* Nonfarming income shall include but shall

not be limited to salaries, commissions, pensions, social security payments and unemployment compensation.

(3) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(B) *Applicant a partnership.* If the applicant is a partnership, each partner must expect to obtain more than 50 percent of such partner's current year income from farming.

(C) *Applicant a corporation.* If the applicant is a corporation, it must have no major corporate purpose other than ownership or operation of farms. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(D) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the applicant's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the applicant's family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for the applicant's family.

(v) *Producer allotment sold by rice operator or reduced to zero at such operator's request.* A rice operator in a producer administrative area is not eligible for a new rice allotment if operator's allotment was:

(A) Transferred by sale in the previous 3 years beginning with the year in which the transfer became effective.

(B) Reduced to zero at such operator's request within 3 years from the date the request for a new allotment is considered.

(3) *Farm eligibility requirements in a farm administrative area.* Additional eligibility requirements for a new rice allotment for a farm in a farm administrative area are as follows:

(i) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for the production of rice.

(ii) *Allotment reduced to zero at the farm owner's request.* At least 3 years

must have elapsed from the date the rice allotment is reduced to zero at the farm owner's request, as authorized in paragraph (c) of this section, to the date the request for a new rice allotment is considered.

(iii) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the total rice allotment was pooled pursuant to Part 719 of this chapter, as amended, which is subsequently returned to agricultural production, shall not be eligible for a new rice allotment for a period of 3 years from the date the former owner was displaced.

(iv) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, as amended, shall not be eligible for a new rice allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(v) *Entire allotment permanently transferred by sale or transfer.* The farm from which the rice allotment was permanently transferred in the previous 3 years, beginning with the year in which the transfer became effective, is not eligible for a new rice allotment.

(4) *Limitations.* (i) *Rice acreage planned.* The county committee shall limit the new rice allotment to the smaller of the allotment requested or the rice acreage planned for the current year.

(ii) *Reserve.* The total new rice allotments approved in a farm or producer administrative area shall not exceed the acreage available for new rice allotments within a reserve established for that purpose and for appeals and corrections by the State committee of not more than one percent of the sum of the reserve and the total old rice allotments in the administrative area.

(iii) *Current year rice acreage.* Notwithstanding any other provision of this subpart, if the rice planted and considered planted acreage for the year a new rice allotment is established is less than 90 percent of the allotment, the allotment for such year shall be reduced to the acreage planted and considered planted to rice and payments computed on the basis of such reduced allotment.

(5) *Cancellation of new allotment.* A new rice allotment shall be cancelled under the following circumstances:

(i) If a new rice allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information, the allotment shall be cancelled effective for the

next crop year. If it is determined by the county committee that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be cancelled as of the date issued.

(ii) If a new producer allotment is established for a rice operator, and it is later determined by the county committee that the applicant has not continued as a rice operator for the current crop year, the allotment shall be cancelled as of the date issued.

(c) *Reduced allotments.* Notwithstanding any other provisions of this subpart, rice allotments shall be reduced as follows:

(1) The allotment shall be reduced to the extent:

(i) Requested in writing by the owner of the farm or by the producer for whom an allotment is established, not later than the date established by the State committee.

(ii) Acreage of cropland on the farm in farm administrative areas is permanently removed from agricultural production, as determined by the county committee.

(2) If the current year's rice planted and considered planted acreage is less than 90 percent of the allotment, the allotment for the succeeding year shall be reduced by the percentage by which the planted and considered planted acreage is less than the allotment for the current year, but such reduction shall not exceed 20 percent of the rice, allotment. If the rice planted and considered planted acreage is zero for two consecutive years, the allotment shall be reduced to zero.

(d) *Division of partnership allotments in producer administrative areas.* If a partnership is dissolved, the partnership's allotment shall be divided among the partners in such proportion as they agree upon in writing or, if they are unable to agree, in proportion to their interest in the partnership.

(e) *Succession of interest in producer allotment in case of death.* A deceased producer's allotment shall be apportioned in whole or in part among his heirs or devisees according to the extent to which they may continue, or have continued, his farming operations, if satisfactory proof of such succession of farming operations is furnished the county committee.

## § 730.7 Release and reapportionment of rice allotment.

(a) *Conditions under which allotments cannot be released.* The following allotments shall not be released in whole or in part:

(1) New rice allotments.

(2) A farm allotment for any farm for which the farm owner has filed a

written objection at the office of the county committee prior to the release.

(3) Allotments pooled under Part 719 of this chapter for which an application for transfer has been filed.

(b) *Allotments which may be released and reapportioned.*

(1) *Release of allotments for the current year only.* Except as provided in paragraph (a) of this section, all or any part of the allotment for the current year may be voluntarily released in writing to the county committee by the applicable closing date. The release shall be made by the farm operator or producer to whom a producer allotment is issued, except that allotments pooled under Part 719 of this chapter may be released only by the displaced owner.

(2) *Permanent release of allotment.* Except as provided in paragraph (a) of this section, all or any part of the allotment for the current year may be permanently released in writing to the county committee by the farm owner and operator or producer to whom a producer allotment is issued, by the applicable closing date.

(c) *Application for reapportioned allotment.* To be eligible for a reapportioned allotment, a written request by the farm operator or owner in a farm administrative area or by a rice operator in a producer administrative area shall be filed with the county committee by the applicable closing date.

(d) *Reapportionment by county committee.* Reapportionment shall be limited to allotments released only for the current year and allotments released permanently beginning in the current year. They shall be reapportioned to eligible farms or applicants in the same county in amounts determined by the county committee to be fair and reasonable pursuant to the standards and guidelines in paragraph (e) of this section.

(e) *Standards and guidelines for reapportionment.* (1) The reapportionment of an allotment to a member of the community or county committee or his employee, or to any farm owned, operated, or controlled by such member or employee, shall be approved by a representative of the State committee.

(2) An allotment shall not be reapportioned to a farm or rice operator from which or from whom an allotment was transferred in the current or prior year in accordance with § 730.8: *Provided*, That exceptional cases may be approved by a representative of the State committee, as when the transferer will not benefit from the reapportioned allotment or the transfer was temporary and the allotment has been returned to the farm or rice operator for the current year.

(3) The State committee shall establish and make available to interested

parties other standards and guidelines that assure uniform consideration of land, labor, water, and equipment available for rice production, crop rotation practices, and soil and other physical factors affecting rice production.

(f) *Closing dates.* The State committee shall establish and publicize closing dates for the entire State or for areas consisting of one or more counties in the State, taking into consideration normal planting dates. No closing date for an area shall be later than the date rice planting normally becomes general in that area. The State committee may accept releases or applications for reapportionment which are filed late for reasons beyond the producer's control.

## § 730.8 General allotment transfer provisions—sale, lease, or by owner.

(a) All or part of a farm or producer base acreage allotment may be transferred but only within the same administrative area.

(b) Transfers by sale are permanent.

(c) Transfers by lease are for the term of the lease which shall not extend beyond crop year 1981.

(d) Transfers by an owner to any other farm owned or controlled by him in the same farm administrative area may be either permanent or for a term of years designated by the owner which shall not extend beyond crop year 1981.

## § 730.9 Record of transfer.

(a) *Filing record of transfer.*

(1) *Sale or lease.*

(i) In producer administrative areas, the record of transfer (herein called "Form 375") shall be signed by the producer for whom the allotment is established and by the producer to whom the allotment is transferred. The signatures shall be witnessed by any State or county committee member or employee.

(ii) In farm administrative areas, Form 375 shall be signed by the owner, and operator if different, of the farm for which the allotment is established and by either the owner or operator of the receiving farm. The signature of either the owner or operator of each farm shall be witnessed by any State or county committee member or employee.

(iii) The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in other similar situations or may be unduly inconvenienced may be waived, provided the county office mails Form 375 for the required signature.

(2) *By owner in farm administrative area.* The owner of any farm for which an allotment is or will be established for the year in which the transfer is to take effect is eligible to file a



record of transfer of such allotment from the farm to another farm owned or controlled by such owner in the same administrative area. The county committee shall approve a transfer under this subparagraph requested on a nonpermanent basis to a farm controlled but not owned by the applicant only if such applicant will be the operator of the farm to which transfer is to be made for each of the years for which the transfer is requested. However, if the county committee determines that the applicant is prevented from remaining the operator of such farm for which such transfer has been approved due to conditions beyond the applicant's control, the transfer shall remain in effect. Conditions beyond the applicant's control shall include but are not limited to death, incompetency, or bankruptcy of such person.

(b) *Filing period.* Form 375 may be filed during the period beginning on the date allotments are initially mailed to operators and ending on the date established by the State committee as provided for in § 730.7(f). The State committee may accept a Form 375 filed after the closing date upon a finding that the producer was prevented from filing by such date for reasons beyond the producer's control.

(c) *Filing place.* Form 375 shall be filed with the county committee that has administrative control over the rice allotment to be transferred.

#### § 730.10 Amount of allotment transferable.

(a) *General.* All or part of the rice allotment may be transferred.

(b) *No transfer of reapportioned acreage.* Reapportioned allotments shall not be transferred.

(c) *No transfer of new rice allotment.* New rice allotments shall not be transferred.

(d) *Transfer of pooled allotments.* Allotments pooled under Part 719 of this chapter may be permanently transferred during the 3-year life of the pooled allotment or for a term of years not to exceed the remaining years of such 3-year period.

#### § 730.11 Additional conditions and limitations.

(a) *Consent of lienholder.* No transfer of a farm allotment shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder, except that such consent of lienholder shall not be required in the case of a temporary transfer for a 1-year period by lease or by owner.

(b) *Limitation on transfers to and from a farm or producer.* Allotments shall not be transferred to and from a farm or to and from a producer in the same year.

(c) *Additional limitation on permanent transfers.* No permanent transfer by sale or by owner shall be made from any farm or from any producer allotment to which an allotment was permanently transferred by sale or by owner within the three immediately preceding crop years.

(d) *Transfer by lease in producer administrative areas.* In producer administrative areas, producer allotments may be leased only to farm owners and rice operators.

#### § 730.12 County committee action.

(a) *Approval of transfers.* The county committee shall approve allotment transfer when all eligibility requirements for transfer are met. If the transfer is made between counties, the approval of both county committees shall be required. No allotment transfer shall be effective until county committee approval is obtained.

(b) *Cancellation, withdrawal, or revision of transfer agreement.*

(i) *Cancellation.* The county committee shall cancel the transfer if it determines that one or more of the eligibility requirements for transfer were not met.

(2) *Withdrawal or minor revisions.* Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the program will not be impaired, the county committee may permit withdrawal or minor revisions of transfers upon written request by all parties to the transfer: *Provided*, That (i) temporary transfers may be withdrawn or revised during any year of the agreement before rice is planted, and (ii) permanent transfers may be withdrawn or revised only during the first year of the agreement before rice is planted.

#### § 730.13 Allocation of producer allotments to farms.

(a) In order to obtain program benefits, producer allotments not released to the county committee must be allocated to farms capable of producing rice on the allocated acreage.

(b) Applications for allocating producer allotments to farms must be filed by May 1 of the current year, in accordance with instructions issued by the Deputy Administrator. Applications may be accepted as timely filed after May 1 if the county committee, with the concurrence of the State executive director determines from the facts and circumstances that the producer's failure to file previously or the reason for changing an application is because of an error on the part of an employee of the county or State committee, or because of physical reasons beyond the producer's control.

(c) In order to allocate producer allotment acreage to a farm in 1978, the producer must:

(1) Be engaged in the production of rice or a crop substituted for rice.

(2) Participate actively in the farming operation by furnishing land, water, labor, or equipment in sufficient quantity to produce and harvest rice or the substituted crop on the acreage the producer allocates to the farm. When furnishing:

(i) *Land*, the producer must (A) own the land, (B) be the bona fide cash tenant, or (C) be the farm operator with a valid lease that grants operating control of the land through rice harvest.

(ii) *Water*, the producer must, (A) own the well (or pump if pumping from another source), (B) be the farm operator with a valid lease that grants operating control of the well (or pump) throughout the rice growing season, or (C) personally arrange to obtain water from a water district or company and be the sole person billed and responsible for payment.

(iii) *Labor*, the producer must (A) do the work directly and on other farms as a trade, but may hire the harvesting and hauling done, or (B) be the farm operator using hired labor.

(iv) *Equipment*, the producer must (A) own the equipment, but may hire the harvesting and hauling done with equipment the producer does not own, (B) be the farm operator using rented equipment or customs service, or (C) personally arrange for use of rented equipment or custom service from persons who have no interest in the rice crop or the substituted crop and be the sole person billed and responsible for payment.

(d) In order to allocate producer allotment acreage to a farm in 1979 and subsequent years, the producer must (1) have an interest in the rice or a substitute crop produced on the acreage the producer allocates to the farm and (2) receive a percentage of the crop or crop proceeds equal to the producer's interest in the crop, as determined at the time the acreage is allocated to the farm.

#### § 730.14 Transfer of farm rice acreage affected by a natural disaster.

(a) *General authority.* The State committee shall determine when a county is affected by a natural disaster or other condition beyond the control of producers, which prevents the timely planting or replanting of rice in the county. The county committee shall post in the county office a notice of any such determination affecting the county and, to the extent practicable, shall give general publicity in the county to such determination.

(b) *Application for transfer.* The owner or rice operator on a farm in a

county designated for any year under paragraph (a) of this section may file a written application for transfer of rice acreage within the farm rice allotment acreage for such year to another farm in the same county or nearby county in the same administrative area if such acreage cannot be timely planted or replanted because of the natural disaster or condition beyond the producer's control. The application shall be filed with the county committee for the county in which the farm affected by such disaster or condition is located. If the application involves a transfer to a nearby county, the county committee for the nearby county shall be consulted before action is taken by the county committee receiving the application.

(c) *Amount of transfer.* The acreage to be transferred shall not exceed the smaller of (1) the farm allotment established or allocated under this subpart less such acreage planted to rice and not destroyed by the natural disaster, or (2) the acreage requested to be transferred.

(d) *County committee approval.* The county committee shall approve the transfer if it finds that the following conditions have been met:

(1) All or part of the allotment from which the acreage is to be transferred could not be timely planted or replanted because of the natural disaster or condition beyond the producer's control.

(2) One or more producers of rice on the farm from which the acreage is to be transferred will be a bona fide rice producer on the farm to which the acreage is to be transferred and will share in the rice crop or crop proceeds in the manner customary in the area.

(e) *Cancellation of transfer.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county committee, with approval of the State committee or its representative, shall cancel the transfer.

(f) *Planting credit.* Any acreage transferred under this section shall be deemed planted on the farm from which transferred for the purpose of determining the planted and considered planted acreage. However, the yield established for the farm to which the acreage is transferred shall apply to such acreage for program payment and loan purposes.

(g) *Closing dates.* The closing date for filing applications for transfers with the county committee shall be the end of the normal planting period as determined by the State committee. Notwithstanding such closing date requirement, the county committee may accept applications filed after the closing date upon a determination by the county committee that the failure to

timely file an application was the result of conditions beyond the control of the applicant and a representative of the State committee approves such determination.

#### § 730.15 Farm and rice operator yields.

(a) *Determining yields.* The per acre yield shall be the average yield for the farm (for the rice operator in a producer administrative area) determined on the basis of the actual yields per harvested acre for the 3 preceding years: *Provided*, That actual yields shall be adjusted by the county committee in accordance with instructions issued by the Deputy Administrator for abnormal yields in any year caused by a natural disaster or other condition beyond the producer's control.

(1) For years with no acreage, a yield shall be assigned based on yields established for similar operations.

(2) The actual yield shall be considered to be zero for any year that either an acreage report or a production report is not filed.

(3) For reconstituted farms:

(i) Determine the actual yield on the farm as constituted in the first year of the 3-year base period.

(ii) If the farm is subsequently divided, assign the farm yield determined for that year to each tract or assign yields which when weighted for all tracts, do not exceed the farm yield determined for that year.

(iii) Repeat steps one and two as necessary for the other two base years.

(iv) Compute for each year a yield extension for each tract in the farm as constituted for the current year by multiplying the acreage apportioned to the tract times the yield assigned for that year, total the extensions for all tracts, and divide by the total acreage used to compute the extensions to determine the actual yield for each base year.

(b) *Yield reduction.* For the purpose of determining eligibility for and amount of low yield payment as provided for in § 730.25(b), the established yield for the farm shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year's yield which is due to causes other than a natural disaster or condition beyond the producer's control, such as a change in farming practices. Such reduced yield shall also be used for computing deficiency payments as provided for in § 730.27(c).

#### § 730.16 Notice of normal crop acreage, allotments, and yields.

A normal crop acreage (herein called "NCA") shall be established in accordance with part 792 of this chapter, as amended, for each farm for which an allotment is established or to which a producer allotment is allocated, and

the farm operator shall be notified in writing of such NCA. Each producer for whom a producer allotment or rice operator yield is established and each operator for whom a farm allotment is established shall also be notified in writing of the applicable allotment and established yield per acre and any revision required under this subpart. Notwithstanding the foregoing, the notice shall not be mailed to any producer who has filed a written request that such producer not be furnished with the notice but the notice shall be filed with the producer's request in the county office. The producer may withdraw the request at any time; however, during the period a request is in effect, the producer shall be considered as having been timely and correctly notified of the contents of the notice.

#### § 730.17 Reconstitution of farms.

Farms shall be reconstituted in accordance with Part 719 of this chapter, as amended. Yields shall be determined in accordance with § 730.15.

#### § 730.18 Requirements for program participation.

(a) *General.* A person is eligible for program benefits if such person is a producer on a farm which meets the requirements of paragraph (b) of this section and fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.* (1) The operator of a farm on which any producer produces one or more crops for which a set-aside requirement is in effect, is participating in voluntary diversion, or is participating in wheat grazing and hay acreage for payment, as provided for in this subpart or in part 713 of this chapter, as amended, must do the following:

(i) File an Intention to Participate (herein called "Form 477") in accordance with instructions issued by the Deputy Administrator.

(ii) Meet set-aside requirements.

(iii) Comply with requirements in Part 792 of this chapter, as amended.

(iv) Limit the total acreage of NCA crops, required set-aside, voluntary diversion, and wheat grazing and hay acreage for payment to the farm NCA.

(2) The operator must also file, within the period authorized by the Deputy Administrator, the following:

(i) A Report of Acreage (herein called "Form 578").

(ii) A record of production and disposition when this information is needed for program determinations.

(iii) For consideration for disaster payment purposes, a Prevented Planting Claim (herein called "Form 574-1") or an Application for Disaster Credit (herein called "Form 574").

(3) Land owned by the Federal Government shall be ineligible for partici-



participation in the program if it is occupied without a lease, permit, or other right of possession.

(c) **Producer eligibility requirements.** (1) The producer must be a person who shares in the rice produced in the current year (or the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section, or would have shared in the crop if rice had been produced on such farm in the current year, and who complies with offsetting compliance requirements provided for in Part 792 of this chapter, as amended.

(2) A minor will be eligible to participate in the program only if:

(i) the right of majority has been conferred on the minor by court proceedings.

(ii) A guardian has been appointed to manage the minor's property and the applicable documents are signed by the guardian.

(iii) A bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor would be liable had the minor been an adult. Notwithstanding the foregoing, payment may be made to a minor after December 31 of the current year upon a determination by the county committee that the minor has met the requirements of the program.

#### § 730.19 Required set-aside.

(a) 1978 and 1979. No set-aside required.

(b) 1980 and 1981. To be announced by amendment to this subpart.

#### § 730.20. Voluntary diversion.

(a) 1978 and 1979. No voluntary diversion for payment is authorized.

(b) 1980 and 1981. To be announced by amendment to this subpart.

#### § 730.21 Designation, use, and care of set-aside and voluntary diversion acreage.

The regulations governing the designation, use, and care of set-aside and voluntary diversion acreage are set forth in Part 792 of this chapter, as amended.

#### § 730.22 Cross compliance and offsetting compliance.

The regulations governing cross compliance on the farm and offsetting compliance between farms are set forth in Part 792 of this chapter, as amended.

#### § 730.23 Determination of compliance.

(a) Acreage determinations shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the State or county committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm concerning which representations have been made on any forms filed under the program. Such entry may be for any of the following purposes:

(i) To measure acreage.

(ii) To examine any records pertaining to the program.

(iii) To determine otherwise the accuracy of a producer's representations and the performance of his obligations under the program.

#### § 730.24 General payment provisions.

(a) **Issuance.** Payments of any amounts due the producers on a farm shall be made only after they sign an application for payment as prescribed by the Deputy Administrator and the payments are approved by the county committee or by an authorized representative thereof. An application for payment which is signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of the State committee is obtained.

(b) **Failure to comply fully.** Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations contained in this subpart, and in Part 718 of this chapter, as amended.

(c) **Payment due producer.** Subject to the provisions of the payment limitation regulations in Part 795 of this chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) **Payment declined.** If a producer declines to accept all or any part of his share of the payment computed for a farm in accordance with the provisions of this section, such payment or portions thereof shall not become available for any other producer on the farm.

(e) **Unearned payments.** Deficiency and disaster payments made to any producer which exceed the total deficiency and disaster payments the producer earns under the program with respect to any farm shall be refunded to the Commodity Credit Corporation (CCC). If for any reason such earned payments are zero, the producer shall pay interest at the rate of 7 percent per annum on the amount of the refund from the date of issuance of the CCC sight drafts to the date such payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer earns any feed grain, upland cotton, or wheat deficiency or disaster payments for the farm or receives an unearned payment through no fault of the producer.

#### § 730.25 Disaster payments.

Prevented planting and low yield disaster payments are authorized only for 1978 and 1979. Producers may qualify for disaster payments only when the county committee determines that prevented planting or a low yield as hereinafter described in this section occurs because of a natural disaster or other condition beyond the producer's control. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of the crop loss is determined, and payment is approved.

(a) **Prevented planting.** (1) **Payment rate.** The prevented planting payment rate is one-third of the established price as provided for in § 730.26.

(2) **Acreage eligible for payment.** The acreage eligible for payment shall equal the smaller of:

(i) The acreage of rice intended for harvest within program requirements but which could not be planted to rice or other annual nonconserving crops because of a natural disaster or other condition beyond the producer's control, or

(ii) The effective farm allotment.

(3) **Payment computation.** Prevented planting payments shall be determined by multiplying the acreage for payment by the established yield as provided for in § 730.15 and by the prevented planting payment rate.

(b) **Low yield.** (1) **Payment rate.** The low yield payment rate is one-third of the established price as provided for in § 730.26.

(2) **Acreage for payment.** The acreage for payment shall be the smaller of (i) the current year rice acreage or (ii) the effective farm allotment.

(3) **Payment computation.** Low yield payments shall be determined by multiplying the acreage for payment by 75 percent of the established farm yield as provided for in § 730.15, subtracting the determined production therefrom, and multiplying the result by the low yield payment rate. The yield for a farm in a producer administrative area shall be established for low yield payment purposes by multiplying each rice operator's allotment acreage such operator plants on the farm by the yield established for such operator as provided for in § 730.15, totaling the results obtained for all rice operators on the farm, and dividing by the total allotment acreage they planted.

(i) The production from acreage not harvested shall be appraised and added to the actual production for the purpose of determining the eligibility for and the amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(ii) Any acreage for which the production cannot be determined shall be charged with the established yield; *Provided*, That if the county committee determines that the acreage was affected by a disaster, the acreage shall be charged with the larger of 75 percent of the established farm yield as provided for in § 730.15 or the actual average yield from the harvested rice acreage.

(a) 1978. The established price for the 1978 crop is \$.0853 per pound.

(b) 1979. The established price for the 1979 crop is \$.0905 per pound.

#### § 730.27 Deficiency payments.

(a) **Payment rate.** The deficiency payment rate shall be the amount by which the established price exceeds the higher of (1) the national weighted average market price received by farmers for rice during the first five months of the marketing year or (2) the national average loan rate established for rice.

(b) **Acreage for payment.** The acreage for payment shall be the smaller of (1) the current year rice acreage or (2) the effective farm or rice operator's allotment acreage, as applicable.

(c) **Payment computation.** Deficiency payments shall be determined by multiplying the acreage for payment by the established yield as provided for in § 730.15 and by the deficiency payment rate; *Provided*, That no deficiency payment shall be made for any quantity for which a low yield payment is made.

(d) **Date of payment.** Deficiency payments will be made to producers as soon as practicable after February 1 following the current year.

#### § 730.28 Division of payments and additional provisions relating to tenants and sharecroppers.

The regulations relating to the division of payments and additional provisions relating to tenants and sharecroppers are set forth in Part 794 of this chapter, as amended.

#### § 730.29 Successors-in-interest.

(a) In the case of death, incompetency, or disappearance of any producer whose name appears on the application for payment, the payment due such producer shall be made to such producer's successor, as determined in accordance with the regulations in Part 707 of this chapter, as amended.

(b) When any person who had an interest as a producer of the crop or would have had an interest as a producer if the crop had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after an application for payment has been filed, the payment to the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are

unable to agree to a division of the payment, a fair and equitable division shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed an application for payment, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

#### § 730.30 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the program for the farm with respect to which the representation was made and shall refund to the Commodity Credit Corporation the payments received by such producer with respect to such farm.

(b) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall refund to the Commodity Credit Corporation all payments received by such producer with respect to the program.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

#### § 730.31 Setoffs and assignments.

(a) **Producer indebtedness.** The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this chapter, as amended, shall be applicable to the program.

(b) **Assignments.** Any producer who may be entitled to any payment may assign his rights thereto in accordance with the regulations governing assignment of payment as set forth for other programs in Part 709 of this chapter, as amended.

#### § 730.32 Appeals.

A producer may obtain reconsideration and review of determinations made under this subpart in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

#### § 730.33 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the

Secretary shall be applicable to this subpart.

#### § 730.34 Recordkeeping.

Records of all rice purchased, acquired or received are to be kept by warehousemen, mill or elevator operators, processors, and buyers in accordance with instructions issued by the Deputy Administrator. Producers' records of evidence tending to show program performance need not be retained for more than 2 years after the end of the program year as provided by Part 708 of this chapter.

NOTE.—An approved final Impact Analysis Statement is available from Bruce R. Weber, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7987.

NOTE.—These regulations have been determined significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C., on March 22, 1979.

STEWART N. SMITH,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-9619 Filed 3-29-79; 8:45 am]

#### [3410-02-M]

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 192]

#### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

##### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period April 1-7, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating



## [3410-02-M]

**CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDER; MILK), DEPARTMENT OF AGRICULTURE**

[Docket Nos. AO-231-A47, etc.]

**MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS**

**Order Amending Orders**

| 7 CFR Parts | Marketing areas         | Docket Nos. |
|-------------|-------------------------|-------------|
| 1126        | Texas                   | AO-231-A47  |
| 1073        | Wichita, Kans.          | AO-173-A36  |
| 1097        | Memphis, Tenn.          | AO-219-A35  |
| 1102        | Fort Smith, Ark.        | AO-237-A29  |
| 1104        | Red River Valley        | AO-298-A29  |
| 1106        | Oklahoma Metropolitan   | AO-210-A42  |
| 1108        | Central Arkansas        | AO-243-A33  |
| 1120        | Lubbock-Plainview, Tex. | AO-328-A22  |
| 1132        | Texas Panhandle         | AO-262-A31  |
| 1138        | Rio Grande Valley       | AO-335-A27  |

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This action provides for changes in the present provisions of 10 southwestern milk orders based on a milk industry proposal which was considered at a public hearing held November 8, 1978. The changes increase the funding rate of the advertising and promotion program of each order and also tie such rate to the level of producer pay prices in the 10 orders. The funding period for the program is changed from a quarterly period to a semiannual period. Producers who do not want to participate in the program have one month instead of 15 days to submit refund requests. Refunds to producers are to be made on a monthly basis rather than quarterly.

The changes in the funding rate are necessary to restore the promotional effort in these markets to the level initially contemplated by producers and to keep the funding rate current with changes in the economy.

**EFFECTIVE DATE:** The funding rate change and certain related administrative provisions are effective on July 1, 1979. The provisions relating to the computation and the notification of producers of the funding rate are effective on the date of publication in the FEDERAL REGISTER (March 30, 1979). The remaining administrative provisions are effective on April 1, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 27, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons has eased somewhat.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.492 Lemon Regulation 192.

**Order.** (a) The quantity of lemons grown in California and Arizona which may be handled during the period April 1, 1979, through April 7, 1979, is established at 235,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 28, 1979.

D. S. KURYLOSKI,  
Acting Deputy Director, Fruit  
and Vegetable Division, Agri-  
cultural Marketing Service.

[FR Doc. 79-10003 Filed 3-29-79; 8:45 am]

**SUPPLEMENTARY INFORMATION:**  
Prior documents in this proceeding:

Notice of hearing: Issued October 20, 1978, published October 25, 1978 (44 FR 49810).

Recommended decision: Issued January 25, 1979, published January 31, 1979 (44 FR 6107).

Final decision: Issued March 7, 1979, published March 13, 1979 (44 FR 14584).

**FINDINGS AND DETERMINATIONS**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas and the minimum prices specified in the orders as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders partially effective not later than the date of publication in the FEDERAL REGISTER. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the respective marketing areas.

The provisions of this order are known to handlers. The recommended decision of the Acting Deputy Administrator, Marketing Program Operations, was issued January 25, 1979, and the decision of the Assistant Secretary for Marketing and Transportation Services containing all amendment provisions of this order was issued March 7, 1979. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders partially effective upon publication in the FEDERAL REGISTER, and on April 1, 1979, for certain other provisions as specified elsewhere in this document, and that it would be contrary to the public interest to delay the effective date of these amendments for 30 days after their publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the aforesaid marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending provisions relative to the advertising and promotion program in each of the aforesaid orders is approved or favored by at least two-thirds of the producers (three-fourths in the Memphis and Fort Smith markets) who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

**ORDER RELATIVE TO HANDLING**

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the aforesaid marketing areas shall be in conformity to and in compliance with the terms and

conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

**AMENDMENT OF ORDER PROVISIONS NOW IN EFFECT**

The following order provisions shall become effective as follows:

1. In §§ —.121 of each order, paragraphs (e) and (f) are effective upon publication in the FEDERAL REGISTER;
2. In each of the orders, §§ —.112, —.113(c)(1), —.116(d), —.120 (b) and (c), and —.121(a) are effective on April 1, 1979;
3. The remaining provisions of each order are effective on July 1, 1979.

**PART 1126—MILK IN THE TEXAS MARKETING AREA**

1. Section 1126.61 is revised to read as follows:

§ 1126.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed by § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(c) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1126.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1126.71, paragraph (b)(4) is revised to read as follows:

§ 1126.71 Payments to the producer-settlement fund.

(b) . . . . .

(4) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1126.60(f).

3. In § 1126.75, paragraph (b) is revised to read as follows:

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1126.76, paragraph (a)(4) is revised to read as follows:

§ 1126.76 Payments by handler operating a partially regulated distributing plant.

(a) . . . . .  
(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

5. Section 1126.112 is revised to read as follows:

§ 1126.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1126.113, paragraph (c)(1) is revised to read as follows:

§ 1126.113 Selection of Agency members.

(c) . . . . .  
(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall



specify the number of representatives to be selected.

7. In § 1126.116, paragraph (d) is revised to read as follows:

§ 1126.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1126.120, paragraphs (b) and (c) are revised to read as follows:

§ 1126.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1126.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new para-

graphs (e) and (f) are added to read as follows:

§ 1126.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104,

1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1126.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

§ 1126.123 [Deleted]

10. Section 1126.123 is deleted.

**PART 1073—MILK IN THE WICHITA, KANSAS MARKETING AREA**

1. Section 1073.61 is revised to read as follows:

§ 1073.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1073.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1073.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1073.71 Payments to the producer-settlement fund.

(a) . . .

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1073.60(f).

3. In § 1073.75, paragraph (b) is revised to read as follows:

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72 the weighted average price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1073.76, paragraph (a)(4) is revised to read as follows:

§ 1073.76 Payments by handler operating a partially regulated distributing plant.

(a) . . .

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average price shall not be less than the Class III price); and

5. Section 1073.112 is revised to read as follows:

§ 1073.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979 shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1073.113, paragraph (c)(1) is revised to read as follows:

§ 1073.113 Selection of Agency members.

(c) . . .

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator

shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1073.116, paragraph (d) is revised to read as follows:

§ 1073.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be disbursed by the Agency.

8. In § 1073.120, paragraphs (b) and (c) are revised to read as follows:

§ 1073.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1073.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1073.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1073.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1073.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1073.110 through 1073.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for



the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1073.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

#### PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

1. Section 1097.61 is revised to read as follows:

§ 1097.61 Computation of uniform price for each handler (including weighted average price and uniform price for base milk and excess milk).

(a) The market administrator shall compute for each handler a "weighted average price" for each month and for each of the months of August through February a "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1097.60 by adding or subtracting, as the case may be, the total of the location adjustments applicable pursuant to § 1097.75;

(2) For each handler operating a fluid milk plant receiving milk from a handler described in § 1097.9(c), prorate the resulting amount between such milk and producer milk;

(3) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform prices for the preceding month;

(4) Divide the resulting amount by the total hundredweight of producer milk received by the handler and deduct any fraction of a cent per hundredweight. The result shall be the "weighted average price."

(5) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed

in § 1097.121(e). The result shall be such handler's "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided in paragraph (a) (1) through (3) of this section;

(2) Compute the value of excess milk received by such handler as producer milk and bulk milk from a handler described in § 1097.9(c) as follows:

(i) Multiply the quantity of such milk, not in excess of the total Class III milk included in these computations, by the Class III price;

(ii) Multiply the remaining quantity of such milk, not in excess of the total Class II milk included in these computations, by the Class II price;

(iii) Multiply the remaining quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such excess milk and reduce to the nearest cent. The resulting figure, less the withholding rate for the advertising and promotion program as computed in § 1097.121(e), shall be the uniform price for such handler for excess milk;

(4) Subtract, for each handler, the total value of such handler's excess milk obtained in paragraph (b)(2)(iv) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1) of this section; and

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of base milk received by such handler and deduct any fraction of a cent per hundredweight. The result, less the withholding rate for the advertising and promotion program as computed in § 1097.121(e), shall be the uniform price for such handler for base milk.

2. Section 1097.112 is revised to read as follows:

#### § 1097.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

3. In § 1097.113, paragraph (c)(1) is revised to read as follows:

#### § 1097.113 Selection of Agency members.

(c) . . . . .  
(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

4. In § 1097.116, paragraph (d) is revised to read as follows:

#### § 1097.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

5. In § 1097.120, paragraphs (b) and (c) are revised to read as follows:

#### § 1097.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end

of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

6. In § 1097.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

#### § 1097.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1097.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1097.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1097.110 through 1097.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1097.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

#### PART 1102—MILK IN THE FORT SMITH, ARKANSAS, MARKETING AREA

1. Section 1102.61 is revised to read as follows:

§ 1102.61 Computation of uniform price for each handler (including weighted average price and uniform prices for base milk and excess milk).

(a) The market administrator shall compute for each handler a "weighted average price" for each month and for each of the months of August through February a "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1102.60 by adding the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1102.75;

(3) Divide the resulting amount by the total hundredweight of producer milk received by the handler and deduct any fraction of a cent per hun-

dredweight. The result shall be the "weighted average price."

(4) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1102.121(e). The result shall be such handler's "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided for in paragraphs (a) (1) and (2) of this section;

(2) Compute the value of excess milk received by such handler from producers as follows:

(i) Multiply the quantity of such milk, not in excess of the total Class III milk included in these computations, by the Class III price;

(ii) Multiply the remaining quantity of such milk, not in excess of the total Class II milk included in these computations, by the Class II price;

(iii) Multiply the remaining quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such excess milk and reduce to the nearest cent. The resulting figure, less the withholding rate for the advertising and promotion program as computed in § 1102.121(e), shall be the uniform price for such handler for excess milk;

(4) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b)(2)(iv) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1) of this section; and

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of such handler's base milk included in this computation and deduct any fraction of a cent per hundredweight. The result, less the withholding rate for the advertising and promotion program as computed in § 1102.121(e), shall be such handler's uniform price for base milk.

2. Section 1102.112 is revised to read as follows:

#### § 1102.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.



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3. In § 1102.113, paragraph (c)(1) is revised to read as follows:

§ 1102.113 Selection of Agency members.

(c) \*\*\*

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

4. In § 1102.116, paragraph (d) is revised to read as follows:

§ 1102.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

5. In § 1102.120, paragraphs (b) and (c) are revised to read as follows:

§ 1102.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

6. In § 1102.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1102.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1102.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1102.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1102.110 through 1102.123).

(e) As soon as possible after the be-

ginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1102.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.61 is revised to read as follows:

§ 1104.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight of milk of 3.5 percent butterfat content received as follows:

(a) Combine into one total the values computed pursuant to § 1104.60 for all handlers who filed the reports prescribed by § 1104.30 for the month and who made the payments pursuant to §§ 1104.71 and 1104.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1104.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1104.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1104.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1104.71 Payments to the producer-settlement fund.

(a) \*\*\*

(2) \*\*\*

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1104.60(f).

3. In § 1104.75, paragraph (b) is revised to read as follows:

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

(b) For the purpose of computations pursuant to §§ 1104.71 and 1104.72, the weighted average price shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the non-pool plant from which the milk was received (but not to be less than the Class III price); and

4. In § 1104.76, paragraph (a)(4) is revised to read as follows:

§ 1104.76 Payments by handler operating a partially regulated distributing plant.

(a) \*\*\*

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

5. Section 1104.112 is revised to read as follows:

§ 1104.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that

date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1104.113, paragraph (c)(1) is revised to read as follows:

§ 1104.113 Selection of Agency members.

(c) \*\*\*

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1104.116, paragraph (d) is revised to read as follows:

§ 1104.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1104.120, paragraphs (b) and (c) are revised to read as follows:

§ 1104.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings

against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1104.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1104.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1104.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1104.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and pro-



motion program (§§ 1104.110 through 1104.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1104.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

#### PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.61 is revised to read as follows:

§ 1106.61 Computation of uniform price (including weighted average price).

For each month, the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(c) Add not less than one-half of the cash balance on hand in the producer-

settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1106.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1106.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1106.71 Payments to the producer-settlement fund.

(a) . . .

(2) . . .

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1106.60(f).

3. In § 1106.75, paragraph (b) is revised to read as follows:

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the weighted average price shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

4. In § 1106.76, paragraph (a)(4) is revised to read as follows:

§ 1106.76 Payments by handler operating a partially regulated distributing plant.

(a) . . .

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

5. Section 1106.112 is revised to read as follows:

§ 1106.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1106.113, paragraph (c)(1) is revised to read as follows:

§ 1106.113 Selection of Agency members.

(c) . . .

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1106.116, paragraph (d) is revised to read as follows:

§ 1106.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1106.120, paragraphs (b) and (c) are revised to read as follows:

§ 1106.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1106.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1106.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1106.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1106.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the

amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1106.110 through 1106.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1106.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

#### PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.61 is revised to read as follows:

§ 1108.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1108.60 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to §§ 1108.71 and 1108.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1108.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1108.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price" for milk.

(6) For each of the months of August through February, subtract from the weighted average price computed pursuant to paragraph (a)(5) of this section the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a)(1) through (3) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(2) Compute the aggregate value of excess milk by assigning such milk in series beginning with Class II, to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices and adding together the resulting amounts;

(3) Divide the aggregate value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk and subtract not less than 4 cents nor more than 5 cents per hundredweight;

(4) Subtract the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(5) Subtract the aggregate value of excess milk obtained in paragraph (b)(2) of this section from the value of milk obtained in paragraph (b)(1) of this section;



(6) Divide the result obtained in paragraph (b)(5) of this section by the total hundredweight of base milk of handlers included in these computations and subtract not less than 4 cents nor more than 5 cents per hundredweight; and

(7) Subtract the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the uniform price for base milk of 3.5 percent butterfat content received from producers f.o.b. market.

2. In § 1108.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1108.71 Payments to the producer-settlement fund.

(a) \* \* \*

(2) \* \* \*

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1108.60(f).

3. In § 1108.75, paragraph (b) is revised to read as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(b) For purposes of computations pursuant to §§ 1108.71 and 1108.72 the weighted average price shall be adjusted at the rates set forth in § 1108.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1108.76 paragraph (a)(4) is revised to read as follows:

§ 1108.76 Payments by handler operating a partially regulated distributing plant.

(a) \* \* \*

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

5. Section 1108.112 is revised to read as follows:

§ 1108.112. Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of

each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1108.113, paragraph (c)(1) is revised to read as follows:

§ 1108.113 Selection of Agency members.

(c) \* \* \*

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1108.116, paragraph (d) is revised to read as follows:

§ 1108.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1108.120, paragraphs (b) and (c) are revised to read as follows:

§ 1108.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquired producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is with-

held beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1108.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1108.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and pro-

motion program (§§ 1108.110 through 1108.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas;

Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley, Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1108.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

#### PART 1120—MILK IN THE LUBBOCK-PLAINVIEW MARKETING AREA

1. Section 1120.61 is revised to read as follows:

§ 1120.61 Computation of uniform price (including weighted average price).

For each month, the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(c) Add an amount equal to not less than one-half of the unobligated bal-

ance on hand in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in such computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1120.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1120.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1120.71 Payments to the producer-settlement fund.

(a) \* \* \*

(2) \* \* \*

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1120.60(f).

3. In § 1120.75, paragraph (b) is revised to read as follows:

§ 1120.75 Plant location adjustments for producers and on nonpool milk.

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the weighted average price shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

4. In § 1120.76, paragraph (a)(4) is revised to read as follows:

§ 1120.76 Payments by handler operating a partially regulated distributing plant.

(a) \* \* \*

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

5. Section 1120.112 is revised to read as follows:

§ 1120.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1120.113, paragraph (c)(1) is revised to read as follows:

§ 1120.113 Selection of Agency members.

(c) \* \* \*

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1120.116, paragraph (d) is revised to read as follows:

§ 1120.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1120.120, paragraphs (b) and (c) are revised to read as follows:

§ 1120.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application



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with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June. ch

9. In § 1120.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1120.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1120.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1120.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1120.110 through 1120.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1120.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

**PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA**

1. Section 1132.61 is revised to read as follows:

§ 1132.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") for all milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the city hall of Amarillo, Texas, as follows:

(a) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month; except those in default of payments required pursuant to § 1132.71 for the preceding month;

(b) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1132.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1132.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1132.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1132.71 Payments to the producer-settlement fund.

(a) . . .

(2) . . .

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1132.60(f).

In § 1132.75, paragraph (b) is revised to read as follows:

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the Class III price).

4. In § 1132.76, paragraph (a)(4) is revised to read as follows:

§ 1132.76 Payments by handler operating a partially regulated distributing plant.

(a) . . .

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price

shall not be less than the Class III price); and

5. Section 1132.112 is revised to read as follows:

§ 1132.112. Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1132.113, paragraph (c)(1) is revised to read as follows:

§ 1132.113 Selection of Agency members.

(c) . . .

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1132.116, paragraph (d) is revised to read as follows:

§ 1132.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1132.120, paragraphs (b) and (c) are revised to read as follows:

§ 1132.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to

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paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1132.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1132.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1132.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1132.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this

section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1132.110 through 1132.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1132.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

**PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA**

1. Section 1138.61 is revised to read as follows:

§ 1138.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:



(a) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1138.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1138.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1138.71 Payments to the producer-settlement fund.

(a) \*\*\*

(2) \*\*\*

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1138.60(f).

3. In § 1138.75, paragraph (b) is revised to read as follows:

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the weighted average price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1138.76, paragraph (a)(4) is revised to read as follows:

§ 1138.76 Payments by handler operating a partially regulated distributing plant.

(a) \*\*\*

(4) Multiply the remaining pounds by the difference between the Class I

price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

5. Section 1138.112 is revised to read as follows:

§ 1138.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979 shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1138.113, paragraph (c)(1) is revised to read as follows:

§ 1138.113 Selection of Agency members.

(c) \*\*\*

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

7. In § 1138.116, paragraph (d) is revised to read as follows:

§ 1138.116 Duties of the Agency.

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

8. In § 1138.120, paragraphs (b) and (c) are revised to read as follows:

§ 1138.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for

milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1138.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1138.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1138.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1138.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1138.110 through 1138.122).

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1138.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

AMENDMENT OF ORDER PROVISIONS WHICH WERE ISSUED ON AUGUST 29, 1978 (43 FR 39324), AND WHICH ARE SCHEDULED TO BECOME EFFECTIVE ON SEPTEMBER 1, 1979

The following order provisions shall become effective on September 1, 1979:

# PART 1126—MILK IN THE TEXAS MARKETING AREA

1. Section 1126.61 is revised to read as follows:

§ 1126.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(1) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed in § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(2) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(3) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price computed in paragraph (a)(5) of this section the withholding rate for the advertising and promotion program as computed in § 1126.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1126.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii)

of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1126.121(e).

2. Section 1126.75 is revised as follows:

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1126.73, the uniform price and the uniform price for base milk for the month shall be adjusted by the amount set forth in § 1126.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the class III price.

# PART 1073—MILK IN THE WICHITA, KANS., MARKETING AREA

1. Section 1073.61 is revised to read as follows:

§ 1073.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(2) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and



(ii) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price;"

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1073.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1073.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1073.121(e).

2. Section 1073.75 is revised to read as follows:

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at plants located outside zone 1 the uniform price and the uniform price for base milk shall be increased or decreased by an adjustment for each such plant at the rates specified in § 1073.52(a).

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72, the weighted average price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the class III price.

#### PART 1097—MILK IN THE MEMPHIS, TENN., MARKETING AREA

1. Section 1097.61, paragraph (b) is revised as follows:

§ 1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

(b) For each month of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1097.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract, for each handler, an amount computed by multiplying the class III price for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in § 1097.9(c);

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk and deduct any fraction of a cent; and

(iii) Subtract the withholding rate for the advertising and promotion program as computed in § 1097.121(e).

#### PART 1102—MILK IN THE FORT SMITH, ARK., MARKETING AREA

1. In § 1102.61, paragraph (b) is revised as follows:

§ 1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

(b) For each month of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1102.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (2) of this section, subtract, for each handler, an amount computed by multiplying the class III price for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in § 1102.9(c);

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk, and deduct any fraction of a cent; and

(iii) Subtract the withholding rate for the advertising and promotion program as computed in § 1102.121(e).

#### PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.61 is revised as follows:

§ 1104.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1104.60 for all handlers who filed the reports prescribed by § 1104.30 for the month and who made the payments pursuant to §§ 1104.71 and 1104.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1104.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1104.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1104.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (2) of this section, subtract, for each handler, an amount computed by multiplying the class III price for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in § 1104.60(f); and

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1104.121(e).

2. Section 1104.75 is revised as follows:

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§ 1104.71 and 1104.72, the weighted average price shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1104.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

#### PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.61 is revised as follows:

§ 1106.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1106.60

for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(2) Add the aggregate of all allowable location adjustments to producers pursuant to § 1106.75.

(3) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1106.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1106.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1106.121(e).

2. Section 1106.75 is revised as follows:

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1106.52;

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the weighted average price shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1106.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rates set forth in § 1106.52.

#### PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.61, the introductory text of paragraph (a) (immediately preceding subparagraph (1)), and paragraph (a)(6) and (b) are revised as follows:

§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk containing 3.5 percent butterfat content as follows:

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1108.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;



(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1108.121(e).

#### PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

1. Section 1120.61 is revised as follows:

§ 1120.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(3) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1120.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the with-

holding rate for the advertising and promotion program as computed in § 1120.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1120.121(e).

2. Section 1120.75 is revised as follows:

§ 1120.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall of Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers; and

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the weighted average price shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the non-pool plant from which the milk was received (but not to be less than the class III price).

#### PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. Section 1132.61 is revised as follows:

§ 1132.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content f.o.b. pool plants locat-

ed within 100 miles of the City Hall of Amarillo, Tex., as follows:

(1) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(2) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(3) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1132.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1132.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1132.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1132.121(e).

2. Section 1132.75 is revised as follows:

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment pursuant to § 1132.73 the uniform price and the uniform price for base milk to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

| Distance from the Amarillo City Hall (miles):                  | Rate per hundredweight (cents) |
|--|--------------------------------|
| 100 but less than 110  | 15.0                           |
| For each additional 10 miles or fraction thereof an additional | 1.5                            |

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the non-pool plant from which the milk was received (but the resulting price shall not be less than the class III price.)

#### PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. Section 1138.61 is revised as follows:

§ 1138.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat, content as follows:

(1) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(2) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1138.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1138.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1138.121(e).

2. Section 1138.75 is revised as follows:

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at pool plants located in zones II and III or at pool plants located outside the marketing area and more than 100 miles, as determined by the market administrator, from the nearest of the county courthouses in El Paso County, Tex., or Bernalillo, or Santa Fe Counties, N. Mex., there shall be deducted from the uniform price and the uniform price for base milk an adjustment for each such plant for milk at the rates specified pursuant to § 1138.52.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the weighted average price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the non-pool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C., on March 27, 1979.

P. R. "BOBBY" SMITH,  
Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-9754 Filed 3-29-79; 8:45 am]

[3410-15-M]

#### CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

##### PART 1701—PUBLIC INFORMATION

###### Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration hereby amends Appendix A—REA Bulletins to provide for the issuance of a supplement to REA Bulletin 345-13, REA Specification for Telephone Cable for aerial and Underground Duct Applications (PE-22), and a supplement to REA Bulletin 345-14, REA Specification for Telephone Cables for Direct Burial (PE-23). REA Specification PE-22 has been revised to add paragraph 27.213, "Attenuation," under paragraph 27.2, "Capability Tests." REA Specification PE-23 has been revised to add paragraph 27.213, "Crosstalk," under paragraph 27.2, "Capability Tests."

Manufacturers of these types of products have established quality assurance procedures which measure attenuation and crosstalk parameters on a "capability basis." These two parameters were inadvertently omitted from PE-22 and PE-23. Since the purpose of this supplement is to correct that oversight and recognize procedures already being practiced, notice and public procedure thereon was determined to be impracticable and unnecessary.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph M. Flanagan, Director, Telephone Operations and Standards Division, Rural Electrification Administration, room 1355 South, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-6985.

SUPPLEMENTARY INFORMATION: In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data, or arguments to the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washing-



ton, D.C. 20250, Attention: Telephone Operations and Standards Division. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, the supplements to REA Bulletins 345-13 and 345-14 shall remain in effect, thus permitting the public business to proceed more expeditiously.

Dated: March 26, 1979.

JOHN H. ARNESEN,  
Acting Assistant  
Administrator—Telephone.

[FR Doc. 79-9731 Filed 3-29-79; 8:45 am]

[3410-07-M]

#### CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER H—PROGRAM REGULATIONS

##### PART 1948—RURAL DEVELOPMENT

###### Subpart A—Area Development Assistance Planning Grants

###### ADDITIONAL CRITERIA FOR SELECTING GRANTEES

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends the regulations of the Area Development Assistance Planning Grant program. This action is taken to provide additional criteria for selecting grantees. The amendment is intended to make potential applicants more aware of criteria which will be considered in the selection of grantees.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Kugler, 202-447-2573.

SUPPLEMENTARY INFORMATION: On page 58193 of the FEDERAL REGISTER for Wednesday, December 13, 1978, the Farmers Home Administration published a notice of proposed rulemaking regarding the additional criteria for selecting a grantee under Section 1948.32 "Grant Selection" of Subpart A, Part 1948, Chapter XVIII, Title 7 in the Code of Federal Regulations.

This action is being taken to help direct grant funds to those whose activities most clearly support the objectives of the program. Since limited funds are available for the program, it is necessary to provide criteria so that those applicants whose efforts best support the program and whose orga-

nizations can utilize the funds in the most effective and efficient manner are selected. The purpose of this amendment is to give preference to those multi-jurisdictional organizations which have on their policymaking boards direct representation of the unemployed, underemployed, those with low family income and minorities. This provision will not exclude other organizations which will provide alternative means for securing this participation in the decisionmaking process of the organization.

FmHA received 22 responses to the December 13, 1978, publication as of February 8, 1979. These comments were seriously considered. The following major concerns were mentioned by the respondents:

1. Impossibility of meeting conflicting Federal regulations and board composition; Areawide planning bodies that are currently designated as Economic Development Districts (EDD) by the Economic Development Administration, automatically meet the proposed regulation. Planning bodies without this designation will be considered on a case-by-case basis.

2. Priority automatically eliminates regional councils from consideration; Regional councils are not automatically eliminated from consideration. The board requirement is just one of 10 selection criteria by which the merits of individual proposals can be judged on a case-by-case basis.

3. State governments mandate local board composition, which limits voting membership to elected officials; When state governments mandate local board composition, alternative methods for securing desired representation will be considered on a case-by-case basis.

4. The proposed rule is discriminatory because it does not apply to states, cities, towns, etc.; The rule is not discriminatory because it does not provide states, cities, or towns with an unfair advantage in the grant selection process. The combination of selection criteria will ultimately determine the grant recipient.

5. Focus of rulemaking should be on performance in meeting citizen participation requirements, not on board composition; The grant selection criteria provides a balance between the desired performance and the procedures designed to achieve the performance goals. The regulation explicitly encourages significant participation in the decisionmaking process by the unemployed, underemployed, low income, and minority members of the community.

6. Local elected officials represent all the people; While this is true as a definition of the traditional responsibility of public officials, it says nothing about the process of citizen participa-

tion, which enables the officials to represent the views of their constituents. The regulation is intended to encourage a strong participatory role for all segments of the community in the planning process which will affect their future.

It is not the intention of FmHA to discriminate, provide unfair advantage, nor capriciously intrude on the local decisionmaking process. The intent of the rule is to provide an additional guideline which encourages citizen participation, especially by the low income family, underemployed, unemployed, and minority groups in our society. Citizen participation is required by § 1948.32(d) of the regulations. It is the responsibility of the applicant to ensure that the views of the citizens are solicited and carefully considered in the planning process. This participation can be achieved through the use of advisory committees or other such means (e.g., direct participation) which will accomplish the objective of citizen participation.

Therefore, § 1948.32(j) is added and reads as follows:

###### § 1948.32 Grant Selection

(j) In the case of multi-jurisdictional applicants the extent to which the unemployed, the underemployed, those with low family incomes and minorities directly participate on the policymaking board of the organization.

(7 U.S.C. 1989, delegation of authority by Sec. of Agri., 7 CFR 2.23 delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70).

Dated: March 15, 1979.

JAMES E. THORNTON,  
Associate Administrator,  
Farmers Home Administration.

[FR Doc. 79-9633 Filed 3-29-79; 8:45 am]

[3410-34-M]

#### Title 9—Animals and Animal Products

##### CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DE- PARTMENT OF AGRICULTURE

##### SUBCHAPTER D—EXPORTATION AND IMPORT- ATION OF ANIMALS (INCLUDING POUL- TRY) AND ANIMAL PRODUCTS

#### PART 92—IMPORTATION OF CER- TAIN ANIMALS AND POULTRY AND CERTAIN ANIMALS AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEY- ANCE AND SHIPPING CONTAINERS THEREON

##### Importation of Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document prohibits, until further notice, the importation of certain birds into the United States except through USDA quarantine facilities. This action is necessary to protect poultry of the United States from exotic Newcastle disease, a dangerous communicable disease of poultry and other birds. The effect of this action is to prohibit, for a temporary period, the entry of birds through approved quarantine facilities.

EFFECTIVE DATE: March 27, 1979.

FOR FURTHER INFORMATION CONTACT:

E. C. Sharman, Senior Staff Veterinarian, Import-Export Staff, APHIS, VS, Room 821, Federal Building, Hyattsville, MD 20782, 301-436-8530.

SUPPLEMENTARY INFORMATION: On March 17, 1972, a notice of declaration of emergency because of the existence of exotic Newcastle disease in the United States was published in the FEDERAL REGISTER (37 FR 5649).

Several outbreaks of the disease have recently occurred in California, Arizona, Nevada and Florida. The Department has evidence which supports the proposition that exotic Newcastle disease has been disseminated into the United States from lots of birds which have been in privately owned approved quarantine facilities. Also, it appears that owners of such facilities or their employees may have carried the disease from their approved quarantine facilities to birds in the United States. The Department believes that the present standards for approval and handling procedures for privately owned quarantine facilities may be inadequate, particularly with regard to the security and operational practices at such facilities.

Additionally, exotic Newcastle disease appears to be reaching epidemic proportions worldwide. There has been a significant increase in the number of imported birds in such approved quarantine facilities which have been diagnosed as having exotic Newcastle disease. Since October 1, 1978, 24 lots of birds from 12 different countries have been diagnosed as having exotic Newcastle disease as

compared to 15 lots in which the disease was diagnosed during all of fiscal year 1978.

In view of the aforementioned situation, the Animal and Plant Health Inspection Service, which is responsible for protecting the poultry industry of the United States from the introduction and dissemination into the United States of any communicable disease of poultry, has determined that it is necessary to prohibit the entry of commercial birds, research birds and zoological birds through privately owned, approved quarantine facilities. This prohibition is expected to be in effect for a limited period of time. The Department needs time to review the operational and handling procedures for such approved quarantine facilities in order to determine what may be needed to prevent the entry of exotic Newcastle disease into the United States.

The regulations in § 92.11(f) are also amended by suspending the cooperative agreements which the Department has entered into with importers to import birds into the United States through approved quarantine facilities. Pursuant to such agreements the Department provides services to importers at approved quarantine facilities, and the importers reimburse the Department for the costs of such services. Such cooperative agreements require that importers deposit funds with the Deputy Administrator equal to the approximate cost to the Department in furnishing services for two 30-day quarantine periods. Further, as funds from that amount are obligated, the importer, based upon monthly billings is obligated to restore the deposit to its original level. Due to the fact that the importation of birds through such approved quarantine facilities will be prohibited for a limited period of time, the regulations provide for the suspension of the cooperative agreements and for the return of the deposit or accounting to the importer by the department upon written request by the importer to the Deputy Administrator. Such return of unobligated funds will be made within 60 days of the receipt of such request by the Deputy Administrator, Veterinary Services. A 60 day period is necessary to take into account the billing procedures.

The action proposed by these regulations does not affect the importation of certain lots consisting of no more than two pet birds and which are subject to requirements established in the regulations. The Department has proposed amendments to the regulations to strengthen the requirements with respect to such birds. The new requirements should be issued shortly. In the interim the Department does not believe that the importation of such pet

birds constitutes such a risk of disseminating the disease as to warrant suspension of their importation.

The requirements for the importation of poultry into the United States are not affected by these regulations. Poultry are not imported through approved quarantine facilities. Any poultry which are required to undergo quarantine prior to entry into the United States, are quarantined in USDA quarantine facilities. The Department believes that the controls exerted at its own quarantine facilities are sufficient to insure against the introduction and dissemination of exotic Newcastle disease through such facilities.

In 1972, the Department expended \$56 million to eradicate exotic Newcastle disease in California. The Department believes that the present situation is critical enough to warrant the drastic measures placed into effect by these regulations and that if such measures are not taken, the poultry industry will be jeopardized. The Department is reviewing the situation and it is anticipated that the measures taken will be in effect only for a limited period.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In section 92.2, paragraph (b), the period is deleted and replaced by a semicolon and the following phrase is added to read:

§ 92.2 General prohibitions; exceptions.

(b) . . . *Provided*, That, notwithstanding the provisions of any other regulation in this part, commercial birds, zoological birds and research birds shall only be imported into the United States through a USDA quarantine facility.

2. In section 92.11(f), the first sentence in paragraph (7)(i) is amended by adding the following phrase thereto.

§ 92.11 Quarantine requirements.

(7)(i) Except as provided in subparagraph (iv) of this subparagraph, . . .

3. In section 92.11(f), a new subparagraph (iv) is added to read:

(iv) Except for importers who have birds in approved quarantine facilities, or who have birds in transit to the United States, (i.e. loaded aboard a commercial carrier and en route to the United States) on March 27, 1979, any



## [6714-01-M]

## Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT  
INSURANCE CORPORATIONSUBCHAPTER A—PROCEDURE AND RULES OF  
PRACTICEPART 303—APPLICATIONS, RE-  
QUESTS, SUBMITTALS, AND NO-  
TICES OF ACQUISITIONPART 304—FORMS, INSTRUCTIONS  
AND REPORTSPART 328—ADVERTISEMENT OF  
MEMBERSHIP

## Remote Facility Procedures

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final Rule; correction.

SUMMARY: This document corrects a final rule relating to remote service facility procedures (FR Doc. 79-9132) published at 44 FR 17995, March 26, 1979.

EFFECTIVE DATE: The effective date shown in the document previously published is incorrect; the effective date should read April 25, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4628.

FEDERAL DEPOSIT INSURANCE CORPORATION,  
HOYLE L. ROBINSON,  
Acting Executive Secretary.

[FR Doc. 79-9743 Filed 3-29-79; 8:45 am]

## [6320-01-M]

## Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS  
BOARD

## SUBCHAPTER B—PROCEDURAL REGULATIONS

[Regulation FR-199; Amendment No. 2]

PART 322—AUTOMATIC ENTRY  
PROCEDURES

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 22, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule modifies on an emergency basis, the requirement in section 401(d)(7)(A) of the Federal Aviation Act that the Board

issue a certificate to an applicant for automatic market entry within 60 days after the application is filed. This rule is necessary so that the Board may take any action required by section 401(d)(7)(D) of the Act to avoid substantial public harm to the national air transportation system.

DATES: Adopted: March 22, 1979. Effective: March 26, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Janice L. Charter, Legal Processing Division, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5340.

SUPPLEMENTARY INFORMATION: Section 401(d)(7) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978, Pub. L. 95-504, established the automatic market entry program. Section 401(d)(7)(D)(i) provides that the Board shall, by emergency rule, modify the program if it finds that its operation is causing substantial public harm to the national air transportation system, the modification proposed by the Board is required by the public convenience and necessity in order to alleviate the harm, and the harm cannot be rectified by any reasonably available means other than the modification proposed by the Board. By Order 79-3-150 issued simultaneously with this rule, the Board found that the modification effected by this rule meets all of these requirements (44 FR 18255, March 27, 1979).

Specifically, the Board found that when there is a fundamental and difficult question of first impression about whether an application for automatic market entry requires an emergency modification of the program and the Board does not have enough information to resolve responsibly the question within the 60 days provided by section 401(d)(7)(A), an extension of that 60-day period is required by the public convenience and necessity to avoid substantial public harm to the national air transportation system, and there is no reasonable alternative to such an extension. When the Board defers action on an application in accordance with such an extension, it will take final action on the application as soon as possible, expediting and giving high priority to any proceedings that are necessary in order to resolve the question.

Since action on the first automatic market entry application raising a question under section 401(d)(7)(D) would otherwise be required by March 26, 1979, the Board finds that notice and public procedure on this amendment are unnecessary, impracticable, and contrary to the public interest,

and that the amendment may be effective March 26, 1979.

## THE RULE

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 322, *Automatic Market Entry Procedures*, as follows:

Section 322.5 is amended to read:

## § 322.5 Board action.

(a) After receiving an application for an AME certificate, the Board will either issue the certificate applied for, or make a negative determination as specified in section 401(d)(7) of the Act. Except as set forth in paragraph (b) of this section, Board action will be taken not later than 60 days after the date of filing of a waiver under section 322.4 or, if no waiver is filed, the end of the round in which the application is filed.

(b) If, in a proceeding on an AME application, a fundamental and difficult question of first impression is raised about the need for an emergency modification of the AME program (section 401(d)(7)(D) of the Act) and the Board does not have enough information to resolve responsibly the question within the time set forth in paragraph (a) of this section, the Board will instead announce that it is briefly postponing final action on the application. In such a case, the requirement of section 401(d)(7)(A) of the Act that the Board act on the application within 60 days is suspended, and the Board will act on the application as soon as possible, expediting and giving high priority to any proceedings that are necessary in order to resolve the question.

(Sections 204 and 401 of the Federal Aviation Act of 1958, as amended by Pub. L. 95-504, 72 Stat. 743 and 754, 92 Stat. 1713; 49 U.S.C. 1324 and 1371.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-9641 Filed 3-29-79; 8:45 am]

## [6450-01-M]

Title 18—Conservation of Power and  
Water ResourcesCHAPTER I—FEDERAL ENERGY  
REGULATORY COMMISSION

## SUBCHAPTER A—GENERAL RULES

[Docket No. RM79-32; Order No. 24]

PART I—RULES OF PRACTICE AND  
PROCEDUREProcedures for Adjustments of Rules  
and Orders Issued by the Federal  
Energy Regulatory Commission  
Under the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to provide, on an interim basis, procedures whereby any person may seek an adjustment from the Commission rules and orders, having the effect of rules, which are issued under the Natural Gas Policy Act of 1978. This section also makes certain existing Commission procedures applicable to review of adjustment decisions. Adjustment relief may be granted in the form of an exception, exemption, modification or rescission to a rule or order upon a showing by applicant that relief is necessary to prevent special hardship, inequity or unfair distribution of burdens.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Mary Jane Reynolds (Office of General Counsel), Energy Regulatory Commission, 825 N. Capitol St. NE., Room 8000, Washington, D.C. 20426, (202) 275-4283.

In the matter of procedures for adjustments of rules and orders issued by the Federal Energy Regulatory Commission under the NGPA. Interim regulation issued March 22, 1979.

## BACKGROUND

The Natural Gas Policy Act (NGPA) mandates a new legislative framework for many facets of the natural gas industry. The law affects sales, transmission and distribution of natural gas. A primary effect of the new statute is to replace case-by-case adjudication of these various aspects of the Natural Gas Act with general rules applicable to the entire industry. Section 502(c) requires the Federal Energy Regulatory Commission (Commission) to provide procedures for obtaining adjustments to these rules and orders implementing the NGPA. Section 502(c) requires the Commission to adopt procedural rules under which any person may seek an "adjustment"—exception, exemption, modification or rescission\*—of rules and orders, which have

\*Section 502(c) also requires procedures for seeking interpretations of Commission rules and orders.

the applicability and effect of rules, and which are issued under the NGPA. Adjustments are to be granted to prevent special hardship, inequity or unfair distribution of burdens. Section 502(c) also requires procedures whereby any person aggrieved or adversely affected by the denial of a request for adjustment may seek the Commission review. The rules promulgated must establish procedures which include "an opportunity for oral presentation of data, views, and arguments."

It is difficult for the Commission to predict, at this time, the number of adjustments which may be requested. It is equally difficult to determine, in the absence of any experience under this new statute, the scope and nature of the effect that an adjustment may have. The proposed regulation establishes an abbreviated "paper pleading" procedure by which the problems can be presented to and resolved by the Commission Staff. Staff will have authority to deny requests for adjustment. However, where Staff proposes to grant relief, in whole or in part, the Commission will have 30 days from the date of the Staff determination to set the matter for Commission review.

The interim regulation promulgated herein provides for administrative review of all initial adjustment decisions. The Commission is required by section 502(c) to review denials of adjustment requests and is exercising its discretionary authority to review grants of adjustment. Section 502(c) clearly requires the Commission to establish procedures for review of denials of requests for adjustments. "If any person is aggrieved or adversely affected by the denial of a request for adjustment under the preceding sentence, such person may request review of such denial . . ." We note that our regulations implementing our authority under section 504(b) of the Department of Energy Organization Act, 42 U.S.C. 7194(b) (DOE Act), which contains similar review language to that used here, provide for the Commission to review only denials by the Secretary of Energy (Secretary) of adjustment requests. The Commission's jurisdiction to review adjustments under section 504(b) of the DOE Act concerns specific appellate review of decisions of another agency. The Commission has no statutory authority to expand its review jurisdiction under the DOE Act to include decisions by the Secretary which grant adjustments.

However, the Commission's authority under the NGPA is broader. Section 502(c) gives the Commission original jurisdiction to grant adjustments from its own rules and orders under the NGPA. This necessarily includes authority to provide internal procedures



for the effective exercise of this jurisdiction. Specifically, section 501(a) of the NGPA authorizes the Commission to prescribe rules "... as it may find necessary or appropriate to carry out its functions under [the NGPA]." Therefore, unlike its authority under the DOE Act, the Commission's authority under the NGPA extends to review of both grants and denials of adjustments.

The Commission is exercising its authority to review grants of adjustments under the NGPA because it recognizes that the impact of adjustment relief could be very broad, in view of the complexity of the new regulatory scheme and in view of the fact that many persons not previously subject to Commission jurisdiction under the Natural Gas Act will be directly or indirectly affected by Commission action under the NGPA. At least until there is more experience with the impact of the NGPA, the Commission believes it may be beneficial to undertake the review of grants of adjustments, in spite of the administrative burden that such review will impose upon Commission resources. Accordingly, the Commission finds it necessary and appropriate to review, on an interim basis, grants of adjustments under the NGPA.

In sum, to carry out our original responsibilities under section 502(c), we are providing that initial decisions by Staff are, on application of a person aggrieved by a denial of an adjustment application, subject to review by the Commission. The Commission is exercising its discretionary authority under section 501 to permit a person aggrieved by a grant of an adjustment application to obtain Commission review of the grant. (As discussed below, persons who may seek Commission review must have participated, or have sought and been denied an opportunity to participate, in the initial proceeding.) In addition, the rule permits the Commission, in its discretion, to review a grant of an adjustment application even if it is uncontested.

Any person who participates in the review proceeding may request a hearing on review. Although the Commission has not determined that the statute grants intervenors the right to a hearing, the review procedures provide that right. The Commission believes, consistent with the previous discussion concerning review of grants of adjustments and the abbreviated nature of the paper pleading procedure for initial decisions on adjustments, that for the present time, providing intervenors with the right to request a hearing will further enhance the ability of all persons involved in the proceeding to fully develop the record for decision-making purposes.

#### SUMMARY OF THE REGULATION

The new procedures for adjustments under the NGPA are set forth in a new § 1.41. Paragraph (a) makes clear that the procedures apply to adjustments from rules as well as from orders having the effect of rules. The procedures do not apply to orders issued under sections 301, 302 or 303 of the NGPA and do not apply to determinations of just and reasonable rates as provided for in sections 104, 106 and 109 of the NGPA. Certain of the existing Commission procedural regulations apply to adjustment proceedings. Therefore, paragraph (a)(2)(i) provides that the existing Commission regulations concerning the form of pleadings, dates for filing, service requirements and other similar provisions apply to these adjustment regulations. Since a proceeding under the interim rule is to be conducted almost exclusively by Staff, all references to "Commission" in the existing rules made applicable to this rule under paragraph (a)(2)(i), except § 1.14, mean "Staff" for purposes of this rule.

An adjustment proceeding is, generally, exclusively a paper proceeding. Staff does not participate in the proceeding as a party. Staff's only role is that of decision maker. For purposes of the initial application for adjustment "Staff" means the Director of the Office of Pipeline and Producer Regulation (OPPR) or his designate. See paragraph (b)(7). Therefore, it is anticipated that the initial applications for adjustment will be processed and decided by OPPR. However, if it is determined that an adjustment should be granted, the Commission has 30 days to initiate Commission review of Staff's order.

Paragraph (c) provides that an adjustment proceeding is commenced by filing an application for adjustment. Any person who believes he or she will experience special hardship, inequity or unfair distribution of burdens because of an NGPA rule or order issued by the Commission may file a request for adjustment.

Paragraph (d) sets forth the requirements for content and service of the initial application. The application must contain: (1) a complete statement of all relevant facts, including all documentary support pertaining to the circumstances, act or transaction that is the subject of the application; (2) a statement of the business reasons why the relief should be granted and the business consequences that will result if the relief is denied; and (3) a statement specifying how the denial of relief will cause the applicant to suffer special hardship, inequity or unfair distribution of burdens. The application must also set forth the legal basis for the relief and the precise nature of the relief sought. The applicant must

serve a copy of the application (or a copy with confidential information deleted) on each person whom the applicant can reasonably ascertain will sustain a direct and measurable economic impact if the adjustment relief is granted. The applicant must file with its application a certificate of service indicating the names and addresses of all persons served. Staff may require the applicant to make additional service. The application must also contain a short summary of the relief requested which will be published in the *FEDERAL REGISTER*.

Paragraph (e) establishes the rules for intervention. The mere fact that a person has been served with the application will not automatically make such person a party to the proceeding. Rather, all persons who wish to participate in the proceeding must file a petition to intervene. The standards for intervention are those set forth in § 1.8 of the Commission's Rules of Practice and Procedure.

Once Staff has granted a petition to intervene, the intervenor has 15 days to file a response to the application. The applicant is entitled to file a rebuttal within 15 days of service of the filing by the intervenor.

Generally, these filings—the initial application, the intervenor's response and the applicant's rebuttal—will comprise the record which Staff evaluates under paragraph (g) to decide a request for adjustment. Staff may obtain additional information if the applicant files amended pleadings (paragraph (f)) or if Staff requests additional information or conducts an investigation as permitted under paragraph (g)(2).

Paragraph (h) codifies the statutory criteria for granting adjustment relief: special hardship, inequity and unfair distribution of burdens. The applicant has the burden of establishing the need for relief and should the applicant fail to submit sufficient evidence, Staff may dismiss the application without prejudice. If so, the applicant may refile for the same relief at a later date. However, if Staff has requested additional material information and the applicant has failed to supply the information, the application may be denied.

The provisions concerning the order deciding the initial application for adjustment are found in paragraph (i). As stated previously, Staff makes the initial decision on adjustments. It is reduced to a written order, articulating the basis for the decision and noting any dispute with the factual assertions of the applicant. If Staff fails to issue an order rendering a decision on an application for adjustment within 150 days of the filing of the application, applicant may treat the application as having been denied.

Within 30 days thereafter, it may request review by the Commission in accordance with paragraph (j)(1). An order issued by Staff which grants an adjustment is effective 30 days after it is issued unless: (1) a petition for review is filed in accordance with paragraph (j)(1); or (2) the Commission directs that the order be reviewed in accordance with paragraph (j)(2).

Any person may seek administrative review of the initial decision granting or denying a request for adjustment, if: (1) that person is aggrieved or adversely affected by that decision; and, (2) if that person participated, or sought and was denied the opportunity to participate, in the proceeding under this section. In order to seek judicial review, the administrative appeal must first be taken in accordance with paragraph (j). Under the rule adopted today, the Commission is adapting its existing rules concerning review of denials of adjustments of the Secretary, codified at 18 CFR § 1.40, to apply to requests by aggrieved parties for review of initial adjustment decisions under the NGPA. Thus, for purposes of NGPA adjustments, the provisions of 18 CFR § 1.40, as modified in paragraph (j), apply both to denials and grants of adjustment relief. Staff takes the role of the Secretary with respect to review in § 1.40. Hence, Staff will file the record for the review at the Commission level. In § 1.40, however, the Secretary is an adverse party in all proceedings reviewing denials of adjustments by the Secretary. In contradistinction, Staff has discretion to participate as an adversary in any review of a denial of an NGPA adjustment. Staff may not participate in the proceeding as an adverse party with respect to the review of a grant of adjustment. If the Commission orders the review of a Staff order granting relief under paragraph (i)(3)(iii), but no party petitions for review, the procedure will conform as far as practicable with proceedings under § 1.40. The order directing review shall further specify the manner in which the proceeding is conducted.

As a general proposition, there are no hearings and no discovery in initial adjustment proceedings held by Staff. However, Staff may direct the conference be convened in accordance with the provisions of paragraph (k). In addition, any party to any adjustment proceeding may file a motion requesting an additional procedure or procedural ruling. See paragraph (n). Staff has authority to provide additional procedures and to make rulings on requests for procedural rulings. See paragraph (o).

The Commission recognizes that certain applications for adjustment relief will contain confidential information. The Commission regulations allow a person whose application contains confidential information to request confidential treatment of such information. The procedures for doing so are set forth in paragraph (l). Any party to the proceeding who wishes to obtain information supplied on the basis of confidentiality may make a request for such information under the Freedom of Information Act.

Paragraph (m) allows the applicant to make a request for interim relief—a stay—pending resolution of the application for adjustment on its merits. Staff may issue interim relief but the Commission may, at any time, on its own motion, revoke, modify, rescind or stay the interim order. It may take any other appropriate action concerning the order granting interim relief. Paragraph (m)(2)(D)(ii).

Paragraph (p) makes clear that all actions taken under this section concerning adjustments are made by Staff and that no appeals may be taken from Staff decisions except for review of grants and denials of adjustments in accordance with paragraph (j). However, as previously discussed, the Commission may, on its own motion, modify, revoke, rescind, stay or otherwise act upon any interim relief issued by Staff. The Commission may also, on its own motion, review any order of Staff granting adjustment relief.

Paragraph (q) is intended to assure that those members of the Staff who make the initial decision for adjustment relief and those who act as counsel or a witness to the review of an adjustment by the Commission shall not advise the Commission in the decision on review under paragraph (j).

#### EFFECTIVE DATE

These regulations are being issued effective immediately on an interim basis, because the Commission finds that the need to have regulations in place, implementing section 502(c) of the NGPA to apply to any requests for adjustments prior to the issuance of final rules, constitutes good cause to find prior notice and public procedure to be impracticable and to waive publication not less than 30 days prior to the effective date. The Commission requests data, views or arguments with respect to these regulations and will also hold a public hearing. After evaluating the information received, the Commission will make any appropriate revisions to these regulations.

#### WRITTEN COMMENT PROCEDURES

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to May 22, 1979 will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79-32.

#### PUBLIC HEARING PROCEDURES

A public hearing concerning this proposal will be held in Washington, D.C. on May 1, 1979, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., on April 16, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM79-32, as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m., on April 27, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 10 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350; Department of Energy



Organization Act, Pub. L. 95-91, 91 Stat. 565 et seq., E.O. 12009, 42 FR 46267; Natural Gas Act, as amended, 15 U.S.C. §§ 717 et seq.)

In consideration of the foregoing, Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

# **PART 1—RULES OF PRACTICE AND PROCEDURE**

1. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended in the table of contents by adding in the appropriate numeral order a new section number and heading to read as follows:

§ 1.41 Requests for adjustments under the NGPA.

2. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended by adding a new § 1.41, to read as follows:

§ 1.41 Requests for adjustments under the NGPA.

(a) *Applicability.* (1) This section applies to proceedings of the Commission held in accordance with section 502(c) of the NGPA to provide for adjustments of Commission rules and orders issued under the NGPA having the applicability and effect of a rule as defined in 5 U.S.C. § 551(4). It does not apply to orders issued under sections 301, 302, and 303 of the NGPA.

(2)(i) Except as otherwise provided in this section, the following provisions of this part apply to proceedings under this section:

(A) Section 1.1—The Commission;  
(B) Section 1.2—The Secretary;  
(C) Section 1.3—Notice of public session and proceedings;

(D) Section 1.4—Appearance and practice before the Commission;

(E) Section 1.5(b)–(c)—Applications;  
(F) Section 1.8(a)–(c) and (e)–(f)—Intervention;

(G) Section 1.9(g)—Answers;

(H) Section 1.11(a) and (d)—Amendments and withdrawal of pleadings;

(I) Section 1.13—Time, extensions of time, issuance of orders;

(J) Section 1.14(a)–(b)—Filings; docket;

(K) Section 1.15—Formal requirements as to pleadings, documents and other papers filed in proceedings;

(L) Section 1.16—Subscription and verification;

(M) Section 1.17—Service; and

(N) Section 1.36—Public information and requests.

(ii) For purposes of this section:

(A) All references in the sections referred to in paragraph (a)(2)(i) of this section to "Commission" mean "Staff" except with respect to filing requirements in § 1.14; and

(B) There are no "hearings" as that term is used in Part 1.

(b) *Definitions.* For purposes of this section:

(1) "Adjustment" means an order issued by Staff under paragraph (i) of this section granting relief from an order or rule issued by the Commission under the NGPA. Adjustments include exceptions, exemptions, modifications and rescissions of rules and order having the effect of a rule as defined in 5 U.S.C. 551(4) and issued under the NGPA. Adjustments exclude requests for just and reasonable rates under sections 104, 106 and 109 of the NGPA;

(2) "Applicant" means a person who files an application for adjustment under paragraph (c) of this section;

(3) "Application" means an application for adjustment filed under paragraph (c) of this section;

(4) "NGPA" means the Natural Gas Policy Act of 1978;

(5) "Party" means, with respect to a particular application for adjustment, the person making the application or an intervenor;

(6) "Person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint venture, corporation, and state, or any political subdivision, agency or instrumentality, or any charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof;

(7) "Staff" means the Director of the Office of Producer and Pipeline Regulation, or a person who is designated by the Director and who is an employee of the Commission.

(c) *Commencement of proceeding.* A person shall commence a proceeding for an adjustment by filing an application for adjustment with the Commission.

(d) *Initial application.* (1) *Content.* (i) The application shall contain: (A) A full and complete statement of all relevant facts, including all documentary support pertaining to the circumstances, act or transaction that is the subject of the application; (B) A complete statement of the business reasons why the relief should be granted and the business consequences that will result if the relief is denied; and, (C) A statement specifying how the denial of relief will cause the applicant to suffer special hardship, inequity or unfair distribution of burdens.

(ii) The application shall contain a complete statement of the legal basis of the relief requested including cita-

tions to authorities relied upon to support the application.

(iii) The application shall specify the exact nature of the relief sought.

(iv) The certificate of service required under § 1.7 shall indicate the names and addresses of all persons served.

(v) The application shall include a proposed notice of the adjustment proceeding which shall state the applicant's name, the rule or order under the NGPA of which an adjustment is sought, the date of the application, and a brief summary of the relief requested. The proposed notice shall be in the following form:

## **UNITED STATES OF AMERICA**

### **FEDERAL ENERGY REGULATORY COMMISSION**

(Name of Applicant) \_\_\_\_\_  
Docket No. \_\_\_\_\_

### **NOTICE OF APPLICATION FOR ADJUSTMENT**

On (date application was filed), (name of applicant) filed with the Federal Energy Regulatory Commission an application for an adjustment under (the rule or order under the NGPA of which an adjustment is sought), wherein (name of applicant) sought (relief requested).

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days after publication of this notice in the FEDERAL REGISTER.

(2) *Service.* (i) The applicant shall serve a copy of the application, or a copy from which confidential information has been deleted in accordance with paragraph (i) of this section, on each person who is reasonably ascertainable by the applicant as a person who may suffer direct and measurable economic impact if the relief is granted.

(ii) Notwithstanding the provisions of paragraph (d)(2)(i) of this section, if an applicant determines that compliance with paragraph (d)(2)(i) of this section would be impracticable, the applicant shall:

(A) Comply with the requirements of paragraph (d)(2)(i) of this section with regard to those persons whom it is reasonable and practicable to serve; and

(B) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

(iii) Staff may require the applicant to provide alternate or additional service and shall cause notice of the application to be published in the FEDERAL REGISTER.

(e) *Intervention.* A petition to intervene under § 1.8 must be filed within 15 days after service of the applica-

tion. If a person is not served with the application, a petition to intervene under § 1.8 must be filed within 15 days after publication in the FEDERAL REGISTER of notice of the application.

(f) *Other filings.* (1) *Intervenors.* Responses to the application may be filed within 15 days after the date the petition to intervene has been granted.

(2) *Applicant.* The applicant may respond to filings of another party within 15 days after service of such filings. Amended pleadings may be filed under § 1.11 if the applicant discovers facts unavailable at the time the initial application was filed, or, if such pleadings are requested or permitted by Staff under paragraph (g) of this section.

(g) *Evaluation.* (1) Staff shall consider all filings made in connection with the application for adjustment. Staff may also consider information received under paragraph (g)(2) of this section. If Staff obtains information under paragraph (g)(2)(i) or (iii) of this section and relies upon such information, the applicant shall be advised of such information and shall be given 15 days to respond to such information.

(2) (i) Staff may initiate an investigation of any statement in an application and use in its evaluation any relevant fact obtained in such an investigation.

(ii) Staff may request additional information from the applicant.

(iii) Staff may solicit and accept submissions from intervenors or third persons relevant to the application.

(iv) Staff may consider information obtained in informal conferences held under paragraph (k) of this section.

(h) *Criteria.* (1) Staff shall grant an application where there are sufficient facts to make a determination on the merits and where Staff determines that an adjustment is necessary to prevent or alleviate:

(i) Special hardship;  
(ii) Inequity; or  
(iii) An unfair distribution of burdens.

(2) Where there are not sufficient facts to make a determination on the merits, the Staff may dismiss the application without prejudice; except, that where Staff has requested additional material information under paragraph (g) of this section and the applicant has failed to provide the requested information, Staff may deny the application.

(i) *Orders.* (1) Staff shall issue a decision and an order granting or denying the application in whole or in part. The order shall articulate the basis for the decision, noting any dispute with the factual assertions of the applicant.

(2) In addition to service otherwise required under this section, Staff shall serve the decision and order on all persons who sought and were denied an opportunity to participate in the proceeding under this section.

sons who sought and were denied an opportunity to participate in the proceeding under this section.

(3) If Staff fails to issue an order granting or denying the application for adjustment within the determination period the applicant may treat the application as having been denied and may, within 30 days after the close of the determination period, request review thereof as prescribed in paragraph (j)(1) of this section. For purposes of this clause, "determination period" means the 150 days commencing with the filing of the application, unless Staff for good cause extends such period.

(4) An order of Staff issued under paragraph (i)(1)(i) granting an adjustment, in whole or in part, is final 30 days after it is issued, unless, during such 30-day period, either:

(i) A petition for review is filed under § 1.40 in accordance with paragraph (j)(1) of this section, in which case the order is final when the review process under § 1.40 has been completed; or

(ii) The Commission directs that the order be reviewed under § 1.40 in accordance with paragraph (j)(2) of this section, in which case the order is final when the review process under § 1.40 has been completed unless the Commission expressly states that the order shall be effective pending review proceeding.

(j) *Review of initial decision and order for adjustment.*

(1) *General rule.* (i) Within 30 days after the issuance by Staff of an order granting or denying, in whole or in part, an application for adjustment relief under this section, any person may file a petition for Commission review of that order in accordance with § 1.40, if the person: (A) is aggrieved or adversely affected by that order; and, (B) participated, or sought and was denied an opportunity to participate, in the proceeding under this section.

(ii) Except as otherwise provided in this paragraph (j)(1), of this section, the provisions of § 1.40 shall apply to Commission review of both grants and denials of adjustment applications under this section.

(A) "Contested order" in § 1.40 means the order issued by Staff granting or denying, in whole or in part, an application for adjustment under this section.

(B) "Staff" is substituted for "Secretary" in § 1.40. With respect to review of an order denying an application for adjustment under this section, Staff may in its discretion, participate in the proceeding in the same manner prescribed for the Secretary in § 1.40(e). With respect to review of an order granting an application for adjustment under this section, Staff may not

participate in the proceeding except to the extent necessary to file the record as prescribed in § 1.40(e)(i). With respect to review of an order granting in part and denying in part an application for adjustment under this section, Staff may participate as prescribed in § 1.40(e)(ii), only if a petition for review has been filed which specifically seeks review of the portion of the order denying the application for adjustment.

(iii) A petition to intervene under § 1.40(e)(2) may be filed only by a person who participated, or who sought and was denied an opportunity to participate, in the proceeding under this section.

(iv) There has not been an exhaustion of administrative remedies until a request for review has been filed under § 1.40 in accordance with this paragraph and the review process under § 1.40 has been completed by the issuance of an order granting or denying, in whole or in part, the relief requested.

(2) *Review initiated by the Commission.* (i) Within 30 days after the issuance by Staff of an order granting, in whole or in part, an application for adjustment relief under this section, the Commission may direct that the order be reviewed in a proceeding which, insofar as practicable, shall conform to proceedings under § 1.40. The order directing such review shall specify the manner in which such proceedings shall be conducted and the extent to which § 1.40 shall apply.

(k) *Conferences.* Staff may direct that a conference be convened. The conference will be conducted by Staff in accordance with procedures Staff determines will most expeditiously further the purpose of the conference. A conference will be convened only after actual notice of the time, place and nature of the conference is provided to the parties. All parties may attend the conference. However, if a party wishes to present confidential information at the conference, Staff may exclude all other parties from that part of the conference when the confidential information is presented.

(l) *Requests for confidential treatment.* (1) If any person filing a document under this section claims that some or all of the information contained in a document is exempt from the mandatory disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, that person may request confidential treatment of such information. At the time request is made for confidential treatment, the person shall submit a copy of the document which contains the confidential information and two copies of the document which



exclude the information for which confidential treatment is requested. The request for confidential treatment shall describe the information deleted and specify the grounds for the claim of confidential treatment. The service requirements of § 1.17 will be deemed satisfied if a copy of the document with the confidential information deleted is served.

(2) If a determination to disclose the information is made under § 1.36, the person who has requested confidential treatment shall be given notice thereof and shall be afforded no less than 10 days to respond to such determination before the information is disclosed.

(m) *Interim relief.* (1) The applicant may at any time file a request for interim relief in a proceeding under this section, setting forth the legal and factual basis for the request.

(2) The grounds for granting interim relief are:

(i)(A) A showing that irreparable injury will result in the event the interim relief is denied; and

(B) A showing that denial of the interim relief requested will result in a more immediate special hardship or inequity to the person requesting the interim relief than the consequences that would result to other persons if the interim relief were granted; or

(ii) A showing that it would be in the public interest to grant the interim relief.

(3) Any party may within ten days after the filing of the request for interim relief file a reply to the request for interim relief.

(4) Staff may request a written statement of the views of any party regarding whether the interim relief should be granted and may convene an expedited conference on the request for interim relief.

(5) If Staff has not granted the request for interim relief within 30 days after it is filed, the petition shall be deemed denied.

(6)(i) Subject to paragraph (m)(6)(ii) of this section, Staff shall issue an order granting or denying the request for interim relief and shall notify all parties. Any grant of interim relief is subject to further modification in the order issued under paragraph (i).

(ii) The Commission may, on its own motion, at any time revoke, modify, rescind, stay or take any other appropriate action concerning the order granting interim relief.

(n) *Motions.* Any party may file a motion for any procedural ruling or relief desired. Motions shall set forth the ruling or relief requested and shall state the grounds therefor and the statutory or other authority relied upon. Staff shall rule on all motions.

(o) *Procedural rulings.* Staff, in its discretion, may make any procedural rule or provide any procedural relief.

(p) *Appeals.* All actions under this section are made by Staff, except with respect to requests for public information under § 1.36. Except as provided in paragraph (j) of this section, there are no appeals to the Commission from Staff action taken under this section.

(q) *Separation of functions.* Any member of the Staff who made the decision to grant or deny an adjustment or who participated in the proceeding to review the grant or denial of that adjustment under paragraph (j) of this section, as a witness or counsel may not advise the Commission concerning the review of the grant or denial of that adjustment.

(FR Doc. 79-9838 Filed 3-29-79; 8:45 am)

#### [6450-01-M]

#### SUBCHAPTER H—REGULATIONS OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

[Docket No. RM79-26]

#### PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

##### Interpretive Rule; Commission Interpretation of Section 314 of the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interpretive Rule, amending existing rules.

SUMMARY: The Federal Energy Regulatory Commission interprets the definition of "natural gas covered by this Act" in Section 314(b) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621, to include any natural gas which falls within one or more of the categories listed in the definition. The rule clarifies the status of commingling or related contract clauses in the context of sales or assignments by intrastate pipelines or declared natural gas supply emergencies.

EFFECTIVE DATE: March 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-0161.

SUPPLEMENTARY INFORMATION:

##### INTRODUCTION

One of the primary purposes of the Natural Gas Policy Act of 1978, Pub.

L. 95-621 (NGPA) was to eliminate the distinction between the regulatory consequences of making sales in the interstate and the intrastate natural gas markets. Section 314 of the NGPA is an important part of the statutory scheme to remove these distinctions. Section 314(a) declares as unenforceable certain sales contract provisions which: (a) Prohibit the commingling of the natural gas sold under the contract with natural gas subject to the Commission's Natural Gas Act (NGA) jurisdiction; (b) prohibit later sales in the interstate market of the natural gas sold under the contract; (c) prohibit transportation of the natural gas sold under the contract by a natural-gas company; or, (d) terminate or grant the option to terminate the contract upon such commingling, sale or transportation.

The provisions of section 314 apply only to "natural gas covered by this Act." Section 314(b) defines this term:

[T]he term "natural gas covered by this Act" means—

(1) natural gas which is not committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act;

(2) natural gas, the sale in interstate commerce of which—

(A) is authorized under section 302(a) or 311(b); or

(B) is pursuant to an assignment under section 312(a); and

(3) natural gas, the transportation in interstate commerce of which is—

(A) pursuant to any order under section 302(c) or section 303(b), (c), (d) or (h); or

(B) authorized by the Commission under section 311(a).

A question of statutory construction arises as to the application of section 314. The question raised is whether the provisions of section 314(a) making commingling clauses unenforceable, apply only to natural gas which is described in all three clauses in section 314(b) or whether the section 314(a) prohibitions apply to natural gas which falls within any one of the section 314(b) clauses.

Because both interpretations have been ascribed to section 314(b), the Commission believes an interpretive rule will remove uncertainty surrounding the meaning of the section. The proposed interpretation would clarify the definition by stating that the definition should be read disjunctively. This reading would make section 314 applicable to natural gas which is in one or more of the three categories listed in section 314(b) rather than limiting its applicability to natural gas which meets all three tests.

##### LEGAL ANALYSIS

A disjunctive reading of the section 314(b) definition is supported by both a textual analysis and the legislative

history.<sup>1</sup> Four arguments support a disjunctive reading of the definition.

First, the draftsmen of the NGPA adopted a disjunctive usage in many of the NGPA definitions. Under this usage, definitional lists which are immediately preceded by the word "means" and joined by the word "and" are to be read disjunctively. For example, the section 2(18) definition of "committed or dedicated to interstate commerce" includes two categories of natural gas.<sup>2</sup> As in section 314(b), the NGPA draftsmen deliberately started each category by repeating "natural gas". Although the two categories are joined by the word "and", a disjunctive reading is surely intended in this instance. One category describes OCS gas and the other describes a jurisdictional test. A conjunctive reading would limit the definition to OCS gas which also meets the jurisdictional test. However, other provisions of the NGPA contemplate onshore "committed or dedicated" gas as well as "committed or dedicated" OCS gas. Similarly, the definition of "production day" in section 108 uses the word "and" to join "any day during which natural gas is produced" with "any day during which natural gas is not produced. . . ." In like manner, this same disjunctive usage is in the section 314(b) definitions.

Second, a conjunctive reading would be implausibly narrow. For example, if the section 314(b)(1), (b)(2)(A) and (b)(3)(B) tests must all be met in order to be included within the definition of "natural gas covered by this Act", then the Section 314(a) limitations would apply to natural gas which is not committed or dedicated to interstate commerce and sold by an intrastate pipeline under section 311(b) only if it happened to be subsequently transported under section 311(a). Congress did not intend this result. Sections 311 and 312 represent a statutory mandate to create an integrated na-

<sup>1</sup> Even if a syntactic analysis did not support the disjunctive reading, the courts have permitted wide latitude in ascribing a disjunctive meaning to the word "and".

<sup>2</sup> In the construction of statutes, it is the duty of the Court to ascertain the clear intention of the legislature. In order to do this, Courts are often compelled to construe "or" as meaning "and", and again "and" as meaning "or".

*United States v. Fisk*, 3 Wall. 445, 448, 70 U.S. 445, 448 (1866), accord, *Peacock v. Lubbock Compress Co.*, 252 F.2d 892 (5 Cir. 1958), cert. denied 356 U.S. 973 (1958).

<sup>3</sup> Section 2(18)(A) states: "The term 'committed or dedicated to interstate commerce', when used with respect to natural gas, means—

(i) natural gas which is from the Outer Continental Shelf; and

(ii) natural gas which, if sold, would be required to be sold in interstate commerce (within the meaning of the Natural Gas Act) under the Natural Gas Act, or any provision of such Act."

tionwide system for the sale and transportation of natural gas. This broad mandate was not intended to be confined to the transportation of gas which happens to have been sold under section 311(b). Since the statutory authority for each of these transactions contained in the NGPA is designed to address discrete issues which have arisen under NGA regulation, Congress could not have intended a conjunctive reading of section 314.

Similarly, the legislative intent would not permit private contractual prohibitions to frustrate the emergency powers accorded to the President during a declared natural gas supply emergency. Yet, a conjunctive reading of section 314(b)(3)(A) with sections 314(b)(1) and (2) would allow commonplace commingling clauses to immunize natural gas from the President's emergency powers to redirect the gas into the interstate market. The President's emergency powers were not so circumscribed under the Emergency Natural Gas Act of 1977, Pub. L. 95-2 (ENGA), section 9(b), and the legislative history of the NGPA fails to support such a substantial change from its predecessor statute, the ENGA.

Third, the legislative history of the NGPA supports a disjunctive reading. The Statement of Managers indicates that section 314 reflects the House version of the bill (H. Report No. 95-1752, 95th Cong. 2d Sess. at 110 (1978)). Section 414(c) of the House version (H.R. 8444, passed on August 5, 1977) corresponds to NGPA Section 314. The prohibition against commingling in the House version applied to "the first sale of any natural gas to which the provisions of sections 404, 406, 407, 409, or 413(e)(4) apply." These sections roughly correspond to the three categories listed in the NGPA section 314(b), definition of "natural gas covered by this Act." Because these sections are listed disjunctively in both the text of H.R. 8444 and its corresponding committee report (H.R. Rept. No. 543, Vol. 2, 95th Cong., 1st Sess. at 405 (1977)), a disjunctive reading should be incorporated by reference into the Statement of Managers of the final version of the NGPA.

Finally, consideration of the history and purpose of commingling clauses would demonstrate that a disjunctive reading would fulfill the Congressional intent to obviate the effect of clauses entered into during the former era of NGA regulation as opposed to the present era of NGPA regulation. The Commission had found in a series of cases under the NGA that if a sale was made in interstate commerce, the production was subject to not only the pricing policies of the Commission but also the abandonment provisions of NGA section 7(b). Similarly, the Com-

mission had held that transportation of gas by interstate facilities could render the producers of such gas jurisdictional. Consequently, in order to avoid potential regulation under the NGA as a result of either sales or transportation in interstate commerce, producers began to include clauses prohibiting commingling. Since the NGPA's enactment, natural gas which was not "committed or dedicated to the interstate market" as of November 8, 1978 cannot become so "committed or dedicated" by either sales or transportation of natural gas in interstate commerce. Therefore, the need for such clauses in any contract has disappeared. The public policy goals of the NGPA do, then, require the broad reading of section 314 embodied in this interpretive rule.

For these reasons, the Commission concludes that § 314(b) must be read disjunctively, and accordingly issues an interpretive rule which embodies this conclusion.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95-91, Administrative Procedure Act, 5 U.S.C. § 553, E.O. 12009, 42 FR 46267.)

This order merely clarifies NGPA section 314. Because this is an interpretive rule, the Commission finds that it may become effective immediately and that no provision to give interested persons an opportunity to participate in the rule making is necessary. 5 U.S.C. § 553.

In consideration of the foregoing, the Commission amends Part 270 of Title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

Subchapter I, Chapter I of Title 18, is amended by adding a new § 270.206 to read as follows:

§ 270.206 Applicability of section 314 "Limitation on Effectiveness of Commingling and Similar Clauses".

For the purposes of section 314(a) of the NGPA, (relating to unenforceability of commingling and similar clauses) the term "natural gas covered by this Act" means natural gas which is described in any one or more of the following paragraphs:

(a) Natural gas which is not committed or dedicated to interstate commerce as of November 8, 1978.

(b) Natural gas, the sale in interstate commerce of which (1) is authorized under NGPA section 302(a) or 311(b); or (2) is pursuant to an assignment under NGPA section 312(a).

(c) Natural gas, the transportation in interstate commerce of which is (1) pursuant to any order under NGPA



section 302(c) or NGPA section 303(b), (c), (d), or (h); or (2) authorized by the Commission under NGPA section 311(a).

[FR Doc. 79-9783 Filed 3-29-79; 8:45 am]

[4410-09-M]

#### Title 21—Food and Drugs

### CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

#### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

##### Excepted Stimulant and Depressant Drugs

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the regulations on excepted stimulant and depressant compounds and transfers the Table of Excepted Prescription Drugs to a separate volume of Title 21. These changes are made in an effort to update the regulations and to increase the usefulness of the Table of Excepted Prescription Drugs. No changes in the criteria or method of application for excepted status are made.

DATES: This rule is effective March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, telephone: 202-633-1366.

SUPPLEMENTARY INFORMATION: Effective November 13, 1973, the Administrator of the Drug Enforcement Administration placed the depressants, amobarbital, pentobarbital and secobarbital under Schedule II control (38 FR 31310) in § 1308.12(e) of 21 CFR, Part 1300 to End. Since some of the excepted preparations contain amobarbital, pentobarbital or secobarbital, the list of compounds eligible for exception should include those compounds in § 1308.12(e). Therefore, Schedule II depressant containing compounds are eligible for exceptions if the necessary criteria are met.

A complete listing of excepted preparations is contained in paragraph (b) of section 1308.32 of 21 CFR, Part 1300 to End. This Table of Excepted Prescription Drugs covers 223 pages in the 1978 edition of 21 CFR, Part 1300 to End and although necessary, is useful to only a small number of people in comparison to the remainder of 21 CFR, Part 1300 to End. Therefore, it is beneficial to all concerned to

move this table to a separate volume of Title 21.

In an effort to make this table as complete as possible, the Drug Enforcement Administration has a need to know all the excepted products and the companies granted exceptions for these products. For this reason, it is essential that the Drug Enforcement Administration receive applications as outlined in § 1308.31(a) of 21 CFR, Part 1300 to End, for every preparation believed qualified for an exception. No product whose quantitative composition differs from any of the listed preparations can be granted an exception unless an application is submitted and approved by the Administrator of the Drug Enforcement Administration.

Therefore, the Administrator of the Drug Enforcement Administration, under the authority [202(d), 301, 501(b) of the Act (21 U.S.C. 812(d), 821 and 871(b))] vested in him, amends 21 CFR, Part 1308 as follows:

1. Section 1308.31(a) is revised to read as follows:

§ 1308.31 Application for exception of a stimulant or depressant compound.

(a) Any person seeking to have any compound, mixture or preparation containing any depressant or stimulant substance listed in § 1308.12(e), or in § 1308.13(b) or (c), or in § 1308.14, or in § 1308.15, excepted from the application of all or any part of the Act, pursuant to section 202(d) of the Act (21 U.S.C. 812(d)), may apply to the Administrator, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, for such exception.

2. In § 1308.32 paragraph designation "(a)" is deleted; paragraph "(b)" is deleted; § 1308.32 reads as follows:

#### § 1308.32 Excepted Compounds

Until criteria are adopted by the Administration by which the Administrator may determine whether to except any compound, mixture or preparation containing any depressant or stimulant substance listed in § 1308.12(e), or in § 1308.13(b) or (c), or in § 1308.14 or in § 1308.15 from the application of all or any part of the Act (21 U.S.C. 812(d)), the drugs set forth in the Table of Excepted Prescription Drugs, located in a separate volume of this Title, entitled Chapter II—Drug Enforcement Administration, Table of Excepted Prescription Drugs to Part 1308, have been excepted by the Administrator from application of sections 302 through 305, 307 through 309, 1002 through 1004 of the Act (21 U.S.C. 822, 823, 825, 827-9, 952-4) and §§ 1301.11, 1301.12, 1301.21 through 1301.24, 1301.31, 1301.32 and 1301.71

through 1301.76 of this chapter for administration purposes only. The exception of these drugs by the Administrator should not be construed as an adoption or rejection of the criteria by which these drugs were originally excepted. Any deviation from the quantitative composition of any of the listed drugs shall require a petition for exception in order for that drug to be excepted.

3. The table of Excepted Prescription Drugs appearing at the end of § 1308.32 is transferred to a separate volume of Title 21, entitled Chapter II—Drug Enforcement Administration, Table of Excepted Prescription Drugs to Part 1308.

PETER B. BENSINGER,  
Administrator.

[FR Doc. 79-9782 Filed 3-29-79; 8:45 am]

[6820-32-M]

#### Title 22—Foreign Relations

### CHAPTER VI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

#### PART 602—FREEDOM OF INFORMATION POLICY AND PROCEDURES

##### Conforming Change

AGENCY: U.S. Arms Control and Disarmament Agency.

ACTION: Final rule.

SUMMARY: This document amends § 602.15 to conform to the nomenclature used in Title 22, CFR, Chapter V, reflecting the transfer of functions from the United States Information Agency to the International Communication Agency which was legislatively mandated by Reorganization Plan No. 2 of 1977.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Walter L. Baumann, Assistant General Counsel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, 202-632-3530.

Section 602.15 of Title 22, CFR, Chapter VI, is revised to read as follows:

#### § 602.15 Overseas requests.

Pursuant to the general policy outlined in § 602.3, ACDA has made arrangements to provide the International Communication Agency (USICA) with material for dissemination abroad. Requests for information or materials originating in an area served by a USICA office, and which is received at Agency headquarters, will be referred to USICA when appropriate

for direct response to the requester. The USICA also from time to time disseminates abroad information on official U.S. positions and arms control and disarmament policy for the Agency.

JAMES C. HACKETT,  
Administrative Director.

MARCH 28, 1979.

[FR Doc. 79-10004 Filed 3-29-79; 8:45 am]

[4310-02-M]

#### Title 25—Indians

### CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

#### SUBCHAPTER B—LAW AND ORDER

#### PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

##### Listing of Courts of Indian Offenses; Correction

MARCH 23, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Correction to Final Regulation.

SUMMARY: In FR Doc. 78-30289 appearing at page 49981 in the FEDERAL REGISTER of Thursday, October 26, 1978, the following changes should be made:

1. On page 49982 the amended section of 11.1(a) is corrected to add the following Court of Indian Offenses: (27) Duckwater Shoshone (Nevada)

2. On page 49982 the amended sections of 11.77-11.87H is corrected to read as follows:

"3. The letter 'N' is deleted from section numbers 11.76-11.87NH so that these sections will not apply to the Navajo Reservation. 11.76-11.87H [Amended]"

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Patrick A. Hayes, Judicial Services Officer, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245. Telephone: 202-343-7885.

RICK LAVIS,  
Deputy Assistant Secretary—  
Indian Affairs.

[FR Doc. 79-9661 Filed 3-29-79; 8:45 am]

[4830-01-M]

#### Title 26—Internal Revenue

### CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

#### SUBCHAPTER A—INCOME TAX

[T.D. 76051]

#### PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

##### Revision of Mileage Test and Dollar Limits for Deduction of Moving Expenses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the revision of the mileage test and dollar limits with respect to the deduction of moving expenses. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations provide the public with the guidance needed to comply with that Act. The regulations directly affect individuals who pay or incur moving expenses.

DATE: The amendments are effective for taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT:

Barbara Bitler Coughlin of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6618).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

On November 3, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 217 (b) (3) and (c)(1) of the Internal Revenue Code of 1954 (43 FR 51428). These amendments were proposed to conform the regulations to section 506 (a), (b), and (d) of the Tax Reform Act of 1976 (90 Stat. 1568). No comments were received with respect to the proposed amendments, and no public hearing was requested or held.

##### MILEAGE TEST

The regulations adopted by this Treasury decision amend paragraphs (a)(3)(i) and (c)(2) of § 1.217-2 to reflect the change in the mileage test with respect to the deduction of

moving expenses. Prior to December 31, 1976, otherwise qualifying moving expenses generally were allowable as a deduction only if the distance from the taxpayer's new principal place of work to the taxpayer's former residence was at least 50 miles greater than the distance from the taxpayer's former principal place of work to the taxpayer's former residence. The regulations provide that, with respect to moving expenses paid or incurred in taxable years beginning after December 31, 1976, the mileage test is changed to 35 miles.

##### DOLLAR LIMITS

The regulations also amend paragraph (b)(9) of § 1.217-2 to reflect the changes in the dollar limits with respect to the deduction of moving expenses. Prior to December 31, 1976, the amount of the deduction attributable to pre-move househunting costs and temporary meals and lodging expenses was limited to \$1,000. The aggregate of the amount attributable to those two items and to qualified residence sale, purchase, or lease expenses was limited to \$2,500. The regulations increase these limits to \$1,500 and \$3,000, respectively, with respect to commencements of work in taxable years beginning after December 31, 1976.

##### DRAFTING INFORMATION

The principal author of these regulations is John M. Coulter, Jr., of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

The amendments adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of the amendments to the regulations is to conform existing regulations under section 217 of the Code to changes made by the Tax Reform Act of 1976. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

##### ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the amendments to 26 CFR Part 1 published as a notice of proposed rulemaking in the FEDERAL REGISTER for November 3, 1978 (43 FR 51428), are hereby adopted as proposed.



This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,  
Commissioner of Internal Revenue.  
Approved: May 20, 1979.

DONALD C. LUBICK,  
Assistant Secretary  
of the Treasury.

#### § 1.217 [Deleted]

PARAGRAPH 1. Section 1.217 and the historical note are deleted.

#### § 1.217-2 [Amended]

PAR. 2. Section 1.217-2 is amended as follows:

1. Paragraph (a)(3)(i) is amended by inserting the phrase "that in 1977" in the 11th sentence between the words "assume" and "A is" and by deleting the term "50 miles" in the 11th sentence and inserting in its place the term "35 miles".

2. Paragraph (b)(9) is amended as follows:

a. The first sentence of (ii) is amended by deleting the term "\$2,500" and inserting in its place the phrase "\$3,000 (\$2,500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$1,000" and inserting in its place the phrase "\$1,500 (\$1,000 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

b. The third sentence of (ii) is amended by deleting the term "1971" both places it occurs and inserting in its place the term "1977", by deleting the term "1972" both places it occurs and inserting in its place the term "1978", and by deleting the term "\$500" and inserting in its place the term "\$1,000".

c. The second sentence of (iii) is amended by deleting the term "\$1,000" and inserting in its place the phrase "\$1,500 (\$1,000 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$2,500" and inserting in its place the phrase "\$3,000 (\$2,500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

d. The first sentence of (v) is amended by deleting the term "\$2,500" and inserting in its place the phrase "\$3,000 (\$2,500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$1,000" and inserting in its place the phrase "\$1,500 (\$1,000 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

e. The second sentence of (v) is amended by deleting the term "\$1,250" and inserting in its place the phrase "\$1,500 (\$1,250 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$500" and inserting in its place the phrase "\$750 (\$500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

f. The third sentence of (v) is amended by deleting the phrase "\$2,500 and \$1,000 limitation" and inserting in its place the phrase "\$3,000 and \$1,500 limitation (\$2,500 and \$1,000, respectively, in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the phrase "\$1,250 and \$500 limitation" and inserting in its place the phrase "\$1,500 and \$750 limitation (\$1,250 and \$500, respectively, in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

g. Example (1) of (vi) is amended by deleting the term "1971" each place it appears and inserting in its place the term "1977", by deleting the term "\$2,500" and inserting in its place the term "\$3,000", and by deleting the term "\$1,000" and inserting in its place the term "\$1,500".

h. Example (2) of (vi) is amended by deleting the term "1971" and inserting in its place the term "1977", by deleting the term "\$1,250" both places it appears and inserting in its place the term "\$1,500", and by deleting the term "\$500" both places it appears and inserting in its place the term "\$750".

i. Example (3) of (vi) is amended by deleting the term "1971" both places it appears and inserting in its place the term "1977", by deleting the term "\$2,000" and inserting in its place the term "\$5,000" and inserting in its place the term "\$6,000", by deleting the term "\$2,000" and inserting in its place the term "\$3,000", by deleting the term "\$2,500" both places it appears and inserting in its place the term "\$3,000", and by deleting the term "\$1,000" both places it appears and inserting in its place the term "\$1,500".

3. Paragraph (c)(2) is amended by deleting the term "50 miles" both places it appears and inserting in its place the phrase "35 miles (50 miles in the case of expenses paid or incurred in taxable years beginning before January 1, 1977)".

[FR Doc. 79-9855 Filed 3-29-79; 8:45 am]

#### [4830-01-M]

##### SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

(T.D. 7606)

#### PART 53—FOUNDATION EXCISE TAXES

##### Excise Tax on Net Investment Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the excise tax on net investment income of tax-exempt private foundations. The Revenue Act of 1978 reduced the rate of the tax from four percent to two percent. The regulations provide necessary guidance to the public and affect foundations subject to the tax.

DATE: The regulations are effective for taxable years beginning after September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Stein of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE-177-78, (202) 566-3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION: This Treasury decision amends the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4940 of the Internal Revenue Code, relating to the excise tax on net investment income of tax-exempt private foundations. The regulations reflect the amendment of section 4940(a) by section 520 of the Revenue Act of 1978 (92 Stat. 2884), which reduced the rate of the tax from 4 percent to 2 percent of net investment income. Because the amendment to the regulations reflects the simple reduction in the rate of the tax and does not provide substantive rules relating to the application of the tax, it is found unnecessary to issue this Treasury decision with notice and public procedure. This regulation is not a significant regulation under paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for November 8, 1978 (43 FR 52121).

##### DRAFTING INFORMATION

The principal author of this regulation was Elizabeth Stein of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the regula-

tion, both on matters of substance and style.

##### ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 53 is amended as follows:

#### § 53.4940 [Deleted]

PARAGRAPH 1. Section 53.4940 is deleted.

#### § 53.4940-1(a) [Amended]

PAR. 2. Section 53.4940-1(a) is amended by deleting the first sentence and inserting in lieu thereof: "For taxable years beginning after September 30, 1977, section 4940 imposes an excise tax of 2 percent of the net investment income (as defined in section 4940(c) and paragraph (c) of this section) of a tax-exempt private foundation (as defined in section 509). For taxable years beginning after December 31, 1969, and before October 1, 1977, the tax imposed by section 4940 is 4 percent of the net investment income."

Because this amendment to the regulations reflects the simple reduction in the rate of the tax and does not provide substantive rules relating to the application of the tax, it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,  
Commissioner of Internal Revenue.

Approved: May 23, 1979.

DONALD C. LUBICK,  
Assistant Secretary  
of the Treasury.

[FR Doc. 79-9829 Filed 3-29-79; 8:45 am]

#### [8320-01-M]

##### Title 38—Pensions, Bonuses, and Veterans' Relief

#### CHAPTER I—VETERANS' ADMINISTRATION

##### PART 3—ADJUDICATION

##### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

##### WOMEN'S AIR FORCES SERVICE PILOTS

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations to indicate that service in the Women's Air Forces Service Pilots (WASP), or in similarly situated groups, may be considered active service for purposes of Veterans Administration benefit entitlement if it is so certified by the Secretary of Defense and if the Secretary issues a discharge under honorable conditions. This change results from enactment of a new law.

EFFECTIVE DATE: November 23, 1977.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle, Jr., 202-389-3005.

SUPPLEMENTARY INFORMATION: On pages 5856-57 of the FEDERAL REGISTER of February 10, 1978, there was published notice of proposed regulatory development to amend § 3.7. Four comments were received. Three commentators merely expressed support for Veterans Administration benefits for WASPs.

The fourth commentator suggested specific changes to the proposed rule. He wants the rule to more closely follow the implementing legislation, Pub. L. 95-202 (91 Stat. 1449). Pub. L. 95-202 provides that WASP, or similar service, will qualify an individual for Veterans Administration benefits only if the Secretary of Defense certifies it as active military service and the Secretary issues a discharge under honorable conditions. The law also provides that Veterans Administration benefits may not be awarded to any person made eligible as a result of WASP, or similar service, for any period prior to November 23, 1977. In addition, Pub. L. 95-202 prohibits in certain instances, payment of Veterans Administration compensation or pension based on WASP, or similar service, and employees' compensation under the Federal Employees' Compensation Act (F.E.C.A.).

We believe this commentator's suggestions have merit. We have amended the proposed regulations substantially along the lines suggested.

We have not included the prohibition concerning concurrent payment of Veterans Administration compensation or pension and employees' compensation under the F.E.C.A. in the final rule because this prohibition is already stated in § 3.708. The effective date provisions applicable to WASP claims have been placed in § 3.400.

Approved: March 27, 1979.

By direction of the Administrator:

RUFUS H. WILSON,  
Deputy Administrator.

1. In § 3.7, paragraph (x) is added to read as follows:

#### § 3.7 Persons Included.

The following are included:

(x) *Women's Air Forces Service Pilots, or other similarly situated groups.* Such service if certified by the Secretary of Defense as active military service and if a discharge under honorable conditions is issued by the Secretary. The effective dates for an award based upon such service shall be as provided by § 3.400(z) and 38 U.S.C. 3010, except that in no event shall such an award be made effective earlier than November 23, 1977.

2. In § 3.400, paragraph (z) is added to read as follows:

#### § 3.400 General.

(z) *Claims based on service in the Women's Air Forces Service Pilots (WASP), or on service in a similarly situated group (Pub. L. 95-202).* (1) Original claim: Date of receipt of claim or date entitlement arose, whichever is later, or as otherwise provided under this section (e.g., paragraph (b)(1) of this section) except that no benefits shall be awarded for any period prior to November 23, 1977.

(2) Reopened claim: Latest of the following dates:

(i) November 23, 1977.  
(ii) Date entitlement arose.  
(iii) One year prior to date of receipt of reopened claim.

[FR Doc. 79-9773 Filed 3-29-79; 8:45 am]

#### [6560-01-M]

##### Title 40—Protection of Environment

#### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

##### SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1086-5; PP 6F1868/R201]

#### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a tolerance for residues of the insecti-



cide methomyl on pecans at 0.1 part per million (ppm). The regulation was requested by E.I. du Pont de Nemours & Co., Inc. This rule establishes a maximum permissible level for residues of methomyl on pecans.

**EFFECTIVE DATE:** Effective on March 30, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460 (202/426-9425).

**SUPPLEMENTARY INFORMATION:** On October 19, 1976, notice was given (41 FR 46020) that E.I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, had filed a pesticide petition (PP 6F1868) with the EPA. This petition proposed that 40 CFR 180.253 be amended to establish a tolerance for residues of the insecticide methomyl (S-methyl N-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodity pecans at 0.1 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat and dog feeding study with a no-observed-effect level (NOEL) of 100 ppm; a three-generation rat reproduction study with an NOEL of 100 ppm; and a hen neurotoxicity study, which was negative at 28 milligrams (mg)/kilogram (kg) of body weight (bw).

Based on the two-year dog feeding study with an NOEL of 100 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerance does not exceed the ADI. Tolerances have previously been established for residues of methomyl on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.1 ppm.

Desirable data that are lacking from the petition are an oncogenicity study in a second mammalian species. In a letter of April 20, 1978, the petitioner indicated that the study is underway and is expected to be completed in late 1978 and late 1980, respectively. The petitioner also agreed to voluntarily delete the use of methomyl on pecans from the label should these studies exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of methomyl is adequately understood, and an adequate analytical method (gas chromatography using a microcoulometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of methomyl, nor are there any other relevant considerations involved in establishing the proposed tolerance. There is no reasonable expectation of residues in eggs, meat, milk, or poultry.

The pesticide is considered useful for the purposes for which a tolerance is sought, and it is concluded that the tolerance of 0.1 ppm on pecans established by amending 40 CFR 180.253 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before April 30, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 30, 1979, Part 180 is amended as set forth below.

Dated: March 23, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Part 180, Subpart C, § 180.253 is amended by alphabetically inserting pecans at 0.1 ppm in the table to read as follows:

§ 180.253 Methomyl; tolerances for residues.

| Commodity:  | Parts per million |
|-------------|-------------------|
| Pecans..... | 0.1               |

[FR Doc. 79-9810 Filed 3-29-79; 8:45 am.]

[6560-01-M]

[FRL 1086-7; PP 8F2070/R196]

**PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES**

**Glyphosate**

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a tolerance for residues of the herbicide glyphosate on asparagus. The regulation was requested by Monsanto Co. This rule establishes a maximum permissible level for residues of glyphosate on asparagus.

**EFFECTIVE DATE:** Effective on March 30, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

**SUPPLEMENTARY INFORMATION:** On May 3, 1978, notice was given (43 FR 19077) that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, had filed a pesticide petition (PP 8F2070) with the EPA. This petition proposed that 40 CFR 180.364 be amended to establish a tolerance for combined residues of the herbicide glyphosate (N-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity asparagus at 0.2 part per million (ppm). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose (LD<sub>50</sub>) of 3.8 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with an NOEL of 2,000 ppm, two rabbit teratology studies with a no-observable-effect level (NOEL) of 2,000 ppm, a 90-day dog feeding study with an NOEL of 30 mg/kg bw/day, a two-year dog feeding study with an NOEL of 300 ppm, an 18-month mouse feeding study with no carcinogenic potential at 300 ppm, a three-generation rat reproduction study with an NOEL of 300 ppm, a two-year rat feeding study with an NOEL of 100 ppm, a hen neu-

rotoxicity study (negative at 7.5 g/kg bw), a mouse dominant lethal study (negative at 10 mg/kg bw), a host-mediated mutagenicity assay (negative), an Ames test (negative), and a Rec-assay mutagenicity test (negative).

The lifetime rat and mouse studies show no oncogenic potential at 300 ppm, the highest level fed. Since the studies were lacking in number of animals tested, an additional oncogenic study is needed. In a letter of August 29, 1978, the petitioner agreed to repeat two teratology studies on rabbits, an 18-month mouse oncogenicity study, a dominant lethal mouse study, the Ames test, and the Rec-assay mutagenicity test. The teratology studies on hand together with the reproduction study showed that glyphosate has a low potential for showing adverse effects on reproduction. The petitioner also agreed to remove the proposed use from the label should the results of the above studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for residues of glyphosate on a variety of raw agricultural commodities at levels ranging from 15 ppm to 0.1 ppm for a theoretical maximal residue contribution (TMRC) of 0.2 mg/day for a 60-kg man, or 6.81 percent of the MPI, which is based on an acceptable daily intake (ADI) of 0.05 mg/kg bw/day. Tolerances proposed but not yet established will add about 0.005 mg/day to the average diet for a total of 7 percent of the MPI.

Food additive tolerances (21 CFR 193.235) in connection with experimental programs have previously been established for residues of glyphosate in potable water at 0.1 ppm and sugarcane molasses at 2 ppm. A feed additive tolerance has also been previously established (21 CFR 561.253) for residues of glyphosate in sugarcane molasses at 15 ppm in connection with an experimental program. Permanent feed additive tolerances have been previously established for residues of glyphosate in or on dried citrus pulp at 0.4 ppm, soybean hulls at 20 ppm, and sugarcane molasses at 2 ppm. A permanent food additive tolerance has previously been established for residues of glyphosate in palm oil at 0.1 ppm, and sugarcane molasses at 2 ppm. Temporary tolerances have been established for residues of glyphosate in or on alfalfa, alfalfa hay, avocados, potatoes, and sugar beet roots and tops at 0.2 ppm and in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm.

A regulatory action was pending against glyphosate based on its contamination with N-nitrosoglyphosate,

but this was resolved since no residues of the contaminant at detectable levels are present in raw agricultural commodities, nor does it pose a hazard to the applicator. The metabolism of glyphosate is adequately understood, and an adequate analytical method (gas chromatography using a phosphorus specific flame photometric detector) is available for enforcement purposes. No other considerations are involved in establishing the proposed tolerance. The tolerance established by amending 40 CFR 180.364 will be adequate to cover residues that would result in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep as delineated in 40 CFR 180.6(a)(2), and there is no reasonable expectation of residues in other meat products, eggs, and milk as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.2 ppm on asparagus established by amending 40 CFR 180.364 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before April 30, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective March 30, 1979, Part 180 is amended as set forth below.

Dated: March 23, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Part 180, Subpart C, § 180.364 is amended by alphabetically inserting asparagus at 0.2 ppm in the table to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

|                |     |
|----------------|-----|
| Asparagus..... | 0.2 |
|----------------|-----|

[FR Doc. 79-9812 Filed 3-29-79; 8:45 am]

| Commodity:     | Parts per million |
|----------------|-------------------|
| Asparagus..... | 0.2               |

[FR Doc. 79-9812 Filed 3-29-79; 8:45 am]

[6560-01-M]

[FRL 1086-8; OPP-300019A]

**PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES**

**Exemption From Requirement of a Tolerance for a Certain Inert Ingredient in Pesticide Formulations**

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** This rule establishes an exemption from the requirement of a tolerance for an additional inert (or occasionally active) ingredient in pesticide formulations. The regulation was requested by BASF Wyandotte Corp. This rule will permit the use of the exempted inert ingredient in pesticide products.

**EFFECTIVE DATE:** Effective on March 30, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. David L. Ritter, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-2680).

**SUPPLEMENTARY INFORMATION:** On January 17, 1979, the EPA published a notice of proposed rulemaking in the *Federal Register* (44 FR 3529) to amend 40 CFR 180.1001 by exempting a certain pesticide chemical which is an additional inert (or occasionally active) ingredient in pesticide formulations from tolerance requirements under provisions of Section 408(e) of the Federal Food, Drug, and Cosmetic Act. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and, therefore, that the amendment to the regulations should be adopted as proposed.

Any person adversely affected by this regulation may, on or before April 30, 1979, file written objections with



the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 30, 1979, Part 180, Subpart D, § 180.1001 is amended as set forth below.

Dated: March 23, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.  
(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Part 180, Subpart D, section 180.1001 be amended by alphabetically inserting "α-Alkyl(C<sub>12</sub>-C<sub>18</sub>)-... in the table of inert ingredients in paragraph (d) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(d) ...

| Inert Ingredient   | Limits | Uses   |
|--|--------|--|
| α-Alkyl(C <sub>12</sub> -C <sub>18</sub> )-hydroxypoly-(oxyethylene)poly(oxypropylene) mixture of di-and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly(oxyethylene)-poly(oxypropylene) content averages 3-20 moles. |        | Surfactants, related adjuvants of surfactants. |

[FR Doc. 79-9813 Filed 3-29-79; 8:45 am]

[6820-25-M]

#### Title 41—Public Contracts and Property Management

#### CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

#### SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Temp. Reg. E-42, Supp. 5]

#### APPENDIX—TEMPORARY REGULATIONS

#### ADP and Telecommunications Requirements Checklist

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to March 31, 1980, the expiration dates of FPMR Temporary Regulation E-42 and Supplements 1, 2, 3, and 4.

DATES: Effective date: April 1, 1979. Expiration date: March 31, 1980.

#### FOR FURTHER INFORMATION CONTACT:

Robert Johnson, 202-566-0834, Procurement Policy and Regulations Branch.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: March 16, 1979.

PAUL E. GOULDING,  
Acting Administrator  
of General Services.

MARCH 16, 1979.

#### FEDERAL PROPERTY MANAGEMENT REGULATIONS

TEMPORARY REGULATION E-42, SUPPLEMENT 5

TO: Heads of Federal agencies.

SUBJECT: ADP and telecommunications requirements checklist.

1. Purpose. This supplement extends the expiration date of FPMR Temporary Regulation E-42.

2. Effective date. This regulation is effective April 1, 1979.

3. Expiration date. This regulation expires March 31, 1980, unless sooner superseded or canceled.

4. Explanation of changes. The expiration dates contained in paragraph 3 of FPMR Temporary Regulation E-42 and Supplements 1, 2, 3, and 4 are revised to March 31, 1980.

PAUL E. GOULDING,  
Acting Administrator.

[FR Doc. 79-9617 Filed 3-29-79; 8:45 am]

[6712-01-M]

#### Title 47—Telecommunication

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 78-323; RM-3058; FCC 79-177]

#### PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

#### PART 87—AVIATION SERVICES

#### Authorizing Use of Aeronautical Advisory Frequencies by Aeronautical Utility Mobile Stations Located at Certain Landing Areas Which Do Not Have a Control Tower or FAA Flight Service Station

AGENCY: Federal Communication Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

EFFECTIVE DATE: May 10, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

#### FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, (202) 632-7197.

#### SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 2 and 87 of the rules to authorize the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station (Gen. Docket No. 78-323, RM 3058).

#### REPORT AND ORDER; PROCEEDING TERMINATED

Adopted: March 21, 1979.

Released: March 28, 1979.

1. This action amends the Commission's rules to permit certain ground vehicles which routinely operate on airports that have no functioning control tower or FAA flight service station (FSS) but which are served by an aeronautical advisory station (unicom), to utilize aeronautical advisory frequencies for safety related communications.

#### BACKGROUND

2. The Commission received a letter from the Federal Aviation Administration (FAA) requesting that the rules be amended to allow FAA vehicles and certain other ground vehicles to utilize aeronautical advisory frequencies while operating on landing areas not served by a control tower or FAA flight service station. Essentially, FAA feels that safety and operating efficiency would be enhanced at these airports by permitting vehicles used for inspections, maintenance, emergencies and the like, to communicate with the local aeronautical advisory station (unicom) when operating on the airfield. Primarily, these vehicles would be expected to monitor the appropriate frequency and only transmit or acknowledge relevant safety information. FAA recommends that communications by such vehicles be subject to the supervision of the advisory station operator. Also it is recommended that non-safety communications, such as dispatching, not be permitted. From time to time the Commission has received, and in appropriate cases granted, requests for waivers to provide similar communications capabilities for certain ground vehicles operating on nontower airfields.

3. The use of aeronautical advisory frequencies is limited to the necessities of safe and expeditious operation of private aircraft, such as runway conditions, types of fuel available, wind conditions, weather information and dispatching. Further, only one aeronautical advisory station is permitted on a landing area. Due to congestion problems on the then one available aeronautical advisory frequency at uncontrolled airports, the Commission amended the rules to provide two additional frequencies for advisory purposes at these landing areas.<sup>2</sup> In view of the nature of this radio service and the potential that increased traffic would negate the beneficial effects of the two additional frequencies recently provided, caution is necessary in regard to the grant of broader access to the advisory frequencies.

<sup>2</sup>See 43 FR 49331, October 23, 1978.

<sup>3</sup>This restriction has been retained in the rules since the inception of the aeronautical advisory service. As indicated in a report prepared by Special Committee 113 of the Radio Technical Commission for Aeronautics (Document No. DO-129, November 23, 1965) such a limitation is necessary for safety, legal and technical considerations.

4. Since it appeared that with appropriate safeguards the FAA recommended rule change would provide an added safety feature at many uncontrolled airports without appreciably increasing message traffic on the advisory frequencies, we issued a Notice of Proposed Rule Making<sup>3</sup> in this proceeding. Substantially as requested, we proposed to permit FAA vehicles and certain other vehicles (i.e., vehicles routinely operating on runways and taxiways) to utilize aeronautical advisory frequencies on a noninterference basis, at airports which have a unicom but no control tower or FSS. It was also proposed that at airfields with a part-time control tower and/or part-time FSS the subject mobile stations be likewise permitted to use the advisory frequencies during the hours that neither the control tower nor FSS is in operation.

5. In order to prevent overloading of the advisory frequencies, communications by aeronautical utility mobile stations in such ground vehicles were proposed to be limited to the necessities of safety (such as runway conditions and hazards on the landing areas). Further, these stations were to be required to discontinue transmitting when so requested by the unicom operator. However, due to the irregular nature of many unicom operations and the fact that the licensees would often be different entities, there was no requirement that these stations cease transmitting when the unicom facility is not in operation. In addition, eligibility for authorization to operate utility mobile stations was proposed to be limited to those applicants able to demonstrate a legitimate need and authority to drive a ground vehicle on the particular airport movement area. (An airport movement area is defined as the runways, taxiways, and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramps and parking areas.)

6. Report and Order, Docket No. 20123, FCC 77-253, adopted April, 1977; 42 FR 20460, 64 FCC 2d 573.

<sup>3</sup>Notice of Proposed Rule Making, Gen. Docket No. 78-323, RM 3058 adopted September 26, 1978, 43 FR 47218, FCC 78-699.

<sup>4</sup>Although the Commission does not license Government radio stations (here FAA stations), frequencies in the band 121.9375-123.0875 MHz are allocated for use by private aircraft stations except as provided in Footnote US31 to the Table of Frequency Allocations (Section 2.106 of the rules). We thus, among other things, proposed to amend US31 to permit FAA to use the advisory frequencies as requested.

Airport operators and state and local government organizations which use vehicles for inspection of airport movement areas and/or operate various support vehicles, such as crash trucks and snowplows, were given as examples which satisfy the proposed eligibility requirements. Fuel trucks served as an example of the type of vehicle not contemplated to be eligible, since they normally operate only on ramp and parking areas. As we stated, our intention in proposing the subject rule amendment was to provide a means for vehicles which routinely operate on nontower, non-FSS airfields to monitor the advisory frequency and communicate when safety considerations so dictate.

#### COMMENTS

8. Comments on the Notice of Proposed Rule Making were received from: (1) State of North Carolina, Department of Transportation, Division of Aeronautics; (2) Aircraft Owners and Pilots Association (AOPA); (3) City of Killeen, Killeen, Texas; (4) State of Oklahoma, Department of Transportation; (5) Acadiana Regional Airport, New Iberia, Louisiana; (6) State of Minnesota, Department of Transportation, Division of Aeronautics; (7) Cortland County Airport—Chase Field, Cortland, New York; (8) Central Committee on Telecommunications of the American Petroleum Institute (API); and (9) General Aviation Manufacturers Association (GAMA).<sup>5</sup>

7. Of the nine comments received, only the Department of Transportation of the State of Oklahoma (Oklahoma) opposed the amendment of the rules as proposed. Oklahoma feels that the use of the advisory frequencies by additional stations would add more "clutter" to already overloaded frequencies. It suggests that ground vehicles utilize either a receiver for monitoring purposes only (in lieu of a transceiver) or other frequencies where inexpensive equipment could provide good communications.<sup>6</sup>

8. The North Carolina Department of Transportation, the City of Killeen, the Minnesota Department of Transportation, Cortland County Airport, and API support the proposed rule change. Acadiana Regional Airport supports the proposal but indicates that in addition to safety communications it considers the advisory frequencies available for airport operations, maintenance and security messages among ground vehicles and the unicom facility. GAMA concurs with

<sup>5</sup>Although GAMA's comments were received after the expiration of the comment period, they are considered herein.

<sup>6</sup>Presumably, by "other frequencies" Oklahoma means frequencies not in the aeronautical VHF band 118-136 MHz. Thus, for example, citizens band equipment represents an inexpensive alternative.



the proposed change but notes that congestion may become a problem. GAMA suggests that more advisory frequencies with 25 kHz spaced channels would help cure the problem. Finally, AOPA does not object to the use of the aeronautical advisory frequencies by aeronautical utility mobile stations as proposed, provided the provisions describing that use are not changed from those appearing in the Notice of Proposed Rule Making (NPRM). We construe AOPA's comment to mean that it does not object to the proposed so long as the very limited scope of permissible communication by the subject stations is retained in the final rule.

#### Discussion

9. The State of Oklahoma's comments in opposition, as well as the supportive comments of GAMA, express concern that the proposed use of the advisory frequencies will further congest these already heavily utilized frequencies. AOPA's comments suggest the same concern, in that it has no objection so long as advisory frequency usage by utility mobile stations is limited as proposed. We indicated in the NPRM that it appears that with the proposed safeguards to prevent unnecessary non-safety related communications, the safety of aircraft and vehicles operating at many uncontrolled airports would be enhanced without appreciably increasing traffic on the advisory frequencies. We still believe this is the case, as do most of the commenters.

10. However, in view of Acadiana Regional Airport's apparent misunderstanding of the type of communications proposed to be permitted, we wish to re-emphasize our intent in this rulemaking proceeding and clarify the limitations on the use of advisory frequencies by utility mobile stations. Our purpose in this proceeding is to provide a means for ground vehicles which routinely operate on nontower, non-FSS airport movement areas to monitor and communicate when safety considerations so dictate, on the frequency which is assigned to a local

<sup>1</sup>It would not be practical at this time to adopt GAMA's suggestion that more unicom frequencies be made available to alleviate congestion by using 25 kHz spaced channels. Many general aviation aircraft, particularly those primarily using uncontrolled airports, are equipped with 100 kHz spaced channel radios. In light of the important safety function of unicom facilities at uncontrolled airfields, these aircraft should not be excluded from the use of these stations or prematurely forced to buy new equipment. However, it should be noted that a 25 kHz channel (122.975 MHz) is used for unicom serving aircraft operating at or above 10,000 feet above ground level. This is consistent with the present implementation schedule of 25 kHz channels by FAA for high altitude air traffic control.

aeronautical ground station (i.e., the unicom) and which in turn is customarily utilized by aircraft approaching and departing these airfields. We are not establishing "mobile unicom stations" licensed to provide the full scope of advisory services nor are we authorizing the use of the aeronautical advisory frequencies for airport administrative or business purposes.

11. In order to insure that the use of the advisory frequencies by ground vehicles complies to the greatest extent possible with our stated intent, we are limiting the eligibility for such authorizations as follows:

(1) The applicant must show that the landing area(s) upon which the utility mobile station(s) will operate has a licensed unicom facility and either:

(a) No control tower or FSS, or  
(b) A part-time control tower or FSS; and

(2) The applicant must:

(a) Demonstrate a need to routinely operate a vehicle on the given airport movement area(s),

(b) Identify the vehicle(s) in which the station is to be located, and

(c) Be the owner or operator of the given airport(s), or a state or local aeronautical agency, or in lieu thereof, the applicant may attach a statement from the owner or operator granting permission for the applicant to operate certain vehicles on the specified airport(s).

With these safeguards we believe that the licensees will utilize the advisory frequencies for the safety purposes intended at the subject uncontrolled airports. Unauthorized communications leading to congestion of these heavily used frequencies, are expected to be minimal.

#### Action

12. In light of the foregoing rationale and the generally favorable com-

<sup>2</sup>Section 87.257 (Scope of service) provides, in part, that:

"(d)(1) Communications by an aeronautical advisory station shall be limited to the necessities of safe and expeditious operation of private aircraft, such as, conditions of runways, types of fuel available, wind conditions, weather information, dispatching, or other necessary information. Provided, however, That at any landing area at which an airdrome control station or FAA flight service station is located, an aeronautical advisory station shall not transmit information pertaining to the conditions of runways, wind conditions, or weather information during the hours of operation of the airdrome control station or FAA flight service station.

"(2) On a secondary basis, communications may be transmitted which pertain to the efficient portal-to-portal transit of which the flight is a portion, such as, requests for ground transportation, food, or lodging required during transit . . ."

ments received, we are amending the Commission's rules substantially as proposed in the NPRM. A few minor editorial changes have been made. This action permits certain ground vehicles which routinely operate on airports served by an aeronautical advisory station (unicom) but which have no functioning control tower or FAA flight service station, to utilize aeronautical advisory frequencies for safety related communications.

13. Regarding questions on matters covered in this document contact Robert McNamara (202) 632-7197.

14. In view of the above, it is ordered, That, pursuant to the authority contained in sections 4(i) and 303 (b), (c), (d) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended as set forth in the attached appendix, effective May 7, 1979.

15. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066; 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

#### APPENDIX

Parts 2 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

#### PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106 the second paragraph in footnote US31 is amended to read as follows:

§ 2.106 Table of Frequency Allocations.

#### U.S. FOOTNOTES

US31 Except as provided below the band 121.9375-123.0875 MHz is for use by private aircraft stations.

The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary noninterference basis to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas. . . .

#### PART 87—AVIATION SERVICES

1. In § 87.257, paragraph (d)(6) is added to read as follows:

§ 87.257 Scope of service.

(d) . . .

(6) Aeronautical advisory stations may communicate with aeronautical utility mobile stations and FAA ground vehicles, concerning runway conditions and safety hazards on the landing area when neither an airdrome control tower nor FAA flight service station is in operation. (Transmissions by aeronautical utility mobile stations are subject to the control of the aeronautical advisory station to the extent that communications by ground vehicles must be discontinued when so requested by the aeronautical advisory station.)

2. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) At landing areas having an airdrome control tower or an FAA flight service station, the frequencies 121.600 through 121.925 MHz listed in § 87.401(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.401(a) may be assigned to utility mobile stations on such landing areas only after FCC coordination with FAA. (The frequency that will be assigned to the utility mobile station at an airport served by a control tower or flight service station, is the frequency that is used by the control tower for ground traffic control or the flight service station to communicate with ground vehicles.)

(b) In addition to the frequencies described in paragraph (a) above, at landing areas which have a part-time airdrome control tower or part-time FAA flight service station and an aeronautical advisory station, the frequency assigned to the aeronautical advisory station is available to aeronautical utility mobile stations on a noninterference basis. However, utility mobile stations may transmit on the aeronautical advisory frequency only when the control tower or flight service station has ceased operations.

(c) At landing areas which have an aeronautical advisory station but no

airdrome control tower or FAA flight service station, the frequency assigned to the advisory station is available to aeronautical utility mobile stations on a noninterference basis. (The frequencies available for assignment to aeronautical advisory stations are described in § 87.253.)

3. Section 87.432 is amended to read as follows:

§ 87.432 Eligibility.

(a) Authorization to operate an aeronautical utility mobile station on the frequencies described in § 87.431(a) will be issued only for operation at landing areas having an airdrome control tower or FAA flight service station.

(b) Authorization to operate an aeronautical utility mobile station on an aeronautical advisory frequency will be issued only for operation at landing areas having an aeronautical advisory station and either a part-time or no airdrome control tower or FAA flight service station. In addition, an applicant must:

(1) Demonstrate a need to routinely operate a ground vehicle on the airport movement area (the airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas);

(2) Identify the vehicle in which the station is to be located; and

(3) Either (i) attach a statement indicating that the applicant is the airport owner or operator, or a state or local governmental aeronautical agency; or (ii) attach a statement from the airport owner or operator granting permission to operate the subject vehicle(s) on the specified airport movement area(s).

4. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

(a) Communications by an aeronautical utility mobile station at a landing area which has an airdrome control tower or FAA flight service station in operation, are limited to the management of ground traffic at the airport.

(b) Aeronautical utility mobile stations which operate on the aeronautical advisory station frequency are au-

thorized only to transmit and acknowledge information relating to safety, such as runway conditions and hazards on the airfield. (Such stations are expected to be employed primarily for monitoring advisory communications.)

5. Section 87.437, including the heading, is amended to read as follows:

§ 87.437 Supervision by operator of airdrome control tower, FAA flight service station or aeronautical advisory station.

(a) Transmissions by an aeronautical utility mobile station are subject to the control of the airdrome control tower, the FAA flight service station or the aeronautical advisory station, as appropriate at the particular landing area. When so requested by the control tower, the flight service station or aeronautical advisory station, a utility mobile station must discontinue transmitting immediately.

(b) An aeronautical utility mobile station must guard its assigned frequency during periods of operation.

(c) Aeronautical utility mobile stations operating on the frequency assigned to an airdrome control tower or FAA flight service station must cease to transmit on that frequency when neither of these stations are in operation. However, utility mobile stations assigned an aeronautical advisory frequency may continue to transmit (safety related information) while located on the airport movement area when the aeronautical advisory station is not in operation.

6. Section 87.439 is amended to read as follows:

§ 87.439 Frequency change.

In the event that the utility frequency is changed by the Federal Aviation Administration (to a frequency in the band 121.600-121.925 MHz) or by the Federal Communications Commission, an aeronautical utility mobile station licensee has temporary authority for a period of 90 days to use the new frequency in place of the one listed on the license. An application for modification of the station license to specify the new frequency must be submitted within ten days from the date that the station commences operation on the new frequency.

[FR Doc. 79-9780 Filed 3-29-79; 8:45 am]



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05-M]

### DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation  
Service

[7 CFR Part 760]

[Amdt. 1]

#### INDEMNITY PAYMENT PROGRAMS

Dairy Indemnity Payment Program (1978-  
1981)

AGENCY: Agricultural Stabilization  
and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposal is to amend the Dairy Indemnity Payment Program Regulations (1) to simplify the procedure for calculating dairy indemnity payments; (2) to clarify the requirements for determining whether an affected producer has other legal recourse; (3) to cover cases of "double indemnity"; and (4) to clarify requirements for the submission of information.

DATES: Comments must be received no later than May 29, 1979 in order to be assured of consideration.

ADDRESSES: Emergency and Indemnity Programs Division, ASCS, USDA, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Gerald Schiermeyer (ASCS), Tel. (202) 447-4428.

SUPPLEMENTARY INFORMATION: Under the regulations now in effect, calculations for any month that milk was dumped are based on milk production during the same month a year earlier. An adjustment is made based on any change in milk production during the 3 months immediately preceding the month milk was removed from the market compared with the same 3 months a year earlier. A second adjustment is made based on any change in the number of cows milked by the applicant during the month the milk was dumped compared with the average of the 3 months immediately preceding the removal of the milk from the market. This method, which requires collection and recording of 15 months' milk production, is difficult to understand and cumbersome to use.

The weight of actual dumpings of milk, if available, is compared with calculated production and payment is made on the lesser of the two amounts. Most dairy farmers are not equipped to weigh the milk dumped and consequently information on actual dumpings is seldom available.

This proposal requires the use of production data for one month or two 2-week pay periods prior to removal of the milk from the market. This month or 4-week period is considered the base period and this data is used as a basis for calculating milk indemnity payments. For the first pay period, the applicant is paid on the basis of the production during the base period. At the end of each subsequent pay period until the milk is reinstated to the market, the base production is adjusted according to any change in the number of cows milked compared with the daily average number of cows milked during the base period.

The proposal would also amend § 760.9 in order to clarify the requirements for determining whether an affected farmer has other legal recourse. Under the regulations now in effect, no indemnity payment may be made for contamination resulting from residues of chemicals or toxic substances if the Deputy Administrator determines within 30 days after application for payment that other legal recourse is available to the affected farmer. Experience in the administration of the program has shown that original applications for payment very often do not contain adequate information to make a determination as to whether other legal recourse does, in fact, exist. This has necessitated the withholding of determinations until all necessary information has been gathered.

Accordingly, it is proposed that section 760.9 be amended so as to clarify the fact that a determination will not be issued until a completed application has been filed. An application will not be deemed complete until all information necessary to make a determination as to whether other legal recourse exists has been submitted to the Deputy Administrator.

It is also proposed to expand the regulations to include cases where a decision has been made that no other legal recourse is available and the producer is paid. If, subsequent to receiving payment from USDA, the producer takes legal action against the supplier of the

contaminated feed (or who ever else may be liable for the losses) and is reimbursed for the losses through such action, the producer would be required in such cases of double indemnity, to return funds received from USDA.

Finally, it is proposed that § 760.6 be amended so as to clarify the requirements regarding the furnishing of information to the county committee. The county committee may require the furnishing of any information necessary to enable the appropriate officials to make any determination required under this subpart.

The public is invited to submit written comments, suggestions, and/or objections regarding the proposed regulations to the above address. Persons submitting comments should include their name and address and give reasons for suggested changes. Copies of all written comments received will be available for review by interested persons in Room 4095, South Building, USDA, during regular business hours.

#### PROPOSED RULE

We propose to amend 7 CFR Part 760 by amending subpart—Dairy Indemnity Payment Program to read as follows:

1. Section 760.2 is amended by adding a new paragraph (u):

#### § 760.2 Definitions

(u) "Base period" means the calendar month or 4-week period immediately preceding removal of milk from the market.

2. Section 760.4 is amended by deleting paragraphs (b) and (c) and adding new paragraphs (b) and (c):

#### § 760.4 Normal marketings of milk

(b) Normal marketings for each pay period are based on the average daily production during the base period.

(c) Normal marketings determined in (b) above are adjusted for any change in the daily average number of cows milked during each pay period the milk is off the market compared with the average number of cows milked daily during the base period.

3. Section 760.6 is amended by deleting paragraphs (c), (d), and (j) and adding new paragraphs (c), (d), and (j).

#### § 760.6 Information to be furnished.

The affected farmer shall furnish to the county committee complete and accurate information sufficient to enable the county committee or the Deputy Administrator to make the determinations required in this subpart. Such information shall include, but is not limited to:

(c) The quantity and butterfat test of whole milk produced and marketed during the base period. This information must be a certified statement from the affected farmer's milk handler or any other evidence the county committee accepts as an accurate record of milk production and butterfat tests during the base period.

(d) The average number of cows milked during the base period and during each pay period in the application.

(j) Such other information as the county committee may request to enable the county committee or the Deputy Administrator to make the determinations required in this subpart.

4. Section 760.9 is amended to read as follows:

#### § 760.9 Other legal recourse.

(a) No indemnity payment shall be made for contaminated milk resulting from residues of chemicals or toxic substances if, within 30 days after receiving a completed application, the Deputy Administrator determines that other legal recourse is available to the farmer. An application shall not be deemed complete unless it contains all information necessary to make a determination as to whether other legal recourse is available to the farmer. However, notwithstanding such a determination, the Deputy Administrator may reopen the case at a later date and make a new determination on the merits of the case as may be just and equitable.

(b) In the event that a farmer receives an indemnity payment under this subpart, and such farmer is later compensated for the same loss by the person (or the representative of successor in interest) responsible for such loss, the indemnity payment shall be refunded by the farmer to the Department of Agriculture: Provided, that the amount of such refund shall not exceed the amount of other compensation received by the farmer.

NOTE: This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044, "Improving Government Regulations."

#### PROPOSED RULES

Signed at Washington, D.C., on  
March 22, 1979.

STEWART N. SMITH,  
Acting Administrator, Agricultural  
Stabilization and Conservation Service.

[FR Doc. 79-9622 Filed 3-29-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

[7 CFR Part 1701]

#### SPECIFICATION FOR RURAL DISTRIBUTION TRANSFORMERS

(Overhead Type)

AGENCY: Rural Electrification Administration.

ACTION: Revision to Existing Specification.

SUMMARY: The Rural Electrification Administration proposes to revise REA Specification D-10, "Specification for Rural Distribution Transformers (Overhead Type)." The revisions are being made to bring the telephone influence factor (TIF) requirement in line with up-to-date measurement methods.

DATE: Public comments must be received by REA no later than May 29, 1979.

ADDRESS: Interested persons may obtain copies of Specification D-10 from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number (202) 447-4413. All data, views, or comments should also be directed to Mr. Hand. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

An impact analysis for this proposed action has been prepared and is available upon request.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, telephone number 202-447-4413.

Dated: March 23, 1979.

JOE S. ZOLLER,  
Acting Assistant  
Administrator, Electric.

[FR Doc. 79-9732 Filed 3-29-79; 8:45 am]

[4410-10-M]

#### DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR PART 212]

#### NONRESIDENT ALIEN BORDER CROSSING CARDS

Proposed Rulemaking

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This proposed rule amends the regulations of the Immigration and Naturalization Service to provide that an alien seeking to enter the United States using a nonresident alien border crossing card as an entry document shall be advised that he or she may request a hearing before an immigration judge if a supervisory immigration officer at a port of entry determines that a border crossing card presented as the entry document should be voided. This proposed amendment is necessary and intended to clarify Service policy that aliens seeking admission to the United States with border crossing cards which a supervisory immigration officer intends to void are entitled to a hearing on the issue of their admissibility before an immigration judge if they so desire.

DATES: Representations must be received on or before May 29, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This proposed rule amends 8 CFR 212.6(d) which relates to the voidance of nonresident Canadian and Mexican alien border crossing cards. The existing regulation provides that a border crossing card may be declared void without notice by a supervisory immigration officer at a port of entry or by other specified immigration and consular officers. The existing regulation further provides that the border crossing card to be voided shall be surrendered immediately and destroyed.

The Service proposes to amend this regulation to eliminate the provision which permits voidance of the card without notice. We also propose to strike the sentence that provides that the border crossing card to be voided



shall be surrendered immediately and destroyed.

The proposed amended regulation will provide that an alien seeking to enter the United States using a border crossing card as the entry document shall be advised that he or she may request a hearing before an immigration judge to determine admissibility, if a supervisory immigration officer intends to void the border crossing card. The border crossing card in the alien's possession shall be lifted and returned to the port of entry for presentation to the immigration judge should the alien request a hearing. If the alien does not request a hearing, the card shall be taken and voided.

This amendment is being proposed in order to emphasize that an alien seeking to enter the United States in possession of a border crossing card, is also an applicant for admission. As such, he or she is entitled to consideration of that application in accordance with sections 235 and 236 of the Act, and 8 CFR Parts 235 and 236, should the determination be made that the border crossing card should be voided.

In the light of the foregoing, it is proposed to revise Chapter I of Title 8 of the Code of Federal Regulations as set forth below.

**PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE**

In Part 212, it is proposed to revise § 212.6(d) to read as follows:

§ 212.6 Nonresident alien border crossing cards.

(d) *Voidance.* (1) Forms I-185 and I-186 may be declared void by a supervisory immigration officer at a port of entry. However, the applicant shall be advised that he may request a hearing before an immigration judge in accordance with Part 236 of this chapter to determine his admissibility. If the applicant requests a hearing, Forms I-185 and I-186 shall be held at the port of entry for presentation to the immigration judge. If the applicant chooses not to have a hearing, the card shall be voided. The alien to whom the form was issued shall be notified of the action taken and the reasons therefor by means of Form I-180 delivered in person or, if such action is not possible, by mailing the Form I-180 to the address shown on the nonresident alien border crossing card.

(2) Forms I-185 or I-186 may be declared void by an immigration officer authorized to issue an Order to Show Cause or to grant voluntary departure under Part 242 of this chapter, if no expulsion hearing is held. Forms I-185 or I-186 may be declared void by a consular officer in Mexico or Canada

if the card was issued in one of those countries. Violation of the immigration laws or grounds indicating inadmissibility shall be cause for voidance of the forms.

(Secs. 103 and 212; 8 U.S.C. 1103 and 1182)

**PUBLIC COMMENTS INVITED**

In accordance with the provisions of section 553 of Title 5 of the United States Code, interested persons are invited to submit relevant data, views and arguments concerning these proposed rules to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, NW., Washington, D.C. 20536, on or before May 29, 1979. Please submit all representations in writing, in duplicate.

Dated: March 27, 1979.

LEONEL J. CASTILLO,

Commissioner of  
Immigration and Naturalization.

[FR Doc. 79-9775 Filed 3-29-79; 8:45 am]

**[3410-34-M]**

**DEPARTMENT OF AGRICULTURE**

Animal and Plant Health Inspection Service

[9 CFR Part 92]

**SMUGGLED BIRDS**

**Proposed Rulemaking**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations to provide for the quarantine and subsequent release and disposition of certain birds which enter the United States in violation of import regulations. This action would provide a means whereby certain birds may be quarantined and tested while being held in Veterinary Services quarantine facilities and sold to recover costs involved after their release. The effect of this proposal would be to provide for the preservation of such birds including rare and endangered species which are free of disease and permit their release into the United States for purposes other than research.

DATE: Comments on or before May 29, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 817, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. George P. Pierson, USDA.

APHIS, VS, Federal Building, Room 817, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the act of February 2, 1903, as amended; and sections 2, 3, and 4, and 11 of the act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

The proposed amendments would add definitions for port veterinarian and for smuggled birds to the regulations and would provide for the quarantine, testing and release of smuggled birds into the United States when they are determined to be free of disease.

A port veterinarian would be defined as a veterinarian employed by Veterinary Services who is assigned to perform duties required under Part 92 of the regulations at a port of entry. This definition is in accord with the position title and description for such person employed by Veterinary Services at the ports of entry into the United States.

Smuggled birds have presented a serious problem to Veterinary Services since 1972 when regulations for the importation of birds were placed in effect. Under the present regulations, there is no provision whereby apparently healthy smuggled birds can enter the United States for purposes other than research. Generally, they must either be removed from the country or destroyed. This has resulted in the receipt of protests from various zoological societies, aviculturists, other Federal agencies, and several conservation organizations. A safe means of handling these birds for other than research purposes has been sought and is now believed to be available.

The proposed regulations would define a smuggled bird as "any bird which has been brought into the United States contrary to any Federal law or regulation and which has been seized by any official of any Department of the United States Government or which has been abandoned to the United States." It is the intention of the administrative officials of APHIS that the procedures that would be established by these regulations would only be applicable to birds over which the Federal Government has possession or a right to possession. The administrative officials believe that the present regulations do not establish adequate alternative procedures for handling such birds.

The proposed procedures would include a number of options for the dis-

position of smuggled birds. The first option would be to refuse entry of the bird into the United States and remove it from the United States. It is intended that such provision would be utilized in situations involving the importation of birds listed on the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The United States is a signatory to the Convention, and the Convention is incorporated into the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1530 et seq.). The Convention provides that any animal imported in violation of the provisions of the Convention should be returned to the country of origin if the country of origin desires its return. The Convention provides that the costs for returning such an animal shall be borne by the country of origin.

The second option available for the handling of smuggled birds would be to quarantine the birds in a Veterinary Services quarantine facility until negative results have been obtained to two consecutive tests for velogenic viscerotropic Newcastle disease (VVND). Two negative tests for VVND would be required because birds which are known to be carriers of the VVND virus, may be intermittent in their shedding of the virus. Therefore, a test for VVND may be negative, even though a bird may carry the virus. Two tests should reduce the likelihood that a diseased bird would avoid detection.

Further, the tests for VVND must be administered not less than 30 days apart, with the first test administered within seven days after the bird enters the facility. The first such test must be within seven days of the date of entry into the facility because the birds at that time should be under more stress than later in the quarantine, and since shedding of the virus is enhanced by stress, the presence of the virus should be more likely to be detected at such time.

The regulations would also require that tissue samples from any smuggled bird which has died prior to release from quarantine shall be submitted for VVND isolation. Obviously, if a bird of unknown health status dies, there is a distinct possibility that it had VVND. Therefore, tests must be performed on such a deceased bird in order to determine whether any birds which came in contact with the deceased bird have been exposed to VVND.

The regulations would require that the birds shall be subjected to such other tests and procedures as are required in specific cases by the Veterinary Services port veterinarian to determine whether the birds are free from communicable diseases of poultry. Additional testing will be per-

formed only when the port veterinarian determines that the bird in question has shown physical symptoms of being affected with or exposed to any communicable disease. This is because the Department believes the VVND constitutes a greater threat to poultry than other communicable diseases of poultry. Consequently, VVND testing would be mandatory, while testing for other communicable diseases of poultry would be performed when the port veterinarian has reason to believe that the particular bird is diseased.

The proposed regulations also require that a lot of smuggled birds placed into a quarantine facility shall be handled on an "all-in, all-out" basis. This is because birds in the same lot have been exposed to each other. Therefore, the health status of each bird in the lot has an impact on determining the health status of every other bird in that lot.

The proposed regulations also provide that if VVND or any communicable disease of poultry is diagnosed in any smuggled bird at any point or if it is determined that any bird has been exposed to VVND such bird shall not be released from quarantine, but shall be disposed of in accordance with procedures established by the Deputy Administrator to prevent the introduction of communicable diseases of livestock or poultry into the United States. Such birds constitute a significant disease threat and cannot be permitted to enter the United States.

The proposed regulations require that any smuggled bird shall be identified by a method approved by the Deputy Administrator. Veterinary Services, such as serially numbered metal leg bands in order to help keep track of the bird while in quarantine.

The proposed regulations also provide that if laboratory tests for VVND are negative and the birds are free of clinical evidence of any communicable disease of poultry, the port veterinarian shall issue an agricultural release for entry of the birds through the United States Customs Service at the termination of the quarantine period. The likelihood that such birds at that point are diseased should be small, and consequently, the Department believes that the entry of such birds into the United States should not present an undue risk of introduction of communicable diseases of livestock or poultry.

The regulations would also authorize the sale or other disposition or smuggled birds eligible for entry into the United States provided that such disposition is not contrary to any Federal law or regulation. The purpose of this provision is to permit the Department to recoup its costs incurred in the handling of such birds. However, because the disposition of some birds, such as Endangered Species birds, is

restricted by law, such birds would be permanently quarantined in accordance with such procedures as the Deputy Administrator may establish to prevent the introduction of communicable diseases of livestock or poultry into the United States and in accordance with any other law regulating the disposition of such birds.

The U.S. Customs Service has indicated that these changes should increase their sources of information concerning smuggled birds and, thereby, increase smuggled bird seizures. Such changes should also allow for rare and endangered species of birds to be preserved and should improve co-operation received by the Department from the general public in carrying out its responsibilities concerning bird importations.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.1, new paragraphs (j)(2)(vi) and 92.1(v) would be added to read:

**§ 92.1 Definitions.**

(j) ...  
(2) ...

(vi) *Smuggled birds.* Any bird which has been brought into the United States contrary to any Federal law or regulation and which has been seized by any official of any Department of the United States Government or which has been abandoned to the United States.

(v) *Port veterinarian.* A veterinarian employed by Veterinary Services to perform duties required under this part at a port of entry.

2. In § 92.2(b), the reference to paragraphs "(a), (c), (d), or (f)" would be amended to read paragraphs "(a), (c), (d), (f), or (j)."

3. In § 92.2, a new paragraph (j) would be added to read:

**§ 92.2 General prohibitions; exceptions.**

(j) Any smuggled bird shall:

(1) Be refused entry into the United States and be removed from the United States, or

(2) Be quarantined in a Veterinary Services quarantine facility pending negative results to two consecutive tests for velogenic viscerotropic Newcastle disease (VVND) administered not less than 30 days apart, with the first test administered within seven days after the bird enters the facility.

"Such tests are conducted according to the Protocol for VVND which is available upon request from the Deputy Administrator.



Tissue samples from any smuggled bird which has died prior to release from quarantine shall be submitted for VVND isolation. Smuggled birds shall also be subject to such other tests and procedures to determine whether the birds are free from communicable diseases other than VVND when the port veterinarian determines that the bird in question has shown physical symptoms of being affected with or exposed to communicable diseases of poultry. A lot of smuggled birds placed into the quarantine facility shall be handled on an "all-in, all-out" basis. If VVND or any other communicable disease of poultry is diagnosed in any smuggled bird at any point or if it is determined that any smuggled bird has been exposed to VVND or any other such communicable disease, such birds shall not be released from quarantine and shall be disposed of in accordance with procedures established by the Deputy Administrator to prevent the entry of communicable diseases of livestock or poultry into the United States. At the time any smuggled bird enters the quarantine facility, it shall be identified in a manner approved by the Deputy Administrator, Veterinary Services. If the laboratory tests for VVND are negative and as determined by the port veterinarian the birds are free of clinical evidence of diseases of poultry at the end of the quarantine period, the port veterinarian shall issue an agricultural release for entry of the birds through the United States Customs Service at the termination of the quarantine period. Providing that the sale of a smuggled bird is not contrary to any Federal law or regulation, expenses incurred by the Department for the handling of a smuggled bird under this subparagraph shall be reimbursed from funds derived from the sale or disposition of the smuggled birds after their release from quarantine. Any smuggled bird which by law may not be sold or so disposed, shall be quarantined in accordance with such procedures as the Deputy Administrator may establish to prevent the introduction of communicable diseases of livestock or poultry into the United States, in accordance with the law.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 817, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of March 1979.

NOTE—This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has been designated "significant." A Draft Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695. The alternatives considered during the analysis are listed in the Draft Impact Analysis Statement.

PIERRE A. CHALOUX,  
Deputy Administrator,  
Veterinary Services.

[FR Doc. 79-9730 Filed 3-29-79; 8:45 am]

#### [6705-01-M]

##### FARM CREDIT ADMINISTRATION

[12 CFR Ch. VI]

##### SEMIANNUAL AGENDA OF REGULATIONS

AGENCY: Farm Credit Administration.

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to section 2 of Executive Order 12044, the Farm Credit Administration has established the following agenda of significant regulations which it will have under development and review during the period of March 31, 1979, through October 31, 1979.

##### FOR FURTHER INFORMATION CONTRACT:

Mr. Sanford A. Belden, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, SW., Washington, DC 20578, (202) 755-2181.

##### SIGNIFICANT REGULATIONS UNDER DEVELOPMENT

###### NEPOTISM

[12 CFR 612.2030]

This regulation prohibits nepotism in the employment practices of the banks and associations of the Farm Credit System. The Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to (1) more clearly describe the employment relationships which are prohibited, (2) remove from coverage certain relationships which are so remote that it can reasonably be assumed that they do not influence the employment practices of the institutions, and (3) prohibit the employment of relatives in certain positions which are not now covered by the regulations.

##### FEDERAL LAND BANKS

[12 CFR 614.4090]

This regulation, which states the lending authority of the Federal land banks, permits advance conditional payments on a loan by a borrower. Such payments are to be applied on future maturities or to be available for return to the borrower for purposes for which the bank would increase the loan. Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to permit interest payment on future payment funds at a rate not to exceed the rate charged on the related loan.

##### PRODUCTION CREDIT ASSOCIATIONS

[12 CFR 614.4200]

This regulation sets forth the loan terms and conditions of a production credit association loan. Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to implement Public Law 95-443. This law amends Section 2.4 of the Farm Credit Act of 1971 to authorize the production credit associations to make loans to producers and harvesters of aquatic products for terms up to 15 years.

###### GENERAL

[12 CFR 614.4220]

This regulation establishes the general requirements for valuing primary real estate security. Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to define the appraised value of a security as meaning its market value.

##### BANKS FOR COOPERATIVES

[12 CFR 614.4334]

This regulation governs the manner in which a bank may offer participations in loans to other banks for cooperatives and financial institutions. Currently, Farm Credit Administration approval is required only for the form of the participation agreement used. In order to preclude the possibility that supplemental agreements may be used to circumvent other requirements of the regulations, the Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to require its approval of any supplemental agreements and modifications which directly affect such things as capitalization, interest, and loss-sharing.

##### RELEASE OF INFORMATION

[12 CFR 618.8300-8350]

These regulations govern the release of information concerning borrowers

by officials of the Farm Credit institutions. Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to clarify the conditions under which such information may be made available to third parties, including Government authorities.

None of the proposed amendments to the above regulations will result in (a) an annual effect upon the economy of \$100 million or more, or (b) a major increase in costs or prices for individual industries, levels of government, or geographic regions. Therefore, regulatory analysis of the type required by section 3 of Executive Order 12044 will not be prepared for these proposals.

##### SIGNIFICANT REGULATIONS SELECTED FOR REVIEW

FEDERAL LAND BANK AND FEDERAL INTERMEDIATE CREDIT BANK CREDIT REVIEW

[12 CFR 614.4051]

This regulation sets out the requirements which should be included in a bank's prescription of credit review criteria.

##### SPECIAL CREDIT NEEDS

[12 CFR 614.4165]

This regulation accommodates the credit needs of young farmers and farmers engaged in highly specialized and high risk enterprises.

##### LOANS SUBJECT TO PRIOR APPROVAL

[12 CFR 614.4470]

This regulation sets out the type of loans which require prior approval of the district bank.

##### IRREGULARITIES

[12 CFR 617.7100-7170]

These regulations govern the investigation, reporting, and referral for criminal action of irregularities by bank and association personnel, borrowers, and others.

##### INTERNAL CONTROLS

[12 CFR 618.8430]

This regulation provides for the establishment of internal control policies to, among other things, account for all funds, property, and other assets of the Farm Credit banks and associations.

##### STATUS OF REGULATIONS PREVIOUSLY SELECTED FOR REVIEW

On October 31, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 50735) lists of significant regulations under development and review. The current status of those regulations is as follows:

##### NEPOTISM

[12 CFR 612.2030]

The proposed amendment to this regulation will be submitted to the Federal Farm Credit Board on April 2-4, 1978, for final approval. See Significant Regulations Under Development, above.

##### BANKS FOR COOPERATIVES

[12 CFR 614.4334]

The proposed amendment to this regulation will be submitted to the Federal Farm Credit Board on April 2-4, 1979, for final approval. See Significant Regulations Under Development, above.

##### ANNUAL BUDGET AND PROJECTIONS

[12 CFR 615.5210]

This regulation was reviewed and no changes are contemplated at this time.

##### RELEASE OF INFORMATION

[12 CFR 618.8300-8350]

Proposed amendments to these regulations are currently being developed. See Significant Regulations Under Development, above.

##### INTERNAL CONTROLS

[12 CFR 618.8430]

This regulation continues under review by a task force which is developing recommendations as to the manner in which this regulation should be amended. See Significant Regulations Selected for Review.

DONALD E. WILKINSON,  
Governor,

Farm Credit Administration.

[FR Doc. 79-9720 Filed 3-29-79; 8:45 am]

#### [6750-01-M]

##### FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 9099]

BELL & HOWELL CO., ET AL.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Lincolnwood, Ill. seller of home study courses and its subsidiary to cease misrepresenting admission criteria, potential earnings, employment opportunities, and the need or demand for their

graduates. The firms would be further prohibited from misrepresenting the effectiveness of their job placement service; that experience is not required or advantageous in obtaining employment; that their courses are endorsed by a governmental agency; and that students are provided with instructional assistance. The order would also require the companies to make prescribed disclosures regarding the job success of previous students; the manner in which contracts can be cancelled; and the method used to calculate tuition obligations should a student drop out of a course. Additionally, Bell & Howell would be required to deposit in an escrow account the sum of \$1.2 million to provide refunds for former eligible students.

DATE: Comments must be received on or before May 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

##### FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9099]

##### AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

BELL & HOWELL CO., AND BELL & HOWELL SCHOOLS, INC.

The agreement herein, by and between Bell & Howell Company, a corporation, by its duly authorized officer, and Bell & Howell Schools, Inc., a corporation, by its duly authorized officer, hereafter sometimes referred to as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rules gov-



erning consent order procedure. In accordance therewith the parties hereby agree that:

1. Respondent Bell & Howell Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 7100 McCormick Avenue, Lincolnwood, Illinois 60645.

Respondent Bell & Howell Schools, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2201 West Howard, Evanston, Illinois 60202.

2. Respondents have been served with a copy of the complaint issued by the Commission on May 27, 1977, charging them with violation of Section 5 of the Federal Trade Commission Act, as amended, and have filed answers to said complaint denying said charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with related materials pursuant to Rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will return the matter to adjudication for further proceedings, or take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding. The Commission may, at any time pending issue of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint issued by the Commission. Although respondents contest any liability to individuals with respect to the acts and practices alleged in the Commission's complaint, respondents have agreed pursuant to Paragraphs 9 through 13 of this Agreement and Part III of this Order to transfer

funds to an Escrow Account at the Continental Illinois National Bank & Trust Company of Chicago under written escrow instructions executed by the respondents to provide for satisfaction of such asserted liabilities. Contests with respect to such asserted liabilities to individuals have been neither settled nor abandoned at the time of respondents' transfer of funds into escrow; however, the written order of the Federal Trade Commission or its designee providing for distribution of the funds placed in escrow and negotiation of checks issued pursuant to such order by the drawees shall constitute complete settlement and compromise of such claims. It is the intent of the parties hereto that such transfer satisfy in all respects the requirements of section 461(f) of the Internal Revenue Code of 1954.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may, without further notice to the respondents: (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time as that provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondents have read the complaint and order contemplated hereby. They understand that once the order has been issued, respondents will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

9. Respondents agree to establish, by September 15, 1978, an Escrow Account at the Continental Illinois National Bank and Trust Company of Chicago, 231 South LaSalle Street, Chicago, Illinois 60693, and designate Continental Bank as the escrow agent

to receive monies, information and documents, to disburse monies, and to carry out such other functions as may be provided for pursuant to the terms of this agreement and the written direction of the Federal Trade Commission or its designee. The duties of the Escrow Agent shall be as outlined in the Escrow Instructions, attached hereto as Appendix C, and incorporated herein. Further, the parties agree to be bound to the terms of said Escrow Instructions whether or not they are signatories thereto.

10. Respondents agree to deposit in said Escrow Account the amount of \$1,200,000 by September 15, 1978.

11. All interest earned on the funds deposited in the Escrow Account shall be added to the Escrow Account and disbursed by the Escrow Agent pursuant to the terms of this agreement, the Escrow Instructions, and the written direction of the Federal Trade Commission or its designee.

12. (a) Respondents shall incur no financial obligation, except as provided in Paragraphs 8 and 10 above.

(b) In the event a ruling or determination is not obtained from the Internal Revenue Service that the income earned by the Escrow Account is not taxable, respondents shall be entitled to distributions from the Escrow Account annually in an amount equal to corporate income tax liabilities which would be payable on the income earned by the Escrow Account on the assumption that the income earned by the Escrow Account is taxable to respondents as earned. Following termination of the escrow, if it is determined (1) that the income earned by the Escrow Account is not taxable or (2) that respondents are entitled to a tax benefit less than the amount paid in income taxes on such income, respondents shall pay to the Federal Trade Commission or its designee the amount of any tax refund attributable to such determination(s), which shall be distributed pursuant to the written directions of the Federal Trade Commission or its designee pursuant to Part IV of this order. Further, any personal property taxes or any other taxes or assessments levied against, or paid by, respondents on the principal amount of the Escrow Account, or any income earned thereon, shall be paid to respondents from the Escrow Account as paid by respondents. The Federal Trade Commission or its designee agrees to issue such instructions to the escrow agent as necessary to order payments to the respondents pursuant to this paragraph 12(b).

13. No part of the funds deposited by respondents in the Escrow Account shall revert back or be returned to respondents unless:

(a) The Federal Trade Commission fails to accept this Agreement pursuant to § 3.25 of the Commission rules of practices, in which event the entire amount deposited with the Escrow Agent, together with any interest earned thereon, less accrued escrow fees and expenses, shall be returned to Respondents; or

(b) The Escrow Account and any interest earned thereon exceeds the sum of (1) the total amount of refunds paid pursuant to Part IV of this agreement, plus (2) the costs incurred by the Federal Trade Commission or Escrow Agent directly or pursuant to the written directions of the Federal Trade Commission or its designee, in determining the manner in which the Escrow Account should be disbursed, plus (3) the fees charged by the Escrow Agent, in which case the remaining funds in the Escrow Account shall be returned to respondents.

14. Respondents agree to provide the Federal Trade Commission or its designee access on respondent's premises to any student file folders maintained by respondents, provided the Federal Trade Commission has the consent of the students whose files are sought for inspection.

15. Compliance with Paragraphs 9 through 13 of this Agreement and Part III of this Order satisfies fully any claim for consumer redress which the Commission has or may have, including those under Sections 5(b) and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the complaint. By its final acceptance of this agreement, the Commission waives its right to commence a civil action, including any under Section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commission's complaint.

16. (a) It is agreed that receipt by a student of a refund pursuant to this Agreement and Order does not cancel or reduce any outstanding tuition or loan obligation that the student may have as a result of his/her enrollment in any Bell & Howell Schools, Inc. correspondence course.

(b) It is agreed that any letter informing purchasers of their possible rights to a refund and the covering letter accompanying each refund check pursuant to Part IV of the Order will include a statement in the following form:

"Acceptance of any refund does not cancel or reduce any outstanding tuition or loan obligation you may have as a result of your enrollment in any Bell & Howell Schools, Inc. correspondence course."

#### ORDER

##### I

It is ordered, That respondents Bell & Howell Company, a corporation, and Bell & Howell Schools, Inc., a corporation, their successors and assigns and their agents, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, franchise or other device in connection with the advertising, promoting, offering for sale, sale or distribution of home study courses, home study training or home study instruction in the fields of accounting, television repair, electronics, or any other subject, trade or vocation in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Representing, orally, visually, in writing or in any other manner, directly or by implication, that:

(a) There is a significant or substantial need or demand for persons completing any of respondents' courses offered in the fields of accounting, television repair, electronics, or any other field or otherwise representing that significant or substantial opportunities for employment, or significant or substantial opportunities of any other type, are available to such person, or that persons completing said courses will or may earn a specified amount of money, or otherwise representing by any means the prospective earnings of such persons, unless such representations are accompanied by a written disclosure form which contains the following information under the heading "Placement Record" in the format prescribed in Appendix A and for the most recently completed base period designated as described in Appendix B:

(1) The number and percentage of graduates who, within four months of leaving the course, obtained employment in jobs for which the course prepared them;

(2) The number of these graduates by their yearly gross salary, in increments of two thousand dollars (\$2,000);

(3) The percentage of these graduates within each salary increment to the total number of graduates;

(4) At its option, the number and percentage of these graduates who refused to provide salary information.

Provided, however, That this subparagraph (a) shall be inapplicable to any course newly introduced by respondents until such time as the new course has been in operation for the base period established pursuant to Appendix B as prescribed in this Paragraph. However, during such period the following statement, and no other, shall be made in lieu of the Appendix A Disclosure Form required by this Paragraph:

#### DISCLOSURE NOTICE

Because this course is new, we can't tell you how our previous students did or about your chances of getting a job when you finish. All we can talk about is the general

demand for people in the field we train you for. But this demand may be higher or lower in the area where you live, and it can change in the future. Or you may need some past experience in the field. We suggest you speak to a counselor or state employment office about these things.

(b) Experience is not required or advantageous for employment in the fields of accounting, television repair, electronics, or any other field, or misrepresenting in any manner the qualifications or requirements necessary to obtain employment in the fields of accounting, television repair, electronics or any other field.

2. Misrepresenting orally, visually, in writing or in any other manner, directly or by implication:

(a) The employment prospects of respondents' graduates or the ease with which respondents' graduates will obtain employment.

(b) The types of jobs available to respondents' graduates, or that there will be job security or steady employment for respondents' graduates in positions for which respondents train such persons.

(c) The effectiveness or the success of the placement service offered by respondents in placing their graduates in positions in the fields of accounting, television repair, electronics, or any other field.

(d) That the placement service offered by respondents has names of employers seeking respondents' graduates in the fields of accounting, television repair, electronics, or any other field; or misrepresenting in any manner the capabilities, functions or service offered by respondents' placement service.

3. Representing orally, visually, in writing or in any other manner, directly or by implication, that:

(a) Help sessions are available or personalized instruction and assistance are provided to respondents' home study students, unless, regarding help sessions, any representation is accompanied by a statement which clearly and fully discloses the time, dates, and locations of help sessions scheduled for the location in which such representation is made for the 12-month period immediately following such representation; *Provided, however,* That if any changes are made in the time or location of help sessions, all students shall be notified of such changes within 30 days.

(b) Instruction or assistance is available to home study students through telephone services provided by respondents, unless any representation regarding telephone services is accompanied by a statement which clearly and fully discloses the time of operation of such telephone services, discloses whether use of such telephone service is at the student's expense, and



informs the student that incoming telephone lines might be busy.

4. Failing to disclose, in writing, clearly and conspicuously, prior to the signing of any contract, to any prospective enrollee in any course of instruction offered by respondents, the admission criteria, if any, required or enrollment in the school, the number of written lessons required to be submitted by the student, the educational or occupational background needed for successful completion of the course, and if a representation is made that equipment will be furnished in the course, the number of written lessons that must be completed before the student receives any equipment furnished in the course.

5. Failing to disclose, in writing, clearly and conspicuously, prior to the signing of any contract, to any prospective enrollee in any accounting course offered by respondents, the following information in the following form:

(a) The title "IMPORTANT INFORMATION" printed in ten (10) point bold face type across the top of the form.

(b) Paragraphs providing the following information:

(1) Many employers of accountants require accountant-applicants to have a college degree or prior work experience in the field of accounting.

(2) Many employers of accountants give preferential consideration in hiring to accountant-applicants who are Certified Public Accountants (CPAs). Each of the 50 states has different requirements for the CPA examination. Before you enroll in this course, be sure to check with the Secretary of the State Board of Accountancy of your state to determine whether, after you've graduated from this course, you will be qualified to take the CPA examination.

6. Failing to disclose, in writing, clearly and conspicuously, prior to the signing of any contract, to any prospective enrollee in any television repair or electronics course offered by respondents, the following information in the following form:

(a) The title "IMPORTANT INFORMATION" printed in ten (10) point bold face type across the top of the form.

(b) Paragraphs providing the following information:

(1) Many employers of television repairmen or electronics technicians require applicants to have additional educational experience and/or previous occupational experience in the field of electronics.

(2) If you intend to open your own television or electronics entertainment equipment repair shop, you may need more training and experience than this course will give you.

7. Failing to keep adequate records which may be inspected by Commission staff members upon reasonable notice which substantiate the data and information required to be disclosed by Part I, Paragraphs 1(a) and 8 of this Order and prescribed in Appendix A.

8. Failing to disclose, in writing, clearly and conspicuously, prior to the signing of any contract, to any prospective enrollee in any course of instruction in the fields of accounting, television repair, electronics or any other subject, trade or vocation offered by respondents, the following information in the format prescribed in Appendix A and for a base period designated as described in Appendix B:

(a) The number of students who enrolled in that period;

(b) The number and percentage of such students who were graduated during that period;

(c) The number and percentage of such students whose course of study was terminated during that period; and

(d) The number and percentage of such students who remained actively enrolled at the end of that period.

9. (a) Contracting for the sale of any course of instruction in the field of accounting, television repair, electronics or any other subject, trade or vocation in the form of a sales contract or any other agreement which does not contain on the front page of the contract in bold face type of a minimum size of ten (10) points, a statement in the following form:

*If You Change Your Mind*

After you sign this contract, we will send you a Disclosure Form that will tell you how many of our students graduate and get jobs. At the same time, we will mail you another disclosure form headed "If You Change Your Mind." You should know that if we mail you this disclosure form this means that we have accepted you as a student. If we don't send you both of these forms in the mail, this contract is automatically cancelled and you don't owe us anything.

If you have changed your mind, you have fourteen days to get out of this contract. The fourteen days start on the day that we mail you the disclosure forms, but you can cancel before then. All you have to do is sign the cancellation notice on the bottom of this page or the disclosure form, put a date on it, and mail it to us by midnight of the fourteenth day after the disclosure form is mailed to you. The disclosure form will tell you when your fourteen days are up.

If you want, you can also send a letter of your own during this fourteen day period that says you want to get out of this contract. Be sure that you sign and date the letter. If possible, keep a copy. Your contract will be cancelled the day you mail us the written notice.

If you decide not to take this course during this fourteen day period, we will send you a full refund of any money that you have paid. Once we know that you have

decided not to take the course, we will return your money within two weeks from the day we receive notice of your cancellation.

(b) Failing to place at the bottom of the first page of enrollment contract the following detachable cancellation notice:

I've changed my mind and am getting out of the contract.

Date \_\_\_\_\_

Student's signature \_\_\_\_\_

(c) Failing to mail to the student, after the school has accepted the enrollment contract, the disclosure of the school's graduation and placement rate, as required by Part I, Paragraph 8 herein, and, on a separate sheet of paper, the following dated notice, as required by Part I, Paragraph 9(a).

*If You Change Your Mind*

If you have changed your mind, you have fourteen days to get out of this contract. These fourteen days will end at midnight on [14 days from the day notice is mailed]. All you have to do is sign this paper on the bottom, put a date on it, and mail it back to us by this date. Your contract will be cancelled the day you mail this notice back to us.

If you decide not to take this course during the fourteen day period, we will send you a full refund of any money that you have paid. Once we know that you have decided not to take the course we will return your money within two weeks from the time we receive notice of your cancellation.

If you change your mind and want to get out of this contract after you have started the course, you will owe the school some money. See the part of the contract called "Refund in the Event of Termination After You Start the Course" for an explanation of your rights to cancel after the course has started.

I've changed my mind and am getting out of the contract.

Date \_\_\_\_\_

Student's signature \_\_\_\_\_

(d) Failing to orally inform each prospective enrollee that he/she has a right to cancel at the time he/she signs a contract or agreement for the sale of any course of instruction.

(e) Misrepresenting in any manner the prospective enrollee's right to cancel.

(f) Failing or refusing to refund all payments made under the contract or sale and cancel and return any negotiable instrument executed by the prospective enrollee in connection with the contract or sale, to the prospective enrollee within fourteen (14) business days after receipt of such notice of cancellation.

10. (a) Contracting for the sale of any course of instruction in the field of accounting, television repair, electronics or any other subject, trade or vocation in the form of a sales contract or any other agreement which does not contain on the front page of the enrollment contract, immediately following the disclosure notice re-

quired by Part I, Paragraph 9(a) herein, the following statement:

*Refund in the Event of Termination After You Start the Course*

If you change your mind after this fourteen day period, you can still drop this course any time. All you have to do is send or give us a letter signed and dated by you that says you want to drop the course.

If possible, you should keep a copy of the letter. The day you send us this letter, you've dropped the course.

If you do drop out, you still will have to pay for the lessons you sent in. We'll figure the amount you owe us like this. The price per lesson is \$\_\_\_\_. We multiply this by the number of lessons you sent in. We add \$\_\_\_\_ registration fee. The total is what you owe us.

If you've already paid more, we'll refund you the difference within 28 days after we receive the letter.

(b) Receiving, demanding or retaining more than a pro rata portion of the total contract price plus a registration fee in an amount not to exceed \$75 in the event a student cancels his course in accordance with the terms of this paragraph, and such pro rata portion will be calculated in the following manner:

(1) The school must calculate the number of lessons received from the student before the student's cancellation;

(2) This number must be divided by the total number of lessons required to complete the course; and

(3) The resulting number shall be multiplied by the total contract price.

(c) Failing to provide the student with the correct refund payment, if any, or to cancel that portion of the student's indebtedness that exceeds the amount due the school, within twenty-one (21) days of the receipt of cancellation pursuant to this Paragraph.

(d) Failing to orally inform each prospective enrollee that there is a refund policy in the event the student cancels his course of instruction prior to completion of the course of instruction.

(e) Misrepresenting in any manner the nature of the prospective enrollee's tuition obligation and right to a refund upon cancellation.

11. Misrepresenting, orally, visually, in writing or in any other manner, directly or by implications that respondents' courses are endorsed by the Veterans' Administration, HEW or any Government Agency or Department; or misrepresenting in any manner the extent or nature of any approval or other form of government action taken with respect to any school or course of instruction.

12. In the event the Commission promulgates a final Trade Regulation Rule on Advertising, Disclosure, Cooling-Off and Refund Requirements Concerning Proprietary Vocational

and Home Study Schools, then, so long as and to the extent that such Rule shall be in effect, such Trade Regulation Rule shall completely supersede and replace the provisions of this Order set forth in Part I, Paragraphs 1(a), 7, 8, 9 and 10: *Provided*, That if no provision of the Trade Regulation Rule relates in whole or in part to any matter covered by provisions of one of the aforesaid Paragraphs of this Order, then said provisions of said Paragraph shall remain in full force and effect.

II

*It is further ordered, That:*

1. Respondents deliver a copy of this decision and order to each of its present and future employees, salesmen, agents, solicitors, independent contractors or to any other person or entity who promotes, offers for sale, sells or distributes (hereinafter referred to as "sells") any course of home study instruction included within the scope of this order.

2. Respondents provide each person or entity described in Part II, Paragraph 1 of this order with a form returnable to the respondents clearly stating his or her intention to be bound by and to conform his or her business practices to the requirements of this order; retain said statement during the period said person or entity is so employed and for a period of five (5) years thereafter; and make said statement available to the Commission's staff for inspection and copying upon request.

3. Respondents inform each person or entity described in Part II, Paragraph 1 of this order that the respondent will not employ or will terminate the employment of any such person or entity in selling such home study courses, unless such party agrees to and does file notice with the respondents that he or she will be bound by the provisions contained in this order.

4. If a person or entity described in Part II, Paragraph 1 of this order will not agree to file with respondents the notice set forth in Part II, Paragraph 2 of this order and be bound by the provisions of the order, respondents shall not employ or continue the employment of, such person or entity to sell any course of instruction covered by this order.

5. Respondents inform the persons or entities described in Part II, Paragraph 1 of this order that respondents are obligated by this order to discontinue dealing with or to terminate the employment in selling their courses of persons or entities who continue on their own the acts or practices prohibited by this order.

6. Respondents discontinue dealing with or terminate the employment in selling the courses of any person or

entity described in Part II, Paragraph 1 of this order, who continues on his or her own any act or practice prohibited by this order.

7. Respondents shall forthwith distribute a copy of this order to each of its divisions or subsidiary corporations which is involved in the advertising, promotion or sale of any home study course of instruction included within the scope of this order.

III

*It is further ordered, That:*

1. Respondents shall not issue any instructions or directions respecting the Escrow Account to the Federal Trade Commission or its designee, or the Escrow Agent in the performance of their duties pursuant to this Agreement and the Escrow Instructions attached hereto as Appendix C and incorporated herein, including but not limited to, investment of the Property held by the Escrow Agent, determination of purchasers pursuant to Part IV of this order and the written directions of the Federal Trade Commission or its designee, or disbursement of the Property by the Escrow Agent. Respondents shall not exercise any control over the property in the Escrow Account.

2. Respondents shall provide the Federal Trade Commission or its designee access on respondents' premises to any student file folders maintained by respondents, provided the Federal Trade Commission has the consent of the students whose files are sought for inspection.

IV

*It is further ordered, That:*

1. For the purposes of Part IV of this Order, the following definitions shall apply:

(a) The term "Purchasers" shall mean those students who paid all or some portion of their own tuition to respondents and who did not have their tuition paid in full, or their payments fully reimbursed, by any federal, state or local government agency or department, or any private business organization, other than one that he/she owns;

(b) The term "Relevant Period" shall mean the period commencing May 27, 1974 to the present.

(c) A purchaser shall be deemed to be covered by the relevant period if such purchaser:

(1) Enrolled in a Bell & Howell Schools, Inc. electronics or accounting home study course during the relevant period; or

(2) Enrolled in a Bell & Howell Schools, Inc. electronics or accounting home study course after January 1, 1971 and made any tuition payment during the relevant period to Bell & Howell Schools, Inc. or to any person



or entity on account of any such course.

2. Respondents shall submit to the Chicago Regional Office of the Federal Trade Commission, within thirty (30) days after the date this Order is served on respondents, a notarized affidavit executed by a duly authorized officer of respondents, to the effect that respondents have made a good faith search of documents that pertain to purchasers of respondents' accounting, television repair, and electronics courses of instruction, and that respondents, to the best of their knowledge, have previously or simultaneously with said affidavit submitted to the Chicago Regional Office of the Federal Trade Commission the names and most current known addresses of all such purchasers who enrolled in said courses after January 1, 1971.

3. The Federal Trade Commission has determined that purchasers who may be eligible to receive refunds from the Escrow Account are those purchasers who in the relevant period:

- (a) (1) Enrolled in the course for the purpose of obtaining employment in their fields of instruction; and
- (2) Successfully completed 100% of the lessons in the course; and
- (3) Sought employment in their fields of instruction; and
- (4) Did not obtain employment in their fields of instruction.

(b)(1) Terminated, or were terminated, from their course of instruction prior to completion of 100 percent of the lessons because:

- (a) They were unable to successfully assimilate the subject matter of the course because they lacked adequate education or background; or
- (b) They were unable to successfully assimilate the subject matter of the course because they could not obtain instructional assistance through help sessions, or telephone services, or requests for technical consultation and they indicate that such assistance was necessary to progress through the course; or
- (c) They were unable to devote sufficient time to study for the course.

(c) (1) Enrolled in an accounting course with the expectation that they would be qualified by graduation from the course to take the state licensing examination to become a Certified Public Accountant in the state in which the purchasers resided; and

(2) Later determined that they were not thereby qualified to take the state licensing examination to become a Certified Public Accountant in the state in which they resided as of the date of the sales presentation, and

(3) Indicate that they terminated from the course of instruction because, or determined after graduation that, they were not thereby qualified to take the state licensing examination

to become a Certified Public Accountant.

(d) (1) Were misled as to the cost of the course of instruction which would have to borne by the purchasers or as to the refund policy of Bell & Howell Schools, Inc. in the event such purchasers terminated their enrollment in such course; and

(2) Terminated, or were terminated, from the course of instruction prior to completion of 100 percent of the lessons of the course.

(e) (1) Were terminated from their courses of instruction because the purchasers failed to submit lessons in a timely manner to Bell & Howell Schools, Inc.; and

(2) Indicated that the reason for their delay was that Bell & Howell Schools, Inc. failed to supply equipment or lessons to the purchasers as represented in its advertisements, sales presentation, or enrollment contracts.

(f)(1) Enrolled in the course for the purpose of obtaining employment in their fields of instruction; and

(2) Terminated from the course of instruction because they were informed that such course was not adequate to prepare them for employment in the fields for which such course offered training.

4. The fact that a purchaser is canvassed does not itself mean that such purchaser will receive a refund. The Federal Trade Commission or its designee shall determine which purchasers shall be entitled to a refund and the amount to be paid such purchasers: *Provided, however*, That such refund shall be based upon no more than the amount of the purchaser's tuition obligation not paid or reimbursed by any federal, state or local government agency or department, or any private business organization, other than one that he/she owns. In no event shall any purchaser receive an amount greater than his/her tuition obligation less his/her reimbursement or other payment from the aforementioned agencies, departments or organizations. Such refunds shall be paid out of the Escrow Account established pursuant to Paragraphs 9 through 13 and Part III of this Order.

5. No purchasers shall be deemed by respondents to have waived any claim that they may have, or may hereafter have, against respondents, their successors and assigns, arising in any manner whatsoever from enrollment in any of respondents' home study courses prior to January 21, 1976, unless such purchasers accept a refund pursuant to Part IV of this order. Acceptance of a refund pursuant to Part IV of this Order will be a bar to assertion of any such claim.

## V

*It is further ordered*, That respondents maintain for a period of ten (10) years, records which shall show the manner and form of respondents' continuing compliance with the above terms and provisions of this Order.

## VI

*It is further ordered*, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the Order: *Provided, however*, That if respondents do not have thirty (30) days lead time between proposal of such change and its consummation, respondents shall notify the Commission thereof at the earliest feasible time before consummation and any entity which may succeed to any part of the business covered by this order will have been advised of every provision of this order and will have agreed to be bound thereby.

## VII

*It is further ordered*, That the respondents herein shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

## APPENDIX A

## ABC SCHOOL—DRAFTING COURSE

*Jobs and Earnings Record for students enrolled between January 1, 1974 and January 1, 1976*

I. *Graduation Record*  
100 students enrolled.  
50 students graduated. That's 50% of the class.

30 students didn't finish the course. That's 30% of the class.\*

20 students are still enrolled. That's 20% of the class.

II. *Placement Record*  
36 graduates have told us that they got jobs in drafting within four months of leaving school.\*\* That's 72% of those who graduated.

Here's what they earned:  
9 earned \$6,000-\$7,999. (18% of all graduates)  
11 earned \$8,000-\$9,999. (22% of all graduates)

\*Students may drop out of a course for any of several reasons, such as dissatisfaction with the course, inability to do the work, or personal reasons.

\*\*[Optional] Some (many) of our students don't take this course to get a job, and we were unable to reach some of our graduates to find out whether they got jobs.

7 earned \$10,000-\$11,999. (14% of all graduates)

7 earned \$12,000-\$13,999. (14% of all graduates)

2 refused to tell us what their salary was. (4% of all graduates)

## APPENDIX B

The first Base Period shall be the two (2) year period ending three (3) months prior to the effective date of this Order. Subsequent base periods shall be of two (2) year duration commencing on the next day following the termination of the prior base period. Base Periods shall be numbered consecutively beginning with the first base period (i.e. Base Period #1) as defined above.

The three (3) month period immediately following the close of a base period shall be used by respondents to record and compile the information required by Part I, Paragraph 1(a) 8 and Appendix A. In addition, respondents may not include in the computation of students for the base period any person whose enrollment terminated during the three (3) month recordation period. Such persons will be included in the statistics for the subsequent base period.

On the first business day falling more than three (3) months after the termination of the base period, respondents shall begin dissemination of that base period's statistics as required by this Order. Respondents shall continue to distribute said statistics until the first business day falling three (3) months after the termination of the next base period, at which time dissemination of the next set of base period statistics must begin.

The following example describes how the two (2) year base period and three (3) month recordation period will be utilized by the respondents:

Base Period 1 will cover that period which begins two (2) years and 90 days prior to the effective date of the Order. If the Order is effective October 1, 1978, the base period will encompass the period June 1, to June 30, 1978. Respondents will then have from July 1 to September 30, 1978 to compile the data required by the Order. Respondents will disseminate the gathered data on October 1.

Base Period 2 would begin on July 1, 1978 and end July 30, 1980. From August 1 to October 31 respondents would compile the data required by the Order. This data is to be disseminated on the first business day after November 1.

## ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Bell & Howell

Company and Bell & Howell Schools, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint charged Bell & Howell with violation of Section Five of the Federal Trade Commission Act in advertising, promoting, offering for sale, selling, and distributing home study courses in the fields of accounting and electronics to consumers. Specifically, it was alleged that Bell & Howell misrepresented: (1) jobs and earning opportunities that would be available to graduates of their courses; (2) the success of their placement service in obtaining jobs for graduates of their courses; (3) the selectivity of the school in enrolling students; (4) the minimum educational background which would be sufficient for successful completion of their courses; (5) the nature and extent of instructional assistance that would be provided to students who enrolled in their courses; and (6) the difficulty of their course material.

Additionally, the complaint charged Bell & Howell with violation of Section 5 of the Act for failing to disclose to prospective enrollees: (1) The number and percentage of students who were graduated from their courses; (2) the number and percentage of students who obtained jobs in their field of study; (3) the earnings of those graduates who were able to obtain jobs in their fields of study; (4) the nature and content of the written lesson materials; and (5) the true nature of the financial obligation incurred by enrollees in respondents' courses.

The complaint also charged respondents with violation of Section 5 of the Act for failing to fulfill certain contractual obligations to students.

The complaint also charged Bell & Howell with violation of Section 5 of the Act arising from the manner in which they recruited, compensated and terminated their sales representatives.

The complaint also charged Bell & Howell with violation of Section 5 of the Act arising from their misrepresentation of the nature and the use of veterans' benefits pursuant to the Veterans Educational Assistance Act.

The Agreement which contains the proposed consent order provisions provides for Bell & Howell to pay \$1.2 million to be distributed by the Federal

Trade Commission to former students who enrolled in Bell & Howell Schools, Inc. home study courses. These funds have been deposited by Bell & Howell Company in an escrow account at the Continental Illinois National Bank and Trust Company of Chicago. All interest earned by investment of the \$1.2 million will accrue to the settlement sum.

The Agreement also provides that any net income tax liability assessed against interest earned by investing the settlement sum shall be paid out of the total settlement sum (i.e., \$1.2 million plus interest).

No part of the settlement sum will be returned to Bell & Howell, unless either the Commission fails to accept the Agreement of the Commission does not pay out to consumers all of the funds available for distribution.

The agreement also provides that receipt by a student of a refund pursuant to the Agreement and order will not cancel or reduce any outstanding tuition or loan obligation that the student may have as a result of enrolling in the Bell & Howell courses. The Commission has agreed to notify students of this fact.

Part I of the Order prohibits Bell & Howell from engaging in most of the acts or practices alleged in the complaint to be violations of the FTC Act. Bell & Howell is no longer engaged in the home study business. Bell & Howell is prohibited from representing that there is significant or substantial need or demand for persons completing their correspondence courses unless such representations are accompanied by disclosures of the number of students who graduated from a course and obtained a job in the field for which the course trained them. Bell & Howell must also disclose the salary obtained by such graduates. If such information is not provided to Bell & Howell by graduates of its courses, or if the course is too new to determine whether or not graduates were able to obtain employment, then Bell & Howell must inform prospective students of such facts.

Bell & Howell is also prohibited from misrepresenting: (1) That experience is not required or advantageous for employment in the fields for which Bell & Howell offers a correspondence course; (2) that graduates of respondents' courses will be able to find a job easily; (3) the effectiveness of, or the services provided by, the Bell & Howell placement service; (4) the availability of instructional assistance provided to Bell & Howell students; and (5) that the courses offered have been endorsed by a governmental agency.

The order also requires Bell & Howell to disclose to consumers: (1) That many employers of accountants,



## PROPOSED RULES

electronics technicians or television repairman require experience or education beyond that offered by the Bell & Howell course; (2) the number of students who enrolled in the Bell & Howell courses and the graduation and drop-out percentages of those students; (3) the manner in which a student cancel his/her contract; (4) the manner in which a student's tuition obligation will be calculated if the student drops out of the course.

Additionally, the Agreement and order required Bell & Howell to deposit \$1.2 million in escrow for the purpose of establishing a fund from which refunds can be paid to former Bell & Howell correspondence school students. For purposes of determining eligibility for redress, a student must have enrolled in a Bell & Howell correspondence course after January 1, 1971 and have made a tuition or loan payment after May 27, 1974.

The order provides that the Commission in its sole discretion, has the right to determine which students will be eligible and whether refunds to specific categories of students will be total or partial. Students who may be eligible to receive refunds are those who:

(1) Enrolled in the course to obtain employment, graduated, looked for a job in their field of study, and did not find one; or

(2) Dropped-out or were terminated from enrollment because they lacked adequate education or background to understand the course materials, or were unable to get instructional assistance that they needed in order to understand the course materials, or did not have enough time to study for the course; or

(3) Enrolled in the accounting course with the expectation that they would be able to take the CPA exam in their State, and subsequently found out that the course did not qualify them to take the exam; or

(4) Were misled as to the amount they would have to pay for the courses; or

(5) Were terminated from their course because they failed to submit lessons on time and their delay was a result of not having supplies on hand to do the work; or

(6) Enrolled in the course to get a job and dropped out because they found out the course did not qualify them for a job.

No determination has been made about which of the six categories of eligible consumers will be considered for refunds. It is possible that eligible consumers in one or more of the six categories will not receive any refund.

The order provides that no refund shall exceed a student's tuition obligation less any reimbursement such student received from a Federal, State or

local government agency or department. Despite the fact that the Commission staff objected to this limitation, which precludes the Commission from refunding money already paid to students by the Veterans' Administration, Bell & Howell insisted on its inclusion in the order. Students who accept a refund from the Commission will not have their tuition or loan obligation cancelled or reduced, but the students waive any claims they may have against Bell & Howell arising from their enrollment in the course.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,  
Secretary.

(FR Doc. 79-9776 Filed 3-29-79; 8:45 am)

[6750-01-M]

[16 CFR Part 13]

[File No. 9116]

RHINECHEM CORP., ET AL.

Consent Agreement With Analysis To Aid  
Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a New York City manufacturer and seller of organic pigments to terminate all agreements providing for the acquisition of the Chemetron Corporation's organic pigments business; return all confidential documents exchanged during the negotiations; and provide the Commission with evidence of its compliance with these requirements. Additionally, Rhinechem would be required, through December 31, 1981, to furnish the Commission with 90-days advance notice should it seek either to acquire Chemetron's organic pigment business or sell its own to Chemetron or Chemetron's corporate parent, Allegheny Ludlum Industries, Inc.

DATE: Comments must be received on or before May 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, 3R, Chicago

go Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

RHINECHEM CORP., ET AL.

[Docket No. 9116]

AGREEMENT CONTAINING CONSENT ORDER  
TO CEASE AND DESIST

This agreement by and between Rhinechem Corporation, a corporation, by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedure. In accordance therewith the parties agree that:

1. Respondent Rhinechem Corporation (hereinafter Rhinechem) is a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at 425 Park Avenue, New York, New York. Rhinechem is a wholly-owned subsidiary of Bayer International Finance N.V., which in turn is a wholly-owned subsidiary of Bayer AG, a West German corporation with headquarters in Leverkusen, Federal Republic of Germany.

2. Rhinechem has been served with the complaint issued by the Federal Trade Commission on August 23, 1978, charging it with violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act.

3. Rhinechem admits all jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Rhinechem waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

## PROPOSED RULES

"Organic pigments" means insoluble color particles characterized by a chemical composition which includes carbon rings or chains as the basic part of their molecular structure and used to impart color to a variety of materials.

## I.

It is ordered, That Rhinechem forthwith terminate all agreements which provided for the acquisition of the organic pigments business of Chemetron Corporation by a subsidiary of Rhinechem and provide evidence that all such agreements have been terminated and that all confidential documents provided to Rhinechem by Allegheny Ludlum Industries, Inc., and Chemetron Corporation in connection with the merger agreement have been returned or destroyed. Nothing herein contained shall relieve Rhinechem from any obligations of confidentiality imposed by agreement between the parties.

## II.

It is further ordered, That through December 31, 1981, Rhinechem, its successors or assigns, shall not acquire, either directly or indirectly, any or all of the organic pigments business of Chemetron Corporation nor shall it sell any or all of its organic pigments business to Allegheny Ludlum Industries, Inc., or Chemetron Corporation, whether represented by securities or assets, until ninety (90) days following receipt by the Director of the Bureau of Competition of the Federal Trade Commission of written notice of the proposed acquisition or merger, such written notice to be similar in form and content to the notice required under Section 7A of the Clayton Act and the premerger notification rules promulgated thereunder and shall specifically refer to this order. (This provision shall not prohibit sales of organic pigments or other transactions between Rhinechem and Chemetron Corporation in the ordinary course of business.) If within ninety (90) days of receipt by the Director of such notice the Commission issues an administrative complaint challenging the proposed acquisition or merger, such proposed acquisition or merger shall not be consummated, nor shall any steps be taken to effectuate such proposed acquisition or merger until the administrative complaint issued by the Commission is dismissed by the Commission, until a final order as defined in 15 U.S.C. Sections 21 and 45 is entered or until a consent order is entered and served upon Rhinechem in the administrative proceeding. If within the aforesaid ninety (90) days the Bureau of Competition receives any written position papers from Rhinechem and the Bureau recommends issuance of a complaint, the Bureau shall promptly

forward to the Commission such papers together with the written notice submitted to the Bureau Director. In the event that within ninety (90) days of the Director's receipt of such notice the Commission issues an administrative complaint challenging the proposed acquisition or merger, the Bureau of Competition shall exert its best efforts to complete the administrative proceeding in an expedited manner.

## III.

It is further ordered, That Rhinechem shall notify the Commission at least thirty (30) days prior to any proposed corporate change such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect compliance obligations arising out of this order.

## IV.

It is further ordered, That Rhinechem shall within sixty (60) days after service upon it of this order file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order.

RHINECHEM CORP. ET AL.

[Docket No. 9116]

ANALYSIS OF PROPOSED CONSENT ORDER  
TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Rhinechem Corporation (hereinafter referred to as "respondent").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and then will decide whether it should withdraw from the agreement or issue the agreement's proposed order.

On August 23, 1978, the Commission issued a complaint against Rhinechem Corporation (Rhinechem), Allegheny Ludlum Industries, Inc. (Allegheny) and Chemetron Corporation (Chemetron) alleging that the proposed acquisition of Chemetron's pigment division by Rhinechem, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. Section 7 of the Clayton Act prohibits any acquisition which may have the effect of substantially lessening competition or tending to create a monopoly in any line of commerce, and Section 5 of the Feder-

5. This agreement shall not become a part of the public record of the proceeding unless and until its accepted by the Commission. If this agreement is accepted by the Commission, it, together with related materials pursuant to Rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereof to be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Rhinechem, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding. The Commission may at any time pending issuance of this order require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by Rhinechem that the law has been violated as alleged in the Commission's complaint in this proceeding.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may without further notice to Rhinechem (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to Rhinechem's address as stated in this agreement shall constitute service. Rhinechem waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

8. Rhinechem has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file a compliance report showing that it has fully complied with the order and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

## ORDER

## DEFINITIONS

For purposes of this order the following definition shall apply:



al Trade Commission Act prohibits unfair methods of competition as well as deceptive acts or practices in or affecting commerce.

The Commission's complaint alleged that Rhinechem (principally through its wholly owned subsidiary Harmon Colors) and Chemetron compete in the manufacture and sale of organic pigments. The complaint alleged further that the merger agreement between Rhinechem and Allegheny was itself a violation of Section 5 of the Federal Trade Commission Act because, if the merger was consummated, it would lessen actual competition, eliminate Chemetron as a substantial independent competitor, and lead to other harmful results.

The Commission, on August 28, 1978, also filed an Application for a Preliminary Injunction and Temporary Restraining Order in the United States District Court for the Northern District of Illinois, Eastern Division. After a proceeding pursuant to 13(b) of the FTC Act, 15 U.S.C. Section 53(b), the Judge granted, on October 20, 1978, the FTC's Application for the issuance of an injunction during the pendency of the administrative proceedings and any subsequent review.

The proposed consent agreement incorporates into an administrative order certain key provisions that will be enforceable against respondent. This will avert the expenditure of resources of an administrative trial, which otherwise would be necessary before the Commission could impose a remedial order, and assure a lasting effect of the Commission's efforts in this action.

The proposed order has four (4) sections, the substance of which are described below.

In Paragraph I respondent is ordered to present evidence to the Commission that the merger agreement has been terminated, and to return any confidential documents exchanged during negotiations.

Paragraph II requires the respondent to provide the Director of the Bureau of Competition with ninety (90) days advance notice if it seeks to acquire any of the organic pigments business of Chemetron Corporation or seeks to sell any of its organic pigments business to Allegheny Ludlum Industries, Inc. or Chemetron Corporation through December 31, 1981. This paragraph further provides that if the Commission within that ninety (90) day period issues an administrative complaint challenging such transaction, the respondent will not go forward with the transaction until the administrative proceeding has been completed and a final order or consent order has been entered. Thus, by issuing an administrative complaint, the Commission can effectively enjoin the

consummation of a proposed merger between Rhinechem and Allegheny concerning Chemetron's pigment division. If the Commission should issue such a complaint the Bureau of Competition agrees to exert its best efforts to complete the administrative proceeding in an expedited manner.

Paragraphs III and IV relate to compliance. In the former, the respondent is required to notify the Commission of corporate changes which may affect its compliance obligations, while in the latter the respondent is required to file compliance reports sixty (60) days after service of the order.

The purpose of this analysis is to facilitate public comment on the proposed order; it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9777 Filed 3-29-79; 8:45 am]

[4830-01-M]

#### DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[EE-145-78]

#### INCOME TAX

Income of Mutual or Cooperative Telephone Companies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation relating to the income of tax exempt mutual or cooperative telephone companies. Changes to the applicable tax law were made by the Act of August 15, 1978. The regulation would provide the public with the guidance needed to comply with that Act and would affect mutual or cooperative telephone companies which are exempt from Federal income tax.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 29, 1979. The amendment is proposed to be effective for taxable years beginning after December 31, 1974.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE-145-78, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Ray K. Kamikawa of the Employee Plans and Exempt Organizations Di-

vision, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE-145-78, (202) 566-6271 (Not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 501(c)(12) of the Internal Revenue Code of 1954. The amendment is proposed to conform the regulations to section 1 of the Act of August 15, 1978, Pub. L. 95-345 (92 Stat. 481) and is to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

##### REVENUE RULING 74-362

A mutual or cooperative telephone company qualifies for recognition of tax exemption under section 501(a) only if at least 85 percent of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses. In Rev. Rul. 74-362, 1974-2 C.B. 170, the Internal Revenue Service ruled that certain amounts earned by a telephone cooperative in connection with completing calls between its members and subscribers of other telephone companies constituted nonmember income. If it could not be established that such amounts were less than 15 percent of total receipts, the telephone cooperative could not qualify for exempt status.

##### ACT OF AUGUST 15, 1978

In the Act of August 15, 1978, Congress provided that income received by a telephone cooperative from another telephone company for calls involving members of the telephone cooperative do not enter into the 85 percent member-income test in determining whether the telephone cooperative is tax exempt. The effect of this provision is to exclude from the member-income computation any amounts which, under Rev. Rul. 74-362, would be considered as paid for performance by the telephone cooperative of telephone call-connection services for nonmembers.

##### COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting the proposed regulation, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by

any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

##### DRAFTING INFORMATION

The principal author of the proposed regulation was Ray K. Kamikawa of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the regulation, both on matters of substance and style.

##### PROPOSED AMENDMENT TO THE REGULATION

Accordingly, it is proposed to amend section 1.501(c)(12)-1 by adding a new paragraph (c), as follows:

§ 1.501(c)(12)-1 Local benevolent life insurance associations, mutual irrigation and telephone companies, and like organizations.

(c) In the taxable years of a mutual or cooperative telephone company be-

$$\frac{\text{member income}}{\text{total income}} = \frac{60x + 25x}{60x + 25x + 15x} = \frac{85}{100} = 85\%$$

of the cooperative's total income is derived from member income.

JEROME KURTZ,  
Commissioner of Internal Revenue.  
[FR Doc. 79-9828 Filed 3-29-79; 8:45 am]

[4310-31-M]

#### DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 250 and 251]

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF AND GEOLOGICAL AND GEOPHYSICAL (G & G) EXPLORATION OF THE OUTER CONTINENTAL SHELF

##### Hearing

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of Public Hearing.

SUMMARY: Proposed revisions to 30 CFR Part 250—Oil and Gas and Sulphur Operations in the Outer Continental Shelf were published in the FEDERAL REGISTER as proposed rules on March 12, 1979 (44 FR 13577), and proposed revisions to 30 CFR Part 251—Geological and Geophysical (G & G) Exploration of the Outer Continental Shelf were published in the FEDERAL REGISTER as proposed rules on February 9, 1979 (44 FR 8302).

beginning after December 31, 1974, the 85 percent member-income test described in paragraph (a) of this section is applied without taking into account income received or accrued from another telephone company for the completion of long distance calls involving members of the mutual or cooperative telephone company. For example, if, in one year, a cooperative telephone company receives \$60x from its members for local calls, \$25x from its members for long distance calls by its members to persons served by another telephone company, \$15x as interest income, and \$20x as credits under long distance interconnection agreements with other telephone companies for the completion of long distance calls between persons served by the other companies and the cooperative's members (whether or not the credits may be offset, in whole or in part, by amounts due the other companies under the interconnection agreements), the member-income fraction is calculated without taking into account, either in the numerator or denominator, the \$20x credits received from the other telephone companies. In this example, the 85 percent member-income test is satisfied because at least 85 percent.

This document announces a public hearing to receive oral comments and recommendations on the proposed revisions of 30 CFR Part 250 and 30 CFR Part 251. The hearing will be held on May 8, 1979, in the Auditorium of the Department of the Interior, 1800 "C" Street, N.W., Washington, D.C. 20240.

##### FOR FURTHER INFORMATION CONTACT:

Gerald D. Rhodes, U.S. Geological Survey, National Center, MS 620, Reston, Virginia 22092, (703) 860-7531.

SUPPLEMENTARY INFORMATION: Interested persons are invited to make oral and written presentations regarding the proposed rules during the hearing.

Individual testimony during the hearing may be limited if the number of people asking to testify warrants. However, in no case will a testifier be allowed less than 15 minutes. Requests for time to present testimony should be made before April 27, 1979.

Persons wishing to testify should address their requests for time to Gerald Rhodes, Branch of Marine Oil and Gas Operations, U.S. Geological Survey, Mail Stop 620, National Center, Reston, Virginia 22092, (703) 860-7531. No effort to schedule specific times for individual speakers will be made before May 4.

Comments and recommendations at the public hearing will be recorded, and transcripts of the proceedings will be made part of the record relating to the promulgation of final rules. Copies of the proposed rules published February 9, 1979 (44 FR 8302), and March 12, 1979 (44 FR 13527), are available from the Chief, Branch of Marine Oil and Gas Operations.

The filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. The submission of written statements to the Chief, Branch of Marine Oil and Gas Operations, by April 27 would assist Geological Survey officials who will participate in the hearing. Advance submissions will give those officials an opportunity to consider appropriate questions which might help to clarify the contents of the written statement or to solicit more specific information from the person testifying.

The hearing announced by this notice will be opened at about 9 a.m. on May 8, 1979, and will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of the scheduled speakers. The hearing will end after all persons that are scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but who wish to do so, assume the risk of having the hearing adjourned without receiving their testimony if they are not present in the audience at the time all scheduled speakers have been heard.

In order for the record to remain open for receipt of additional written comments for a period of 10 days following the public hearing, the deadlines for submitting comments on the proposed changes to 30 CFR Parts 250 and 251 (44 FR 13527 and 44 FR 8302 respectively) are hereby extended through May 18, 1979.

Dated: March 27, 1979.

JOAN M. DAVENPORT,  
Assistant Secretary,  
Energy and Minerals.

[FR Doc. 79-9781 Filed 3-29-79; 8:45 am]

[4810-35-M]

#### DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Parts 202, 240]

##### IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda

AGENCY: Bureau of Government Financial Operations.

ACTION: Semiannual agenda.



**SUMMARY:** In response to Executive Order 12044, "Improving Government Regulations," and the Treasury Department directive implementing that Executive Order, the Bureau of Government Financial Operations has prepared and is publishing for public information a listing of its regulatory actions since May 22, 1978, including projects initiated or acted upon since that date. The Bureau announces that it has no significant or nonsignificant new regulations under development.

This semiannual agenda lists the regulations that the Bureau of Government Financial Operations will be reviewing from March 30, 1979, through September 30, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Miss Catherine Miller at 202-566-8374 or Mr. William V. Bour, Jr., at 202-566-8707.

For any information about any particular item on the semiannual

agenda, contact the individual listed in the column headed "knowledgeable official" for that item.

#### SEMIANNUAL AGENDA

The semiannual agenda reads as set forth below.

Dated: March 27, 1979.

By direction of the Secretary of the Treasury.

D. A. PAGLIAI,  
Commissioner.

| Description   | Justification for regulatory action  | Regulatory analysis | Legal authority                                   | CFR              | Knowledgeable official               |
|---|--|---------------------|---|------------------|--------------------------------------|
| Indorsement and payment of checks drawn on the United States. | This proposed regulation will provide instructions for forms of indorsement of Treasury checks and the recovery right against indorsers through the concept of set-off.  | No.....             | 31 U.S.C. 561-564, 5 U.S.C. 301.                  | 31 CFR Part 240. | Michael D. Serlin, 202-566-2392.     |
| Depositories and financial agents of the Government.          | To assist handicapped persons and qualified disabled veterans employed by contractors with the U.S. by providing affirmative action programs in their behalf. See Sec. 503 of Rehabilitation Act of 1973 and Sec. 503 of Veterans Employment and Readjustment Act of 1972. | No.....             | 29 U.S.C. 793, 38 U.S.C. 2012, Exec. Order 11701. | 31 CFR Part 202. | Charles F. Schwan III, 202-655-8488. |

[FR Doc. 79-9742 Filed 3-29-79; 8:45 am]

[3640-01-M]

#### PANAMA CANAL COMPANY

[35 CFR Part 133]

#### PANAMA CANAL TOLLS

##### Proposed Increases

AGENCY: Panama Canal Company.

ACTION: Proposed rule and notice of public hearing.

**SUMMARY:** The Panama Canal Company is proposing to increase the tolls charged for use of the Panama Canal. Because the Panama Canal Treaty of 1977 will, effective October 1, 1979, require substantial payments out of canal operating revenues to the Republic of Panama, predicted revenues from tolls and other sources will fall short of the predicted costs of maintaining and operating the Panama Canal. The proposed rule would raise tolls to a level adequate to produce sufficient additional revenue to cover the canal's operating costs as defined under current law (which requires interest payments to the U.S. Treasury) and the Panama Canal Treaty which specifies new payments to Panama. Differing versions of treaty implementing legislation now under consideration by Congress would impose dif-

fering definitions of costs. Depending on the form of legislation which would supersede current law, the required level of tolls could be different from that defined herein.

**DATES:** Hearing: June 11, 1979, 9:00 a.m., in the Gold Room, Statler-Hilton Hotel, 33rd Street and 7th Avenue, New York, New York. Comments by: April 30, 1979. Notices of appearance by counsel or other qualified representative at hearing, and notices of intention to present supplementary data, oral arguments or statement at the hearing to be filed by: May 7, 1979.

**ADDRESSES:** Comments, notices of appearance and notices of intention to present supplementary data should be addressed to the Secretary, Panama Canal Company, Suite 312, 425-13th Street, N.W., Washington, D.C. 20004. Comments should be submitted with an original and 25 copies on letter size paper. The content of notices of appearances is prescribed by 35 CFR 70.9. The content of notices of intention to present supplementary data, oral argument or statements at the hearing is prescribed by 35 CFR 70.10.

#### FOR FURTHER INFORMATION CONTACT:

Thomas M. Constant, Secretary,  
Panama Canal Company, Suite 312,

425-13th Street, N.W., Washington, D.C. 20004. Phone: (202) 724-0104.

#### SUPPLEMENTARY INFORMATION:

##### A. REASON FOR ACTION

The Panama Canal Treaty of 1977 and related agreements between the United States and the Republic of Panama will enter into force on October 1, 1979. Under the terms of the treaty, the United States agency operating the Panama Canal will be obliged to pay to the Republic of Panama, out of operating revenues, thirty cents per Panama Canal net ton for each vessel transiting the canal, a fixed annuity of ten million dollars, and a further ten million dollars per year (subject to adjustment every three years) for performance of various public services in certain areas in Panama made available for the use of the United States. Section 412(b) of Title 2, Canal Zone Code, (76A Stat. 27) requires that canal tolls be set at rates calculated to cover, as nearly as possible, all costs of maintaining and operating the Panama Canal. Because of the payments to Panama required by the Treaty, currently predicted revenues from Panama Canal tolls will fall short of the predicted costs of operating and maintaining the canal, and, accordingly, the Panama Canal Company, as required by law, is proposing in this rulemaking to raise the rates of Panama Canal tolls. Section 411 of Title 2, Canal Zone Code (76A

Stat. 27), authorizes the Panama Canal Company to prescribe, and alter, canal tolls.

#### B. ENVIRONMENTAL EFFECTS

The Panama Canal Company has prepared, and the Company's Environmental Quality Committee has approved, an environmental assessment of the likely effects of the proposed rule. It appears from the assessment that the proposed rule would not, if adopted, have a significant effect on the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* Accordingly, it appears that the Company is not required to prepare the environmental impact statement described by section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). Members of the public are invited to submit relevant facts bearing upon the agency's threshold decision that the proposed rule would not have a significant effect on the quality of the human environment.

#### C. AVAILABILITY OF DOCUMENTS

Copies of a report of the President, Panama Canal Company, recommending the proposed increase in Panama Canal tolls, and of the Company's environmental assessment, are available from the Secretary (at the above address) or from the Financial Vice President, Panama Canal Company, Balboa Heights, Canal Zone.

#### D. PUBLIC HEARING

The Panama Canal Company will hold public hearings on the proposed increase in rates of tolls in the Gold Room, Statler-Hilton Hotel, New York, New York, at 9:00 a.m., June 11, 1979.

#### E. ACTION ON PROPOSED RULE

All data, views or arguments presented in writing or orally at the hearing in accordance with 35 CFR Part 70 will be considered along with other relevant information before a final rule is issued and submitted to the President of the United States for approval. The proposed rule and the environmental assessment may be altered on the basis of information developed during this rulemaking. Proposed rule is based on current law as modified by the Panama Canal Treaty of 1977. In the event legislation enacted by Congress to implement the Panama Canal Treaty of 1977 provides for statutory costs different from those used to calculate the proposed rates of toll, consideration will be given to revision of the proposed rule prior to submission for approval to the President of the United States.

#### F. EFFECTIVE DATE OF PROPOSED RULE

Under section 411 of Title 2, Canal Zone Code (76A Stat. 27), the proposed rule, if issued in final form, could become effective only upon approval by the President of the United States, and not earlier than six months from the date of publication in the FEDERAL REGISTER of this notice. Subject to approval of the final rule by the President, it will become effective on October 1, 1979.

Accordingly, it is proposed that 35 CFR 133.1 be revised to read as follows:

#### § 133.1 Rates of toll.

The following rates of toll shall be paid by vessels using the Panama Canal:

(a) On merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, \$1.57 per net vessel ton of 100 cubic feet each of actual earning capacity—that is, the net tonnage determined in accordance with Part 135 of this chapter.

(b) On vessels in ballast without passengers or cargo, \$1.25 per net vessel ton.

(c) On other floating craft including warships, other than transports, colliers, hospital ships and supply ships, \$0.88 per ton of displacement.

Dated: March 30, 1979.

THOMAS M. CONSTANT,  
Secretary.

[FR Doc. 79-9565 Filed 3-29-79; 8:45 am]

[4310-70-M]

#### DEPARTMENT OF THE INTERIOR

##### National Park Service

[36 CFR Part 7]

#### YELLOWSTONE NATIONAL PARK, WYOMING, MONTANA, IDAHO

##### Fishing Regulations

AGENCY: National Park Service.

ACTION: Proposed rule.

**SUMMARY:** The proposed regulations set forth below are a partial revision of existing regulations promulgated to control sport fishing within Yellowstone National Park. Controls are necessary to protect native fish species and to provide for sport fishing with adequate replenishment of fish populations through natural reproduction. Research findings and field experience indicate the need for further protection of native species, for correction of difficult law enforcement situations and for relaxed limits on certain exotic species.

**DATES:** Written comments, suggestions or objections regarding this pro-

posal will be accepted until April 30, 1979.

**ADDRESS:** Comments should be directed to: Superintendent, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, Wyoming 82190.

#### FOR FURTHER INFORMATION CONTACT:

Originator: Edmund J. Bucknall, Resources Management Specialist, Yellowstone National Park, Wyoming, 82109, Telephone: 307-344-7381.

#### SUPPLEMENTARY INFORMATION:

The purpose of this amendment is to:

1. Protect spawning fish in the Gardner River and in Trout Lake from illegal fishing methods.
2. Protect delicate thermal features along portions of the Firehole River and to avoid accidental burns to fishermen.
3. Protect an ecologically unique fish population in Three Ponds north of Snake Hot Springs.
4. Provide for catch-and-release fishing only on Beula and Hering Lakes and adjacent streams, on Sportsman Lake, on upper Cougar Creek, on the Cascade Creek drainage near Canyon, on the Sylvan Lake drainage, on Sedge Creek above Turbid Lake, on those portions of the Bechler River containing genetically pure cutthroat trout and for cutthroat trout in Blacktail Deer Creek and Blacktail Ponds.
5. Correct Paragraph (2) Open Fishing Season, to properly indicate the daily period in which fishing is permitted.
6. Correct the catch-and-release regulation on Pelican Creek drainage to include only that portion of the drainage above the lower two miles, the latter which is closed to fishing.
7. Extend the additional catch limit on brook trout to the Gallatin River and Grayling Creek drainages and to include brown trout in the added limit on these drainages only.
8. Provide for the ecologically correct disposal of fish entrails in the backcountry.

Season changes on Trout Lake and on a portion of the Gardner River will protect spawning trout from illegal fishing methods such as snagging and clubbing. Closing a portion of the Firehole River will help to prevent damage to thermal features on the river bank and will lessen the possibility of fishermen accidentally stepping into hot pools. The small ponds north of Snake River Hot Springs are the only known waters containing all the fish species native to the upper Snake River and in an unaltered condition. Closure to fishing will preserve this unique ecosystem for research purposes.



Catch-and-release fishing on several waters in the park will preserve native strains on cutthroat trout. Paragraph (2) Open Fishing Season incorrectly indicates the daily fishing period. The catch-and-release regulation on Pelican Creek was written incorrectly and is confusing. The additional limits of brook and brown trout in the Gallatin River and Grayling Creek drainages will help to shift fishing pressure from the rarer native species to the more competitive non-native fish.

General park regulations prohibit disposing of fish entrails in any fresh water. A special regulation permitting this will provide a more ecologically correct method of disposal in a natural area and will avoid creating an attraction to bears that results from burying the entrails or from the often ineffective attempts at burning them in a campfire.

**IMPACT ANALYSIS:** The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations. An Environmental Statement for the Master Plan for Yellowstone National Park has been prepared by the National Park Service which discusses, among other things, the impacts of controlling the fishing within the park. This statement is available for review at the address given above, or interested parties may request copies of it from the Superintendent.

JOHN A. TOWNSLEY,  
Superintendent,  
Yellowstone National Park.

In consideration of the foregoing, it is proposed that paragraph (e) of § 7.13 of Title 36, Code of Federal Regulations, be amended as follows:

#### § 7.13 Yellowstone National Park.

(e) *Fishing.* . . .

(2) *Open Fishing Season.* . . .

(i) All rivers and creeks in the Yellowstone River drainage above the Upper Falls at Canyon except as otherwise provided in paragraph (e)(3) of this section, are open to fishing between the hours of 5 a.m. and 10 p.m., M.D.T., from July 15 through October 31. Rivers and creeks include those portions of Yellowstone Lake marked by buoys within 100 yards of the river or creek inlet.

(ii) All lakes in the Yellowstone River drainage above the Upper Falls at Canyon, except as otherwise provided in paragraph (e)(3) of this section, are open to fishing between the hours of 5 a.m. and 10 p.m., M.D.T., from June 15 through October 31. The marking buoys in the vicinity of the outlet of Yellowstone Lake shall

define the northern limit of Yellowstone Lake.

(iii) The Trout Lake drainage above Soda Butte Creek, including Trout, Buck and Shrimp Lakes, shall be open between the hours of 5 a.m. and 10 p.m., M.D.T., from June 15 through October 31.

(iv) All other waters, except as provided in paragraph (e)(3) of this section, are open to fishing between the hours of 5 a.m. and 10 p.m., M.D.T., from May 28 through October 31.

(3) *Closed Waters.* . . .

(ix) The Firehole River, from the road bridge one-half mile east of Old Faithful downstream to the road bridge at Biscuit Basin, plus those other portions of the Firehole River, identified by the posting of appropriate signs, which lie in the immediate vicinity of hazardous or fragile thermal features.

(xi) The Gardner River between Mammoth Hot Springs and the North Boundary, where and when posted, on or after September 1 until the end of the park fishing season.

(xii) The three ponds one-half mile north of Snake Hot Springs.

(5) *Catch-and-Release Waters.* . . .

(vii) Pelican Creek and all its tributaries from two miles above the mouth to the headwaters.

(ix) Sylvan Lake, including its inlets, and the outlet downstream to Clear Creek.

(x) The Cascade Creek drainage near Canyon Village, including Cascade Lake.

(xi) The Falls River drainage above the falls at the 7200 foot contour, as posted, including Beula and Hering Lakes.

(xii) Sportsman Lake, including the inlets and the outlet downstream to Mol Heron Creek.

(xiii) Cougar Creek above the Gneiss Creek trail crossing.

(xiv) The Bechler River and its tributaries above Colonnade Falls.

(xv) Sedge Creek and its tributaries above Turbid Lake.

(xvi) Blacktail Deer Creek drainage, including Blacktail Ponds, for cutthroat trout only.

(6) *Daily Limits by Waters.* . . .

(v) The Gallatin River and Grayling Creek and their tributaries, and Cougar Creek below the Gneiss Creek trail crossing: Five fish, any size, of

which at least three must be brook or brown trout.

(10) *Disposal of Fish Entrails.* . . .

(i) In those back country waters designated by the Superintendent, fish entrails may be disposed of by puncturing the air bladder and depositing the entrails in deep water in the lake or stream from which the fish was taken.

(Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and the Act of May 7, 1894 (28 Stat. 73, as amended; 16 U.S.C. 26), 245 DM 1 (34 FR 13879), as amended, National Park Service Order No. 77 (38 FR 7478) as amended, Regional Director Rocky Mountain Region Order No. 1 (39 FR 12369).)

[FR Doc. 79-9684 Filed 3-29-79; 8:45 am]

[3510-03-M]

#### DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 252]

#### ODS REGULATIONS FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICE

Proposed Rulemaking

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed amendments to regulations.

**SUMMARY:** The proposed amendments to Part 252 Title 46, Code of Federal Regulations would change the method of determining the foreign flag competition used in calculating operating subsidy and the method of determining the crew complement used for the competitive foreign vessels. The Maritime Administration is proposing the amendments in response to an appeal by the subsidized operators for a change of policy on these issues. The proposed amendments are being published so that comments by interested parties can be considered before the Maritime Subsidy Board adopts final amendments.

**COMMENT DATE:** Written comments by interested persons must be received by close of business—May 29, 1979.

**ADDRESS:** Send comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099-A, Department of Commerce Building.

**FOR FURTHER INFORMATION CONTACT:**

Frederick R. Larson, Office of Ship Operating Costs Maritime Adminis-

tration, Washington, D.C. 20230, (202) 377-5532.

**SUPPLEMENTARY INFORMATION:** At the request of the subsidized operators, the Maritime Administration has reviewed the policies embodied in Part 252 for determining foreign flag competition and manning.

Section 252.22 prescribes the method for determining the substantiality and extent of foreign flag competition. The method of calculating competition now incorporated in the regulations assumes that all flags which have substantial tonnage are competitive with the subsidized vessel, unless they trade in areas from which the United States is excluded. Under the proposed amendment, the competitive foreign flag for subsidy purposes would be the flag which has the most tonnage in the same "tonnage range" as the subsidized vessel.

The subsidized operators have proposed single flag competition based on the lowest cost principal flag for the reason that the low cost flag has a competitive advantage in a charter market. The determination of the low cost flag would entail a difficult and lengthy administrative process under which all elements of cost would have to be considered. Instead, the largest flag would be used since it is the most competitive flag. The change is undertaken as a matter of policy and not in compliance with any legal requirement. Accordingly, the proposed amendment will go into effect for foreign flag competition determinations commencing January 1, 1980.

Section 252.31(f)(2)(ii) now provides for using the actual crew complements of the competitive foreign flag vessels for subsidy calculation purposes. The subsidized operators contend that using actual foreign manning creates a disincentive for them to employ labor-saving designs in ship construction and results in a failure to achieve operating parity if the foreign vessels have different characteristics than the subsidized vessel.

The proposed amendment would result in constructing a representative foreign crew complement for the subsidized vessel. The basic difference between constructed and actual manning is that constructed manning is based on the physical characteristics of the subsidized vessel whereas the crew of the average foreign vessel is used for actual manning. Constructed cost parity uses the subsidized vessel as the basis for determining foreign cost while the costs of the foreign competitive vessel are used in actual cost parity. The bulk program in its present form is constructed parity except for wage subsidy. The proposed amendment would eliminate this inconsistency.

The Maritime Subsidy Board has determined that there is no requirement for a Regulatory analysis within the scope of criteria in EO 12044 (43 FR 12661, March 24, 1978) DAO 218-7 and implementing Maritime Administration procedures.

Accordingly, 46 CFR Part 252 is proposed to be amended as follows:

1. By revising § 252.22 paragraph (d) and deleting paragraph (e), as follows:

§ 252.22 Substantiality and extent of foreign-flag competition.

(d) *Competitive foreign flags.* The competitive foreign flag shall be the flag with the greatest total tonnage in the range.

(e) (deleted).

2. By revising § 252.31(f)(2)(ii) to read as follows:

§ 252.31 Wages of officers and crew.

(f) . . .

(2) *Foreign wage costs.* . . .  
(ii) *Crew complement.* The foreign crew complement, in number and nationality, shall be constructed, using as a basis the crewing scales and practices of the competitive foreign-flag developed through an examination of: crew manifest of such foreign-flag vessels; payrolls; data obtained by United States foreign Maritime Attaches; and other information which the Board determines, in its reasonable discretion, to be reliable.

(A) *Adjustments to complement.* Adjustments to the constructed foreign crew complement shall be made for significant physical differences in the characteristics of the foreign-flag vessels and the subsidized vessel. Adjustments shall also be made for significant differences in crewing practices between the foreign-flag vessels and the subsidized vessel. Substantially comparable departments (i.e., Deck Department, Engine Department) of vessels operated under the registry of the principal foreign country shall be used as the basis in estimating the adjustments for the difference in physical characteristics between the foreign-flag vessels and the subsidized vessel.

(B) *Foreign complement unobtainable.* Where the foreign crew complement of vessels under the registry of the competitive foreign country cannot be estimated or determined with reasonable substantiation, as provided in clauses (ii) and (A) above, so that the Board may exercise its reasonable discretion, the foreign manning complement shall be deemed to be identical in number and rating with that of the subsidized vessel.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).)

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,  
Secretary.

APRIL 23, 1979.

[FR Doc. 79-9683 Filed 3-29-79; 8:45 am]

[6712-01-M]

#### FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-53; RM-3250]

FM BROADCAST STATION IN WEST HELENA, ARK.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

**SUMMARY:** Action taken herein proposes the assignment of a Class A FM channel to West Helena, Arkansas, in response to a petition filed by West Helena Radio, Inc. The proposed channel could provide a first local aural broadcast service to West Helena.

**DATES:** Comments must be filed on or before May 21, 1979, and reply comments on or before June 11, 1979.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:**

Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:**

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (West Helena, Arkansas) (BC Docket No. 79-53, RM-3250).

Adopted: March 22, 1979.

Released: March 26, 1979.

1. *Petitioner, Proposal, Comments:* (a) Notice of Proposed Rulemaking is given concerning amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) as it relates to West Helena, Arkansas.

(b) A petition for rulemaking was filed by West Helena Radio, Inc. ("petitioner"), seeking the assignment of Channel 288A to West Helena, Arkansas, as that community's first FM as-

<sup>1</sup> Public Notice of the petition was given on December 6, 1978, Report No. 1154.



signment. No responses to the petition were filed.

(c) Channel 288A could be assigned to West Helena in compliance with the minimum distance separation requirements, provided the transmitter site is located approximately 5 kilometers (3 miles) west of the community.

(d) Petitioner states that if the channel is assigned it intends to file an application to build and operate an FM station.

2. *Community Data:* (a) *Location:* West Helena, in Phillips County, is located approximately 72 kilometers (45 miles) southwest of Memphis, Tennessee, and approximately 11 kilometers (7 miles) from Helena, Arkansas.

(b) *Population:* West Helena—11,007; Phillips County—40,046.

(c) *Local Broadcast Service:* There is no local aural broadcast service in West Helena. It does receive service from full-time AM Station KFFA and Station KCRF(FM) (Channel 276A), Helena, Arkansas.

3. *Economic Data:* Petitioner asserts that West Helena is a thriving economic center. It points out that in addition to agriculture, West Helena and the surrounding area support diversified industry including soy bean processing, wood processing, plastic products, agricultural chemicals, men's clothing and automobile tires. It notes that retail sales for Phillips County total \$56.9 million. In support of its proposal, petitioner has submitted information with respect to the form of government, education, churches and transportation in order to demonstrate the need for a first FM assignment in West Helena.

4. In view of the fact that the proposed FM station could provide the community with a first local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules, with regard to West Helena, Arkansas, as follows:

*City and Channel No.*

West Helena, Ark.; Present: —; Proposed: 288A

5. Authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer

<sup>2</sup> Population figures are taken from the 1970 U.S. Census.

subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

7. Interested parties may file comments on or before May 21, 1979, and reply comments on or before June 11, 1979.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.  
APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of

the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-9778 Filed 3-29-79; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket 79-62; RM-3224]

**FM BROADCAST STATION IN COVINGTON, IND.**

**Proposed Changes in Table of Assignments**

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Covington, Indiana. The proposed channel, which would provide the community with its first local aural broadcast service, was requested in a petition filed by DOXA, Inc.

DATE: Comments must be filed on or before May 21, 1979, and reply comments on or before June 11, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:**

Adopted: March 22, 1979.

Released: March 27, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Covington, Indiana), BC Docket No. 79-62, RM-3224.

1. The Commission has under consideration a petition for rule making seeking the amendment of § 73.202(b) of the Commission's Rules, the Table of FM Assignments. The petition was filed on behalf of DOXA, Inc. ("petitioner"), proposing the assignment of FM Channel 224A on a hyphenated basis to the communities of Covington and Veedersburg, Indiana. The channel could be assigned in conformity with the minimum distance separation requirements without affecting the present assignments in the FM Table. Petitioner states that it will promptly file an application for authority to construct and operate an FM station if the channel is assigned. No responses to the proposal have been received.

2. Covington (pop. 2,641) in Fountain County (pop. 18,257), is located approximately 64 kilometers (40 miles) southwest of Lafayette, Indiana, and 113 kilometers (70 miles) west northwest of Indianapolis, Indiana. Veedersburg (pop. 2,198) is located approximately 11 kilometers (7 miles) east of Covington. There is no local aural broadcast service in either Covington or Veedersburg or in Fountain County.

3. In support of its proposal, petitioner states that the economy of Covington and Veedersburg is dependent largely on agriculture. We are told that there are firms in the area which produce food, lumber, chemicals, machinery, electrical equipment and instruments, which also contribute to the economy of these communities. Petitioner claims that local news and public affairs go uncovered since there is no broadcast service in the county or a daily newspaper in either Covington or Veedersburg. It asserts that the proposed channel would provide a much needed first aural broadcast service to Fountain County as well as to the adjoining county of Warren.

4. Although petitioner requests assignment of the channel on a hyphenated basis, it provides no basis for doing so. Therefore, the assignment will be proposed for Covington, the larger community and the county seat. Nonetheless, since the two communities are located within 14 kilometers (9 miles) of each other, if the channel is assigned to Covington, it would be available for use at Veedersburg instead under the provisions of § 73.203(b) of the Commission's rules.

5. In view of the foregoing information, and the fact that the proposed FM channel could bring a first local aural broadcast service to Covington

<sup>1</sup> Public Notice of the petition was given on October 24, 1978, Report No. 1147.

<sup>2</sup> Population figures are taken from the 1970 U.S. Census.

and Fountain County, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to Covington, Indiana, as follows:

| City                     | Channel No. |          |
|--------------------------|-------------|----------|
|                          | Present     | Proposed |
| Covington, Indiana ..... |             | 224A     |

6. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

8. Interested parties may file comments on or before May 21, 1979, and reply comments on or before June 11, 1979.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.  
APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to

apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-9772 Filed 3-29-79; 8:45 am]



[6712-01-M]

[47 CFR Part 73]

[Docket No. 21313; RM-2646; RM-2717;  
RM-3038; RM-3039; RM-3040]

## AM STEREOPHONIC BROADCASTING

Order Extending Time For Filing Comments and  
Reply CommentsAGENCY: Federal Communications  
Commission.

ACTION: Order Extending Time.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning AM stereophonic broadcasting. Petitioner, Harris Corporation, states the additional time is needed in order to complete field testing of its modified system and for the preparation of comments for submission in this proceeding.

DATES: Comments must be filed on or before May 15, 1979, and reply comments must be filed on or before June 15, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT:Wilson LaFollette, Broadcast  
Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: March 23, 1979.

Released: March 27, 1979.

In the matter of AM Stereophonic Broadcasting, Docket No. 21313, RM-2646, RM-3039, RM-2717, RM-3040, RM-3038, 44 FR 11568, March 1, 1979.

1. On September 14, 1978, the Commission adopted a Notice of Proposed Rule Making, 43 FR 48669, in the above-entitled proceeding. The dates for filing comments and reply comments are presently March 30 and April 30, 1979, respectively.

2. On March 14, 1979, Harris Corporation ("Harris"), by its attorneys, requested that the time for filing comments and reply comments be extended to and including May 30 and July 2, 1979, respectively. Supporting comments were filed by Motorola, Inc. An opposition was filed by the National Association of Broadcasters ("NAB").

3. Harris states that as a result of intensive research, it has developed significant improvements in its system. It adds that it recognizes the Commission's concern regarding reduced stereo coverage of its system and for that reason proceeded to modify it. Harris notes that laboratory testing confirms that the modified system performs as predicted. It now desires to field test it in order to answer ques-

tions raised in the Notice. Harris asserts that field testing has been scheduled at Station WTAD, Quincy, Illinois, and later at Station WGN, Chicago. However, it adds, special temporary authorization has not yet been issued to Station WTAD. Harris states that field testing will begin immediately upon issuance of that authorization by the Commission, with the WGN testing following promptly thereafter. Harris notes that it has filed initial comments in this matter in order to give other parties an opportunity to study its system as modified.

4. NAB opposes, in part, the 60-day extension of time requested by Harris, stating that the public interest would best be served by extending the comment and reply comment dates for 30 days. It contends that each proponent in the proceeding has been aware of the information requested by the Commission for at least four months, and while NAB does not desire to place an undue hardship on any proponent, it believes the AM stereo proceeding would not be served by a 60-day extension of time. It claims that broadcasters, equipment manufacturers, system proponents and the general public are eagerly awaiting a Commission decision on AM stereo, and believes that the public interest would be best served by expeditious action in this proceeding. However, it does recommend a 30-day extension for the filing of comments and replies to April 30 and May 30, 1979, respectively.

5. In the Notice the Commission expressed its overall concern with certain characteristics of two of the five systems. The proponents of these two systems, Harris and Belar, have undertaken extensive steps to modify their systems to meet the Commission's expressed concern. Station WJR, Detroit, was given an STA to perform field tests of the Belar system from February 16 to May 16, 1979. Since it would also be helpful to the Commission in resolving the questions in the Notice to have the benefit of the results of the field tests to be conducted by Harris, we believe adequate time should be granted for conducting these tests and developing comments reporting the test results. Harris states a 60-day extension of time is necessary to accomplish the field testing and the preparation of these results for submission in comments. The Commission is most anxious to develop a sound and comprehensive record on which to base a final decision in this proceeding but it is equally anxious that resolution of the proceeding not be unduly delayed. Therefore, we shall grant an extension of 45 days. Furthermore, since the two parties whose original

On March 15, 1979, an STA was granted to Station WTAD for the period of March 15 to May 31, 1979.

systems raised the most serious questions for the Commission will now have had adequate time to complete their testing and preparation of comments, we contemplate no further extensions of time in this proceeding.

6. Accordingly, it is ordered, That the request for extension of time filed by Harris Corporation is granted in part and dates for filing comments and reply comments in Docket No. 21313 are extended to and including May 15 and June 15, 1979, respectively.

7. It is further ordered, That the Partial Opposition to the Request for Extension of Time filed by the National Association of Broadcasters to limit the extension of time for filing comments to 30 days is denied.

8. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS  
COMMISSION,  
MARTIN I. LEVY,

Acting Chief, Broadcast Bureau.

(FR Doc. 79-9774 Filed 3-29-79; 8:45 am)

[6712-01-M]

[47 CFR Part 73]

(BC Docket No. 79-61; RM-3230)

## FM BROADCAST STATION IN REFORM, ALA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications  
Commission.ACTION: Notice of Proposed Rule-  
making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Reform, Alabama, in response to a petition filed by REGO Broadcasting Company. The proposed channel could provide a first local aural broadcast service to Reform.

DATES: Comments must be filed on or before May 21, 1979, and reply comments on or before June 11, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT:Mildred B. Nesterak, Broadcast  
Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Reform, Alabama) (BC Docket No. 79-61, RM-3230).

Adopted: March 22, 1979.

Released: March 27, 1979.

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal, Comments:* (a) A petition for rulemaking<sup>1</sup> was filed by REGO Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 269A to Reform, Alabama, as its first FM assignment. No oppositions to the proposal were received.

(b) The channel can be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that it will immediately file an application for the proposed channel, if assigned.

2. *Community Data:* (a) *Location:* Reform, in Pickens County, is located approximately 140 kilometers (87 miles) northwest of Montgomery, Alabama, and 113 kilometers (70 miles) southwest of Birmingham, Alabama.

(b) *Population:* Reform—1,863; Pickens County—20,326.<sup>2</sup>

3. *Economic Considerations:* Petitioner asserts that because of the extension of Reform's city limits its population is now over 2,500 as compared to the 1970 U.S. Census figure of 1,863. Petitioner notes that the Westinghouse Electric Plant, Wolverine Hat and Cap Company, Southern National Gas Corporation, among others, are industries which contribute to the economy of Reform and the surrounding area. Petitioner has submitted letters from citizens expressing their interest and support for the proposed FM assignment to Reform.

4. In light of the above information and the fact that the proposed Channel 269A assignment could provide a first local aural service to Reform, Alabama, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Rules, as it pertains to Reform, Alabama, as follows:

| City            | Channel No. |          |
|-----------------|-------------|----------|
|                 | Present     | Proposed |
| Reform, Alabama |             | 269A     |

5. Authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. For further information concerning this proceeding contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time

<sup>1</sup>Public Notice of the petition was given on November 3, 1978, Report No. 1149.

<sup>2</sup>Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

7. Interested parties may file comments on or before May 21, 1979, and reply comments on or before June 11, 1979.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

(FR Doc. 79-9779 Filed 3-29-79; 8:45 am)

[6560-01-M]

ENVIRONMENTAL PROTECTION  
AGENCY

[40 CFR Part 180]

(FRL 1086-6; PP 8E2074/P106)

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR  
ON RAW AGRICULTURAL COMMODITIESProposed Tolerances for the Pesticide Chemical  
O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) Phosphorothioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate on rutabagas. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish a maximum permissible level for residues of the subject insecticide on rutabagas.

DATE: Comments must be received on or before April 30, 1979.



ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington DC 20460.

#### FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202/755-4851).

**SUPPLEMENTARY INFORMATION:** The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Massachusetts, has submitted a pesticide petition (PP 8E2074) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.153 be amended by the establishment of a tolerance for combined residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodity rutabagas at 0.75 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat feeding study with a no-observable-effect level (NOEL) of less than 10 ppm based on cholinesterase-inhibiting effects, a two-year dog feeding study with an NOEL of less than 160 ppm based on cholinesterase-inhibition (However, no signs of systemic toxicity were noted either grossly or histopathologically in these two studies.), a 106-week monkey feeding study with an NOEL of 1 ppm based on cholinesterase inhibition, a multigeneration reproduction/teratology study in rats with an NOEL of 4 ppm, and a hen demyelination study (30-day diet) with an NOEL of 200 ppm (the highest level administered).

The acceptable daily intake (ADI) for the subject insecticide is 0.0025 milligram (mg)/kilogram (kg) of body weight (bw)/day based on the 106-week monkey feeding study using a 10-fold safety factor. The maximum permissible intake (MPI) for the subject insecticide in a 1.5-kg diet of a 60-kg man is 0.15 mg/day. The proposed use will add less than 0.1 percent to the theoretical maximal residue contribution (TMRC) of the established tolerances, which range from 60 ppm to 0.1 ppm on a variety of raw agricultural commodities. The TMRC from the established tolerances exceeds the MPI by a factor of 2.75. The actual occurrence of the subject insecticide in the general food supply will not approach the TMRC. This conclusion is supported by the findings in the Food and

Drug Administration's surveillance and monitoring programs. These considerations are supported by the FDA Total Diet Surveys, which indicate that exposure to residues of the subject insecticide are "trace to none" in most cases. Thus, it is concluded that the additional increase in the TMRC for the insecticide from this minor use is toxicologically insignificant.

There is no reasonable expectation of residues in eggs, milk, or poultry. Any residues occurring in meat, fat, and meat byproducts of cattle and sheep would be adequately covered by the existing 0.75 ppm tolerance in meat, fat, and meat byproducts. The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography equipped with a phosphorus selective thermionic detector) is available for enforcement purposes.

A mutagenicity study may be required when the Agency identifies suitable protocols for mutagenicity testing. Accordingly, based on the above information considered by the Agency and the small percentage of rutabagas in the diet, it is concluded that the tolerance of 0.75 ppm established by amending 40 CFR 180.153 will protect the public health. The pesticide is considered useful for the purpose for which a tolerance is being sought. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before April 30, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control "PP 8E2074/P106". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 23, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

It is proposed that Part 180, Subpart C, § 180.153 be amended by alphabetically inserting the tolerance of 0.75 ppm on rutabagas to read as follows:

§ 180.153 O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, tolerances for residues.

| Commodity:     | Parts per million |
|----------------|-------------------|
| Rutabagas..... | 0.75              |

(FR Doc. 79-9811 Filed 3-29-79; 8:45 am)

[6560-01-M]

[40 CFR Part 57]

[FRL 1066-3]

#### PRIMARY NONFERROUS SMELTER ORDERS

Extension of Comment Period for Proposed Rules on Primary Nonferrous Smelter Orders

AGENCY: U.S. Environmental Protection Agency.

ACTION: Extension of Comment Period for proposed rules on Primary Nonferrous Smelter Orders.

SUMMARY: This notice extends until April 16, 1979, the period for comments to the notice published January 31, 1979 (44 FR 6284), which established requirements of, and procedures to be used in, issuing initial primary nonferrous smelter orders. Previously, the general comment period was to close on April 1, 1979, although supplemental comments in response to testimony at public hearings could be postmarked April 16, 1979. The EPA is extending the general comment period so that commentators may send in all of their comments at one time.

DATES: In order to be considered in the final rulemaking, all comments must be postmarked by April 16, 1979.

ADDRESS: Comments should be sent to: Ms. Judith Larsen, Division of Stationary Source Enforcement (EN-341), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Judith Larsen, Division of Stationary Source Enforcement (EN-341), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-2583.

Dated: March 28, 1979.

MARVIN B. DURNING,  
Assistant Administrator  
for Enforcement.

(FR Doc. 79-10046 Filed 3-29-79; 9:17 am)

[8010-01-M]

#### SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release Nos. 33-6041; 34-15672; IC-10637; File No. S7-770]

#### TENDER OFFERS

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The Commission has extended from March 30, 1979 to April 16, 1979 the date by which comments must be submitted with respect to proposed rules and a related schedule which pertain to tender offers until April 16, 1979.

DATE: Comments must be received on or before April 16, 1979.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-770. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

#### FOR FURTHER INFORMATION CONTACT:

John Huber, Office of the General Counsel (202-755-1243) or John Granda, Division of Corporation Finance (202-755-1750), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** In Release Nos. 33-6022, 34-15548 and IC-10575 (February 5, 1979) [44 FR 9956], the Commission published for comment proposed rules and a related schedule which pertain to tender offers. If adopted, these proposals would implement and augment the present statutory requirements by providing specific filing, delivery and disclosure requirements, non-exclusive dissemination provisions and additional substantive regulatory protections with respect to certain tender offers as well as particular anti-fraud provisions which would apply to any tender offer. The Commission stated that the rulemaking proceeding would be expedited, to the extent feasible, and established a tentative timetable, including a comment period which would expire on March 30, 1979.

The Commission has received requests from interested members of the public for an extension of the comment period. In view of these requests, the Commission has extended the comment period until April 16, 1979 to allow additional time for interested persons to complete their consideration of the proposals.

Comment letters received after the termination of the comment period as extended may be considered in the discretion of the Commission. However, because of the timetable anticipated by the Commission and the necessity for prompt rulemaking action, there can be no assurance that late comment letters will in fact be considered in this rulemaking proceeding.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

MARCH 22, 1979.

(FR Doc. 79-10068 Filed 3-29-79; 11:03 am)



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-15-M]

### DEPARTMENT OF AGRICULTURE

#### Rural Electrification Administration

#### UNITED POWER ASSOCIATION

#### Draft Environmental Impact Statement and Public Information Meeting

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare an environmental impact statement in connection with a possible loan and/or loan guarantee commitment for United Power Association (UPA), Elk River, Minnesota 55330, to provide certain new transmission facilities.

The facilities are proposed to consist of approximately 32 miles of 230 kV transmission line connection, the proposed UPA Benton County 345/230 kV substation at Northern States Power Company's existing Benton County substation site east of St. Cloud, Minnesota, and UPA's Milaca 230/69 kV substation near Milaca, Minnesota.

In discussion among Federal and State agencies who may have responsibilities with respect to the proposed project, including REA, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Department of Interior, U.S. Bureau of Mines, Minnesota Department of Agriculture, Minnesota Energy Agency, and Minnesota Environmental Quality Board (MEQB), REA has been identified as Federal lead agency and MEQB as State lead agency in preparation of a joint environmental impact statement. The environmental impact statement will satisfy both Federal and State requirements as specified in section 102(2)(c) of the National Environmental Policy Act of 1969, 1506.2 of the U.S. Council on Environmental Quality regulations, and MEQB regulations.

A public information meeting will be held in order to receive public input and comments concerning the need for the project, site and route locations, potential alternatives, significant issues that should be addressed in the environmental impact statement and other matters concerning the proposed construction. A representative of REA will act as chairperson for said meeting, and other involved Federal

and State agencies have been invited to send representatives. The meeting is scheduled as follows:

American Legion Hall, Foley, Minnesota, April 25, 1979 8:00 p.m.

The Rural Electrification Administration encourages the public to attend the meeting and provide their input. Any person, group, or governmental entity which desires to make its comments, questions and/or recommendations in writing may do so either at the meeting or by writing them to Mr. Joseph S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meeting and comments made will be responded to in the draft environmental impact statement. In addition, the records of proceedings will be held open through May 18, 1979.

Any questions prior to the meeting concerning the nature of the project should be directed to UPA at its address given above or by calling (612) 441-3121.

Any loan or loan guarantee commitment which may be made pursuant to this potential application will be subject to and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with the environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C. this 23 day of March 1979.

JOSEPH VELLONE,  
Acting Administrator, Rural  
Electrification Administration.  
(FR Doc. 79-9708 Filed 3-29-79; 8:45 am)

[3410-03-M]

#### Science and Education Administration

#### JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES

#### Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:  
Name: Joint Council on Food and Agricultural Sciences.

Date: April 11, 12, 1979.  
Time: 8:30 a.m.-5 p.m. on April 11; 8 a.m.-4 p.m. on April 12.

Place: Room 330, GHI Building, 500 12th Street, SW., Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To receive reports from several ad hoc and standing subcommittees and initiate further measures to foster coordination of the agricultural research, extension, and teaching activities of the Federal, State, and private sector.

Contact person for agenda and more information: Dr. J. C. Torio, Executive Secretary of the Joint Council for Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202/447-6651.

Done at Washington, D.C., this 23rd day of March, 1979.

JAMES NIELSON,  
Executive Director, Joint Council on Food and Agricultural Sciences.

(FR Doc. 79-9748 Filed 3-29-79; 8:45 am)

### DEPARTMENT OF COMMERCE

[3510-25-M]

#### Industry and Trade Administration

#### COLUMBIA UNIVERSITY

#### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 8(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce, Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 79-00052. Applicant: Columbia University Health Sciences, College of Physicians and Surgeons at Presbyterian Hospital in the City of New York, 622 West 168th Street, New York, N.Y. 10032. Article: Ultrasonic Imaging System. Manufacturer: Ausonics Pty. Limited, Australia.

Intended use of article: The article is intended to be used in research to evaluate the unique characteristics of this article, compound water delay scanning, as a means for ultrasonic imaging various parts of the body. Comparisons with alternative techniques will be carried out. Specific experiments to be conducted will be an evaluation of compound water delay ultrasonic imaging of neonatal brain in comparison to computed x-ray tomography imaging. Also, an evaluation of the effectiveness of this instrument for diagnosis of congenital anomalies of the fetus in utero will be carried out. A third objective is evaluation of the efficacy of ultrasonic water delay imaging of the breast in comparison to x-ray mammography for purposes of diagnosis of breast cancer. In addition, educational activities will include education of physicians at the undergraduate as well as the graduate level.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a water delay instrument which provides automated multiple transducer imaging. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

(FR Doc. 79-9643 Filed 3-29-79; 8:45 am)

[3510-25-M]

#### DEPARTMENT OF ENERGY ET AL.

#### Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to

Section 8(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building at 14th and Constitution Avenue N.W., Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

"The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period."

... If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11." (Emphasis added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

"... the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, of the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant."

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number 78-00062. Applicant: U.S. Department of Energy, Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401. Article: Spark Source Mass Spectrometer, Model JMS-01BM-2ED and Accessories. Date of denial without prejudice to resubmission: September 28, 1978.

Docket Number 78-00114. Applicant: Texas A & I University, Station 1, Box 104, Kingsville, Texas 78363. Article: TE 16 Test Bed (Used) and accessories. Date of denial without prejudice to resubmission: October 19, 1978.

Docket Number 78-00272. Applicant: U.S. Merchant Marine Academy, Maritime Administration, U.S. Department of Commerce, Steamboat Road, Kings Point, New York 11024. Article: Digital Marine Radar Simulator, Model SY2080. Date of denial without prejudice to resubmission: December 5, 1978.

Docket Number 78-00287. Applicant: Dartmouth College, Chemistry Department, Steele Hall, Hanover, New Hampshire 03755. Article: Temperature Jump Apparatus, Model 120-S. Date of denial without prejudice to resubmission: October 19, 1978.

Docket Number 78-00311. Applicant: North Carolina State University, Department of Geosciences, 228 Withers Hall, Raleigh, N.C. 27650. Article: Five (5) Recording, Current Meters, Model 4. Date of denial without prejudice to resubmission: December 4, 1978.

Docket Number 78-00387. Applicant: East Los Angeles College, Dept. of Life Sciences, Allied Health Sciences, K-8 103, 1301 E. Brooklyn Ave., Monterey Park, Cal. 91754. Article: LKB 8800A Ultratome III Ultramicrotome and Accessories. Date of denial without prejudice to resubmission: December 14, 1978.

Docket Number 78-00389. Applicant: St. John Hospital, 22101 Moross Road, Detroit, Michigan 48236. Article: LKB 8800A Ultratome III Ultramicrotome and Accessories. Date of denial without prejudice to resubmission: December 14, 1978.

Docket Number 79-00016. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87545. Article:



cie: Lumonics Model TE-281 High Pressure, Continuously Tunable Laser System and Accessories. Date of denial without prejudice to resubmission: November 20, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

(FR Doc. 79-9644 Filed 3-29-79; 8:45 am)

## [3510-25-M]

HEALTH, EDUCATION, AND WELFARE  
DEPARTMENT ET ALNotice of Applications for Duty-Free Entry of  
Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before April 19, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 79-00172. Applicant: DHEW/PHS/CDC/NIOSH, Division of Biomedical and Behavioral Science, Biological Support Branch, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Article: Accessories for Transmission Electron Microscope, Model JEM 100CX, consisting of 50A-LNB, Liquid Nitrogen Baffle for Oil Diffusion Pump, 100CX-120KV Accelerating Voltage Capability, and Hard X-Ray, Conventional Type. Manufacturer: JEOL Ltd., Japan. Intended use of article: The articles are accessories to an existing electron microscope which will be used to examine laboratory animal tissue, human biopsy tissue, and particulate samples. A major objective of the electron microscopy work is to relate the observed morphologic alterations seen in tissue to the exposure of the subject to specific chemicals, particles or

fibers. Specific studies will include the identification of fibers, if any, present in silica sand substitutes used in foundry operations, determination of tissue ultrastructure and/or morphology changes due to exposure to suspected toxic agents, and determination of particulate size for various dusts (e.g., asbestos fibers, antimony ores, thallium oxide) presently being used in inhalation toxicology experiments. Application received by Commissioner of Customs: February 27, 1979.

Docket Number 79-00173. Applicant: Purdue University, FREL Bldg., West Lafayette, IN 47907. Article: JEM-200CX TEMSCAN Electron Microscope with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following solid state materials research:

(1) Study of crystallographic aspects in solid electrolytes of beta alumina-type compounds.

(2) Study of mixed electronic and ionic conduction in doped beta alumina.

(3) Study related to the understanding and control of the polytypical behavior of silicon carbide and related materials.

(4) Studies involving multiply periodic structures of compounds of Magneli phases and materials such as TaSe<sub>3</sub>, NbSe<sub>3</sub>, TiSe<sub>3</sub>, and LaGe<sub>3</sub>.

(5) Other studies involving geological samples including research on sulfide minerals for which transmission microscopy would allow the identification of inversion mechanism, twinning faults, analysis of small grain inclusions and the ability to have sufficient resolutions to observe effects of ion omission in minerals.

Application received by Commissioner of Customs: February 27, 1979.

Docket Number 79-00174. Applicant: Environmental Sciences Laboratory Mount Sinai School of Medicine, 1 Gustave Levy Place, New York, New York 10029. Article: Electron Microscope, Model JEM-100CX/SEG (TEM) with ASID Scanning Attachment and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a wide variety of research, educational and diagnostic projects with focus on environmental and occupational health problems. The range of applications includes the following: an electron microscopy investigation of human and animal tissues for ultrastructural characterization of cellular components in terms of pathological response to arrange of agents, both inorganic and organic; the determination of organelle and suborganelle responses to environmental carcinogens; localization, characterization and enumeration of inorganic particles on the cellular level; relationship of inorganic

particles to subcellular processes; characterization of environmental samples on the sublight microscopic level, including the characterization of materials.

In addition, the article will be used for the training of medical residents in occupational medicine, of post-graduate physicians, and graduate students in the basic sciences, in the techniques and applications of electron microscopy. Training may also be directly translated into teaching as well, which includes the techniques and special application of transmission electron microscopy, scanning electron microscopy, selected area electron diffraction, and electron microprobe analysis. Application received by Commissioner of Customs: February 27, 1979.

Docket Number 79-00175. Applicant: The University of Chicago, 5735 South Ellis Avenue, Chicago, Illinois 60637. Article: Supercon NMR System. Manufacturer: Oxford Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used to train and educate Ph.Ds. in the following courses:

408 Research in Biochemistry.

409 Research in Biochemistry.

418 Research in Organic and Physico-organic Chemistry.

420 Research in Organic Chemistry.

421 Research in Organic Chemistry.

422 Research in Inorganic and Physical Chemistry.

425 Research in Organic and Physico-organic Chemistry.

430 Research in Organic Chemistry.

441 Research in Organic Chemistry.

448 Research in Organic Chemistry.

449 Research in Inorganic Chemistry.

Application received by Commissioner of Customs: February 27, 1979.

Docket Number 79-00176. Applicant: University of Wisconsin, Madison, WI 53706. Article: Cathode Ray Display Unit with P4 Phosphor and Trace Rotation Servo-Drive. Manufacturer: Peter Joyce, United Kingdom. Intended use of article: The article is intended to be used in determining the stimulus variables that govern human visual perception, and make inferences about the visual system. Application received by Commissioner of Customs: February 27, 1979.

Docket Number 79-00177. Applicant: DHEW/PHS/CDC/NIOSH, Div. of Biomedical and Behavioral Science, Biological Support Branch, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Article: JEM 100CX Electron Microscope (standard side entry type), and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine laboratory animal tissue, human biopsy tissue, and particulate samples. A major objective of the electron microscopy work is to relate the observed morphologic alterations seen in tissue

to the exposure of the subject to specific chemicals, particles or fibers. Other specific studies planned include the identification of fibers, if any present in silica sand substitutes used in foundry operations, determination of tissue ultrastructure and/or morphology changes due to exposure to suspected toxic agents, and determination of particulate size for various dusts (e.g., asbestos fibers, antimony ores, thallium oxide) presently being used in inhalation toxicology experiments. Application received by Commissioner of Customs: February 27, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

(FR Doc. 79-9646 Filed 3-29-79; 8:45 am)

## [3510-25-M]

## UNIVERSITY OF PENNSYLVANIA

Notice of Application for Duty-Free Entry of  
Scientific Articles; Correction

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at pages 16946 and 16947 in the FEDERAL REGISTER of Tuesday, March 20, 1979, the following amendment is hereby made to include a description of the article:

Docket Number 79-00157. Applicant: University of Pennsylvania School of Medicine, 454 Johnson Pavilion/G2, 36th and Hamilton Walk, Philadelphia, Pennsylvania 19104. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for electron microscopic studies of animal specimens to further basic knowledge on cell and tissue ultrastructure and to reveal, at the ultrastructural level, the enzyme localization and distribution in cells and tissues developing under normal and pathological conditions. The article will also be used in the courses entitled Ultrastructure and Cytochemistry which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods of localize various enzymes. Application received by Commissioner of Customs: February 23, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

(FR Doc. 79-9645 Filed 3-29-79; 8:45 am)

## [3510-25-M]

SAN DIEGO STATE UNIVERSITY FOUNDATION  
ET ALNotice of Applications for duty-free entry of  
scientific articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before April 19, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue N.W., Washington, D.C. 20230.

Docket Number 79-00179. Applicant: San Diego State University Foundation, 5300 Campanile Drive, San Diego, CA 92182. Article: (12 each) Relative Humidity Probe HM 13 Open Print. Manufacturer: Vaisala Oy, Finland. Intended use of article: The article is intended to be used for the study of the flux of water vapor from plants under various light and temperature regimes in conjunction with photosynthetic measurements. Experiments to be conducted include both field and laboratory tests of the effect of light and temperature on the flux of water vapor from leaves of arctic and mediterranean plants. Investigations are designed to elucidate the relationships between species in regards to the interaction of CO<sub>2</sub> exchange with water vapor flux and water-use efficiency based on water loss/energy gain. Application received by Commissioner of Customs: March 12, 1979.

Docket Number 79-00180. Applicant: University of South Florida, 4202 Fowler Avenue, Tampa, FL 33620. Article: Electron Microscope, Model H-500HL with Side Entry Goniometer Stage (H-5001) and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of research projects extending over many years. A wide variety of biological materials will be studied including marine algae, invertebrate endocrine organs,

and sensory structure. The article will be used in a course in electron microscopy techniques which instructs graduate students the techniques necessary for the preparation of biological materials for electron microscopy and the theory in use of the electron microscope. Application received by Commissioner of Customs: March 12, 1979.

Docket Number 79-00182. Applicant: The Magic House, 4 Dromara Road, St. Louis, Missouri 63124. Article: Van De Graaf Generator. Manufacturer: Canadian Research Institute, Canada. Intended use of article: The article is intended to be used provide museum visitors with a vivid introduction to the concepts of electrical repulsion and static electricity. When a child places his hand on the generator and the current turned on, his hair will stand straight out on end. The child's picture will then be taken while his hair is standing straight out on end. Classes which visit the museum will be able to continue with the discussion and study of concepts demonstrated with the generator when they return to the classroom. Application received by Commissioner of Customs: March 12, 1979.

Docket Number 79-00183. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: (2) Two TSN 660 4 GHz Oscilloscopes. Manufacturer: Thomson-CSF, France. Intended use of article: The articles are intended to be used to diagnose real time x-ray data from imploding microballoons filled with a deuterium-tritium gas mixture. The articles will be used with the "Dante" experiment which consists of several windowless x-ray detectors with appropriate filtering such that different energy levels x-ray spectrum are observed. This experiment will consist of ten channels of these detectors mounted on and evacuated beam tube and bolted to the Shiva target chamber. Application received by Commissioner of Customs: March 12, 1979.

Docket Number 79-00185. Applicant: 6570 Aerospace Medical Research Laboratory, Biodynamics and Bioengineering Division (BB), Wright-Patterson AFB, OH 45433. Article: Cryo-Microtome, Model 2250-041 PMV, 450 MP with accessories. Manufacturer: PMV, Palmstienas Mekaniska Verktad AB, Sweden. Intended use of article: The article is intended to be used for orthopaedic biomechanical studies of whole animals, human cadavers, anatomical segments and isolated biological tissue. Gross morphology and light microscopy examination of whole organs and cadaveric subjects to measure engineering properties and structural integration will be conducted. These investigations will be conducted



to advance the knowledge of human kinesiology with specific emphasis on spinal biomechanics and material responsive properties. Application received by Commissioner of Customs: March 12, 1979.

Docket Number 79-00186. Applicant: University of New Hampshire, Instrumentation Center, Parsons Hall, Durham, NH 03824. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the pathology, embryonic development, differentiation and aging, ultrastructural, and subcellular structures of animal tissues and microbial cells. Experiments will consist of studies of the above *in vitro* and *in vivo* with subsequent observation with electron microscopy—effects of nutrient and environmental conditions on the above. The article will also be used in the courses: Introduction to Electron Microscopy An. Sci. 714, Introduction to Electron Microscopes Laboratory. Independent Study, Microbial Cytology Laboratory Micro. 709, Instruction in EM Techniques. Application received by Commissioner of Customs: March 12, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

(FR Doc. 79-9647 Filed 3-29-79; 8:45 am)

## [1505-01-M]

DUKE UNIVERSITY AND YALE UNIVERSITY  
Withdrawal of Applications for Duty-Free  
Entry of Scientific Article

Correction

In FR Doc. 79-8609 appearing at page 17542 in the issue for Thursday, March 22, 1979, make the following corrections:

(1) On page 17542, in the third column, in the third full paragraph of the document, substitute "Docket Number 78-00315" for "Docket Number 79-00315".

(2) On page 17542, in the third column, in the fourth full paragraph of the document, substitute "Docket Number 79-00011" for "Docket Number 78-00011".

## [3510-08-M]

National Oceanic and Atmospheric  
Administration

## PROPOSED GUAM COASTAL MANAGEMENT PROGRAM

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed Guam Coastal Management Program.

The hearing schedule is:

April 19, 1979, 2:00 p.m., at Sagan Dinana in the Paseo de Susana, Agaña, Guam.

The views of interested persons and organizations on the adequacy of the impact statement and/or the Proposed Guam Coastal Management Program, are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/634-4253), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of remarks.

As part of his review of the Proposed Guam Coastal Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before May 7, 1979. As part of the procedures leading toward approval of this program, a Final Environmental Impact Statement will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect his consideration of these comments. All written comments received by OCZM

prior to the deadline will be included in the FEIS.

Dated: March 23, 1979.

R. L. CARNAHAN,  
Acting Assistant Administrator  
for Administration.

(FR Doc. 79-9709 Filed 3-29-79; 8:45 am)

## [6820-33-M]

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

## PROCUREMENT LIST 1979

## Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities and military resale items to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 30, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On January 26, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (44 FR 5487) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities and military resale items listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities and military resale items are hereby added to Procurement List 1979:

## CLASS 8415

Gloves, Cloth, Cotton, White.  
8415-00-268-8354.  
8415-00-268-8353.  
(Combined quantity of 300,000 pairs annually).

## MILITARY RESALE ITEM NO. AND NAME

No. 060 Roller Ball Pen.  
No. 061 Roller Ball Pen.  
No. 062 Roller Ball Pen.  
No. 063 Retractable Pen.  
No. 064 Retractable Pen.  
No. 065 Ultra Fine Tip Marker.

No. 066 Ultra Fine Tip Marker.  
No. 067 Ultra Fine Tip Marker.

H. G. FISCHER,  
Acting Executive Director.  
(FR Doc. 79-9725 Filed 3-29-79; 8:45 am)

## [6820-33-M]

## PROCUREMENT LIST 1979

## Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 2, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1979, November 15, 1978 (43 FR 53151):

## CLASS 8415

Protective Painter's Hood.

H. G. FISCHER,  
Acting Executive Director.  
(FR Doc. 79-9726 Filed 3-29-79; 8:45 am)

## [3810-70-M]

## DEPARTMENT OF DEFENSE

## Office of the Secretary

## DEFENSE SCIENCE BOARD TASK FORCE ON EMP HARDENING OF AIRCRAFT

## Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session April 16-17, 1979 at the Air Force Weapons Laboratory, Albuquerque, N.M.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research & Engineering on overall research and engineering

policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review hardening of U.S. aircraft against EMP and related subjects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I, §10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

MARCH 27, 1979.

(FR Doc. 79-9659 Filed 3-29-79; 8:45 am)

## [3810-70-M]

## DEFENSE SCIENCE BOARD TASK FORCE ON ECM ADVISORY COMMITTEE MEETING

The Defense Science Board Task Force on ECM will meet in closed session April 20, 1979 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with 5 U.S.C. App. I, §10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

H. E. LOFDAHL,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

MARCH 27, 1979.

(FR Doc. 79-9660 Filed 3-29-79; 8:45 am)

## [6450-01-M]

## DEPARTMENT OF ENERGY

## Economic Regulatory Administration

## BELCHER OIL CO.

## Proposed Remedial Order

Pursuant to 10 CFR §205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Belcher Oil

Company (Belcher), 2050 Coral Way, Miami, Florida 33101. This Proposed Remedial Order charges Belcher with pricing violations in the amount of 19,068,169 connected with the sale of 1% sulphur residual fuel oil during the time period August 19, 1973, through December 15, 1975, in the State of Florida.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, GA. 30309, phone 404/881-2716. On or before April 18, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR §205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 26th day of March 1979.

BARTON ISENBERG,  
Assistant Administrator for Enforcement Economic Regulatory Administration.

(FR Doc. 79-9692 Filed 3-29-79; 8:45 am)

## [6450-01-M]

## CITIZENS UTILITIES CO.

## Application for Presidential Permit PP-66

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Presidential Permit for 120 kV International Transmission Line: Citizens Utilities Company.

SUMMARY: Citizens Utilities Company filed an application for a Presidential Permit, PP-66, to connect, operate and maintain a 120 kV international transmission line at the United States-Canadian boundary.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20461, (202) 634-5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9380.

SUPPLEMENTARY INFORMATION: On March 8, 1979 Citizens Utilities Company (Citizens) filed an application with the Economic Regulatory Administration (ERA) for a presidential permit, pursuant to Executive Order No. 10485, as amended. Citizens requests authority to connect, operate



and maintain a 120 kV transmission line at the United States-Canadian border, in the vicinity of Derby Line, Vermont.

Citizens indicates that it is a party to a contract with the Hydro-Quebec Electric Board under which Citizens purchases electric power and energy from Hydro-Quebec for distribution in its service area in Vermont. The application states that this contract does not serve in any way to restrict or prevent competing American companies from extending their activities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4070, 1111 20th Street, N.W., Washington, D.C. 20461, in accordance with §§ 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such protests and petitions should be filed on or before April 11, 1979. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4070, 1111 20th Street, N.W., Washington, D.C.

Dated: March 26, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration.

(FR Doc. 79-9689 Filed 3-29-79; 8:45 am)

#### [6450-01-M]

[ERA Docket No. 79-05-NG]

#### GREAT LAKES GAS TRANSMISSION CO.

Receipt of Application for Extension to April 26, 1979, of the Emergency Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, economic Regulatory Administration.

ACTION: Notice of Receipt of application by Great Lakes Gas Transmission Co. (Great Lakes) for an extension in the effective time of the emergency authorization issued by the Economic Regulatory Administration (ERA) on March 5, 1979. This order authorized Great Lakes to import up to 3 billion cubic feet (Bcf) (84,951 Mm<sup>3</sup>) of natural gas from TransCanada Pipelines Limited (TransCanada), to be delivered through March 27, 1979. ERA

gives notice of its intent to issue an expedited order, and invites petitions to intervene and briefs on the merits of the request.

SUMMARY: The ERA gives notice of receipt of an application from Great Lakes pursuant to Section 3 of the Natural Gas Act (NGA), to modify ERA's Order Granting Request of Great Lakes Transmission Co. for Emergency Authorization to Import Canadian Natural Gas Into the United States, dated March 5, 1979, so as to permit Great Lakes to import the emergency natural gas until noon on April 26, 1979, thereby extending the period beyond March 27, 1979, as originally granted. No increase in the 3 Bcf of authorized imports is sought.

Great Lakes had asserted the need for the extension to continue, for an additional 30-day period, in order to fully use the 3 Bcf (84,951 Mm<sup>3</sup>) of gas authorized by ERA to meet the emergency situation in the service area of one of its customers, Peoples Natural Gas Division (Peoples) of Northern Gas Company. ERA announces its intent to issue an order on an expedited basis in this proceeding, and requests that petitions to intervene and briefs addressing the merits of Great Lakes' request be submitted no later than three days from the date of publication of this notice.

DATES: Petitions to intervene and briefs opposed to or in support of Great Lakes' request: To be filed on or before April 2, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone 202-264-9730.

Mr. Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 5116, Washington, D.C. 20461, telephone 202-633-9380.

SUPPLEMENTARY INFORMATION: ERA's Order, Docket No. 79-05-NG, Granting Request of Great Lakes for Emergency Authorization to Import Canadian Natural Gas into the United States, dated March 5, 1979, deals in detail with the merits of this application. ERA asks that petitions for intervention in this proceeding, as well as briefs on the request, be submitted in an expedited manner. Such documents are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, no later than 4:30 p.m. on April 2, 1979.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervenor and is granted by ERA, or if ERA on its own

motion believes that such a hearing is merited. If such hearing is held additional notice will be given.

A copy of Great Lakes' request is available for public inspection and copying in Room B120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., March 23, 1979.

DORIS J. DEWTON,  
Acting Assistant Administrator,  
Fuels Regulation, Economic  
Regulatory Administration.

(FR Doc. 79-9691 Filed 3-29-79; 8:45 am)

#### [6450-01-M]

#### MAINE PUBLIC SERVICE CO.

Order Authorizing Transmission of Electric Energy to Canada and Superseding Prior Authorization

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Order Authorizing Increased Transmission of Electric Energy to Canada and Superseding Prior Authorization.

SUMMARY: The Department of Energy gives notice of the issuance of an order authorizing Maine Public Service Co. to transmit electric energy to Canada at an increased rate and in an increased amount, thereby superseding prior authorization.

#### FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20461, (202) 634-5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9380.

SUPPLEMENTARY INFORMATION: Pursuant to Section 202(e) of the Federal Power Act, Maine Public Service Co. (MPSC) filed an application in ERA Docket No. IE-78-10 on May 12, 1978, for a supplemental order authorizing an increase in the amount of electric energy which MPSC may transmit from the United States to Canada.

MPSC was previously authorized by the Federal Power Commission (FPC) to transmit electric energy from the United States to the Maine and New Brunswick Electrical Power Co. (Subsidiary) in Canada in an amount not to exceed 12,500,000 kilowatt-hours per

year at a rate not to exceed 3,000 kilowatts and to redeliver energy to the New Brunswick Electric Power Commission (New Brunswick) in Canada in an amount not in excess of 100,000 kilowatt-hours per year at a rate not to exceed 40,000 kilowatts.

MPSC requested that the authorization granted by the FPC be modified so as to authorize MPSC to increase its export limits to deliver to Subsidiary an amount of energy not to exceed 40,000,000 kwh per year at a transmission rate of 9,800 kw and to redeliver to New Brunswick an amount of energy not to exceed 250,000,000 kwh per year at a rate not in excess of 50,000 kw.

The application stated that the principal source of energy to be transmitted to Subsidiary and to the New Brunswick Commission will be energy generated by the Applicant and Subsidiary, energy received from the New Brunswick Commission, and energy received from MPSC's ownership in various generating units located in southern Maine and other New England states.

ERA found that the proposed transmission of electric energy from the United States to Canada as limited and authorized by the Order would not impair the sufficiency of electric supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of ERA.

Accordingly, the Acting Assistant Administrator for Utility Systems of ERA, on March 23, 1979 ordered that MPSC was authorized to transmit electric energy from the United States to Canada in accordance with the terms and conditions set forth in the application and subject to the provisions of the Order.

The authorization therein granted superseded that granted by the FPC order issued in FPC Docket No. E-6751.

Issued in Washington, D.C., March 23, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration.

(FR Doc. 79-9690 Filed 3-29-79; 8:45 am)

#### [6450-01-M]

#### NORTH CENTRAL ELECTRIC COOPERATIVE, INC.

#### Application for Presidential Permit PP-67

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Presidential Permit for 12.5 kV Inter-

national Transmission Line: North Central Electric Cooperative, Inc.

SUMMARY: North Central Electric Cooperative, Inc. filed an application for a Presidential Permit PP-67, to construct, connect, operate and maintain a 12.5 kV International Transmission Line at the United States-Canadian boundary.

#### FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20461 (202) 634-5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-9380.

SUPPLEMENTARY INFORMATION: On March 13, 1979 the North Central Electric Cooperative, Inc. (NCEC) filed an application with the Economic Regulatory Administration (ERA) for a presidential permit, pursuant to Executive Order No. 10485, as amended. NCEC requests authority to construct, connect, operate and maintain a 12.5 kV transmission line in the International Peace Gardens at Dunseith, North Dakota on the United States-Canadian Border.

NCEC proposes to build a transmission line to a pumping station at the International Peace Gardens to provide service for two proposed water handling facilities, one of which will be located in Manitoba, Canada. Approximately 1500 feet of underground cable will be installed on the Manitoba side of the Peace Gardens. The Parks Division of the Manitoba Department of Mines, Natural Resources, and Environment will then landscape the trench after installation of the power cable.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4070, 1111 20th Street, N.W., Washington, D.C. 20461, in accordance with §§ 1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed on or before April 11, 1979. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and will, upon request, be made available for public in-

spection and copying at the ERA Docket Room, Room B-210, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4070, 1111 20th Street, N.W., Washington, D.C.

Dated: March 26, 1979.

JERRY L. PFEFFER,  
Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration.

(FR Doc. 79-9688 Filed 3-29-79; 8:45 am)

#### [6450-01-M]

#### ANALYSIS OF REFINERS' NO. 2 DISTILLATE COSTS AND REVENUES: JULY 1976-DECEMBER 1978

#### Public Hearings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice to Extend Period to Participate in Public Hearing; Notice for Written Public Comments; and Notice for Pre-hearing Conference.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of three further dates regarding its proposed public hearing (44 FR 16301, March 16, 1979), to consider the relation of refiner cost increases and revenue increases for No. 2 distillates in the period from deregulation (July, 1976) through December, 1978.

First, the time to request to participate in the proposed public hearing is extended to April 9, 1979.

Second, DOE will accept written public comments until May 7, 1979 on the methodology and data used in a study it conducted entitled *Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976 through December 1978*, on the scope of the proposed public hearing, and on the appropriateness of the data DOE intends to request to update the study.

Third, a second pre-hearing conference will be held on Tuesday, June 12, 1979 to review the comments received by DOE regarding the methodology used in its study and the scope of the proposed public hearing. Participation in the prehearing conference will be limited to those requesting participation in the proposed public hearing. DOE anticipates setting a date for the proposed public hearing at this pre-hearing conference.

DATES: Requests to participate in the public hearing by Monday, 4:30 pm, April 9, 1979. Written comments by 4:30 pm, Monday, May 7, 1979. Pre-



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hearing conference, 10 a.m., Tuesday, June 12, 1979.

ADDRESSES: Send requests to participate in hearing and prehearing conference to Mrs. Deborah Kidwell, Box XA, Room 2313, 2000 "M" Street, NW., Washington, D.C. 20461.

Send written comments (5 copies) to Public Hearing Management, Box XA, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Pre-hearing conference, 10 a.m., Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mrs. Deborah Kidwell, 2000 M Street, NW., Room 2313, Washington, D.C. 20461 (202) 254-5201.

William Gillespie (Economic Regulatory Administration), 2000 M Street, NW., Room 2109, Washington, D.C. 20461 (202) 632-5140.

William Mayo Lee (Office of General Counsel), Department of Energy, Forrestal Building, Room 6A-127, Washington, D.C. 20585 (202) 252-6754.

SUPPLEMENTARY INFORMATION: On March 13, 1979 DOE issued a Notice of Public Hearing (44 FR 16031, March 16, 1979) to announce a pre-hearing conference to be held on Friday, March 23, 1979 to discuss procedures and a time frame for a public hearing to be held at a future date to consider the relation between costs and revenues of No. 2 distillate at the refinery level.

At the pre-hearing conference it was determined that before considering the No. 2 distillate cost-revenue relationship it would be beneficial to receive written comments regarding three issues raised at the conference. First, DOE invites written comments, including questions and suggestions for improvement of the methodology used in the study entitled *Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976 through December 1978*. This study is available at the Office of Public Information, Room B110, 2000 M Street, NW., Washington, D.C. 20461. Second, DOE would like comments regarding the issues to be discussed at the proposed hearing. Finally, DOE invites comments regarding the appropriateness of the data DOE intends to request from refiners to update the study. Information concerning this data may be obtained from William Gillespie, Room 2109, 2000 M St., NW., Washington, D.C. Accordingly, DOE will accept written comments, until 4:30 pm on May 7, 1979.

DOE will analyze the comments received and distribute them and DOE's responses to participants in the public hearing by June 4, 1979. In order to

conserve time, DOE requests that a participant submitting comments send copies of its comments to other participants in the hearing. A complete list of participants and their addresses may be obtained from Public Hearings Management, Room 2313, 2000 "M" Street, Washington, D.C. 20461 after April 9, 1979.

On Tuesday, June 12, 1979 DOE will hold a second pre-hearing conference to discuss the comments it received regarding the methodology used in its study and the scope of the public hearing. Only parties who have filed a request to participate in the proposed public hearing will be allowed to speak at the pre-hearing conference. The pre-hearing conference will be held in Room 2105 at 2000 "M" Street, NW., Washington, D.C. DOE anticipates that it will announce the time and place of the proposed public hearing at the June 12 pre-hearing conference.

In order to give other interested parties the opportunity to participate in the hearing process, DOE has extended the time to participate in the proposed public hearing to 4:30 pm, Monday, April 9, 1979. Current participants include:

## REFINERS

1. Amerada Hess Corporation.
2. Atlantic Richfield Company.
3. Exxon Corporation.
4. Gulf Oil Corporation.
5. Marathon Oil Corporation.
6. Phillips Petroleum Company.
7. Standard Oil of Indiana.
8. Sun Oil Company.
9. Texaco, Inc.

## FEDERAL AGENCIES

1. Federal Trade Commission, Bureau of Competition.
2. Justice Department, Antitrust Division.

## TRADE ASSOCIATIONS

1. National Oil Jobbers Council.

## CONSUMER GROUPS

1. Consumer Energy Council of America.

## STATE GOVERNMENTS

1. Department of Energy, State of New Jersey.
2. New York State Energy Office.

Issued in Washington, D.C., on March 26, 1979.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

[FR Doc. 79-9734 Filed 3-29-79 8:45 am]

[6450-01-M]

## Federal Energy Regulatory Commission ADVISORY COMMITTEE ON REVISION OF RULES OF PRACTICE AND PROCEDURE

### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Advisory Committee on Revision of Rules of Practice and Procedure will meet Monday, April 16, 1979, from 2 p.m. to 5 p.m. at the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Room 9306, Washington, D.C.

The purpose of the Committee is to provide the Commission and its staff with the benefit of suggestions from a broad range of public participants regarding additions, deletions, and other changes desirable in compiling revised Commission Rules of Practice and Procedure best suited to the needs of both the Commission and those who appear as parties before it.

The tentative agenda is as follows:

- Preliminary organization of Committee.
- Establishment of schedule of consideration of particular issues.

The meeting is open to the public. A federal officer or employee will attend the meeting and will adjourn the meeting. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should inform Deborah Gottheil, 202-275-4309, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 N. Capitol St., N.E. between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on March 30, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9663 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket No. CP78-432]

## ANR STORAGE CO.

### Amendment

MARCH 19, 1979.

Take notice that on March 5, 1979, ANR Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP78-432 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render gas storage service and to develop and operate certain gas storage fields and appurtenant facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that several significant changes in circumstances have occurred since the original filing, including a reduction in the rate of Federal income tax upon corporations and a substantial increase in interest rates.

The rate of the federal income tax upon corporations was reduced from 48 percent to 46 percent, as provided for in Section 301 of Title III of the Revenue Act of 1978 (P.L. 95-600), effective January 1, 1979, it is stated. Applicant states that due to the increase in interest rates, such increase should be considered in the application since the facilities covered by the application are being financed in part from borrowed funds. Applicant states the rate of interest on debt should be increased from 9 percent to 10 percent. Applicant asserts that it was agreed upon between it and the Commission staff, that applicant would reduce its annual rate of return on equity from 15 percent to 14 percent.

Applicant states that the combined effect of the changes mentioned above have been determined by Applicant to result in an increase of \$38,000 in its annual cost of service or approximately 0.1 cent per Mcf in its average cost of service.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

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make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9664 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket No. CP78-512]

## COLORADO INTERSTATE GAS CO.

### Petition To Amend

MARCH 21, 1979.

Take notice that on February 13, 1979, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP78-512 a petition to amend the order of November 21, 1978, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize an increase in its presently authorized single project cost limitation from \$1,500,000 to \$1,725,000, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of November 21, 1978, Petitioner was authorized to construct, during the 12-month period commencing January 1, 1979, and operate budget-type gas purchase facilities. The total cost of the facilities was limited to \$6,900,000 with the single project cost limited to \$1,500,000, it is stated.

Petitioner requests that the Commission waive the single project cost limitation in order to allow Petitioner relief from increased utility construction costs caused as a result of inflation, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9665 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket No. CP73-70]

## COLUMBIA GULF TRANSMISSION CO.

### Petition To Amend

MARCH 20, 1979.

Take notice that on February 13, 1979, Columbia Gulf Transmission Company (Petitioner), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP73-70 a petition, as supplemented February 21, 1979, to amend the Commission's order of May 2, 1977, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the deletion of the exchange arrangement between Petitioner and Amoco Production Company (Amoco), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of May 2, 1977, as amended September 8, 1977, Petitioner was authorized to transport natural gas for exchange with Amoco from Erath, Louisiana, to a point in St. Landry Parish, Louisiana. Petitioner states that gas deliveries have not been and will not be initiated under the exchange authority granted herein. Thus, Petitioner requests the Commission to delete the exchange authority. Also Petitioner requests that its February 13, 1979, rate schedule filed herein be effective December 28, 1978.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9666 Filed 3-29-79; 8:45 am]

19013



[6450-01-M]

[Docket No. CP77-144]

**CONSOLIDATED GAS SUPPLY CORP. AND  
TEXAS GAS TRANSMISSION CORP.****Amendment**

MARCH 19, 1979.

Take notice that on February 16, 1979, Consolidated Gas Supply Corporation (Consolidated), 445 W. Main Street, Clarksburg, West Virginia 26301, and Texas Gas Transmission Corporation (Texas Gas), P. O. Box 1160, Owensboro, Kentucky 42301, (Applicants) filed in Docket No. CP77-144 an Amendment to its pending application in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for an additional point of exchange between Consolidated and Texas Gas, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.<sup>1</sup>

Applicants state that pursuant to a letter agreement between them, dated December 15, 1978, they have amended their exchange agreement<sup>2</sup> to provide for an additional point of exchange so as to permit Consolidated to redeliver volumes of natural gas to Texas Gas at a valve on the inlet side of Texas Gas' meter which is located on the Eugene Island Block 309 "C" platform, offshore Louisiana.

Applicants further state that no new facilities are necessary in order to effectuate the exchange of natural gas.

Applicants assert that initially when they sought certification to exchange volumes of natural gas, it was thought that the volumes to be redelivered by Consolidated would always equal the volumes delivered to Consolidated by Texas Gas. Applicants further assert, however, that under the temporary certificate authorization herein granted the volumes delivered by Texas Gas have consistently exceeded the volumes redelivered by Consolidated. To remedy the balancing problem, Applicants are proposing to add a second point of redelivery from Consolidated to Texas Gas, it is stated.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

<sup>1</sup>This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1) it was transferred to the FERC.

<sup>2</sup>Original exchange agreement dated November 17, 1976.

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the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9667 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP70-196; CP74-227; CP73-135; CP74-137]

**DISTRIGAS CORP. DISTRIGAS CORP. OF  
MASSACHUSETTS****Extension of Time**

MARCH 21, 1979.

On February 8, 1979, DISTRIGAS Corporation filed a motion for extension of time to comply with ordering paragraph (E) of the Commission's order of January 2, 1979, in this proceeding, pending Commission action on DISTRIGAS' application for rehearing of that order. On March 5, 1979, the Commission issued an order denying rehearing.

Accordingly, an extension of time is granted to and including April 19, 1979, for DISTRIGAS to make refunds as required by ordering paragraph (E). The report of such refunds and interest shall be filed on or before May 4, 1979.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9668 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket Nos. ER78-19, et al., ER79-162, ER79-171, and ER79-172]

**FLORIDA POWER AND LIGHT CO.****Order Accepting Rate Schedules for Filing, Providing for Suspension and Hearing and Consolidating Proceedings**

MARCH 22, 1979.

By letters dated January 23, 1979, Florida Power and Light Company (FPL) submitted for filing: (1) a proposed amendment to its transmission service agreement with the City of Homestead, Florida (Homestead) (Docket No. ER79-162) and (2) proposed amendments to its transmission service agreement with the Ft. Pierce Utilities Authority (Ft. Pierce) (Docket Nos. ER79-171 and ER79-172).<sup>1</sup>

In Docket No. ER79-162, FPL proposes to amend the transmission serv-

<sup>1</sup>See Attachment A for designations.

ice agreement between itself and Homestead to accommodate the amendment of the interchange agreement between Homestead and Ft. Pierce.<sup>2</sup>

FPL states that on June 16, 1978, it submitted cost support data as Volume X in Docket Nos. ER78-19, et al. in compliance with Section 35.13 of the Commission's Regulations. Pursuant to Section 35.19 of the Commission's Regulations, FPL states that it has included Volume X by reference as cost support for the instant filing.

In Docket No. ER79-171, FPL proposes to amend the transmission service agreement between itself and Ft. Pierce<sup>3</sup> to implement Ft. Pierce's interchange agreements with the Orlando Utilities Commission, Tampa Electric Company, Florida Power Corporation, Utilities Commission of New Smyrna Beach, Florida and the Lake Worth Utilities Authority. FPL states that cost support data was filed as Volume XI in Docket Nos. ER78-19, et al. on June 28, 1978, and has included Volume XI by reference as cost support for this filing.

In Docket No. ER79-172, FPL proposes to further amend its transmission agreement with Ft. Pierce to accommodate the amendment of the interchange agreement between Ft. Pierce and Homestead. As with Docket No. ER79-171, FPL states that it has filed the requisite cost support data in Docket Nos. ER79-18-19 et al. and incorporates the data by reference in this docket.

Notice of the filing in Docket No. ER79-162 was issued on February 2, 1979. Notices of the filings in Docket Nos. ER79-171 and ER79-172 were issued on February 7, 1979. Responses in all dockets were due on or before February 16, 1979.

On February 16, 1979, in Docket No. ER79-171, Ft. Pierce filed a Protest,

<sup>2</sup>On April 20, 1978, in Docket No. ER78-325, FPL submitted for filing a transmission service agreement between itself and Homestead. Under that agreement, FPL transmits power and energy for Homestead as required to implement the City's interchange agreements with Orlando Utilities Commission, Tampa Electric Company, Florida Power Corporation, Ft. Pierce and the Utilities Commission of New Smyrna Beach, Florida. By order issued May 19, 1978, that docket was consolidated with Docket No. ER78-19, et al. for a hearing and decision thereon. FPL proposed to amend the original agreement in Docket No. ER78-527 to implement Homestead's interchange agreement with the Lake Worth Utilities Authority. That docket was also consolidated with Docket No. ER78-19, et al.

<sup>3</sup>On May 16, 1978, in Docket No. ER78-376, FPL filed a proposed transmission service agreement between itself and Ft. Pierce to implement the City's interchange agreement with Homestead. By order issued June 15, 1978, the Commission consolidated that docket with Docket Nos. ER78-19 et al.

Request for Intervention and Consolidated Hearing. The City objects to the rates, form, and terms and conditions of the proposed service. Ft. Pierce requests that it be allowed to intervene in this proceeding.

FPL's proposed rates and terms and conditions of service have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall suspend the proposed rate schedules for one day, to become effective March 28, 1979, subject to refund, pending the outcome of a hearing and decision thereon.

The rates proposed for the above listed transmission service are identical to those being investigated in Docket Nos. ER78-19 et al. Consequently, the Commission finds it appropriate to consolidate Docket Nos. ER79-162, ER79-171 and ER79-172 with the ongoing proceeding in Docket Nos. ER78-19 et al.

Since Ft. Pierce has interests in Docket No. ER79-171 which may not be adequately represented by existing parties, its petition to intervene will be granted.

**The Commission orders:**

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter 1) a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by FPL in the instant docket.

(B) Pending a hearing and decision thereon, FPL's proposed rate schedules in the instant dockets are hereby accepted for filing and suspended for one day, to become effective March 26, 1979, the rates thereunder to be subject to refund.

(C) Docket Nos. ER79-162, ER79-171 and ER79-172 are hereby consolidated with Docket Nos. ER78-19, et al. for the purpose of a hearing and decision thereon.

(D) Ft. Pierce is hereby permitted to intervene in Docket No. ER79-171, subject to the rules and regulations of the Commission. *Provided, however*, that participation of Ft. Pierce shall be limited to the matters specifically set forth in its petition to intervene; and *provided, further*, that the admission of Ft. Pierce shall not be construed as recognition by the Commission that it might be aggrieved by any order issued in this proceeding.

**NOTICES**

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9669 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-253]

**FLORIDA POWER & LIGHT CO.****Filing of Interchange Contract**

MARCH 26, 1979.

Take notice that Florida Power & Light Company (FPL) on March 16, 1979 tendered for filing an agreement, executed by both parties, entitled "Contract for Interchange Service Between Florida Power & Light Company and Jacksonville Electric Authority." FPL states that the contract supersedes the existing contracts with Jacksonville Electric Authority (JEA) which are on file with the Commission except for the provisions concerning flicker determination and correction, designated FPL Rate Schedule No. 17.7. FPL requests an effective date for this contract of no later than 60 days after the date of filing. According to FPL, a copy of this filing was served upon JEA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9682 Filed 3-29-79; 8:45 am]

[6450-01-M]

[Docket No. RP75-97]

**HAMPSHIRE GAS CO.****Order Affirming in Part and Modifying in Part Initial Decision**

MARCH 21, 1979.

Hampshire Gas Company (Hampshire) tendered for filing on April 30,

1975, proposed changes<sup>1</sup> in its cost of service tariff for gas storage service<sup>2</sup> to Hampshire's parent, Washington Gas Light Company (WGL). The changes would result in increased charges of \$268,313 annually, based on the twelve months ending December 31, 1974. By order issued May 30, 1975, the Commission<sup>3</sup> accepted Hampshire's tariff sheets for filing and suspended their effectiveness until October 31, 1975, when they were permitted to become effective subject to refund. By order dated October 14, 1975, the Commission granted the petition to intervene of the People's Counsel to the Maryland Public Service Commission (People's Counsel).

The charges for Hampshire's storage service are computed under a cost-formula rate schedule which provides that a cost of service reflecting actual operation and maintenance expenses shall be computed monthly. The schedule also prescribes the method for determining the rate base and for reflecting changes therein.

As a result of settlement conferences held among the parties, agreement was reached on the rate base and on all components of the cost of service<sup>4</sup> except return and depreciation (Tr. 1: 157-158). We find that the proposed settlement of all elements of the rate except return and depreciation is just and reasonable and in the public interest. The parties also agreed that the appropriate capitalization is that of Hampshire's parent, WGL, as of March 31, 1975, *pro forma*, including the embedded cost of debt and preferred stock. Accordingly, the cost elements which remain to be decided are (1) the return on common equity and (2) the annual depreciation rate to be applied to Hampshire's depreciable plant.

A hearing on these issues was held on January 13, 14, and 16, 1976. On February 12, 1976, People's Counsel filed a renewal of his motion to dismiss Hampshire's application on the

<sup>1</sup>First Revised Sheets Nos. 4 and 5, to Hampshire's FPC Tariff, Original Volume No. 1.

<sup>2</sup>Hampshire operates a natural gas underground storage field, a 1640 horsepower compressor station, and appurtenant facilities in Hampshire County, West Virginia. It is wholly owned by WGL and renders storage service to WGL pursuant to a certificate issued by the Commission on April 26, 1971 (45 FPC 600), as amended June 27, 1972 (47 FPC 1615) and September 5, 1974 (52 FPC 667).

<sup>3</sup>"Commission" refers to Federal Power Commission for periods prior to October 1, 1977, and to Federal Energy Regulatory Commission for periods thereafter.

<sup>4</sup>The amount of Federal Income Taxes to be included in the cost of service was not finalized, since it must await the determination of the return allowed. Neither the effective tax rate nor the method of computing Federal Income Tax is at issue.



ground that its cost of service tariff improperly permits the Company to change its rate base without Commission review and approval. The motion had previously been made during the hearing (Tr. 1: 2-5), and decision thereon had been reserved (Tr. 1: 5).

The Initial Decision, issued on March 26, 1976, by Presiding Administrative Law Judge Thomas L. Howe, sets out the issues as follows (mimeo p. 2):

(1) Whether a cost of service tariff is proper. This is raised by the (People's Counsel's) motion to dismiss, which is opposed by Hampshire and Staff.

(2) What the rate of return on common equity should be.

(3) What the depreciation rate should be. Hampshire contends it should be increased from 3.5 to 5 percent, while Staff contends it should be 4.2 percent.

People's Counsel did not address the last two issues.

#### I. THE COST OF SERVICE TARIFF

##### A. INITIAL DECISION

The Judge agreed with the Staff and Hampshire that the cost of service form of tariff is not improper and denied the People's Counsel's motion to dismiss Hampshire's filing. The Judge quoted portions of the Staff's brief listing authority for the Commission's use of a cost of service tariff for sales made to an affiliate. He also ruled that in the future Hampshire should adhere to the tariff's provision for semi-annual rate base adjustments; if the Company desires monthly adjustments, it should file such changes with the Commission for consideration.

##### B. BRIEF ON EXCEPTION

The People's Counsel takes exception to the Judge's finding that Hampshire's cost of service tariff is not improper. Counsel argues that, in approving a tariff which permits a "floating rate base", the Commission is abrogating its responsibility and is illegally authorizing the acceptance of rates without requiring the Company to file notice of the change and to obtain a Commission order approving such change. In denying rate payers the opportunity to challenge unfilled rate changes, Counsel maintains that Hampshire's tariff affords the public inadequate protection from inflated costs, especially in view of the affiliate relationship between Hampshire and WGL. Counsel points out that most of the case authorities cited by the Staff and in the Initial Decision do not deal with the type of "floating rate base" featured in Hampshire's tariff and that therefore the concept "has no authority."

Hampshire's tariff provides that:

... net investment rate base shall be calculated as of each January 1, and July 1 from the sum of the items set forth in this Section 4, provided, however, that whenever a substantial addition to or a substantial retirement from Hampshire's property devoted to its natural gas storage operations occurs, Hampshire shall recompute the rate base in accordance with this paragraph, effective the first day of the month following the in-service date such addition or the out-of-service date of such retirement (emphasis added).<sup>4</sup> Counsel points out that there has been no specific determination of what constitutes a "substantial addition or deletion" to rate base. Hampshire apparently attempted to define as "substantial" anything between \$100,000 and \$200,000, but Counsel argues that this definition was never even followed in practice (Tr. 1: 132-133). Counsel concludes that the Company has been illegally adjusting its rate base on a monthly basis.

On the basis of all these alleged illegalities, the People's Counsel moves that the Commission dismiss Hampshire's application in this proceeding.

##### C. BRIEF OPPOSING EXCEPTIONS

In its brief opposing exceptions the Staff defends the propriety of Hampshire's tariff and its provision for periodic adjustments to rate base. The Staff rejects the People's Counsel's contention that the Commission lacks authority to order a natural gas company to use a cost of service tariff. The Staff cites Section 4(d) of the Natural Gas Act (15 U.S.C. § 717(c)(d)), which provides that the Commission may waive the 30 day notice requirement of that section. The Staff lists precedents for the use of a cost of service tariff and reviews the cases in which the Commission has found such tariff to be appropriate where an affiliate relationship exists between company and customer. The cases adduced by the Staff are in the main those which are cited in the Initial Decision (mimeo pp. 3-6).

The Staff does agree with the People's Counsel that Hampshire has contravened its tariff by each month adjusting its rate base for changes of approximately 1 percent (Tr. 1: 115-116). The Staff argues that adjustments of this magnitude are not "substantial" and are therefore not authorized by the tariff. The Staff does not however regard Hampshire's use of improper rate base adjustments as having any bearing on the validity of the Company's cost of service tariff, particularly since most of the improper changes decreased the rate base.

<sup>4</sup>Rate Schedule S-1, First Revised Sheet No. 5 Superseding Original Sheet No. 5.

#### D. DISCUSSION

A cost of service tariff is an exception to the normal form of tariff prescribed by the regulations which the Commission has promulgated under Section 4 of the Natural Gas Act. Section 154.52(a) of the Regulations permits, upon application and for good cause shown, "the sale of gas at charges computed on a cost-formula basis, which charges need not be stated in cents or in dollars and cents per unit." Under this form of tariff, the Commission approves a formula which specifies the cost elements on which the utility may calculate its rates. Once the Commission has approved the tariff formula, the utility is not usually required to file notice of or request Commission approval for cost adjustments which are computed in accordance with the formula. A rate filing must be submitted only if the utility seeks to alter some component of the tariff formula.

For example, for a number of years Pacific Gas Transmission Company was authorized to and provided both its sales and transportation services under a cost of service tariff.<sup>5</sup> Presiding Administrative Judge Wagner described the tariff's operation in an initial decision:<sup>6</sup>

This tariff allowed the monthly bills of customers to increase or decrease automatically each month to reflect the purchase gas costs or any other increase or decrease in operating expenses. Under this concept it was only necessary for Pacific Gas Transmission Company to file notice of a rate change with the Federal Power Commission when a tariff component such as depreciation or rate of return was proposed to be changed.

Similarly, Hampshire initiated the instant proceeding to obtain Commission authorization to alter the depreciation rate and the return rate elements of its tariff formula.

A cost-formula tariff does however remain subject to the requirements of the Uniform System of Accounts (see 18 CFR Section 158) and subject to audit by the Commission Staff. Moreover, any addition to plant or facilities used to transport or sell gas subject to the jurisdiction of the Commission must first be authorized by a certificate of public convenience and necessity issued under Section 7(c) of the

<sup>5</sup>See also *Michigan Gas Storage Company*, 43 FPC 625 (1970); *American Louisiana Pipe Line Company*, 29 FPC 932 (1963); *Trunkline Gas Supply, et al.*, 9 FPC 721 (1950); *Transcontinental Gas Pipe Line Corporation*, 20 FPC 264 (1958); *Pacific Gas Transmission Company*, 24 FPC 134 (1960); and *Maine Yankee Atomic Power Company*, 52 FPC 76 (1974).

<sup>6</sup>*Pacific Gas Transmission Company*, Initial Decision issued June 15, 1976, in Docket No. RP 75-57, mimeo p. 5.

Natural Gas Act. Any abandonment of such plant facilities (beyond the routine retirement of depreciated plant) must be pursuant to a certificate issued under Section 7(b) of the Act. These statutory constraints all curb the risk of abuse which the People's Counsel associates with the Commission's "abrogation" of its regulatory responsibilities in approving Hampshire's tariff.

This Commission has recognized that sales by a company to its affiliate require special treatment. In order to minimize the possibilities of manipulation or excessive earnings attending such sale, the Commission has endorsed use of the cost-formula tariff:

A cost of service rate affords us an effective and feasible means of supplying the desired supervision [of sales to affiliates]. Under such a rate the seller's charges to its affiliates are computed on the basis of its actual costs for successive billing periods, plus the return allowed. Thereby the seller is permitted all costs to which it is entitled but no more, thus achieving the desideratum of utility rate regulation. *American Louisiana Pipe Line Company*, 29 FPC 932, 936 (1963).<sup>7</sup>

There is also precedent for Commission approval of the rate base adjustment provision in Hampshire's tariff. In *Trunkline Gas Supply Company, supra*, the Commission directed the Company to file a cost of service formula rate for the sale of gas to its affiliate, *Panhandle Eastern Pipeline Company*, with a provision for semi-annual determination of the rate base.<sup>8</sup> And a clause identical to Hampshire's exists in the cost of service transportation tariff of *Pacific Gas Transmission Company*, authorizing automatic recomputation of the net investment base every six months, as well as in any month following a "substantial addition or retirement of property."<sup>9</sup> There is no question, therefore, that approval of Hampshire's tariff is a proper exercise of this Commission's authority and is supported by precedent.

The record in this proceeding shows that during 1973 and 1974 Hampshire adjusted its rate base monthly to reflect changes of no more than approximately one percent (Tr. 1: 115-116). We agree with the Staff's position, quoted in the Initial Decision (mimeo pp. 5-6), that monthly changes of this magnitude cannot be considered "substantial" and were therefore made in contravention of the Company's tariff.

<sup>7</sup>See also *Transcontinental Gas Pipe Line Corp.*, 20 FPC 264, 279 (1958); *Michigan Gas Storage Company*, 5 FPC 965, 971 (1946) and 43 FPC 625 (1970); and *Trunkline Gas Supply, et al.*, 9 FPC 721 (1950).

<sup>8</sup>9 FPC 721, 729.

<sup>9</sup>See, e.g., *Pacific Gas Transmission Company's FPC Tariff*, Original Volume No. 1, Sixth Revised Sheet No. 6.

We also agree that Hampshire's improper adjustments do not constitute grounds for altering or abolishing its tariff's cost formula. Although Hampshire's rate base adjustments were more frequent than we believe their magnitude warranted, they nevertheless reflected actual changes and were not contrary to the underlying concept of the provision. The seriousness of their impropriety is moreover further mitigated by the evidence that most of the unauthorized adjustments decreased the rate base (Tr. 1: 115-116) and therefore the costs to WGL and its customers.

We shall affirm the finding of the Initial Decision that Hampshire's cost of service tariff is proper and shall deny the People's Counsel's motion to dismiss the Company's filing. As the Judge's decision notes (mimeo p. 7), if Hampshire wishes it may file with the Commission an application to amend its tariff to permit monthly adjustments to rate base. Until such time, however, the Company shall not, for *de minimis* changes, adjust its rate base more often than twice annually.

#### II. RATE OF RETURN ON COMMON EQUITY

##### A. INITIAL DECISION

Judge Howe concluded that the just and reasonable return on WGL's common equity is 12 percent. This results in an overall rate of return of 8.66 percent. The Judge noted that 12 percent was the highest return on equity allowed by the Commission in the three natural gas company rate cases during the previous year<sup>10</sup> (March 1975-March 1976). Although Hampshire's equity of 35.38 percent is slightly less than that of these three companies,<sup>11</sup> the Judge reasoned that, since WGL's customers are largely residential, the risk of reduction in its sales volumes due to curtailment appears to be less than that faced by the other three companies. The Judge concluded that "there seems to be no substantial justification for piercing the 12 per cent upper level established by Commission decisions" (Initial Decision, mimeo p. 8).

The Judge's conclusion matched the return recommendation of the Staff. Hampshire had argued that it was entitled to a return on equity of 14.0 to 14.5 percent, although its cost of service filed in this proceeding employs a return of only 13.7 percent. The Com-

<sup>10</sup>*Kansas-Nebraska Natural Gas Company*, Opinion No. 731, issued May 15, 1975, in Docket No. RP72-32 (12.00% equity ratio of 36.88%); *Florida Gas Transmission Company*, Opinion No. 732, issued May 20, 1975, in Docket No. RP74-19 (12.00% equity ratio of 37.76%); *Columbia Gulf Transmission Company*, Opinion No. 734, issued June 12, 1975 (11.84% equity ratio of 39.93%).

<sup>11</sup>*Ibid.*

pany seeks an overall rate of return of 9.25 percent.

##### B. BRIEF ON EXCEPTIONS

Hampshire labels as "grossly erroneous" the Initial Decision's determination that 12 percent return on equity is just and reasonable in this proceeding. The Company alleges that in his brief comments on the issue the Judge failed to consider any of the significant facts of record or any of the principles and policies enunciated by this Commission and the courts.

Hampshire points out that the Judge alluded to a purported "12 percent upper level established by Commission decisions" in the previous year (Initial Decision, mimeo p. 8). The Company asserts that such a ceiling on return on common equity does not exist and, under the principles guiding this Commission,<sup>12</sup> could not properly be applied to utilities across the board. Hampshire concludes that the Judge failed to exercise informed judgment based upon analysis of the record evidence and made only a token attempt at applying the "comparable earnings" criterion dictated by the *Hope*<sup>13</sup> and *Bluefield*<sup>14</sup> decisions.

Hampshire then sets forth the facts which in its judgment compel affirmation of its proposed rate of return on common equity.

As a measure of the comparable common equity opportunities available to investors, the Company's witness Mr. Maher analyzed, for the 15 calendar years of 1960-1974, the earnings and market data for the 13 companies in Standard & Poor's natural gas distribution index: WGL is one of the companies on this index.<sup>15</sup>

Mr. Maher's analysis showed<sup>16</sup> that WGL's earned return on equity throughout the 15 year period (except in 1969<sup>17</sup>) was lower than the average return on equity of the other 12 companies on the index. For the three years 1972-1974, WGL's return on equity averaged 8.7 percent, while the average for the other 12 companies was 12.4 percent.

Hampshire points out that WGL anticipates raising about \$100 million of capital over the next four years.<sup>18</sup>

<sup>12</sup>See *Union Electric Company*, 47 FPC 144, 160 (1972).

<sup>13</sup>*F.P.C. v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

<sup>14</sup>*Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).

<sup>15</sup>Exhibit No. 2, Schedule 3.

<sup>16</sup>*Ibid.*, Schedule 8.

<sup>17</sup>Mr. Maher testified that 22% of 1969 earnings available for common equity represented a change in accounting for tax depreciation, not an improvement in operations (Tr. 1: 24).

<sup>18</sup>WGL raised approximately \$55 million in capital in 1975 (Tr. 3: 325). Regarding the Company's capital needs through 1979, Mr. Maher testified: "I cannot give you a very

Footnotes continued on next page



WGL's current capitalization is approximately \$395 million (Tr. 1: 160).

According to Mr. Maher's analysis, WGL's dividend/price ratio was higher than the average for the other 12 companies in each of the 15 years studied, except 1961 and 1962.<sup>20</sup> While the 1972-1974 average dividend/price ratio for the group, excluding WGL, increased 70 percent over the average for the period 1960-1962, WGL's averages over the same periods increased 123 percent. For 1974 WGL's ratio was 11.39 percent, which was "substantially" higher than that for the other 12 companies throughout the 15 year period. According to Hampshire, these facts point up the relatively poor regard in which the common stock of WGL is held by the investment community.

A study of the market-to-book ratios for the 13 comparable companies shows that at the beginning of the 15 year period the market-to-book premium was approximately 70 percent and occasionally exceeded 100 percent.<sup>21</sup> In 1974 the average market price of the group was 10 percent under book value. WGL's common stock has been selling under book value since 1969, and in 1974 it was selling 45 percent under book value. The latest information available to Mr. Maher generally indicates that for WGL the factors discussed above had not improved as of April 30, 1975.<sup>22</sup>

The Company summarized the above evidence as follows:<sup>23</sup>

It is obvious from the foregoing that during the entire period of more than 15 years, Washington has had (1) a sad record in terms of return on common equity compared to such returns for the other companies included in the index; (2) in terms of dividend/price ratios, a showing of relatively poor regard by the investment community for its common stock; and (3) in terms of its shrinking market-to-book ratios, a clear indication that investors have become progressively more disenchanted with its common stock.

Mr. Maher also presented evidence illustrating the percentage relationship between utility bond yields and the dividend/price ratios of (1) Moody's index of natural gas distribu-

tion companies (of which WGL is one)<sup>24</sup> and (2) Moody's electric utilities.<sup>25</sup> These studies show that from 1960 to 1972 the dividend/price ratio of Moody's gas distribution companies normally ranged from 70 to 90 percent of the yields available on newly issued Aa utility bonds. But since 1972 dividend yields on both gas and electric utility company stocks have exceeded 90 percent of bond yields, and from April 1974 to April 1975 dividend yields exceeded 95 percent of bond yields.<sup>26</sup> From these data the Company concludes that investors are now requiring a current income on common stock which equals 95 percent of the yield on utility bonds.

To develop what he termed the marginal cost of equity, Mr. Maher (1) assumed that interest rates on utility bonds will drop to 9 percent; (2) assumed the continued willingness of investors to maintain the 95 percent relationship between dividend/price ratios and bond yields; and (3) added a 4.75 to 5.25 percent growth factor.<sup>27</sup> The result was a marginal cost of equity of 13.25 to 13.75 percent.<sup>28</sup>

But it was Mr. Maher's considered opinion that the return on equity allowed in this proceeding must be higher than the marginal cost. If that return is limited to the marginal cost, WGL's stock would sell at book value. As a result, according to the witness, any sale of additional common shares could only result in confiscation of stockholder's capital (Tr. 1: 27). Moreover, any attrition in the return on equity due to increases in imbedded debt cost, the effect of inflation, or many other factors, would result in WGL's failure to earn its cost of capital.

Based upon his analysis of the historical data of the distribution companies, Mr. Maher recommended that the rate of return on common equity should be between 14.0 and 14.5 percent. Using a discount cash flow formula,<sup>29</sup> the witness concluded (Tr. 1: 31) that under his recommended return on equity WGL's stock would sell at a market-to-book premium of approximately 10 percent.

Hampshire concludes by noting that the 9.25 percent overall rate of return it seeks in this proceeding will, when applied to the stipulated capitalization (Tr. 1: 160), produce a return on equity of about 13.7 percent, which is approximately the marginal cost of equity discussed above.

Hampshire's attack upon the staff's rate of return recommendation con-

centrates on the alleged unreliability of Staff witness Mr. Reed's study. Aside from a number of minor errors and alleged misstatements, the major issue raised by Hampshire concerns Mr. Reed's choices for the nine comparable companies used in his analysis. (A full description of Mr. Reed's study appears under the next heading.) The selection of these nine companies was purportedly on the basis of their comparable bond ratings and scale of operating revenues (Tr. 1: 64). Yet Hampshire asserts that one of the companies on Mr. Reed's list—Columbia Gas System—is a holding company which has no operating revenues. Hampshire moreover alleges that there are at least five other gas distribution companies<sup>30</sup> which come within the range of operating revenues and bond ratings used by Mr. Reed.

#### C. BRIEF OPPOSING EXCEPTIONS

The Staff supports the Judge's conclusion that a 12.0 percent return on equity is fully supported by the record in this case. In defense of the Initial Decision, the Staff reviews the rate of return study prepared by its witness Mr. Reed, who recommended a 12.0 percent return on equity.

The Staff begins by quoting passages from *Hope, Bluefield, and Union Electric (supra)* in support of the comparable earnings test employed by Mr. Reed (Tr. 1: 56).

Mr. Reed described the operations of WGL and made a judgment of its future prospects and attendant business and financial risks (Tr. 1: 57-63). He then compared WGL to companies in the same industry (Tr. 1: 64-65) and to other industrial groupings (Tr. 1: 63-64). Mr. Reed used the period from 1969 to 1973 for purposes of these comparisons, on the premise that this period reflects the effects of highly variable inflationary and interest rates and is suggestive of the near term future (Tr. 1: 63). For purposes of his comparison of WGL with other gas companies, Mr. Reed selected nine companies on the basis of similarity of bond ratings (AA to BBB) and operating revenues.<sup>31</sup>

The witness first compared the business risk of WGL to that of the comparable companies. According to Mr. Reed, business risk is measured by the level and variability over time of earnings before interest but after income taxes (Tr. 1: 64). Thus, a company's business risk is higher if its earnings before interest become more variable (Tr. 1: 64). The Staff summarized Mr. Reed's analysis of WGL's business risk as follows:<sup>32</sup>

<sup>20</sup>Exhibit No. 2, Schedules 4-5.

<sup>21</sup>*Ibid.*, Schedules 6-7.

<sup>22</sup>*Ibid.*, Schedules 4-7.

<sup>23</sup>Tr. 1: 29. Mr. Maher developed a growth factor solely as a function of retained earnings. Exhibit No. 2, Schedule 15.

<sup>24</sup>9% x 95% + 4.75% to 5.25% = 13.25% to 13.75%.

<sup>25</sup>Exhibit No. 2, Schedule 16.

<sup>30</sup>Hampshire names Indiana Gas Co., East Ohio Gas Co., Peoples Natural Gas Co., Houston Natural Gas Corp., and Michigan Consolidated Gas Co.

<sup>31</sup>Exhibit No. 6, p. 6.

<sup>32</sup>Brief Opposing Exceptions, p. 10.

Footnotes continued from last page  
definitive idea of the amount of money that we are going to raise but I can give you a ball park figure. . . . The balance of the four years [1976-1979], it could be in the neighborhood of \$100 million" (Tr. 3: 325). Mr. Maher testified that approximately \$8-10 million each year would be allocated to exploration and development in an effort to supplement WGL's gas supply. The balance would be used primarily for replacement and improvement of WGL's transmission and distribution system (Tr. 3: 325-326).

<sup>26</sup>Exhibit No. 2 Schedule 10.

<sup>27</sup>*Ibid.*, Schedule 12.

<sup>28</sup>*Ibid.*, Schedule 14.

<sup>29</sup>Hampshire's Brief on Exceptions, p. 8.

In Witness Reed's judgment, Washington Gas' future business risk is less than that for the comparable companies (Tr. 64). Witness Reed noted that Washington Gas' rate of growth of earnings before interest was 4.3% as compared to 8.6% for the comparable companies (Tr. 64). Staff Witness Reed also noted the slow increase of only 4.1% in Washington Gas' gas sendout from 1970 to 1974 (Tr. 59). These indicators of a possibly higher business risk were, in Witness Reed's judgment, substantially offset, however, by the fact that Washington Gas sells mainly to residential customers and, therefore, will not be curtailed to the extent of other gas companies (Tr. 64). Of the 555,514 gas meters in use in Washington Gas' system as of December 31, 1974, 91.4% were residential, (Tr. 58-59) and of total sendout, 52.8% was consumed by residential customers (Tr. 59). Given the priority of service categories established by the Commission for use during curtailment 18 CFR Section 2.78, Washington Gas will fare well in periods of curtailment.

Mr. Reed then turned to a comparison of the financial risks faced by WGL and by the comparable companies. According to the witness, financial risk is measured by observing the level and variability over time of earnings available to common shareholders and by the likelihood of insolvency (Tr. 1: 65). Mr. Reed concluded that financial risk was somewhat higher for WGL than for the comparable companies. He noted that in 1973 WGL's common equity ratio was 37.7 percent, compared to 39.1 percent for the comparable companies. Also, from 1969 to 1973 WGL's after-tax interest coverage was consistently lower than that of the comparable companies; in 1973 it was 1.98, compared to 2.43 for the comparable companies (Tr. 1: 65).

The witness also compared WGL to other industrial groupings. WGL's earned returns on average common equity ranged between 11.72 percent in 1969 and 7.63 percent in 1973 (Tr. 1: 63). Mr. Reed judged this record to be

generally unfavorable when compared with returns on average common equity for the following industrial groupings during the same period:

S&P 425 Industrials—10.4%-14.7%  
Moody's 12 Industrials—10.5%-15.1%  
Moody's 24 Utilities—10.6%-11.7%  
FPC Class A&B Electric—11.5%-12.2%  
FPC Class A&B Pipelines—12.5%-15.0%

Mr. Reed concluded, however, that WGL's overall risk is less than that of the nonregulated industries, because WGL had a price-earnings ratio which, from 1969 to 1973, ranged between 15.2 and 8.6 (Tr. 1: 64). The witness noted that such ratios compared favorably with the price-earnings ratios from 1969 to 1973 of other industrial groupings, which were as follows:

S&P 425 Industrials—13.4 to 18.0  
Moody's 125 Industrials—13.7 to 18.2  
Moody's 24 Utilities—9.4 to 13.7  
FPC Class A&B Pipelines—9.0 to 12.4

In summary, from his comparable earnings study Mr. Reed concluded that WGL's overall risk is slightly greater than that of the comparable natural gas companies, but is less than that of non-regulated industrial concerns (Tr. 1: 65). His recommended return on equity of 12.0 percent would, it is claimed, generate an after-tax interest coverage of 2.35.

The Staff attacks the rate of return study of Hampshire's witness Mr. Maher for reliance solely on the discounted cash flow (DCF) method. The Staff's argument is, in essence, that the DCF method is no better than the numbers which are plugged into its equation. The derivation of these numbers, however, is the product of some implicit assumptions which, according to the Staff, lack evidentiary support in this proceeding.

#### D. DISCUSSION

Hampshire is a wholly-owned subsidiary of WGL. The parties agree that the proper capital structure to use in determining the return on equity in this proceeding is that of WGL. This capitalization, stipulated to by the parties, is as follows (Tr. 1: 160):

WASHINGTON GAS LIGHT CO. (CONSOLIDATED),<sup>33</sup> March 31, 1975, PRO FORMA<sup>34</sup>

|                 | Amounts<br>(in millions) | Percent | Cost<br>(percent) | Weighted<br>cost<br>(percent) |
|-----------------|--------------------------|---------|-------------------|-------------------------------|
| Long-Term Debt  | \$206.0                  | 52.06   | 6.90              | 3.59                          |
| Preferred Stock | 49.7                     | 12.56   | 6.50              | .82                           |
| Common Equity   | \$140.0                  | 35.38   |                   |                               |
| Total           | 395.7                    | 100.00  |                   |                               |

<sup>33</sup>WGL owns seven subsidiaries: Hampshire; Shenandoah Gas Company and Frederick Gas Company (distribution companies); Crab Run Gas Company (exploration for natural gas and oil in Virginia, Oklahoma and Louisiana); City Homes Inc., Rock Creek properties, and Brandywood Estates Inc. (real estate development concerns).

<sup>34</sup>Includes issuance of \$40 million of First Mortgage Bonds and 400,000 shares of serial preferred stock in June 1975, as well as retirement of \$20 million of First Mortgage Bonds in July 1975.

<sup>35</sup>Long-term debt amount from prospectus.

<sup>36</sup>Excludes undistributed earnings of subsidiaries.

WGL is principally engaged in the purchase, distribution, and sale of natural gas at retail in Metropolitan Washington, including the District of Columbia and adjacent areas in Maryland and Virginia. During 1974, 93 percent of WGL's gas sales were to residential and small commercial users (Tr. 1: 58).

The witnesses in this proceeding have concentrated on presenting data which give us a reading of the risks which the entire WGL system faces and of how WGL's risks compare with those faced by other utility companies and by different industrial concerns. It must be borne in mind that the rate of return to be fixed in this proceeding should be designed to reflect the risk of operating but one part of WGL's total operations: the Hampshire gas storage plant. Although WGL's overall capitalization may be used to calculate the return for one of WGL's subsidiaries,<sup>37</sup> the risks attending the various subsidiaries will vary. Accordingly, WGL will not expect to earn the same rate of return on them all.

It appears from the record evidence that the risks involved in operating Hampshire are relatively low. For one thing, Hampshire collects rates under a cost of service tariff, which protects it against undercollection. Moreover, Hampshire's operation involves only a storage service; Hampshire is not involved in the acquisition and transportation of the gas it stores. Thirdly, the depreciation rate allowed in this proceedings (see *infra*, pp. 23-27) has been calculated to recover the plant investment over the remaining economic (as opposed to physical) life of the facilities.

In light of the above discussion and based on our analysis of the record as a whole, we conclude that a 12 percent return on equity for Hampshire falls within the zone which is just and reasonable. Although we do not subscribe to all of the Judge's rationale for selecting 12 percent, we believe this rate is appropriate for an enterprise as sheltered from major risks as is Hampshire. The Initial Decision's rate of return of 12 percent on common equity, resulting in an overall rate of return of 8.66 percent, is affirmed. We recognize that the record in this proceeding is stale and that changes may have occurred in the intervening years relative to capital structure and the

<sup>37</sup>We moreover find it in the public interest to accept the use of WGL's capitalization in order to conclude this proceeding. In so doing we have considered, among other things, the staleness of the record, the amount of dollars involved, and the consequent inadvisability of remanding the proceeding for the purpose of obtaining a more fully developed record.



cost of financing. However, the burden is upon the company to make filings where circumstances or costs change to the detriment of the company.

### III. DEPRECIATION

#### A. INITIAL DECISION

The Initial Decision adopted the Staff's recommended 4.2 percent depreciation rate for Hampshire's underground storage facilities and described the underlying analysis performed by Staff witness Mr. Adams. Mr. Adams computed the 4.2 percent rate from a 23.4 year average remaining service life derived by truncating the composite survivor curve<sup>30</sup> for Hampshire's facilities at the year 2000, which he regards as the minimum date at which gas will still be available to WGL and Hampshire (Tr. 1: 78).<sup>31</sup> Hampshire does not dispute Mr. Adams' projection of the remaining physical life of its plant but takes issue with his estimate for its remaining economic life.

The Judge rejected as too speculative Hampshire's argument that a 20 year economic life span (producing a 5 percent depreciation rate) is proper because the addition of supplemental peak-shaving facilities—LNG, SNG or propane—may cause Hampshire's function as a storage facility to become prematurely obsolete. The Judge also refused to consider the depreciation rate recommended by the Commission Staff for the underground storage plant of Columbia Gas Transmission Company (the pipeline supplier of the gas stored by Hampshire) in Docket No. RP74-82, on the ground that the testimony in the Columbia Gas case was not introduced in the instant proceeding. As of the date Judge Howe's Initial Decision herein was issued, a settlement proposal in Docket No. RP74-82 was before the Commission for consideration.

The Judge did not merely adopt the Staff's recommendation of a 4.2 per-

cent depreciation rate, however. He also designed a one-time depreciation rate adjustment whereby Hampshire's remaining economic life would track the remaining economic life of its supplier, Columbia Gas. This adjustment was not discussed during the hearing. The Judge's adjustment provides that, if and when the Commission finds that the remaining economic life of Columbia Gas' facilities supplying gas to Hampshire<sup>32</sup> is shorter than that projected for Hampshire's plant, Hampshire's cost of service should be allowed to escalate to reflect an increased depreciation rate derived from Hampshire's remaining economic life as truncated to match that of Columbia Gas. The resulting depreciation rate could even exceed the 5 percent requested by Hampshire, so long as it would not result in a cost of service higher than the total sought herein by the Company, which is based on a 5 percent depreciation rate and a 13.7 percent rate of return on equity. Above this level, a new filing would be required.

#### B. BRIEFS ON EXCEPTIONS

In its brief on exceptions Hampshire does not dispute the Judge's conclusion that the record in this proceeding does not support the Company's contention that its facilities will experience a remaining economic life shorter than their remaining service life as calculated by the Staff. Hampshire directs its comments instead to the Judge's depreciation rate "escalator" provision.

Hampshire states that the record shows Hampshire's underground storage facilities are located in the same general area as the underground storage facilities of Columbia Gas. Hampshire's facilities are "minute in size" in comparison to those of Columbia Gas. It therefore follows, according to the Company, that the remaining economic life of Hampshire's facilities will be no greater than that of Columbia Gas' comparable facilities.

In lieu of the Presiding Judge's "vague and obscure" conditions for escalating Hampshire's depreciation rate to coordinate with this Commission's determination of the remaining economic life of the Columbia Gas facilities which are supplying gas to Hampshire, the Company proposes that we simply prescribe for Hampshire a rate of no less than 4.65 percent. The Company alleges this is the depreciation

<sup>30</sup>The Judge found that the prospect of Hampshire receiving gas from any supplier other than Columbia Gas was so speculative as to have no place in determining the depreciation rate for Hampshire's facilities at the current time (Initial Decision, mimeo p. 8).

rate for underground storage plant used in the settlement of Columbia Gas' rate filing in Docket No. RP74-82, which was approved by Commission order dated March 19, 1976.

The Staff focuses on the Judge's justification for fashioning the rate escalator (Initial Decision, mimeo p. 10):

If it should be established that Columbia Gas' supplies are so short lived as to require a depreciation of the facilities it uses to supply Washington and Hampshire over a shorter remaining life than their remaining physical life, it would follow that the Hampshire facility should also be depreciated over that shorter remaining life.

According to the Staff, fidelity to the Judge's reasoning requires that no escalation of Hampshire's depreciation rate shall occur without a specific finding by the Commission that, because of the exhaustion of gas supplies, the remaining economic life of Columbia Gas' system will end before the year 2000 (the minimum economic life as calculated by the Staff). The Staff asserts that no such specific finding exists and that without such finding it would be improper to apply Columbia Gas' remaining economic life (assuming a figure were available) to Hampshire's plant.

The Staff notes, moreover, that there is no current Commission determination of the remaining service life of Columbia Gas' system. By order issued March 19, 1976, the Commission approved a settlement of all of Columbia Gas' cost of service items in Docket No. RP74-82.<sup>33</sup> The order made no mention of either a depreciation rate or a remaining life for Columbia Gas' facilities. Even if the settlement had specified a depreciation rate, the Staff points out that, according to the terms of the agreement, the settlement is "merely a compromise, establishing no finding precedent and not requiring agreement of any party to the treatment of any particular item."<sup>34</sup>

The second part of the Staff's argument against a depreciation escalator clause is that no finding regarding Columbia Gas' remaining service life is in fact needed. The Staff asserts that the record evidence in this proceeding amply supports a conclusion that the Hampshire facility will be economically viable for the full 23.4 years projected for its average remaining service life.

The Staff summarizes the testimony of its witness Mr. Adams, who concluded that, by current estimates, Columbia Gas will have a deliverability in the year 2000 equal to approximately

<sup>33</sup>Columbia Gulf Transmission Corp. and Columbia Gas Transmission Corp., Docket Nos. RP74-81 and RP74-82.

<sup>34</sup>Ibid., mimeo p. 4.

44 percent of the 1974 level of 1.351 Bcf (Tr. 1: 80; Exhibit No. 7, Schedules 6-7). This conclusion was based on conservative studies of the years of remaining natural gas production in the lower 48 states, excluding imports and non-traditional sources such as LNG, coal gas or reformer gas (Tr. 1: 78-79). In addition, Mr. Adams took into consideration anticipated long-range gas availability from non-traditional sources, of which he testified Columbia Gas is a leading developer (Tr. 1: 79-80).

#### C. BRIEF OPPOSING EXCEPTIONS

The Staff repeats the remarks in its brief on exceptions that the settlement depreciation rate for Columbia Gas in Docket No. RP74-82 establishes no "finding precedent" and is irrelevant to a determination of Hampshire's rate.

The Staff also raises a technical objection to the position Hampshire takes in its brief on exceptions. Hampshire requests a depreciation rate of 4.65 percent, which it alleges was the settlement rate used for underground storage facilities in Columbia Gas' Docket No. RP 74-82. The Staff notes that, even if the Commission had made an explicit determination that the proper rate is 4.65 percent, it does not necessarily follow that Hampshire's rate should become 4.65 percent. The Initial Decision found that it is Columbia Gas' remaining service life which controls Hampshire's remaining service life. Hampshire's rate will then be derived by applying the remaining service life to net undepreciated plant. Since the facilities of Columbia Gas and Hampshire may be of different types and ages, it cannot be assumed that the same composite rate will apply.

#### D. DISCUSSION

No party to this proceeding excepts to the Judge's finding that, based on the record evidence, the Staff's computation of a 4.2 percent depreciation rate for Hampshire's facilities is proper. Exceptions were confined to the Judge's depreciation escalator provision. After reviewing the record, we conclude that the finding of the Initial Decision is reasonable, is supported by the weight of the evidence, and complies with the standards set forth in *Memphis Light, Gas and Water Division v. Federal Power Commission*.<sup>35</sup>

<sup>35</sup>504 F. 2d 225 (D.C. Cir. 1974). The court in *Memphis* held:

"... the Commission must make affirmative findings that the exhaustion of natural resources has caused the useful life of this particular property to be reduced to the extent that physical life (of less expense to consumers) is no longer an appropriate measure of useful life."

The Judge's creation of a one-time depreciation adjustment, however, poses serious questions which were not a subject of the hearing. The Judge is apparently working from the fundamental principle that when Columbia Gas no longer has any gas to transport, Hampshire will no longer have any gas to store. "In this sense Hampshire's remaining economic life is indisputably linked to Columbia Gas' remaining economic life (assuming that Columbia Gas remains Hampshire's sole supplier).

Earlier in his discussion (Initial Decision, mimeo p. 9) the Judge pointed out that in Docket No. RP73-86 "the Commission decision approved higher depreciation rates [for Columbia Gas] because of waning gas supplies . . . thus demonstrating its full awareness of the potential supply shortage effect on the depreciation rate." The Judge noted that the evidence on the remaining economic life of Columbia Gas' facilities which was presented in the instant proceeding is more recent than that which was available in Docket No. RP3-86. Recognizing that a system's gas supply picture will vary over time, the Judge proposes a one-time depreciation adjustment for Hampshire so that the remaining economic life on which its depreciation rate is computed may track the newest Commission determination of Columbia Gas' remaining economic life.

We do not think it appropriate in this case (even as a one-time adjustment) to tie the depreciation rate calculation of one company in one docket to the remaining service life determination of another company in another docket, even though the latter may be the sole supplier to the former. Each utility company should make an analysis of all the factors which contribute to its facility's loss in service value. Of these factors, the exhaustion of natural resources is but one.<sup>36</sup> In a subse-

"In describing the adjustment provision (Initial Decision, mimeo p. 10), the Judge keys Hampshire's remaining economic life to the remaining economic life of 'the facilities [Columbia Gas] uses to supply Washington and Hampshire.' This is the only description he gives of the pertinent Columbia Gas facilities, and it is repeated three times. While the description is rather indefinite, in the context of the Judge's entire discussion it can reasonably be interpreted to refer to Columbia Gas' entire system."

<sup>36</sup>Pursuant to Section 9 of the Natural Gas Act, the Commission had adopted and published a Uniform System of Accounts for Natural Gas Companies which defines depreciation as:

"The loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of gas plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the ele-

quent proceeding Hampshire may for example submit evidence which proves that the addition to WGL's system of an LNG facility will render the Hampshire storage plant obsolete even before its supply of gas from Columbia Gas is projected to end. Alternatively, WGL may procure new sources of supply which are not anticipated today. For these reasons, we regard it as an unsound practice to permit Hampshire's depreciation rate to be dictated by a Commission determination, in a different docket, of Columbia Gas' remaining economic life. It is of course even less logical for Hampshire's rate to be dictated by a depreciation rate which was not the Commission's finding on the merits but was merely part of a dollar settlement.

The 4.65 percent depreciation rate which Hampshire requests in its brief on exceptions has no support in the record and bears no logical relationship to the Judge's escalation provision. 4.65 percent was allegedly "the settlement depreciation rate for Columbia Gas' underground storage facilities in Docket No. RP74-82. As has been said, a plant depreciation rate which was not determined on the merits but was part of a dollar settlement should not be relied upon to dictate the remaining service life of another company's plant. The settlement document in Docket No. RP74-82 typically states that the settlement is "merely a compromise, establishing no finding precedent and not requiring agreement of any party to the treatment of any particular item."<sup>37</sup>

Hampshire's request for the 4.65 percent rate abandons the reasoning behind the Judge's escalation provision. The Judge sought to tie the remaining economic life underlying Hampshire's depreciation rate to the Commission's determination of a remaining economic life for Columbia Gas' facilities supplying gas to Hampshire. Instead, Hampshire wants to adopt a settlement rate which is applicable to only the underground storage facilities of Columbia Gas.

It was not the Judge's intention that Hampshire's remaining life should track the remaining service life of Columbia Gas' underground storage plants only. The relationship between the composite average remaining service life of Columbia Gas' underground storage facilities and the remaining economic life of Columbia Gas' system

ments, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities, and, in the case of natural gas companies, the exhaustion of natural resources. (18 CFR Part 201, Definitions, 11B.)

<sup>37</sup>The Commission's order accepting the settlement in Docket No. RP74-82 issued March 19, 1976, made no reference to the depreciation rate or a remaining service life.

<sup>38</sup>Ibid., mimeo p. 4.



as a whole has not been conclusively demonstrated on this record.<sup>48</sup>

Even if we assume that Hampshire's underground storage facility is physically comparable to the numerous underground storage plants on Columbia Gas' system (Tr. 1: 75, 172; 2: 261), their respective depreciation rates may have nothing in common but their underlying survivor curves (Tr. 1: 75-76). If we in addition hypothesize that the rates for both companies' underground storage plants should be computed over an identical remaining life (with the same cutoff date), the rates would still not be identical. A depreciation rate is derived by dividing an average remaining life into net undepreciated plant. Because the facilities owned by the two companies are of different ages,<sup>49</sup> they will have different composite, average remaining lives.<sup>50</sup>

For all of the above reasons, we shall reverse the Initial Decision in this proceeding to the extent that we shall reject the depreciation rate escalation provision fashioned by the Judge.

*The Commission finds:*

(1) Consistent with the discussion in this order the Initial Decision issued in this proceeding on March 26, 1976, should be affirmed, except as modified.

(2) Applicant should be required to refund to its jurisdictional customers any amounts reflecting the difference between its proposed rates and the rates required to be filed by this order.

*The Commission orders:*

(A) Consistent with the discussion in this order, the Initial Decision issued herein on March 26, 1976, is hereby affirmed, except for the depreciation rate escalation clause.

(B) Within 60 days of the issuance of this order Hampshire shall file a revised cost of service and any necessary amendments to its rate schedules in lieu of those at issue herein, in accordance with the findings and conclusions in this decision, for the period beginning on October 31, 1975, subject to the approval of the Commission.

(C) Within 30 days of the Commission's approval of Hampshire's substi-

<sup>48</sup> Tr. 1: 81-82, 187-193; Tr. 2: 260-261, 273-277.

<sup>49</sup> Operations at Hampshire's plant began in 1971 (Tr. 1: 72). Most of Columbia Gas' underground storage facilities are older (Tr. 1: 74-75).

<sup>50</sup> Each component of an underground storage facility has a different average physical life. For example, well equipment generally has a longer service life than does compressor station equipment. Survivor curves trace the retirement patterns, based on past experience, of physical property. Using survivor curves in conjunction with a particular service life termination date, one can calculate the average remaining life of each component and consequently the composite average remaining life of the entire facility (Tr. 1: 73-74).

tute tariff sheets in accordance with Paragraph (B) above, Hampshire shall refund to its customers for the period from October 31, 1975, all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved in accordance with Paragraph (B) above, together with interest at a rate of nine percent per annum from the date of payment to Hampshire to the date of refund.

(D) Within 15 days after refunds have been made Hampshire shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and adjudicated rates, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells natural gas at retail.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9670 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-235]

THE IDAHO POWER CO.

Filing

MARCH 20, 1979.

Take notice that on March 2, 1979, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during January, 1979, along with cost justification for the rate charged. Also tendered were copies of executed Service Agreements between the Company and Pacific Power & Light Company and The Washington Water Power Company.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9671 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ES79-32]

IOWA PUBLIC SERVICE CO.

Application

MARCH 20, 1979.

Take notice that on March 8, 1979, Iowa Public Service Company (the "Company") filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of (a) up to 50,000 shares of Common Stock (par value \$5 per share) in connection with the Company's Dividend Reinvestment and Stock Purchase Plan, and (b) up to 30,000 shares of Common Stock (par value \$5 per share), in connection with the operation of the Employees' Stock Ownership Plan of Iowa Public Service Company and Participating Subsidiaries, as amended (the "ESOP") and the related Employees' Stock Ownership Trust of Iowa Public Service Company and Participating Subsidiaries, as amended (the "Trust"). The Company is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

The Company proposes to use the proceeds from the issuance of the Common Stock to secure funds for construction purposes, to reduce short-term loans incurred and to be incurred prior to the sales of the Common Stock to secure funds for construction purposes or for other lawful corporate purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commis-

sion and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9672 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-231]

KANSAS CITY POWER & LIGHT CO.

Proposed Tariff Change

MARCH 20, 1979.

Take notice that on March 5, 1979, Kansas City Power & Light Company (KCPL) tendered for filing proposed changes in the Reserve Equalization and Standard Service Charges included in the General Participation Agreement.

KCPL states that the following are presently Participants under the General Participation Agreement with the following FPC Rate Schedule Numbers:

Kansas City Power & Light Company, Rate Schedule FPC No. 32.  
Missouri Public Service Company, Rate Schedule FPC No. 8.  
The Empire District Electric Company, Rate Schedule FPC No. 73.  
Kansas Gas & Electric Company, Rate Schedule FPC No. 94.  
The Kansas Power & Light Company, Rate Schedule FPC No. 7.  
Central Telephone & Utilities Corp., Rate Schedule FPC No. 53.  
Central Kansas Power Company, Inc., Rate Schedule FPC No. 2.  
Sunflower Electric Cooperative, Inc.

KCPL states that the purpose of the filing is to adjust the charges which were originally established in 1975 for the changes in costs which have since occurred.

KCPL requests an effective date of December 31, 1978, for the proposed changes.

KCPL states that the other Participants under the General Participation Agreement except Sunflower Electric Cooperative, Inc. filed certificates of concurrence to the proposed changes with KCPL's submittal.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 2, 1979.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9673 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. RP75-98]

McCULLOCH INTERSTATE GAS CO.

Notice of Petition for Order Compelling Revised Refund Report

MARCH 20, 1979.

Take notice that on January 16, 1979 Colorado Interstate Gas Company (CIG), an intervenor in the proceeding in the referenced docket, petitioned pursuant to § 1.7 of the Commission's Rules of Practice and Procedure for an order of the Commission compelling McCulloch Interstate Gas Company (McCulloch) to file with the Commission a revised refund report and tariff sheets and to make timely refund according thereto.

CIG contends that the tariff sheets and refund report filed in this docket on October 3, 1978 are inconsistent with the Commission's order in this docket dated September 5, 1978, and states that an additional refund is due it from McCulloch. CIG states that the basic difference between CIG and McCulloch on this matter results from the recomputation of McCulloch's total PL-1 rate effective November 1, 1975. CIG states that while McCulloch adjusted its November 1, 1975 PL-1 rate to reflect a 52.68¢ per MMBtu Base Tariff Rate in accordance with the Commission's September 5, 1978 order, McCulloch added to that amount a 13.12¢ per MMBtu cumulative adjustment. CIG contends that the 13.12¢ per MMBtu cumulative adjustment is in excess of the appropriate cumulative adjustment calculation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this application are on file with the Commission and are available for public inspection.

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9674 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-239]

OHIO POWER CO.

Proposed Changes in Rates and Charges

MARCH 14, 1979.

Take notice that American Electric Power Service Corporation (AEP) on March 6, 1979, tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio Power), Modification No. 8 dated February 1, 1979 to the Facilities and Operating Agreement dated September 6, 1962 between Ohio Power Company and Duquesne Light Company, designated Ohio's Rate Schedule FERC No. 33.

AEP states that Section 1 of Modification No. 8 provides for an increase in the Demand Charge for Short Term Power from \$0.60 to \$0.70/kw-week and Section 2 provides for an increase in the transmission charge for third party Short Term Power transactions from \$0.15 to \$0.175/kw-week.

AEP further states that since the use of Short Term Power Service Schedule cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

AEP indicates that Exhibit I which was included with the filing of this Modification, demonstrates that the increase in revenues, which would have resulted had the Modification been in effect during the twelve-month period ending December 1978, would have been \$150,083.34 (i.e., from \$3,354,544.70 to \$3,504,628.04).

AEP proposes an effective date of April 30, 1979, and therefore requests waiver of the Commission's notice requirements.

According to AEP copies of this filing were served upon Duquesne Light Company, the Public Utilities Commission of Ohio and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any



person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9675 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-242]

#### OHIO POWER CO.

#### Proposed Agreement

MARCH 20, 1979.

Take notice that American Electric Power Service Corporation (AEP) on March 8, 1979 tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio Power), Modification No. 10, dated March 1, 1979 to the Operating Agreement dated June 14, 1962 between Ohio Power and The Cleveland Electric Illuminating Company (Cleveland Electric), designated Ohio's Rate Schedule FERC No. 31.

AEP indicates that this Modification No. 10 provides that, for the purpose of conserving energy resources during extended fuel shortages Ohio Power or Cleveland Electric may arrange to obtain Conservation Energy from the other. When supplied, the charge for Conservation Energy generated on the supplying party's will be 110% of the out-of-pocket replacement cost of generating the energy, plus 5.00 mills per kilowatt-hour. The new Modification No. 10 also provides for a transmission service charge of 1.7 and 1.5 mills per kilowatt-hour for deliveries of Conservation Energy from systems interconnected with Ohio Power or Cleveland Electric respectively.

Because the current uncertainty of fuel supplies and the possibility that transactions will be required immediately under the proposed Modification No. 10, the parties have requested that the Commission waive its notice requirements and that the proposed Schedule become effective as soon as possible. Its stated termination date is April 1, 1980.

Copies of the filing were served upon The Cleveland Electric Illuminating Company and the Public Utilities Commission of Ohio, according to AEP.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 2, 1979. Protests will be

considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9676 Filed 3-29-79 8:45 am]

#### [6450-01-M]

[Project No. 2751]

#### OHIO POWER CO.

#### Application for License (Major)

MARCH 20, 1979.

Take notice that on November 30, 1978, the Ohio Power Company (Applicant) filed an application under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for a major license for the unconstructed Gallipolis Project No. 2751. The project would be located on the Ohio River in Gallia County, Ohio and at the Corps of Engineers Gallipolis Locks and Dam.

The Applicant proposes to install generating facilities in Gate Bay No. 8 of the dam. The project facilities would include a powerhouse section about 215 feet long by 125 feet wide; (2) two horizontal Kaplan type bulb turbines each rated at approximately 22.75 MW; (3) two direct coupled generators each rated at 35,000 kVA at 0.95 power factor; (4) a 50 MVA main transformer; (5) a 7.2 kV switchyard; (6) a 500 kVA reserve auxiliary transformer; (7) a standby engine-generator; (8) two hydraulic-type governors; (9) intake trash racks and a mobile trash rack; (10) intake and draft tube stop logs; (11) a 3.1 mile 69-kV transmission line; and (12) appurtenant facilities. The cost for the project is estimated by Applicant to be \$106 million.

As to recreational facilities, the Applicant proposes to construct a fishing pier 700 feet downstream from the powerhouse and a parking lot. The Applicant currently provides a boat launch facility in the Gallipolis navigation pool.

The Applicant proposes to market the project power in its service area in Ohio.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the

proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before May 21, 1979. The Commission address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9677 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-227]

#### PACIFIC POWER & LIGHT CO.

#### Proposed Extension of Term of Rate Schedule

MARCH 14, 1979.

Take notice that Pacific Power & Light Company (Pacific) on March 2, 1979, tendered for filing in accordance with Section 35.13 of the Commission's Regulations, a ten-year extension of the rate schedule entitled Agreement for Hourly Coordination of the Projects on the Mid-Columbia River.

| Company   | FPC Rate Schedule           |
|---|-----------------------------|
| Pacific Power & Light Company.....                        | 125 and supplements 1 and 2 |
| The Washington Water Power Company (Water Power).....     | 91                          |
| Puget Sound Power & Light Company (Puget).....            | 58                          |
| Portland General Electric Company (Portland General)..... | 28                          |

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 1, 1977, which it claims is the date of commencement of service.

Copies of the filing were supplied to Water Power, Puget, and Portland General.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9678 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-236]

#### PUBLIC SERVICE CO. OF INDIANA, INC.

#### Proposed Tariff Change

MARCH 14, 1979.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on March 5, 1979, tendered for filing pursuant to the Kentucky-Indiana Power Planning And Operating Agreement between East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, Kentucky Utilities Company, and Public Service Company of Indiana, Inc., a change in the demand charge for Unit Power included in Service Schedule B of the Agreement.

PSCI states that said change in the demand charge for Unit Power was determined by using plant costs per kilowatt, fixed charge rates and annual plant operation and maintenance expenses applicable to all Pool Units for the Unit Year ending March 31, 1980.

PSCI proposes an effective date of April 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, Kentucky Utilities Company, Public Service Commission of Indiana, and Public Service Commission of Kentucky, according to PSCI.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9679 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. CP79-214]

#### TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Application

MARCH 20, 1979.

Take notice that on March 12, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-214 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation in interstate commerce of up to 40,000 dt equivalent of natural gas per day for Consolidated Edison Company of New York, Inc. (Con Ed), for two years, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas which it states Con Ed has arranged to purchase from National Fuel Gas Distribution Corporation (Distribution). The gas would be made available to Applicant by Distribution through the facilities of National Fuel Gas Supply Corporation (Supply) at the existing interconnection between Applicant and Supply at the Wharton Storage Field in Potter County, Pennsylvania. Applicant would deliver equivalent quantities of gas to Con Ed at existing delivery points in the New York metropolitan area.

The transportation agreement of March 5, 1979, between Applicant and Con Ed provides that the subject service would be interruptible and subordinate to deliveries to Con Ed under Applicant's Rate Schedules CD, PS, GSS, and WSS. The daily quantities of gas scheduled for delivery under the agreement to Con Ed would be deducted from deliveries to Con Ed to determine Rate Schedule CD-3 deliveries. Such scheduled daily quantities, plus quantities retained by Applicant for compressor fuel and line loss make-up, would first be added to deliveries to Supply up to the total daily quantities scheduled for delivery under Applicant's Rate Schedule CD-3 to Supply to determine Rate Schedule CD-3 deliveries for billing and other tariff purposes and the remainder, if any, would be used to determine any imbalance between deliveries and receipts. Applicant proposes to charge an initial rate of 7.0 cents per dt for the transportation service and to retain initially 0.6 percent of the gas for compressor fuel and line loss make-up.

Applicant states that for the period commencing May 8, 1979, the transported gas would be used solely by Con Ed in the generation of electric and/or steam energy at existing Con Ed generating stations which are or have been exempted from the provisions of the Powerplant and Industrial

Fuel Use Act of 1978. Applicant proposes to commence the proposed service immediately.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9680 Filed 3-29-79; 8:45 am]

#### [6450-01-M]

[Docket No. ER79-246]

#### TUCSON GAS & ELECTRIC CO.

MARCH 20, 1979.

Take notice that Tucson Gas & Electric Company (TGE) on March 12, 1979, tendered for filing Amendment No. 1 to the PNM-TGE 1978-1979 Power Sale Agreement between TGE and Public Service Company of New Mexico (PNM). TGE states that the primary purpose of Amendment No. 1 is to extend the Agreement as to all of its terms and conditions for an additional six-month period from May 1,



1979 through and including October 31, 1979. TGE further states that copies of the filing were served upon PNM.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 79-9681 Filed 3-29-79; 8:45 am]

#### [6560-01-M]

##### ENVIRONMENTAL PROTECTION AGENCY

[FRL 1087-3; OPP-50407]

##### CHEVRON CHEMICAL CO. AND E. I. DU PONT DE NEMOURS AND CO.

###### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 239-EUP-77. Chevron Chemical Co., Richmond, California 94804. This experimental use permit allows the use of 8,320 pounds of the herbicide thiobencarb on rice to evaluate control of weeds. A total of 2,080 acres is involved; the program is authorized only in the States of Arkansas and Texas. The experimental use permit is effective from February 27, 1979 to May 31, 1980. A temporary tolerance for residues of the active ingredient and its metabolite 4-chlorobenzy methylsulfone in or on rice grain has been established. (PM-23, Room: E-351, Telephone: 202/755-1397.)

No. 352-EUP-99. E. I. du Pont de Nemours and Co., Wilmington, Delaware 19898. This experimental use permit allows the use of 500 pounds of the herbicide metribuzin on barley and wheat to evaluate control of weeds. The experimental use permit is effective from April 12, 1979 to February 15, 1980. (PM-25, Room: E-301, Telephone: 202/755-2196.)

No. 352-EUP-100. E. I. du Pont de Nemours and Co., Wilmington, Delaware 19898. This experimental use permit allows the use of 500 pounds of the herbicide metribuzin on barley and wheat to evaluate

control of weeds. A total of 3,000 acres is involved for both this program and the one above; the programs are authorized only in the States of Arizona, California, Idaho, North Dakota, Texas, Utah, and Washington. This experimental use permit is also effective from April 12, 1979 to February 15, 1980. The permits will use the same active ingredient, but different formulations. Temporary tolerances for residues of the active ingredient in or on wheat forage, barley straw, wheat straw, barley grain, and wheat grain have been established. (PM-25, Room: E-301, Telephone: 202/755-2196.)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 23, 1979.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9816 Filed 3-29-79; 8:45 am]

#### [6560-01-M]

[FRL 1087-1; PP 8G2093/T194]

##### ETHEPHON

###### Establishment of a Temporary Tolerance

Amchem Products, Inc., Brookside Ave., Ambler, PA 19002, submitted a pesticide petition (PP 8G2093) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the plant growth regulator ethephon ((2-chloroethyl)phosphonic acid) in or on the raw agricultural commodity carrots at 7 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (264-EUP-56) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the

temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Amchem Products, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires March 7, 1980. Residues not in excess of 7 ppm remaining in or on carrots after the expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS-676), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/755-7013).

Dated: March 23, 1979.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 79-9814 Filed 3-29-79; 8:45 am]

#### [6560-01-M]

[FRL 1087-2; OPP-180274]

##### DEPARTMENT OF THE INTERIOR

###### Specific Exemption To Use Sodium Cyanide in M-44 Device To Control Predation of Coyotes on Whooping Crane

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Fish and Wildlife Service, U.S. Department of the Interior (hereafter referred to as the "Applicant") to use sodium cyanide-loaded M-44 devices to control coyotes which are threatening an endangered species, the whooping crane, in the Grays Lake National Wildlife Refuge in

Idaho. The specific exemption ends on September 30, 1979.

##### FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E-315, Washington, D.C. 20460. Telephone: 202/755-4851.

**SUPPLEMENTARY INFORMATION:** According to the Applicant, a recovery project for restoring the endangered whooping crane population began in 1975 at the Grays Lake National Wildlife Refuge in Idaho. It appears that the recovery program has been successful except for the predation of eggs and chicks; approximately 50% or more of eggs and chicks have been lost to coyotes. According to the Applicant, control methods such as calling, trapping, and aerial hunting have failed to provide adequate control. Failure to control this predator will result in a setback to the recovery program or its end. There is no registered pesticide for controlling coyotes preying on wildlife populations.

A 1972 Presidential Order (Executive Order 11643) prohibits the use of chemical toxicants, such as the sodium cyanide-loaded M-44 device, on Federal lands except in emergency conditions. One of these conditions is for protection of one or more wildlife species threatened with extinction or likely within the foreseeable future to become so threatened. The U.S. Fish and Wildlife Service has the responsibility for restoration of endangered species under the Endangered Species Act of 1973. Since the whooping crane is an endangered species, there would be compliance with the Presidential Order. In addition, the EPA has issued a registration to the Applicant for the use of the M-44 device to control coyotes, foxes, and feral dogs which prey upon livestock. Thus, issuance of the specific exemption is justified from the standpoint that the M-44 device is being employed under emergency conditions and by a qualified Agency experienced in the use of this device for predator control.

Adverse effects from the use of the sodium cyanide-loaded M-44 device in the Grays Lake National Wildlife Refuge area are unlikely. This Refuge consists of approximately 15,000 acres of marsh and upland, and is primarily a waterfowl refuge area. The M-44 device will be placed on only 500 acres in this Refuge and only for a limited period of time (140 days). Coyote control is considered necessary particularly because of the high avian population; thus, the use of the M-44 device here would also fit into the overall wildlife management program. Since Refuge personnel and one grazer are

the only persons permitted on the site, the chances of humans accidentally discharging the M-44 devices are remote.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation involving an endangered species has been found to exist; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant environmental problems may result if the coyotes are not removed from the Grays Lake National Wildlife Refuge; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A maximum of 20 M-44 devices and 40 sodium cyanide capsules containing approximately 35.51 grams of sodium cyanide are authorized;

2. The M-44 devices are to be placed on 500 acres of land at Grays Lake National Wildlife Refuge in Idaho;

3. Only trained Fish and Wildlife personnel shall hand place the M-44 devices;

4. All unused sodium cyanide capsules shall be recovered at the end of the season;

5. All precautions shall be taken to avoid or minimize hazards to non-target species that may result from this program;

6. All applicable label precautions for M-44 cyanide capsules (EPA Reg. No. 6704-75) including the posting of warning signs must be adhered to;

7. Any adverse effects resulting from the use of M-44 devices in connection with this specific exemption must be reported to the EPA immediately; and

8. A report summarizing the results of this program must be submitted to the EPA by December 31, 1979.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: March 23, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 79-9815 Filed 3-29-79; 8:45 am]

#### [6560-01-M]

[FRL 1087-4; OPP-30148A]

##### PESTICIDE PROGRAMS

###### Approval of Application to Register Pesticide Product Containing New Active Ingredient

On May 18, 1978, notice was given (43 FR 21505) that Hoffman-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110, had filed an application (EPA File Symbol 35977-R) with the Environmental Protection Agency (EPA) to register the pesticide product Atrinal Liquid Concentrate containing 18.5% of the active ingredient dikegulac sodium (sodium salt of 2,3,4,6-bis-O-(1-methylethylidene)-α-L-xylo-2-hexulofuranosonic acid) which was not previously registered at the time of submission.

This application was approved on March 7, 1979 and the product has been assigned EPA Registration No. 35977-1. Atrinal Liquid Concentrate is classified for general use as a plant regulator. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Rm. 401 East Tower, 401 M St., SW, Washington, DC 20460. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with Section 3(c)(2) of FIFRA, within 30 days after the registration date of March 7, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW, Washington, DC 20460. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: March 21, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 79-9817 Filed 3-29-79; 8:45 am]



[6712-01-M]

# FEDERAL COMMUNICATIONS COMMISSION

## FOURTH MEETING OF THE ADVISORY COMMITTEE ON CABLE SIGNAL LEAKAGE

### Meeting

Pursuant to Section 10 of the Federal Advisory Committee Act, notice of a meeting of the Advisory Committee on Cable Signal Leakage is hereby given. The meeting will be at 10:00 AM on Tuesday, April 17, 1979, in Room A-110 of the Federal Communications Commission offices at 1229-20th Street, NW., Washington, D.C.

The agenda are as follows:

- (1) Review of ground and airspace measurements and analysis;
- (2) Review of draft Report.

Any member of the public may attend or file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. Robert S. Powers, FCC, 2025 M Street, NW., Washington, D.C. 20554, telephone 202/632-9797.

FEDERAL COMMUNICATIONS COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 79-9738 Filed 3-29-79; 8:45 am]

[6730-01-M]

# FEDERAL MARITIME COMMISSION DETERMINATION

The Federal Maritime Commission hereby gives notice that the following agreements have been submitted to the Commission for determination of whether or not they are subject to the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), and, if it is determined that the agreements require approval, whether it would be appropriate to exempt the agreements from the approval requirements of section 15 pursuant to section 35 of the Shipping Act.

Although these agreements may not be subject to section 15 of the Shipping Act, interested parties are given an opportunity to comment on this notice if they so desire. Interested parties may inspect and obtain copies of the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423, or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Il-

## NOTICES

linois; and San Juan, Puerto Rico. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 19, 1979.

AGREEMENTS: Vessel Charter Agreements between Sea-Land Service, Inc. and Puerto Rico Maritime Shipping Authority.

FILING PARTY: Donald J. Brunner, Esquire, Ragan & Mason, 900 Seventeenth Street, NW., Washington, D.C. 20006.

SUMMARY: These agreements provide that Puerto Rico Maritime Shipping Authority, as Owner, agrees to let, and Sea-Land Service, Inc., as Charterer, agrees to time-charter, the vessels named HUMACAO and GUYAMA, to be employed by the Charterer in the trades between United States mainland ports or between U.S. mainland ports and ports in Europe, according to the terms, conditions and the extent set forth in the charter agreements. The duration of the charter agreements are for a two-month period with Sea-Land having the option of extending the charters for three further two-month periods.

Dated: March 27, 1979.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 79-9737 Filed 3-29-79; 8:45 am]

[1610-01-M]

# GENERAL ACCOUNTING OFFICE

## REGULATORY REPORTS REVIEW

### Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 26, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 17, 1979, and should be addressed to Mr. John

M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

## FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of revised instructions to Form 395, Annual Employment Report. Form 395 is used to monitor and enforce FCC Rules and Regulations pertaining to Equal Employment Opportunities (EEO) and is required by §§ 1.612, 73.125, 1.815(a), 21.307, and 23.55 of the Commission's Rules and Regulations. Since the Equal Employment Opportunity Commission does not collect data from firms with less than 100 employees, the FCC feels that they need to collect data from firms employing less than 100 as this constitutes a significant percentage of firms operating in the communications industry and cannot be omitted if the Commission is to effectively monitor EEO practices. The instructions associated with Form 395 are being revised to better define job categories associated with the broadcast industry. The FCC estimates respondent burden for Form 395 will average 63 minutes per response and that there are approximately 10,700 broadcasters and common carriers who report annually.

FCC First Report and Order, Docket No. 21474, adopted December 21, 1978, and released January 29, 1979, promulgated the revisions which have been incorporated in the instructions to Form 395. Although the Order specified that the revisions become effective on April 1, 1979, this effective date is contingent upon FCC's compliance with 44 U.S.C. 3512 which precludes the collection of information from 10 or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed instructions to Form 395 are consistent with the provisions of section 3512. This notice represents the beginning of our review.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 79-9762 Filed 3-29-79; 8:45 am]

[1610-01-M]

## REGULATORY REPORTS REVIEW

### Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was

received by the Regulatory Reports Review Staff, GAO, on March 26, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments concerning the reporting burden and duplication imposed by the proposed FCC forms and the forms' instructions are invited from all interested persons, organizations, public interest groups and affected businesses. Because of the limited amount of time GAO has to review the proposed request, and in an effort to expedite the clearance review, comments (in triplicate) must be received on or before April 13, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

## FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of new Forms 199-A and 199-B, Over \$20 Fee Refund Request Forms, and instructions. The Fee Refund Program was mandated by the United States Circuit Court of Appeals on December 16, 1976. Forms 199-A and 199-B will be used by the FCC to collect data to verify the identification of the applicant, the amount and purpose for which the fee was paid, to make a proper refund, to enable the original processing bureau/office to locate records, and to ensure that refund checks are forwarded to the correct address. The FCC estimates that approximately 150,000 refund requests will be received and that respondent burden will average one hour and fifty minutes per application.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 79-9763 Filed 3-29-79; 8:45 am]

## NOTICES

[4110-03-M]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[Docket No. 79F-00581]

### ARMAK CO.

## Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Armark Company has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an anionic polyurethane as a component of paper and paperboard in contact with dry food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3371) has been filed by Armark Co., 300 S. Wacker Dr., Chicago, IL 60606 proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of anionic polyurethane, produced by reacting the preliminary adduct formed from the reaction of glyceryl monostearate and toluene diisocyanate with not more than 10 mole percent N-methyldiethanolamine and not less than 90 mole percent dimethylolpropionic acid.

The agency has determined that the proposed action falls under 21 CFR 25.1(f)(1)(v) and is exempt from the requirement of an environmental impact analysis report, and that no environmental impact statement is necessary.

Dated: March 21, 1979.

ROBERT M. SCHAFFNER,  
Acting Director,  
Bureau of Foods.

[FR Doc. 79-9407 Filed 3-29-79; 8:45 am]

[4110-03-M]

[Docket No. 75N-0184; DESI 597, 3265, 4681, & 10837]

CERTAIN DRUG PRODUCTS CONTAINING AN ANTICHOLINERGIC OR ANTISPASMODIC IN COMBINATION WITH A SEDATIVE OR TRANQUILIZER; ANTICHOLINERGIC AND ANTISPASMODIC DRUGS ALONE

## Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of certain drug products containing an anticholinergic or antispasmodic in combination with a sedative or tranquilizer, and others containing an anticholinergic or antispasmodic drug alone. The basis of the action is that the drug products lack substantial evidence of effectiveness.

EFFECTIVE DATE: April 9, 1979.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 597, 3265, 4681, or 10837, as appropriate, and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the FEDERAL REGISTER of August 19, 1977 (42 FR 41917), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the subject drugs. The basis of the proposed order was that the drugs lack substantial evidence of effectiveness for their labeled indications.

In response to the August 19, 1977, notice, a request for a hearing was submitted for the following drug product:

Trocinat Tablets containing thiophenamil hydrochloride; William P. Poythress & Co., 899 North Wilmot Rd., Tucson, AZ 85711; part of NDA 6-098. The drug product is not affected by this notice but will be the subject of a future notice.

In response to a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52649), Knoll Pharmaceutical Co. had requested a hearing for Octin Tablets containing isomethep-



tene mucate and Octin Solution containing isometheptene hydrochloride, for the indication "treatment of migraine headache (NDA 6-420)." Because the request is still under review, the drug products are not affected by this notice but will also be the subject of a future notice.

A notice was published in the FEDERAL REGISTER of March 9, 1979 (44 FR 13079), withdrawing approval of NDA 4-298 for Metoprine Phenobarbital Tablets containing methylatropine nitrate and phenobarbital; formerly marketed by Pennwalt Prescription Products, Division Pennwalt Corp., P.O. Box 1710, Rochester, NY 14603. Approval was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At that time no final effectiveness classification of the drug had yet been made. The conclusions described herein are applicable to that drug product.

No other application holder or any other person has filed a written appearance of election as provided for by the August 19, 1977, notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing, and therefore approval of the following new drug applications is now being withdrawn.

#### — DESI 597

NDA 8-910; that part of the NDA pertaining to Tricoloid and Phenobarbital Tablets containing tricyclamol chloride and phenobarbital; formerly marketed by Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

NDA 8-427; that part of the NDA pertaining to Piptal-PHB Tablets, containing pipenzolate bromide and phenobarbital; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., P.O. Box 15260, Cincinnati, OH 45215.

NDA 8-919; that part of the NDA pertaining to Co-Elorine 100 Pulvules containing tricyclamol chloride and amobarbital; formerly marketed by Eli Lilly & Co., P.O. Box 618, Indianapolis, IN 46206.

NDA 9-288; Centrine Tablets with Phenobarbital containing aminopentamide sulfate and phenobarbital; formerly marketed by Bristol Laboratories, Division of Bristol-Myers Co., P.O. Box 657, Syracuse, NY 13201.

NDA 8-885; that part of the NDA pertaining to Centrine Elixir with Phenobarbital containing aminopentamide sulfate and phenobarbital; formerly marketed by Bristol Laboratories.

NDA 7-390; that part of the NDA pertaining to Banthine with Phenobarbital Tablets containing methan-

theline bromide and phenobarbital; formerly marketed by G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.

NDA 9-032; that part of the NDA pertaining to Monomeb Tablets containing penthienate bromide and mephobarbital; formerly marketed by Winthrop Laboratories, 90 Park Ave., New York, NY 10016.

NDA 12-741; Nactisol Tablets containing poldine methylsulfate and sodium butabarbital; formerly marketed by McNeil Laboratories Inc., Camp Hill Rd., Fort Washington, PA 19034.

NDA 6-471; that part of the NDA pertaining to Profenil Phenobarbital Tablets containing alverine citrate and phenobarbital; Chemical Management Services, Division of Chemetron Corp., 111 E. Wacker Dr., Chicago, IL 60601.

NDA 8-492; that part of the NDA pertaining to Antrenyl-Phenobarbital Tablets containing oxyphenonium bromide and phenobarbital; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 566 Morris Ave., Summit, NJ 07901.

NDA 8-499; that part of the NDA pertaining to Tral with Phenobarbital Tablets containing hexocyclium methylsulfate and phenobarbital; Abbott Laboratories, 14th and Sheridan Rd., N. Chicago, IL 60064.

NDA 8-942; that part of the NDA pertaining to Pamine PB Tablets containing methscopolamine bromide and phenobarbital; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

NDA 6-098; that part of the NDA pertaining to Trocinat with Phenobarbital Tablets containing thiphenamil hydrochloride and phenobarbital; formerly marketed by William P. Poythress & Co.

#### DESI 4681

NDA 8-829; Prantal with Phenobarbital Tablets containing diphenamil methylsulfate and phenobarbital; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.

#### DESI 10837

NDA 12-070; Daritran Tablets containing oxyphenycyclimine hydrochloride and meprobamate; formerly marketed by Pfizer Laboratories, Division Pfizer Inc., 235 E. 42d St., New York, NY 10017.

#### DESI 3265

NDA 5-695; that part of the NDA pertaining to Profenil Tablets containing alverine citrate; Chemical Management Services, Division of Chemetron Corp.

ANDA 80-634; Spacolin Tablets containing alverine citrate; Philips Roxane Laboratories, Inc., 330 Oak St., Columbus, OH 43216.

Other drug products named in the August 19, 1977, notice are not affected by this action. A notice published

in the FEDERAL REGISTER of June 20, 1978 (43 FR 26489), rescinded the August 19, 1977, notice insofar as it pertained to them.

Any drug product that is identical, related, or similar to a drug product named above and is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of the new drug applications (or as indicated above, those parts of the applications providing for the drug products listed) and all amendments and supplements thereto, is withdrawn effective April 9, 1979.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: March 22, 1979.

J. RICHARD CROUT,  
Director, Bureau of Drugs.  
(FR Doc. 79-9268 Filed 3-29-79; 8:45 am)

[4110-03-M]

[Docket No. 79N-0011]

#### CHLORTETRACYCLINE SOLUBLE TABLETS FOR ANIMAL USE

Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the effective indications for which chlortetracycline soluble tablets for animal use may be marketed and offers an opportunity for hearing on indications lacking substantial evidence of effectiveness.

DATES: Written requests for hearing, comments in response to this notice, and supplements to new animal drug

applications (NADA's) must be filed by April 30, 1979.

ADDRESSES: Written requests for hearing and comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; supplements to NADA's to the Associate Director for Scientific Evaluation, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

#### FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

#### SUPPLEMENTARY INFORMATION:

##### I. THE DRUG

Name. Chlortetracycline Soluble Tablets.

Approval. NADA 55-039; Aureomycin Soluble Oblets (contains 500 milligrams chlortetracycline), American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.

##### II. CONDITIONS OF USE

Chlortetracycline soluble tablets are labeled for the following conditions of use:

1. Calves—prevention of bacterial scours; treatment of bacterial scours, pneumonia, and shipping fever.
2. Swine—prevention of bacterial scours; treatment of bacterial scours, pneumonia, and shipping fever.
3. Cows—prevention of infections of the uterus.
4. Ewes—prevention of infections of the uterus.
5. Sows—prevention of infections of the uterus.
6. Poultry—chronic respiratory disease (CRD or air sac disease), infectious sinusitis, blue comb (mud fever or nonspecific enteritis), hexamitiasis, synovitis; suppression of intercurrent or secondary infections of the above diseases during periods of stress, such as vaccination, high temperatures, or moving; stimulation of feed intake; starting chicks or poults—for reduction of early mortality from the above diseases.

##### III. BACKGROUND

In the FEDERAL REGISTER of August 6, 1970 (35 FR 12563, DESI 0016), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration (FDA) and the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group, regarding chlortetracycline oblets and tablets.

The NAS/NRC evaluated Aureomycin Soluble Oblets as probably effective for the treatment of cow, calf, ewe, sow, swine, and poultry diseases caused by pathogens sensitive to chlortetracycline or chlortetracycline hydrochloride.

The NAS/NRC states:

1. Claims made regarding "for prevention of" or "to prevent" should be replaced with the following: "as an aid in the control of" or "to aid in the control of."

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease claim cannot be so qualified the claim must be dropped.

3. Instructions are inadequate for lay use.

4. Instructions for intrauterine use are incomplete.

5. The manufacturer must provide evidence that the oblet and tablet disintegrates in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

6. Information is needed from the manufacturer of a product to be inserted into the uterus with respect to: (a) the degree of disintegration within the uterus; (b) the presence of hazardous ingredients that may cause severe irritation, ulceration, perforation, or necrosis; and (c) the chemical compatibility of the vehicle and active agent or agents.

The FDA agreed with the Academy's evaluation and recommendations and concluded such articles were new animal drugs; 6 months were provided in which to submit adequate documentation in support of the labeling used.

##### IV. DATA SUBMITTED

American Cyanamid submitted data to establish the safe and effective use of chlortetracycline soluble tablets for the control of fowl cholera in chickens caused by *Pasteurella multocida* susceptible to chlortetracycline. The data generated by American Cyanamid are proprietary and this use is limited to its NADA. American Cyanamid has not submitted any data to establish the safety and effectiveness for any of the claims reviewed by NAS/NRC.

##### V. EFFECTIVE CONDITIONS OF USE

The Director of the Bureau of Veterinary Medicine (Director) has reviewed the NAS/NRC report for Aureomycin Soluble Oblets (chlortetracycline soluble tablets) and the NAS/NRC recommended dosage for chlortetracycline in calves and swine and concludes that chlortetracycline soluble tablets are effective for the following NAS/NRC reviewed conditions of use:

1. Calves:
  - a. *Indications for use.* It is used for the treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia associated with *Pasteurella spp.*, *Klebsiella spp.*, and *Hemophilus spp.*
  - b. *Amount.* Administer 500 milligrams for each 100 pounds of body

weight every 12 hours daily for 3 to 5 days.

c. *Limitations.* If no improvement is noted after 3 days of treatment, consult a veterinarian; administer by placing well back on the tongue by hand or with a balling gun, or crushed and dissolved in milk or water for drenching or bucket feeding; do not use for more than 5 days.

##### 2. Swine:

a. *Indications for use.* It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *E. coli* and bacterial pneumonia associated with *Pasteurella spp.*, *Hemophilus spp.*, and *Klebsiella spp.*

b. *Amount.* Use in drinking water a 1 gram per gallon to provide approximately 10 milligrams per pound of body weight daily.

c. *Limitations.* Prepare a fresh solution twice daily, as sole source of chlortetracycline; administer for not more than 5 days.

Additionally, the Director has reviewed the Academy's report and the published data (Refs. 1 through 11) regarding the use of chlortetracycline soluble tablets in poultry and concludes they are effective for the following NAS/NRC reviewed conditions of use:

1. Chlortetracycline hydrochloride may be used in the drinking water of chickens at 200 to 400 milligrams per gallon when labeled for use as an aid in the control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

2. Chlortetracycline hydrochloride may be used in the drinking water of chickens at 400 to 800 milligrams per gallon when labeled for use as an aid in the control of chronic respiratory disease (CRD) or air sac infection caused by *M. gallisepticum* and *E. coli* susceptible to chlortetracycline.

3. Chlortetracycline hydrochloride may be used in the drinking water of turkeys at 400 milligrams per gallon when labeled as an aid in the control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

4. Chlortetracycline hydrochloride may be used in the drinking water of growing turkeys at 1000 milligrams per gallon when labeled for use as an aid in the control of blue comb (transmissible enteritis) complicated by organisms susceptible to chlortetracycline.

In addition to the above requirements, chlortetracycline preparations for use in the drinking water of chickens and turkeys must be labeled with directions for use and a warning statement as follows:

1. *Directions for Use—Chickens and Turkeys:* Administer for 7 to 14 days. Medicate continuously at the first clinical signs of disease. The dosage ranges permitted provide for different levels based on the severity of



the infection. Consult a poultry diagnostic laboratory or a poultry pathologist to determine the diagnosis and advice regarding the optimal level of the drug where ranges are permitted. The desired oral dose per unit of animal weight per day must be stated as a guide to effective use in drinking water.

2. Warning: Use as the sole source of chlortetracycline. Not to be used for more than 14 consecutive days. Do not use more than 200 milligrams per gallon in laying chickens. For growing turkeys only. Caution: Prepare a fresh solution (the blank to be filled in by the time period for which stability data are available).

This evaluation is concerned only with the effectiveness and safety of these drugs to the animal to which they are administered. It does not take into account the safety of food products derived from drug-treated animals. Nothing in this notice prevents further proceedings on questions of safety of these drugs or their metabolites as residues in food products derived from treated animals.

#### VI. CONDITIONS LACKING SUBSTANTIAL EVIDENCE OF EFFECTIVENESS

The Director finds that chlortetracycline soluble tablets have not been shown to be effective for certain uses for which they were evaluated as less than effective by NAS/NRC. These include (1) disease prevention claims in poultry, (2) treatment claims in poultry, (3) bluecomb in chickens, (4) sinusitis in turkeys, (5) hexamitiasis in turkeys, (6) prevention of bacterial scours in swine and calves, and (7) prevention of infection in the uterus of cows, ewes, and sows. No data to support these uses have been submitted.

#### VII. MARKETING

American Cyanamid may continue to market Aureomycin Soluble Oblets (chlortetracycline soluble tablets) provided that it, on or before April 30, 1979, submits—

(1) A supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice; and

(2) A supplement to provide updating information with respect to items 4 (components and composition) and 5 (manufacturing methods, facilities, and controls) of the new animal drug application FD Form 356V (see § 514.1(b) (21 CFR 514.1(b))).

Persons wishing to market chlortetracycline soluble tablets that are not now the subject of an approved NADA must submit an application pursuant to § 514.1. Applications providing for the NAS/NRC reviewed conditions of use found to be effective in this notice need not include data to establish effectiveness but may be required to include bioequivalency and safety data. Approval of the NADA must be obtained before marketing the drug. The marketing of a new animal drug

before approval of an NADA will cause the product, and the persons who caused the product to be marketed, to be subject to regulatory action.

New animal drug applications that comply with the requirements set forth in this notice and meet all the other requirements of section 512(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)) will be approved, and appropriate notice will be published in the FEDERAL REGISTER under section 512(i) of the act identifying the approval.

#### VIII. NOTICE OF OPPORTUNITY FOR HEARING

Section 512 of the act requires that a new animal drug have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, and it imposes a precise standard for demonstrating effectiveness. Effectiveness must be established by substantial evidence based upon adequate and well-controlled investigations, as provided in § 514.1(b)(8)(ii).

The Director is unaware of any adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512 of the act and § 514.1(b)(8)(ii) demonstrating the effectiveness of chlortetracycline soluble tablets for their labeled indications of use other than the effective claims as stated in this notice.

Therefore, notice is given to American Cyanamid and to all other interested persons, that the Director proposes to issue an order under section 512(e) of act and under section 108(b) of Pub. L. 90-399 withdrawing approval of Aureomycin Soluble Oblets, NADA 55-039, unless the application is supplemented to revise its claims to those deemed effective in this notice. The ground for the proposed withdrawal is that new information about the drug, provided by the NAS/NRC review, evaluated together with the evidence available at the time of its approval, shows there is a lack of substantial evidence that the drug meets the requirements of section 512 of the act and the regulations promulgated thereunder. An order withdrawing approval will not issue if the NADA is supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

This notice of opportunity for hearing encompasses, in addition to the ground for the proposed withdrawal of the approvals, all issues relating to the legal status of Aureomycin Soluble Oblets, e.g., any contention that the product is not a new animal drug within the meaning of section 201(w) of the act (21 U.S.C. 321(w)).

In accordance with the provisions of section 512 of the act, section 108 of Pub. L. 90-399, and the regulations promulgated thereunder (21 CFR Part 514), American Cyanamid is hereby given an opportunity for hearing to show why approval of Aureomycin Soluble Oblets, NADA 55-039, with claims other than those identified as effective in this notice, should not be withdrawn and an opportunity to raise, for administrative determination, all issues related to the legal status of the drug. Any other interested person may also submit comments on this notice within the time and under the requirements specified in this notice.

American Cyanamid may file on or before April 30, 1979, a written appearance electing whether or not to avail itself of the opportunity for hearing. The written appearance shall give the reason why the approval should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data in support of the opposition to the Director's proposal.

The analysis shall include all protocols and underlying raw data and shall be submitted in accordance with the requirements of § 314.200 (c)(2) and (d) (21 CFR 314.200 (c)(2) and (d)), which by reference are made applicable to this notice.

The failure of American Cyanamid to file a timely written appearance and request for hearing as required by § 514.200 (21 CFR 514.200) constitutes an election not to avail itself of the opportunity for hearing concerning the action proposed and a waiver of any contentions concerning the legal status of the drug, and the Director will summarily enter a final order withdrawing the approval of NADA 55-039. Aureomycin Soluble Oblets may not thereafter lawfully be marketed.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If a hearing is requested and justified by American Cyanamid's response to this notice of opportunity for hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable. If it clearly appears from the data submitted and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of Aureomycin Soluble Oblets thereunder (if, for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified),

the Commissioner will enter summary judgment against American Cyanamid, making findings and conclusions, and denying a hearing.

A written appearance requesting a hearing and comments pursuant to this opportunity for hearing shall be filed, on or before April 30, 1979, in five copies with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. All submissions, except for data and information prohibited from public disclosure under section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, 9 a.m. to 4 p.m., Monday through Friday.

Submissions of new animal drug applications or supplemental new animal drug applications in accord with the NAS/NRC reviewed claims deemed effective by this notice shall be submitted to the Division of New Animal Drugs (HFV-100), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

#### IX. REFERENCES

The following references have been placed on file in the office of the Hearing Clerk, FDA (address above) and may be seen in that office from 9 a.m. to 4 p.m., Monday through Friday:

- (1) "Diseases of Poultry," 6th Ed., Edited by N. O. Olson, Iowa State University Press, pp. 328-329, 1972.
- (2) Snoeyenbos, G. H., H. I. Basch, and M. Sevolan, "Infectious Synovitis: II. Drug Prophylaxis and Therapy," *Avian Diseases*, 2:514-530, 1958.
- (3) Olson, N. O., D. C. Shelton, J. K. Bletner, and C. E. Weakley, "Infectious Synovitis Control. II. A Comparison of Levels of Antibiotics," *American Journal of Veterinary Research*, 18:200-203, 1957.
- (4) Cover, M. S., W. J. Benton, L. M. Greene, and F. D'Armi, "Potentiation of Tetracycline Antibiotics with Terephthalic Acid and Low Dietary Calcium," *Avian Diseases*, 3:354-361, 1959.
- (5) "Diseases of Poultry," 6th Ed., Edited by N. O. Olson, Iowa State University Press, p. 750, 1972.
- (6) Pomeroy, B. S. and J. M. Selburth, "Bluecomb Disease of Turkeys," *Proceedings of Annual Meeting of the American Veterinary Medical Association*, pp. 321-328, 1953.
- (7) Peterson, E. H. and T. A. Hymas, "Antibiotics in the Treatment of an Unfamiliar Turkey Disease," *Poultry Science*, 30:466-468, 1951.
- (8) Olesluk, O. M., H. Van Roekel, and N. K. Chandiramini, "Antibiotic Medication of Chickens Experimentally Infected with Mycoplasma Gallisepticum and Escherichia Coli," *Avian Diseases*, 8:135-152, 1964.
- (9) White-Stevens, R. and G. H. Ziebel, "The Effect of Chlortetracycline (Aureomycin) on the Growth Efficiency of Broilers in the Presence of Chronic Respiratory Disease," *Poultry Science*, 33:1164-1174, 1954.

(10) Scott, M. L., M. C. Nesheim, and R. J. Young, "Nutrition of the Chicken," 1st Ed., Scott, pp. 332-333, 1969.

(11) "The Merck Poultry Serviceman's Manual," 2d Ed., New York, pp. 189-197, 1967.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b)) and the Animal Drug Amendments of 1968 (sec. 108(b), 82 Stat. 353) and under authority delegated to the Commissioner (21 CFR 5.1) and re-delegated to the Director (21 CFR 5.84).

Dated: March 21, 1979.

LESTER M. CRAWFORD,  
Director, Bureau of  
Veterinary Medicine.

(FR Doc. 79-9266 Filed 3-29-79; 8:45 am)

#### [4110-03-M]

##### DIAMOND LABORATORIES, INC.

Nemanthic Capsules (n-Butyl Chloride and Toluene); Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of Nemanthic Capsules for treatment of dogs and cats for ascarid and hookworm infections. The sponsor, Diamond Laboratories, Inc., requested this action.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Louis L. Nangeroni, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Diamond Laboratories, Inc., c/o Syntex Corp., 3401 Hillview Ave., Palo Alto, CA 94304, is sponsor of NADA 14-352V, which provides for use of Nemanthic Capsules for treatment of dogs and cats for ascarid and hookworm infections. The application was originally approved June 7, 1965. By letter of January 3, 1977, the firm requested that approval of the NADA be withdrawn because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and re-delegated to the Director of the Bureau of Veterinary Medicine (21

CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-352V and all supplements for Nemanthic Capsules is hereby withdrawn, effective March 30, 1979.

Dated: March 21, 1979.

LESTER M. CRAWFORD,  
Director, Bureau of  
Veterinary Medicine.

(FR Doc. 79-9269 Filed 3-29-79; 8:45 am)

#### [4110-03-M]

##### DIAMOND LABORATORIES, INC.

Tetra-D Soluble Powder Concentrate, Tetra-D Soluble Powder; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine withdraws approval of a new animal drug application (NADA) providing for the use of Tetra-D Soluble Powder Concentrate and Tetra-D Soluble Powder (containing tetracycline) for administration in the drinking water of animals. The sponsor, Diamond Laboratories, Inc., requested this action.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Diamond Laboratories, Inc., P.O. Box 863, Des Moines, IA 50304, is sponsor of NADA 65-272, which provides for the use of tetracycline-soluble powder in the drinking water of animals. By letter of October 19, 1978, the agency requested submission of additional information concerning the application. In response by letter of November 17, 1978, the firm indicated that it is no longer marketing the drug under the subject application and requested that the NADA be withdrawn.

This application was the subject of an evaluation by the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group, published in the FEDERAL REGISTER of July 8, 1970 (35 FR 10966). The following additional drugs included in the publication were manufactured by Diamond Laboratories, Inc., on the basis of distributor supplements covered by the application being withdrawn by this notice. There-



fore, approval of the following products is also deemed to have been withdrawn by this notice.

(1) Tetrazone Soluble Powder Concentrate, Poultry Formula; contains 25.6 grams (g) of tetracycline hydrochloride per 3-ounce packet; by Myzon Laboratories, Kansas City, KS 66110.

(2) Tetrazone Soluble Powder Tetracycline Hydrochloride; each 6.4-ounce packet contains 10 g of tetracycline hydrochloride; by Myzon Laboratories, Inc.

(3) Tetrazone Soluble Powder Concentrate; contains 150 g of tetracycline hydrochloride per pound; by Myzon Laboratories, Inc.

(4) Myzon Tetrazone Soluble Powder Concentrate; contains 40 g of tetracycline hydrochloride (150 g per pound) per 4.27-ounce; by Myzon Laboratories, Inc.

(5) Tetracycline Hydrochloride Soluble Powder; each 6.4-ounce packet contains 10 g of tetracycline hydrochloride; by Southwestern Laboratories, Inc., Wichita, KS 67201.

(6) Tetracycline Hydrochloride Soluble Powder; each 6.4-ounce packet contains 10 g of tetracycline hydrochloride; by Trans-World Laboratories, Inc., Kansas City, KS 66110.

(7) Tetracycline Hydrochloride "136"; contains 25.6 g of tetracycline hydrochloride per 3-ounce packet; by Trans-World Laboratories, Inc.

(8) Vetormycin "25" Soluble Powder; contains 25 g of tetracycline hydrochloride activity per pound; by Veterinary Corporation of America, Summit, NJ 07901.

(9) Vetormycin Soluble Powder; contains 102.4 g of tetracycline hydrochloride activity per pound; by Veterinary Corporation of America.

(10) Tetracycline Hydrochloride Soluble Powder; each 6.4-ounce packet contains 10 g of tetracycline hydrochloride; by Bio-Laboratories, Inc., Kansas City, KS 66110.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with 4.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 65-272 and all supplements thereto for Tetra-D Soluble Powder Concentrate and Tetra-D Soluble Powder is hereby withdrawn, effective March 30, 1979.

Dated: March 21, 1979.

LESTER M. CRAWFORD,  
Director, Bureau of  
Veterinary Medicine.

(FR Doc. 79-9270 Filed 3-29-79; 8:45 am)

## [4110-03-M]

[Docket No. 78D-0428]

**GUIDELINE DESCRIBING DECISIONMAKING CRITERIA USED BY THE BUREAU OF DRUGS WHEN A MEMBER OF A CLASS OF DRUGS USED IN HUMANS IS DETERMINED TO BE A KNOWN OR POSSIBLE CARCINOGEN IN HUMANS OR ANIMALS**

**Availability of Draft Guideline**

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the availability of a draft guideline describing the decisionmaking criteria to be used by scientists and other health professionals in the Bureau of Drugs when a member of a class of drugs used in humans is identified as a known or possible carcinogen in humans or animals. The guideline is being made available for public comment to provide the agency with views to be considered for incorporation into the final published guideline.

DATE: Comments by June 28, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Marion J. Finkel, Bureau of Drugs (HFD-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4330.

**SUPPLEMENTARY INFORMATION:** The agency is making available a draft guideline prepared by the Bureau of Drugs that describes how the Bureau will deal with drug classes used in humans when a member of the class is identified as a known or possible carcinogen in humans or animals. The guideline, entitled "Guideline Describing Decision Making Criteria When a Member of a Drug Class is Determined to be a Known or Possible Carcinogen in Humans or Animals," would set forth information on the process Bureau scientists will use in deciding whether to request drug company sponsors or investigators conducting independent research to discontinue clinical trials or, in the case of a marketed drug, whether to suspend marketing of the drug. The guideline would also prescribe Bureau conduct regarding drugs that are chemically or pharmacologically related to a drug identified as a known or possible carcinogen.

This draft guideline is being made available for public comment before being issued by the Bureau as its formal position. If, following the receipt of comments, the Bureau concludes that the guideline reflects acceptable procedures for decisionmaking with respect to these drugs, the guideline will be formalized and made available under § 10.90(b) of agency regulations (21 CFR 10.90(b)). That section provides for use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline is insured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures or standards even though they are not provided for in the guideline. A person who chooses to do so may discuss the matter further with the agency to prevent expenditure of money and effort for work that the agency may later determine to be unacceptable.

However, in unusual situations involving an immediate and significant danger to health, the agency may, under § 10.90(b)(3), take appropriate civil enforcement action contrary to a guideline issued under § 10.90(b). This action may be taken before amending or revoking a guideline as provided in § 10.90(b)(5).

The draft guideline is available for public examination in the office of the Hearing Clerk. Written requests for single copies may be submitted to Marion J. Finkel, Associate Director for New Drug Evaluation (HFD-100), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Interested persons may, on or before June 28, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this draft guideline. Comments should be in four copies (except that individuals may submit single copies) identified with the Hearing Clerk docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday. All comments received shall be considered in developing the final guideline.

Dated: March 20, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Regulatory Affairs.

(FR Doc. 79-9405 Filed 3-29-79; 8:45 am)

## [4110-03-M]

[Docket No. 79F-0041]

ICI AMERICAS INC.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: ICI Americas Inc. has filed a petition proposing that the food additive regulations be amended to provide for the use of 9,10-anthraquinone as a pulping aid in the manufacture of paper and paperboard for food-contact use.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3414) has been filed by ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* be amended to provide for the use of 9,10-anthraquinone as a catalyst in the alkaline pulping process of lignocellulosic materials.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report and the environmental assessment report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 21, 1979.

ROBERT M. SCHAFFNER,  
Director, Bureau of Foods.  
(FR Doc. 79-9406 Filed 3-29-79; 8:45 am)

## [4110-03-M]

[Docket No. 78F-0141]

MARSHALL MINERALS, INC.

Order Denying Petition For Food Additive Regulation on Gentian Violet

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The agency is denying a petition proposing to establish a regulation to permit the safe use of gentian violet. Insufficient data are available to evaluate the safety of gentian violet under the conditions of use proposed in the petition as filed. The environmental impact analysis report as submitted is incomplete. Furthermore, submitted data do not support the proposed antifungal claim for gentian violet in feed. Finally, adequate stability data have not been submitted.

DATE: Objections by April 30, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

**SUPPLEMENTARY INFORMATION:** A petition (MF-3703) was submitted by Marshall Minerals, Inc., P.O. Box 506, Bainbridge, GA 31717, proposing that Part 573 of the food additive regulations (21 CFR Part 573) be amended to provide for the safe use of 1 pound of a 1.60-percent gentian violet premix per ton of poultry feed as an aid in controlling fungus and mold growth.

A notice of filing of the petition was published in the FEDERAL REGISTER of May 19, 1978 (43 FR 21727). The notice stated that the petition had been found inadequate for filing under § 571.1 (21 CFR 571.1). However, in order to conform with a judgment entered by the United States District Court for the Middle District of Georgia, in a proceeding brought by Marshall Minerals, the petition was deemed filed and the notice was published. The notice further stated that the environmental impact analysis report submitted by the petitioner under § 25.1(b)(11) (21 CFR 25.1(b)(11)) had been found incomplete because of the lack of specific data supporting the safety of gentian violet and the lack of specific details concerning the blending process.

In a letter dated May 8, 1978, FDA advised Marshall Minerals that the petition was deemed filed pursuant to the decision of the District Court (Ref. 1) and discussed deficiencies in the submitted data. On July 7, 1978, Marshall Minerals by its counsel submitted data purporting to remedy some of the deficiencies raised by FDA in its May 8 letter (Ref. 2). After an extensive review of this supplemental submission, FDA, in a letter dated September 19, 1978, explained in detail

why the newly submitted information did not support approval of the petition (Ref. 3). In that letter FDA also reiterated the serious inadequacies in all the data submitted by Marshall Minerals. The letter constituted a final determination on the merits of all the submitted data that the petition does not support a food additive regulation. Accordingly, this order is published to give notice of and the reasons for this determination.

**A. THE SAFETY OF GENTIAN VIOLET AS AN ADDITIVE TO ANIMAL FEED HAS NOT BEEN ESTABLISHED**

In support of the safety of its product, Marshall Minerals submitted the data in References 4 through 9.

References 4, 5, and 8 are short-term studies which indicate but do not define the toxicity of gentian violet.

Cross, et al., (Ref. 4) investigated "Dye-Gen" mold inhibitor as an approved premix containing gentian violet for safety to breeder chickens. There was no significant difference in feed consumption per dozen eggs, in hatchability per dozen eggs, or in average gain in body weight per 28-day period between the controls and gentian violet treated birds at the administered unit of 20.625 parts per million (ppm) of gentian violet. However, egg production (in dozens) per hen, per the 28-day period, was significantly ( $p < 0.05$ ) reduced at 20.625 ppm.

The Southern Research Institute (Ref. 5) determined that the LD<sub>50</sub> in chickens (the lethal dose of a compound in 50 percent of the treated animals), of gentian violet in 10 percent ethanol aqueous solution, was greater than 32.5 milligrams per kilogram (mg/kg) of body weight. The LD<sub>50</sub> was less than 65 mg/kg of body weight. In that study 100 percent mortality resulted within 48 to 72 hours in chickens given a single oral dose of gentian violet at 65 mg/kg while 40 percent died within 24 to 72 hours at 32.5 mg/kg of body weight.

The study by Cutlip and Monlux (Ref. 8) confirmed previous observations that crystal violet can cause fatal pulmonary alterations in dogs. These changes were not specific for crystal violet but also occurred with methyl violet. Accordingly, the authors concluded that: "Gentian violet would probably produce a similar response . . . ."

Reference 9 is a report which was published in 1913. Observations in that report concern the intravenous injection of gentian violet to rabbits and dogs. No meaningful information is presented in this study, and recent information either contradicts its conclusions or raises new toxicity questions (Refs. 5, 8, 10, 11, 12, 15, 26 through 33, 36, 37, and 38).



References 4, 5, 8, and 9 also provide no information useful in interpreting the demonstrated carcinogenic potential of gentian violet. The petitioner has submitted no information addressing the potential carcinogenicity of gentian violet.

Although there are no published studies to date that demonstrate that gentian violet causes cancer when ingested, unpublished studies conducted by Fitzhugh in 1949 indicate that long-term feeding of gentian violet to rats in followed by the appearance of neoplastic nodules and hyperplastic foci in the liver, sometime coexistent with hepatocellular carcinoma suggesting that the carcinoma may have been induced by gentian violet (Refs. 12, 12a and b).

Additional concerns regarding the carcinogenicity of gentian violet arise from its chemical structure. Crystal violet, a main component of gentian violet, belongs to a class of dyes related by molecular structure, which can be generally referred to as aminophenylmethanes. A few of these are known animal carcinogens, and two, auramine and magenta, have been implicated as human carcinogens as a result of observations of human exposures in the dye industry (Refs. 27, 28, and 29).

Further information regarding the potential carcinogenicity of gentian violet is found in a lecture given at Yale University in 1939 on studies with 50 compounds. Kinoshita claimed that hexamethyltri-aminotriphenylmethane, a reduced form of crystal violet, caused gastric papillomas and slight adenomatous proliferation in the liver when given orally to rats over a period of 300 days (Ref. 30). No dose or other experimental details were given.

Gentian violet is also known to produce various chromosomal anomalies in cultured mammalian cells (Refs. 10 and 26). It is also capable of inducing damage to DNA as is apparent from the effect of DNA repair on survival in *E. Coli* (Ref. 11). On the other hand, attempts to induce point mutations in *Salmonella typhimurium* with gentian violet have been unsuccessful (Refs. 26 and 39). Similarly, gentian violet does not produce apparent genetic damage to chick embryos of in an in vivo system involving the assay of mouse bone marrow cells (Ref. 26).

Positive correlations between the ability of a substance to produce genetic damage and initiate neoplasia have been reported. The most successful correlations with carcinogenic activity have been carried out using data from point mutation assays in bacteria. Gentian violet, as seen, appears to be negative in these assays. However, the ability to produce chromosome anomalies and induce DNA repair, are two phenomena inducible by gentian

violet treatment for which high positive correlations with carcinogenicity have also been claimed.

In the absence of carefully controlled chronic toxicity studies properly designed to investigate the toxicological and oncogenic effect of gentian violet, Marshall Minerals has not established that the proposed use of gentian violet would be safe insofar as human safety is concerned.

The submitted residue data are also inadequate (Refs. 6 and 7). The data are identical to the data submitted to FDA by Naremc, Inc., Springfield, MO, in 1974. The sensitivity of the methods used in the submitted residue data is claimed to be 0.2 ppm. The results of radiotracer studies more sensitive than the spectrophotometric technique employed in the submitted residue study have demonstrated that gentian violet or its metabolites may be present in the edible parts of chicken tissue at levels as high as 50 parts per billion (ppb) (See, e.g., Ref. 13). As discussed above, the petitioner has not provided data constituting an adequate toxicity base upon which the safety of residues of gentian violet known to be present in edible animal tissues can be evaluated.

Additionally, the residue data submitted contain no information on the total residue (i.e., the level of gentian violet and its metabolites) of gentian violet that may remain in the edible parts of animal tissue. Also, the residue studies submitted were not run on the proposed product, but rather were run 3 years before the petitioner even began to manufacture a gentian violet product. The product tested was GV-11, a product manufactured by Naremc, Inc. Accordingly, even if this study were of the requisite sensitivity, data would have to have been submitted demonstrating the equivalence of the proposed product and GV-11.

#### B. THE EFFECTIVENESS OF GENTIAN VIOLET IN INHIBITING THE GROWTH OF MOLD IN ANIMAL FEED HAS NOT BEEN ESTABLISHED

In support of its claim that gentian violet is a mold inhibitor in animal feed, Marshall Minerals submitted the data in References 14 through 23.

The submitted data show that, in laboratory nutrient systems for the artificial cultivation of fungi, gentian violet in solution has an inhibitory effect on fungal growth. These data, however, fail for two reasons to support the claim that gentian violet inhibits the growth of fungi when used as proposed in animal feed. First, the proposed product does not contain gentian violet solution but rather gentian violet in crystalline form. The inhibitory effect of gentian violet in crystalline form has not been demonstrated. Second, the proposed product

is used in animal feed, not in laboratory nutrient systems. The data submitted do not demonstrate that gentian violet when used as proposed by the petitioner is effective in inhibiting fungal growth in animal feed.

In its July 9, 1978 letter, Marshall Minerals argued that the Somporn study cures the two deficiencies noted above. In fact, Somporn demonstrated that crystal violet (gentian violet is a combination of both crystal and methyl violet) had no inhibitory effect on aspergilli mold present in feed when crystal violet was added at 150 ppm—a level nearly 10 times that proposed in the food additive petition and claimed in that petition to be effective. Somporn also tested the effects of crystal violet in crystalline form on other fungi in feed and found inhibition of fungi not only in the treated groups but simultaneously in the control groups. Because fungi were eliminated in the control groups as well as in the treated groups, the Somporn study does not tend to show that fungi are inhibited by crystal violet. Instead, it contradicts that possibility for it is possible that the factor that eliminated the fungi in the control groups, which could not have been crystal violet, was the same factor that eliminated them in the treated groups.

Furthermore, data (not submitted by Marshall Minerals) from experiments designed to measure the antifungal effectiveness of crystalline gentian violet show that gentian violet has no inhibitory effect on fungal growth when it is added to feed (Refs. 24 and 25).

Among the information submitted by Marshall Minerals in its July 7, 1978 letter are statements from G. C. Kingsland regarding his research with gentian violet (Ref. 17). These statements do not overcome the deficiency in Dr. Kingsland's experiments, i.e., the failure to maintain proper controls. The control feed samples used in Kingsland's study were not sterilized and in all probability contained many different types of fungi. Accordingly, the various fungi contained in this feed should have been isolated and identified before and after inoculation and after the incubation period. These deficiencies preclude the use of Dr. Kingsland's study to make an accurate and reliable assessment of the effectiveness of gentian violet in inhibiting the growth of specific organisms.

Dr. Kingsland's statements raise additional questions concerning his work. He states that the organisms used to inoculate the feed will not grow at the 8.5 percent moisture concentration used in his study; yet in his study he used the 8.5 percent moisture concentration. Consequently, the reduction in the number of viable organisms may have been due to this low

moisture level and not to the presence of gentian violet.

#### C. THE REQUIREMENTS OF 21 CFR 571.1 REGARDING THE SUBMISSION OF STABILITY DATA HAVE NOT BEEN MET

The first area of deficiency in the stability data is the failure of Marshall Minerals to submit data to verify the chemical identity and composition of the gentian violet, the food additive, proposed for use. This deficiency could have been rectified by a submission describing the components and composition of the gentian violet employed, as well as by a submission describing the synthesis of that gentian violet as performed by the proposed supplier, E. I. du Pont de Nemours & Co., Inc. Furthermore, a statement regarding the minimum content and identity of reaction byproducts and other impurities in the proposed gentian violet should have been submitted. Without these data it is impossible to determine whether the active gentian violet is prepared according to a recognized standard, such as U.S.P. XIX gentian violet. Also, a representative batch formula to be followed in the manufacture of the proposed food additive was not submitted.

A second major area of deficiency in the stability data is the failure to provide any information demonstrating that the proposed product in its market container as well as in representative types of feed, including pellets, is stable, i.e., will possess a uniform identity, strength, quality, and purity for a given period of time. Such data should be collected from appropriately designed experiments in which anticipated or reasonably expected environmental conditions of storage are used. These studies should include storage at room temperature as well as at 38° C for at least 180 days for a premix and 90 days for the complete broiler feed. Furthermore, the data collected from these experiments should be analyzed to assess the need for an expiration date for the product. No discussion of an expiration date was provided in the submission.

#### D. MARSHALL MINERALS' ENVIRONMENTAL IMPACT ANALYSIS REPORT (EIAR) IS UNACCEPTABLE

No EIAR can be considered acceptable until all human safety questions concerning gentian violet have been satisfactorily answered. Furthermore, the submitted EIAR does not contain detailed information about the method used to control wastes resulting from manufacturing the proposed gentian violet premix and how these controls meet current local, State, and Federal pollution control requirements (21 CFR 25.1).

#### E. REFERENCES

A copy of each of the following references cited in this notice is on file with the Hearing Clerk (FDA) and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

- Letter from FDA to Marshall Minerals dated May 8, 1978.
- Letter from Marshall Minerals to FDA dated July 7, 1978.
- Letter from FDA to Marshall Minerals dated September 19, 1978.
- Cross, D. L. and B. L. Hughes, "Safety Evaluation of Gentian Violet for Breeder Chicken," Clemson University, 1976.
- Mellet, L. B. and L. H. Schmidt, "Determination of Oral Toxicity of Gentian Violet and GV-11 in Adult Chickens," Southern Research Institute, 1973.
- Mellet, L. B. and J. A. Montgomery, "Analysis of Egg Contents and Egg Shells For Gentian Violet (GV-11) Content," Southern Research Institute, 1974.
- Mellet, L. B. and L. H. Schmidt, "Determination of Gentian Violet Residue Levels in Edible Broiler Tissues After Chronic Feeding of Test Material," Southern Research Institute, 1973.
- Cutlip, R. C. and W. S. Monlux, "Experimental Crystal Violet and Methyl Violet Poisoning in Dogs and Cattle," U.S. Department of Agriculture, Ames, Iowa, 1964.
- Churchman, J. W. and L. F. Herz, "The Toxicity of Gentian Violet and its Fate in The Animal Body," Yale University, 1913.
- Au, W. and T. C. Hsu, "Cytogenetic Toxicity of Gentian Violet and Crystal Violet on Mammalian Cells In Vitro," University of Texas, 1978.
- Rosenkranz, H. S., "Possible Hazard in Use of Gentian Violet," *British Medical Journal*, 18 Sept. 1971, p. 702.
- Fitzhugh, O. G., "Data Regarding Long Term/Chronic Toxicity Testing on Gentian Violet," 1951.
- Memorandum to Dr. Joseph Rodricks (HFF-3), from Director, Division of Pathology (HFF-130), dated 2/1/78, Re: Review of Slides from Fitzhugh Chronic Oral Toxicity Study with Gentian Violet.
- Memorandum to Dr. Joseph Settepani (HFF-104), from Director, Division of Pathology (HFF-130), dated 6/12/78, Re: Review of Pathology Report on Fitzhugh Chronic Toxicity Study of Gentian Violet.
- Cross, D., "Gentian Violet Residues in Tissues of Chickens," Clemson University, 1977.
- Somporn, V., "Efficacy of Fungal Inhibitors as Poultry Feed Additives," Thesis, University of Georgia, 1974.
- Wyatt, R. D. and R. G. Stewart, "Efficacy of Antifungal Compounds in Feeds," University of Georgia, 1977.
- Chen, T. C. and E. J. Day, "Gentian Violet as a Possible Fungal Inhibitor in Poultry Feed: Plate Assays on Its Antifungal Activity," Mississippi State University, 1974.
- Kingsland, G. C. and J. Anderson, "A Study of the Feasibility of the Use of Gentian Violet as a Fungistat for Poultry Feed," Clemson University, 1976.
- Moorehead, P. D. and R. F. Cross, "Prophylaxis of Experimental Moniliasis in Quail. A comparison of Ethylenediamine Dihydrochloride, Benlate, Sodium Propionate, Gentian Violet, and Nystatin," Ohio Agricultural Research and Development Center, 1971.
- Stewart, R. G. and R. D. Wyatt, "Activity of Crystal Violet on *Aspergillus flavus* and *Aspergillus parasiticus* in Liquid Medium," University of Georgia, 1976.
- Procknow, J. J., "Treatment of Opportunistic Fungus Infections," 1962.
- Tolba, M. K. and A. M. Saleh, "Studies on the Mechanism of Fungicidal Action of Crystal Violet on Mycelial Folds of *Fusarium culmorum*," Cairo University, U.A.R., 1925.
- Faber, H. K. and L. B. Dickey, "The Treatment of Thrush with Gentian Violet," American Medical Assn., 1925.
- Stearn, E. W. and A. E. Stearn, "Comparative Inhibiting Effect of Gentian Violet and Mercurochrome on the Growth of Certain Fungi," *The Journal of Laboratory and Clinical Medicine*, 1929.
- Christensen, C. M., "Test with Gentian Violet GV-11 As A Mold Inhibitor in Poultry Feed," 1976.
- Gentry, R. F., "Effect of GV-11 and Dye-Gen on Growth of *Aspergillus flavus*, *Fusarium tricinatum* and *Candida albicans* in Poultry Feed," 1977.
- Au, W., "Further Study of Genetic Toxicity of Gentian Violet," Dept. of Biology, The University of Texas System Cancer Center, M.D. Anderson Hospital Tumor Institute.
- Williams and Bonser, "Induction of Hepatomas in Rats and Mice Following the Administration of Auramine," *British Journal of Cancer*, 16:87, 1962.
- Case and Pearson, "Tumors of the Urinary Bladder in Workmen Engaged in the Manufacture and Use of Certain Dyestuff Intermediates in the British Chemical Industry," *British Journal of Industrial Medicine*, 11:213-216, 1954.
- Arcos, J. C. and M. F. Argus, "Chem. Induction of Cancer, Structural Bases and Biolog. Mech.," Vol. 11 13 (1974), pp. 17-23.
- Kinoshita, Y., *Yale Journal of Biology and Medicine*, 12:287, 1940.
- Norby and Mobacken, "Effect of Triphenylmethane Dyes (Brilliant Green, Crystal Violet, Methyl Violet) on Proliferation in Human Normal Fibroblast-like and Established Epithelial-like Cell Lines," *Acta Dermatovener (Stockholm)*, 52:476-483, 1972.
- Mobacken, et al., "The Effect of Cationic Triphenylmethane Dye (Crystal Violet) on Rabbit Granulation Tissue," *Acta Dermatovener (Stockholm)*, 54:343-347, 1974.
- Mobacken and Zederfeldt, "Influence of a Cationic Triphenylmethane Dye on Granulation Tissue Growth in Vivo," *Acta Dermatovener (Stockholm)*, 53:167-172, 1973.
- Hsu, T. C., "Cytogenetic Assays of Chemical Clastogens Using Mammalian Cells in Culture," *Mutation Research*, 45, 233-247, 1977.
- Slater, E. E., et al., "Rapid Detection of Mutagens + Carcinogens," *Cancer Research*, 31:970, 1971.
- Eriksson and Mobacken, "Microvascular Effects of a Topically Applied Cationic Triphenylmethane Dye (Crystal Violet)," *Acta Dermatovener (Stockholm)*, 57:45-49, 1977.
- Ballantyne, B. and D. W. Swanson, "Ocular Irritation Tests," *Proceedings of the British Pharmacological Society*, 46:577-8, 1972.
- Ballantyne, B., et al., "Eye Damage Caused By Crystal Violet," *Proceedings of the British Pharmacological Society*, 49:181-2, 1973.



39. Sugimara, T. et al., "Overlapping of Carcinogens and Mutagens," *Fundamentals of Cancer Prevention: The Proceedings of the International Symposium Princess Takamatsu Cancer Research Fund*, 6th pp, 191-215, P. Magee and S. Takayama eds., University of Tokyo Press, Tokyo, Japan, 1976

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1)(B), (e), (f), 72 Stat. 1786-1787 (21 U.S.C. 348(c)(1)(B), (e), (f))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), because the data required to establish the safety, antifungal effectiveness, and stability of gentian violet under the conditions of use proposed in the petition as filed are insufficient or nonexistent, and because insufficient information concerning the environmental impact of gentian violet was provided, the petition of Marshall Minerals to establish a regulation to permit the use of the food additive gentian violet as an aid in controlling fungus and mold growth in poultry feed is hereby denied.

Any person who will be adversely affected by the foregoing order of denial may at any time on or before April 30, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the order to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state: failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

**Effective date.** This order of denial shall become effective March 30, 1979.

## NOTICES

Dated: March 22, 1979.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner,  
for Regulatory Affairs.

[FR Doc. 79-9267 Filed 3-29-79; 8:45 am]

[4110-85-M]

Office of the Assistant Secretary for Health

DR. GERALD G. VUREK

Intent to Grant Exclusive Patent License

Pursuant to section 6.3, 45 CFR, Part 6, and 41 CFR 101-4, notice is hereby given of an intent to grant to Dr. Gerald G. Vurek an exclusive license to manufacture, use, and sell an invention of Dr. Vurek entitled "Measurement of Carbon Dioxide," its use limited in scope, however, to measurement of small amounts of carbon dioxide in nanoliters of fluid but not to the measurement of carbon dioxide in human blood samples. A copy of U.S. Patent No. 3,867,097, which issued on the invention on February 18, 1975, may be obtained upon written request submitted to the Patent Counsel of the Department of Health, Education, and Welfare, 5A03 Westwood Building, National Institutes of Health, Bethesda, Maryland 20014.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) patent regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the patent Counsel named hereinabove received in writing any of the following, together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture or sell the invention in the United States is submitted in accordance with 41 CFR 101-4-104-2 and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

Dated: March 23, 1979.

(45 CFR 6.3 and 41 CFR 101-4)

JULIUS B. RICHMOND,  
Assistant Secretary for Health.

[FR Doc. 79-9749 Filed 3-29-79; 8:45 am]

[4110-85-M]

DR. GERALD G. VUREK

Intent to Grant Exclusive Patent License

Pursuant to section 6.3, 45 CFR, Part 6, and 41 CFR 101-4, notice is hereby given of an intent to grant to Dr. Gerald G. Vurek an exclusive license to manufacture, use, and sell an invention of Dr. Vurek entitled "Measurement of Carbon Dioxide," its use limited in scope, however, to measurement of small amounts of carbon dioxide in nanoliters of fluid but not to the measurement of carbon dioxide in human blood samples. A copy of U.S. Patent No. 3,867,097, which issued on the invention on February 18, 1975, may be obtained upon written request submitted to the Patent Counsel of the Department of Health, Education, and Welfare, Westwood Building, Room 5A03, 5333 Westbard Avenue, Bethesda, Maryland 20014.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) patent regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the patent Counsel named hereinabove received in writing any of the following, together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture or sell the invention in the United States is submitted in accordance with 41 CFR 101-4-104-2 and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR 101-4).

Dated: March 23, 1979.

JULIUS B. RICHMOND,  
Assistant Secretary for Health.

[FR Doc. 79-9751 Filed 3-29-79; 8:45 am]

## NOTICES

[4110-07-M]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part S (formerly Part 4) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA). Notice is hereby given that the organization of the Office of Family Assistance published in the *FEDERAL REGISTER* (42 FR 32846-47) of June 28, 1977, and subsequently amended by material which appeared in the *FEDERAL REGISTER* on July 28, 1978, (43 FR 32873-74) is further amended to abolish the Regional Liaison Staff (Sec. SF-10 D.1.) and to establish two additional Division-level components: the Welfare Management Institute and the Division of Liaison and State Operations. The Welfare Management Institute is established to improve public welfare management governmentwide through the transfer of effective management approaches and technology among the State and local agencies administering public welfare systems. The Division of Liaison and State Operations will include the functions previously performed by the Regional Liaison Staff (i.e., providing a central focus for OFA regional activities and concerns) as well as the new function of developing national standards to be employed by OFA regional components in their evaluation of State and local agency program operations. These changes affect Sec. SF-10 and Sec. SF-20 as indicated below:

Sec. SF-10 *Office of Family Assistance* (Organization)

The Office of Family Assistance, under the leadership of the Associate Commissioner for Family Assistance consists of the:

- A. Associate Commissioner for Family Assistance
- B. Deputy Associate Commissioner for Family Assistance
- C. Deputy Associate Commissioner for Family Assistance
- D. Immediate Office of the Associate Commissioner for Family Assistance
- E. The Special Programs Staff
- F. The Division of Policy
- G. The Division of Procedures
- H. The Division of Financial Management
- I. The Division of Management Support
- J. The Division of Planning, Evaluation and Statistical Analysis
- K. Welfare Management Institute
- L. Division of Liaison and State Operations

Sec. SF-20 *Office of Family Assistance* (Functions)

K. *The Welfare Management Institute* (SFM-4)

1. Provides coordinated Federal leadership and assistance to State and local agencies in improving their management and implementation of the AFDC program. Promotes the betterment of public welfare programs governmentwide.

2. Identifies and evaluates innovative and successful management practices and technology employed by State and local agencies administering the AFDC program. Plans and conducts onsite technology transfers from one State locality to another.

3. Publishes periodic newsletters advising States of program, technological and management developments. Operates a welfare management information reference service. Plans and conducts welfare management workshops, conferences and forums to address critical issues and new ideas in welfare management.

L. *Division of Liaison and State Operations* (SFM-5)

1. Provides a national focus for OFA regional office activities, assuring continuous and effective communications between OFA headquarters and regional components; assures that regional concerns and needs are attended to by appropriate headquarters/regional components. Conducts onsite comprehensive appraisals of management/operations of the Offices of the Assistant Regional Commissioners, Family Assistance.

2. Establishes national performance goals for State/local agencies. Develops, issues, evaluates and monitors national program performance standards for measuring the effectiveness of State and local agency program administration. Provides leadership and technical assistance to the regional offices in applying standards in the evaluation of State/local performance.

3. Analyzes quality control findings of the Office of Quality Assurance, Office of Management and Administration to identify areas requiring improvements and corrective actions.

4. Develops national policies and requirements for State/local corrective action plans. Provides leadership to SSA regional offices regarding the development, implementation and monitoring of State/local corrective action plans; evaluates the effectiveness of corrective action activities.

5. Develops national standards and guidelines for State program integrity activities; provides guidance to the SSA Regional Offices in assisting States in the identification and correction of program fraud and abuse.

6. Establishes requirements for submission and review of State plans and amendments, and monitors identifica-

tion of and action on compliance issues.

Dated: March 20, 1979.

FREDERICK M. BOHEN,  
Assistant Secretary for  
Management and Budget.

[FR Doc. 79-9752 Filed 3-29-79; 8:45 am]

[4110-39-M]

National Institute of Education

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP) GRANT COMPETITION

Competition Announcement and Notice of Closing Date For Receipt of Applications

The Director of the National Institute of Education announces a competition for a grant award to conduct a National Assessment of Educational Progress (NAEP) which will assess the performance of children and young adults in the basic skills of reading, mathematics, and communication. This competition is based upon the authority contained in Section 405(k) of the General Education Provisions Act, as amend (20 U.S.C. 1221e(k)). **Closing Date:** June 28, 1979.

In an effort to foster the maximum competition for this award, notices were published in the *FEDERAL REGISTER* on February 20, 1979 (44 FR 10432) and in the *Commerce Business Daily* on March 20, 1979, to provide interested persons and organizations with an opportunity to have their names placed on the mailing list to receive a copy of the program announcement and the award requirements as soon as they are published.

The period of performance for this award will be September 1, 1979 through December 31, 1983. By law, only a "nonprofit education organization", as defined below is eligible to receive this award. An open pre-application conference, will be held at the National Institute of Education at 10:00 a.m. on Wednesday, April 18, 1979, in Room 823, 1200 19th Street, N.W., Washington, D.C., for the purpose of answering questions about this competition. The public is invited to attend.

The formal scope of work and the criteria for judging applications are being issued in the form of a Program Announcement. No formal regulations will be issued for this award. The Program Announcement can be obtained from the NIE contact person specified below. For the convenience of the public the scope of work, the criteria and other relevant information are summarized below.

A. **SCOPE OF WORK:** To carry out the legislative mandate of Section 405(k) the scope of work incorporates



the following major goals for the NAEP:

1. To collect and report, over time, the performance of young Americans in the areas of reading, mathematics and communications;

2. To conduct assessments in other educational subject areas as the national need arises; and

3. To provide the models, methods, and materials developed by a National Assessment to State and local education agencies to assist them in interpreting assessment results.

To achieve these goals over the period of performance for the project, the grantee must carry out four principal activities:

1. Establish an Assessment Policy Committee (APC) in accordance with the specifications and functions in the law, and provide for its staff support.

2. Provide for the smooth transition of materials and activities if the current NAEP contractor is not the grantee.

3. With guidance from the APC, develop detailed plans for the operation of NAEP for the first 16 months of the project period that will:

a. Complete work in progress related to prior-year assessments;

b. Complete data collection in progress related to assessment year 11 (1979-80); and

c. Plan and conduct activities for assessment year 12 (1980-81).

4. Design and conduct the NAEP over the long term through December 31, 1983.

**B. QUALIFYING AND SELECTION CRITERIA:** Applications will be reviewed by a panel of NIE staff and outside experts appointed by the Director of NIE. Technical applications will be evaluated using the factors listed below:

1. **Qualifying Criterion: Transition Issues.** Applications from other than the current NAEP contractor will be judged in terms of the completeness of their response to issues associated with the orderly transfer of materials, records, and tasks from the present contractor. Reviewers will especially look for evidence of the ability to implement the transfer without adversely affecting the activities of the assessment year 11 NAEP historical data.

2. **Selection Criteria:**

a. **Selection Criterion 1: Establishing the Advisory Committee:**

Applicants will be judged on the basis of the:

(1) Clarity and relevance of the specific roles proposed for the APC covering the requirements of the law;

(2) Nature of the procedures for providing the APC with technical and policy planning guidance; and

(3) Procedures by which the APC will assess and consider the information needs of the educational commu-

nity, the policy needs of government at all levels, and information needs of the public which, in turn, may be incorporated into future assessments.

b. **Selection Criterion 2: The First Sixteen Months of Operations (Work pertaining to assessment years 10, 11 and 12):** 15 points Applicants will be judged on the basis of the:

(1) Completeness and reasonableness of plans for assessment year 10; particularly in terms of plans for data analysis and for scoring of the art assessment;

(2) Completeness and reasonableness of plans for assessment year 11; emphasis will be placed on the plans for collecting data for the 13 and 17 year-old student samples;

(3) Procedures to be employed in the conception and design of the year 12 assessment; and

(4) Plans for dissemination and technical assistance.

c. **Selection Criterion 3: Understanding of NAEP and Technical Approach:** Applicants will be judged on the basis of:

(1) Evidence of their understanding of all substantive issues surrounding the conception and operation of NAEP, with particular emphasis on the discussion issues listed in subactivity 4A, of the statement of work, and the nature and quality of their positions regarding these issues;

(2) The completeness and adequacy of plans which describe the "typical assessment." These include procedures for involving the public and educational communities in the planning, objective and item development, access to school districts, schools, and students, and data-collection and analyses;

(3) The quality of the proposed sampling plan (as part of the "typical assessment") will be judged in terms of its ability to yield a sample that—

• Maximizes comparability with prior assessments,

• Minimizes demands on LEAs and SEAs,

• Yields data that are consistent with the proposed analyses plan, and

• Is efficient both in terms of costs and analytic power;

(4) Quality of the proposed strategy and approach for providing technical assistance to SEAs and LEAs and others on the use of NAEP data and procedures, and the dissemination of findings and analyses;

(5) Quality and potential of plans for analyzing NAEP data for meeting the needs of various audiences. Analytical techniques will be examined for their potential to yield interesting and useful analyses (such as trend analyses) given the nature of the data that has been and will be collected; and

(6) Safeguards that would be used to ensure that the assessments does not

lead to the development of federal tests, curricula, or standards.

d. **Selection Criterion 4: Management Plan:** Applications will be judged on the following management related factors:

(1) **Organization Factors:**

(a) Ability to successfully administer large-scale sample-design, item-development, data-processing, and data-analysis projects;

(b) Demonstrated ability to carry out projects, requiring cooperation with State and local education agencies;

(c) The logic, efficiency, and quality of plans for conducting the operational phases of all activities;

(d) Nature of proposed relationships with the APC and contractors;

(e) Procedures to be followed in controlling costs and in controlling the quality of the study and its products;

(f) If appropriate, the reasonableness of plans to use contractors and procedures for overseeing and directing contractor activities;

(g) Quality and nature of proposed data processing and data base management system;

(h) Plans for facilitating a well-documented archived data base to be used for secondary analyses;

(i) Plans for providing access to documented data sets to qualified researchers outside the grantee organization; and

(j) Adequacy of physical facilities for conducting all phases of the projects.

(2) **Staffing Factors:**

(a) The relevance of training and experience of senior and mid-level staff of the grantee and its contractors, if any;

(b) The adequacy of staff resources and support required to conduct all activities associated with the NAEP;

(c) The relevance of the background, experience and role of proposed consultants; and

(d) Plans for involving women and minorities at all staff levels.

**C. APPLICATION AND PROGRAM INFORMATION:** The program announcement includes information on the nature of NAEP, guidelines governing the competition, and instruction on how to apply. Interested persons may obtain a program announcement from: Mr. Joel Anthony, Contracts and Grants Management, Division, STOP 3, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208, Telephone: 202-254-5080.

In order to expedite the handling of written requests, please include a self-addressed mailing label.

**D. DEFINITION OF NONPROFIT EDUCATION ORGANIZATION:** A nonprofit education organization means an agency, institution, association, or corporation or consortia of

such entities, (a) whose net earnings do not benefit and cannot lawfully benefit any private shareholder or entity and (b) which has as one of its announced purposes the engagement in educational activities, such as instruction, research, evaluation, or production and dissemination of educational materials.

**E. ESTIMATED PROGRAM FUNDS AVAILABLE:** This award has a proposed funding level of \$3.9 million for each of the four years beginning January 1980, although nothing in the program announcement or this notice commits the Institute to award a specific amount. Additional funds will be made available for the period September 1 through December 31, 1979.

**F. APPLICATIONS DELIVERED BY HAND:** An application that is hand-delivered must be taken to the NIE Proposal Clearinghouse, Room 813, 1200 19th Street, NW (Brown Building), Washington, D.C. The Proposal Clearinghouse will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications received after 4 p.m. on the closing date, June 28, 1979, will not be accepted.

**G. APPLICATIONS DELIVERED BY MAIL:** An application sent by mail must be addressed to the Proposal Clearinghouse, National Institute of Education, Attention: National Assessment of Educational Progress, Room 813, 1200 19th Street, NW, Washington, D.C. 20208. Applications will be accepted only if they are mailed on or before June 23, 1979 (which is the fifth day prior to the closing date) and the following proof of mailing is provided:

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

**NOTE:**—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered in this competition. The NIE Proposal Clearinghouse is the only Government representative authorized to receive applications under this announcement.

**H. APPLICABLE REGULATIONS:** The Regulations that apply to this competition are the National Institute of Education General Provisions (45 CFR Part 1400-1424), published in the FEDERAL REGISTER on November 4, 1974 (39 FR 38992). When the present-

ly proposed Education Division General Administrative Regulations (EDGAR) are adopted, they will replace NIE's General Provisions and will apply to this grant award, as appropriate.

(Catalog of Federal Domestic Assistance Number 13.950, Education Research and Development.)

Dated: March 28, 1979.

PATRICIA ALBJERG GRAHAM,  
Director,

National Institute of Education.  
(FR Doc. 79-10072 Filed 3-29-79; 11:13 am)

#### [4210-01-M]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

(Docket No. NFD-668; FDAA-573-DR)

#### HAWAII

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Hawaii (FDAA-573-DR), dated March 7, 1979, and related determinations.

DATED: March 7, 1979.

FOR FURTHER INFORMATION CONTACT:

John Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

**NOTICE:** Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on March 7, 1979, the President declared a major disaster as follows:

I have determined that the damage in the State of Hawaii resulting from severe storms and flooding beginning about February 15, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Hawaii.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 14795,

and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Hugh Fowler of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Hawaii to have been adversely affected by this declared major disaster.

The County of: Hawaii.

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Asst.)

WILLIAM H. WILCOX,  
Federal Disaster Assistance  
Administration.

(FR Doc. 79-9704 Filed 3-29-79; 8:45 am)

#### [4210-01-M]

(Docket No. D-79-356)

#### ACTING AREA MANAGER, KANSAS CITY AREA OFFICE

Designation and Delegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Area Manager for the Kansas City Area Office. This revision is necessary due to the changes in organizational structure resulting from the reorganization of the Department.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Van Maren, Director, Management & Budget Division, Office of Regional Administration, Kansas City Regional Office, Department of Housing and Urban Development, 911 Walnut, Kansas City, Missouri 64106.

**DESIGNATION OF ACTING AREA MANAGER FOR KANSAS CITY AREA OFFICE:** Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of or vacancy in the position of the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Manager. Provided, that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.



## NOTICES

2. Director, Community Planning and Development Division.
3. Director, Housing Division.
4. Area Counsel.

This delegation supersedes the designation effective July 30, 1975 (40 FR, 31975, July 30, 1975).

This designation shall be effective as of March 30, 1979.

WILLIAM O. ANDERSON,  
Regional Administrator.

[FR Doc. 79-9695 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-355]

**ACTING AREA MANAGER, ST. LOUIS AREA OFFICE**

*Designation and Delegation of Authority*

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Area Manager for the St. Louis Area Office. This revision is necessary due to the changes in organizational structure resulting from the reorganization of the Department.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Van Maren, Director, Management and Budget Division, Office of Regional Administration, Kansas City Regional Office, Department of Housing and Urban Development, 911 Walnut, Kansas City, Mo. 64106.

**DESIGNATION OF ACTING AREA MANAGER FOR THE ST. LOUIS AREA OFFICE:** Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of or vacancy in the position of the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position.

1. Deputy Area Manager.
2. Area Counsel.
3. Director, Housing Division.
4. Director, Community Planning and Development Division.

This delegation supersedes the designation effective July 30, 1975 (40 FR, 31975, July 30, 1975).

This designation shall be effective as of March 30, 1979.

WILLIAM O. ANDERSON,  
Regional Administrator.

[FR Doc. 79-9693 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-356]

**ACTING AREA MANAGER, OMAHA AREA OFFICE**

*Designation and Delegation of Authority*

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Area Manager for the Omaha Area Office. This revision is necessary due to the changes in organizational structure resulting from the reorganization of the Department.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Van Maren, Director, Management and Budget Division, Office of Regional Administration, Kansas City Regional Office, Department of Housing and Urban Development, 911 Walnut, Kansas City, Mo. 64106.

**DESIGNATION OF ACTING AREA MANAGER FOR THE OMAHA AREA OFFICE:** Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of or vacancy in the position of the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.
2. Director, Community Planning and Development Division.
3. Director, Housing Division.
4. Area Counsel.

This delegation supersedes the designation effective July 30, 1975 (40 FR, 31975, July 30, 1975).

This designation shall be effective as of March 30, 1979.

WILLIAM O. ANDERSON,  
Regional Administrator.

[FR Doc. 79-9694 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-167]

**ACTING REGIONAL ADMINISTRATOR, REGION VII (KANSAS CITY)**

*Designation and Delegation of Authority*

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Regional Administrator for Region VII (Kansas City). This revision is necessary due to the changes in organizational structure resulting from the reorganization of the Department.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Van Maren, Director, Management and Budget Division, Office of Regional Administration, Kansas City Regional Office, Department of Housing and Urban Development, 911 Walnut, Kansas City, Missouri 64106.

**DESIGNATION OF ACTING REGIONAL ADMINISTRATOR FOR REGION VII (KANSAS CITY):** Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of or vacancy in the position of the Regional Administrator, with all the powers, functions and duties redelegated or assigned to the Regional Administrator: Provided, that no official is authorized to serve as Acting Regional Administrator unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Director, Office of Regional Administration.

This delegation supersedes the designation effective March 6, 1972 (37 FR, 7725, April 19, 1972).

This designation shall be effective as of March 30, 1979.

WILLIAM O. ANDERSON,  
Regional Administrator.

[FR Doc. 79-9296 Filed 3-29-79; 8:45 am]

## [4210-10-M]

[Docket No. D-79-556]

**CAMDEN SERVICE OFFICE**

*Designation and Delegation of Authority*

**Section A. Designation of Acting Service Office Supervisor.** Each of the officials appointed to the following positions is designated to serve as Acting Service Office Supervisor during the absence of, or vacancy in the position

of, the Service Office Supervisor, with all the powers, functions and duties redelegated or assigned to the Service Office Supervisor; *Provided*, That no official is authorized to serve as Acting Service Office Supervisor unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Duty Supervisor.
2. Chief, Property Disposition Branch.
3. Chief, Valuation Branch.

*Effective date:* This designation and delegation shall be effective as of March 30, 1979.

THOMAS APPELEY,  
Regional Administrator,  
New York Regional Office.

[FR Doc. 79-9697 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-555]

**NEW YORK AREA OFFICE**

*Designation and Delegation of Authority*

**SECTION A. Designation of Acting Area Manager.** Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Managers: *Provided*, That no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Manager.
2. The Director of Housing.
3. The Area Counsel.
4. The Director, Community Planning and Development.

*Effective Date.* This designation and delegation shall be effective as of March 30, 1979.

THOMAS APPELEY,  
Regional Administrator,  
New York Regional Office.

[FR Doc. 79-9698 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-554]

**ACTING REGIONAL ADMINISTRATOR, REGION VI, (DALLAS)**

*Designation*

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Line of Succession.

## NOTICES

SUMMARY: Updates the designation of officials who may serve as Acting Regional Administrator for Region VI.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Hubert Dutton, Director, Management and Budget Division, Office of Regional Administration, Dallas Regional office, Department of Housing and Urban Development, Room 14A8, 1100 Commerce Street, Dallas, Texas 75242 (214) 749-7637.

**DESIGNATION OF ACTING REGIONAL ADMINISTRATOR FOR REGION VI:** The employees appointed to the following positions in Region VI (Dallas) are hereby designated to serve as Acting Regional Administrator, Region VI, during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided*, that no employee is authorized to serve as Acting Regional Administrator unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Director, Office of Regional Housing.
4. Director, Office of Regional CPD.
5. Director, Office of Regional FHEO.
6. Director, Office of Regional Administration.

This designation supersedes the unpublished designation effective August 23, 1979.

(Delegation of Authority by the Secretary effective May 4, 1962 (27 FR 4319, May 4, 1962); Dept. Interim Order II (31 FR 815, January 21, 1966).)

This designation shall be effective as of September 25, 1978.

THOMAS J. ARMSTRONG,  
Regional Administrator,  
Region VI (Dallas).

[FR Doc. 79-9699 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-553]

**OFFICE OF THE SERVICE OFFICE SUPERVISOR; TULSA SERVICE OFFICE**

*Designation*

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of line of succession.

SUMMARY: The Service Office Supervisor is designating officials who may serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor.

EFFECTIVE DATE: March 30, 1979.

**SUPPLEMENTARY INFORMATION:** Each of the officials appointed to the following positions is designated to serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor, with all the powers, functions, and duties redelegated or assigned to the Service Office Supervisor; *Provided*, that no official is authorized to serve as Acting Service Office Supervisor unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Service Office Supervisor.
2. Chief Valuation Branch.
3. Chief Architectural & Engineering Branch.

EMIL L. HUBER, JR.,  
Area Manager, Oklahoma City  
Area Office, Region VI  
(Dallas).

WALTER G. SEVIER,  
Deputy Regional Administrator,  
Region VI (Dallas).

[FR Doc. 79-9700 Filed 3-29-79; 8:45 am]

## [4210-01-M]

[Docket No. D-79-553]

**OFFICE OF THE AREA MANAGER; NEW ORLEANS AREA OFFICE**

*Designation*

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of line of succession.

SUMMARY: The Area Manager is designating officials who may serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager.

EFFECTIVE DATE: March 30, 1979.

**SUPPLEMENTARY INFORMATION:** Each of the officials appointed to the following position is designated to serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: *Provided*, that no official is authorized to serve as Acting Area Manager unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.
2. Director, Housing Division.
3. Area Counsel.
4. Deputy Director for Development, Housing Division.
5. Deputy Director for Management, Housing Division.



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This designation supersedes the unpublished designation effective February 2, 1977.

(Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1977.)

TERRANCE R. DUVERNAY,  
Area Manager, New Orleans  
Area Office, Region VI  
(Dallas).

WALTER G. SEVIER,  
Deputy Regional Administrator,  
Region VI (Dallas).

[FR Doc. 79-9701 Filed 3-29-79; 8:45 am]

[4210-01-M]

[Docket No. D-79-550]

OFFICE OF THE AREA MANAGER: SAN  
ANTONIO AREA OFFICE

#### Designation

AGENCY: Department of Housing  
and Urban Development.

ACTION: Designation of line of suc-  
cession.

SUMMARY: The Area Manager is desig-  
nating officials who may serve as  
Acting Area Manager during the ab-  
sence of, or vacancy in the position of,  
the Area Manager.

EFFECTIVE DATE: March 30, 1979.

SUPPLEMENTARY INFORMATION: Each of the officials appointed to the following position is designated to serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.
2. Director, Housing Division.
3. Area Counsel.

This designation supersedes the unpublished designation effective February 2, 1977.

(Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971).

FINNIS E. JOLLY,  
Area Manager, San Antonio Area  
Office, Region VI (Dallas).

WALTER G. SEVIER,  
Deputy Regional Administrator,  
Region VI (Dallas).

[FR Doc. 79-9702 Filed 3-29-79; 8:45 am]

## NOTICES

[4210-01-M]

[Docket No. D-79-557]

ACTING REGIONAL ADMINISTRATOR, SEATTLE  
REGIONAL OFFICE, REGION X, WASHINGTON

#### Designation

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator; provided that no official is authorized to serve as Acting Regional Administrator unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator.
2. Director, Office of Regional Administration.
3. Director, Office of Community Planning and Development.

Effective as of the 25th day of January 1979.

GEORGE J. ROYBAL,  
Regional Administrator,  
Seattle Regional Office.

[FR Doc. 79-9703 Filed 3-29-79; 8:45 am]

[8230-01-M]

### INTERNATIONAL COMMUNICATION AGENCY

#### CULTURALLY SIGNIFICANT WORKS OF ART

Amendment of Determination; Extension of  
Pompeii A.D. 79 Exhibition Within the United  
States

Pursuant to the authority vested in me by P.L. 89-259 of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978) I hereby amend Public Notice No. 596, published in the FEDERAL REGISTER on March 9, 1978 (43 FR 9665), as amended, by adding to the places of exhibition or display: the American Museum of Natural History, New York, New York, on or about April 22, 1979 to on or about July 31, 1979.

This additional exhibition is pursuant to amendments to the loan agreement between the Museum of Fine Arts, Boston, Mass., and the Government of Italy referred to in Public Notice No. 596 of March 9, 1978.

Notice of this amendment of the determination is ordered to be published in the FEDERAL REGISTER.

March 27, 1979.

JOHN E. REINHARDT,  
Director, International  
Communication Agency.

[FR Doc. 79-9740 Filed 3-29-79; 8:45 am]

[4310-84-M]

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

#### CALIFORNIA DESERT CONSERVATION AREA

##### Designated Wilderness Study Areas

Under authority heretofore delegated by the Director, Bureau of Land Management, I hereby determine that public lands administered by the Bureau of Land Management within the designated California Desert Conservation Area have been inventoried according to the provisions of Sections 201(a) and 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) and Section 2(c) of the Wilderness Act of 1964 (Pub. L. 88-577) and that all, or any portions of, the 138 areas listed herein as meeting the wilderness criteria of Section 2(c) of Pub. L. 88-577, are hereby designated Wilderness Study Areas scheduled for intensive study by the BLM Desert Plan Staff, located at Suite 402, 3610 Central Avenue, Riverside, California 92506:

| Area Number | Public Land<br>Acreage |
|-------------|------------------------|
| 100         | 456                    |
| 100A        | 407                    |
| 101         | 897                    |
| 102         | 12,585                 |
| 103         | 7,784                  |
| 104         | 3,729                  |
| 105         | 5,729                  |
| 107A        | 851                    |
| 111         | 14,983                 |
| 112         | 36,287                 |
| 115         | 69,282                 |
| 117         | 405,215                |
| 117A        | 8,580                  |
| 118         | 7,951                  |
| 119         | 32,876                 |
| 120         | 11,465                 |
| 121         | 5,760                  |
| 122         | 87,145                 |
| 123         | 23,604                 |
| 124         | 56,690                 |
| 127         | 90,427                 |
| 130         | 8,102                  |
| 131         | 24,873                 |
| 132         | 5,972                  |
| 132A        | 8,319                  |
| 132B        | 21,099                 |
| 134         | 36,949                 |
| 136         | 52,696                 |
| 137         | 33,390                 |
| 137A        | 8,532                  |
| 142         | 89,528                 |
| 143         | 46,529                 |
| 145         | 89,772                 |
| 147         | 123,131                |
| 148         | 54,022                 |
| 149         | 33,929                 |
| 149A        | 2,346                  |
| 150         | 109,701                |
| 150A        | 13,779                 |
| 154         | 33,614                 |
| 156         | 113,901                |
| 157         | 25,207                 |
| 158         | 36,023                 |
| 159         | 5,564                  |
| 160         | 4,067                  |
| 160B        | 6,828                  |
| 160C        | 1,038                  |
| 163         | 9,225                  |
| 164         | 17,064                 |
| 170         | 32,208                 |
| 172         | 7,040                  |
| 173         | 7,260                  |
| 173A        | 13,875                 |

Area Number Public Land  
Acreage

|      |         |
|------|---------|
| 184  | 12,798  |
| 186  | 7,602   |
| 206  | 21,968  |
| 207  | 25,037  |
| 217  | 53,219  |
| 218  | 6,400   |
| 218A | 9,610   |
| 219  | 8,611   |
| 220  | 5,320   |
| 221  | 87,831  |
| 221A | 29,435  |
| 222  | 255,058 |
| 222A | 17,064  |
| 223  | 23,125  |
| 225  | 44,317  |
| 225A | 8,105   |
| 227  | 14,107  |
| 228  | 26,422  |
| 235A | 10,452  |
| 237  | 11,092  |
| 237A | 2,560   |
| 237B | 3,200   |
| 238A | 2,976   |
| 238B | 15,333  |
| 239  | 44,992  |
| 242  | 106,641 |
| 243  | 49,301  |
| 244  | 16,019  |
| 245  | 18,714  |
| 249  | 64,273  |
| 250  | 124,518 |
| 251  | 65,177  |
| 251A | 14,447  |
| 252  | 18,333  |
| 256  | 72,206  |
| 258  | 18,423  |
| 258A | 23,236  |
| 259  | 29,178  |
| 260  | 37,787  |
| 262  | 23,838  |
| 263  | 51,057  |
| 264  | 13,300  |
| 265  | 35,583  |
| 266  | 36,239  |
| 267  | 37,561  |
| 270  | 7,556   |
| 271  | 37,758  |
| 272  | 32,477  |
| 276  | 29,411  |
| 288  | 17,063  |
| 288A | 10,984  |
| 290  | 9,138   |
| 292  | 36,450  |
| 294  | 11,685  |
| 295  | 29,434  |
| 299  | 100,826 |
| 300  | 17,888  |
| 304  | 26,912  |
| 304A | 13,414  |
| 305  | 135,827 |
| 307  | 229,241 |
| 310  | 57,229  |
| 312  | 81,548  |
| 321  | 50,538  |
| 322  | 48,845  |
| 325  | 239,878 |
| 328  | 52,992  |
| 328A | 8,532   |
| 334  | 49,723  |
| 334A | 4,480   |
| 335  | 24,710  |
| 341  | 68,051  |
| 343  | 15,655  |
| 344  | 44,195  |
| 348  | 126,057 |
| 350  | 44,422  |
| 352  | 25,428  |
| 355  | 25,971  |
| 355A | 6,982   |
| 356  | 37,196  |
| 360  | 20,778  |
| 362  | 35,524  |
| 368  | 26,868  |
| 372  | 10,958  |
| 373  | 8,768   |

Totals: 138 Areas 5,520,518 acres of  
Public Lands

## NOTICES

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These areas and acreages are delineated on a map entitled "California Desert Wilderness Inventory", dated March 31, 1979, published by BLM and available to the public through BLM offices in California, or by contacting the BLM Desert Plan Staff at the address noted above. The Wilderness Study Areas designated herein will remain under BLM interim management, as required in Section 603 of Pub. L. 94-579 during a period of review and until the Congress has determined otherwise.

The remaining 206 areas inventoried within the California Desert Conservation Area but not designated herein as Wilderness Study Areas, and the portions of the 138 areas not designated herein as Wilderness Study Areas as shown on the referenced map, will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94-579.

As a resource value, wilderness was inventoried and presence identified in the California Desert Conservation Area, in order that it be integrated and compared with other resources in development of the California Desert Plan required by Section 601(d) of Pub. L. 94-579. Because this Section requires completion of the comprehensive, long-range management plan for the California Desert Conservation Area by September 30, 1980, the wilderness review for public lands within that Area was accelerated within the time requirements of Section 603, Pub. L. 94-579.

In order to determine specific roadless areas containing at least 5,000 acres of contiguous public lands, area boundaries were limited by rights-of-way, non-public ownerships, and existing roads (conforming to the BLM "road" definition as published in the BLM Wilderness Inventory Handbook, dated September 27, 1978). Within these inventoried areas, there frequently are a number of "ways" or trails which do not qualify within that definition as roads, although they may be used as routes of travel.

Within the listed Wilderness Study Areas are 11 Areas containing less than 5,000 acres of contiguous public lands. These particular Areas, however, met at least one of the following criteria: (1) contiguous with lands managed by another agency which have been formally determined to have wilderness or potential wilderness values; (2) received strong public support for study and demonstration that it is of sufficient size to make practicable its preservation and use in an unimpaired condition; or (3) contiguous with an area of less than 5,000 acres of other Federal lands adminis-

tered by an agency with authority to study and preserve wilderness lands, and the combined total is 5,000 acres or more.

The final designations listed herein as Wilderness Study Areas shall become effective April 30, 1979. For the purposes of this designation, each area is considered separable from every other area. Should any amendment to these designations be made by the BLM State Director, California, as a result of new information received following this publication, that amendment will be formally published in the FEDERAL REGISTER and will not become effective until 30 days following such publication. This 30-day extension will apply only to the amendment and not to the original designations.

Persons wishing to protest any of the Wilderness Study Area designations or non-designations made herein shall have 30 days after the final designation of the State Director, California, is published in the Federal Register to file a written protest, which must specify the Area to which the protest is directed; must include a clear and concise statement of reasons for the protest; and, must furnish supporting data, with the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825. The State Director, California, will render a written decision on any such protest so received.

Any person adversely affected by the State Director's decision on such written protest filed by such person may appeal such decision by following normal administrative procedures applicable to formal appeals to the Interior Board of Land Appeals which are published in 43 CFR Part 4.

Dated: March 20, 1979.

ED HASTEY,  
State Director, California.

[FR Doc. 79-9155 Filed 3-29-79; 8:45 am]

[4310-84-M]

#### NEARSHORE BEAUFORT SEA

Availability of Draft Environmental Statement  
Regarding Proposed Federal-State Oil and  
Gas Lease Sale

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement (DES) relating to a proposed joint Federal-State of Alaska oil and gas lease sale of 186 tracts (208,091 hectares; 514,193 acres) in the nearshore Beaufort Sea. The tracts extend from the Canning River on the east to the Kuparuk River on the west and lie generally seaward from the



coast to the 20 meter (66 foot) isobath. Of the area proposed for leasing, 140,558 hectares (347,318 acres) are State-owned, 36,085 hectares (89,167 acres) are under Federal jurisdiction, and 31,448 hectares (77,707 acres) are in dispute.

Single copies of the draft statement can be obtained from the Office of the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510, or from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the DES will also be made available for inspection at the following locations in Alaska: Juneau Memorial Library, 114 West 4th Street, Juneau; Kodiak Public Library, Kodiak; Kenai Community Library, Cook and Main Streets, Kenai; University of Alaska-Arctic Environmental Information and Data Center, 707 A Street, Anchorage; University of Alaska Library, 3211 Providence Avenue, Anchorage; Loussac Public Library, 427 F Street, Anchorage; Fairbanks North Star Borough Library, 901 First Avenue, Fairbanks; North Slope Borough Office, Barrow; Village Council Office, Nuiqsut; and Village Council Office, Kaktovik.

Interested persons wishing to submit comments or suggestions regarding the draft statement should send their remarks to the Manager, Alaska OCS Office, Bureau of Land Management, at the address listed above. The Department will accept written comments on the DES until May 17, 1979. Public hearings on the draft statement and leasing proposal will be held in Fairbanks and in the Native villages of Barrow, Kaktovik, and Nuiqsut. The dates and specific locations of the hearings will be announced at a later date.

ARNOLD E. PETTY,  
Acting Associate Director,  
Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,  
Assistant Secretary  
of the Interior.

(FR Doc. 79-9635 Filed 3-29-79; 8:45 am)

#### [4310-84-M]

[Tentative Sale No. 56]

#### SOUTH ATLANTIC-GEORGIA EMBAYMENT

Call for Nominations of and Comments on  
Areas for Oil and Gas Leasing

#### PURPOSE OF CALL

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to estab-

lish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf (OCS) in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resource development with the protection of the human, marine and coastal environments, as well as assuring States and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3301.3, nominations are hereby requested for areas on the South Atlantic-Georgia Embayment, Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 as amended). Pursuant to 43 CFR 3301.4, the Secretary is also requesting comments on the possible environmental impacts and potential use conflicts in specified areas.

#### DESCRIPTION OF AREAS

Nominations will be considered for any or all of the blocks seaward of the three mile line, which are to be found on the Protraction Diagrams listed below and which are shoreward of the line described below. The area is generally bounded by the 36.5°N latitude line on the north, the 28°N latitude line on the south and eastward to the base of the continental slope, including the western edge of the Blake Plateau.

These blocks may be found on the following Outer Continental Shelf Official Protraction Diagrams, which may be purchased for \$2.00 each from the Manager, New Orleans OCS Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

#### OCS OFFICIAL PROTRACTION DIAGRAM

1. NJ 18-11, Currituck Sound
2. NI 18-2, Manteo
3. NI 18-5
4. NI 18-4, Beaufort
5. NI 18-7, Cape Fear
6. NI 17-9, Georgetown
7. NI 18-10
8. NI 17-12, James Island
9. NI 17-11, Savannah
10. NH 17-3
11. NH 17-2, Brunswick
12. NH 17-6
13. NH 17-5, Jacksonville
14. NH 17-9
15. NH 17-8, Daytona Beach
16. NH 17-12
17. NH 17-11, Orlando

1. Protraction Diagram Currituck Sound NJ 18-11: Beginning at the State-Federal boundary at the NW corner of block 492, thence east to the

NE corner of block 513, thence south to the SE corner of block 1041, thence to:

2. Protraction Diagram Manteo NI 18-2: Beginning at the NE corner of block 29, thence south to the SE corner of block 997, thence west to the SW corner of block 988, thence to:

3. Protraction Diagram NI 18-5: Beginning at the NE corner of block 17, thence south to the SE corner of block 985, thence west to the SW corner of block 969, thence to:

4. Protraction Diagram Cape Fear NI 18-7: Beginning at the NE corner of block 44, thence south to the SE corner of block 1012, thence west to the SW corner of block 991, thence to:

5. Protraction Diagram NI 18-10: Beginning at the NE corner of block 22, thence south to the SE corner of block 990, thence west to the SW corner of block 973, thence to:

6. Protraction Diagram NH 17-3: Beginning at the NE corner of block 39, thence south to the SE corner of block 1007, thence west to the SW corner of block 977, thence to:

7. Protraction Diagram NH 17-6: Beginning at the NE corner of block 8, thence south to the SE corner of block 976, thence to:

8. Protraction Diagram NH 17-9: Beginning at the NE corner of block 8, thence south to the SE corner of block 976, thence to:

9. Protraction Diagram NH 17-12: Beginning at the NE corner of block 8, thence south to the SE corner of block 976, thence west to the SW corner of block 969, thence to:

10. Protraction Diagram Orlando NH 17-11: Beginning at the SE corner of block 1011, thence west to the State-Federal boundary at the SW corner of block 1002, thence northward along the State-Federal boundary to the point of beginning on Protraction Diagram Currituck Sound NJ 18-11.

#### INSTRUCTIONS ON CALL

Nominations must be described in accordance with the Outer Continental Shelf Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks may be nominated. Those nominating twelve blocks or more are requested to arrange their nominations into three groups according to the priority of their interest.

Comments should be as specific as possible in identifying individual blocks or areas which should receive special concern and analysis. In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and

development of particular blocks where available.

Nominations and/or comments must be submitted not later than May 15, 1979, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—South Atlantic-Georgia Embayment" or "Comments on Leasing in the Outer Continental Shelf—South Atlantic-Georgia Embayment", as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies should be sent to the Conservation Manager, U.S. Geological Survey, Eastern Region, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006, and to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

#### USE OF INFORMATION FROM CALL

Nominations will be evaluated and used along with other geologic and geophysical information to determine what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographic scope of areas which can be successfully planned for a single sale, only a portion of the tracts nominated are selected for further environmental analysis and possible leasing.

Comments will be considered along with other relevant information available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for further environmental analyses does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when that decision is made. In performing the additional environmental analyses leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only at a later date after compliance with established Departmental procedures and

all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Dated: March 19, 1979.

ARNOLD E. PETTY,  
Acting Associate Director,  
Bureau of Land Management.

Approved: March 26, 1979.

HEATHER L. ROSS,  
Deputy Assistant Secretary  
of the Interior.

(FR Doc. 79-9637 Filed 3-29-79; 8:45 am)

#### [4310-84-M]

#### PUBLIC LANDS AND ISLANDS IN MINNESOTA, MICHIGAN, AND WISCONSIN

#### Wilderness Inventory

MARCH 27, 1979.

Notice is hereby given that the Bureau of Land Management is conducting wilderness inventories on public lands and islands under its jurisdiction in Minnesota, Michigan and Wisconsin. The inventories follow guidelines established in the *Wilderness Inventory Handbook* and are required under the authority of Section 603 of the Federal Land Policy and Management Act of 1976. They mark the first step in the Bureau's wilderness review program to identify all roadless areas of 5,000 acres or more and roadless islands for wilderness characteristics on public lands administered by the Bureau of Land Management. The notice announcing commencement of the Bureau-wide inventory was published in the FEDERAL REGISTER on September 27, 1978.

In Minnesota, Michigan, and Wisconsin, compilation of initial inventory data from existing records is nearing completion and is now being prepared for full public review and comment. Input regarding the inventory may be submitted to the Lake States Office at Duluth, Minnesota.

The *Wilderness Inventory Handbook* is available on request from the offices listed below.

Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, MD 20910;

Manager, Lake States Office, 125 Federal Building, Duluth, MN 55802.

For further information, call: Judith A. Lent, Public Information Specialist, in Silver Spring at (301) 427-7440; or

Stan Bauer, Wilderness Coordinator, in Duluth at (218) 727-6692, Ext. 378.

CLAUDE A. MARTIN,  
Acting Director,  
Eastern States.

(FR Doc. 79-9728 Filed 3-29-79; 8:45 am)

#### [4310-84-M]

#### NEVADA

#### Mormon Meso Wilderness Inventory

The Las Vegas District Office is conducting a special wilderness inventory of Mormon Mesa, an area of 81,207 acres, some 55 miles northeast of Las Vegas, Nevada. The specific area is bounded by the Muddy River, the Virgin River, and Interstate Highway 15.

The special review was directed as the result of special emphasis being placed on the early completion of wilderness characteristics studies in the overthrust belt, of which this area is a part.

An on-the-ground inventory revealed that the area lacked both naturalness and outstanding opportunities for solitude or a primitive and unconfined form of recreation. It is recommended, therefore, that the area under review be eliminated from further wilderness consideration.

This recommendation is open to public comment until April 30, 1979. At that time, based on public comment and wilderness inventory findings, one of three decisions will be made: eliminate the area from further consideration as wilderness; retain it for further wilderness evaluation; or retain a part for further wilderness evaluation and eliminate other parts. That decision will be published in the FEDERAL REGISTER and will be followed by a 30-day period prior to implementation.

Maps of the area and summaries of the findings have been or soon will be mailed to interested individuals and groups. Others, who do not receive such mailings, may obtain the information by contacting the Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada (P.O. Box 5400) 89102. Comments should also be addressed to that office.

To facilitate public comment, an open house will be conducted on April 18, 1979 from 1 to 4 p.m. and from 7 to 9 p.m. at the district office.

Dated: March 23, 1979.

ROGER J. MCCORMACK,  
Associate State Director, Nevada.

(FR Doc. 79-9648 Filed 3-29-79; 8:45 am)



## [4310-84-M]

(Wyoming 66852)

## WYOMING

## Application

MARCH 22, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. buried pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 112 W.,  
Sec. 30, lot 1.

The proposed pipeline will transport natural gas from the Amoco-Champlin 186 E-1 well located in the NE¼ of section 25, T. 19 N., R. 113 W., to a point of connection with an existing pipeline located in the NW¼SW¼ of section 19, T. 19 N., R. 112 W., Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 79-9649 Filed 3-29-79; 8:45 am)

## [4310-84-M]

(Wyoming 66887)

## WYOMING

## Application

MARCH 22, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct an 8½ inch O.D. pipeline and install anodes for the purpose of transportation natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 93 W.,  
Sec. 36, W¼W¼.

## NOTICES

The proposed pipeline will transport natural gas from the Champlin 242 F-1 well located in the SW¼ of section 25, T. 20 N., R. 93 W., Sweetwater County, Wyoming to a point of connection with an existing pipeline located in the SW¼ of section 1, T. 19 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 79-9650 Filed 3-29-79; 8:45 am)

## [4310-09-M]

## Bureau of Reclamation

CONTRACT WITH THE ROOSEVELT WATER  
CONSERVATION DISTRICT

## Availability of Contract

The Department of the Interior, through the Bureau of Reclamation, intends to enter into a repayment and work performance contract with the Roosevelt Water Conservation District pursuant to the Rehabilitation and Betterment Act of 1949, as amended (63 Stat. 724, 64 Stat. 11).

The Roosevelt Water Conservation District provides irrigation water for approximately 35,000 acres within the District. The proposed work program, scheduled to begin in 1979, includes rehabilitation of 27.8 miles of lined canals in the Salt River Project at an estimated cost of approximately \$7.8 million.

The public is invited to submit written comments on the form of the proposed contract on or before April 30, 1979.

For further information and copies of the proposed contract, please contact Ms. Pam Kohnken, Contracts and Repayment Branch, Bureau of Reclamation, 2200 Valley Bank Center, Phoenix, Arizona 85073.

Dated: March 26, 1979.

R. KEITH HIGGINSON,  
Commissioner.

(FR Doc. 79-9636 Filed 3-29-79; 8:45 am)

## [4310-70-M]

## National Park Service

## SEQUOIA NATIONAL PARK

Public Workshops for the Management Plan for  
Mineral King; Notice of Intent

Notice is hereby given that the National Park Service will hold a series of five public workshops in California during late April and early May, 1979, as the initial step in developing a management plan for Mineral King Valley.

Mineral King, an area of approximately 16,200 acres, was transferred from the U.S. Forest Service to the National Park Service and added to Sequoia National Park by Public Law 95-625, the National Parks and Recreation Act of 1978, on November 11, 1978, when the Act was signed by President Carter.

Each of the public workshops will begin at 7:30 p.m., and they will be held in the following locations:

Monday, April 30, 1979—Los Angeles, Muses' Room, Space Building, California Museum of Science and Industry, 1100 State Drive, Exposition Park.

Tuesday, May 1, 1979—Bakersfield, Map Science Two Room, Maps Science Building, Mt. Vernon and University, Bakersfield College Campus.

Monday, May 7, 1979—Visalia, Sequoia Room A, Visalia Convention Center, 303 East Acequia St.

Tuesday, May 8, 1979—Three Rivers, Three Rivers Community Building, Highway 198.

Thursday, May 10, 1979—Fresno, McLane High School, All Purpose Room, 2727 North Cedar Avenue.

The Act calls for the development of a comprehensive management plan for Mineral King within two years from the date of enactment. The National Park Service is also mandated to consider the need for developing additional recreation opportunities and other public uses of Mineral King which are consistent with sound environmental management and the policies of the Park Service. However, it was the consensus of Congress that the development of permanent facilities for downhill skiing in the area would be inconsistent with the preservation and enhancement of its ecological values.

Concurrent with the public workshops the National Park Service will consult with appropriate Federal, State and local government officials, organizations and individuals about the planning project.

The purpose of the workshops and consultations is to provide a broad-based public involvement program through which the National Park Service seeks citizen participation and assistance in developing the management plan for Mineral King. The management plan will be a long-range guide for the development and man-

agement of the Mineral King portion of Sequoia National Park.

Anyone wishing additional information on these public workshops, the National Park Service planning process, or wanting to submit comments for the development of the management plan for Mineral King may do so by writing to Superintendent, Sequoia and Kings Canyon National Parks, Three Rivers, Calif. 93271.

Dated: March 21, 1979.

JOHN H. DAVIS,  
Acting Regional Director, West-  
ern Region, National Park  
Service.

(FR Doc. 79-9638 Filed 3-29-79; 8:45 am)

## [4310-70-M]

## National Park Service

## NATIONAL PARK SYSTEM ADVISORY BOARD

## Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held April 23, 24, 25 and 26, 1979, at Lowell, Mass., and Boston, Mass.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System.

The members of Advisory Board are as follows: Mrs. Anne Jones Morton (Chairman), Easton, MD, Mr. Carl Burke (Vice Chairman), Boise, Idaho, Dr. Edgar A. Toppin (Secretary), Petersburg, VA, Hon. Alan Bible, Reno, Nevada, Mr. Larry Erickson, Minot, North Dakota, Mr. Laurence W. Lane, Jr., Menlo Park, California, Mrs. Nancy Rennell, Greenwich, Conn., Hon. Roy A. Taylor, Black Mountain, North Carolina, Mr. Bill Wiener, Jr., Shreveport, LA.

On April 23 the meeting will begin at 9:30 a.m. at Park Headquarters, Boston National Historical Park for an inspection tour of the Park. On April 24 the meeting will begin at 9:45 a.m. at the Lowell National Historical Park Visitor Center for an inspection tour of the Lowell park.

April 25 and 26 the Advisory Board will meet in general sessions starting at 9:30 a.m. in Hull Room, Building 5, Charlestown Navy Yard, Boston, Mass., to consider administrative matters pertaining to the Board and for discussions on the visits to the Boston National Historical Park and the Lowell National Historical Park; the National Park Service Cultural Resources Program; and to receive and consider reports on new area studies; FY 1980 budget highlights; funding of new areas in the National Park System; concessions management, and to have the report of the ad-hoc com-

## NOTICES

mittee on historic trails. The Board also will consider future activities and formulate its comments and recommendations.

The meetings will be open to the public. However, members of the public wishing to participate in the inspection tours must provide their own transportation. Space and facilities to accommodate members of the public at the general sessions of the meeting are limited and persons will be accommodated on a first-come-first-served basis. Any member of the public may file with the Advisory Board a written statement concerning the matters to be considered.

Persons desiring further information concerning this meeting or who wish to file written statements may contact Shirley Luikens, National Park Service, Washington, D.C., at 202-343-2012. Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3416, Interior Building, Washington, D.C.

Dated: March 26, 1979.

WILLIAM J. WHALEN,  
Director,  
National Park Service.

(FR Doc. 79-9741 Filed 3-29-79; 8:45 am)

## [4310-55-M]

## Fish and Wildlife Service

## MARINE MAMMALS

## Issuance of Permits

On February 15, 1979, a notice was published in the FEDERAL REGISTER (44 FR 79-4730), that an application had been filed with the Fish and Wildlife Service by the Director, National Fish and Wildlife Laboratory, Washington, D.C., for a permit to take for research and release 200 polar bears (*Ursus maritimus*) annually for 3 years.

Notice is hereby given that on March 15, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-3724), to capture, mark, attach radio telemetry equipment, conduct other scientific research specified in the application, and release up to 600 bears. The permit is valid for three years, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: March 22, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

(FR Doc. 79-9721 Filed 3-29-79; 8:45 am)

## [4310-55-M]

## MARINE MAMMALS

## Issuance of Permits

On February 13, 1979, a notice was published in the FEDERAL REGISTER (44 FR 79-4730), that an application had been filed with the Fish and Wildlife Service by Sea World, Inc., 1720 South Shore Road, San Diego, California, for a permit to take 8 Pacific walrus (*Odobenus rosmarus*) pups for public display and scientific research as described in the application.

Notice is hereby given that on March 14, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-3542), to take 8 Pacific walrus pups for purposes set forth in their application, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: March 22, 1979.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

(FR Doc. 79-9722 Filed 3-29-79; 8:45 am)

## [4410-01-M]

## DEPARTMENT OF JUSTICE

## CITY OF CAMDEN

## Proposed Consent Decree (Clean Water Act)

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on March 9, 1979, a proposed consent decree in *United States v. City of Camden, et al.*, Civil Action No. 76-0424, was lodged with the United States District Court for the District of New Jersey (Camden). The proposed consent decree requires certain work to be done on the Main and Baldwin's Run sewage treatment plants by August 1, 1979.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should



## NOTICES

refer to *United States v. City of Camden, et al.*, D.J. Ref. 90-5-1-1-542.

The proposed consent decree may be examined at the office of the United States Attorney for the District of New Jersey, Room 502 Federal Building, 970 Broad Street, Newark, New Jersey 07102; at the Region II office of the Environmental Protection Agency, Enforcement Division, 26 Federal Plaza, New York, New York 10007; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, 9th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washington, D.C.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

(FR Doc. 79-9765 Filed 3-29-79; 8:45 am)

## [4410-01-M]

**UNITED STATES STEEL CORP. (SOUTH WORKS)**  
Proposed Consent Decree in Action to Enjoin  
Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7 38 FR 19029, notice is hereby given that on or about March 21, 1979, a proposed consent decree in *United States of America v. United States Steel Corporation*, was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree establishes a schedule of compliance for installation of air pollution abatement equipment at the basic oxygen process shop at the defendant's South Works in Chicago and for compliance with Illinois air pollution control regulations. Final compliance under the decree is required by December 31, 1979. Penalties of \$5,000 per day for failure to meet interim implementation dates and \$1,000 per day for failure to meet the final compliance deadline are stipulated under the decree.

The proposed consent decree may be examined at the office of the United States Attorney, 219 South Dearborn Street, Room 1500 South, Chicago, Illinois 60604; at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2631, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section,

Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America v. United States Steel Corporation* (South Works), N.D. Ill.; D.J. Ref. 90-5-2-3-986.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

(FR Doc. 79-9766 Filed 3-29-79; 8:45 am)

## [4410-01-M]

**Antitrust Division**  
**UNITED STATES v. HALL CONTRACTING CORPORATION, et al.**

**Proposed Final Judgment and Competitive  
Impact Statement Thereon**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed Final Judgment and a Competitive Impact Statement (CIS) as set out below have been filed with the United States District Court for the Western District of Kentucky, at Louisville, in *United States v. Hall Contracting Corporation, et al.*, Civil No. C 78-0063 L (B). The Complaint in this case alleges that four corporations (Hall Contracting Corporation; Dixie Construction Corporation; Mims Pipeline Construction Company, Inc.; and Butler Pipelines, Inc.) violated the Sherman Act by conspiring to rig bids on gas pipeline contracting jobs in the Louisville service area, i.e., the area served by the Louisville Gas & Electric Company.

The proposed Judgment enjoins the defendants from engaging in or renewing the alleged conspiracy and requires the defendants for a period of five (5) years to affix to every bid or quotation for gas pipeline contracting services a written certification that such bid or quotation was not in any way the result of any communication or understanding between any defendant and any other gas pipeline contractor. The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the Complaint.

Public comment is invited on or before May 29, 1979. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments

should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: MARCH 15, 1979.

CHARLES F. B. McALEER,  
Special Assistant for  
Judgment Negotiations.

U.S. DISTRICT COURT FOR THE WESTERN  
DISTRICT OF KENTUCKY AT LOUISVILLE

*United States of America*, Plaintiff, v. *Hall Contracting Corporation; Dixie Construction Corporation; Mims Pipeline Construction Company, Inc.; and Butler Pipelines, Inc.*, Defendants.

Civil No. C78-0063L(B).

Judge Thomas A. Ballantine.

Filed: March 15, 1979.

## STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

For the Plaintiff, *United States of America*: John H. Shenefield, Assistant Attorney General, William E. Swope, Charles F. B. McAleer, John A. Weedon, David F. Hills, Attorneys, Department of Justice, Albert Jones, *United States Attorney*, Susan B. Cyphert, William J. Oberdick, Deborah Lewis Hiller, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Bldg., Cleveland, Ohio 44199 (Telephone: 216-522-4014).

For the Defendants: Frank E. Haddad, Jr., Donald H. Balleisen, John S. Reed II, Counsel for *Hall Contracting Corporation* and *Dixie Construction Corporation*, Edward H. Stopher, Counsel for *Mims Pipeline Construction Company, Inc.*, K. Gregory Haynes, Counsel for *Butler Pipelines, Inc.*

U.S. DISTRICT COURT FOR THE WESTERN  
DISTRICT OF KENTUCKY AT LOUISVILLE

*United States of America*, Plaintiff, v. *Hall Contracting Corporation; Dixie Construction Corporation; Mims Pipeline Construction Company, Inc.; and Butler Pipelines, Inc.*, Defendants.

Civil No. C78-0063L(B).

Filed: March 15, 1979.

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## FINAL JUDGMENT

The plaintiff, having filed its complaint herein on March 3, 1978, and the defendants, having appeared by their respective attorneys and having filed their answers to the complaint denying the substantive allegations thereof; and plaintiff and defendants, by their respective attorneys, having consented to the making and entry of this Final Judgment herein, without trial or adjudication of, or finding on, any issues of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any such issues;

NOW, THEREFORE, without any testimony having been taken herein, and without trial or adjudication of or finding on any issues of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

## I

This Court has jurisdiction of the subject matter herein and of the parties hereto, and the complaint states claims upon which relief may be granted against defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

## II

As used in this Final Judgment, the term: (A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Gas pipeline contracting services" means the business of installing, removing, altering, or repairing, or the rendering of other services regarding, gas pipeline and of selling appurtenances and materials associated therewith; and

(C) "Gas pipeline contractors" means those entities engaged in the business of providing gas pipeline contracting services to gas utilities.

## III

The provisions of this Final Judgment applicable to any defendant shall also apply to its subsidiaries, successors, assigns, officers, directors, agents, servants and employees, and to all persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions or activities solely between a defendant and its directors, officers, employees, parent companies, subsidiaries or any of them when acting in such capacity.

## IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other gas pipeline contractor to:

(A) Exchange information concerning bid amounts or bid ranges with respect to gas pipeline contracting jobs;

(B) Allocate gas pipeline contracting jobs;

(C) Request or submit noncompetitive, collusive, complementary bids on gas pipeline contracting jobs;

(D) Refrain from bidding on gas pipeline contracting jobs.

Each defendant is enjoined and restrained from furnishing to or exchanging with any other defendant or any other gas pipeline contractor any information concerning the prices, terms or any other conditions of sale or lease which any gas pipeline contractor has submitted, intends to submit, or is considering submitting to any prospective customer, prior to the release of such information to the public or to the trade generally.

## VI

Nothing in this Final Judgment shall be:

(a) Applicable to any prices, terms or other conditions of sale, lease or rental offered by a defendant to any other gas pipeline contractor or offered by any other gas pipeline contractor to a defendant in negotiating a purchase, sale, lease, or rental of gas pipeline contracting supplies or gas pipeline contracting equipment between that defendant and such other gas pipeline contractor;

(b) Deemed to prohibit a defendant from entering into, participating in, or maintaining with any other person a joint venture or sub-contract agreement whereby a single bid will be submitted and the assets and facilities of each of the parties thereto will be combined for rendering gas pipeline contracting services, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

## VII

Each defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every bid or quotation for the rendering of gas pipeline contracting services a written certification, signed by an officer of such defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other gas pipeline contractor.

## VIII

Each defendant is ordered and directed to: (A) Furnish a copy of this Final Judgment to each of its officers, directors, superintendents, and other persons responsible for bid preparation or submission within thirty (30) days after the date of entry of this Final Judgment;

(B) Furnish a copy of this Final Judgment to each successor to those persons described in subparagraph (A) hereof within thirty (30) days after each such successor is employed;

(C) Obtain from each such person furnished a copy of this Final Judgment pursuant to subparagraphs (A) and (B) hereof, a signed receipt therefore, which receipt shall be retained in the defendants' files;

(D) Attach to each copy of this Final Judgment furnished pursuant to subparagraphs (A) and (B) hereof, a statement advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the criminal penalties which may be imposed upon him and/or upon such defendant for violation of this Final Judgment;

(E) Hold, within forty (40) days after the date of entry of this Final Judgment, a meeting of the persons described in subparagraph (A) at which meeting such persons

shall be instructed concerning the defendant's and their obligations under this Final Judgment. Similar meetings shall be held at least once a year for a period of five (5) years from the date of entry of this Final Judgment which meetings shall also be attended by persons described in subparagraph (B) hereof;

(F) Establish and implement a plan for monitoring compliance by the persons described in subparagraph (A) of this Section with the terms of the Final Judgment; and (G) File with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs (A), (C) and (D) hereof.

## IX

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Paragraph IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information of documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

## X

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this



Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

## XI

Entry of this Final Judgment is in the public interest.

Entered: \_\_\_\_\_

Date: \_\_\_\_\_

United States District Judge.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

United States of America, Plaintiff, v. Hall Contracting Corporation; Dixie Construction Corporation; Mims Pipeline Construction Company, Inc.; and Butler Pipeline, Inc., Defendants.

Civil No. 67-0063(LB).

Filed: March 15, 1979.

## COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(a)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

## I

## NATURE AND PURPOSE OF THE PROCEEDING

On March 3, 1978, the United States filed a civil antitrust Complaint alleging that four corporations combined and conspired to submit noncompetitive bids in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that beginning at least as early as 1965 and continuing thereafter at least until late 1974, the defendants engaged in a combination and conspiracy: (a) to exchange information concerning bid amounts or bid ranges with respect to gas pipeline contracting jobs; (b) to allocate gas pipeline contracting jobs; (c) to request or submit noncompetitive, collusive, complementary bids on gas pipeline contracting jobs; and (d) to refrain from bidding on gas pipeline contracting jobs.

The Complaint seeks a judgment by the Court declaring that defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an Order by the Court to enjoin and restrain the defendants from such activities in the future and, for a period of five years following the date of entry of such Order, to require each of the defendants to affix to every bid and quotation for gas pipeline contracting services a written certification that such bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any other gas pipeline contracting company.

The corporations named in the Complaint are: Hall Contracting Corporation; Dixie Construction Corporation; Mims Pipeline Construction Company, Inc.; and Butler Pipelines, Inc.

All of these defendants to this action have previously pleaded *nolo contendere* to criminal misdemeanor charges with respect to

this alleged conspiracy. A fine of \$40,000 was levied against Hall Contracting Corporation; a fine of \$10,000 was levied against Dixie Construction Corporation; a fine of \$40,000 was levied against Mims Pipeline Construction Company, Inc.; and a fine of \$50,000 (\$35,000 of which was suspended) was levied against Butler Pipelines, Inc. This civil action had been held in abeyance until the criminal misdemeanor charge was resolved.

## II

## DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTI-TRUST LAWS

For the purpose of this case, the Complaint defines "gas pipeline contracting services" as the business of installing, removing, altering, or repairing, or the rendering of other services regarding, gas pipeline and related facilities and of selling appurtenances and materials associated therewith. The furnishing of gas pipeline contracting services is a specialized field engaged in by a limited number of entities equipped by technical training and experience to perform these services.

During the period covered by the Complaint, the corporate defendants provided gas pipeline contracting services in the Louisville service area. A principal customer for these services was the Louisville Gas & Electric Company, a private utility incorporated in the Commonwealth of Kentucky that provides natural gas to residential, commercial, industrial and governmental accounts.

During the period covered by the Complaint, the defendants were among the leading gas pipeline contractors in the Louisville service area, the territory served by the Louisville Gas & Electric Company. In 1974, the defendants had total revenues of approximately \$22 million from the sale of gas pipeline contracting services.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning at least as early as 1965 and continuing thereafter at least until late 1974 that consisted of a continuing agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were:

(A) to exchange information concerning bid amounts or bid ranges with respect to gas pipeline contracting jobs;

(B) to allocate gas pipeline contracting jobs; and

(C) to request or submit noncompetitive, collusive, complementary bids on gas pipeline contracting jobs;

(D) to refrain from bidding on gas pipeline contracting jobs.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(A) price competition in the sale of gas pipeline contracting services in the Louisville service area has been restrained; and

(B) customers in the Louisville service area have been deprived of the benefits of full, free, and open competition in the purchase of gas pipeline contracting services.

## III

## EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at

any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. (See Section XI of the proposed Final Judgment.)

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendants are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any other gas pipeline contractor to:

(A) exchange information concerning bid amounts or bid ranges with respect to gas pipeline contracting jobs;

(B) allocate gas pipeline contracting jobs;

(C) request or submit noncompetitive, collusive, complementary bids on gas pipeline contracting jobs; and

(D) refrain from bidding on gas pipeline contracting jobs.

Section V further enjoins each defendant from furnishing to or exchanging with any other defendant or any other gas pipeline contractor any information concerning the prices, terms or other conditions of sale or lease which any gas pipeline contractor has submitted, intends to submit, or is considering submitting to any prospective customer, prior to the release of such information to the public or to the trade generally. The injunctions in Sections IV and V run perpetually.

Section VII of the proposed Final Judgment orders and directs each defendant, for a period of five years from the date of entry of the Judgment, to affix to every bid or quotation for the rendering of gas pipeline contracting services a written certification, signed by an officer of such defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan, or program, whether formal or informal, between such defendant and any other gas pipeline contractor.

Section VIII of the proposed Final Judgment orders and directs each defendant to:

(A) furnish a copy of the Judgment to each of its officers, directors, superintendents, and other persons responsible for bid preparation or submission within thirty days after the date of entry of the Judgment;

(B) furnish a copy of the Judgment to each successor to those persons described in subparagraph (A), above, within thirty days after each such successor is employed;

(C) obtain from each such person furnished a copy of the Judgment pursuant to subparagraphs (A) and (B), above, a signed receipt which shall be retained in the defendant's files;

(D) attach to each copy of the Judgment furnished pursuant to subparagraphs (A) and (B), above, a statement advising each person of his obligations and of defendant's obligations under the Judgment, and of the criminal penalties which may be imposed

upon him and/or upon the defendant for violation of the Judgment;

(E) hold, within forty days after the date of entry of the Judgment, a meeting of the persons described in subparagraph (A), and at this meeting these persons shall be instructed, concerning the defendant's and their obligations under the Judgment. Similar meetings shall be held at least once a year for a period of five years from the date of entry of the Judgment; and these meetings shall also be attended by the persons described in subparagraph (B), above;

(F) establish and implement a plan for monitoring compliance by the persons described in subparagraph (A) of this Section with the terms of the Judgment; and

(G) file with the Court and serve upon the United States within sixty days after the date of entry of the Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs (A), (C), and (D), above.

There are several limited exceptions to the prohibitions against exchange of information set forth in Sections IV and V of the proposed Final Judgment. These exceptions, found in Section VI of the Judgment, relate to possible purchase, sale, lease, or rental of gas pipeline contracting supplies or gas pipeline contracting equipment between a defendant and any other gas pipeline contractor, or possible joint venture or sub-contract agreements, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

The proposed Final Judgment is applicable to each of the defendants and to the subsidiaries, successors, assigns, officers, directors, agents, servants and employees of each defendant, and to all persons in active concert or participation with any of them who shall have received actual notice of the Judgment by personal service or otherwise. (See Section III of the proposed Final Judgment.)

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I, concerning jurisdiction of the Court, Section IX, concerning investigation and reporting requirements, and Section X, concerning retention of jurisdiction of the parties to this Final Judgment.

## IV

## REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the Judgment had not been entered. The Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

## V

## PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216-522-4070), within the 60-day period pro-

[4410-01-M]

## UNITED STATES v. STEWART MECHANICAL ENTERPRISES, INC.

## Proposed Final Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed Final Judgment and a Competitive Impact Statement (CIS) as set out below have been filed with the United States District Court for the Western District of Kentucky at Louisville, in *United States v. Stewart Mechanical Enterprises, Inc.*, Civil No. C75-0377 L(A). The Complaint in this case alleges that Stewart Mechanical Enterprises, Inc., a wholly owned subsidiary of Titan Group, Inc., of Paramus, New Jersey, violated the Sherman Act by conspiring to rig bids on mechanical contracting jobs in the Louisville market, i.e., the territory encompassed by the City of Louisville and Jefferson County in the Commonwealth of Kentucky.

The proposed Judgment enjoins the defendant from engaging in or renewing the alleged conspiracy and requires the defendant, for a period of five (5) years, to affix to every bid or quotation for mechanical contracting services a written certification that such bid or quotation was not in any way the result of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between the defendant and any other mechanical contractor. The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the Complaint.

Public comment is invited on or before May 29, 1979. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: March 15, 1979.

CHARLES F. B. MCALEER,  
Special Assistant for  
Judgment Negotiations.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

United States of America, Plaintiff, vs. Stewart Mechanical Enterprises, Inc., Defendant.

Civil No. C75-0377L(A).

Filed: March 15, 1979.

vided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the *Federal Register*. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. Section X of the proposed Final Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification, interpretation, or enforcement.

## VI

## ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Final Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the proposed Final Judgment provides appropriate relief against the violations charged in the Complaint.

In reaching an agreement on the proposed Judgment, one matter was the subject of negotiation: Whether there would be any exceptions to the provisions in Sections IV and V prohibiting the exchange of information. Initially, the United States proposed a Judgment that did not include the exceptions contained in Section VI, relating to possible joint venture or sub-contract agreements and to possible purchase, sale, lease, or rental of gas pipeline contracting supplies or equipment between a defendant and any other gas pipeline contractor. The United States decided to allow these exceptions because in many situations, especially those involving large projects or specialized tasks, certain gas pipeline contractors would not be able to bid if they were not able to engage in joint ventures or sub-contracts or if they were not able to purchase, sell, lease, or rent gas pipeline contracting supplies and equipment.

## VII

## DETERMINATIVE MATERIALS AND DOCUMENTS

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

DATED: March 15, 1979.

JOHN A. WEEDON, DAVID F. HILLS,  
Attorneys, Department of Justice,  
WILLIAM J. OBERDICK, DEBORAH  
LEWIS HILLER, RICHARD E.  
REED, Attorneys, Department of Justice,  
Antitrust Division, 995 Celebrezze  
Federal Bldg., Cleveland, Ohio 44199  
(Telephone: 216-522-4014).

(FR Doc. 79-9769 Filed 3-29-79; 8:45 am)



## STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on this defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

For the Plaintiff: United States of America. John H. Shenefield, Assistant Attorney General, William E. Swope, Charles F. B. McAleer, John A. Weedon, Attorneys, Department of Justice. Albert Jones, U.S. Attorney. William A. LeFalver, Attorney, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199. (Telephone: 216-522-4033.)

For the Defendant: Frank E. Haddad, Jr., 529 Kentucky Home Life Building, Louisville, Kentucky 40202, (502) 583-4881.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

United States of America, Plaintiff, v. Stewart Mechanical Enterprises, Inc., Defendant.

Civil No. C75-0377L(A)  
Filed: March 15, 1979

## FINAL JUDGMENT

The Plaintiff, having filed its Complaint herein on November 18, 1975, and the Defendant, having appeared by its attorney, and having filed its Answer to such Complaint denying the substantive allegations thereof; and Plaintiff and Defendant, by their respective attorneys, having consented to the making and entry of this Final Judgment herein, without trial or adjudication of, or finding on, any issues of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any such issues:

NOW, THEREFORE, without any testimony having been taken herein, and without trial or adjudication of or finding on any issues of fact or law herein, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

## I

This Court has jurisdiction of the subject matter herein and of the parties hereto, and the Complaint states claims upon which relief may be granted against Defendant under Section 1 of the Sherman Act, 15 U.S.C. § 1.

## NOTICES

## II

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Mechanical contracting services" shall mean the contracting for, and the installation of, all phases of plumbing, pipe fitting, and sheet metal work in or at job sites for new construction or for renovation purposes;

(C) "Mechanical contractor" shall mean any person engaged in the business of providing mechanical contracting services for customers;

(D) "Mechanical contracting supplies" shall mean products, including, but not limited to, pipe, sanitary plumbing fixtures, valves, faucets, fittings, hangers, connectors, and heating and air conditioning units, sold and installed by companies rendering mechanical contracting services.

## III

The provisions of this Final Judgment applicable to the Defendant shall also apply to its subsidiaries, successors, assigns, officers, directors, agents, servants and employees, and to all persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, provided, however, that this Final Judgment shall not apply to transactions or activities solely between the Defendant and its directors, officers, employees, parent companies, subsidiaries or any of them when acting in such capacity.

## IV

The Defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other mechanical contractor to:

(A) Submit any noncompetitive, collusive or complementary bid for any project requiring mechanical contracting services;

(B) Include any agreed-upon charge in any bid on a project requiring mechanical contracting services;

(C) Compensate unsuccessful bidders on a project requiring mechanical contracting services;

(D) Refrain from bidding on a project requiring mechanical contracting services;

(E) Exchange information concerning bid amounts or bid ranges with respect to mechanical contracting jobs.

## V

The Defendant is enjoined and restrained from furnishing to or exchanging with any other mechanical contractor any information concerning the prices, terms, or other conditions of sale or lease which any mechanical contractor has submitted, intends to submit or is considering submitting to any prospective customer price to the release of such information to the public or to the trade generally.

## VI

Nothing in this Final Judgment shall be:

(A) Applicable to any price, terms or other conditions of sale, lease or rental offered by the Defendant to any other mechanical contractor or offered by any other mechanical

contractor to the Defendant in negotiating a purchase, sale, lease, or rental of mechanical contracting supplies or mechanical contracting equipment between this Defendant and such other mechanical contractor;

(B) Deemed to prohibit the Defendant from entering into, participating in, or maintaining with any other person a joint venture or sub-contract agreement whereby a single bid will be submitted and the assets and facilities of each of the parties thereto will be combined for rendering mechanical contracting services, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

## VII

The Defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every bid or quotation for the rendering of mechanical contracting services a written certification, signed by an officer of the Defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between the Defendant and any other mechanical contractor, except as specifically permitted by Paragraph VI of this Final Judgment.

## VIII

The Defendant is ordered and directed to:

(A) Furnish a copy of this Final Judgment to each of its officers, directors, sales managers and service managers within thirty (30) days after the date of entry of this Final Judgment;

(B) Furnish a copy of this Final Judgment to each successor to those persons described in subparagraph (A) hereof within thirty (30) days after each such successor is employed;

(C) Obtain from each such person furnished a copy of this Final Judgment pursuant to subparagraphs (A) and (B) hereof, a signed receipt therefor, which receipt shall be retained in the Defendant's files;

(D) Attach to each copy of this Final Judgment furnished pursuant to subparagraphs (A) and (B) hereof a statement advising each person of his obligations and of the Defendant's obligations under this Final Judgment, and of the combined penalties which may be imposed upon him and/or upon the Defendant for violation of this Final Judgment;

(E) Hold, within forty-five (45) days after the date of entry of this Final Judgment, a meeting of the persons described in subparagraph (A) hereof, at which meeting such persons shall be instructed concerning the Defendant's and their obligations under this Final Judgment. Similar meetings shall be held at least once a year for a period of five (5) years from the date of entry of this Final Judgment, which meetings shall also be attended by the persons described in subparagraph (B) thereof;

(F) Establish and implement a plan for monitoring compliance by the persons described in subparagraphs (A) and (B) hereof with the terms of this Final Judgment; and

(G) File with this Court and serve upon the Plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of the Defendant's compliance with subparagraphs (A), (C) and (D) hereof.

## IX

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the Defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of the Defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the Defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of the Defendant, who may have counsel present, regarding any such matters.

(B) The Defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Paragraph IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by the Defendant to the Plaintiff, the Defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by Plaintiff to the Defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the Defendant is not a party.

## X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

## XI

Entry of this Final Judgment is in the Public Interest.

United States District Judge.

Entered:

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

United States of America,  
Plaintiff, v.

Stewart Mechanical Enterprises,  
Inc., Defendant.

## NOTICES

Civil No. C 75-0377 L(A)  
Filed: March 15, 1979

## COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

## I

## NATURE AND PURPOSE OF THE PROCEEDING

On November 18, 1975, the United States filed a civil antitrust Complaint alleging that Stewart Mechanical Enterprises, Inc., combined and conspired to submit noncompetitive bids in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that beginning sometime prior to 1967 and continuing thereafter up to and including May 22, 1972, the defendant engaged in a combination and conspiracy (a) to discuss or provide information concerning bid amounts or bid ranges with respect to specific mechanical contracting jobs, and (b) to submit noncompetitive, collusive, complementary bids on mechanical contracting projects.

The Complaint seeks a judgment by the Court declaring that the defendant engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an Order by the Court to enjoin and restrain the defendant from such activities or other activities having a similar purpose or effect in the future and, for a period of five years following the date of entry of such Order, to require the defendant to affix to every bid or quotation for the sale of mechanical contracting supplies or mechanical contracting services a written certification that such bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any other mechanical contracting company.

The defendant to this action has previously pleaded *nolo contendere* to a criminal misdemeanor charge with respect to this alleged conspiracy and a fine of \$25,000 was levied against the defendant. This civil action had been held in abeyance until the criminal misdemeanor charge was resolved.

## II

## DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

For the purpose of this case, the Complaint defines "mechanical contracting services" as the contracting for and the installation of all phases of plumbing, pipe fitting, and sheet metal work in or at job sites for new construction or for renovation purposes. In addition, "mechanical contracting supplies" are defined in the Complaint as products, including, but not limited to, pipe, sanitary plumbing fixtures, valves, faucets, fittings, hangers, connectors, and heating and air conditioning units, sold and installed by companies rendering mechanical contracting services. The furnishing and installing of mechanical contracting supplies is a specialized field engaged in by a limited group of companies equipped by technical training and experience to perform this work.

Mechanical contracting supplies and mechanical contracting services are purchased by customers on a direct basis from, through negotiations with, or through the solicitation of bids from mechanical contracting companies. The nature and extent of the project, as well as the time within which it must be completed, are often determinative factors influencing a customer in the means used in selecting a mechanical contracting company. The customers for mechanical contracting supplies and mechanical contracting services in the Louisville market include commercial, industrial, and institutional concerns, and governmental units such as the Louisville Board of Education and the Jefferson County Board of Education. The "Louisville market" is defined in the Complaint as the territory encompassed by the City of Louisville and Jefferson County in the Commonwealth of Kentucky.

During the period of time covered by the Complaint, the defendant was among the leading mechanical contracting companies serving commercial, industrial, institutional, and governmental customers located in the Louisville market. In 1971, the defendant had revenues of approximately \$8.8 million from providing mechanical contracting supplies and mechanical contracting services to customers located primarily in that market.

The Complaint alleges that the defendant and co-conspirators engaged in a combination and conspiracy beginning sometime prior to 1967 and continuing thereafter up to and including May 22, 1972, that consisted of an agreement, understanding, and concert of action, the substantial terms of which were:

(A) to discuss or provide information concerning bid amounts or bid ranges with respect to specific mechanical contracting jobs;

(B) to submit noncompetitive, collusive, complementary bids on mechanical contracting projects.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(A) price competition in the sale of mechanical contracting supplies and mechanical contracting services in the Louisville market has been restrained; and

(B) customers in the Louisville market have been deprived of the benefits of full, free, and open competition in the purchase of mechanical contracting supplies and mechanical contracting services.

## III

## EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. (See Section XI of the proposed Judgment.)

The proposed final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendant is



enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other mechanical contractor to:

(A) submit any noncompetitive, collusive, or complementary bid for any project requiring mechanical contracting services;

(B) include any agreed-upon charge in any bid on a project requiring mechanical contracting services;

(C) compensate unsuccessful bidders on a project requiring mechanical contracting services;

(D) refrain from bidding on a project requiring mechanical contracting services;

(E) exchange information concerning bid amounts or bid ranges with respect to mechanical contracting jobs.

Section V further enjoins the defendant from furnishing to or exchanging with any other mechanical contractor any information concerning the prices, terms, or other conditions of sale or lease which any mechanical contractor has submitted, intends to submit or is considering submitting to any prospective customer, prior to the release of such information to the public or to the trade generally. The injunctions in Section IV and V run perpetually.

Section VII orders the defendant, for a period of five (5) years from the date of entry of the Judgment, to affix to every bid or quotation for the rendering of mechanical contracting services a written certification, signed by an officer of the defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between the defendant and any other mechanical contractor.

Section VIII orders the defendant to:

(A) furnish a copy of the Judgment to each of its officers, directors, sales managers and service managers within thirty days after entry of the Judgment;

(B) furnish a copy of the Judgment to each successor of those persons described in subparagraph (A), above, within thirty days after each such successor is employed;

(C) obtain from each person furnished a copy of the Judgment pursuant to subparagraphs (A) and (B), above, a signed receipt which shall be retained in the defendant's files;

(D) attach to each copy of the Judgment furnished pursuant to subparagraphs (A) and (B), above, a statement advising each person of his and the defendant's obligations under the Judgment, and of the criminal penalties which may be imposed upon him and/or the defendant for violation of the Judgment;

(E) hold, within forty-five days after entry of the Judgment, a meeting of the persons described in subparagraph (A), above, at which meeting such persons shall be instructed concerning the defendant's and their obligations under the Judgment. Similar meetings shall be held at least once a year for a period of five years from entry of the Judgment, which meetings shall also be attended by the persons described in subparagraph (B), above;

(F) establish and implement a plan for monitoring compliance with the terms of the Judgment; and

(G) file with the Court and serve upon the United States within sixty days after the date of entry of the Judgment, an affidavit as to the fact and manner of the defendant's compliance with subparagraphs (A), (C) and (D), above.

There are several limited exceptions to the prohibitions against exchange of information set forth in Sections IV and V of the proposed Final Judgment. These exceptions, found in Section VI of the proposed Judgment, relate to possible purchase, sale, lease, or rental of mechanical contracting supplies or mechanical contracting equipment between the defendant and any other mechanical contractor, or possible joint venture or sub-contract agreements, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

The proposed Final Judgment is applicable to the defendant and to its subsidiaries, successors, assigns, officers, directors, agents, servants and employees, and to all persons in active concert or participation with any of them who shall have received actual notice of the proposed Judgment by personal service or otherwise. (See Section III of the proposed Judgment.)

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I (concerning jurisdiction of the Court), Section IX (concerning investigation and reporting requirements, and Section X (concerning retention of jurisdiction by the Court over the parties to the proposed Final Judgment).

## IV

## REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the proposed Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

## V

## PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216-522-4070), within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary.

Section X of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

## VI

## ALTERNATIVE TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations alleged in the Complaint.

## VII

## DETERMINATIVE MATERIALS AND DOCUMENTS

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

JOHN A. WEEDON, Attorney, Department of Justice, WILLIAM A. LEFAIVER, Attorney, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: 216-522-4083.

[FR Doc. 79-9770 Filed 3-29-79; 8:45 am]

[4410-01-M]

## UNITED STATES v. READY ELECTRIC COMPANY, INC., ET AL.

## Proposed Final Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h), that a proposed Final Judgment and a Competitive Impact Statement (CIS) as set out below have been filed with the United States District Court for the Western District of Kentucky, at Louisville, in *United States v. Ready Electric Company, Inc., et al.*, Civil No. C 75-0196 L (A). The Complaint in this case alleges that eleven corporations, Ready Electric Company, Inc.; Henderson Electric Company, Inc.; Marine Electric Company, Inc.; Bornstein Electric Company, Inc.; United Electric Company, Inc.; Joe H. Hayes Electrical Company, Inc.; Link Electric Company, Inc.; Walter B. Diecks Electric Co.; Mittel Electric Co. Inc.; Middletown Electric Company; and Bentley Electric Company, Inc., violated the Sherman Act by conspiring to rig bids on electrical contracting jobs in the Louisville market, i.e., the territory encompassed by the City of Louisville and Jefferson County in the Commonwealth of Kentucky.

The proposed Judgment enjoins the defendants from engaging in or renew-

ing the alleged conspiracy and requires the defendants for a period of five (5) years to affix to every bid or quotation for electrical contracting services a written certification that such bid or quotation was not in any way the result of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between any defendant and any other electrical contractor. The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the Complaint.

Public comment is invited on or before May 29, 1979. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: March 15, 1979.

CHARLES F. B. McALEER,  
Special Assistant for  
Judgment Negotiations.

U.S. DISTRICT COURT FOR THE WESTERN  
DISTRICT OF KENTUCKY AT LOUISVILLE

United States of America, Plaintiff, v. Ready Electric Company, Inc.; Henderson Electric Company, Inc.; Marine Electric Company, Inc.; Bornstein Electric Company, Inc.; United Electric Company, Inc.; Joe H. Hayes Electrical Company, Inc.; Link Electric Company, Inc.; Walter B. Diecks Electric Co.; Mittel Electric Company, Inc.; Middletown Electric Company; and Bentley Electric Company, Inc.; Defendants.

Civil No. C75-0196L (A).

Filed: March 15, 1979.

## STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

For the Plaintiff: United States of America. John H. Shenefield, Assistant Attorney General; William E. Swope, Charles F. B. McAleer, John A.

## I

This Court has jurisdiction of the subject matter herein and of the parties hereto, and the Complaint states claims upon which relief may be granted against defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

## II

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Electrical contracting services" shall mean the contracting for, and the installation of, electrical wiring and equipment in or at job sites for new construction or for renovation purposes;

(C) "Electrical contracting supplies" shall mean products, including but not limited to, wire, conduit, safety switches, panelboards, switchboards, and starters, sold and installed by companies rendering electrical contracting services;

(D) "Electrical contractors" shall mean those companies engaged in the business of purchasing electrical contracting supplies from wholesale outlets, manufacturers' representatives, or directly from manufacturers, for resale to, and installation at, job sites of commercial, industrial, institutional, and governmental customers.

## III

The provisions of this Final Judgment applicable to any Defendant shall also apply to its subsidiaries, successors, assigns, officers, directors, agents, servants and employees, and to all persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, provided, however, that this Final Judgment shall not apply to transactions or activities solely between a Defendant and its directors, officers, employees, parent companies, subsidiaries or any of them when acting in such capacity.

## IV

Each Defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other electrical contractor to:

(A) Submit any noncompetitive, collusive or complimentary bid for any project requiring electrical contracting services;

(B) Include any agreed-upon charge in any bid on a project requiring electrical contracting services;

(C) Compensate unsuccessful bidders on a project requiring electrical contracting services;

(D) Refrain from bidding on a project requiring electrical contracting services;

(E) Exchange information concerning bid amounts or bid ranges with respect to electrical contracting jobs.

## V

Each Defendant is enjoined and restrained from furnishing to or exchanging with any other Defendant or with any other electrical contractor any information concerning the prices, terms or other conditions of sale or lease which any electrical contractor has submitted, intends to submit or is



considering submitting to any prospective customer prior to the release of such information to the public or to the trade generally.

## VI

Nothing in this Final Judgment shall be:

(A) Applicable to any price, terms or other conditions of sale, lease or rental offered by a Defendant to any other electrical contractor or offered by any other electrical contractor to a Defendant in negotiating a purchase, sale, lease, or rental of electrical contracting supplies or electrical contracting equipment between that Defendant and such other electrical contractor;

(B) Deemed to prohibit a Defendant from entering into, participating in, or maintaining with any other person a joint venture or sub-contract agreement whereby a single bid will be submitted and the assets and facilities of each of the parties thereto will be combined for rendering electrical contracting services, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

## VII

Each Defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every bid or quotation for the rendering of electrical contracting services a written certification, signed by an officer of such Defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such Defendant and any other electrical contractor, except as specifically permitted by Paragraph VI of this Final Judgment.

## VIII

Each Defendant is ordered and directed to:

(A) Furnish a copy of this Final Judgment to each of its officers, directors, sales managers and service managers within thirty (30) days after the date of entry of this Final Judgment;

(B) Furnish a copy of this Final Judgment to each successor to those persons described in subparagraph (A) hereof within thirty (30) days after each such successor is employed;

(C) Attach to each copy of this Final Judgment furnished pursuant to subparagraphs (A) and (B) hereof a statement advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the criminal penalties which may be imposed upon him and/or upon such defendant for violation of this Final Judgment; and

(D) File with this court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs (A) and (C) hereof.

## IX

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the

Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Paragraph IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

## X

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

## XI

Entry of this Final Judgment is in the public interest.

Entered: \_\_\_\_\_  
Date: \_\_\_\_\_

United States District Judge.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

United States of America, Plaintiff, v. Ready Electric Company, Inc.; Henderson Electric Company, Inc.; Marine Electric Company, Inc.; Bornstein Electric Company, Inc.; United Electric Company, Inc.; Joe H. Hayes Electric Company, Inc.; Link Electric Company, Inc.; Walter B. Diecks Electric Co.; Mittel Electric Company, Inc.;

Middletown Electric Company, and Bentley Electric Company, Inc., Defendants.  
Civil No. C 75-0196 L(A).  
Filed: March 15, 1979.

## COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

## I

## NATURE AND PURPOSE OF THE PROCEEDING

On June 27, 1975, the United States filed a civil antitrust Complaint alleging that eleven corporations combined and conspired to submit noncompetitive bids in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that beginning sometime prior to 1970 and continuing thereafter up to and including December 1, 1974, the defendants engaged in a combination and conspiracy (a) to discuss or provide information concerning bid amounts or bid ranges with respect to electrical contracting jobs and (b) to submit noncompetitive, collusive, complementary bids on electrical contracting projects.

The Complaint seeks a judgment by the Court declaring that the defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an Order by the Court to enjoin and restrain the defendants from such activities or other activities having a similar purpose or effect in the future.

The corporations named in the Complaint are: Ready Electric Company, Inc.; Henderson Electric Company, Inc.; Marine Electric Company, Inc.; Bornstein Electric Company, Inc.; United Electric Company, Inc.; Joe H. Hayes Electric Company, Inc.; Link Electric Company, Inc.; Walter B. Diecks Electric Co.; Mittel Electric Co. Inc.; Middletown Electric Company; and Bentley Electric Company, Inc.

All of the defendants to this action have previously pleaded *nolo contendere* to criminal misdemeanor charges with respect to this alleged conspiracy and fines ranging from \$32,000 to \$5,000 were levied against the defendants. This civil action had been held in abeyance until the criminal misdemeanor charge was resolved.

## II

## DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

For the purpose of this case, the Complaint defines "electrical contracting services" as the contracting for and the installation of electrical wiring and equipment in or at job sites for new construction or for renovation purposes. In addition, "electrical contracting supplies" are defined in the Complaint as products, including, but not limited to, wire, conduit, safety switches, panelboards, switchboards, and starters, sold and installed by companies rendering electrical contracting services. The furnishing and installing of electrical contracting supplies is a specialized field engaged in by a limited group of companies equipped by technical training and experience to perform this work.

Electrical contracting supplies and electrical contracting services are purchased by customers either through negotiations with, or through the solicitation of bids from, electrical contracting companies. The nature and extent of the project, as well as the time within which it must be completed, are often determinative factors influencing a customer in the means used in selecting an electrical contracting company. The customers for electrical contracting supplies and electrical contracting services in the Louisville market include commercial, industrial, and institutional concerns, and governmental units such as the Louisville Board of Education and the Jefferson County Board of Education. The "Louisville market" is defined in the Complaint as the territory encompassed by the City of Louisville and Jefferson County in the Commonwealth of Kentucky.

During the period of time covered by the Complaint, the defendants were among the leading electrical contracting companies serving commercial, industrial, institutional, and governmental customers located in the Louisville market. In 1973, the defendants had revenues of approximately \$23 million from the sale and installation of electrical contracting supplies and the providing of electrical contracting services to such customers.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning sometime prior to 1970 and continuing thereafter up to and including December 1, 1974 that consisted of an agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were:

(A) to discuss or provide information concerning bid amounts or bid ranges with respect to electrical contracting jobs;

(B) to submit noncompetitive, collusive, complementary bids on electrical contracting projects.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(A) price competition in the sale of electrical contracting supplies and electrical contracting services in the Louisville market has been restrained; and

(B) customers in the Louisville market have been deprived of the benefits of full, free, and open competition in the purchase of electrical contracting supplies and electrical contracting services.

## III

## EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. (See Section XI of the proposed Judgment.)

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendants are enjoined and restrained from enter-

ing into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other electrical contractor to:

(A) submit any noncompetitive, collusive, or complementary bid for any project requiring electrical contracting services;

(B) include any agreed-upon charge in any bid on a project requiring electrical contracting services;

(C) compensate unsuccessful bidders on a project requiring electrical contracting services;

(D) refrain from bidding on a project requiring electrical contracting services;

(E) exchange information concerning bid amounts or bid ranges with respect to electrical contracting jobs.

Section V further enjoins each defendant from furnishing to or exchanging with any other defendant or any other electrical contractor any information concerning the prices, terms or other conditions of sale or lease which any electrical contractor has submitted, intends to submit or is considering submitting to any prospective customer, prior to the release of such information to the public or to the trade generally. The injunctions in Section IV and V run perpetually.

Section VII orders each defendant, for a period of five (5) years from the date of entry of the Judgment, to affix to every bid or quotation for the rendering of electrical contracting services a written certification, signed by an officer of such defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other electrical contractor.

Section VIII orders each defendant to:

(A) furnish a copy of the Judgment to each of its officers, directors, sales managers and service managers within thirty days after the date of entry of the Judgment;

(B) furnish a copy of the Judgment to each successor of those persons described in subparagraph (A), above, within thirty days after each such successor is employed;

(C) attach to each copy of the Judgment furnished pursuant to subparagraphs (A) and (B), above, a statement advising each person of his obligations and of the defendant's obligations under the Judgment, and of the criminal penalties which may be imposed upon him and/or upon such defendant for violation of the Judgment; and

(D) file with the Court and serve upon the United States within sixty days after the date of entry of the Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs (A) and (C), above.

There are several limited exceptions to the prohibitions against exchange of information set forth in Sections IV and V of the proposed Final Judgment. These exceptions, found in Section VI of the proposed Judgment, relate to possible purchase, sale, lease, or rental of electrical contracting supplies or electrical contracting equipment between a defendant and any other electrical contractor, or possible joint venture of sub-contract agreements, provided that the transaction is denominated as a joint ven-

ture or sub-contract agreement in the bid submitted to the prospective customer.

The proposed Final Judgment is applicable to each of the defendants and to the subsidiaries, successors, assigns, officers, directors, agents, servants and employees of each defendant, and to all persons in active concert or participation with any of them who shall have received actual notice of the proposed Judgment by personal service or otherwise. (See Section III of the proposed Judgment.)

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I (concerning jurisdiction of the Court), Section IX (concerning investigation and reporting requirements), and Section X (concerning retention of jurisdiction by the Court over the parties to the proposed Final Judgment).

## IV

## REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the proposed Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

## V

## PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216-522-4070), within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. Section X of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

## VI

## ALTERNATIVE TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations alleged in the Complaint.



## VII

## DETERMINATIVE MATERIALS AND DOCUMENTS

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

John A. Weedon, Attorney, Department of Justice; William A. LeFaiver, Joan Farragher, Edmund Round, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44119, Telephone: 216-522-4083.

[FR Doc. 79-9767 Filed 3-29-79; 8:45 am]

[4410-01-M]

**UNITED STATES v. UNITED PIPELINE CONSTRUCTION CO., ET AL.**

**Proposed Final Judgment and Competitive Impact Statement Thereon**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed Final Judgment and a Competitive Impact Statement (CIS) as set out below have been filed with the United States District Court for the Western District of Kentucky, at Louisville, in *United States v. United Pipeline Construction Co., et al.*, Civil No. C 78-0064 L (B). The Complaint in this case alleges that three corporations (United Pipeline Construction Co., Hall Contracting Corporation; and Butler Pipelines, Inc.) violated the Sherman Act by conspiring to rig bids on water pipeline contracting jobs in the Louisville service area, i.e., the area served by the Louisville Water Company.

The proposed Judgment enjoins the defendants from engaging in or renewing the alleged conspiracy and requires the defendants for a period of five (5) years to affix to every bid or quotation for water pipeline contracting services a written certification that such bid or quotation was not in any way the result of any communication or understanding between any defendant and any other water pipeline contractor.

The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the Complaint.

Public comment is invited on or before May 29, 1979. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

## NOTICES

Dated: MARCH 15, 1979.

**CHARLES F. B. McALEER,**  
*Special Assistant for*  
*Judgment Negotiations.*

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

*United States of America, Plaintiff, v. United Pipeline Construction Co.; Hall Contracting Corporation; and Butler Pipelines, Inc., Defendants.*

Civil No. C 78-0064 L (B)  
Judge Thomas A. Ballantine  
Filed: March 15, 1979

## STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorney, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

For the Plaintiff: United States of America, John H. Shenefield, Assistant Attorney General, William E. Swope, Charles F. B. McAleer, John A. Weedon, David F. Hills, Attorneys, Department of Justice, Albert Jones, United States Attorney, Susan B. Cyphert, William J. Oberdick, Deborah Lewis Hiller, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Bldg., Cleveland, Ohio 44199, (Telephone: 216-522-4014).

For the Defendants: Edward H. Stopher, Counsel for United Pipeline Construction Company, Inc. Frank E. Haddad, Jr., Donald H. Balleisen, John S. Reed II, Counsel for Hall Contracting Corporation, K. Gregory Haynes, Counsel for Butler Pipelines, Inc.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

*United States of America, Plaintiff, v. United Pipeline Construction Co.; Hall Contracting Corporation; and Butler Pipelines, Inc., Defendants.*

Civil No. C78-0064 L (B)  
Filed: March 15, 1979

## FINAL JUDGMENT

The plaintiff, having filed its complaint herein on March 3, 1978, and the defendants, having appeared by their respective attorneys and having filed their answers to the complaint denying the substantive allegations thereof; and plaintiff and defendants, by their respective attorneys, having consented to the making and entry of this Final Judgment herein, without trial or adjudication of, or finding on, any issues of fact or law herein, and without this Final

Judgment constituting any evidence against or admission by any party with respect to any such issues;

NOW, THEREFORE, without any testimony having been taken herein, and without trial or adjudication of or finding on any issues of fact or law herein, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

## I

This Court has jurisdiction of the subject matter herein and of the parties hereto, and the complaint states claims upon which relief may be granted against defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

As used in this Final Judgment, the term: (A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Water pipeline contracting services" means the business of installing, removing, altering, or repairing, or the rendering of other services regarding, water pipeline and of selling appurtenances and materials associated therewith; and

(C) "Water pipeline contractors" means those entities engaged in the business of providing water pipeline contracting services to water utilities.

## III

The provisions of this Final Judgment applicable to any defendant shall also apply to its subsidiaries, successors, assigns, officers, directors, agents, servants and employees, and to all persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions or activities solely between a defendant and its directors, officers, employees, parent companies, subsidiaries or any of them when acting in such capacity.

## IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other water pipeline contractor to:

(A) Exchange information concerning bid amounts or bid ranges with respect to water pipeline contracting jobs;

(B) Allocate water pipeline contracting jobs;

(C) Request or submit noncompetitive, collusive, complementary bids on water pipeline contracting jobs;

(D) Refrain from bidding on water pipeline contracting jobs.

## V

Each defendant is enjoined and restrained from furnishing to or exchanging with any other defendant or any other water pipeline contractor any information concerning the prices, terms or any other conditions of sale or lease which any water pipeline contractor has submitted, intends to submit, or is considering submitting to any prospective customer, prior to the release of such information to the public or to the trade generally.

## VI

Nothing in this Final Judgment shall be:

(a) Applicable to any prices, terms or other conditions of sale, lease or rental offered by a defendant to any other water pipeline contractor or offered by any other water pipeline contractor to a defendant in negotiating a purchase, sale, lease or rental of water pipeline contracting supplies or water pipeline contracting equipment between that defendant and such other water pipeline contractor;

(b) Deemed to prohibit a defendant from entering into, participating in, or maintaining with any other person a joint venture or sub-contract agreement whereby a single bid will be submitted and the assets and facilities of each of the parties thereto will be combined for rendering water pipeline contracting services, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

## VII

Each defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every bid or quotation for the rendering of water pipeline contracting services a written certification, signed by an officer of such defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other water pipeline contractor.

## VIII

Each defendant is ordered and directed to: (A) Furnish a copy of this Final Judgment to each of its officers, directors, superintendents, and other persons responsible for bid preparation or submission within thirty (30) days after the date of entry of this Final Judgment;

(B) Furnish a copy of this Final Judgment to each successor to those persons described in subparagraph (A) hereof within thirty (30) days after each such successor is employed;

(C) Obtain from each such person furnished a copy of this Final Judgment pursuant to subparagraphs (A) and (B) hereof, a signed receipt therefore, which receipt shall be retained in the defendants' files;

(D) Attach to each copy of this Final Judgment furnished pursuant to subparagraphs (A) and (B) hereof, a statement advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the criminal penalties which may be imposed upon him and/or upon such defendant for violation of this Final Judgment;

(E) Hold, within forty (40) days after the date of entry of this Final Judgment, a meeting of the persons described in subparagraph (A) at which meeting such person shall be instructed concerning the defendant's and their obligations under this Final Judgment. Similar meetings shall be held at least once a year for a period of five (5) years from the date of entry of this Final Judgment which meetings shall also be attended by persons described in subparagraph (B) hereof;

(F) Establish and implement a plan for monitoring compliance by the persons de-

## NOTICES

scribed in subparagraph (A) of this Section with the terms of the Final Judgment; and (G) File with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs (A), (C) and (D) hereof.

## IX

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Paragraph IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

## X

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

## XI

Entry of this Final Judgment is in the public interest.

Entered: \_\_\_\_\_  
Date: \_\_\_\_\_

United States District Judge.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

*United States of America, Plaintiff, v. United Pipeline Construction Co.; Hall Contracting Corporation; and Butler Pipelines, Inc., Defendants.*

Civil No. C78-0064 L (B).

Filed: March 15, 1979.

## COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

## I

## NATURE AND PURPOSE OF THE PROCEEDING

On March 3, 1978, the United States filed a civil antitrust Complaint alleging that three corporations combined and conspired to submit noncompetitive bids in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that beginning at least as early as 1971 and continuing thereafter at least into 1974, the defendants engaged in a combination and conspiracy: (a) to exchange information concerning bid amounts or bid ranges with respect to water pipeline contracting jobs; (b) to allocate water pipeline contracting jobs; (c) to request or submit noncompetitive, collusive, complementary bids on water pipeline contracting jobs; and (d) to refrain from bidding on water pipeline contracting jobs.

The Complaint seeks a judgment by the Court declaring that defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an Order by the Court to enjoin and restrain the defendants from such activities in the future and, for a period of five years following the date of entry of such Order, to require each of the defendants to affix to every bid and quotation for water pipeline contracting services a written certification that such bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any other water pipeline contracting company.

The corporations named in the Complaint are: United Pipeline Construction Co.; Hall Contracting Corporation; and Butler Pipelines, Inc.

All of these defendants to this action have previously pleaded *nolo contendere* to criminal misdemeanor charges with respect to this alleged conspiracy. A fine of \$25,000 was levied against United Pipeline Construction Co.; a fine of \$25,000 was levied against Hall Contracting Corporation; and a fine of \$30,000 (\$18,000 of which was suspended) was levied against Butler Pipelines, Inc. This civil action had been held in abeyance until the criminal misdemeanor charge was resolved.



## II

## DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

For the purpose of this case, the Complaint defines "water pipeline contracting services" as the business of installing, removing, altering, or repairing, or the rendering of other services regarding, water pipeline and of selling associated water pipe and appurtenances. The furnishing of water pipeline contracting services is a specialized, field engaged in by a limited number of entities equipped with technical training and experience to perform these services.

Water pipeline contracting services are purchased by customers either through negotiations with, or through solicitation of bids from, water pipeline contractors. The customers for water pipeline contracting services are water utilities and governmental, commercial, and private customers.

During the period covered by the Complaint, the defendants were among the leading water pipeline contractors in the Louisville service area, the territory served by the Louisville Water Company. In 1974, the defendants had total revenues of approximately \$6.1 million from the sale of water pipeline contracting services.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning at least as early as 1971 and continuing thereafter at least into 1974 that consisted of a continuing agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were:

(A) to exchange information concerning bid amounts or bid ranges with respect to water pipeline contracting jobs;

(B) to allocate water pipeline contracting jobs;

(C) to request or submit noncompetitive, collusive, complementary bids on water pipeline contracting jobs; and

(D) to refrain from bidding on water pipeline contracting jobs.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(A) price competition in the sale of water pipeline contracting services in the Louisville service area has been restrained; and

(B) customers in the Louisville service area have been deprived of the benefits of full, free, and open competition in the purchase of water pipeline contracting services.

## III

## EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. (See Section XI of the proposed Final Judgment.)

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendants

are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any other water pipeline contractor to:

(A) exchange information concerning bid amounts or bid ranges with respect to water pipeline contracting jobs;

(B) allocate water pipeline contracting jobs;

(C) request or submit noncompetitive, collusive, complementary bids on water pipeline contracting jobs; and

(D) refrain from bidding on water pipeline contracting jobs.

Section V further enjoins each defendant from furnishing to or exchanging with any other defendant or any other water pipeline contractor any information concerning the prices, terms or other conditions of sale or lease which any water pipeline contractor has submitted, intends to submit, or is considering submitting to any prospective customer, prior to the release of such information to the public or to the trade generally. The injunctions in Sections IV and V run perpetually.

Section VII of the proposed Final Judgment orders and directs each defendant, for a period of five years from the date of entry of the Judgment, to affix to every bid or quotation for the rendering of water pipeline contracting services a written certification, signed by an officer of such defendant responsible for the preparation of bids or quotations, that such bid or quotation was not in any way the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan, or program, whether formal or informal, between such defendant and any other water pipeline contractor.

Section VIII of the proposed Final Judgment orders and directs each defendant to:

(A) furnish a copy of the Judgment to each of its officers, directors, superintendents, and other persons responsible for bid preparation or submission within thirty days after the date of entry of the Judgment;

(B) furnish a copy of the Judgment to each successor to those persons described in subparagraph (A), above, within thirty days after each such successor is employed;

(C) obtain from each such person furnished a copy of the Judgment pursuant to subparagraphs (A) and (B), above, a signed receipt which shall be retained in the defendant's files;

(D) attach to each copy of the Judgment furnished pursuant to subparagraphs (A) and (B), above, a statement advising each person of his obligations and of defendant's obligations under the Judgment, and of the criminal penalties which may be imposed upon him and/or upon the defendant for violation of the Judgment;

(E) hold, within forty days after the date of entry of the Judgment, a meeting of the persons described in subparagraph (A); and at this meeting these persons shall be instructed concerning the defendant's and their obligations under the Judgment. Similar meetings shall be held at least once a year for a period of five years from the date of entry of the Judgment; and these meetings shall also be attended by the persons described in subparagraph (B), above;

(F) establish and implement a plan for monitoring compliance by the persons described in subparagraph (A) of this Section with the terms of the Judgment; and

(G) file with the Court and serve upon the United States within sixty days after the date of entry of the Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs (A), (C), and (D), above.

There are several limited exceptions to the prohibitions against exchange of information set forth in Sections IV and V of the proposed Final Judgment. These exceptions, found in Section VI of the Judgment, relate to possible purchase, sale, lease, or rental of water pipeline contracting supplies or water pipeline contracting equipment between a defendant and any other water pipeline contractor, or possible joint venture or sub-contract agreements, provided that the transaction is denominated as a joint venture or sub-contract agreement in the bid submitted to the prospective customer.

The proposed Final Judgment is applicable to each of the defendants and to the subsidiaries, successors, assigns, officers, directors, agents, servants and employees of each defendant, and to all persons in active concert or participation with any of them who shall have received actual notice of the Judgment by personal service or otherwise. (See Section III of the proposed Final Judgment.)

Standard provisions similar to those found in other antitrust consent judgments are contained in Section I, concerning jurisdiction of the Court, Section IX, concerning investigation and reporting requirements, and Section X, concerning retention of jurisdiction by the Court over the parties to this Final Judgment.

## IV

## REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the Judgment had not been entered. The Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

## V

## PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216-522-4070), within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. Section X of the proposed Final Judgment provides that the Court retains jurisdiction

over this action and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification, interpretation or enforcement.

## VI

## ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Final Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the proposed Final Judgment provides appropriate relief against the violations charged in the Complaint.

In reaching an agreement on the proposed Judgment, one matter was the subject of negotiation: whether there would be any exceptions to the provisions in Sections IV and V prohibiting the exchange of information. Initially, the United States proposed a Judgment that did not include the exceptions contained in Section VI, relating to possible joint venture or sub-contract agreements and to possible purchase, sale, lease, or rental of water pipeline contracting supplies or equipment between a defendant and any other water pipeline contractor. The United States decided to allow these exceptions because in many situations, especially those involving large projects or specialized tasks, certain water pipeline contractors would not be able to bid if they were not able to engage in joint ventures or sub-contracts or if they were not able to purchase, sell, lease, or rent water pipeline contracting supplies and equipment.

## VII

## DETERMINATIVE MATERIALS AND DOCUMENTS

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

Dated: MARCH 15, 1979.

John A. Weedon, David F. Hils, Attorneys, Department of Justice, William J. Oberdick, Deborah Lewis Hiller, Richard E. Reed, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Bldg., Cleveland, Ohio 44199, (Telephone: 216-522-4014).

(FR Doc. 79-9768 Filed 3-29-79; 8:45 am)

[4510-24-M]

## DEPARTMENT OF LABOR

## Bureau of Labor Statistics

## WEEKLY SEASONAL-ADJUSTMENT FACTORS TO BE USED IN COMPUTATION OF 1979 SEASONALLY-ADJUSTED INSURED UNEMPLOYMENT RATES UNDER REGULAR STATE UNEMPLOYMENT PROGRAMS

The Bureau of Labor Statistics announces the 1979 weekly seasonally-adjustment factors that will be applied to the unadjusted levels of claims for

unemployment insurance benefits under regular State programs to derive seasonally-adjusted levels for this data series. The seasonal-adjusted level of insured unemployment under regular State programs is a major component in the calculation of the seasonally-adjusted National insured unemployment rate, which triggers Federal-State extended unemployment compensation payments. The rate of insured unemployment for purposes of the National extended benefits trigger is computed and announced by the U.S. Department of Labor's Employment and Training Administration, Unemployment Insurance Service.

| Week ending date | Factor |
|------------------|--------|
| January 6        | 128.4  |
| January 13       | 128.3  |
| January 20       | 128.9  |
| January 27       | 129.8  |
| February 3       | 130.1  |
| February 10      | 131.7  |
| February 17      | 130.2  |
| February 24      | 130.1  |
| March 3          | 126.1  |
| March 10         | 123.5  |
| March 17         | 119.6  |
| March 24         | 116.0  |
| March 31         | 111.5  |
| April 7          | 108.5  |
| April 14         | 104.6  |
| April 21         | 101.9  |
| April 28         | 98.7   |
| May 5            | 96.6   |
| May 12           | 95.1   |
| May 19           | 92.6   |
| May 26           | 87.8   |
| June 2           | 89.5   |
| June 9           | 89.4   |
| June 16          | 88.0   |
| June 23          | 86.9   |
| June 30          | 83.8   |
| July 7           | 94.3   |
| July 14          | 97.2   |
| July 21          | 95.6   |
| July 28          | 94.0   |
| August 4         | 93.4   |
| August 11        | 92.0   |
| August 18        | 89.1   |
| August 25        | 86.7   |
| September 1      | 82.6   |
| September 8      | 84.5   |
| September 15     | 81.0   |
| September 22     | 80.5   |
| September 29     | 78.6   |
| October 6        | 78.2   |
| October 13       | 81.3   |
| October 20       | 81.8   |
| October 27       | 82.9   |
| November 3       | 82.4   |
| November 10      | 86.1   |
| November 17      | 87.5   |
| November 24      | 91.1   |
| December 1       | 98.8   |
| December 8       | 101.8  |
| December 15      | 101.5  |
| December 22      | 103.2  |
| December 29      | 118.3  |

Inquiries regarding the contents of this announcement and the methodology for seasonal adjustment of the series should be directed to: U.S. Department of Labor, Bureau of Labor Statistics, Room 4868, 441 G Street, N.W., Washington, D.C. 20212, Attn: Thomas J. Plewes, Telephone: (202) 523-1237.

Signed at Washington, D.C., this 16th day of March 1979.

JANET L. NORWOOD,  
Acting Commissioner,  
Bureau of Labor Statistics.

(FR Doc. 79-9786 Filed 3-29-79; 8:45 am)

[4510-30-M]

## Employment and Training Administration

## EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

## Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.



3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 27th day of March 1979.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

#### APPLICATIONS RECEIVED DURING THE WEEK ENDING MARCH 27, 1979

Name of Applicant, Location of Enterprise,  
and Principal Product or Activity

Prestonsburg Inn Associates, Prestonsburg,  
Kentucky; Holiday Inn Motel and restaurant.

[FR Doc. 79-9831 Filed 3-29-79; 8:45 am]

#### [4510-43-M]

Mine Safety and Health Administration

[Docket Nos. M-79-30-C and M-79-31-C]

#### BRAZTAH CORP.

Petitions for Modification of Application of  
Mandatory Safety Standard

Braztah Corporation, P.O. Box 599, Helper, Utah 84526, has filed separate petitions to modify the application of 30 CFR 75.1100-2(d) (fire protection) to its Braztah No. 3 (M-79-31-C) and its Braztah No. 5 (M-79-30-C) Mines, located in Carbon County, Utah. These petitions are filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petitions follows:

1. These petitions concern equipping self-propelled or battery-operated equipment in the petitioner's mines with portable fire extinguishers.

2. The petitioner's mines are not track haulage mines and have no his-

tory of self-propelled or battery-operated equipment fires.

3. When the petitioner has provided fire extinguishers for each piece of its equipment, adverse mine floor conditions and vibrations of the equipment have rendered the extinguishers inoperable by causing them either to become damaged or to lose pressure.

4. All of the concerned equipment used at the mines, with the exception of small 48-volt battery-powered golf carts, are equipped with automatic fire suppression systems with actuators located in the operator's compartment. The fire suppression system outlets are located and directed over flammable or combustible parts of the machine.

5. In each mine, fire hose and fire hose outlets located at 300-foot intervals along the main waterline in parallel entries are capable of reaching the main equipment haulage for back-up fire protection.

6. The petitioner proposes to provide additional protection by installing portable fire extinguishers along the main equipment haulageways at intervals of no more than 800 feet. All battery charging stations are already equipped with ten-pound fire extinguishers for adequate protection during equipment charging.

7. The petitioner states that the fire suppression system currently used on its equipment, the installation of portable fire extinguishers at 800 foot intervals along the main equipment haulageway, and available waterlines with fire outlets and fire hoses in parallel entries provide no less protection than that provided by the standard.

#### REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before April 30, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 22, 1979.

ROBERT B. LAGATHER,  
Assistant Secretary  
for Mine Safety and Health.

[FR Doc. 79-9784 Filed 3-29-79; 8:45 am]

#### [4510-43-M]

[Docket No. M-79-28-C]

#### CAMPBELL COAL CO.

Petition for Modification of Application of  
Mandatory Safety Standard

Campbell Coal Company, General Delivery, La Follette, Tennessee 37766, has filed a petition to modify the ap-

plication of 30 CFR 75.1719 (illumination), to its No. 1 Mine, located in Campbell County, Tennessee, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of lighting on the petitioner's mining machines.

2. The petitioner is mining coal seams 26 to 30 inches in height.

3. The petitioner's 35L Jeffrey Coal Cutting Machine is 18 inches in height.

4. Due to the low ceiling, it is neither feasible nor practical to install lights on the petitioner's mining machines or on stationary fixtures.

5. The petitioner states that the installation of such lights would result in a diminution of safety because the lights would be blinding to miners and would create additional heat in the close areas in which the miners work.

6. For these reasons, the petitioner requests relief from the application of the standard.

#### REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before April 30, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 16, 1979.

ROBERT B. LAGATHER,  
Assistant Secretary  
for Mine Safety and Health.

[FR Doc. 79-9785 Filed 3-29-79; 8:45 am]

#### [4510-28-M]

#### OFFICE OF THE SECRETARY

[TA-W-4644]

#### ARVIN INDUSTRIES, INC., PRINCETON, KENTUCKY

Certification Regarding Eligibility to Apply for  
Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4644: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1979 in response to a worker petition received on January 2, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing AM-

FM stereo compact systems at the Princeton, Kentucky plant of Arvin Industries, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Arvin Industries, Incorporated, a major customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of radio-phonograph-tape combinations, measured in quantity, increased both absolutely and relative to domestic production during 1977 compared to 1976 and during the first nine months of 1978 compared to the first nine months of 1977. Measured in value, imports increased absolutely during 1977 compared to 1976 and during the first nine months of 1978 compared to the first nine months of 1977. Measured in value, imports also increased relative to domestic production during 1977 compared to 1976.

A customer representing a significant proportion of Arvin's sales of AM-FM stereo compact systems was surveyed by the Department. That customer increased purchases of imported systems while decreasing purchases of systems from Arvin.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with AM-FM stereo compact systems produced at the Princeton, Kentucky plant of Arvin Industries, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Princeton, Kentucky plant of Arvin Industries, Incorporated who became totally or partially separated from employment on or after December 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

[FR Doc. 79-9789 Filed 3-29-79; 8:45 am]

#### [4510-28-M]

[TA-W-4768]

#### BARKER MANUFACTURING, PORTLAND, OREG.

Negative Determination Regarding Eligibility  
To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4768: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979 in response to a worker petition received on January 30, 1979 which was filed by the United Furniture Workers on behalf of workers and former workers producing bedroom furniture at Barker Manufacturing Company, Portland, Oregon. The investigation revealed that wooden case goods, which includes bedroom furniture were produced at Barker Manufacturing.

The Notice of Investigation was published in the FEDERAL REGISTER on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Barker Manufacturing, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of wood furniture supply about 8 percent of U.S. consumption. Because of transportation costs, furniture imports tend to be items that are lightweight and/or easy to assemble or disassemble. Domestic shipments of furniture increased substantially and steadily for the past four years particularly domestic production and shipments of bedroom furniture.

Evidence developed in the investigation indicated that the company was less competitive relative to other domestic manufacturers and could not obtain continued financing to maintain production operations. The inability to finance production resulted in the closure of Barker Manufacturing in January, 1979.

#### CONCLUSION

After careful review, I determine that all workers of Barker Manufacturing, Portland, Oregon, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of March 1979.

HARRY J. GILMAN,  
Supervisory International Econ-  
omist, Office of Foreign Eco-  
nomic Research.

[FR Doc. 79-9790 Filed 3-29-79; 8:45 am]

#### [4510-28-M]

[TA-W-4770]

#### BARONESS LEATHER PRODUCTS, INC. PERTH AMBOY, N.J.

Certification Regarding Eligibility To Apply for  
Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4770: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979 in response to a worker petition received on January 29, 1979 which was filed on behalf of workers and former workers producing ladies' vinyl handbags at Baroness Leather Products, Incorporated, Perth Amboy, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Baroness Leather Products, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of handbags increased absolutely and relative to domestic production in 1977 compared to 1976 and absolutely in the first three quar-



ters of 1978 compared to the first three quarters of 1977.

On October 31, 1978 Baroness Leather Products, Incorporated was certified by the U.S. Department of Commerce as eligible to apply for firm adjustment assistance. A customer survey conducted by the Department of Commerce revealed that several surveyed customers were decreasing purchases from Baroness while increasing purchases of imports.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' vinyl handbags produced at Baroness Leather Products, Incorporated, Perth Amboy, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Baroness Leather Products, Incorporated, Perth Amboy, New Jersey who became totally or partially separated from employment on or after May 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of March 1979.

HARRY J. GILMAN,  
Supervisory International Economist,  
Office of Foreign Economic Research.

(FR Doc. 79-9791 Filed 3-29-79; 8:45 am)

#### [4510-28-M]

[TA-W-4781]

BARRY FASHIONS, INC. CLIFTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4781: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1979 in response to a worker petition received on February 5, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Barry Fashions, Incorporated, Clifton, New Jersey. The investigation revealed that Barry Fashions primarily produces women's dresses.

The notice of Investigation was published in the FEDERAL REGISTER on February 23, 1979 (44 FR 10800). No

public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Barry Fashions, Incorporated, its manufacturers, Mr. Allen Katz, C.P.A., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses declined from 659 thousand dozen in 1976 to 587 thousand dozen in 1977 and then increased to 650 thousand dozen in 1978. The ratio of imports to domestic production decreased from 4.6 percent in 1976 to 4.0 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Barry Fashions worked. None of the manufacturers purchased any imported women's dresses or used any foreign contractors in 1978. The manufacturers' total sales increased in 1978 compared to 1977.

#### CONCLUSION

After careful review, I determine that all workers of Barry Fashions, Incorporated, Clifton, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this March 22, 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.

(FR Doc. 79-9792 Filed 3-29-79; 8:45 am)

#### [4510-28-M]

[TA-W-4827, 4827A, 4828]

BEFORD SHOE DIVISION OF BRIERWOOD SHOE CORP., ELIZABETHTOWN, PA., LITITZ, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4827, 4827A, and 4828: investi-

gations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on February 22, 1979 in response to a worker petition received on February 11, 1979 which was filed on behalf of workers and former workers producing men's and women's shoes at the Elizabethtown and Lititz, Pennsylvania plants of the Beford Shoe Division of Brierwood Shoe Corporation. A separate case number (TA-W-4827A) was established to cover workers and former workers producing men's and women's shoes at the Littlestown, Pennsylvania plant of the Beford Shoe Division of Brierwood Shoe Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 2, 1979 (44 FR 11865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Beford Shoe Division of Brierwood Shoe Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased from 1976 to 1977 before decreasing slightly in 1978. The ratio of imports to domestic production of men's dress and casual footwear increased from 75.4 percent in 1976 to 78.5 percent in 1977, and to 80 percent in 1978.

U.S. imports of women's nonrubber footwear increased from 1977 to 1978. The ratio of imports to domestic production of women's nonrubber footwear increased from 131.6 percent in 1976 to 137.3 percent in 1977, and to 153.6 percent in 1978.

A Department survey revealed that the Beford Shoe Division's largest customer reduced purchases from Beford Shoe and other domestic producers in the first three quarters of 1978 compared to the first three quarters of 1977 while increasing imports of both men's and women's shoes. Another major customer increased imports of women's shoes in the period February 1978-January 1979 compared to the period February 1977-January 1978 while reducing its purchases from Beford Shoe and other U.S. shoe manufacturers. These two customers accounted for a preponderant share of the total decline in the Beford Shoe Division's sales from 1977 to 1978.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's shoes produced at the Elizabethtown, Littlestown, and Lititz, Pennsylvania plants of the Beford Shoe Division of Brierwood Shoe Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that Division. In accordance with the provisions of the Act, I make the following certification:

All workers at the Elizabethtown, Littlestown, and Lititz, Pennsylvania plants of the Beford Shoe Division of Brierwood Shoe Corporation who became totally or partially separated from employment on or after February 9, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 79-9795 Filed 3-29-79 8:45 am)

#### [4510-28-M]

[TA-W-4733]

BERNARD SCREEN PRINTING CORP., NEW HYDE PARK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4733: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1979 in response to a worker petition received on January 22, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers engaged in the printing of textiles at Bernard Screen Printing Corporation, New Hyde Park, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bernard Screen Printing Corporation, its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of finished fabric continued to have an adverse affect on the company's remaining operations after expiration of the previous certification. As of February 8, 1979, the date of expiration of the Department's previous certification, remaining workers of Bernard Screen Printing Corporation were working principally short weeks. The company had discontinued its textile printing operations, anticipating a complete and permanent shutdown. Workers were finishing up any remaining orders for shipment. By February 13, 1979, the plant had closed and all workers had been terminated from employment with Bernard.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with finished fabric produced at Bernard Screen Printing Corporation, New Hyde Park, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bernard Screen Printing Corporation, New Hyde Park, New York who became totally or partially separated from employment on or after February 8, 1979 and before March 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated after March 1, 1979 are denied program benefits.

Signed at Washington, D.C., this 23d day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 79-9793 Filed 3-29-79; 8:45 am)

#### [4510-28-M]

[TA-W-4747]

BETHLEHEM STEEL CORP., SPARROWS POINT SHIPYARD, SPARROWS POINT, MD.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4747: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 26, 1979 in response to a worker petition received on January

25, 1979 which was filed by the Industrial Union of Marine and Shipyard Workers of America on behalf of workers and former workers engaged in the construction of ocean-going ships at the Sparrows Point Shipyard, of the Bethlehem Steel Corporation, Sparrows Point, Md.

The Notice of Investigation was published in the FEDERAL REGISTER on February 2, 1979 (44 FR 6798-99). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Bethlehem Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The market for the U.S. shipbuilding industry in general and for the Sparrows Point Shipyard specifically are those merchant vessels intended for U.S. registry. The number of merchant vessels intended for U.S. registry that were being built in foreign shipyards increased in 1977 compared to 1976 and continued to increase in 1978 compared to 1977.

A major order by a U.S. firm for twelve merchant ships intended for U.S. registry was placed with a foreign shipyard in 1978. There are approximately six U.S. shipyards capable of producing the type of vessel referred to above. An official of the U.S. Maritime Administration stated that due to the size of the order, at least two U.S. shipyards would have participated in filling the contract if the contract had been awarded domestically. The size of the order placed with the foreign shipyard in 1978 is approximately equal to 25 percent of all of the merchant ships intended for U.S. registry that were on order or under construction in U.S. shipyards in 1978. Industry sources have stated that even if the contract had been awarded to a U.S. shipyard other than Sparrows Point, the Sparrows Point Shipyard would have benefited through decreased domestic competition for remaining orders.

The vessels being built at the foreign shipyard would have been eligible for a U.S. government construction subsidy if the vessels were built in a U.S. shipyard. The subsidy can be as high as 50 percent of the cost of construction. Whereas the purpose of the subsidy program is to promote a healthy shipbuilding industry for reasons of national defense and whereas the Bethlehem Steel Corporation is currently considering the closing of the



Sparrows Point Shipyard due to the lack of business, an official of the U.S. Maritime Administration stated the contract might have been allocated to the Sparrows Point facility to prevent its closure. Such allocations have been made in the past.

Due to the time and expense involved, the Sparrows Point facility did not bid on the twelve merchant ships because the company requesting bids had information which showed that the price available from foreign shipyards would be well below domestic bids even after adding in the U.S. Government subsidy.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased foreign construction of articles like or directly competitive with the ocean-going vessels produced at the Sparrows Point Shipyard of the Bethlehem Steel Corporation in Sparrows Point, Maryland contributed importantly to the decline in sales of production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Sparrows Point Shipyard of the Bethlehem Steel Corporation, Sparrows Point, Maryland who became totally or partially separated from employment on or after July 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 79-9794 Filed 3-29-79; 8:45 am)

[4510-28-M]

(TA-W-4844)

CAPEHART CORP. SALES DIVISION, NEW YORK, N.Y.

#### Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 26, 1979 in response to a worker petition received on February 16, 1979 which was filed on behalf of workers and former workers engaged in employment related to the production of stereo modulators at the Sales Division of Capehart Corporation, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on March 9, 1978 (43 FR 13093-4). No public hearing was requested and none was held.

During the investigation, it was established that all workers of the Norwich, Connecticut plant and the New York, New York Sales Division of the

Capehart Corporation were previously certified as eligible to apply for adjustment assistance in the revised certification resulting from the Office of Trade Adjustment Assistance investigation TA-W-2075.

Since all workers identified in this petition, newly separated, totally or partially, from employment on or after May 9, 1976 (impact date) and before March 19, 1981 (expiration date of the revised certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated. Signed at Washington, D.C. this 26th day of March, 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.  
(FR Doc. 79-9796 Filed 3-29-79; 8:45 am)

[4510-28-M]

(TA-W-4379)

CAROL'S SPORTSWEAR, INC., BOSTON, MASS.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4379: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 13, 1978 which was filed on behalf of workers and former workers producing women's sportswear at Carol's Sportswear, Incorporated, Boston, Massachusetts.

The investigation revealed that the plant primarily produces women's suits, blazers, slacks, skirts, blouses, vests and shorts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carol's Sportswear, Incorporated, its customers, (manufacturers), the U.S. Department of Commerce, the National Cotton Council of America, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the manufacturers for which Carol's Sportswear worked in 1976, 1977 and the first three quarters of 1978. None of these manufacturers utilized foreign sources to obtain women's sportswear. As these manufacturers decreased purchases from Carol's Sportswear in 1977 compared to 1976 and in the first through third quarters of 1978 compared to the same period in 1977, a survey of their customers was conducted. None of these customers decreased purchases from the manufacturers and increased purchases of imported women's suits, blazers, slacks, skirts, blouses, vests or shorts in 1977 compared to 1976, or in the first nine months of 1978 compared to the same period in 1977.

#### CONCLUSION

After careful review, I determine that all workers of the Boston, Massachusetts plant of Carol's Sportswear, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of March 1979.

HARRY J. GILMAN,  
Supervisory International Economist, Office of Foreign Economic Research.  
(FR Doc. 79-9797 Filed 3-29-79; 8:45 am)

[4510-28-M]

(TA-W-4804)

GTE-SYLVANIA, INC., SENeca FALLS, N.Y.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4804: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 12, 1979 in response to a worker petition received on February 5, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing color television tubes and components at the Seneca Falls, New York plant of GTE-Sylvania, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on February 23, 1979 (44 FR 10779). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of GTE-Sylvania, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales and production by the Seneca Falls plant increased in 1977 compared to 1976 and in 1978 compared to 1977. Sales also increased in the first two months of 1979 compared to the first two months of 1978.

None of the surveyed customers of the Seneca Falls plant decreased purchases of color picture tubes from GTE while increasing purchases of imports from 1977 to 1978.

#### CONCLUSION

After careful review, I determine that all workers of the Seneca Falls, New York plant of GTE-Sylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 79-9798 Filed 3-29-79; 8:45 am)

[4510-28-M]

(TA-W-4729)

MASSEY FERGUSON, INC., AKRON, OHIO

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4729: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 22, 1979 in response to a worker petition received on January 15, 1979 which was filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing industrial construction equipment at

the Akron, Ohio plant of Massey Ferguson, Incorporated. The investigation revealed that the plant is located in Northampton Township, north of Akron.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Massey Ferguson, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The majority of production at the Akron plant consists of front end loaders (wheel type), and backhoes. Imports of all front end loaders (wheel type) increased in quantity in the first nine months of 1978 to 2247 units from 1359 units for the first nine months of 1977. The ratio of imports of front end loaders to U.S. production has been less than 8.0 percent since 1973.

Imports of backhoes decreased in the first nine months of 1978 to 577 units from 665 in the first nine months of 1977. The ratio of imports of backhoes to U.S. production for the first nine months of 1978 was 2.7 percent compared to 3.3 percent for the first nine months of 1977.

Forklifts account for a small portion of production at the Akron plant, representing less than 15 percent of production. The company offers two models, both of which are designed for use outside on rough terrain. Sales of forklifts produced at Akron increased in 1978 compared to 1977. Because fork lifts are a marginal product both at the Akron plant and within the company, Massey Ferguson has decided to discontinue production of them within the company as part of a retrenchment in some product lines. It will continue to sell forklifts but these will be produced by another domestic manufacturer.

The Department conducted a survey of customers of the Akron plant. None of these purchased imported machinery like or directly competitive with that produced by the Akron plant. All

of those responding indicated that imports of industrial use machinery were not having a significant impact in the market. Their comments coincide with the relatively low ratios of imports to production for the majority of products produced at the Akron plant.

Massey Ferguson has announced it will close the Akron plant in the first half of 1979. This is part of a world wide retrenchment and consolidation within the corporation. In addition to the Akron plant, it will be closing plants located outside the United States. The company does not intend to transfer production of any of the major product lines produced at Akron to plants overseas. A small portion of parts being produced at Akron will be transferred outside of the United States. These parts are an insignificant amount of the total production at the Akron plant.

#### CONCLUSION

After careful review, I determine that all workers of the Akron, Ohio plant of Massey Ferguson, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.  
(FR Doc. 79-9799 Filed 3-29-79; 8:45 am)  
BILLING CODE 4510-28-M

[4510-28-M]

(TA-W-4740)

ORTEC, INC. BELTING PRODUCTS DIVISION, PADUCAH, KY.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4740: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1979 in response to a worker petition received on January 19, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing PVC, cotton and corrugated conveyor belting at the Belting Products Division of Portec, Inc., Paducah, Kentucky.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.



The determination was based upon information obtained principally from officials of Portec, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey conducted by the Department revealed that all but one of the surveyed customers who decreased purchases of conveyor belting from Portec, Inc. in 1978 from 1977 did not increase purchases of imported conveyor belting during the same period. The customer who did increase purchases of imported belting represented an insignificant portion of Portec's sales in 1978.

#### CONCLUSION

After careful review, I determine that all workers of the Belting Products Division of Portec, Inc., Paducah, Kentucky are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-9800 Filed 3-29-79 8:45 am)

#### [4510-28-M]

(TA-W-4763)

SPENCER KNITTING MILLS, BROOKLYN, N.Y.  
Negative Determination Regarding Eligibility  
To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4763: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979 in response to a worker petition received on January 19, 1979 which was filed on behalf of workers formerly producing sweaters at Spencer Knitting Mills in Brooklyn, New York. The investigation revealed

that the plant produced only men's knitted shirts.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Spencer Knitting Mills, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Spencer Knitting Mills was engaged in contract work solely for one manufacturer during the period under investigation. A Departmental survey revealed that this manufacturer did not employ any foreign contractors, nor did the manufacturer import men's knitted shirts from July 1976 through December 1978. Furthermore, the manufacturer was experiencing increasing sales and was increasing its use of other domestic contractors during this time period.

#### CONCLUSION

After careful review, I determine that all workers of Spencer Knitting Mills, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of March 1979.

HARRY J. GILMAN,  
Supervisory International Econ-  
omist, Office of Foreign Econ-  
omic Research.

(FR Doc. 79-9801 Filed 3-29-79; 8:45 am)

#### [4510-28-M]

Office of the Secretary

(TA-W-4799)

SUNSHINE KIDDIE KNITWEAR CO., INC., NEW  
YORK, N.Y.

Certification Regarding Eligibility To Apply for  
Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-4799: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1979 in response to a worker petition received on February 5, 1979 which was filed by the Intimate Apparel Workers' Union of the International Ladies' Garment Workers Union on behalf of workers and former workers producing infants' and toddlers' knit playwear and swimwear at Sunshine Kiddie Knitwear Company, Incorporated, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on February 23, 1979 (44 FR 10800). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sunshine Kiddie Knitwear Company, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of infants' and toddlers' knit suits increased from 503 thousand dozen in 1975 to 985 thousand dozen in 1976. Imports declined to 666 thousand dozen in 1977 and then increased to 877 thousand dozen in 1978.

U.S. imports of children's and toddlers' knit swimsuits, playsuits, sunsuits, washsuits and similar apparel increased from 175 thousand dozen in 1975 to 245 thousand dozen in 1976. Imports declined slightly in 1977 to 232 thousand dozen and then increased to 249 thousand dozen in 1978.

A Departmental survey of customers of Sunshine Kiddie Knitwear Company, Incorporated revealed that from 1977 to 1978 customers, representing a substantial portion of Sunshine Kiddie's sales, decreased purchases from Sunshine Kiddie and increased purchases of imported infants' and toddlers' playwear and swimwear. The customers surveyed indicated that they are increasingly using imports to satisfy their demand for infants' and toddlers' playwear and swimwear.

All workers employed by Sunshine Kiddie Knitwear Company, Incorporated were terminated in February 1979 when the company permanently closed.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with infants' and toddlers' knit playwear and swimwear produced at Sunshine Kiddie Knitwear Company, Incorporated, New York, New York contributed importantly to the decline in sales of production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sunshine Kiddie Knitwear Company, Incorporated, New York, New York who became totally or partially separated from employment on or after January 29, 1978 and before March 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of March 1979.

HARRY J. GILMAN,  
Supervisory International  
Economist, Office of Foreign  
Economic Research.

(FR Doc. 79-9802 Filed 3-29-79; 8:45 am)

#### [4510-28-M]

(TA-W-4512)

10-X MANUFACTURING CO., PLEASANTVILLE,  
IOWA

(TA-W-4512A)

ALPINE DESIGNS, INC., CHEYENNE, WYO.

Certification Regarding Eligibility To Apply for  
Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4512 and TA-W-4512A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 12, 1978 in response to a worker petition received on December 4, 1978 which was filed on behalf of workers and former workers producing ladies' and men's ski wear at 10-X Manufacturing Company, Pleasantville, Iowa, a subsidiary of Alpine Designs, Inc. The investigation revealed that 10-X Manufacturing Company produces men's down-filled outerwear. The investigation was expanded to include Alpine Designs, Incorporated, Cheyenne, Wyoming.

The Notice of Investigation indicated that the petition was filed by the International Ladies' Garment Workers Union. Investigation revealed that the petition was filed by the Amalgamated Clothing and Textile Workers Union.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-59181).

No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of 10-X Manufacturing Company, Alpine Designs, Inc., customers of 10-X Manufacturing Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of feather products, including down-filled jackets, increased absolutely from 1976 to 1977 and from 1977 to 1978.

In 1977, Alpine Designs began importing fiber-filled outerwear similar to outerwear produced at the Pleasantville and Cheyenne plants. While production of outerwear by both plants declined in 1977 and 1978, company imports of outerwear increased absolutely and relative to total outerwear sales by Alpine Designs, Inc.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's down-filled outerwear produced at 10-X Manufacturing Company, Pleasantville, Iowa and Alpine Designs, Incorporated, Cheyenne, Wyoming contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of 10-X Manufacturing Company, Pleasantville, Iowa and Alpine Designs, Incorporated, Cheyenne, Wyoming who became totally or partially separated from employment on or after November 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this March 22, 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.  
(FR Doc. 79-9806 Filed 3-29-79; 8:45 am)

#### [4510-28-M]

(TA-W-4780)

U.S. STEEL CORP. NEW ORLEANS DISTRICT  
SALES OFFICE, NEW ORLEANS, LA.

Negative Determination Regarding Eligibility  
To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-4780: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979 in response to a worker petition received on January 30, 1979 which was filed on behalf of workers and former workers at the New Orleans District Sales Office of U.S. Steel Corporation, New Orleans, Louisiana. The investigation revealed that there are two separate operations: (1) sales and (2) customer service.

The Notice of Investigation was published in the FEDERAL REGISTER on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corporation, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to employees engaged in sales operations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

There have been no layoffs of sales personnel from the Houston office from January 1977 through February 1979, and hours worked have remained constant. The company currently has no plans to reduce the number of sales personnel at the New Orleans office.

With respect to employees engaged in customer service operations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

All of the customer service operations performed at the New Orleans office will be transferred in May 1979 to a company office in Houston, Texas. The transfer will allow the company to take advantage of a new computer system in the Houston office which would provide more efficient customer service. All the employees at the New Orleans office were offered transfers to Houston. Those employees refusing the offer will be terminated.



## CONCLUSION

After careful review, I determine that all workers of the New Orleans District Sales Office of U.S. Steel Corporation, New Orleans, Louisiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.  
(FR Doc. 79-9804 Filed 3-29-79; 8:45 am)

## [4510-28-M]

(TA-W-4731)

U.V. INDUSTRIES, INC., BAYARD OPERATIONS,  
FIERRO, N. MEX.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4731: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 22, 1979 in response to a worker petition received on January 17, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper ore and copper concentrates at U.V. Industries, Inc., Fierro Operations, Bayard, New Mexico.

The investigation revealed that the correct name of the mines is Bayard Operations, Fierro, New Mexico.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5953). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.V. Industries, Inc., the U.S. Department of Commerce, the U.S. Department of the Interior, the American Bureau of Metal Statistics, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

The increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The evidence developed during the Department's investigation revealed that declines in production at U.V. Industries, Inc., Bayard Operations from April 1978 through March 1979 were due to a strike at the mines which began on April 1, 1978 and continued until January 11, 1979. No layoffs or significant reduction in hours worked occurred in the twelve months prior to the April 1, 1978 strike. The mines and mills were running at full production levels prior to the strike. The decline in employment in the first quarter of 1978 was due to attrition.

Subsequent to the cessation of the strike, workers were placed on layoff status in order for the company to perform repair operations necessary because of the deterioration of the mines during the strike period. Workers are being recalled as repairs are completed.

## CONCLUSION

After careful review, I determine that all workers of U.V. Industries, Inc., Bayard Operations, Fierro, New Mexico are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.  
(FR Doc. 79-9803 Filed 3-29-79; 8:45 am)

## [4510-28-M]

(TA-W-4810-4811)

W & R COAL CO., CLIFFTOP, W. VA.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4810-4811: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 12, 1979 in response to a worker petition received on February 6, 1979 which was filed by the United Mine Workers of America, District 29 on behalf of workers and former workers mining low-volatile metallurgical coal at Mine No. 1 and Mine No. 2 of the W & R Coal Company, Clifftop, West Virginia.

The Notice of Investigation was published in the FEDERAL REGISTER on February 23, 1979 (44 FR 10799). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of W & R Coal Company, its customers, American Iron and Steel

Institute, the U.S. Departments of Energy, Interior and Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

While U.S. imports of metallurgical coal have been negligible, U.S. imports of coke increased from 1,311 thousand tons in 1976 to 1,829 thousand tons in 1977 and increased from 1,057 thousand tons in the first nine months of 1977 to 4,123 thousand tons in the first nine months of 1978.

The ratio of imports to domestic production for coke increased from 2.2 percent in 1976 to 3.4 percent in 1977 and increased from 2.6 percent in the first nine months of 1977 to 11.5 percent for the first nine months of 1978.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2), imports of coke can be considered in determining import injury to workers producing metallurgical coal.

As a contract mining operation, W & R Coal Company sells all coal to one firm. A Labor Department survey of the customers of that firm revealed that some major customers significantly decreased purchases of metallurgical coal from that firm and increased purchases of imported coke from 1977 to 1978.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal mined at Mine No. 1 and Mine No. 2 of the W & R Coal Company, Clifftop, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Mine No. 1 and Mine No. 2 of the W & R Coal Company, Clifftop, West Virginia who became totally or partially separated from employment on or after June 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of March 1979.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.  
(FR Doc. 79-9805 Filed 3-29-79; 8:45 am)

## [4510-28-M]

## WORKER ADJUSTMENT ASSISTANCE

## Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly

to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment As-

sistance, at the address shown below, not later than April 9, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

## APPENDIX

| Petitioner: Union/workers or former workers of—  | Location              | Date received | Date of petition | Petition No. | Articles produced  |
|--|-----------------------|---------------|------------------|--------------|--|
| A.D. Management, Inc. (workers)  | Brooklyn, N.Y.        | 3/16/79       | 3/6/79           | TA-W-5,004   | Women's evening wear.  |
| American Crystal Sugar Company, Clarksburg Plant (United Sugar Workers of Amer.—Distillery Rectifying, Wine & Allied Int'l Union).         | Clarksburg, Calif.    | 3/15/79       | 3/13/79          | TA-W-5,005   | Sugar, sugar beet pulp and molasses.                                 |
| Amstar Corp., Spreckels Sugar Div. (United Sugar Workers of Amer.—Distillery Rectifying, Wine, & Allied Workers Int'l Union).              | Manteca, Calif.       | 3/15/79       | 3/13/79          | TA-W-5,006   | Refined beet sugar also beet pulp for cattle feed.                   |
| Aurora Products (workers)  | Secaucus, N.J.        | 3/16/79       | 3/7/79           | TA-W-5,007   | Plastic toys—model knits (cars, ships, etc.).                        |
| Broderick & Bascom Rope Co. (AM & AW).   | Seattle, Wash.        | 3/19/79       | 3/20/79          | TA-W-5,008   | Wire rope.   |
| Chafin Coal Company, Chafin #2A  | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,009   | Mining of coal.  |
| Mine (U.M.W.A.).   |                       |               |                  |              |  |
| Chafin Coal Company, Chafin #4   | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,010   | Mining of coal.  |
| Mine (U.M.W.A.).   |                       |               |                  |              |  |
| Chafin Coal Company, Chafin #5   | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,011   | Mining of coal.  |
| Mine (U.M.W.A.).   |                       |               |                  |              |  |
| Chafin Coal Company, Chafin #6   | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,012   | Mining of coal.  |
| Mine (U.M.W.A.).   |                       |               |                  |              |  |
| Chafin Coal Company, Chafin #7   | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,013   | Mining of coal.  |
| Mine (U.M.W.A.).   |                       |               |                  |              |  |
| Chafin Coal Company, Chafin #10  | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,014   | Mining of coal.  |
| Mine (U.M.W.A.).   |                       |               |                  |              |  |
| Chafin Coal Company, Chafin Preparation Plant (U.M.W.A.).  | Logan, W. Va.         | 3/19/79       | 3/15/79          | TA-W-5,015   | Cleaning of coal.  |
| Cobblers, Inc., Jersey Shore Div. (workers).   | Jersey Shore, Pa.     | 3/19/79       | 3/15/79          | TA-W-5,016   | Women's shoes, boots and sandals.                                    |
| Forest Hills Sportswear (ACTWU)  | Lawrenceburg, Tenn.   | 3/19/79       | 3/14/79          | TA-W-5,017   | Men's suit trousers and men's slacks; also women's pants and skirts. |
| GAF Corporation (workers)  | Charlotte, N.C.       | 3/19/79       | 3/16/79          | TA-W-5,018   | Dyestuffs for textile, paints, paper, etc.                           |
| Holly Sugar Co., Tracy, Calif. Plants (workers) (United Sugar Workers of Amer.—Distillery, Rectifying, Wine & Allied Workers Int'l Union). | Tracy, Calif.         | 3/15/79       | 3/13/79          | TA-W-5,019   | Sugar.   |
| Holly Sugar Co., Hamilton City, Calif. Plant (United Sugar Workers of Amer.—Distillery, Rectifying, Wine & Allied Workers Int'l Union).    | Hamilton City, Calif. | 3/15/79       | 3/13/79          | TA-W-5,020   | Beet sugar.  |
| Mac Kamp Embroiders, Inc. (workers).   | West New York, N.J.   | 3/16/79       | 3/9/79           | TA-W-5,021   | Embroidery production.   |
| South River Coat Company (workers)   | South River, N.J.     | 3/19/79       | 3/14/79          | TA-W-5,022   | Women's Coats.   |

(FR Doc. 79-9807 Filed 3-29-79; 8:45 am)

## [4510-28-M]

## WORKER ADJUSTMENT ASSISTANCE

## Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section

221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivi-



## NOTICES

vision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of March 1979.

MARVIN M. FOOKS,  
Director, Office of Trade  
Adjustment Assistance.

## APPENDIX

| Petitioner: Union/workers or former workers of—                       | Location           | Date received | Date of petition | Petition No. | Articles produced  |
|---|--------------------|---------------|------------------|--------------|--|
| Akron & Barberton Belt Railroad Co. (United Transportation Union).    | Barberton, Ohio    | 3/20/79       | 3/15/79          | TA-W-5,036   | Transports materials in and out of Firestone Tire & Rubber Co. and transports the finished product to the customers. |
| Convy Shoe Supply Company (Footwear Div., Retail Clerks Int'l Union). | Cuba, Mo.          | 3/26/79       | 3/19/79          | TA-W-5,037   | Shoe supplies: heels, pads boxtoes, etc.   |
| Eaton Corporation, Molded Products Div. (URW).                        | Akron, Ohio        | 3/15/79       | 3/12/79          | TA-W-5,038   | Industrial rubber elements for airflex clutches.   |
| Malcolm Clothing Corp. (ILGWU).                                       | Passaic, N.J.      | 3/23/79       | 3/19/79          | TA-W-5,039   | Women's sportswear.  |
| N.L. Industries, Inc., Industrial Chemicals Division (USWA).          | Charleston, W. Va. | 3/22/79       | 3/8/79           | TA-W-5,040   | Lead oxide.  |
| Roosevelt Mills (workers).  | Vernon, Conn.      | 3/23/79       | 3/14/79          | TA-W-5,041   | Women's and men's sweaters.  |
| Wellfleet of New Jersey, Inc. (ILGWU).                                | Roselle, N.J.      | 3/22/79       | 3/16/79          | TA-W-5,042   | Ladies' knitted suits, dresses and pants.  |

[FR Doc. 79-9808 Filed 3-29-79; 8:45 am]

## [4510-28-M]

## WORKER ADJUSTMENT ASSISTANCE

## Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly

to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment As-

sistance, at the address shown below, not later than April 9, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 23rd day of March 1979.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

## NOTICES

## APPENDIX

| Petitioner: Union/workers or former workers of—   | Location          | Date received | Date of petition | Petition No. | Articles produced  |
|---|-------------------|---------------|------------------|--------------|--|
| American Shear Knife Company (USWA).  | Homestead, Pa.    | 3/22/79       | 3/19/79          | TA-W-5,023   | Cutting tools for industrial purposes.   |
| Amstar Corp., Spreckels Sugar Div. (United Sugar Workers of Amer.—Distillery, Rectifying, Wine & Allied Workers Int'l Union). | Woodland, Calif.  | 3/15/79       | 3/13/79          | TA-W-5,024   | Beet sugar; also beet pulp, brown sugar, powdered sugar and granulated sugar.        |
| Michael Berkowitz Company, Inc. Plant #1 (ACTWU).   | Uniontown, Pa.    | 3/20/79       | 3/14/79          | TA-W-5,025   | Women's and men's sleepwear and lounge wear.   |
| Michael Berkowitz Company, Inc. Plant #1 (ACTWU).   | Uniontown, Pa.    | 3/20/79       | 3/14/79          | TA-W-5,026   | Press, pack, stock and ship O.R. gowns, ladies' and men's sleepwear and lounge wear. |
| Forever Yours, Inc. (ILGWU).  | Brooklyn, N.Y.    | 3/19/79       | 3/12/79          | TA-W-5,027   | Brassieres.  |
| Hunt Manufacturing Co., Bienfang Paper Div. (company).  | Edison, N.J.      | 3/20/79       | 3/14/79          | TA-W-5,028   | Converters of raw stock into reams, pads, for art and engineering trade.             |
| J. Stevens Foundations, Inc. (ILGWU).   | Brooklyn, N.Y.    | 3/19/79       | 3/12/79          | TA-W-5,029   | Brassieres.  |
| Mutual Manufacturing Company (company).   | Lawrence, Mass.   | 3/20/79       | 3/14/79          | TA-W-5,030   | Men's and boys' cloth and leather coats.   |
| North American Dehydrating Corp. (workers).   | Rocky Ford, Colo. | 3/20/79       | 3/12/79          | TA-W-5,031   | Dehydrated sugar beet pulp and dehydrated alfalfa pellets.                           |
| Rockwell International Corp., Admiral Group (company).  | Harvard, Ill.     | 3/21/79       | 3/16/79          | TA-W-5,032   | Monochrome and color television sets.  |
| Rockwell International Corp., Admiral Group (company).  | Chicago, Ill.     | 3/21/79       | 3/16/79          | TA-W-5,033   | Designing of monochrome and color television sets.                                   |
| Roto Print Corp. (workers).   | Occum, Conn.      | 3/19/79       | 3/7/79           | TA-W-5,034   | Drapery material.  |
| The Arrow Co., Div. of Cluett Peabody & Co. Inc. (ACTWU).   | Eveleth, Minn.    | 3/16/79       | 3/8/79           | TA-W-5,035   | Men's underwear.   |

[FR Doc. 79-9809 Filed 3-29-79; 8:45 am]

## [4510-26-M]

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

[V-78-8]

## YOUNGSTOWN SHEET AND TUBE CO.

## Withdrawal of Variance Application

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: Notice to withdraw variance application.

SUMMARY: On October 31, 1978, a notice was published in the FEDERAL REGISTER (43 FR 211) announcing the application of Youngstown Sheet and Tube for a variance from the standard prescribed in 29 CFR 1910.179(n)(1) concerning the prohibition for loading a crane beyond its rated load.

In a letter dated March 8, 1979, Youngstown Sheet and Tube Company stated that this application for variance is no longer necessary and, therefore, have requested that their application for variance be withdrawn.

In light of the above, no further action will be taken on this request for a variance.

## FOR FURTHER INFORMATION CONTACT:

Mr. James Concannon, Director, Office of Variance Determination, Occupational Safety and Health Ad-

ministration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N-3656, Washington, D.C. 20210, Telephone: (202) 523-7193.

Signed at Washington, D.C., this 27th day of March, 1979.

EULA BINGHAM,

Assistant Secretary of Labor.

[FR Doc. 79-9787 Filed 3-29-79; 8:45 am]

## [1505-01-M]

## Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-9]

## TEMPORARY CLASS EXEMPTION TO PERMIT PLANS TO PURCHASE CUSTOMER NOTES FROM EMPLOYERS MAINTAINING PLANS

## Correction

In FR Doc. 79-8617, appearing at page 17819 in the issue of Friday, March 23, 1979 the headings should appear as above.

## [6820-35-M]

## LEGAL SERVICES CORPORATION

## Grants and Contracts

MARCH 23, 1979.

The Legal Services Corporation was established pursuant to the Legal

Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-2-2 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Capital Area Legal Services in Baton Rouge, Louisiana to serve East Feliciana and West Feliciana Parishes.
2. Caddo-Bossier Legal Aid Society in Shreveport, Louisiana to serve Webster Parish.
3. Central Louisiana Legal Services, Inc., in Alexandria, Louisiana to serve Avoyelles and Rapides Parishes.
4. Southeast Louisiana Legal Services in Hammond, Louisiana to serve Livingston, St. Helena and Tangipahoa Parishes.
5. Southwest Louisiana Legal Services Society in Lake Charles, Louisiana to serve Beauregard Parish.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:



Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, GA 30308.

THOMAS EHRLICH,  
President.

\*[FR Doc. 79-9826 Filed 3-29-79; 8:45 am]

# [6820-35-M]

## GRANTS AND CONTRACTS

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-29961, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or protest."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Utah Legal Services in Salt Lake City, Utah to serve the migrant population in the State of Utah.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

THOMAS EHRLICH,  
President.

[FR Doc. 79-9827 Filed 3-29-79; 8:45 am]

# [7510-01-M]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[79-35]

### NASA ADVISORY COUNCIL (NAC); AERONAUTICS ADVISORY COMMITTEE

Meeting

The Informal Ad Hoc Advisory Subcommittee on Advanced Aeronautical Propulsion Technology Requirements of the NAC Aeronautics Advisory Committee will meet April 17-19, 1979, in Conference Room 215, Administration Building, NASA Lewis Research Center, 21000 Brookpark Road, Cleveland, Ohio. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including Subcommittee members and participants).

The Subcommittee was established to assist the NASA in identifying and examining advanced propulsion technology requirements for future aeronautical vehicles, and to recommend program additions, deletions or

## NOTICES

changes in scope or emphasis which may be found necessary to support the overall NASA aeronautical research and technology objectives. The Chairperson is Dr. Maurice Shank and there are five members on the Subcommittee.

### AGENDA

April 17, 1979

8:30 a.m.—Introductory Remarks  
9:30 a.m.—Discussion of Long-Range R&T Requirements  
2:00 p.m.—Broad Specification Fuels Report

April 18, 1979

8:30 a.m.—Review of NASA Aircraft Noise Program  
11:00 a.m.—Review of NASA Propulsion/Airframe Integration Program  
2:30 a.m.—Review of NASA Electronic Controls Program  
3:30 p.m.—Review of NASA Advanced Turboprop Program  
4:30 p.m.—Interrelationship of NASA/DOD Programs

April 19, 1979

9:30 a.m.—Committee Discussion and Formulation of Recommendations  
12:00—Adjourn

For further information please contact Mr. Richard Rudey, Code RT-6, NASA Headquarters, Washington, D.C. 20546, (202/755-3264).

Dated: March 26, 1979.

ARNOLD W. FRUTKIN,  
Associate Administrator  
for External Relations.

[FR Doc. 79-9685 Filed 3-29-79; 8:45 am]

# [7510-01-M]

[79-34]

## NASA ADVISORY COUNCIL (NAC)

Meeting

The NASA Advisory Council's Informal Ad Hoc Advisory Subcommittee for the Innovation Study will meet on April 10 and 11, 1979, in room 7002, Federal Building 6, 400 Maryland Avenue, SW., Washington, DC 20546. The meeting will be open to the public up to the seating capacity of the room (about 60 persons, including subcommittee members and other participants). Visitors will be requested to sign a visitor's register.

The Informal Ad Hoc Advisory Subcommittee for the Innovation Study was established under the NASA Advisory Council to formulate or identify new ideas or concepts for exploring or using space, to examine such new ideas for incorporation into planning for future space programs and to advise the Council and NASA on their further study. The chairperson of the subcommittee is Dr. John E. Naugle and the subcommittee is composed of four other members of the Council

who will meet with 25 other invited participants to plan a symposium on this subject. The meeting of the subcommittee is necessary at this time in order to conduct preliminary discussions and provide sufficient preparation time before the subcommittee's principal study period. The agenda for this meeting is given below. For further information, contact the Executive Secretary, Mr. Ivan Bekey, Area Code 202-755-3267, NASA Headquarters, Washington, DC 20546.

### AGENDA

April 10, 1979

8:30 a.m.—Orientation  
9:00 a.m.—Current Perspectives  
10:00 a.m.—Current and Planned Projects  
1:30 p.m.—Space Capabilities—Current, Planned, Potential  
4:00 p.m.—Discussion  
5:00 p.m.—Adjourn

April 11, 1979

8:00 a.m.—Concepts Studied by NASA But Not in Current Plan  
3:00 p.m.—Discussion of Plans for Next Meeting  
4:00 p.m.—Adjourn

March 26, 1979.

ARNOLD W. FRUTKIN,  
Associate Administrator  
for External Relations.

[FR Doc. 79-9686 Filed 3-29-79; 8:45 am]

# [7510-01-M]

[79-36]

## SPACE AND TERRESTRIAL APPLICATIONS STEERING COMMITTEE (STASC); PROPOSAL EVALUATION ADVISORY SUBCOMMITTEE

Meeting

The Upper Atmosphere Research Satellites (UARS) Program Panel of the STASC Proposal Evaluation Advisory Subcommittee will meet at the Goddard Space Flight Center, Greenbelt, Maryland 20771, on April 23 through 27, 1979. The meeting will be held in Room 205, Building 26, from 8:30 a.m. to 5:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for investigations which propose scientific instruments on UARS spacecraft and investigations using data to be obtained from instruments on the UARS. Public discussion of the professional qualifications of the proposers and their potential scientific contributions to the UARS Program would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it has been determined that the sessions should be closed to the public.

## NOTICES

For further information, please contact Dr. Robert K. Seals, NASA Headquarters, Washington, D.C. 20546, telephone number 202/755-8566.

ARNOLD W. FRUTKIN,  
Associate Administrator  
for External Relations.

MARCH 22, 1979.

[FR Doc. 79-9687 Filed 3-29-79; 8:45 am]

# [4510-30-M]

## NATIONAL COMMISSION FOR MANPOWER POLICY CANCELLATION OF MEETING

Notice is hereby given of the cancellation of the formal meeting of the National Commission for Manpower Policy on April 6, 1979, in the Mount Vernon Room of the Sheraton Carlton Hotel, Washington, D.C., which was published in the FEDERAL REGISTER on March 19, 1979 (44 FR 16502). For further information, please contact Mr. Patrick O'Keefe, Deputy Director, National Commission for Manpower Policy, 1522 K Street, NW, Suite 300, Washington, D.C. 20005 (202/724-1553).

Signed at Washington, D.C. this twenty-third day of March 1979.

ISABEL V. SAWHILL,  
Director, National Commission  
for Manpower Policy.

[FR Doc. 79-9788 Filed 3-29-79; 8:45 am]

# [7537-01-M]

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES MUSEUM ADVISORY PANEL

Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on April 17 and 18, 1979, from 9:00 a.m. to 5:00 p.m., in room 1422, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on April 17, 1979, from 9:00 a.m. to 3:00 p.m. The topics of discussion will be Policy and Guidelines.

The remaining sessions of this meeting on April 17, 1979, from 3:00 p.m. to 5:00 p.m., and April 18, 1979, from 9:00 a.m. to 5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman

published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,  
Director, Office of Council and  
Panel Operations, National  
Endowment for the Arts.

MARCH 22, 1979.

[FR Doc. 79-9771 Filed 3-29-79; 8:45 am]

# [7555-01-M]

## NATIONAL SCIENCE FOUNDATION ADVISORY COMMITTEE ON POST-INTERNATIONAL PHASE OF OCEAN DRILLING (IPOD) SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Committee on Post-IPOD Science.

DATE: April 19, 1979.

TIME: 9:00 a.m.-4:30 p.m.

PLACE: Room 1243, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

TYPE OF MEETING: Part Open—April 19—9:00 a.m.-2:30 p.m. OPEN; April 19—2:30 p.m.-4:30 p.m. CLOSED.

CONTACT PERSON: Dr. Peter E. Wilkniss, Program Manager, Ocean Sediment Coring Program, Room 602, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-4134.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF ADVISORY COMMITTEE: To evaluate, in the context of the national scientific effort, a proposed program of drilling, and related activities, in the deep oceans for scientific purposes in the 1980's and to make recommendations concerning the advisability of the National Science Foundation sponsoring such a program.

AGENDA: 9:00 a.m. Interagency Cooperation—USGS, DOE; 11:00 a.m. Law of the Sea; 12:30 p.m. LUNCH; 1:00 p.m. OPEN DISCUSSION; 2:30 p.m.-4:30 p.m. CLOSED DISCUSSION of a

proposal under consideration for funding.

REASON FOR CLOSING: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c). Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

MARCH 27, 1979.

[FR Doc. 79-9707 Filed 3-29-79; 8:45 am]

# [7555-01-M]

## ADVISORY COUNCIL; TASK GROUP NO. 7

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group No. 7 of the NSF Advisory Council.  
Place: Room 523, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Date: Monday, April 16, and Tuesday, April 17, 1979.

Time: 9:00 a.m. until 5:00 p.m., both days.

Type of meeting: Open.

Contact person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone: (202) 632-4368.

Purpose of Task Group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW, Washington, D.C. 20550.

Agenda: The Task Group is asked to study the effects on basic research of existing mechanisms for assuring technical, financial, and social accountability, and to recommend ways in which the balance between accountability and effectiveness in research can be optimized.

Dated: March 26, 1979.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

[FR Doc. 79-9705 Filed 3-29-79; 8:45 am]



19078

[7555-01-M]

**INTEGRATED BASIC RESEARCH ADVISORY SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR APPLIED SCIENCE AND RESEARCH APPLICATIONS POLICY**

**Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Integrated Basic Research (IBR) Advisory subcommittee of the Advisory Committee for Applied Science and Research Applications Policy.

Date: April 17, 1979 9:00 am; April 18, 1979 8:30 am.

Place: National Science Foundation, 1300 G St., NW, Room 540, Washington, D.C.

Type of meeting: Open.

Contact person: Ms. Helga Viertel, Executive Secretary, Division of Integrated Basic Research, Room 1149, National Science Foundation, Washington, D.C. 20550. (202) 632-4032.

Summary of minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 246, National Science Foundation, Washington, D.C. 20550.

Purpose of meeting: To provide advice and recommendations on: (a) program content and operations of the Division of Integrated Basic Research, Applied Sciences and Research Applications Directorate; and (b) concepts to conduct interdisciplinary research programs.

Agenda: TUESDAY, APRIL 17, 1979

9:00 am Welcome.  
9:30 am Status report.  
10:15 am Discussion of concept options.  
12:15 pm Lunch  
1:30 pm Subcommittee working session.  
3:15 pm University/Industry research concept.  
4:15 pm IBR support of topic areas.  
5:15 pm Adjourn.

WEDNESDAY, APRIL 18, 1979

8:30 am Individual task group meetings.  
9:45 am Report on topic areas.  
10:30 am Development of program evaluation plans.  
11:00 am Preparation of subcommittee report.  
12:30 pm Adjourn.

Dated: March 26, 1979.

M. REBECCA WINKLER,  
Committee Management  
Coordinator.

(FR Doc. 79-9706 Filed 3-28-79; 8:45 am)

**NOTICES**

[7590-01-M]

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-366]

**ARKANSAS POWER & LIGHT CO.; ARKANSAS NUCLEAR ONE, UNIT 2**

**Issuance of Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. NPF-6 to Arkansas Power and Light Company for operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amended license is effective as of its date of issuance.

The amendment changes the Technical Specification 3.6.1.4 by reducing the minimum initial containment temperature and pressure to 50 degrees Fahrenheit and a negative 3.0 pounds per square inch gauge, respectively. This change allows greater flexibility in plant operations and is consistent with the Commission's conclusions, regarding containment integrity, stated in Supplement No. 2 to the Safety Evaluation Report. Also, the steam generator low water level trip setpoint specified in Technical Specification Tables 2.2-1 and Table 3.3.4 is changed to a value of greater than or equal to 46.5 percent. The setpoint change is based on replacing the original instrument transmitters with new transmitters which have greater accuracy in measuring the low water level in the steam generators.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amended license. We have concluded, that because the amendment does not involve a significant increase in the probability or consequences of accidents previously considered and does not involve a significant decrease in a safety margin, the amendment does not involve a significant hazards consideration. The application for the amendment complies with the standards and requirements of the Act and the Commission's regulations.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 13, 1978,

as supplemented by letters dated December 20, 1978, January 3, 1979, January 9, 1979 and February 2, 1979, (2) Amendment No. 9 to License NPF-6 and (3) the Commission's related Safety Evaluation Report supporting Amendment No. 9 to License NPF-6.

These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 19th day of March 1979.

JOHN F. STOLZ,  
Chief, Light Water Reactors  
Branch No. 1, Division of Project Management.

(FR Doc. 79-9711 Filed 3-29-79; 8:45 am)

[7590-01-M]

[Docket Nos. 50-295; 50-304]

**COMMONWEALTH EDISON CO.; (ZION STATION, UNITS 1 AND 2)**

**Hearing on Amendment of Facility Operating License**

On May 7, 1978, the U.S. Nuclear Regulatory Commission (the Commission) issued a notice of "Proposed Issuance of Amendment to Facility Operating License" relating to the above-identified facility (43 FR 30938, July 18, 1978). The proposed amendment would permit an increase in the storage capacity of the spent fuel pool at the Zion Station.

The State of Illinois filed a petition to intervene and requested a hearing in response to the referenced notice. By its Order Following Prehearing Conference, dated January 19, 1979, the Licensing Board granted the petition to intervene. Therefore, we are hereby issuing a Notice of Hearing in connection with the proposed amendment.

PLEASE TAKE NOTICE that a hearing on the proposed license amendments will be held at a time and place to be fixed by the Atomic Safety and Licensing Board. The members of the Board designated by the Commission to conduct the aforementioned hearing are Dr. Linda W. Little, Dr. Forrest J. Remick, and Mr. Edward Luton.

Members of the public may request permission to make a limited appearance pursuant to § 2.715(a) of the Commission's Rules of Practice, 10 CFR Part 2. Persons desiring to make limited appearances are requested to inform the Secretary of the Commission.

sion, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A person making a limited appearance does not become a party but may state his position on the issues and may raise relevant questions which he wishes to have answered by the parties. Limited appearances will be received at the time of the evidentiary hearing at the discretion of the Board within such limits and on such conditions as may be fixed by the Board.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland this 23rd day of March 1979.

EDWARD LUTON,  
Chairman.

(FR Doc. 79-9712 Filed 3-29-79; 8:45 am)

[7590-01-M]

[Docket Nos. 50-295 and 50-304]

**COMMONWEALTH EDISON CO.**

**Issuance of Amendments to Facility Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 46 and 43 to Facility Operating License Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Zion Station, Unit Nos. 1 and 2, located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments require operability and surveillance of shock suppressors (snubbers) used to protect the reactor coolant system and other safety related systems and components.

The applications for these amendments comply with the Standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 13, 1976 as

**NOTICES**

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Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated November 2, 1977 and January 6, 1978; (2) Amendment No. 51 to License No. DPR-26; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 19th day of March, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

(FR Doc. 79-9714 Filed 3-29-79; 8:45 am)

[7590-01-M]

[Docket No. 50-289]

**METROPOLITAN EDISON CO. ET AL.; (THREE MILE ISLAND NUCLEAR STATION UNIT NO. 1)**

**Modification of Conditions of Exemption I.**

Metropolitan Edison Company, Jersey Central Power and Light Company, and the Pennsylvania Electric Company (Met Ed or the licensees), are the holders of Facility Operating License No. DPR-50 which authorizes the operation of the nuclear power reactor known as Three Mile Island Nuclear Station, Unit No. 1 (TMI-1 or the facility), at steady reactor power levels not in excess of 2535 megawatts thermal (rated power). The facility consists of a Babcock & Wilcox (B&W) designed pressurized water reactor (PWR) located at the licensee's site in Dauphin County, Pennsylvania.

modified on July 14 and December 9, 1977 and April 27, August 1 and 24, 1978, (2) Amendment Nos. 46 and 43 to License Nos. DPR-39 and DPR-48, and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Zion-Benton Public Library District, 2600 Emmans Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of March, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

(FR Doc. 79-9713 Filed 3-29-79; 8:45 am)

[7590-01-M]

[Docket No. 50-247]

**CONSOLIDATED EDISON CO., OF NEW YORK, INC.**

**Issuance of Amendment To Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No 51 to Facility Operating License No. DPR-26, issued to Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications concerning an error in the allowable pressurizer heatup rate, definitions of hot shutdown, quadrant power tilt ratio, and surveillance intervals, steam generator tube inservice inspection reports, outage times for the boric acid transfer and storage system, inservice inspections and testing (ISI/IST) requirements separately covered by the IP-2 Inservice Inspection and Testing Program, station battery load test intervals, and a number of editorial matters.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.



## II.

On April 27, 1978, the Commission granted the licensees of TMI-1 an Exemption from the requirement of 10 CFR 50.46(a) that Emergency Core Cooling System (ECCS) performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K. This Exemption added license conditions requiring limitation of operating power level, adherence to certain operating procedures, and submission of additional analyses of ECCS performance.

Following submission of additional information by the licensees and review by the staff, the previously imposed license conditions were amended by Modification of Conditions of Exemption, dated May 19, 1978. The license conditions, as modified, would: (1) require submission of a reevaluation of ECCS cooling performance wholly in conformance with 10 CFR 50.46, except for the credit for completion of operator action within 10 minutes after initiation of the event; (2) limit the maximum steady state reactor core power level to 2535 MWt; and (3) require operation in accordance with procedures described in the licensee's letters of April 27, 1978, as supplemented by letter dated May 23, 1978 (except that the maximum time for completion of operator action was 10 minutes).

Since that time, B&W has provided in their letter of August 11, 1978 additional information concerning the simplified input used in the FOAM code portion of the ECCS performance analyses submitted May 3, 1978. The staff has reviewed this additional information and on the basis of this review has concluded that the small break LOCA analyses which used this simplified FOAM code input method are acceptably conservative and in conformance with the performance criteria of 10 CFR 50.46 and Appendix K to Part 50. As noted previously, however, these analyses assume completion of the local operator action as described in Met Ed's letters of April 27 and May 3, 1978, within 10 minutes following the initiation of the event.

The original concern in this matter derived from an unexpected but nevertheless inadequate assessment of a spectrum of breaks. This deviation from 10 CFR 50.46 has been ameliorated on a temporary basis by the actions discussed herein. However, continued reliance on prompt operator action to perform the required steps to assure plant safety over a period of years into the future is undesirable and should be remedied as promptly as possible. To this extent, the original defect still remains until modifications are made to eliminate the reliance on prompt operator actions. To remedy this

defect Met Ed submitted on July 24, 1978, a description of a proposed plant modification which would eliminate reliance on the prompt operator action noted above. Following discussion of the proposed modification with the staff, an improved alternate modification was proposed by Met Ed's letter of November 21, 1978. In the letter of November 21, 1978, Met Ed committed to complete implementation of this proposed modification at TMI-1 prior to operation following the 1980 refueling outage. Additional information on possible implementation schedules was provided in Met Ed's letter of December 29, 1979. Met Ed, by letter dated February 23, 1979, requested an extension of the exemption from the provisions of 10 CFR 50.46 until such modifications were implemented.

With respect to this request for an exemption, we note that the conclusions drawn in our Modification of Conditions of Exemption of May 19, 1978 remain valid and have been further supported by our subsequent conclusions regarding the acceptability of the simplified input used in the FOAM code. Accordingly, we conclude that operation of TMI-1 at power levels up to 2535 MWt in accordance with the referenced procedures for operator action until modifications are completed to achieve full compliance with 10 CFR 50.46 will not endanger life or property or the common defense and security.

We have reviewed the modification proposed by Met Ed to eliminate reliance on prompt operator action. This modification is designed to mitigate a small break LOCA, assuming a loss of off-site power and the failure of one engineered safeguards electrical bus, without requiring any operator action. The leg "A" HPI line will be connected to the "C" HPI line, and the "B" leg HPI line will be connected to the "D" HPI lines. These cross connect lines will assure delivery to the RCS of the minimum required ECCS flow assuming the limiting single failure occurs simultaneously with a LOCA. Met Ed has also committed to verify the design characteristics of the modified HPI system with cross connect lines installed, during preoperational testing using both permanently and temporarily installed flow instrumentation.

Therefore, based on our review of Met Ed's submittal we conclude that upon installation of the modification, as proposed, and upon completion of testing to verify attainment of the flow split assumed in Met Ed's submittal of May 3, 1978, the ECCS will fully conform to the requirements of 10 CFR 50.46.

Thus, while the ECCS for TMI-1 does not fully comply with our requirements, appropriate actions have

been taken to remedy the defect in a timely manner, and to mitigate the consequences of a small break LOCA, should such an accident occur prior to implementation of acceptable modifications. As a condition of continuing this exemption, adherence to prescribed operator actions and implementation of the proposed modifications at an appropriate outage during Cycle 5 or prior to operation in Cycle 6 are being made conditions of the facility operating license.

These conditions will remain in force only for the interval until the proposed modifications of the ECCS are completed. The public interest is served by issuing this exemption for TMI-1 in that in the absence of an exemption, shutdown of the facility would be required. Loss of this large block of generating capacity could adversely affect electric system reliability and thus possibly adversely affect the public.

## III.

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the State Library of Pennsylvania, Harrisburg, Pennsylvania:

- (1) the application for exemption dated February 23, 1979;
- (2) supplementary information contained in letter from J. G. Herbein (Met Ed) to R. W. Reid (NRC), dated May 3, July 24, November 21 and December 26, 1978;
- (3) letter from J. H. Taylor to S. A. Varga (NRC), dated August 11, 1978;
- (4) Modification of Conditions of Exemption in the matter of Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company, Three Mile Island Nuclear Station, Unit No. 1, dated May 19, 1978; and
- (5) this Exemption in the matter of Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company, Three Mile Island Nuclear Station, Unit No. 1.

## IV.

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the conditions of the exemption from the requirements of 10 CFR 50.46(a) granted the licensees on April 27, 1978, as amended by Modification of Conditions of Exemption dated May 19, 1978, are further amended so that effective this date the exemption is conditioned as follows:

- (1) until implementation of the modifications defined in (2) below, the facility shall be operated in accord-

ance with the procedures for operator action described in Met Ed's letter dated April 27, 1978, as supplemented by letter dated May 3, 1978; and

(2) authorization to operate the facility in the absence of implementation of the modifications to eliminate reliance on prompt operator action, as described in the licensee's letter of November 21, 1978 is limited to the earlier of the following:

- (a) completion of operating Cycle 5; or
- (b) at such time after September 1, 1979 when it is determined on the basis of realistic estimates that an existing or projected reactor outage will last at least 30 days.

For The Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 16th day of March 1979.

VICTOR STELLO, Jr.,  
Director, Division of Operating  
Reactors, Office of Nuclear Re-  
actor Regulation.

[FR Doc. 79-9718 Filed 3-29-79; 8:45 am]

## [7590-01-M]

APPLICATIONS FOR LICENSES TO EXPORT  
NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application,"

| Name of applicant, date of application,<br>date received, application number | Material type           | Material in kilograms |               | End-use   | Country of destination |
|--|-------------------------|-----------------------|---------------|---|------------------------|
|  |                         | Total element         | Total isotope |   |                        |
| Embassy of Spain, 02/28/79, 03/13/79, XSNMO1477.                             | 20% Enriched Uranium    | 50                    | 10            | Fuel for JEN-1 Reactor                          | Spain.                 |
| Nissho-Iwai Corp., 03/08/79, 03/15/79, XMAT0030.                             | 22,046 lbs. heavy water |                       |               | Used as moderator in Fugen Heavy Water Reactor. | Japan.                 |

[FR Doc. 79-9719 Filed 3-29-79; 8:45 am]

## [7590-01-M]

[Dockets Nos. 50-269, 50-270 and 50-287]

## DUKE POWER CO.

Issuance of Amendments to Facility Operating  
Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 71, 71, and 68 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to incorporate changes to the Oconee Unit No. 1 pressurization, heatup and cooldown limitations.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Dated at Bethesda, Maryland, this 19th day of March 1979.

please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day March 22, 1979 at Bethesda, Maryland.

For The Nuclear Regulatory Commission.

GERALD G. OPLINGER,  
Assistant Director, Export/  
Import and International Pro-  
grams, Office of International  
Programs.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Oper-  
ating Reactors.

[FR Doc. 79-9715 Filed 3-29-79; 8:45 am]

## [7590-01-M]

[Docket Nos. 50-250 and 50-251]

## FLORIDA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating  
Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 45 and 37 to Facility Operating License Nos. DPR-31 and DPR-41, respectively, issued to Florida Power and Light Company which amended the licenses for operation of the Turkey Point Nuclear Generating Unit Nos. 3 and 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments add license conditions relating to the completion of facility modifications and the implementation of administrative controls resulting from our review of the Turkey Point fire protection program.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regula-



tions in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 22, 1978, supplemented on June 5 and 23, July 14, August 28 and November 7, 1978; (2) Amendment Nos. 45 and 36 to License Nos. DPR-31 and DPR-41; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 21st day of March, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1 Division of Operating Reactors.

[FR Doc. 79-9716 Filed 3-29-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised the license and Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to reflect plant operating limits for the fuel loading to be used during Cycle 5, and redefines the

completion dates for certain modifications intended to improve the level of fire protection at this facility. This amendment also adds Technical Specification for operability and surveillance of fire barrier penetration seals.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated December 28, 1978, as supplemented March 1, 1979, and March 5, 1979, (2) Amendment No. 50 to License No. DPR-50, (3) the Commission's related Safety Evaluation, (4) Supplement No. 1 to the Fire Protection Safety Evaluation and (5) the Commission's Modification of Conditions of Exemption which is also being published in the FEDERAL REGISTER. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania. A copy of items (2) through (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of March 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch #4, Division of Operating Reactors.

[FR Doc. 79-9717 Filed 3-29-79 8:45 am]

## [7590-01-M]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

## Revised Notice of Meeting

Regarding the previous FEDERAL REGISTER Notice (published on March 21, 1979, Volume 44, p. 17237-8) for the meeting of the Advisory Committee on Reactor Safeguards to be held on April 5-7, 1979, in Washington, D.C., changes in schedule have been made as reflected, below.

THURSDAY, APRIL 5, 1979

9:00 A.M.-11:00 A.M.: Meeting with NRC Staff (Open). The Committee will hear and discuss a report by the Staff regarding the basis for shutting down five nuclear plants to resolve piping questions.

11:00 A.M.-12:30 P.M.: Executive Session (Open). The Committee will discuss matters proposed for discussion with the Commissioners regarding the timing and scope of the ACRS annual report on the NRC Safety Research Program; combination of dynamic loads, including those generated by seismic events, as a design basis for nuclear facilities; and use of probabilistic assessment in the licensing process.

FRIDAY, APRIL 6, 1979

1:00 P.M.-4:30 P.M.: Sequoyah Nuclear Plant (Open). The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the applicant regarding the request to operate this plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility and provisions for the physical protection of this section.

4:30 P.M.-6:30 P.M.: Executive Session (Open). The Committee will hear and discuss the reports of ACRS Subcommittees on items related to nuclear power plant safety, including evaluation of systems interactions, design of integrated protection systems, the OLYN Code, regulatory activities, and ACRS procedures.

The Committee will discuss its proposed reports to the Nuclear Regulatory Commission regarding the Palo Verde Nuclear Generating Station and the Sequoyah Nuclear Plant.

Portions of this section will be closed as necessary to discuss Proprietary Information, provisions for physical protection of these stations and matters involved in adjudicatory proceedings.

SATURDAY, APRIL 7, 1979

10:30 A.M.-12:00 Noon: Meeting with NRC Staff (Open). The Committee will hold discussions with members of the

NRC Office of Inspection and Enforcement regarding policies and practices related to the imposition of civil penalties, and consideration of contemplated EPA guidance requiring reduction of allowable limits on occupational radiation exposure.

The future schedule for ACRS activities will also be discussed.

12:00 Noon-12:30 P.M. and 12:30 P.M.-4:00 P.M.: Executive Session (Open). The Committee will continue preparation of its reports to NRC on the Palo Verde Nuclear Generating Station, the Sequoyah Nuclear Plant, and Anticipated Transients Without Scram.

The Committee will also discuss proposed comments and positions regarding other matters discussed during this meeting.

Dated: March 26, 1979.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 79-9710 Filed 3-29-79; 8:45 am]

## [7590-01-M]

[Docket No. 50-549; Case 80006]

## POWER AUTHORITY OF THE STATE OF NEW YORK ET AL.

## Joint Ruling Extending Scheduled Dates in Proceeding

MARCH 23, 1979.

In the matter of Power Authority of the State of New York, (Greene County Nuclear Power Plant), Docket No. 50-549; State of New York Department of Public Service Board on Electric Generation Siting and the Environment; In the matter of the application of the Power Authority of the State of New York, (Greene County Nuclear Generating Facility), Case 80006.

By letter-motion dated March 20, 1979, the Power Authority of the State of New York (PASNY) has requested a suspension of all dates heretofore established for discovery procedures and resumption of hearings. The motion is based on the published announcement of PASNY's Chairman that he will recommend to PASNY's Board of Trustees that PASNY sell the assets of the Greene County project. PASNY indicates in its motion that it will inform the Boards and all parties of its intentions with respect to the pending applications by April 9, 1979.

In view of the present uncertainty as to whether these proceedings will continue, parties herein should not be burdened with the preparation of the documents and the preparation of cross-examination that may prove to

have been unnecessary. However, rather than granting an indefinite suspension of all scheduled dates as requested by PASNY, we grant a three-week extension of all prescribed dates heretofore scheduled, including the scheduled date of April 2, 1979, for resumption of hearings. This three-week extension shall be applicable to all prescribed dates subsequent to March 16, 1979.

Dated at Bethesda, Maryland, this 22nd day of March 1979.

For the Atomic Safety and Licensing Board.

ANDREW C. GOODHOPE,  
Chairman.

For the State Siting Board.

EDWARD D. COHEN,  
Presiding Examiner.  
[FR Doc. 79-9856 Filed 3-29-79; 8:45 am]

## [3190-01-M]

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-17]

## CIGAR ASSOCIATION OF AMERICA, INC.

## Section 301 Committee Notice of Complaint

On March 14, 1979, the Chairman of the Section 301 Committee received from Michael J. Kowalsky, and Peter Buck Feller, Esquire, on behalf of the Cigar Association of America, Inc., a petition in proper form alleging unfair trade practices by the Government of Japan. The complaint alleges that the Japan Tobacco and Salt Public Corporation (JTS), an instrumentality of the Government of Japan, maintains unreasonable import restrictions and engages in unreasonable acts or policies, which burden or restrict United States commerce in cigars. Relief is requested under Section 301 of the Trade Act of 1974 (Pub. Law 93-618; 88 Stat. 1978). The text of the complaint follows (except for confidential business information in an annex to the complaint which identifies by name the cigar brands listed in tables 1-3):

## BEFORE THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

In The Matter Of: United States Exports of Cigars to Japan

## COMPLAINT UNDER SECTION 301 OF THE TRADE ACT OF 1974

MARCH 14, 1979.

The Cigar Association of America, Inc., 1120 Nineteenth St., NW., Washington, D.C. 20036 (202) 466-3070. Michael J. Kowalsky, President. Peter

Buck Feller, Secretary & General Counsel.

## COMPLAINT UNDER SECTION 301 OF THE TRADE ACT OF 1974

## SUMMARY

This Complaint is filed pursuant to Section 301 of the Trade Act of 1974 and 15 CFR Part 2006.

The Complainant is the Cigar Association of America, Inc., a non-profit trade association, representing firms whose sales account for 75% of the large cigars sold in the United States.

The basis for the Complaint is that the Japan Tobacco and Salt Public Corporation (JTS), an instrumentality of the Government of Japan, (a) maintains unreasonable import restrictions which impair the value of trade commitments made to the United States or which are unreasonably and which burden or restrict United States commerce in cigars, and (b) engages in acts or policies which burden or restrict United States commerce in cigars.

Complainant requests the Special Representative for Trade Negotiations to recommend that the President take all appropriate and feasible steps within his power to obtain the complete elimination of such restrictions, including the institution of retaliatory actions authorized by Section 301(a).

## RESTRICTIVE USE OF GOVERNMENT MONOPOLY

The Japan Tobacco and Salt Public Corporation (JTS) is an instrumentality of the Government of Japan. Cigar retailers in Japan must purchase their cigar supplies from JTS. That is, JTS is an official monopoly and, as such, is the sole commercial source of cigars and other tobacco products, including imports. Retail prices are fixed by law in accordance with policies established by Japan's Ministry of Finance and JTS. JTS is exempt from duties on cigar imports.

Under this monopoly system the retail prices of cigars in Japan are set at exorbitantly high levels. Such cigar prices are unreasonable and have the effect of severely restricting United States exports of cigars to Japan within the meaning of Section 301(a) of the Trade Act of 1974.

The unreasonable nature of cigar prices charged in Japan can be readily demonstrated by comparing U.S. cigar prices in Japan with the JTS costs. The comparison, set forth in Table 1, reveals an enormous monopoly profit. The retail prices for U.S. cigars currently sold in Japan are more than double what the known cost variables, used by the JTS in determining such prices, suggest they should be. Table 1 indicates that JTS prices yield a monopoly profit of between 52.3% and 57.3% in excess of a "normal" profit of



26.7%. Such excess profit does not even take into account an adjustment for reduced net costs of U.S. cigars attributable to the substantial appreciation of the yen against the dollar.

The reduced yen cost of importing U.S. cigars is demonstrated in Table 2 which provides a 5 year summary of the JTS cost of U.S. cigars purchased, adjusted by the change in the exchange rate between the yen and the dollar. Current Japanese retail prices are more than 6 times greater than JTS costs and about 5 times greater than suggested retail prices for these cigars in the United States. While the yen cost of imported U.S. cigars has generally decreased over the past 5 years, because of the increased purchasing power of the yen (the value of the yen against the dollar has increased by 50% since 1975), some retail prices for U.S. cigars in Japan are higher today than they were in 1975 (16.7% and 33.3% for Brands B and E). Other prices have dropped, but not nearly as much as the reduction in yen cost to JTS.

Table 3 provides a 5 year summary of the FOB and CIF selling prices of the U.S. cigar brands purchased by JTS; and depicts the retail prices in the U.S. and Japan.

#### MARKETING RESTRICTIONS IN JAPAN

JTS policies severely restrict the marketing of imported cigars in Japan, (2) as follows:

- (1) Unreasonably long minimum time required for a product to remain in test market (1-2 years);
- (2) No press releases about the product are allowed except JTS releases announcing introduction of the product;
- (3) Advertising in Japanese media is permitted only if a price change is announced.
- (4) The only place information about the product may appear is in the JTS catalog for imported brands.

#### RESTRICTIVE EFFECT ON UNITED STATES COMMERCE

The United States cigar industry has the technology and productive capacity to produce and sell cigars in a multitude of sizes and shapes to Japanese consumers at modest prices. Certain demographic data suggest that Japan would be a significant export market for U.S. cigars, if the unreasonable restrictions cited above were eliminated. Japan is a highly affluent industrialized country with a large population. Individual earnings parallel those in the United States. Tobacco consumption enjoys widespread popularity.

Annual per capita cigarette consumption in Japan is about 3,300-3,400 per person, 15 years and older. This compares to United States consumption of about 4,000 per person, 18 years and older. There are some 249,000 retail tobacco establishments in Japan. Only 3,300 sell imported tobacco products and only half of these sell cigars.

Japan has all of the characteristics of a viable market for U.S. cigars. Yet, U.S. cigar exports to Japan for the past 6 years have been erratic, ranging from 45 million units in 1973 (valued \$1,060,000) to 18.5 million in 1978 (valued \$392,000). See Table 4. Total cigar consumption in Japan is about 50-100 million units (compared to 4.7 billion in the U.S.) per year. This low level of consumption is understandable if one recognizes that the retail price of cigars has a major influence on consumption patterns.

U.S. cigar consumption is generally price elastic, particularly at the lower retail price levels (up to 8 cents each) and popular retail price levels (8 cents to 15 cents each). The same is likely to hold true for Japan. Therefore, the quantity of product sold is directly related to the price at which it sells and to a lesser extent the distribution and promotion of the product. That is to say, if retail prices were reasonable, and distribution of the products were broadened, many more U.S. cigars would be sold in Japan.

#### REMEDY

The U.S. cigar industry believes that a 55% reduction in the retail price of U.S. cigars sold in Japan, and the elimination of the other offensive restrictive practices cited above, would permit annual U.S. cigar exports to Japan to grow by more than \$5 million within the next few years with a prospect of greater long-term growth. Further, we believe this export potential would previously have been realized, had it not been for the excessive retail prices charged over the past 5 years (including failure to adjust fully for the substantial appreciation of the yen) and other unreasonable restrictions which JTS has maintained.

Retail price is the most significant factor affecting consumption of U.S. cigars in Japan. Therefore, reduction of the retail price in Japan to a reasonable level is the essential ingredient in permitting a meaningful expansion of U.S. cigar exports to Japan. The relaxation of the Japanese marketing restrictions noted above would help facilitate U.S. cigar exports, but only if the JTS monopoly prices are lowered by 55% or more.

The Cigar Association of America, Inc., requested the Trade Facilitation Committee, U.S. Department of Commerce, to resolve this egregious problem on March 3, 1978. It now appears that bilateral discussions on the subject have proved fruitless. Accordingly, we are filing this Section 301 Complaint to enable the President to make full use of his powers to obtain the elimination of the unreasonable restrictions set forth above.

Should the Section 301 consultative process also fail to bring about the elimination of these restrictions, we would recommend that retaliatory action be taken against imports from Japan. In our view, an ideal candidate for such retaliatory action would be lag screws of iron or steel classified under TSUSA Item 646.4920. Imports of such lag screws from Japan in 1978 totaled \$5.8 million, which is equivalent to the annual lost U.S. cigar exports to Japan attributable to the restrictive practices concerned. Retaliatory action, sufficient to reduce lag screw imports from Japan to \$4 million per year, would match the restrictive effect of unreasonable JTS restrictions on United States commerce.

We have been advised that the Government of Japan is contemplating the introduction of a 60% *ad valorem* (CIF) tariff on cigar imports in the near future. Currently, there is no tariff assessed on commercial imports of cigars. It seems incomprehensible to us that Japan should propose to erect a 60% tariff barrier on cigar imports in this context. Such an exaction would only compound the clear unfair trade practice to which this Complaint is addressed.

#### FOOTNOTES

(1) According to the U.S. Department of Commerce, the Government of Japan has consistently maintained that, since JTS is a state-owned monopoly, it is exempt from customs duties. This position has been communicated to STR and the Trade Facilitation Committee of U.S. Department of Commerce, and is noted in the GATT. Japan has therefore refused to negotiate a tariff reduction for commercial imports of cigars.

(2) According to the U.S. Department of Commerce, Trade Facilitation Committee, JTS policies restrict foreign advertising within the following guidelines:

- (1) A press release, issued by JTS, for announcement of new product; no further releases.
- (2) Diffusion of new product knowledge limited exclusively to JTS catalogue for imported brands.
- (3) Advertising in Japanese media is only permitted to announce price change of a brand.
- (4) Advertising in English media in Japan is generally permitted.

Table 1

ESTIMATED RETAIL PRICE IN JAPAN OF U.S. CIGARS EXPORTS

|  | BRAND A         | BRAND B        | BRAND C        | BRAND D         | BRAND E         | BRAND F         | BRAND G 2/      |
|--|-----------------|----------------|----------------|-----------------|-----------------|-----------------|-----------------|
| 1979   |                 |                |                |                 |                 |                 |                 |
| 1. 5 Pack Retail, U.S.   | \$ .33          | \$ .37         | \$ .37         | \$ .37          | \$ .39          | \$ .60          | \$ .35          |
| 2. 5 Pack Retail, JAPAN (yen equiv.)   | \$1.62 (320)    | \$2.02 (400)   | \$1.87 (370)   | \$1.77 (350)    | \$1.77 (350)    | \$3.03 (600)    | \$1.33 (350)    |
| 3. 5 Pack Cost CIF JAPAN (Unit Price)  | \$ .248 (4.95¢) | \$ .310 (6.2¢) | \$ .279 (5.6¢) | \$ .293 (5.85¢) | \$ .281 (5.62¢) | \$ .461 (9.22¢) | \$ .286 (5.72¢) |
| 4. Central, municipal and prefectural consumption tax @ 55.1% of retail price 3/ |                 |                |                |                 |                 |                 |                 |
| 5. Retailer margin @ 7% of retail price  | \$ .050         | \$ .062        | \$ .056        | \$ .059         | \$ .057         | \$ .093         | \$ .057         |
| 6. 3% JTS handling + R/E   | .021            | .027           | .024           | .025            | .024            | .040            | .025            |
| 7. Est. Retail per 5 Pack (yen equiv.)   | \$ .710 (141)   | \$ .889 (176)  | \$ .800 (158)  | \$ .840 (167)   | \$ .808 (160)   | \$1.327 (263)   | \$ .820 (163)   |
| 8. Overage from current JTS retail price in yen per 5 Pack                       | 179 yen 55.9%   | 224 yen 56.0%  | 212 yen 57.3%  | 183 yen 52.3%   | 190 yen 54.3%   | 437 yen 56.1%   | 187 yen 53.4%   |
| 10. % Overage  |                 |                |                |                 |                 |                 |                 |

1/ JTS has previously informed U.S. negotiators that because commercial imports are purchased by the State Trading Monopoly, no import duty is charged. This is understood to be noted in the GATT. Note: CIF includes agent commission in Japan which is usually 10% of FOB, plus freight and insurance.

2/ Recently removed from JTS purchases.

3/ The municipal and prefectural taxes (totaling 28.4% of retail) are fixed by statute. The residual of 26.7%, said to be central tax, is not fixed therefore has no legal basis; essentially it represents monopoly profit.

NOTE: 198 yen = \$1.00

3/13/79



Table 2

U.S. CIGAR PRICES FOB AND CIF JAPAN  
ADJUSTED FOR FOREIGN EXCHANGE RATE CHANGES:  
RETAIL PRICES IN U.S. AND JAPAN  
1975 - 1979

| Year        | BRAND A                |                          |                         |                           | BRAND B               |                         |                         |                           |
|-------------|------------------------|--------------------------|-------------------------|---------------------------|-----------------------|-------------------------|-------------------------|---------------------------|
|             | FOB, USA<br>per 5-Pack | CIF, Tokyo<br>per 5-Pack | 5-Pack<br>Retail<br>USA | 5-Pack<br>Retail<br>Tokyo | FOB USA<br>per 5-Pack | CIF Tokyo<br>per 5-Pack | 5-Pack<br>Retail<br>USA | 5-Pack<br>Retail<br>Tokyo |
| 1975        | 63 yen                 | 73 yen                   | \$ .30                  | \$ 1.35                   | 56 yen                | 59 yen                  | \$ .30                  | \$ 1.01                   |
| 1976        | 63                     | 73                       | .32                     | 1.35                      | 66                    | 73                      | .35                     | 1.48                      |
| 1977        | 67                     | 66                       | .30                     | 1.34                      | 60                    | 75                      | .35                     | 1.64                      |
| 1978        | 45                     | 51                       | .30                     | 1.52                      | 49                    | 59                      | .35                     | 1.90                      |
| 1979        | 42                     | 49                       | .33                     | 1.62                      | 47                    | 61                      | .37                     | 2.02                      |
| % Δ 1979/75 | - 33.3%                | - 32.9%                  | + 10%                   | + 20%                     | - 16.1%               | + 3.4%                  | + 23.3%                 | + 100% + 33.3%            |
| BRAND C     |                        |                          |                         |                           |                       |                         |                         |                           |
| 1975        | 66 yen                 | 76 yen                   | \$ .35                  | \$ 1.35                   | Not Sold              |                         |                         |                           |
| 1976        | 66                     | 76                       | .35                     | 1.48                      |                       |                         |                         |                           |
| 1977        | 60                     | 69                       | .35                     | 1.56                      |                       |                         |                         |                           |
| 1978        | 51                     | 59                       | .37                     | 1.76                      | 50 yen                | 58 yen                  | \$ .37                  | \$ 1.77                   |
| 1979        | 48                     | 55                       | .37                     | 1.87                      | --                    | --                      | --                      | --                        |
| % Δ 1979/75 | - 27.3%                | - 27.6%                  | + 5.7%                  | + 38.5%                   |                       |                         |                         | 350 --                    |
| BRAND E     |                        |                          |                         |                           |                       |                         |                         |                           |
| 1975        | 52 yen                 | 62 yen                   | \$ .28                  | \$ 1.01                   | 88 yen                | 113 yen                 | \$ .50                  | \$ 2.36                   |
| 1976        | 54                     | 62                       | .28                     | 1.14                      | 88                    | 113                     | .50                     | 2.36                      |
| 1977        | 49                     | 56                       | .35                     | 1.34                      | 79                    | 102                     | .50                     | 2.23                      |
| 1978        | 46                     | 52                       | .39                     | 1.67                      | 82                    | 97                      | .60                     | 2.86                      |
| 1979        | 48                     | 56                       | .39                     | 1.77                      | 77                    | 91                      | .60                     | 3.03                      |
| % Δ 1979/75 | - 7.7%                 | - 9.7%                   | + 39.3%                 | + 75.2%                   | - 12.5%               | - 19.5%                 | + 20%                   | + 28.4%                   |
| BRAND F     |                        |                          |                         |                           |                       |                         |                         |                           |
| 1975        | 63 yen                 | 73 yen                   | \$ .30                  | \$ 1.35                   |                       |                         |                         |                           |
| 1976        | 70                     | 80                       | .35                     | 1.4                       |                       |                         |                         |                           |
| 1977        | 63                     | 72                       | .35                     | 1.49                      |                       |                         |                         |                           |
| 1978        | 52                     | 59                       | .35                     | 1.67                      |                       |                         |                         |                           |
| 1979        | 49                     | 57                       | .35                     | 1.77                      |                       |                         |                         |                           |
| % Δ 1979/75 | - 22.2%                | - 21.9%                  | + 16.7%                 | + 31.1%                   |                       |                         |                         | - 14.3%                   |

Exchange Rate (yen = \$): 1975: 297 = 1\$; 1976: 297 = 1\$; 1977: 269 = 1\$; 1978: 210 = 1\$; 1979: 198 = 1\$.  
\*Recently removed from JTS purchases.  
Note: CIF includes agent commission in Japan which is usually 10% of FOB, plus freight and insurance. 3/13/79

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Table 3

U.S. CIGAR PRICES FOB + CIF TO JAPAN:  
RETAIL PRICES IN U.S. AND JAPAN  
1975 - 1979

| Year        | BRAND A                 |                           |                         |                           | BRAND B                |                          |                         |                           |
|-------------|-------------------------|---------------------------|-------------------------|---------------------------|------------------------|--------------------------|-------------------------|---------------------------|
|             | \$FOB, USA<br>per 1,000 | \$CIF, Tokyo<br>per 1,000 | 5-Pack<br>Retail<br>USA | 5-Pack<br>Retail<br>Tokyo | \$FOB USA<br>per 1,000 | \$CIF Tokyo<br>per 1,000 | 5-Pack<br>Retail<br>USA | 5-Pack<br>Retail<br>Tokyo |
| 1975        | \$ 42.40                | \$ 49.00                  | \$ .30                  | \$ 1.35                   | \$ 37.40               | \$ 39.41                 | \$ .30                  | \$ 1.01                   |
| 1976        | 42.40                   | 49.00                     | .32                     | 1.35                      | 44.74                  | 49.08                    | .35                     | 1.48                      |
| 1977        | 42.40                   | 49.00                     | .30                     | 1.34                      | 44.74                  | 55.79                    | .35                     | 1.64                      |
| 1978        | 42.40                   | 49.00                     | .30                     | 1.52                      | 46.64                  | 55.79                    | .35                     | 1.90                      |
| 1979        | 42.40                   | 49.50                     | .33                     | 1.62                      | 47.31                  | 61.87                    | .37                     | 2.02                      |
| % Δ 1979/75 | 0                       | + 1.0%                    | + 10%                   | + 20%                     | + 26.5%                | + 57.0%                  | + 23.3%                 | + 100% + 33.3%            |
| BRAND C     |                         |                           |                         |                           |                        |                          |                         |                           |
| 1975        | \$ 44.76                | \$ 51.24                  | \$ .35                  | \$ 1.35                   | not sold               |                          |                         |                           |
| 1976        | 44.76                   | 51.24                     | .35                     | 1.48                      | "                      |                          |                         |                           |
| 1977        | 44.76                   | 51.24                     | .35                     | 1.56                      | "                      |                          |                         |                           |
| 1978        | 55.89                   | 55.89                     | .37                     | 1.76                      | "                      |                          |                         |                           |
| 1979        | 48.20                   | 55.89                     | .37                     | 1.87                      | \$ 50.60               | 58.53                    | \$ .37                  | 1.77                      |
| % Δ 1979/75 | + 7.7%                  | + 9.1%                    | + 5.7%                  | + 38.5%                   | --                     | --                       | --                      | 350 --                    |
| BRAND D     |                         |                           |                         |                           |                        |                          |                         |                           |
| 1975        | \$ 34.76                | \$ 41.54                  | \$ .28                  | \$ 1.01                   | \$ 59.00               | 76.00                    | \$ .50                  | \$ 2.36                   |
| 1976        | 36.45                   | 41.54                     | .28                     | 1.14                      | 59.00                  | 76.00                    | .50                     | 2.36                      |
| 1977        | 36.45                   | 41.65                     | .35                     | 1.34                      | 59.00                  | 76.00                    | .50                     | 2.36                      |
| 1978        | 43.56                   | 49.50                     | .39                     | 1.67                      | 77.74                  | 92.24                    | .60                     | 2.86                      |
| 1979        | 48.49                   | 56.23                     | .39                     | 1.77                      | 77.74                  | 92.24                    | .60                     | 3.03                      |
| % Δ 1979/75 | + 39.5%                 | + 35.4%                   | + 39.3%                 | + 75.2%                   | + 31.8%                | + 21.4%                  | + 20%                   | + 28.4%                   |
| BRAND E     |                         |                           |                         |                           |                        |                          |                         |                           |
| 1975        | \$ 42.40                | \$ 49.00                  | \$ .30                  | \$ 1.35                   |                        |                          |                         |                           |
| 1976        | 47.00                   | 53.70                     | .35                     | 1.48                      |                        |                          |                         |                           |
| 1977        | 47.00                   | 53.70                     | .35                     | 1.49                      |                        |                          |                         |                           |
| 1978        | 49.35                   | 56.28                     | .35                     | 1.67                      |                        |                          |                         |                           |
| 1979        | 49.35                   | 57.15                     | .35                     | 1.77                      |                        |                          |                         |                           |
| % Δ 1979/75 | + 16.4%                 | + 16.6%                   | + 16.7%                 | + 31.1%                   |                        |                          |                         | -14.3%                    |

Exchange Rate (yen = \$): 1975: 297 = 1\$; 1976: 297 = 1\$; 1977: 269 = 1\$; 1978: 210 = 1\$; 1979: 198 = 1\$.  
\*Recently removed from JTS purchases.  
Note: CIF includes Agents commission in Japan which is usually 10% of FOB, plus freight and insurance. 3/13/79

FEDERAL REGISTER, VOL. 44, NO. 63—FRIDAY, MARCH 30, 1979



[3190-01-M]

TABLE 4.—U.S. Cigar Exports to Japan  
(1973-1978)

| Year | Units (000's) |                    | Value (\$000) |                    |
|------|---------------|--------------------|---------------|--------------------|
|      | to Japan      | Total U.S. Exports | to Japan      | Total U.S. Exports |
| 1973 | 44,541        | 111,798            | \$1,060       | \$3,615            |
| 1974 | 19,697        | 88,464             | 766           | 3,968              |
| 1975 | 15,820        | 91,799             | 698           | 4,601              |
| 1976 | 16,877        | 124,454            | 450           | 5,729              |
| 1977 | 8,560         | 106,718            | 248           | 5,445              |
| 1978 | 18,581        | 165,684            | 392           | 7,663              |

Source: U.S. Department of Commerce, Bureau of the Census, FT-410.

1. *Hearings.* The complainant has not requested that hearings be held on this matter.

2. *Presentation of views.* Persons wishing to present their views concerning the allegation in the complaint must file written briefs in accordance with the procedures set forth in 15 CFR 2006.6 on or before April 30, 1979.

3. *Rebuttal Briefs.* In order to assure parties the opportunity to contest information provided by other interested parties, a rebuttal brief may be filed by any party on or before May 14, 1979. Rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in the briefs and should be as concise as possible.

RICHARD R. RIVERS,  
General Counsel, Office of the  
Special Trade Representative  
for Trade Negotiations.

MARCH 23, 1979.

(FR Doc. 79-9503 Filed 3-29-79; 8:45 am)

[8025-01-M]

## SMALL BUSINESS ADMINISTRATION

(Declaration of Disaster Loan Area No. 1601)

## ALABAMA

## Declaration of Disaster Loan Area

Baldwin County and adjacent counties within the State of Alabama constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on March 3, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations

may file applications for loans for physical damage until the close of business on May 15, 1979, and for economic injury until the close of business on December 26, 1979, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 26, 1979.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 79-9822 Filed 3-29-79; 8:45 am)

[8025-01-M]

(Proposed License No. 02/02-0353)

## BREMAR CAPITAL CORP.

Application for a License To Operate as a  
Small Business Investment Company

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et. seq.), has been filed by Bremar Capital Corporation (the Applicant) with the Small Business Administration pursuant to 13 CFR 107.102.

The Applicant, with its principal place of business at 9 West 57th Street, New York, New York 10019 will begin operations with \$1,000,000 of paid-in capital and surplus which will be owned 100 percent by Bremar Holdings Corporation (BHC), a Delaware Corporation. BHC, a wholly owned subsidiary of Endeavour Holding, Ltd., a Swiss Corporation, is 100 percent owned by Bremar Holdings Ltd., a British Merchant Bank, which is 65 percent owned by Erwin Brecher and his family.

The officers and directors of the Applicant will be as follows:

## Name and Title

Erwin Brecher, president, director, 86 Northgate, London, N.W.8, England.  
Robert S. Minton, Jr., vice president, general manager, 531 Main Street, New York, New York 10044.

The Applicant intends to render management consulting services to clients and other small business concerns. Such services including business consulting, appraising, feasibility reports and institutional loan placement will be performed by officers and directors of the Applicants.

The Applicant will conduct its operations principally in New York State and will establish a broad financing policy.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Any person, may, on or before April 16, 1979 submit to SBA written comments on the proposed License. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 26, 1979.

PETER F. MCNEISH,  
Deputy Associate Administrator  
for Investment.

(FR Doc. 79-9820 Filed 3-29-79; 8:45 am)

[8025-01-M]

(Declaration of Disaster Loan Area No. 1536 Amdt. No. 1)

## CALIFORNIA

## Declaration of Disaster Loan Area

The above numbered Declaration (See 43 FR 49873), is amended only for Laguna Beach (Orange County), California, in accordance with the President's declaration of October 9, 1978 and subsequent amendment of January 19, 1979 by the Federal Disaster Assistance Administration (FDAA).

The January 19, 1979 Amendment by FDAA revised the incident date from October 2, 1978 to February 5, 1978.

This change in the incident date to February 5, 1978 will require a change in the applicable Public Law regulating the processing of applications in Disaster Loan Area No. 1536 from Public Law 94-305 to Public Law 95-89.

The termination date for filing applications for physical damage is extended until the close of business on May 29, 1979 and for economic injury until the close of business on July 9, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 23, 1979.

WILLIAM H. MAUK, JR.,  
Acting Administrator.

(FR Doc. 79-9823 Filed 3-29-79; 8:45 am)

[8025-01-M]

(Declaration of Disaster Loan Area #1603)

## GEORGIA

## Declaration of Disaster Loan Area

Floyd, Gilmer and Polk Counties and adjacent counties within the State of Georgia constitute a disaster area as a result of damage caused by heavy rains, flooding and mud slides which occurred March 3, 4, 5 and 6, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7% percent. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on May 25, 1979, and for economic injury until the close of business on December 26, 1979 at: Small Business Administration, District Office, 1720 Peachtree Road, N.W. 6th Floor, Atlanta, Georgia 30309 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 26, 1979.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 79-9824 Filed 3-29-79; 8:45 am)

[8025-01-M]

(Declaration of Disaster Loan Area #1587, Amdt. No. 2)

## WISCONSIN

## Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 15554), and Amendment #1 (See 44 FR 17250), are amended by adding Green County and adjacent counties within the State of Wisconsin, which constitute a disaster area

because of damage resulting from heavy snow which occurred on December 15, 1978 through February 28, 1979. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on May 3, 1979, and for economic injury until the close of business on December 3, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 26, 1979.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 79-9825 Filed 3-29-79; 8:45 am)

[8025-01-M]

(Proposed License No. 02/02-0356)

## TRANSWORLD VENTURES, LTD.

Application for a License To Operate as a  
Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (CFR 107.102 (1978)), under the name of Transworld Ventures, Ltd., Suite 1506, 30 East 42nd Street, New York, New York 10017, for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended, (Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders are as follows:

## Name and Title

Jack H. Berger, president, chief executive officer, chairman of the board of directors, 945 Fifth Avenue, New York, New York 10021.

Morris Landis, vice president, secretary, director, 1050 George Street, New Brunswick, New Jersey 08901.

Seymour Deutsch, vice president, treasurer, director, 245 East 63rd Street, New York, New York 10021.

Hans Wydler, director, 945 Fifth Avenue, New York, New York 10021.

Hyman Badner, director, 785 Fifth Avenue, New York, New York 10022.

Multinational Financial Services, Ltd., 30 East 42nd Street, New York, New York 10017.

The applicant proposes to commence operations with a capitalization of \$556,500 which will be derived from the sale of 10,500 shares of common stock at \$53 per share. At this time Multinational Financial Services, Ltd. (MFS), has purchased 142 shares for \$7,526 and has agreed to purchase an additional 2,358 shares for \$124,974 providing the nineteen (19) shareholders

\* Upon successful completion of the stock offering could own 24 percent of the outstanding shares of stock.

ers of (MFS) subscribe to the balance of 8,000 shares on the basis of 1 share of the applicant's stock for each 2.125 shares of Class A Common stock of MFS owned by them.

Matters involved in SBA's consideration of the application include the general business reputation of the owners and management, and the reasonable prospects for successful operation of the new SBIC in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than April 16, 1979, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 26, 1979.

PETER F. MCNEISH,  
Deputy Associate Administrator  
for Investment.

(FR Doc. 79-9821 Filed 3-29-79; 8:45 am)

[4810-22-M]

## DEPARTMENT OF THE TREASURY

## Customs Service

(T.D. 79-99)

## INSTRUMENTS OF INTERNATIONAL TRAFFIC

Certain steel container (flo-bins) used for the transportation of sodium cyanide "cyanogram" designated as instruments of international traffic

It has been established to the satisfaction of the U.S. Customs Service that steel containers, generally referred to as "flo-bins," designed for the transportation of sodium cyanide "cyanogram," which are steel and which measure 44 inches in width by 52 inches in height with a volume of 60.3 cubic feet and a net capacity of 3,000 pounds, are marked with a Department of Transportation label "DOT 56," are stenciled with the owner's name ("Property of E. I. du Pont de Nemours & Co. Inc.") and the owner's cyanide label (IC-25391 (1-72)), are substantial, are suitable for and capable of repeated use, and are in significant numbers in international traffic.

Under the authority of section 10.41(a)(1), Customs Regulations, I hereby designate the above-described steel containers as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)).



19090

These containers may be released under the procedures provided for in § 10.41a, Customs Regulations. (103806) (BOR-7-07)

Dated: March 19, 1979.

J. P. TEBEAU,  
Director, Carrier's Drawback  
and Bonds Division.  
(FR Doc. 79-9736 Filed 3-29-79; 8:45 am)

[4810-22-M]

Office of the Secretary

METHYL ALCOHOL FROM CANADA

Antidumping: Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.  
ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: Based upon an investigation it has been determined that methyl alcohol (methanol) from Canada is being sold at less than fair value within the meaning of the Anti-dumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market. This proceeding is being referred to the United States International Trade Commission for a determination concerning injury to an industry in the United States.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward F. Haley, U.S. Customs Service, Duty Assessment Division, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On May 2, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from E. I. du Pont de Nemours and Company alleging that methyl alcohol (methanol) from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). (Referred to in this notice as "the Act")

On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of June 14, 1978 (43 FR 25758). A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of December 19, 1978 (43 FR 59196).

Methyl alcohol, also known as methanol, is classifiable under item

## NOTICES

numbers 427.9600 and 427.9700 of the Tariff Schedules of the United States Annotated.

### DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, methyl alcohol from Canada is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

### STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* Virtually all imports of methanol from Canada during the period covered by this investigation were manufactured by Alberta Gas Chemicals Limited (AGCL); therefore, the investigation was limited to this manufacturer.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the adjusted home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since U.S. sales were made to unrelated customers prior to the date of exportation of the merchandise. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used for fair value comparison purposes since such or similar merchandise was sold in the home market in sufficient quantities to provide an appropriate basis of comparison. In this case, AGCL's home market sales accounted for over 55 percent of all sales to markets other than the United States, and over 38 percent of AGCL's total sales during the period investigated.

Consequently, this was deemed adequate to establish a home market for purposes of price comparisons.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the 6-month period January 1, 1978, through June 30, 1978.

c. *Purchase Price.* For the purpose of this determination of sales at less than fair value, the purchase price was calculated based on prices to unrelated U.S. customers with deductions for freight, U.S. duty, and sales commission, where appropriate.

For the purposes of making fair value comparisons customers were classified into three groups: Producers of formaldehyde, producers of other than formaldehyde, and co-producers

of methanol, since sales to these classes of customers were generally made at different price levels.

In the Withholding of Appraisement Notice cited above, it was stated that sales to U.S. co-producers were not included within the price comparisons because of the absence of the same level of trade within Canada. That notice indicated that those co-producer sales to the U.S. accounted for less than 6 percent of all sales to the United States. It was subsequently discovered, however, that sales made to one U.S. customer at the co-producer level inadvertently had not been reported by the respondent as co-producer sales. These co-producer sales accounted for 15 percent of the total sales to the U.S. On the basis of the new information the Department has decided that sales to U.S. co-producers should be included within the price comparisons for purposes of this final determination.

In calculating purchase price, so called "swap" transactions, which appear to be common in the methanol industry to reduce freight expenses, have not been considered. A swap transaction involves the delivery of the product by one methanol producer to the customer of a second. The second producer agrees to deliver a comparable amount to a customer of the first at an undetermined future time. No payment is exchanged. Swap shipments to U.S. customers of AGCL and United States producers during the period of investigation involved about 8 million gallons of methanol, or approximately 28 percent of AGCL's total U.S. sales. Because the swaps are not valued as such to permit simple price comparisons, these sales were not used in making fair value comparisons.

The respondent has maintained that the above swap transactions are not sales and, therefore, are outside the scope of the Act. Although swap shipments were not included in making price comparisons for purposes of this investigation, Treasury considers any such transactions in which methanol is imported into the U.S. from Canada to be within the scope of the Anti-dumping Act and thus subject to any Finding of Dumping which subsequently may be issued. This would be consistent with the treatment accorded so-called swap shipments to U.S. customers of Canadian producers of potassium chloride (otherwise known as muriate of potash) from Canada. (Finding of Dumping, December 19, 1969 (34 FR 19904)).

d. *Home Market Price.* AGCL sold methanol in Canada to two distinct classes of purchaser—producers of formaldehyde and producers of other than formaldehyde. Consequently, for the purpose of this determination of

sales at less than fair value, two separate weighted-average home market prices were calculated for fair value comparisons. Deductions were made for freight costs in both instances, where applicable. In the case of sales to one U.S. purchaser, which were made pursuant to a long-term fixed-price contract renegotiated in July 1975, a home market price was calculated based upon sales in Canada during the months of June and July of that year. The purchaser contended that the contract was concluded in 1973 and, that the price and quantity terms renegotiated in 1975 included a reservation permitting either party to revert to the 1973 terms. Therefore, it urged use of 1973 home market price data. It has been determined that the changes to the contract concluded in 1975, involving such fundamental terms as price and quantity, require that the 1975 renegotiation be treated as the date of agreement to purchase the merchandise in question for purposes of the Act. Therefore, 1973 home market prices cannot be used to establish fair value.

In making price comparisons, sales to U.S. companies characterized as "co-producers" were compared with sales in the home market to producers of formaldehyde because there were no sales by AGCL to co-producers in Canada. Although Celanese Canada, a producer of methanol in Canada, purchased methanol from AGCL during the period investigated, that methanol was for use in the production of formaldehyde in Celanese Canada's facility in Western Canada. Celanese Canada produces some methanol in that facility; however, methanol is produced there only as a by-product. The great bulk of Celanese Canada's methanol is produced in a facility located in Eastern Canada. Because the prices paid by Celanese Canada for AGCL's methanol are generally reflective of prices paid by producers of formaldehyde, Celanese Canada is not considered to be a co-producer of methanol sales in the usual sense of the term.

Respondent maintained that sales to a third-country co-producer should be used as the basis for comparing prices to U.S. co-producers or, in the absence of that, the price differential on AGCL's sales in the U.S. to co-producers and sales to producers of formaldehyde be used for establishing the adjustment to the home market price. Georgia-Pacific Corp., a U.S. co-producer, also maintained that third-country experience should be used, or that, in the alternative, adjustments be made for volume discounts pursuant to § 153.9 of the Customs Regulations (19 CFR 153.9) or for circumstances of sale, pursuant to § 153.10 (19 CFR 153.10).

## NOTICES

Treasury's consistent interpretation of § 153.15 of the Customs Regulations (19 CFR 153.15) has precluded the use of third-country sales as a basis for making level of trade comparisons for fair value purposes. Moreover, the Department has not considered sales at different levels of trade in the U.S. as an appropriate basis for adjustments in calculating fair value. Nevertheless, the Treasury has in the past considered claims for quantity discounts or differences in circumstances of sale, to the extent the requirements for such adjustments can be satisfied, which have reached results comparable to a "level of trade" adjustment. Where price differences result from differences in the levels of trade being served, and the cost of those differences can be quantified by reference to verified added costs incurred due to different marketing practices in the foreign market under examination, an adjustment will be considered. However, in this case no actual quantification of such differences was presented. Accordingly, the Department has used sales at the nearest comparable level of trade, in this case sales to producers of formaldehyde, for purposes of comparison with sales to co-producers in the United States.

In prior cases, the Department has noted that adjustments for differences in level of trade cannot always be accounted for satisfactorily by adjustments for differences in circumstances of sale and quantity discounts. Since the issue here is a fundamental one, affecting many cases, it is deemed inadvisable to depart from consistent prior practice until a thorough review of the issue has been completed and any changes to that practice implemented through a formal rule-making process.

Respondent made a claim for an adjustment for differences in quantities relative to sales to one large U.S. producer of formaldehyde. Since adequate documentation was not provided pursuant to § 153.9 of the Customs Regulations to justify such an adjustment, that claim was disallowed.

e. *Result of Fair Value Comparisons.* Using the above criteria, U.S. purchase prices were found to be lower than the home market price of such or similar merchandise in all instances. Comparisons were made on approximately 72 percent of the methanol sold in the United States by AGCL during the period of investigation. Margins were found ranging from 9.9 percent to 108.8 percent on 100 percent sales compared. The weighted-average margin computed over all sales compared was 59.2 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pur-

suant to § 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to § 201(d) of the Act (19 U.S.C. 160(d)).

MARCH 23, 1979.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

(FR Doc. 79-9739 Filed 3-29-79; 8:45 am)

[4810-25-M]

(Department of the Treasury Order No. 111-1)

DELEGATION OF AUTHORITY TO ASSISTANT SECRETARY (TAX POLICY) CONCERNING OPERATION OF THE ASSET DEPRECIATION RANGE SYSTEM

MARCH 13, 1979.

Pursuant to the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950, supervision of the functions of the Office of Industrial Economics was transferred from the Commissioner of Internal Revenue to the Assistant Secretary (Tax Policy), effective June 11, 1973. Positions, personnel, funds, records, and property of the Office of Industrial Economics, as determined by the Commissioner of Internal Revenue, the Assistant Secretary (Tax Policy) and the Assistant Secretary (Administration), were transferred from the Internal Revenue Service to the Office of the Secretary. See Treasury Department Order No. 175-5, dated June 11, 1973. These transfers remain in force and effect.

Pursuant to the authority vested in me by Sections 167(m), 263(e), and 7701(a)(11) and (12) of the Internal Revenue Code of 1954, authority to establish, supplement, and revise the asset guideline classes, asset guideline depreciation periods and ranges, and annual asset guideline repair allowance percentages, for the Class Life Asset Depreciation Range System is delegated to the Assistant Secretary (Tax Policy), effective on the date of this Order.

Any previous delegations of the authority delegated herein are superseded to the extent they are inconsistent with this Order, effective on the date of this Order.

W. MICHAEL BLUMENTHAL,  
Secretary of the Treasury.

(FR Doc. 79-9662 Filed 3-29-79; 8:45 am)



## NOTICES

[8320-01-M]

## VETERANS ADMINISTRATION

NEW MEDICAL CENTER, CAMDEN, N.J.

## Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement, Veterans Administration Medical Center, Camden, New Jersey," dated March 1979, has been prepared as required by the National Environmental Policy Act of 1969.

The preferred location of the Medical Center is a 10.5± acre site in downtown Camden near the Cooper Medical Center. The Veterans Administration Medical Center will have, as a maximum, 360 hospital beds, 120 nursing home care beds and the necessary outpatient and support functions.

The Draft Statement discusses the environmental impact of the New Medical Center at the preferred location and evaluates this and other alternatives including "No Action". The document is being placed for public examination in the Veterans Administration office at Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sittler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. 20420, (202-389-2526).

Single copies of the Draft Environmental Impact Statement may be obtained on request to: Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: March 27, 1979.

By direction of the Administrator.

MAURY S. CRALLE, JR.,  
Assistant Deputy Administrator  
for Financial Management  
and Construction.

[FR Doc. 79-10047 Filed 3-29-79; 9:13 am]

[7035-01-M]

INTERSTATE COMMERCE  
COMMISSION

[Notice No. 55]

## ASSIGNMENT OF HEARINGS

MARCH 27, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as

promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

## Correction

MC-69281 (Sub-No. 45F), The Davidson Transfer & Storage Co., now assigned for hearing on April 23, 1979 (1 week), at Baltimore, Md., instead of Chicago, Ill. in a hearing room to be later designated.

NOTE.—This notice corrects place of hearing for No. MC-69281 (Sub-No. 45F).

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9757 Filed 3-29-79; 8:45 am]

[7035-01-M]

[Notice No. 56]

## ASSIGNMENT OF HEARINGS

MARCH 27, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-10304, Roy Stone Transfer Corporation -V- Red Line, Inc. and Warren Trucking Co., Inc., now assigned for hearing on May 9, 1979 at the Office of the Interstate Commerce Commission, Washington, D.C. is canceled and application dismissed.

MC-104656 (Sub-14F), Mandrell Motor Coach, Inc., now assigned for hearing on April 25, 1979 (3 days), at Easton, MD., is postponed indefinitely.

MC 21259 (Sub-2F), Gertsen Cartage Co., Inc., now assigned for hearing on May 16, 1979, (3 days), at Chicago, IL., in a hearing room to be later designated.

MC-114457 (Sub-445F), Dart Transit Company, No. MC-135874 (Sub-114F), LTL Perishables, Inc., now assigned for hearing on May 21, 1979, (5 days), at St. Paul, MN., in a hearing room to be later designated.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 79-9758 Filed 3-29-79; 8:45 am]

[7035-01-M]

ST. LOUIS SOUTHWESTERN RAILWAY CO.

[I.C.C. Order No. P-18]

## Passenger Train Operation; Decision

Decided March 13, 1979.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Company (MP) between St. Louis, Missouri, and Laredo. A portion of these MP tracks between Big Sandy, Texas, and Texarkana, Arkansas-Texas, are temporarily out of service because of a derailment. An alternate route is available between these points via the lines of the St. Louis Southwestern Railway Company between Big Sandy and Texarkana.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

## It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562(c)), the St. Louis Southwestern Railway Company is directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between a connection with the Missouri Pacific Railroad Company at Big Sandy, Texas, and a connection with the Missouri Pacific at Texarkana, Arkansas-Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Commission Act and by the Rail Passenger Service Act of 1970, as amended.

## NOTICES

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 5:00 p.m., CST, March 13, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CST March 14, 1979, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon the St. Louis Southwestern Railway Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

INTERSTATE COMMERCE  
COMMISSION,

JOEL E. BURNS,  
Agent.

[FR Doc. 79-9755 Filed 3-29-79; 8:45 am]

[7035-01-M]

CHICAGO, ROCK ISLAND AND PACIFIC  
RAILROAD CO.

## Rerouting of Traffic

[I.C.C. Order No. 31-A Under Service Order No. 1344]

Upon further consideration of I.C.C. Order No. 31, and good cause appearing therefor:

## It is ordered,

I.C.C. Order No. 31, is vacated.

This order shall become effective March 13, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D. C., March 13, 1979.

INTERSTATE COMMERCE  
COMMISSION,

JOEL E. BURNS,  
Agent.

[FR Doc. 79-9756 Filed 3-29-79; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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|  | Items   |
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| Commodity Futures Trading Commission             | 1, 2    |
| Equal Employment Opportunity Commission          | 3, 4, 5 |
| Federal Energy Regulatory Commission             | 6, 7, 8 |
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| Nuclear Regulatory Commission                    | 10      |

### [6351-01-M]

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:30 a.m., March 30, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Long term calendar planning/enforcement items included.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-612-79 Filed 3-28-79; 9:24 am]

### [6351-01-M]

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., April 3, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Review of CFTC Rule Enforcement Review Program.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-613-79 Filed 3-28-79; 9:24 am]

### [6570-06-M]

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-574-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 am (eastern time), Tuesday, March 27, 1979.

CHANGE IN THE MEETING: The following matter was added to the agenda for the open portion of the meeting: Discussion of Compliance manual Section 40 concerning Review for Litigation Worthiness and Issuance of Cause Determination.

This discussion arose during consideration of Compliance Manual changes concerning the Early Litigation Identification Program, and the Commission determined by a majority vote of the entire membership that Commission business required that this matter be added and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued March 27, 1979.

[S-617-79 Filed 3-28-79; 11:06 am]

### [6570-06-M]

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 10 a.m. (eastern time), Friday, March 30, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, DC 20506.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Federal Sector Affirmative Action Plans for 1980.

NOTE.—If action is not concluded, this matter may be carried over to a later meeting.

By a unanimous vote of the entire membership of the Commission, it was determined by recorded vote that the

business of the Commission required that this meeting be held and that no earlier announcement was possible.

In favor of holding meeting: Eleanor Holmes Norton, Chair; Daniel B. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued March 27, 1979.

[S-618-79 Filed 3-28-79; 11:16 am]

### [6570-06-M]

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, April 3, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, DC 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Freedom of Information Act Appeal No. 79-1-F01A-6, concerning a request by a party who filed a charge of discrimination for the file on his charge.

2. Proposed Procedures for Coordinating Federal Agency Equal Employment Activities, pursuant to Executive Order 12067.

3. Report on Commission operations by the Executive Director.

Closed to the public:

1. Proposed decision in Charge No. TAT4-0019.

2. Litigation Authorization; General Counsel Recommendations.

Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued March 27, 1979.

[S-619-79 Filed 3-28-79; 11:21 am]

## SUNSHINE ACT MEETINGS

### [6740-02-M]

MARCH 28, 1979

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 3 p.m., March 28, 1979.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Continued closed meeting from March 19, 1979, concerning matters relating to an investigation.

CONTACT PERSON FOR FURTHER INFORMATION:

Kenneth F. Plumb, Secretary, 202-275-4166.

[S-615-79 Filed 3-28-79; 11:02 am]

### [6740-02-M]

MARCH 23, 1979.

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: March 30, 1979. Following regularly scheduled agenda.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: See attached list.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

TC79-5, Florida Gas Transmission Company.

TC79-10, Algonguin Gas Transmission.

TC79-11, Northwest Pipeline Company.

TC79-12, Northern Natural Gas Company.

TC79-13, Panhandle Eastern Pipeline Company.

TC79-14, Northern Natural Gas Company.

TC79-15, Natural Gas Pipeline Company of America.

TC79-16, Columbia Gas Transmission Corporation.

TC79-17, Cities Service Company.

TC79-18, Inter-City Minnesota Pipelines Ltd., Inc.

TC79-19, Granite State Transmission Company, Inc.

TC79-20, East Tennessee Natural Gas Company.

TC79-21, Tennessee Gas Pipeline Company.

TC79-22, Midwestern Gas Transmission Company.

TC79-23, Pacific Gas Transmission Company.

TC79-24, National Fuel Gas Supply Corporation.

TC79-25, El Paso Natural Gas Company.

TC79-26, North Penn Gas Company.

TC79-27, Michigan Wisconsin Pipe Line Company.

TC79-28, Texas Eastern Transmission Corporation.

TC79-29, Transwestern Pipe Line Company.

TC79-30, United Gas Pipe Line Company.

TC79-31, Consolidated Gas Supply Corporation.

TC79-32, Arkansas Louisiana Gas Company.

TC79-33, Transcontinental Gas Pipeline Company.

TC79-34, Mississippi River Transportation Corporation.

TC79-35, Tennessee Natural Gas Lines, Inc.

TC79-36, Colorado Interstate Gas Company.

TC79-37, Kansas-Nebraska Natural Gas Company.

TC79-38, Montana-Dakota Utilities Company.

TC79-39, Western Gas Interstate Company.

TC79-40, Valley Gas Transmission Corporation.

TC79-41, Eastern Shore Natural Gas Company.

TC79-42, Mountain Fuel Supply Company.

TC79-43, Mountain Fuel Resources, Inc.

TC79-44, Mid-Louisiana Gas Company.

TC79-45, Southwest Gas Company.

TC79-46, Inland Gas Company.

TC79-47, Texas Gas Transmission Corporation.

TC79-48, South Georgia Natural Gas Company.

TC79-49, Southern Natural Gas Company.

KENNETH F. PLUMB,  
Secretary.

[S-616-79 Filed 3-28-79; 11:02 am]

### [6740-02-M]

MARCH 28, 1979.

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 1 p.m., April 6, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED: On-the-record proceeding.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

[S-620-79 Filed 3-28-79; 1:43 pm]

### [6735-01-M]

#### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

MARCH 28, 1979.

TIME AND DATE: 10 a.m., April 4, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: This meeting may be closed.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following: Local Union 5869, District 17, UMW v. Youngstown Mines Corp. IBMA 76-106, HOPE 76-231.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley 202-653-5632.

[S-621-79 Filed 3-28-79; 2:55 pm]

### [7590-01-M]

10

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, April 3, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, April 3—1:30 p.m.

1. Briefing on Steam Generator Denting and Replacement (approximately 1 hr—public meeting).

2. Briefing on Regulatory Reform Legislation (approximately 2 hrs—public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,

Office of the Secretary.

MARCH 27, 1979.

[S-614-79 Filed 3-28-79; 10:52 am]



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FRIDAY, MARCH 30, 1979

PART II



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**DEPARTMENT OF  
LABOR**

**Employment Standards  
Administration**

**Wage and Hour Division**

**MINIMUM WAGES FOR  
FEDERAL AND FEDERALLY  
ASSISTED  
CONSTRUCTION**

**General Wage Determination  
Decisions**



[4510-27-M]

## DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

MINIMUM WAGES FOR FEDERAL AND  
FEDERALLY ASSISTED CONSTRUCTION

## General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date

shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

## MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures

prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

## NEW GENERAL WAGE DETERMINATION DECISIONS

Oklahoma.—OK79-4058.  
Pennsylvania.—PA79-3006.

## MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Illinois:  
IL78-2128..... Oct. 27, 1978.  
Massachusetts:  
MA78-2086; MA78-2087; MA78-2089; MA78-2090..... Sept. 22, 1978.  
MA79-2008..... Mar. 16, 1979.  
Ohio:  
OH78-2153; OH78-2154..... Nov. 13, 1978.  
OH78-2152; OH78-2156.....  
OH78-2157..... Nov. 24, 1978.  
Oklahoma:  
OK79-4019..... Jan. 5, 1979.  
Texas:  
TX79-4053..... Mar. 16, 1979.  
West Virginia:  
WV77-3083..... Sept. 30, 1977.

## SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dated of publication in the FEDERAL REGISTER are listed with each State. Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:  
AR78-4064 (AR79-4052); AR78-4067 (AR79-4056); AR78-4069 (AR79-4055)..... June 23, 1978.  
AR78-4116 (AR79-4054)..... Dec. 8, 1978.  
Georgia:  
AQ-4108 (GA79-1054)..... Apr. 26, 1974.  
GA79-1050 (GA79-1058); GA79-1050 and GA79-1051 (GA79-1059)..... Mar. 23, 1979.  
Missouri:  
MO78-4053 (MO79-4059)..... May 19, 1978.  
North Carolina:  
NC78-1082 (NC79-1056)..... May 21, 1976.  
NC77-1018 (NC79-1057)..... Feb. 11, 1977.

## CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. NC76-1087, Transylvania County, North Carolina is cancelled. Agencies with construction projects pending in this County should utilize Decision No. NC79-1056 to be published in the FEDERAL REGISTER on March 30, 1979. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision NC76-1087 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C. this 23rd day of March 1979.

DOROTHY P. COME,  
Assistant Administrator  
Wage and Hour Division.

NEW DECISION

COUNTY: Franklin  
STATE: Pennsylvania  
DECISION NO.: PA79-3006  
DATE: Date of Publication  
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

| Basic Hourly Rates         | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|----------------------------|--------------------------|----------|----------|----------------------------|
|                            | H & W                    | Pensions | Vacation |                            |
| \$11.21                    | .87                      | .90      |          | .01                        |
| 10.07                      | .60                      | .57      |          | .02                        |
| 10.40                      | .62                      | .58      | 9%       | .12                        |
| 10.465                     | .65                      | .50      |          | 1/2 of 12                  |
| 10.86                      | .65                      | 34.49    |          | .03                        |
| 12.105                     | 1.14                     | 1.36     |          |                            |
| 8.20                       | .82                      |          |          | .02                        |
| 7.95                       | .35                      | .15      |          | .12                        |
| 11.30                      | .70                      | .80      |          | .13                        |
| 8.40                       | .35                      | .40      |          |                            |
| 10.47                      | 1.40                     | 1.18     |          |                            |
| 4.50                       |                          |          |          |                            |
| Asbestos Workers           |                          |          |          |                            |
| Bricklayers                |                          |          |          |                            |
| Carpenters                 |                          |          |          |                            |
| Cement Masons              |                          |          |          |                            |
| Electricians               |                          |          |          |                            |
| Ironworkers                |                          |          |          |                            |
| Laborer                    |                          |          |          |                            |
| Painter                    |                          |          |          |                            |
| Plumbers                   |                          |          |          |                            |
| Roofers                    |                          |          |          |                            |
| Sheet Metal Workers        |                          |          |          |                            |
| Truck Drivers              |                          |          |          |                            |
| Power Equipment Operators: |                          |          |          |                            |
| Bulldozers                 | .95                      | 1.00     |          | .09                        |
| Backhoe                    | .95                      | 1.00     |          | .09                        |
| Crane                      | .95                      | 1.00     |          | .09                        |
| Loaders                    | .95                      | 1.00     |          | .09                        |
| Fork Lift                  | .95                      | 1.00     |          | .09                        |
| Welders - Rate of Craft    |                          |          |          |                            |

[4510-27-C]

COUNTY: Lincoln, Payne and  
STATE: Oklahoma  
Pottawatomie  
DECISION NO.: OK79-4053  
DATE: Date of Publication  
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| Basic Hourly Rates  | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------------|----------|----------|----------------------------|
|   | H & W                    | Pensions | Vacation |                            |
| \$8.00  |                          |          |          |                            |
| 5.25  |                          |          |          |                            |
| 7.00  |                          |          |          |                            |
| 5.25  |                          |          |          |                            |
| 6.00  |                          |          |          |                            |
| 4.00  |                          |          |          |                            |
| 5.00  |                          |          |          |                            |
| 6.50  |                          |          |          |                            |
| 6.16  |                          |          |          |                            |
| 5.94  |                          |          |          |                            |
| 5.52  |                          |          |          |                            |
| 5.85  |                          |          |          |                            |
| 4.50  |                          |          |          |                            |
| Bricklayers   |                          |          |          |                            |
| Carpenters  |                          |          |          |                            |
| Cement masons   |                          |          |          |                            |
| Drywall installers  |                          |          |          |                            |
| Electricians  |                          |          |          |                            |
| LABORERS:   |                          |          |          |                            |
| Laborers  |                          |          |          |                            |
| Mason tender  |                          |          |          |                            |
| Painters, brush   |                          |          |          |                            |
| Plumbers & Pipefitters  |                          |          |          |                            |
| Roofers   |                          |          |          |                            |
| Sheet metal workers   |                          |          |          |                            |
| Soft floor layers   |                          |          |          |                            |
| POWER EQUIPMENT OPERATORS:  |                          |          |          |                            |
| Backhoe   |                          |          |          |                            |
| Welders -- receive rate prescribed for craft performing operation to which welding is incidental. |                          |          |          |                            |



MODIFICATIONS P. 2

| Basic Hourly Rates  | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------------|----------|----------|----------------------------|
|   | H & W                    | Pensions | Vacation |                            |
| DECISION NO. 1173-2123 - MOD. #6<br>(43 FR 50323 - October 27, 1978)<br>Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne Counties, Illinois                                    |                          |          |          |                            |
| Change:<br>Plumbers and Steamfitters:<br>Lawrence County  | 13.575                   | .50      | .90      | .06                        |
| DECISION #MA78-2086 - MOD. #4<br>(43 FR 43189 - September 22, 1978)<br>Middlesex County, Massachusetts  |                          |          |          |                            |
| Change:<br>Plumbers:<br>Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn  | 12.55                    | 1.02     | 1.48     | .05                        |
| DECISION NO. 12A-78-2087 - MOD. #3<br>(43 FR 43127 - September 22, 1978)<br>Norfolk County, Massachusetts   |                          |          |          |                            |
| Change:<br>Plumbers and Gasfitters:<br>Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy Sharon, S. Weymouth, Malpole, Westwood, Weymouth, and Wrentham | \$ 12.55                 | 1.02     | 1.48     | .05                        |
| DECISION NO. 12A-78-2089 - MOD. #2<br>(43 FR 43209 - September 22, 1978)<br>Suffolk County, Massachusetts   |                          |          |          |                            |
| Change:<br>Plumbers   | 12.55                    | 1.02     | 1.48     | .05                        |

NOTICES

| Basic Hourly Rates   | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--|--------------------------|----------|----------|----------------------------|
|  | H & W                    | Pensions | Vacation |                            |
| DECISION #MA78-2090 - MOD. #2<br>(43 FR 43214 - September 22, 1978)<br>Worcester County, Massachusetts |                          |          |          |                            |
| Change:<br>Carpenters & Soft Floor Layers:<br>Blackstone & Millville                                   | \$ 9.40                  | .65      | .90      | .05                        |
| Change:<br>Carpenters & Soft Floor Layers:<br>Hardwick, Warren & West Brookfield                       | 10.20                    | .60      | 1.09     | .05                        |
| DECISION #MA78-2093 - MOD. #1<br>(44 FR - March 16, 1979)<br>Essex County, Massachusetts               |                          |          |          |                            |
| Change:<br>Plumbers and Steamfitters:<br>Lynn, Lynnfield, Nahant, Saugus and Swampscott Plumbers       | \$ 12.55                 | 1.02     | 1.48     | .05                        |

MODIFICATIONS P. 3

| Basic Hourly Rates  | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------------|----------|----------|----------------------------|
|   | H & W                    | Pensions | Vacation |                            |
| DECISION NO. 0H78-2152 - MOD. #2<br>(43 FR 55185 - November 24, 1978)<br>Adams, Brown, Butler, Champaign, Clark, Clinton, Clinton, Clarke, Delaware, Fairfield, Fayette, Franklin, Gallia, Geauga, Greene, Hamilton, Highland, Lawrence, Licking, Madison, Meigs, Miami, Montgomery, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, and Warren Counties, Ohio |                          |          |          |                            |
| Change:<br>Carpenters; Millwrights; Piledrivermen; & Soft floor layers:<br>Gauga Co.:<br>Piledrivermen  | \$12.60                  | .85      | 1.52     | .03                        |
| DECISION NO. 0H78-2153 - MOD. #2<br>(43 FR 52660 - November 13, 1978)<br>Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio   |                          |          |          |                            |
| Change:<br>Carpenters; Millwrights; Piledrivermen; & Soft floor layers:<br>Ashtabula, Cuyahoga, & Lake Cos.:<br>Piledrivermen<br>Portage & Summit Cos.:<br>Piledrivermen<br>Lorain Co.:<br>Piledrivermen  | 12.60                    | .85      | 1.52     | .03                        |
|   | 12.60                    | .85      | 1.52     | .03                        |
|   | 12.60                    | .85      | 1.52     | .03                        |

MODIFICATIONS P. 4

| Basic Hourly Rates   | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--|--------------------------|----------|----------|----------------------------|
|  | H & W                    | Pensions | Vacation |                            |
| DECISION NO. 0H78-2154 - MOD. #2<br>(43 FR 52666 - November 13, 1978)<br>Ashland, Carroll, Columbiana, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Counties, Ohio   |                          |          |          |                            |
| Change:<br>Carpenters; Millwrights; Piledrivermen; & Soft floor layers:<br>Ashland Co.:<br>Piledrivermen<br>Medina Co.:<br>Piledrivermen   | \$12.60                  | .85      | 1.52     | .03                        |
|  | 12.60                    | .85      | 1.52     | .03                        |
| DECISION NO. 0H78-2156 - MOD. #2<br>(43 FR 55197 - November 24, 1978)<br>Allen, Auglaize, Crawford, Defiance, Erie, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood, & Wyandot Counties, Ohio |                          |          |          |                            |
| Change:<br>Piledrivermen:<br>Crawford, Huron, & Richland Cos.:<br>Erie (E. of B & O RR Tracks)   | 12.60                    | .85      | 1.52     | .03                        |
|  | 12.60                    | .85      | 1.52     | .03                        |
| DECISION NO. 0H78-2157 - MOD. #2<br>(43 FR 55205 - November 24, 1978)<br>Statewide, Ohio   |                          |          |          |                            |
| Change:<br>Carpenters; Piledrivermen:<br>Ashland, Crawford, Huron, Lorain, & Richland Cos.:<br>Piledrivermen<br>Erie (East of B & O RR Tracks):<br>Piledrivermen<br>Ashtabula, Cuyahoga, Geauga, & Lake Cos.:<br>Piledrivermen<br>Medina, Portage & Summit Cos.:<br>Piledrivermen                | \$12.60                  | .85      | 1.52     | .03                        |
|  | 12.60                    | .85      | 1.52     | .03                        |
|  | 12.60                    | .85      | 1.52     | .03                        |
|  | 12.60                    | .85      | 1.52     | .03                        |



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MODIFICATIONS P. 6

DECISION #477-3081 - Mod. #5  
(42 FR 53172 - September 30, 1977)  
Statewide, West Virginia

|                               | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|-------------------------------|--------------------------|--------------------------|----------|----------|----------------------------------|
|                               |                          | H & W                    | Pensions | Vacation |                                  |
| Cheney                        |                          |                          |          |          |                                  |
| Electricians:                 |                          |                          |          |          |                                  |
| Area 1                        | 13.00                    | .50                      | 3%+.25   |          | .04                              |
| Wiremen                       | 14.30                    | .50                      | 3%+.25   |          | .04                              |
| Cable Splicers                |                          |                          |          |          |                                  |
| Area 4                        | 11.70                    | .50                      | 3%+.35   | 1.00     | .04                              |
| Wiremen                       | 11.95                    | .50                      | 3%+.35   | 1.00     | .04                              |
| Cable Splicers                |                          |                          |          |          |                                  |
| Area 7                        | 11.10                    | .50                      | 3%+.25   | 1.25     | .04                              |
| Wiremen                       | 11.35                    | .50                      | 3%+.25   | 1.25     | .04                              |
| Cable Splicers                |                          |                          |          |          |                                  |
| Line Construction:            |                          |                          |          |          |                                  |
| Area 1                        | 12.73                    | .60                      | 3%+.52   | .92      | 1 1/2                            |
| Linemen                       | 14.00                    | .60                      | 3%+.52   | .92      | 1 1/2                            |
| Cable Splicers                | 8.27                     | .60                      | 3%+.52   | .92      | 1 1/2                            |
| Groundmen                     | 10.18                    | .60                      | 3%+.52   | .92      | 1 1/2                            |
| Mechanized Equipment Operator |                          |                          |          |          |                                  |
| Area 3                        | 11.00                    | .60                      | 3%+.25   | 1.27     | 1 1/2                            |
| Linemen & Equipment Operator  | 12.10                    | .60                      | 3%+.25   | 1.27     | 1 1/2                            |
| Cable Splicer                 | 8.80                     | .60                      | 3%+.25   | 1.27     | 1 1/2                            |
| Groundmen                     |                          |                          |          |          |                                  |
| Area 5                        | 10.80                    | .50                      | 3%+.35   | 1.00     | .04                              |
| Linemen & Equipment Operators | 11.05                    | .50                      | 3%+.35   | 1.00     | .04                              |
| Cable Splicers                | 8.64                     | .50                      | 3%+.35   | 1.00     | .04                              |
| Groundmen                     |                          |                          |          |          |                                  |
| Plumbers & Pipefitters:       |                          |                          |          |          |                                  |
| Area 3                        | 10.66                    | .55                      | .95      | 10%      | .04                              |
| Area 4                        | 10.91                    | .55                      | .95      | 10%      | .04                              |
| Area 6                        |                          |                          |          |          |                                  |
| Plumbers & Steamfitters       | 11.50                    | .65                      | .80      | 10%      | .05                              |
| Area 9                        | 11.16                    | .55                      | .95      | 10%      | .04                              |
| Area 10                       | 11.41                    | .55                      | .95      | 10%      | .04                              |

MODIFICATIONS P. 5

|  | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|--|--------------------------|--------------------------|----------|----------|----------------------------------|
|  |                          | H & W                    | Pensions | Vacation |                                  |
| DECISION NO. 0879-4019 - Mod. #1<br>(44 FR 1663 - January 5, 1979)<br>Oklahoma, Cleveland and Canadian<br>Counties, Oklahoma |                          |                          |          |          |                                  |
| OMIT THE FOLLOWING COUNTIES:<br>Lincoln & Pottawatomie   |                          |                          |          |          |                                  |
| DECISION #778-4053 - Mod. #1<br>(44 FR 16337 - March 16, 1979)<br>Statewide Texas  |                          |                          |          |          |                                  |
| Omit:  |                          |                          |          |          |                                  |
| Zone 16:   |                          |                          |          |          |                                  |
| Truck drivers:   | \$ 7.10                  |                          |          |          |                                  |
| Tandem axle or semitrailer   |                          |                          |          |          |                                  |
| Add:   |                          |                          |          |          |                                  |
| Zone 16:   |                          |                          |          |          |                                  |
| Truck drivers:   | 7.10                     |                          |          |          |                                  |
| Transit-mix  |                          |                          |          |          |                                  |

SUPERSEDES DECISION

STATE: Arkansas  
DECISION NO. 4 AR79-4052  
Supersedes Decision No. AR78-4064 dated June 23, 1978 in 43 FR 27341  
DESCRIPTION OF WORK: Building projects (but does not include single family homes and garden type apartments up to and including four stories)

COUNTY: Pulaski  
DATE: Date of Publication

|                             | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|-----------------------------|--------------------------|--------------------------|----------|----------|----------------------------------|
|                             |                          | H & W                    | Pensions | Vacation |                                  |
| ASBESTOS WORKERS            | \$11.45                  | .50                      | .80      |          | .02                              |
| BOLTMEN                     | 11.05                    | .80                      | 1.00     |          | .02                              |
| BRICKLAYERS - STONEMASONS   | 9.00                     | .40                      | .35      |          | .04                              |
| CARPENTERS:                 |                          |                          |          |          |                                  |
| Carpenters                  | 9.22                     | .45                      | .35      |          | .05                              |
| Millwrights & Piledrivermen | 9.72                     | .45                      | .35      |          | .05                              |
| CEMENT MASONS               | 8.67                     | .25                      |          |          | .03                              |
| ELECTRICIANS:               |                          |                          |          |          |                                  |
| Electricians                | 11.25                    | .50                      | 3%+.65   |          | 1 1/2                            |
| Cable splicers              | 11.375                   | .50                      | 3%+.65   |          | 1 1/2                            |
| ELEVATOR CONSTRUCTORS:      |                          |                          |          |          |                                  |
| Journymen                   | 9.57                     | .545                     | .35      | 4%+.45   | .02                              |
| Helpers                     | 70%JR                    | .545                     | .35      | 4%+.45   | .02                              |
| Helpers-Probationary        | 50%JR                    |                          |          |          |                                  |
| GLAZIERS                    | 8.20                     |                          |          |          | .04                              |
| IRONWORKERS                 | 10.00                    | .45                      | .55      |          |                                  |
| LABORERS:                   |                          |                          |          |          |                                  |
| Group I                     | 6.25                     | .33                      | .60      |          |                                  |
| Group II                    | 6.50                     | .33                      | .60      |          |                                  |
| Group III                   | 6.65                     | .33                      | .60      |          |                                  |
| Group IV                    | 6.75                     | .33                      | .60      |          |                                  |
| Group V                     | 6.90                     | .33                      | .60      |          |                                  |
| Group VI                    | 7.15                     | .33                      | .60      |          |                                  |
| Group VII                   | 7.05                     | .33                      | .60      |          |                                  |

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer  
GROUP II - Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers & shovelers, crescent wood handlers, chuck tenders  
GROUP III - Steel form setters, curb and gutters, grout and cement muckers  
GROUP IV - Swingline scaffold, Barco, 90 lb. pavement breaker, and burners  
GROUP V - Nozzelman (gunite, grout and sand blaster; concrete pump (nozzle placer)  
GROUP VI - Powderman and blasters  
GROUP VII - Wagon drill

DECISION NO. AR79-4052

|  | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|--|--------------------------|--------------------------|----------|----------|----------------------------------|
|  |                          | H & W                    | Pensions | Vacation |                                  |
| LATHERS  | 9.10                     |                          |          |          | .02                              |
| LINE CONSTRUCTION:   |                          |                          |          |          |                                  |
| Linemen  | 12.40                    |                          | 3%       |          | 3/8%                             |
| Cable splicers   | 12.525                   |                          | 3%       |          | 3/8%                             |
| Operator   | 12.40                    |                          | 3%       |          | 3/8%                             |
| Groundmen (advanced)   | 65%JR                    |                          | 3%       |          | 3/8%                             |
| Groundmen (last 6 months)  | 49%JR                    |                          | 3%       |          | 3/8%                             |
| Winch equipment  | 73%JR                    |                          | 3%       |          | 3/8%                             |
| PAINTERS:  | 8.25                     |                          |          |          |                                  |
| Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers | 8.50                     |                          | .40      |          | .02                              |
| Spray gun operators and sand blasters  | 9.10                     |                          | .40      |          | .02                              |
| All skeleton steel and all work on stages, structural steel over 30 feet high          | 8.75                     |                          | .40      |          | .02                              |
| PLASTERERS   | 10.05                    |                          |          |          | .02                              |
| PLUMBERS & PIPEFITTERS:  |                          |                          |          |          |                                  |
| Within 10 mile radius of Pulaski County Courthouse                                     | 11.25                    | .60                      | .75      |          | .05                              |
| Over 10 miles from Pulaski County Courthouse   | 11.55                    | .60                      | .75      |          | .05                              |
| Marble, tile & terrazzo finishers  | 6.25                     |                          |          |          |                                  |
| POWER EQUIPMENT OPERATORS:   |                          |                          |          |          |                                  |
| Group I  | 10.25                    | .35                      | .35      |          | .05                              |
| Group II   | 9.31                     | .35                      | .35      |          | .05                              |
| Group III  | 8.88                     | .35                      | .35      |          | .05                              |
| Group IV   | 7.34                     | .35                      | .35      |          | .05                              |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics, and/or welders  
GROUP II Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swingline boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dragages, irrespective of size



POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytrucks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 105 and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, winch or hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 105, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

|                     | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                     |                    | H & W                    | Pensions | Vacation |                            |
| ROOFERS             | 9.00               |                          | .10      |          |                            |
| SHEET METAL WORKERS | 10.75              | .45                      | .55      |          | .05                        |
| Plus .35c SASMI     |                    |                          |          |          |                            |
| SPRINKLER FITTERS   | 10.57              | .75                      | 1.05     |          | .08                        |

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

- a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
- b. PAID HOLIDAYS - A through G.
- PAID HOLIDAYS:
- A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.

SUPERSEDES DECISION

STATE: Arkansas COUNTY: Sebastian, Crawford and Washington

DECISION NO. AR79-4054 DATE: Date of Publication

Supercedes Decision No. AR78-4116 dated December 8, 1978 in 43 PR 5779

DESCRIPTION OF WORK: Building Projects (but does not include single family homes and garden type apartments up to and including 4 stories)

SEBASTIAN & CRAWFORD COUNTIES

|                             | Basic Hourly Rates | Fringe Benefits Payments |            |             | Education and/or Appr. Tr. |
|-----------------------------|--------------------|--------------------------|------------|-------------|----------------------------|
|                             |                    | H & W                    | Pensions   | Vacation    |                            |
| Asbestos workers            | 11.90              | .55                      | .85        |             | .015                       |
| Boilermakers                | 11.05              | .80                      | 1.00       |             | .02                        |
| Bricklayers-Stonemasons     | 9.00               | .40                      | .35        |             | .04                        |
| CARPENTERS:                 |                    |                          |            |             |                            |
| Millwrights & Piledrivermen | 8.52               | .45                      | .35        |             | .05                        |
| Cement masons               | 9.28               | .45                      | .35        |             | .05                        |
| ELECTRICIANS:               | 8.67               | .25                      |            |             |                            |
| Cable splicers              | 11.45              | .35                      | 3 3/4% .52 |             | 1 1/2                      |
| ELEVATOR CONSTRUCTORS       | 11.70              | .33                      | 3 3/4% .52 |             | 1 1/2                      |
| " " helpers                 | 9.57               | .345                     | .35        | 4 1/4-4 1/2 | .02                        |
| " " (prob.)                 | 702JR              | .545                     | .35        | 4 1/4-4 1/2 | .02                        |
| Ironworkers                 | 10.60              | .45                      | .65        |             | .12                        |
| LABORERS:                   |                    |                          |            |             |                            |
| Group I                     | 6.25               | .33                      | .60        |             |                            |
| Group II                    | 6.50               | .33                      | .60        |             |                            |
| Group III                   | 6.65               | .33                      | .60        |             |                            |
| Group IV                    | 6.75               | .33                      | .60        |             |                            |
| Group V                     | 7.05               | .33                      | .60        |             |                            |
| Group VI                    | 7.15               | .33                      | .60        |             |                            |
| Group VII                   | 7.05               | .33                      | .60        |             |                            |

LABORERS CLASSIFICATION DEFINITIONS

Group I - Construction laborers, concrete labor, wrecking labor, mechanics, labor, excavating labor, plumbers' labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

Group II - Seal-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers & shovelers, creosote wood handlers, chuck tenders

Group III - Steel form setters, curb and gutters, grout and cement muckers

Group IV - Swinging scaffold, barco, 90 lb. pavement breaker, and burners

Group V - Nozzlemann (gunnite, grout and sand blaster; concrete pump (nozzle placer)

Group VI - Powderman and blasters

Group VII - Wagon drill

SEBASTIAN & CRAWFORD COUNTIES

|  | Basic Hourly Rates | Fringe Benefits Payments |            |          | Education and/or Appr. Tr. |
|--|--------------------|--------------------------|------------|----------|----------------------------|
|  |                    | H & W                    | Pensions   | Vacation |                            |
| LATHERS  | 9.10               |                          |            |          | .02                        |
| LINE CONSTRUCTION:                             |                    |                          |            |          |                            |
| Linemann operator                              | 9.81               | .35                      | 3 3/4 .055 |          | 1 1/2                      |
| Cable splicers                                 | 9.96               | .35                      | 3 3/4 .055 |          | 1 1/2                      |
| Powderman                                      | 902JR              | .35                      | 3 3/4 .055 |          | 1 1/2                      |
| Truck driver                                   | 752JR              | .35                      | 3 3/4 .055 |          | 1 1/2                      |
| Groundman (1st 6 mos.)                         | 682JR              | .35                      | 3 3/4 .055 |          | 1 1/2                      |
| PAINTERS:                                      | 592JR              | .35                      | 3 3/4 .055 |          | 1 1/2                      |
| Brush painters                                 | 7.00               |                          |            |          |                            |
| Roller work, sheetwork, finishing by machinery | 7.25               |                          |            |          |                            |
| Spray painting                                 | 8.00               |                          |            |          |                            |
| Sandblasting - steam cleaning                  | 7.25               |                          |            |          |                            |
| All pipe and steel                             | 8.00               |                          |            |          |                            |
| All mitten and glove painting                  | 7.75               |                          |            |          |                            |
| PLASTERERS                                     | 10.05              |                          |            |          | .02                        |
| PLUMBERS & STEAMFITTERS                        | 10.61              | .45                      | .55        |          | .04                        |
| POWER EQUIPMENT OPERATORS:                     |                    |                          |            |          |                            |
| Group I  | 10.25              | .35                      | .35        |          |                            |
| Group II                                       | 9.31               | .35                      | .35        |          |                            |
| Group III                                      | 8.88               | .35                      | .35        |          |                            |
| Group IV                                       | 7.34               | .35                      | .35        |          |                            |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 30 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

Group II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 30 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swing boom attachments, gradallia, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

Group III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytrucks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 105 and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 105, end dump euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system, de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

|                     | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                     |                    | H & W                    | Pensions | Vacation |                            |
| ROOFERS             | \$ 9.00            |                          |          |          |                            |
| SHEET METAL WORKERS | 10.75*             | .45                      | .10      |          | .05                        |
| Plus .35c SASMI     |                    |                          | .55      |          |                            |
| SPRINKLER FITTERS   | 10.57              | .75                      | 1.00     |          | .08                        |

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

A - 1st 6 mos. - none; 6 months to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate.

B - Paid Holiday A through G

C - Paid Holiday A through G

D - Labor Day; E-New Years' Day; B-Memorial Day; C-Independence Day; PAID HOLIDAYS; A-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.



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WASHINGTON COUNTY, ARKANSAS

|                            | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|----------------------------|--------------------------|--------------------------|----------|----------|----------------------------------|
|                            |                          | H & W                    | Pensions | Vacation |                                  |
| Asbestos workers           | \$11.97                  | .50                      | 1.00     |          |                                  |
| Bricklayers                | 7.50                     |                          |          |          |                                  |
| Carpenters                 | 6.79                     |                          |          |          | .03                              |
| Cement Masons              | 8.67                     | .25                      | 3%+5.5%  |          | 1/2                              |
| Electricians               | 11.00                    | .35                      |          |          |                                  |
| Glaziers                   | 6.60                     |                          |          |          |                                  |
| Ironworkers                | 8.95                     |                          |          |          |                                  |
| LABORERS:                  |                          |                          |          |          |                                  |
| Unskilled                  | 4.32                     |                          |          |          |                                  |
| Plasterers tender          | 6.25                     |                          |          |          |                                  |
| Lathers                    | 8.57                     |                          |          |          |                                  |
| Painters, brush            | 8.15                     |                          |          |          |                                  |
| Plasterers                 | 9.70                     | .45                      | .55      |          | .02                              |
| Plumbers & Pipefitters     | 10.26                    |                          |          |          | .04                              |
| Roofers                    | 7.39                     |                          |          |          |                                  |
| Sheet metal workers        | 10.75*                   | .45                      | .55      |          | .05                              |
| *Plus .35c SASMI           |                          |                          |          |          |                                  |
| Sprinkler fitters          | 10.57                    | .75                      | 1.00     |          | .08                              |
| Tile setters               | 6.50                     |                          |          |          |                                  |
| Truck Drivers              | 4.205                    |                          |          |          |                                  |
| POWER EQUIPMENT OPERATORS: |                          |                          |          |          |                                  |
| Bulldozers                 | 4.64                     |                          |          |          |                                  |
| Backhoes                   | 5.25                     |                          |          |          |                                  |
| Cranes                     | 6.24                     |                          |          |          |                                  |
| Rollers                    | 4.50                     |                          |          |          |                                  |
| Motor patrol               | 5.90                     |                          |          |          |                                  |
| Tractors                   | 4.47                     |                          |          |          |                                  |

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

STATE: Arkansas  
COUNTY: Jefferson  
DECISION NO.: AR79-4055  
DATE: Date of Publication  
Supercedes Decision No. AR78-4069 dated June 23, 1978 in 43 FR 27346  
DESCRIPTION OF WORK: Building projects (that does not include single family homes and garden type apartments up to and including four stories)

|                                | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|--------------------------------|--------------------------|--------------------------|----------|----------|----------------------------------|
|                                |                          | H & W                    | Pensions | Vacation |                                  |
| ASBESTOS WORKERS               | \$11.45                  | .50                      | .80      |          | .02                              |
| BOILERMAKERS                   | 11.05                    | .80                      | 1.00     |          | .02                              |
| BRICKLAYERS - STONEMASONS      | 9.00                     | .40                      | .35      |          | .04                              |
| CARPENTERS:                    |                          |                          |          |          |                                  |
| Work in excess of \$1,000,000. |                          |                          |          |          |                                  |
| Carpenters                     | 9.22                     | .45                      | .35      |          | .05                              |
| Millwrights & Piledrivers      | 9.22                     | .45                      | .35      |          | .05                              |
| Carpenters                     | 8.52                     | .45                      | .35      |          | .05                              |
| Millwrights & Piledrivers      | 9.02                     | .45                      | .35      |          | .05                              |
| CEMENT MASONS                  | 8.67                     | .35                      |          |          |                                  |
| ELECTRICIANS:                  |                          |                          |          |          |                                  |
| Electricians                   | 11.25                    | .50                      | 3%+.65   |          | 1/2                              |
| Cable splicers                 | 11.375                   | .50                      | 3%+.65   |          | 1/2                              |
| ELEVATOR CONSTRUCTORS:         |                          |                          |          |          |                                  |
| Journeymen                     | 9.57                     | .545                     | .35      | 4%+.6    | .02                              |
| Helpers                        | 70AJR                    | .545                     | .35      | 4%+.6    | .02                              |
| Helpers-Probationary           | 50AJR                    |                          |          |          |                                  |
| GLAZIERS                       | 8.20                     |                          |          |          |                                  |
| IRONWORKERS                    | 10.00                    | .45                      | .55      |          | .04                              |
| LABORERS:                      |                          |                          |          |          |                                  |
| Group I                        | 6.25                     | .33                      | .60      |          |                                  |
| Group II                       | 6.50                     | .33                      | .60      |          |                                  |
| Group III                      | 6.65                     | .33                      | .60      |          |                                  |
| Group IV                       | 6.75                     | .33                      | .60      |          |                                  |
| Group V                        | 6.90                     | .33                      | .60      |          |                                  |
| Group VI                       | 7.15                     | .33                      | .60      |          |                                  |
| Group VII                      | 6.95                     | .33                      | .60      |          |                                  |

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer  
GROUP II - Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers & shovelers, creosote wood handlers, chuck tenders  
GROUP III - Steel form setters, curb and gutters, grout and cement muckers  
GROUP IV - Swinging scaffold, Barco, 90 lb. pavement breaker, and burners  
GROUP V - Nozzelman (gunite, grout and sand blaster; concrete pump (nozzle placer)  
GROUP VI - Powderman and blasters  
GROUP VII - Wagon drill

|  | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|--|--------------------------|--------------------------|----------|----------|----------------------------------|
|  |                          | H & W                    | Pensions | Vacation |                                  |
| LATHERS  | 9.10                     |                          |          |          | .02                              |
| LINE CONSTRUCTION:   |                          |                          |          |          |                                  |
| Linemens   | 12.40                    |                          | 3%       |          | 3/8                              |
| Cable splicers   | 12.525                   |                          | 3%       |          | 3/8                              |
| Groundmen (advanced)   | 65AJR                    |                          | 3%       |          | 3/8                              |
| Groundmen (1st 6 months)   | 49AJR                    |                          | 3%       |          | 3/8                              |
| Winch equipment  | 73AJR                    |                          | 3%       |          | 3/8                              |
| MARBLE, TERRAZZO & TILE FINISHERS  | 8.25                     |                          |          |          | 3/8                              |
| PAINTERS:  | 6.25                     |                          |          |          |                                  |
| Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers | 8.50                     |                          | .40      |          | .02                              |
| Spray gun operators and sand blasters  | 9.10                     |                          | .40      |          | .02                              |
| All skelton steel and all work on stages, structural steel over 30 feet high           | 8.75                     |                          | .40      |          | .02                              |
| PLASTERERS & PIPEFITTERS:  | 10.05                    |                          |          |          | .02                              |
| 0 to 9 miles from Jefferson  | 10.45                    | .60                      | .55      |          | .10                              |
| County Courthouse  | 11.10                    | .60                      | .55      |          | .10                              |
| 9 to 45 miles from Jefferson   | 11.65                    | .60                      | .55      |          | .10                              |
| County Courthouse  | 10.25                    | .35                      | .35      |          | .05                              |
| POWER EQUIPMENT OPERATORS:   |                          |                          |          |          |                                  |
| Group I  | 9.31                     | .35                      | .35      |          | .05                              |
| Group II   | 8.88                     | .35                      | .35      |          | .05                              |
| Group III  | 7.34                     | .35                      | .35      |          | .05                              |
| Group IV   |                          |                          |          |          |                                  |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and pile-drivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders  
GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, levermen (engineer), hydraulic or bucket dredges, irrespective of size  
GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytrucks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 105 and larger, finishing machines, all boiler firman high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 105, end dump Euclid, pumperete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

|                     | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|---------------------|--------------------------|--------------------------|----------|----------|----------------------------------|
|                     |                          | H & W                    | Pensions | Vacation |                                  |
| ROOFERS             | 9.00                     |                          |          |          |                                  |
| SHEET METAL WORKERS | 10.75*                   | .45                      | .55      |          | .05                              |
| *Plus .35c SASMI    |                          |                          |          |          |                                  |
| SPRINKLER FITTERS   | 10.57                    | .75                      | 1.05     |          | .08                              |

FOOTNOTES:

- a. 7 paid holidays: A through G.
- b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who had worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS: FOR ELEVATOR CONSTRUCTORS ONLY  
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day;  
E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.



STATE: Arkansas  
DECISION NO.: AR79-4056  
SUPERSEDES DECISION NO. AR78-4067 dated June 23, 1978 in 43 FR 27342  
DESCRIPTION OF WORK: Building Projects (but does not include single family homes and garden type apartments up to and including 4 stories)

COUNTY: Garland, Hot Springs, & Clark  
DATE: Date of Publication

GROUP I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electrician labor, green cutter, blowpipe, and concrete pump hose placer  
GROUP II - Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers & shovelers, cresote wood handlers, chuck tenders  
GROUP III - Steel form setters, curb and gutters, grout and cement tuckers  
GROUP IV - Steeling scaffold, Barco, 90 lb. pavement breaker, and burners  
GROUP V - Nozzelman (ignite, grout and sand blaster), concrete pump (nozzle placer)  
GROUP VI - Powderman and blasters  
GROUP VII - Wagon Drill

|   | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------|--------------------------|----------|----------|----------------------------|
|   |                    | H & W                    | Pensions | Vacation |                            |
| ASBESTOS WORKERS                                      | \$11.45            | .50                      | .80      |          | .02                        |
| BOILERMAKERS  | 11.05              | .80                      | 1.00     |          | .02                        |
| BRICKLAYERS-Stonemasons                               | 9.30               |                          | .35      |          |                            |
| Garland & Clark Coa.                                  | 9.00               | .40                      | .35      |          | .04                        |
| Hot Springs Co.                                       |                    |                          |          |          |                            |
| CARPENTERS:   |                    |                          |          |          |                            |
| Garland County and Northern 2/3 of Hot Springs County |                    |                          |          |          |                            |
| (Carpenters contracts in excess of \$1,000.00)        |                    |                          |          |          |                            |
| Carpenters  | 9.06               | .45                      | .35      |          | .05                        |
| Millwrights & Piledriversmen                          | 9.56               | .45                      | .35      |          | .05                        |
| (Carpenters contracts under \$1,000.00)               |                    |                          |          |          |                            |
| Carpenters  | 8.43               | .45                      | .35      |          | .05                        |
| Millwrights & Piledriversmen                          | 8.93               | .45                      | .35      |          | .05                        |
| CARPENTERS:   |                    |                          |          |          |                            |
| Clark and Remainder of Hot Springs County             |                    |                          |          |          |                            |
| Carpenters  | 9.22               | .45                      | .35      |          | .05                        |
| Millwrights & Piledriversmen                          | 9.72               | .45                      | .35      |          | .05                        |
| CEMENT MASONS   | 8.67               | .25                      |          |          | .03                        |
| ELECTRICIANS:   |                    |                          |          |          |                            |
| Cable splicers  | 11.37              |                          | .35      |          | .02                        |
| ELEVATOR CONSTRUCTORS:                                |                    |                          |          |          |                            |
| Journeyman  | 9.57               | .545                     | .35      | 48+4b    | .02                        |
| Helpers   | 8.93JR             | .545                     | .35      | 48+4b    | .02                        |
| Helpers-Probationary                                  | 8.03JR             |                          |          |          |                            |
| IRONWORKERS   | 10.00              | .45                      | .55      |          | .04                        |
| LABORERS:   |                    |                          |          |          |                            |
| Group I   | 6.25               | .33                      | .60      |          |                            |
| Group II  | 6.50               | .33                      | .60      |          |                            |
| Group III   | 6.65               | .33                      | .60      |          |                            |
| Group IV  | 6.75               | .33                      | .60      |          |                            |
| Group V   | 6.90               | .33                      | .60      |          |                            |
| Group VI  | 7.15               | .33                      | .60      |          |                            |
| Group VII   | 7.05               | .33                      | .60      |          |                            |

|   | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------|--------------------------|----------|----------|----------------------------|
|   |                    | H & W                    | Pensions | Vacation |                            |
| LATHERS:  | 9.10               |                          |          |          | .02                        |
| PAINTERS:   |                    |                          |          |          |                            |
| Brush and roller:   | 6.75               |                          |          |          |                            |
| Paperhanging  | 7.25               |                          |          |          |                            |
| Sheet rock (tape & float only):                           | 7.25               |                          |          |          |                            |
| Stage and steel   | 7.75               |                          |          |          |                            |
| Spray and sandblasting                                    | 9.25               |                          |          |          |                            |
| Painters operating any kind of taping or floating machine | 10.05              |                          |          |          | .02                        |
| PLASTERERS  |                    |                          |          |          |                            |
| PLUMBERS-PIPEFITTERS:                                     |                    |                          |          |          |                            |
| ZONE A  | 10.45              | .60                      | .55      |          | .10                        |
| ZONE B  | 11.10              | .60                      | .55      |          | .10                        |
| ZONE C  | 11.65              | .60                      | .55      |          | .10                        |

PLUMBERS AND PIPEFITTERS' ZONE DEFINITIONS

ZONE A - 0 to 9 miles from Garland County Courthouse

ZONE B - 9 to 45 miles from Garland County Courthouse

ZONE C - 45 miles and over from Garland County Courthouse

|                            | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|----------------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                            |                    | H & W                    | Pensions | Vacation |                            |
| POWER EQUIPMENT OPERATORS: |                    |                          |          |          |                            |
| GROUP I                    | 10.25              | .35                      | .35      |          | .05                        |
| GROUP II                   | 9.31               | .35                      | .35      |          | .05                        |
| GROUP III                  | 8.88               | .35                      | .35      |          | .05                        |
| GROUP IV                   | 7.34               | .35                      | .35      |          | .05                        |

SUPERSEDES DECISION

STATE: Arkansas  
DECISION NO.: AR79-4056  
SUPERSEDES DECISION NO. AR78-4067 dated June 23, 1978 in 43 FR 27342  
DESCRIPTION OF WORK: Building Projects (but does not include single family homes and garden type apartments up to and including 4 stories)

|   | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---|--------------------|--------------------------|----------|----------|----------------------------|
|   |                    | H & W                    | Pensions | Vacation |                            |
| ASBESTOS WORKERS                                      | \$11.45            | .50                      | .80      |          | .02                        |
| BOILERMAKERS  | 11.05              | .80                      | 1.00     |          | .02                        |
| BRICKLAYERS-Stonemasons                               | 9.30               |                          | .35      |          |                            |
| Garland & Clark Coa.                                  | 9.00               | .40                      | .35      |          | .04                        |
| Hot Springs Co.                                       |                    |                          |          |          |                            |
| CARPENTERS:   |                    |                          |          |          |                            |
| Garland County and Northern 2/3 of Hot Springs County |                    |                          |          |          |                            |
| (Carpenters contracts in excess of \$1,000.00)        |                    |                          |          |          |                            |
| Carpenters  | 9.06               | .45                      | .35      |          | .05                        |
| Millwrights & Piledriversmen                          | 9.56               | .45                      | .35      |          | .05                        |
| (Carpenters contracts under \$1,000.00)               |                    |                          |          |          |                            |
| Carpenters  | 8.43               | .45                      | .35      |          | .05                        |
| Millwrights & Piledriversmen                          | 8.93               | .45                      | .35      |          | .05                        |
| CARPENTERS:   |                    |                          |          |          |                            |
| Clark and Remainder of Hot Springs County             |                    |                          |          |          |                            |
| Carpenters  | 9.22               | .45                      | .35      |          | .05                        |
| Millwrights & Piledriversmen                          | 9.72               | .45                      | .35      |          | .05                        |
| CEMENT MASONS   | 8.67               | .25                      |          |          | .03                        |
| ELECTRICIANS:   |                    |                          |          |          |                            |
| Cable splicers  | 11.37              |                          | .35      |          | .02                        |
| ELEVATOR CONSTRUCTORS:                                |                    |                          |          |          |                            |
| Journeyman  | 9.57               | .545                     | .35      | 48+4b    | .02                        |
| Helpers   | 8.93JR             | .545                     | .35      | 48+4b    | .02                        |
| Helpers-Probationary                                  | 8.03JR             |                          |          |          |                            |
| IRONWORKERS   | 10.00              | .45                      | .55      |          | .04                        |
| LABORERS:   |                    |                          |          |          |                            |
| Group I   | 6.25               | .33                      | .60      |          |                            |
| Group II  | 6.50               | .33                      | .60      |          |                            |
| Group III   | 6.65               | .33                      | .60      |          |                            |
| Group IV  | 6.75               | .33                      | .60      |          |                            |
| Group V   | 6.90               | .33                      | .60      |          |                            |
| Group VI  | 7.15               | .33                      | .60      |          |                            |
| Group VII   | 7.05               | .33                      | .60      |          |                            |

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POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytrucks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 105 and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 105, end dump bucket, pumpcrete, spray machine and pressure grout machine, pumps, all regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and live equipment, safety boat operator and deckhand

|                            | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|----------------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                            |                    | H & W                    | Pensions | Vacation |                            |
| LINE CONSTRUCTION          |                    |                          |          |          |                            |
| Linenmen                   | 11.20              |                          | .35      |          | .15                        |
| Cable splicers             | 11.32              |                          | .35      |          | .15                        |
| Groundman 1st 6 months     | 45JR               |                          | .35      |          | .15                        |
| Truck Drivers (with winch) | 80JR               |                          | .35      |          | .15                        |
| Truck Driver (flat bed)    | 64JR               |                          | .35      |          | .15                        |

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|                       | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|-----------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                       |                    | H & W                    | Pensions | Vacation |                            |
| ROOFERS               | 9.00               |                          | .10      |          | .05                        |
| SHEET METAL WORKERS   | 10.75              | .45                      | .44      |          | .05                        |
| Plus .35c SASH        |                    |                          |          |          |                            |
| SPRINKLER FITTERS     | 10.57              | .75                      | 1.05     |          | .08                        |
| TILE LAYERS:          |                    |                          |          |          |                            |
| Garland & Clarke Cos. | 9.10               |                          | .35      |          |                            |

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.

b. PAID HOLIDAYS - A through G

PAID HOLIDAYS:

A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.







CARPENTERS & PILEDRIVERS

| Zone    | Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|---------|--------------------|--------------------------|----------|----------|--|----------------------------|
|         |                    | H & W                    | Pensions | Vacation |  |                            |
| Zone 1  | \$11.11            | .65                      | .70      | .50      |  | .03                        |
| Zone 2  | 11.00              | .50                      | .30      |          |  | .05                        |
| Zone 3  | 10.96              | .65                      | .70      |          |  | .03                        |
| Zone 4  | 10.71              | .65                      | .70      | .50      |  | .03                        |
| Zone 5  | 11.50              | .50                      | .30      |          |  | .03                        |
| Zone 6  | 10.90              | .50                      | .30      |          |  | .03                        |
| Zone 7  | 9.85               | .65                      | .70      | .50      |  | .03                        |
| Zone 8  | 11.37              | .33                      |          |          |  | .03                        |
| Zone 9  | 11.37              | .33                      |          |          |  | .03                        |
| Zone 10 | 11.02              | .53                      |          |          |  | .03                        |
| Zone 11 | 11.07              | .33                      | .30      |          |  | .03                        |
| Zone 12 | 10.86              | .65                      | .70      | .50      |  | .03                        |

AREAS COVERED BY CARPENTERS & PILEDRIVERS ZONES

- Zone 1 - Franklin, Jefferson, St. Charles, Counties.  
Zone 2 - Clay, Jackson, Platte and Ray Counties  
Zone 3 - St. Louis County & City  
Zone 4 - Pike, St. Francois & Washington Counties  
Zone 5 - Cass and Lafayette Counties  
Zone 6 - Atchison, Andrew, Barry, Barton, Bates, Buchanan, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, Dekalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, LaCade, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties  
Zone 7 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon and Texas Counties  
Zone 8 - Boone, Cooper & Howard Counties  
Zone 9 - Adair, Audrain, Benton, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Morgan, Pettis, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby and Sullivan Counties  
Zone 10 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties  
Zone 11 - Callaway, Cole, Miller, Moniteau and Osage Counties  
Zone 12 - Lincoln and Warren Counties

NOTICES

AREAS COVERED BY CEMENT MASONS ZONES

| Zone    | Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|---------|--------------------|--------------------------|----------|----------|--|----------------------------|
|         |                    | H & W                    | Pensions | Vacation |  |                            |
| Zone 1  | 10.925             | .65                      | .50      |          |  |                            |
| Zone 2  | 10.93              |                          |          |          |  |                            |
| Zone 3  | 9.50               | 1.00                     | .95      |          |  |                            |
| Zone 4  | 11.80              | .65                      | .50      |          |  |                            |
| Zone 5  | 7.50               | .85                      | .50      | .55      |  |                            |
| Zone 6  | 8.75               |                          |          |          |  |                            |
| Zone 7  | 10.00              |                          |          |          |  |                            |
| Zone 8  | 10.80              |                          |          |          |  |                            |
| Zone 9  | 7.40               | .65                      | .50      |          |  |                            |
| Zone 10 | 9.75               |                          |          |          |  |                            |
| Zone 11 | 10.53              |                          |          |          |  |                            |
| Zone 12 | 10.15              | 1.00                     | .95      |          |  |                            |

CEMENT MASONS

- Zone 1 - Bates, Carroll, Cass and Lafayette Counties  
Zone 2 - Dent, Phelps, Pike, Pulaski, and Texas Counties  
Zone 3 - Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren & Washington Counties on Projects less than \$100,000.00  
Zone 4 - Clay, Jackson, Platte and Ray Counties  
Zone 5 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties  
Zone 6 - Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, LaCade, Ozark, Polk, Stone, Taney, Webster, and Wright Counties  
Zone 7 - Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline and St. Clair Counties  
Zone 8 - Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan, and Putnam Cos.  
Zone 9 - Barry, Barton, Jasper, Lawrence, McDonald, Newton and Vernon Cos.  
Zone 10 - Andrew, Atchison, Buchanan, Caldwell, Clinton, Davies, Dekalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway, and Worth Cos.  
Zone 11 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery, and Osage Cos.  
Zone 12 - St. Louis City and County, Jefferson, and St. Charles Counties, and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on Projects \$100,000.00

ELECTRICIANS

| Zone  | Basic Hourly Rates | Fringe Benefits Payments |              |              |  | Education and/or Appr. Tr. |
|---|--------------------|--------------------------|--------------|--------------|--|----------------------------|
|   |                    | H & W                    | Pensions     | Vacation     |  |                            |
| Zone 1<br>Electrical contract over \$15,000.00              | 11.65              | .46                      | 3%           | 11.5%        |  | 1/2                        |
| Zone 2<br>Electrical contracts \$15,000.00 and under        | 9.94<br>12.77      | .49<br>.54               | 3%<br>3%+.51 | 11.5%<br>.95 |  | 1/2<br>1.0                 |
| Zone 3<br>Electrical Contracts not to exceed 2000 man hours | 11.77              | .54                      | 3%+.51       | .95          |  | .10                        |
| Zone 4<br>Electrical Contracts 2000 man hours and over      | 12.77              | .54                      | 3%+.51       | .95          |  | .10                        |
| Zone 5<br>Electrical contracts not to exceed 2000 man hours | 11.77              | .54                      | 3%+.51       | .95          |  | .10                        |
| Zone 6<br>Electrical Contracts 2000 man hours and over      | 12.77              | .54                      | 3%+.51       | .95          |  | .10                        |
| Zone 7<br>Electrical Contract not to exceed 2000 man hours  | 11.17              | .54                      | 3%+.51       | .95          |  | .10                        |
| Zone 8<br>Electrical Contracts 2000 man hours and over      | 12.77              | .54                      | 3%+.51       | .95          |  | .10                        |
| Zone 9<br>Electrical Contract \$15,000.00 and under         | 11.60              | .70                      | 3%+.51       | 15%          |  | .10                        |
| Zone 10<br>Electrical Contract \$15,000.00 and under        | 10.85              | .70                      | 3%+.51       | 15%          |  | .10                        |
| Zone 11<br>Electrical Contract \$15,000.00 and under        | 8.39               | .70                      | 3%+.51       | 15%          |  | .10                        |
| Zone 12<br>Electrical Contract \$15,000.00 and under        | 5.93               | .70                      | 3%+.51       | 15%          |  | .10                        |

ELECTRICIANS CONT'D

| Zone                                   | Basic Hourly Rates | Fringe Benefits Payments |                  |                  |  | Education and/or Appr. Tr. |
|--|--------------------|--------------------------|------------------|------------------|--|----------------------------|
|  |                    | H & W                    | Pensions         | Vacation         |  |                            |
| Zone 11                                | 11.705             | .47                      | 3%+.75           | 6%               |  | .02                        |
| Zone 12                                | 12.195             | .47                      | 3%+.6%           | 6%               |  | .02                        |
| Zone 13                                | 11.54              | .60                      | 3%+.50           | 7%               |  | .01                        |
| Zone 14<br>Electricians Cable Splicers | 9.98<br>10.33      | .65<br>.65               | 3%+.50<br>3%+.50 |                  |  | .01<br>.01                 |
| Zone 15<br>Electricians Cable Splicers | 11.89<br>12.14     | .27<br>.27               | 3%<br>3%         | 7%+.30<br>7%+.30 |  | 1/2 of 1%<br>1/2 of 1%     |

NOTICES



AREAS COVERED BY ELECTRICIANS' ZONES

- ZONE 1 - Adair, Audrain (that part of east of Highway 19), Clark, Knox, Lewis, Linn, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Cos.  
Electrical contracts over \$15,000.00
- ZONE 2 - Area bounded on the North by State Highway 92, In Platte & Clay Counties; east by a straight line from intersection of State Highway 92 & 13 in Clay County intersection of U. S. Highway 24 & State Highway 7 in Jackson County; south on Highway 7 to Pleasant Hill; South from Pleasant Hill due west to the Missouri-Kansas State Line; West by the Missouri-Kansas State Line. Towns of Pleasant Hill & Blue Springs are excluded
- ZONE 3 - Portion of Cass, Clay, Jackson and Platte Counties not included in Zone 2
- ZONE 4 - Bates, Benton, Henry, Johnson, Lafayette and Pettis Counties
- ZONE 5 - Carroll, Cooper, Morgan, Ray and Saline Counties
- ZONE 6 - St. Charles County, St. Louis County and City
- ZONE 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington, and Wayne Cos.
- ZONE 8 - Electrical contract over \$15,000.00
- ZONE 9 - Franklin, Jefferson, Lincoln, and Warren Cos.
- ZONE 10 - Electrical contracts \$15,000.00 and under
- ZONE 11 - Ripley, Reynolds, Stoddard, Washington, and Wayne Counties
- ZONE 12 - Electrical contracts \$15,000.00 and under
- ZONE 13 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster, and Wright Counties
- ZONE 14 - Pulaski County
- ZONE 15 - Andrew, Buchanan, Clinton, and Dekalb Counties
- ZONE 16 - Barry, Barton, Caldwell, Dade, Daviess, Gentry, Holt, Jasper, McDonald, Newton, Nodaway, St. Clair, and Vernon, Lawrence Counties
- ZONE 17 - Atchinson, Audrain (except Cuyver Township), Boone, Callaway, Camden, Charleston, Cole, Crawford, Dent, Gasconade, Grundy, Harrison, Howard, Livingston, Maries, Mercer, Miller, Moniteau, Osage, Osage, Pettis, Randolph, and Worth Counties

IRONWORKERS:

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| ZONE 1             | 11.65                    | .55      | .90      | .09                        |
| ZONE 2             | 10.80                    | .70      | 1.40     | .05                        |
| ZONE 3             | 10.65                    | .70      | 1.40     | .05                        |
| ZONE 4             | 10.10                    | .45      | .65      | .12                        |
| ZONE 5             | 11.50                    | .55      | .90      | .04                        |
| ZONE 6             | 9.50                     | .45      | .40      | .02                        |
| ZONE 7             | 9.90                     | .45      | .65      | .02                        |

AREAS COVERED BY IRONWORKERS' ZONES

- ZONE 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Madison, Maries, Miller, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Reynolds, Shannon, St. Charles, St. Francois, St. Louis City, Ste. Genevieve, Texas, Warren, Washington, and Wright Cos.
- ZONE 2 - Andrew, Atchison, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Charleston, Clay, Clinton, Cooper, Dallas, Daviess, Dekalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Laclede, Lafayette, Linn, Livingston, Mercer, Moniteau, Morgan, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Sullivan, Vernon and Worth Cos.
- ZONE 3 - Christian, Dade, Douglas, Greene and Webster Cos.
- ZONE 4 - Barry, Jasper, Lawrence, McDonald, Newton and Stone Cos.
- ZONE 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Schuyler, Scotland and Shelby Cos.
- ZONE 6 - Howell, Oregon, Ozark and Taney Cos.
- ZONE 7 - Butler, Bollinger, Carter, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties.

NOTICES

NOTICES

LADONERS CLASSIFICATION DEFINITIONS

- GROUP 1 - General Laborer - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagmen; loading trucks under bins, hoppers, and conveyors; track men and all other general laborers
- GROUP 2 - First Semi-Skill - Air tool operator; cement handler, bulk or sack; dump man on earth fill; geologic buggie man; material batch hopper man; scale man; spreader on asphalt machine; mixer man (except on manholes); coffer dam; flag pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operators; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only); straw blower nozzle man.
- GROUP 3 - Second Semi-Skill - Asphalt plant platform man; chuck tender; crusher feeder; men handling crosscut ties or crosscut materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; top of standing trees; batter board man on pipe and ditch work; vibrator man feeder man on wood pulverizer; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river
- GROUP 4 - Third Semi-Skill - Laser beam man; asphalt taker; barco tamper; Jackson or any other similar tamper wagon driver; chum drills; air track drills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters, ditch liners, manhole builder helpers and mortar men on brick or block manholes; sand blasting and quite nozzle men; rubbing concrete; air tool operator in tunnels; caulker and lead man; screed man on asphalt machine, chain or concrete saw; cliff scalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over ten (10) feet above ground; grade checker on cuts and fills; string line man for electronic grade control; pressure groutmen
- GROUP 5 - Fourth Semi-Skill - Manhole builders, - brick or block; dynamite and powder men; welders.

AREA COVERED BY LADONERS

- ZONE 1 - Buchanan, Cass and Lafayette Counties
- ZONE 2 - Andrew, Barton, Bates, Benton, Caldwell, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Dekalb, Greene, Henry, Jasper, Johnson, Laclede, Lawrence, Livingston, Newton, Pettis, Polk, St. Clair, Saline, Vernon, Webster, Wright, Harrison, Hickory, Holt, McDonald, Mercer, Morgan, Nodaway, Ozark, Stone, Taney and Worth Counties
- ZONE 3 - Franklin, Jefferson, Boone, Callaway, Cape Girardeau, Charleston, Cole, Cooper, Crawford, Dent, Gasconade, Howard, Iron, Lincoln, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Ralls, Randolph, Reynolds, St. Francois, Ste. Genevieve, Scott, Warren and Washington Counties
- Adair, Butler, Carter, Clark, Dunklin, Howell, Knox, Lewis, Linn, Macon, Oregon, Putnam, Ripley, Schuyler, Scotland, Shelby, Shannon Counties

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| 8.68               | .60                      | .50      | .50      | .10                        |
| 7.28               | .60                      | .50      | .50      | .10                        |
| 9.60               | .60                      | .50      | .50      | .10                        |
| 8.70               | .60                      | .50      | .50      | .10                        |
| 8.83               | .60                      | .50      | .50      | .10                        |
| 7.43               | .60                      | .50      | .50      | .10                        |
| 9.75               | .60                      | .50      | .50      | .10                        |
| 8.85               | .60                      | .50      | .50      | .10                        |
| 8.98               | .60                      | .50      | .50      | .10                        |
| 7.58               | .60                      | .50      | .50      | .10                        |
| 9.90               | .60                      | .50      | .50      | .10                        |
| 9.00               | .60                      | .50      | .50      | .10                        |
| 9.18               | .60                      | .50      | .50      | .10                        |
| 7.78               | .60                      | .50      | .50      | .10                        |
| 10.10              | .60                      | .50      | .50      | .10                        |
| 9.20               | .60                      | .50      | .50      | .10                        |
| 9.43               | .60                      | .50      | .50      | .10                        |
| 8.03               | .60                      | .50      | .50      | .10                        |
| 10.35              | .60                      | .50      | .50      | .10                        |
| 9.35               | .60                      | .50      | .50      | .10                        |



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LABORERS:

GROUP 5

Group 1

Group 2

Group 3

Group 4

Group 5

| Basic Hourly Rates | Fringe Benefits Payments |          |            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|------------|----------------------------|
|                    | H & W                    | Pensions | Vocational |                            |
| 9.25               | .60                      | .50      | .75        | .10                        |
| 9.40               | .60                      | .50      | .75        | .10                        |
| 9.55               | .60                      | .50      | .75        | .10                        |
| 9.75               | .60                      | .50      | .75        | .10                        |
| 10.05              | .60                      | .50      | .75        | .10                        |

CLASSIFICATION DEFINITIONS:

GROUP 1 - General laborer - Carpenter tenders, salamander tenders; dump man, & ticket takers on stock piles; flagmen; loading trucks under bins, hoppers and conveyors; track men and all other general laborers.  
GROUP 2 - First Semi-Skill - Air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checker on cuts and fills; geologic buggies; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pierhole men working below ground); riprap pavers; rock, block or brick; signal men; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operators; all work in connection with hydraulic or general dredging operations; from setter helpers; puddlers (paving only).  
GROUP 3 - Second Semi-Skill - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on underground tunnels where compressed air is not used.  
GROUP 4 - Third Semi-Skill - Spreader on screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; Jackson or any other similar tamper; wagon driver, churn drills, air track drills and all other similar drills; cutting torch man; form setter; liners and stringline men on concrete paving, curb, gutters and etc.; hot mastic kettlemen; hot tar applicator; hand blade operators; manhole builders helpers and mortar men on brick or block masonry; sand blasting and gunnite nozzle men; tubing concrete; air tool operator in tunnels.  
GROUP 5 - Fourth Semi-Skill - Manhole builder (brick or block); dynamite and powder men.

AREA COVERED BY LABORERS

ZONE 5 - Clay, Jackson, Platte and Ray Counties

| Basic Hourly Rates | Fringe Benefits Payments |          |            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|------------|----------------------------|
|                    | H & W                    | Pensions | Vocational |                            |
| 9.575              | .45                      | 1.00     |            |                            |
| 9.65               | .45                      | 1.00     |            |                            |
| 10.075             | .45                      | 1.00     |            |                            |
| 9.825              | .45                      | 1.00     |            |                            |
| 11.26              | .45                      | 32+.15   |            | 1/2                        |
| 12.34              | .45                      | 32+.15   |            | 1/2                        |
| 9.20               | .45                      | 32+.15   |            | 1/2                        |
| 8.74               | .45                      | 32+.15   |            | 1/2                        |
| 7.48               | .45                      | 32+.15   |            | 1/2                        |
| 12.67              | .45                      | 32+.15   |            | 1/2                        |
| 12.07              | .45                      | 32+.15   |            | 1/2                        |
| 8.78               | .45                      | 32+.15   |            | 1/2                        |
| 8.10               | .45                      | 32+.15   |            | 1/2                        |
| 6.15               | .45                      | 32+.15   |            | 1/2                        |
| 11.41              | .50                      | 32       | 12 1/2     | 1/2                        |
| 8.38               | .50                      | 32       | 12 1/2     | 1/2                        |
| 8.08               | .50                      | 32       | 12 1/2     | 1/2                        |
| 10.20              | .50                      | 32       | 12 1/2     | 1/2                        |
| 6.48               | .50                      | 32       | 12 1/2     | 1/2                        |
| 6.75               | .50                      | 32       | 12 1/2     | 1/2                        |
| 7.41               | .50                      | 32       | 12 1/2     | 1/2                        |
| 8.08               | .50                      | 32       | 12 1/2     | 1/2                        |
| 11.84              | .45                      | 32+.62   |            | 1/2                        |
| 10.50              | .45                      | 32+.62   |            | 1/2                        |
| 7.44               | .45                      | 32+.62   |            | 1/2                        |

LABORERS:

ZONE 6 - St. Louis City and County:

General laborer  
Plumbers laborer  
Dynamiter or powderman  
Pier hole

LINE CONSTRUCTION:

ZONE 1

Lineman

Lineman operator

Groundman powderman

Groundman (1st 6 mos.)

ZONE 2

Lineman

Lineman operator

Groundman powderman

Groundman (1st 6 mos.)

ZONE 3

Lineman & cable applicators

Groundman - driver

Equipment operator

Groundman - next 12 mos.

Groundman - thereafter

ZONE 4

Lineman

Groundman Equipment Operator

Groundman - Class A

ZONE 5 - Railroad and Cross County Transmission Lines

Lineman

Lineman operator

Groundman powderman

Pole treating specialist

Pole treating truck driver

Pole treating groundman

| Basic Hourly Rates | Fringe Benefits Payments |          |            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|------------|----------------------------|
|                    | H & W                    | Pensions | Vocational |                            |
| 11.23              | .45                      | 32+.15   |            | 1/2                        |
| 10.39              | .45                      | 32+.15   |            | 1/2                        |
| 7.72               | .45                      | 32+.15   |            | 1/2                        |
| 7.20               | .45                      | 32+.15   |            | 1/2                        |
| 11.79              | .45                      | 32+.15   |            | 1/2                        |
| 7.72               | .45                      | 32+.15   |            | 1/2                        |
| 7.20               | .45                      | 32+.15   |            | 1/2                        |

AREA COVERED BY LINE CONSTRUCTION

ZONE 1 - Bates, Benton, Carroll, Cass, Clay, Henry, Johnson, Jackson, Lafayette, Pettis, Platte, Ray and Saline Counties  
ZONE 2 - Andrew, Atchinson, Barry, Barton, Buchanan, Caldwell, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Hickory, Holt, Jasper, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Stone, Taney, Vernon, Webster, Worth, and Wright Counties  
ZONE 3 - Crawford, Franklin, Iron, Jefferson, Reynolds, St. Charles, St. Francois, St. Louis, Washington, Adair, Audrain, Boone, Callaway, Camden, Carter, Charlton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Howell, Knox, Lewis, Lincoln, Linn, Macon, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Ripley, St. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas, and Warren Counties  
ZONE 4 - Bolinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Scott, Stoddard, and Wayne Counties  
ZONE 5 - Atchinson, Andrew, Buchanan, Bates, Benton, Barton, Barry, Clinton, Caldwell, Clay, Carroll, Cass, Cedar, Christian, DeKalb, Daviess, Dallas, Dade, Douglas, Grundy, Greene, Gentry, Harrison, Holt, Henry, Hickory, Jackson, Johnson, Jasper, Livingston, Lafayette, Laclede, Lawrence, Mercer, McDonald, Nodaway, Newton, Ozark, Platte, Pettis, Polk, Ray, Saline, St. Clair, Stone, Taney, Vernon, Worth, Webster, and Wright Counties.

PAINTERS:

ZONE 1

Brush and roller

Spray

Bridge

ZONE 2

Brush

Spray

| Basic Hourly Rates | Fringe Benefits Payments |          |            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|------------|----------------------------|
|                    | H & W                    | Pensions | Vocational |                            |
| 10.85              | .55                      | .70      |            | .08                        |
| 11.85              | .55                      | .70      |            | .08                        |
| 11.60              | .55                      | .70      |            | .08                        |
| 8.90               |                          | .25      |            |                            |
| 9.65               |                          | .25      |            |                            |

PAINTERS CONT'D:

ZONE 3 - Brush  
Spray  
ZONE 4 - Brush and roller  
Spray, structural steel and sandblasting  
ZONE 5 - Bridge  
Spray, sandblasting operator; work performed on bridges 75 ft. in height  
All structural steel over 50 ft. in height  
ZONE 6 - Brush  
Spray  
Steel, storage bin and tank  
ZONE 7 - Brush  
Spray  
ZONE 8 - Brush, roller  
Spray  
ZONE 9 - Brush  
Spray  
ZONE 10 - Brush  
Spray  
ZONE 11 - Brush  
Spray, bridgemen, steelmen  
ZONE 12 - Brush  
Structural steel, Spray

| Basic Hourly Rates | Fringe Benefits Payments |          |            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|------------|----------------------------|
|                    | H & W                    | Pensions | Vocational |                            |
| 7.50               |                          |          |            |                            |
| 8.00               |                          |          |            |                            |
| 10.25              | .70                      | .35      |            |                            |
| 11.50              | .70                      | .35      |            |                            |
| 10.00              |                          |          |            |                            |
| 10.75              |                          |          |            |                            |
| 11.00              |                          |          |            |                            |
| 10.75              |                          |          |            |                            |
| 10.30              | .60                      | .35      |            |                            |
| 11.30              | .60                      | .35      |            |                            |
| 10.70              | .60                      | .35      |            |                            |
| 7.25               |                          |          |            |                            |
| 7.75               |                          |          |            |                            |
| 9.17               | .40                      | .40      |            |                            |
| 9.545              | .40                      | .40      |            |                            |
| 9.90               | .20                      | .20      |            |                            |
| 10.40              | .20                      | .20      |            |                            |
| 11.24              | .68                      | .33      |            |                            |
| 12.74              | .68                      | .33      |            |                            |
| 9.90               | .50                      |          |            | .08                        |
| 10.40              | .50                      |          |            | .08                        |
| 7.50               |                          |          |            |                            |
| 8.00               |                          |          |            |                            |
| 6.80               |                          |          |            |                            |



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AREA COVERED BY PAINTERS

- ZONE 1 - Bates, Caldwell, Carroll, Clinton, Cass, Clay, Daviess, Grundy, Henry, Harrison, Jackson, Johnson, Lafayette, Livingston, Mercer, Pike, and Ray Counties  
ZONE 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties  
ZONE 3 - Lincoln and Pike Counties  
ZONE 4 - Camden, Crawford, Dent, Laclede, Marion, Miller, Phelps, Pulaski and Texas Counties  
ZONE 5 - Benton, Cooper, Monticello, Morgan, Pettis, and Saline Counties  
ZONE 6 - Andrew, Atchinson, Buchanan, Dekalb, Gentry, Holt, Nodaway and Worth Counties  
ZONE 7 - Adair, Knox, Linn, Macon, Putnam, Schuyler, Scotland, Shelby, and Sullivan Counties  
ZONE 8 - Barry, Barton, Cedar, Deade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties  
ZONE 9 - Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Osage and Randolph Counties  
ZONE 10 - Jefferson, St. Charles and St. Louis & City Counties  
ZONE 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Osark, Polk, Stone, Taney, Webster, and Wright Counties  
ZONE 12 - St. Francois and Ste. Genevieve Counties

POWER EQUIPMENT OPERATORS:

| Zone   | Group     | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------|-----------|--------------------|--------------------------|----------|----------|----------------------------|
|        |           |                    | H & W                    | Pensions | Vacation |                            |
| ZONE 1 | GROUP I   | 11.30              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP II  | 11.05              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP III | 10.45              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP IV  | 9.20               | .75                      | 1.00     | .75      | .10                        |
|        | GROUP V   | 11.55              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP VI  | 11.30              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP VII | 9.70               | .75                      | 1.00     | .75      | .10                        |
| ZONE 2 | GROUP I   | 10.52              | .50                      | 1.00     |          |                            |
|        | GROUP II  | 9.97               | .50                      | 1.00     |          |                            |
|        | GROUP III | 9.52               | .50                      | 1.00     |          |                            |
|        | GROUP IV  |                    |                          |          |          |                            |
|        | (a)       | 11.32              | .50                      | 1.00     |          |                            |
|        | (b)       | 12.07              | .50                      | 1.00     |          |                            |
|        | (c)       | 12.52              | .50                      | 1.00     |          |                            |
| ZONE 3 | (d)       | 13.27              | .50                      | 1.00     |          |                            |
|        | (e)       | 11.02              | .50                      | 1.00     |          |                            |
|        |           |                    |                          |          |          |                            |
| ZONE 4 | GROUP I   | 11.10              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP II  | 10.90              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP III | 10.70              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP IV  | 10.10              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP V   | 11.35              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP VI  | 11.60              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP VII | 11.75              | .75                      | 1.00     | .40      | .02                        |

NOTICES

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS: ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; back hoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge; drilling or boring machine, rotary, self-propelled; highloader-fork lift; hoisting engine-2 active drums; locomotive operator, standard gauge; mechanics and welders; field or shop; maintenance operator; mucking machine; piledriver operator; piling crane operator; pump-2; quad-trac; scoop operator-all types; puncheon operator; scoops in tandem; self-propelled rotary drill (terry or Equal-not Air Trac); shovel operator; side discharge spreader; side boom cats; skimmer scoop operator; slip form paver (CMI, REX, OR Equal); throttle man; truck crane; welding machine maintenance operator-2  
GROUP II - "A" frame; asphalt plant mixer operator; asphalt plant man; drum or boiler; asphalt plant mixer operator; chip spreader; concrete asphalt roller operator; backfiller operator; concrete mixer operator, skip batch plant, dry, power operator; crusher operator; elevating grader; loader; concrete pump operator; crusher operator; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shovels; pug mill operator; stump cutting machine; towboat operator; tractor operator-over 50 h.p.  
GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; roller operator, other than dredge; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper, siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor 50 hp or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1  
GROUP IV - Mechanic's helper, oiler  
GROUP V - Clamshells, 3 yd. capacity or over, crane or rigs 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels and backhoes, 3 yd. capacity or over  
GROUP VI - Hoist (each additional drum over 1 drum)  
GROUP VII - Oiler driver, all types  
Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

| Zone   | Group     | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------|-----------|--------------------|--------------------------|----------|----------|----------------------------|
|        |           |                    | H & W                    | Pensions | Vacation |                            |
| ZONE 5 | GROUP I   | 11.30              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP II  | 11.05              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP III | 10.45              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP IV  | 9.20               | .75                      | 1.00     | .75      | .10                        |
|        | GROUP V   | 11.55              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP VI  | 11.80              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP VII | 12.05              | .75                      | 1.00     | .75      | .10                        |
| ZONE 6 | GROUP I   | 10.30              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP II  | 9.95               | .75                      | 1.00     | .75      | .10                        |
|        | GROUP III | 9.75               | .75                      | 1.00     | .75      | .10                        |
|        | GROUP IV  | 8.20               | .75                      | 1.00     | .75      | .10                        |
|        | GROUP V   | 10.55              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP VI  | 10.80              | .75                      | 1.00     | .75      | .10                        |
|        | GROUP VII | 11.05              | .75                      | 1.00     | .75      | .10                        |
| ZONE 7 | GROUP I   | 11.30              | .50                      | .50      |          | .02                        |
|        | GROUP II  | 10.95              | .50                      | .50      |          | .02                        |
|        | GROUP III | 10.75              | .50                      | .50      |          | .02                        |
|        | GROUP IV  | 8.95               | .50                      | .50      |          | .02                        |
|        | GROUP V   | 11.55              | .50                      | .50      |          | .02                        |
|        | GROUP VI  | 11.80              | .50                      | .50      |          | .02                        |
|        | GROUP VII | 12.05              | .50                      | .50      |          | .02                        |
| ZONE 8 | GROUP I   | 11.30              | .50                      | .50      |          | .02                        |
|        | GROUP II  | 10.95              | .50                      | .50      |          | .02                        |
|        | GROUP III | 10.75              | .50                      | .50      |          | .02                        |
|        | GROUP IV  | 8.95               | .50                      | .50      |          | .02                        |
|        | GROUP V   | 11.55              | .50                      | .50      |          | .02                        |
|        | GROUP VI  | 11.80              | .50                      | .50      |          | .02                        |
|        | GROUP VII | 12.05              | .50                      | .50      |          | .02                        |
| ZONE 9 | GROUP I   | 10.50              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP II  | 10.30              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP III | 10.10              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP IV  | 9.50               | .75                      | 1.00     | .40      | .02                        |
|        | GROUP V   | 10.75              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP VI  | 11.00              | .75                      | 1.00     | .40      | .02                        |
|        | GROUP VII | 11.25              | .75                      | 1.00     | .40      | .02                        |

NOTICES



POWER EQUIPMENT OPERATORS ZONE 2 CONT'D.

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or crawler mounted - 16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; grapple; crawler or tire mounted; locomotive, gas, steam & other power; pile driver, land or floating; scoop, skimmer, shovel, power (steam, gas, electric, or other power); switch boat; whirley, air tugger 2/air compressor; anchor-placing barge; asphalt spreader; at-hy force feed loader (self-propelled); backfilling machine; boat operator-nub boat or tow boat (job-site); boiler, high pressure breaking in period; boom truck; placing or erecting; boring machine footing foundation; bullboat; cherry picker; combination concrete hoist & mixer such as mixer/loader; compressors, two, not more than 20 ft. apart; compressors, not more than five ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as a pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-tough terrain, self-propelled; crane hydraulic-truck or crawler-mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers jackhammers and barco equipment - no engineer required); elevating machine; engine, dredge, excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift hoist; concrete and brick (brick cages on concrete skip operating in or on tower, towermobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator; hoisting machine or concrete; loading machine (such as barber-green); mechanic, on job site; mixer, paving; mixer/loader; mucking machine; pipe cleaning machine; pipe wrapping machine; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant, power, generating-job site; pump, self-powered, over 2" (one operator will operate two); pumps, electric submersible, one through three, over 4", quad-track; roller, asphalt, top or sub-grader, scoop, tractor drawn; spreader box; sub-grader; tile tamper; tractor-crawler, or wheel type with or without power unit, power take-off, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine; automatic, automatic; propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP II - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; conveyor, large air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor large (not self-propelled moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; firm; form grader; generator, one over 30 KW or any number developing over 30 KW; grasper; hoist; one drum regardless of size (except brick or concrete); lad-a-vator; other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, atreet, welding machine, one over 400 amp.; winch operating from truck

NOTICES

POWER EQUIPMENT OPERATORS ZONE 2 CONT'D.

GROUP III - Boat operator-outboard motor (11b site); conveyor (such as con-vay-ot) regardless of how used; oiler; sweeper, floor

GROUP IV - (a) Air pressure, oiler engineer; operating over ten pounds (c) Air pressure engineer operating over ten pounds. (d) Air pressure engineer operating over ten pounds. (e) Crane-piledriving and extracting; crane using rock socket tool; dragline - 7cu. yds. & over; shovel; power - 7 cu. yds. and over; crane, clamshell & over; shovel; derrick, diesel, gas, electric hoisting material such as steel - 150' or more above ground; hoist, three or more drums; scoop, tandem; tractor, tandem crawler or crane with boom (including 11b) over 100' from pin to pin (add 1c per foot to maximum of 75c above basic rate for crane)

Work in tunnel or tunnel shaft, .25c above basic rate.

POWER EQUIPMENT OPERATORS ZONES 3, 4, and 9

GROUP 1 - Asphalt finishing machine & trench widening spreader, asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; hoiler - 2 central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; operator; pugh cat operator; quad-track; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel operator.

GROUP II - A-frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-green loader; boat operator (bridge & dam); chip spreader; concrete mixer operator - skip loader; concrete plant operator concrete pump operator; dredge oiler; elevating grader operator fork lift; grease fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker powerboom - self propelled; power shield; roofer; slip for finishing machine; stump puller machine; side discharge concrete spreader; throttleman; tractor operator (over 30 hp); winch truck

POWER EQUIPMENT OPERATORS ZONE 3, 4, and 9 CONT'D.

GROUP III - Boilers - 1; chip spreader (front man); chum drill operator; compressor over 105 GPM 2 - 3 pumps 4" & over 2 - 3 light plant 7.5 KW or any combination thereof, chief plant operator; compressor operator; compressed maintenance operator 2 or 3; concrete saw operator (self-propelled) curb finishing machine; distributor operator; finishing machine, engine, pugmill operator; flex plane operator; form grader operator; finishing machine; dozer roller operator; other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader (combination boiler & booster); umac, ulric or similar spreader; vibrating machine operator (50 hp or less); hydroboom

GROUP IV - Oiler, grout machine

GROUP V - Crane with 3 yds. & over buckets, Dragline operator - 3yds. & over; shovel - 3 yds. & over; piledrivers - all types; clamshell - 3 yds. & over; crane rig, 100' of boom (including 11b); hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs 150' to 200' or over (incl. 11b) active drum over 2 drums

GROUP VII - Crane, rigs 200' or over (incl. 11b)

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8 CONT'D.

GROUP III - Boilers - 1; chip spreader (front man); chum drill operator; chief plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator; other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator; self-propelled (not asphalt); tank car heater operator (combination boiler & booster); umac, ulric, or similar spreader; vibrating machine operator; not hands; tractor operator (50 hp or less)

GROUP IV - Oiler; oiler driver, fireman - rig; maintenance operators

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' of boom or over (incl. 11b). hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (incl. 11b)

GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. 11b)

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; backhoe blade operator, - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel locomotive operator - standard gauge; mechanics and welder; mucking machine; piledriver operator; sideboom cats; skimmer scoop operators all types; trenching machine operator; truck, crane; tractor operator - all types

GROUP II - A-frame; asphalt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-green loader; boat operator (bridge dam); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator, crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker; power - broom - self-propelled; power shield; roofer; slip form finishing machine; stump puller machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); winch truck

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8 CONT'D.

GROUP III - Boilers - 1; chip spreader (front man); chum drill operator; chief plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator; other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator; self-propelled (not asphalt); tank car heater operator (combination boiler & booster); umac, ulric, or similar spreader; vibrating machine operator; not hands; tractor operator (50 hp or less)

GROUP IV - Oiler; oiler driver, fireman - rig; maintenance operators

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' of boom or over (incl. 11b). hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (incl. 11b)

GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. 11b)

NOTICES



| TRUCK DRIVERS                      | Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|------------------------------------|--------------------|--------------------------|----------|----------|--|----------------------------|
|                                    |                    | H & W                    | Pensions | Vacation |  |                            |
| ZONE 1 - St. Louis City and County |                    |                          |          |          |  |                            |
| GROUP 1                            | 6.99               | a                        | b        | c&d      |  |                            |
| GROUP 2                            | 7.19               | a                        | b        | c&d      |  |                            |
| GROUP 3                            | 7.29               | a                        | b        | c&d      |  |                            |

FOOTNOTES:  
a - Employer contribution of \$12.50 per week  
b - Employer contribution of \$12.50 per week  
c - Paid Holidays: New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veterans Day, Christmas.  
d - Paid vacation of 3 days for 600 hours of service in any one contract year;  
4 days paid vacation for 800 hours of service in any one contract year;  
5 days paid vacation for 1,000 hours of service in any one contract year

#### CLASSIFICATION DEFINITIONS

GROUP 1 - Truck or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pick-up trucks, flat bed trucks  
GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity  
GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

| TRUCK DRIVERS  | Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|--|--------------------|--------------------------|----------|----------|--|----------------------------|
|  |                    | H & W                    | Pensions | Vacation |  |                            |
| ZONE 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle |                    |                          |          |          |  |                            |
| GROUP 1  | 9.49               | .75                      | 1.00     | .75      |  |                            |
| GROUP 2  | 9.69               | .75                      | 1.00     | .75      |  |                            |
| GROUP 3  | 10.00              | .75                      | 1.00     | .75      |  |                            |
| GROUP 4  | 10.15              | .75                      | 1.00     | .75      |  |                            |
| GROUP 5  | 9.265              | .75                      | 1.00     | .75      |  |                            |

#### CLASSIFICATION DEFINITIONS

GROUP 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle  
GROUP 2 - Two teams; material tandem; semi-trailers; winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, inlay wagons, dump, excavating, 5 cu. yds. & over, dumpers, half-tracks, speedace, euclids and other similar excavating equipment  
GROUP 3 - A-frame, low boy, boom  
GROUP 4 - Mechanics & welders  
GROUP 5 - Mechanic's helpers, oilers, & greasers

#### AREAS COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|---------------|--------------------|--------------------------|----------|----------|--|----------------------------|
|               |                    | H & W                    | Pensions | Vacation |  |                            |
| ZONE 3        | 12.05              |                          |          |          |  |                            |
| GROUP 1       | 12.20              |                          |          |          |  |                            |
| GROUP 2       | 12.27              |                          |          |          |  |                            |
| GROUP 3       | 12.16              |                          |          |          |  |                            |
| GROUP 4       | 11.95              |                          |          |          |  |                            |
| GROUP 5       |                    |                          |          |          |  |                            |
| ZONE 4        | 11.25              |                          |          |          |  |                            |
| GROUP 1       | 11.40              |                          |          |          |  |                            |
| GROUP 2       | 11.47              |                          |          |          |  |                            |
| GROUP 3       | 11.36              |                          |          |          |  |                            |
| GROUP 4       | 11.15              |                          |          |          |  |                            |
| GROUP 5       |                    |                          |          |          |  |                            |
| ZONE 5        | 10.59              | .75                      | 1.00     |          |  |                            |
| GROUP 1       | 10.74              | .75                      | 1.00     |          |  |                            |
| GROUP 2       | 10.81              | .75                      | 1.00     |          |  |                            |
| GROUP 3       | 10.70              | .75                      | 1.00     |          |  |                            |
| GROUP 4       | 10.49              | .75                      | 1.00     |          |  |                            |
| GROUP 5       |                    |                          |          |          |  |                            |
| ZONE 6        | 9.63               | .75                      | 1.00     |          |  |                            |
| GROUP 1       | 9.78               | .75                      | 1.00     |          |  |                            |
| GROUP 2       | 9.90               | .75                      | 1.00     |          |  |                            |
| GROUP 3       | 9.79               | .75                      | 1.00     |          |  |                            |
| GROUP 4       | 9.53               | .75                      | 1.00     |          |  |                            |
| GROUP 5       |                    |                          |          |          |  |                            |
| ZONE 7        | 8.90               | .75                      | 1.00     |          |  |                            |
| GROUP 1       | 9.05               | .75                      | 1.00     |          |  |                            |
| GROUP 2       | 9.17               | .75                      | 1.00     |          |  |                            |
| GROUP 3       | 9.06               | .75                      | 1.00     |          |  |                            |
| GROUP 4       | 8.80               | .75                      | 1.00     |          |  |                            |
| GROUP 5       |                    |                          |          |          |  |                            |

#### CLASSIFICATION DEFINITIONS

GROUP 1 - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle  
GROUP 2 - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle  
GROUP 3 - Semi and/or pole trailers; winch fork and steel trucks; inlay wagons, dumpers, half trucks, speedace, euclids, and other similar equipment, a-frame and derrick trucks, float or low boy, distributor drivers and operators, tank wagon, semi-trailer  
GROUP 4 - Agitator and transit mix trucks  
GROUP 5 - Warehouseman

#### AREAS COVERED BY TRUCK DRIVERS ZONES

ZONE 3 - Franklin, Jefferson and St. Charles Counties  
ZONE 4 - Lincoln and Warren Counties  
ZONE 5 - Buchanan, Cass, Johnson and Lafayette Counties  
ZONE 6 - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Davies, DeKalb, Dent, Douglas, Gasconade, Greene, Henry, Hickory, Howard, Iron, Jasper, Laclede, Lawrence, Linn, Livingston, Macon, Madison, Marion, Miller, Missouri, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Saline, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Wayne, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster, and Wright Counties  
ZONE 7 - Adair, Atchison, Barry, Butler, Clark, Dunklin, Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer, Nevada, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney and Worth Counties



NC79-1056

SUPERSEDES DECISION

STATE: North Carolina  
COUNTIES: See below  
DECISION NUMBER: NC79-1056  
DATE: Date of Publication  
SUPERSEDES DECISION NO.: NC76-1062 dated May 21, 1976 in 41 FR 21119.  
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories).

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| \$5.50             | .55                      | 3% + .25 |          | 1/2 of 1%                  |
| 6.11               |                          |          |          |                            |
| 6.00               |                          |          |          |                            |
| 5.11               |                          |          |          |                            |
| 5.50               |                          |          |          |                            |
| 5.51               |                          |          |          |                            |
| 4.50               |                          |          |          |                            |
| 8.20               |                          |          |          |                            |
| 4.50               |                          |          |          |                            |
| 5.13               |                          |          |          |                            |
| 4.64               |                          |          |          |                            |
| 3.38               |                          |          |          |                            |
| 3.89               |                          |          |          |                            |
| 3.37               |                          |          |          |                            |
| 3.50               |                          |          |          |                            |
| 4.00               |                          |          |          |                            |
| 4.50               |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 6.00               |                          |          |          |                            |
| 6.00               |                          |          |          |                            |
| 3.35               |                          |          |          |                            |
| 5.13               |                          |          |          |                            |
| 5.31               |                          |          |          |                            |
| 4.06               |                          |          |          |                            |

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| \$5.25             |                          |          |          |                            |
| 4.05               |                          |          |          |                            |
| 4.15               |                          |          |          |                            |
| 5.51               |                          |          |          |                            |
| 4.36               |                          |          |          |                            |
| 3.75               |                          |          |          |                            |
| 4.11               |                          |          |          |                            |

POWER EQUIPMENT OPERATORS (Cont'd)  
Cranes, derricks, draglines  
Disintegrators  
Loaders, front end  
Motor graders  
Rollers  
Scrapers & Pans  
Screeds

SUPERSEDES DECISION

STATE: North Carolina  
COUNTIES: See below  
DECISION NUMBER: NC79-1057  
DATE: Date of Publication  
SUPERSEDES DECISION NO. NC77-1018 dated February 11, 1977 in 39 FR 18397.  
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| \$4.54             |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 4.90               |                          |          |          |                            |
| 5.01               |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 3.00               |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 5.88               |                          |          |          |                            |
| 4.73               |                          |          |          |                            |
| 4.75               |                          |          |          |                            |
| 4.49               |                          |          |          |                            |
| 5.50               |                          |          |          |                            |
| 5.00               |                          |          |          |                            |
| 3.50               |                          |          |          |                            |
| 4.93               |                          |          |          |                            |
| 4.75               |                          |          |          |                            |
| 4.25               |                          |          |          |                            |
| 3.75               |                          |          |          |                            |

Burke, Catawba, Cleveland, Lincoln, Polk, and Rutherford

AIR CONDITIONING/HEATING  
MECHANICS  
BRICKLAYERS  
CARPENTERS  
CARPET INSTALLERS  
CEMENT MASONS  
ELECTRICIANS  
INSULATION INSTALLERS  
LABORERS  
PAINTERS, Brush  
PLASTERERS  
PLUMBERS & PIPEFITTERS  
ROOFERS  
SHEET METAL WORKERS  
SOFT FLOOR LAYERS  
TILE SETTERS  
TRUCK DRIVERS

WELDERS - Rate for craft.  
POWER EQUIPMENT OPERATORS:  
Backhoes  
Bulldozers  
Loaders  
Scrapers - Pans



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FRIDAY, MARCH 30, 1979

PART III



DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE

Office of Education

STRENGTHENING  
DEVELOPING  
INSTITUTIONS PROGRAM

Final Rules and Closing Date for  
Transmittal of Grant Applications  
for Fiscal Year 1979



[4110-02-M]

## Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION,  
DEPARTMENT OF HEALTH, EDUCA-  
TION, AND WELFAREPART 169—STRENGTHENING DEVEL-  
OPING INSTITUTIONS PROGRAM

## Final Rules

AGENCY: Office of Education, HEW.  
ACTION: Final Regulations.

**SUMMARY:** The Commissioner of Education issues regulations for the Strengthening Developing Institutions Program, Title III of the Higher Education Act. These regulations reflect new policy that will improve the administration of the program. The regulations establish the rules under which the Commissioner of Education—

(1) Determines whether an institution of higher education qualifies as a developing institution;

(2) Selects those developing institutions that will be awarded Title III assistance.

**EFFECTIVE DATE:** These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the *FEDERAL REGISTER*. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

## FOR FURTHER INFORMATION CONTACT:

Dr. Edward J. Brantley, Division of Institutional Development (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: 202-245-2418.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

Under Title III of the Higher Education Act of 1965, the Commissioner of Education assists developing institutions of higher education to strengthen their academic quality and administrative capacity. The Strengthening Developing Institutions Program has been funded since FY 1966.

## HIGHLIGHTS

These regulations explain the purposes of the program and describe the characteristics the Commissioner looks for in determining whether an

## RULES AND REGULATIONS

institution of higher education should be classified as developing.

Some of the eligibility characteristics that the Commissioner considers are as follows:

1. Whether an applicant institution has the desire and potential to make a special contribution to the higher education resources of the Nation, and whether it is making a reasonable effort to meet that objective.

2. Whether an applicant has taken steps to ensure its survival. If there is evidence of certain conditions that might be regarded as impediments to an institution's survival, the institution explains what it has done to improve those conditions.

3. Whether an applicant institution was receiving Title III funds in 1978.

The regulations describe in detail the types of awards that the Commissioner makes: Cooperative arrangement grants, National Teaching Fellowships, and Professor Emeritus Grants.

There are two types of cooperative arrangements—bilateral and consortium. The regulations describe conditions that participants in a consortium must meet. They explain how the duration of cooperative arrangement grants may vary from one to five years, depending on the type of activity for which an applicant requests Federal assistance.

The regulations specify—

- (a) Activities for which an institution may request Federal funds;
- (b) Priorities of the program; and
- (c) Costs to which the institution may apply title III assistance.

## SELECTION

The regulations also describe the methods the Commissioner applies in determining whether a developing institution should receive Federal financial assistance. The fact that an institution is classified as developing does not automatically entitle it to assistance.

The regulations describe how successful applicants are selected for awards by—

Explaining the Commissioner's use of reviewers to examine applications and recommend ratings to the Commissioner;

Listing application review criteria and indicating the maximum number of points that may be awarded for each criterion, according to the relative importance of that criterion as determined by the Commissioner;

Describing how certain applicants are selected for further consideration after initial screening procedures;

Listing additional criteria, with respective maximum points, in rating those applicants' relationship to program priorities and institutional characteristics; and

Describing methods for overall ranking and final selection.

## CHANGES

These regulations introduce certain changes from previous regulations governing this program.

In specifying the characteristics the Commissioner looks for to determine whether an institution of higher education should be classified as developing, the regulations include two quantitative criteria on which an applicant institution is ranked:

(a) Average educational and general (E&G) expenditures per full-time equivalent (FTE) student; and

(b) Average Basic Educational Opportunity Grant (BEOG) award per FTE undergraduate student.

In another change, the regulations require an institution seeking designation as developing to demonstrate that it is making a constructive effort to strengthen itself.

These regulations establish a single program—rather than the previous two separate programs—under title III. The single program concept recognizes the infinite variety of strengths and weaknesses of institutions. Thus, each applicant may request funds based on its respective needs. The focus of the activities for which an applicant seeks Federal financial assistance determines the size and duration of the grant for which the Commissioner may consider that applicant.

The use of weighted selection criteria and specification of how applications will be ranked is new in these regulations. This will permit more objective grantee selection. The regulations identify the factors used in evaluating the quality of each application and establish the maximum number of points that the Commissioner may award each factor. By providing greater weights for higher priority purposes, the regulations also encourage an applicant institution to focus on the achievement of program goals.

Other than an assisting agency or institution, each institution participating as an applicant in a consortium under this program must be a developing institution as defined in these regulations.

In the section on funding limitations, the regulations address the relationship between title III funding and policies related to the decree in the *Adams vs Califano* case, not previously addressed by regulations. The *Adams vs Califano* decree requires the dismantling of segregated public systems of higher education in accordance with approved State plans.

A Notice of Proposed Rulemaking was published in the *FEDERAL REGISTER* on November 2, 1978 (43 FR 51260-51265). Interested persons were given 60 days in which to submit written

comments, suggestions, or objections. In addition, public meetings were held in Washington, D.C.; Bronx, N.Y.; New Orleans, Louisiana; El Paso, Texas; Los Angeles, California; and St. Louis, Missouri.

## SUMMARY OF COMMENTS AND RESPONSES

The following is a summary of the written and oral comments received on the Notice of Proposed Rulemaking and the response of the Office of Education to these comments. Comments are arranged in the order of the regulatory sections to which they pertain.

## SECTION 169.1 PROGRAM AND REGULATION PURPOSES

**Comment.** One commenter stated that the phrase "serving a significant number of economically deprived students" (§ 169.1(a)(4)) is much too general and that the word "serving" should be deleted and in its place inserted "enrolling and graduating."

**Response.** The recommended change has been made.

**Comment.** A commenter took the position that there is no provision in the title III legislation requiring a college to serve a significant number of economically deprived students and that until legislation makes this a priority, it should be dropped.

**Response.** No change is made. The Office of Education considers education of economically and academically deprived students to be characteristic of institutions that are struggling for survival and isolated from the main currents of academic life. Use of indexes to determine the extent to which colleges are serving those students is an appropriate way to identify the colleges and universities that will be considered eligible for title III funding.

**Comment.** An advisory committee stated that the historically black colleges "were the intended beneficiaries of this title of the Higher Education Act of 1965," and that title III should be targeted, therefore, for the historically black colleges.

Another commenter stated that the ordering of program purposes is inadequately supportive of the needs for institutions serving Hispanics and other minorities.

**Response.** While colleges serving Native American, Spanish-speaking, and black students have been funded regularly under title III, no specific targeting is possible under the current legislation in view of silence on this point in the legislation.

## SECTION 169.3 ALLOCATION OF FUNDS BETWEEN TWO-YEAR AND FOUR-YEAR INSTITUTIONS

**Comment.** Commenters suggested that the allocation for four-year and two-year colleges be changed to 50-50, 60-40, or 65-35.

## RULES AND REGULATIONS

A commenter stated that the allocation inadequately reflects the growth of the significance of two-year institutions for Hispanic and other minorities.

Another commenter stated that there is a significant difference between the 1975 regulations and the proposed regulations in the phrasing about the allocation of funds for two-year colleges.

**Response.** No change has been made in the percentage of the appropriation allocated for junior and community colleges. The percentage is statutory. The statement that "the Commissioner allocates 24 percent to junior and community colleges" is based on the statute, which provides 24 percent as both a minimum and maximum amount available for two-year colleges.

## SECTION 169.4 FUNDING LIMITATIONS

**Comment.** Sections 169.4(b) and 169.4(c)(2) require that institutional proposals be consistent with State plans in cases in which those plans exist. One respondent was concerned that these sections might have a negative impact on historically black colleges because State plans traditionally have not taken into consideration the special needs of historically black institutions.

**Response.** No change has been made. The Commissioner has considered the special needs of traditionally black institutions in the past and will continue to do so when making future awards. The Secretary, in connection with legal proceedings, has accepted some State plans designed to dismantle dual systems of higher education. Those plans promise to strengthen and enhance traditionally black institutions as a part of the desegregation process. The Commissioner will not provide support for programs that are inconsistent with a State's commitment to enhance traditionally black institutions and eliminate segregated attendance patterns.

## SECTION 169.11 GENERAL RULES [FOR DESIGNATION AS A DEVELOPING INSTITUTION]

**Comment.** One commenter stated that the Office of Education should notify a college of its eligibility as a developing institution eight to twelve weeks before receipt of applications.

**Response.** A change has been made to remove the requirement that all requests for designation as developing be submitted eight weeks before the announced deadline for receipt of applications. Removing this requirement will permit colleges maximum flexibility in submitting a request at the earliest feasible time. The Commissioner encourages potential applicant institutions to request determination of de-

veloping status early enough to receive that determination in advance of their initiating development of the grant request.

## SECTION 169.12 DESIGNATION AS A DEVELOPING INSTITUTION

**Comment.** One commenter stated that the effect of classification on providing waivers of matching requirements under other programs was erroneously omitted from the regulations.

**Response.** No change is required. The waivers referred to are statutory and are regulated through the pertinent programs.

**Comment.** A commenter recommended requiring in § 169.12(c) that institutions demonstrate service to "a particularly large percentage of economically deprived and educationally disadvantaged students."

**Response.** No change has been made. Studies tend to show a high proven correlation between the two groups. The Office of Education chose to use the term "economic disadvantage," which we can easily measure.

**Comment.** A commenter recommended that § 169.12(a)(4) and § 169.16 be modified to permit a waiver if it would increase higher educational opportunities for Blacks, as well as for Indians or Spanish-speaking people.

**Response.** No change has been made. The waiver benefits are statutory.

**Comment.** The commenter stated that requiring a college in § 169.12(b)—and, also, by reference in § 169.12(d)—to show that constructive steps have been taken over the past three years to improve its fiscal status is unnecessary and duplicative of the responsibilities of accrediting agencies. A similar comment was made by the same commenter about § 169.15(a) (1) and (2), which, he felt, duplicated tasks performed by accrediting bodies.

**Response.** A change was made in § 169.12(b) to focus more directly on corrective steps that have been taken. The statute defines a developing institution, in part, as one that is struggling for financial and other reasons and that, also, is making a reasonable effort on its own to meet its mission and accomplish its goals. The college should have this opportunity to state its case, particularly since accreditation self-study and determination are not made annually. The Office of Education does make use of assessments by nationally recognized accrediting agencies to determine accreditation status.

**Comment.** A commenter stated that the language in § 169.12(d) and § 169.18(c) is identical, requiring duplicative information.

**Response.** The duplicative language has been deleted from § 169.12(d).



## SECTION 169.13 ELIGIBLE INSTITUTIONS OF HIGHER EDUCATION

*Comment.* We received three comments about the minimum requirements for designation of a branch campus as a developing institution. One commenter objected to the restrictive language, feeling that a "substantially autonomous branch campus" or "relatively autonomous institution of higher education with substantial independence" should be considered eligible as a developing institution.

A second commenter, representing a four-campus State system, remarked that only one of its four campuses would be qualified for funding, although all four have "the same problems, deficiencies, and concerns."

A third commenter feared that this section may adversely affect the merger of branch campuses of other institutions under the HEW criteria for desegregating State systems.

*Response.* No change has been made. The regulations set out the characteristics necessary to ascertain that a branch campus is, in fact, a distinct institution of higher education and eligible to participate, independent of its parent campus, in title III programs. The regulations neither encourage nor discourage the independence of branch campuses from the parent institution. The criteria for judging the status of a branch campus are verifiable and should not be altered.

## SECTION 169.16 FIVE-YEAR REQUIREMENT

*Comment.* A commenter strongly recommended that criteria, information, and guidelines be published to assist an institution in preparing documentation for application as a developing institution, as well as for the waiver of the five-year accreditation period.

*Response.* No change has been made in the regulations. However, the information referred to has been published in the application package. A separate form was included in the application package for requesting designation as developing and for the waiver of the five-year period. This form, with guidelines, will be separately distributed for future applications for funding.

## SECTION 169.17 STRUGGLING FOR SURVIVAL AND ISOLATED FROM THE MAIN CURRENTS OF ACADEMIC LIFE

*Comments.* Most of the questions raised about the regulations centered on the two quantitative criteria to be used to determine, in part, eligibility as a developing institution. These general comments may be grouped as follows:

1. Those that asked OE to state the rationale for using these two criteria

## RULES AND REGULATIONS

as a basis for eligibility and for weighting BEOG per FTE student.

2. Those that urged OE to use last year's eligibility criteria, which included more institutional-type measures.

## RESPONSE TO GENERAL COMMENTS

1. A number of other indexes have been researched to determine those that best identify the types of institutions that, the Commissioner feels, meet the original Congressional intent of "struggling for survival for financial or other reasons" and "isolated from the main currents of academic life."

Relatively low operating expenditures per full-time equivalent student is the best indicator we have of an institution that is out of the academic mainstream. Further, the size of Basic Grant disbursements per FTE student is the best single indicator we have to determine the economic status of students at an institution. Those colleges with small operating expenditures per student and concurrent large Basic Grant disbursements per student have proven to be struggling for survival.

Given the current economic climate, many institutions that are clearly in the academic mainstream and have few low-income students also have financial problems. On the other hand, those with high percentages of low-income students will more than likely be concerned, also, with removing severe academic deprivation as will be neither in the academic mainstream nor financially secure.

2. No change has been made. The decision to publish new regulations for the title III program grew out of numerous concerns throughout the Office of Education and elsewhere that the title needed new regulations that more clearly focused the program through a defensible definition of a developing institution. The regulations of 1975 contained quantitative factors governing eligibility that were based on characteristics of grantees that participated in title III in academic year 1972-1973. Research had already shown such factors as faculty salary, volumes in the library, and even size as being not definitive in distinguishing among institutions. Therefore, to update the figures would not be satisfactory since the characteristics themselves are no longer thought to be pertinent.

*Comments on other Possible Criteria.* Several commenters stated that use of the two quantitative factors does not take into consideration variances attributable to regional or State conditions. They said that such conditions as geographic isolation, institutional size, or population served may not be reflected in the factors but may cause students to be underprivileged. One commenter suggested using the Student Eligibility Index as a criterion;

another, a State or regional economic index. A commenter suggested using the ratio of the average BEOG award per FTE student to the average student budget in order to "net out" large tuition differentials.

A commenter suggested adding a third criterion, that is, a ranking on the basis of percent of part-time students, giving institutions with the highest percentages the highest rankings. One commenter suggested using the academic preparation of the faculty as a criterion. Other suggestions included the following:

(a) Judging each institution on the basis of its past performance in using Federal funds, its need, and its plans.

(b) Using total campus-based student financial aid and BEOG per FTE.

(c) Using percent of full-time students receiving financial aid as a third criterion.

(d) Considering the institution's background and student characteristics.

(e) Analyzing institutional size and distribution of the minority population.

(f) Using criteria reflecting effectiveness of the institution's management procedures.

*Response.* No change was made, although the Office of Education conducted a number of studies in an attempt to identify other criteria. Some of the criteria reviewed are discussed below:

OE studied use of the Consumer Price Index (CPI) to adjust for regional factors but found that the CPI has no relevance as an across-region measure of cost of living.

The Bureau of Labor Statistics' Urban Family Budgets for Selected Urban Areas relates only to selected urban areas, not all urban areas and not non-urban areas. Furthermore, the household budget data do not accurately portray the cost of operating an educational institution.

Regional indexes and budgets do not take into account differences between areas within regions, for example between New York City and upstate New York. It also is not clear that faculty salaries, the largest part of E&G expenditures, would be higher in all high-cost areas or lower in low-cost areas.

OE also studied regional cost differences in Basic Grants and found that a student from a low-income region attending a higher-cost institution would have higher living costs and, thus, be entitled to a larger size BEOG award.

The inverse of the Student Eligibility Index (SEI) proves to be almost perfectly correlated with the BEOG award. This is reasonable because: The higher the SEI, the lower the BEOG award.

## RULES AND REGULATIONS

Using income levels or regionally adjusted income levels proved not to be feasible, since income levels do not take into account family size, amount of assets, and other indicators of need already calculated in BEOGs.

Different student financial aid data did not prove useful: SEOGs are too limited in terms of the number of eligible students. NDSL and CWS grants are less need-based than BEOGs. Many middle-income students qualify for those programs. In 1980 there will be no income limitation on Guaranteed Student Loans.

OE also considered, as one alternative measure, the average-unconstrained BEOG per FTE undergraduate to determine whether the BEOG "half cap rule" affected institutions' scores. The title III BEOG points scheme analyses showed the unconstrained BEOG and the actual BEOG to be almost perfectly correlated overall and when scores are compared within type and control considerations.

An institution can easily determine its BEOG disbursements. SEI or unconstrained BEOG awards could be used, but they would virtually yield the same results while being more difficult for the institution to report.

Some of the suggested criteria are not quantifiable and, therefore, impossible to index. These include academic preparation of the faculty, past performance or future plans of the institution, the institution's background, or effectiveness of management procedures.

OE compared two-year public institutions only with other two-year public institutions. Therefore, two-year institutions are not adversely affected because of a large part-time enrollment.

*Comment.* A commenter asked whether the norm used in establishing the quantitative criteria rests on applicant institutions and stated that, if so, there would be a large measure of chance in securing eligibility as a developing institution. Another commenter asked for clarification of the meaning of "similar institution."

*Response.* The norm does not rest on data from applicant institutions. The norm for the E&G criterion is based on all of the institutions in the country that have reported Higher Education General Information Survey (HEGIS) data. The norm for the BEOG criterion is based on all of the colleges in the country with BEOG student financial aid.

The regulations assign points based on the institution's percentile ranking on to quantitative criteria among all institutions of similar type and control: two-year public, two-year private, four-year public, and four-year private institutions.

*Comment.* A commenter asked that the scale converting percentile levels to rank points be published in the regulations or otherwise be made available.

*Response.* The conversion tables were given to persons attending the application workshops in 1978. In the future OE will publish the updated tables in the FEDERAL REGISTER as part of the notice of closing date for receipt of applications.

*Comments on Formula for Computations.* Several persons commented on the formulas for computing E&G expenditures and FTE students. The comments stated that:

1. The formulas should be made standard.

2. In using HEGIS definitions, OE should be specific about lines from that form to be included or excluded in the percentile determinations.

3. The formula should not discriminate against institutions with graduate programs.

4. The use of HEGIS definitions discriminates in that costs for noncredit programs are included in the E&G computation while the student count excludes the noncredit or noncurriculum enrollments.

5. Mandatory transfers should be excluded from E&G computations because they are not commonly accepted as E&G expenditures.

6. Municipal and county contributions to E&G should be counted in, or a number Hispanic institutions will be penalized for providing low-tuition education.

*Response on Formula for Computations.* No change has been made.

1. The title III application instructions standardize the computation for E&G expenditures and for FTE students by using the formula of HEGIS, since the HEGIS definitions and computations are already familiar to institutions of higher education.

2. The application form and guidelines are specific in the references to the lines on the HEGIS form to be included or excluded in computing E&G expenditures.

3. OE knows of no way that the formula discriminates against graduate programs. Title III, by definition, funds programs only to bachelor's degree or associate degree levels.

4. Guidelines for completing the 1979 application form, based on HEGIS definitions, included the count of students enrolled in non-degree programs.

5. E&G mandatory transfers are included in E&G computations to maintain the HEGIS standard throughout the financial and enrollment statistics.

6. State and local funds are counted as part of the E&G funds using HEGIS definitions.

*Comment.* A commenter requested that we change "second fiscal year preceding grant application" to "year preceding the grant application."

*Response.* No change has been made. Since the application date for title III funds may come early in the fiscal year, the "second fiscal year preceding grant application" as a data base is a practical solution. Particularly since OE must publish tables converting various levels of average E&G expenditure and BEOG award to points several months before the closing date for receipt of applications, the year stated as a data base is the earliest for which data will be available in the agency on which to base scoring tables.

*Comment.* A commenter asked why 174 points—rather than 150 or 200 points—were selected as the floor for quantitative eligibility as a developing institution.

*Response.* Since 150 points represents the average institution in the country, use of 150 points would not show any focus on a particular group of institutions. On the other hand, a cut-off of 200 points would be unduly delimiting.

*Comments on Requirements for Narrative.* Several commenters expressed displeasure with part or all of the requirement in § 169.17(e) that each institution supply to the Commissioner a narrative if one or more of certain conditions apply. One commenter said that the requirement is a fundamental intrusion of Federal officials deep into the internal affairs of colleges. Another expressed concern that the information would not be used in a positive and constructive manner. A third commenter stated that the requirement duplicates and intrudes on responsibilities of an accrediting agency or association.

Still another commenter stated that little weight should be given to an absolute decrease in enrollment in determining institutional eligibility. The commenter added that such a decrease may be due to a decrease in the normal college-age population, while a decrease in revenues may be the result of actions taken by public bodies over which the college has no control. Further, the reporting of a five percent decrease may work against black, private, or church-related institutions that title III was designed to serve.

*Response to Comments on Requirement for Narrative.* No change has been made. The requirement for the narrative is based on the statute. The Commissioner has a responsibility to exercise an informed judgment in awarding grants. Plans of the agency include technical assistance, if necessary, to help a college in financial straits or to suggest activities to strengthen the administration and management of a college in difficulty.



Especially in a program designed to strengthen colleges, any information secured will be used with compassion.

The information requested may be similar to that provided to accrediting agencies. However, with each application for title III funds, the Commissioner is called upon to decide on whether to fund an institution and for what activities. Making the analysis and forecast required here will help both the applicant institution and OE in making certain plans and decisions.

**Comment.** One commenter stated that nowhere in the regulations are there written guidelines delineating how a college may justify designation as a developing institution if it does not meet the quantitative requirements.

**Response.** The regulations state that an institution receiving fewer than 174 points may submit a written statement explaining why these two indicators do not sufficiently reflect its status as an institution struggling for survival for financial or other reasons and one isolated from the main currents of academic life. This provision is not an "appeal" in the legal sense; rather, it is an opportunity for colleges to submit their own data for "struggling" and "isolated" if the two published criteria do not fit.

**Comment on Effect of Eligibility Criteria on Participating Institutions.** The Office of Education received many comments suggesting that institutions previously funded under title III should continue to have the opportunity to compete for grants, at least for a limited period, even if they do not satisfy the new tests for meeting the "struggling and isolated" and "reasonable effort" requirements (§§ 169.17 and 169.18).

**Response.** The regulations have been changed to provide for continued eligibility. If an institution received a grant under title III in fiscal year 1978—or in a previous fiscal year for an Advanced Institutional Development Program grant for an award period ending on or after June 30, 1979—that institution continues to be eligible to compete for title III assistance as long as it meets the applicable statutory requirements, even if it does not meet the new tests.

This provision applies only to determinations of eligibility. Each institution must compete for funding with all other eligible institutions which apply. That competition is conducted under the criteria in the new regulations.

These changes will permit the Office of Education to consider projects proposed by currently funded applicants regardless of how these applicants fare under the new eligibility criteria. These changes will avoid an abrupt interruption of federally supported activities of importance to institutional

development and enable the Commissioner to consider these activities on their merits.

The institutions in question initiated their projects expecting that they would be able to compete for further assistance under the eligibility standards then in effect. While the Commissioner feels that the new eligibility criteria should be made final, the Commissioner believes that it would be counter to the purposes of the program and contrary to the public interest to bar currently funded institutions from competing for further assistance.

The Commissioner is mindful that the title III program will shortly be considered by the Congress in connection with reauthorization, legislation and that new eligibility standards may be legislated.

These changes in the proposed regulations partially defer the effective date of the new eligibility criteria and put currently funded institutions in the same position they would have been in if new eligibility criteria had not been established. The institutions will be eligible to compete for, but will not be guaranteed, new funds.

**Other Comments on Quantitative Factors.** A number of commenters felt that the use of E&G expenditures or the use of BEOG awards to identify institutions as developing is discriminatory.

1. Several commenters felt that the scale that uses the BEOG award per FTE student as a measure of institutional eligibility biases the rankings in favor of private colleges and against public colleges.

2. Several commenters felt that considering E&G expenditures works against small institutions with fixed costs, including the small private colleges, technical institutes, and comprehensive community colleges entailing large capital outlay and lower student-teacher ratios.

3. A commenter thought that the new rules favor weak colleges.

4. A commenter stated that average E&G expenditures, per FTE student discriminates against religious colleges whose faculty salaries are actually contributed services, including three in New Hampshire. Another commenter from New Hampshire feels that the criteria discriminate against colleges serving large numbers of middle-income students.

5. Several commenters felt that the criteria discriminate against colleges in remote rural areas including those in the Western states or border areas that necessarily have high average E&G expenditures.

6. Another commenter said that the criteria are biased against urban and Northern colleges.

7. Commenters thought that the regulations are biased against colleges offering high-quality programs; another saw bias against intermediate-size schools.

8. A commenter said that the criteria favor large institutions in rural and depressed areas offering introductory courses in large classes taught by part-time and less-than-fully-qualified-and-compensated faculty.

9. Several commenters stated that the regulations would disqualify a large number of two-year postsecondary institutions because of their geographic location and because their classes experience a lower student-teacher ratio than large institutions.

10. Several commenters stated that there is bias in the eligibility criteria against Indian institutions and against Hispanic institutions. A commenter also stated that "if E&G expenditures per student is accepted as one of the criteria . . . the title III program will cease to be a source of strengthening the historically black colleges."

11. Two commenters felt that the criteria are biased against women, since many are part-time students or are in rural areas.

#### RESPONSE TO OTHER COMMENTS ON QUANTITATIVE FACTORS

1. No change has been made. Use of the two factors clearly assists in defining a group of institutions "struggling for survival for financial and other reasons" and "isolated from the main currents of academic life." The overall number of institutions eligible under the regulations remains about the same; that is, about 1,000 colleges or roughly one-third of the institutions of higher education in the country.

2. As a whole, eligible institutions are much more evenly distributed across the Nation, although the largest number of qualifying institutions remains in the South.

3. The data base for the scoring system included all of the colleges reporting through the HEGIS system and all receiving BEOGs. Further, a two-year private institution is measured only against all two-year private institutions; a four-year private institution is measured against all four-year private institutions; and two-year public and four-year public colleges are measured, respectively, against similar types of institutions. The data, then, for particular institutions are already included in the data bases on which the scoring system was developed.

4. Should there be unique factors that must be taken into account—for, say, a two-year technical college or a particular State, like Alaska—the colleges involved should point out their unique situation in a narrative at the time of application for designation as

developing (§ 169.17(d)). They should explain what other indicators show that they are struggling institutions and are isolated from the main currents of academic life.

#### SECTION 169.18 DESIRE, POTENTIAL, AND REASONABLE EFFORT

**Comment.** A commenter pointed out that both in § 169.17(e) and in 169.18 a written narrative is required, describing activities over the past three years. The commenter asks whether one or two separate narratives are required.

**Response.** Two separate statements are required. However, we have deleted two sentences from § 169.17(e) which seemed duplicative of the requirements under *Reasonable effort*.

**Comment.** Several commenters suggested that a value of not less than 50 percent of the quantitative points be assigned to the narrative to assist in maintaining the integrity of the procedure to determine eligibility. Another commenter stated that this section should include the process by which the narrative portion of the request will be evaluated; that is, by OE staff, consultants, or review panels. Further, he asked that the regulations specify criteria by which the narrative will be judged and state a relative weight for the narrative.

**Response.** Section 302(a)(1)(D) of the statute mandates that an institution meet the requirements of the regulations, including a determination that an institution "is making a reasonable effort . . ." This being the case, the Commissioner decides whether an institution is making a reasonable effort and whether, therefore, it meets this part of the requirement.

At present we expect that the narrative will be evaluated by OE staff with appropriate advice from outside consultants if necessary.

**Comment.** A commenter asked how colleges that have little to spend on the education of students can also be expected to demonstrate fiscal stability and academic quality. He states that "the Commissioner of Education will never be given a more formidable task than having to attempt to discern whether or not an institution is seriously attempting to improve its administrative capacity and academic quality."

**Response.** The requirement is statutory. At least in part the analysis by an institution of its unfavorable conditions (§ 169.17(e)) and of its steps to improve itself will be a useful process for the institution and helpful in guiding the Commissioner's decision.

#### SECTION 169.21 INTRODUCTION (TYPES OF AWARDS)

**Comment.** A commenter thought that the proposed rules reverted to the concept of the Basic Institutional

Development Program of single-year awards. He asked that the flexibility of multiple-year funding be retained.

**Response.** Section 169.33, *Duration of cooperative arrangement grants*, specifies that an applicant may receive a grant of one, two, three, four, or five years, duration. Each award is fully funded from a single fiscal year's appropriation.

#### SECTION 169.22 COOPERATIVE ARRANGEMENTS

**Comment.** A commenter recommended that a legally incorporated, non-profit consortium of colleges be considered an eligible recipient of an award and that definitions of consortium eligibility be provided accordingly.

**Response.** No change has been made. By statute, grants under title III are awarded to "developing institutions," which, for purposes of the title, means "an institution of higher education in any State . . ." Therefore, no organization that is not an institution of higher education may be a legal grantee.

**Comment.** A representative of an advisory committee requested the addition of a sentence as § 169.22(b)(2)(vi): "No institution is compelled to join any consortium."

**Response.** A change has been made in § 169.22(b)(2)(i) to add the concept of voluntary participation in consortia.

**Comment.** A commenter stated that it is impossible to require a participating college to accept all services offered in a consortium. The person recommended dropping the statement that each participating institution "shall receive services in proportion to its share of the grant."

**Response.** No change has been made. Each college does not necessarily receive the same services or, therefore, have exactly the same budgeted amount. However, funds must result in services at each institution in proportion to its share in the grant award.

**Comment.** The question was raised as to what remedies are available to a consortium to choose a new coordinating college, especially if the coordinating institution is not eligible.

**Response.** Participants are free in developing the consortium to select any institution they wish as the applicant and coordinator. Participants should make every effort to be certain that the institution chosen as the applicant is, in fact, a developing institution.

#### SECTION 169.23 NATIONAL TEACHING FELLOWSHIP GRANT

**Comment.** Two commenters mentioned that the regulations are limited to graduate students not at the developing institutions. Two commenters also requested that the stipend for Na-

tional Teaching Fellowship grants be raised, if possible, to \$15,000 from \$7,500.

**Response.** No change has been made. The statute sets the amount of the allowance for the fellows and for dependents. Further, the statute clearly implies that the NTFs are to be awarded to persons at an institution who will then go to teach at a developing institution.

**Comment.** A representative of a women's organization asked that an item be added as § 169.23(b)(3) that would say, "For women graduate students or junior faculty members who have not had the benefit of similar professional development opportunities."

**Response.** No change has been made. The statute does not support inclusion of this statement in the title III regulations. Two comments may be pertinent here:

1. All title III grantees are required to comply with applicable civil rights statutes, including title VI and title IX.

2. The purpose of § 169.23 is not the professional development of an NTF, but the assistance the NTF can provide to an institution.

#### SECTION 169.23 PROFESSOR EMERITUS GRANT

**Comment.** A commenter asked that the Professor Emeritus Grant be available for the services of one of the retired professors of the grantee developing institution.

**Response.** No change has been made. The statute clearly implies that the Professor Emeritus Grant is to be awarded to persons retired from another institution who will then go to teach or conduct research at a developing institution.

#### SECTION 169.31 ALLOWABLE ACTIVITIES

**Comment.** Five persons commented that "institutions in the title III program should be required to implement a planning, management, and evaluation system that will permit them to make effective use of the funds granted to them and to measure progress."

**Response.** No change has been made. Development of a planning, management, and evaluation capability is already an allowable activity under § 169.31(d)(5). Improve administrative services and fiscal management.

**Comment.** A commenter stated that developing and training personnel specializing in institutional advancement should be specified as an allowable activity. The commenter felt that since the training of fund development officers has been allowed in the past under title III, a failure to mention that activity specifically could be construed to mean that it no longer is allowable. Another commenter asked



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SECTION 169.51 INTRODUCTION  
(GRANTEE SELECTION)

that direct fund raising be an allowed activity.

*Response.* No change has been made. The training of fund development officers is an authorized activity (§ 169.31(d)(5)). Direct fund raising conflicts with administrative and fiscal limitations in the regulations of the administrative General Provisions for Office of Education Programs.

SECTION 169.33 DURATION OF  
COOPERATIVE ARRANGEMENT GRANTS

*Comment.* The chairman of a national advisory committee requested that language be added to permit reapplications at the end of any grant period or during an existing grant period to continue to strengthen an institution. This statement would make clear, the commenter said, that schools in need can reapply.

*Response.* A change has been made through the addition of § 169.33(e). This paragraph allows further assistance under title III at the end of a grant period and, through consortia, during an existing grant.

SECTION 169.41 SUBMISSION OF  
APPLICATIONS

*Comments.* Several persons commented on the short time between the end of the comment period and the due date for applications. One commenter thought that the deadline date should be announced one year in advance. Another thought that the closing date for receipt of applications should be set after final regulations are published. Other commenters thought that title III should not be overhauled on the eve of reauthorization and prior to release of the GAO report on the Strengthening Developing Institutions Program.

*Response.* None of the recommendations could be accepted this year if the grants were to be awarded during fiscal year 1979 and in time for the next academic year. OE operated within the law and with precedent to accept and rate applications based on proposed regulations. Final regulations must be signed by the Secretary and transmitted to the Congress for review 45 calendar days before grants may be awarded under the new regulations. By that time the Congress will have reviewed the GAO report, which OE already considered in draft form in developing the regulations.

Since 1975 regulations, based on 1972-73 data, are not usable for determining developing status of an institution, it was not defensible to wait another two years until reauthorization of the title an subsequent development of new regulations.

*Comment.* The commenter asked how the U.S. Office of Education will obtain existing public records concerning an applicant institution.

*Response.* Data and records concerning an institution, including some external evaluation and site visit reports, are available in various program files in OE, in Grants and Procurement Management files, in the HEQS system, in Student Financial Assistance records, and in the Finance Office. This section of the regulations clarifies that information available to the Commissioner may be used to assist in making a funding determination.

SECTION 169.52 APPLICATION REVIEW  
CRITERIA AND USE OF REVIEWERS

*Comment.* A commenter stated that mission and goals statements are sometimes very general and may not reflect the specific needs of a particular college's constituency. The example given was North Carolina, where the same mission statement is incorporated in the legislation establishing all of the public junior and community colleges in the State.

*Response.* Unless the legislation forbids refining the mission statement to reflect the specific needs of the constituents, the Commissioner still thinks it is appropriate and necessary for a college community to rethink its mission, within the institution's charter, and how best to accomplish that mission.

*Comment.* A commenter recommended adding 20 points for an institution serving low-income minority students and adjusting the points downward for the other criteria.

*Response.* No change has been made. The 100 points in § 169.52 are awarded solely on the quality of an application. In the designation of an institution as developing, in the rating for priorities, and in the bonus points, the Commission already considers the commitment of the institution to serving educationally disadvantaged students.

*Comment.* Several commenters expressed concern or suggested language for ensuring that reviewers include appropriate representation of both sexes and of racial and ethnic minorities appropriate to the target institutions.

*Response.* Other regulations governing the award of grants and contracts already required proper mix and representation among reviewers.

*Comment.* A commenter suggested use of a method to ensure "inner panel reliability" in the review of applications.

*Response.* OE is planning a method to assist in increasing the inner reliability of the ratings by the several readers.

*Comment.* A commenter suggested that there should be separate application rating priorities for consortia.

*Response.* OE feels that the review criteria are appropriate to cooperative arrangement grants and consortia. Should experience prove otherwise, the Commissioner will consider separate criteria in a subsequent revision to the regulations.

*Comment.* A commenter asked whether any plan for continuation of proposed activities after a grant ends is based on anything other than good faith (§ 169.52(b)(7)).

*Response.* Institutions would do well to consider how an activity can be continued after a grant ends. Some colleges have found that raising this question seriously early in the planning for the grant is helpful in so shaping recruitment, hiring, and fund development that funds for continuation are assured.

*Comment.* A commenter asked if OE can be more specific about what criteria determine whether the proposed cost of a project is reasonable and realistic (§ 169.52(b)(8)).

*Response.* Naturally, informed judgment must be used for the Commissioner to make a determination of the amount of money to award for a particular activity. Readers will depend on professional judgment and experience. OE staff will consider, also, estimated absorptive capacity of an institution and past experience with the institution. There is no very objective or definitive guidance available that would be pertinent for every situation.

SECTION 169.53 RATING FOR PROGRAM  
PRIORITIES

*Comments.* Several persons commented or raised questions about the section now numbered § 169.53(b), specifically:

1. Section 169.53(b)(3) should be deleted; tying together title III and title IV (student financial aid) programs is inappropriate.

2. In connection with this section, is preference being given to colleges that have had previous title III or other Federal grants?

3. By what method will points be assigned?

4. Should the Commissioner not also have the opportunity to give demerits to institutions that have previously failed to use public monies well?

5. The points are insufficiently supportive of institutions serving large numbers of Hispanic and other minorities.

6. Black institutions may be penalized through failure to qualify for bonus points.

*Response.* No change has been made. The several ratings take into account quality of the application (§ 169.52); program priorities addressed

(§ 169.53(a)); and institutional characteristics (§ 169.53(b)). The rating system is interrelated and balanced. It does not discriminate against nor unduly support any group of institutions. It does not give preference to or discriminate against colleges with previous Federal grants.

The Commissioner prefers to withhold points rather than assign demerits.

Points will be assigned after review and consideration of the recommendations from several independent and unbiased readers.

SECTION 169.54 OVERALL RANKING AND  
SELECTION

*Comment.* A commenter suggested that the Commissioner set some percentage division for grants between public and private institutions so that grants will be equitably distributed.

*Response.* The set-aside for two-year colleges is statutory. There is no statutory provision for an allocation between public and private colleges. However, there are many more four-year private institutions than four-year public institutions eligible for title III. On the other hand, there are more two-year public than two-year private institutions. Any final slate would more than likely reflect this distribution within the universe of institutions of higher education.

## MISCELLANEOUS COMMENTS

*Comment.* One person asked what percentage of the funds will be set aside to cover previously awarded Advanced Institutional Development Program (AIDP) grants.

*Response.* (AIDP) grants were totally funded out of current year appropriations; therefore, no funds need be set aside to cover previous (AIDP) grants.

*Comment.* Several persons questioned the fact that the regulations include no reference to the Advisory Council on Developing Institutions or to certain other provisions of the law.

*Response.* The regulations augment the statute if necessary but do not replace it. One interested in the Strengthening Developing Institutions Program, therefore, should have access to and refer to the Higher Education Act, especially title III, and to the Office of Education's Administrative and fiscal regulations, as a minimum. Provisions of the law that do not require clarification or definition have not been repeated in the regulations.

## TECHNICAL CHANGES

A number of technical and editorial changes have been made in the final regulations. The more important of these are as follows:

## RULES AND REGULATIONS

SECTION 169.5 GENERAL PROVISIONS  
REGULATIONS

A sentence has been added to clarify the relationship between funding criteria in these regulations and in the regulations of the General Provisions for Office of Education Programs (45 CFR Part 100A).

SECTION 169.17 STRUGGLING FOR SURVIVAL AND ISOLATED FROM THE MAIN  
CURRENTS OF ACADEMIC LIFE

Changes have been made in § 169.17(c)(4) to update the reference in the example.

(d) The points required to meet quantitative requirements have been changed from 175 to 174 for rounding purposes.

Section 169.17. The subparagraph designation "(d)" has been added but no substantive narrative was added.

Section 169.17(e). Some words have been deleted from the original first sentence because the words duplicated the requirement in the reasonable effort narrative (§ 169.18).

SECTION 169.23 NATIONAL TEACHING  
FELLOWSHIP GRANT

The words "highly qualified," as applied to graduate students, were added. The modifier appears in the statute.

SECTION 169.52 APPLICATION REVIEW  
CRITERIA AND USE OF REVIEWERS

The word "reviewer" has been substituted for "review panel" in this section and throughout.

SECTION 169.53 RATING FOR PROGRAM  
PRIORITIES

The previous opening sentences have become § 169.52(c). The opening sentence has been slightly modified in subparagraph § 169.52(a), and the other paragraphs have been renumbered. Section 169.53(a)(3) was incorrectly printed in the Notice of Proposed Rulemaking. The correct text allows points for increasing "upward mobility or employment opportunities for students and expand(ing) opportunity for graduate and professional study."

Section 169.53. Designation of subparagraph (b) was added at the point of discussion of 25 institutional points that may be awarded in the rating process.

Dated: March 12, 1979.

ERNEST L. BOYER,  
U.S. Commissioner  
of Education.

Approved: March 22, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.454, Strengthening Developing Institutions)

Part 169 of Title 45 of the Code of Federal Regulations is amended to read as follows:

## PART 169—STRENGTHENING DEVELOPING INSTITUTIONS PROGRAM

## Subpart A—General Information

Sec. 169.1 Program and regulation purposes.  
169.2 Definitions.  
169.3 Allocation of funds between two-year and four-year institutions.  
169.4 Funding limitations.  
169.5 General provisions regulations.

Subpart B—Criteria for Designation as a  
Developing Institution

169.11 General rules.  
169.12 Designation as a developing institution.  
169.13 Eligible institutions of higher education.  
169.14 Legal authorization for educational program.  
169.15 Accreditation status.  
169.16 Five-year requirement.  
169.17 Struggling for survival and isolated from the main currents of academic life.  
169.18 Desire, potential, and reasonable effort.

## Subpart C—Types of Awards

169.21 Introduction.  
169.22 Cooperative arrangements.  
169.23 National Teaching Fellowship grant.  
169.24 Professor Emeritus Grant.

Subpart D—Scope and Duration of Grants for  
Cooperative Arrangements

169.31 Allowable activities.  
169.32 Allowable costs.  
169.33 Duration of cooperative arrangement grants.

## Subpart E—Application Procedures

169.41 Submission of applications.

## Subpart F—Grantee Selection

169.51 Introduction.  
169.52 Application review criteria and use of reviewers.  
169.53 Rating for program priorities.  
169.54 Overall ranking and selection.

AUTHORITY: Sec. 301-306 of Title III of the Higher Education Act of 1965, as amended (20 U.S.C. 1051-1056), unless otherwise noted.

## Subpart A—General Information

§ 169.1 Program and regulation purposes.

(a) Under the authority of Title III of the Higher Education Act of 1965, the Commissioner assists selected higher education institutions to strengthen their academic quality, administrative capacity, and student services. These institutions are called developing institutions because—



(1) They are struggling for survival;  
(2) They are isolated from the main currents of academic life;

(3) They possess the desire and potential to make a substantial and distinctive contribution to the higher education resources of the Nation;

(4) They are distinguished from other institutions of higher education by enrolling and graduating a significant number of economically deprived students; and

(5) They are making a reasonable effort to improve the quality of their programs.

(b) The purpose of the title III assistance is to further strengthen the capacity of these institutions to make a substantial contribution to American higher education by improving their—

(1) Academic program;  
(2) Administrative and management capability;

(3) Student services; and

(4) Fiscal stability.

(c) The purpose of these regulations is to establish the rules under which the Commissioner determines whether an institution of higher education qualifies as an eligible developing institution and selects those developing institutions that will be awarded title III assistance in a particular fiscal year.

(20 U.S.C. 1051, *et seq.*)

#### § 169.2 Definitions.

As used in these regulations—

"Academic year" means the period of the annual instructional session of an institution of higher education, such as two semesters, three quarters, or two trimesters;

"Act" means the Higher Education Act of 1965, as amended;

"Applicant" means an institution of higher education that applies for assistance under title III;

"Commissioner" means the U.S. Commissioner of Education or his or her designee;

"Institution of higher education" means an educational institution as defined in Section 1201(a) of the Act;

"Public," as used to describe an institution of higher education, means under the control of a State or local governmental body;

"State" means any one of the States in the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; and

(20 U.S.C. 1141(b))

"Title III" means the Strengthening Developing Institutions Program as authorized under title III of the Act.

(20 U.S.C. 1051-1056)

#### § 169.3 Allocation of funds between 2-year and 4-year institutions.

The Commissioner allocates 76 percent of each fiscal year's appropriation for title III to institutions awarding bachelor's degrees and 24 percent to junior and community colleges.

(20 U.S.C. 1051(b))

#### § 169.4 Funding limitations.

(a)(1) No funds may be used under this part for activities that are inconsistent with the purpose of moving a grantee institution into the main currents of academic life.

(2) The Commissioner considers any activity that impedes the elimination of, or establishes, segregated attendance patterns at that institution as inconsistent with the purpose stated in subparagraph (1) of this paragraph.

(b) No funds may be used for activities, such as curriculum development or faculty improvement, that are inconsistent with a State plan for higher education applicable to that institution.

(c) Each developing institution receiving a title III grant shall assure that any activity funded under title III will not—

(1) Establish, increase, or impede the elimination of segregated attendance patterns at that institution; or

(2) Be inconsistent with a State plan for higher education applicable to that institution.

(20 U.S.C. 1051-1056)

#### § 169.5 General provisions regulations.

Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, and other matters, except for the funding criteria). The funding criteria in § 169.52 of these regulations are used in place of the Subchapter A funding criteria.

(20 U.S.C. 1051-1056)

#### Subpart B—Criteria for Designation as a Developing Institution

##### § 169.11 General rules.

(a) To be considered for funding under title III an institution of higher education must be designated by the Commissioner as a "developing institution."

(b) An institution that is not designated as a developing institution may reapply for designation as a developing institution in a subsequent year.

(c) An institution shall submit a request for designation as a developing institution prior to or at the time of submission of an application for funding under title III.

(d) Designation of an institution as developing does not guarantee that the Commissioner funds the institu-

tion's application. The Commissioner decides whether to fund a developing institution's application for title III assistance on the basis of procedures set out in Subpart F, "Grantee Selection."

(e) The Commissioner reviews the status of an institution as a developing institution before awarding any title III funds to the institution and notifies the institution of the determination.

(f) If the Commissioner determines that the institution is not a developing institution based on the criteria in the subpart, the Commissioner notifies the institution of the basis for the determination.

(20 U.S.C. 1051, 1052)

#### § 169.12 Designation as a developing institution.

The Commissioner designates an institution as a developing institution if it meets each of the following criteria, with the exceptions stated in §§ 169.17(f) and 169.18(e):

(a) First, an institution must—

(1) Be an eligible institution of higher education (§ 169.13);

(2) Provide an educational program authorized by the State in which it is located (§ 169.14);

(3) Have achieved appropriate accreditation status (§ 169.15); and

(4) Have met the requirements of subparagraphs (2) and (3) of this paragraph for five consecutive years, including the year in which the institution seeks designation as a developing institution. However, the Commissioner may waive this requirement in order to increase higher educational opportunities for Indians or Spanish-speaking people (§ 169.16).

(b) Second, an institution must document that—for financial or other reasons—it is struggling for survival, and it must show that it has taken corrective steps over the past three years to strengthen its fiscal status (§ 169.17).

(c) Third, an institution must demonstrate that it is out of the main currents of academic life by reason of serving a student body with a particularly high percentage of students who are economically deprived (§ 169.17).

(d) Fourth, an institution must have the desire and potential to make a substantial and distinctive contribution to the higher education resources of the Nation. The institution's mission and goals must clearly reflect that desire. The institution must also be making a reasonable effort to meet its mission and accomplish its goals through activities carried out over the past three years (§ 169.18).

(20 U.S.C. 1051, 1052)

#### § 169.13 Eligible institutions of higher education.

(a) To be designated as a developing institution, an institution must be an institution of higher education that—

(1) Awards a bachelor's degree; or  
(2) Is a junior or community college, as defined in section 302 of the Act.

(b) To be designated as a developing institution, a branch campus of a university or college must be a separate institution of higher education and be independent from the main campus. The branch campus must have accreditation status, budget control, and hiring authority all separate from the main campus.

(20 U.S.C. 1052(a)(1))

#### § 169.14 Legal authorization for educational program.

To be designated as a developing institution, an institution must provide an educational program that is legally authorized by the State in which it is located.

(20 U.S.C. 1052(a)(1))

#### § 169.15 Accreditation status.

(a) To be designated as a developing institution, an institution must be either—

(1) Accredited as a bachelor's degree-granting institution or as a junior or community college by a nationally-recognized accrediting agency or association; or

(2) Determined by the appropriate accrediting agency or association to be making reasonable progress toward accreditation.

(b) If an institution that is a junior or community college has changed to or merged with a bachelor's degree-granting institution, the institution must be accredited or be making reasonable progress towards accreditation in its new status.

(20 U.S.C. 1052(a)(1))

#### § 169.16 Five-year requirement.

(a) To be designated as a developing institution, an institution must have met the requirements of §§ 169.14 and 169.15, except as provided in paragraph (b), for five consecutive academic years, including the academic year in which the institution seeks designation as a developing institution.

(20 U.S.C. 1052(a)(1)(C))

(b) The Commissioner may waive all or part of the five-year requirement of paragraph (a) of this section in the following circumstances:

(1) If the Commissioner determines that the granting of a waiver for an institution will increase higher educational opportunities for Indians, the Commissioner may waive the five-year

requirement for an institution that is located on or near an Indian reservation or near a substantial population of Indians.

(2) If the Commissioner determines that the granting of a waiver for an institution will substantially increase higher educational opportunities for Spanish-speaking people, the Commissioner may waive three years of the five-year requirement.

(c) To apply for a waiver under either paragraph (b)(1) or (b)(2), an institution shall request and justify the granting of the waiver.

(20 U.S.C. 1052(a)(2))

#### § 169.17 Struggling for survival and isolated from the main currents of academic life.

(a) The Commissioner groups institutions applying for designation as developing institutions as follows: (1) Public bachelor's degree-granting, (2) public junior or community colleges, (3) private bachelor's degree-granting, and (4) private junior or community colleges.

(b) To be designated as a developing institution, the institution must be struggling for survival for financial or other reasons and be isolated from the main currents of academic life. In addition, the institution must be making a constructive effort to ensure that it will continue to survive.

(c) To assist in determining whether an institution is, in fact, struggling and isolated, except as provided in paragraph (f) of this section, the Commissioner awards points to the institution for its average educational and general (E&G) expenditures per full-time equivalent (FTE) student and for its average Basic Educational Opportunity Grant (BEOG) award per FTE undergraduate student.

(1) The Commissioner assigns points to the institution—on a scale of 0-100—on the basis of its average E&G expenditure per FTE student. The points awarded reflect the institution's position on the percentile scale when compared to the student expenditures of all other similar institutions. For example, an institution that is estimated to be in the 98th percentile (a high per student expenditure) when compared to other colleges receives two points, while an institution estimated to be in the second percentile (a low per student expenditure) receives 98 points. (See the illustrative chart in subparagraph (3) of this paragraph.)

(2) The Commissioner also assigns points to the institution on a scale of 0-200—on the basis of the average BEOG award per FTE undergraduate student. The points awarded are based on the institution's percentile ranking when compared to all other similar institutions.

For example, an institution that is estimated to be in the 97th percentile (a large BEOG award per student) when compared to other colleges receives 194 points, while an institution estimated to be in the third percentile (a small BEOG award per student) receives six points. (See the chart in subparagraph (3) of this paragraph.)

(3) The following chart illustrates how the Commissioner assigns points for these factors:

| POINT SYSTEM FOR INSTITUTIONAL CHARACTERISTICS |  |  |
|--|--|--|
| POINTS   |  |  |
| Percentile rank                                | Average E&G expenditures per FTE student | Average BEOG award per FTE undergraduate student |
| 99.5   | 0  | 200  |
| 99   | 1  | 198  |
| 98   | 2  | 196  |
| —  | —  | —  |
| —  | —  | —  |
| —  | —  | —  |
| 2  | 98                                       | 4  |
| 1  | 99                                       | 2  |
| 0.5  | 100                                      | 0  |

(4) To determine the percentile rankings in these two categories, the Commissioner uses data from the second year preceding the one in which the institution seeks designation as a developing institution. (For example, an institution seeking designation as a developing institution in fiscal year 1980 would submit data based on the 1977-1978 academic year.)

(d)(1) A total of 174 points—the combined total of the points earned in the per student expenditure and basic grant calculation—meets the quantitative requirements of this section.

(2) An institution that receives fewer than 174 points may submit a written statement explaining why these indicators do not sufficiently reflect its status as a struggling institution and one isolated from the main currents of academic life.

(3) After reviewing the institution's submission, the Commissioner may determine that the institution, in fact, is struggling for survival and is isolated from the main currents of academic life.

(20 U.S.C. 1052)

(e) In addition, if any of the following conditions apply, the institution shall explain to the Commissioner in a written narrative why such a condition exists and what has been done to improve the situation:

(1) A decrease in full-time equivalent student enrollment of five percent or more for the three-year period preceding the year in which the institution seeks designation as a developing institution.



(2) A decrease in total current funds revenues during any of the three years preceding the year in which the institution seeks designation as a developing institution.

(3) An excess of expenditures plus mandatory transfers over revenues in the unrestricted current funds during any two of the three years preceding the year in which the institution seeks designation as a developing institution. In this section the term "current funds" means the funds available for use in meeting current operations.

(f) The Commissioner considers an institution to be struggling and isolated for purposes of paragraph (b) of this section if the institution—

(1) Received a grant under this part in the fiscal year ending September 30, 1978; or

(2) Received a grant under the Advanced Institutional Development Program in a prior fiscal year for an award period with an original expiration date on or after June 30, 1979.

(20 U.S.C. 1052(a)(1)(D)(ii))

§ 169.18 Desire, potential, and reasonable effort.

(a) To be designated as a developing institution, an institution must possess the desire and potential to make a substantial and distinctive contribution to the higher education resources of the Nation. Such a contribution might, for example, be to provide access to a particular group of students who would not otherwise have access to an institution of higher education; or the institution may offer a particular set of academic programs that are not otherwise available to the types of students who comprise its student body.

(b) In addition, the institution must have taken concrete steps to improve its overall academic and administrative capacity over the past three years and, specifically, have made a reasonable effort to improve the quality of its administrative and instructional staffs and its student services.

(c) Except as provided in paragraph (e) of this section, the institution shall submit to the Commissioner, as part of its request for designation as a developing institution, a narrative describing—

(1) The mission and goals of the institution; and

(2) The tangible progress that the institution has made over the past three years to reach its specific goals, with special emphasis on activities carried out in the improvement of—

(i) Instructional staff; and  
(ii) Administrative staff; and  
(iii) Student services.

(d) On the basis of the narrative, the Commissioner determines whether the institution meets the criteria of having the desire and potential of making a significant contribution to the higher

educational resources of the Nation and has been making a reasonable effort to improve its instructional program, its administrative capacity, and its student services.

(e) The Commissioner considers any institution to have satisfied the requirements of this section if the institution—

(1) Received a grant under this part in the fiscal year ending September 30, 1978; or

(2) Received a grant under the Advanced Institutional Development Program in a prior fiscal year for an award period with an original expiration date on or after June 30, 1979.

(20 U.S.C. 1054)

#### Subpart C—Types of Awards

##### § 169.21 Introduction.

The Commissioner makes three types of awards of Title III assistance:

(a) Cooperative arrangement grants.  
(b) National Teaching Fellowships.

(c) Professor Emeritus Grants.

Each award is made from a single fiscal year's appropriation for Title III.

(20 U.S.C. 1054(b))

##### § 169.22 Cooperative arrangements.

(a) A cooperative arrangement is one or more working relationships between a developing institution and other institutions of higher education, agencies, organizations, or business entities to assist the developing institution in implementing activities under a title III grant.

(b) There are two kinds of cooperative arrangements:

(1) *Bilateral arrangements.* Under a bilateral arrangement the developing institution draws upon the assistance and services of another higher educational institution, agency, organization, or business entity to strengthen its academic quality, or administrative, management, and financial capacity.

(2) *Consortium arrangements.* (i) Under a consortium arrangement two or more developing institutions agree to work with each other to strengthen themselves in the areas indicated or enter into an arrangement with an institution of higher education, agency, organization, or business entity to help a cluster of developing institutions carry out allowable activities.

(ii) One of the developing institutions participating in the consortium arrangement shall serve as the applicant and coordinator.

(iii) The institution coordinating the consortium arrangement is responsible for complying with the terms and conditions of the grant.

(iv) Every participating institution receiving services from a consortium arrangement shall be a developing in-

stitution and shall receive services in proportion to its share of the grant.

(v) The size of a consortium arrangement is limited to the number of institutions that can be effectively and efficiently served.

(20 U.S.C. 1054)

##### § 169.23 National Teaching Fellowship grant.

(a) A National Teaching Fellowship grant is the second type of award made by the Commissioner under title III. A developing institution may request a National Teaching Fellowship either—

(1) As part of a cooperative arrangement; or

(2) Independent of any other type of award.

(b) The Commissioner awards a National Teaching Fellowship of one or two years' duration through a developing institution to—

(1) Junior faculty members from institutions other than the applicant institution; and

(2) Highly qualified graduate students—from institutions other than the applicant institution—who have at least a master's degree or related professional experience.

(c) A developing institution may have a National Teaching Fellow—

(1) Teach in an understaffed or new academic program; or

(2) Substitute for a faculty member released for further training or advanced study.

(d) A National Teaching Fellow shall serve as a full-time faculty member at the developing institution through which the award is made.

(e) Each National Teaching Fellow receives a stipend of \$7,500 plus \$400 per dependent for each academic year of teaching. A developing institution at which a National Teaching Fellow teaches may supplement the stipend with funds from sources other than title III.

(20 U.S.C. 1054)

##### § 169.24 Professor Emeritus Grant.

(a) A Professor Emeritus Grant is the third type of award made by the Commissioner under title III. A developing institution may request a Professor Emeritus Grant either—

(1) As part of a cooperative arrangement; or

(2) Independent of any other type of award.

(b) The Commissioner awards a Professor Emeritus Grant through a developing institution to a professor who has retired from active service at an institution of higher education other than the grantee institution.

(c) A developing institution may have a Professor Emeritus—

(1) Teach in an understaffed or new academic program;

(2) Substitute for a faculty member released for further training or advanced study; or

(3) Conduct research to aid the development of the institution.

(d) A Professor Emeritus Grant includes a stipend for each academic year of teaching or research at the developing institution through which the award is made. The stipend may not exceed the salary of a comparable staff member of the developing institution. A developing institution at which a Professor Emeritus Grant recipient serves may supplement the stipend with funds from sources other than title III.

(e) The period of a Professor Emeritus Grant may not exceed two academic years. However, if approved by the Commissioner upon the advice of the Title III Advisory Council—one additional two-year period may be funded to complete the program objectives of the original award.

(20 U.S.C. 1054)

#### Subpart D—Scope and Duration of Grants for Cooperative Arrangements

##### § 169.31 Allowable activities.

(a) In submitting an application a developing institution shall examine the status of its administrative structure, curriculum, student services, administrative personnel, instructional personnel, and financial position and identify the areas of greatest need.

(b) Further, the institution shall identify the steps it will take to strengthen its capacity to fulfill its unique mission and make a substantial contribution to the higher education resources of the Nation.

(c) Finally, the institution shall show that it can carry out the planned activities within the context of the proposed title III cooperative arrangement.

(d) Authorized activities are those that—

(1) Clarify institutional goals;  
(2) Improve the curriculum;  
(3) Strengthen student services;  
(4) Promote faculty development;

(5) Improve administrative services and fiscal management; and

(6) Develop innovative academic programs.

(20 U.S.C. 1054)

##### § 169.32 Allowable costs.

(a) The Commissioner pays part of the costs related to the planning, development, and implementation of allowable activities.

(b) In addition to the cost limitations imposed by the Office of Educa-

tion general provisions for direct project grant and contract programs (45 CFR Part 100a), the following cost limitations apply:

(1) Indirect costs may not be charged to the grant.

(2) The purchase of equipment is limited to equipment that is necessary to achieve program objectives.

(3) Grant funds may not be used for construction.

(20 U.S.C. 1054)

##### § 169.33 Duration of cooperative arrangement grants.

(a) An applicant may receive a grant of one, two, three, four, or five years' duration. The requirements of the cooperative arrangement determine the length of the award.

(b) The Commissioner awards grants of one year's duration to refine institutional mission and goals and to develop long-range plans for achieving an institution's academic goals or strengthening its management or both. The Commissioner may award an institution, during its participation in the program, a maximum of three grants for these purposes.

(c) The Commissioner awards grants of up to three years' duration to support the development and short-term implementation of other activities in any allowable areas.

(d) The Commissioner awards grants of up to five years' duration to support implementation of long-term programs to improve an institution financially and to strengthen its management.

(e) An institution receiving assistance under this part during any fiscal year may not apply for further assistance during that year unless—

(1) The assistance applied for is to be provided through a consortium arrangement; or

(2) The award period for the assistance currently being received will terminate by the following December 31.

(20 U.S.C. 1051, 1054)

#### Subpart E—Application Procedures

##### § 169.41 Submission of applications.

(a) An applicant for a title III grant shall file an application by the closing date established annually by the Commissioner in a notice published in the FEDERAL REGISTER.

(b) The applicant shall include in its application such information as the Commissioner considers necessary to make determinations under title III, including a long range plan in as much detail as is necessary for the Commissioner to judge proposed activities, appropriate length of funding, resources needed, and evaluation strategies in light of the review criteria in § 169.52 and the program priorities in § 169.53. An application submitted for funds appropriated for any fiscal year after

Fiscal Year 1979 must specifically include in the long-range plan:

(1) Long and short range goals;  
(2) Planned activities;  
(3) Criteria for measuring progress;  
(4) Time schedules;  
(5) Resources needed; and  
(6) Procedures to be used to monitor progress of the proposed title III activities against the plan.

However, an applicant need not submit a long-range plan if the applicant is seeking funding only for planning activities.

(20 U.S.C. 1051, 1054)

#### Subpart F—Grantee Selection

##### § 169.51 Introduction.

The Commissioner makes final decisions regarding the funding of all title III applications based on the rules and procedures established in this subpart. In evaluating the applications, the Commissioner may seek and use information from existing public records and from site visits to developing institutions in addition to rating the information submitted in the formal application.

(20 U.S.C. 1051, 1054)

##### § 169.52 Application review criteria and use of reviewers.

(a) The Commissioner appoints reviewers to provide the Commissioner with comments on and recommended ratings for the applications. The Commissioner appoints separate groups of reviewers to read applications from bachelor's degree-granting institutions and from junior and community colleges. The reviewers numerically rate each application assigned to them and provide the Commissioner with comments on each.

(b) The reviewers judge each application on the following criteria with maximum possible points assigned to each criterion:

(1) The extent to which the applicant's mission and goals statement reflects the needs of its constituents. (15 points)

(2) The extent to which the applicant clearly states the objectives of the proposed activities. (5 points)

(3) The extent to which the size, scope, and duration of the proposed activities will contribute to the stated goals. (25 points)

(4) The extent to which any proposed cooperative arrangements will help achieve project objectives. (10 points)

(5) The extent to which the administration of the proposed program is adequate. (15 points)

(6) The extent to which evaluation procedures are adequate. (10 points)

(7) The extent to which a plan has been developed to ensure continuation



of the proposed activities after the grant ends. (5 points)

(8) The extent to which the proposed cost of the project is reasonable and realistic. (15 points)

(c) After considering the comments of the reviewers and the ratings recommended by them, the Commissioner assigns to each application an appropriate number of points for each criterion listed in paragraph (b) of this section. The Commissioner considers further for selection only those applications that receive a rating of 50 or more points.

(20 U.S.C. 1051, 1054)

#### § 169.53 Rating for program priorities.

(a) The Commissioner further rates applications receiving 50 or more points under § 169.52 on the extent to which the proposed activities will—

(1) Strengthen the academic program and provide a successful educational experience for low-income or minority students; (25 points)

(2) Contribute to the long-term stability of the institution and overcome the circumstances that threaten survival; (25 points)

(3) Increase upward mobility or employment, opportunities for students or expand opportunity for graduate and professional study; (10 points)

(4) Improve the institution's overall administrative capacity; (10 points) and

(5) Improve the applicant's management of Federal assistance programs, including student financial aid programs. (5 points)

(b) In addition, the Commissioner may award up to 25 points for an application from an institution that has one or more of the following characteristics:

(1) The institution serves a particularly large percentage of low-income students.

(2) The institution provides a unique or particularly productive educational program for its students.

(3) The institution has, at present, particularly strong and effective management and administration of Federal programs and funds, including title III, and student assistance programs such as the Guaranteed Student Loan, National Direct Student Loan, Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, College Work-Study, and State Student Incentive Grant programs.

(4) The institution, because of its geographic location, provides access to students who otherwise might be unable to attend college.

(20 U.S.C. 1051, 1054)

#### § 169.54 Overall ranking and selection.

(a) The Commissioner totals the points each application received for general quality (§ 169.52) and for addressing program priorities or having certain institutional characteristics (§ 169.53).

(b) The Commissioner then ranks the application on the basis of the total number of points it received. The Commissioner ranks applications from bachelor's degree-granting institutions separately from those from junior or community colleges.

(c) The Commissioner awards grants on the basis of the descending order in which applications are ranked.

(20 U.S.C. 1051, 1054)

#### APPENDIX

NOTE.—The text of this appendix will not appear in the Code of Federal Regulations.

#### HIGHER EDUCATION ACT OF 1965

#### TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

##### AUTHORIZATION

SEC. 301. (a) The Commissioner shall carry out a program of special assistance to strengthen the academic quality of developing institutions which have the desire and potential to make a substantial contribution to the higher education resources of the Nation but which are struggling for survival and are isolated from the main currents of academic life.

(b)(1) For the purpose of carrying out this title, there are authorized to be appropriated \$120,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979.

(2) Of the sums appropriated pursuant to this subsection for any fiscal year, 76 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which plan to award one or more bachelor's degrees during such year.

(3) The remainder of the sums so appropriated shall be available only for carrying out the provisions of this title with respect to developing institutions which do not plan to award such a degree during such year.

(20 U.S.C. 1051) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 241; amended October 12, 1976, P.L. 94-482, Title I, Part C, sec. 111, 90 Stat. 2091.

##### ELIGIBILITY FOR SPECIAL ASSISTANCE

SEC. 302. (a)(1) For the purposes of this title, the term "developing institution" means an institution of higher education in any State which—

(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a

bachelor's degree, or is a junior or community college;

(B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(C) except as is provided in paragraph (2), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this title; and

(D) meets such other requirements as the Commissioner shall prescribe by regulation, which requirements shall include at least a determination that the institution—

(i) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services; and

(ii) is, for financial or other reasons, struggling for survival and isolated from the main currents of academic life.

(2) The Commissioner is authorized to waive the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions located on or near an Indian reservation or a substantial population of Indians if the Commissioner determines such action will increase higher education for Indians. The Commissioner is authorized to waive three years of the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions if the Commissioner determines such action will substantially increase higher education for Spanish-speaking people.

(b) Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title. The Commissioner shall approve any application for eligibility under this subsection which indicates that the applicant is a developing institution meeting the requirements set forth in subsection (a).

(c) For the purposes of clause (A) of paragraph (1) of subsection (a) of this section, the term "junior or community college" means an institution of higher education—

(1) which does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree);

(2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education (or the recognized equivalent of such a certificate); and

(3) which does—

(A) provide an educational program of not less than two years which is acceptable for full credit toward such a degree, or

(B) offer a two-year program in engineering, mathematics, or the physical or biological sciences, which program is designed to prepare a student to work as a technician and at the semi-professional level in engineering, scientific, or other technological fields, which fields require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(20 U.S.C. 1052) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 241, 242; amended August 21, 1974, P.L. 93-380, sec. 832, 88 Stat. 603; amended October 12, 1976, P.L. 94-482, Title I, Part C, sec. 112, 90 Stat. 2091.

#### ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

SEC. 303. (a) There is hereby established an Advisory Council on Developing Institutions (in this title referred to as the "Council") consisting of nine members appointed by the Commissioner with the approval of the Secretary.

(b) The Council shall, with respect to the program authorized by this title, carry out the duties and functions specified by part C of the General Education Provisions Act and, in particular, it shall assist the Commissioner—

(1) in identifying developing institutions through which the purposes of this title may be achieved; and

(2) in establishing the priorities and criteria to be used in making grants under section 304(a).

(20 U.S.C. 1053) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 242, 243.

#### USES OF FUNDS: COOPERATIVE ARRANGEMENTS, NATIONAL TEACHING FELLOWSHIP, AND PROFESSORS EMERITUS

SEC. 304. (a) The Commissioner is authorized to make grants and awards, in accordance with the provisions of this title, for the purpose of strengthening developing institutions. Such grants and awards shall be used solely for the purposes set forth in subsection (b).

(b) Funds appropriated pursuant to section 301(b) shall be available for—

(1) grants to institutions of higher education to pay part of the cost of planning, developing, and carrying out cooperative arrangements between developing institutions and other institu-

tions of higher education, and between the developing institutions and other organizations, agencies, and business entities, which show promise as effective measures for strengthening the academic program and the administrative capacity of developing institutions, including such projects and activities as—

(A) exchange of faculty or students, including arrangements for bringing visiting scholars to developing institutions,

(B) faculty and administration improvement programs, utilizing training, education (including fellowships leading to advanced degrees), internships, research participation, and other means,

(C) introduction of new curricula and curricular materials,

(D) development and operation of cooperative education programs involving alternate periods of academic study and business or public employment, and

(E) joint use of facilities such as libraries or laboratories, including necessary books, materials, and equipment;

(2) National Teaching Fellowships to be awarded by the Commissioner to highly qualified graduate students and junior faculty members of institutions of higher education for teaching at developing institutions; and

(3) Professors Emeritus Grants to be awarded by the Commissioner to professors retired from active service at institutions of higher education to encourage them to teach or to conduct research at developing institutions.

(c)(1) An application for assistance for the purposes described in subsection (b)(1) shall be approved only if it—

(A) sets forth a program for carrying out one or more of the activities described in subsection (b)(1), and sets forth such policies and procedures for the administration of the program as will insure the proper and efficient operation of the program and the accomplishment of the purposes of this title;

(B) sets forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in subsection (b)(1), and in no case supplant such funds;

(C) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

(D) provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of and accounting for funds

made available under this title to the applicant; and

(E) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this title, and for keeping such records and affording such access thereto, as he may find necessary to assure the correctness and verification of such reports.

The Commissioner shall, after consultation with the council, establish by regulation criteria as to eligible expenditures for which funds from grants for cooperative arrangements under clause (1) of subsection (b) may be used, which criteria shall be so designed as to prevent the use of such funds for purposes not necessary to the achievement of the purposes for which the grant is made.

(2)(A) Applications for awards described in clauses (2) and (3) of subsection (b) may be approved only upon a finding by the Commissioner that the program of teaching or research set forth therein is reasonable in the light of the qualifications of the applicant and of the educational needs of the institution at which the applicant intends to teach.

(B) No application for a National Teaching Fellowship or a Professors Emeritus Grant shall be approved for an award of such a fellowship or grant for a period exceeding two academic years, except that the award of a Professors Emeritus Grant may be for such period, in addition to such two-year period of award, as the Commissioner, upon the advice of the Council, may determine in accordance with policies of the Commissioner set forth in regulations.

(C) Each person awarded a National Teaching Fellowship or a Professors Emeritus Grant shall receive a stipend for each academic year of teaching (or, in the case of a recipient of a Professors Emeritus Grant, research) as determined by the Commissioner upon the advice of the Council, plus an additional allowance for each such year for each dependent of such person. In the case of National Teaching Fellowships, such allowance may not exceed \$7,500, plus \$400 for each dependent.

(20 U.S.C. 1054) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 243, 244.

#### ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

SEC. 305. (a) Each institution which the Commissioner determines meets the criteria set forth in section 302(a) shall be eligible for waivers in accordance with subsection (b).

(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing insti-



## RULES AND REGULATIONS

tution for assistance under any programs specified in paragraph (2), the Commissioner is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

(2) The provisions of this section shall apply to any program authorized by title II, IV, VI, or VII of this Act.

(c) The Commissioner shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

(20 U.S.C. 1055) Enacted June 23, 1972. P.L. 92-318, Title I, sec. 121(a), 86 Stat. 244.

## LIMITATION

Sec. 306. None of the funds appropriated pursuant to section 301 (b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian activity.

(20 U.S.C. 1056) Enacted June 23, 1972. P.L. 92-318, Title I, sec. 121(a), 86 Stat. 245. [FR Doc. 79-9328 Filed 3-29-79; 8:45 am]

## NOTICES

[4110-02-M]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of Education

STRENGTHENING DEVELOPING INSTITUTIONS  
PROGRAMNew Closing Date for Transmittal of  
Applications for Fiscal Year 1979

New applications are invited under the Strengthening Developing Institutions Program from colleges or universities that meet all of the following criteria:

1. The college or university has not submitted an application for a grant under this program for fiscal year 1979; and

2. The college or university—

(a) received a direct grant, or was in a consortium that received a grant, under the Basic Institutional Development Program in the fiscal year ending September 30, 1978; or

(b) received a direct grant, or was in a consortium that received a grant, under the Advanced Institutional Development Program in the fiscal year ending on September 30, 1978 or in a prior fiscal year for an award period with an original expiration date on or after June 30, 1979; and

3.(a) The college or university is applying for assistance through a consortium arrangement; or

(b) the award period for the assistance currently being received by the college or university under either a direct grant or a consortium arrangement will terminate by December 31, 1979.

An institution meeting the criteria stated above is eligible to continue to compete for a grant, even if it does not satisfy the new tests for meeting the "struggling and isolated" and "reasonable effort" requirements (§ 169.17 and § 169.18) in the proposed Strengthening Developing Institutions regulations published in the FEDERAL REGISTER on November 2, 1978 (43 FR 51260). However, the institution must continue to meet the other eligibility requirements in the proposed regulations (§ 169.13-§ 169.16).

An institution that submitted an application for a consortium by February

2, 1979, may amend or update its application, if necessary, before the new closing date announced in this notice, but only to include additional institutions whose eligibility will be continued under the criteria stated above.

All eligible applications mailed by the closing date announced in this notice will be rated and ranked with the applications submitted for this program by February 2, 1979.

**Authority.** Authority for this program is contained in Sections 301-306 of Title III of the Higher Education Act of 1965, as amended. (20 U.S.C. 1051 to 1056).

This program assists selected higher education institutions, called developing institutions, to strengthen their academic quality, administrative capacity, and student services.

**Closing date for transmittal of applications:** Applications for grants must be mailed or hand delivered by April 30, 1979.

**Applications delivered by mail:** An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.454, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

**NOTE.**—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its late application will not be considered in the current competition.

**Applications delivered by hand:** An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

**Program information:** The regulations for the program establish a single program under Title III, in place of the previous separate programs—Basic Institutional Development Program and Advanced Institutional Development Program. The single program concept recognizes the infinite variety of strengths and weaknesses of institutions. Thus each applicant may request funds based on its respective needs. The focus of the activities for which an applicant seeks Federal assistance determines the size and duration of the grant for which the Commissioner may consider that applicant.

**Available funds:** In fiscal year 1979 an appropriation of \$120 million is available for grants.

**Application forms:** Application forms and guideline packages are available now. They may be obtained by writing to the Division of Institutional Development, U.S. Office of Education, (Room 3052, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms for this program.

**Applicable regulations.** The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Part 100a), and

(b) The regulations governing the Strengthening Developing Institutions Program published in this issue of the FEDERAL REGISTER.

**Further information:** For further information contact Dr. Edward J. Brantley, Director, Division of Institutional Development (Room 3052, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-2418.

(20 U.S.C. 1051-1056)

(Catalog of Federal Domestic Assistance Number 13.454, Strengthening Developing Institutions)

Dated: March 21, 1979.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
[FR Doc. 79-9235 Filed 3-29-79; 8:45 am]



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FRIDAY, MARCH 30, 1979

PART IV



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**DEPARTMENT OF  
LABOR**

**Labor-Management  
Services Administration**

**Employment and Training  
Administration**

**AIRLINE EMPLOYEE  
PROTECTION PROGRAM**

**Proposed Regulations for  
Implementation**



[4510-29-M]

## DEPARTMENT OF LABOR

Labor-Management Services Administration

[29 CFR Part 220]

AIRLINE EMPLOYEE PROTECTION PROGRAM  
Implementation

AGENCY: Labor-Management Services Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor, through the Employment and Training Administration (ETA) and the Labor-Management Services Administration (LMSA), is proposing regulations to implement the Airline Employee Protection Program established by Section 43 of the Airline Deregulation Act of 1978 (Public Law 95-504). Under the proposed regulations, ETA has responsibility for provisions concerning benefit amounts, determining eligibility for benefits, extent of reemployment assistance and maintaining a comprehensive job listing. LMSA has responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire, comprehensive job listing, and negotiations between air carriers and representatives of protected employees. It is proposed to issue these regulations jointly and the detailed regulations will appear in today's FEDERAL REGISTER as a proposed 20 CFR Part 638, with this proposed Part 220 containing a cross reference to that Part 638.

DATE: Submit written comments by close of business, April 30, 1979.

ADDRESS: Submit comments to Robert B. Edwards, Acting Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room 7004, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert S. Kenyon, Deputy Director, Office of Program Management, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room 7004, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213 (Phone (202) 376-7545); or

Mr. Lary F. Yud, Chief, Division of Employee Protections, Office of Labor-Management Relations Services, Labor-Management Services Administration, U.S. Department of Labor, Room N5639, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (Phone (202) 523-6495).

## PROPOSED RULES

SUPPLEMENTARY INFORMATION: See the Supplementary Information published on this date in conjunction with 20 CFR Part 638. Accordingly, a new Part 220, in Chapter II of Title 29 CFR is proposed to read as follows:

## PART 220—AIRLINE EMPLOYEE PROTECTION PROGRAM

Sec. 220.1 Airline Employee Protection Program.  
AUTHORITY: Sec. 43 of the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1750, (49 U.S.C. 1371, 1552).

## § 220.1 Airline Employee Protection Program.

The Department of Labor, through the Employment and Training Administration (ETA) and the Labor-Management Services Administration (LMSA), administers the Airline Employee Protection Program established by Section 43 of the Airline Deregulation Act of 1978 (Public Law 95-504). ETA has responsibility for provisions concerning benefit amounts, determining eligibility for benefits, extent of reemployment assistance, and maintaining a comprehensive job listing. LMSA has responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire, comprehensive job listing, and negotiations between air carriers and representatives of protected employees. For the sake of convenience, the LMSA regulations are consolidated with ETA regulations and both are printed as 20 CFR Part 638. Of particular relevance to LMSA is Subpart B of Part 638.

Signed at Washington, D.C. this 26th day of March 1979.

J. VERNON BALLARD,  
Acting Assistant Secretary  
for Labor-Management Relations.  
[FR Doc. 79-9602 Filed 3-29-79; 8:45 am]

[4510-30-M]

Employment and Training Administration

[20 CFR Part 638]

## AIRLINE EMPLOYEE PROTECTION PROGRAM

## Implementation

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor, through the Employment and Training Administration (ETA) and the Labor-Management Services Administration (LMSA), is proposing regulations to implement the Airline Employee Protection Program established by Section 43 of the Airline Deregulation Act of 1978 (Public Law 95-504). Under the proposed regulations, ETA has responsibility for provisions con-

cerning benefit amounts, determining eligibility for benefits, extent of reemployment assistance and maintaining a comprehensive job listing. LMSA has responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire, comprehensive job listing, and negotiations between air carriers and representatives of protected employees.

DATE: Written comments should be received by close of business, April 30, 1979, in order to assure consideration in the final rulemaking.

ADDRESS: Submit comments to Robert B. Edwards, Acting Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room 7004, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert S. Kenyon, Deputy Director, Office of Program Management, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room 7004, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213 (Phone (202) 376-7545); or

Mr. Lary F. Yud, Chief, Division of Employee Protections, Office of Labor-Management Relations Services, Labor-Management Services Administration, U.S. Department of Labor, Room N5639, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (Phone (202) 523-6495).

SUPPLEMENTARY INFORMATION: On October 24, 1978, the President signed into law the Airline Deregulation Act of 1978 (Public Law 95-504), (the Act), to bring to a close 40 years of comprehensive economic regulation of the airline industry. Although airline deregulation is expected to result in expanded overall employment opportunities over the long term, Congress recognized the possibility of a major reduction in the total labor force of one or more air carriers as these air carriers make the adjustment from government regulation to market forces. To prepare for this possibility, Section 43 of the Act provides in general terms for an Airline Employee Protection Program to be administered by the Secretary of Labor.

Only employees (other than members of the board of directors or officers of a corporation) with at least four years of employment with a certificated air carrier are protected under the program. All protected employees who were employed as of October 24, 1978 and who were furloughed or terminated (other than for cause) subsequent to that date are assured of: (1)

## PROPOSED RULES

The first right of hire in their occupational specialty by any certificated air carrier, except that the air carrier may recall its own furloughed employees before hiring a protected employee; (2) access to a comprehensive list of jobs available with certificated air carriers; and (3) assistance in securing reemployment.

Protected employees who experience either a loss of employment or a reduction in wages due to a "qualifying dislocation" of a certificated air carrier, as determined by the Civil Aeronautics Board, are considered to be eligible protected employees and as such eligible for additional benefits, including: (1) Monthly assistance payments; and (2) relocation assistance. The provision of any monetary assistance to eligible protected employees, however, is subject to the appropriation of funds for this purpose.

In Section 43(d)(3) of the Act, the Secretary is directed to encourage negotiations between the air carriers and representatives of eligible protected employees with regard to seniority and rehiring practices. To assist the Department in meeting this responsibility, the Secretary has proposed to establish a joint labor-management advisory committee under the auspices of LMSA. This committee will be comprised of small but equal numbers or representatives from air carriers and airline employee groups. The objective of the committee will be to advise the Assistant Secretary for Labor-Management Relations of ways in which the possible relocation of employees within the air transportation industry can be facilitated.

In an effort to assure that the problems and concerns of the certificated air carriers and employee groups were taken into account, LMSA and ETA sought input from both groups prior to entering into the rulemaking process. The proposed regulations reflect the Department's effort to address those concerns in designing a program implementing the Act.

The proposed regulations are divided into five subparts:

Subpart A contains the purpose, scope, responsibilities, and definitions applicable to this Part 638, a number of which embody significant administrative interpretations of the Act.

Subpart B prescribes benefits available to protected employees.

Proposed § 638.11 provides that protected employees shall have the first right of hire in their occupational specialty by air carriers engaged in hiring additional employees.

Proposed § 638.13 provides for a comprehensive nationwide listing of job openings with certificated air carriers to be maintained, published and disseminated to local employment service offices by the United States Employ-

ment Service. This section also requires certificated air carriers to list job openings with the United States Employment Service, in accordance with section 43(d)(2) of the Act.

Proposed § 638.14 sets forth complaint, investigation, and conciliation procedures for cases in which an individual claims that the first right of hire prescribed in § 638.11 has been denied by a certificated air carrier. Complaints will be investigated by LMSA and, unless dismissed as groundless or untimely, will be the subject of conciliation attempts by LMSA. This investigation and conciliation procedure is optional with the complainant and is not meant to affect any available legal remedy. The Department of Labor is not granted enforcement powers under this Act.

Subpart C prescribes benefit levels and conditions for payment of monthly assistance payments to eligible protected employees.

Proposed § 638.23 sets forth guidelines for computing the amount of monthly assistance payments for eligible protected employees, subject to funds being appropriated for this purpose. In accordance with Section 43(b) of the Act, these guidelines were developed by the Secretary of Labor after consultation with the Secretary of Transportation. The legislative history indicates that Congress considered setting statutory payment formulas and maximum dollar amounts, but concluded that the Secretary of Labor, after consultation with the Secretary of Transportation, would be in a better position to determine the appropriate benefit levels and ceilings. Proposed § 638.23 also reflects the intent expressed in the legislative history that payments should be less than the employees' after-tax income, in order to preserve maximum incentives for employees to secure comparable work. (S. Rep. No. 631, 95th Cong., 2d Sess. 116-117, (1978)).

Under the proposal, monthly assistance payments for an eligible protected employee would be computed on the basis of the employee's average monthly wage after taxes—i.e., average earnings in the employ of an air carrier over the 12-month period immediately preceding the loss of employment or reduction in earnings, less adjustments for Federal, State and local income taxes, and social security contributions.

In the case of an eligible protected employee who has been deprived of employment, the monthly assistance payment would be set at 70% of the employee's average monthly wage after taxes. However, the amount of an employee's monthly assistance payment could not exceed \$1,200.

For an eligible protected employee who has experienced a reduction in

wages, the monthly assistance payment would be set at 70% of the difference between the employee's average monthly wage after taxes and the total wages after taxes received for any calendar month after being adversely affected. However, the amount of an employee's monthly assistance payment plus the amount of the employee's total wages after taxes for any calendar month could not exceed \$1,200.

In accordance with Section 43(b)(1) of the Act, the proposed regulations provide that the amount of an employee's monthly assistance payment for any calendar month shall be reduced by the full amount of any unemployment compensation payable to the employee in such month. In addition, it is proposed that the monthly assistance payment for any calendar month be reduced by: (1) 50 percent of the earnings received by the employee in such month from any employment (including self-employment), other than reasonably comparable employment, commencing after the month in which the individual became an eligible protected employee; and (2) the full amount of Social Security retirement or disability benefits, or any outside pension benefits received in that month, unless the employee was receiving such benefits prior to becoming an eligible protected employee.

Proposed § 638.24 provides, consistent with Section 43(e) of the Act, that monthly assistance payments shall be made for a maximum of 72 months. However, payments would be terminated if the recipient obtained "reasonably comparable employment"—i.e., full-time, permanent employment in any industry which requires the same or similar occupational skills as the individual's former employment with an air carrier and which pays the prevailing wage for the occupation in the area where the employment is located. Similarly, in accordance with Section 43(b)(2) of the Act, payments would be terminated or reduced in number if an eligible protected employee failed to accept an offer of reasonably comparable employment.

Subpart D prescribes amounts and conditions for payment of relocation assistance for eligible protected employees.

Pursuant to Section 43(c) of the Act, the proposed regulations authorize the payment of reasonable moving expenses for an eligible protected employee and members of the employee's immediate family, and reimbursement payments for certain losses relating to the change of a principal place of residence. In addition, a payment of reasonable expenses for a preemployment interview to obtain reasonably comparable employment is proposed where the interview necessitates travel to an-



other locality. Such expenses are consistent with the directive in Section 43(d)(2) that the Secretary of Labor "shall make every effort to assist an eligible protected employee in finding other employment."

Subpart E prescribes the administrative arrangements for implementing the program.

Proposed § 638.40 provides that the program will be administered by State agencies pursuant to agreements with the U.S. Department of Labor, as this mechanism for delivery of services has been employed successfully for other Federal programs. Proposed § 638.51 further provides that if a State agency does not agree to administer the program, the Assistant Secretary for Employment and Training will make appropriate arrangements to administer the Airline Employee Protection Program in that State.

The Department of Labor has sought to give the public an early and meaningful opportunity to participate in the development of these regulations by publishing an advance notice of rulemaking as part of the Department's semiannual agenda of significant regulations, and by seeking input from certificated air carriers and employee groups prior to entering into the rulemaking process. Since the Act explicitly requires the expeditious implementation of the Airline Employee Protection Program, however, the Department has determined that it is not possible to allow for more than a 30-day comment period on the proposed regulations.

Accordingly, a new Part 638, in Chapter V of Title 20 CFR is proposed to read as follows:

#### PART 638—AIRLINE EMPLOYEE PROTECTION PROGRAM

##### Subpart A—Purpose and Scope of the Airline Employee Protection Program

- Sec.
- 638.1 Purpose.
  - 638.2 Scope.
  - 638.3 Responsibilities of the Secretary of Labor.
  - 638.4 Responsibilities of the Civil Aeronautics Board.
  - 638.5 Definitions.

##### Subpart B—Protected Employee Benefits

- 638.10 Eligibility requirements for protected employee benefits.
- 638.11 First right of hire/duty to hire.
- 638.12 Procedures upon furlough or termination.
- 638.13 Employment service functions.
- 638.14 Disputes concerning first right of hire.

##### Subpart C—Eligible Protected Employee Benefits: Monthly Assistance Payments

- 638.20 Applicability.
- 638.21 Eligibility requirements for monthly assistance payments.
- 638.22 Availability for work.

- Sec.
- 638.23 Amount of monthly assistance payment.
  - 638.24 Period of monthly assistance payments.
  - 638.25 Refusal of reasonably comparable employment.
  - 638.26 Applications for monthly assistance payments.
  - 638.27 Determinations; notices to applicants.

##### Subpart D—Eligible Protected Employee Benefits: Relocation Assistance

- 638.30 Applicability.
- 638.31 Eligibility requirements for relocation assistance.
- 638.32 Preemployment interview.
- 638.33 Relocation.
- 638.34 Amounts allowable for preemployment interview.
- 638.35 Amounts allowable for moving expenses.
- 638.36 Reimbursement payments.
- 638.37 Applications for relocation assistance.
- 638.38 Determinations; notices to applicants.
- 638.39 Overpayment of relocation assistance.

##### Subpart E—Administration

- 638.40 Agreements with State agencies.
- 638.41 Effective period of the program.
- 638.42 The paying State for an applicant.
- 638.43 Appeal and review.
- 638.44 Overpayments; disqualification for fraud.
- 638.45 Inviolable rights to assistance.
- 638.46 Recordkeeping; disclosure of information.
- 638.47 Announcement of a qualifying dislocation.
- 638.48 Public access to agreements.
- 638.49 Information, reports and studies.
- 638.50 Grants to States.
- 638.51—Administration absent State agreement.

AUTHORITY: Sec. 43 of the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1750 (49 U.S.C. 1371, 1552).

##### Subpart A—Purpose and Scope of the Airline Employee Protection Program

###### § 638.1 Purpose.

The Airline Employee Protection Program (hereinafter referred to as the Airline Program) created by Section 43 of the Airline Deregulation Act of 1978, P.L. 95-504 (hereinafter referred to as the Act) provides assistance to employees of certificated air carriers affected within the first 10 years of deregulation under the Act. The regulations in this Part are issued to implement Section 43 of the Act.

###### § 638.2 Scope.

(a) Assistance under the Airline Program is provided only to employees (other than members of the board of directors or officers of a corporation) with at least four years of employment with a certificated air carrier. No employee who is terminated for cause is eligible for any assistance under the Airline Program.

(b) All protected employees who are furloughed or terminated (other than for cause) are provided the right of first hire in their occupational specialty by any certificated air carrier hiring additional employees, except that the air carrier may recall its own furloughed employees before hiring a protected employee. All protected employees are also given access to a comprehensive list of jobs available with certificated air carriers, as well as other assistance in securing reemployment.

(c) Only protected employees who experience either a loss of employment or a reduction in wages due to a qualifying dislocation of an air carrier, as determined by the Civil Aeronautics Board, are eligible for monetary assistance, subject to the appropriation of funds for this purpose. Monetary assistance includes monthly assistance payments and relocation assistance.

###### § 638.3 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Airline Program. The Secretary has assigned responsibilities under the Act to the Assistant Secretary for Employment and Training, Employment and Training Administration (ETA), and the Assistant Secretary for Labor-Management Relations, Labor-Management Services Administration (LMSA), as follows:

(a) Assistant Secretary for ETA. The Assistant Secretary for ETA is assigned responsibility for:

- (1) The development, promulgation, and administration of policies, regulations and procedures concerning payments of assistance required under Section 43 of the Act;
- (2) The determination of individual eligibility and the administration of monthly assistance payments from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account, for eligible protected employees as provided by Section 43(a), (b), (c), (d), and (e) of the Act;
- (3) The implementation, maintenance and publication of a comprehensive list of job openings available with certificated air carriers;
- (4) Providing a full range of employment services including preemployment interview and relocation for eligible protected employees seeking employment in other areas;
- (5) Developing and carrying out, in cooperation with LMSA, a program to inform and advise workers about the Airline Program;
- (6) Developing agreements for the administration of the program by State Employment Security Agencies, as agents for the United States, and in

the absence of an agreement with any State agency, a system for performing the functions required to provide benefits to protected and eligible protected employees; and

(7) Developing and maintaining a system for monitoring Federal or State agency performance in carrying out the provisions of the Act.

(b) Assistant Secretary for LMSA. The Assistant Secretary for LMSA is assigned responsibility for:

(1) The development, promulgation and administration of policies, regulations and procedures, covering the first right of hire—duty to hire and rehire provision of Section 43(d)(1) of the Act;

(2) The development and promulgation of policies, regulations, and procedures covering the comprehensive job list required under Section 43(d)(2) of the Act;

(3) Encouraging negotiations between certificated air carriers and representatives of employees with respect to rehiring practices and seniority; and

(4) Requesting certificated air carriers to file reports, data and other pertinent information necessary for fulfilling responsibilities under Section 43(d)(2) of the Act.

###### § 638.4 Responsibilities of the Civil Aeronautics Board.

Under the Act, the Civil Aeronautics Board (hereinafter referred to as the Board) is responsible for determinations of a qualifying dislocation (i.e., a bankruptcy or a major contraction) of a certificated air carrier, the major cause of which is the change in regulatory structure provided by the Act.

###### § 638.5 Definitions.

As used in this Part, unless the context otherwise indicates:

(a) "Act" means the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1705.

(b) "Adversely affected with respect to compensation" means that the wages of a protected employee from employment with the employing carrier were reduced due to a qualifying dislocation.

(c) "Average monthly wage" means the total amount of gross wages (excluding overtime pay, severance pay, payment for accumulated leave made on or after a separation, or bonuses) earned by a protected employee in the employ of a carrier during the 12 months immediately preceding the month in which the employee, due to a qualifying dislocation, was first deprived of employment or was first adversely affected with respect to compensation, divided by 12.

(d) "Average monthly wage after taxes" means the average monthly wage less adjustments for Federal,

State and local income taxes, and Social Security contributions.

(e) "Board" means the Civil Aeronautics Board.

(f) "Carrier" means an air carrier which was certificated as of October 23, 1978, by the Civil Aeronautics Board under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), as amended. (A listing of such carriers appears as an appendix to these regulations.)

(g) "Commute area" means the distance that an employee would normally be expected to travel to and from work on a daily basis.

(h) "Deprived of employment" means that a protected employee was furloughed or terminated (other than for cause) from employment with a carrier due to a qualifying dislocation.

(i) "Eligible protected employee" means a protected employee who, due to a qualifying dislocation, has been either deprived of employment or adversely affected with respect to compensation.

(j) "Full-time employment" means the customary and standard time periods worked in a particular occupational specialty.

(k) "Immediate family" means the following persons living with an eligible protected employee in a single household:

- (1) The spouse of the employee;
- (2) An unmarried child of the employee, including a stepchild or adopted child, under age 21, or of any age if incapable of self-support because of mental or physical incapacity; and
- (3) Any other person for whom the employee or spouse would be entitled to a dependency deduction for income tax purposes under the Internal Revenue Code of 1954.

(l) "Major contraction" means a reduction by at least 7-1/2 percent of the total number of full-time employees of a carrier within a 12-month period, as determined by the Board. Any particular reduction of less than 7-1/2 percent may be found by the Board to be part of a major contraction of a carrier if the Board determines that other reductions are likely to occur such that within a 12-month period in which such particular reduction occurs the total reduction will exceed 7-1/2 percent.

(m) "Occupational specialty" means the Occupational Title, Code Number, and Definition as set forth in the most current edition of the *Dictionary of Occupational Titles* published by the U.S. Department of Labor and includes any applicable Federal Aviation Administration licensing requirements.

(n) "Qualifying dislocation" means a bankruptcy or major contraction of a carrier occurring during the period from January 1, 1979 through Decem-

ber 31, 1988, the major cause of which is the change in regulatory structure provided by the Act, as determined by the Board.

(o) "Reasonably comparable employment" means full-time, permanent employment in any industry which requires the same or similar occupational skills as the eligible protected employee's former employment with a carrier and which pays the prevailing wage for the occupational specialty in the area where the employment is located.

(p) "Secretary" means the Secretary of Labor of the United States.

(q) "State" means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(r) "State agency" means the State Employment Security Agency, or any agency which administers the Airline Program within the State.

(s) "Termination for cause" means separation of an individual from employment initiated by a carrier for a justifiable reason, such as incompetence, and shall include, but not be limited to, reasons for disqualification for misconduct under the applicable provisions of State unemployment compensation law.

(t) "Unemployment compensation" means cash benefits payable to individuals with respect to their unemployment under a State or Federal unemployment compensation law.

(u) "Vacancy" means a permanent or temporary, full-time or part-time position of employment to be filled from outside a carrier's existing or furloughed work force.

##### Subpart B—Protected Employee Benefits

###### § 638.10 Eligibility requirements for protected employee benefits.

To qualify for benefits under this Subpart, an applicant must be a protected employee. A protected employee is an individual who:

(a) Is an employee of a carrier which was certificated as of October 23, 1978, by the Board under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1377), as amended; and

(b) As of October 24, 1978, has been employed full-time for at least four continuous years performing airline activities for a single carrier or has accrued seniority with a single carrier for such time in accordance with the provisions of an applicable collective bargaining agreement or established company policy; and

(c) Is not a member of the board of directors or an officer of a corporation.

However, an employee who is terminated for cause shall not be eligible for any benefits under the Airline Program.



## § 638.11 First right of hire/duty to hire.

(a) *Applicability.* A protected employee who is furloughed or terminated (other than for cause) by a carrier during the period October 24, 1978, to October 22, 1988, inclusive, shall have the first right of hire with any other such carrier in the employee's occupational specialty. Equally, the other carrier shall have the duty to hire such employee, provided, that such other carrier:

(1) Was certificated by the Board under Section 401 of the Federal Aviation Act of 1958 on or before October 23, 1978; and

(2) Is hiring additional employees to fill vacancies.

Provided further, that such carrier may, in accordance with its collective bargaining agreements and established company policy, fill a position of employment from among its existing employees or recall any of its furloughed employees before hiring a protected employee.

(b) *Conditions.* Any protected employee seeking to exercise the first right of hire to a vacancy in the employee's occupational specialty must satisfy any bona fide occupational qualification established by the hiring carrier.

(c) *Duration.* Any protected employee who is furloughed or terminated on or before October 22, 1988 shall retain the first right of hire in the same occupational specialty until October 21, 1994, or until the last day the Secretary is required to make a payment under Subpart C or D, whichever occurs first.

(d) *Recall.* A protected employee shall retain seniority and recall rights with the first carrier that furloughed or terminated (other than for cause) such employee during the period October 24, 1978 to October 22, 1988. These rights:

(1) Shall prevail whether or not the employee is hired by another carrier; and

(2) Shall not affect any right the employee may have as a matter of contract or established practice.

## § 638.12 Procedures upon furlough or termination.

(a) *Notification.* Employees furloughed or terminated by a carrier shall be provided individual notification by the carrier of the rights and benefits provided under the Act. The Department of Labor will provide carriers with language for such notice.

(b) *Access to National Listing.* Upon notification of furlough or termination, protected employees may avail themselves of the National Listing provided for in § 638.13 at the local offices of a State agency in order to make application for vacancies listed.

(c) *Registration.* Upon furlough or termination a protected employee may register with the local office of the State agency for employment assistance, job referral, and other benefits for which the protected employee may be eligible.

## § 638.13 Employment service functions.

(a) *State agency services.* To assure prompt and effective delivery of services, an eligible protected or protected employee shall be referred to an appropriate local office of the State agency. The State agency shall determine the employee's eligibility for assistance under the Act and provide the following for all protected employees:

(1) Registration for work;

(2) Job referral and placement service;

(3) Counseling and testing as appropriate;

(4) Information on and referral to supportive services;

(5) Exposure to job openings filed by air carriers as contained on the National Listing; and

(6) Priority referral to job openings on the National Listing for a period of two weeks as follows:

(i) Eligible protected employees;

(ii) Other protected employees. Veterans within each referral group shall be referred ahead of nonveterans, and

(7) Information on monthly assistance payments, relocation assistance, and preemployment interview assistance provided to eligible protected employees under Subparts C and D upon a qualifying dislocation.

(b) *Comprehensive job listing.* (1) A National Listing of Air Carrier Job Vacancies (National Listing) shall be established and maintained by the Secretary at a central location (Center). Such listing shall contain information as to job descriptions, skill requirements and such additional information deemed appropriate by the Secretary.

(2) The National Listing shall be compiled, published and distributed to each local office of the State agency on a bi-weekly basis or as determined necessary by the Secretary.

(3) Any carrier which was certificated under Section 401 of the Federal Aviation Act of 1958 by the Board as of October 23, 1978, and has no furloughed employees of its own whom it intends to recall to a job vacancy, shall file with the State agency such vacancy, permanent or temporary, full-time or part-time. Such filing (job order) shall include all information deemed relevant and necessary by the Secretary.

(4) Any local office of the State agency receiving a job order under subparagraph (3) above shall serve as the contact point for referrals, obtaining the results of referrals and the status of the successful applicant. To

this end the local office of the State agency shall:

(i) Promptly file the job order with the Center; and

(ii) Refer only eligible protected and protected employees until such order appears on the National Listing; thereafter provide referral in accordance with the time provisions under subparagraph (a)(6) above.

(5) Prior to filling a vacancy on the National Listing with a non-protected applicant, a carrier must verify with the local office of the State agency where the job vacancy was filed that there are no intrastate or interstate referrals being processed.

(6) Should a protected or eligible protected employee who has been referred to a carrier by the local office of the State agency not qualify for the vacancy, such carrier remains, nonetheless, under the duty to accord the first right of hire to any qualified eligible protected or protected employee who has made application to fill such vacancy.

(7) A carrier must notify the local office of the State agency where the job vacancy was filed when it fills a job vacancy on the National Listing and whether such vacancy was filled by an eligible protected, protected, or non-protected applicant. If a carrier reports that such vacancy was filled by an eligible protected or protected employee, the carrier shall provide the individual's name and former employer.

## § 638.14 Disputes concerning first right of hire.

(a) *Complaints.* A complaint alleging that the first right of hire has been denied to a protected employee or eligible protected employee by a carrier may be filed by that protected, or eligible protected employee.

(b) *Contents of complaint.* A complaint must be written, dated, and signed and should set forth:

(1) The full name and address of the carrier against whom the complaint is directed;

(2) The full name and address of the carrier with whom the complainant was last employed and the date on which the complainant was furloughed or terminated by such carrier;

(3) A summary of the pertinent events and circumstances surrounding the alleged failure or refusal to hire the complainant, including the particular occupational specialty or job sought, the full name of the individual(s) who represented the carrier, and the date on which the complainant was denied employment; and

(4) The full name, address, and telephone number (printed) of the complainant.

(c) *Filing and service of the complaint.* (1) The complaint shall be filed

with the Area Administrator of the Labor-Management Services Administration (LMSA) in whose area the alleged violation occurred. (LMSA Area offices and their respective jurisdictions are listed as an appendix to these regulations).

(2) In the event that two or more complaints involving the same job vacancy are filed in different Area Offices of the LMSA, the cases shall be consolidated and investigated by the Area Administrator in whose area the alleged violation occurred.

(3) A complaint must be filed within 90 calendar days of the alleged denial of the first right of hire.

(4) The Area Administrator will serve the named carrier with a copy of the complaint.

(d) *Investigation of complaint.* (1) After a complaint has been filed with an Area Office, the Area Administrator will make a preliminary review of the complaint, and if warranted, will conduct an independent investigation.

(2) The Area Administrator will prepare and submit to the LMSA Regional Administrator a report of investigation, with recommendations.

(3) If the LMSA Regional Administrator determines that a reasonable basis in support of the complaint has been established, the parties will be encouraged to enter into a voluntary settlement of the dispute and will be assisted in such effort by the LMSA.

(4) If the parties agree upon and implement a voluntary settlement, the case will be closed.

(5) If the parties fail to reach a voluntary settlement within a reasonable time, and the LMSA Regional Administrator determines that a voluntary settlement is unlikely, the LMSA Regional Administrator will prepare a report of his findings in the case and submit this report of findings to the Assistant Secretary for LMSA for appropriate action.

(e) *Dismissal or withdrawal of complaint.* (1) The LMSA Regional Administrator, upon review of the report of investigation, may authorize the Area Administrator to request the complainant to withdraw the complaint if it is determined that:

(i) The complaint has not been timely filed;

(ii) A reasonable basis for the complaint has not been established by the investigation; or

(iii) Other appropriate reasons warrant such action.

(2) A complainant may file a written request to withdraw the complaint previously filed. Such withdrawal request, whether initiated by the complainant or submitted in response to a request by the Area Administrator, shall be approved by the LMSA Regional Administrator. Upon approval, the case shall be closed and the com-

plainant shall have no right to file an appeal to the Assistant Secretary for LMSA.

(3) If the complainant does not withdraw the complaint, as requested, within a reasonable time, the LMSA Regional Administrator may dismiss the complaint. The letter of dismissal shall set forth a summary of the facts revealed by the investigation and the reasons for the dismissal.

(f) *Right of Appeal.* (1) If the complaint is dismissed by the LMSA Regional Administrator, the complainant may file a written appeal with the Assistant Secretary for LMSA. The appeal must be filed within 15 days of the date of receipt of the LMSA Regional Administrator's letter of dismissal and shall set forth the grounds upon which the appeal is based. The Assistant Secretary for LMSA shall notify the LMSA Regional Administrator and the carrier involved of the filing of the appeal.

(2) Upon review by the Assistant Secretary for LMSA, the appeal may be sustained or denied, in whole or in part, or other action may be directed by the Assistant Secretary as deemed appropriate. The Assistant Secretary for LMSA will notify in writing the complainant, the carrier involved, and the LMSA Regional Administrator of the disposition of the appeal.

## Subpart C—Eligible Protected Employee Benefits: Monthly Assistance Payments

## § 638.20 Applicability.

In addition to the benefits provided for any protected employee under Subpart B of this Part, an eligible protected employee may qualify for monthly assistance payments under this Subpart. The payment of monthly assistance, however, is subject to the appropriation of funds for this purpose. When an appropriation for a fiscal year becomes known, if the Secretary's estimate indicates the appropriation is insufficient to make full payments as specified in these regulations, the formulas for determining the amount of each monthly payment to be made during the year will be proportionately reduced based on available appropriations. Until an appropriation is made for this purpose, no applications may be filed or payments made under this Subpart.

## § 638.21 Eligibility requirements for monthly assistance payments.

To qualify for benefits under this Subpart, an applicant must be an eligible protected employee. An eligible protected employee is an individual who:

(a) Meets the eligibility requirements for protected employee benefits, set forth in § 638.10; and

(b) Due to a qualifying dislocation of the employing carrier, as determined by the Board, has been either:

(1) Deprived of employment with the air carrier; or

(2) Adversely affected with respect to compensation from employment with the carrier; and

(c) Has been deprived of employment or adversely affected with respect to compensation on or after the beginning date of the period of the qualifying dislocation; and

(d) Has not applied for or is not receiving a pension under a plan contributed to by a carrier.

## § 638.22 Availability for work.

In addition to meeting the eligibility requirements under § 638.21, an individual deprived of employment, to be eligible for a monthly assistance payment for any month, must be able to work, available for and seeking reasonably comparable employment.

## § 638.23 Amount of monthly assistance payment.

(a) *Employee deprived of employment.* The amount of a monthly assistance payment to an eligible protected employee who has been deprived of employment shall be 70 percent of the employee's average monthly wage after taxes. *Provided*, that, such amount shall not exceed \$1,200.

(b) *Employee adversely affected with respect to compensation.* The amount of a monthly assistance payment to an eligible protected employee who has been adversely affected with respect to compensation shall be 70 percent of the difference between the employee's average monthly wage after taxes and the total wages after taxes received for any calendar month after being adversely affected. *Provided*, that, such amount plus the amount of the employee's total wages after taxes for any calendar month shall not exceed \$1,200.

(c) *Reduction of monthly assistance payment.* The amount of an applicant's monthly assistance payment shall be reduced by:

(1) The full amount of any unemployment compensation the applicant received or would be eligible to receive with respect to any week of unemployment in such month if a claim for unemployment compensation were filed;

(2) Fifty percent of earnings after taxes (less adjustments for Federal, State and local income taxes, and Social Security contributions) received for services performed in employment (including self-employment), other than reasonably comparable employment, in such month for any new or additional employment engaged in by the applicant following the date such applicant became an eligible protected employee. *Provided*, that, the reduced



amount of the monthly assistance payment plus the full amount of the earnings before taxes shall not exceed the applicant's average monthly wage; and

(3) The full amount of Social Security retirement or disability benefits, or any pension the applicant applied for after the date such applicant became an eligible protected employee, received in such month. Such pension would be other than a pension under a plan contributed to by a carrier as provided under § 638.21(d).

(d) *Fractional months.* Where an eligible protected employee is determined to qualify for monthly assistance payments for only a portion of a calendar month, the monthly assistance payment due for such month shall be proportionately reduced. For purpose of computing fractions of months, each month shall be considered to have 30 days.

(e) *Rounding.* Payments under this Section shall be rounded to the next higher dollar.

#### § 638.24 Period of monthly assistance payments.

A monthly assistance payment, subject to funds being appropriated for this purpose, shall be made to an applicant beginning with the first month in which the applicant is deprived of employment or is adversely affected with respect to compensation due to a qualifying dislocation.

(a) *Employee deprived of employment.* The period of monthly assistance payments for an applicant deprived of employment shall continue until the end of 72 consecutive months or until the applicant obtains reasonably comparable employment, whichever first occurs.

(b) *Employee adversely affected with respect to compensation.* The period of monthly assistance payments for an applicant adversely affected with respect to compensation shall continue for no longer than 72 months. *Provided,* that, the total number of such payments made under paragraphs (a) and (b) for any reason do not exceed 72.

#### § 638.25 Refusal of reasonably comparable employment.

(a) *Within commuting area.* If an applicant refuses an offer of reasonably comparable employment within the commuting area, the applicant is no longer eligible to receive monthly assistance payments.

(b) *Outside commuting area.* If an applicant refuses an offer of reasonably comparable employment because of unwillingness to relocate outside the commuting area, the applicant shall be eligible for only three additional monthly assistance payments or the number remaining pursuant to § 638.24, whichever is lesser.

#### § 638.26 Applications for monthly assistance payments.

(a) *Initial application.* An initial application for a monthly assistance payment shall be filed by an applicant with the State agency of the paying State and on a form prescribed by the Secretary which shall be furnished to the applicant by the State agency. Such application may not be filed prior to the beginning date of a qualifying dislocation as determined by the Board or for any month that begins after December 31, 1988.

(b) *Monthly applications.* Applications for a monthly assistance payment for months of unemployment or reduced compensation shall be filed with respect to the applicant's paying State at the times and in the manner prescribed by the paying State, and on forms prescribed by the Secretary which shall be furnished to the applicant by the State agency.

(c) *Filing in person.* (1) Except as provided in subparagraph (2) of this paragraph, all applications for a monthly assistance payment, including initial applications, shall be filed in person.

(2) Whenever an applicant has good cause for not filing any application for a monthly assistance payment in person, the application shall be filed at such time, in such place, and in such a manner as directed by the paying State and in accordance with this Subpart and procedures prescribed by the Secretary.

(d) *IBPP.* The "Interstate Benefit Payment Plan" and interstate procedures prescribed by the Secretary shall apply, where appropriate, to an applicant filing applications for a monthly assistance payment.

(e) *Procedural requirements.* (1) The procedures for reporting and filing applications for a monthly assistance payment shall be consistent with this Subpart, and with the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (Employment Security Manual, Part V, Sections 5000 et seq.) insofar as such standard is not inconsistent with this Subpart.

(2) The provisions of the paying State law which apply hereunder to applications for and the payment of monthly assistance shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of unemployment compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this Subpart.

#### § 638.27 Determinations; notices to applicants.

(a) *Determination of initial applications.* (1) The State agency shall

promptly, upon the filing of an initial application for a monthly assistance payment, determine whether the applicant is eligible, and if the applicant is found to be eligible, the amount of the monthly assistance payable to the applicant and the period during which it is payable.

(2) An applicant's eligibility for a monthly assistance payment shall be determined based on wage and separation information furnished by the employing carrier. When such information is not obtained from the employer within 10 calendar days from the date that a request is made, the amount of the monthly assistance payment shall be based on an affidavit submitted to the State agency by the applicant on a form prescribed by the Secretary which shall be furnished to the applicant by the State agency. The State agency shall verify the statements on the affidavit through supporting documentation presented by the applicant.

(b) *Determinations of monthly applications.* The State agency shall promptly, upon the filing of an application for a monthly assistance payment with respect to a month of unemployment or reduced compensation, determine whether the applicant is eligible for a payment of monthly assistance with respect to that month, and, if eligible, the amount of monthly assistance to which the applicant is eligible.

(c) *Redetermination.* The provisions of the paying State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to unemployment compensation under the State law shall apply to determinations pertaining to a monthly assistance payment.

(d) *Notices to applicant.* The State agency shall give notice in writing to the applicant, by the most expeditious method, of any determination or redetermination of an initial application, and of any determination of an application for a monthly assistance payment with respect to a month of unemployment or reduced compensation. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determination and written notices of redetermination with respect to claims for unemployment compensation.

(e) *Promptness.* Full payment of monthly assistance when due shall be

made with the greatest promptness that is administratively feasible.

(f) *Secretary's standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to applicants applying for a monthly assistance payment, shall to the extent applicable, be consistent with this Subpart and with the Secretary's "Standard for Claim Determinations—Separation Information" (Employment Security Manual, Part V, Section 6010 et seq.).

#### Subpart D—Eligible Protected Employee Benefits: Relocation Assistance

##### § 638.30 Applicability.

(a) In addition to the benefits provided in Subparts B and C of this Part, an eligible protected employee may qualify for relocation assistance under this Subpart. Relocation assistance, subject to funds being appropriated for this purpose, shall be granted to an eligible protected employee on the conditions stated in this Subpart to assist the employee to find reasonably comparable employment outside the commuting area and to assist the employee and members of the employee's immediate family to relocate within the United States in order for the employee to obtain such employment.

(b) Relocation assistance includes payment of reasonable moving expenses for an eligible protected employee and members of the employee's immediate family, and reimbursement payments for certain losses relating to the change of a principal place of residence. In addition, payment of reasonable expenses for a preemployment interview necessitating travel outside the commuting area shall be allowed to an eligible protected employee on the conditions stated in this Subpart.

(c) An advance payment, not to exceed 80 percent of the estimated cost of transportation, lodging and meals, may be provided to an eligible protected employee within 5 days prior to the commencement of a preemployment interview or relocation.

(d) Any amounts payable under this Subpart shall be reduced by any amounts customarily payable by any employer for the same purposes.

##### § 638.31 Eligibility requirements for relocation assistance.

To qualify for benefits under this Subpart, an applicant must meet the eligibility requirements for eligible protected employee benefits, set forth in § 638.21, and must meet the following requirements:

(a) Be registered for work with the local office of the State agency in the

area in which the applicant resides; and

(b) Have no reasonable expectation of obtaining reasonably comparable employment within the commuting area.

##### § 638.32 Preemployment interview.

Prior to a preemployment interview being conducted, and applicant must be referred by or receive approval from the local office of the State agency for an interview with an employer located outside the commuting area which may potentially result in an offer of reasonably comparable employment. An applicant must, within a reasonable period, contact each employer to whom referred by the local office of the State agency.

##### § 638.33 Relocation.

Prior to a relocation occurring an applicant must have obtained reasonably comparable employment affording reasonable expectation of long-term duration, or a bona fide offer of such employment, in the area of intended relocation. An applicant must complete the relocation within six months from the date of application for payment of moving expenses.

##### § 638.34 Amounts allowable for preemployment interview.

A payment for a preemployment interview shall consist of expenses for transportation, lodging, and meals. The total amount of expenses payable to an applicant for this purpose during the period in which the applicant is eligible for relocation assistance shall not exceed \$1,500.

(a) *Expenses for transportation.* Expenses for transportation shall be computed as follows:

(1) *Commercial carrier.* If travel is by commercial carrier, the amount allowable shall be the cost of such travel by the most economical public transportation the applicant reasonably can be expected to take from the applicant's principal place of residence to the area where the interview will take place and return.

(2) *Private automobile.* If travel is by private automobile, the amount allowable shall be computed at the rate of 15 cents a mile for the map mileage of the most direct route usually traveled from the applicant's principal place of residence to the area where the interview will take place and return.

(3) *Local travel.* Additional amounts for the actual costs of the most economical local transportation to and from the applicant's principal place of residence, terminals, lodging, and location of employer shall be allowed.

(b) *Expenses for lodging.* Expenses for lodging shall be allowed at a rate not to exceed \$19 per day for each cal-

endar day spent away from the applicant's principal place of residence for the purpose of an interview. Lodging receipts are required to be submitted with a claim for reimbursement.

(c) *Expenses for meals.* Expenses for meals shall be allowed at a rate of \$16 per day for each calendar day spent away from the applicant's principal place of residence for the purpose of an interview.

##### § 638.35 Amounts allowable for moving expenses.

A payment for moving expenses shall not be granted an applicant more than once during the period in which the applicant is eligible for relocation assistance.

(a) *Expenses for transportation, lodging, and meals.* (1) *Applicant.* Amounts allowable for transportation, lodging, and meals for a preemployment interview under § 638.34 shall also be allowable for relocation of the applicant. In addition, the applicant may receive a payment for expenses in the same amounts for a period not to exceed 10 days to look for a residence at the new location. When the spouse accompanies the applicant to look for a residence, the spouse may receive a payment for expenses based on the amounts prescribed for family members in subparagraph (2).

(2) *Family members other than applicant.* (i) *Transportation.* Amounts allowable for transportation expenses shall be the same as for relocation of the applicant in subparagraph (1). If a member of the applicant's family is absent from the applicant's principal place of residence and must travel separately, the cost of transportation shall be paid based on the allowable amounts for each method of travel from the place where such member is staying, but shall not exceed the amount which would have been allowable if such member had been staying with the applicant.

(ii) *Lodging.* Expenses for lodging shall be allowed at a rate not to exceed \$14 per day for the spouse and each dependent age 12 or over, and a rate not to exceed \$9.50 per day for each dependent under age 12, for each calendar day in transit between the old and the new residence. Lodging receipts are required to be submitted with a claim for reimbursement.

(iii) *Meals.* Expenses for meals shall be allowed at a rate of \$12 per day for the spouse and each dependent age 12 or over, and a rate of \$8 per day for each dependent under age 12, for each calendar day in transit between the old and the new residence.

(b) *Expenses for transporting household goods.* (1) *Commercial carrier.* (i) *Household effects.* Costs shall be reimbursed for packing, insuring, shipping and unpacking of standard household



items and personal effects. Insurance shall be allowed for a valuation of \$1.50 per pound. Additional insurance for exceptionally valuable items must be obtained by the applicant and is not reimbursable. Reasonable expenses for transporting pets, including feeding, shall be allowed when necessary.

(ii) *Automobiles.* Costs for one automobile per employee shall be reimbursed when transported by commercial carrier. Any automobile eligible to be shipped must be owned by the applicant, spouse, or dependent child of the applicant. Insurance, not to exceed the fair appraisal value of the automobile shipped, shall be reimbursed.

(2) *Rental truck or trailer.* When household goods are transported by rental truck or trailer, costs shall be reimbursed for the rental of the truck or trailer. Necessary expenses shall be allowed to cover expenditures for casual labor, tolls, and other reasonable costs. An additional amount of 10 cents a mile shall be added to the basic amount allowable for private automobile when used to tow a rental trailer.

(3) *House trailer.* Costs shall be reimbursed to cover the normal expense of transporting a house trailer or mobile home when such unit was used as the applicant's place of residence in the old area and will be so used in the new area. As used in the preceding sentence, the phrase "normal expenses" includes:

(i) A commercial carrier's charges for transportation of the house trailer or mobile home;

(ii) Charges for unblocking and reblocking;

(iii) Ferry charges, bridge, road, and tunnel tolls, taxes, fees fixed by a State or local authority for permits to transport the unit in or through its jurisdiction, and retention of necessary flagmen;

(iv) The cost of insuring the house trailer or a mobile home, and the personal effects of the applicant and family, against loss or damage in transit; and

(v) The cost of installing utilities limited to normal hookup or gas, lights, water, and, if required by virtue of employment, a telephone.

(4) *Temporary storage.* Costs shall be reimbursed to cover the actual expenses of temporary storage of household goods, where necessary, for a period not to exceed 60 days.

#### § 638.36 Reimbursement payments.

(a) *Losses from a change of principal place of residence.* An applicant who relocates to obtain reasonably comparable employment shall receive a reimbursement payment for the full amount of an unavoidable loss resulting from:

(1) Selling his or her principal place of residence at a price below its fair market value, and for purpose of this subparagraph, a loss shall be deemed unavoidable if:

(i) Failure to sell would unreasonably delay or prevent the applicant from acquiring a new residence in the area of relocation; or

(ii) Failure to sell would compel the applicant to make payments on a previous place of residence and a new place of residence concurrently;

(2) Cancellation of a lease agreement on the applicant's principal place of residence or removal of such residence before the term of the lease has expired. *Provided*, that, the applicant shall assign to the State agency any right which he or she may have under the State law to have rents received from a subsequent tenant or tenants of the premises applied to offset the applicant's liability under such lease agreement; or

(3) Cancellation of a contract to purchase a principal place of residence.

(b) *Submission of applications for reimbursement payments.* Application for a reimbursement payment under this Section shall be submitted prior to the sale of the applicant's residence, cancellation of the applicant's lease, or cancellation of the applicant's contract of purchase. In cases involving the sale of the applicant's residence, the application shall contain an appraisal of the fair market value of such residence prepared by a disinterested and qualified appraiser approved by the State agency and such appraisal shall be verified.

(c) *Ineligibility for reimbursement payments.* Notwithstanding paragraph (a), no reimbursement payment shall be paid to an applicant who is determined to have acted unreasonably or in bad faith in entering into any transaction described in paragraph (a); and any reimbursement payment made under paragraph (a) shall be recoverable, with interest, by civil action, in the event it is subsequently determined that the applicant acted unreasonably or in bad faith in connection with the transaction giving rise to such reimbursement payment.

#### § 638.37 Applications for relocation assistance.

(a) *Applications.* An application for relocation assistance shall be filed by an applicant with the State agency of the paying State and on forms prescribed by the Secretary which shall be furnished to the applicant by the State agency. Such application may not be filed prior to the beginning date of a qualifying dislocation as determined by the Board.

(b) *Filing in person.* (1) Except as provided in subparagraph (2) of this

paragraph, all applications for relocation assistance shall be filed in person.

(2) Whenever an applicant has good cause for not filing any application for a relocation assistance payment in person, the application shall be filed at such time, in such place, and in such a manner as directed by the paying State and in accordance with this Subpart and procedures prescribed by the Secretary.

#### § 638.38 Determinations; notices to applicants.

(a) *Determination of applications.* The State agency shall promptly, upon the filing of an application for a relocation assistance payment, determine whether the applicant is eligible, and if the applicant is found to be eligible, the amount of the relocation assistance payable to the applicant.

(b) *Redetermination.* The provision of the paying State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to unemployment compensation under the State law shall apply to determinations pertaining to a relocation assistance payment.

(c) *Notices to applicant.* The State agency shall give notice in writing to the applicant, by the most expeditious method, of any determination or redetermination of an application for a relocation assistance payment. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determination and written notices or redetermination with respect to claims for unemployment compensation.

(d) *Promptness.* Payment of relocation assistance shall be made with the greatest promptness that is administratively feasible.

(e) *Secretary's standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to applicants applying for a relocation assistance payment, shall to the extent applicable, be consistent with this Subpart and with the Secretary's "Standard for Claim Determinations—Separation Information" (Employment Security Manual, Part V, Sections 6010 et seq.).

#### § 638.39 Overpayment of relocation assistance.

(a) *Repayment required.* If an applicant fails without good cause to complete a preemployment interview or a relocation, any payment made for such purposes shall constitute an overpayment.

(b) *Relocation completed.* A relocation is completed when an applicant

and family, if any, and their household goods and personal effects arrive at the applicant's home in the area of relocation. If no household goods are transported, a relocation is completed when the applicant and family, if any, actually move to the area of relocation and establish a new residence. Failure of a member of an applicant's family to move does not mean a relocation was not completed if there was good cause for the failure, unless the member is the only member of the applicant's family.

(c) *Collection.* Any overpayment determined under this paragraph shall be collected as stated in § 638.44.

#### Subpart E—Administration

##### § 638.40 Agreements with State agencies.

(a) *Authority.* The Airline Program shall be administered by State agencies pursuant to agreements with the Department of Labor making such State agencies agents of the United States for such purpose. Before performing any function or exercising any authority under the Act, a State agency shall execute an agreement under this Section.

(b) *Execution.* An agreement under paragraph (a) of this Section shall be signed by an authorized official of the State. The authority of the official to enter into the agreement shall be certified by the Attorney General of the State or counsel for the State agency. An agreement will be executed on behalf of the Department of Labor by the Secretary of Labor.

##### § 638.41 Effective period of the program.

(a) *Beginning date.* Assistance under the Act and Subparts C and D shall be payable with respect to a calendar month or other applicable period beginning on or after January 1, 1979.

(b) *Ending dates.* (1) Assistance under the Act and Subparts C and D shall be payable for any calendar month or other applicable period until the applicant obtains reasonably comparable employment, or until the end of the 72 months, whichever first occurs. No initial application for assistance may be filed for any month that begins after December 31, 1988, and no payment of assistance may be made for any month that begins after November 30, 1994.

(2) All provisions of Section 43 of the Act shall terminate on the last date that the Secretary is required to make a payment under such Section.

##### § 638.42 The paying State for an applicant.

(a) *Paying State.* The paying State for an applicant shall be that State in which an applicant (protected employee) files an initial application for assistance after the applicant has been deprived of employment or has been

adversely affected with respect to compensation due to a qualifying dislocation.

(b) *Limitation.* Assistance under the Act and Subpart C and D shall be payable to an applicant residing in the United States only by the paying State as determined pursuant to paragraph (a) of this Section.

##### § 638.43 Appeal and review.

(a) *Applicable State law.* The provisions of the State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to unemployment compensation shall apply to determinations and redeterminations of eligibility for assistance under the Act and Subparts C and D.

(b) *Rights of appeal and fair hearing.* The provisions on right of appeal and opportunity for a fair hearing with respect to applications for assistance shall be consistent with this Subpart and with Sections 303(a)(1) and 303(a)(3) of the Social Security Act (42 U.S.C. 503(a)(1) and 503(a)(3)).

(c) *Promptness on appeals.* Decisions on appeals under the Act and this Subpart shall accord with the Secretary's "Standards for Appeals Promptness—Unemployment Compensation" in Part 650 of this Chapter.

(d) *Furnishing copy of decision.* To assure uniform interpretation and application of the Act and this Subpart throughout the United States, a State agency shall submit, not later than 10 days after issuance, to the Department of Labor, a copy of each administrative decision ruling on an applicant's eligibility for assistance under the Act and Subparts C and D. On request of the Department of Labor, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an applicant's eligibility for such assistance.

(e) *Review by Assistant Secretary.* The Assistant Secretary for ETA, within 20 days after issuance thereof, may on his own motion, review any determination, redetermination or decision by a State agency with respect to assistance under the Act, and may affirm, reverse or modify the same. The decision of the Assistant Secretary for ETA shall be final and conclusive.

##### § 638.44 Overpayments; disqualification for fraud.

(a) *Finding and repayment.* If the State agency of the paying State finds that an applicant has received a payment of assistance to which the applicant was not entitled under the Act and Subparts C and D, whether or not the payment was due to the applicant's fault or misrepresentation, the applicant shall be liable to repay to the paying State the total sum of the

payment to which the applicant was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the applicant was not entitled.

(b) *Recovery by offset.* (1) The paying State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the applicant, by deductions from any assistance payable to the applicant under the Act and Subparts C and D, or from any compensation payable to the applicant under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the applicant with respect to unemployment under any other Federal law administered by the State agency.

(2) The paying State agency shall also recover, insofar as is possible, the amount of any overpayment of assistance made to the applicant by another State, by deductions from any assistance payable by the State agency to the applicant under the Act and Subparts C and D, or from any compensation payable to the applicant under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the applicant with respect to unemployment under any other Federal law administered by the State agency.

(c) *Recovered overpayments.* Overpayments of assistance under the Act and Subparts C and D recovered in any manner shall be credited or returned to the appropriate account of the United States.

(d) *Debts due the United States.* Assistance payable under the Act and Subparts C and D to an applicant shall be applied by the State agency for the recovery by offset of any debt due to the United States from the applicant, but shall not be applied or used by the State agency in any manner for the payment of any debt of the applicant to any State or any other entity or person.

(e) *Application of State law.* Any provision of State law authorizing waiver of recovery of overpayments of unemployment compensation shall not be applicable to overpayments of assistance made under the Act and Subparts C and D.

(f) *Final decision.* Recovery of any overpayment of assistance under the Act and Subparts C and D shall not be enforced by the State agency until the determination establishing the overpayment has become final, or if appeal is taken from the determination, until the decision after opportunity for a fair hearing has become final.



## PROPOSED RULES

(g) *Procedural requirements.* The provisions of paragraphs (c), (d), and (f) of § 638.27 and paragraphs (b), (c), and (e) of § 638.38 shall apply to determinations and redeterminations made pursuant to this Section.

(h) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of assistance under the Act and Subparts C and D shall be, as a minimum, commensurate with the procedures adopted by the State with respect to unemployment compensation and consistent with the Secretary's "Standards for Fraud and Overpayment Detection" (Employment Security Manual, Part V, Sections 7510 et seq.).

(i) *Disqualification for fraud.* Any applicant who makes or causes another to make a false statement, or misrepresentation of a material fact, knowing it to be false, or knowingly fails or causes another to fail to disclose a material fact, in order to obtain for the applicant, or any other person a payment of assistance under the Act and Subparts C and D to which the applicant or any other person is not entitled, shall be disqualified as follows:

(1) If the false statement, misrepresentation, or nondisclosure pertains to an initial application for monthly assistance or an application for relocation assistance under the Act and Subparts C and D—

(i) The applicant making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of all such assistance under the Act and Subparts C and D; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual shall be disqualified from the receipt of all such assistance under the Act and Subparts C and D; and

(2) If the false statement, misrepresentation, or nondisclosure pertains to a calendar month for which application for a payment of monthly assistance is made—

(i) The applicant making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of assistance for such month and the first two months that immediately follow such month with respect to which the applicant is otherwise entitled to a payment of assistance; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other indi-

vidual shall be disqualified from the receipt of assistance for such month and the first two months that immediately follow such month, with respect to which the individual is otherwise entitled to a payment of assistance.

(j) *Criminal penalties.* The provisions of this Section on recovery of overpayments and disqualification for fraudulently claiming or receiving any assistance to which an applicant was not entitled under the Act and Subparts C and D shall be in addition to and shall not preclude any applicable criminal prosecution and, penalties under State or Federal law.

## § 638.45 Inviolate rights to assistance.

Except as specifically provided in this Part, the right of applicants to assistance under the Act and Subparts C and D shall be protected in the same manner and to the same extent as the rights of persons to unemployment compensation are protected under the State law. Such measures shall include protection of applicants for assistance from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to assistance under the Act and Subparts C and D. In the same manner and to the same extent, applicants shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to assistance under the Act and Subparts C and D.

## § 638.46 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(b) *Disclosure of information.* Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to unemployment compensation and the entitlement of individuals thereto may be disclosed under the applicable State law, and consistently with Section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1). This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the Department of Labor, or in the case of information, reports, and studies requested pursuant to § 638.49, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5

U.S.C. 552a), or regulations of the Department of Labor promulgated thereunder.

## § 638.47 Announcement of a qualifying dislocation.

Provided that appropriated funds are available, whenever a notification is received by a State agency that a qualifying dislocation of a carrier has been determined by the Board, the State agency shall promptly announce throughout the State by all appropriate news media that individuals, who have become unemployed or who have had a reduction in compensation, as the result of such qualifying dislocation may be eligible for assistance under the Act and Subparts C and D; that they should file initial applications for assistance as soon as possible; the beginning date of the period of the qualifying dislocation; and where individuals may obtain further information and file applications for assistance under the Act and Subparts C and D.

## § 638.48 Public access to agreements.

The State agency will make available to any individual or organization a true copy of the agreement with that State for inspection and copying. Copies of an agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

## § 638.49 Information, reports and studies.

State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this Part.

## § 638.50 Grants to States.

Each State which has entered into an agreement shall be paid by the United States, from time to time, prior to audit or settlement by the General Accounting Office, and either in advance or by way of reimbursement as the Secretary decides in each instance, such amounts as are deemed necessary by the Secretary to make payments of assistance in accordance with the Act and Subparts C and D and the procedures thereunder prescribed by the Secretary, and such amounts as are determined by the Secretary to be equal to the necessary costs for the proper and efficient administration of the Act by the State and subject to funds being appropriated for these purposes.

## § 638.51 Administration absent State agreement.

In a State in which no agreement is in force, the Assistant Secretary for

ETA shall administer the Airline Program through other appropriate arrangements.

Signed at Washington, D.C., this 26th day of March, 1979.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

J. VERNON BALLARD,  
Acting Assistant Secretary  
for Labor-Management Relations.

## APPENDIX I—U.S. CARRIERS CERTIFICATED AS OF OCTOBER 23, 1978, UNDER SECTION 401 OF THE FEDERAL AVIATION ACT OF 1958, AS AMENDED

1. Airlift International, Inc.
2. Air Micronesia, Inc.
3. Air Midwest
4. Air New England, Inc.
5. Air Wisconsin, Inc.
6. Alaska Airlines, Inc.
7. Allegheny Airlines, Inc.
8. Aloha Airlines, Inc.
9. American Airlines, Inc.
10. Aspen Airways, Inc.
11. Braniff Airways, Inc.
12. Capitol International Airways, Inc.
13. Chicago Helicopter Airways, Inc.
14. Colonial Air Lines, Inc.
15. Continental Air Lines, Inc.
16. Delta Air Lines, Inc.
17. Eastern Airlines, Inc.
18. Evergreen International Airlines, Inc.
19. The Flying Tiger Line, Inc.
20. Frontier Airlines, Inc.
21. Hawaiian Airlines, Inc.
22. Hughes Air Corp.
23. Kodiak Western Alaska Airlines, Inc.
24. Mackey International Airlines, Inc.
25. McCulloch International Airlines, Inc.
26. Midway Airlines, Inc.
27. Midway (Southwest) Airway Co.
28. Modern Airways, Inc.
29. Munz Northern Airlines, Inc.
30. National Airlines, Inc.
31. New York Airways, Inc.
32. North Central Airlines, Inc.
33. Northwest Airlines, Inc.
34. Overseas National Airways, Inc.
35. Ozark Air Lines, Inc.
36. Pan American World Airways, Inc.
37. Piedmont Aviation, Inc.
38. Reeve Aleutian Airways, Inc.
39. Rich International Airlines, Inc.
40. Seaboard World Airways, Inc.
41. Southern Air Transport, Inc.
42. Southern Airways, Inc.
43. Texas International Airlines, Inc.
44. Trans International Airlines, Inc.
45. Trans World Airlines, Inc.
46. United Airlines, Inc.
47. Western Air Lines, Inc.
48. Wien Air Alaska, Inc.
49. World Airways, Inc.
50. Wright Air Lines, Inc.
51. Zantop International Airlines, Inc.

## APPENDIX II—MAILING ADDRESS OF LMSA AREA OFFICES

- Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 4334, 300 North Los Angeles Street, Los Angeles, CA 90012.
- Area Administrator, LMSA, U.S. Department of Labor, Room 317, 211 Main Street, San Francisco, CA 94105.
- Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building,

## PROPOSED RULES

Rm. 1523, 1961 Stout Street, Denver, CO 80294.

Area Administrator, LMSA, U.S. Department of Labor, Vanguard Building, Rm. 509, 1111 20th Street, N.W., Washington, D.C. 20036.

Area Administrator, LMSA, U.S. Department of Labor, Washington Square Office Bldg., Suite 504, 11 NW 183rd Street, Miami, FL 33169.

Area Administrator, LMSA, U.S. Department of Labor, Suite 504, 1365 Peachtree Street, NE, Atlanta, GA 30309.

Area Administrator, LMSA, U.S. Department of Labor, Box 50204, Room 5115, 300 Ala Moana, Honolulu, HI 96850.

Area Administrator, LMSA, U.S. Department of Labor, Insurance Exchange Building, Suite 1201A, 175 West Jackson Boulevard, Chicago, IL 60604.

Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 940, 600 South Street, New Orleans, LA 70130.

Area Administrator, LMSA, U.S. Department of Labor, New Studio Building, Rm. 211, 110 Tremont Street, Boston, MA 02108.

Area Administrator, LMSA, Federal Building & U.S. Courthouse, Room 630, 231 West Lafayette Street, Detroit, MI 48226.

Area Administrator, LMSA, U.S. Department of Labor, Federal Courts Building, Rm. 110, 110 S. Fourth Street, Minneapolis, MN 55401.

Area Administrator, LMSA, Federal Office Building, Rm. 2200, 911 Walnut Street, Kansas City, MO 64106.

Area Administrator, LMSA, U.S. Department of Labor, Room 570, 210 N. Twelfth Boulevard, St. Louis, MO 63101.

Area Administrator, LMSA, U.S. Department of Labor, Room 515, 744 Broad Street, Newark, NJ 07102.

Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 1310, 111 West Huron Street, Buffalo, NY 14202.

Area Administrator, LMSA, U.S. Department of Labor, Room 1751, 26 Federal Plaza, New York, NY 10007.

Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 821, 1240 E. Ninth Street, Cleveland, OH 44199.

Area Administrator, LMSA, U.S. Department of Labor, James A. Byrne Courthouse, Room 7401, 601 Market Street, Philadelphia, PA 19106.

Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 1436, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 650, Carlos Chardon Street, Hato Rey, PR 00918.

Area Administrator, LMSA, U.S. Department of Labor, 1808 West End Building, Room 716, Nashville, TN 37203.

Area Administrator, LMSA, U.S. Department of Labor, 555 Griffin Square Building, Room 707, Griffin & Young Streets, Dallas, TX 75202.

Area Administrator, LMSA, U.S. Department of Labor, Federal Office Building, Rm. 3135, 909 First Avenue, Seattle, WA 98174.

## AREA ADMINISTRATORS—GEOGRAPHIC JURISDICTIONS

| State   | Area   |
|---|--|
| Alabama   | Atlanta  |
| Alaska  | Seattle  |
| Arizona   | Los Angeles  |
| Arkansas  | New Orleans  |
| California  | Los Angeles/San Francisco  |
| Colorado  | Denver   |
| Connecticut   | Boston   |
| Delaware  | Philadelphia   |
| District of Columbia  | Washington, D.C.   |
| Florida   | Miami  |
| Georgia   | Atlanta  |
| Hawaii, and all land and water areas west of the continent of North & South America (except coastal islands) to long. 90 degrees E. 22° | Honolulu   |
| Iaaho   | Seattle  |
| Illinois  | Chicago  |
| Indiana   | Chicago  |
| Iowa  | St. Louis  |
| Kansas  | Kansas City  |
| Kentucky  | Nashville  |
| Louisiana   | New Orleans  |
| Maine   | Boston   |
| Maryland  | Washington, D.C.   |
| Massachusetts   | Boston   |
| Michigan  | Detroit  |
| Minnesota   | Minneapolis  |
| Mississippi   | Nashville  |
| Missouri  | Kansas City/St. Louis  |
| Montana   | Denver   |
| Nebraska  | Kansas City  |
| Nevada  | San Francisco (except Clark County which is in Los Angeles jurisdiction) |
| New Hampshire   | Boston   |
| New Jersey  | Newark   |
| New Mexico  | Dallas   |
| New York  | New York City/Buffalo  |
| North Carolina  | Atlanta  |
| North Dakota  | Kansas City  |
| Ohio  | Cleveland  |
| Oklahoma  | Dallas   |
| Oregon  | Seattle  |
| Pennsylvania  | Philadelphia/Pittsburgh  |
| Puerto Rico   | Santurce   |
| Rhode Island  | Boston   |
| South Carolina  | Atlanta  |
| South Dakota  | Kansas City  |
| Tennessee   | Nashville  |
| Texas   | Dallas   |
| Utah  | Denver   |
| Vermont   | Boston   |
| Virginia  | Washington, D.C.   |
| Washington  | Seattle  |
| West Virginia   | Pittsburgh   |
| Wisconsin   | Minneapolis/Chicago  |
| Wyoming   | Denver   |
| Virgin Islands  | Santurce   |
| Canal Zone  | Santurce   |

All installations located outside the United States, except Virgin Islands, Canal Zone, and all land and water areas west of the continent of North and South America (except coastal islands) to long. 90 degrees E.—Washington, D.C. Area Office.

<sup>1</sup>San Francisco includes the following California counties: Monterey, Kings, Tulare, Inyo, and all counties north thereof—also includes all of Nevada except Clark County which is in the Los Angeles jurisdiction.

<sup>2</sup>St. Louis includes the following Missouri counties: Putnam, Sullivan, Linn, Chariton, Saine, Pettis, Benton, Hickory, Polk, Greene, Christian, Stone, and all counties east thereof.

<sup>3</sup>New York City includes the following New York counties: Ulster, Sullivan, Greene, Columbia, and all counties south thereof.

<sup>4</sup>Pittsburgh includes the following Pennsylvania counties: Potter, Clinton, Centre, Mifflin, Huntingdon, Franklin, and all counties west thereof.

<sup>5</sup>Chicago includes the following Wisconsin counties: Vernon, Columbia, Sauk, Dodge, Fond du lac, Sheboygan, and all counties south thereof.

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Federal Register

FRIDAY, MARCH 30, 1979

PART V



## FEDERAL TRADE COMMISSION

### OCTANE POSTING AND CERTIFICATION

Establishment of Standard  
Procedures; Invitation for  
Public Comment



[6750-01-M]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

## SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

## PART 306—OCTANE CERTIFICATION AND POSTING

AGENCY: Federal Trade Commission.

ACTION: Final Rule Governing Certification and Posting of Octane Numbers Under Title II of the Petroleum Marketing Practices Act.

SUMMARY: Pursuant to Title II of the Petroleum Marketing Practices Act (PMPA), the Federal Trade Commission issues a final rule that establishes standard procedures for determining, certifying, and posting, by means of a label on the fuel dispenser, the octane rating of automotive gasoline intended for sale to consumers. The rule is intended to enable consumers to buy a gasoline with an octane rating that is high enough to prevent inefficient and harmful "engine knock." The rule also is intended to help consumers avoid buying gasoline with an octane rating that is too high for their needs. The decline of this practice, known as "octane overbuying," could result in gasoline price savings to consumers, more efficient use of energy resources, and lower levels of air pollution from automotive exhaust emissions.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT:

James Mills, Federal Trade Commission, PE-S-7317, Washington, D.C. 20580, (202) 724-1967.

SUPPLEMENTARY INFORMATION:

## STATEMENT OF BASIS AND PURPOSE

## I. INTRODUCTION

## A. Background

On June 19, 1978, President Carter signed into law Public Law No. 95-297, entitled "The Petroleum Marketing Practices Act" (PMPA). One of the purposes of the Act, according to its preamble, is "to encourage conservation of automotive gasoline and competition in the marketing of such gasoline by requiring that information regarding the octane rating of automotive gasoline be disclosed to consumers."

To accomplish this purpose, Title II of the statute requires that the Federal Trade Commission promulgate a rule relating to octane rating disclosure. This rule was proposed by the

Commission in a notice published in the FEDERAL REGISTER on September 22, 1978. The proposed rule prescribed:

(A) A uniform method of certifying the octane rating of automotive gasoline when it is transferred from refiner to distributor or retailer; and

(B) A uniform method of displaying the octane rating of automotive gasoline sold at the pump.(1)

This rulemaking was conducted in accordance with 5 U.S.C. 553, except that interested persons also were afforded an opportunity to present oral as well as written testimony.(2) Consistent with these requirements, hearings were held on October 16 and 17, 1978. Refiners, distributors, retailers, state agencies, standards setting organizations, and consumers participated in the proceedings.

The evidentiary record was closed on November 3, 1978. On December 26, 1978, the staff released its report, which contained an analysis of the evidence and recommendations for a final rule to the Commission. From then until January 22, 1979, the public had an opportunity to submit comments on the staff's report. On February 26, 1979, staff forwarded to the Commission a summary and analysis of the comments received, together with its final rule recommendations.

Based on the full record, the rule that the Commission is promulgating differs in certain respects from the proposed rule. This notice presents the rationale for each revision and sets forth the basis for each provision of the final rule.

## B. Purpose of Octane Disclosure

All automotive gasolines have an octane number, or octane rating. This number is a measure of how well the gasoline will resist "knocking" in an engine. Engine knocking, which is caused by spontaneous combustion in localized areas of an engine, wastes power and lowers the effectiveness of the engine. Persistent or severe knocking can seriously damage the engine. Thus, the consumer should buy gasoline with an octane rating that is high enough to prevent engine knocking.

However, consumers should avoid "octane overbuying," that is, buying gasoline with more octane than their cars need. Higher octane gasolines usually cost more than lower octane gasolines, and consumers who buy more octane than is needed to control engine knock derive no benefits from the additional money they spend. The prevention of octane overbuying could have at least two other salutary effects. First, less octane overbuying can result in less use of energy resources needed to produce higher octane gasolines. Second, since gasolines with higher octane levels often contain substantial amounts of lead—a serious

pollutant—less overbuying may reduce air pollution caused by lead emissions, a major environmental hazard.

For these reasons, consumers need to know, as accurately as possible, both the octane requirements of their individual cars and the octane ratings of the gasoline they buy at the dispenser. With this information, motorists simultaneously can conserve energy, save money, reduce air pollution, and protect their cars against possible engine damage.

## C. History of Octane Disclosure Regulation

1. *Federal Trade Commission.* The Federal Trade Commission some years ago recognized the value of disclosure of octane ratings to gasoline consumers. On December 16, 1971, the Commission promulgated its trade regulation rule on the posting of octane ratings on gasoline dispensers.(3) In issuing this rule, the Commission found that the failure to disclose the minimum octane rating of gasoline constituted an unfair or deceptive act or practice and an unfair method of competition in commerce under the Federal Trade Commission Act. The responsibility for this disclosure rested on the refiner or distributor who owned or leased the dispenser. The rule specified that the method for determining the octane rating should be the  $(R + M)/2$  formula.(4)

This rule never took effect. Following its promulgation, the National Petroleum Refiners Association (NPRA) filed a legal challenge against the Commission's authority to issue the rule. The United States District Court for the District of Columbia held that the Commission lacked authority to promulgate trade regulation rules that had the substantive effect of law—that is, that could be enforced as though they had been acts of Congress. On appeal by the FTC, the United States Court of Appeals for the District of Columbia reversed, finding that the Commission possessed authority to promulgate substantive rules, and remanded the case to the D.C. District Court for further consideration limited to the adequacy of the administrative record underlying the rule.(5) On October 27, 1977, the District Court dismissed NPRA's action without prejudice, but ordered the Commission to complete an environmental impact statement before attempting to put the rule into effect. Since this statement has not been completed, the rule has never taken effect.(6)

During its consideration of Title II of the PMPA, Congress recognized that prolonged litigation had prevented enforcement of the original octane posting rule. It is evident from the statute, and its legislative history,(7)

that Congress intended the requirements of Title II to replace those of the Commission's original octane posting rule. For example, the octane rating method specified by section 202(c) of the Act is the same as the method that was required by the 1971 rule.

Enactment of the PMPA thus effectively repealed the octane posting rule.(8) On September 22, 1978, the Commission published an announcement of the rule's repeal in the FEDERAL REGISTER at 43 FR 43022.

2. *Federal Energy Administration.* The Federal Energy Administration (FEA), subsequently incorporated as part of the Department of Energy (DOE), also has acted to require octane disclosures to consumers. In exercising its price control authority under the Emergency Petroleum Allocation Act of 1973, FEA concluded that a reduction in the octane rating of gasoline without a corresponding reduction in price was tantamount to an increase in price for the gasoline. As part of its pricing regulations addressing this problem, FEA required that octane ratings be posted on all gasoline pumps.(9)

Congress was aware of this regulatory effort when it considered passage of the PMPA. The Senate Report refers to the FEA rule, noting the requirements of the FEA regulation have not been actively enforced. The Report also states that, absent a legislative directive, the prospect of more active federal enforcement of an octane posting rule appeared unlikely.(10)

Thus, Congress instructed the FTC to promulgate an octane posting rule "to assure prompt and permanent enforcement of an octane posting requirement."(11)

## D. Requirements of Title II of PMPA

In addition to providing a distinct statutory basis for an octane posting rule, Congress sketched out the contours of the rule.

Refiners(12) must determine and certify ratings to their distributors.(13) Distributors(14) are required to certify octane ratings to other distributors and to retailers.(15) Gasoline retailers(16) must display, "in a clear and conspicuous manner at the point of sale," the certified octane rating of the gasoline being dispensed.(17)

Refiners are required to determine the octane ratings of their products in accordance with a stated formula.(18) The formula provided in Title II is the sum, divided by two, of the Research Method and the Motor Method, two accepted laboratory test methods for evaluating the antiknock performance of automotive gasoline.(19)

The Research Method measures anti-knock performance under mild

operating conditions, that is, at relatively low engine speeds with a wide open throttle. In practice, these conditions would exist for most passenger cars and light-duty commercial vehicles during periods of full-throttle operation for all but the most severe conditions.(20)

The Motor Method measures anti-knock performance under more severe operating conditions, that is, at relatively high engine speeds with a wide open throttle. These conditions would exist for many passenger cars and light-duty commercial vehicles during periods of power accelerations at higher road speeds, such as in passing vehicles or in ascending hills.(21)

Neither of these methods, standing alone, produces a completely accurate measurement of the octane rating of automotive gasoline.(22) As a result, a standard practice is to add the octane numbers derived from both methods and divide that sum by two to get the "anti-knock index" of the gasoline. This formula— $(R + M)/2$ —is recommended by the American Society for Testing and Materials (ASTM),(23) and was adopted in both the Commission's 1971 rule and FEA's 1973 rule.

Although Congress reaffirmed this method in the PMPA,(24) there is continuing debate in the industry concerning other, arguably more precise, ways of determining octane ratings. Congress was cognizant of this debate, and provided that the Commission could, by rule, prescribe a different procedure for determining octane ratings.(25)

## E. Summary of Rule Provisions

1. *Coverage and Penalties.* So that it may be easily used by industry members, the rule itself is divided into sections based on category of industry membership (such as refiner, distributor, retailer). One final section details label specifications. However, in order to avoid repeated discussion of duties commonly shared by different categories of industry members, this summary, as well as the analysis to follow, is divided by headings reflecting the various requirements of the rule; for example, certification, labels, record-keeping, posting.

The rule covers refiners, producers, importers, distributors and retailers of automotive gasoline.(26)

Section 306.0 of the rule states that violations of the rule are punishable by fines of up to \$10,000 per day for each violation, in accordance with the terms of liability set forth in section 5(m)(1)(A) of the Federal Trade Commission Act.(27)

2. *Octane Determination.* There are three ways in which industry members may determine(28) the octane of gasoline for purposes of certification or posting. They are: testing, by means of

the prescribed  $(R + M)/2$  formula; mathematical calculation using the prescribed weighted-average formula; or, using the lowest octane rating certified for any of the gasolines in a blend.

Section 306.4(a) of the rule states the statutory requirement(29) that refiners, producers and importers must determine the octane of the gasoline they distribute. These industry members may use their own laboratories or contract with outside laboratories. Tests using the  $(R + M)/2$  formula are to be conducted in accordance with procedures developed by the American Society for Testing and Materials (ASTM), a voluntary standards-setting organization.(30)

If distributors(31) and retailers(32) do not blend gas, they have the option of using the octane rating certified to them or of determining the octane rating by testing in accordance with the  $(R + M)/2$  method.

If distributors or retailers blend different gasolines, they have the option of: 1) determining the octane rating by testing in accordance with the  $(R + M)/2$  method; 2) using the lowest octane rating certified to them for any of the gasolines in a mixture; or 3) using the weighted-average formula prescribed by § 202(f)(1) of PMPA.(33) Under the weighted-average formula, an industry member takes the average of the octane ratings, weighted by volume, of the gasolines in the blend in order to arrive mathematically at an octane rating for the mixture.(34)

3. *Certification of Octane Rating.* The Rule requires that refiners,(34) producers and importers(35) and distributors(36) certify the octane rating of gasoline that they transfer for resale. This certification can be accomplished in either of two ways: on a delivery ticket(37) or by a letter or other written statement.(38)

Certification on a delivery ticket, which can be any written proof of transfer, must show the names of the parties to the transfer, the date, and the quantity and octane rating of the gasoline.

A letter of certification from the supplier to the next person in the chain of distribution must show the names of the parties, the date, and the octane rating of the gasoline to be transferred. This type of certification is valid until gasoline with a lesser octane rating is shipped. In effect, it is an on-going certification of a minimum octane rating. In both of the above methods of certification, the octane rating may be stated as a whole or half number either equal to or less than the determined rating, or as an exact, fractional rating.(39)

4. *Posting.* Retailers are required to post the octane rating of all gasoline that they sell to consumers.(40) They



must post a whole or half number equal to or less than the octane rating certified to them or determined by them.(41) They must post at least one label on each face of each gasoline dispenser, and if more than one kind of gasoline is sold from a single dispenser, separate disclosures for each kind of gasoline must be put on each face of the dispenser.(42)

The label must be put on the face of the dispenser as near as possible to the price per gallon of the gasoline. It must be placed so it is in full view of consumers.(43)

Retailers must maintain and replace labels as needed to make sure that consumers can easily see and read them.(44) If labels are defaced or are unusable for some unexpected reason, retailers may post a temporary label.(45)

5. *Labels.* The standard labels are 3 inches wide and 2 1/4 inches long.(46) The size(47) and type style(48) as well as dimensions for border and spacing(49) are specified. Labels are to be printed in black ink on a yellow background with a black border.(50) They must be capable of withstanding extremes of weather conditions for a period of at least one year.(51) They must be resistant to gasoline, oil, grease, solvents, detergents, and water.(52) Illustrations of label prototypes are included in the rule.(53)

The label must show the octane rating, using a whole or half number,(54) preceded by the words "MINIMUM OCTANE RATING" and "(R + M)/2 METHOD".(55)

6. *Recordkeeping.* Refiners,(56) producers,(57) importers,(58) distributors,(59) and retailers(60) must keep for one year records of any delivery tickets, letters or tests upon which they based the octane rating that they certified or posted. These records must be open for inspection by Federal Trade Commission staff or by other authorized persons.

7. *Preemption.* The rule recites the preemption language found in PMPA.(61) Pursuant to PMPA, the Commission intends this section to preempt any provision of any local or state regulation that is not the same as an applicable provision of the rule.(62)

## II. REQUIREMENTS OF THE RULE

This section discusses each provision of the final rule, and explains changes in the rule that have been made in response to the record evidence received in this proceeding.

### A. Prefatory Provisions of the Rule

1. *Jurisdiction.* Section 306.0 states that the rule deals with the certification and posting of octane ratings of gasoline in or affecting commerce, as defined in the Federal Trade Commis-

sion Act. The rule applies to persons, partnerships, and corporations. Section 203(e) of Title II of PMPA specifies that a violation of the rule shall be an unfair or deceptive act or practice in or affecting commerce within the meaning of section 5 of the Federal Trade Commission Act. Accordingly, the penalty provisions of the FTC Act(63) are applicable and a violator of this rule can be fined up to \$10,000 for each violation.

2. *Coverage.* Section 306.1 states that the rule covers refiners, producers, importers, distributors, and retailers. This coverage parallels the coverage in PMPA's definitions of "refiner,"(64) "gasoline retailer,"(65) and "distributor."(66)

The recommended rule accompanying the Staff Report extended coverage to those who took custody of gasoline, as well as those who took title, in order to preserve an unbroken chain of certification of the octane rating from refiner or importer to retailer.(67) As a result, common carriers fell within the scope of the recommended rule. This language has been deleted. In its place, the Commission has chosen to create an incentive for compliance by the common carrier in the octane certification framework. This has been accomplished by a provision that requires industry members to tender certification documents to, and receive certification documents from, common carriers in the chain of distribution. This provision encourages the distributor or retailer to obtain receipt of the shipping document and should induce the carrier to receive and then hand over the certifying document. The Commission believes that common carriers will voluntarily pass on the certifications they receive as they play their part in the chain of gasoline distribution. However, Commission staff will monitor the performance of common carriers in this regard. If it appears that common carriers are a significant cause of breakdown in the certification scheme, the Commission will take such action as it deems appropriate. As one step towards this end, the Commission has initiated contact with those agencies that have primary jurisdiction over common carriers. If necessary, the Commission will obtain assistance from those agencies to assure that common carriers carry out their role in the certification process.

Comments raised the question whether PMPA and the Commission's rule properly could cover "gasoline producers" as well as "refiners." The Environmental Protection Agency recommended that the requirements of the rule should apply equally to producers, refiners, and distributors.(68) Producers comprise that proportionately small segment of the industry

that purchases gasoline components and produces gasoline without refining it from crude oil. If gasoline producers are excluded from the rule, the gasoline they sell would not be subject to the octane certification and posting requirements of the rule and statute. As a matter of policy and law, the Commission believes this anomalous result would satisfy neither the purposes nor the intended coverage of Title II of PMPA. In light of the congressional mandate for comprehensive coverage of all segments of the industry, the Commission thus believes that all industry members who "produce" gasoline—whether as independent producers or as refiners—should be covered by the rule. Section 306.1 of the rule has been drafted accordingly.

Because of the limited number of comments received regarding the necessity for including producers, the Commission will accept comments for thirty days from the date of publication of this rule regarding its decision to include this industry group in the rule.

3. *Severability of the rule.* Section 306.2 states that if any one of the rule's provisions is stayed on appeal or held invalid, the other provisions will remain in effect.

4. *Preemptive effect of the rule.* Section 306.3 of the rule quotes Section 204 of PMPA:

To the extent that any provision of this title applies to any act or omission, no state or any political subdivision thereof may adopt, enforce or continue in effect any provision of any law or regulation (including any remedy or penalty applicable to any violation thereof) with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

The Commission interprets this language to mean that the rule preempts any provision of any state or local regulation in this area that is not the same as an applicable provision of this rule. (69)

### B. Substantive Provisions of the Rule

1. *Octane Determination.* Section 202(a) of PMPA requires each refiner who distributes automotive gasoline in commerce to determine the octane rating of the gasoline. The formula to be used in determining the octane rating of gasoline is prescribed by section 201(1) of PMPA, which defines octane rating as "... the rating of the anti-knock characteristics of a grade or type of automotive gasoline as determined by dividing by 2 the sum of the research octane number plus the motor octane number ...." In section 201(2) of PMPA, Congress derived the terms "research octane number" and "motor octane number" from Standard Specifications for Automotive Gasoline, D 439, a specifi-

cation of the American Society for Testing and Materials (ASTM). Gasoline octane ratings are to be determined in accordance with test methods set forth in ASTM standards numbered D 2699 and D 2700, as in effect on the date of enactment of PMPA. (70)

Based on its interpretation of section 201(2) of PMPA, the Commission has concluded that Congress intended the versions of the ASTM standards in effect in June of 1978 to be adopted, and that any subsequent change in the ASTM standards should not become a part of the rule until affected members of the public have had notice of the change and an opportunity to comment. (71) Therefore, section 306.4 provides that ASTM updates be automatically incorporated into the rule after expiration of a 30-day comment period and a 60-day grace period, except when an update constitutes a change in the procedure for determining the octane rating. Under this section, the Commission will publish notice of the new version in the FEDERAL REGISTER and allow 30 days thereafter for interested persons and Commission staff to comment on whether the revision constitutes a change in the octane determination procedure and whether a 60-day grace period is sufficient time for compliance. On the basis of comments received, the Commission will make a determination as to whether the amendment to the ASTM test method changes the procedure for determining octane ratings. If the Commission decides that the procedure is changed, the change will not be incorporated automatically in the rule. Rather, the Commission will consider the change in an "on the record" rulemaking proceeding consistent with the requirements of section 203(d)(2) of PMPA.

If, after analyzing the evidence submitted during the 30-day comment period, the Commission determines that the amendment to the ASTM test method does not constitute a change in the procedure for determining octane ratings, the ASTM revision will be automatically incorporated into the rule. This incorporation will be effective at the expiration of the 60-day grace period. The 60-day grace period, which begins after the expiration of the 30-day comment period, is to afford affected persons adequate time to come into compliance with the changes to be incorporated into the rule. Industry members will be invited to comment, during the 30-day comment period, on whether a 60-day grace period will be a sufficient length of time in which to prepare for the change. If comments indicate that it would not be, the Commission will have the discretion to extend the grace period.

The Commission believes that this incorporation scheme in §306.4 of the rule achieves the administrative objectives of flexibility and efficiency, while also providing adequate procedural safeguards for affected persons, as intended by section 203(d)(2) of PMPA.

a. *Testing.* The rule repeats the PMPA requirement that refiners "determine" the octane rating of their products. (72) In so doing, it reflects the intent of Congress that refiners not be strictly obligated to test, but may also refer to earlier experience and data while either conducting occasional spot tests for quality, or monitoring through on-line testing to assure consistency of octane rating. (73) The rule also states that refiners or importers may use private facilities for octane determinations. This is important to small refiners, who often do not have octane testing equipment of their own. (74)

Under Sections 202(b)(2) and (c)(2) of PMPA, distributors and retailers may elect to determine octane ratings themselves. Under the statute, the Commission has authority to promulgate a rule prescribing the time and manner for determination of octane ratings by industry members. (75) The procedures to be followed in such a rulemaking are intended to be the same as those that were followed in the instant rulemaking. (76)

The evidence on the record indicates that, generally, neither distributors nor retailers engage in testing of octane ratings because of the cost of equipment and tests. (77) For example, the current cost of one of the test engines used in determining octane ratings, exclusive of operating costs, is approximately \$25,000. The cost of having one test run by a commercial laboratory is estimated at between \$70 and \$100. Furthermore, there are no simple field procedures at this time that can be used by distributors or retailers in place of the complex methodology required of refiners under the prescribed ASTM methods. There are few knock test facilities other than those of refiners, government, independent laboratories, and some suppliers of antiknock additives.

The limited instances of testing mentioned on the record occur when large-scale distributors blend gasoline. The National Oil Jobbers Council commented that pipeline operators that have octane level standards of their own are able to test and certify the large quantities of gasoline that they commingle from various sources. (78)

Several comments suggested that testing by distributors or retailers should be permitted when different gasolines are mixed or blended. Shell Oil suggested that although blending is rare, a distributor of blends should have the option of testing in order to

post an accurate octane figure. (79) Union Oil agreed, (80) noting that when large terminals mix gasoline, they should be able to test, rather than being required to use the weighted-average formula prescribed by section 202(f)(1) of PMPA. (81) Such testing would be appropriate, however, only if it were done either by a recognized laboratory or under the guidance of a trained employee.

Additionally, because of certification problems that can arise when a supplier uses a common carrier pipeline, the record indicates that octane testing by the pipeline, or terminal operation at the point of extraction from the pipeline, would be desirable. (82)

In contrast, wholesalers do not currently test or wish to conduct tests for the purpose of certification. (83) Moreover, two comments suggested that non-refiner's testing should be prohibited, since the high cost of equipment and lack of experienced personnel make it unlikely that competent tests can be run at the distributor or retailer level. (84)

In sum, the record shows that distributor and retailer testing normally occurs only when gasoline is blended. Because the evidence demonstrates that proper octane testing is too complex and too expensive for most retailers and distributors, the Commission has determined not to impose a testing requirement on these industry members. Rather, the rule, consistent with 202(b)(2) and (c)(2) of PMPA, permits distributors or retailers to test to determine octane ratings for either certification or posting purposes. If distributors or retailers test for octane ratings, the Commission considers it imperative that the tests be of comparable quality to those run by refiners. Therefore, all tests must conform to the ASTM standards mentioned in §306.4 of the rule. (85)

b. *Weighted-average Formula.* Section 202(f)(1) of PMPA prescribes distributors' use of the weighted-average formula for determining the octane rating of a gasoline consisting of a blend, or mixture, of two or more gasolines with different octane ratings. To use this formula, the industry member calculates mathematically the octane rating of the mixture by averaging the ratings of each gasoline in the mixture after assigning a proportionate weight, based on volume, to each. Section 203(c)(4) of PMPA authorizes the Commission to prescribe a method other than the weighted-average method if it determines that such method more accurately reflects the octane content of the blend.

While the record evidence(86) supports use of the weighted-average formula when leaded gasoline is blended only with leaded, or unleaded with unleaded, it shows that some variation



occurs on those rare occasions when leaded and unleaded gasolines are combined.(87) With gasolines of the same composition, the relationship between the octane ratings is linear. However, when leaded and unleaded gasolines are blended, the actual octane level of the blend will be slightly higher than that reflected by use of the weighted-average formula.

Chevron commented that there is a more accurate method than the weighted-average formula for calculating the octane level when there is a difference in the lead levels between gasolines mixed. However, this method would require measuring the lead in each of the gasolines in the mixture and graphing a lead response curve, and Chevron itself pointed out that it would be too complicated a method for regular use.(88)

Moreover, some comments supported use of the weighted-average formula even for mixtures of leaded and unleaded gasolines. Those comments stressed that the weighted-average formula, although not perfect, is the best practical formula available. Further, to the extent that the result with this formula is imprecise, the error will result in consumers obtaining a slightly higher, rather than a lower, octane than they expect.

Exxon proposed use of empirical data developed for specific blends, instead of use of the weighted-average formula.(89) The Commission cannot accept this proposed change. The suggestion is not supported on the record, and the Commission thus has insufficient information upon which to base a decision to allow the use of this method.

Atlantic-Richfield raised a concern regarding possible distortions resulting from using the weighted-average formula in conjunction with possible certification of octane ratings to the next lower whole number. As discussed in section B, 2, *infra*, the Commission is permitting refiners and distributors the option of certifying to a whole or half number, or certifying to tenths, thereby providing a means of avoiding distortions that could result from the use of the weighted-average formula in connection with minimum whole numbers.

The Society of Independent Gasoline Marketers of America (SIGMA) indicated that SIGMA's members, both wholesalers and retailers, often receive daily deliveries from their suppliers. The variation in the octane rating of these deliveries can be as much as three points from one delivery to the next.(91) Determining the octane rating of the resulting mixtures would require continuous mathematical calculations. For retailers, this variation could result in frequent changes of the posted labels. More-

over, according to SIGMA, use of the weighted-average formula requires a mathematical calculation that will be difficult to compute.

In contrast to these comments, many participants perceived no practical problems with using the weighted-average formula. The National Oil Jobbers Council, for example, commented that many wholesalers and retailers are already determining octane levels by voluntarily using the weighted-average calculation.(92)

As previously noted, PMPA authorizes the Commission to change the weighted-average formula if another method is found to reflect more accurately the octane rating of gasoline mixtures.(93) The Commission realizes that use of this formula may result, in those occasional situations where leaded and unleaded gasolines are blended, in slight octane overbuying. However, upon reviewing the record on this issue, the Commission has been unable to find sufficient evidence to justify the adoption of any formula other than the weighted-average formula for determining the octane rating of blended gasolines. Furthermore, the Commission is concerned with the implications, both in terms of accuracy and burden on the industry, of adopting a new method based on the limited evidence on the record. Consequently, the Commission has retained this statutorily-prescribed formula as one of the optional methods available to distributors or retailers who mix gasolines. The other options permitted under the rule are testing, or certification and posting of the lowest octane of the gasolines in the blend.(94)

c. *Lowest Octane in Mixture.* To allow for those situations in which a distributor or retailer receives several different shipments of gasoline, each of which has an octane different from the others by only a few tenths of one point, the rule gives the industry the option of certifying or posting the octane of such mixtures to the octane rating of the gasoline in the mixture having the lowest octane. (§§ 306.8(a) and 306.11(c)). This third option, which requires no mathematical calculation, may provide the same result would be derived from either the weighted-average formula option, or the option to test, but will be considerably simpler to use.

2. *Certification.* PMPA requires all refiners,(95) producers and importers(96) and distributors(97) to certify the octane rating of gasoline that they distribute in commerce for resale. Refiners must certify consistent with their determination of the gasoline's octane. Distributors must certify consistent with the certification they received or, optionally, the octane rating determined by them.(98)

Section 306.10 of the proposed rule required octane certification by refiners, importers and distributors to be accomplished by including a delivery invoice with each transfer of gasoline for resale. The proposed rule(99) defined "delivery invoice" as a document in the form of an invoice, bill of lading, bill of sale, a terminal ticket, delivery ticket or any other written evidence of transfer. The invoice had to include:

1. The name of the person who is transferring the gasoline and the name of the person to whom the transfer is made;
2. The date of transfer;
3. The quantity of gasoline transferred;
4. The octane rating of the gasoline;
5. The signature of the person who is transferring the gasoline; and
6. For refiners and importers, the statement: "I certify that the octane rating specified on this delivery invoice is consistent with my determination of the octane rating." For distributors, the statement ends with "... consistent with the octane rating on delivery invoice or invoices which accompanied the transfer of this gasoline."(100)

No information inconsistent with the above requirements was permitted on the delivery invoice.(101)

a. *An Invoice with Every Transfer.* Several comments(102) expressed the opinion that delivery practices within the industry make it difficult, if not impossible, to comply with the requirement to certify the octane rating on a document accompanying each shipment of gasoline. This is because many transfers made within the chain of distribution have no documentation accompanying the delivery, although a delivery ticket or loading ticket will sometimes accompany transfers made during the normal terminal loading transaction.(103) In addition, much of the gasoline sold by a refiner is actually delivered by other refiners pursuant to exchange agreements. The record also indicates that many deliveries of gasoline are made at completely automated distribution terminals, where it is impractical or impossible to require a certification document.

In contrast, some comments stated that documentation normally accompanies delivery, and that the proposed rule's certification requirement thus would not be unduly burdensome. For example, Union Oil Company of California stated that delivery invoices or tickets accompany transfers and contain the name of the company, the customer's name, the gross gallons loaded, temperature at loading, equipment number, price, extended price, a statement about the hazardous nature of the substance and tax notices. Intracompany transfers are accompanied by a simpler invoice.(104)

In the state of Maryland, all transfers of gasoline must be accompanied by an invoice, showing the name of

the carrier, gallons, date, place and time loaded, name of facility where loaded and the ultimate consignee. The objective is to provide the state with an audit trail for tax purposes.(105)

A few industry members commented that although the information required by the proposed rule already appears on delivery documents as a matter of business practice, the requirements are, nevertheless, unnecessarily specific.(106) The consensus industry opinion with respect to the requirement of a delivery document containing a certification for every gasoline transfer is that delivery points are so numerous and the types of operations so varied, that attempting to control the issuance of a proper document in each instance of a motor fuel delivery is unrealistic.

In order to provide an alternative to the proposal of including an invoice with every transfer of gasoline, several industry members suggested that refiners and distributors be allowed to certify on an on-going basis by means of a letter. Such a letter to their customers would guarantee the minimum octane rating of one or more grades of gasoline. The supplier/refiner would be obligated to notify customers of any change in the octane rating. This proposal was supported by retailers, as well as refiners.(107)

The Commission has concluded that the certification requirements of PMPA could be satisfied by such a method, and the rule thus has been revised to provide an option for certification on a continuing basis by a single letter or other document, as an alternative to requiring that certifying documents accompany each transfer of gasoline. Section 306.5(b) provides that the letter of certification will be good until a transfer of gasoline with a lower octane rating is made. This option, in effect, allows certification to a minimum octane rating, which is consistent with current industry practice in many cases.

b. *The Contents of the Invoice.* Sections 306.10(a)(6) and (b) of the proposed rule specified precise certification language for the invoice.(108) The State of Maryland supported this requirement.(109) However, some comments preferred less specificity, arguing that the certification disclosure would be more workable if it were changed to be a simple statement of the minimum octane rating of the gasoline transferred.

Section 306.10(a)(5) of the proposed rule required the invoice accompanying each transfer of gasoline to bear the signature of the person transferring the gasoline. Some industry members stated that transfers of gasoline often take place under conditions in which no one is present to sign a docu-

ment, or where the person would not be the appropriate person to sign. Such circumstances usually occur in automated delivery situations. The result of requiring manual signatures could be severe disruption of existing industry distribution practices and increased cost to consumers.(110)

In place of the proposed signature requirement, some industry members suggested use of a preprinted corporate signature.(111)

In response to these comments, the Commission has modified the proposed rule so it requires a simple certification of the octane rating, rather than formal certification, language, and no signature.

3. *Posting.* Section 306.20 of the proposed rule directed each retailer to display the octane rating by posting labels on gasoline dispensers. The label was to be affixed to the face of the dispenser, where the price per gallon and price of purchase appear. For gasolines with different octanes sold from a single dispenser, there would have to be a separate label for each different gasoline.

a. *Label Placement.* Significant concern was expressed about the ability of retailers to post the required label in immediate proximity to the number representing the price per gallon, as required by § 306.2(a)(3) of the proposed rule. This concern focused on the placement, rather than the size, of the label. Comments frequently mentioned the existence of new designs in dispensers.(112)

Two comments noted that the final rule should clarify the requirement that at least one label on each gasoline dispenser face be visible to consumers, since most dispensers have at least one face plate on each side of the service island.(113)

The Commission considered recommending different, but specific, location for the label to maintain uniformity. However, no consensus emerged in the record for another appropriate location. Given diverse dispenser designs, it is unlikely that there is a single, consistent location, highly visible to consumers, on which a 2½-inch by 3-inch label can be placed. Moreover, the Commission has concluded that uniformity in placement of the label is secondary to the conspicuousness of the label's location. Finally, the Commission has considered coupling the proposed placement requirement with the intent to consider specific exceptions on a case-by-case basis. However, because of the numerous pump designs being created and marketed, such an approach could lead to each new design having to be the subject of a request for an exception.

Consequently, the rule allows posting "as near as reasonably practical"(114) to the price per gallon. This

provision is flexible enough to encompass future developments in dispenser design, although the label still must be conspicuously on each face of the dispenser so that it is in full view of consumers. The Commission expects this provision to keep petitions for exemption to a minimum, and intends to evaluate individual cases of inability to comply with the placement requirement in its routine enforcement of the rule.

b. *Maintenance of Labels.* The Commission has retained the proposed rule's provision regarding the obligation of retailers to maintain the labels and replace them as needed.(115) The rule does not specify a time at which labels must be renewed. The Commission does not believe that there is evidence on the record to suggest that any specific time period is appropriate. Renewing of labels is left to the retailers' discretion as long as the label is easily readable by consumers.

4. *Labels. a. Content and Appearance.* Under the proposed rule, the label was to contain the octane rating certified to the retailer by the distributor or refiner, or, if the retailer blended the gasoline, the octane rating determined by use of the weighted-average formula.(116) The proposed rule required the octane rating to be expressed as a whole number. The posted labels were to contain the minimum octane rating number, and the words "MINIMUM OCTANE RATING" and "UNDER FEDERAL LAW."(117)

Section 306.21 of the proposed rule enumerated specifications for the proposed label. The label was required to be 3 inches wide by 2½ inches long. An illustration of the label, demonstrating the proper layout, was also included in the FEDERAL REGISTER notice. Large numerals, in 96-point bold type face, represented the octane rating. The proposed rule also prescribed a uniform color scheme for all labels, yellow with black type and borders.

1. *Octane Rating on Label.* The rule gives refiners and distributors the option of either certifying to a whole or half number equal to or less than the number determined by them or certified to them, or certifying to a fraction. This option is addressed primarily to those situations in which the industry currently certifies to tenths, or in which it is known that gasoline will be blended. Retailers do not have this option and must post minimum half numbers—that is, they must post to a whole or half number equal to or less than the number certified to them or determined by them.

Comments suggested numerous alternative methods of posting octane. These included posting to tenths, to half numbers or to whole numbers, rounding up to the next whole or half



number, or allowing a tolerance of two points in either direction from the posted number.(118)

Section 306.11(c) of the recommended rule accompanying the staff report required retailers to post minimum whole numbers. Staff concluded that this method recognized the inherent slight imprecision in the octane testing method itself as stressed in the record.(119) Posting to tenths, staff believed, would imply a precision that simply does not exist. Staff also believed that the posting of minimum whole numbers would take into account changes that could affect octane ratings while the gasoline is in the distribution network.(120)

The Commission believes, however, that the aims of preventing octane overbuying and furthering energy conservation would be better served by allowing the posting of minimum half numbers at the discretion of retailers. Several comments stressed that requiring the posting of minimum whole numbers could result in refiners having no incentive to make gasoline improvements in one-half octane number increments. Others argued that the octane levels of all grades might be reduced, and that consumers whose automobiles required octane of a level between whole numbers would have to go to the next higher whole number to avoid engine knock, thus overbuying by one half of an octane point.(121)

Section 306.9(c) of the final rule, therefore, provides that retailers must post octane ratings in terms of a whole or half number equal to or less than the octane rating certified to them or determined by them.

ii. *Other Information on Label.* One comment suggested that the proposed language "UNDER FEDERAL LAW/ MINIMUM OCTANE RATING" might lead consumers to believe that the specific octane level of that gasoline is in some way prescribed by the federal government.(122) The Commission believes this impression would be misleading. Therefore, the language, "UNDER FEDERAL LAW" has been eliminated from the label.

Some comments suggested that the formula used for deriving the octane rating be included on the label. It was urged that in the absence of this formula, consumers may not realize that the  $(R+M)/2$  formula, rather than the RON formula, was being used. The Commission believes that knowledgeable consumers would understand that RON was no longer being used if they saw the  $(R+M)/2$  formula posted on the dispenser, so the formula is stated on the label as " $(R+M)/2$  METHOD."

In issuing the proposed rule, the Commission indicated concern about the effect of posting the  $(R+M)/2$  octane rating when many consumers

are presently more familiar with the research octane number (RON). This concern took the form of a question in the FEDERAL REGISTER notice regarding the number of cars with owners' manuals presently showing the RON number, rather than the  $(R+M)/2$  number. Responsive comments indicated that between 70% and 80% of cars now on the road have manuals with either RON numbers alone, or no numbers. The Center for Auto Safety suggested that the RON equivalency rating should be posted on the label along with the octane number derived by the  $(R+M)/2$  formula. This RON rating would be for owners of cars bought before 1975, some manuals of which gave octane requirements in terms of RON.(123) Opposition to this proposal emphasized that giving consumers the option of continuing to use the RON rating could prevent them from learning to use the new, uniform rating system.(124)

A question on the feasibility of including, on labels, a table converting RON ratings to  $(R+M)/2$  ratings appeared in the FEDERAL REGISTER notice.

Most comments regarding such a conversion table indicated that a reliable table for converting the RON rating to the  $(R+M)/2$  rating does not exist. The Maryland octane posting program, however, does make a limited conversion table available to consumers by means of a leaflet distributed through retail gasoline stations.

The final rule excludes both the RON equivalency rating and the conversion table from the required posting at gasoline dispensers. The Commission's decision to exclude a conversion table from the label is based on record evidence that it may not be possible to develop a reliable table, and that consumers would not be able to make adequate use of such a table if it were available.

With respect to posting the RON number, the Commission believes that adding the RON equivalency to the label would tend to reinforce whatever consumer confusion presently exists regarding these numbers. Additionally, the extent of current consumer confusion between RON numbers and  $(R+M)/2$  numbers depends on how many pre-1975 owners' manuals provided RON numbers, and how many consumers still rely on pre-1975 manuals that contain RON numbers. The record is only partially helpful here, since the figures submitted by the Center for Auto Safety are already somewhat out of date. Yet, although the record is not complete in this area, the Commission believes that the problem of confusion is a diminishing one. First, in cases in which there is no disclosure of a RON number, there will be no confusion. Second, new cars are continuously replacing the pre-

1975 models.(125) Since promulgation of the FEA octane rule, discussed at I, C, 2, *supra*, more manuals that disclose octane requirements have begun to make the disclosures in terms of  $(R+M)/2$ . Third, and last, the Commission believes that educational efforts, including those of consumer groups, governmental agencies and the press, will be effective in substantially dispelling consumer confusion. Posting the RON rating on labels could have the opposite effect and, thus, be counterproductive.

Moreover, the Commission concurs with comments that consumers may not read additional information posted on the dispensers. The required label, therefore, contains the following elements: The octane rating expressed as a minimum whole number, and the words "MINIMUM OCTANE RATING," and " $(R+M)/2$  METHOD." The Commission believes that this information conveys the essential information regarding the octane rating without confusing consumers or overburdening the industry.

b. *Label Specifications.* Since the labels will be posted on the outside of gasoline dispensers in many cases, it is expected that they will have to withstand all types of weather, as well as contact with gasoline, oil and other solvents. For this reason, Section 306.21 of the proposed rule included specific requirements for paper stock and special label protection.(126)

Because the Department of Energy and some states(127) already require gasoline posting, there has been some experience in developing appropriate labels. The National Congress of Petroleum Retailers noted many problems with existing labels. The same label is often used for posting both the price and octane rating. Since the ceiling price changes regularly, handwritten changes are frequently made to keep the labels current. Also, these labels have a very short life span because the numbers dissolve, for example, when the dispenser is washed. NCPRI commented favorably on the specifications for the proposed label aimed at withstanding weather-related problems.

Maryland requires posting of the octane number on retail dispensers. It specifies the use of mylar-coated labels, similar to those required by the proposed rule. The State chose this feature so the labels would better withstand harsh weather elements. The State emphasized the longevity of its labels.(128)

The proposed specifications required all labels to be able to withstand extreme weather conditions for at least 1 year. Texaco commented that, based on experience with state and DOE requirements, no available label can meet this requirement.(129) Another

comment suggested that the label specifications be changed to a performance requirement, namely, that labels should be able to last for a 3-year exterior life and be solvent resistant.(130)

Mobil stated that self-adhesive polyvinyl chloride with a mylar coating is adequate for older dispensers, but not for the newer ones with the baked enamel finish on the dial face. Permanent adhesives cannot be removed from these dispensers without substantial damage to the finish. Mobil recommended using high-quality pre-printed magnetic labels with mylar coating.(131)

Amoco suggested that the color scheme of black lettering on a yellow label be changed to any contrasting colors, at the company's option, so as not to conflict with corporate color schemes.(132)

Comments generally supported the concept in the proposed rule that labels be weather-resistant. The final rule requires that the label be capable of withstanding weather conditions for a period of at least 1 year. The Commission believes that the 1-year period for label performance is sufficient. The rule also retains the proposed uniform color scheme to help consumers identify the label. The paper stock, lamination and adhesive specifications in §§ 306.14 (d) and (f) of the recommended rule have been dropped. The Commission believes the foregoing performance standards are specific enough to assure compliance, while allowing the industry sufficient flexibility to obtain complying labels at a competitive price.

5. *Supply of Labels.* Section 306.22 of the proposed rule required labels to be supplied to gasoline retailers by the person who determines the octane rating of the gasoline. Failure to supply labels did not excuse retailers from their duty to post the octane rating. Question #6 of the Commission's September 22, 1978 FEDERAL REGISTER notice raised the issue of how such labels should be made available; whether the label should be provided without charge, or at cost; and whether there were better alternatives, such as retail dealer associations, for providing labels.

One comment argued that the certifier of the octane rating should supply the labels, because retailers would not know the octane of the gasoline they were receiving until the documentation or certification letter accompanying the shipment of gasoline was available. Consequently, retailers would need to procure and have available posting stickers for all octane levels that the retailers might sell. The adverse impact on small gasoline retailers would be disproportionately greater than on refiners or distributors. It

would be cheaper for the retailers to bear the cost of the labels by reimbursing the refiners or the distributors who supply them with labels, since the latter will buy in bulk and, hence, obtain a lower unit price.(133)

Other comments, primarily retailers, also opposed a requirement that retailers supply labels. One stated that labels should be made available to all gasoline retailers by a federal agency designated by the Commission at offices located throughout the United States.(134) Two refiners indicated that distributors should be responsible for securing their own supplies of decals for their respective retail outlets, but that refiners should be required to provide labels for their own dealers or company-owned stations.(135) Another comment argued that the last jobber in the chain of distribution would be the most appropriate party to provide labels to retailers.(136) Comments were split evenly in favor and against use of retail dealer associations, the point of disagreement being whether the associations could actually be helpful.(137)

Some industry members suggested that if refiners supplied the posting labels to retailers, the refiners' cost should be reimbursed by retailers. Some of these comments preferred retailers to provide and pay for labels.(138) Other industry members argued that retailers should supply their own labels at their own expense.(139) Some comments suggested that the Commission should make labels available, at government expense, perhaps through local post offices.(140)

Phillips noted that the supplier of gasoline should be responsible for providing labels, because the refiners are not always the person who determines the octane rating, as in the case of exchange agreements between refiners. Suppliers should supply labels without cost to the retailer, since the administrative costs of collecting for labels on a "cost" basis would not be justified.(141)

The Commission has concluded that the statutory requirement to post imposes a burden of obtaining labels. Although refiners usually know the octane rating of the gasoline they are supplying, and thus can buy labels in bulk quantities at low cost (estimated at between 4 and 7 cents per label),(142) they often do not know where their product is going, and cannot reasonably predict who will receive labels, or if they will ever be used. In addition, a requirement that refiners or distributors supply labels would yield unreasonable results when the retailer being supplied already has enough labels showing the octane number of the gasoline being transferred. Therefore, the rule is silent as

to assignment of the burden of supplying labels.

Given the uncertainties and complexities in the gasoline marketplace, the Commission believes that an inflexible requirement upon any one industry group to supply or pay for labels would too often yield inequitable results. The Commission believes that the mechanics of label supply and cost allocation can be worked out through a variety of marketplace means, and that this desirable flexibility would be stifled by a rule prescribing only one approach. In some situations, it may be most expedient for a refiner to purchase labels and supply them to its own dealers at no cost. Or, in the case of a refiner making gasoline available to an independent retail chain, the refiner could have a supply of labels available to the retailers at cost when needed. In cases involving independent retailers who purchase gasoline from whatever source is available, it would perhaps be more appropriate for them to purchase labels from a third-party source. Consequently, the rule allows the marketplace to decide the question of who will bear the burden of supply and/or paying for labels in individual situations.

6. *Recordkeeping.* Under Section 306.7 of the proposed rule, records of tests performed by or for importers and refiners and used as a basis for certification had to be kept on file for 3 years and be available for inspection by persons authorized to enforce PMPA or the rule. Since testing by distributors or retailers was not an option under the proposed rule, these industry members were not required to keep test records.

Section 306.23 of the proposed rule required distributors to keep records of all delivery invoices received and used as a basis of certification. These records were to be kept on file by distributors for 1 year and made available for inspection by authorized persons.

Section 306.23 of the proposed rule also required retailers to keep records of delivery invoices used as a basis for posting. These records had to be kept for 1 year and made available for inspection by authorized persons.

The FEDERAL REGISTER notice of the proposed rule requested comments on current recordkeeping practices in the industry, including whether the proposed recordkeeping provisions would permit tracing of specific quantities of gasoline back through the chain of distribution, and what additional information should be added to the required records to facilitate tracing.

a. *Tracing.* Industry comments indicated that tracing specific quantities of gasoline can be done only in certain situations.(143) Three refiners ex-



pressed the opinion that such tracing is possible, although not simple.(144) According to Union Oil, most members of the petroleum industry can trace their gasoline back from the retailer to the refiner with a little detective work, because of the records required in connection with state excise taxes.(145)

Some industry members commented that complete tracing could be done under some circumstances, but was impossible under others.(146) One industry practice which makes tracing difficult is the commingling of different gasolines in terminal storage facilities and in transfer facilities such as trucks, barges, and pipelines.(147)

Mobile suggested that tracing would be particularly difficult with respect to independent and non-branded dealers, who comprise over 1/2 of the industry.(148)

Some industry members expressed the opinion that it might be impossible to trace gasoline, due to the practice of using common storage facilities.(149) Derby stated that the only situation in which the refiner can accurately trace its product to a retailer is when the refiner transports the gasoline to its own retail outlet.(150)

The Commission believes that, notwithstanding the occasional difficulties of tracing gasoline through the chain of transfer, tracing can still be done regularly in many cases. For this reason, and because tracing will assist in enforcement of the rule, the final rule retains the proposed recordkeeping requirement.

b. *Retention time.* Some refiners indicated that they keep testing records for at least the period specified in the proposed rule. Others, however, commented that a 3-year retention would be unnecessary and unduly burdensome.(151) The National Petroleum Refiners Association said that it would be inconsistent to require refiners to retain test records for 3 years, while requiring distributors and retailers to keep transfer records for only 1 year. NPRA pointed out that when transfer records become unavailable, test information becomes useless for the purpose of assigning responsibility for octane deficiencies.(152)

The record clearly suggests that specific quantities of gasoline sometimes can be traced through the chain of distribution, thus justifying the practice of recordkeeping. The Commission believes that it is inconsistent and unnecessary to require refiners and importers to keep their records for 3 years, while requiring that records of transfers be kept for only 1 year by distributors and retailers. Also, given the perishable nature of gasoline, the 1-year retention period seems reasonable. Accordingly, the final rule changes the retention time from 3

years to 1 year for all recordkeeping.(153)

Consistent with the provision that distributors and retailers be permitted the option of testing gasoline, records of their octane rating determinations must be kept for 1 year under the final rule.(154)

## FOOTNOTES

1. PMPA Section 203(c)(1).
2. PMPA Section 203(d)(1).
3. 16 CFR 422.
4. See detailed discussion of the (R+M)/2 formula, Section I, D, *infra*.
5. *National Petroleum Refiners Ass'n v. FTC*, 482 F.2d 672 (D.C. Cir., 1973) cert. denied 415 U.S. 951 (1974).
6. The Commission believes that Congressional passage of PMPA obviated the necessity for an environmental impact statement regarding the instant rule.
7. See S. Rep. No. 95-731, 95th Cong., 2d Sess. 21 (1978); H.R. Rep. No. 95-161, 95th Cong., 2d Sess. 18 (1978). The Senate report accompanying the legislation discussed the legal challenges to the Commission's trade regulation rule and pointed out that the rule still had not become effective.
8. The Commission believes that a repeal of the rule was effected by enactment of the PMPA, and the Commission announced that fact by publication in the *FEDERAL REGISTER*.
9. 10 CFR 212.129.
10. B-VI/21. On February 28, 1979, at p. 11237 of the *FEDERAL REGISTER*, the Department of Energy published a notice of its intention to terminate the octane posting requirement of its rule, effective on the effective date of the Commission's present octane rule.

NOTE.—All evidence in the rulemaking record of this proceeding was assigned docket number (202-1-) and a letter prefix that designates the type of evidence. The letter prefixes are as follows:

202-1-A Public notices, petitions, motions, orders, and other official documents not otherwise categorized;

—B Commission staff submissions (initial staff report and submissions, materials and data placed on the record by the Commission staff);

—C Consumer comments (individual and organizations);

—D Government submission (federal, state, and local);

—E General industry comments;

—F Scientific/academic comment (submission of independent experts, technical, scientific and academic comment);

—G Prepared hearing statements and exhibits and written materials;

—H Public hearing: (a) transcript; (b) exhibits, (c) written questions, (d) rebuttal submissions;

—I Final staff report and comments thereon;

—J Statement of basis and purpose, final rule and other Commission actions;

—K Miscellaneous submissions and comments (not otherwise categorized);

—L Court documents.

When evidence in the record is referenced, the document category will be listed, followed by a hyphen and the document number, followed by a slash and the internal page at which the cited statement appears. In the case of transcripts, no document number appears. If the citation is to

an entire document, rather than to a particular page, the letter prefix and the document number are separated by a hyphen. For example:

C-4/2 refers to internal page 2 of consumer comment under number 4.

H(a)/203 refers to page 203 of the public hearing transcripts.

In many cases, references will be made to the Staff Report (202-1-1). Such references will be simply to "Staff Report," and the page(s) or footnotes of interest.

11. *Id.* See Staff Report, pp. 2-3.

12. PMPA Section 201(5): The term "refiner" means any person engaged in (A) the refining of crude oil to produce automotive gasoline; or (B) the importation of automotive gasoline.

13. PMPA Section 202(a)(2).

14. PMPA Section 201(16): The term "distributor" means any person who receives gasoline and distributes such gasoline to another person other than the ultimate purchaser.

15. PMPA Section 202(b)(1).

16. PMPA Section 201(4): The term "gasoline retailer" means any person who markets automotive gasoline to the general public for ultimate consumption.

17. PMPA Section 202(c).

18. PMPA Sections 201(1) & (2), 202(a)(1).

19. ASTM D2699 75, Standard Test Method for Knock Characteristics of Motor Fuels by Research Method; ASTM D2700 75, Standard Test Method for Knock Characteristics of Motor and Aviation Fuels by the Motor Method. Both test methods are referenced and discussed in ASTM D439 78, Standard Specifications for Automotive Gasoline.

20. ASTM D439 78 at 7.

21. *Id.*

22. *Id.*

23. *Id.*

24. PMPA Section 201(1).

25. PMPA Section 203(c)(3). The Act states that such a rule must be prescribed "on the record," under 5 U.S.C. 556, 557 (1970). PMPA Section 203(d)(2). The stringent deadline placed on the effective date of a certification and posting rule has made it impracticable to consider in this proceeding any procedure other than the (R+M)/2 method. Pursuant to PMPA, different, lengthier procedures than those followed here would have been required for appropriate consideration of other possible formulae for determining octane levels. Consequently, the Commission has prescribed use of the (R+M)/2 formula in the rule. (Section 306.4(b)).

26. Section 306.1.

27. The Commission can enforce the rule by bringing a civil action in Federal District Court against any violator, with the exception of gasoline retailers. Section 203(e) of PMPA provides that to prove a violation against a retailer, the Commission must show that the retailer had actual knowledge of the violation committed, as opposed to "implied" knowledge, which is required by section 5(m)(1)(A) of the Federal Trade Commission Act.

28. The rule retains the term "determine" used in Section 202(a)(1) of PMPA. This gives industry the flexibility to use methods other than the three enumerated, such as relying on prior experience or data, with spot checking for assurance of quality.

29. PMPA Section 202(a)(1).

30. Section 306.4(b); PMPA Sections 201 (1) and (2).

31. Section 306.7(a).

32. Section 306.9(c).

33. For distributors, Section 306.7(a); for retailers, Section 306.9(c).

34. Section 306.5.

35. *Id.*

36. Section 306.8.

37. For refiners and importers, Section 306.5(a); for distributors, Section 306.7(a).

38. For refiners and importers, Section 306.5(b); for distributors, Section 306.7(b).

39. For refiners and importers, Section 306.5 (a)(4) and (b); for distributors, Section 306.7(a).

40. Section 306.9(a).

41. Section 306.9(c).

42. *Id.*

43. Section 306.9(b).

44. Section 306.9(d).

45. *Id.*

46. Section 306.11(a).

47. *Id.*

48. Section 306.11(b).

49. Section 306.11(a).

50. Section 306.11(c).

51. Section 306.11(f).

52. *Id.*

53. Section 306.11(g).

54. Section 306.9(a).

55. Sections 306.9(c); 306.11(b).

56. Section 306.8.

57. *Id.*

58. *Id.*

59. Section 306.8.

60. Section 306.10.

61. PMPA section 204.

62. To learn the nature and extent of present state involvement in this area, the Commission solicited information from the states concerning their programs, and received 37 responses. See Staff Report, 9-12.

63. 15 U.S.C. 45(m)(1)(A).

64. See note 12, *supra*.

65. See note 16, *supra*.

66. See note 14, *supra*.

67. Staff Report, 9; section 306.1: "You are covered if you take title to gas and you are covered if you just take custody of gas."

68. Environmental Protection Agency, D-3/1.

69. See note 62, *supra*.

70. PMPA section 201(2).

71. Despite the statutory restriction, representatives of ASTM testified that because ASTM standards are revised at least once every 5 years to account for technological advances, the rule should not continue to prescribe an outdated version of the standards, but should be sufficiently flexible to allow for incorporation of ASTM changes in the standards. See Staff Report, p. 13. However, see I-18/2, for a contrary view.

72. This was suggested by the National Petroleum Refiners Association, E-14/2.

73. Staff Report, 14.

74. See comment of Husky, E-18/3.

75. PMPA section 202(b)(2) and section 202(c)(2).

76. PMPA section 203(d)(1).

77. For a detailed discussion of the evidence relating to retailer and distributor testing, see Staff Report, 30-33.

78. C-3/2.

79. E-10/3-4.

80. H(a)/111-112.

81. This formula is prescribed as the average, weighted by volume, of the octane ratings of the different gasolines in the mixture.

82. Navajo, E-27/4.

83. Society of Independent Gasoline Marketers of America, K-6/3.

84. Derby, E-24/3; Mobil, E-12/1.

85. See section 306.7(a) (for distributors); section 306.9(c) (for retailers).

86. For a detailed discussion of the evidence relating to blending and the weighted-average formula, see Staff Report, 33-38.

87. The evidence is that such blending rarely occurs in the industry. See Staff Report, 33-38.

88. E-21/1-2.

89. Exxon, E-3/2.

90. E-6/5.

91. H(a)/163-69. However, Mr. Sidney Andrews, Director of the Division of Standards of the Florida Department of Agriculture and Consumer Services, disagreed as to the degree of variability found in the supply of gasoline in the market, at least in Florida.

92. C-3/2.

93. PMPA section 203(c)(4).

94. Section 306.7(a) (for distributors); section 306.9(c) (for retailers).

95. PMPA section 202(a)(2).

96. *Id.*

97. PMPA section 202(b).

98. PMPA section 202(b)(2); see discussion of distributor testing, *supra*.

99. Proposed rule, section 306.0(n).

100. *Id.* section 306.10 (a) and (b).

101. *Id.* section 306.10(c). For detailed discussion of the evidence relating to certification, see Staff Report, 15-21.

102. Staff Report, 16, note 51.

103. For a detailed discussion of evidence relating to different types of transfers and the documentation involved, see Staff Report, 15-18.

104. Byrne, H(a)/144-45.

105. Price, H(a)/35, 36, 45.

106. Gulf, E-15/1; Mobil, E-12/9.

107. See Staff Report, 20-21.

108. For refiners and importers: "I certify that the octane rating specified on this delivery invoice is consistent with my determination of the octane rating." For distributors, the statement ends with "... consistent with the octane rating on the delivery invoice or invoices which accompanied the transfer of this gasoline."

109. Price, H(a)/42.

110. Staff Report, 19, note 65.

111. Staff Report, 19, note 66.

112. Comments on label placement are discussed in the Staff Report at pages 42-45.

113. I-3; I-19/1 (late comment on Staff Report).

114. See I-27/1-2. The National Congress of Petroleum Retailers pointed out that "as near as possible" could be extremely limiting, if interpreted literally. Thus the final language: "as near as reasonably practical."

115. Proposed rule, section 306.20(b).

116. Proposed rule, section 306.20(a)(1).

117. Proposed rule, section 306.21 (b) and (c).

118. For a detailed discussion of evidence relating to what number should be posted, see Staff Report, 45-52.

119. Staff Report, 45-46.

120. *Id.*

121. Staff Report, 49-50.

122. Mobil, E-12/12.

123. Staff Report, 53.

124. For a detailed discussion of the evidence relating to other information on the label, see Staff Report, 52-57.

125. The Center for Auto Safety's survey of manuals was made in 1978. See G-3/Statement, p. 6 and Exhibit 3.

126. For a detailed discussion of evidence relating to label specification, see Staff Report, 64-67.

127. Maryland, Arkansas, Connecticut and California. See B-XVI.

128. Price, H(a)/30.

129. E-2/3.

130. Ariston, F-1/1.

131. E-12/11-12, Addendum A-1.

132. E-9/4.

133. Sears, H(d)/3/2. For a detailed discussion of the evidence relating to supply of labels, see Staff Report, 22-24, 40-41, 60-61.

134. Clark, E-17/3.

135. Staff Report, 24, notes 85 and 86.

136. Navajo, E-27/2.

137. Marathon, E-8/4; Derby, E-24/3.

138. Staff Report, 23, notes 75 and 76.

139. *Id.*, note 78.

140. *Id.*, 24, note 81.

141. Phillips, E-20/4.

142. K-7/1.

143. For a detailed discussion of tracing specific quantities of gasoline, see Staff Report, 26-28.

144. Staff Report, 26, note 95.

145. Byrne, H(a)/120.

146. Staff Report, 27, note 98.

147. See for example, comment of Teneco, E-26/1.

148. E-12/7.

149. Staff Report, 27, notes 102 and 103.

150. E-24/3-4.

151. For a discussion of the evidence relating to retention time, see Staff Report, 28, 62.

152. E-14/2.

153. For refiners and importers, section 306.6; for distributors, section 306.8; for retailers, section 306.10.

154. For distributors, section 306.8; for retailers, section 306.10.

Accordingly, pursuant to Section 203(c) of the Petroleum Marketing Practices Act and § 1.26(d) of the Commission's Rules of Practice (16 CFR 1.26(d)), 16 CFR Chapter I, Subchapter C is amended by adding new Part 306 reading as follows:

# PART 306—OCTANE POSTING AND CERTIFICATION

## GENERAL

- Sec.  
306.0 What this rule does.  
306.1 Who is covered.  
306.2 Stayed or invalid parts.  
306.3 Preemption.

## DUTIES OF REFINERS, IMPORTERS, AND PRODUCERS

- 306.4 Octane rating.  
306.5 Certification.  
306.6 Recordkeeping.

## DUTIES OF DISTRIBUTORS

- 306.7 Certification.  
306.8 Recordkeeping.

## DUTIES OF RETAILERS

- 306.9 Octane posting.  
306.10 Recordkeeping.

## LABEL SPECIFICATIONS

- 306.11 Labels.

AUTHORITY: Pub. L. 95-297, 92 Stat. 322 (15 U.S.C. 2801, et seq.)



## RULES AND REGULATIONS

## GENERAL

## § 306.0 What this rule does.

This rule deals with the certification and posting of octane ratings in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act. It applies to persons, partnerships, and corporations. If you are covered by this regulation, breaking any of its rules is an unfair or deceptive act or practice under section 5 of that Act. You can be fined up to ten thousand dollars each time you break a rule.

## § 306.1 Who is covered.

You are covered by this rule if you are a refiner, importer, producer, distributor, or retailer of gasoline. Gasoline, in this rule, means automotive gasoline.

## § 306.2 Stayed or invalid parts.

If any part of this rule is stayed or held invalid, the rest of it will stay in force.

## § 306.3 Preemption.

The Petroleum Marketing Practices Act (PMPA) is the law that instructs the FTC to enact this rule. Section 204 of PMPA provides:

To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt, enforce, or continue in effect any provision of any law or regulation (including any remedy or penalty applicable to any violation thereof) with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

## DUTIES OF REFINERS, IMPORTERS AND PRODUCERS

## § 306.4 Octane rating.

(a) If you are a refiner, importer, or producer, you must determine the octane rating of all gasoline before you transfer it. You can do that yourself or through a testing lab.

(b)(1) To find the octane rating, add the research octane number and the motor octane number and divide by two, as explained by the American Society for Testing and Materials (ASTM) in ASTM D 439-78, entitled "Standard Specifications for Automotive Gasoline." To determine the research octane number, use ASTM standard test method D 2699-75, and to determine the motor octane number, use ASTM standard test method D 2700-75.

(2) If ASTM changes these standards, there will be a 30-day comment period, beginning after the Commission publishes the change in the Federal Register. During this time, Commission staff or any person affected by the change may petition the Commission not to adopt the change because

it is a change in the procedures for determining octane ratings, or to extend the length of time of the grace period that follows the comment period. If, based on comments, the Commission decides to permit incorporation of the change into the rule, the change will become effective 60 days after expiration of the comment period, unless this period is extended by the Commission. If the Commission decides not to permit automatic incorporation, formal procedures may be initiated to evaluate the change.

## § 306.5 Certification.

In each transfer you make to anyone who is not a consumer, you must certify the octane rating of the gasoline consistent with your determination. You can do this in either of two ways:

(a) Include a delivery ticket with each transfer of gasoline. It may be an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket, or any other written proof of transfer. It must contain at least these four items:

- (1) Your name;
- (2) The name of the person to whom the gasoline is transferred;
- (3) The date of the transfer;
- (4) The octane rating. This may be rounded off to a whole or half number equal to or less than the number determined by you.

(b) Give the person a letter or other written statement. This letter must include the date, your name, the other person's name, and the octane rating of any gasoline you will transfer to that person from the date of the letter onwards. The octane rating may be rounded to a whole or half number equal to or less than the number determined by you. This letter of certification will be good until you transfer gasoline with a lower octane rating. When this happens, you must certify the octane rating of the new gasoline, either with a delivery ticket or by sending a new letter of certification.

(c) When you transfer gasoline to a common carrier, you must certify the octane rating of the gasoline to the common carrier, either by letter or on the delivery ticket or other paper.

## § 306.6 Recordkeeping.

You must keep records of how you determined octane ratings for one year. They must be open for inspection by Federal Trade Commission and Environmental Protection Agency staff members, or by people authorized by FTC or EPA.

## DUTIES OF DISTRIBUTORS

## § 306.7 Certification.

If you are a distributor, you must certify the octane rating of the gasoline in each transfer you make to anyone who is not a consumer.

(a)(1) If you do not blend the gasoline with other gasoline, you must certify consistent with the octane rating certified to you. If you blend the gasoline with other gasoline, you must certify consistent with your determination of the average, weighted by volume, of the octane ratings certified to you for each gasoline in the blend, or consistent with the lowest octane rating certified to you for any gasoline in the blend. Whether you blend gasoline or not, you may choose to certify the octane rating of the gasoline consistent with your determination of the octane rating according to the method in section 306.4.

(2) In all cases above, the octane rating may be rounded to a whole or half number equal to or less than the number certified to you or determined by you.

(b) You may certify either by using a delivery ticket with each transfer of gasoline, as outlined in § 306.5(a), or by using a letter of certification, as outlined in § 306.5(b).

(c) When you transfer gasoline to a common carrier, you must certify the octane rating of the gasoline to the common carrier, either by letter or on the delivery ticket or other paper. When you receive gasoline from a common carrier, you must also receive from the common carrier a certification of the octane rating of the gasoline, either by letter or on the delivery ticket or other paper.

## § 306.8 Recordkeeping.

You must keep for one year any delivery tickets or letters of certification on which you based your octane rating certifications. You must also keep for one year records of any octane rating determinations you made according to § 306.4. They must be open for inspection by Federal Trade Commission and Environmental Protection Agency staff members, or by persons authorized by FTC or EPA.

## DUTIES OF RETAILERS

## § 306.9 Octane posting.

(a) If you are a retailer, you must post the octane rating of all gasoline you sell to consumers. You must do this by putting at least one label on each face of each gasoline dispenser through which you sell gasoline. If you are selling two or more kinds of gasoline with different octane ratings from a single dispenser, you must put separate labels for each kind of gasoline on each face of the dispenser.

(b)(1) The label, or labels, must be placed conspicuously on the dispenser so as to be in full view of consumers and as near as reasonably practical to the price per gallon of the gasoline.

(2) You may petition for an exemption from the placement requirements

by writing the Secretary of the Federal Trade Commission. You must state the reasons why you want the exemption.

(c) If you do not blend the gasoline with other gasoline, you must post consistent with the octane rating certified to you. If you blend the gasoline with other gasoline, you must post consistent with your determination of the average, weighted by volume, of the octane ratings certified to you for each gasoline in the blend, or consistent with the lowest octane rating certified to you for any gasoline in the blend. Whether you blend gasoline or not, you may choose to post the octane rating of the gasoline consistent with your determination of the octane rating according to the method in § 306.4. In all cases above, the octane rating must be shown as a whole or half number equal to or less than the octane rating certified to you or determined by you.

(d)(1) You must maintain and replace labels as needed to make sure consumers can easily see and read them.

(2) If the labels you have are destroyed or are unusable or unreadable for some unexpected reason, you can satisfy the law by posting a temporary label as much like the required label as possible. You must still get and post the required label without delay.

(e) When you receive gasoline from a common carrier, you must also receive from the common carrier a certification of the octane rating of the gasoline, either by letter or on the delivery ticket or other paper.

## § 306.10 Recordkeeping.

You must keep for one year any delivery tickets or letters of certification on which you based your posting of octane ratings. You must also keep for one year records of any octane rating

## RULES AND REGULATIONS

determinations you made according to section 306.4. These records may be kept at the retail station, or at another, reasonably close location. They must be open for inspection by Federal Trade Commission and Environmental Protection Agency staff members or by persons authorized by FTC or EPA.

## LABEL SPECIFICATIONS

## § 306.11 Labels.

All labels must meet the following specifications:

(a) *Layout.* The label is 3" wide x 2½" long. The illustrations appearing at the end of this rule are prototype labels that demonstrate the proper layout. Helvetica type is used throughout except for the octane rating number which is in Franklin gothic type. Spacing of the label is ¼" between the top border and the first line of text, ¼" between the first and second line of text, ¼" between the octane rating and the line of text above it. All text and numerals are centered within the interior borders.

(b) *Type size and setting.* The Helvetica series is used for all numbers and letters with the exception of the

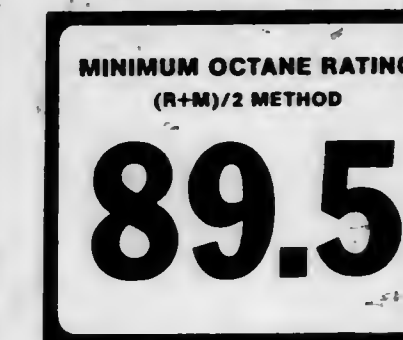
octane rating number. Helvetica is available in a variety of phototype setting systems and by linotype. The line "MINIMUM OCTANE RATING" is set in 12 point Helvetica Bold, all capitals, with letterspace set at 12½ points. The line "(R+M)/2 METHOD" is set in 10 point Helvetica Bold, all capitals, with letterspace set at 10½ points. The octane number is set in 96 point Franklin gothic condensed with ½" space between the numbers.

(c) *Colors.* The basic color on all labels is process yellow. All type is process black. All borders are process black. Both colors must be non-fade.

(d) *Contents.* The contents are shown in the illustration. The proper octane rating for each gasoline must be shown. No marks or information other than that called for by this rule may appear on the label.

(e) *Special label protection.* All labels must be capable of withstanding extremes of weather conditions for a period of at least one year. They must be resistant to gasoline, oil, grease, solvents, detergents, and water.

(f) *Illustrations of labels.* Labels should meet the specifications in this section, and should look like these examples, except the black print should be on a yellow background.



By direction of the Commission.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9620 Filed 3-29-79; 8:45 am]



## PROPOSED RULES

[6750-01-M]

## FEDERAL TRADE COMMISSION

[16 CFR Part 306]

## OCTANE POSTING AND CERTIFICATION RULE

Request for Comments on Coverage of  
"Producers"

AGENCY: Federal Trade Commission.  
ACTION: Invitation for public comment.

SUMMARY: Today the Federal Trade Commission has in this issue of the **FEDERAL REGISTER** published its rule on the certification and posting of octane ratings. The Commission has determined that, consistent with the Congressional intent for comprehensive coverage in Title II of the Petroleum Marketing Practices Act, "producers" should be included among those covered by the Octane Posting and Certification Rule. Accordingly, the rule covers producers. "Producers" refers to that industry group that purchases component elements and combines them to produce automotive gasoline, rather than producing gasoline by refining it from crude oil.

Because of the limited number of comments received regarding the inclusion of producers under the rule, the Commission is offering an opportunity for comments on the Commission's decision to include this industry group in the octane certification scheme.

DATES: Comments must be received on or before April 30, 1979.

ADDRESSES: Send comments to Mr. Carol M. Thomas, Secretary, Federal Trade Commission, Washington, D.C. 20580. If possible also send a copy to Mr. James G. Mills, Attorney, Division of Energy and Product Information,

Federal Trade Commission, Washington, D.C. 20580. The envelope should be marked "Octane Rulemaking".

## FOR FURTHER INFORMATION CONTACT:

James G. Mills, (202) 724-1967, Division of Energy and Product Information, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission has promulgated a rule in this issue under the authority of the Petroleum Marketing Practices Act that requires the certification and posting of the octane ratings of automotive gasoline. The rule describes a uniform method for certification by those who distribute gasoline and for posting by those who sell directly to consumers. The rule covers all members of the automotive gasoline industry including refiners, importers, producers, distributors and retailers.

Producers are a small group within the industry who are the originating sellers of automotive gasoline but who do not either import or receive gasoline, or refine it from crude oil. Rather, they purchase component parts and combine them to produce finished gasoline. The Commission, in § 306.1 of its rule, covered producers along with all other members of the automotive gasoline industry who market gasoline for ultimate sale to consumers. This coverage is consistent with Congressional intent to provide octane purchasing information to all consumers. Such information is vital to consumers wishing to make informed gasoline purchases, and is required by Congress to protect consumers and conserve energy.

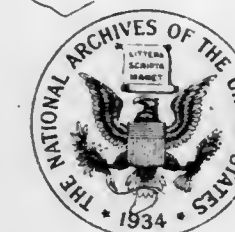
By direction of the Commission.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 79-9640 Filed 3-29-79; 8:45 am]

FRIDAY, MARCH 30, 1979

PART VI

DEPARTMENT OF  
AGRICULTUREFood and Nutrition  
Service

FOOD STAMP PROGRAM

Federal Register



## Title 7—Agriculture

## CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

## Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency Rulemaking.

SUMMARY: This rulemaking amends the regulation, published October 17, 1978, which prescribes the procedures for mass changes resulting from implementation of the Food Stamp Act of 1977. One change is intended to clarify the notice requirements for State agencies that convert all or a portion of the food stamp caseload by computer. The other change authorizes State agencies to convert households that are recertified during the conversion period at a time other than at normal recertification. Since State agencies are already in the process of converting the caseload, Acting Administrator Bob Greenstein, Food and Nutrition Service, has determined that an emergency rulemaking is necessary to promulgate these interpretations in a timely manner. Comments are, however, solicited for use in fashioning a final rule.

DATES: Effective Date: January 1, 1979.

Comments must be received on or before May 29, 1979 to be assured of consideration.

ADDRESS: Comments should be submitted to: Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, DC 20250. A final rulemaking will be issued after considering the comments. All written comments, suggestions or objections will be open to public inspection at the offices of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street, SW, Washington, DC, Room 650. An Impact Analysis has been prepared and approved, and is available from Deputy Administrator Snyder. A copy will also be open for public inspection at the offices shown above.

## FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administra-

## RULES AND REGULATIONS

tor, Family Nutrition Programs, Food and Nutrition Service, Washington, DC 20250, 202-447-8982.

## SUPPLEMENTARY INFORMATION:

## INTRODUCTION

On October 17, 1978 (43 FR 47848), the Department published final rules concerning major aspects of the Food Stamp Act of 1977. One aspect was the process to convert the current caseload to the new program. The Department has discovered that there is some confusion regarding State agencies, notice requirements and time standard for conversion. The following changes are being published as an emergency rulemaking effective January 1, 1979. The rules are subject to public comment and will be repromulgated in final form following the end of the comment period.

## AMENDMENTS

Recognizing the inherent difficulties of applying the new food stamp eligibility rules to currently participating households, the Department allowed State agencies up to four months from the first day of implementation to convert the current caseload. The Department predicted, in the October 17 rulemaking, that State agencies would convert households that came due for recertification during this four month period at the time of the recertifications. However, the Department did not intend to preclude State agencies from converting households at another time in the conversion period, such as at the time of a computer caseload conversion. In order to eliminate confusion, the Department is amending the rule on caseload conversion to stipulate that State agencies may convert earlier than at recertification. The new eligibility rules established under the Food Stamp Act of 1977 will increase benefits to some households, decrease or terminate benefits to other households. The Department's intent, therefore, is not to adversely or positively effect individual households, but to offer a flexible procedure to State agencies. In order to insure uniform treatment of households, the Department is requiring that if computer conversions are conducted, entire categories of households, such as all public assistance households, all households in a project area, etc., be handled the same and individual households not be singled out because of their recertification schedule.

In the mass change section, the October 17 regulations require individual notices of adverse action to each household that receives a reduction or termination in benefits during its certification period due to these regulations. The Department was only considering manual casefile review proce-

dures in formulating this policy. As a result, there was no consideration given to State agencies that were converting the caseload by computer. Certain automated systems do not have the ability to record a change in a household's benefits on a notice of adverse action document. However, the system would have the ability to adjust the allotment or ATP. Since these systems are unable to generate an individualized notice, the use of a general notice which is distributed no later than the ATP or allotment that reflects the change is acceptable. However, State agencies have to explain the household's fair hearing rights in the notice and the circumstances in which the former benefits will be continued.

In addition, the Department expects State agencies to explain the conversion process and the basis for all computations and the final allotment determination if the household requests this information. However, this explanation should not interfere with the household's right to request a fair hearing and continuation of benefits. The State agencies must reinstate benefits in the same month that a household entitled to continuation makes a request, provided that the request is made within 90 days of the household's conversion.

Therefore, parts 272 and 273 are amended to read as follows:

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In 272.1, subparagraph (g)(1)(iii) is amended by adding the following sentence at the end thereof.

## § 272.1 General terms and conditions.

- (g) Implementation. . . .  
(1) Amendment 132. . . .

(iii) Notwithstanding anything to the contrary in the preceding provisions of this subparagraph, State agencies shall have up to four months following the first day that applications are taken under the new rules, to convert the current caseload to the new program. Households coming due for recertification during this time shall be converted to the new Program at recertification. However, if the State agency elects to schedule a desk review for these households earlier in the four-month period, conversion shall take place after the desk review. Further, State agencies may elect to do a point-in-time computer conversion in lieu of individual desk reviews. Such a computer conversion must cover entire categories of households.

## RULES AND REGULATIONS

such as public assistance households, all households in a particular project area, all households currently in the computer files, etc., and the State agency may not elect to postpone the conversion of certain cases until recertification. . . .

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.12 four sentences are added to the end of subparagraph (e)(4). The changes read as follows:

## § 273.12 Reporting changes.

- (e) Mass changes. . . .

(4) Mass changes resulting from implementation of the Food Stamp Act of 1977. . . . The State agency may substitute a general notice to all or part of the food stamp caseload if the State agency is unable to prepare individual notices of reduction or termination because a procedure is used in which new eligibility rules are matched by machine with current casefile information. The general notice shall explain that the cause of the allotment change, if any, is the Food Stamp Act of 1977, and the circumstances for continuing or reinstating the household's former level of benefits as in an individual notice. State agencies that use a general notice shall send it no later than the allotment or ATP that adjusts the household's benefits to the new program. If a State agency does provide the general notice at the same time as the new allotment or ATP, the State agency must be able to reinstate the former allotment in the same month that a request for continuation is made, provided that the request is made within 90 days of the household's conversion.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

NOTE: The Food and Nutrition Service has prepared an impact statement which is available from Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: March 23, 1979.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

[FR Doc. 79-9836 Filed 3-29-79; 8:45 am]



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# Register Federal

FRIDAY, MARCH 30, 1979

PART VII



DEPARTMENT OF  
ENERGY

IMPROVING  
GOVERNMENT  
REGULATIONS

Semiannual Agenda



[6450-01-M]

## DEPARTMENT OF ENERGY

[10 CFR Chapters II and III]

## SEMIANNUAL AGENDA OF REGULATIONS

## National Energy Act Supplement

AGENCY: Department of Energy.

ACTION: Supplemental Notice of Regulations Under Development or Review.

SUMMARY: The Department of Energy (DOE) is publishing an agenda of regulations scheduled to be developed under National Energy Act legislation which was signed into law on November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6744.

**SUPPLEMENTARY INFORMATION:** Executive Order 12044, "Improving Government Regulations," promulgated by the President on March 23, 1978, requires every federal agency to publish semiannually an agenda of its significant regulations currently under development or review. One of the objectives of the Order is to encourage greater public involvement at an early stage in the regulatory process. DOE implemented Executive Order 12044 by a Departmental Order (DOE 2020.1) issued December 18, 1978 and published January 3, 1979 (43 FR 1032), which established April and October of each year as the months during which DOE would publish a semiannual agenda of regulations in the FEDERAL REGISTER.

The Departmental Order requires that the agenda include all regulations currently being developed or reviewed. For each regulation that is significant (as defined in the Departmental Order) the agenda will state the need and legal basis for the regulation, its status, whether a regulatory analysis will be required, and the name and telephone number of a knowledgeable agency official.

DOE's first semiannual agenda of regulations appeared in the FEDERAL REGISTER on October 31, 1978 (43 FR 50812). It included regulations under development or review as of October 13, 1978. The National Energy Act was pending before Congress at that time but it had not been enacted. Therefore the October agenda did not include regulations which might result from that legislation.

The National Energy Act legislation was signed into law on November 9, 1978. DOE is now developing regulations to implement measures con-

## PROPOSED RULES

tained in four of the Acts collectively known as the National Energy Act. Appended to this notice is a supplemental agenda of regulations currently being developed under authority of the following acts: National Energy Conservation Policy Act of 1978, Pub. L. 95-619 (November 9, 1978); Powerplant and Industrial Fuel Use Act, Pub. L. 95-620, (November 9, 1978); Public Utilities Regulatory Policy Act, Pub. L. 95-617, (November 9, 1978); Natural Gas Policy Act of 1978, Pub. L. 95-621, (November 9, 1978). The agenda includes both significant and non-significant regulations that the offices within DOE having primary program responsibility have identified as being under development as of March 1, 1979. This agenda is intended as a supplement to DOE's semiannual agenda schedule and is limited to those regulations being developed as a result of National Energy Act legislation. The next regular semiannual agenda will be published by DOE in April 1979.

Issued in Washington, D.C. on March 26, 1979.

JAMES R. SCHLESINGER,  
Secretary.

## NATIONAL ENERGY CONSERVATION POLICY ACT OF 1978 (NECPA)

## 1. ENERGY AUDITS—SCHOOLS, HOSPITALS AND LOCAL PUBLIC BUILDINGS

Lead Office: Conservation.

DOE will develop guidelines for state grants to conduct data gathering and to administer operations/maintenance identification audits in institutional buildings.

A notice of proposed rulemaking was issued on December 12, 1978.

A regulatory analysis is not required. Statutory Deadline: Within 60 days of enactment.

Statutory Authority: NECPA, Section 302.

Contact: M. Willingham (202) 376-9770.

## 2. TECHNICAL ASSISTANCE AND ENERGY CONSERVATION MEASURES—SCHOOLS, HOSPITALS, LOCAL PUBLIC BUILDINGS

Lead Office: Conservation.

DOE will promulgate regulations for grants to schools, hospitals, local governments and public care institutions for technical assistance and energy conservation measures.

A notice of proposed rulemaking was published January 5, 1979.

A regulatory analysis will be completed.

Statutory deadline: Within 90 days of enactment.

Statutory authority: NECPA, Section 302.

Contact: M. Willingham (202) 376-9770.

## 3. IDENTIFY 14 CONSUMER PRODUCT TYPES FOR STANDARDS-SETTING PROCEDURES

Lead Office: Conservation.

DOE will identify 14 product types that may be subject to energy efficiency standards in two years. Criteria will cover (1) average household energy use, (2) annual Kwh use, (3) feasibility of the technology, (4) effectiveness of labeling.

A notice of proposed rulemaking has not yet been issued.

A regulatory analysis will be completed.

Statutory deadline: Within two years after enactment.

Statutory authority: NECPA, Section 422.

Contact: James A. Smith (202) 376-4814.

## 4. TARGETS FOR UTILIZATION OF RECOVERED MATERIALS

Lead Office: Conservation.

DOE will set targets for increased use of energy saving recovered materials for specified industries, i.e., metals and metal products, paper and allied products, textile mill products and rubber.

A notice of proposed rulemaking has not yet been issued.

It has not been determined whether a regulatory analysis is required.

Statutory deadline: Final targets within one year of enactment.

Statutory authority: NECPA, Section 461.

Contact: T. J. Gross (202) 376-4115.

## 5. GUIDELINES FOR THE PROGRAM FOR STATE ENERGY CONSERVATION PLANS

Lead Office: Conservation.

DOE will issue guidelines amending program guidelines issued under the Energy Policy and Conservation Act (P.L. 94-385).

A notice of proposed rulemaking and draft regulatory analysis have been issued.

Statutory authority: NECPA, Sections 621 and 622.

Contact: Sandra Delaney (202) 376-1797.

## 6. WEATHERIZATION ASSISTANCE PROGRAM

Lead Office: Conservation.

DOE will revise existing regulations for the weatherization of individual dwellings. Other revisions to existing regulations include changes in maximum cost per dwelling unit, allowable expenditures, State waiver procedures, and income eligibility.

A notice of proposed rulemaking (NPR) was issued February 14, 1979.

A regulatory analysis will be completed.

Statutory deadline: NPR for amended regulations—60 days after enactment.

Final rule—120 days after enactment.

Statutory authority: NECPA, Section 231.

Contact: Mary Bell (202) 376-1801.

## 7. FEDERAL AGENCY ENERGY CONSERVATION PLANNING GUIDELINES AND TARGETS

Lead Office: Conservation.

DOE will promulgate guidelines for use by Federal agencies in formulating energy conservation plans.

A notice of proposed rulemaking has not yet been issued.

A regulatory analysis is not required.

Statutory authority: NECPA, Title V.

Contact: William Rhodes (202) 376-4017.

## 8. FEDERAL PHOTOVOLTAIC UTILIZATION PROGRAM

Lead Office: Conservation.

DOE will develop guidelines for participating agencies to monitor and assess the performance and operation of photovoltaic systems.

A notice of proposed rulemaking has not yet been issued.

It has not been determined whether a regulatory analysis is required.

Statutory authority: NECPA, Section 566.

Contact: Elaine Smith (202) 376-9610.

## 9. DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

Lead Office: Conservation.

DOE will develop criteria for evaluation of agency-submitted proposals for installing solar heating and cooling systems in Federal buildings and requirements for operating and maintenance reports.

A notice of proposed rulemaking has not yet been issued. An environmental assessment will be completed.

Statutory authority: NECPA, Sections 521-524.

Contact: W. Lemeschewsky (202) 376-9622.

## 10. LIFE CYCLE COSTING PROCEDURES FOR FEDERAL BUILDINGS

Lead Office: Conservation.

DOE will develop and prescribe procedures for estimating and comparing life cycle costs for purchase and installation of energy conservation measures for Federal buildings.

A notice of proposed rulemaking has not yet been issued.

A regulatory analysis is not required.

Statutory authority: NECPA, Section 545.

Contact: Jack Vitullo (202) 376-4017.

## 11. ENERGY EFFICIENCY STANDARDS FOR NINE PRODUCTS

Lead Office: Conservation.

## PROPOSED RULES

DOE will establish energy efficiency standards for nine appliance product types.

An advance notice of proposed rulemaking (NPR) was issued January 2, 1979.

Statutory deadline: Advance NPR within 45 days of enactment, final rule within two years of advance NPR.

Statutory authority: NECPA, section 422.

Contact: Jim Smith (202) 376-4814.

## 12. ENERGY EFFICIENCY STANDARDS FOR FOUR PRODUCTS

Lead Office: Conservation.

DOE will establish minimum energy efficiency standards for four product types, i.e. humidifiers/dehumidifiers, clothes washers, television sets and dishwashers.

An advance notice of proposed rulemaking (NPR) has not yet been issued.

Statutory deadline: Advance NPR within one year after enactment. Final rule within two years of NPR.

A regulatory analysis will be completed.

Statutory authority: NECPA, section 422.

Contact: James Smith (202) 376-4814.

## 13. REPORTING OF INDUSTRIAL ENERGY CONSUMPTION OF MAJOR ENERGY CONSUMING CORPORATIONS

Lead Office: Conservation.

DOE will establish requirements for major energy consuming corporations to report to DOE their annual energy consumption and progress in improving energy efficiency. DOE also will issue proposed reporting forms by plant and industry, and the list of major energy consuming corporations which are exempt from reporting directly to DOE.

A notice of proposed rulemaking has not yet been issued, nor have the proposed report forms been issued.

It has not been determined whether a regulatory analysis is required.

Statutory authority: NECPA, Sections 461 and 601.

Contact: D. G. Harvey (202) 376-4113.

## 14. RESIDENTIAL CONSERVATION SERVICE PROGRAM (UTILITY PROGRAM)

Lead Office: Conservation.

DOE will develop regulations to implement Part 1 of Title II of NECPA, which provides for programs to facilitate retro-fitting of energy conservation measures in existing private residences.

An advance notice of proposed rulemaking was issued January 8, 1979.

A draft regulatory analysis has been completed.

Statutory deadline: NPR by March 2, 1979.

Statutory authority: NECPA, Part 1, Title 2.

Contact: Jim Tanck (202) 376-4708.

## POWERPLANT AND INDUSTRIAL FUEL USE ACT (PIFUA)

## 1. NEA FUEL USE ACT—NEW FACILITIES

Lead Office: Economic Regulatory Administration (ERA).

ERA will develop regulations to implement prohibitions against use of oil and gas by new facilities and exemptions provided by law from this statutory prohibition.

A notice of proposed rulemaking (NPR) was issued November 11, 1978.

A draft regulatory analysis was published with the NPR.

Statutory deadline: NPR within 120 days of enactment.

Statutory authority: PIFUA, Sections 201 and 202.

Contact: Steve Stern (202) 254-9766.

## 2. NEA FUEL USE ACT—TRANSITIONAL FACILITIES

Lead Office: Economic Regulatory Administration (ERA).

ERA will promulgate regulations to classify facilities built between April 20, 1977 and the date of enactment of the Powerplant and Industry Fuel Use Act as either new facilities subject to statutory prohibitions on the use of oil and gas or as existing facilities.

A notice of proposed regulation was issued November 22, 1978.

A draft regulatory analysis has been completed.

Statutory authority: PIFUA, Section 902.

Contact: Steve Stern (202) 254-9766.

## 3. MFBI ELECTION PROCEDURES

Lead Office: Economic Regulatory Administration (ERA).

ERA will promulgate regulations governing election procedures for coverage of major fuel burning installations (MFBIs).

A notice announcing election procedures was issued December 28, 1978.

A draft regulatory analysis has been completed.

Statutory deadline: Within 90 days of enactment.

Statutory authority: PIFUA, Section 762.

Contact: Steve Stern (202) 254-9766.

## 4. NEA FUEL USE ACT—EXISTING FACILITY FINDINGS AND EXEMPTIONS

Lead Office: Economic Regulatory Administration (ERA).

ERA will develop regulations for establishing findings and exemptions for use by DOE to order existing facilities with coal burning capabilities off oil and gas.

A notice of proposed rulemaking was issued January 22, 1979.



## PROPOSED RULES

A draft regulatory analysis has been completed.

**Statutory deadline:** 120 days of enactment.

**Statutory authority:** PIFUA, Sections 301 and 302.

**Contact:** Steve Stern (202) 254-9766.

**5. NEA FUEL USE ACT—SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST EXEMPTION FOR USE OF NATURAL GAS BY EXISTING POWER PLANTS**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA has proposed regulations by which existing power plants may obtain temporary public interest exemptions from statutory prohibitions against natural gas use.

A notice of proposed rulemaking was issued January 3, 1979.

It has not been determined whether a regulatory analysis is required.

**Statutory deadline:** PIFUA, Section 311.

**Contact:** Steve Stern (202) 254-9766.

**6. NEA FUEL USE ACT—EMERGENCY PROHIBITIONS AGAINST USE OF OIL AND GAS**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will promulgate regulations to establish procedures for emergency prohibitions of oil or gas in any powerplant or major fuel burning installation in the event of a supply disruption.

A notice of proposed rulemaking has not yet been issued.

A draft regulatory analysis has been completed.

**Statutory authority:** PIFUA, Section 404.

**Contact:** Steve Stern (202) 254-9766.

**7. NEA FUEL USE ACT—TEMPORARY EMERGENCY STAYS TO POWERPLANTS**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will promulgate regulations to implement procedures for temporary emergency stays to powerplants in the event of certain fuel shortages.

A notice of proposed rulemaking has not yet been issued.

A draft regulatory analysis has been completed.

**Statutory authority:** PIFUA, Section 404.

**Contact:** Steve Stern (202) 254-9766.

**8. NEA FUEL USE ACT—EMERGENCY USE OF NATURAL GAS OR PETROLEUM**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will promulgate regulations governing the temporary use of oil or gas during emergency conditions.

A notice of proposed rulemaking has not yet been issued.

A draft regulatory analysis has been completed.

**Statutory authority:** PIFUA, Section 404.

**Contact:** Steve Stern (202) 254-9766.

**9. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING**

**Lead Office:** Economic Regulatory Administration (ERA).

DOE will develop regulations prohibiting use of natural gas for decorative lighting in industrial, commercial and residential and municipal settings, including sale of natural gas for such purpose.

A notice of proposed rulemaking was issued February 7, 1979.

A regulatory analysis is not required.

**Statutory deadline:** Final rule within 180 days after enactment.

**Statutory authority:** PIFUA, Section 402.

**Contact:** Howard Perry (202) 254-3118.

**PUBLIC UTILITY REGULATORY POLICIES ACT (PURPA)**

**1. PURPA—STATE REGULATORY REPORTING REQUIREMENTS**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will develop proposed reporting requirements to be followed by states.

A notice of proposed rulemaking has not yet been issued.

A regulatory analysis will be completed.

**Statutory authority:** PURPA, Sections 116 and 309.

**Contact:** Howard Perry (202) 254-3118.

**2. GRANTS TO STATE OFFICES OF CONSUMER SERVICES**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA (Office of Utility Systems) will revise guidelines for grants to state offices of consumer services for representation of consumers before electric utility regulatory commissions.

A notice of proposed rulemaking is expected to be issued in March 1979.

A regulatory analysis is not required.

**Statutory authority:** PURPA, Section 142.

**Contact:** Larry Kaseman (202) 254-9735.

**3. GRANT ASSISTANCE TO PUBLIC UTILITY COMMISSIONS AND INNOVATIVE UTILITY REGULATORY PROJECTS**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA (Office of Utility Systems) will promulgate regulations to provide grant assistance to public utility commissions in meeting the electric utility and natural gas provisions of the Public Utility Regulatory Policies Act and to fund innovative utility rate structure projects.

A notice of proposed rulemaking is expected to be issued in March 1979.

A regulatory analysis will be completed.

**Statutory authority:** PURPA, Section 141.

**Contact:** Larry Kaseman (202) 254-9755.

**4. HYDROELECTRIC FEASIBILITY STUDY AND PROJECT COSTS LOAN PROGRAM**

**Lead Office:** Resource Applications.

DOE will develop regulations for loans for feasibility studies and for construction costs for small hydroelectric projects.

It has not been determined whether a regulatory analysis is required.

**Statutory authority:** PURPA, Section 403.

**Contact:** Dick McDonald (202) 633-8910.

**5. NEA AUTHORIZATION FOR 13 UNIVERSITY COAL RESEARCH LABS**

**Lead Office:** Energy Research.  
DOE will promulgate rules for selection and designation of 13 universities as coal research labs.

A notice of proposed rulemaking has been issued.

**Statutory authority:** PURPA, Section 604.

**Contact:** Toni Joseph (202) 376-4051.

**NATURAL GAS POLICY ACT OF 1978 (NGPA)**

**EMERGENCY NATURAL GAS REGULATIONS**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will develop regulations regarding the purchase and the allocation of natural gas during a presidentially declared natural gas emergency.

A notice of proposed rulemaking has not yet been issued.

It has not been determined whether a regulatory analysis is required.

**Statutory authority:** NGPA, Title III.

**Contact:** Lynette Hucul (202) 632-4721.

**2. NATURAL GAS FOR ESSENTIAL AGRICULTURAL USES**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will promulgate regulations to provide that interstate pipelines do not curtail gas deliveries for essential agricultural uses (as determined by the Secretary of Agriculture) except to serve high priority uses.

A final rule was issued on March 9, 1979.

**Statutory deadline:** Within 120 days after enactment.

A regulatory analysis is not required.

**Statutory authority:** NGPA, Section 401(a).

**Contact:** Paula Daigneault (202) 632-4721.

**3. REVIEW OF NATURAL GAS CURTAILMENT PRIORITIES INCLUDING INDUSTRIAL PROCESS FUEL USE ISSUES**

**Lead Office:** Economic Regulatory Administration (ERA).

ERA will conduct an inquiry into whether existing natural gas curtailment priorities should be modified and, if so, in what manner. The inquiry will include consideration of curtailment of industrial process and feedstock use.

A notice of inquiry was issued on March 13, 1979.

A regulatory analysis will be completed.

**Statutory authority:** NGPA, Section 402.

**Contact:** Paula Daigneault (202) 632-4721.

[FR Doc. 79-9938 Filed 3-29-79; 8:45 am]